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# **LMTAC Lessons Learned and Best Practices at the Tsawwassen Treaty Table: From Framework Agreement (Stage 3) to Initialling of the Final Agreement (Stage 5)**

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*“LMTAC coordinates and represents the collective interests of local governments, and through them their constituents, in defining and building relationships between First Nations and other orders of government.”*

**July 2007**

L O W E R  
M A I N L A N D  
T R E A T Y  
A D V I S O R Y  
C O M M I T T E E

## **Lower Mainland Treaty Advisory Committee**

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## EXECUTIVE SUMMARY

The initialling of the *Tsawwassen Final Agreement* provided LMTAC with an opportunity to assess its experience at the Tsawwassen Treaty Table. Through the development of a lessons learned and best practices document, LMTAC members, particularly Table Representatives, can be better prepared to work more effectively in addressing local government interests at upcoming Agreement-in-Principle (AIP) tables.

Of the six-stages in the BC Treaty Process, the document focuses on LMTAC’s experience from Stage 3 (Framework Agreement) to initialling of a Final Agreement (Stage 5), as these stages include preparation for, and involvement in, substantive negotiations. This document was developed with the close participation of LMTAC Treaty Table Representatives, through the involvement of the Executive Committee, and Technical and Strategic Working Group.

The following six themes have been identified, under which LMTAC’s lessons learned and best practices from the Tsawwassen negotiations are examined:

- **Process** – How local government is involved in the treaty process; the treaty process as dictated by the terms of the BC Treaty Process;
- **Policy** – Specific issues and process to develop policy;
- **Financial** – LMTAC funding;
- **Capacity** – Use of LMTAC’s non-financial resources;
- **Communications** – How LMTAC influences the exchange of information from the Province to Members and performs an advisory function to the Province; and
- **Networking** – How LMTAC is assisting, partnering and building relationships with other organizations.

In total, the document identifies 30 best practices, 29 lessons learned, and provides 31 considerations for future actions, categorized by the criteria provided below:

<b>THEMES - Broad identification of issues for consideration.</b>			
<b>CONTEXT</b>	<b>LESSONS LEARNED</b>	<b>BEST PRACTICES</b>	<b>CONSIDERATIONS FOR FUTURE ACTIONS</b>
Specific situations during negotiation of Tsawwassen AIP and Final Agreement when the issue arose as a challenge.	Methods and practices that did not achieve desired results when addressing the challenge.	Methods and practices that met or exceeded desired results when addressing the challenge.	Comments for the consideration of Table Representatives, the LMTAC Executive and Board, staff, provincial colleagues and UBCM should a similar issue arise at another Lower Mainland treaty table.

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**LMTAC Lessons Learned and Best Practices at the Tsawwassen Treaty Table:  
From Framework Agreement (Stage 3) to Initialling of Final Agreement (Stage 5)**

CONTEXT	BEST PRACTICES	LESSONS LEARNED	CONSIDERATIONS FOR FUTURE ACTIONS
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<b>PROCESS</b> - [How local government is involved in the tripartite negotiations; process as dictated by terms of BC Treaty Process]			
<ul style="list-style-type: none"> <li>Local Government involvement as a member of the provincial negotiation team (as per the MoU established between the Province and UBCM)</li> </ul>	<ul style="list-style-type: none"> <li>LMTAC to continue to participate in negotiations with a regional perspective and in partnership with all Parties</li> <li>Correspondence from LMTAC to BC by way of informal calls and emails for clarification; formal letters to Minister reserved for matters of high priority, with the advance knowledge of provincial Chief Negotiator</li> <li>Annual memo to Tables Representatives on roles and responsibilities</li> </ul>	<ul style="list-style-type: none"> <li>Do not underestimate the benefit of initiating intergovernmental relations work early on in the process; relationship building between First Nations and local government is fundamental</li> <li>Ensure Ministry of Community Services involvement in development of Intergovernmental Relations chapter.</li> <li>Balancing local and regional government interests with Provincial mandates</li> <li>Circumstances when LMTAC member jurisdiction withdraws</li> </ul>	<ul style="list-style-type: none"> <li>LMTAC may need to address communications with all three Parties on land identified as potential Treaty Settlement Land (TSL), in order to address local government interests in development of Official Community Plans, Regional Growth Strategies, Land Resource Management Plans, etc.</li> <li>LMTAC to continue as an active participant in the BC Treaty Process</li> </ul>
<ul style="list-style-type: none"> <li>Expectations of Parties in various stages of negotiations</li> </ul>	<ul style="list-style-type: none"> <li>Understanding at Lower Mainland tables that highly sensitive, confidential information shall be shared between table rep and LMTAC</li> </ul>	<ul style="list-style-type: none"> <li>How to address highly sensitive, confidential matters</li> </ul>	<ul style="list-style-type: none"> <li>Individual member jurisdictions are at liberty to act on matters of concern or interest; in keeping with existing protocols, practice and agreements</li> <li>Potential need to address Table Rep communications (re sensitive confidential materials) in LMTAC Operating Procedures or Table Representative Memo</li> <li>Address with the Province non-disclosure for</li> </ul>

CONTEXT

BEST PRACTICES

LESSONS LEARNED

CONSIDERATIONS FOR FUTURE ACTIONS

	<p>Chair.</p> <ul style="list-style-type: none"><li>• Clarification of Operating Procedures respecting the sharing of confidential information with member Councils / Boards</li><li>• Building a trustful relationship between LMTAC and the Province has led to greater information sharing and resolutions of issues of local government interest</li></ul>	<ul style="list-style-type: none"><li>• Provincial Ministerial changeover requires LMTAC correspondence to advise of LMTAC's work and current issues of interest; request Executive meeting with the Minister</li><li>• Provincial Chief Negotiator changeover also requires correspondence to advise of LMTAC's work and current issues of interest; and expectations for local government involvement as a provincial team member (as per UBCM MoU)</li></ul>	<p>Table Representatives; Union of BC Municipalities (UBCM) to address matter with the Minister</p>
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**CONTEXT**

**BEST PRACTICES**

**LESSONS LEARNED**

**CONSIDERATIONS FOR FUTURE ACTIONS**

<ul style="list-style-type: none"> <li>Development of agenda and communications structures at Tsawwassen Treaty Table</li> </ul>	<ul style="list-style-type: none"> <li>Province to continue direct consultation with affected municipality(ies) and regional district(s)</li> </ul>	<ul style="list-style-type: none"> <li>Confirm negotiation agenda and timeline in advance to ensure local government participation on key issues of interest</li> <li>Improved information sharing is required between LMTAC and Federal and Provincial officials</li> <li>Bilateral meetings and policy issues; LMTAC to request advance information and update from Province</li> <li>Intergovernmental Relations chapter required more time; consistent reps from all teams and those with decision making authority</li> </ul>	<ul style="list-style-type: none"> <li>Federal and Provincial information sharing with LMTAC representatives should be encouraged to the greatest extent possible; build trust among parties</li> <li>Encourage information sharing protocols between partners in the treaty process that reinforce the UBCM Memorandum of Understanding (MoU) for local government participation in the treaty process</li> <li>Work with UBCM to develop a means for TAC groups to share confidential information</li> </ul>
<ul style="list-style-type: none"> <li>Ensure local government provided with sufficient time for internal review before reporting back to the Province</li> </ul>	<p><b>POLICY - [specific issues and process to develop policy]</b></p>		<ul style="list-style-type: none"> <li>Useful to set up side tables and host special meetings and/or workshops with the Province</li> </ul>
<ul style="list-style-type: none"> <li>Addressing and taking action on precedent setting issues of interest to local government. [see specific examples below]</li> </ul>	<ul style="list-style-type: none"> <li>Creation of policy backgrounders</li> <li>Prioritise use of TSWG; encourage other staff reps to participate in discussions that align with expertise; especially staff from affected local</li> </ul>	<ul style="list-style-type: none"> <li>Need to identify all issues of local government interest during AIP negotiations and communicate those interests to provincial negotiators</li> <li>Prioritise focus on issues</li> </ul>	<ul style="list-style-type: none"> <li>Meet with Table Representatives, as required, to review First Principles; identify need for additional policy work</li> </ul>

CONTEXT

BEST PRACTICES

LESSONS LEARNED

CONSIDERATIONS FOR FUTURE ACTIONS

	<p>governments (i.e. local government issue identification exercise, land selection, land use discussions, fiscal compensation model, service agreements, etc)</p>	<p>relevant to affected local government on a treaty-specific basis</p>	
<p><u>Policy Issue Examples:</u></p> <ul style="list-style-type: none"> <li>o Non-member representation</li> </ul>	<ul style="list-style-type: none"> <li>• Establish mechanism to provide effective representation for matters that and directly and significantly affect non-member residents such as the opportunity to vote for and stand election, or provide a guaranteed seat, on a public institution.</li> </ul>		
<ul style="list-style-type: none"> <li>o Community adjustment funding/compensation to local government</li> </ul>	<ul style="list-style-type: none"> <li>• Consider mitigating factors such as pre-treaty land selection and service agreements.</li> </ul>		<ul style="list-style-type: none"> <li>• Await result of discussions between UBCM and the Province on whether a Community Adjustment Fund will be established.</li> </ul>
<ul style="list-style-type: none"> <li>o Overlap/Shared Territory</li> </ul>	<ul style="list-style-type: none"> <li>• Province to engage in early consultation with potential Overlap/Shared Territory First Nations</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure local government notification of changes to Statement of Intent (SOI) maps to identify affected municipalities and regional districts</li> <li>• Resolution of Overlap/Shared</li> </ul>	<ul style="list-style-type: none"> <li>• Local government to be advised of changes to First Nation SOI maps, and provided with maps of traditional territories to assist with consultations</li> </ul>

**CONTEXT**

**BEST PRACTICES**

**LESSONS LEARNED**

**CONSIDERATIONS FOR FUTURE ACTIONS**

<ul style="list-style-type: none"> <li>o Process to remove lands from Agricultural Land Reserve (ALR) designation</li> </ul>	<ul style="list-style-type: none"> <li>• Focus on the establishment of equitable processes; rather than outcome</li> </ul>	<p>Territories, preferably by First Nations, prior to Stage 4</p>	
<ul style="list-style-type: none"> <li>o Land Valuations for the highest and best use of proposed TSL (i.e. ALR)</li> </ul>		<ul style="list-style-type: none"> <li>• Be open to the idea of new or amended legislation (i.e. <i>Agricultural Land Commission Act</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Provincial and Federal governments should establish mechanism and standards for valuation of potential TSL</li> </ul>
<ul style="list-style-type: none"> <li>o Additions to TSL and the Specified Lands approach</li> </ul>	<ul style="list-style-type: none"> <li>• LMTAC strongly advocates use of the Traditional/Standard approach to additions to treaty settlement land, requiring municipal consent</li> </ul>	<ul style="list-style-type: none"> <li>• Discrepancy between value of proposed Treaty Settlement Lands under existing land use and the anticipated post-treaty land use. The result is an increase in the overall value of the treaty; raising expectation for future settlements.</li> </ul>	
<ul style="list-style-type: none"> <li>o Intergovernmental Relations / Servicing</li> </ul>	<ul style="list-style-type: none"> <li>• First Nation participation as full members of the Regional District; including participation in core mandatory services</li> </ul>	<ul style="list-style-type: none"> <li>• Specified Lands approach, which places conditions on municipal consent, must not be replicated at other tables.</li> </ul>	
		<ul style="list-style-type: none"> <li>• Education required for all Parties on how local government structures work</li> </ul>	<ul style="list-style-type: none"> <li>• Value the possible role of Comprehensive Community Planning<sup>1</sup>, Global Service Agreements<sup>2</sup>, and Cooperation and Communication Protocols<sup>3</sup> in reconciling different community visions between First Nations and local governments</li> </ul>

**CONTEXT**

**BEST PRACTICES**

**LESSONS LEARNED**

**CONSIDERATIONS FOR FUTURE ACTIONS**

			<ul style="list-style-type: none"> <li>Take advantage of key aspects of the MoU between UBCM and the Province (updated in 2003) which provides opportunities for local government involvement in treaty table discussions, with the creation of side-tables if necessary (e.g. Legislative Working Group at the Snuneymuxw Treaty Table)</li> </ul>
<b>FINANCIAL</b>			
<ul style="list-style-type: none"> <li>Predictable annual funding for TAC and local government participation in the treaty process</li> </ul>	<ul style="list-style-type: none"> <li>Annual meetings with the Minister at UBCM Convention to reiterate need for predictable annual funding to LMTAC</li> <li>Positive contributions to the Provincial negotiating team demonstrate the value of LMTAC</li> </ul>	<ul style="list-style-type: none"> <li>Progress made at treaty tables has resulted in <i>ad hoc</i> Provincial funding</li> <li>Correlation between LMTAC funding and ability to provide assistance to provincial negotiators</li> <li>Individual local governments affected by treaty negotiations require additional financial, staff or legal resources</li> </ul>	<ul style="list-style-type: none"> <li>Continue to address possible Provincial and other available funding for LMTAC; consider holding a workshop on the issue with representatives from senior government and UBCM</li> <li>Advise individual LMTAC members of the need to encourage the provincial government to mitigate the financial impact of direct participation in treaty negotiations as per LMTAC First Principle #37</li> </ul>

<b>CAPACITY</b>			
<ul style="list-style-type: none"> <li>Tools and resources</li> <li>Information</li> <li>Expertise</li> </ul>	<ul style="list-style-type: none"> <li>Sharing of expertise and resources (e.g. mapping information) on key issues by local government reps to LMTAC</li> <li>TSWG is invaluable source of expertise in developing policy and identifying interests</li> </ul>	<ul style="list-style-type: none"> <li>LMTAC makes many in-kind contributions to treaty-related issues, including Table Representative's time, involvement, and expertise on specific issues</li> </ul>	<ul style="list-style-type: none"> <li>TSWG to create an inventory of specific LMTAC needs based on experiences at Tsawwassen and progress being made at other treaty tables in the Lower Mainland (i.e. land selection process)</li> <li>Encourage broad participation of municipal staff in TSWG, when appropriate, with expertise in Administration, Engineering, Planning, etc.</li> </ul>
<ul style="list-style-type: none"> <li>Table Representatives' and staff time</li> </ul>		<ul style="list-style-type: none"> <li>Impact of "lead table" designation on LMTAC Workplan and priorities</li> </ul>	<ul style="list-style-type: none"> <li>Election of an alternate Treaty Table Representative at high activity tables</li> </ul>
<b>COMMUNICATIONS - [How LMTAC influences the exchange of information from the Province to Members and performs an advisory function to the Province]</b>			
<ul style="list-style-type: none"> <li>LMTAC proactively engaging with the three Parties, LMTAC Board members, media and the public</li> </ul>	<ul style="list-style-type: none"> <li>Provincial team attends as a regular delegation to Board meetings or individual councils / Regional District Boards</li> <li>Table Representative summary reports for agenda packages</li> <li>Establishment of LMTAC Protocols: for example, LMTAC Chair speaks to</li> </ul>	<ul style="list-style-type: none"> <li>Anticipate need for public information</li> <li>LMTAC representative to inform LMTAC office of reports to Council on treaty matters; LMTAC to advise Province as required</li> </ul>	<ul style="list-style-type: none"> <li>Hold LMTAC Table Representative meetings as necessary</li> <li>Create media releases on policy issues of importance only when dispute resolution process with Province is exhausted; provide advance notice to Province of public action to be taken</li> <li>Formal communications between the LMTAC Chair and the Mayors/Chairs of member jurisdictions</li> <li>Explore the creation of an in-camera "Board-in-</li> </ul>

**CONTEXT**

**BEST PRACTICES**

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<ul style="list-style-type: none"> <li>LMTAC communications with the federal negotiators</li> </ul>	<p>the media on behalf of the LMTAC Board</p> <ul style="list-style-type: none"> <li>Regular and ongoing briefings on treaty negotiations by the LMTAC Chair to member Boards/Councils</li> <li>Regular distribution of memos and Update Bulletins to LMTAC members for information</li> <li>Coordinate joint presentations with Province (i.e. UBCM Convention)</li> </ul>		<p>Brief" update</p>
<ul style="list-style-type: none"> <li>LMTAC communications with the federal negotiators</li> </ul>		<ul style="list-style-type: none"> <li>There is a significant need to encourage communications and information sharing with the Federal negotiating team</li> </ul>	<ul style="list-style-type: none"> <li>Extend regular invites Federal Negotiators to present to the LMTAC Board on subjects of interest, on a timely basis.</li> <li>Need for more Federal government presence and participation at LMTAC meetings and treaty-related work (e.g. briefing to LMTAC on resolving taxation issues in treaty negotiations)</li> </ul>

**NETWORKING** - [How LMTAC is assisting, partnering and building relationships with other organizations]

<ul style="list-style-type: none"> <li>Informing other local government bodies of the implications of treaties</li> <li>Building relationships</li> </ul>	<ul style="list-style-type: none"> <li>LMTAC presentations to member Councils/Boards; Lower Mainland Local Government Association; UBCM TAC Chairs; Greater Vancouver Regional District (GVRD) Council of Councils, etc.</li> <li>Developing and maintaining good communications and building and maintaining relationships, at the personal level, has greatly assisted the pursuit of local government interests (e.g. Chair's informal communications with Chief Negotiator)</li> <li>Encourage Community-to-Community Forums and other relationship building events.</li> <li>Policy work done in conjunction with the GVRD Regional Administrative Advisory</li> </ul>	<ul style="list-style-type: none"> <li>Increased dialogue between First Nations and local government in the Lower Mainland could facilitate understanding on differing community visions for urban land (i.e. ALR, Port Development)</li> </ul>	<ul style="list-style-type: none"> <li>Continue to extend the invite to observer organizations, Fraser Valley TAC, Greater Vancouver Transportation Authority (Translink) and UBCM reps/staff to attend LMTAC meetings in order to exchange information and discuss issues on a more regular basis</li> <li>Call for more local government staff representation at TSWG meetings</li> <li>Consider the participation of First Nation staff representatives to TSWG</li> <li>UBCM consider reporting out to TACs on the results of Community-to-Community Forums in their service areas</li> <li>Encourage ongoing relationship with the Chief Administrative Officers of LMTAC member jurisdictions and observers, including regular updates to GVRD Regional Administrative</li> </ul>
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	Committee (RAAC) on service agreements		Advisory Committee
<ul style="list-style-type: none"> <li>Partnerships for joint policy initiatives</li> </ul>	<ul style="list-style-type: none"> <li>LMTAC involvement in assisting other organizations (e.g. UBCM) with pressing issues.</li> </ul>	<ul style="list-style-type: none"> <li>Need for dialogue between local government and First Nations on urban off-reserve aboriginal populations; follow-up to LMTAC's 2002 workshop</li> </ul>	<ul style="list-style-type: none"> <li>Work towards special workshop(s) / forums in 2008 on key urban aboriginal issues facing municipal members other than treaty negotiations with invitations to reps from health authorities, social planning organizations, First Nations, and senior governments</li> </ul>

<sup>1</sup> Comprehensive Community Planning is an INAC BC Region Pilot Project aimed at incorporating a First Nation's social, economic, environmental and physical visions into a comprehensive community development plan. For more information on Comprehensive Community Planning, please visit [http://www.ainc-inac.gc.ca/bc/proser/fna/ccp/ccp\\_e.html](http://www.ainc-inac.gc.ca/bc/proser/fna/ccp/ccp_e.html).

<sup>2</sup> First Nations are encouraged to subscribe to both core and other municipal and / or regional district services. The definition of 'global services' may vary between jurisdictions, but can be expected to include both 'hard' and 'soft' services. For more information please refer to the *Towards a Model Local Government Service Agreement with Lower Mainland First Nations* (LMTAC, Sept. 2006)

<sup>3</sup> Cooperation and Communication Protocols address general relationship building between First Nations and local governments. The protocols establish guidelines or principles for improving communication and dialogue between the Parties. For more information please refer to *Building Relations with First Nations: A Handbook for Local Government – Third Edition* (LMTAC, Aug. 2006)