Tsawwassen Final Agreement: Governance Authorities Pertaining to Land

UBCM Conference Series:
Final Treaty Agreements: Examining Local Government Interests
May 23, 2007

LMTAC Policy Development

Lower Mainland area local government interests articulated in one key policy document:

CONSIDERATIONS PAPER (revised Nov. 2005)

This document includes:

• **43 First Principles** for treaty negotiations related to:
  ➢ Governance
  ➢ Land
  ➢ Resources
  ➢ Fiscal Relations
Tsawwassen Final Agreement – LMTAC
Comparative Analysis

- Identified 81 topics of interest to local government
- 71 topics identified as “consistent”
- 4 topics identified as “not applicable”; flagged for general interest:
  - Rights of Refusal
  - Environmental Assessment
  - Tsawwassen Government Liability
  - Trade and Barter
- 6 topics identified as “inconsistent”:
  - Additions to Treaty Settlement Lands
  - Agricultural Land Reserve
  - Relationship of Laws
  - Domestic Allocation (Fish)
  - Commercial Allocation (Fish)
  - Land Use Planning Pre-Effective Date

Tsawwassen Final Agreement – Land Authorities

Related LMTAC First Principles:

#13 Clarity and Consistency in Regulatory Jurisdiction over Lands

#31 Consistency in Law Making Authorities

#30 Dispute Resolution Accessible to Local Governments

#33 Participation in and Delivery of Regional Programs/Services
Tsawwassen Final Agreement – Land Authorities

Related LMTAC Interest Statements:

Land Management 4.2.8

- Reciprocal Consultation between First Nation and Local Governments
- Balanced Urban Growth
- Coordinated Planning
- Dispute Resolution Involving Land
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Relevant Chapters:

Chapter 6 Land Management
- Power to make laws

Chapter 17 Intergovernmental Relations & Services
- Services and Authorities
- Land Use Planning
- Dispute Resolution

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Land Management Chapter: Powers to Make Laws

✔ Clause 1:
Tsawwassen Government may make laws in respect of:

- d) the management and use of Tsawwassen Lands, including planning, zoning and development;
- f) provision of services in relation to Tsawwassen Lands
- g) expropriation for public purposes or public works;
- h) the approval of proposed developments on Tsawwassen Lands.
Land Management Chapter: Powers to Make Laws

✓ Clause 4:
Tsawwassen Government may exercise authority over agriculture on Tsawwassen Lands through land use planning and zoning under subclause 1.d.

✗ Clause 5:
A Tsawwassen Law made under clause 1 prevails to the extent of a Conflict with a Federal or Provincial Law.

✓ Clause 7:
Despite clause 5, except in respect of former reserve and any other Tsawwassen Lands excluded from the ALR, the Agricultural Land Commission Act prevails to the extent of a conflict with a Tsawwassen Law made under clause 1.d.

✓ Clause 10:
Without limiting the scope of authority of Tsawwassen Government to make laws under this Agreement, before Tsawwassen Government makes a law under subclause 1.d, TFN will consult residents of Tsawwassen Lands who may be affected by the proposed law, through a process similar in principle to that required of a municipality undertaking similar law-making.
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Intergovernmental Relations & Services Chapter:

Services and Authorities

✓ Clause 13:
   All bylaws of the GVRD in respect of Core Mandatory Regional Services received by TFN apply in respect of TFN, Tsawwassen Lands and Tsawwassen Water Lots.

Land Use Planning (Pre-Effective Date)

✗ Clause 19:
   Provincial Settlement Legislation will deem TFN's land use plan, in place at the Effective Date, to meet the statutory requirements of the Local Government Act for consistency with the Regional Growth Strategy of the GVRD.

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Intergovernmental Relations & Services Chapter:

Land Use Planning (Post-Effective Date)

✓ Clause 20:
   A land use plan prepared by TFN after the Effective Date will include a statement equivalent to a regional context statement, identifying how its land use plan is consistent with any RGS approved by the GVRD with the participation of TFN as a member of the GVRD.

✓ Clause 21:
   Before Tsawwassen Government makes a planning or zoning law, TFN will consult any Local Government that may be affected by the proposed law through a process similar in principle to that required of a municipality.
Tsawwassen Final Agreement – Land Authorities

Intergovernmental Relations & Services Chapter:

Dispute Resolution

✓ Clause 28:
Tsawwassen First Nation and Local Government may use a
dispute resolution process set out in the Dispute Resolution
chapter of this Agreement, the Local Government Act or the
Community Charter or another process agreed to by the Parties
for resolving disputes between Tsawwassen First Nation and
Local Government.

✓ Clause 29:
Despite clause 28, Local Government may be limited by
Provincial Law to specific dispute resolution processes.

For Further Information

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