

**REPORT TO PORT RENFREW UTILITY SERVICES COMMITTEE  
MEETING OF TUESDAY, JUNE 29, 2021**

**SUBJECT**      **Amendment to Bylaw No. 1747 to Expand Port Renfrew Water Local Service Area**

**ISSUE SUMMARY**

To amend the Port Renfrew Water Supply Local Service Establishment Bylaw to include Pacific Gateway Marina and Port Renfrew Management Lands.

**BACKGROUND**

At its October 23, 2019 meeting, the Port Renfrew Utility Services Committee (PRUSC) received a report providing an update on the water system improvements being completed by Port Renfrew Management and Pacific Gateway Marina and agreed in principle to the inclusion of the Pacific Gateway Marina Lands into the Port Renfrew Water Service Area No. 1, subject to a new storage tank being built. Port Renfrew Management has also requested inclusion of lands into Port Renfrew Water Service Area No. 1 after the storage tank is constructed.

The legal description of the lands are shown in Figure 1 attached as Appendix A, and as listed in Appendix B.

As per direction from PRSUC, developers are to provide infrastructure improvements that increase capacity at a contribution rate of \$8,000 per Single Family Equivalent (SFE). The agreement for the storage tank construction, for an estimated cost of \$576,000, between the developers and the Capital Regional District (CRD) had the following contributions:

- Pacific Gateway Marina - \$256,000 for 32 SFE's
- Port Renfrew Management - \$256,000 for 32 SFE's (includes 13 SFE's for Beachview Rise Subdivision)
- Port Renfrew Business Park (Port Renfrew Management) - \$64,000 for eight SFE's
- Total of 72 SFE's

The storage tank has been completed and there is an estimated theoretical capacity within the expanded water system of an additional 151 SFE's; as 72 SFE's are allocated as described above, there will be remaining capacity for 79 SFE's. To ensure that the new lands proposed to be included in the service area associated with Pacific Gateway Marina and Port Renfrew Business Park do not exceed the capacity of the water system a covenant (Appendix D) is proposed on the properties limiting the water supply to the identified number of SFE's. If additional SFE's are required this would need additional review by the CRD and approval by the PRUSC to remove the covenant.

In order to include the lands in the water service area, Bylaw No. 4442, "Port Renfrew Water Supply Local Service Establishment Bylaw No. 1, 1989, Amendment Bylaw No. 5, 2021" has been prepared (Appendix C) for the Port Renfrew Utility Services Committee's consideration.

## **ALTERNATIVES**

### *Alternative 1*

That the Port Renfrew Utility Services Committee recommends the Electoral Areas Committee recommend to the Capital Regional District Board:

1. That Bylaw No. 4442, "Port Renfrew Water Supply Local Service Establishment Bylaw No. 1, 1989, Amendment Bylaw No. 5, 2021", be introduced and read a first, second, and a third time;
2. That Bylaw No. 4442 be referred to the Inspector of Municipalities for approval;
3. That Bylaw No. 4442 be referred to the Director of the Juan de Fuca Electoral Area for consent;
4. That prior to adoption of Bylaw No. 4442, staff be directed to register a restrictive covenant on the lands to be included in the service area, limiting the number of Single Family Equivalents that can be serviced on the property;
5. That Bylaw No. 4442 be referred to staff for an evaluation of consistency with the Regional Growth Strategy and that staff report back to the Regional Board through the Planning and Protective Services Committee.

### *Alternative 2*

That this report be referred back to staff for additional information.

## **IMPLICATIONS**

### *Service Delivery Implications*

In order to move to allow the proposed lands into the water service area, the bylaw amendment must be approved by the PRUSC and forwarded to the Electoral Areas Committee and CRD Board. After third reading of the bylaw, it will then be sent to the Inspector of Municipalities for approval and requires written consent of the Electoral Area Director. The new 100,000 lgal storage tank has been installed, improving the storage capacity for the whole service area. A covenant is required to manage development on the lands. The inclusion of the lands into the service area will benefit the existing participants as additional user fees and parcel taxation could then be collected to offset operating and long term capital costs. The covenant will be registered before adoption of the bylaw.

### *Regional Growth Strategy Implications*

Section 445 of the *Local Government Act* requires that all bylaws adopted by a regional district board, after the board has adopted a Regional Growth Strategy (RGS), be consistent with the RGS. Since Bylaw No. 4442 amends a water supply local service establishment bylaw, the bylaw will be considered by the Planning and Protective Services Committee and the CRD Board for a determination of consistency with the RGS prior to adoption. An amendment to the infrastructure policies in the Port Renfrew Comprehensive Community Development Plan (CCDP) will also be required at such time that the CCDP is updated to reflect the water system improvements per RGS policy 2.2(2)(c).

## **CONCLUSION**

The proposed properties currently remain outside, but adjacent to, the Port Renfrew Water Supply Local Service Area No. 1. The inclusion of the properties into the service area will benefit the

existing participants as additional user fees and parcel taxation could then be collected. The inclusion will not adversely impact the existing participants in the water service as the improvements to the system would enhance capacity creating no net loss of service to existing users. A covenant is proposed to be put on the properties limiting development as identified in the agreement.

The Port Renfrew Water Local Service establishing bylaw must be amended to include the lands into the service area to enable the service to be provided. For final approval of this bylaw, the Regional Board must determine it is consistent with the Regional Growth Strategy policy 2.2(2)(c).

### **RECOMMENDATIONS**

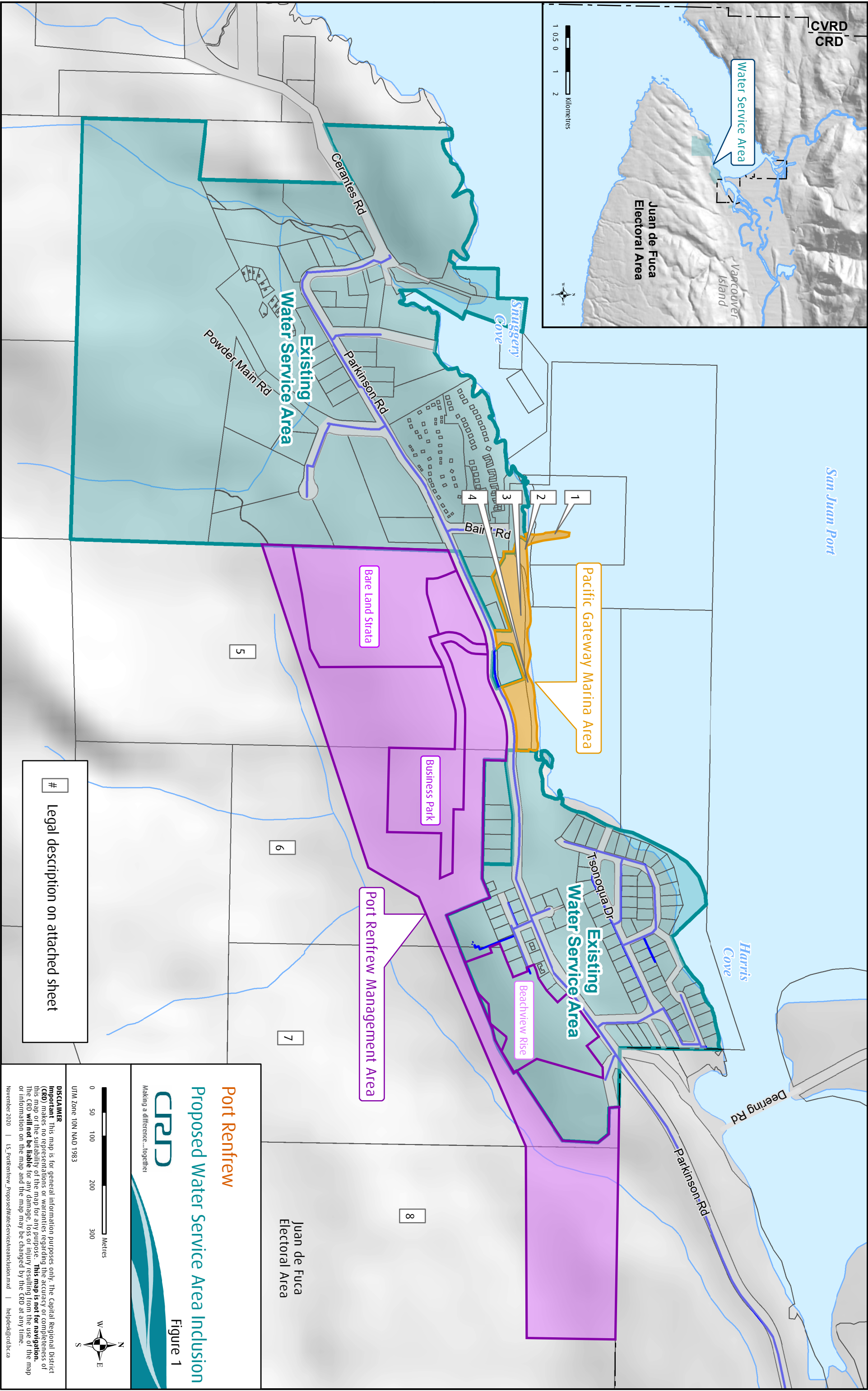
That the Port Renfrew Utility Services Committee recommends the Electoral Areas Committee recommend to the Capital Regional District Board:

1. That Bylaw No. 4442, "Port Renfrew Water Supply Local Service Establishment Bylaw No. 1, 1989, Amendment Bylaw No. 5, 2021", be introduced and read a first, second, and a third time;
2. That Bylaw No. 4442 be referred to the Inspector of Municipalities for approval;
3. That Bylaw No. 4442 be referred to the Director of the Juan de Fuca Electoral Area for consent;
4. That prior to adoption of Bylaw No. 4442, staff be directed to register a restrictive covenant on the lands to be included in the service area, limiting the number of Single Family Equivalents that can be serviced on the property;
5. That Bylaw No. 4442 be referred to staff for an evaluation of consistency with the Regional Growth Strategy and that staff report back to the Regional Board through the Planning and Protective Services Committee.

Submitted by:	Joseph Marr, P. Eng., Manager, Water Distribution Engineering & Planning
Concurrence:	Ian Jesney, P.Eng., Senior Manager, Infrastructure Engineering
Concurrence:	Ted Robbins, B.Sc., C.Tech., General Manager, Integrated Water Services
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Kevin Lorette, P. Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

### **ATTACHMENTS**

- Appendix A: Figure 1 – Proposed Water Service Area Inclusion  
Appendix B: Proposed Water Service Area Expansion Legal Descriptions  
Appendix C: Proposed Bylaw No. 4442  
Appendix D: Draft Water Service Covenant



**Proposed Water Service Area Expansion Legal Descriptions**

- 1) PIN 528031 (Crown Land)  
BLOCK A, DISTRICT LOT 751, RENFREW DISTRICT
- 2) PIN 10247701 (Crown Land)  
BLOCK B, DISTRICT LOT 751, RENFREW DISTRICT
- 3) PID: 028-991-125  
LOT 1, SECTION 97, RENFREW DISTRICT, PLAN EPP24972
- 4) PID: 009-592-342  
THAT PART OF SECTION 97, RENFREW DISTRICT AS SHOWN COLOURED RED ON PLAN 344R
- 5) PID: 009-592-423  
PARCEL A (DD 143426I) OF SECTION 97, RENFREW DISTRICT, EXCEPT THAT PART IN PLANS 15462, VIP77871 AND EPP24972
- 6) PID: 009-565-787  
THE WEST  $\frac{1}{2}$  OF THE NORTH WEST  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 13, RENFREW DISTRICT EXCEPT THOSE PARTS IN PLANS 519, 24267 AND 24755
- 7) PID: 000-468-291  
THE EASTERLY  $\frac{1}{2}$  OF THE NORTH WEST  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 13, RENFREW DISTRICT EXCEPT THAT PART SHOWN COLOURED RED ON PLAN 346-R AND EXCEPT THOSE PARTS IN PLANS 22475, 24267, 24755, 29515, 41154, 50819 AND VIP59967
- 8) PID: 009-565-752  
THE NORTH EAST  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 13, RENFREW DISTRICT

CAPITAL REGIONAL DISTRICT  
BYLAW NO. 4442

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PORT RENFREW WATER SUPPLY LOCAL SERVICE ESTABLISHMENT  
BYLAW NO. 1, 1989, AMENDMENT BYLAW NO. 5, 2021

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**WHEREAS:**

- A. Under Bylaw No. 1747, Port Renfrew Water Supply Local Service Establishment Bylaw No. 1, 1989, the Regional Board established a local water service in the Port Renfrew area;
- B. The Board wishes to amend the service area set out in Bylaw No. 1747 to extend water service to portions of properties legally described in Schedule "A", commonly known as the Pacific Gateway Marina and the Port Renfrew Development Area, with such portions shown in heavy outline in the attached Schedule "B";

**NOW THEREFORE**, the Capital Regional District Board in open meeting assembled hereby enacts as follows:

- 1. Bylaw No. 1747, "Port Renfrew Water Supply Local Service Establishment Bylaw No. 1, 1989", is hereby amended by deleting Schedule "A" to Bylaw No. 1747 and replacing it with Schedule "C" to this bylaw, to include in the service area portions of the properties legally described in Schedule "A" to this bylaw and more particularly shown in Schedule "B" to this bylaw.
- 2. This Bylaw may be cited as "Port Renfrew Water Supply Local Service Establishment Bylaw No. 1, 1989, Amendment Bylaw No. 5, 2021".

READ A FIRST TIME THIS DAY OF

READ A SECOND TIME THIS DAY OF

READ A THIRD TIME THIS DAY OF

CONSENTED TO BY THE DIRECTOR OF THE  
JUAN DE FUCA ELECTORAL AREA THIS DAY OF

APPROVED BY THE  
INSPECTOR OF MUNICIPALITIES THIS DAY OF

ADOPTED THIS DAY OF

\_\_\_\_\_  
CHAIR

\_\_\_\_\_  
CORPORATE OFFICER

FILED WITH THE INSPECTOR OF MUNICIPALITIES THIS DAY OF

**SCHEDULE "A"**

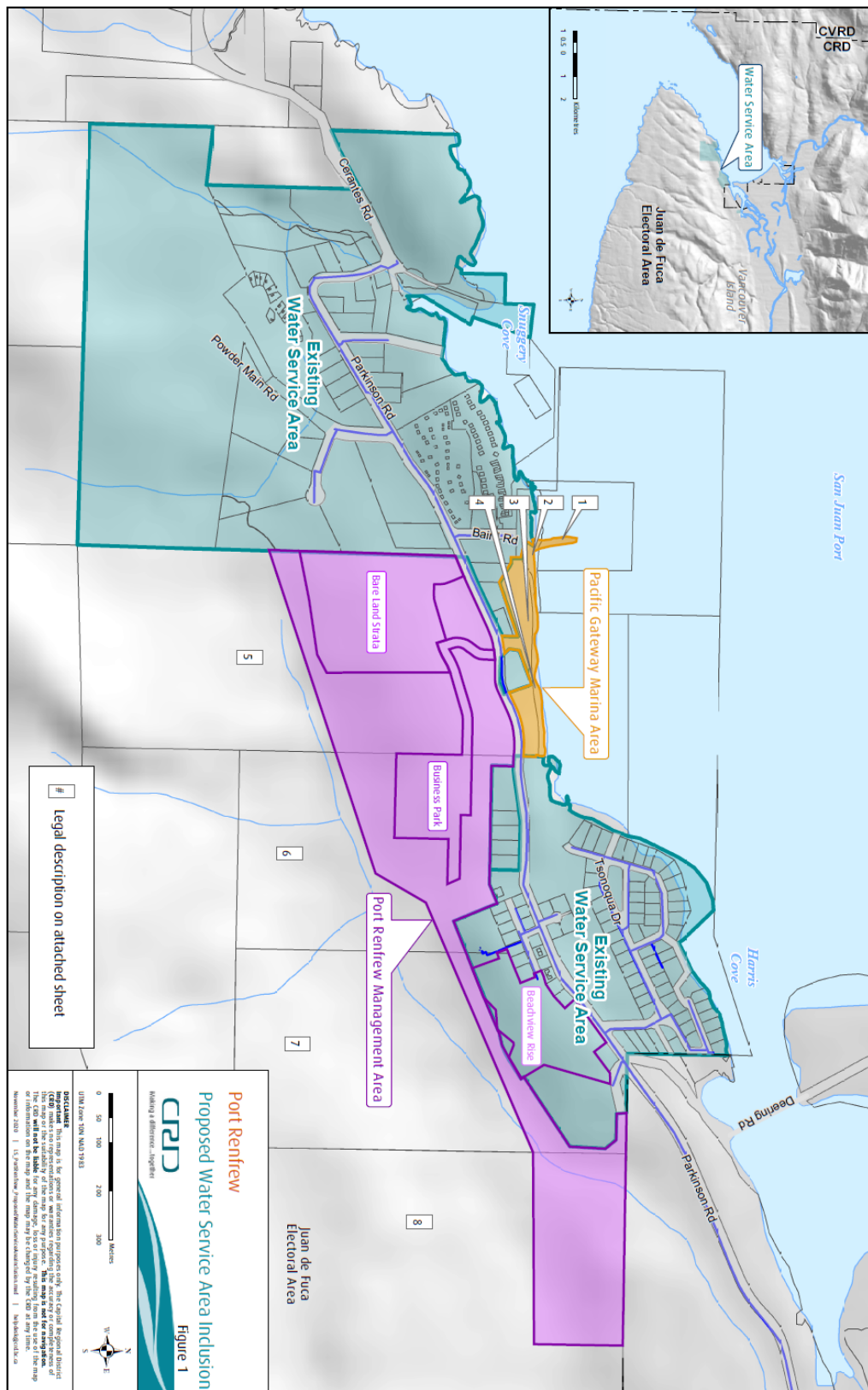
Legal Description of parcels, portions of which are to be serviced, are:

- 1) PIN 528031 (Crown Land), BLOCK A, DISTRICT LOT 751, RENFREW DISTRICT
- 2) PIN 10247701 (Crown Land), BLOCK B, DISTRICT LOT 751, RENFREW DISTRICT
- 3) PID: 028-991-125, LOT 1, SECTION 97, RENFREW DISTRICT, PLAN EPP24972
- 4) PID: 009-592-342, THAT PART OF SECTION 97, RENFREW DISTRICT AS SHOWN COLOURED RED ON PLAN 344R;
- 5) PID: 009-592-423, PARCEL A (DD 143426I) OF SECTION 97, RENFREW DISTRICT, EXCEPT THAT PART IN PLANS 15462, VIP77871 AND EPP24972
- 6) PID: 009-565-787, THE WEST ½ OF THE NORTH WEST ¼ OF SECTION 36, TOWNSHIP 13, RENFREW DISTRICT EXCEPT THOSE PARTS IN PLANS 519, 24267 AND 24755
- 7) PID: 000-468-291, THE EASTERLY ½ OF THE NORTH WEST ¼ OF SECTION 36, TOWNSHIP 13, RENFREW DISTRICT EXCEPT THAT PART SHOWN COLOURED RED ON PLAN 346-R AND EXCEPT THOSE PARTS IN PLANS 22475, 24267, 24755, 29515, 41154, 50819 AND VIP59967
- 8) PID: 009-565-752, THE NORTH EAST ¼ OF SECTION 36, TOWNSHIP 13, RENFREW DISTRICT

The serviced portions are as set out in Schedule "B" to this bylaw, with the complete service area shown in Schedule "C" in heavy outline.

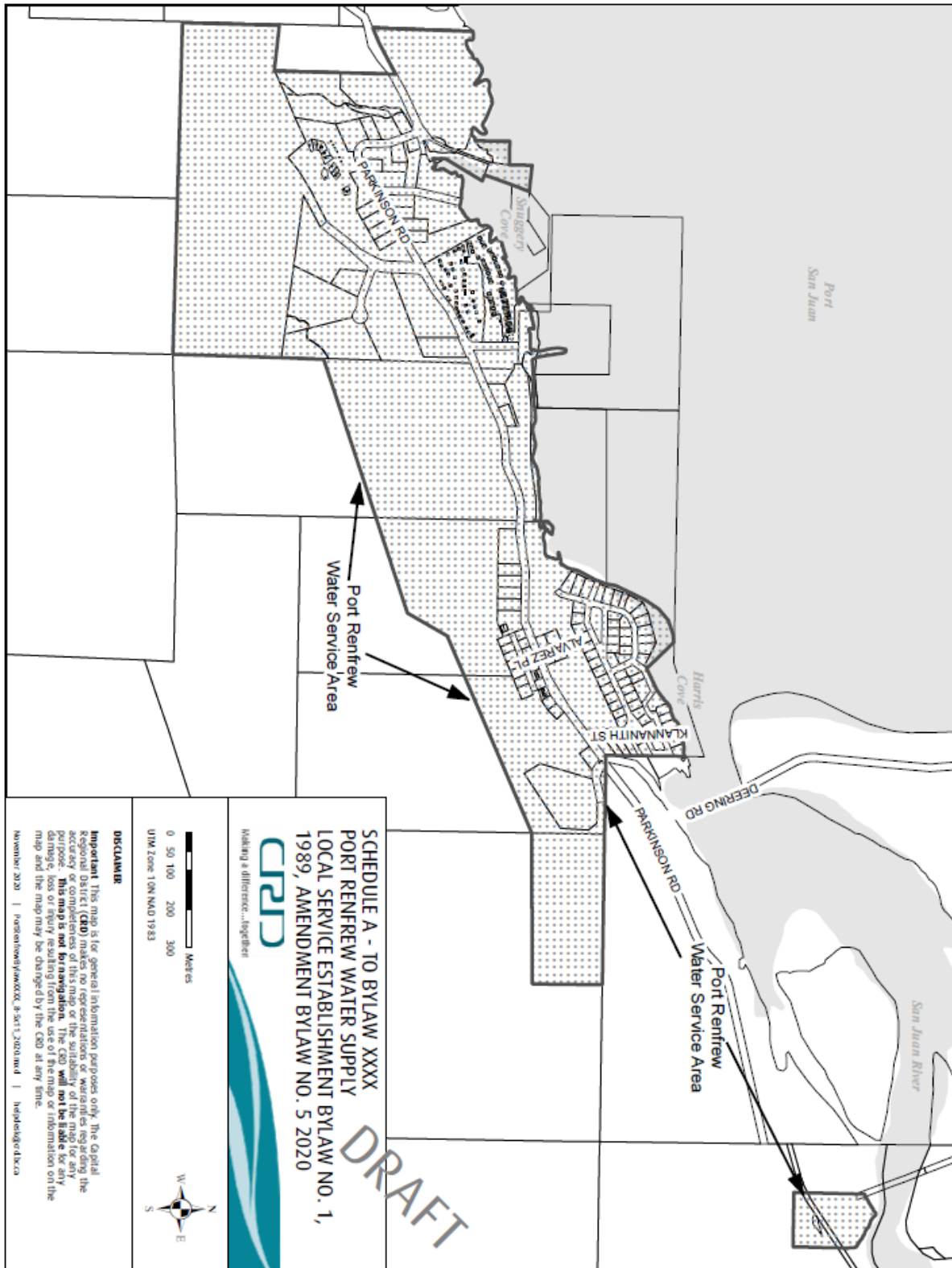


## SCHEDULE "B"





**SCHEDULE "C"**  
(Replacing the Schedule "A" in Bylaw 1747)



## TERMS OF INSTRUMENT - PART 2

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### WHEREAS:

- A. The Transferor is the registered owner in fee simple of those lands and premises more particularly described as:  
  
[NTD- Include the legal description of lands that will be subject to the covenant]  
  
(the “**Lands**”).
- B. The Transferee is the Capital Regional District.
- C. The Transferor wishes that the Transferee extend the Water Service to include the Lands with the intention of developing the Lands to supply Single Family Equivalents located on the Lands with water.
- D. The Transferor acknowledges that it is in the public interest that the development and use of the Lands be limited and wishes to grant this covenant to the Transferee.
- E. Section 219 of the *Land Title Act* provides that a covenant, whether of negative or positive nature, in respect of the use of land or the use of a building on or to be erected on land may be granted in favour of a regional district and may be registered as a charge against the title to that land.

**NOW THEREFORE** in consideration of the premises and covenants contained herein and for the other valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree as follows:

- 1. In this Agreement, the following words have the following meanings:  
  
  - “**Single Family Equivalent**” means any building, improvement or structure on the Lands that are supplied with water by the Water Service.
  - “**Single Family Equivalent Unit**” means the units of water supplied from the Water Service to a Single Family Equivalent as defined in the *Southern Gulf Islands and Juan de Fuca Electoral Areas Utilities and Street Lighting Fees and Charges Bylaw No. 1, 2012*, and as more particularly set out in Schedule “A” attached hereto.
  - “**Water Service**” means the local area service for the supply, treatment, conveyance, storage and distribution of water to a portion of the Juan de Fuca Electoral Area by Capital Regional District Integrated Water Services as established by the “*Port Renfrew Water Supply Local Service Establishment Bylaw No. 1, 1989*”, as amended.
- 2. The Transferor covenants and agrees with the Transferee that it shall not use or permit the use of the Lands or any building on the Lands for any purpose, or construct any building on the Lands, except in strict accordance with this Agreement.
- 3. The Transferor shall not, nor shall it allow any person to construct, install, place, use, or occupy any building, structure or improvement on the Lands if such construction,

installation, use or occupation results in there being more than [NTD- Include the number of permitted units] Single Family Equivalent Units on the Lands, including any subdivided part of the Lands unless the Transferor has obtained the approval of the Transferee, acting in its sole discretion.

4. The Transferee shall not be obliged to issue a building permit or an occupancy permit with respect to any building or structure on the Lands unless the Transferee is, in its sole discretion, satisfied that the Transferor's obligations under section 3 of this Agreement have been fulfilled.
5. The Transferor shall, at its sole expense, do all that is necessary to ensure that this Agreement is registered against the Lands at the Victoria Land Title Office.
6. The Transferor shall reimburse the Transferee for any expense that may be incurred by the Transferee as a result of a breach of a covenant under this Agreement.
7. The Transferee may, at any time, without the consent of the Transferor or anyone, release or cause to be released, this Agreement as a charge against title to the Lands or any portion thereof and, upon such release, this Agreement shall be discharged and of no further force and effect.
8. The Transferor and the Transferee agree that the enforcement of this Agreement shall be entirely within the discretion of the Transferee and that the execution and registration of this Agreement against the title to the Lands shall not be interpreted as creating any duty on the part of the Transferee to the Transferor or to any other person to enforce any provision or the breach of any provision of this Agreement.
9. The Transferor shall indemnify and save harmless the Transferee from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which anyone has or may have against the Transferee or which the Transferee incurs as a result of any loss or damage or injury, including economic loss, arising out of or connected with:
  - a. the breach of any covenant in this Agreement;
  - b. the use of the Lands contemplated under this Agreement;
  - c. restrictions or requirements under this Agreement.
10. The Transferor hereby releases and forever discharges the Transferee of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which the Transferor can or may have against the Transferee for any loss or damage or injury, including economic loss, that the Transferor may sustain or suffer arising out of or connected with:
  - a. the breach of any covenant in this Agreement;
  - b. the use of the Lands contemplated under this Agreement;
  - c. restrictions or requirements under this Agreement.
11. At the Transferor's expense, the Transferor must do everything necessary to secure priority of registration and interest for this Agreement and the Section 219 Covenant it creates over all registered and pending charges and encumbrances of a financial nature against the Lands.

## APPENDIX D

12. Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the Transferee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if the Agreement had not been executed and delivered by the Transferor.
13. Time is of the essence of this Agreement.
14. The Transferor covenants and agrees for itself, its heirs, executors, successors and assigns, that it will at all times perform and observe the requirements and restrictions set out in this Agreement and they shall be binding upon the Transferor as personal covenants only during the period of its respective ownership of any interest in the Lands.
15. It is mutually understood, acknowledged and agreed by the parties hereto that the Transferee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Transferor other than those contained in this Agreement.
16. The Transferor shall pay the legal fees of the Transferee in connection with the preparation and registration of this Agreement. This is a personal covenant between the parties.
17. The waiver by a party of any breach of this Agreement or failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar, and no waiver shall be effective unless it is in writing signed by both parties.
18. Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.
19. No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.
20. This Agreement shall run with the Lands and shall be perpetual, and shall continue to bind all of the Lands when subdivided, and shall be registered in the Victoria Land Title Office pursuant to section 219 of the *Land Title Act* as covenants in favour of the Transferee as a first charge against the Lands.
21. The Transferor agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
22. If any part of this Agreement is found to be illegal or unenforceable, that part will be considered separate and severable and the remaining parts will not be affected thereby and will be enforceable to the fullest extent permitted by law.
23. This Agreement is to be construed in accordance with and governed by the laws

applicable in the Province of British Columbia.

24. This Agreement may be executed in counterpart with the same effect as if all parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement. This Agreement may be delivered by electronic means.
25. The \*\*\*, the registered holder of a charges by way of \*\*\*\* against the Lands and registered under No. \*\*\*\*\* (the "**Charge**") in the Land Title Office at Victoria, British Columbia, for and in consideration of the sum of One (\$1.00) Dollar paid by the Transferee to the said Chargeholder (the receipt whereof is hereby acknowledged), agrees with the Transferee, its successors and assigns, that the within section 219 Covenant shall be an encumbrance upon the Lands in priority to the Charge in the same manner and to the same effect as if it had been dated and registered prior to the Charge.

**IN WITNESS WHEREOF** the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C (page 1) and Form D (page 2) attached hereto.

## Schedule "A" Single Family Equivalent Units

Use	Number of Single Family Equivalent Units
Residential dwelling unit (including single family, apartment, condominium, duplex or other multi family facility)	1 Unit per dwelling unit
Bed and Breakfast	1 Unit per building
Hotel/Motel	1 Unit per room
Cabin	1 Unit per cabin
Mobile Home Space	1 Unit per space
Commercial Building with 1 Business and up to 3 employees	1.25 Units per building
Commercial Building with 1 Business and 4 or more employees	1.5 Units per building
Commercial Building with more than 1 Business and and up to 3 Employees	1.25 Units per building
Commercial Building with more than 1 Business and 4 or more employees	1.5 Units per building
Restaurant	2 Units per building
Church	1 Unit per building
School	1 Unit per classroom
Other	1 Unit for each building with 1360 liters of daily winter consumption of water

If the Single Family Equivalent has not been designated in the table above, the unit calculation will be based on the **Minimum Daily Design Flow** as specified in the Sewerage System Standard Practice Manual, Version 2, September 21, 2007, prepared by the BC Onsite Sewage Association

Single Family Equivalents shall be verified with the installation of water meter(s) at the proposed property lines.