

Kitselas Treaty and Kitsumkalum Treaty Governance Fact Sheet

After three decades, the Province of British Columbia (B.C.), the Government of Canada (Canada), Kitsumkalum First Nation (Kitsumkalum) and Kitselas First Nation (Kitselas) are nearing the conclusion of negotiations on two modern treaties.

Once Crown consultations and legal and technical review is complete, the treaties must be ratified by Kitselas and Kitsumkalum members. Should Kitselas and Kitsumkalum members ratify the treaties, B.C. and Canada would also ratify the treaties, including passing legislation to bring the treaties into effect. This process will take several years to complete.

Modern treaties are an important part of advancing reconciliation, righting past wrongs and recognizing First Nations self-governance and self-determination. Treaties create jurisdictional and operational certainty for everyone in the region where they are concluded, while supporting partnerships, economic development and community social well-being. Treaties are informed by the United Nations Declaration on the Rights of Indigenous Peoples and the Truth and Reconciliation Commission's Calls to Action.

Kitsumkalum and Kitselas worked together with B.C. and Canada at a common negotiation table to negotiate their treaties. Organizations, businesses, property owners, and local governments and people in the Skeena-area have been engaged in these negotiations for many years and will continue to be engaged as the parties move towards ratifying the agreement.

Treaties address a wide range of interests between a First Nation, B.C. and Canada. One of those is governance and self-determination. This fact sheet provides information on governance in the Kitselas Treaty and Kitsumkalum Treaty. Learn more at <https://engage.gov.bc.ca/KitselasKitsumkalumTreaties>. If you have questions, please contact: Kitselas.Kitsumkalum@gov.bc.ca.

What is self-government for Treaty Nations?

Recognition of the right of self-government and Indigenous law-making authority is what makes a treaty possible. The shift away from the *Indian Act* is foundational. A treaty creates a stronger framework for governance and recognizes a broader set of authorities to govern the First Nation's lands and members. A treaty and a new constitution for each First Nation must first be ratified by the First Nation's members in a democratic vote.

Treaties recognize the inherent right of First Nations to self-govern and establish laws over matters integral to the Treaty Nation's governance, such as certain programs, services, and lands and resources. They also enable Treaty Nations to fully participate in regional government bodies as voting members.

What kind of law-making authority would Kitselas and Kitsumkalum have under their treaties?

The treaties contain law-making authority for Kitselas and Kitsumkalum on matters related to treaty lands,

resources on those lands, and other areas of governance, such as culture and heritage. Kitselas and Kitsumkalum areas of authority also include the delivery of health services, education, land management and public works.

Would the *Indian Act* still apply?

With the exception of determining Indian status, after a transition period, the *Indian Act* would no longer apply to Kitselas and Kitsumkalum, their lands or members. Although each treaty contains provisions that extend section 87 of the *Indian Act* to eligible persons in qualified circumstances, these provisions essentially replicate but do not extend application of the *Indian Act*.

Instead, constitutionally protected self-government provisions in the treaties would enable Kitselas and Kitsumkalum to make their own decisions as a government. These decisions include matters related to cultural preservation, social programs, education, government operations, property taxation, land

management and economic opportunities and partnerships. The Constitution of Canada and the *Canadian Charter of Rights and Freedoms* would still apply to both First Nation governments and their members.

How would Treaty Nation laws and laws of B.C. and Canada interact?

Described as a “mosaic of laws”, modern treaties use a “concurrent law model.” This means Kitselas and Kitsumkalum laws, provincial laws and federal laws will all apply on each Nation’s treaty lands. In matters where Kitselas and Kitsumkalum have law-making authority, the treaty sets out which law prevails if a Kitselas or Kitsumkalum law conflicts with a federal or provincial law.

In areas related to internal matters, Kitselas and Kitsumkalum laws would have priority over conflicting federal and provincial laws. Examples include government administration, use of treaty lands, Kitselas and Kitsumkalum assets on these lands, culture and heritage, and Kitselas and Kitsumkalum citizenship.

In other areas, federal and provincial laws would have priority in a conflict with Kitselas and Kitsumkalum laws, such as environmental protection. Conflicts between laws are expected to be infrequent, as each treaty clearly delineates the relationship of laws and the prevailing law in the event of a conflict. Should the parties disagree on their respective jurisdictions or the relationship of laws. However, should a conflicting law arise, there is a dispute resolution process set out in the treaties that can be used to address this.

How do First Nations governments and governance on treaty lands relate to municipal governments?

Kitselas and Kitsumkalum treaty lands will not form part of any municipality or regional district electoral area. Treaty lands are not part of a regional district, unless Kitselas or Kitsumkalum becomes a member. Kitselas and Kitsumkalum treaty lands do form part of the North West Regional Hospital District, regardless of whether or not they have joined the Regional District.

Each First Nation has governance authority over its own treaty lands. Kitselas and Kitsumkalum are responsible for managing their intergovernmental relations with local governments and may enter into agreements with local governments to provide services. Both First Nations own lands within the City of

Terrace and some of those lands will not become treaty land but remain land owned in fee simple by the Nations, under municipal jurisdiction.

The treaties provide for the option to turn lands owned by the First Nations into treaty lands. There is a specific process outlined in the treaties, which would require the consent of B.C. and Canada.

Do local government bylaws apply to treaty land?

No. Local government bylaws will not apply on treaty lands. Treaties recognize the inherent right of First Nations to self-govern. Kitselas and Kitsumkalum would create their own government laws on treaty lands to be regulated by the First Nation.

Why do Kitselas and Kitsumkalum have to ratify constitutions?

Under the treaties, Kitselas and Kitsumkalum communities must ratify a constitution for their Nation. This is an important part of the ratification process, which involves a democratic vote.

These constitutions are the internal and guiding governance rules for each Nation, similar to how the Canadian Constitution contains core provisions and takes precedence over other federal law in Canada. Among other things, the constitutions must provide that the Kitselas government and Kitsumkalum government are democratically and financially accountable to their members. The Kitselas constitution and Kitsumkalum constitution would come into force on the effective dates of the treaties if they are approved by community members.

What does treaty ratification mean?

Ratification is the approval process that the treaties must go through before they can come into effect. The first step is a vote by all eligible members of the First Nation on whether or not to enter into the treaty. To pass, the treaty must both be approved by at least 50% of the members eligible to vote.

For B.C. and Canada, the approval includes developing and passing legislation to make the treaty law. Once a treaty is ratified by all parties, it gets signed by the First Nation, B.C. and Canada. If successfully ratified, the treaty comes into effect on the “effective date,” which is usually a couple of years after it is signed. On the effective date, treaty lands are owned by the Treaty Nation and the Treaty Nation government operations begin.