

Date: August 19, 2016

File No.: 6500-20-Dock
Review

To: Galiano Island Local Trust Committee
For the meeting of August 29, 2016

From: Kim Stockdill, A/Planner 2

CC: Robert Kojima, Regional Planning Manager

Re: Dock Review

Preliminary Report

This staff report is to present options for the dock project for the Galiano Island Local Trust Committee's (LTC) consideration.

Project Objectives

The intent of the project is to consider amending current or adding new policies and regulations for private docks within the Galiano Island Local Trust Area.

Project Background

In March 2016, the Galiano Island LTC added the Dock Review project to the Top Priority list. At the July 4, 2016th LTC meeting, the following resolution was passed:

“GL-2016-067

It was MOVED and SECONDED,

that the Galiano Island Local Trust Committee endorses the project charter attached to the staff report dated June 23, 2016.

GL-2016-068

It was MOVED and SECONDED,

that the Galiano Island Local Trust Committee request that staff report back with a report outlining policy and regulatory options for the Dock Review project.”

Dock Implications:

In the past few years, issues concerning private docks have increased. The impacts of docks include environmental impacts, particularly on eelgrass or forage fish spawning areas and archaeological sites along shorelines can be impacted by dock development. Increasingly First Nations are expressing concerns about the proliferation of private

docks as they impact First Nations' ability to engage in traditional food gathering activities, other cultural impacts, and rights and title implications. The protection of public access to the shoreline is also a concern for community members, and visitors to the Island. Visual impacts of docks can be significant for neighbours, as the Galiano Island LTC has experienced when dealing with the last two Development Permits for dock construction within the Shoreline & Marine Development Permit Area. The community has expressed a desire to have the opportunity to speak to specific dock construction, design, and location.

Relevant Policy and Land Use Considerations

Islands Trust Policy Statement

Support for regulating the use of private docks can be found in the following relevant policies:

3.4.4 - Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.

3.4.5 - Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.

4.5.8 - Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the needs and locations for marine dependent land uses.

4.5.10 - Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.

4.5.11 - Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address opportunities for the sharing of facilities such as docks, wharves, floats, jetties, boat houses, board walks and causeways.

5.1.3 - Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.

5.5.4 - Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location and type of recreational facilities so as not to degrade environmentally sensitive areas, and the designation of locations for marinas, boat launches, docks and anchorages so as not to degrade sensitive marine or coastal areas.

5.5.5 - Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of sites providing safe public access to beaches, the identification and designation of areas of recreational significance, and the designation of locations for community and public boat launches, docks and anchorages.

Official Community Plan

The following are policies related to private docks in the Galiano Island Official Community Plan (OCP):

- The establishment of group or shared docks shall be encouraged.
- The Local Trust Committee may consider amending the existing Marine zone to not permit new individual private docks. Applications for rezoning for shared docks should be considered.

The OCP also includes specific Shoreline & Marine Development Permit Area (DPA) guidelines for dock construction or replacement:

42. For residential properties, preference is to be given to the placement of mooring buoys and floats instead of docks.

43. Docks and wharves should be designed to ensure that public access along the shore is maintained except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.

44. Docks and wharves should be sited to minimize impacts on sensitive ecosystems such as eelgrass beds, fish habitat and natural processes such as currents and littoral drift.

45. Docks should be constructed in a manner that permits the free flow of water beneath. Supports should be located on a hard substrate.

46. Floating docks should not rest on the sea bed at any time and a minimal, moveable ramp rather than a fixed wharf or pier should be utilized to connect the dock with the shore.

47. Piers and pilings and floating docks are preferred over solid-core piers.

48. Docks should not use unenclosed plastic foam or other non-biodegradable materials that have the potential to degrade over time. Docks should be constructed of stable materials that will not degrade water quality. The use of creosote-treated pilings is discouraged.

49. Boat launch ramps are the least desirable of all water access structures and should be located on stable, non-erosional banks where a minimum amount of substrate disturbance or stabilization is necessary. Ramps should be kept flush with the slope of the foreshore to minimize interruption of natural geohydraulic processes.

50. Construction of a private ramp on an individual residential lot or parcel is discouraged. Owners are urged to seek opportunities to use public ramps or to share existing private ramps.

51. Residential docks should be located and designed to avoid the need for shore defence works or breakwaters.

52. Residential docks should not extend from shore any further than necessary to accommodate a small pleasure craft. Residential docks should not be designed to accommodate boats with a draft greater than 2.2 metres or have floats more than 35 square metres total surface area unless more than two parcels have legal access to the dock, in which case permitted total surface area should be a multiple of the number of lots the dock serves.

Land Use Bylaw

The Marine (M) zone currently permits docks. The Marine Zone is as follows:

12.2.1 In the Marine zone the following uses are permitted, subject to the regulations set out in this section and the general regulations set out in Parts 2 and 3, and all other uses are prohibited.

12.2.1.1 docks, private floats, wharves, piers and walkways accessory to the residential use of an abutting upland lot and providing access to that lot

12.2.1.2 moorage of boats accessory to the residential use of an upland lot

12.2.2 Despite Subsection 12.2.1 one private float and walkway is permitted, not to exceed a total length of 35 metres from the natural boundary of District Lot 145, Cowichan District, without the establishment of a residential use on the upland lot.

12.2.3 Without limiting the generality of the foregoing, no commercial or industrial activity is permitted in this zone in connection with the use of docks, floats or wharves and the residential use of a watercraft of any kind, whether temporary or permanent, is prohibited.

Minimum Setbacks

12.2.4 Docks, floats and wharves must be sited entirely within the boundaries of the owner's water lot lease, licence of occupation or other Crown tenure and at least 3 metres from the seaward projection of any side lot line of the abutting upland lot.

Docks are also currently permitted in the Marine Service (MS) zone and the Marine Commercial Land (MCL) zone although these are for commercial purposes, not intended to regulate private residential docks.

Climate Change Mitigation and Adaptation

Sea level rise is an anticipated concern with climate change and its impact on shoreline development. More extreme storms and weather events will shape the way development is managed along shorelines. There are now programs with goal to educate shoreline property owners and encourage them to use softer and greener approaches to shoreline development.

Sensitive Ecosystem, Hazard, Shoreline, or Archaeological Resources

Recent mapping and other initiatives have provided new sources of data to inform decisions and policy-making related to shoreline issues which could guide policy and regulations for private docks. These include:

- Shoreline Features Mapping
- Integrated Shoreline Mapping
- Forage Fish Mapping
- Eelgrass mapping

Dock Policy & Regulatory Options

The Galiano LTC should consider following options for the dock review project. Addressing dock implications as mentioned above should be considered when the LTC reviews the following options for dock regulations and policies.

Land Use Bylaw:

Land use bylaws (LUB) can be used to encourage a wide range of dock configurations, length and width, and location. Currently the LUB permits private residential docks outright in the Marine Zone. The Marine zone includes only one regulation for docks which requires docks to meet the setback regulations (3 metres) from the seaward projection of the property line. Most new dock proposals meet the current LUB regulations although a Development Variance Permit may be required for upland structures as they must comply with the setback to the sea (7.5 metres).

The following are options for the LTC to consider:

- a) Restrict docks outright: Restricting docks outright would require rezoning applications for new proposals. The benefit to this approach is a rezoning application would involve a formal public consultation process which provides an avenue for public input. The LTC would be provided an opportunity to review an application based on its own merits and could design specific regulations for each dock. Issues with this approach include the financial consideration for applicants (a rezoning application fee is currently \$4,400); time consuming for applicants, staff, and the LTC; and no guarantee that the application will be approved.

Restricting docks outright would involve removing the use from the Marine zone (and potentially the Marine Service zone). Docks that are currently existing or in the process obtaining a Development Permit would be given legal non-conforming status or be permitted site specifically in the LUB bylaw amendment. This approach would be guided by amending the OCP to include policies for dock construction and regulation.

- b) Amend existing regulations: The LTC has the option to amend the Marine and Marine Service zones to further restrict (or remove current regulations) for residential docks. New regulations should be consistent with the Provincial Best Practices for Private Moorage Facilities and Dock Construction. Regulations could include restricting the float area, width of ramp, and setbacks (or exemptions from) from natural boundary of the sea for upland structures. LUB amendments could also permit docks only in certain areas, while restricting the use in known areas of sensitive ecosystems (eelgrass, forage fish, sensitive shoreline, steep slopes, etc.). Amending the LUB regulations for dock would require a public consultation process and a Public Hearing.
- c) Retain current dock regulations: The option to retain the current regulations and continue to review applications for docks by Shoreline & Marine Development

Permits. This approach has a number of issues as outlined above; lack of public input, absence of regulations consistent with Provincial Best Practices, and upland structures for docks must comply with setback to the sea which generally requires a Development Variance Permit for new dock construction.

Official Community Plan:

The Official Community Plan (OCP) outlines policies and guidelines related to dock construction. Currently the OCP contains guidelines in the Marine & Shoreline Development Permit Area (DPA). Some issues have been raised with regard to new dock applications that comply with the LUB but require a Shoreline & Marine Development Permit (DP). The DP process does not provide an opportunity for public input, rather if the proposal meets the guidelines in the DPA, the LTC must approve the DP.

The following are options for the LTC to consider:

- a) Amend the Marine & Shoreline DPA guidelines: Although the OCP current contains guidelines for new dock construction and replacement, these guidelines may not be consistent to the current Provincial Best Practices for dock construction. With research and mapping information received in the last few years regarding eelgrass and forage fish, the guidelines should be amended to reflect this information (for example, specific guidelines to reduce impacts on these sensitive ecosystems). The DPA guidelines also include regulations regarding a maximum float area of 35m². This type of specific regulation should be included in the LUB.
- b) Add dock policies to OCP that support LUB regulations: Currently the OCP has two policies regarding dock construction as outlined above. If LUB amendments are considered for this project, an OCP amendment would be required to include policies to support the LUB regulations.
- c) Retain existing policies and DPA guidelines: The LTC also has the option to make no amendments to the OCP during this project. Although if LUB amendments are considered, staff recommend ensuring supporting OCP policies are in place.

The options outlined above are for LTC's consideration only and a decision on the direction of the project is not required at this time. Community consultation will be initiated to provide comments on the options. The LTC should make staff aware if it believes an option is missing from the above.

Communications and Community Consultation

Implementation of a review of policies and regulations for private docks within the Galiano Island Local Trust Area would typically require significant consultation with affected stakeholders, publication of the initiative, and multiple opportunities for

community input. Given this topic could be a contentious issue with the community, expectations would be for a significant amount of community consultation. Staff are suggesting the following consultation steps:

- An online survey to gather input from the community regarding what policies or regulations should be amended or added.
- A webpage with background information and options for public comment.
- A written summary introducing the initiative to be placed in the Active Page as a trustee report, to be posted on the webpage, and available for distribution as hard copies.
- An early referral to First Nations and FLNRO (issuers of private moorage leases).
- An invitation to First Nation representatives to speak to the issues of private docks from a cultural and rights and title perspective.
- An open house and community information meeting (likely in the late fall) to obtain further community feedback.
- LTC consideration of options and recommendations
- Direction to prepare draft bylaws (if warranted)
- Referral to agencies and the APC.
- An option for a later, additional stand-alone community information meeting if needed.
- A public hearing, likely later in 2017, with a community information meeting. Depending on the level of community interest this could be in a regular meeting or as a special Saturday meeting.

This approach assumes that the consultation is staff led and organized. Alternatives would be to appoint an advisory group to provide input to the LTC or for the LTC to undertake more direct consultation through a series of community information meetings. As the project could involve an OCP amendment, the LTC is required by the Local Government Act to consider opportunities for consultation with persons, organizations and authorities it considers will be affected. If the LTC considers that there shall be additional consultation than identified above it should identify that.

Project Charter

The Project Charter was endorsed at the July 4, 2016 LTC meeting and can be viewed on the LTC Project webpage. As the project proceeds the charter is regularly reviewed to determine if the project is proceeding with the defined scope or if the scope and thus the charter should be reviewed and potentially revised.

Next Steps

The success of this project is heavily reliant on the community's desires on how to address residential dock regulation, policies, and guidelines. Staff suggest initiating the first portion of the community consultation process to determine which policy and regulatory options is preferred. An online survey could be initiated by mid-September to

mid-October in order for staff to present the results at the November meeting or at a Special Meeting in the fall.

At a subsequent meeting, staff would report back with updates regarding the following:

- Invitation to First Nations contact to attend a future LTC meeting to discuss the cultural aspects of private docks – potentially the November regular LTC meeting or Special Meeting scheduled this fall.
- Wording for local trustees to include in a local trustee report.
- Early referral letters to First Nations, with copies to the Ministry of Community, Sport and Cultural Development.
- Early referral letters to the Ministry of Forest, Lands, and Natural Resources.
- Mapping information to determine the number of current docks and private moorage licenses.

Summary of Planning Recommendations

If the LTC is satisfied with the direction proposed in this staff report, the recommendation is for the LTC to request staff to draft questions for an online survey to gather community input regarding dock policies and regulations.

RECOMMENDATIONS:

1. THAT the Galiano Island Local Trust Committee request that staff to draft an online survey to gather input from the community regarding dock policies and regulations.

Prepared and Submitted by:



Kim Stockdill
A/Planner 2

August 22, 2016

Date

Concurred in by:



Robert Kojima
Regional Planning Manager

August 22, 2016

Date