



BOWEN ISLAND CONSERVANCY

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Protecting Public Use of Bowen's Beaches

Delegation to Council: December 10, 2012

The Board of the Bowen Island Conservancy (BIC) strongly recommends that Council:

Instruct staff to examine all possible options that will ensure Bowen's public beaches (i.e. all those beaches with beach access points) are protected from the construction of docks for private moorage or other purposes, and to implement the provision in the Official Community Plan (Policy 76) that states:

"... the Land Use Bylaw will set out detailed provisions related to siting, setbacks, size, configuration, width, materials and projections for private moorage. Additionally, owners and builders will refer to best management practices, published by Transport Canada, Navigable Waters Protection Division, prior to construction of any foreshore moorage or works."

Proposals for changes to the Land Use Bylaw: Section 4.13 Water Use Zones

Recommended change:

Under WG1 zoning, add the following condition:

"Private boat moorage (including placement of breakwaters), that is accessory to upland use will not be located within a minimum of 125 metres of the mid center point of a public beach (defined as a beach with a public access)"

Alternatives:

1. Under WG1 zoning of section 4.13, add a tick beside the following condition of use, so that it applies to WG1 zoning:

"All buildings or structures except marine navigation aids and mooring buoys require a development permit"

2. Under WG1 zoning, stipulate a maximum floor area of 35 square metres for structures (dock or breakwater) on the water (from the Saltspring Island Land Use Bylaw)
3. Under WG1 zoning, add a condition such as *"Maximum length of a private dock limited to the distance necessary to accommodate a boat with a draft of 2 m"* (this is also from the Saltspring Island Land Use Bylaw)
4. With respect to foreshore and upland construction, the BIC Board recommends changes to the Land Use Bylaw to implement the Environmentally Sensitive Areas Development Permit areas as identified in Schedules B-1 and B-1A, and, in particular, to ensure that construction

has no negative impact on areas that include coastal bluff ecosystems (see 2.2 of the Official Community Plan, Environmentally Sensitive Areas.)

The BIC Board relies on the Official Community Plan (OCP) provisions in the attached Appendix to support these recommendations for amendments to the Land Use Bylaw.

The BIC Board proposes that a moratorium be placed on Municipal approval of any water lot applications until Municipal staff have brought proposed changes to the Land Use Bylaw for Council's review and approval.

The BIC Board refers Council and staff to the Saltspring Island and other Islands Trust local trust committees' Land Use Bylaws with restrictions on size of docks and their use of development permit areas, and to any other jurisdictions with similar bylaws.

Specific request regarding the Cape Roger Curtis Water Lots

With respect to the water lot applications at lots 11, 13, 15 and 6 of the Cape Roger Curtis lands, recently approved by the B.C. Integrated Land Management Bureau (ILMB), the ILMB Reasons for Decision letter dated October 29, 2012 states that *"offers have been made subject to any terms and conditions that need to be met before tenures are issued,"* and that *"the clients have been notified to consult with BIM prior to constructing their private moorages to ensure that their facility designs are in compliance with BIM's bylaws and to determine if they need to seek additional approvals or authorizations from BIM."*

The BIC Board requests Council to direct staff to enforce the restrictions set out in the section 219 (Land Title Act) covenants, executed by the owners of lots 11, 13, 15 and 6 on December 1, 2009, that are enforceable against the covenantors and any successors in title. These covenants were placed on these properties at the time of the subdivision approval, to implement the conditions set out in the Cape Roger Curtis Development Permit area. **The intent of the covenants is to keep the area along the oceanfront in a natural condition.** The covenants specifically state that:

- *"the owner will not build, place or install any building or structure of any kind on, over or under the Covenant Area"* (defined as 30 metres from the natural boundary , i.e. high water mark)
- *"the owner will not excavate, remove soil or replace fill from the Covenant Area"*
- *"the owner will not cut, trim, prune or remove any vegetation or tree from, or plant any non-native vegetation, within the Covenant Area"*

Furthermore, the BIC Board is in support of the recommendation of the consultant planner employed by BIM, submitted in September of 2011, that states and recommends:

"Each of the accesses [to the beaches at Cape Roger Curtis] was intended to facilitate public access to the ocean and the development of these accesses will be an instant draw to the public once they are open for use."

"In addition, the Municipality should apply for a Crown grant from the Province for the Cape itself and a foreshore reserve, for the use, recreation and enjoyment of the public, fronting the road end in order to facilitate management and use."

As part of the subdivision approval for these lands in 2009, the owners were required to provide expanded street end accesses, with paved parking and turnarounds at the end of Lighthouse Lane (beside lot 15) and at the end of Roger Curtis Lane (by lot 11), for the public enjoyment of and access to the beaches and associated foreshore at each. The public access points to the beaches at Cape Roger Curtis and the public park areas are located between lots 5 and 6, between lots 10 and 11 and between lots 14 and 15. The public coastal walkway begins between lots 5 and 6 and ends between lots 14 and 15. This public walkway was negotiated by the owners, in lieu of the 20 metre wide beach accesses they were required to provide every 200 metres by the legislated requirement in section 75 of the Land Title Act.

Respectfully submitted,

The Board of the Bowen Island Conservancy Board

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APPENDIX

Official Community Plan References

This Appendix highlights the provisions of the Official Community Plan that demonstrate the importance and value placed by Bowen Islanders on our public beaches.

The Introduction to section 2 of the OCP states:

During the planning process, participants repeatedly spoke of the high value they place on Bowen's unique natural environment and their awareness of their stewardship role for future generations. Residents often referred to the importance of maintaining the island's overall character of peace, quiet and tranquility. Much of Bowen's character results from the careful management of private land and the role of citizens as stewards of their land.

Objective 1

To maintain Bowen Island's unique environmental heritage, community identity and sense of place by ensuring that the island's natural landscapes and ecosystems are protected.

2.2 Environmentally Sensitive Areas

Objective 3

To ensure that new development incorporates a "no net impact" strategy with respect to significant plant, wildlife, and fish habitats.

Objective 4

To work with Community Groups, such as the Bowen Island Conservancy, to identify and manage the island's biodiversity.

Policy 3

The Municipality will use its authority through the Local Government Act and the Community Charter to protect Bowen Island's natural landscapes and ecosystems. This may be accomplished in a number of ways including:

- Development permitting;
- Negotiations at the time of rezoning;
- Public land acquisition at the time of subdivision;
- Conservation covenants with willing landowners; and
- Permissive tax exemptions

[An example of conservation covenants are the covenants along the waterfront at Cape Roger Curtis)

2.9 Marine Resources/Foreshore

The sea provides visual, auditory, recreational and other tangible and intangible values that can be experienced from island and off-island locations, as well as providing habitat for marine life and birds. Pollution of the foreshore can preclude its use by people and by all or some forms of wildlife. Excessive building and tree clearing on the shoreline can destroy fragile plant communities and the views for residents and the boating public.

Objective 35

To protect the natural and scenic values of the coastline that provide the rural maritime atmosphere of the island.

Objective 36

To protect coastline habitat areas for marine life.

Objective 37

To contribute to the restoration of the waters of Howe Sound for future generations.

Objective 38

To identify, protect, and preserve sensitive coastal vegetation.

Policy 73

By way of a future amendment to this Plan, the Municipality will designate the areas within 30 metres of the foreshore as a Foreshore and Aquatic [development permit area]. In addition, the Development Permit Area may regulate the form and character of all commercial and industrial development.

Policy 76

Private moorage and docks are subject to the following:

- Private moorage will not impede pedestrian access along the beach portion of the foreshore;
- The siting of new private moorage will be undertaken in a manner that is consistent with the orientation of neighbouring private moorage and is sensitive to views and other impacts on neighbours, and the Land Use Bylaw will set out detailed provisions related to siting, setbacks, size, configuration, width, materials and projections for private moorage. Additionally, owners and builders will refer to best management practices, pub-

lished by Transport Canada, Navigable Waters Protection Division, prior to construction of any foreshore moorage or works.

OCP provisions that are specific to special areas on the island:

Section 2.11 of the OCP, Cape Roger Curtis Lands and Shoreline, includes the following objective 40:

“To encourage the retention of portions of Cape Roger Curtis in a natural state accessible to the public, including ecologically sensitive coastal bluffs, other sensitive ecosystems such as Arbutus and Douglas Fir Woodland, portions of the shoreline, archaeological features, viewpoints, and significant marine shorelines.”