

4.1.xiv. Policy & Procedure

MODEL DEVELOPMENT PERMIT GUIDELINES FOR EAGLE, RAPTOR AND HERON HABITAT PROTECTION

Trust Council: March 10, 2006

A: PURPOSE:

1. A set of Development Permit Guidelines for eagle, raptor and heron habitat protection for use by local trust committees wanting to offer protection in their local bylaws.

B: POLICY:

1. See Attachment 1.: Model Development Permit Guidelines

C: PROCEDURE:

1. See Attachment 1.: Model Development Permit Guidelines

D: ATTACHMENTS:

1. Attachment 1.: **Model Development Permit Guidelines**

DEVELOPMENT PERMIT AREA No. ____
BALD EAGLE, RAPTOR AND GREAT BLUE HERON HABITAT

1. Designation

All land identified on Schedule ___ of this plan as being Bald Eagle, Great Blue Heron or Other Raptor Habitat is within DPA No. ____.

This development permit area is established, pursuant to Section 919.1(1)(a) of the *Local Government Act*, for the protection of the natural environment, its ecosystems and biological diversity.

2. Special Conditions or Objectives that Justify the Designation

The _____ Island Local Trust Area contains habitat used by bald eagles, other raptors and great blue herons for nesting and breeding.

Bald Eagles are a regionally significant species and include both resident and wintering birds. Resident eagles establish a territory around a nest, with most pairs using the same site for all their breeding life. Nests are semi-permanent structures which represent a considerable investment of energy. Nest abandonment – either permanent or temporary – can result from tree damage or removal, nest damage or human disturbance during the critical nesting period from January 30th to June 30th. Eagle nest trees requirements are specialized: typically large, very old trees near the water and although second growth trees are sometimes used, most nest trees are Douglas firs over 150 years of age, usually within one kilometre of the shoreline. Human activity related to logging and land development has resulted in the loss of nest sites, which results in a permanent reduction in the nesting population. Gradual loss of nesting habitat is considered to be the most significant factor affecting bald eagle abundance in B.C. (BC Ministry of Environment, Lands and Parks. *Environmental Objectives, Best Management Practices and Requirements for Land Developments*. 2001) and specifically on Vancouver Island and the Gulf Islands, habitats within low-elevation coastal habitats in the Coastal Douglas fir Bio-geoclimatic zone have been degraded by human developments (BC Ministry of Water, Land and Air Protection. *Best Management Practices for Raptor Conservation during Urban and Rural Land Development in British Columbia*. 2005)

Great Blue Herons are a blue-listed (threatened) species. Breeding is concentrated in the Strait of Georgia, with large colonies generally occurring in relatively contiguous forest, fragmented forest or solitary trees and associated with extensive estuarine mudflats and eelgrass beds. Colonies are dynamic, especially in areas of high disturbance and habitat destruction and human disturbance has been implicated in historical colony abandonment. In particular, disturbance from humans can cause herons to temporarily abandon breeding attempts, allowing predators to take eggs.

Other Raptors include falcons, hawks, ospreys, owls and other eagle species. Healthy raptor populations are important in maintaining a balance in prey populations. Protection of habitat, including nesting areas, is important in order to maintain raptor populations.

In considering the issuance of a development permit, the LTC should be satisfied that the objectives of the DPA have been met where applicable and may impose conditions where appropriate.

3. Application Requirements [for certainty, should be incorporated into a Development Approval Information Bylaw]

In addition to the application requirements established in any fee or development procedures bylaws adopted by the _____ Island Local Trust Committee, an applicant may be required, upon receipt of an application, to provide a report prepared by a qualified registered professional biologist with relevant experience acceptable to both the applicant and the Islands Trust. The professional should be registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act of the legislature, acting under that association's code of ethics and subject to disciplinary action by that association. The professional may be retained by, and report to, the Islands Trust, with costs recovered from the applicant using a cost recovery agreement. The report should take the form of a site plan and a background report, and should identify the following applicable features with respect to the DPA and the site of any proposed work within the DPA:

- (a) Confirm the boundaries of the DPA using geo-referencing;
- (b) Identify current or past Bald Eagle Nest Trees within the DPA;
- (c) Identify current or past Great Blue Heron colonies within the DPA;
- (d) Identify current or past nests of other raptors within the DPA;
- (e) Recommend suitable buffers and practices as established in *Best Management Practices for Raptor Conservation during Urban and Rural Land Development in British Columbia* (BC Ministry of Water, Land and Air Protection, 2005) or an equivalent document.
- (f) Recommend mitigation and enhancement strategies to avoid adverse impacts of development and servicing and the report should provide a cost estimate for any mitigation or enhancement measures.

4. Guidelines

Guideline 1

Where the application involves a proposal to subdivide land, the layout of proposed lots should be configured in such a manner as to ensure, to the extent practical, that:

- a) Eagle Nesting Trees are protected by clustering lots through lot averaging, bare land strata or density transfer. The lot containing the nesting tree should be of a sufficient size to accommodate the permitted level of development, including driveway access, septic disposal systems, and accessory uses, in addition to a 100 metre buffer around the nesting tree.
- b) Blue Heron colony trees are protected by clustering lots through lot averaging, bare land strata or density transfer. The lot containing the nesting tree or trees or feeding areas should be of a sufficient size to accommodate the permitted level of development, including driveway access, septic disposal systems and accessory uses, in addition to a 200 metre buffer around the colony tree or trees.

- c) Other raptor nests are protected by clustering lots through lot averaging, bare land strata or density transfer. The lot containing the nesting tree(s) or nesting sites should be of a sufficient size to accommodate the permitted level of development, including driveway access, septic disposal systems and accessory uses, in addition to a 200 metre buffer around the nesting tree(s) or sites.
- d) The LTC may consider variances to relax subdivision or siting regulations where the variance may result in enhanced protection of a nesting tree(s) or sites.
- e) The LTC should include provisions for protecting these areas during construction or development as conditions of the permit. Permits should contain conditions respecting the timing of work that avoid disturbance during periods when eggs or young are present in the nest. Landowners are encouraged to retain areas containing nesting trees in an otherwise undisturbed state through the granting of conservation covenants

Guideline 2

Where an application involves proposals to construct or locate buildings, structures, roads, driveways, utility corridors, or clear or alter land in areas within the DPA, such applications should demonstrate that the area proposed for development is not within 100 metres of Bald Eagle nesting trees, as determined by measuring from the base of the tree. Consistent with the recommendations of a registered professional biologist, the LTC may consider a buffer of 1½ Tree lengths in areas where there are developed small lots and a minimum parcel size of 1 hectare or less. Recommended provisions for protecting buffer areas should be included as conditions of any permit. Landowners are encouraged to retain areas containing nesting trees in an otherwise undisturbed state through the granting of covenants.

Guideline 3

Where an application involves proposals to construct or locate buildings, structures, roads, driveways, utility corridors, or clear or alter land in areas within the DPA, such applications should demonstrate that the area proposed for development is not within 200 metres of Blue Heron colonies, as determined by a line drawn around the outer perimeter of all nest trees. Consistent with the recommendations of a registered professional biologist, the LTC may consider a buffer area of 60 metres where there are developed small lots and a minimum parcel size of 1 hectare or less. Recommended provisions for protecting buffer areas should be included as conditions of any permit. Landowners are encouraged to retain areas containing colonies or feeding areas in an otherwise undisturbed state through the granting of covenants.

Guideline 4

Where an application involves proposals to construct or locate buildings, structures, roads, driveways, utility corridors, or clear or alter land in areas within the DPA, such applications should demonstrate that the area proposed for development is not within 200 metres of other raptor nests, as determined by measuring from the base of the tree or the cliff top or cliff base. Consistent with the recommendations of a registered professional biologist, the LTC may consider a buffer of 1½ Tree lengths, or 50 metres from the cliff top, in areas where there are developed small lots and a minimum parcel size of 1 hectare or less. Recommended provisions for protecting buffer areas should be included as conditions of any permit. Landowners are

encouraged to retain areas containing nesting trees in an otherwise undisturbed state through the granting of covenants.

Guideline 5

Development, work or alterations within the DPA should only be located or occur within a distance of 200 metres of Blue Heron colonies or raptor nests, or within 100 metres of Bald Eagle nesting trees, where site-specific constraints, such as, but not limited to topography, property area, covenants, easements and rights of way would not allow the permitted use to occur outside DPA and the report of a registered professional biologist states that the nature or timing of the work and the use would not result in disturbance to nesting, breeding or feeding activities. The onus lies with the applicant to demonstrate that encroaching into any recommended buffer is unavoidable. In such an instance all recommendations of registered professional biologist's report should be included as conditions of the permit.

The permit should include conditions respecting the timing or phasing of development work. The permit should include conditions that restrict significant work to periods eggs and young are not present in the nesting sites.

Guideline 6

The LTC may consider variances to relax siting or size regulations where the variance may result in enhanced protection of a nesting tree or colony.

5. Conditions under which a Development Permit would not be required

The following activities are exempt from any requirement for a development permit, upon determination by Islands Trust staff:

- a) development or alteration of land proposed to occur outside the designated development permit area as shown on Schedule ___ and as determined by Islands Trust staff or a BC Land Surveyor providing a geo-referenced digital survey;
- b) forest management activities on land classified as managed forest land under the *Private Managed Forest Land Act*;
- c) forest management activities on land that is the subject of a valid and subsisting woodlot license or tree farm license under the *Forest Act*;
- d) work undertaken on Crown land by an agent of the Crown;
- e) the maintenance of existing landscaping or gardens;
- f) the removal of dangerous trees posing an immediate threat to life or property, provided the tree is not a current or past nesting tree;
- g) the removal of invasive, non-indigenous trees or vegetation;
- h) tree trimming or topping, provided the tree is not a current or past nesting tree;
- i) activity that is permitted by a conservation covenant satisfactory to, and in favour of, the _____ Island Local Trust Committee or the Islands Trust Fund Board, including the subdivision of land, the construction of, addition to or alteration of buildings or structures, or other alteration of land.