



Islands Trust

**North Pender Associated Islands
Official Community Plan
Bylaw No. 147, 2002**

AS AMENDED BY NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW(S): 169, 183 and 189

NOTE: This Bylaw is consolidated for convenience only and is not to be construed as a legal document.

Certified copies of the Associated Islands Official Community Plan are available from the Islands Trust Office, #200 - 1627 Fort Street, Victoria, B.C. V8R 1H8

Consolidated: May 9, 2013

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Table of Text Amendments

Bylaw No.	Date of Adoption	Date of Bylaw Consolidation
169	June 13, 2008	July 25, 2008
183	March 31, 2011	April 1, 2011
189	April 25, 2013	May 9, 2013

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 147

**A BYLAW TO ADOPT AN OFFICIAL COMMUNITY PLAN FOR THE NORTH PENDER
ASSOCIATED ISLANDS**

WHEREAS Section 29 of the *Islands Trust Act* gives the North Pender 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 North Pender Island Local Trust Committee wishes to adopt an Official Community Plan;

AND WHEREAS the North Pender Island Local Trust Committee has held a public hearing;

NOW THEREFORE the North Pender Island Local Trust Committee enacts as follows:

1. TITLE

This Bylaw may be cited for all purposes as the “North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002”.

2. APPLICATION

The Plan applies to the land, the water on the land and the surface of the sea adjacent to the land in the North Pender Associated Islands Area as shown on Schedule C of this Bylaw.

3. SCHEDULES

The following Schedules, attached to and forming part of this Bylaw, are adopted as “North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002:

- Schedule “A” - Introduction
- Schedule “B” – Goals, Objectives and Policies
- Schedule “C” – Associated Island Bylaw Area Map
- Schedule “D” – Land Use Policy Map

READ A FIRST TIME THIS	2nd	DAY OF	May	2003
PUBLIC HEARING HELD THIS	14 th	DAY OF	June	2003
READ A SECOND TIME THIS	26 th	DAY OF	June	2003
READ A THIRD TIME THIS	26 th	DAY OF	June	2003
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	22 nd	DAY OF	July	2003
APPROVED BY THE MINISTER OF COMMUNITY, ABORIGINAL AND WOMEN'S SERVICES THIS	6 th	DAY OF	October	2003
ADOPTED THIS	30th	DAY OF	October	2003

Kathy Jones

SECRETARY

Gisele Rudischer

CHAIRPERSON

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SCHEDULE A – INTRODUCTION

PART 1 BACKGROUND

GEOGRAPHY

The North Pender Associated Islands Area encompasses of over 30 islands, and numerous groups of islets and rocks, located in the waters off the Saanich Peninsula. The area is bounded by Swanson and Satellite Channels in the north, Cordova Bay in the south, the boundaries of the peninsula municipalities in the west and Haro Strait and the U.S. border in the east. This group of islands is jurisdictionally part of the North Pender Island Trust Committee Area of the Islands Trust and the Southern Gulf Islands Electoral Area of the Capital Regional District.

The largest islands in the group include Sidney Island (800 ha.), Moresby Island (600 ha.), James Island (330 ha.), Portland Island (200 ha.) and Coal Island (130 ha.). Mandarte Island, located east of Sidney Island is an Indian Reserve (IR) and is excluded from local government jurisdiction, while Piers Island is part of the Salt Spring Island Trust Committee Area.

These islands, like the other southern gulf islands, are geologically part of the Nanaimo Lowland physiographic region, which is characterized by widely exposed bedrock resulting from erosion and weathering. James Island, and to a certain extent Sidney Island, are exceptions to the pattern, consisting of large accretions of sand, exhibiting banks and bluffs that erode to create and maintain sand beaches, spits and accreted upland.

The climate of the area is Mediterranean with an average rainfall of approximately 800 mm per year, the majority of which falls between September and May, causing dry to drought-like conditions in the summer.

Ecologically, the islands are part of the Coastal Douglas-fir zone, which occurs in the Gulf Islands, eastern Vancouver Island and small portions of the Fraser Delta. It is characterized by concentrations of Douglas-fir, interspersed with western Red Cedar in wetter areas and Garry Oak and Arbutus in drier areas. This ecological zone and the associated ecosystems are one of the most threatened in the province, comprising only 0.25% of the land area of B.C. and are highly fragmented by development and agricultural uses.

HISTORY

First Nations peoples, including the Coast Salish, have occupied these islands seasonally for at least 5,000 years. The islands provided important traditional resources to the First Nations peoples and evidence of this presence remains in over 100 archaeological sites in the area, most of which consist of shell middens.

A permanent European presence dates from the 19th century, with settlers attracted by the resources of the islands including the forests, quarries and agricultural land. A number of farms were cleared on the islands, and later industrial operations, including

brickworks, were established. By the early 20th century the islands were becoming attractive as seasonal recreational properties, which continue to be a predominant land use in the area.

By the 1960s the Gulf Islands in general were experiencing development pressures and the islands with regular ferry service were in the process of being subdivided into small-lot subdivisions. In response the Provincial government introduced a 10 acre minimum lot size in the islands and the first zoning regulations were introduced by the Capital Regional District. In 1974 the provincial government established the Islands Trust as the land use planning authority in the islands with the legislated object 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 the British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia.”

In addition to the CRD zoning bylaw (Bylaw 103), the North Pender Island Local Trust Committee also adopted a subdivision bylaw (Bylaw 8) in 1981 that regulates lot sizes and subdivision servicing in the area. In 1989 a Rural Land Use Bylaw (Bylaw 47) was adopted for James Island in response to a specific development proposal. The James Island Rural Land Use Bylaw is a comprehensive policy and regulatory document that establishes land use for James Island. Because of the specific nature of Bylaw 47, James Island was not included in this OCP at the time of drafting.

By the end of the 1990s new development issues were arising in the area, with the creation of a bare land strata subdivision on Sidney Island and the proposal to create a new national park in the region. In particular, Parks Canada's policy that there would be no new accommodation within the proposed park raised the potential for applications to develop commercial accommodation on private islands in the area. As a result, Islands Trust Executive Committee gave authority in 2001 to develop an Official Community Plan for the North Pender Associated Islands and to subsequently update the zoning regulations through adoption of a Land Use Bylaw.

CURRENT LAND USE PATTERNS

These islands are divided between privately owned property and crown land and islets, including several parks. The private islands are largely seasonal and residential in their land use, with no ferries, paved roads, relatively few automobiles, and limited year-round moorage. A number of the private islands have residences and accessory buildings, while others remain undeveloped. Development has generally been stable over time, with new development occurring gradually on the small islands; an exception is Sidney Island, which is expected to experience significant new development as strata lots are sold. The primary obstacle to development on these islands remains access, which is currently provided by private boat or water taxi (there is also a seasonal foot passenger ferry to Sidney Spit). There are some barge ramp facilities available on the Saanich peninsula, used to transport vehicles and heavy freight on and off the islands.

Several islands are served by power and telephone land-lines and several have water line connections to the District of North Saanich, established prior to the creation of the Islands Trust. There are no stores or commercial visitor accommodation facilities in the

area, garbage pickup, or any publicly-funded fire protection services on these islands. Most islands are required to provide water and sewage disposal on-site.

POPULATION

Census population data from Statistics Canada is not adequate to determine the permanent population as data has been aggregated with data from other locations. The population varies considerably on the islands at any given time, depending on the season, but the current permanent population is estimated to be 30 persons or less, with less than 30 discrete title holders. The permanent population is not expected to increase drastically in the near future; however, the seasonal population is expected to rise as lots are sold on Sidney Island and development occurs on the other private islands.

SUBDIVISION AND DEVELOPMENT POTENTIAL

The primary purpose in adopting an OCP for these islands is to provide guidance for future development. In the case of this area, the development potential under current zoning significantly exceeds the existing level of development. Two factors may lead to increased realization of this potential: the creation of a National Park in the region and interest in creating seasonal recreational and residential subdivisions. The existing zoning and subdivision regulations establish a minimum lot size of 4 hectares (10 acres) on most islands, with an 8-hectare (20 acres) minimum lot size on islands within the Agricultural Land Reserve or with significant environmental features. The zoning establishes a density of one single family dwelling per lot, with a guest cabin on parcels 0.6 hectares (1.5 acres) or larger. Based on this zoning, the private islands (excluding James Island - 217 lots and dwellings) could theoretically be developed with up to approximately 300 lots and dwellings, with around 215 accessory cottages. The majority of this potential is situated on Sidney and Moresby Islands, with a number of other islands having the potential to create a handful of lots. The smaller islands are generally limited to one dwelling and cottage by reason of their size.

PART 2 ADMINISTRATION

201 Purpose

The purpose of this official community plan bylaw is to further the object of the *Islands Trust Act* through long-range land use policy for the North Pender Island Trust Committee Area Associated Islands (“the Associated Islands Area”). This bylaw provides a statement of local government goals, objectives and policies. It is intended to provide policy guidance for the North Pender Island Local Trust Committee and the public regarding the existing and proposed land use and development in the Associated Islands Area.

Schedule B of the Bylaw contains the statements of community goals, objectives and policies for present and future land use and development. These policies are designed to direct and guide future actions of the North Pender Island Local Trust Committee and inform other levels of government and the general public of the community’s expectations for the use and development of the Area.

202 Islands Trust Authority

The Islands Trust Act gives the Islands Trust, via its Local Trust Committees, essentially the same land use planning authority as a regional district under the Local Government Act. Bylaws must be approved by the Islands Trust Executive Committee and, in the case of Official Community Plans, by the Minister of Community, Aboriginal and Women’s Services before the Local Trust Committee can adopt them.

In the Islands Trust area, there are twelve designated Trust Areas and one Island municipality, each of which elects two trustees for three year terms. The twenty-six member Islands Trust Council comprises local elected trustees and any municipal trustees appointed from the council of any municipality in the Trust area. Trust Council selects a chairperson and three vice-chairpersons who together make up the Executive Committee.

The North Pender Island Local Trust Committee is the Local Trust Committee with responsibility for land use planning and regulations for the Associated Islands Area. This committee has three members; two locally elected trustees and a member of the Executive Committee appointed by the chairperson of the Islands Trust Council.

The purpose of the Trust Council, Executive Committee, and Local Trust Committees, is to carry out the object of the Islands Trust which is:

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 the Province generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of the province.

The legislated object defines the purpose of providing authority to the Islands Trust for land use regulation. The local trust committees employ the available

planning powers of the *Local Government Act* to preserve, protect, and effectively maintain the rural nature, health, natural environment and vitality of the Trust Area.

203 Area of Jurisdiction

The provisions of this Bylaw apply to the Associated Islands Area, those portions of the North Pender Island Local Trust Area shown on Schedule "C", which forms part of this Bylaw.

204 Advocacy Policies

Community goals and objectives included in this Bylaw that address matters that are outside the jurisdiction of the North Pender Island Local Trust Committee are considered "advocacy policies". These advocacy policies encourage others to take actions that the Trust Committee believes would contribute to the goals and objectives of the plan. This Bylaw cannot and does not represent a commitment from other agencies to act according to community goals, objectives or policies.

205 Public Facilities

Any designation or policy for proposed public facilities on private lands including but not restricted to roads, parks, trails, parking facilities, and public and community facilities that are not available for acquisition through dedication, grants, or as an amenity through a zoning regulation and that are not subject to committed funds either through a capital expenditure plan or other budgeting process of the public agency responsible for the proposed facility, shall be deemed to be a community goal of this Bylaw, irrespective of how it is presented in the Bylaw.

206 Implementation

Section 884 of the *Local Government Act* specifies that:

"An official community plan does not commit or authorize a municipality, regional district (includes a local trust committee pursuant to Section 27 of the *Islands Trust Act*) or improvement district to proceed with any project that is specified in the plan."

and

"All bylaws enacted or works undertaken by a council, board or greater board (includes a local trust committee pursuant to Section 27 of the *Islands Trust Act*), or by the trustees of an improvement district, after the adoption of an official community plan must be consistent with the relevant plan."

207 Amendment Procedure

This Bylaw may be amended by the North Pender Island Local Trust Committee, at its initiative or in response to an application. Individuals seeking amendment

shall submit applications in the form provided for in the bylaws of the Trust Committee that address fees and procedures.

208 Severability

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.

SCHEDULE B - GOALS, OBJECTIVES AND POLICIES

PART 3 OVERALL GOALS

- Goal 301 To foster the preservation and protection of the Associated Islands Area ecosystems.
- Goal 302 To ensure that human activities and the scale, rate and type of development are compatible with maintenance of the integrity of the area's ecosystems.
- Goal 303 To sustain the character of the Associated Islands Area.
- Goal 304 To encourage private stewardship of land.
- Goal 305 To maintain island living, both seasonal and permanent, through support for development that respects the lifestyle of the land owners without unduly compromising the natural environment.
- Goal 306 To encourage development that has minimal visual impacts upon the appearance of the islands, as viewed from both the sea and from adjacent islands, while recognizing the unique challenges associated with building on small islands.
- Goal 307 To recognize the unique challenges associated with providing and maintaining safe access to small private islands and with providing services on these islands.
- Goal 308 To work cooperatively with other local governments, the Federal and Provincial government and their agencies and First Nations to advance the mandate of the Islands Trust and the Goals and Objectives of this plan.

PART 4 OBJECTIVES AND POLICIES FOR LAND USE DESIGNATIONS

The objectives and policies in this part of the bylaw are related to specific land use designations established on Schedule D (Land Use Policy Map) or are designations that may be included on that map in future by amendment to this plan.

401 Agricultural

There are areas on a number of the Associated Islands that are currently included in the Agricultural Land Reserve (ALR). This reflects the historical use of these lands as working farms; while some of this land is no longer actively farmed, farming activity continues to be carried out in certain locations.

Agricultural Objectives

- Objective 1 To protect the integrity of ALR land as part of the province's agricultural land base for current and future use.
- Objective 2 To recognize the historical farming landscape as part of the cultural heritage of the Associated Islands.

Agricultural Policies

- Policy 1 Lands designated Agricultural by this plan should correspond to lands that are part of the Agricultural Land Reserve.
- BL#169 Policy 2 The permitted uses in the Agricultural designation should correspond to those supported by the Provincial Agricultural Land Commission, its Acts and regulations, including agricultural, forestry, single family residential uses and, on James Island only, the historically permitted golf course.
- Policy 3 Applications to include land into the ALR should be supported where the land proposed for inclusion has agricultural potential or includes land that was historically farmed.
- Policy 4 Applications for exclusion of land from the ALR may be supported where it is clearly demonstrated that the land has limited agricultural potential. Applications for exclusion may also be supported where an equal or greater land area with greater agricultural potential is simultaneously offered for inclusion into the Agricultural Land Reserve.
- Policy 5 Applications for uses other than agricultural may be supported where the proposed uses would not compromise existing farming operations, reduce the capability of the land for future farming or lead to significant changes to an historical farm landscape.

- Policy 6 Applications for agri-tourist accommodation as a use in the ALR may be supported where the uses are accessory to an existing, working farm operation, are small scale, would complement an existing farm operation and would comply with Provincial Agricultural Land Commission policies for agri-tourist accommodation. Where such a Provincial Agricultural Land Commission application is supported, an application must also be made to rezone the location to include the proposed agri-tourist accommodation as a permitted use.
- Policy 7 Applications for subdivision in the Agricultural Land Reserve may be supported where the new lots would be concentrated on a portion of the land with limited agricultural potential and would not compromise the agricultural capability of the land.
- Policy 8 Applications to transfer density from agricultural land to non-agricultural land should be supported, subject to the guidelines in Part 6 of this Plan.
- Policy 9 Regulations may be considered to mitigate the impacts of land-based aquaculture.

402 Residential

The predominant land use on the private Associated Islands is residential, either potential, seasonal or permanent. The majority of the private islands are included in this designation.

Residential Objectives

- Objective 1 To support residential uses on the Associated Islands on a scale that is compatible with the preservation of the area's rare, threatened and sensitive ecosystems.
- Objective 2 To maintain the traditional development patterns.
- Objective 3 To support residential development patterns that demonstrate a commitment to private stewardship of the land and that reasonably have limited impact upon the appearance of an island, as seen from both the sea and adjacent islands, while recognizing the unique practical challenges associated with locating residences on, and providing safe access to, small islands.

Residential Policies

- Policy 1 The principal use in this designation shall be residential, in the form of single family dwellings and cottages.

- Policy 2 Uses and structures generally and reasonably considered to be accessory to residential occupancy shall be permitted, including agricultural activities.
- Policy 3 Home occupations that have a minimal visual and environmental impact should be permitted.
- Policy 4 Bed and breakfast accommodation may be considered as a use accessory to residential occupancy upon application for rezoning.
- Policy 5 Other commercial guest accommodation, including the short-term rental of accommodation, is not a home occupation and should be considered only upon application for rezoning to a commercial accommodation use.
- Policy 6 Subdivision potential should be at the historic density of a 4 hectare average lot size. Applications for higher density may be considered subject to the guidelines in Section 602 (Amenity zoning) of this Plan.
- Policy 7 The use of lot averaging, with minimum lot sizes smaller than 4 hectares, should be permitted to encourage cluster development to protect rare, threatened or sensitive ecosystems.
- Policy 8 Residential development should be at the historic density of one single family dwelling and one cottage per lot, and per island where there is no subdivision potential. Applications for higher density may be considered subject to the guidelines in Section 602 (Amenity zoning) of this Plan.
- Policy 9 Applications to rezone to permit the development of dwellings to the maximum number equivalent to lots without subdividing may be supported where the proposal would encourage development in a manner that minimizes impacts on rare, sensitive or threatened ecosystems and minimizes the visual impact of development as viewed from the sea or neighbouring islands. Such applications should be considered for rezoning to a comprehensive development zone, subject to the guidelines in Part 6 of this Plan and the granting of a suitably worded section 219 covenant.
- Policy 10 Applications to transfer residential density to another location may be considered if the proposal complies with the density transfer guidelines in Part 6 of this Plan.
- Policy 11 Maximum floor area regulations for dwellings and accessory buildings may be implemented as a method to ensure the scale of development and the related demands on the carry capacity of our islands occurs in an environmentally sustainable manner and is appropriate for the local island community. Development variance

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applications to increase a floor area regulation may be supported where the proposal is demonstrated to:

1. utilize sustainable design principles,
2. be sited to minimize impact on the environment and to adjacent properties,
3. apply passive solar concepts in the building design,
4. be energy efficient and use the best available technologies so that household energy consumption is well below average for this region,
5. include rainwater collection,
6. be considered acceptable to the community based on response to the variance request, and
7. for Sidney Island properties, that the proposal would be in keeping with the Purpose of the Statutory Building Scheme particularly as it relates to the preservation of the natural environmental attributes and aesthetic values, and the visual impacts of development.

403 Commercial

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There are currently no significant commercial uses in the Associated Islands Area. Residents of the islands generally use the commercial services available in Sidney or other Vancouver Island locations and, other than on James Island, where limited commercial services for the use of residents and guests have long been contemplated and permitted, there is no expectation that there would be any need to provide significant retail commercial services in the Associated Islands Area. The establishment of a National Park in the southern Gulf Islands may lead to increased pressures to establish tourist commercial uses.

Commercial Objectives

Objective 1 To ensure that commercial uses are compatible with the goals of this plan.

Commercial Policies

BL#169

Policy 1 Applications to rezone locations for retail or commercial service uses as a principal use may not be considered without amendment to the policies of this plan, except in the instance of James Island, where commercial services, providing for the needs of residents and guests may be permitted. Commercial uses on James Island should be regulated to limit impacts on residents, environmentally sensitive areas and the visual appearance of the island as seen from the sea and other islands, and this regulation of commercial uses shall result in no more than 35,000 square feet of commercial uses being permitted.

Policy 2 Applications to rezone a location to permit accessory retail or service commercial uses may be considered by rezoning application provided the proposed use is small-scale and limited.

- Policy 3 Applications to rezone a location for commercial accommodation as a principal use may not be considered without amendment to this plan.
- Policy 4 Applications to rezone a location for a tourist commercial use may be considered if the proposed use is accessory to an existing or proposed residential use, is small scale, has limited visual impact from the sea and is clearly demonstrated to have limited impact on the integrity of the area's ecosystem.
- Policy 5 Applications may be considered for temporary commercial use where such uses are of a short-term and fixed duration and where the use cannot reasonably be undertaken outside of the Area. Such applications should comply with the policies in Section 604 of this Plan.

404 Industrial

Historically, there have been several industrial uses in the Associated Islands, although most of these have currently ceased active operations. Given the economics of operating an enterprise on these islands, there is not anticipated to be any need to designate lands for future industrial uses.

Industrial Objectives

- Objective 1 To ensure that industrial activity is compatible with the goals of this plan.

Industrial Policies

- Policy 1 Applications to rezone a location for industrial uses should not be permitted without amendment of the policies in this plan.
- Policy 2 Applications may be considered for temporary industrial use where such uses are of a short-term and fixed duration and where the use cannot reasonably be undertaken outside of the Area. Such applications should comply with the policies in Section 604 and should demonstrate that the use is intended to meet needs within the Associated Islands.

405 Institutional, Public and Recreational

Residents and visitors to the Associated Islands Area generally use the institutional, recreational and public services provided in Sidney and elsewhere. There is not anticipated to be significant future requirement to provide traditional institutional facilities, such as schools, for the limited, seasonal and scattered population of the Associated Islands Area. However, those islands that have a sufficient number of lots or residents may wish to establish community halls and other small scale community facilities.

The Gulf Islands National Park will be the major public land owner in the Area and will have a significant impact on the Associated Islands Area. Land within the National Park is included in this designation.

Institutional Objectives

- Objective 1 To encourage major institutional and public service uses to locate outside of the Associated Islands Area.
- Objective 2 To minimize the impacts of National Park users on the residents and ecosystems of the Associated Islands Area.

Institutional Policies

- Policy 1 Applications to rezone a location for major institutional uses or for significant public recreational uses should not be permitted without amendment of the policies in this plan.
- Policy 2 Park dedication required at time of subdivision should be in the form of community parks, conservation areas or cash-in-lieu. Dedication or covenanting of conservation or protected areas as an alternative to traditional active use public parks is encouraged.
- Policy 3 Zoning may be established to provide for small scale community facilities such as meeting halls, emergency facilities and recreation areas for the use of residents of the Associated Islands Area within any land use designation other than Resource Conservation.
- Policy 4 The National Park lands should be denoted by the use of a separate zone, recognizing that the Local Trust Committee has no direct jurisdiction over federal land.
- Policy 5 Regulations requiring buffer areas or increased setbacks on land adjacent to parks may be considered.

BL#169

406 Marine

The islands in the Associated Islands Area are predominantly accessible by private boat only. By necessity and choice, much of the activity of permanent and seasonal residents is focused on the water and the foreshore. In addition, the waters of the Associated Islands Area are extremely popular with transient boaters and other visitors, including kayakers. This multiplicity of users has the potential to lead to conflicts over use of the water. This designation will apply to all the waters in the Associated Islands Area.

Marine Objectives

- Objective 1 To maintain the integrity of the marine ecosystem.

- Objective 2 To ensure reasonable, safe, year-round access to the islands for residents and other users.
- Objective 3 To allow for traditional marine uses by residents and other users without unduly compromising the marine or foreshore ecosystems or the visual appearance of the islands.

Marine Policies

- Policy 1 Marine areas with rare or special features may be protected by means of a marine conservation zone.
- Policy 2 Marine zoning regulations should recognize the submerged land component surrounding land within the National Park.
- Policy 3 Sub-tidal and beach aquaculture with no or minimal surface structures should be permitted in all marine areas.
- Policy 4 New leases for intensive or off-bottom aquaculture may be considered by application for rezoning and, in considering an application, an aquaculture operation should not be located in areas of high recreational value, high ecological significance, areas that would conflict with designated upland land uses and areas where an aquaculture operation would conflict with an established or designated anchorage or moorage.
- Policy 5 This plan may designate areas appropriate for future intensive or off-bottom aquaculture and consideration should be given to rezoning applications for operations in such areas.
- Policy 6 Fin fish farms should not be permitted in the Associated Islands Area.
- Policy 7 Residential uses should not be permitted in any marine zone.
- Policy 8 Private docks, piers, floats, barge ramps which are accessory to an upland residential lot should be permitted. Breakwaters and other wave suppression devices reasonably necessary to protect private accessory docks, barge ramps and other permitted uses or features should be permitted.
- Policy 9 Where there is more than one lot on a given island, or the potential to create more than one lot under the subdivision regulations, the landowners are encouraged to jointly provide docks for the island and are encouraged to limit the number of additional docks.

- Policy 10 Commercial marinas or other commercial marine facilities should only be considered by amendment to this plan and rezoning application.
- Policy 11 The use of land, docks, piers or floats for the sale, rental or storage of personal watercraft (jet-skis) should not be permitted.

407 Resource Conservation

The primary intent of this designation is to recognize and further protect those lands that have been voluntarily protected by other means and to ensure that these lands are retained in an unaltered state. These are lands that are considered to have special importance for ecosystem protection, wildlife protection, watershed protection, enjoyment of scenery, historic preservation, environmental management and/or protection against development.

Resource Conservation Objectives

- Objective 1 To preserve and protect special or significant areas in the Associated Islands Area considered important for environmental, heritage, low impact recreational or aesthetic reasons.
- Objective 2 To encourage private landowners to protect rare or sensitive ecosystems.

Resource Conservation Policies

- Policy 1 Significant areas of lands in the Associated Islands Area that have been protected for environmental, heritage, or aesthetic reasons and deemed to be of special importance should be designated Resource Conservation.
- Policy 2 This designation may include lands that are protected by conservation covenant, park dedication, by donation to a conservancy organization or have been protected by other means.
- Policy 3 The zoning regulations should specify a minimum range of uses and should limit subdivision potential.
- Policy 4 Land provided as a conservation amenity in exchange for an increase in density as part of an amenity rezoning application may be designated as Resource Conservation.
- Policy 5 Lands from which the development potential has been removed as part of an application for density transfer should be included in this designation.
- Policy 6 Regulations requiring buffer areas or increased setbacks on land adjacent to conservation areas may be considered.

408 Forestry

Forestry is a traditional land use in the Area and most of the islands have been logged at least once in the past 150 years. Forestry remains an on-going practice and responsible, managed silviculture on a small scale can be consistent with the goals of this plan. This designation will apply to lands on which there is a managed forest operation.

Forestry Objectives

- Objective 1 To preserve and protect large and unfragmented forest ecosystems.
- Objective 2 To support and encourage sustainable forest management practices.
- Objective 3 To encourage protection of natural vegetation along the shoreline.

Forestry Policies

- Policy 1 Voluntary stewardship of forested areas by property owners is encouraged to protect forestry resources.
- Policy 2 Lands that are used principally for managed forestry should be designated and zoned as forestry lands.
- Policy 3 Uses other than forestry should be limited in this designation.
- Policy 4 Applications to designate and zone land for managed forestry should be considered.
- Policy 5 Owners of land designated Forestry that are adjacent to land designated Resource Conservation, Institutional or are part of the National Park Reserve, are encouraged to consult with adjacent landowners prior to undertaking forestry activities in order to optimize opportunities to contribute to the biodiversity, sustainability and health of the overall island ecosystem.

PART 5 GENERAL OBJECTIVES AND POLICIES

The objectives and policies in this part of the bylaw are general in nature and may apply to any land use designation or to locations within any designation.

501 Environmentally Sensitive Areas

The Sensitive Ecosystem Inventory (*Ward, P., G. Radcliffe, J. Kirkby, J. Illingworth and C. Cadrin. 1998. Sensitive Ecosystems Inventory: East Vancouver Island and Gulf Islands*) identifies a number of rare and sensitive ecosystems in the Associated Islands Area. The resources identified in this inventory are at a relatively large scale and should not be used to directly establish regulations. The inventory should be used to identify areas for further investigation at the time of a major development application and to encourage land owners to investigate the potential presence of sensitive ecosystems on their property.

Environmentally Sensitive Area Objectives

- Objective 1 To identify rare, sensitive and representative ecosystems in the Associated Islands Area.
- Objective 2 To encourage landowners to preserve and protect rare or sensitive ecosystems.
- Objective 3 To provide information to landowners and other agencies regarding rare and sensitive ecosystems in the Associated Islands Area.

Environmentally Sensitive Area Policies

- Policy 1 Private landowners are encouraged to protect land that is identified as a rare or sensitive ecosystem through the mechanisms of private stewardship, education, conservation covenants, land donation or rezoning application.
- Policy 2 Landowners are encouraged to use the resources available through Islands Trust and other organizations and agencies to identify, preserve and protect rare or sensitive ecosystems on their property.
- Policy 3 Lands identified as containing a rare or sensitive ecosystem may be provided as a conservation amenity in exchange for an increase in density as part of an amenity rezoning, subject to the guidelines established in Section 602.
- Policy 4 Landowners are encouraged to apply to transfer density from lands identified as containing a rare or sensitive ecosystem, subject to the guidelines established in Section 601.

- Policy 5 Land that has been identified as a rare or sensitive ecosystem may be protected by the establishment of Development Permit Areas.
- Policy 6 The Capital Regional District should be encouraged to participate in the Natural Area Protection Tax Incentive Program.

502 Coastlines and Foreshores

Coastline and Foreshore Objectives

- Objective 1 To ensure that the impacts of development on shoreline ecosystems are minimized.

Coastline and Foreshore Policies

- Policy 1 Public access to beaches and the foreshore shall not be unduly impeded or impaired by development or use of the foreshore.
- Policy 2 Barge ramps should be permitted, subject to the granting of Crown tenure where required. Owners are encouraged to maintain a single barge ramp per island.
- Policy 3 Private docks, piers, floats, breakwaters and other wave suppression devices should be permitted subject to the policies in Section 406 (Marine).
- Policy 4 In place of a required setback for all buildings and structures, the lands immediately upland of the foreshore may be designated as a development permit area in order to protect development from hazardous conditions and to provide for protection of shoreline ecosystems from development.

503 Heritage

The Associated Islands contain heritage resources dating from the First Nations through the periods of early European occupancy. Over 100 First Nations archaeological sites have been identified in the area; in addition, there are a number of identified and potential historic sites.

Heritage Objectives

- Objective 1 To recognize the historical presence of various First Nations in the Associated Islands Area.
- Objective 2 To recognize and preserve the historic and cultural heritage of the Associated Islands.

Heritage Policies

BL#169	Policy 1	The Local Trust Committee recognizes the protection of archaeological sites under the <i>Heritage Conservation Act</i> and will work with First Nations and the Provincial Government to identify and protect these sites and other cultural heritage sites in the Area.
BL#169	Policy 2	Recognizing that some protected archaeological sites are not recorded, landowners applying for significant development applications may be required to have development applications reviewed by a qualified consulting archaeologist to determine to presence of recorded site and the potential for unknown sites protected under legislation.
BL#169	Policy 3	Where there are recorded and protected archaeological sites or the potential for unknown sites, the landowner may be required to complete an archaeological impact assessment prior to approval of a significant development application.
	Policy 4	Lands identified as containing heritage resources may be provided as an amenity in exchange for an increase in density as part of an amenity rezoning, subject to the guidelines established in Section 602.
	Policy 5	Landowners are encouraged to apply to transfer density from lands identified as containing heritage resources, subject to the guidelines established in Section 601.

504 Hazardous Lands

Hazardous lands are those with natural characteristics that may endanger land use and related development. These can include areas susceptible to damage from natural phenomena such as wave action, flooding, severe erosion, land slippage, and rock fall.

Hazard Land Objectives

Objective 1 To limit development in areas of natural hazard.

Hazard Land Policies

Policy 1 Lots or portions of lots identified through site visits during the subdivision or building inspection processes as having natural conditions that may be hazardous to land use and related development should have restrictive covenants registered upon their title prohibiting or limiting placement of buildings or structures.

- Policy 2 In assessing rezoning applications, consideration should be given to limiting development in areas of potential hazard that are identified by a qualified professional.
- Policy 3 Areas of natural hazard may be designated as development permit areas.

505 Aggregate Deposits

There are no current operations for the extraction or processing of aggregate (sand, gravel, and stone) resources in the Associated Islands Area. There is insufficient information available to include the locations of sand and gravel deposits suitable for future sand and gravel extraction in this Plan. The regulatory authority for the exploration and extraction of aggregate resources rests with the Ministry of Energy and Mines and local government land use bylaws apply only when processing (screening, sorting, crushing) of extracted materials is undertaken.

Aggregate Objectives

- Objective 1 To minimize any disturbance associated with aggregate resources extraction.
- Objective 2 To meet the need for processed aggregate resources primarily from off-island sources.

Aggregate Policies

- Policy 1 Aggregate processing is considered an industrial use of land. In circumstances where a need for aggregate processing arises, consideration may be given to an application for a temporary industrial use permit.
- Policy 2 Where extraction of aggregate resources is completed, the landowner is encouraged to restore the land to its former condition by re-grading to approximate natural contours and by re-establishing the natural vegetation of its surroundings.

506 Transportation

Transportation to and from these islands is predominantly by private boat. There is also a seasonal passenger ferry running to from Sidney to Sidney Spit. A long-standing airstrip is maintained on Sidney Island. On these islands there are no dedicated highways; however, the larger islands have private roads and there are some vehicles kept on-island.

Transportation Objectives

- Objective 1 To ensure that there is provision for adequate transportation facilities for residents and other users.

- Objective 2 To ensure that transportation facilities do not have an unduly negative impact upon the ecosystems of the area.

Transportation Policies

- Policy 1 No island or islet in the Associated Islands Area should be connected to the mainland or to another island or islet by a bridge, causeway or tunnel.
- Policy 2 Accessory docks, barge ramps and associated accessory features should be permitted, subject to the policies in section 406.
- Policy 3 Private air strips and helipads should be permitted. Applications for rezonings to permit commercial airstrips, helipads and floatplane facilities in the Area should not be considered without an amendment to this plan.

Advocacy Policies:

- Policy 4 The Local Trust Committee should work with municipalities and other agencies to ensure that access is maintained to barge ramps on Vancouver Island for the use of the residents of the Associated Islands Area.

507 Services

Service Objectives

- Objective 1 To ensure that development in the area makes provision for adequate servicing.
- Objective 2 To support alternate methods of providing services that otherwise meet the goals and objectives of this plan.

Service Policies

- Policy 1 Recognizing existing connections, any one island should not be connected by water pipeline to the mainland or another island, but should be self-sufficient in regard to their supply of freshwater, in accordance with the Islands Trust Policy Statement.
- Policy 2 Regulations should support methods for collecting, storing and treating drinking water that are alternatives to the extraction of groundwater.
- Policy 3 Submerged utility lines providing power and telecommunications services to individual islands shall be permitted in all designations.

- Policy 4 Septic fields should be set back from any well, spring, water course, wetland, or natural boundary of the sea, in accordance with health regulations.
- Policy 5 In considering a rezoning application, the impacts of surface water runoff and septic systems near any well, spring, water course, wetland, or the natural boundary of the sea should be assessed in accordance with accepted practices.
- Policy 6 The use of alternative technology to the traditional septic field, and the safe recycling of gray water, should be supported subject to compliance with other government regulations.
- Policy 7 Proposals for any new development should be encouraged to include provisions for fire fighting equipment, and for emergency water storage on the island in question.
- Advocacy Policies:*
- Policy 8 The Ministry of Water, Land and Air Protection and the Environmental Health Officer should be requested to prohibit any ocean dumping of untreated sewage.
- Policy 9 The Ministry of Transportation should be requested to consider alternatives to dedication of public highways at time of subdivision where appropriate.
- Policy 10 Fire protection awareness and services from the Ministry of Forests should be requested during the peak fire season.

508 Climate Change Mitigation and Adaption

BL 183

Background

Climate change results from the increasing concentration of heat-trapping greenhouse gases in the atmosphere as the result of human activities - primarily the burning of fossil fuels and deforestation. The rise in atmospheric greenhouse gas concentrations has in turn triggered an increase in the average temperatures of near-surface air and ocean water, with temperatures projected to rise over the next century. Although seemingly slight, these temperature changes could have potentially dramatic and negative impacts on ecological systems around the globe.

The *Local Government Act* now requires that all local governments include in their Official Community Plans targets to reduce greenhouse gas (GHG) emissions and policies and actions to achieve these targets.

The following target is set as the first step in ensuring that the reduction of GHG emissions specifically, and the impact of climate change in general, become part of the planning process for the Associated Islands area. Future amendments will establish policies and actions to achieve the target and objectives.

Target

This plan supports a target of achieving per capita emission levels of 50% or less of the Canadian per capita average emissions by 2020 and 2050. Emission reductions within the area may result from individual and community initiatives, the actions of other levels of government, technological changes, and changes to land use policies and regulations.

Climate Change Objectives

- Objective 1 To establish climate change as a central factor in land use decision-making.
- Objective 2 To undertake and support actions to limit and reduce greenhouse gas emissions.
- Objective 3 To recognize the role that natural areas play in storing carbon.
- Objective 4 To undertake and support actions to help islands adapt to the impacts of climate change and declining fossil fuel availability.

Climate Change Policies

- Policy 1 Specific policies and actions with respect to climate change mitigation and adaptation will be considered as part of a future review of this Plan and incorporated into the Plan as it is amended.

PART 6 GUIDELINES FOR DEVELOPMENT

601 Density Transfer Guidelines

Density Transfer is the ability to remove the development potential from one location and realize it in another with little or no overall, or net, increase in density. It usually takes the form of the number of potential lots or dwellings and the transfer of density is achieved by changing the zoning on the “donor” and “receiver” parcels or areas to reflect the changed subdivision or residential potential on each. In the Associated Islands Area, density transfer should be considered on a case-by-case basis, by application for rezoning by a landowner, with the objective of protecting environmental features through the locating of lots or buildings in a manner that has the least impact on rare, sensitive or threatened ecosystems. The transfer of density through rezoning should be conditional on compliance with the following guidelines:

- Guideline 1 Recognizing the importance of environmentally sensitive land, and subject to the policies of this Bylaw, consideration shall be given to permitting the transfer of density within a single island upon application by the landowner. The affected lands may be within the same parcel or separate parcels and may be within the same land use designation or between different land use designations.

- Guideline 2 The increased density on the receiving area may take the form of additional lots or an equivalent number of additional dwellings.

- Guideline 3 Consideration should be given to permitting the equivalent number of dwellings to lots where it would result in an island remaining in a single title with no further subdivision potential.

- Guideline 4 Consideration should be given to permitting the equivalent number of dwellings to lots to be constructed while retaining the ability to create the associated lots at a later date where this results in a more compact or clustered form of development that preserves rare, sensitive or threatened ecosystems.

- Guideline 5 Prior to approving a density transfer application, consideration should be given to the appropriateness of the receiving area for an increase in density. The following factors should be considered:
 - (a) the means for the provision of a sufficient supply of water;
 - (b) the impact on any rare, sensitive or threatened ecosystems;
 - (c) the suitability of the land for sewage disposal;
 - (d) the impact on any adjacent properties; and
 - (e) the impact on the visual appearance of the island.

- Guideline 6 In the case where a density transfer is approved, affected properties shall be rezoned to reflect the new maximum density permitted on the receiver portion and to denote that the density has been removed from the donor portion. A section 219

covenant should be granted on the donor portion. One or more of the following should be considered where appropriate:

- (a) amending the zoning regulations on the donor area to reflect the reduced density;
- (b) re-designating and rezoning the donor area as Resource Conservation;
- (c) rezoning the receiving area to a comprehensive development zone;
- (d) placing a restrictive covenant on the donor property, limiting further subdivision and development; or
- (e) placing a conservation covenant on all or part of the donor portion, stipulating that the subject land may not be subdivided and may only be used for public purposes, environmental protection, heritage site protection, community forest, park or heritage area.

Guideline 7 In calculating the density entitlement that may be transferred, any fractional amount of a lot that is equal to or greater than half the area of a density unit shall be counted as a full density unit entitlement for purposes of transfer.

Guideline 8 Consideration may be given to transferring density between islands or islets upon application. In any such application, the following conditions should apply:

- (a) sensitive, rare or threatened ecosystems are protected;
- (b) density is transferred from a small island or islet to nearby larger island;
- (c) the donor parcel has a reasonable capability of being developed;
- (d) donor and receiver properties are under common ownership; and
- (e) receiver property is an appropriate location for an increase in density.

Guideline 9 Applicants for density transfer are encouraged to incorporate the guidelines for Comprehensive Development zoning (Section 603) in their application.

602 Amenity Zoning Guidelines

Amenity zoning is the granting of additional development potential (usually density) in exchange for the provision of an 'amenity' by the land owner. Amenity rezonings should be considered on a case-by-case basis upon application by a landowner, with the goal of preserving and protecting rare, sensitive or threatened ecosystems. Approval of an amenity rezoning should be conditional on compliance with the following guidelines:

Guideline 1 Where a landowner offers to provide an amenity as a condition of subdivision or rezoning application, consideration may be given to increasing the permitted density on a lot or group of lots.

- Guideline 2 The increased density may take the form of additional lots or additional dwellings.
- Guideline 3 The following represents a list of potential amenities that may be considered upon application:
- (a) areas that are relatively undisturbed by human activity and are good examples of one or more sensitive ecosystem;
 - (b) areas that are relatively undisturbed by human activity and are key habitat for rare native plant species or plant communities;
 - (c) areas that are critical habitat for native animal species in relation to breeding, rearing, feeding or staging;
 - (d) geological features that contain fossil-bearing rock formations, sandstone with interesting erosion features, naturally occurring waterfalls, naturally occurring mineral springs, naturally occurring caves, rare glacial erosion or deposition features or shoreline deposition features, including tombolos, spits and hooks;
 - (e) land containing an identified archaeological, historic or other heritage site or asset;
 - (f) social or recreational features that are walking or hiking trails that provide public access through or to natural areas;
 - (g) outstanding viewpoints that are accessible to the public;
 - (h) natural area landscapes that are distinctive, historic, or relatively undisturbed by human activity and have a high degree of visibility from a place accessible to the public; or
 - (i) land that provides public access to property that is subject to protection or is a park or other land to which the public has access for a purpose related to the enjoyment and appreciation of ecosystems and natural areas.

The local trust committee may consider the provision of any other amenity that is similar in nature to the foregoing and is consistent with the objectives and policies of this Plan and the Islands Trust Policy Statement.

- Guideline 4 Where a proposed amenity takes the form of a conservation covenant, the covenant must be granted to both the Local Trust Committee and to the Trust Fund Board (or another conservation organization that has been designated to hold conservation covenants in BC). Where a proposed amenity takes the form of a land donation, first consideration should be given to donating land to the Trust Fund Board.
- Guideline 5 Prior to approving an amenity zoning, consideration should be given to the appropriateness of the parcel, or parcels, for an increase in density. The following factors should be considered:

- (a) that there is the means for the provision of a sufficient supply of water to support the proposed level of development;
- (b) the impact that the increase in density would have on any rare, sensitive or threatened ecosystems;
- (c) the suitability of the land for sewage disposal;
- (d) the impact on any adjacent islands and properties; and
- (e) the impact that the development would have on the visual appearance of the island from the sea and from adjacent islands.

Guideline 6 Where, as a condition of providing a community amenity, a parcel is to be granted greater density than would otherwise be the case in the zone in which it is located, the zoning shall be amended on the property to reflect the new maximum density permitted on the parcel.

Guideline 7 Where an amenity has been provided, consideration should be given to protection of the amenity through the mechanisms of a covenant or a zoning amendment or a combination of both.

Guideline 8 Applicants for amenity rezoning are encouraged to incorporate the guidelines for Comprehensive Development zoning (Section 603) in their application.

603 Comprehensive Development Guidelines

Comprehensive development zones regulate the development of a property in a manner that is specific to the site. Comprehensive zones provide the same regulation as conventional zones but provide greater flexibility in site planning, allow for the mixture of uses, allow for the tailoring of regulations for a specific proposal and provide the ability to negotiate the provision of amenities. In rezoning to a comprehensive development zone the following guidelines should be adhered to where appropriate:

Guideline 1 The use of comprehensive zoning should be considered on any residentially designated land to denote a location where an increase in density has been permitted as a result of an amenity rezoning application.

Guideline 2 The use of comprehensive zoning should be considered on any residentially designated land to denote a location where development has been clustered so as to minimize impacts on sensitive ecosystems as a result of a density transfer application.

Guideline 3 The use of comprehensive zoning should be considered on any residentially designated land to denote a location where a mix of uses is permitted as the result of a rezoning application.

Guideline 4 The use of comprehensive zoning should be considered on any residentially designated land to denote a location where the

equivalent number of buildings to lots has been permitted by rezoning application.

Guideline 5 Applications to undertake comprehensive development are encouraged to incorporate an ecosystem approach to site planning. Applications should include reports prepared by qualified professionals demonstrating that development would be sited in such a manner as to minimize impacts on rare, threatened or sensitive ecosystems. In considering such an application, the proposed development should meet the following evaluation criteria, where appropriate for the site in question:

1. Protects and preserves sensitive or rare ecosystems from disturbance.
2. Protects and preserves floodplains, wetlands and steep slopes from clearing, grading, filling or construction.
3. Maintains or creates an upland buffer of natural native vegetation adjacent to wetlands and surface waters.
4. Protects significant wildlife habitat areas.
5. Minimizes impacts on significant and mature forested areas, especially those containing many mature trees or significant wildlife habitat; however, forested areas in poorer condition can provide suitable locations for residential development.
6. Creates sufficient buffer areas to minimize conflict between residential and agricultural uses.
7. Retains significant views, both from neighbouring properties or islands and from the sea.
8. Avoids siting new development on prominent hilltops.
9. Preserves sites of historic, cultural or archaeological value.
10. Provides for a pedestrian trail system designed to ensure residents can walk safely and easily in the site, between properties and activities or special features.
11. Provides open space and conservation areas that are reasonably contiguous. Fragmentation should be minimized and open space and conservation areas should generally abut similar existing or potential areas on neighbouring parcels.

604 Temporary Use Permit Guidelines

BL189

An Official Community Plan may designate areas where a temporary use may be allowed. A temporary use permit may, notwithstanding a zoning bylaw, allow a use, permit the construction or use of buildings or structures to accommodate persons who work at the use for which the permit is issued, and specify conditions under which a temporary use may be carried on. A permit may be issued for a period of up to three years and may be renewed only once.

Pursuant to section 920.01 of the *Local Government Act* (Designation of development approval information areas), the plan designates any area of this plan subject to application for a Temporary Use Permit as a circumstance for which development approval information may be required under that section. Development approval information means information on the anticipated impact of the proposed activity of development on the community.

The issuance of a temporary use permit should be conditional on compliance with the following guidelines:

- Guideline 1 Temporary Use Permits may be issued for any area covered by this plan, except for areas designated Resource Conservation or lands within the Agricultural Land Reserve.
- Guideline 2 Temporary Use Permits should only be issued for activities that are of short and fixed duration.
- Guideline 3 An application for a Temporary Use Permit may only be considered if the proposal can be demonstrated to have minimal negative impact on the environment of the Associated Islands Area.

PART 7 DEVELOPMENT PERMIT AREAS

The Local Trust Committee may issue development permits for the protection of the natural environment, ecosystems and biological diversity and for protection of development from hazardous conditions within areas designated as a Development Permit Area (DPA). Before any work or construction is commenced in a DPA, the owner or applicant must obtain a Development Permit from the North Pender Island Local Trust Committee.

BL189 Pursuant to section 920.01 of the *Local Government Act* (Designation of development approval information areas), the plan designates all development permit areas as areas for which, in specified circumstances, development approval information may be required under that section. Development approval information means information on the anticipated impact of the proposed activity of development on the community.

701 Shoreline Development Permit Area

BL189 (1) Designation

This development permit area includes all non-crown land within 15 metres upland of the natural boundary of the sea on all North Pender Associated Islands except for Sidney Island. Buildings and structures within 15 metres of the natural boundary of the sea, as determined by a professional surveyor, must be approved by development permit, with the exception of that work specifically exempted in subsection 6 of this section.

(2) Authority

The authority to establish this development permit area is established in Sections 919.1(1)(a) and (b) of the *Local Government Act*, specifically for the protection of the natural environment, its ecosystems and biological diversity and for the protection of development from hazardous conditions.

BL189 (3) Application Requirements

All applications shall be consistent with all requirements established in the fees bylaw, development procedures bylaw and development approval information bylaw adopted by the North Pender Island Local Trust Committee.

(4) Justification

This development permit area covers all land 15 metres upland from the natural boundary of the sea, land identified by the Ministry of Water, Land and Air Protection (*Ministry of Environment, Lands and Parks, B.C. Environment – Vancouver Island Region, Environmental Objectives, Best Management Practices and Requirements for Land Developments*) as being possibly unsuitable for development. Typically, this recommendation is met through the mechanism of a setback regulation for all buildings and structures. This development permit area would meet the intent of the Ministry recommendations through the use of development permits rather than a setback regulation.

This development permit area is important for protection from flooding and erosion, for the protection of the marine environment from upland influences, for the protection of sensitive ecosystems and for the maintenance of public access to the foreshore. It includes areas of land that lie adjacent to and influence the islands' shoreline environments. Shoreline areas and beaches may be subject to flood hazard and may contain unstable slopes and soils subject to erosion, land slip and rock falls. Land in proximity to the foreshore may also contain sensitive ecosystems susceptible to the impacts of the development. The Sensitive Ecosystem Inventory (*Ward, P., G. Radcliffe, J. Kirkby, J. Illingworth and C. Cadrin. 1998. Sensitive Ecosystems Inventory: East Vancouver Island and Gulf Islands*) identifies seven sensitive ecosystems in this region:

- Riparian
- Wetland
- Woodland
- Older Forest
- Sparsely Vegetated
- Terrestrial Herbaceous
- Coastal Bluff

Specifically, the following reasons justify the establishment of the Shoreline DPA by the North Pender Island Local Trust Committee in this plan:

- (a) the potential danger to development from flood hazards;
- (b) the potential danger to development from erosion hazards;
- (c) the potential threat to sensitive ecosystems from the impacts of development;
- (d) the potential threat to aquatic habitat from the impacts of development; and
- (e) the potential compromise of public access to and along the foreshore from development.

(5) Objectives

The objectives of this development permit area are as follows:

- Objective 1 To limit development in areas susceptible to flooding;
- Objective 2 To limit development in areas susceptible to erosion;
- Objective 3 To preserve and protect identified sensitive ecosystems;
- Objective 4 To minimise adverse impacts of land development practices on aquatic habitats;
- Objective 5 To ensure that development does not block public access to the foreshore from the sea.

(6) Guidelines

BL189

The intent of this development permit area is to ensure that development in the form of new buildings or structures, including new roads and seawalls, meet the objectives described above. Work not requiring a permit is detailed in subsection (7) below. In considering the issuance of a development permit, the following guidelines should be met where applicable:

- Guideline 1 Development should not occur in areas that are subject to flooding. Applications involving buildings or structures that would have a residential use or involve the storage of goods or materials should include a survey prepared by BC Land Surveyor indicating that the proposed development would be at least 1.5 metres above the natural boundary of the sea. Where land proposed for development is less than 1.5 metres above the natural boundary, applications may include recommendations from a qualified professional licensed in the Province of BC with experience in geotechnical engineering recommending mitigation measures that can be included as conditions of the permit.
- Guideline 2 No development should occur on land that has been determined to be subject to erosion. All applications should include a report from a qualified professional licensed in the Province of BC with experience in geotechnical engineering stating that the land proposed for development is not subject to erosion or slippage. If the land proposed for development is subject to geo-technical hazard, the report should recommend mitigation measures that can be included as conditions of the permit. Landowners are encouraged to retain existing trees and vegetation in areas that may be reasonably considered subject to erosion as determined by a qualified professional.
- Guideline 3 Areas identified by a qualified professional licensed or registered in the Province of BC as containing good examples of one or more of the seven sensitive ecosystems should remain free of development, including buildings and structures and utility corridors. Applications involving building, structures, roads and utility corridors should include a report from a qualified professional licensed or registered in the Province of BC with experience in environmental science stating that the area proposed for development does not contain good examples of one or more of the seven identified sensitive ecosystems. If the report identifies good examples of such ecosystems in the vicinity of the area proposed for development, the report should include recommendations for protecting these areas that can be included as conditions of the permit. Landowners are encouraged to retain areas containing such ecosystems in an otherwise undisturbed state.
- Guideline 4 The construction of roads, buildings, structures and utility corridors involving the disturbance of the soil must be conducted in such a

manner as to limit direct run-off into the sea. Development work should adhere to the practices recommended by the Ministry of Water, Land and Air Protection and the Department of Fisheries and Oceans (*Land Development Guidelines for the Protection of Aquatic Habitat, September 1993*).

Guideline 5 Development, construction or other work should not unduly block the ability of the public to access the foreshore from the sea.

Guideline 6 Shoreline stabilization should be limited to that necessary to prevent damage to existing structures, uses or features. Applications involving construction of shoreline stabilization features should include a report, prepared by a qualified professional licensed in the Province of BC with experience in geotechnical engineering, which describes the proposed modification and shows:

- (a) the need for the proposed modification to protect existing structures, uses or features.
- (b) where the modification would protect proposed structures, the locations on the property where those structures could be built and not require shoreline modification.
- (c) if any natural hazards, erosion, or interruption of geohydraulic processes may arise from the proposed modification, including at sites on other properties or foreshore locations.
- (d) whether there will be any degradation of water quality or loss of fish or wildlife habitat because of the modification.
- (e) whether conditions should be incorporated into the development permit to achieve the objectives of this Development Permit Area.

Where feasible, in the opinion of a qualified professional, shoreline stabilization works should use natural means such as vegetative stabilization or protective berms rather than structural solutions such as concrete or large riprap.

Guideline 7 Septic fields should be located in such a manner that the possibility of pollution of the aquatic environment is minimized. Applications for the siting of a septic disposal system within the DPA should include a report from a qualified professional stating that the area proposed is suitable for locating a septic field and that there is low risk of contamination of the aquatic environment. The report may include recommendations that can be included as conditions of the permit.

Guideline 8 Buildings and structures should be integrated into the surrounding landscape and sited so as to minimize the removal of trees and indigenous vegetation to the extent reasonably possible.

- Guideline 9 Where this development permit area includes wildlife trees, a buffer area around each nest tree should be left undisturbed. The size of the buffer should be determined prior to development by a qualified professional, with advice from the Ministry of Water, Land and Air Protection.
- Guideline 10 As a condition of considering an application, an applicant may be required, at the discretion of the LTC upon receipt of an application, to provide any report required by guidelines (2), (3), (6), (7) or (9) using a qualified professional retained by, and reporting to, the Islands Trust. In such an instance, the costs would be recovered from the applicant using a cost recovery agreement.
- Guideline 11 Upon receipt of an application, the LTC may determine that the provision of any report required in guidelines (1), (2), (3), (6), (7) or (9) above is not reasonably necessary to establish compliance with the objectives and guidelines of this development permit area.

(7) Work Not Requiring a Permit

The following activities are exempt from any requirement for a development permit:

- (a) forest management activities related to timber production and harvesting in the Forest Land Reserve;
- (b) forest management activities on land classified as managed forest land under the *Assessment 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) farm management activities on land that is classified as farm land under the *Assessment Act* that are consistent with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*;
- (e) subdivision under the *Land Title Act*;
- (f) the removal of trees, other than in an area that is reasonably considered subject to erosion.
- (g) the construction or installation of landscaping, fences, terrestrial retaining structures less than 1.2 metres in height, solar collectors and fire pits;
- (h) the construction of footings, ramps, walkways or stairs reasonably necessary to access a permitted dock, pier, float or barge ramp;
- (i) the repair, maintenance, alteration or reconstruction of existing buildings or structures provided there is no addition to lot coverage within the development permit area;
- (j) construction of new buildings or structures that do not exceed 10 square metres of lot coverage, unless any part of such a building or structure is located closer than 7.5 metres to the natural boundary of the sea or is less than 1.5 metres above the natural boundary of the sea;
- (k) repair and maintenance of existing roads, paths and trails;
- (l) construction of patios, detached decks, driveways and paved walkways unless any part of such a structure is located closer than 7.5 metres to

- the natural boundary of the sea or is less than 1.5 metres above the natural boundary of the sea;
- (m) the construction of new trails or paths for recreation purposes, provided that the trail is limited to hiking, is not paved and is 1.5 metres or less in width;
- (n) the digging or drilling of wells or other water storage structures; and
- (o) activity that is permitted by a conservation covenant satisfactory to, and in favour of, the North Pender 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.

All work must conform to zoning, building, health or other regulations.

BL189

702 Sidney Island Geotechnical Development Permit Area

(1) Designation

This development permit area (DPA) is shown in a generalized area on Schedule E. The definitive designation and delineation of the development permit area consists of a digital record based on the survey plans associated with registered covenant ES065752, stored and maintained in a Geographical Information System (GIS) at the offices of the Islands Trust.

(2) Authority

The development permit area is established pursuant to Section 919.1(1)(b) of the *Local Government Act*, specifically for the protection of development from hazardous conditions.

(3) Application Requirements

All applications shall be consistent with all requirements established in the fees bylaw, development procedures bylaw and development approval information bylaw adopted by the North Pender Island Local Trust Committee.

(4) Justification

It is the Object of the Islands Trust to “preserve and protect the Trust Area and its unique amenities and environment of the Trust Area 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 policy of the Islands Trust Council that 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, and

- 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.

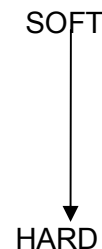
Furthermore, Section 877(1)(d) of the provincial *Local Government Act* requires that an Official Community Plan include restrictions on the use of land that is subject to hazardous conditions or is environmentally sensitive to development.

The development permit area coincides with the area affected by a registered covenant to restrict development due to geotechnical concerns. The upland boundaries of the covenant area arise from the recommended building setbacks in the geotechnical investigation report prepared at the time of subdivision for Sidney Island “*Report of Geotechnical Investigation For Sidney Island Residential Subdivision*” by Bruce McLeod of Levelton Engineering. The report identifies that the soil/sandbanks forming the westerly and north-easterly shorelines, which are not protected by bedrock, as being steeper than the long term stable slope angle due to on-going toe erosion. The on-going toe erosion and slope flattening processes are resulting in a landward regression of the crest of the slope. The report summarizes that building sites should be located beyond the recommended setbacks, and that disturbance to the shoreline banks by storm water drainage, land alterations, vegetation disturbance, or other means should be avoided. The building setback established in the geotechnical report is based on a 75 year design period with no stabilization techniques. The report forms the basis for the covenant registered on title of the affected properties as ES65752, which includes a copy of the report.

Within this development permit area there are two key components, the shoreline banks and relatively level upland areas above and beyond the crest of the shoreline banks. The shoreline banks are delineated as ‘Area A’ within the development permit area and ‘Area B’ represents the upland, relatively level area. The boundary between Area A and Area B is located 2 metres from the crest of the bank, which is where a 10 degree or more slope continues to the base of the banks. The purpose of identifying these two components is to recognize that impacts from disturbance to vegetation and land alteration would have different effects.

When required, bank stabilization measures should apply the ‘softest’ possible measure and be limited in number and extent to the minimum necessary. Protection measures are often referred to as ‘soft’ to ‘hard’, where ‘soft’ measures utilize less rigid materials such as vegetation, while ‘hard’ measure refer to those with solid, hard surfaces such as concrete walls. In general, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. There is a range of measures that include:

- Vegetation enhancement
- Upland drainage control
- Biotechnical measures
- Beach enhancement
- Anchor trees



- Gravel placement
- Rock (rip rap) revetments
- Gabions
- Concrete or rock groins
- Retaining walls or bulkheads (concrete, lock blocks, etc.)
- Seawalls

This development permit area is important to protect the shoreline banks, which are sensitive features vulnerable to erosion, from development activities that may exacerbate the hazardous condition, and to protect any land improvements or development from hazardous conditions that may result from the erosional processes.

(5) Objectives

The objectives of this development permit area are as follows:

- Objective 1 To protect the shoreline banks from development activities which exacerbate the natural erosion process;
- Objective 2 To limit development in hazardous areas susceptible to erosion; and
- Objective 3 To preserve the integrity of coastal processes and reduce cumulative impacts to the coastal shoreline.

(6) Applicability

The following activities shall require a development permit wherever they occur within the DPA unless specifically exempted below:

- a) Subdivision of land.
- b) Construction of, addition to or alteration of a building or other structure.
- c) Alteration of land.

Information Note: Any proposed building or structure within 15m of the natural boundary of the sea will also require a variance to the required setbacks prior to issuance of a development permit. For this purposes, structures includes septic disposal systems, concrete or asphalt paving or similar surfacing, and retaining structures.

(7) Development Permit Exemptions

The following activities are exempt from any requirement for a development permit. Despite these exemption provisions, owners must satisfy themselves that they meet any other applicable local, provincial or federal requirements.

- a) For certainty, development or alteration of land occurring outside of the development permit area.

- b) The placement of impermanent structures such as, benches, tables and garden ornaments.
- c) Forest management activities on land classified as managed forest land under the *Private Managed Forest Land Act*.
- d) Works undertaken by the Crown or an agent of the Crown.
- e) The maintenance of existing gardens or landscaped areas provided the general contours of the land are not altered.
- f) The removal of trees from within Area A that have been examined by an arborist and certified to pose an immediate threat to life or property, provided that stumps and root systems are not removed and the large woody debris remains on site.
- g) Selective limb removal or trimming of trees or vegetation, not including the topping of trees within Area A.
- h) Removal of trees with a trunk diameter less than 20 centimetres measured 1.5 metres above the ground and disturbance to vegetation within Area B.
- i) Habitat enhancement work including the planting of native trees or vegetation provided there is no automated irrigation system installed.
- j) The construction of a fence in Area B provided no trees with a trunk diameter greater than 20 centimetres measured 1.5 metres above the ground are removed, there is no alteration to the contours of the land, and the disturbance of vegetation is restricted to 0.5 metres on either side of the fence.
- k) The repair and maintenance of existing roads, driveways, paths or trails, provided there is no expansion of the width or length and no additional impervious surfacing, including paving, asphaltting or similar surfacing.
- l) Subdivision not involving land alteration.

(8) Guidelines

The intent of this development permit area is to ensure that development in the form of new structures and land alterations, including vegetation and tree removal, meet the objectives described above. Work not requiring a permit is detailed in subsection (7) Development Permit Exemptions. In considering the issuance of a development permit, the following guidelines should be met where applicable

- Guideline 1 A development permit should not allow any land alteration or other development activities to take place within any area identified by a geological hazard assessment as subject to a landslide or other geotechnical hazard with a probability in excess of 2% in 50 years.

- Guideline 2 All applications should include a geological hazard assessment from a qualified professional licensed in the Province of BC with experience in geotechnical engineering stating that the proposed land alteration or other development will not result in slope instability or other geological failure hazard with a probability in excess of 2% in 50 years. Where the geological hazard assessment report describes an area suitable for development provided that specific measures are taken, the development permit should only allow the development to occur in compliance with the measures described in the report.
- Guideline 3 Any area proposed to be cleared and disturbed for development should be minimized and landowners are encouraged to retain existing trees and vegetation in areas that may be reasonably considered subject to erosion as determined by a qualified professional. Where a permit authorizes the cutting of trees, re-planting and maintenance of disturbed areas should be considered for inclusion as a condition of the permit. The introduction of non-native species should be avoided and the permit may require a landscaping plan and a security, in the form of an irrevocable letter of credit, for 125% the cost of re-planting as determined by a professional landscaper.
- Guideline 4 All on-site drainage should be directed away from the shoreline or crest of slope.
- Guideline 5 Any land alteration or development involving the disturbance of the soil must be conducted in such a manner as to limit direct run-off into the sea and prevent the release of sediment towards the shore.
- Guideline 6 When structures for bank stabilization measures are proposed, it should be demonstrated that the 'softest' possible measures have been applied before increasingly 'harder' measures are required. Monitoring and regular reporting to the Islands Trust by a registered professional engineer or geoscientist at the applicant's expense may be required during construction and land development phases, as specified in a development permit.
- Guideline 7 Any proposed bank stabilization should be limited to that minimally necessary to prevent damage to existing structures, uses or features. Applications involving stabilization features should include a report, prepared by a qualified professional licensed in the Province of BC with experience in geotechnical engineering, which describes the proposed stabilization measures including:
- a) The need for the proposed bank stabilization to protect existing structures, uses or features, including alternative measures available that would be feasible or sufficient.

- b) An evaluation of on-site drainage and confirmation that the erosion is not caused or exacerbated by upland conditions such as drainage control or loss of vegetation.
- c) How the stabilization measure would protect existing structures, uses or features .
- d) If any natural hazards, erosion, or interruption of geohydraulic processes may arise from the proposed stabilization, including at sites on other properties or foreshore locations.
- e) Potential impacts to the natural shoreline processes resulting from the proposed stabilization.
- f) Whether there will be any degradation of water quality or loss of fish or wildlife habitat because of the stabilization.
- g) Recommendations for conditions that should be incorporated into the development permit in order to achieve the objectives of this Development Permit Area.

Guideline 8 The Local Trust Committee may consider variances to siting or size regulations where the variance could result in enhanced protection of the eroding sandbanks.

703 Sidney Island Shoreline

BL189

Designation

This development permit are (DPA) includes all non-crown land on Plan VIS5122 (Sidney Island) within 15 metres upland of the natural boundary of the sea. Buildings or structures and land alteration within 15 metres of the natural boundary of the sea, as determined by a professional surveyor, must be approved by development permit, with the exception of that work specifically exempted in subsection (7) of this section.

(1) Authority

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

(2) Application Requirements

All applications shall be consistent with all requirements established in the fees bylaw, development procedures bylaw and development approval information bylaw adopted by the North Pender Island Local Trust Committee.

(3) Justification

It is the Object of the Islands Trust to “preserve and protect the Trust Area and its unique amenities and environment of the Trust Area 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 policy of the Islands Trust Council that local trust committees and island municipalities shall, in their official community plans and regulatory bylaws address:

- the identification and protection of environmentally sensitive areas and significant natural sites, features and landforms in their planning areas,
- the protection of sensitive coastal areas, and
- the planning for and regulation of development in coastal regions to protect natural coastal processes.

Furthermore, Section 877(1)(d) of the provincial *Local Government Act* requires that an Official Community Plan include restrictions on the use of land that is subject to hazardous conditions or is environmentally sensitive to development.

This development permit area covers all land 15 metres upland from the natural boundary of the sea on Sidney Island (Plan VIS5122) to capture the coastal ecosystem, and the natural form and function of the shoreline processes.

Generally, the southern portion of Sidney Island is comprised of bedrock or sandstone with relatively shallow overburden. This area is more resistant to erosion and is exposed to the prevailing winds and currents. The northern portion of the island is comprised of finer sedimentary materials with overlying deposits of glacial till creating the sand bank shorelines that are highly vulnerable to erosion. On-going erosion of the sandbanks provides the source materials that get transported northward by longshore drift, and eventually they are deposited as sandy sediments creating Sidney Spit on the north end of the island.

Shorelines are complex, dynamic features responding to external forces such as wind, waves, tides, and increasingly, impacts of climate change. The physical nature of the shoreline with variations in slopes, substrates, exposure, salinity and tide elevations influence the biological communities that can exist there and creates different types of shore types. Each shore type has a different ability to accommodate disturbance with some being stable and robust while others are fragile and highly sensitive.

This development permit area is important for protection the coastal shoreline, a significant natural feature of Sidney Island that has remained relatively free of development.

(4) Objectives

The objectives of this development permit area are as follows:

- Objective 1 To preserve and protect the physical form and ecological function of the coastal ecosystems from the impacts of development;
- Objective 2 To minimise adverse impacts of land development practices on aquatic habitats; and
- Objective 3 To recognize and maintain the values of the natural shoreline of Sidney Island.

(5) Applicability

The following activities shall require a development permit wherever they occur within the DPA unless specifically exempted below:

- a) Subdivision of land.
- b) Construction of, addition to or alteration of a building or other structure.
- c) Alteration of land.

Information Note: Any proposed building or structure within 15m of the natural boundary of the sea will also require a variance to the required setbacks prior to issuance of a development permit. For this purposes, structures includes septic disposal systems, concrete or asphalt paving or similar surfacing, and retaining structures.

(6) Development Permit Exemptions

The following activities are exempt from any requirement for a development permit. Despite these exemption provisions, owners must satisfy themselves that they meet any other applicable local, provincial or federal requirements.

- a) For certainty, development or alteration of land occurring outside of the development permit area.
- b) The placement of impermanent structures such as, benches, tables and garden ornaments.
- c) Forest management activities on land classified as managed forest land under the *Private Managed Forest Land Act*.
- d) Works undertaken by the Crown or an agent of the Crown.
- e) The maintenance of existing gardens or landscaped areas provided the general contours of the land are not altered.
- f) The removal of dangerous tree posing an immediate threat to life or property provided that stumps and root systems are not removed and the large woody debris remains on site.
- g) Habitat enhancement work including the planting of native trees or vegetation.
- h) Selective limb removal or trimming of trees or vegetation, not including topping of trees.
- i) The repair, maintenance, alteration or reconstruction of existing legal or legal non-conforming buildings, structures or utilities provided there is no alteration of undisturbed land or vegetation

- j) The repair and maintenance of existing roads, driveways, paths or trails, provided there is no expansion of the width or length and no additional impervious surfacing, including paving, asphaltting or similar surfacing.
- k) The installation of one trail per lot for pedestrian access only to the shoreline provided the trail does not exceed 1m in width and the trail surface remains permeable.
- l) Construction of a fence provided no trees are removed and the disturbance to native vegetation is limited to 0.5 metres on either side of the fence.
- m) Subdivision not involving land alteration.

(7) Guidelines

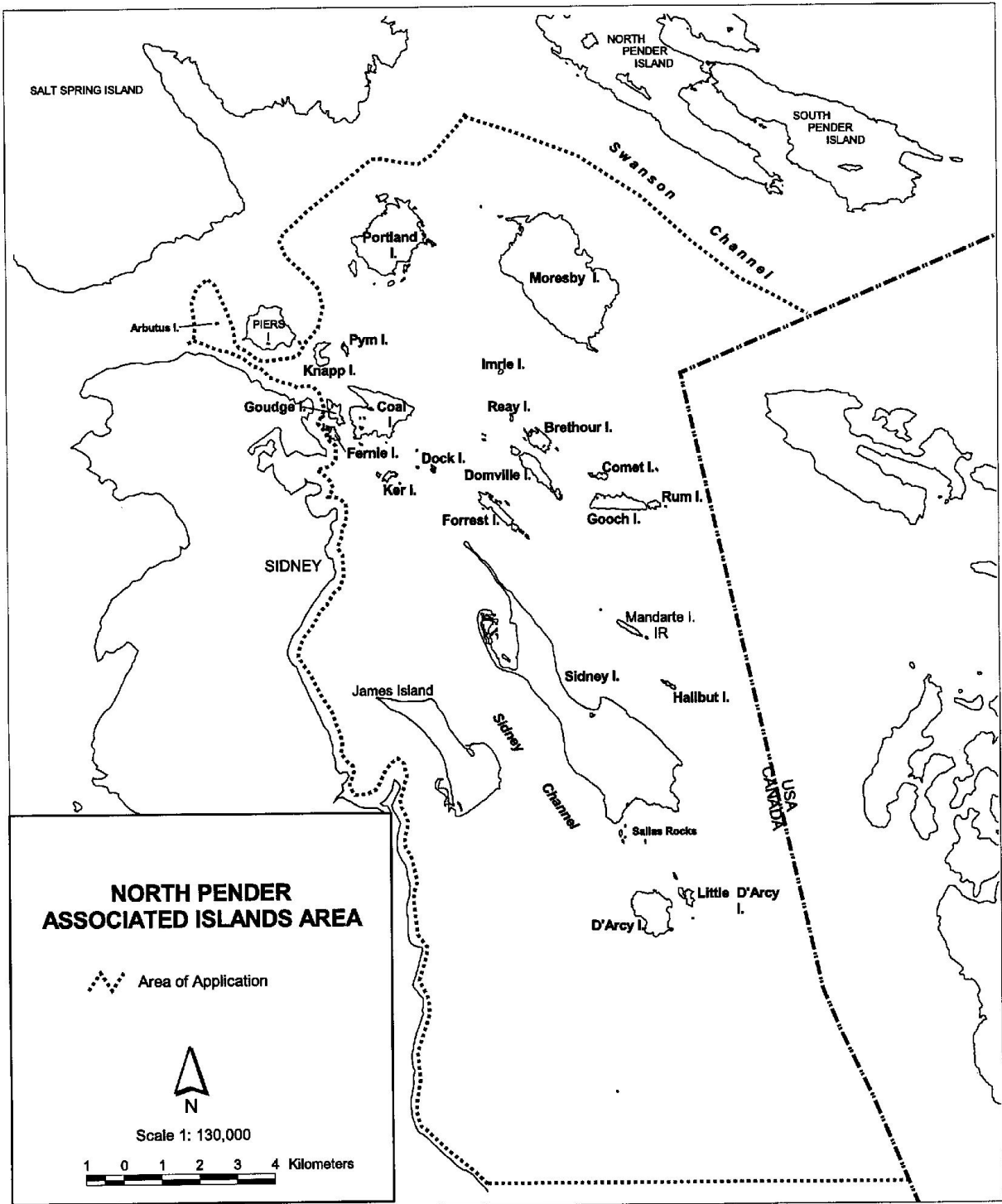
The intent of this development permit area is to ensure that development in the form of new buildings or structures, and land alterations, including vegetation and tree removal, meet the objectives described above. Work not requiring a permit is detailed in subsection (7) Development Permit Exemptions. In considering the issuance of a development permit, the following guidelines should be met where applicable.

- Guideline 1 Land alteration or other development of the shoreline area should be limited and minimize the negative impacts on ecological function.
- Guideline 2 Land alteration or other development should not detract from the shoreline qualities that are derived from natural features, such as shore types, natural vegetation, scenic vistas, and a wilderness-like shore.
- Guideline 3 Any area proposed to be cleared and disturbed should be minimized and landowners are encouraged to retain existing trees and vegetation.
- Guideline 4 New developments involving structures should be sited sufficiently inland from the crest of slope to ensure that stabilization measures will not become necessary during the life of the structure and the development would not be impacted from hazardous conditions.
- Guideline 5 Land alteration or other development should not occur in areas containing sensitive ecosystems or be sited or designed in any manner that may impact sensitive ecosystems in the vicinity. A report from a qualified professional should confirm that the area proposed for development does not contain a sensitive ecosystem. If a sensitive ecosystem is in the vicinity of the area proposed for development, the report should include recommendations for protecting these areas that can be included as conditions of the permit.

- Guideline 6 Any proposed structures required to access the shoreline should be located on common property or provide shared access by legal agreement as part of a comprehensive, community trail network.
- Guideline 7 Land alteration or other development involving the disturbance of the soil must be conducted in such a manner as to limit direct run-off into the sea and prevent the release of sediment towards the shore.
- Guideline 8 The Local Trust Committee may consider variances to siting or size regulations where the variance could result in enhanced protection of the shoreline

SCHEDULE C – ASSOCIATED ISLANDS BYLAW AREA MAP

BL#169



SCHEDULE E - SIDNEY ISLAND GEOTECHNICAL DEVELOPMENT PERMIT AREA

BL#189

