

(d) human activities, structures and communities, including economic and cultural activities and heritage features and resources.

"environmental assessment approval" means the certificate that is issued to the Proponent indicating that the environmental assessment has been accepted by Atik A

"environmental effects" means any change to the environment, including archaeological features, heritage resources, traditional use areas, economic activities, health and socio- economic conditions;

"First Nation Land" means any portion of Atik A Indian reserve that is subject to the Atik A Land Code;

"FNLMA" means the First Nations Land Management Act S.C. 1999, c. 24 as amended from time to time;

"Framework Agreement" means the Framework Agreement on First Nation Land Management dated February 12, 1996 signed by the Minister of Indian and Northern Development and 13 First Nations, as amended from time to time;

"Governing Body" means the Governing Body of Atik A established under the Constitution of Atik A

"Lands Manager" means the Atik A employee responsible for the administration of First Nation Land or his or her authorized representative(s), employees or contractors, or a Person authorized by the Governing Body to act as his or her delegate;

"Atik A" means Atikameksheng Anishnawbek;

"Atik A Land Code" means the Atik A Land Code dated for reference September 2008 and brought into force February 4, 2009.

"Mitigation Measures" means measures for avoiding, eliminating, reducing or controlling the adverse environmental effects of a Project, and includes restitution for any damage to the environment caused by those effects through replacement, restoration, compensation or any other means;

"Person" means an individual, corporation, body corporate, partnership, joint venture, Proponent, association, syndicate, trust or other legal entity, including a First Nation or Indian band, or any trustee, executor, administrator or other legal representative of any such entity;

"Project" means any activity or project on First Nation Land that has the potential to affect the environment, including any activity or project that has taken place on First Nation Land which requires new authorizations or consent from Atik A or which the Governing Body determines should be subject to an environmental assessment. Without limiting the foregoing, a Project includes a development, a subdivision or a grant or disposition of a licence or interest in First Nation Land;

"Project Description" means the description of the Project pursuant to subsection 8.1(k);

Comment [LM1]: May also need to find a clause relating to the constitution once it is passed

Comment [LM2]: Ensure I have cited these dates correctly. Or, do we have to wait for the law to be registered before it is considered "in force"?

	<p><u>"Proponent" means a person, organization, corporation or entity that proposes to undertake a Project, or has undertaken a Project on First Nation Land prior to the passing of this Law which requires new authorization or consent from Atik A, including, but not limited to, the government of Canada, Ontario, a municipality or regional district, another province, or jurisdiction, a utility provider, a first nation, and a first nation member; and</u></p> <p><u>"Supreme Court" means the Supreme Court of Ontario.</u></p>
Purpose of Law	<p>3.0 The purposes of this Law are:</p> <p>a) <u>to protect First Nation Lands from significant adverse environmental effects caused by a Project;</u></p> <p>b) <u>to identify potential environmental effects before decisions are made to proceed with a Project;</u></p> <p>c) <u>to promote cooperation and coordinated action between Atik A, the federal and provincial governments and municipal governments with respect to environmental assessments; and</u></p> <p>d) <u>to ensure that an environmental assessment is completed in a timely manner for proposed projects on-reserve.</u></p>
Duties of Chief and Council	<p>1-04.0 The Chief and Council of Atikameksheng Anishinawbek is the responsible body that has the authority over all land use and land management matters.</p>
General powers of Chief and Council	<p>2-05.0 The Chief and Council exercise their authority to:</p> <p>a) initiate and make recommendations, respecting the development of land use policies</p> <p>b) inquire into and study any matter pertaining to land use</p> <p>c) establish special planning areas</p> <p>d) recommend issuance and revoke permits and licenses for land uses</p> <p>e) establish appropriate fee structures and fines relating to land administration</p> <p>f) approve, amend or reject land uses based upon recommendations from staff and the Environmental Committee</p> <p>g) obtain third party technical reviews as may be required on land-related issues</p> <p>h) obtain independent legal advice on land-related issues at their discretion</p> <p>2-15.1 Chief and Council may:</p> <p>a) Acquire in any manner, and hold and alienate, both real and personal property as it considers advisable</p> <p>b) Expend its funds for any planning purposes</p> <p>c) Promote public interest and community participation in planning and orderly development</p> <p>d) Enter into any contract or agreement with any person for the purpose of development of land after completion of an environmental assessment process as outlined in section X</p> <p>e) Enter into agreements with any municipalities and with any federal or</p>

Comment [LM3]: Need definition

	<p>provincial government agency for the purpose of establishing and maintaining transportation, communication, waste disposal, recreational and other infrastructure or land management related systems to be used in common by member municipalities of the district</p> <p><u>2-25.2</u> Chief and Council must:</p> <ul style="list-style-type: none"> a) Advise the Lands Manager, the Director of Community Assistance and the Director of Operations of every request that relates to land use on the reserve b) Advise the DOO of every land request that relates to land use off-reserve
<p>Environmental Committee Responsibilities</p>	<p>ENVIRONMENTAL COMMITTEE</p> <p>3-06.0 The Council may appoint an Environmental Committee who are responsible to:</p> <ul style="list-style-type: none"> a) Advise and assist Chief and Council in formulating policies affecting the use and development of land b) Advise and assist Chief and Council in the planning and regulation of use and development of land and co-ordinate major land use planning activities c) Review submissions for the establishment of special planning areas on the reserve d) Review project applications for development/major projects and make recommendations to Chief and Council regarding appropriate mitigation measures and compensation plans as they relate to development projects e) Ensure appropriate community consultation on land planning matters f) Ensure that regular reviews of land use policies are conducted at least once every 6 years g) Review and coordinate policies and programs relating to the use of the land <p>3-16.1 The terms of office of Environmental Committee members will be as outlined in the Environmental Committee Terms of Reference (Appendix A).</p>
<p>Appointment of Director of Lands, Planning and Development</p>	<p>DIRECTOR OF LANDS PLANNING AND DEVELOPMENT (DIRECTOR OF COMMUNITY ASSISTANCE)</p> <p>4-07.0 A Director of Lands Planning and Development will be appointed by the Director of Operations of Atikameksheng Anishinawbek. The Director of Lands Planning and Development shall be an official of the First Nation and shall report to the Director of Operations. Where no Director of Lands Planning and Development is in place, the Director of Community Assistance (DCA) will act in this capacity.</p> <p>4-17.1 The duties of the Director of Lands Planning and Development (DCA) will be to:</p> <ul style="list-style-type: none"> a) Receive applications for projects and developments on reserve land to ensure conformance with the Land Use Plan b) Ensure that administration fees and fines are paid on a timely basis according to land use policies

Comment [LM4]: Not sure if this is required

Comment [LM5]: Or Director of Community Assistance?

Comment [LM6]: We need to clarify this title and responsibilities..would this be Esther or someone else? Joanna?

	<ul style="list-style-type: none"> c) Prepare and issue lease documents and permits associated with land uses on reserve d) Liaise with the Environmental Committee on a regular basis to inform them on lands related issues
<p>Preparation of General Land Use Plan</p>	<p>PART II</p> <p>GENERAL PLANS</p> <p>5-08.0 Atikameksheng Anishinawbek Council may resolve to prepare a general land use plan describing the manner in which the development or redevelopment of land may best be organized and carried out, having regard to considerations of orderliness, economy, public safety, convenience, and considering the natural, social and economic environment.</p> <p>5-18.1 A general land use plan must:</p> <ul style="list-style-type: none"> a) be prepared under the direction of qualified planning officers or consultants, to be appointed by and responsible to the Director of Lands, Planning and Development (DCA) b) be prepared on the basis of surveys and studies of land use, population growth, economic activity, needs relating to transportation, communication, public services and social services and any other factors that are relative to the preparation of a general plan; c) include a digital and paper map or maps showing the division of the land that is to be included in the general plan into areas of permitted land use classes that the Council considers necessary for the purposes of the general plan; d) include proposals as to the content of a zoning by-law; e) include proposals relating to the provision of public roadways, services, public buildings, schools, parks and recreation areas and the reservation of land for these and other public and community purposes; f) include a schedule setting out the sequence in which specified areas of land may be developed or redeveloped, and in which the public services and facilities referred to in paragraph (e) should be provided in specified areas; g) include proposals relating to future capital works to be undertaken by Council or other authorities having jurisdiction within the area included in the general plan; h) include and show any previous land designations, allotments, CP's, leases and surrenders <p>5-28.2 Council may, by by-law, adopt a general land use plan.</p> <p>5-38.3 Council shall review its general land use plan at least once every five years after its adoption. It shall ensure that if the land use plan is outdated, that it be amended with updated information within 2 years, or as funding permits.</p>

Comment [LM7]: We need a legal opinion on whether this clause is sufficient in light of the way a land use plan must be adopted under Land Code (existing).

Amendment to Land Use Plan	<p><u>5-48.4</u> Where a general land use plan is adopted, the Council shall, immediately after adoption of the general plan, proceed with the enactment of a zoning by-law to include those areas of land affected by the general land use plan in respect of which no control over development has been exercised.</p>
Requirement to conduct Environmental Assessment	<p><u>9.0 A Proponent must not:</u></p> <ul style="list-style-type: none"> a) <u>undertake or carry on any activity that is a Project, or</u> b) <u>construct, operate, modify, dismantle or abandon all or part of the facilities of a Project, unless</u> c) <u>the Proponent first obtains an environmental assessment approval for the Project, or</u> d) <u>the Lands Manager has determined that an environmental assessment approval is not required for the Project and the Governing Body has issued a written letter to the Proponent confirming this.</u> <p><u>9.1 Despite any other applicable law, if an environmental assessment approval has been issued for a Project, a Person must not:</u></p> <ul style="list-style-type: none"> a) <u>undertake or carry on an activity that is authorized by the environmental assessment approval, or</u> b) <u>construct, operate, modify, dismantle or abandon all or part of the Project facilities that are authorized by the environmental assessment approval, except in accordance with the environmental assessment approval.</u>
Projects Subject to or Exempt from the EA Process	<p><u>PROJECTS SUBJECT TO OR EXEMPT FROM THE ENVIRONMENTAL ASSESSMENT PROCESS</u></p> <p><u>10.0 Without limiting the foregoing, the Atik A environmental assessment process applies to the following:</u></p> <ul style="list-style-type: none"> a) <u>any grant or disposition of an interest or licence in First Nation Land; and</u> b) <u>any Project on First Nation Land.</u> <p><u>10.1 Without limiting the foregoing, environmental assessments may not be required under the following circumstances, unless otherwise determined by the Governing Body:</u></p> <ul style="list-style-type: none"> a) <u>administrative actions that will not, or do not, affect land or resources;</u> b) <u>emergency repairs or actions needed on an urgent basis to avert or respond to emergencies; or</u> c) <u>responses to accidents or threats to public health.</u>
Harmonization with Federal and	<p><u>HARMONIZING THE ENVIRONMENTAL ASSESSMENT PROCESS</u></p> <p><u>11.0 Atik A recognizes that federal environmental legislation may apply under certain circumstances, and components of Projects on lands adjacent to First Nation</u></p>

<p><u>Provincial Legislation</u></p>	<p><u>Land may be subject to provincial environmental legislation. In these instances the Lands Manager will use best efforts to work cooperatively with the other parties to seek agreement on the following issues:</u></p> <ul style="list-style-type: none"> <u>a) the agency and individual that will be the main contact and coordinator of the environmental assessment for each jurisdiction;</u> <u>b) the common requirements under the federal, provincial and Atik A's environmental assessment processes;</u> <u>c) the development of a specific work plan for each Project undergoing a multi-jurisdictional environmental assessment;</u> <u>d) how the parties will co-ordinate their environmental assessment decisions and associate regulatory decisions with respect to a Project; and</u> <u>e) for future Projects, under what circumstances and how each party will notify the others when an environmental assessment process is initiated under that jurisdictions' law.</u> <p><u>5-511.1 Pursuant to clause 25.6 of the Framework Agreement, Atik A and Canada will make best efforts to ensure that Atik A's environmental assessment process will be used where there is overlapping jurisdiction. This priority will be reflected in any environmental assessment harmonization plan developed between Atik A, Canada and Ontario under clause 25.7 of the Framework Agreement.</u></p>
<p><u>Environmental Assessment Process</u></p>	<p><u>ENVIRONMENTAL ASSESSMENT PROCESS</u></p> <p><u>12.0 The Atik A environmental assessment process is designed to meet the requirements of the Framework Agreement and FNLMA, including:</u></p> <ul style="list-style-type: none"> <u>a) when an environmental assessment is triggered in cases where Atik A is approving, consenting to, regulating, funding or undertaking a Project on First Nation Land;</u> <u>b) the environmental assessment process must be consistent with the requirements of the CEAA; and</u> <u>c) environmental assessments must be conducted as early as possible in the planning stages of the Project, before an irrevocable decision is made; and</u> <u>d) Atik A's environmental assessment obligations depend on adequate financial resources and expertise being available to Atik A through an agreement signed by the proponent and Atik A, or through tripartite arrangements with provincial or federal governments.</u> <p><u>12.1 Where required, the Proponent must ensure that an environmental assessment is completed before other approvals are considered by Atik A, including but not limited to: negotiating impact benefit agreements, obtaining permits, or other authorizations and completing lease, sub-lease or licence agreements.</u></p>
<p><u>Environmental</u></p>	<p><u>ENVIRONMENTAL ASSESSMENT PROCEDURE</u></p>

Assessment Procedure

6-013.0 Screening - Submission of Project Description

13.1 The Proponent of a Project must provide the Lands Manager with a description of the Project, in a Form as attached as Appendix "B" or as amended by the Governing Body from time to time, which will hereinafter be referred to as the Project Description, that includes, at a minimum, the following information:

- a) the Project's name, nature and proposed location;
- b) the Proponent's name and contact information and the name and contact information of their primary representative for the purpose of the description of the Project;
- c) a description of and the results of any consultations undertaken with any jurisdictions and other parties;
- d) other relevant information, including the environmental assessment and regulatory requirements of other jurisdictions; and information concerning any environmental study that is being or has been conducted of the region where the Project is to be carried out;
- e) a description of the Project's context and objectives;
- f) a description of the physical works that are related to the Project including their purpose, size and capacity;
- g) the anticipated production capacity of the Project and a description of the production processes to be used, the associate infrastructure and any permanent or temporary structures;
- h) a description of all activities to be performed in relation to the Project, including site preparation, construction, operation or decommissioning;
- i) a description of any solid, liquid, gaseous or hazardous waste that is likely to be generated during any phase of the Project and of plans to manage those wastes;
- j) a description of the anticipated phases of and the schedule for, the Project's construction, completion, operation, decommissioning and abandonment;
- k) a description of the Project's location, including:
 - I. its geographic coordinates;
 - II. site maps produced at an appropriate scale in order to determine the Project's overall location and the relationships among the Project components;
 - III. the legal description of land to be used for the Project, including the reserve or parcel abstract report and any authorization relating to a water lot;
 - IV. the Project's proximity to any permanent, seasonal or temporary residences;
 - V. the Project's proximity to provincial, federal or municipal lands;
 - VI. a description of any financial support that federal authorities are, or may be, providing to the Project;

Comment [LM8]: Requirement to survey..need to ensure this is included

- l) any federal or provincial legislative or regulatory requirements that may be applicable including a list of permits, licences or other authorizations that may be required in order to carry out the Project;
- m) a description of the physical and biological setting;
- n) a professional opinion regarding the likely presence or absence of the following species:
- I. fish as defined in section 2 of the Fisheries Act, R.S.C., 1985, c.F-14 and any amendments enacted from time to time, and fish habitat as defined in subsection 34(1) of that Act;
 - II. aquatic species, as defined in subsection 2(1) of the Species at Risk Act,
 - III. S.C. 2002, c.29 and any amendments enacted from time to time; and
 - IV. migratory birds, as defined in subsection 2(1) of the Migratory Birds Convention Act, 1994, S.C. 1994, c. 22 and any amendments enacted from time to time.
- o) any information that the Proponent may have in its possession regarding any changes to the environment that may occur as a result of carrying out the Project, or the continued operation of the Project, on First Nation Land;
- p) information, that the Proponent may have in its possession regarding the effects on Atik A or other people of any changes to the environment that may be caused as a result of carrying out the Project, or continued operation of the Project, including effects on health and socio-economic conditions, physical and cultural heritage, the current use of First Nation lands and resources for traditional purposes or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance; and
- q) a summary of the above information.

Comment [LM9]: What is this?

~~6-13.2~~ If the Lands Manager is of the opinion, after receiving the Project Description that it is incomplete or does not contain sufficient details, the Lands Manager may within 10 business days after receiving it, require the Proponent to provide an amended Project Description that includes the information and details that the Lands Manager specifies.

13.3 The Lands Manager may forward the Project Description, or direct the Proponent to forward, to Aboriginal Affairs and Northern Development Canada, the Lands Advisory Board, Fisheries and Oceans Canada, the Canadian Wildlife Service, the City of Greater Sudbury or other government departments or authorities. The involvement of other government departments may be based on whether those departments or other entities have decisions to make or can contribute expert or specialist advice.

~~6-213.4~~ When the Lands Manager is satisfied that the Project Description contains all of the required information, a notice will be posted in the Atik A Lands Office (and on the Atik website and digital bulletin board) that indicates that the Project Description is available for Atik A members to provide comments respecting the Project within fifteen (15)

Comment [LM10]: Do we want to include provisions to publish on website and online bulletin board??

<p><u>Provision for Technical Peer Review</u></p>	<p>nature, or where the Director of Lands believes that Atikameksheng Anishinawbek may benefit from an independent technical review of materials associated with a project application, the Lands Manager may require the proponent to complete, at his own cost, a technical peer review of material submitted. Any technical peer reviews or scientific studies completed in support of a project must be provided to AAFN immediately upon their completion so that they can be evaluated as part of the EA process.</p> <p><u>6-713.9</u> Should a development or project on-reserve have the potential to impact upon federal lands, provincial crown lands, municipal or private lands adjoining or within the impact zone of the reserve land to be affected by the project, the proponent will be required to consult with and show evidence of his/her consultations with any potentially impacted parties, to the satisfaction of Chief and Council, and must obtain all required permits and approvals as outlined by federal and/or provincial laws.</p>
<p><u>Determining Need for Environmental Assessment</u></p>	<p><u>14.0 Determining the Need for an Environmental Assessment</u></p> <p><u>14.1</u> Within thirty-five (35) days after the posting of the notice, the Lands Manager may determine whether an environmental assessment is required based on, but not limited to, the following considerations:</p> <ul style="list-style-type: none"> <u>a) the Project Description;</u> <u>b) the possibility that the carrying out of the Project may cause adverse environmental effects;</u> <u>c) any comments received from the Atik A members within fifteen (15) days after the posting of the notice subject to section 8.10;</u> <u>d) comments received from other government bodies; and</u> <u>e) the results of any relevant study.</u> <p><u>14.2 The Lands Manager:</u></p> <ul style="list-style-type: none"> <u>a) may determine that a Project requires an environmental assessment;</u> <u>b) if the Lands Manager considers that a Project will not have a significant adverse environmental, economic, social, heritage or health effect, taking into account practical means of preventing or reducing to an acceptable level any potential adverse effects of the Project, the Lands Manager, may determine that an environmental assessment is not required for the Project.</u> <u>c) The Governing Body may, at its discretion, review the Lands Manager's decision made pursuant to either subsection 8.6(a) or (b). If the Governing Body either does not review the decision of the Lands Manager made in accordance with subsection 8.6(b) or, upon its review of a decision made by the Lands Manager</u>

Comment [LM14]: May be covered under harmonization check

	<p><u>pursuant to either subsection 8.6(a) or (b), it concludes that an environmental assessment is not required the Proponent may proceed with the Project without an environmental assessment approval, given that such notice is provided to the proponent or</u></p> <p><u>d) subject to subsection 8.6(c), if the Lands Manager or the Governing Body considers that a Project may have a significant adverse environmental, economic, social, heritage or health effect, taking into account practical means of preventing or reducing to an acceptable level any potential adverse effects of the Project, the Lands Manager or the Governing Body, as the case may be, may determine that:</u></p> <p><u>i. an environmental assessment approval is required for the Project, and</u></p> <p><u>ii. the Proponent may not proceed with the Project without undertaking an environmental assessment pursuant to an environmental assessment approval.</u></p> <p><u>14.3 The Lands Manager or the Governing Body, or both, may attach conditions considered necessary for the proponent to proceed.</u></p> <p><u>14.4 The Lands Manager will advise the Proponent in writing of the determination as to whether or not an environmental assessment is required. A notice of the decision will be posted in the Atik A Lands Office.</u></p> <p><u>6-814.5 The Lands Manager may determine that a further 20 working days is required to obtain input from other governmental departments or authorities or Atik A members.</u></p>
<p><u>Environmental Assessment</u></p>	<p><u>ENVIRONMENTAL ASSESSMENT</u></p> <p><u>15.0 Terms of Reference</u></p> <p><u>15.1 If a Project requires the preparation of an environmental assessment, the Proponent shall prepare the terms of reference of the environmental assessment in consultation with the Lands Manager to ensure that the environmental assessment will include the information considered necessary by Atik A. A form of generic terms of reference that can be used as a reference guide will be provided by the Lands Manager.</u></p> <p><u>15.2 Generally, a typical environmental assessment report will include information on the following topics:</u></p> <p><u>a) Project setting: Physical, ecological, social, cultural and economic setting of the First Nation Land potentially affected by a Project;</u></p> <p><u>b) Project description</u></p> <p><u>c) Decommissioning: Including design, construction, operation and;</u></p> <p><u>d) Project effects and Mitigation Measures: Identification of potential environmental effects, assessment of the impacts and description of Mitigation Measures;</u></p> <p><u>e) Cumulative Effects assessment: Combined environmental, cultural or socio-economic impacts that accumulate from past, present and potential future</u></p>

Comment [LM15]: And via internet/bulletin board?

	<p><u>actions, contaminants or Projects.</u></p> <p><u>f) Commitments: Clear statement of commitments by the Proponent to implement the Mitigation Measures described in the environmental assessment.</u></p> <p><u>g) Process: for preparation of the environmental assessment including a list of agencies or individuals to be contacted, a description of reports or other deliverables to be prepared including special studies and a schedule for the conduct of the work.</u></p> <p><u>h) Professional Expertise: the qualifications of the professionals that will be preparing the environmental assessment.</u></p> <p><u>i) Liability Insurance: identification of any liability concerns and the professional expertise that will be retained to address those concerns, as well as the obtaining of any insurance or bonding that is required.</u></p> <p><u>j) Conclusion: A summary and conclusion of the significance of identified adverse environmental effects.</u></p> <p><u>15.3 The Lands Manager may require that an environmental assessment include some or all of the topics listed in Appendix "A".</u></p> <p><u>15.4 The Lands Manager may retain, at the expense of the Proponent, professional expertise to review the terms of reference submitted by the Proponent.</u></p> <p><u>15.5 The Lands Manager may circulate the draft terms of reference to other governments for review and comments. The Lands Manager may:</u></p> <p><u>a) refer the draft terms of reference to the Governing Body; and</u></p> <p><u>b) engage the Atik A membership in a review of the terms of reference.</u></p> <p><u>15.6 The Lands Manager will determine whether the terms of reference include the issues necessary for the environmental assessment and notify the Proponent in writing of the decision.</u></p>
Preparation of EA	
Analysis of EA	<p><u>a) The Proponent, at its own cost, will retain the appropriate professionals to conduct the environmental assessment in accordance with the approved terms of reference.</u></p> <p><u>b) Analysis of Environmental Assessment Report</u></p> <p><u>15.7 The Proponent will submit the draft environmental assessment report to the Lands Manager for review. The Lands Manager will determine the process for reviewing the draft and any costs incurred in the review, including the costs to retain an independent professional and review with the Atik A membership, will be paid by the Proponent.</u></p>
EA Decision	<p><u>15.8 The Lands Manager may require the draft environmental assessment report be made available for review by the Atik A membership through open houses, workshops, or other means. The Lands Manager will advise the project proponent of his required level of involvement in such meetings, at the cost of the proponent.</u></p> <p><u>6-915.9 The Lands Manager will submit comments on the draft environmental assessment report to the Proponent for the preparation of a final environmental</u></p>

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	<p><u>assessment report. The Proponent will amend the draft as necessary and prepare a final environmental assessment report.</u></p>
<p><u>Development conformance with Land Use Plan EA Screening Fee</u></p> <p><u>Presentation of EA Report to Chief and Council</u></p>	<p><u>Environmental Assessment Decision</u></p> <p><u>16.0 The Proponent will submit the final environmental assessment report to the Lands Manager. The Lands Manager and the Environmental Committee will review the report. The Lands Manager may also:</u></p> <ul style="list-style-type: none"> <u>a) retain a specialist, the cost of which is to be paid by the Proponent, to review the final environmental assessment report;</u> <u>b) circulate the final environmental assessment report to staff of other government agencies; and</u> <u>c) make the final environmental assessment report available for review by the Atik A membership.</u> <p><u>16.1 The Lands Manager, on behalf of the Environmental Committee, will prepare an environmental assessment completion report that:</u></p> <ul style="list-style-type: none"> <u>a) summarizes comments from the Environmental Committee, specialists, the Atik A membership or others on the quality and findings of the environmental assessment report;</u> <u>b) presents conclusions about the nature and significance of potential environmental effects and the effectiveness of Mitigation Measures identified; and</u> <u>c) provides the comments of the Lands Manager and the Environmental Committee on:</u> <ul style="list-style-type: none"> <u>1. the implications of permitting the Project to proceed to other approval processes; and</u> <u>2. what conditions may be attached to future approvals or permits that would likely mitigate identified environmental impacts or enhance identified benefits.</u> <u>d) The environmental assessment completion report will be presented to the Governing Body for a decision on Project approval, approval with conditions and issuance of an environmental assessment approval, referral back to the Lands Manager in order to obtain additional information or rejection.</u> <p>6-10<u>16.2</u> If a project has a successful EA outcome, is supported by a Band Council Resolution, and is planned to be permitted in the near future, the proponent must be responsible for providing (at his or her own cost) a digital map showing the location of his/her project to the Lands Office, and must be responsible for costs associated with a legal survey of the said parcel to the satisfaction of the band. Atik A will report the legal survey location and land title to the Canada Land Registry.</p> <p>6-11<u>16.3</u> <u>The Director of Lands</u>, in collaboration with the Lands Committee, will be responsible for reviewing more complex project and development applications, to determine their environmental, social and economic impact upon the community</p>

	<p>and its lands. Tasks associated with the completion of the environmental assessment will be completed by the Director of Lands in collaboration with the Environmental Committee and the project proponent, and will include the following:</p> <ul style="list-style-type: none"> a) review of Project Application Form b) review of location of the project in relation to the Land Use Plan and the impact of any existing zoning by-laws or other existing land use restrictions or land tenures c) identification of information gaps d) review of baseline information regarding the lands to be utilized which is to be compiled by the project proponent, as supplied in the Project Application Form e) review and documentation of potential impacts of the project f) review and documentation of alternatives to the project and whether they have been adequately considered g) review and documentation of impacts of the project upon all natural resource values including environmental, social and economic, as outlined in the Project Application Form h) identification and documentation of any cumulative impacts (proponent) i) identification and documentation of any proposed mitigation or accommodation measures (proponent in collaboration with proponent) j) determination of the residual impacts of the project and their associated impacts <p>6.12<u>16.4</u> The Director of Lands, in collaboration with the Environmental Committee, will provide to Council upon completion of an environmental assessment;</p> <ul style="list-style-type: none"> a) a list of recommendations to Chief and Council regarding the project b) a list of any recommended conditions that may be attached to the Permit, Lease or Tenure document c) a table outlining all concerns identified during the public consultation process, and their successful resolution, to be completed and supplied by the project proponent to the Director of Lands
<p><u>Community Consultation</u></p>	<p>COMMUNITY CONSULTATION</p> <p>7.0<u>17.0</u> Prior to considering the approval of a development plan, subdivision plan or by-law, or a more complex project or development application, a public hearing must be held to consider representations from any person.</p> <p>7.1<u>17.1</u> Notice of the public hearing must be published at least 14 days before the hearing, utilizing the following media and in the following locations:</p> <ul style="list-style-type: none"> a) Band Hall b) Community newsletter c) Posting on community website

- d) Community bulletin board in the Band Hall

Lands Staff in conjunction with the Communications Officer will be responsible for ensuring that notices are posted as appropriate.

~~7-2~~17.2 The following consultation actions are also required:

- a) For development plans, mailed notice to all community members and residences
- b) For special area plans, mailed notice to all community members and residents residing in the area as well as any community members residing within 500 m of the area
- c) For zoning by-laws, mailed notice to all community members and residents within the affected zone and within 500 m of the area
- d) For site plans, mailed notice to all community members and residents within 500 m of the edge of the property or site

~~7-3~~17.3 The Band, in co-operation with the project proponent, will be responsible for completing the mailings as detailed below:

- a) All notices must be mailed at least 14 days before the hearing date.
- b) Content of notices must include the following:
 1. The date, time and place of the hearing
 2. The fact that any person may make a representation
 3. A description of the intent of the proposed project or plan
 4. A location, time and place that the project plans can be reviewed in detail

~~7-4~~17.4 Any band member must be given the opportunity to inspect all available information relating to the project or development at the Band Hall, for at least 14 days prior to the hearing date. Such information may include:

- a) Project Application Form
- b) Relevant maps
- c) Baseline studies of the natural, cultural or social environment
- d) usiness plans or portions of business plans that may relate to the project purpose (as they may related to the level of employment for band members and impact upon the community and environment at large)
- e) Desktop analysis or field investigation reports
- f) Federal or provincial documents pertaining to the application
- g) Any correspondences on file with the Band
- h) Any other information that is made available for public review that may provide additional information on the project impacts

17.5 Any information of a confidential nature that may relate to potential business ventures between Atikameksheng Anishinawbek and a proponent, or

	<p>between a proponent and other business partners or entities, may be excluded in the information package for public review, to maintain the confidentiality of any business relationships.</p>
<p><u>Mitigation Measures and Follow-Up Program</u></p>	<p>IMPLEMENTATION OF MITIGATION MEASURES AND FOLLOW-UP PROGRAM</p> <p>8-018.0 <u>The Mitigation Measures identified in the environmental assessment report will be incorporated into any design plans, site plans, timber-harvesting permits, and construction tenders and will be implemented with the Project. If so instructed by the Lands Manager, a Proponent may be required to prepare an environmental protection plan that specifies how impacts will be avoided or mitigated, how First Nation Land will be restored following construction. Mitigation Measures will also form part of the conditions of any development permit issued.</u></p> <p><u>18.1</u> <u>Where deemed appropriate by the Lands Manager, the Proponent will prepare and conduct a monitoring program to verify the findings of the environmental assessment and to assess the effectiveness of the Mitigation Measures. Alternatively, the Proponent may fund monitoring to be conducted by Atik A, subject to mutual agreement of the Proponent and the Lands Manager as detailed in a written agreement or Memorandum of Understanding to be developed at the cost of the proponent.</u></p> <p>8-118.2 <u>The Lands Manager will advise the Proponent of Atik A's decision and requirements associated with the Project.</u></p>
<p><u>Grandfather Clause</u></p>	<p>GRANDFATHER CLAUSE</p> <p>9-019.0 <u>The enactment of this EA Law does not affect any land, building or structure, or any use or intensity of use of reserve land that were lawfully in existence before the coming into force of this policy/law.</u></p> <p>9-119.1 <u>The process of conducting an EA screening entails the examination and evaluation of each project component and life-stage of a particular development on each aspect of the environment. Environmental effects may include, but are not limited to, alteration/loss/gain of natural features, flora or fauna and their habitat, ecological functions, natural resources, air or water quality, cultural or heritage resources, and/or traditional ecological knowledge. Environmental effects may also include the displacement, impairment, conflict or interference with existing land uses, approved land use plans, businesses or economic enterprises, recreational uses or activities, cultural pursuits, and social conditions and economic structure.</u></p>
<p><u>Administration and Enforcement Power to Inspect</u></p>	<p>ADMINISTRATION AND ENFORCEMENT</p> <p><u>20.0</u> <u>Inspection Power</u></p> <p><u>20.1</u> <u>For any purpose related to the administration or enforcement of this Law or to verify compliance or prevent non-compliance with this Law, the Lands Manager may:</u></p> <p><u>a) enter at any reasonable time on property that is the site of a Project, and</u></p>

Comment [LM16]: Needs a lot of discussion.

Comment [LM17]: Also refer to framework agreement/land code-need legal opinion on this as referred to specific clauses in framework agreement.

b) inspect any works or activity connected with the Project.

20.2 A Person who enters on property under section 10.1, must provide proof of identity to a Person present on the property who has been authorized to be on the property by the Proponent, unless there is no authorized representative of the Proponent present on the property.

20.3 The owner or the Person in charge of the Project and every Person on site of the Project must give all assistance that is reasonably required to enable the Lands Manager to perform his or her duty and must provide any documents, data or information that are reasonably required for that purpose.

20.4 No Person shall prevent or obstruct or attempt to prevent or obstruct the entry of the Lands Manager upon the Project property.

21.0 Stop Order or Remedial Order

Stop Orders and Remedial Orders

21.1 If the Lands Manager considers that a Project is not being carried out, constructed, completed, operated, modified, dismantled or abandoned in accordance with an environmental assessment approval, a decision made pursuant to subsection 8.5(b) or an environmental assessment approval has not been issued, the Lands Manager:

a) may, if an environmental assessment approval for the Project has not been issued or has been issued but does not remain in effect, order that construction, completion, operation, modification, dismantling or abandonment of the Project cease, or that the activity cease, either altogether or to the extent specified by the Lands Manager until the Proponent obtains an environmental assessment approval, or

b) may, if an environmental assessment certificate for the Project has been issued and remains in effect,

I. order that construction, completion, operation, modification, dismantling or abandonment of the Project cease, or that the activity cease, either altogether or to the extent specified by the Lands Manager, until the holder of the environmental assessment approval complies with the terms of the approval, or

II. order that the holder of the environmental assessment approval carry out, within the time to be specified in the order, measures specified by the Lands Manager in order to mitigate the effects of non-compliance.

21.2 All orders made by the Lands Manager pursuant to section 10.5 must be provided as a written notice to the Proponent and include the following:

<p><u>Supreme Court Orders</u></p> <p><u>Penalties</u></p>	<p>a) <u>a statement of the reasons for the order; and</u></p> <p>b) <u>the time and manner in which the order must be carried out.</u></p> <p><u>21.3 Any Person to whom an order is given under section 10.5 must comply with the order given within the time set forth in the order.</u></p> <p><u>21.4 If the Person does not comply with an order within the time specified, or if it is an emergency situation, the Lands Manager may, on his or her own initiate and at that Person's expense, carry out the measure required.</u></p> <p><u>22.0 Supreme Court Order for Compliance</u></p> <p><u>22.1 If Atik A considers that any Person is not complying or has not complied with the order made under this Law, Atik A may apply to the Supreme Court for either or both of the following:</u></p> <p>a) <u>an order directing the Person to comply with the order or restraining the Person from violating the order; and/or</u></p> <p>b) <u>an order directing the directors and officers of the Person to cause the Person to comply with or to cease violating the order.</u></p> <p><u>22.2 On application by Atik A under this section, the Supreme Court may make an order it considers appropriate.</u></p> <p><u>23.0 Penalties</u></p> <p><u>23.1 A Person who contravenes this Law, the terms or conditions of any authorization or environmental assessment approval issued under this Law, or an order made by the Supreme Court pursuant to this Law, is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than three months, or to both.</u></p> <p><u>9-223.2 A fine payable under subsection 10.11 shall be remitted to Atik A by the Supreme Court, after reasonable Supreme Court costs have been deducted.</u></p>
<p><u>Amendments</u></p>	<p><u>24.0 AMENDMENTS</u></p> <p><u>24.1 Amendments to this Atik A First Nation Environmental Law shall be approved by the Governing Body.</u></p>
<p><u>Immunity</u></p>	<p><u>IMMUNITY</u></p> <p><u>25.0 No action for damages lies or may be instituted against present or past Council or Governing Body members or members, employees , servants or agents of Atik A;</u></p> <p>a) <u>for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the</u></p>

Comment [LM18]: Need legal opinion on this clause..

	<p><u>person's authority; or</u></p> <p><u>b) for any alleged neglect or default in the performance or intended performance of the person's duty or exercise of the person's authority.</u></p> <p><u>c) Section 12.1 does not provide a defence if:</u></p> <p><u>d) members of Council or the Governing Body members or members, employees, servants or agents of Atik A have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or</u></p> <p><u>e) the cause of action is libel or slander.</u></p> <p><u>25.1 Atik A, present or past Council or Governing Body members, or members, employees, servants or agents of Atik A are not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other Atik A Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Atik A Law.</u></p>
<p><u>Costs</u></p>	<p><u>COSTS</u></p> <p><u>26.0 Without limiting any of the foregoing provisions wherein fees are payable, the Proponent will also be responsible for the payment of all administrative, legal and consultation fees incurred by Atik A in relation to the administration, application and enforcement of this Atik A First Nation Environmental Law.</u></p>
<p><u>Issuance of Permits and Licenses</u></p>	<p><u>PERMITS AND LICENCES</u></p> <p>10.027.0 <u>10.027.0</u> The Chief and Council of AAFN may develop, establish, issue and/or revoke permits for specific activities as further outlined under the policies associated with this environmental assessment law;</p> <ul style="list-style-type: none"> a) Road Construction Permit b) Extended Parking Permit c) Aggregate Removal and Licensing d) Forest Resource License e) Recreational Fishing Permit f) Waste Management and Disposal g) Mining and Exploration Permit h) Recreational Use Permit i) Building Permit j) Signage Permit k) Research, Photography and Filming Permit l) Remediation Permit m) Archaeological Study Permit

	<p>n) Land Use Permit (General)</p> <p>o) Access Permit</p> <p>10-127.1 The Chief and Council may establish the terms and conditions under which a permit or license can be issued, suspended, reinstated or revoked.</p> <p>The Chief and Council may establish a system of fines or legal penalties to ensure that:</p> <p>a) any work undertaken without a permit, or after a permit has been suspended or revoked will be penalized</p> <p>b) any prohibited use of the land without a permit will be penalized</p> <p>10-227.2 The Chief and Council, in collaboration with the Director of Lands and the Lands Committee, may develop additional permitting and/or leasing policies and laws as may be required for the appropriate future management of reserve lands.</p> <p>10-327.3 29. Upon review of the Director of Lands and Lands Committee recommendations, Chief and Council must within a minimum period of four months, make a decision on the development application. Should Council advise against issuance of the development permit, they will direct the Director of Lands to advise the proponent of the decision.</p> <p>10-427.4 30. Where a proponent for approval of a proposed use of land</p> <p>a) is refused for any reason</p> <p>b) is approved conditionally,</p> <p>the applicant may appeal to the Appeal Board by serving written notice of appeal within 14 days after notice of the decision is mailed to the proponent.</p> <p>10-527.5</p>
<p><u>Coming into Force</u></p>	<p><u>COMING INTO FORCE</u></p> <p><u>28.0 Date Law Comes into Force</u></p> <p><u>28.1 This Law shall come into force and effect on the date it is enacted by pursuant to section of the Atik A Land Code.</u></p> <p><u>Date of approval by a quorum of the Governing Body: d] 4 V I Q . . . 2014</u></p> <p><u>Voting in favour of the law are the following members of Council:</u></p>
<p><u>Appendix A</u></p>	<p style="text-align: center;"><u>APPENDIX "A"</u></p> <p><u>Potential Topics for Inclusion in Environmental Assessment</u></p>

Comment [LM19]: We need to discuss appeals in more detail with the group.

<p>Consideration of Adjoining Uses</p>	<p>1. <u>Soils and Geology</u></p> <ul style="list-style-type: none"> a) <u>Stability and earth conditions</u> b) <u>Major changes in topography or modification of significant geological features</u> c) <u>Soilerosion, compaction, degradat ion, or contamination</u> d) <u>Changes in erosion or deposition rates that affect aquatic process,form and function</u> e) <u>Import and deposit of soil or fill</u>
<p>Harmonization with Existing Federal and Provincial Laws</p>	<p>2. <u>Air Quality</u></p> <ul style="list-style-type: none"> a) <u>Substantial air emissions or deterioration of ambient air quality</u> b) <u>The creation of objectionable odours</u>
<p>Requirement for Survey and Map</p>	<p>3. <u>Aquatic Ecosystems</u></p> <ul style="list-style-type: none"> a) <u>Physical alterations to natural stream channels or riparian zones</u> b) <u>Changes in flow regime, drainage patterns,infiltration rates, or surface water runoff (including increases in effective impervious cover)</u> c) <u>Alterations to the level or frequency of flooding</u> d) <u>Discharges into surface waters that affect surface water qual ty (e.g.sediment load, temperature,dissolved oxygen, turbidity)</u> e) <u>Changes in aquatic biota (e.g., invertebrate biodiversity , or plant or algae growth)</u> f) <u>Changes in the quality or quantity of groundwater</u> <p>4. <u>Vegetation</u></p> <ul style="list-style-type: none"> g) a. <u>Destruction or degradation of native plant habitat (including terrestrial, riparian, or aquatic vegetation communities)</u> h) b. <u>Destruction or damage to any valued, sensitive, or culturally important trees or other plants (e.g. cedar, fir, arbutus, dogwood), including plants of community, landscape, or heritage importance</u> i) c. <u>Reduction of the numbers or distribution of rare, threatened, or endangered plant species or plant communities</u> <p>5. <u>Animal life</u></p> <ul style="list-style-type: none"> a) <u>Significant changes to the population numbers or distribution of native animal species (including birds, mammals, reptiles, fish, benthic organisms , or insects)</u> b) <u>Any change to the numbers or distribution of rate,threatened or endangered animal species</u> c) <u>Degradation of existing or potential fish habitat, or wildlife habitat or corridors (including the effects of light, noise, or human activity)</u>

<p>Community Consultation</p> <p>Notice of Public Hearings</p>	<p><u>d) Interference in the life cycle of fish or birds (including nests or breeding behaviours)</u></p> <p><u>6. Land use and population</u></p> <p><u>a) Change to the present or planned land use in an area</u></p> <p><u>b) Alteration of the supply of commercial or industrial space</u></p> <p><u>c) Changes to population demographics, distribution, and density</u></p>
<p>Content of Notice of Public Hearing</p>	<p><u>7. Mobility, transportation, and circulation</u></p> <p><u>a) Effects on transportation systems or potential increases in vehicular volumes or movements</u></p> <p><u>b) Impacts on parking facilities, or creation of demand for new parking</u></p> <p><u>c) Increases in traffic hazards to motor vehicles, bicyclists, or pedestrians</u></p> <p><u>d) Alteration of access to or change in pedestrian, bicycle, and transit mobility including provision and continuity of service</u></p> <p><u>e) Potential to increase need for, or provision of, special needs transportation</u></p> <p><u>8. Public Services and utilities</u></p> <p><u>a) Increased demand on fire, police, or other emergency services</u></p> <p><u>b) Increased school enrolment, or demand for parks or other recreational facilities for all age groups</u></p> <p><u>c) Need for new or expanded public utilities including sanitary sewers, water mains, storm drains or garbage collection</u></p> <p><u>d) Potential to increase maintenance demands for existing facilities that are required to accommodate the proposed land use, including social services</u></p> <p><u>9. Aesthetics and built environment</u></p> <p><u>a) Obstructs a scenic vista or view open to the public</u></p> <p><u>b) Potential to create an aesthetically offensive site open to public view</u></p> <p><u>c) Destruction or modification of a significant landscape feature or viewpoint</u></p> <p><u>d) Suitability and quality of urban design and impact on surrounding built environment</u></p> <p><u>e) Consistency with "smart growth" principles of complete, compact, liveable, and efficient communities</u></p>
<p>Opportunity to Inspect</p>	<p><u>10. Employment and economy</u></p> <p><u>a) Potential to affect existing employment or creation of new employment (permanent or temporary, full-time or part-time)</u></p>

<p>Confidentiality</p> <p>Permits and Licenses</p>	<p><u>b) Effect on existing commercial or industrial business</u></p> <p><u>c) Potential effect on planned economic development Projects or activities</u></p> <p><u>d) Cost or benefit to community (i.e.change tax base and service level)</u></p> <p>11. <u>Nuisance (noise, light, glare, odour) and hazards</u></p> <p><u>a) Increase in existing noise levels (other than normal residential noise)</u></p> <p><u>b) Creation of new, different or unusual noise or noise production at inappropriate times (e.g.late at night)</u></p> <p><u>c) Production of new light or glare</u></p> <p><u>d) Creation of shading or reduced access to sunlight</u></p>
<p>Right of appeal</p>	