

**NORTH COAST MARINE PLAN  
IMPLEMENTATION AGREEMENT**

The effective date of this Agreement is the date of the last signature on the execution page

BETWEEN

NORTH COAST-SKEENA FIRST NATIONS STEWARDSHIP SOCIETY

("NCSFNSS")

Representing the

GITGA'AT FIRST NATION  
GITXAALA FIRST NATION  
HAISLA NATION  
KITSELAS FIRST NATION  
KITSUMKALUM FIRST NATION  
METLAKATLA FIRST NATION

(Each "Nation" and collectively the "NCSFNSS Member and Partner Nations")

AND

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA as  
represented by the Minister of Forests, Lands and Natural Resource Operations

(The "Province")

(All collectively referred to as the "Parties")

## WHEREAS:

- A. The North Coast-Skeena First Nations Stewardship Society (NCSFNSS) is a non-profit society comprised of the Gitga'at Nation, Gitxaala Nation, Kitselas Nation, Kitsumkalum Nation, Metlakatla Nation, and partners with the Haisla Nation. The Society was established in 2005 to enable First Nations on British Columbia's North Coast and Lower Skeena River to collaborate on projects where they share common values. The NCSFNSS works on technical issues related to fisheries science policy and marine use planning processes by working with First Nations governments, the Province of British Columbia, and the Government of Canada.
- B. The protection and stewardship of the land and waters within the territories of the NCSFNSS Member and Partner Nations is important to their governments, cultures, economies and communities.
- C. In November 2011, the NCSFNSS Member and Partner Nations and the Province, as represented by the Ministry of Forests, Lands and Natural Resource Operations (FLNRO), signed a *Letter of Intent to Collaborate on Coastal and Marine Planning in the Pacific North Coast* to develop a marine use plan for the North Coast and to enter into an agreement for the implementation of the marine use plan for the North Coast.
- D. In June 2012, the NCSFNSS Member and Partner Nations and the government of Canada, then represented by the Department of Fisheries and Oceans, signed a letter of intent to collaborate on marine planning and other fisheries related issues in the North Coast.
- E. Some NCSFNSS Member and Partner Nations and the Province entered into a *Reconciliation Protocol* (2011) which establishes a bridging step for reconciliation of their respective rights and interests.
- F. The Province and NCSFNSS recognize that implementation of the North Coast Marine Plan may require cooperation with federal government agencies and will commit to work with them, where appropriate, on initiatives or priorities that may require multi-jurisdictional collaboration.
- G. The Province and NCSFNSS are of the view that implementation of the North Coast Marine Plan may increase carbon sequestration and reduce carbon emissions in the North Coast Marine Plan Area as a result of new conservation measures and changes to marine management practices. This may result in greenhouse gas reductions that will be capable of being recognized as carbon emission offsets in the future.

- H. On April 27, 2015 the Province and NCSFNSS signed a jointly developed and signed the North Coast Marine Plan.

## **THE PARTIES AGREE AS FOLLOWS:**

### **1 DEFINITIONS**

1.1. In this Agreement:

**"Aboriginal Interests"** means:

- (a) current or future asserted aboriginal rights including Aboriginal title; or
- (b) treaty rights or determined aboriginal rights including aboriginal title, which are recognized and affirmed under section 35(1) of the *Constitution Act, 1982*;

**"Agreement"** means this North Coast Implementation Agreement, including the appendices and schedules;

**"Government-to-Government"** means formal bilateral discussions between the Province and First Nations, or their designated representatives, such as NCSFNSS;

**"MaPP Implementation Fund"** means the fund, including its governance and administration structures, created by the partners to the Marine Planning Partnership for the North Pacific Coast (MaPP) to allocate monies to implementation recommendations approved by the MaPP partners;

**"Marine Plan"** means the Marine Use Plan jointly developed by the Parties for the North Coast Marine Plan Area to provide recommendations on marine zone designations, management strategies, implementation priorities, and other matters within the regulatory authority of the Province, and signed by the Parties on April 27, 2015.

**"Marine Plan Area"** means the North Coast Marine Plan Area (Schedule A), which extends from Portland Inlet to the southern end of Aristazabal Island and out to the middle of Hecate Strait.

**"Marine Planning Partnership"** means the partnership between the Province, N̓anwak̓olas Council, the Coastal First Nations-Great Bear Initiative, the Central Coast Indigenous Resource Alliance, and the North Coast-Skeena First Nations Stewardship Society (the "Partners") engaged in the development and implementation of marine plans for the region known as

the North Pacific Coast of Canada, and its four sub-regions of Haida Gwaii, North Coast, Central Coast and North Vancouver Island; and

**"Regional Action Framework"** means the document which has been approved by the Marine Plan Partnership and which outlines actions to be taken to assist in coordinating regionally important recommendations reflected in the four marine plans produced through Marine Plan Partnership.

## **2 PURPOSE OF AGREEMENT**

2.1. The purpose of this Agreement is to:

- a) confirm the intention of the Parties to implement the North Coast Marine Plan;
- b) describe the roles and responsibilities of the Parties and the government-to-government framework that will be used to collaboratively implement the North Coast Marine Plan and address marine issues; and
- c) Identify general priorities, structures and mechanisms for implementation of the North Coast Marine Plan.

## **3 LIMITATIONS OF AGREEMENT**

3.1. The Parties acknowledge that implementation of the recommendations of the North Coast Marine Plan may require the Province to consult with other First Nations who have Aboriginal Interests within the North Coast Marine Plan Area.

## **4 ROLES, RESPONSIBILITIES AND AUTHORITIES**

4.1. Coordination, technical support and implementation of this Agreement will be provided by NCSFNSS, on behalf of the NCSFNSS Member and Partner Nations, and FLNRO on behalf of the Province, in accordance with their respective customs, laws, regulations and policies.

4.2. The Parties will ensure that their respective representatives have the necessary authority to carry out their responsibilities and will work cooperatively to implement this Agreement.

4.3. The Parties share the objective of maintaining local government and stakeholder engagement in implementation of the North Coast Marine Plan.

- 4.4. Where applicable each First Nation will coordinate implementation of community based and Nation-specific projects, according to their own protocols and governance structures. As required each Nation will be directly involved in the governance and implementation of any sub-regional or regional initiatives in their territories,

## **5 ORGANIZATION**

- 5.1. The Parties hereby establish the following structures to coordinate and support the Parties' implementation of the North Coast Marine Plan:

- a) A North Coast Marine Plan Executive Committee that will:
  - i) consist of the signatories to this Agreement or, on notice to the other party, other delegated senior representatives of the Parties; and
  - ii) meet on an as-needed basis to address relationship building and resolve problems when required.
- b) A North Coast Marine Plan Implementation Steering Group that will:
  - i) consist of senior representatives appointed by NCSFNSS and the Province;
  - ii) meet quarterly or as needed;
  - iii) make all reasonable efforts to achieve consensus in their recommendations and decisions;
  - iv) approve Marine Plan Implementation Steering Group and Marine Plan Implementation Technical Team terms of reference and annual work plans for the implementation of the North Coast Marine Plan;
  - v) appoint and provide direction to the Marine Plan Implementation Technical Team on issues and oversee implementation of this Agreement;
  - vi) evaluate the progress and outcomes of this Agreement on an annual basis and may, by mutual agreement, recommend renewal or amendment of this Agreement to the Executive Committee; and

- vii) resolve problems from Marine Implementation Technical Team when required
- c) a Marine Plan Implementation Technical Team that will:
  - i) consist of technical representatives appointed by NCSFNSS the Province;
  - ii) meet on a monthly or as needed basis to coordinate and undertake implementation activities;
  - iii) prepare terms of reference, an annual work plan having regard to the priorities identified in section 6.2 of the North Coast Marine Plan and a balanced approach to those priorities, including the timeframe and budget for completion of recommendations to be submitted to the Marine Plan Steering Group;
  - iv) submit recommendations to the Marine Plan Steering Group on how to implement the priorities contained in its annual work plan, including any recommendations on a process for requests for variance by other First Nations, stakeholders and local governments for changes to the Marine Plan; and
  - v) make all reasonable efforts to achieve consensus in their recommendations;
  - vi) facilitate communication between respective First Nations, Provincial agencies and between the Marine Plan Partnership Partners in order to meet the objectives of the Regional Action Framework.

5.2. The Marine Plan Implementation Technical Team will prepare and submit to the Marine Plan Implementation Steering Group its terms of reference and annual work plan within ninety (90) days of signing this Agreement, and thereafter on an annual basis and the Marine Plan Steering Group will approve, or approve with changes, its terms of reference and annual work plan within thirty (30) of receipt from the Marine Plan Implementation Technical Team.

5.3. The Marine Plan Implementation Technical Team and the Marine Plan Steering Group will make reasonable efforts to achieve consensus on their recommendations, failing which the matter may be referred to dispute resolution under Article 8.



## **6 NORTH COAST MARINE PLAN IMPLEMENTATION TOPICS AND PRIORITIES**

6.1. The Priorities for implementation under this Agreement are listed in the North Coast Marine Plan, and are based on the following implementation themes including:

- a) Advancement of spatial allocation and management provisions for a diversity of uses and activities for use in tenure processing and referral processes and advancing protection of marine based values;
- b) Improvements to marine governance structures between the parties including broader collaboration on marine management;
- c) Improvements in Provincial policy/direction with an emphasis on consistency on industry-First Nations relationships/protocols;
- d) Recommendations on developing and/or strengthening sustainable economic development and healthy communities with an emphasis on closing the economic gap between First Nations and non-First Nations communities by providing enhanced economic opportunities for First Nations;
- e) Improvements in compliance monitoring and enforcement including increased collaboration among compliance authorities and advancement of First Nations compliance authority;
- f) Improvements in pollution mitigation, marine spill response planning, climate change adaptation and mitigation, and stewardship; and,
- g) Recommendations on the management and understanding of cumulative effects including undertaking a cumulative effects framework pilot project in the North Coast.

## **7 RESOURCING**

7.1. The Parties acknowledge that this Agreement is of mutual benefit, and agree to pursue the financial and human resources necessary to successfully implement this Agreement.

7.2. The parties acknowledge and confirm that implementation of this agreement is subject to the availability of funding from the MaPP Implementation Fund.

7.3. The Parties will establish a trust or similar arrangement to administer and manage Marine Plan implementation funding provided by third-parties, including but not limited to the MaPP Implementation Fund.

7.4. The Parties agree to further negotiate additional carbon offset sharing to support implementation of this Agreement.

## **8 DISPUTE RESOLUTION**

8.1. The Parties recognize that successful implementation of this Agreement, and their building of cooperative working relations, will depend on their ability to recognize, explore and resolve disagreements by consensus. Each of the implementation structures will seek to resolve differences through consensus within 30 days. If consensus cannot be achieved, the matter will be referred to the next level of dispute resolution.

8.2. Any disagreement relating to the interpretation or implementation of this Agreement will be resolved in the following manner:

(a) disagreements at the Marine Plan Implementation Technical Team level will be documented with rationale and options, and submitted to the Marine Plan Implementation Steering Group; and

(b) disagreements at the Marine Plan Implementation Steering Group level, including disagreements relating to the resolution of disputes submitted by the Marine Plan Implementation Technical Team, will be documented with rationale and options, and submitted to the Executive Committee for resolution.

8.3. In the event a disagreement cannot be resolved by the Marine Plan Executive Committee, the Parties may consider alternative dispute resolution measures, including mediation. The Parties will be responsible for their own costs and will share all joint costs equally.

8.4. If, within sixty (60) days, the Executive Committee is unable to resolve the disagreement, including where the Parties have opted to do so through alternative dispute resolution measures, the Parties may opt to not proceed with the matter in dispute.

## **9 TERM AND TERMINATION**

9.1. This Agreement takes effect on the date of the last signature to this Agreement.

9.2. This Agreement will remain in effect until:



- a) five (5) years from the date under 9.1;
  - b) it is terminated by NCSFNSS or the Province on thirty (30) days prior written notice to the other Party, stating date of the termination and the reasons for termination, or
  - c) the execution of other agreements, signed by both parties, that replace or supersede this Agreement.
- 9.3. The Parties may renew the Agreement in advance of the termination date under 9.2(a).
- 9.4. A NCSFNSS Member and Partner Nation's withdrawal from participation under this Agreement will not be deemed to be a termination of this Agreement by NCSFNSS or any other NCSFNSS Member and Partner Nation and, for greater certainty, this Agreement will remain in effect subject to 9.2.

## **10 GENERAL PROVISIONS**

- 10.1. For the purposes of this Agreement:
- a) "including" means "including, but not limited to" and "includes" means "includes, but not limited to";
  - b) the use of the singular includes the plural and use of the plural includes the singular; and
  - c) there will be no presumption that doubtful or ambiguous expressions, terms or provisions in this Agreement are to be resolved in favour of any Party;
- 10.2. Nothing in this Agreement will be interpreted in a way that fetters the discretion of either Party or their representatives, including any legislative authority of British Columbia or the discretion given to any decision-making authority.
- 10.3. This Agreement does not:
- a) constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the Constitution Act, 1982 (Canada); or
  - b) create, define, evidence, amend, recognize, affirm, or deny any Aboriginal rights, Aboriginal title and/or treaty rights, or Crown title

and rights, and is not evidence of the nature, scope, or extent of any Aboriginal rights, Aboriginal title, or Crown title and rights.

- 10.4. This Agreement will not limit any position that any NCSFNSS Member and Partner Nations or the Province may take in any discussions, negotiations or administrative, regulatory or court proceedings, including the positions the Parties may have relating to jurisdiction and decision-making authority.
- 10.5. This Agreement is not intended to amend or otherwise modify any existing protocols and agreements between the Parties on other matters.
- 10.6. This Agreement may be amended by the Parties in writing.
- 10.7. This Agreement may be executed in counterparts by signing a separate copy, including an emailed, photocopied or faxed copy and delivering it to the other Parties.

**IN WITNESS WHEREOF** the Parties hereby execute this Agreement as of the date first written above

SIGNED ON BEHALF OF THE NCSFNSS MEMBER AND PARTNER NATIONS,  
as represented by NCSFNSS:

**Original signed by:**

North Coast-Skeena First Nations Stewardship Society

  
Executive Director.

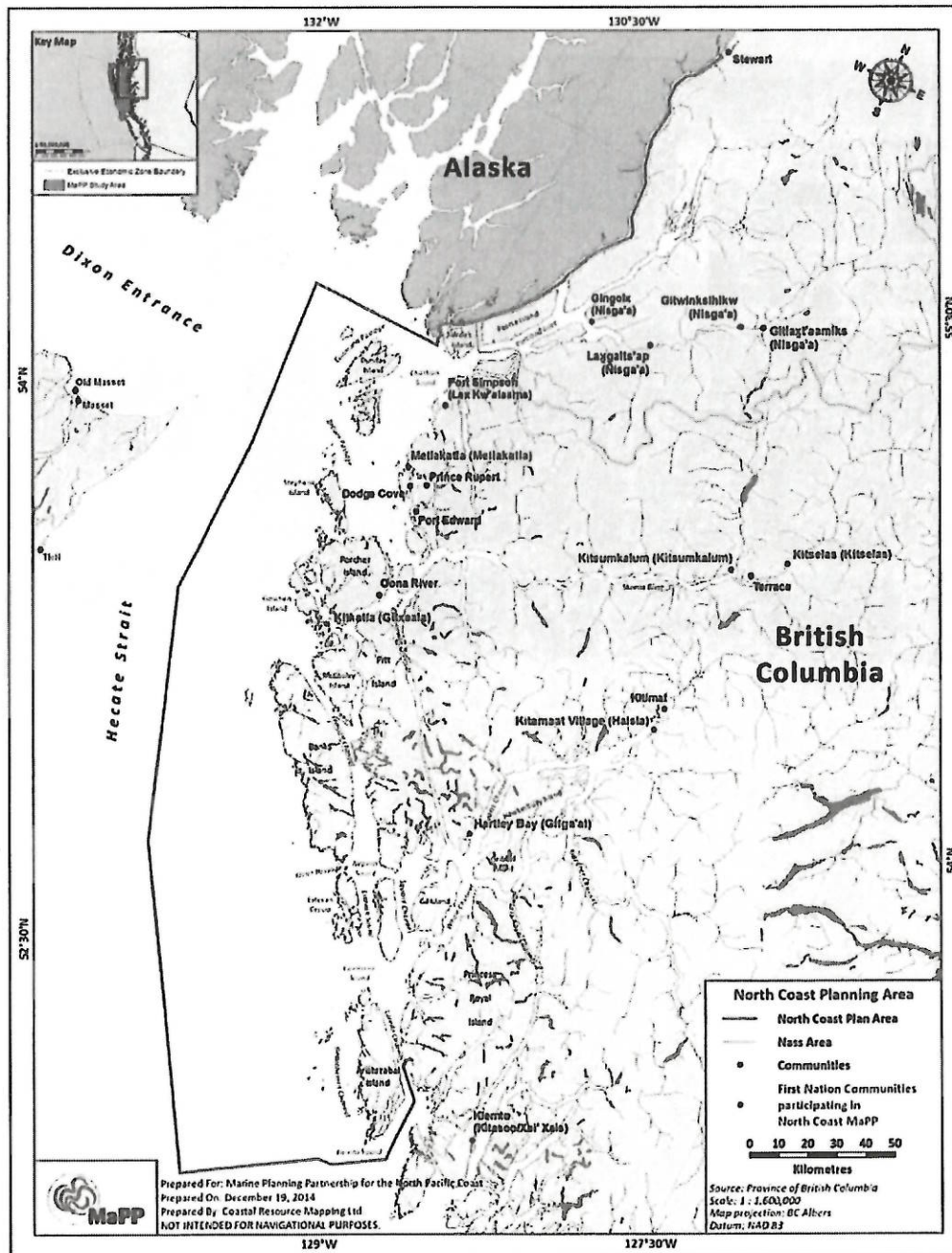
SIGNED ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF  
BRITISH COLUMBIA, as represented by the Ministry of Forests, Lands and Natural  
Resource Operations:

**Original signed by:**

Honourable Steve Thomson  
Minister of Forests, Lands and Natural Resource Operations

Dated August 3, 2016

## SCHEDULE A: NORTH COAST MARINE PLAN AREA





## SCHEDULE B: MaPP IMPLEMENTATION GOVERNANCE STRUCTURES

