



Islands Trust

**SALT SPRING ISLAND
LOCAL TRUST COMMITTEE
AGENDA**

**SPECIAL BUSINESS MEETING
Wednesday, April 20, 2011 - 3:00 PM
Islands Trust Office - 500 Lower Ganges Road**

- 1. CALL TO ORDER**
- 2. APPROVAL OF AGENDA**
- 3. CLOSED MEETING RESOLUTION**
The Salt Spring Island Local Trust Committee closes this meeting to the public subject to section 90(1)(i) of the Community Charter for receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.
- 4. OPEN MEETING RESOLUTION**
The Salt Spring Island Local Trust Committee re-opens this meeting to the public subject to section 89 of the Community Charter.
- 5. RISE AND REPORT**
- 6. REPORTS**
 - 6.1 Staff Report - Proposed Bylaw 449: DPA 4 Lake, Streams, Wetlands and Riparian Areas
- 7. NEW BUSINESS**
 - 7.1 Briefing on Goldstream Oil Spill
- 8. ADJOURNMENT**



Islands Trust

STAFF REPORT

DATE April 19, 2011

File No.: 38.2 (a)

To: Salt Spring Local Trust Committee for April 20, 2011

From: Kris Nichols, Planning Consultant

CC: Leah Hartley, Regional Planning Manager

Re: Proposed Revised Bylaw No. 449 - Development Permit Area 4 – Lakes, Streams, Wetlands and Riparian Areas

PURPOSE

The purpose of this report is to provide the Local Trust Committee with a proposed revised Bylaw No. 449 - DPA4 - Lakes, Streams, Wetlands and Riparian Areas that would amend the proposed Bylaw No. 449 that received First Reading on April 7, 2011.

BACKGROUND

Proposed Bylaw No. 449 – Development Permit Area 4 – Lakes, Streams, Wetlands and Riparian Areas was given First Reading on April 7, 2011. This was after several months of research and consultation with residents, agencies and groups which resulted in a complete revision of the bylaw. The DPA provisions are based on the bylaw maintaining the existing DPA 4 objectives while implementing fish and fish habitat protection and furthering the protection of drinking water.

The proposed bylaw also includes two revised maps to aid in the interpretation of the DPA. A revised DPA map (Map 21) which identifies streams previously shown in the existing DPA4 map as requiring a development permit and QEP report. And a new DPA map (Map 21a) which indicates RAR designated watersheds where the DPA would apply to the 30m adjacent to all streams being consistent with the identification of a Riparian Assessment Area (RAA) as defined in the RAR and 300m in the case of Maxwell Lake. Outside of the RAR designated watersheds the DPA will apply to 10m adjacent to watercourses as it was in the previous DPA4. Development occurring beyond these identified and described areas of the DPA would not apply.

CURRENT TRUST POLICY

Trust Council Strategic Plan:

The current Trust Council Strategic Plan includes “Implementation of Riparian Areas Regulations” as the first focus area.

Trust Policy Statement:

3.3.2 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address means to prevent further loss or degradation of freshwater bodies or watercourses, wetlands and riparian zones and to protect aquatic wildlife.

Official Community Plan: The specific policy A.5.2.8 makes reference to updating of mapping and development permit area designations and guidelines to comply with the provincial Riparian Areas Regulation. Throughout the OCP are general policies which emphasize the importance of safe, potable water and to reflect growth policies to further its protection.

PROPOSED AMENDMENTS TO BYLAW NO. 449 - DEVELOPMENT PERMIT AREA FOUR

The development of a bylaw can be a bit of an iterative process requiring that staff continue to look at ways to improve its clarity and certainty. Even though the proposed Bylaw No. 449 has been given First Reading staff have continued to review the bylaw to ensure the intent remains clear and its interpretation concise. Staff have reviewed the proposed bylaw looking to improve it through wording changes, eliminating repetitive or redundant wording, and the removal of guidelines that may not support the overall intent or appear to enforce provincial or federal law where there is no jurisdiction.

These following proposed amendments are as a result of a detailed technical review of the bylaw following First Reading with the general intent being to make administrative changes that reduce ambiguity and increase clarity and certainty.

Throughout, there have been changes to the numbering and various grammatical and punctuation corrections. Many changes also relate to the need for consistency of regulatory language such as using guideline language such as “should” in place more regulatory language such as “must” and “will”. The description of changes will focus on the larger word/phrase and guideline changes. The changes are outlined in Attachment 1 and shown in the proposed Amended Bylaw No. 449 in Attachment 2.

IMPLEMENTATION MEASURES TO ACCOMPANY BYLAW

The LTC has been concerned that the implementation of the bylaw not be too onerous (i.e. time, effort and money) to implement from both a landowners and an administrative perspective. The LTC at its meeting on April 7, 2011 directed staff to initiate implementation measures including any associated bylaw amendments prior to the adoption of proposed Bylaw No. 449. Staff continues to refine the measures and work toward how best these can be achieved.

CONSULTATION

The proposed bylaw will be reviewed for comment by the Advisory Planning Commission (APC) and the Advisory Environment Committee (AEC) on April 21, 2011.

As a result of the April 7, 2011 LTC meeting, a community information meeting is scheduled for Thursday, April 28, 2011. The community information meeting is scheduled to run from 5-9pm at the Harbour House Hotel permitting staff to meet with residents prior to a presentation on the proposed bylaw and implementation measures.

Residents are encouraged to submit their comments or questions to the Salt Spring Office as well. These will be accepted up to and including at the Public Hearing which is tentatively scheduled for later in May.

CIRCULATION OF THE BYLAW

The proposed Bylaw No. 449 has been sent to the referral agencies listed on the staff report considered by the LTC on April 7, 2011. The referral agencies will be notified of any amendments to the proposed bylaw. The changes that are proposed with this report are primarily administrative and wording changes resulting in improved clarity and certainty and will therefore not require a formal re-referral to the agencies.

STAFF COMMENTS

As stated the creation of a bylaw can be an iterative process resulting in many refinements to improve its clarity, certainty and ease of use. The proposed amendments do exactly that. It is likely that these will not be the last set of amendments as there remain opportunities for the public and agencies to comment on the proposed bylaw in the near future.

It is important to point out that the key to the success of this bylaw amendment is the simultaneous consideration of the implementation measures present at the last LTC meeting. While amending DPA bylaws are not that unusual, the fact that serious consideration of implementation measures to accompany a new DPA bylaw to reduce the impact on residents is.

Summary

The intent of this Bylaw No. 449 remains as stated from the beginning, it is not to make the DPA overly onerous on the land owner, but to make it effective for the purpose it is established to do, in this case the protection of the Islands' important environmental attributes around water.

The proposed amendments improve the bylaw's clarity by removing redundancies and ambiguities that could lead to confusion. It also improves the language to make sure that it is consistent throughout. These amendments are important to the development of a bylaw that is user friendly and easily interpreted by all.

OPTIONS

The LTC has a few options that could be considered with the proposed amended bylaw at this time:

1. To consider amended Bylaw No. 449 as presented, rescind First Reading and give First Reading again and request that staff schedule a Public Hearing;

Staff has presented a number of amendments to the bylaw for consideration. These were done to improve the bylaw's clarity.

2. To consider amended Bylaw No. 449, but to select those changes to be included in the amended bylaw, rescind First Reading and give First Reading again and request that staff schedule a Public Hearing;

Staff have proposed a number of changes to the bylaw for clarity and certainty. The LTC may wish to consider some, but not all of the proposed amendments in the amending bylaw.

3. To consider not amending Bylaw No. 449 at this time.

The LTC may wish not to make any amendments to the bylaw at this time with the understanding that additional changes may be required as a result of agencies and public comments yet to be received.

Staff are recommending that option 1 be chosen.

NEXT STEPS

Depending on the option accepted staff will have to ensure that the most up to date bylaw is available for review of the public and agencies. If amendments are made staff will present these amendments at the up coming Community Information Meeting and ensure that the most recent amended bylaw is available on the webpage. Whether or not amendments are made will not have an impact on the timing for the bylaw adoption process.

If amendments are agreed to, it will be necessary for the LTC to rescind First Reading of the Bylaw and give it First Reading again. If no amendments are recommended, this step will not be necessary.

Regardless, the Bylaw with or without amendments will continue through the adoption process with the next step being reviewed by the APC and AEC on April 21st and the bylaw being presented at a Community Information Meeting on April 28th. A Public Hearing is likely to be scheduled for May.

Staff will continue to work on the implementation measures to coincide with the adoption of Bylaw No. 449 – DPA4 – Lakes, Streams, Wetlands and Riparian Areas.

RECOMMENDATION:

1. That the Salt Spring Island Local Trust Committee rescinds First Reading of Bylaw No. 449, cited as “Salt Spring Island Official Community Plan Bylaw No. 434, 2008, Amending Bylaw No.1 , 2011”
2. That the Salt Spring Island Local Trust Committee gives First Reading to Bylaw No. 449, as amended, cited as “Salt Spring Island Official Community Plan Bylaw No. 434, 2008, Amending Bylaw No.1 , 2011”
3. That the Salt Spring Island Local Trust Committee directs staff to schedule a Public Hearing for proposed Bylaw No 449 a few weeks following the community information meeting.

Respectfully submitted by:

Kris Nichols, Consultant

April 19, 2011

Concurred by:

Leah Hartley, Regional Planning
Manager

April 19, 2011

Attachments:

1. Proposed Amendments to Bylaw No.449 – Lakes, Streams, Wetlands and Riparian Areas
2. Proposed Amended Bylaw No. 449 DPA4 – Lakes, Streams, Wetlands and Riparian Areas

Proposed Amendments to Bylaw No. 449 – DPA4 – Lakes, Streams and Wetlands and Riparian Areas.

The Attachment shows an accurate record of all the proposed changes. The proposed revision to the bylaw at First Reading is based on the following changes:

1. Throughout the bylaw, with the proposed amendments there are the subsequent numbering changes and grammatical corrections.
2. In the introduction of the bylaw “Organization” has been changed to “Amendments” and the word “altered” was changed to “amended” as this is an amendment to the bylaw.
3. The “Severability” clause was removed as this is covered with the parent OCP bylaw’s severability clause.
4. In the definition of “development” the word “government” was replaced with “Trust Committee”.
5. In the definition of “development proposal” the words “or partly within the boundaries of an area administered by a local government” are replaced with “DPA4”.
6. The definition of “permanent structure” wording was expanded to “pre-existing permanent building or structure” to accurately reflect its use within the bylaw.
7. In the definition of “qualified environmental professional” part (b) the word “methods” was replaced with “methodology prescribed by the Ministry of Environment under the *Fish Protection Act*” to clarify what is meant.
8. In the definition of “streamside protection and enhancement area” in part (b) the following was added “, using the assessment methodology prescribed by the Ministry under the Fish Protection Act” to clarify what is meant.
9. In E.4.1.1. the word “That” was replaced with “This designation applies to that” and the word “outlined” was replaced with “indicated” to add to clarity.
10. In E.4.1.2 the word “That” was replaced with “This designation also applies to all areas adjacent to streams with that” and the words “, whether or not the stream is indicated on Map 21” were added after “bylaw”. The last sentence was removed and the following put in its place “For certainty, these designations include every stream whether or not it is indicated on Map 21, and:”. In parts b. and c. the words “that contains a stream” are added. In part d. the word “for” is removed and replaced with “in the case of”.
11. E.4.1.3 has been removed in its entirety. This clause is not required given that Map 21a covers a large area indicating that not all stream locations are known.
12. In E.4.2 Justification in the third paragraph; several word changes were made to improve its clarity.
13. After E.4.2 a background note was added to explain the necessity to adhere to other provincial and federal requirements when dealing with works in and around water. The following was added:
Background Note: Some types of development in the vicinity of watercourses are subject to permit requirements under the Water Act (British Columbia). Harmful alteration, disruption or destruction of fish habitat is prohibited under the Fisheries Act (Canada) unless the work

is authorized by permit issued by Fisheries and Oceans Canada. Compliance with Islands Trust development permit requirements does not affect any requirement for provincial or federal authorization of the same development.

14. In E.4.4.1 in the second sentence the word “companion” was removed and the words “will only be” were replaced with “prepared in accordance with the Riparian Areas Regulation is” and the word “application” was added after “permit” to improve its clarity and certainty of application.
15. In E.4.4.2 the words “within one” is replaced with “and a single” and the words “may be issued” are added at the end of the sentence.
16. In E.4.4.3 the words “will also” are replaced with “must” and in part a. and part b. changes were made to improve clarity.
17. E.4.4.4 was replaced with the wording “Where a parcel of land lies partly within DPA4, development should be planned to avoid the portion of the parcel that lies within the DP area.” improving its clarity.
18. In E.4.4.5 there were several wording changes to improve clarity.
19. E.4.4.6 was removed in its entirety, but added in part to E.4.4.8.
20. In E.4.4.8 the following words were added to the end “, and a requirement that the QEP provide a compliance report to the Islands Trust within a specified period following completion of the development”. This was removed from a previous guideline but changed to leave the compliance time undefined.
21. In E.4.4.9 the word “will” was replaced with “should” and the words “or through the registration of a covenant prohibiting development and use in the SPEA” were removed.
22. In E.4.4.10 the word “registered” was replaced with the words “the subject of a notice”.
23. In E.4.4.11 the word “must” was replaced with “should”.
24. In E.4.4.13 the words “related residential” are removed and the words “related to residential use” added after the word “activities”.
25. In E.4.4.14 the words “temporary or permanent” were added in front of the word “float”. In part e. the word “semi-transparent” was replaced with the word “pervious” and in part g. the words “from the riparian area” were added at the end. A part h. was added stating “storage of temporary floats should not occur within the riparian area”. This is to address the concern raised concerning the storage of temporary floats with the RAA.
26. In E.4.4.15 the word “project” was replaced with the word “development” and the words “DP conditions may be revised accordingly” were replaced with “apply for an amendment to the development permit or a new development permit”.
27. The text before E.4.4.17 and E.4.4.18 are removed in their entirety. The DP guidelines can not be reliant on the enforcement of federal or provincial regulations which stand separate from the DPA in this case the Water Act. A Background Note to explain this was added under E.4.2 giving direction as to what regulations apply.
28. In E.4.4.19 the word “will” was replaced with “should” and in part b. the words “in conjunction with provincial regulations” were removed.

29. In E.4.5 the words “ is identified to be non-fish habitat supporting” is replaced with does not support fish habitat” and the words “will still” is replaced with “must” and after the word “professional” the words “such as an” are added and the brackets removed as well as “e.g.” and “outlining” and the word “containing” added. In part a. the word “drawn” was removed, in part e. the word “deemed” was replaced with “considered” and in part g. the word “approved” was replaced with the word “recommended”.
30. In E.4.6.1 the word “the” in the first sentence was replaced with “a” and the words “or other professional” added after the word “QEP” in two instances. Other professionals refer to professionals such as agrologists, biologists, geoscientist that can also write reports if qualified.
31. In E.4.6.2 the words “or other professional” added after the word “QEP” and the word “must” was replaced with the word “should”.
32. In E.4.6.3. the words “or other professional” added after the word “QEP” and the words “is strongly encouraged to” is replaced with “should” and in the last sentence the word “will” is replaced with “may”.
33. In E.4.7.1 the words “If a proposed subdivision or a lot line adjustment creating newly defined lots, then any” are replaced with the word “All”.
34. E.4.7.2 is removed in its entirety due to the possibility that by removing the SPEA from lot yield could reduce lot yield and therefore density which a DPA cannot do.
35. In E.4.7.3 the words “within the SPEA should be avoided” is replaced with the words “ subdivision design should consider lot configuration that protects the SPEA”
36. In E.8 Exemptions the words at the beginning of the second sentence “Despite the exemption provisions,” are removed and the sentence will begin with the word “Owner”.
37. In E.4.8.1 the word “where” are removed and the word “proposed” is replaced with “that is”. The words “more than” are added in front of 300m and 10m and the word “of” is replaced with “from” and the words “that is” is added. The words “RAR designated watersheds as determined by a BC Land Surveyor or qualified person or other means deemed appropriate by the Islands Trust (e.g. a disclosure statement or affidavit form provided by the Islands Trust)” were replaced with the sentence The owner or applicant may provide the Islands Trust with a statutory declaration or a site plan certified by a BC Land Surveyor or a member of the A.Sc.T indicating the location of the proposed development in relation to the RAA or watercourse.
38. In E.4.8.2 the words “This regulation does not apply to a development permit or development variance permit issued only for the purpose of enabling” are removed.
39. In E.4.8.3 the words “or height” were removed as it is thought that this will not have the same impact as would a change in footprint.
40. In E.4.8.4 the words “as per” are replaced with “in accordance with”
41. In E.4.8.6 the words “and other species designated as invasive or noxious by the Ministry of Agriculture or the Coastal Invasive Plant Committee” are added and the last sentence is removed “See complete lists on the Ministry of Agriculture and the Coastal Plant Committee websites” is removed.
42. In 4.8.7 the word “determined” is replaced with the words “certified in writing”.

43. In E.4.8.8 the words “and on provision of” were replaced with “provided that written” and after the word “approvals” the words “has been provided”.
44. E.4.8.9 is removed in its entirety. A covenant is a less effective protection tool than a DP for this purpose.
45. In E.4.8.10 part b. the words “a”, “or” and “an obstruction to” have been added and in part c. the words “carried out” were added.
46. E.4.8.11 is removed in its entirety as there is no need to remove public works from the necessity to obtain a development permit.
47. E.4.8.12 is removed in its entirety.
48. In E.4.8.16 the words “for a farm operation” and “as defined” is added and the words “done for farming practices being” are removed.
49. In E.4.8.17 the word “by” is replaced with “under” and the words “, however, it is strongly recommended that they adhere to the DPA guidelines” are removed.
50. In E.4.8.18 the last sentence is removed “However, it is strongly recommended that they adhere to the DPA guidelines”. A guideline should not be used to make a recommendation. It would be better for the Islands Trust to establish protocol agreements with Crown corporations respecting certain environmental guidelines that should be adhered to.

DRAFT
SALT SPRING ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 449

A BYLAW TO AMEND SALT SPRING ISLAND OFFICIAL COMMUNITY PLAN
BYLAW NO. 434, 2008

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

AND WHEREAS Section 29 of the Islands Trust Act gives the Salt Spring 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 Section 27 of the Islands Trust Act requires that the Executive Committee of the Islands Trust must approve an Official Community Plan prior to adoption;

AND WHEREAS the Salt Spring Island Local Trust Committee wishes to amend the Salt Spring Island Official Community Plan Bylaw No. 434, 2008;

AND WHEREAS the Salt Spring Island Local Trust Committee has held a Public Hearing;

NOW THEREFORE the Salt Spring Island Local Trust Committee enacts as follows:

CITATION

- 1. This Bylaw shall be cited as "Salt Spring Island Official Community Plan Bylaw No. 434, 2008, Amendment No. 1, 2011".

AMENDMENTS

- 2. Salt Spring Island Local Trust Committee Bylaw No. 434, 2008 is amended as shown on Schedules 1, 2 and 3 of this amending bylaw.

READ A FIRST TIME this day of , 20
PUBLIC HEARING HELD this day of , 20__
READ A SECOND TIME this day of , 20__
READ A THIRD TIME this day of , 20__
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST this day of , 20__
APPROVED BY THE MINISTER OF COMMUNITY, SPORTS AND CULTURAL DEVELOPMENT this day of , 20__
ADOPTED this day of , 20__

SECRETARY

CHAIRPERSON

**SALT SPRING ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 449**

SCHEDULE 1

Salt Spring Island Official Community Plan Bylaw No. 434, 2008 is amended as follows:

1. By amending Schedule A, Volume 2, by replacing Map 21 with a new Map 21 (Schedule 2).
2. By amending Schedule A, Volume 2, by inserting a new Map 21a (Schedule 3); and updating the list of maps identified in Volume 2.
3. By amending Schedule A, Volume 2, Part E – Development Permit Areas – by deleting Section E.4 Development Permit Area 4 – Lakes Streams and Wetlands – and replacing it in its entirety with the following:

“E.4 DPA4 LAKES, STREAMS, WETLANDS AND RIPARIAN AREAS

E.4.0 Definitions

The following definitions are applicable to the interpretation of this development permit area.

development – means any of the following to the extent that they are subject to Local Trust Committee powers under Part 26 of the *Local Government Act*:

- (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) flood protection works;
- (f) construction of roads, trails, docks, wharves and bridges;
- (g) provision and maintenance of sewer and water services;
- (h) development of drainage systems;
- (i) development of utility corridors;
- (j) subdivision as defined in section 872 of the *Local Government Act*.

development proposal – means any development that is proposed in a riparian assessment area that is within DPA4.

fish – means all life stages of

- (a) salmonids;
- (b) game fish, and
- (c) regionally significant fish.

high water mark – means the visible high water mark of a stream where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the stream a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself, and includes the active floodplain.

natural features, functions and conditions – include but are not limited to the following:

- (a) large organic debris that falls into the stream or streamside area, including logs, snags and root wads;
- (b) areas for channel migration, including active floodplains;
- (c) side channels, intermittent streams, seasonally wetted contiguous areas and floodplains;
- (d) the multi-canopied forest and ground cover adjacent to streams that:
 - (i) moderate water temperatures;
 - (ii) provide a source of food, nutrients and organic matter to streams;

- (iii) establish root matrices that stabilize soils and stream banks, thereby minimizing erosion; and
- (iv) buffer streams from sedimentation and pollution in surface runoff;
- (e) a natural source of stream bed substrates;
- (f) permeable surfaces that permit infiltration to moderate water volume, timing and velocity and maintain sustained water flows in streams, especially during low flow periods.

pre-existing permanent building or structure – means any building or structure that was constructed, placed or erected on a secure and long-lasting foundation on land in accordance with any local government bylaw or approval condition in effect at the time of construction, placement or erection.

qualified environmental professional (QEP) – means an applied scientist or technologist, acting alone or together with another qualified environmental professional, if

- (a) the individual is registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association’s code of ethics and subject to disciplinary action by that association;
- (b) the individual’s area of expertise is recognized in the assessment methodology prescribed by the Ministry of Environment under the *Fish Protect Act* as one that is acceptable for the purpose of providing all or part of an assessment report in respect of that development proposal; and
- (c) the individual is acting within that individual’s area of expertise.

ravine – means a narrow, steep-sided valley that is commonly eroded by running water and has a slope grade greater than 3:1.

riparian area – means a streamside protection and enhancement area.

riparian assessment area (RAA) – means:

- (a) for a stream, the 30 meter strip on both sides of the stream, measured from the high water mark;
- (b) for a ravine less than 60 meters wide, a strip on both sides of the stream measured from the high water mark to a point that is 30 meters beyond the top of the ravine bank; and
- (c) for a ravine 60 meters wide or greater, a strip on both sides of the stream measured from the high water mark to a point that is 10 meters beyond the top of the ravine bank.

stream – includes any of the following that provides fish habitat:

- (a) a watercourse, whether it usually contains water or not;
- (b) a pond, lake, river, creek or brook;
- (c) a ditch, spring or wetland that is connected by surface flow to something referred to in paragraph (a) or (b).

streamside protection and enhancement area (SPEA) – means an area

- (a) adjacent to a stream that links aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing and potential adjacent upland vegetation that exerts an influence on the stream; and
- (b) the size of which is determined according to the Riparian Areas Regulation on the basis of an assessment report following RAR criteria provided by a qualified environmental professional in respect of a development proposal, using assessment methodology prescribed by the Ministry of Environment under the *Fish Protection Act*.

Note: For the purposes of the definition of “streamside protection and enhancement area,” vegetation must be considered to be “potential” if there is a reasonable ability for regeneration either with assistance through enhancement or naturally, but an area covered by a permanent structure must be considered to be incapable of supporting potential vegetation.

top of the ravine bank – means the first significant break in a ravine slope where the break occurs such that the grade beyond the break is flatter than 3:1 for a minimum distance of 15 meters measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed.

wetland means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a stream.

E.4.1 Designation

This development permit area (DPA) includes all land designated on Map 21 (Lakes, Streams and Wetlands) and Map 21a (RAR Designated Watersheds) of this plan as being within the Lakes, Streams, Wetlands and Riparian Areas DPA. This development permit area applies to all lands within 30 meters from the high water mark of a stream and 300 m of Maxwell Lake within the RAR identified watersheds (Map 21a) and applies to all lands within 10 meters of a watercourse outside of the RAR identified watersheds unless otherwise stated in this development permit area.

E.4.1.1. This designation applies to that part of Salt Spring Island shaded grey, adjacent to various lakes, streams and wetlands as indicated on Map 21, which is attached to and forms a part of this bylaw.

E.4.1.2 This designation also applies to all areas adjacent to streams within that part of Salt Spring Island shaded green identifying the Riparian Areas Regulation Designated Watersheds as outlined on Map 21a, which is attached to and forms a part of this bylaw, whether or not the stream is indicated on Map 21.

For certainty, these designations include every stream whether or not it is indicated on Map 21, and:

- a. for a stream, a 30 metre strip on both sides of the stream measured from the high water mark.
- b. for a ravine less than 60 metres wide that contains a stream, 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.
- c. for a ravine 60 metres wide or greater that contains a stream, 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.
- d. for all other water bodies, an area encompassing the water body and 30 metres around the water body measured from the high water mark of the water body or 300m for in the case of Maxwell Lake.

E.4.2 Justification

Riparian ecosystems occur adjacent to lakes, streams, and wetlands where the increased soil moisture supports and enhances plant communities distinct from the adjacent terrestrial areas. Generally, the protection of riparian areas is important for the following reasons: the protection of their biodiversity, the maintenance of water quality, the protection of aquatic habitat, and the retention of wildlife corridors.

Many of the lakes, streams and wetlands are an important source of drinking water for community water supply systems and individual license holders. Drinking water is a valuable resource that must be protected. Poor water quality is detrimental to fish, wildlife and residents

of Salt Spring Island and with the latter, if not managed, will lead to increased costs for drinking water protection.

The province of British Columbia's *Fish Protection Act*, requires that local governments protect riparian areas to a standard that is comparable to or exceeds the standard described in the Riparian Areas Regulation (RAR). Under the RAR a local government must not approve or allow development to proceed in a riparian assessment area unless the development proceeds in accordance with a QEP assessment report or if authorized by the Department of Fisheries and Oceans. This regulation requires that residential, commercial or industrial development as defined in RAR, in a Riparian Assessment Area near freshwater features, be subject to an environmental review by a qualified environmental professional (QEP). The reason for this is to protect riparian areas from development so that the areas can provide natural features, functions and conditions that support fish life processes.

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 areas and to protect aquatic wildlife.

Background Note: Some types of development in the vicinity of watercourses is subject to permit requirements under the Water Act (British Columbia). Harmful alteration, disruption or destruction of fish habitat is prohibited under the Fisheries Act (Canada) unless the work is authorized by permit issued by Fisheries and Oceans Canada. Compliance with Islands Trust development permit requirements does not affect any requirement for provincial or federal authorization of the same development.

E.4.3 **Objective**

To ensure that development adjacent to streams and watercourses:

- a. protects fish habitat.
- b. protects sensitive riparian habitat and the unique species that depends upon it.
- c. protects the community's drinking water supply.
- d. maintains the ecological value of these areas.
- e. guards against their contamination.

E.4.4 **Guidelines for New Development**

Development Permits issued in these areas shall be in accordance with the following:

E.4.4.1 The following activities shall require a development permit whenever they occur within the development permit area, unless specifically exempted in Section E.4.8. A QEP report prepared in accordance with the Riparian Areas Regulation is required as part of the development permit application for residential, commercial and industrial activities or ancillary activities as they relate to the follow activities:

- 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/sewage disposal 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*.

- E.4.4.2 Where land lies within one or more Development Permit Areas, all of the applicable development permit requirements must be met and a single development permit may be issued.
- E.4.4.3 All Development Permit applications must include a plan showing the following:
- a. the proposed location of any principal dwelling or other buildings and any accessory structures, wells, sewage disposal systems, driveways, parking areas, and impermeable surfaces, and the direction and quantity of any surface water discharge, before and after any development.
 - b. any other feature of the development (including but not limited to alteration of the ground surface by soil removal, filling, or blasting) with the potential to affect a stream.
- E.4.4.4 Where a parcel of land lies partly within DPA4, development should be planned to avoid the portion of the parcel that lies within the DP area.
- E.4.4.5 Development activities or proposals that have fully addressed the requirements of the *Riparian Areas Regulation* will be deemed to have met the requirements of this Development Permit Area as it pertains to streams providing fish habitat. There may be a need for additional application information and development permit conditions for habitat protection for wildlife, birds, amphibians and land management responsibilities of the Islands Trust whether or not the stream in question provides fish habitat.
- E.4.4.6 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.
- E.4.4.7 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 Local Trust Committee (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 QEP's report, and a requirement that the owner provide a compliance report to the Islands Trust within a specified period following completion of the development.
- E.4.4.8 The development permit should not allow any development activities to take place within any Streamside Protection and Enhancement Area (SPEA) identified by the QEP unless permitted by provincial and federal authorities, 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.
- E.4.4.9 In addition to implementing the measures contained in the QEP report and being the subject of a notice on title as part of the Development Permit (DP), to ensure future encroachment into the SPEA is reduced, the Islands Trust in consultation with the land owner may consider the following:
- a. gifting the SPEA to a nature preservation organization.
 - b. registering restrictive and/or conservation covenant(s) securing the measures prescribed in the QEP assessment report.
- E.4.4.10 Any development should be designed so as to maintain the quality of any storm water flowing toward or into a stream, to prevent any increase in volume and peak flow runoff and to prevent erosion.
- E.4.4.11 Vegetation appropriate, preferably indigenous, to the site may be required to be planted on the site to reduce erosion risk, restore the natural character of the site, improve water quality, or stabilize slopes and banks.

- E.4.4.12 Gardening and other activities related to residential use should be sited so as to prevent nutrient-rich water from entering streams.
- E.4.4.13 The following guidelines are applicable to temporary or permanent floats and associated structures within the development permit area:
- a. 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.
 - b. a ramp or float should not rest on the bed of the water body.
 - c. the use of treated wood in the water body should be avoided.
 - d. flotation material should be contained within a durable shell to prevent disintegration.
 - e. pervious surfacing should be used on ramps and floats (e.g. grating or separated boards).
 - f. any areas disturbed during installation should be restored.
 - g. where a float is being replaced, all old materials should be removed from the riparian area.
 - h. storage of temporary floats should not occur with the riparian area.
- E.4.4.14 If the nature of the proposed development 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 apply for an amendment to the development permit or a new development permit.
- E.4.4.15 The LTC may consider variances to subdivision or siting or size regulations where the variance may result in enhanced protection of the SPEA or riparian assessment area in compliance with recommendations of a QEP report.
- E.4.4.16 Development Permits issued with regard to road and driveway construction in this area should ensure that:
- a. watercourse crossings are located so as to minimize disturbance of stream banks, channels, shores and vegetation cover.
 - b. wherever possible, bridges are used instead of culverts for crossing of fish habitat streams.
 - c. culverts are sited to permit unrestricted movement of fish in both directions.

E.4.5 **Guidelines for Non-Fish Habitat Streams**

Where a stream does not support fish habitat, development permit applications must include a report or assessment prepared by a qualified professional such as an RPBio, or Environmental Engineer containing the following information:

- a. a detailed site plan identifying the high water mark of a stream or top of a ravine bank and a line 10 metres from that point.
- b. any intermittent or permanent wetlands on the site.
- c. an environmental assessment of the watercourse ecosystem.
- d. an impact statement describing effects of proposed development on the natural conditions.
- e. measures considered necessary to protect the integrity of the watercourse ecosystem from the effects of development.
- f. guidelines and procedures for mitigating habitat degradation including limits of proposed protected areas.
- g. habitat compensation alternatives, where compensation is recommended.

E.4.6 **Guidelines for QEP Reports**

- E.4.6.1 Where a QEP or other professional 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 or other professional at the applicant's expense may be required during construction and development phases, as specified in a development permit.
- E.4.6.2 The report by a QEP or other professional is strongly recommended to provide a plan for the management of sediment during construction. This sediment management plan should show how the methods identified will protect streams and any associated drainages from sediment, erosion, and runoff impacts that may result from construction or land clearing activities. Conditions and requirements respecting implementation of the sediment management proposal may be specified in the development permit.
- E.4.6.3 The report by a QEP or other professional should provide a drainage plan, complete with recommendations for implementation that address water quality, water quantity, storm water discharge, and erosion control, so as to minimize impacts on fish, fish and wildlife habitat, and physical riparian functions. Conditions and requirements respecting implementation of the drainage plan may be specified in the development permit.
- E.4.7 **Guidelines for Subdivision**
- E.4.7.1 All new lots, roads, building sites, septic fields and driveways should be located and constructed to meet the objectives of this Development Permit Area.
- E.4.7.2 In the case of a proposed subdivision within a Development Permit Area, subdivision design should consider lot configuration that protects the SPEA.
- E.4.8 **Exemptions**
- In the following circumstances a development permit is not required. Owners must satisfy themselves that they meet the requirements of any applicable federal or provincial regulations.
- E.4.8.1 Development that is outside of a Riparian Assessment Area (RAA) or more than 300 m from Maxwell Lake or more than 10 m from a watercourse that is outside of the watershed areas designated on Map 21a. The owner or applicant may provide the Islands Trust with a statutory declaration or a site plan certified by a BC Land Surveyor or a member of the Applied Science and Technologists and Technicians of BC indicating the location of the proposed development in relation to the RAA or watercourse.
- E.4.8.2 Reconstruction or repair of a permanent structure described in Section 911 (8) of the *Local Government Act* if the structure remains on its existing foundation.
- E.4.8.3 Interior or structural exterior alterations, renovations or repair to a pre-existing permanent building or structure on an existing foundation to an extent that does not alter, extend or increase the building's footprint.
- E.4.8.4 Planting or replanting of native trees, shrubs or ground cover for slope stabilization, habitat improvement, soil stabilization or erosion control suitable for the site in accordance with a vegetation management plan approved by DFO or the Ministry of Forest, Lands and Natural Resource Operations (FLNRO).
- E.4.8.5 Routine maintenance of 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.
- E.4.8.6 The removal of invasive plants or noxious weeds including, but not limited to, Scotch Broom, Himalayan Blackberry, Gorse, Knapweed, Yellow Flag Iris, Orchard Grass and Purple Loosestrife, and other species designated as invasive or noxious by the Ministry of Agriculture

or the Coastal Invasive Plant Committee, provided that measures are taken to avoid sediment or debris being discharged into the watercourse or onto the foreshore and the area is replanted with indigenous species.

- E.4.8.7 The removal of trees certified in writing by a Certified Arborist or Registered Professional Forester, qualified to do tree-risk assessments, to represent an imminent safety risk.
- E.4.8.8 Stream enhancement and fish and wildlife habitat restoration works carried out under provincial or federal approvals such as work that is authorized by Fisheries and Oceans Canada by permit under Section 35 of the *Fisheries Act* or changes in or about a stream authorized under Section 9 of the *Water Act* provided that written evidence of such approvals has been provided to the Islands Trust.
- E.4.8.9 Emergency procedures to prevent, control or reduce immediate threats to life or property including:
 - a. emergency actions for flood protection and erosion protection.
 - b. clearing of an obstruction from a bridge or culvert or an obstruction to drainage flow.
 - c. repairs to bridges and safety fences carried out in accordance with the *Water Act*.
- E.4.8.10 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*.
- E.4.8.11 Forest management activities on land that is the subject of a woodlot license or tree farm license under the *Forest and Range Practices Act*.
- E.4.8.12 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.4.8.13 Land alteration and vegetation removal on agricultural land that is more than 3m from the high water mark of a stream (except Maxwell Lake), for a farm operation that is consistent with normal farm practices as defined under the *Farm Practices Protection (Right to Farm) Act*.
- E.4.8.14 Mining activities regulated under the *Mines Act*.
- E.4.8.15 Actions undertaken by the Crown or an agent of the Crown.

K:\Bylaws\OCP - Salt Spring\OCP Bylaw 434 (October 2008)\Amendments\OCP 449 DPA4 (RAR)\Draft Bylaw\Bylaw No 449 OCP Amendment (DPA4) Final (PB Edits v.2).doc

From: [Michael Sloan](#)
To: [Grant, Alex J ENV:EX](#)
Cc: [Antal Bata](#); [Aaron Haegele](#); [Shawn P. Samborsky x5717](#)
Subject: RE: Goldstream TOR Environmental Assessment- Draft
Date: Tuesday, April 19, 2011 11:52:39 AM

Hi Alex,

Parkland Fuel Corporation will monitor impacts, share results with regulators and actively assess if further steps need to be taken to improve the health of the habitat and ecosystem. As requested, below is a summary of a draft Terms of Reference to address potential impacts associated with the accidental product release at Goldstream Park.

Terms of Reference for Goldstream Spill Response and Environmental Impact Assessment

Stakeholder Liaison

- Providing technical input to assist Parkland/Columbia Fuels discussions with provincial and federal regulatory agencies (BC Environment, Transportation and Infrastructure, Fisheries and Oceans Canada, etc.), as well as other key groups, such as local First Nations, Goldstream Provincial Park, Goldstream Fish Hatchery, and related volunteer organizations

Product Release Mitigation

- Working with a spill response contractor (Quantum-Murray) providing recommendations regarding source produce removal, as well as placement/maintenance of absorbent material, booms, diversion trenches, and other effective measures to limit the immediate human health/safety and environmental impacts of the accidental product release

Soils Assessment

- Working with Quantum-Murray to carry out test-pitting and sampling along the highway near the site of product release, analyzing for petroleum hydrocarbons associated with gasoline and diesel
- Sampling and analysis along excavation limits of impacted soils to confirm that areas have been remediated to provincial/federal requirements
- Providing recommendations for excavation/disposal of impacted soils, as well as measures for effective in-situ remediation and/or long-term source control measures, if necessary
- In discussion with Fisheries and Oceans Canada, evaluation of the potential benefits of remediating streambed sediments in the area of the culvert discharge and immediately downstream, obtaining authorization and scheduling any planned work appropriately to minimize potential habitat impacts

Groundwater Assessment

- Although groundwater was not encountered in the initial excavations near the site of the product release, the need for a groundwater assessment within the nearby fractured bedrock will be evaluated

Fisheries

- Fish mortality and morbidity assessment to estimate the numbers and species directly affected by the accidental product release
- Tissue sampling to evaluate toxicity effects of any ingested petroleum hydrocarbons on wildlife; based on the results and in discussion with regulatory agencies, harvesting of impacted biota will be carried out
- Shellfish tissue sampling to assess whether the current shellfish harvesting ban can be lifted

Benthic Invertebrates

- Invertebrate mortality/morbidity assessment at the culvert discharge point into Goldstream River, as well as immediately upstream and downstream into the estuary

Habitat

- Biophysical assessment of fish and wildlife habitat and vegetation immediately upstream and downstream of the culvert discharge into the Goldstream River for comparison of product release impacts and recovery
- Evaluation of habitat compensation and enhancement opportunities

Water Quality

- Sampling and analysis of surface water (ditch drainage) flows at the source site of the product release, as well as immediately upstream and downstream
- Sampling of culvert discharges into the Goldstream River, as well as water flows immediately upstream and downstream of the discharge point to the estuary, for comparison with available background data
- Pore water sampling of streambank and benthic sediments near the surface water sampling locations in the Goldstream River

Wildlife (Birds, Mammals, Amphibians)

- Biophysical assessment of the observed wildlife mortality/morbidity potentially related to the product release

Short-term Monitoring Program

- Daily monitoring/sampling of surface water flows at the culvert discharge into the Goldstream, as well as immediately upstream and downstream to the estuary
- Daily monitoring maintenance of product release mitigation measures (booms, absorbent pads, etc.), disposing and replacing materials where necessary
- Daily monitoring assessment of fish mortality/morbidity and habitat impacts near the location of the culvert discharge and downstream to the estuary
- Evaluation of the results of the daily monitoring program after one week, in comparison with federal and provincial requirements, to assess whether the monitoring frequency may be reduced to weekly events

Long-term Monitoring Program

- Weekly sampling of streambank and benthic sediments identified to be impacted by the accidental product release

- Weekly monitoring and assessment of estuarine impacts (water quality, fish mortality/morbidity) related to the product release
- Evaluation of the results of the weekly monitoring program after one month, in comparison with federal and provincial requirements, to assess whether the monitoring frequency may be reduced to monthly events
- Continuation of monthly monitoring/sampling for a minimum of 6 months, evaluating whether the monitoring program need be continued at that time, based on the analytical results and biophysical assessment, and in discussion with regulatory agencies. It is anticipated that the monitoring program will extend through the annual salmon run in the fall to confirm the effectiveness of the mitigation measures and remediation program.

Public and Park Impacts

- Working with regulatory agencies, Goldstream Park, and volunteer organizations to maintain public access to the park while limiting access to specific sample locations and impacted areas; a temporary extension of existing park access control methods is anticipated
- Notification and coordination of all sampling/monitoring activities with Goldstream Park personnel

Reporting

- Daily and ad hoc reporting of mitigation and interim assessment findings will be provided
- An Initial report containing preliminary findings will be provided within 60 days, with a monthly report provided within 30 days following receipt of monthly analytical results

Michael Sloan, M.Sc., P.Eng., CSAP
Senior Environmental Engineer

SLR Consulting (Canada) Ltd.

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From: Grant, Alex J ENV:EX [mailto:Alex.Grant@gov.bc.ca]
Sent: April 18, 2011 1:10 PM
To: 'Ian Wilson'; Antal Bata
Cc: 'EC Pat Fraser'; Pauwels, Peter ENV:EX; Knox, Graham ENV:EX; 'Nick.Russo@ec.gc.ca'; Chatwin,

Trudy FLNR:EX; Ryan-Wilson, Kathryn ENV:EX; 'emorris@columbiafuels.com'

Subject: Golodstream TOR Environmental Assessment- Draft

Importance: High

Hi Ian and Antal,

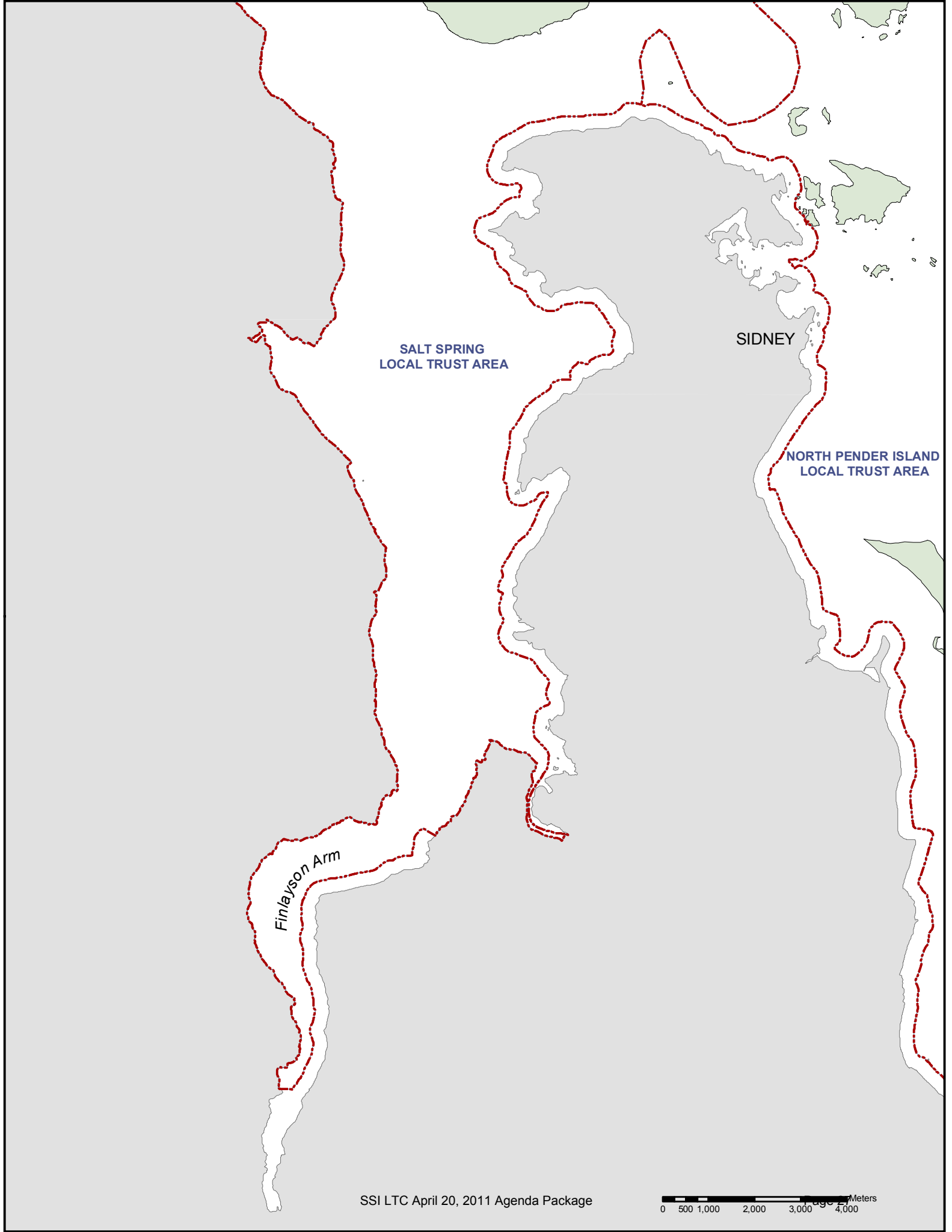
As discussed yesterday, here is the initial request for you to prepare on behalf of Columbia Fuels, a Terms of Reference (TOR) and delivery schedule for an environmental spill impact assessment.

1. Deadline- TOR for spill response measures now underway and proposed submitted to this email address by - end of day today
2. TOR must contain:
 - o Evaluation of environmental impact from the spill in Goldstream River extending from upstream of the spill site and downstream to include the estuary to:
 - Fisheries
 - Benthic invertebrates
 - Habitat
 - Water quality
 - Wildlife (birds, mammals, amphibians)
 - o Short and long term monitoring program of these impacts until contamination levels return below the appropriate provincial and federal standards. Measures to minimize impacts to the public in the park during this remediation and monitoring phase must be detailed.
 - o An evaluation of the potential for Highway #1 roadbed contamination to act as an ongoing source of fuel contamination into Goldstream River.

This draft will be forwarded to other agencies having jurisdiction. Additional requirements may be added.

Nothing in the foregoing should interfere with timely action to address outstanding impacts now in play related to this spill. Response measures should include harvesting of contaminated biota to minimize secondary environmental impacts.

Alex Grant, B.Sc.
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SALT SPRING
LOCAL TRUST AREA

SIDNEY

NORTH PENDER ISLAND
LOCAL TRUST AREA

Finlayson Arm