

**TRIPARTITE COMMITMENT AGREEMENT:
WE WAI KAI TRANSITION TO STAGE 5 NEGOTIATIONS UNDER THE BC TREATY PROCESS**

(the “Agreement”)

BETWEEN:

CAPE MUDGE INDIAN BAND (We Wai Kai Nation), as represented by the Laich-Kwil-Tach Treaty Society,
(hereinafter “We Wai Kai”)

AND:

HER MAJESTY THE QUEEN
IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
as represented by the Minister of Indigenous Relations and Reconciliation
(hereinafter “British Columbia”)

AND:

HER MAJESTY THE QUEEN
IN RIGHT OF CANADA,
as represented by the Minister of Crown-Indigenous Relations
(hereinafter “Canada”)

(each a “Party” and collectively the “Parties”)

Background

- I. The Parties are engaged in the BC Treaty Process and have expressed interest in advancing We Wai Kai treaty negotiations.
- II. The Parties have made significant progress at the We Wai Kai negotiation table based on mutual respect, open dialogue and practical approaches.
- III. The Parties recognize the vision of We Wai Kai to achieve a treaty, the commitment of We Wai Kai leadership to realizing the vision, and the capacity of We Wai Kai to negotiate and implement a treaty.
- IV. The Parties acknowledge and support the Principals' Accord on Transforming Treaty Negotiations in British Columbia (2018), which recognizes the need for a different approach to treaty negotiations to get results in a shorter timeframe that lead to prosperous, healthy, and self-determining Indigenous communities.
- V. The Parties have an understanding of the combined value of land and cash which could be proposed by Canada and British Columbia for an Agreement in Principle (AIP) and have reached substantive agreement on the core interests of Canada, British Columbia, and We Wai Kai required to conclude an AIP.
- VI. The Parties recognize that Canada and British Columbia must seek revised mandates in order to table a formal AIP land and cash proposal, and that no such offer is imminent.
- VII. The Parties recognize that through this agreement the applicable scope of Section 5 of the *Kwakiutl Laich-Kwil-Tach Council of Chiefs Framework Agreement, August 19, 1998* will be negotiated in the final stage of negotiation.
- VIII. The Parties are of the view that rather than expending time and resources to conclude an AIP, that negotiations can be more efficiently and effectively advanced through the development of a comprehensive final treaty package.
- IX. The Parties recognize the interest of We Wai Kai in developing and implementing a robust membership communications program that will present a comprehensive package and facilitate the successful ratification of a We Wai Kai Treaty.
- X. The British Columbia Treaty Commission, per the letter attached as "Schedule A", has confirmed its support for the Parties to enter into the final stage of treaty negotiations, including through the provision of negotiation support funding to We Wai Kai at a level consistent with Stage 5 negotiations, and to facilitate, where appropriate, dialogue between We Wai Kai and its neighbouring indigenous communities.

Tripartite Commitments

The Parties make the following commitments to advance We Wai Kai treaty negotiations:

1. The Parties will proceed to the final stage of treaty negotiations without an approved AIP;
2. The Parties will negotiate a comprehensive treaty agreement to present to their respective principals for approval and will work collaboratively to develop future mandate requests needed to conclude the agreement;
3. The Parties will base their treaty negotiations on the advanced rolling draft of the treaty, attached as Schedule "B";
4. The Parties will develop a treaty land package, as part of the comprehensive treaty package, based on the areas of interest tabled by We Wai Kai and attached as Schedule "C";
5. The Parties will focus negotiations on the priorities required to reach substantive agreement on the elements of a treaty, based on the list attached as Schedule "D";
6. The Parties will refine the table's comprehensive tripartite work plan to reflect the shift to the final stage of treaty negotiations and with a focus on the development of a treaty land package and the negotiation priorities; and
7. The Parties will make best efforts to provide the resources required to support the final stage of negotiations, including through negotiating capacity and technical support, and with respect to matters typically reserved for Stage 5 negotiations.

Additional Commitments

8. The Parties recognize the positive impact of a tripartite commitment to advance negotiations. We Wai Kai will implement a robust, focused communications plan to engage with the We Wai Kai membership, and to create the conditions for a successful ratification of a We Wai Kai treaty. Canada and British Columbia will raise awareness of this Agreement in their respective systems in order to facilitate the advancement of the negotiations.
9. The Parties recognize that success in negotiations, and in particular agreement on a treaty land package, will be facilitated by the support of neighbouring indigenous communities. We Wai Kai reinforces its commitment to proactively seek agreement with its neighbours on the proposed land package and on other issues that have or may arise in the final stage of negotiations.

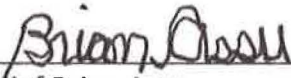
10. Canada and British Columbia will fulfil their consultation obligations to Indigenous groups whose rights may be adversely affected by a treaty with We Wai Kai, and the Parties recognize that the outcome of treaty negotiations may be affected by those consultations.
11. As a demonstration of good faith and in lieu of an approved AIP, British Columbia will provide interim protections for We Wai Kai areas of interest pending agreement on a treaty land package through:
 - i. Appropriate Map reserves under the *Land Act*;
 - ii. No staking reserves and no mineral disposition notices under the *Mineral Tenure Act*; and
 - iii. Collaborative measures on proposed forest activities.

General Provisions

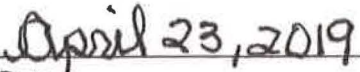
12. The Parties have chosen not to put a target date on the completion of negotiations, but agree to approach their commitments in good faith and expect that their commitments will achieve the desired result of advancing negotiations.
13. The Parties agree to review the table's comprehensive tripartite work plan and the negotiation priorities on a regular basis and to make any necessary amendments to further their mutual goals.
14. Canada and British Columbia enter into this Agreement to signify their commitment to advancing treaty negotiations with We Wai Kai. The Agreement is not legally binding and is without prejudice to positions any Party may take in negotiations or in any other forum.
15. The Parties agree that the Agreement can be released to the public but that the Schedules remain confidential to the negotiation table.

This Agreement will come into effect on the date of the last signature.

SIGNED ON BEHALF OF WE WAI KAI:



Chief Brian Assu



Date

SIGNED ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF CANADA:



The Honourable Carolyn Bennett
Minister of Crown-Indigenous Relations



Date

SIGNED ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA:

The Honourable Scott Fraser
Minister of Indigenous Relations and Reconciliation

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The Honourable Scott Fraser
Minister of Indigenous Relations and Reconciliation

Date May 8, 2015

SCHEDULE "A" to "We Wai Kai Transition to Stage 5 Negotiations under the BC Treaty Process"

BCTC Confirmation Letter:



January 14, 2019

Bram Rogachevsky, Chief Negotiator
Laich-Kwil-Tach Treaty Society
105-2005 Eagle Drive
Campbell River, BC V9H 1V8

Heinz Dyck, Chief Negotiator
Ministry of Indigenous Relations and Reconciliation
PO Box 9100
STN PROV GOVT
Victoria, BC V8W 9B1

Megan Reiter, Senior Negotiator
Crown-Indigenous Relations Canada
1138 Melville Street, Suite 600
Vancouver, BC V6E 4S3

Dear Mr. Rogachevsky, Mr. Dyck, and Ms. Reiter:

RE: Tripartite Commitment Agreement: We Wai Kai Transition to Stage 5 Negotiations Under the BC Treaty Process.

Please consider this letter as confirmation by the BC Treaty Commission that upon signing of the Tripartite Commitment Agreement: We Wai Kai Transition to Stage 5 Negotiations under the BC Treaty Process, between the Laich-Kwil-Tach Treaty Society, British Columbia and Canada, the Parties will officially be in Stage 5 of the British Columbia Treaty negotiations process.

Sincerely,

CELESTE HALDANE, QC
Chief Commissioner

SCHEDULE "B" to "We Wai Kai Transition to Stage 5 Negotiations under the BC Treaty Process"

We Wai Kai Draft AIP dated January 11, 2019 (Confidential):

SCHEDULE "C" to "We Wai Kai Transition to Stage 5 Negotiations under the BC Treaty Process"

We Wai Kai Areas of Interest Map (Confidential):

SCHEDULE “D” to “We Wai Kai Transition to Stage 5 Negotiations under the BC Treaty Process”

**We Wai Kai – Canada - British Columbia Treaty Negotiations
Negotiation Subject Matters (Confidential)**