



DATE OF MEETING: July 27, 2017  
TO: Gambier Island Local Trust Committee  
FROM: Madeleine Koch  
Northern Team  
SUBJECT: Regulatory Options for Keats Island Docks

## RECOMMENDATION

1. That the Gambier Island Local Trust Committee add “Keats Island OCP/LUB Amendments” to the Local Trust Committee Projects List with the specified activity, “amending policies and regulations for docks and other foreshore development”.

## REPORT SUMMARY

The purpose of this report is to respond to the request of the Gambier Island Local Trust Committee (LTC) for options to regulate docks on Keats Island. The report describes the existing policy and regulatory context for docks on Keats Island and provides an analysis of additional regulatory options for LTC consideration, particularly in relation to identified sensitive ecosystems and properties with road access. It is recommended that the LTC identify Keats Island bylaw amendments as a formal project which may be initiated in the future.

## BACKGROUND

At the February 2, 2017 meeting, the Gambier Island LTC passed the following motion:

### GM-2017-007

#### It was **MOVED** and **SECONDED**

that the Gambier Island Local Trust Committee request staff to provide a report regarding legislative options available to the Local Trust Committee specifically related to docks on Keats Island that affect identified sensitive ecosystems, or properties that have road access.

## ANALYSIS

### Policy/Regulatory

#### *Islands Trust Policy Statement:*

- 4.5.11 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address opportunities for the sharing of facilities such as docks, wharves, floats, jetties, boat houses, board walks and causeways.
- 5.5.4 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address:
  - the location and type of recreational facilities so as not to degrade environmentally sensitive areas, and
  - the designation of locations for marinas, boat launches, docks and anchorages so as not to degrade sensitive marine or coastal areas.

- 5.5.5 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address:
  - the identification of sites providing safe public access to beaches,
  - the identification and designation of areas of recreational significance, and
  - the designation of locations for community and public boat launches, docks and anchorages.

### **Official Community Plan:**

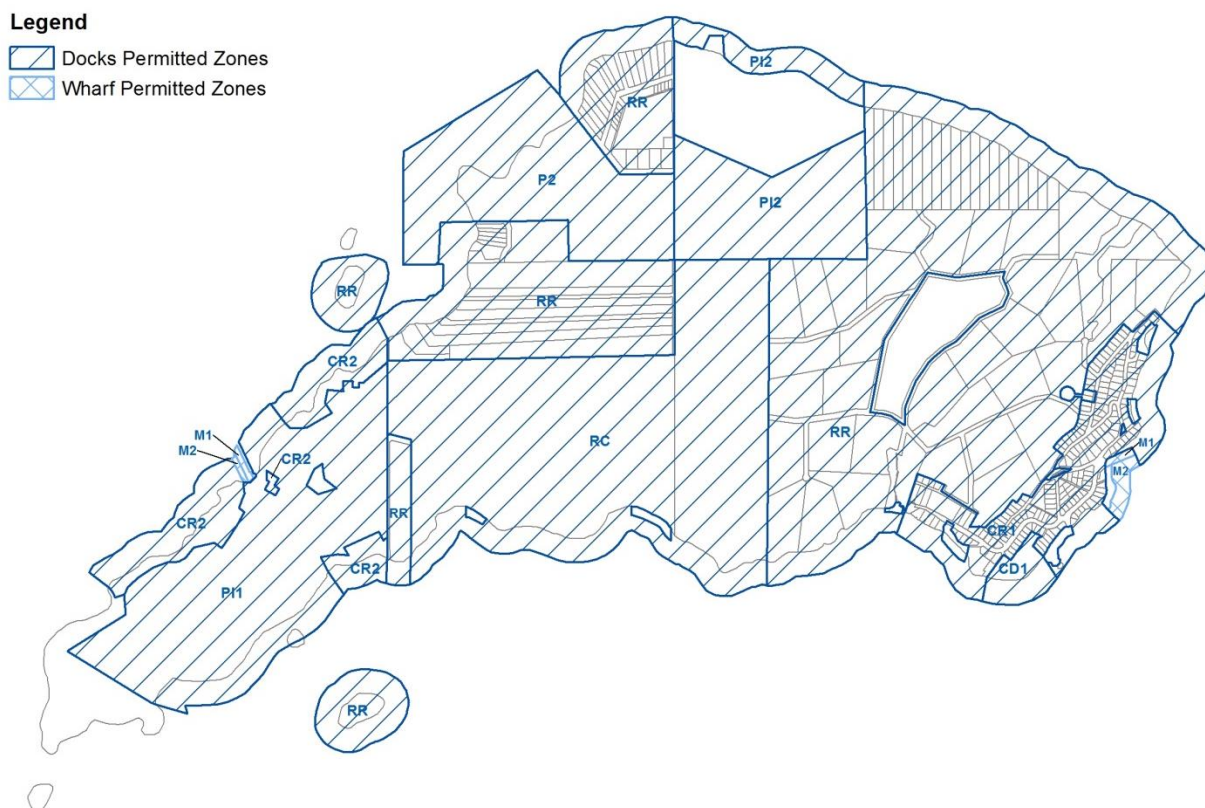
The Keats Island Official Community Plan (OCP) No. 77 includes several policies related to docks and foreshore development (Attachment 1). The policies align with the Islands Trust Policy Statement in that they generally discourage foreshore development which may impede natural features and processes. However, they also support the use of docks for water-access only lots and further encourage the use of shared docks among multiple lots.

No Development Permit Areas have been designated within the Keats Island Plan Area.

### **Land Use Bylaw:**

At present, the majority of Keats Island's coastline is within zones that permit docks or wharves (Figure 1).

**Figure 1. Keats Island zones which permit docks or wharves**



Zones where docks are permitted include: CR1 (Community Residential 1), CR2 (Community Residential 2), CD1 (Comprehensive Development 1), RR (Rural Residential), RC (Rural Comprehensive), PI1 (Private Institutional 1), and PI2 (Private Institutional 2) zones.

Wharves are permitted in the P2 (Provincial Marine Park), M1 (Public Wharf), and M2 (Communal Moorage) zones. The M3 (Public Barge Ramp) zone permits barge ramps and the M4 (Private Log Dump) zone permits structures associated with log handling.

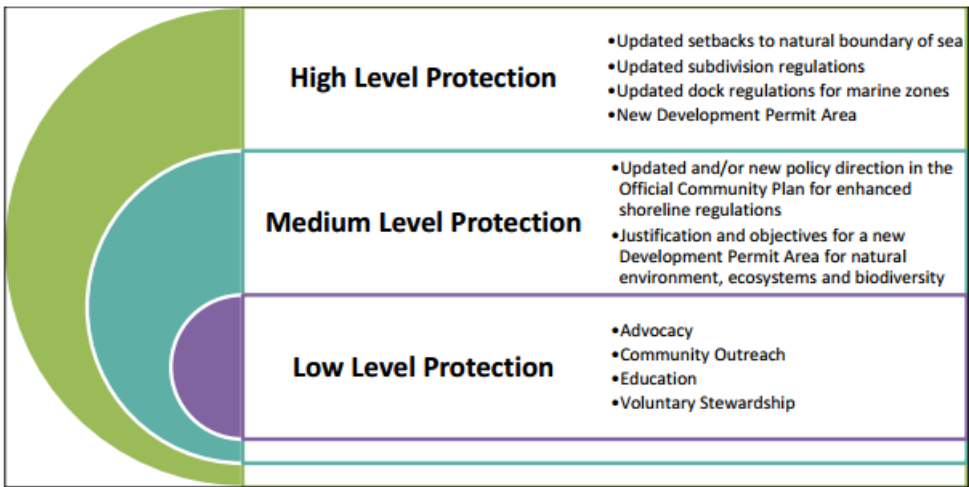
There are a number of zones that do not permit docks, wharves or similar structures in the foreshore, but these cover a relatively small portion of the marine area. These including: PC (Private Conservation); CS1 (Community Service 1); CS2 (Community Service 2); P1 (Natural Area Community Park); MC (Marine Conservation) and MG (Marine General).

The majority of residential lots on Keats Island are located in the RR, CR1 and CR2 zones where, as noted, docks are permitted. Keats Island Land Use Bylaw (LUB) dock regulations are generally consistent across the zones in which they are permitted. Sample wording is provided for the CR1 zone applicable to much of the Eastbourne area (Attachment 2).

**Issues and Opportunities**

***Options for Marine Shoreline Protection***

The following chart outlines the range of planning tools available to the LTC, both related to docks and more broadly to shoreline protection. The tools can be broadly categorized as having either low, medium or high levels of impact on the long term protection of shoreline function, integrity, cultural and ecological values (Figure 2).



**Figure 2. Shoreline Protection Options**

For the purposes of this report, staff have focused on the protective measures available through the OCP and LUB. However, it is important to note that there are other tools outside the legislative framework for land use planning in BC which may be leveraged in order to enhance shoreline protection on Keats Island.

***Policy/Regulatory Options***

The *Local Government Act* empowers local governments to introduce land use planning tools, a number of which may be used to regulate private docks, described as follows:

**1. Policy Framework**

The Islands Trust Policy Statement and Official Community Plan (OCP) form the guiding policy framework for establishing regulations in the LUB. The *Local Government Act* requires that all bylaws enacted following

adoption of an OCP must be consistent with the OCP. As noted previously, the Keats Island OCP does include policy language to protect sensitive coastal features and limit docks to existing and water access only lots. There is an opportunity to strengthen this language and provide greater guidance to the location of docks and other foreshore structures and uses given that more specific information is now available about the presence of ecosystem along the Keats Island shoreline.

## 2. General Prohibition of Docks

Prohibiting docks from the list of permitted uses in all zones is the strongest regulatory option for protecting marine ecosystems around Keats Island. However, this option would not be suitable for lots which are only accessible by water and, at the current time, does not align with Keats Island OCP policies which support docks for water-access only lots.

## 3. Conditional Prohibition of Docks

Docks could be prohibited more specifically where a particular ecosystem feature or value has been identified, including eelgrass or forage fish habitat areas (Attachment 3), or where lots are readily accessible by road (Attachment 4). If pursuing this option, the LTC could consider increasing the extent of the Marine Conservation zone by rezoning specified areas with sensitive ecosystems and/or road access (Attachment 5). Further constraints to dock development may coincide with the Rockfish Conservation Area, located along the southern shoreline of Keats Island. Another constraint would be archaeological sites, although no known or potential sites appear to be mapped on Keats Island at the present time.

As more restrictive zoning would further limit water access to existing lots, some consideration could be made for increased opportunities for community docks or shared private docks.

## 4. Modification of Land Use Bylaw Regulations for Docks

Where docks are a permitted use, the LUB may regulate their siting, intensity, size, number and dimensions as mechanisms to mitigate both environmental and aesthetic impacts. This is the current approach on Keats Island, although there is an opportunity to enhance these regulations to further protect marine ecosystems. Options include:

- Requiring the use of communal or community docks to limit the number of docks in a particular area.
- Further limiting the permitted size of docks; and
- Limiting the number of berths.

Currently, many of the waterfront zones allow docks of 65 m<sup>2</sup> (or up to 158 m<sup>2</sup> subject to registration of a restrictive covenant). These allowances vastly exceed the Province of BC best management practices<sup>1</sup> for docks, which specify a maximum combined surface area for a dock as 46 m<sup>2</sup>.

Docks of reduced size should still be able to accommodate normal residential needs while having a reduced impact on the marine environment. It should be noted that the LUB language regarding covenants is problematic as there is no indication of what such covenants should restrict or to whom they should be covenanted.

It should further be noted that LUB regulations (size, siting and setbacks) may be varied through Development Variance Permits or Board of Variance orders. Use and density, however, may not be varied. This means that, if docks are not permitted in a specified zone, they could only be permitted through rezoning or a temporary use

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<sup>1</sup> Province of BC. Standards and Best Practices for Instream Works. <http://www.env.gov.bc.ca/wld/instreamworks/downloads/Docks.pdf>

permit. Similarly, the maximum number of docks in a specified zone could not be varied as this would be considered an increase in the intensity (density) of use.

Furthermore, there could be greater consideration for Province of BC policies<sup>2</sup> concerning the use of Crown land for docks and similar structures and alignment of terminology in the LUB with Provincial policy language to reduce confusion for applicants.

## 5. Development Permit Areas

Development Permit Areas (DPAs) can be designated in Official Community Plans for a number of purposes, including “protection of the natural environment, its ecosystems, and biodiversity”. DPAs are established for specific lands. Within a DPA, development may only occur in accordance with prescribed guidelines. This, for example, may include requiring docks to be sited away from identified habitat areas or sited in accordance with the recommendations of qualified professionals with expertise in marine biology and/or coastal geomorphology.

This tool could be used to require issuance of a Development Permit with environmental protection conditions prior to allowing dock construction, either across the Keats Island planning area, or in areas of special consideration. DPAs are used in conjunction with zoning regulations, so this approach could be taken in combination with more stringent LUB regulations. Special consideration of the DPA tool may be warranted for properties which abut sensitive marine ecosystems but necessitate water access.

### ***Map Analysis***

The following maps have been provided to assist the LTC in consideration of the foregoing regulatory options.

#### Map 1: Presence of Eelgrass and Forage Fish in Relation to Zones that do not Permit Docks

This map demonstrates the land/ waters within zones that *do not* permit docks, including the Marine Conservation zone mentioned in the previous section. The marine areas outside of the zones indicated on this map do allow docks to some degree. A full assessment of dock build out potential has not been undertaken, but it should be noted that there are a variety of factors that could impact the actual buildout of docks on Keats, such as topography and lot size. It is interesting to note the correlation between the existing zones that do not permit docks, and the presence of forage fish and eelgrass.

#### Map 2: Waterfront Lots with Road Frontage and Waterfront Road Ends

This map indicates the waterfront lots that also have road access (but as indicated earlier in this section, the status of these roads should be looked at more closely before using the data to make policy decisions). The map also indicates waterfront road ends. The data on this map may help to guide consideration of regulating or prohibiting docks on lots which have road access and therefore may not require water access. The road ends represent potential locations for community wharves, in case the LTC wishes to consider that option.

#### Map 3: Zoning, Forage Fish, Eelgrass, and Waterfront Lots with Road Frontage

This map compiles most of the data from the other maps, and also indicates all zones on Keats Island.

#### Map 4: Keats Island Orthophoto

This map shows an orthophoto with lot lines and existing docks surrounding Keats Island.

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<sup>2</sup> The Province of BC maintains operational policies to guide use of Crown lands.

Please note the following:

- The maps are based on technical map data and may benefit from some “ground-truthing”, if next steps for this project are pursued;
- The status of the roads and road ends shown on the maps may require further research to determine whether these are actually built, whether they have adequate connectivity with other access points to the island, and whether they are legitimate public roads that can be depended upon into the future; and
- The District Lot 696 lands are not explored in detail as part of this analysis, in light of the rezoning application in process for those lands. Depending on the direction the two projects take, there may be opportunities for collaboration.

### **First Nations**

Foreshore areas are generally of tremendous significance to Coast Salish First Nations people, who have relied on these areas for food, social and ceremonial purposes for thousands of years. Strengthening of the policy and regulatory framework for docks and other foreshore structures and uses would support the Islands Trust Council commitment to First Nations and First Nations engagement principles (Policy 6.1.1).

### **Consultation**

Should the LTC wish to pursue amendments to the Keats Island Land Use Bylaw regulations for docks, this would need to be identified as a Top Priority project with budget allocation and a corresponding project charter. The charter would describe the scope of consultation activities to occur for the duration of the project and statutory bylaw amendment process (if applicable).

### **Rationale for Recommendation**

Staff advise that there are opportunities to strengthen the policy and regulatory framework for docks in the Keats Island Official Community Plan and Land Use Bylaw. Further work on this project could occur as a defined LTC project. The staff recommendation is found on page one of this report.

## **ALTERNATIVES**

1. Request further information
2. Receive for information

## **NEXT STEPS**

Further work on this particular issue could occur through project establishment and prioritization.

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Concurrence:	Ann Kjerulf, MCIP, RPP Regional Planning Manager	July 20, 2017

## **ATTACHMENTS**

1. OCP Policies
2. CR1 Zone Regulations
3. Map 1: Presence of eelgrass and forage fish in relation to zones that do not permit docks
4. Map 2: Waterfront lots with road frontage and waterfront road ends
5. Map 3: Zoning, forage fish, eelgrass and waterfront lots with road frontage
6. Map 4: Keats Island Orthophoto

## ATTACHMENT # 1 – OCP POLICIES

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**P 3.19** In order to protect the island's foreshore and beaches from pollution, environmental degradation, and inappropriate development or use, zoning regulations for coastal areas should be designed to ensure protection of natural coastal processes and features.

**P 4.15** Public access and the right to recreational use of the foreshore should be supported and protected, and such access and use should also respect the interests of adjacent residents and tenure holders. The use of public beaches should be regulated to ensure public access to and enjoyment of beaches is not impeded or impaired by inappropriate development or use of the foreshore.

**P 4.16** Zoning regulations should provide for the existing public wharves, public barge ramp, public marine park moorages, private docks and moorages, cooperatively owned or operated moorage, docking and swimming facilities for private institutional (non-profit) camps, marine conservation zones, and log dumping associated with existing island forestry requirements

**P 4.17** Upon application for rezoning, a change, expansion, or downsizing in existing foreshore uses including public wharves, public and private barge ramps or boat launches, public marine park moorages, private docks and moorages, cooperatively owned or operated moorage, docking and swimming facilities for private institutional (non-profit) camps, marine conservation zones, and log dumping associated with existing island forestry requirements may be considered by the Local Trust Committee. Each application should address issues such as ensuring public access to the foreshore and safety issues.

**P 4.20** The integrity of foreshore features, shoreline features, and intertidal processes should be maintained by:

- a) discouraging uses that disrupt natural features and processes, and encouraging owners of shoreline properties to retain, wherever possible, natural vegetation and natural features on areas sloping towards the foreshore;
- b) supporting the prohibition of filling, deposit, excavation, or removal of foreshore and seabed materials, except for maintenance of navigational channels and existing wharfage areas;
- c) land use regulations should provide for waterfront developments to be setback sufficiently to allow for natural erosion and accretion processes, without endangering structures;
- d) where land use regulations provide for private docks, the use of communal or shared docks is encouraged, where feasible, to limit the need for multiple dock development along the shoreline.

**P 4.21** The location of new buildings and structures should be regulated so as to protect public access to, from and along the marine shoreline and to minimize negative impacts on sensitive coastal environments.

**P 4.22** Foreshore and adjacent coastal water area land use regulations should place emphasis on retaining natural characteristics.

**P 5.56** Intrusion or expansion of roads and vehicular access into water-access-only lots is strongly discouraged.

**P 5.61** Parking restrictions associated with use of the existing public wharves at Eastbourne and Keats Landing should be addressed through land use regulations, where appropriate.

**P 5.83** The Local Trust Committee may consider a proposed location for long term public moorage for private vessels, in response to an application for rezoning. Environmental impact information may be required and community information and consultation meetings should be held on island prior to the public hearing. Issues to be resolved prior to approval consideration should include: location; proposed use and scale; level of community support; environmental impacts; impacts on the immediate surroundings; impacts on existing Keats Island facilities and services; the availability of services and resources necessary and potential impacts on cross island traffic, and Keats Island growth and development patterns.

**P 5.84** Water-access lots are recognized as areas suitable for private docks and moorings.

**P 5.85** Waterfront property owners are encouraged to consider sharing the use of private docks and wharves with one or more of their neighbours, including upland neighbours (if any), through joint ownership or non-commercial cooperative agreements and through the use of easements or other forms of agreed upon access to the facilities rather than erecting individual private docks or wharves.

**P 5.86** The zoning regulations should require that docks be setback from the seaward extension of the property lines to ensure right of access to adjacent foreshore and to protect privacy.



## PART 4 - ZONE REGULATIONS

### 4.1 COMMUNITY RESIDENTIAL 1 (CR1) ZONE

#### Permitted Uses

- .1 The following uses of land, buildings and structures are permitted in the land-based area:
- single family residential;
  - home occupation, subject to Section 2.2;
  - horticulture;
  - public service utility uses; and
  - natural area parks and conservation.
- .2 The following uses of land and structures are permitted in the marine-based area:
- non-commercial anchorage and moorage of private vessels, where such use is accessory to a permitted residential use on the adjacent upland.

#### Permitted Buildings and Structures

- .3 The following buildings and structures are permitted in the land-based area:
- single family dwelling;
  - buildings and structures accessory to a permitted use subject to Section 2.1.6 and 2.1.7;
  - community sewer system facilities;
  - electrical and telecommunication utilities;
  - pedestrian trails;
  - fences, subject to Section 2.4;
  - fire huts;
  - pump/utility houses;
  - utility poles, wires, traffic controls and underground utility systems; and
  - signs, subject to Section 5.
- .4 The following structures are permitted in the marine-based area:
- mooring buoys, floats, docks and stairs providing marine access to a lot abutting the water area in which the structure is located; including dolphins and pilings necessary for the establishment or operation of a use permitted in this zone;
  - marine navigational aids; and
  - signs, subject to Section 5.

#### Marine-Based Structures Limitations

- .5 No building of any kind may be erected, constructed or placed on any float, dock, ramp, stairs or pier.
- .6 The maximum area that may be covered by dock floats in the marine-area is 65 square metres (700 square feet).
- .7 Despite Subsection 4.1.6, the maximum float area may be increased by 47 square metres (500 square feet) per residential dwelling served up to a maximum float size of 158 square metres (1,700 square feet), provided a restrictive covenant subject to Subsection 1.2.4 is registered.
- .8 The maximum width of a ramp associated with a dock is 2.4 metres (8 feet).

#### Density

- .9 One single family residential dwelling and one sleeping cabin are permitted per lot.

BL 108

- .10 A maximum of one dock is permitted in the marine-area abutting each water front lot.

**Floor Area**

- .11 The maximum floor area of a fire hut is 9.3 square metres (100 square feet).  
.12 The maximum floor area of a sleeping cabin is 18.6 square metres (200 square feet),

**Setbacks**

- .13 The setback requirements of Section 2.7 apply.

**Height**

- .14 The height requirements of Section 2.8 apply to single family dwellings.  
.15 The maximum height of buildings and structures accessory to single family dwellings is 4.6 metres (15.0 feet).

**Lot Coverage**

- .16 The maximum combined lot coverage of buildings and structures is 33 per cent of the lot area.

**Subdivision Lot Area Requirements**

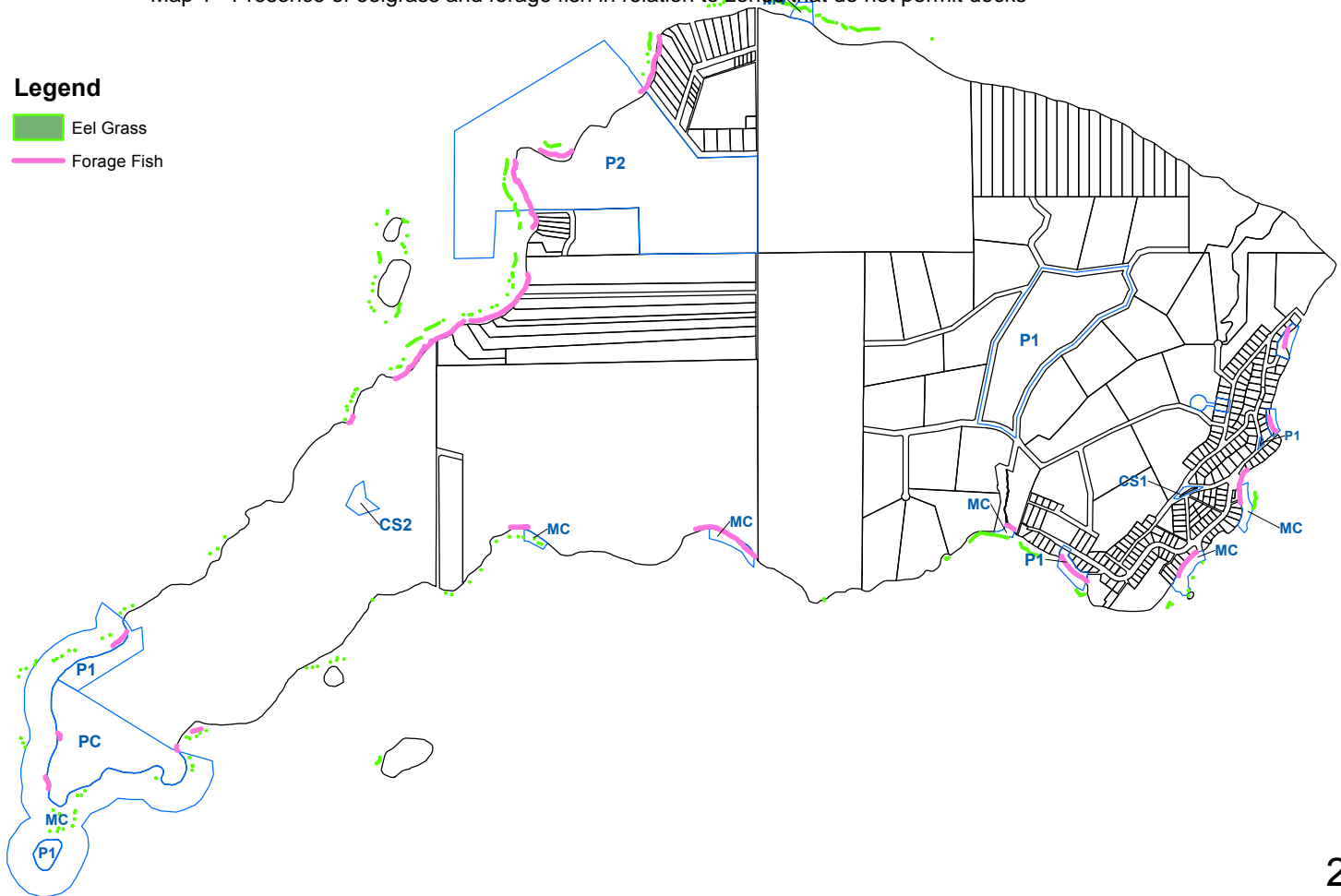
- .17 The minimum lot area permitted by subdivision is 4.0 hectares (10 acres).

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Map 1 - Presence of eelgrass and forage fish in relation to zones that do not permit docks

**Legend**

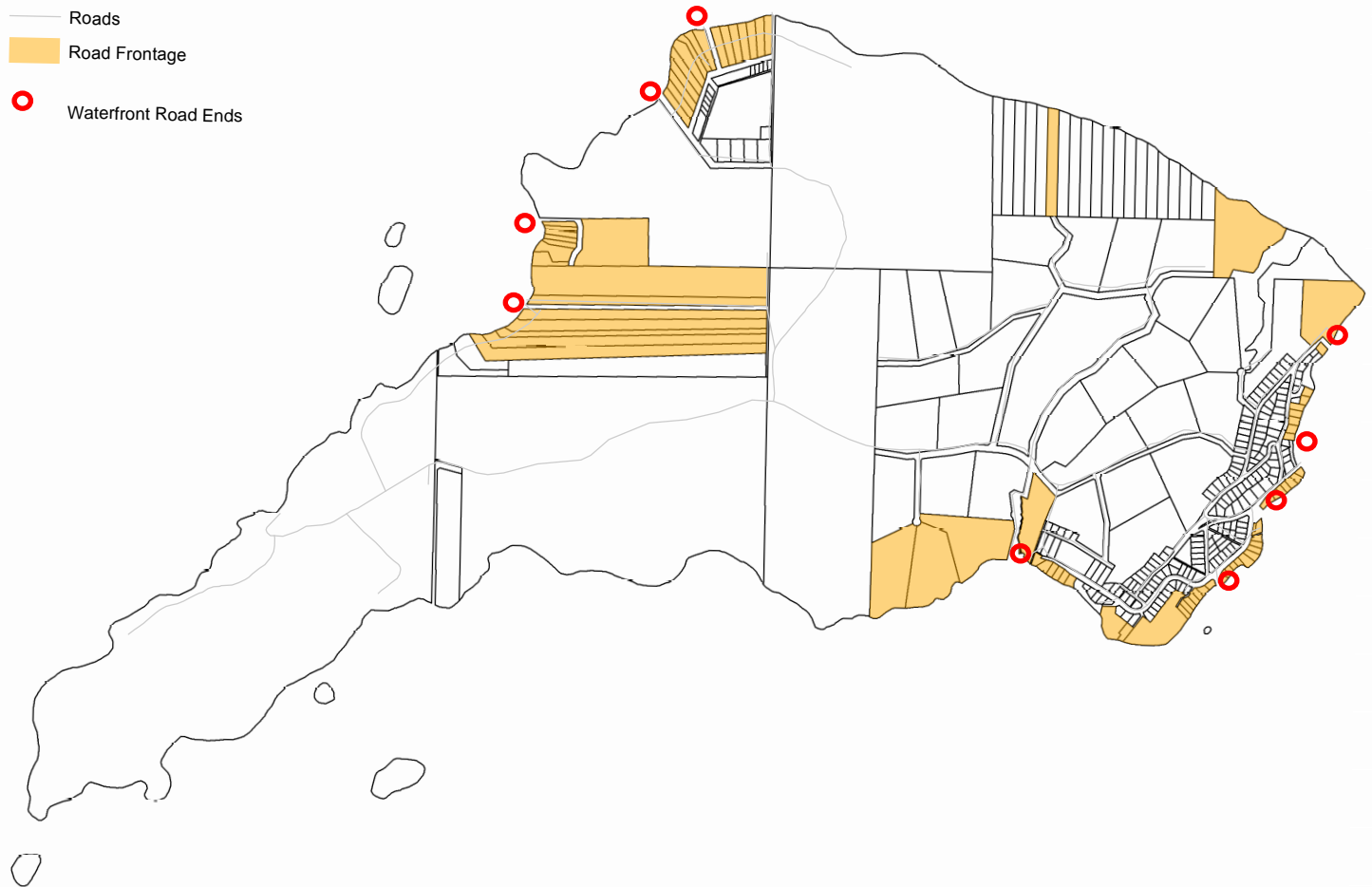
- Eel Grass
- Forage Fish



Map 2 - Waterfront lots with road frontage and waterfront road ends

### Legend

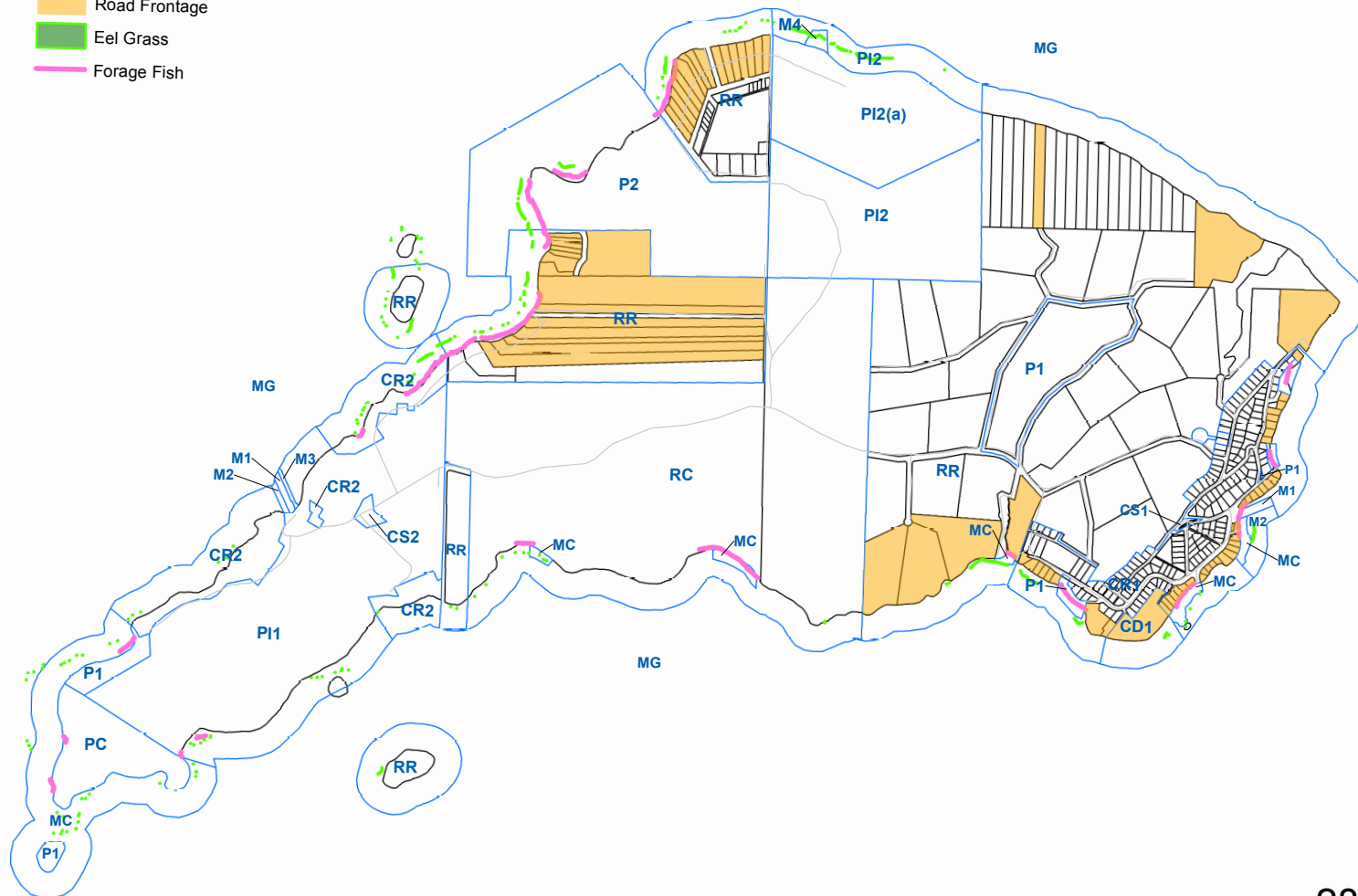
- Roads
- Road Frontage
- Waterfront Road Ends



## Legend

- Roads
- Road Frontage
- Eel Grass
- Forage Fish

Map 3- Zoning, forage fish, eelgrass, and waterfront lots with road frontage



Map 4 - Keats Island Orthophoto

## Keats Island

