



**STÁUTW (TSAWOUT) FIRST NATION
SUBDIVISION, DEVELOPMENT AND SERVICING LAW
No. 02-2012**

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WHEREAS:

- A. The members of the STÁUTW First Nation have in common inherent rights, customs, and traditions and the inherent right to self-government which are recognized in the Douglas Treaty and affirmed by Section 35 of the *Constitution Act*, 1982;
- B. The STÁUTW First Nation also chose to assume control of its Indian reserve lands and resources pursuant to the *First Nation Land Management Act*, S.C. 1999, c. 24 by entering into the Individual Agreement on First Nation Land Management between Tsawout First Nation and Her Majesty the Queen in Right of Canada, and by adopting the Tsawout First Nation Land Code, which came into force and effect on May 29, 2007; and
- C. Under the *Tsawout First Nation Land Code*, the Council is authorized to make laws respecting the development, conservation, protection, management, use and possession of First Nation Land, including without limitation, laws relating to development, provision of local services, imposition of user charges, and authorization of subdivisions.

NOW THEREFORE this Tsawout First Nation Subdivision, Development and Servicing Law is hereby enacted as a Law of the Tsawout First Nation.

PART 1. NAME

- 1.1 This Law may be cited as the *Tsawout First Nation Subdivision, Development and Servicing Law, No. 02-2012*.

PART 2. PURPOSE

- 2.1 The purpose of this Law is to promote environmentally sustainable, healthy, safe, convenient and well-planned use of First Nation Land.

PART 3. WHERE THIS LAW APPLIES

- 3.1 The provisions of this Law apply to the whole area of First Nation Land as defined in the *Tsawout First Nation Land Code*.

PART 4. DEFINITIONS

- 4.1 For the purposes of this Law, and unless they are otherwise defined in this Law, terms have the same definitions as in the *Tsawout First Nation Land Code*.

4.2 For the purposes of this Law, the following definitions apply:

"Lands Manager" means the Tsawout First Nation employee responsible for the administration of First Nation Land, or a person authorized by Council to act as his or her delegate;

"Law" means this *Subdivision, Development and Servicing Law, 02-2012*, and includes its Schedules;

"MMCD" means Master Municipal Construction Documents as prepared by the Master Municipal Construction Documents Association;

"Person" means any natural person, corporation, and, except where stated otherwise, any person who is a Member of the First Nation;

"Registered Professional" has the same definition as in the *British Columbia Building Code*;

"Tree" means a living, erect, self supporting woody plant that is 5 metres or more in height or 10 centimeters in diameter or greater at 1.4 metres above the ground at the base of the tree and any *Arbutus (Arbutus menziesii)* of any size.

PART 5. GENERAL PROVISIONS

5.1 Headings in this Law are for reference purposes only, and do not form part of this Law.

5.2 In the event that all or any part of any Part, section or paragraph of this Law are found by a court of competent jurisdiction to be invalid, such sections shall be severable, and the remaining portions or sections shall remain in full force and effect.

5.3 In this Law, references to a Part (e.g. Part 1), section (e.g. section 1.1), paragraph (e.g. paragraph 3.4(a)) is a reference to the specified Part, section, or paragraph of this Law, except where otherwise stated.

PART 6. SUBDIVISION, DEVELOPMENT AND SERVICING

Prohibited Activities without Authorization

6.1 None of the following are permitted within First Nation Land except in strict conformity with the requirements of this Law and any other applicable Laws:

- (a) subdivision;
- (b) stratification or other division of legal interests in lands or structures into strata units, sub-leases or shares;
- (c) development;

- (d) installation of roads, intersections, sewer, water and other infrastructure or connection to any existing roads or infrastructure for the purpose of new development;
 - (e) construction, alteration, enlargement, addition, demolition or removal of industrial, commercial or residential structures, including the installation, demolition or removal of swimming pools, fences and decks;
 - (f) deposit or removal of more than 10 cubic metres of soil, gravel or other materials; and
 - (g) cutting, removal or alteration of any Tree.
- 6.2 Without limiting the generality of section 6.1, the following are prohibited:
- (a) subdivision or partitioning of one or more parcels of First Nation Land without subdivision approval by Council in accordance with this Law;
 - (b) stratification or other division of legal interests in lands or structures into strata units, sub-leases or shares without approval by Council;
 - (c) construction or use of a street access or exit driveway that is within 7.5 metres of the point of intersection of the road allowance lines of two streets or a street and a lane when such road allowance intersects at an angle of 135° or less; and
 - (d) carrying out any of the activities set out in paragraphs 6.1 (c), (d), (e) or (g) without a Development Permit.
- 6.3 Despite sections 6.1 and 6.2, and unless they are to be constructed, carried out, or installed within 30 metres of a water body, or they involve the likely release of a polluting substance into a water body, the following do not require any approvals under this Law in and of themselves:
- (a) construction, alteration, enlargement, addition, demolition or removal of any structure the footprint of which is and remains less than 20 square metres;
 - (b) construction or finishing of trails, driveways, or internal roads for single family residential sites on which the internal road or driveway is completely within a single parcel of land;
 - (c) landscaping and minor yard work which does not require an excavation deeper than 1.5 metres or the removal or deposit of more than 10 cubic metres of soil, gravel or other material; and
 - (d) installation of trailers and temporary structures provided such trailers and temporary structures have no hook-ups or connections to services.

PART 7. APPLICATIONS AND APPROVALS

- 7.1 Every applicant applying for an approval to carry out a project, development, activity or procedure set out in section 6.1 or 6.2 shall pay the prescribed fees and submit an application to the Lands Manager in the prescribed form that meets the applicable requirements set out in the following:
- (a) Schedule A - General Engineering Requirements for Land Development on First Nation Land;
 - (b) Schedule B - General Requirements for Environmental Assessments on First Nation Land;

- (c) Schedule C - General Requirements for Heritage Assessments on First Nation Land;
- (d) Schedule D – General Requirements for Timber Harvesting on First Nation Land;
- (e) the British Columbia Building Code (including a completed Schedule B forming part of Subsection 2.2.7, Division C of the British Columbia Building Code); and
- (f) In any directions from Registered Professionals.

- 7.2 Applications shall be reviewed and processed in stages, generally in the following order:
- (a) Rezoning (if required under any applicable Tsawout zoning and land use law);
 - (b) Subdivision;
 - (c) Approval in Principle of Conceptual Plan;
 - (d) Development Permit Approval;
 - (e) Substantial Completion; and
 - (f) Completion.

- 7.3 Applicants shall pay the prescribed fee, post any required bonds, and submit the prescribed application form for each relevant stage set out in this Part.

Concurrent Re-zoning Applications

- 7.4 An applicant may apply for approvals under this Law concurrently with a re-zoning application under any applicable Tsawout zoning or land use law. In the case of concurrent applications:
- (a) all fees payable under both Laws are due at the time of application; and
 - (b) the applicant is required to provide completed applications under both Laws.

Single Family Exemptions

- 7.5 Despite paragraph 7.1(c), a heritage assessment is not required for construction, alteration, enlargement, addition, demolition or removal of single family homes for Tsawout Members unless the proposed activity requires an excavation deeper than 1.5 metres and/or the deposit or removal of more than 10 cubic metres of soil, gravel or other materials.

Review by Land Management Committee and other Departments

- 7.6 As soon as practicable after receiving the prescribed fees and a complete application under this Part, the Lands Manager shall:
- (a) refer the application to a meeting of the Land Management Committee along with all relevant information and documentation;
 - (b) circulate the application and all relevant information and documentation to internal Tsawout departments for comment;
 - (c) for applications for subdivisions, multi-family structures, or significant increases in density, refer the application to all adjacent Permanent Interest holders on First Nation Land; and

(d) if appropriate, refer aspects of the application to the District of Central Saanich.

- 7.7 The Land Management Committee or Lands Manager shall review the application and shall provide recommendations to Council about:
- (a) whether the application should be approved or not; and
 - (b) any suggested modifications, terms or conditions that should be set by Council.

Principles and Factors in Reviewing Applications

- 7.8 For each application, the Land Management Committee shall consider the following general principles and factors:
- (a) the promotion of health, safety, convenience and welfare of Tsawout members and of residents and occupants and other persons who have a lawful interest in First Nation Land;
 - (b) well-planned and orderly development of First Nation Land and the preservation of amenities and special features of First Nation Land;
 - (c) compliance with any applicable Tsawout land use plan, Tsawout zoning and land use law, other Tsawout Law, and applicable federal, provincial and municipal laws and standards;
 - (d) environmental protection and enhancement;
 - (e) adherence to Tsawout housing policies;
 - (f) provision of community benefits including land and/or funds to Tsawout for the development of community amenities;
 - (g) protection and enhancement of cultural and heritage resources and sites;
 - (h) compatibility with Tsawout and Saanich culture;
 - (i) viewscales, aesthetics and visual qualities;
 - (j) ensuring adequate parking, access and emergency access;
 - (k) the character of the proposed activity or project in relation to the character of the zone, neighbourhood, and the buildings already erected;
 - (l) the conservation of property values;
 - (m) potential impacts on adjacent uses, owners and occupants;
 - (n) the development of the zone, neighbourhood and Reserve in a manner that contributes to the economic, environmental, cultural and community health of Tsawout and its Members and the occupants of Tsawout Land;
 - (o) any information provided and any approvals already granted by Council, including any terms or conditions, in relation to the same project or the same parcels of land; and
 - (p) any other factors which may have an impact on the community or First Nation Land.

Examples of Recommendations

- 7.9 In making recommendations to Council, the Land Management Committee may make any relevant recommendations including:
- (a) any recommendation relating to the general factors set out in section 7.8;

- (b) whether there should be bonds, deposits or irrevocable letters of credit posted by the applicant and, if so, in what percentage or amount;
- (c) dedication of up to 5% of the area included in the application for parks, greenspace or community use or a cash donation or other contribution in lieu;
- (d) preferred lot reconfigurations to ensure viable subdivisions;
- (e) construction of intersections, access and emergency access routes;
- (f) construction of parking spaces;
- (g) construction of sidewalks;
- (h) purchase and installation of street lights;
- (i) completion of servicing agreements with the District of Central Saanich;
- (j) provision of updated plans, reports or studies, including as-built drawings after the completion of the project;
- (k) requirements for staging or sequencing of the project including requirements for interim reports;
- (l) set-backs or buffers including set-backs or buffers from property lines and environmental features;
- (m) noise and dust prevention or mitigation measures; and
- (n) any other relevant terms or conditions.

7.10 The Lands Manager shall ensure that recommendations from the Land Management Committee are written up within 7 days after the Land Management Committee meeting.

Lands Manager May Request Further Information

7.11 After reviewing the recommendations from the Land Management Committee and any comments received pursuant to section 7.6, the Lands Manager may request further information, plans, reports, or other relevant material from the applicant which the applicant shall provide.

Timelines

7.12 The Lands Manager shall as soon as practicable after having received the comments under section 7.6 and 7.7, or within 7 days of having received the additional information requested under section 7.11, forward the application to Council along with:

- (a) all relevant documents, maps, plans, reports and other information;
- (b) recommendations from the Land Management Committee;
- (c) any comments received from adjacent land-owners, interest-holders or Members;
- (d) any comments or recommendations from the Lands Manager and other Tsawout managers or departments; and
- (e) any comments from the District of Central Saanich.

Council Decisions

- 7.13 As soon as practicable after receiving the application and information set out in section 7.12, Council shall decide whether or not to approve the application and, without limiting the generality of Council's authority, Council may:
- (a) reject the application; or
 - (b) approve the application with any reasonable terms or conditions, including, but not limited to terms or conditions relating to the items set out in sections 7.8 and 7.9.

Notice of Completion

- 7.14 The Lands Manager shall not issue a Notice of Completion until:
- (a) the Tsawout lands department has received final as-constructed drawings and plans in digital form and to MMCD standards;
 - (b) each Registered Professional of record for the project has completed Schedule C-B forming part of subsection 2.2.7, Division C of the British Columbia Building Code;
 - (c) water and sanitary sewer connection permits have been issued;
 - (d) the proponent and Registered Professional has certified that any conditions of the Development Permit have been complied with; and
 - (e) the applicant has fulfilled all other reasonable requirements of the First Nation.

PART 8. OFFENCES, PENALTIES AND ENFORCEMENT

Penalties

- 8.1 A person who contravenes this Law, the terms or conditions of an authorization issued under this Law, or an order made by a 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.
- 8.2 A fine payable under paragraph 8.1 shall be remitted to the Tsawout First Nation by the Court, after reasonable Court costs have been deducted.

Enforcement and Stop Work Orders

- 8.3 The Lands Manager and any Tsawout contractor or employee acting under his or her authority may, at all reasonable times, enter upon any property for the purpose of administering and enforcing this Law. No person shall prevent or obstruct, or attempt to prevent or obstruct, the entry of any authorized official upon any property as authorized under this Law.
- 8.4 In addition to any other applicable fine, penalty or remedy, Council or the Lands Manager may at any time:

- (a) issue a Stop Work Order to order any Person who has not received full and proper authorization under this Law to cease carrying out any activity, use or construction listed under section 6.1 or 6.2 or any related activity, use or construction;
- (b) order any structures, works or installations carried out in violation of this Law to be removed within 30 days, failing which Council may order them to be removed or may have them removed at the expense of the Permanent Interest holder or the Person who constructed or installed the structures, works or installations without proper authorization;
- (c) seize and detain any timber, any product manufactured from timber, or any other natural resource when they have reasonable grounds to believe it was not obtained in accordance with the terms of this Law or its Schedules or the terms of any authorization under this Law or its Schedules.

8.5 A Stop Work Order imposed under section 8.4:

- (a) may be registered in Court and enforced as a court order; and
- (b) continues in force until the condition that led to it is remedied or until the activity that is the subject of the Stop Work Order receives a permit or authorization under this Law.

8.6 If materials are seized under section 8.4:

- (a) they may be removed to a place that is appropriate for their protection and, if in the care of a carrier at the time of seizure, the carrier may be directed to move the materials to the place so designated;
- (b) the costs of transportation and other charges incurred in the event of a seizure will be included in the costs of seizure and are chargeable to a party found in breach of this Law; and
- (c) seizure shall not prejudice or affect any lien to which a carrier may be entitled in respect of the materials to the time of such seizure.

PART 9. AMENDING PROCEDURES

Substantive Amendments

9.1 Substantive amendments to this Law may only be made in accordance with section 7 under Part 2 of the Land Code and, if the amendment relates to a matter listed in paragraph 10.1 (a) through (i) of the Land Code, subsection 10.1 under Part 3 of the Land Code.

Minor Amendments

9.2 Despite section 9.1 of this Law, Council may adopt minor amendments to this Law by unanimous decision at a duly convened meeting, and expressed by band council resolution.

9.3 For the purposes of section 9.2, minor amendments include:
(a) amendments to correct typographical errors;

- (b) amendments required to reference any relevant new or amended First Nation laws;
- (c) amendments ordered by any court of competent jurisdiction; and
- (d) amendments which serve to clarify the Law, where there is no reasonable dispute about the intention underlying the original provision.

PART 10. REPEAL AND OTHER BYLAWS

- 10.1 The *Tsawout First Nation Land Development Procedures Law*, No. 01-2010 is hereby repealed in its entirety.
- 10.2 The *Tsawout First Nation Waterworks Bylaw No. 2006-2* and the *Tsawout First Nation Sanitary Sewer System Bylaw No. SEW 2005-01* continue in force and effect except to the extent of any inconsistency with this Law, in which case this Law prevails.

PART 11. COMING INTO FORCE

Date Law Comes into Force

- 11.1 This Law shall come into force and effect on the date it is enacted by Resolution after complying with the requirements of section 7 of Part 2 of the *Tsawout First Nation Land Code*.

THIS LAW IS HEREBY ENACTED by Council at a duly convened meeting held on the ____ day of _____, 2012 at _____, British Columbia.

A quorum consists of **five (5)** Council members.

_____ Chief Harvey Underwood	_____ Councillor Allan Claxton
_____ Councillor Louie Claxton	_____ Councillor Eugena (Samantha) Etzel
_____ Councillor Toby Joseph	_____ Councillor Stanley Sam
_____ Councillor Antoine Underwood	_____ Councillor George Underwood

**STÁUTW (Tsawout) First Nation
General Engineering Requirements for Land
Development on First Nation Land**

SCHEDULE "A"

**TSAWOUT FIRST NATION SUBDIVISION, DEVELOPMENT AND SERVICING LAW, 02-2012
PARAGRAPH 7.1(A)**

To be Approved by Tsawout First Nation Council
[Date, 2012]



**STÁUTW (TSAWOUT) FIRST NATION
GENERAL ENGINEERING REQUIREMENTS FOR LAND DEVELOPMENT
ON FIRST NATION LAND**

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**STÁUTW (Tsawout) FIRST NATION
GENERAL ENGINEERING REQUIREMENTS FOR LAND DEVELOPMENT
ON FIRST NATION LAND**

Tsawout First Nation requires that a Conceptual Design be deemed satisfactory by Tsawout Council and receive an **Approval in Principle** before any development may proceed. A Final Design must be deemed satisfactory by Tsawout Council before the **Tsawout Development Permit** is issued.

Information items to be provided at the **Conceptual Design/ Approval in Principle Design** stage are indicated by **[Conceptual]**, and those to be provided at the **Final Design/ Development Permit** stage are indicated by **[Final]**.

The applicant is advised that the requirements below are general in nature and are meant to be a guide for submission only. It is possible that some listed requirements may be waived and other new requirements may become applicable as more information on the development is submitted. If the applicant or their consultant or agent regards any of the listed items to be not applicable, they may request a waiver and provide sufficient justification to support their request.

The applicant is further advised that a **Tsawout Development Permit** must be obtained before any improvement or construction work on Tsawout First Nation Lands may begin, irrespective of whether or not a lease is applicable or has been executed. Any work constructed before obtaining the **Tsawout Development Permit** is potentially illegal and is done at the applicant's or developer's own risk. If the applicant cannot produce satisfactory evidence to prove that any construction pre-Development Permit meets all Tsawout laws and standards, such work has to be removed and replaced, all at the applicant's own cost.

The below requirements are based on Aboriginal Affairs and Northern Development Canada's (AANDC) requirements with some modifications. Tsawout plans to eventually transition to MMCD-based guidelines and it is recommended that applicants follow MMCD requirements where such requirements exceed those of the *INAC Standards*.

GENERAL

1. Professional Seal and Signature [Conceptual and Final]

All submission reports, designs, drawings, calculations, specifications and technical documents shall bear the seal and signature of a Registered Professional (Professional Engineer or Registered Architect) qualified for the work. Where applicable, each registered professional of record must submit a BC Building Code Schedule B "Assurance of Professional Design and Commitment for Field Review."

- Provided for Conceptual*
- Provided for Final*

2. INAC Standards [Conceptual and Final]

State on the design drawings that all work is designed to meet or exceed the higher of *INAC Standards* as defined in the *INAC Codes Standards and Guidelines* and MMCD standards for design drawings. A copy of the *INAC Codes-Standards and Guidelines* is contained in the *INAC General Information Package for Leasing*, or may be obtained from INAC upon request. If work is proposed to be designed to standards other than the *INAC Standards* or MMCD, provide certifications of equivalence from a Registered Professional and obtain pre-approval from Tsawout by providing justifications and a copy of the relevant section of the standard used.

- Provided for Conceptual*
- Provided for Final*

3. General Plans [Conceptual and Final]

Provide:

1. a Location Plan showing the geographical area of the proposed development and surrounding roads, highways and topographic features;
 - Provided for Conceptual*
 - Provided for Final*
2. a Layout Plan showing the Lease Area and legal description of the lands to be developed and the boundaries of the Tsawout First Nation Reserve and an outline of the footprint proposed development, and
 - Provided for Conceptual*
 - Provided for Final*
3. a detailed Site Plan showing all existing and proposed works, buildings, streets, lanes, highways, intersections, driveways, parking and loading areas, sidewalks, street lighting, utilities and utility easements, streams and other topographic features of the site.
 - Provided for Conceptual*
 - Provided for Final*

4. Geotechnical Assessment [Conceptual]

Provide a geotechnical assessment to verify the viability of the development on site. Include the existing and proposed grades and their relations to the elevations on adjoining properties, and details of any necessary excavations.

- Provided for Conceptual*

5. Off-Site Work [Conceptual and Final]

If work relating to the development is required to be constructed outside of the Lease Area or will encroach onto private or other CP properties, obtain rights-of-way or other legal permissions to accommodate the work. Show such rights-of-way or other permissions on design drawings.

- Provided for Conceptual*
- Provided for Final*

BUILDING

6. Building Plans [Conceptual and Final]

Provide conceptual plan and elevations of proposed buildings [Conceptual] and detailed design drawings of architectural, structural, mechanical, plumbing, fire protection and electrical works [Final].

- Provided for Conceptual
- Provided for Final

7. Schedule [Conceptual]

Provide a proposed schedule of construction and an estimated start and completion date.

- Provided for Conceptual

8. Professional Certifications [Final]

Provide copy of relevant signed and sealed BC Building Code Schedules A, B-1 and B-2, or equivalent letters of assurance, on architectural, structural, mechanical, plumbing, fire suppression systems, electrical and geotechnical works for the proposed buildings.

- Provided for Final

WATER SERVICE

9. Conceptual Water Design [Conceptual]

Indicate domestic and fire flow requirements, and the proposed water source to meet these demands. Indicate the minimum fire flow available to the development and the minimum pressure available under Maximum Day Plus Fire Flow conditions.

- Provided for Conceptual

10. Conceptual Water Design Drawings [Conceptual]

Provide conceptual design drawings to show the existing and the proposed water works to service the development.

- Provided for Conceptual

11. Water Supply from Own Well [Conceptual]

Water supply from the development's own well is only permitted for agricultural/landscaping uses. Domestic and fire flow needs must be met through water supply from an existing water distribution system (see 13).

- Provided for Conceptual

12. Water Supply from Surface Water [Conceptual]

Water supply from a surface water body is only permitted for agricultural/landscaping uses. Domestic and fire flow needs must be met through water supply from an existing water distribution system (see 13).

- Provided for Conceptual

13. Water Supply from Existing System [Conceptual]

Verify by network analysis calculations or other means that the existing water distribution system has the capacity to deliver the required domestic and fire flow to the development.

- Provided for Conceptual*

14. Hydrant Locations [Conceptual]

Indicate sufficient hydrants on the conceptual design drawings such that no current or future proposed building is more than 75 m from a hydrant.

- Provided for Conceptual*

15. Watermain Looping [Conceptual]

Loop watermains whenever possible to provide redundancy and improve fire flow.

- Provided for Conceptual*

16. Water Service Agreement – where connecting to a water system other than the Tsawout First Nation water service [Conceptual and Final]

Provide letter of intent or draft servicing agreement [*Conceptual*] and signed servicing agreement [*Final*] with the owner of the existing water system for providing water service to the development.

- Provided for Conceptual*
- Provided for Final*

17. Water Service Permit – where connecting to Tsawout First Nation’s water service [Final]

Provide completed application for a Water Service Permit as required under the *Tsawout First Nation Waterworks Bylaw No. 2006-2*, as amended from time to time [*Final*] for providing water service to the development. Permit is to be issued once the requirements of the Bylaw have been met.

- Provided for Final*

18. Decommissioning Plan for Abandoning Existing Well [Conceptual]

Provide a decommissioning plan if any existing well is to be abandoned.

- Provided for Conceptual*

19. Detailed Water Design Drawings [Final]

Provide detailed design drawings for all proposed water works and treatment facilities to service the development. In particular, show details of connection point to an off-site distribution system, horizontal and vertical profiles of watermains, offsets of watermain from reference objects, horizontal and vertical separation with a sewer, material specifications, trench details, water meters, and details of appurtenances such as valves, air valves, chambers, hydrants, thrust blocks and bearing areas.

- Provided for Final*

20. Disinfection of New Watermain [Final]

Indicate on design drawing method and procedure for disinfecting a new watermain. Indicate on design drawing method of disposal of chlorinated water after completing watermain disinfection such that aquatic life will not be adversely impacted.

- Provided for Final*

21. Service Connection Details, Standards and Identification [Final]

Show on design drawings water service connection details and specify service connections to meet the Canadian Plumbing Code. Specify on design drawings blue marker stakes for identification of any future water service connections.

- Provided for Final*

SANITARY SERVICE

22. Conceptual Sanitary Design Drawings [Conceptual]

Provide conceptual design drawings to show the existing and the proposed sanitary facilities to service the development. Developments must be serviced by an existing sanitary sewer system.

- Provided for Conceptual*

23. Sanitary Service from Existing System [Conceptual]

Verify, through network analysis calculations or other means, that the existing sewer system has the spare capacity to service the development.

- Provided for Conceptual*

24. Sanitary Service Agreement - where connecting to a sanitary sewer system other than Tsawout First Nation sanitary sewer system [Conceptual and Final]

Provide a letter of intent or draft servicing agreement [*Conceptual*] and signed servicing agreement [*Final*] with the owner of the existing sewer system for providing sanitary service to the development.

- Provided for Conceptual*

- Provided for Final*

25. Sanitary Sewer Connection Permit - where connecting to the Tsawout First Nation sanitary sewer system [Final]

Provide a completed Application for Sewer Connection as required under the *Tsawout First Nation Sanitary Sewer System Bylaw No. 2005-01*, as amended from time to time [Final] for providing sanitary sewer service to the development. Permit is to be issued once the requirements of the Bylaw have been met.

- Provided for Final*

26. Oil Separator [Conceptual]

Provide oil separator (at a standard which meets or exceeds the requirements applicable in the District of Central Saanich) for discharge to either the sanitary or the storm system from restaurants, gas stations, machine shops, and anywhere oil can be discharged or spilled.

- Provided for Conceptual*

27. Decommissioning Plan for Abandoning Existing Septic Facilities [Conceptual]

Provide a decommissioning plan if any existing septic facilities are to be abandoned. Plan to meet or exceed standards applicable in the District of Central Saanich.

- Provided for Conceptual*

28. Detailed Sanitary Design Drawings [Final]

Provide detailed design calculations and drawings for all proposed sanitary works to service the development. In particular, show horizontal and vertical profiles of the sewers and forcemains, offsets of sewer and forcemain from reference objects, material specifications, sewer slopes, invert elevations, manhole rim elevations, sewer trench details, forcemain thrust block bearing areas, and details of manholes, cleanouts, oil separators, air valves and chambers.

- Provided for Final*

29. Effluent Permit Limits [Final]

Verify that the Effluent Quality Parameters discharged to a disposal or reclaimed water use facility do not exceed the *Waste Management Act Municipal Sewage Regulation* limits for the particular facility.

- Provided for Final*

30. Service Connection Details, Standards and Identification [Final]

Show on design drawings sewer service connection details. Provide inspection chamber. Specify service connection to meet the Canadian Plumbing Code. Specify on design drawings red marker stakes for identification of any future sewer service connections.

- Provided for Final*

DRAINAGE

31. Stormwater Management Plan [Conceptual]

Provide a stormwater management plan showing how the post-development Minor (1:2 Year) and Major (1:50 Year) flows are to be managed. Show grading of lot and in-conduit, in-ditch, and overland flow paths. Registered Professional must confirm that the Stormwater Management Plan meets or exceeds the requirements applicable in the District of Central Saanich.

- Provided for Conceptual*

32. Stormwater Disposal by Drywell [Conceptual]

If stormwater runoff is proposed to be disposed of by drywells, verify by calculations that the drywells have the capacity to dispose of a Minor (1:2 year) storm flow.

- Provided for Conceptual*

33. Stormwater Disposal to Surface Water Body [Conceptual]

If any stormwater runoff is proposed to be discharged into an adjacent surface water body, provide details of sediment control devices and confirm permission with Department of Fisheries and Oceans and Environment Canada.

Provided for Conceptual

34. Stormwater Disposal to Roadside Ditch [Conceptual]

If any stormwater runoff is proposed to be discharged into an adjacent roadside ditch, confirm permission with the owner of the roadside ditch (either the First Nation, municipal, regional or provincial jurisdiction).

Provided for Conceptual

35. 200 Year Flood Level [Conceptual]

State on the conceptual design drawing that the building habitable floor slab elevation is not less than 0.6 m above the 1:200 year flood level.

Provided for Conceptual

36. Tidal Surge Elevation [Conceptual]

State on the conceptual design drawing that the building habitable floor slab elevation is above a safe tidal surge elevation.

Provided for Conceptual

37. Detailed Drainage Design Drawings [Final]

Provide detailed design drawings for all proposed drainage works servicing the development. In particular, show horizontal and vertical profiles of storm sewers and ditches, offsets of storm sewer from reference objects, material specifications, sewer slopes, invert elevations, manhole rim elevations, trench details, and details of manholes, cleanouts, oil and debris separators, drywells, silt traps and detention ponds.

Provided for Final

TOTAL ESTIMATED COST OF WORKS AND SERVICES

38. Total Estimated Cost of Works and Services [Conceptual]

Provide total estimated cost of works and services excluding off-site works and services which are the subject of a servicing agreement with the District of Central Saanich: \$_____

Provided for Conceptual

ROADS, ACCESS AND PARKING

39. Parking [Conceptual]

Provide the estimated number of parking spaces required for the development and the plans to accommodate them. Minimum number of parking spaces and dimensions must be consistent with the requirements applicable in the District of Central Saanich.

Provided for Conceptual

40. Traffic Volume [Conceptual]

Provide the estimated volume of traffic in trips per day that will be generated by the development, and an analysis of the impact of the traffic to be generated on the use of nearby and adjacent land.

- Provided for Conceptual*

41. Conceptual Road Design Drawings [Conceptual]

Provide conceptual design drawings to show the existing and the proposed access and road facilities to service the development, including entry and exit routes and access by fire and emergency vehicles.

- Provided for Conceptual*

42. Cul-de-Sac Length [Conceptual]

Limit length of any cul-de-sac to 150 m maximum in consideration of emergency access and deployment of fire fighting equipment.

- Provided for Conceptual*

43. Utilities in Adjacent or Public Roads [Conceptual]

If utilities servicing the development are to be laid crossing or within the fronting road allowance, confirm permission with the owner of the fronting road (adjacent CP-holder, Tsawout, the District of Central Saanich, or the provincial government)

- Provided for Conceptual*

44. Bridge Across Creek [Conceptual]

Confirm permission from Department of Fisheries and Oceans for access bridge across river or creek.

- Provided for Conceptual*

45. Access Permit [Conceptual and Final]

Provide letter of intent [**Conceptual**] and access permit, easement or right-of-way [**Final**] from the owner of the fronting road (adjacent CP-holder, Tsawout, the District of Central Saanich, or the provincial government) for allowing access to the development.

- Provided for Conceptual*
- Provided for Final*

46. Detailed Parking Design [Final]

Provide detailed design calculations and drawings for all proposed parking areas and spaces.

- Provided for Final*

47. Detailed Road Design Drawings [Final]

Provide detailed design calculations and drawings for all proposed roads and access to service the development.

- Provided for Final*

48. Road Details [Final]

Show design speed, horizontal and vertical road profile, vertical curve data, cross sections, intersection details and pavement structure on design drawings.

- Provided for Final*

49. Signage [Conceptual and Final]

Show the proposed [*Conceptual*] and actual [*Final*] location, size, height, colour, lighting and orientation of all signs.

- Provided for Conceptual*
- Provided for Final*

GREENSPACE AND AMENITIES

50. Greenspace and Public Amenities [Conceptual and Final]

Show the proposed [*Conceptual*] and actual [*Final*] location and treatment of parks, green space, common areas, open spaces, trails, landscaping, fences, recreation features and any other public amenities.

- Provided for Conceptual*
- Provided for Final*

51. Community Services [Conceptual]

Identify the local community services and public facilities that would be affected by the development, including the projected increase in users of existing community services and public facilities, potential increased costs to Tsawout, and strategies to mitigate any negative impacts to community services and public facilities.

- Provided for Conceptual*

FUEL HANDLING

52. Fuel Storage and Dispensing [Final]

For gas station development, provide details of fuel storage tanks, connection piping, dispenser pumps, spill containment, alarm system and an emergency response plan.

- Provided for Final*

FIRE PROTECTION

53. Fire Protection Service Agreement [Conceptual and Final]

Provide letter of intent [*Conceptual*] and service agreement [*Final*] with either Tsawout or the District of Central Saanich for providing fire protection service to the development.

- Provided for Conceptual*
- Provided for Final*

54. Tsawout's Fire Fighting Capability [Conceptual]

If fire protection service is to be obtained from Tsawout, verify the existing capability of Tsawout's equipment and resources to respond to and provide fire fighting service to the development.

- Provided for Conceptual*

UTILITIES

55. Utility Service Agreements [Conceptual and Final]

Provide letter of intent [**Conceptual**] and service agreement [**Final**] with utility companies for electricity, telephone, gas and solid waste disposal services.

- Provided for Conceptual*
- Provided for Final*

COMPLETION DOCUMENTATION

56. Health Canada Permits for Individual Homes [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide Health Canada permits for in-ground sewage disposal for individual homes [**Final**]. Actual permits are to be provided as part of the completion documentation.

- Provided for Final*

57. Restaurant Permit [Final]

Provide written commitment from the Proponent to provide a copy of Ministry of Health Permit to Operate A Food Service Establishment if kitchen or restaurant service is proposed [**Final**]. Actual permit is to be provided as part of the completion documentation.

- Provided for Final*

58. Registration of Rights of Way, Permits and Easements [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide copies of all registered rights of way plans, permits and easements [**Final**]. Actual plans and proof of registration must be provided as part of the completion documentation.

- Provided for Final*

59. Registration of Fuel Storage Tanks [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide a copy of the registration of all underground storage tanks and exterior aboveground storage tanks larger than 4000 litres [**Final**]. Actual registration documents are to be provided as part of the completion documentation.

- Provided for Final*

60. Construction Supervision [Final]

Provide written commitment from the Professional Engineer to provide all necessary construction supervision, inspection, site testing and record keeping during construction of the site work *[Final]*.

Provided for Final

61. O&M Manuals [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide Operation & Maintenance Manuals for the electrical and mechanical systems upon completion *[Final]*. Actual Operation & Maintenance Manuals are to be provided as part of the completion documentation.

Provided for Final

62. As-Built Drawings [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide accurate as-built drawings upon completion *[Final]*. Actual as-built drawings are to be provided as part of the completion documentation for all buildings, structures, roads, and works.

Provided for Final

63. Completion Report [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide a completion report detailing work progress, inspection records, testing results, and problems encountered on site *[Final]*. Actual completion report is to be provided as part of the completion documentation.

Provided for Final

64. Completion Certification [Final]

Provide written commitment from the Co-ordinating Registered Professional who signed the BC Building Code Schedule A for the building to provide the BC Building Code Schedules C-A and C-B *[Final]*.

Provided for Final

Provide written commitment from the Professional Engineer submitting the supporting services plans to provide an Engineer's Certificate certifying that all work is constructed in accordance with approved drawings and specifications *[Final]*.

Provided for Final

Actual Schedules C-A and C-B and Engineer's Certificate are to be provided as part of the completion documentation.

Provided for Final

**STÁUTW (Tsawout) First Nation
General Requirements for Environmental
Assessments on First Nation Land**

SCHEDULE "B"

**TSAWOUT FIRST NATION SUBDIVISION, DEVELOPMENT AND SERVICING LAW, 02-2012 PARAGRAPH
7.1(B)**

To be approved by Tsawout First Nation Council

[Date, 2012]



**STÁUTW (TSAWOUT) FIRST NATION
GENERAL REQUIREMENTS FOR ENVIRONMENTAL ASSESSMENTS ON
FIRST NATION LAND**

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THE STÁUTW (TSAWOUT) GENERAL REQUIREMENTS FOR ENVIRONMENTAL ASSESSMENT ON FIRST NATION LANDS

1. INTRODUCTION

An environmental assessment is:

“the process of identifying, predicting, evaluating and mitigating the biophysical, social and other relevant effects of development proposals prior to major decisions being taken and commitments made”

(International Association of Impact Assessment)

An environmental assessment examines effects of proposed Projects on soil, air quality, water quality and supply, vegetation, fisheries, wildlife, traffic, noise, community health, economic development, archaeology and a variety of other social, economic, and environmental topics. An environmental assessment also examines the Cumulative Effects of a proposed Project combined with other past and foreseeable future human activities. Environmental assessments also identify ways of avoiding or reducing adverse Environmental Effects.

An environmental assessment is a planning tool, a means of reviewing the effects of development, a process of community engagement, and an instrument for complying with regulatory requirements.

The STÁUTW (Tsawout) First Nation seeks the following benefits through the conduct of environmental assessment of activities on, or uses of, its lands:

- ❖ Gather information sufficient to enable the Tsawout First Nation to exercise its decision-making authority over use of its lands
- ❖ Identify components of proposed Projects or plans that could adversely affect natural or human environments, the community, or the economy
- ❖ Propose ways of avoiding or minimizing adverse effects on environment, society and culture
- ❖ Improve Project design, construction, and operation
- ❖ Engage the community in the process of reviewing proposed developments
- ❖ Support better development decisions

2. DEFINITIONS

- 2.1 Unless otherwise defined in Schedule 1 of these Requirements, definitions in these Requirements have the same meaning as in the *Subdivision, Development, and Servicing Law* and the *Tsawout First Nation Land Code*.

3. APPLICATION OF THESE REQUIREMENTS

- 3.1 These Requirements apply to:
- (a) all Projects to which the *Tsawout Subdivision, Development and Servicing Law, 2012-02* applies;
 - (b) any grant or disposition of a lease, license or permit in First Nation Land which must be approved by Council under section 26.6 of the Land Code;
 - (c) any grant by Council of an interest, licence or permit in Band Land under section 28.1 of the Land Code;
 - (d) land developments on First Nation Land that are approved, regulated, funded or undertaken by the Tsawout First Nation; and
 - (e) preparation of Tsawout First Nation land use plans or regulations that specify proposed uses of land, or changes in land use designations (amendments to subdivision, land use, or zoning plans or regulations) for commercial, industrial, or institutional uses.
- 3.2 As a matter of general application, the scope of an environmental assessment shall be commensurate with the size and complexity of a Project and its potential Environmental Effects.
- 3.3 Nothing in these Requirements limits the Lands Manager's ability to:
- (a) require an environmental assessment as part of a Subdivision Approval, Development Permit or leasing, permitting or licensing process if the Lands Manager determines, in his or her sole discretion, that an environmental assessment is warranted in the particular circumstances; or
 - (b) waive the requirement for an environmental assessment of a Project if the Lands Manager determines that an Environmental Assessment is not warranted in the particular circumstances because the proposed Project clearly does not have the potential to cause adverse Environmental Effects; subject to the powers of Council under section 3.4.
- 3.4 A decision by the Lands Manager to waive the requirement for an environmental assessment is subject to review by Council.
- 3.5 A decision by the Lands Manager to proceed with an environmental assessment is not subject to review by Council.

4. PROJECTS AND APPROVALS THAT ARE EXEMPT FROM THE REQUIREMENT FOR AN ENVIRONMENTAL ASSESSMENT

- 4.1 Environmental assessments are not required under the following circumstances, unless otherwise determined by Council:
- (a) administrative actions that do not affect land or resources;
 - (b) emergency repairs or action needed on an urgent basis to avert or respond to emergencies; or

(c) responses to accidents or threats to public health.

4.2 Consistent with the approach taken by the *Canadian Environmental Assessment Act Exclusion List Regulation*, 2007, an environmental assessment will not be required for a Project proposed to occur on First Nation Land that meets all of the following criteria:

- (a) the affected land is more than 30 meters from a water body, environmentally sensitive area (as shown in the Tsawout *Comprehensive Community Plan* 2011), fish habitat, migratory bird habitat, or land considered important for cultural reasons, including traditional use areas;
- (b) the Project complies with prevailing Tsawout First Nation land use plans, zoning designations, and subdivision regulations;
- (c) for Projects involving construction or expansion of a structure, the Project is on a lot serviced by sewer and water;
- (d) the Project would result in the cutting of not more than 7 Trees of 50 cm diameter or less at 1.4 meters height or not more than 4 Trees of 50 cm diameter or greater at 1.4 meters height and would not result in the clearing of more than 10% of the trees from the individual Lot;
- (e) the Project would not emit or release substances that have the potential to pollute air or water;
- (f) the Project would not result in increases of more than 30 vehicle trips per day to and from First Nation Lands;
- (g) the Project would not add more than 20 residents to First Nation Lands; and
- (h) for commercial or industrial development, the Project would not employ more than 10 people.

4.3 Notwithstanding section 4.2, Council may request an environmental assessment where community members have raised a reasonable concern or where Council believes on reasonable grounds that the Project may have harmful Environmental Effects

5. HARMONIZING ENVIRONMENTAL ASSESSMENTS CONDUCTED BY MULTIPLE PARTIES

5.1 The Tsawout First Nation recognizes that federal departments have statutory requirements to conduct environmental assessments on First Nation Land under the *Canadian Environmental Assessment Act* (CEAA) under certain circumstances, and components of Projects occurring on lands adjacent to the reserve may be subject to assessment under the *British Columbia Environmental Assessment Act* (BCEAA). In an effort to avoid duplication, when the Tsawout First Nation determines that an environmental assessment is required for a Project occurring on its lands, or when other governments inform the Tsawout First Nation that their respective legislation requires conduct of an environmental assessment on Tsawout First Nation land or adjacent to Tsawout First Nation land, then the Lands Manager will make best efforts to schedule a meeting of the parties to seek agreement on the following issues:

- (a) the agency and individual that will be the main contact and coordinator of the environmental assessment for each involved jurisdiction;
- (b) the common information requirements under the federal, provincial and Tsawout First Nation's environmental assessment processes;
- (c) the manner by which the parties will develop a specific work plan for each Project undergoing a multi-jurisdictional environmental assessment;
- (d) how the parties will co-ordinate their environmental assessment decisions and associated regulatory decisions with respect to a Project; and
- (e) for future Projects, how each party will notify the others when an environmental assessment process is initiated under that jurisdictions' law.

5.2 Tsawout First Nation recognizes that under clause 25.6 of the Framework Agreement, the Tsawout First Nation and Canada will make best efforts to ensure the Tsawout First Nation'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 the Tsawout First Nation, Canada, and British Columbia under clause 25.7 of the Framework Agreement.

6. THE TSAWOUT FIRST NATION ENVIRONMENTAL ASSESSMENT PROCESS

6.1 For most Projects, the procedures outlined in Part 7 will be followed. Council or the Lands Manager may alter or amend steps as appropriate. The Tsawout First Nation environmental assessment process is designed to meet the requirements of the Framework Agreement, including:

- (a) that an environmental assessment is triggered in appropriate cases where the First Nation is approving, regulating, funding or undertaking a Project on First Nation Land (Clause 25.4 of Framework Agreement, Section 21(3) of FNLMA),
- (b) the environmental assessment process must be consistent with requirements of the *Canadian Environmental Assessment Act* (Clause 25.3 of Framework Agreement), and
- (c) environmental assessments must be conducted as early as possible in the planning stages of the Project, before an irrevocable decision is made (Clause 25.4 of Framework Agreement).

6.2 For Projects determined to require an environmental assessment, the Proponent must ensure that an environmental assessment is completed before other approvals are considered by the Tsawout First Nation. Such approvals include negotiating impact benefit agreements, or issuing permits under Tsawout First Nation laws. It is recommended that the Proponent complete all required environmental assessments prior to completing any lease or sub-lease agreements.

7. ENVIRONMENTAL ASSESSMENT STEPS

Step 1: Lands Manager determines whether environmental assessment is required

- (a) For all Projects identified in Part 3, a detailed Project Description will be prepared by the Proponent and submitted to the Lands Manager. Appendix “A” contains a Project Description template to guide the Proponent’s submission.
- (b) Upon receipt of the Project Description, the Lands Manager may forward, or may direct the Proponent to forward, the Project Description to Aboriginal Affairs and Northern Development Canada, the Lands Advisory Board, Fisheries and Oceans Canada, the Canadian Wildlife Service, the District of Central Saanich, the Capital Regional District, or other government departments or authorities. The involvement of other government departments is based on whether those departments have decisions to make or can contribute expert or specialist advice.
- (c) Using the information contained in the Project Description, the Lands Manager will determine whether an environmental assessment is required. This decision must be made within 20 working days of receipt of a Project Description deemed complete by the Lands Manager and the Proponent will be provided notice of the decision within that time. The Lands Manager may determine that a further 20 working days is required to obtain input from other government departments or authorities who have been forwarded the Project Description and will provide notice to the Proponent within the first 20 day timeframe if further time is required. Under section 3.5, a decision that an environmental assessment is required is not reviewable by Council.
- (d) Under section 3.4, Council may review a determination by the Lands Manager that an environmental assessment is not required for a Project. The Lands Manager will inform Council as soon as practicable of a determination not to require an environmental assessment and provide them with a report setting out the reasons for the determination. Within 15 working days of receiving the Land Manager’s determination, Council will either: 1) confirm the determination of the Lands Manager; or, 2) require an environmental assessment notwithstanding the Lands Manager’s determination. Council may extend this time by 5 working days by providing notice to the Proponent. If further time is required by Council, they will seek agreement with the Proponent on an appropriate timeline for finalizing Council’s decision.
- (e) A determination that no environmental assessment is required under these Requirements does not exempt the Proponent from complying with federal environmental assessment requirements or the need to obtain permits under applicable Tsawout First Nation, federal, or provincial laws and regulations.
- (f) If the Lands Manager determines that a Project requires preparation of a Tsawout First Nation environmental assessment, the Lands Manager will report this determination to the Proponent and Council.

- (g) The Lands Manager will post a notice of his or her determination with respect to requiring an environmental assessment in the Tsawout administration office and/or on the Tsawout First Nation website within five working days after the determination is provided to the Proponent.

Step 2: Determine the scope and Terms of Reference for the environmental assessment

- (a) If a Project requires preparation of an environmental assessment, the Lands Manager will oversee the development of, and approve, Terms of Reference for the environmental assessment.
- (b) Although the Proponent bears responsibility for preparing the Terms of Reference, the Proponent is strongly advised to conduct this step in consultation with the Lands Manager or a Tsawout Environmental Specialist to ensure that the environmental assessment will include information considered necessary by the Tsawout First Nation. This consultation is critical to avoid delays in the environmental assessment process.
- (c) As shown in Generic Terms of Reference in Appendix “B”, an environmental assessment report typically includes the following major headings:
1. **Project setting:** Physical, ecological, social, cultural, and economic setting of the area potentially affected by a Project.
 2. **Project description:** Including design, construction, operation, and decommissioning.
 3. **Project Effects and Mitigation:** Identification of potential Environmental Effects, assessment of the impacts and description of Mitigation measures.
 4. **Cumulative Effects assessment:** Combined environmental, cultural or socio-economic impacts that accumulate from a series of actions, contaminants, or Projects.
 5. **Commitments:** Clear statement of commitments by the Proponent to implement the Mitigation measures described in the environmental assessment.
 6. **Conclusion:** A summary and conclusion of the significance of identified adverse Environmental Effects.
- (d) Appendix “C” of this document contains a list of potential topics to be studied in an environmental assessment. The Lands Manager may require that an environmental assessment includes some or all of the topics listed in Appendix “C”, or additional topics at the Lands Manager’s sole discretion.
- (e) During preparation of the Terms of Reference, the Proponent will identify any liability concerns and potential requirements for professional expertise and input to mediate those concerns.
- (f) The Terms of Reference for an environmental assessment should describe the process to be applied in preparing the assessment, including a list of agencies or individuals to be contacted, description of reports or other deliverables to be prepared, including special studies, and a timeline for the conduct of the work, including meetings and submission of deliverables. The

- Terms of Reference will specify, where appropriate, the professional qualifications of personnel that will prepare the environmental assessment.
- (g) The Lands Manager may retain the assistance of specialists in relevant fields to assist in reviewing Terms of Reference submitted by the Proponent. The Proponent is required to cover any costs incurred by the Tsawout First Nation in retaining such specialist assistance.
 - (h) Where the Project has the potential to have a significant effect on Band Land or resources, or on the interests of the Tsawout community as a whole, the Lands Manager may: (a) refer the draft Terms of Reference to the Land Management Committee, and, (b) engage the Tsawout community in a review of the Terms of Reference for the environmental assessment. The Lands Manager may circulate the draft Terms of Reference to other governments for review and comment, as deemed necessary and appropriate by the Lands Manager.
 - (i) Following review, the Lands Manager will determine whether the Terms of Reference include the issues necessary for inclusion in the subsequent environmental assessment, and whether the process for preparing the environmental assessment is considered adequate. The Lands Manager will inform the Proponent of this determination.

Step 3: Conduct the analysis and prepare the environmental assessment report

- (a) After the Terms of Reference have been approved by the Lands Manager, the Proponent will assume responsibility for conducting the environmental assessment. Typically, the Proponent retains professionals with the requisite expertise to study specified issues, identify potential Environmental Effects, propose measures to mitigate those effects, and prepare resulting reports.
- (b) The Proponent will prepare and submit a stand-alone draft environmental assessment report to the Lands Manager. The report will be accompanied by a table indicating that the topics and actions specified in the Terms of Reference have been completed and will identify the preparers of the report and describe their professional qualifications.
- (c) The Tsawout First Nation desires clear environmental assessments that provide information on specified topics and reach clear conclusions about Environmental Effects and Mitigation. Excessive data collection, superfluous text, or unnecessarily complex analysis is discouraged. Honest and unbiased assessment of impacts is an absolute requirement. Failure to meet this requirement will result in the Proponent being required to revise and re-submit the report.

Step 4: Review the draft environmental assessment report

- (a) The Lands Manager will determine the process for reviewing the draft environmental assessment and will specify the parties to be involved. The Proponent will be expected to cover the Tsawout First Nation's costs incurred in reviewing the draft environmental assessment report.
- (b) An important function of an environmental assessment is to communicate findings to the community. For large Projects with the potential to affect the

entire community, open houses or workshops may be conducted. For smaller Projects, it may be adequate to notify the membership that a report is available for members' review and comment.

- (c) The Lands Manager will forward the draft environmental assessment report to the Land Management Committee, and may direct the Proponent to circulate the draft environmental assessment report to federal or provincial agencies or to local governments for their review and comment.
- (d) The Lands Manager may seek independent review of the draft environmental assessment report by expert specialists. The Project Proponent is required to cover the Tsawout First Nation's costs in retaining such specialists.
- (e) The Lands Manager will submit comments on the draft environmental assessment report to the Proponent.

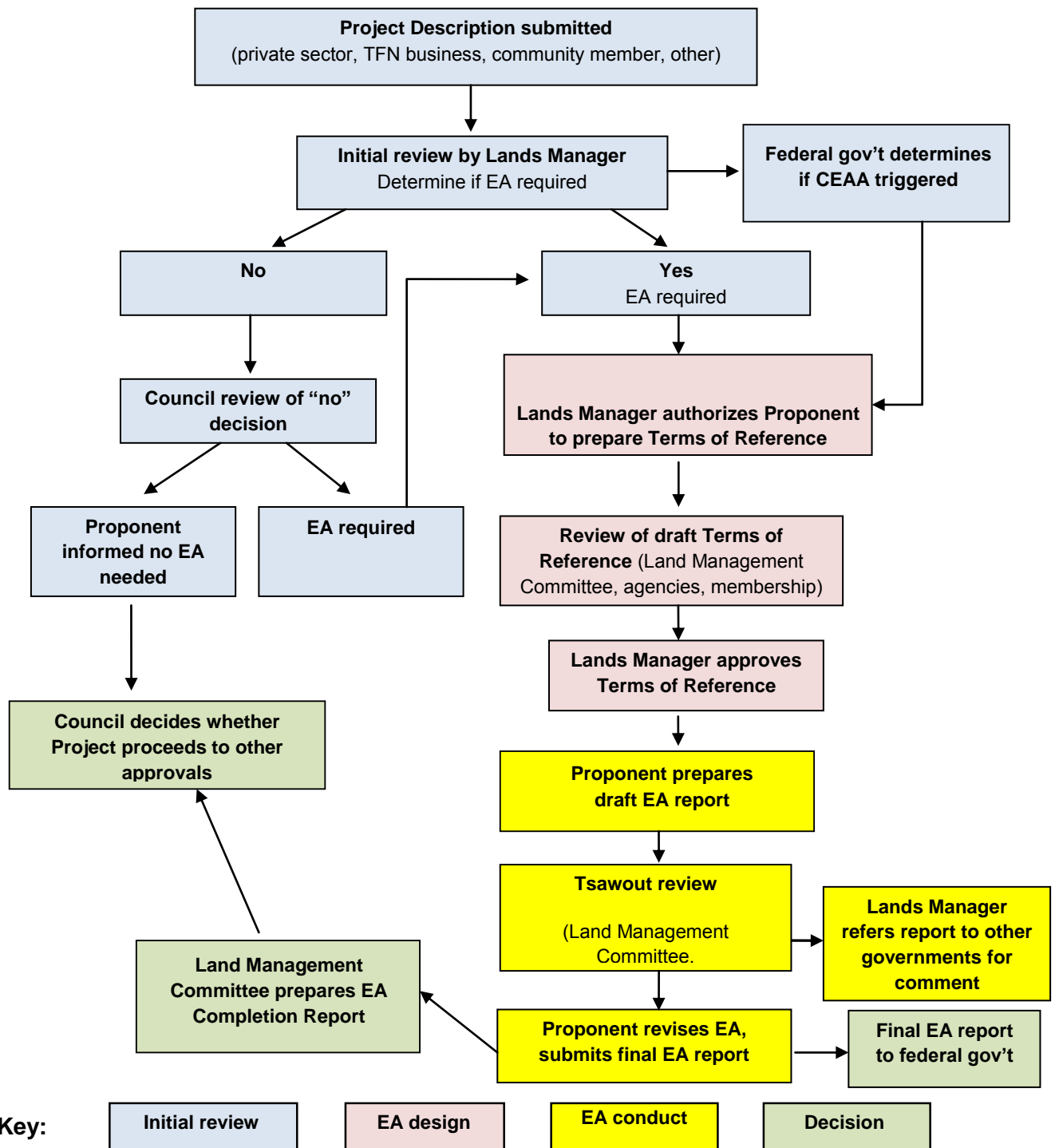
Step 5: Make the environmental assessment decision

- (a) Responding to the comments on the draft environmental assessment report provided by the Lands Manager, the Proponent will amend the draft report and submit to the Lands Manager a revised final version of the document.
- (b) The Lands Manager will convene the Land Management Committee to review the final environmental assessment report. The Lands Manager also may:
 - i. obtain comment from specialist experts at the cost of the Proponent,
 - ii. circulate the report to staff of other government agencies, and
 - iii. make the report available to the community for comment.
- (c) The Lands Manager, on behalf of the Land Management Committee, will prepare an environmental assessment completion report that:
 - i. Summarizes comments from the Land Management Committee, specialists, the community, or others on the quality and findings of the environmental assessment report;
 - ii. Presents conclusions about the nature and significance of potential Environmental Effects and the effectiveness of Mitigation measures identified; and
 - iii. Provides the comments of the Lands Manager and the Land Management Committee on: 1) the implications of allowing the Project to proceed to other approval processes; and, 2) what conditions may be attached to future approvals or permits that would likely mitigate identified environmental impacts or enhance identified benefits.
- (d) Neither the environmental assessment report nor the environmental assessment completion report will conclude whether a Project should proceed, but rather will focus on the potential effects of implementing a Project. Decisions about Project approval or rejection reside with Council, primarily through permits and other approvals issued under the *Tsawout Subdivision, Development and Servicing Law*. Permits may also be required under other applicable legislation (e.g., *Fisheries Act*) the issuance of which is not controlled by the Tsawout First Nation.

Step 6: Implement Mitigation and follow-up program, as appropriate

- (a) The Mitigation measures identified in the report will be incorporated into any design plans, site plans, timber-harvesting Development Permits, construction tender, and 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 land will be restored following construction, etc. Mitigation measures will also form part of the conditions of a development permit.
- (b) Where appropriate and required 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 the Tsawout First Nation, subject to mutual agreement of the Proponent and the Lands Manager.

FIGURE 1: Process for conducting an environmental assessment



APPENDIX “A”: Project Description Template

Proponents are to complete this Project Description and submit to the Tsawout First Nation Lands Manager. Submission of this form initiates the Tsawout First Nation environmental assessment process.

1.0 GENERAL INFORMATION

1.1 Contact Information

Project Title	
Proponent Contact (job title)	
Address	
Telephone Number	
Fax Number	
Email	

If Applicable:

Co-Proponent Name	
Contact and title	
Address	
Telephone Number	
Fax Number	
Email	

If Applicable:

Environmental Consultant	
Contact and title	
Address	
Telephone Number	
Fax Number	
Email	

Reserve Name and Number:

- E. Saanich I.R. No. 2
- Fulford Harbour I.R. No. 5

1.2 Potential Regulatory Requirements

a) Is there Federal financial support for this Project? Yes No

If yes, then from which department?

b) Is there Tsawout First Nation financial support for this Project? Yes No

c) Please list other environmental assessment regimes or potential permits, approvals, or authorizations from Canada, the province, municipal, or international governments to which the Project may be subject or require (e.g. *Fisheries Act, SARA, Canadian Environmental Protection Act, Provincial water licence, municipal rezoning, etc.*)?

2.0 PROJECT INFORMATION

2.1 Project Title

2.2 Project Description

a) Project rationale (need for the Project, goals, purpose)

b) Briefly describe the Project (its market, permanent or temporary structures, affected land area, etc.)

c) Are there subsequent phases or expansion, or other facilities or activities associated with the Project that are not included in this Project Description? Yes___ No ___

If “yes,” please describe:

d) Does this Project involve cutting of trees on Tsawout First Nation land? If so, how many, species, size, health?

e) Estimated capital cost: _____

2.3 Detailed Project Location

Geographical Location and/or GPS Coordinates:

Legal Land Description:

Attach a detailed map of the Project footprint and affected area, conceptual plans, and other facility designs or plans if available.

2.4 Resource and Material Requirements

a) Does this Project involve gravel, sand, or any other non-metallic minerals from Tsawout First Nation land? If yes, which reserve? What raw materials will be processed (including gravel, metals, or others)?

b) What are the energy sources for the operation of this development (propane, natural gas, electrical, diesel etc.)? How much energy will be required for its operation?

c) How much water will be used, for what purpose, and from what source?

2.5 Waste Disposal

a) What types of wastes will be generated during construction and operation of this Project?

b) How and where will wastes be disposed?

2.6 Associated Infrastructure

a) Describe infrastructure required by this Project (roads, transit, water supply, power, sewers, other).

2.7 Project activities

a)Project construction:

- Start and finish date: _____

- List activities in sequence:

- Number of workers

- Total

- Per average day

- Tsawout First Nation members

- Vehicles per day (trucks and cars, maximum and daily average):

- Where will vehicles park:

b) Project operation:

- Project activities:

- Number of workers

- Total

- Per average day

- Tsawout First Nation members

- Vehicles per day (trucks and cars, maximum and daily average)

- Where will vehicles park:

- Noise generation:

- Air, water, or other emissions:

c) Decommissioning:

- Activities:

- Materials generated and method of disposal:

3.0 ENVIRONMENTAL FEATURES

a) Map and describe the environmental features in the area of the development.

- i. Site topography (for facilities and access)
- ii. Soils (type and depth, productivity, erodability)
- iii. Surface water, such as lakes or streams, nearby
- iv. Watercourse crossings or development near water
- v. Wetlands or estuaries
- vi. Aquifers
- vii. Vegetation
- viii. Wildlife habitat
- ix. Fish habitat
- x. Other areas of special concern or environmentally sensitive areas
- xi. Known species as identified in the SARA in or adjacent to the proposed Project area
- xii. Registered or unregistered archaeological sites or features
- xiii. Areas of moderate to high archaeological potential
- xiv. Areas used for traditional aboriginal purposes
- xv. Visual aesthetic character

b) Other additional information you may want to provide (e.g., community or cultural issues, consultation):

4.0 Regulatory requirements

a) Describe permits or approvals needed, and whether applications have been submitted to:

- Tsawout First Nation:

- Local or regional government:

- Federal government:

- Provincial government:

APPENDIX “B”: Generic Terms of Reference for Environmental Assessments

This guide is intended to aid the Project Proponent in preparing Terms of Reference for an environmental assessment. The level of detail to be included should be commensurate with the size, complexity, and potential impacts of a proposed Project.

Summary	Briefly describe the Project and the findings of the environmental assessment.
1. Introduction	<p>Provide contextual background information on the Project and the Proponent and Project justification.</p> <p>1.1 Proponent Information 1.2 Project Overview (including title and location) 1.3 Regulatory Framework (e.g. funding source, required permits or approvals)</p>
2. Project description	<p>Provide a detailed Project description, covering site preparation, construction, operation, and decommissioning.</p> <p><i>Note: For Projects involving cutting of timber, the description must include the RPF’s breakdown of volume and species (based upon a timber cruise) to be cut from the subject area and the proposed harvesting system.</i></p> <p>2.1 Project background and rationale (why is the Project necessary or desirable?) 2.2 Location of Project area likely to be affected (include maps) 2.3 Project facilities and associated infrastructure 2.4 Construction activities 2.5 Operational activities (including materials consumed, energy requirements and sources, emissions, traffic, numbers of employees, numbers of customers, etc.) 2.6 Decommissioning plans 2.7 Alternative means of carrying out the Project and alternatives to the Project, including the alternative of not proceeding with the Project 2.8 Relationship of the Project to First Nation Lands and community</p>

<p>3. Project Setting</p>	<p>Provide a detailed description of the existing environment in the Project area including landscape, water bodies, archaeology, natural resources, wildlife habitat, land use (traditional and contemporary uses, natural resource harvesting, residential and commercial uses, etc.). Indicate the areas affected by the Project. Outline known historical and contemporary uses by the Tsawout First Nation.</p> <p>3.1 Geophysical setting 3.2 Atmospheric setting 3.3 Aquatic setting (marine and fresh water, ground water, drainage, water quality) 3.4 Terrestrial setting (vegetation, wildlife, fisheries, species of cultural importance, species at risk) 3.5 Land use setting (past, present, and planned uses; land capability and suitability, archaeological potential) 3.6 Socio-economic setting (traditional and contemporary economy, community features and activities, visual aesthetic character) 3.7 First Nations traditional use</p>
<p>4. Agency input</p>	<p>Describe input obtained from other government departments (e.g. Department of Fisheries and Oceans, Environment Canada, Parks Canada, Health Canada, Forests, Lands and Natural Resource Operations, Heritage Conservation Branch, etc.), and provincial and local governments, as appropriate. Summarize relevant reports or studies, regulatory requirements or policies, environmental quality standards, etc. Describe relevance of local and regional land use plans to use of land, provision of services, etc. on Tsawout First Nation lands.</p>
<p>5. Engagement of interested parties</p>	<p>Describe how the following potential interested parties were engaged in the preparation of the environmental assessment:</p> <ul style="list-style-type: none"> • The Tsawout community; • Residents or certificate of possession holders adjacent to, or otherwise affected by, the proposed Project; • Lease holders; • Users of resources potentially affected by the Project;

	<ul style="list-style-type: none"> • Owners or users of adjacent non-reserve properties that might be affected; and • Tsawout staff. <p>Identify issues and concerns raised by the foregoing groups and explain how the concerns were addressed in the environmental assessment.</p>
<p>6. Project effects</p>	<p>For each of the headings in Section 3, identify specific potential Project effects. Ensure that potential Project effects identified by interested parties are included in the environmental assessment. Describe the methods used to assess Project impacts, including data sources, field investigations, sampling, and analysis.¹</p> <p>For each potential Project effect, describe:</p> <ul style="list-style-type: none"> • The nature of the impact (narrative description); • Spatial extent (footprint, local, regional); • Temporal extent (short term, medium term, long term); • Reversibility (full, partial, irreversible); • Ecological implications (description); • Magnitude (low, moderate, high); and • Significance (significant or less than significant). <p>Identify Mitigation measures that could avoid, reduce, or compensate for identified impacts, and identify the effect of the Mitigation measures on the impact. Describe residual impacts after Mitigation.</p> <p>Where a Project causes interactions with species at risk, specific Mitigation measures must be identified. Mitigation strategies for species at risk are hierarchical with avoidance being preferred (e.g. timing, design/location change), followed by minimization through Project modification or implementation under special conditions, and lastly, compensatory Mitigation (e.g. replacement of lost habitat).</p>

¹ It is the Proponent's responsibility to obtain permission for access to, or egress from, the Reserve for all phases of the Project including access to Certificate of Possession or Permanent Interest Holders' lands.

	<p>Identify Cumulative Effects of the proposed Project in combination with past and foreseeable future Projects or human activities. Excessively large study areas for Cumulative Effects assessment (e.g., the Capital Regional District, entire Saanich Peninsula) should be avoided unless necessary to characterize a specific impact.</p> <p>6.1 Impact Assessment Methodology 6.2 Construction Phase – Effects Assessment 6.3 Operations and Maintenance Phase – Effects Assessment 6.4 Decommissioning – Effects Assessment 6.5 Accidents and Malfunctions 6.6 Effects of the Environment on the Project 6.7 Cumulative Effects</p>
7. Commitment to Mitigation	<p>Summarize the Mitigation measures developed in Section 6, and provide a clear and unequivocal commitment by the Proponent to fully implement the specified Mitigation measures. The Mitigation measures may also be used as conditions of a lease, permit, or funding agreement.</p> <p>7.1 Summary of Mitigation measures 7.2 Proponent’s commitment to implement Mitigation measures</p>
8. Conclusion	<p>Provide a narrative summary of the Environmental Effects associated with the proposed Project. Identify significance and proposed Mitigation strategies. Discuss planned monitoring activities.</p> <p>Provide a brief text or table summary of Project effects and significance, and a conclusion about the potential environmental, socioeconomic, and cultural effects of the proposed Project.</p> <p>8.1 Summary and table 8.2 Conclusion</p>
9. References	<p>Provide full references of reports reviewed, websites accessed, and personal communications.</p>
10. Appendices	<p>Append relevant studies conducted, laboratory results, summaries of community comments, etc.</p>

APPENDIX “C”: Potential topics for inclusion in environmental assessments

1. Soils and Geology
 - a. Stability and earth conditions
 - b. Major changes in topography or modification of significant geological features
 - c. Soil erosion, compaction, degradation, or contamination
 - d. Changes in erosion or deposition rates that affect aquatic process, form, and function
 - e. Import and deposit of soil or fill
2. Air Quality
 - a. Substantial air emissions or deterioration of ambient air quality
 - b. The creation of objectionable odours
3. Aquatic Ecosystems
 - a. Physical alterations to natural stream channels or riparian zones
 - b. Changes in flow regime, drainage patterns, infiltration rates, or surface water runoff (including increases in effective impervious cover)
 - c. Alterations to the level or frequency of flooding
 - d. Discharges into surface waters that affect surface water quality (e.g., sediment load, temperature, dissolved oxygen, turbidity)
 - e. Changes in aquatic biota (e.g., invertebrate biodiversity, or plant or algae growth)
 - f. Changes in the quality or quantity of groundwater
4. Vegetation
 - a. Destruction or degradation of native plant habitat (including terrestrial, riparian, or aquatic vegetation communities)
 - b. 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
 - c. Reduction of the numbers or distribution of rare, threatened, or endangered plant species or plant communities
5. Animal life
 - a. Significant changes to the population numbers or distribution of native animal species (including birds, mammals, reptiles, fish, benthic organisms, or insects)
 - b. Any change to the numbers or distribution of rare, threatened or endangered animal species
 - c. Degradation of existing or potential fish habitat, or wildlife habitat or corridors (including the effects of light, noise, or human activity)
 - d. Interference in the life cycle of fish or birds (including nests or breeding behaviours)

6. Land use and population
 - a. Change to the present or planned land use in an area
 - b. Alteration of the supply of commercial or industrial space
 - c. Changes to population demographics, distribution, and density
7. Mobility, transportation, and circulation
 - a. Effects on transportation systems or potential increases in vehicular volumes or movements
 - b. Impacts on parking facilities, or creation of demand for new parking
 - c. Increases in traffic hazards to motor vehicles, bicyclists, or pedestrians
 - d. Alteration of access to or change in pedestrian, bicycle, and transit mobility including provision and continuity of service
 - e. Potential to increase need for, or provision of, special needs transportation
8. Public services and utilities
 - a. Increased demand on fire, police, or other emergency services
 - b. Increased school enrolment, or demand for parks or other recreational facilities for all age groups
 - c. Need for new or expanded public utilities including sanitary sewers, water mains, storm drains, or garbage collection
 - d. Potential to increase maintenance demands for existing facilities that are required to accommodate the proposed land use, including social services
9. Aesthetics and built environment
 - a. Obstructs a scenic vista or view open to the public
 - b. Potential to create an aesthetically offensive site open to public view
 - c. Destruction or modification of a significant landscape feature or viewpoint
 - d. Suitability and quality of urban design and impact on surrounding built environment
 - e. Consistency with “smart growth” principles of complete, compact, liveable, and efficient communities
10. Employment and economy
 - a. Potential to affect existing employment or creation of new employment (permanent or temporary, full-time or part-time)
 - b. Effect on existing commercial or industrial business
 - c. Potential effect on planned economic development Projects or activities
 - d. Cost or benefit to community (i.e. change tax base and service level)
11. Nuisance (noise, light, glare, odour) and hazards
 - a. Increase in existing noise levels (other than normal residential noise)
 - b. Creation of new, different, or unusual noise or noise production at inappropriate times (e.g., late at night)
 - c. Production of new light or glare
 - d. Creation of shading or reduced access to sunlight
 - e. Production of offensive odours and airborne particles

- f. Production of potentially dangerous transmission waves (i.e., magnetic or microwave)
- g. Creation of potential human health hazards

12. Navigable waters

- a. Obstruction or reduction of navigability of marine or fresh water courses
- b. Requirement for federal navigable waters approvals

13. Cultural resources (Proponent should reference data collected to comply with the General Requirements for Heritage Assessments)

- a. Potential to alter or destroy an archaeological site
- b. Effects on areas of cultural importance (for spiritual, traditional use, ceremonial, resource, or other purposes)
- c. Effects on historic buildings, structures, objects, or landscapes

14. Cumulative Effects

- a. Other past or potential future Projects or human activities in the study area
- b. Identification of potential Cumulative Effects of the proposed Project with other past or potential future Projects or human activities in the study area
- c. Potential actions to mitigate identified Cumulative Effects
- d. Assessment of residual Cumulative Effects

SCHEDULE 1: Definitions

CEAA	The Canadian Environmental Assessment Act
Cumulative Effect	The combined environmental, cultural or socio-economic impacts that accumulate from a series of actions, contaminants, or Projects. Although each action may seem to have a small impact, the combined effect can be significant.
Environmental Effect	Any change a Project may cause in the physical environment, biota, or human communities, including archaeological features, heritage resources, traditional use areas, or economic activities or potential, health and socio-economic conditions, and includes Cumulative Effects.
Mitigation	The avoidance, elimination, reduction, or control of the adverse Environmental Effects of a Project, including restitution for damage to the environment caused by such effects through replacement, restoration, compensation or other means.
Project	“Project” is an initiative that has the potential to affect Tsawout First Nation environment (land, air, water, biota, or cultural features) and to affect Tsawout First Nation society, culture, or economic well-being. A Project includes a development, a subdivision, or a grant or disposition of a lease, licence or permit in First Nation Land that must be approved by Council under the Land Code or a Law under the Land Code.
Proponent	With respect to a Project, the person, business, other body, government (including the First Nation government) or government agency that proposes a Project. Proponents can be developers, proposed lessees, licence or permit holders, a First Nation member, or Council.
Scoping	The part of the EA process that determines the topics to be examined, the level of detail, spatial extent or “boundaries” of the EA investigation, and groups or agencies to be involved.
SARA	<i>The Species at Risk Act.</i> Federal legislation to protect rare, threatened, or endangered species. A Proponent through an EA must ensure that the potential for Environmental Effects on a species at risk and its habitat, as defined by SARA, have been adequately assessed.
Pre-Construction Phase	Involves the design, feasibility study, geotechnical investigations, etc., associated with the Project, and precedes land-disturbing activities.
RPF	Registered Professional Forester
Construction Phase	Involves site preparation, grading, excavation, material delivery and storage, utility installation, construction, and finishing of a Project.
Post-Construction Phase	Site restoration, remediation, monitoring, and similar activities occurring after completion of Project construction.

**STÁUTW (Tsawout) First Nation
General Requirements for Heritage
Assessments on First Nation Land**

SCHEDULE "C"

**TSAWOUT FIRST NATION SUBDIVISION, DEVELOPMENT AND SERVICING LAW, 02-2012 PARAGRAPH
7.1(c)**

To be approved by Tsawout First Nation Council

[Date, 2012]



**STÁUTW (TSAWOUT) FIRST NATION
GENERAL REQUIREMENTS FOR HERITAGE ASSESSMENT
ON FIRST NATION LAND**

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STÁUTW (TSAWOUT) FIRST NATION GENERAL REQUIREMENTS FOR HERITAGE ASSESSMENTS ON FIRST NATION LAND

1. APPLICATION OF THESE REQUIREMENTS

- 1.1 These Requirements apply to:
- (a) all projects on First Nation Land which require a Development Permit under the *Tsawout Subdivision, Development and Servicing Law*;
 - (b) any grant or disposition of a lease, license or permit in First Nation Land which must be approved by Council under section 26.6 of the Land Code;
 - (c) any grant by Council of an interest, licence or permit in Band Land under section 28.1 of the Land Code;
 - (d) archaeological studies, cultural heritage studies, and/or STÁUTW Heritage Resource Management-Related investigations carried out on First Nation Land; and
 - (e) other ground-altering activities not exempted from these Requirements by the *Tsawout Subdivision, Development and Servicing Law*.
- 1.2 For the purposes of these Requirements, First Nation Land means a First Nation reserve or any portion thereof that is subject to the *Tsawout First Nation Land Code*, which came into force and effect on May 29, 2007.

2. PURPOSE

- 2.1 The purpose of this Policy is to maintain the integrity of STÁUTW history and heritage through the respectful treatment, protection, preservation, and management of STÁUTW heritage objects and sites on First Nation Land.

3. ASSESSMENT REQUIREMENTS

- 3.1 All potential ground-altering activities, including development-related disturbances and impacts to STÁUTW Heritage Sites and Objects must be considered, assessed, and mitigated through the application of these Requirements. All Heritage Resource assessments and investigations must be conducted by a professional archaeologist who has been approved by Council to carry out assessments and investigations on Tsawout First Nation land.
- 3.2 Proponents of all projects to which these Requirements apply are required to follow, in substantially all respects, the processes, guidelines and procedures required by the BC Archaeology Branch, as outlined in the *British Columbia Archaeological Resource Management Handbook*, as amended or replaced from time to time.
- 3.3 The BC Archaeology Branch takes the position that it has no jurisdiction over archaeological resources on First Nation Land, and as such, all reports and

forms must be provided to the Tsawout Lands Department, with a copy to the Douglas Treaty Office, at the following addresses:

Attention: Lands Manager
Tsawout First Nation
7728 Tetayut Road
Saanichton B.C. V8M 2C3
Phone: 250-652-9101
Fax: 250-652-9114
Email: _____

Copy to: Douglas Treaty Office
Tsawout First Nation
7728 Tetayut Road
Saanichton B.C. V8M 2C3
Phone: 250-652-9101
Fax: 250-652-9114
Email: _____

- 3.4 The exception is site inventory forms, which shall be provided to the BC Archaeology Branch, with a copy to Tsawout First Nation Lands Department and Douglas Treaty Office.
- 3.5 An Archaeological Overview Assessment (as that term is defined and understood by the BC Archaeology Branch) is required for each of the following:
 - (a) Projects requiring a Development Permit under the *Tsawout Subdivision, Development and Servicing Law*, unless exempted from this requirement under the *Law*;
 - (b) any grant, or disposition of a lease, license or permit in First Nation Land which must be approved by Council under section 26.6 of the Land Code;
 - (c) any grant by Council of an interest, licence or permit in Band Land under section 28.1 of the Land Code;
- 3.6 Other ground-altering activities not exempted from these Requirements by the *Subdivision, Development and Servicing Law*.
- 3.7 An exemption to the requirement for an Archaeological Overview Assessment may be granted on application where:
 - (a) the site of the proposed application has been previously developed; and
 - (b) the Land Management Committee is satisfied that the type and character of the proposed development is such that its potential to disturb or otherwise negatively affect STÁUTW Heritage Sites or Objects is minimal.

4. RESEARCH

- 4.1 Archaeological studies and/or STÁUTW Heritage Resource Management-Related investigations must be conducted by qualified researchers with an appropriate level of experience and training who have been approved by Council to conduct such research on Tsawout First Nation land. All such research on First Nation Land must be carried out in accordance with the processes, guidelines and procedures required by the BC Archaeology Branch, as outlined in the *British Columbia Archaeological Resource Management Handbook*. Reports and forms must be provided to the Tsawout Lands Department. As noted above, site inventory forms should be provided to the BC Archaeology Branch.

5. ACCESS TO LAND

- 5.1 Nothing in these Requirements authorizes entry onto land held individually under a Certificate of Possession or Permanent Interest without permission of the CP/Permanent Interest Holder.

6. INCORPORATION OF RESULTS INTO DEVELOPMENT PERMIT / COUNCIL APPROVAL CONDITIONS

- 6.1 Council will take into account the results of assessments and investigations conducted pursuant to these Requirements, including any mitigation measures identified, in deciding whether the project should proceed (i.e., whether or not a development permit should be issued under the *Tsawout Subdivision, Development and Servicing Law*, or whether Council should consent to the grant/disposition, as the case may be). The development permit/ consent may be granted with conditions as Council deems necessary to implement the mitigation measures.
- 6.2 Where required or appropriate, Council may required a follow-up program to be designed and implemented to verify that the assessment was accurate and the mitigation measures were effective.

7. COMPLIANCE

- 7.1 Failure to comply with these Requirements when conducting archaeological work or a STÁUTW Heritage resource investigation may result in the researcher being disqualified from conducting research or investigations on Tsawout First Nation lands in the future.
- 7.2 Failure to complete the required assessments, including reporting requirements, may result in denial or delays in processing of the proponent's development permit application, or any other application, for Council's consent.

**STÁUTW (Tsawout) First Nation
General Requirements for Timber Harvesting
on First Nation Land**

SCHEDULE “D”

TSAWOUT FIRST NATION SUBDIVISION, DEVELOPMENT AND SERVICING LAW, 02-2012

PARAGRAPH 7.1(D)

To be approved by Tsawout First Nation Council

[Date, 2012]



**STÁUTW (TSAWOUT) FIRST NATION
GENERAL REQUIREMENTS FOR TIMBER HARVESTING ON FIRST NATION LAND**

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**STAUTW (Tsawout) FIRST NATION GENERAL REQUIREMENTS FOR TIMBER
HARVESTING ON FIRST NATION LANDS**

SCHEDULE "D"

**TSAWOUT FIRST NATION SUBDIVISION, DEVELOPMENT AND SERVICING LAW, 02-2012
PARAGRAPH 7.1(D)**

PREAMBLE

We the Council of STÁUTW (Tsawout) First Nation make these Requirements in recognition that the long-term health of Tsawout First Nation Land must be maintained and protected for the benefit of current and future generations and that the use and maintenance of forest resources plays an important role in the economic, social, cultural, physical and spiritual well-being of Tsawout First Nation citizens.

1. APPLICATION OF THESE REQUIREMENTS

1.1 These requirements apply to:

- (a) all timber harvesting activities on First Nation Land which require a Development Permit under the *Tsawout Subdivision, Development and Servicing Law, 02-2012*;
- (b) any grant or disposition of a lease, licence or permit in or on First Nation Land which must be approved by Council under section 26.6 of the Land Code; and
- (c) any grant or approval by Council of an interest, lease, licence or permit relating to or including timber harvesting activities in or on Band Land under section 28.1 of the Land Code.

1.2 For the purposes of these Requirements, First Nation Land means a First Nation reserve or any portion thereof that is subject to the *Tsawout First Nation Land Code*.

2. PURPOSE

2.1 The purpose of this Policy is to maintain the integrity of the Tsawout First Nation local environment, land values, visual integrity, traditional uses and cultural heritage through the respectful treatment, protection, preservation, and management of Tsawout First Nation timber and forest resources.

3. INTERPRETATION

3.1 Unless otherwise defined in Schedule A to these Requirements, the words in these Requirements have the same definitions as those in the *Tsawout First*

Nation Land Code and the Tsawout First Nation Subdivision, Development and Servicing Law.

- 3.2 In these Requirements, “Registered Professional” means a person who is certified as a professional arboricultural consultant, is a landscape architect registered with the British Columbia Society of Landscape Architects, or is a Registered Professional Forester.

4. PRELIMINARY PROPOSED HARVEST PLAN

- 4.1 In addition to these Requirements, applicants for a Development Permit for Timber Harvesting on Tsawout First Nation Land must also meet all relevant requirements set out in the *Tsawout First Nation Subdivision, Development and Servicing Law*.

- 4.2 Applicants must submit to the Tsawout Lands Department a preliminary proposed harvest plan which includes the following information:
- (a) the area of land proposed for harvesting;
 - (b) the species and volume of timber proposed to be harvested;
 - (c) the location of scaling;
 - (d) who will be the parties to the Development Permit for timber harvesting;
 - (e) who will be the designated purchaser of the timber;
 - (f) whether the timber will be exported from First Nation Land or not;
 - (g) who will obtain a timber mark;
 - (h) where the timber is in whole or in part on Band Land, the proposed benefits to be provided to Tsawout First Nation; and
 - (i) where the timber is in whole or in part on Certificate of Possession or Permanent Interest land, a written authorization in the prescribed form from the holder of that interest permitting the harvesting to occur and supporting the proposal.

5. RESPONSE TO PRELIMINARY PROPOSAL

- 5.1 The Lands Manager will review the preliminary proposed harvest plan and will inform the applicant in writing within 10 working days of receipt whether the preliminary harvest plan was approved, rejected, or requires modification prior to approval. If approved, the applicant may proceed with preparing an application.
- 5.2 By approving the preliminary harvest plan, the Lands Manager makes no representation to the applicant that the application will ultimately be approved by Council.

6. APPLICATION REQUIREMENTS

- 6.1 The applicant will be responsible for the costs of the review of the application by the Lands Manager. The applicant may request a meeting to discuss those costs in advance of the review.
- 6.2 The applicant must prepare and submit the following:
- (a) an environmental assessment and species at risk assessment conducted in accordance with the Tsawout First Nation General Requirements for Environmental Assessments;
 - (b) an Archeological Overview Assessment conducted in accordance with the Tsawout First Nation General Requirements for Heritage Assessments;
 - (c) a comprehensive logging plan which includes the description of the areas, volumes and species to be logged, the methods and equipment to be used, the season of the logging, a complete 1:5,000 scale logging plan map; a 1:20,000 scale overview map, and any potential problems or environmental concerns and their appropriate mediations;
 - (d) an encumbrance check carried out on the First Nations Land Registry and a GPS survey with accuracy to within 1 metre;
 - (e) other relevant information, including any input provided by the Department of Fisheries and Oceans, Parks Canada, Environment Canada, the BC Ministry of Forests, Lands and Natural Resources or their successors and any other bodies where there is a potential for impact on their areas of concern, expertise or existing encumbrances;
 - (f) a silviculture prescription or site plan in the provincial format prepared by a registered professional forester where it is intended that the lands be returned to a forested state; and
 - (g) a copy of the environmental assessment of the proposal and Council's decision respecting any significant environmental, economic or cultural concerns and the mitigation measures to be used.

7. EXEMPTIONS FROM CERTAIN REQUIREMENTS

- 7.1 Where the proposed harvesting is to take place on Band Land, the Lands Manager may exempt the applicant from certain of the measures set out in section 6 where the proposed harvesting activity:
- (a) is for timber for non-commercial use such as firewood for personal, longhouse, or Elder use; and
 - (b) would result in the cutting of not more than 4 Trees of 50 centimetres diameter or less at 1.4 metres height or not more than 2 Trees of 50 centimeters diameter or greater at 1.4 meters height; and
 - (c) would not result in clearing more than 5% of the Trees from the individual lot;
 - (d) does not include Arbutus; and
 - (e) has been reviewed by a Registered Professional for any concerns or issues and any concerns have been provided in writing to the Lands Manager.

- 7.2 Where the proposed harvesting is to take place on Permanent Interest lands, the Lands Manager may exempt the applicant from certain of the measures set out in section 6 where the proposed harvesting activity:
- (a) is for timber for non-commercial use; and
 - (b) would result in the cutting of not more than 7 Trees of 50 cm diameter or less at 1.4 metres height or not more than 4 Trees of 50 cm diameter or greater at 1.4 meters height; and
 - (c) would not result in clearing more than 10% of the Trees from the individual lot;
 - (d) does not include Arbutus; and
 - (e) has been reviewed by a Registered Professional for any concerns or issues and any concerns have been provided in writing to the Lands Manager.
- 7.3 Where a Development Permit is issued under 7.1 and 7.2, the Lands Manager may provide in the permit that a minimum of 2 tree seedlings of the same or similar species will be planted for each Tree to be cut, such seedlings to be of species native to Vancouver Island and maintained for a period of not less than two years, or, in lieu of such planting, providing payment to the Tsawout First Nation of fifty dollars per Tree to be cut, such payment to be made before a permit is issued.
- 7.4 The Lands Manager may issue a Development Permit forthwith for the removal of a tree where the tree is dead, dying, severely damaged, unstable or severely leaning and in danger of falling.
- 7.5 The Lands Manager will provide notice to the Lands Management Committee of any determinations made under this Part and the Lands Management Committee may request an opportunity to reconsider the application and render their own determination in place of the Land Manager's.
- 7.6 For Development Permits issued under this Part, the Lands Manager will inform the applicant within 3 working days of submission of all of the required information whether a Development Permit will be granted and will notify the applicant within that time of any terms and conditions the Land Manager deems necessary to fulfill the purpose of these Requirements. If the Land Management Committee requires a re-determination, that time will be extended by 7 days.

8. PERMITTING

- 8.1 The Lands Manager will review the application and will make a recommendation to the Lands Management Committee as to whether it should be approved. If the Land Management Committee supports approval, they will instruct the Lands Manager to prepare and forward to Council a draft Development Permit which will incorporate at least the following:
- (a) the parties to the Development Permit;

- (b) the volume and species of timber to be harvested and sold;
- (c) the location of the timber to be harvested detailed on 1:5,000 scale map(s);
- (d) the date the permit will expire;
- (e) the party responsible for the harvesting;
- (f) stumpage for species and grades of timber;
- (g) the location of scaling;
- (h) the contingency plan for any fuel or waste spillage;
- (i) the details of any performance bonds or security deposits required;
- (j) utilization standards and harvesting practices;
- (k) actions to be taken for environment and non-timber values protection;
- (l) environmental assessment and SARA reports;
- (m) evidence of appropriate insurance coverage and WCB clearance letter; and
- (n) scaling and timber mark requirements.

8.2 The Lands Management Committee may review the draft Development Permit prior to submission to Council where the Permit is in relation to Band Land.

9. ACCESS TO LAND

9.1 Nothing in these Requirements authorizes entry onto land held individually under a Certificate of Possession or Permanent Interest without permission of the Certificate of Possession/Permanent Interest Holder.

10. STUMPAGE AND SCALING

10.1 All scaling will be done by a licensed scaler at the applicant or permittee's cost at the place of cutting or on First Nation Land or at a designated scaling site. Stumpage to be paid to the First Nation, as set out in the Development Permit, will be based on species and grade determined in consultation with a registered professional forester.

11. INCORPORATION OF RESULTS INTO DEVELOPMENT PERMIT / COUNCIL APPROVAL CONDITIONS

11.1 Council will take into account the results of assessments, investigations and reports conducted pursuant to these Requirements and pursuant to the *Subdivision, Development and Servicing Law*, including any mitigation measures or contingency plans identified, in deciding whether the harvesting should proceed (i.e., whether or not a Development Permit should be issued under the *Tsawout Subdivision, Development and Servicing Law*, or whether Council should consent to the grant/disposition, as the case may be). The development permit/ consent may be granted with such conditions as Council deems necessary to implement appropriate mitigation measures and to ensure that sufficient and fair benefits are enjoyed by the First Nation.

- 11.2 Where required or appropriate, Council may require a follow-up program to be designed and implemented to verify that the assessment was accurate and the mitigation measures were effective. For example, the land is reforested in accordance with a silvaculture or site plan and the trees have reached a free-to-grow status.

12. COMPLIANCE

- 12.1 Failure to comply with these Requirements, the *Subdivision, Development and Servicing Law 02-2012* as amended from time to time, and/or the terms of any issued Development Permit for Timber Harvesting may result in fine, seizure of timber or equipment, civil action or criminal proceedings under section XXVII of the *Criminal Code of Canada*.

**TSAWOUT FIRST NATION
LANDS DEPARTMENT
SUBDIVISION, DEVELOPMENT AND
SERVICING APPLICATION FORM**

Tsawout First Nation Subdivision, Development and Servicing Law, Section 7.1

APPLICATION INFORMATION

APPLICATION TYPE: (mark all applicable boxes):		
<input type="checkbox"/> Commercial Development <input type="checkbox"/> Construction <input type="checkbox"/> Development Permit <input type="checkbox"/> Excavation	<input type="checkbox"/> Industrial Development <input type="checkbox"/> Institutional Development <input type="checkbox"/> Infrastructure, Sewer, Water <input type="checkbox"/> Recreational Development <input type="checkbox"/> Residential Development <input type="checkbox"/> Timber Harvesting	<input type="checkbox"/> Rezoning <input type="checkbox"/> Roads, Intersections, etc. <input type="checkbox"/> Other: _____
FILE #	DATE OF APPLICATION:	APPLICATION #
APPLICATION FEE \$	RECEIPT #	DATE RECEIVED:
BOND POSTED (120% of Construction Costs for on-site works)		\$
DETAILS OF BOND:		

DEVELOPER/AGENT INFORMATION

DEVELOPER (AGENT)	CORPORATE NAME:	
INCORPORATION NO.	(B.C./ Canada)	
GST #	HST #	
Address of Records Office:		
PHONE # (WORK)	PHONE # (CELL)	
FAX #	EMAIL:	
NAME OF DIRECTORS:		
Have any of the directors gone bankrupt or been a director for a corporation that has gone bankrupt in the past 5 years?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, please provide the name of the director and the details:		
Name of the Authorized Representative:		
Address:	Telephone:	
<input type="checkbox"/> COPY OF DIRECTORS RESOLUTION authorizing representative or an affidavit of execution or proof of authority to use the corporate seal attached to application?		
<input type="checkbox"/> A COPY OF A CORPORATION SEARCH from the past 7 days demonstrating that the corporation is in good standing.		

CP/PERMANENT INTEREST HOLDER INFORMATION *(List all Certificate of Possession/Permanent Interest Holders)*

All applications must be signed by both the CP Holder/Permanent Interest Holder and, if there is one, the Corporate, agent or developer applicant.

By signing below I/We hereby authorize the corporation, agent or developer listed below to apply on our behalf. I/We agree to provide all information required for this application and to abide by all relevant Tsawout, Federal, provincial and municipal laws in relation to the application and the project.

OWNER (CP HOLDER 1)	PHONE # (WORK)
MAILING ADDRESS:	PHONE # (CELL)
CITY/PROVINCE/POSTAL CODE	EMAIL:
FAX #	SIGNATURE:
OWNER (CP HOLDER 2)	PHONE # (WORK)
MAILING ADDRESS:	PHONE # (CELL)
CITY/PROVINCE/POSTAL CODE	EMAIL:
SIGNATURE:	Date:
OWNER (CP HOLDER 3)	PHONE # (WORK)
MAILING ADDRESS:	PHONE # (CELL)
CITY/PROVINCE/POSTAL CODE	EMAIL:
SIGNATURE:	Date:
OWNER (CP HOLDER 4)	PHONE # (WORK)
MAILING ADDRESS:	PHONE # (CELL)
CITY/PROVINCE/POSTAL CODE	EMAIL:
SIGNATURE:	Date:
OWNER (CP HOLDER 5)	PHONE # (WORK)
MAILING ADDRESS:	PHONE # (CELL)
CITY/PROVINCE/POSTAL CODE	EMAIL:
SIGNATURE:	Date:

LEGAL DESCRIPTION

LOT #:	PLAN #:	RESERVE NAME AND NUMBER:
STREET ADDRESS:		
EXISTING LAND USE UNDER ANY APPLICABLE TSAWOUT ZONING OR LAND USE LAW/REGULATION:		
PROPOSED LAND USE (IF DIFFERENT FROM CURRENT USE):		

LEASE REGISTRATION # (as contained in Tsawout Lands Registry)	SUBLEASE REGISTRATION # (as contained in Tsawout Lands Registry)
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APPLICATION FOR DEVELOPMENT

TYPE	NO. OF UNITS	BLDG AREA (SQ.FT)
HEIGHT	NO. OF STOREYS	PARCEL(S) SIZE
GENERAL NATURE OF DEVELOPMENT (attach additional pages if necessary)		

CHECKLIST

I have provided all of the information and documents set out in the attached Subdivision, Development and Servicing Application Checklist
<input type="checkbox"/> Yes <input type="checkbox"/> No
If no, please provide an explanation:

NOTE: If the applicant is not the registered owner of the property concerned, then the land owner/interest holder's signature is required on this application.

I/we hereby apply for the above approvals and agree to provide all information required for this application and to abide by all relevant Tsawout, federal, provincial and municipal laws in relation to the application and the project.

I/we further agree to allow any authorized Tsawout Representative or their delegate to enquire into my/our credit history, corporate standing and all other aspects of my/our business relevant to this application.

I accept responsibility for delays in processing caused by incorrect or insufficient submissions. [Contact the Tsawout Lands Office, if you should have any further questions.]

I represent to the Tsawout First Nation, knowing that the Tsawout First Nation relies on this representation and warranty, that the property covered by this application, to the best of my knowledge having done due and diligent inquiry, is not contaminated or polluted in any way that would make it unlawful, unsafe or unsuited for the purpose for which it is intended to be used.

That I understand and acknowledge that neither the issuance of a permit under the Subdivision, Development and Servicing Law, nor the review of plans and supporting documents, shall in any way constitute a representation, warranty or statement by the Tsawout First Nation that the B.C. Building Code, the Subdivision, Development and Servicing Law in force from time to time, or any other law or bylaw of the Tsawout First Nation has been complied with. I confirm that I have relied

only on the registered professionals of record for the adequacy of plans and supporting documents submitted with this application.

I acknowledge that the Tsawout First Nation has relied and is relying exclusively on the BC Building Code Schedule B Letter(s) of Assurance of Professional Design and Commitment for Field Review which have been or may be submitted in reviewing the plans and supporting documents submitted with this application.

I assume all risks incidental to or that may arise as a result of the of this application and agree to save harmless and indemnify the Tsawout First Nation and its officials, agents, servants and representatives from and against all claims, actions, costs, expenses and demands with respect to death, injury, loss or damage to persons or property arising out of or in connection with this application. I agree to comply with or cause those whom I employ to comply with, all applicable laws, bylaws, and requirements of the Tsawout First Nation and any other authority having jurisdiction. I understand that no warranty is implied for the approval of this application and that this waiver and indemnity is binding on me, my heirs, executors and assigns.

I have read and agree with the above paragraphs.

Signature of Applicant/Agent (or its authorized signatory*)

Date

Signature of Land Owner/Interest Holder (or its authorized signatory*)

Date

* I certify that I have the authority to bind the corporation

OFFICE USE ONLY		
APPLICATON IS:	<input type="checkbox"/> COMPLETE	<input type="checkbox"/> INCOMPLETE (PROVIDE COMMENTS BELOW)
Comments:		
Date: _____	Name of Staff Member: _____	
Signature: _____		

**TSAWOUT FIRST NATION
LANDS DEPARTMENT
SUBDIVISION, DEVELOPMENT
AND SERVICING CHECKLIST**

Tsawout First Nation Subdivision, Development and Servicing Law, Section 7.1

CHECKLIST

All of the following must be provided as applicable:

GENERAL

Application:

A completed application form and payment of all prescribed fees.

COMMUNITY BENEFITS

Community Benefit Summary (for subdivisions or development of > 4 lots or units for sale or lease to non-Members):

In addition to increases to the property tax base, please provide a summary of all proposed benefits to the Tsawout community. This could include donations or dedications of land or facilities for park, recreation or housing or a donation of cash in lieu; greenspace; trails; sidewalks; street lights; training or development opportunities for members; etc.

ENGINEERING

General Engineering Requirements for Land Development on Tsawout Reserve Lands
Provision of all plans, documents, and professional seals and signatures as set out in the General Engineering Requirements.

ENVIRONMENTAL

Environmental:

Copies of all required environmental assessments and reports as per Tsawout General Requirements for Environmental Assessments

Archaeological Assessment:

Copies of all required archaeological assessments and reports as per the Tsawout General Requirements for Heritage Assessments

FINANCIAL AND INSURANCE

The following are required:

Appraisal:

For new sub-divisions, multi-family, commercial or industrial developments, an appraisal of the current market value of the land;

- A copy of a credit check from within the past 7 days or authorization for Tsawout to carry out a credit check;
- A signed statement that the developer or applicant is solvent, is not bankrupt, and knows of no reason why they would have insufficient funds to complete the development or activity;

Proof of insurance including:

- Comprehensive Public Liability Insurance and Property Damage Insurance providing coverage of at least \$5,000,000 inclusive against liability for bodily injury or death and/or damage to property on an all risk occurrence basis;
- Motor Vehicle Insurance for public liability and property damage providing coverage of at least \$5,000,000 inclusive on owned, non-owned or hired vehicles;
- Completed operations coverage on all-risk occurrence basis of at least \$5,000,000 inclusive against liability for bodily injury, death and/or damage to property of others arising out of the existence of any condition in the works when completed or any installation or repair operations during the period of 12 calendar months next ensuing after the issuance of a certificate of substantial completion by Tsawout;
- Confirmation in all of the above policies of insurance (except motor vehicle insurance) that Tsawout First Nation is a named insured, and in all policies of insurance that they contain a provision that the insurance shall apply as though a separate policy has been issued to each name insured;
- Confirmation in all of the above policies that each contractor engaged in the works shall be named as an additional insured in respect of the performance of the works, and each such policy shall provide that no expiry, cancellation or materials change in the policy shall become effective until after thirty days notice of such cancellation or change shall have been given to Tsawout by registered mail;
- Signed confirmation that the applicant will maintain all of the above policies until the development and the works have received final acceptance.

BONDS

The following are required:

- Posting of a performance bond or irrevocable letter of credit from a bank in a form acceptable to Tsawout in the amount of \$_____ (120% of the estimated cost) to ensure the completion of the development and installation of infrastructure and improvements (this bond or letter of credit is in addition to any bonds or letters of credit required by the District of Central Saanich for off-site works); and
- Posting of a maintenance bond or irrevocable letter of credit from a bank in a form acceptable to Tsawout in the amount of \$_____ (10% of the estimated cost) for a period of one year following to ensure maintenance of the works and services and to correct any deficiencies discovered during the first year of operations.

LEGAL DOCUMENTS

The following documents are required:

- First Nations Lands Registry search that is less than 30 days old;
- A copy of all draft or final executed leases, sub-leases, assignments, etc.;
- A copy of all encumbrances, rights of way, easements, permits;
- A copy the CLSR plan;

- A copy of all existing and proposed subdivisions, easements, rights of way, and draft surveys;
- A signed and witnessed agreement to indemnify Tsawout First Nation against any loss or damage in relation to the subdivision, development or activity; and
- Confirmation of right of entry for Tsawout and all authorized officials to inspect the site and any structures or infrastructure.

All information must be sent to:

**Tsawout First Nation
Lands Department
7728 Tetayut Rd.
Saanichton B.C. V8M 2C3
Phone: 250-652-9101
Fax: 250-652-9114**

For assistance, in completing the application, please contact the above telephone number.