

Growth Management Act Planning – Tribal Participation

New Requirements for Local Governments

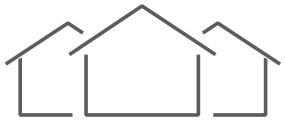
Benjamin A. Serr, AICP
EASTERN REGIONAL MANAGER

NOVEMBER 15, 2022



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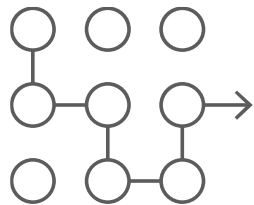
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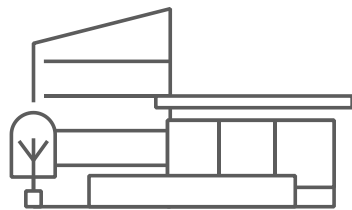
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Tribal Participation – Prior to SHB 1717

What did the GMA require? **Not Much!**

Public Participation – Notice Provisions (Important!)

- RCW 36.70A.035

Countywide Planning Policies

- RCW 36.70A.210

Planning and Environmental Review Fund – Bonus Points

- RCW 36.70A.500

Voluntary Stewardship Program

- RCW 36.70A.700, 710, 715, 720, and 745

Tribal Participation – SHB 1717

- Arose from the Roadmap to Washington's Future
- The Bill Changes Six Sections of the GMA
- These Changes Went into Effect on June 9th

RCW 36.70A.040

Who Must Plan and the Summary of Requirements

- **New** - Allows Tribes to voluntarily participate in the local planning process
 - Tribe provides a resolution indicating they would like to coordinate
 - Limited to federally recognized tribes with a reservation or ceded lands within the county
 - Tribe and County develop a Memorandum of Agreement
 - If agreement cannot be reached, Commerce supplies a mediator for a period of 30 days, with one additional 30-day extension

RCW 36.70A.085

Port Elements

- **New** – This pertains to cities that must update their port element
 - The element must be developed collaboratively between the city, port, and tribe(s)

RCW 36.70A.106

Submittal to Commerce for Review

- **New – Requires Commerce to Share Submittals with Tribes**
 - Tribes will indicate to Commerce which jurisdiction's submittals will be transmitted
 - Commerce is updating the PlanView data system for this purpose

RCW 36.70A.110

Urban Growth Areas

- **New** – Requires local jurisdictions to work with Tribes to coordinate urban growth
 - Tribes must opt in to coordinate with the jurisdiction
 - Limited to federally recognized Tribes with a reservation or ceded lands in the county or city

RCW 36.70A.190

Technical Assistance, Procedural Criteria, Grants, and Mediation Services

- **New – Requires Commerce to provide facilitation services**
 - Tribes may request assistance from Commerce to resolve issues related to proposed changes to local comprehensive plans and development regulations
 - This pauses local adoption for at least 60-days, unless agreement is reached

RCW 36.70A.190 (Continued)

- This period can be extended if both parties agree
- This pause does not incur penalties for non-compliance
- Commerce will transmit the Tribes concerns, and if the jurisdiction does not take action to address the concerns, a facilitated mediation will begin
- At the end to the 60-day period, the local government may proceed with adoption

RCW 36.70A.210

Countywide Planning Policies

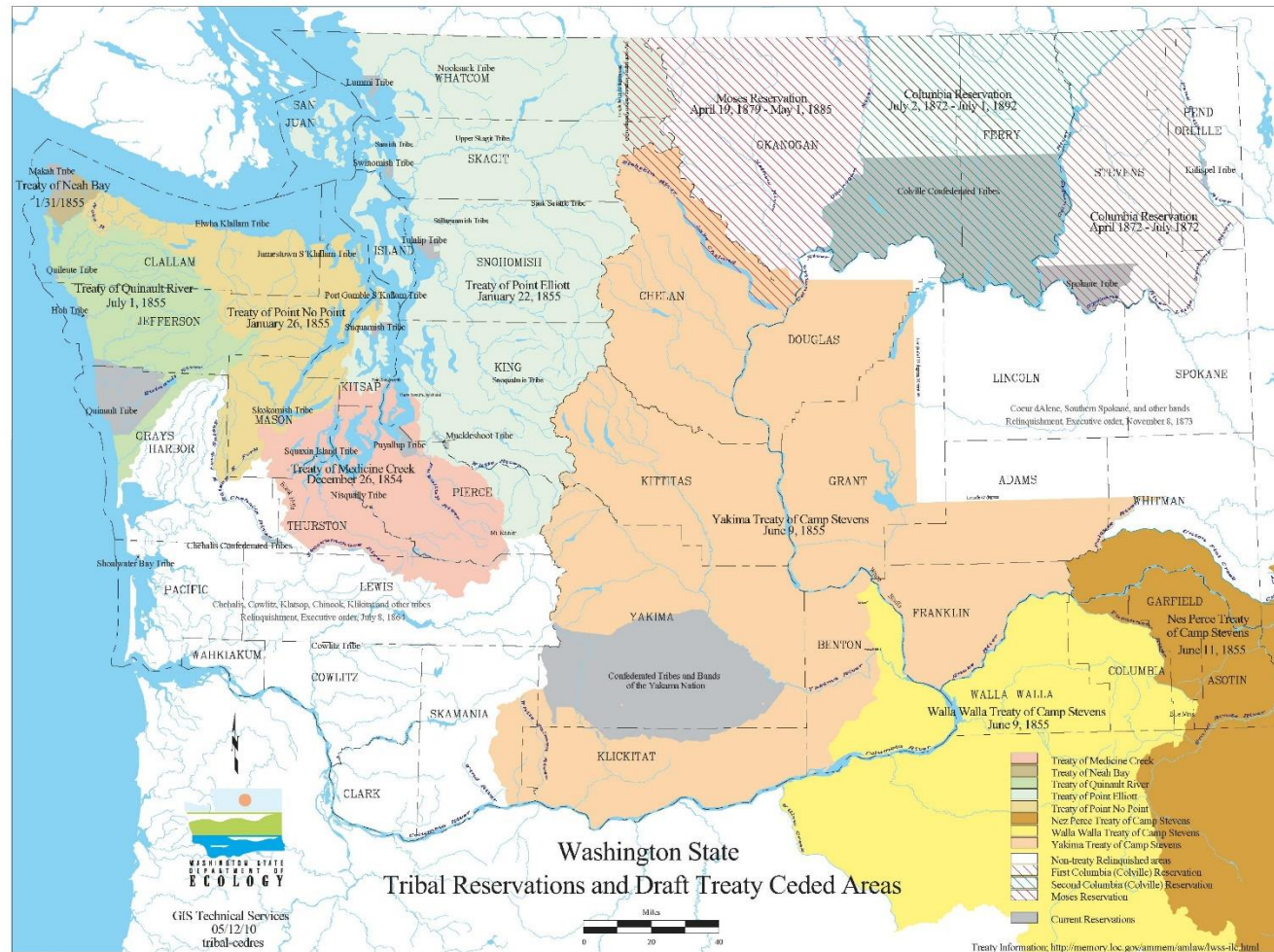
- **New** – Requires counties to invite Tribes to participate in developing the countywide planning policies
 - Limited to federally recognized Tribes with a reservation or ceded lands in the county
 - Must develop policies for the protection of tribal cultural resources in collaboration with Tribes if they choose to participate

Commerce's Next Steps

- Update the PlanView data system
- Hire a Tribal Planning Coordinator
- Contract with a facilitation services provider
- Develop guidance and/or rules
- Develop web resources
- Begin outreach to tribal governments

State Resources for Tribal Planning





<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Maps>

State Websites

Governor's Office of Indian Affairs

- <https://goia.wa.gov/>
- Treaties: <https://goia.wa.gov/resources/treaties>

Department of Archaeology and Historic Preservation

- <https://dahp.wa.gov/archaeology/tribal-consultation-information>

Department of Fish & Wildlife

- <https://wdfw.wa.gov/hunting/management/tribal/history>

Department of Transportation Tribal Contacts

- <https://wsdot.wa.gov/about/contacts/tribal-contacts>

Thank you!

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Tribal Engagement

Passport 2044: Coordination with tribes

Michelle Gladstone-Wade

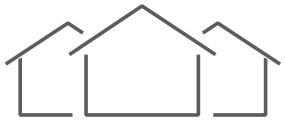
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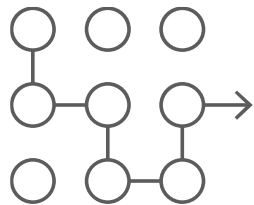
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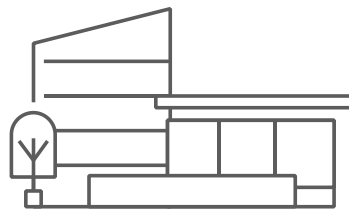
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Commerce Tribal Advisory Committee (COMTAC)

A space of collaboration



Introduction to COMTAC

- A gathering of Commerce leadership and Tribal Leaders to identify issues in common and discuss strategies to address them.
 - Two gatherings per year
 - May establish subcommittees, task forces or workgroups
- Inaugural gathering hosted by Suquamish Tribe- August 2022

Tribal engagement required by

EO21-02 Archeological & Cultural Resources

Enacted 2022

Shall consult on potential effects of projects on cultural resources proposed in state-funded construction or acquisition projects that will not undergo a Section 106 review, including grant, pass through, or joined in funding that culminates in construction or land acquisition.

Section 106 US Dept. of Interior National Park Services

Enacted 1966

May delegate authority to consult to state agency when a federal project may affect historic properties on tribal lands or when there is cultural significance.
Process is similar to EO 21-02, in partnership with Dept. of Historical and Archaeological Protection.

RCW 43.376 Gov to Gov with Indian Tribes

Enacted 2012

State agency to collaborate with Tribes.
Tribes may request consultation on any topic.
Offers consultation per RCW 70A.02.100- EJ plans, community engagement plan, and/or significant agency action.

ESHB 1753 Funds by Climate Commitment Act

Enacted 2022
In implementation

Projects funded by Climate Investment account, Climate Commitment account, or the Natural Climate Solutions account.
DAHP and GOIA are tasked with creating a consultation framework- to be developed.

SB 5141 HEAL Act

Enacted 2021
In implementation

Implementation requires Tribal Consultation Framework be established incorporating EJ elements and upholds treaties – to be developed
When covered agencies update strategic plans, community engagement plans, or any major agency action that may affect the rights or interests of Tribes.

SHB 1717 Tribal Coord. in GMA

Enacted 2022
In implementation

Request MOA with Local Gov to coordinate future comprehensive land use planning.
Tribes can request notifications from Commerce when new land use plans are filed that impact their lands and/or resources.
Commerce to provide mediation.

Commerce Tribal Engagement Policy

- Updating internal policy and process to include new statutory requirements and coordinate agency engagement
- Tribal Engagement policy will include:
 - Regular place based education opportunity for Commerce staff
 - Different levels of tribal engagement, when each is appropriate, and how to engage at each level
 - Tailored to feedback
- Not a replacement for Government-to-Government consultation



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Thank you!

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