



ADAMS LAKE INDIAN BAND

LAND USE PLAN - PHASE II – Policies and Procedures



FINAL REPORT (for Chief and Council review)

march 2013

Cstélnec
Land Policies,
Procedures and,
Permit Application Processes
(LUP Phase II)

FINAL REPORT

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CONFIDENTIAL



PREFACE

This is the final of a series of reports that outline suggested land related policies, and draft procedures for the Adams Lake Indian Band (Cstélnec) community. It is the second phase in the development of the community's *Land Use Plan (LUP)*.¹ This report continues the process of drafting the policies and procedures; the development of this set of management tools is cumulative in that as more information was gathered and refined, further content was increased, forming this Final Report of the second phase of the Cstélnec *LUP* (*LUP* phase II), to be used as a basis for policies and procedures for the ALIB Lands Department.

The Cstélnec are one of seventeen (17) bands that form the Secwepemc Nation. We are in the southern Secwepemc lakes and share our lands and culture with the Little Shuswap Indian Band, the Neskonlith Indian Band, the Splatshin Indian Band, as well as the Tk'emlúps Te Secwepemc Band. As outlined in the first phase of the project (*LUP* phase I), the Cstélnec community is in a great position to grow sustainably and to a standard of living that can be enjoyed by all of its population. The members of the community have identified some of their preferences within the broader initial phases of a Comprehensive Community Strategic Plan (CCSP), a planning exercise which is underway; the land-related information from

¹ The policies and procedures are related to land management and not necessarily to the other management functions of Cstélnec.

these initial community meetings was partially summarized in the *LUP* Phase I Final Report, as were community priorities, proposed land planning and land management actions, and a general set of characteristics that define the community and its wishes in terms of land use and development options. At the Cstélnec community meeting of May 10th, 2012, three key priorities, among others, were made clear:

1. ‘Land Policies’, ‘Land Management Procedures’ and a ‘Development Permit’ application process (land management tools) should be designed immediately;
2. The latter should include, but are not be limited to, the ‘Suggested Policy Elements’ in the Cstélnec *LUP* phase I Final Report; and,
3. The Cstélnec community should be involved in the development and drafting of the policies, procedures and permit application processes as much as possible.

The Cstélnec community holds important lands – lands with traditional value, and economically advantageous lands. The landscape is amenable to a variety of uses that could potentially benefit the community in terms of economic development and accommodating more members of the community, all-the-while protecting spaces of traditional practice. Efficient and planned use of the lands, involving as many community members within the *LUP* process has been key, as it has been within the development of policies and procedures. Similarly, the involvement of as many community members as possible, within the development of a land-

related economic development roadmap, the third phase of the *LUP* process, will be key.

Three primary activities determine the time allotted for this second phase of the *LUP* project: Committee and Community input and meetings, drafting the community's priority policies, procedures and permit application processes, and as importantly, reconciling the three so that they operate as one system. This is a community-driven process and as such, several drafts will be generated at each of the project phases, following committee and community input.

The main purpose of developing a set of policies and procedures is to help ensure consistency in management decisions. At the same time, the policies and procedures document is meant to inform community members on how processes and decisions are made – how permit applications are made, for example. The policies and procedures developed as part of this second phase of the *LUP* are meant to be dynamic; they are meant to be a starting point in the development of management tools. As such, they will change as the community's land management realities evolve.

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INTRODUCTION

The Adams Lake Indian Band – the Cstélnec, is one of seventeen (17) bands that form the Secwepemc Nation. We are in the southern Secwepemc lakes and share our lands and culture with the Little Shuswap Indian Band, the Neskonlith Indian Band, the Splatshin Indian Band, as well as the Tek'emlúps Band. The Cstélnec lands include seven reserves. The Cstélnec community is operating under the Reserve Lands and Environment Management (RLEMP), previously operating under the Regional Lands Administration Program (RLAP), with a very limited and piecemeal plan for the development of its lands for several years. The latter is clearly outdated and the first phase of the land use planning project has provided direction in terms of community preferences over land uses and land-based development types. Included in the set of actions that are required for a structured community development program is the development of a set of land-related policies, processes and procedures. Land use planning has become increasingly significant in the past few years as the nation becomes interested in increasing economic development opportunities for its membership. And adding to the pressure to be more pro-active in terms of planning for land use, the population will grow in the future, perhaps adding significant numbers onto the land base. The community and leadership aim at developing some lands, while protecting other areas and setting aside strategic places for the future, all in an orderly process that reflects the community's preferences.

The main purpose of developing a set of policies and procedures is to help ensure consistency in management decisions. At the same time, the policies and procedures document is meant to inform community members on how processes and decisions are made – how permit applications are made, for example.

The present report is the final in a series of reports that have lead to a set of draft suggested policies and draft procedures². It follows the development of reserve land plans that reflect community wishes in terms of uses. It is the second phase of the community's *LUP*. This report includes a description of the process undertaken to develop the policies and procedures, an updated draft list of potential policies and procedures (by theme), and finalizes the process of producing a draft of policies and permit application processes. The policies and procedures developed as part of this second phase of the *LUP* are meant to be dynamic; they are meant to be a starting point in the development of management tools. As such, they will change as the community's land management realities evolve.

² Some of the policies and procedures may be used as draft by-laws; the zoning (kwéstens) section is a good example of this. Before formal adoption, legal counsel should be provided with the opportunity to verify any legal implications and liabilities for all the policies, procedures and related processes.



1. STRATEGY

The strategy that has been chosen for the present project phase reflects the first phase of the *LUP* work, as well as the requirements set out at community meeting of May 10th, 2012. As indicated in the above preface, three key priorities, among others, were made clear:

1. 'Land Policies', 'Land Management Procedures' and 'Permit Application Processes' (land management elements) should be designed immediately;
2. The latter should include, but are not limited to, the 'Suggested Policy Elements' in the Cstélnec Phase I *LUP* document, and most importantly;
3. The Cstélnec community should be involved in the drafting and development of the policies, procedures and permit application processes as much as possible.

The present work therefore comprises three phases: Identification of preferred policies and procedures; drafting, with committee and community input; and finalizing a set of draft policies and procedures, following committee and community input. The phases are not clear cut and they overlap a great deal.

The first phase began several weeks prior to commencement of the project, with basic information gathered through contact with the *Lands Manager*, and through the development of the phase I of the *LUP*. The present report contains the results of this data gathering (highlighted as an updated list of policies and procedures to be drafted). The next phase focused on developing the policies and procedures in detail, first as sets of drafts (theme by theme) and then modified, depending on feedback at committee and / or community meetings. Drafting of the policies and procedures often took cues from other communities, such as the Shuswap Indian Band's policies and procedures, and then modifying them to suit the Cstélnec community needs. The final phase consisted of the writing of this Final Report, with all of the draft policies and procedures brought together.

These three phases formed the basis for a set of draft land-related policies and procedures. Once the document is accepted by the community and Chief and Council, further member meetings may be conducted (if necessary) to receive further feedback for improving the policies and procedures. At the end of this phase, the *LUP* committee will become responsible for bringing the *LUP* and its draft set of policies and procedures to the community for ratification, should Chief and Council choose to do so.



3. LUP POLICY and PROCEDURES RELATED COMMITTEE MEETINGS

Cstélnec Steering Committee or *Lands Manager* meetings

July 12, 2012
July 26, 2012
September 5, 2012
September 6, 2012
October 17, 2012
November 1, 2012
November 7, 2012³
November 15, 2012
December 12, 2012
January 17, 2013
January 23, 2013
February 6, 2013
February 14, 2013
March 1, 2013
March 21, 2013
April 9, 2013
May 9, 2013

Cstélnec Community meetings

March 25, 2013
April 2, 2013 (cancelled)

Chief and Council meeting

April 23, 2013

³ Meeting with Lands Manager



4. POTENTIAL ‘POLICIES, PROCEDURES and PERMIT APPLICATION PROCESSES’

List of Potential ‘Policies and Procedures’⁴

Heritage and Archaeology

- i. Traditional Use Sites
 - a. Within Cstélnec *Traditional Territory*
 - b. Within Cstélnec reserve lands
- ii. Archaeology
 - a. Within Cstélnec *Traditional Territory*
 - b. Within Cstélnec reserve lands
- iii. Referrals
 - a. Within Cstélnec *Traditional Territory*
 - b. Within Cstélnec reserve lands
- iv. Repatriation
 - a. Ancestral remains
 - b. Cultural objects

Place names

Land Use Planning

- i. Land Use Planning
- ii. *Land Use Plan Variance* application

⁴ Note that the precise contents and wording will change as the project evolves.

Development

- i. *Development Permit* application

Building and Construction

- i. *Residential Building and Construction Permit* application
- ii. *Non-residential Building and Construction Permit* application

Building Inspectors and building Inspections

Leases and Leasing

- i. Lease renewals
- ii. Lease terminations
- iii. Land Registry (if necessary)

Kwéstens – land use definitions

- i. Definitions
- ii. *Kwésten* Types
- iii. *Kwésten* Definitions
- iv. Variances

Land Laws

- i. Law Development Process
- ii. Land Use Plans and Development Plans
- iii. Community Ratification / Approval Process
- iv. Access to Laws

Land Acquisition

- i. Purchase from Certificate of Possession holders
- ii. Trade for other lands
- iii. Fee simple purchases

Dispute Resolution



5. HERITAGE and ARCHAEOLOGY

I. GENERAL

This documents builds upon the first phase of the *LUP*, as well as the Cstélnec Cultural Heritage Resources Policy of 2008⁵, the Adams Lake – Neskonlith Indian Bands Traditional Use Study of 1998⁶, and other policies that have been developed over the recent past. The definitions and principles in the latter documents prevail. The purpose of the present policy and procedures chapter is to set out the guiding principles, policies and administrative procedures, for the purposes of land management, to Cstélnec *Heritage and Archaeology*. This includes, among other priorities, the repatriation of ancestral remains and cultural artifacts, archaeology, and anthropology in-so-far as it applies to Traditional Use Studies (TUS), Cultural Heritage Resource Studies (CHRS) and Aboriginal Traditional Knowledge Studies (ATK) within initiatives such as Environmental Assessments and / or other land altering projects, and within permit applications.

The following policies and procedures should therefore be read in conjunction with all Cstélnec permit applications, as well as the Cstélnec *LUP Variance* application process.

For the purposes of Cstélnec land management, no Traditional Use Studies (TUS), Aboriginal Traditional Knowledge (ATK), Cultural Heritage Resources Studies (CHRS), or related ethnographic or cultural studies shall be undertaken without authorization from Chief and Council

⁵ Adams Lake Indian Band Cultural Heritage Resources Policy. February, 2008.

⁶ See the “Adams Lake – Neskonlith Indian Bands 1997 / 98 Traditional Use Study”.

and with the guidance of the Cstélnec *Elders*. The policies and procedures are different for Cstélnec reserve lands and the Cstélnec *Traditional Territory* and are therefore treated separately.

Heritage Philosophy⁷

The following is quoted from the Cstélnec Cultural Heritage Resources Policy, developed in 2008:

“For years, the ALIB had been concerned about the preservation and protection of Adams lake culture and cultural heritage resources. Band Elders, have been instrumental in the revival of our Secwepemc language and, for over a hundred years, have participated extensively with anthropologists, archaeologists, historians, linguists, biologists, and other researchers interested in our cultural lifeways.

The Adams Lake people maintain a community life, a culture based on [hunting and] fishing, and a shared history. The Adams Lake people also maintain many ancient cultural practices and spiritual traditions. We continue to practice what has commonly referred to as ‘vision questing’ and many other cultural traditions that are foreign to mainstream society: memorials, burnings, belief on our legends and history, and our own language, to name but a few. Our cultural landscape is known and our traditions have been maintained through oral traditions passed down from generation to generation. Our cultural heritage is the essence of our identity as Secwepemc people.

There are many places on the Adams Lake landscape associated with our ancestors, transformer sites, and numerous other places

⁷ Adams Lake Indian Band Cultural Heritage Resources Policy. February, 2008.

used by our spiritual people, and those involved in the practice of our spiritual traditions. A lot of these places, and the activities carried out at them, is something Adams Lake people do not talk about with outsiders. It is therefore impossible to include detailed information about these sacred traditions in a written heritage policy.

Over the past century, outside development and settlement of Adams Lake traditional territory has accelerated. In recent decades, there has been an exponential increase in resource extraction activities, road construction projects, resort and institutional facilities developments, parks and recreational developments, residential and other developments.

Adams Lake people maintain a position of sovereign rights and inherent interests over lands and resources within Adams Lake traditional territory, what is commonly referred to as [the land claims question]. Unfortunately, the issue of Adams Lake sovereign interests remains unsettled with the governments of Canada and British Columbia. It is within this context that the Adams Lake Indian Band has felt the compelling need and necessity of developing and presenting a comprehensive heritage policy.

To Adams Lake people, concern about cultural heritage resources is an extension of community life and cultural survival. We also believe that it is inappropriate to separate matters of spiritual, cultural, heritage and economic significance. At the same time, however, we acknowledge the reality of non-native interests within our traditional territory and the need for a policy and position statement on Adams Lake cultural heritage sites and resources [sic].”⁸

This set of guiding principles, policies and procedures reflects the heritage philosophy.

⁸ Adams Lake Indian Band Cultural Heritage Resources Policy. February, 2008. pp. 1 - 2.

II. GUIDING PRINCIPLES

- Preservation of heritage sites and cultural practices.
- Non-disturbance, as much as possible, of ancestral remains.
- Cstélnec asserts proprietorship and stewardship over its *Heritage and Archaeology Resources*.
- Repatriation of ancestral remains; repatriation of cultural artifacts.
- Education of Cstélnec members and the outside public.

III. SUGGESTED POLICY

- i) No *Work* is permitted on any site designated as a *Heritage Site* under the Cstélnec *LUP*, or the Cstélnec Traditional Use Study (TUS)⁹, unless the development follows a *LUP Variance* application approval.
- ii) No *Work* is permitted without a *Building and Construction Permit*, or a *Development Permit*, including an undertaking to follow the directives forming part of the permit conditions.
- iii) Prior to excavations of any type, a pre-excavation ceremony may be held, as determined by Cstélnec *Elders*¹⁰.
- iv) All *Work* carried out within the Cstélnec reserves may be monitored and assessed by the Cstélnec *Elders*, or archaeology staff acting on behalf of the Cstélnec.
- v) Where a house or structure exists prior to the adoption of the Cstélnec *LUP*, and where the site is later found to be a

⁹ See the “Adams Lake – Neskonlith Indian Bands 1997 / 98 Traditional Use Study”.

¹⁰ See CSTÉLNEC “Repatriation of Ancestral Remains” policy, dated March 2011.

Heritage Site, no further *Work* will be allowed on the site, without a *LUP Variance* application approval.

- vi) Ancestral remains and cultural artifacts will be protected from disturbance, as much as possible¹¹.
- vii) Ancestral remains and cultural artifacts will be repatriated to Cstélnec, on a priority basis¹².
- viii) *Work* within the Cstélnec *Traditional Territory*, but outside the Cstélnec reserves, will be monitored, and where cultural artifacts or ancestral remains are uncovered, all efforts will be made to document, protect, and if necessary, repatriate.
- ix) Referrals will be assessed and addressed in a timely manner.

IV – GENERAL PROCEEDURES

1. ***Work within Cstélnec Reserves:*** (Chart #1)

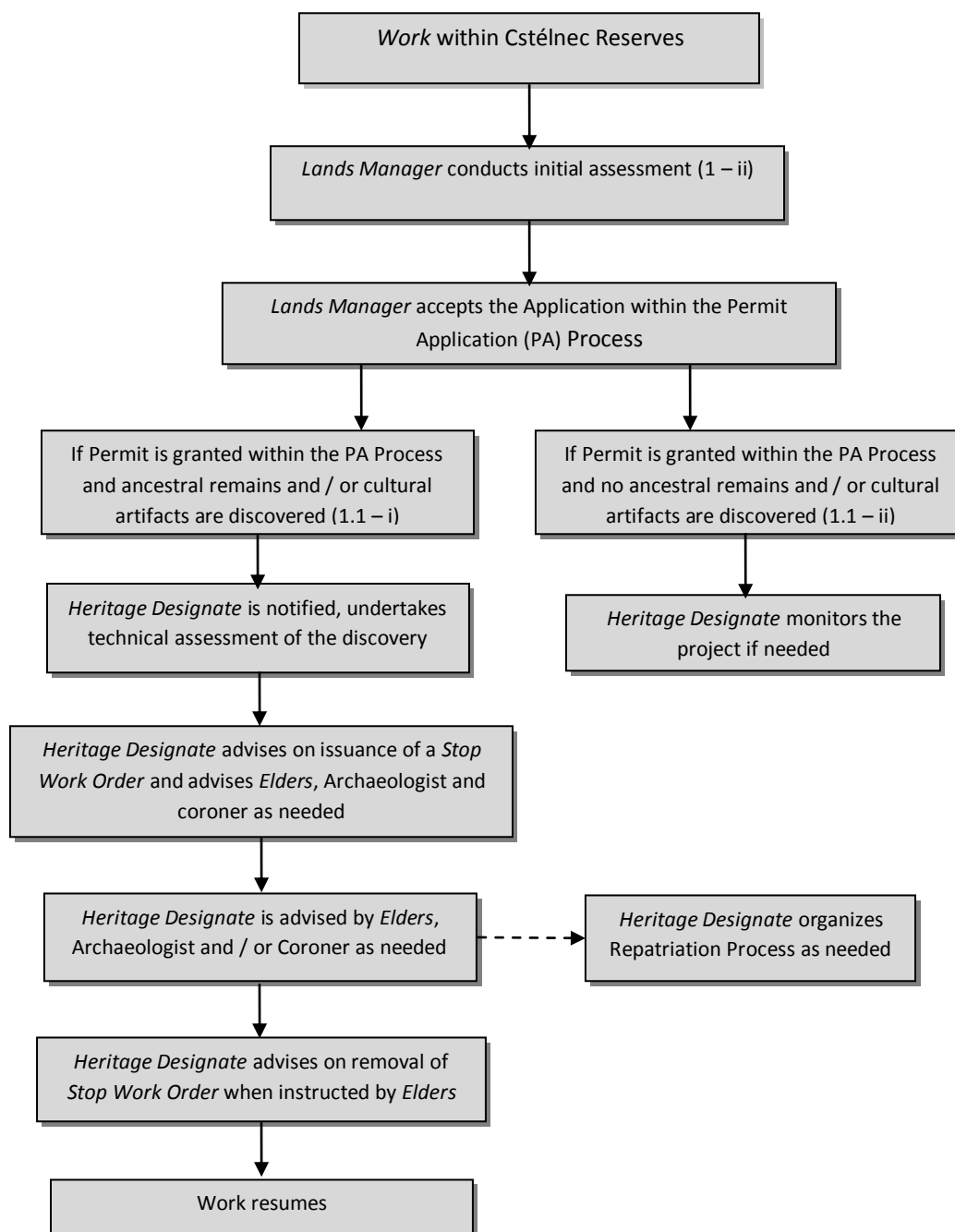
The following procedures apply to Cstélnec Culture and Heritage matters; they are supplemental to the Development Permit application, Building and Construction Permit application and the LUP Variance application Policies and Procedures.

- i) The *Lands Manager* ensures that any potential *Proponent* submits a permit application to the *Lands Manager*.
- ii) The *Lands Manager* makes a preliminary assessment according to the Cstélnec *LUP* and the Cstélnec TUS.
- iii) The *Lands Manager* grants a *Permit*, if the subject lands are zoned other than a recognized *Heritage* zone, and if the *Work* is approved under the application process, or,

¹¹ See CSTÉLNEC “Repatriation of Ancestral Remains” policy, dated March 2011.

¹² See CSTÉLNEC “Repatriation of Ancestral Remains” policy, dated March 2011.

Chart #1 - Work within Cstélnec Reserves¹³



¹³ Diagram is for illustrative purposes only. The steps as outlined in the text prevail.

- iv) The *Lands Manager* denies a *Permit*, if the subject lands are zoned as a *Heritage Site* (or if the *Work* is declined for any other reason as per the application process).

1.1 *If permit is granted:*

- i) Any discovery of ancestral remains and / or cultural artifacts will be immediately reported to the *Lands Manager*.

In the case of “i”:

- a) The *Lands Manager* will immediately notify the *Heritage Designate* – the person designated by Cstélnec to assess *Heritage* matters.
- b) The *Heritage Designate* will immediately undertake a site inspection and determine the extent of the discovery.
- c) If necessary, the *Heritage Designate* advises the *Lands Manager* and the *Building Inspector* on the issuance of a *Stop Work Order* on the *Work*, pending further assessment.
- d) If necessary, the *Heritage Designate* notifies authorities, including:
 - i) The advice of Cstélnec *Elders*, or other culturally knowledgeable persons.
 - ii) The services of a *Professional Archaeologist*.

- iii) The coroner's office for human remains.
 - e) The *Heritage Designate* will inform the *Lands Manager* of all discoveries and subsequent assessments.
 - f) If necessary, a repatriation process may be activated as per the Cstélnec "Repatriation of Ancestral Remains" policy, dated March 2011.¹⁴
 - g) The *Building Inspector* and the *Lands Manager* will remove the *Stop Work Order* only when the *Heritage Designate* has completed an assessment, notified the *Lands Manager* and when a *Professional Archaeologist* has made an assessment of the findings (if required).
- ii) If there is no discovery of ancestral remains and / or cultural artifacts, the *Heritage Designate* monitors the project.

1.2 *If permit is denied:*

- i) If the *Proponent* wishes to proceed, an appeal process is available through the application process.

.....

¹⁴ See CSTÉLNEC "Repatriation of Ancestral Remains" policy, dated March 2011.

2. Work within Cstélnec Traditional Territory (off Cstélnec reserves) (Chart #2)

- i) Upon receipt of notification from external governments, developers, or private individuals regarding *Work* within the *Cstélnec Traditional Territory*, the *Lands Manager* assesses the proximity and relevance of the *Work* in relation to *Cstélnec Culture and Heritage*.
- ii) Should the *Work* activity be assessed as having the potential to affect or disturb *Cstélnec Culture and Heritage*, the *Lands Manager*, notifies the *Heritage Designate*.
- iii) The *Heritage Designate*:
 - a) Provides advice on any discovery of ancestral remains and / or cultural artifacts is provided to the community.
 - b) Notifies the *Cstélnec Elders*.
 - c) Records any discoveries.
- iv) Any discoveries of ancestral remains or cultural artifacts are reported, recorded and possibly repatriated to Cstélnec¹⁵.
- v) The *Lands Manager* records the *Work*.

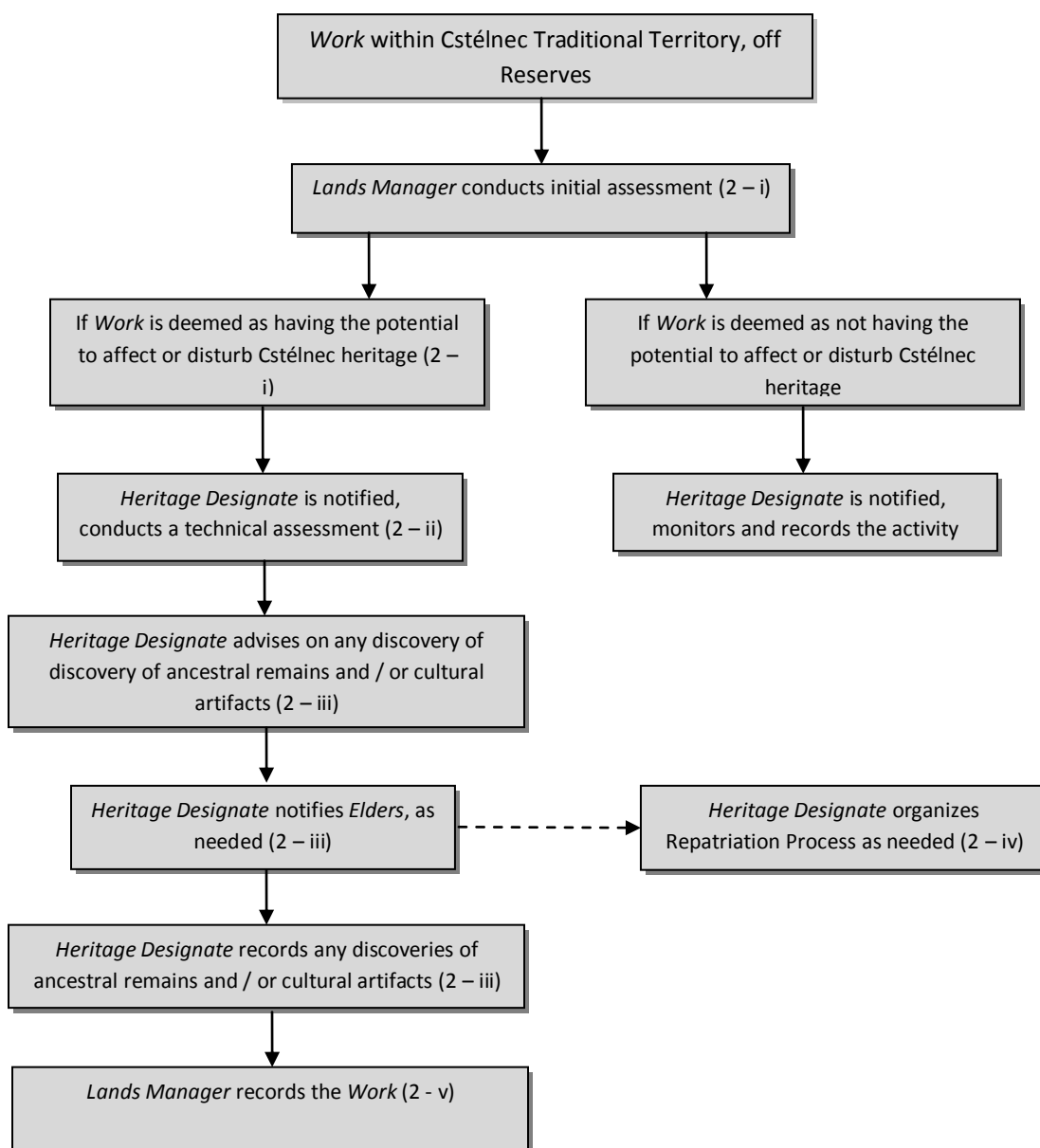
3. Referrals

3.1 Referrals within Cstélnec Reserves (this applies to instances such as rights-of-way impacts):

- i) Upon receipt of a referral letter or notification from the British Columbia Archaeology Branch or from any other entity (private or public), the *Lands Manager* ensures that the *Heritage Designate* is notified.

¹⁵ See CSTÉLNEC “Repatriation of Ancestral Remains” policy, dated March 2011.

Chart #2 – Work within Cstélnec Traditional Territory (off Reserves)¹⁶



¹⁶ Diagram is for illustrative purposes only. The steps as outlined in the text prevail.

- ii) The *Heritage Designate* assesses the information in terms of Cstélnec Culture and *Heritage* and prepares a monitoring plan, if required.
- iii) The *Heritage Designate* issues a response letter to the originator and notifies the originator of the monitoring plan.
- iv) The *Heritage Designate* monitors the *Work* and / or participates in the assessments precluding the start of a proposed development project.

3.2 Referrals within Cstélnec Traditional Territory (off Cstélnec Reserves):

- i) Upon receipt of a referral letter or notification from the British Columbia Archaeology Branch or from any other entities (private or public), the *Lands Manager* and / or the Natural Resources Manager ensures that the *Heritage Designate* is notified.
- ii) The *Heritage Designate* assesses the information in terms of Cstélnec Culture and *Heritage* and decides on the type of response and the level of monitoring required, if any.
- iii) The *Heritage Designate* issues a response letter to the originator.
- iv) If necessary, the *Heritage Designate* monitors the *Work* and / or participates in the assessments precluding the start of a proposed development project.

2. ARCHAEOLOGY

I. SUGGESTED POLICY

- i) Archaeological research and investigation carried out within the Cstélnec reserves will be undertaken only when a permit is approved.
- ii) Archaeological research and investigations conducted within the Cstélnec reserves will be monitored, documented and recorded within the Cstélnec GIS database.
- iii) Archaeological research and investigations conducted within the Cstélnec Traditional Territory will, as much as possible, be documented.
- iv) The *Heritage Designate* ensures that the *Lands Manager* is included in the assessment of any permit applications or *LUP Variance* applications, when applications concern *Heritage Sites*.

II. PROCEDURES

2.1 Archaeology within Cstélnec lands:

- i) The *Lands Manager* ensures that any potential archaeologist wishing to undertake archaeological investigations submits a permit application.
- ii) The *Lands Manager*, in conjunction with the *Heritage Designate*, makes a preliminary assessment according to the Cstélnec LUP, and the Cstélnec TUS, on any known archaeological deposits.
- iii) The *Lands Manager* in conjunction with the *Heritage Designate*, grants a permit to conduct archaeological investigations, if zoned and approved appropriately, or;
- iv) The *Lands Manager* in conjunction with the *Heritage Designate*, deny a permit application, if the subject lands

are zoned as a *Heritage Site* (or if the application is declined for any other reason).

2.1.1a *If permit is granted:*

- i) Any discovery of ancestral remains and/or cultural artifacts will be immediately reported to the *Lands Manager*.
 - i.i) In the case of “i”:
 - a) The *Lands Manager* will immediately notify the *Heritage Designate*.
 - b) The *Heritage Designate* will immediately undertake a site inspection and determine the extent of the discovery.
 - c) If necessary, the *Heritage Designate* advises the *Lands Manager* on the issuance of a *Stop Work Order* on the archaeological work, pending further assessment.
 - d) If necessary, the *Heritage Designate* notifies authorities:
 - i) The advice of Cstélnec *Elders*, or other culturally knowledgeable persons.
 - ii) The services of a *Professional Archaeologist*.
 - iii) The coroner’s office for human remains.

- e) The *Heritage Designate* informs the *Lands Manager* of all discoveries and subsequent assessments.
- f) If necessary, the repatriation process may be initiated¹⁷.
- g) The *Lands Manager* will remove the *Stop Work Order* only when the *Heritage Designate* has completed an assessment and notified the *Lands Manager*.

2.1.1b If permit is denied:

- i) Archaeology permit denials are “final” and are not subject to appeal.

2.2 Archaeology within Cstélnec Traditional Territory (off Cstélnec reserves):

- i) Upon receipt of notification from governments, developers, or private individuals regarding archaeological explorations within the *Cstélnec Traditional Territory*, the *Lands Manager* and or the *Natural Resources Manager*, in conjunction with the *Heritage Designate*, assess the proximity and relevance of the archaeological work in relation to Cstélnec culture and lands.
- ii) Should the archaeological work be assessed as having the potential to uncover ancestral remains or cultural artifacts, the *Heritage Designate* contacts the principal archaeologist.

¹⁷ See CSTÉLNEC “Repatriation of Ancestral Remains” policy, dated March 2011.

- iii) The *Heritage Designate* ensures as much as possible that:
 - a) The archaeological work is monitored.
 - b) Any discoveries of ancestral remains or cultural artifacts are reported, recorded and possibly repatriated to Cstélnec¹⁸.
 - c) The *Heritage Designate* documents, as much as possible, all archaeological work conducted within the *Cstélnec Traditional Territory*.
 - d) The *Heritage Designate* informs the *Lands Manager* and / or the *Natural Resources Manager* of any discoveries.
 - e) The *Heritage Designate*, in conjunction with *Lands Manager* and / or the *Natural Resources Manager* records new sites of significance within the Cstélnec GIS database.

3. REPATRIATION¹⁹

Policy

- i) Every effort will be made to repatriate ancestral remains and cultural artifacts of Cstélnec origin.
- ii) When cultural artifacts are found accompanying ancestral remains, every effort will be made to keep the cultural artifacts with the ancestral remains.

Procedures

3.1 Ancestral Remains

- i) Upon notification of the discovery of ancestral remains (archaeological, archival or other types of discoveries), the

¹⁸ See CSTÉLNEC “Repatriation of Ancestral Remains” policy, dated March 2011.

¹⁹ See CSTÉLNEC “Repatriation of Ancestral Remains” policy, dated March 2011.

Lands Manager and / or the *Natural Resources Manager* will ensure that the *Heritage Designate* is notified.

- ii) The *Heritage Designate* assesses the discovery and its location.
- iii) The *Heritage Designate* notifies the *Lands Manager* and / or the *Natural Resources Manager* (for records modifications only).
- iv) The *Heritage Designate* notifies the *Cstélnec Elders*.
- v) The *Cstélnec Elders* review the discovery.
- vi) The *Cstélnec Elders* instruct the *Heritage Designate* to initiate administrative processes to repatriate (depending on the institution or governmental jurisdictions or policies).
- vii) The *Cstélnec Elders* assign individuals to claim the remains.
- viii) The *Heritage Designate* makes arrangement for a temporary repository
- ix) The *Cstélnec Elders* make arrangements for pre (if required) and post-retrieval ceremonies.
- x) The *Cstélnec Elders* notify the *Heritage Designate* of costs and special needs.
- xi) The *Heritage Designate* notifies Chief and Council of costs and special needs.
- xii) The *Cstélnec Elders* repatriate ancestral remains or objects.

3.2 Cultural Artifacts

- i) Upon notification of the discovery of cultural artifacts (archaeological, archival or other types of discoveries), the *Heritage Designate* is notified.
- ii) The *Heritage Designate* assesses the discovery and its location.
- iii) The *Heritage Designate* notifies the Cstélnec *Elders*.
- iv) The Cstélnec *Elders* review the discovery.
- v) The Cstélnec *Elders* instruct the *Heritage Designate* to initiate administrative processes to repatriate (depending on the institution or governmental jurisdictions or policies)²⁰.
- vi) The Cstélnec *Elders* designate individual(s) to claim the objects.
- vii) The *Heritage Designate* makes arrangements for temporary repository.
- viii) The Cstélnec *Elders* make arrangements for retrieval ceremony (if required).
- ix) The Cstélnec *Elders* notify the *Heritage Designate* of costs and special needs, if required.
- x) The *Heritage Designate* notifies Chief and Council of costs and special needs.
- xi) The Cstélnec *Elders* repatriate cultural artifacts.

²⁰ See CSTÉLNEC “Repatriation of Ancestral Remains” policy, dated March 2011.

4. CULTURAL ANTHROPOLOGY and RELATED RESEARCH

4.1 Policy

- i) For the purposes of Cstélnec Land Management, no Traditional Use Studies (TUS), Aboriginal Traditional Knowledge (ATK), Cultural Heritage Resources Studies (CHRS), or related studies shall be undertaken without authorization from Chief and Council and with the guidance of the Cstélnec *Elders*.
- iv) As much as possible, all cultural ethnography and related research involving Cstélnec will be undertaken with written authorization from Chief and Council and with the guidance of the Cstélnec *Elders*.
- v) As much as possible, the publication of work resulting from cultural ethnography and related research involving Cstélnec will be done with the written authorization of Chief and Council.
- vi) Chief and Council shall ensure that authorized authors deposit a copy of published and recorded material within the Cstélnec administration offices.

4.2 Procedures

- i) Upon receipt of a request to undertake cultural anthropological work with members of the Cstélnec, the *Heritage Designate* is notified.
- ii) The *Heritage Designate* assesses the information in terms of Cstélnec *Culture and Heritage* and consults with the Cstélnec *Elders* and Chief and Council.

- iii) The *Heritage Designate* issues a response letter to the originator and notifies the originator of the specific conditions under which the work is to be undertaken, if approved.

5. SECWPEMC PLACE NAMES

5.1 Policy

- i) Efforts shall be made to educate Cstélnec members and the general public in identifying the Secwepemc place names shown on the Cstélnec TUS map, updated, from time to time²¹.
- ii) Efforts shall be made to protect the following Secwepemc place names within Canadian Copyright Law²².

5.2 Place names

- i) A map will be maintained with a current list Secwepemc place names.

²¹ See the “Adams Lake – Neskonlith Indian Bands 1997 / 98 Traditional Use Study”.

²² Copywrite information required from Iva...



6. LAND USE PLANNING

I. GENERAL

The purpose of this policy and procedures chapter is to set out the guiding principles, policies, administrative procedures that apply to land use planning on Cstélnec reserve lands. Land use planning is linked to *Development* as well as *Building and Construction* activities; separate policy and procedures chapters are provided for both.

New *Developments* and new *Building and Construction* can provoke a need for different land uses; a *Development Permit* application and / or a *Building and Construction Permit* application will therefore at times require a *LUP Variance* application.

Throughout the land use planning policies and procedures, the *Heritage and Archaeology* policies and procedures prevail.

II. GUIDING PRINCIPLES

- Paramountcy of Cstélnec *LUP*.
- *LUP Variances* are permitted only through the *LUP Variance* application process.
- *Development Permit* approvals based on acceptable benefits to the community and professional planning principles.

- *Development Permit* approvals based on social, cultural and economic sustainability.
- *Development Permit* approvals based on environmental protection and conservation.
- *Building and Construction* that form part of *Development*, to be based on “Green” design principles, including LEED Canada guidelines.
- *Building and Construction* that form part of *Development*, to be based on energy conservation design principles.
- *Building and Construction* that form part of *Development*, to be within all applicable regulations, Codes, standards and laws.
- Authority of *Building Inspectors*, and recourse to *Professionals*.
- Recourse to *kwétsens* – land use definitions.
- Recourse to the ALIB ‘Community Emergency Response Plan’

III. SUGGESTED POLICY

- i) The *LUP* is a multi-year plan, re-examined every three to five (3 - 5) years. It cannot be modified without community approval.
- ii) The *LUP* is adopted by the community, and then enacted by Chief and Council on behalf of the community.
- iii) The *LUP* includes a plan and set of definitions for *kwétsens*. Individual *kwétsens* and definitions may be refined or further detailed without community approval, although the *kwétsen* types cannot be modified without community approval.
- iv) *Application* for a *Variance* to the *kwétsens* plan (or their definitions) is done through *LUP Variance* application process.

IV. PROCEDURES (Chart # 3)

6.1 *Land Use Plan Variance Application*

6.1.1 General

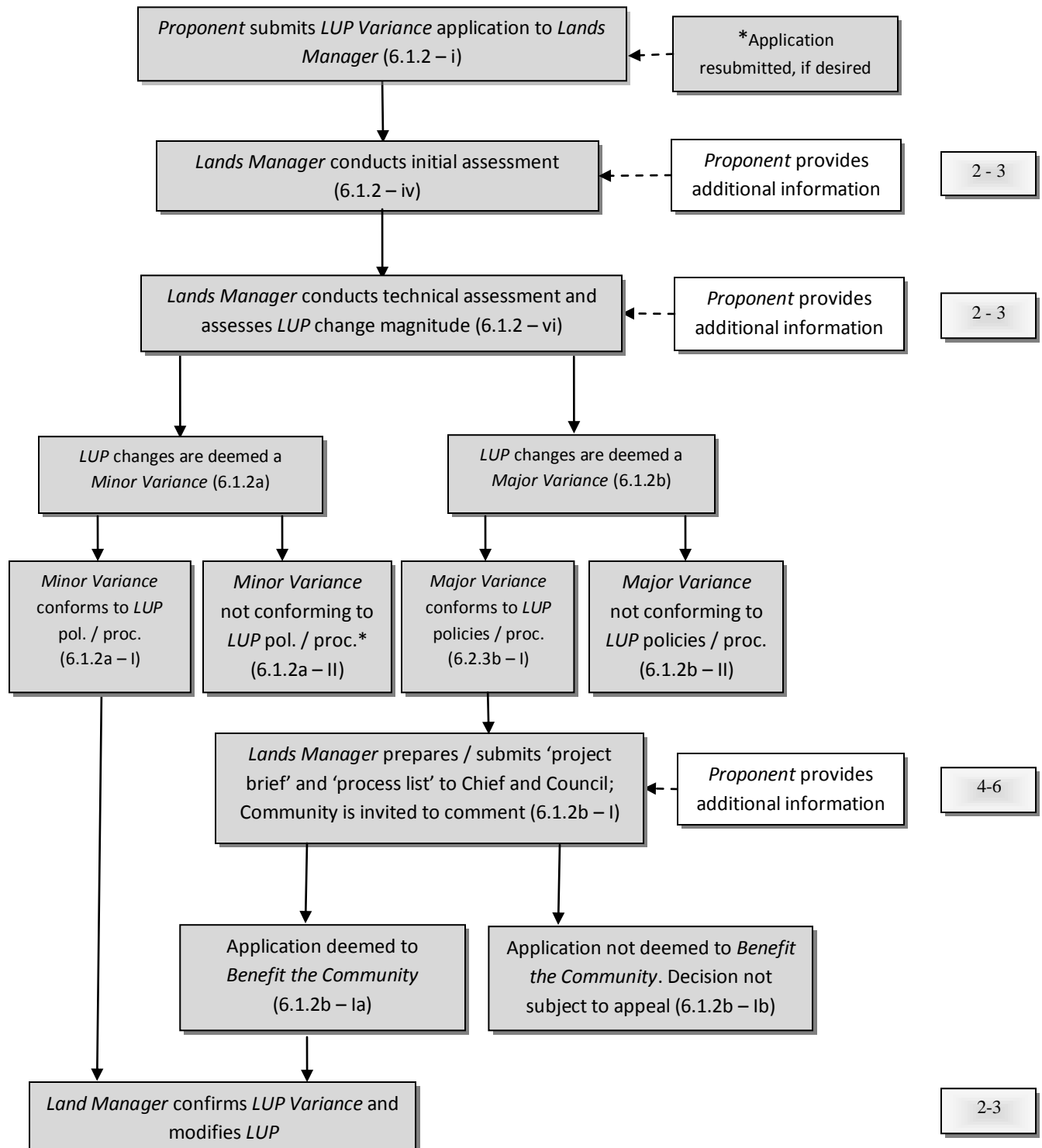
- i) A *Proponent* (or agent operating for the Cstélnec, in the case of Cstélnec land), may apply for a *Variance* to the *LUP*.
- ii) A *Development Permit* application and / or a *Building and Construction Permit* application may or may not be required as part of a *LUP Variance* application.
- i) Any *LUP Variance* application must include an assessment of the changes to the *LUP*.

6.1.2 *Land Use Plan Variance Applications procedures*

- i) The *Proponent* submits the appropriate *LUP Variance* application package to the *Lands Manager*.
- ii) The *LUP Variance* application must include the following:
 - a) Three (3) copies of the relevant parcel plan, clearly outlining legal information, set-backs, proposed variances, and neighboring parcels.
 - b) A model for the related project, if requested by the *Lands Manager*.
 - c) Written authority for the *Proponent* to act on behalf of the registered owner(s), if applicable.
 - d) A written brief including the description of the present and intended use of the site.

Chart #3 - Cstélnec Land Use Plan Variance Application Process²³

approximate
weeks



²³ Diagram is for illustrative purposes only. The steps as outlined in the text prevail.

- e) A plan for any necessary studies, assessments required by applicable regulations, including *Codes* or laws related to the new site use(s), and including a community consultation process.
- f) An assessment of prior uses and impacts, such as fill, drainage impacts, and any other impacts the *Work* may have on its surroundings.
- g) The application *Fee*.
- h) Any additional material or information required by the *Lands Manager*.
- iii) The *Proponent* pays the required *Fees*.
- iv) The *Lands Manager* assesses the application package for completeness.
- v) The *Lands Manager* issues a request for additional information from the *Proponent*, if required.
- vi) The *Lands Manager* assesses the magnitude of the change to the LUP.

If the variance is a *Minor Variance*:

- i) The *Lands Manager* assesses the application for conformity with the existing LUP and existing related policies and procedures.
- ii) The *Lands Manager*, in concert with the *Building Inspector* and other *Professionals* as required, assesses the application for conformity with other applicable laws and *Codes*.

- iii) The *Lands Manager*, in concert with any required *Professional*, if required, assesses any environmental impacts, including landscape alterations and drainage impacts.

If the *Minor Variance* is deemed to conform to existing policies and regulations, and other applicable laws and building codes:

- i) The *Lands Manager* notifies Economic Development Officer of its intent to issue a *LUP Variance Permit*.
- ii) The *Lands Manager* issues a *LUP Variance Permit*.

If the *Minor Variance* is deemed to not conform to existing policies and regulations, or other applicable laws and Codes:

- i) The *Lands Manager* issues an application assessment to the *Proponent*, specifying the reasons for the *Variance* application refusal.
- ii) The *Proponent* makes changes to the application and resubmits the application package to the *Lands Manager*.
- iii) The *Lands Manager* may levee a fee for the application re-submission, depending on the changes made to the design and application.

If the variance is a *Major Variance*:

- i) The *Lands Manager* assesses the application for conformity with existing policies and regulations.
- ii) The *Lands Manager*, with the assistance of the *Building Inspector* and other *Professionals* if required, preliminarily assesses the application for conformity with other applicable laws and building codes.

- iii) The *Lands Manager*, with the assistance of *Professionals* if required, assesses any environmental impacts, including landscape alterations and drainage impacts.
- iv) The *Lands Manager*, with the recommendations of the *Building Inspector*, instructs the *Developer* of any additional requirements such as:
 - a) Heritage and Archaeology assessment requirements.
 - b) Impact assessments on surrounding lands, including, for example, drainage and changes in traffic flow.
 - c) A report on *Benefits to the Community*.
 - d) Environmental impacts, and / or,
 - e) Community consultation requirements.
- v) The *Proponent*, upon authority to proceed, initiates, develops and undertakes any assessments, studies or estimates that may be required.

If the *Major Variance* is deemed to conform to existing policies and regulations, or other applicable laws and Codes:

- i) The *Lands Manager* notifies Chief and Council of its intent to allow the application to enter into its next phase and provides Chief and Council with a project brief and a process list of any community consultation and other assessments that are required as part of the *LUP Variance* application process. (Chief and Council should be advised in cases where the community will be affected.)

- a) The project brief contains the Land Department's assessment of the proposed *LUP Variance* in terms of its fit within the overall policies and principles, its effects upon the community, its impacts in terms of infrastructure capacity, and other relevant information that Chief and Council should be made aware of.
- b) The process list contains any requirements that the *Lands Manager* has established for the *Proponent* to fulfill as part of the application, including a community consultation process.
- b) Chief and Council review the project brief and process list and provide comments to the *Lands Manager*, including its wish to interview the *Proponent*, if needed, for clarification on any development intents.
- c) The *Lands Manager* coordinates with the *Proponent* as the latter fulfills the requirements.
- d) The *Proponent* provides a report on each of the requirements.
- e) The *Proponent* provides a report on any assessments or studies that may be required under any applicable laws.
- f) The *Lands Manager* and the *Building Inspector* assess the reports.
- g) The *Lands Manager* assesses any community consultation process and results.
- h) The *Lands Manager* provides a detailed project brief to Chief and Council, summarizing the results of studies and

community consultation, making a recommendation on whether or not to proceed with the issuing of a *LUP Variance Permit*.

If the *Major Variance* is deemed to be of *Benefit to the Community*, and if a community consultation process has resulted in such a way that any community concerns are addressed:

- i) The *Lands Manager* notifies Chief and Council of its intent to issue a *LUP Variance Permit*.
- ii) Chief and Council review the permit and authorize the *Lands Manager* to proceed.
- iii) The *Lands Manager* issues the *LUP Variance Permit*.
- iv) The *Lands Manager* makes changes to the LUP.

If the *Major Variance* is deemed to not be of *Benefit to the Community*:

- i) The *Lands Manager* issues an application assessment to the *Proponent*, specifying the reasons for the application refusal.
- ii) The *Proponent* may make changes to the application and resubmit the application package to the *Lands Manager*.
- iii) The *Lands Manager* may levee a fee for the application re-submission, depending on the changes made to the application.



7. DEVELOPMENT

I. GENERAL

The purpose of this policy and procedures chapter is to set out the guiding principles, policies and administrative procedures that apply to *Development* on Cstélnec reserve lands. *Development* is linked to land use planning as well as *Building and Construction* activities.

Once the Cstélnec *LUP* is enacted by Chief and Council, it will be necessary to apply for a ‘variance’ when a proposed land use is different than what the *LUP* provides. New *Developments* can provoke a need for different land uses; a *Development Permit* application can therefore at times require a *LUP variance* application. *Development Permits* are needed to make sure that development within Cstélnec lands meet with standards set out in the *Building Code* and our *LUP*, as well as fire and structural safety standards and other building standards are met.

Throughout the land related policies and procedures and the *Development* policies and procedures, the *Heritage and Archaeology* policies and procedures prevail.

II. GUIDING PRINCIPLES

- Paramourncy of Cstélnec *LUP*.
- Building and construction that form part of *Development*, to be based on “Green” design principles, including LEED® Canada guidelines.

- Building and construction that form part of *Development*, to be based on energy conservation design principles.
- Building and construction that form part of *Development*, to be within all applicable regulations, *Codes*, standards and laws.
- Authority of *Building Inspectors*, and recourse to *Professionals*.
- Recourse to *Dispute Resolution*.
- Recourse to the ALIB 'Community Emergency Response Plan'

III. SUGGESTED POLICY

- i) *Development* approvals follow LUP tenets or *LUP Variances*.
- ii) *Development* approvals based on *Benefits to the Community* and professional planning principles.
- iii) *Development* approvals based on social, cultural and economic sustainability.
- iv) *Development* approvals based on environmental protection and conservation.
- v) No *Development* is permitted on any Cstélnec land, unless the appropriate *Development Permit* is issued.
- vi) No *Development* is permitted on Cstélnec land unless the *Building Inspector* has unfettered access to inspecting the *Work*.
- vii) *Development* on Cstélnec land shall be treated as *Work* activity, requiring the same level of permitting and inspections, in addition to satisfying all applicable standards, *Codes* and laws.
- viii) Installation of Mobile Homes and Manufactured Homes shall be treated as any *Work* activity, requiring the same level of permitting and inspection, in addition to satisfying all applicable standards, *Codes* and laws.

- ix) Infrastructure construction shall be treated as any *Work* activity, requiring a *Development Permit*.
- x) Prior to excavations of any type, a pre-excavation ceremony may be held, as determined by the *Heritage Designate* and / or Cstélnec *Elders*.
- xi) Licensed *Professionals* will carry out the design and subsequent certification of all *Development*.
- xii) *Building Inspectors* operating on behalf of the community will have full authority to issue directives, including *Stop Work Orders* on any *Work*.
- xiii) No *Work* will be permitted without the appropriate *Fees* being paid.
- xiv) These policies and procedures apply to both Cstélnec community held land and Cstélnec *Member* held land, with Chief and Council appointing an agent (such as the *Lands Manager*) to act on its behalf, in the case of Cstélnec community held land.
- xv) Green principles, including LEED® Canada guidelines, and energy efficiency and conservation will take precedence in any land management activity.

IV. PROCEDURES

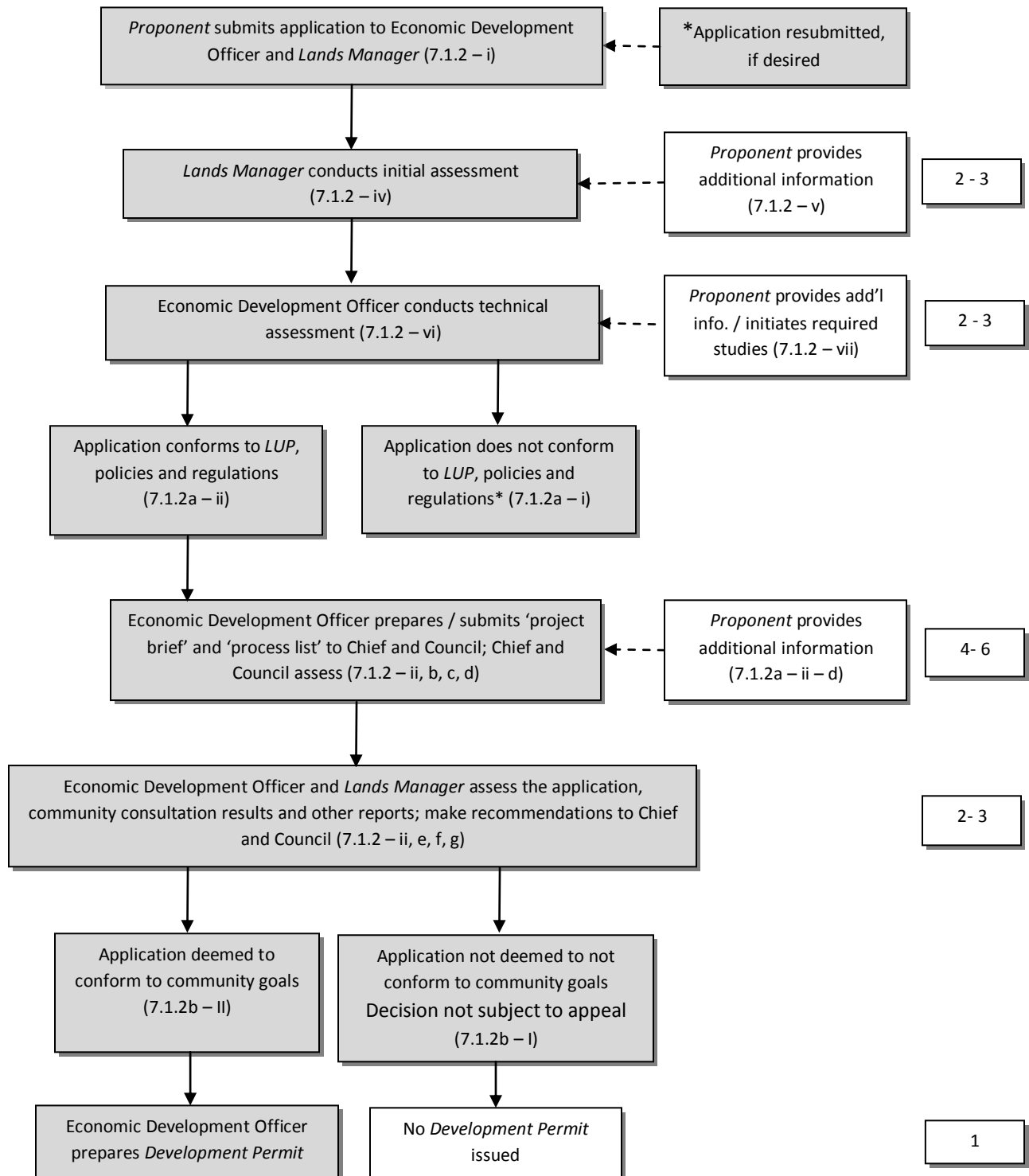
7.1 *Development Permit Application* (chart # 4)

7.1.1 General

- i) A *Proponent* (or *Agent* operating for the Cstélnec, in the case of Cstélnec land), may apply for a *Development Permit*.
- ii) A *LUP Variance* application may be required as part of a *Development Permit* application and / or a *Building and Construction Permit* application.

Chart #4 - Cstélnec Development Permit Application Process²⁴

approximate
weeks



²⁴ Diagram is for illustrative purposes only. The steps as outlined in the text prevail.

- iii) Any *Development Permit* application must include an assessment of any changes to the *LUP*, including any changes to setbacks, dimensions and other regulations within the *LUP* and its *kwéstens* section.

7.1.2 Procedures

- i) The *Proponent* submits the appropriate *Development Permit* application package, one copy to the *Economic Development Officer* and one copy to the *Lands Manager*.
- ii) The *Development Permit* application must include the following:
 - a) Three (3) copies of the relevant parcel plan or survey plan, clearly outlining legal information, set-backs, any proposed variances (if applicable), and neighboring parcels.
 - b) Written authority for the *Proponent* to act on behalf of the registered owner(s), if applicable.
 - c) A written brief including the description of the present and intended use of the site.
 - d) Three (3) copies of the relevant plans, at least at a conceptual level that enables a clear assessment of the architectural elements of the project.
 - e) A model of the related project, if requested by the *Economic Development Officer*.
 - f) A plan for any necessary studies or assessments required by applicable regulations, *Codes* or laws related to the project.
 - g) An assessment of prior uses and impacts, such as fill, drainage, and any other impacts the *Work* may have on its surroundings.
 - h) The application *Fee*.

- i) Any additional material or information required by the *Economic Development Officer* or the *Lands Manager*.
- iii) The *Proponent* pays the required *Fees*.
- iv) The *Economic Development Officer* and *Lands Manager* assess the application package for completeness.
- v) The *Economic Development Officer* issues a request for additional information from the *Proponent*, if required.
- vi) The *Economic Development Officer* and *Lands Manager* assess the magnitude of the *Development* project:
 - a) The *Economic Development Officer* assesses the application for conformity with existing policies and regulations.
 - b) The *Economic Development Officer*, with the assistance of the *Building Inspector* and other *Professionals* if required, preliminarily assesses the application for conformity with applicable laws and *Codes*.
 - c) The *Lands Manager*, with the assistance of *Professionals* if required, assesses any environmental impacts, including, among other impacts, landscape alterations and drainage.
- vii) The *Lands Manager*, with the recommendations of the *Economic Development Officer*, instructs the *Proponent* of any additional requirements such as:²⁵
 - a) Heritage and Archaeology assessment requirements.
 - b) Impact assessments on surrounding lands, including, for example, changes in traffic flow.

²⁵ Note that at this stage, input and approvals may be required from Aboriginal Affairs and Northern Development Canada (AANDC), Public Works Canada, Canadian Wildlife Federation (for Species at Risk Act), Health Canada, and Parks Canada (Archaeology). *Proponents* should contact AANDC for a current list of codes, standards, legislation and guidelines for guidance.

- c) A report on Benefits to the Community, with the instructions from the *Economic Development Officer* and the *Lands Manager*.
 - d) Environmental impacts, and,
 - e) Community consultation requirements, with the instructions from the *Economic Development Officer* and the *Lands Manager*.
- vii) The *Proponent*, upon authority to proceed, initiates, develops and undertakes any assessments, studies or estimates that may be required.

7.1.2 – a *Development Permit* application is deemed to not conform to the *LUP* and / or other laws or *Codes*:

- i) The *Economic Development Officer* issues an application assessment to the *Proponent*, specifying the reasons for the application refusal.
- ii) The *Proponent* may make changes to the application and may resubmit the application package to the *Economic Development Officer* and the *Lands Manager*.
- iii) The *Economic Development Officer* may levee a fee for the application re-submission, depending on the changes made to the application.

7.1.2 – b *Development Permit* application is deemed to be conform to the *LUP* and other laws or *Codes*:

- i) The *Economic Development Officer* notifies Chief and Council of its intent to allow the application to enter into its next phase and provides Chief and Council with a project brief and a process list of any community consultation and other assessments that are required as part of the *Development Permit* application process.

- a) The project brief contains the Land Department's assessment of the proposed *Development* in terms of its fit within the overall policies and procedures, its effects upon the community, its impacts in terms of infrastructure capacity, and other relevant information that Chief and Council should be made aware of.
- b) The process list contains any requirements that the *Economic Development Officer* has established for the *Proponent* to fulfill as part of the application, including, for example, a community consultation process.
- ii) Chief and Council review the project brief and process list and provide comments to the *Economic Development Officer*.
- iii) The *Economic Development Officer* coordinates with the *Proponent* as the latter fulfills the requirements.
- iv) The *Proponent* provides a report on any assessments or studies that may be required under any applicable laws.
- v) The *Economic Development Officer and the Lands Manager* assess the reports.
- vi) The *Economic Development Officer* assesses any community consultation process and results.
- vii) The *Economic Development Officer* provides a detailed project brief to Chief and Council, summarizing the results of studies and community consultation, making a recommendation on whether or not to proceed with the issuing of a *Development Permit*.

7.1.2 – b-i *Development Permit* application is deemed to not be of Benefit to the Community:

- i) The *Economic Development Officer* issues an application assessment to the *Proponent*, specifying the reasons for the application refusal.

- ii) The *Proponent* may make changes to the application and may resubmit the application package to the *Economic Development Officer and Lands Manager*.
- iii) The *Economic Development Officer* may levee a fee for the application re-submission, depending on the changes made to the application.

7.1.2-b-ii *Development Permit* application is deemed to be of Benefit to the Community:

- i) The *Economic Development Officer* makes a recommendation to Chief and Council to issue a *Development Permit*.
- ii) Chief and Council review the permit and authorize the *Economic Development Officer* to proceed.
- iii) The *Development Permit* is issued.

7.1.3 *Permit Variance Applications* (to be utilized when a *Development Permit* has been issued, and a change is required to the approved *Work*)

- i) The *Proponent* submits the appropriate *Development Permit Variance* application package to the *Lands Manager*.
- ii) The *Development Permit Variance* application must include the following:
 - a) Three (3) copies of the relevant site plan, clearly outlining legal information, set-backs, access for construction purposes, access after project completion, outer perimeter of all buildings encompassing the *Work*, parking areas during construction and construction related traffic route,
 - b) Three (3) copies of the construction drawings, clearly outlining the “variance” or change in the *Work*.

- c) A written brief including the description of the present and intended variance to the *Work*.
 - d) The application Fee.
 - e) Any additional material or information required by the *Lands Manager* and / or the *Building Inspector*.
- iii) The *Proponent* pays the required Fees.
- iv) The *Lands Manager* assesses the application package for completeness.
- v) The *Lands Manager* issues a request for additional information from the *Proponent*, if required.
- vi) The *Lands Manager* assesses the magnitude of the variance *Work*:
 - a) The *Lands Manager* assesses the application for conformity with the *LUP*.
 - b) The *Lands Manager*, with the *Building Inspector* and other *Professionals* as required, assesses the application for conformity with other applicable laws and Codes.
 - c) The *Lands Manager*, with any required *Professional*, if required, assesses any environmental impacts, including landscape alterations and drainage impacts.

7.1.3-a *variance Work is deemed to not conform to the LUP or other applicable laws and Codes:*

- i) The *Lands Manager* issues an assessment to the *Proponent*, specifying the reasons for the variance application refusal.
- ii) The *Proponent* makes changes to the application and resubmits the *Development Permit variance* application package to the *Lands Manager*.
- iii) The *Lands Manager* may levee a fee for the application re-submission, depending on the changes made to the design.

7.1.3-b ***Variance Work is deemed to conform to the LUP, and if the new Work is acceptable to the Lands Manager and Building Inspector:***

- i) The *Lands Manager* issues a *Development Variance Permit*.

7.1.4 Requirements applicable to all Work

- i) In addition to other applicable Codes and laws, other requirements apply to all *Work* undertaken on Cstélnec lands, including:
 - a) **Landscape Drainage:** All sites must be graded in such a way that the *Work* is protected from surface water.
 - b) **Roof Drainage:** Depending on site conditions, and depending on inspection by the *Building Inspector*, the *Building Inspector* may order that perimeter drains, rainwater leaders, gutters and down spouts, or other drainage features be installed, in addition to that specified in the *Work* design.
 - c) **Site Grading:** Depending on site conditions, and depending on inspection by the *Building Inspector*, the *Building Inspector* may order that landscaping slopes be angled in specific ways so that water runoff is controlled and not directed at neighboring parcels.
 - d) **Flood Control:** Any area to be occupied for habitation purposes must be “above” flood levels, depending on the location of Cstélnec lands. When within 30 cms of the same flood level, the *Lands Manager* and the *Building Inspector* must be satisfied by the flood prevention design features. Design for all *Work* must take into account the overflow levels of the drainage systems servicing the *Work*. All responsibility for flood or water action rest with the *Proponent*, whatever the cause.

- d) **Retaining Walls:** In sloped areas, retaining walls must be designed by a Qualified Environmental Professional and Registered Professional Engineer.
- e) **Parking:** Parking, laneways, driveways and any areas destined for use by vehicles, including the storage of vehicles, must conform to, in addition to this policy and applicable Codes and laws, the *LUP*.
- f) **Traffic related features:** Curbs and such features must be installed and anchored in such a way that they are not easily displaced; traffic features damaged during the course of the *Work*, or as a result of the *Work*, must be repaired, as directed by the *Building Inspector*.
- g) **Cstélnec and Adjacent property:** All Cstélnec property and adjacent property must be protected from damage. The ALIB must be saved harmless from any damage or costs to repair damages.
- h) **Screening:** Storage, installed mechanical equipment, including equipment installed on roofs, must be screened; the screening must be clearly outlined on the working drawings.
- i) **Site Maintenance:** Construction debris, general waste, dust and other loose discarded material must be kept in appropriate bins and areas within the *Work* site. Dust must be effectively controlled. At any point, the *Building Inspector* may issue and order that such debris, waste, dust or material be cleaned, cleared, stored or disposed of. Costs for any such work, if there are delays in carrying out the order, the *Building Inspector* may have the work done, with costs borne by the Proponent.
- j) **Workmanship:** Work and Workmanship must adhere to laws, Codes, regulations and standards, all using good practices and rules of trades and professional.

- k) **Erosion:** All efforts must be made to prevent erosion when building near water courses. Design for all *Work* must take into account the effects of the *Work* on erosion of soil.



8. BUILDING and CONSTRUCTION

I. GENERAL

The purpose of this policy and procedures chapter is to set out the guiding principles, policies and administrative procedures that apply to *Building and Construction* on Cstélnec reserve lands. The community's Housing Policy prevails.²⁶ *Building and Construction* is linked to *Development* activities as well as land use planning. Once the Cstélnec *LUP* is enacted by Chief and Council on behalf of the community, it will be necessary to apply for a 'variance' when a proposed land use is different than what the *LUP* provides. New *Building and Construction* can provoke a need for different land uses; a *Building and Construction Permit* application can therefore at times require a *LUP variance* application.

Building and Construction Permits are needed to make sure that construction within Cstélnec lands meet with standards set out in the *Building Code* and our *LUP*, as well as fire and structural safety standards and other building standards are met.

The *National Building Code of Canada* is the key document of the building and construction industry, written to make sure that buildings are well designed structurally, safe from fire, free of health hazards, and accessible. It is used as a model for most regulations in Canada and applies to construction, alterations, renovations, demolition, and so on, to all buildings. Health and safety are the code's primary objectives. Some provinces have their own building codes, but the National Building Code, along with the standards and rules that derive from it, is the main reserve-applicable *Code*.

²⁶ Exact Housing Policy title and date to be inserted here.

Throughout the land related policies and procedures, the *Heritage and Archaeology* policies and procedures prevail.

II. GUIDING PRINCIPLES

- Paramountcy of Cstélnec LUP.
- *Building and Construction* to be based on “Green” design principles, including LEED® Canada guidelines.²⁷
- *Building and Construction* to be based on energy conservation design principles.
- *Building and Construction* to be within all applicable regulations, Codes, standards and laws.
- Authority of *Building Inspectors*, and recourse to *Professionals*.
- Recourse to *Dispute Resolution*.
- Recourse to the ALIB ‘Community Emergency Response Plan’

III. SUGGESTED POLICY

- i) *Building and Construction* approvals follow *LUP* tenets or *LUP Variances*.
- ii) *Building and Construction* approvals based on *Benefits to the Community* and professional design principles.
- iii) *Building and Construction* approvals based on environmental protection and conservation.
- iv) No *Building and Construction* is permitted on any Cstélnec land, unless the appropriate *Building and Construction Permit* is issued.

²⁷ This includes the ALIB ‘CAEE Community Energy Plan’.

- v) No *Building and Construction* is permitted on Cstélnec land unless the *Building Inspector* has unfettered access to inspecting the *Work*.
- vi) *Building and Construction* on Cstélnec land shall be treated as *Work* activity, requiring the same level of permitting and inspections, in addition to satisfying all applicable standards, *Codes* and laws.
- vii) The installation of *Manufactured Homes* and *Mobile Homes* shall be treated as any *Work* activity, requiring the same level of permitting and inspection, in addition to satisfying all applicable standards, *Codes* and laws.
- viii) Prior to excavations of any type, a pre-excavation ceremony may be held, as determined by the *Heritage Designate* and / or Cstélnec *Elders*.
- ix) Licensed *Professionals* will carry out the design and subsequent certification of all *Building and Construction*.
- x) *Building Inspectors* operating on behalf of the community will have full authority to issue directives, including *Stop Work Orders* on any *Work*.
- xi) No *Work* will be permitted without the appropriate *Fees* being paid.
- xii) These policies and procedures apply to both Cstélnec community held land and Cstélnec *Member* held land, with Chief and Council appointing an agent (such as the *Lands Manager*) to act on its behalf, in the case of Cstélnec community held land.
- xiii)** Green principles, including LEED® Canada guidelines, and energy efficiency and conservation will take precedence in any land management activity.

IV. PROCEDURES (chart # 5)

8.1 *Building and Construction Permit Application* (chart # 5)

8.1.1 General

- i) A *Proponent* (or *Agent* operating for the Cstélnec, in the case of Cstélnec land), may apply for a *Building and Construction Permit*.
- ii) A *LUP Variance* application may be required as part of a *Building and Construction Permit* application.
- iii) Any *Building and Construction Permit* application must include an assessment of any changes (if applicable) to the *LUP*, including any changes to setbacks, dimensions and other regulations within the *LUP* and its *kwéstens* definitions.

8.1.2 Procedures

- i) The *Proponent* submits the appropriate *Building and Construction Permit* application package to the *Lands Manager and Housing Manager*.
- ii) The *Building and Construction Permit* application package must include the following:

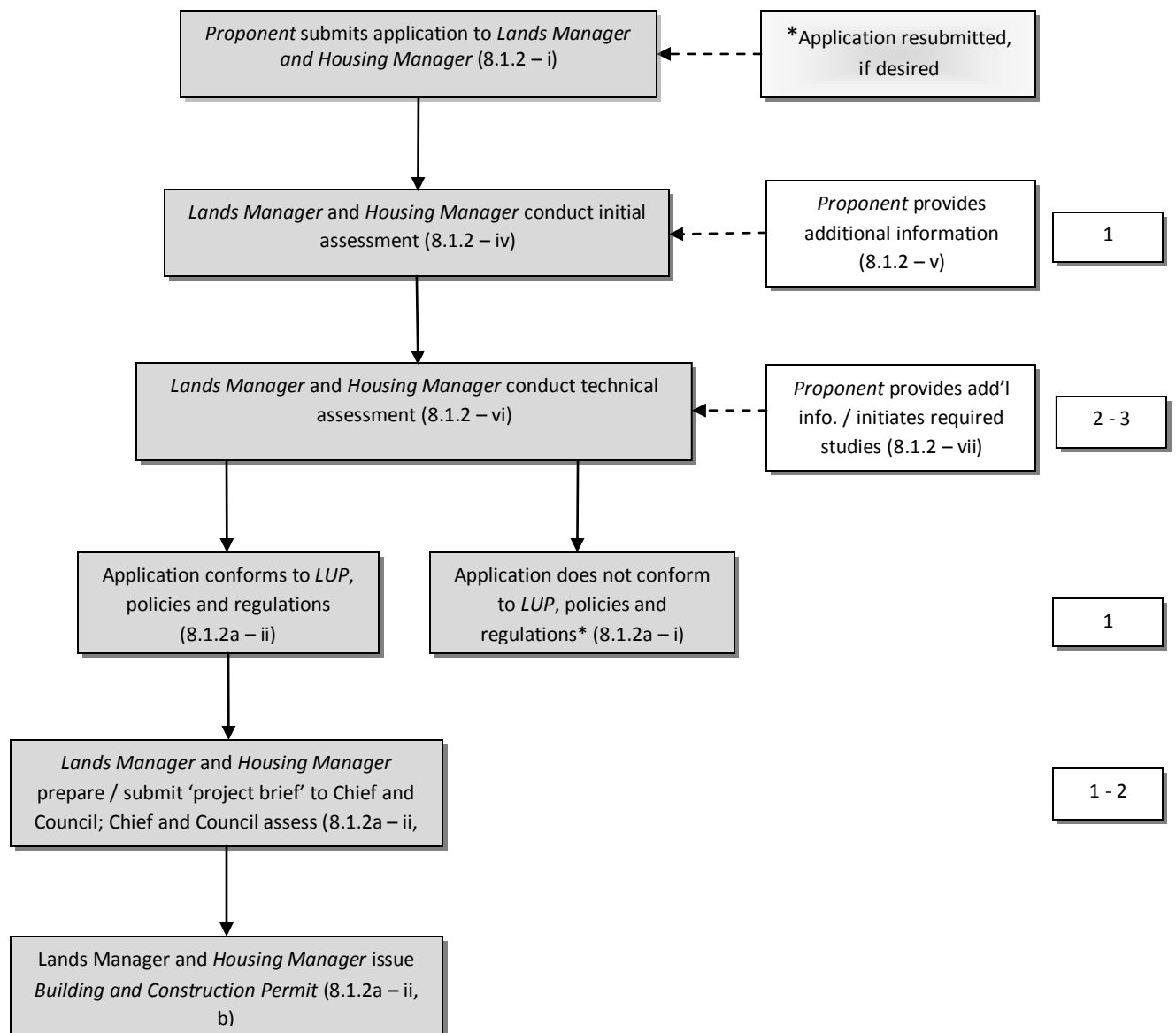
For “Residential” Building and Construction Permit applications:

- a) Three (3) copies of the relevant site plan, clearly outlining legal information, set-backs, access for construction purposes, access after project completion, outer perimeter of all buildings encompassing the *Work*, parking areas during construction and construction related traffic route.

Chart #5 - Cstélnec *Building and Construction Permit Application Process*²⁸

approximate
weeks

²⁸ Diagram is for illustrative purposes only. The steps as outlined in the text prevail.



- b) Written authority for the *Proponent* to act on behalf of the registered owner(s), if applicable.
- c) Three (3) copies of the construction drawings.
- d) The application Fee.

For “Commercial / Industrial” Building and Construction Permit applications:

- a) Three (3) copies of the relevant site plan, clearly outlining legal information, set-backs, access for construction purposes, access after project completion, outer perimeter of all buildings encompassing the Work, parking areas during construction and construction related traffic route.
 - b) Three (3) copies of the construction drawings.
 - c) A model of the *Work*, if requested by the *Lands Manager and Housing Manager*.
 - d) Written authority for the *Proponent* to act on behalf of the registered owner(s), if applicable.
 - e) A written brief including the description of the present and intended use of the site.
 - g) A plan for any necessary studies or assessments required by applicable regulations, codes or laws.
 - h) An assessment of prior fill impacts, drainage impacts, and any impacts the *Work* may have on its surroundings.
 - i) The application Fee.
- iii) The *Proponent* pays the required Fee.
 - iv) The *Lands Manager and Housing Manager* assess the application package for completeness.

- v) The *Lands Manager* and *Housing Manager* issue a request for additional information from the *Proponent*, if required; the *Proponent* responds accordingly.
- vi) The *Lands Manager* and *Housing Manager* conduct technical assessment:
 - a) The *Lands Manager* and *Housing Manager* assess the application for conformity with existing policies and regulation.
 - b) The *Lands Manager* and *Housing Manager*, with the assistance of the *Building Inspector* and other *Professionals* if required, assess the application for conformity with other applicable laws and *Codes*.
 - c) The *Lands Manager* and *Housing Manager*, with the assistance of a *Professional*, assess any environmental impacts, including landscape alterations and drainage impacts.
- vii) The *Lands Manager* and *Housing Manager* issue a request for additional information from the *Proponent*, if required; the *Proponent* responds accordingly.²⁹

8.1.2 – a-i ***Work is deemed to not conform to the LUP or other applicable laws and Codes:***

- i) The *Lands Manager* and *Housing Manager* issue an application assessment to the *Proponent*, specifying the reasons for the application refusal.
- ii) The *Proponent* may make changes to the design and application and may resubmit the *Building and Construction* application to the *Lands Manager* and *Housing Manager*.

²⁹ Note that at this stage, input and approvals may be required from Aboriginal Affairs and Northern Development Canada, Public Works Canada, Canadian Wildlife Federation (for Species at Risk Act), Health Canada, and Parks Canada (Archaeology). *Proponents* should contact AANDC for a current list of codes, standards, legislation and guidelines for guidance.

- iii) Depending on the scale and amplitude of the proposed *Work*, the *Lands Manager* and *Housing Manager* may require that a *Development Permit* application be submitted.
- iv) The *Lands Manager* and *Housing Manager* may levee a fee for the application re-submission, depending on the changes made to the design and application.

8.1.2- a-ii ***Work is deemed to conform to the LUP and other applicable laws and Codes:***

- i) The *Lands Manager* and *Housing Manager* prepare a project brief for reporting to Chief and Council. The project brief contains the *Land Manager's* assessment of the *Work* in terms of its fit within the overall *LUP*, its fit in terms of infrastructure capacity, and other relevant information that Chief and Council should be made aware of.
- ii) The *Lands Manager* and *Housing Manager* issue a *Building and Construction Permit*.

8.1.3 Permit Variance Applications (to be utilized when a *Building and Construction Permit* has been issued, and a change is required to the approved *Work*)

- i) The *Proponent* submits the appropriate *Building and Construction Permit Variance* application package to the *Lands Manager* and *Housing Manager*.
- ii) The *Building and Construction Permit Variance* application must include the following:
 - a) Three (3) copies of the relevant site plan, clearly outlining legal information, set-backs, access for construction purposes, access after project completion, outer perimeter of all buildings encompassing the *Work*, parking areas during construction and construction related traffic route.
 - b) Three (3) copies of the construction drawings, clearly outlining the “variance” or change in the *Work*.

- c) A written brief including the description of the present and intended variance to the *Work*.
 - d) The application Fee.
 - e) Any additional material or information required by the *Lands Manager, Housing Manager* and / or the *Building Inspector*.
- iii) The *Proponent* pays the required Fees.
 - iv) The *Lands Manager and Housing Manager* assess the application package for completeness.
 - v) The *Lands Manager and Housing Manager* issues a request for additional information from the *Proponent*, if required.
 - vi) The *Lands Manager and Housing Manager* assess the magnitude of the variance *Work*:
 - a) The *Lands Manager and Housing Manager* assess the application for conformity with the *LUP*.
 - b) The *Lands Manager and Housing Manager*, with the Building Inspector and other *Professionals* as required, assess the application for conformity with other applicable laws and Codes.
 - c) The *Lands Manager and Housing Manager*, with any required *Professional*, if required, assess any environmental impacts, including landscape alterations and drainage impacts.

8.1.3-vi-a *variance Work is deemed to not conform to the LUP or other applicable laws and Codes:*

- i) The *Lands Manager and Housing Manager* issue an application assessment to the *Proponent*, specifying the reasons for the variance application refusal.

- ii) The *Proponent* makes changes to the application and resubmits the *Building and Construction Permit variance* application package to the *Lands Manager* and *Housing Manager*.
- iii) The *Lands Manager* and *Housing Manager* may levee a fee for the application re-submission, depending on the changes made to the design.

8.1.3-vi-b *variance Work is deemed to conform to the LUP and other applicable laws and Codes, and if the new Work is acceptable to the Lands Manager, Housing Manager and Building Inspector:*

- i) The *Lands Manager* and *Housing Manager* issue a *Building and Construction Variance Permit*.

8.3 Temporary Permits

- i) For single or two-family homes only, the *Lands Manager* and *Housing Manager* may, only under the recommendation of the *Building Inspector*, issue a *Temporary Occupancy Permit*, only when the completion of the *Work* has not been possible due to weather conditions, if:
 - a) The interior of the *Work* is complete.
 - b) The servicing and utility connections are in place.
 - c) There is proof that the remaining *Work* will be completed by a determined date.
 - d) No unsafe conditions exist.

8.4 Moving and Relocation of Buildings

- i) Moving or relocating buildings within Cstélnec Lands and onto Cstélnec lands requires a *Building and Construction Permit*. This includes the moving and relocating of *Manufactured Homes* and *Mobile Homes*.

- ii) Applicable laws, Codes and regulations (including provincial and / or federal Ministries of Transportation and Highways regulations and / or requirements) prevail in any operation involving the moving or relocating of a building.
- iii) The *Building and Construction Permit* application must include or confirm, in addition to the requirements listed elsewhere in this policy, the following:
 - a) The identification of the existing location, and destined location of the building to be moved, including a site plan for the destined location.
 - b) The certification proof that any services have been disconnected by authorized and professional trades.
 - c) The building to be relocated to Cstélnec lands must fully conform to applicable laws, *Codes* and regulations and must satisfy inspection by the *Building Inspector*.
 - d) The building relocated from within or without Cstélnec lands must be installed on proper foundations and inspected by the *Building Inspector* prior to an *Occupancy Permit* being issued, regardless of its condition prior to relocating.
 - e) The building relocated from within or without Cstélnec lands must be readied for an *Occupancy Permit* within one (1) year after being relocated.
 - f) The assurance that any additional requirements that the *Lands Manager*, *Housing Manager* and / or the *Building Inspector* may stipulate prior to moving, including a security deposit to cover potential costs of damage to Cstélnec property, infrastructure or Lands, will be adhered to.

8.5 Demolition

- i) Demolition of buildings within Cstélnec lands requires a *Demolition Permit*.
- ii) Any applicable laws, *Codes* and regulations in any operation involving the demolition of a building must be adhered to.
- iii) The *Demolition Permit* application must include or confirm, in addition to the requirements listed elsewhere in this policy, the following:
 - a) The identification of the existing location of the building to be demolished, including a site plan showing any adjacent buildings.
 - b) The certification proof that any services have been disconnected by authorized and professional trades.
 - c) The assurances that no unsafe conditions will exist during the demolition operation and that the *Work* conforms to applicable laws, *Codes* and regulations and satisfies inspection by the *Building Inspector*.
 - d) Any additional requirements that the *Lands Manager* and / or the *Building Inspector* may stipulate prior to demolition, including a security deposit to cover potential costs of damage to Cstélnec property, infrastructure or lands.

8.6 Mobile Homes, Manufactured Homes and their Alterations and Additions

- i) Installing a *Mobile Home* or a *Manufactured Home* on Cstélnec lands required a *Building and Construction Permit*.
- ii) The *Lands Manager* may require that a *Development Permit* application be submitted prior to the issuance of a *Building and Construction Permit*, should several units be contemplated for installation.

- iii) In addition to this policy and applicable laws, *Codes* and regulations, *Mobile Homes* and *Manufactured Homes* must be installed in accordance with standards such as CSA Standard Z240.10.1-94, “CSA Standard A277” and CSA Z240.
- iv) The *Building and Construction Permit* application must include the following:
 - a) The identification of the location of the *Mobile Home* and / or *Manufactured Home* to be installed, including a site plan for the destined location.
 - b) In the case of a pre-owned or pre-installed *Mobile Home* and / or *Manufactured Home* to be relocated from within or without Cstélnec lands, the certification or proof that any services have been disconnected by authorized and professional trades prior to relocation.
 - c) In the case of a pre-owned or pre-installed *Mobile Home* and / or *Manufactured Home* to be relocated from within or without Cstélnec lands, certification or proof that the *Mobile Home* and / or *Manufactured Home* fully conforms to applicable laws, *Codes* and regulations, and satisfies inspection by the *Building Inspector*.
 - d) In the case of additions to *Mobile Home* and / or *Manufactured Homes*:
 - i) Foundations must be temporary, allowing for removal of the addition without affecting the *Mobile Home* and / or *Manufactured Home*.
 - ii) No part of the addition can rely on the *Mobile Home* and / or *Manufactured Home* for structural support and must not affect the structural integrity of the *Mobile Home* and / or *Manufactured Home*.
 - iii) No plumbing can be installed within the addition.

- iv) The addition must have its own heating system.
- v) All service connections must be made to allow easy disconnection from the *Mobile Home* and / or *Manufactured Home*.

8.7 Other Forms of Work

- i) Other forms of *Work* include Swimming Pools, Decks, Canopies, Awnings, Signage, Berms, or any other constructions within the definition of *Work*.
- ii) No other forms of *Work* will be undertaken without a valid *Building and Construction Permit*.
- iii) No other forms of *Work* will be undertaken without adherence to laws, *Codes*, regulations or policies, as well as the full approval and inspection by *the Building Inspector*.
- iv) Specific policies and procedures for Other Forms of Work may be developed, from time to time.
- v) *Building and Construction Permits* issued for other forms of *Work* will include agreements between the ALIB Chief and Council and the *Proponent* that indemnifies the ALIB community against and save the ALIB harmless from any liability related to the *Work*, its installation and / or collapse and / or failure.



9. BUILDING INSPECTORS and BUILDING INSPECTIONS

I. GENERAL

II. GUIDING PRINCIPLES and SUGGESTED POLICY

- *Building and Construction* that form part of *Development and Building and Construction*, to be within all applicable regulations, *Codes*, standards and laws.
- Authority of *Building Inspectors*, and recourse to *Professionals*.
- Paramountcy of Cstélnec *LUP*.
- Recourse to *kwétsens* – land use definitions.

9.1 General

- 1) The *Building Inspector* must be a Registered Building Official. Evidence of Registration must be current.
- 2) The *Lands Manager* will not issue any permits under this policy, without the recommendation of the *Building Inspector*.
- 3) The *Building Inspector* is the person appointed by Chief and Council, as recommended by the *Lands Manager* and the Housing Manager when ALIB housing is involved, to act as *Building Inspector* for the purpose of assisting in the recommendation (or refusal) of *Building and Construction Permits*, and for the purposes of inspecting, enforcing and carrying out the provisions of the *Building and Construction* policy, including perusals of

applications and plans, inspecting *Building and Construction* projects, inspecting *Development* projects, ensuring that laws, *Codes* and regulations are respected, and issuing directives, including *Stop Work Orders*, when appropriate.

- 4) The *Building Inspector* may order any *Professional* to withdraw from the *Work* if the *Professional* is in conflict, performs any duties inadequately, or fails in delivering reports or other contractual obligations.
- 5) In cases when no cost estimate is provided, or in cases when the *Building Inspector* is not satisfied with the estimate provided with permit applications, the *Building Inspector* may, in order to determine fees, estimate the value of the *Work*, for the purposes of determining fees.

9.2 Authorities

Authorities of the *Building Inspector* include:

- 1) Entering and inspecting the *Work* at any reasonable time for the purposes of fulfilling the duties under this policy, including enforcement.
- 2) Ordering:
 - a) The *Proponent* to comply with this policy and / or any applicable laws, *Codes* or regulations within a specified time.
 - b) The *Proponent* to stop the *Work*, or part of the *Work*, if the *Work* is proceeding in contravention of this policy and / or a law, a *Code* or a regulation, or if an unsafe condition is deemed to exist.

- c) The *Proponent* to remove material, fill or any other unauthorized material or debris on Cstélnec Lands.
- d) The *Proponent* to remove any building or part of a building or other forms of *Work* constructed in contravention of this policy.
- e) The termination of any occupancy, if it contravenes this policy or any applicable law, *Code* or regulation.
- f) The termination of any occupancy, if unsafe conditions exist.
- g) The *Proponent* to provide, at the *Proponent's* expense, proof or evidence that a material, device, construction, method, assembly, construction method or foundation condition meets the requirements of this policy and / or any applicable law, *Code* or regulation.
- h) The *Proponent* to provide up-to-date plans, specifications, surveys by a registered provincial Surveyor, at the *Proponent's* expense, in order to:
 - i) Establish prior to construction that this policy and / or applicable laws, *Codes* or regulations are complied with.
 - ii) Verify, when the *Work* is completed, that all permit requirements have been met.
- i) For *Work* where fill has been imported at some time prior to the *Work* being undertaken, for *Work* that is not standard construction, for *Work* where drainage may be substantially altered, and for *Work* that is in a category requiring professional design, the *Building Inspector* may order:

- i) The *Proponent* to provide plans and / or specifications and / or reports and / or analysis, bearing the professional seal of a *Professional*, for the Building Inspector to ensure that the *Work* includes consideration for all applicable laws, Codes and regulations.
- ii) The cost of any such order is to be borne by the *Proponent*.
- k) For “phased” *Work*, the *Building Inspector* may recommend issuing a *Building Permit* prior to all of the required plans and / or specifications for the whole building or complex having been submitted, solely at the risk and cost of the *Proponent*, provided that:
 - i) The plans and specifications for the phase in question have been submitted and the *Building Inspector* treats the phase as a *Work* entity: All of the phase drawings and specifications must comply with this policy and any related law, *Code* or regulation.
 - ii) The *Proponent* has supplied sufficient and satisfactory information assuring the *Building Inspector* that the remainder of the *Work* will be completed under this policy and that any applicable laws, *Codes* and regulations will be complied with.
- l) The *Building Inspector* may refuse to recommend a *Building Permit* if:
 - i) The information provided with the permit application, or any information requested during the course of the *Work*, is, to the *Building Inspector*, inadequate in determining the safety or compliance

- to this policy or any applicable laws, *Codes* or regulations.
- ii) If any information submitted is false, incorrect, or interpreted by the *Building Inspector* as contravening this policy or any applicable laws, *Codes* or regulations.
 - iii) If any portion of the *Work*, including excavation or deposition of fill, has begun prior to a *Building Permit* being issued.
 - iv) If adequate and safe service connections required for the *Work* have not been connected by professionals.
- m) The *Building Inspector* may at any time during the progress of the *Work*, regardless of the issuance of a *Building Permit* by the *Lands Manager*, revoke a *Building Permit* if:
- i) There is a contravention of any of the conditions under which the *Building Permit* was issued.
 - ii) The *Building Permit* was issued in error.
 - iii) The *Building Permit* was issued on the basis of incorrect information.
 - iv) There is a violation of this policy or any other applicable laws, *Codes* or regulations.
- n) The *Building Inspector* may, when the *Work* is deemed unsafe for any reason, and when notice to correct the unsafe conditions has not been complied with, correct the unsafe situation at the cost of the *Proponent*.
- o) The *Building Inspector* may, when the *Work* is deemed unsafe for any reason, and in an emergency, immediately

and without notice, correct the unsafe situation at the cost of the *Proponent*.

- p) The *Building Inspector* may require the *Proponent* to provide certificates and other assurances from the *Proponent* that the *Work* conforms to any standard, *Code* or law.
- q) The *Building Inspector* is empowered to impose any conditions in order to protect neighboring land or premises.

9.2 Duties

Duties of the *Building Inspector* include:

- 1) Inspecting the *Work* and enforcing this policy and applicable *Codes* and laws.
 - a. Issuing notices and orders, as required, in informing the *Proponent* of contravention under this policy, including any infractions under applicable *Codes* and laws.
 - b. Issuing orders to the *Proponent* to rectify any unsafe condition observed in the *Work*.
 - c. Issuing *Building Permit* recommendations to the *Lands Manager*, when to the best of her or his knowledge, the conditions set out in this policy as well as those of applicable laws, have been met.
 - d. Issuing *Occupancy Permit* and *Temporary Occupancy Permit* recommendations to the *Lands Manager* when, after inspection of the *Work*, it appears that the *Work* conforms to this policy and all applicable laws, *Codes* and regulations have been met.
 - e. Issuing *Stop Work Orders* directly and without requiring the authorization of the *Lands Manager*, when upon inspection, the

Work is deemed dangerous or to not conform to this policy or any applicable laws, *Codes* and regulations. A *Stop Work Order* must be directly communicated to the *Proponent*, a copy of the *Stop Work Order* must be posted in a conspicuous location on the *Work* site, and a copy of the *Stop Work Order* must be submitted to the *Lands Manager*.

- f. Making recommendations for permit application refusals to the *Lands Manager*, when the proposed *Work* is deemed to not conform to this policy or any applicable laws, *Codes* and regulations.
- g. Providing clear and prompt explanations to *Stop Work Orders* and permit application refusal recommendations.
- h. Retaining, on behalf of the *Lands Manager*, copies of all documentation related to the *Work*. Copies of all documentation to be returned to the *Lands Manager* as soon as the *Work* is complete.



9. LEASES and LEASING

I. GENERAL

The purpose of this policy and procedures chapter is to set out the guiding principles, policies, and administrative procedures that apply to leases and leasing on Cstélnec reserve lands.

Once the Cstélnec LUP is enacted on behalf of the community by Chief and Council, it will be necessary to ensure that leases and leasing activities conform to the general spirit of the LUP. New *Developments*, for example, will be accompanied by relatively complex leases that should follow the spirit and guidelines of the LUP, particularly in-so-far as *kwéstens* and related regulations might apply.

These lease policies and procedures apply to all Cstélnec lands, including, for example, near waterfront lots, waterfront lots, water lots and other land lots and / or parcels.

Throughout the land related policies and procedures and the Development policies and procedures, the *Heritage and Archaeology* policies and procedures prevail.

II. GUIDING PRINCIPLES

- Paramountcy of Cstélnec LUP.
- Paramountcy of *Registry* requirements.
- Paramountcy of professional surveyors and legal surveys.

- Authority of *Building Inspectors*, and recourse to *Professionals*.

III. SUGGESTED POLICY

- i) *Leasing to conform to AANDC Registry procedures*
- ii) *Leasing to conform to LUP tenets.*
- ii) *Leasing approvals based on Benefits to the Community and professional planning principles.*
- iii) *Leasing approvals based on social, cultural and economic sustainability.*
- iv) *Leasing approvals based on environmental protection and conservation.*
- v) These policies and procedures apply to Cstélnec reserve lands.

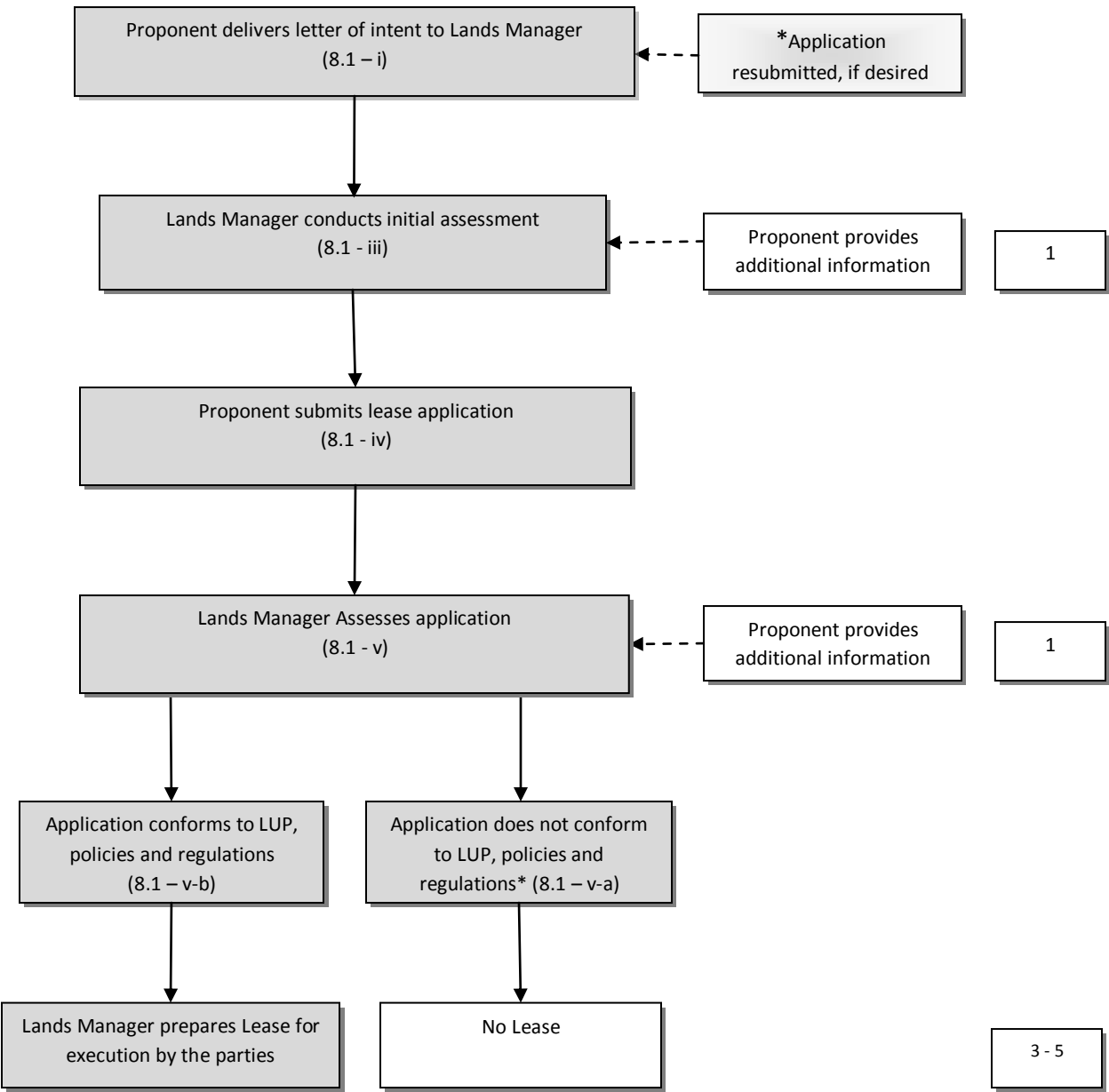
IV. PROCEEDURES (chart # 6)

9.1 Leasing Enquiries

- i) Lease proponent submits initial letter of interest and / or enquiry detailing the desire to lease land to *Lands Manager*.
- ii) Letter of interest to include the following information:
 - a) Lot and / or parcel number of land to be leased.
 - b) Legal description of the land to be leased (if possible).
 - c) Current use of the land to be leased.
 - d) *LUP* designated use of the land to be leased.
 - e) Use of the land, if leased to lessee.

Chart #6 - Cstélnec Lease and leasing Process³⁰

approximate
weeks



³⁰ Diagram is for illustrative purposes only. The steps as outlined in the text prevail.

- f) Environmental issues / concerns, if known by the lessee.
- iii) *Lands Manager* assesses the initial request:
- a) The *Lands Manager* assesses the initial application for conformity with existing policies and regulations.
 - b) The *Lands Manager* verifies land holder conditions (previously designated land, previous lease, and so on).
 - c) The *Lands Manager*, with the assistance of *Professionals* if required, assesses any environmental issues / concerns.
 - d) The *Lands Manager*, with the assistance of the Heritage Designate, if required, assesses any Heritage and Archaeology.
 - e) The *Lands Manager* assesses any requirements that may be required of the lessee, particularly if the intended use falls into *Development* activities.
 - f) The *Lands Manager* advises the lessee on conditions, land availability, and application process.
- iv) The proponent submits a *Lease Application*:
- a) [Form to be updated and modified by *Lands Department*].
 - b) The application *Fee*.
- v) The *Lands Manager* assesses the application:
- a) The *Lands Manager* verifies conformity with the LUP and its associated policies.

- b) The *Lands Manager* verifies land holder conditions (previously designated land, previous lease, and so on).
- c) The *Lands Manager*, with the assistance of *Professionals* if required, assesses any environmental issues / concerns.
- d) The *Lands Manager*, with the assistance of the *Heritage Designate*, if required, assesses any *Heritage and Archaeology*.
- e) The *Lands Manager* assesses any requirements that may be required of the lessee, particularly if the intended use falls into *Development* activities.

v-a) The *Lease Application* is refused if:

- a) The land is not being designated (and not planned to be designated in the near future).
- b) The intended land use is not consistent with *LUP*.
- c) The intended use and / or the goals of the locatee are not consistent with the Cstélnec community goals.

v-b) The *Lease Application* is accepted if:

- a) The requested land is available for designation.
- b) The application is consistent with the *LUP*.
- c) The use and / or the goals of the locatee are consistent with the Cstélnec community goals.
- d) Clear evidence of legal agreements between proponent and locatee (if required).

- e) If the *Proponent* is in good standing with the Cstélnec administration.
- vi) The *Lands Manager* notifies Chief and Council; makes recommendation to issue a *Lease*.
- vii) Chief and Council review the *Lease* conditions and authorize the *Lands Manager* to proceed.
- viii) The *Lands Manager* prepares the *Lease* (and Band Council Resolution, if required) for the signatories.
- ix) The proponent provides any information to the Lands Manager prior to lease signing, depending on *Development* plans, such as:
 - a) Any environmental assessment or studies.
 - b) Any heritage and / or Archaeology studies.
 - c) Any insurance requirements.
- x) When the conditions are fulfilled, the *lease is executed by the parties*.



11. KWÉSTENS

I. GENERAL

Kwéstens, or area definitions are used to provide direction for the use of lands. They enable the outlining of land use objectives and policies in a way that fits within the community's vision, all-the-while not conflicting with constraints, be they natural or otherwise, and keeping neighboring uses in mind. The main reasons for developing area definitions and the LUP itself is to make sure the community's desires are reflected, ensuring that third parties such as Developers know 'the rules' and 'the limits', providing a guide for land management, establishing operational policies for the *Lands Department*, making consistent decisions, and planning for capital expenditures and future development.

Kwéstens definitions reflect the community's priorities in terms of land use and development. In many communities the use of zone definitions become extremely detailed over time. This becomes confusing to the land holders or Developers, subject to at times conflicting interpretation. At the same time, having no definitions can lead to confusion and necessitates case-by-case study with each *Development Permit* or *LUP Variance* application. The following definitions are generalized so that they could be used as a transition from general, broad zones, to a set of

basic definitions, serving as stepping stones on the way to more specific and detailed definitions, as needs ever arise. They include: Agricultural, Residential, Commercial, Industrial, Institutional, Miscellaneous and Special Development. They are here defined very generally, with refinement to follow need.

The ALIB has been developing its lands for a number of decades. One of the resulting realities is the fact that many holders of Certificates of Possession (CPs) have developed portions of their lands, without the benefit of overall land use planning. While the intent of a *LUP* and accompanying definitions is to provide direction in terms of development, the intent is not to impose changes to existing uses. To avoid undo conflicts with holders of CPs, it is therefore advisable to include a clause such as the following:

“Parcels of land that do not reflect the general nature of the Final LUP, or that do not conform precisely to the area use designations and definitions specified in the LUP when the plan is adopted by the community as a whole, may persist in their existing use(s) provided that the other provisions of the LUP are adhered to, and that all environmental (including all sewage and waste disposal) regulations, from within or without the ALIB reserves, are adhered to. Applying for a variance to the LUP, or a new use does not exclude a grandfathered use unless the new use is approved.”

II. GUIDING PRINCIPLES

- Paramountcy of Cstélnec LUP.
- Variances to the LUP, including uses defined under the present section, are permitted only through the *LUP Variance* application process.
- *Kwésten* definitions and uses based on acceptable *Benefits to the Community* and professional planning principles.
- *Kwésten* definitions and uses based on social, cultural and economic sustainability.
- *Kwésten* definitions and uses based on environmental protection and conservation.

III. SUGGESTED POLICY

- i) The LUP includes a plan and set of definitions for *kwétsen*. Individual *kwétsens* and definitions may be refined or further detailed without community approval, although the *LUP kwétsen* types cannot be modified without community approval.
- ii) Application for a variance to the *kwétsens* plan (or their definitions) is done through *LUP Variance* application process.
- iii) *Kwésten* definitions are generalized; they will become more detailed as land use intensifies. Permitted uses and excluded uses are not comprehensive and are listed as examples only.

10.1 POSSIBLE KWÉSTEN TYPES³¹

A1	Agricultural
V1	CSTÉLNEC Village Site
R1	Single Family residential
R1(m)	Single Family residential – (members)
R2	Medium density residential
R3	High Density residential
R4	Manufactured Home Park – Residential
BF	Beach front or Water Front
C1	Commercial
C2	Commercial Highway
C3	Commercial high Density / visibility
LI	Light industrial
HI	Heavy Industrial
P2	Institutional
TU1	Traditional use / protected
SDA	Special Development Area

³¹ The Kwésten types that are suggested have not been developed as specific, defined zones; they will be further defined as the community evolves in its needs.

10.2 KWÉSTEN DEFINITIONS

1. ‘A’ Agricultural³²

The ‘A’ Agricultural areas are intended for uses which have ‘agriculture’ as the primary activity. A home can be located on the Agricultural land, as well as buildings necessary for normal agricultural activities, such as a barn, storage shed, machinery or equipment shed, and other ancillary buildings. Buildings intended and used for the distribution, processing, storage and sale of agricultural and food products are permitted. For any new construction, a permit is required from the *Lands Department*.

Permitted uses:

Land, buildings, or structures for the purpose of field crops or fruit, market gardening, dairying, livestock raising, poultry raising, bee keeping and such uses as are customarily and normally related to agriculture.

Intensive Agriculture (with a permit from *Lands Department*)

Greenhouses (with a permit from *Lands Department*)

Single family home (or mobile home)

Excluded uses:

Large scale storage facilities for non-agricultural equipment or materials; Mini storage facilities; Recreational vehicle storage facilities.

³² The ALIB “Farm Development Agreement” Policy should be referenced when considering agricultural uses and use changes.

2. ‘R’ Residential

The ‘R’ Residential area is intended for uses which are specifically residential in nature. Single family residential units, two-family residential units, Cstélnec Elders’ housing, multiple family residential units, including townhouses and strata units, are permitted.

Where existing lots are over one acre in area, and with an existing residential unit, more residential units may be added, provided a permit is issued by the *Lands Department*.

Rental units are permitted.

Market housing is allowed, subject to the approval of a *Development Permit*. For new subdivisions, all residential units must have servicing (such as water, sewer, roads, sidewalks, fire protection, lighting and parking, regardless of density. For any new construction, a permit is required.

Permitted uses:

Cstélnec Elder housing; Member housing; Market housing; Playground; *Bed and Breakfast, Home Industry*

2.1 ‘RMH’ Residential Mobile Home

The ‘RMH’ Residential Mobile Home area is intended for uses which are specifically residential in nature, and where mobile homes are the intended housing structures. A primary house is permitted.

For new subdivisions (mobile home parks), all units must have servicing (such as water, sewer, roads, sidewalks, fire protection, street lighting) in place; a *Development Permit* is required from the *Lands Department*, regardless of density.

Permitted uses:

One Primary Residence; Approved manufactured housing; *Manufactured Home Park*.

3. 'C' Commercial

The 'C' Commercial area is intended for uses which are specifically commercial in nature. This includes small commercial activities such as a neighborhood convenience store, a tourist-based business such as a hotel or bed-and-breakfast business, and so on. It also includes medium sized commercial activities such as a small shopping mall. In each case, all commercial development requires a *Development Permit* from the *Lands Department*.

For new commercial establishments and / or subdivisions, all developments must have servicing (such as water, sewer, roads, sidewalks, lighting, fire protection, and parking) in place.

For casinos and gaming centers, a community referendum is required, should one not have taken place at the time of the *Development Permit* application.

Permitted uses: *Casino, Gaming Center; Gas Bar; Commercial Lodging / Resort; Office; Office Space; Marina; Bowling alley; Mini storage; Boat storage; Retail / commercial centre; Convenience Store; Grocery store; ATV / horseback trails; Golf course; Mini golf; Tourism establishments; Gun range; Recreational Vehicle (RV) / Trailer park; Comprehensive developments (w / community approval)*

Excluded uses: *Developments on IR 6; liquor establishments; Junkyard*

4. ‘LI’ Light Industrial

The ‘LI’ Light Industrial area is intended for uses which are specifically ‘light’ in nature. A welding shop is an example of Light Industrial activity. The specific Light Industrial activity must be contained within a “purpose built” structure and must be approved and permitted by the *Lands Department*. For any new construction, a permit is required.

For new Light Industrial establishments, all developments must have servicing (such as water, sewer, roads, sidewalks, fire protection, lighting and parking) in place.

Permitted uses: Welding shop; *Automobile Repair Shop*; Small-scale recycling plant; *Public Utility*.

Excluded uses: Heavy industry, *Junkyard*

5. ‘HI’ Heavy Industrial

The ‘HI’ heavy Industrial area is intended for uses which are specifically ‘heavy’ in nature. A truck repair garage or a manufacturing plant are examples of Heavy Industrial activity. The specific Heavy Industrial activity must be contained within a “purpose built” structure and must be approved and permitted by the *Lands Department*.

For new Heavy Industrial establishments, all developments must have servicing (such as water, sewer, roads, sidewalks, fire protection, lighting and parking) in place. For new Heavy Industrial establishments, a community referendum is required, should one not have taken place at the time of the *Development Permit* application.

Permitted uses: Quarry, *Gravel Pit*, *Wrecking Yard*.

6. ‘I’ Institutional / Recreational

The ‘I’ Institutional / Recreational area is intended for uses which are specifically related to facilities such as medical and private care, as well as general public use facilities, such as public service functions, utilities and recreation facilities.

The Institutional / Recreational area also is intended for uses that are suitable for the community’s use, such as recreational areas, parks, tourist centers.

For new Institutional / Recreational establishments, all developments must have servicing (such as water, sewer, roads, sidewalks, fire protection, lighting and parking) in place. For Institutional facilities, a community referendum is required, should one not have taken place at the time of the *Development Permit* application.

Permitted uses: Skating rink; Administration building; Cstélnec Elders’ centre; *Special Care Facility*; School; Playground; Youth centre; Fishing station / boat launch; Cemetery (and ancillary buildings); *Community Centre*; Museum; Cultural centre.



12. LAND AQUISITION

I. GENERAL

The purpose of this policy and procedures chapter is to set out the guiding principles, policies, and administrative procedures that apply to the acquisition of lands by the Cstélnec community.

Indian Act sections such as “Lands Taken for Public Purposes” (s. 35), “Special Reserves” (s. 36) and “Surrenders and Designations” (s. 37), among others, apply to reserve lands and should be taken into account before specific acquisitions take place.

Other *Indian Act* sections apply, such as s. 18, s. 50 and s. 57.

As with all of the land related policies and procedures, the *Heritage and Archaeology* policies and procedures prevail.

II. GUIDING PRINCIPLES

- Paramountcy of Cstélnec *LUP*.
- Consideration to *Benefits to the Community*.
- Paramountcy of legal surveys.
- Affordability.

III. SUGGESTED POLICY

1. Acquiring lands, whether through purchase, trade or by other means is a priority for the Cstélnec community.
2. Four main processes are available:
 - i) Purchase from Certificate of Possession (CP) holders
 - ii) Trade for other lands
 - iii) Fee simple purchases
 - iv) Estates

IV. PROCEDURES

1. **Purchase from Certificate of Possession (CP) holders**
 - i) The sale and purchase of any Certificate of Possession (CP) land is based on a ‘willing buyer – willing seller’ basis.
 - ii) Any CP holder may approach Chief and Council with an offer to sell lands.
 - iii) Chief and Council may approach any CP holder with an offer to purchase lands.
 - iv) A CP holder and Chief and Council may enter into negotiations for the land.
 - v) A real estate appraisal, property valuation or land valuation is required; the costs for such work is to be negotiated by the parties.

2. Trade for other lands

- i) The trading of lands is based on ‘willing buyer – willing seller’ basis.
- ii) In certain instances, trade for other lands can include reserve lands and off reserve lands; mechanisms for such trades may require “surrenders” and “additions to reserves” processes.
- iii) Any party may approach Chief and Council with an offer to trade community lands for other lands.
- iv) Chief and Council may approach any party with an offer to trade lands for community lands.
- v) Chief and Council and any party may enter into negotiations for the land exchange.
- vi) A real estate appraisal, property valuation or land valuation is required for all lands in question; the costs for such work is to be negotiated by the parties.
- vii) Community consultation must take place prior to finalizing the trade.

3. Purchase of Fee Simple lands

- i) The purchase of any lands is based on ‘willing buyer – willing seller’ basis.
- ii) Chief and Council may approach any Fee Simple land owner with an offer to purchase lands.
- iii) Chief and Council may enter into negotiations for Fee Simple land purchases.

- iv) A real estate appraisal, property valuation or land valuation is required; the costs for such work is to be negotiated by the parties.
- v) Community consultation must take place prior to finalizing the purchase.

4. Estates

- i) Sections related to Estates in the *Indian Act* will prevail.
- ii) A CP holder may bequeath land to the community.
- iii) Chief and council or a Member may bid on land. (need to clarify with Iva)



13. DISPUTE RESOLUTION

I. GENERAL

The purpose of this policy and procedures chapter is to set out the guiding principles, policies, and administrative procedures that apply to appeals or dispute resolutions as related to land matters (including permit applications) on Cstélnec reserve lands.

As with all of the land related policies and procedures, the *Heritage and Archaeology* policies and procedures prevail.

II. GUIDING PRINCIPLES

- Paramountcy of Cstélnec *LUP*.
- Consideration to *Benefits to the Community*.
- Paramountcy of legal surveys.
- Authority of *Building Inspectors*, and recourse to *Professionals*.

III. SUGGESTED POLICY

1. Appeals related to *LUP Variance* applications, *Development Permit* applications, *Building and Construction Permit* applications, *Lease Applications*, or other *Lands Department* decisions may be made, in writing, to the *Lands Manager*.

2. For disputes involving *Leases*, there are three options: Negotiation, Mediation and Arbitration.

IV. PROCEDURES

1. Appeals related to permit applications

- 1.1 Appeals against applications may be submitted by a person who:

- i) Has applied for a *LUP Variance*, *Development Permit*, *Building and Construction Permit*, or Lease under this set of ALIB policies and procedures.
- ii) Has had a *LUP Variance*, or *Development Permit* or *Building and Construction Permit* revoked.
- iii) Feels a *Lands Department* staff decision is unfair.

- 1.2 Appeals to the *Lands Manager* must be in writing and must:

- i) Outline the legal address of the land in question.
- ii) Outline the portions of this policy (or other bylaws), *Codes* or regulations affected by the appeal.
- iii) Outline, in detail, the grounds for the appeal.

- 1.3 The *Lands Manager* reviews the appeal with other professionals, if necessary, and renders a decision, concurring with, reversing, or modifying the initial decision in writing, within ten (10) days of the appeal being submitted.

- 1.4) Appeals related to *LUP Variance* applications, *Development Permit* applications, *Building and Construction Permit* application, *Lease Applications*, or other *Lands Department* decisions may be made, in writing, to Chief and Council, for a “final” decision, should the *Lands Manager* decision be in dispute.
- i) Appeals against the *Lands Manager’s* appeal decision may be submitted to Chief and Council by a person who:
 - a) Has appealed a decision to the *Lands Manager* and contests the *Lands Manager’s* decision.
 - b) Has had a *LUP Variance*, *Development Permit* or *Building and Construction Permit* revoked and has appealed the revocation unsuccessfully.
 - c) Feels the *Lands Manager’s* appeal decision is unfair.
 - ii) Appeals to Chief and Council must be in writing and must:
 - a) Outline the legal address of the land in question.
 - b) Outline the portions of this policy (or other bylaws), *Codes* or regulations affected by the appeal.
 - c) Outline, in detail, the grounds for the appeal.
 - iii) The *Lands Manager* prepares a brief for Chief and Council, outlining the reasons for the original appeal decision.
 - iv) The appellant prepares a brief for Chief and Council, outlining the reasons for the original appeal and the subsequent re-appeal.
 - v) The *Lands Manager* and the appellant have the right to be heard by Chief and Council prior to a final decision being made.

- vi) Chief and Council then present a decision, in writing, within thirty (30) days, based on any professional advice, if required, offering suggestions to the *Lands Department* and the appellant, accepting, reversing or modifying, within the confines of this policy and any related laws, *Codes* or regulations, the original decision that led to the appeal.
- vii) The decision of Chief and Council is final.

2. Disputes and Appeals related to Lease Agreements³³

2.1 Negotiation

- i) The party who wishes a dispute to be resolved must give a dispute notice to the other party.
- ii) Each party will promptly designate a senior representative who will attempt in good faith to resolve the dispute by negotiation.

2.2 Mediation

- i) If negotiation does not resolve the dispute within 15 business days of delivery of the dispute notice, then either party may give a mediation notice to the other party.
- ii) The parties must then promptly appoint a qualified, impartial, and experienced mediator, the cost of which will be paid by both parties.

³³ The clauses from this section of the policies and procedures are derived from the ALIB standard lease form; they have been separated for clarity.

- iii) If the parties cannot agree on a mediator within 15 business days of delivery of the mediation notice, then the mediator will be appointed by the British Columbia International Commercial Arbitration Centre (or its successor, or a similar body if neither is available).
- iv) Within 10 business days of appointment of a mediator, each party must provide the mediator and each other with a written statement of its position about the dispute and summary of the arguments supporting its position.
- v) The mediator will meet with the parties at his or her sole discretion in an attempt to resolve the dispute.
- vi) The parties must provide any additional information requested by the mediator.
- vii) The mediator may hire experts, the cost of which must be paid equally by both parties unless the mediator orders a different division.

2.3 Arbitration

- i) If the dispute is not resolved within 30 business days of the appointment of a mediator, then, on application by any party, the dispute may be referred to a single arbitrator under the Commercial Arbitrator Act, R.S.B.C. 1996, c55.

- ii) The decision of the arbitrator is final and binding on the parties. The cost of the arbitrator must be paid equally by both parties unless the arbitrator orders a different division.



14. DEFINITIONS³⁴

“Accessory Building” means a Building that is subordinate to the Principal Building or use permitted on the same parcel such as a garage, carport or storage shed.

“Adams Lake Indian Band” or “Cstélnec” means the Adams Lake Indian Band, a band for the purposes of the Indian Act.

“Agent” means a person who has been hired, delegated or appointed to act on behalf of Chief and Council, in the case of land held by the Cstélnec Community.

“Agricultural Use” means a use of land, buildings, or structures for the purpose of field crops or fruit, market gardening, dairying, animal husbandry, poultry raising, bee keeping and such uses as are customarily and normally related to agriculture.

“Application” means the application form(s) to be completed by any person who intends to carry out Development or Building and Construction on Cstélnec Lands.

“Approval” means written approval from the *Lands Manager* or Chief and Council, by permit or otherwise.

³⁴ These definitions apply to this document; they are not meant to replace definitions used in other ALIB Policy documents.

“Automobile repair shop” means a building used or intended to be used for major repairs to motor vehicles, trailers and parts thereof, but shall not include motor vehicle manufacture, assembly or body building.

“Bed and Breakfast” means temporary tourist accommodation which is contained within a Single Family Dwelling intended primarily for the accommodation of the travelling public.

“Benefits to the Community” means financial or other support for community projects, financial or other support for community businesses, and / or financial or other support for community infrastructure. This could also include community ownership or partnerships in developments projects and / or community member capacity development.

“Building” means any structure used or intended for supporting or sheltering any Use or Occupancy.

“Building Code” means the National Building Code of Canada.

“Building and Construction” means any construction, repair, alteration, enlargement, addition, demolition or removal of a building. It also means the installation of a swimming pool and the installation of decks, canopies, awnings and signs. It also means landscaping, the installation of infrastructure, excavations and all surface constructions. It also means the *Work*.

“Building and Construction Permit” means the permit issued by the *Lands Manager*, with the recommendation of the *Building Inspector*. A building permit is a license, which grants legal permission to start construction of a building project. *Building and Construction Permits* are needed to make sure that construction within Cstélnec lands meet with standards set out in the *Building Code* and our *LUP*, as well as fire and structural safety standards and other building standards are met.

“Building Inspector” means the person appointed by the Cstélnec Chief and council to act as building inspector for the purpose of assisting in the recommendation (or refusal) of *Development Permits* and *Building and Construction* permits, and for the purposes of enforcing and carrying out the provisions of the Cstélnec policies and procedures. The *Building Inspector* must be a Registered Building Official under the *Buildings Officials' Association Act*.

“Canadian Standards Association A277” means an approved procedure for the Certification of factory built manufactured homes and provides for certification and auditing of the plant quality program, and in-plant inspection and certification of the product built. Should A277 be replaced by a new standard, the new standard shall apply. (In the manufactured housing industry, CSA Certification forms the basis for acceptance by local inspection authorities responsible for the enforcement of building codes.)

“Canadian Standards Association Z240” means a factory built mobile home certified by the Canadian Standards Association as conforming in all respects to the latest (1992) CAN/CSA Z240 MH Series of Standards and which is complete structurally with the entire plumbing, electrical and heating system installed. Should A277 be replaced by a new standard, the new standard shall apply.

“Casino” means a facility where:³⁵

1. A variety of gambling products including live table games, electronic table games, poker rooms, lottery, slots, live horse racing and off track betting.
2. Entertainment options and amenities that may include large theatre style show lounges, bars, hotels, resort services, and convention facilities.

³⁵ Definition provided by British Columbia Lotteries Corporation.

3. Food and beverage service ranging from fast food to high end eating.

4. Upscale, electrifying, glitzy ambiance in upgraded properties.

“Commercial Lodging” means a building used for the temporary accommodation for the traveling public, including hotels, motels and other commercial resort operations and may contain accessory assembly, commerce, entertainment, indoor recreation, restaurant uses and premises licensed for on-site consumption of alcoholic beverages.

“Community Centre” means any tract of land or buildings or any part of any buildings used for community activities, whether used for commercial purposes or not, and the control of which is vested in the CSTÉLNEC administration, a local board or agent thereof.

“Convenience Store” means a retail outlet selling small grocery items and similar daily personal necessities.

“Coverage” means the percentage of the Parcel Area covered by the area of all buildings but shall exclude balconies, bay windows, canopies and sun shades, cornices, eaves and gutters, roof overhangs, fire escapes, sills, steps, open and enclosed terraces at grade or similar projections.

“Cstélnec” means the Adams lake Indian Band, a band for the purposes of the Indian Act.

“Cstélnec Culture and Heritage” means all cultural and heritage matters related to the Cstélnec community, including, but not limited to, traditional practices, traditional sites, ancestral remains and cultural artifacts, language and so on.

“Cstélnec Elder” or “Culturally Knowledgeable Person” means, for the purposes of this document on land-related Policies and Procedures,

the person that the Heritage Designate, Lands Manager or Housing Manager goes to for advice on:

- a) Ceremonies related to excavations of any type;
- b) The appropriate procedures for the repatriation of ancestral remains or cultural artifacts; and,
- c) Any disturbance due to *Work* activity, including the handling of ancestral remains or cultural artifacts.

“Cstélnec Land” or “Cstélnec Lands” means all of the Adams Lake Indian Band reserves.

“Cstélnec Land Use Plan” or “Land Use Plan” or “LUP” means the land use plan for Cstélnec lands, as amended from time to time and approved by the Cstélnec community.

“Cstélnec Traditional Territory” means the land used by the Cstélnec people, since time immemorial, within the Secwepemc Nation Traditional Use Study (TUS).

“Demolition Permit” means the permit issued by the *Lands Manager* and signed by the *Building Inspector*, authorizing the applicant to demolish a building.

“Developer” means the person intending to carry out any *Development* on Cstélnec lands, or that person’s official representative.

“Development” means:

1. Any development, including any “Building and Construction” on Cstélnec lands.
2. The carrying on of any construction or excavation or their operation, in, on, over, or under land or water; or,
3. The making of any change in the use or intensity of use of any land, water, Building or premises.

“Development Permit” means a permit issued by the Lands manager or Chief and Council to carry out Development activities on Cstélnec lands. *Development Permits* are needed to make sure that development within Cstélnec lands meet with standards set out in the *Building Code* and our *LUP*, as well as fire and structural safety standards and other building standards are met.

“Dispute Resolution” means the process set out in this set of policies and procedures regarding permit and /or lease matters.

“Duplex” means any building divided into two dwelling units, each of which is occupied or intended to be occupied as a permanent home or residence.

“Dwelling” or “Dwelling Unit” means a self-contained set of habitable rooms containing not more than one kitchen facility, and not less than one bathroom with a toilet, wash basin and bath or shower.

“Economic Development Officer” means the person designated by Chief and Council, or designate, as responsible for the operation of the Economic Development Department.

“Environmental Assessment” means the same as the environmental assessment required under federal legislation, in addition to, or including a community consultation process that may require consideration for Aboriginal Traditional Knowledge (ATK).

“Fees” or “Fee Schedule” means the fees assessed as payable for permit applications.

“Fence” means a constructed barrier of any material or combination of materials erected to enclose or screen areas of land and includes arbour, archway, gate, hedges, pagoda, screen, trellis and wall.

“Floor Area” means the total floor area of all floors in a Building measured to the extreme outer limits of the Building including all areas giving access thereto such as corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies, enclosed mezzanines, enclosed porches, enclosed verandas, and Accessory Buildings except those used for parking.

“Gaming Centre” means a facility where:³⁶

1. A variety of gambling products including slots, bingo, electronic table games, lottery and off track betting.
2. Entertainment options and amenities that include lounges and may include a small entertainment stage and non-gambling entertainment such as sports TV, pool tables.
3. Food and beverage service that includes quality / moderately priced food and lounge service.
4. Exciting, inviting, friendly ambiance (community feel).

“Garage” means a detached Accessory Building or a portion of a Principal Building used solely for the parking or temporary storage of private motor vehicles and in which there are no facilities for repairing or serving such vehicles.

“Gas Bar” means one or more pump islands, each consisting of one or more gasoline pumps and shelter having a floor area of not more than 1,000 square feet, excluding washrooms, which shall not be used for the sale of any product other than liquids and small accessories required for the operation of motor vehicles and shall not be used for repairs, oil changes or greasing.

“Gravel Pit” means any open excavation made for the removal of any soil, earth, clay, marl, sand, gravel or unconsolidated rock or

³⁶ Definition provided by British Columbia Lotteries Corporation.

mineral in order to supply material for construction, manufacturing or industrial purposes.

“Habitable Room” means a room designed for living, sleeping, eating or food preparation, including a living room, dining room, bedroom or kitchen.

“Home Industry” means a small scale Use providing a service primarily to the local community and which is accessory to the single family.

“Home Occupation” means Personal Service Establishments, professional offices, studios or galleries operated by the owner-occupier, carried out in a home, where the occupation or profession is accessory to the Use of a Dwelling for residential purposes. Notwithstanding the Personal Service Establishments definition contained in this policy, Home Occupation will not include medical or dental clinics, barber shops or beauty shops.

“Housing Manager” means the person acting on behalf of the ALIB, as head of the Housing Department.

“Heritage and Archaeology” means heritage, archaeology and other aspects of Cstélnec Culture covered under Cstélnec policies.

“Heritage Designate” means the person designated by Cstélnec to assess *Heritage* matters and provide advice on any discovery of ancestral remains and / or cultural artifacts is provided to the community.

“Heritage Site” means a site designated as having cultural value and importance.

“Inspection Notice” means the notice issued by the *Building Inspector* serving as notice that the Building Inspector intends to inspect the *Work*.

“Intensive Agriculture” means the use of land, buildings and structures for the confinement of poultry, livestock or other animals such as fur bearing animals, or the growing of mushrooms.

“Junkyard” means the area outside of an enclosed Building where junk, waste, used building and industrial materials, scrap metal, discarded or salvage materials are bought, sold exchanged, stored, baled, packed, disassembled or handled.

“Kwésten” means a land area, or land area designation, whose use is defined within the *LUP*.

“Lands Department” means the administrative department designated by Chief and Council, or designate, as responsible for the operation of the ALIB land matters.

“Lands Manager” means the person, or a designate, assigned by Chief and Council, as the person responsible for the operation of the *Lands Department*.

“Land Use Plan” or “LUP” means the land use plan for Cstélnec lands, as amended from time to time and approved by the Cstélnec community.

“Land Use Plan Variance” means a variance, or change, to the *Land Use Plan*.

“Lease Application” means an application for a lease concerning ALIB lands.

“Manufactured Home” means a transportable single family dwelling unit meeting minimum CSA Standards such as Z240 and A-277, or *National Building Code* standards suitable for long term occupancy and designed to be transported on wheels.

“Manufactured Home Park” means land used or occupied by any person for the purposes of providing pads for the accommodation of two or more *Mobile Homes* and for imposing a charge or rent for the use of such space.

”Market Housing” means housing produced for the purpose of economic income and benefit to be sold to *Members* and / or non-*Members*.

“Member” means a person whose name appears on the Adams Lake Indian Band Membership list.

“Minor Variance” means a change, or variance, which represents a small variation from the requirements of the *LUP*, including Kwéstens definitions. A minor variance approval is a permission, in writing, that allows the *Proponent* to obtain a *Development* or *Building and Construction Permit* even though the proposed Work does not comply precisely with the *LUP*. There are four tests that a *Minor Variance* must meet:

1. Is the *Variance Application* “minor”?
2. Is the *Variance Application* desirable for the *Development* of the lands in question?
3. Does the *Variance Application* conform to the general intent of the *LUP* and its *Kwésten* definitions?
4. Does the *Variance Application* conform to the general intent of the community’s goals as stated in its Comprehensive Community Strategic Plan (CCSP)?

“Major Variance” means a change, or variance, which represents a significant variance from the requirements of the *LUP*, including *Kwésten* definitions. A *Major Variance* approval is a permission, in writing, that allows the *Proponent* to obtain a *Development Permit* or *Building and Construction Permit* even though the

project they propose does not comply with the *LUP*. If any of the four tests for a *Minor Variance* are not met, then it is a *Major Variance*.

“Mobile Home” means a transportable, single or multiple-section Single Family Dwelling conforming to Canadian Standard Association Z240 MH Series at the time of manufacture.

“Multiple Family dwelling” means a *Building* on a parcel, containing three or more Dwelling Units, each of which is occupied or intended to be occupied as a permanent home or residence.

“Natural Boundary” means the visible high-water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil of the lake, river, stream or other body of water, a character distinct from that of the banks thereof in respect to vegetation, as well as in respect to the nature of the soil itself.

“Occupancy Permit” means the permit issued by the Cstélnec *Lands Manager* and signed by the *Building Inspector*, authorizing the proponent to occupy a building or premises.

“Office” means a Building or part thereof, designed, intended or used for the practice of a profession, the carrying on of a business, the conduct of public administration, or, where not conducted on the site thereof, the administration of an industry.

“Office Space” means the open, unobstructed space on a parcel, including the space accessible to all occupants of any residential or commercial building or structure on the parcel, which is suitable and used for the growth and maintenance of grass, flowers, bushes and other landscaping and may include any surface pedestrian

walk, patio, pool or similar area, but does not include any driveway, ramp or parking area.

“Parking Area” means an open area of land, other than a street, used for the parking of vehicles and may include parking spaces.

“Parking Space” means a space within a Building or Parking Area, for the parking of one vehicle, excluding driveways, aisles, ramps, columns, office and work areas.

“Principle Building” means the Building, which contains the Principal Use of the parcel and shall include attached garages or carports, but does not include an Accessory Building.

“Principle Use” means the main purpose for which land, Buildings or Structures are ordinarily used.

“Public Utility” means a building or space used in conjunction with the supply of local utility services including a water or sewage pumping station, a water storage reservoir, a gas regulator building, a hydro substation, a telephone building and corridors for the pipe or wire systems connected with the supply of these services.

“Professional” means:

- 1) A person who is registered or licensed to practice as an architect under the *Architects Act*, covered by professional liability insurance, or,
- 2) A person who is registered or licensed to practice as a professional engineer under the *Engineers and Geoscientists Act*, covered by professional liability insurance, or,
- 3) A person who, in the case of a *Building Inspector*, is a Registered Building Official under the *Buildings Officials' Association Act* covered by professional liability insurance.

“Professional Archaeologist” a person who is a registered archaeologist, or registered professional archaeologist.

“Proponent” means the person intending to carry out any *Work* on Cstélnec Lands, or that person’s official representative.

“Registry” means the Aboriginal Affairs and Northern Development Canada (AANC) Indian Land Registry System (ILRS).

“Reserve” or “Reserves” means those lands, title of which is vested in the Crown in the Right of Canada, which is or has been set aside for the use and benefit of the Adams Lake Indian Band and which has not been unconditionally surrendered.

“Retail Store” means a *Building* where goods, ware, merchandise, substances, articles or things are offered or kept for sale to the general public, including storage of limited quantities of such goods, wares, merchandise, substances, articles or things, sufficient only to service the retail use.

“Service Station” means premises used principally for the retail sale of motor fuels, lubricating oils and motor vehicle accessories and the servicing of passenger and light trucks, and may include the auxiliary retail sale of other products, but shall not include any wholesale sales, automotive frame repairs, body repairs, or painting, heavy equipment or heavy truck repair.

“Single Family Dwelling” means any detached Building consisting of one *Dwelling Unit* which is used or intended to be used as the permanent home or residence.

“Special Care facility” means an institution or residential facility where care and attention is furnished, with or without charge on account of age, infirmity, physical or mental defect, or other disability which requires care and which is designated as a community care

facility under the Community Care Facility Act or other applicable Acts.

“Stop Work Order” means the notice issued by the *Lands Manager* and signed by the *Building Inspector*, ordering stoppage of the Work.

“Structure” means any construction fixed to, supported by or sunk into land or water including a Manufactured Home or Mobile Home, but does not include concrete, asphalt, brick or tile surfaced areas.

“Temporary Building” means a Building that does not have its exterior walls supported on continuous concrete or masonry foundations or walls but shall not include *Manufactured Housing*.

“Temporary Occupancy Permit” means the permit issued by the *Lands Manager* only with the recommendation of the *Building Inspector*, authorizing the applicant to occupy a *Building* or premises ahead of its completion, under the conditions outlined in this policy.

“Traditional Territory” or Cstélnec Traditional Territory” means the land used by the Cstélnec people, since time immemorial, within the Secwepemc Nation Traditional Use Study (TUS).

“Use” means the purpose for which any parcel, tract of land, *Building* is designed, arranged or intended or for which it is occupied or maintained.

“Variance Application” means an application for a change, or variance, which represents a variation from the requirements of the *LUP*, including Kwéstens definitions. A variance approval is a permission, in writing, that allows the *Proponent* to obtain a *Development or Building and Construction Permits* even though the property they hold does not comply precisely with the *LUP*.

“Watercourse” means any natural or human-made depression with well defined banks and a bed 0.6 m or more below the surrounding land

serving to give direction to a current of water at least six (6) months of the year or having a drainage area of two (2) km² or more upstream of the point of consideration.

“Work” means any construction, repair, alteration, enlargement, addition, improvements, demolition or removal of a building or related infrastructure. It also means the installation of a swimming pool and the installation of roadways, decks, canopies, awnings and signs. It also means landscaping, the installation of infrastructure, excavations and all surface constructions.

“Wrecking Yard” means land and/or Buildings where motor vehicles, tractors, logging equipment, farm implements, motorcycles, boats and industrial equipment are disassembled, prepared for disposal, are rebuilt or are reused as part of a recycling program, and the keeping and/or storing of salvaged materials where such materials are bought, sold, exchanged, baled or otherwise processed for further use.



15. CONCLUSION

This is the Final Report for the ALIB LUP – Phase 2 project, comprising a set of draft land policies, procedures and *Permit* application processes for the Cstélnec community. The development of these management tools has been cumulative in that as more information was gathered and refined, Preliminary Reports content was increased, forming the Final Report with the set of policies and procedures. This document, along with the LUP Phase 1 Final Report, will be adjusted as the LUP Phase III work progresses. In the final phase of the project, all three phases will be brought together in a single LUP document.

The drafting of land-related policies and procedures is a process that has involved the Cstélnec community, through its representative *LUP* committee and through eventual community meetings. It has also involved the modeling of other communities' processes, particularly as related to land use, development and leasing. The processes developed by the Shuswap Indian Band, for example, as with various other First Nations in British Columbia, were sometimes considered as points of departure.³⁷

³⁷ Some of the policies and procedures will emerge as draft policies that may be used as draft by-laws; the kwéstens section is a good example of this. Before formal adoption, Cstélnec legal counsel should be provided with the opportunity to verify any legal implications and liabilities to the Cstélnec.