

Your Guide to the Referendum



"We are committed to negotiating workable, affordable treaty settlements that will provide certainty, finality and equality.

Treaties offer the promise of a New Era of hope, economic opportunity and greater self-determination for all aboriginal people. But, for too long, most British Columbians have felt shut out of the process."

A New Era for British Columbia, 2001

The referendum on principles for treaty negotiations is an opportunity for you to have a direct say on an issue of vital importance to us all.

It's an opportunity for you to help determine the principles that should guide our Province's approach to treaty negotiations.

It will provide certainty for our Province's negotiating position. It will help reinvigorate the treaty process. And it will build a foundation for a new relationship with First Nations that ensures aboriginal British Columbians share fully in a prosperous future.

In the nine years since the treaty process was established by the province, federal government and First Nations, almost half-a-billion dollars has been spent on negotiations – and not one settlement has been achieved. That's created frustration and uncertainty for all of us, aboriginal and non-aboriginal alike.

We believe it's time you had the opportunity to be included in this process. Our Government committed to giving you a say on B.C.'s principles for treaty negotiations. And it's a commitment that British Columbians entrusted us to honour.

The principles we're asking you to consider address basic issues important to all of us – issues involving land use, resources, taxation and how we are governed; issues on which all British Columbians deserve to have their views heard.

Our government is committed to negotiating workable, affordable settlements that provide certainty, finality and equality. That commitment is not up for debate.

This is not a referendum on minority rights. As the B.C. Supreme Court has made clear, it is not possible for this referendum to violate those rights. Aboriginal rights and title are protected under our Constitution. Those rights are not up for debate.

This is an opportunity for all of us to understand our constitutional obligations to aboriginal people, and to discuss how we can move forward with settlements in a way that has public trust and confidence – to help fast-track treaty negotiations and forge a new relationship with First Nations.

I invite you to read this brochure, to discuss and consider the issues, and to make your vote count.

Together, we can revitalize negotiations and build a future that harmonizes the needs of all British Columbians – aboriginal and non-aboriginal alike.

Honourable Gordon Campbell, Premier of British Columbia

The Principles

The following eight principles are being considered to guide the Province's approach to treaty negotiations. Do you agree?

Whereas the Government of British Columbia is committed to negotiating workable, affordable treaty settlements that will provide certainty, finality and equality;

1 Do you agree that the Provincial Government should adopt the principle that *private property should not be expropriated for treaty settlements?*

EXPLANATION – This principle asks voters to confirm that Government should not use its legislative powers to take private property to transfer to First Nations in treaty settlements.

GOVERNMENT'S PERSPECTIVE – Treaties are about the settlement of land claims; treaty negotiations are about rights in land. Approval of this principle means Government would use Crown land for treaty settlement and would not expropriate private lands without permission. A yes vote would not prevent owners of land from selling their land for inclusion in treaties on a willing seller and willing buyer basis.

By law Government can expropriate lands to meet a public interest, such as highways. This principle would provide additional protection against expropriation of private property to ensure that private property is not expropriated for use in treaties.

A no vote would maintain the current law that allows Government to negotiate treaties with the same approach it takes to building highways – by expropriating land for treaty settlement where necessary in the public interest.

2 Do you agree that the Provincial Government should adopt the principle that *the terms and conditions of leases and licences should be respected; and fair compensation for unavoidable disruption of commercial interests should be ensured?*

EXPLANATION – The Province should negotiate treaty settlements that respect the terms and conditions of leases and licences previously issued by the Crown. Fair compensation should be paid if the lease or licence is adversely affected.

GOVERNMENT'S PERSPECTIVE – It is the goal of Government to minimize the impacts of treaties on leases and licences on Crown land. This principle is not about private property, but Crown land that people and companies have the right to use for specific needs. These tenures are a basis of key commercial activity – forestry, mining, ecotourism – and large investments have been made in these sectors of the economy. Examples include forestry licences, grazing leases, and recreational leases.

Government supports a principle that respects these tenures. This principle also ensures that, if impacts are unavoidable, compensation for the disruption will be paid. This would expand the current approach to compensation to include all commercial interests adversely affected by treaty negotiations, whether or not there is a legal obligation.

As compensation is a cost to Government, negotiators will be strongly motivated to respect existing leases and licences.

A no to this principle would mean that, although impacts on leases and licences would be kept to a minimum, Government would *not be* obliged to compensate for all impacts.

3 Do you agree that the Provincial Government should adopt the principle that *hunting, fishing and recreational opportunities on Crown land should be ensured for all British Columbians?*

EXPLANATION – British Columbians, subject to federal and provincial laws, should be able to go onto Crown land for hunting, fishing and recreational purposes, as they have in the past.

GOVERNMENT'S PERSPECTIVE – At each negotiating table, issues of land and resource management – both on First Nations lands and on Crown land are common themes. As treaties move towards defining aboriginal rights to hunting, fishing and other traditional pursuits, so too should Government protect non-aboriginal access to land for these activities.

Many British Columbians use Crown land for fishing, hunting, and recreation. Approval of this principle would direct negotiators to negotiate terms in treaties that ensure that, outside lands transferred to First Nations for treaty settlement, these activities will continue. This would mean the Government would not support exclusive access to these opportunities on Crown land by First Nations as a result of treaties.

A no vote would indicate that B.C. need not demand that this be so, and those opportunities may be affected.

4 Do you agree that the Provincial Government should adopt the principle that *parks and protected areas should be maintained for the use and benefit of all British Columbians?*

EXPLANATION – The Province should negotiate settlements that maintain the integrity of British Columbia's system of parks and protected areas and ensure that all British Columbians will continue to benefit from the recreational opportunities offered by these areas.

GOVERNMENT'S PERSPECTIVE – First Nations have asserted title over different lands in British Columbia, including parks and protected areas. It is clear to Government that all parties, First Nations included, have a strong commitment to the values that protect the unique spaces of B.C.

Support of this principle would instruct government negotiators to work to ensure that a system of parks and protected areas will remain available for the use and benefit of all British Columbians.

A no vote would mean that provincial negotiators need not be guided

by this principle when issues concerning parks and protected areas are raised in negotiations.

5 Do you agree that the Provincial Government should adopt the principle that *province-wide standards of resource management and environmental protection should continue to apply?*

EXPLANATION – Activities on treaty settlement land that involve the use of or affect natural resources or the environment will be subject to control. These activities should at least meet the minimum standards of resource management and environmental protection that apply across the province.

GOVERNMENT'S PERSPECTIVE – Managing resources for the good of all British Columbians is a fundamental obligation of Government. Support of this principle would direct the province's negotiators to insist that treaties result in environmental protection and resource management standards that meet or beat provincial standards. These would be minimum standards, and First Nations would be free to implement higher standards for their lands if they chose.

A no vote would mean there would be no need at the table to insist on the use of provincial minimum standards on treaty settlement land.

6 Do you agree that the Provincial Government should adopt the principle that *aboriginal self-government should have the characteristics of local government, with powers delegated from Canada and British Columbia?*

EXPLANATION – This principle relates to the Province's position that the powers of a First Nation's government should be delegated from either the Parliament of Canada or the Legislature of British Columbia, instead of being based on an inherent right to self-government.

GOVERNMENT'S PERSPECTIVE – Some measure of self-government currently exists through the *Indian Act*, but it is a flawed self-government model that does not support the needs of aboriginal people.

B.C. supports self-government for aboriginal people. The question this principle asks is what model or type of self-government B.C. supports in treaties.

The Government has been clear about the model it supports. It is a tested model, with examples in Sechelt and Yukon land claims agreements. It is a model where the First Nation government has the characteristics of local government, with powers delegated from the Legislative Assembly of B.C. and Parliament of Canada. And it is a model that is democratically accountable to the people under its jurisdiction (including non-aboriginal people). A yes vote will be a clear mandate to uphold our stated position.

A no vote would mean B.C. would not be restricted to this model when negotiating; other models that have been discussed could be supported. Examples of other models include those where First Nation self-government powers are paramount to the powers of B.C. and Canada. A no vote would mean B.C. would negotiate self-government, but the options and number of potential models would be broader and less certain.

7 Do you agree that the Provincial Government should adopt the principle that *treaties should include mechanisms for harmonizing land use planning between aboriginal governments and neighbouring local governments?*

EXPLANATION – Treaty provisions would encourage aboriginal governments and local governments to collaborate on local land use planning and development issues, and to assist in resolving any disagreements.

GOVERNMENT'S PERSPECTIVE – Treaties will include the ability of First Nations governments to plan and control lands under their jurisdiction or authority. Many First Nations and neighbouring local governments are already working to establish effective relationships. This principle seeks to build on these successes by ensuring this goal is pursued at treaty tables.

We believe that B.C. should encourage tools that will ensure coordination of land use planning between aboriginal governments and neighbouring local governments for the good of both communities. Approval of this principle will not give a veto to local government on what happens on First Nations land or vice versa.

A no vote would mean B.C.'s negotiators need not insist upon negotiating such provisions.

8 Do you agree that the Provincial Government should adopt the principle that *the existing tax exemptions for aboriginal people should be phased out?*

EXPLANATION – This principle refers to the tax exemptions that presently exist in the *Indian Act*, which states that some kinds of personal property and employment income are not taxable. The term 'phased out' refers to a gradual change from that kind of tax exemption to full tax equality.

GOVERNMENT'S PERSPECTIVE – Approval of this principle to phase out exemptions over a fair period would provide more aboriginal people an opportunity to help support the activities of all governments, including their own. It would mean that B.C. supports tax equality.

A no vote would mean the provincial voice on this issue would not need to be heard.

"The Government takes a position on these questions. We would answer yes to each of them. Answering yes to these questions will provide the province's negotiators with a clear mandate on issues that have arisen and will continue to arise in the course of negotiations."

**Honourable Geoff Plant,
Attorney General and Minister Responsible for
Treaty Negotiations**

The Future

Treaty negotiations are just one part of the Government's commitment to establishing a new relationship with aboriginal people.

We all want the same things: health care when we need it; education that gives children an opportunity to build a bright future; and economic opportunities. A successful treaty process will help aboriginal people reach their goals. But there is more we can and should be doing. Government is working with First Nations on many projects to support their communities and build prosperity. Some examples of important initiatives include:



Landscape photo courtesy of Ministry of Forests

- Appointed a Minister of Community, Aboriginal and Women's Services as well as a Minister Responsible for Treaty Negotiations. This makes clear the commitment to meeting the needs of aboriginal communities.
- Hosted a meeting with Cabinet and the First Nations Summit to begin substantive discussions on short- and long-term strategies for improvement in the lives of aboriginal people today. This was followed by a series of topic-specific meetings. Education, health and energy are the first three of nine different meetings that have been planned.
- Entered into or continued support for 17 treaty-related agreements (for example, a shellfish aquaculture study, fish and wildlife stewardship projects) for a total cost of \$2.1 million.
- Negotiated several important land protection agreements that set aside land for inclusion in future treaties or further protected lands already identified as treaty settlement land.
- Completed 28 economic partnership agreements (for example, a petroleum training project, a regional wildlife advisory project) at a total cost of \$2.6 million.
- Established a \$30-million Economic Measures Fund that will build First Nations economic/business development capacity and increase First Nations participation in mainstream economic initiatives.
- Doubled the First Citizens Fund to \$72 million.
- Planned and scheduled the inaugural First Citizens Forum for Fall 2002.

CONTACT INFORMATION

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