

INFORMATION DOCUMENT

Amendment of Designation and Designation for Leasing

Dear Members:

On behalf of the Okanagan Indian Band (“OKIB”), Chief and Council are providing the following Information Document as an overview of a proposed amendment of designation and designation of lands in Duck Lake Indian Reserve No. 7 (IR No. 7).

We hereby advise you of an upcoming amendment and new designation vote to be held on **February 1, 2023**

The amendment of designation and new designation will both amend the past designation and designate lands for the purposes indicated in the Amendment of Designation and Designation Document attached as Annex “A” to the Notice of Referendum. One combined vote will be conducted for the amendment of designation and new designation.

WHAT IS A DESIGNATION?

“Designation” is a term used to describe the process whereby OKIB electors authorize the federal government (“Canada”) to manage, lease and carry out other transactions affecting the lands in accordance with the terms of the designation.

The designation proceeds under a process set up by the Indian Act and the Indian Referendum Regulations. Once designated, the lands do not lose their reserve status. They remain part of OKIB’s reserve and may only be leased for the purposes authorized by the designation. Any OKIB by-laws would continue to apply to the designated Lands and the Designation would not affect the income tax exemption of OKIB or a corporation, limited partnership or other entity 100% beneficially owned by OKIB (“Band Entity”) on the designated Lands.

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.

Which Lands are Being Designated?

Lot 13-1, Plan 101195 CLSR Save and Except Lot 158 shown on Plan 111414 CLSR, and Lot 14, Plan 731 RSBC will be subject to the proposed designation terms (the “New Designation Terms”), if approved.

What Lands Will Be Subject to the Proposed Amendment and New Designation Terms?

Lot 1 of the 1997 Designation will be subject to the proposed amendment of designation and designation terms (the “New Designation Terms”), if approved.

Are the Lands Currently Designated?

OKIB designated Lot 1, containing 31.03 acres of IR No. 7, for leasing purposes by the designation dated October 31, 1996 which was accepted by the Governor in Council under Order in Council P.C. 1997-1178 on August 28, 1997 (the “1997 Designation”). The 1997 Designation expires in 2042.

Lot 13-1, Plan 101195 CLSR Save and Except Lot 158 shown on Plan 111414 CLSR and Lot 14, Plan 731 RSBC have not been designated and therefore cannot currently be leased to a third party.

How Long will the Designation Last?

The Lands will be designated for an unrestricted and undefined length of time. This means that there is no expiring date of the Designation, unless it is revoked or amended in the future. If the term of the Designation is too short it can prevent negotiation of the most advantageous leases for the Lands, especially if a prospective tenant or subtenant contemplates a substantial capital investment and wants the longest term of lease possible. Council has therefore approved an indefinite period for the proposed Designation which would begin on the date accepted by the Minister of Indigenous Services and continue indefinitely until OKIB chooses to revoke it.

An indefinite period means that the Lands would be set aside indefinitely for the purpose of the leasing and OKIB membership would be delegating all its authority for decision making with respect to the applicable Lands to Council forever (unless membership votes to amend the Designation at a later date). The indefinite term would only apply to the Designation itself, whereas specific, limited terms (i.e. 49 or 99 years) would be attached to the head lease and any subleases.

The Designation can end earlier on some or all of the designated lands if there are no non-members using the designated lands, Council requests that the designation be revoked over those lands

What can the Lands be used for?

Any portion of the Lands may be leased by Canada for the following purposes:

- (a) Lease with Champion Canada International ULC (formerly SRI Homes Inc.) for a manufacturing facility of modular homes;
- (b) The following commercial, industrial, tourism, institutional and recreational uses:
 - amusement arcades, major

- amusement arcades, minor
- animal clinics, major
- animal clinics, minor
- animal grooming
- apartment housing
- auctioneering establishments
- autobody repair and paint shops
- automotive and equipment repair shops
- automotive recreation vehicle services
- brewing or distilling
- broadcasting studios
- business industrial
- business park
- business support services
- call centres
- cannabis cultivation, processing, and dispensary facilities
- care centres, major
- care centres, minor
- carnival
- clubs, private
- commercial schools, educational or training facilities
- commercial storage
- community recreation centres
- concrete plants
- contractor services
- convenience vehicle rentals
- cultural exhibits, private
- custom indoor manufacturing
- drive-through services
- drive-through vehicle services
- electric vehicle charging stations
- emergency protective services
- equipment rental, sales and repair shops
- extended medical treatment services
- financial services
- flea markets
- fleet services
- food primary establishments/restaurants
- funeral services and crematorium
- gaming facilities
- gas bar
- general industrial
- government agencies
- government services
- group homes, minor
- health services
- high technology research and product design
- hostels

- hotels and motels
- household repair services
- industrial processing
- kennels
- landscaping and aggregate supply
- light industrial
- liquor primary establishment, major
- liquor primary establishment, minor
- lumber yards and facilities
- manufacturing and repair shops
- non-accessory parking
- nurseries and greenhouses
- offices
- offices, construction and development
- participant recreation services, indoor
- pawn shops
- personal services
- private clubs
- real estate sales office
- recycling depots, plants and materials drop-off centres
- residential security/operator unit
- retail store, licensee
- retail stores, convenience
- retail stores, general
- retail stores, service commercial
- second-hand dealerships
- seniors assisted housing
- seniors residential care
- seniors supportive housing
- service stations, minor
- shopping centres
- special needs housing
- spectator entertainment establishments
- storage, outdoor
- storage, outdoor
- temporary shelter services
- truck and mobile home sales/rentals
- used goods store
- utility services, minor impact
- vehicle and equipment sales/rentals, industrial and agricultural
- warehouse facilities and sales; and
- warehouse sales
- wrecking yards

For greater certainty, the Designated Lands shall not be used for:

- (i) a slaughter house;
- (ii) storage of toxic chemicals;

- (iii) a chemical treatment plant;
- (iv) a waste disposal facility; or
- (v) a bulk fuel refinery;

(c) The following residential uses: single family homes, modular or manufactured homes, town houses, condominiums and multi-family dwellings;

(Paragraphs (a)-(c) are collectively the “Approved Developments”); or

(d) Commercial, industrial, institutional, or residential developments that are not Approved Developments (“Future Development Proposals”),

The wide range of permitted uses are intended to give OKIB and the Band Entity the flexibility to attract the most valuable developments for the Lands. Each portion of the Lands will be subleased for specific uses, any/all of which must comply with OKIB’s laws and bylaws, and any land use plan developed and approved by membership.

What Money will OKIB Receive?

By an appraisal dated July 27, 2022, by Kent Macpherson, the undeveloped value of the Lands is estimated at \$44 million. Indigenous Services Canada requires appraisals for designation purposes to be valued as though held in fee simple, with no consideration to its status as reserve.

However, all leases issued by Canada will require that the tenant pay market rent unless the lease is to a Band Entity directly or indirectly owned and controlled by or on behalf of OKIB, in which case the rent required can be less than fair market rent.

The rent to be paid by Champion Canada International ULC (formerly SRI Homes Inc.) to Canada on behalf of the Band will be set at \$1.3m for the first five year period, based on an estimate of market rent for the area to be leased by Champion Canada International ULC (formerly SRI Homes Inc.).

The proposed Designation does not require a Band Entity to pay 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 OKIB’s revenue account.

If a Band Entity proposes to grant a sublease of the designated lands for fair market rent and for a proposed Approved Development use contemplated in the Designation, and Council approves the proposed sublease, then the Band Entity may proceed with that sublease without requiring additional approvals.

Any of the Lands leased to a Band Entity come with some risk that OKIB may ultimately not receive as much money in rent as it would have received had there been a lease to a non-Band Entity for fair market rent; however, the intention is that the value of the Lands be received by the Band Entity through the fair market rent subleases and the financial benefits flow back to OKIB as beneficial owner of the Band Entity. In addition, if the leases are ever held by a company that

is not 100% owned and controlled by the Band, fair market rent will be payable under the leases. Canada requires that OKIB members acknowledge this risk and other risks around leases for less than fair market rent by setting them out in the Designation Document.

The determination of market rent under leases granted by Canada or subleases granted by the Band Entity will be approved by the Council based on market appraisals of the Lands at the time the lease or sublease, as applicable, is entered into. The appraisal process and the determination of fair market rent will be the same whether the lands are leased directly from Canada to a tenant or subleased from the Band Entity to any subtenant, including any OKIB departments or other OKIB entities leasing or subleasing any portions of the Lands. This will help to ensure that the OKIB's operating costs for any portion of the Lands are paid by the appropriate party, even if that party is a Band department or other Band Entity.

The monies to be received by the Band related to the lease to the Group of Companies is dependent on the various types of subleases into which they enter. Each sublease will be presented to Council for approval and at that time the Group of Companies could be required to present estimated value of available cash as defined in the Governance and Fiscal Agreement.

For example, under a 49-year lease, but assuming 5-year rent reviews, cash flow from ground rent only (exclusive of buildings), would be approximately \$1,700,000 to \$2,100,000 (rounded). This rent would escalate over each 5- year rent review period, providing significant, virtually risk-free annual income.

What are the General Benefits of the Designation?

Council expects that OKIB 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 rental and other revenues, and attract interest in other opportunities on the Lands.
- The development of the designated lands may create sustainable employment for members.
- The lease rent obtained from subleases may be reinvested into OKIB's businesses, used to further develop OKIB community services, housing, and infrastructure or for other purposes that may promote the general welfare of OKIB members.
- If less than market rent is payable by a Band Entity tenant, then the nominal rent will allow the Band Entity to focus its resources on building its business into a viable operation, or allow the Band Entity to make money simply by charging higher, market rent to subtenants.
- Any profits of the Band Entity or increases in value of the Band Entity indirectly benefits members as beneficial owners of the Band Entity.

- The long term subleases that can be granted under the proposed Designation would provide an asset to OKIB and the Band Entity which could be used to leverage financing for other projects and initiatives.

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

An environmental assessment review of the lands was prepared by IBI Group and dated August 30, 2022. Copies of this document is available at the Band Office.

Before any project 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 Meeting

An information meeting for members will be held as set out in the Notice of Referendum, to assist the electors in making an informed decision on the Designation. Representatives from OKIB, OKIBGC (the Band Entity), and Indigenous Services Canada will be available to answer questions after a presentation by the Band Entity on its proposed development plans. The meeting details are as follows:

Information and Virtual Meetings to be Held:

Wednesday, January 4, 2023	5:30 to 7:30 p.m.	Head of the Lake Hall #118 Head of the Lake Road
Wednesday, January 11, 2023	5:30 to 7:30 p.m.	Duck Lake #16 - 9590 Jim Bailey Road (corner of Jim Bailey/Beaver Lake Road)
Wednesday, January 18, 2023	5:30 to 7:30 p.m.	Six Mile – New Horizons #8 Bonneau Road

Virtual Meeting Details:

Please check <https://calendar.okib.ca/> regularly for scheduled meetings and/or Zoom meeting.

Date of Vote

The designation vote will be held at The Head of the Lake Hall at 118 Head of the Lake Road, on February 1, 2023, from 9:00am to 8:00pm.

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:

OKIB contact:

**Lee Anne Cameron,
Director of Lands
Okanagan Indian Band**
12420 Westside Road
Vernon, BC V1H 2A4
Phone: (250) 542-3444
Email: LeeAnne.Cameron@okanagan.org

**Sherry Louis
Lands Officer
Okanagan Indian Band**
12420 Westside Road
Vernon, BC V1H 2A4
Phone: (250) 542-3444
Email: Sherry.Louis@okanagan.org

or

Electoral Officer:

Adina Chang, Land Management and Leasing Officer
Indigenous Services Canada
600 – 1138 Melville Street, Vancouver, BC V6E 4S3
Phone: (236) 334-4732
Email: Adina.Chang@sac-isc.gc.ca

Lands to be designated



Source: Google Earth 2020