

**TO:** Lorraine Hilton  
Chief Administrative Officer

**DATE:** June 26, 2023  
**FILE:** RZ-01-21

**FROM:** Laura Beckett  
Municipal Planner

To Council  
July 17, 2023

**RE:** APPLICATION RZ-01-21  
*499 Millstream Lake Road*

## PURPOSE

The purpose of this report is to provide Council with information regarding application RZ-01-21.

## BACKGROUND

Previous staff reports can be found at these links:

1. Report to April 19, 2022 Council: <https://www.highlands.ca/AgendaCenter/ViewFile/Item/7074?fileID=6716>
2. Report to June 20, 2022 Council: <https://www.highlands.ca/AgendaCenter/ViewFile/Item/7257?fileID=6798>
3. Report to September 6, 2022 Council:  
<https://www.highlands.ca/AgendaCenter/ViewFile/Item/7349?fileID=6837>

At its September 6, 2022 meeting Council passed the following two resolutions:

That staff be directed to draft bylaws to accomplish the residential density aspect of application RZ-01-21.

That staff be directed to provide options with respect to:

- a. Restricting building on forestry-only proposed lots, and
- b. Incorporating heritage considerations of application RZ-01-21

## OPTIONS

The following options are available for Council's consideration:

1. That Application RZ-01-21 [499 Millstream Lake Road] be referred back to the applicants for consideration of Council's discussion regarding the application at the July 17, 2023 Regular Council meeting.
2. That the application be denied.

## DISCUSSION

While researching how to accomplish Council's direction, more was understood about the implications for the District if application RZ-01-21 is approved as presented and implemented through municipal bylaws and possibly a restrictive covenant.

1. It had been understood that a local government, pursuant to section 21 of the *Private Managed Forest Lands Act* (the "Act"), must not adopt a bylaw or issue certain permits that would have the effect of restricting, directly or indirectly, a "forest management activity" on land classed as Managed Forest. What was not understood earlier in the process is that "one dwelling per registered parcel unless additional dwellings are permitted under applicable local bylaws" is a "forest management activity", as set out in the regulations under the Act. Consequently, the District cannot adopt a bylaw that prohibits residential use on land classed as Managed Forest.
2. Another aspect of the application that the District cannot approve is excluding the use of "forest management activities related to timber production and harvesting" on proposed lots 1 and 7.
3. Section 21 of the Act does not directly reference a prohibition on covenants. However, because any covenant restricting residential use and / or buildings would be granted in connection with the adoption of local government bylaws, it is conceivable that a court could see the connection and the covenant could

then be likewise unenforceable.

4. If land is zoned while not classed as Managed Forest, that zoning would continue to apply even if lands become classed as Managed Forest. The implications for this application mean that if the landowner removes the lands from Managed Forest and then bylaws are adopted, the prohibition on dwelling units on the 5 eco-forestry-only parcels would prevail over the list of “Forest Management Activities” in the *Private Managed Forest Land Regulation*. The opposite was previously understood.

## CONCLUSION

As the application advanced, staff came to understand that having the lands classed as Managed Forest creates challenges to accomplish it. As a result, Council may wish to refer the application back to the applicant to consider changes or deny the application.

## RECOMMENDATION

That Application RZ-01-21 [499 Millstream Lake Road] be referred back to the applicants for consideration of Council's discussion regarding the application at the July 17, 2023 Regular Council meeting.

Respectfully submitted

CAO Concurrence



Laura Beckett, MCIP, RPP



Lorraine Hilton, CAO