

NORTH PENDER ISLAND  
LAND USE BYLAW REVIEW

INDUSTRIAL LAND USE REVIEW  
DISCUSSION PAPER

May 2020



Islands Trust

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## Background

The North Pender Island Local Trust Committee has initiated a project to implement Official Community Plan (OCP) policies through amendments to the Land Use Bylaw (LUB). The LTC has endorsed a [project charter](#) which establishes a process and timeline for the project.

The project is categorized into 7 topic areas:

1. Residential floor area review.
2. Conservation subdivision review.
3. Tourist Commercial regulation review.
4. Marine shoreline regulations review.
5. Agricultural regulations amendments.
6. Industrial regulation review.
7. Minor and technical amendments

Some topics will likely involve greater community engagement and consultation than others. In the initial phase, the project charter identifies that staff will undertake a review of the topics and issues, and prepare background material and options for consideration.

The purpose of this Discussion Paper is to provide an overview of Industrial Land Uses, reviewing general regulatory mechanisms, providing an inventory of industrial lands, and identifying issues and options for implementation through LUB amendments.

This preliminary report summarizes and discusses the following:

- Regulatory mechanisms available to the LTC for decision making and regulation of Industrial activity;
- The current regulation of Industry on North Pender through the OCP and Land Use Bylaw;
- An inventory of Industrial land uses;
- A discussion of issues and opportunities with current regulation; and,
- A preliminary discussion of policy options.

## Policy and Regulatory Context

The following is a brief summary of the range of regulatory mechanisms – the tools - available for land use management of industrial lands. These are common to other local government jurisdictions and Trust Areas and for most the authority for the Local Trust Committee to implement them is derived from the *Local Government Act*.

### 1. OCP Designations

The OCP is a guiding document that lays out a community's long-term vision and strategy for future planning and land use. It provides objectives and policies, from the broad to the more specific, which inform the Local Trust Committee in making land use decisions; it does not contain regulations or detailed prescriptions. It includes policies and mapping designations of the approximate location, amount and type of present and proposed industrial, land uses.

### 2. Zoning

Zoning effectively implements the visions and strategies of the OCP. For North Pender this is established in the Land Use Bylaw (LUB), which regulates how land, buildings and other structures may be used. The LUB divides the island into zones and regulates density and use; siting and size of buildings and uses; and the size and shape of lots created by subdivision.

### 3. Temporary Use Permits (TUPs)

TUPs are a mechanism for allowing specific land uses in circumstances where zoning does not currently permit the use, as well as specifying conditions under which that temporary use can be carried out, and regulating the construction of buildings and structures for the use. They can serve as a precursor to rezoning – a 'trial run' to determine suitability - or where the use is truly temporary in nature. Designation and guidelines are established in the OCP and a TUP can be issued for up to three years and renewed once for a further three. Part 6 of the OCP establishes that TUPs can be applied for in any area covered by the OCP (the entire island).

### 4. Development Permit Areas

Development permit areas are designated in the OCP and establish areas or particular uses for protection of sensitive ecosystems, or objectives for the form and character of development. DPAs do not specifically regulate or prohibit uses, rather they specify guidelines for how proposed development in that area can address the special conditions or objectives.

### 5. Home Industry

Certain industrial uses are permitted as accessory uses on larger non-industrial lots.

### 6. Section 219 Covenants

Primarily by negotiation through the rezoning process, the LTC can enter into Section 219 Covenants with landowners to restrict uses on a specific lot. These can be temporary or permanent and are typically used to restrict land uses that otherwise cannot be restricted in a zoning bylaw.

## Current Policies and Regulations

### ***OCP Policies and Objectives***

The following is an overview of the objectives, policies and designations in the North Pender Island OCP related to industrial lands.

#### **General**

There are numerous general principles and goals in Part 1 (p.13) that are relevant to the review and implementation of industrial land policies. These are intended to provide an overall decision-making framework that balance the needs of the human and natural environments. The goals can be summarized as emphasizing a sustainable approach to economic activity and development that provides opportunity for economic activity while preserving and protecting the natural environment and rural character of North Pender.

#### **Home Based Industry**

Although not part of this review, home industry plays a significant economic role on North Pender. These are uses that permitted as accessory to a residential use on larger rural lots. Objectives and policies indicate that regulations should limit the size, location, environmental and neighbourhood impacts consistent with other goals and principles of this plan.

#### **Industrial Objectives and Policies**

Specific Industrial objectives, policies and guidelines are found on page 42 and 43 of the OCP. The objectives encourage industrial enterprises that do not adversely affect rural character and lifestyle; limits industrial development to specific areas of the island; prevents strip development; and that industry is sited to minimize adverse effects upon neighbouring properties.

Policies are as follows:

2.5.1 *Industrial development which may have a deleterious impact on adjacent land uses will not be permitted.*

2.5.2 *Priority may be given to the following locations for new or additional industrial development:*

a) *by application to rezone the industrially designated land on Port Washington Road;*

*The Local Trust Committee may consider requiring development information for industrial rezoning applications through adoption of a development approval information bylaw.*

2.5.3 *Industrial activity shall not be permitted in areas suitable for agriculture, or in hazardous or environmentally sensitive areas.*

2.5.4 *Applications for industrial rezoning must prove sustainable water supply and waste disposal capability, and include provision for remediation of any existing contamination, and in reviewing any application for new industrial uses, the local trust committee should consider potential climate change impacts.*

2.5.5 *Strip development of industrial businesses shall be prohibited through the implementation of appropriate development permit area guidelines.*

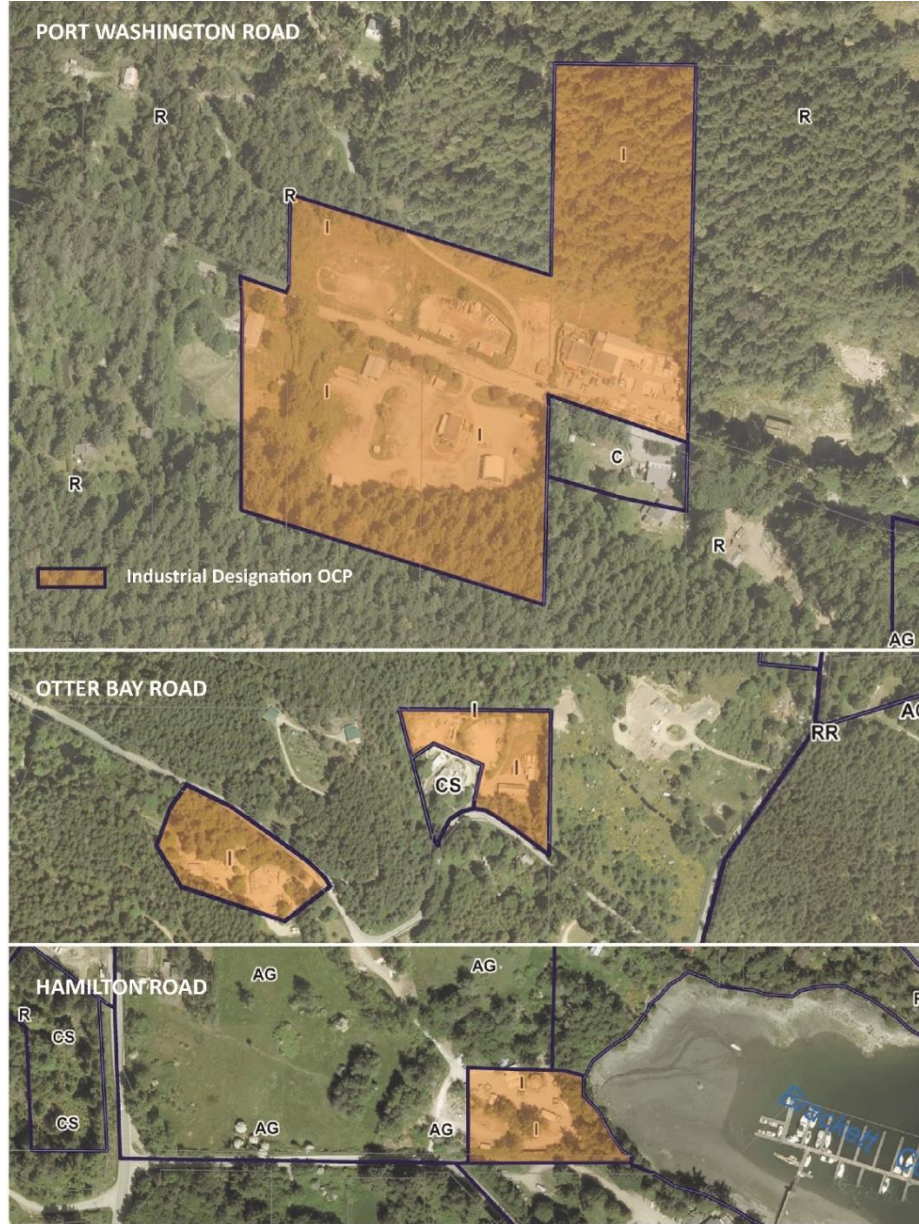
2.5.6 *Industrial activity, parking and storage areas should be screened.*

2.5.7 *Marine industrial activities that would damage or adversely alter the foreshore shall be prohibited.*

## Map (Schedule B) Designations

Figure 1 indicates the areas of North Pender that are designated **Industrial (I)** in the OCP. The total area of designated land is 8.8 ha (acres). The 2.0 hectares of area designated but not zoned is located along Port Washington Road. It is noted that the designations only correspond roughly to the topographic constraints of the area.

**Figure 1 – OCP Designations**



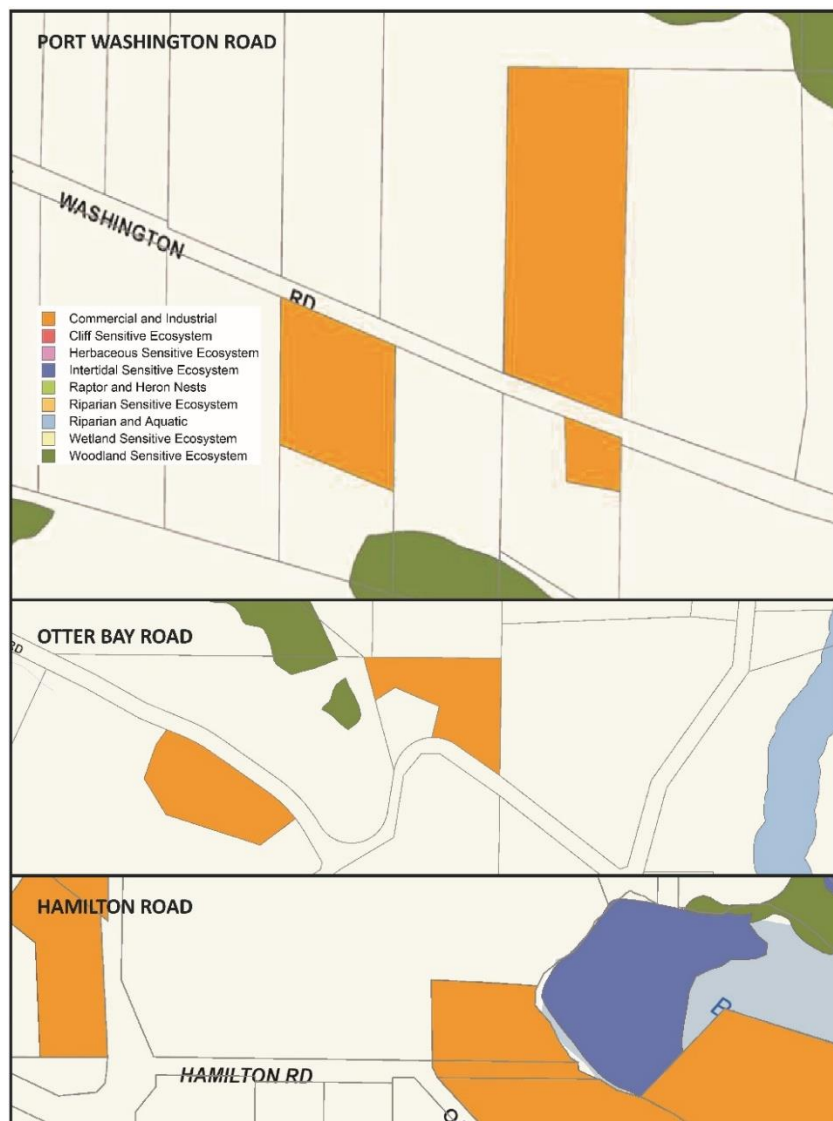
## Development Permit Area(s)

All commercial and industrial zoned properties on North Pender are designated in **Development Area Nine – Commercial and Industrial Form and Character**. That DPA has the objective of ensuring that new or additional commercial and industrial development is consistent with and enhances rural character and avoids impacts on adjacent properties.

The applicable guidelines for building form for industrial development are not as extensive as those for commercial and emphasize functional building design and limiting visual impacts. In addition, there are guidelines for landscaping/screening, parking, lighting and signage.

The DPA is not for the protection of the natural environment (sensitive ecosystems) although some areas of properties designated as Industrial on Port Washington Road do have DPA One – Woodland designated on the upland portions.

Figure 2 – DPAs



## Land Use Bylaw

The Land Use Bylaw is the main mechanism for implementing the OCP. Zoning establishes the legally permitted use, density, siting, subdivision, screening and landscaping and other regulation for any given parcel of land. There are currently two industrial zones **Light Industrial (I1)** and **Industrial (I2)**; the subdivision requirements and permitted uses are excerpted as follows:

### 8.8 Light Industrial (I1) Zone

#### 8.8.1 Subdivision Requirements

- (1) *No lot having an area less than 1.2 hectares may be created by subdivision in the Light Industrial (I1) Zone.*

#### 8.8.2 Permitted Uses

- (1) *In addition to the uses permitted in Section 3.1 of this Bylaw, the following uses and no others are permitted in the Light Industrial (I1) Zone:*
  - (a) *storage of goods, materials and equipment other than dangerous or hazardous materials, salvaged motor vehicle parts and scrap;*
  - (b) *retail sale of building, gardening and landscaping materials and supplies;*
  - (c) *small engine repair;*
  - (d) *storage of motor vehicles, recreational vehicles, boats and trailers;*
  - (e) *manufacturing; and*
  - (f) *accessory dwellings.*

### 8.9 Industrial (I2) Zone

#### 8.9.1 Subdivision Requirements

- (1) *No lot having an area less than 1.2 hectares may be created by subdivision in the Industrial Zone.*

#### 8.9.2 Permitted Uses

- (1) *In addition to the uses permitted in Section 3.1 of this Bylaw, the following uses and no others are permitted in the Industrial Zone:*
  - (a) *storage of dangerous or hazardous materials, salvaged motor vehicle parts and scrap;*
  - (b) *processing, fabricating, assembly, manufacturing, servicing and repairing of goods, materials and equipment;*
  - (c) *auto body repair shop;*
  - (d) *motor vehicle wrecking, crushing and salvaging;*
  - (e) *processing, crushing and storage of gravel; and*
  - (f) *accessory dwelling.*

Notwithstanding the above, all industrially zoned properties on North Pender have site-specific zoning. This means that currently only the specific use listed for a property is permitted. Changing the uses on a particular parcel require a TUP or zoning amendment.



## Inventory

### Zoned Lands

Five (5) parcels of land on North Pender are currently zoned for industrial use with a total area of 6.03 hectares. These are itemized in Table 1 and mapped in Figure 3.

**Table 1 – Current Zoning**

Site-Specific Zone Reference	Map Ref.	Address	Zoned Area	Site Specific Regulations (The only uses permitted at the locations)
I1(a)	A	3338 Port Washington Road (Home Hardware)	1.8 ha	<ul style="list-style-type: none"> <li>• <i>storage of goods, materials and equipment other than dangerous or hazardous materials, salvaged motor vehicle parts and scrap;</i></li> <li>• <i>retail sale of building, gardening and landscaping materials and supplies</i></li> <li>• <i>propane sales.</i></li> </ul>
I1(b)	B	4606 Razor Pint Road (portion)	0.5 ha	<ul style="list-style-type: none"> <li>• <i>boat storage.</i></li> </ul>
I2(a)	C	3323 Port Washington Road (portion) (Mainroad Works Yard)	0.8 ha	<ul style="list-style-type: none"> <li>• <i>the storage of dangerous or hazardous materials, servicing and repairing of goods, materials and equipment,</i></li> <li>• <i>the processing, crushing and storage of gravel</i></li> </ul>
I2(b)	D	3418 South Otter Bay Road (portion former cement plant)	1.4 ha	<ul style="list-style-type: none"> <li>• <i>the processing, crushing and storage of gravel</i></li> </ul>
I2(c)	E	3418 South Otter Bay Road (portion by recycling)	1.3 ha	<ul style="list-style-type: none"> <li>• <i>the processing, fabricating, assembly, manufacturing, servicing and repairing of goods, materials and equipment</i></li> </ul>

### Current/Pending Rezoning Application

There is one current application for a rezoning (NP-RZ-2016.1 the Mainroad works yard – 3323 Port Washington Road shown as ‘F’ in Figure 3). That application has had a Public Hearing but has been in abeyance for an extended period. Table 2 is excerpted from the amending bylaw and indicates the extent of uses that would be allowed on the rezoned portions of the property (discussed further below).

**Table 2**

<b>Site-Specific Zone Reference</b>	<b>Address/Legal Description</b>	<b>Site Specific Regulations (The only uses permitted at that location)</b>
I2(a)	3323 Port Washington Road (portion) (Mainroad Works Yard) Lot 8 & 9, Plan 6294, Section 18	<ul style="list-style-type: none"> <li>• <i>the storage and processing of materials, including dangerous or hazardous materials, supplies and equipment used for, or generated from, the construction, maintenance and repair of highways;</i></li> <li>• <i>the storage of materials, including dangerous or hazardous materials, supplies and equipment used for telecommunications networks and the supply of electricity; and,</i></li> <li>• <i>the servicing and repairing of goods, materials and equipment; and the processing, crushing and storage of gravel.</i></li> </ul>

There is an anticipated/required rezoning application for 3334 Port Washington Road (see next) that currently has a TUP (Bigam) that was approved for issuance for one year (indicated as ‘G’ in Figure 2).

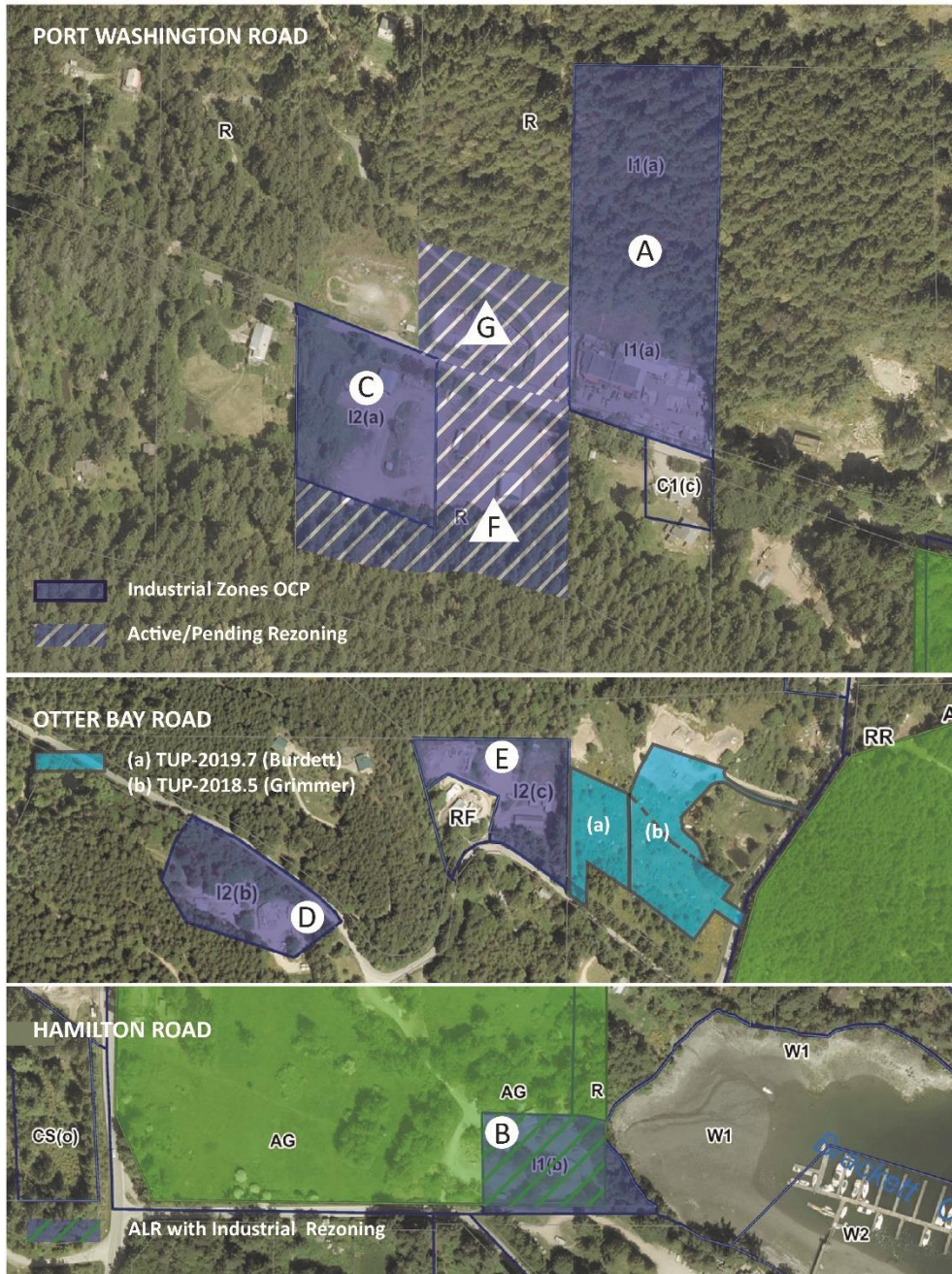
## Temporary Use Permits (TUPs)

There are currently two (2) TUPs that have been issued and one that is being considered for issuance. The term (expiry) for these are in Table 3.

**Table 3**

TUP	Expires	Address	Permitted Uses
2018.5 (Grimmer)	May 2021	4415 Bedwell Harbour Road	<ul style="list-style-type: none"> <li>• <i>A concrete batch plant operation.</i></li> <li>• <i>The storage, handling and wholesale of aggregates defined as sand, drainage rock and gravel.</i></li> <li>• <i>For certainty, and for the purposes of this permit, handling is defined as blending, but does not include screening, sorting, crushing or washing.</i></li> <li>• <i>Storage of motorized and non-motorized vehicles and equipment directly required for the concrete and excavation business know as "Gulf Excavating Ltd".</i></li> </ul>
2020.1 (Bigham)	April 2021	3334 Port Washington Road	<ul style="list-style-type: none"> <li>• <i>The storage and handling of aggregates, soils and mulch (not including screening, sorting, crushing or washing).</i></li> <li>• <i>Wholesale of aggregates, soils and mulch.</i></li> <li>• <i>Accessory retail sales of bulk aggregates, soils and mulch including landscape stone materials to the general public (limited by volume)</i></li> <li>• <i>Storage of recreational vehicles, to a maximum of six (6).</i></li> <li>• <i>Siting of shipping containers, 15 m<sup>2</sup> (2.4m x 6.0 m) in size, for storage use, to a maximum of twelve (12).</i></li> <li>• <i>Storage of empty propane tanks, to a maximum of 15 (Fifteen).</i></li> <li>• <i>Storage of motorized and non-motorized vehicles and equipment directly required for the business</i></li> </ul>
2019.7 (Burdett)	Pending	4415 Bedwell Harbour Road	<ul style="list-style-type: none"> <li>• <i>Full service waste transfer - the use of land, buildings or structures for:               <ul style="list-style-type: none"> <li>○ <i>receiving, storing, sorting, compacting and transferring solid waste;</i></li> <li>○ <i>commercial recycling;</i></li> <li>○ <i>residential recycling;</i></li> <li>○ <i>commercial composting; and</i></li> <li>○ <i>public drop off waste transfer</i></li> </ul> </i></li> <li>• <i>Storage of motorized and non-motorized vehicles and equipment accessory to the uses permitted in 2(a) directly required for the waste management business known as "Pender Island Waste Management Ltd".</i></li> </ul>

Figure 3 – Current Zoning, Applications & TUPs



## Discussion

The following is a discussion of issues and opportunities for Industrial Lands.

Overall the review process as well as policy considerations or any zoning amendments should strive to balance the Object with industrial economic activities that have the potential to have negative impacts on immediate neighbours the natural environment and rural character. Further, the review process as well as policy considerations or any zoning amendments should be informed by the outcomes of the ongoing LTC Groundwater Sustainability Project. Particular concern is groundwater vulnerability, given the impactful nature of industrial uses. Consultation through engagement and referral with First Nations throughout the review process is an imperative.

- **OCP Map Designations** – the following are issues identified with the OCP Map designations (ref: Figure 1 – above):
  - Port Washington Road designations are mainly applied to properties as a whole, and do not align with physical constraints of the land and potential hazards (topography) and sensitive ecosystems. In this area, the topography is relatively flat adjacent to the road, which is more suited to industrial use for numerous reasons. However, the land rises on both sides of the road where the hillsides are largely treed. Here any industrial uses would be impractical, potentially hazardous, and visually impactful. The map designations should be rationalized to address such constraints.
  - There is also a portion of a rural lot designated for future industrial, but is used residentially with no anticipated future industrial use.
  - The property where Home Hardware is located is designated Industrial. However, the long-term use is more accurately commercial and along with the zoning on the property could be amended.
  - The designation on the portion of 4406 Razor Point Road that is also in the Agricultural Land Reserve (ALR - see Figures 2 and 3), and along with the zoning, is inconsistent with the Agricultural Land Commission regulations.
- **Current Uses and Zones** – the list of permitted uses in the two industrial zones have not been updated since the bylaw was developed over 20 years ago and do not reflect the full range of basic light industrial uses. A revised list of uses should be considered though consultation with owners and operators, and incorporated into changes to those zones.
- **Two Industrial Zones** - the potential for and desirability of new heavy industry is limited, making the need for continuing with the current distinction into two zones is questionable. Zoning could be simplified by establishing one general industrial zone, permitting basic light industrial uses (e.g. contractor businesses, etc.).
- **Site-Specific Zoning** – All industrial zones on North Pender are site-specific zone variants of the Light Industrial (I1) or Industrial (I2), where only the specific uses listed are permitted, reflecting the uses that were occurring there at the time the zone was established. As a result, there are no properties that are readily available and zoned to permit the full list of uses. This creates an inflexible environment where operators have limited options for mobility or the flexibility to expand or diversify. Additionally, the timeframe and cost for a rezoning for a different, but still light industrial use, is prohibitive, particularly for small businesses.

Added to this is limited ownership of industrially owned lands and the willingness of owners to lease for certain uses, all of which can lead to situations where uses are unlawfully initiated or the urgency for a use to be initiated demands a quicker timeframe than an average or quick rezoning amendment. Such a reactive process has numerous pitfalls including a lack of consultation, reporting and analysis of suitability and the perception that industrial development is unplanned.

Expanding the list of uses, creating a single, general zone and potentially rezoning specific properties may serve to create greater certainty and flexibility.

- **Subdivision** – the current minimum lot size for both zones is 1.2 ha. That size limits the ability for lots to be created separate from the split-zoned parent parcel, allowing subdivision of the industrial portions could increase the diversity of lots and ownership and make the industrial uses more flexible and affordable. This is particularly the case as many of the existing industrial zones are part of larger split-zoned lots, or hooked to other lots. Reducing the minimum lot size, particularly in conjunction with broader allowable uses could result in more flexibility.
- **Current TUPs** - there is the opportunity through this process to consider incorporating current TUP operations into zoning. Particularly where operating on industrially designated land.

## Options

The main options identified for amending the Industrial zoning are summarized as follows:

1. Review and Amend OCP Map Designations
  - a. Review and amend OCP land use designations to rationalize for the suitability of land for industrial use (particularly remove designations from steep slopes and sensitive areas).
  - b. Remove designations where current use and zoning is not industrial or suitable for industrial
  - c. Consider amending OCP designations to include land areas adjacent to the existing designations and zones where owners indicate a desire.
  
2. Review and Amend Current Zones
  - a. Combine the two industrial zones into a single general industrial zone.
  - b. Review and update the permitted uses, allowing basic, light industrial uses.
  - c. Remove most or all of the site-specific zoning.
  - d. Amend subdivision lot sizes to permit industrial zoned lands to be subdivided from split-zoned or hooked lots.
  
3. Consider amending zoning on Specific Properties
  - a. 3338 Port Washington (Home Hardware) to a commercial zone
  - b. 4406 Razor Point Road – amend zoning and OCP designation on ALR portion of the property.
  - c. 3323 Port Washington Road - Mainroad yard – consider a broader set of uses.
  - d. Consider incorporating current TUPs into zoning.