

**Prince George Treaty Advisory Committee**  
**Response to the Lheidli T'enneh Agreement-in-Principle**  
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**ASPEN COMMUNICATIONS LTD**

## Prince George Treaty Advisory Committee

### Response to the Lheidli T'enneh Agreement-in-Principle

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## **1.0 Introduction:**

British Columbia, Canada and the Lheidli T'enneh Band are participating in tripartite negotiations aimed at achieving a modern day treaty. Negotiations were initiated following the Lheidli T'enneh submission, in December 1993, of a Statement of Intent to negotiate a treaty with Canada and British Columbia. The Lheidli T'enneh negotiations have been the focus of significant effort by all parties and substantial progress has been made. The parties signed the Lheidli T'enneh Agreement-in-Principle on May 2, 2003.

In 2002 the Province of British Columbia entered into a renewed Memorandum of Understanding with the Union of British Columbia Municipalities which defines local government participation in treaty negotiations. The MOU recognizes that "local government representatives are members and respected advisors on provincial treaty negotiation teams throughout all stages of the treaty process" and provides that "provincial government negotiating staff will share information and seek and consider local government interests and advice."

The draft chapters of the Agreement-in-Principle have evolved through ongoing negotiations over a considerable period of time. The Prince George Treaty Advisory Committee (PGTAC) has advised the Province of local government interests on an ongoing basis throughout the treaty negotiations process. This document presents a summary of the advice issued by PGTAC with a description of the current status of the PGTAC interest, including how it is addressed in the AIP.

This summary is organized in three sections as follows:

- Excerpts from PGTAC Statements of Interest
- PGTAC interests and advice related to specific chapters in the draft agreement
- Related interests and issues

The content of this document has been developed from a number of sources including, PGTAC Statements of Interest, PGTAC issues papers and earlier advice charts, PGTAC meeting notes, minutes and reports, submissions and presentations by local government, PGTAC members input, and local government staff input.

## **2.0 Excerpts from PGTAC Statements of Interest:**

### **Certainty and Finality:**

PGTAC wants treaty settlements to be certain and final, meaning that the final outcome of treaty negotiations will be a completion of the process of addressing outstanding First Nations claims. The ultimate goal is to achieve equity, equality and fairness for all people involved and affected by the process. This will enable all citizens of British Columbia to move toward economic, social and community stability.

### Fairness and Equity:

PGTAC is interested that treaty settlements will be within the framework of the Canadian Constitution and that the Charter of Rights and Freedoms will apply to all citizens of this province, and that fairness and equity to all will be a fundamental premise in the negotiations. Fairness and equity take on the highest importance when considering the allocation of resources. Treaties must provide fairness and equity in the allocation of resources for all peoples of the province.

### Affordability:

PGTAC has an interest in settlements being affordable. The value of the settlement package (land, resources and cash) is of great interest to local governments.

### Community Stability:

PGTAC is vitally concerned for the future of their communities and want treaty settlements that will not weaken the social and economic stability of those communities. Local communities which depend on resource extraction are vitally interested in ensuring that their communities continue to have access to resources which sustain them.

## **3.0 PGTAC Advice on the Agreement-in-Principle:**

### **Explanatory Notes:**

This section is organized in the same order as the AIP chapters, although if PGTAC has no advice on a particular chapter, that chapter title is not included.

PGTAC advice for each chapter is shown in the left hand column of the following tables, with the following drafting conventions:

- Where an interest or issue previously raised by PGTAC has been adequately reflected in the AIP, it is set out in plain text.
- **Where the language in the AIP does not currently address a PGTAC interest or issue, it is set out in bold. For further clarity, items shown in bold are the interests and issues that PGTAC proposes for changes to the draft chapter.**
- *If a particular topic of PGTAC interest is not yet included in the AIP, but PGTAC desires consultation when that topic is addressed, that item is shown in italics.*

The current status of any interest is indicated in the right hand column of the following tables. When the right column is blank, the interest has not been fully addressed in the draft chapters.

## GENERAL PROVISIONS CHAPTER

PGTAC Interest	Status
<p>Certainty and finality are key issues for PGTAC per Statements of Interest.</p>	<p>Certainty respecting undefined aboriginal rights is addressed in Paragraphs 33 to 41 of the Agreement-in-Principle. Legal certainty is addressed through “modification” of aboriginal land and resource rights, i.e. all previous aboriginal rights are modified and replaced by those treaty rights set out in the Final Agreement. The only land and resource rights of the Lheidli T’enneh will be those described in the treaty.</p>
<p><i>Paragraph 40 provides that if the Lheidli T’enneh wish to exercise a right that is not addressed in the Lheidli T’enneh Governance Agreement, that the parties can agree to enter into negotiations on amending the Lheidli T’enneh Governance Agreement. Local government should be consulted on any amendments to the Governance Agreement.</i></p>	
<p>Lheidli T’enneh Area. This term is used within the Fish, Wildlife and Migratory Birds chapters to denote areas where harvest of fish, wildlife and migratory birds is provided. It is important that the Lheidli T’enneh area is clearly defined.</p>	<p>The Lheidli T’enneh Area is now defined in Appendix D of the AIP.</p>
<p>Food, social and ceremonial purposes: These terms are used in the Fish, Wildlife and Migratory Birds chapters and are not defined in the draft. Food and ceremonial purposes should be fairly straightforward, but “social purposes” could be broadly interpreted so the meaning in the context of the treaty needs to be clearly defined.</p>	<p>“Food, social and ceremonial purposes” relates to traditional use practices and has been partially defined in case law. An important aspect is that anything harvested under this provision cannot be sold.</p>

## ELIGIBILITY AND ENROLMENT CHAPTER

PGTAC Interest	Status
<p>Enrolment Procedures: Enrolment should be required in a timely manner in order that accurate information on who is enrolled is available at time of ratification</p>	<p>Enrolment procedure is defined in this chapter. Voting age of 16 years is for treaty ratification vote only. Precedent for this ‘exists.</p>
<p>Other Land Claims Agreements: Applicants are not permitted to be enrolled under another treaty or land claims agreement while being enrolled under the Lheidli T’enneh agreement.</p>	<p>PGTAC interests are satisfactorily addressed in Paragraphs 6 to10.</p>

## LANDS CHAPTER

PGTAC Interest	Status
Land Quantum, Land Selection, including specific parcel selection: Land quantum is of high interest to local government and ongoing input is required as part of the consultation process on land selection.	Local government consultation on land selection has been ongoing and the specific parcels for inclusion in the AIP are identified in Appendices A-1 and A-2.
PGTAC has consistently held that private land parcels should not be considered for treaty settlements	The province has provided assurance that no private fee simple land will be included in any treaty offer to the Lheidli T'enneh. Although no private land is specifically included in the AIP, the Lands Chapter paragraph 2 contemplates the purchase of up to 150 additional hectares of land from willing sellers prior to Final Agreement.
A mechanism should be provided for land owners who may not be willing sellers to be compensated.	Response from BC: No land from unwilling sellers is contemplated, i.e. no expropriation of land is contemplated.
The Lheidli T'enneh should not have the rights to expropriate lands from non-Lheidli T'enneh citizens.	Response from BC: Lheidli T'enneh will not have the right under the Final Agreement to expropriate land that is not part of their treaty settlement lands.
Local Government interests in land: Land selection should avoid the selection of land which may encroach on local government's current and future interests in land. Local government investments in infrastructure and provision of services need to be protected. This includes protection of specific services and land uses including those required for solid waste management, 9-1-1 sites, regional parks, air, water and soil quality, including future needs for upgrading these services. Local government's future needs for expansion or industrial land base should also be protected.	Local government consultation on land selection has been ongoing and the specific parcels for inclusion in the AIP are identified in Appendices A-1 and A-2.

<b>PGTAC Interest</b>	<b>Status</b>
<p>Agricultural Land: The integrity of the Agriculture Land Reserve process is of high importance to PGTAC. The established process for removal of land from the Agriculture Land Reserve must be respected and the decision making role of the Regional District of Fraser-Fort George Directors is to be preserved.</p>	<p>BC attempted firstly to select lands outside the ALR for treaty settlement land.</p> <p>All existing ALR processes will be observed. Specifically: four parcels included in the AIP are currently in the ALR, for two of these parcels the province will make application to the Agricultural Land Commission (ALC) for removal, and the ALC will decide whether or not removal is approved. The results of applying to the ALC for removal of two parcels from the ALR will be independently determined by the ALC.</p> <p>The federal “experimental farm” land is not currently in the ALR and will not be in the ALR.</p>
<p>Land proposed for removal from the ALR should not be “traded off” by moving other parcels into the ALR without consultation with local government.</p>	<p>Response from BC: There will be consultation if there is a proposal to swap other lands.</p>
<p>Law Making: It is important to protect and preserve the legislative right of local governments to provide governance and policy for management of lands within their jurisdictions, subject to federal and provincial laws.</p>	<p>The Lheidli T’enneh will have authority to manage their lands and this authority is supplemented by processes for consultation and relationships to deal with planning and zoning. Refer to Lands Chapter Paragraph 9 for consultation re: land proposed for industrial purposes and to the Local and Regional Government Relations Chapter.</p>
<p>Duplication and inefficiencies by the establishment of parallel or equivalent bureaucratic processes should be avoided. E.g. the establishment of a Lheidli T’enneh land title or land registry system.</p>	<p>Canada and the Province share the objective of avoiding inefficiencies and duplication. E.g.: any Lheidli T’enneh registry would provide for certainty and predictability with respect to the provincial system.</p>

<b>PGTAC Interest</b>	<b>Status</b>
<p>Land Use Planning: Land use planning coordination is required. Planning processes for Lheidli T'enneh lands should be coordinated within other local government planning processes related to the regulation of development. Proposed wording: Prior to invoking a Law pursuant to Lands Chapter Section 7(b) the Lheidli T'enneh will invite the Regional District of Fraser-Fort George to participate in planning, zoning and development decisions for Lheidli T'enneh Lands that are proposed for industrial uses or purposes. PGTAC supports the proposed wording and suggests broader land use planning coordination for commercial and residential land as well.</p>	<p>Wording very similar to that proposed by the RDFFG, and which satisfies the intent, has been adopted in Lands Chapter Paragraph 9.</p>
<p>Local government consultation in land use issues on Lheidli T'enneh lands should be required, in the same way local governments are currently part of land use decisions on Crown land and on lands under the jurisdiction of other local governments.</p>	<p>Language in the Lands Chapter Paragraph 9 addresses this interest. Local and Regional Government Relationships Chapter Paragraphs 2 and 4 also address this interest.</p>
<p>Definition of Fee Simple: There is a need to establish clarity around the definition of fee simple that will apply to Lheidli T'enneh lands. Will it be the provincial or the federal definition?</p>	<p>Response from BC: The Lheidli T'enneh will have governance authority over Treaty Settlement Lands (with the exception of two parcels which will be held in provincial fee simple ownership.) There will not be any federal jurisdiction on Lheidli T'enneh lands.</p>
<p>Additions to Lheidli T'enneh lands: The words in Paragraph 17.c. should be changed from "municipality" to "local government jurisdiction" in order that the provision is inclusive of all forms of local government. The Regional District of Fraser-Fort George also proposes: Where the lands proposed to become Lheidli T'enneh Lands are Provincial Crown Land the Province will consult and receive input from the Regional District of Fraser-Fort George on the impacts of such land transfer and shall receive the consent of the Regional District of Fraser-Fort George.</p>	<p>Lands Chapter Paragraph 19 b. provides for the interests of the Regional District of Fraser-Fort George to be taken into account in any decision re additions to Lheidli T'enneh lands. Full consent is not required however.</p>



PGTAC Interest	Status
<p>Protection for Third Party interests: All existing interests in leases and licences are to be protected and any unsecured land tenures are to be protected. In addition, all interests of adjacent land owners and tenure holders will be protected. Location of Lheidli T'enneh lands should not impact future use of adjacent properties.</p>	<p>BC's interest is that existing land tenures will not be disrupted. Lands Chapter Paragraph 10 provides for the continuance of interests existing on the effective date of the final agreement. Appendix C identifies Interests on the Proposed Land Package</p>
<p>Tenures for Utilities: Tenures for existing rights of way for utilities on or over lands which are to become Lheidli T'enneh lands must be protected with all current provisions intact.</p>	<p>Response from BC: For the most part, utilities will be excluded from treaty settlement lands. Refer to paragraph 10 of Access Chapter and paragraph 10 of Roads and Rights of Way Chapters</p>
<p><b>Land and Resource Management Plans (LRMPs): LRMPs have been established in the region through collaborative processes that involved a considerable investment of time and resources by local government and others. PGTAC has an interest that any treaty rights that are negotiated will strive to be compatible with the objectives of the LRMPs.</b></p>	<p>Response from BC: The AIP does not specifically address LRMPs. There should be more discussion of LRMPs between AIP and final agreement so that PGTAC's interest can be addressed if possible.</p>

## ACCESS CHAPTER

PGTAC Interest	Status
<p>Public Access: While reasonable public access is provided for in paragraphs 4 through 9, a provision should be added which stipulates "without payment of any charge, fee or levy", similar to that contained in Paragraphs 16 through 20.</p>	<p>Access Chapter Paragraphs 4 to 9 provide for reasonable public access. Paragraph 5 provides for reasonable opportunities to hunt and fish. Paragraph 8 provides for alternative means of public access if any designation of Lheidli T'enneh Lands prevents public access. Paragraphs 16 to 21 provide for access to tenures or interests on or adjacent to Lheidli T'enneh Lands. Provision for reasonable access would not include levying a toll.</p>
<p>Access for Local Government: Paragraph 10 should include the right of access for local government agents, employees and contractors for the same purposes included for Canada and British Columbia.</p>	<p>The PGTAC interest is addressed in paragraphs 10 and 12. Local government will have the same access rights as the provincial government.</p>

<b>PGTAC Interest</b>	<b>Status</b>
Access for adjacent private interests: Access is to be protected for landowners and tenure holders adjacent to Lheidli T'enneh lands, and future access to privately held parcels and other tenures is to be protected.	PGTAC interests are addressed in Access Chapter Paragraphs 16 to 21.
Access to Shorelines: Treaty provisions need to define the rights of access to shorelines on Lheidli T'enneh lands.	Access to shorelines are protected under paragraphs 4 and 9.

## **ROADS AND RIGHTS-OF-WAY CHAPTER**

<b>PGTAC Interest</b>	<b>Status</b>
Responsibility for costs: While the chapter addresses the administration and control of Lheidli T'enneh roads, it does not deal with the responsibility for costs for construction and maintenance of Lheidli T'enneh roads. This chapter should include language that specifically addresses this topic as well as the costs for construction and maintenance of roads that may be required to access Lheidli T'enneh lands.	Response from BC: The maintenance and administration of any roads on provincial Crown land will continue to be paid for by the province.

## **FORESTRY CHAPTER**

<b>PGTAC Interest</b>	<b>Status</b>
Forest Practices: Standards that meet or exceed provincial requirements for Crown and private lands should apply to Lheidli T'enneh lands or other forestry tenures granted the Lheidli T'enneh. Regulations governing commercial activities involving the use of forest resources should be consistent with federal and provincial environmental guidelines and best practices.	Paragraphs 2, 6 and 7 provide for private land regulations to apply to forest practices on Lheidli T'enneh lands. Crown land regulations will apply to any area-based forestry tenure awarded under the Interim Measures Agreement referred to in paragraph 17.
Forest Stewardship and Management: Treaty provisions should address the goal of stewardship and sustainability of the resources of the forest land base, both pre and post treaties. Treaty negotiators must recognize the importance stewardship of resources on forest lands in order to protect and sustain the resources over the long term.	PGTAC interests are largely addressed in the current language in the draft chapters. Refer to Forestry Chapter, paragraphs 10-14.

<b>PGTAC Interest</b>	<b>Status</b>
<p>Monitoring and enforcement should be uniformly applied across Lheidli T'enneh lands and crown lands.</p>	<p>Paragraph 18 of General Provisions confirms the continued application of federal and provincial laws, including those respecting forestry and offences on Crown land. For greater certainty, paragraph 3 confirms that nothing in the Final Agreement will provide any jurisdiction over timber marks and scaling on treaty settlement lands. Forestry Chapter paragraphs 12 to 14 preserves the right of access for enforcement.</p>
<p><i>Proposed Area Based Forestry Tenure: Further consultation will be required in negotiations to establish the forestry tenure. PGTAC suggests the following principles should guide the negotiations:</i></p> <ul style="list-style-type: none"> <li>• <i>Treaty negotiators will recognize the current and past patterns of use of forest resources.</i></li> <li>• <i>Local representation will be required, both on behalf of the citizens potentially impacted by the issuance of the tenure and the forest companies that might be directly impacted.</i></li> <li>• <i>Treaty negotiators will recognize that any reallocation of rights to the resources of the forest land base will impact industries, businesses, individuals, and local governments.</i></li> <li>• <i>Treaty negotiators will work to avoid or minimize treaty or treaty related settlements which directly or indirectly impact the current allocation of forest related resources.</i></li> <li>• <i>Before treaty allocations are determined, impact assessment studies will be carried out by senior governments to quantify the economic impacts and determine the basis for compensation.</i></li> <li>• <i>Holders of forest based tenures and licences will be compensated for any impacts on these agreements, as will secondary businesses, individuals and local governments impacted by the reallocation of these resources, whether or not they directly hold legally defined</i></li> </ul>	<p>PGTAC requires and the Province has committed to further consultation with PGTAC on the Area Based Forestry Tenure.</p>

<p><i>interests.</i></p> <ul style="list-style-type: none"> <li>• <i>Treaty negotiators will recognize the importance of stewardship of resources on forest lands in order to protect and sustain the resources over the long term.</i></li> <li>• <i>Harvesting and processing activities will have equal provincial and federal tax treatment as competitive activities on tenures outside treaty agreements. All harvesting and processing activities will be subject to the same quality controls, health standards and inspections.</i></li> </ul> <p><i>Any treaty rights which are negotiated will strive to be compatible with the objectives of the relevant Land and Resource Management Plans.</i></p>	
<p><i>PGTAC advises treaty negotiators to recognize the current and past patterns of use of natural resources and strive for treaty settlements that maintain access to natural resources in manner that is fair to all citizens of British Columbia. Control and use of the provinces natural resources is a significant interest for PGTAC and there is a concern that treaty settlements might threaten the survival or well being of resource dependent communities. Further consultation will be required as any side agreements are negotiated.</i></p>	<p>PGTAC requires and the Province has committed to further consultation on any side agreements involving natural resources.</p>
<p>Reciprocal Consultation requirement: Requirements for consultation on resource management projects such as Community Forest developments should be reciprocal. I.e. First Nations carry a responsibility to consult non-aboriginal interests when those interests might be impacted.</p>	<p>PGTAC interests are addressed in Forestry Chapter paragraph 9. PGTAC requires further consultation as agreements are negotiated under this provision. Local Government Relationships Chapter paragraph 4 also addresses this interest.</p>

## SUBSURFACE AND MINERAL RESOURCES CHAPTER

<b>PGTAC Interest</b>	<b>Status</b>
<p>Local Government need access to sand, gravel and topsoil for local government needs, including for expansion needs and future use, should be protected.</p>	<p>Lands selection has excluded any parcel which has a significant gravel deposit. Refer to Appendices A, A-1 and A-2.</p>
<p>Reclamation requirements: Reclamation requirements on Lheidli T'enneh lands should be consistent with the requirements for crown lands.</p>	<p>Reclamation requirements are addressed in paragraph 6.b.</p>

<b>PGTAC Interest</b>	<b>Status</b>
Valuation of subsurface rights: PGTAC requests clarification on how the value of subsurface rights will be established in order that they can be included in the total cost of a treaty settlement.	Response from Canada: All costs are taken into account using a very complex formula.

## **WATER CHAPTER**

<b>PGTAC Interest</b>	<b>Status</b>
Existing water licences: Existing water licences are to be protected and treaty settlements must ensure there is no impact on existing water rights of local government.	PGTAC interests are addressed in Water Chapter Paragraphs 8 e., 13 g. and 16 which protect existing water licences and in the defined concept of “available flow” which ensures that water is available for existing licences. Paragraph 13 b. also requires that water licences will conform to provincial regulatory requirements.
Protection for Lheidli T’enneh supply: Treaty provisions should include protection for the supply and quality of water for Lheidli T’enneh domestic use.	Lheidli T’enneh’s water supply will be ensured through the water reservation and licencing provisions: paragraphs 5-17.
Quality control: Consistent standards should be in place to ensure the protection of water quality both on and off Lheidli T’enneh lands. Provisions should protect the quality of water that originates on Lheidli T’enneh land or other Lheidli T’enneh tenures and flows elsewhere.	Provincial laws respecting water quality will continue to apply and paragraph 19 anticipates agreements for coordinating activities related to the protection of water quality.
<i>Water Reservation for Domestic, Community, Industrial and Commercial Use: Specifics of the water reservation are still to be developed.</i>	PGTAC requires further consultation on the Water Reservation.
<i>Lheidli T’enneh Hydro Power Reservation: Specifics of the hydro power reservation are still to be developed.</i>	PGTAC requires further consultation on the Hydro Power Reservation.

## **FISHERIES CHAPTER**

<b>PGTAC Interest</b>	<b>Status</b>
Fairness and Equity: Commercial fishing regulations should apply equally to aboriginals and non-aboriginals.	Current regulations will continue to apply. Fisheries Chapter paragraph 45 provides that fisheries under the Harvest agreement will have the same priority as other commercial fisheries.

<b>PGTAC Interest</b>	<b>Status</b>
<i>Harvest Levels and Salmon Harvest Agreement: Harvest levels for both salmon and freshwater fish are still to be negotiated, and a Salmon Harvest Agreement is still to be developed. Fisheries should be managed for the benefit of all British Columbians.</i>	Paragraph 7 provides that the [Federal] Minister will retain authority to manage and conserve fish and fish habitat. The Province also agrees that PGTAC should have additional consultation as the Fish Harvest Agreement is developed.

## **WILDLIFE CHAPTER**

<b>PGTAC Interest</b>	<b>Status</b>
Fairness and Equity: Wildlife should be managed for the benefit of all British Columbians.	Paragraph 14 provides that the [Provincial] Minister will retain the authority to manage and conserve wildlife and wildlife habitat.
The Lheidli T'enneh Area (for wildlife harvesting rights) has not been defined.	Appendix D defines the Lheidli T'enneh Area.
<i>Fairness and Equity: Wildlife Chapter, paragraph 4 provides for negotiations, prior to final agreement, on the role of public regional wildlife management process in conservation issues.</i>	PGTAC requests additional consultation as this provision is negotiated.
Sale of Wildlife, Transfer of harvesting rights: Commercial sale of wildlife or wildlife parts is not permitted except as allowed by federal and provincial laws.	Wildlife Chapter Paragraph 53 provides that any sale will be in accordance with federal and provincial laws.
The Wildlife chapter, paragraph 8, allows the Lheidli T'enneh to authorize non-Lheidli T'enneh citizens to exercise Lheidli T'enneh harvesting rights. The PGTAC is interested in provisions that will ensure that the harvesting right cannot be sold, or that fees or levies will not be charged for the authorization allowed by paragraph 8.	The Province explains the intent of Paragraph 8 is to provide for someone who is physically incapable of hunting to allow a non-Lheidli T'enneh citizen to exercise that right on their behalf, but only with the approval of the Minister in accordance with an approved wildlife harvest plan.
Monitoring and Enforcement: Treaty provisions should ensure that there will be effective enforcement of federal, provincial and Lheidli T'enneh laws for the benefit of all British Columbians.	Paragraphs 62 and 63 provide for effective enforcement of federal, provincial and Lheidli T'enneh laws related to wildlife.
Enforcement costs: PGTAC request clarification on who will pay for increased cost for enforcement of treaty provisions related to wildlife harvesting.	Response from Canada: The treaty will bring clarity to the rules on aboriginal hunting and should decrease enforcement costs.

## MIGRATORY BIRDS CHAPTER

PGTAC Interest	Status
Fairness and Equity: Harvesting rights for migratory birds should be fair and equitable for all British Columbians and provincial and federal laws should prevail in this regard.	Paragraph 11 provides that the Minister will retain authority to manage and conserve migratory birds and migratory bird habitat. Both the federal and provincial Ministers retain authority to manage and conserve wildlife and wildlife habitat.
Conservation and enforcement: Treaty provisions should ensure that there will be effective enforcement of federal, provincial and Lheidli T'enneh laws for the benefit of all British Columbians.	Paragraphs 38 and 39 provide for effective enforcement of federal, provincial and Lheidli T'enneh laws related to migratory birds.

## ENVIRONMENTAL ASSESSMENT CHAPTER

PGTAC Interest	Status
<i>Harmonization of processes:</i> <i>Treaty provisions should ensure the harmonization of federal, provincial and Lheidli T'enneh environmental assessment processes.</i>	All parties agreed to take the Environmental Assessment Chapter out of the treaty. Provisions related to environmental assessment may be negotiated into the Governance Agreement. PGTAC requires further consultation on this agreement.
<b>Local Government Participation: Provision should be made to enable local government to participate in Lheidli T'enneh Environmental Assessments.</b>	Response from Lheidli T'enneh: The Lheidli T'enneh support PGTAC interests in this respect. Provisions related to environmental assessment may be negotiated into the Governance Agreement.

## ENVIRONMENTAL PROTECTION CHAPTER

PGTAC Interest	Status
Harmonization of standards: Environmental standards and environmental regulation should be consistent on and off Lheidli T'enneh lands. (Refer also to PGTAC interests in the Governance Chapter and Agreement)	Paragraph 6 specifies that federal and provincial laws will prevail over Lheidli T'enneh environmental protection laws (See below for further clarification.)
Enforcement: Treaty provisions should ensure that federal and provincial authorities maintain the right to enforce environmental legislation and standards on Lheidli T'enneh lands.	Paragraph 6 provides that federal and provincial law related to environmental protection will prevail. Paragraphs 4 and 5 enable the Lheidli T'enneh to add additional standards and enforcement if they decide to.

## PARKS AND PROTECTED AREAS CHAPTER

<b>PGTAC Interest</b>	<b>Status</b>
Fairness and Equity: PGTAC is interested in ensuring that wildlife harvesting rights are fair and equitable for all citizens and that provincial and federal laws will prevail in this regard. Rights for the Lheidli T'enneh to harvest fish and wildlife within Parks and Protected Areas should be consistent with existing provincial and federal laws.	Response from BC: The AIP does not change any laws. Federal and Provincial laws now do apply to aboriginal hunting and fishing in parks and protected areas.
Construction of Shelters: There should be no right to build shelters in Parks, Protected Areas, Ecological Reserves or National Historic Sites.	Response from Canada: The supreme court has determined that construction of shelters is permitted with the right to hunt. Current laws and provincial parks management regulations will continue to apply post treaty.
<i>Participation in Park Management and Operations: An agreement enabling Lheidli T'enneh participation in park management and operations is to be negotiated.</i>	PGTAC requires further consultation on this agreement.

## CULTURE AND HERITAGE CHAPTER

<b>PGTAC Interest</b>	<b>Status</b>
PGTAC supports the interests of the Lheidli T'enneh in preserving, identifying and maintaining their culture and heritage.	Provisions in the Culture and Heritage Chapter are supported by PGTAC.
Law Making: Lheidli T'enneh laws in respect to conservation, protection and management of Cultural Heritage Resources on Lheidli T'enneh Lands should apply only to Lheidli T'enneh Cultural Heritage Resources (and not to Canadian Cultural Heritage Resources.)	Paragraphs 1 to 6 provide for Lheidli T'enneh law-making authority respecting Cultural Heritage Resources and the Carrier language on Lheidli T'enneh lands only. Paragraph 2 provides that any such Lheidli T'enneh law will equal or exceed federal and provincial laws.
The Lheidli T'enneh should have authority over Lheidli T'enneh artifacts and cultural heritage resources.	Paragraphs 9 to 18 address the issues of ownership, disposition and relationship between federal, provincial and Lheidli T'enneh laws with respect to Lheidli T'enneh artifacts and cultural heritage resources.



<b>PGTAC Interest</b>	<b>Status</b>
<p><i>Renaming geographic features: PGTAC suggests limits be placed on the renaming of geographic features with Carrier names, and suggests that there needs to be a balance between recognizing First Nations heritage and recognizing Canadian heritage in geographic naming.</i></p> <p><i>Local government should be compensated for any responsibility for costs of replacement signage that may be required due to renaming geographic features.</i></p>	<p>The renaming of geographic features with Carrier names is provided for in paragraph 21. This will take place in accordance with existing provincial policy</p> <p>Appendix J, which will list the features for renaming, has not yet been developed and PGTAC may require additional consultation when this takes place.</p>

## GOVERNANCE CHAPTER

***NOTE: The following is a preliminary overview of PGTAC interests and the status. These will evolve with further discussion of local government interests in Governance and with the development of the Lheidli T'enneh Governance Agreement.***

<b>PGTAC Interest</b>	<b>Status</b>
<p><b>Legal Status and Capacity: PGTAC is interested in ensuring that there is parity for local government and First Nation government in dealing with the Provincial Government.</b></p>	<p>Response from BC: Lheidli T'enneh government and local governments will relate to the Provincial Government in similar ways but also different ways because the Lheidli T'enneh government will be influenced by the Final Agreement and Governance Agreement.</p>
<p><b>Local governments would prefer that First Nations adopt a form of government which provides provincial and federal governments the ability to overrule legislation that does not conform with existing provincial and federal legislation.</b></p>	<p>Response from BC: Federal and Provincial laws will apply concurrently with Lheidli T'enneh laws under the Final Agreement. The Final Agreement and Governance Agreement will have provisions for the relationship of laws in particular subject areas (i.e. conflict of law provisions will exist for each authority and will deal with the question of federal or provincial law prevailing).</p>
<p><i>Lheidli T'enneh Governance Agreement: The governance agreement is still to be negotiated. Among other things this agreement will set out which law prevails where a Lheidli T'enneh law conflicts with a federal or provincial law.</i></p>	<p>PGTAC requires further consultation on the governance agreement.</p>

PGTAC Interest	Status
<p><b>Law Making Authority: It is important to protect and preserve the legislative right of local governments to provide governance and policy for management of lands within their jurisdictions in accordance with federal and provincial laws.</b></p>	<p>Response from BC: Both local government and Lheidli T'enneh government will have authority to manage their lands under their various jurisdictions. The Lheidli T'enneh will have rights to manage their lands but these are supplemented by treaty provision processes for consultation and relationships to deal with planning and zoning.</p> <p>Also, the Lands Chapter (e.g. paragraph 9) and Local and Regional Government Relationships Chapter anticipate agreements for the coordination and cooperation of land uses and planning.</p>
<p><b>The treaty should provide for harmonization of regulatory standards on Lheidli T'enneh lands with those in adjacent local government jurisdictions. This includes regulation of development, environmental protection, land and resource planning, consumer protection, employment standards, workers compensation, health and safety, etc.</b></p>	<p>Response from BC: PGTAC interests may be partially addressed in the Lands Chapter, the Taxation Chapter and the Local and Regional Government Relationships Chapter.</p>
<p><i>Harmonization of standards: Environmental standards and environmental regulation should be consistent on and off Lheidli T'enneh lands.</i></p>	<p>Paragraph 7 provides that the Governance Agreement may contain provisions respecting harmonization of Environmental Assessment regimes. PGTAC requires further consultation on this topic when the Governance Agreement is negotiated.</p>
<p>Non-member representation: The rights of individuals who are not Lheidli T'enneh Citizens, who reside on Lheidli T'enneh land, or have property interest on Lheidli T'enneh land, should be made clear. This should include confirmation of voting rights, right to run for office, and taxation requirements. For example if non-Lheidli T'enneh people pay taxes to the Lheidli T'enneh government, they should vote in some capacity and expect taxation revenue will be spent to provide services for their benefit.</p>	<p>PGTAC interests are satisfactorily addressed in the Governance chapter. Paragraph 11 b. provides for non-member representation in the Lheidli T'enneh government. Paragraphs 38 to 40 provide for non-member consultation and participation in decisions that may affect them.</p>

## LOCAL AND REGIONAL GOVERNMENT RELATIONSHIPS CHAPTER

PGTAC Interest	Status
<p>Harmonization of Standards: Treaties should provide for compatibility and harmonization of standards, e.g. development guidelines, permitting requirements, environmental standards, regulation of storm runoff and leaching ponds, sewage and water, rural land use by-laws, Agriculture Land Reserve process. Planning functions should also be harmonized including solid waste management plans, Official Community Plans, air shed plans, liquid waste management plans.</p>	<p>Response from BC: The Final Agreement and Governance Agreement will have provisions for agreements with Lheidli T'enneh government respecting delivery of services, for coordinating land uses and planning, and for agreements generally to coordinate activities within the respective areas of responsibility of local governments and Lheidli T'enneh government. However, the specifics of harmonization in certain areas, especially technical matters, will likely not be covered by the Final or Governance Agreements, but rather will be left to intergovernmental arrangements between local governments and Lheidli T'enneh government.</p>
<p><b>Consultation with Local Government: The Lheidli T'enneh government should be required to consult with local government when making laws, regulations, development and planning decisions that affect local government. First Nations carry a responsibility to consult non-aboriginal interests when those interests might be impacted.</b></p>	<p>Response from BC: The parties will build working relationships to address these interests, rather than having processes prescribed in the treaty. Paragraph 9 of the Lands Chapter states that the Lheidli T'enneh government will consider the interests of the RDFFG in the development of laws relating to any planning and development of treaty settlement lands for industrial purposes.</p>
<p>Prior to invoking a Law the Lheidli T'enneh will invite neighbouring local governments to participate in planning, zoning and development decisions for Lheidli T'enneh Lands that are proposed for industrial purposes.</p>	<p>Lands Chapter paragraph 9 provides for consultation with the RDFFG on the development of laws respecting the planning or development of lands proposed for industrial purposes.</p>
<p><b>There should be reciprocal requirements for consultation between Lheidli T'enneh and local government on resource management projects such as Community Forest developments.</b></p>	<p>Response from BC: The level of consultation on resource management projects will be a function of relationships between local government and Lheidli T'enneh government rather than provisions in the Final Agreement. Further consultation with PGTAC will occur during Final Agreement negotiations on Community Forest developments.</p>

<b>PGTAC Interest</b>	<b>Status</b>
<p>Lheidli T'enneh participation on Regional District Board: PGTAC supports this proposal and believes it will provide the means for participation in a number of processes where the Lheidli T'enneh and the Regional District have common interests, such as regional planning processes.</p> <p><b>The specifics of establishing participation will require substantive discussions between the Lheidli T'enneh and the Regional District of Fraser-Fort George. As a principle, participation will carry the full obligation of fair sharing of infrastructure and administrative costs and of the costs of any services provided to the Lheidli T'enneh or Lheidli T'enneh lands.</b></p>	<p>Paragraph 2 of the Local and Regional Government Relationships Chapter provides for Lheidli T'enneh government's participation in RDIFFG "in accordance with provincial legislation." The details of the arrangements for this participation will be worked out with the RDIFFG during Final Agreement negotiations and when Lheidli T'enneh approaches the RDIFFG.</p>

## FISCAL RELATIONS CHAPTER

<b>PGTAC Interest</b>	<b>Status</b>
<p><i>Revision of Fiscal Relations Chapter: The Fiscal Relations Chapter may require revision as a result of the development of the Lheidli T'enneh Governance Agreement.</i></p>	<p>PGTAC requires further consultation if the chapter is revised.</p>
<p>Affordability and Equity: The Fiscal Relations chapter appears to contemplate ongoing funding of the Lheidli T'enneh government by British Columbia and Canada indefinitely. PGTAC raises the question of whether it will be affordable to do so over the long term or whether this special treatment for Lheidli T'enneh government is equitable when compared to provisions for non-First Nations governments. Further to this interest, if Canada and British Columbia propose to fund the Lheidli T'enneh government, then the scope of that government must be carefully defined in order to avoid obvious cost inefficiencies by setting up structures or processes that duplicate existing ones. E.g. establishment of land registry system, environmental assessment process, or environmental protection functions.</p>	<p>The Fiscal Relations chapter will in part define funding provisions should Lheidli T'enneh assume responsibility for certain services in future, e.g. seniors housing, or, health care. PGTAC interests may be addressed in Fiscal Relations Chapter paragraph 2 which states that Lheidli T'enneh governance authorities "will not create or imply financial obligations of service responsibility for any party." Paragraphs 1, 5, 6, 7, 10, 11, 14, 16, and 17 deal with a number of items which are still to be negotiated and where some PGTAC interests may be addressed. Further consultation will be required as these provisions are negotiated. Canada and the Province share the objective of avoiding inefficiencies and duplication. Re the example: any Lheidli T'enneh registry would need to be linked to and compatible with the provincial system.</p>

<b>PGTAC Interest</b>	<b>Status</b>
<i>Funding of Capital Assets: Funding of capital assets, infrastructure and housing is still to be negotiated.</i>	PGTAC requires further consultation on these aspects.
<i>Fiscal Agreements, including accounting for "own source revenue": Fiscal agreements will be negotiated every five years. The accounting for "own source revenue" to determine the net amount of funding to be provided by Canada and British Columbia, is still to be negotiated.</i>	PGTAC requires further consultation on these aspects.

### **CAPITAL TRANSFER AND NEGOTIATION LOAN REPAYMENT CHAPTER**

<b>PGTAC Interest</b>	<b>Status</b>
Affordability: The amount of the cash settlement provided in treaties should be affordable.	Paragraph 1 of this chapter provides for capital transfer of \$12.8 million.
<i>Fairness and equity: The parties will negotiate an agreement on revenue sharing prior to final agreement.</i>	PGTAC requires further consultation on any aspect of revenue sharing.
Fairness and equity: Negotiation loan repayment provisions should be fair to all citizens.	Paragraphs 7 to 12 provide the terms for negotiation loan repayment. Interest on negotiation loans will start to be charged from the date of approval of the AIP.

### **TAXATION CHAPTER**

***NOTE: The following is a preliminary overview of PGTAC interests and the status. These will evolve with further discussion of local government interests in Taxation and with the development of the Lheidli T'enneh Taxation Treatment Agreement and other provisions still to be negotiated.***

<b>PGTAC Interest</b>	<b>Status</b>
<b>Tax Exemptions: The treaty should provide for phasing out all Indian Act tax exemptions for the Lheidli T'enneh and Lheidli T'enneh people.</b>	Paragraph 7 provides for negotiation of transitional tax measures on phasing out Indian Act tax exemptions. PGTAC requires further consultation on these aspects.
<b>Tax exemptions should not reduce the tax base of affected municipalities and regional districts. Local government has an interest in maintaining tax base and not having land removed from its taxing authority. Any reduction in tax base would diminish the local capacity to fund existing and future capital and operating expenditures.</b>	Response from BC: There should only be a slight reduction on the Regional District land base. Work is still being done on this topic. PGTAC requires further consultation.

PGTAC Interest	Status
<p><b>Local government taxes: Reserve lands and Lheidli T'enneh lands should be subject to all local government taxes which would be applicable if the land were privately owned. Equity in taxation on Lheidli T'enneh lands is necessary to ensure a level playing field in attracting industrial development. Local government cannot give tax incentives to industry. The Lheidli T'enneh should also ensure charges for services treat similar citizens similarly, as local government must do under the Local Government Act.</b></p>	<p>Response from BC: The Province agrees under paragraph 5 not to impose property tax on treaty settlement lands only if the Province and Lheidli T'enneh reach agreement on the applicable terms for the taxation of persons other than Lheidli T'enneh on treaty settlement lands and on arrangements for the delivery of services on treaty settlement lands.</p> <p>Work is still being done on this topic. The Governance agreement, Taxation Agreement and Fiscal agreements will all work together. Further consultation is required. Canada and BC will respond to the identified PGTAC interest.</p>
<p><i>Taxation Treatment Agreement: Taxation Treatment Agreement is still to be negotiated. A number of additional provisions are still to be negotiated as per paragraphs 1, 4, 5, 7, 8, 11, and 12.</i></p>	<p>PGTAC requires further consultation on the Taxation Treatment Agreement and other provisions still to be negotiated.</p>

## IMPLEMENTATION CHAPTER

PGTAC Interest	Status
<p><i>Local Government involvement: An Implementation Plan is still to be negotiated. Local government in the region must be involved in the development of the Implementation Plan referenced in this section.</i></p>	<p>Canada and BC agree that PGTAC will be involved with further consultation as the Implementation Plan is developed.</p>
<p><b>Local governments must be assured participation in any post-treaty boards, including the tripartite Implementation Working Group, and the Implementation Committee, to be established for the implementation of this treaty.</b></p>	<p>Response from BC: Local governments will be consulted as the Implementation Committee does its work, but they will not be a party to the Committee as only the Parties to the Final Agreement will be the participants on the Implementation Committee.</p>

## DISPUTE RESOLUTION CHAPTER

PGTAC Interest	Status
<p><b>Local Government dispute resolution: This chapter should provide for dispute resolution between the Lheidli T'enneh and local government. Issues are bound to arise, as they do now between local governments, and a process for resolving differences is a necessary provision for treaties. Local government does not have adequate clarity around how local government disputes or disputes which involve community interests will be dealt with.</b></p>	<p>Response from BC: The Dispute Resolution Chapter exists to resolve disputes between the three Parties to the treaty. It does not apply to ancillary agreements such as the Taxation Treatment Agreement, unless the Parties specifically agree that the Chapter applies. The Chapter applies to a dispute respecting the interpretation, application, implementation or breach of the Final Agreement. The Parties' desire that this Chapter will be used infrequently, if at all, and that most disputes will be resolved informally as most intergovernmental disputes are resolved.</p> <p>Further consultation is required. The province will provide additional response to this interest.</p>
<p><b>Dispute resolution provisions should be included in each chapter, including what triggers the process, who can invoke the process and who is involved in the process.</b></p>	<p>Response from BC: Paragraphs 5 and 6 define the when the provisions of the Dispute Resolution Chapter apply. In addition to the applications of the Chapter mentioned above, the Chapter also applies to those matters in the other Chapters of the Final Agreement for which the Parties "will negotiate and attempt to reach agreement". Except where those trigger words appear, there will be no further triggers for the Dispute Resolution Chapter in provisions of the other Chapters.</p>

## **4.0 Local Government Issues and Interests**

This section includes PGTAC comments and advice, other than on the specific chapters. These include a number of issues where local government has ongoing interests and concerns.

### **CONSULTATION:**

<b>PGTAC Interest</b>	<b>Status</b>
PGTAC emphasizes the need for ongoing local government consultation as the treaty process moves forward. This includes the need for ongoing consultation and dialogue on the interests and issues contained in this paper. It also includes the need for consultation should any amendments to the treaty or any side agreement be contemplated in the future. (For example amendment to the Governance Agreement as provided by General Provisions Chapter, paragraph 40.) PGTAC expects all parties to the treaty process will act according to the spirit and intent of earlier commitments to consult with local government.	Response from BC: The work done by PGTAC now and in the past and the genuine and constructive comments provided by PGTAC are appreciated. (Minister Geoff Plant said that the work done by PGTAC has been “exemplary.”) PGTAC will have a continued role between AIP and final agreement.
The Province (and Canada) have an obligation to report back on how local government input is used in the treaty negotiations. Once that feedback has been received, PGTAC expects to provide further advice depending on the nature of the response.	PGTAC will have a continued role between AIP and final agreement. The Province agrees that continued discussions are necessary to ensure that the negotiators understand PGTAC’s interests and that PGTAC understands how they can be addressed or why they might not be fully addressed.

### **COMPENSATION:**

<b>PGTAC Interest</b>	<b>Status</b>
<b>PGTAC has articulated its concerns about compensation in the past. The senior governments will adopt the principle of no net loss to local government revenue and taxation. Impacts on local government revenue will be avoided in treaty settlements and will be compensated where they are unavoidable. There is no policy to address financial impacts to local government.</b>	Will require further consultation as the Governance agreement, Taxation Agreement and Fiscal agreements are developed.



<b>PGTAC Interest</b>	<b>Status</b>
<p>Holders of third party legal interests, tenures and licences will be compensated for any impacts on these agreements, as will secondary businesses, individuals and local governments impacted by the reallocation of resources, whether or not they directly hold legally defined interests.</p>	<p>Canada and BC give first priority to avoiding third party impacts. No private lands are included in the lands package. Lands Chapter Paragraph 10 provides for the continuance of interests existing on the effective date of the final agreement. Appendix C identifies Interests on the Proposed Land Package, including rights-of-way, road permits, traplines, guide-outfitter licences and other interests . Access Chapter paragraphs 16 to 21 provide for access to tenures or interests on or adjacent to Lheidli T'enneh Lands.</p>
<p>Economic adjustment funding will be provided to address compensation for impacts to community stability and growth. Provision for compensation to address impacts on community stability and growth potential appear to be inadequate and poorly defined. There is no consistent definition of a compensable interest, and it appears not likely to go much beyond legally protected interests. Language used to describe the intended approach to compensation is subject to interpretation, however it tends to be restrictive, e.g. <i>demonstrated</i> impacts, <i>directly</i> attributable, etc.</p>	<p>Canada has committed up to \$3 Million per treaty (with a \$40 Million cap) for adjustment funding to address situations not involving legal interests.</p>
<p><b>Both senior governments agree that the cost of third party compensation should be assessed as part of the cost of settling treaties. However this would appear difficult to do when programs to address impacts are not implemented until after the treaty is in effect.</b></p>	

**COMMUNICATION AND PUBLIC INFORMATION:**

<b>PGTAC Interest</b>	<b>Status</b>
<p>PGTAC is interested that the public is well informed about the issues, the process, and the expected outcomes and impacts of treaty negotiations. As the negotiations are now proceeding toward an approved Agreement-in-Principle within weeks, there is a need to increase communication in order to gain support for the treaty settlement.</p>	<p>Response from BC: Communication is intentionally low key (but open) at this time. The province should not be “selling” while the ratification process of each of the parties is ongoing. However Public Information meetings are scheduled in Prince George and McBride in early June, tripartite summaries of the AIP are being sent to all local governments in the area, and letters have been sent to 65 owners of property adjacent to lands included in the AIP.</p>
<p>It is reasonable to expect the Lheidli T’enneh treaty will attract massive public interest, and potentially protest. As possibly the first treaty to result from the BC treaty process, it will be the subject of intense scrutiny by many interests. There is a need to communicate the purpose, benefits and content of the treaty now, before it is announced as a done deal.</p>	<p>The AIP is posted on the Treaty Negotiations Office web site at <a href="http://www.bctreaty.net/nations_2/lheidli.html">www.bctreaty.net/nations_2/lheidli.html</a>. Additional communications are contemplated once the AIP is approved, e.g. information bulletin to all households in the area, speakers presentations, etc.</p>
<p>There is a need for public education regarding treaties generally and this treaty specifically.</p>	<p>The Province is renewing or producing public information materials, handouts and fact sheets that detail the treaty process and re-state the fundamental information and messages re treaties. The Province does want people to know they have worked hard to achieve a treaty that is consistent with the principles approved in the 2002 referendum.</p>

## **5.0 Supplementary Information**

PGTAC has compiled a number of papers and submissions which can be referenced for additional information on a number of interests and issues, as follows:

- PGTAC Statement of Interest in Treaty Negotiations, March 4, 1998
- PGTAC Compensation and Adjustment Summary, May 2001
- First Nations Participation on Regional District Boards, June 2001
- PGTAC Submission to Select Standing Committee on Aboriginal Affairs, October 2001
- Submission summarizing Key Points to Minister Plant, June 2002
- PGTAC Forestry Issues Background Paper, June 2002

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