

Lauri Feindell

Subject: FW: Bylaw Referral X2019.009-ZONE

From: Meeks, Tori FLNR:EX <Tori.Meeks@gov.bc.ca>

Sent: May 4, 2020 9:51 AM

To: Lauri Feindell <lfeindell@rdos.bc.ca>

Subject: RE: Bylaw Referral X2019.009-ZONE

Hi Lauri,

The interests of the Mountain Resorts Branch are unaffected by this bylaw referral.

I also wanted to advise that our branch now has a general email for referrals and inquiries. In future, please direct referrals for our branch to MountainResortsBranch@gov.bc.ca .

Thanks,
Tori

RESPONSE SUMMARY

AMENDMENT BYLAW NO. 2862

- Approval Recommended for Reasons Outlined Below
- Interests Unaffected by Bylaw
- Approval Recommended Subject to Conditions Below
- Approval Not Recommended Due to Reasons Outlined Below

Council considered this at the May 19th, 2020 Council meeting with the following staff recommendations see below:

Approval Recommended with a notation that RDOS staff and Town of Osoyoos staff continue to work together to ensure that incompatible uses are prevented from locating adjacent to each other across jurisdictional boundaries.

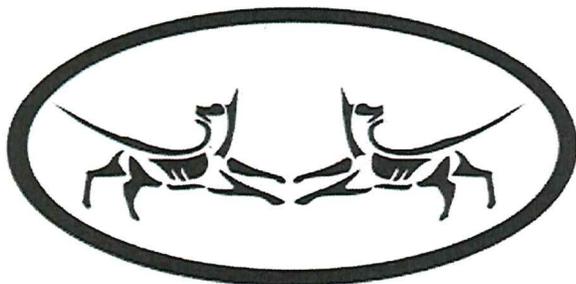
Signature: 

Signed By: Gina MacKay, MCIP, RPP

Agency: Town of Osoyoos

Title: Director of Planning and Development

Date: May 26, 2020



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

Bylaw Referral X2019.009-ZONE

FN Consultation ID:

L-200504-X2019-009-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan-Similkameen](#)

Date Received:

Wednesday, May 6, 2020

WITHOUT PREJUDICE AND NOT TO BE CONSTRUED AS CONSULTATION

May 6, 2020

Attention: Planning RDOS

File number: X2019.09-ZONE

Bylaw: 2862

RE: 40 (forty) day extension

Thank you for the above application that was sent on May 4, 2020.

This letter is to inform you that due to current levels of internal capacity, we are unable to review your referral in your proposed timeline. With additional time, the Penticton Indian Band will be able to ensure that an informed review process will occur. We are setting the new timeline to be 40 days from the existing timeline.

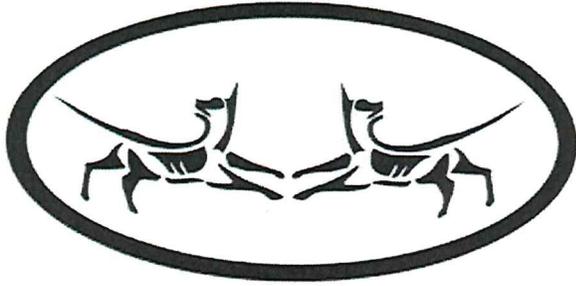
Most recently, the Supreme Court of Canada in the Tsilquot'in case confirmed that the province has been applying an incorrect and restrictive test to the determination of Aboriginal Title, and that Aboriginal Title includes the exclusive right of a First Nation to decide how that land is used and the right to benefit economically from those uses.

Please note that not receiving a response regarding a referral from Penticton Indian Band in the pre-application, current or post-application stage does not imply our support for the project.

I appreciate your co-operation.

limlɛmt,

Maryssa Bonneau
Referrals Administrator
P: 250-492-0411
Referrals@pib.ca



Penticton Indian Band
Natural Resources Department
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[Regional District of Okanagan-Similkameen](#)

Date Received:

Wednesday, May 6, 2020

WITHOUT PREJUDICE AND NOT TO BE CONSTRUED AS CONSULTATION

May 6, 2020

Attention: Planning RDOS

File Number: X2019.09-ZONE

Bylaw: 2862

We are in receipt of the above referral. This proposed activity is within the PIB Area of Interest within the Okanagan Nation's Territory, and the lands and resources are subject to our unextinguished Aboriginal Title and Rights.

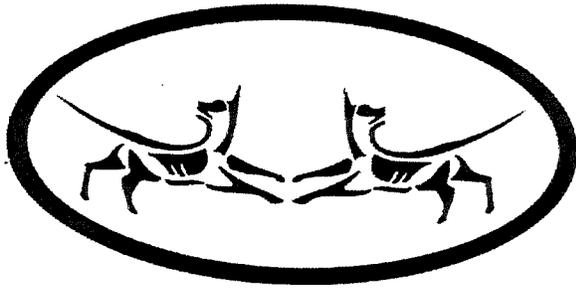
The Supreme Court of Canada in the *Tsilhqot'in* case has confirmed that the province and Canada have been applying an incorrect and impoverished view of Aboriginal Title, and that Aboriginal Title includes the exclusive right of Indigenous People to manage the land and resources as well as the right to benefit economically from the land and resources. The Court therefore concluded that when the Crown allocates resources on Aboriginal title lands without the Indigenous peoples' consent, it commits a serious infringement of constitutionally protected rights that will be difficult to justify.

PIB has specific referral processing requirements for both government and proponents which are integral to the exercise of our management right and to ensuring that the Crown can meet its duty to consult and accommodate our rights, including our Aboriginal title and management rights. According to this process, proponents are required to pay a \$500 processing fee for each referral. This fee must be paid within 30 days. Proper consultation and consideration of potential impacts cannot occur without the appropriate resources therefore it is only with payment that proper consultation can begin and the proposed activity/development can be reviewed.

Upon receipt of the processing fee, we will commence our review. You may then expect to receive a letter from us notifying you of the results of our review of potential impacts of the project within 30 to 90 days.

If the proposed activity requires a more in-depth review, PIB will notify the proponent and all parties will negotiate a memorandum of agreement regarding a process for review of the proposed activity.

Please note that our participation in the referral and consultation process does not define or amend PIB's Aboriginal Rights and Title, or limit any priorities afforded to Aboriginal Rights and Title, nor does it limit the positions that we may take in



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

Bylaw Referral X2019.009-ZONE

FN Consultation ID:

L-200504-X2019-009-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

Regional District of Okanagan-Similkameen

Date Received:

Wednesday, May 6, 2020

Activity No Payment

WITHOUT PREJUDICE AND NOT TO BE CONSTRUED AS CONSULTATION

June 23, 2020

File number: X2019.09-ZONE

Attention: Planning RDOS

Re: Bylaw Referral X2019.009-ZONE

We write regarding your failure to pay invoice #L-200504-X2019-009 to conduct a review to obtain additional information in the area of the above referral. To date, no payment has been received and we have therefore been unable to conduct a review of this referral; we must therefore put you on notice that we do not consent, agree or otherwise approve of the activity / development referred to by you in your letter to us dated May 4, 2020.

The Okanagan Nation holds unextinguished aboriginal title to the land and resources within our traditional territory. The above-noted activity / development is within PIB's Area of Responsibility within Okanagan territory and as such, is subject to Okanagan title, jurisdiction, rights and interests, and PIB decision making and responsibility.

Over the last two decades, the Supreme Court of Canada has clarified the law respecting the rights of aboriginal people in British Columbia, which includes the Penticton Indian Band, Okanagan Nation. The Court has clarified that Aboriginal title continues to exist in British Columbia, and is protected by s. 35 of the Constitution Act, 1982.

Most recently, in June 2014, the Supreme Court of Canada in the Tsilhqot'in case set out the following characteristics and implications of Aboriginal title:

- Aboriginal title is not limited to intensively used sites; it extends to lands physically occupied and lands over which Indigenous peoples exercised control. Regular use of territories for hunting, fishing, trapping and foraging, with an intention and capacity to control the lands, grounds Aboriginal title.
- The Crown has no beneficial interest (the right to use, enjoy and profit from the economic development of lands) in Aboriginal title lands and resources; the beneficial interest is held by the Aboriginal title holding group. Allocations of

Aboriginal title lands or resources to third parties are serious infringements of Aboriginal title.

- Aboriginal title includes the right to proactively use and manage the resources.
- Once Aboriginal title is “established”, the constitution prohibits incursions without the consent of the Aboriginal title holders unless the Crown can justify the infringement, which in turn requires a compelling and substantial public purpose as well as consistency with the Crown’s fiduciary duty to the Aboriginal title holders, requiring the involvement of the Aboriginal title holding group in decisions.
- Before Aboriginal title is “established”, the only way to ensure certainty is to obtain consent; in the absence of consent, the Crown must consult and accommodate. If consultation or accommodation is inadequate, the Crown decision can be suspended or quashed. Moreover, fulfilling the duty to consult and accommodate does not provide the certainty that consent provides; once Aboriginal title is established, the Crown may be required to cancel projects where there was no consent and the justification test noted above cannot be met.

At this time there has been no reconciliation of our interests with those of the Province of British Columbia and Canada and no process in place to adequately recognize and negotiate co- existence or accommodation of our jurisdiction and title. The Province continues to act as though we have no beneficial interest or authority, and it takes for itself the revenues derived from our lands and resources. The payment of the referral fee is necessary in order for us to assess your proposal, assess potential impacts and determine whether it should be approved and if so, on what conditions. Because we are unable to undertake such an assessment, we must at this time advise you that we are opposed to your proposed development/activity.

limlɛmt,

Maryssa Bonneau
Referrals Administrator
P: 250-492-0411
Referrals@pib.ca

CC: Band and provincial contact

July 14, 2020

RDKB File No. O-2
Please Quote on Correspondence

Regional District of Okanagan-Similkameen
101 Martin Street
Penticton, BC
V2A 5J9

via email: planning@rdos.bc.ca

RE: RDOS proposed OCP and Zoning Bylaw amendments

This is to advise that on June 25, 2020, the Regional District of Kootenay Boundary (RDKB) Board of Directors adopted the following resolutions respecting the above-referenced matter:

305-20 *Moved: Director McGregor*

Seconded: Director Korolek

That the Regional District of Kootenay Boundary Board of Directors advise the Regional District of Okanagan Similkameen that the Regional District of Kootenay Boundary supports the amendments to the Official Community Plan and Zoning Bylaws for RDOS's Electoral Areas 'A', 'C', 'D', 'E', 'F' and 'I' as outlined in the Bylaw Referral.

Carried.

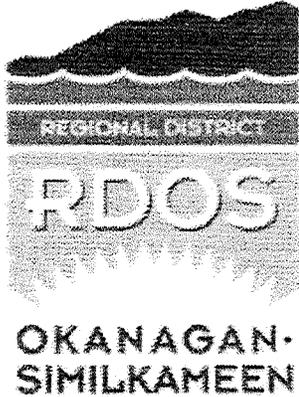
Should you require further information regarding the above, please contact the Planning and Development Department.

Sincerely,



Maria Ciardullo
Planning and Development Department
Senior Secretary

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Feedback Fo

Regional District of Okanagan Similkameen

101 Martin Street, Penticton, BC, V2A-5J9

Tel: 250-492-0237 / Email: planning@rdos.bc.ca

TO: Regional District of Okanagan Similkameen

FROM: Name: Bill & Lynn S
(please print)

Street Address: 137 CARIBOU

RE: Metal Storage Container Regulations Zoning Amendme
Electoral Area "A", "C", "D", "E", "F" & "I" Zoning Bylaw

My comments / concerns are:

- I do support the proposed textual amendments to the Okana Bylaws to regulate the placement of metal storage container:
- I do support the proposed textual amendments to the Okana Bylaws to regulate the placement of metal storage container below.
- I do not support the proposed textual amendments to the Okana Bylaws to regulate the placement of metal storage co

13 May 2020

TO: Cory Labrecque, Planner II
clabrecque@rdos.bc.ca

FM: Bruce Shepherd

RE: COMMENTS ON PROPOSED DOCK REGULATIONS (Bylaw No. 2862)

I would like to submit the following comments in response to version 2020-05-11 of the above-named draft bylaw:

- Let me begin with an overall comment that would be applicable to all Electoral Areas that are covered in this document. I would hope that the final version includes advice that there are other jurisdictions aside from RDOS that may need to be contacted in advance of undertaking any of these structures, including:

- (1) Federal Department of Fisheries and Oceans, who could have concerns regarding Navigable Waters (which the Okanagan system is so designated), aquatic species at risk, and destruction of riparian vegetation and fish habitat.
- (2) BC Ministry of Forests, Lands, Natural Resource Operations & Rural Development, who will grant General Permission for docks, but requires an application for Special Permission for boat ramps and stand-alone boat lifts (and a \$250 application fee).
- (3) I find it discouraging that no accommodation is made in this document for the option of shared docks by neighboring owners of single-residence properties. This has long been a general recommendation by both federal and provincial ministries as a way to reduce the environmental footprint of these structures. Indeed, the requirement of a 5m setback from property lines within this document seems to preclude this option.

- As I reside in Kaleden, the following comments pertain primarily to Electoral Area 'I' but may also apply to other Electoral Areas as well:

- (1) On the advice of the Interior Health Authority and consultant expertise, the Kaleden Irrigation District (KID) has established an Intake Protection Zone (IPZ). Within that IPZ, it would be prudent to require a site-specific review process (that includes KID input) prior to construction of any of the structures listed in this document.
- (2) While the length of dock has been set at 42m in this document to be consistent with Provincial guidelines, this is excessive for smaller waterbodies such as Skaha Lake and Vaseux lake. For normal recreational usage, there is no need for docks to extend out past depths more than 2m.
- (3) The maps of Skaha Lake provided as Schedules 'I-1' and 'I-2' confuse me. The northern sections as mapped would be totally ineffectual for the purpose of regulating nearshore structures. If they are meant to designate that the principal use of the area is for water-based recreation, then the boundary lines should run along the high-water mark. I suspect that the boundaries were set to avoid criticism from First Nations on the western portion and from the City of Penticton on the east side. I suggest that these maps either need to be redrawn, or include some additional explanation of the boundaries. As they sit, they are trying to cover at least two conflicting objectives and are doing so unsuccessfully.

Thanks for taking the time to consider these comments....

Bruce Shepherd

Kaleden, BC V0H 1K0

RESPONSE SUMMARY

AMENDMENT BYLAW NO. 2862

Approval Recommended for Reasons
Outlined Below

Interests Unaffected by Bylaw

Approval Recommended Subject to
Conditions Below

Approval Not Recommended Due
to Reasons Outlined Below

The Kaleden Irrigation District is providing the comments below for consideration prior to the RDOS approving the subject bylaw:

Skaha Lake serves as Kaleden's drinking water source and encouraging more aquatic activity without the RDOS Board's approval would create more pollution to the water and the shoreline. Even with the Board's approval, source water protection may not be taken into their decision.

Our drinking water intake would be more susceptible to damage from anchoring, moorage buoys or platforms that may drift or be illegally installed.

On the advice of the Interior Health Authority and with consultant expertise, the Kaleden Irrigation District (KID) has established an Intake Protection Zone (IPZ). Within that IPZ, it would be prudent to require a site-specific review process (that includes KID input) prior to construction of any of the structures listed in this document. KID recommends that this should be included in the bylaw amendment for all Electoral Areas where water suppliers have established IPZs to protect their water intakes and water quality. Such a review process becomes even more essential should the maximum length of docks remain at 42 m to be consistent with Provincial guidelines. KID is of the opinion that 42 m is excessive for smaller water bodies such as Skaha Lake and Vaseux Lake, and that there is no need for docks to extend out beyond depths more than 2m for normal recreational activities.

The bylaw must enshrine all current and future applicable Federal and Provincial laws.

A copy of Kaleden Irrigation District's brochure containing information on our IPZ, which was sent to all ratepayers on our system, is attached as part of the above comments.

Signature: Cheryl E. Halla

Signed By: Cheryl E. Halla

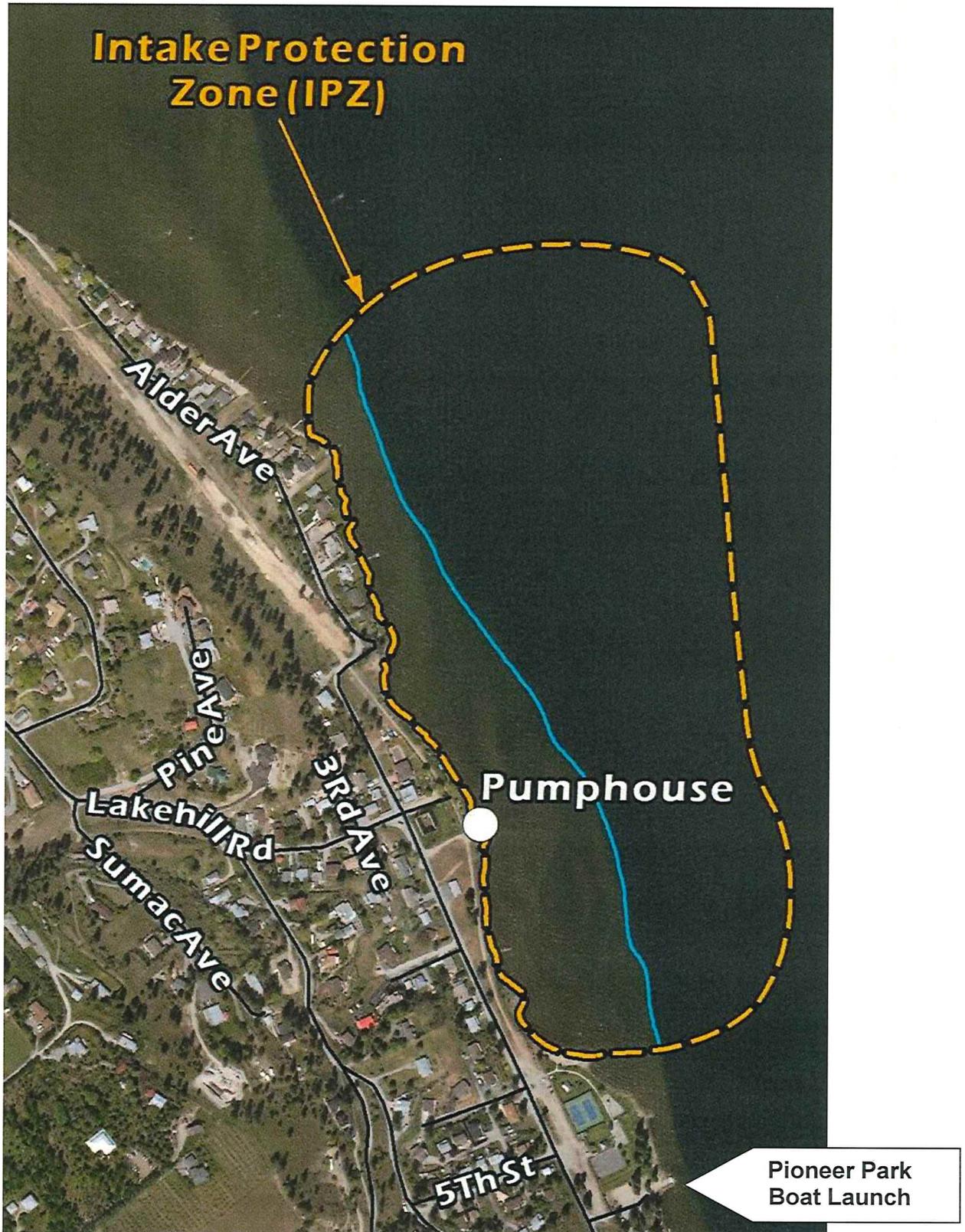
Agency: KALEDEN IRRIGATION DISTRICT

Title: Financial / Corp. Admin

Date: May 25, 2020

KALEDEN'S INTAKE PROTECTION ZONE

Do You Live, Work or Play Near the Yellow Dotted Boundaries on This Map?



If You Do, Check out the Information on the Flip Side!



Lauri Feindell

From: Michael Greig
Sent: July 26, 2020 8:48 PM
To: Planning
Subject: Dock Regulation Review | RDOS

Hello Cory,

I've read with interest the RDOS proposals for proposed dock regulations. They could go a long way to overcoming some of the dock application issues of the past.

I have two questions and one comment. I hope to attend one of the Q&A sessions but thought I might bounce this off you in advance.

1. To what extent will the RDOS have authority over the approval of new docks on Crown land lakes, such as north osoyoos lake? Recommendations from the RDOS to another government body such as Crown Lands holds no merit if they can be ignored or some 'compromise solution' that still bends the intent is struck.
2. To what extent does the RDOS have authority to create bylaws or rules for foreshore use if the upland is controlled by another government agency, such as the Agriculture Land Commission (ALC), who may set their own rules or regulations for use of upland that may not coincide with RDOS desires on the foreshore? The ALC and ALR regulations I believe allow commercial uses of the upland that may conflict with desired foreshore uses. This puts BC Lands in a difficult position having to approve applications if they coincide with upland property uses.
3. It seems that both BC Lands and the ALC need to agree with the direction that the RDOS wish to move in if this is to be effective.

Thankyou for your consideration and great work.

Mike and Sharon Greig,

Osoyoos, BC
VOH 1H2
N

-----Original Message-----

Sent: July 26, 2020 1:19 PM

Subject: Dock Regulation Review | RDOS

<https://www.rdos.bc.ca/development-services/planning/strategic-projects/dock-regulation-review/>

Lauri Feindell

From: Cory Labrecque
Sent: September 23, 2020 11:41 AM
To: Lauri Feindell
Subject: FW: Docks and swimming rafts

-----Original Message-----

From: VELMA BATEMAN <almostparadise@shaw.ca>
Sent: August 10, 2020 8:40 AM
To: Cory Labrecque <clabrecque@rdos.bc.ca>
Cc: Karla Kozakevich <kkozakevich@rdos.bc.ca>
Subject: Docks and swimming rafts

Hello Corey - thanks for the phone call on Friday which helped me to understand why some things are set out as they are! Anyway, I am going to put in my two cents worth for the record.

In my everyday life, I worry a lot about Okanagan Lake. So many towns and cities taking water from it, so many people along the lakeshore using the services of Nutri-lawn which uses formulas containing 2-4D (which of course ends up in the lake due to rain and watering of lawns), so many water vehicles which use gasoline for power and create the attendant emissions, spills, noise pollution, etc.)

Docks create another form of pollution in the lake. My personal experience is that the water and rocks in dock areas are not pristine, a result I assume of the water's rush for the shore being broken up by supports which hold up the docks. For this reason, I think we should be very careful regarding the number of docks permitted and how they are built. I am encouraged that there is provision coming for two properties to share a dock. Something that would have helped some areas of Mill Bay in Naramata and other areas which are 'over-docked'.

As I mentioned, I am astonished to learn that permits would or could actually be granted for docks up to a length of 42 metres. That would outstrip our 100 foot lot in Naramata by over 36 feet!

With regard to the width of docks, reasonable at 1.5 metres, the situation becomes far less reasonable with permission to have four boat births on said dock. If said dock is built at the 15 foot setback from the next door neighbour, with even one boat on the neighbour's side the dock has come within two or three feet of the neighbour's yard.

With regard to pedestrian access, I was astonished to read that docks are not permitted to prevent pedestrian passage along the lake shore and if they do prevent, a style is to be constructed! I walk along the beach frequently from our location and find it necessary to step up onto the lawn at some places in order to get around the dock.

I wonder if responsibility for some of the enforcement of this could be placed with the companies who build the docks. To date, it appears no other authority is enforcing it.

You have probably noticed that I think protection of the lake (and the environment) is paramount in making decisions about anything which will have an impact. I would be gratified to see this objective ensconced in all legislations relating to use of the lake.

Thank you for your efforts

Velma Bateman

Lauri Feindell

Subject: FW: Bylaw Referral X2019.009-ZONE
Attachments: V2_Bylaw Referral Sheet (Docks) - Copy.docx

From: Forbes, Christina D AGRI:EX <Christina.Forbes@gov.bc.ca>
Sent: May 4, 2020 10:51 AM
To: Planning <planning@rdos.bc.ca>
Subject: FW: Bylaw Referral X2019.009-ZONE

Good morning

The Ministry of Agriculture has no comment to provide for this referral.

Thank you,
Christina

Christina Forbes BSc, P.Ag | Regional Agrologist | Kelowna
p: 250-861-7201 | c: 250-309-2478
Email: Christina.Forbes@gov.bc.ca

Generic Email: AgriServiceBC@gov.bc.ca



Your File #: D2019.009-
ZONE
eDAS File #: 2020-02132
Date: May 8, 2020

Regional District Okanagan Similkameen
101 Martin Street
Penticton, BC V2A 5J9

Attention: Lauri Feindell, Planning Secretary

Re: **Proposed Text Amendment Bylaw 2862, 2020 for:**
Dock Regulation Bylaw - Electoral Area "A" "C" "D" "E" "F" and "I"

Preliminary Approval is granted for the rezoning for one year pursuant to section 52(3)(a) of the *Transportation Act*.

If you have any questions, please feel free to call Rob Bitte at (250) 490-2280.

Yours truly,

Rob Bitte
Development Officer

Local District Address
Penticton Area Office 102 Industrial Place Penticton, BC V2A 7C8 Canada Phone: (250) 712-3660 Fax: (250) 490-2231

Lauri Feindell

From: Cory Labrecque
Sent: August 7, 2020 3:56 PM
To: Lauren Wornig
Cc: Lauri Feindell
Subject: RE: Dock Question - FILE IN DOCKS

Categories: filing to edms

Hi Lauren,

Thank you for your interest in our proposed dock regulations.

In cases where dock permission is being granted/considered by the Province, they will indicate to any applicant when they need to consult with the RDOS on our bylaw requirements. For most residential docks that align with the Province's stipulations, additional permitting/rezoning processes would not be required (aside from our existing Watercourse Development Permit (WDP) process). A formal rezoning process would only be triggered for more intensive uses, such as commercial, float-plane and group moorage.

It is important to note that the RDOS would not have the legislative authority or capacity to interfere with the decisions of the province, or mediate between the province and property owners over the individual dock disputes. The province and federal government maintain the highest level of authority on the use of Crown land (i.e. the lakes and foreshores), and the RDOS's draft bylaw is predicated on any dock installations first aligning with provincial and federal legislation/decisions.

Kind Regards,
Cory



Cory Labrecque, MCIP, RPP, Planner II
Regional District of Okanagan-Similkameen
101 Martin Street, Penticton, BC V2A 5J9
p. 250.490.4204 • tf. 1.877.610.3737 • clabrecque@rdos.bc.ca • RDOS
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From: Lauren Wornig <laurenwornig@gmail.com>
Sent: August 6, 2020 4:40 PM
To: Planning <planning@rdos.bc.ca>
Subject: Dock Question for Cory Labrecque

Hi Cory,

Thank you for the presentations on July 30, August 4 & 5 regarding Public Q & A Sessions for Proposed Dock Regulations. As per your invitation to e-mail additional questions, I have the following query.

How involved will the RDOS be in disputes over dock regulations?

What will be the RDOS's role be in future applications for docks, platforms or boat launches?

For instance, since the 2017 flood and the resulting multiple cases of damaged docks, I am aware of some applications to the province (via FLNR Front Counter) for General Permission to repair these structures that have resulted in disputes between the province and upland owners. There are clear cases where the damaged docks were not built according to regulation, but there are other cases where the dock builders insist the regulations at the time of construction were followed while the province disagrees and will not process a permit for repair. Is it the RDOS's intention to help mediate these disputes in any way?

Thank you,

Lauren

July 14, 2020

RDKB File No. O-2

Please Quote on Correspondence

Regional District of Okanagan-Similkameen
101 Martin Street
Penticton, BC
V2A 5J9

via email: planning@rdos.bc.ca

RE: RDOS proposed OCP and Zoning Bylaw amendments

This is to advise that on June 25, 2020, the Regional District of Kootenay Boundary (RDKB) Board of Directors adopted the following resolutions respecting the above-referenced matter:

305-20 *Moved: Director McGregor*

Seconded: Director Korolek

That the Regional District of Kootenay Boundary Board of Directors advise the Regional District of Okanagan Similkameen that the Regional District of Kootenay Boundary supports the amendments to the Official Community Plan and Zoning Bylaws for RDOS's Electoral Areas 'A', 'C', 'D', 'E', 'F' and 'I' as outlined in the Bylaw Referral.

Carried.

Should you require further information regarding the above, please contact the Planning and Development Department.

Sincerely,



Maria Ciardullo
Planning and Development Department
Senior Secretary

P:\PD\PD_Committee\BoardFollowUp\Municipalities and Regional Districts\RDOS proposed bylaw amendments-July 2020.doc.docx

From: Tobin, Patrick J FLNR:EX <Patrick.Tobin@gov.bc.ca>

Sent: August 10, 2020 12:03 PM

To: Cory Labrecque <clabrecque@rdos.bc.ca>

Cc: Boivin, Janis FLNR:EX <Janis.Boivin@gov.bc.ca>; Tobin, Patrick J FLNR:EX <Patrick.Tobin@gov.bc.ca>

Subject: RE: X2019.009-ZONE - Proposed Dock Regulations: Okanagan Basin Lakes Zone - MFLNRORD District Okanagan Shuswap Comments

Good morning Cory.

There is a long and short answer to the question surrounding placement of buoys.

The short answer is "buoys are managed by transport Canada". This is what you will see on Provincial websites and policy direction but the truth of the matter is that it is not a complete answer.

While it is true that buoys are managed by Transport Canada it is the shape, size, colour, markings, identification, intended uses etc that Transport Canada manages. What is not addressed in the short answer is that the anchoring of buoys to the bed of the lake actually requires permission from the province. To reframe it the anchor occupies Crown Land and as such legally requires a licence or some form of permission/authorization to occupy the bed of the lake.

And to jump ahead to a possible next question the Province is not really interested in tenuring the tens or maybe even hundreds of thousands of buoys that occupy the waters of BC.

To be honest the yacht club is wrong. They have no legal authority to place buoys wherever they want. If a person complains to FLNRORS C&E staff they may be able to get the buoys removed if they are creating an issue fronting their property. Where there are congregations of buoys (referred to as buoy farms) developing in an area C&E and even Transport Canada Officers can have them removed.

I always advise property owners that only they have the ability to place buoys fronting their properties. If someone else places a buoy in front of their property they can contact Transport Canada (if the bou does not meet their specifications, most notably a contact phone number of the buoys owner) or C&E via the NRVV reporting line.

That said for this kind of non-compliance to rise to the top of the Officers investigation/action list the transgressions will likely need to be substantial or the complainant very persistent. C&E and even Transport Canada Officers do not go looking for these with all the other issues they have on their plates.

If RDOS puts in a bylaw that seeks to manage buoys it could help C&E immensely in cleaning up problem areas.

I have cc'd the Regional Manager for Compliance and Enforcement in the Thompson Okanagan, Janis Boivin. She may be able to assist with some strategies to assist the District in this regard.

Please feel free to call me to discuss should you have any further questions.

Take care.

Patrick Tobin, RPF
Senior Authorizations Officer
Okanagan Shuswap Resource District

Ministry of Forests, Lands and Natural Resource Operations
NOTE NEW Phone # (778) 943-6987

From: Cory Labrecque [<mailto:clabrecque@rdos.bc.ca>]
Sent: Wednesday, August 5, 2020 9:37 AM
To: Tobin, Patrick J FLNR:EX
Subject: RE: X2019.009-ZONE - Proposed Dock Regulations: Okanagan Basin Lakes Zone - MFLNRORD District Okanagan Shuswap Comments

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Hi Patrick,

Thank you for taking the time to comment on our proposed Docks bylaw. We did make improvements to our draft bylaw based on your feedback.

RDOS is now in the process of public consultation. One question that's come up through the RDOS Board Chair is:

"On slide # 5, it references 2 moorage buoys. How will that be something that can be controlled when currently folks place these buoys in front of other people's properties. For example, right now the Penticton Yacht Club places buoys in the lake for their members to use. a Naramata resident complained about them being in front of her house and the Penticton Yacht club said that is permitted as the water is open for use by all. If this moves forward, will we be able to restrict the yacht club from doing this?" (Note that in the draft bylaw, we increased the number of moorage areas to four per dock. An additional two standalone buoys are also permitted - which are now separated from the total moorage area count).

What is the Province's take on this type of question – namely the placement of buoys in front of other properties? Any comments/guidance you have on this would be much appreciated.

Kind Regards,



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Subject: X2019.009-ZONE - Proposed Dock Regulations: Okanagan Basin Lakes Zone - MFLNRORD District Okanagan Shuswap Comments

Good day,

MFLNRORD District Okanagan Shuswap Comments

DOS Lands Team:

Some comments for the RDOS folks on their proposed bylaw.

1. The provincial policy governing private moorage allows for 1 dock or 1 boat ramp or 1 standalone boatlift. The dock regulation review seems to indicate that a property may have a dock and a boatway. This would not be permitted by the province. The definition of Private Moorage is as follows:

Private Moorage Facility	means a dock, a permanent boat way (i.e. boat ramp), or a stand-alone boat lift that is permanently affixed to aquatic Crown land. It is for the personal and private residential use by one or a number of individuals or a family unit for boat moorage.
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This is further defined in the policy as follows:

Requirements for All Private Moorage Facilities

DO:

- **Construct only one private moorage facility per property (e.g. only one dock or one boat way, not both).**
- **If it is located in a marine environment ensure that it is limited to a single dock which consists of an elevated pier leading to a ramp and one moorage float only.**
- **Ensure that all structures (i.e. dock, boat way, boat lifts) are at least 5 metres from the projected side property line (6 metres if adjacent to a**

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AMENDMENT:

2. The proposed bylaw limits the number of moorage areas on a structure to 2 boat moorage areas (or one boatlift and a moorage area of which a buoy would counted as a moorage area). A few considerations:
 - a. Are personal water craft (ie seedoo) lifts considered part of the number?
 - b. Our provincial policy does not set a number of lift/moorage features for **Private Moorage** (which differs significantly from commercial, marina or strata include group moorage) so this could be viewed as more restrictive than provincial policy. While it is absolutely within the purview of Local government to set the standards for their jurisdictions (provided the local government standards at least meet the provincial standards) there could be pushback on this restriction. We often see 2-3 boatlifts on a dock with a couple of buoys fronting a property. Future dock approvals would no longer allow more than two such features and if we find they have been added afterwards the structure would be deemed to be unauthorized as it would be inconsistent with local government bylaws
 - c. We do not track buoys so addition of buoys or pre-existing buoys onsite would complicate issues if the buoy is tied to dock authorization. I would suggest separating buoys out from docks and either allowing one or two independabnt of the dock.

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3. The bylaw envisions 2 moorage areas (ie 2 boatlifts max) but makes no mention of a maximum platform area. In our most restrictive zones (Red and Black zones for Kokanee foreshore spawning) the maximum platform area is 24 m2 (typically 3x8 meters). We have yet to have upland owners in Red/Black zones complain that they cannot adequately moore their vessels on a lift with a 24m2 platform. In our less restrictive zones (yellow and no colour) there are no set maximum platform areas save for what can fit within a properties riparian footprint. Docks with greater than 24 m2 platform areas have been approved in these less restrictive zones
 4. Consider setting a maximum platform area. 24 m2 is, as I mention above, a very adequate platform area allowing two lifts and even room for pwc lifts is permitted (providing depth can be achieved).
 5. We permit Private Moorage fronting "lots" within "Paper Subdivisions". North Bench Road is an example. Technically 1 surveyed legal lot that is informally subdivided (ie the subdivision is not registered with Land Titles) . Would these applications require Board approval?
 6. The bylaw mentions some key dimensions but there is no mention of setbacks requirements. We require 5 meter (6 meter from public access, parks etc) for docks, swim platforms and ideally buoys. This provincial standard is based on Transport Canada requirements for safe boating.
 7. In the Okanagan we typically do not differentiate boat moorage from float plane moorage.
 8. As a matter of course new or modifications to Private Moorage structures requiring a formal Specific Permission (docks on an Arch site, shared docks, docks fronting "lots" in Paper Subdivisions, docks with non-conforming features that do not meet the January 17, 2017 GP grandfathering criteria, case by case specific requirements ie docks greater than 42 meters) are referred to local government for review and comment.
 9. For new applications that meet our January 17, 2017 GP criteria or docks that are being converted from formal licences to General Permissions local governments are advised, along with the proponent that the Province has determined the dock to be a GP structure according to provincial criteria. In these notifications we advise the proponent to contact local governments to ensure that the design meets local government bylaws and if they do not either seek a variance or modify the design to comply. While we are familiar with many of the local governments bylaws we do not adjudicate applications based on these bylaws as there are too many to keep track of. We look to local governments to advise us if there is a problem and if there is we can intervene as necessary. For some jurisdictions the bylaws are fairly strict and substantially different enough from provincial standards we can readily advise proponents and their agents if a design contradicts local government bylaws but this is not always the case.

Please feel free to call me directly to discuss if you wish to do so.

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