

Appendix 2: Referral Comments

**From:** Bednard, Gordon ALC:EX <Gordon.Bednard@gov.bc.ca>  
**Sent:** Friday, March 29, 2019 2:16 PM  
**To:** Wendy Miller  
**Subject:** RE: Proposed Bylaw No. 4266 (Port Renfrew DPAs and DAI) - CRD Referral

Wendy Miller,

The Agricultural Land Commission (ALC) thanks you for the opportunity to comment on Proposed Bylaw 4266, an amendment to existing Bylaw 3109. It is the understanding of the ALC that the proposed bylaw would enable the Regional District to require submission of certain information from persons who propose development within sensitive ecosystem or riparian areas.

The ALC has noted that only a small portion of the area affected by this proposed DPA is designated as ALR: the portion of SW1/4 Section 6, TWP 10 north of Parkinson Road. It appears that there is no active agricultural land use in this area and much of this land is forest covered.

The ALR is not subject to the Riparian Area Regulation. This is correctly reflected in Section 6.3 J of the proposed bylaw which states that no development permit will be required in any DPA for "Normal farm practices as defined in the Farm Practices Protection (Right to Farm) Act, and farm uses as defined in the Agricultural Land Reserve Use, Subdivision and Procedure Regulation". As an aside, please note that since your report was written, ALC Regulations have been amended. Please view these new regulations at:

<http://www.bclaws.ca/civix/content/complete/statreg/524872423/02036/reg02036/?xsl=/templates/browse.xsl> .

With the above in mind, the ALC has no further comment on Draft Bylaw 4266.

Gordon Bednard  
Regional Planner, ALC  
604-660-7011 (direct)

**From:** Mike Tippet <Mike.Tippet@cprd.bc.ca>  
**Sent:** Tuesday, March 12, 2019 5:25 PM  
**To:** Wendy Miller  
**Subject:** Proposed Bylaw No. 4266 (Port Renfrew DPAs and DAI) - CRD Referral

Dear Ms. Miller, please be advised that the CVRD has no comments with respect to the proposed Bylaw No. 4266 (Port Renfrew DPAs and DAI).

Thank you.

Mike Tippet MCIP, RPP  
Manager, Community Planning  
Land Use Services Department  
Cowichan Valley Regional District  
175 Ingram Street, DUNCAN, BC V9L 1N8

**From:** FPP.PAC.Enquiries / Renseignements.PPP.PAC (DFO/MPO) <XPAC.EnquiriesPacific@dfo-mpo.gc.ca>  
**Sent:** Thursday, February 28, 2019 8:18 AM  
**To:** Wendy Miller  
**Subject:** RE: Proposed Bylaw No. 4266 (Port Renfrew DPAs and DAIA) - CRD Referral

Hi Wendy,

The role of the DFO's Fisheries Protection Program (FPP) is to protect and conserve fish and fish habitat in support of Canada's coastal and inland fisheries resources, and to make regulatory decisions under the fisheries protection provisions of the Fisheries Act. The FPP is specifically responsible for reviewing projects for which a s.35(2) Fisheries Act Authorization is required.

DFO does not have a regulatory role related to the Proposed Bylaw No. 4266 because it does not directly propose works, undertakings or activities that may result in serious harm to fish.

DFO's Projects Near Water website (<http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>) includes information for proponents on how to comply with the *Fisheries Act*, request a DFO review of a project, and request a *Fisheries Act* authorization.

If you have any further questions about DFO's regulatory process or need general information, contact DFO's Fisheries Protection Program toll free: 1-866-845-6776 or email: [EnquiriesPacific@dfo-mpo.gc.ca](mailto:EnquiriesPacific@dfo-mpo.gc.ca).

Regards,

Vanessa Holland

Fisheries Protection Biologist, Fisheries Protection Program  
Fisheries and Oceans Canada | Government of Canada

Biologiste de la protection des pêches, La protection des pêches Programme  
Pêches et Océans Canada | Gouvernement du Canada



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RESPONSE SUMMARY – PROPOSED BYLAW NO. 4266

☒ Interest Affected by Proposal for Reasons Outlined Below

☐ Interest Unaffected by Proposal

Comments:

- PLEASE SEE ATTACHED PAGES

Dr. J. Smith PA, RPB ECOSYSTEM BIOLOGIST  
Signed Title

MARCH 21, 2019 ECOSYSTEMS SECTION  
Date Agency  
FLNROR - WEST COAST

## **Proposed Bylaw No. 4266**

**Comments - Ministry of Forests, Lands, Natural Resource Operations and Rural Development**

### **General Comment**

The Riparian Areas Regulation has been in place since 2005; consequently, work underway before passing of Bylaw No. 4266 should conform to RAR requirements.

### **Background Page 1**

“Staff have prepared proposed Bylaw No. 4266 (Appendix 1) to amend the Port Renfrew Comprehensive Community Development Plan to reflect the current legislative framework for riparian areas based on an approach utilized in other OCPs in the Juan de Fuca Electoral Area (JdF EA).”

Hopefully, the legislation is the same throughout the CRD to avoid confusion among land developers.

### **Planning Implications Page 2**

#### **Proposed Marine Shoreline Development Permit Areas**

“A shoreline protection development permit area (DPA) is proposed for the protection of the environment and for the protection of development from hazardous conditions. This permit area is proposed to extend 15 m inland from the natural boundary of the sea. As there are currently no floodplain regulations in place for Port Renfrew, the establishment of a shoreline protection DPA would allow CRD to request geotechnical review of any development proposed within 15 metres of the shoreline. As the upland area along a shoreline is also considered to have ecological values, a professional report would also be required to address this where appropriate.”

I endorse the proposed 15 m shoreline protection development area. In addition to the already identified benefits of environmental protection and for the protection of development from hazardous conditions, it may also provide protection for archaeological sites which often occur along the marine shoreline.

Ideally, the benefits and potential impacts of proposed shoreline development projects (especially shore protection works) within the CRD should be evaluated using a structured approach such as that recently developed by SNC – Lavalin for the Nature Trust of BC and the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (copy attached – but not for general distribution at this time as it is still in draft form).

#### **Proposed Sensitive Ecosystem Development Permit Areas Page 2**

“For non-fish bearing streams where RAR is not applicable, a sensitive DPA is proposed that protects the freshwater ecosystem values of these areas such as providing habitat for numerous species and maintaining the natural hydraulic regime for water conservation purposes.”

RAR applies to non-fish bearing watercourses. The only situations where RAR does not apply are non-fish bearing isolated wetlands, ditches or springs that are not connected by surface flow at any time of the year to something referred to in (a) or (b).

- (a) A watercourse whether it usually contains water or not;
- (b) A pond, lake, river, creek or brook.

I endorse the proposed protection of watercourses that are not protected by RAR.

#### **4.13 Development Approval Information Page 4**

##### **Designation**

“D. All lands defined by the *Riparian Areas Regulation (RAR)* as a Riparian Assessment Area, which include: (a) for a stream, the 30 metre strip on both sides of the stream, measured from the high water mark, (b) for a ravine less than 60 metres wide, a strip on both sides of the stream measured from the high water mark to a point that is 30 metres beyond the top of the ravine bank, and (c) for a ravine 60 metres wide or greater, a strip on both sides of the stream measured from the high water mark to a point that is 10 metres beyond the top of the ravine bank.”

Although the above infers the inclusion of lakes, wetlands and ditches within the Riparian Areas Regulation, I think that this should be clearly stated somewhere within proposed Bylaw No. 4266 so that people couldn't say that they didn't know these waterbodies were protected by RAR.

#### **6.4 Shoreline Protection Development Permit Area**

##### **6.4.5 Guidelines for the Shoreline Protection Development Permit Area Page 9**

“Development permits for development in the Shoreline Protection DPA will be considered in accordance with the following guidelines:

H. A Qualified Professional (QP) must design any shore protection works.”

Coastal marine processes are very complex; consequently, shore protection works should be designed by experienced coastal engineers. The majority of Professional Geoscientists and Professional Engineers lack this expertise.

Please consider a separate clause dealing with forage fish (e.g., surf smelt and Pacific sand lance) to bring the issue to peoples' attention and protect this important resource. Perhaps something along the lines of, “If work is proposed on the foreshore or if machinery will be driven along the beach, a forage fish survey must be done by a QEP. If forage fish eggs are found on the beach

then use low impact mats on the beach to minimize the killing of embryos. Foreshore works should be located outside of forage fish spawning areas.”

#### **6.5 Riparian Development Permit Area**

##### **6.5.4 Specific Exemptions for the Riparian Development Permit Area Page 11**

“F. Watercourses that have been determined to be non-fish bearing by a QEP.”

As I previously mentioned, non-fish bearing watercourses are protected by RAR. Fish absence is difficult to prove. It requires following a set provincial government protocol which requires sampling over several years. The opinion of a QEP that a waterbody is non-fish bearing without follow the required sampling protocol is without merit.

##### **6.5.5 Guidelines for the Riparian Development Permit Area Page 11**

“B. Modification of channels, banks or shores must not result in harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes within the Riparian DPA.”

Any proposed modification of channels, banks or shores first requires the submission of a Notification or Approval under the BC Water Sustainability Act.

“C. The removal of gravel and soil from streams is prohibited unless otherwise approved by the provincial or federal government.”

The removal of gravel and soil from any watercourse first requires obtaining an Approval under the Water Sustainability Act from the Province.

Page 12

“E. Stream crossings will be avoided, but where this is not possible, bridges are preferred rather than culverts, and any works will be sited to minimize disturbance to banks, channels, shores and vegetative cover, and must be approved by the Province.”

The submission of a Notification under the Water Sustainability Act is required.

“F. Culverts may be designed to encourage in-stream storage of water to allow the unrestricted movement of fish in both directions.”

Culverts must also be installed so that they pass fish at all life stages.

“I. As a condition of the issuance of a development permit, compliance with any or all conditions recommended in a report by a QEP, prepared in accordance with the RAR, will be considered by the CRD and may be included in a development permit.”

A RAR post-development report prepared by a QEP should also be a requirement of the development permit. Post-development reports are required under the Riparian Areas Regulation.

“U. To avoid encroachment, fencing may be required prior to, during or after construction.”

At the very least, the boundary of the SPEA should be permanently marked. Local governments are strongly encouraged to make permanent fencing of SPEAs a mandatory element of developments by watercourses.

#### **6.6 Sensitive Ecosystem Development Permit Area**

##### **6.6.4 Specific Exemptions for the Sensitive Ecosystem Development Permit Area Page 14**

“B. Removal of hazardous trees that threaten the immediate safety of life and buildings.”

This should require assessment and a report from a certified arborist.

##### **6.6.5 Guidelines for the Sensitive Ecosystem Development Permit Area Page 15**

Development permits for development in Sensitive Ecosystem DPA will be considered in accordance with the following guidelines:

“B. The removal of gravel and soil from streams is prohibited unless otherwise approved by the provincial or federal government.”

As previously mentioned, the removal of gravel and soil from any watercourse first requires obtaining an Approval under the Water Sustainability Act from the Province.

Dr. Grant Bracher P.Ag., R.P.Bio.

Ecosystem Biologist

Ministry of Forests, Lands, Natural Resource Operations and Rural Development  
West Coast Region

March 21, 2019





RESPONSE SUMMARY – PROPOSED BYLAW NO. 4266

☒ Interest Affected by Proposal for Reasons Outlined Below

☐ Interest Unaffected by Proposal

Comments:

Pacheedaht First Nation is currently undergoing a community driven land use planning process, including the immediate vicinity of Port Renfrew.

PFN respectfully requests to engage with CRD on this matter to insure adequate and appropriate understanding of this initiative in order to facilitate a cooperative dialogue regarding this referral. We look forward to scheduling a meeting or conference call on this matter.

Signed

Title

Date

Nation



**Pacheedaht First Nation**  
350 Kalaid Street  
Port Renfrew, BC  
V0S 1K0  
Phone: (250) 647-5521  
Fax: (250) 647-5561

May 14, 2019

Capital Regional District  
Juan De Fuca Community Planning  
3-7450 Butler Road  
Sooke, BC V9Z 1N1

**Attention: Iain Lawrence**

Dear Sirs/Mesdames:

**Re: Proposed Bylaw No. 4266 and Referral #RZ000242**

Thank you for your efforts to inform Pacheedaht First Nation on the two files above as they relate to Pacheedaht territory and processes.

The proposed Bylaw # 4266 will help to update the parameters in Port Renfrew to bring development into compliance, as required in CRD's jurisdictions. PFN recommends it as an interim step to bring more oversight to hazardous conditions currently being challenged, including slope stability, geotechnical review, and compatible land uses with marine stewardship. The long term solution will still require an updating of the OCP, and therefore it is critical for CRD to implement a plan for the OCP to be updated, to reflect current land use and needs from both Pacheedaht and Port Renfrew Community.

Until such time, PFN would like to discuss the possibility of also integrating developmental considerations around heritage and archeological sites, to recognize Pacheedaht's strong rights and title central to Port Renfrew.

PFN is completing the Land Use Plan for the territory and would like to be involved in CRD land use planning conversations to facilitate communication now; with Treaty negotiations progressing, it is important to facilitate this communication to enable both governments to work collaboratively in the region. In particular, any advances in the understanding of flood risks, tsunami risks, liquefaction, or sea level rise would be very helpful to learn from the CRD's perspective. We would be happy to discuss the initial Pacheedaht Land Use Plan when appropriate.

With respect to Referral #RZ000242, PFN has concerns regarding the high strength of claim and cultural values in the area of the application. The development area has

known archeological sites and undocumented sites, both of which are vitally importance to PFN.

The Nation also retains the water lot lease to the Southeast of the marina infrastructure and want to ensure the impacts from this application are better understood. Any infrastructure improvements relating to drainage, grey water, and sewage contemplated by the new zonation will need further conversation.

We look forward to being informed of the next steps for both files

Respectfully,

A handwritten signature in black ink, appearing to be 'K. Pearson', with a stylized flourish at the end.

Kristine Pearson  
Pacheedaht Referrals Coordinator

**From:** Signe Bagh  
**Sent:** Tuesday, March 05, 2019 4:31 PM  
**To:** Wendy Miller  
**Cc:** Jeff Weightman  
**Subject:** FW: Proposed Bylaw No. 4266 (Port Renfrew DPAs and DAI)

Wendy,

Thanks for the referral. We don't foresee any issues with RGS consistency. The proposed riparian, sensitive ecosystem DPA and shoreline protection DPA's increase the protection of environmentally sensitive areas, and minimize impacts on the natural environment.

The additional DPA's protect and conserve lands surrounding fresh and marine water bodies as outlined in the RGS policy 2.1.4 and 3.3. The additional policies support the integrity of rural communities, and are consistent with the growth management concept map.

I presume you will let us know once you are ready for us to prepare a report to PPSC/Board for their determination of RGS consistency?

Thanks.

Signe

**From:** Pete Godau <[pgodau@sd62.bc.ca](mailto:pgodau@sd62.bc.ca)>  
**Sent:** Friday, February 22, 2019 11:37 AM  
**To:** Wendy Miller  
**Cc:** Scott Stinson; Harold Cull; Farzaan Nusserwanji; Joanne Kimm  
**Subject:** FW: Proposed Bylaw No. 4266 (Port Renfrew DPAs and DAI) - CRD Referral  
**Attachments:** PPS-JDF-2019-01-21-BL4266-StaffReport-LUC-Referral.pdf; PPS-JDF-2019-02-21-Referral-Agency-BL4266\_SD62Comments.pdf

Good morning Wendy,

At this time the school district does not have any concerns with this referral.

Thank you,

Pete

**Peter Godau**  
Director of Facilities | School District # 62  
P (250)474-9840 Ext 203 | C (250)361-7330 | [pgodau@sd62.bc.ca](mailto:pgodau@sd62.bc.ca)  
Shaping Tomorrow Today

**From:** Schneider, Nikki TRAN:EX <Nikki.Schneider@gov.bc.ca>  
**Sent:** Tuesday, February 26, 2019 10:24 AM  
**To:** Wendy Miller  
**Subject:** RE: Proposed Bylaw No. 4266 (Port Renfrew DPAs and DAI) - CRD Referral

Good Morning Wendy,

Please accept this as official response from the Ministry of Transportation and Infrastructure in regards to proposed Bylaw No.4266; Ministry File 2019-00978.

The Ministry has no objections to the proposed and there are no conditions at this time.

Should you have any questions or concerns, please let me know.

Have a great day!

**Nikki Schneider**

Senior District Development Technician  
Ministry of Transportation and Infrastructure – Vancouver Island District  
Ph: 778-974-2633  
Fx: 250-952-4508