



Pentticton Indian Band Ratification Policy

May 31, 2023

Band Meeting

Why Now? Membership Engagement on...

Free, prior, and informed consent and other legal concepts in UNDRIP and as part of benefits sharing agreements

A process to develop and approve inherent laws to address PIB membership concerns and issues

Several large Specific Claim settlement agreements with Canada require community ratification votes in the next two-years

Membership votes on designations to support Land Use Planning and economic development

Return of lands to PIB

Ability to do safe online voting



Good Governance

PIB will adhere to the following principles of good governance:

- Make informed decisions based on accurate and best available information;
- Being inclusive, fair, and transparent (open, full, and accurate information available) in decision-making, unless confidentiality is required;
- Respect different views and choices in the community;
- Set the standard by maintaining honour, honesty, and integrity (impartial, ethical, and not misusing information) for the Council and Membership; and
- Be accountable and responsible to PIB Membership and to each other.



DRAFT Ratification Policy

- The purpose of the PIB ratification policy is to provide:
 - a meaningful opportunity for members to input into PIB agreements, policies, bylaws, and laws;
 - a standardized review, approval, and revision process for PIB policies and laws; and
 - defined mandates, responsibilities, structures, and processes to allow PIB Council to achieve the principles of good governance.
- Chief and Council will only approve agreements, policies, bylaws and laws that reflect membership direction, accepted laws, and practices, legal and regulatory requirements that affect the PIB's financial and administration processes
- Five (5) tiers of membership engagement are proposed that consider the importance of the subject matter, timing, location, length, legal or policy requirements, and potential impacts to PIB members

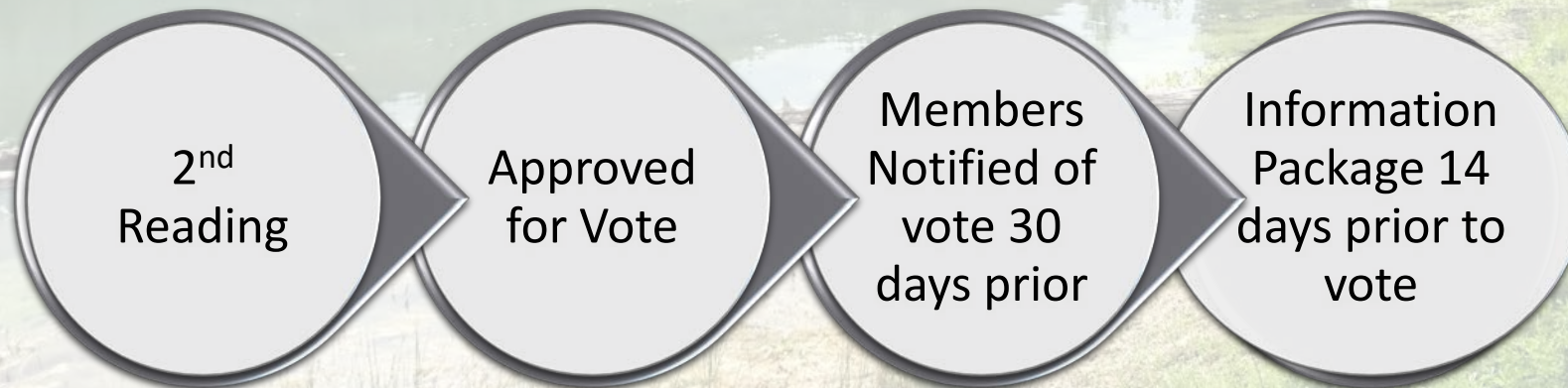


DRAFT Ratification Policy: Key Steps

- Written notice that Identifies a Need
- Approval to proceed
- Phase 1: Drafting
- Phase 2: First Reading by Council and Approval for Member Engagement
- Phase 3: Member Engagement and Redrafting (may require multiple rounds);
 - Level One – No Member Engagement (Emergencies, No Impact, Short-term);
 - Level Two – Member Notification (Low Impact, Short-term);
 - Level Three – Band Meetings (Limited/Moderate Impact);
 - Level Four – Special Band Meeting and Member Vote (Significant/Long-term);
 - Level Five – Referendum Vote (Permanent/Required by Legislation);
- Phase 4: Second and Third Reading by Council
- Phase 5: Approval

Special Band Meeting and Vote

- Significant impact, long-term (>10 years), between \$500,000-\$10,000,000)
- Location must be accessible and convenient.
- Chief and Council must complete a second reading prior to approving a vote.
- A quorum of Council is required for a special membership meeting.
- Chief and Council may determine voting to occur by secret ballot, a show of hands (real or virtual), electronic ballots, mail-in-ballots, or phone-in ballots.
- Subject matter is approved by the majority of participating voters casting in favour.
- Eligible voters are registered PIB members that are at least 18 years of age on the date of the vote.



Referendum Vote

- For subject matter that has significant (permanent, over \$10,000,000) impact to the membership or land or required by laws, regulations, or policies (e.g., land use designation, specific claims settlement, land code, election code, leases on non-designated Band land, surrender of Band land,).
- Location that is accessible and convenient.
- Referendum votes follow the *Indian Referendum Regulations* CRC, c. 957.





LIM'LəMT

To share your thoughts, please contact:
Lisa Wilson, lwilson@pib.ca, (604) 202-0070

Please Keep in touch



Ratification Policy

AUTHORIZED BY	Chief and Council
EFFECTIVE DATE	
DEPARTMENT/PROGRAM	Policy and Planning
REVIEW DUE DATE	

Table of Contents

VISION3

DEFINITIONS3

PURPOSE3

SCOPE.....4

PRINCIPLES4

POLICY STATEMENTS.....4

POLICY AND BYLAW/LAW APPROVAL PROCEDURE5

 Written Notice or Briefing Note to Establish a Need5

 Approval to Proceed and Assignment of Accountability6

 Phase 1: Drafting.....7

 Phase 2: First Reading by Council and Approval for Membership Engagement7

 Phase 3: Membership Engagement.....7

 Level One – No Member Engagement7

 Level Two – Member Notification8

 Level Three – Band Meeting8

 Level Four – Special Band Meeting and Member Vote9

 Level Five – Referendum Vote.....10

 Phase 4: Third Reading by Council11

 Phase 5: Approval11

RESPONSIBILITIES12

 Membership12



Ratification Policy

Chief and Council 12

Band Administrative (Band Administrator)..... 12

Chief Financial Officer (CFO)..... 12

Appointed Lead..... 12

Legal Counsel 13

Records and Information Management..... 13

MONITORING AND REPORTING 13

APPROVAL 13

SCHEDULES 14

3

Revision History			
Entry ID		Number of Pages	
Date	Revision	Changes	



RATIFICATION POLICY

VISION

1.0 *snpink'tn* is a healthy and prosperous self-determining community.

DEFINITIONS

2.0 In this policy, unless the context otherwise requires:

"Appointed Lead" means a Manager or Committee or Coordinator delegated by Council to develop;

"Band Meetings" means a gathering where all Membership are invited to attend to receive and discuss information. Only Membership are permitted to attend these meetings;

"Committee" means a group of people appointed by Council for the purpose of advising the Council or conducting decision-making activities assigned by Council which are convened on a regular long-term basis until or unless they are suspended or disbanded by the Council;

"Community Meeting" means a meeting, either indoor, outdoor or online that is open to all Membership that is accessible, noticed at least one day in advance and for the purpose of information sharing, discussion, decision-making or voting;

"Council" means the lawfully elected government of PIB and includes the Chief;

"Emergency" means an unforeseen circumstance resulting in the need to take immediate action;

"Membership" means the registered list of Indians of Penticton Indian Band according to Section 5(1) of the *Indian Act*;

"Membership Engagement" means discussion groups and formal dialogue, sharing knowledge and seeking input on activities such as legislation, program development and other topics that affect Membership;

"Other Social Media" means websites, virtual communities, and digital applications that enable people to create, share, or exchange information and ideas or to participate in social networking.

"Special Band Meetings" means meetings in which Membership are invited to attend to receive and discuss information. Only Membership are permitted to attend these meetings.

PURPOSE

3.0 The purpose of this Policy is to provide Penticton Indian Band (PIB) Chief and Council and membership, both on and off reserve, with:

1.1 a meaningful opportunity to provide input into PIB policies and laws;

1.2 a standardized review, approval, and revision process for all types of decisions that impact Membership, such as, PIB policies, agreements, development initiatives, and laws; and



Ratification Policy

- 1.3. provides defined mandates, responsibilities, structures, and processes to allow PIB Council to achieve the principles of good governance.

SCOPE

- 4.0 This policy and procedure apply to the Council, Committees of Council and all employees and any other persons with authority to conduct activities in connection with the operations and administration of PIB, including Member engagement approved by Council under this policy.
- 5.0 If there is a conflict between this policy and any other PIB law, bylaw, or code, those laws prevail.
- 6.0 Financial administration policies and procedures (e.g., hospitality) are established under PIB's *Financial Administration Law* (FAL).
- 7.0 Voters and voter eligibility is defined under PIB's *Custom Election Code*.

PRINCIPLES

- 8.0 PIB will adhere to the following principles of good governance:
 - a) Make informed decisions based on accurate and best available information;
 - b) Being inclusive, fair, and transparent (open, full, and accurate information available) in decision-making, unless confidentiality is required;
 - c) Respect different views and choices in the community;
 - d) Set the standard by maintaining honour, honesty, and integrity (impartial, ethical, and not misusing information) for the Council and Membership; and
 - e) Be accountable and responsible to PIB Membership and to each other.

POLICY STATEMENTS

- 9.0 Chief and Council will only make decisions and approve policies and laws that reflect membership direction, and meet legal requirements that affect the PIB's financial and administration processes.
- 10.0 Chief and Council will follow the five (5) stages of membership engagement defined in the Engagement Section of this policy when making decisions, negotiating agreements or developing policies and laws/bylaws.
- 11.0 As per the levels of membership engagement outlined in Membership Engagement Section of this policy, Chief and Council will consider the magnitude of the subject matter, timing, location, duration, legal or policy requirements, and potential impacts to PIB membership in determining whether and what level of membership engagement is required.
- 12.0 If the subject matter for membership engagement is related to a non-PIB administration project, then Project proponents will be responsible for the costs for the level of engagement required.
- 13.0 Membership engagement will not change, abrogate, or derogate:



Ratification Policy

- a) the bylaw powers of Council;
- b) the Aboriginal title of PIB over their territory;
- c) any Aboriginal, inherent rights or other rights or freedoms that pertain now or in the future to PIB or its members; or
- d) the fiduciary relationships between His Majesty the King in right of Canada, PIB, and its members.

POLICY AND BYLAW/LAW APPROVAL PROCEDURE

14.0 PIB's policy and bylaw/law approval processes involves:

- 14.1. Chief and Council;
- 14.2. Appointed Lead;
- 14.3. PIB staff as required;
- 14.4. Legal Counsel; and
- 14.5. Membership.

Written Notice or Briefing Note to Establish a Need

15.0 All decisions, agreements, policies, and bylaw/law for development or review may be introduced at a duly convened Council meeting by:

- 15.1. the Chief or a Council Member;
- 15.2. Band Administrator;
- 15.3. PIB staff;
- 15.4. PIB Sub-Committee; or
- 15.5. a Member.

16.0 If a decision, agreement, policy, or bylaw/law is introduced by an Appointed Lead, a Briefing Note and Band Council Resolution (BCR) must be drafted to identify the need for, purpose of, proposed level of significance to Membership as outlined above, and a lead to oversee the Member engagement process.

17.0 If a policy or bylaw/law is requested by a Member, the Member must submit a written letter or petition signed by at least fifteen (15) members over the age of eighteen (18) to Council:

- 17.1. The letter or petition should include background information about the problem or initiative that needs to be addressed and the objectives of the new document.



Ratification Policy

- 17.2. Any correspondence addressed to PIB Administration and Chief and Council on the issue and will be provided to Council directly to identify an Appointed Lead at the next meeting.
- 17.3. The Council Executive Assistant will confirm within five (5) business days that the correspondence has been received and the date that it will be reviewed by Council.
- 17.4. Staff will be required to draft a response letter outlining the process to include as an attachment to the letter within five (5) business days of receiving the letter.
- 17.5. The initial response letter will:
 - 17.5.1. acknowledge that the correspondence has been received;
 - 17.5.2. provide a key contact and offer to meet with a staff from PIB to discuss their proposed policy or bylaw/law; and
 - 17.5.3. propose a timeline to allow for more thorough response from Council.

Approval to Proceed and Assignment of Accountability

- 18.0 Council will determine whether to approve the creation of and priority for development of the policy or bylaw/law based on its strategic priorities, legal requirements, and other key community planning documents as listed below.
- 19.0 Council will determine which PIB staff is responsible to respond to the request based on the type of issue – political, HR, finance, or program. Political, HR, and financial issues are addressed by the Band Administrator directly. The Appointed Lead, will draft a Briefing Note for Council that will set out:
 - 19.1. whether the issue is included in an existing policy or bylaw/law;
 - 19.2. Financial or HR issues;
 - 19.3. if there are governance issues that need to be addressed by the Band Administrator;
 - 19.4. If there is a specific program issue that can be assigned (e.g., lands, natural resources, health, Elders, families, social development, housing, utilities, taxes, etc.);
 - 19.5. Recommended level of Member engagement based on:
 - 19.5.1. Magnitude of the subject matter, timing, location, duration, legal or policy requirements, and potential impacts to Membership in determining whether or not community engagement is required;
 - 19.5.2. Level of potential impact to Membership, lands, and/or resources;
 - 19.5.3. Need for a referendum or Band vote required by law, regulation, or policy; and
 - 19.5.4. Priority



Ratification Policy

- 20.0 Council will determine if a BCR, Member vote or referendum is required to approve the policy or bylaw/law based on this policy and legal advice as required. For greater certainty, Council shall develop, review, approve and enact laws, bylaws, policies, and agreements in accordance with this policy.
- 21.0 Once approved for development, the policy or bylaw/law will be prioritized and added to the Council master tracking table by the Band Administrator.

Phase 1: Drafting

- 22.0 Once approved by Council, the Appointed Lead will draft a work plan for the Band Administrator to review and approve.
- 23.0 The Appointed Lead will draft the policy or law/bylaw or hire a subject matter expert if funding is available.
- 24.0 The Appointed Lead will make best efforts to work with a *nsyilxcen* Cultural and Language Expert to review the draft policy/bylaw/law to include important *captikwł*, practices, history, language, or culture.
- 25.0 Policies and bylaw/laws must at minimum include the headings outlined in Schedule A.

Phase 2: First Reading by Council and Approval for Membership Engagement

- 26.0 After the policy or bylaw/law has been drafted, the Appointed Lead must draft a Briefing Note and BCR, which must be approved by the Band Administrator, and seek Council's approval of the policy or bylaw/law and to initiate Member engagement.
- 27.0 Based on the first reading, Council will re-confirm if a BCR, Member vote or referendum is required for member engagement based on this policy.
- 28.0 The Briefing Note and BCR must follow the outline in Schedule B.

Phase 3: Membership Engagement

Level One – No Member Engagement

- 29.0 Level One – No Member Engagement Required (Emergencies, No Impact, Short-term)
- 29.1. If the subject matter has limited or no obvious impact to Membership, then no member engagement is required (e.g., staff training, administrative policies).
- 29.2. Chief and Council may approve an agreement/policy/bylaw/law without Membership engagement if they are reasonably of the opinion that it is required urgently to protect Penticton Indian Band Lands or Members safety (e.g., flooding, fires, evacuations).
- 29.3. A agreement/policy/bylaw/law enacted under section 29.2 shall be deemed to have been repealed and to have no force and effect as of ninety (90) days after its enactment, but it may be re-enacted in accordance with this part.



- 29.4. Chief and Council will report out on subject matter that was approved without membership engagement at the Annual General Meeting.

Level Two – Member Notification

30.0 Level Two – Minimum Member Engagement Required (Low Impact, Short-term)

- 30.1. In circumstances where there is no/low/minimal impact to Membership or only impact a small group of Membership directly (e.g., program operational plans, program delivery, employment, changes in external programs, or updates to financial or tax policies/laws).
- 30.2. Membership will be informed about the subject by the Appointed Lead by PIB communications (i.e., newsletter, website, social media, and Voyent).
- 30.3. If a Member raises concerns about the subject matter within thirty (30) days from the Council minutes or if appropriate, PIB communications being posted, the Appointed Lead will provide a briefing note to Council apprising them of the member's concern at the next available Council meeting from the date the concerns are raised.
- 30.4. Council may consider assigning the subject to either Level Three or Level Four engagement depending on the concerns raised by the member.

Level Three – Band Meeting

31.0 Level Three – Band Meetings (Limited/Moderate Impact)

- 31.1. For subject matter with a limited/moderate impact to all Membership (e.g., short term financial agreements, financial benefits agreements for under \$500,000, membership transfers, revenue/budget, PIB policies, PIB plans, housing, water).
- 31.2. PIB has a Financial Administration Law that requires Band meetings related to financial issues, such as, annual budgets, financial planning, expenditures, etc. that must be followed.
- 31.3. Council will assign the subject matter to a Appointed Lead or an existing or newly appointed sub-Committee of Council.
- 31.4. PIB Membership will be informed about the subject matter to be discussed at the Band meeting and given an opportunity to provide feedback to the Appointed Lead or Committee via the newsletter and Other Social Media.
- 31.5. The Appointed Lead or Committee is authorized to use surveys or host meetings (in an accessible and convenient location) to gather additional community feedback.
- 31.6. Any concerns that are raised within thirty days from the posting of the newsletter or any community engagement meeting will be included in the Appointed Lead or Committee's final report. Any concerns raised by PIB Membership after thirty days from the posting of the newsletter or any community engagement meeting will be forwarded to Council by the Appointed Lead or Committee as part of their report for consideration.



Ratification Policy

- 31.7. If Member concerns require a substantial change that will result in a significant change to how the policy or bylaw/law will function, be defined or its intended purpose, a second round of Member engagement is required as per the process outlined in section 26 above.
- 31.8. The Appointed Lead or Committee will provide at least two (2) rounds of Member engagement prior to a Member vote and then determine if additional Member engagement meetings are required.

Level Four – Special Band Meeting and Member Vote

32.0 Level Four – Special Band Meeting and Member Vote (Significant/Long-term)

- 32.1. For subject matter that has the potential for significant (long-term, between \$500,000-\$10,000,000) impact to all Membership, Special Band Meeting and vote will be required at a location that is accessible and convenient (e.g., land uses plans, long-term financial agreements (>10 years), significant mutual benefits agreements, permanent alternation to lands, bylaws, or laws).
- 32.2. The Appointed Lead is authorized to use surveys, social media, or host meetings (in an accessible and convenient location) to gather additional community feedback prior to the Special Band Meeting.
- 32.3. The Appointed Lead or Committee will provide at least two (2) rounds of Member engagement prior to a Member vote and then determine if additional Member engagement meetings are required.
- 32.4. If Member concerns require a substantial change that will result in a significant change to how the policy or bylaw/law will function, be defined or its intended purpose, a second round of Member engagement is required as per the process outlined in section 27 above.
- 32.5. After the policy or bylaw/law has been through two-rounds of membership engagement, the Appointed Lead must draft a Briefing Note and BCR, which must be approved by the Band Administrator, and complete a second reading of the subject matter and seek Council's approval of the policy or bylaw/law and to initiate a vote.
- 32.6. If Chief and Council approves the Appointed Lead to go to a vote, they will complete the following Special Band Meeting procedures:
 - 32.6.1. The date, time and place of the special members' meeting shall be determined by Chief and Council.
 - 32.6.2. Notify Membership of the upcoming Special Band Meeting and vote at least thirty (30) days prior to that meeting in the on the PIB website, social media pages, newsletter, and at the Administration Building.
 - 32.6.3. A notice of the special members' meeting shall include:
 - 32.6.3.1. a summary of the proposed issue;



- 32.6.3.2. a description of who is eligible to attend the special members' meeting;
 - 32.6.3.3. the question that shall be voted on at the special members' meeting;
 - 32.6.3.4. any other information and material that Council deems necessary;
 - 32.6.3.5. a statement that at the special members' meeting, Council shall seek community approval of a proposed matter;
 - 32.6.3.6. details regarding the manner in which voting shall take place and instructions for how persons living off Reserve Land may vote; and
 - 32.6.3.7. the date, time and place of the special members' meeting.
- 32.6.4. Provide Membership with information regarding the subject matter at least fourteen (14) days prior to the Special Band Meeting and vote.
- 32.6.5. A quorum of Council is required for a special membership meeting.
- 32.6.6. Voting at a special members' meeting may be conducted by various methods, as determined by Council, including any of the following methods or combinations thereof, one of which shall provide an opportunity for persons residing off Reserve Land to vote:
- 32.6.6.1. in person by secret ballot;
 - 32.6.6.2. a show of hands (real or virtual);
 - 32.6.6.3. electronic ballots;
 - 32.6.6.4. mail-in-ballots; or
 - 32.6.6.5. phone-in ballots.
- 32.7. Membership will be given an opportunity to provide feedback to the Council (represented by Appointed Lead) prior to and at the Special Band Meeting.
- 32.8. A proposed agreement, policy, or bylaw/law is considered approved by Membership at a Special Band meeting if a majority of those eligible voters that participate in the special members' meeting cast a vote in favour of the agreement, policy, or bylaw/law.
- 32.9. Any concerns that are raised within the length of the determined process will be considered by the Council (refer to Schedule C for a draft work plan for a membership referendum or vote).

Level Five – Referendum Vote

33.0 Level Five – Referendum Vote (Permanent/Required by Legislation)



Ratification Policy

- 33.1. For subject matter that has significant (permanent, over \$10,000,000) impact to the membership or land or required by laws, regulations, or policies (e.g., land use designation, specific claims settlement, land code, election code, self-government agreement, CP holder leases longer than 99 years, leases on non-designated Band land, surrender of Band land.), a referendum will be required at a location that is accessible and convenient.
- 33.2. Referendum votes required by Council or the Indian Act must follow the *Indian Referendum Regulations* CRC, c. 957. The Regulations set out the following key timelines:
 - 33.2.1. Voter list and addresses to be completed 49 days prior to the vote;
 - 33.2.2. Notices of the upcoming vote must be posted at least 14 days before the day on which an information meeting for a referendum is to be held and at least 42 days before the day of the referendum;
 - 33.2.3. An information meeting must be held prior to the referendum vote;
 - 33.2.4. Voter polling stations must be set up and mailing voting must be allowed;

Phase 4: Third Reading by Council

- 34.0 After Member engagement is completed as outlined in Phase 3 above.
- 35.0 The Appointed Lead will draft a Briefing Note and Band Council Resolution (BCR) recommending that the policy or bylaw/law be either: approved or rejected or sent back for re-drafting by Chief and Council.
- 36.0 The Briefing Note to Council must at minimum include:
 - 36.1.1. Description of the Member engagement, including dates, times and persons attending;
 - 36.1.2. The results of the Member engagement;
 - 36.1.3. Measures to address Member comments and questions;
 - 36.1.4. Recommendation on approving the policy or bylaw/law; and
 - 36.1.5. Band Council Resolution.

Phase 5: Approval

- 37.0 After considering the outcome of the vote on the final draft agreement/policy/bylaw/law, Chief and Council shall, by Band Council Resolution:
 - 37.1. enact;
 - 37.2. make changes;
 - 37.3. reject; or



Ratification Policy

- 37.4. direct the Appointed Lead to restart the ratification process.
- 38.0 Once enacted, the policy or bylaw/law must be posted appropriately.
- 39.0 After Chief and Council decision, Records Information Management will properly store the decision and Communications will ensure that the decision is properly communicated and accessible to all affected departments and persons.
- 40.0 At least every two years, all decisions will be reviewed for completeness, accuracy, and relevancy and revised or rescinded accordingly.

RESPONSIBILITIES

Membership

- 41.0 Membership have the ultimate responsibility for providing direction and support to Council on PIB lands, resources, and governance.
- 42.0 Individual members or their representatives are responsible to ensure that PIB administration has their current and valid contact information.

Chief and Council

- 43.0 Approve the creation of agreements, policies and bylaws/laws.
- 44.0 Approve agreements, policies and bylaws/laws for member engagement as per the levels of engagement outlined in this policy.
- 45.0 Appoint, by BCR, a Lead from one of: Appointed Lead, Sub-Committee of Council or allocate funding to hire a coordinator for the PIB membership engagement, referendum or vote.

Band Administrative (Band Administrator)

- 46.0 Ensures that agreements, policies, and laws/bylaws are evaluated, reviewed and either repealed, replaced, or updated as necessary.
- 47.0 Oversees Member engagement, referendum, or vote.
- 48.0 Briefing Notes sponsor and provide the initial approval to the Appointed Lead to proceed with creating a proposed policy or bylaw/law.

Chief Financial Officer (CFO)

- 49.0 Ensures that all policies and bylaws/laws are consistent with PIB financial laws and provide a financial impacts statement and/or recommendations.

Appointed Lead

- 50.0 Communication, administration of the engagement, compiling data and completing the final reports.



Ratification Policy

- 51.0 Review all requests for policies and bylaws/laws and submitting the Briefing Note to the Band Administrator for review and a recommendation to Council for approval.
- 52.0 Determining if the request for policies and bylaws/laws needs to be referred to a subject matter expert for additional review.
- 53.0 Determining if the request for policies and bylaws/laws needs cross functional review from other departments within the PIB.
- 54.0 Submitting all briefing note and background material requests to the Chief Administrative Officer or delegated authority for review and recommendation of approval.
- 55.0 Preparing a briefing note to rescind an outdated or inaccurate policies and bylaws/laws.
- 56.0 Ensuring that the current list of policies and bylaws/laws are made available to all affected persons under their program responsibility.

Legal Counsel

- 57.0 Provide legal advice and ensure that documents are enforceable and legal prior to the Third Reading of Council.
- 58.0 Provide legal support and advice to the Appointed Lead.
- 59.0 Ensures that the documents are consistent and do not conflict with other PIB agreements/policies/bylaws/laws.

Records and Information Management

- 60.0 Maintains a list of all approved policies and bylaws/laws.

MONITORING AND REPORTING

- 61.0 At least every two (2) years, all policies and laws/bylaws will be reviewed for completeness, accuracy, and relevancy and revised or rescinded accordingly.

APPROVAL

This policy was approved by a quorum of Chief and Council by BCR # _____ on the X day of month, year.



SCHEDULES

1. Schedule A – Minimum Headings for Bylaws
2. Schedule B – Briefing Note and BCR
3. Schedule C – for a draft work plan for a membership referendum or vote