



STAFF REPORT

DATE: February 21, 2024 **FILE:** 0540-04 Board

TO: Chair and Directors,
Regional Board

FROM: David Leitch
Chief Administrative Officer

RE: PORT NEVILLE WHARF – PROPOSED DIVESTMENT

PURPOSE/PROBLEM

To consider the options and process of divesting the Port Neville Wharf to the Tlowistis First Nation.

EXECUTIVE SUMMARY

At its October 11, 2023, meeting, the Regional Board considered the attached report and passed the following resolution:

Mawhinney/Whalley: SRD 842/23

THAT the Regional District investigate the divestiture of the Port Neville wharf with potential interested parties, and

THAT a report on the results of the investigation be returned to the Electoral Areas Services Committee for consideration.

Following passage of the above resolution, the Regional District met with Councillor Thomas Smith of the Tlowitsis First Nation (Tlowitsis) which owns property upland of the Port Neville wharf. Councillor Smith expressed interest on behalf of Tlowitsis in acquiring the Port Neville wharf, subject to the Regional District proceeding with the necessary repairs using the divestiture funding provided by Transport Canada.

Based on the interest expressed by Tlowitsis, a Letter of Understanding (LoU) has been prepared to formalize the intentions of the parties regarding the divestiture. The letter has been reviewed by Tlowitsis, which supports its signing.

Should the Board agree and both parties sign the LoU, the next steps will be to draft a bylaw to permit the transfer of ownership, provide opportunity for public feedback and execute an agreement to bind both parties before proceeding with repairs.

RECOMMENDATIONS

1. THAT the report from the Chief Administrative Officer be received.
2. THAT the Chair and Corporate Officer be authorized to execute the Letter of Understanding on behalf of the Regional District.

3. THAT a bylaw be prepared for the Board's consideration which would authorize divestment of the Port Neville wharf facility to the Tlowitsis First Nation.

Respectfully:



David Leitch
Chief Administrative Officer

BACKGROUND/HISTORY

The Tlowitsis First Nation's website contains detailed maps showcasing places named in the Kwakwaka'wakw language, scattered across the Port Neville area, each carrying cultural and historical importance. Notably, the Nation identified the lands directly upland of the Port Neville Wharf as potential Treaty Lands. The Nation also recently purchased a 60-acre property adjacent to the Port Neville Wharf.

Quoting from the June 7, 2021, Treaty Related Measures 2020-2021 Annual Report available on the Nation's website, *"The Tlowitsis First Nation has identified Port Neville and the Fulmore watershed as core lands for treaty settlement,' citing their cultural significance and ecological richness. This commitment positions the Nation as active partners in the management of their traditional lands and waters, marking significant progress towards the eventual treaty settlement. The identified areas, including reserves Hanatsa and Har-khom (Port Neville), play a pivotal role in the Nation's vision for sustainable land and water management."*

The Tlowitsis First Nation's ties to the land and their work of becoming active partners in managing their traditional lands and waters make them well-suited to assume ownership and operations of the Wharf at Port Neville.

ALTERNATIVES

The Hansen Family has owned property upland of the Port Neville Wharf for several generations. Steve Hansen has expressed interest in acquiring the wharf if the Tlowitsis are not so inclined.

If no other interested parties are willing to assume ownership, and there are no alternative options to integrate the wharf into an established service, demolishing the wharf is considered an eligible expense under the contribution agreement between the Regional District and Transport Canada.

FINANCIAL IMPLICATIONS

The Regional District has approximately \$875,000 in funding from Transport Canada to complete the necessary repairs to bring the wharf up to minimum safety standards. Once the work is complete, the ownership of the wharf could be transferred to the Tlowitsis for \$1. Following the transfer of ownership, the Regional District would have no financial obligations related to the Port Neville wharf.

LEGAL IMPLICATIONS

The Letter of Understanding is not legally binding but outlines the mutual agreement and preliminary terms between parties before entering into a formal contract or agreement. If the initiative progresses, a binding agreement will be prepared for execution between the Regional District and the Tlowitsis First Nation.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS

During the 2023 Alternative Approval Process for the proposed wharves service bylaw, feedback from the community suggested that the Port Neville wharf served a greater community than just Electoral Area C, and residents of Electoral Area C should not exclusively bear the costs for ongoing operations of the wharf. However, if ownership is transferred to another entity, there is no guarantee that public access will be provided.


Prior to adopting a bylaw to authorize divestiture of the wharf facility, the public will be notified and provided an opportunity to comment on the transfer being contemplated by the Regional District.

Prepared by: S. Fisher, Engineering Services Coordinator

Attachments: Letter of Understanding – Portt Neville Wharf Disposition.pdf
Letter from the Tlowitsis First Nation dated Feb. 16,2024 - Port Neville Potential Transfer
Staff Report 20230922-TC - Divested-Wharves-Options

COPY

LETTER OF UNDERSTANDING

Between:	The Strathcona Regional District A Regional District under the <i>Local Government Act</i> , RSBC 2015, c 1, having its offices located at 990 Cedar Street, Campbell River, BC V9W 7Z8	 The logo for Strathcona Regional District features the name "Strathcona" in a large, blue, sans-serif font, with "REGIONAL DISTRICT" in a smaller, blue, sans-serif font below it. Underneath the text is a stylized graphic of a green mountain range above a blue body of water.
And:	The Tlowitsis First Nation A First Nation having its offices located at 1345 Bute Crescent Campbell River, BC V9H 1G6	

The Parties have discussed working together to repair and transfer a piece of infrastructure from the Strathcona Regional District to the Tlowitsis First Nation and wish to confirm the understanding that has arisen from those discussions so that the parties may proceed to drafting and executing a binding agreement for the repair and transfer of infrastructure that adheres to the following understandings:

- A. The Strathcona Regional District (“SRD”) owns a wharf located in the vicinity of Port Neville, British Columbia that it acquired from Transport Canada in 2014 (the “Wharf”). The Wharf is in need of repair work and the SRD is not in a position to continue to own, operate or maintain the Wharf. More specifically, the Wharf consists of a provincial crown foreshore tenure and the dock and pilings improvements located on the tenure area.
- B. The Tlowitsis First Nation (“TFN”) has lands in the vicinity of the Wharf and has advised SRD that TFN would have interest in acquiring the Wharf from SRD.
- C. Prior to concluding a comprehensive and binding agreement for SRD to transfer the Wharf to TFN, the parties wish to confirm the general terms that a final agreement would include so as to streamline the drafting process and so that the parties can make the necessary preparations prior to the final agreement being signed, including obtaining the required authorizations from the boards or electorates of SRD and TFN as may be applicable. The terms that follow are not

binding obligations of the parties but rather statements of intent for what a final agreement ought to contain.

- D. The SRD has access to \$875,000.00 in funding from Transport Canada to make necessary repairs, improvements and maintenance work to the Wharf (the "Repair Fund"). The current funding agreement with Transport Canada requires SRD to expend the Repair Fund on or before November 1, 2024.
- E. The SRD has made initial investigations into needed repair work and to that end has obtained an inspection of the Wharf and a proposal for work to be done using the Repair Funds from the McElhanney engineering consultancy in Courtenay (the "Repair Work"). Copies of the inspection and proposal for the Repair Work are attached to this Letter of Understanding.
- F. The SRD proposes to expend the Repair Fund on the Repair Work and upon completion of the Repair Work, sell the Wharf to TFN for \$1.00.
- G. To proceed with the sale of the Wharf to TFN, SRD would need the parties to have a signed and binding contract for the sale on or before September 30, 2024. If SRD and TFN have entered into a binding contract for the sale and are proceeding with the Repair Work, however it is anticipated that the SRD will be unable to expend the full amount of the Repair Fund prior to the November 1, 2024 date provided for in the current funding agreement with Transport Canada, then SRD will apply to Transport Canada for an extension of the deadline in the funding agreement with Transport Canada to enable the Repair Work to be fully completed utilizing the Repair Fund.
- H. The SRD will provide TFN with whatever access TFN requires for conducting its own due diligence on the Wharf and will provide TFN reasonable access to observe the progress of the Repair Work that does not interfere with the completion of the Repair Work.
- I. The SRD cannot warrant the quality of the Repair Work or the condition of the Wharf generally and would sell the Wharf to TFN on an "as is" basis, however SRD will assign the benefit of any warranties provided by contractors retained for carrying out the Repair Work to TFN so that TFN may pursue those third parties for any defect in the Repair Work.

The Parties agree to work together in good faith in drafting and executing a binding agreement for the repair and transfer of the Wharf on the terms described above however aside from the commitment to work together in good faith, no other binding obligations between the parties are created by this Letter of Understanding.

The Parties have indicated their agreement to the above terms by applying the signature of their authorized signatory below:

Strathcona Regional District

Tlowitsis First Nation

Signature

Signature

Signature
Print Signator(ies) Name(s):

Signature
Print Signator(ies) Name(s):

Tlowitsis Nation



February 16, 2024

Azalea Milwid
Strathcona Regional District
301-990 Cedar Street
Campbell River, BC V9W 7Z8

Dear Azalea,

Re: **Port Neville Float and Pier Potential Transfer**

The Tlowitsis Council is very interested in the offer that representatives of the SRD made to us back in 2023.

We have reviewed the engineering documents and when the improvements are completed the Council would agree to the legal transfer of the facilities.

The Council would like to be kept updated on the improvements made upon the SRD commissioning the repairs. The docking facilities is very important to the Hanson family and to the Tlowitsis as we are the upland owners of the properties. This is our access to our housing and the heritage building know as the store and post office.

We will wait to hear back on how we do the legal transfer upon completion of the repairs. As we understand construction should begin this coming summer.

If you need further information, call my office anytime.

Regards,



Thomas Smith, Councillor

Tlowitsis Nation