

Frequently Asked Questions

- **What do the terms ‘aboriginal rights’ and ‘aboriginal title’ mean?**

Aboriginal rights are based on the traditional use of the lands and resources by aboriginal peoples prior to non-aboriginal settlement. While Section 35 of the *Constitution Act* recognizes aboriginal rights, it does not define them. The Supreme Court of Canada (SCC) has ruled that the method of exercising aboriginal rights can evolve over time, and that undefined aboriginal rights must be interpreted by governments in a liberal manner.

Aboriginal title is an aboriginal right to the land itself, and is based on the principle that First Nations had collective ownership of their traditional territory before the arrival of settlers. With little exception, First Nations in B.C. never ceded ownership of their traditional territories. As such, the SCC ruled in *Delgamuukw* that aboriginal title is a burden on Crown title and, when dealing with Crown land, the government must consult with affected First Nations. The SCC’s rulings in *Haida* and *Taku* confirmed that governments must consult with and, in some instances, accommodate First Nations on the use and disposal of Crown land when the potential for aboriginal title exists.

It is the intent of the B.C. Treaty Process to bring clarity to the uncertainty surrounding aboriginal rights and title in B.C. through government-to-government negotiations.

- **What’s ‘on the negotiation table’?**

Generally speaking, treaties address issues related to lands, resources, First Nation governance, fisheries, and finances. In 2002, a non-binding referendum endorsed a set of 8 principles to guide provincial government treaty negotiators. These include non-negotiable issues, such as the exclusion of privately held fee-simple lands from treaty settlement, unless on a willing buyer-willing seller basis. The provincial negotiating principles can be accessed at www.gov.bc.ca/arr.

The publicly stated interests of the federal government in treaty negotiations are available at www.inac.gc.ca/bc. They include the inherent right of First Nations to self-government and the phasing out of aboriginal tax-exemptions under the *Indian Act*.

First Nations’ interests in treaty negotiations vary from table-to-table and reflect the unique geographic context of each First Nation.

- **How will First Nations be governed post-treaty?**

Indian Act band councils will be replaced by a government elected by First Nation members and subject to similar accountability principles as other governments in Canada. Non-member residents of Treaty Settlement Lands (TSL) will be consulted on matters that directly and significantly affect them, such as property tax and land use planning.

Post-treaty, First Nation TSL will be removed from the municipal land base but will remain within regional district boundaries. As a self-government entity, the Tsawwassen First Nation will become a full member of Metro Vancouver. Treaty negotiations with other Lower Mainland First Nations may contemplate a similar arrangement post-treaty.

While First Nations will enjoy expanded law-making authorities post-treaty, First Nation laws will be enacted concurrently with Federal and Provincial laws. Certain law-making authorities, such as building codes and energy and environmental laws, remain subject to Federal and Provincial legislation.

- **What is the *New Relationship*?**

In March 2005, Premier Gordon Campbell announced a *New Relationship* document with the *First Nations Leadership Council* (FNLC), a group representing the leadership of three aboriginal organizations; the Union of BC Indian Chiefs, the First Nations Summit, and the BC Assembly of First Nations. The *New Relationship* was established because the Provincial government has a legal obligation to consult with First Nations about land and resource-related activities on their asserted traditional territories; whether or not they are in the treaty process. The *New Relationship* also commits the Province and the FNLC to work towards eliminating the socio-economic gap between aboriginal communities and non-aboriginals.

In September 2005, BC announced the creation of a \$100 Million *New Relationship Trust Fund*. The funding will be used by First Nations to build appropriate capacity to provide effective input and participate in the management of lands, resources and social programs.

The broad scope of the *New Relationship* significantly affects many local government interests, including regional and local planning processes and regional parks. LMTAC is supportive of efforts between the Union of BC Municipalities (UBCM) and the Province to expand the *Memorandum of Understanding* (MOU) that provides a role for local government in the treaty process to include the *New Relationship*.

- **What is the role of the Lower Mainland Treaty Advisory Committee?**

The *Lower Mainland Treaty Advisory Committee* (LMTAC) coordinates and represents the collective interests of local government, and through them their constituents, in defining and building relationships between First Nations and other orders of government. LMTAC also provides resourcing and advisory services to area local governments that may not have the in-house capacity to deal with complex treaty and aboriginal issues. As the central information base for the region, LMTAC receives inquiries from residents, community groups, media and educational institutions and private sector organizations. LMTAC is the largest of 19 Treaty Advisory Committees (TAC) in British Columbia, and is comprised of 23 municipal and 3 regional governments; representing a largely urban population of over 2 million persons.

- **How does LMTAC participate in treaty negotiations?**

Although local governments are not one of the three Principals in the B.C. Treaty Process, LMTAC is a full member of the provincial negotiating team and provides advice and guidance to provincial negotiators and its member local governments on treaty and aboriginal issues from a community perspective.

LMTAC's main policy document is the *Considerations* paper, which includes 43 First Principles for treaty negotiations. These principles outline local government interests in Lower Mainland treaty negotiations. The First Principles and *Considerations* paper were revised in November 2005.

- **Where can I get further information? How can the public be involved?**

LMTAC holds public meetings on the fourth Wednesday of every second month at the Metro Vancouver Head Office, 4330 Kingsway, Burnaby. Members of the public and media are always welcome to attend. Please confirm meeting details in advance of attending.

The bi-monthly LMTAC *Update Bulletin* newsletter provides regular updates on treaty negotiations and aboriginal policy developments. The *Update Bulletin* is available via our web site www.lmtac.bc.ca

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