

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW No. 189

**A BYLAW TO AMEND NORTH PENDER ASSOCIATED ISLANDS OFFICIAL COMMUNITY
PLAN BYLAW NO. 147, 2002**

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 Associated Islands Official Community Plan Bylaw No. 147, 2002;

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

NOW THEREFORE the North Pender Island Local Trust Committee enacts in open meeting assembled as follows:

CITATION

This Bylaw may be cited for all purposes as “North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002, Amendment No. 1, 2011.”

SCHEDULES

1. North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002 is altered as shown on Schedule 1 attached to and forming part of this amending bylaw.
2. North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002 is altered as shown on Schedule 2 attached to and forming part of this amending bylaw.
3. North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002 is altered as shown on Schedule 3 attached to and forming part of this amending bylaw.
4. North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002 is altered as shown on Schedule 4 attached to and forming part of this amending bylaw.
5. North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002 Schedule D – Land Use Policy Map, is altered as shown on Schedule 5 attached to and forming part of this amending bylaw.
6. North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002 Schedule D – Land Use Policy Map, is altered as shown on Schedule 6 attached to and forming part of this amending bylaw.
7. North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002 Schedule D – Land Use Policy Map, is altered as shown on Schedule 7 attached to and forming part of this amending bylaw.

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 189
SCHEDULE 1

Part 6 (Temporary Commercial and Industrial Use Permit Guidelines) of Schedule B (Goals, Objectives and Policies) of North Pender Associated Islands Official Community Plan No. 147, 2002 is amended as follows:

1. Section 604 is deleted and replaced with:

“604 Temporary Use Permit Guidelines

An Official Community Plan may designate areas where a temporary use may be allowed. A temporary use permit may, notwithstanding a zoning bylaw, allow a use, permit the construction or use of buildings or structures to accommodate persons who work at the use for which the permit is issued, and specify conditions under which a temporary use may be carried on. A permit may be issued for a period of up to three years and may be renewed only once.

Pursuant to section 920.01 of the *Local Government Act* (Designation of development approval information areas), the plan designates any area of this plan subject to application for a Temporary Use Permit as a circumstance for which development approval information may be required under that section. Development approval information means information on the anticipated impact of the proposed activity of development on the community.

The issuance of a temporary use permit should be conditional on compliance with the following guidelines:

- Guideline 1 Temporary Use Permits may be issued for any area covered by this plan, except for areas designated Resource Conservation or lands within the Agricultural Land Reserve.
- Guideline 2 Temporary Use Permits should only be issued for activities that are of short and fixed duration.
- Guideline 3 An application for a Temporary Use Permit may only be considered if the proposal can be demonstrated to have minimal negative impact on the environment of the Associated Islands Area.”

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 189
SCHEDULE 2

Part 7 (Development Permit Areas) of Schedule B (Goals, Objectives and Policies) of North Pender Associated Islands Official Community Plan No. 147, 2002 is amended as follows:

1. Part 7 is amended by inserting the following as a second paragraph in that part: “Pursuant to section 920.01 of the *Local Government Act* (Designation of development approval information areas), the plan designates all development permit areas as areas for which, in specified circumstances, development approval information may be required under that section. Development approval information means information on the anticipated impact of the proposed activity of development on the community.”
2. Subsection 701(1) is amended by deleting “This development permit area includes all non-crown land within 15 metres upland of the natural boundary of the sea.” and inserting “This development permit area includes all non-crown land within 15 metres upland of the natural boundary of the sea on all North Pender Associated Islands except for Sidney Island.”
3. A new Subsection 701(3) is inserted as follows:

“(3) Application Requirements

All applications shall be consistent with all requirements established in the fees bylaw, development procedures bylaw and development approval information bylaw adopted by the North Pender Island Local Trust Committee.”

4. Subsection 701 (3) ‘Justification’ is renumbered to 701 (4).
5. Subsection 701 (4) ‘Objectives’ is renumbered to 701 (5).
6. Subsection 701 (5) ‘Guidelines’ is renumbered to 701 (6) and “Work not requiring a permit is detailed in subsection (6) below.” is deleted and replaced with “Work not requiring a permit is detailed in subsection (7) below.”
7. Subsection 701 (6) ‘Work Not Requiring a Permit’ is renumbered to 701(7)

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 189
SCHEDULE 3

Part 7 (Development Permit Areas) of Schedule B (Goals, Objectives and Policies) of North Pender Associated Islands Official Community Plan No. 147, 2002 is amended as follows:

1. The following is inserted as a new Section 702:

“702 Sidney Island Hazard Lands

(1) Designation

This development permit area (DPA) is shown in a generalized area on Schedule E. The definitive designation and delineation of the development permit area consists of a digital record based on the survey plans associated with registered covenant ES065752, stored and maintained in a Geographical Information System (GIS) at the offices of the Islands Trust.

(2) Authority

The development permit area is established pursuant to Section 919.1(1)(b) of the *Local Government Act*, specifically for the protection of development from hazardous conditions.

(3) Application Requirements

All applications shall be consistent with all requirements established in the fees bylaw, development procedures bylaw and development approval information bylaw adopted by the North Pender Island Local Trust Committee.

(4) Justification

It is the Object of the Islands Trust to “preserve and protect the Trust Area and its unique amenities and environment of the Trust Area 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 policy of the Islands Trust Council that local trust committees and island municipalities shall, in their official community plans and regulatory bylaws address:

- the planning for and regulation of development in coastal regions to protect natural coastal processes, and
- the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.

Furthermore, Section 877(1)(d) of the provincial *Local Government Act* requires that an Official Community Plan include restrictions on the use of land that is subject to hazardous conditions or is environmentally sensitive to development.

The development permit area coincides with the recommended building setbacks in the geotechnical investigation report prepared at the time of subdivision for Sidney Island “*Report of Geotechnical Investigation For Sidney Island Residential Subdivision*”

by Bruce McLeod of Levelton Engineering. The report identifies that the soil/sandbanks forming the westerly and north-easterly shorelines, which are not protected by bedrock, as being steeper than the long term stable slope angle due to on-going toe erosion. The on-going toe erosion and slope flattening processes are resulting in a landward regression of the crest of the slope. The report summarizes that building sites should be located beyond the recommended setbacks, and that disturbance to the shoreline banks by storm water drainage, land alterations, vegetation disturbance, or other means should be avoided. The building setback established in the geotechnical report is based on a 75 year design period with no stabilization techniques.

When required, bank stabilization measures should apply the 'softest' possible measure and be limited in number and extent to the minimum necessary. Protection measures are often referred to as 'soft' to 'hard', where 'soft' measures utilize less rigid materials such as vegetation, while 'hard' measure refer to those with solid, hard surfaces such as concrete walls. In general, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. There is a range of measures that include:

- Vegetation enhancement
- Upland drainage control
- Biotechnical measures
- Beach enhancement
- Anchor trees
- Gravel placement
- Rock (rip rap) revetments
- Gabions
- Concrete or rock groins
- Retaining walls or bulkheads (concrete, lock blocks, etc.)
- Seawalls



This development permit area is important to protect the shoreline banks, which are sensitive features vulnerable to erosion, from development activities that may exacerbate the hazardous condition, and to protect any land improvements or development from hazardous conditions that may result from the erosional processes.

(5) Objectives

The objectives of this development permit area are as follows:

- Objective 1 To protect the shoreline banks from development activities which exacerbate the natural erosion process;
- Objective 2 To limit development in hazardous areas susceptible to erosion; and
- Objective 3 To preserve the integrity of coastal processes and reduce cumulative impacts to the coastal shoreline.

(6) Applicability

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

- a) Subdivision of land.
- b) Construction of, addition to or alteration of a building or other structure.
- c) Alteration of land.

Information Note: Any proposed building or structure within 15m of the natural boundary of the sea will also require a variance to the required setbacks prior to issuance of a development permit. For this purposes, structures includes septic disposal systems, concrete or asphalt paving or similar surfacing, and retaining structures.

(7) Development Permit Exemptions

The following activities are exempt from any requirement for a development permit. Despite these exemption provisions, owners must satisfy themselves that they meet any other applicable local, provincial or federal requirements.

- a) For certainty, development or alteration of land occurring outside of the development permit area.
- b) The placement of impermanent structures such as, benches, tables and garden ornaments.
- c) Forest management activities on land classified as managed forest land under the *Private Managed Forest Land Act*.
- d) Works undertaken by an agent of the Crown.
- e) The maintenance of existing gardens or landscaped areas provided the general contours of the land are not altered.
- f) The removal of trees that have been examined by an arborist and certified to pose an immediate threat to life or property, provided that stumps and root systems are not removed and the large woody debris remains on site.
- g) Habitat enhancement work including the planting of native trees or vegetation.
- h) Selective limb removal or trimming of trees or vegetation, not including the topping of trees.
- i) The repair and maintenance of existing roads, driveways, paths or trails, provided there is no expansion of the width or length and no additional impervious surfacing, including paving, asphaltting or similar surfacing.

(8) Guidelines

The intent of this development permit area is to ensure that development in the form of new buildings or structures, and land alterations, including vegetation and tree removal, meet the objectives described above. Work not requiring a permit is detailed in subsection (7) Development Permit Exemptions. In considering the issuance of a development permit, the following guidelines should be met where applicable

- Guideline 1 A development permit should not allow any land alteration or other development activities to take place within any area identified by a geological hazard assessment as subject to a landslide or other geotechnical hazard with a probability in excess of 2% in 50 years.

- Guideline 2 All applications should include a geological hazard assessment from a qualified professional licensed in the Province of BC with experience in geotechnical engineering stating that the proposed development will not result in slope instability or other geological failure hazard with a probability in excess of 2% in 50 years. Where the geological hazard assessment report describes an area suitable for development provided that specific measures are taken, the development permit should only allow the development to occur in compliance with the measures described in the report.
- Guideline 3 Any area proposed to be cleared and disturbed for development should be minimized and landowners are encouraged to retain existing trees and vegetation in areas that may be reasonably considered subject to erosion as determined by a qualified professional. Where a permit authorizes the cutting of trees, re-planting and maintenance of disturbed areas should be considered for inclusion as a condition of the permit. The introduction of non-native species should be avoided and the permit may require a landscaping plan and a security, in the form of an irrevocable letter of credit, for 125% the cost of re-planting as determined by a professional landscaper.
- Guideline 4 All on-site drainage should be directed away from the shoreline or crest of slope.
- Guideline 5 Any land alteration or development involving the disturbance of the soil must be conducted in such a manner as to limit direct run-off into the sea and prevent the release of sediment towards the shore.
- Guideline 6 When structures for bank stabilization measures are proposed, it should be demonstrated that the 'softest' possible measures have been applied but increasingly 'harder' measures are required.
- Guideline 7 Any proposed bank stabilization should be limited to that minimally necessary to prevent damage to existing structures, uses or features. Applications involving stabilization features should include a report, prepared by a qualified professional licensed in the Province of BC with experience in geotechnical engineering, which describes the proposed stabilization measures including:
- a) The need for the proposed bank stabilization to protect existing structures, uses or features, including alternative measures available that would be feasible or sufficient.
 - b) An evaluation of on-site drainage and confirmation that the erosion is not caused or exacerbated by upland conditions such as drainage control or loss of vegetation.
 - c) How the stabilization measure would protect existing or proposed structures, and the locations on the property where structures could be built and not require bank stabilization.
 - d) If any natural hazards, erosion, or interruption of geohydraulic processes may arise from the proposed stabilization, including at sites on other properties or foreshore locations.
 - e) Potential impacts to the natural shoreline processes resulting from the proposed stabilization.

- f) Whether there will be any degradation of water quality or loss of fish or wildlife habitat because of the stabilization.
- g) Recommendations for conditions that should be incorporated into the development permit in order to achieve the objectives of this Development Permit Area.

Guideline 8 The Local Trust Committee may consider variances to siting or size regulations where the variance could result in enhanced protection of the eroding sandbanks.

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 189
SCHEDULE 4

Part 7 (Development Permit Areas) of Schedule B (Goals, Objectives and Policies) of North Pender Associated Islands Official Community Plan No. 147, 2002 is amended as follows:

1. The following is inserted as a new Section 703:

“703 Sidney Island Shoreline

(1) Designation

This development permit are (DPA) includes all non-crown land on Plan VIS5122 (Sidney Island) within 15 metres upland of the natural boundary of the sea. Buildings or structures and land alteration within 15 metres of the natural boundary of the sea, as determined by a professional surveyor, must be approved by development permit, with the exception of that work specifically exempted in subsection (7) of this section.

(2) Authority

The development permit area is established pursuant to Section 919.1(1)(a) of the *Local Government Act*, specifically for the protection of the natural environment, its ecosystems and biological diversity.

(3) Application Requirements

All applications shall be consistent with all requirements established in the fees bylaw, development procedures bylaw and development approval information bylaw adopted by the North Pender Island Local Trust Committee.

(4) Justification

It is the Object of the Islands Trust to “preserve and protect the Trust Area and its unique amenities and environment of the Trust Area 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 policy of the Islands Trust Council that local trust committees and island municipalities shall, in their official community plans and regulatory bylaws address:

- the identification and protection of environmentally sensitive areas and significant natural sites, features and landforms in their planning areas,
- the protection of sensitive coastal areas, and
- the planning for and regulation of development in coastal regions to protect natural coastal processes.

Furthermore, Section 877(1)(d) of the provincial *Local Government Act* requires that an Official Community Plan include restrictions on the use of land that is subject to hazardous conditions or is environmentally sensitive to development.

This development permit area covers all land 15 metres upland from the natural boundary of the sea on Sidney Island (Plan VIS5122) to capture the coastal ecosystem, and the natural form and function of the shoreline processes.

Generally, the southern portion of Sidney Island is comprised of bedrock or sandstone with relatively shallow overburden. This area is more resistant to erosion and is exposed to the prevailing winds and currents. The northern portion of the island is comprised of finer sedimentary materials with overlying deposits of glacial till creating the sand bank shorelines that are highly vulnerable to erosion. On-going erosion of the sandbanks provides the source materials that get transported northward by longshore drift, and eventually they are deposited as sandy sediments creating Sidney Spit on the north end of the island.

Shorelines are complex, dynamic features responding to external forces such as wind, waves, tides, and increasingly, impacts of climate change. The physical nature of the shoreline with variations in slopes, substrates, exposure, salinity and tide elevations influence the biological communities that can exist there and creates different types of shore types. Each shore type has a different ability to accommodate disturbance with some being stable and robust while others are fragile and highly sensitive.

This development permit area is important for protection the coastal shoreline, a significant natural feature of Sidney Island that has remained relatively free of development.

(5) Objectives

The objectives of this development permit area are as follows:

- Objective 1 To preserve and protect the physical form and ecological function of the coastal ecosystems from the impacts of development;
- Objective 2 To minimise adverse impacts of land development practices on aquatic habitats; and
- Objective 3 To recognize and maintain the values of the natural shoreline of Sidney Island.

(6) Applicability

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

- a) Subdivision of land.
- b) Construction of, addition to or alteration of a building or other structure.
- c) Alteration of land.

Information Note: Any proposed building or structure within 15m of the natural boundary of the sea will also require a variance to the required setbacks prior to issuance of a development permit. For this purposes, structures includes septic disposal systems, concrete or asphalt paving or similar surfacing, and retaining structures.

(7) Development Permit Exemptions

The following activities are exempt from any requirement for a development permit. Despite these exemption provisions, owners must satisfy themselves that they meet any other applicable local, provincial or federal requirements.

- a) For certainty, development or alteration of land occurring outside of the development permit area.
- b) The placement of impermanent structures such as, benches, tables and garden ornaments.
- c) Forest management activities on land classified as managed forest land under the *Private Managed Forest Land Act*.
- d) Works undertaken by an agent of the Crown.
- e) The maintenance of existing gardens or landscaped areas provided the general contours of the land are not altered.
- f) The removal of dangerous tree posing an immediate threat to life or property provided that stumps and root systems are not removed and the large woody debris remains on site.
- g) Habitat enhancement work including the planting of native trees or vegetation.
- h) Selective limb removal or trimming of trees or vegetation, not including topping of trees.
- i) The repair, maintenance, alteration or reconstruction of existing legal or legal non-conforming buildings, structures or utilities provided there is no alteration of undisturbed land or vegetation
- j) The repair and maintenance of existing roads, driveways, paths or trails, provided there is no expansion of the width or length and no additional impervious surfacing, including paving, asphaltting or similar surfacing.
- k) The installation of one trail per lot for pedestrian access only to the shoreline provided the trail does not exceed 1m in width and the trail surface remains permeable.
- l) Construction of a fence provided no trees are removed and the disturbance to native vegetation is limited to 0.5 metres on either side of the fence.

(8) Guidelines

The intent of this development permit area is to ensure that development in the form of new buildings or structures, and land alterations, including vegetation and tree removal, meet the objectives described above. Work not requiring a permit is detailed in subsection (7) Development Permit Exemptions. In considering the issuance of a development permit, the following guidelines should be met where applicable.

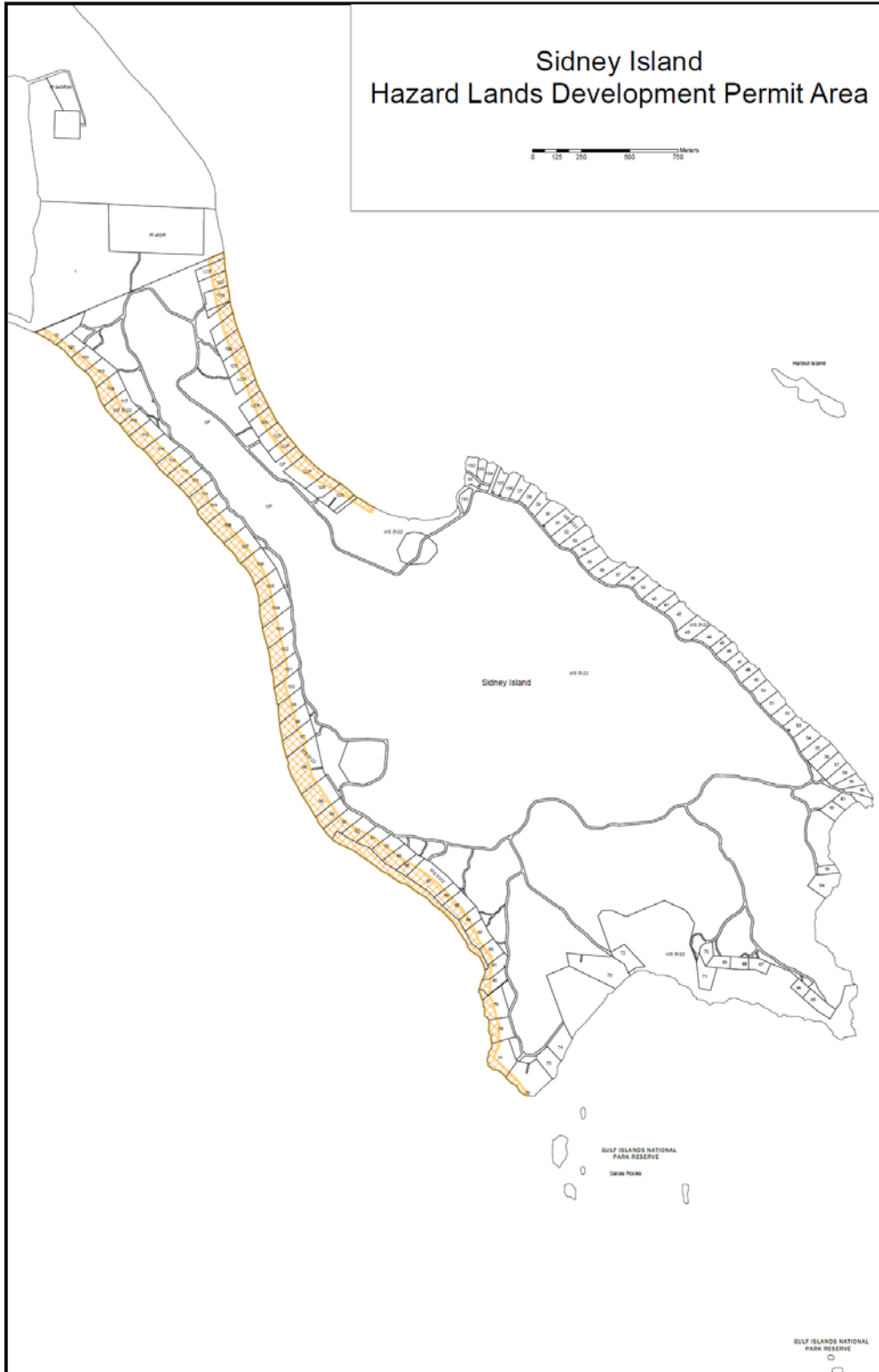
- Guideline 1 Land alteration or other development of the shoreline area should be limited and minimize the negative impacts on ecological function.
- Guideline 2 Land alteration or other development should not detract from the shoreline qualities that are derived from natural features, such as shore types, natural vegetation, scenic vistas, and a wilderness-like shore.
- Guideline 3 Any area proposed to be cleared and disturbed should be minimized

and landowners are encouraged to retain existing trees and vegetation.

- Guideline 4 New developments involving structures should be sited sufficiently inland from the crest of slope to ensure that stabilization measures will not become necessary during the life of the structure and the development would not be impacted from hazardous conditions.
- Guideline 5 Land alteration or other development should not occur in areas containing sensitive ecosystems or be sited or designed in any manner that may impact sensitive ecosystems in the vicinity. A report from a qualified professional should confirm that the area proposed for development does not contain a sensitive ecosystem. If a sensitive ecosystem is in the vicinity of the area proposed for development, the report should include recommendations for protecting these areas that can be included as conditions of the permit.
- Guideline 6 Any proposed structures required to access the shoreline should be located on common property or provide shared access by legal agreement as part of a comprehensive, community trail network.
- Guideline 7 Land alteration or other development involving the disturbance of the soil must be conducted in such a manner as to limit direct run-off into the sea and prevent the release of sediment towards the shore.
- Guideline 8 The Local Trust Committee may consider variances to siting or size regulations where the variance could result in enhanced protection of the shoreline

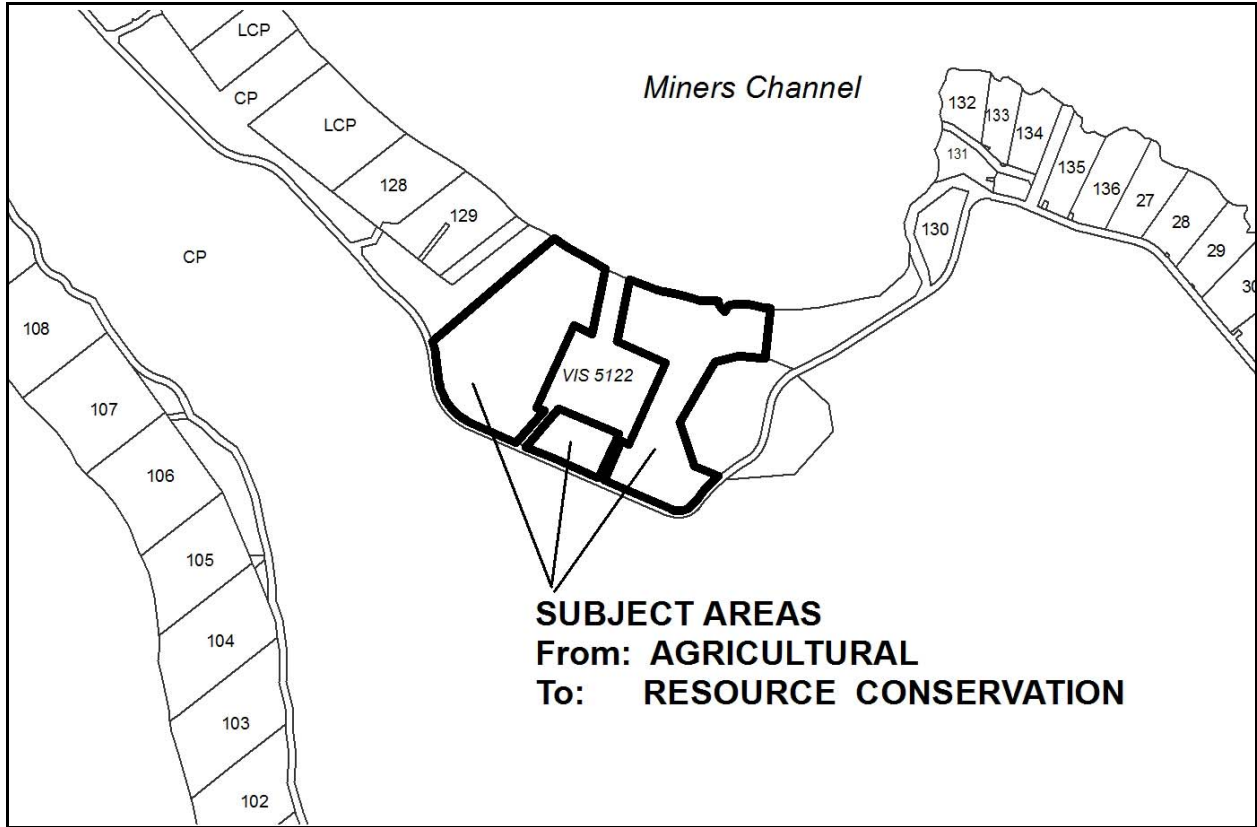
**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 189
SCHEDULE 5**

North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002 is amended by inserting as "Schedule E – Sidney Island Hazard Lands Development Permit Area" the following:



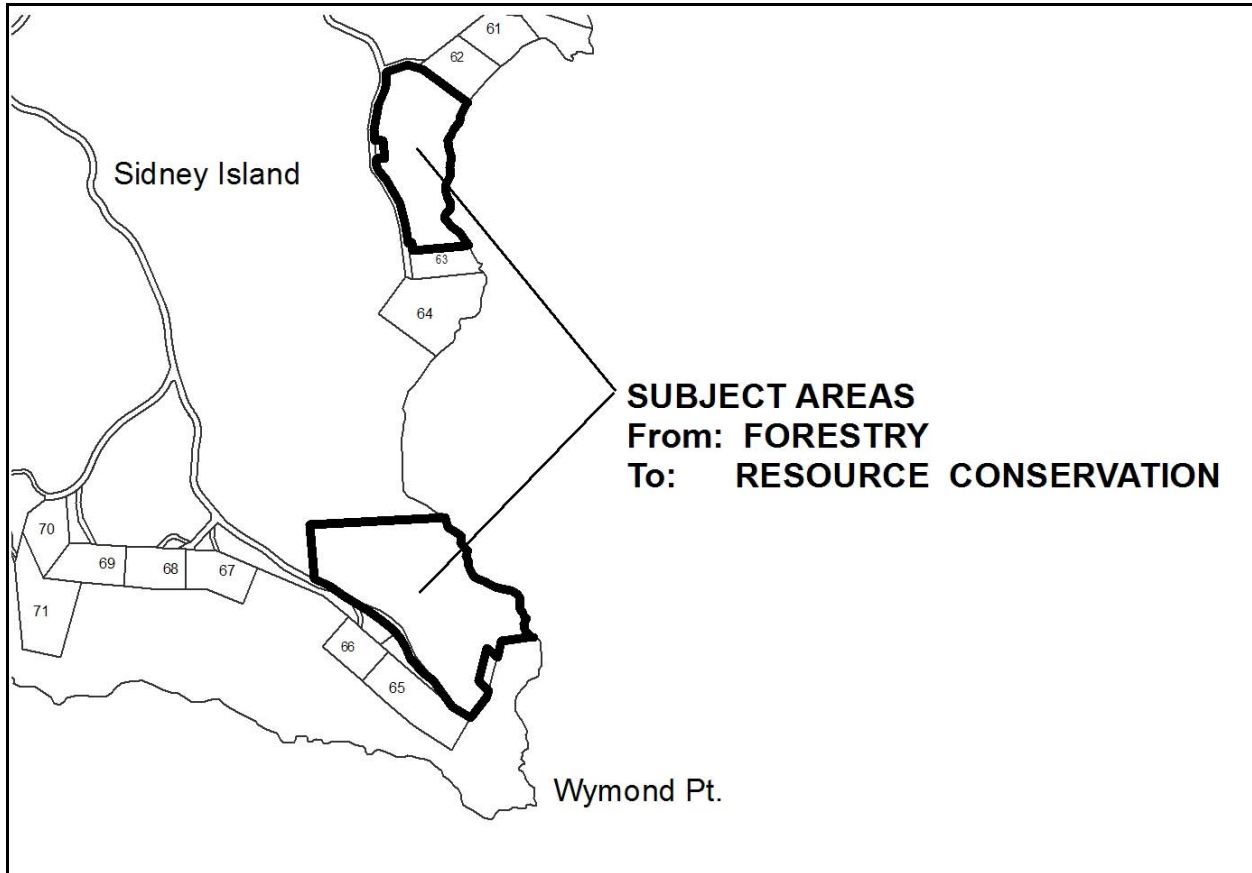
**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 189
SCHEDULE 6**

North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002, Schedule D-
Land Use Policy Map is amended as follows:



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 189
SCHEDULE 7**

North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002, Schedule D-
Land Use Policy Map is amended as follows:



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 189
SCHEDULE 8**

North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002, Schedule D-Land Use Policy Map is amended as follows:

