

INFORMATION DOCUMENT

Revocation of Timber Surrender and Designation

Chief and Council (the “Council”) of the Namgis First Nation (“Namgis”) are providing this information document as an overview of a proposed designation of lands in Ches-la-kee Indian Reserve No. 3 (“Reserve”). This document explains the designation process and provides information about the proposed project(s).

It is also proposed that the designation revoke a timber surrender made in 1947, as explained further below.

WHAT IS A DESIGNATION?

Canada holds legal title to the Reserve for the use of Namgis and its members. Designating lands in the Reserve allows the Minister of Indigenous and Northern Affairs Canada (the “Minister”), on behalf of Canada, to lease them to non-members (usually a company, including a company owned by Namgis) for Namgis’ financial benefit.

A designation is technically a “non-absolute surrender” under a process set up by the *Indian Act* and the *Indian Referendum Regulations*. **Designated lands do not lose their reserve status.** They remain part of the Reserve and are only available to be used for the purposes authorized by the designation and only for the limited period established by the designation. Valid Namgis by-laws apply to designated lands and income earned by Namgis or its members on designated lands is usually not taxable.

Council, with the assistance of its lawyers and advisors, will do most of the negotiating of legal documents for projects to be developed on the designated lands, though any documents that need to be signed by the legal title holder (Canada) will need to be on terms acceptable to both Canada and the Council.

DETAILS OF THIS DESIGNATION

The proposed Designation Document is attached to the Referendum Notice and is included in the mail-out package to off-reserve electors. It has more detail than this Information Document as this is meant to be more of an overview.

The Revocation of the Timber Surrender

As part of this referendum vote, Namgis electors will be asked to vote on the revocation of a timber surrender that is not absolute made in 1947, (the “Timber Surrender”), as it applies to the merchantable timber in the Reserve.

The Timber Surrender limits the manner in which Namgis and Canada can deal with the timber on the Reserve and in particular, tends to reduce the degree of participation in the cutting and sale of timber by Namgis.

A revocation of the Timber Surrender is sought by the Council in order to free the land of registered encumbrances and any restrictions on the disposal of timber by way of the Timber Surrender. This will allow Namgis to utilize the Reserve for the desired purposes, including disposal of the timber through timber permits which allow for greater participation by Namgis.

Which Lands are Being Designated?

The proposed designated lands are shown on the survey attached to this Information Document and the legal description for the lands is included in the Designation Document.

How Long will the Designation Last?

The lands will be designated for 110 years, starting on the date that the Minister accepts the designation. It can end earlier if there are no non-members using the designated lands and Council requests that the Minister revoke the designation.

What can the Lands be Used for?

The lands may be leased for commercial purposes, which includes a land based recirculating aquaculture system (the “Approved Project”) and other currently unknown projects that are considered to be within these purposes (the “Future Development Proposals”). The Future Development Proposals category is intended to be broad to give Namgis the flexibility to attract the best possible developments for the designated lands.

Kuterra – The “Approved Project”

A project currently being considered for the designated lands is Kuterra, a land-based recirculating aquaculture system wholly owned by Namgis. Its mission is to bring the most environmentally sound, safe and healthy farmed salmon to people who care about the food they eat and serve to their families. The Kuterra farm was created to show that land raised salmon is the future of sustainable salmon farming. It is the way to keep wild salmon and the waters they live in separate from farming, and the way to grow the best quality farmed fish.

Kuterra has recently developed solutions to a number of technical issues which impacted its profitability and appears to be optimizing the system within which it currently operates. Nevertheless, significant changes will be required before Kuterra can achieve the level of stability and profitability that are needed to make it a viable business.

The Council are currently exploring a number of options to place Kuterra on a sound financial footing. As the Council has carried out this work it has become clear that one of the changes

which is essential to Kuterra's future is that there needs to be a company holding a lease of the land on which the business operates. This will allow Kuterra to access financing and operate independently in the best interests of the business.

Other Interests Required on the Designated Lands

The designated lands have unregulated electrical distribution lines running through the lands. While it is better to have an agreement in place with respect to these lines in advance of the designation, for expediency, the designation will authorize Canada to issue an electrical and telephone distribution permit for these lines after the designation takes effect. The permit will be for a nominal amount as the distribution line is providing service primarily to the designated lands and to Namgis-run facilities off-reserve.

What Rent will Namgis Receive?

All leases issued by Canada will require that the tenant pay fair market rent or, if the lease is to a Nation Entity (which is an entity that is owned and controlled by or on behalf of the First Nation), then the rent required can be less than fair market rent.

Fair market rent for the designated lands has been determined to be \$19,200 per year by an appraisal dated February 13, 2017 but effective as of August 24, 2016. Copies of the appraisal are available at the Band Office. Council proposes that a Nation Entity will not pay the fair market rent for a lease of the designated lands, but will instead pay a "nominal" rent, which means that Canada will not collect any rent or credit any rental amount to Namgis' revenue account. Council anticipates that, instead, the Nation Entity will generate at least fair market rent by subleasing the designated lands without Canada's involvement in determining rent. The designation requires that the Nation Entity charge at least fair market rent for any subleases. Any of the designated lands leased to a Nation Entity come with some risk that Namgis will ultimately not receive as much money for the designated lands compared to a lease to a non-Nation Entity for fair market value. Canada requires the members to acknowledge this risk and other risks around leases for less than fair market rent and these acknowledgements are set out in the Designation Document.

What are the General Benefits of the Designation?

Council expects that Namgis will benefit from the proposed designation as follows:

- The designation will allow for the development of projects and businesses on the designated lands, which may generate tax revenues and attract interest in other opportunities on the Reserve.
- The development of the designated lands may create sustainable employment for members.

- Namgis may use the lease rent to further develop its community services, housing, and infrastructure or for other purposes that may promote the general welfare of Namgis.
- If less than fair market rent is payable by a Nation Entity tenant, then the nominal rent will allow the Nation Entity to focus its resources on building its business into a viable operation, or allow the Nation Entity to make money simply by charging higher, fair market rent to subtenants.
- Any profits of the Nation Entity or increases in value of the Nation Entity indirectly benefits members as beneficial owners of the Nation Entity.

Will there be an Environmental Review of Projects on the Designated Lands?

An environmental review of the Approved Project was prepared by Hemerra Envirochem Inc. in 2011. The assessment identified potential impacts of the Kuterra Land-based Recirculating Aquaculture Project. The assessment expected that the project would not adversely impact air quality, vegetation, wildlife or archaeological resources. No residual impacts were expected on groundwater, fish and fish habitat, the Nimpkish River water flow and quality, and species at risk.

An Independent Environmental Monitoring Report was also completed by the Pacific Salmon Foundation in July 2015 for Tides Canada. The purpose of the report was to determine whether appropriate environmental monitoring of the recirculating aquaculture project was taking place and, where necessary, mitigation was undertaken. The report found that the monitoring and mitigation goals of the Independent Environmental Monitoring Program had been met or exceeded.

The Minister determined that the project may proceed with the mitigation measures set out in the assessment and the Minister's decision.

A Phase I Environmental Site Assessment (ESA) is currently being undertaken on the proposed designated lands and is due February 27, 2017. The results of the Phase I ESA will be analyzed, reviewed and made available to Namgis prior to lease execution. Should any Areas of Potential Environmental Concern (APEC's) be identified, they must be remediated or risk managed to the satisfaction of INAC prior to lease execution.

Copies of these documents are available at the Band Office.

Before any Future Development Proposal goes ahead, current federal law requires an environmental review of the project. This process may indicate that certain mitigation measures should be incorporated into the project in order for it to proceed so that it does not cause significant adverse environmental effects. In that case, they will be made part of the requirements under the lease for that project.

THE DESIGNATION PROCESS

A designation vote is conducted under the rules set out in Sections 37 to 41 of the *Indian Act* and under the process and requirements set out in the *Indian Referendum Regulations*, which includes setting out who is entitled to vote at the designation. You may contact the Electoral Officer listed below to determine if you are on the Electors' List and the Electoral Officer can add or remove electors from the list in compliance with the legislation.

Electors who live off-reserve are entitled to vote. Information packages (containing information about the designation and a mail-in ballot) are sent to each eligible off-reserve elector for whom an address is known.

Information Meetings

Information meetings for members will be held at the locations listed below and as set out in the Notice of Referendum, to assist the electors in making an informed decision on the designation.

Date	City	Location	Time
Friday March 10, 2017	Nanaimo	Snuneymuxw Rec Centre 1145 Totem Road 250-741-0158	7:00 – 9:00 p.m.
Saturday March 11, 2017	Victoria	Ambrosia 638 Fisgard Street Burnaby Room 250-216-6137	2:00 – 4:00 p.m.
Sunday March 12, 2017	Vancouver	Holiday Inn 1110 Howe Street 604-684-2151	2:00 – 4:00 p.m.
Tuesday March 14, 2017	Alert Bay	T'lislagilakw School 128 Boundary Road	7:00 – 9:00 p.m.

Date of Vote

The designation vote will be held on April 6, 2017 at the Elders' Centre, 50 School Road, Alert Bay BC, V0N 1A0.

A Successful Vote

For a designation to succeed, a majority of those eligible electors who participate in the designation vote must vote in favour of it.

Further Information

For further information on the proposed designation contact:

Namgis contact:

Chief Debra Hanuse
Band Administration office
Phone (250) 974-5556

Electoral Officers:

Petula Maxwell
Land Management and Leasing Officer
Indigenous and Northern Affairs Canada
600 – 1138 Melville Street, Vancouver, BC V6E 4S3
Phone (604) 562-9182

Graham Ambrose
Land Management and Leasing Officer
Indigenous and Northern Affairs Canada
600 – 1138 Melville Street, Vancouver, BC V6E 4S3
Phone (604) 364-6896

