

LOCAL GOVERNMENT CONSIDERATIONS FOR LAND SELECTION AND LAND ACCESS IN TREATY NEGOTIATIONS UBCM 1997

PART 1 INTRODUCTION

Selection of land for treaty settlements is one of the most important issues in treaty negotiations for local governments in B.C. The questions of which lands are to be selected and how, in addition to how access will be provided once First Nations owned or managed lands are determined, are of fundamental interest to municipalities and regional districts. In the majority of cases, lands selected for treaty settlements will affect local government interests in some way, whether it be in relation to the impact on community stability in general, or on a local government's ability to access a specific public infrastructure site. The Province of British Columbia has specifically recognized the importance of land selection to local governments in the 1993 Memorandum of Understanding signed with UBCM (Appendix 1).

Purpose

The purpose of this report is to provide provincial and federal government treaty negotiators with an understanding of local government interests in land selection and land access issues. In doing so, the paper examines federal and provincial policy in order to define issues and provide a context for local government interests. Considerations and recommendations for negotiators addressing the issues of land selection and access are put forward.

Examination of federal and provincial policies will also assist Treaty Advisory Committees (TACs) in representing specific interests of their local governments in particular land parcels related to treaty negotiations in their area.

Background

UBCM policy development to date has concentrated both on defining interests generally and focusing on those broad policy issues of concern to all local government, such as the need to achieve certainty and finality in treaties. Key policy papers adopted by the UBCM membership in relation to treaty negotiations are:

- *Local Governments & Aboriginal Treaty Negotiations: Defining the Municipal Interest, 1994*
- *Achieving Certainty in Treaty Negotiations, 1995*
- *UBCM'S Response to Provincial Government Mandates: "BC's Approach to Treaty Settlements" 1997*

This paper is based on the definition of interests established in these UBCM policy documents. In addition, TAC interest development papers and the direct input of TACs were used in the preparation of this report.

PART 2 PROVINCIAL AND FEDERAL GOVERNMENT POLICIES ON LAND SELECTION AND LAND ACCESS

1. FEDERAL GOVERNMENT APPROACH¹

a. TYPES OF LAND AVAILABLE FOR SELECTION

Two types of land may be involved in discussions on land-related matters: reserve lands where the federal government has primary jurisdiction; and, Crown lands. For the most part, Crown lands discussed in treaty negotiations will be those under provincial jurisdiction. However, in the absence of higher priority federal interests, Canada may agree to the selection and eventual transfer of surplus federal Crown properties.

Consistent with Canada's interest in protecting the legal rights of all citizens, lands held in fee simple will not be expropriated in order to make them available for selection. Any sale of fee simple land for that purpose would be voluntary and would be fairly compensated.

Selection of settlement lands should be from the claimed traditional territory defined in the Statement of Interests. Under treaty settlements existing reserves will often form part of the land component of the treaty.

b. LAND QUANTUM

Both the amount and the choice of settlement lands allocated to each First Nation will be determined in the context of the overall packages of benefits provided by the treaty. Canada expects that the extent of the land component of the package will vary across negotiations. This will be particularly true between urban and rural claim areas as in the former, there is a scarcity of Crown land that government can bring to the table. There may be a need to discuss and include in the treaty, where appropriate, any terms and conditions under which fee simple lands acquired by the First Nation post-treaty could be included in settlement lands.

c. LAND TENURE

In the interest of promoting self-reliant First Nation communities, Canada favours land tenure arrangements which eradicate the paternalistic nature of the federal government's relationship with First Nations. The discretionary powers bestowed upon federal government by the Indian Act over reserve lands -- and the fiduciary obligations to which those powers give rise -- prevent First Nations from utilizing this important resource for the realization of their communities' goals.

Canada will be seeking harmonized approaches and land tenure options that are consistent with the federal government's objective of achieving certainty. Canada

¹ Excerpts from: *BRITISH COLUMBIA TREATY NEGOTIATIONS -- THE FEDERAL PERSPECTIVE*; *FEDERAL TREATY NEGOTIATION OFFICE - PRACTICAL APPROACHES TO LAND SELECTION (A DISCUSSION PAPER)*

will also seek to ensure that the nature and effects of the land tenure are clear in law and easily understandable to First Nations and all Canadians.

d. GOVERNANCE/ JURISDICTION

Consistent with Canada's interest in promoting an integrated and coordinated approach to land and resource management, Canada will seek to ensure that governmental jurisdiction over the settlement lands are clearly defined and that gaps are avoided. Canada will also seek to ensure that settlement lands are subject to federal and provincial laws of general application, unless otherwise provided in the treaty.

With respect to post-treaty rights of the First Nation on and off settlement lands, Canada envisions a “spheres of influence” approach where the degree and extent of influence would be determined by the types of land in question.

e. LAND ACCESS

Canada is interested in promoting and protecting the public interest as it related to access to settlement lands. In this respect, Canada will seek to ensure that settlement provides for innocent and limited public access to selected or retained lands, as well as for government, commercial and third party use; and, that access rights pertaining to transportation routes in and through settlement lands and rights-of-way for necessary public purposes be provided for. Canada will seek clear provisions regarding issues of public access to settlement lands.

It will also seek to retain those expropriation powers required to fulfill its obligations as a national government. Expropriation is, however, a recourse of final resort and would not be exercised in an arbitrary manner.

Consistent with its interest in protecting the legal rights of all citizens, Canada will seek to ensure that holders of subsurface rights have access to settlement lands, where such access is necessary for the exploration, development and production of resources. This should be conditional upon First Nations being fairly compensated where such access results in damage on settlement lands.

f. THIRD PARTY CONSIDERATIONS

The federal treaty negotiation office's discussion paper - Practical Approaches to Land Selection - identifies the following areas of third party considerations:

- renewal of tenure
- access
- displacement
- consultation and information sharing process
- valuation
- appeals

It also lists municipal considerations, stating that local governments may seek to maintain or provide for:

- lands for municipal growth and expansion
- lands contiguous to communities that are actively used on a continuous or seasonal basis for recreation or other purposes which have property development implications
- lands considered unique to an individual community
- land settlements consistent with the demographic makeup and future growth projections of the non-aboriginal community
- workable local service agreements with neighbouring First Nations
- consistent and predictable tax bases
- consistency of zoning, community development planning, taxation, traffic regulation, and bylaw enforcement
- a consultative role in regional resource management issues that have a real or perceived impact on the local economy.

2. PROVINCIAL GOVERNMENT APPROACH²

a. TYPES OF LAND AVAILABLE FOR SELECTION

As in other treaties, the Province believes that most treaty agreements will include an area of land that will be owned and managed by the First Nation. This area of land -- Treaty Settlement land -- will be the subject of negotiations and will vary depending on the interests and needs of individual First Nations and non-aboriginal communities as well as local circumstances.

It is the Province's objective to ensure that existing Indian Reserves are incorporated within Treaty Settlement lands. Private land held in fee simple is not on the negotiation table.

b. QUANTUM

Overall, the total lands held by First Nations, after treaty settlements are completed in BC, will be less than five percent of the Province's land base.

There will be considerable differences between urban and rural treaties. For example, urban treaties may include less land due to limited amount of land available and the higher cash value of urban land.

² Excerpts from: *BC's APPROACH TO TREATY SETTLEMENTS (GENERAL)*;
BC's APPROACH TO TREATY SETTLEMENTS: LANDS AND RESOURCES;
BC's APPROACH TO TREATY SETTLEMENTS: FISCAL ARRANGEMENTS

Negotiations with respect to the amount of land for First Nations will consider factors such as:

- the availability of Crown land in the area of the treaty and the value of land and resources on the land;
- local economic opportunities
- the extent and nature of provincial and public interest in the area of settlement;
- the extent and nature of private interests (such as leases and licenses) to lands and resources in the area;
- the relationship of land to other treaty components;
- the area of Indian Reserve land presently held by a First Nation;
- the objectives of the First Nation.

c. GOVERNANCE/JURISDICTION³

Treaties will define the areas of specific First Nation jurisdiction on these lands, and will ensure that these lands are subject to provincial standards -- e.g. environmental protection.

Land outside the Treaty Settlement land will remain Crown land, owned and managed by the Provincial Government. There may be some clearly defined treaty rights, such as hunting and fishing for food purposes, that may apply on Crown land.

d. LOCAL GOVERNMENT INTERESTS AND INVOLVEMENT

Treaties will protect the ability of municipalities and communities to grow and develop and will ensure that development is coordinated between neighbouring aboriginal and non-aboriginal communities.

In certain circumstances, Crown lands located within municipal boundaries may be the subject of negotiations. Local government representatives will participate as members of provincial negotiating caucuses and will sit at the negotiating table as a member of the provincial negotiating team.

Lands required for public purposes (for example, significant access routes or community water supplies) will not be on the table. In discussion with local governments regarding other land parcels, the following will be considered:

- the interest of the local government, including implications for revenue and taxation, planning, infrastructure, service delivery and future growth potential.
- the public interests in lands (e.g. recreational values)
- private interest in lands such as leases or licenses

³ The provincial government will be reviewing this aspect of their treaty mandate in particular as a result of the Supreme Court of Canada's decision on the *Delgamuukw* case.

- implications for current and future development planning in the municipality or regional district
- implications for provincial growth management and land use planning initiatives

If treaty settlement lands will be adjacent to municipal lands, arrangements will be established between municipalities and First Nations to ensure compatibility of land use planning and zoning processes in the adjoining areas. Treaties will clarify relationships between First Nations and local government.

Treaty negotiators will work with communities in unincorporated areas to ensure that their interests are represented in a way equal to incorporated areas.

e. FISCAL IMPACTS

The treatment of third party interests in lands which become the subject of treaties will be based on two of the guiding principles for treaty negotiations: private land is not on the table and disruption of private interests in Crown Land will be avoided wherever possible. Negotiators will work with First Nations and third parties to reach solutions that are satisfactory to all. In those cases where an existing interest will be affected, consistent province-wide principles for compensation will apply.

3. COMMENTS ON FEDERAL AND PROVINCIAL APPROACHES

Many of the federal and provincial policy statements listed above can be supported by local government, in general terms.

In particular, UBCM strongly supports the following federal and provincial government policies respecting their general approach to land selection:

- Private land (fee simple) is not on the table.
- Lands required for public purposes (for example, significant access routes or community water supplies) will not be on the table.
- Where Crown land within municipal boundaries could be the subject of negotiations, local governments will be involved in the negotiations established by the Memorandum of Understanding between the Province and the UBCM.
- Canada will seek clear provisions regarding issues of public access to settlement lands

PART 3 LOCAL GOVERNMENT INTERESTS IN LAND SELECTION

1. INTRODUCTION

Federal and provincial government policies listed above identify several key aspects of land selection and access which are of particular interest to local government:

- a. The types and tenures of lands that could be selected --

- Crown land
 - existing Reserve land
 - in some cases private (fee simple) land, but only when acquired on a willing buyer-willing seller basis
- b. The factors taken into account when selecting land --
- public and private interests including existing leases and licenses,
 - local government interests and
 - special considerations related to lands in urban areas
- c. The process used to select land for treaty settlements --
- process will involve consultation with local government and other affected parties
- d. Which parties will be provided access to treaty settlement lands --
- some access for government, commercial and third party and public use
- In this section, types of land that could be selected are examined and factors that should be taken into account are discussed.

2. GENERAL INTERESTS

Certainty and Finality

Local governments want treaty settlements to be certain and final. In relation to the question of aboriginal rights and title, the treaties must bring finality and certainty to the greatest extent possible regarding land and access. This applies to both lands selected for treaties and remaining Crown land.

Affordability

Local governments have an interest in settlements being affordable, meaning they will not impose any extraordinary financial burden on the people of British Columbia. Therefore the total value of the settlement package (in terms of land, resources and cash) is of great importance to local government.

Community Stability

Local governments are vitally concerned for the future of their communities and want treaty settlements that will not derogate from the social and economic stability of those communities, particularly those which are currently resource dependent on a land base.

3. LOCAL GOVERNMENT INTERESTS IN CROWN LAND

Municipalities and regional districts have a strong interest in Crown lands within and adjacent to their boundaries because of the dependence of their communities on these lands for employment (particularly in resource dependent communities), infrastructure and servicing uses, community expansion, taxation revenues, and parks and recreational uses.

Local governments frequently lease or acquire interests in provincial and federal Crown lands within or adjacent to their boundaries for the following public purposes:

- watersheds
- parks
- airports
- wharves/water lots
- forests licenses (rare)
- landfill /waste treatment sites

Maintaining access to lands for these purposes is essential for local governments in order to provide essential services to their communities. Local governments need to provide treaty negotiators with information on existing leases.

Interests in Water Resources

Local government interests in water are substantial and numerous. Local governments often lease watershed lands from the Crown and are responsible for planning. The Lower Mainland, Westbank, Prince George and Northern Treaties TACs have specifically noted concerns about maintaining access to and involvement in management of water resources.⁴ In addition, a lack of clarity on such issues as bodies of water under common law, (e.g. to the midpoint of a body of water adjacent to reserve lands), historic rights to water use, water licenses, rights of access to shorelines, status of water lots, access and easements for servicing and enforcement of quality control standards are a concern for local governments.

Infrastructure and Servicing Interests

The range and level of services provided by the 179 local governments in B.C. varies widely, and can include policing, fire protection, parks and recreation, garbage collection, water and sewer, local roads, libraries, cemeteries, street lights and sidewalks.

Local governments are interested in retaining current infrastructure sites such as roads, water and sewer, landfills, gravel pits, and water treatment facilities, etc. in order that they can continue to provide services to their communities. Regional Districts and municipalities also need to maintain options for future siting community infrastructure on Crown land. Consistent with the provincial approach described above, lands used (or required) for public purpose should not be considered for treaty settlements.

Parks and Recreation Interests

Municipalities and regional districts frequently own, lease and operate parks. They are interested in continuing to offer outdoor recreation and education opportunities to the public, including water-based recreational opportunities on foreshore lands

⁴ The Regional District of Central Okanagan and City of Kelowna's paper "LOCAL GOVERNMENT INTERESTS IN THE WESTBANK TREATY NEGOTIATIONS" provides a thorough inventory of their interest in water resources in their region.

leased by local governments. The importance of tourism/recreation opportunities provided by parks in their regions has been noted by the majority of TACs.

Community Expansion

Lands adjacent to Municipal boundaries are important to local government for purposes of community expansion. Provincial treaty mandates referenced earlier in this paper state that: "Treaties will protect the ability of municipalities and communities to grow and develop". This is a fundamental local government interest. Municipal and regional district population growth projections and infrastructure plans are among the factors that will need to be taken into account before lands are considered for treaty settlements.

Agricultural and Range Lands

Many B.C. communities, particularly in rural areas, are directly affected by and dependent on activities on Crown land. Lands used for agriculture, forestry and grazing are important to the social and economic stability for communities.

The preservation of lands for agriculture including through the Agricultural Land Reserve are supported by local governments. In addition, local governments are interested that in the process of identifying and dealing with agricultural and range leases, no economic hardship should result for the holders of those interests.

Revenue and Taxation Issues & Compensation

Federal and provincial government and Crown corporations pay local governments grants or payments-in-lieu of property taxes (except on vacant provincial Crown lands). If settlement lands are included within existing municipal boundaries that provincial or federal governments or Crown corporations would have undertaken to develop, then payments-in-lieu may be lost as a source of municipal revenue. If this is the case, they will need to be replaced by other sources of revenues if budgetary stability is to be maintained. Fraser Valley TAC representatives had a particular interest in developments on Federal Crown lands, such as the Canadian Forces Bases, which provide a valuable source of revenue for their communities through grants-in-lieu of taxes.

For local governments in rural areas, there are concerns that transfer of Crown Lands to settlement land would result in reduced access to resources for many of the industries, such as tourism, forestry and mining. Displacement of these industries would reduce the tax base causing local governments to have to redefine the level of service they now provide.

Local governments need more clarity from federal and provincial governments on compensation measures to address municipal loss of tax revenue, such as details on the application of the Community Adjustment Fund. In addition, private interests on Crown lands should be protected and all terms and conditions of provincial leases and licences should be met, or where appropriate, compensation provided.

4. CONSIDERATIONS FOR SELECTION OF LANDS WITHIN MUNICIPAL BOUNDARIES

Provincial treaty mandates referenced above state that in certain circumstances, Crown lands located within municipal boundaries may be the subject of negotiations. Some of the factors to be considered before land selection occurs include the local government interests identified in section (i) above, maintaining budgetary stability being a primary one.

However, it is unclear whether selection of lands within municipal boundaries could include two other possibilities:

- fee simple lands obtained on a “willing buyer- willing seller” basis as part of treaty settlements
- fee simple lands acquired by a First Nation post-treaty which could be included in settlement lands.

All three possibilities for selection of land within municipalities will have enormous impacts on the municipality in terms of:

- taxation - loss of revenue
- governance and jurisdiction - intergovernmental relations
- need for land use coordination mechanisms - local and regional

A good understanding of how these issues can be addressed before land selection takes place is of critical importance to both municipalities and regional districts. These issues and specific concerns with respect to lands selection within municipal boundaries are discussed below.

Land Status/Tenure and Quantum

In general, local governments are interested that treaty settlements not result in a patchwork of jurisdictions within a small geographical area. For this reason, UBCM supports selection of contiguous parcels of land for treaty settlements rather than dispersed and unconnected lands, in order to preserve jurisdictional clarity and uniformity.

We recognize however, that since existing reserve lands in most cases are the starting point for land selection, selection of contiguous parcels may be particularly difficult in urban areas and within municipal boundaries. Local governments need a predictable and stable tax base and treaties that are certain and final settlements. Therefore, local governments are interested that in general, any fee simple lands acquired by the First Nation post-treaty not be added to their treaty settlement land, but that they remain in fee simple ownership subject to all applicable federal, provincial and municipal laws. In addition, restrictions on the amount of land selected within municipal boundaries need to be investigated.

Local governments require clarity and certainty on criteria and limitations on land selections within municipal boundaries, particularly with respect to:

- The status or tenure of lands that could be selected
- The amount of land that could be selected
- Parameters for land acquired on a “willing buyer-willing seller basis”
- The status of lands purchased by First Nations post-treaty

Taxation Impacts

Given the strict budgetary process designated by the *Municipal Act* which requires local governments to balance their budgets, maintaining financial stability is of critical importance to local governments, in order that they continue to be able to provide the services expected by their residents, at a reasonable cost. Significant or unanticipated changes to any of their revenue sources may result in revenue shortfalls and tax increases, unless there is a corresponding decrease in expenditures. If non-reserve settlement lands are removed from the municipal assessment rolls and then taxed by a First Nation, the loss of existing tax revenues for some local governments may be very significant.

5. GOVERNANCE/JURISDICTIONAL ISSUES

There are currently 27 regional districts and 151 municipalities in B.C. Throughout most of the province, lands selected for treaty settlements will be adjacent to regional districts boundaries, or both regional district boundaries and municipal boundaries.

Creation of lands under new jurisdiction (i.e. aboriginal self-government) that are adjacent to municipal or regional district boundaries, raises important policy questions and issues. These issues relate to:

- the application of laws (both provincial and municipal) on treaty settlement land
- the compatibility of provincial and municipal laws with aboriginal laws, particularly within urban regions
- enforcement of laws, both aboriginal and non-aboriginal on treaty settlement lands
- taxation powers on treaty settlement land affecting both aboriginal and non-aboriginal residents⁵

⁵ From THE IMPACT OF ABORIGINAL LAND CLAIMS AND SELF-GOVERNMENT ON CANADIAN MUNICIPALITIES: THE LOCAL GOVERNMENT PERSPECTIVE . Theresa M. Dust, Q.C. (published by the Intergovernmental Committee on Urban and Regional Research), pg. ix.

In addressing these issues in detail, the need for jurisdictional clarity and uniformity and mechanisms for effective intergovernmental relations will need to be considered.

Jurisdictional Clarity and Uniformity

In some cases, the need for jurisdictional clarity and uniformity, particularly in more densely populated areas, may require restricted land-based self-government powers on settlement lands within municipal boundaries. The need for restrictions was considered in the Yukon Comprehensive Claims process.⁶

Intergovernmental Relations

New jurisdictional arrangements arising from land selections will heighten the need for the establishment of a framework and effective mechanisms for intergovernmental relations. Currently local governments and First Nations frequently negotiate agreements on services to reserve lands. In many instances, creation of treaty settlement lands will spark the need for an expanded intergovernmental relationship allowing for coordination of services, infrastructure and land use planning.

Local governments are interested that where treaty lands are selected within municipal boundaries, there be a process established for the affected First Nation and local government to reach agreements about application of bylaws, taxation and other issues that are based on mutual interests and benefits and that are critical to preserving jurisdictional clarity and uniformity.

6. LAND USE PLANNING ISSUES

Local governments have an interest in ensuring that land-uses on settlement lands are compatible or harmonized with established or planned land-uses beside or near them. Harmonization and compatibility of adjacent land uses is particularly imperative in an urban context.

Official Community Plans (OCPs) and Regional Growth Strategies are integral parts of the community land use planning process set out in the Municipal Act. Both provide future direction for the future physical social and economic development of the community. OCPs focus on compatible land uses, designation of land uses and address present and future land use needs within a municipality.

⁶ In the Yukon, where First Nations have negotiated a comprehensive land claim and self-government agreement, there are examples of local governments and First Nations ensuring uniformity with respect to the application of by-laws within municipal boundaries. The Na Cho Nyak Dun Nation and the Village of Mayo, for example, have agreed to have Village bylaws apply to lands within municipal boundaries. This means that the building codes (Yukon government) and zoning bylaws of the Village are uniformly applied to all lands, aboriginal included. They have also addressed the issue of taxation of First Nations lands within municipal boundaries. Currently, the Village of Mayo receives a grant-in-lieu from the federal governments which the First Nation would take over payment after years, (this arrangement is currently under review).

Regional Growth Strategies recognize the need to plan regionally to manage the impacts of population growth in rapidly expanding urban areas. With the adoption of the Growth Strategies Act in 1995, the provincial government recognized the need to coordinate among local and provincial governments with respect to land-use and infrastructure planning. Balancing the development priorities and potential on settlement lands with those of the neighbouring regional districts or municipalities is critical in terms of the carrying capacity of the land base and the costs for appropriate infrastructure financing. This is especially relevant in relation to settlement lands in urban areas.

The selection of treaty settlement lands will result in a greater need for explicit mechanisms for local governments and First Nations to coordinate land uses. Mechanisms could include the regularized referral of proposed developments on existing reserve lands and on future treaty settlement lands to local government for comment. Local governments are interested that co-ordination of First Nation land use planning with both Official Community Plans and Regional Growth Strategies be assured and that processes are established for reaching agreement and resolving disputes on land use issues.

7. LOCAL GOVERNMENT INTERESTS IN LAND ACCESS

Like governance and jurisdictional issues, it is important that land access issues specific to municipalities and regional districts be addressed by treaty negotiators before land selection takes place.

Access To Infrastructure And Utilities

Maintaining and gaining access to municipally owned lands or leased lands for transportation, communication, public works and service delivery purposes is of vital interest to local government. Access to or through treaty settlement lands for the purposes of infrastructure and service development is also of major interest to local governments. For example, providing access to existing and future utilities (landfill sites, water intake pipes, pumping stations and effluent outfall pipes) and access through settlement lands for emergency and law enforcement services are some of the factors for consideration in treaty settlements.

In areas where water and sewer facilities cross or run adjacent to existing Indian Reserves, often local governments will have established right-of-ways with First Nations to maintain sewer pipes or access to a treatment plants through First Nations lands. Continued arrangements for accessing watersheds and utility corridor areas are essential.

If submerged lands become part of treaty settlement lands then mechanisms will need to be established to provide local government with access to waterlines and sewage outfalls.

Access For Recreational Purposes

Local governments are concerned that free public access to recreational opportunities, including beaches and parks, be maintained. This interest reflects the importance of recreational and tourism opportunities to economic health of many communities in BC.

Access To Natural Resources

Control and use of the province's natural resources is of significant interest to local governments. Many communities, particularly those in rural areas of the province, are dependent upon resource industries and access to the area's natural resources that are granted through existing forestry tenures and grazing licenses. Without access to these resources, many communities will not be able to remain economically viable. Where the economies are dependent on resource industries, treaty settlements must not jeopardize the economic viability of non-aboriginal communities.

PART 4 CONCLUSIONS AND RECOMMENDATIONS

Land selection in treaty negotiations is an issue that profoundly affects the interests of local governments in B.C. This paper represents a first step in identifying these interests and suggests that there is still considerable work to do in addressing local government concerns. The following points summarize our main conclusions on this issue and recommendations to treaty negotiators:

1. Link Land Selection with Governance and Land Access Issues

Land selection should not be dealt with in isolation in treaty negotiations. How local government will be affected by establishment of treaty settlement lands has as much to do with what types of jurisdiction, governance and access arrangements will exist on the land as it does with where the lands are located.

The linkages between land selection and the governance and access issues raised in this paper should be well understood before land selection discussions begin and negotiation of land selection should occur concurrently with governance and access arrangements.

2. Understand and Consider Local Government Interests in Crown Lands

The interests of local governments in Crown lands adjacent and within their boundaries, including those in water resources and watersheds, infrastructure sites, agriculture and natural resources, have been identified above. These interests directly relate to local government's ability to provide services to residents and maintain community stability need to taken into consideration by negotiators. The general and specific interest of local governments in Crown lands need to be considered as part of the land selection process.

3. Involve Local Governments Early and on a On-going Basis in the Process

The provincial government has made a commitment to involving local government in the process for selecting land for treaty settlements through the Memorandum of Understanding with UBCM. When and how local governments are involved is crucial to their interests being understood by negotiators and represented in the process.

Early, on-going and full consultation with affected local government on land selection and access issues is necessary. Treaty Advisory Committees, federal and provincial negotiation teams need to share specific information on this topic, which will include development of inventories on local government interests in land. Appendix 2 lists items that could be included in these inventories.

4. Consider Restrictions on Lands within Municipal Boundaries

Local governments require clarity and certainty on criteria and limitations on land selections within municipal boundaries, particularly with respect to:

- The status or tenure of lands that could be selected
- The amount of land that could be selected
- Parameters for land acquired on a “willing buyer-willing seller basis”
- The status of lands purchased by First Nations post-treaty

5. Investigate and Provide Further Information on:

- status of future lands purchased by First Nations
- models for intergovernmental agreements
- coordination of land use and servicing
- federal government’s “spheres of influence” approach to First Nation jurisdiction
- compensation - Community Adjustment Fund

APPENDIX 1

1993 MEMORANDUM OF UNDERSTANDING BETWEEN THE
PROVINCE OF BRITISH COLUMBIA
AND THE UNION OF B.C. MUNICIPALITIES

APPENDIX 2

**LOCAL GOVERNMENT INTERESTS IN LAND SELECTION -
POSSIBLE INVENTORY ITEMS**

Treaty Advisory Committees and provincial treaty negotiation teams will need to exchange information pertaining to land selection and access. This may require background research and development of inventories concerning:

- location of existing local government infrastructure, such as land-fill sites, gravel pits, watersheds, water easements and licenses
- access requirements to current and future infrastructure sites
- taxes and other revenue sources from lands affected by a land claim
- revenues derived from current federal, provincial and Crown corporations as grants-in-lieu
- potential future land selections for expansion of the industrial tax base
- community economic development plans and potential for joint ventures, partnerships etc. with First Nations
- a community profile identifying the location and access routes to parks and other recreational sites/facilities on provincial, federal and local government lands
- current arrangements and agreements with First Nations (e.g. for servicing, etc.)
- current zoning and land uses and potential areas for land use and zoning conflicts
- lands required for future growth