

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:

Bylaw - proposing to replace the current Electoral Area "A", "C", "D", "E", "F" & "I:" Okanagan Valley Zoning Bylaw No. 2800

FN Consultation ID:

L-220131-X2021-013-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

Regional District of Okanagan Similkameen

Date Received:

Tuesday, February 1, 2022

February 1, 2022

Attention: Planning RDOS

File number: X2021.013-ZONE

RE: 40 (forty) day extension

Thank you for the above application that was received on 2022-02-01T00:00:00.

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.

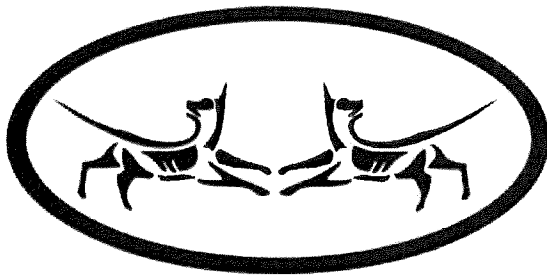
Most recently, the Supreme Court of Canada in the Tsilquot'in case confirmed that the province has been applying an incorrect and restrictive test to the determination of Aboriginal Title, and that Aboriginal Title includes the exclusive right of a First Nation to decide how that land is used and the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

limlamt,

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



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Planning RDOS

Consulting Organization:

Regional District of Okanagan Similkameen

Date Received:

Tuesday, February 1, 2022

File number:

X2021.013-ZONE

February 1, 2022

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: L-220131-X2021-013-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. Mail payment to ATTN: Heather McDougall, Penticton Indian Band Natural Resources Department 841 Westhills Drive, Penticton, British Columbia, Canada V2A 0E8. Please include this letter when sending.

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.

limlāmt,

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



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000 | Fax: 604 660-7033

February 25, 2022

Reply to the attention of Michael McBurnie
ALC Planning Review: 46805
Local Government File: X2021.013-ZONE

Christopher Garrish
Planning Manager, Regional District of Okanagan-Similkameen
planning@rdos.bc.ca

Re: Okanagan Valley Zoning Bylaw No. 2800

Thank you for forwarding a draft copy of Okanagan Valley Zoning Bylaw No. 2800 for review and comment by the Agricultural Land Commission (ALC). The following comments are provided to help ensure that the bylaw is consistent with the purposes of the *ALC Act*, the Agricultural Land Reserve (ALR) General Regulation, the ALR Use Regulation, and any decisions of the ALC.

The Regional District Board is proposing to replace the current Electoral Area "A", "C", "D", "E", "F" & "I" zoning bylaws with a new, consolidated single zoning bylaw; the Okanagan Valley Zoning Bylaw No. 2800.

ALC staff appreciate the strong focus on preserving and enabling agriculture in the regional district. ALC staff have a few comments on the bylaw:

Section 6.1 Cannabis Production

There appears to be a typo in subsection .2, which reads:

"the structure **has a base consisting entirely of soil is a structure that shall not** have concrete construction..."

ALC staff also note that section 8 (2) of the ALC Use Regulation identifies some structures for cannabis production that do not meet the criteria of "a base consisting entirely of soil", but cannot be prohibited by a local government. Generally, this includes structures that were constructed or under construction before July 13, 2018, for growing crops of any kind, even if the structure was converted to cannabis after that date.

Section 7.3 Agri-Tourism Accommodation

There is no mention of the requirements for agri-tourism accommodation for parcels in the ALR, as set out in section 33 of the ALR Use Regulation. A key difference between the RDOS bylaw and the ALR Use Regulation is that the ALR Use Regulation requires the accommodations to be related to one of the specific agri-tourism activities listed in section 12 of the ALC Use Regulation. The ALR Use Regulation also limits the total developed area

for structures, landscaping and access for the accommodation to less than 5% of any parcel.

ALC staff recommend noting that parcels in the ALR must also comply with the requirements within ALC Use Regulations.

Section 12.1.4 (c): Non-Adhering Residential Use applications

This subsection states:

despite Section 12.1.4(b), for parcels situated within the Agricultural Land Reserve (ALR), the maximum number of secondary suites or accessory dwellings permitted per parcel under Section 12.1.4(b) in excess of one (1) secondary suite or accessory dwelling per parcel are permitted only to the extent that a "non-adhering residential use" approval from the Agricultural Land Commission (ALC) has been granted for such secondary suites or accessory dwellings.

ALC staff appreciate the intent of this paragraph, to align with the ALR rules on residences. However, it doesn't quite align with the ALR Use Regulation. The Use Regulation now allows one principal residence, one secondary suite within the principal residence, and one secondary residence (three total residences in two buildings). The reference to a Non-Adhering Residential Use (NARU) application is not quite correct as it implies that a NARU application is required for a secondary residence if a secondary suite already exists (or vice versa).

Local governments do have the ability to further restrict residences in the ALR, so the RDOS can limit the number of residences to one principal residence plus *either* a secondary suite or secondary residence. However, the reference to a NARU application should still be fixed.

This also applies to sections 13.1.4 (c), 13.2.4 (c), 13.3.4 (c), 14.1.4 (c), and 14.2.4 (c) which have similar language.

Section 13.0 Agriculture Zones

In subsections 13.1.1, 13.2.1, and 13.3.1, ALC staff are not clear on why *alcohol production facility and packing, processing, and storage of farm products* are listed as principal uses but *retail sales* is listed as an accessory use.

For properties in the ALR, all three of these uses must be tied to the agricultural production either on that agricultural land or by an association to which the owner of the agricultural land belongs. While these accessory uses might actually be the principal use on any single parcel of land, they must be ancillary to the greater farm operation (which could be made up of multiple parcels).

Here are the ALR regulations, for context:

- For alcohol production, at least 50% of the primary farm product used to make the alcohol product produced each year must be
 - harvested from the agricultural land on which the alcohol production facility is located, or
 - if the agricultural land is more than 2 ha, is both harvested from that agricultural land and received from a farm operation located in British Columbia that provides that primary farm product to the alcohol production facility under a contract having a term of at least 3 years.
- For packing, at least 50% of the farm product must be
 - produced either on that agricultural land or by an association to which the owner of the agricultural land belongs, or
 - is feed required for farm use on that agricultural land.
- For farm sales,
 - all of the farm products must be produced on that agricultural land, or
 - the sales area does not exceed 300 m² and at least 50% of that area is limited to the sale of farm products produced either on that agricultural land or by an association to which the owner of the agricultural land belongs.

ALC staff note that in Section 14 Large Holdings zones, *packing, processing and storage of farm products* and *retail sales of farm products* are listed as accessory uses.

Zoning Maps

The zoning maps do not show the ALR boundaries, which makes it very difficult to review the zoning map against ALR status (and manually cross-referencing is prone to errors). Can you please provide a map overlaying zoning and the ALR boundaries?

Generally, ALR land is best zoned for Agriculture (eg. AG1, AG2, or AG3) unless the ALC has approved a non-farm use on a parcel. In that case, the zoning should reflect only the specific use permitted and the relevant portion of the parcel. From a cursory look at the maps, this seems to be the case for most of the ALR. However, I did note one portion of ALR land west of Okanagan Falls (PID: 004-622-448) that is zoned *Resource Area*. The issue with this is that *Resource Area* zoning allows uses that are not permitted in the ALR, including an airstrip, cemetery, educational facility, and natural resource extraction. I didn't find a previous ALC application on the property that would permit these uses.

Is RDOS staff aware of why this ALR land is zoned *Resource Area*? Is RDOS staff aware of any other ALR parcels that are zoned to permit uses that are not permitted in the ALR?

The ALC strives to provide a detailed response to all referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any decisions of the Commission.

This response does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

If you have any questions about the above comments, please contact the undersigned at 236-468-3246 or by e-mail (michael.mcburnie@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'MMcBurnie', is written over a horizontal line.

Michael McBurnie, Regional Planner

Enclosure: Referral of Okanagan Valley Zoning Bylaw No. 2800

CC: Ministry of Agriculture – Attention: Alison Fox

46805m1

TECHNICAL MEMO

To Chris Garish	From Brad Elenko,
Re Vista Naramata – Zoning Designation Concerns	Date February 18, 2022

As you are aware, the recent proposed changes to the zoning of the Vista Naramata property are concerning to the owner. Lots in the Vista neighbourhood are being marketed based on a disclosure statement package which included a copy of the SH5s zone for the property, and the proposed new zoning of the property is different in several ways. Any change in the zoning that is considered a "material change" opens the opportunity for a buyer to back out of a contract, which would result in significant financial consequences to the developer.

We have compared the current zoning of the property with the proposed zoning of the property and have noted the following differences between the existing zoning of the Vista Naramata neighbourhood and the proposed zoning for the property.

Existing Zone SH5s (Now called SH1s)	Proposed Changes in New SH1s Zone
Principal Uses: "Agriculture" is included	"Agriculture" removed
Secondary Uses: "subject to sections"	Review of "subject to sections" provided below
Minimum Parcel Size: 2,020 m ²	2,000 m ²
Principal Bldg rear parcel line setback: 7.5 m	4.5 m
Principal Bldg int. side parcel line setback: 4.5 m	1.5 m
Access. Bldg rear parcel line setback: 4.5 m	1.5 m
Access. Bldg int. side parcel line setback: 4.5m	1.5 m

The sections in the zoning bylaw that pertain to the secondary uses were reviewed against the corresponding sections in the proposed new zoning bylaw and the changes between the current and proposed bylaw is provided in the table below.

Principal and Secondary Uses Allowed	Current Zoning Bylaw Section #	Proposed new Zoning Bylaw Section #	Difference / Comments
Agriculture	7.23	6.6	No discernable difference. Existing section last amended July 20, 2017
Accessory Dwelling	7.11	7.2	No discernable difference. Existing section last amended Feb. 20, 2020
Bed and Breakfast Operation	7.19	7.4	Clause regarding not generating traffic congestion or parking demands is removed. Existing section last amended March 21, 2013
Home Occupation	7.17	7.6	Decreased max floor area from 50% to 40%. Existing section last amended Dec. 5, 2019
Secondary Suites	7.12	7.9	No discernable difference. Existing section last amended Feb. 20, 2020
Accessory Buildings and Structures	7.13	7.1	No discernable difference. Existing section last amended June 2, 2016

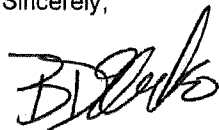
In reviewing all the changes that are proposed for the zoning of the Vista Naramata subdivision we have concluded that "Agriculture" needs to be included as a site-specific provision to the Vista Naramata property zoning. We feel the other changed provisions in the new zoning of the property should not be a concern to those that have already committed to purchase a lot.

Please ensure that "Agriculture" is added as permitted use in the site-specific provisions of the proposed SH1s zoning for the Vista Naramata neighbourhood.

We understand that a Public Information Meeting will be held on Tuesday March 1st to allow the public an opportunity to comment on the proposed bylaw. I know there are a lot of variables that will affect the process and timing to have the new Zoning Bylaw adopted, but can you provide me with your "best guess" on when you feel the new Zoning Bylaw could be adopted.

Thanks, Chris, for your attention to this matter. If you have any questions, please don't hesitate to contact me.

Sincerely,



Brad Elenko, Senior Planner
belenko@mcelhanney.com
250-495-0499

From: [Danielson, Steven](#)
To: [Planning Group](#)
Subject: Okanagan Valley Zoning Bylaw No. 2800, Elect A, C, D, E, F, I, RDOS (X2021.013-ZONE)
Date: February 26, 2022 10:24:14 AM
Attachments: [image001.png](#)

With respect to the above noted file,

There are FortisBC Inc (Electric) ("FBC(E)") primary distribution facilities within the RDOS along public roads and lanes servicing the affected properties. A detailed review of the proposed zoning bylaw was not completed. Notwithstanding, in respect to the general zoning changes, FBC(E) would have concerns with any setback reductions that may allow the placement or construction of structures closer to the lot line and potentially encroach within the safe limits of approach for the existing overhead facilities within the roads and lanes.

Regards,

Steve Danielson, AACI, SR/WA

Contract Land Agent | Property Services | FortisBC Inc.

2850 Benvoulin Rd

Kelowna, BC V1W 2E3

Mobile: 250.681.3365

Fax: 1.866.636.6171

FBCLands@fortisbc.com



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Christopher Garrish

From: Referrals <Referrals@fortisbc.com>
Sent: February 2, 2022 3:39 PM
To: Planning
Subject: FW: [External Email] - Bylaw Referral X2021.013-ZONE Okanagan Valley Zoning Bylaw No. 2800
Attachments: Bylaw Referral Sheet - Zoning Bylaw No. 2800 (2022-01-31).pdf

Hello,

FortisBC Energy Inc. has reviewed the subject proposal and has no objections or concerns.

Mai Farmer
Property Services Assistant
Property Services



Christopher Garrish

From: Referrals <Referrals@fortisbc.com>
Sent: February 9, 2022 10:19 AM
To: Planning
Subject: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "I"
Attachments: Amendment Bylaw No. 2956 - Bylaw Referral Sheet.pdf

Hello,

FortisBC Energy Inc. has reviewed the subject proposal and has no objections or concerns.

Mai Farmer
Property Services Assistant
Property Services



From:
To: Planning Group
Cc: Subrina Monteith
Subject: Public input on zoning bylaw 2800
Date: February 27, 2022 6:02:01 PM

Hi Chris

Please attach the following comments to the public input on Zoning Bylaw 2800

Thank you,

Mike

Mr. Christopher Garish, Planning Manager, RDOS

Ms. Subrina Monteith, Area I Director RDOS

Please include the following concerns for the public input on Zoning Bylaw 2800.

In regard to Section 7.10 VACATION RENTALS

- How will the RDOS enforce each of the 7 regulations?
- Does the RDOS staff search the internet for advertisements for unlicensed or illegal vacation rentals? If not, what compels owners to follow the rules in the first place? RDOS should be forcing unlicensed vacation rentals to become licenced.
- If you're relying on neighbours to report violations to you, you must consider the fact that vacant houses/investment properties can be owned by multiple people, and with multiple people coming and going, how will neighbours know who's renting and who's just using?
- Unless the neighbours know what the 7 regulations are, how are they to know and then be able to report the violations? Will you require the owner to post a sign that this residence is a short-term rental and under these 7 regulations and if there is a violation what number to call? It is a business they are running so posting signage should not be an issue.
- Will the fees and fines collected regarding vacation rentals be enough to fund the enforcement staff required to actually enforce these 7 regulations?
- Furthermore, to preserve the existence of the Kaleden elementary school, we suggest that any "vacant house and/or short-term rental house" within 5 kms. of the Kaleden school, pay significantly more tax than "lived-in non-vacant" homes in this area. If done right, this will give local families the purchasing advantage they need to compete fairly in the real-estate market. Or better yet, outlaw short-term rentals within 5 kms. of Kaleden School.
- We are of the opinion that vacation rentals should not be allowed. If RDOS is going to continue to allow such rentals, then they need to join all other South Okanagan municipalities in how they are regulating vacation rentals.

In regard to Section 8.1.1(d) STRATA LOTS

- Completely remove bare land strata from your non-sewer area zoning. If the land in question cannot be subdivided in two due to regulations currently in effect, how can it be divided into 4, 5, or 8 lots just by calling it a bare land strata? A lot that can be subdivided in two must follow rules for septic fields as well as room for a 2nd field. How can this be accomplished on a bare land strata with multiple homes feeding one septic system? No room for a second field in case of failure of the first field.
- Please add a requirement to the application process that requires notice to and consideration of neighbour's concerns, as is presently done during the variance application process.
- Strata lot developments as well as many other homes built in rural areas, require the installation and maintenance of special septic systems or treatment plants. Without regular

inspections, how does the RDOS ensure that these systems are working and being maintained properly? Again, you'll need to hire staff and that staff needs to be funded by the owners of such septic treatment works.

- Furthermore, any developments in Kaleden need to contribute to present and future utilities upgrades, such as electrical, water and roads, etc.

Mike & Chris Gane

RESPONSE SUMMARY

OKANAGAN VALLEY ZONING BYLAW NO. 2800

- | | |
|---|---|
| ☐ 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: 

Signed By: Tanya Osborne

Agency: Interior Health

Title: Community Health Facilitator

Date: Feb 25, 2022



February 28, 2022

File: 0280-30

Local Government File: X2021.013 - ZONE

Christopher Garrish, Planner Manager
Regional District of Okanagan-Similkameen
Via Email: planning@rdos.bc.ca

Dear Christopher Garrish:

Re: Okanagan Valley Zoning Bylaw No. 2800, 2022

Thank you for providing B.C. Ministry of Agriculture, Food and Fisheries (Ministry) staff the opportunity to comment on the draft Okanagan Valley Zoning Bylaw for Electoral Areas 'A', 'C', 'D', 'E', 'F' and 'I'. Overall, ministry staff consider the consolidation of multiple zoning bylaws for these electoral areas to be consistent with the ministry's Strengthening Farming Program objective of achieving regulatory consistency for farmers across jurisdictions. Generally, the regulations in the draft bylaw appear to be positive for agriculture. We offer the following comments that may help to provide increased clarity and to further align the bylaw with provincial legislation and regulations:

4.0 - Definitions

Agriculture – the definition is good and comprehensive, but ministry staff are unclear as to why if storing and packing are a part of the definition of agriculture, that these are listed as separate permitted uses under the AG1, AG2 and AG3 zones.

Agriculture, indoor – Ministry staff note that this definition appears to be used in the bylaw to support indoor agriculture in industrial zones. However, it appears to be excluded from permitted uses in the AG1, AG2 and AG3 zones. Some indoor production, such as greenhouse production would seem to be captured by this definition and cannot be prohibited by local governments in the ALR. In addition, given the recent changes to the ALR Use Regulation to allow indoor agriculture in the ALR without requiring a non-farm use, we recommend a review of this definition and, where the use is permitted, to ensure consistency with the new provincial regulation. Please see government [news release](#) for additional information.

Agri-tourism – this definition could be more closely aligned with the one in ALR Use Regulation. Although the land being classified as a farm is one of the criteria, it is not the only one. This definition may be more permissive than what is allowed under the ALR Use Regulation and should be reviewed.

Agri-tourism accommodation – “carried out as an accessory to the principal farm use” – having agri-tourism accommodation accessory to a principal farm use is good, but there appears to be a typo here. Should it read “carried out as an accessory use to the principal farm use” or “carried out as an accessory to the principal farm use”?

6.0 General Regulations

6.4 – Fence Heights – Ministry staff appreciate the exemption for deer fences as this may be important for some agricultural producers for crop protection.

6.6 – Keeping of Livestock and Honeybees – Section 555 of the *Local Government Act* states that despite a zoning bylaw, the keeping of livestock is a permitted use in the Agricultural Land Reserve (ALR). This section would benefit from a note that the prohibition on keeping livestock on lots of certain sizes does not apply in the ALR. The limitation on numbers of livestock is also overly restrictive for ALR parcels. Given that the definition of livestock includes animals such as sheep and goats and other livestock that typically are considered small livestock, limiting numbers to 3 or 4 on parcels between 1.0 and 2.0 ha is not realistic given the large number of lots in this size category in the regional district. This could negatively impact some existing small producers on smaller parcels and will limit small lot agriculture in the future. If the concern that this section is addressing is related to farm practice complaints or environmental issues, there are other means of mitigating these through manure management techniques, for instance.

6.6.3 – Products derived from the keeping of livestock and honeybees would be able to be sold in accordance with the ALR Use Regulation provisions for farm retail sales. This should be clarified, as requiring a principal residence on a lot for the sale of farm products to occur is overly restrictive on agricultural land if these products were to be sold under the provisions of Section 7.5 (Home Industry) and would be prohibitive in cases where a principal residence is not planned. The ALR Use Regulation does not allow local governments to prohibit farm retail sales where at least 50% of the product being sold originates from the farm unit. This section also appears to be in conflict with Section 7.8 of the bylaw and the AG zones which allow retail sales of farm products. The definition of farm products would appear to include the sale of products from livestock or bees, so this section creates confusion for the reader.

6.6.4 – There may be instances on large lots with a principal residence located far from the road, where locating honeybee hives to the rear of the principal residence is not practical or

desired, or a case where there is not a principal residence on the lot. We recommend eliminating this requirement for lots that are larger than a typical urban lot or for those that are located in the ALR. Current guidelines in the Guide for Bylaw Development in Farming Areas suggest a 7.5m setback from lot lines. However, the setback provisions only seem to be contemplated for active bees. There may be instances where honeybee hives are over-wintered on lots. The bees are not very active in this case and the setback distance could be greatly reduced without any impact on neighbours.

7.0 Specific Use Regulations

7.2.2 – Accessory Dwellings – This section does not appear to be consistent with recent changes to the ALR Use Regulation. It should be noted here that the maximum floor area for an additional residence in the ALR is 90 m² for lots less than 40 ha. For lots greater than 40 ha, it is a maximum of 186 m². Local governments may allow less floor area than what the ALR Use Regulation stipulates, but not more, and not where additional residences already exist or a residence over 500 m² on a lot less than 40 ha already exists. Manufactured homes are only allowed where they were approved prior to the regulation change or if they fit within the size limitations in the existing regulation. This section would benefit from some clarity in this regard, and we recommend checking all sections of the bylaw and definitions relating to accessory dwellings to ensure consistency with the recent changes to the ALR Use Regulation.

7.8.1 – Retail Sales of Farm Products – We recommend checking with Agricultural Land Commission (ALC) staff on the limit on floor area. Our understanding is that the 300 m² limit only applies to retail sales facilities that are selling product not produced on the farm unit.

13.0 Agriculture Zones

13.1, 13.2 and 13.3 - AG1, AG2 and AG3 Zones – Permitted Uses – packing, processing and storage of farm products is typically an accessory use, and it may be better to include it in that section. Including it as a principal use suggests that the use can be located on a property even if there is not a farm operation. The only exception would be where a lot is part of a larger farm unit and is too small to also contain an agricultural use, but a rezoning may be appropriate in this case.

13.1.4 – Additional to the Non Adhering Residential Use (NARU) approval process, recent changes to residential flexibility in the ALR would be beneficial to reference as this regulation addresses principal residence and additional residence size.

Please contact ministry staff if you have any questions regarding the above comments.

Sincerely,



Alison Fox, P.Ag.
Land Use Agrologist
Ministry of Agriculture, Food
and Fisheries
Alison.Fox@gov.bc.ca
(778) 666-0566



Philip Gyug, P.Ag.
Regional Agrologist
Ministry of Agriculture, Food
and Fisheries
Philip.Gyug@gov.bc.ca
(250) 378-0573

Email copy: Michael McBurnie, ALC Regional Planner, Michael.McBurnie@gov.bc.ca



DEVELOPMENT SERVICES
PRELIMINARY BYLAW
COMMUNICATION

Your File #: X2021.013-
ZONE OK
Valley Zoning
Bylaw No. 2800
eDAS File #: 2022-00536
Date: Feb/08/2022

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

Attention: Lauri Feindell, Planning Secretary

**Re: Proposed Bylaw 2800, 2022 for:
Electoral Areas A, C, D, E, F and I**

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 Penticton Development Services at (250) 712-3660.

Yours truly,

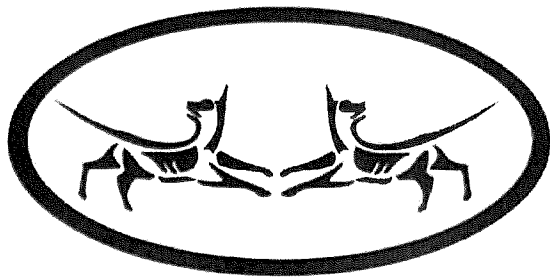
Rob Bitte
Development Officer

Local District Address

Penticton Area Office

102 Industrial Place
Penticton, BC V2A 7C8
Canada

Phone: (250) 712-3660 Fax: (250) 490-2231



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:

Bylaw - proposing to replace the current Electoral Area "A", "C", "D", "E", "F" & "I." Okanagan Valley Zoning Bylaw No. 2800

FN Consultation ID:

L-220131-X2021-013-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

Regional District of Okanagan Similkameen

Date Received:

Tuesday, February 1, 2022

File number:

X2021.013-ZONE

March 9, 2022

Attention: Planning RDOS,

We are in receipt of the above referral. The proposed activity is located within syilx (Okanagan) Nation Territory and the Penticton Indian Band (PIB) Area of Interest. All lands and resources within the vicinity of the proposed development are subject to our unextinguished Aboriginal Title and Rights. The Penticton Indian Band has now had the opportunity to review the proposed activity. Our preliminary office review has indicated that although this is an administrative decision to update zoning bylaws, it represents a lengthy history of exclusion in the consultation and development of legislations, regulations and provincial processes over our lands. The bylaw and its objective was developed unilaterally without consultation or consent from the syilx(Okanagan) nation title holders. All lands and resources within syilx Territory are unceded.

The Crown or representatives of the crown have no beneficial interest (the right to use, enjoy and profit from the economic development of lands) in our Aboriginal title lands and resources; the beneficial interest is held by the syilx Nation. The legislation of our lands or resources to third parties are serious infringements on our Aboriginal title. The provincial government's consultation framework, land use referral policy and administrative system are insufficient to uphold our syilx interests in the land and resources within our traditional territory or to meet the fiduciary obligations of British Columbia.

Further more, in 2019, the province of British Columbia implemented the United Nations Declaration on the Rights of Indigenous Peoples which aims to emphasize the Indigenous peoples' rights to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions and to pursue self-determined development, in keeping with Indigenous needs and aspirations. The UNDRIP states in article 32(2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. At this time,

At this time there has been no reconciliation of our interests with those of the Province of British Columbia and Canada and no process in place to adequately recognize and negotiate co- existence or accommodation of our title and jurisdiction. Compliance with provincial processes, legislation, regulations and requirements therefore does not ensure that our interests

are adequately accommodated. In addition, as proved by the 2014 Tsilhqot'in case, 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. The PIB cannot provide comment on this activity due to an insufficient level of engagement and consultation.

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.

Please contact me at your earliest convenience to discuss.

limlæmt,

Maryssa Bonneau
Referrals Coordinator
Natural Resources Department
Penticton Indian Band
W: 250-492-0411
C: 250-486-3241
Referrals@pib.ca

RESPONSE SUMMARY

OKANAGAN VALLEY ZONING BYLAW NO. 2800

☒ Approval Recommended for Reasons
Outlined Below

☐ Interests Unaffected by Bylaw

☐ Approval Recommended Subject to
Conditions Below

☐ Approval Not Recommended Due
to Reasons Outlined Below

Council passed the following resolution at their regular meeting of
February 22, 2022.

RECOMMENDATION:

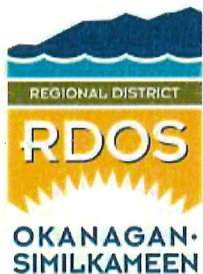
That Council recommend approval of the consolidation of Electoral Area zoning bylaws with a notation that RDOS staff and Town of Osoyoos staff continue to work together to ensure that incompatible uses are prevented from locating adjacent to each other across jurisdictional boundaries.

Signature: 

Agency: Planning and Development

Date: February 28, 2022

Signed By: Gina MacKay
Director of Planning and
Title: Development



Feedback Form

Regional District of Okanagan Similkameen

101 Martin Street, Penticton, BC, V2A-5J9

Tel: 250-492-0237 / Email: planning@rdos.bc.ca

TO: Regional District of Okanagan Similkameen

FILE NO.: X2021.013-ZONE

FROM: Name: Schalk van Heerden

(please print)

Street Address: _____

Date: _____

**RE: Okanagan Valley Zoning Bylaw No. 2800
Electoral Areas "A", "C", "D", "E", "F" & "I"**

My comments / concerns are:

☐

I do support the proposed Okanagan Valley Zoning Bylaw No. 2800.

☒

I do support the proposed Okanagan Valley Zoning Bylaw No. 2800, subject to the comments listed below.

☐

I do not support the proposed Okanagan Valley Zoning Bylaw No. 2800.

Written submissions received from this information meeting will be considered prior to the close of the public hearing for the Okanagan Valley Zoning Bylaw No. 2800.

Agri-tourism; Agri-tourism Accommodation; [Tourist Accommodation (B&B's)]

Most, if not all, of AG1/2/3 zones will likely be in the Agricultural Land Reserve.

Related text and fundamental principles in the proposed Okanagan Valley Zoning Bylaw are not aligned with the updated Agricultural Land Commission's Act, Regulations, Policies, and Information Bulletins.

Bylaws may be more restrictive than the statutes – which the table under Section 7.3.3 indeed is – but generally, the proposed definitions and Specific Use Regulations are either not echoing the Province's overarching statutes, or are absent.

Feedback Forms must be completed and returned to the Regional District prior to the close of the public hearing for the Okanagan Valley Zoning Bylaw No. 2800.

Protecting your personal information is an obligation the Regional District of Okanagan-Similkameen takes seriously. Our practices have been designed to ensure compliance with the privacy provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) ("FIPPA"). Any personal or proprietary information you provide to us is collected, used and disclosed in accordance with FIPPA. Should you have any questions about the collection, use or disclosure of this information please contact: Manager of Legislative Services, RDOS, 101 Martin Street, Penticton, BC V2A 5J9, 250-492-0237.

RESPONSE SUMMARY

OKANAGAN VALLEY ZONING BYLAW NO. 2800

☐ 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 Kaleden Irrigation District Board of Trustees recommends approval of the Okanagan Valley Zoning Bylaw No. 2800 subject to the following conditions:

All parcels of land within Kaleden Irrigation District's service boundary that propose subdivisions or developments, including the development of parcels into Strata lots, must apply to the Kaleden Irrigation District via the Approving Authority's referral, and comply with the District's subdivision servicing requirements for infrastructure, which includes, but not limited to, engineering fees, watermain installations and upgrades, fire hydrants, meters, and any other appurtenance that the Board of Trustees deems necessary to supply the subdivision or Strata Development.

Signature: Cheryl E. Halla

Signed By: CHERYL E. HALLA

Agency: KALEDEN IRRIGATION DISTRICT

Title: Finance / Corporate Admin.

Date: FEB. 17, 2022