



Islands Trust

STAFF REPORT

DATE March 30, 2011

File No.: 38.2 (a)

To: Salt Spring Local Trust Committee for April 7, 2011**From:** Kris Nichols, Planning Consultant**CC:** Leah Hartley, Regional Planning Manager

Re: Development Permit Area 4 Implementation Strategy Measures

PURPOSE

The purpose of this report is to provide the Local Trust Committee with a list of implementation strategy measures for consideration as a companion process to the adoption of Bylaw No. 449, the bylaw to amend Development Permit Area 4.

BACKGROUND

Throughout the discussions around the Environmental DPA Review, the LTC has been concerned that the implementation of the revised DPA4 bylaw not be onerous (i.e. time, effort and money) to put into practice from both a landowners and an administrative perspective. Therefore, it was identified early on that an implementation strategy is central to this bylaw revision, its adoption and its performance.

The implementation strategy is considered a companion process to the actual adoption of the bylaw. One should not proceed without the other. It is anticipated that when the revised DPA4 begins through the process of adoption and meeting the statutory requirements which can take several months it will be possible for staff to begin working on the implementation strategy to ensure that many of the options presented will be in place at final reading of the bylaw.

The intention behind the strategy is to ensure that when the bylaw reaches final reading that there are processes in place to ensure that the bylaw's implementation will be less onerous than was originally anticipated by the LTC and the landowners. In speaking with many residents they had the same concerns as did the LTC in that the bylaw's implementation would become too onerous which would lead to less compliance with the DPA and a significant hardship for those that wanted to comply.

IMPLEMENTATION STRATEGY TO ACCOMPANY DPA BYLAW ADOPTION

The implementation strategy measures outlined below address a range of implementation options, some that are more easily achievable and others that will require some time as they involve amendments to other bylaws and shifts in current practices and procedures. It is anticipated that

this list is not exhaustive and as the DPA is used there will be other options that will become clear to aid in the ease of implementation. The implementation measures include such things as:

1. The use of affidavits or disclosure statements to allow landowners to sign a form stating that they are aware of the Riparian Areas Regulation (RAR), but that their development does not apply as they are outside of the Riparian Assessment Area (e.g. 30m). The Islands Trust will develop their own forms for this purpose. (see draft Bylaw No. 449);

The intent being that by signing such a document the landowner is stating that they are outside of the DPA/RAR area and therefore there is no compliance issue.

2. That the draft bylaw includes development permit exemptions (see draft Bylaw No. 449). The main one being the DPA does not apply beyond the Riparian Assessment Area (e.g. generally 30m);

The intent is that specific uses are exempted from the requirement of having to obtain a DP and/or QEP (Qualified Environmental Professional). This is limited to primarily those exempted for RAR.

3. That the draft bylaw includes comprehensive and clear guidelines (see draft Bylaw 449);

The intent is that the clearer the guidelines the easier it will be for applicants to understand what is required of them in complying with the DPA requirements.

4. That staff become involved in preliminary site assessments with the recommendation that staff become QEP trained to assist landowners, but not to the level of writing QEP reports for landowners. Staff could assist with identification of possible RAR watercourses, the need for a QEP and how to accommodate landowner's development plans and the process that is to be followed;

The intent being that at least one of the staff would attend the 3 day course offered at Vancouver Island University to become knowledgeable about what it is a QEP does and what is required so as to assist the landowner. This would also give the staff the needed background to be able to accurately interpret the QEP reports for the benefit of both the land owner and the Islands Trust.

5. To draft a delegation bylaw to delegate the approval of development permits to the planning manager;

The intent is that where a development permit meets the guidelines established in a DPA that the Local Trust Committee delegates its authority to issue a development permit to the Regional Planning Manager. By doing this it would significantly lessen the processing time of development permit applications should they meet the guidelines in the DPA. Development permits are based on non-discretionary guidelines and can be approved if they are met by an applicant. Should there be concerns with an application or an applicant does not agree with the decision there would be opportunity to have the application heard by the LTC through the regular process. This would require that a delegation bylaw be written or added into an existing bylaw.

6. That development permits with QEP reports not be referred to advisory committees as the QEP reports are based on scientific methods and DPA guidelines and therefore based on fact should not to be debated;

The intent is to lessen the time that it takes to process an application by eliminating certain steps that will not impact the overall outcome of the process.

7. That the processing time for development permits be reduced by referring the development permit application to the LTC only once if at all depending if number 5 (delegation) above. This one time referral could be a shortened meeting mid-month to deal specifically with DPA applications;

In the current processing of a development permit application the application is consider twice by the LTC. This could be reduced to once for consideration of approval of the development permit. Previously, the first time was for the LTC to recommend that the application go to an advisory committee. This is a decision that staff could make in order to save time.

8. Significantly reduced fees for development permits requiring professionals (QEP, RPBio, etc.) and for those development permits where more than one development permit would apply. The professional would ensure that the DP guidelines are met. Planning staff would be required to draft the DP and ensure that it is registered on title along with reports;

The intent is to lessen the financial burden on landowners where they have to obtain a development permit and a qualified professional opinion as it pertains to development permits that relate to environmental protection. This done on other islands, for instance the current fee for a Development Permit in respect of a protection area is \$1100 and in North Pender for the same DP it is \$200. An amendment to the Fees Bylaw No. 428 should be made changing the current fee for protection area to a much lesser fee, thereby lessening the financial hardship of complying with this proposed DPA bylaw might impose when coupled with professional fees that are required as a result of the DPA and the implementation of RAR. It is also hoped that by lessening the financial burden, landowners are more likely to comply with the DPAs.

9. That the LTC set part of OCP budget each year to conduct a RAR simple assessment to establish SPEA in future growth areas such as Channel Ridge, Ganges, etc.;

The intent is that funds are earmarked so that incrementally improvements to stream mapping and their attributes can be made thereby increasing the known information and mapping capabilities as well as lessening the burden on landowners to have to do specific mapping and professional studies.

10. That staff provide clear explanatory information handout/brochure to accompany the bylaw adoption as part of an ongoing public education process;

The intent is to assist landowners in understanding how the development permit process occurs in general, to outline the process to be followed with the revised DPA4 and to ensure that staff are proactive in assisting landowners navigate through the DP process. This would be available at the time of bylaw adoption.

11. That LTC pass a resolution to update development permit area mapping yearly through new studies, surveys or development application updates;

The intent is to ensure that mapping is updated on a regular basis to ensure that the best up to date information is mapped and available for landowners to assist in the interpretation of the DPA.

12. That staff 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;

The intent is to make sure that various agencies are aware of the DPAs, what they state and what they can mean for agency applications. For example, to ensure that the Ministry of Transportation is aware of steep slopes, RAR for such applications dealing with access permits, bridge crossings, etc. and the requirement for development permits as part of Islands Trust's processes.

13. That staff conduct regular meetings with Island groups (e.g. realtors, lawyers, developers, excavators, contractors, water council, CRD building inspection, etc.) on the Islands Trust's regulations, applications and projects in an effort to keep people better informed about ongoing planning processes;

The intent is to increase the understanding of the rationale and the processes involved for various DPAs and applications. By doing so, it would lessen the confusion of various DPAs or regulations that landowners' have to deal with when developing. These Island groups would then be better informed and thereby their clients should be as well. Essentially increasing the knowledge and awareness around Islands Trust bylaws and how they function.

14. That staff will continue to work with provincial agencies and the CRD to seek out other opportunities whereby regulation duplication may be reduced and efficiencies created using their respective legislation and regulations to support the intent of the DPA and to add to the ease of its implementation;

The intent is that staff will continue to work with provincial agencies and the CRD to search out other implementation efficiencies that will improve the DPA process and add to the protection of the environmental qualities that it is intended to enhance.

STAFF COMMENTS

Staff agree with the landowners' and the LTC's desire to ensure that the implementation of Bylaw No. 449 is not onerous. In order to achieve this goal it is necessary to begin to implement the measures as listed above. This will go a long way to indicate to the public that there is a strong desire to ensure that DPAs can be implemented in manner that ensures residents are well informed and educated about the processes involved, that costs are being considered and that changes are being made to bylaws and procedures to assist landowners in complying with the DPA guidelines.

NEXT STEPS

Along with the adoption of Bylaw No. 449, the revised DPA4 – Lakes, Streams, Wetlands and Riparian Areas there is a need to ensure that the implementation of the bylaw is not onerous on landowners. Not only was this a concern raised by the LTC but many residents spoke of this as well. An implementation strategy is required.

Should Bylaw No. 449 be adopted at first reading, it is important that the LTC direct staff to start implementing some of the measures identified in this report. The LTC should identify those options that it does not wish staff to pursue at this time. If no measures are eliminated or postponed, staff will begin to work on the measures presented.

Some of the measures are easily accomplished as they are stated in the bylaw, others will require preparation during the bylaw adoption process, some will require LTC resolutions and still others will require amendments to or the creation of bylaws.

The next steps should be that staff start to systematically go through the list and prepare an outline of what each option requires to be implemented and to initiate them with the overall intent that they all be ready and/or implemented by the time of final adoption of Bylaw No. 449.

RECOMMENDATION:

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.

Respectfully submitted by:

Kris Nichols, Consultant

March 30, 2011

Concurred by:

Leah Hartley, Regional Planning
Manager

March 30, 2011

