# BRITISH COLUMBIA WINE AUTHORITY

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## Recommendation to the Minister of Agriculture Regarding the Potential Designation of a New Sub-Geographical Indication for "Naramata Bench"

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**Executive Summary**

Under section 56(1) of the *Wines of Marked Quality Regulation* (the "**Regulation**") certain geographical indications ("**GIs**") and sub-geographical indications ("**Sub-GIs**") have been prescribed for use as appellations of origin on BC Wines of Distinction (including all BC VQA wines). These GIs and Sub-GIs include "British Columbia", "Similkameen Valley" and "Okanagan Valley". Sections 54, 55, 57 and 59 of the Regulation provide certain rules regarding the permitted and required uses of all prescribed GIs and Sub-GIs. In particular, only qualifying BC wines of distinction are permitted to utilize any of the prescribed GIs and Sub-GIs as appellations of origin, and all BC VQA wines must display at least one of the prescribed GIs or Sub-GIs.

It was not intended that the list of prescribed GIs and Sub-GIs be restricted for all times. Rather, under subsection 9(3), the Regulation provides that the Authority is to develop a process for recognizing and prescribing new Sub-GIs in the Regulation and to make recommendations to the Minister of Agriculture (the "**Minister**") for related amendments to the Regulation.

On April 23, 2018, the Authority received an application from a group of proponents requesting that a new Sub-GI under the name of the "Naramata Bench" be prescribed in the Regulation (the "**Application**").

As is further detailed below, following a review of the Application, the Authority has concluded that the Application meets the requirements of subsection 9(3) and the Authority is recommending to the Minister that the Application, as submitted, be approved and that a new Sub-GI of "Naramata Bench", with boundaries as they have been proposed in the Application, be prescribed through an amendment to the table of prescribed GIs and Sub-GIs found in paragraph 56(1)(b) of the Regulation.

## 1. Requirements for Approval and the Authority's Review and Assessment of those Requirements

While subsection 9(3) of the Regulation requires the Authority to establish a process to review applications for new Sub-GIs, the subsection also provides a non-exhaustive list of the criteria that the Authority must specifically consider when reviewing any such application. These prescribed criteria are:

1. The proposed Sub-GI must represent an area that is geographically distinct and has clearly defined boundaries;

2. Appropriate consultations must have taken place within the region of the proposed Sub-GI and there must not have been any credible objections that claim that the proposed Sub-GI is not distinctive;

3. Grape production within the proposed Sub-GI must have reached commercially viable levels;

4. At least two-thirds of the Members within the proposed Sub-GI, who produce at least two-thirds of the total production of wine made from grapes grown in that Sub-GI must have voted, by ballot, in favour of the proposed Sub-GI; and

5. At least two-thirds of grape growers in a proposed Sub-GI, who produce at least two-thirds of the total grape production in the Sub-GI, must have voted, by ballot, in favour of the proposed Sub-GI.

The Authority interprets the requirements of subsection 9(3) as not being exhaustive. The application process is application-specific and, consistent with its overall duties and functions, the Authority takes other relevant factors into account and in its review of any application. These other factors include a consideration of the name being proposed for the Sub-GI. The Authority will review the proposed name to ensure that it is reasonable and appropriately descriptive of the actual geographical location of the area under consideration, and will not be confusing to consumers because of a lack of any connection to the Sub-GI's actual location, or it has an unnecessary or inappropriate similarity to other geographic areas or place names with no connection to the actual location.

Further, in interpreting and applying the requirements of subsection 9(3), the Authority is generally guided by the following considerations:

- Subsection 9(3) generally exists to facilitate the creation of new Sub-GIs, not to prevent their creation. Therefore the Authority considers that its requirements must be interpreted in a manner that is generally facilitative of that objective, and not should not be interpreted so as to create thresholds that are so high as to never be realistically attainable; and

- British Columbia's wine regions are relatively new by world standards, with relatively few vines in excess of 30 years of age. Generally, vineyards tend to express greater *terroir*-related effects over time, as the vines age and producers identify distinctive characteristics and work to enhance *terroir* through adoption of specific *terroir*-enhancing production practices. In contrast, many Old World appellations have been producing wine for many decades, in some cases centuries, and consequently producers in these appellations have been able to identify, develop and demonstrate distinctive *terroir*-related characteristics through many dozens if not hundreds of vintages. That being the case, the Authority is of the view that it would not assist the overall development of the BC wine industry to apply overly rigorous "Old-World-style" appellation requirements to a relatively new and still developing industry.

These considerations are not only taken into account in the interpretation of the basic requirements of subsection 9(3), but they also affect the "level of proof" that proponents need to provide in any application. To the extent that proponents are required to demonstrate that certain requirements of subsection 9(3) are met, it is the Authority's view that such requirements must only be demonstrated "on a balance of probabilities". Absolute scientific certainty or proof beyond all reasonable doubt is not required.

Each of the elements specified in subsection 9(3) as they are applied to the Application are reviewed in turn below. As part of the discussion concerning each element, an overview of how the Authority generally interprets and applies each element is also provided.

## 2. The proposed Sub-GI must represent an area that is geographically distinct and has clearly defined boundaries

### 2.1 Overview of the Authority's Procedures

Paragraph 9(3)(a) requires that a proposed Sub-GI must represent an area that is geographically distinct, with clearly defined boundaries. With regard to this requirement, the Authority will review the area of the proposed Sub-GI with regards to its geographic distinctiveness for viticulture purposes. This will include a consideration of all applicable geographic elements such as soils, topography and mesoclimate, along with the appropriateness and administrative feasibility of the boundaries being proposed. Underlying paragraph 9(3)(a) is the belief that geographic differences can result in subtle differences in growing conditions, which in turn affect flavour profiles in grapes and potentially produce organoleptically distinct wines.

The Authority interprets geographic distinctiveness to mean that at least some geographical aspects of the proposed area are distinct relative to the areas immediately adjacent to the proposed Sub-GI. It is those aspects of geographic distinctiveness that must then be used to define the proposed boundaries – that is, the proposed boundaries cannot be arbitrary, or even approximate, but instead must definitively outline the unique geography of the proposed area of the Sub-GI. Those boundaries must also be clearly delineated and practical for the Authority to administer from a regulatory compliance and audit perspective.

The specific factors that may be necessary to prove geographic distinctiveness are highly variable and will be unique to each area and each application. Consequently, they can only be assessed on a case-by-case basis. However, a proposed area need not be distinct from immediately adjacent areas in all geographic aspects. In fact, such a situation of absolute distinctiveness will rarely be present in nature. It is to be expected that in most if not all cases a proposed area will have at least some geographical aspects in common with its immediately adjacent areas. For example, many appellations within the Côte d'Or in Burgundy clearly share some important geographic features with their immediate neighbours (mesoclimate and growing degree days, for example) but are also geographically distinct from their immediate neighbours in other respects (such as slope, drainage, aspect or soil type) which results in subtle differences in growing conditions and which, over the course of hundreds of vintages, have been shown to produce organoleptically distinct wines.

Importantly, paragraph 9(3)(a) does not require that distinctiveness be demonstrated on a qualitative basis – that is, a proponent is specifically ***not*** required to demonstrate that the area of

a proposed Sub-GI is superior to its adjacent areas for grape growing in any respect. The Authority does not require nor undertake any such qualitative assessment of geographic factors, nor can approval of an application be taken to be, or be portrayed by a proponent to be, confirmation by the Authority that a proposed area is superior in some respects to other areas. "Distinct" in this context simply means "different". It does not mean "better".

A proponent is required to initially submit appropriate evidence that is sufficient to reasonably demonstrate the claimed geographic distinctiveness of the proposed area. Such evidence is expected to normally include expert opinion, produced and provided at the proponent's expense. In conducting its review of the information provided by the proponent the Authority may also consult its own independent expert to review and evaluate that information if considered necessary in the circumstances, but the Authority does not initially undertake this work on a proponent's behalf.

### 2.2 Details of the Application

With regard to this requirement the Application relies on the work of Mr. Scott Smith and Dr. Pat Bowen. Mr. Smith is a well-known Soil Scientist formerly with Agriculture Canada's Pacific Agri-Food Research Centre in Summerland ("**PARC**"). Dr Bowen is a Research Scientist at PARC, specializing in the areas of Viticulture and Plant Physiology. The Application includes an extensive technical report on the area of the proposed Sub-GI and its boundaries prepared by Mr. Smith and Dr. Bowen. A boundary map, technical characterization and rationalization for the delineation were included as part of this report. A copy of a map showing the boundaries of the Sub-GI as proposed by Mr. Smith and Dr. Bowen is attached hereto as Appendix 1.

The total area of the proposed Sub-GI is just under 3650 hectares, seven percent of which (250 hectares) is under vine. The starting point for Mr. Smith's and Dr. Bowen's evaluation of the proposed Sub-GI was the area initially outlined by the BC Wine Appellation Task Group (the "**Task Group**") in its conceptual map of potential Sub-GIs within the Okanagan Valley. The Task Group's conceptual map included Naramata Bench as an area roughly defined as the bench lands on the east coast of Okanagan Lake extending north from Penticton Creek to the boundary of Okanagan Mountain Park.

In Mr. Smith's and Dr. Bowen's opinion the area of the proposed Sub-GI has a unique terroir combining climatic, topographic and soil characteristics that influence the development and performance of grapevines including the compositional development of fruit which subsequently

determines wine quality. The soil primarily used for agriculture on the Naramata Bench is referred to as Penticton silt loam.

The proposed Sub-GI is composed of two primary landscape elements - the glaciolacustrine landscape and the mixed sediments landscape. The glaciolacustrine landscape is characterized by a readily observable and gullied, gently undulating land surface which is the signature landform of the Bench. The second landscape element is the mixed deposits that lie above the glaciolacustrine landscape. At higher elevations are outcrops of coarse grained metamorphic rocks (gneiss) which have been altered through geologic faulting and are referred to as "mylonite".

Currently, lower elevation sites experience a mean annual temperature of approximately 9.5°C, accumulate around 1400 growing degree days of greater than 10°C, and have a growing season of approximately 195 days. These values are all well suited to the production of many *vitis vinifera* cultivars. (The principal cultivars grown in the proposed Sub-GI, in descending order of volume, are Merlot, Pinot Gris, Chardonnay and Pinot Noir. Together these cultivars occupied two-thirds of the vineyard acreage within the proposed Sub-GI in 2017.) An important climatic consideration is the moderating influence of Okanagan Lake which generates longer frost-free periods on the Naramata Bench than in other producing regions to the south (such as near Oliver and Osoyoos). Spatially, a wide range of temperatures can exist on the Bench throughout the day as the result of landscape position. Complex topography also influences daytime convective airflow and nighttime air drainage. The combination of dominant slope, topography and landscape position creates a range of mesoclimates within the proposed Sub-GI.

### 2.3 The Authority's Assessment

The Authority undertook a review and assessment of the information provided by the proponents in support of their claim to geographic distinctiveness. This included an interview of Mr. Smith wherein members of the Board reviewed the methodology utilized by Mr. Smith and Dr. Bowen in developing their conclusions.

Mr. Smith and Dr. Bowen are acknowledged experts in soils, soil science and grape growing in the Okanagan Valley. The Authority has always found them to be objective and credible. There are likely no better qualified individuals in the Okanagan Valley to opine on these issues. The science on which they have based their conclusions is considered to be sound and the Board found no reason to question their judgement or conclusions regarding the geographic distinctiveness of the proposed Sub-GI in any respect.

As noted above, it is the Authority's view that a proposed area need not be distinct from immediately adjacent areas in all geographic aspects. The Authority fully expects that in most cases a proposed area will share at least some geographical aspects will its immediately adjacent areas. The proposed area does have some geographic aspects in common with its neighbours, including growing degree days, hours of sunshine, annual rainfall, however, the geographic differences are clear and plainly support the conclusion that the area as proposed is geographically distinct.

It is also important to note that the Authority is making no qualitative assessment here. The Authority has only concluded that, based on the evidence provided, that the proposed Sub-GI is geographically distinct from the areas adjacent to it. It offers no opinion here as to the qualitative value of those differences.

The boundaries of the proposed Sub-GI were substantially based on the claimed geographic distinctiveness except for those few areas of the boundary where it was not practical to do so. In such areas an appropriate proxy such as elevation has been used. The boundaries are thus clearly defined and appear to be practical for the Authority to administer from a regulatory compliance and audit perspective.

### 2.4 The Authority's Conclusion

The Authority has concluded that the Sub-GI as proposed represents an area that is geographically distinct and has clearly defined boundaries (see Appendix 1). The requirements of paragraph 9(3)(a) are thereby met.

**3. Appropriate consultations must have taken place within the region of the proposed Sub-GI and there must not have been any credible objections that claim that the proposed Sub-GI is not distinctive.**

### 3.1 Overview of the Authority's Procedures

Paragraph 9(3)(b) requires the Authority to conduct appropriate consultations within the region of a proposed Sub-GI. For the Authority to recommend a proposed Sub-GI to the Minister, there must have been no credible objections that claim the proposed area of the Sub-GI is not distinctive.

The Authority considers that appropriate consultations will normally include:

- A notification in one or more of its regular Newsletters or through one of its *ad hoc* Alerts to all of its Members providing the details of the proposed Sub-GI, including a geographic description and the proposed name;
- Providing notification of the proposed Sub-GI to the BC Grape Growers Association, BC Grape Council and to all grape growers registered with the Authority and having vineyards located in the region;
- Arranging meetings between staff and/or the Board of the Authority with any persons wishing to consult with the Authority regarding the proposed Sub-GI; and
- Soliciting and receiving any written submissions from any interested persons regarding the proposed Sub-GI.

Paragraph 9(3)(b) makes reference to consultations occurring "within the region" of the proposed Sub-GI, and not just "within the proposed Sub-GI" itself. The Authority interprets this to mean that it is required to undertake consultations within an area that is broader than just the proposed Sub-GI, the purpose being, in part, to test the integrity of the boundaries being proposed. What may be the appropriate consultative "region" will always be specific to a given application and it is therefore not possible in advance of a specific application to define what the relevant consultative region may be. Following the receipt of an application the Authority will determine the scope of the consultative region based on, among other factors, the proposed boundaries and location. Bearing in mind that the relevance of any objections under paragraph 9(3)(b) is limited to the proposed Sub-GI not being distinctive, the Authority sees little downside to it utilizing expansive consultations and therefore it will normally utilize very broad consultative regions.

Paragraph 9(3)(b) does not specify who the Authority is to consult with, only that such consultations must be "appropriate". In the Authority's view this means that consultations must not be limited to only Member wineries located within the defined consultative region. Rather, the Authority interprets this as requiring broader consultations that encompass any person who may potentially be affected by or has an interest in the creation of the proposed Sub-GI or its boundaries. This group will include, but is not limited to, Member wineries, non-Member wineries and grape growers with vineyards located within the consultative region. However, the Authority is also open to receiving and considering oral or written submissions from any party who believes their interests may be affected by the designation of a proposed Sub-GI.

### 3.2 Details of the Application

The Application does not attempt to define what the appropriate consultative region should be. It did state that the proponents undertook their own consultations with producers and growers within an undefined area prior to submitting the Application, noting that:

> "In early 2017, serious consideration of creating a certified sub-GI began with a town-hall style meeting, with a comprehensive contact list invited. This discussion, and a subsequent survey indicated that interest in this initiative was strong and widespread. A group e-mail list, provided by the BCWA, and dropbox account were set up to share all relevant information with all parties, and the technical report... included herein was commissioned. A further, mediated, town-hall style meeting was held in the fall of 2017, sharing the preliminary soils report, survey results, media input, as well as pros-cons, and FAQs. The invitees included all who had previously shown interest, augmented by the lists of registered wineries and growers provided by the BCWA, and numbered 31 attendees. Interest has remained high and a call for financial support received overwhelming response, largely covering the cost of technical consultation. We believe Section 29(3)(c) [now paragraph 9(3)(b)] of the Regulation to be satisfied."

### 3.3 The Authority's Assessment

Following its initial review of the Application the Authority determined that the primary consultative region appropriate in this case was the area of the Naramata Bench itself (the "**Consultative Region**"). This was because there are no other vineyards immediately adjacent to the north, south, east or west of the proposed boundaries. The vineyard areas nearest to the proposed Sub-GI are located to the south, and, as the Authority was then aware, were to be

included within the scope of another application for the proposed Sub-GI of "Skaha Bench" (which application has since been submitted to the Authority).

Utilizing contact and locational information in the Authority's databases as well as publicly available information, the Authority specifically communicating with all Member wineries, non-Member wineries and grape growers having production facilitates or vineyards located anywhere within the Consultative Region. The Authority further advised the BC Grape Growers Association, the BC Grape Council and all of its Members of the Application through an email "Alert". Finally, the Application was posted on the Authority's website and the general public was invited to provide comment. All parties were advised that they could provide comments to the Authority in writing or, if they wished, could meet with the Board in person.

The Authority further determined that ten wineries located within the area of the proposed Sub-GI were not Members and therefore would not permitted to participate in the ballot of eligible voting Members required under paragraph 9(3)(d) (and discussed further below in section 5). With one exception, Authority staff visited each of these non-Member wineries in person and further follow-up discussions were also conducted with each of them. Each of these wineries was informed of the Application and their ability to discuss any issues they may have regarding the proposed Sub-GI with the BCWA Board. (The Authority was unable to contact one non-Member winery which had ceased operations and was listed for sale.)

The Authority received requests from two Members to meet with the Board to discuss concerns regarding the proposed Sub-GI. These two Members indicated that they also represented other wineries that were not in favour of the proposed Sub-GI. Members of the Board met with both these Members. As expressed to the Board the concerns of these Members did not relate to the boundaries of the proposed Sub-GI or its geographical distinctiveness. Their concerns related to their inability to use the term "Naramata Bench" as an appellation of origin after the new Sub-GI was prescribed unless their wines were certified as BCVQA under the Regulation. As these concerns did not relate to geographical distinctiveness the Board did not consider these concerns as part of its deliberations regarding geographical distinctiveness under paragraph 9(3)(b). The specific concerns expressed by these Members were nonetheless fully considered by the Board and the Board's considerations and conclusions regarding those concerns are discussed below in section 6.

### 3.4 The Authority's Conclusion

The Authority has undertaken extensive consultations within the region of the proposed Sub-GI. During these consultations the Authority received no objections relating to the proposed boundaries of the Sub-GI. As noted, after a review of the supporting documentation and further consultation with Mr. Smith, the Authority is satisfied that the proposed Sub-GI is geographically distinct and has clearly defined boundaries. As the Authority received no objections regarding the proposed boundaries or geographical distinctiveness of the Sub-GI, it has concluded that the requirements of paragraph 9(3)(b) have been met.

## 4. Grape production within the proposed Sub-GI must have reached commercially viable levels

### 4.1 Overview of the Authority's Procedures

Paragraph 9(3)(c) requires that grape production within a proposed Sub-GI must have reached commercially viable levels. The Authority will therefore review the current grape production within the area of a proposed Sub-GI to determine if production is at a "commercially viable" level. The Authority interprets "commercially viable" to mean that vineyard(s) located within the proposed area are already under commercial production and that production levels are such as to generate commercial quantities of wine. If the only vineyard(s) located within the area have only recently been planted and are not yet producing a commercial crop, the Authority will not consider production to have reached a commercially viable level until such time as commercial-level production begins. Further, the Authority will assess the total acreage of the proposed Sub-GI versus the total acreage under vines, as well as the dispersion of vineyards throughout the proposed area. Insignificant total vineyard area, as compared to the total area, or lack of significant dispersion throughout the proposed area may cause the Authority to question whether production has actually reached commercially viable levels or whether the proposed boundaries are appropriate in the circumstances. To aid in its determination of commercial viability the Authority may refer to other records and information that it collects for any purpose under the Regulation.

### 4.2 Details of the Application

While the Application provided some information regarding the history of fruit growing and the development of wineries on the Naramata Bench, it provided no specific information regarding the level or quantity of wine grapes currently being grown within the area of the proposed Sub-GI.

### 4.3 The Authority's Assessment

Paragraph 9(3)(c) requires the Authority to assess "grape production" within the area of a proposed Sub-GI and not "wine production" nor the number of wineries. The number of wineries that may be located within the area of a proposed Sub-GI will generally provide no relevant information to the Authority concerning commercial grape production within the area, as wineries are often situated in locations geographically distinct from their vineyards. This being the case, the Application did not provide the Authority with sufficient information to determine whether this factor was met.

The Authority therefore used other sources of information available to it. First, as is plainly evident to the Board from even a casual reconnoitre of the area, the area of the proposed Sub-GI is extensively planted with a significant number of grape vineyards currently under apparent commercial production.

Second, using information available to the Authority through its Grape Grower Registry and other sources, the Authority estimated that the total area of the proposed Sub-GI is approximately 3650 hectares, of which approximately 250 hectares (or 620 acres) are currently under producing vineyard. Thus, vineyards occupy approximately seven percent of the total area of the proposed Sub-GI and are widely dispersed throughout its entire area. Using a generally recognized production average in BC of four tons of grapes per acre, this equates to an annual grape production of approximately 2,500 tons, a quantity of grapes sufficient to generate in excess of 165,000 cases of wine (at 800 bottles per ton) annually. In the Authority's view this level of grape production is clearly "commercially viable".

### 4.4 The Authority's Conclusion

The Authority has concluded that grape production within the proposed Sub-GI has reached commercially viable levels. The requirements of paragraph 9(3)(c) are thereby met.

**5. At least two-thirds of the Members within the proposed Sub-GI, who produce at least two-thirds of the total production of wine made from grapes grown in that Sub-GI, must have voted, by ballot, in favour of the proposed Sub-GI**

**And**

**At least two-thirds of registrants within the proposed Sub-GI, who produce at least two-thirds of the total grape production in that Sub-GI, must have voted, by ballot, in favour of the proposed Sub-GI**

### 5.1 Overview of the Authority's Procedures

Sub-paragraph 9(3)(d)(i) requires that at least two-thirds of the ***Members*** (wineries) within the proposed Sub-GI, who produce at least two-thirds of the total production of wine made from grapes grown in that Sub-GI, must have voted, by ballot, in favour of the proposed Sub-GI. In order to determine if the requirements of this paragraph are met, the Authority must first determine what Members of the Authority have winery facilities located within the area of a proposed Sub-GI. It is only those Members who are eligible to cast a ballot (a "voting Member") under the sub-paragraph. The Authority must then determine the volume of wine produced by each voting Member from grapes grown within the proposed Sub-GI. At least two-thirds of the voting Members must be in favour of the proposed Sub-GI and those voting Members voting in favour must represent at least two-thirds of production of all voting Members from grapes grown within the proposed Sub-GI.

Sub-paragraph 9(3)(d)(ii) sets out a similar requirement for ***grape growers***. That subparagraph requires that at least two-thirds of registered grape growers ("registrants") with vineyards located within a proposed Sub-GI, who produce at least two-thirds of the total grape production in that Sub-GI, must have voted, by ballot, in favour of the proposed Sub-GI.

The information required to conduct the required ballots and assess whether the special double-majority requirements of sub-paragraphs 9(3)(d)(i) and (ii) are met will not be available to proponents. This information will only be available to the Authority. This being the case, the Authority does not expect proponents to be able to demonstrate that the requirements of paragraph 9(3)(d) are met as part of the initial application. That assessment and balloting is done by the Authority following submission and consideration of an application, based on the boundaries for the Sub-GI proposed by the proponents.

### 5.2 Details of the Application

The Application stated that:

> "It is understood that the British Columbia Wine Authority...will conduct a vote by ballot of the practice standards certificate holders within the proposed Sub-GI."

### 5.3 The Authority's Assessment

Using the boundaries proposed in the Application and the Authority's Membership information, the Authority concluded that the following thirty two Members qualified as eligible "voting Members" for purposes of the ballot as of the date the ballot was distributed:

- Bella Wines
- Bench 1775
- Black Widow Winery
- D'Angelo Estate Winery
- Daydreamer Wines
- Deep Roots Winery
- Elephant Island Winery
- Forgotten Hill Wine Co.
- Foxtrot Vineyards
- Hillside Cellars Winery
- Howling Bluff
- Joie Farm Winery
- Kettle Valley Winery
- La Frenz
- Lake Breeze Vineyards
- Lang Vineyards
- Laughing Stock
- Misconduct Winery
- Moraine Winery
- Monster Winery
- Perseus Winery
- Poplar Grove Winery
- Red Rooster Winery
- Roche Wines
- Serendipity Winery

- Terravista Winery
- Therapy Vineyards
- Three Sisters Winery
- Tightrope Winery
- Township 7
- Upper Bench Winery
- Van Westen Vineyards

As noted, at the time the ballot was conducted ten other wineries located within the area of the proposed Sub-GI were not Members and therefore were not permitted to participate in the ballot. These non-Members wineries were:

- Four Shadows Winery
- Kanazawa Winery
- Little Engine Winery
- Lock & Worth Winery
- Marichel' s Winery
- Mocojo Winery
- Nichols Winery
- Origins
- Ruby Blues Winery
- Quidni Winery

The BCWA distributed ballots to all qualifying voting Members and registered grape growers on July 30, 2018. The BCWA initially set a deadline of August 27, 2018 for the return of these ballots. This initial deadline proved impractical for various reasons and it was subsequently extended by the Authority to September 12, 2018 to allow sufficient time for all voting Members and grape growers to review all pertinent information relating to the application and to cast their ballots.

While the BCWA was in the process of conducting these ballots issues relating to the interpretation of paragraph 9(3)(d) and how the results of the ballots were to be tabulated were raised by certain Members. Because all prior Sub-GI ballots conducted by the Authority had been unanimous these issues had never been considered by the Authority previously. These interpretative issues could have affected the final outcome of the ballots and therefore they were thoroughly reviewed and considered by the Board at the time. In the end, those voting in favour of the proposed Sub-GI exceeded the applicable thresholds for approval regardless of which interpretations of paragraph 9(3)(d) were applied by the Authority.

The methodology summarized below was applied by the Authority to assess the results of the ballots. (This methodology was fully explained to all eligible Members and grape growers at the time that the results of the ballots were publically released by the Authority.)

1. Under sub-paragraph 9(3)(d)(i), regarding eligible Members, each registered Member of the Authority in good standing (a "practice standards certificate holder") with a licenced production facility (winery) located within the area of the proposed Sub-GI was entitled to one vote. There were a total of 32 qualifying Members within the area of the proposed Sub-GI at the time the ballot was conducted, 30 of whom cast ballots. There were two abstentions;

2. In sub-paragraph 9(3)(d)(i), the phrase "total wine processed from grapes grown in that area" determines the wine volume denominator for threshold purposes. This phrase is subject to two different interpretations: (a) all wine produced by voting Members from grapes grown within the proposed area, regardless of whether that wine is certified by the Authority or not; or (b) only that wine produced by voting Members from grapes grown within the proposed area that has been submitted to the Authority for certification. Because of uncertainty regarding which of these two interpretations is correct, the Authority obtained all of the information from qualifying Members necessary to calculate both of these volumes;

3. In sub-paragraph 9(3)(d)(ii), an issue was raised regarding the phrase "registered grape grower". For its own administrative purposes the Authority issues a unique grape grower number for each unique registered vineyard, rather than for each individual registered grower. This means that some grape growers hold more than one grape grower number. Certain members suggested that "registered grape grower" here is intended to mean each unique grape grower number, meaning that each grape grower should be entitled to one vote for each grape grower number that grower holds. The alternative interpretation is that each unique registered grape grower is entitled to only one vote regardless of how many grape grower numbers that grower holds. There are currently 170 unique registered growers with vineyards located within the area of the proposed Sub-GI, and 194 unique grape grower numbers issued for vineyards located within the Sub-GI; and

4. All abstentions or failures to cast a ballot regardless of reason were counted as "no" votes but the applicable tonnage of that Member or grape grower was still included in the Total Tonnage amounts.

The Table below provides a summary of the results of these ballots and shows the various outcomes depending on which interpretations are applied to paragraph 9(3)(d). Importantly, regardless of which interpretations are applied the proposed Sub-GI received sufficient support of qualifying Members and grape growers by exceeding each of the 2/3rds thresholds set out in paragraph 9(3)(d).

| | Total Number | Yes Votes | % Yes Vote | Total Tonnage | Yes Tonnage | % Yes Tonnage |
|---|---|---|---|---|---|---|
| **Qualified Members** | 32 | 26 | 81% | 1761 | 1,341 | 76% |
| **Qualified Members (Total Production)** | 32 | 26 | 81% | 1901 | 1,412 | 74% |
| **Growers (One Vote per Grower)** | 170 | 125 | 74% | 3227 | 2,584 | 80% |
| **Growers (One Vote per Number)** | 194 | 138 | 71% | 3227 | 2,584 | 80% |

### 5.4 The Authority's Conclusion

The Authority conducted two separate ballots, one for qualifying Members and the other for registered grape growers. The Authority has concluded that at least two-thirds of the Members who produce at least two-thirds of the total production of wine made from grapes grown in the Sub-GI, have voted, by ballot, in favour of the proposed Sub-GI. Further, the Authority has also concluded that at least two-thirds of the registered vineyards within the area of the proposed Sub-GI, who produce at least two-thirds of the total wine grapes grown in the Sub-GI, have voted, by ballot, in favour of the proposed Sub-GI.

The Authority has therefore concluded that the support thresholds set out in paragraph 9(3)(d) have been exceeded.

## 6. Other Issues - Consideration of Issues Related to the Proposed Name

### 6.1 Overview of the Authority's Procedures

As part of any application the Authority expects proponents to propose a name for the new Sub-GI. It is the Authority's view that the proposed name must be directly related to the area of the proposed Sub-GI and the application should explain and demonstrate the relationship between the proposed name and the proposed area. All of the area within a proposed Sub-GI must be known locally or more broadly by the proposed name, although use of that name may extend beyond the boundaries of proposed Sub-GI. The sources of evidence considered acceptable to demonstrate the required relationship can include maps, magazine articles, books, websites and web-based articles, business names and road signs. Proponents should seek to avoid proposing names that are widely used or used in more than one location because use of such generic names for wine appellations can cause consumer confusion, the direct opposite of what is intended by their adoption. If a widely used name is considered to be the most appropriate in the circumstances, then the use of an additional modifier may address potential confusion.

### 6.2 Details of Application

The Application has proposed use of the phrase "Naramata Bench". Use of this phrase as a Sub-GI would be generally consistent with the common locational term used to refer to the geographic terrace (or "bench") located on the east side of Okanagan Lake east and north of the City of Penticton, being the primary geographical feature used to define the scope of the proposed Sub-GI. This locational term (and the proposed name) originates from the bench's primary population centre of the village of Naramata. The application notes that in 2003 the Naramata Bench Wineries Association ("**NBWA**") was formed as a marketing organization to promote awareness of wineries located in the Naramata area. While membership in the NBWA is voluntary, the proponents state that over three-quarters of the wineries located on the Naramata Bench are currently members. There is little doubt that the NBWA has been successful in raising the profile of the Naramata Bench as a wine-growing area. In 2014, a further voluntary group was formed, the Naramata Bench Wine Growers, to provide a further means of sharing information with other winemakers and grape growers on the Bench. The Application also provides some evidence as to how the media and wine professionals now recognize the Naramata Bench as a distinct and established wine growing area within the Okanagan Valley.

The Authority understands that the proponents considered but rejected the use of other additional modifiers that may have made the proposed name more distinct as being unnecessary in the circumstances.

### 6.3 The Authority's Assessment

As noted above, certain Members raised concerns with the Authority regarding the proposed name. Members of the Board met with these Members who indicated that they represented other wineries that were not in favour of the proposed name for the Sub-GI. These Members apparently were instrumental in the original establishment of the Naramata Bench Wineries Association. It appeared to the Board that the concerns of these Members related primarily to their inability to use the term "Naramata Bench" after the new Sub-GI is prescribed unless their wines were certified as BCVQA under the Wines of Marked Quality Program. Of course, the regulated use of the name of a Sub-GI is the primary purpose of obtaining a prescribed Sub-GI.

The Authority believes that these concerns are, to a degree, based on a misunderstanding of the legal context underlying the use of prescribed GIs/Sub-GIs.

If approved by the Minister, the Application will only result in "Naramata Bench" being prescribed in the Regulation as an appellation of origin for grape wine – that is, the use of that term to describe the origin of BC grape wine would henceforth be controlled pursuant the Regulation, nothing more. It would give no intellectual property rights in the term "Naramata Bench" to the proponents and would not grant to them the exclusive right to use or control "Naramata" or "Naramata Bench". It would not restrict the ability of any person to subsequently use "Naramata Bench" in ways other than as an appellation of origin on grape wine, such as using it to describe the location of a winery or using it in promotional or marketing materials for their wineries or, more generally, in any other way unrelated to the origin of grape wine.

The Authority is of the view that "Naramata Bench" is a clear and appropriate reference to the applicable grape growing region surrounding the village of Naramata. Historically, this wine-producing region has been known and recognized as the "Naramata Bench" for some time and it has a clear and distinct reputation amongst the media, wine professionals and the consuming public more generally for producing quality wine and being a desirable wine-related tourist destination. The creation of the proposed a Sub-GI now appears to the Authority to be a natural progression in the development and maturation of this region and its wine-related reputation.

In the Authority's experience it is not unusual for some to object to the creation of a proposed Sub-GI, for various reasons. In fact, subsection 9(3) of the Regulation clearly contemplates that

support for a given Sub-GI application may not be unanimous and must be specifically considered by the Authority. This is why industry support for an application must be assessed by the Authority through the double-majority ballot process provided for under paragraph 9(3)(d). Here, overall industry support for the proposed Sub-GI under the name "Naramata Bench" exceeded the required double-majority by a comfortable margin.

### 6.4 The Authority's Conclusion

The Authority has concluded that the proposed name of "Naramata Bench" is directly related to the area of the proposed Sub-GI, is fully consistent with current usage, and is not locationally misleading or misdescriptive. The Authority recommends acceptance of the name "Naramata Bench" to describe the proposed Sub-GI.

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## Appendix 1

## Map of Proposed Sub-GI Boundaries