



Staff Report

DATE: May 31, 2017

FILE: H-G

TO: Chair and Directors
Regional Hospital District Board

FROM: Russell Dyson
Chief Administrative Officer

RE: Maa-nulth First Nations final agreement (Treaty) provisions for membership in Strathcona Regional District / Comox-Strathcona Regional Hospital District

Purpose

The purpose of this report is to provide information on the Maa-nulth First Nations Final Agreement (Treaty) with the federal and provincial governments with respect to provisions contained in the agreement for one of the five First Nations of the Maa-nulth Treaty, the Ka:'yu:'k't'h'/Che:k'tles7et'h' (pronounced Kie-YOU-cut and TSHEH-kleh-szet), to become members in the Strathcona Regional District (SRD) and the Comox-Strathcona Regional Hospital District (CSRHD).

Policy Analysis

The Maa-nulth First Nations final agreement (the Treaty) came into effect on April 1, 2011. Chapter 14 of the Treaty pertains to regional government relations (Appendix A). The Treaty enables the Ka:'yu:'k't'h'/Che:k'tles7et'h', to join the appropriate regional district on the ten-year anniversary of the Treaty or by providing notice to the regional district and the province before the anniversary date. The Maa-nulth Treaty stipulates that:

“14.2.3 At any time before four months before the tenth anniversary of the Effective Date, Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations may give written notice to British Columbia and the Comox-Strathcona Regional District of its intention to end the Transition Period and become a member of the Comox-Strathcona Regional District.”

In becoming a member of the SRD, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations would also become a member of the CSRHD. Amendments to the Letters Patent for the SRD and CSRHD are necessary to incorporate the Maa-nulth First Nations lands into the boundaries of the appropriate regional districts and hospital districts. The Ministry of Community, Sport and Cultural Development and the Ministry of Health are responsible for amendments to regional district letters patents. The Ministry of Health is responsible for amendments to hospital district letters patents pursuant to section five of the *Hospital District Act*.

Section 14.3.1 of the Treaty states:

On the Transition Date for the applicable Maa-nulth First Nation, that Maa-nulth First Nation will become a member of the applicable Regional District and appoint at least one Regional District Board Director to the applicable Regional District Board in accordance with 14.3.2 and its Maa-nulth First Nation Lands will form part of the applicable Regional District.

The “transition date” is defined in the Treaty as “that date which is the earlier of:

- a. the tenth anniversary of the Effective Date; or
- b. the date upon which that Maa-nulth First Nation becomes a member of the applicable Regional District and appoints a Regional District Board Director to the Regional District Board of that Regional District in accordance with 14.3.1;”

The effective date for the Treaty is April 1, 2011; therefore, **the transition date is the earlier of either April 1, 2021 or the date upon which the Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations becomes a member of the regional district.**

“Transition period” is defined in the treaty as meaning, “the period of time from the Effective Date to the Transition Date of that particular Maa-nulth First Nation;”

Accordingly, the **transition period is the period between April 1, 2011 and the earlier of either April 1, 2021 or the date upon which the Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations becomes a member of the regional district.**

Transition period arrangements for the five First Nations, including Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations, are outlined in Section 14.2.0 of the Treaty (See Appendix A).

A timeline summarizing the key dates and activities is provided as Appendix C to this report.

Executive Summary

The Maa-nulth First Nations Treaty encompasses five First Nations from Vancouver Island, one of them being the Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations. Under the Treaty, the Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations will become a member of the SRD and the CSRHD either on the transition date of April 1, 2021 or earlier if requested by the Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations.

During the transition period from April 1, 2011 to April 1, 2021 or earlier as indicated previously, the SRD and CSRHD may invite the Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations to participate in its board or committee meetings on a non-voting basis, on matters of mutual interest. The SRD issued such an invitation to Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations in 2013 (Appendix D); accordingly, Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations has had observer status on the SRD board since March 13, 2013.

Under provincial law, when the Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations becomes a member of the SRD, it must also become a member of the CSRHD. Accordingly, it would be beneficial to receive a status report from the SRD as to their process to have the Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations as a member of the SRD.

Recommendation from the Chief Administrative Officer:

THAT the chair of the Comox Strathcona Regional Hospital District board send correspondence to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to inquire as to whether, following their experience with observer status at the Strathcona Regional District Board, they wish to also be an observer at the Comox Strathcona Regional Hospital District board.

Respectfully:

R. Dyson

Russell Dyson
Chief Administrative Officer

Financial Factors

Section 14.4.0 service arrangement after transition date of the Treaty (See Appendix A) outlines the services that the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations are required to participate in and contribute to and the optional services that may be participated in and contributed to. An area map of the Maa-nulth First Nation area of Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is provided as Appendix E to this report.

Prepared by:

K. Kenney

Kelly Kenney,
Manager of Legislative Services

Concurrence:

J. Warren

James Warren
General Manager of Corporate
Services

Attachments:

- Appendix A – “Chapter 14 – Regional Government - excerpted from Maa-Nulth First Nations Final Agreement”
- Appendix B – “Correspondence from Office of the Assistant Deputy Minister, Finance and Corporate Services dated March 11, 2011”
- Appendix C – “Timeline of key dates and activities”
- Appendix D – “Letter of invitation dated March 28, 2013 to Ka:'yu:'k't'h'/Che:k'tles7et'h' from SRD”
- Appendix E – “Map of Maa-nulth First Nation area of Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations

CHAPTER 14 REGIONAL GOVERNMENT

14.1.0 GENERAL

Status of Maa-nulth First Nation Lands

- 14.1.1 Maa-nulth First Nation Lands of a Maa-nulth First Nation do not form part of any Municipality or Electoral Area and, until that Maa-nulth First Nation becomes a member of a Regional District in accordance with 14.3.0, do not form part of any Regional District.
- 14.1.2 Nothing in this Agreement limits the ability of British Columbia to amalgamate two or more Regional Districts or to amend the boundaries of or divide a Regional District, Municipality or Electoral Area in accordance with Provincial Law.
- 14.1.3 British Columbia will Consult with each Maa-nulth First Nation on any changes to the structure or boundaries of a Regional District that directly and significantly affect that Maa-nulth First Nation.

Land Use Planning Protocols and Service Contracts

- 14.1.4 Each Maa-nulth First Nation may enter into a land use planning protocol with a Local Government to coordinate and harmonize land use planning processes and land use decisions.
- 14.1.5 Each Maa-nulth First Nation may enter into a service contract with a Local Government respecting:
- a. services to be provided by that Local Government to that Maa-nulth First Nation, its Maa-nulth First Nation Lands or any resident of its Maa-nulth First Nation Lands;
 - b. services to be provided by the Maa-nulth First Nation Government of that Maa-nulth First Nation to lands within the applicable Municipality or Regional District; or
 - c. the provision of any other services to which that Maa-nulth First Nation and Local Government may agree.
- 14.1.6 Any service contract entered into between a Maa-nulth First Nation and a Local Government in accordance with 14.1.5 will include a dispute resolution process, which may include a dispute resolution process described in the *Community Charter* to resolve disputes between Local Governments.

- 14.1.7 Any contractual service agreement between a Local Government and a Maa-nulth Indian Band in effect immediately before the Effective Date will remain in effect until such time as it is renegotiated or is terminated under the terms of such service agreement.

14.2.0 TRANSITION PERIOD ARRANGEMENTS

Representation on Regional District Boards

- 14.2.1 During the Transition Period, a Regional District may invite the applicable Maa-nulth First Nation to participate in meetings of its Regional District Board or that Regional District Board's committees, on a non-voting basis, on matters of mutual interest.
- 14.2.2 During the Transition Period for the purposes of Electoral Area Director elections the Maa-nulth First Nation Lands of the applicable Maa-nulth First Nation are treated as if those lands are located within the boundaries of the applicable Electoral Area and the residents of those lands may participate and vote in applicable Electoral Area Director elections in accordance with Provincial Law.
- 14.2.3 At any time before four months before the tenth anniversary of the Effective Date, Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations may give written notice to British Columbia and the Comox-Strathcona Regional District of its intention to end the Transition Period and become a member of the Comox-Strathcona Regional District.
- 14.2.4 At any time before four months before the tenth anniversary of the Effective Date, Huu-ay-aht First Nations, Toquaht Nation, Uchucklesaht Tribe or Ucluelet First Nation may give written notice to British Columbia and the Alberni-Clayoquot Regional District of its intention to end its respective Transition Period and become a member of the Alberni-Clayoquot Regional District.
- 14.2.5 After receipt of notice in accordance with 14.2.3 or 14.2.4, the applicable Maa-nulth First Nation and the applicable Regional District will meet to discuss the process to end the Transition Period.
- 14.2.6 Unless otherwise agreed by the applicable Maa-nulth First Nation and the applicable Regional District and British Columbia, the Transition Period for that Maa-nulth First Nation will end within four months of receipt of notification in accordance with 14.2.3 or 14.2.4.

Regional District Service Arrangements

- 14.2.7 Unless otherwise agreed by a Maa-nulth First Nation and the applicable Regional District, during the Transition Period that Maa-nulth First Nation will not participate in or be required to contribute to the cost of any Regional District service and that Regional District will have no corresponding obligation to provide any service to that Maa-nulth First Nation, its Maa-nulth First Nation Lands or any resident of its Maa-nulth First Nation Lands.

14.3.0 MAA-NULTH FIRST NATION REGIONAL DISTRICT MEMBERSHIP

- 14.3.1 On the Transition Date for the applicable Maa-nulth First Nation, that Maa-nulth First Nation will become a member of the applicable Regional District and appoint at least one Regional District Board Director to the applicable Regional District Board in accordance with 14.3.2 and its Maa-nulth First Nation Lands will form part of the applicable Regional District.
- 14.3.2 As of the Transition Date, the number of Regional District Board Directors appointed by the applicable Maa-nulth First Nation and the number of votes to which such directors are entitled is determined as if the Maa-nulth First Nation Lands of that Maa-nulth First Nation and the residents therein constituted a Municipality.
- 14.3.3 A Maa-nulth First Nation that becomes a member of an applicable Regional District in accordance with this Chapter has the functions, powers, duties and obligations of a Municipal member of the applicable Regional District.
- 14.3.4 A Regional District Board Director appointed by a Maa-nulth First Nation to the applicable Regional District Board in accordance with this Chapter will be an elected member of the Maa-nulth First Nation Government of that Maa-nulth First Nation.
- 14.3.5 A Regional District Board Director appointed by a Maa-nulth First Nation to a Regional District Board in accordance with this Chapter has the functions, powers, duties and obligations of a Municipal director of the applicable Regional District Board.

14.4.0 SERVICE ARRANGEMENTS AFTER TRANSITION DATE

- 14.4.1 After the Transition Date, each Maa-nulth First Nation will participate in, and contribute to the costs of, those services which Municipalities and Electoral Areas within the applicable Regional District are required to participate in and contribute to the cost of, in accordance with Provincial Law, including:
- a. general administration; and

- b. the applicable regional hospital district.
- 14.4.2 In accordance with 14.3.3, as a member of a Regional District each Maa-nulth First Nation may participate in, and contribute to the costs of, the optional services provided by the Regional District including:
 - a. Vancouver Island Regional Library;
 - b. E-911 Emergency Telephone Service;
 - c. Tofino/Ucluelet Airport;
 - d. West Coast Landfill; and
 - e. other optional services provided by that Regional District.
- 14.4.3 Unless otherwise agreed to by a Maa-nulth First Nation and the applicable Regional District, the annual contribution of that Maa-nulth First Nation to the cost of the services which it will participate in and contribute to in accordance with 14.4.1 is based on the same cost apportionment method identified in section 804(2) of the *Local Government Act* and section 24 of the *Hospital District Act*.
- 14.4.4 Subject to 14.4.1 and 14.4.2, unless otherwise agreed by a Maa-nulth First Nation and the applicable Regional District, after the Transition Date, that Maa-nulth First Nation will not participate in or be required to contribute to the cost of any Regional District service, and that Regional District will have no obligation to provide any corresponding service to that Maa-nulth First Nation, its Maa-nulth First Nation Lands or any resident of its Maa-nulth First Nation Lands.
- 14.4.5 Each Maa-nulth First Nation has the same opportunity to participate in other services of the applicable Regional District as member Municipalities of that Regional District under the *Local Government Act*.
- 14.4.6 Where a Maa-nulth First Nation agrees to participate in other services of the applicable Regional District, that Maa-nulth First Nation will exit those services as member Municipalities of the applicable Regional District under the *Local Government Act*.

14.5.0 FORESHORE AGREEMENTS

- 14.5.1 British Columbia and each Maa-nulth First Nation will enter into an agreement contemplated by 13.10.4 which will come into effect on the Effective Date, to provide the applicable Maa-nulth First Nation Government with law-making authority in accordance with 14.5.2 in respect of the applicable Foreshore Area.

- 14.5.2 A Foreshore Agreement will:
- a. identify the applicable Foreshore Area;
 - b. provide the Maa-nulth First Nation Government of the applicable Maa-nulth First Nation with law-making authority in relation to the Foreshore Area, comparable to the law-making authority of a Municipality in respect of:
 - i. the regulation of nuisances;
 - ii. the regulation of buildings and structures;
 - iii. the regulation of business;
 - iv. land use, planning, zoning and development; and
 - v. such other matters as a Maa-nulth First Nation and British Columbia may agree to;
 - c. provide that if the Foreshore Area of that Maa-nulth First Nation is located within the boundaries of a Municipality, that Municipality will not exercise law-making authority in respect of the matters listed in 14.5.2b. in relation to that Foreshore Area; and
 - d. provide that Federal Law or Provincial Law prevail to the extent of a Conflict with a law made by a Maa-nulth First Nation Government in accordance with the Foreshore Agreement.
- 14.5.3 Before concluding an agreement in accordance with 14.5.1, British Columbia will Consult with Canada regarding the proposed Foreshore Agreements.



Comox Valley Regional District

RECEIVED

File: H-G

MAR 16 2011

To: P. Oakman

cc: J. Warren

873986

MAR 11 2011

Ms. Debra Oakman
 Chief Administrative Officer
 Comox Strathcona Regional Hospital District
 600 Comox Rd
 Courtenay BC V9N 3P6

Dear Ms. Oakman:

I am writing to advise you that in accordance with the Hospital District Act, Part 2, Section 5, the Province of BC intends to request the amendment of the Letters Patent for the Comox Strathcona Regional Hospital District.

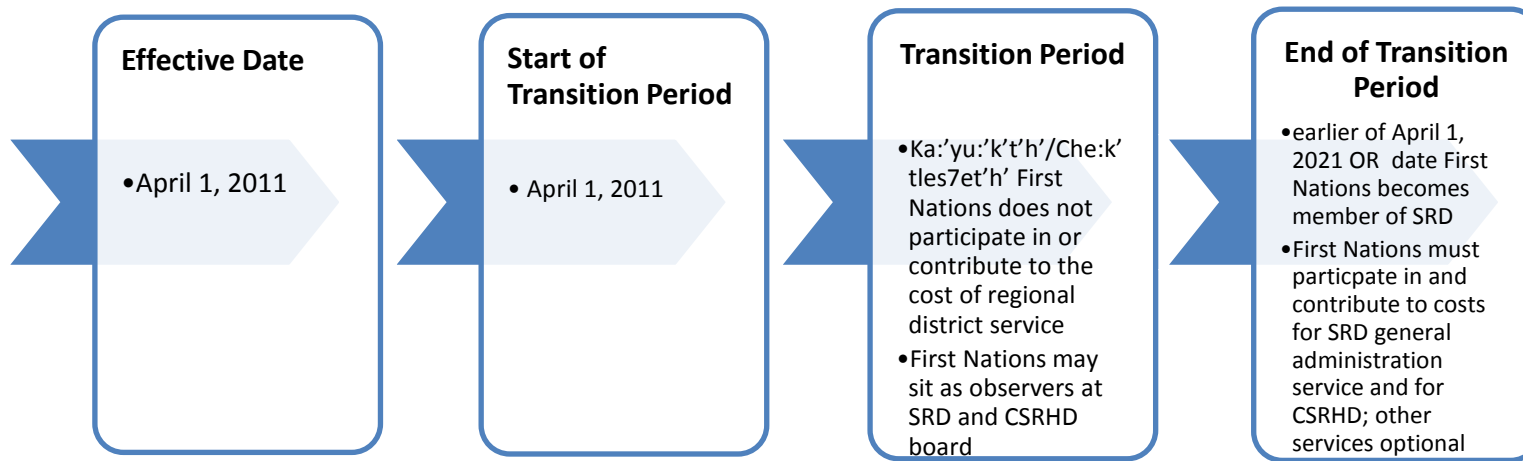
As you may be aware, the government has negotiated and enacted the Maa-nuth First Nations Final Agreement. A consequence of this is the requirement for minor amendments to be made to the Letters Patent to ensure the Maa-nuth First Nations lands are formally incorporated within the boundaries of your regional hospital district for the purpose of health capital cost sharing.

Further details of the proposed amendments will be forthcoming as the Maa-nuth First Nations Agreement rolls out. If you have further questions, please contact Kevin Brewster, at 250 952 - 1102 or by email at Kevin.Brewster@gov.bc.ca.

Yours truly,

Manjit Sidhu, CA
 Assistant Deputy Minister

pc: Mr. Gary MacIsaac, Executive Director, Union of BC Municipalities
 Mr. Kevin Brewster, Executive Director, Capital Services Branch,
 Ministry of Health Services
 Ms. Christine Massey, Executive Director, Legislation & Professional Regulation
 Ministry of Health Services





OFFICE OF THE CHAIR

File: 0230-20-01

March 28, 2013

Ka:'Yu:'k't'h'/Che:k'tles7et'h' First Nations
General Delivery
Kyuquot, BC
V0P 1J0

Attention: Therese Smith, Legislative Chief

Dear Ms. Smith:

RE: APPOINTMENT OF REPRESENTATIVE TO REGIONAL BOARD

I am pleased to advise that the Board of Directors for the Strathcona Regional District, at its regular meeting held on March 13, 2013, passed the following resolution:

Whalley/MacDonald: SRD 287/13

THAT the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations government be invited to appoint a representative to participate in meetings of the Regional Board and Committee of the Whole as observers.

CARRIED

Accordingly, I would like to officially extend an invitation for the Ka:'Yu:'k't'h'/Che:k'tles7et'h' First Nations (KCFN) to appoint a representative to participate in meetings of the Regional Board and the Committee of the Whole. Until such time as the KCFN is able to appoint a director to the Regional Board the appointment of a representative would not include the ability to vote on matters before the Board. However, I believe that such an arrangement would be a positive first step in strengthening the relationship between our respective organizations and I look forward to your favourable response.

I have included some additional information regarding the Regional Board which may assist the KCFN in considering this matter. Should you have any questions or require additional information please do not hesitate to let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward (Ted) Lewis".

Edward (Ted) Lewis,
Chair

cc: Gary Ardron, KCFN Chief Administrative Officer
Enclosure (1)

