

# REPORT TO COUNCIL



**Date:** April 12, 2021

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** LUCT20-0015

**Owner:** The City of Kelowna

**Address:** 3770 Bulman Rd

**Applicant:** The City of Kelowna

**Subject:** Land Use Contract Termination

**Existing OCP Designation:** REC – Private Recreation, PARK – Major Park / Open Space and PSU – Public Services / Utilities

**Existing Zone:** A1 – Agriculture 1

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## 1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0015 to terminate LUC77-1057 from Lot A District Lot 122 and Section 11 Township 23 ODYD Plan 40375, located at 3770 Bulman Road, Kelowna, BC, be considered by Council;

AND THAT Council waive the development sign requirement under Public Notification & Consultation for Development Application No. 367;

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

## 2.0 Purpose

To proceed with the early termination of LUC77-1057 and to revert the parcel to the underlying A1 – Agriculture 1 zone.

## 3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC77-1057 from the subject property. The current LUC affects one property at 3770 Bulman Road and restricts the property to the former Zoning Bylaw no. 4500's A1 – Rural, in addition to a golf course, a club house, off-street parking facilities, access driveways and two grass surface tennis courts. Staff believe the underlying zone of A1 – Agriculture 1 is appropriate as the property is in the Agricultural Land Reserve and the golf course is permitted to remain operating as a non-farm use.

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

**4.2 Notification**

Staff are recommending Council Notification Policy #367 development signage requirements be waived for this Land Use Contract Termination application. Development Signs, in this case, are not recommended as the LUCT is City-initiated, and the proposed A1 zone is a minor land use change.

**4.3 Site Context**

The subject property is 83.69 acres in size, is located on Bulman Road and is just south of YLW Airport. The property is in the Highway 97 OCP Sector. The property has the Future Land Use Designations of REC – Private Recreation, PARK – Major Park / Open Space and PSU – Public Services / Utilities.

Specifically, adjacent land uses are as follows:

<b>Orientation</b>	<b>Zoning</b>	<b>Land Use</b>
North	A1 – Agriculture 1	YLW Airport
East	CD12 – Airport and A1 – Agriculture 1	YLW Airport
South	A1 – Agriculture 1	Agriculture
West	A1 – Agriculture 1	Rail Trail

**Subject Property Map: 3770 Bulman Road**



**5.0 Current Development Policies**

**5.1 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 proceedings 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.

**6.0 Application Chronology**

Date of Application Received: December 9<sup>th</sup>, 2020  
Date of Owner Notification: N/A

**Report prepared by:** Tyler Caswell, Planner I

**Reviewed by:** Dean Strachan, Community Planning & Development Manager

**Approved for Inclusion:** Terry Barton, Development Planning Department Manager