

Tsaa Nuna Conservancy: Discussion Paper

Completed by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development

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Purpose

The Province of British Columbia (the “Province”) is seeking input from the public on a proposal to establish a new conservancy area in northeast British Columbia. Under the new Government-to-Government Agreement between Halfway River First Nation and the Province, the parties have committed to recommending the establishment of a new protected area to conserve the high cultural and natural values associated with the area. At this time, the Province is seeking to understand how this proposal may impact third parties and the public before recommending establishment of the conservancy.

Introduction

Halfway River First Nation is an adherent to Treaty No. 8. When making resource management and land use decisions in the Treaty 8 area, the Province of British Columbia (“the Province”) must balance Halfway River First Nation’s constitutionally protected rights with broader societal interests. In March 2017, the Province finalized an agreement with Halfway River First Nation that contains numerous commitments for reconciliation and to enhance the relationship between the parties, including provisions that relate to consultation processes, economic benefits, and requirements around stewardship and significant areas concerns. One of those significant areas is a proposed new conservancy, Tsa’a Nuna (pronounced *sa-na-na* and formerly referred to as CP212).

The proposed Tsa’a Nuna Conservancy is located approximately 65 kilometres northwest of Fort St. John and 35 kilometres northeast of Butler Ridge Provincial Park, and incorporates 5,975 hectares of land along the southern shore of the Halfway River. The proposed conservancy is intended to provide for the conservation of the high cultural and natural values associated with the area (see Figure 1).

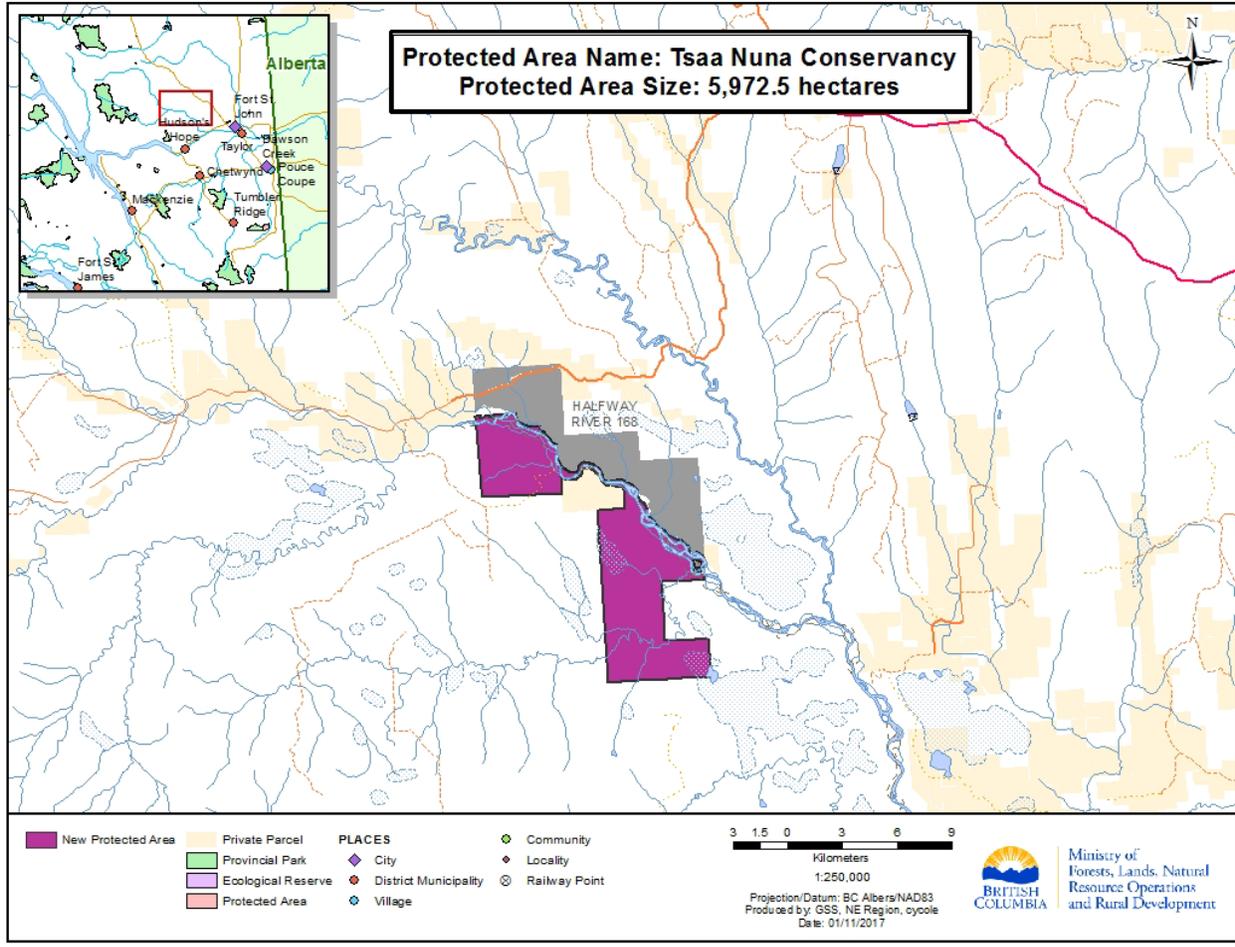


Figure 1: Location Map

Background

For thousands of years, the area of land that comprises the proposed conservancy has been used by First Nations for traditional purposes such as hunting, fishing, trapping, gathering plants and berries, and was traditionally referred to as *Tusdzu*.

More recently, in 1999, the former Ministry of Forests approved a cutting permit for the area, Cutting Permit 212 or CP212. Since then, the land has commonly been referred to as CP212. HRFN sought a judicial review of the decision for the permit, arguing that logging of the sacred area would adversely impact their ability to exercise Treaty and Aboriginal rights. In *Halfway River First Nation v. British Columbia* 1999, BCCA 470, the court agreed with Halfway River First Nation’s arguments and set aside the cutting permit. Following that decision, a protective notation was placed over the land, which allowed some of the natural values to be restored.

In March 2017, Halfway River First Nation and the Province signed a Government to Government Agreement. The development of Government to Government agreements are intended to facilitate reconciliation by balancing the protection and maintenance of treaty rights with the development of land and natural resources, and to support an enduring and respectful government-to-government relationship. The agreement includes provisions that encourage the Halfway River First Nation and the Province to seek to meet their respective interests through agreed consultation and dispute resolution processes, rather than through legal action. The agreement with Halfway River First Nation provides for a number of measures intended to protect culturally significant areas and measures to improve wildlife management. These measures include provisions regarding the establishment of a new conservancy under the *Protected Areas of British Columbia Act* in CP212, the proposed Tsa'a Nuna Conservancy.

Land cover analysis

Currently, the proposed conservancy is a predominantly natural environment¹, and is vegetated primarily in mature indigenous forest. The forest is representative of a black and white spruce forest, and contains a mix of coniferous, deciduous and marshlands. The landscape surrounding the proposed conservancy is a mixture of undeveloped natural areas and agricultural land uses, with some smaller concentrated areas of residential development (largely the Halfway River First Nation community). The main land use is agricultural, but there are some forestry activities and historic oil and gas developments within this landscape as well.

¹ As noted earlier, following the court proceeding between HRFN and the Province regarding a cutting permit, a reserve/notation (statutory protective mechanism) under section 16 of the Land Act was established over the land within CP212. Consequently, a lot of the intrinsic natural values have been maintained and restored.

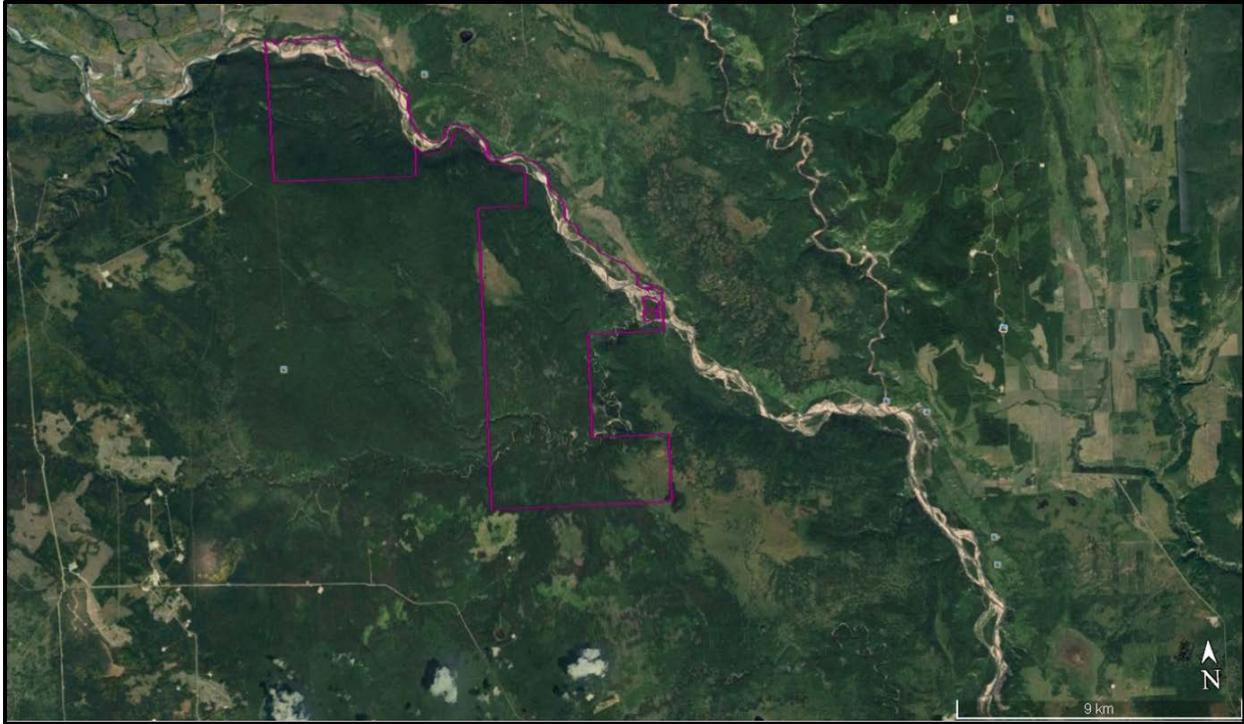


Figure 2: Aerial Photograph of Tsaa Nuna

Natural Values

Cultural Heritage Values:

The primary role of the proposed Tsaa Nuna Conservancy is to protect cultural features and wildlife habitat. Tsaa Nuna is an area of special historic and continuing cultural significance for the practice of traditional activities by First Nations. The area has been traditionally used for teaching First Nations youth about the natural environment, practising their cultural and spiritual customs, as well as hunting, trapping and gathering plants and berries. The community has erected buildings and cabins to support their year-round use of the area. The Halfway River First Nation has sought to protect the area for many years, having successfully fought the industrial development of the area, and securing a protective notation over the land in the late 1990s. The close proximity to the community allows elders and other less mobile community members to enjoy the forest, where normally they would not be able to access these areas.

Landscape Values:

The proposed Tsaa Nuna Conservancy incorporates the southern shoreline of the Halfway River, opposite the Halfway River First Nation Reserve No.168. The Halfway River is the largest tributary of the Peace River, and as such, is a notable landscape feature in itself. The forest is representative of a black and white spruce forest, and contains a mix of coniferous, deciduous and marshlands. The proposed conservancy is a largely undisturbed area of forest.

Ecological Values:

The area contains moose, deer and elk, and is within the Rocky Grizzly Bear Population Unit. The small islands throughout this section of the Halfway River are important wintering and calving habitat for many ungulates. Historically, caribou would have used the whole area, and currently, the area is next to the range of the Graham herd, a herd of Northern Mountain Caribou. Additionally, the area is commonly used by marten, fisher, lynx, beaver, wolverine and porcupine. The Halfway River is an important feeding and spawning habitat, and a migration route for bull trout, and mountain whitefish. Protection of the area will only serve to enhance the biodiversity values.

Economic Values

This section identifies the existing land uses and interests within the proposed conservancy and evaluates the potential impacts a conservancy designation would have on these land uses and interests. These potential impacts are described below.

Oil and Gas Activities:

Under the Government to Government Agreement, the Province and the Halfway River First Nation are committed to balance the conservation and maintenance of the natural and heritage resources in the area with the recovery of high value natural gas. However, it is anticipated that any sub-surface resources will be accessed by directional or horizontal drilling originating outside the conservancy.

There is an existing authorization for ancillary site (to a pipeline). This application was made in 2014 and is pending. Regardless of the status of this application, it is not anticipated to have a significant adverse effect on the proposed conservancy, given that it only intersects a very small portion (0.4 hectares) in the top northwest corner of Tsaa Nuna. A Park Use Permit would be required for a pipeline within a conservancy.

There are also existing authorizations for seismic activities, but this is an historical development and should not have any adverse effects on the proposed conservancy.

Forestry:

The proposed conservancy is within an area that has been avoided by the forest industry in the Fort St. John TSA for many years. There have been no planned cutblocks within this area since the early 2000s and there are no currently active permits or authorizations. The primary impact will be the removal of this land from the timber Harvesting Landbase. An analysis of the timber harvesting land base (THLB) identified an impact of 3,093 hectares, which equates to about 6,200m³/year based on a rough district average mean annual increment of timber growth of 2m³ / hectare of THLB.

Mining:

This parcel sits west of Halfway River and adjoins other lands identified as a parcel of interest for the Halfway River First Nation. There are no known mineral occurrences within, tenures underlying or mineral / coal exploration activity recorded for the area. The area is part of the region explored and developed for oil and gas resources. It is unlikely that mineral resources will be identified in the area. It is not expected that a conservancy at this location would have any near or long term impediment to mineral or coal development.

The area is within the Regional Coal Agreement (RCA) 'Coal Area' (i.e. outside the Regional Coal Agreement 'coal land reserve').

Utilities:

There are no significant risks to utilities infrastructure by establishing a conservancy at this time. There are no known existing utilities in the area.

Trapping:

There are no significant risks to trapping at this time. Three traplines overlap with the proposed conservancy, including TR0734T003, TR0735T006, and TR0744T001. The registered trapline holders were contacted, and have no concerns with the proposed conservancy designation, as the traplines are not inconsistent with the proposed land use. It is not anticipated that the existing trapping activities will have an adverse effect on the conservancy, given that two of the traplines only overlap a very small portion of the conservancy adjacent the boundary. The third covers a greater portion of the conservancy and is registered to a member of the Halfway River First Nation.

Agriculture:

There is one tenure for grazing that overlaps with Tsa'a Nuna (RAN073263), covering the entirety of Tsa'a Nuna. It is anticipated that this tenure will be grandfathered into the conservancy designation, thereby minimizing the impacts to the tenure holder.

Hunting and guide outfitting:

There are no significant risks to hunting and guide outfitting objectives by establishing a conservancy at this time. Hunting is allowed in most conservancies.

One guide outfitting tenure overlaps with the proposed conservancy (700551). These activities are not inconsistent with the purpose of the designation.

Commercial Recreation:

There are no significant risks to recreation objectives by establishing a conservancy at this time. A park use permit would be required, and the activity would be assessed on whether or not it is consistent with the values that prompted the creation of the conservancies.

Private land:

Any private land will be excluded from the proposed conservancy, and as such, there should be no adverse effects on private land owners resulting from the establishment of the proposed conservancy.

Conservancies

The Province's protected areas system helps protect and maintain important natural and cultural values and provide outstanding outdoor recreation opportunities. Protected areas contain some of the best of British Columbia's natural and cultural heritage values. The British Columbia protected areas system includes ecological reserves, provincial parks, conservancies, recreation areas, and protected areas.

Conservancies are Crown lands set aside for:

- (a) the protection and maintenance of their biological diversity and natural environments;
- (b) the preservation and maintenance of social, ceremonial and cultural uses of First Nations;
- (c) the protection and maintenance of their recreational values; and
- (d) development or use of natural resources in a manner consistent with the purposes of (a), (b) and (c) above.

The conservancy designation explicitly recognizes the importance of these areas to First Nations for social, ceremonial and cultural uses. Conservancies provide for a wider range of low impact, compatible economic opportunities than Class A parks, however, commercial logging, mining and hydroelectric power generation, other than local run-of-the-river projects, are prohibited. These economic opportunities must still not restrict, prevent or hinder the conservancy from meeting its intended purpose with respect to maintaining biological diversity, natural environments, First Nations social, ceremonial and cultural uses, and recreational values.

Conservancies can be established by order in council under the *Park Act* or by inclusion in a schedule to the *Protected Areas of British Columbia Act*.

For more information on BC Parks designations, see http://www.env.gov.bc.ca/bcparks/aboutBCParks/prk_desig.html

Conservancy Designation Process

As noted, the proposed establishment of Tsa'a Nuna Conservancy originated from comprehensive negotiations with Halfway River First Nation regarding, in part, resource

stewardship in Halfway River First Nation's territory. The protection of Tsaa Nuna will provide for the on-going maintenance and enhancement of the high cultural and natural values associated with the area. The area of land referred to as Tsaa Nuna is proposed to be designated as a "conservancy" under the *Park Act* or the *Protected Areas of British Columbia Act* because this designation explicitly recognizes the importance of these areas to First Nations for social, ceremonial and cultural uses, while protecting biodiversity and recreational values.

The process for establishing the conservancy includes a thorough examination of all of the values associated with the land, natural and socio-economic, and extensive engagement with First Nations, stakeholders, and the general public. When the area is identified as having values worthy of protection, the first step involves a thorough assessment of the current land uses and interests to assess the compatibility of a new protected area. Potentially affected parties are identified and informal discussions are initiated with existing tenure holders and other interested parties. While there will always be some existing uses of the land, if no significant and unresolvable issues arise, the proposal can then progress to engagement with a broader range of parties, including the general public.

Consultation will generally include opportunities for all interested parties to be involved through a variety of forums. For Tsaa Nuna, there will be public notices and open houses, letters to all potentially affected parties, and face-to-face meetings for concerned parties. Additionally, all First Nations in the region will be consulted².

Following the consultation process, the formal establishment will occur. Conservancies can be established by two means, (1) by order in council under the *Park Act*, or (2) by inclusion in a schedule to the *Protected Areas of British Columbia Act*. Presently, all conservancies have been established by the second method. Once the formal designation is completed, BC Parks will initiate a conservancy management planning process to provide for appropriate management of the land.

Conclusion:

The proposed conservancy is considered an appropriate use of the land, as more sustainable resource management requires a balance between conservation and development. Providing for the treaty rights of First Nations is also a fundamental aspect of resource and land management in Canada. The development of government-to-government agreements provides compensation for any impacts to treaty rights, supports an enduring and respectful government-to-government relationship, and achieves greater legal certainty (limiting

² This excludes the Halfway River First Nation, who is considered a "partner" and have been involved throughout the process and in the development of any printed materials.

circumstances for legal action against the Province) and process certainty (clearly defining process steps and timelines for consultation. The land within the proposed Tsaa Nuna Conservancy has significant cultural values, and has been continuously used by First Nations for traditional purposes for centuries. Halfway River First Nation has acted as a steward of this land for many years, and the conservancy will support their efforts in maintaining and potentially enhancing the natural values. The economic values of the land are not significant, and some economic uses can still be accommodated with the conservancy designation. Overall, a conservancy designation is considered an appropriate land use, and will provide a significant natural area for all British Columbians.

How can I/we contribute?

For further information, questions, concerns and/or comments on the proposed new conservancy, please see <https://engage.gov.bc.ca/govtogetherbc/> or contact:

Lisa Brock
Land & Resource Specialist – Northeast Region
Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Phone: 250-787-3451
Email: Lisa.Brock@gov.bc.ca