

# REPORT TO COUNCIL



**Date:** June 28, 2021

**To:** Council

**From:** City Manager

**Department:** Development Planning

<b>Application:</b>	LUCT20-0017	<b>Owner:</b>	Williams Transfer Ltd., Inc.No. BC0928388 & R 366 Enterprises Ltd., 563501
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<b>Address:</b>	1505 Hardy Street and 2046 Enterprise Way	<b>Applicant:</b>	The City of Kelowna
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**Subject:** Land Use Contract Termination

**Existing OCP Designation:** IND - Industrial

**Existing Zone:** I2 – General Industrial

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## 1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0017 to terminate LUC76-1108 from Lot 1 District Lots 127 and 140 ODYD Plan 40360 and Lot 2 District Lots 127 and 140 ODYD Plan 40360, located at 1505 Hardy Street and 2046 Enterprise Way, Kelowna, BC, be considered by Council;

AND THAT the notice sign requirements under Council Policy No. 367 be altered to allow for placement on the City of Kelowna's Boulevard;

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

## 2.0 Purpose

To proceed with the early termination of LUC76-1108 and to revert the parcels to the underlying I2 – General Industrial zone.

## 3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC76-1108 from the subject properties. The current LUC affects two properties at 1505 Hardy Street and 2046 Enterprise Way and restricts the properties to the former Zoning Bylaw 4500's I2 – Industrial zone in addition to a freight terminal, warehouse and automotive servicing garage. Staff believe the underlying

zone of I2 – General Industrial is appropriate, as it allows for the majority of the existing uses and businesses, as well as the Future Land Use Designation of IND – Industrial.

#### 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 Project Description

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 also send an additional letter within 30 days of adoption, informing the owners and providing information about the Board of Variance. Due to the file being Staff initiated, Staff suggest the Council Policy #367 development signage requirements be altered to allow for the development signs to be placed on the City of Kelowna's boulevard, rather than on the subject property.

##### 4.3 Site Context

The subject properties are located on the corner of Enterprise Way and Hardy Street in the Central City OCP Sector. The Future Land Use of the property is IND - Industrial and the surrounding area is PSU – Public Services/Utilities and MXR – Mixed Use (Commercial/Residential) and COMM – Commercial.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	I2 – General Industrial	Rail Trail
East	I2 – General Industrial	Warehousing & Storage
South	C4 – Urban Centre Commercial	Office
West	P4 – Utilities & C4 – Urban Centre Commercial	Office

**Subject Property Map: 1505 Hardy St & 2046 Enterprise Way**



**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.

**5.2 Kelowna Official Community Plan (OCP)**

Chapter 4: Future Land Use

Industrial (IND): Light and heavy industrial uses as well as Industrial/Business activities and airport related industrial uses. Industrial/business service refers to uses that provide services and support to industrial and business customers. This designation may also include CD Comprehensive Development zoning that provides for industrial uses.

**6.0 Application Chronology**

Date of Application Received: December 10<sup>th</sup>, 2020  
Date Public Consultation Completed: December 18<sup>th</sup>, 2020

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

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

**Reviewed by:** Terry Barton, Development Planning Department Manager

**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning & Development Services