

Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

X2021.017-ZONE - Street Lighting Policy Review

FN Consultation ID:

X2021-017-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Friday, August 20, 2021

WITHOUT PREJUDICE AND NOT TO BE CONSTRUED AS CONSULTATION

August 25, 2021

Attention: Planning RDOS

File number: 2944

RE: 40 (forty) day extension

Thank you for the above application that was received on 2021-08-20T00:00:00.

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 Penticton Indian Band will be able to ensure that an informed review process will occur. We are setting the new timeline to be 40 days from the existing timeline.

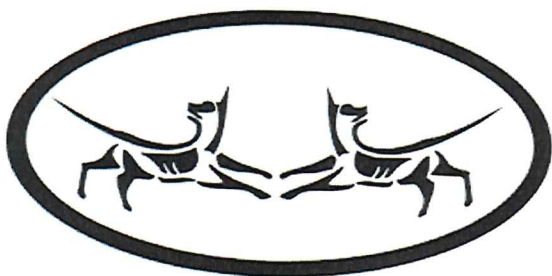
Most recently, the Supreme Court of Canada in the Tsilquot'in case confirmed that the province has been applying an incorrect and restrictive test to the determination of Aboriginal Title, and that Aboriginal Title includes the exclusive right of a First Nation to decide how that land is used and the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

lilmlmt,

Heather McDougall
Referrals Clerk
Natural Resources Department
Penticton Indian Band
P: 250-492-0411
Referrals.clerk@pib.ca



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File number:

2944

WITHOUT PREJUDICE AND NOT TO BE CONSTRUED AS CONSULTATION

Attention: Christopher Garrish

We are in receipt of the above referral. This proposed activity is within the PIB Area of Interest within the Okanagan Nation's Territory, and the lands and resources 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.

PIB has specific referral processing requirements for both government and proponents which are integral to the exercise of our management right and to ensuring that the Crown can meet its duty to consult and accommodate our rights, including our Aboriginal title and management rights. According to this process, proponents are required to pay a \$500 processing fee for each referral. 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 reviewed.

1. Invoice Number: X2021-017-ZONE

Referrals Processing Fee

Sub Total \$ 500.00

Tax \$ 0.00

Total \$ \$500.00

INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

Please make cheque or cash payable to Penticton Indian Band. re: P.C.132 and send to 841 Westhills Drive, Penticton, British Columbia, Canada V2A 0E8

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, PIB 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,

Heather McDougall
Referrals Clerk
Natural Resources Department
Penticton Indian Band
W: 250-492-0411
Referrals.clerk@piib.ca

From: Huber, Sara ALC:EX
To: Christopher Garrish
Cc: Gyug, Philip AFF:EX
Subject: RE: Bylaw Referral - Street Lighting Policy Review - Bylaw No. 2944 (Project No. X2021.017-ZONE)
Date: September 20, 2021 8:30:57 AM
Attachments: [image003.png](#)
[image004.png](#)

Hi Chris,

Thanks for referring the draft bylaw for street lighting. The ALC's interests appear to be unaffected and for this reason have no objection to the bylaw.

Warm regards,

Sara Huber, Regional Planner
Agricultural Land Commission (ALC)
Email: Sara.Huber@gov.bc.ca
Phone: 236-468-3258

From: Christopher Garrish <cgarrish@rdos.bc.ca>
Sent: August 20, 2021 9:21 AM
To: Huber, Sara ALC:EX <Sara.Huber@gov.bc.ca>; Gyug, Philip AFF:EX <Philip.Gyug@gov.bc.ca>; 'HBE@interiorhealth.ca' <HBE@interiorhealth.ca>; 'ofid@telus.net' <ofid@telus.net>; 'Kaleden Irrigation District' <k.i.d@shaw.ca>; 'jcvitko@sd53.bc.ca' <jcvitko@sd53.bc.ca>; XT:Shongrunden, Ron FIN:IN <rs@summer.com>; 'kblack@sd58.bc.ca' <kblack@sd58.bc.ca>; 'NRC.DRAO-OFR.CNRC@nrc-cnrc.gc.ca' <NRC.DRAO-OFR.CNRC@nrc-cnrc.gc.ca>; 'FBClands@FortisBC.com' <FBClands@FortisBC.com>
Subject: Bylaw Referral - Street Lighting Policy Review - Bylaw No. 2944 (Project No. X2021.017-ZONE)

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Friends,

The Regional District of Okanagan-Similkameen (RDOS) is seeking input from agencies/organizations whose interests may be affected by proposed textual amendments to the Electoral Area Official Community Plan (OCP) Bylaws regarding new objectives and policies related to Street Lighting. We are requesting that comments be provided by **September 20, 2021**.

Attached to this email is the Bylaw Referral Sheet that can be used to provide comment to the Regional District, however, emails and/or formal letters are also gladly accepted and can be sent to planning@rdos.bc.ca.

Additional information, including copies of Draft Amendment Bylaw No. 2944 is also available for

RESPONSE SUMMARY

AMENDMENT BYLAW NOS. 2944

☐ Approval Recommended for Reasons
Outlined Below

☐ Interests Unaffected by Bylaw

☒ Approval Recommended Subject to
Conditions Below

☐ Approval Not Recommended Due
to Reasons Outlined Below

The Dominion Radio Astrophysical Observatory (DRAO) generally supports the adoption of the amended street-lighting regulations, subject to the following considerations:

- Many types of lighting can emit radio-frequency interference (RFI) at levels that may be harmful to DRAO operations. This is a form of “light pollution” – albeit one that is not visible to the human eye – suppression of which is explicitly stated to be an objective of the changes under consideration.
- Hence the installation of new or replacement street-lights in the region poses an RFI risk to DRAO.
- Bylaws 2683 and 2452 (Official Community Plans for Areas I and C, respectively) contain policies and objectives that explicitly aim to protect DRAO from RFI, including the establishment of an “RFI Area” in which RFI-generating development is discouraged.
- DRAO would like to see explicit consideration in the street-lighting regulations of potential impacts to DRAO in relation to decisions on street-lighting within the DRAO RFI Area.

Signature: Gray, Andrew 2021.09.17
14:38:15 -07'00'

Signed By: Andrew Gray

Agency: National Research Council Canada,
Dominion Radio Astrophysical Observatory

Title: Telescope Operations Manager

Date: 2021-09-17



Okanagan Indian Band

12420 Westside Road • Vernon, BC, • V1H 2A4

Telephone: 250-542-4328 • Facsimile 250-542-4990

Email: okibreferrals@okanagan.org

"This correspondence will not be construed so as to prejudice, limit, or derogate from any rights, claims or interests in respect of any Aboriginal title, rights and interests of Okanagan or Syilx Nation recognized and affirmed under Section 35 of the Constitution Act, 1982 and nothing in this letter indicates acceptance by Okanagan of federal or provincial Crown jurisdiction over or ownership of land, water or other resources within the Territory."

Project Name:

X2021.017-ZONE - Street Lighting Policy Review

FN Consultation ID:

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Consulting Org Contact:

Chris Garrish

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Friday, August 20, 2021

Attention: Chris Garrish

The Territorial Stewardship Division would like to acknowledge receipt of the above referral. The Okanagan Indian Band has conducted a desk top review of the project and would like to keep informed of any additional changes. At this time the Okanagan Indian Band will be deferring this project to Penticton Indian Band and Lower Similkameen Indian Band for a more in depth review.

Regards,

Colleen Marchand

Director, Territorial Stewardship Division

250.542.7132 (office)

250.306.9796 (cell)

Colleen.Marchand@okanagan.org

Lauri Feindell

From: Gyug, Philip AFF:EX <Philip.Gyug@gov.bc.ca>
Sent: September 14, 2021 4:00 PM
To: Planning
Cc: Fox, Alison AFF:EX; Huber, Sara ALC:EX
Subject: Bylaw Referral - AFF comments for X2021.017-ZONE Street Lighting

Dear Chris Garrish,

Thank you for referring the bylaw amendment related to street lighting for AFF staff to comment. Upon reviewing the street light policy and supporting documents there does not appear to be an impact to agricultural concerns and so AFFs interests are unaffected by the referral at this time.

Regards,

Philip



Philip Gyug, P.Ag
Regional Agrologist,
Extension & Support Services
Branch, Regional Development
Unit

Phone: 250-378-0573

Email: Philip.Gyug@gov.bc.ca