

KNT and the
Province of British Columbia
Land and Resource Forum
Terms of Reference

Endorsed by:

Date:

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1.0 Introduction

In April 2001 the KNT First Nations (as part of the Kwakiutl District Council, Musgamagw Tsawataineuk Tribal Council and Tlowitsis Nation) and the Province entered into the *'Enabling Process' for the Central Coast Land and Coastal Resource Management Plan* (the "CCLRMP") wherein each committed to work together in a spirit of mutual recognition, respect, and reconciliation to resolve land use conflicts and implement interim measures initiatives.

A parallel April 2001 agreement among some stakeholders involved in the Central Coast land and resource management planning (LRMP) process lead to the creation of a Central Coast completion table which reached consensus in December 2003 and presented final recommendations to the Province and First Nations in May 2004.

The LRMP recommendations informed government to government discussions between KNT First Nations and the Province. Those discussions resulted in Land Use Planning Agreement-in-Principle, (the "AIP") between the Province and the KNT First Nations which established a basis for future agreements and discussions on outstanding land and resource management and other issues identified therein.

The AIP also committed the KNT First Nations and the Province to establish a "Land and Resource Forum", including necessary supporting technical committees, through which the KNT First Nations and the Province would undertake the implementation of the AIP, as well as, share information and engage in discussion on land and resource use and management issues.

This document identifies the purpose, structure, mandate and operating procedures of the KNT First Nations Land and Resource Forum ("KNT Forum").

2.0 Purpose

The purpose of the KNT Forum is to provide a forum where KNT First Nations and the Province can:

1. Conduct bilateral discussions intended to foster a cooperative relationship related to the development of land use and resource policy, and land and resource planning and management;
2. Pursue formal opportunities for government to government discussions between one or more of the KNT First Nations and the Province which seek to resolve specific land use and resource management issues;
3. Work collaboratively to implement the AIP;

4. In conjunction with the Coastal First Nations (“CFN”) and North Coast¹ Forums, establish work plans and budgets for the EBM Working Group, and receive and review their recommendations from; and
5. In conjunction with the CFN Forum, receive and provide advice on the recommendations of the Central Coast Plan Implementation and Monitoring Committee (“Central Coast PIMC”).

3.0 Membership

The KNT Forum membership includes the:

- Mamalilikulla-Qwe’Qwa’Sot’Em First Nation
- Namgis First Nation
- Tlowitsis First Nation
- Da’naxda’xw Awaetlatla First Nation
- Gwa’sala-’Nakwaxda’xw First Nation
- We Wai Kai First Nation
- We Wai Kum First Nation
- Kwiakah First Nation
- Quatsino First Nation *
- Kwakiutl First Nation *
- Comox First Nation *
- Tlatlasikwala First Nation * (collectively, the “KNT First Nations”)
- The Province of British Columbia

(collectively, the “Members”)

Membership from the Province will normally consist of representatives of the Integrated Land Management Bureau (ILMB). ILMB will ensure the participation of all relevant provincial ministries and agencies in order to effectively and efficiently deal with the various issues dealt with within the KNT Forum.

Upon agreement of the KNT First Nations and the Province, other First Nations whose Traditional Territory is wholly or partially within the geographic area to which this agreement applies (Appendix 1) may be invited to participate in the KNT Forum on specific matters.

¹ The name of the LRF for the North Coast plan area is still to be determined.

* These Nations were not signatories to the AIP, but may participate in the KNT Forum, should they so choose, by virtue of sections 7.3 and 8.8 of the AIP.

4.0 Governance Framework

The KNT Forum, along with the CFN and North Coast Forums, is a key part of an overall governance framework established to guide and monitor the implementation of the North and Central Coast land use decisions including the further development and implementation of EBM.

The KNT Forum provides recommendations to the participating First Nations and to the Province regarding all substantive issues dealt with by the KNT Forum.

The KNT Forum may make decisions regarding process issues relevant to the implementation of the AIP and the affairs of the KNT Forum.

5.0 Forum Mandate

The mandate of the KNT Forum is to implement the AIP and to act as a forum in which the Members can share information regarding and collaboratively address, on a government to government basis, land use and resource policy, planning and management issues generally.

With the agreement of the Members, the KNT Forum may serve as a vehicle through which the “New Relationship” may be implemented between the Province and the KNT First Nations.

Discussions and activities between the Province and the KNT First Nations with the KNT Forum will only address the traditional territories of the KNT First Nations.

5.1 Government to Government Discussions

The KNT Forum will share information and engage in government to government discussions with the goal of making recommendations to the KNT First Nations and the Province regarding:

- Ways in which the KNT First Nations and the Province can collaboratively implement measures to improve land and resource management in a manner that seeks to maintain ecological integrity and promote human well being;
- Development and implementation of regional economic initiatives and policies that will enable KNT First Nations to achieve the Initial Social and Economic Management Objectives (AIP Schedule G) agreed to by the KNT First Nations and the Province;
- Implementation and further development of EBM in the Southern Central Coast plan area;

- Clarification of cultural, political and/or community matters that may influence land and resource management in the Southern Central Coast plan area;
- Resolution of inter-governmental issues related to the interpretation and implementation of the AIP;
- Other related issues, such as laws, policies, customs, and traditions as they relate to land and resource use and management; and
- Decisions related to recommendations of the Central Coast PIMC and the EBM Working Group.

5.2 Scope of Discussions

Discussions in the KNT Forum on the above subject matters may, as appropriate, include, but are not limited to:

- a) Proposing and considering draft alternative legislation, policies, land use plan amendments or other related proposals;
- b) Providing, gathering and sharing information necessary for the Parties to understand the issues, potential impacts and possible solutions;
- c) Development and consideration of information gathered to support the review and assessment of alternative policies, land use plan amendments or other related proposals;
- d) Providing substantive responses to proposals and amendments during discussions including demonstrating how interests and concerns have been considered and integrated into any proposed plan of action; and
- e) Giving full consideration of the best available relevant knowledge. This includes knowledge from multiple disciplines (natural, social and economic sciences) and expertise from scientific, technical, local and traditional ecological sources.

Only with the prior written agreement of the KNT First Nations or any individual First Nation(s) and the Province, as appropriate, will specific discussions that take place in the KNT Forum be considered part of consultation towards meeting lawful obligations.

6.0 Forum Organization

The KNT Forum will be organized into two levels:

1. The **Chiefs / Ministers Level** comprised of the KNT Chiefs Board and the Minister of Agriculture and Lands and other relevant Ministers, or their designates, that will:
 - a) Be responsible for, and facilitate, the overall implementation of the AIP;

- b) Meet at least annually or as necessary at the request of either the KNT Nations or the Province to discuss issues of importance to either Member;
 - c) Approve the annual workplan and priorities of the KNT Forum; and
 - d) In conjunction with the CFN and North Coast Forums, approve the annual workplans and budgets for the EBM Working Group.
2. A **Technical Level** comprised of technical representatives of KNT First Nations and the Province that will:
- a) Be responsible for the implementation of the KNT Forum annual workplan and priorities approved at the Chiefs / Ministers Level;
 - b) Review and report back to the Chiefs / Ministers Level regarding any land use and resource management issues identified;
 - c) Review products and information provided by EBM Working Group and / or the Central Coast PIMC;
 - d) Make recommendations to the Chiefs / Ministers Level regarding process issues with the implementation of the AIP;
 - e) Make recommendations to the KNT First Nations and the Province regarding substantive issues resulting from the implementation of the AIP.

The KNT First Nations and the Province will each identify a primary representative who shall be responsible for coordinating their respective principal's effective participation at both levels of the KNT Forum.

7.0 Relationship with other Land and Resource Forums

It is expected that from time to time the First Nation members of the three Land and Resource Forums (KNT, CFN and North Coast) will work together on common issues, including, but not limited to:

- a) approving a terms of reference for the EBM Working Group;
- b) approving annual work plans and budgets for the EBM Working Group;
- c) receiving information from, and providing direction to the EBM Working Group;
and
- d) certain government to government issues.

When working together on common issues the First Nation members of the three Land and Resource Forums will first seek consensus at a technical level. Once consensus at a technical level is achieved, the First Nation representatives will take the consensus agreement to their respective principal for ratification.

Only after all First Nation principals of the three Land and Resource Forums have ratified a consensus agreement of their technical representatives will that matter be communicated to the provincial government members of the Land and Resource Forums.

In the event that consensus at a technical level cannot be achieved, or where technical consensus has been reached but where one or more of the First Nation principals refuse to ratify the consensus, First Nation political representatives of each of the Land and Resource Forums will meet in an attempt to resolve the issue and achieve consensus.

In the event that the First Nation political representatives of the three Land and Resource Forums fail to achieve consensus on a given issue, the First Nation members of each of the Land and Resource Forum may pursue the issue individually with the Province in a government to government manner.

Where information is shared between the First Nation members of the Land and Resource Forums such information shall be treated as confidential by all other First Nation member representatives and shall not be disclosed to third parties without the express agreement the First Nation representatives that provided the information.

Discussions between the First Nation members of the Land and Resource Forums shall also be treated as confidential where one or more First Nation members request such.

8.0 Operating Procedures

8.1 Decision Making

When making recommendations at the Technical Level the Members will make reasonable efforts to achieve consensus in their recommendations.

Consensus, for the purposes of this Terms of Reference, is defined as a general agreement on an issue to the extent that, although participants may not agree to every aspect of the agreement, they do not disagree enough to warrant opposition.

8.2 Dispute Resolution

If the Members cannot achieve consensus on any particular issue at the Technical Level they may forward the issue to the Chiefs / Ministers Level for direction and assistance.

In the event that a dispute arises between the Members regarding the interpretation or implementation of the AIP or the operation of the KNT Forum the Members will adhere to the dispute resolution process set out in the AIP.

8.3 Funding

As outlined in Appendix 2, the Province will, subject to appropriations by its legislature in accordance with its *Financial Administration Act*, provide sufficient funding to cover the KNT First Nations administrative costs to operate the KNT Forum.

The Province will, subject to appropriations by its legislature in accordance with its *Financial Administration Act*, provide additional funding (above the funding set out in Appendix 2) for the implementation of annual workplans agreed to by the Members.

9.0 Amending the Terms of Reference

This Terms of Reference may be amended with the written approval of the Associate Deputy Minister and the Chair of the KNT Chiefs Board.

Appendix 1: Southern Central Coast Plan



Appendix 2: Budget Allocation

The Province will, subject to appropriations by its legislature in accordance with its *Financial Administration Act*, provide financial support for 3 full years for the KNT Forum.

Table 1: Provincial Budget Allocation for KNT Forum.

Forum	Expense type	05/06	06/07	07/08	Total
KNT Forum	First Nations participation	75,000	75,000	75,000	225,000
	Additional expenses to ILMB	10,000	10,000	10,000	30,000
	Total	85,000	85,000	85,000	255,000