

# WHISTLER

## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** December 1, 2020  
**FROM:** Resort Experience  
**SUBJECT:** RZ001157 – 5298 ALTA LAKE ROAD REZONING / OCP AMENDMENT FOR EMPLOYEE/ MARKET HOUSING

**REPORT:** 20-119  
**FILE:** RZ001157

### COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

**That** the recommendation of the General Manager of Resort Experience be endorsed.

### RECOMMENDATION

**That** Council consider giving first and second readings to “Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020”; and

**That** Council consider rescinding first and second readings to “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020”; and

**That** Council consider giving first and second readings to “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020”, as amended; and

**That** Council authorize staff to schedule a Public Hearing for “Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020” and “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020”, as amended;

**That** Council direct staff to advise the applicant that before consideration of adoption of “Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020” and “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020”, as amended, the following matters must be resolved to the satisfaction of the General Manager of Resort Experience:

1. Registration of a development covenant in favour of the Resort Municipality of Whistler (“RMOW”) to secure development on the lands consistent with the terms described in Administrative Report to Council No. 20-119, Administrative Report to Council No. 20-057 and Development Permit plans to be finalized prior to adoption;
2. Registration of a housing agreement in favour of the RMOW to regulate purchase rates and to define qualified employees;
3. Registration of a green building covenant consistent with *Council Policy G-23: Green Building Policy*;
4. Receipt of development plans for the proposed park;
5. Submission of a waste and recycling plan consistent with “Solid Waste Bylaw No. 2139, 2017”;
6. Modification of existing covenant BT215121 currently registered on title to reflect the revised development scheme;
7. Confirmation that a Riparian Areas Assessment report regarding Gebhart Creek has been submitted to and approved by the Provincial Authority;
8. Receipt of an updated Traffic Impact Study that considers traffic movement during peak traffic periods and implementation of any traffic mitigation measures recommended in that study; and further

**That** Council authorize the Mayor and Municipal Clerk to execute the necessary legal documents associated with this application.

## REFERENCES

Location: 5298 Alta Lake Road

Legal Description: Lot B (Reference Plan 2643) except part dedicated road on Plan BCP7865  
District Lot 2246

Owners: Empire Club Development Corp.  
Incorporation No. C1141513

Appendix “A” – Location Map

Appendix “B” - Application Materials for RZ001157

Appendix “C” – Response Letter from Lil’wat Nation

Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020 (Not Attached)

Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020, as amended (Not Attached)

Administrative Report to Council 20-087, dated September 15, 2020 (Not Attached)

Administrative Report to Council 20-057, dated June 23, 2020 (Not Attached)

Administrative Report to Council 20-019, dated February 18, 2020 (Not Attached)

Administrative Report to Council 19-118, dated September 17, 2019 (Not Attached)

## PURPOSE OF REPORT

The purpose of this Report is to present Bylaws for Council consideration related to the proposed mixed use residential housing and tourist accommodation development at 5298 Alta Lake Road.

Specifically, this Report presents “Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020” for Council consideration of first and second readings. The proposed Bylaw amends Schedule “A” (Land Use Map) of the OCP to include the market residential, parkland designation and protected natural area that have been negotiated through the rezoning process.

This Report also requests Council’s consideration to rescind first and second readings to “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020” and give new readings to “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020”, as amended to include a 20 metre building setback from Strata Plan BCS556 (Nita Lake Estates).

Lastly, this Report recommends that Council direct staff to schedule a Public Hearing for both proposed Bylaws and further identifies conditions for the applicant to address prior to consideration of adoption of the proposed Bylaws.

## DISCUSSION

### Background

This application was received in response to Council’s Private Sector Employee Housing Initiative and has evolved over time. Rezoning Application RZ001157 has previously been considered by Council in September 2019 (Administrative Report No. 19-118), February 2020 (Administrative Report No. 20-019), June 2020 (Administrative Report No. 20-057), and September 2020 (Administrative Report No. 20-087) (the previous Council reports).

As shown in Appendix “A” and described in the previous Council reports, the subject property is a historic Whistler parcel on the west side of Alta Lake which houses the historic “Toad Hall” cabin also referenced as the “Hillman House/ Cabin”. The lands are currently zoned TA17 (Tourist

Accommodation Seventeen), which provides for a mix of tourist accommodation and employee housing uses contained in a hotel and a series of cabins.

In response to Council's Private Sector Employee Housing Initiative, the RZ001157 proposal will:

- Delete the existing Hotel, Arts Facility and Indoor / Outdoor Recreation uses;
- Replace the existing Tourist Accommodation cabin use with eleven Tourist Accommodation townhomes and eleven Market Residential townhomes;
- Replace the existing Employee Housing cabin use with 21 Employee townhomes;

Benefits to the greater community can be summarized as follows:

- Construction of all 21 price restricted employee housing units;
- Land transferred to the municipality at no cost for:
  - park and protected natural area (1.44 Ha) of;
  - future employee housing (0.54 Ha);
- Construction of a paved illuminated trail and bridge spanning Gebhardt Creek all to RMOW Valley Trail standards;
- Design and development of the dedicated Park parcel including restoration of the existing cabin and barn and relocation of the cabin to this new Park.

This application has been a priority for staff, following Council direction for further review and processing of the application on September 19, 2019, given the municipality's need for additional employee housing.

#### **"Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020"**

On June 23, 2020 Council adopted "Official Community Plan Bylaw No. 2199, 2018" (new OCP) thereby replacing Whistler's former OCP. Under the former OCP, the proposal was considered consistent as it consisted of a mix of tourist accommodation and employee housing and would not have required an OCP amendment. The proposal was also considered to be consistent with the new OCP. However, through the negotiation process, and in response to neighbourhood input, 11 of the 22 proposed market tourist accommodation units were changed to market residential as this was considered to have a lower effect on the existing neighbourhood. It was later identified that the OCP Land Use Map Schedule "A" designates the lands as visitor accommodation and therefore requires amendment to reflect the addition of market residential and park dedication and elimination of auxiliary commercial use.

OCP Land Use Map Schedule "A" currently designates the lands as:

*"VISITOR ACCOMMODATION: These lands provide visitor accommodation outside of the Core Commercial areas and may include limited auxiliary commercial uses and employee housing."*

"Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020" proposes to amend Schedule "A" to change the land use designation of the subject property from "Visitor Accommodation" to the four land uses noted below:

- **Riparian area / nature conservation park – Dark Green: "Protected Natural Area"**  
*"PROTECTED NATURAL AREA: Lands that have high environmental sensitivity or importance and are protected by zoning, development permit area conditions, covenants, provincial regulations or other means. Supported land uses include nature conservation, passive open space uses, conservation buffers and low impact recreation with limited development including trails, interpretive signage and viewing platforms."*

- **Park parcel that will contain relocated cabin – Light Green: “Parks and Recreation”**  
*“PARKS & RECREATION: Lands designated for public enjoyment and active recreation as well as private recreational facilities such as golf courses. Parks and recreation areas generally support indoor and outdoor recreation, outdoor gathering and assembly use, sports fields, and may allow institutional uses and facilities. These lands may contain pedestrian or cycling trails, auxiliary buildings, playgrounds and other structures or recreational facilities, and may also provide water access for recreation use.”*
- **Market Parcel (includes TA and residential components along with the associated pool area – Orange: “Residential and Visitor Accommodation”**  
*“RESIDENTIAL AND VISITOR ACCOMMODATION: Lands permitting residential and visitor accommodation use in various dwelling types.”*
- **Employee Parcel plus Future Employee Housing Parcel – Yellow: “Residential Low to Medium”**  
*“RESIDENTIAL - LOW TO MEDIUM (DETACHED/MULTIPLE): Lands for detached and duplex dwellings characterized by low to medium density lot sizes, and lands for medium density multiple residential development, the latter of which is generally located close to commercial, recreational, institutional, transit and trail connections.”*

The proposed amendment will help to safeguard the lands from unanticipated changes, and is consistent with “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020”.

#### **“Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020”**

Recent review of “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020”, given first and second readings on June 23, 2020, has identified an oversight in that the 20 metre building setback requirement from Strata Plan BCS556 (Nita Lakes Estates) was not included in the language of the proposed Bylaw.

Consideration was given to including the 20 metre setback requirement by way of a “no build” zone in the anticipated development covenant, however staff have decided that the most prudent way forward is to request Council to consider rescinding first and second readings to the existing “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020” and give new readings to an amended version that includes clear language in this regard. Further staff have also added language to the proposed Bylaw to reference the current Valley Trail standards for clarity.

#### **OTHER POLICY CONSIDERATIONS**

Policy discussion related to Green Building, Private Sector Employee Housing Guidelines, revised Development Agreement, Housing Agreement and bed units are provided in the previous Council reports. New and updated policy discussion is provided below.

##### **Official Community Plan**

This Report presents “Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020” for Council consideration of first and second readings. The proposed Bylaw amends Schedule “A” (Land Use Map) of the OCP to include the market residential, parkland designation and protected natural area that have been negotiated through the rezoning process, as described in the Discussion section of this Report.

All other aspects of this proposal are considered to be consistent with Whistler’s new OCP.



## **Framework Agreement**

The RMOW is party to a Framework Agreement that outlines land use considerations associated with the Lil'wat Nation and Squamish Nation. Article 7.3 of this agreement states: "The RMOW will provide the First Nations with early and ongoing opportunities to express their interests in future RMOW OCPs through an engagement process consistent with the *Local Government Act* as it pertains to engagement on official community plans between indigenous peoples and other local governments in British Columbia."

Staff notified both Nations in writing with a description of the proposed OCP amendment and invited each to confirm in writing, within 30 days, that the amendment does not affect their interests. As described in the letter, if either of the First Nations do not agree with our assessment and advise us in writing within 30 days, we would initiate a consultation process for the amendment before proceeding with an amendment bylaw. Otherwise, we would proceed with consideration of the amendment in accordance with our usual bylaw amendment procedures.

The Lil'wat Nation Land Use Referral Committee provided a written response, which is attached as Appendix "C". The Lil'wat Nation's response states that they do not have any comments at this time, however, if any new information were to arise that indicates there may be impacts on Lil'wat aboriginal rights, title or interest, that they would expect to receive notice and to have an opportunity to provide input at that time.

To date no reply has been received from Squamish Nation.

## **Traffic Impact**

The applicant team has provided a Traffic Impact Study that has been reviewed by staff. The Traffic Impact Study concluded that no further improvements are required to the existing road network as a result of this application. Staff note that Nita Lake Drive access is a public municipal road built to municipal standards.

A revised Traffic Impact Study that considers traffic movement during peak traffic periods is pending. Receipt of an updated Traffic Impact Study that considered traffic movement during peak traffic periods and implementation of any traffic mitigation measures recommended in that study is included as a condition to be resolved prior to adoption of "Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020" and "Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020".

## **BUDGET CONSIDERATIONS**

All costs associated with staff time for the rezoning application, public meetings, notices, and legal fees will be paid by the applicant. Fees will be required to be paid in full as a condition of adoption of the proposed zoning amendment bylaw.

## **COMMUNITY ENGAGEMENT AND CONSULTATION**

A sign describing the details of rezoning application RZ001157 is posted on the property. RZ001157 is identified in the applications register posted on the municipal website.

In accordance with the Private Sector Employee Housing Guidelines, Council authorized a public information meeting to receive comments from the public. Two such information meetings ("Open Houses") were held on October 24, 2019 – one at the Whistler Conference Centre, and one at the Athlete's Centre in Cheakamus Crossing.

Per the Framework Agreement, staff sent referrals to both the Lil'wat Nation and the Squamish Nation as described in the Other Policy Considerations section of this Report.

Correspondence received from the public will become part of the rezoning application file for Council consideration.

“Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020” and “Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020” are subject to a Public Hearing adhering to statutory public notice requirements, prior to Council consideration of third reading.

## **SUMMARY**

This report presents “Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020” for Council consideration of first and second readings. The proposed Bylaw amends Schedule “A” (Land Use Map) of the OCP to include the market residential, parkland designation and protected natural area that have been negotiated through the rezoning process.

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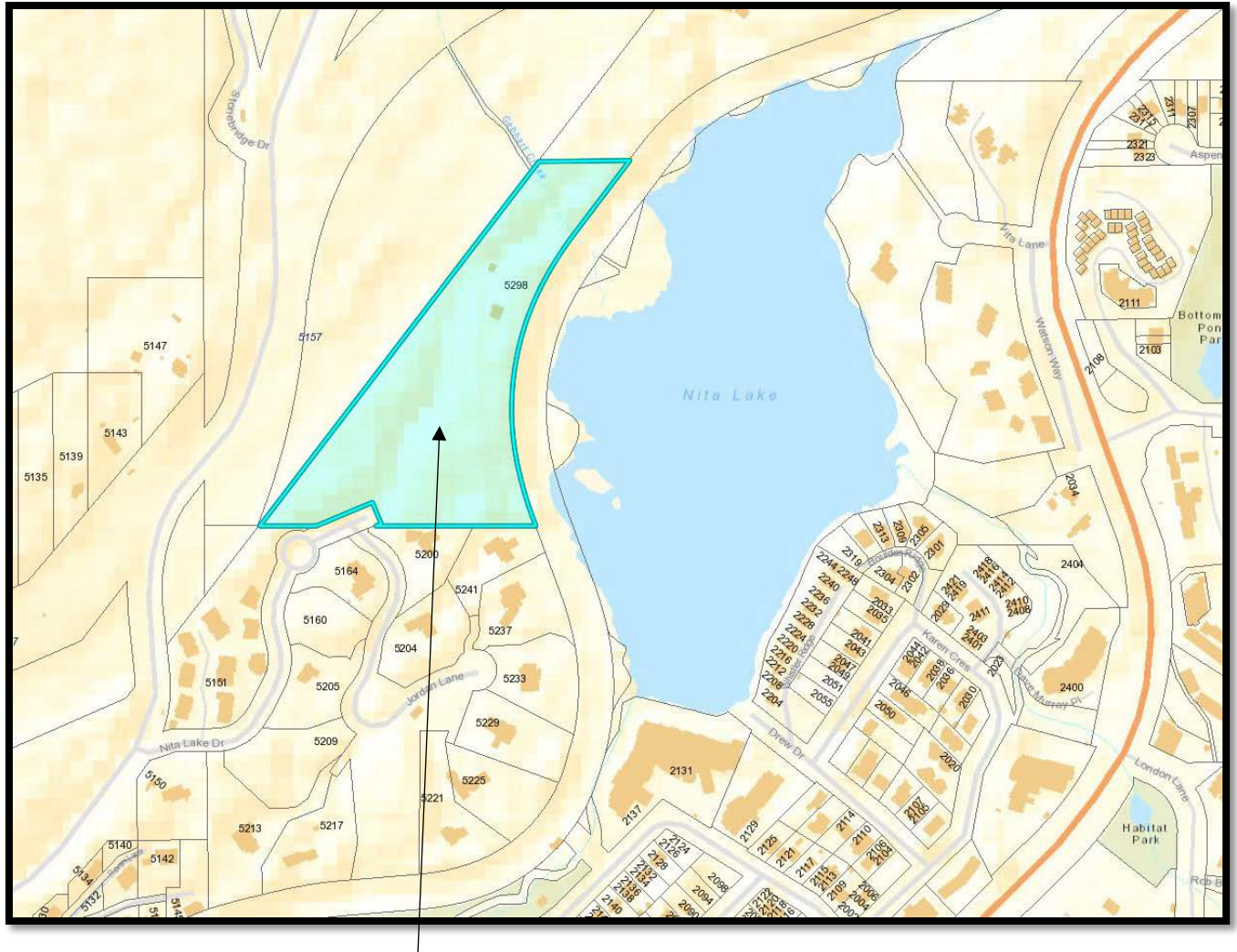
Respectfully submitted,

Roman Licko  
PLANNER

For  
Melissa Laidlaw  
PLANNING MANAGER

For  
Toni Metcalf  
INTERIM GENERAL MANAGER OF RESORT EXPERIENCE

**Appendix “A” – RZ1157 – Location Plan**



Subject Lands – 5298 Alta Lake Road

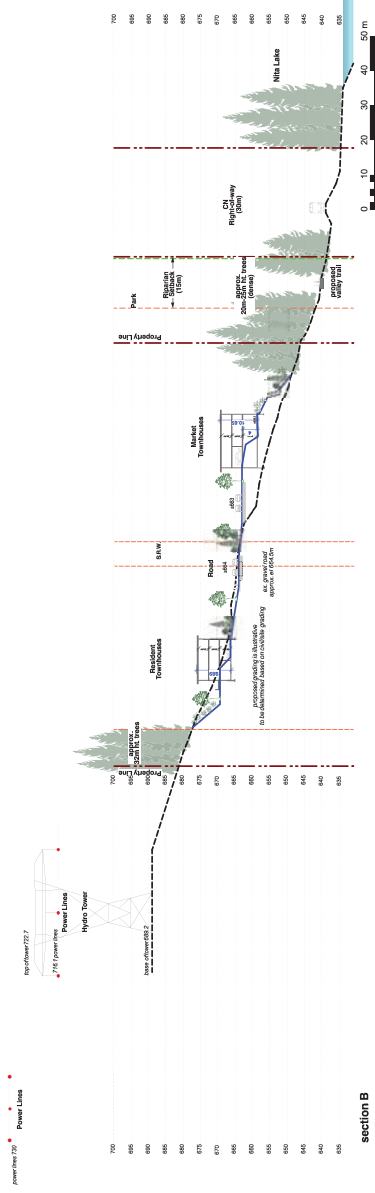
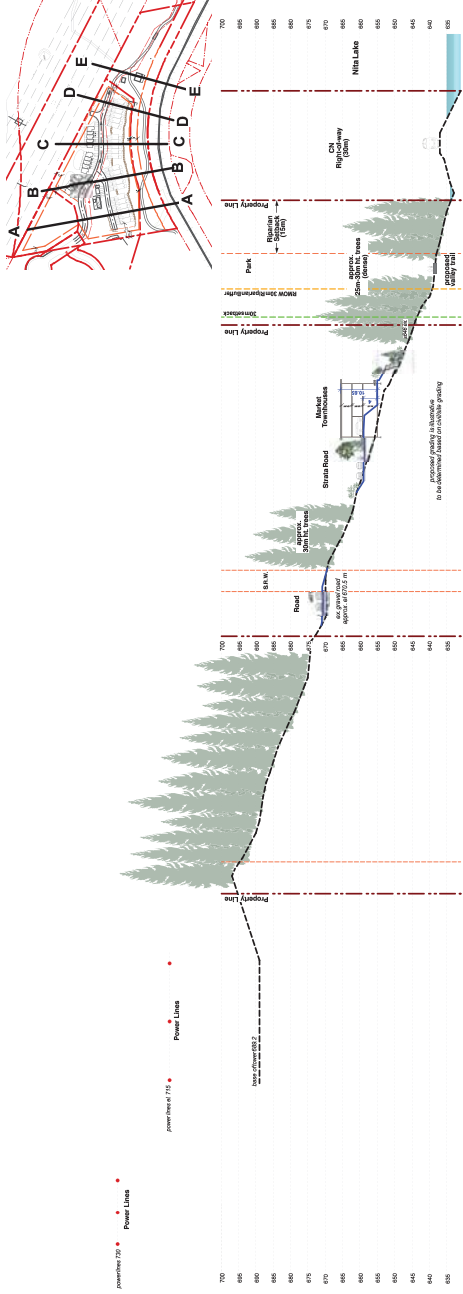


**The Hillman Site (RZ 1157)**  
5298 Alpha Lake Road, Whistler, BC

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Whistler, B.C. V0W 1B0  
T. 805-4922  
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Sealed By:

Drawn By:	Scale:
BM/JL	AS SHOWN
Project No:	Sheet No:
1404	A-1.1













The map shows the proposed development area, which is a large, irregularly shaped plot. The central portion is labeled 'MARKET' and is colored brown. To the left, a smaller, yellow-shaded area is labeled '6 Employee Cabins'. To the right, there are two green-shaded areas, both labeled 'PARK'. The map also includes a north arrow in the top left corner and a scale bar in the bottom left corner. The background of the map shows a topographic representation of the land with contour lines and some existing structures.

The diagram is a conceptual site plan for the West Hill Area (WHA). It features several color-coded zones: a purple zone labeled 'WHA - Land', a yellow zone labeled 'WHA Purchase Wishlist', a blue zone labeled 'Common Amenity', and an orange zone labeled 'MARKET'. A green area on the right is labeled 'DEDICATED PARK'. The plan is bounded by a red dashed line. A north arrow and a scale bar are located in the bottom left corner. The plan also shows various streets and landmarks, including 'WHA - Land', 'WHA Purchase Wishlist', 'Common Amenity', 'MARKET', and 'DEDICATED PARK'.



November 18, 2020

Resort Municipality of Whistler (RMOW)  
4325 Blackcomb Way  
Whistler, BC V8E 0X5  
Email: [RLicko@whistler.ca](mailto:RLicko@whistler.ca)

Attention: Roman Licko, Acting Senior Planner

**Re: Rezoning Application RZ1157 Consultation Referral for OCP Mapping  
Amendment**

**Our File: 09242020-001 RMOW Rezoning App RZ1157**

We are writing to you in response to your letter dated September 24, 2020 providing notification proposed OCP mapping amendment for Rezoning Application RZ1157 – 5298 Alta Lake Road and asking us to submit our comments.

The rezoning application RZ1157 at 5298 Alta Lake Road is located within the traditional territory of the Lil'wat Nation. These lands have been used and occupied by the Lil'wat since time immemorial. The Province of British Columbia has been notified of the existence of the Lil'wat Nation's traditional territory.

The Lil'wat Nation asserts unextinguished title to its traditional territory, sovereignty over its traditional territory, and a right to self-determination. The Lil'wat Nation's aboriginal rights, including title, are protected under s. 35 of the *Constitution Act, 1982*.

A series of recent court decisions have:

- upheld the existence of aboriginal title in British Columbia;
- declared that aboriginal title coexists with crown title;
- limited the instances in which aboriginal title can be infringed by British Columbia or a third party;
- established strict criteria for any such infringement;
- declared that aboriginal title includes the right to choose the use to which the land is put;
- placed a legal duty on the Province of British Columbia to undertake meaningful consultation with First Nations and accommodate potential infringement; and
- declared that accommodation may have economic and/or cultural components.

Furthermore, the Supreme Court of Canada confirmed in the *Tsilhqot'in* decision that aboriginal title is real and meaningful, territorial in nature, and that First Nation consent is required for the use of its aboriginal title lands and resources. The decision also specifically states that aboriginal title confers:

. . . the right to decide how the land will be used; the right of the enjoyment and occupancy of the land; the right to possess the land; the right to economic benefits of the land; and the right to pro-actively use and manage the land. (at para. 73)

As a consequence of these decisions, British Columbia is under a legal obligation to consult with the Lil'wat Nation, and, where appropriate, seek consent from Lil'wat Nation and accommodate the Lil'wat Nation for infringements on its aboriginal title and rights.

We have reviewed the information provided with this referral regarding notification of the proposed rezoning application RZ1157 at 5298 Alta Lake Road. We do not have any comments at this time regarding this decision. However, if any new information were to arise during the course of this activity that indicates there may be impacts on Lil'wat aboriginal rights, title or interests, we would expect to receive notice and to have an opportunity to provide comments at that time. Furthermore, nothing in this letter is intended to affect the scope of, or the opportunity to exercise, any of Lil'wat's aboriginal rights, nor is it intended to accept any infringement of same.

Sincerely,



Harriet VanWart, Director  
Land and Resources Department  
Lil'wat Nation

c.c. Peter Baker, Director, Rights and Title, Squamish Nation  
Email: [Peter\\_Baker@squamish.net](mailto:Peter_Baker@squamish.net)