



# **KITSELAS RESERVE LANDS MANAGEMENT ACT**

**Dated for Reference June 19, 2005**



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**PREAMBLE**

**WHEREAS** the Kitselas People have occupied and benefited from their home lands since time out of memory;

**AND WHEREAS** the Kitselas People have governed their lives and lands through a system of laws and law making based on the following principles:

Laws they had; but these were few; laws framed by Wise Men who watched the face of nature; who pondered long on the workings of Gyamk, the Sun God who lived in the Sky City of Lahah; laws that were made as they watched cause and effect work out their ends in the lives of men.

Some happening came to the people. The result was good and fortunate. "This is right," said the Wise Men. "This will be embodied in a new law so that good fortune may be still more assured to our People." And when misfortune came these Wise Men delved deeply to find its cause.

At last, satisfied they had learned that which they had sought for, they said, "The action that lies at the root of this difficulty is wrong. Our People must be protected in the future that the same error may not be committed again. We make a new law forbidding that action."

So grew the Code. So were the children instructed in the ways of Right and Wrong. So generation followed generation, each one more vigorous, more prosperous.

**AND WHEREAS** the Kitselas People intend to manage their land and resources by entering into the Framework Agreement on First Nation Land Management;

**NOW THEREFORE, THIS *KITSELAS RESERVE LANDS MANAGEMENT ACT* IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW OF THE KITSELAS PEOPLE.**



**PART 1  
PRELIMINARY MATTERS**

**1. Title**

Title

1.1 The title of this enactment is the *Kitselas Reserve Lands Management Act*.

**2. Interpretation**

Definitions

2.1 This Act is a Land Code within the meaning of the Framework Agreement and the *First Nations Land Management Act*.

2.2 The following definitions apply in this Act:

“Act” means this *Kitselas Reserve Lands Management Act*;

“Common-law Marriage” means two persons not married to each other that have lived together as Spouses for a period of not less than one year;

“Community Land” means any Kitselas Land in which all Members have a common interest;

“Council” means the Chief and Councilors of the First Nation and any successor elected government of the First Nation;

“Cultural Resource” means an object, site or location of a traditional or cultural practice that is of historical, cultural or archaeological significance to the First Nation;

“Eligible Voter” means, for the purpose of voting in relation to a matter under this Act, a Member who has attained the age of 18 years on or before the day of the vote;

“First Nation” means the Kitselas First Nation as named in the *First Nations Land Management Act*;

*First Nations Land Management Act* means the *First Nations Land Management Act*,



S.C. 1999, c. 24;

“First Nations Land Register” means the register maintained by the Department of Indian Affairs and Northern Development under clause 51.1 of the Framework Agreement;

“Framework Agreement” means the *Framework Agreement on First Nation Land Management* entered into between the Government of Canada and fourteen First Nations, on February 12, 1996, as amended;

“Immediate Relatives”, in relation to an individual, means the individual’s parent, sister, brother, child or Spouse;

“Individual Agreement” means the Individual First Nation Agreement made between the First Nation and Her Majesty in right of Canada in accordance with clause 6.1 of the Framework Agreement;

“Kitselas Land” means a Kitselas Indian reserve or any portion thereof that is subject to this Act;

“Kitselas Land Register” means the register maintained by the First Nation under section 20.1;

“Law” means a Law enacted under this Act but does not include an Order;

“Member” means a person whose name appears or is entitled to appear on the Kitselas First Nation Band Membership List;

“Order” means an Order of Council made under this Act;

“Panel” means a dispute resolution panel appointed under section 31.1;

“Permanent Interest” means a certificate of possession issued under section 20(2) of the *Indian Act* and continued under this Act or a permanent interest granted under section 25.1;

“Ratification Vote” means a vote under section 12.1;

“Spouse” means an individual who is married to another, whether by a traditional, religious or civil ceremony, and includes a spouse by Common-law Marriage; and

“Verifier” means a verifier appointed in accordance with clause 8.1 of the Framework



Agreement.

Paramountcy

- 2.3 If there is an inconsistency or conflict between this Act and any other enactment of the First Nation, this Act will prevail to the extent of the inconsistency or conflict.
- 2.4 If there is an inconsistency or conflict between this Act and the Framework Agreement, the Framework Agreement will prevail to the extent of the inconsistency or conflict.

Interpretation

- 2.5 The structures, organizations, Laws and procedures established by or under this Act will be interpreted in accordance with the culture, traditions and customs of the First Nation, unless otherwise provided.
- 2.6 This Act will be interpreted in a fair, large and liberal manner.
- 2.7 The principles set out in the Preamble to this Act may be used to interpret this Act.

Non-abrogation

- 2.8 This Act is not intended to abrogate or derogate from any aboriginal, treaty or other right or freedom that pertains now or in the future to the First Nation or its Members.
- 2.9 This Act is not intended to affect the eligibility of the First Nation or any Member to receive services or participate in such public or aboriginal programs as may be established from time to time to the extent that the First Nation has not assumed responsibility for such services or programs.
- 2.10 In this Act:
  - (a) the use of the word “will” denotes an obligation that, unless this Act provides to the contrary, must be carried out as soon as practicable after this Act comes into effect or the event that gives rise to the obligation;
  - (b) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;



- (c) headings and subheadings are for convenience only, do not form a part of this Act and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Act;
- (d) a reference to a statute includes every amendment to it, every regulation made under it and any Law enacted in substitution for it or in replacement of it;
- (e) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular; and
- (f) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine.

#### Fiduciary Relationships

- 2.11 This Act is not intended to abrogate the fiduciary relationships between the Government of Canada, the First Nation and its Members.

#### Land and Interests Affected

- 2.12 A reference to “land” or “Land” in this Act is, unless the context otherwise requires, a reference to Kitselas Land and all rights and resources in and of such land, including:
- (a) the water, beds underlying water, riparian rights, minerals and subsurface resources and all other renewable and non-renewable natural resources in and of that land, to the extent that these are under the jurisdiction of the Government of Canada or the First Nation; and
  - (b) all the interests and licenses granted to the First Nation by the Government of Canada listed in the Individual Agreement.

### **3. Authority to Govern**

#### Title

- 3.1 By enacting this Act the First Nation is giving effect to its aboriginal title to that portion of its territories comprised of Kitselas Land.

#### Authority

- 3.2 The authority of the First Nation to govern its land and resources flows from its aboriginal title and inherent right of self-government.



3.3 Through this Act, the First Nation will exercise its inherent right of self-government and provide for governance that is accessible, stable, effective, accountable and transparent.

#### **4. Purpose**

Purpose

4.1 The purpose of this Act is to set out the principles and legislative and administrative structures that apply to Kitselas Land and by which the First Nation will exercise authority over that land.

Ratification

4.2 The Framework Agreement is ratified by the First Nation when the First Nation approves this Act.

#### **5. Description of Kitselas Land**

Kitselas Land

5.1 The Kitselas Land that is subject to this Act is that land described in accordance with the *First Nations Land Management Act* for the purposes of the ratification vote on this Act and the Individual Agreement as follows:

- (a) Kitselas Indian Reserve No. 1, being those reserve lands within the Province of British Columbia, Canada in Range 5, Coast District, described as follows:

Lands: a parcel bounded by the exterior rectilinear boundaries of Kitselas Indian Reserve No. 1, as shown on Plan BC124 recorded in the Canada Lands Surveys Records (CLSR), and the ordinary high water mark of the Skeena River as shown on a Plan of Survey prepared by Guy Derry BCLS, CLS, under Legal Surveys Division Project No. 2004-10-091.

Excepting thereout and therefrom:

All that portion required for a railway right of way as shown on Plan RR1008B CLSR, and

All that portion required for a railway right of way as shown on Plan 1008A CLSR, except that portion also covered by Plan RR1008B CLSR.



Total lands containing 431 hectares, (1064) acres more or less.

The above described Reserve Lands are subject to the rights and reservations contained in provincial Order in Council 1938-1036, registered in the Indian Lands Registry (ILR) as No. 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the ILR as No. 4111-118.

- (b) Chimdimash Indian Reserve No. 2, being those Reserve Lands within the Province of British Columbia, Canada in Range 5, Coast District, being the whole of Chimdimash Indian Reserve No. 2 more particularly described as:

Lands: all that portion of land bounded by the exterior rectilinear boundaries of Chimdimash Indian Reserve No. 2 as shown on Plan BC124 recorded in the Canada Lands Surveys Records (CLSR), and the ordinary high water mark of the Skeena River as shown on Plan \*\*\*\*\* CLSR.

(Note \*\*\*\*\*: The ordinary high water mark of the Skeena River is presently being surveyed under Legal Surveys Division Project No. 2004-10-092. Plan number will be entered in legal description upon recording of the plan in the CLSR.)

Excepting thereout and therefrom:

All that portion required for a highway right of way as shown on Plan RD3274 CLSR;

All that portion required for a highway right of way as shown on Plan 52963 CLSR; and

All that portion required for a railway right of way as shown on Plan RR1267A CLSR.

Total lands containing 71.1 hectares, (175.7 acres) more or less.

The above described Reserve Lands are subject to the rights and reservations contained in provincial Order in Council 1938-1036, registered in the Indian Lands Registry (ILR) as No 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the Indian Lands Registry as No. 4111-118.



- (c) Chimdimash Indian Reserve No. 2A, being those Reserve Lands within the Province of British Columbia, Canada in Range 5, Coast District, being the whole of Chimdimash Indian Reserve No 2A more particularly described as:

Lands: all that portion of land bounded by the exterior rectilinear boundaries of Chimdimash Indian Reserve No. 2A as shown on Plan BC124 recorded in the Canada Lands Surveys Records (CLSR), and the ordinary high water mark of the Skeena River as shown on Plan \*\*\*\*\* CLSR.

(Note \*\*\*\*\*: The ordinary high water mark of the Skeena River is presently being surveyed under Legal Surveys Division Project No. 2004-10-092. Plan number will be entered in legal description upon recording of the plan in the CLSR.)

Excepting thereout and therefrom:

All that portion required for a highway right of way as shown on Plan RD3274 CLSR:

And all that portion required for a highway right of way as shown on Plan 52653 CLSR.

Total lands containing 127 hectares (314 acres) more or less.

The above described Reserve Lands are subject to the rights and reservations contained in provincial Order in Council 1938-1036, registered in the Indian Lands Registry (ILR) as No 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the ILR as No. 4111-118.

- (d) Ikshenigwolk Indian Reserve No. 3, being those Reserve Lands within the Province of British Columbia, Canada in Range 5, Coast District, described as follows:

Lands: a parcel bounded by the exterior boundaries of Ikshenigwolk Indian Reserve No. 3, as shown on a Plan of Survey prepared by David J. Hardwick BCLS, CLS, under Legal Surveys Division Project No. 2004-10-094.

Excepting thereout and therefrom:

All that portion required for a highway right of way as shown on Plan RD3372



CLSR; and

All that portion required for a highway right of way as shown on Plan 57929 CLSR.

Total lands containing 27.46 hectares (67.85 acres) more or less.

The above described Reserve Lands are subject to the rights and reservations contained in provincial Order in Council 1938-1036, registered in the Indian Lands Registry (ILR) as No 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the ILR as No. 4111-118.

- (e) Kshish Indian Reserve No. 4, being those Reserve Lands within the Province of British Columbia, Canada in Range 5, Coast District, being the whole of Kshish Indian Reserve No 4 more particularly described as:

Lands: all that portion of land bounded by the exterior rectilinear boundaries of Kshish Indian Reserves No. 4 and 4B as shown on Plan 65891 recorded in the Canada Lands Surveys Records (CLSR), and the ordinary high water mark of the Skeena River as shown on Plan BC 123 CLSR.

Excepting thereout and therefrom:

All that portion required for a highway right of way as shown on Plan RD2540 CLSR;

All that portion required for a railway right of way as shown on Plan RR884B CLSR; and

All that portion of Kshish Indian Reserve No. 4B as shown on Plan BC585 CLSR.

Total lands containing 269 hectares (665 acres) more or less.

The above described Reserve Lands are subject to the rights and reservations contained in provincial Order in Council 1938-1036, registered in the Indian Lands Registry (ILR) as No 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the ILR as No. 4111-118.



- (f) Kshish Indian Reserve No. 4b, being those Reserve Lands within the Province of British Columbia, Canada in Range 5, Coast District, being the whole of Kshish Indian Reserve No 4B more particularly described as:

Lands: all that portion of land bounded on the south and east by the exterior boundaries of Kshish Indian Reserve No. 4B as shown on Plan BC585 recorded in the Canada Lands Surveys Records (CLSR), and bounded on the north and west by the exterior boundaries of Kshish Indian Reserve No. 4B as shown on Plan 65891 CLSR.

Total lands containing 4.05 hectares (10 acres) more or less.

The above described Reserve Lands are subject to the rights and reservations contained in provincial Order in Council 1938-1036, registered in the Indian Lands Registry (ILR) as No 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the ILR as No. 4111-118.

- (g) Zaimoetz Indian Reserve No. 5, being those Reserve Lands within the Province of British Columbia, Canada in Range 5, Coast District, being the whole of Zaimoetz Indian Reserve No. 5, more particularly described as:

Lands: all that portion of land bounded by the exterior rectilinear boundaries as shown on Plan BC123 recorded in the Canada Lands Surveys Records (CLSR), and the ordinary high water mark of the Skeena River and Zymoetz River, shown on Plan BC123 CLSR.

Excepting thereout and therefrom;

All that portion required for road being a parcel of consistent width of 20.116 metres, located 10.058 metres either side of a centreline shown on Plan RD2230 CLSR; and

All that portion required for road shown on shown on FB30562 CLSR, being a copy of Plan 1558 recorded in the Land Title Office for Prince Rupert; and

All that portion required for road as shown on Plan 52696 CLSR excluding that portion of the old road shown on Plan FB30562 CLSR.

Total lands containing 91 hectares (226 acres) more or less.



The above described Reserve Lands are subject to:

An easement in favour of Pacific Northern Gas Limited, registered in the Indian Lands Registry (ILR) as No. 2235-48, and as shown as Parcels A, C, F, H and J, on Plan 55626 CLSR; and

The rights and reservations contained in provincial Order in Council 1938-1036, registered in the Indian Lands Registry (ILR) as No 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the ILR as No. 4111-118.

- (h) Kulspai Indian Reserve No. 6, being those Reserve Lands within the Province of British Columbia, Canada in Range 5, Coast District, being the whole of Kulspai Indian Reserve No. 6 more particularly described as:

Lands: all that portion of land bounded by the exterior rectilinear boundaries of Kulspai Indian Reserve No. 6 as shown on Plan 58777 recorded in the Canada Lands Surveys Records (CLSR), and the ordinary high water mark of the Skeena River, shown as Present High Water Mark on Plan 58777 CLSR.

Excepting thereout and therefrom:

All that portion required for a highway right of way as shown on Plan 51294 CLSR; and

All that portion required for a highway right of way as shown on Plan 56361 CLSR.

Total lands containing 6.42 hectares (15.86 acres) more or less.

The above described Reserve Lands are subject to:

A permit in favour of British Columbia Hydro and Power Authority registered in the Indian Lands Registry as No. 305 and as shown on Plan 53491 CLSR; and

The rights and reservations contained in provincial Order in Council 1938-1036, registered in the Indian Lands Registry (ILR) as No 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the ILR as No. 4111-118.

- (i) Ketonedda Indian Reserve No. 7, being those Reserve Lands within the Province



of British Columbia, Canada in Range 5, Coast District, being the whole of Ketonedá Indian Reserve No. 7 more particularly described as:

Lands: all that portion of land bounded by the exterior rectilinear boundaries of Ketonedá Indian Reserve No. 7 as shown on Plan BC 123 recorded in the Canada Lands Surveys Records (CLSR), and the ordinary high water mark of the Skeena River as shown on Plan BC 123 CLSR.

Excepting thereout and therefrom:

All that portion required for a highway right of way as shown on Plan RD3264 CLSR; and

All that portion required for a highway right of way as shown on Plan 57236 CLSR.

Total lands containing 38 hectares (93 acres) more or less.

The above described Reserve Lands are subject to the rights and reservations contained in provincial Order in Council 1938-1036, registered in the Indian Lands Registry (ILR) as No 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the ILR as No. 4111-118.

#### Additional Land

- 5.2 The following lands may be made subject to this Act if they are, or become, reserve land and the following conditions are met:
- (a) Port Essington Indian Reserve or any other land owned jointly by the First Nation and one or more other First Nations, when the First Nations agree upon a joint management scheme for that land; and
  - (b) any land or interest acquired by the First Nation after this Act comes into force, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for First Nation use.

#### Land Exchange

- 5.3 For greater certainty, section 5.2 does not apply to land acquired by voluntary land exchange in accordance with section 15.1.



Inclusion of Land or Interest

- 5.4 If the relevant conditions in sections 5.2 are met, Council may, after receiving input from the Members, enact a Law declaring the land or interest to be subject to this Act.
- 5.5 For greater certainty, Kitselas Land is First Nation Land within the meaning of the Framework Agreement and the *First Nations Land Management Act*.

**PART 2  
KITSELAS LEGISLATION**

**6. Law-Making Powers**

Council May Make Laws

- 6.1 Council may, in accordance with this Act, make Laws in relation to:
  - (a) development, conservation, protection, management, use and possession of Kitselas Land;
  - (b) interests in, and licenses to use Kitselas Land;
  - (c) any matter necessary to give effect to this Act; and
  - (d) any matter necessary or ancillary to a Law in relation to Kitselas Land.

Examples of Laws

- 6.2 For greater certainty, Council may make Laws in relation to Kitselas Land including:
  - (a) zoning and land use planning;
  - (b) regulation, control, authorization and prohibition of the occupation and development of land;
  - (c) creation, regulation and prohibition of interests and licenses;
  - (d) perfection of legal interests in traditional property lots located at Old Kitselas;



- (e) environmental assessment and environmental protection;
  - (f) archaeological assessment and protection of archaeological and Cultural Resources;
  - (g) provision of local services and imposition of user charges;
  - (h) enforcement of First Nation Laws;
  - (i) provision of services for the resolution, outside the courts, of disputes;
  - (j) setting aside and regulation of parks, parklands and recreational lands;
  - (k) setting aside and regulation of heritage lands;
  - (l) rules and procedures for the receipt, management, expenditure, investment and borrowing of moneys, including the establishment of administrative structures to manage such moneys;
  - (m) creation of management and administrative bodies or agencies;
  - (n) removal and punishment of persons trespassing upon Kitselas Land or frequenting Kitselas Land for prohibited purposes;
  - (o) public nuisance and private nuisance;
  - (p) regulation of sanitary conditions and the provision of sanitary services in private premises and public places;
  - (q) construction and maintenance of boundary and internal fences;
  - (r) construction, maintenance and management of roads, water courses, water diversions, storm drains, bridges, ditches and other local and public works; and
  - (s) regulation of traffic and transportation.
- 6.3 Council will perform all the duties and functions, and exercise all the powers, of the First Nation that are not specifically assigned to an individual or body established under this Act.
- 6.4 Notwithstanding section 6.3 Council may by enacting a Law, delegate administrative



authority in relation to a Law enacted under section 6.1 to an individual or body established or authorized under this Act.

6.5 Where Council enacts a Law under section 6.2(d), Council will consider oral history records.

## 7. Law-Making Procedure

7.1 Council will enact Laws under this Act in accordance with this Part.

### Development of Laws

7.2 Development of a Law may be initiated by:

- (a) Council;
- (b) a committee established under section 11.1; or
- (c) any Member, upon recommendation of the committee referred to in section 7.2(b).

### Notice

7.3 Upon initiation of a proposed Law, Council will:

- (a) Prepare or cause to be prepared a draft of the proposed Law; and
- (b) provide notice to the Members of the subject matter of the proposed Law and the general nature of provisions to be included in the proposed Law.

7.4 Council will provide notice under section 7.3(b) by:

- (a) mailing a copy of the draft of the proposed Law to Eligible Voters at their last known address; or
- (b) posting notice of the proposed Law in a public area.

7.5 Notice under section 7.3(b) will:

- (a) where a committee has been established under section 11.1, invite written or oral presentation from the committee on the subject matter and content of the



proposed Law;

- (b) invite written or oral presentation from Members on the subject matter and content of the proposed Law; and
- (c) specify a date no less than 60 days from the date of the notice for a committee and Members to deliver such presentations to Council.

Council Will Consider

7.6 Upon expiry of the time specified under section 7.5(c), Council will take into consideration any presentations received under section 7.5(a) and (b), the needs of the community, any legal review and other relevant matters and will prepare or cause to be prepared a final version of the draft Law for decision by Council.

Consideration in Principle

7.7 After considering the draft Law, Council will, by Order:

- (a) accept the draft Law in principle and set a return date for further consideration by Council;
- (b) reject the draft Law; or
- (c) direct further work on the draft Law and specify a return date for further consideration by Council.

Explanation for Rejection

7.8 Council will give reasons for rejecting a draft Law.

Approval of Law by Council

7.9 A Law is enacted when it is approved by a majority vote of Council.



Urgent Matters

- 7.10 Council may enact a Law without notice if Council is reasonably of the opinion that the Law is required urgently to protect Kitselas Land or Members.
- 7.11 A Law enacted under section 7.10 will be deemed to have been repealed and to have no force and effect as of 28 days after its enactment, but may be re-enacted in accordance with this Part.

**8. Publication of Laws**

Publication

- 8.1 All Laws will be published in the minutes of Council.

Posting Laws

- 8.2 Within seven days after a Law has been enacted, Council will:
  - (a) post a copy of the Law in a public area; and
  - (b) arrange to publish the Law in the *First Nations Gazette*.

Register of Laws

- 8.3 Council will cause to be kept, at the First Nation administration offices, a register of Laws containing the original copy of all Laws and Orders, including Laws and Orders that have been repealed or are no longer in force.
- 8.4 Any person may, during regular business hours at the First Nation administration offices, have reasonable access to the register of Laws.

Copies for Any Person

- 8.5 Any person may obtain a copy of a Law or Order upon payment of such reasonable fee as Council may set.



**9. Commencement of Laws**

Coming into Effect

9.1 A Law comes into effect on:

- (a) the date it is enacted;
- (b) a date set by Order; or
- (c) such other date as may be specified by the Law.

**PART 3  
MEMBER INPUT AND APPROVALS**

**10. Rights of Eligible Voters**

Rights of Eligible Voters

10.1 Every Eligible Voter may vote in a Ratification Vote.

**11. Community Participation**

Committees

11.1 Council may by Order establish standing and ad hoc committees of Members or others to:

- (a) assist with the development of the Kitselas Land administration regime under section 22.1;
- (b) advise Council and First Nation staff on matters in relation to Kitselas Land;
- (c) recommend to Council Laws, Orders, policies and procedures in relation to Kitselas Land;
- (d) draft proposed legislation and recommend drafting instructions;
- (e) discuss Kitselas Land issues and make recommendations to Council on the resolution of these land issues;



- (f) assist in the exchange of information in relation to Kitselas Land issues between Members and Council; and
  - (g) perform such other duties and functions as Council may direct.
- 11.2 In establishing committees under section 11.1 Council will have regard to:
- (a) representation of community interests and diversity; and
  - (b) knowledge of the First Nation, including oral knowledge and history.
- 11.3 Council will enact a Law establishing policies, processes and criteria for the operation of committees under section 11.1.
- 11.4 The Law enacted under section 11.3 will include provisions regarding:
- (d) specific terms of reference for each committee;
  - (e) appointment, renewal and dissolution of committees;
  - (f) openness of committee meetings;
  - (g) solicitation and receipt of oral or written presentations from Members and others;
  - (h) recording of oral presentations received under section 11.4(g), including appropriation of funds for transcription;
  - (i) standards for full and fair consideration of all presentations received by a committee for inclusion in recommendations to Council;
  - (j) access to expert advisors, legal counsel or other persons to assist in fulfilling the committee's functions;
  - (k) committee procedures and rules of conduct;
  - (l) chairing of the committee; and
  - (m) such other matters as Council may prescribe.
- 11.5 Nothing will preclude Council from appointing a committee under section 11.1 that is



formed independently of Council.

- 11.6 Subject to Council appropriations in respect of financial obligations, a Committee may:
- (a) establish policies for the remuneration and recovery of expenses incurred by committee members; and
  - (b) establish programs for the orientation and education of committee members.
- 11.7 Council may enable assignment of First Nation staff or other resource persons to assist the committee in fulfilling its functions.
- 11.8 Council will appoint a committee under section 11.1 to provide community input prior to the development of a Law in relation to:
- (a) a community plan or subdivision plan;
  - (b) declaring land or an interest referred to in section 5.2 to be subject to this Act;
  - (c) a heritage site or an environmentally sensitive property;
  - (d) environmental assessment;
  - (e) transfer or assignment of interests in land;
  - (f) spousal property under section 30.1;
  - (g) the rate and criteria for the payment of fees or rent for land; and
  - (h) any other matter or class of matters that Council by Order declares to be subject to this section.

## **12. Ratification Votes**

Approval by Ratification Vote

- 12.1 Approval by a Ratification Vote must be obtained for:
- (a) development on a heritage site designated in a land use plan;
  - (b) voluntary exchange of Kitselas Land;



- (c) expropriation of a Member's interest;
- (d) amendment to the Individual Agreement that reduces the amount of funding provided by Canada;
- (e) amendment of this Act; and
- (f) any Law or class of Law that Council by Order declares to be subject to this section.

Individual Agreement

12.2 For greater certainty, an amendment to, or renewal of, the Individual Agreement will not require approval by a Ratification Vote unless the amendment or renewal reduces the amount of funding provided by Canada.

Ratification Process

12.3 A Ratification Vote under this Act will be conducted in substantially the same manner as that set out in the *Kitselas First Nation Community Ratification Process* that was used to ratify this Act.

No Verifier

12.4 A Verifier is not required in a Ratification Vote.

Requirements for Approval

12.5 A matter will be considered approved by a Ratification Vote if a majority of the Eligible Voters participates in the vote and at least a majority of the participating voters cast a vote in favour of the matter.



**PART 4  
EXPROPRIATION AND LAND EXCHANGE**

**13. Expropriation by First Nation**

Rights and Interests  
That May be Expropriated

13.1 An interest or license in Kitselas Land or in any building or other structure on such land may only be expropriated by the First Nation in accordance with the Framework Agreement and a Law enacted in accordance with section 13.3.

First Nation Purposes

13.2 The First Nation may expropriate only for a necessary community purpose or public works of the First Nation.

Expropriation Law

13.3 Council will enact a Law setting out the rights and procedures for expropriation, including provisions in relation to:

- (a) taking possession of the interest or license;
- (b) transfer of the interest or license;
- (c) notice of expropriation;
- (d) service of a notice of expropriation;
- (e) entitlement to compensation;
- (f) determination of the amount of compensation; and
- (g) the method of payment of compensation.

Public Report

13.4 Before the First Nation may expropriate an interest or license, Council will:

- (a) prepare a report on the reasons for the expropriation;



- (b) post a copy of the report in the First Nation administration offices; and
- (c) mail a copy of the report to each Eligible Voter at their last known address.

Rights that May Not  
be Expropriated

13.5 An interest of Her Majesty the Queen in right of Canada, or an interest previously expropriated under section 35 of the *Indian Act*, is not subject to expropriation by the First Nation.

Mutual Agreement

13.6 The First Nation may expropriate only after a good faith effort to acquire, by mutual agreement, the interest or license in Kitselas Land.

Limitation

13.7 The Law enacted under clause 13.3 will include provisions having the following effect:

- (a) an expropriation will be made only for the smallest interest necessary and for the shortest time necessary; and
- (b) where less than a full interest is expropriated, a person whose interest is expropriated may continue to use and occupy the land for purposes that are not inconsistent with the expropriation.

Notice and Compensation

13.8 The First Nation will, in accordance with a Law enacted under section 13.3 and the Framework Agreement:

- (a) serve reasonable notice of the expropriation on each affected holder of the interest or license to be expropriated; and
- (b) pay fair and reasonable compensation to the holder of the interest or license being expropriated.

Compensation Calculation

13.9 The total value of compensation under section 13.8(b) will be based on:



- (a) the fair market value of the interest or license being expropriated;
- (b) the replacement value of any improvement to the land being expropriated;
- (c) the damages attributable to any disturbance; and
- (d) damages for any reduction in the value of a remaining interest.

#### Market Value

13.10 The fair market value of an expropriated interest or license is equal to the amount that would have been paid for the interest or license if it had been sold on Kitselas Land by a willing seller to a willing buyer.

#### Dispute Resolution

13.11 Subject to section 13.13, the resolution of disputes concerning the right of the First Nation to expropriate will be determined by neutral evaluation in the same manner as provided in Part IX of the Framework Agreement.

13.12 The 60 day period referred to in clause 32.6 of the Framework Agreement will be applied, as appropriate in the circumstances, by the neutral evaluator.

13.13 Resolution of the following disputes will be determined by arbitration in the same manner as provided in Part IX of the Framework Agreement:

- (a) a dispute concerning the right of the holder of an expropriated interest or license to compensation; and
- (b) a dispute concerning the amount of compensation.

## **14. Heritage Sites**

#### Approval of Amendments

14.1 No amendment may be made to a land use plan to develop or delete from the land use plan a heritage site designated under that plan unless the amendment receives prior approval by a Ratification Vote.

## **15. Voluntary Land Exchange**



Conditions for a Land Exchange

15.1 The First Nation may by agreement with another party exchange Kitselas Land for land from that other party in accordance with this Act and the Framework Agreement.

No Effect

15.2 A land exchange is of no effect unless it receives approval by a Ratification Vote.

Land to be Received

15.3 A land exchange may proceed to a Ratification Vote only if the land to be received by the First Nation:

- (a) is of equal or greater area than the Kitselas Land to be exchanged;
- (b) is of a value comparable to the appraised value of the Kitselas Land to be exchanged; and
- (c) is eligible to become a reserve under the *Indian Act* and Kitselas Land subject to this Act.

Negotiators

15.4 A person who negotiates a land exchange agreement on behalf of the First Nation will be designated by Order.

Additional Land

15.5 The First Nation may receive additional compensation, including money or other land in addition to the land referred to in section 15.3.

15.6 Such other land may be held by the First Nation in fee simple or other manner.

Federal Consent

15.7 Before the First Nation concludes a land exchange agreement, it must receive a written statement from Canada stating that Her Majesty in right of Canada:

- (a) consents to set aside as a reserve the land to be received in the land exchange under section 15.3, as of the date of the land exchange or such later date as Council may specify by Order; and



- (b) consents to the manner and form of the exchange as set out in the land exchange agreement.

Notice

15.8 At such time as negotiation of a land exchange agreement is concluded, and at least 30 days before the Ratification Vote provided for in section 15.2, Council will provide the following information to the Members:

- (a) a description, including a legal description, of the Kitselas Land to be exchanged;
- (b) a description, including a legal description, of the land to be received by the First Nation;
- (c) a description of any other compensation to be received;
- (d) a report of a certified land appraiser stating that the conditions in sections 15.3(a) and (b) have been met;
- (e) a copy of the land exchange agreement; and
- (f) a copy of the statement from Canada referred to in section 15.7.

Process of Land Exchange

15.9 A land exchange agreement will provide that:

- (a) the other party to the exchange must transfer to Canada the title to the land that is to be set aside as a reserve;
- (b) Council must pass an Order authorizing Canada to transfer title to the Kitselas Land being exchanged, in accordance with the land exchange agreement; and
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the Kitselas Land Register and the First Nation Lands Register.

**PART 5  
ACCOUNTABILITY**



## 16. Application

- 16.1 As soon as practicable after this Act comes into force, Council will enact a Law in respect of conflicts of interest and financial matters in relation to the management and administration of Kitselas Land under this Act.

## 17. Conflict of Interest

### General Duties and Definitions

- 17.1 A Law enacted under section 16.1 in respect of conflict of interest will be consistent with conflict of interest requirements in effect for public governments in Canada and without limiting the generality of the foregoing, will include:
- (a) a definition of conflict of interest;
  - (b) a requirement that no member of Council or other person to whom the Law applies will be involved in any transaction or matter where they are in a conflict of interest or appear to be in a conflict of interest;
  - (c) a procedure for disclosure of conflicts of interest or appearances of conflicts of interest;
  - (d) a procedure for resolving disputes regarding whether a conflict of interest exists;
  - (e) a procedure for approving transactions where a conflict of interest or appearance of a conflict of interest exists; and
  - (f) remedies or penalties.

## 18. Financial Management

### Financial Management and Policy

- 18.1 A Law enacted under section 16.1 in respect of financial management will be consistent with financial management requirements in effect for public governments in Canada and without limiting the generality of the foregoing, will include:
- (a) continuation or implementation of a system of financial planning and financial administration for the management of First Nation moneys through which Council, First Nation employees and other persons who manage moneys in



relation to Kitselas Land are accountable to the Members within the meaning of clause 5.2(d) of the Framework Agreement;

- (b) establishment of bank accounts;
- (c) signing officers;
- (d) the fiscal year of the First Nation;
- (e) procedures of the development and adoption of annual budgets, including consultation with the Members;
- (f) a process for determining
  - (i) fees and rents for interests and licenses in Kitselas Land; and
  - (ii) fees for services provided in relation to Kitselas Land and compliance with this Act
- (g) keeping of financial records in accordance with generally accepted accounting principles;
- (h) preparation of financial statements;
- (i) auditors and audits;
- (j) annual reporting;
- (k) access to financial information; and
- (l) offences and penalties.



**PART 6  
LAND ADMINISTRATION**

**19. Employees and Contractors**

Determination of Standards  
and Qualifications

- 19.1 Council may establish a process for determining standards and qualifications for employees and contractors hired for purposes of implementing and administering this Act.

**20. Registration of Interests and Licenses**

Kitselas Land Register

- 20.1 Council will maintain a Kitselas Land Register in the same form and with the same content as the First Nation Lands Register.

Enforcement of  
Interests and Licenses

- 20.2 An interest or license in Kitselas Land created or granted after this Act comes into force is not enforceable unless it is registered in the Kitselas Land Register.

Duty to Deposit

- 20.3 Council will ensure that an original copy of the following instruments is deposited in the Kitselas Land Register:
- (a) a grant of an interest or license in Kitselas Land;
  - (b) a transfer or assignment of an interest in Kitselas Land;
  - (c) a land use plan, subdivision plan or resource use plan; and
  - (d) this Act and any amendment to this Act.
- 20.4 Every person who receives an interest or license in Kitselas Land from a Member will deposit an original copy of the relevant instrument in the Kitselas Land Register.



Registration of  
Consent or Approval

- 20.5 No instrument that requires the consent of Council or community approval may be registered unless a certified copy of the document that records the consent or approval is attached to the instrument.
- 20.6 Notwithstanding section 20.1, nothing in this Act precludes Council from enacting a Law providing for maintenance of the Kitselas Land Register in such other land registry system or facility as may meet the requirements of the Kitselas Land Register.

## **21. First Nation Lands Register**

Duplicate Register

- 21.1 Council will ensure that a duplicate copy of any instrument deposited in the Kitselas Land Register is deposited in the First Nation Lands Register.

## **PART 7 INTERESTS AND LICENSES IN LAND**

## **22. Interests and Licenses**

Regime to be Established

- 22.1 Within a reasonable time after this Act comes into force, and prior to enacting any further Laws in relation to interests in, and licenses to use, Kitselas Land, Council will establish a community process to develop and recommend to Council a regime for land management under this Act.
- 22.2 Without limiting the generality of section 22.1, the process established under that section will consider:
- (a) land use planning and zoning;
  - (b) specific interests and licenses in relation to Kitselas Land that may be continued or created under this Act, which may include leases, permits, easements and rights of way;
  - (c) allocation of Kitselas Land for residential housing;



- (d) specific licenses and permits for harvest and extraction of natural resources from Kitselas Land, which may include cutting timber and extracting minerals, stone, sand, gravel, clay, soil and other substances;
- (e) traditional forms of tenure, land use and natural resource use;
- (f) processes and criteria that will be applied to the grant, disposition, renewal and enforcement of interests and licenses, which may include Member participation in decision-making;
- (g) standards and forms for the grant and disposition of interests and licenses;
- (h) environmental assessment and environmental protection;
- (i) charge or mortgage of interests, including leasehold interests;
- (j) processes and criteria for appeal from decisions to grant or refuse to grant interests in Kitselas Land;
- (k) resolution of disputes; and
- (l) the policy in relation to spousal property upon which section 30.1 is based.

#### Implementation

22.3 Subject to section 11.1, Council may, after full and fair consideration of any recommendations made by the process established under section 22.1, implement such recommendations through the enactment of Laws and establishment of policies, rules and procedures.

#### All Dispositions in Writing

22.4 An interest in, or license to use, Kitselas Land may only be created, granted, disposed of, assigned or transferred by a written document issued in accordance with this Act.

#### Improper Transactions Void

22.5 A deed, lease, contract, instrument, document or agreement of any kind by which the First Nation, a Member or any other person purports to create, grant, dispose of, transfer or assign an interest or license in Kitselas Land after the date this Act comes into force is void if it contravenes this Act.



Non-Members

22.6 A person who is not a Member may hold a lease, license or permit in Kitselas Land.

Grants to non-Members

22.7 The written consent of Council must be obtained for any grant or disposition of a lease, license or permit in Kitselas Land to a person who is not a Member.

**23. Existing Interests**

Continuation of Existing Interests

23.1 An interest or license in Kitselas Land, whether held by a Member or a person other than a Member, that is in effect when this Act comes into force will, subject to this Act, continue in force in accordance with the terms and conditions of that interest or license.

23.2 Council may, subject to an applicable ruling under Part 8 or by a court of competent jurisdiction, cancel or correct any interest or license issued or allotted in error, by mistake or by fraud.

**24. New Interests and Licenses**

Authority to Make Dispositions

24.1 Subject to this Act, Council may grant:

- (a) interests in Community Land; and
- (b) licenses and permits to take resources from Community Land.

Conditional Grant

24.2 The grant of an interest, license or permit may be made subject to conditions.



## 25. Permanent Interests

### Nature of Interest

- 25.1 Subject to section 22.1, Council may enact Laws providing for an interest in Kitselas Land that entitles a Member holding that land to:
- (a) permanent possession of the land;
  - (b) benefit from the resources in and of the land;
  - (c) grant subsidiary interests, licenses and permits in the land;
  - (d) transfer, devise or otherwise dispose of the land to another Member; and
  - (e) any other rights, consistent with this Act, that are attached to Certificates of Possession under the *Indian Act*.
- 25.2 For greater certainty, no interest under section 25.1 may be granted to a person who is not a Member.

## 26. Transfer and Assignment of Interests

### Transfer of Interests

- 26.1 A Member may transfer or assign an interest in Kitselas Land to another Member without consent of Council.

### Consent of Council

- 26.2 Except for transfers under section 26.1 and transfers that occur by operation of Law, including transfers of estates by testamentary disposition or in accordance with a Law enacted pursuant to section 30.1:
- (a) there will be no transfer or assignment of an interest in Kitselas Land without the written consent of Council; and
  - (b) the grant of an interest or license is deemed to include section 26.2(a) as a condition of any subsequent transfer or assignment.



## 27. Limits on Mortgages and Seizures

### Protections

27.1 In accordance with the Framework Agreement, sections 29, 87, 89(1) and 89(2) of the *Indian Act* continue to apply to Kitselas Land.

### Mortgage of Member's Interest

27.2 The interest of a Member in Kitselas Land may be subject to a mortgage or charge only to the First Nation.

### Mortgages of Leasehold Interests with Consent

27.3 A leasehold interest may be subject to charge or mortgage only with the written consent of Council.

### Default in Mortgage

27.4 In the event of default in the terms of a charge or mortgage of a leasehold interest, the leasehold interest is not subject to possession by the chargee or mortgagee, foreclosure, power of sale or any other form of execution or seizure, unless:

- (a) the charge or mortgage received the written consent of Council;
- (b) the charge or mortgage received Member approval where required;
- (c) the charge or mortgage was registered in the Kitselas Land Register; and
- (d) a reasonable opportunity to redeem the charge or mortgage was given to Council.

### Power of Redemption

27.5 If Council exercises its power of redemption with respect to a leasehold interest, the First Nation becomes the lessee of the land and takes the position of the chargor or mortgagor for all purposes after the date of the redemption.



## 28. Residency and Access Rights

### Right of Residence

28.1 The following persons may reside on Kitselas Land:

- (a) a Member;
- (b) a Member who has been allocated a residential lot by Council;
- (c) a Spouse and child of a Member referred to in section 28.1(b);
- (d) a Member with a registered interest in Kitselas Land;
- (e) an invitee of a Member referred to in section 28.1(b) or (c);
- (f) a lessee or permittee, in accordance with the provisions of the instrument granting the lease or permit.

28.2 For greater certainty, a Member under section 28.1(a) includes a Member who has been accepted under the Kitselas Membership Code by traditional means.

28.3 A right of residence under section 28.1 does not imply any financial obligation on the part of the First Nation.

### Right of Access

28.4 The following persons have a right of access to Kitselas Land:

- (a) a lessee of Kitselas Land;
- (b) an invitee of a lessee of Kitselas Land;
- (c) a permittee and any person who is granted a right of access under the permit;
- (d) a Member;
- (e) a Member's Spouse and children;
- (f) a person who is authorized by a government body or any other public body,



established by or under an enactment of the First Nation, Canada or British Columbia to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey;

- (g) a person authorized in writing by Council; or
- (h) a person authorized by a Law.

Public Access

28.5 A person may have access to Kitselas Land for social or business purposes if that person:

- (a) does not trespass on occupied land;
- (b) does not interfere with an interest or license in land;
- (c) complies with all applicable Laws; and
- (d) no Order has been enacted prohibiting that person from having access to Kitselas Land.

Trespass

28.6 Any person who resides on, enters or remains on Kitselas Land other than in accordance with a right of residence or access under this Act is guilty of an offence.

Civil Remedies

28.7 Subject to any Law enacted under this Act, all civil remedies for trespass are preserved.

No Obligation on the First Nation

28.8 A right of residence or access does not imply any financial obligation on the part of the First Nation.

No Liability on the First Nation

28.9 No liability is imposed upon the First Nation in respect of any person exercising a right of access in accordance with this Land Code for injuries or damages suffered on account of the condition or state of First Nation Land.



## 29. Transfers on Death or Mental Incompetence

Right of Spouse or Dependant

29.1 In the event that:

- (a) a Member holding an interest in Kitselas Land dies intestate and is survived by a Spouse or dependant who does not hold a registered interest in that land; or
- (b) a Member holding an interest in Kitselas Land is declared incompetent due to mental incapacity,

the Member's Spouse or dependant may, where their usual place of residence was with the Member at the time of the Member's death or declaration of incompetence, continue to reside on and use the land until the Member's interest is disposed of under this section.

29.2 A Spouse or dependant referred to in section 29.1, whether or not their usual place of residence was with the Member at the time of the Member's death or declaration of incompetence, may make application for transfer of the Member's interest, and Council will, subject to this Act, decide such application on its merits.

Location of Immediate  
Relatives

29.3 In the event that:

- (a) no other provision has been made by a Member referred to in clause 29.1 for the disposition of the interest in the Kitselas Land;
- (b) the Member's Spouse or dependant does not within a reasonable time make application under clause 29.2; or
- (c) an Immediate Relative of the Member disputes the continued residence on or use of the land by the Member's Spouse or dependant,

Council will take reasonable steps to advise any other Immediate Relatives of the Member that the interest held by the Member is available for disposition or is in dispute, and the Member's Immediate Relatives may, with the assistance of the Panel if requested, recommend who is to receive the interest in the land.



Committee

- 29.4 If a Member referred to in section 29.1 has no other Immediate Relatives, or if the Immediate Relatives do not within a reasonable period of time after the date of the Member's death or declaration of incompetence recommend who is to receive the interest, Council will decide who is to receive the interest and may appoint a committee under section 11.1 to provide advice on the disposition of the interest.
- 29.5 Subject to this Act and any applicable Law, Council will:
- (a) give full and fair consideration to any recommendation made under section 29.3 or 29.4; and
  - (b) make best efforts to implement that recommendation.

**30. Spousal Property Law**

Development of Rules  
and Procedures

- 30.1 Within 12 months after the date this Act comes into force Council will enact a spousal property Law providing rules and procedures applicable on the breakdown of a marriage to:
- (a) the use, occupancy and possession of Kitselas Land; and
  - (b) the division of interests in that land.

Enactment of Rules and  
Procedures

- 30.2 The rules and procedures contained in the spousal property Law will be developed in consultation with the Members.

General Principles

- 30.3 The rules and procedures developed under section 30.2 will take into account the following general principles:
- (a) the children of the Spouses, if any, should have a right to reside in the matrimonial home until the age of majority or until other arrangements have been



made in the best interests of the children;

- (b) each Spouse should have an equal right to possession of the matrimonial home;
- (c) each Spouse should be entitled to an undivided half interest in the matrimonial home as a tenant in common;
- (d) the rules and procedures will not discriminate on the basis of sex; and
- (e) only Members are entitled to hold a Permanent Interest in Kitselas Land or a charge against a Permanent Interest in Kitselas Land.

Interim Law

30.4 Council may enact an interim spousal property Law at any time within the 12 month period prescribed in section 30.1.

30.5 A Law enacted under section 30.4 will be deemed to be repealed 12 months after the coming into force of this Act, but may be re-enacted in accordance with section 30.1.

**PART 8  
DISPUTE RESOLUTION**

**31. Dispute Resolution Panel**

Panel Established

31.1 Subject to this Part, disputes in relation to Kitselas Land may be resolved by a Panel appointed under this Part.

Appointment of Panel

31.2 A Panel will be composed of three panelists.

Representation

31.3 Subject to section 32.7, Council will appoint the Panel, and will ensure that the Panel is reasonably representative of the various elements of the community.



No Remuneration

31.4 Unless Council by Order provides otherwise, members of a Panel will receive no remuneration.

## **32. Dispute Procedure**

Disputes

32.1 Any matter or dispute in relation to Kitselas Land may be referred to a Panel for resolution.

Prior Disputes

32.2 For greater certainty, disputes that arose before this Act comes into force may be referred to a Panel.

Optional Process

32.3 Referral of a dispute to a Panel is optional and all other civil remedies continue to be available to a party to the dispute.

Disputes not  
Resolved by Council

32.4 If a Member, or a non-Member with an interest in Kitselas Land, has a dispute with Council, that person will attempt to resolve the dispute with Council before referring the dispute to a Panel.

Application Procedures

32.5 Referral to a Panel will be made in accordance with procedures established by Council.

Limitation Period

32.6 The limitation period for referring a matter or dispute to a Panel is:

- (a) 30 days after the date the decision, act or omission that is the subject of the dispute occurred;
- (b) in the case of a dispute under section 29.3(c), 18 months after the date of the decision; or



- (c) in the case of a dispute with Council, 30 days after Council rejects the attempt at resolution under section 32.4.

Disputes with Council

32.7 Notwithstanding section 31.3, in the event of a dispute with Council, and unless otherwise agreed by the Parties to the dispute, the Panel will be appointed as follows:

- (a) one member of the Panel by Council;
- (b) one member of the Panel by the person referring the dispute to the Panel; and
- (c) one member of the Panel by the members appointed under sections 32.7(a) and (b).

### **33. Impartiality**

Duty to Act Impartially

33.1 The members of a Panel will act impartially and without bias or favour to any party in a dispute.

Offence

33.2 It is an offence for a person to act, or attempt to act, in a way to improperly influence a decision of a Panel.

Rejection of Application

33.3 In addition to any other penalty provided for an offence under section 33.2, a Panel may refuse to hear a dispute if the Panel reasonably concludes that the applicant acted, or attempted to act, in a way intended to improperly influence a decision of the Panel.

### **34. Powers of Panel**

Powers of Panel

34.1 A Panel may, after hearing a dispute:

- (a) confirm or reverse the decision, in whole or in part;



- (b) substitute its own decision for the decision in dispute;
- (c) direct that an action be taken or ceased; or
- (d) refer the matter or dispute for reconsideration.

Rules of Panel

34.2 A Panel may, consistent with this Act, establish rules for procedures at its hearings and for the general conduct of its proceedings.

Professional Services

34.3 Council may retain the service of professionals to assist a Panel in fulfilling its functions, in which case it will make best efforts to use professional services available in the community.

Decisions of Panel

34.4 A Panel will give reasons for a decision.

34.5 Decisions of a Panel will be in writing.

34.6 Decisions of a Panel will be signed by the chair of the Panel or by an officer designated by the Panel.

34.7 Subject to section 34.10, a decision of a Panel is binding.

Term

34.8 Where no appeal is taken under section 34.10, a Panel will dissolve 30 days after giving its decision.

34.9 Where a decision of a Panel is appealed under section 34.10 the Panel may adjourn, but will not be dissolved, until all appeal proceedings have been concluded.

Appeal of Decision

34.10 Subject to any exception established by a Law, a decision of a Panel may within 30 days of the decision being delivered by a Panel, be appealed to a court of competent jurisdiction.



Costs

34.11 Unless otherwise ordered by a Panel or a court, the parties to a dispute will bear their own costs.

Alternate Forums

34.12 Nothing in this part precludes Council from establishing additional processes for resolving disputes, which processes may include administrative appeals, facilitated discussions, mediation or arbitration.

**PART 9  
OTHER MATTERS**

**35. Liability**

Liability Coverage

- 35.1 Council will arrange for, maintain and pay insurance coverage for:
- (a) liability of the First Nation in relation to Kitselas Land; and
  - (b) personal liability of the First Nation's officers and employees for acts done or omitted to be done in good faith while engaged in carrying out duties in relation to Kitselas Land.

Extent of Coverage

35.2 Council will determine the extent of insurance coverage under section 35.1.

**36. Offences**

Application of  
Criminal Code

36.1 Unless otherwise provided by a Law, the summary conviction procedures of Part XXVII of the *Criminal Code* apply to offences under this Act and offences under a Law.



Justices of the Peace

36.2 Council may enact Laws in relation to appointment of justices of the peace for the enforcement of this Act and Laws.

Provincial Courts

36.3 If no justice of the peace is appointed, this Act and Laws will be enforced in the Provincial Court of British Columbia or British Columbia Supreme Court as the case may require.

**37. Amendments to Act**

Approval by Ratification Vote

37.1 Amendments to this Act must receive approval by Ratification Vote.

**38. Commencement**

Preconditions

38.1 This Act will be ratified if:

- (a) the Members approve this Act and the Individual Agreement by Ratification Vote; and
- (b) this Act has been certified by the Verifier in accordance with the Framework Agreement.

Commencement Date

38.2 Subject to section 38.1 this Act will come into force on the later of:

- (a) the first day of the month following certification of this Act by the Verifier; or
- (b) the date the Individual Agreement is executed on behalf of Canada.