

# Frequently Asked Questions

- **What do the terms ‘aboriginal rights’ and ‘aboriginal title’ mean?**

Aboriginal rights are based on the traditional use of the lands and resources by aboriginal peoples prior to non-aboriginal settlement. While Section 35 of the *Constitution Act* recognizes aboriginal rights, it does not define them. The Supreme Court of Canada (SCC) has ruled that the method of exercising aboriginal rights can evolve over time, and that undefined aboriginal rights must be interpreted by governments in a liberal manner.

Aboriginal title is an aboriginal right to the land itself, and is based on the principle that First Nations had collective ownership of their traditional territory before the arrival of settlers. With little exception, First Nations in BC never ceded ownership of their traditional territories. As such, the SCC ruled in *Delgamuukw* that aboriginal title is a burden on Crown title, and when dealing with Crown land the government must consult with affected First Nations. The SCC’s rulings in *Haida* and *Taku* confirmed that governments must consult with, and in some instances accommodate, First Nations on the use and disposition of Crown land when the potential for aboriginal title exists.

It is the intent of the treaty process to bring clarity to the uncertainty surrounding aboriginal rights and title in BC. Through tripartite negotiations between Canada, British Columbia, and First Nations, undefined aboriginal rights will be transformed into defined treaty rights, and aboriginal title will be provided to the First Nation as Treaty Settlement Lands.

- **What’s ‘on the negotiation table’?**

In 2002, a non-binding referendum endorsed a set of 8 principles to guide provincial government treaty negotiators. These include non-negotiable issues, such as the exclusion of privately held fee-simple lands from treaty settlement, unless on a willing buyer-willing seller basis. The provincial negotiating principles can be accessed at [www.gov.bc.ca/arr](http://www.gov.bc.ca/arr).

The publicly stated interests of the federal government in treaty negotiations are available at [www.inac.gc.ca/bc](http://www.inac.gc.ca/bc). They include the inherent right of First Nations to self-government and the phasing out of aboriginal tax-exemptions under the *Indian Act*.

- **How will aboriginal self-government be realized?**

The BC government prefers that only governance authorities specific to aboriginal heritage and culture are included in treaty, with governance authorities similar to that of local governments addressed outside of treaty. Canada will only support this approach if the First Nation agrees, otherwise preferring all governance authorities be included in treaty. First Nation perspectives on self-government are varied. In the Lower Mainland, the issue is further complicated by the multiple jurisdictions of the local, provincial, and federal governments.

- **When will a treaty be completed in the Lower Mainland?**

Of the 57 First Nations in the BC Treaty Process, 5 are in the Lower Mainland, including the *Musqueam*, *Tsleil-Waututh*, *Squamish*, *Katzie* and *Tsawwassen First Nations*. The status of negotiations differs with each First Nation. The Tsawwassen table is one of the most active in BC, and Parties are aiming to complete a Final Agreement by the end of 2006. LMTAC monitors this table closely as its precedence can be expected to influence other Lower Mainland tables.

- **What are Interim Measures and Treaty-Related Measures?**

“Interim Measures” are agreements relating to lands and resources reached between a First Nation and the Province of BC pre-treaty. Interim Measures are usually negotiated by provincial line ministries and can address a broad range of topics including capacity building initiatives and economic opportunities. Interim Measures help to support and facilitate the treaty process.

In September 2005, BC announced the creation of a \$100 Million *New Relationship Trust Fund*. The funding will be used by First Nations to build appropriate capacity to provide effective input and participate in the management of lands, resources and social programs.

“Treaty Related Measures” are temporary arrangements or agreements, made among the parties at a negotiation table. They are types of Interim Measures that link directly to treaty negotiations and for this reason can only be negotiated at a treaty table. Some TRMs will protect land or other benefits that will be included in treaty settlements; other TRMs are designed to facilitate the treaty negotiation process itself. Costs of TRMs are shared between Canada and BC and therefore necessitate mutual commitment by both senior governments.

In April 2002, the Union and BC Municipalities renewed a protocol with the Ministry of Aboriginal Affairs effectively committing the government to inform and consult with local governments when a proposed interim measure or treaty-related measure is being contemplated. In the Lower Mainland region, local government members of LMTAC regularly provide informational reports on interim and treaty-related measures to the LMTAC Board.

- **What is the role of the Lower Mainland Treaty Advisory Committee?**

The Lower Mainland Treaty Advisory Committee (LMTAC) coordinates and represents the collective interests of local government, and through them their constituents, in defining and building relationships between First Nations and other orders of government. LMTAC also provides resourcing and advisory services to area local governments that may not have the in-house capacity to deal with complex treaty and aboriginal issues. As the central information base for the region, LMTAC receives inquiries from residents, community groups, media and educational institutions and private sector organizations. LMTAC is the largest of the 17 Treaty Advisory Committees in British Columbia, is comprised of 23 municipal and 3 regional governments, and represents a largely urban population of over 2 million persons.

- **How does LMTAC participate in treaty negotiations?**

Although local governments are not one of the three Principals in the BC Treaty Process, LMTAC is a full member of the provincial negotiating team and provides advice and guidance to provincial negotiators and its member local governments on treaty and aboriginal issues from a community perspective.

LMTAC's main policy document is the *Considerations* paper, which includes 43 First Principles for treaty negotiations. These principles outline local government interests in Lower Mainland treaty negotiations. The First Principles and *Considerations* paper were revised in November 2005.

- **Where can I get further information? How can the public be involved?**

- LMTAC holds public meetings on the fourth Wednesday of each month at the GVRD Building, 4330 Kingsway, Burnaby. Members of the public and media are always welcome to attend. Please confirm meeting details in advance of attending.
- Monthly newsletter: The LMTAC *Update Bulletin* is available via our web site [www.lmtac.bc.ca](http://www.lmtac.bc.ca)

<p><b>For more information, please contact LMTAC at:</b> <b>4<sup>th</sup> Floor, 4330 Kingsway, Burnaby, BC V5H 4G8</b> <b>Tel: (604) 451-6179 Fax: (604) 436-6860 E-mail: <a href="mailto:lmtac.lmtac@gvrd.bc.ca">lmtac.lmtac@gvrd.bc.ca</a></b></p>
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