



STAFF REPORT

DATE May 31, 2011

File No.: Development Permit Implementation

To: Salt Spring Island Local Trust Committee
For meeting of June 2, 2011

From: Justine Starke, Island Planner

CC: Leah Hartley, Regional Planning Manager

Re: Development Permit Implementation Plan

THE PROPOSAL:

The purpose of this report is to pursue Local Trust Committee direction made while considering Bylaw 449 - DPA4 - Lakes, Streams, Wetlands and Riparian Areas. This report provides detailed information on achieving bylaw implementation measures identified previously and sets a course for bringing these measures to fruition.

BACKGROUND:

The Salt Spring Island Local Trust Committee is pursuing the implementation of the Provincial Riparian Areas Regulation through amendments to the Salt Spring Island Official Community Plan Development Permit Area 4. The amending bylaw 449 was given first reading on April 20, 2011 and a community information meeting held on April 28, 2011. A public hearing on the proposed bylaw is to follow shortly.

On April 7, 2011 the Salt Spring Island Local Trust Committee considered a staff report to address ease of implementation of Bylaw 449. The report recommended numerous strategies including amendments to other bylaws. The LTC passed the following resolution:

It was **MOVED** and **SECONDED** that the Salt Spring Island Local Trust Committee directs staff to initiate implementation measures, including necessary bylaw amendments, for completion prior to the final adoption of Bylaw No. 449. **CARRIED**

CURRENT PLANNING STATUS:

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.

IMPLEMENTATION MEASURES:

The following table lists some proposed implementation strategies of proposed Bylaw 449. It describes the process for bringing these strategies into practice and identifies at what level the authority exists to follow up with action.

	Strategy:	Description:	Process:	Authority:	LTC Resolution(s) Required?
1.	Reduced Fees for Development Permit Areas	The LTC could consider reducing fees for this Development Permit Area, especially when a QEP report is required. Fees could also be reduced for those development permits where more than one Development Permit Area would apply.	Bylaw Amendment to the Salt Spring Island Fees Bylaw No. 428.	Salt Spring Island Local Trust Committee	Yes
2.	Reduced Fees for Development Variance Permits	The LTC could also consider reducing fees for Development Variance Permits where landowners would need setback relaxations in order to remain further than 30 metres from a RAR identified fish stream (the DPA).	Bylaw Amendment to the Fees Bylaw No. 428.	Salt Spring Island Local Trust Committee	Yes
3.	Advisory Committees	Where a QEP report has been provided for development within the DPA, the LTC could make a decision without referring the application to its Advisory Committees, thereby reducing the time the process takes.	Standing Resolution of the Local Trust Committee	Salt Spring Island Local Trust Committee	Yes
4.	Statutory Declaration	Proposed Bylaw 449 gives land owners the option to submit a statutory declaration form confirming the proposed development is outside of the 30 metre Riparian Assessment Area (RAA). This would relieve the land owner from the need to obtain a Riparian Areas Development Permit (DPA 4).	Staff have obtained sample wording from the Ministry of Environment that could be used in a standard Statutory Declaration.	Salt Spring Island Local Trust Committee Regional Planning Manager, Salt Spring Region of Islands Trust.	Inherent in the wording of Bylaw 449.
5.	Processing Time	Processing time for development permits could be further reduced if the LTC were to consider the permits by Resolution without Meeting (RWM), saving time by not waiting until the next scheduled Local Trust Committee meeting to review the application.	Standing Resolution of the Local Trust Committee	Salt Spring Island Local Trust Committee	Yes
6.	Handout/ Brochures	Staff can assist landowners in understanding the development permit process by creating handouts and brochures on Bylaw 449, its implementation, and required steps. Staff can be proactive with public education on the DPA process.	Staff procedure within the Salt Spring office of the Islands Trust.	Regional Planning Manager, Salt Spring Region of Islands Trust.	No

7.	Prioritizing DPA 4 Applications	DPA 4 applications could be prioritized over other applications. For instance, policies may expedite a permit proposal to advance to the Local Trust Committee (LTC) where a Qualified Environmental Professional (QEP) report is provided.	Standing Resolution of the Local Trust Committee	Salt Spring Island Local Trust Committee	Yes
8.	Staff Approval of Development Permits	Islands Trust could ask the Provincial Government for the authority to delegate to staff the responsibility for approving Development Permits on the basis of the conditions set by a QEP report. This would eliminate the requirement of LTC approval. Delegation authority would be modeled on provisions affecting Regional Districts and Municipalities.	Application for provincial delegation through Order in Council Once the Islands Trust has been given Provincial permission, a Bylaw needs to be adopted that enacts delegation of authority to staff	Islands Trust Executive Committee; Salt Spring Island Local Trust Committee	Yes Note: This item is being pursued at the Executive Committee level.
9.	Site Visits	Local Planning Services staff could attend QEP training and perform site visits to help identify when RAR might apply for landowners. This would help proponents to assess the costs associated with their development options,	Staff procedure within the Salt Spring office of the Islands Trust.	Regional Planning Manager, Salt Spring Region of Islands Trust.	No
10	Coordination with other Jurisdictions	Staff can ensure that other agencies are familiar with the Development Permit Area and work to ensure regulatory consistency as well as act as advocates for the riparian values within the DPA. Particular importance should be placed on coordination with agencies such as CRD Building Inspection and the Ministry of Transportation and Infrastructure. Staff can ensure that agencies are familiar with the development permit areas so that they will advise clients to meet with planning staff prior to proceeding with development.	Staff procedure within the Salt Spring office of the Islands Trust.	Regional Planning Manager, Salt Spring Island team of Islands Trust.	No
11	Protocol Agreements	The LTC could consider revisiting or creating new protocol agreements with other Crown agencies to negotiate adherence to the new DPA 4.	This would be implemented through informal practices or through "letters of agreement" between either the Salt Spring Island Local Trust Committee and a local agency or between Trust Council and a	Salt Spring Island Local Trust Committee; Executive Committee of the Islands Trust.	Yes

			Provincial agency.		
12	Coordination with Community Interests	Staff can consult with Island groups such as the Salt Spring Water Council, realtors, lawyers, developers, excavators, contractors, etc. in order to foster understanding of the process and ensure the correct information is used.	Staff procedure within the Salt Spring office of the Islands Trust.	Regional Planning Manager, Salt Spring Island team of Islands Trust.	No
13	Coordinate with Other Legislation	The LTC can direct that Salt Spring Island's Land Use Bylaw be amended for consistency with standards in other agency's policies and guidelines. For example, recent correspondence from the Ministry of Agriculture gives standards for agricultural setbacks from riparian areas.	Housekeeping amendments to Land Use Bylaw 355.	Salt Spring Island Local Trust Committee	Yes
14	Ensure consistent interpretations	Staff can create an interpretations manual for the public as well as Islands Trust staff to know for certain how to interpret Bylaw 449.	Staff procedure within the Salt Spring office of the Islands Trust.	Regional Planning Manager, Salt Spring Island team of Islands Trust.	No
15	Mapping	The LTC can set part of its OCP budget each year to conduct a RAR simple assessment to establish SPEA in future growth areas such as Channel Ridge or Ganges, or in confined development areas such as Fulford Harbour and Vesuvius.	LTC Work Program	Salt Spring Island Local Trust Committee Regional Planning Manager, Salt Spring Island team of Islands Trust.	See Recommendation
16	Mapping	Islands Trust can update Development Permit Area 4 mapping yearly through new studies, surveys or development application updates.	LTC Work Program	Salt Spring Island Local Trust Committee Regional Planning Manager, Salt Spring Island team of Islands Trust.	See Recommendation

DISCUSSION:

Reduced Fees For Development Permit Area 4:

- The Salt Spring Island Fees Bylaw 428 can be amended to reduce fees for Environmental Development Permit Areas. The fees bylaw is an administrative bylaw that does not require a public hearing before adoption.
- The LTC has demonstrated it would like to see a fee structure that is fiscally responsible but will also lessen the burden of application costs for property owners. More direction is needed as to whether staff should investigate reducing the cost of all Environmental Development Permits, or only Development Permit Area 4 fees. There is rationale to have reduced fees wherever a report from a Qualified Environmental Professional is required.
- On North Pender, the cost of processing Environmental Development Permits for Sensitive Ecosystems and for the RAR DPA was reduced to \$200. The rationale was that because application fees are supposed to reflect the average cost of processing a given application type, and Environmental DPAs request Qualified Environmental Professionals to provide reports that make recommendations for how development is to occur, Islands Trust Staff could more easily create permits that respond to the professional reports.
- Trust Council has struck a joint task force between its Local Planning Committee and its Financial Planning Committee to review application fees generally across the Trust Area and report back in August with recommendations for any changes to be presented in September 2011 at Trust Council. This report may have implications for the fee structure of all Salt Spring Island applications.
- The Local Trust Committee may decide that it is in the best interest of the community to be proactive with reducing DPA4 application costs immediately upon adoption of Bylaw 449. The recommendation provided below is based on that perspective.

Reduced Fees For Development Variance Permits:

- This fee reduction proposal would only apply to those situations where a setback relaxation is needed in order to avoid encroaching on the Development Permit Area. In these cases, the development would be outside of the 30 metre Riparian Assessment Area and be exempt from the need to get a Development Permit.
- It should be noted that in some cases it could be preferable from a planning perspective to advise an applicant to encroach on the 30 metre Riparian Assessment Area and go through the Development Permit process. Because Development Permits are flexible tools that, subject to Section 920.2(a) of the Local Government Act, can also be used to vary bylaw requirements, they could be more useful to ensuring protection of any riparian sensitivity while at the same time permitting the proposed development in the context of site constraints.

Standing Resolution to send DP4 applications directly to Advisory Committees:

- Pursuant to OCP direction, the current practice is for Development Permit Area 4 applications to be reviewed twice by the LTC. The first time the LTC reviews a DP application, staff recommend that the Environmental Advisory Committee (EAC) be referred the application for advice. Once the EAC has their review, the application is again put on the LTC agenda for consideration of approval. OCP Policy D.5.3(a) states:

D.5.3 The Local Trust Committee will develop a Plan Implementation Program to suggest how some parts of this Plan can be carried out over the long term. It will identify the major initiatives suggested by this Plan, their general priorities, time frames and a preliminary work plan. Actual priorities and specific time frames will depend on future decisions of successive Local Trust Committees and the ability to engage local citizens, other government and public agencies, and staff resources to contribute to these decisions. Some policies of this Plan that can be put in place over a longer term and that will be included in the Plan Implementation Program are:

a) The creation and continuation of public advisory groups as suggested throughout this Plan, such as an Agricultural Advisory Committee, an Environmental Advisory Committee and a Community Heritage Commission. Once formed, these groups will be asked to provide advice about land use matters such as applications for rezoning, subdivision and development permits.

- Because RAR requires the applicant to provide a report from a Qualified Environmental Professional with recommendations for mitigation measures, further advice from Environmental Advisory Committee may not be necessary. The Local Trust Committee can choose to pass a standing resolution not to send DP applications to Advisory Committees for review if the applications are accompanied by a report from a Qualified Environmental Professional, meeting the requirements of the Development Permit Area.

Processing Time

- As above, the Local Trust Committee can choose to pass a standing resolution to consider the permits by Resolution without Meeting (RWM), saving time by not waiting until the next scheduled Local Trust Committee meeting to review the application.

Prioritizing DPA 4 Applications

- The Salt Spring Local Trust Committee already gives some application types priority over others. In the minutes of the January 11 2007 Local Trust Committee meeting it was noted:
“the Local Trust Committee agreed that priority should be given to applications by a public service agency for broad community benefit if urgency is defined by the applicants, and to applications for affordable, rental and special needs housing. The Local Trust Committee also recognized that exceptions as determined by the LTC could also be allowed, particularly if the application advances the object of the Islands Trust.”
- The Local Trust Committee could also prioritize DP4 applications, understanding that the applications would still need to wait in queue to be expedited with the other prioritized applications.

Staff Approval of Development Permits:

- At its May 5 2011 monthly meeting, the Salt Spring Island Local Trust Committee passed the following resolution:

*It was **MOVED** and **SECONDED** that the Salt Spring Island Local Trust Committee request that the Executive Committee of the Islands Trust ask the Provincial Government to amend the regulations associated with the Islands Trust Act in order to grant Local Trust Committees the same delegation authority as municipalities and regional districts. **CARRIED***

- At a May 24 2011 meeting of the Executive Committee of the Islands Trust, the following resolution was passed:

It was Moved and Seconded that the Executive Committee request staff to prepare a report for the Executive Committee on the feasibility of the request (from the Salt Spring Island Local Trust Committee)

for legislative change to allow local trust committees to delegate authority to staff to issue development permits.

CARRIED

It is anticipated that this work will continue over the summer and no further action is required of the Salt Spring Island Local Trust Committee at this time.

Protocol Agreements:

Ministry of Transportation and Infrastructure:

- Islands Trust has a Letter of Agreement with the Ministry of Transportation and Infrastructure (MoTI) (dated 1992 and amended in 1996). It is the intent of this agreement to ensure that road construction and design will consider the rural character of the island, the impact on the environment, maintenance of roads as a safe and affordable asset, and the provision of equitable levels of mobility and accessibility for Island residents and visitors. Of specific relevance is section 2 c) on Ditches:

Proposed and existing ditch systems entering fresh water lakes used for potable water supply are of special concern. The Ministry of Transportation and Highways will advise the Islands Trust of proposed drainage works in proximity to fresh water lakes or of plans for drainage of wetlands which may have groundwater recharge value.

- Because the agreement is between MoTI and Islands Trust to address the whole Islands Trust Area this action item should be pursued at the Trust Council level.
- The Salt Spring Island Local Trust Committee could pass a resolution requesting the Islands Trust Executive Committee review the letter of agreement with MoTI and consider re-negotiating a revised agreement between MoTI and Islands Trust to ensure the intent of the Riparian Areas Regulation is addressed by MoTI in works undertaken within the Islands Trust Area.

Capital Regional District:

- Islands Trust also has a protocol agreement (Islands Trust Council Bylaw No. 63) with the Capital Regional District to “cooperate with respect to the implementation, coordination, and administration of each Party’s legislative authority that may impact the other Party . . . It is the intent of the Parties to formalize their cooperation by way of letters of understanding as required for specific matters.”
- The Salt Spring Local Trust Committee could direct staff to initiate a letter of agreement with the CRD Building Inspection on Salt Spring Island with regards to the shared process for implementing proposed Bylaw 449. A special focus should be on agreeing to a procedure that does not incur delay in the process for building permit applications within this Development Permit Area.

Coordinate with Other Legislation:

- The BC Ministry of Agriculture has recommended standardized riparian setbacks for various types of agricultural buildings. The Salt Spring Island Trust is currently undergoing a review of Land Use Bylaw 355, focusing initially on affordable housing, suites and cottages, Industrial Task Force Recommendations, and a series of housekeeping amendments. The Salt Spring Local Trust Committee can direct staff to propose standardized riparian setbacks for various types of agricultural buildings when advancing the list of Bylaw 355 amendments currently under review.

Mapping:

- At its May 5 2011 monthly meeting, the Salt Spring Island Local Trust Committee requested more information about the cost of expanded mapping. In following up, it became apparent that this information is not easily obtained under Islands Trust policy without asking for a Request for Proposals (RFP). For a consultant to give even a ball park estimate could cause that consultant to be disqualified from responding to a RFP should one be eventually put to tender. The consultant would not be eligible to submit a response if they themselves helped shape the criteria of the RFP. Additionally, a quick estimate may not be considered reliable if the work to determine mapping costs wasn't thoroughly undertaken.
- The Local Trust Committee can direct staff to adjust the work program and establish RAR mapping as one of the top 5 priorities. The Salt Spring Island Local Trust Committee's current OCP Budget is \$40 000. If the LTC were to direct 25% of its OCP/LUB budget to mapping it is possible that it would be matched with funds from the Scientific Studies Fund of the Islands Trust. (A \$10 000 mapping project would probably be matched with \$5000). This could be done on an annual basis and mapping could be expanded over time.
- Staff could then issue a RFP asking qualified consultants to present a scope of work to conduct a RAR simple assessment and establish the SPEA of future growth areas for the spring of 2012. The scope of work should include groundtruthing of the streams and use a similar methodology to that employed by Madrone Consulting on North Pender Island.
- In addition, the budget developed in fall of 2011 can include a submission to expand mapping. This can be in combination with other islands to follow the methodology used on North Pender.

Other Mapping Considerations:

- Islands Trust can update Development Permit Area 4 mapping yearly through new studies, surveys or development application updates.
- The Local Trust Committee could pass a resolution directing staff to implement a system of cross referencing information received as a result of application processing with its mapping database. This would ensure new data is captured and the mapping becomes incrementally more accurate over time. While valuable in itself, it is recommended that a comprehensive mapping product using standardized methodologies would be preferable to stitching together a series of RAR reports for policy development.

STAFF COMMENTS:

Of the implementation Items that require a resolution of the Local Trust Committee, some items are seen to confer the greatest benefits to land owners and these are being prioritized by staff. While proposed bylaw 449 is still undergoing revisions as part of the bylaw process, the following recommendations are to be implemented upon bylaw adoption. The purpose of bringing these action items forward at this time is to direct staff to initiate work on implementation in coordination with the process for bylaw adoption. Of primary importance is the legal requirement for the Local Trust Committee to receive no new information about a proposed bylaw post-public hearing. The substance of many implementation items should therefore be discussed prior to the public hearing.

RECOMMENDATIONS:

1. THAT the Salt Spring Island Local Trust Committee direct staff to prepare the following standing resolutions to bring forward at time of final adoption of Bylaw 449:
 - a. A standing resolution that despite OCP Bylaw 434 Policy D.5.3(a), the Salt Spring Island Local Trust Committee will not refer applications for Development Permits to its Advisory Committees where a report from a Qualified Environmental Professional has been provided with recommendations for how development is to proceed.
 - b. A standing resolution that the Salt Spring Island Local Trust Committee consider Development Permit Area 4 applications by Resolution without Meeting whenever possible.
 - c. A standing resolution that the Salt Spring Island Local Trust Committee give priority consideration to applications for Development Permits in Development Permit Area 4.
2. THAT the Salt Spring Island Local Trust Committee direct staff to bring forward to the July 7 2011 Local Trust Committee meeting a draft bylaw to amend Salt Spring Island Fees Bylaw 428.
3. THAT the Salt Spring Island Local Trust Committee direct staff to initiate a letter of agreement or more informal process with the CRD Building Inspection on Salt Spring Island with regards to the shared process for implementing proposed Bylaw 449 upon adoption.
4. THAT the Salt Spring Island Local Trust Committee direct staff to set aside a portion of the OCP budget to be partnered with Islands Trust technical studies funding for mapping the Riparian Assessment Area.
5. THAT the Salt Spring Island Local Trust Committee request the Islands Trust Executive Committee to review the letter of agreement with the Ministry of Transportation (MoTI) and Infrastructure and consider re-negotiating a revised agreement between MoTI and Islands Trust to ensure the intent of the Riparian Areas Regulation is addressed by MoTI in works undertaken throughout the Islands Trust Area.

Prepared and Submitted by:

Justine Starke
Island Planner

May 31, 2011

Date

Concurred in by:

Leah Hartley
Regional Planning Manager

May 31, 2011

Date