



Agenda No: 6.1  
Mtg. Date: October 26, 2015

## Regional Board Report

**TO:** Regional Board  
**FROM:** Ron Fralick  
Manager of Planning  
**DATE:** October 19, 2015  
**SUBJECT:** Front Counter BC Referral Application  
Our File: CL-15-09/Front Counter BC File: 3413447  
Ministry of Transportation and Infrastructure - Applicant

---

**Purpose:**

To consider a Front Counter BC referral application pertaining to the disposition of Crown land for the purpose of transferring the land as an addition to the Westbank Indian Reserve for an indefinite term.

**Executive Summary:**


The Crown lands proposed for disposition are associated with a negotiated land exchange between Westbank First Nation and the Ministry of Transportation and Infrastructure for lands required for a highway improvement project. Several issues and concerns have been identified, including RDCO Parks Services having ongoing interests in the area and the District of Peachland being opposed to the proposal.

**RECOMMENDATION:**

THAT Front Counter referral application for the purpose of withdrawing Crown land from disposition for the purpose of transferring the land as an addition to the Westbank Indian Reserve (indefinite term) under the *Land Act* in vicinity of Highway 97C, adjacent to Trepanier Road (CL-15-09) for Ministry of Transportation and Infrastructure be conditionally supported subject to:

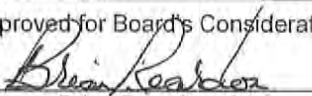
- The issues and concerns of the District of Peachland, Ministry of Forests, Lands and Natural Resource Operations (Resource Management) and Regional District's Parks and Planning staff (noted and appended to this report) being addressed or applied as conditions to the application for disposition of the subject Crown land parcels.
- Any issues or concerns submitted from the City of West Kelowna being addressed or applied as conditions to the application for disposition of the subject Crown land parcels.

Respectfully Submitted:

  
\_\_\_\_\_  
R. Fralick, MCIP, RPP  
Manager of Planning

  
\_\_\_\_\_  
C. Radford  
Director of Community Services

Prepared by: Janelle Taylor, Planner 1

Approved for Board's Consideration  
  
\_\_\_\_\_  
Brian Reardon, CAO

## Implications of Recommendation:

### Strategic Plan:

Vision 2020 – Planning for the Future: The Regional Board would like to describe the Central Okanagan as “a region that protects its heritage” and celebrates First Nations “as full and important partners”.

### Policy:

Regional Growth Strategy Bylaw No. 1336 - Policy No. 3.2.10.3 “Continue to build and enhance communications and relationships with local First Nations communities”.

Brent Road / Trepanier Official Community Plan Bylaw No. 1303, Vision Statement:

“Brent Road and Trepanier are rural areas which preserve their rural character by directing urban development into the appropriate serviced town centres of neighbouring municipalities. Recreational, park and trail opportunities are provided and will be expanded, while protecting the unique ecological areas and natural qualities.”

### Legal/Statutory Authority:

Jurisdiction for approving the application lies with the Province of BC. Voting on the referral application lies with all Directors.

## BACKGROUND:

### Project Description:

The proponents, Ministry of Transportation and Infrastructure, have made application under the *Land Act*. Section 16 of the Act allows for the temporary withdrawal of Crown land from disposition for any purpose the minister considers advisable in the public interest, including the use of a government body. The intent is that once this application is approved, under Section 35 of the *Indian Act* the land will be transferred as an addition to the Westbank First Nations Indian Reserve lands. The Crown lands proposed for disposition are associated with a negotiated land exchange between Westbank First Nation and the Ministry of Transportation and Infrastructure for lands required for a highway improvement project.

### Related Application:

On May 14, 2015, the Regional Board conditionally supported a Front Counter BC referral application located in the vicinity of Indian Reserves No. 11 and 12, south of Mission Creek, and east of the City of Kelowna (RDCO File: CL-15-04, Resolution #91/15). If approved, the transfer of the subject Crown land to the Westbank Indian Reserve would physically connect Indian Reserves No. 11 and 12.

### Site Context:

Plans and information provided by Front Counter BC indicate that the subject Crown land is located in the vicinity of Highway 97C, adjacent to Trepanier Road, and within the Brent Road / Trepanier Official Community Plan Bylaw No. 1303 (OCP). The six parcels are affected by the Aquatic Ecosystem, Hillside, and Wildfire Development Permit Areas provisions of the OCP.

### Additional Information:

<b>Applicant:</b>	Ministry of Transportation and Infrastructure
<b>Legal:</b>	Lots 9, 10, 11, 13, 14, and 15, District Lot 542, ODYD, Plan 742
<b>Area Size:</b>	37.46 hectares (92.56 acres)
<b>Zoning:</b>	RU1 Rural 1
<b>OCP Designation:</b>	Rural Resource
<b>Existing Use:</b>	Vacant / Access to lands beyond
<b>Surrounding Uses:</b>	
<b>North:</b>	Unconstructed Road Right of Way / Crown Land
<b>South:</b>	Trepanier Road / Rural Residential
<b>East:</b>	Rural Residential
<b>West:</b>	Crown Land

**A.L.R.:** Outside of the A.L.R.  
**Fire Protection:** Not within an established Fire Protection Area

**AGENCY REFERRALS/TECHNICAL COMMENTS:**

**RDCO Environmental Section** staff notes that their interests are unaffected.

**RDCO Parks Services** staff has the following comments:

- RDCO Parks Services has ongoing interests in the area for recreational trail connectivity between Trepanier Creek Greenway Regional Park, Coldham Regional Park and Trepanier Provincial Park.
- The Brent Road/Trepanier Official Community Plan, Bylaw No. 1303, 2012 supports the regional trail/greenway interests in the area. Connectivity between parks is shown on Map 7: Future Parks Connectivity in the bylaw.

**District of Peachland Council** passed a resolution recommending non-approval of the proposed disposition of Crown land for a number of reasons (copy attached).

Notwithstanding the District's recommendation of non-approval, the District of Peachland did request confirmation of the following prior to the land transfer proceeding:

- a) Confirmation that best land use and environmental management practices will be employed to protect the District's water supply system;
- b) Confirmation that Trepanier Road will remain under the ownership and maintenance of RDCO and/or the Province;
- c) Assurance that any heavy truck traffic generated by future activities at the subject site will utilize the Highway 97C routing unless delivering product to a Peachland address;
- d) Confirmation that the subject property will be included in the West Kelowna Fire Protection Contract for the Westbank First Nation; and
- e) That the subject property will not conflict with the proposed Hwy 97 Bypass in this area.

**District of Lake Country, City of Kelowna and Interior Health Authority** note that their interests are unaffected by the proposal.

**City of West Kelowna** is scheduled to discuss the proposal at their October 27, 2015, Council Meeting.

**Ministry of Transportation and Infrastructure** indicates that their interests are being dealt with through the disposition process with Crown lands.

**Ministry of Forests, Lands and Natural Resource Operations - Resource Management** has reviewed the referral application and provides comments for consideration (correspondence attached).

**RDCO Planning Section**

If approved, the reserve lands will no longer fall under provincial or local government jurisdiction. At this time, there is no information available as to what Westbank First Nation is proposing in regards to future land use on the subject parcels.

The proposed lands to be transferred are not in the vicinity of an Indian Reserve; therefore, the 92.56 acres will be surrounded by Crown land and freehold parcels under jurisdiction of the Province and RDCO. Planning staff is concerned that this inconsistency and uncertainty would result in confusing and conflicting land use requirements for the neighbourhood. For example, the RDCO and the Province's current abilities to control subdivision and land use would be removed, and Environmental Development Permit provisions of the OCP would not be applicable with respect to the transferred lands.

Planning staff fully concur with the concerns of the District of Peachland in that the District's water intake is in close proximity to the subject Crown lands. The "Peachland Creek and Trepanier Creek: Watershed Assessment Report for Drinking Water Source Protection" should be taken into account to ensure the continued protection of water quality for the District of Peachland as well as individual water users in the Trepanier area.

In addition, there is concern with respect to status of Trepanier Road; the road right-of-way for Trepanier Road should be protected and not be included with the proposed addition to the Westbank Indian Reserve. As well, access to resources (ie. range and forest, gravel, etc.) and private parcels may be impacted by the proposal and should be reviewed. Of note, Regional District staff is aware that the owners of Lot 11, Plan KAP33145 (PID: 003-239-233) access the northern portion of their parcel via the subject Crown land; this access should be protected or an alternate access secured for the owner of Lot 11, Plan KAP33145.

**Alternatives:**

THAT Front Counter referral application for the purpose of withdrawing Crown land from disposition for the purpose of transferring the land as an addition to the Westbank Indian Reserve (indefinite term) under the *Land Act* in vicinity of Highway 97C, adjacent to Trepanier Road (CL-15-09) for Ministry of Transportation and Infrastructure not be supported.

**External Implications:**

It is noted that no formal RDCO notification process is required for Crown land referrals.

**Attachment(s):**

Subject Area & Front Counter BC Maps

Brent Road / Trepanier OCP Map #7 Future Parks Connectivity

September 9, 2015, District of Peachland Correspondence

August 21, 2015, Ministry of Forests, lands and Natural Resource Operations Correspondence

**Considerations not applicable to this report:**

- Financial considerations
- Organizational Issues



# SUBJECT AREA

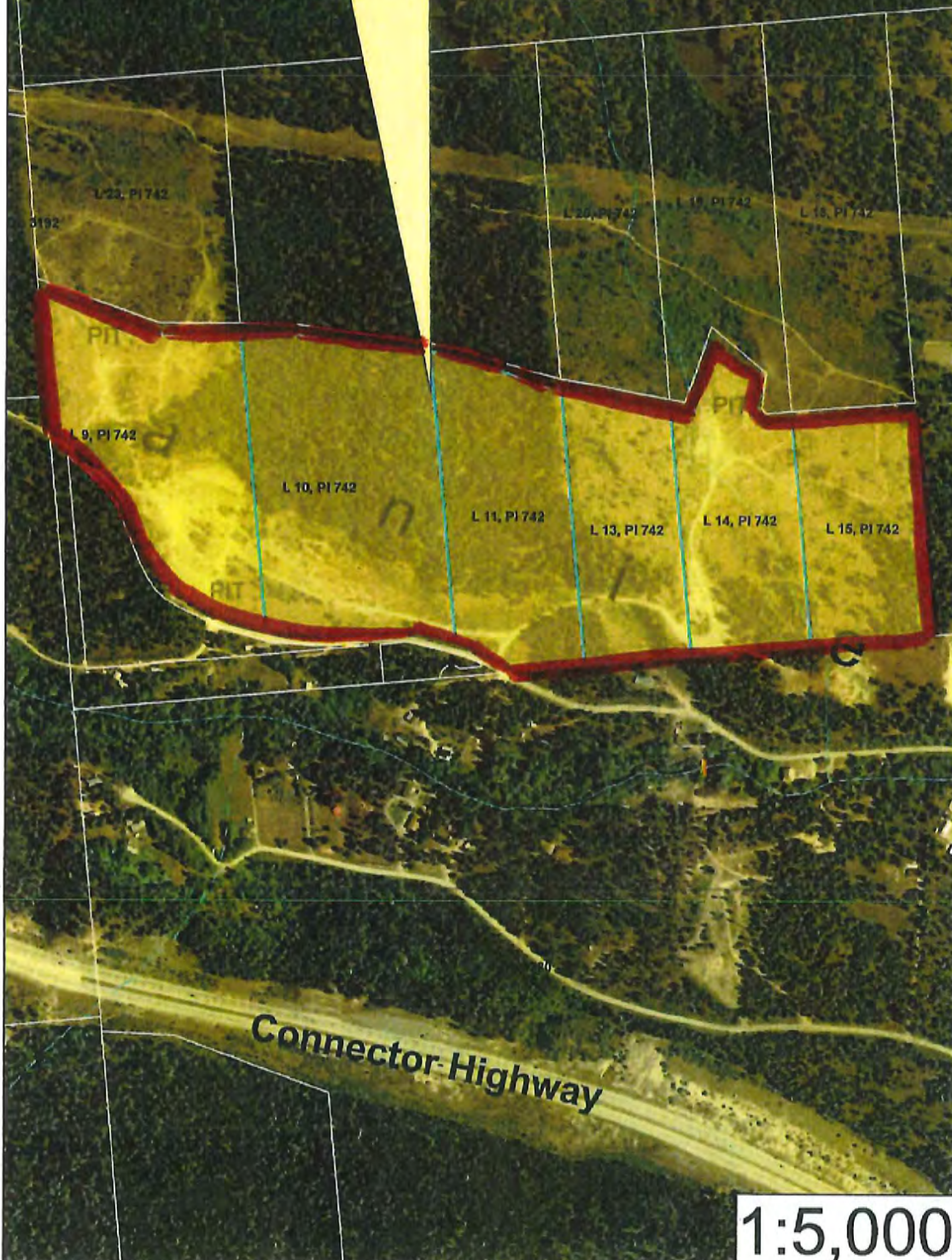




# Revised Jack Pit Property- (Highlighted in yellow)



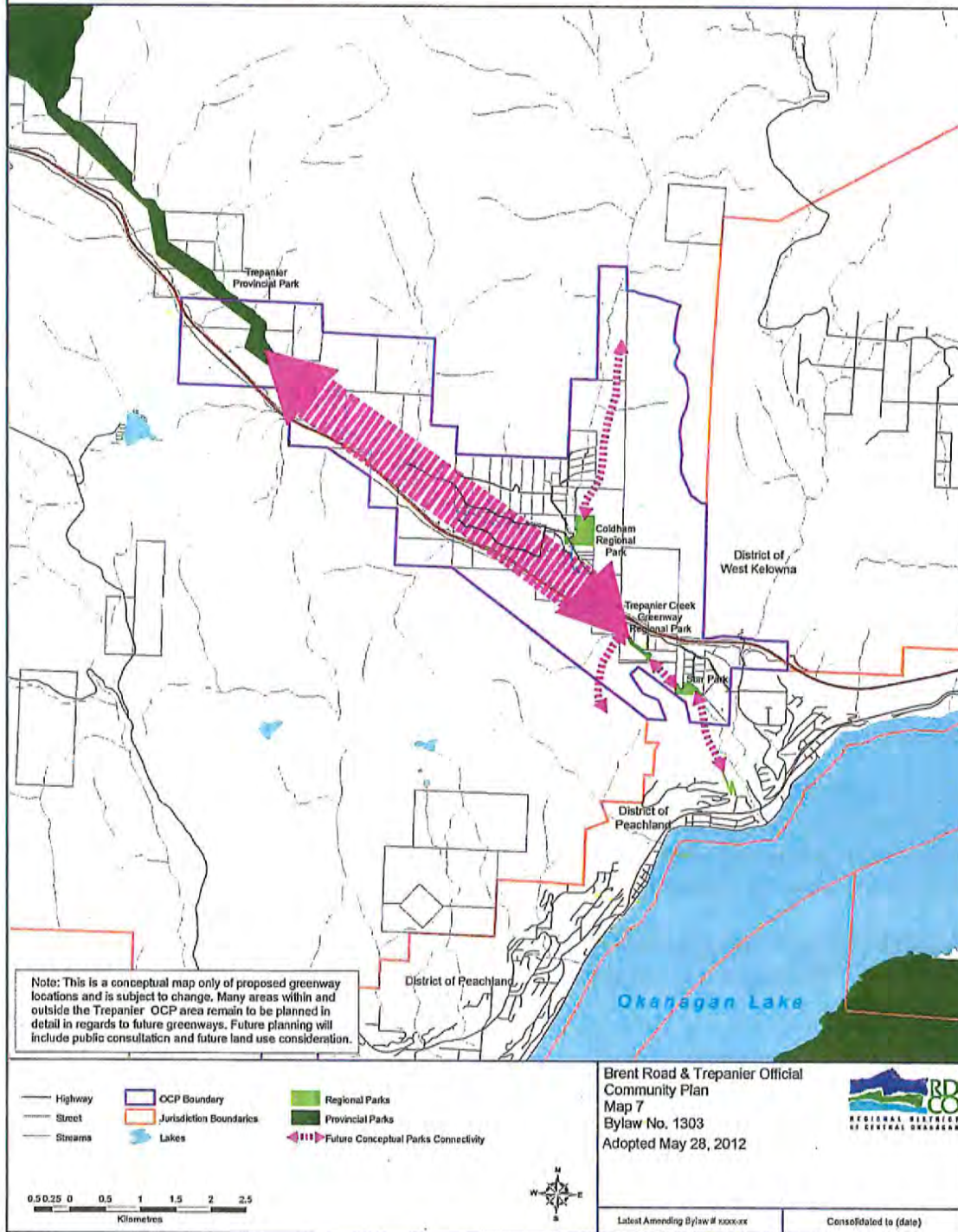
Area 92.56 acres



1:5,000



# Future Parks Connectivity



Map 7: Future Parks Connectivity



## *The Corporation of the District of Peachland*

5806 Beach Avenue  
Peachland, BC  
V0H 1X7

Phone: 250-767-2647  
Fax: 250-767-3433  
[www.peachland.ca](http://www.peachland.ca)

September 9, 2015

Regional District of Central Okanagan  
1450-K.L.O. Road  
Kelowna, B.C.  
V1W 3Z4

**Attention: Mr. Ron Fralick, Manager of Planning**

Dear Mr. Fralick:

Re: Electoral Planning Referral File CL-15-09, Disposition of Crown Land to Westbank First Nations (WFN)

Council at their Regular meeting on September 8<sup>th</sup>, 2015 passed the following resolution:

“THAT Council responds to RDCO referral CL-15-09 that the District of Peachland DOES NOT recommend approval of the proposed disposition of the 37.67 +/- ha parcel of Crown Land in the vicinity of Highway 97C, adjacent to Trepanier Road, commonly referred to as the Jack Pit Property (Central Okanagan West Electoral Area as an addition to Westbank Indian Reserve for the following reasons:

- a) The subject property is located within the District of Peachland's watershed in immediate proximity to the Trepanier Creek Water Intake. No information has been provided as to future land use regulation when the property is under the jurisdiction of the Westbank First Nation and what the impact may be on the District of Peachland's water supply system;
- b) Trepanier Road is the only access to the District's Trepanier Creek Intake (water system); the District of Peachland has a water main within the road right of way which requires protection;
- c) Trepanier Road through Peachland is not designed for large volumes of heavy traffic; transportation of any gravel produced from within this pit site should not expect to use the District of Peachland municipal roads as a bypass of Highway 97C and Highway 97 (heading south). Gravel trucks should only enter the District of Peachland municipally owned roads when they are delivering product to Peachland addresses; and
- d) No confirmation has been provided that the subject property will be included in the West Kelowna Fire Protection Contract for the Westbank First Nation.



**AND THAT** if approved the District of Peachland hereby requests confirmation of the following prior to the land transfer proceeding:

- a) Confirmation that best land use and environmental management practices will be employed to protect the District's water supply system;
- b) Confirmation that Trepanier Road will remain under the ownership and maintenance of RDCO and/or the Province;
- c) Assurance that any heavy truck traffic generated by future activities at the subject site will utilize the Highway 97C routing unless delivering product to a Peachland address;
- d) Confirmation that the subject property will be included in the West Kelowna Fire Protection Contract for the Westbank First Nation; and
- e) That the subject property will not conflict with the proposed future Hwy 97 Bypass in this area".

Please feel free to contact the undersigned should you have any questions or require any further information with respect to this matter.

Yours truly,



Heidi Simkins  
Planning Administrator



August 21, 2015

File: 58000-20/103941 and 58000-20/104049

Your Lands file: 3413447

RDCO File: CL-15-09

Ministry of Transportation and Infrastructure  
447 Columbia Street  
Kamloops BC V2C 2T3

Attention: Neil Farber, First Nations Coordinator

Re: Land Act Section 16 Map Reserve for Crown Land Transfer to Westbank First Nation of Revised Jack Pit Property located adjacent to Trepanier Road, Central Okanagan West Electoral Area, B.C.

The Ecosystems Section of the Ministry of Forests, Lands, and Natural Resource Operations (FLNR) has reviewed the above noted application and provides the following comments for consideration.

The subject property is located immediately south and adjacent to the Trepanier Creek Transfer of Administrative Control (TAC) conservation land managed by the Ecosystems Section of FLNR. Administrative control was transferred to FLNR in 1988 to (i) enhance critical deer winter range and (ii) to compensate for habitat loss due to construction of the Coquihalla Highway. Coniferous woodland, riparian forest, mature forest, grassland, and sparsely vegetated ecosystems are mapped to the TAC, all of which are identified as regionally sensitive ecosystems in the Okanagan Valley. The TAC is contiguous with large tracts of forested crown land to the north and west, and contributes to the overall habitat in the area. We recommend that these and any other environmental values of the area be considered if future development is proposed within the subject property, including appropriate buffers to ensure that critical deer winter range is protected.

It is the proponent's responsibility to ensure their activities are in compliance with all legislation, including the provincial *Water Act* and *Wildlife Act*.



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

Sincerely,

A handwritten signature in cursive script that reads "Josie Symonds".

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

JS/cl

cc: Regional District of Central Okanagan, Janelle Taylor, [Janelle.Taylor@cord.bc.ca](mailto:Janelle.Taylor@cord.bc.ca)  
(file CL-15-09)