

Memorandum of Understanding
on
Pacific North Coast Integrated Management Area
Collaborative Oceans Governance

between

The Department of Fisheries and Oceans
(a Department of the Government of Canada)

and

First Nations of the Pacific North Coast
(as represented by Coastal First Nations (CFN) and the
North Coast – Skeena First Nations Stewardship Society (NCSFNSS)
(Collectively the “Parties”)

Whereas...

- A. In 2002 an Interim Measures Agreement was signed by the respective Ministers of the Department of Fisheries and Oceans (DFO), Indian and Northern Affairs and First Nations involved in the Turning Point Initiative (now referred to as CFN) that committed the parties to work towards a government to government relationship, within the framework of the Constitution of Canada, to develop and implement a process for CFN involvement in marine use planning.
- B. DFO has a mandate through the *Oceans Act* and Canada’s Oceans Strategy to implement initiatives which: establish institutional governance mechanisms to enhance coordinated, collaborative oceans management across the federal government and other levels of government; to implement integrated management planning to engage partners in the planning and management of oceans activities; and to promote stewardship and public awareness within the Pacific North Coast Integrated Management Area (PNCIMA) Large Ocean Management Area.
- C. The CFN and NCSFNSS have a mandate on behalf of their member First Nations to coordinate and develop an integrated marine use planning process to support individual community plans as well as integrated plans at the large ocean and coastal management scales that maximize benefits of marine resources and areas while preserving ecological integrity, economies and the well being of coastal people.

Therefore the Parties hereby agree:

1. To adopt the attached interim 'PNCIMA Collaborative Governance Model' the ("PNCIMA Model") which proposes a governance structure and process to support PNCIMA integrated management initiatives within the PNCIMA Large Ocean Management Area.
2. That the process will remain open to the Province of BC to participate in this initiative and that efforts be made to include BC in a governance model in the future. For this reason, the attached PNCIMA Model is being endorsed as an interim step and can be amended to include provincial representatives when advancing PNCIMA initiatives under the PNCIMA Model.
3. To work towards the development and promulgation of an integrated management plan for the PNCIMA Large Ocean Management Area.
4. To develop an annual workplan that commits to collaborative work initiatives for advancing integrated marine planning in PNCIMA.
5. To develop processes through which First Nations located within the PNCIMA Large Ocean Management Area that are not represented through the CFN or NCSFNSS, will be engaged and consulted with respect to this initiative.
6. That this MOU is not evidence of the existence, nature, scope or content of Aboriginal Rights or Title or Crown Rights or Title and is made without prejudice to the positions taken by either Party with respect to Aboriginal Rights or Title and Crown Rights or Title. Neither this MOU nor any acts performed in connection with this MOU shall be construed or relied on by anyone as an acceptance or admission of the existence, nature, scope or content of any Aboriginal Right or Title or Crown Right or Title.
7. Unless otherwise provided for, each party to this MOU is responsible for costs incurred by them in implementing the MOU.
8. To work together to implement this MOU and PNCIMA Model. If any of the parties wish to withdraw from this MOU that party will provide 60 days notice in writing to each of the other parties
9. Undertake an annual review of the general effectiveness and workability of this MOU and amend as required. This review will be undertaken by the Bilateral Coordination Steering Committee.

This Memorandum of Understanding is signed by the Parties as of the eleventh day of December, 2008.

For Canada:

**Regional Director General for the Pacific Region
Department of Fisheries and Oceans**

For Coastal First Nations:

Coastal First Nations, as directed by:

Heiltsuk Nation	Kitasoo/Xaixais First Nation
Council of the Haida Nation	Skidegate Band Council
Old Massett Village Council	Wuikinuxv Nation
Haisla First Nation – Kitamaat Village	
Gitga’at First Nation – Hartley Bay	
Metlakatla First Nation - Metlakatla	

For North Coast Skeena First Nations Stewardship Society:

North Coast – Skeena First Nations Stewardship Society, as directed by:

Gitga’at First Nation – Hartley Bay
Gitxaala First Nation – Kitkatla
Metlakatla First Nation – Metlakatla
Kitsumkalum First Nation – Kitsumkalum
Kitselas First Nation

Pacific North Coast Integrated Management Area (PNCIMA)

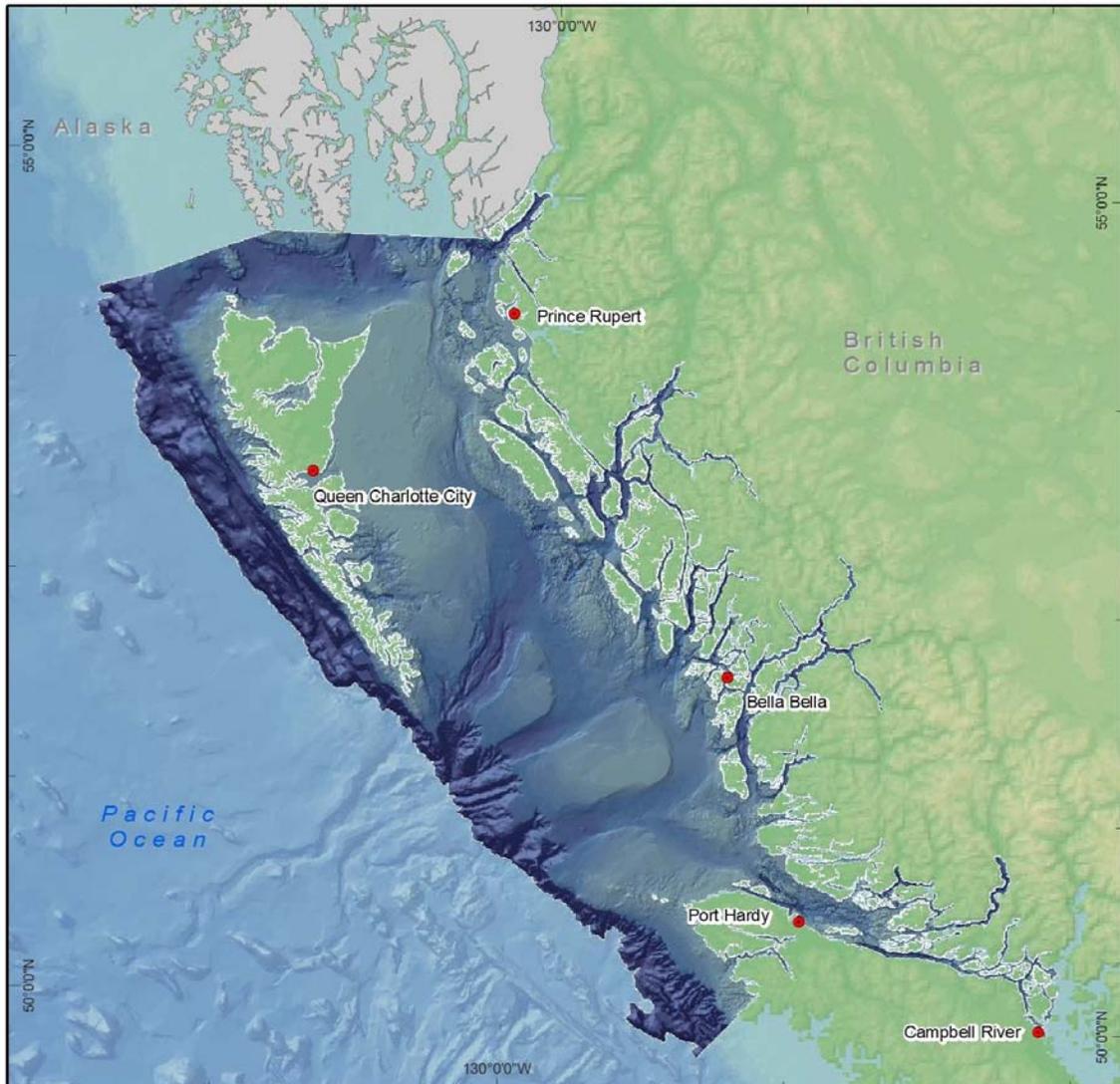


Figure 1: PNCIMA Boundary Description

1. The northern boundary is Canada's jurisdictional limit.
2. The western boundary is the base of the shelf slope where upwelling increases the amount of food available.
3. On the mainland and east coast of Vancouver Island, the boundary is established near Campbell River at the point where the marine waters of Johnstone Strait separate from the Strait of Georgia.
4. The west coast of Vancouver Island boundary is located at Brooks Peninsula to the base of the shelf slope where the summer northern buoyancy current heads outwards.

PNCIMA Collaborative Governance Model

Introduction

This paper reflects discussions which have taken place between the Government of Canada (as represented by Fisheries and Oceans Canada), the Government of British Columbia (on an observer basis) and Coastal First Nations and the NCSFSS (serving as bodies representing the interests of a number of First Nations governments within the Area), regarding a proposed governance model for the Pacific North Coast Integrated Management Area initiative. It will serve as a reference document for governments to guide discussions related to integrated management activities in PNCIMA. The governance model is one part of a larger set of discussions regarding the purpose, short and long term objectives, process, workplan, and evaluation for PNCIMA.

Integrated Management is expected to reflect an adaptive management approach, and therefore the proposed governance model may change over time to reflect new information and changing circumstances. For example, the current model does not include formal participation by the Province of BC. However, it would be desirable to have BC included in the governance model under a revised “tripartite” arrangement. This document could be amended to reflect such an arrangement in the future.

Ongoing discussions related to the governance model will take place at the PNCIMA Steering Committee with and with input from stakeholders.

Governance Approach

The model developed for Integrated Management and Coastal Planning within PNCIMA needs to link to the larger Integrated Management approach for Canada and Canada’s Pacific waters and to planning objectives of the First Nations; to various scales of ocean/marine planning, and is expected to link with terrestrial Integrated Management initiatives. It is recognized that within PNCIMA there will be processes that will operate at smaller scales, including possibly the Geographic Management Area Scale (Haida Gwaii, North Coast, Central Coast, and Northern Vancouver Island) and at the Coastal Management Area/local unit scale. This reflects the objectives of an Integrated Management ecosystem-based management approach as outlined in the Fisheries and Oceans Canada (DFO) Pacific Region Implementation Plan; 2006 – 2010 and the DFO policy and operational framework for Integrated Management of Estuarine, Coastal and Marine Environments in Canada (Canada’s Oceans Strategy – Our Oceans, Our Future).

Ocean Management Scales & Units

Nesting of Ocean Scales																	
Canada’s Pacific Waters																	
Large Ocean Management Areas									Large Ocean Management Areas								
Geographic Management Area			Geographic Management Area			Geographic Management Area			Geographic Management Area			Geographic Management Area			Geographic Management Area		
Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA	Local Unit CMA

Figure 2: Ocean Management Scales and Units

The governance model proposed for PNCIMA fits within an overarching framework. A principle of Integrated Management is to recognize the existing authorities and jurisdictions of the key parties involved. Integrated management is expected to enhance communications and create linkages, especially in instances where decision-making would clearly benefit from increased coordination and communication between federal, provincial and First Nations governments, along with stakeholders. Mechanisms for meeting these governance objectives may vary among different scales and within different units.

Integrated Management is focused on improving decision-making through increased collaboration between various jurisdictions and decision-making authorities, and through the effective engagement of stakeholders. It provides enhanced opportunities for First Nations to engage meaningfully in decision-making processes at a variety of scales. An opportunity for more efficient dialogue and collaborative management is created when First Nations participate in aggregate groups. Aggregate bodies create a mechanism through which integrated management discussions can take place, but they do not alter any relationship or obligation that federal or provincial governments have with individual First Nations.

The overarching governance model noted in Figure 3, identifies the key parties as the federal government, the provincial government, and First Nations. However, as noted in Figure 4, the Province of BC is not included as a partner in the interim PNCIMA structure at this time.

Integrated Oceans Management Governance Model

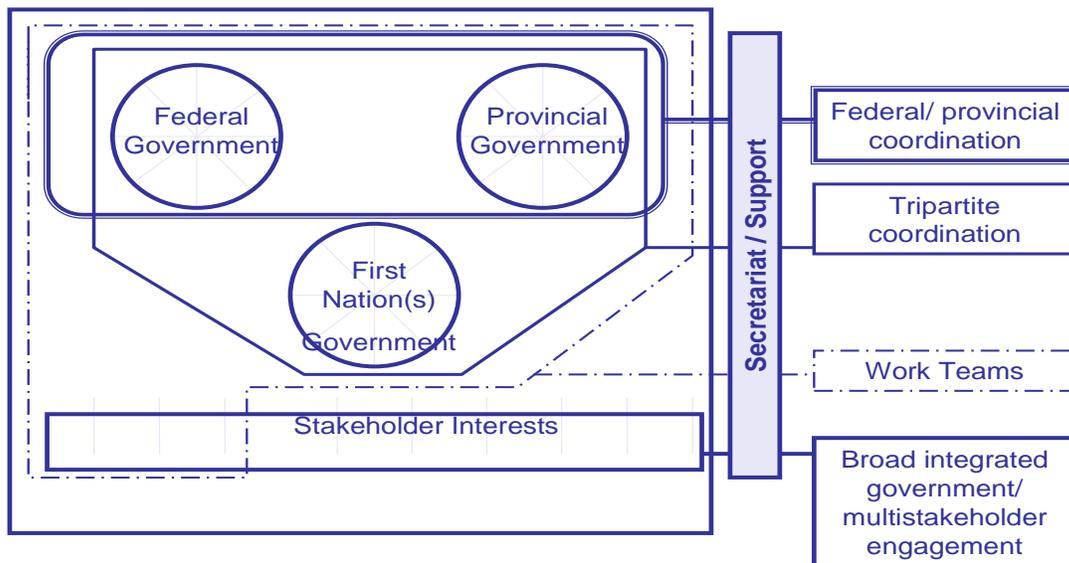


Figure 3: A vision for Integrated Oceans Management Governance

PNCIMA Collaborative Governance Model Operating Principles

The operation of the PNCIMA Collaborative Governance Model and specifically the Bilateral Coordination Committees will be founded upon a set of operating principles. The key principles of sustainable development, integrated management and the precautionary approach will guide the development and implementation of activities within PNCIMA. The following reflect other principles that the parties agree reflect the objectives of the PNCIMA initiative.

- *Authorities:* The Parties recognize that they each bring authorities and mandates to the PNCIMA initiative and they will respect, and will together benefit from, those authorities and mandates in the PNCIMA process.
- *First Nations:* Federal and provincial governments have fiduciary relationships with aboriginal people. The PNCIMA initiative reflects a relationship between the federal and First Nations governments that is of a different character than that between governments and stakeholders.
- *Inclusion:* A diversity of stakeholder interests will be included and engaged in a meaningful way in PNCIMA initiatives.
- *Consensus:* The Parties will seek to develop recommendations through consensus.
- *Accountability:* In the PNCIMA initiative, the Parties are committed to being accountable to their constituents and to each other.
- *Adaptive Management:* The process is designed to permit and support evolution and will be monitored and evaluated to support shared learning and adaptation.
- *Transparency:* Recommendations are made openly, with information and results shared with all participants.
- *Efficiency:* Issues are addressed in a timely manner.
- *Knowledge-based:* Recommendations are based on best available information and will include both science based and traditional ecological/ local ecological knowledge information and data.

“Interim” PNCIMA Governance Model and Alignment with the Overarching Oceans Governance Model

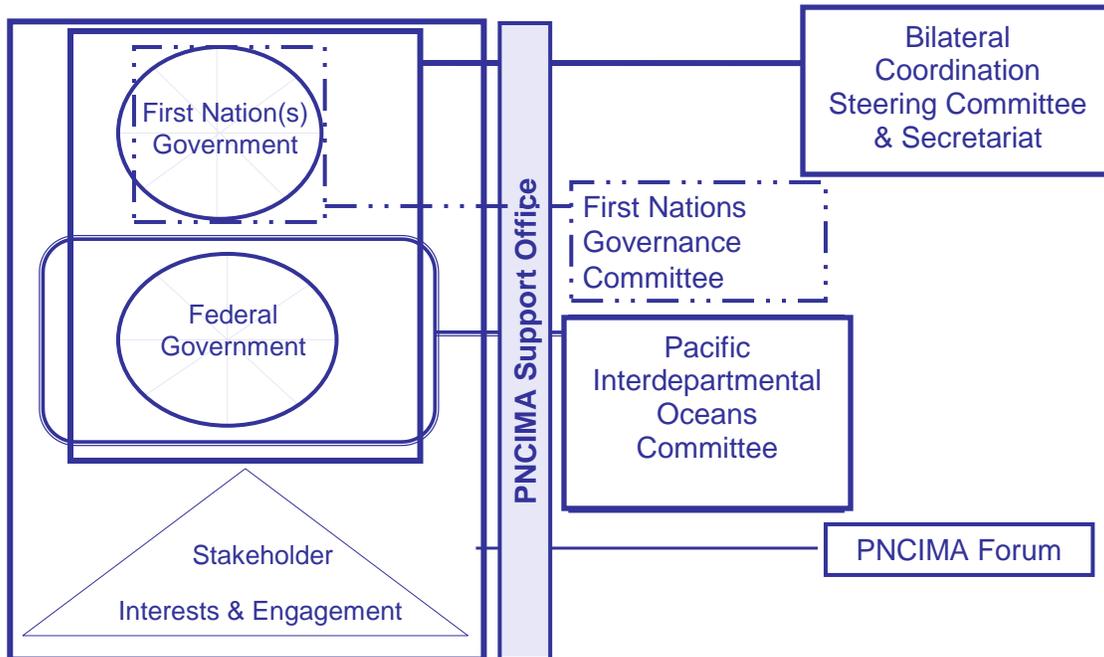


Figure 4: “Interim” PNCIMA Governance Model

First Nations Coordination

First Nations have organized themselves throughout the Northern and Central PNCIMA into aggregate AAROM (Aboriginal Aquatic Resource and Oceans Management) bodies. For the purpose of clarity in this document this scale is referred to as a 'Geographic Management Area' (GMA). AAROM bodies have been developed at the GMA scale within Haida Gwaii, North Coast, and Central Coast.

Many First Nations have developed local marine capacity, supported by a community and/or regional level planning team, who are involved in planning at community levels, CMA, GMA, and LOMA scales. Many First Nations are working cooperatively to share technical support, pursue harmonized planning, and to select PNCIMA First Nations Governance Committee representatives (see schematic). It is anticipated that more First Nations will become engaged in these initiatives as the PNCIMA processes evolve.

The First Nations Governance Committee representatives will meet on a quarterly basis to provide leadership and strategic level support to First Nations processes within PNCIMA and to represent First Nations at the PNCIMA Bilateral Coordination Steering Committee. The First Nations will collaboratively determine the appropriate manner for managing these processes and meetings.

It is expected that First Nations on Northern Vancouver Island and the adjoining Mainland Inlets will develop similar aggregate capacity as described above. Representation from the Nisga'a, Lax Kw'alaams, and Northern Vancouver Island (including the Douglas Treaty Kwakiutl First Nation) need to be considered to facilitate participation of all PNCIMA First Nations within PNCIMA processes. Alternative approaches may need to be considered if these First Nations choose not to participate.

The governments recognize that consultation and engagement with individual First Nations will be a necessary part of PNCIMA discussions. In some cases this communication may take place through aggregate groupings, although in some cases it will take place through bilateral discussions with individual First Nations.

Support for these processes may come from funding provided through Fisheries and Oceans Canada, through a number of programs (the Aboriginal Fisheries Strategy, the Aboriginal Aquatic Resource and Oceans Management program, Oceans Program funding, the Pacific Integrated Commercial Fisheries Initiative, or through outside revenue or funding generated by individual or aggregate groups of First Nations). Some of this funding is available on an annual basis and some on a multi-year basis. The extent of government financial support for these processes will be related to the availability of funds, and will need to be negotiated between the parties over time as funding cycles require. Any support for staff, travel, administration, etc., will be agreed to prior to any financial expenditure being incurred.

Federal/Provincial Coordination

Federal/Provincial collaboration will be critical to the success of the PNCIMA initiative. Under this agreement the Province of BC is not identified as a formal participant in the PNCIMA work.

In the short term, various forums or processes exist for securing federal/provincial collaboration. These include, but are not limited to individual bilateral discussions, observer participation by BC representatives in PNCIMA processes, dialogue through the Pacific Council of Fisheries and Aquaculture Ministers forum, and work in the Oceans Coordinating Committee. The OCC is an operational committee that has been established to guide the implementation of the *Canada/BC Memorandum of Understanding Respecting the Implementation of Canada's Oceans Strategy* on

the Pacific Coast of Canada. Under the terms of the Memorandum of Understanding (MOU) a sub-MOU is being developed on collaborative coastal planning and integrated oceans management. Once the sub-MOU is completed it will provide advice to federal and provincial authorities on LOMA and CMA level planning.

In the longer term, it would be beneficial for the Province of BC to be a formal partner to the PNCIMA process. The bilateral model could be amended to reflect an overarching “tripartite” governance arrangement. Under such an arrangement it is envisioned that federal/provincial collaboration could be facilitated through a Pacific Region Committee on Oceans Management (RCOM). A Pacific Region RCOM process is under development and is expected to be operational in 2009. RCOM is intended to be a senior forum for federal and provincial coordination for those departments and agencies with ocean-related programs. It will be Regional in nature and be focused on providing a leadership role for bilateral discussions between federal and provincial governments on the integration required for PNCIMA and other LOMA level processes. It may also provide input on federal/provincial coordination at the GMA and CMA scales. The RCOM will be assisted in its work by the Oceans Coordinating Committee (OCC).

PNCIMA Bilateral Coordination

Federal government representatives will meet regularly with representatives of aggregate groupings of PNCIMA First Nations governments (First Nations Governance Committee). There will be two levels of Bilateral Coordination, the Steering Committee and the Secretariat. Their work will be supported administratively by DFO.

a) Steering Committee:

Role: The Steering Committee will serve as a high level platform for coordination on PNCIMA structure, process, and development among the Federal government and First Nations. It will focus on matters of Strategic Direction and executive oversight of PNCIMA collaborative work, providing direction for the activities of the Secretariat.

Membership: The Steering Committee will include 3 representatives from the federal government and one representative from each of the aggregate First Nations groupings within PNCIMA. The BC government will be invited to provide observer representation as they deem appropriate. It is envisaged that federal involvement will be at the Regional Director/Director level and First Nations will provide representation through the First Nations Governance Committee on behalf of aggregate groups of First Nations. To the extent possible, governments will work to secure consensus on the appointment of their own representatives. The DFO PNCIMA Coordinator will attend Steering Committee meetings in an administrative capacity. Members of the Secretariat may attend but their participation will be through their respective Steering Committee members.

Leadership: The chair will rotate between the Federal and First Nations governments, in terms of one year.

Meetings: The Steering Committee will meet two to four times annually or as required, as agreed to by all parties.

Function and Responsibilities: The Steering Committee will be called upon to provide strategic direction and executive oversight to the bilateral process for developing mutually acceptable approaches to marine use planning in PNCIMA.

b) Secretariat:

Role: The role of the Secretariat will be to carry out activities as directed by the Steering Committee. It will provide support to the direction and mandate provided by the Steering Committee, and will serve as a forum for ongoing dialogue, consensus-building, and to facilitate planning, completion of work, and evaluation in a coordinated manner among the Federal and First Nations governments.

Membership: The Secretariat will include representatives of each of the Federal government and First Nations aggregates. The BC government will be invited to provide observer representation as they deem appropriate. Additional, technical representatives on behalf of First Nations aggregates and other governments will participate as required. The DFO PNCIMA Coordinator will also participate.

Leadership: Direction for the Secretariat will be provided through the Steering Committee. There will be a rotating chair selected for these meetings. Administration of the meetings will be provided by DFO.

Meetings: The Secretariat will meet on a monthly basis or as required. Other work may be completed by the parties or contractors between these meetings.

Functions and Responsibilities: The Secretariat will work to generate consensus among the parties, to develop effective PNCIMA processes and products, and to interact effectively with the PNCIMA Forum, Working Groups and stakeholder engagement processes. It will link government objectives (federal, provincial and First Nations) with the work of PNCIMA on an ongoing basis. To support effectiveness and efficiency the Secretariat will work closely with their respective senior and/or political representatives. The group will also:

- Coordinate the sharing of information between the various scales of planning within the PNCIMA;
- Provide expertise relating to LOMA, GMA and CMA governance and with respect to the activities of the Work Group(s) and interaction with the PNCIMA Forum;
- Liaise with the stakeholder advisory processes on a regular basis;
- Ensure that as appropriate all sectors and stakeholders have the opportunity to become aware of and to participate or provide input into PNCIMA processes, and to ensure that a range of participation and engagement mechanisms are available to those who wish to participate.
- Coordinate liaison with other integrated management initiatives.
- Approve working group workplans.

PNCIMA Enabling Tools/Stakeholder Engagement

The PNCIMA initiative will need to be assisted in its work by a variety of tools and stakeholder processes. Three examples of these are:

- A PNCIMA Forum;
- Working groups; and
- A Stakeholder Advisory Committee

Additional tools and functions may also be identified as the PNCIMA initiative matures. Other LOMA planning processes (e.g. Eastern Scotian Shelf Integrated Management initiative) have employed all of the above noted tools in advancing their integrated management initiative. The following provides further details of the enabling or stakeholder engagement tools noted:

1. PNCIMA Forum

A PNCIMA forum could be used to provide a mechanism for federal, provincial, and First Nations governments, local government, and stakeholder interests to come together. The focus of the PNCIMA Forum would initially be the LOMA scale, but it would also provide a linkage with PNCIMA activities which may take place at the GMA or CMA scales in the future.

Role: The PNCIMA Forum would be an inclusive assembly for all stakeholders to participate in the collaborative planning process. It could serve as a network for multi-stakeholder communications, information sharing and input to the PNCIMA Initiative.

Membership: The PNCIMA Forum would be open to all First Nations, stakeholders and interested individuals. Expected sectoral participation includes government, coastal communities, First Nations groups, fish harvesting, oil and gas, Environmental Non-Government Organizations (ENGO's), telecommunications, shipping, power generation, tourism, and academia.

Leadership: Leadership for the PNCIMA Forum would be provided jointly by the PNCIMA Bilateral Coordination Committee in coordination with other relevant bodies (e.g. Stakeholder Advisory Committee), with coordination and support provided by DFO.

Meetings: An annual meeting would be held to review and discuss progress and to provide input and guidance for planning. Working Group meetings or workshops may also be held for information sharing, topical discussion and feedback, as required. Ongoing communication with Forum participants would be provided through regular e-newsletters, web-based information and online discussions.

Functions and Responsibilities:

- Advice and feedback on broad vision, goals and strategic direction for the PNCIMA Initiative.
- Function as an inclusive, multi-stakeholder forum for information exchange and dialogue.
- Provide ideas, opinions and advice on a range of topics of importance for PNCIMA.

2. Working Groups

Role: Within the PNCIMA initiative working groups will be struck to examine specific issues. The purpose of these working groups will be to explore issues and to provide insight and advice. Part of the PNCIMA planning process will be to determine what issues are sufficiently 'integrated' in their focus and are a priority, such that they warrant the development of a PNCIMA working group.

Consideration must also be given to the scale of issues. Working Groups at the PNCIMA LOMA scale should focus on issues that have a special character within PNCIMA LOMA, while being mindful of connections at the international, national, GMA or CMA scales. Conversely, working groups struck to investigate activities at the GMA or CMA scales would have to be mindful of and connected to LOMA level planning.

Working Groups will report their recommendations to the Bilateral Coordination Committee, and where appropriate, to the PNCIMA Forum and the stakeholder advisory processes.

Membership: Working groups will involve federal, provincial and First Nations government representatives, along with a balance of stakeholder interests.

Leadership: Working Groups should include members of the PNCIMA Secretariat. The Working Groups will develop their workplans and report their recommendations and conclusions to the PNCIMA Secretariat and the PNCIMA Forum.

Meetings: Working Groups will meet once a month or on an as-needed basis.

Functions and Responsibilities: Working groups will be used to examine issues, collect information, analyze information, and make recommendations. Recommendations should focus on ways in which decision-making can be improved through increased coordination and engagement.

3. Stakeholder Advisory Committee

Other LOMA processes, such as ESSIM have established a Stakeholder Advisory Committee. The PNCIMA initiative may want to consider establishing such a forum that would support PNCIMA Forum work. Consultation with stakeholders will be used to determine whether such a body is appropriate for PNCIMA. Following current models stakeholders who participate in the PNCIMA Forum and Work Groups would organize themselves into a Stakeholder Advisory Committee.

Purpose: The Stakeholder Advisory Committee (SAC) would provide leadership and coordination among stakeholder participants in the PNCIMA initiative. It would work to develop consensus as a basis for effective stakeholder participation. The SAC would work in partnership with the PNCIMA Planning Office by providing input into PNCIMA initiatives. The SAC would also work collaboratively with the various stakeholder groups and the Bilateral Coordination Committees.

Membership: The SAC would be broadly representative of ocean sectors, communities of interest and stakeholders. The membership would be balanced by sector as well as other criteria, such as group size, capacity, commitment and history. Members would represent or be representative of sectors or the public. The optimum group size is 15 - 25, and various methods, such as coalitions and selective or rotational participation, can be used to keep the group at a manageable level. Members would self-identify for participation in the SAC based on their interests in PNCIMA outcomes. In order to support participation from stakeholders in remote geographic locations alternative options for meetings like telephone or videoconferences would be encouraged.

Leadership: Co-chairs would be provided by a senior DFO representative and by a representative from the SAC membership. Co-chairs may rotate on an annual basis. Co-chairs should have the ability to be neutral when dealing with issues among multiple sectors or parties, have the confidence and respect of the members, and be able to resolve conflict and move a diverse group toward consensus. Co-chairs may need additional representation at the table for their respective organizations.

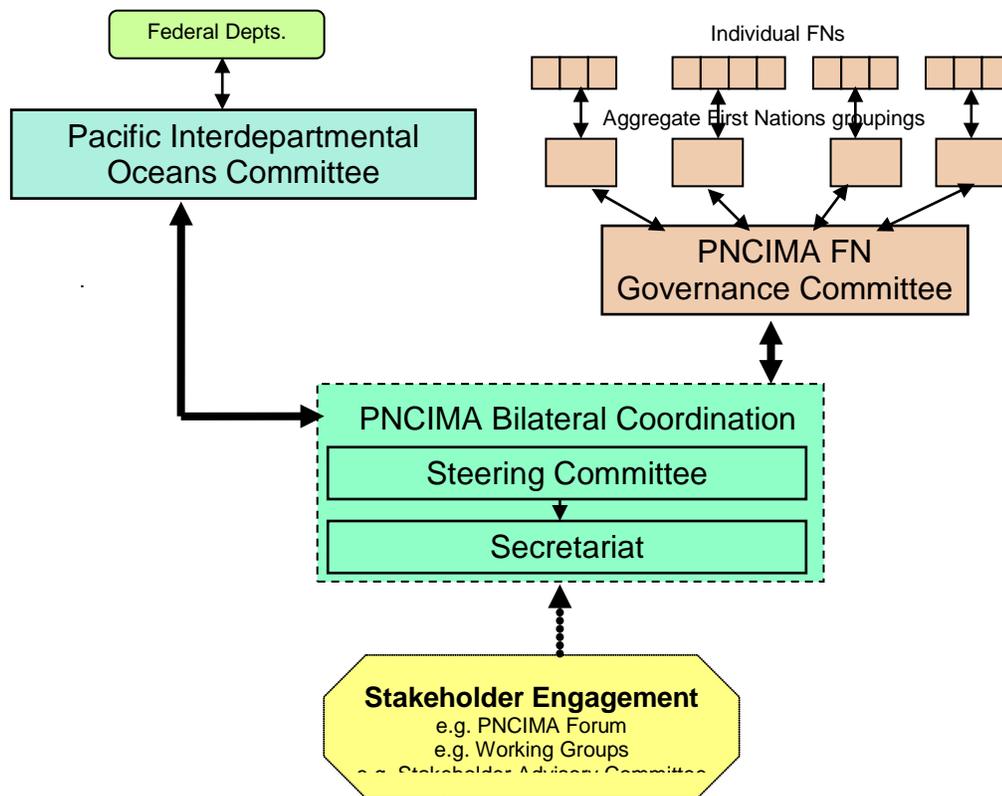


Figure 5: Interim PNCIMA Governance Model

Note: The Nisga'a Government is not captured in this schematic and will be captured in future iterations of the governance model.