

REPORT TO COUNCIL



Date: March 11, 2019

RIM No. 1250-40

To: City Manager

From: Community Planning Department (JR)

Application: LUCT 18-0006 **Owner:** Multiple Owners

Address: 7770,7782,7800, & 7810 Hwy 97 N **Applicant:** The City of Kelowna

Subject: Land Use Contract Termination (LUC 76-1104)

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1 and RR2 – Rural Residential 2

1.0 Recommendation

WHEREAS the BC Provincial Government has mandated that all Land Use Contracts under the jurisdiction of a local government and in the Province of British Columbia be terminated by 2024;

AND WHEREAS the BC Provincial Government has provided a legislated process for the early termination of land use contracts when the local government has adopted a zoning bylaw that will apply to the land at the time the termination bylaw comes into force;

THEREFORE, BE IT RESOLVED THAT as the underlying A1 – Agriculture 1 and RR2 – Rural Residential 2 zones in the City of Kelowna Zoning Bylaw No. 8000 applies to the subject properties under Land Use Contract No. 76-1104;

THAT Application No. LUCT18-0006 to terminate LUC76-1104 from Lot 1,2,3 & 4, Section 34, Township 23, ODYD, Plan KAP28056, located at 7770,7782,7800, & 7810 Hwy 97 N, Kelowna, BC, be considered by Council.

AND THAT the Land Use Contract Termination be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of the Land Use Contract Termination Bylaw be considered subsequent to the approval of the Ministry of Transportation and Infrastructure.

2.0 Purpose

To consider an application for the early termination of Land Use Contract LUC76-1104 and revert the parcels back to the underlying A1 – Agriculture 1 and RR2 – Rural Residential 2 zones.

3.0 Community Planning

Staff are bringing forth and are recommending this Land Use Contract (LUC76-1104) be terminated for the subject properties. The current LUC affects 4 properties, 7770,7782,7800, & 7810 Hwy 97 N. The Land Use

Contract currently restricts the use to single family residential and exempts the subject properties from connection to domestic water and permits a reduction in the side yard setbacks to minimum 3.6m.

The underlying zoning (A1 – Agriculture 1 and RR2 – Rural Residential 2) fits with the established neighbourhood and is an appropriate zone for the existing land use. Staff are suggesting that 7770, 7782, and 7800 Hwy 97 N revert to the underlying zone RR2 – Rural Residential and that 7810 Hwy 97 N revert to the underlying zone A1 – Agriculture 1.



Properties to revert to RR2



Property to revert to A1

The Land Use Contract uses and regulations fit within the A1 and RR2 zone.

4.0 Proposal

4.1 Background

Land Use Contracts were a tool regularly used in the 1970's before it was eliminated on November 15th 1978. The purpose of the tool was to allow local governments to arrive at agreements with specific developers to grant development rights over and above what was allowed under current zoning. This was typically done in exchange for commitments by developers to help finance the infrastructure costs of development.

Issues have arisen, specifically with the continued application of land use contracts as they supersede any subsequent bylaw dealing with land use and development including: Zoning Bylaws, Development Cost Charge Bylaws, and Development Permits. The Local Government Act was amended in 2014 stating all land use contracts in the province will be terminated as of June 30th 2024. Land use contracts will remain in force until that date unless terminated early by the municipality. By June 20th 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. However, LUC terminations (unlike LUC discharges) do not initially apply when Council adopts the bylaw. Terminations require a one-year grace period as outlined by the Local Government Act before the LUC is removed and the underlying zone comes into effect.

4.2 Notification

Local governments must provide notice to each owner that the termination of land use contract is occurring and must provide notice of what the new zoning regulations apply to the land. The municipality will send additional letters after the bylaw(s) are adopted for further information. The Land Title Office will notify owners after the one-year grace period is complete to inform the property owners of which land use regulations apply to their property(ies).

Staff are not providing notification signage on the subject properties as per the Council approved Land Use Contract Termination Strategy. Notification signage was not recommended as: Land Use Contract Terminations are a City initiative, could involve hundreds of properties, and the elimination is mandated by the Local Government Act. Staff have mailed notification to all properties affected by the LUC under consideration for termination.

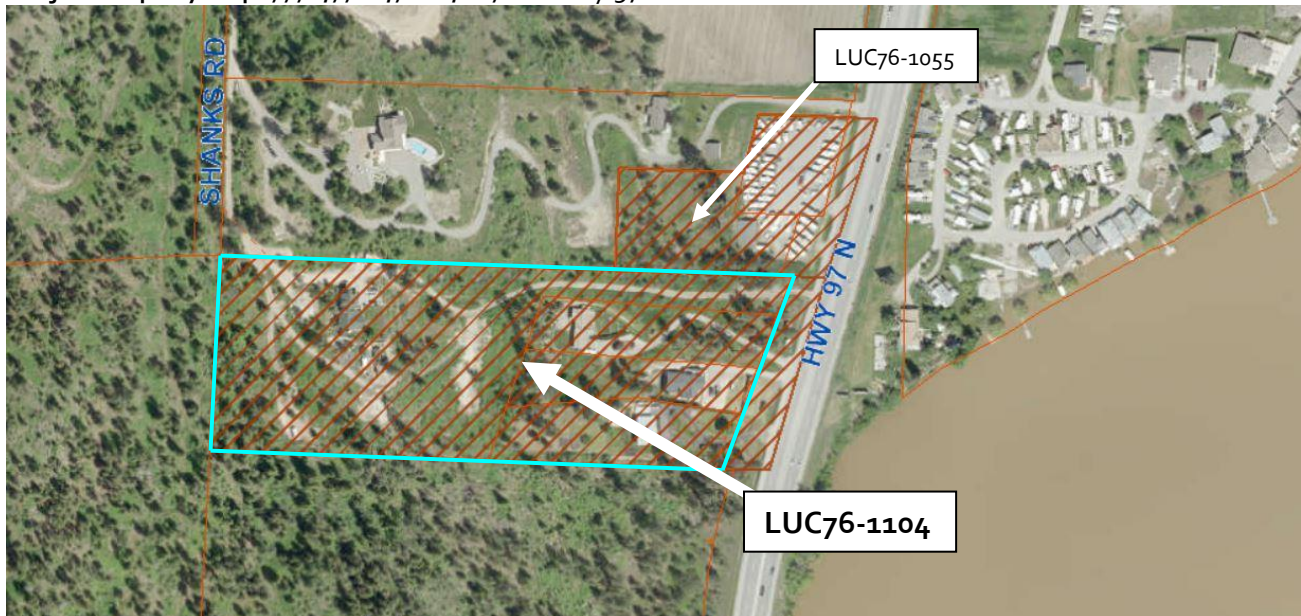
4.3 Site Context

The subject properties have a total area of 37,894 m² and is located 7770,7782,7800, & 7810 Hwy 97 N. The property is designated REP – Resource Protection Area in the Official Community Plan and the surrounding area is agricultural and single family residential.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Single Family Residential
East	First Nations Reserve	Single Family Residential
South	A1 – Agriculture 1	Vacant
West	A1 – Agriculture 1	Vacant

Subject Property Map: 7770,7782,7800, & 7810 Hwy 97 N



5.0 Current Development Policies

5.1 Council Policy No. 282 – Strategy for Elimination of Remaining Land Use Contracts

Council Policy No. 282.² Includes the following statement:

That the City of Kelowna initiate proceedings to discharge the contacts subject to consultation with affected owners of the land and subject to prior approval by council with regard to affected contracts

6.0 Technical Comments

N/A

7.0 Application Chronology

N/A

Report prepared by: Jenna Ratzlaff, Planner

Reviewed by: Terry Barton, Urban Planning Manager

**Reviewed by
Approved for Inclusion:** Ryan Smith, Community Planning Department Manager

Attachments:

None