



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: Proposed Draft Bylaw - 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 draft bylaw to amend the Official Community Plan (OCP) Bylaw No. 434, replacing the existing DPA4 – Lakes, Streams and Wetlands with a new DPA4 - Lakes, Streams, Wetlands and Riparian Areas that will implement the provincial Riparian Areas Regulation (RAR), protect sensitive riparian habitat and increase protection of drinking water watersheds.

At the time of writing this report the attached draft bylaw is undergoing review with a qualified environmental professional. As a result, it is anticipated that a revised draft bylaw may be presented on the day of the LTC meeting. If this does occur, there will be a cover note attached summarizing any context changes as a result of the review.

BACKGROUND

Riparian Areas Regulation

The province of British Columbia’s Riparian Areas Regulation (RAR) under Section 12 of the *Fish Protection Act* which took effect on March 31, 2006, requires that local governments establish regulations to protect riparian areas. In the RAR Section 4 – Assessment reports required before development - states that 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 as notified by the ministry or if authorized by the Department of Fisheries and Oceans. The choice for a local government is not whether to implement RAR, but how.

The main purpose of the regulation is to protect riparian areas from development so that areas can provide natural features, functions and conditions that support fish life processes.

Islands Trust RAR Implementation:

Implementation of the provincial Riparian Areas Regulation (RAR) is an LTC Top Priority Work Program item. The LTC has previously reviewed, reports, mapping, public comments, and considered implementation options prior to receiving these draft DPA provisions.

In 2006 Trust Council adopted a resolution directing staff to prepare development permit area provisions to implement the RAR. Local Trust Committees were also requested to consider amending setback provisions to correspond with RAR in their Land Use Bylaws as a first step prior to implementing development permit areas. The implementation of RAR development permit areas in the Trust Area had been delayed since 2006. Principally, the delay was attributable to issues with identifying watercourses that are subject to the RAR and in accurately mapping those watercourses.

In the 2009-10 fiscal year, funding was made available to undertake RAR implementation. The Islands Trust had previously obtained watershed mapping derived from 2-metre contour Digital Elevation Mapping (DEM) for most of the Trust Area. Based on their records and knowledge, the Ministry of Environment regional staff identified those watersheds within the Trust Area that would be subject to the RAR. This was based on their research which included speaking with local experts on Salt Spring Island's fish habitat such as Kathy Reimer who has conducted extensive watercourse and fish habitat identification in the mid-1990's. This identification was used in part to create the existing DPA 4 stream mapping. The RAR designated watersheds substantially overlap with those watercourses identified in the current DPA 4 – Lakes, Stream and Wetlands. The current state of watercourse mapping is insufficient to determine the exact locations of all the watercourses or their attributes within these watersheds. While the exact locations of the watercourses would be optimal, it is still possible to implement a DPA to protect them without all streams being verified on the ground until time of development.

Salt Spring Island RAR Implementation

In the Vancouver Island Region of the Ministry of Environment the Islands Trust is one of two jurisdictions out of 49 that are not RAR compliant. The other non-compliant jurisdiction in the region is the relatively newly formed Strathcona Regional District.

Other gulf islands are going through the same process to implement RAR such as North Pender Island. However, given that every island is unique it is reasonable that each Local Trust Committee decide how best to proceed with implementing the RAR on their respective Islands. While North Pender provides a good example of how the Islands Trust, in general, is proceeding with RAR implementation, it must be remembered that North Pender Island is distinctly different from Salt Spring Island and what works there may not work for Salt Spring.

One significant difference is that Salt Spring Island has a large number RAR designated watersheds (See Attachment 2 – Map 21a) whereas other islands have significantly less in the range of 4-6. This has allowed other islands to hire firms to accurately locate watercourses within the RAR identified watersheds so that their DPAs can accurately reflect each watercourse and their attributes. Salt Spring Island has chosen to implement RAR through adoption of mapping that includes all RAR streams within RAR designated watersheds. This means is that all streams that are mapped or unmapped and contained within these identified RAR watersheds areas may be RAR applicable and in order for development to occur will require a development permit and a qualified environmental professional (QEP) assessment report.

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.

The Policy Statement Checklist is attached (See Attachment 3).

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.

DRAFT DEVELOPMENT PERMIT AREA FOUR

On March 3, 2011, the Local Trust Committee (LTC) received a report entitled, *Environmental Development Permit Areas Work Program Review Update, Public Consultation and Next Steps*. As a result of the discussion pertaining to this report the Local Trust Committee directed the staff to create a bylaw within the framework of the Development Permit Area 4 regulations to include provisions to implement the Riparian Areas Regulation to protect fish and fish habitat and increase the protection of drinking watersheds. The draft bylaw has been formatted and is attached to this report (See Attachments 1 and 2) such that the LTC could consider it for First Reading pending amendments as per their discussions.

The draft bylaw (Bylaw No. 449) will replace the existing DPA4 with a new Development Permit Area Four (4) - Lakes, Streams, Wetlands and Riparian Areas in the OCP. The draft DPA provisions are based on the specific intent behind the bylaw being maintaining the existing DPA 4 objectives while implementing fish and fish habitat protection and furthering the protection of drinking water. The bylaw was developed after researching other jurisdictions, and through consultation with staff, advisory committees, qualified professionals, agencies and Salt Spring Island residents over the past several months.

Revised Mapping

Bylaw No. 449 will also amend the OCP by inserting new mapping (See Attachment 2). 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 Riparian Assessment Area (RAA) as defined in the RAR and 300m for Maxwell Lake. Outside of the RAR identified watersheds the DPA will apply to 10 m adjacent to watercourses as it was in the previous DPA4. Beyond these identified and described areas the DPA would not apply.

The mapping has been updated using a new cadastral (i.e. showing new lot surveys, etc.) and making improvement to stream location identified through recent surveys as a result of development applications. The mapping does not identify all streams located on Salt Spring Island, yet the DPA applies to all streams in RAR designated watersheds mapped or not. The onus is on the landowner to work with the planning office to identify streams to be considered as development is proposed. It is the intention of the Islands Trust to incrementally update the mapping to improve its stream location accuracy and attributes.

MAIN CHANGES TO DEVELOPMENT PERMIT AREA 4

In conjunction with the main changes identified below, definitions have been included that will aid in interpreting the bylaw. In general, all streams found within the RAR identified watersheds (Map

21a) will have a 30 m DPA being consistent with RAR whereas outside of that watershed area the DPA on all watercourses will remain 10m as was in the previous DPA4.

In comparison with the existing DPA4 there have been several changes in format, justification, objectives and the resultant guidelines and exemptions, building on the previous DPA. Throughout the review, residents expressed a strong desire that the bylaw not just have a few minor additions, but that it is completely revised providing improved direction through comprehensive guidelines and limited exemptions. Some of the main changes from the previous DPA4 are:

1. A complete revision of entire DPA4 to incorporate comprehensive guidelines and exemption sections for the implementation of RAR, drinking water protection and protection of sensitive riparian habitat;
2. That RAR applies to all streams (mapped or unmapped) as identified in Map 21a unless proven otherwise;
3. Given the need to comply with RAR within the RAR designated watersheds, a 30m DPA instead of a 10 m DPA will exist on all streams;
4. The DPA applies to a greater area as a result of the RAR definition of a stream which 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);
5. The guidelines are consistent with RAR requiring that as part of a development permit a QEP assessment report is required where RAR is applicable;
6. New definitions to outline where the DPA is applicable: this would encompass the water itself and the Riparian Assessment Area in RAR designated watersheds and 10m outside of those watersheds abutting a watercourse and 300m for Maxwell Lake;
7. Reduction of DPA around lakes from 61m to 30m within the RAR identified watersheds except for Maxwell Lake which remains at 300m;
8. DPAs outside of the RAR identified watersheds (Map 21a) will be 10 m on all watercourses as was the case with the previous DPA;
9. Guidelines state that if development meets RAR then in most cases it will meet DPA requirements;
10. Guidelines state that no development is permitted within Stream Protection and Enhancement Area (SPEA) as defined by a QEP unless approved by the relevant authority;
11. There are guidelines for the protection of the area on the water side of the high water mark with regards to the removal of vegetation, etc. as per Section 9 of the *Water Act*.
12. There are guidelines for the use of floats; and
13. There remain guidelines for non fish-bearing streams within the RAR designated watersheds as was the case with the previous DPA4.

IMPLEMENTATION TO ACCOMPANY BYLAW

Throughout the discussions around the Environmental DPA Review, 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. Therefore, an implementation strategy is central to this bylaw revision and its performance. The implementation strategy measures will address a range of changes, some that are easily achievable and others that will require some time as they involve amendments to other bylaws.

Staff, in a companion report, *Development Permit Area 4 Implementation Strategy Measures*, have addressed the importance for an implementation strategy and listed several measures that are recommended to be addressed at the same time as Bylaw No. 449 goes through the adoption process. Such measures may include the reduction of development permit fees, the training of

planning staff through the QEP program, and the use of a land owner affidavit regarding the location of streams.

CONSULTATION

As part of the bylaw research, public forums were held to educate and consult with residents. At that time, many residents expressed the need for an opportunity to review the draft bylaw as part of a public consultation session prior to a public hearing. If such a meeting is desired, the LTC should provide direction on when such a meeting should be scheduled. Whether a public consultation session is held or not, the public are encouraged to submit comments up to and including at the Public Hearing regarding the bylaw.

Staff met with staff from the Ministry of Forest Lands and Natural Resource Operations (formally Ministry of Environment) regarding the proposed draft bylaw. The Ministry's main concern was that it complies with the Riparian Areas Regulation (RAR). Despite the efforts of the LTC and staff to lessen some of the onus on the landowner through exemptions, the Ministry staff are not in favour of any development permit exemptions that were not permitted as exemptions under RAR. They wanted it made clear that a DP is required as the mechanism for implementing RAR and the requirement of QEP assessment reports as part of the DP conditions. They did support the fact the LTC would be working on a closely associated implementation strategy as discussed earlier in this plan.

CIRCULATION OF THE BYLAW

The draft bylaw has not gone through agency referral. A consultation information letter has been circulated to affected agencies for comment prior to bylaw introduction informing them of the process we have initiated and directing them where to get further information on reports and associated Environmental Development Permit Review information. A list of agencies consulted is found in Attachment 4.

STAFF COMMENTS

The draft bylaw will amend the OCP's Development Permit Area 4 to ensure that all fish and fish habitat streams are protected through the implementation of the provincial Riparian Areas Regulation. The intent being that RAR-applicable streams are designated and that development does not proceed without a QEP report and/or a development permit as required. It will also ensure that a DPA remains on all watercourses outside of the RAR designated watersheds as it was with the previous development permit area 4.

The existing DPA4 objectives and guidelines have been expanded upon to state that lands within the Riparian Assessment Area within the RAR designated watersheds and 10m of a watercourse outside of that area (300 m for Maxwell Lake) are considered part of a DPA. Again, this does not preclude development from happening; it simply means that a development permit must be applied for before any development proceeds.

Fish and fish habitat protection has been implemented in the draft bylaw by implemented RAR through the DPA guidelines. All the RAR streams have not been identified in the associated mapping, but have been indicated through the use of RAR watershed mapping in which the DPA applies to all RAR streams. Outside of a Riparian Assessment Area (generally 30 m) the DPA does not apply. The draft bylaw sets out many guidelines for consideration of the QEP's report which is required as part of the development permit application.

In terms of drinking water protection the enhanced development permit guidelines will help to control the affects of development of land clearing on drinking water quality. The DPA has been

increased from 10m to 30m as is required in part by RAR within the RAR identified watersheds which is also where all the drinking water lakes exist. This will in itself provide additional protection for drinking water. As stated, the DPA requires that a DP is in place for any development thereby limiting vegetation removal and soil disturbance within 30m within the RAR identified watersheds.

In addition, through a continued review of the OCP's Development Permit Areas staff can research ways to improve the development permit guidelines with respect to the limiting the possibility of erosion caused by extensive vegetation clearing on lands within St. Mary and Cusheon Lake Watersheds and resultant impacts to these major drinking water supply lakes. The implementation measures identified earlier also mention working closely with CRD building inspection with respect to storm water runoff during the building process.

Where specific guidelines could be dropped we have done so such as the removal of the 61m DPA for septic fields has been removed. The Land Use Bylaw (Bylaw 355) Section 4.5 – Setbacks from Water Bodies – Water Quality Protection states with regards to septic disposal fields that:

“4.5.1(2) 60 m of the natural boundary of Blackburn Lake, Bullock Lake, Cusheon Lake, Ford Lake, Maxwell Lake, Roberts Lake, Rosemurgy Lake, St. Mary Lake, Stowel Lake, or Weston Lake;

4.5.1(3) 60 m of the natural boundary of a water body that leads into the lakes named in Article 4.5.1(2)”

This requirement currently provides better protection than the existing DPA guideline state. They state that no septic disposal fields are permitted within 60m of those lakes listed, but also water bodies that lead into a lake mentioned.

As well, currently there are already existing policies in the OCP limiting growth in the drinking watersheds. All these efforts in combination (i.e. LUB and OCP policies (existing and proposed)) should help to address drinking water issues such as increased levels of phosphorus and subsequently blue-green algae blooms.

However, this bylaw amendment does not protect all water related objectives. For instance, there are recommendations made in the St. Mary and Cusheon Lake Watershed Management Plans. These recommendations will continue to be assessed by staff in order to continue to incorporate measures for the protection of drinking water.

Key to the success of this bylaw amendment is the simultaneous consideration of the implementation strategy contained in a companion report which outlines several measures to improve bylaw revision and performance.

Summary

Throughout the environmental development permit area review process there has been some discussion over the necessity of development permits. Development permits are not about prohibiting development outright, they are about doing development properly while respecting Salt Spring Island's unique environmental qualities that are worthy of protection for current and future residents. Many residents understand the value of these environmental development permit areas and do not question them while others understand their value and do question why we need an additional regulation. A development permit application is the mechanism to ensure that appropriate reports from qualified professionals are obtained. Their recommendations and mitigation measures are required as conditions of the development permit and registered on title and that guidelines are adhered to as required through a development process. There is a need for regulation for certainty and consistency of application so that all residents have a single set of guidelines to work from in achieving the various environmental protection measures. In part, this DPA is based on the provincial requirement to implement RAR.

The intent as stated from the beginning 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.

When dealing with *Local Government Act* Part 26 applications like dealing with land use applications such as development variance permits, rezoning, development permits, subdivision, etc., the LTC is required to protect fish and fish habitat through the implementation of RAR. This draft bylaw would achieve compliance with the RAR, provide a level of protection for drinking water supplies, and protect sensitive riparian habitat from development on surrounding lands.

OPTIONS

The LTC has a few options that could be considered at this time:

1. To consider Bylaw No. 449 as presented implementing the Riparian Areas Regulation and request that staff schedule a Public Hearing;

For many bylaws this is how the process would normally go. They may include an information meeting the day of the Public Hearing. Given the interest in this bylaw, such a meeting would not benefit the LTC by allowing them time to reflect on the possible impacts that may be presented at the meeting.

2. To consider Bylaw No. 449 as presented implementing the Riparian Areas Regulation and request that staff initiate a community consultation meeting a number of weeks in advance of the Public Hearing;

There is no statutory requirement to hold a community consultation meeting prior to a Public Hearing. Such a meeting would be at the discretion of the LTC. Given the interest by the public regarding the implementation of RAR through this bylaw such a meeting would assist the LTC in clearly assessing possible impacts of the bylaw by allowing enough time to make amendments should they be required before the Public Hearing.

Staff are recommending that option 2 be chosen.

NEXT STEPS

Should the bylaw be given First Reading it will be referred to various agencies, ministries, advisory committee and First Nations as is statutorily required in the *Local Government Act*. As part of the review the LTC will benefit from legal review of the draft bylaw. A proposed timeline overview is contained in a separate report for consideration of the LTC.

The LTC has the option of giving the bylaw First Reading and directing staff to send out the statutory referral to agencies and schedule a Public Hearing. The Public Hearing would be scheduled so if there are comments from agencies that would result in changes to the bylaw, there would be sufficient time to make amendments prior to the Public Hearing, generally this is 6-8 weeks. Alternately, the LTC could also undertake community consultation prior to following First Reading by directing staff to hold a community consultation meeting to hear comments on the proposed bylaw amendment. In this instance a community consultation meeting would benefit the LTC more than an information meeting that is held just prior to a Public Hearing.

Regardless of whether the bylaw is given First Reading or not, the LTC could direct staff to begin to address the implementation measures mentioned earlier in the report. Many of the implementation measures are essential to the bylaw's performance. It is important that if

measures include bylaw amendments to other bylaws that they be done in coordination with fourth reading of Bylaw No. 449, the revised DPA4 bylaw.

RECOMMENDATION:

1. That the Salt Spring Island Local Trust Committee gives draft Bylaw No. 449, cited as “Salt Spring Island Official Community Plan Bylaw No. 4340, 2008, Amending Bylaw No.1 , 2011” First Reading
2. That the Salt Spring Island Local Trust Committee directs staff to initiate the bylaw referral process to those agencies listed on Attachment 4.
3. That the Salt Spring Island Local Trust Committee directs staff to schedule a community consultation meeting
4. 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 consultation meeting.

Respectfully submitted by:

Kris Nichols, Consultant

March 30, 2011

Concurred by:

Leah Hartley, Regional Planning
Manager

March 30, 2011

Attachments:

1. Draft Bylaw No. 449 DPA4 – Lakes, Streams, Wetlands and Riparian Areas
2. Maps 21, 21a
3. Policy Statement Checklist
4. Agency Referral List

**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 the "Salt Spring Island Official Community Plan Bylaw No. 434, 2008, Amendment No. 1, 2011".

ORGANIZATION

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

SEVERABILITY

3. If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME this _____ day of _____, 2011

READ A SECOND TIME this _____ day of _____, 2011

PUBLIC HEARING HELD this _____ day of _____, 2011

READ A THIRD TIME this _____ day of _____, 2011

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST this _____ day of _____, 2011

APPROVED BY THE MINISTER OF COMMUNITY, SPORTS AND CULTURAL DEVELOPMENT this _____ day of _____, 2011

ADOPTED this _____ day of _____, 2011

SECRETARY

CHAIRPERSON

SALT SPRING ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 449
SCHEDULE 1

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

1. By amending Schedule 2 by replacing Map 21 with a new Map 21 and inserting a new map 21a
2. By amending Volume 2 Part E – Development Permit Areas by deleting 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 government 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 nonstructural 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 or partly within the boundaries of an area administered by a local government;

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) moderates water temperatures,
 - (ii) provides a source of food, nutrients and organic matter to streams,
 - (iii) establishes root matrices that stabilize soils and stream banks, thereby minimizing erosion, and
 - (iv) buffers 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.

permanent structure means any building or structure that was lawfully 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 methods 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 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;

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 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.

1. That part of Salt Spring Island shaded grey, adjacent to various lakes, streams and wetlands as outline on Map No. 21, which is attached to and forms a part of this bylaw;
2. That part of Salt Spring Island shaded green identifying the Riparian Areas Regulation Designated Watersheds as outlined on Map No. 21a, which is attached to and forms a part of this bylaw. This includes but is not limited to the riparian assessment areas related to the streams identified on Map 21, consisting of the stream and:
 1. for a stream, a 30 metre strip on both sides of the stream measured from the high water mark;
 2. for a ravine less than 60 metres wide, 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; and
 3. for a ravine 60 metres wide or greater, 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; and
 4. 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 Maxwell Lake.
3. Notwithstanding the areas identified on Map No. 21 and 21a, the actual Development Permit Area No. 4 Lakes, Streams, Wetlands and Riparian Areas will in every case be verified and measured on the ground by an Islands Trust planner, qualified environmental professional, landowner or a surveyor.

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 Riparian Areas Regulation under the *Fish Protection Act*, requires that local governments establish regulations to protect riparian areas. In the RAR Section 4 – Assessment reports required before development - states that 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 as notified by the ministry 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.

E.4.3 Objective:

To enhance development adjacent to streams and watercourses in order to:

- protect fish habitat
- protect sensitive riparian habitat and the unique species that depends upon it
- protect the community’s water supply
- maintain the ecological value of these areas, and
- guard against their contamination.

E.4.4 Guidelines for New Development:

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

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 companion QEP report will only be required as part of the development permit for residential, commercial and industrial activities or ancillary activities as they relate to the following 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*.
2. Where land lies within one or more Development Permit Area, all of the applicable development permit requirements must be met within the one development permit.
3. All Development Permit applications will also include a plan showing the following:
 - a) the proposed location of the principal dwelling or other buildings and any accessory structures, wells, sewage disposal systems, driveways, parking areas, impermeable surfaces, and 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 removal, filling, or blasting) with the potential to affect the protected areas.
4. Development should be planned to avoid intrusion into Development Permit Areas and to minimize the impact of any activity in these areas.
5. Development activities or proposals that have 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 requirements for habitat protection for wildlife, birds, amphibians and land management responsibilities of the Islands Trust for both fish and non-fish habitat streams.

6. A condition of development permit issuance on the basis of a QEP report will be that a compliance report be submitted to the Salt Spring Islands Trust office within 60 days of completion of the development.
7. 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.
8. 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.
9. The development permit will 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 or through the registration of a covenant prohibiting development and use in the SPEA.
10. In addition to implementing the measures contained in the QEP report and being registered on title as part of the 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 to a nature preservation organization (tax receipts may be issued e.g. Natural Area Protection Tax Exemption Program) the SPEA;
 - b) registering restrictive and/or conservation covenant(s) securing the measures prescribed in the QEP assessment report.
11. Any development must 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.
12. 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.
13. Gardening and other related residential activities should be sited so as to prevent nutrient-rich water from entering streams.
14. The following guidelines are applicable to 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 waterbody should be avoided;
 - d) floatation material should be contained within a durable shell to prevent disintegration;
 - e) semi-transparent 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.
15. If the nature of the proposed project 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 DP conditions may be revised accordingly.

16. 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.

The following three guidelines reinforce Section 9 – Changes in and about a stream - of the *Water Act*.

17. Modifications of channels, banks, or shores, which could result in environmental harm or significantly alter local hydrological conditions, will not be permitted unless approval is received from the appropriate provincial and federal authorities.
18. Any deposit or removal of sand, soil, rocks, vegetation, aquatic plants or similar materials within a stream (i.e. on the water side of the top of bank) will not be permitted unless approval is received from the appropriate provincial and federal authorities.
19. Development Permits issued with regard to road and driveway construction in this area will ensure that:
 1. watercourse crossings are located so as to minimize disturbance of stream banks, channels, shores and vegetation cover;
 2. wherever possible, bridges are used instead of culverts for crossing of fish habitat streams in conjunction with provincial regulations;
 3. culverts are sited to permit unrestricted movement of fish in both directions.

E.4.5 Guidelines for Non-Fish Habitat Streams

Where a stream is identified to be non-fish habitat supporting development permit applications will still include a report/assessment prepared by a qualified professional (eg. RPBio, Environmental Engineer) outlining the following information:

1. a detailed site plan drawn identifying the high water mark of a stream or top of a ravine bank and a line 10 metres from that point;
2. any intermittent or permanent wetlands on the site;
3. an environmental assessment of the watercourse ecosystem;
4. an impact statement describing effects of proposed development on the natural conditions;
5. measures deemed necessary to protect the integrity of the watercourse ecosystem from the effects of development;
6. guidelines and procedures for mitigating habitat degradation including limits of proposed leave areas;
7. habitat compensation alternatives, where compensation is approved.

E.4.6 Guidelines for QEP Reports:

1. Where the QEP 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 at the applicant's expense may be required during construction and development phases, as specified in a development permit.
2. The report by a QEP is strongly recommended to provide a plan for the management of sediment during construction. This sediment management plan must 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.

3. The report by a QEP is strongly encouraged to provide a drainage plan, complete with recommendations for implementation that address water quality, water quantity, storm water discharge, 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 will be specified in the development permit.

E.4.7 Guidelines for Subdivision:

1. If a proposed subdivision or a lot line adjustment creating newly defined lots, then any new lots, roads, building sites, septic fields and driveways should be located and constructed to meet the objectives of this Development Permit Area. A covenant should be registered against this part of the property that is within this DPA to guide future development and meet the stated objectives.
2. In the case of a proposed subdivision within a Development Permit Area, minimum parcel sizes should be met exclusive of the SPEA.
3. In the case of a proposed subdivision within a Development Permit Area, subdivision within the SPEA should be avoided.

E.4.8 Exemptions:

In the following circumstances a development permit is not required. Despite the exemption provisions, owners must satisfy themselves that they meet the requirements of any applicable federal or provincial regulations:

1. Where development is proposed outside of a Riparian Assessment Area (RAA) or 300 m from Maxwell Lake or 10 m of a watercourse outside of the 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).
2. This regulation does not apply to a development permit or development variance permit issued only for the purpose of enabling 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.
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 or height.
4. Planting or replanting of native trees, shrubs or ground cover for slope stabilization, habitat improvement or soil stabilization or erosion control suitable for the site as per a vegetation management plan approved by DFO or the Ministry of Forest, Lands and Natural Resource Operations (FLNRO).
5. Routine maintenance of existing landscaping, lawn, paths or developed areas as previously approved through a DP.
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, 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. See complete lists on the Ministry of Agriculture and the Coastal Invasive Plant Committee websites.

7. The removal of trees determined by a Certified Arborist or Registered Professional Forester, qualified to do tree-risk assessments, to represent an imminent safety risk.
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* and on provision of evidence of such approvals to the Islands Trust.;
9. Subdivision of land where a covenant under Section 219 of the *Land Title Act* is registered against the title to the land and includes provisions which, in the opinion of the Islands Trust and the NRO, protect riparian areas or sensitive ecosystems on the lands in a manner that is consistent with the applicable DPA designation and meets or exceeds the RAR assessment requirements.
10. Emergency procedures to prevent, control or reduce immediate threats to life or property including:
 1. emergency actions for flood protection and erosion protection;
 2. clearing of an obstruction from bridge, culvert or drainage flow;
 3. repairs to bridges and safety fences in accordance with the *Water Act*;
11. Public works and services constructed following best management practices for the specific concern with the DPA.
12. If a qualified environmental professional has identified the riparian assessment area and a covenant has been registered restricting construction, alteration of land, soil deposit or removal or any other development or activity within the riparian assessment area.
13. 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*;
14. Forest management activities on land that is the subject of a woodlot license or tree farm license under the *Forest and Range Practices Act*;
15. 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*;
16. Land alteration and vegetation removal on agricultural land that is more than 3m from the high water mark of a stream (except Maxwell Lake), that is done for farming practices being consistent with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*;
17. Mining activities regulated by the *Mines Act*, however, it is strongly recommended that they adhere to the DPA guidelines;
18. For certainty, all uses that are not residential, commercial or industrial or accessory to such a use a QEP assessment report is not required as per RAR;
19. For certainty, actions undertaken by the Crown or an agent of the Crown, however, it is strongly recommended that they adhere to the DPA guidelines;

SALT SPRING ISLAND OFFICIAL COMMUNITY PLAN

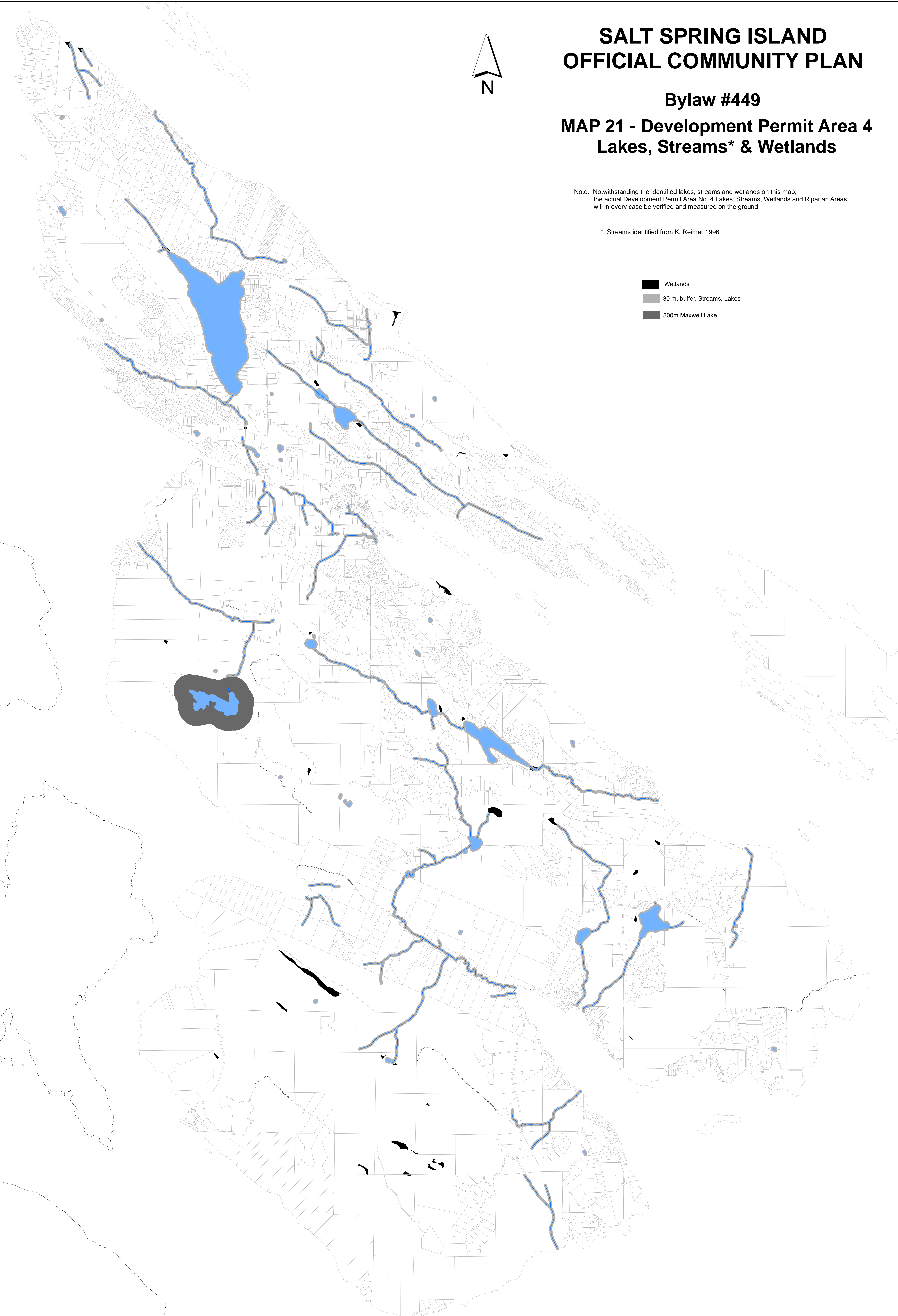
Bylaw #449

MAP 21 - Development Permit Area 4 Lakes, Streams* & Wetlands

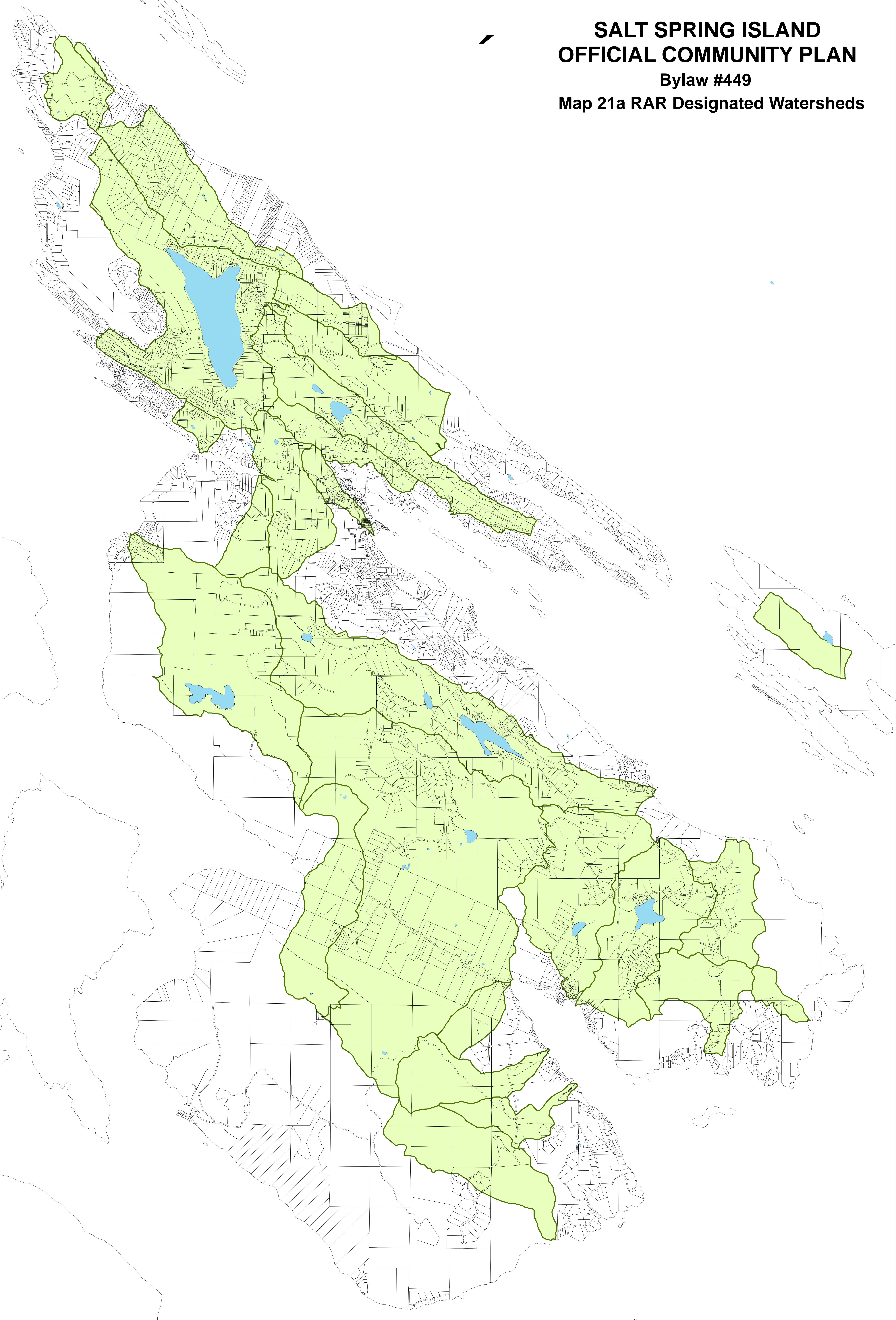
Note: Notwithstanding the identified lakes, streams and wetlands on this map, the actual Development Permit Area No. 4 Lakes, Streams, Wetlands and Riparian Areas will in every case be verified and measured on the ground.

* Streams identified from K. Reimer 1996

- Wetlands
- 30 m. buffer, Streams, Lakes
- 300m Maxwell Lake



**SALT SPRING ISLAND
OFFICIAL COMMUNITY PLAN
Bylaw #449
Map 21a RAR Designated Watersheds**



1:20,000
500 0 500 1,000 1,500
Meters

SALT SPRING ISLAND

SALT SPRING ISLAND
OFFICIAL COMMUNITY PLAN

Map 21a
Development Permit Area 4



Islands Trust

POLICY STATEMENT DIRECTIVES ONLY CHECK LIST

Bylaw No. 449 and File No: 38.2 (a)

PURPOSE

To provide staff with the Directives Only Checklist to highlight issues addressed in staff reports and as a means to ensure Local Trust Committee address certain matters in their official community plans and regulatory bylaws and Island Municipalities address certain matters in their official community plans and to reference any relevant sections of the Policy Statement.

POLICY STATEMENT

The Policy Statement is comprised of several parts. Parts I and II outline the purpose, the Islands Trust object, and Council's guiding principles. Parts III, IV and V contain the goals and policies relevant to ecosystem preservation and protection, stewardship of resources and sustainable communities.

There are three different kinds of policies within the Policy Statement as follows:

- Commitments of Trust Council which are statements about Council's position or philosophy on various matters;
- Recommendations of Council to other government agencies, non-government organizations, property owners, residents and visitors; and
- Directive Policies which direct Local Trust Committees and Island Municipalities to address certain matters.

DIRECTIVES ONLY CHECK LIST

The Policy Statement Directives Only Checklist is based on the directive policies from the Policy Statement (Consolidated April 2003) which require Local Trust Committees to address certain matters in their official community plans and regulatory bylaws and Island Municipalities to address certain a matters in their official community plans in a way that implements the policy of Trust Council.

Staff will use the Policy Statement Checklist (Directives Only) to review Local Trust Committee and Island Municipality bylaw amendment applications and proposals to ensure consistency with the Policy Statement. Staff will add the appropriate symbol to the table as follows:

- ✓ if the bylaw is **consistent** with the policy from the Policy Statement, or
- ✘ if the bylaw is **inconsistent (contrary or at variance)** with a policy from the Policy Statement, or
- N/A** if the policy is not applicable.

Part III Policies for Ecosystem Preservation and Protection

CONSISTENT	NO.	DIRECTIVE POLICY
	3.1	Ecosystems
✓	3.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and protection of the environmentally sensitive areas and significant natural sites, features and landforms in their planning area.
✓	3.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning, establishment, and maintenance of a network of protected areas that preserve the representative ecosystems of their planning area and maintain their ecological integrity.
N/A	3.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the regulation of land use and development to restrict emissions to land, air and water to levels not harmful to humans or other species.
	3.2	Forest Ecosystems
N/A	3.2.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of unfragmented forest ecosystems within their local planning areas from potentially adverse impacts of growth, development, and land-use.
	3.3	Freshwater and Wetland Ecosystems and Riparian Zones
✓	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.
	3.4	Coastal and Marine Ecosystems
N/A	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.
N/A	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.

PART IV: Policies for the Stewardship of Resources

CONSISTENT	NO.	DIRECTIVE POLICY
	4.1	Agricultural Land
✓	4.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and preservation of agricultural land for current and future use.
✓	4.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation, protection, and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses.
N/A	4.1.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the

		use of adjacent properties to minimize any adverse affects on agricultural land.
CONSISTENT	NO.	DIRECTIVE POLICY
N/A	4.1.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the design of road systems and servicing corridors to avoid agricultural lands unless the need for roads outweighs agricultural considerations, in which case appropriate mitigation measures shall be required to derive a net benefit to agriculture
N/A	4.1.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address land uses and activities that support the economic viability of farms without compromising the agriculture capability of agricultural land.
N/A	4.1.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of Crown lands for agricultural leases.
	4.2	Forests
N/A	4.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the need to protect the ecological integrity on a scale of forest stands and landscapes.
N/A	4.2.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the retention of large land holdings and parcel sizes for sustainable forestry use, and the location and construction of roads, and utility and communication corridors to minimize the fragmentation of forests.
N/A	4.2.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of forest ecosystem reserves where no extraction will take place to ensure the preservation of native biological diversity.
	4.3	Wildlife and Vegetation
	4.4	Freshwater Resources
✓	4.4.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, water quality is maintained, and existing, anticipated and seasonal demands for water are considered and allowed for.
✓	4.4.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure water use is not to the detriment of in-stream uses
	4.5	Coastal Areas and Marine Shorelands
N/A	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.
N/A	4.5.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the compatibility of the location, size and nature of marinas with the ecosystems and character of their local planning areas.
N/A	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.
N/A	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.

	4.6	Soils and Other Resources
N/A	4.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of productive soils.

PART V: Policies for Sustainable Communities

CONSISTENT	NO.	DIRECTIVE POLICY
	5.1	Aesthetic Qualities
N/A	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.
	5.2	Growth and Development
✓	5.2.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.
✓	5.2.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.
N/A	5.2.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.
N/A	5.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.
	5.3	Transportation and Utilities
N/A	5.3.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of a classification system of rural roadways, including scenic or heritage road designations, in recognition of the object of the Islands Trust.
N/A	5.3.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the impacts of road location, design, construction and systems.
N/A	5.3.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of areas for the landing of emergency helicopters.
N/A	5.3.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of land use patterns that encourage establishment of bicycle paths and other local and inter-community transportation systems that reduce dependency on private automobile use.
	5.4	Disposal of Waste
N/A	5.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of acceptable locations for the disposal of solid waste.

CONSISTENT	NO.	DIRECTIVE POLICY
	5.5	Recreation
N/A	5.5.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the prohibition of destination gaming facilities such as casinos and commercial bingo halls.
N/A	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.
N/A	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.
N/A	5.5.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and designation of areas for low impact recreational activities and discourage facilities and opportunities for high impact recreational activities.
N/A	5.5.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for bicycle, pedestrian and equestrian trail systems.
	5.6	Cultural and Natural Heritage
N/A	5.6.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification, protection, preservation and enhancement of local heritage.
N/A	5.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation and protection of the heritage value and character of historic coastal settlement patterns and remains.
	5.7	Economic Opportunities
N/A	5.7.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.
	5.8	Health and Well-being
N/A	5.8.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address their community's current and projected housing requirements and the long-term needs for educational, institutional, community and health-related facilities and services, as well as the cultural and recreational facilities and services.

POLICY STATEMENT COMPLIANCE	
	COMPLIANCE WITH TRUST POLICY
	NOT IN COMPLIANCE WITH TRUST POLICY for the following reasons:

INITIAL CONSULTATION LIST OF REFERRAL AGENCIES

MINISTRY

Canadian Wildlife Service, Coastal Bird
Research Scientist
Fisheries and Oceans Canada
Federal Department of Fisheries and
Oceans, Habitat Management
Integrated Land Management Bureau
Integrated Land Management Bureau
Ministry of Natural Resource
Operations
CRD SSI Building Inspection
CRD Water & Sewer
CRD Environmental
CRD Parks & Comm. Services
CRD Integrated Water Services
Vancouver Island Health Authority
Vancouver Island Health Authority
Agricultural Land Commission
Ministry of Agriculture
Ministry of Agriculture
Ministry of Agriculture
BC Assessment Authority
BC Ferry Services Inc.
Ministry of Community, Sport and
Cultural Development
Ministry of Natural Resource
Operations
Ministry of Environment
Archaeology, Natural Resources
Operations Ministry

Ministry of Transportation
Ministry of Tourism Trades &
Investments
Ministry of Forest Mines and Lands
Ministry of Energy
Ministry of Energy
Islands Trust Fund

CRD Water & Sewer
SSI Chamber of Commerce
SSI Harbour Master
CRD SSI Parks and Recreation
SSI Nature Conservancy
North Salt Spring Waterworks
Salmon Enhancement Society

FIRST NATIONS

Chemainus First Nation
Lyackson First Nation
Lyackson First Nation
Penelakut First Nation
Lake Cowichan
Cowichan Tribes
Tseycum First Nation
Pauquachin First Nation
Tsartlip First Nation
Tsawout First Nation
Halalt First Nation
Hul'quminum Treaty Group
Tsawwassen First Nation
Malahat First nation



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: Proposed Timing for Bylaw No. 449 Adoption – DPA4 Lakes, Streams, Wetlands and Riparian for Information

PURPOSE

The purpose of this report is to provide the Local Trust Committee (LTC) with information on possible timing for the adoption of Bylaw No. 449 - Development Permit Area 4, based on first reading occurring on April 7, 2011.

BACKGROUND

For the last several months the LTC has received reports on the Environmental Development Permit Area Review and in particular updates on the drafting of DPA4. As well, during that time staff has conducted research and consultation in preparation for the drafting of an amending bylaw. The bylaw is now drafted and at a stage where it can be adopted for first reading.

Possible Timeline Scenarios

Below is a proposed timeline outlining the steps involved prior to final adoption of the bylaw with no additional meetings proposed:

Bylaw No. 449 Adoption Process Timeline

TASK	APRIL	MAY	JUNE	JULY
Bylaw First Reading (April 7, 2011)	X			
Bylaw Referral to Agencies (31 calendar days)	X	X		
Referral to Advisory Committees	X			
Public Hearing (possibly 6 weeks after 1 st reading)		X		
Special LTC Meeting for 2 nd and 3 rd Reading		X	X	
Bylaw submission to Executive Council		X	X	
Bylaw referred to Ministry of Community, Sport and Cultural Development.			X	

Below is a proposed timeline outlining the steps involved prior to final adoption of the bylaw with an additional community meeting if requested by the LTC after first reading in April:

Bylaw No. 449 Adoption Process Timeline with Additional Community Meeting

TASK	APRIL	MAY	JUNE	JULY
Bylaw First Reading (April 7, 2011)	X			
Bylaw Referral to Agencies (31 calendar days)	X	X		
Referral to Advisory Committees	X			
Community Meeting	X			
Public Hearing (possibly 8 weeks after 1 st reading)			X	
Special LTC Meeting for 2 nd and 3 rd Reading			X	X
Bylaw submission to Executive Council			X	X
Bylaw referred to Ministry of Community, Sport and Cultural Development.				X

Note: The X denotes the approximate timing of that task.

In considering the timeline, the initial deciding factor is whether the LTC believes that the bylaw is in a form that is ready for first reading which in the timeline is presented as April 7, 2011. If it is ready, there are certain statutory requirements that must be taken into account prior to final reading such as referrals to affected agencies, holding a Public Hearing, approval by the Islands Trust Executive Council and the Ministry of Community, Sport and Cultural Development.

The two timelines presented above generally outline the adoption process. The difference between the two timelines is that the second one includes a discretionary community meeting on the bylaw. Such a meeting may or may not be required by the LTC.

STAFF COMMENTS:

Staff has outlined two timeline scenarios for bylaw adoption process starting on April 7th. The difference between the two tables being if an additional community meeting is held or not. The community meeting would only be held at the request of the LTC if they thought it was required to get further community input before the Public Hearing. Whether such a meeting is held or not it is understood that most likely on the day of the Public Hearing there would be an information meeting. The information meeting would give residents an opportunity to discuss the bylaw with staff and Trustees whereas the Public Hearing is for comment only.

The preference would be to have the bylaw adoption process start earlier than later so that the Public Hearing is not conducted too far into the summer (i.e. July). Both scenarios will require that there be at least one special LTC meeting to permit for 2nd and 3rd readings of the bylaw after Public Hearing. However, given the timeline, it is possible that 2nd and 3rd could be given at a subsequent (May) regularly scheduled meeting of the LTC.

It should be noted that the two scenarios take the bylaw up to the submission to the Ministry of Community, Sport and Cultural Development as it is uncertain how long that portion of the approval process may take. It is not until the statutory requirements are met that the LTC can give the bylaw final reading.

The LTC should review the two scenarios to get an understanding of what alternatives exist for timing of the adoption of bylaw 449 and its statutory requirements.

RECOMMENDATION:

That the Salt Spring Island Local Trust Committee receives for information the possible timing scenarios presented for the adoption of Bylaw No. 449.

Respectfully submitted by:

Kris Nichols, Consultant

Concurred by

Leah Hartley, MCIP
Regional Planning Manager

March 30, 2011

Date

March 30, 2011

Date



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 land owners 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 landowner 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 LT C 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 considered 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 a 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