

# REPORT TO COUNCIL



**Date:** June 22, 2020

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** LUCT19-0027 / Z19-0096

**Owner:** Multiple Owners

**Address:** Multiple Addresses

**Applicant:** City of Kelowna

**Affected  
Addresses:** Kyndree Court, Prince Edward Drive  
& Clifton Road North

**Subject:** Land Use Contract Termination and Rezoning Application

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zone: A1 – Agriculture 1

Proposed Zone RR1 – Rural Residential 1 / RR2 – Rural Residential 2

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## 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 zone for the subject properties under Land Use Contract LUC77-1023 outlined in 'Schedule A' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT19-0027 to terminate LUC77-1023 from properties identified in 'Schedule A', located on Kyndree Court, Prince Edward Drive & Clifton Road North, Kelowna, B.C. be considered by Council;

AND THAT Rezoning Application No. Z19-0096 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B', located on Kyndree Court & Prince Edward Drive, Kelowna, BC from the A1 – Agriculture 1 zone to the RR1 – Rural Residential 1 zone be considered by Council;

AND THAT Rezoning Application No. Z19-0096 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule C', located on Kyndree Court & Prince Edward Drive, Kelowna, BC from the A1 – Agriculture 1 zone to the RR2 – Rural Residential 2 zone be considered by Council;

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

AND FURTHER THAT Council, in accordance with the *Local Government Act* s.464(2), waive the Public Hearing for Zoning Bylaw No. 12039.

### Purpose

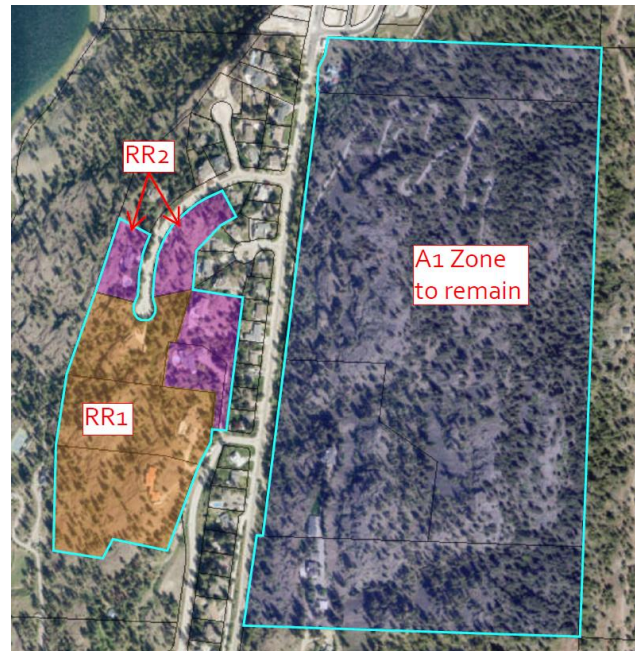
To consider an application for the early termination of Land Use Contract LUC77-1023 and to rezone select properties to the RR1 – Rural Residential 1 and RR2 – Rural Residential 2 zones as identified in 'Schedule A, B and C', and the waive the Public Hearing for the rezoning application.

## 2.0 Development Planning

Staff are bringing forth and recommending this Land Use Contract (LUC77-1023) be terminated with a majority of the properties requiring rezoning to a more appropriate zone. Out of the 11 total properties currently regulated by LUC77-1023, 4 have appropriate underlying zoning of A1 – Agriculture 1, with the 7 remaining properties requiring rezoning to the RR1 – Rural Residential 1 and RR2 – Rural Residential 2 zones. The underlying zone of A1 – Agriculture 1 does not entirely fit within the established neighbourhood and is not an appropriate land use for all properties.



A1 – Agriculture 1 zone (Refer to Schedule 'A')



RR1 – Rural Residential 1 & RR2 – Rural Residential 2 Properties (Refer to Schedules 'B' & 'C')

## 3.0 Proposal

### 3.1 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 apply when Council adopts the bylaw. Terminations require a one-year grace period as outlined by the Local Government Act.

### 3.2 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 must send additional letters after the one-year grace period is complete informing the property owners of which land use regulations apply to their properties.

Staff are recommending Council Notification Policy #367 including early notification and development signage be waived for all Land Use Contract terminations. Public consultation in this case is not recommended as the notification policy is a City initiative. Staff are suggesting the standard development notification, as outlined above, be sent to properties affected by the LUC under consideration for termination.

### 3.3 Site Context

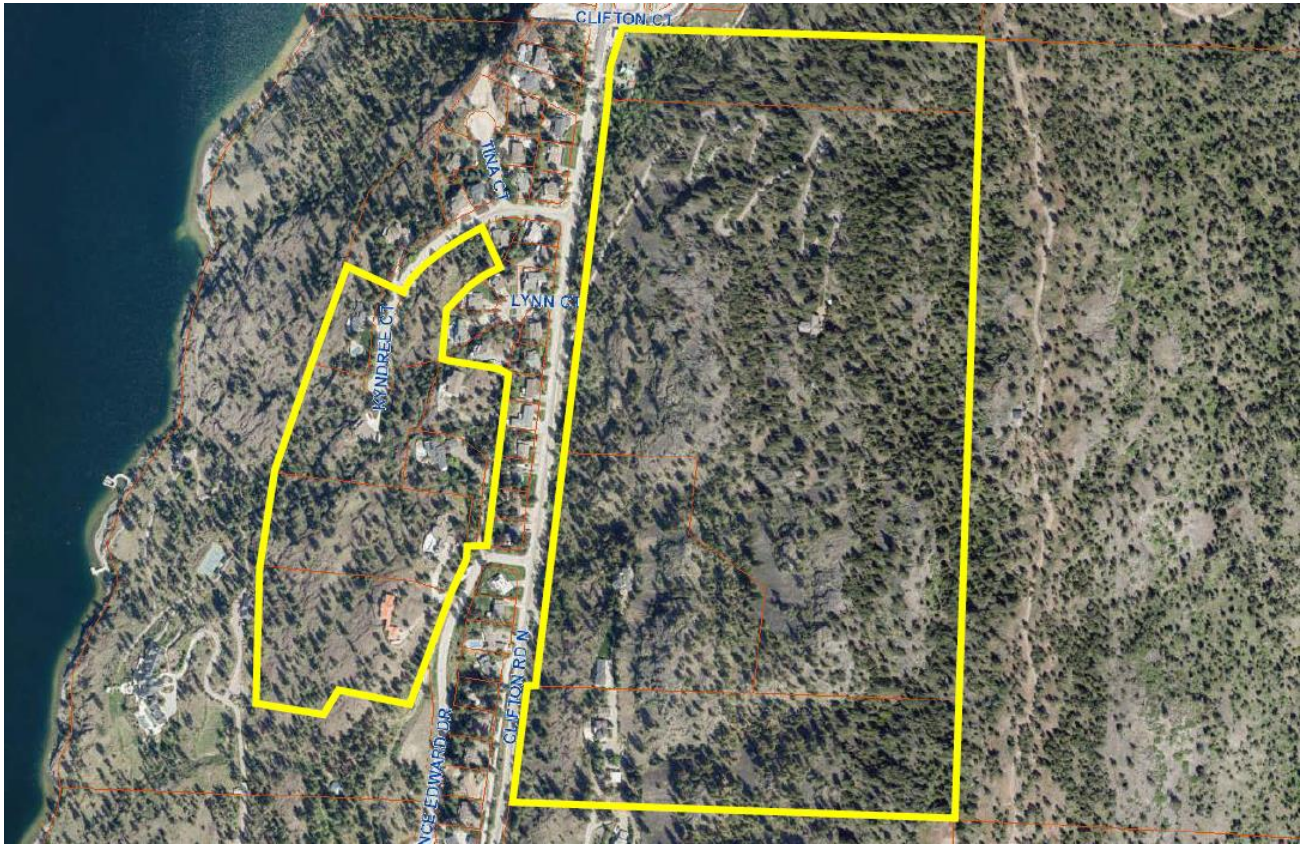
The subject

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR3 – Rural Residential 3	Residential
East	A1 – Agriculture 1	Undeveloped and unfarmed lands
South	A1 – Agriculture 1	Rural Residential / Undeveloped and unfarmed lands
West	A1 – Agriculture 1	Rural Residential



**Subject Properties Map:** Kyndree Court, Prince Edward Drive & Clifton Road N.



**4.0 Current Development Policies**

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

Council Policy No. 282. Includes the following statement:

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

**5.0 Technical Comments**

N/A

## **6.o Application Chronology**

N/A

**Report prepared by:** Andrew Ferguson, Planner II  
**Reviewed by:** James Moore, Urban Planning & Development Policy Manager  
**Approved for Inclusion:** Terry Barton, Development Planning Department Manager

### **Attachments:**

Schedule A: Properties affected by LUC77-1023

Schedule B: Properties to be Rezoned to RR1

Schedule C: Properties to be Rezoned to RR2