



**GABRIOLA ISLAND  
LOCAL TRUST COMMITTEE  
AGENDA**

**REGULAR BUSINESS MEETING  
OF THE GABRIOLA ISLAND LOCAL TRUST COMMITTEE**  
held at 10:15 AM on Thursday, July 18, 2013 at the Women's Institute,  
476 South Road, Gabriola Island, BC

**LATE ITEMS, ADDITIONS**

**AMENDMENTS/ADDITIONS  
TO ITEMS:**

**3. MINUTES**

- 3.1 Local Trust Committee Special Meeting Minutes for a Community Information Meeting of June 26, 2013 – *attached*

**12. TOWN HALL SESSION**

- 12.1 Submission dated July 18, 2013 from Gabriola Rod, Gun and Conservation Club - *attached*

**14. LOCAL TRUST COMMITTEE PROJECTS**

- 14.1 Official Community Plan/Land Use Bylaw Review  
14.1.3 Riparian Areas Regulation Implementation  
14.1.3.i Staff Report dated July 12, 2013 – *attached*  
14.1.3.iii Email dated July 3, 2013 from Robert Seaton - *attached*

**DRAFT**

**Minutes of the Special Business Meeting of the  
Gabriola Island Local Trust Committee  
Held on Wednesday, June 26, 2013 at 6:30 PM  
At the Haven, Phoenix Room  
240 Davis Road, Gabriola Island, BC**

**Members Present:** David Graham, Chair  
Sheila Malcolmson, Local Trustee  
Gisele Rudischer, Local Trustee

**Staff Present:** Courtney Simpson, Regional Planning Manager  
Aleksandra Brzozowzki, Island Planner and Recorder  
Jessie Sherk, Recorder

**Media and Others Present:** Maggie Henigman, Ecosystems Biologist, Province of  
British Columbia  
Trystan Willmott, Qualified Environmental Professional  
Two local media representatives and approximately 50  
members of the public were in attendance

**1. OPEN HOUSE:**

**2. CALL TO ORDER:**

Chair Graham called the meeting to order at 6:30 p.m. He introduced himself, the staff and trustees in attendance and thanked everyone for coming.

**3. APPROVAL OF AGENDA:**

**4. OPENING REMARKS:**

Trustee Malcolmson said that there is more and more evidence showing that what happens on land effects what happens with fish. Ten years ago the province gave the responsibility to regulate and protect fish habitat to local governments. There are 100 local governments that have already regulated this and we are the last to comply. It is important work but it is also costly. They are committed to personalizing this bylaw to meet the island's needs. Trustee Malcolmson also mentioned how pleased she is that there was someone from the province here to speak about this. Gabriola has six development permit areas already and to be clear, she reminded the public that the steep slope project has been abandoned and that this meeting was only about riparian areas. The proposed bylaw will be going to public hearing next month. She explained that this meeting is to provide information so everyone understands what's going into the bylaw and also to give the opportunity for the public to have his or her say. She encouraged everyone to get their questions out and utilize the experts that were in attendance. She also thanked everyone for coming to the meeting.

**5. PRESENTATIONS:**

**5.1 Ministry of Forests, Lands and Natural Resource Operations,  
Maggie Henigman, Ecosystems Biologist**

Ms. Henigman introduced herself and said she was very happy to be there to explain this legislation and the Riparian Area Regulation (RAR). She said that protecting fish habitat is a priority and that trees and vegetative streamside habitat is essential for healthy fish populations.

She explained some of the history of RAR and described that wetlands are highly productive areas that are critically important to the fish downstream and that homeowners may not realize how important these low wetlands are.

Ms. Henigman presented the key design principles of the RAR and explained that protecting the features, functions and conditions vital in the natural maintenance of stream health and productivity.

She then discussed what happens if your riparian area is already modified, and explained the process of getting a Qualified Environmental Professional (QEP) assessment.

**Chair Graham invited questions from the audience.**

**A member of the audience** asked why there is a split between people subjected to the riparian regulation and those not. Ms. Henigman advised that at the time the RAR was devised, it was determined by the Department of Fisheries and Oceans and others, that the Southern area of the Province is where all the development pressure was. There was a decision made to write the legislation for those regions specifically with the intent to expand to the rest of the Province.

**5.2 Gabriola Island Local Trustee, Sheila Malcolmson**

See 4. Opening Remarks, above.

**5.3 Madrone Environmental Services Ltd.,  
Trystan Willmott, Qualified Environmental Professional**

Mr. Willmott explained the stream mapping project undertaken by Madrone Environmental Services on Gabriola. He presented a map showing the scope of the project noting that he was not contracted to map isolated wetlands, but to identify streams and creeks with the potential for fish habitat.

He explained the stream mapping methodology, including background research and walking the streams using a backpack GPS with external antenna, which is accurate between 1 and 5 meters.

Mr. Willmott then explained what was considered a stream under the RAR and what he was looking for including:

- Any watercourse, natural or man-made that contained water on a natural or seasonal basis;
- Visual clues where there was evidence that water has gone through, including ditches, channel beds, seasonally wetted areas, floodplains and wetlands; and
- Watercourses that may contain food and nutrients sufficient to support fish.

He then discussed when a watercourse is not considered a stream under the RAR:

- If the watercourse does not support fish or connect to a fish habitat;
- Isolated wetlands that do not support fish or are not connected to a stream system;
- Roadside ditches that are not connected to a fish bearing stream; and
- When a stream has an obvious gradient barrier at tidewater, with no potential habitat for anadromous fish and no perennial habitat above the barrier for resident fish.

He noted that “non-fish” watercourses still provide important habitat for other aquatic organisms and also provide:

- Food;
- Water;
- Migration corridors for birds and wildlife;
- Water storage and cleansing; and
- Aesthetic values for people.

Mr. Willmott explained the fieldwork and noted that the mapping was done from late November, 2011 to early January, 2012 at a time of high seasonal stream flows. The fieldwork focused on stream mapping but general fish habitat attributes were also collected, such as channel morphology, extent of riparian vegetation, cover/security attributes and spawning gravel. He went through each area of Gabriola Island and in summary, noted that there was 17km of streams identified throughout the target watersheds that are applicable to the RAR.

Options and implications to landowners were then discussed. It was noted that as per the Provincial RAR, any new development within 30 meters of a stream from the top of the bank, triggers the completion of an assessment by a QEP.

Chair Graham invited questions from the audience.

**A member of the public** asked what happens if it is a man-made ditch?

**Mr. Willmott answered** by saying that the Streamside Protection and Enhancement Area (SPEA) varies regarding ditches. If the watercourse in question has natural springs or headwaters it may be a modified stream. If there is no obvious headwater then it is probably a ditch. A QEP would need to be engaged and would be able to indicate whether or not the area in question is a

ditch or a stream. If it was a fish-bearing ditch it could potentially have a five meter setback.

**A member of the public** asked where the water in the Dogwood ditch/stream went.

**Mr. Willmott stated** that it drains down into the main influence to Hoggan Lake.

**5.4 Islands Trust,  
Courtney Simpson, Regional Planning Manager**

Regional Planning Manager Simpson gave a presentation that described the history of this project of the Local Trust Committee including the stream mapping, bylaw development, and community consultation so far. She also described the proposed development permit area and implications for landowners.

**6. QUESTION AND ANSWER SESSION**

**A member of the public** who is third generation on Gabriola Island and lives at Hoggan Lake had concerns, as he feels that there are no fish in the lake. His entire property is under the RAR, which, he feels, has made it useless. He also feels the permits are too expensive.

**Mr. Willmott** reaffirmed how important stewardship is. He also noted that in this situation where this landowner owns a farm, his farming activities are exempt from the RAR.

**A member of the public** wondered if there are any means for him to challenge the mapping. He also stated that he was not notified that a QEP was going to be coming through his property.

**Planner Simpson** stated that they do want to hear about any inaccuracies in the mapping and that anyone with specific concerns about the mapping should contact the Islands Trust office.

**A member of the public** stated that they feel this regulation will decrease property values, as most people will not want to go through the necessary permits.

**Ms. Henigman** stated that according to studies, properties with green spaces and riparian areas are usually valued at 10- 20% more.

**A member of the public** questioned how trenches and ditches, all done by excavators, could now be considered a riparian area. He wondered if this work was consistent with other islands.

**Mr. Willmott explained** that a large population in BC has to go through this process and it is consistent across the board. A QEP usually has a fish biology background but can also be a professional forester. There is a training process they must go through that is specific to riparian areas and they have to show that they are working within their area of expertise.

**A member of the public** wanted more information about the farming exemption. What about if you want to develop more gardening space?

**Planner Simpson explained** the difference between gardening and farming. Agricultural activity and existing garden areas are exempt but establishment of new garden areas are not exempt.

**A member of the public** brought up the Ministry of Highways ditch cleaning, stating that it has a huge environmental impact, and asking why this is not covered by the regulation.

**Ms. Henigman stated** that it was recognized that this is an area that needs improvement. The Ministry of Transportation and Infrastructure has permission right now to clear the ditches but it is something that needs further investigation.

**A member of the public** wondered if he would need to hire a QEP to modify his ditch when the culvert needs replacing.

**Ms. Henigman discussed** that if the ditch is considered a stream, work in a stream does not fall under the RAR, but falls under the *Water Act*. The RAR only applies to the banks of a stream and does not apply to something in the stream. It also does not cover road access.

**A member of the public** wondered how the Islands Trust is set up to handle the mass influx of development permits that will be coming in, how long a permit takes to be approved and the cost.

**Planner Simpson stated that** the permit fee is currently \$450. At present, the timeline is four to six weeks from receiving the application to having it on a Local Trust Committee meeting agenda. An influx of applications is not anticipated.

**Mr. Willmott advised** that the cost of a RAR assessment by a QEP is likely \$1500 - \$2000.

**A member of the public** wondered what would happen if they had a small lot bisected by a riparian stream and a very old septic field that needed replacing/relocating.

**Ms. Henigman advised** that currently there **is** a variance protocol that you can go through. If the septic is already inside what would be the SPEA, no one is going to stop you from replacing it.

**A member of the public asked** if there is any thought to compensating property owners whose properties have been devalued by the RAR.

**Ms. Henigman advised** there are no resources. The hope is that people in communities will adopt reasonable ways of protecting the riparian areas.

**A member of the public** asked what the difference is between a creek and a brook.

**Mr. Willmott stated** that any difference has no bearing on the RAR.

**A member of the public** felt that this process is flawed on three levels; science, law and civil liberties. He wanted to see the evidence that locating a garage or deck in a riparian area would affect fish. He also stated that the RAR methods state that optimum flow tests are done in July and August and wondered why Mr. Willmott did his study in the winter?

**Ms. Henigman stated** that the RAR website is a great resource where you will find information that provides the science and legal background that has been looked at by a number of different parties.

**Mr. Willmott noted** that he was not trying to prove the non-fish presence and that it was not in the scope of this project. Even if you had salmon using the stream one out of three years, it would still be considered a habitat.

**A member of the public** wanted to know what the reliability of the QEP studies are considering they know that the City of Nanaimo has had issues and have even considered hiring their own in-house biologist.

**Ms. Henigman stated** that the City of Nanaimo's problems are internal and have nothing to do with the QEP.

The meeting was recessed at 8:32 p.m. while Ms. Henigman, Mr. Willmott and the Recorder, Jessie Sherk left the meeting. .

Session resumed at approximately 8:35 p.m. with Islands Trust Planner, Aleksandra Brzozowski taking minutes.

**A member of the public** stated he has an issue with the Ministry of Transportation and Infrastructure enlarging culverts, expanding the pooling of water and the riparian area over time on Daniel Way. Is the mapping written in stone? He was questioning the accuracy of the mapping based on the fact that Madrone could not come to their neighbour's property, and the effect of how their property was mapped.

**Planner Simpson stated** that they will take in any mapping questions about inaccuracies at the office.

**A member of the public** was concerned about the time allotted for questions by going over time on the presentations.

**A member of the public** requested that at the next meeting, presenters not leave before the meeting is over to catch a ferry.

**A member of the public** stated that they support the concept of protecting fish habitat, but the issue is cost. It is unfair to download the costs to the few people who live on RAR properties when it benefits the entire community/ecosystem. They also felt that there are people on Gabriola who could be QEPs with some training.

**A member of the public** stated he would like to know how much the Madrone mapping cost. He also stated that there will be expropriation without compensation. He quoted from BC Assessment: "The appraiser must evaluate whether the RAR will affect or

impact the property in question” [sic]. He went on to quote the *Fisheries Act*, “that they can arrest anyone” [sic], so why are we pursuing this violation of civil liberties?

**A member of the public** asked why all the effort to protect these few fish? He brought up the issue of removal of invasive species. He wanted to know if he would need to ask an arborist to come down and remove from a grandfathered picnic area. He said that they didn’t receive a letter about Madrone coming to the property. He also said they did not get a letter reply to the questions they asked after the last CIM.

**A member of the public** stated that he would like to get a letter stating what he can and cannot do on his property at Hoggan Lake.

**7. CLOSING REMARKS**

The public was thanked for coming to the meeting and assured that staff and trustees would stay behind and answer any questions that there was not time to answer during the meeting.

**8. ADJOURNMENT**

The meeting was adjourned at 9:00 pm

\_\_\_\_\_  
Recorder

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recorder

Box 114  
Gabriola Island, BC  
Canada V0R 1X0



gunclub@shaw.ca  
N 49° 09.33' W 123° 46.522'

Local Trust Committee

18<sup>th</sup> July, 2013

The Gabriola Rod, Gun and Conservation Club (GRGCC) is and will remain in full compliance with the requirements of its lessor, the Ministry of Forests, Lands and Natural Resources.

There are no outstanding issues with any other ministry, Federal or Provincial.

The GRGCC notes that both communications on this subject emanate from plaintiffs in a civil suit against both the Province of British Columbia and the GRGCC, presently before the Supreme Court of British Columbia. This suit seeks a permanent injunction against firearm use at our Tait Road range.

Gabriola Rod, Gun and Conservation Club

# STAFF REPORT

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**Date:** July 4, 2013

**File No.:** 6500-20 (Gabriola RAR)

**To:** Gabriola Island Local Trust Committee  
**For the meeting of July 18, 2013**

**From:** Courtney Simpson, Regional Planning Manager

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**Re: Riparian Areas Regulation Implementation**

## OVERVIEW:

The Local Trust Committee (LTC) held a Community Information Meeting (CIM) on proposed bylaws 265 and 266 on Wednesday, June 26. The LTC discussed this CIM at their regular business meeting the following day, and provided direction to staff on advancing the project, through the following resolutions. Additional resolutions pertaining to this project not addressed in this report have been added to the follow up action list to be addressed in the future.

**GB-052-2013** It was **MOVED** and **SECONDED** that the Gabriola Island Local Trust Committee request staff to provide an estimate of the cost of doing a simple Riparian Areas Regulation assessment on the 240 Riparian Areas Regulation identified properties on Gabriola Island.

**CARRIED**

**GB-053-2013** It was **MOVED** and **SECONDED** that the Gabriola Island Local Trust Committee request staff advise on bylaw amendments to make removal of invasive species exempt from the Riparian Areas Regulation Development Permit Area.

**CARRIED**

**GB-054-2013** It was **MOVED** and **SECONDED** that the Gabriola Island Local Trust Committee request staff advise on whether the proposed bylaw could be amended to expand the two tree pruning exemption.

**CARRIED**

**GB-057-2013** It was **MOVED** and **SECONDED** that the Gabriola Island Local Trust Committee request that staff add to the Riparian Areas Regulation communications strategy provision of the adopted riparian area map to relevant agencies including EMCON.

**CARRIED**

## STAFF COMMENTS:

**Cost of Simple Assessment for all properties in DPA:** There are 240 properties in the DPA and approximately 17km of streams that fall under the Riparian Areas Regulation. Thus far, the LTC has taken the approach to implementing the RAR that involves adopting a DPA that covers an area 30 metres on each side of the stream, and requiring property owners to obtain a RAR Assessment from a Qualified Environmental Professional prior to undertaking any construction

or land alteration as outlined in the DPA Guidelines. This approach is consistent with many local governments and meets the requirements in the RAR.

At the June 27, 2013 meeting the LTC requested staff to provide a cost estimate of another approach; conducting a “simple assessment” (as defined in the RAR) of the length of streams in the proposed DPA. This is an approach that some local governments have taken, and the result has been a reduced area of the DPA on each side of the stream. This approach is appealing to property owners because the size of the DPA may be reduced as a result of the simple assessment.

The mapping undertaken by Madrone Environmental Services Ltd that is used to define the proposed DPA was at a cost of approximately \$20,000. Our understanding is that for the LTC to adopt a DPA for RAR that applies to an area less than the RAA (30 metres on each side of the stream) we would require stream width measurements to do so. The cost of this could be up to another \$20,000, and may not necessarily result in a reduction in the DPA. Property owners would still be required to obtain a detailed assessment at the time of proposing development.

This could be funded through a project budget in a future fiscal year that is decided by Trust Council. For comparison, the Gabriola LTC total project budget for this fiscal year is \$20,000, much of it already committed to other parts of the OCP/LUB review. Another funding option is through a special tax levy on property taxes to Gabriola taxpayers, which would take a considerable amount of time to set up and would require permission from the province.

**Removal of Invasive Species in DPA:** Public comments have been received regarding the requirement for a development permit to remove invasive species within 30 metres of a stream in the proposed DPA. Comments have generally been around the idea that removal of invasive species is a positive change to a riparian environment that should be encouraged, and that removing a few plants on one’s own property should not require a development permit.

In the proposed DPA the following relevant exemption exists:

*f. ecological restoration or enhancement projects undertaken or authorized by a public body*

The problem with exempting all invasive species removal from requiring a development permit is that large-scale invasive species removal can be damaging to the riparian area if not done according to a plan developed by someone with expertise in the area. For example, if a sloping stream bank was completely covered in English ivy, something that is not uncommon, the English ivy cannot simply be removed without at the same time stabilizing the bank. If the bank is left bare, rains will wash sediment into the stream which can have a significant negative effect on fish habitat. Even if the bank is replanted, it must be carefully monitored until the new vegetation establishes itself which could take some time. Invasive species removal of this scale is not something that a typical property owner would have the expertise to do without risking harm to the stream, no matter how well intentioned they are.

The DPA could attempt to exempt invasive species removal up to a certain scale but this can be very difficult as shown in the discussion below regarding a two-tree exemption for pruning. The DPA could exempt a certain number of plants, volume of plant material, method of removal, etc but because the sensitivity of the removal is dependent on the site, it would be difficult if not impossible to arrive at an exemption that is fair and consistent for all property owners. The

attached “Riparian Areas and Revegetation” from Fisheries and Oceans Canada describes the complexities in successful revegetation.

Currently, the proposed DPA has a list of activities that require a development permit and includes:

- c. removal, alteration or destruction of vegetation*
- d. disturbance of soils*

There is no indication of the scale of activity that requires a development permit. Taken in the strictest sense, picking a flower would require a development permit, but that is not the intention. The intent is for a development permit to be required for substantial activity that has the potential to negatively impact the riparian area if not done on the advice of a qualified professional.

Staff recommends that no changes are made to the proposed DPA regarding removal of invasive species.

**Exemption for Pruning in DPA:** Based on staff experience with other, existing development permit areas that restrict pruning and the number of enquiries that come from property owners wishing to do small scale pruning in a DPA, staff attempted to exempt a minor amount of pruning from requiring a development permit. Public comments have been received to the effect that allowing two trees to be pruned in one growing season is not appropriate given the range of lot sizes; the effect of pruning two trees on a 1 acre lot is different than pruning two trees on a 10 acre lot. It has been suggested that an exemption should be proportional to the size of the lot. The exemption in the proposed DPA is currently as follows:

- e. pruning of not more than two trees in one growing season and that is conducted in accordance with the standards and recommendations of the International Society of Arboriculture, and that does not involve: the lift pruning of lower limbs to the extent that the live crown ratio is less than 50%, the removal of more than 25% of the crown in one growing season, topping, or the pruning or removal of a structural root within the critical root zone*

The exemption for two trees in a growing season was chosen because it was small and reasonable number. Staff recommends this could be amended to say something such as two trees per 100 metres of stream.

**Amendments to Communications Strategy:** The Project Charter and Communications Strategy are useful tools in project planning as they provide a base from which all project work flows and are designed to ensure the timely completion of the project. In addition, they are effective in communicating project goals and timelines to the public. Once endorsed, any significant changes to the project deliverables, budget, or other aspects of the project require an amendment and re-endorsement of the amended Project Charter. This process is designed to allow for minor changes to be incorporated into the project; not to accommodate changes in project purpose or scope.

The attached Project Charter is amended to change the name of the Project lead from Chloe Fox who is no longer with the Islands Trust. This change does not require endorsement from the LTC. Although the project is now behind the timeline, it has not been changed in the Project

Charter. Staff resignation, inability to hire new staff in a timely manner due to the Provincial Hiring Freeze, and further questions from the community that have resulted in the LTC requesting more information from staff have all combined to put this project behind the targeted completion date in the Project Charter.

The attached Communications Strategy is updated with a new item as per LTC resolution to distribute the DPA map to relevant agencies including EMCON.

### **RECOMMENDATIONS:**

Staff recommends THAT the Gabriola Island Local Trust Committee:

1. endorse the revised Gabriola Island Development Permit Areas (Riparian Areas Regulation Implementation) Communications Strategy, dated July 4, 2013;
2. direct staff to amend proposed bylaw No. 266 to amend section F.3.3.1(e) by inserting "per 100 metres of stream length" between "two trees" and "in one growing season";

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Prepared and Submitted by:

*Courtney Simpson*

Regional Planning Manager

July 12, 2013

Date

Attachments:

1. Gabriola Island Development Permit Areas (Riparian Areas, Hazardous Areas & Steep Slopes) Project Charter, dated November 5, 2012
2. Gabriola Island Development Permit Areas (Riparian Areas, Hazardous Areas & Steep Slopes) Communications Strategy, dated November 5, 2012
3. Riparian Areas and Revegetation" from Fisheries and Oceans Canada

# Gabriola Island Development Permit Areas (Riparian Areas) - Project Charter

**Purpose** To review and update current Development Permit Areas (DPAs) in the Gabriola Island Official Community Plan to implement the provincial *Riparian Areas Regulation*.

**Background** This project is part of the Gabriola Official Community Plan review. In 2011, Madrone Environmental Services Ltd. was contracted to assess and map watercourses subject to the provincial *Riparian Areas Regulation*. The mapping and recommendations of this report will assist in the development of an updated DPA. Previously, concern had been expressed regarding the general level of knowledge in the community around DPAs. In addition, at the outset, this project included the review and update of existing mapping and guidelines for hazardous and steep slope areas. This portion of the project was deferred indefinitely at the February 21, 2013 LTC regular business meeting.

## Objectives

- Adoption of mapping and guidelines to implement the provincial Riparian Areas Regulation, including review of existing DPA-3.
- Ongoing notification and effective engagement with property owners, residents and the Snuneymuxw First Nation.

## In Scope

- Review and update of existing DPA-3, including mapping, justification, objectives and guidelines.
- Consideration of clarification around when a development permit will be required, including possible exemptions for certain types of development.
- Consistency with the Islands Trust Policy Statement.
- Consistency with *Riparian Areas Regulation* requirements.

## Out of Scope

- Review of other DPAs
- Review of other areas of the OCP
- Major applications to amend the OCP while review is in progress.

## Links & Dependencies

- LTC meeting schedule as framework for deliverables.
- Victoria mapping department for draft mapping schedules.
- Referral agency response turn-around
- Staff workload

## Critical Success Factors

- Stay within reasonable budget
- Clear and timely communication of project, timelines and opportunities for input to community
- Development and implementation of a Development Approval Information bylaw in conjunction with the project
- Cooperative, respectful environment
- Executive Committee approval

## Project Team

Name/Project Role
Courtney Simpson / RPM
I.T. Victoria Mapping Department
Gabriola LTC
Lisa Webster-Gibson/ Planning Clerk (Legislative Process)

## Governance

Name/Project Role	Responsibility
GBLTC	Bylaw review / consideration /adoption
Executive Committee	Bylaw approvals
Minister of Community, Sport & Cultural Development	Bylaw approval

## Interest Groups

Name
Property owners and residents
Snuneymuxw First Nation; other First Nations
RDN; MOTI; VIHA; other referral agencies
Advisory Planning Commission
Local Realtors, Contractors, Excavators

## Risk Assessment

Risk	Probability	Impact	Response Strategy	Residual Risk
LTC efforts focused on other regional or trust wide work program items	Low	High	Promote project to work program priority #1 until final adoption	Low
Unable to meet deliverable dates due to aggressive timelines	Med	High	Detailed planning, clear roles and responsibilities of team members	Low
Property owner discourse over private property rights or implications of land use regulations being proposed	Med	High	Clear communications; ample opportunity for public review of draft regulations	Low
Unable to meet deliverable dates due to staff time commitments to development applications	Med	High	LTC direction on staff time allocation. RPM to balance application workload between Planner 1 / 2 / Island Planner	Low

## Workplan Overview

Deliverable/Milestone	Targeted Completion
General education on DPAs with community	Aug. 2012
Release of draft DPA amendments	Sept. 2012
Consultation with community / APC on draft DPA amendments	Nov. 2012 to Jan. 2013
1st reading of draft bylaw—agency and First Nation referrals	March 2013
Public Hearing and further readings	May 2013
Submission of draft bylaw to Executive Committee/Minister of CSCD	May 2013
Consideration of adoption of DPA amendments	June / July 2013

## Budget

Item	Cost
Steep Slopes Mapping & DPA review <i>Spent but no longer part of project</i>	\$7,100
Consultation & DPA Review	\$3,500
Legislative Process	\$2,000
Advertising	\$900
<b>Total</b>	<b>\$13,500</b>

**Regional Planning Manager Approval:**  
Courtney Simpson  
Date: July 4, 2013

**GBLTC Endorsement Resolution #:**  
GB-032-2013  
Date: March 14, 2013

# Communications Strategy – July 4, 2013

## 1.0 Objectives & Scope

<b>Project Name</b>	<b>Gabriola Island DPAs (Riparian Areas)</b>	
<b>What is the decision being made in this project?</b>	OCP amendments to update development permit areas mapping and guidelines for implementation of the provincial <i>Riparian Areas Regulation</i> (RAR).	
<b>Who will make the final decision?</b>	Gabriola Island Local Trust Committee	
<b>What is the scope of this project?</b>	Review and update of existing Development Permit Area No. 3 – Hoggan Lake (DPA-3), including mapping, justification, objectives and development guidelines.	
<b>How will this project decision impact:</b>	<ul style="list-style-type: none"> <li>- The guidelines adopted will direct future LTC decisions on DP applications within identified riparian areas</li> <li>- The updating of DPAs will impact landowners within the areas identified as they will be subject to updated and/or new regulations for land development</li> <li>- The project is intended to add further protection to private property and the environment by ensuring development occurs in an appropriate manner near sensitive riparian ecosystems</li> </ul>	
<b>Other LTC decisions or projects</b>		
<b>Individuals / Businesses</b>		
<b>Specific communities</b>		
<b>Environment</b>		
<b>Are there historical factors or previous decisions that will affect how this project is implemented?</b>	In 2006 the provincial government introduced RAR, which local governments are required to implement through their land use planning powers. Gabriola Island has yet to achieve compliance with this legislation. A lack of understanding amongst the general public around DPAs has been identified, in particular around the obligations of the LTC under the <i>Local Government Act</i> with respect to DPAs. The LTC has developed a DPA factsheet to foster greater levels of public knowledge around DPAs and additional education regarding DPAs should be incorporated into consultation at the outset of the project to ensure informed engagement. While this will incur additional costs on the project, there will be benefit to future projects involving DPAs.	
<b>Why would you involve the public in this decision? What exactly do you want to achieve?</b>	The intention is to first inform the public about DPA legislation and the purpose of DPAs and then, to consult on proposed amendments. We want the public to be more informed on the purpose and application of DPAs and how they are affected by the designation of a DPA. Secondly, we want public feedback on proposed amendments and additions to DPAs.	
<b>What information do decision makers need to assist them in this decision?</b>	The LTC needs to know that the proposed amendments will bring Gabriola Island into compliance with RAR.	
<b>What factors will influence the decision about level and scope of consultation? How?</b>	<b>FACTOR</b>	<b>IMPACT</b>
	Resources	Limited budget and staff time may limit the possibilities with respect to engagement
	Potential tie-ins	A Development Approval Information bylaw will be developed in conjunction with the project
<b>Driving questions:</b>	Seeking to inform the community and to come to some common ground for implementation that achieves the objectives of the project in a way that is implementable and understood by those working with them. This will provide the basis for future LTC decisions on DP applications and should mitigate community concern regarding future decisions.	
<b>What information are you seeking from the public?</b>		
<b>How will this add value to the decision making process?</b>		

## 2.0 Methods & Delivery

### CONSULTATION STAGE 1 – General Education

<i>Project Name</i>	<i>Gabriola Island DPAs (Riparian Areas)</i>			
<b>Methods</b>	Cost	Content Focus	Audience	Publication Date
Web Page	To be developed in-house by staff using Wordpress. Launch advertised in both local papers.  Rough estimate: <b>\$300</b>	Repository for general information and project specific information	Property owners, residents, local realtors & contractors, general community	Aug. 2012
Newspaper Article Series	To be written by staff, featured in both local newspapers  Rough estimate: <b>\$1000</b>	Series of three short articles written by staff focused on certain general aspects of DPAs	Property owners, residents, local realtors & contractors, general community	Aug. 2012

### CONSULTATION STAGE 2 – Public Input on Proposed Amendments

<i>Project Name</i>	<i>Gabriola Island DPAs (Riparian Areas)</i>			
<b>Methods</b>	Cost	Content Focus	Audience	Publication Date
Blog on web page	To be developed in-house by staff using the same web page developed in Stage 1  Rough estimate: <b>N/A</b>	Allow individuals to post comments on draft amendments, possibility of hosting surveys	Property owners, residents, local realtors & contractors, general community	Sept. 2012 <i>July 2013 – blog no longer maintained as new website is up and running</i>
Mail-out	To all affected property owners  Rough estimate: <b>\$2500</b>	Explaining the proposed amendments and how they will affect property owners and residents	Property owners and residents	Dec. 2012
Advisory Planning Commission	Rough estimate: <b>N/A</b>	Referral of draft amendments to APC for comment	Advisory Planning Commission members	Nov. 2012 (RAR) <i>Jan. 2013 (Steep Slopes – No longer part of project)</i>
Community Information Meetings (2)	Two consecutive advertisements, run in both local papers for each meeting  Rough estimate: <b>\$600</b>	To present and obtain feedback on draft amendments prior to 1 <sup>st</sup> reading and to answer questions prior to public hearing	Property owners, residents, local realtors & contractors, general community	1 - Jan. 2013 2 – May 2013

## 2.0 Methods & Delivery

### IMPLEMENTATION STAGE – Distribution of adopted Development Permit Area map and Guidelines

<i>Project Name</i>	<i>Gabriola Island DPAs (Riparian Areas)</i>			
<b>Methods</b>	Cost	Content Focus	Audience	Publication Date
Mail or hand delivery of DPA text and maps	Minimal	Education	Relevant Agencies including EMCON	Following DPA adoption

### Riparian Areas

Riparian areas (also known as 'riparian zones') are located next to watercourses and can broadly be described as the upland areas adjacent to and nearby a watercourse. Riparian areas can include stream and river banks or lakeshores and are associated with all types of watercourses including swamps, wetlands, tributaries, side channels and intermittently wetted areas.

Riparian areas have a direct influence on aquatic habitat, and form important transition zones between the aquatic and upland environments. As such, riparian areas directly contribute to fish habitat by providing shade, cover, food and nutrients for fish, as well as help to maintain water quality and moderate flows and temperatures that are critical for healthy fish habitat.

Leave strips are identified areas of land and vegetation that should remain in an undisturbed state and are intended to protect the integrity of the riparian area. Leave strips, usually extend inland a minimum of 15 meters from the high water mark or top of bank of any watercourse.

Where encroachment into a leave strip or riparian area is required, and harm to fish habitat is unavoidable, project plans should be forwarded to your local DFO office and/or appropriate Provincial or Territorial agency, in advance, for review and to obtain any necessary approvals. Please note, DFO does not require review of your project plans, if the project falls under the governance of a Pacific Region Operational Statement or the Provincial Riparian Areas Regulation, as they have been developed to ensure your works do not result in a harmful alteration, disruption, or destruction (HADD) of fish habitat. For further guidance on working in or around riparian areas, please contact your local DFO office.

For guidance on replanting within disturbed riparian areas, please refer to the section below, Riparian Revegetation.

**Please be advised, the information found on this webpage is provided as a general guide and does not constitute approval under any municipal, provincial and/or federal legislation.**

### Riparian Revegetation

Whether enhancing an existing riparian area on a previously disturbed site or re-establishing riparian vegetation from bare ground, it is important to observe the surrounding plant community of the disturbed area, specific to that biogeoclimatic zone, and select the appropriate species for site specific conditions.

- ▶ Revegetate with native plants in disturbed areas in riparian zones as per the criteria set below, and
- ▶ Immediately establish ground cover through seeding and/or other protective materials to control erosion and sediment, and to enhance germination of plants, and
- ▶ Conduct regular maintenance to improve the chances of survival within the first year of plant growth; which may include: routine irrigation, removal of invasive species, observation of poor growth, elevated erosion problems, and/or animal intrusion.

### Riparian Planting Criteria

1. All tree and shrub species should be native to the local area and where available, of guaranteed nursery stock for successful transplanting. Prior removal of invasive plant species (e.g. Himalayan blackberry, Japanese knotweed, scotch broom) may be required to enhance the survival of transplants.
2. When nursery stock is used, the correct botanical name should be used to order planting stock and tags should be left attached for field identification.
3. Purchased plant stock should be a minimum of 2 years old, and if transplanting an entire area, planted no greater than 2.0 meters apart for all stock.
4. Salvage native plants wherever possible for replanting of the disturbed area, which can also be counted as replacement vegetation.
5. For the replacement of individual trees, such as a danger or hazard tree, please refer to the British Columbia Provincial Tree Replacement Criteria. For individual shrub replacement, two shrubs should be replanted for each shrub removed; no replacement of shrubs for trees.
6. Fruiting trees and shrubs should be planted to promote recolonization by seed and provide wildlife food sources.
7. Stock should be planted in the fall (September to October) or spring (March to April) depending on local conditions.
8. To ensure success of the transplants, at least 80% should survive within the first year of planting.
9. Additional fertilizing, dedicated watering and/or replanting may be required to establish vigorous vegetative cover throughout the first year of growth.

### Suggested Planting Layout

The planting layout will depend on what is required to re-establish or enhance existing vegetation, species selected, density of plants, mature plant heights and planting system: linear, random, grid, etc. A Riparian Plant List is provided below to help with your selection of suitable plants. For site specific advice on plant selection and/or layout, please consult with a qualified professional or other knowledgeable source.

### Ground Seeding

Growth of ground cover after seeding reduces surface erosion, enhances soil absorption and stability, as well as promotes establishment of newly planted trees and shrubs. For optimal germination, seeding should occur in the spring or fall. However, when used as an erosion control measure, seeding is suitable anytime within the growing season to protect disturbed soils. Whether planting is scheduled immediately or not, seed should be placed on any disturbed soils that will lie dormant for a period of time. Laying mulch will further reduce erosion as well as enhance germination by protection of the seeds and retaining moisture.

A seeding mix should be selected based on site specific conditions (e.g. soil type, soil moisture, climate) but will usually include fall rye and local grasses. Advice from a local seed supplier or professional agronomist on seed mixture selection and application rates may be required.

### Riparian Plant List

The following plant list indicates those tree and shrub species native to the Pacific Region, that are recommended for planting within riparian areas next to streams, rivers, lakes and wetlands to enhance or maintain fish habitat values. This is not an exhaustive list as plant selection will vary according to site conditions and should serve only as a guide. Please consult with a qualified professional or other knowledgeable source for site specific advice.

Although some species below may be suitable for the marine environment, please refer to the Stewardship Series document, Shoreline Structures Environmental Design for further guidance on planting in and around tidal or estuarine areas.



Common Name	Latin Name	Coastal <sup>1</sup>	Southern interior <sup>1</sup>	Northern <sup>1</sup>
<i>Deciduous Tree Species</i>				
Vine Maple	<i>Acer circinatum</i>	X		
Douglas Maple	<i>Acer glabrum var. douglasii</i>	X	X	X
Broadleaf Maple	<i>Acer macrophyllum</i>	X		
Red Alder	<i>Alnus rubra</i>	X		
Sitka Alder	<i>Alnus viridis ssp sinuata</i>		X	X
Western Paper Birch (White Birch)	<i>Betula papyrifera</i>	X	X	
Black Hawthorn	<i>Crataegus douglasii*</i>	X	X	
Pacific Crabapple	<i>Malus fusca*</i>	X		
Balsam Poplar (Black Cottonwood)	<i>Populus balsamifera*</i>	X	X	X
Trembling Aspen	<i>Populus Tremuloides*</i>			X
Pin Cherry	<i>Prunus pensylvanica*</i>	X		
Choke Cherry	<i>Prunus virginiana*</i>	X	X	
Cascara	<i>Rhamnus purshiana*</i>	X	X	
Mountain Ash	<i>Sorbus aucuparia*</i>	X		
<i>Coniferous Tree Species</i>				
White Spruce	<i>Picea glauca</i>	X	X	X
Engelmann Spruce	<i>Picea Engelmann</i>			X
Black Spruce	<i>Picea mariana</i>	X		X
Sitka Spruce	<i>Picea sitchensis</i>	X		
Lodgepole Pine	<i>Pinus contorta</i>		X	X
Western White Pine	<i>Pinus monicola</i>	X	X	
Ponderosa Pine	<i>Pinus ponderosa</i>		X	X
Douglas Fir	<i>Pseudotsaga menziesii</i>	X	X	X
Western Red Cedar	<i>Thuja picata</i>	X	X	
Western Hemlock	<i>Tsuga heterophylla</i>	X		



<i>Shrub Species</i>				
Saskatoon	<i>Amelanchier alnifolia</i> *	X	X	X
Spreading Dogbane	<i>Apocynum androsaemifolium</i>		X	
Kinnickinnick	<i>Arctostaphylos uva-ursi</i> *	X	X	
Dwarf Birch	<i>Betula nana &amp; glandulosa</i>			X
Redstem Ceanothus	<i>Ceanothus sanguineus</i>		X	
Red Osier Dogwood	<i>Cornus sericea</i> *	X	X	X
Beaked Hazelnut	<i>Corylus cornuta</i> *	X	X	X
Ocean Spray	<i>Holodiscus discolor</i>	X	X	
Black Twinberry	<i>Lonicera involucrata</i> *	X	X	X
Mock Orange	<i>Philadelphus lewisii</i>		X	
Pacific Ninebark	<i>Physocarpus capitatus</i>	X	2	
Prickly Rose	<i>Rosa acicularis</i> *		X	X
Nootka Rose	<i>Rosa nutkana</i> *	X	X	
Thimbleberry	<i>Rubus parviflorus</i> *	X	X	X
Salmonberry	<i>Rubus spectabilis</i> *	X	X	X
Willow	<i>Salix spp</i>	X	X <sup>3</sup>	X <sup>3</sup>
Blue Elderberry	<i>Sambucus cerulea</i> *	X	X	
Red Elderberry	<i>Sambucus racemosa</i> *	X	X	X
Soopalallie	<i>Shepherdia canadensis</i> *		X	
Sitka Mountain Ash	<i>Sorbus sitchensis</i> *	X	X	X
Hardhack	<i>Spiraea douglasii</i>	X	X	X
Snowberry	<i>Symphoricarpos alba</i> *	X	X	X
Red Huckleberry	<i>Vaccinum parviflorum</i> *	X		
Highbush Cranberry	<i>Viburnum trilobum</i> *	X	X	X
Saskatoon	<i>Amelanchier alnifolia</i> *	X	X	X

Notes:

\* denotes fruit-bearing species

1 three generalized climatic regions within the Pacific Region

2 wet-belt south of Shuswap Lake only

3 live staking with spp. lasiandra and exigua are recommended if sufficient access to groundwater is available year round



**From:** Robert Seaton [[mailto:Robert\\_Seaton@brinkman.ca](mailto:Robert_Seaton@brinkman.ca)]  
**Sent:** July-03-13 9:13 PM  
**To:** Sheila Malcolmson  
**Subject:** RE: Follow up to Riparian public information meeting

Sheila:

I have redrafted the essence of my e-mails, plus the proposed bylaw changes, into a single document. There are a couple of places where I mention the thoughts and options that you communicated. Please feel free to let me know if you feel that these in any way misrepresent your thoughts on this issue.

This is the document that I would be happy to see entered into the public record, for the next meeting.

Thanks so much again for taking the time to deal with my somewhat lengthy communications.

Robert



# **The Riparian Areas Regulation on Gabriola : Issues and Options**

Robert Seaton,  
1170 Suzanne Ave, Gabriola BC  
250 247-8630

[seatree@telus.net](mailto:seatree@telus.net)

## **Process and Background**

As part of the process of bringing in the amendment to Bylaw 177, to enact the Riparian Areas Regulation on Gabriola Island, The Islands Trust organized a public information meeting. The meeting was extremely helpful in framing the issues around enacting this regulation on Gabriola.

I had come to the meeting with a series of prepared questions designed to narrow in on some of the real environmental issues with riparian areas on Gabriola. I felt that more focus on the environmental questions would be useful, since the Riparian Areas Regulation takes an extremely broad brush approach to attempting to preserve and enhance riparian function for fish habitat. However, listening to the presentations it became clear that my prepared questions would not be constructive under the circumstances, so I scratched them. The recognition that key ecological questions were not relevant to the discussion highlighted the disconnect between the goals and the methods in the Regulation. However, the presentations made at the meeting also made it clear that there was really not much that the Islands Trust, or any of the other presenters, could do to change the situation, since the problems were mostly in the provincially enacted Regulation, and not in the Gabriola Bylaw.

Having recognized this, I chose to focus on asking some process oriented questions regarding the identification of the areas to be designated by the Bylaw. Subsequent to the meeting Trystan Willmott of Madrone Consultants got back to me with more detailed answers to some of the questions I raised, which substantively covered off the process concerns that I had identified.

## **The Key Issues**

The identified goal of the Riparian Areas Regulation is to provide protection for riparian area soils and vegetation, with the goal of preserving and enhancing fish habitat. In principle, the regulation was drafted to rely on the professional judgment of a Qualified Environmental Professional (QEP). This approach can be successful in allowing site specific solutions to be developed, rather than simply putting in place blanket rules. However, it also relies on a substantial downloading of costs onto property owners to make the system work. Given this approach, it is very important to ensure that the costs incurred are matched by real environmental benefit. However, as currently enacted the regulation does not give the QEP sufficient leeway to identify and prescribe for real ecological issues. My property constitutes a good example of this problem. As background on my property, the major flows occur in the roadside ditch during the winter and spring months. The ditch is dry during the summer and fall. There is also a secondary flow down a natural channel five or so meters from the ditch, arising from a spring on the property next to mine, which also dries up in the summer and fall. The nearest identified potential fish habitat is a couple of kilometers away, in the short stream reach between the salt marsh next to Sandwell Park, and the passage barrier just below Daniel Way.

Four core environmental issues relating to riparian areas were raised by the presenters: coarse woody debris (CWD), bank destabilization/erosion, shading/water temperature, and organic matter inputs/insect fall. These are definitely the correct key variables which determine the impact of riparian function on fish habitat. An analysis of these variables for my property:

- CWD. Given that the highways department would be extremely unhappy with large CWD in their ditches, and given that this is primarily a concern for areas where fish are actually present, which is not the case in either of the flows on or near my property, there is no issue with CWD on my property.
- Bank destabilization and erosion. Again, we are talking about low gradient flows in a roadside ditch, and very low gradient, low volume flows from the spring. Erosion only potentially occurs as a result of “ditch cleaning”, when all of the vegetative cover in the ditch is removed. In any case, downstream dynamics (low gradient flows and wetlands) would rapidly remove the vast majority (probably effectively all) of any sediments before they could migrate to the suspected fish habitat areas.
- Shading/water temperature. Since the ditch and spring are dry throughout the high temperature period of the year, shading for water temperature control is not an issue.
- Organic matter inputs. This in theory could be an issue. However, given that between me and the possible fish habitat are extremely low gradient flows and wetlands, the likelihood of any macroscopic organic inputs making it down to the fish from my property is very remote. Pretty much only molecular level organics could be expected to make it in any volume, and in general, I don't think that the fish habitat area would be characterized as being low in these organics.

Based on this discussion, it appears unlikely that any substantive ecological impacts would arise from alterations to the riparian vegetation at my property. The action most likely to have impact, the ditch cleaning, is not covered by the Regulation.

If the Regulation gave the QEP full leeway to prescribe actions on the basis of key ecological factors like these, the Riparian Areas Regulation could work. Unfortunately, as the presentations at the information meeting made clear, this is not the case. The QEP does have the option to find that there is no impact on fish habitat, and therefore place no restrictions on the property. However, if the QEP believes that there is even a very small chance that there could be some impacts, they are required to set riparian stream buffers which are a minimum of 10 meters wide on each side of the stream. Because of the presence of the two “streams” on mine and neighbouring properties, some of the properties could be effectively undevelopable with these restrictions, for no real ecological benefit.

Interestingly, these restrictions are significantly greater than those that would be placed on logging on Crown land under the Forest and Range Practices Act, for streams of this size.

In essence, therefore, the problem is that the Regulation does not appropriately ensure that real environmental benefits are achieved in return for the expense and land use restrictions experienced by the property owner.

### **Options and Solutions**

Following the information meeting and subsequent discussions with a number of people, I identified two possible routes which could help to ensure that Riparian Area Regulation costs and benefits were appropriately matched.

**1. Work with the Islands Trust to go back to the Provincial Government and explore the opportunities to fine tune the Regulation.**

This is clearly the optimal solution. While protecting riparian area for fish habitat is definitely worthwhile, the current Regulation is a poor tool for achieving this goal. I have some knowledge of the politics within the Liberal Provincial Government regarding issues like this, and believe that it would be possible to get traction with this approach. I explored this option with Sheila Malcomson, to see if it could be viable. Sheila quite correctly pointed out that, given that every other impacted Municipality has enacted bylaws based on the existing Regulation, it could be fairly complex to modify that Regulation, and would probably represent only a long term solution. This certainly matches my experience of working on Regulations at the Provincial level.

I still believe that this option should be pursued, and would be the best option in the long term. However, I also recognize that, given how long the Islands Trust has already delayed on putting in place Bylaws to enact this Regulation, we may be faced with having to do something in the interim.

**2. Tune the Bylaw to minimize the negative impacts of implementing the existing Regulation on Gabriola.**

A thorough review of the Regulation itself, plus a number of other relevant Acts and Regulations, did suggest that there were a couple of places where the proposed Bylaw could be amended to improve the outcome for property owners, while still benefiting riparian habitat:

**a. Amend Section F 3.3.1.i. to read**

“Farm operations as defined in the *Farm Practices Protection (Right to Farm) Act*, including for the purposes of Section F.3 of this amendment, agriculture and horticulture, as defined in the Gabriola Island Land Use Bylaw, No 177. Also, farm uses as defined in Section 2(2) of the *Agricultural Land Reserve Use, Subdivision, and Procedure Regulation*”

**Rationale** Many of the lands covered by the current draft of the Bylaw have the potential to be some of the most productive food growing lands on Gabriola. On island food production is a critical component of community sustainability, and must be a significant priority. Protection of fish stocks and habitat is also a priority, and this is a case where careful weighing of values based on a real assessment of benefits and impacts is required. Unfortunately, as currently enacted, the provincial Riparian Areas Regulation provides limited tools for real assessment of impacts on fish populations, and in fact it can be clearly demonstrated that for many of the areas included under this section of the bylaw on Gabriola, the probability and magnitude of any impact is quite low. The current draft of the bylaw could be interpreted as enacting in law a situation where real community benefits were potentially being sacrificed for no meaningful fish benefit in many cases.

**Regulatory Context** As currently drafted, the Bylaw potentially leaves the meaning of “farm operations” undefined. This situation arises because the Bylaw makes reference to the *Farming Practices Protection (Right to Farm) Act* for the definition of a farm operation. In that Act a “farm operation” is defined as a wide range of activities which are undertaken as part of carrying on a farm business, subject to requirements defined in Part 2, Section 2(2) of that Act. 2(2)(b)(ii) indicates that one of the types of land on which a farming activity can be undertaken is land “on which, under the *Local Government Act*, farm use is allowed”. The Local Government Act in this case is the authorizing legislation for Bylaw No 177. That bylaw in fact does not

identify land “on which...farm use is allowed” Instead, it identifies for SRR zoned areas, two sorts of use which could be construed as farm use: agriculture, and horticulture. For greater clarity, and to remove the potential for loss of real food production benefits for no real fish benefit, this section should be amended.

**b. Amend Section F 3.4.2 to read:**

“The QEP is to indicate whether a development permit should be issued pursuant to 4(2)(a)(i) or 4(2)(a)(ii) of the Riparian Areas Regulation, and if under 4(2)(a)(ii), shall indicate the location and extent of the Streamside Protection and Enhancement Area (SPEA), and the development restrictions or enhancement activities required to be followed or undertaken within the SPEA by the owner, which measures should be included as conditions of the development permit. The width of the SPEA may be less than the width of the DPA.”

**Rationale** Two issues are being addressed here:

- As currently drafted, the proposed Bylaw appears not to be in conformity with the Riparian Areas Regulation. The Regulation allows for both limitations on activities within the SPEA, and requirements for restoration or enhancement activities within the SPEA. As drafted the bylaw appears to rule out enhancement activities. It is possible (but unclear) that this issue is dealt with by F.3.3.1.f. However, for greater certainty it should be dealt with here.
- The language of the Act is clear: that development may proceed without restriction where no “harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian area” are found (without the requirement for the designation of a SPEA), and that the SPEA is required where 4(2)(a)(ii) applies. However, when the Assessment Methods Schedule was drafted, this distinction was not carried over, which has given rise to the apparent interpretation presented by Maggie Henigman, of MoFLNRO, that a SPEA will always be designated. For clarity, this distinction should be identified in the bylaw.

**Regulatory Context** This is a case where clarity of the Regulation has been lost, undoubtedly because the Regulation was passed first, and the Assessment Methods drafted later, as authorized under the Regulation. This is a typical process, but sometimes doesn’t lead to the most elegant and understandable language. In fact, the Regulation itself enshrines a degree of appropriate professional flexibility to determine real benefits, and it would have been preferable if that approach had been carried over into the Methods. The Methods should have provided guidance and criteria for a range of widths for the protection areas for each of the values, without including the minimums, which are creating circumstances where the CEP has no choice but to recommend something irrational.

## Conclusions

In summary, I believe that both options should be pursued. Sheila Malcolmson brought to my attention the current process under way by the Provincial Ombudsperson to look at the Riparian Areas Regulation. I believe that this could be an appropriate opening to catalyze the process of changing the Regulation, and would certainly encourage everyone to participate in that process.

<http://www.bcombudsperson.ca/riparian-areas-regulation-public-input-form/form/5?random=0> )

At the same time, and assuming that delaying the enactment of the Bylaw further to await the outcome of a Provincial process is not a viable alternative, I would recommend that the proposed Bylaw amendment be redrafted to address the specific issues that I have identified.

I also want to express my appreciation for the work done by the Gabriola Trust committee and others on this rather difficult issue.