

GENERAL PROTOCOL AGREEMENT ON
LAND USE PLANNING AND INTERIM MEASURES

Between

Gitga'at First Nation
Haida Nation
Haisla Nation
Heiltsuk Nation
Kitasoo/Xaixais First Nation
Metlakatla First Nation
Old Massett Village Council
Skidegate Band Council

(The First Nation(s))

And

THE GOVERNMENT OF THE PROVINCE OF BRITISH COLUMBIA
(The Province)

(The Parties)

1.0 PREAMBLE

- WHEREAS** the Parties are committed to work together in the spirit of mutual recognition, respect and reconciliation on a government-to-government basis to resolve land-use conflicts and to implement interim measures initiatives;
- WHEREAS** the Parties agree upon the importance of establishing and maintaining processes that are open and inclusive;
- WHEREAS** the Parties acknowledge that the First Nations will negotiate a parallel agreement with Canada on Interim Measures, including aquatic and fisheries resources; and
- WHEREAS** this "General Protocol Agreement" may provide the framework to support specific Protocol Agreements between the Province and First Nations.

2.0 UNDERSTANDINGS OF INTERIM MEASURES

- (a) Interim Measures should be seen as an implementation vehicle to provide First Nations with cultural and economic benefits arising from land use decisions.
- (b) Interim Measures will be implemented within the framework of existing legislation, and in specific circumstances, the Province may want to initiate legislative amendments that support implementation of interim measures.
- (c) This Protocol recognizes two categories of interim measures:
 - i) In conjunction with the geographic specific land use planning process, British Columbia and the First Nation(s) may enter into an agreement regarding interim measures arrangement that will be pursued parallel to the start-up of the land use planning process. The agreement would define opportunities for capacity building and training, economic development, business planning and provide linkages to front-end decisions made in the land use planning process concerning land and resources.
 - ii) Following completion of the land use planning process, government and First Nations may consider interim measures that flow from the recommendations of the land use plan and land use decisions of government. These interim measures may be stand-alone agreements or may be linked to negotiations of treaties.
- (d) The Parties acknowledge that the understandings in this Protocol of interim measures apply only to this agreement and the implementation of this Protocol.

3.0 LAND USE PLANNING

- (a) Government-to-Government Process
 - i) Where the Province intends to undertake a land use planning process in a designated geographic area, the Province will work with First Nations to define principles, anticipated scope and outcomes of the land use planning process.
 - ii) Land use planning recommendations will be developed in an inclusive planning forum in which First Nation(s), British Columbia, communities, stakeholders are all participants. The inclusive planning forum will operate on the principle of shared decision making with the objectives that all participants will commit to seek a consensus on land use recommendations.
 - iii) The First Nation(s) in the development of their land use plans will be guided by the Ecosystem Based

Management Framework¹ and will also use and support the Information Body².

- iv) British Columbia will also be guided by the Ecosystem Based Management Framework and will use and support the Information Body for future land use plans covered by this agreement.
- v) Where a First Nation(s) cannot agree to a recommendation(s) from the inclusive planning forum, a government-to-government process will be established to attempt to resolve the outstanding matter(s) directly with the Province of British Columbia.
- vi) Land use planning does not change the jurisdiction and authorities of the Parties.

(b) Land Use Plans for the Central Coast, Kalum, Haida Gwaii and North Coast

- i) First Nations that have linkages to the Central Coast and Kalum LRMP processes can meet with the Province to review land use recommendations (i.e. Kitasoo Land Use Plan).
- ii) In the development of the Land Use Plans for Haida Gwaii, in addition to the process identified in 3.0 (a), the Haida and the Province will identify issues of concerns that require immediate resolution. As part of a specific agreement the Haida Nation may bring forward potential deferrals that would help maintain options while land use planning is underway.
- iii) In the development of the Land Use Plan for the North Coast, the Tsimshian First Nations whose traditional territory is on the North Coast and who are signatories to this Agreement will be guided by the understandings in this Protocol Agreement and the Tsimshian Nation Tripartite Accord on Land and Resources. The Parties involved in the Land Use Plan for the North Coast will identify issues of concerns that require immediate resolution. As part of a specific agreement First Nation(s) may bring forward potential deferrals that would help maintain options while land use planning is underway.

¹ Ecosystem Based Management Framework is as defined in Appendix I.

² Information Body is as defined in Appendix II.

4.0 INTERIM MEASURES

(a) Forestry Interim Measures

- i) The Province agrees to identify opportunities and assist to develop measures to facilitate First Nation involvement in forestry economic development initiatives including:
 - joint ventures with existing forest licensees and contractors;
 - forest tenures, which may include Community Forest Pilot Agreements;
 - the development of a forest management workforce, including silviculture crews;
 - involvement in contracting for forest management services; and
 - other forest related opportunities.
- ii) The Province agrees to enter into discussions with the representatives of First Nation(s) who are signatories, to identify timber availability, forest business opportunities, and negotiate a forest resourcing plan to support the development of strong business plans and capacity building for First Nation. Canada and the Licence Holders will be asked to participate in these discussions.
- iii) The Parties recognize and acknowledge that opportunities that currently exist and are in place will be part of the considerations under 4 (a).

(b) Tourism Interim Measures

- First Nations and the Province will work together to develop a comprehensive tourism strategy for the Coast. Canada and the tourism industry will be asked to participate in these discussions.

5.0 LINKAGE - Specific Agreements

British Columbia may enter into Agreements with specific First Nations, consistent with this General Protocol Agreement. The major features of these Agreements will be as follows:

(a) Land Use Planning

- The Agreement concerning land use planning may contain the following:
 - i) the scope and intent of the land use plan and the principles upon which land use planning would be based;

- ii) resources to enable the First Nation to undertake land use planning and to prepare for engagement in the inclusive land use planning process;
- iii) mechanisms and processes for the First Nation participation in the inclusive provincial land use planning process;
- iv) definition of the government to government forum to discuss outstanding issues not resolved in the inclusive process; and
- v) definition on how interim measures will proceed both during and following the completion of the land use plan and provides linkages to inclusive strategies that support economic diversification and mitigation.

(b) Interim Measures Agreements

- Forestry Interim Measures may be negotiated to support the following:
 - i) identify opportunities to facilitate First Nation's involvement in forestry economic development initiatives (see 4 (a) i)); and
 - ii) development of a detailed business plan from the First Nations.
- Tourism Interim Measures may be negotiated to support the development of business plans to advance tourism developments.

6.0 NOTWITHSTANDING

This Protocol document is a statement of political intent by the Parties and is not legally binding and is not intended to define, create, recognize, deny or amend any of the rights of the Parties, including Aboriginal or treaty rights within the meaning of section 25 and 35 of the Constitution Act 1982.

This Protocol does not create any financial obligations on the part of the Parties.

The Parties agree that other First Nations that have traditional territories in the central and north coast may at a later date be appended as a signatory to this Protocol.

First Nations Representatives

Government of British Columbia

Council of the Haida Nation Date

Minister of Environment Date

Gitga'at First Nation Date

Minister of Forests Date

Haisla Nation Date
Date

Minister of Aboriginal Affairs

Heiltsuk Nation Date

Minister of Small Business Date
Tourism and Culture

Kitasoo/Xaixais First Nation Date

Metlakatla First Nation Date

Old Massett Village Council Date

Skidegate Band Council Date

APPENDIX I: Definition, Principles and Goals of Ecosystem Based Management

Ecosystem based management is a strategic approach to managing human activities that seeks to ensure the coexistence of healthy, fully functioning ecosystems and human communities. The intent is to maintain those spatial and temporal characteristics and processes of whole ecosystems such that component species and human social, economic and cultural activities can be sustained.

Overarching Principles:

- Healthy, fully functioning ecosystems provide the basis for sustaining communities, economies, cultures and the quality of human life therefore ecological sustainability³ is fundamental to land and marine management.
- Empowered and healthy communities play a leadership role in sustaining healthy ecosystems, cultures and economies.
- Focus planning on the needs of the ecosystems and the values that you want to maintain.
- Planning should be done over ecologically and economically relevant time frames and involve regional, landscape and site scale planning.
- Incorporate the best of existing knowledge (e.g. traditional, local and western science) into planning and decision-making.
- Knowledge of natural processes and human interactions is incomplete and inherently limited, and decisions made in the present can pose unknown risks and unacceptable consequences for the future. Apply a precautionary approach, monitor ecological consequences, practice adaptive management in decision-making, and adopt a learning approach to planning.
- Maintain natural, social and economic capital in the region and preserve the full range of options for future generations.
- Respect individuals, communities of interest (including businesses) and cultures.

³ sustainability, for the purpose of this discussion is defined as " A state or process that can be maintained indefinitely." The principles of sustainability integrate three closely interlined elements- the environment, the economy and the social system- into a system that can be maintained in a healthy state indefinitely

Recognition of the History of First Nations in the Region and their Rights as Articulated by the Constitution of Canada:

- Respect and acknowledge aboriginal rights and title as defined by the Constitution and case law.
- First Nations of the Central Coast should be engaged with the governments of BC and Canada in a process to reconcile outstanding land issues involving aboriginal rights and title including securing interim measures agreements.
- Support the efforts of First Nations to establish government-to-government to government tables with the objective of developing interim measures agreements.
- Aboriginal settlements must be based upon mutual trust, respect and understanding. They must be fair and equitable and recognize the interests and aspirations of individual First Nations including providing tools and resources to enable social and economic prosperity for First Nation people as well as other people of BC.

Ecological Principles:

- Sustain the biological richness and the biological services provided by natural terrestrial and marine processes at all scales through time (e.g. water quality, soils and vegetative productivity, species richness, predator/prey interactions, etc.).
- Conserve hydro riparian areas and maintain hydro riparian functions.
- Ensure an appropriate level of ecological representation and habitat connectivity.
- Protect and conserve focal species, as well as rare, threatened and endangered species and their habitats as a priority⁴.
- Conserve native species and their habitats within the range of natural variability.
- Protect sensitive soils and unstable terrain.
- Sustain the structure, function and composition of natural ecosystems including the land-sea interface.
- Incorporate ecological restoration of degraded landscapes, stands and sites into forest management.
- Avoid the introduction of alien species

⁴ Identify focal, rare, threatened and endangered species based on credible scientific opinion.

- Sustain adequate levels of spawning biomass and population age structure of all aquatic species (e.g. Rock fish, lingcod, salmon).
- Recognize that the dynamics and resiliency of ecosystems vary.
- Establish a credible terrestrial and marine protection area system that contributes to sustaining the biological richness and the biological services provided by natural terrestrial and marine processes.
- Use zoning as a management and planning tool, including potential identification of areas for enhanced forestry.
- Sustain human communities within the limits of ecosystem processes
- Ensure that the consumptive use of natural resources is maintained within limits that can be sustained.
- Employ resource use techniques that emphasize low environmental impact and ensure that activities do not degrade ecosystems or conflict with meeting conservation goals.
- Ensure that the harvesting of natural resources and rates of harvest are an output of planning and do not compromise the long-term ecological integrity of landscapes and watersheds.
- Ensure sustainable harvest of old growth (250 years +) and second growth timber.
- Ensure that the development of non-renewable resources is undertaken in a manner that is consistent with the ecosystem framework.
- Redefine tenure arrangements to make them more ecologically relevant.

Socio-economic Principles:

- Promote the well being of the communities in the Central Coast for this and future generations.
- Recognise the interests of work communities on the Central Coast whose residents live outside the Central Coast.
- Maintain the historical, current and future unique qualities of life on the Central Coast as a basis for diversified economic activity.
- A diversity of economic opportunities is key to healthy communities and sustainable economies. Diversification should include both the local development of different economic activities as well as local involvement in different levels of existing activities.
- Provide greater local employment and economic benefits to communities through increased local access to local resources.
- Build community economic capacity including employment and business opportunities beginning with communities in the Plan Area. Ensure access to leadership, decision-making, business planning and management skills training.
- Redefine tenure arrangements to make them more equitable.
- Encourage diverse and innovative options that increase the employment, economic development, revenue, cultural and environmental amenities and other benefits derived from resources.
- Recognize the financial investment and economic contribution of the full range of existing economic enterprises and their employees and shareholders.
- Seek new ways of deploying existing investments within the context of these principles and goals.
- Increase the economic viability and sustainability of existing investments within the context of these principles and goals.
- Incorporate potential economic contributions of local, regional and global interests.
- Seek out and encourage new and innovative investment opportunities in the region in support of these goals and attract capital investments in those opportunities.
- Explore innovative ownership structures (including private ownership), rights allocations and opportunities to share assets or business functions.
- Ensure the full range of impacts and opportunities are considered in

decision-making. Develop full-cost accounting tools and models to assess opportunities and impacts of resource management alternatives.

- Do more with less: prioritize business and economic strategies based on quality, adding value and decreasing material throughput thereby improving economic and ecological outcomes.
- When land use decisions are made in the public's best interests the costs of such decisions should not be visited on individual parties. Thus, direct loss of economic livelihood or employment resulting from a breach of contract resulting from the CCLCRMP land use planning decision must be subject to mitigation first and fair and timely compensation as a last resort.

Principles of Information and Adaptive Management:

Practice Adaptive Management

- Identify benchmarks against which future management performance can be measured.
- Establish explicit objectives for managing risk.
- Incorporate science, local and traditional knowledge and available data into management decisions.
- Identify research and inventory priorities that will increase the effectiveness of ecosystem-based planning and management in the future.
- Monitor performance and outcomes for the purpose of adapting and improving planning and management.

Adopt a coordinated approach to information management.

Principles for Managing Ecosystem-based Planning Processes:

Follow up processes shall be:

- neutrally administered;
- transparent;
- ensure full public access to relevant information necessary to make informed decisions;
- consider all community and other interests affected;
- look to find common ground;
- respectful of the diverse values, traditions and aspirations of local communities;
- fair;
- efficient and effective (efficient use of time and resources);
- measurable and enforceable (decisions must be properly monitored and enforced);

- adaptive and flexible (capable of modifying decisions in response to technological innovations, field experience, shifts in social preferences and new information);
- comprehensive and integrated (cross sector and addressing the full range of economic, social and environmental concerns and values);
- accountable (decision makers must be accountable to all participants in the process as well as to the broader public).

Recognizing regional, provincial, national and international interests establish collaborative, land use planning and decision-making processes that empower, and build capacity, within local communities.⁵

Resolve conflicts with generosity, compassion and clear understanding.

Engage independent expertise in a manner that reveals the consensus of opinion and the differences of opinion on issues of concern.

APPENDIX 11: Information Body⁶

This is a multi-disciplinary Team dedicated to the provision of relevant ecological, socio-economic, technical, traditional and local information that will assist the Central Coast Completion Table in developing practical recommendations to resolve land use and natural resource management issues. This information is intended to complement the technical resources normally provided by Governments to these planning tables. The Team will adopt a "participatory approach" to information development by engaging with affected interests through the Team Steering Committee as well as other mechanisms (such as workshops). The Team is brought together with resources from Provincial Government, First Nations, Non-Government Organizations and the Private Sector. The Team includes representatives from First Nations, local communities and expertise in all of the relevant fields organized into several working groups. The Team provides information to the land use planning tables formed on the central and north coast. The Team also provides technical and data support to the development Central and implementation of Pilot Projects which are testing and demonstrating Ecosystem Based Management and Planning at the landscape and stand level.

⁶ Subject to further work and comments.