

The Maa-nulth First Nations Final Agreement



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Negotiating modern-day treaties and land claim settlements are a priority for the government of British Columbia. Treaties will increase First Nations' participation in the provincial economy, create certainty over Crown lands and help close the social and economic gaps that exist between Aboriginal and non-Aboriginal people in our province. Treaties will also make it possible for First Nation members to be more self-reliant.



Creating Certainty

Treaties create the potential for prosperity, providing First Nations with the tools to improve the education and health of their people, build houses, create jobs and provide economic benefits. Treaties and other lasting agreements will help improve the quality of life of Aboriginal families and provide First Nations with a promising future for generations to come.

A treaty with the Maa-nulth First Nations will create social and economic opportunities for the community while building certainty and encouraging investment for B.C. Each treaty is unique and reflects the interests of the First Nation(s) involved, but all Final Agreements will have certain basic provisions:

- » Provide First Nations access to lands and resources.
- » Allow for the day-to-day law-making authorities for First Nations to govern their lands and resources.
- » Define the roles and responsibilities for First Nations, and the federal and provincial governments, with respect to land, resources and governmental relations.
- » The Canadian Constitution will not be altered, and the Canadian Charter of Rights and Freedoms will continue to apply to First Nation members.



The Maa-nulth First Nations

The Maa-nulth First Nations, which include the Huu-ay-aht, Toquaht, Ucluelet, Uchucklesaht, and the Ka:'yu:k't'h'/Che:k'tles7et'h' First Nations, are located on the west coast of Vancouver Island. The First Nations have a combined population of approximately 2,000 people, many of whom live near Bamfield, Port Alberni, Ucluelet, Campbell River and in Kyuquot Sound.



The five Maa-nulth First Nations are members of the Nuu-chah-nulth Tribal Council (NTC) and began treaty negotiations with the provincial and federal governments in 1994 as part of the NTC treaty table. The NTC treaty table reached a draft Agreement-in-Principle in March 2001. The Maa-nulth First Nations voted in favour of the draft AIP, but six other Nuu-chah-nulth First Nations did not support it. The Maa-nulth First Nations subsequently approached the provincial and federal governments to continue negotiations and signed an AIP in October of 2003.



The Final Agreement provides for land, cash, resources, culture and self-government, as well as law-making authorities related to Maa-nulth's management of their lands, resources, and culture.

This treaty will increase certainty over the lands and resources on a significant portion of the west coast of Vancouver Island. It provides the First Nations with economic development opportunities and the ability to build prosperous, vibrant communities for Aboriginal and non-Aboriginal people alike.

Agreement builds economic base

The Final Agreement details a transfer of funds to assist the Maa-nulth First Nations in developing business capacity and economic opportunities. As the First Nations gain an economic foothold in the region, money will be spent locally, bolstering the local economy.

- » Maa-nulth First Nations will receive a capital transfer totalling \$73.1 million in 2006 dollars. The First Nations will also receive resource revenue payments averaging an estimated \$1.2 million per year for 25 years.
- » Every eight years fiscal financing agreements with each Maa-nulth First Nation will be negotiated to fund programs and services.

- » Maa-nulth First Nations will have authority to tax their members on treaty lands. Tax exemptions for transactions and other taxes will be phased out after eight and 12 years respectively.
- » B.C. will share 50 per cent of provincial income tax and sales tax revenue collected from Maa-nulth members on their lands after the phase out of the tax exemption.
- » B.C. will share 100 per cent of real property tax collected from anyone residing on Maa-nulth First Nation lands.

Land

Maa-nulth First Nations lands will not be Indian reserve lands. The First Nations will own their lands and therefore have the flexibility to manage it and generate long-term economic benefits for their members.

- » Maa-nulth First Nations will own approximately 24,498 hectares (ha.), including:
 - 22,342 ha. of former provincial Crown land;
 - 92 ha. of purchased private land; and
 - 2064 ha. of former Indian Reserve land.
- » The public will continue to have access to public treaty lands for recreational and non-commercial uses, including hunting and fishing.

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- » Predetermined fee simple and Crown land parcels may be added to treaty lands if they are purchased by the First Nations.
- » Tenures issued by B.C. over proposed Maa-nulth lands will be protected.
- » Maa-nulth First Nations will have law-making authority concerning the management and development of their lands.
- » Protection will be provided under the *Park Act* to Thunderbird's Nest (2,200 ha.), which is a site of significant cultural and spiritual importance to the Maa-nulth First Nations.
- » Management provisions will enable Toquaht and Huu-ay-aht to protect and preserve their strong cultural connections to the Stopper and Diana Islands in Barkley Sound.

<i>First Nations</i>	<i>Former Reserves (ha)</i>	<i>Additional Lands (ha)</i>	<i>Purchased Fee Simple Lands (ha)</i>	<i>Total (ha)</i>
<i>Huu-ay-aht</i>	1,054	7,163		8,217
<i>Ka'yu:'k't'h'/ Che:k'tles7et'h'</i>	382	5,916		6,298
<i>Toquaht</i>	196	1,290		1,486
<i>Uchucklesaht</i>	233	2,828		3,061
<i>Ucluelet</i>	199	5,145	92	5,436
Totals	2,064	22,342	92	24,498

- » Existing third-party tenures and private properties will continue to have access across treaty lands.
- » Crown roads will be excluded from treaty lands and will continue to be owned by B.C.

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Structure for the Maa-nulth First Nations governments

Each Maa-nulth First Nation will have a democratic government with a constitution, financial administration standards like those of other governments in Canada, and the protection of rights and freedoms for Maa-nulth First Nations members. Each Maa-nulth First Nation will contribute to the costs of its government and, as their economies grow, this will reduce their reliance on federal and provincial funding.

In addition to having law-making authorities, much like local governments, in areas such as fire protection, public works, and traffic and transportation, each Maa-nulth First Nation government will be able to make laws in areas such as health, education, child protection and adoption with respect to their members living on Maa-nulth lands.

- » There will be a non-member representative on any First Nation government or First Nation public institution that makes decision relating to taxation matters that directly and significantly affect non-members. The non-member representative will be selected by non-members and have the ability to participate in discussions and to vote on taxation matters that directly and significantly affect non-members.

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- » At any time during an initial 10 year transition period, each Maa-nulth First Nation may provide notice to the relevant regional district (either the Alberni-Clayoquot or Comox-Strathcona Regional District) that it will become a voting member. After this transition period, each Maa-nulth First Nation will automatically become a voting member of the appropriate regional district.
- » B.C. and each Maa-nulth First Nation government will enter into agreements to delegate law-making authority over foreshore areas fronting Maa-nulth Lands.
- » The Maa-nulth First Nations governments are not precluded from participating in the New Relationship initiatives in their area, including shared decision-making. The First Nations may also participate in general benefit-sharing programs of the Province of British Columbia, or arrange for economic opportunities with third parties.

Culture and heritage

The treaty provides a process of reconciliation that respects the First Nations' heritage.

- » Maa-nulth First Nations governments may make laws on treaty lands to conserve and protect their culture and language, to deal with ancient human remains, and to regulate access to their cultural heritage resources.
- » Some of the Maa-nulth artifacts in the Royal British Columbia Museum, Canadian Museum of Civilization and Parks Canada collections will be transferred to the Maa-nulth First Nations.

- » B.C. and the Maa-nulth First Nations will develop a list of key geographic features to be named in the Nuu-chah-nulth language in accordance with provincial policy and procedures.

Rights and responsibilities

The Province of B.C. and the Maa-nulth First Nations have a common interest in developing resources to fuel the economy, create jobs and increase certainty over the land base. To support responsible development, the Maa-nulth treaty ensures province-wide standards of resource management and environmental protection continue to apply. As well, the First Nations will be able to make additional environmental protection laws that apply on their treaty lands.

Fish, wildlife and migratory birds

General undefined Aboriginal rights to harvest wildlife and fish have been negotiated into specific, defined rights spelled out in the Final Agreement. This clarity will reduce tensions by eliminating the uncertainty associated with Aboriginal hunting and fishing rights.

- » The Maa-nulth First Nations will have the right to gather plants and harvest fish, wildlife and migratory birds for food, social and ceremonial purposes within treaty land area. However, conservation, public health or public safety measures take precedence.
- » The federal and provincial ministers will continue to manage fish, wildlife and migratory birds and their habitats. The First Nations will have the authority to make laws to regulate their fisheries and harvests, identifying who can participate in the harvest

and how the harvest will be distributed among Maa-nulth members. They will also manage designation and documentation of their fishers.

- » The Final Agreement will establish a Joint Fisheries Committee to manage the fisheries.
- » Maa-nulth members may trade and barter wildlife and fish with other Aboriginal people.
- » Identification and protection of existing guide/outfitter tenures and registered traplines will be ensured.

Forests

- » Maa-nulth First Nations will own and manage the forest resources on their treaty lands consistent with provincial standards for private lands.
- » The Maa-nulth Wildfire Suppression Agreements set out the responsibilities of the Maa-nulth First Nations, B.C. and Canada for wildfire control and suppression costs associated with fires originating on treaty lands.

Water

- » Maa-nulth First Nations will receive water reservations that total 247,000 cubic decameters for domestic, industrial and agricultural use. As well, each Maa-nulth First Nation will have two to five years to determine the suitability of certain streams for hydro power purposes.
- » The First Nations' storage, diversion, extraction or use of water and groundwater will be licensed according to provincial law.



Conclusion

Negotiated treaties and land claim settlements with First Nations will define a New Relationship over B.C.'s lands and natural resources when ownership and the rights, responsibilities and authorities are clear and predictable. With this clarity and certainty, B.C. can better attract and retain investment, create jobs and build stronger communities for First Nations, which benefits all British Columbians.

In B.C. we are building a New Relationship with First Nations based on the principles of mutual respect and the recognition and reconciliation of Aboriginal rights. Modern day treaties with First Nations have the potential to reshape our social and economic landscape and close the gap that exists between Aboriginal and non-Aboriginal people.

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