
TO: CITY MANAGER **DATE:** 2010 June 16

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 2155-01
Ref: LMTAC

SUBJECT: FEDERAL ACTION PLAN TO SUPPORT PROGRESS IN THE BC TREATY PROCESS

PURPOSE: To respond to the recently released Federal *Action Plan* titled, “*Canada takes action to support progress in the BC Treaty Process*”, dated 2010 March 2, and the related briefing material issued by the Lower Mainland Treaty Advisory Committee (LMTAC).

RECOMMENDATION:

1. **THAT** Council adopt the resolution contained in *Attachment A* of this report to endorse the use of the responding paper developed by LMTAC as a mechanism for advancing the discussion with the Federal Government on their recently released *Action Plan*.

REPORT**1.0 INTRODUCTION**

Council, at its meeting of 2010 May 7, received a letter from the Lower Mainland Treaty Advisory Committee (LMTAC) regarding the recently released Federal Government’s *Action Plan* titled, “*Canada takes action to support progress in the BC Treaty Process*”, dated 2010 March 2, and the related briefing material issued by LMTAC as part of the Council Correspondence package. The correspondence was issued by LMTAC to ensure that Council was aware of the proposed changes in Federal mandate and to invite additional comments and questions.

The purpose of this report is to convey the resolution contained within *Attachment A* for the consideration of Council as the City of Burnaby’s official response to LMTAC’s request for comments and questions on the LMTAC response report titled, “*LMTAC Comments on INAC Backgrounder: ‘Canada takes action to support progress in the BC Treaty Process’*”, endorsed by the LMTAC Board on 2010 April 28.

2.0 LOWER MAINLAND TREATY ADVISORY COMMITTEE (LMTAC)

LMTAC was created with the signing of a Memorandum of Understanding (MOU) between the Province of British Columbia and the Union of British Columbia Municipalities (UBCM) on 1993 March 22. LMTAC is comprised of 26 local government jurisdictions and its mandate is:

“Coordinating and representing the collective interests of local government, and through them their constituents, in defining and building relationships between First Nations and other orders of government.”

Local government interests in treaty negotiations are communicated to the Provincial Government through the Union of BC Municipalities (which provides a province-wide local government perspective) and individual Treaty Advisory Committees, like LMTAC (which provides a region-specific local government perspective). Although local governments are not one of the three principles 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.

3.0 THE COMMON TABLE

The Common Table was established in 2008 as a means to reinvigorate the BC Treaty Process by reviewing government mandates identified by some First Nations as potential barriers to reaching negotiated settlements. The Common Table was comprised of representatives from the governments of Canada, BC and First Nations. The Common Table meetings were chaired by the BC Treaty Commission. Issues identified by the Common Table were:

- recognition / certainty;
- constitutional status of treaty lands;
- governance;
- co-management;
- fiscal relations and taxation; and
- fisheries.

4.0 THE FEDERAL ACTION PLAN

On 2010 March 16, the Federal Government released a document titled, *“Canada takes action to support progress in the BC Treaty Process”* to participants of a *Federal Round Table on Aboriginal Rights and Title in British Columbia* as a response to issues previously raised at the Common Table. The Round Table was convened as an informal discussion among senior Federal Government officials and representatives of the BC Treaty Commission, First Nations, local governments (including LMTAC) and business

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(the resource industry). The purpose of the Round Table was to support Canada's ongoing analysis of Federal Government approaches to reconcile Aboriginal rights and title in BC to assist in establishing lasting certainty over lands and resources.

The Federal *Action Plan* marks the first major initiative in recent years and outlines several broad objectives and concepts for developing new mandates. The *Action Plan* is the result of an eighteen month long intensive, internal analysis of Federal Government's treaty mandates. This analysis explored ways and measures to better manage Aboriginal rights and title in BC. The Federal *Action Plan* contains the following six elements:

- "Allow the negotiation of language in treaties that **recognizes** that a First Nation has existing Aboriginal rights and acknowledges that these rights have not always been respected."
- "Introduce a method of achieving **certainty** in treaties that addresses First Nations' concerns with the extinguishment of rights."
- "Strengthen and streamline **Treaty-Related Measures**, which are government-funded projects, undertaken by First Nations, on topics such as land and resource studies, to help move treaties forward."
- "Provide modern treaty First Nations in B.C. with power to establish **finances and administrative penalties** on Treaty Settlement Lands that are comparable to those that Provincial and Federal governments have in place for similar regulatory offences."
- "Develop a new approach for **financing** self-governing First Nations that is more transparent, fair and efficient. This approach will also take into account the unique circumstance of self-governing groups."
- "BC Treaty Process **Fish** Negotiations and Cohen Inquiry."

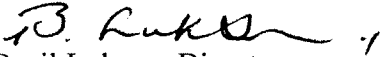
To our understanding, the next steps for the Federal Government are likely to vary for each of the six elements included in the *Action Plan*. Although the six elements included within the Federal *Action Plan*, five (recognition, certainty, Treaty Related Measures (TRM's), enforcement, and fish) are all BC Treaty Process centric, the Federal Government will likely be giving careful consideration to the national impact of these mandate changes as they are advanced. As a result, the timeframe for advancing these mandate changes may also vary from months to years.

5.0 CONCLUSION

LMTAC views the Federal *Action Plan* as an important reaffirmation of Canada's commitment to the BC Treaty Process and it is encouraging to see that the Federal Government invited local government (LMTAC) to participate in the 2010 March 16, *Federal Round Table on Aboriginal Rights and Title in British Columbia*.

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The Federal Government's recently released *Action Plan* represents a potential narrowing of the differences between the Provincial and Federal negotiation mandates. However, LMTAC wishes to pursue further dialogue with the Federal Government to ensure a workable solution is advanced. Therefore, this report recommends that Council adopt the resolution contained in **Attachment A** of this report to endorse the use of the responding paper developed by LMTAC as a mechanism for advancing the discussion with the Federal Government on their recently released *Action Plan*.


Basil Luksun, Director
PLANNING AND BUILDING

DAC/

Attachment

cc: Deputy City Managers
Director Finance
Director Engineering
Director Parks, Recreation and Cultural Services
City Solicitor

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Attachment A
Council Resolution

In Response to Letter Dated 2010 May 3 from LMTAC
Federal Action Plan to Support Progress in the BC Treaty Process
Received by Council at their meeting of 2010 May 7

Prepared by the City of Burnaby

WHEREAS on 2010 March 16, the Federal Government released an *Action Plan* titled, “*Canada takes action to support progress in the BC Treaty Process*”; and

WHEREAS the *Action Plan* is the result of an eighteen month long intensive, internal analysis of Federal treaty mandates and marks the first major initiative from the Federal Government in recent years related to the BC Treaty Process; and

WHEREAS the *Action Plan* outlines several broad objectives and concepts for developing new mandates for the Federal Government and their participation in the BC Treaty Process; and

WHEREAS LMTAC views the Federal *Action Plan* as an important reaffirmation of Canada’s commitment to the BC Treaty Process; and

WHEREAS it is encouraging to see that the Federal Government invited local government (LMTAC) to participate in the 2010 March 16, *Federal Round Table on Aboriginal Rights and Title in British Columbia*; and

WHEREAS the *Action Plan* appears to represent a potential narrowing of the differences between the Provincial and Federal mandates as they relate to the BC Treaty Process; and

WHEREAS more detail is required on a number of areas, as pointed out by the questions posed by LMTAC in the *Action Plan* titled, “*Canada takes action to support progress in the BC Treaty Process*” as received by Council at their meeting of 2010 May 7 as part of the Council Correspondence package.

THEREFORE IT BE RESOLVED:

1. **THAT** Council endorse LMTAC’s report titled, “*LMTAC Comments on INAC Backgrounder: ‘Canada takes action to support progress in the BC Treaty Process’*”, as a mechanism to further the dialogue with the Federal Government.
2. **THAT** Council forward a copy of this resolution to the Honourable Chuck Strahl, *Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians*, Burnaby Members of Parliament, the Honourable George Abbott, *Minister of Aboriginal Relations and Reconciliation (MARR)*, the Burnaby Members of the Legislative Assembly, and Ms. Regan Schlecker, *Managing Director, Lower Mainland Treaty Advisory Committee (LMTAC)*.