

More Treaty Settlement Legislation Introduced

The Maa-nulth First Nations ratified their Final Agreement in ratification votes earlier this fall clearing the way for the provincial government to introduce treaty settlement legislation on November 21, 2007.

The Maa-nulth group is comprised of five First Nation communities located on the west coast of Vancouver Island.

This treaty legislation builds on legislation to implement the Tsawwassen First Nation Final Agreement in which UBCM reviewed local government implications in its In The House circular of October 17, 2007. A key theme of that circular was the amendments to the Local Government Act to provide for participation of a treaty first nation in the regional district system in large measure like a municipal member.

In the case of the Maa-nulth, there is a ten-year transition period for each Maa-nulth First Nation to become a member of the applicable regional district – either Alberni Clayoquot Regional District or one of the successors to the Comox-Strathcona Regional District.

More Local Government Act Amendments

The new legislation makes more amendments to the Local Government Act in addition to those introduced just a few weeks ago. The reason for this is that these new amendments were tied to a positive vote by Maa-nulth and that wasn't known at the time the Tsawwassen legislation was introduced.

The provisions include:

- Modification to the definition of a treaty first nation land use plan.
- Clarification of when a treaty first nation will vote for an electoral area director. If a treaty first nation is not a member of a regional district eligible voters living on treaty settlement land will continue to be able to vote for an electoral area director. Once the treaty first nation is a member of the

regional district, the First Nation will appoint a director to the regional district in the same manner as a municipality. During the ten-year transition period eligible voters on Maa-nulth land will continue to vote in electoral area elections.

Foreshore Provisions

The Maa-nulth treaty settlement legislation provides Maa-nulth with regulatory powers over foreshore lands adjacent to their treaty settlement lands, as is provided for in the Final Agreement.

The Province did not provide a mandate to include foreshore lands as part of treaty settlement lands. Therefore, these lands remain crown lands. However, there was a desire by Maa-nulth to exercise some control over foreshore use adjacent to their treaty settlement lands.

Local government also have a similar interest in regulating foreshore uses on crown land adjacent to their upland and in the municipal context this has been provided by extending municipal boundaries by 200 meters into the foreshore.

The Province and each Maa-nulth First Nation will enter into a foreshore agreement, which delegates law-making authority within the applicable foreshore area from the Province to the First Nation. The delegated law-making authorities are likely to be planning, zoning, business regulation and nuisance regulation. Maa-nulth would exercise and enforce the laws in the same manner as a municipality. To the extent that Maa-nulth occupies the regulatory field, existing regional district bylaws are suspended.

The Province still retains the authority to lease foreshore lands as it does now and the regional district may still retain jurisdiction for other matters such as taxation.