

# General Overview

The Lheidli T'enneh Final Agreement was negotiated by the Government of Canada, the Government of British Columbia and the Lheidli T'enneh Band. It is the first Final Agreement reached in the province under the British Columbia treaty process.

The Final Agreement provides Lheidli T'enneh with certain rights and benefits regarding land and resources, and self-government over its lands and resources and its citizens. It provides certainty with respect to ownership and management of lands and resources and the exercise of federal, provincial and Lheidli T'enneh 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 Lheidli T'enneh will bring certainty with respect to all of Lheidli T'enneh's Aboriginal rights throughout the Lheidli T'enneh claimed traditional territory, which covers approximately 4.5 million hectares. It will provide Lheidli T'enneh with the modern governance tools to build strong and workable relationships with other governments, including federal, provincial and local governments.

Canada, British Columbia and Lheidli T'enneh expect that a treaty will resolve long-standing

issues regarding undefined Aboriginal rights and title, and bring certainty and economic benefits not only to Lheidli T'enneh citizens but also to the whole Prince George region.

## LHEIDLI T'ENNEH GOVERNMENT

The Lheidli T'enneh Final Agreement will operate within the framework of the Constitution of Canada, and the *Canadian Charter of Rights and Freedoms* will apply to the Lheidli T'enneh government.

With the exception of determining Indian status, after a transition period the *Indian Act* will no longer

apply to Lheidli T'enneh, its lands or members. Instead, constitutionally-protected, self-government provisions will enable Lheidli T'enneh 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.

The Final Agreement requires Lheidli T'enneh to have a constitution that provides for government that is democratically and financially accountable to its citizens.

The Lheidli T'enneh government will include at least one representative elected

from non-member residents on treaty settlement lands, known as Lheidli T'enneh Lands. Further, non-member residents may participate in the decision-making processes of a Lheidli T'enneh public institution, such as a school or health board, if the activities of that institution directly and significantly affect them.

## LHEIDLI T'ENNEH LANDS

The Final Agreement land package consists of approximately 4,330 hectares of land for Lheidli T'enneh in and around the Prince George area. This includes 677 hectares of former reserves that will

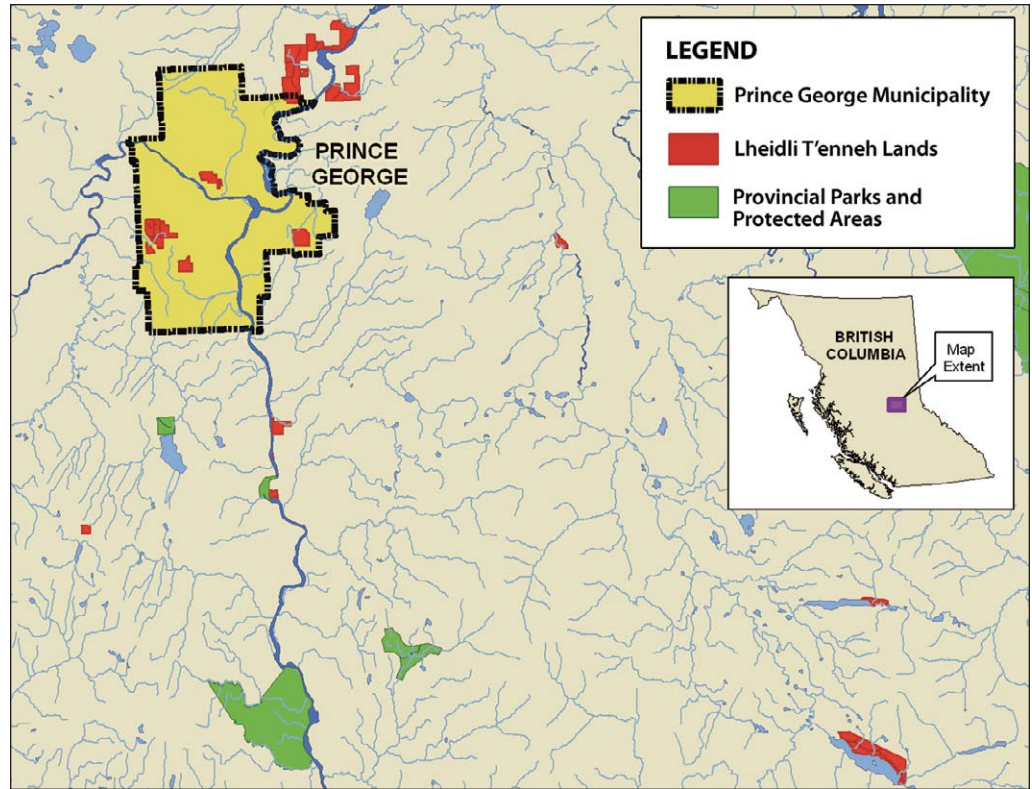
cease to be reserves on the effective date of the treaty, 237 hectares of former federal Crown land and 3,416 hectares of former provincial Crown land. The land will be held in fee simple by Lheidli T'enneh.

**WILDLIFE AND MIGRATORY BIRDS**

Under the treaty, Lheidli T'enneh will have the right to harvest wildlife and migratory birds for food, social and ceremonial purposes within a geographic area called the Lheidli T'enneh Area. This right is limited by measures necessary for conservation and legislation enacted to protect public health and public safety.

Federal and provincial laws will apply on Lheidli T'enneh Lands and throughout the Lheidli T'enneh Area. Lheidli T'enneh laws with respect to the management of the harvesting of wildlife and migratory birds will apply to Lheidli T'enneh citizens. Federal and provincial laws over the use and possession of firearms will also apply.

Lheidli T'enneh will be able to make laws to regulate the harvest of wildlife and migratory



Overview of Lheidli T'enneh Lands

birds by Lheidli T'enneh citizens, including the requirement to carry documentation issued by the Lheidli T'enneh government. Lheidli T'enneh will allow reasonable access for non-members to hunt on Lheidli T'enneh Lands in accordance with federal and provincial laws and with Lheidli T'enneh laws respecting access to these lands.

If it is necessary to address a conservation risk to a specific wildlife or migratory bird species, the treaty allows the Minister responsible to designate that species. Once

designated, the Minister establishes the total allowable harvest for that species. For a designated wildlife species, Lheidli T'enneh and British Columbia will negotiate Lheidli T'enneh's portion of the total allowable harvest. For a designated migratory bird species, Lheidli T'enneh's harvest level will be determined by the federal Minister, in consultation with Lheidli T'enneh.

Lheidli T'enneh citizens will be able to trade and barter wildlife, wildlife parts, migratory birds and migratory bird parts

among themselves and with other Aboriginal people of Canada who live in British Columbia. Wildlife trade and barter does not include sale.

**FISH**

Under the treaty, Lheidli T'enneh will have the right to harvest fish and aquatic plants for food, social and ceremonial purposes, subject to conservation, public health and public safety requirements. The Minister of Fisheries and Oceans' authority to manage fisheries is retained. This right to harvest fish and aquatic

plants will be exercised within a defined geographic area, known as the Lheidli T'enneh Fish Area, as described in the Final Agreement.

The Final Agreement includes an allocation of Upper Fraser sockeye salmon. This allocation is calculated using a formula set out in the Final Agreement, and will vary depending on the size of the Canadian Total Allowable Catch determined by the Minister for those stocks in any given year. However, regardless of the total allowable catch, the treaty allocation will not exceed a maximum of 12,350 sockeye per year. If the allocation were applied to the abundance levels for the years 1982-1997, the allocation would have averaged 9,000 sockeye per year over those years.

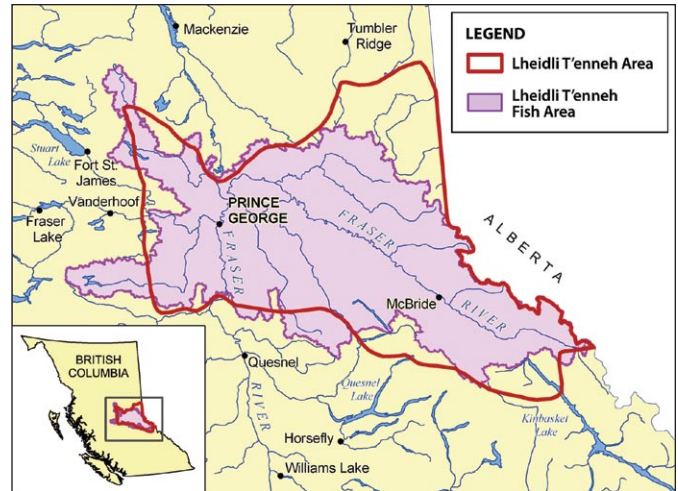
For other fish, a process has been set out in the Final Agreement to establish allocations at the request of any party to the agreement.

A harvest agreement, separate from the Final Agreement and not constitutionally protected, provides for commercial fishing licenses to be issued

to Lheidli T'enneh for Upper Fraser sockeye salmon. The harvest agreement provides Lheidli T'enneh with a defined share of 0.7043 per cent of the Canadian Commercial Total Allowable Catch determined by the Minister for Upper Fraser sockeye. If this defined share were applied to abundance levels for the years 1982-1997, it would have averaged 6,000 sockeye per year for those years.

Federal and provincial laws will continue to apply with respect to the sale of salmon caught in the harvest agreement fishery. The harvest agreement fishery will only take place if the Minister of Fisheries and Oceans authorizes it, and the planning of this fishery would be integrated with the planning of other fisheries.

If the Minister agrees, Lheidli T'enneh's food, social and ceremonial allocation of sockeye salmon may be reduced by a maximum of 50 per cent in any year, and that amount of sockeye can be added to the harvest agreement. Harvesting of these fish by Lheidli T'enneh would then be managed as a



general commercial fishery and would no longer be an exercise of a treaty right.

A request to reduce the allocation for food, social and ceremonial fish, and thereby to increase the harvest agreement share, would be made by Lheidli T'enneh as part of its annual fishing plan in advance of the fishing season. If the Minister did not authorize a commercial fishery in the Lheidli T'enneh Fish Area, Lheidli T'enneh would also lose the opportunity to catch those fish reallocated from its food, social and ceremonial allocation for that season.

Canada will provide a one-time amount of \$3,000,000 for the establishment of a Lheidli T'enneh Fisheries Fund.

Under the direction of Lheidli T'enneh, the fund will be used to support ongoing fisheries management programs and activities. In addition to this fund, Canada will provide a one-time amount of \$275,000 in implementation funding to support the capital costs for stock assessment equipment, including hydro-acoustic monitoring equipment.

## FORESTRY AND WATER

Lheidli T'enneh will own all timber on Lheidli T'enneh Lands, with the exception of four parcels in the Shelley area. On these four parcels, British Columbia will reserve ownership of the coniferous timber for approximately 10 years. During this time, the

harvest of this timber will be managed in accordance with the Shelley Timber Agreement, agreed to between British Columbia and Lheidli T'enneh. The agreement provides that Lheidli T'enneh either harvest the coniferous timber or purchase it from British Columbia. At the end of the Shelley Timber Agreement, Lheidli T'enneh will own all forest resources on these four parcels.

Lheidli T'enneh will receive replaceable forest tenures totalling approximately 107,000 cubic metres of timber. The tenures will be issued under provincial law and will not be part of the constitutionally-protected treaty.

On the effective date of the treaty, British Columbia will establish a water reservation under the *Water Act* for Lheidli T'enneh of 13,400 cubic decametres of water per year for domestic, agricultural and industrial uses.

Current water licences on streams subject to Lheidli T'enneh water reservations will retain their existing priority.

British Columbia will establish a Lheidli T'enneh hydro power reservation for identified watersheds to allow Lheidli T'enneh the opportunity to investigate the potential for hydro power development.

## **FINANCIAL COMPONENTS**

Under the Final Agreement, Lheidli T'enneh will receive a capital transfer of \$13.2 million (2006\$), to be paid out over a 10-year period. Lheidli T'enneh will pay back to Canada, over the same period, the loans taken to negotiate the treaty.

Additionally, Lheidli T'enneh will receive 50 annual resource revenue sharing payments of \$400,000, starting on the first anniversary of the treaty effective date. Resource revenue sharing payments will be indexed to inflation.

Funding for the programs and services that the Lheidli T'enneh 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 Lheidli T'enneh to its citizens 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 \$12.1 million; ongoing funding will be \$1.8 million per year.

The Lheidli T'enneh Final Agreement represents a fundamental change in the fiscal relationship between the federal government and Lheidli T'enneh. The Lheidli T'enneh government will have strengthened autonomy and be fully accountable to its members and residents of its treaty settlement lands for financial decisions. The Lheidli T'enneh 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.

One of the goals of a treaty is to reduce a First Nation's reliance on government funding over time. Lheidli T'enneh 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 Lheidli T'enneh sets out how the First Nation's contribution to the costs of programs and services it delivers to its citizens and residents will change in step with its capacity to generate revenues.

Taxation is an important element of the Lheidli T'enneh Final Agreement as it can contribute to the foundation of future revenue capacity for the Lheidli T'enneh government. The *Indian Act* tax exemption for Lheidli T'enneh citizens will be phased out after eight years for transaction (e.g. sales) taxes and 12 years for other taxes, including income tax. The Lheidli T'enneh government will have the ability to levy direct taxes on its members within Lheidli T'enneh Lands.

Outside of the treaty, Canada and British Columbia are prepared to negotiate how a Lheidli T'enneh tax could also apply to non-members within Lheidli T'enneh Lands. In any event, the Lheidli T'enneh government's tax

powers will not be exclusive, but will operate concurrently with the continuing tax authority of Canada and British Columbia provided in the Constitution of Canada.

## **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, extensive consultations on a wide range of subjects have been held with Prince George-area local and regional governments, third parties and community interests. Since the beginning of negotiations, over 200 public meetings have been held, ranging from consultations with local governments and third parties, to public information open houses and open main tables in the community.

After the Final Agreement is initialled and the ratification process begins, Canada, British Columbia and Lheidli T'enneh 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 and report to the British Columbia Treaty Commission on the progress of discussions with other First Nations.

The Final Agreement has provisions to safeguard the interests of any overlapping groups. Canada, British Columbia and Lheidli T'enneh are consulting with Lheidli T'enneh's 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 Lheidli T'enneh agree to present the agreement

to their respective principals with a recommendation that it be signed and ratified.

Through the Lheidli T'enneh approval process, Lheidli T'enneh members will ratify the Final Agreement through a community vote, which requires at least 50 per cent plus one vote in favour to ratify the agreement. If the Lheidli T'enneh community ratifies the Final Agreement, the Province of 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 Legislature for debate.

If British Columbia ratifies the Final Agreement, the Government of 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.

## LHEIDLI T'ENNEH

Lheidli T'enneh, “the people from the confluence of two rivers,” is a Carrier-speaking First Nation that has traditionally occupied and used the land around Prince George, east to the Alberta border. The main Lheidli T'enneh community is located on the Shelley reserve, 20 kilometres northeast of Prince George. The band has 320 members, about 100 of whom live in Shelley. The majority of the other members live in Prince George.

*If you would like more information about the Lheidli T'enneh Final Agreement, contact:*

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