



THE CORPORATION OF THE CITY OF VERNON

INTERNAL M E M O R A N D U M

TO: Will Pearce, Chief Administrative Officer **FILE:** 8700-02

PC: Kim Flick, Director, Community Infrastructure and Development **DATE:** August 2, 2022
James Rice, Director, Operations Services
Kendra Kryszak, Manager, Parks and Public Spaces Maintenance

FROM: Ellen Croy, Manager, Transportation

SUBJECT: APPLICATIONS FOR TENURE OVER CROWN LAND – 10 LAKE ACCESS SITES

In 2018, Administration submitted an application for tenure over crown land for 10 lake access sites:

- a. 9744 Delcliffe Road
- b. 9603 Whitepoint Road
- c. 9003 Peters Road
- d. 8835 Okanagan Landing Road (includes boat launch)
- e. 8797 Okanagan Landing Road
- f. 7500 Kennedy Lane
- g. 8068 Beachcomber Bay Road
- h. 8130 Tronson Road (includes boat launch)
- i. 8396 Tronson Road
- j. 8680 Foster Road

Crown land tenure applies to the land that is under provincial jurisdiction and for the 10 lake access sites, includes the areas below the high water mark. Obtaining crown land tenure for the lake accesses will help the City better manage the sites, as it will allow the City to replace and maintain boat launches (8835 Okanagan Landing Road and 8130 Tronson Road), install erosion protection, and provide designated swimming areas (subject to additional Provincial permits and approvals after obtaining crown land tenure). Obtaining crown land tenure also restricts others from installing private moorage or other infrastructure within the crown land tenure areas.

The City has received notice of final review from the Province for the crown land tenure application for the 10 lake access sites (Attachment 1). The notice of final review outlines the final requirements for the Province to consider when making a decision on this matter. One of the final requirements is a Council resolution that Council agrees to acquire the Licence for the term of 30 years from the Province over the 10 sites. This memorandum requests Council endorsement of the required resolution, which is one of the final steps in getting crown land tenure.

RECOMMENDATION:

THAT Council agrees to acquire the Licence for the term of 30 years from the Province, for public lake access purposes, over the land described as:

- a. All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Delcliffe Road, Section 4, Township 13, Osoyoos Division Yale District, containing 0.22 hectares, more or less;
- b. All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Whitepoint Road, Section 9, Township 13, Osoyoos Division Yale District, containing 0.30 hectares, more or less;
- c. All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Peters Road, Section 14, Township 13, Osoyoos Division Yale District, containing 0.17 hectares, more or less;
- d. All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Okanagan Landing Road, Section 14, Township 13, Osoyoos Division Yale District, containing 0.12 hectares, more or less;
- e. All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Okanagan Landing Road, Section 14, Township 13, Osoyoos Division Yale District, containing 0.07 hectares, more or less;
- f. All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Kennedy Lane, District Lot 56, Osoyoos Division Yale District, containing 0.07 hectares, more or less;
- g. All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Beachcomber Bay Road, District Lot 296, Osoyoos Division Yale District, containing 0.09 hectares, more or less;
- h. All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Tronson Road, District Lot 296, Osoyoos Division Yale District, containing 0.82 hectares, more or less;
- i. All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Tronson Road, District Lot 298, Osoyoos Division Yale District, containing 0.06 hectares, more or less; and
- j. All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Foster Road, District Lot 298, Osoyoos Division Yale District, containing 0.67 hectares, more or less.

Respectfully submitted:



Ellen Croy
Manager, Transportation

Attachment 1: Notice of Final Review



Ministry of Forests, Lands, Natural
Resource Operations and Rural
Development
441 Columbia Street
Kamloops, BC V2C 2T3

Telephone No: 778-362-4574
Facsimile No: 250-828-4442

GST Registration No: R107864738

Your contact is: Erin Smith

Our file: 3413399

NOTICE OF FINAL REVIEW (NO FEES)

June 24, 2022

City of Vernon
3400-30th St
Vernon, BC V1T 5E6

Dear Sir/Madam:

Re: Your Application for a Tenure over Crown Land

The review of your application for a licence for public lake access purposes over:

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Delcliffe Road, Section 4, Township 13, Osoyoos Division Yale District, containing 0.22 hectares, more or less;

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Whitepoint Road, Section 9, Township 13, Osoyoos Division Yale District, containing 0.30 hectares, more or less;

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Peters Road, Section 14, Township 13, Osoyoos Division Yale District, containing 0.17 hectares, more or less;

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Okanagan Landing Road, Section 14, Township 13, Osoyoos Division Yale District, containing 0.12 hectares, more or less;

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Okanagan Landing Road, Section 14, Township 13, Osoyoos Division Yale District, containing 0.07 hectares, more or less;

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Kennedy Lane, District Lot 56, Osoyoos Division Yale District, containing 0.07 hectares, more or less;

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Beachcomber Bay Road, District Lot 296, Osoyoos Division Yale District, containing 0.09 hectares, more or less;

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Tronson Road, District Lot 296, Osoyoos Division Yale District, containing 0.82 hectares, more or less;

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Tronson Road, District Lot 298, Osoyoos Division Yale District, containing 0.06 hectares, more or less;

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Foster Road, District Lot 298, Osoyoos Division Yale District, containing 0.67 hectares, more or less;

(the "Land") has reached the stage where we anticipate making our final decision once the various matters described in this letter have been completed.

1. Deadline for Completion of Requirements

We ask that you complete the requirements described below by August 24, 2022.

Please complete the Response to Notice of Final Review page attached, indicating whether you will **or** will not proceed with the application and sign and return that page to us for our records.

2. Requirements

Signing and Return of Tenure Documents

You must sign and deliver to us two copies of the licence document which are enclosed with this letter. You are responsible for ensuring that this is properly completed including, if applicable, obtaining any appropriate corporate authorizations and having any Land Title Act Form C or D witnessed by a solicitor, notary or commissioner.

Insurance

We confirm receipt of evidence of insurance. Upon request, you must submit to our office proof of continuation of your insurance.

Council Resolution

A Council Resolution must be passed to acquire the Land. The Council resolution must indicate that the Council will agree to acquire the Licence for the term of 30 years from the Province over the land described as

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Delcliffe Road, Section 4, Township 13, Osoyoos Division Yale District, containing 0.22 hectares, more or less;

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Whitepoint Road, Section 9, Township 13, Osoyoos Division Yale District, containing 0.30 hectares, more or less;

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All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Tronson Road, District Lot 298, Osoyoos Division Yale District, containing 0.06 hectares, more or less; and

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Foster Road, District Lot 298, Osoyoos Division Yale District, containing 0.67 hectares, more or less

for the public lake access purposes.

Management Plan

The attached authorized Management Plan must be signed, dated and returned to us. This Management Plan will be held on file by us, a copy of it will be returned for your records. Any future alterations or additions to the Improvements will require our prior written consent.

3. Process following completion of Requirements

If the requirements set out above are completed within the required time we expect to make our decision and advise you of that decision within 30 days.

Please note however that this letter does not constitute an offer by us and we reserve all our rights in connection with the decision making process, including, if appropriate, to disallow your application, to extend the decision making process and to establish additional requirements not set out in this letter.

Upon decision to issue the licence to you we will sign and return one copy of the licence to you.

4. Acknowledgments of the Applicant

You represent, acknowledge and agree that:

- (a) Your application for a Crown land tenure cannot be transferred to another person.
- (b) This Letter does not obligate us to issue the licence to you and does not give you any right to use or occupy the Land for any purpose.
- (c) You are responsible for, and encouraged to seek, your own legal advice with respect to:
 - (i) any laws, bylaws, orders, directions, ordinances and regulations associated with your use of the Land,
 - (ii) the terms and conditions set out in this Letter, and
 - (iii) the terms and conditions of, and your rights and obligations that will arise under, the licence.

- (d) You are responsible for the costs and expenses incurred by you in pursuing your application, including any cost you incur in connection with satisfying the requirements set out in this letter.
- (e) If you sign and return the licence to us that will constitute your offer to us to enter into the licence.

Freedom of Information

Personal information is collected under the *Land Act* for the purpose of administering Crown land. Information on your application, and if issued, your tenure, will become part of the Crown Land Registry, from which information is routinely made available to the public under Freedom of Information and Protection of Privacy legislation.

Yours truly,



Authorized Representative

Response to Notice of Final Review

File No. 3413399

Ministry of Forests
441 Columbia Street
Kamloops, BC V2C 2T3

Dear Erin Smith:

Re: Application for licence

- I/We wish to proceed to obtain a licence in accordance with the letter dated June 24, 2022 from the Ministry of Forests and enclose all copies of the licence which I/We have signed.
- I/We do not wish to proceed to obtain a licence in accordance with the letter dated June 24, 2022 from the Ministry of Forests.

DATED the ____ of _____, _____.

Applicant's signature/Applicant's
representative's signature

Applicant's signature/Applicant's
representative's signature

Print name of person signing

Print name of person signing

For Your Information

- You must use and occupy the land in accordance with and for the purposes set out in the Management Plan.
- You must not construct, place, or affix any Improvement on or to the Land without prior written consent.
- You must abide by local government zoning, bylaws, and guidelines.
- Be advised the tenure area overlaps with the Species at Risk: American Badger, Rocky Mountain Ridged Mussel; Ecosystem at Risk: Black Cottonwood – Douglas Fir / Common Snowberry – Red Osier Dogwood; and Critical Habitat for Federally Listed Species: Great Basin Gopher Snake, Western Rattlesnake, and American Badger. Any future works may require referrals with relevant agencies to determine appropriate provisos, management and mitigation strategies.
- Ecosystems recommended the following conditions:
 - We have determined that this referral overlaps or is within 200 m of the following known values:
 - Critical Habitat for Federally-Listed Species at Risk (SAR):
 - Gopher Snake
 - Rattlesnake
 - Night snake
 - Great Basin Spadefoot
 - Badger
 - Conservation Ranking:
 - Very High
 - High
 - Foreshore Zoning:
 - Shore spawning Kokanee RED zone
 - Foreshore plant RED zone (known habitat)
 - Freshwater Mussel YELLOW zone
 - Based on information in the application package, the various projects have been developed in consultation with a Qualified Environmental Professional (QEP) and the majority of works will occur above the High-Water Mark (HWM) of Okanagan Lake. Improvement activities such as posting signage and placement of garbage disposal bins pose a low risk to fish, wildlife and their habitats. However, we recommend that all activities under this LOO with potential to impact fish, wildlife or their habitats be guided by a QEP, including assessment of foreshore zones,

- and presence of biophysical attributes that qualify as critical habitat for the above-listed species at risk. If these attributes are identified, mitigation measures should be developed by the QEP to avoid or limit adverse impacts.
- For work that will occur below the HWM and/or lie within areas zoned for shore spawning kokanee, foreshore plants, or freshwater mussels, the City of Vernon must retain a QEP and follow the Okanagan Large Lakes Foreshore Protocol and associated guidance documents.
- It is the proponent's responsibility to ensure his/her activities are in compliance with all relevant legislation, including the *Water Sustainability Act* and the *Wildlife Act*.
 - Please contact the undersigned at Dan.Denesiuk@gov.bc.ca or 250-490-8246 if you have any questions.
- You must obtain a "*Water Sustainability Act*" Section 11 notification from the Ministry of Forests prior to initiating any work within the natural boundary (below high-water mark).
 - An application for a Section 11 to conduct "works in about a stream" can be made through Front Counter BC at the following link:
<http://www.frontcounterbc.gov.bc.ca/>
- Construction in or around water must only take place during the appropriate timing windows specified by Fisheries and Oceans Canada
 - Refer to Fisheries and Oceans website, which also includes regional freshwater timing windows: <https://www.dfo-mpo.gc.ca/pnw-ppe/timing-periodes/index-eng.html>
- You must ensure your activities are in compliance with all relevant Transport Canada legislation, including the *Navigation Protection Act*.
- Be advised the tenure areas overlap with archaeological sites. You must take all reasonable precautions to avoid disturbing or damaging any archaeological material found on or under the Land and, upon discovering any archaeological material on or under the Land, you must immediately notify the ministry responsible for administering the *Heritage Conservation Act*.
- Please be advised we have granted Robert Smith a Specific Permission on File No. 3406919 for private moorage purposes within the area.
- Please be advised we have granted the City of Vernon a Right of Way on File No. 3409659 for sewer/effluent purposes within the area.