



STAFF REPORT

September 12, 2011

File No.: NP-LUB-2011.1 and
NP-OCP-2011.1

To: North Pender Island Local Trust Committee
For the meeting of September 22, 2011

From: Andrea Pickard
Island Planner
Local Planning Services

CC: Robert Kojima, Regional Planning Manager

Re: Amendments to North Pender Associated Islands Bylaws

PROJECT BACKGROUND:

The North Pender Island Local Trust Committee (LTC) has identified a technical review of the North Pender Associated Islands Bylaws as they pertain to Sidney Island as a top priority on the work program. At the July meeting the LTC gave direction to staff to draft bylaws based on a preliminary table of possible amendments guided by feedback from the Sidney Island Strata Council.

Staff held a drop-in open house on Sidney Island in August, a time when many of the property owners may be on the island. Based on the discussions the initial list of amendments for consideration reviewed by the LTC has been revised, with a notation in the "proceed" column of the table below. Additions to the list resulting from input from Sidney Island residents are to include:

1. Provisions to restrict the storage of recreational vehicles once their use as a temporary residence ceases, and
2. Adding a second permitted residence for an assistant caretaker that could possibly be located within a future Fire Hall/Community Building.

When drafting the LUB amending bylaw it was noted in many sections throughout the bylaw cross-references to subsection numbers had not been updated when additional zones were previously added to the bylaw. Updating these cross-references resulted in forty-four amendments in addition to ten substantive amendments to the text and four plans amending Schedule B, the zoning map.

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The proposed amendments to the Official Community Plan to create two separate development permit areas (DPA) applicable to for Sidney Island has not changed. Amendments to the 'Temporary Use Permits' section has also been included to reflect legislative changes.

At the time of writing this report an accurate location of the 7095m² area identified as the 'heritage orchard' was still being determined. A place holder for the plan is included in the both LUB and OCP draft bylaws, at this time.

The purpose of this report is to provide the LTC an opportunity to review two related draft bylaws; draft Bylaw 187 amending the Land Use Bylaw (LUB) and draft Bylaw 189 amending the Official Community Plan (OCP). The draft bylaws are attached as Schedules to this report.

Table 1: Land Use Bylaw Sections Initially Considered for Amendment

	Applicable LUB Sections		Possible Amendment	Reason for Amendment	Proceed
1	Schedule B	Zoning Map	Recognize Local Trust Committee (LTC) covenants by zoning	Zone LTC covenant areas as Conservation (G) – these are the areas often referred to as conservation light, the covenants were granted after zoning was adopted	Yes
2	Schedule B	Zoning Map	Recognize LCP adjacent to lots 122-129 for limited residential purpose	Zone as CD2 accessory to adjacent lot	No, area is intended for buffer only
3	Schedule B	Zoning Map	Identify orchard area (7095m ² adjacent to SL96) Could be zoned as conservation	No buildings or structures (as per strata bylaw 8A(2))	Yes** see below
4	Part 1.1	Definitions – pump house	Remove accessory reference: "pump/utility house"	Are permitted in any zone under the general regulations, remove reference to accessory for clarity	Yes

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	Applicable LUB Sections	Possible Amendment	Reason for Amendment	Proceed	
5	Section 5.9: Community Services One (S1)	Subsections 3-6, 9-12	References to section 5.5 should be 5.9 throughout section	Correct typo	Yes and applies to other sections
6		Subsection 5.9(1): permitted uses	Delete h) non-commercial short-term accommodation	See below	No
7		Subsection 5.9(11): conditions of use	Remove community hall as a building for short term accommodation	Short-term accommodation is permitted in hunter's cabins; community hall should not be required for accommodation any longer.	No, community hall may still be required on occasion, strata prefers to maintain this as a legal use
8		Subsection 5.9(5)	Increase permitted residences to 2, and one may be within fire/community hall		Additional consideration raised by Strata
9	Subsection 5.10: Community Services Two (S2)	Deer slaughter facility	Needs further review and comment to determine if the bylaws should be amended to reflect the use		No, ALC confirmed structures/use are deemed a farm use in ALR
10	Section 5.20: Sidney Island Comprehensive Development Zone (CD2)	Subsection (1): Permitted Uses	Recognize agriculture as a permitted use on those lots within the ALR (western half and eastern half north of the dock)	include 'Farm Use' as a permitted use only in the CD2 lots affected, or all CD2 lots	No, confirmed ALR exclusion of these properties should apply, requirements to finalize still being determined
11		Subsection (1):	Permit 1 utility/storage shed	To allow storage/utility shed prior to	Yes

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	Applicable LUB Sections	Possible Amendment	Reason for Amendment	Proceed	
		Permitted Uses	of limited size as a principal use	construction of, or building permit to construct, a dwelling	
12		Subsection (2): Density (table)	Delete 5.20(3)	Outdated – subdivision finalized	Yes
13		Siting and size	Add a maximum floor area	Address overly large dwellings, particularly for an island without services. A size consistent with strata Building Scheme or less.	Yes
14		Subsection (6): Siting and size	Setback to the sea, delete a pump/utility house from the exemptions	No rationale to justify this exemption particularly given concerns with saltwater intrusion into wells, size of lots and often unsuitable topography within 15 m setback	Yes
15		Addition of a Max height)	Increase to 12 m	Consistency with strata bylaw	No, LUB regs of 9.7m thought to be more suitable
16		Subdivision Lot Size Requirements	Delete 5.20(10)	Outdated – references previous 24 strata lots and number of permitted dwellings	Yes
17	Gen regulations or CD2	Water storage/ Rainwater collection	Consider new requirement for cistern:	Well and ground water protection, reduce peak demands and supply imbalance, improve fire flows, adaptation to climate change	No, cistern and water storage are being addressed as part of Building Permits and fire protection requirements. LUB regulating

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	Applicable LUB Sections	Possible Amendment	Reason for Amendment	Proceed
				the same unnecessary
18	Section 5.20: Sidney Island Comprehensive Development Zone (CD2)	<i>Restrict the storage of trailers once no longer required for temporary residential use</i>		<i>Additional consideration raised by Strata</i>

COMMUNICATONS:

Communications to all property owners on Sidney Island will occur through the Sidney Island Strata which maintains an email list for all owners, and provides opportunity for internal discussions through their strata website.

Owners of other Associated Islands would be sent a letter of information, noting the amendments would not impact their property.

Unless otherwise directed by the LTC, referrals would include:

- First Nations
- Parks Canada
- Fisheries and Oceans Canada
- Agricultural Land Commission
- Ministry of Agriculture
- Ministry of Community, Sport and Cultural Development
- Ministry of Environment
- Ministry of Forest, Lands & Natural Resource Operations, Ecosystem Protection
- Ministry of Transportation
- Capital Regional District, Area Director and Building Inspection Services
- Adjacent local governments: Central Saanich, North Saanich, Saanich, Sidney
- Adjacent Local Trust Areas: South Pender Island LTC and Salt Spring Island LTC
- Island Trust Fund
- Islands Trust Bylaw Enforcement

NEXT STEPS:

It is not feasible that the OCP amending bylaw would be adopted during this term by this LTC, although the LUB amending bylaw possibly could. Typically it is recommended to adopt both bylaws at the same time in the event that issues arise with obtaining Ministry approval; however



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for these bylaws, the amendments to the Land Use Bylaw are not contingent upon the amendments to the OCP.

The next steps in the process are:

- Give First Reading to the draft bylaws,
- Schedule a Community Information meeting, possibly on a weekend in Sidney either separately or in conjunction with the Public Hearing,
- Amend the proposed bylaw at Second or Third Reading,
- Refer to Executive Committee,
- Refer to the Ministry of Community, Sport and Cultural Development (OCP only),
- Final adoption.

Due to upcoming local elections the LTC may direct staff with regards to the timeline for scheduling the Public Hearing, that being either before or after the final LTC meeting schedule for 2011 on Nov 24th.

RECOMMENDATIONS:

1. THAT the North Pender Island Local Trust Committee direct staff to proceed with agency referrals of Draft Bylaws 187 and 189.
2. THAT the North Pender Island Local Trust Committee direct staff to Schedule a Community Information Meeting for a weekend date to be held in the Town of Sidney.

Prepared and Submitted by:

Andrea Pickard

September 12, 2011

Date

Concurred in by:

Robert Kojima
Regional Planning Manager

September 14, 2011

Date

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 187

A BYLAW TO AMEND NORTH PENDER ASSOCIATED ISLANDS LAND USE BYLAW NO. 148, 2003

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 the North Pender Island Local Trust Committee wishes to amend Land Use Bylaw 148, 2003;

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:

A. Bylaw No. 148, cited as "North Pender Associated Islands Land Use Bylaw 148, 2003" is amended as follows:

- 1. Section 1.1 (Definitions) is amended by deleting 'an accessory' from the definition of "pump/utility house" such that it reads "pump/utility house means a building containing only equipment for pumping and processing of water or sewage, or electrical equipment and communication service equipment"
2. Subsection 3.3(3) is amended by deleting "under the provisions of subsection 701(6) of that bylaw" such that it reads "Information Note: Buildings or structures may not be sited within 15 metres (50 feet) of the natural boundary of the sea without first obtaining a development permit pursuant to Part 7 of the "North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002", unless specifically exempted from a requirement for a permit. Septic fields, septic tanks, absorption fields and related appurtenances below ground, concrete and asphalt paving or similar surfacing of the land, and retaining structures are considered structures for this purpose."
3. Subsection 5.5(3) is amended by deleting 5.4(1)(a) and inserting 5.5(1)(a) such that it reads "The number of food and beverage service establishments permitted in 5.5(1)(a) above is limited to one, with a maximum floor area of 200m^2 (2152ft^2)."
4. Subsection 5.7(5) is amended by deleting 5.3(4) and inserting 5.7(4) such that it reads "Despite Subsection 5.7(4), the minimum setback for any building, structure or enclosure housing farm animals shall be 7.6 metres (25 feet) from any lot line and 15 metres (50 feet) any edge lot line."
5. Subsection 5.7(6) is amended by deleting 5.3(1)(g) and inserting 5.7(1)(g) such that it reads "The occupancy of the accessory dwelling unit permitted by article 5.7(1)(g) above is limited to providing residential accommodation to the household of the owner, operator or an employee of a permitted principal use."
6. Subsection 5.7(7) is amended by deleting 5.3(1)(c) and inserting 5.7(1)(c) such that it reads "All external storage areas associated with the uses permitted by Articles 5.7(1)(c), (d), (e) and (f) above must be screened from view from all lot lines and from the sea by screening or fencing complying with the provisions of Section 3.9 (Landscape Screening)."
7. Subsection 5.7(8) is amended by deleting 5.3(1)(a) and inserting 5.7(1)(a) such that it reads "Farm Uses permitted by Article 5.7(1)(a) above must comply with all regulations established in relation to that use in Section 3.14."
8. Subsection 5.8(7) is amended by deleting 5.4(1)(a) and inserting 5.8(1)(a) such that it reads "Farm Uses permitted by Article 5.8(1)(a) above must comply with all regulations established in relation to that use in Section 3.14."

9. Subsection 5.9(3) is amended by deleting 5.5(1)(e) and inserting 5.9(1)(e) such that it reads “The number of community meeting halls permitted by article 5.9(1)(e) above shall not exceed one.”
10. Subsection 5.9(4) is amended by deleting 5.5(1)(e) and inserting 5.9(1)(e) such that it reads “The number of community offices permitted by article 5.9(1)(e) above shall not exceed one.”
11. Subsection 5.9(5) is amended by deleting 5.5(1)(f) and inserting 5.9(1)(f) such that it reads “The number of single family dwellings permitted by article 5.9(1)(f) above shall not exceed one.”
12. Subsection 5.9(5) is amended by deleting “shall not exceed one” and inserting “shall not exceed two,” and inserting “of which one dwelling may be attached to a building for community uses permitted under Article 5.9(1)(e)” such that it reads “The number of single family dwellings permitted by article 5.9(1)(f) above shall not exceed two, of which one dwelling may be attached to a building for community uses permitted under Article 5.9(1)(e).”
13. Subsection 5.9(6) is amended by deleting 5.5(1)(g) and inserting 5.9(1)(g) such that it reads “The number of sleeping cabins permitted by article 5.9(1)(g) above shall not exceed a total of four and the floor area of any one sleeping cabin may not exceed 80 square metres (861 square feet).”
14. Subsection 5.9(9) is amended by deleting 5.5(1)(e) and inserting 5.9(1)(e) such that it reads “The floor area of the community office building permitted in article 5.9(1)(e) above shall not exceed 200 square metres (2153 square feet).”
15. Subsection 5.9(10) is amended by deleting 5.5(1)(a) and inserting 5.9(1)(a) such that it reads “Farm uses permitted by article 5.9(1)(a) above must comply with all regulations established in relation to that use in Section 3.14.”
16. Subsection 5.9(11) is amended by deleting 5.5(1)(h) and inserting 5.9(1)(h) such that it reads “The non-commercial short-term accommodation permitted by 5.9(1)(h) above is limited to the use of rooms within a permitted community meeting hall, provided the use does not exceed a maximum of 10 days at any one time, totalling no more than 90 days per calendar year.”
17. Subsection 5.9(12) is amended by deleting 5.5(1)(i) and inserting 5.9(1)(i) such that it reads “The retail sales permitted by article 5.9(1)(i) above are limited to the sale of groceries and household effects within a permitted community meeting hall, provided the use is limited to a total floor area of 30 square metres (323 square feet) or less.”
18. Subsection 5.10(5) is amended by deleting 5.6(1)(a) and inserting 5.10(1)(a) such that it reads “Farm Uses permitted by article 5.10(1)(a) above must comply with all regulations established in relation to that use in Section 3.14.”
19. Subsection 5.11(5) is amended by deleting 5.7(1)(a) and inserting 5.11(1)(a) such that it reads “Farm Uses permitted by article 5.11(1)(a) above must comply with all regulations established in relation to that use in Section 3.14.”
20. Subsection 5.15(4) is amended by deleting 5.8(1)(b) and inserting 5.15(1)(b) such that it reads “All mooring buoys permitted by 5.15(1)(b) above shall be located within 100 metres (328 feet) of the RR, A, CD1 or CD2 zones.”
21. Subsection 5.15(5) is amended by deleting 5.8(4) and inserting 5.15(4) such that it reads “Despite Subsection 5.15(4) above, no mooring buoy shall be located within 100 metres (328 feet) of the NP zone.”
22. Subsection 5.15(14) is amended by deleting 5.8(1)(b) and inserting 5.15(1)(b) such that it reads “Mooring buoys permitted by article 5.15(1)(b) above shall only be used for the purpose of mooring a private vessel accessory to the residential use of an upland lot.”
23. Subsection 5.15(15) is amended by deleting 5.8(1)(d) and inserting 5.15(1)(d) such that it reads “Docks permitted by article 5.15(1)(d) above shall be accessory to a residential or agricultural use of an upland lot, or lots, and shall provide access to that lot or lots for the residents of an upland lot.”
24. Subsection 5.15(18) is amended by deleting 5.8(1)(e) and inserting 5.15(1)(e) such that it reads “Barge ramps and marine railways permitted by article 5.15(1)(e) above shall be accessory to the residential use of an abutting upland lot, or adjacent upland lots, and shall provide access to that lot or lots for the resident(s) of an upland lot on the island.”

25. Subsection 5.15(19) is amended by deleting 5.8(1)(h) and 5.8(7) and inserting 5.15(1)(h) and 5.15(7) respectively such that it reads "Breakwaters and wave suppression devices permitted by article 5.15(1)(h) above shall not be used for the mooring of vessels, except where the total area of all floats, piers, breakwaters and wave suppression devices does not exceed the total area permitted by subsection 5.15(7) above."
26. Subsection 5.16(3) is amended by deleting 5.9(1)(b) and inserting 5.16(1)(b) such that it reads "Mooring buoys permitted by article 5.16(1)(b) above shall only be used for the purpose of mooring a private vessel accessory to the residential use of an upland lot."
27. Article 5.17(1)(e) is amended by deleting 5.10(1)(c) and inserting 5.17(1)(c) such that it reads "Ramps, walkways, footings and pilings necessary for the establishment and maintenance of the uses permitted in Articles 5.17(1)(c) and (d) above;"
28. Article 5.17(1)(f) is amended by deleting 5.10(1)(c) and inserting 5.17(1)(c) such that it reads "Breakwaters and wave suppression devices necessary for the establishment and maintenance of the uses permitted in Articles 5.17(1)(c) through (e) above or for the protection of an established use or feature."
29. Subsection 5.17(7) is amended by deleting 5.10(1)(b) and inserting 5.17(1)(b) such that it reads "Mooring buoys permitted by article 5.17(1)(b) above shall only be used for the purpose of mooring private vessels accessory to the residential use of an upland lot on the island abutting the water zone in which the marina is located."
30. Subsection 5.17(8) is amended by deleting 5.10(1)(c) and inserting 5.17(1)(c) such that it reads "Private marinas permitted by article 5.17(1)(c) above shall only provide docks, floats and piers for the mooring of private vessels accessory to a permitted use of an upland lot(s) on the island abutting the water area in which the marina is located."
31. Subsection 5.17(10) is amended by deleting 5.10(1)(d) and inserting 5.17(1)(d) such that it reads "Barge ramps and marine railways permitted by article 5.17(1)(d) above shall be accessory to a permitted use of an upland lot(s) on the island, and shall provide access to those lots for the residents of the upland lots."
32. Subsection 5.17(11) is amended by deleting 5.12(3), 5.12(5) and 5.12(6) and inserting 5.17(3), 5.17(5) and 5.17(6) respectively such that it reads "Despite Subsection 5.17(3), a maximum of two private marinas may be permitted." and "In addition to the siting and size regulations established in 5.17(5) and 5.17(6), the combined area of docks and marinas in the W3(a) zone shall not exceed 290 square metres (3122 feet²)."
33. Article 5.18(1)(f) is amended by deleting 5.11(1)(c) and inserting 5.18(1)(c) such that it reads "Ramps, walkways, footings and pilings necessary for the establishment and maintenance of the uses permitted in article 5.18(1)(c) and (d) above;"
34. Article 5.18(1)(g) is amended by deleting 5.11(1)(c) and inserting 5.18(1)(c) such that it reads "Breakwaters and wave suppression devices necessary for the establishment and maintenance of the uses permitted in Articles 5.18(1)(c) through (e) above, or for the protection of another established use or feature;"
35. Subsection 5.18(3) is amended by deleting 5.11(1)(d) and inserting 5.18(1)(d) such that it reads "The maximum area of all dock floats and piers adjacent to any one island permitted by article 5.18(1)(d) above may not exceed 93 square metres (1001 square feet), exclusive of ramps and walkways."
36. Subsection 5.18(7) is amended by deleting 5.11(1)(d) and inserting 5.18(1)(d) such that it reads "Storage structures constructed on any part of a dock permitted by article 5.18(1)(d) above shall have a maximum height of 1 metre (3 feet) and a maximum total area of 10 square metres (107 square feet)."
37. Subsection 5.18(10) is amended by deleting 5.11(1)(d) and inserting 5.18(1)(d) such that it reads "Docks permitted by Article 5.18(1)(d) above shall be accessory to an established residential use of an upland lot, or lots, and shall provide access to that lot or lots by the residents of an upland lot on the island abutting the water area in which the dock is located."
38. Subsection 5.18(11) is amended by deleting 5.11(1)(c) and inserting 5.18(1)(c) such that it reads "Wharves permitted by Article 5.18(1)(c) shall be used to provide access to land in the NP zone."

39. Subsection 5.18(14) is amended by deleting 5.11(1)(e) and inserting 5.18(1)(e) such that it reads “Barge ramps and marine railways permitted by article 5.18(1)(e) above shall be accessory to the residential use of an abutting upland lot, or adjacent upland lots, or uses permitted in the NP zone, and shall provide access to that lot or lots.”
40. Subsection 5.18(15) is amended by deleting 5.11(1)(g) and 5.11(3) and inserting 5.18(1)(g) and 5.18(3) respectively such that it reads “Breakwaters and wave suppression devices permitted by article 5.18(1)(g) above shall not be used for the mooring of vessels, except where the total area of all floats, piers, breakwaters and wave suppression devices does not exceed the total area permitted by subsection 5.18(3) above.”
41. Subsection 5.19(5) is amended by deleting 5.14(4) and inserting 5.19(4) such that it reads “Despite Subsection 5.19(4), the minimum setback for any building, structure or enclosure housing animals and poultry shall be 7.6 metres (25 feet) from any lot line, except the natural boundary of the sea.”
42. Subsection 5.20(1) is amended by inserting 5.20(1)(c) “Storage building; subject to subsection 5.20(7).”
43. Subsection 5.20(2) is amended by deleting “No more than 111 single family dwellings may be constructed in the CD2 zone” and replacing it with “There may not be more than one single family dwelling on any lot.”
44. Subsection 5.20(3) is deleted in its entirety including Articles 5.20(3)(a) to (c).
45. Subsection 5.20(4) is renumbered to 5.20(3).
46. Subsection 5.20(5) is renumbered to 5.20(4).
47. Subsection 5.20(6) is amended by adding “Despite Subsection 3.3(2)” at the beginning, “Septic fields, septic tanks, absorption fields and related appurtenances below ground, concrete and asphalt paving or similar surfacing of the land, and retaining structures are considered structures for the purposes of this subsection.” at the end, and deleting “or a pump/utility house” such that it reads “Despite Subsection 3.3(2) the minimum setback for any building or structure, except a fence, shall be 15 metres (49 feet) from the natural boundary of the sea. Septic fields, septic tanks, absorption fields and related appurtenances below ground, concrete and asphalt paving or similar surfacing of the land, and retaining structures are considered structures for the purposes of this subsection.”
48. Subsection 5.20(6) is renumbered to 5.20(5).
49. A new subsection 5.20(6) is inserted under the heading ‘Siting and Size’

“The maximum floor area of a single family dwelling is limited to 375 m² (4036ft²).”
50. A new subsection 5.20(8) is inserted under the heading ‘Conditions of Use’

“The storage building permitted under 5.20(1)(c) may be constructed prior to a single family dwelling subject to:

 - (a) The use is limited to the storage of goods and materials for use on the lot,
 - (b) Only one storage building is permitted on any lot,
 - (c) The floor area is not to exceed 25 square metres (269 square feet),
 - (d) The storage shed is not to be used for human habitation, and
 - (e) For certainty, this does not limit accessory buildings permitted under Section 3.5.
51. A new subsection 5.20(9) is inserted under the heading ‘Conditions of Use’

“Despite Subsection 3.10 the storage of recreational vehicles that are not being used as a temporary residence under that section is not permitted.”
52. Subsection 5.20(8) is renumbered to 5.20(10).

- 53. Subsection 5.20(9) is renumbered to 5.20(11).
- 54. Subsection 5.20(10) is deleted in its entirety.
- 55. Schedule B (Zoning Map) is amended in accordance with the maps attached to and forming part of this bylaw as Plans 1, 2 and 3.

- B. This Bylaw may be cited as "North Pender Associated Islands Land Use Bylaw 148, 2003, Amendment No. 1, 2011".
- C. 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 _____ day of _____, 200_

READ A SECOND TIME this _____ day of _____, 200_

PUBLIC HEARING HELD this _____ day of _____, 200_

READ A THIRD TIME this _____ day of _____, 200_

APPROVED BY THE EXECUTIVE COMMITTEE this _____ day of _____, 200_

ADOPTED this _____ day of _____, 200_

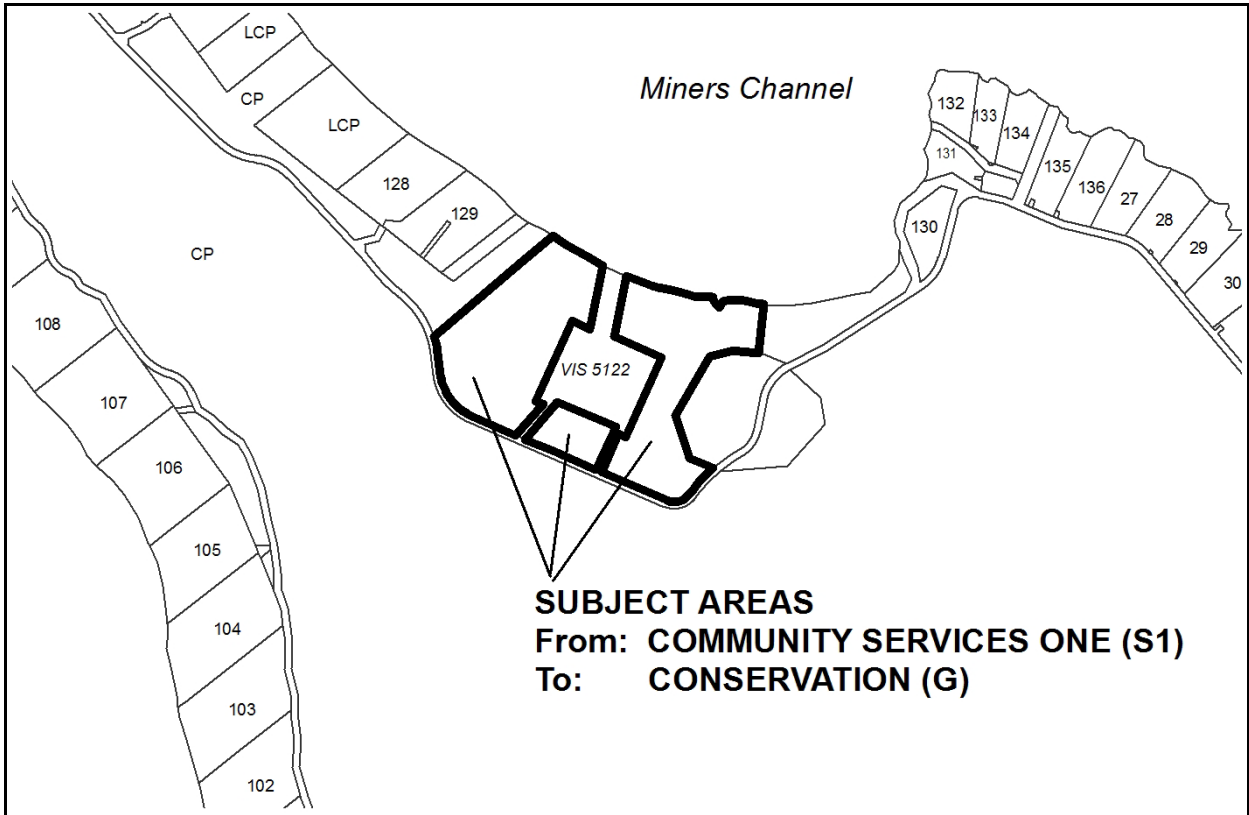
Chair

Secretary

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

BYLAW No. 187

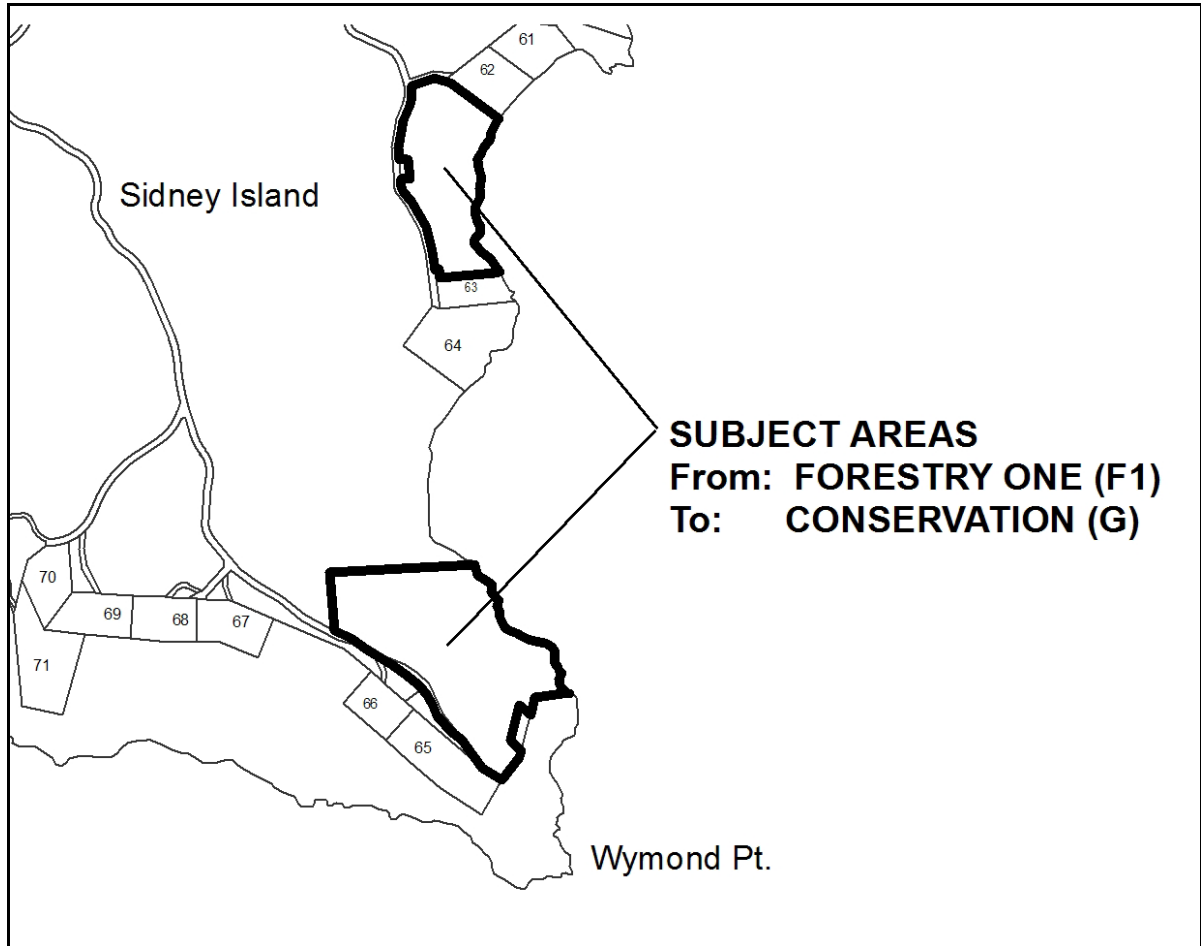
PLAN No. 1



NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

BYLAW No. 187

PLAN No. 2



NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

BYLAW No. 187

PLAN No. 3

And the heritage orchard area still determining exact location.

**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.

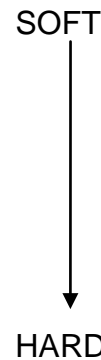
Furthermore, Section 877(1)(d) of the provincial *Local Government Act* requires that an Official Community Plan include restrictions on the use of land that is subject to hazardous conditions or is environmentally sensitive to development.

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.

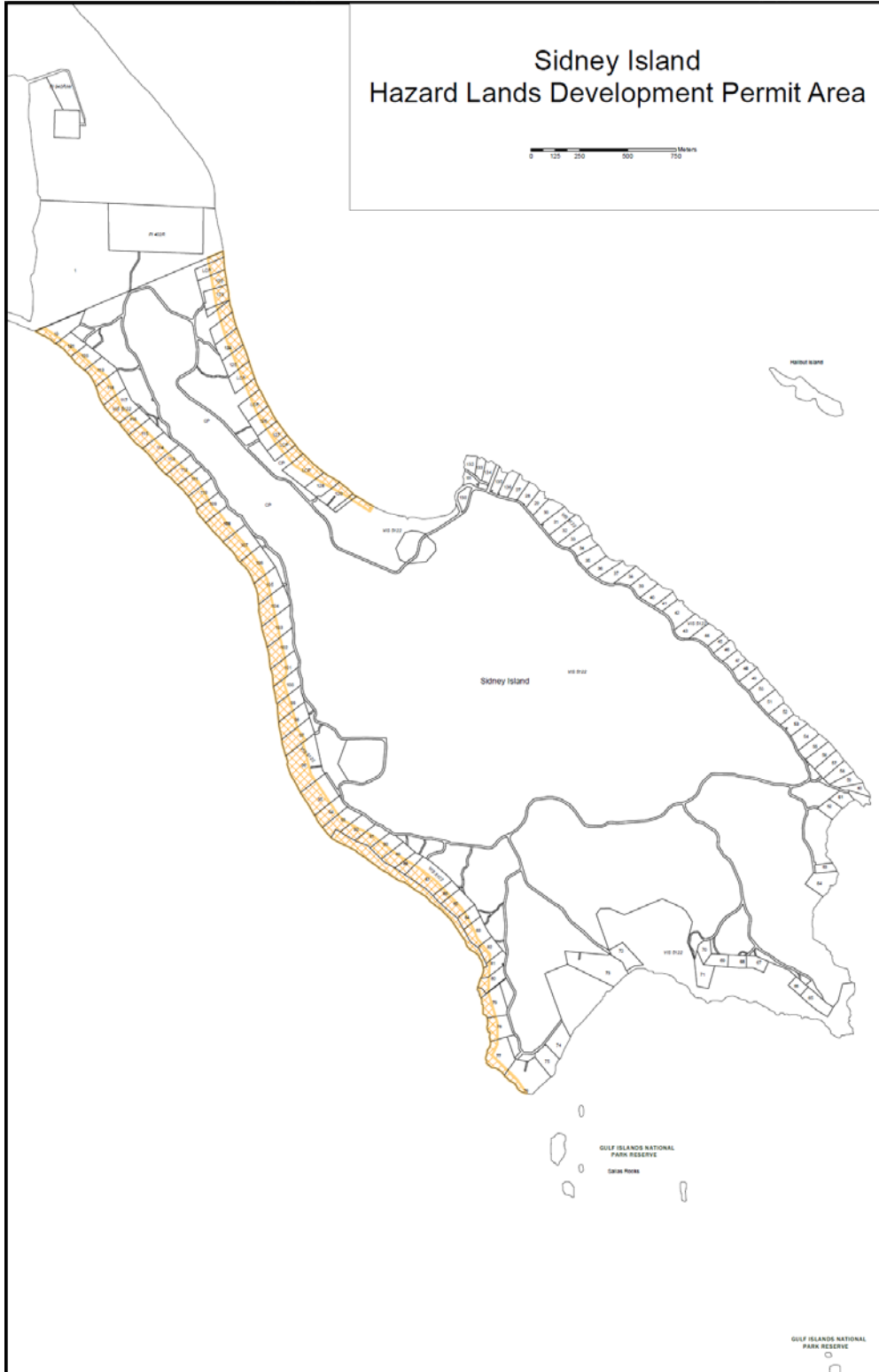
- Guideline 1 Land alteration or other development of the shoreline area should be limited and minimize the negative impacts on ecological function.
- Guideline 2 Land alteration or other development should not detract from the shoreline qualities that are derived from natural features, such as shore 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

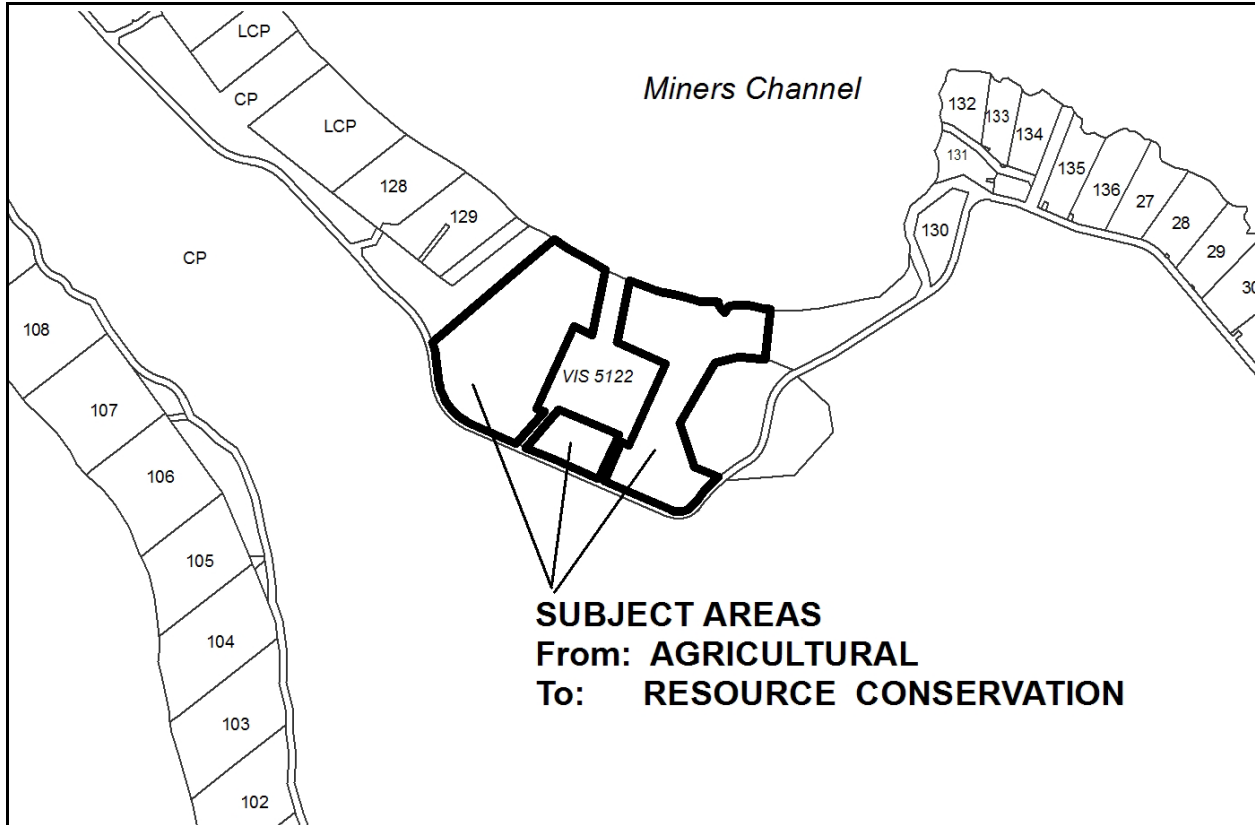
**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 189
SCHEDULE 5**

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:



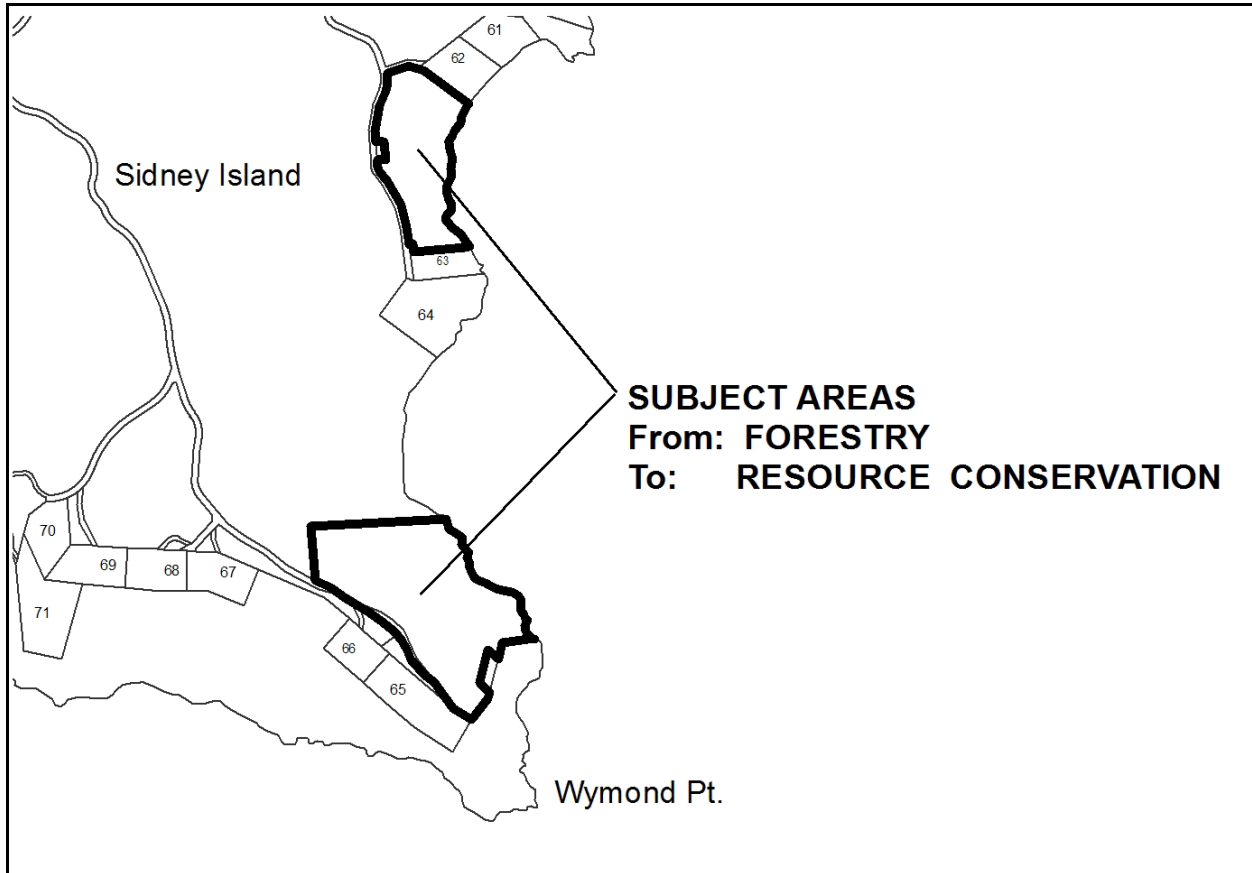
**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 189
SCHEDULE 6**

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:

Pending heritage orchard area map