



Upper Nicola Band
CULTURAL HERITAGE RESOURCES POLICY

2005

Updated and reaffirmed, 5 February 2024

Band Council Resolution

The Council of the Upper Nicola Band	BCR Chronological No.: 2024-02-05-01
Physical: 2225 Village Road, Douglas Lake, BC Mailing: General Delivery, Douglas Lake, BC	File Reference (if applicable):
Date: February 5, 2024	

Whereas: Captixw’l, our oral stories, are binding ethics laid down by the land itself, and forms the Constitution of Nationhood, that provides the governance systems, laws, and practices in the sovereign territories, as the rule of law:

Whereas: In 2019, the Cultural Heritage Department was mandated to update the policy and present to the Chief and Council for approval.

And Whereas: The policy has again been updated to reflect changes to legislation and procedures as well as changes within the department.

Therefore, Be It Resolved that: The Chief and Council of the Upper Nicola Band approves the Cultural Heritage Policy 2024 as presented on February 5, 2024.

Quorum for this Band consists of (5) FIVE

 <hr style="border: 0; border-top: 1px solid black; margin: 0;"/> Chief Daniel Manuel	 <hr style="border: 0; border-top: 1px solid black; margin: 0;"/> Councillor Brian Holmes	 <hr style="border: 0; border-top: 1px solid black; margin: 0;"/> Councillor Fred Holmes
 <hr style="border: 0; border-top: 1px solid black; margin: 0;"/> Councillor Dennis MacDonald	 <hr style="border: 0; border-top: 1px solid black; margin: 0;"/> Councillor Kevin Ned	 <hr style="border: 0; border-top: 1px solid black; margin: 0;"/> Councillor Craig Shintah
<hr style="border: 0; border-top: 1px solid black; margin: 0;"/> Councillor Ira Tom		
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UPPER NICOLA BAND CULTURAL HERITAGE RESOURCES AND NATURAL RESOURCES POLICY

UPPER NICOLA BAND MISSION STATEMENT

Mission: Upper Nicola is a proud, inclusive Syilx community working together to promote *sux^wtxtəm*, teach our *cáptik^w*, and committed to building foundations through *en'ó^wkín^wíx^w*.

Vision: A strong flourishing community in harmony with our *tmix^w*.

1. DEFINITIONS

Aboriginal title: is recognized and affirmed in *Section 35(1)* of the *Constitution Act, 1982*. Aboriginal title is a burden on the underlying title asserted by the Crown, a legal and beneficial interest in the land. Aboriginal title is a right to the land itself and encompasses the right to exclusive use for a variety of purposes not confined to traditional or distinctive uses. Aboriginal title confers the right to decide how the land is used and managed, and rights to the economic benefits of the land.

Aboriginal rights: are recognized and affirmed by *Section 35(1)* of the *Constitution Act, 1982*. Aboriginal rights involve practices that were integral to Aboriginal peoples before European contact. Aboriginal rights include (but are not limited to): fishing, hunting, gathering, trapping and the use of land and resources for domestic, social, medicinal, spiritual, and ceremonial purposes, and trade for purposes of securing the “necessaries” of life, which is equivalent to earning a moderate living. Aboriginal rights are the foundation of the Upper Nicola Band *súx^wtxtəm* Committee.

Accommodation: any infringement of Aboriginal title or rights has to be justified by the Crown. Where the Crown contemplates conduct that might adversely affect Aboriginal title or rights, the Crown must fully consult and accommodate with the fiduciary duty owed to the Aboriginal rights holder. Examples of accommodation include shared decision making, revenue sharing and/or other benefit sharing arrangements, compensation, minimizing the infringement, paying compensation or other appropriate measures to accommodate the UNB.

Activity: any legislation, regulation, policy, procedure, plan, tenure, grant, license, permit, restriction, amendment, approval, authorization, transfer, transaction, operation, development, ground alteration or other action or proposed action which may have an impact on an Archaeological Resource.

Ancestral Remains: Need a definition.

Archaeology Impact Assessment (AIA): a field-based survey of potential impacts of a specific activity when a planned development is expected to disturb or alter the landscape and put archaeological sites at risk of disturbance. Under provincial law permits are required to allow for subsurface testing and the collection of samples and artifacts. An AIA also requires the recording of sites and findings to specific standards.

Archaeology Inventory Study (AIS): a research project designed to look at a larger area (e.g. a unique landscape or watershed) that is not driven by a development related referral.

Archaeology Overview Assessment (AOA): an assessment of the archaeological potential of a study area, and the potential impacts to any archaeological resources resulting from proposed development activities. Recommendations whether or not further investigations are needed will be made. If an AOA concludes that moderate to high potential archaeological value exists in an area, an Archaeological Impact Assessment (AIA) may be carried out.

Archaeological Sites: There is a wide variety of pre-contact period archaeological site types that exist in Upper Nicola Band territory; thus they are not defined in any detail here. Common site types include: permanent and seasonally occupied (winter) pithouse village sites containing single and multiple house pit depressions; short-term seasonal (Spring, Summer, Fall) mat lodge and field camp sites; small cultural depressions that served as cache/storage pits and/or earth ovens/roasting pits; plant, meat and fish processing sites with related cultural materials and processing features (e.g., pits, hearths, lithic and faunal remains scatters); visible surface lithic (and other cultural material) scatters and subsurface buried archaeological site deposits in habitable camping areas, viewpoints, or places where resources were processed; caves and rock shelters that provide material evidence for having been occupied or visited; Ancestral human remains burial locations and cemeteries; isolated toolstone/lithic quarries and larger lithic procurement localities containing primary reduction stations; pictographs on paneled boulders and cliff faces; petroglyphs on boulders and rock panels and faces; petroforms; and any culturally modified trees predating AD 1846. These, and other archaeological site types common throughout the Canadian Plateau are also defined and described in the Archaeology Branch website.

Areas of Traditional Culture-Historical Significance: All known traditional place name locations, pre-contact period and post-contact period animal trap-lines, fish weirs and traps, village and field camp sites, trails and trail markers, lithic quarries and extensive source areas, inter-personal/group conflict locations, hunting fences and blinds, red and orange ochre (hematite) procurement places, and boundary markers. Some of these locations are also considered to be archaeological sites if surviving tangible material indications or other evidence for past human involvement exist.

Collaborative decision-making: strives to achieve consensus between Aboriginal groups and the Crown regarding the use and management of lands and resources.

Consultant: The principal investigator(s) carrying out heritage investigations or research as authorized under this policy, usually working on behalf of a development proponent or the Upper Nicola Band to conduct impact assessment studies, mitigation investigations, visual monitoring, and management recommendation strategies and logistics.

Consultation: an ongoing obligation of the Crown is grounded in the principle of the honour of the Crown. The honour of the Crown cannot be delegated to third parties. Consultation must be carried out with utmost good faith and with the intention of substantially addressing the Aboriginal groups' concerns.

Crown: federal and provincial governments, including government agencies.

Cultural heritage resources: A large spectrum of First Nations' heritage resources and cultural values that include places and geologic features on the physical landscape that are deemed to have past and present relevance to previous human use, occupation, or cultural tradition. Cultural values are interwoven with landscape values such as ecology and geology, as well as language, stories, legends and spirituality. In a management context, it is important to consider the value of not only defined sites, but also the connections between these sites, and a broader more holistic concept of how First Nations lived, and continue to live on the land. These resources typically include: traditional use areas; locations of traditional culture-historical significance; sacred and spiritual sites; a wide range of pre-contact period archaeological site types with their associated artifacts, features and stratigraphic information; and early post-contact period cultural material deposits and structural remains. Some of these cultural resources are further defined in the definition below.

Cultural Materials: In addition to archaeological sites and their material culture content and data, cultural heritage resources also include different types of cultural materials, data, and documents found in libraries, archives, museum and private collections, universities, First Nation facilities, and other repositories. They include, but are not limited to: archaeological artifact collections and their relevant provenance information; ethnographic data documentation and cultural material culture collections; linguistic collections and documentation; archival and published documents; photographic collections; genealogical records; archival maps, field maps and other graphic materials; soil samples; radiocarbon samples and assay results; faunal and floral remains; oral history recordings (audio and visual); fieldwork and interview notes and related materials; anthropological and other field notes, and archaeological reports produced for culture resource management and research projects.

Culturally Sensitive Area: (Sensitive vs. Important?)

Cumulative effects: are changes to the environment that are caused by an action in combination with other past, present and future human actions, projects or activities.

Development Lands: Any proposed or intended future use of lands and landscape features which involve physical alterations to the existing integrity of the ground, a change in land use purpose, or expansion and/or intensification of an existing use that are different from that as of the application date of the permit.

Due Diligence: The expectation that development proponents will: engage in timely and meaningful formal consultation with representatives of the Upper Nicola Band during initial project planning stages; obtain all UNB Culture Heritage Resources permits and Archaeology Branch Heritage Conservation Act (HCA) permits necessary to ensure proper identification, recording, assessing, managing and reporting of heritage concerns lying within project impact zones; where appropriate, retain UNB community members as archaeological field technicians to assist in archaeological or heritage fieldwork; maintain communication with UNB to inform them of findings and results during and after completion of fieldwork; provide UNB opportunity to review reports in draft and give UNB hard and digital copies of all reports generated for cultural heritage resource investigations.

Impact Zones: Any location where the existing ground and/or bedrock has been, or will be, directly and adversely affected by heavy machine development activities, human labor, and/or erosion caused by natural agencies or human intervention.

n'sy'lxcn: Okanagan-speaking peoples. Linguistically the Upper Nicola Band speak Okanagan, one of four Interior Salish languages spoken in British Columbia. The widespread and relatively continuous geographic distribution of Salish speakers in British Columbia and Washington indicates considerable antiquity. Today the people of Upper Nicola Band collectively call themselves n'sy'lxcn which means "Salish speaking".

Natural Resources: (need definition)

Okanagan Nation: a sovereign and self-determining entity consisting of a people who own and occupy a specific and definable land base that extends from the south-central Interior of British Columbia into Washington. The seven Canadian bands of the Okanagan Nation are: Lower Similkameen Indian Band, Okanagan Indian Band, Osoyoos Indian Band, Penticton Indian Band, Upper Nicola Band, Upper Similkameen Indian Band, and Westbank First Nation. In Washington State, Okanogan (US spelling) people are enrolled members of the Colville Confederated Tribes.

Pre-field reconnaissance (PFR): a field visit in an area of cultural concern identified in a referral, the purpose of which is to identify any archaeological and/or cultural evidence that may be present prior to development or use of the area.

Prior informed consent: agreeing to an activity that is given after receiving full disclosure and understanding of all the relevant facts, reasons for the activity, specific activities, the potential risks, full implications, and available alternatives. Prior informed consent implies the right to stop the activity from proceeding.

Proponent: Any person, firm, corporation, government, or government agency seeking or

proposing to develop or affect lands within Upper Nicola Band's traditional territory.

Sacred and Spiritual Sites: Specific acknowledged places in oral tradition and/or of legendary significance (such as the Coyote transformer sites), including natural landscape features with non-material importance (e.g., waterfalls, aesthetic viewpoints, unusual geologic formations, bedrock formations, boulders, caves, etc.). Cultural landscape features with sacred/spiritual material importance that include Ancestral human remains burial sites and cemeteries, rock/boulder cairns and alignments, fasting/vision quest sites, youth spiritual training areas, pictographs, sweathouse locations, and other places of personal inspiration or ritual. *It is important to note that sacred and spiritual sites are of such a sensitive nature that provenance and descriptive information is not publicly disclosed.*

skc'x̣wipla?tantət: The law/responsibility which outlines Syilx Rights; law that governs every aspect of our lives that are derived from cáptikẉł which is passed from the Creator through oral culture.

Sovereign lands: the land over which the laws, authority, and relationship of UNB members to the land within UNB traditional territories have never ceased to exist.

Stewardship: Caring for the land and associated resources so that healthy ecosystems can be passed on to future generations.

Sustainable development: development that meets the needs of the present without compromising the needs of future generations to meet their needs.

Súx̣ẉtxtəm: An Upper Nicola term that means sustaining the diversity of species and their habitats in perpetuity for the well-being of future generations. It is the underpinning philosophy of the *Sux̣ẉtxtəm* Consultation Policy, is based on “*Sux̣ẉtxtəm*” or “taking care of” as in doing what is best for the land; the closest Okanagan word to “stewardship” in English. This policy sets out how UNB, government and third parties will fulfill their legal and fiduciary obligations to meaningfully consult with each other in good faith on decisions pertaining to the use and management of lands and resources in the Band's territory. It also includes the fundamental principles stated in the Okanagan Declaration memorial statements delivered by our hereditary Chiefs John Chilahitsa and Alexander Chilahitsa to the Hon. Sir Wilfred Laurier in 1910, and the Hon. Frank Oliver in 1911, and in UNB Declaration “Exclusive Ownership and Rights to Our Cultural, Heritage, and Intellectual Property” in 2011 (reaffirmed in 2017).

Súx̣ẉtxtəm Committee: a committee of appointment members of the Upper Nicola Band that will work with the Tṃx̣ẉúláx̣ẉ Rights Director to discuss consultation and accommodation matters related to UNB's traditional territory.

Syilx: the Okanagan people

Third parties: a stakeholder, proponent, company/industry that proposes to conduct activities on or develop lands and resources within UNB Traditional Territory. Upper Nicola Band Area

of Responsibility is the area within the Okanagan Nation for which Upper Nicola has responsibility.

Traditional Use Areas: Fishing and hunting places and their associated occupation and processing sites, plant procurement and processing areas, berry picking places and their related drying rocks, culturally modified tree (CMT) sites, medicinal plant gathering areas, food preparation sites, and lithic material gathering localities.

Upper Nicola Band Area of Responsibility: the area within the Okanagan Nation for which Upper Nicola has responsibility.

Upper Nicola Band Traditional Territories: land and resources attached to that land which is encumbered by Upper Nicola Band's Aboriginal title held collectively by the members of the Upper Nicola Band. See attached map (Appendix A).

2. PRINCIPLES

1. The following principles apply to this Cultural Heritage Resources and Natural Resources Policy ("Policy"):

- a. The Upper Nicola Band ("UNB") as a member community of the Syilx Okanagan Nation, holds and exercises inherent Aboriginal Title and Rights, including rights protected pursuant to section 35 of the *Constitution Act, 1982* ("UNB Rights"), throughout its territory ("UNB Territory").
- b. UNB Territory includes archaeological sites as well as other cultural heritage sites and areas, cultural landscapes, resources, and cultural objects (collectively, "Cultural Heritage and Natural Resources").
- c. UNB retains ownership and exercises jurisdiction and stewardship over Cultural Heritage Resources and Natural Resources in UNB Territory, including in relation to the development, alteration, removal, transport, study, management, promotion, use, or sale of Cultural Heritage Resources and Natural Resources, and the dissemination of knowledge about UNB people, culture, and traditions.
- d. UNB is committed to the protection, preservation, management, curation and interpretation of its Cultural Heritage Resources and Natural Resources.
- e. No Activity that impacts or affects UNB's Cultural Heritage Resources and Natural Resources or UNB Rights may be carried out without UNB's prior engagement, involvement, and consent, including as set out in this Policy, and as provided for in the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP") and the *BC Declaration on the Rights of Indigenous Peoples Act* ("DRIPA").
- f. The Crown must fulfil its constitutional obligations to UNB in a manner which is

consistent with Upper Nicola’s inherent rights, including the right of self governance, Upper Nicola’s laws and protocols, the direction of the Supreme Court of Canada, and with the objective of advancing reconciliation.

- g. As part of its obligations to UNB, the Crown must consult with UNB on a collaborative, respectful basis prior to authorizing or undertaking any activity in UNB Territory.
- h. Third parties who carry out activities within UNB Territory (collectively, ‘Proponents’), must engage with UNB in accordance with this Policy and in a spirit of good faith and mutual respect.
- i. Any Provincial or Federal minister, agency, authority, or officer that may issue permits for activities or developments, or that deals with Cultural Heritage or environmental assessments, must familiarize themselves with this policy prior to any consultation or engagement with Upper Nicola and must support the implementation and enforcement of this Policy throughout UNB Territory.
- j. UNB is committed to working with its Indigenous neighbours to establish and support protocol agreements for the preservation and management of Cultural Heritage Resources and Natural Resources.
- k. No Cultural Heritage Resources or Natural Resources may be removed from UNB Territory without UNB’s express consent.
- l. Third parties must take all necessary steps to avoid impacts to UNB Cultural Heritage Resources and Natural Resources, and any third party to UNB territory who impacts upon UNB Cultural Heritage Resources and Natural Resources will be required to undertake appropriate mitigation and/or compensation measures to address those impacts, as is determined by UNB.
- m. *In situ* conservation through complete avoidance is almost always regarded to be the best method for conserving and protecting Cultural Heritage Resources and Natural Resources and sites. In preserving heritage sites, continued tangible connections with the past are ensured, and the information they contain, or cultural significance they have, remains intact. Sharing of Indigenous knowledge by all relevant institutions and individuals is encouraged and promoted during the cultural heritage resource management process and implementation of appropriate management strategies.
- n. This Policy will be implemented in accordance with *sux^wtxtəm*, a UNB term that means sustaining the diversity of species and their habitats in perpetuity for the well-being of future generations.
- o. *skc’x^wipla?tantət* or Indigenous knowledge¹ will be used in the implementation of

¹ *skc’x^wipla?tantət*: The law/responsibility which outlines Syilx Rights; law that governs every aspect of our lives that are derived from *cap̓tik^w* which is passed from the Creator through oral culture.

cultural heritage and natural resource management strategies by all relevant institutions and individuals.

- p. UNB’s approach to the protection of its Cultural Heritage Resources and Natural Resources is based on *sux˘txtəm* and what is best for the land, as well as the fundamental principles stated in:
- (i) the ***Okanagan Declaration*** (1989) which asserts that the *Syilx/* Okanagan are the unconquered Indigenous people of this land, with have the right to govern and manage the lands and all resources, including Cultural Heritage Resources and Natural Resources;
 - (ii) The ***Upper Nicola Band Declaration: Exclusive Ownership and Rights to our Cultural, Heritage, and Intellectual Property*** (2001) (“Intellectual Property Declaration”) which asserts UNB’s right to protect, manage, and benefit from the use of UNB traditional knowledge; and
 - (iii) the ***Upper Nicola Band Sux˘txtəm Consultation Policy and Principles*** (2011, reaffirmed 2017), which defines how UNB, the Crown, and third parties will fulfill their legal and fiduciary obligations pertaining to the use and management of lands and resources in UNB Territory.
- q. Nothing in this policy constitutes an admission or shall be interpreted as acknowledgement or agreement by UNB that the Province or Canada has any jurisdiction over, or ownership of, lands and resources within UNB Territory.
- r. Nothing in this Policy shall be construed as to prejudice of any legal or other positions taken, or that may be taken, by the UNB in any court, tribunal or administrative proceeding, process or otherwise.
- q. Nothing in this Policy shall be interpreted, in a manner which creates, recognizes, affirms, extinguishes, abrogates or denies any aboriginal rights or title of the First Nation, with the meaning of sections 25 and 35 of the *Constitution Act, 1982*, or any other title, rights, or privileges which are held or may be held by UNB or their members, regardless of whether such title, rights, or privileges are recognized, established, or defined at the time of the execution or implementation of this Policy.
- r. Nothing in this Policy shall be construed as conferring consent or providing approval of any past, existing, new, or on-going activities, developments, or tenures within UNB Territory.

3. PURPOSE & APPLICATION

1. The purpose of this Policy is to:

- a. set out UNB’s philosophy, values, and expectations for the protection and management of its Cultural Heritage Resources and Natural Resources;

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- b. establish a process for the proper identification, protection, management, interpretation, and public promotion of UNB’s Cultural Heritage Resources and Natural Resources, consistent with:
 - a. sUX^wxtəm, and skc’x^wipla?tantət or Indigenous knowledge (UNB law) and protocol;
 - b. the Crown’s constitutional obligations pursuant to section 35 of the *Constitution Act, 1982*;
 - c. the principles in the UNB *Declaration: Exclusive Ownership and Rights to Our Cultural, Heritage, and Intellectual Property* (2005; 2017); and
 - d. the United Nations *Declaration on the Rights of Indigenous Peoples* (UNDRIP) and BC *Declaration on Rights of Indigenous Peoples Act* (DRIPA);
 - c. establish a process to address concerns related to proposed activities in UNB Territory which relate to or which could affect UNB’s Cultural Heritage Resources and Natural Resources.
 - d. this policy shall be overseen by the *Sux^wxtəm* Committee.
2. This Policy applies to any activity within UNB Territory, including the area identified on the map attached to this policy as Appendix “A.”²
 3. For greater certainty, this policy applies to the following:
 - a. **Archaeological Impact Assessments** for proposed development impact zones involving intended land-alteration that could potentially affect the condition, integrity, and future preservation or protection of Cultural Heritage Resources and Natural Resources;
 - b. **Archaeological/Heritage Resource Inventory Surveys** involving identification, recording and assessing of archaeological sites and other Cultural Heritage Resources within large-scale proposed development impact zones, or specified research study areas;
 - c. **Archaeological Overview Assessments**, including desktop Archaeological Overview Assessments and Archaeological Overview Assessments involving in-field preliminary field reconnaissance walk-through inspections;
 - d. **Natural Resources**, to UNB is our Timxw which translates as our ecology, and includes everything alive, the land, water, insects, people, animals, plants and medicines, and our Tmxwulaxw and includes everything within the land which includes beautiful landscapes, lakes, alpine forests, and endangered grasslands.

² Upper Nicola Band’s Territorial map is for informational purposes only and does not exhaustively delineate the scope of UNB Territory and Rights.

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- e. **Development referrals** relating to private and government projects that will involve land and water-altering activities that could potentially affect Cultural Heritage Resources and Natural Resources;
 - f. **On-reserve public works developments** such as residential subdivisions, commercial and public structure foundation excavations, road construction and upgrading, pipeline and utility trenching and installation, transmission lines, etc.;
 - g. **Research projects** proposed by anthropologists (ethnographers), archaeologists, ethnobotanists, linguists, historians, genealogists, social/cultural geographers, or any other type of research where UNB culture, traditions, or Cultural Heritage Resources and Natural Resources are the subject of study.
4. This policy takes precedence over any other policy regarding Cultural Heritage Resources and Natural Resources in respect of UNB Territory.

4. MANAGEMENT OF CULTURAL HERITAGE RESOURCES AND NATURAL RESOURCES

i. The *Sux^wtxtəm* Committee

5. Upper Nicola Band Chief and Council has mandated the *Sux^wtxtəm* Committee to:
 - a. Advocate, assert, and exercise Syilx Nation Aboriginal Title and Rights protected in section 35(1) of the *Constitution Act 1982* within UNB Territory;
 - b. Ensure that resource development in UNB territories occurs in a culturally sensitive, environmentally responsible, and sustainable manner;
 - c. Build the capacity and resources to manage the information and make informed decisions that protect and reflect UNB's Aboriginal Title and Rights in the development and use of lands and resources within UNB traditional territories.

ii. Expectations for Proponents

6. For the purposes of this policy, a "Proponent" includes academic researchers seeking to carry out research projects, and any consultant ("Consultant") that may be retained by the proponent to carry out some or all of the proposed activity.
7. Proponents seeking to carry out an activity in UNB Territory must act with due diligence and in accordance with their professional and ethical obligations, including:
 - a. providing early notification to UNB of the proposed activity;
 - b. engaging with UNB representatives on a timely and meaningful basis during the

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- initial planning stages and throughout the lifespan of the activity;
- c. negotiating and entering into agreements with UNB as necessary to carry out the activity in accordance with this policy;
 - d. where appropriate, retaining UNB members to carry out work in relation to Cultural Heritage Resources and Natural Resources, including archaeological, cultural heritage, or environmental monitoring;
 - e. maintaining ongoing communication with UNB representatives regarding the findings and results of the activity as it relates to Cultural Heritage Resources and Natural Resources;
 - f. complying with all UNB laws, policies, and procedures, including the terms of this policy and the conditions of the Cultural Heritage Resources Department;
 - g. recognizing and respecting UNB Rights, including UNB’s intellectual property rights as set out in UNB's *Declaration: Exclusive Ownership and Rights to Our Cultural, Heritage, and Intellectual Property*; and
 - h. providing reports and updates to the *Suxʷxtəm* Committee as requested by the Title and Rights Director, including the opportunity to review reports in draft, and copies of all final reports generated in the course of the activity that relate to Cultural Heritage Resources and Natural Resources.

iii. BC Heritage Conservation Act Permits

- 8. The Province is obligated to consult with UNB prior to issuing any authorization pursuant to the *Heritage Conservation Act* for an activity which could affect UNB Rights or Cultural Heritage Resources.
- 9. The UNB *Suxʷxtəm* Committee does not support the issuance of blanket permits by the Archaeology Branch to external agencies or governments that cover developments proposed by more than one proponent.
- 10. UNB remains committed to providing comments on referrals from Archaeology Branch regarding *Heritage Conservation Act* authorizations on a timely basis.
- 11. UNB’s approval or support of an authorization issued under the *Heritage Conservation Act* does not negate the proponent’s responsibility to engage with and seek UNB’s consent prior to undertaking an activity or otherwise fulfilling the requirements set out in this policy.

5. UNB CULTURAL HERITAGE PERMITS

- 12. A proponent may be required to obtain a permit (“Cultural Heritage Investigation Permit”)

from UNB prior to undertaking an activity.

i. Investigative and Research Projects

13. Upper Nicola Band recognizes three basic categories of investigative activities for which it considers Cultural Heritage Permits necessary:

- a. **Cultural Resource Investigation Identification, Assessment, and Management Projects** (“Investigative Projects”) that include:
- archaeological overview assessments involving in-field preliminary field reconnaissance inspections,
 - archaeological impact assessments that identify and assess heritage sites lying within impact zones,
 - detailed systematic data recovery programs conducted for archaeological deposits unavoidably threatened with direct adverse impacts, and
 - archaeological visual monitoring of archaeological site disturbances and artifact collection during machine impacts in UNB Territory.

Many of the tenets and procedures outlined in this Policy are like those put forth by the Archaeology Branch in Victoria and as defined in the *Heritage Conservation Act*.

- b. **Environmental Overview Assessment** must be completed and submitted to the Cultural Heritage Department.
- c. **Academic Research Projects** (“Research Projects”) that typically involve individuals or agencies affiliated with academic institutions or First Nation communities that focus on gathering and interpreting cultural heritage resource information deemed suitable for addressing and resolving a specific academic problem relating to cultural history, settlement and subsistence, or other aspects of past human behavior and events. Research projects may also be carried out simply to contribute information to obvious or suspected “data gaps” (e.g. heritage site inventories in a locality). No development-related impact assessments are involved, and the objectives and methods are based exclusively on academic objectives and appropriate methods.

14. UNB may require that a proponent obtain a Cultural Heritage Investigative Permit for a proposed activity in addition to any other authorizations which may be required by UNB and/or the Archaeology Branch.

ii. Proponent Qualifications

15. A proponent or consultant applying for a Cultural Heritage Investigative Permit in respect of an Investigative Project is expected to hold the following qualifications:

- a. graduate degree in archaeology, anthropology or other scientific discipline relevant to the activities outlined in the permit application, or an undergraduate degree with an

equivalent combination of post-graduate training and experience;

- b. an undergraduate degree in the relevant research discipline, or in the alternative, be a student working under the direction of a supervisor who is knowledgeable on the research topic and/or who has previously held a Cultural Heritage Permit or authorization under the *Heritage Conservation Act*;
- c. relevant prior experience, academic qualifications, and professional and logistical competency to carry out the fieldwork and reporting specified in the permit application;
- d. ability to access facilities and professional services of related specialists as necessary to carry out the activities described in the permit application;
- e. ability to arrange the proper curation of recovered Cultural Heritage Resources and related data at a local repository that is acceptable to UNB; and
- f. for archaeological projects requiring detailed systematic data recovery (intensive hand excavations) of cultural deposits as a component of impact mitigation management, applicants must have: a demonstrated knowledge of previous local and relevant regional archaeological investigations; familiarity with the nature of the archaeological record and site types found on the Canadian Plateau; all equipment, personnel and transportation necessary to complete the fieldwork and analyses; ability to produce a professional-quality report conforming to standards and criteria outlined in the Archaeology Branch's British Columbia *Archaeological Impact Assessment Guidelines* and the resources and ability to fulfil all obligations and conditions stipulated in authorizations or permits issued by UNB or the Archaeology Branch.

16. An Academic Researcher applying for a Cultural Heritage Permit in respect of a Research Project is expected to hold the following qualifications:

- a. demonstrated general professional competency;
- b. ability to provide confirmation that the Research Project will be carried on in a manner which is academically rigorous, authentic and respectful of UNB's intellectual property rights as set out in UNB's *Declaration of Exclusive Ownership and Rights to Our Cultural, Heritage and Intellectual Property* 2001. The use and any subsequent distribution of any intellectual property belonging to UNB by a researcher must be with UNB's informed consent and specific reference to the source of information be included in any public document; and
- c. where appropriate, willingness to include a training component for UNB members during the course of gathering background information, fieldwork, lab analysis and final reporting.

17. Applicants may be required to provide verification of professional qualifications and experience; letters of reference; and/or proof of valid insurance coverage required for the Activity on their own behalf and on behalf of any Consultant operating under their direction.

iii. Permit Conditions

18. Conditions on any UNB Cultural Investigative Heritage permit include the following:

- a. UNB retains sole discretion to designate a site as spiritual or culturally sensitive and can cancel the permit at any time;
- b. that UNB, at its sole discretion, may designate as culturally sensitive, a cultural heritage resource or aboriginal use site that includes sensitive information regarding a use or landform of cultural or spiritual significance, and may consider releasing sensitive information for limited purposes, under specified terms and conditions.
- c. that any Cultural Heritage Resources and Natural Resources collected in UNB territory in the course of the activity shall remain the property of UNB;
- d. the location and terms of acceptable storage facilities for Cultural Heritage Resources and Natural Resources collected in UNB territory;
- e. how UNB members will participate in the activity, including the participation of Archaeological/Environmental Monitors, Elders, or cultural experts/advisors; and
- f. how UNB's intellectual property, including UNB's Traditional Uses and Ecological Knowledge ("TU" and "TEK"), is to be protected, distributed, and referenced in public documents.

19. Failure to adhere to all conditions set by the UNB in respect of an activity may result in the revocation of the Cultural Heritage Investigative Permit.

6. APPLICATIONS FOR CULTURAL HERITAGE RESOURCE AND NATURAL RESOURCES ACTIVITIES

20. The following process applies to any proponent seeking to carry out an activity.

i. Notification and Referrals

21. Referrals may be submitted by a government agency directly online through UNB's Community Knowledge Keeper ("CKK") database.

22. Referrals will be entered into the CKK database and will be reviewed by the UNB Súx'w̓tə̓m Committee.

23. On receipt of a referral, the Title and Rights Director may contact the proponent and/or Consultant regarding the terms of any required service or other agreements in relation to

the proposed activity, if one is not already in place.

ii. Applications for Activities Requiring Cultural Heritage Investigative Permits

24. Applications for Cultural Heritage Investigative Permits should be consistent with the permit application template attached to this Policy as Appendix “B.”

25. Applications for Cultural Heritage Investigative Permits should include a statement which clearly identifies the objective, purpose, and scope of the proposed activity, including:

- a. whether authorizations under the *Heritage Conservation Act* are required in respect of the activity,
- b. whether authorizations under the Environmental Assessments Office are required, and
- c. for research projects, a concise summary of the issue and the methods that will be used to carry out the research project.

iii. Review of Cultural Heritage Investigative Permit Applications

26. The UNB Title and Rights Director may consider the following factors in determining whether to issue a Cultural Heritage investigative Permit:

- a. the nature of and justification for the activity and its potential impact on Upper Nicola Band’s Title and Rights;
- b. the proponent’s previous training, work experience, and logistical ability to successfully complete activities related to the identification, assessment, and management of Cultural Heritage Resources and Natural Resources;
- c. whether the proponent is prepared to include UNB-trained personnel, cultural experts, and/or preferred consultants or monitors, into aspects of the activity that relate to Cultural Heritage Resources and Natural Resources, including by providing funding to support UNB members’ participation;
- d. the proponent’s commitment to adhering to the terms of this policy and other applicable UNB protocols, provincial or federal legislation and policy, and professional standards pertaining to data gathering, assessment methods, and ethical conduct in respect of Cultural Heritage Resources and Natural Resources; and
- e. the proponent’s ability to provide a high-quality, comprehensive final report for the activity, including a summary of the activity and findings regarding Cultural Heritage Resources and Natural resources in a format which is

accessible to UNB members.

27. The UNB SÚx^wtxtəm Committee will review the application for content, clarity, and completeness, including the disclosure of information regarding the status of any other provincial authorizations in respect of the activity and information relating to neighbouring First Nations that may be affected by the activity. If deficiencies are identified, or any clarification is required, the application will be returned to the proponent for additional information. Where possible, this step will be carried out within 15 to 30 days of receipt of the application.
28. The SÚx^wtxtəm Committee, with the Title and Rights Director, will present to UNB Chief and Council and/or membership for review and comment, depending on the nature and sensitivity of the Activity and its potential to impact Upper Nicola Band's Title and Rights.
29. Prior to a decision to accept or reject the application, the Title and Rights Director may provide the proponent with written comments identifying concerns regarding the activity, objectives, methods, and potential impact to Title and Rights, Cultural Heritage Resources and Natural Resources, and request that the proponent undertake measures to address those concerns as a condition of the Cultural Heritage Investigative Permit.
30. On completion of its review of the application, the Title and Rights Director in conjunction with the SÚx^wtxtəm Committee will issue a decision of no consent or approval.
31. In the event a Cultural Heritage Investigative Permit is issued in respect of the activity, the Cultural Heritage Resource Department will coordinate with the proponent regarding the activity, including service agreements, and defining the process for carrying out fieldwork, review of final reports, and invoicing matters.
32. The issuance of a UNB Cultural Heritage Investigative Permit does not constitute Upper Nicola Band's consent to an activity or consent that the Crown's obligations to UNB are met.

iv. Service Agreements

33. Proponents seeking to carry out an activity in UNB Territory must enter into a service or other contractual agreement with UNB prior to commencing the activity.
34. Service Agreements will be negotiated with the proponent or consultant prior to the outset of the activity.
35. Proponents, including forestry licensees, who have existing Service Agreements in place with UNB are expected to comply with this policy.
36. Proponents may also be required to negotiate agreements with UNB Chief and Council (as necessary in the circumstances), including memorandums of understanding,

information sharing agreements, confidentiality agreements, capacity funding agreements and agreements pertaining to technical studies, fieldwork, and surveys.

v. Access to Upper Nicola Band Knowledge

37. UNB Traditional Uses, Ecological Knowledge and UNB Cultural Knowledge (“UNB Knowledge”) are protected under this policy and any third-party use of UNB Knowledge in any form must be with the informed consent of the *Súx'xtəm* Committee, or, where appropriate, Chief and Council.
38. Notwithstanding the approval of a Cultural Heritage Investigative Permit, proponents are prohibited from accessing or using UNB Knowledge in respect of an activity without prior written consent from UNB.
39. Requests to access and use UNB Knowledge should identify the intended use, why it is required for the activity, and if/ how the proponent intends to publicly disseminate the UNB Knowledge.
40. UNB must review any material prepared by a proponent which includes or relates to UNB Knowledge prior to publication or dissemination to ensure that the use of UNB Knowledge is consistent with UNB policy and protocol, including the perspectives of UNB Elders and leadership.
41. UNB reserves the right to withhold UNB culturally sensitive information from the public domain. UNB, at its sole discretion, may designate as culturally sensitive, a cultural heritage resource or aboriginal use site that includes Sensitive Information regarding a use or landform of cultural or spiritual significance, and may consider releasing Sensitive Information for limited purposes, under specified terms and conditions.

vi. Fees

42. Proponents are required to pay any fees in respect of an activity or as required pursuant to a Cultural Heritage Investigative Permit application prior to commencing the activity.
43. Current fees are set out in Appendix “C.” Fees are subject to annual review and may be adjusted without notice.
44. All invoices are subject to an administration fee.

7. PERMIT REPORTING

45. Proponents are expected to follow the following reporting procedures in respect of work carried out pursuant to a Cultural Heritage Investigative Permit:
 - a. Data recording: proponents shall record data in a manner consistent with any requirements or guidelines issued by the Archaeology Branch.

Where required, this will include the completion and submission of archaeological site inventory forms to the Site Inventory Section of the Archaeology Branch immediately following fieldwork.

- b. Required information: in most cases, proponents will be required to include:
 - i. general and detailed maps showing location of study areas, heritage concerns and development impact zones;
 - ii. digital files defining site boundaries and study areas; subsurface testing results (maps, photographs, and descriptive logs); excavation unit stratigraphic profiles; archaeological feature descriptions; artifact and faunal remains catalogues;
 - iii. any radiocarbon dating results; and
 - iv. mitigation strategies.
- c. Reporting Guidelines: unless otherwise instructed or agreed upon, final reports for work carried out pursuant to a UNB Cultural Heritage Investigative Permit should follow reporting formats and guidelines provided by the Archaeology Branch and other relevant federal and provincial Agencies.

46. Any mapping system or similar application used by a proponent must be compatible with those used by UNB.

47. The UNB reserves the right to include a section setting out its own submissions on UNB cultural, ethnographic, and historical information as part of a proponent's report. Proponents should contact the Cultural Heritage Resources Department to confirm whether UNB intends to include its own section in a report. A fee will apply for the preparation of the report section.

48. The *Sux^wxtəm* Committee reserves the right to review and comment on draft versions of any reports prepared by proponents prior to the report being finalized and submitted to the Archaeology Branch.

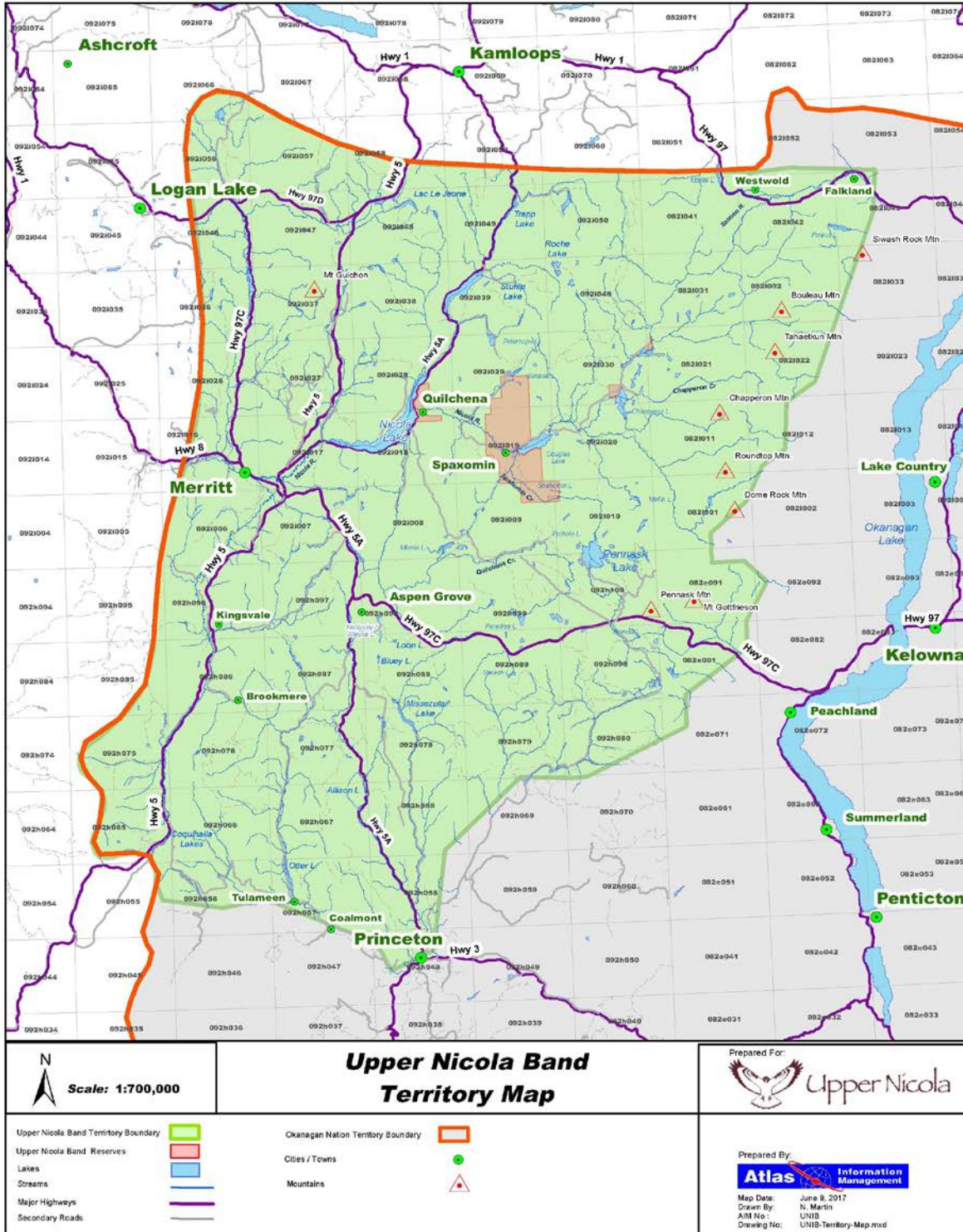
8. PROTOCOL FOR FOUND REMAINS

49. If remains and burial sites are discovered in the course of an activity, the proponent must immediately:

- a. Stop all work and activities; and
- b. notify the UNB Cultural Heritage Department and any required provincial authorities.

-
50. The *Súxʷtə́m* Committee will be directly involved in any decisions regarding the discovery of ancestral remains.
51. The Cultural Heritage Department will provide input for managing the discovery of ancestral remains, on behalf of UNB, including:
- a. determining if/ how the ancestral remains are to be removed from their current location;
 - b. procedures for transportation and re-interment; and
 - c. application of UNB law and protocol as appropriate in respect of the management, preservation, and dissemination of information in respect of the ancestral remains.
52. The Cultural Heritage Resource Department will liaise with the Archaeology Branch and proponent as appropriate and necessary in respect of any protocols or procedures regarding the discovery of ancestral remains.

APPENDIX "A" MAP – UNB TERRITORY



**APPENDIX “B”
TEMPLATE - CULTURAL HERITAGE PERMIT APPLICATION**



11500 Coldstream Creek Road, Coldstream, BC, V1B 1E3 T: 250-938-4662 ian@ursus-heritage.ca

www.ursus-heritage.ca

Upper Nicola Cultural Heritage Investigation Permit Application Project Description

Project Name: Proposed

XX-XXX-2023

Project Description and Proposed Impacts including detailed map of the area:

**APPENDIX “C”
FEES**

Research Permit (applies to researchers)	No charge
Upper Nicola Band Cultural Investigation Permit (for the projects requiring an HCA permit)	\$100.00
In house Office Review and Report (This flat rate per submission to review referrals, Based on an average referral taking 3 hours to review. \$100.00/hour will be charged for large submissions Requiring additional time.)	\$300.00
Cultural Heritage Manager	\$100/hour
Archaeologist	Depends on archaeologist
UNB Field Personnel	\$75.00/hour
Cultural Advisor Field Rate	\$225 with tobacco
Technical Services (office)	\$58.00/hour
Equipment/Vehicles	\$130.00/day
	Plus \$0.60/km (over100km)

Administrative fee of 15% will be applied to all Service Agreements.