

Tsawwassen Final Agreement: Land Issues

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

Context of Land Issues at Tsawwassen

- Scarcity of unsubscribed Crown land in Lower Mainland
- Dense urban population
- Multiple jurisdictional overlaps
 - Local Governments
 - Provincial Government
 - Federal Government
- Establishing Treaty Settlement Lands (TSL) that are contiguous to existing Indian Reserve

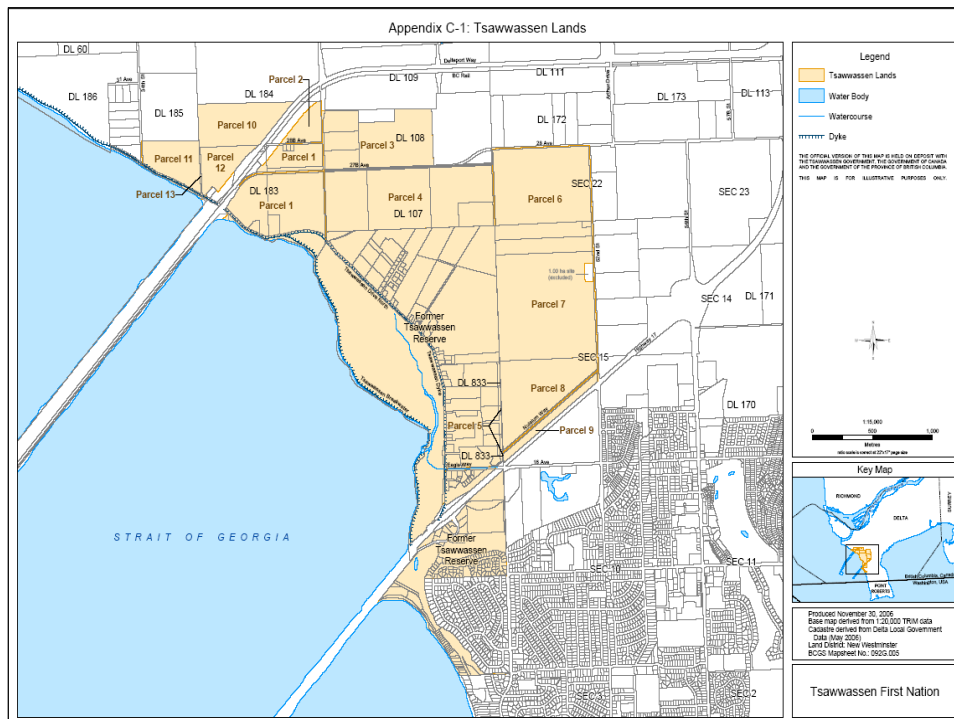
LMTAC Policy - Agricultural Lands

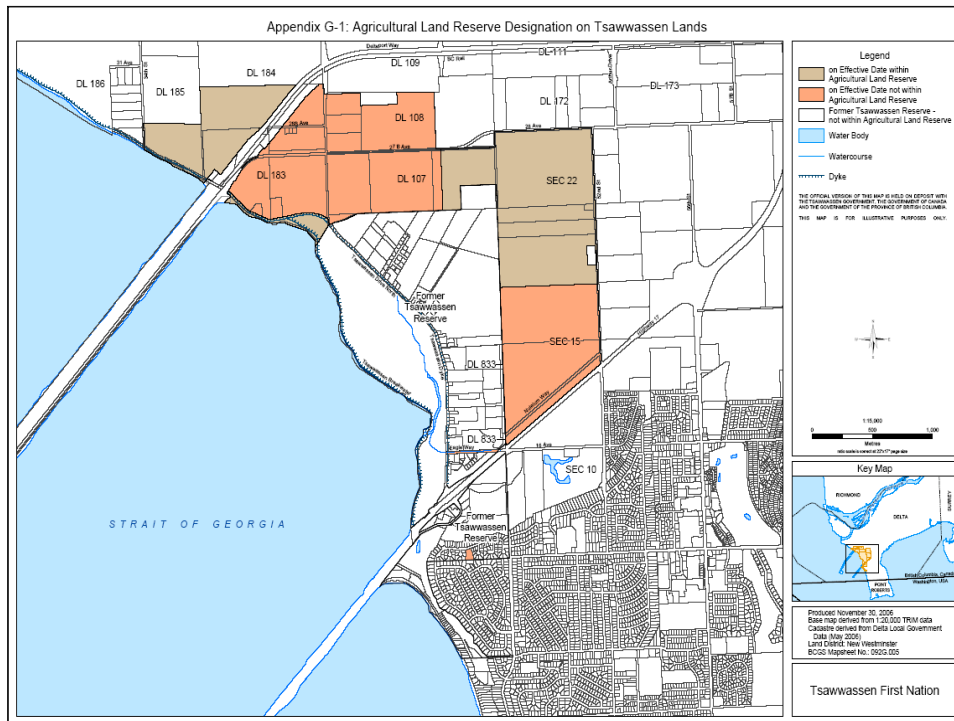
LMTAC First Principle #19:

Local government strongly supports the preservation of viable agricultural land.

Treaty settlement land designated as Agricultural Land Reserve (ALR) must remain subject to the jurisdiction of the Agriculture Land Commission (ALC).

Any removal of land from the ALR must follow the same procedures as for any other applicant.





LOWER
MAINLAND
TREATY
ADVISORY
COMMITTEE

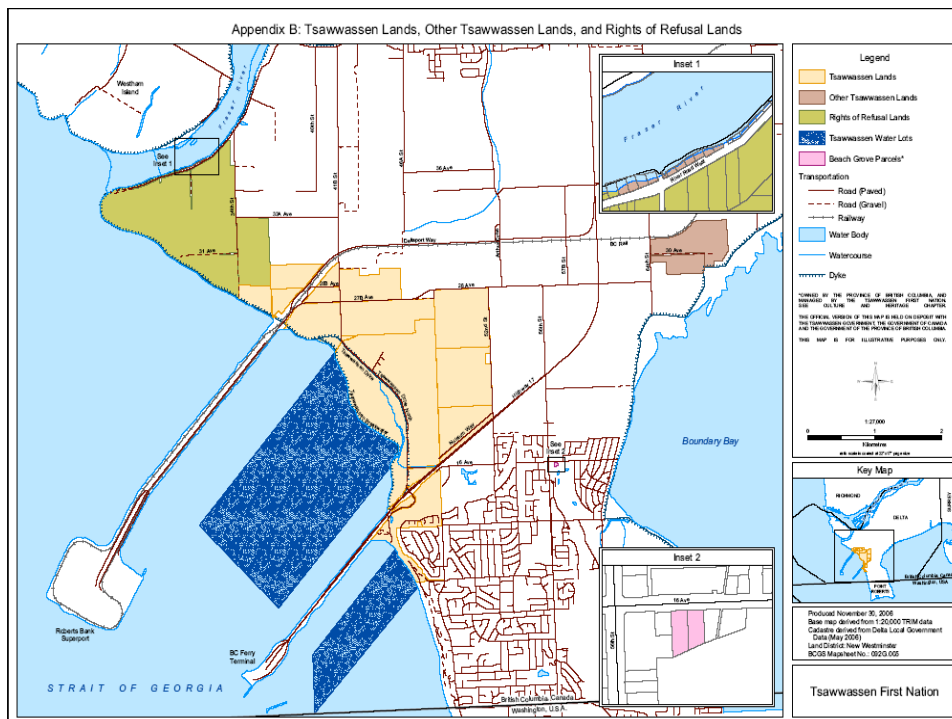
Tsawwassen Lands

- 724 ha of proposed Treaty Settlement Land (TSL)
- TFN jurisdiction over 662 ha of Tsawwassen Lands, including:
 - 290 ha of existing Indian Reserve
 - 372 ha of provincial Crown land
 - 227 ha to remain in ALR
 - 207 ha to be removed from ALR
- Land remaining in ALR subject to *Agricultural Land Commission Act*
- 62 ha of “Other Lands” to remain under municipal jurisdiction

ALR - Implications for Local Government

- Initialled Final Agreements are precedent-setting
- Impact to *Regional Growth Strategy*
- Increased land values affect overall value of treaty; raises expectations for future settlements
- Different Processes for First Nation and Local Governments; 2004 ALC Amendment Act by-passed

| Settlement Legislation | ALC Process |
|--|---|
| <ul style="list-style-type: none"> • Closed process • No opportunity for community input | <ul style="list-style-type: none"> • Independent body • Open, public process • Community input • Alternative options explored • Decisions based on land use management principles • Accounts for community need |



Additions to Treaty Settlement Land (TSL)

Issues at Agreement-in-Principle (AIP):

- Pre-identification of parcels that could be added to Tsawwassen Lands post-treaty (“Specified Lands” approach)
- Municipal consent could not be *unreasonably* withheld
- Inconsistent with other AIPs

LMTAC First Principle #12

Lands to be added after the treaty is signed must remain subject to local government jurisdiction and taxation unless otherwise agreed to by local governments through a community consultation process.

Additions to Treaty Settlement Land (TSL)

Lands Chapter: (clauses 36-44)

*Additions permitted no more often than once every 5 years

First 50 years after Effective Date:

- “Specified Lands” approach applies
- If TFN owns in fee simple any Specified Lands (i.e. Brunswick Point, certain Fraser River parcels) those lands become Tsawwassen Lands
- No municipal consent required
- TFN to consider:
 - Resident interests
 - Service provision
 - Roads
 - Compatibility with municipal / regional land use or transportation plans

Additions to Treaty Settlement Land (TSL)

Lands Chapter: (Clauses 45-51)

After the first 50 years:

- “Standard” approach applies
- TFN must own lands in fee simple
- Lands are within Tsawwassen Territory
- Municipal consent required if within municipal boundaries
- BC and Canada to consider:
 - Continuity with Tsawwassen Lands
 - Regional District interests
 - Overlapping aboriginal claims

LMTAC Concerns with Additions to TSL

- **Uncertainty for local government regarding land base**
 - Land use planning
 - Servicing
 - Taxation revenues
 - Marketplace distortion
- **Specified Lands Approach may set precedent for other Lower Mainland treaty tables:**
Katzie, Tsleil-Waututh, Musqueam