



File No.: 6500 20  
Thetis Associated Islands Land  
Use Bylaw Amendment -  
Ruxton Island Private Moorage  
Structures

DATE OF MEETING: February 6, 2017  
TO: Thetis Island Local Trust Committee  
FROM: Marnie Eggen, Island Planner  
Northern Team  
COPY: Ann Kjerulf, Regional Planning Manager  
SUBJECT: Thetis Associated Islands Land Use Bylaw Amendment - Ruxton Island Private Moorage Structures

## RECOMMENDATION

1. **That the Thetis Island Local Trust Committee endorse the Thetis Associated LUB Bylaw Amendment - Ruxton Island Private Moorage Structures Project Charter.**
2. **That the Thetis Island Local Trust Committee approve a budget allocation of \$1,200.00 from the Thetis Island Riparian Area Project Budget 2016-2017 to meet the needs of the Thetis Associated LUB Bylaw Amendment - Ruxton Island Private Moorage Structures Project.**
3. **That the Thetis Island Local Trust Committee approve a budget allocation of \$1,500.00 from the from the Thetis Targeted OCP/LUB Review Project 2017-2018 to meet needs of the Thetis Associated LUB Bylaw Amendment - Ruxton Island Private Moorage Structures Project.**
4. **That the Thetis Island Local Trust Committee request staff to prepare a draft amending bylaw for Local Trust Committee consideration for the Thetis Associated LUB Bylaw Amendment - Ruxton Island Private Moorage Structures that will:**
  - a. **Review LUB regulations relevant to Ruxton Island to remove ambiguities regarding the regulation of private moorage structures in order to effectively reflect the original intent of the Thetis Associated LUB to prohibit private docks or dock like structures.**

## REPORT SUMMARY

The purpose of this report is the following:

1. To provide background about this top priority project;
2. To outline proposed project objectives and scope of this project;
3. To request endorsement of the Bylaw Amendment - Ruxton Island Private Moorage Structures - Draft Charter v 1.0; and
4. To request consideration to allocate a budget to the project for the current and next fiscal years.

## **BACKGROUND**

Through a planning enquiry, it has come to the attention of staff and the Thetis Local Trust Committee (LTC) that the Thetis Associated Islands Land Use Bylaw No. 94 (LUB) could be interpreted to allow private moorage related structures on Ruxton Island that were otherwise thought to be prohibited. This is contrary to the intended outcome of the many discussions and deliberations regarding docks on Ruxton Island during the Thetis Associated Islands Official Community Plan (OCP) and LUB review that was recently completed. In review of previous project reports, LTC meeting minutes, and Advisory Planning Commission (APC) minutes, it is clear that the LTC and the Ruxton Island APC supported prohibiting private residential docks on Ruxton Island and supported the establishment of community docks through a rezoning process.

The Thetis Local Trust Committee (LTC) passed the following resolutions at their LTC meeting held November 20, 2013:

### **TH 040/13**

**It was MOVED and SECONDED,**

that the Thetis Island Local Trust Committee establish a zone in the Land Use Bylaw around the perimeter of Ruxton Island within which docks are not a permitted use.

**CARRIED**

### **TH 041/13**

**It was MOVED and SECONDED,**

that the Thetis Island Local Trust Committee include a policy in the Thetis Associated Islands Official Community Plan that the Local Trust Committee will support rezoning for community docks.

**CARRIED**

The Ruxton Island APC passed the following resolutions at their meeting held December 13, 2013:

### **RX 007/13**

**It was MOVED and SECONDED,**

that the Ruxton Island Advisory Planning Commission supports the November 20, 2013 draft resolutions as outlined.

**CARRIED**

Dan Geisbrecht Opposed

### **RX 008/13**

**It was MOVED and SECONDED,**

that the Ruxton Island Advisory Planning Commission suggest that community docks would be a small scale in nature and not intended for overnight use, maximizing accessibility to Ruxton Island residents.

**CARRIED**

Additionally, in consideration of public comments received at the public hearing in August 2014, the minutes from the September 17, 2014 LTC meeting state that the LTC continued to be unsupportive of private docks on Ruxton Island.

While it is clear in the LUB that docks are not a permitted use in the Marine Ruxton (W3) zone, there are other undefined uses and structures permitted in the W3 zone that, in consideration together with other undefined structures permitted on lands above the natural boundary of the sea, allow for other types of private moorage

related structures. This became evident after planning and bylaw enforcement staff fielded a planning enquiry regarding a proposed platform and a retractable ramp that would extend over the marine area, and determined that due to unclear language, the LUB would permit these structures.

Areas of the Thetis Associated Islands Land Use Bylaw that are problematic with regard to what private moorage related structures are permitted, include but are not limited to (emphasis in bold):

### 3.3 Siting and Setback Regulations

(3) No building or structure except a fence, utility shed, boathouse, **platform with a maximum area of 5 square metres, stairs and boat ramps** may be constructed, reconstructed, moved, extended or located:

(a) within a 10 metre horizontal setback, and within 1.5 metres vertically, from the *natural boundary* of the sea

### 5.11 Marine Ruxton (W3)

(1) The following uses and structures are permitted in the W3 zone subject to the regulations set out in this section and the general regulations, and all other uses are prohibited:

(c) **Equipment installed on land to assist in the offloading and loading of people and materials from boats but not obstructing public access along the foreshore;**

Allowing such structures to include docks, was unintended, and as such, the Thetis Local Trust Committee (LTC) passed the following resolutions without meeting (RWM) in early January 2017 in order to address this issue as soon as possible:

#### **TH LTC RWM-2017.1**

"That the Thetis Island Local Trust Committee move Top Priority item 2: "Amendments to Thetis Island OCP and LUB" to the Project List and add new Top Priority item 2 - "Amendments to the Thetis Associated Islands Land Use Bylaw regarding private moorage on Ruxton Island" and describe the Activity as "Amendments to consider limiting private moorage related structures."

#### **TH LTC RWM-2017.2**

"That the Thetis Island Local Trust Committee request staff to prepare a report and draft project charter regarding Top Priority item 2: "Amendments to the Thetis Associated Islands Land Use Bylaw regarding private moorage on Ruxton Island" for consideration at the next LTC meeting."

#### **TH LTC RWM-2017.3**

"That the Thetis Island Local Trust Committee request staff to schedule a special LTC meeting to consider Top Priority item 2: "Amendments to the Thetis Associated Islands Land Use Bylaw regarding private moorage on Ruxton Island.""

### **PROJECT CHARTER**

The draft project charter reflects a very narrow scope and is mainly technical in nature because the Thetis Associated Islands Land Use Bylaw No. 94 is the result of a recent and extensive OCP and LUB process that included much discussion on private moorage on Ruxton Island. As such, staff's opinion is that this project is intended to amend the LUB to better reflect the previous decisions regarding private docks and not to reopen the discussion. The draft project charter (see Attachments) is reflects the following scope, timeline, budget and resources. The LTC is asked to endorse a final version of the project charter.

### ***Proposed Project Objectives***

Staff suggests the following objective be included in the draft project charter (see Attachments):

- Review LUB regulations relevant to Ruxton Island to remove ambiguities regarding the regulation of private moorage structures in order to effectively reflect the original intent of the Thetis Associated LUB to prohibit private docks or dock like structures.

### ***Proposed Project Scope***

In-scope options are presented for LTC consideration.

### ***Proposed Project Timeline***

The proposed project timeline is presented for LTC consideration.

### ***Resources and Roles***

As this is a newly added top priority, no funds have been allocated in this year's budget or for 2017/2018 budget specifically for this project. The LTC proposed timeline spans two fiscal budgets. Staff recommends a budget to include a legal review (\$1,200.00) and legislative process (\$1,500.00). Staff recommends that the LTC reallocate funds from the RAR project budget for 2016-2017 to cover the legal review portion, and to reallocate funds from the Thetis Targeted OCP/LUB Review Project for 2017-2018 to cover legislative costs. Planning staff would lead the project.

## **ANALYSIS**

### **Policy/Regulatory**

#### ***Islands Trust Policy Statement:***

This project will be reviewed for consistency with the Islands Trust Policy Statement (ITPS) prior to the LTC review of a draft bylaw. A detailed analysis will be provided at first reading of the bylaw.

#### ***Official Community Plan:***

Staff are not proposing any changes to the Thetis Associated Islands OCP. Several policies pertain to this project and with which any amendments to the LUB must be consistent (see Attachments for pertinent policies).

#### ***Land Use Bylaw:***

These sections of the LUB would require amendments in order to address the objective of this project:

- 1.1 Definitions
- 3.3 Siting and Setback Regulations
- 5.1 Marine Ruxton (W3), including consideration of removal of permitted uses such as "equipment installed..." and "swimfloats" that contribute to the ambiguity regarding the prohibition of docks.

A detailed analysis of relevant LUB amendments would be presented to the LTC subsequent to endorsement of the project charter.

**Consultation**

An LUB amendment will be required to follow the statutory process set out in the *Local Government Act* and be approved by the Islands Trust Executive Committee prior to adoption.

**First Nations**

As per the *Protocol of Cooperation* between Lyackson First Nation and Islands Trust Council (on behalf of the Thetis Local Trust Committee), early referral of draft bylaws to Lyackson First Nation is recommended. Early referral to other First Nations is also recommended.

**Bylaw Enforcement:**

Early referral of any draft bylaws to the Bylaw Enforcement Officer is strongly recommended for this project.

**NEXT STEPS**

The LTC is being asked to consider the draft project charter. If any changes are made to the draft as presented, staff will need to bring back a revised timeline, workplan overview and budget for review. Once the project charter has been endorsed by the LTC, staff can proceed with drafting a bylaw amendment for LTC review.

Submitted By:	Marnie Eggen, Island Planner	January 27, 2017
Concurrence:	Ann Kjerulf, Regional Planning Manager	January 30, 2017

**ATTACHMENTS**

1. Draft Project Charter
2. Thetis Associated Islands Official Community Plan Policies Pertinent to this Project

# Thetis Associated LUB Bylaw Amendment - Ruxton Island Private Moorage Structures - Draft Charter v 1.0 (January 30, 2017)

**Purpose** To review the regulations in Thetis Associated Islands Land Use Bylaw (LUB) to address ambiguities in the LUB regarding private moorage structures on Ruxton Island.

**Background** The Local Trust Committee (LTC) became aware that Thetis Associated Islands Land Use Bylaw No. 94 (LUB) unintentionally allows some private moorage related structures on Ruxton Island that were otherwise thought to be prohibited by the LUB. The LTC identified this as a top priority — to amend the Thetis Associated Islands Land Use Bylaw regarding private moorage related structures on Ruxton Island.

## Objectives

- Review LUB regulations relevant to Ruxton Island to remove ambiguities regarding the regulation of private moorage structures in order to effectively reflect the original intent of the Thetis Associated LUB to prohibit private docks or dock like structures.

## In Scope

- Review of LUB regulations pertinent to Ruxton Island and private moorage related structures:
  - 1.1 Definitions
  - 3.3 Siting and Setback Regulations
  - 5.1 Marine Ruxton (W3), including consideration of removing problematic uses such as “equipment installed...” and “swimfloats”

## Out of Scope

- Consideration of allowing private docks on Ruxton Island.
- Consideration of community docks on Ruxton Island.
- Review of OCP policies.
- Develop new DP area.
- Consultation with residents.

## Workplan Overview

Deliverable/Milestone	Date
LTC endorses project scope and objectives	January 6, 2017
Draft bylaw presented to LTC for review, project website updates	RWM, January 21, or April 18, 2017
Referrals of draft bylaw	Spring 2017
Legislative process for proposed bylaw	Summer 2017
Adoption of proposed bylaw	Fall 2017

## Project Team

Marnie Eggen	Project Manager/ Planner
Ann Kjerulf	Project Sponsor
Becky McErlean	Legislative Clerk

## Budget

Fiscal	Item	Cost
2016-2017	Legal review	\$1,200 (from RAR budget)
2017-2018	Legislative Process (community information meeting; public hearing; advertising)	\$1,500 (from Thetis Targeted OCP & LUB review budget)
	<b>Total</b>	<b>2,700.00</b>

### RPM Approval:

**Date: January 30, 2017**

### LTC Endorsement:

Resolution #:

**Date:**

## **Thetis Associated Islands Official Community Plan Policies Relevant to Bylaw Amendment - Ruxton Island Private Moorage Structures Project**

### **5.1 MARINE USES OBJECTIVES**

5.1.1 To maintain the integrity of the marine ecosystem and the coastal areas in the Plan Area.

5.1.2 To allow for traditional marine uses by residents and other users without unduly compromising the marine or foreshore ecosystems or the visual appearance of the islands in the Plan Area.

### **5.2 MARINE USES POLICIES**

5.2.1 The Local Trust Committee should identify and protect ecologically sensitive marine areas.

5.2.2 The Local Trust Committee should recognize and support the marine dependent nature of land uses in the Plan Area.

5.2.3 The Local Trust Committee should use bylaw provisions to protect public access to, from, and along the marine shoreline.

5.2.4 The Local Trust Committee may permit individual private docks accessory to residential uses. These docks should be regulated by zoning.

5.2.5 Regarding Ruxton Island, the Local Trust Committee should support rezoning applications for community docks that are small-scale and not intended for overnight moorage, and which address the cumulative impacts of community docks on Ruxton Island.

5.2.6 In order to limit the need for private dock development along the shoreline, community or communal docks should be encouraged where feasible.

5.2.7 The Local Trust Committee should use bylaw provisions to locate docks in locations with minimum environmental impact, and should encourage dock design that is sensitive to marine ecosystems and habitat.

5.2.10 The Local Trust Committee should, through zoning, the use of building setbacks, and the use of development permit area designations and guidelines:

- (a) protect the integrity of the foreshore, shoreline, and natural coastal and intertidal processes;
- (b) discourage uses that disrupt natural features and processes;
- (c) allow for natural erosion and accretion processes, without endangering structures;
- (d) encourage owners of shoreline properties to retain, wherever possible, natural vegetation and natural features on areas adjacent to the foreshore; and
- (e) discourage filling, deposit, excavation, or removal of foreshore and seabed materials, except for maintenance of navigational channels and existing facilities.