Heiltsuk Custom Election Rules Amendment Vote - November 23, 2020

Summary of Recommended Amendments

A. PURPOSE AND LIMITATIONS

The purpose of this document is to provide Heiltsuk Electors with a summary of the amendments (the “Amendments”) to the Heiltsuk Custom Election Rules (the “Rules”) that are being recommended by Heiltsuk Council. The Amendments will be voted on by Heiltsuk Electors at an Amendment Vote scheduled to occur on November 23, 2020, the outcome of which will determine whether or not the Amendments will be approved or rejected.

Please note that this document is only meant to provide a simple summary of the Amendments. Electors are encouraged to review the Amendments in full and to access other resources such as the video that has been prepared by Heiltsuk legal counsel explaining the Amendments. This document should not be solely relied upon as it is not a complete review of all the Amendments and certain Amendments have been omitted, shortened or simplified in this document for ease of use, length and readability. Please also note that capitalized terms used in this document that are not defined in the document have the meaning given to those capitalized terms in the Rules.

B. REASON FOR RECOMMENDING THE AMENDMENTS

Council has taken and is taking steps in response to the ongoing health risk posed by the COVID-19 Pandemic including enacting various bylaws, travel advisories, bans and checkpoints in order to safeguard our people, our resources, our lands, our waters, and all living things in our Territory. Additionally, Council made the decision to cancel the Heiltsuk Election which was scheduled to take place on August 24, 2020 and to extend the terms of those Council members whose terms were ending in order to prevent, mitigate or control the spread of disease on Heiltsuk’s reserves.

Council has heard clearly from Heiltsuk membership that more is required in order to respond to the health risk posed by the COVID-19 Pandemic. Specifically, membership has expressed the desire that electronic voting be offered as an option for Heiltsuk’s next Election. Council, with the assistance of legal counsel, has developed the Amendments to allow for electronic voting to be offered as an option for Heiltsuk’s next Election.

Council and the Heiltsuk Custom Election Rules Committee have reviewed and approved the Amendments. Council is now recommending the Amendments to membership and an Amendment Vote will be held on November 23, 2020 so that Heiltsuk Electors may vote on whether the Amendments should be approved or rejected.

C. SUMMARY OF RECOMMENDED AMENDMENTS

1. Definitions (section 2)

Council recommends that section 2 be amended to include four new definitions relevant to electronic voting: Electronic Ballot; Remote Ballot; Remote Nomination Form; and Remote Voter Declaration Form.
“Electronic Ballot” would be defined as meaning a ballot submitted electronically in accordance with the Rules, and “Remote Ballot” would be defined as meaning both Electronic Ballots and Mail-in Ballots.

2. **Elector’s List and Contact Addresses (section 8)**

Council recommends that section 8 be amended to make clear that, due to the addition of an electronic voting option, the Electoral Officer must be provided with the Electors’ email addresses and that the Electoral Officer must provide Heiltsuk with any updated email addresses or other contact information the Electoral Officer receives during the course of the Election.

3. **Notice of Nomination Meeting (section 9)**

Council recommends that section 9 be amended to update terminology to reflect the addition of an electronic voting option, and to make clear that Heiltsuk Electors are responsible for ensuring that the Electoral Officer has their updated contact information, including their current email address.

4. **Notice of Election (section 16)**

Council recommends that section 16 be amended to make clear that the Notice of Election must include notice that:

- all Electors who ordinarily reside off-Reserve will be sent a Remote Ballot package and may vote by Mail-in Ballot, Electronic Ballot or in-person;
- all Electors who ordinarily reside on-Reserve will not be sent a Remote Ballot package but may, at any time up to the Election day, ask the Electoral Officer to send them a Remote Ballot package so that they can vote by Mail-in Ballot, Electronic Ballot or in-person; and
- notice that, if an Elector casts more than one vote in the Election, all of their ballots will be rejected and the Elector will forfeit their right to vote in the Election.

5. **Distribution of Remote Ballot Packages (section 18)**

Council recommends that section 18 be renamed and amended to make clear that the Electoral Officer must mail to every Elector ordinarily residing off-Reserve a Remote Ballot package consisting of:

- a Mail-in Ballot package containing, among other things, a Mail-in Ballot;
- an Electronic Ballot package containing, among other things, a letter of instruction setting out how the Elector may vote by Electronic Ballot; and
- notice that Electors may vote in person at a Polling Site on the day of the Election if they swear a written declaration that they have not and will not vote by Remote Ballot in the Election.
Further, Council recommends that section 18 be amended to set out that an Elector who ordinarily resides on-Reserve may, at any time up to Election day, request a Remote Ballot package from the Electoral Officer and the Electoral Officer must send a Remote Ballot package to any Elector who requests it.

6. **Voting by Electronic Ballot (new section 20)**

Council recommends that a new section, section 20, be added to the Rules that makes clear that Electors must vote by Electronic Ballot by following the letter of instruction regarding voting by Electronic Ballot and that, like Mail-in Ballots, Electronic Ballots will be accepted until the close of the poll on Election day.

7. **Voting Procedures (section 21)**

Council recommends that section 21 be amended to make clear that any Elector who has been sent a Remote Ballot package may vote in person at the Polling Site on the day of the Election if they swear a written declaration that they have not and will not vote by Remote Ballot in the Election. Further, the Electoral Officer must ensure that electronic voting mechanisms are in place that are proper, reliable, user-friendly and secure and that:

- maintains the secrecy of an Elector’s vote;
- tracks whether or not an Elector has voted; and
- includes security features to ensure that an Elector’s identity is verified prior to casting their vote.

8. **Close of the Poll/Counting of Votes (section 22)**

Council recommends that section 22 be amended to provide that the Electoral Officer or Deputy Electoral Officer must, after the close of the Poll, download and save the Electronic Ballot data prior to the counting of ballots. Further, Council recommends that section 22 be amended to make clear that, if an Elector casts more than one Ballot in an Election, all of that Elector’s ballots will be rejected and the Elector will forfeit their right to vote in the Election.

9. **Disposition of Ballots (section 24)**

Council recommends that section 24 be amended to make clear that, like Mail-in Ballots, the Electoral Officer must save all Electronic Ballot data and retain them in his or her possession for eight weeks following the Election, at which time the Electoral Officer must delete the Electronic Ballot data.

10. **Amendments (section 29)**

Council recommends that section 29 be amended to make clear that, while the Electoral Officer must conduct an Amendment Vote according to the same voting procedures as for Elections as set out in the Rules, they may make such modifications to the voting procedures they may deem necessary to ensure that the Amendment Vote is carried out in a fair, orderly and efficient manner.