



**FRASER VALLEY TREATY ADVISORY COMMITTEE**

**REVISED INTERESTS IN TREATY MAKING**

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## 1. INTRODUCTION

### *1.1 FVTAC Interests in Treaty Making*

This paper outlines the interests in treaty making of the local government members of the Fraser Valley Regional District. The original paper, written in 1999, was the result of numerous Fraser Valley Treaty Advisory Committee (FVTAC) workshops on interest identification held from 1996 through 1998. Additionally, the paper was reviewed in detail during three full FVTAC meetings over the summer of 1999. This is a public document which will be used to articulate the FVTAC's interests in treaty making to the provincial negotiating team through the FVTAC Table Representatives assigned to treaty tables being negotiated in the Fraser Valley, to the public and the media.

This document represents the current interests of the FVTAC and the jurisdictions that body represents, but is also considered to be an evolutionary document and subject to future revision.

### *1.2 For More Information*

For information with respect to this policy document, the FVTAC, or the role of local government in the treaty process, please contact the Chair of the FVTAC or the FVTAC Administrator at 604-702-5000 or toll free at 1-800-528-0061 or visit the FVTAC website at [www.fvrd.bc.ca/tac/tac](http://www.fvrd.bc.ca/tac/tac). The FVTAC welcomes public input and inquiries into its role in the treaty process.

### *1.3 The Fraser Valley Treaty Advisory Committee (FVTAC)*

The FVTAC is a committee of elected officials, staff representatives, and observers. The Committee is comprised of representatives from the Fraser Valley Regional District Board, the Member Municipalities represented on the Fraser Valley Regional District Board, the Lower Mainland Treaty Advisory Committee and the Cultus Lake Parks Board. The mandate of the FVTAC is to ensure that local government interests are represented in the treaties being negotiated in the Fraser Valley under the BC Treaty Commission (BCTC) process. While local government is not a party to treaty negotiations, its interests are represented by the Province and the FVTAC is a full member and advisor to the provincial negotiating team(s). Canada and the respective First Nations represent the other two parties in this tripartite negotiation process. The FVTAC has been active in treaty negotiations since its inception in late 1995.

For a map of the traditional territories of First Nations involved in treaty negotiations visit [www.fvrd.bc.ca](http://www.fvrd.bc.ca) and follow the link to the FVTAC, the BC Treaty Commission website at [www.bctreaty.net](http://www.bctreaty.net) or the link to the Ministry of Aboriginal Relations and Reconciliation website at [www.gov.bc.ca](http://www.gov.bc.ca).

#### *1.4 Objectives*

The objectives of this revised **2006 FVTAC Interests in Treaty Making** paper are to:

- express the Guiding Principles the FVTAC supports and believes should be integrated in treaties negotiated with First Nations in the Fraser Valley Regional District;
- catalogue and clarify the General Interests local government has in the substantive elements of Agreement in Principles and Final Agreements negotiated under the BC Treaty Commission process; and
- provide a mechanism to track how local government advice is considered and implemented by the provincial teams at the negotiating table.

#### *1.5 Methodology and Context*

In 1992 the Union of BC Municipalities (UBCM) and the Ministry of Aboriginal Affairs (as it then was) signed a Memorandum of Understanding regarding local government involvement in treaty negotiations. In 1995 the FVTAC was formed to represent the interests of the jurisdictions of the Fraser Valley Regional District in treaty negotiations. Its mandate is to identify, detail and prioritize local government interests throughout the Fraser Valley Regional District as they relate to treaty negotiations, and to provide those interests to the provincial negotiating team. As a mechanism of gathering these interests, a process of interest identification was chosen.

#### *1.6 Specific Interest Identification*

As treaty tables progress to the land selection stage, where Crown land and fee simple land (where there is a willing seller and willing buyer) is chosen to become part of the First Nation's Treaty Settlement Land (TSL), it is important for local government to identify their own specific interests, particularly as those interests relate to the taxable land base. This process is accomplished by assessing key current and long-term land-based interests that municipalities and electoral areas may have and identifying them, in a confidential manner, under the guidance of the FVTAC. These interests are catalogued and prioritized according to needs expressed by the provincial negotiating teams, and submitted to those teams for consideration. It is the hope of the FVTAC that these Specific Interests will be considered exempt from possible transfer to First Nations, both in terms of land title and jurisdiction. The FVTAC has heard this commitment by the Province and feels confident that these principles will continue to inform the provincial negotiations.

Specific Interest identification is a complicated and sensitive process that requires the commitment of considerable effort and resources on behalf of local governments and the FVTAC. It is essential to ensure that long-term local government goals in terms of land use planning, infrastructure and governance are accommodated in the treaty process, particularly in the establishment of First Nations Treaty Settlement Lands and First Nations self-government and jurisdiction. This process is undertaken in full consultation with the provincial teams as treaty tables progress towards land selection and final agreement.

### ***1.7 Provincial Requirements in General and Specific Interest Identification***

The FVTAC represents its interest in treaties through the provincial negotiating teams, to which it sits as an advisor. Although it is not a party to the negotiations, local government is deemed to be a full member of the provincial negotiating team. It is therefore essential that the FVTAC work very closely with the provincial negotiators to ensure that they are aware of and in fact, represent the interests of local government at the treaty tables.

### ***1.8 The Provincial Team and General Interests***

The FVTAC is invited to provide comment to the provincial negotiating teams on early drafts of both Agreement in Principle (AiP) and Final Agreement (FA) Chapters. This General Interest Paper will be the primary mechanism by which the FVTAC articulates local government interests as they relate to AiP and Final Agreement negotiations. This paper will be presented to the provincial negotiating teams and will be formally reviewed with them to provide an opportunity for them to seek clarification or more information from the FVTAC. In addition, as individual AiP and FA chapters progress the FVTAC, through its table representatives, will continue to promote General Interests by remarking specifically on those chapters during the course of negotiations.

## **2. GUIDING PRINCIPLES AND GENERAL INTERESTS**

There are a number of Guiding Principles and General Interests (GP&GI) set forth below that the FVTAC has identified with regard to local government interests in treaty making. These GP&GI are intended to provide the context for other more specific interests related to topics covered in Agreements in Principle and Final Agreements. These GP&GI therefore do not address specific interests *per se*, but rather illustrate overarching principles that local government would like to see enshrined in treaty.

### ***2.1 Application of the Charter***

The *Canadian Charter of Rights and Freedoms* must continue to apply to all citizens of Canada.

### ***2.2 Recognition of Section 35***

The FVTAC supports the affirmation and protection of aboriginal rights as articulated in Section 35 of the *Constitution Act*.

### ***2.3 Continued Involvement of Local government***

The FVTAC should continue to have opportunities to monitor the treaty through Stage 6 (the Implementation Stage) of the treaty process to ensure that its participation does not end with the signing of a Final Agreement at Stage 5.

Local government has an interest in ensuring that it is provided with adequate funding from the senior levels of government in order to ensure that it has the capacity to participate in the process through Stage 6.

#### **2.4 Certainty**

Treaties must result in certain and final definitions of aboriginal rights, and a final and exhaustive listing of powers which First Nations governments may exercise. Treaties must be full and final settlements of any specific or comprehensive land claims and result in a final definition of lands and resources over which First Nations governments will have ownership and/or jurisdiction.

#### **2.5 Efficiency in Governance**

Treaties should provide opportunities for First Nations and non-First Nations people to work together. Unnecessary bureaucracy and complicated systems that replicate regulatory or servicing bodies or models already established in local communities should be avoided. For example, the model of the Local Community Commission (LCC) may be an option for First Nations involvement. The goal is to provide services in creative ways in order to maximize efficiency and economies of scale, while maintaining the goal of aboriginal control over governance of their communities and the need for programs delivered in culturally sensitive ways. The FVTAC is also sensitive to the need for First Nations to gain the capacity to effectively govern and provide services to their citizens.

#### **2.6 Full Access to Treaty Rights By All First Nations Citizens**

The aboriginal rights and title of *all* First Nations people, on and off Treaty Settlement Land (TSL), should be resolved through the treaty process and accommodation must be made to address the interests of off-TSL First Nation citizens.

#### **2.7 Consistency of Standards**

The FVTAC supports the harmonization and consistency of standards throughout the region. Land use planning is of particular interest and concern. The FVTAC endorses all treaty and non-treaty related initiatives that encourage collaboration (through MOU's protocols, etc.) and promotes communication, notification, and consultation.

#### **2.8 Tax Base Protection For Local Governments**

Maintenance of a stable and adequate tax base that supports the services local governments provide to their constituencies is a priority. At the end of treaty making there should be zero net costs to local governments and adequate compensation for any municipal and regional services delivered on TSL.

#### **2.9 Local Government Interests In Crown Land**

Any Crown land which contains a local government interest should be preserved and respected by the Crown.

### ***2.10 Economic Opportunities For First Nations***

The treaty process should result in stronger, healthier First Nations communities in British Columbia with increased opportunities to engage in the broader economic system. Toward this end, the FVTAC supports First Nations in developing land tenure systems that address potential commercial and economic needs and that can be registered in the BC Land Registry.

### ***2.11 No Taxation Without Representation – Balancing the Need for First Nation Self-Governance with the Democratic Rights of All Citizens***

The FVTAC supports treaty settlements for First Nations that ensure opportunities for all its citizens to participate in a democratic government. However, all those who live on, or hold interests in TSL, including non-aboriginals, should have the opportunity to vote and participate in decisions that affect them on local issues (e.g., taxation, land use, etc.). The principal is “no taxation without representation”. The key is to achieve a balance between these interests.

### ***2.12 One Vote Principle – Voting in Local Government Elections or Other Local Government Matters***

The resolution of treaties and the designation of TSL must not result in First Nations citizens having a “double-vote” in the local government context. In the event a First Nation is provided with an opportunity to sit as a full FVRD Board Member should TSL become a separate electoral area, municipality, or some other currently undefined derivative thereof, First Nations citizens should only be entitled to vote for their Regional District Representative in this context alone. First Nation citizens should not be entitled to vote more than once in order to be represented at the local government level.

### ***2.13 Application of Provincial and Federal Standards***

As a general rule the FVTAC supports the application of provincial and federal standards on TSL. The FVTAC appreciates that First Nations governments may have an interest in securing jurisdiction over some areas to ensure that culturally appropriate programs and services are delivered, and to address what is understood as aboriginal rights.

### ***2.14 The Treaty Process Must be Open, Transparent, and Accessible to the Public***

The FVTAC strongly believes that for treaties to be successful in BC, they must be negotiated in as open and accessible a manner possible. To ensure this, the three parties should engage in public education, meaningful public consultation, open debate, and should employ effective and proactive communication strategies. While the FVTAC encourages and supports this process, it does not accept that this is a local government responsibility; rather, it is the responsibility of the senior levels of government.

## **2.15 Consultation**

### **a) With Third Parties:**

Third parties who may be specifically impacted by treaty making must be sought out, identified and consulted in an ongoing and meaningful manner and provided the opportunity to be heard. It is the responsibility of the senior levels of government to ensure adequate consultation with third parties during treaty negotiations.

### **b) With Local Government and First Nations**

The FVTAC welcomes opportunities to engage in mutual consultation with First Nations governments. In the event that First Nations jurisdiction is negotiated off TSL, (e.g., Special First Nations Management Areas), consultation with local governments should be ensured through tools such as MOUs and protocols, based on the concept of “good neighbours.” For further clarity, consultation may entail simple notification (e.g., exchanges of information in advance of decision making or a simple referral process which notifies governments of planned activity and provides them with an opportunity to make further inquiries or note their concerns, similar to a bylaw referral process). Or, fuller consultation such as invitations to comment on planned activities and direct meetings with between local government and First Nations representatives to brief them of planned activities in these areas.

## **3. GOVERNANCE AND JURISDICTION**

### **3.1 Jurisdiction of First Nations Governments**

- The FVTAC supports the granting of powers to First Nations in the areas of local governance that do not extend beyond those exercised by local governments under local government legislation.
- The FVTAC appreciates that First Nations governments may have an interest in securing jurisdiction over some areas that are currently under provincial or federal jurisdiction in order to ensure culturally appropriate programs and services are delivered, and to address what is understood as aboriginal rights.
- With that exception, the FVTAC believes there should be no paramountcy of First Nations jurisdictions over those of the provincial and federal governments.
- The FVTAC has an interest in ensuring that there are sufficient mechanisms and opportunities in place to safeguard the rights of individuals on TSL and under the jurisdiction of First Nations governments to have adequate opportunities to elect the First Nations lawmakers.

### **3.2 Intergovernmental Relations**

- It is essential that effective working relationships based on mutual respect and understanding be fostered by the treaty process in order to ensure that all local government and First Nations governments maximize opportunities for cooperation post-treaty. It is local government that will remain as a constant and close neighbour to First Nations governments after federal and provincial administrations complete treaty making.

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- Effective inter-governmental relations shall be fostered with the full participation of the Fraser Valley Regional District Board and its member municipalities through the FVTAC.
  - The FVRD Board and the FVTAC shall support creative and new methods of promoting harmonization and meaningful communication and consultation between local and First Nations governments.
  - Consideration of local government legislative reform may be necessary to provide for additional representation by First Nations in Regional Districts or municipalities. Provincial ministries should work together to make the institutional and legislative changes necessary to encourage such harmonization.
  - The FVRD Board and the FVTAC support the following core principles applying to relationships with all First Nations in our region:
    - Recognition that there is a full spectrum and range of opportunities with respect to intergovernmental relationships and servicing models;
    - Recognition that the FVRD Board welcomes the opportunity for First Nations to participate on the FVRD Board as a full voting member;
    - The First Nation must pay for certain “core services” should they wish to participate on the FVRD Board;
    - The First Nation must pay for services delivered by the Fraser Valley Regional District for which the First Nation derives a direct or indirect benefit irrespective of whether they participate on the FVRD Board;
    - In the event the First Nation derives a direct or indirect benefit from a service delivered by the Fraser Valley Regional District, there must be a cost recovery mechanism in place in the event of default of payment;
    - It is expected that post treaty, the First Nation will contribute in the same manner as other property taxpayers in our region towards the capital cost of health care and policing;
    - Recognition that the resolution of treaties and the designation of TSL must not result in First Nation citizens having a “double-vote” in the local government context;
    - Recognition that transitional funding must be made available to local government post-treaty to assist with treaty implementation measures, particularly as those measures relate to intergovernmental relations and building capacity.

### 3.3 *Dispute Resolution*

- The FVTAC appreciates that local government is not a party to treaty negotiations and therefore no mechanisms of dispute resolution provided in the treaty are available to it. However, the FVTAC anticipates there may be some potential future need for such a mechanism to solve disagreements on issues with First Nations governments. Local government would prefer to have opportunities beyond the court available to address these situations, should they occur.

- A process by which First Nations and local governments solve differing interests in land use planning that may have transboundary impacts should be considered.

### **3.4 Services**

- It is suggested that servicing issues and principles may be best addressed in the context of a local government relations chapter.
- When First Nations and local governments make arrangements for servicing on a fee for service basis, standard assessment systems will be recognized and utilized. The FVTAC recommends that property assessments, based upon BC Assessment data, be the basis upon which equitable fees are structured in exchange for services delivered. The principle is that First Nations should pay for services at the same rate as other participants.
- The FVTAC has an interest in ensuring that there will be mechanisms put in place that will guarantee that First Nations will pay for all services delivered by local government for which the First Nation derives a benefit. It should be recognized that in some circumstances user fees, i.e. water, will be charged based on consumption.
- The FVTAC has an interest in ensuring that there will be mechanisms put in place that will guarantee that First Nations will pay for all services delivered by other levels of government which local government taxpayers must currently contribute towards including, but not limited to, health care, education, and policing.
- The FVTAC has an interest in ensuring there will be mechanisms put in place that will guarantee that First Nations pay their pro-rata share of the capital costs that the Fraser Valley Regional Hospital District is responsible for securing from its tax base.
- The FVTAC has an interest in ensuring that there are transition provisions in Final Agreements which adequately address issues around pre-existing service agreements between First Nations and local governments. When treaties are negotiated with First Nations who currently have service agreements with local governments, there must be some type of transition provided for in the treaty to ensure that servicing and payment continue until a new arrangement is entered into. Implementation funding must be made available in this regard. In cases where there are outstanding debts to local government for services rendered to First Nations, these debts must be paid at the time of the completion of treaties and mechanisms for cost-recovery in case of default must be instituted.

### **3.5 Land Use Planning - Continuity**

- Mutual notification of land use planning initiatives and land code changes should be made by First Nations governments and local governments to ensure satisfactory coordination. The signing of protocols to this effect should be encouraged at the treaty table as part of the development of intergovernmental relations. This process would not only ensure local government knowledge of First Nations projects on TSL, but would also be a mechanism by which First Nations governments would receive notification of local government land management issues that would potentially affect them. Continuity of planning processes is the key.

### **3.6 *Provincially Mandated Programs and Services***

- There are some regional services which are delivered to communities, including First Nations communities, which are less tangible in terms of direct benefits to individuals. Some of these programs/services are legislatively mandated by the Province and must be delivered by local governments in a regional fashion. Examples of these are Solid Waste Management, Regional Growth Strategy (including transportation planning), Water and Air Shed Management.
- In cases where advisory boards exist with respect to the administration and operation of these provincially mandated services, there are currently opportunities for formal First Nations participation and involvement. However, there is currently no obligation for First Nations to fully participate in these programs and no opportunity to enforce program/service deliverables in First Nation communities. Moreover, there is no meaningful opportunity for cost recovery back to the local government from the First Nation. The FVTAC has an interest in ensuring that cost recovery mechanisms are identified and guaranteed.
- Treaties should provide for harmonization of regulations for regionally mandated programs through opportunities for programs to apply on and off TSL.

### **3.7 *Other Programs and Services of General Application***

- In some cases regional programs and services are not mandated by the Province, but rather delivered by Regional Districts and their members to improve the quality of life of residents and taxpayers. Examples of these may be regional or sub-regional services, e.g., E-911, Regional Parks, Mosquito Control and Noxious Weed Control. Generally, there should be no “opting out” by First Nations of programs of general regional benefit where local government is bound by an obligation to participate in the service. Consultation with First Nations regarding these programs should occur concurrently with negotiations regarding the reimbursement of costs for running programs.
- The cost of regional and sub-regional services such as library and recreation, which all citizens may access, should be shared by First Nations and should be negotiated before the Implementation Date.

### **3.8 *Regional Growth Strategy***

- First Nations growth issues should be included in the Regional Growth Strategy (RGS) of the Fraser Valley, as legislated under the *Local Government Act* and *The Community Charter*. Growth issues affect all communities in the region, including, First Nation communities. The outcome of the treaty process could in fact encourage additional growth in the “regional community at large”. Issues such as air quality, transportation needs and economic development are both impacted by, and impact upon, aboriginal and non-aboriginal communities. For this reason it is essential that First Nations be involved more formally in the RGS. This should include information sharing of a technical nature as well as opportunities to hear First Nation visions for growth in their communities.

### ***3.9 Agricultural Land Reserve***

- Agricultural Land Reserve (ALR) lands that become designated as Treaty Settlement Land must be not be removed from the ALR without due process. The FVTAC has heard this commitment made by the Province and hopes it continues to maintain and promote this interest.
- The ALR is an essential mechanism that ensures the Valley's most fertile land agricultural is protected. The FVTAC appreciates that First Nations citizens and governments will need a diverse land base to ensure adequate economic opportunities and housing. However, the continued health and availability of land for agricultural activities is an overarching need for all British Columbians. Local government supports the preservation of viable agricultural land. TSL designated as ALR must remain subject to the jurisdiction of the Agricultural Land Commission. Any application by a First Nation for removal of land from the ALR must follow the same procedures as for any other applicant.

### ***3.10 Eligibility and Enrollment - Certainty***

- The FVTAC has an interest in certainty in the treaty process. A mechanism that provides for an exhaustive listing of those First Nations citizens whose aboriginal rights are being addressed through a treaty is essential to ensure this certainty. The Eligibility and Enrollment Chapter of the treaty must clearly address this interest.

### ***3.11 Policing***

- Local governments would prefer to see policing needs of First Nations governments met by the policing agencies currently used in the region. Training in First Nations laws and cultural needs could be integrated into the training of these agencies to better meet First Nations governments' needs. This would create a more efficient and effective service, and create consistency and clarity of jurisdictional boundaries.
- Policing on reserve lands is done in different ways throughout the Fraser Valley. In some cases, the municipality provides police services on a fee for service basis to the First Nation. However, in some cases, the RCMP is the key local policing agency, and is also responsible for reserve lands. Treaties should provide mechanisms for negotiating policing issues between neighbouring policing agencies and local governments, where appropriate.

### ***3.12 Environmental Assessment***

- Provincial and federal laws should prevail for environmental assessment on Treaty Settlement Lands.
- Any provincial or federal Crown lands designated as Treaty Settlement Lands must be brought up to the highest environmental standards as soon as possible after the designation of these lands as TSL. If there are outstanding contamination problems that have not been addressed by the federal government, they must be addressed and mitigation paid for by the federal government once they are transferred to First Nations.

## **4. LANDS**

### ***4.1 Certainty in Protection of Crown Leases***

- The Crown must fully protect the interests of current Crown land tenure holders on or off TSL.

### ***4.2 Certainty in Amount of Add-ons to TSL***

- Local governments do not support the conversion or transfer of fee simple lands to TSL post-treaty.
- If fee simple land located within local government boundaries is purchased as an “add on” to TSL, local government must first be consulted and formally approve of the transfer in advance of the transfer.
- There must be a cap on the amount of such land First Nations may purchase post-treaty and compensation must be paid to local government where tax bases are impacted and adjusted.
- If lands are added to TSL post-treaty they should be lands contiguous to designated TSL.
- Any land purchased in fee simple post treaty by a First Nation must remain fee simple.

### ***4.3 Overlaps of Traditional Territory***

- The FVTAC understands that First Nations territories often overlap and that not all First Nations in BC are engaged in the BCTC process. The resolution of overlapping claims by First Nations is of great concern to the FVTAC due to its interest in the certainty and finality of treaties. Every attempt should be made to ensure that all aboriginal rights and title issues associated with particular TSL and adjacent lands are dealt with before Final Agreement so as to avoid future litigation, land claims or other disputes. As treaty negotiations evolve, it is recognized that there may be additional models created to address overlap issues such as co-management or overlapping or shared jurisdictions/territories. The FVTAC’s primary interest is around certainty.

### ***4.4 Non-BCTC First Nations***

- The FVTAC has significant concerns about the certainty of treaty settlements in the Fraser Valley when so many First Nations in the region are not currently engaged in the BCTC process.
- The FVTAC encourages renewed examination by the BC Treaty Commission on how to best ensure that all aboriginal rights and title issues in the FVRD area are addressed in a timely and meaningful and fashion.

### ***4.5 Treaty Settlement Land vs. Cash Settlements***

- Where there are treaty negotiations in urban areas local government would prefer cash offers to large land offers.

- In areas where Crown land is more available local government would prefer that more land be offered to First Nations as opposed to cash settlements.
- Where possible, TSL should be contiguous plots of land in order to ensure certainty and consistency and harmonization of standards.

#### **4.6 Expropriation**

- The FVTAC believes expropriation powers of First Nations governments should not be extended beyond those held by local government.

#### **4.7 Access**

- Access to local government lands, assets, infrastructure, rights of way and all other local government sites of interest, developed or undeveloped, must be ensured and protected in perpetuity.
- It is imperative that access to local government infrastructure in support of water and sewer utilities be protected and ensured, specifically access to Cannell Lake, Norrish Creek and all other water sheds and water courses (including future water sources) which are the source of water for local government water systems in the region.
- Existing easements and statutory rights-of-way in favour of local government should be preserved and registered in the Land Title Office.
- Reasonable access to and on TSL should be ensured for the recreational activities of non-aboriginal people. In cases where key local roads run through TSL, the treaty must formalize agreements for access to these roads by non-aboriginal people.
- In the interests of good inter-community relations, as much access to TSL as feasible and reasonable should be offered to the community at large; everybody should have a certain amount of freedom to access recreational areas, residential streets, commercial enterprises, and First Nations' government offices on TSL.

#### **4.8 Parks and Protected Areas**

- The FVTAC has a significant interest in designating parks to meet the needs of its own residents as well as the considerable number of users from the Greater Vancouver Regional District who access and utilize FVRD Regional Parks.
- The FVTAC will not support the allocation of any current or designated Regional or Municipal parks as Treaty Settlement Land.
- The FVTAC does not support a change in status of any park in the FVRD which would in any way restrict existing access opportunities by the local government or the public at large.
- The FVTAC is amenable to considering and implementing creative ways of increasing First Nations use of regional parks within the FVRD for either aboriginal or recreational uses and to promote the visibility of First Nations culture and history.
- The FVTAC supports the consideration of co-management agreements for parks with First Nations.

## 5. FISCAL

### 5.1 *Affordability*

- Treaties must be affordable to all Canadians and British Columbians. No extraordinary burdens must be imposed on local governments or taxpayers as an outcome of the treaty process.

### 5.2 *Taxation- Financial Impact on Local Government*

- The net fiscal impact of treaties on local government should be zero.
- First Nations should be able to take on taxation responsibilities of its citizens on Treaty Settlement Lands. However, provincial and federal taxes (GST) should be paid by all First Nations post-treaty.
- Taxation powers over non-aboriginal citizens should only be available to First Nations governments if adequate democratic representation is provided to all individuals who are taxed by that government.
- Fiscal arrangements should be put in place to ensure that First Nation governments do not have the opportunity to provide unfair competitive advantages to private sector corporate interests which are not otherwise available to other third parties.

### 5.3 *Own Source Revenue and Fiscal Financing*

- Once First Nations governments are in a position to generate revenue this revenue should be used to offset the costs of governance and accounted for by the provincial and federal negotiating teams when Fiscal Financing arrangements are renegotiated over time.
- Fiscal Financing of First Nations government should be provided on a service and program basis and not as block funding. Monies should be targeted, just as they are in the funding systems for other jurisdictions.
- As First Nations become more self-sufficient through own source revenue opportunities, which is a goal supported by the FVTAC, it is important that an “equalization” program/system be put in place to offset and compensate for any fiscal financing arrangements in the treaty.

## 6. RESOURCES

- Many citizens of the FVRD depend on the resource sectors for their livelihoods. The FVTAC supports the use of the resource sectors in a manner that is sustainable for all community members, including First Nation communities in the region.
- The impact of the uncertainty of aboriginal rights and title has a significant and detrimental impact on the resource sector, including trapping, mining, and forestry. The need for clarity and certainty for the successful functioning of these industries must be considered when establishing timelines for conclusion of treaty making.

### **6.1 Forestry**

- The Mission Tree Farm License must not be affected by the settlement of treaties. In addition, the jurisdiction and ownership of this land must remain with the Crown, and not be transferred in any manner to a First Nation for TSL or other purposes.
- Provincial forest codes should continue to apply to lands transferred to First Nations.
- Local government interests in any tree farm licences and/or community forests must be preserved and protected.
- There must be a level playing field for all participants in the forest industry, including First Nations businesses.
- Compensation must be made to licensees or tenure holders whose access to forest resources is eliminated or reduced through treaty settlements. This does not, however, address the potential loss of employment by individual sector employees. Creative strategies to encourage the economic health of *all* families in the FVRD who rely on the forest sector must be sought.

### **6.2 Wildlife**

#### *Management of Wildlife*

- The FVTAC has an interest in protecting the future health and preservation of wildlife in its jurisdiction.
- The health and preservation of local wildlife is integral to the recreation of many members of our community. Regional management and protection of wildlife may be necessary in order to protect this interest.
- Regional, national and international agreements designed to protect certain species should be respected by treaties.

### **6.3 Fish (subject to separate, future workshop with BC and Canada)**

- Fishing is an important part of the economy of the Fraser Valley. The FVTAC appreciates and respects the unique relationship First Nations have with fish and the important role this resource plays in the cultural, social and economic lives of the First Nations. Aboriginal commercial fishers and their commercial fish allocation needs must be met on an equal footing, however, to those of non-aboriginal fishers.
- Treaties should ensure that aboriginal communities are able to access fish needed for cultural, ceremonial or food purposes.
- The FVTAC does not have an interest in seeing a separate aboriginal commercial fishery designated. Fishing licenses should be purchased by First Nations citizens and their governments separate from the treaty process, and these licenses must be used to generate economic revenue based on fishing.

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#### 6.4 *Cultural and Heritage Sites*

- The FVTAC recognizes that aboriginal peoples have existed on this land from time immemorial and during that time have developed unique relationships to particular sites on the land.
- The need to protect First Nation cultural and heritage sites is recognized by local government. Land development must be balanced with the need to respect First Nations culture. Clear guidelines and designation of traditional territory must be made available to those who have an interest in lands. For example, clear maps should be created delineating which regions are of an interest to First Nations and the definitions of sites must be very clear.
- Current legislation such as the *Heritage Conservation Act* and *Historical Resources Act* are supported by the FVTAC.
- The FVTAC also respects the interests of other communities to seek protection and interpretation of their unique heritages.

#### 6.5 *Water and Flood Protection*

- The Fraser Valley has an abundance of watersheds and water courses within its geographic boundaries. It must be recognized that these same watersheds and water courses are the source of water for the water systems that are owned and operated by local governments in the Fraser Valley. Protection and proper management of all watersheds must be a priority, both in terms of ensuring future capacity and supply and more importantly in terms of public health and safety.
- All local governments must maintain control, jurisdiction and authority over water which is, or may be used in the future, to supply potable drinking water to their communities.
- The Fraser Valley and vicinity is influenced by the Fraser River and its many tributaries. Flooding is a significant challenge faced by Local Government in the Fraser Valley. Local Government has very limited authority to provide flood protection and does not have the resources, nor the mandate, to provide the level of protection that is necessary to prevent or combat a significant flood occurrence in the region. Local Government believes that this responsibility lies with the senior levels of government and relies on the senior levels of government to do all things necessary to ensure that adequate flood protection is provided to the region. Local Government believes that Treaties must identify the relationship that First Nations will have with respect to their role, vis a vis the role of the senior levels of government and the role of Local Government, as those roles and responsibilities relate to ensuring that there is adequate flood protection in our region and on Treaty Settlement Lands.
- Zoning on TSL must ensure that residential and other developments are not built below floodplains. Local governments cannot secure the safety of developments on TSL which may be threatened by floods.

## 7 CONCLUSION

The FVTAC relies upon the Province's on-going commitment to recognize local government as a full member of the provincial negotiating team, albeit in an advisory capacity. In this role, local government must capitalize on the opportunity to ensure that local government interests in the treaty process are heard and considered at the treaty table. In addition to the Guiding Principles and General Interests identified in this policy document, local government also has the further opportunity to identify other specific local government interests to the provincial negotiating team. This is of particular importance during the latter stages of the treaty process where cash settlements, land selection and governance issues are put squarely on the table in anticipation of reaching Final Agreement. The FVTAC remains committed to ensuring that local government interests are identified and brought forward to the provincial negotiating teams and welcomes any feedback from the public at large with respect to ensuring that it fulfills its mandate.