

PROPOSED

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW No. 184

A BYLAW TO AMEND NORTH PENDER ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 171, 2007

WHEREAS the North Pender Island Local Trust Committee is the Local Trust Committee having jurisdiction on and in respect of the North Pender Island Local Trust Area, pursuant to the Islands Trust Act;

AND WHEREAS Section 29 of the *Islands Trust Act* gives the North Pender Island Local Trust Committee the same power and authority of a Regional District under Part 26, except sections 932 to 937 and 939, of the *Local Government Act*;

AND WHEREAS the North Pender Island Local Trust Committee wishes to amend the North Pender Island Official Community Plan Bylaw No. 171, 2007;

AND WHEREAS the North Pender Island Local Trust Committee has held a Public Hearing;

NOW THEREFORE the North Pender Island Local Trust Committee enacts as follows:

CITATION

1. This Bylaw shall be cited as the "North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No. 2, 2010".

ORGANIZATION

2. North Pender Island Local Trust Committee Bylaw No. 171, 2007 is altered as shown on Schedules 1 and 2 of this amending bylaw.

SEVERABILITY

3. If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME this 10th day of November, 2010

READ A SECOND TIME this 27th day of January, 2011

PUBLIC HEARING HELD this day of , 2011

READ A THIRD TIME this day of , 2011

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST this
day of , 2011

APPROVED BY THE MINISTER OF COMMUNITY, SPORTS AND CULTURAL DEVELOPMENT this
day of 2011

ADOPTED this day of , 2011

SECRETARY

CHAIRPERSON

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 184
SCHEDULE 1

North Pender Island Official Community Plan No. 171, 2007 is amended as follows:

1. By amending Policy 5.1.3 of Schedule A (Policy Document) by deleting the words “use of zoning regulations” and replacing them with the words “designation of a development permit area.”
2. By amending Schedule A (Policy Document) by inserting the following as a new Subsection 5.2.11:

“5.2.11 DEVELOPMENT PERMIT AREA TEN - RIPARIAN AND AQUATIC
DEVELOPMENT PERMIT AREA

5.2.11.1 Authority

This development permit area is established, pursuant to Section 919.1(1)(a) of the *Local Government Act*, for the protection of the natural environment, its ecosystems and biological diversity. Terms used in this section that are defined in the Riparian Areas Regulation (RAR) are intended to be interpreted in accordance with the definition given in the Regulation, as it may be amended from time to time.

5.2.11.2 Development Approval Information

The Riparian and Aquatic DPA is designated as an area for which development approval information may be required as authorized by Section 920.01 of the *Local Government Act*. Development approval information in the form of a report from a qualified environmental professional (QEP) may be required due to the special conditions and objectives described herein.

5.2.11.3 Application Requirements

The applicant must, in addition to any other application requirements enacted or imposed by the Local Trust Committee, provide at their expense an assessment report from a Qualified Environmental Professional (QEP) which has been submitted to RAR Notification System.

5.2.11.4 General Applicability

The following activities shall require a development permit whenever they occur within the DPA, unless specifically exempted below:

- a) removal, alteration, disruption, or destruction of vegetation;
- b) disturbance of soils;
- c) construction or erection of buildings and structures;
- d) creation of non-structural impervious or semi-impervious surfaces;
- e) construction of flood protection works;
- f) construction of roads, trails, docks, floats, ramps and bridges;
- g) provision and maintenance of residential sewer and water services;
- h) development of residential drainage systems;
- i) development of residential utility corridors;

- j) subdivision as defined in section 872 of the *Local Government Act*.

A separate development permit, or additional development permit conditions in a single permit, may be required or imposed if the development is occurring in another development permit area designated in this plan.

5.2.11.5 Development Permit Exemptions

The following activities are exempt from any requirement for a development permit:

- a) the reconstruction, repair or maintenance of a pre-existing permanent structure on its existing foundation.
- b) forest management activities, as defined in the *Private Managed Forest Land Regulation*, on land classified as managed forest land under the *Private Managed Forest Land Act*;
- c) forest management activities on land that is the subject of a woodlot license or tree farm license under the *Forest and Range Practices Act*;
- d) farm operations as defined in the *Farm Practices Protection (Right to Farm) Act* and farm uses as defined in Section 2(2), (3), (4) and (5) of the *Agricultural Land Reserve Use, Subdivision, and Procedure Regulation*
- e) mining activities regulated by the *Mines Act*;
- f) for certainty, all uses that are not residential, commercial or industrial or accessory to such a use;
- g) for certainty, actions undertaken by the Crown or an agent of the Crown;
- h) the removal of trees that have been examined by an arborist and certified to pose an immediate threat to life or property;
- i) gardening and yard maintenance activities, not involving the cosmetic application of pesticides, within an existing landscaped area, including mowing, pruning, planting and minor soil disturbance that does not alter the general contours of the land;
- j) the construction of a fence if no native trees are removed and the disturbance of native vegetation is restricted to 0.5 metres on either side of the fence, or 1.5 metres on either side of the fence in agricultural areas;
- k) ecological restoration and enhancement projects undertaken or authorized by a public body;
- l) work that is authorized by Fisheries and Oceans Canada by permit under section 35 of the *Fisheries Act*;
- m) changes in or about a stream authorized under Section 9 of the *Water Act*;

5.2.11.6 Designation

This development permit area includes all land designated on Schedule P of this plan as being within the Riparian and Aquatic DPA. This DPA includes the riparian assessment areas related to the watercourses and water bodies identified on Schedule P, consisting of the stream and:

1. for a stream, a 30 metre strip on both sides of the stream measured from the high water mark;
2. for a ravine less than 60 metres wide, a strip on both sides of the stream measured from the high water mark to a point that is 30 metres beyond the top of the ravine bank; and

3. for a ravine 60 metres wide or greater, a strip on both sides of the stream measured from the high water mark to a point that is 10 metres beyond the top of the ravine bank; and
4. for all other water bodies, an area encompassing the water body and 30 metres around the water body measured from the natural boundary of the water body.

and Schedule P shall be so interpreted. Development Permit Area Ten is shown in a generalized representation on Schedule P. The designation and delineation of Development Permit Area Ten consists of a digital record compiled by means of air photograph interpretation. This digital record is stored and maintained in a Geographic Information System (GIS) at the offices of the Islands Trust. The actual location of the streams and water bodies may need to be determined on a site-specific basis by a qualified environmental professional or a surveyor.

5.2.11.7 Special Conditions and Objectives that Justify the Designation

It is the Object of the Islands Trust to “Preserve and protect the Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area, and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia.”

It is a policy of the Islands Trust Council that local trust committees shall in their official community plans and regulatory bylaws, address means to prevent further loss or degradation of freshwater bodies or water courses, wetlands or riparian zones and to protect aquatic wildlife.

Furthermore, the province of British Columbia’s *Fish Protection Act*, requires that local governments establish regulations to protect riparian areas. The reason for this designation is to protect riparian areas from development so that the areas can provide natural features, functions and conditions that support fish life processes.

5.2.11.8 Guidelines

Prior to undertaking any development activities within the Riparian and Aquatic DPA an owner of property shall apply to the LTC for a development permit, and the following guidelines apply:

- a) In general, all development in this DPA should be undertaken in a manner that minimizes impacts on the riparian area and on aquatic ecosystems, including from the application of pesticides and other chemicals for non-essential cosmetic purposes. Where a QEP has made recommendations for mitigation measures, enhancement or restoration in order to lessen impacts on the riparian area and aquatic ecosystems, the LTC may impose permit conditions, including a requirement for security in the form of an irrevocable letter of credit, to ensure the protection of riparian areas and aquatic ecosystems, consistent with the measures and recommendations described in the report.
- b) The development permit should not allow any development activities to take place within any Streamside Protection and Enhancement Area (SPEA) identified by the QEP, and the owner should be required to implement a plan for protecting the SPEA

over the long term through measures that may be implemented as conditions of the development permit.

- c) Where the QEP report describes an area as suitable for development with special mitigating measures, the development permit should only allow the development to occur in compliance with the measures described in the report. Monitoring and regular reporting by a QEP at the applicant's expense may be required during construction and development phases, as specified in a development permit.
 - d) The following guidelines are applicable to floats and associated structures within the development permit area:
 - i) floats should not be placed in areas identified as important to fish life processes where installation of a float would compromise the functioning of the feature;
 - ii) a ramp or float should not rest on the bed of the water body;
 - iii) the use of treated wood in the waterbody should be avoided;
 - iv) floatation material should be contained within a durable shell to prevent disintegration;
 - v) semi-transparent surfacing should be used on ramps and floats (e.g. grating or separated boards);
 - vi) any areas disturbed during installation should be restored;
 - vii) where a float is being replaced, all old materials should be removed.
 - e) If the nature of the proposed project in a riparian assessment area or the surface of a waterbody changes after the QEP report has been prepared such that it is reasonable to assume that the QEP's assessment of the impact of the development may be affected, the LTC may require the applicant to have the QEP update the assessment at the applicant's expense and DP conditions may be revised accordingly.
 - f) The LTC may consider variances to subdivision or siting or size regulations where the variance may result in enhanced protection of the SPEA or aquatic ecosystem in compliance with recommendations of a QEP report.”
3. By inserting Schedule 2, attached to and forming part of this amending bylaw, as a new Schedule P (Development Permit Area Ten (Riparian and Aquatic Development Permit Area)).

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 184
SCHEDULE 2



