

ADMINISTRATIVE REPORT



TO: Planning and Development Committee

FROM: B. Newell, Chief Administrative Officer

DATE: March 21, 2019

RE: Foreshore (i.e. Docks and Moorage) Regulations

Administrative Recommendation:

THAT the Okanagan Electoral Area Zoning Bylaws be amended to introduce a Water Use Zone in order to regulate the development of commercial docks.

Purpose:

Further to the direction provided by the Planning and Development (P&D) Committee at its meeting of May 3, 2018, the purpose of this report is to present a proposed new “Water Use Zone” (W1) to be applied along the major lakes in the Okanagan Electoral Areas.

Background:

In January of 2015, the RDOS received a referral from the provincial government regarding a proposed commercial use of Crown land on Osoyoos Lake for the purposes of a float plane dock located adjacent to a winery. Administration responded to this referral with concerns over potential uses and conflicts with other upland properties and recommended refusal; however, there were no zoning regulations governing such water-based uses.

Discussion at the Board regarding whether or not the RDOS should have some form of regulation over proposed commercial docks began in 2017 when the winery referenced above received its Licence of Occupation for a Commercial Wharf from the provincial government.

At its meeting of April 5, 2018, the P&D Committee heard a presentation from Patrick Tobin, Regional Manager, from the Ministry of Forests, Land, Natural Resources, Operations, and Rural Development (MFLNRO). Mr. Tobin discussed the Crown approval process for moorages and docks, and the possible role for local governments in regulating the foreshore.

At its meeting of May 3, 2018, the P&D Committee requested further research on the potential of creating a new water zone along the lakeshore of Okanagan Valley lakes, to be included in the Okanagan Valley Electoral Area Zoning Bylaw.”

Statutory Authorities:

The construction and placement of private moorage facilities on aquatic Crown land (foreshore) requires authorization from the MFLNRO. Private moorage facilities include docks, boat ways/ramps or boat lifts that are used for private residential use. A General Permission may be granted for docks on aquatic Crown land as long as it is constructed in accordance with the terms and conditions contained in the General Permission to Use Crown Land for a Private Moorage Dock.

For commercial moorage facilities, a tenure from the Province must first be obtained to lease Crown land (foreshore) in order to operate the facility. Obtaining a tenure for a commercial use is a three-

step process including securing a 1 year temporary licence from the Province to allow for time to seek the necessary approvals from other government agencies and to prepare a development plan.

Under the BC *Local Government Act*, local governments may designate zoning over the surface of water. In the RDOS, the only regulations for docks and boatlifts are contained within the Electoral Area “F” Zoning Bylaw and were put in place mainly for the proposed Greata Ranch development. These general regulations outline sizes, shapes, and setbacks for docks.

Member municipalities have a variety of approaches to water zoning:

- The Town of Osoyoos updated their Foreshore and Lake Zoning Bylaw in October 2018 in order to provide four water zones that extend over Osoyoos Lake by approximately 100 m. The Town also updated their Official Community Plan to include new Foreshore Development Permit guidelines to address the installation of docks.
- The District of Summerland has regulations within its zoning bylaw for three types of water zones.
- Neither the Town of Oliver nor the City of Penticton have zoning regulations for docks or moorage facilities.

Analysis:

The intent of the proposed zoning amendments is to allow the RDOS to retain some control over intensive water uses such as float plane moorage, marinas and commercial wharves, but to not regulate every private dock associated with an upland residential use.

Administration proposes several changes to the Electoral Area Zoning Bylaws that are within the Okanagan River valley and will include new regulations for Osoyoos Lake, Vaseux Lake, Skaha Lake and Okanagan Lake.

Overall, these changes propose to extend some form of zoning designation over the water for 50 metres from all waterfront parcels. Specifically, these amendments will include the following and are discussed further in the sections below:

- creating a new Water Use (W1) Zone that extends over 50.0 metres of water adjacent to all properties located along the lakeshore of Okanagan Valley lakes;
- extending the existing Parks and Recreation (PR) Zone for waterfront parks by 50.0 metres over adjacent lakes;
- adding “boat launch” as a permitted use in the PR Zone;
- extending the existing Conservation Area (CA) Zone for those lands zoned as CA upland, located along the lakeshore by 50.0 metres over adjacent lakes;
- adding new definitions for “boat launch”, “recreational water activities”, “private moorage”, “General Permission”, and “public docks and moorage”.

By making these amendments to zoning bylaws, Administration will be able to respond clearly when a Crown referral is received for a more intense foreshore use (i.e. a commercial wharf) that a rezoning will be required.

Creation of a new Water Use (W1) Zone:

It is proposed that a new Water Use (W1) Zone will be created and extended 50.0 metres over the water from the adjacent parcel line of waterfront properties, regardless of upland zoning designations. The W1 zone will allow for private water based recreational activities and private moorage and docks subject to being authorized through a Provincial 'General Permission' approval.

Any uses proposed that are more intense than permitted will require a rezoning application. Depending on the proposal, a new site-specific Intensive Water Use zone (W2) will be created to match what is being proposed.

For example, when the Crown Lands referral for a commercial float plane dock came in for a winery on Osoyoos Lake, the RDOS would have required the owner to seek a rezoning for the proposed use to occur because it was over and above what would be permitted in the W1 zone.

Parks and Recreation (PR) Zone

The current Parks and Recreation (PR) Zone permits amongst other uses "outdoor recreation services" and "public moorage and marina". Outdoor recreation is defined as meaning: "a facility used and equipped for the conduct of outdoor sports, leisure and entertainment activities, instructional courses and equipment rentals and may require amenities such as showers and storage, and that excludes equestrian centres and golf courses".

A "boat launch" use is not currently included within any the zoning designations. On reviewing the mapping and locations of the known official boat launches, it appears that the majority of boat launches are within a public park or a MOTI road right-of way. By adding "boat launch" to the permitted PR Zones and extending the zoning out over the water, this will allow for the existing boat launches (e.g. Kaleden, OK Falls, Naramata) to continue as they are currently used. The PR zone would also extend over water adjacent to known boat launches using MOTI road ends.

Conservation (CA) zone:

Conservation zones are placed over lands that are identified as having significant environmental values and are often held by private owners and conservation organizations such as Nature Trust BC or the Lands Conservancy.

For example, much of Vaseux Lake upland water frontage is zoned for Conservation Area (CA) and extending the CA Zone 50.0 metres onto the lake will provide additional protection around most of the lake's important riparian values. There are also a number of parcels along Skaha Lake and Okanagan Lake that are zoned CA that will also benefit from having the zone extended over the water.

Increasing the CA Zone over the water will also enable the RDOS to ensure any proposals along the waterfront are also permitted within the CA zone, otherwise a rezoning will be required.

Definitions:

The following definitions are being added to each Zoning Bylaw to help interpret the uses permitted. The current permitted use "Public Moorage and Marina" in the Parks and Recreation zone is to be replaced with "Public Docks and Moorage". This is being recommended because the word "Marina" is seen to be a more intensive use than public moorage and docks. Marinas usually include more commercial or private uses such as long term moorage and sales of marine petroleum products.

“recreational water activities” means leisure activities that take place in areas associated with the water and water access, such as fishing, water skiing, boating, swimming, and diving;

“private moorage” means a fixed or removable dock, fixed or removable walkway, boatlift or private buoy;

“general permission” means an authorization under the Provincial General Permission for the Use of Crown Land for Private Moorage, version January 17, 2017, or as amended;

“boat launch” means a ramp into the lake that is used for the purpose of launching or removing a boat from the water;

“public docks and moorage” means a fixed or floating structure that can be used as a landing or the tying up of a watercraft;

Electoral Area “F” exception:

Area “F” is the only Electoral Area that currently has zoning regulations for docks and boat lifts and that extends over the lakeshore. These regulations were put in place because of the existing Greata Ranch mixed use zoning. There is a section contained in the general regulations specifically for Docks and Boatlifts that outlines the size, shape, setbacks from property line, and conditions of use. Administration proposes to keep the zoning regulations as they are for Electoral Area “F”, unless otherwise directed by the Board.

Site specific Intensive Water Use zones would need to be developed to capture the multi-unit residential, commercial proposals and marina use intended for Greata Ranch development. It should be noted that for any existing docks or moorage that do not meet the new zoning, they will be considered legally non-conforming and allowed to exist.

Action Items:

If the recommended direction to make these changes are supported by the Board, then the next steps would be to draft the amendment bylaws and mapping, engage with the community for feedback, and then proceed with the formal adoption process.


Respectfully submitted


E. Riechert, Planner

Endorsed by:


C. Garrish, Planning Manager

Endorsed by:


B. Dollevoet, General Manager Dev. Services

- Attachments:** No. 1 –Proposed Water Use Zone (W1)
No. 2 – Proposed Water Zone for Osoyoos Lake
No. 3 – Proposed Water Zone for OK Falls
No. 4 – Proposed Water Zone for Kaleden
No. 5 – Proposed Water Zone for Naramata
No. 6 – Proposed Water Zone for Vaseux Lake

WATER USE ZONE (W1)

.1 Permitted Uses:

Principal Uses:

- a) recreational water activities;
- b) private moorage, subject to Provincial 'General Permission' authorization

.2 Site Specific Water Zone One (W1s) Provisions:

- a) see Section 17.19

.3 Minimum Parcel Size:

- a) Not applicable

.4 Minimum Parcel Width:

- a) Not applicable

.5 Minimum Setbacks:

- a) Not applicable

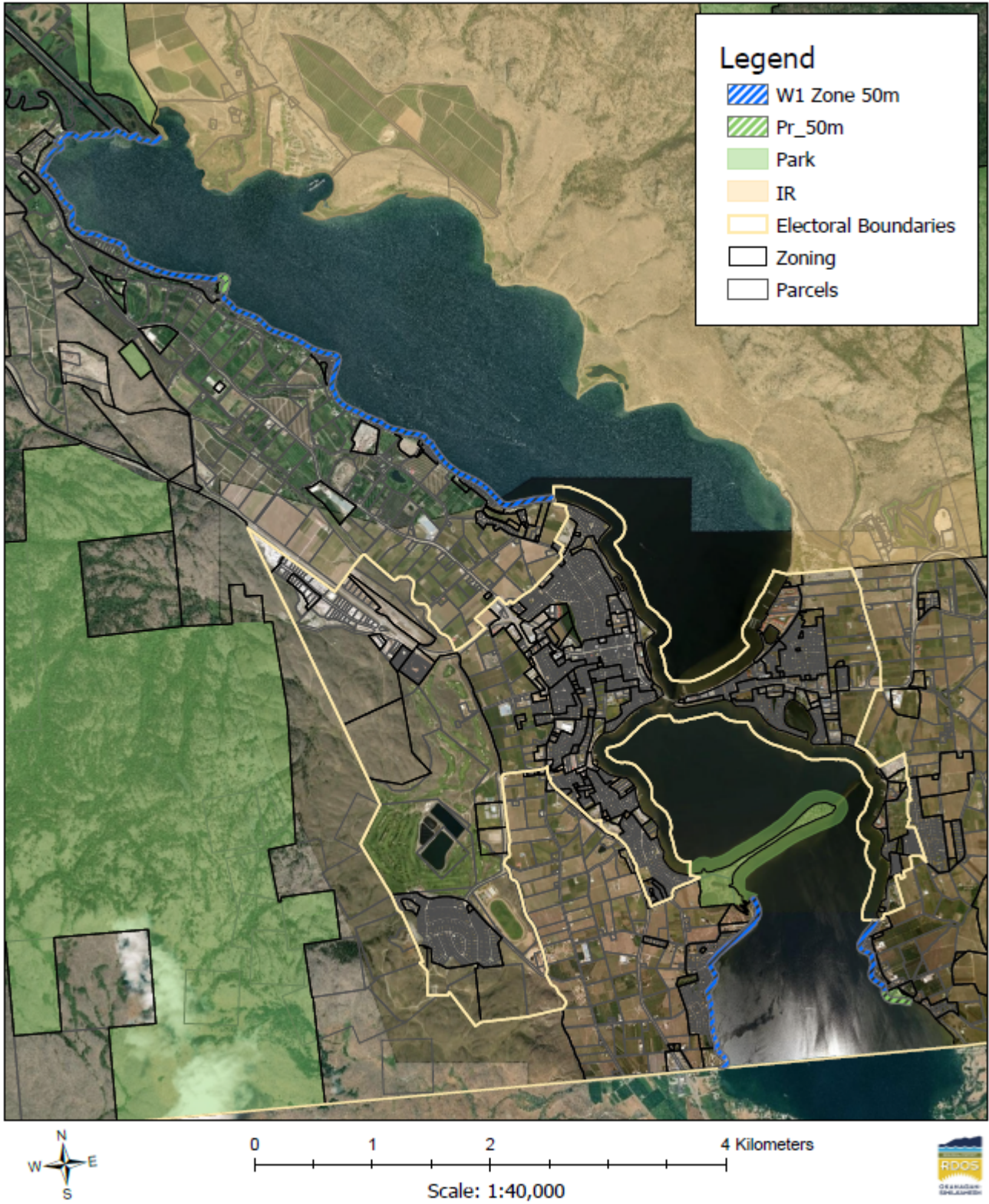
.6 Maximum Height:

- a) Not applicable

.7 Maximum Parcel Coverage:

- a) Not applicable

Attachment No 2 – Proposed Water Zone for Osoyoos Lake



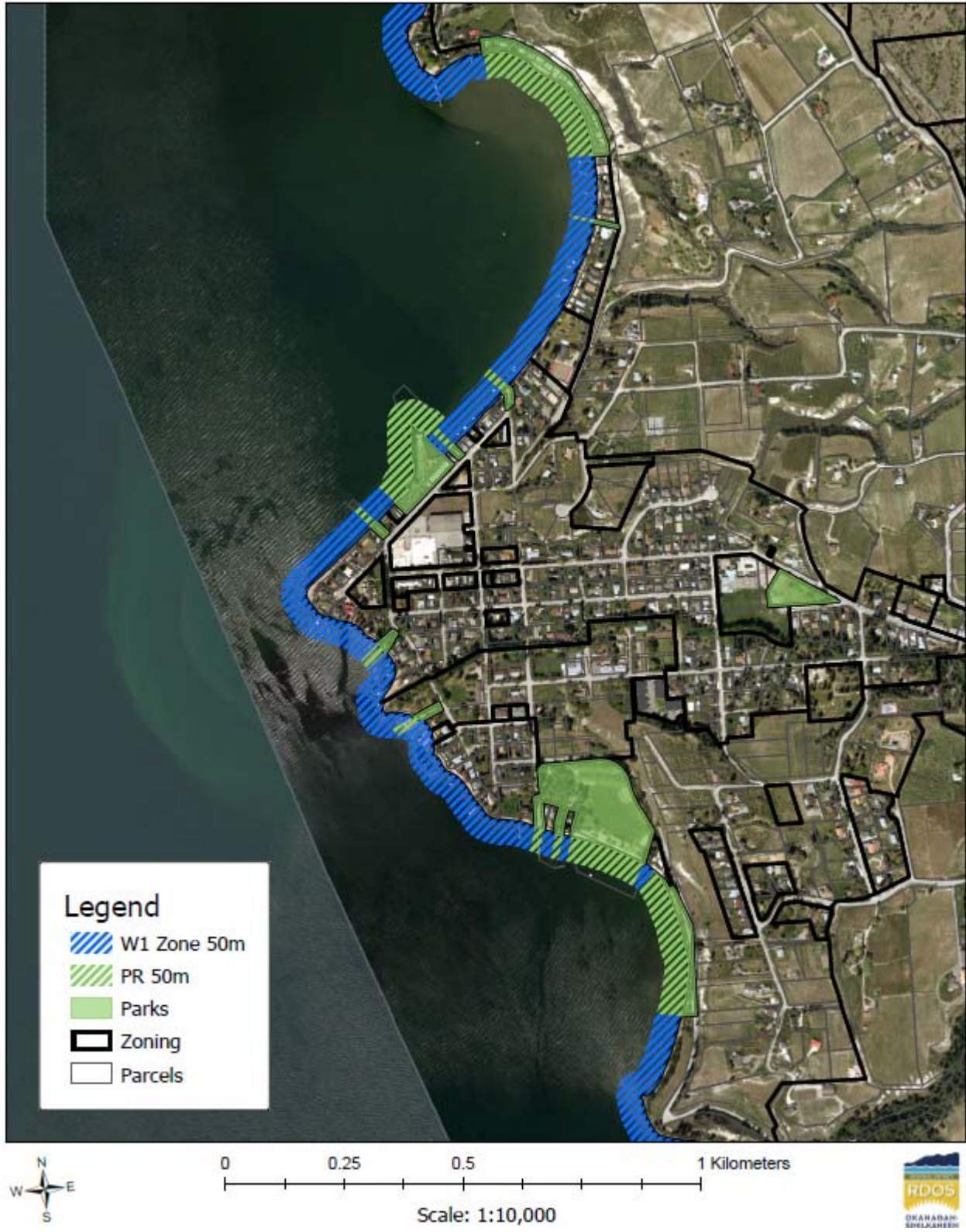
Attachment No. 3 – Proposed Water Zone for Okanagan Falls



Attachment No. 4 – Proposed Water Zone for Kaleden



Attachment No. 5 – Proposed water Zone for Naramata



Attachment No. 6 – Proposed Water Zone for Vaseux Lake

