



**TSAWWASSEN FIRST NATION**  
s'cəwaθən məsteyəx<sup>w</sup>

# **Tsawwassen First Nation**

## **Policy for Land Sale, Purchase or Exchange**

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## 1) Authority

This policy is governed and constrained by applicable laws and regulations of Tsawwassen First Nation. Specifically, the Land Act defines who can own property, as well as the process under which property can be transferred. The Land Act prevails in the case of any conflict between the Act and this policy.

This policy is intended to guide Tsawwassen Government's actions on a particular topic. It is intended to be public, and to provide for transparency and accountability. However, policies are always tested by actual circumstances; as such, Executive Council has the flexibility to make decisions not contemplated under this policy. If a decision is made which is inconsistent with the policy, that decision will be clearly communicated to membership, and every attempt will be made to revise this policy to reflect a newer understanding.

This policy replaces the previous policy on 'CP Sales/Band Purchase' that was effective April 27<sup>th</sup>, 2004.

## 2) Purpose

The purpose of this policy is to set out principles and a process to govern:

- a) **sales** of Tsawwassen Public Lands by Tsawwassen Government, to member or other entities permitted under the Land Act,
- b) **exchanges** between holders of Tsawwassen Fee Simple Interests and Tsawwassen First Nation, which holds Tsawwassen Public Land, or
- c) **purchases** of Tsawwassen Fee Simple Interests by Tsawwassen Government or a Tsawwassen entity, such as the TFN Economic Development Corporation.

**NOTE: This policy excludes the distribution of serviced lots in the Falcon Way Subdivision. Those will be made available through a process set out in the Housing Policy.**

## 3) Context

Tsawwassen First Nation's land base includes both Tsawwassen Public Lands and Tsawwassen Fee Simple Interests (TFSIs). Tsawwassen Public Lands are those that are owned in fee simple by Tsawwassen Government, for the benefit of Tsawwassen Members. Tsawwassen Fee Simple Interests are those that are owned by Tsawwassen Members.

There may be times when a Tsawwassen Member seeks to purchase Tsawwassen Public Lands or to exchange some of their Tsawwassen Fee Simple Interest for a portion of Tsawwassen Public Lands. There may also be times when TFN Government may see an interest in acquiring a Tsawwassen Fee Simple Interest. In those instances, TFN Government will follow this policy to guide how it reacts to such requests. In all cases, the Land Act and other Tsawwassen legislation must be followed. The granting of a TFSI triggers a legislative process in that Act; unless the TFSI is for a single family residence and meets certain other conditions, community approval at a meeting of members is required. In addition, the Act also sets out the requirement for appraisal if a land exchange is considered.

## **4) Principles**

The principles below are intended to guide TFN's actions with respect to land sales, purchases or exchanges:

**4.1** If an exchange, the proposed exchange should provide an identifiable benefit to TFN, in addition to the interested party. If TFN is purchasing a TFSI, the proposed purchase should provide an identifiable benefit to TFN. Identifiable benefits for TFN could include:

**4.1.1** The opportunity to acquire land that is important from a community perspective (i.e. has cultural, historical, institutional, or social value to the community).

**4.1.2** An exchange or purchase where the intent of the relevant land uses is consistent with, and furthers the goal of, the TFN Land Use Plan or specific neighbourhood plans.

**4.1.3** In a sale, competitive compensation for property, where that property is not strategically important for TFN.

**4.2** Every property contemplated in sale, purchase or exchange will be appraised by an appraiser agreed to by both parties. In an exchange, TFN will bear the cost for any appraisals of TFN Public Lands, and the TFSI holder will bear the cost of any appraisals of TFSI Lands. In a sale or purchase, the purchasing party will bear the cost of an appraisal of the property.

**4.3** In a land exchange, the costs of the land and other compensation received by TFN should be at least equal to the costs of land and other compensation received by the TFSI holder, consistent with section 65 (2) of the Land Act.

**4.4** The Membership will be consulted in advance of any proposed sale, purchase or exchange. In the case of any sale or exchange where a TFSI holder is seeking more than a single family housing lot, TFN Members must approve the proposal at a meeting of Members, in accordance with Division 7 of the Land Act.

**4.5** Registration and subdivision costs specifically required for the sale, purchase or exchange to occur will be the responsibility of the purchasing party.

## **5) Process for land sale or exchange involving Tsawwassen Public Lands**

The process for land sale or exchanges involving Tsawwassen Public Lands will be as follows:

**5.1** The interested party (TFSI holder or other eligible person) submits a written request to the Director of Lands outlining the general quantum of land for which they are requesting a purchase or an exchange. At this stage, the interested party is encouraged to have a discussion with the Lands Department about the request.

**5.2** The Director of Lands will perform title and other searches to ensure that there are no encumbrances or other obstacles impacting the marketability of the land in question. The Director of Lands then submits a report to the CAO for consideration by Executive Council, requesting

approval to seek an appraisal. In the report, the benefit to TFN should be specifically identified (see 4.1 above).

**5.3** If Executive Council approves that the proposal should proceed, in principle, to the next stage, the interested party and the Director of Lands will agree on a suitable professional, qualified, appraiser and will seek survey and appraisal work as appropriate to define and value the land portion(s). For a land exchange, laws governing appraisal are set out in section 65 (3) of the Land Act.

**5.3.1** In an exchange, TFN will bear the cost for any appraisals of TFN Public Lands, and the TFSI holder will bear the cost of any appraisals of TFSI Lands. In a sale or purchase, the purchasing party will bear the cost of an appraisal of the property.

**5.3.2** In a land exchange the costs of the land and other compensation received by TFN should be at least equal to the costs of land and other compensation received by the TFSI holder.

**5.3.3** TFN will make a judgment on the proposal based on whether the proposed sale or exchange meets the benefits for TFN as outlined in section 4.1.

**5.4** Following this process, the formal proposal will be submitted to Executive Council for approval in principle, pending approval by the TFN Membership.

**5.5** The proposal will be brought to TFN Membership:

**5.5.2** If the proposal includes the acquisition of a single family housing lot by a TFSI holder as set out in section 51(2) of the Land Act, consultation is required.

**5.5.3** If the proposal includes the acquisition of land where the use is not for a single family housing lot, Community Approval is required as set out in Division 7 of the Land Act.

**5.6** If the process is successful, the purchase or exchange will be officially approved by TFN Government. Subdivision and registration will proceed; costs are the responsibility of the interested party requesting the exchange.

## **6) Process for purchase of TFSI by Tsawwassen Government**

The process for purchase of a TFSI by Tsawwassen Government will be as follows:

**6.1** Executive Council must approve any proposed purchase before it is made public. The Director of Lands must prepare a proposal for Executive Council's approval, identifying the quantum of land, approximate land value (pre-appraisal), and the rationale for the purchase. The Director of Lands will also perform title and other searches to ensure that there are no encumbrances or other obstacles impacting the marketability of the land in question. TFN will only consider legally registered claims as encumbrances.

**6.2** Possible rationales for TFN purchase of a TFSI are:

**6.2.1** Importance from a community perspective (i.e. has cultural, historical, institutional or social value to the community).

**6.2.2** Importance from an economic development perspective, where there is a distinct rationale for TFN Government or institution ownership rather than TFSI ownership.

**6.3** If Executive Council approves the proposal in principle, the Director of Lands will discuss the proposal with the holder of the TFSI land. TFN will seek a professional appraisal of the land for purposes of determining value.

**6.4** The Director of Lands will seek to reach a purchase agreement-in-principle with the TFSI holder, subject to ratification by Executive Council. The Director will submit a formal proposal submitted to the Executive Council for approval in principle, pending approval by the TFN Membership.

**6.5** The proposal is brought to TFN Membership for consultation at a meeting of members. Following consultation, Executive Council will consider the agreement-in-principle.

**6.6** If the process is successful, the purchase or exchange is completed. Subdivision and registration costs are the responsibility of TFN, as the purchaser.

## **7) Confidentiality**

7.1 All requests for exchanges or purchases made to the Director of Lands will be kept confidential, and discussions of the Executive Council on these matters will also be kept confidential, pursuant to TFN's *Freedom of Information and Protection of Privacy Act*. The request will not be made public until notice of the public meeting is issued.

## **8) Complaints**

8.1 Complaints made in respect of this policy will be dealt with in the manner outlined in the Administrative Review and Judicial Proceedings Act, Part3, and any regulations made under that Part.