



DEVELOPMENT APPROVALS
PRELIMINARY BYLAW
COMMUNICATION

Your File #: X2016.100-
ZONE Bylaw
2710 ESDP
eDAS File #: 2017-00015
Date: January 3, 2017

Regional District Okanagan-Similkameen
101 Martin Street
Penticton, BC V2A 5J9

Attention: Lauri Feindell

**Re: Proposed Bylaw 2710 for:
Electoral Areas A (Osoyoos), C (Oliver), D(OK Falls, Kaleden, Apex),
E (Naramata) and F (West Bench, Faulder)**

Preliminary Approval is granted for the rezoning for one year pursuant to section 52(3)(a) of the *Transportation Act*.

If you have any questions please feel free to call Rob Bitte at (250) 490-2280.

Yours truly,

Rob Bitte
District Development Technician

Local District Address

Penticton Area Office
102 Industrial Place
Penticton, BC V2A 7C8
Canada
Phone: (250) 490-8200 Fax: (250) 490-2231

AMENDMENT BYLAW NO. 2710

☐ Approval Recommended for Reasons
Outlined Below

☒ Interests Unaffected by Bylaw

☐ Approval Recommended Subject to
Conditions Below

☐ Approval Not Recommended Due
to Reasons Outlined Below

Signature: _____

Agency: _____

Date: _____

Signed By: _____

Title: _____



OSOYOOS INDIAN BAND

1155, SEN*POK*CHIN BOULEVARD, OLIVER BC, V0H 1T8
PHONE: (250) 498-3444 ~ FAX: (250) 498-6577

January-30-17

Referral ID: Bylaw/2710/X2015.100-ZONE

RTS #: 941

Date: December-23-16

Reference#: R-77-000764

Regional District of Okanagan-Similkameen

101 Martin ST.

Penticton, BC V2A 5J9

RE: 60 (sixty) day extension

Thank you for the above application that was received on December-23-16.

This letter is to inform you that due to current levels of internal capacity, we are unable to review your referral in your proposed timeline. With additional time, the Osoyoos Indian Band will be able to ensure that an informed review process will occur. We are setting the new timeline to be 60 days from the existing timeline.

Most recently, the Supreme Court of Canada in the *Tsilquot'in* case confirmed that the province has been applying an incorrect and restrictive test to the determination of Aboriginal Title. Aboriginal Title includes the exclusive right of a First Nation to decide how that land is used and the right to benefit economical from those uses.

Please note that *not* receiving a response regarding a referral from the Osoyoos Indian Band in the pre-application, current or post-application stage does not imply our support for the project.

We appreciate your co-operation.

Respectfully,

Limlæmt,

Yvonne Weinert
Lands Manager

Per:

Chief Clarence Louie
Osoyoos Indian Band

cc:



Lauri Feindell

From: Christopher Garrish
Sent: January 20, 2017 10:17 AM
To: referrals@lsib.net
Subject: RE: UPDATE OF ESDP AREAS - X2015.100-ZONE - Referral

Hi Wendy,

See my comments in **red** below.

Sincerely,

Chris.



Christopher Garrish MA, MSS, MCIP, RPP • Planning Supervisor

Regional District of Okanagan-Similkameen

101 Martin Street, Penticton, BC V2A 5J9

p. 250.490.4101 | tf. 1.877.610.3737 | f. 250.492.0063

www.rdos.bc.ca | cgarrish@rdos.bc.ca | [FACEBOOK](#) | [YOUTUBE](#) | Sign up for [REGIONAL CONNECTIONS](#)

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From: Referrals [mailto:referrals@lsib.net]
Sent: January 18, 2017 2:45 PM
To: Christopher Garrish <cgarrish@rdos.bc.ca>
Cc: Nicole Mack <referralsclerk@lsib.net>
Subject: RE: UPDATE OF ESDP AREAS - X2015.100-ZONE - Referral

Hi Chris,

In follow up to the voice mail I just left you. Here are LSIB questions.

Is area G included in the update? I followed the link but found no schedule for area G **No, Electoral Area "G" is not part of this process, nor is Electoral Areas "B" (Cawston) & "H" (Princeton).**

1. How much has the ESD area been reduced? "The practical effect of this change will be to refocus and reduce the physical extent of the ESDP Area designation in the Okanagan Electoral Areas."

ELECTORAL AREA	CURRENT ESDP AREA (HA)	PROPOSED ESDP AREA (HA)	PROPOSED IMPORTANT ECOSYSTEM AREA (HA)
A	15,359 ha	5,935 ha	14,076 ha
C	26,247 ha	4,211 ha	29,189 ha
D	50,289 ha	8,696 ha	59,575 ha
E	21,934 ha	2,005 ha	26,465 ha
F	N/A	3,324 ha	38,971 ha

2. How can I look at areas being reduced?



The current ESDP layers for each of the Okanagan Electoral Areas can be found here:

<http://www.rdos.bc.ca/regional-government/regional-bylaws/>

The draft ESDP layers for each of the Okanagan Electoral Areas can be found here:

<http://www.rdos.bc.ca/departments/development-services/planning/strategic-projects/esdp-area-update/>

3. Does the RDOS provide a list of QEPs to applicant if requested. **Yes.**
4. Will the ONA be included on RDOS list of QEPs? **If they request to be included.**

Wendy Hawkes, BA

Natural Resources Referrals Coordinator

Lower Similkameen Indian Band - M/A: PO Box 100, Keremeos, BC V0X1N0 - 1420 Hwy 3, Cawston, BC V0X 1C3

Ofc: (250) 499-5528 ext. 126

(all calls related to referrals are audio recorded for documentation purposes)

Without Prejudice to Aboriginal Title and Rights

LSIB Referral Policy link: <http://www.lsib.net/blog/wp-content/uploads/2011/07/Lower-Similkameen-Indian-Band-Referral-Policy2.pdf>

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From: Lauri Feindell [<mailto:lfeindell@rdos.bc.ca>]

Sent: December 23, 2016 3:49 PM

To: 'Collins, Martin J ALC:EX' (Martin.Collins@gov.bc.ca) <Martin.Collins@gov.bc.ca>; HBE@interiorhealth.ca; anne.skinner@gov.bc.ca; mmd-kamloops@gov.bc.ca; 'Referral Apps REG8 ENV:EX' (ReferralAppsREG8@gov.bc.ca) <ReferralAppsREG8@gov.bc.ca>; Diana.Cooper@gov.bc.ca; Info Cord <info@cord.bc.ca>; plandept@rdkb.com; lucy.reiss@canada.ca; ReferralsPacific@dfo-mpo-gc.ca; mbjerkkan@sd53.bc.ca; rs@summer.com; fbclands@fortisbc.com; development@penticton.ca; 'info@summerland.ca' (info@summerland.ca) <info@summerland.ca>; 'admin@oliver.ca' (admin@oliver.ca) <admin@oliver.ca>; tosoyoos@osoyoos.ca; PIB Referrals (referrals@pib.ca) <referrals@pib.ca>; referrals@oib.ca; Referrals <referrals@lsib.net>; onareception@syilx.org

Cc: Christopher Garrish <cgarrish@rdos.bc.ca>

Subject: UPDATE OF ESDP AREAS - X2015.100-ZONE - Referral

Good Afternoon,

Re: Update of Environmentally Sensitive Development Permit Areas
Okanagan Electoral Area Official Community Plan (OCP) Bylaws

Please find a copy of the Bylaw Referral (Bylaw No. 2710) and relating documents. Please review all documentation and forward any comments or concerns you may have to planning@rdos.bc.ca.

Due to the size of the documentation, we have attached a link in the Bylaw Referral and also a link below that will take you directly to our website, with all the documentation and Schedules for review. If you have any questions with respect to this update, please contact Christopher Garrish, at 250-490-4101 or cgarrish@rdos.bc.ca.

Link:

<http://www.rdos.bc.ca/departments/development-services/planning/strategic-projects/esdp-area-update/>

Please forward your comments to our office by February 2, 2016.



January 31, 2017

Christopher Garrish
Regional District of Okanagan-Similkameen
101 Martin Street
Penticton BC V2A 5J9
cgarrish@rdos.bc.ca

Dear Christopher:

RE: File X2015.100-ZONE; Electoral Areas "A" (Osoyoos), "C" (Oliver), "D" (OK Falls, Kaleden, Apex), "E" (Naramata) & "F" (West Bench, Faulder)

Thank you for the opportunity to review the above-noted application and provide a population health perspective. The proposal includes a number of textual and mapping amendments associated with Environmentally Sensitive Development Permit Area (ESDP's) throughout the Regional District.

Our health stands to improve when land use decisions enhance the ability of natural environments to mitigate negative health impacts associated with development. Current evidence supports a relationship between biodiversity and measures of ecosystem functioning such as improved water and air quality. The proposed updates to the Regional District's ESDP designations demonstrate an effort to ensure that future development will be sensitive to the environment and we therefore support the proposal. Furthermore, measures to secure funding and other resources to support future conservation efforts, contributes to long-term sustainable development planning and is supported by Interior Health.

If you would like to discuss this further, or if you have any questions or concerns, please contact the undersigned.

Yours sincerely,

Marion Masson
Environmental Health Officer – Healthy Built Environment





February 2, 2017

File: 58000-20/2016192
Your File: X2015.100-ZONE Bylaw 2710

Regional District of Okanagan-Similkameen
101 Martin Street
Penticton, BC V2A 5J9

Attention: Christopher Garrish, Planning Supervisor, planning@rdos.bc.ca

Re: Bylaw Referral (No. 2710) for Update to Environmentally Sensitive Development Permit Areas (ESDPA) in Okanagan Electoral Area Official Community Plan Bylaws, Regional District of Okanagan-Similkameen, B.C.

Thank you for the opportunity to participate in the above noted referral. The Ecosystems Section of the Ministry of Forests, Lands, and Natural Resource Operations (FLNR) has reviewed the referral information provided and conducted a cursory review of the bylaw and its schedules. Three cornerstone documents guide our input into this referral: 1) *Green Bylaws Toolkit for Conserving Sensitive Ecosystems and Green Infrastructure*¹, 2) *Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia*², and 3) *Keeping Nature in our Future: A Biodiversity Conservation Strategy for the South Okanagan-Similkameen*³. We provide the following comments for consideration.

The Green Bylaws Toolkit identifies ways that local governments are enabled to achieve protection for sensitive environmental features, including through official community plans (OCPs), environmental development permit areas (EDPAs), and specific environmental bylaws (e.g., soil removal and deposit, watercourse protection). In conjunction with other tools, EDPAs are considered the best way to protect sensitive ecosystems on individual properties as they allow site-specific pre-development decisions about protecting environmentally sensitive areas, they prohibit site disturbance before development approval, and they contain flexibility that allows specific objectives to be achieved. Recommended EDPA bylaw provisions are provided in Chapter 20 of the Green Bylaws Toolkit. We recommend that wording in the Update reflect as closely as possible these provisions.

Wetland protection is a priority for Ecosystems Section. In 2015-2016 we conducted a review of local government bylaws in the Okanagan to determine the extent to which sensitive features are protected at the local government level, with a specific focus on wetlands. We are concerned that the proposed ESDPA designation does not apply to



lands that are designated for low, medium or high density residential use, as these lots could still contain sensitive features such as wetlands. Our expectation is that all wetlands mapped within the applicable Electoral Areas of the RDOS would be included on the ESDPA schedules, the Watercourse Development Permit Area schedules, or both. To be consistent with the Green Bylaws Toolkit, we further recommend that the RDOS add the following requirement to the ESPDA: require restoration if wetlands or other EVRs are disturbed during development. We also recommend that RDOS consider developing a soil removal and deposition bylaw that is consistent with the Green Bylaws Toolkit and as enabled by the British Columbia *Local Government Act* s. 327. Enacting this bylaw may be an appropriate tool to further protect mapped and unmapped wetlands from infilling and to provide enforcement options.

Develop with Care is a provincial document that provides guidance on urban and rural land development in BC. Section 2 of this document describes objectives and guidelines for local governments in environmental planning at the community level. Section 3 describes the objectives and guidelines for good environmental planning, development and management at the site level, and Section 4 defines environmentally valuable resources and provides objectives and guidelines for land development where EVRs are present. We recommend that all EVRs identified in Section 4 be included in the Rapid Environmental Assessment (REA) checklist.

Ecosystems Section was a partner organization in the development of *Keeping Nature in Our Future*. We recognize the RDOS's commitment to working with the South Okanagan Similkameen Conservation Program (SOSCP) and to implementing the ESDPA recommendations identified in this biodiversity strategy. Overall, we recognize the proposed ESDPA Update as exemplary of using available bylaw tools to protect green infrastructure in BC.

Please contact the undersigned at Josie.Symonds@gov.bc.ca or 250-490-2254 if you have any questions or require additional information.

Sincerely,



Josie Symonds, M.Sc., R.P.Bio.
Ecosystems Biologist

JS/cl

¹ <http://www.greenbylaws.ca/>

² <http://www.env.gov.bc.ca/wld/documents/bmp/devwithcare/>

³ <http://www.soscp.org/biodiversity/>

Lauri Feindell

From: Janelle Taylor <janelle.taylor@cord.bc.ca>
Sent: January 30, 2017 8:25 AM
To: Planning
Subject: RDCO Response: X2015.100-ZONE (Bylaw 2710)

Good Morning,

In response to the above noted referral, RDCO staff provides the following comments:

Parks Section

For consideration and inclusion in the amendments under Parks, Recreation and Trails sections of the Okanagan Electoral Area OCP Bylaws:

- Connectivity between future parks and trails with existing regional parks, community parks, Provincial parks, regional trails and Crown lands beyond.
- Provide, preserve and maintain public access points on popular trail corridors, future public access location and to Crown lands when proposed development occurs adjacent to Crown lands.
- Support, encourage and seek partnerships and opportunities with community organizations, NGOs, local/Provincial/Federal governments to further parks, recreation and trail interests, acquisitions and ongoing maintenance needs.

Parks, Recreation and Trails – objectives and policies

- It is good to see in the draft comments - the proposal to have a consistent set of objectives and policies across the Okanagan Electoral Area OCP Bylaws in addition to Electoral Area specific policies.
The policies under Section 15.3 that would be good to have in all the Electoral Area OCP Bylaws include policies .13, .14, .16, and .17.

Environmental/Land Use Planner

Thank you for the opportunity to provide comment on RDOS's proposed ESDPA policies and guidelines. There are a number of innovative approaches being taken. Congratulations on a job well done!

A few items are noted for your consideration.

- It appears that ALR lands do not need a DP. RDCO has found that having DP areas across ALR lands ensures that non-farm uses and residential uses will still be evaluated and DPs required. RDCO specifically will exclude farm uses as noted under the Farm Practices in BC Reference Guide and the Farm Protection Act or other applicable legislation. Ministry of Agriculture supported this approach.
- 13.3.2.7 outlines specific methods for environmental protection. It would be prudent to add a qualifier such as "or other methods as appropriate", or state "...through methods such as..." to ensure new methods that may come available can be utilized.
- 13.3.2.8 – thank you for noting ecosystem connectivity. Perhaps you could add ... "and adjacent Regional Districts" or some wording to make it clear that RDOS recognizes the need to address ecosystem connectivity across local government jurisdictional boundaries.
- Very interested in the idea of identifying private land stewardship initiatives as conservation areas. Good idea.
- Section 17.2.5.1 (c) RDCO has included specifically reference to blasting as this has been an issue in the RDCO.
- Section 17.2.6.1 (d). RDCO requires monitoring reports during development as well as a substantial completion report. This process ensures that issues may be addressed promptly as they arise. May want to add "...during development and following the completion of development..."
- For your REA – will the QEP be required to address EVR's off of the proposed development site (i.e. within the required 100m). This can be done as a desktop exercise but may not be able to be done through field



investigation without other property owner permission to access their property. I believe it should stay as noted and ensure that as a minimum a desktop exercise is carried out within the 100m buffer.

- Exemption 3. Perhaps another qualifier should be considered such as provided the small development is located further away from riparian areas or ESAs. Allowing small developments to go closer to riparian areas in particular can be problematic.
- Exemptions 5 and 6, gives the impressions that ALR lands are within DPAs yet page 8 indicated that This area generally comprises privately held lands not in the Agricultural Land Reserve (ALR) that possess "high" and "very high" ecologically sensitive classifications ... Please see comment above.
- Exemption 7 – great idea.
- Another exemption that RDCO has incorporated and may be of interest is restoration or enhancement or park maintenance works provided it is conducted in accordance with established BMPs and/or Provincial approvals, and through local government parks services. In RDOS case, may also want to add - or established stewardship initiatives or within Conservation Areas.
- 16.1.2.7 – RDCO's Environmental Advisory Commission is invaluable and it is good to see this policy being brought forward.

Should you have any questions, please do not hesitate to contact RDCO staff.

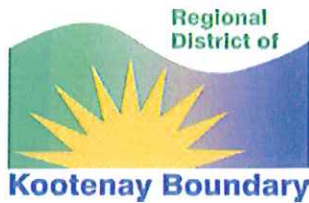
All the best,

Janelle Taylor
Planner 1
Development Services, Planning Section
Regional District of Central Okanagan
Planning Section Phone: (250) 469-6227

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March 1, 2017

RDKB File No. O-2

Please Quote on Correspondence

Regional District of Okanagan-Similkameen
101 Martin Street
Penticton, BC V2A 5J9

RE: RDOS PROPOSED BYLAW 2710

This is to advise that on February 21, 2017, the Regional District of Kootenay Boundary (RDKB) Board of Directors adopted the following resolutions respecting the above-referenced matter:

77-17 *Moved: Director Grieve Seconded: Director Danchuk*

That the Regional District of Kootenay Boundary Board of Directors notify the Regional District of Okanagan Similkameen that the Regional District of Kootenay Boundary's interests are unaffected by proposed Bylaw No. 2710.

Carried.

Should you require further information regarding the above, please contact the Planning and Development Department.

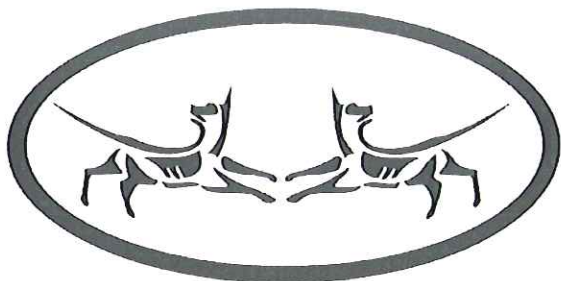
Sincerely,

A handwritten signature in black ink that reads "M. Ciardullo".

Maria Ciardullo
Planning and Development Department
Senior Secretary

P:\PD\PD_Committee\BoardFollowUp\Municipalities and Regional Districts\RDOS proposed bylaw 2710 March 2017.doc





Penticton Indian Band

Natural Resource Department

R.R. #2, Site 80, Comp.19

Penticton, B.C. CAN

V2A 6J7

Telephone: 250-492-0411 Fax: 250-493-2882

January-11-17

**WITHOUT PREJUDICE AND NOT TO
BE CONSTRUED AS CONSULTATION**

Regional District of Okanagan Similkameen
101 Martin Street
Penticton, BC V2A 5J9

Referral ID: 2016-12-23 ZON 2153

RTS #: 2153

Date: December-23-16

Reference #: BLY2710 X2015.100-Zone

Summary: Update of Environmentally Sensitive Development Permit Areas Okanagan Electoral Area Official Community Plan (OCP) Bylaws.

ATTENTION: Christopher Garrish

We are in receipt of the above referral. The proposed activity is located within Okanagan Nation Territory and the PIB Area of Responsibility. All lands and resources within the vicinity of this referral are subject to our unextinguished Aboriginal Title and Rights.

The Supreme Court of Canada in the *Tsilhqot'in* case has confirmed that the province and Canada have been applying an incorrect and impoverished view of Aboriginal Title, and that Aboriginal Title includes the exclusive right of Indigenous People to manage the land and resources as well as the right to benefit economically from the land and resources. The Court therefore concluded that when the Crown allocates resources on Aboriginal title lands without the Indigenous peoples' consent, it commits a serious infringement of constitutionally protected rights that will be difficult to justify.

Penticton Indian Band has specific referral processing requirements for both government and proponents which are integral to the exercise of our Rights to manage our lands and resources and to ensuring that the Crown can meet its duty to consult and accommodate our Rights, including our Aboriginal Title and management Rights. There is a cost associated with PIB referral processing and engagement. In accordance with PIB policy, proponents are required to pay a processing fee for each referral. This fee is as follows:

Invoice Number: 659

	SubTotal	Tax	Total
Admin (12%)	\$ 52.50	\$ 0.00	\$ 52.50
G.I.S. Tracking and Review (GIS Project Technician)	\$ 110.00	\$ 0.00	\$ 110.00
R.T.S. Data Entry (Technical Services)	\$ 80.00	\$ 0.00	\$ 80.00
Referral	\$ 67.50	\$ 0.00	\$ 67.50

¹The area over which PIB asserts Aboriginal Rights and Title under Section 35 of the Constitution Act, 1982





Assessment (Band Administrator)			
Referral Coordination (Referrals Coordinator)	\$ 190.00	\$ 0.00	\$ 190.00
Total	\$ 500.00	\$ 0.00	\$ 500.00

INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

Please make cheque payable to Penticton Indian Band. re: P.C.132 RTS #2153

This fee must be paid within 30 days. Proper consultation and consideration of potential impacts cannot occur without the appropriate resources therefore it is only with payment that proper consultation can begin and the proposed activity/development can be fully reviewed.

Upon receipt of the processing fee, we will commence our review. You may then expect to receive a letter from us notifying you of the results of our review of potential impacts of the project within 30 to 90 days.

If the proposed activity requires a more in-depth review, Penticton Indian Band will notify the proponent and all parties will negotiate a memorandum of agreement regarding a process for review of the proposed activity.

Please note that our participation in the referral and consultation process does not define or amend PIB's Aboriginal Rights and Title, or limit any priorities afforded to Aboriginal Rights and Title, nor does it limit the positions that we may take in future negotiations or court actions.

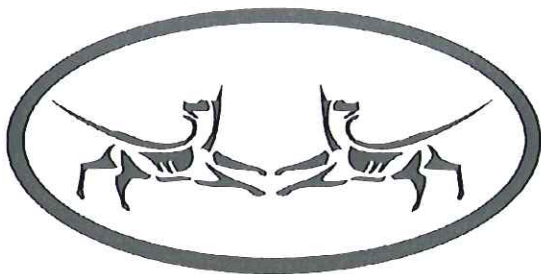
If you require further information or clarification, please do not hesitate to contact me.

limlæmt,

Lavonda Nelson
Referrals Administrator
P: 250-492-0411
Referrals@pib.ca

CC: Penticton Indian Band (jpepper@pib.ca), ONA (salexis@syilx.org)

¹The area over which PIB asserts Aboriginal Rights and Title under Section 35 of the Constitution Act, 1982



Penticton Indian Band

Natural resource Department

R.R. #2, Site 80, Comp.19

Penticton, B.C. CAN

V2A 6J7

Telephone: 250-492-0411 Fax: 250-493-2882

WITHOUT PREJUDICE AND NOT TO
BE CONSTRUED AS CONSULTATION

January-11-17

Regional District of Okanagan Similkameen
101 Martin Street
Penticton, BC V2A 5J9

RTS #: 2153

Date: December-23-16

Referral ID: 2016-12-23 ZON 2153

Reference #: BLY2710 X2015.100-Zone

Summary: Update of Environmentally Sensitive Development Permit Areas Okanagan Electoral Area Official Community Plan (OCP) Bylaws.

Attention: Christopher Garrish

RE: Request for a 60 (sixty) day extension

Thank you for the above application that was received on January-11-17. This letter is to inform you that due to current levels of internal capacity, we are unable to review your referral in your proposed timeline. With additional time, Penticton Indian Band will be able to ensure that an informed review process will occur. We are setting the new timeline to be 60 days from the existing timeline.

Most recently, the Supreme Court of Canada in the Tsilquot'in case confirmed that the province has been applying an incorrect and restrictive test to the determination of Aboriginal Title, and that Aboriginal Title includes the exclusive right of a First Nation to decide how that land is used and the right to benefit economical from those uses.

Please note that not receiving a response regarding a referral from Penticton Indian Band in the pre-application, current or post-application stage does not imply our support for the project.

I appreciate your co-operation.

Limlōmt,

Lavonda Nelson
Referrals Administrator
P:250-492-0411
Referrals@pib.ca

