

GAMBIER ISLAND LOCAL TRUST COMMITTEE  
KEATS ISLAND SHORELINE PROTECTION PROJECT

DISCUSSION PAPER

MAY 2020

Edited JUNE 2020

Jaime Dubyna, Planner 2



Islands Trust

## Contents

List of Figures .....	1
Summary .....	2
1. Background .....	2
2. Limitations.....	3
3. Existing Islands Trust Policies.....	4
3.1. Islands Trust Policy Statement.....	4
3.2. Keats Island Official Community Plan .....	5
3.3. Keats Island Land Use Bylaw .....	6
3.4. Other Local Trust Area Bylaw Regulations.....	10
4. Options.....	11
4.1. Establish a Shoreline Development Permit Area .....	11
4.2. Flood Protection Bylaw .....	13
4.3. Create Marine Zones.....	14
4.4. Establish Heritage Conservation Areas .....	16
4.5. No Change.....	17
5. Conclusion.....	18
6. Appendix 1 – Islands Trust Policy Statement Policies.....	18
7. Appendix 2 – Keats Island OCP Policies .....	18
8. Appendix 3 – Keats Island LUB Regulations .....	18
9. Appendix 4 – Summary of Other Local Trust Area Regulations.....	18

## List of Figures

Figure 1. Location of M1 and M2 zones on Keats Island .....	7
Figure 2. Zones that permit marine-based structures.....	9
Figure 3. Example of setbacks from natural boundary of sea .....	14
Figure 4. Marine-based zones on Keats Island .....	15

## Summary

As a mechanism for providing background and context, staff have prepared a discussion paper on shoreline policies and regulations on Keats Island. The purpose of this discussion paper is to provide analysis, technical information and recommend options in order to inform discussion and deliberation.

Following LTC endorsement of this discussion paper, the next step in the review process is proposed to be a referral of this discussion paper to the Keats Island Shoreline Protection Working Group for comment. Working Group comments and recommendations would then be brought back to the LTC for consideration.

## 1. Background

At the July 27, 2017 regular meeting of the Gambier LTC, a resolution was passed which moved the item “Keats Island Regulatory Options for Docks and Other Foreshore Development” to the top priority project list, with the specified activity of “amending policies and regulations for docks and other foreshore development.” This action was taken in response to community concerns related to the general increase in development on Keats, and more specifically to the increase in dock development.

The concerns are understood to include environmental impacts, particularly on eelgrass or forage fish spawning areas; visual impacts to neighbours; and impacts on public access to the foreshore for residents and visitors of the Island.

In addition to community concerns, a review and update to shoreline policies and regulations for Keats Island has not been done since the adoption of the Keats Island Official Community Plan (OCP) Bylaw No. 77, 2002 and the Keats Island Use Bylaw No. 78, 2002 (LUB). While 18 years may not seem that long ago, it is generally considered good practice to review OCPs every 5 to 10 years. As well, it has been noted that some regulations found in the current LUB have been carried over from the repealed “Sunshine Coast Regional District Land Use Regulation By-law No. 76, 1974.”

A high concentration of archaeological values, including an estimated 80% of known archaeological sites, are found near the foreshore. Increasingly, First Nations are expressing concerns about the proliferation of shoreline development, which may impact their ability to engage in traditional food gathering activities, and other cultural impacts, as well as generating rights and title implications.

Subsequently, at the April 19, 2018 regular meeting, the LTC endorsed a project charter for ‘Phase 1’ of the project, renamed “Keats Island Shoreline Protection Project”. ‘Phase 1’ introduced potential policy, regulatory and voluntary options related to shoreline protection, and conducted two public meetings and a survey to solicit community input on shoreline values. At the January 31, 2019 regular meeting, a summary of community input was presented to the LTC, the LTC deemed ‘Phase 1’ complete and endorsed a project charter for ‘Phase 2’ of the project.

The purpose of ‘Phase 2’ is to review and update relevant OCP policies and LUB regulations to strengthen opportunities for protection of archaeological resources, sensitive ecosystems, shoreline integrity and function, and public access on Keats Island. The project aligns with Trust Council direction related to the protection of the foreshore and nearshore, and for climate change adaptation and mitigation. The objectives of ‘Phase 2’ include OCP and LUB updates to address the following:

- Sea level rise and flood protection;
- Protection of archaeological resources, sensitive ecosystems and species at risk; and
- Consistency with Atlika7tsem/Howe Sound cumulative effects studies, conservation and marine use planning documents; and the Islands Trust Conservancy Regional Conservation Plan 2018-2027 and Coastal Douglas-fir Ecosystem Protection Toolkit.

The scope of the project includes:

- Establishing a Keats Island Shoreline Protection Working Group;
- Reviewing and updating relevant OCP policies and schedules, LUB setbacks and flood protection levels, dock regulations, marine zones, and flood protection bylaw;
- Potentially developing a shoreline development permit area;
- Conducting minor 'housekeeping' bylaw amendments.

The first deliverables identified in the project charter include LTC endorsement of the revised project charter and Working Group Terms of Reference, and establishing the Working Group; completed in June 2019. Since then, staff have met with the Working Group to introduce the project and relevant topics, conduct a boat tour to identify areas of concern or interest along the Keats shoreline, and identify the Working Group's key concerns related to the Island's foreshore and marine areas.

This discussion paper has been prepared for the Working Group and the Gambier Island LTC, to present an overview of existing Keats Island regulations and policies, provide a comparison of other Local Trust Area's regulations, and present five potential regulatory options for proceeding. The Working Group will be asked to provide recommendations to the LTC in relation to the five options. The findings of this discussion paper along with the Working Group's recommendations are proposed to inform the LTC as they move forward with considering the existing Keats shoreline policies and regulations.

## 2. Limitations

This discussion paper has several limitations that should be considered relevant. An overarching goal of this project is to strengthen opportunities for protection of archaeological resources, sensitive ecosystems, shoreline integrity and function, and public access on Keats Island.

It is noted that information pertaining to archaeological sites is not available publicly, and Islands Trust planning staff are not authorized to share this information. Individual property owners can petition the BC Archaeology Branch for information regarding archaeological sites on their property, as the Archaeology Branch is responsible for maintaining and distributing archaeological information; however, the Archaeology Branch may not release data that could potentially damage archaeological sites. Property owners are encouraged to contact the Archaeology Branch for more information.

The scope of this project does not include determining the legal status of current docks and foreshore structures under the LUB. In addition, the scope of this project does not include identifying whether current docks and foreshore structures require permissions or a license for a Crown lease. **It is the responsibility of property owners to confirm the legality of their docks or foreshore structures with the Province.**

It is recognized that Keats Island is accessible by boat only, and that many upland properties are water access only, having no access to a developed road. Options for access include private boat, water taxi from Gibsons or Horseshoe Bay, and a passenger service from Langdale.

### 3. Existing Islands Trust Policies

#### 3.1. Islands Trust Policy Statement

The Policy Statement guides land use planning and development through the preserve and protect mandate of the Islands Trust. It includes goals and policies that reflect the values and concerns for the future of the Trust Area. Local trust committee official community plans and land use bylaws must comply with the Policy Statement. There are a number of policies which speak broadly for shoreline protection, and more specifically for the implementation, regulation and use of foreshore development, as follows in the table below:

**Table 1. ITPS Policies**

ITPS Policies	
<b>3.4.4</b>	Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.
<b>3.4.5</b>	Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.
<b>4.5.10</b>	Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.
<b>4.5.11</b>	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.
<b>5.5.4</b>	Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address: <ul style="list-style-type: none"> <li>• the location and type of recreational facilities so as not to degrade environmentally sensitive areas, and</li> <li>• the designation of locations for marinas, boat launches, docks and anchorages so as not to degrade sensitive marine or coastal areas.</li> </ul>
<b>5.5.5</b>	Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address: <ul style="list-style-type: none"> <li>• the identification of sites providing safe public access to beaches,</li> <li>• the identification and designation of areas of recreational significance, and</li> <li>• the designation of locations for community and public boat launches, docks and anchorages.</li> </ul>

A comprehensive list of relevant ITPS policies are found in Appendix 1.

### **3.2. Keats Island Official Community Plan**

There are several policies in the Keats Island Official Community Plan (OCP) Bylaw No. 76, 2002 which speak to protecting coastal and/or foreshore areas:

**P 3.20** *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 4.20** *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.*

The OCP also includes the following policy for protecting archaeological resources:

**P 5.117** *The protection of archaeological and heritage sites afforded under the Heritage Conservation Act is acknowledged by the Local Trust Committee.*

There are additional OCP policies that support dock or wharf development, specifically for water-access only lots, and that encourage sharing of docks through joint ownership or agreements between neighbours:

**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 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.*

Appendix 2 provides a comprehensive list of existing OCP policies.

### 3.3. Keats Island Land Use Bylaw

For clarity, the LUB provides the following definitions:

**accessory** *in relation to a use, building or structure means incidental, secondary and exclusively devoted to a principal use, building or structure expressly permitted by this Bylaw on the same lot or, if the accessory use, building or structure is located on the common property in a bare land strata plan, on a strata lot in that strata plan.*

**moorage** *means the tying of a boat or vessel:*

- *to a wharf, dock, or float; or*
- *to a mooring buoy that is in turn anchored to the seabed.*

**dock** *means a marine-based structure, usually comprised of a float, ramp and pier which is used for the private moorage of boats or vessels in association with a permitted residential use on the adjacent upland.*

**public wharf** *means a wharf serving the general public for the purpose of loading and unloading people, goods and material, plus temporary moorage space for the boating public.*

**wharf** *means a marine-based structure, usually comprised of a pier, ramp(s) and float(s), which is available in association with a public use, provincial marine park, private institutional or communal moorage use.*

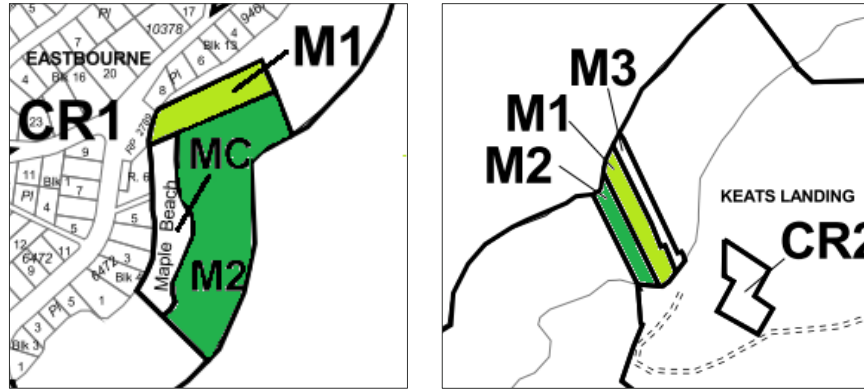
#### **Permitted Uses**

The Keats Island Land Use Bylaw (LUB) permits non-commercial anchorage or moorage use through four routes:

- in marine zones;
- accessory to a residential use of a residential zone;
- accessory to a permitted use of an institutional zone;
- for public use associated with park use in the Provincial Marine Park (P2) zone (Plumper Cove Marine Provincial Park).

There are two locations zoned Marine 1 – Public Wharf (M1) on Keats, where non-commercial boat moorage use is permitted: Eastbourne and Keats Landing government wharves.

There are also two locations zoned Marine 2 – Communal Moorage (M2) zone on Keats, where non-commercial anchorage and moorage of private vessels is permitted: directly adjacent to Keats Landing wharf, and in a marine-only area adjacent to the Eastbourne wharf. The M2 zone permits this use provided it serves, “...only single family uses on any Keats Island upland lot, and for which user fees may be charged.”



**Figure 1. Location of M1 and M2 zones on Keats Island**

The following residential zones permit non-commercial anchorage and moorage in the marine-based area, accessory to a permitted residential use on the adjacent upland:

- Community Residential 1 (CR1)
- Community Residential 2 (CR2)
- Comprehensive Development 1 (CD1)
- Rural Residential (RR)
- Rural Comprehensive (RC)

And, the following institutional zones permit non-commercial anchorage and moorage in the marine-based area, accessory to a permitted use in the adjacent upland:

- Private Institutional 1 (PI1)
- Private Institutional 2 (PI2)

Generally, commercial or industrial use of a “buoy, float, dock, wharf, ramp or related structure” is prohibited on Keats Island, unless it is expressly permitted in Part 4 of the LUB. For example, Section 4.16 of the LUB permits “buoys, floats, dolphins and pilings, necessary for the establishment or operation of a use permitted in this zone”, in the Marine 4 – Private Log Dump (M4) zone.

***Permitted Structures***

*Docks*

The LUB provides regulations for private docks and associated structures (floats, ramp, pier) within the marine-based area of the following residential zones:

- Community Residential 1 (CR1)
- Community Residential 2 (CR2)
- Comprehensive Development 1 (CD1)
- Rural Residential (RR)
- Rural Comprehensive (RC)

Regulations for docks include the maximum number of docks permitted per waterfront lot, the maximum area covered by a dock float, and the maximum width of a ramp associated with a dock. To



align with OCP policies that support or encourage communal/shared docks, the LUB includes regulations where the maximum float size may be increased per residential dwelling served by that dock, provided a restrictive covenant is registered.

While the LUB includes docks under permitted structures in the Private Institutional 2 (PI2) zone, the regulations for marine-based structures in this zone are directed toward wharves. It is also noted that both the Provincial Marine Park (P2) and Marine 2 – Communal Moorage (M2) zones include regulations for docks, but do not include docks under permitted buildings and structures in that zone.

### Wharves

The LUB permits wharves through two routes: for public use and in association with a private institutional camp. Public wharves are permitted in the following zones:

- Provincial Marine Park (P2)
- Marine 1 – Public Wharf (M1)
- Marine 2 – Communal Moorage (M2)

The M1 and M2 zones provide the main public access points to Keats Island; as noted, the M1 zone includes Eastbourne and Keats Landing government wharves. The P2 zone includes the upland and marine-based area of Plumper Cove Marine Provincial Park. LUB regulations related to public wharves include limiting the maximum area covered by a float and the maximum width of a ramp.

Wharves and associated structures (float, dolphin, pilings, etc.) that are necessary for the establishment or operation of a private institutional camp use, are also permitted in the Private Institutional 1 (PI1) and Private Institutional 2 (PI2) zones. There are associated regulations for wharves for each of these zones, including the maximum number of wharves permitted and maximum area covered by floats and ramps.

Appendix 3 provides summary tables of zone-specific regulations found in the LUB in relation to docks, wharves and other marine structures.

As shown in Figure 2, most of the Keats shoreline is zoned to permit marine-based structures such as docks and wharves.



Figure 2. Zones that permit marine-based structures

## Setbacks

### Natural Boundary of the Sea

The LUB provides the following regulations for siting of buildings and structures in relation to the natural boundary of the sea:

#### 2.7.2 The following features may project into a required setback area:

- steps, eaves gutters, cornices, sills, chimneys, or similar features, provided they do not project more than 1.0 metre (3 feet) into the required setback area or 0.5 metres (1.5 feet) in the case of a side yard setback area;
- balconies, decks and sunshades, provided that they do not project more than 1.0 metre (3 feet) into the required setback area;
- retaining walls may be located in any required setback area except the setback from the natural boundary of the sea.

#### 2.7.3 No building or structure except platforms not exceeding a combined floor area of 10 square metres, a permitted boathouse, pump/utility house, or stairs, or walkways required to access the foreshore or a permitted float, dock, wharf, or other permitted marine related structure may be

*constructed, reconstructed, moved, extended or located within 7.5 metres (24.6 feet) of the natural boundary of the sea.*

For clarity, the LUB provides the following definitions:

***natural boundary*** means the visible high water mark of the sea, a lake, a stream or other body of water, where the presence and action of water are so common and usual and so long continued in all ordinary years as to mark upon the soil or rock of the bed of the body of water a character distinct from that of the bank, and in the case of a lot having a surveyed high water mark means the high water mark.

***retaining wall*** means the placement of riprap or a structure between lands of different elevations to protect structures and/or to prevent erosion.

***structure*** means anything that is constructed or erected and that is fixed to, supported by or sunk into land or water, but excludes:

- *fences;*
- *surfaced areas of gravel, concrete, or other similar material comprising driveways and uncovered parking areas; and*
- *underground sewage disposal systems including septic tanks, absorption fields and related appurtenances*

### **3.4. Other Local Trust Area Bylaw Regulations**

Policies and regulations related to shorelines differ from island to island in the Trust Area, as each island has taken a variety of approaches to address shoreline development and protection. Since each LTA has its own Land Use Bylaw (LUB) and Official Community Plan (OCP), each island has taken an approach consistent with its own individual culture, history, and intensity of use. The main tools available to the LTAs under the *Islands Trust Act* are modifications to the OCP and associated LUBs to include shoreline-specific provisions. Within the LUBs, this generally takes the form of increasing setbacks from the natural boundary of the sea and limiting buildings and structures within the setback area and in marine areas.

Table 2 provides a brief overview of how the LTAs in the Islands Trust regulate the shoreline area. Further summaries of each island's regulations are outlined in Appendix 4 – Summary of Other Local Trust Area Regulations. A select number of associated islands bylaws were included in this study.

**Table 2: Summary of Other LTA Regulations**

Shoreline Regulation Overview Table	Private Docks permitted (zone specific)	Setback from Natural Boundary of the Sea	Permits Structures in Setback from NB	Exemptions to Setback from NB	Shoreline (or Marine) Development Permit Area
Ballenas-Winchelsea	✓	15 m	-	✓	✓
Bowyer and Passage Islands (Gambier LTA)	✓	7.6 m	Property specific min. setbacks based on historical buildings and structures	✓	-
Denman	✓	15 m	✓	-	-
Gabriola	✓	15 m**	✓	-	✓
Galiano	✓	7.5 m	✓	-	✓
Gambier	✓	15 m	✓	✓	✓
Gambier Associated Islands	✓	7.5 m	✓	-	-
Hornby	-	15 m	-	✓	-
Lasqueti	✓*	15 m**	✓	-	-
Mayne	✓	7.5 m	✓	✓	-
North Pender	✓	15 m	✓	✓	✓
North Pender Associated Islands	✓	15 m	-	-	✓
Salt Spring	✓	15 m**	✓	✓ (zone specific)	✓
Saturna	✓	7.6 m	✓	-	-
South Pender	✓	7.6 m	✓	✓	-
Thetis	✓	7.6 m	✓	✓	-
Thetis Associated Islands	✓	10 m	✓	-	-

\*Docks permitted on specific lots only. Rezoning required for additional docks.

\*\*May be reduced with engineer certification.

## 4. Options

As outlined in Section 3.3, the Keats Island LUB currently regulates docks and other foreshore development through a combination of general and zone-specific regulations. Outlined below is a brief discussion of potential options that could be considered by the LTC for enhancing shoreline protection further through its regulatory and policy framework on Keats Island.

### 4.1. Establish a Shoreline Development Permit Area

Authorized by the *Local Government Act* (LGA), development permit areas (DPA) are one regulatory option available to the LTC for managing development on private land. Under Section 488 of the LGA, DPAs may be designated within an official community plan for a number of purposes, including

“protection of the natural environment, its ecosystems and biological diversity” and “protection of development from hazardous conditions”. DPAs are established over specific land or areas and include development guidelines to address DPA objectives. Examples of objectives that may be relevant to Keats include:

- To preserve and protect the ecological values of shorelines and associated foreshore and upland areas;
- To protect and/or minimize disruption of important natural features and processes;
- To protect fish or wildlife habitat;
- To prevent erosion;
- To adapt to anticipated effects from climate change.

The guidelines may prescribe how applicable development activity occurs within that DPA. Examples include guidelines for retaining walls and other shoreline stabilization works; dock construction regarding density, size and materials; protecting eelgrass and other plant or tree species; setbacks from the natural boundary; requirements for professional reports (i.e. engineer, biologist, etc.); and restoration or enhancement measures.

There are several LTAs that have established Shoreline DPAs, which guide development within a specified area upland of the natural boundary of the sea, and in some cases, seaward to the boundary of the area of bylaw application.

Ballenas-Winchelsea Islands designates all land 30 metres upland of the natural boundary of the sea within its Shoreline DPA, for the protection of the natural environment and to protect development from hazardous conditions. The DPA applies to all construction and land alteration within the Shoreline DPA, and includes general guidelines, shoreline specific guidelines for steep slopes and bluffs, and guidelines for boat launch facilities.

Salt Spring Island designates all land covered by water between the natural boundary of the sea and a parallel line draw 300 metres seaward of the natural boundary of the sea within its Shoreline DPA. It also encloses upland areas measured 10 metres from the natural boundary of the sea in areas where the marine environment has been identified as particularly sensitive to development impacts. Guidelines include addressing water quality, residential dock float size, shoreline stabilization works, lighting over the water and reducing impact on kelp or eelgrass beds.

#### *Considerations:*

#### **Pros**

- Would address the greatest number of concerns identified by the LTC and Working Group of all options listed;
- Furthers the Islands Trust’s “preserve and protect” mandate;
- Guides development, does not preclude development;
- Certain development activities may be exempted from the requirement for a development permit;
- Specifies natural or hazardous areas that must remain free of development, except in accordance with the conditions of the permit;

- May require measures to preserve, protect, restore or enhance specified natural features or areas;
- May incorporate recommended sea level rise and flood protection measures;
- Opportunity to incorporate recommendations in the Islands Trust Coastal Douglas-fir Zone Ecosystem Protection Toolkit and Islands Trust Conservancy Regional Conservation Plan;
- Opportunity to incorporate Green Shores or “soft shore” alternative approaches to shoreline and flood protection;
- No public notification required for an application for a Development Permit. Public consultation is done at the time of the DPA’s establishment within the OCP and LUB.

#### **Cons**

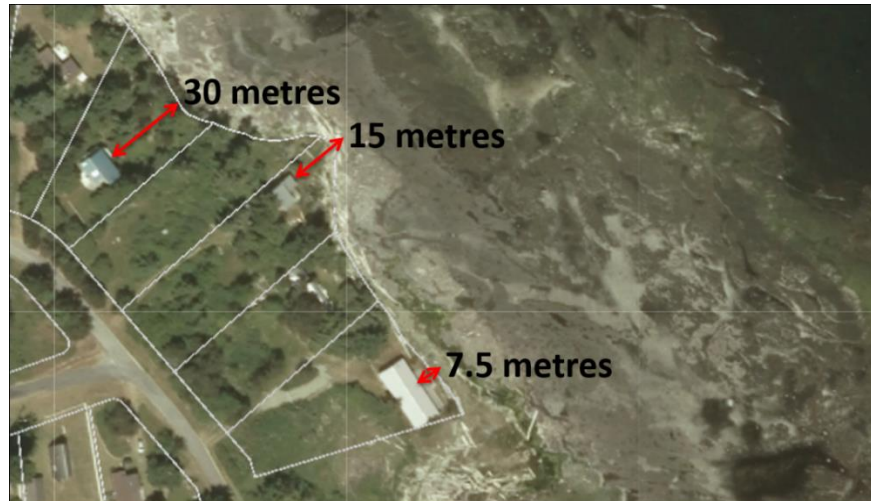
- Amendments to OCP and LUB required, including mapping updates;
- Limited discretion for LTC. Issuance of DP is in accordance with DPA guidelines;
- Bylaw infraction enforcement can be costly;
- Misunderstanding of DPAs can lead to difficulty gaining public acceptance;
- Property owners concern for additional costs and regulations.

## **4.2. Flood Protection Bylaw**

Section 524 of the LGA enables local governments to develop flood hazard area bylaws. When adopting these bylaws, local governments are required to consider the Province’s [“Flood Hazard Area Land Use Management Guidelines”](#) (the Provincial Guidelines). Amended in 2018, the Provincial Guidelines incorporate sea level rise (SLR) into land use planning and future development, and require that local governments adjust setbacks according to the Year 2100 Global SLR prediction of 1.0 metre, with adjustments made for regional uplift and subsidence. Using the Year 2100 SLR prediction of 1.0 metre as the minimum elevation, local governments can regulate flood construction levels (FCL) of buildings and structures, including docks.

The Provincial Guidelines require a setback of 15 metres from the future estimated natural boundary of the sea at Year 2100, or landward of the location where the natural ground elevation contour is equivalent to the Year 2100. It is noted that where sea frontage is protected from natural bedrock formation, setback requirements may be adjusted as recommended by a qualified Professional Engineer experienced in coastal engineering. Conversely, the recommended setback may be increased based on the site specific conditions, for example in low-lying areas or areas of known erosion hazard.

The current Keats LUB requires a 7.5 metres setback from the natural boundary of the sea for buildings and structures, and requires amendments to be consistent with the Provincial Guidelines. Rather than amending the LUB to update the setback measurement, one option would be to amend the LUB to refer to the flood protection bylaw for setbacks from the natural boundary of the sea. This would align with the existing Provincial Guidelines, and with any future amendments to the setbacks to the sea as required by the Province.



**Figure 3. Example of setbacks from natural boundary of sea**

For historic development that does not meet the Provincial Guidelines, the province recommends that redevelopment be regulated by requiring a restrictive covenant stipulating that any future development must meet the FCL and setback requirements in force at the time of redevelopment. Given its historic development pattern, this final recommendation could potentially apply to a number of properties on Keats.

*Considerations:*

**Pros**

- Aligns with provincial direction;
- Designed to prevent injury or loss of human life, and to minimize property damage resulting from flood events;
- Potentially an Islands Trust-wide option.

**Cons**

- Only address flood construction levels; do not address most aspects of dock or retaining wall density, design or setbacks, or environmental protection beyond flood construction levels;
- Coastal floodplain mapping and data is costly, Islands Trust relies on Regional Districts and the Province for this information;
- Flood hazard assessment reports by qualified professional engineer may be out of reach for some property owners;
- Could have implications for smaller lots – i.e. limit or restrict some lots.

**4.3. Create Marine Zones**

Another option available to the LTC is to create marine-specific zones for the marine area surrounding Keats Island. Currently, there are six (6) marine zones that cover approx. 18% of the marine area surrounding Keats, and the other 82% shares the zoning of the adjacent upland area. It is noted that one zone, the Marine General (MG) zone includes surrounding marine areas outside of the perimeter of the other zones (as shown in Figure 4 below). In the Marine zones (except the MG zone), the LUB

distinguishes between the “land-based area” and “marine-based area” of that zone. For example, in the Community Residential 1 (CR1) zone, “single family residential” use is permitted in the land-based area, and the only permitted use in the marine-based area of that zone is, “non-commercial anchorage and moorage of private vessels, where such use is accessory to a permitted residential use on the adjacent upland.”

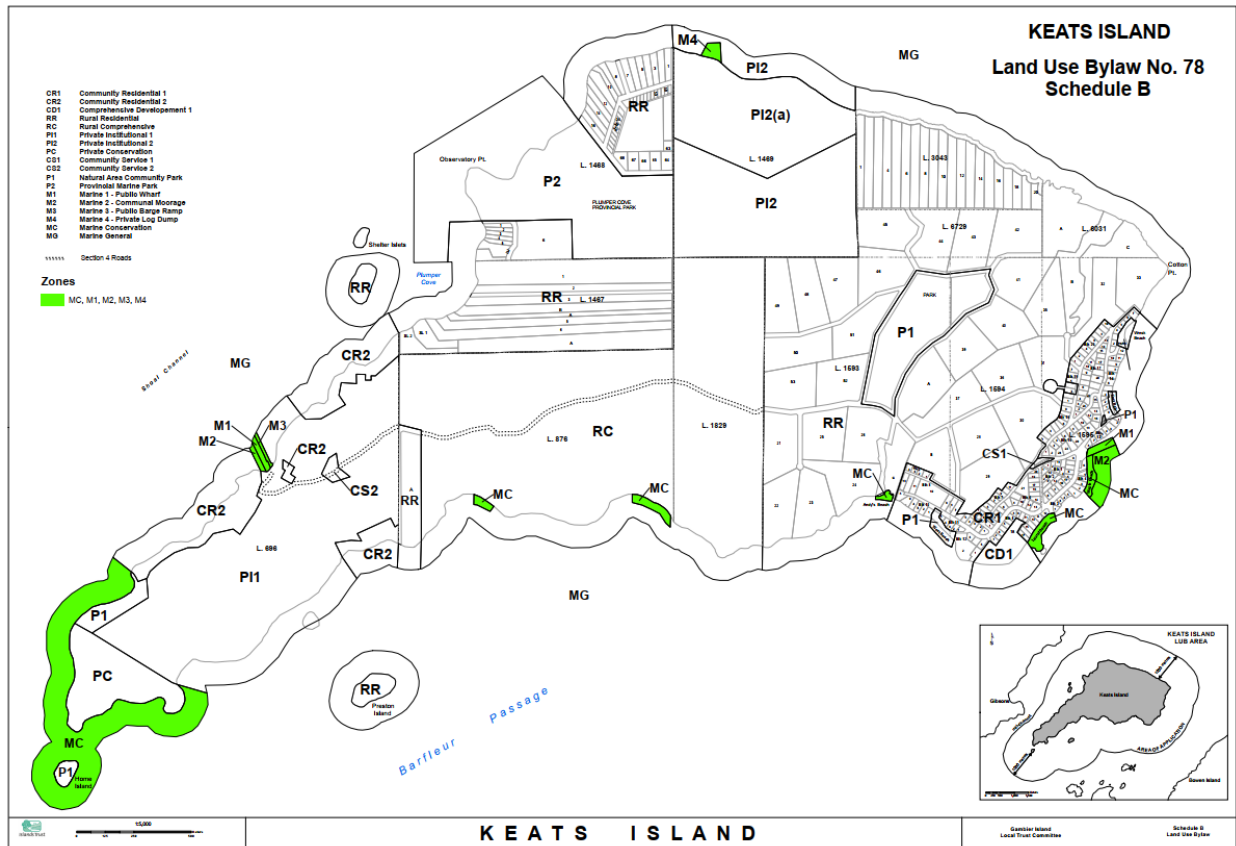


Figure 4. Marine-based zones on Keats Island

Amending the LUB to create new marine zone designations would simplify zoning in general in the LUB, and would focus regulations below the natural boundary of the sea to marine-specific uses, buildings and structures only. This option would require amendments to the existing zoning regulations found in the LUB, and may involve a comprehensive review and update to the entire LUB. As a result, this option would provide an opportunity to also consider amendments to other zoning regulations.

Applicable regulations would include regulations for docks, including density, size and materials used; regulations for other structures in the foreshore and over water; and also incorporate provincial best practices for private moorage facilities.

Additional regulations could include setbacks from important marine plant species. One example that may be replicated for Keats is Section 9.11.1 of the [Salt Spring Island Land Use Bylaw no. 355, 1999](#), which requires a 10 metre setback from eelgrass (*Zostera marina*) or kelp (*Nereocystis luetkeana*).

It is noted that any amendments to the LUB must comply with the OCP.



*Considerations:*

**Pros**

- Marine/foreshore focus only – no regulations or guidelines for development of land that impacts the foreshore;
- Simplifies zoning in marine areas;
- Regulates dock size, density, and other marine structures;
- Opportunity to update LUB regulations, including alignment with provincial best practices for docks;
- Can incorporate existing Islands Trust mapping data – including sensitive ecosystems and eelgrass mapping.

**Cons**

- May require OCP amendments;
- May require substantial amendments to the LUB;
- Can be achieved through amendments to existing zoning.

#### **4.4. Establish Heritage Conservation Areas**

In accordance with Section 614 of the LGA, Heritage Conservation Areas (HCA) are designated within an OCP. Similar to DPAs, where a Development Permit application must be “in accordance with” DPA guidelines, a Heritage Alteration Permit (HAP) must act in accordance with the HCA “purpose”. While DPAs may be designated for a number of purposes, a HCA is designated for the purpose of “heritage conservation”. The LGA provides the following definition:

**conservation** *includes, in relation to heritage, any activity undertaken to protect preserve or enhance the heritage value or heritage character of heritage property or an area;*

Further definitions are provided within the LGA for “heritage value”, “heritage character”, and “heritage property”. While heritage conservation is often thought of from a historical or architectural perspective (i.e. heritage buildings), HCAs can apply to cultural areas, land or natural features of importance. In this way, staff surmise that this option may also further the [Reconciliation Action Plan 2019-2022](#) adopted by the Islands Trust Council in 2019, by exploring opportunities for collaboration and knowledge sharing with local First Nations. HCAs could recognize important cultural or historical areas or features of importance on Keats, and facilitate understanding of property owners on First Nations concerns.

Existing Keats OCP policies that address heritage conservation are broad and encourage preservation and protection of heritage values and character, and encourage the use of voluntary conservation covenants. Establishing a HCA is an opportunity to strengthen heritage conservation on Keats Island.

HCAs are a relatively underused regulatory tool in the Islands Trust. Staff are aware of one HCA on Salt Spring Island, the HCA 1 – Ganges Village Core. While the Ganges Village Core is a designated HCA that protects a number of heritage buildings, it also protects heritage trees – in Centennial Park, on the grounds of the elementary school, mature trees with a trunk diameter greater than 20 cm and fruit trees over 50 years old, as decided by a certified arborist.

An important note when considering the establishment of HCAs, is that they may not be used to prevent a land use that is permitted within the LUB, and may not conserve natural landscapes or undeveloped land, except as noted in Section 588(1) of the LGA:

**588 (1)** *This Part must not be used to conserve natural landscapes or undeveloped land except (a) to the extent that the exercise of power under this Part in respect of natural landscape or undeveloped land is, in the opinion of the local government, necessary for the conservation of adjacent or proximate real property that is protected heritage property, (b) with respect to a site that has heritage value or heritage character related to human occupation or use, or (c) with respect to individual landmarks and other natural features that have cultural or historical value.*

*Considerations:*

#### **Pros**

- Strengthens the protection of important heritage areas, properties and/or features;
- Provides long-term protection;
- Can apply to a historical, cultural, aesthetic, scientific or educational value;
- Can protect identified natural features and characteristics;
- No public notification required for an application for a HAP. Public consultation is done at the time of the HCA's establishment within the OCP and LUB.

#### **Cons**

- Does not address regulations or guidelines associated with docks or retaining walls;
- Generally underused, may be unfamiliar to many;
- Limited discretion for LTC. Issuance of HAP is in accordance with HCA purpose;
- Enforcement can be costly;
- Could potentially be a slow process to establish a HCA – planning and research, consultation, etc.

### **4.5. No Change**

This option would be to opt for the status quo with respect to the current policy and regulatory regime for private docks and other foreshore development, and to not continue with this project. Choosing this option would represent an acknowledgement that the current system, while not perfect, is functioning well enough to leave alone. The choice of this option should also include a clear understanding of the number and nature of complaints that have been received with respect to foreshore development.

*Considerations:*

#### **Pros**

- Current policies and regulations are familiar to the community;
- Does not introduce additional regulations;
- Maintains status quo;
- Staff resources may be reallocated to other top priority projects.

**Cons**

- Outdated policies and regulations;
- Does not align with provincial direction and provincial best practices;
- Shoreline protection measures are not strengthened;
- Does not address ongoing concerns and issues;
- Does not address cumulative impacts of foreshore development;
- Ongoing bylaw enforcement issues.

**5. Conclusion**

This discussion paper is intended to identify and document existing policies and regulations related to the Keats Island shoreline and make recommendations as to potential updates to these policies and regulations.

The options presented in Section 4 represent some potential regulations that could be enacted in response to specific concerns from the community. Staff recommend that the LTC consider pursuing options 1 through 4 over time but identify a priority sequence for consideration. Staff recommend that the LTC start with consideration of a Shoreline Development Permit Area as this regulatory tool has the potential for impacting the most areas of interest.

**6. Appendix 1 – Islands Trust Policy Statement Policies****7. Appendix 2 – Keats Island OCP Policies****8. Appendix 3 – Keats Island LUB Regulations****9. Appendix 4 – Summary of Other Local Trust Area Regulations**