

General Overview

The Tsawwassen Final Agreement was negotiated by the Government of Canada, the Government of British Columbia and Tsawwassen First Nation. It is the second Final Agreement reached in the province under the British Columbia treaty process. The Final Agreement provides Tsawwassen First Nation with certain rights and benefits regarding land and resources, and self-government over its lands and resources and its members. It provides certainty with respect to ownership and management of lands and resources and the exercise of federal, provincial and Tsawwassen governmental powers and authorities.

The negotiation of a Final Agreement marks Stage Five of the six-stage British Columbia treaty process, and is the conclusion of substantive treaty negotiations. Once ratified by all parties, the Final Agreement will become a treaty through legislation. It will be a constitutionally-protected legal agreement that creates mutually binding obligations and commitments.

BENEFITS OF A TREATY

A treaty with Tsawwassen First Nation will bring certainty with respect to all of Tsawwassen First Nation's Aboriginal rights throughout the Tsawwassen First Nation claimed traditional territory, which covers approximately 279,600 hectares including the waters of the

southern Strait of Georgia. It will provide Tsawwassen First Nation with the modern governance tools to build strong and workable relationships with federal, provincial and local governments. Canada, British Columbia and Tsawwassen First Nation expect that a treaty will resolve

long-standing issues regarding undefined Aboriginal rights and title, and bring certainty and economic benefits not only to Tsawwassen members but to the entire region.

its lands or members. Instead, constitutionally-protected self-government provisions will enable Tsawwassen First Nation to make its own decisions on matters related to the preservation of its culture, the exercise of its treaty rights and the operation of its government.

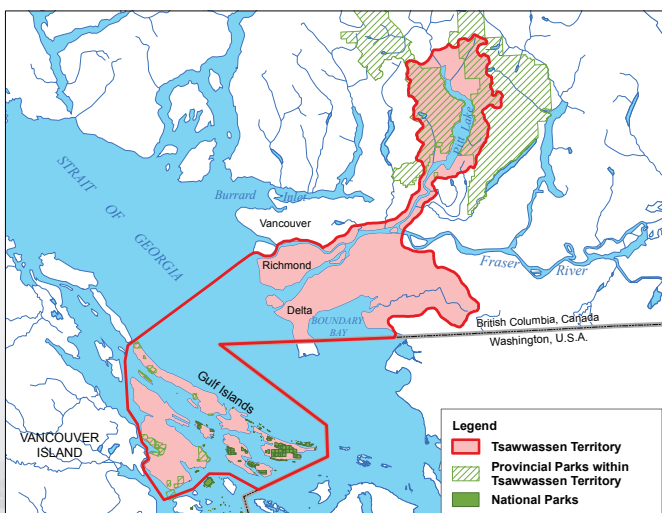
TSAWWASSEN GOVERNMENT

The Tsawwassen Final Agreement will operate within the framework of the Constitution of Canada, and the *Canadian Charter of Rights and Freedoms* will apply to the Tsawwassen First Nation government.

The Final Agreement requires Tsawwassen First Nation to have a constitution that provides for government that is democratically and financially accountable to its citizens.

With the exception of determining Indian status, after a transition period the *Indian Act* will no longer apply to Tsawwassen First Nation,

Residents on Tsawwassen Lands who are not Tsawwassen members may participate in the decision-making processes of a Tsawwassen public



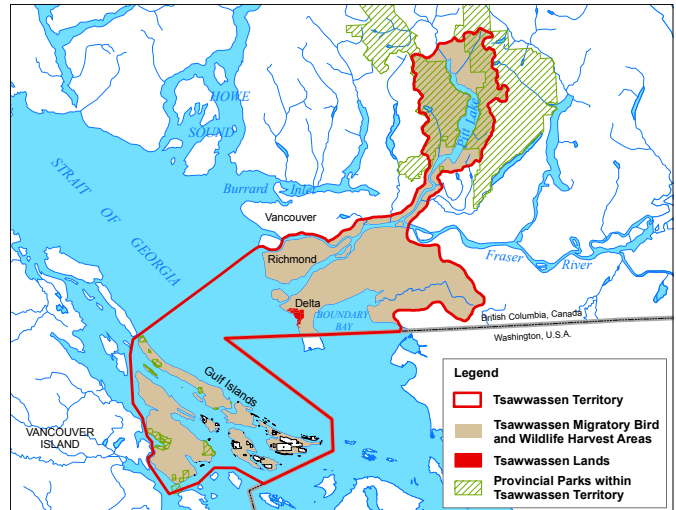
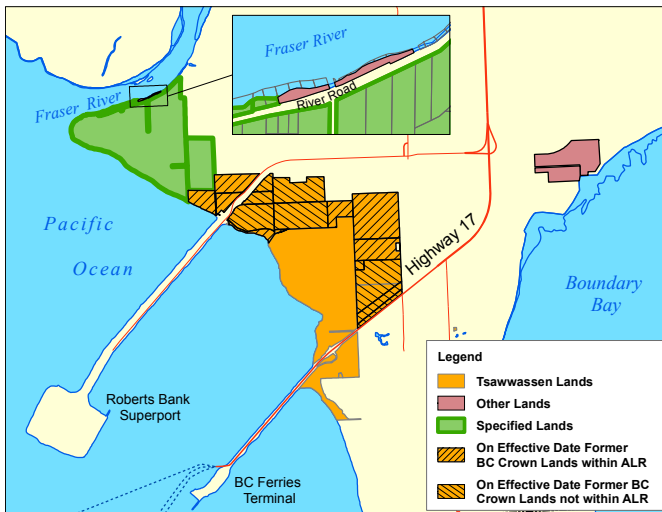
institution, such as a school or health board, if the activities of that institution directly and significantly affect them. Non-members may vote in, and stand for, election to a Tsawwassen public institution, or the Tsawwassen government may appoint non-members to sit as board members of these institutions. However, Tsawwassen First Nation may provide that a majority of the members of a Tsawwassen public institution must be Tsawwassen members. Non-members will have the same rights of appeal as members.

There will be non-member representation on any Tsawwassen First Nation public institution that makes decisions relating to taxation matters that directly and significantly affect non-members. The non-

member representative will be selected by non-members and will have the ability to participate in discussions and vote on taxation matters that directly and significantly affect non-members.

TSAWWASSEN LANDS

The Final Agreement land package consists of approximately 724 hectares of treaty settlement land for Tsawwassen First Nation. This includes approximately 290 hectares of former reserves and 372 hectares of former provincial Crown land. Tsawwassen First Nation will also own in fee simple an additional 62 hectares of other land comprised of the Boundary Bay and Fraser River parcels, but this land will remain under the jurisdiction of the Corporation of Delta.



WILDLIFE AND MIGRATORY BIRDS

Under the treaty, Tsawwassen First Nation will have the right to harvest wildlife and migratory birds for food, social and ceremonial purposes within the Tsawwassen traditional territory, including in national and provincial parks. This right is limited by measures necessary for conservation, public health and public safety.

Federal and provincial laws will apply on Tsawwassen Lands and throughout the Tsawwassen traditional territory. Tsawwassen laws with respect to the management of the harvesting of wildlife and migratory birds will apply to Tsawwassen members. Federal and provincial laws on the use and possession of firearms will apply.

Given the limited wildlife harvest opportunities and the likelihood of fewer opportunities in the future, Canada will provide Tsawwassen First Nation \$50,000 to establish a Wildlife Fund.

TSAWWASSEN FOOD, SOCIAL AND CEREMONIAL FISHERY

Under the treaty, Tsawwassen First Nation will have the right to harvest fish and aquatic plants for food, social and ceremonial purposes, subject to conservation, public health and public safety. This right will be exercised within defined geographic areas known as the Tsawwassen Fishing Area and Tsawwassen Intertidal Bivalve Fishing Area, as described in the Final Agreement. Fishing will be in accordance

with a harvest document issued by the Minister of Fisheries and Oceans.

The Final Agreement provides for Tsawwassen First Nation's treaty allocations of salmon for food, social and ceremonial purposes. Allocations for sockeye, chum and chinook are based on annual abundance and will vary depending on the size, in any given year, of the Canadian Total Allowable Catch (CTAC) for Fraser River sockeye and chinook salmon and the Terminal Surplus for Fraser River chum salmon. The CTAC and Terminal Surplus are determined by the Minister of Fisheries and Oceans every year.

ALLOCATIONS OF FISH FOR FOOD, SOCIAL AND CEREMONIAL



PURPOSES

Sockeye salmon

- » When the CTAC for Fraser River sockeye is 500,000 or lower, Tsawwassen First Nation's allocation will be 1.0 per cent of the CTAC for Fraser River sockeye.
- » When the CTAC for Fraser River sockeye is more than 500,000 and less than 3,000,000, the Tsawwassen First Nation allocation will be 5,000 Fraser River sockeye plus 0.40904 per cent of any portion of Fraser River sockeye CTAC that is greater than 500,000 (but still less than 3,000,000).
- » When the CTAC for Fraser River sockeye is 3,000,000 or more, the treaty allocation will not exceed a maximum of 15,226 Fraser River sockeye for the year.

If the allocation were applied to the abundance levels for the years 1992 to 2003, it would have averaged 12,000 Fraser River sockeye per year over those years.

Chinook salmon

- » The Tsawwassen First Nation allocation for chinook is a formula based on the CTAC. If the formula were applied to the abundance levels for the years 1982 to 2004, the allocation would have averaged 625 Fraser River chinook over those years.

Coho salmon

- » The Tsawwassen First Nation allocation for Fraser River coho is the amount caught incidentally during fisheries for other species, or using selective harvesting techniques to target specific coho stocks. The annual average harvest is to be 500 Fraser River coho.

Chum salmon

- » In any year, the Tsawwassen First Nation allocation for chum will be 2.58 per cent of the Terminal Surplus of Fraser River chum, to a maximum of 2,576 pieces.

Pink salmon

- » The Tsawwassen First Nation allocation for pink salmon is set at the number caught incidentally as part of the sockeye harvest, to a maximum of 2,500 Fraser River pink salmon per year.

NON-ALLOCATED SPECIES – FOOD, SOCIAL AND CEREMONIAL PURPOSES

The Final Agreement leaves some species of fish and aquatic plants non-allocated, such as crab and intertidal bivalves. A process has been set out in the Final Agreement to establish allocations at the request of Tsawwassen First Nation, Canada or British Columbia. Crab fisheries for food, social and ceremonial purposes will be non-allocated for a period of 12 years after the effective date of the treaty, during which time Tsawwassen First Nation may harvest crabs using up to 50 traps per vessel. A crab allocation will be established after 12 years, in accordance with the process set out in the Final Agreement.

TSAWWASSEN HARVEST AGREEMENT

A Harvest Agreement, separate

from the Final Agreement, provides for commercial fishing licences to be issued to Tsawwassen First Nation. These licences would authorize Tsawwassen First Nation to harvest up to 0.78 per cent of the Canadian commercial total allowable catch for Fraser River sockeye, 3.27 per cent of terminal commercial catch of Fraser River chum, and 0.78 per cent of the Canadian commercial total allowable catch of Fraser River pink salmon.

The Harvest Agreement also allows for up to five commercial crab licences to be issued to Tsawwassen First Nation.

FORESTRY

Tsawwassen First Nation will own all timber resources on Tsawwassen Lands, and will receive \$100,000 from Canada and British Columbia to establish a Forest Resources Fund.

INTER-GOVERNMENTAL RELATIONS

After the effective date of the treaty, Tsawwassen First Nation will become a member of the Greater Vancouver Regional District (GVRD) and will appoint

a director to the GVRD board. Tsawwassen First Nation will pay for core mandatory services in the GVRD, such as air quality, strategic planning, 911, regional parks and general government.

Tsawwassen First Nation and the Greater Vancouver Water District may enter into a water services agreement, and Tsawwassen First Nation may also enter into service agreements with other local governments.

FINANCIAL COMPONENTS

The Tsawwassen Final Agreement will provide Tsawwassen First Nation with a capital transfer of approximately \$13.9 million over 10 years.

Tsawwassen First Nation will pay back to Canada, over the same period, the loans taken to negotiate the treaty.

In consideration of the release by Tsawwassen First Nation of the rights to the mines and minerals under previously surrendered reserve lands, Canada will provide Tsawwassen First Nation \$2.0 million.

Funding for the programs and services that the Tsawwassen

government has agreed to administer will be provided through the Fiscal Financing Agreement, renegotiated every five years, which provides for fiscal transfers from Canada and British Columbia. These transfers support program and service delivery by Tsawwassen First Nation to its members and residents, as well as funding to support activities to implement the treaty. The agreement provides for one-time and ongoing funding: one-time funding is \$15.8 million; ongoing funding in the first Fiscal Financing Agreement will be \$2.8 million per year.

The Tsawwassen Final Agreement represents a fundamental change in the fiscal relationship between the federal government and Tsawwassen First Nation. The Tsawwassen government will have strengthened autonomy and be fully accountable to its members and residents of its treaty settlement lands for financial decisions. The Tsawwassen government will also be accountable to other public governments for the financial transfers it receives, so the government that provides the funding can ensure that public funds were used for

their intended purposes.

Tsawwassen First Nation will contribute to the funding of agreed upon programs and services from its own sources of revenue. The Own Source Revenue Agreement negotiated among Canada, British Columbia and Tsawwassen First Nation sets out how the First Nation's contribution to the costs of programs and services it delivers to its members and residents will change in step with its capacity to generate revenues.

Taxation is an important element of the Tsawwassen Final Agreement as it can contribute to the foundation of future revenue capacity for the Tsawwassen First Nation government. The *Indian Act* tax exemption for Tsawwassen citizens will be phased out after eight years for transaction (i.e., sales) taxes and 12 years for other taxes, including income tax. The Tsawwassen government will have the ability to levy direct taxes on its members within Tsawwassen Lands.

PUBLIC INPUT INTO THE FINAL AGREEMENT

Treaty negotiators rely on the advice of local stakeholders to ensure that the interests of the broader community are fairly represented. Over the past decade, consultations on a wide range of subjects have been held with local and regional governments, third parties and community interests. Since 2002, over 20 public meetings have been held, including public information open houses and open main tables in the community. There have also been numerous ongoing consultations with local governments and third parties.

After the Final Agreement is initialled and the ratification process begins, Canada, British Columbia and Tsawwassen First Nation will continue to communicate with local stakeholders and the general public on the Final Agreement.

OVERLAPS

First Nations' claimed traditional territories can and do overlap. In British Columbia, there are often multiple, overlapping claims. As part of the British Columbia treaty process,

First Nations must establish a process to resolve overlaps.

Canada, British Columbia and Tsawwassen First Nation are consulting with neighbouring First Nations and will continue to work to resolve any remaining overlap issues. The harvesting areas set out in the Final Agreement are not exclusive, and other First Nations and the general public may fish and hunt there as they do now on provincial Crown land.

NEXT STEPS

By initialling the Final Agreement, the chief negotiators for Canada, British Columbia and Tsawwassen First Nation agree to present the agreement to their respective principals with a recommendation that it be signed and ratified.

Through the Tsawwassen First Nation approval process, Tsawwassen members will ratify the Final Agreement through a community vote, which requires at least 50 per cent plus one of eligible voters to vote in favour of the agreement. If the Tsawwassen First Nation community ratifies

the Final Agreement, British Columbia will then proceed through its ratification process. A Minister from the provincial Cabinet must recommend the agreement for approval, and settlement legislation will then be introduced into the Legislative Assembly for debate.

If British Columbia ratifies the Final Agreement, Canada will proceed through its ratification process. Similar to the procedure at the provincial level, a federal Cabinet Minister must recommend the Final Agreement, and settlement legislation would be introduced in Parliament for debate. Once enacted through legislation, the Final Agreement will become a treaty and will be brought into effect on a date agreed to by the parties.

TSAWWASSEN FIRST NATION – LAND FACING THE SEA

The Tsawwassen are proud, sea-faring Coast Salish people who have long travelled and fished the waterways of the southern Strait of Georgia and lower Fraser River.

The main Tsawwassen community is located on the waterfront adjacent to Delta. Tsawwassen First Nation lists its membership at 358 people, about half of whom live on reserve.

If you would like more information about the Tsawwassen Final Agreement, contact:

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