



# AGENDA

For the Council Meeting to be Held  
At the Saanich Municipal Hall,  
770 Vernon Avenue  
**MONDAY, APRIL 25, 2016**

I **6:00 P.M., COMMITTEE ROOM NO. 2**

Motion to close the meeting to the public in accordance with Sections 90(1)(c) and 90(2)(b) of the *Community Charter*.

II **7:00 P.M., COUNCIL CHAMBERS**

A. **ADOPTION OF MINUTES**

1. Council Meeting held April 18, 2016
2. Committee of the Whole Meetings held April 18, 2016
3. Special Committee of the Whole Meeting held April 19, 2016
4. Special Council Meeting held April 19, 2016

B. **BYLAWS FOR FINAL READING**

1. **4655 CORDOVA BAY ROAD – SEWER SERVICE AREA INCLUSION**  
Final reading of “Sanitary Sewer Bylaw, 2006, Amendment Bylaw, 2016, No. 9371”. To extend the sewer service area to include the property at 4655 Cordova Bay Road.

C. **PUBLIC INPUT (ON BUSINESS ITEMS D & E)**

D. **BYLAWS FOR THREE READINGS**

1. **COUNCIL PROCEDURE BYLAW**  
**P. 3** Report of the Director of Legislative Services dated April 21, 2016, and three readings of “Council Procedure Bylaw, 2015, Amendment Bylaw, 2016, No. 9376”. To update the bylaw with the proposed amendments from the review held in December 2015.

E. **RESOLUTIONS FOR ADOPTION**

1. **TENDER 05/16 – 2016 STORM AND SANITARY SEWER CIPP LINING**  
**P. 14** Report of the Director of Engineering dated April 15, 2016 recommending that Council award Tender 05/16 for 2016 Storm and Sanitary CIPP Lining, and change orders within the project budget, to Insituform Technologies Limited in the amount of \$1,521,299 (excluding GST).
2. **TENDER 10/16 – SUPPLY HOT AND COLD MIX ASPHALT – FOB PLANT**  
**P. 16** Report of the Director of Engineering dated April 13, 2016 recommending that Council award Tender 10/16 – Supply Hot and Cold Mix Asphalt – FOB Plant to Island Asphalt Company (Division of O.K. Industries Ltd.) in the amount of \$399,825 (based on estimated quantities and excluding taxes).
3. **TENDER 11/16 – ASPHALT PAVING WORKS**  
**P. 18** Report of the Director of Engineering dated April 19, 2016 recommending that Council award Tender 11/16 - Asphalt Paving Works to Capital City Paving Ltd. in the amount of \$1,709,237.50 (based on estimated quantities and excluding taxes).

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4. **TENDER 12/16 – CONSTRUCTION OF CONCRETE CURB AND GUTTER**  
**P. 20** Report of the Director of Engineering dated April 15, 2016 recommending that Council award Tender 12/16 for Construction of Concrete Curb and Gutter to Island Asphalt Company (Division of O.K. Industries Ltd.) in the amount of \$1,043,865 (based on estimated quantities and excluding taxes).
5. **TENDER 14/16 – COLD ASPHALT MILLING**  
**P. 22** Report of the Director of Engineering dated April 15, 2016 recommending that Council award Tender 14/16 for Cold Asphalt Milling to Capital City Paving in the amount of \$616,800 (based on estimated quantities and excluding taxes).
6. **PROTECTING PERSONAL INFORMATION – IMPLEMENTING A MORE COMPREHENSIVE PRIVACY MANAGEMENT PROGRAM**  
**P. 24** Report of the Chief Administrative Officer dated April 21, 2016 recommending that Council receive the report for information.
7. **DRAFT TERMS OF REFERENCE – ENVIRONMENTAL DEVELOPMENT PERMIT AREA (EDPA) REVIEW**  
**P. 52** Report of the Director of Planning dated April 18, 2016 recommending that Council endorse the draft Terms of Reference with direction for any changes and that Council give direction as to the desired level of public engagement.
8. **REMOVAL REQUEST - ENVIRONMENTAL DEVELOPMENT PERMIT AREA (EDPA) – 4007 AND 4011 RAINBOW STREET**  
**P. 85** Report of the Director of Planning dated April 15, 2016 recommending that Council not support the request to remove the subject properties from the EDPA as outlined in Option 1 of the report.
9. **REMOVAL REQUEST - ENVIRONMENTAL DEVELOPMENT PERMIT AREA (EDPA) – 4351 GORDON HEAD ROAD**  
**P. 132** Report of the Director of Planning dated April 18, 2016 recommending that Council not support the request to remove the Coastal Bluff and associated covenant of the EDPA from the subject property as outlined in Option 1 of the report.

\* \* \* Adjournment \* \* \*

#### **OPEN FORUM - COMMENT AND QUESTION PERIOD**

The 30-minute Open Forum is an opportunity to address Council on a Saanich-related topic. Comments or questions are invited, but please be reminded there are some limitations on the topics that can be received by Council. Each speaker will have one opportunity up to three minutes at each Open Forum. For more details visit [www.saanich.ca](http://www.saanich.ca).

\* \* \* Adjournment \* \* \*

“IN CAMERA” COUNCIL MEETING IMMEDIATELY FOLLOWS



The Corporation of the District of Saanich

# Supplemental Report

Mayor  
Councillors  
Administrator

Council  
Administration  
Media

**To:** Mayor and Council  
**From:** Carrie MacPhee, Director of Legislative Services  
**Date:** April 21, 2016  
**Subject:** Review of Amendments to Council Procedure Bylaw – Public Participation at Council Meetings

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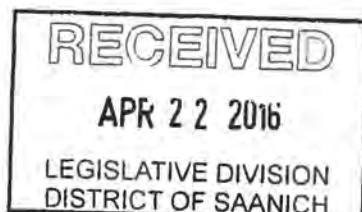
## PURPOSE

The purpose of this report is to provide Council additional information and recommendations further to its review of the effectiveness of Council Procedure Bylaw amendments enacted in 2015.

## BACKGROUND

In April 2015 the Council Procedure Bylaw was amended to bring into effect enhanced public participation opportunities at Council meetings. At its meeting held December 14, 2015 Council reviewed the effectiveness of the amendments implemented earlier in the year and passed several motions with a focus on providing further clarity and improving Council's procedures.

1. That Council Procedure Bylaw, 2015, No. 9321, be revised as follows:
  - a) A new subsection be added to s. 55 to clarify that a person or organization must not address Council on any matter that involves an application, project or other initiative that will be or has been dealt with through another process set out in either of Council's two procedure bylaws.
  - b) A new subsection be added to s. 29 that provides a more formal process for the reporting out, as appropriate, of motions from meetings closed to the public.
  - c) A revision be made to subsection (g) of s. 29 that adds permits for ratification to the already existing bylaws for final reading.
2. That staff be requested to establish a definition of delegation to be included in Council Procedure Bylaw, 2015, No. 9321.
3. That Council recommends an amendment to the Council Procedure Bylaw, 2015, No. 9321 for Council to not enter into debate with a delegation.
4. That Council recommends staff clarify the courses of action that Council can take following receipt of information from a delegation.



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5. That Council recommends an amendment to the Council Procedure Bylaw to provide the Open Forum – Comment and Question Period be held once a month starting at 7:00 pm, and that there be no delegations when an Open Forum is scheduled.
6. That Council recommends an amendment to the Council Procedure Bylaw to delete the restriction on the number of times a Council member may speak on a motion.

## DISCUSSION

Council direction with respect to items 1, 5 and 6 above requires no further analysis. It is worthwhile to note that Council's recommendation in item 5 has the added benefit of going back to a schedule that provides for a Committee of the Whole meeting to occur every Monday rather than only twice per month. Staff has provided wording for item 6 that will allow each Council member who wishes to do so an opportunity to speak before members speak for a second time.

Staff have reviewed items 2, 3 and 4 and are providing the following analysis and recommendations with respect to delegations. Some additional housekeeping items are also outlined in this section of the report.

### Delegation

Council requested staff to:

- Establish a definition of delegation;
- Clarify that Council is to not enter into debate with a delegation; and
- Clarify the courses of action that Council may take following receipt of information from a delegation.

### Definition of Delegation

At its December meeting Council expressed concern that the term delegation is not clearly defined in the bylaw and that the delegation process, as it is presently applied, is a departure from the initial intent to provide a venue for an organization or group to present information to Council. There was also consideration given to whether the definition should exclude individuals wishing to present to Council as there are other opportunities for this to occur. These opportunities would include using Council's advisory committees more effectively to receive presentations where the topic is within their mandate. Of the 16 delegations that have presented to Council to date, ten were organizations or associations.

Staff recommends the following definition of delegation: a presentation for information from a person or persons on behalf of an organization or association.

### Debate with a Delegation

The bylaw currently contains the following provision: "A Council member may ask questions of the delegation to clarify or correct information but must not enter into debate on the item which is the subject of the delegation."



Staff recommends that to provide greater clarity, the bylaw also state that Council itself will not enter into debate on the information received.

#### Action following a Delegation

With respect to clarifying the courses of action that Council can take following a delegation, staff take the position that the current bylaw allows flexibility for Council to take some immediate action as deemed appropriate given the information or circumstances.

Some members of Council expressed concern about the sufficiency of the notification to garner public input before Council determines a course of action. Depending on the type of action taken immediately following the receipt of information from a delegation, it may be perceived as circumventing the principle of providing 'due notice'.

Saanich has a solid process of providing advance public notice of Council/C/W agenda items through the newspaper and direct notification as per established policy, and where bylaw or statute requires. The present procedure requires a delegation application be submitted at least 10 days prior to the scheduled meeting. This ensures that the delegation applicant and topic are published in the notice of meetings. The application and any supporting material is published in the agenda. While the public cannot speak to the delegation at the meeting, written submissions are accepted and circulated either with the agenda or prior to the meeting depending on when the item is received.

Following is a summary of Council's responses to the 16 information presentations it has received from delegations:

- |   |    |
|---|----|
| • No action (information only):   | 9  |
| • Referred to a future meeting of Council/C/W:                              | 3  |
| • Letter sent (letter of support; letter to the authority of jurisdiction): | 3  |
| • Referred to Staff for a report:   | 1* |
| • Referred to an Advisory Committee:  | 1* |
- \*the same topic was referred to staff for a report and to advisory committees

The table on the next page provides more detailed information.

Staff recommend a bylaw amendment that aligns with Council's intent that a delegation be for the receipt of information by providing a limited number of immediate actions Council may take following a delegation:

- Receive for information (no action required);
- Provide a letter of comment or support if requested and where Council determines no additional information or public input is necessary;
- Refer the matter to an advisory committee or staff.

Delegation	Org./Ind.*	Action Taken
Office of the Ombudsperson – Roles and Responsibilities	Org.	Information
Jillian McCue – Pass a bylaw allowing miniature goats	Ind.	Prepare report, Refer to committees
Saanich Citizens for a Responsible EDPA – bylaw revisions	Org.	Referred to Town Hall meetings
Watkiss Way Waste Mgmt & Agricultural Strategy - proposal to create single site for sewer treatment	Ind.	Information
Co-op Housing Federation of BC – request Council’s endorsement	Org.	Referred to future Council meeting
Help Sign Animals Support Society – pilot program to plant deer-friendly vegetation	Org.	Information
Fortis BC – requesting letter of comment for application BCUC	Org.	Letter of comment
Urban Wildlife Stewardship Society – Deer management initiatives	Org.	Information
Canadian Heritage Arts Society/Canadian College of Performing Arts – potential re-location of college	Org.	Information
David Poje – parking ban on Glendenning	Ind.	Referred to a future meeting.
Island Health – master campus plan for RJH	Org.	Information
Dorothy Pearson - aircraft noise	Ind.	Letters to MPs, MLAs, Nav Canada, VAA & Harbour Authority
Mount Doug Eco Club – survey and mapping of invasive species	Org.	Information
Larry Layne – BC Hydro Peace River Site C	Ind.	Information
David Poje - Public Participation Policy	Ind.	Information
FORTRESS Foundation	Org.	Letter of support
*= Organization (10) or Individual (6)		

**Other Housekeeping Amendments**

The following housekeeping amendments have also been included to provide greater clarity.

Designation of Member to Act in Place of Mayor

Staff recommend that where the Mayor and Acting Mayor are both absent from a Council meeting the next Council member in succession from the established roster automatically preside at the meeting and be Acting Mayor.

Regular Meetings

Staff recommend that the bylaw be revised to clarify that regular meetings are to be held in the Municipal Hall, without specifying the location within the Hall. The Notice of Meetings, and Agenda for each meeting state the date, time and room location in which meetings are held.

Staff also recommend that the annual general meeting of the Association of Vancouver Island and Coastal Communities (AVICC) be specifically named in the list of items that preclude a regular meeting from being scheduled. AVICC is an Area Association recognized in the bylaws of the UBCM and as such it was never named because it was considered to be part of the UBCM for purpose of this part of the bylaw.

#### Order of Business

Staff recommend that no public input be permitted for bylaws having first reading subject to Public Hearing. A Public Hearing is a quasi-judicial process and the public input should be received within that process. Additionally, a section is recommended for reports from the CAO or Directors.

#### Council Reconsideration

Staff recommend that the section on Council reconsideration include the statement that reconsideration may not happen if the matter has been acted upon by an officer, servant or agent of the Municipality.

### **SUMMARY**

In April 2015 the Council Procedure Bylaw was amended to bring into effect enhanced public participation opportunities at Council meetings. At its meeting held December 14, 2015 Council reviewed the effectiveness of the amendments implemented earlier in the year and requested further revisions with a focus on providing further clarity and improving Council's procedures.

This report has provided analysis and recommendations with respect to delegation and has identified a number of other housekeeping amendments. All proposed revisions are shown outlined in the attached bylaw.

Council previously determined it will assess the effectiveness of these bylaw amendments in six to eight months following adoption of the amendment bylaw.

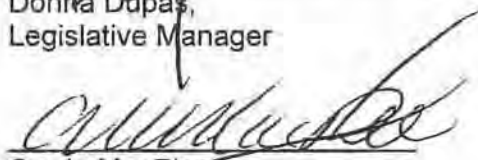
### **RECOMMENDATION**

That Council approve the proposed amendments to the Council Procedure Bylaw and give three readings to Council Procedure Bylaw, 2015, Amendment Bylaw 2016, No. 9376.

Prepared by

  
\_\_\_\_\_  
Donra Dupas,  
Legislative Manager

Approved by

  
\_\_\_\_\_  
Carrie MacPhee  
Director of Legislative Services

DD/CM/dd

cc: CAO

**CAO COMMENTS:**

I endorse the recommendation of the Director of Legislative Services.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Paul Thorkelsson, CAO



THE CORPORATION OF THE DISTRICT OF SAANICH

BYLAW NO. 9376

TO AMEND THE COUNCIL PROCEDURE BYLAW, 2015, NO 9321

The Council of the Corporation of the District of Saanich in an open meeting assembled enacts as follows:

1. Bylaw No. 9321 being the "Council Procedure Bylaw, 2015, No. 9321" is hereby amended.

(a) By adding the following definition to Section 2:

**NEW** "Delegation" means a presentation for information from a person or persons on behalf of an organization or association.

(b) By deleting Subsection 8.(c) and adding the following to Section 8, Designation of Member to Act in Place of Mayor, as new subsections (c), (d) and (e):

**NEW** (c) If both the Mayor and Acting Mayor are absent from a Council meeting, the member next in succession from the rotating roster established under Section 8(a) shall preside at the Council meeting.

(d) Other than at a Council meeting, if both the Mayor and the Acting Mayor are absent or otherwise unable to act, the member next in succession on the rotating roster established under 8(a) shall be the Acting Mayor.

**AMEND** (e) The Acting Mayor designated under subsections (a), (b), (c) or (d) has the same powers and duties as the Mayor in relation to the applicable matter.

(c) By deleting Subsection 11.(a) and substituting therefore the following:

**AMEND** (a) Regular Council meetings and Public Hearings shall take place within the Municipal Hall except when Council resolves to hold regular Council meetings and Public Hearings elsewhere in the Municipality.

(d) By deleting Clause 11.(b) (v) and substituting therefore the following:

**AMEND** (v) the weeks during which the annual general meetings of the Union of British Columbia Municipalities, Association of Vancouver Island and Coastal Communities and the Federation of Canadian Municipalities are held; and

(e) By deleting Subsection 11.(e) and substituting therefore the following:

**AMEND** (e) Notwithstanding subsection (d), regular Council meetings may begin at 6:00 pm or later if a portion of the regular meeting is to be held In Camera pursuant to section 90 of the *Community Charter*, and provided that the portion of the regular meeting that is held in the Council Chambers begins at

7:00 pm, except for the last meeting of each month where the portion of the regular meeting that is held in the Council Chambers begins at 7:30 pm.

(f) By deleting Section 29 and substituting therefore the following:

29. The order of business at all regular Council meetings shall be as follows:

AMEND

- (a) Awards Presentations;
- (b) Public Hearing;
- (c) Appeals;
- (d) Delegations;
- (e) Adoption of Minutes;
- (f) Rise and Report of Motions from Closed Meetings
- (g) Council Deliberations following Receipt of Public Input at C/W;
- (h) Bylaws for Final Reading; Ratification of Permit Approval; Bylaws for First Reading (subject to Public Hearing);
- (i) Public Input on Business Items under subsections (j), (k), (l), (m) and (n);
- (j) Bylaws for Three Readings;
- (k) Resolutions for Adoption;
- (l) Recommendations from Committees;
- (m) Reports from Members of Council;
- (n) Reports from the Administrator or Directors.

(g) By deleting Subsection 31.(d) and substituting therefore the following:

- (d) No member shall speak until recognized by the Mayor and no member shall speak more than once until all members have had an opportunity to speak. A reply shall be allowed to a member who has made a substantive motion to Council, but not to a member who has moved an amendment, the previous question, or an instruction to a committee. No member without the leave of Council shall speak to any question, or in reply for longer than ten minutes.

AMEND

(h) By deleting Subsection 41.(b) and substituting therefore the following:

- (b) Subsection (a) shall not apply to any bylaw, motion, proceeding or decision which has been the subject of an appeal under Part 8 of this Bylaw, or which has been returned for reconsideration by the Mayor under section 9 of this Bylaw, or which has been acted upon by an officer, servant or agent of the Municipality.

AMEND

(i) By deleting Section 52 and substituting therefore the following:

52. (a) A person or persons on behalf of an organization or association, who wishes to address Council as a delegation at a regular Council meeting must submit a written request on a form prescribed by the Corporate Officer at least ten (10 ) days in advance of the meeting.

AMEND

NEW

(b) Delegations will not be scheduled for the last Council meeting of the month where an Open Forum is held pursuant to section 54 of this Bylaw.

(c) The Corporate Officer may schedule the delegation for the meeting requested or a future meeting, or in consultation with the Administrator or Director of Legislative Services may refer the delegation to a committee.

(d) Notwithstanding subsection (c), the Administrator or Director of Legislative Services may direct the Corporate Officer to refer the person or organization to staff for direct action and/or response if deemed appropriate, and the Council will be so advised.

AMEND

(e) Subject to subsection (b), a maximum of two (2) delegations will be permitted at each regular Council meeting and each delegation shall have no more that 10 (ten) minutes to address the Council unless a longer period is agreed to by an affirmative vote of the majority of the Council members present. Video presentations used as part of a delegation will be included in the time permitted for the delegation.

(f) A person may only address Council as a delegation every six (6) months on the same topic or subject matter unless prior consent has been obtained by resolution of Council.

(g) Where there are less than two (2) delegations scheduled for a regular Council meeting and a person or organization wishes to address Council as a delegation on a matter that is urgent or time sensitive but is unable to meet the deadline under subsection (a), the delegation may be heard by Council if agreed to by an affirmative vote of the majority of the Council members present. For certainty, subsections (b), (c), (d), (e) and (f) apply in this circumstance.

AMEND

(h) A Council member may ask questions of the delegation to clarify or correct information but must not enter into debate on the item which is the subject of the delegation and Council itself will not enter into debate on the information received.

NEW

(i) Council will not act on the information received from a delegation except to:

- i) receive the information,
- ii) refer the matter to an Advisory Committee or Staff, or
- iii) provide a letter of comment or support if requested and where Council determines no additional information or public input is necessary.

(j) For certainty, no delegation addressing Council shall be heard on any matter listed in section 55 of this Bylaw.

(j) By deleting Subsection 53 (a) and substituting therefore the following:

AMEND

53. (a) Any person who has an interest in any of the following matters being considered by Council at a regular Council meeting may be afforded an opportunity to be heard in person or through a representative provided they first identify themselves by stating their name and address and the names and addresses of the person or persons they represent:
- (i) bylaws being considered for three readings;
  - (ii) resolutions for adoption;
  - (iii) recommendations from committees;
  - (iv) reports from Members of Council,
  - (v) reports from the Administrator or Directors.

(k) By deleting Subsection 54 (a) and substituting therefore the following:

AMEND

54. (a) Council will hold a thirty minute open forum once per month starting at 7:00 pm, prior to the commencement of the last regular meeting, or portion of last regular meeting, of each month that is held in the Council Chambers. The open forum will allow any person to ask questions of or address members of Council on a District-related topic, however the Council members shall make no commitments on behalf of Council.

(l) By adding the following to Section 55 as a new subsection (c):

NEW

- (c) For certainty, a person or organization must not address Council on any matter that involves an application, project or other initiative that will be or has been dealt with through another process under this Bylaw or the Land Use and Development Procedures Bylaw.

(m) By deleting Section 71 and substituting therefore the following:

AMEND

71. Where there is sufficient business, regular C/W meetings will be held immediately following the regular Council meetings.

2. This Bylaw may be cited for all purposes as the "**COUNCIL PROCEDURE BYLAW, 2015, AMENDMENT BYLAW, 2016, NO. 9376**".

Read a first time this            day of            , 2016.

Read a second time this        day of            , 2016.

Read a third time this         day of            , 2016.



Adopted by Council, signed by the Mayor and Clerk and sealed with the Seal of the Corporation on the            day of            2016.

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Clerk of The Corporation of the  
District of Saanich

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Mayor

1410-04 ERIG  
X: 5310-30

Council Apr 25, 2016



Mayor  
Councillors  
Administrator  
Council  
Administration  
Media  
Teachers  
Apr 19 16 BH

## The Corporation of the District of Saanich

# Report

**To:** Mayor and Council  
**From:** Harley Machielse, Director of Engineering  
**Date:** April 15, 2016  
**Subject:** Award of Tender # 05/16 – 2016 Storm and Sanitary CIPP Lining

### PURPOSE

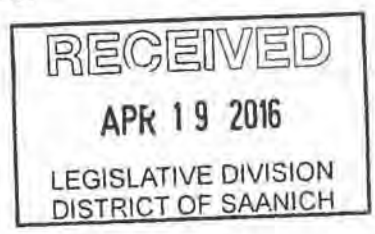
The purpose of this report is to request approval to award **Tender # 05/16 – 2016 Storm and Sanitary CIPP Lining**.

### BACKGROUND

A tender was issued for the supply of all materials, equipment, labour and services necessary to rehabilitate storm drain mains and sanitary sewers using cured-in-place-pipe (CIPP) technology and one wood stave storm drain segment using open cut construction. All six project locations contain storm drain rehabilitation with one of the project locations also requiring sanitary sewer rehabilitation. Storm drains are primarily wood stave with some concrete segments and range from 450 mm to 1800 mm in diameter. Sanitary sewers are asbestos cement (AC), 150 mm in diameter.

The six project locations associated with this contract include:

- Glanford Avenue – 4124 Glanford to Glanford Middle School
- Hampton Road – South of Seaton
- Fowler Road – South of Menawood
- Cedarwood Street – South of Alderwood
- Cedarwood Street – South of Applewood
- Borden Street – Cedar Hill Cross to Public Works Yard



### SUMMARY

Two responses were received from the following vendors (rounded to the nearest dollar and excluding GST):

- |  |             |
|--|-------------|
| • Insituform Technologies Limited        | \$1,521,299 |
| • Superior City Contracting Services Ltd | \$2,711,624 |


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Funding for this work is available in the Sanitary Sewer and Storm Drain Capital Replacement Budgets.


**RECOMMENDATION**

That **Tender # 05/16 – 2016 Storm and Sanitary CIPP Lining**, and change orders within project budget, be awarded to **Insituform Technologies Limited**, who submitted the low compliant bid of **\$ 1,521,299 (excluding GST)**.

Prepared by

  
\_\_\_\_\_  
Harley Machielse  
Director of Engineering

Reviewed by

  
\_\_\_\_\_  
Valla Tinney  
Director of Finance

lk/lk

**CAO COMMENTS:**

I endorse the recommendation of the Director of Engineering.

  
\_\_\_\_\_  
for Paul Thorkelsson, CAO

1410.04 Eng.  
X. 5370.30

Council Apr 25/16



# The Corporation of the District of Saanich

Mayor  
Councillors  
Administrator

Council  
Administrator  
Media  
Vendors  
Apr 19/16 PA

## Report

**To:** Mayor and Council  
**From:** Harley Machielse, Director of Engineering  
**Date:** April 13, 2016  
**Subject:** Award of Tender #10/16 - Supply of Hot and Cold Mix Asphalt – FOB Plant

### PURPOSE

The purpose of this report is to request approval to award Tender #10/16 - Supply of Hot and Cold Mix Asphalt – Free on Board (FOB) Plant.

A tender was issued for Supply of Hot & Cold Mix Asphalt – FOB Plant for the period ending May 31, 2017 based on the anticipated schedule of quantities.

### SUMMARY

Two responses were received from the following vendors (rounded to the nearest dollar and excluding taxes):

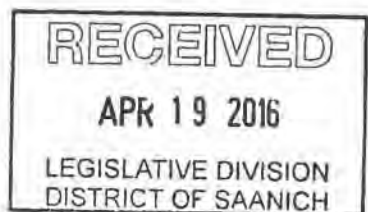
- **Island Asphalt Company (Division of O.K. Industries Ltd)**      \$ 399,825
- Capital City Paving      \$ 407,800

The rates have increased approximately 1.6% over the 2015 prices. Funding for this work is available from the Engineering Departments 2016 Core Maintenance and Capital Works budgets.

### RECOMMENDATION


That Tender # 10/16 – Supply of Hot & Cold Mix Asphalt – FOB Plant be awarded to **Island Asphalt Company (Division of O.K. Industries Ltd)**, who submitted the low bid of \$399,825 (based on estimated quantities and excluding taxes).

**CM  
E.2**






Prepared by

  
\_\_\_\_\_  
Harley Machielse  
Director of Engineering

Reviewed by

  
\_\_\_\_\_  
Valla Tinney  
Director of Finance

**CAO COMMENTS:**

I endorse the recommendation of the Director of Engineering.

  
\_\_\_\_\_  
Paul Thorkelsson, CAO

1410.04 Eng  
X: 5370.30

Council Apr 25 116



## The Corporation of the District of Saanich

# Report

**To:** Mayor and Council  
**From:** Harley Machielse, Director of Engineering  
**Date:** April 19, 2016  
**Subject:** Award of Tender #11/16 – Asphalt Paving Works

Mayor  
Councillors  
Administrator

Council  
Administrator  
Media

*Tenders*  
*Apr 2016 116*

### PURPOSE

The purpose of this report is to request approval to award **Tender #11/16 – Asphalt Paving Works.**

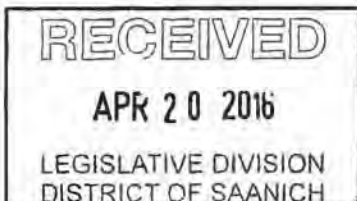
### BACKGROUND

A tender was issued for Asphalt Paving Works from June to November 2016, based on the general specifications and locations provided for the period ending Feb 28, 2017. Approximately 6,400 tonnes of asphalt and 37,250 m<sup>2</sup> of milling are expected to be completed during this contract.

The work scheduled in this contract includes the following locations:

- Borden Street - McKenzie to Cedar Hill Cross
- Blenkinsop Road - Garkil to Cedar Hill Cross
- Brookleigh Road - Batu to 535
- Burnside Road West - 1980 to 1960 Burnside Road West
- Carey Road - Ravine to Trans Canada Highway
- Cedar Hill Cross Road - Cedar Hill To Shelbourne
- Gorge Road - Admirals to Adelaide
- Lansdowne Road - Richmond to Shelbourne
- McKenzie Avenue - Cedar Hill to Shelbourne
- McKenzie Avenue - Saanich to Quadra
- Prospect Lake Road - 4167 to 4255 Prospect Lake Road
- Shelbourne Street - San Juan to Cedar Hill Road
- Shelbourne Street - Northbound Lane Kenmore to San Juan

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**SUMMARY**

Two responses were received from the following suppliers (excluding GST):

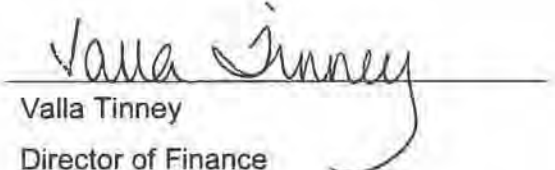
<b>Capital City Paving Ltd.</b>	<b>\$ 1,709,237.50</b>
Island Asphalt Company (Division of O.K. Industries Ltd.)	\$ 1,889,187.50

The weighted average increase is 0.2 % over the total cost in 2015. Funding is available in the 2016 Engineering Transportation Capital Works budget.

**RECOMMENDATION**

That Tender 11/16 – Asphalt Paving Works be awarded to Capital City Paving Ltd., who submitted the low bid of \$1,709,237.50 (based on estimated quantities and excluding taxes).

Prepared by   
Harley Machielse  
Director of Engineering

Reviewed by   
Valla Tinney  
Director of Finance

**CAO COMMENTS:**

I endorse the recommendation of the Director of Engineering.

 for   
Paul Thorpe, CAO

1410-04 Eng  
X: 5390-30

Council April 25, 2016



# The Corporation of the District of Saanich

Mayor  
Councillors  
Administrators  
Council  
Administrators  
Media  
Vendors  
Apr 19 11:06 AM

## Report

**To:** Mayor and Council  
**From:** Harley Machielse, Director of Engineering  
**Date:** April 15, 2016  
**Subject:** Award of Tender #12/16 - Construction of Concrete Curb and Gutter

### PURPOSE

The purpose of this report is to request approval to award **Tender #12/16 - Construction of Concrete Curb and Gutter.**

### BACKGROUND

A tender was issued for the Construction of Concrete Curb and Gutter works based on the general specifications and locations provided for the period ending Feb 28, 2017. Approximately 2000 metres of new or replacement sidewalk and 1200 metres of various curb and gutter are expected to be built through the duration of this contract.

The work scheduled in this contract includes the following locations:

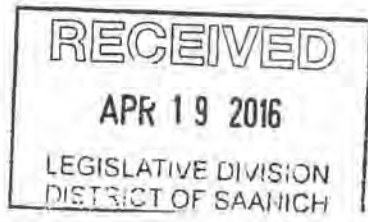
- Blanshard Ravine Vernon Sidewalk Upgrades
- Borden McKenzie Bike Lanes
- Cedar Hill Cross Road Bike Lanes and Overlay
- Dean Ave Pedestrian Upgrades
- Galloping Goose Carey Road Connection
- Lansdowne Bike Lanes
- McKenzie Ave Upgrades
- Union Road Sidewalk
- Viewmont Greenlea Curb Extension and Crosswalk
- Miscellaneous Bus stop Upgrades

### SUMMARY

Two responses were received from the following vendors (rounded to the nearest dollar and excluding GST):

<b>Island Asphalt Company (Division of O.K. Industries Ltd.)</b>	<b>\$ 1,043,865</b>
Lafarge Canada Inc. dba Island Slipform	\$ 1,097,550

**CM  
E.4**





The weighted average increase is 12.8% over the unit prices in 2015. The increases are attributable to raw materials, union wages, and costs associated with smaller sections of sidewalk. Funding is available in the 2016 Engineering Transportation Capital Works budget.

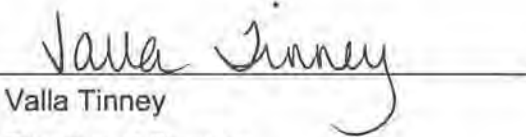
**RECOMMENDATION**

That Tender 12/16 – Construction of Concrete Curb and Gutter be awarded to **Island Asphalt Company (Division of O.K. Industries Ltd.)**, who submitted the low bid of \$1,043,865 (based on estimated quantities and excluding taxes).

Prepared by

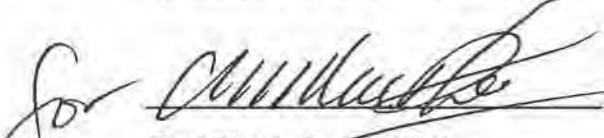
  
Harley Machielse  
Director of Engineering

Reviewed by

  
Valla Tinney  
Director of Finance

**CAO COMMENTS:**

I endorse the recommendation of the Director of Engineering.

  
Paul Thorkeleson, CAO

1410-04 Eng  
X: 5370-30

Council April 26, 2016



Mayor  
Councillors  
Administrator

Council  
Administrator  
Media  
*Vendors  
Apr 19/16 BA*

## The Corporation of the District of Saanich

# Report

**To:** Mayor and Council  
**From:** Harley Machielse, Director of Engineering  
**Date:** April 15, 2016  
**Subject:** Award of Tender #14/16 Cold Asphalt Milling

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### PURPOSE

The purpose of this report is to request approval to award **Tender #14/16 Cold Asphalt Milling**. A tender was issued for the provision of cold asphalt milling for road maintenance projects and trench restoration for the period ending February 28, 2017 based on the anticipated schedule of quantities.

### SUMMARY

Two responses were received from the following vendors (excluding GST):

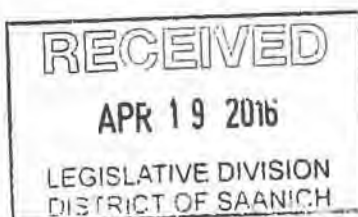
- **Capital City Paving** \$ 616,800
- Island Asphalt Company (Division of O.K. Industries Ltd) \$ 718,600

The rates have increased approximately 2.4% over the 2015 prices. Funding for this work is available within the Engineering Department 2016 Capital Works and Core Maintenance budgets.

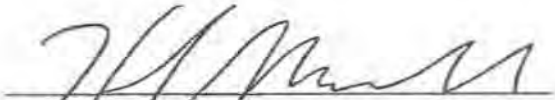
### RECOMMENDATION

That Tender #14/16 for Cold Asphalt Milling be awarded to **Capital City Paving**, who submitted the low bid of \$616,800 (based on estimated quantities and excluding taxes).

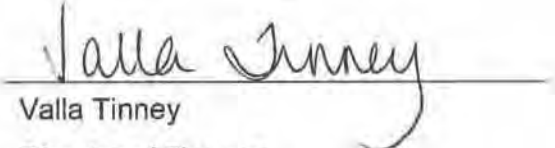
**CM  
E.5**



Prepared by

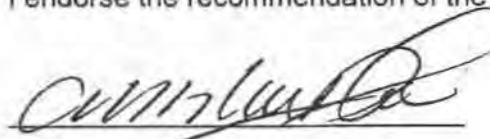
  
Harley Machielse  
Director of Engineering

Reviewed by

  
Valla Tinney  
Director of Finance

**CAO COMMENTS:**

I endorse the recommendation of the Director of Engineering

  
for Paul Thorkelsson, CAO



The Corporation of the District of Saanich

Mayor  
Councillors  
Administrator

Council  
Administrators  
Media

# Report

**To:** Mayor and Council  
**From:** Paul Thorkelsson, Chief Administrative Officer  
**Date:** April 21, 2016  
**Subject:** Protecting Personal Information – Implementing a More Comprehensive Privacy Management Program

## PURPOSE

The purpose of this report is to confirm the actions taken by staff further to the March 30, 2015 Investigation Report F15-01 (report) of Elizabeth Denham, Information and Privacy Commissioner for BC.

## BACKGROUND

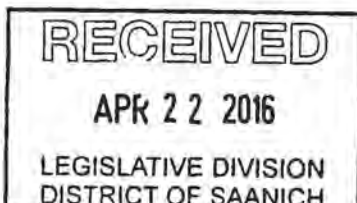
On April 13, 2015, Council considered and accepted the five recommendations in Ms. Denham's report, directed staff to take action, and requested the Chief Administrative Officer (CAO) provide a report confirming implementation. The recommendations were:

1. Disable specific functions of the software program Spector 360;
2. Destroy all personal information that may have been collected by Spector 360;
3. Update the Use of Saanich Materials, Equipment, Facilities and Resources policy;
4. Implement the capability to generate logs of administrator level access to IT systems which collect, store, use or disclose personal information; and,
5. Implement a more comprehensive privacy management program, including the following three key components – appoint a privacy officer, conduct a comprehensive audit of the District's compliance with the privacy regulations in the *Freedom of Information and Protection of Privacy Act* (FIPPA) and compile a registry of personal information, and provide training to all employees in relation to FIPPA.

Prior to the release of the OIPC report, staff had already completed recommendations 1 and 2.

In order to move forward with the remaining three recommendations, my predecessor Andy Laidlaw, sought out David Loukidelis QC to provide staff with expert advice, guidance and support at all stages of this extensive corporate undertaking.

**CM  
E.6**





Mr. Loukidelis was tasked with completing an independent review of the District's personal information management practices and policies, and providing recommendations for the type of comprehensive privacy management program envisioned by the Office of the Information and Privacy Commissioner (OIPC). I have attached a copy of the final report from Mr. Loukidelis, dated April 2016, and wish to thank him and our staff for their dedication in moving forward. I also want to thank Ms. Denham and her staff for providing guidance and support over the past year. As acknowledged throughout the report from Mr. Loukidelis, the District has made considerable progress in implementing the recommendations.

Mr. Laidlaw had originally planned to bring Mr. Loukidelis's final report to Council before the end of 2015. Council may recall from the last progress update, that the final report would be delayed as additional collaboration and dialogue took place with the OIPC. The ongoing discussions were important and could not be rushed as staff sought to find a workable solution to recommendation 4 within existing technology and resource limitations. A further meeting with Ms. Denham and her staff on April 20, 2016 with respect to recommendations 4 and 5 has resulted in her support for the direction proposed and my commitment that we will continue to keep the OIPC informed of progress at six month intervals.

The remainder of the report will provide a brief high-level summary of staff's actions further to recommendations 3, 4 and 5.

## **DISCUSSION**

### **Recommendation 3 - Update the Use of Saanich Materials, Equipment, Facilities and Resources policy**

A new IT acceptable use policy, compliant with FIPPA, has been developed by staff and reviewed by the OIPC. Staff continue to work through the logistics of rolling out this comprehensive policy.

### **Recommendation 4 - Implement the capability to generate logs of administrator level access to IT systems which collect, store, use or disclose personal information**

This recommendation will take approximately 24 to 36 months to complete as part of the technology renewal program. Staff is working with Deloitte on interim measures and a policy is being rolled out that will strictly govern IT administrator access to personal information, with ongoing audits to ensure and enforce policy compliance. This policy has also been reviewed by the OIPC.

**Recommendation 5 – Implement a more comprehensive privacy management program, including the following three key components – appoint a privacy officer, conduct a comprehensive audit of the District’s compliance with the Freedom of Information and Protection of Privacy Act (FIPPA) and compile a registry of personal information, and provide training to all employees in relation to FIPPA.**

In terms of the three key components noted above, the first two have been completed. The Head of Information and Privacy for Saanich (Director of Legislative Services and Legislative Manager) has appointed a Privacy Officer and has delegated duties of the Head to this position in accordance with the recommendations of Mr. Loukidelis. A registry of personal information was compiled and Mr. Loukidelis has conducted and reported on his independent review (audit) of the District’s compliance with the privacy regulations in FIPPA.

Building on the training that has previously been made available to staff, training under the new Framework began in May of 2015 and the goal is for completion by the end of 2016. The District’s primary focus is on mandatory training for those in leadership positions and those handling the highest volume of personal information, especially personal information of high sensitivity.

Ms. Denham has made it clear that a comprehensive privacy management program is her most important recommendation. To this end, staff will continue to roll out the corporate program that has been recommended by Mr. Loukidelis and which Ms. Denham has confirmed complies with the OIPC guidance on privacy management programs for public bodies in BC.

The senior management team is committed to move the privacy management program forward in a timely manner. The program, however, will require additional resources and these will be identified for the 2017 financial plan.

## **SUMMARY**

On April 13, 2015, Council considered and accepted the five recommendations contained in Investigation Report F15-01 of Elizabeth Denham, Information and Privacy Commissioner for BC. At the same time Council directed staff to take action, and requested the Chief Administrative Officer provide a report confirming implementation.

Recommendations 1, 2 and 3 are complete. Recommendations 4 and 5 are being implemented as outlined in this report. A further meeting with Ms. Denham and her staff on April 20, 2016 with respect to recommendations 4 and 5 has resulted in support for the direction proposed and my commitment that we will continue to keep the OIPC informed of progress on both at six month intervals.

The senior management team is committed to move the privacy management program forward in a comprehensive and timely manner. Additional resources necessary for this program will be identified for the 2017 financial plan.

Protecting Personal Information – Implementing a More Comprehensive Privacy Management Program

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**RECOMMENDATION**

I recommend that Council receive this report for information.



Paul Thorkelson,  
Chief Administrative Officer

Attachment

- cc Carrie MacPhee, Director of Legislative Services
- Laura Ciarniello, Director of Corporate Services
- Valla Tinney, Director of Finance
- Donna Dupas, Legislative Manager

***REPORT ON DISTRICT OF SAANICH  
PRIVACY REVIEW***

**April 2016**

David Loukidelis QC



## INTRODUCTION

This report to the District of Saanich (“District”) reflects the District’s commitment to protection of personal information. This report and the recommended privacy management plan flow from the District’s recognition that privacy expectations in relation to public institutions have increased in recent years. The District also acknowledges that public trust and confidence depend to a significant degree on how it treats personal information. It acknowledges that trust and confidence require more than compliance with the privacy rules in the *Freedom of Information and Protection of Privacy Act* (“FIPPA”).

One indication of the shift in regulatory expectations for privacy is the June 2013 guidance issued by Elizabeth Denham, British Columbia’s Information and Privacy Commissioner, *Accountable Privacy Management in BC’s Public Sector*.<sup>1</sup> This sets out the Commissioner’s expectations for public sector privacy management, which include “practical, effective and properly-resourced privacy management programs.”<sup>2</sup>

This expectation derives in part from her stated view that, because public bodies like the District have the power to compel individuals to give up their personal information, they have a legal and moral obligation to responsibly manage it. Commissioner Denham has therefore made it plain that the Office of the Information and Privacy Commissioner (“OIPC”) intends to use *Accountable Privacy Management* in its enforcement work and has said that her Office “will be looking for evidence of a privacy management program in future investigations and audits.”<sup>3</sup>

The Commissioner has issued other guidance documents that form part of the context for the District’s ongoing privacy compliance efforts. This includes, notably, the June 2015 *IT Security and Employee Privacy: Tips and Guidance* document, which provides useful guidance on how to balance employee privacy with the District’s obligation to protect personal and other information, as well as other interests, such as the security of the District’s IT systems.

Last, on March 30, 2015, Commissioner Denham released Investigation Report F15-01, which made findings and recommendations about the District’s use of a particular monitoring software package, Spector 360.<sup>4</sup> Commissioner Denham also made overall recommendations to the District regarding privacy management.

In response to the investigation report, the District retained me to undertake a review of its personal information management practices and policies. The District also requested my recommendations for a more comprehensive privacy management program for the District.

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<sup>1</sup> Accessible at <http://oipc.bc.ca/tools-guidance/guidance-documents.aspx>. From here on referred to as *Accountable Privacy Management*.

<sup>2</sup> *Accountable Privacy Management*, p. 1.

<sup>3</sup> *Accountable Privacy Management*, p. 1.

<sup>4</sup> This report is referred to from now on as the “investigation report”.

This report reflects the outcome of both objectives, including my recommendations to the District on a privacy management plan. It outlines how my review of District policies, practices and procedures was carried out and summarizes key findings and recommendations flowing from the review.

The goal of the recommendations is to implement a clear and structured lifecycle approach to managing privacy. The aim is to do this in a way that facilitates, not hinders, the District's operations. Last, this report documents the District's response to the Commissioner's five recommendations in the investigation report.

It is worth stressing here that this report reflects a great deal of work on my part and, above all, key District staff over the past year. As a result of this ongoing work, the District has, as this report illustrates, already made considerable progress in implementing many of my recommendations for its privacy management approaches.

A key theme of this report is how fundamentally important it is for all District departments, under the leadership of their Directors, to work together as a team in ensuring that privacy is managed, not only in accordance with the law, but in a manner that meets public expectations. Several aspects of the District's 2015-2018 strategic plan support robust privacy management. The District now has a prime opportunity to move ahead on that front, recognizing that a unified approach is key in all aspects of an organization's operations. This certainly applies to the District, an urban municipality that offers a wide range of public services, making it a complex organization from any perspective, not just privacy or access to information.

It is important to underscore that my work has been supported by the energetic and dedicated cooperation of District staff from across the organization. I want to particularly thank the Legislative Services and Corporate Services leadership teams, Andy Laidlaw, who was the District's interim Chief Administrative Officer during 2015, and Paul Thorkelsson, who is now the District's Chief Administrative Officer.

David Loukidelis QC

April 2016

## **SUMMARY OF QUALIFICATIONS**

Information and Privacy Commissioner of British Columbia from 1999 to 2010, Deputy Attorney General and Deputy Minister of Justice from 2010 to 2012, and Registrar of Lobbyists for British Columbia from 2003 to 2010.

At present the Privacy Commissioner, Ad Hoc, for the Office of the Privacy Commissioner of Canada and the Information Commissioner, Ad Hoc, for the Office of the Information Commissioner of Canada.

Teaching experience includes teaching privacy and freedom of information law in the Faculty of Law at the University of Victoria and the Faculty of Law at Thompson Rivers University, and the Faculty of Law at the University of Alberta (autumn 2016).

Principal of David Loukidelis QC Consulting & Legal Services, providing advice to public and private sector bodies in these areas: privacy law; freedom of information law; open government and open data; lobbyists registration law; government ethics law; administrative law; public policy and legislation; tribunal operations and administration; justice system administration and reform; and public administration.

Educated at the University of Oxford (BCL), Osgoode Hall Law School (LLB), the University of Edinburgh (MA), and the University of Toronto.

Appointed Queen's Counsel in 2010.

## **IMPORTANT NOTE**

The contents of this report are for the sole benefit and use of the District of Saanich and cannot be relied upon or used for any purposes by anyone else.



## **PART 1—IMPLEMENTATION OF INVESTIGATION REPORT F15-01**

Commissioner Denham’s investigation report set out five recommendations. These recommendations are set out here, along with a description of the District’s response to each of them.

### ***Recommendation 1—Disable certain functions of Spector 360***

Commissioner Denham’s first recommendation was that the District “disable the keystroke logging, screenshot recording, program activity logging, email recording, and user log-on functions of Spector 360.” The District had, before the investigation report was issued, disabled Spector 360. It has not been used since.

### ***Recommendation 2—Destroy personal information collected by Spector 360***

The second recommendation was that the District “destroy all personal information collected” through the above-noted functionalities of Spector 360. The District did this before the investigation report was issued. It ceased using Spector 360 on January 21, 2015 and deleted all information collected by the program, including any personal information that may have been collected, on March 27, 2015, before the investigation report was issued.

### ***Recommendation 3—Update the District’s acceptable use policy***

The third recommendation was that the District should update its policy on the use of District resources and equipment, “to provide employees with notice of the collection of their personal information, as required by s. 27(2) of FIPPA”. This has been completed through the preparation of a new policy, the IT Acceptable Use Policy, and rollout of this policy has started.

### ***Recommendation 4—Generate automated logs of IT administrator level access***

The fourth recommendation was that the District “implement the capability to generate logs of administrator level access to all IT systems which collect, store, use or disclose personal information.” The District’s IT systems do not have this capability at this time. The District has retained the IT expertise of Deloitte to advise on implementation of this recommendation. Deloitte has advised that the logging capabilities of the District’s separate IT systems cannot at this time be operationalized across the board to provide a comprehensive solution.

Accordingly, the District has implemented the policy and practice described below, as an interim measure pending a permanent solution. In this regard, it is noted that, under the direction of the District’s Mayor and Council through the District’s strategic plan, the District has embarked on a program to revamp and



update IT systems over the medium term. The District will, as part of this overhaul, attempt to procure this capability as it becomes readily available in the marketplace for systems applicable to local governments.

In the interim, the District is beginning to roll out a new policy and procedures to monitor IT administrator access to personal information where necessary for IT functions and for investigation of suspected violations of the IT Acceptable Use Policy. The District's new IT Administrative Rights Policy ensures that IT administrators do not intentionally view or access employee or other personal information in the ordinary course of their IT duties unless specifically authorized to do so pursuant to District policy and approval processes. Work is underway to roll out this policy as soon as practicable.

This new policy also ensures that when any access to or viewing of personal information is necessary, including for the purposes of investigating suspected violations of the IT Acceptable Use Policy, personal information will not be viewed or accessed except to the extent necessary, and then only when alternative measures do not exist. Further, access is only permitted with the prior approval of executive-level District staff based on reported grounds for the need to access personal information. In addition, the District will be rolling out measures to ensure that any such access is appropriately conducted, reported and monitored.

Through these interim measures, the District seeks to maintain the security, integrity and ordinary operation of its IT resources, including in light of its FIPPA obligations, to protect personal information from unauthorized access, collection, use, disclosure or destruction.

On a related note, the District is, in light of my review and my recommendations, embarking on a comprehensive review of its policies and practices, and supporting resources, for administering role-based access to personal information. It intends to build the outcome of this review into its business systems renewal strategy and plans, for implementation when practicable given competing demands and the availability of appropriate technology.

#### ***Recommendation 5—Privacy management program and related actions***

The fifth recommendation was that the District "implement a comprehensive privacy management program to ensure it is able to meet all of its obligations" under FIPPA. The following three key components were included as part of this recommendation:

1. Appoint a Privacy Officer for the District;
2. Conduct a comprehensive review of the District's compliance with FIPPA and compile "a registry of all personal information in the custody or under the control of the District."; and,
3. Provide training to all District employees in relation to all requirements of FIPPA.

The remainder of this report flows from Commissioner Denham's fifth recommendation. It describes my recommendations to the District for the design and rollout of a comprehensive privacy management program. It also describes the District's response to the Commissioner's recommendation and describes key steps already taken in response to my review and advice to date. The District has also already implemented my recommendation to hire a Privacy Officer. The District has also, as I recommended, completed an inventory of the personal information that it collects, uses and discloses, and I have assessed the inventory and information flows. The District is also—again, as recommended—implementing a training program for all employees, one that builds on its current training. The program is based on the disciplines of records management, information access, and protection of privacy and is guided by the core message that all employees have a role in responsible privacy, information and records management.

With respect to the training program, the 2015 targets were met with the delivery of the 'Culture of Privacy' module to directors and managers, a module on 'Privacy Impact Assessments' for directors, managers and key staff from all levels within the organization, and employee orientation for new hires on access and privacy legislation and how it impacts them. The awareness program has advanced with the development of new in-house information tip sheets and records management newsletters, which build on the District's track record in this area. These information resources continue the District's past practices in regularly disseminating information and guidance to staff on both privacy and access issues. Department-specific sessions have continued as before, and these will be ongoing in order to address specific privacy questions for individual departments.

The District has advised me that it is committed to the completion of its global training objective for 2016, which is to provide training to all 1,400 full-time and part-time employees. The District's primary focus should be, and is, on mandatory training for key leadership positions, those involving the handling of sensitive personal information, and those handling higher volumes of personal information. More or less concurrently with delivery of this report, District directors, managers, supervisors and other key staff will be attending full-day privacy training offered by a well-recognized provider of this kind of training.

One consideration, which the District has advised it will address, is that the District has a large number of part-time employees, some of whom only work a few hours each week or only at specific times of the year (or both). The District may therefore, in my view, need to provide the option of self-directed training through electronic means.

Last, the District has already undertaken additional steps, as outlined below, toward implementation of the comprehensive privacy management program that I am recommending.



## **PART 2—REVIEW OF CURRENT COMPLIANCE**

### **OVERVIEW**

The review of the District's existing state of privacy management and compliance included the following elements:

- An inventory was compiled by the District of its personal information holdings using the following steps:
  - analysis of the District's personal information bank directory;
  - analysis of records retention and disposition policies;
  - assessment of program area information;
  - input from District staff through self-reporting by each District program area and function;
  - follow-up discussions with senior District staff.
- Review of District policies, forms and service contracts based on documentation provided by the District, followed up by discussions with District staff where warranted.
- A review of the District's existing privacy policies and processes, consisting of review of documents provided by the District and discussions with key District staff.
- Discussions with key District staff.

The personal information inventory builds on the foundation of the District's records classification and retention schedules, which already existed. The personal information inventory is intended to provide a baseline inventory of the types of personal information collected, used and disclosed by the District. That inventory supported analysis of the District's compliance with FIPPA in its collection, use and disclosure of personal information.

This report contains findings and recommendations that flow from the above review steps. The objective of the recommendations is to support the District's continued enhancement of its approach to privacy management. As already indicated, and as is illustrated below, the District has made considerable progress in implementing the recommendations set out here.

### **DESCRIPTION OF THE DISTRICT**

Before setting out the findings and recommendations stemming from the review, some comments about the District's duties and functions are desirable.

The District is a municipality that operates a wide variety of programs and delivers diverse services to an urban and rural population. Its legislative mandate, and its powers, duties and functions, flow from a number of pieces of legislation, notably the *Community Charter* and the *Local Government Act*. Its functions range from land use regulation to the construction and maintenance of roads, sewers and other

infrastructure. It operates parks and recreation facilities for the benefit of residents and others. It issues building permits and enforces bylaws regulating a wide variety of activities. It provides fire protection services. It levies and collects property taxes. In support, it has finance, human resources, and information technology services. As these examples suggest, the District necessarily collects, uses and discloses a wide variety of personal information for very different purposes.

The District operates through several departments:

- Administration
- Corporate Services
- Engineering
- Finance
- Fire Services
- Legislative Services
- Parks and Recreation
- Planning.

It is convenient to note here that the review did not include, and this report does not cover, the Saanich Police Department, which operates under the *Police Act* and is governed by the Saanich Police Board. That department is a separate public body under FIPPA.

## ***AUTHORITY FOR COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION***

This section assesses the District's authority to collect, use and disclose personal information as identified in the personal information inventory.

### ***Collection of personal information***

Subject to any exceptions identified below, the District's collection of personal information as identified in the personal information inventory is authorized under one or more of FIPPA, the *Community Charter*, the *Local Government Act*, and the District's bylaws.

As an overall finding, the review disclosed that the District collects only that personal information which is, as s. 26(c) contemplates, "necessary" for and "directly related to" its programs or activities and not for collateral purposes.<sup>5</sup> Accordingly, s. 26(c) of FIPPA authorizes the District to collect the personal

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<sup>5</sup> In reaching this view, I have kept in mind the discussion below about the OIPC's interpretation of what is "necessary".



information described in the personal information inventory. Further authority for some kinds of collection exists under ss. 26(a) and (b).

Using the District's personal information inventory, the review assessed the types of personal information that the District collects, uses and discloses, the purposes for which it is collected, used and disclosed, and the statutory authorities for specific collections, uses and disclosures. Based on the assessment set out in the next section, and subject to what is said below, it is my view that FIPPA and the other statutes that apply to the District authorize it to collect, use and disclose the identified personal information for the purposes stated in the personal information inventory.

One area that requires additional consideration is the District's approach to criminal record checks. The District requires checks for employees, employee applicants, and volunteers in some situations that merit further study. It is therefore recommended that the District review its policies and practices in this area. Review of applicable legislation, such as the *Criminal Records Review Act*, is required as part of this. This review is now underway.

The review should be carried out in light of the OIPC's investigation report regarding criminal record checks in the provincial public sector.<sup>6</sup> Commissioner Denham's views on criminal record checks are well summarized here:

The information contained in a record check may have no relevance to the job in question, yet could be the factor that causes an employer to decide not to hire a particular individual.

In my view, there must be a nexus between the job requirements and duties and the proposed record check. Checks should be related to the character of the employment. And where record checks are used, controls must be in place to minimize the privacy implications for affected individuals.<sup>7</sup>

The District's review should follow the OIPC's best practices for criminal record checks,<sup>8</sup> noting this best practice in particular:

Criminal record checks should not be required for all positions. Public bodies should require criminal record checks only for positions with unique access to valuable resources and sensitive information.

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<sup>6</sup> Investigation Report F12-03: <https://www.oipc.bc.ca/investigation-reports/1247>. Reference also should be made to the OIPC's report on police information checks for employment purposes, Investigation Report F14-01: <https://www.oipc.bc.ca/investigation-reports/1631>.

<sup>7</sup> Investigation Report F12-03, p. 3.

<sup>8</sup> Found starting at p. 42 of Investigation Report F12-03.

A public body should determine on a case-by-case basis whether it has the authority under FIPPA to collect personal information regarding the criminal record history of an individual.<sup>9</sup>

As this recommendation suggests, public bodies such as the District may collect only the personal information that is “necessary” for an activity such as hiring and the management of employment relationships.

To be clear, this recommendation does not mean the District cannot require these checks in any given case. What is required is a case-by-case analysis of the justification for each kind of check, undertaken in light of the OIPC’s policy guidance and investigations. The outcome should be a comprehensive, District-wide policy on criminal records checks, with uniform rules for determining when these can be required and how they are done.

Another area for review relates to video surveillance. The District’s Parks and Recreation department uses video surveillance at its facilities. It posts signs alerting users to the presence of video surveillance. The Fire Department also uses video surveillance for protection of equipment and for personnel safety at fire stations. While that department has rules for access to footage, it is recommended that a privacy policy be developed to document and clearly lay out rules for access, storage and so on. This should be done through a comprehensive, District-wide policy for video surveillance across its various activities. Work is already under way on this. It is being led by the District’s Human Resources Division. The OIPC’s video surveillance guidance for public bodies should be used in this work; it will be of considerable assistance.<sup>10</sup>

### *Use of personal information*

The review disclosed that the purposes for which the District collects and uses personal information, as identified in the personal information inventory, are authorized. Further, the District uses the personal information it collects for the purpose for which it was collected. Any use of personal information that is not within the original purpose is authorized as a consistent use. As noted above, FIPPA authorizes the District to use personal information for the purpose for which it was collected, for a consistent purpose, with individual consent, or for a purpose for which the personal information may be disclosed to the District. Based on the personal information inventory, review of the District’s uses of personal information that it collects disclosed no uses of personal information that are not either for the original purpose for which it was collected or for a consistent use.

It is recommended, however, that the District implement role-based access rules for access to personal information held in corporate electronic information systems, in order to ensure that it is used by District employees or service providers only where it is necessary. This recommendation is further discussed below.

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<sup>9</sup> Investigation Report F12-03, p. 43.

<sup>10</sup> *Public Sector Surveillance Guidelines* (2014). <https://www.oipc.bc.ca/guidance-documents/1601>.



### *Disclosure of personal information*

FIPPA authorizes the District to disclose personal information where it is authorized or required under an enactment. The most important kind of non-public disclosure is disclosure of personal information to District employees and service providers (and their employees or associates). Disclosure is permitted where the personal information is “necessary” for the performance of their duties. Consistent with the above discussion of ‘necessity’, disclosure must be “necessary”, not merely convenient, in order for someone to perform their duties.<sup>11</sup>

While this does not require the District to show that it would be impossible for an individual to perform his or her duties without the information, the standard will be high. Applying this standard, it is my view that the District’s present disclosures of personal information to its employees and service providers are necessary for the performance of their duties. In other words, the District, in practice, restricts disclosures to those that are necessary.

The review did disclose, however, that role-based permissions are not implemented in corporate electronic information systems.<sup>12</sup> As a first step, the District (specifically, business owners of the data) should comprehensively map present access permissions, arranged by type of personal information holding and staff position, and using the personal information inventory as a guide in doing so. This will enable the District to ensure that employees only have access to and use that personal information that is necessary for them to perform their employment duties and functions. It should also ensure that each new employee signs an agreement that he or she may only access, view, collect, disclose or use only that personal information which is necessary for the employee’s employment duties and functions.<sup>13</sup> The District should ensure that employees are regularly reminded of their obligations in this regard, as part of their privacy training and education.<sup>14</sup>

As the District moves forward with its IT renewal, it should implement an across-the-board set of role-based electronic access permissions that clearly identify which employees and service providers have access to which personal information and for what purposes. These permissions should ensure that

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<sup>11</sup> Sections 33.1(e) and (e.1). To be “necessary”, personal information does not have to be indispensable to the task. In other words, it need not be the case that, without the personal information, the public body cannot do its work. But the OIPC will assess necessity reasonably, but rigorously and in a searching manner. There is some leeway, but a public body should be able to show that the personal information in question is as close to indispensable as it can to ensure it is on good ground. Order F15-57, to give a recent example, dealt with whether disclosure of personal information to a ministry “employee” was “necessary” for the employee’s duties.

<sup>12</sup> Information provided by the District’s IT staff.

<sup>13</sup> The agreement should also refer to compliance with the District’s other privacy-related policies.

<sup>14</sup> A periodic refreshing of the agreement could also be considered. In addition, this agreement need not be elaborate or lengthy. What is needed is each new employee’s acknowledgement of the rules around collection, use and disclosure, and of the possible disciplinary consequences of not complying with the rules.



employees can only access electronic personal information that they are authorized to access. Once created, the documented role-based access controls should be reviewed as part of the ongoing review and revision of the privacy management plan.

This will undoubtedly be a significant undertaking for the District in light of the diverse services it delivers. It will take time, therefore, to accomplish this, including as the District continues its major projects on IT renewal. In the meantime, the District should communicate to its employees and service providers their duty to ensure that they only access and use the personal information that they are authorized to access, and need to access, for their duties and functions. This can be done through the District's acceptable use policy, and periodic reminders should be given through training and in-house communications.

As the District moves forward to acquire new electronic payment services, it should carefully consider the level of contractual privacy controls that are put in place, including the need for all personal information to only be accessible from and stored inside Canada.<sup>15</sup>

## **REVIEW OF FORMS & DOCUMENTS**

The review included assessment of documents that the District uses to collect personal information. This was based on the District's department-by-department inventory of forms and documents. This inventory should be maintained with departments providing periodic updates to its departmental inventory.

Section 27(2) of FIPPA requires that an individual from whom personal information is collected be told the purpose of the collection, the legal authority for collection, and the business contacts of someone who can answer questions about the collection. Most District documents through which personal information is collected contain the notice of collection required by s. 27 of FIPPA, but some do not. Also, the notices of collection contained in some documents do not meet the full requirements of s. 27(2) and should be amended as discussed below. Consistency across these forms is desirable.

First, it may be true that, in some cases, the purpose for collection will be reasonably obvious to individuals who provide their personal information, but this will not always be the case. In any event, s. 27 expressly requires that individuals be told the purpose for collection of their personal information. This can be done verbally, of course, but where forms are used to collect recorded personal information, the specific purpose should be stated as clearly as possible in the form. Section 27(2) also requires that the collection notice include contact particulars for someone who can answer questions about the collection.

The District should consider a notice of collection along the lines of the following, using it as a template:

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<sup>15</sup> This is necessary in light of s. 30.1 of FIPPA, which prohibits access to or disclosure of personal information outside Canada except in certain cases.

This collection of personal information is authorized under the *Local Government Act, Community Charter* and section 26(c) of the *Freedom of Information and Protection of Privacy Act*. The information will be used for *[briefly and accurately state the purpose: examples are found below]*. Questions can be directed to the *[include name of appropriate position, address, telephone number, and email contact]*.

Sample statements of purpose for the District include these:

- processing this application
- processing your registration
- evaluating your employment application
- managing your employment
- considering your views and communicating with you.

In addition, the District should create a script for use by employees who collect personal information by telephone, so that the required notice is given verbally at the time of collection. The District's web pages dealing with its privacy practices should give general guidance about this aspect of its privacy practices.

### ***PRIVACY MANAGEMENT POLICIES***

As a general observation, the District has done a notable amount of work drafting policies and procedures to support privacy compliance. Many of these are in draft form and the comments below are intended to assist the District in finalizing these documents. Further, as an overall recommendation, the District should ensure that these documents form part of a complete suite of policies and procedures, thus creating a comprehensive privacy management framework. This is further addressed in Part 3 of this report.

***Freedom of information and protection of privacy policy*** The existing policy provides succinct guidance to District employees about the District's overall approach to openness and privacy. It should be expanded, however, to set out the overall management framework for access and privacy, as set out in Part 3 of this report.



**Web page** This outward-facing document provides useful information to the public about which records or information may be available without a formal access request under FIPPA. It also provides information about making formal requests. As recommended elsewhere, the District should create comparable online material to provide information to the public about the District's privacy program and practices. This should also provide general information about the District's collection, use and disclosure of personal information, thus bolstering transparency about its privacy practices.

**Privacy impact assessment tools** This suite of documents includes an instruction sheet for PIA completion which should clarify that the threshold assessment of whether personal information is involved, found in part 1 of the PIA template, must always be completed. Also, while the District had two PIA forms, one being an assessment tool and one being a full PIA, it has now consolidated these into one PIA form, which is desirable.

**Privacy breach management policy (draft)** This draft policy covers the main aspects of breach reporting and management and aligns well with the OIPC's guidance on privacy breach policies. The District should extend the policy to apply to District elected officials and volunteers and expand the factors to be considered in determining whether affected individuals should be notified. Factors such as the nature and sensitivity of the information should also be included as considerations. Finally, the roles of the FIPPA head and the Privacy Officer will require clarity to ensure rapid response. A single designated lead for breaches should be given serious consideration by the FIPPA head.

**FIPPA notification for collection (draft)** Consistent with the comments already made about standardized collection notices, this should continue to be a standard form.

**Training and education for employees** The District has prepared a draft training plan for its employees. The plan has five primary components, the first three of which are mandatory for all employees:

1. Introductory training for new employees on access, privacy and records management.
2. Understanding access and privacy.
3. Privacy impact assessment training.
4. Ongoing education for employees on access, privacy and records management (through information bulletins, updates through internal communication tools).
5. Ongoing professional development sessions on access, privacy and records management for the District's information and privacy team and departmental information and privacy leads.

As noted elsewhere, training events have already taken place—as they have in past years—and these will continue in 2016 and beyond. These have been broken down into key components.<sup>16</sup> The components and frequency of delivery of this plan are sound, and will assist the District in managing its privacy obligations and in demonstrating accountability. The District should ensure that its training activities continue on a regular basis and that training materials are kept current in light of changing legislation and experience.

A number of examples were reviewed of employee newsletter articles that address various aspects of privacy compliance. These newsletter articles have been published for some years. A good example—one of many—is the June 2014 article on electronic records security. Such articles are a commendable and important part of awareness and education. The District should continue these commendable efforts.

***Program-specific tip sheets for District employees*** The District has in past years published a number of information sheets for employees in the various departments. These are designed to assist them with privacy compliance. These have included helpful information sheets about disclosure of personal information by planning staff, property tax staff, building permit staff, and so on. While these documents are already available internally to all staff, consideration should also be given to posting these sheets (or variations) on the District's website, as a transparency and accountability measure. The District will, as it should, continue to publish guidance for staff, which should be reviewed and updated as necessary, on a reasonably regular basis.

## ***DISTRICT WEBSITE***

As previously noted, the District's website contains information about freedom of information matters.

There is a privacy policy relating to the District's website, *i.e.*, applying to personal information collected through the website for its operation. There is also a notice of collection for personal information provided through the website. The District should amend this notice to be more specific about particular collections of personal information through the website.

The District also should create stand-alone web pages that provide information about its privacy practices and privacy management plan. This is important because the OIPC expects public bodies to be transparent about their privacy management policies and practices as part of their privacy accountability. This would also enable the District to demonstrate to the public that the District is committed to privacy protection. The District is preparing more comprehensive web pages as part of its new corporate website, which is scheduled to launch this July.

## ***CONTRACTS AND MOUS***

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<sup>16</sup> It should be noted here that key District staff have this year attended three training sessions offered by the provincial government Office of the Chief Information Officer.



This section reports on the review of contracts between the District and others as identified by the District. The review identified no contracts that are deficient and therefore require the District to attempt to re-negotiate them before contract renewal or replacement.

Since the standard-form general services agreement because might be used where a contractor deals with personal information in delivering services, it include a privacy protection schedule.<sup>17</sup> These comments also apply to any professional services templates. The standard privacy protection schedule that forms part of the British Columbia government's general services agreement contains a sound set of core obligations in this area. The District has advised that it has already, through its purchasing department, taken action to ensure that privacy protection schedules are included in appropriate contracts moving forward.

The District also should ensure that its procurement processes are transparent regarding its privacy (and access to information) requirements and obligations. This will ensure that would-be service providers understand what is required when preparing their bid or proposal.

As the District continues to review appropriate levels of contractual controls, the District should consider the transitional measure of notifying its service providers at this time about its privacy and information security expectations moving forward. These expectations would not be contractually binding, but could promote ongoing good practices and lay the groundwork for future contractually-binding obligations.

Last, as an aside, contract templates should also contain provisions explicitly addressing what happens when the District receives a request for access to records that are in the contractor's custody (*i.e.*, by requiring the contractor to co-operate with the District, including by delivering relevant records promptly).

## ***PERSONAL INFORMATION SECURITY MEASURES***

The review included an assessment of personal information security practices, yielding the following observations:<sup>18</sup>

- The District's servers are located in secure and controlled facilities.
- The District's servers are, as just indicated, only accessible by authorized users who require access for administration or maintenance activities respecting the servers.
- Users are told that files should only be stored on the District's servers.

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<sup>17</sup> Further guidance can be found in the privacy protection schedule to the general services agreement template of the provincial government. The template, as well as templates for other specialized services agreements, can be found through this page: <http://www2.gov.bc.ca/gov/content/governments/services-for-government/bc-bid-resources/templates-and-tools/service-contract-templates#gsa>.

<sup>18</sup> Information on technical and related personal information security measures was provided by the District's IT staff.



- Any mobile computer taken off-site should not contain sensitive personal information that is not encrypted. Sensitive personal information includes human resources information and personal health information of employees and others. The District is in the course of preparing a policy on taking personal or other sensitive information out of the office, whether in electronic or other form. It is also incorporating encryption into its work plans, including through ensuring that only encrypted USB keys are used for portable personal information. The District should, in this regard, have reference to the OIPC's published guidance on taking personal information off-site.
- All backup media are managed in controlled environments.
- The District requires employee passwords to be updated on a regular basis and to be secure, as outlined in its procedures that complement the IT Acceptable Use Policy.
- The District has, as I recommended, configured all computers to lock out after periods of inactivity. The District also now requires, as part of the new IT Acceptable Use Policy, that employees lock their computers when their workstations are out of their sight.
- It is recommended that the District undertake a comprehensive review of its policies and practices, and supporting resources, for administering role-based access to personal information. The District is, in light of this recommendation, embarking on a comprehensive review of its policies and practices, and supporting resources, for administering role-based access to personal information. It intends to build the outcome of this review into its business systems renewal strategy and plans, for implementation when practicable given competing demands and the availability of appropriate technology.
- IT administers account creation, modification and de-activation. The District should ensure that when an employee is dismissed or resigns, the former employee's credentials and thus system access are terminated essentially immediately. This is to guard against improper access to personal information, something that has happened in a number of cases involving other public bodies and organizations. This is done by IT upon the instruction of the employee's department head. The District should remind all department heads periodically of the need to instruct IT to terminate access immediately after an employee leaves the District's employment.
- The District should require employees using paper files containing sensitive personal information to ensure that these are not left unattended overnight on desks or otherwise in the open. Files containing sensitive personal information should be kept in locked cabinets. Sensitive personal information includes health information and employment information such as performance reviews, complaints and investigations. The District's Human Resources Division already has in place a policy requiring the securing of files containing such information.
- The District's IT department should of keep abreast of emerging security threats and generally accepted good practices for security of personal information held in electronic form. To this end, the District should invest additional resources in a new information security staff member in the IT department.

### **PART 3—PRIVACY MANAGEMENT PLAN**

As noted earlier, Part 2 of this report sets out the findings and specific recommendations that flow from the review of the present state of the District's FIPPA compliance and its approach to personal information management. Drawing on Part 2, this part sets out the requirements for a privacy management plan. These are designed to enable the District to manage privacy in a manner that both complements and supports the District's delivery of its mandate:

1. The first recommendation is that the District's Chief Administrative Officer bring forward to Council a revised bylaw for the administration of FIPPA that reflects the current legislation, designates a second District officer as joint FIPPA head and provides for the appointment of a Privacy Officer by the head. The Chief Administrative Officer has completed this part of my recommendation. Because of the significant IT considerations involved, it is also recommended that the District create a full-time position to be responsible for technology and privacy.
2. The second recommendation is that the District's FIPPA head should assign to the Privacy Officer the responsibility to oversee and co-ordinate, in conjunction with the District's FIPPA head and the CAO and senior management team, the implementation of the recommendations in this report (and periodically report back on progress). This has been done.
3. In addition, the Chief Administrative Officer should assist the FIPPA head in communicating the role and mandate of the Privacy Officer in a manner that ensures all members of Council, employees and service providers understand the importance of assisting and supporting the Privacy Officer. Accordingly, the Chief Administrative Officer should issue a direction that employees and service providers are to co-operate with and support the Privacy Officer in carrying out her or his responsibilities at all times.
4. Ongoing executive-level commitment is key in order for an organization to successfully manage its privacy compliance obligations and achieve best practices. Accordingly, the Chief Administrative Officer and other members of the executive team should meet regularly with the Privacy Officer, who should brief the team on current issues and ongoing privacy management activities. Standing monthly meetings for the Chief Administrative Officer and executive team with the privacy officer and FIPPA head have already begun. In addition, all members of the executive team should find ways to demonstrate their commitment to the privacy management program, including through one-to-one communications with staff and internal communications.
5. The District should ensure that adequate resources are available at all times to support the FIPPA head, the Privacy Officer and the District's overall compliance activities.

Regarding the priority for creating and implementing plan components, the following elements are of the highest priority: IT acceptable use policy (this is, as noted, already completed and is in the process of being rolled out); privacy breach management policy (this is being drafted); PIA policy and procedures (this is also being drafted); and a privacy complaints handling policy (this is also in preparation).



The following section discusses the rationale for each component of the recommended privacy management plan.

### *Privacy Officer*

I have recommended to the District that its FIPPA head should assign the following core responsibilities to the Privacy Officer, and this has, again, already been done:

- Developing or recommending privacy policies and procedures governing collection, use and disclosure of personal information (including assessing and revising them on an ongoing basis).
- Together with the FIPPA head, Chief Administrative Officer and senior management team ensure that all aspects of privacy practices and compliance are monitored regularly, including the currency and adequacy of the privacy management plan in light of changing circumstances.
- Assisting the head in managing and responding to all privacy breaches.
- Assisting the head in responding to and managing all privacy complaints.
- Commenting on all privacy impact assessments.
- Liaising with the OIPC, including in relation to investigations.
- Coordinating the delivery of privacy training.
- Providing advice and information to District departments.
- Reviewing and updating the personal information inventory and privacy management plan, and recommending any necessary actions or revisions.
- Acting as an expert background resource to inform the District's communications personnel in their media commentary on privacy-related matters.
- Reporting regularly (preferably quarterly) to the District's senior management team about the foregoing.

The Privacy Officer's role is largely advisory. It is also therefore important that the District ensure that each department head remains responsible for her or his department's privacy compliance. It is also important that each department head ensure that his or her department co-operates with the Privacy Officer.

### *Personal Information Inventory*

A key part of the privacy management plan is the baseline inventory of personal information that the District created for the purposes of this review and plan. The inventory identifies the:

- Types of personal information that are collected, used and disclosed.
- Purposes for which personal information is collected, used and disclosed.
- District program area or activity involved for each collection, use or disclosure.
- Method of collection, use or disclosure of personal information.

- Medium in which personal information is held.

As part of the privacy management plan, the inventory should be updated periodically to ensure that the picture of personal information flows and their privacy implications remains current, clear and comprehensive. The period for review and update should be set out in a work schedule for privacy compliance overall.

### *Privacy Management Policies*

The District's existing privacy-related policies represent a sound approach to privacy management and should form part of the overall plan recommended here. This is subject to any revisions the District makes in response to the above comments on these documents.

As with all other aspects of the District's privacy management plan, these policies should be reviewed periodically in order to ensure they remain current and comprehensive.

### *Privacy Risk Assessment Policies & Processes*

Best practice requires public bodies and organizations to assess the privacy impact of proposed programs, projects, activities or systems involving collection, use or disclosure of personal information. The process of assessing and documenting risk is generally known as a 'privacy impact assessment' ("PIA"). The overall goal of this risk assessment is to ensure that the organization has identified and assessed privacy risks before proceeding, with mitigating measures wherever possible. This enables the organization to ensure that it is authorized to collect, use and disclose the personal information in question and to mitigate or eliminate any associated privacy risks (including information security risks). In some cases, the organization may decide that it cannot proceed in the intended manner.

Commissioner Denham and her Office consider PIAs to be fundamental to sound privacy management, a perspective illustrated in *Accountable Privacy Management*. Certain PIA requirements also apply under FIPPA. For this reason, the District's existing PIA guidelines and PIA form will be a key part of the District's privacy management plan moving forward.

A further component, however, is required. The District should establish a policy requiring all departments and program areas to assess, for each new or revised program or activity, whether the collection, use and disclosure of personal information is involved. Where this is the case, the policy should require that a PIA be completed by the relevant department or program area, in consultation with the Privacy Officer. Department heads should be responsible for approval of the PIA having considered the Privacy Officer's comments. In the case of disagreement between them, the FIPPA head in conjunction with the Chief



Administrative Officer should decide the matter. Once a PIA is approved, the department head should remain responsible for ensuring that it is implemented at all stages.

It should be emphasized here that a PIA is not a business planning tool. Completion of a PIA does not indicate approval for a project or initiative from a business perspective. Conversely, approval of a business case for an initiative or project does not dispense with the need for a PIA. It is, in this light, important that a PIA be completed at the earliest possible stage, to avoid approval for a project without considering the privacy aspects of it.

### *Privacy Breach Response Plan*

FIPPA requires the District to “protect personal information” in its custody or under its control “by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.”<sup>19</sup> It is now generally-accepted that the duty to protect personal information requires a public body or organization is to have a plan for responding to privacy breaches. A privacy breach occurs where there is unauthorized collection, use or disclosure of personal information. The most common kinds of breaches are those involving loss of personal information by an organization, such as where a laptop or other mobile storage device containing unencrypted personal information is lost. Another common type of breach is inappropriate access to personal information by employees or service providers.

The District’s draft privacy breach response policy is therefore another key part of the overall privacy management plan for the District. This policy should continue to be revised and updated periodically to ensure that it keeps abreast of changing circumstances, including the District’s experience in responding to any breaches that occur.

### *Training & Education*

Another core element of a sound privacy management plan is a policy for employee privacy training. This ensures they are aware of their privacy obligations, but it also helps sustain a culture of privacy in the organization. As described previously in this report, the District has prepared a draft training plan for its employees that will assist the District in managing its privacy obligations and demonstrating accountability.

The plan is designed to ensure that there is training and education materials for new and existing employees including mandatory privacy training. Ideally, periodic refresher training should be required for employees. A two-year cycle for training updates would be adequate if the District continues to provide periodic key tips and messages in the form of bulletins or newsletters.

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<sup>19</sup> Section 30.

The District also should continue, as part of its employee onboarding process, to require employees to agree to abide by the IT Acceptable Use Policy. It should also require new employees to agree to comply with the District's policies and procedures on privacy and freedom of information, as well as require them not to breach FIPPA intentionally. As with the IT Acceptable Use Policy compliance, the District should periodically remind District employees about these obligations.

### *Communications Plan*

The privacy management plan should include a policy for external communications on privacy matters. External communications are an important aspect of the privacy management plan. Especially after a privacy breach, the District needs to be able to clearly and credibly communicate what has happened, what it is doing to deal with it, and what it will do in future to avoid a similar event. These are questions to which both the media and the OIPC will want answers. This policy should make the District's existing communications staff responsible for this role, with technical background support from the Privacy Officer. This plan need not be elaborate.

As indicated elsewhere, the District should consider creating standing information resources to help media and the public understand its privacy management plan. These resources should be accessible from one source, such as the external website, for ease of reference and in the interests of transparency. The District already provides District employees with information resources.

### *Evergreen Review of the Plan*

Privacy management can no more be static than any other business needs assessment and planning enterprise. Effective privacy management requires an ongoing, or evergreen, effort. Organizations change, legislation changes, technologies and associated risks evolve, and experience teaches. For this reason, the privacy management plan should include a policy requiring periodic review and updating of the plan. Given the nature of the District's diverse and varied service operations and the extent and nature of its personal information holdings, a review at least every two to three years would be reasonable. Of course, specific revisions may well be required sooner than the next review, to respond to incidents, operational or organizational changes, or legislative developments.

To elaborate on what is involved, each periodic review at a minimum should include the following where determined to be necessary:

- Overall update of the personal information inventory
- Revision of access controls
- Revision of policies and forms
- Changes to breach response processes



- Revision of employee training and education program materials
- Revision of the internal and external communications plans, including materials
- Fine-tuning of service provider management.

Each review should result in an update to the Chief Administrative Officer and the senior management team to ensure they are fully informed of the current state of the privacy management plan and so it can give any necessary directions. Reports to Council on each review are also desirable.

## **CONCLUSION**

The goal of my work has been to review the District's present-state compliance and to help it move forward with a programmatic approach to managing its privacy obligations. As this report illustrates, the District has achieved a considerable amount over the course of my work. This has resulted from the iterative nature of my review, but above all it demonstrates a commitment to proactive, responsible, privacy management. Continued implementation of my recommendations and of the privacy management plan described in this report will help ensure that the District continues to demonstrate that commitment. It will also demonstrate that the District is transparent about, and accountable for, how it collects, uses, discloses and protects the personal information of citizens as it carries out its work.

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The Corporation of the District of Saanich

Mayor  
Councillors  
Administrator  
Council  
Administrator  
Media

# Report

**To:** Mayor and Council  
**From:** Sharon Hvozdanski, Director of Planning  
**Date:** April 18, 2016  
**Subject:** Draft Terms of Reference – Environmental Development Permit Area Review  
**File:** 2860-25

## PURPOSE

The purpose of this report is to seek Council endorsement for the draft Terms of Reference (see Appendix A) for the next phase of the ongoing review of the Environmental Development Permit Area (EDPA) Bylaw. Assuming Council approves the Terms of Reference, a Request for Proposals for consulting services will be posted.

## BACKGROUND

In March 2012, Council adopted the Environmental Development Permit Area (EDPA) Bylaw which includes Guidelines and an Atlas. At Council's direction, a "check-in" review process was conducted from June 2015 to February 2016.

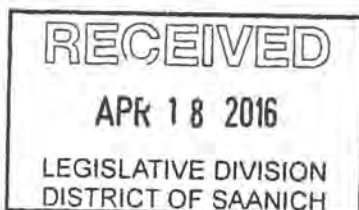
Planning staff were requested to provide an interim report to Council in advance of the results of the public feedback process and an economic study of the EDPA. At a special meeting of Council on March 16, 2016, Council considered the interim report to provide direction in terms of moving forward with the EDPA review.

At the March 16, 2016 meeting, Council moved to accept the staff recommendations to: revise the EDPA Bylaw; provide resources to hire a consultant to conduct a review of the EDPA; and for staff to bring forward a draft Terms of Reference in April 2016 for the consultant review.

Specifically, the motion was to:

1. "Support Option 2;
2. Not support the removal of single family zoned properties en masse in advance of the conclusion of the review process (removal on a case-by-case basis would still be possible); and
3. Support the hiring of a consultant/consultant team as outlined in Option 2."

**CM  
E.7**



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## DRAFT TERMS OF REFERENCE

### Framework

The framework for the draft Terms of Reference follows the standard template used by the District of Saanich. The draft Terms of Reference are broken into nine sections, of which at least two will require further direction from Council, namely; level of community engagement, and the budget.

The desired level of community engagement will need to be resolved by Council prior to approval of the Terms of Reference. Options and the impact on the timeline are outlined below.

Once the consulting submissions have been received from interested parties, as part of its deliberations regarding which firm to hire, Council will need to approve the budget and allocate funding to the project.

### Timelines and Public Engagement

Acknowledging Council's desire to resolve concerns related to the EDPA Bylaw, while ensuring an appropriate level of community engagement, three basic options for moving forward have been outlined below.

The overall timeline of the project is largely dependent on the level of public engagement that occurs during the review process by the chosen consultant. There are four relevant levels of engagement under Saanich's Public Participation policy that could be applied to the consultant's review:

- Inform - this would involve regular communication with the public on the consultants review;
- Consult - this would involve listening and considering the public's concerns;
- Involve - this would involve working with the public to exchange information, ideas, and concerns; and
- Collaborate - this would involve seeking advice and innovations from various public parties.

In terms of background, the "check-in" process to date has involved:

- Two Open Houses;
- Displays at the four Community Centres and the Municipal Hall;
- An Online/Virtual Open House;
- A survey and other written feedback opportunities;
- Individual consultations;
- Two Council Town Hall Meetings; and
- A Committee of the Whole Meeting.

### Council Direction on further Public Engagement

As previously noted, the desired level of community engagement will need to be resolved by Council prior to approval of the Terms of Reference. Three basic engagement options/approaches are outlined below for Council's consideration.



### Option 1 - Inform

This option is based on the position that significant engagement has taken place to date and that the consultant is being hired to develop potential solutions that will be presented to Council. Public input would be received at the time the potential solutions are presented to Council for review and deliberation. Under this Option, the public would be kept up-to-date on the review process through the Saanich website.

The timeline for the work to be completed would be approximately 2-3 months from once the contract is signed with the chosen consultant.

### Option 2 - Consult & Involve

Under this option, the consultant would create new opportunities for the public to give feedback on their work – analysis of the public input and solutions/alternatives for moving forward. The consultant would ensure that the aspirations of the public are understood and addressed during the course of their work.

The timeline for the work to be completed would be approximately 7-8 months from once the contract is signed with the chosen consultant.

### Option 3 - Collaborate

Under this option, the consultant would actively seek input and facilitate discussions with stakeholders and facilitate agreements between public parties. Advice and ideas from public parties would be used to create solutions. A degree of Inform, Consult, and Involve would also be needed.

The timeline for the work to be completed would be approximately 10-12 months from once the contract is signed with the chosen consultant.

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## **FINANCIAL RESOURCES**

As part of their submission, consultants will be asked to include an overall budget for the work to be completed. The proposed budget figure will be one of the criteria used by Council to assess the submissions.

In terms of an order of magnitude, the cost of completing the proposed work with Public Engagement based on Option 2 outlined above (Consult & Involve) would likely be in the range of \$40,000-\$50,000.

Once Council makes a decision on the consultant, the appropriate dollar amount will need to be allocated to this project. This project has been included in the draft budget (one-time resource request) currently under consideration.

**NEXT STEPS**


- Staff will revise the Terms of Reference per Council direction.
- The Purchasing Division will conduct a process to acquire proposals from qualified consultants.
- A template prepared by the Purchasing Division will be provided to Council outlining assessment criteria for scoring purposes.
- Staff will provide Council with copies of all of the submissions along with a summary report.
- Once Council has selected a consultant, the Purchasing Department will finalize and award the contract.
- Upon completion of the work the consultant will provide a written report and verbal presentation at a future meeting for Council's review and deliberation.

**RECOMMENDATION**

The Council:

- 1) Endorse the attached draft Terms of Reference, with direction for any changes; and
- 2) Give direction as to the desired level of public engagement.

Report prepared by:




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Adriane Pollard, Manager of Environmental Services

Report reviewed by:




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Sharon Hvozdzanski, Director of Planning

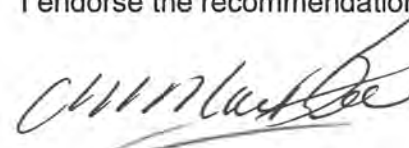
AP/ads  
 G:\ENV\Development Permit Areas\EDPA\AA Reports to Council\2016 RTCs\April 2016 RTC\EDPA TOR REPORT\_FINAL.docx

Attachment: Appendix A - Draft Terms of Reference

cc: Paul Thorkelsson, CAO

**CAO COMMENTS:**

I endorse the recommendation of the Director of Planning.



for Paul Thorkelsson, CAO

**APPENDIX A**  
**DRAFT Terms of Reference**  
**Environmental Development Permit Area (EDPA) Review**

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**PURPOSE**

To provide recommendations to Council to improve the EDPA Bylaw and support private land stewardship of Environmentally Significant Areas in Saanich.

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**BACKGROUND**

Saanich Council adopted the EDPA Bylaw in March 2012. In 2015, a six-month public 'check in' process began. At a special council meeting on March 16, 2016, Council moved to support the recommendations of a staff report (attached) which included support for hiring a consultant/consultant team to review the EDPA Bylaw.

Many issues have been raised about the bylaw, its implementation, and the impacts on property rights and property values. Ideas have been brought forward by the public to improve the bylaw and programming to support stewardship on private land, etc.

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**POLICY CONTEXT**

The EDPA is a schedule to the Official Community Plan (OCP) and is supported by many OCP policies such as:

- 4.1.2.1 "Continue to use and update the "Saanich Environmentally Significant Areas Atlas" and other relevant documents to inform land use decisions."
- 4.1.2.3 "Continue to protect and restore habitats that support native species of plants, animals and address threats to biodiversity such as invasive species."
- 4.1.2.4 "Protect and restore rare and endangered species habitat and ecosystems, particularly those associated with Garry Oak ecosystems."
- 4.1.2.5 "Preserve "micro-ecosystems" as part of proposed development applications, where possible."
- 4.1.2.7 "Link environmentally sensitive areas and greenspaces, where appropriate, using 'greenways', and design them to maintain biodiversity and reduce wildlife conflicts."
- 4.1.2.8 "Encourage the use of native species and climate change resistant plants for landscaping on both public and private lands and continue to promote the principles of Naturescape."



- 4.1.2.11 "Promote and encourage the protection and designation of indigenous, significant trees and wildlife trees."
- 4.1.2.18 Encourage the retention or planting of native vegetation in the coastal riparian zone."
- 4.1.2.25 "Work with private land owners to encourage stewardship that protects, preserves, and enhances natural systems and, where appropriate, enter into conservation covenants or provide incentives to protect riparian or environmentally significant areas."

Several other documents support and shaped the EDPA, including:

- The Local Government Act
- Review of Saanich Marine Shoreline Resources and Options for Protection
- The Green Bylaws Toolkit
- Develop with Care
- The Stewardship Series, including Greenshores
- The Conservation Manual (of the Sensitive Ecosystems Inventory)
- Recovery Strategy for Garry Oak and Associated Ecosystems and their Associated Species at Risk in Canada, 2001–2006

---

## OBJECTIVES

The EDPA was initiated to support many of the policies found in the OCP and address the lack of environmental protection for environmentally significant areas (ESA's) in Saanich such as the marine backshore, sensitive ecosystems, rare habitat, and isolated wetlands or streams. The original objective was to:

"Establish an Environmentally Significant Areas Development Permit Area to protect and enhance sensitive ecosystems, species at risk and the marine shoreline. Increasing development pressure adds to the need to protect natural ecosystems and the habitat of rare plants and animals at a level similar to the existing protection for riparian areas. Development Permit Guidelines will focus on best management practices for protecting habitat adjacent to development."

The current objectives of the EDPA are to:

- Protect the areas of highest biodiversity within Saanich;
- Require mitigation during development; and
- Require restoration to damaged or degraded ecosystems during development.

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## SCOPE OF WORK

Saanich Council wishes to engage consulting services with experience and expertise in creating local government tools to protect the natural environment. The consultant will:

1. Conduct any public engagement as outlined by Saanich Council according to the District of Saanich Public Participation Policy and Public Participation Toolkit.
2. Research other comparable municipalities and their approaches to natural area protection.

3. Refer to the Green Bylaws Toolkit and relevant legislation.
4. Meet with staff to discuss the scope of the project and current practice at the outset.
5. Review materials provided by the District of Saanich:
  - Minutes and existing staff reports of relevant Council meetings
  - Economic Studies (Rollo and Associates, BC Assessment Authority)
  - Public Feedback from the check in process (staff report)
  - Submissions from individuals and organizations within Saanich
  - Official Community Plan and other policy documents
6. Prepare a draft report for review by staff (including Legal, Finance, Planning, Engineering, Parks & Recreation, Administration) which will cover:
  - Study scope, background, and methodology
  - Study objectives and measures of success
  - Identification and analysis of options
  - Recommendations for improvements to the bylaw, implementation, and stewardship of private property
  - Discussion of the context of the recommendations such as the OCP, approaches by other municipalities, expected outcomes
  - Overview of process and resources required to implement the recommendations
  - Outline on-going evaluation and monitoring of the measures of success
7. Prepare a final report using feedback from staff on the draft report.
8. Present the final report to Council at a Committee of the Whole meeting and respond to questions from Council.

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## **PUBLIC ENGAGEMENT**

The level of public engagement, as determined by Council, and in accordance with District of Saanich Public Participation Policy and Public Participation Toolkit, is:

### Option 1 - Inform

This option is based on the position that significant engagement has taken place to date and that the consultant is being hired to develop potential solutions that will be presented to Council. Public input would be received at the time the potential solutions are presented to Council for review and deliberation. Under this Option, the public would be kept up-to-date on the review process through the Saanich website.

-or-

### Option 2 - Consult & Involve

Under this option, the consultant would create new opportunities for the public to give feedback on their work – analysis of the public input and solutions/alternatives for moving forward. The consultant would ensure that the aspirations of the public are understood and addressed during the course of their work.

-or-

### Option 3 - Collaborate

Under this option, the consultant would actively seek input and facilitate discussions with stakeholders and facilitate agreements between public parties. Advice and ideas from public

parties would be used to create solutions. A degree of Inform, Consult, and Involve would also be needed.

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### **TIMELINE AND DELIVERABLES**

- From the time of the award of the contract, the draft report will be delivered within (to be determined) months to allow for public engagement and delivery of a report.
- The final report will be delivered within 2 weeks of receiving the comments on the draft report.
- The presentation to Council will be scheduled as soon as possible by Saanich staff.

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### **CONTRACT OVERSIGHT**

The contract will be managed by the Director of Planning and designated staff on a daily basis with the main purpose of providing background information and resources. The contract terms will be set by the Manager of Purchasing. The contract Terms of Reference, consultant selection, and acceptance of the report will be under the purview of Saanich Council. The findings of the consultant will be independent of staff opinion.

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### **PROPOSALS**

Proposals for the project should include:

- A description demonstrating the consultant's understanding of the project
- An itemized budget
- Timeline
- Methodology
- Experience and credentials of the consultant or team in relation to creating local government tools to protect the natural environment
- Ideas and expectations for public participation

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**ClerkSec - EDPA Suggestions**

RECEIVED

APR 22 2016

**From:** Art  
**To:** "clerksec" <clerksec@saanich.ca>  
**Date:** 4/22/2016 6:53 AM  
**Subject:** EDPA Suggestions

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DISTRICT OF SAANICH

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ACKNOWLEDGED

bl.m

There are some flaws in the EDPA bylaw. The following suggestions should be considered by the Mayor, Council and administration.

The agenda appears that the objective of the EDPA is to link private properties and waterfront properties into a park like arrangement. No compensation is offered, but the property owners must do all repairs without financial assistance from the municipality. The bylaw indicates that Saanich parks and publicly owned properties are not included in the bylaw. This is very unfair (miscarriage of justice for a minority) and needs an outside, unbiased review. Saanich must act in good faith and take responsibility of ownership.

There should not be any retroactive reparations required to EDPA property owners prior to the 2012 bylaw. The onus and responsibility to make corrections to the bylaw lies with the councillors and administration who were involved at the time. Saanich must provide financial support through property tax reductions to EDPA properties. The EDPA bylaw mandate reads as a penalty more than voluntary stewardship support.

The catch all phrase "ecosensitive environment" must be identified by an unbiased, qualified biologist. If a disagreement ensues, the decision will go in favour of the property owner as they have the most to lose, not Saanich. Saanich's costs are covered by taxpayers, the EDPA owners are not.

Will a new department be created for EDPA with the hiring of more bylaw enforcers? Note: Saanich employees (that work for 30 years) will likely receive million dollar pensions when spousal benefits are included and they live to the national average. (Retirement = 30 years X \$36,000) This is unsustainable.

What will be the total annual budget for the EDPA bylaw including legal fees? Will the taxpayers receive a separate bill like water, sewage and garbage? Will there be a \$100,000 an annual contingency fund?

Will the EDPA be expanded with more properties within the encatchment? Will there be open accountability to remove properties from the EDPA.

What steps will be taken to improve the perception of mistrust, suspicion and bureaucracy intrusion?

Option 3 is the fairest as it involves the most amiable collaboration.

Saanich residents must see the written discussion on the website involving EDPA properties. It must be clear, transparent and impartial. Please include personal stories of Councillors and public ... pro and con.

The chosen Consultants must have no "conflicts of interests" or affiliation to Saanich administration, Union pension fund, University of Victoria bursaries, scholarships or be appointed by or connected to, BC government's political campaign.

Saanich must be proactive to reduce deer, rabbit, geese and other wildlife over-populations. Hunting and trapping will be necessary to assist in rare species recovery and ecosensitive habitats. This will be necessary to achieve bylaw goals and objectives.

Saanich must not promote "snitching on thy neighbour" to enforce the bylaw. This will create hostility, tension and possible retribution in the community.

If vandalism should occur, it could destroy sensitive habitats. Who will pay for the restoration and damage?

Will transient campers be fined, removed or arrested for violations? Examples of problems: fires, pollution,

garbage and environmental contamination.

Will the fire departments be involved to clear debris and forest litter to protect rare and natural habitats?  
Spontaneous combustion fires of dry materials will increase insurance costs as less moisture and drier summers are predicted.

Will residents be banned (during dry spells) from the natural parks like Freeman King park?

Note: Rural properties will be devalued for several years after a wildfire as insurance companies do not cover loss of forests. Some species will not return.

The legalization of marijuana smoking and "vaping" will increase the probability of flammables in dry forested areas. Will there be more enforcement? Note: Intoxicants increase irresponsible behavior.

As the earth is changing, the natural climate is being altered by volcanoes, earthquakes, shifting polar locations and solar flares. More financial resources should be directed toward preparing for environmental change.

There are a few healthy, retired Saanich residents who have become ill dealing with insects and invasive species, Consider the long term effects of ticks, mosquitoes and mold. The plant "Daphne" for example, causes dizziness, vomiting, skin irritations and tinnitus. How will Saanich help these citizens?

Thank you for considering these suggestions. Art Bickerton (Saanich)

**ClerkSec - Re: Council Item for April 25 - Draft Terms of Reference - EDPA Review**

---

**From:** [REDACTED]  
**To:** "ClerkSec" <ClerkSec@saanich.ca>  
**Date:** 4/20/2016 4:04 PM  
**Subject:** Re: Council Item for April 25 - Draft Terms of Reference - EDPA Review

---

**Hello: For the Mayor and Council: The EDPA by law must be rescinded. It was poorly thought out, never presented to those affected in terms of the effect on their properties, and in the final analysis, definitely is not necessary. HJ Rice**

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ACKNOWLEDGED	B.M.	

**RECEIVED**  
**APR 21 2016**  
 LEGISLATIVE DIVISION  
 DISTRICT OF SAANICH



1220-20 By U-EDPA

**ClerkSec - The "What would that do to all that work?" fallacy**

**From:** "Keith Sketchley" [REDACTED]  
**To:** "Susan Brice" <susan.brice@saanich.ca>, "Vic Derman" <vic.derman@saanich.ca>, "Dean Murdock" <dean.murdock@saanich.ca>, "Fred Haynes" <fred.haynes@saanich.ca>, "Judy Brownoff" <judy.brownoff@saanich.ca>, "Colin Plant" <colin.plant@saanich.ca>, "Vicki Sanders" <vicki.sanders@saanich.ca>, "Leif Wergeland" <leif.wergeland@saanich.ca>, "Mayor of Saanich" <mayor@saanich.ca>  
**Date:** 4/19/2016 9:58 AM  
**Subject:** The "What would that do to all that work?" fallacy  
**CC:** "Editor Saanich News" <editor@saanichnews.com>

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INFORMATION	<input checked="" type="checkbox"/>		
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ACKNOWLEDGED	D.M.		

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APR 20 2016

LEGISLATIVE DIVISION  
DISTRICT OF SAANICH

In asking "What would that do to all that work?" regarding removal of private residences from the EDPA law, Saanich councillor Judy Brownoff makes a fallacious argument. (As quoted in the Saanich News of March 29, 2016, regarding the new "corridors" push of eco-activists.)

The old maxim "Two wrongs don't make a right" comes to mind - "corridors" are part of the same error as the EDPA.

It's been clearly pointed out to you that Saanich's EDPA law has a false foundation, was badly implemented, and is hypocritical. Brownoff and her ilk evade that (they haven't attempted rational rebuttal, instead trying to press on to control people on superstition).

(Saanich staff try to define "species" on political boundaries rather than essentials as the word is intended to represent. In their thinking they can then claim that species at the limit of their viable range here are "threatened" despite abundance elsewhere.

And Saanich staff botched analysis for the EDPA, ignoring provincial guidelines and even classifying buildings and pavement as sensitive ecosystems.

As well, while claiming their motive is diversity, they exclude the abundance from recent human activity while exempting that from human activity more than a hundred years ago - farming that created the Garry Oak meadows and increased populations of some of the plants.)

OTOH, perhaps you'd buy my new product for economical crossing of the Strait of Georgia to attend fancy conventions. I've arranged with a shoe manufacturer to make a trendy-looking line I've branded Brydges, for which I've invented a new shade of green to impress other convention groupies. It's only usable by those who have your method of acquiring knowledge and deciding on values combined with your attitude of self-importance. (Do be careful of the dihydrogen monoxide.)

While you report that property owners can apply for exemption, Anita Bull testified to council that staff have not done that in a reasonable time frame if at all in the starkly simple case of

buildings and pavement. There's also the matter of the cost of applying, one family had to spend \$10,000. or more for an expert to report on a mostly open property that could easily be traversed.

This is a moral issue, pitting honest people building and earning against superstitious control freaks who are no better than Joseph Stalin. (To advance his anti-human ideology he starved the most productive farmers in a country that was short of food because of his belief in Lysenko's false botany.) Clearly Saanich council as a collective is not providing leadership for human life.

*Humans are good*

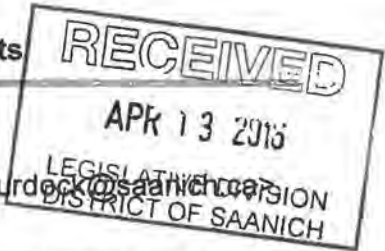
<http://www.moralindividualism.com>

Keith Sketchley

Saanich BC  


1220-20 Bylaw edpa

ClerkSec - EDPA Property Exemption Process and Mapping Improvements



From: "Anita Bull" [redacted]
To: <mayor@saanich.ca>, <Susan.Brice@saanich.ca>, <Dean.Murdoch@saanich.ca>, <Judy.Brownoff@saanich.ca>, <Colin.Plant@saanich.ca>, <Vic.Derman@saanich.ca>, <Vicki.Sanders@saanich.ca>, <Fred.Haynes@saanich.ca>, <Leif.Wergeland@saanich.ca>, <paul.thorkelsson@saanich.ca>, <sharon.Hvozdanski@saanich.ca>
Date: 4/13/2016 7:20 AM
Subject: EDPA Property Exemption Process and Mapping Improvements
Attachments: Guidelines for Verifying and Defining Boundaries 3rd draft.doc

POST TO Gen POSTED 2016-04-19 10:30
INFORMATION [checked]
COPY TO WRITER [checked]
COPY RESPONSE TO LEGISLATIVE DIVISION [checked]
REPORT [ ]
FOR
ACKNOWLEDGED: [signature]

Dear Mayor, Council, Mr. Thorkelsson, and Ms. Hvozdanski,

Saanich Citizens for a Responsible EDPA Society wish to express their absolute disbelief with Saanich's EDPA Property Exemption and Mapping Improvement Process documents released last week. It would seem staff has rewritten the EDPA Bylaw. We ask that you review the following and provide an explanation.

Response to the Saanich documents regarding property removal from the EDPA and Mapping Improvements to the EDPA.

Executive Summary

The following report provides a discussion and review of the new documents released in April 2016 by Saanich staff for removal of properties from the EDPA or for mapping improvements to the EDPA. We believe that the new documents have changed the requirements supporting the EDPA Bylaw. Specifically, we believe the following:

- This staff approach does not follow the current EDPA Bylaw requirements as passed by Council in 2012.
The proposed staff approach is consistent with the staffs' ongoing direction to maintain the EDPA over an area regardless of its ecological condition and regardless of the Bylaw's primary objective or the standards for the five inventories covered by the Bylaw.
The proposed approach attempts to include staff supported EDPA Bylaw amendments that staff presented to the ENA Committee in February 2015, as well as other new requirements, which have not been debated or approved by Council.
Exemption #14 as it's defined in the EDPA Bylaw should be followed, for the



purposes of determining whether an Environmentally Significant Area (ESA) exists. Where no such ESA exists, the EDPA should be removed or remapped to the extent it exists as determined by a Registered Professional Biologist.

-

## Part A. Introduction

In the February 2015 staff report to the Environment and Natural Areas Advisory Committee (ENA), staff indicated that the current staff interpretation of the EDPA Guidelines was *"to continue to protect mapped EDPA areas for values beyond SEI mapping standards such as restoration potential, landscape linkages, habitat, buffers, approved landscape plans, significant trees and the condition of the entire mapped area."* Except for buffers, **NONE** of these other items were authorized or addressed in the current EDPA Bylaw as passed by Council, which is designed to protect Environmentally Significant Areas (ESAs) for five inventories. The report goes on to say that *"staff interpret that Council intended to protect SEI polygons regardless of their condition"*. In other words, staff interpret that Council's direction is to maintain the EDPA over an area regardless of its ecological condition. If this is the case, it is important for Council to confirm to the public whether this was the direction they wanted, as we can find no evidence of this within the existing EDPA Bylaw.

In the EDPA Open Houses in June and September of 2015, material presented by Saanich staff indicated that the EDPA was covering habitat values, larger ecosystems, connectivity of corridors, and enabling future restoration. **NONE** of these are authorized or addressed in the current EDPA Bylaw. If these were to be included, they should have been presented to Council for their decision.

In the April 2016 documents to residents for property removal or mapping improvements to the EDPA (see links below), it is indicated that a property should be assessed by a biologist based on condition, connectivity and restoration potential. However, the current EDPA Bylaw does **NOT** have any wording about condition, connectivity and restoration potential within its wording or authority. With respect to

[2]

restoration, Saanich staff themselves in January 2012 acknowledged that the Local Government Act does not give them the authority to require restoration. If Saanich does not have this authority, then why would restoration be grounds to keep a property within an EDPA where there is no remaining sensitive ecosystem?

When Saanich staff visit a property at the request of a resident, will the area within the EDPA be assessed according to the above criteria, or will it be assessed according to the current Bylaw wording as to whether there is, or is not, presently an ESA on their property, following the inventory standards of that ESA? Staff should be able to go to a landowner's property and remove the EDPA or change the ESA map, where there is no longer an ESA present, free of charge and without the requirement of having to hire a biologist. When Saanich Council recently voted on a motion to provide procedures for landowners to have mapping changes or removal of properties from the EDPA, did they believe that the procedure would follow the existing Bylaw, or that the procedures would follow the direction of Saanich staff's proposed changes to the Bylaw? We assumed Saanich Council wanted the existing Bylaw to guide these decisions, which is to determine if an ESA presently exists on a property or not. Does Council need to

further specify this direction?

### Part B. The Documents

Property Removal:

<http://www.saanich.ca/living/natural/planning/pdf/EDPAPropertyExemptionProcess.pdf>

Mapping Improvement:

<http://www.saanich.ca/living/natural/planning/pdf/EDPAMappingImprovements.pdf>

### Part C. Summary of March 2016 Council Motion

We believe that by Saanich Council approving the unanimous motion to provide residents with the procedure for removing and/or allowing mapping changes to the EDPA on their property, that Council were under the belief that the procedure provided would follow the wording in the current Bylaw and other support documents, such as the ESA Atlas and the Guidance Document that has been provided to Biologists who have been assessing ESAs in the EDPA. However, this is not the case in the wording that is provided by the two documents linked above. Based on the wording of the two documents, staff have created a desired process which does not apply the existing Bylaw; and which ignores the clear language of the professional reliance exemption #14, to determine whether an ESA exists for the purpose of correcting mapping errors which may include the entire EDPA mapped on a particular property.

### Part D. District of Saanich EDPA Bylaw Guidance Documents to Biologists and the ESA Atlas as Passed by Council in 2012

The District of Saanich's Environmentally Significant Areas (ESA) Atlas states that: *"to be included in the ESA atlas, data must be from a comprehensive environmental inventory using technically acceptable standards."* and that *"this atlas should be used as a flagging tool and should not be used in place of individual site assessments"*.

The District of Saanich's **Guidelines for Verifying and Defining Boundaries of Sensitive Ecosystem Inventory Polygons In the Environmental Development Permit Area (#29)** is the guidance document provided by Saanich staff to biologists that are hired by landowners to assess the presence of a Sensitive Ecosystem (attached). The following are relevant quotes from the document:

- *"When SEI mapping was first produced, standards and criteria were under development. However, the 2006 Standard for Mapping Ecosystems at Risk in British Columbia included applicable mapping and reporting standards used in Terrestrial and Predictive Ecosystem, and added many more Sensitive Ecosystems Classes and Subclasses."*
- *"In order to recommend changing a SEI boundary or potentially*



*eliminating/adding an SEI polygon, the same standards must be met."*

The document recommends for a biologist to: *"Evaluate each ecological community for ecological sensitivity and at-risk status and determine which class and subclass of Sensitive Ecosystem it belongs to, if any."*

The *Local Government Act* allows for EDPAs for the purpose of "protection of the natural environment, its ecosystems and biodiversity".

The EDPA Bylaw indicates that the first Objective of the EDPA is to *"protect the areas of highest biodiversity within Saanich"*

#### Part E. Assessment of New Saanich Documents (April 2016) for Mapping Change or Removal of the EDPA

The new Saanich documents provided for mapping changes or removal of properties from the EDPA do not address any of these guidance documents or directions to biologists, even though these documents themselves comprise the current EDPA Bylaw authority as passed by Council in 2012. The new documents introduce a whole new set of requirements which appear to expand on the views of staff in their February 2015 ENA report where they were proposing new amendments to the EDPA Bylaw. We find it very troubling that these additional requirements have been brought into this process when they were **NOT** approved by Council nor had the public received fully informed consultation. These new requirements are:

- A description of both the entire polygon and the property in terms of condition, connectivity, and restoration potential of the ESA;
- An inventory and habitat assessment; (unclear what a habitat assessment is)
- Mapping changes are not eligible in the Marine Backshore because the mapping is based on a measurement from the natural boundary of the ocean.
- To identify a rare species or the extent of its critical habitat

The current EDPA Bylaw does **NOT** have any wording about condition, connectivity and restoration potential within its wording or authority. With respect to restoration, Saanich staff themselves, in January 2012, acknowledged that the Local Government Act does not give them the authority to require restoration where there is no ESA. If Saanich does not have this authority, then why would restoration be grounds to keep a property within an EDPA where there is no remaining ESA? Additionally, the current EDPA Bylaw does not have any wording about Critical Habitat for Species at Risk. These issues should not be required to be addressed by residents or their hired biologists under the existing EDPA Bylaw. The biological assessment should indicate whether an ESA exists or not, in accordance to the standards and methods for the ESA inventory. This is the information that Council will need to determine whether a property meets the EDPA requirements.

The EDPA Bylaw describes the Marine Backshore ESA as "*The marine backshore ... is a critical environment that supports many rare species that rely on the specialized habitats found on the coast. Native vegetative cover promotes stable and biologically diverse areas that extend ecological support into the marine environment.*"

The Marine Backshore does not come from "*a comprehensive environmental inventory using technically acceptable standards*"

The ESA Atlas indicates that it MUST come from such an inventory.

Clause # 14 of the bylaw includes the clause that "*A development permit is not required for the following activity: Where field verification by a Registered Professional Biologist, or other appropriate professional approved by Saanich, reveals the boundaries can be refined and the proposed development is shown to be outside the Environmentally Significant Area.*"

Presumably, a professional biologist could assess the Marine Backshore ESA and indicate that there are no rare species and there are no specialized habitats with native vegetation. Other jurisdictions on the Saanich Peninsula provide flexibility to allow Qualified Environmental Professionals to assess these areas and allow development if there is no impact on the natural environment. Marine Backshore ESAs could be removed from the EDPA if the natural environment no longer exists, similar to other ESAs.

#### Part F. Implications to a Council Decision

Saanich Council may decide to go against the specific wording in the EDPA Bylaw based on input from "*The results of the EDPA Public Feedback Report and Economic Study, Precedence, Hardship experienced by the property owner, Opinions expressed by other biologists, the public, Community Associations, and neighbours, Information provided by staff, and Other factors*" as indicated in the factsheets for residents."

However, Council needs to understand what the wording of the EDPA Bylaw actually means, and that Clause # 14 does not allow for a response from staff or others if it is followed as defined. It is a corrective release clause that occurs in the Bylaw, meant to be addressed by experts who are legally subjected to a Code of Ethics and other requirements provided in provincial legislation and by their professional associations.

The decision provided through Clause # 14, and possibly Clause # 15, is a scientific recommendation that is allowed through the current EDPA Bylaw. Through the Council decision process, all other individuals are entitled to their opinions to be expressed at Council meetings. Council can choose to not follow the wording of the Bylaw and could decide to go against the scientific recommendation of a professional, but presumably this would have to be done with compelling scientific evidence and raises concerns regarding precedents for future bylaws.

#### Conclusions

The EDPA Bylaw as passed by Council should be the guiding document and authority when residents bring forward requests for mapping changes or removal of the EDPA from their properties. The present documents from Saanich do **NOT** follow the EDPA Bylaw and attempt to introduce new requirements or interpretations proposed by staff which were never reviewed or approved by Council. We believe that Saanich Council should provide direction to staff to reflect the Bylaw as it presently exists and that staff should provide information to Council that follows the existing Bylaw and not what they might wish the Bylaw to become.

This process needs to be easy and efficient for landowners to apply. The professional reliance exemption was intended to be just that, and is used in many jurisdictions without the complications, uncertainty and subjective interference that have prevented its use in Saanich.

Anita Bull  
Saanich Citizens for a Responsible EDPA.

Black – From Saanich staff documents

Green – our response

We have highlighted the Guidelines Document in yellow for relevant sections.

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[1] Saanich February 17, 2015 Report to ENA Committee p.6

[2]

Meeting Minutes from January 25, 2011 Saanich Environmental Advisory Committee quoted A. Pollard "*The Local Government Act does not allow us to require areas already destroyed be restored.*"



122020 bylaw kapu

ClerkSec - Site Visit

RECEIVED  
APR 11 2016

POST TO	Gen	POSTED	2016-04-20 5:00
COPY TO	SH		
INFORMATION	<input checked="" type="checkbox"/>		
REPLY TO WRITER	<input type="checkbox"/>		
COPY RESPONSE TO LEGISLATIVE DIVISION	<input type="checkbox"/>		
REPORT	<input type="checkbox"/>		
FOR			
ACKNOWLEDGED			

**From:** Bill Morrison <[redacted]@saanich.ca>  
**To:** Colin Plant <colin.plant@saanich.ca>  
**Date:** 4/8/2016 7:47 PM  
**Subject:** Site Visit  
**CC:** Saanich Citizens For A Responsible EDPA <saanichedpa@gmail.com>, <clerksec@saanich.ca>  
**Attachments:** Blue House IMG\_0059.JPG; Backyards .pdf; Beige House .pdf; Bedroom .pdf; Modified copy of Blue House IMG\_0059.JPG

Dear Mr. Plant:

Following the **public Council Meeting March 16, 2016**, I came home dismayed as Saanich Staff were not able to answer most of the questions you asked of them. Staff repeatedly gave the answer that they were not able to provide the answer at the time of the meeting and that they would have to get back to you with the answer. I thought the questions were fairly straight forward and Staff should have anticipated such questions as a matter of protocol in approaching their duties in a PROFESSIONAL manner. **Furthermore, by responding as they did those 400 or so people who attended the meeting will not know WHAT THE ANSWERS ARE to your questions when (if) Staff respond to you.** Mr. Plant the above remarks, I have made, are based on 37 1/2 years of working in the field of taxation administration both at a provincial level and federal level. During those years I faced many complex and contentious issues where a public response was required. I ensured answers to questions were always provided **to all stakeholders**. It is a **culture of professionalism** I have always embraced with pride.

Because of the above situation, I would like to invite you to my home so you can personally view it in terms of its application to the EDPA. Also once you have viewed my property I would like to invite you to come in to my home, perhaps for a coffee or tea, so we can jointly look at GIS Mapping System as as it applies to my property. You will see that the EDPA icon shows a part of my home (i.e. the actual structure) and about a quarter of my backyard are affected by the EDPA. However, there are no trees in my backyard and there is no sensitive eco-system present either. It is just lawn. Perhaps we could schedule a visit after April 29, 2016.



In the meantime, I have attached four pictures for your reference. The picture titled **Blue House** is taken from my neighbour at the east. You will note the planters present. That is the property line with the Christmas Hill Nature Sanctuary. You will note within my property no trees and no sensitive eco-system; just lawn. The Picture titled **Backyards** again shows no trees and no sensitive eco-system; just lawn. This picture also shows that my planters align with the common property line of all my neighbours to the west with regards to the Christmas Tree Nature Sanctuary. Further you will observe that none of my neighbours backyards have any trees nor sensitive eco-systems; just lawn. Yet the GIS Mapping shows they are all affected by the EDPA. The picture titled **Beige House** is taken from my neighbour at the west. Again, within my property, there are no trees and no sensitive eco-system; just lawn. Also the

picture shows the planters align with the common property line of the neighbour to the east, (i.e. white fence post) with regards to the Christmas Tree Nature Sanctuary. The picture titled **Bedroom** was taken from my master bedroom. Again, it shows no trees and no sensitive eco-system on my property; just lawn. The picture also shows the due diligence and care I take of Saanich property from the planters, (i.e. the property line) to the tree line at ensuring no invasive species are present. This is a distance of about 20 feet. During the fifteen years I have lived in my home, never once, has a Saanich employee done anything to maintain their property.

Mr. Plant I look forward to seeing you after April 29, 2016.

Regards,

Bill Morrison  
B.Comm.; CPA; CMA  
Woodhall Drive

Blue House








From: **WILLIAM MORRISON** [redacted]  
Subject: Backyards  
Date: April 8, 2016 at 11:29 AM  
To: [redacted]

BM




From: WILLIAM MORRISON [redacted]   
Subject: Beige House  
Date: April 8, 2016 at 11:28 AM  
To: [redacted]

BM





From: WILLIAM MORRISON [REDACTED]   
Subject: Bedroom  
Date: April 6, 2016 at 4:53 PM  
To: [REDACTED]

BM







**PLANNING**  
Environmental Services

## **Guidelines for Verifying and Defining Boundaries of Sensitive Ecosystem Inventory Polygons In the Environmental Development Permit Area (#29)**

### **Background**

In order to qualify for an exemptions 13, 14, and/or 15; or to assist in meeting the Environmental Development Permit Area (EDPA) guidelines, a report should be completed by a Registered Professional Biologist or other appropriate professional approved by Saanich. This document provides guidelines to assist in completing reports that meet expectations, as well as identifying key publications that should be used. Biologists are encouraged to contact Saanich Environmental Services before undertaking any work.

The EDPA Atlas includes the Sensitive Ecosystem Inventory (SEI), Conservation Data Centre at risk element occurrences, the marine backshore, isolated wetlands and watercourses, and wildlife trees. These guidelines address SEI mapping only. To see the atlas, guidelines and other useful information, please see <http://www.saanich.ca/living/natural/planning/edpa.html>.

The SEI inventory is a Provincial/Federal initiative produced in 1998. It is recognized that the inventory is incomplete and accuracy can be improved in some locations, either due to changes in the landscape or errors in aerial photo interpretation. The Disturbance Mapping product updated many SEI polygons and identified areas of disturbance between the time of initial mapping and 2002.

When SEI mapping was first produced, standards and criteria were under development. However, the 2006 Standard for Mapping Ecosystems at Risk in British Columbia included applicable mapping and reporting standards used in Terrestrial and Predictive Ecosystem, and added many more Sensitive Ecosystems Classes and Subclasses. In order to recommend changing a SEI boundary or potentially eliminating/adding an SEI polygon, the same standards must be met.

### **Reference Documents**

Understanding which standards, forms, and other factors to use may be confusing. The best documents to use to understand the standards are:

1. Standard for Mapping Ecosystems at Risk in British Columbia: An Approach to Mapping Ecosystems at Risk and Other Sensitive Ecosystems, Ministry of Environment, Resources Information Standards Committee, December 5, 2006, Version 1.0

This document describes the following steps for the biologist:

- Compile existing known information (e.g. CDC element occurrences, CDF TEM products, SEI mapping, etc)
- Aerial Photo Interpretation utilizing the most current imagery
- Field Sampling using the following forms:
  - Site Visit Form (FS1333)  
[http://www.for.gov.bc.ca/hre/becweb/Downloads/Downloads\\_Forms/FS1333\\_2011.pdf](http://www.for.gov.bc.ca/hre/becweb/Downloads/Downloads_Forms/FS1333_2011.pdf)
  - Conservation Evaluation Form (condition, landscape context which is still natural);  
[http://www.env.gov.bc.ca/cdc/documents/Cons\\_Eval\\_Form\\_Aug09.pdf](http://www.env.gov.bc.ca/cdc/documents/Cons_Eval_Form_Aug09.pdf)
- Identification of ecosystem type (based on field sampling)
- Evaluate each ecological community for ecological sensitivity and at-risk status and determine which class and subclass of Sensitive Ecosystem it belongs to, if any.



- Reporting (as per 1-6 of section 2.11 of document #1)
2. Field manual for describing terrestrial ecosystems. -- 2nd ed. (Land management handbook, 0229-1622; 25) BC Ministry of Forests and Range, B.C. Ministry of Environment, 2010.
  3. Sensitive Ecosystems Inventory: East Vancouver Island and Gulf Islands 1993 – 1997, Volume 2: Conservation Manual, Pacific and Yukon Region 2000, Canadian Wildlife Service Technical Report Series Number 345, 2000. For More information: <http://www.env.gov.bc.ca/sei/>

This document describes the ecosystems for identification (see page 4). Please see the original document for complete information.

### **Secondary Assessment**

While most local terrestrial ecologists will be familiar with the SEI types, difficulties arise when ecosystems are small, disturbed, or urbanized. A methodology and documentation is needed in order to validate recommended changes. If an area is considered an SEI polygon, a secondary assessment is needed to determine a practical, long-term conservation value for Saanich. Within the scope of SEI, Saanich's ecosystems are disturbed by a variety of factors and located within a densely populated region. The biologist must consider and report on the criteria (page 3) which have been adapted from the CDC's Conservation Evaluation Form (found in *Standard for Mapping Ecosystems at Risk in British Columbia*) in consultation with provincial and federal representatives. The methodology was further developed by our consultant while working on our ESA Mapping project in 2012. Any suggestions for improvements to the methodology are welcome.

### **Reporting**

A report can be submitted to the Manager of Environmental Services for consideration. The report should include completed forms, field notes, and a sketch map if changes are proposed. The final recommendation of the biologist should be based on the methodology plus any other ecological factors that the biologist feels are significant, such as wildlife habitat. Please note that Saanich Council has adopted the EDPA atlas and any proposed changes must be scientifically supportable yet sensitive to the context of urban ecology and community values.

### **Contact Information**

If you have any questions, please contact Adriane Pollard, Manager of Environmental Services Planning Department, District of Saanich, 770 Vernon Avenue, Victoria, BC V8X 2W7  
Adriane.pollard@saanich.ca  
Phone: 475-5494, ext 3556 Fax: 475-5430

## Conservation Value Assessment

<b>Landscape context (L) <sup>1</sup></b>	
Excellent – Score 4	The surrounding landscape has <25% fragmentation due to roads, urban areas, and rural settlements, and no recent industrial activity. Site occurs within a larger landscape with some formal protection status or protected by conservation covenants.
Good – Score 3	Up to 50% of the surrounding landscape is fragmented. The larger landscape context provides some protection from anthropogenic disturbance, although changes to natural disturbance regimes exist (fire suppression; flooding control).
Fair – Score 2	More than 50% of the surrounding landscape is fragmented and affected by anthropogenic influences. Development may affect the ecosystem's existence.
Poor – Score 1	Less than 15% of the surrounding landscape consists of natural or semi-natural vegetation, or the ecosystem is completely isolated from natural areas and protected areas.
<b>Condition (C) <sup>2</sup></b>	
Excellent – Score 4	Minor cover of exotic species occur in the site (<10%). Forested ecological communities are climax vegetation. The community may have minor internal fragmentation (<5%). Wetland and riparian communities have natural hydrology regimes. No artificial structures occur at the site.
Good– Score 3	Some cover of exotic species (10 - 40%). Forested ecological communities may be late seral vegetation. Wetland and riparian communities have largely natural hydrology regimes. There could be moderate internal fragmentation (<25%).
Fair– Score 2	Significant cover of exotic species (40 - 75%). Forested ecological communities typically are young seral vegetation after anthropogenic disturbance. There may be significant alterations of hydrology regime in wetlands and riparian ecological communities. There is moderate internal fragmentation (<25%).
Poor– Score 1	Exotic species dominate a vegetation layer or may total >75%. Significant anthropogenic disturbance, such as removal of soil material or vegetation. There are significant alterations to the hydrology regime in wetlands and riparian ecosystems. High internal fragmentation (>25%), and/or presence of artificial structures or barriers.
<b>Restoration potential (R)</b>	
Excellent – Score 4	The natural species, soils and disturbance regime are mostly intact, only a minor control of invasive species is needed.
Good– Score 3	The natural species, soils and disturbance regime are present, but sustained invasive species work is needed to achieve restoration.
Fair– Score 2	Alterations to the natural disturbance regime require major work. The removal of invasive species will leave major portions of exposed soil, requiring plantings. Many years of work will be needed, to achieve a complete natural appearance.
Poor– Score 1	Soils and vegetation were removed, and site is dominated by alien invasive species. Site may be affected permanently.

<sup>1</sup> The area considered in Landscape Context takes varies depending on the size of the site and the type of ecosystem:



- ▲ For streams and wetlands: the local catchment.
- ▲ For smaller terrestrial sites (<1 ha): 100 ha
- ▲ For larger forested sites: 500ha

2 Condition evaluation criteria primarily takes into account the structural integrity of the site or how intact the components of the ecosystem are ( typical species). In other words, how close the site resembles the description of the ecosystem type it represents.

## Summary of Sensitive Ecosystem Inventory Classifications for Saanich

### **CB Coastal Bluff**

General Description: rocky shorelines with grasslands, rocky shorelines with mosses, vegetated rocky islets that are dominated by grasses, forbs, mosses and lichens; beginning at the water's edge to the lands above the high tide mark.

Types: CB and CB:cl (coastal cliffs)

Soils: Thin to no soils. Glacial outwash deposits. Usually sand to sandy-loam, often with high salinity

Vegetation: Adapted to hostile environmental conditions such as salt-spray from crashing waves, winds, storms and heat. CB lack continuous vegetation cover over their entire landforms; the remainder is exposed bedrock. May be interspersed with other SEI ecosystems such as HT, WD, OF, and SV.

Common Plants: Garry Oak, Arbutus, Douglas-fir, native roses, Oceanspray, Salal, Stonecrops, licorice fern, native onions, Harvest Brodiaea, mosses, lichens, Scotch Broom.

### **SV Sparsely Vegetated**

General Description: Discontinuous vegetation interspersed with bare sand, gravel, or exposed bedrock. Landforms are often in a dynamic state of change due to factors such as water level changes, sediment deposition, sediment erosion and mass wasting.

Types: SV:sd (coastal sand dunes); SV:sp (coastal sand and gravel spits); SV:cl (inland cliffs and bluffs)

Soils: in formative years, a lack of distinct soil horizons and organic layers; shallow soils, well drained

Vegetation: newly- and slowly-developing plant communities that are formed by species adapted to hostile environmental conditions, low diversity but specialized, often stunted. Usually interspersed with other SEI ecosystems such as HT: ro and OF.

Common Plants: Dune Grass, Beach Pea, Common Strawberry, Yellow Sand Verbena, Grasses and Mosses. Cliffs can have trees and shrubs such as Garry Oak, Arbutus, Douglas-fir, native roses, kinnikinnick, and ferns.

### **HT Terrestrial Herbaceous**

General Description: open wildflower meadows and grassy hilltops with herbs—grasses and forbs—and mosses and lichens; outside the salt spray zone near shorelines; summits of local hills and mountains.

Types: HT (grass-forb dominated areas with less than 10% tree cover and less than 20% shrub cover); HT:ro (grass-forb areas interspersed with rocky outcrops); and HT:sh (grass-forb areas with more than 20% shrub cover).

Soils: shallow and rapidly draining

Vegetation: predominantly herbaceous vegetation, continuous except where interspersed with bare rock outcrops, minimal tree and shrub cover. When found near shorelines, there may be an overlap with species common to the coastal bluff ecosystem, or may be interspersed with other SEI ecosystems such as WD, OF, and older second growth forest. May also include moisture-loving species in seepage areas and vernal pools.

Common Plants: Garry Oak, Arbutus, Douglas-fir, Shore Pine, Oceanspray, Snowberry, Stonecrop, Sea Blush, Fawn Lily, Satin Flower, Camas, Miner's Lettuce, grasses, and many mosses.

### **WN Wetland**

General Description: Characterized by daily, seasonal, or year-round water, either at or above the surface, or within the root zone of plants. Wetlands are mosaics of several wetland classes, and many are transitional between more than one wetland class.

Types: WN:bg (bog), WN:fn (fen), WN:ms (marsh, including coastal salt and estuarine marshes), WN:sp (swamp), WN:sw (shallow water), and WN:wm (wet meadow).

Soils: Wetlands are generally divided into peatlands (bog, fen) and mineral wetlands.

Vegetation: Plant communities are adapted to wet conditions; some are tolerant of complete submergence whereas others depend on drier conditions during the summer growing season.

Common Plants (peat): Shore Pine, Western Hemlock, Western Red Cedar, Labrador Tea, Hardhack, Salal, Sedges, Mosses.

Common Plants (mineral): Western Red Cedar, Alder, Pacific Crabapple, Willows, Red-osier Dogwood, Salmonberry, Skunk Cabbage, ferns, sedges, cattail, reed canary grass, pondweeds, mosses

### **RI Riparian**

General Description: Adjacent to lakes, streams, and rivers, where increased soil moisture supports plant communities and soils distinct from surrounding terrestrial areas. Commonly linear corridors. Includes gullies which may not be associated with surface water flow, but maintain moist soil conditions. Width may vary from a few metres to greater than 100 metres. Narrow bands of streamside forest surrounded by agricultural fields and disturbed urban stream corridors were not typically included as riparian ecosystems.

Types:

RI:1 (Sparse/bryoid—moss and lichen dominated, <10% treed, <20% shrub/herb)

RI:2 (Herb—herb dominated, <20% shrub, <10% treed)

RI:3 (Shrub/herb—>20% shrub, <10% treed)

Pole/sapling RI:4 (Trees >10m tall, densely stocked; shaded understorey),

Young forest RI:5 (Uniform aged trees, generally less than 80 years old, dense understorey)

Mature forest RI:6 (Layered canopy, generally 80 to more than 200 years old, well developed understorey)

Old Forest RI:7 (Trees >250 years old, structurally complex, snags, coarse woody debris)

Soils: Gravel, silt, cobble bars, rocky, to rich organic soils.

Common Plants: Red Alder, Western Redcedar, Bigleaf Maple, Western Hemlock, willows, Red-osier Dogwood, Salmonberry, Indian Plum, ferns, mosses,

### **WD Woodland**

General Description: Open deciduous forests of Garry oak, mixed stands of Arbutus and Douglas-fir, or pure stands of Trembling Aspen. Most occur on rocky knolls, south facing slopes, and ridges where summer soil moisture is low and shallow soils are common. Trembling Aspen woodlands are an exception, and are typically associated with moist, rich sites. Mature big-leaf maple may also be the dominant tree species. Typically interspersed with other SEI ecosystems such as CB and HT.

Types:

*Garry Oak Woodlands* (open oak woodlands and meadows, as well as more densely forested oak/conifer plant associations)

Common Plants: Garry Oak, Douglas-fir, Arbutus, Oceanspray, Snowberry, Camas, Spring Gold, Satin-flower, ferns, mosses, grasses.

*Arbutus—Douglas-fir Woodlands* (dry sites with rocky, nutrient-poor soils; typically arbutus with Garry oak and Douglas-fir)

Common Plants: Arbutus, Douglas-fir, Garry Oak, Dull Oregon Grape, Salal, Snowberry, mosses.

*Trembling Aspen Woodlands* (common on disturbed sites with moist soils)

Common Plants: Trembling Aspen, Black Hawthorne, Hardhack, Indian-plum, Snowberry.



## **OF Older Forest**

General Description: Conifer-dominated forests with an average tree age of 100 years or greater.

Types: OF:co (coniferous stands with less than 15 percent deciduous trees); OF: mx (mixed coniferous-deciduous stands in which deciduous trees occupied more than 15 percent of the canopy). OF has three prominent characteristics: large live trees, large standing dead trees, and large fallen trees. In Saanich, the biogeoclimatic subzone is the Coastal Douglas-fir, moist maritime subzone (CDFmm).

Soils: varied

Vegetation. Douglas-fir is the dominant tree on drier sites. On sites with higher precipitation and moister soil conditions, western redcedar is more common

Common Plants: Douglas-fir, grand fir, and western redcedar, seedlings, Ocean Spray, Salal, Sword Fern, lichens, mosses.

141004 Planning  
X: 2860-25 Rainbow

C1. Apr. 25/16



Mayor  
Councillors  
Administrator

Council  
Administrator  
Media

## The Corporation of the District of Saanich

# Report

**To:** Mayor and Council

**From:** Sharon Hvozdanski, Director of Planning

**Date:** April 15, 2016

**Subject:** Removal Request - Environmental Development Permit Area (EDPA)  
File: 2860-25 • 4007 and 4011 Rainbow Street

### PROJECT DETAILS

#### Project Proposal:

The applicant requests that the subject properties be removed from the Environmental Development Permit Area (EDPA). The property was originally included in the EDPA to provide enhanced protection to a sensitive ecosystem – Garry Oak Woodland.

The request for removal is based on the submission of a letter prepared by Mr. Ted Lea, Biologist, which indicates that there is no Garry Oak Sensitive Ecosystem on the property.

If Council supports this request, the EDPA Atlas would need to be amended.

#### Address:

4007 and 4011 Rainbow Street

#### Legal Description:

Lots 1 & 2, Section 49, Victoria District, Plan 9074

#### Owners:

Teresa Bijold (4007 Rainbow Street)  
Norman and Helen Webb (4011 Rainbow Street)

#### Applicant:

Anita Bull

#### Application Received:

March 22, 2016

#### Parcel Size:

5327 m<sup>2</sup> (Lot 1); 1270 m<sup>2</sup> (Lot 2)

#### Existing Use of Parcel:

Single Family Dwelling

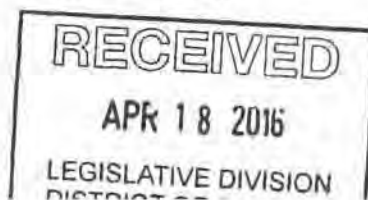
#### Existing Use of Adjacent Parcels:

North: Residential Mixed (RM-RH)  
South: Single Family Dwelling (RS-10)  
East: Single Family Dwelling (RS-CH1)  
West: Residential Mixed (RM-RH)

#### Current Zoning:

RS-6

**CM  
E.8**



<b>Minimum Lot Size:</b>	N/A
<b>Proposed Zoning:</b>	No Change proposed
<b>Proposed Minimum Lot Size:</b>	N/A
<b>Local Area Plan:</b>	North Quadra
<b>LAP Designation:</b>	Potential Mixed Residential

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## PROPOSAL

The applicant requests that the subject properties be removed from the Environmental Development Permit Area (EDPA). The property was originally included in the EDPA to provide enhanced protection to a sensitive ecosystem – Garry Oak Woodland (see Figure 1).

The request for removal is based on the submission of a letter prepared by Mr. Ted Lea, Biologist, which indicates that there is no Garry Oak Sensitive Ecosystem on the property.

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## PLANNING POLICY

### Official Community Plan (2008)

- 4.1.2.1 “Continue to use and update the “Saanich Environmentally Significant Areas Atlas” and other relevant documents to inform land use decisions.”
- 4.1.2.3 “Continue to protect and restore habitats that support native species of plants, animals and address threats to biodiversity such as invasive species.”
- 4.1.2.4 “Protect and restore rare and endangered species habitat and ecosystems, particularly those associated with Garry Oak ecosystems.”
- 4.1.2.5 “Preserve “micro-ecosystems” as part of proposed development applications, where possible.”
- 4.1.2.7 “Link environmentally sensitive areas and green spaces, where appropriate, using “greenways”, and design them to maintain biodiversity and reduce wildlife conflicts.”

### North Quadra Local Area Plan (2008)

- 3.1 “Reinforce the positive contribution of the natural environment to the overall character of North Quadra by seeking to maintain natural features and rehabilitate damaged ecosystems.”
- 3.2 “Consider the protection and restoration of indigenous vegetation, wildlife habitat, and riparian environments within North Quadra to be of paramount importance when considering applications for change in land use.”
- 3.3 “Seek opportunities to preserve and restore ecosystems, which include indigenous trees, shrubs, plants and rock outcrops within parks, boulevards, un-built road rights-of-way, and other public lands, as well as on private land.”



- 3.4 "Continue to work with property owners within significant treed areas to optimize tree retention and regeneration."
- 3.6 "Cooperate with the Garry Oak Meadow Preservation Society, the Garry Oak Ecosystem Recovery Team, and the Swan Lake Christmas Hill Nature Sanctuary Board to protect, sustain, and restore Garry oak meadows and ecosystems throughout the local area."

#### **Christmas Hill Slopes Action Area Plan (1995)**

##### Criteria:

1. "Preserve Garry oak ecosystems and maintain rocky character and environmentally significant features."
3. "Consider buffers."

#### **General Development Permit Area Guidelines (1995)**

1. "Major or significant wooded areas and native vegetation should be retained wherever possible."

#### **Environmental Development Permit Area Guidelines (2012)**

- 1.b)i. "Development within the ESA shall not proceed except for the following: Proposals that protect the environmental values of the ESA including:
  - The habitat of rare and endangered plants, animals and sensitive ecosystems."
2. "In order to minimize negative impacts on the ESA, development within the buffer of the ESA shall be designed to:
  - Avoid the removal/modification of *native vegetation*;
  - Avoid the introduction of *non-native invasive vegetation*;
  - Avoid impacts to the *protected root zones of trees* within the *ESA*;
  - Avoid disturbance to wildlife and habitat;
  - Minimize the use of *fill*;
  - Minimize soil disturbance;
  - Minimize blasting;
  - Minimize changes in hydrology; and
  - Avoid run-off of sediments and construction-related contaminants."
3. "No alteration of the *ESA* will be permitted unless demonstrated through professional environmental studies that it would not adversely affect the natural environment. Prior to the issuance of a development permit, the following information may be required:
  - A sediment and erosion control plan;
  - An arborist report according to the "Requirements For Plan Submission and Review Of Development or Building Related Permits" (Saanich Parks);
  - A biologist report;
  - A surveyed plan; and/or
  - A bond."
4. "The following measures may be required to prevent and mitigate any damage to





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## BACKGROUND

### Environmental Development Permit Area

The Environmental Development Permit Area (EDPA) was adopted by Council in 2012. Part of the EDPA Bylaw is the EDPA Atlas which illustrates the location of five Environmentally Significant Area (ESA) inventories and associated buffers on properties in Saanich. As with the Streamside Development Permit Area (SDPA), it is acknowledged that the EDPA Atlas will always need to be maintained and updated over time.

There are four ways mapping inaccuracies can be approached according to the EDPA Guidelines:

1. Exemption #14 allows for a professional to refine boundaries of an Environmentally Significant Area and potentially proceed without an Environmental Development Permit if a development proposal is shown to be outside of the ESA. This exemption was designed to avoid undue process or delays for applicants where mapping could be improved.
2. Exemption #15 allows for intrusions into the EDPA where covenants are used to secure comparable natural features which were not previously mapped.
3. As with the SDPA, staff collate proposed EDPA mapping changes as property owners note inaccuracies (which are documented by staff) or biologists hired during the development application process do a more detailed assessment. These changes are brought forward in batches to Council as recommended amendments.
4. Where a proposed mapping amendment is outside of the scope of these provisions, Council approval is required.

In the case of 4007 and 4011 Rainbow Street, the property owners are seeking mapping amendments that are outside the scope of the EDPA provisions as delegated to staff. As such, this report has been prepared for Council's review and consideration. If Council believes the removal request has merit, a Public Hearing on the matter would need to be called.

A memo to the Environment and Natural Areas Committee was presented on February 24, 2015 outlining proposed amendments to the EDPA as well as the request regarding 4007 and 4011 Rainbow Street. The Committee did not comment on the property-specific request.

On September 28, 2015, Council considered the same request from the property owners to have their properties removed from the EDPA. The staff report did not support removal of the properties due to:

- Biological considerations supported by Official Community Plan policies;
- The recognition that restoration and protection of degraded rare ecosystems is an objective of the EDPA and supported by the Garry Oak Ecosystems Recovery Team (GOERT) and the Garry Oak Meadow Preservation Society (GOMPS); and
- The opinions of several local experts.



At the September 28, 2015 meeting, Council approved the following motion:

“Postpone further consideration of the request to remove the properties at 4007 and 4011 Rainbow Street from the Environmental Development Permit Area Atlas until after public consultation takes place.”

As Council is aware, the public consultation phase is not yet complete. Per Council's motion at the March 16, 2016 Committee of the Whole meeting, staff has brought forward draft Terms of Reference for the hiring of a consultant to develop potential solutions in relation to the application of the EDPA in Saanich. The draft Terms of Reference include a public consultation component as part of the development of potential solutions.

### **Existing EDPA Mapping**

The EDPA mapping on the subject property consists of the Woodland ecosystem category of the Provincial/Federal Sensitive Ecosystem Inventory plus a 10m buffer. Woodlands represent only 0.6% of the regional landscape. Half of the Woodland sites are less than 2 hectares in size. The Woodland ecosystem on this property is Garry Oak Woodland which is characterized as open, often rocky, and dry. They are often degraded by invasive species. Garry Oak Woodland is the preferred habitat for a large variety of species at risk.

The EDPA adds a 10 m buffer to the Woodland boundary. Property owners can apply for a permit to develop within the buffer area.

Staff have acknowledged that the mapping on these properties can be improved in terms of accuracy and would include this mapping recommendation to Council in short order, should the EDPA designation remain on the property.

---

### **REMOVAL REQUEST**

In support of the request, the owners have submitted letters from Ted Lea, Biologist:

- “Report—Sensitive Ecosystem and EDPA—4007 Rainbow Street—Property of Teresa Bijold” by Ted Lea.
- “Report—Sensitive Ecosystem and EDPA—4011 Rainbow Street—Property of Norman and Helen Webb” by Ted Lea; and

Mr. Lea maintains that the properties do not contain Sensitive Ecosystems due to a lack of native understorey plants and that the properties should be removed from the EDPA.

### **Staff Comment**

A biologist report, “Summary of Findings at the Proposed Rainbow Road Subdivision, District of Saanich, BC”, which pre-dates the adoption of the EDPA for the adjacent property, within the same Woodland area as the subject properties, was prepared by ENKON Environmental and eminent botanist, Dr. Adolf Ceska. Dr. Ceska determined that although the ecosystem on this property was disappointingly degraded, there were enough attributes to warrant protecting the area and investing in restoration. The ecosystem connections, restoration potential, and rarity of the plant community were considered values to retain. The values identified also exist on the subject properties of this report. Saanich Council considered these findings and approved the development on the adjacent property in January 2008, subject to covenants and bonding to implement the restoration plan.

Biologist James Miskelly presented photographs and data to Council at the September 28, 2015 Committee of the Whole Meeting where the EDPA was discussed, illustrating how unlikely looking 'lawns' can actually support inconspicuous rare species or produce native wildflowers despite years of mowing. Native plants may be suppressed to the point of being undetectable in surveys that are not conducted in spring. One native plant that is known to occur in the Rainbow Street area is particularly resilient to long term mowing and superficially resembles lawn grass. At this time, there is insufficient data provided on the subject properties to know if there are any dormant or inconspicuous Garry Oak meadow features. Mr. Lea reports some native wildflowers present on 4011 Rainbow Street.

Overall, Saanich staff biologists believe the letters supplied by Mr. Lea considers only strict Sensitive Ecosystem Inventory (SEI) mapping standards, and that landscape context and restoration potential should also be considered as well as any other information normally collected by biologists such as habitat value.

---

## **OPTIONS**

Three basic options exist in terms of moving forward:

- 1) Do not support the request to remove the subject properties from the EDPA based on the Official Community Plan, Local Area Plan, Action Area Plan, and Development Permit Area Guidelines; as well as the opinion of external and staff biologists.

If Council chooses this Option, give direction to staff to expedite the process to update the EDPA Atlas for the properties to increase its accuracy based on the presence of a Woodland polygon;

- 2) Support the request to remove the subject properties from the EDPA based on the letters prepared by biologist Mr. Ted Lea; or
- 3) Postpone a decision on this application pending the outcome of the final phase of the EDPA "check-in" which would be undertaken by a consultant selected by Council.

---

## **SUMMARY**

The owners of 4007 and 4011 Rainbow Street have re-submitted their request to be removed from the EDPA. No new information is provided. Letters from Biologist Mr. Ted Lea support the request based on a lack of understorey vegetation in the Garry Oak Woodland ecosystem as mapped.

Prior to the EDPA, Dr. Adolf Ceska and ENKON Environmental submitted a report supporting the protection and restoration of the same Woodland ecosystem based on tree canopy, in regard to a development proposal for the adjacent property (4027 Rainbow Street). Saanich staff biologists agree with this evaluation.

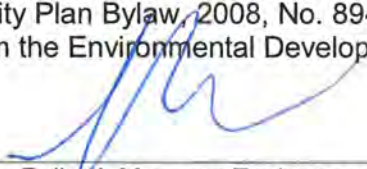
**RECOMMENDATION**

That the request to remove the subject properties from the Environmental Development Permit Area not be supported (Option 1).

Note: If Council wishes to support the removal request at this time, the appropriate motion would be as follows:

That staff be requested to prepare an amendment to Plate 18 of Schedule 3 to Appendix N of the Official Community Plan Bylaw, 2008, No. 8940 for the removal of 4007 and 4011 Rainbow Street from the Environmental Development Permit Area Atlas.

Report prepared by:

  
\_\_\_\_\_  
Adriane Pollard, Manager Environmental Services

Report reviewed by:

  
\_\_\_\_\_  
Sharon Hvozdzanski, Director of Planning

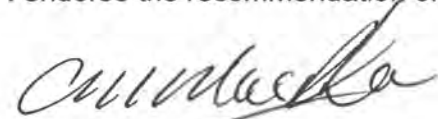
AP/sl  
G:\ENV\Development Permit Areas\EDPA\AA Reports to Council\Property removal requests\4007 & 4011 Rainbow\REPORT\_4007 & 4011 Rainbow\_APR 15, 2016\_FINAL.docx

Attachments

cc: Paul Thorkelsson, CAO

**CAO COMMENTS:**

I endorse the recommendation of the Director of Planning

  
for Paul Thorkelsson, CAO



4011 RAINBOW

To Adriane Pollard  
Manager of Environmental Services  
District of Saanich

**Re: Report - Sensitive Ecosystem and EDPA – 4011 Rainbow Street – Property of Norman and Helen Webb**

Please accept this as a letter report for the above noted property. Field forms and sketch maps were not necessary as there is no native ecosystem and field notes are all covered by the information below, where necessary.

I have visited the above property on October 16, 2014, and walked the whole property. I have also viewed photos of the property that were taken in early April, 2013. I have confirmed with Jo-Anne Stacey of the BC Conservation Data Center that there was no field inspection of the original mapping and no field inspection for the CDFmm TEM project.

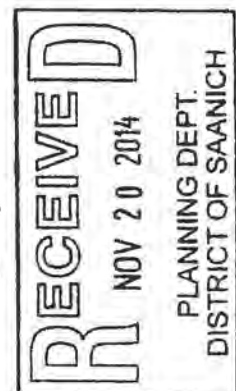
**There is no Sensitive Ecosystem on this property.** There is also no Sensitive Ecosystem on adjacent properties. This property has several shooting stars and Fool's onion plants. There is a Garry oak overstory that covers over half of the property, however, the understory of the property is predominantly lawn and garden, with a few out buildings.

There is no remnant Garry oak Woodland Sensitive Ecosystem on the property. If any area is required to be protected on this property, it will develop a dense understory of Scotch broom, Himalayan blackberry and English ivy over a few years time. This property will not return to a natural plant community unless significant restoration efforts take place.

I have consulted the three standards recommended by Saanich's 2013 Guidelines and recent Interim Guidance document:

- 1) Standard for Mapping Ecosystems at Risk in British Columbia: An Approach to Mapping Ecosystems at Risk and Other Sensitive Ecosystems, Ministry of Environment, Resources Information Standards Committee, December 5, 2006, Version 1.0
- 2) Sensitive Ecosystems Inventory: East Vancouver Island and Gulf Islands 1993-1997. Volume 2: Conservation Manual
- 3) Best Management Practices for Garry Oak & Associated Ecosystems

According to # 1: "Ecosystems at risk are those that can support ecological communities which are considered to be provincially at risk as designated by the B.C. Conservation Data Center. Sensitive Ecosystems are those that are at-risk or are ecologically fragile. The vegetation species composition and structure **must fall within the expected range of the defined plant association before it is considered an occurrence of that particular plant association.** The



ecosystem occurrence itself must have sufficient ecological integrity to be sustained in the foreseeable future if it is to have practical conservation value.”

According to # 2, Sensitive ecosystem guidelines seek to conserve the seven sensitive ecosystems in a **relatively natural state**.

According to # 3, "Garry Oak and associated Ecosystems (GOEs) are much more than Garry Oak (*Quercus garryana*) trees. GOEs have a rich diversity of wildflowers, native grasses, insects, reptiles, birds, and microorganisms that are part of the functioning ecosystem."

**"The Garry Oak Ecosystems Recovery Team (GOERT) defines a Garry oak ecosystem as one with naturally occurring Garry oak trees (*Quercus garryana*) and some semblance of the ecological processes and communities that prevailed before European settlement."**

"Although all GOE sites now have been affected to some degree by non-native plant species and loss of natural processes, some are in better condition than others. The presence of Garry Oak trees is a fairly reliable indicator that the area is a Garry Oak ecosystem; however, in some places the site has been so altered that it no longer represents a viable ecosystem. For example, an urban Garry Oak tree that is now surrounded by lawn grasses and daffodils does not have the same plant communities and ecological processes as the original GOE would have had, and is therefore not considered to be a viable GOE."

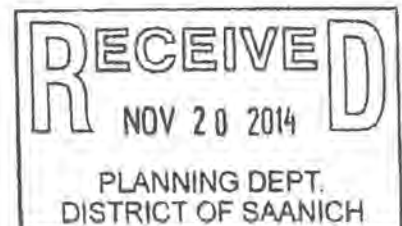
Nothing on this property fits any of these conditions as there is no natural ecosystem on the property.

In following the EDPA bylaw, clause # 14: there should be no EDPA required on this property and no requirement for a Development Permit in the future. As well, there should be no need for an EDPA buffer from any adjacent property. The District of Saanich should remove the Sensitive Ecosystem designation from this property and remove the EDPA requirement.

I look forward to your detailed review in regard to this report.

Ted Lea, R.P.Bio.

cc Bob Webb



To Adriane Pollard  
Manager of Environmental Services  
District of Saanich

4007 RAINBOW

**Re: Report - Sensitive Ecosystem and EDPA – 4007 Rainbow Street – Property of Teresa Bijold**

Please accept this as a letter report for the above noted property. Field forms and sketch maps were not necessary as there is no native ecosystem and field notes are all covered by the information below, where necessary.

I have visited the above property on October 16, 2014 and walked the whole property. I have also viewed photos of the property that were taken in early April, 2013. I have confirmed with Jo-Anne Stacey of the BC Conservation Data Center that there was no field inspection of the original mapping and no field inspection for the CDFmm TEM project.

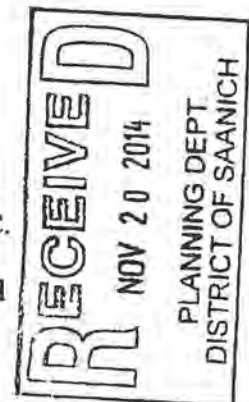
**There is no Sensitive Ecosystem on this property.** There is also no Sensitive Ecosystem on adjacent properties. This property is not known to have any native understory species. There is a Garry oak overstory that covers over half of the property, however, the understory of the property is predominantly lawn and garden, with a few out buildings.

There is no remnant Garry oak Woodland Sensitive Ecosystem on the property. If any area is required to be protected on this property, it will develop a dense understory of Scotch broom, Himalayan blackberry and English ivy over a few years time. This property will not return to a natural plant community unless significant restoration efforts take place.

I have consulted the three standards recommended by Saanich's 2013 Guidelines and recent Interim Guidance document:

- 1) Standard for Mapping Ecosystems at Risk in British Columbia: An Approach to Mapping Ecosystems at Risk and Other Sensitive Ecosystems, Ministry of Environment, Resources Information Standards Committee, December 5, 2006, Version 1.0
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According to # 1: "Ecosystems at risk are those that can support ecological communities which are considered to be provincially at risk as designated by the B.C. Conservation Data Center. Sensitive Ecosystems are those that are at-risk or are ecologically fragile. The vegetation species composition and structure **must fall within the expected range of the defined plant association before it is considered an occurrence of that particular plant association.** The





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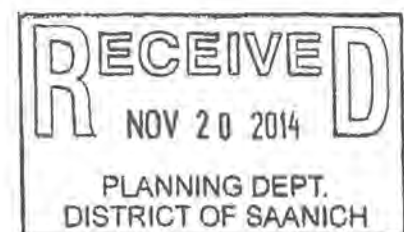
Nothing on this property fits any of these conditions as there is no natural ecosystem on the property.

In following the EDPA bylaw, clause # 14: there should be no EDPA required on this property and no requirement for a Development Permit in the future. As well, there should be no need for an EDPA buffer from any adjacent property. The District of Saanich should remove the Sensitive Ecosystem designation from this property and remove the EDPA requirement.

I look forward to your detailed review in regard to this report.

Ted Lea, R.P.Bio.

cc Anita Bull





**ENKON**  
ENVIRONMENTAL

Fifth Floor - 711 Broughton Street  
Victoria, B.C. Canada  
V8W 1E2  
Phone: (250) 480-7103  
Fax: (250) 480-7141  
E-mail: [enkon@enkon.com](mailto:enkon@enkon.com)

August 13, 2007

Our file No.: 1383-001

**Dan Doore**

██████████ Rainbow Street  
Victoria, B.C. V8X 2A8

**Attention: Mr. Dan Doore**

Dear Mr. Doore:

**RE: SUMMARY OF FINDINGS AT THE PROPOSED RAINBOW ROAD  
SUBDIVISION, DISTRICT OF SAANICH, B.C.**

## **BACKGROUND**

A subdivision is planned for the lots at 850 McKenzie Avenue and 4021/4045 Rainbow Street, in the District of Saanich, B.C. The developer was asked by the District of Saanich to carry out several site surveys, which included wildflower inventory, rare plant and rare plant community survey, owl and bat surveys. This memo outlines the findings of these studies. The study area is highlighted in the attached Figure 1.

## **RESULTS**

### **Vegetation**

On April 25, 2007 a preliminary vegetation overview assessment was carried out by Dr. Adolf Ceska. On July 9<sup>th</sup> a follow up survey was conducted by Dr. Ceska and Oluna Ceska. The following is the detailed plant list of all plant species found during the 2007 field survey sorted alphabetically. Plant species that are bold are the native species occurring on the site. The Ceska's have stated that the greatest botanical value of the property lies with the number of exceptionally large Garry oak trees. The only area where native wildflowers remnants were located was close to Mackenzie Avenue in a remnant of a Garry oak/Indian plum/snowberry plant association. The Ceska report is attached.

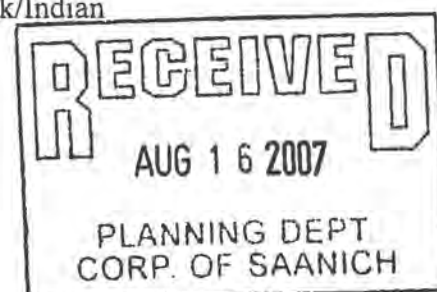


Table 1: List of Plant Species Found at 850 McKenzie Avenue and 4021/4045 Rainbow Street During the 2007 Field Surveys

Common Name	Latin Name
<b>bigleaf maple</b>	<i>Acer macrophyllum</i>
cultivated garlic	<i>Allium sativum</i>
pigweed	<i>Amaranthus retroflexus</i>
great burdock	<i>Arctium lappa</i>
common burdock	<i>Arctium minus</i>
tall oatgrass	<i>Arrhenatherum elatius</i>
wild oat	<i>Avena fatua</i>
common oat	<i>Avena sativa</i>
soft brome	<i>Bromus hordeaceus</i>
<b>Pacific brome</b>	<b><i>Bromus pacificus</i></b>
bald brome	<i>Bromus racemosus</i>
Brome species	<i>Bromus sp.</i>
barren brome	<i>Bromus sterilis</i>
butterfly bush	<i>Buddleja davidii</i>
hedge bindweed	<i>Calystegia sepium</i>
<b>great camas</b>	<b><i>Camassia leichtlinii</i></b>
shepherd's purse	<i>Capsella bursa-pastoris</i>
boreal chickweed	<i>Cerastium biebersteinii</i>
lamb's-quarters	<i>Chenopodium album</i>
Canada thistle	<i>Cirsium arvense</i>
bull thistle	<i>Cirsium vulgare</i>
poison hemlock	<i>Conium maculatum</i>
field bindweed	<i>Convolvulus arvensis</i>
Uruguayan pampas grass	<i>Cortaderia selloana</i>
black hawthorn	<i>Crataegus monogyna</i>
Cystus species	<i>Cystus sp.</i>
Scotch broom	<i>Cytisus scoparius</i>
orchard grass	<i>Dactylis glomerata</i>
spurge laurel	<i>Daphne laureola</i>
wild carrot	<i>Daucus carota</i>
quackgrass	<i>Elymus repens</i>
<b>tall annual willowherb</b>	<b><i>Epilobium brachycarpum</i></b>
common stork's-bill	<i>Erodium cicutarium</i>
cleavers	<i>Galium aparine</i>
English ivy	<i>Hedera helix</i>
leporinum barley	<i>Hordeum leporinum</i>
rose of sharon	<i>Hypericum calycinum</i>
hairy cat's-ear	<i>Hypochaeris radicata</i>



Common Name	Latin Name
English holly	<i>Ilex aquifolium</i>
Iris species	<i>Iris</i> sp.
prickly lettuce	<i>Lactuca scariola</i>
nipplewort	<i>Lapsana communis</i>
perennial sweat pea	<i>Lathyrus latifolius</i>
lavender	<i>Lavandula officianlis</i>
hairy hawkbit	<i>Leontodon taraxacoides</i>
purpleanther field pepperweed	<i>Lepidium heterophyllum</i>
common privet	<i>Ligustrum vulgare</i>
perennial ryegrass	<i>Lolium perenne</i>
silver dollar	<i>Lunaria annua</i>
high mallow	<i>Malva sylvestris</i>
bladder campion	<i>Melandrium album</i>
lemon balm	<i>Melissa officinalis</i>
<b>Indian-plum</b>	<b><i>Oemleria cerasiformis</i></b>
oregano	<i>Origanum vulgare</i>
parsley	<i>Petroselinum crispum</i>
ribwort	<i>Plantago lanceolata</i>
Kentucky bluegrass	<i>Poa pratensis</i>
common knotweed	<i>Polygonum aviculare</i>
trembling aspen	<i>Populus tremuloides</i>
<b>Garry oak</b>	<b><i>Quercus garryana</i></b>
Rose species	<i>Rosa</i> sp.
Himalayan blackberry	<i>Rubus discolor</i>
sheep sorrel	<i>Rumex acetosella</i>
curled dock	<i>Rumex crispus</i>
Scouler's willow	<i>Salix scouleriana</i>
<b>Pacific sanicle</b>	<b><i>Sanicula crassicaulis</i></b>
meadow fescue	<i>Schedonorus pratensis</i>
English bluebell	<i>Scilla non-scripta</i>
charlock mustard	<i>Sinapis arvensis</i>
hedge mustard	<i>Sisymbrium officinale</i>
black nightshade	<i>Solanum nigrum</i>
common sow-thistle	<i>Sonchus oleraceus</i>
Spanish broom	<i>Spartium junceum</i>
<b>common snowberry</b>	<b><i>Symphoricarpos albus</i></b>
common lilac	<i>Syringa vulgaris</i>
common dandelion	<i>Taraxacum officinale</i>
common salsify	<i>Tragopogon porrifolius</i>
alsike clover	<i>Trifolium hybridum</i>
red clover	<i>Trifolium pratense</i>

Common Name	Latin Name
scentless chamomile	<i>Tripleurospermum perforatum</i>
great mullein	<i>Verbascum thapsus</i>
tufted vetch	<i>Vicia cracca</i>
hairy vetch	<i>Vicia hirsuta</i>
common vetch	<i>Vicia sativa</i>
bigleaf periwinkle	<i>Vinca major</i>
common periwinkle	<i>Vinca minor</i>

The Ceska's did not observe any rare plant species during their surveys of the three properties. Although there are mature Garry oaks occurring on the property the understorey consists mostly of a dense growth of agronomic grass species which has almost completely eliminated the occurrence of indigenous oak associated wildflowers. Therefore, there are no intact rare plant communities occurring on the property either. Although the Sensitive Ecosystems Inventory indicates several woodland ecosystems occurring on the site these areas have been seriously compromised by the presence of aggressive introduced species. The most significant stands of oak are located in the center of the property running diagonally from southwest to northeast and in the south, running north to south. Discussions with Garry oak ecosystem specialists indicate that recovery of these areas might be difficult because of the dense grasses, but restoration should be considered. Because all Garry oak ecosystems are a red-listed plant community, where possible, those areas should be retained as much as possible and should have some physical connectivity.

During the second site visit poison hemlock was noted to the immediate north of the residence at 4021 Rainbow Road. This plant is highly poisonous and extreme caution should be taken when working within the area. The plant, seeds and root are all poisonous at various times throughout the year. ENKON has attached an excerpt from "*A Guide to Weeds in British Columbia*" which outlines ways to manage this hazardous plant.

A small stand of trembling aspen was noted at the southwestern corner of 4021 Rainbow Road and is highlighted in Figure 2 as Pt. Woodlands in general are considered to be a sensitive ecosystem and may be comprised of species like Garry oak and trembling aspen. This small grove of trembling aspen shows signs of severe disturbance. Historically this area was used as a source of sand and rock and is currently overrun by Himalayan blackberry, a non native invasive plant species. Due to both of these disturbances the quality of this ecosystem has been highly compromised and therefore the value of retention is low.

The greatest vegetative ecological value on this site is the presence of Garry oak. There are several large polygons along the southeastern edge of the property and in addition, there are also several large diameter oaks within these polygons. ENKON recommends that the polygons be retained as much as possible and that the large diameter oaks be left in place. Connectivity between the various Garry oak polygons should be maintained. These polygons also show signs of disturbance in that they have an abundance of agronomic grasses in the understory. It may be possible to restore these areas to their natural state by removing the grasses and planting a mix of native shrubs, grasses and wildflowers.

### **Bats**

On June 13, 2007 ENKON visited the site with Dr. Dave Nagorsen, an authority on local bats. A survey on all old standing structures was conducted during the day to locate sign of bat use in preparation for a night survey. No bat signs were noted during the survey and as a result an evening survey was not deemed necessary. Although there were numerous structures that might be attractive to bats they were too open and exposed to provide a suitable roosting area for our local bat species. Dr. Nagorsen's final report is attached.

### **Owls**

ENKON also completed a site investigation to determine the presence of nesting owls on May 3<sup>rd</sup>. At this time the barn and an open shed were examined for the presence of owl sign including nesting material, owl pellets, wash and prey remains. No sign was observed. During the survey ENKON noted the presence of four inactive swallow nests along a central beam in the barn. Consultation with the property tenant indicated that these nests were active the previous breeding season (2006) but were predated by rats. The barns were also re-checked during the June 13<sup>th</sup> survey and again no owl signs were noted. It is likely that the area is used for hunting by owls but no nesting activity was noted anywhere around the property on the two site visits. It should be noted that the owl breeding season runs from February until May and all tree falling/building removal should be done before then to ensure that no owls establish themselves for the next breeding season on the property.



Mr. Doore  
August 13, 2007  
Page 6

**ENKON**  
ENVIRONMENTAL

If you have any questions or require further information please do not hesitate to give me a call at (250) 480-7117.

Yours truly,

A handwritten signature in cursive script, which appears to read "Susan Blundell", is written over a thick, horizontal grey bar that obscures the text underneath.

**Susan Blundell**, M.Sc., R.P.Bio.  
Manager of Environmental Services

Attachment: Figures 1 and 2, Rare Plant Survey, Poison Hemlock information,  
Bat Survey report

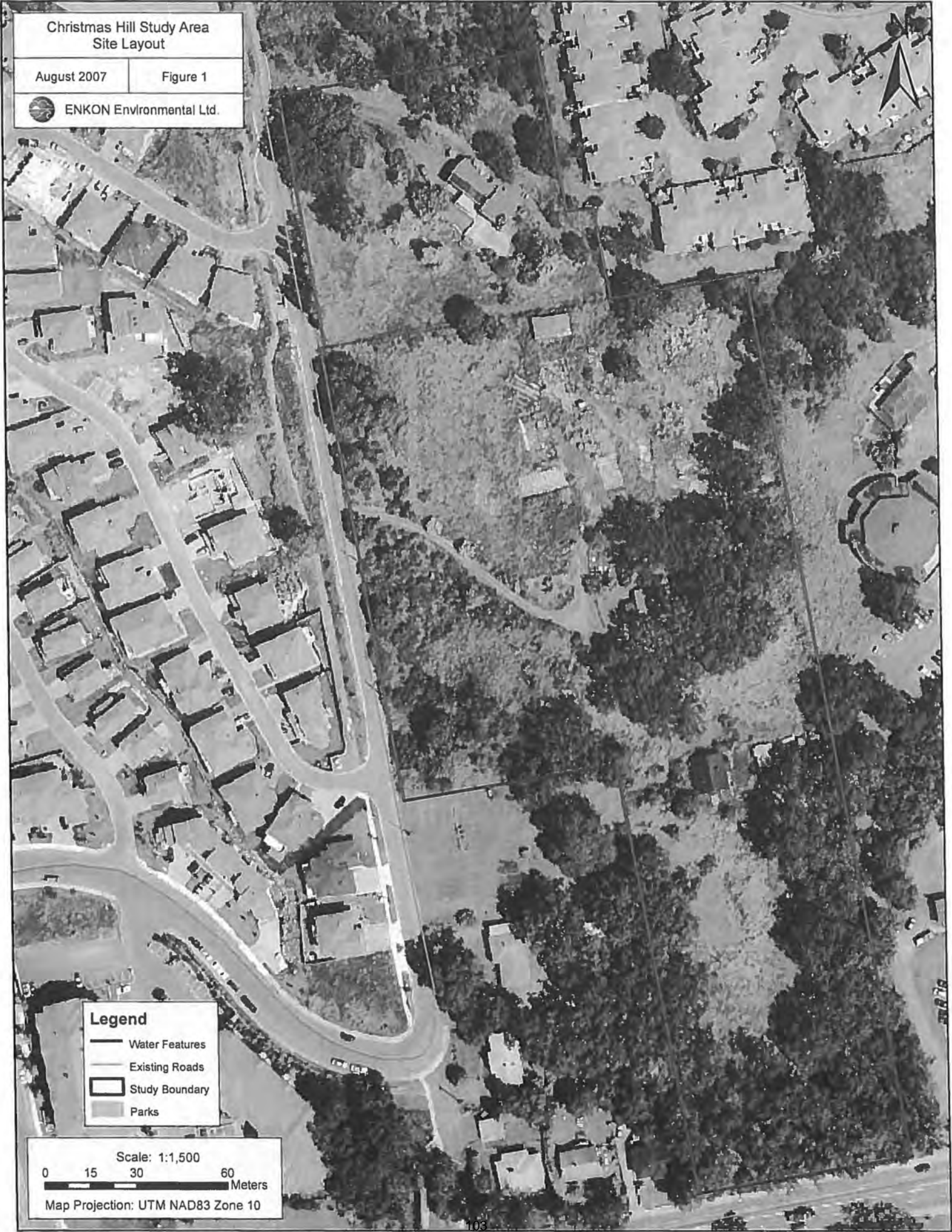
Christmas Hill Study Area  
Site Layout

August 2007





Figure 1



ENKON Environmental Ltd.



**Legend**

-  Water Features
-  Existing Roads
-  Study Boundary
-  Parks

Scale: 1:1,500

0 15 30 60 Meters

Map Projection: UTM NAD83 Zone 10

Christmas Hill Study Area  
Vegetation Communities

August 2007













Figure 2



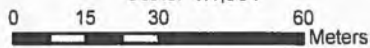
ENKON Environmental Ltd.



**Legend**

-  Water Features
-  Existing Roads
-  Study Boundary
-  Ap-Introduced Aspen
-  D-a-Disturbed Agronomic & Developed
-  D-g-Disturbed Grass
-  D-s-Disturbed Shrub
-  Dev-Developed
-  GO-Gary Oak Grove
-  Mb-Bigleaf Maple Grove
-  Pt-Trembling Aspen Grove
-  Parks

Scale: 1:1,504



Map Projection: UTM NAD83 Zone 10



## Rainbow Road Plants and vegetation

The area in question was heavily impacted. The upper parts were used as a vegetable farm, the middle part was heavily grazed by cattle and the lower property was also grazed.

The upper part of the property used to be an obviously thriving farm. The field was used for growing various produce and has been cultivated for many years. The soil is fertile, black and relatively deep. At this time, the area is full of weeds, including the highly poisonous Poison-hemlock (*Conium maculatum*). Blackberry thickets are along the margins of this once cultivated area.

The narrow strip along the Rainbow Rd. was apparently used for cattle grazing, and the same was probably true for the area below the hose and above the lower property. Most of this area has various introduced grasses and with the exception of some scattered Indian-plum (*Oemleria cerasiformis*) does not host any shrubs. Pacific sanicle (*Sanicula crassicaulis*) was the only native plant that occurred in some larger patches in this particular area.

Around the upper house, there are numerous garden plants that form large patches such as Ivy (*Hedera helix*) and Greater Periwinkle (*Vinca major*). Many other garden plants, such as Pampas Grass (*Cortaderia selloana*), Spanish broom (*Spartium junceum*), Butterfly-bush (*Buddleja davidii*), etc. grow in this area.

There are several large Garry oak trees (*Quercus garryana*), one close to the barn (# 163) is especially large.

In the property off the Mackenzie Ave., there are large colonies of Ivy and Larger Periwinkle, with some Smaller Periwinkle (*Vinca minor*) scattered in. Remnants of the Snowberry (*Symphoricarpos albus*) stands occur in the lowermost parts of this property. From the native plants, Large Camas (*Camassia leichtlinii*) grow in this lower parts of the property adjacent to Mackenzie Ave.

The list of species include mostly introduced species or species that escaped from cultivation. There are altogether only ten native species that occur in this area and this total includes 6 native trees and native shrubs, and 4 herbaceous species. We saw only one native grass in the area, i.e., Pacific Brome (*Bromus pacificus*). Tall Annual Willowherb (*Epilobium brachycarpum*), another native herb, is typical of disturbed areas or areas with shallow soil. This leaves only Pacific Sanicle (*Sanicula crassicaulis*) and Great Camas (*Camassia leichtlinii*) as the only two herbaceous species typical of the Garry oak vegetation.

The main botanical value of the property is in the number of good specimens of Garry oak (*Quercus garryana*), some of them (# 163) being of the exceptional size. Only the narrow strip of the Garry oak stand close to the Mackenzie Avenue has been preserved as a remnant of the original Garry oak/Indian plum/snowberry plant association with some considerable amount of Great Camas (*Camassia leichtlinii*) scattered in.

July 23, 2007 Christmas Hill off Rainbow Lane

Along the drive way

*Iris* sp.

*Spartium junceum* L. Spanish-Broom

*Buddleja davidii*

*Vinca major*

*Cortaderia selloana*

*Calystegia sepium*

*Convolvulus arvensis*

Above the barn, field, once cultivated

*Dactylis glomerata*

*Hordeum leporinum*

*Bromus racemosus*

*Schedonorus pratensis*

*Cirsium arvense*

*Cirsium vulgare*

*Conium maculatum*

*Arctium minus*

*Sisymbrium officinale*

*Lactuca serriola*

*Arctium lappa*

*Rubus armeniacus*

*Hypochaeris radicata*

*Rumex acetosella*

*Lapsana communis*

*Tragopogon porrifolius*

*Vicia sativa*

*Bromus big*

*Poa pratensis*

*Cytisus scoparius*

*Rumex crispus*

*Elymus repens*

*Oemleria cerasiformis*

*Trifolium pratense*

*Malva sylvestris*

*Epilobium brachycarpum*

*Bromus hordeaceus*

*Trifolium hybridum*

*Sonchus oleraceus*

*Capsella bursa-pastoris*

*Avena fatua*

*Galium aparine*

*Tripleurospermum perforatum*

*Sinapis arvensis*

*Lepidium heterophyllum*  
*Verbascum thapsus*  
*Chenopodium album*  
*Allium sativum*  
*Amaranthus retroflexus*  
*Solanum nigrum*  
*Melandrium album*  
*Erodium cicutarium*  
*Vicia cracca*  
*Daucus carota*  
*Petroselinum*  
*Polygonum aviculare*  
*Avena sativa*  
*Leontodon taraxacoides*

Large oak by the barn tag no. 163

Between the greenhouse and the barn

*Vinca major*  
*Hedera helix*  
*Syringa vulgaris*  
*Arrhenatherum elatius*  
*Taraxacum officinale*

Below the upper house

*Dactylis glomerata*  
*Bromus sterilis*  
*Sanicula crassicaulis*  
*Vicia sativa*  
*Cytisus scoparius*  
*Poa pratensis*  
*Rumex crispus*  
*Arctium minus*  
*Oemleria cerasiformis*  
*Daphne laureola*

Under the oaks between the two houses

Mostly  
*Dactylis glomerata*  
*Sanicula crassicaulis*  
*Bromus pacificus*  
*Rubus armeniacus*  
*Plantago lanceolata*

Large patch of *Vinca major*



Above the lower house and around the upper house

*Galium aparine*  
*Lunaria annua*  
*Symphoricarpos albus*  
*Daphne laureola*  
*Elymus repens*

On the slope down to the cottage by the lower house

Only *Bromus racemosus*  
*Dactylis glomerata*  
*Vicia hirsuta*

Around and above the lower house

*Hedera helix*  
*Oemleria cerasiformis*  
*Symphoricarpos albus*  
*Vinca major*

Narrow grassy area with the small *Acer macrophyllum* stand

*Acer macrophyllum*  
*Oemleria cerasiformis*  
*Daphne laureola*  
*Dactylis glomerata*  
*Melandrium album*  
Bromus sp.  
Acer tagged ## 178/213 176/192 191 195 196 198 199  
## 444/201 200  
*Cytisus scoparius*

By the Rainbow Place

*Populus tremuloides*

In wet depression

*Salix scouleriana*

All round thickets of *Rubus armeniacus*

Lower property access from the Mackenzie

Nice stand of agry oak – *Quercus garryana*

Also *Oemleria cerasiformis*

*Hedera helix*

*Rubus armeniacus*

*Taraxacum officinale*

*Cirsium arvense*

*Dactylis glomerata*

*Capsella bursa-pastoris*

*Cirsium vulgare*

*Sisymbrium officinale*

Near the house a few ornamental  
Such as  
*Melissa officinalis* L. Lemonbalm  
*Cystus* sp.  
*Lavandula officianlis*  
*Cerastium biebersteinii*  
*Rosa* sp.  
*Ilex aquifolium*  
*Origanum vulgare*

Going down on the drive way  
Left side  
*Rubus armeniacus*  
*Symphoricarpos albus*  
*Oemleria cerasiformis*  
*Ligustrum vulgare*  
*Hedera helix*  
*Lapsana communis*  
*Dactylis glomerata*  
*Rumex crispus*  
*Cirsium vulgare*  
*Arrhenatherum elatius*  
*Tragopogon porrifolius*

Oaks *Quercus garryana*

On the right side a few *Sanicula crassicaulis*  
*Vinca major*  
*Scilla non-scripta*  
*Lathyrus latifolius*  
*Vinca minor*

Lower down  
Closer to the Mackenzie Ave  
*Quercus garryana*  
With *Symphoricarpos albus* on both sides  
*Cerastium biebersteinii*  
*Vinca minor*  
Still lower down  
Oak with *Camassia leichtlinii*  
And *Symphoricarpos albus* on margin  
Lots of *Camassia leichtlinii*  
Mixed with *Arrhenatherum elatius*  
Few *Crataegus monogyna*  
Small trees of *Crataegus monogyna* in *Symphoricarpos albus*

Few *Tragopogon porrifolius*  
And *Rumex crispus*

By the Mackenzie Ave.  
*Hypericum calycinum*

On the right side of the drive way, grassy open area

*Camassia leichtlinii*

On the margin with oaks

*Arrhenatherum elatius*

*Dactylis glomerata*

*Rumex crispus*

Few *Sanicula crassicaulis*

Far right

No more camas, only grasses

*Rubus armeniacus*

*Oemleria cerasiformis* few

Lots of *Cirsium arvense*

Grasses more violent than other & *Cirsium arvense*

Lower portion of this open area lots of *Camassia leichtlinii*

With some oak seedlings

*Daphne laureola*

Below house large area with *Vinca major*

Oak on the margin with other property,

Mostly with *Oemleria cerasiformis*

*Rubus armeniacus*

Lots of *Camassia leichtlinii*

Only in the lower portion

*Cirsium arvense*

Higher up under oaks, no camas,

Lots of *Vinca major*

& *Hedera helix*

few *Symphoricarpos albus*



July 23, 2007 Christmas Hill off Rainbow Street – Alphabetical List

Native plants are printed **bold**

***Acer macrophyllum***

*Allium sativum*

*Amaranthus retroflexus*

*Arctium lappa*

*Arctium minus*

*Arrhenatherum elatius*

*Avena fatua*

*Avena sativa*

*Bromus hordeaceus*

***Bromus pacificus***

*Bromus racemosus*

*Bromus sp.*

*Bromus sterilis*

*Buddleja davidii*

*Calystegia sepium*

***Camassia leichtlinii***

*Capsella bursa-pastoris*

*Cerastium biebersteinii*

*Chenopodium album*

*Cirsium arvense*

*Cirsium vulgare*

*Conium maculatum*

*Convolvulus arvensis*

*Cortaderia selloana*

*Crataegus monogyna*

*Cystus sp.*

*Cytisus scoparius*

*Dactylis glomerata*

*Daphne laureola*

*Daucus carota*

*Elymus repens*

***Epilobium brachycarpum***

*Erodium cicutarium*

*Galium aparine*

*Hedera helix*

*Hordeum leporinum*

*Hypericum calycinum*

*Hypochaeris radicata*

*Ilex aquifolium*

*Iris sp.*

*Lactuca serriola*

*Lapsana communis*

*Lathyrus latifolius*  
*Lavandula officianlis*  
*Leontodon taraxacoides*  
*Lepidium heterophyllum*  
*Ligustrum vulgare*  
*Lolium perenne*  
*Lunaria annua*  
*Malva sylvestris*  
*Melandrium album*  
*Melissa officinalis*  
***Oemleria cerasiformis***  
*Origanum vulgare*  
*Petroselinum crispum*  
*Plantago lanceolata*  
*Poa pratensis*  
*Polygonum aviculare*  
***Populus tremuloides***  
***Quercus garryana***  
*Rosa sp.*  
*Rubus armeniacus*  
*Rumex acetosella*  
*Rumex crispus*  
***Salix scouleriana***  
***Sanicula crassicaulis***  
*Schedonorus pratensis*  
*Scilla non-scripta*  
*Sinapis arvensis*  
*Sisymbrium officinale*  
*Solanum nigrum*  
*Sonchus oleraceus*  
*Spartium junceum*  
***Symphoricarpos albus***  
*Syringa vulgaris*  
*Taraxacum officinale*  
*Tragopogon porrifolius*  
*Trifolium hybridum*  
*Trifolium pratense*  
*Tripleurospermum perforatum*  
*Verbascum thapsus*  
*Vicia cracca*  
*Vicia hirsuta*  
*Vicia sativa*  
*Vinca major*  
*Vinca minor*

# POISON HEMLOCK

## *Conium maculatum* L.

Family: *Apiaceae* (Parsley).

**Other Scientific Names:** None.

**Other Common Names:** Hemlock.

**Legal Status:** Not categorized.



## Identification

**Growth form:** Biennial forb.

**Flower:** White flowers are borne in umbrella-like clusters supported by a stalk.

**Seeds/Fruit:** Light brown, ribbed, and concave.

**Leaves:** Generally alternate but may be opposite above (Stubbenieck et al. 1995). Leaves are shiny, green, and finely divided and have a strong musty odour. Leaflets are segmented on short stalks.

**Stems:** Mature plants grow 1.2–3.0 m tall. Stems are erect, extensively branched, and covered with purple spots.



**Roots:** Taproot.

**Seedling:** Seedling leaves are fern-like in appearance.

### Similar Species

**Exotics:** Similar to other exotic members of the parsley family, such as wild caraway (*Carum carvi*) and wild carrot (*Daucus carota*). Spotted stems are diagnostic.

**Natives:** Water hemlock (*Cicuta douglasii*), which is similar in appearance, lacks the distinctive spotted stems.



## Impacts

**Agricultural:** Poison hemlock crowds out desirable forage species and can poison livestock and humans. Sheep are less sensitive to it than cattle and horses (DiTomasso 1999).

**Ecological:** Although not an aggressive invader, poison

hemlock may gradually increase in native riparian and lowland communities.

**Human:** All parts of the plant are highly poisonous, and poison hemlock should be handled with care.

## Habitat and Ecology

**General requirements:** Poison hemlock is generally found on dry to moist soils, can tolerate poorly drained soils, and tends to be scattered in riparian areas. It is usually found along streams, irrigation ditches, and the borders of pastures and cropland, and it can gradually invade perennial crops.

**Distribution:** In BC it is found in wet to mesic habitats in the lowland zone and is locally common in the southwest of the province, particularly in the Vancouver and Victoria areas (Douglas et al. 1998). It is present in the Kootenay, Okanagan, Mainland, Vancouver Island, and Cariboo regions.

**Historical:** Introduced from Europe, the plant is thought to have been used to kill Socrates.

**Life cycle:** Poison hemlock is a biennial that can grow up to 3 m tall. In the first year, plants form a small seedling that resembles wild carrot. Plants usually bolt in the second year and produce numerous clusters of white flowers. Plants flower from April through July, and seeds begin in July and continue into winter. Most seeds mature before dispersal and can germinate immediately if environmental conditions are favourable, but some seeds remain dormant (Baskin and Baskin 1990).



**Mode of reproduction:** By seed.

**Seed production:** No information available.

**Seed bank:** Seeds may remain viable in the soil for about 3 years (Calweed 1997).

**Dispersal:** Seeds can be spread by machinery, on clothing, or in transported soil. They are also dispersed to a limited extent by water and wind.

**Hybridization:** No information available.

## Management

**Biocontrol:** *Agonopterix alstroemeriana* (moth), accidentally introduced into the US, apparently feeds exclusively on poison hemlock. It is found in Colorado and is a biological control agent in Idaho, Oregon, and Washington, where it is effective (William et al. 1996). This species has not been found in BC.

**Mechanical:** Poison hemlock can be controlled by digging, repeated mowing, pulling, or spring/winter burns. Care should be taken to avoid contact with bare skin (wear gloves). Wash hands thoroughly after handling any part of this plant.

**Fire:** No information available.

**Herbicides:** Picloram, dicamba, 2,4-D, and glyphosate have been used for chemical control of poison hemlock. Apply foliar herbicides during the rosette stage with a wick to minimize damage to adjacent desirable vegetation. Cut any stems that arise after treatment. Herbicide treatment may need to be repeated for several years until the seed bank is depleted (Panter

and Keeler 1988). Consult the most recent edition of BC Ministry of Agriculture, Food and Fisheries Crop Production Guides for specific recommendations.

**Before applying herbicides, read the label for full use and precautionary instructions.**

**Cultural/Preventive:** Prevent the establishment of new infestations by eliminating seed production and maintaining healthy native communities.

### Integrated Management Summary

The tendency of this species to grow in wet areas may restrict the use of certain herbicides. Eliminate seed production and exhaust the soil seed bank by removing seed heads before seeds mature. Use gloves for hand-pulling, and avoid touching the plant with bare skin.

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# Memorandum

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**To:** Karen Truman, ENKON Consulting

**From:** David Nagorsen, Mammalia Biological Consulting

**Date:** 8/15/2007

**RE: Bat survey Christmas Hill buildings**

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I surveyed the various buildings on property 4021 on 13 June 2007. I examined potential bat roosting locations such as the ceilings and rafters inside the building using a flashlight. I also examined the floors of the buildings and access areas outside the buildings (e.g., doorways) for any evidence of bat guano.

No bats were observed and no bat guano was found. There is no evidence that any of these buildings have been recently used by bats. Most of the out buildings were unsuitable for bats because of their size and ongoing use by the tenant. The only building with any bat potential was the old barn. However, in its deteriorated condition with partially collapsed roof it is too open and exposed for a bat roost.

I did not examine the occupied residence on property 4021. According the tenant, the house has a small attic crawlspace but he had sealed off any access to exclude rats. He had never seen or heard bats in the house.

I also visited property 850 13 June 2007. The only building with any potential for bats was the occupied residence. The tenant was not present so the house was not examined. From a distance, I could see no evidence of an attic or attic vents in the roof. Presumably the tenant would be aware of any bat colony.

*David Nagorsen*

2860-25 Rainbow

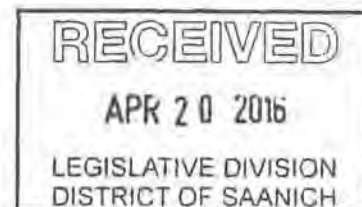
## ClerkSec - EDPA - 4007 and 4011 Rainbow Rd. applications

**From:** "Anita Bull" [REDACTED]  
**To:** <mayor@saanich.ca>, <Susan.Brice@saanich.ca>, <Dean.Murdock@saanich.ca>, <Judy.Brownoff@saanich.ca>, <Colin.Plant@saanich.ca>, <Vic.Derman@saanich.ca>, <Vicki.Sanders@saanich.ca>, <Fred.Haynes@saanich.ca>, <Leif.Wergeland@saanich.ca>, <paul.thorkelsson@saanich.ca>, <sharon.Hvozdanski@saanich.ca>, <adriane.Pollard@saanich.ca>  
**Date:** 4/19/2016 10:00 PM  
**Subject:** EDPA - 4007 and 4011 Rainbow Rd. applications  
**Attachments:** 4011 Rainbow Road - Ecological Characterization April 5, 2016.pdf; 4007 Rainbow Road -Ecological Characterization April 5,2016.pdf

Dear Mayor and Council,

Please find attached two independent registered professional biologist reports by Sector Environmental Resource Consulting, on 4011 Rainbow Rd. and 4007 Rainbow Rd., in respect to applications going before council on April 25<sup>th</sup>.

Anita Bull







**SECTOR  
ENVIRONMENTAL  
RESOURCE  
CONSULTING**

P.O. Box 55054, 3285 CADBORO BAY ROAD  
VICTORIA, B.C., V8N 6L8  
TEL: 250-477-6912 FAX: 250-477-7573  
E-MAIL: jpsector@sercbc.com

## **ECOLOGICAL SITE CHARACTERIZATION**

**4011 Rainbow Street, Saanich, BC**

**Prepared for:**

**Confidential SERC Client**

**April 5, 2016**

### **1.0 Introduction**

This report is prepared on behalf of a confidential SERC Client who having reviewed Saanich's response to the 2015 application to remove the subject property from the EDPA, has requested the conduct of an independent professional analysis of the ecological character of the subject property.

It is the view of the client that it is a widely accepted premise that if the ecological attributes of a property situated within the EDPA, or portions thereof, are found not to be ecologically unique or sensitive or significant or realistically restorable as a result of analysis by a Qualified Environmental Professional (QEP) i.e., RP Bio, PAg, RPF, PLA, then there is no scientific or technical justification for it (or portions thereof) to remain within and subject to the EDPA. Conversely, such an analysis will confirm what could and should remain within the EDPA, if found to be ecologically warranted.

The client has cleared the undersigned to authorize the distribution and use of this report in relation to any consideration of the subject property by municipal government.

### **2.0 The Subject Property**

The subject property, located at 4011 Rainbow Street, is owned by Norm and Helen Webb. This property was examined previously by at least one Registered Professional Biologist in 2015. The resultant report has intentionally not been viewed by the undersigned. The subject site was visited and examined by the undersigned on March 29, 2016 in the company of Norman Webb.

## **2.1 Site Description**

The property, which covers approximately 0.53 hectares (1.3 acres) lies at an elevation of approximately 60 metres above sea level (a.s.l.) on the south west slope of Lake Hill/Christmas Hill in the Municipality of Saanich. The property lies along the eastern edge of an area of single family and condominium housing development and backs on to a larger area, once residential (there is a derelict house still on the property) which is understood to now be slated for the construction of at least two further condominium buildings.

Approximately 9% (.0045ha = 0.011 acres) of the lot is currently occupied by a residence, approximately 50-60 years old, and by several outbuildings including an open garage or carport, currently housing a car and a motor home, and a smaller open garage occupied by several items of machinery.

## **3.0 Climate**

Swan Lake-Christmas Hill, like the rest of Saanich, is characterized by a Mediterranean type of climate with warm, dry summers and moist but only moderately cool winters with little or no snow. Climatic figures for the Gonzales Bay weather station, located near the Strait of Juan de Fuca at an elevation of 70 metres a.s.l. and approximately 7 kilometres to the south south-west show a mean annual precipitation of just over 650 millimetres with a maximum of 122 millimetres in December and a minimum of 12 millimetres in July. Mean temperatures for these months are 5 degrees and 15.5 degrees Celsius respectively. Owing to the subject property's location several kilometers inland and closer to the highlands area to the west, temperatures at the site will be somewhat lower on the subject property, especially during the winter months, and precipitation will be somewhat higher than at Gonzales.

## **4.0 Terrain**

The subject property is generally level (it appears to have been artificially levelled approximately 50-60 years ago at the time the current residence was built) and slopes gently to the west and southwest.

## **5.0 Soils**

Although the soils on the property appear to be fairly coarse (probably derived largely from colluviums), the mid-slope location of the property has resulted in conditions rather more moist than might have been expected.

## 6.0 Surface Drainage and Water Bodies

There are no indications of any natural or modified water bodies on the property, although a small drainage ditch running in a southerly direction was noted in the strip of waste land backing the subject property.

## 7.0 Vegetation

The 91 % (0.48ha= 1.18 acres) of the lot not occupied by the residence, driveway and outbuildings described above is wholly occupied by a manicured lawn with garden borders. Situated within and over the lawn are approximately 15 Garry Oak (*Quercus garryana*) trees (15-40 centimetres in diameter), 3 in the front yard and 12 in the back yard.

Apart from the oak trees, at least two of which were being climbed to their ultimate detriment by the non-native invasive, English Ivy (*Hedera helix*), the only native plant species noted on the property at the time of the visit was the moss, *Kindbergia oregana*, which appeared to be gradually invading the upper portions of the back lawn.

A strip of land lying on the adjacent property immediately to the east and separated from the property by a decayed wire fence, was characterized by scattered specimens of the native Indian Plum (*Oemleria cerasiformis*) and a dense patch of Snowberry (*Symphoricarpos albus*), in addition to almost 100% cover in many areas, of a variety of weedy invasive shrub species in many areas. It is possible that, later in the spring, some native flowering herb species might be noted here as well but, at the time of the visit, the only flowering species noted in this area were Daffodils, Scillas and Periwinkle (the latter forming an extremely dense ground cover – almost a mat). It was noted incidentally that this strip of land east of the subject property was characterized by a large number of boulders of various sizes, all of colluvial origin. It can be conjectured that some at least of these boulders were bulldozed off the subject property during its original clearing. It was also noted that a ditch had been dug along the centre of this strip of land, presumably to carry storm runoff from higher up the hill.

The owner of the subject property indicated that encroachment by Scotch Broom (*Cytisus scoparius*), Daphne Laurel (*Daphne laureola*) and Himalayan Blackberry (*Rubus discolor*) as well as the Periwinkle (*Vinca major*) on to his property from this strip was a constant problem.

## 8.0 Wildlife

At the time of the site inspection, three juvenile Coast Deer (*Odocoileus hemionus columbianus*) were present on the back lawn. There was sign of extensive deer browse and grazing predation on the bedding plants & shrubbery throughout the property. Reportedly, 15 or more deer are



regularly present on the property at various times of the day, presumably residents of the nearby Swan Lake/Christmas Hill Park.

## 9.0 Conclusions

### 9.1 Ecological Character & Sensitivity

- No natural ecosystems and no ecologically sensitive vegetation are present on the subject property.
- There is no trace of Garry oak meadow understory ecosystem associated with the fifteen mature Garry Oaks present on the site.
- The present Garry Oaks are themselves not at all sensitive to sound standard residential yard maintenance, and are well protected in their own right by the prevailing Saanich Tree By-law
- There is no ecological basis for retaining this property within the EDPA.

#### In terms of the Prevailing Saanich Standards:

~Ecosystems at risk are those that can support ecological communities which are considered to be provincially at risk as designated by the B.C. Conservation Data Center.

~ Sensitive Ecosystems are those that are at-risk or are ecologically fragile. T

~ The vegetation species composition and structure must fall within the expected range of the defined plant association before it is considered an occurrence of that particular plant association.

~ The ecosystem occurrence itself must have sufficient ecological integrity to be sustained in the foreseeable future if it is to have practical conservation value."

~ Sensitive ecosystem guidelines seek to conserve seven sensitive ecosystems in a relatively natural state.

~ Garry Oak and associated Ecosystems (GOEs) are much more than Garry Oak (*Quercus garryana*) trees. GOEs have a rich diversity of wildflowers, native grasses, insects, reptiles, birds, and microorganisms that are part of the functioning ecosystem.

~The Garry Oak Ecosystems Recovery Team (GOERT) defines a Garry oak ecosystem as one with naturally occurring Garry oak trees (*Quercus garryana*) and some semblance of the ecological processes and communities that prevailed before European settlement. An urban Garry Oak tree that is now surrounded by lawn grasses and daffodils does not have the same understory plant community and ecological processes as a de facto GOE would have had, and is therefore not considered to be a viable GOE."

**Contextual Findings:**

Nothing on this property meets any of the conditions for inclusion in the EDPA.

## **9.2 The Potential For Ecological Restoration**

Any areas on this property that are required to be protected via EDPA restriction of all activity thereon will inevitably develop a dense understory of Scotch Broom, Himalayan Blackberry and English Ivy (among others) over a few years time. This property will not return to a natural plant community without the application of significant costly and time consuming restoration efforts.

Many areas currently identified as being ESA sites within the EDPA – in particular sites with Garry oaks but within established lawns and decorative gardens – are neither sensitive nor can ever be realistically restored. To “restore” such areas would require the re-introduction of ecosystem processes that led to the creation of these habitats in the first place, including periodic fire, and in many cases, tending by First Nations.

Without significant and expensive site modification it is unrealistic to expect that decades-old manicured lawns and flowerbeds of exotic species under mature oaks can be returned to anything near a natural ecosystem without significant costs and ecological knowledge that is beyond that of an average homeowner.

Not every site that contains a Garry oak tree can or should be rehabilitated. This applies to both residential and public properties. There are many examples within Saanich of rows of Garry oaks, lawns and gardens on municipal and private properties which are now in no way Garry oak ecosystems. Nor are they environmentally sensitive. Aside from the oaks, most if not all, of the other flora and fauna characteristic of a Garry Oak ecosystem in such areas are now absent. Rehabilitating those areas to resemble Garry oak ecosystem would be a massive undertaking requiring specialist skills and a huge budget. If left unmaintained, they would not revert back to a Garry Oak ecosystem; the mostly non-native lawn grasses would grow to seed and look like a hay field, the areas would gradually be taken over by invasive like Curled Dock, Canada or Bull thistle, Himalayan Blackberry, Daphne and Scotch Broom (among others). Ultimately, in the very long term, without periodic burning, and assuming no profound localized climate change, ecological succession on this site would very likely result in a dry Douglas Fir dominated forest.

The potential for realistic restoration of a Garry Oak ecosystem on the subject property is virtually zero.

#### **10.0 Recommendation re EDPA Disposition**

Based on the conclusions of the above analysis, it is recommended that the entirety of the subject property at 4007 Rainbow Road be immediately removed from the EDPA on the condition /understanding that no subsurface excavation with the potential to harm the roots of the present Garry Oaks will occur on this property.

*Original signed by:*

**J.P. Sexter , R,P. Bio.  
Systems Ecologist & Natural Resource Planner**

**W. F. Hubbard, P Ag, Ret'd.  
Plant Ecologist & Land Use Analyst**



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[[http://webmaps.gov.bc.ca/imfx/imf.jsp?site=imapbc&savessn=Ministry%20of%20Environment/Conservation\\_Data\\_Centre.ssn](http://webmaps.gov.bc.ca/imfx/imf.jsp?site=imapbc&savessn=Ministry%20of%20Environment/Conservation_Data_Centre.ssn)]

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## **ECOLOGICAL SITE CHARACTERIZATION**

**4007 Rainbow Street, Saanich, B.C.**

**Prepared for**

**Confidential SERC Client**

**April 5, 2016**

### **1.0 Introduction**

This report is prepared on behalf of a confidential SERC Client who having reviewed Saanich's response to the 2015 application to remove the subject property from the EDPA, has requested the conduct of an independent professional analysis of the ecological character of the subject property.

It is the view of the client that it is a widely accepted premise that if the ecological attributes of a property situated within the EDPA, or portions thereof, are found not to be ecologically unique or sensitive or significant or realistically restorable as a result of analysis by a Qualified Environmental Professional (QEP) i.e., RP Bio, PAg, RPF, PLA, then there is no scientific or technical justification for it (or portions thereof) to remain within and subject to the EDPA. Conversely, such an analysis will confirm what could and should remain within the EDPA, if found to be ecologically warranted.

The client has cleared the undersigned to authorize the distribution and use of this report in relation to any consideration of the subject property by municipal government.

### **2.0 The Subject Property**

The subject property, located at 4007 Rainbow Street is owned by Teresa Bijold. This property was examined previously by at least one Registered Professional Biologist in 2015. The resultant report has intentionally not been viewed by the undersigned. The subject site was visited and examined by the undersigned on March 29, 2016 in the company of Teresa Bijold.

## **2.1 Site Description**

The property, which covers approximately 0.12 hectares (0.3 acres) lies at an elevation of approximately 60 metres above sea level (a.s.l.) on the south west slope of Lake Hill/Christmas Hill in the Municipality of Saanich. Its exposure is predominantly southward. The property lies along the eastern edge of an area of single family and condominium housing development and backs on to a neighbouring residential property, apparently vacant at the time of inspection, and at its northwest corner a strip of waste land. A description of the property to the immediate east is provided in a companion SERC analysis

Approximately 23% (0.028ha = 0.07 acres) of the lot is currently occupied by a house, and outbuildings, including a small greenhouse and an apparent potting shed.

## **3.0 Climate**

Swan Lake Christmas Hill, like the rest of Saanich, is characterized by a Mediterranean type of climate with warm, dry summers and moist but only moderately cool winters with little or no snow. Climatic figures for the Gonzales Bay weather station, located near the Strait of Juan de Fuca at an elevation of 70 metres a.s.l. and approximately 7 kilometres to the south south-west show a mean annual precipitation of just over 650 millimetres with a maximum of 122 millimetres in December and a minimum of 12 millimetres in July. Mean temperatures for these months are 5 degrees and 15.5 degrees Celsius respectively. Owing to the subject property's location several kilometers inland and closer to the highlands area to the west, temperatures at the site will be somewhat lower on the subject property, especially during the winter months, and precipitation will be somewhat higher than at Gonzales.

## **4.0 Terrain**

The subject property is generally level (it appears to have been artificially levelled approximately 50-60 years ago at the time the current and adjacent residences were built)

## **5.0 Soils**

The soils on the property appear to be fairly coarse (probably derived largely from colluviums).



## 6.0 Surface Drainage and Water Bodies

There are no indications of any natural or modified water bodies on the property. The nearest significant water body is Swan Lake, approximately 1 kilometer to the south.

## 7.0 Vegetation

The 77 % (0.09ha= 0.23 acres) of the lot not occupied by the residence, driveway and outbuildings described above is wholly occupied by a lawn together with garden borders and interspersed fruit trees and ornamental shrubs . Only two native species were evident on this property: Garry Oak (*Quercus garryana*), of which there were several young specimens in the back yard among the non-native fruit trees; and a line of immature Douglas Fir (*Pseudotsuga menziesii*), reportedly planted by the present property owner along the lot's north boundary. There is also a large Douglas Fir in the front yard, apparently pruned to shape over the years).

No traces of any of the various Garry Oak understory associations are present in association with the Garry Oak tree present on site.

## 9.0 Conclusions

### 9.1 Ecological Character & Sensitivity

- No natural ecosystems and no ecologically sensitive vegetation are present on the subject property.
- There is no trace of Garry oak meadow or shrub understory ecosystems associated with the mature Garry Oaks present on the site.
- The present Garry Oaks are themselves not at all sensitive to sound standard residential yard maintenance, and are well protected in their own right by the prevailing Saanich Tree By-law;
- There is no ecological basis for retaining this property within the EDPA.

### In terms of the Prevailing Saanich Standards:

^Ecosystems at risk are those that can support ecological communities which are considered to be provincially at risk as designated by the B.C. Conservation Data Center.

~ Sensitive Ecosystems are those that are at-risk or are ecologically fragile.

~ The vegetation species composition and structure must fall within the expected range of the defined plant association before it is considered an occurrence of that particular plant association.

~ The ecosystem occurrence itself must have sufficient ecological integrity to be sustained in the foreseeable future if it is to have practical conservation value."

~ Sensitive ecosystem guidelines seek to conserve seven sensitive ecosystems in a relatively natural state".

~ Garry Oak and associated Ecosystems (GOEs) are much more than Garry Oak (*Quercus garryana*) trees. GOEs have a rich diversity of wildflowers, native grasses, insects, reptiles, birds, and microorganisms that are part of the functioning ecosystem.

~The Garry Oak Ecosystems Recovery Team (GOERT) defines a Garry oak ecosystem as one with naturally occurring Garry oak trees (*Quercus garryana*) and some semblance of the ecological processes and communities that prevailed before European settlement. An urban Garry Oak tree that is now surrounded by lawn grasses and daffodils does not have the same understory plant community and ecological processes as a de facto GOE would have had and is therefore not considered to be a viable GOE."

#### **Contextual Findings:**

Nothing on this property meets any of the conditions for inclusion in the EDPA.

## **9.2 The Potential For Ecological Restoration**

Any areas on this property that are required to be protected via EDPA restriction of all activity thereon will inevitably develop a dense understory of Scotch Broom, Himalayan Blackberry and English Ivy over a few years time. This property will not return to a natural plant community without the application of significant costly and time consuming restoration efforts.

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The potential for realistic restoration of a Garry Oak ecosystem on the subject property is virtually zero.

#### **10.0 Recommendation re EDPA Disposition**

Based on the conclusions of the above analysis, it is recommended that the whole of the subject property at 4007 Rainbow Road be immediately removed from the EDPA on the condition /understanding that no subsurface excavation with the potential to harm the roots of the present Garry Oaks will occur on this property.

*Original signed by:*

**J.P. Secter , R.P. Bio.  
Systems Ecologist & Natural Resource Planner**

**W. F. Hubbard, P Ag , Ret'd  
Plant Ecologist & Land Use Analyst**



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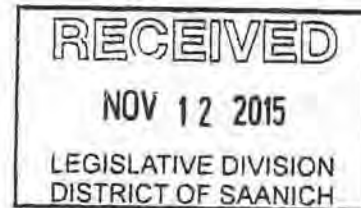


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Distinguished Professor, Hakai Professor in Ethnoecology  
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Tel (250) 721-6124

September 24, 2015

Mayor Richard Atwell and Council Members  
District of Saanich  
770 Vernon Ave  
Victoria, BC, Canada V8X 2W7  
Email: [council@saanich.ca](mailto:council@saanich.ca)  
cc. [<mailto:ClerkSec@saanich.ca>]



Dear Mayor Atwell and members of Saanich Council,

Re: Retention of properties at 4007 and 4011 Rainbow Street, Christmas Hill area within the Environmental Development Permit Area (EDPA) (File: 2860-25)

I am unable to attend the 'Committee of the Whole' meeting on September 28, but would like to add my support to the retention of these properties within the Environmental Development Permit Area (EDPA) for Saanich.

In other words, I support the recommendations from the Report prepared by Adriane Pollard, Manager of Environmental Services and reviewed by Sharon Hvozdzanski, Director of Planning, to Mayor and Council (dated September 17, 2015) that these properties (4007 and 4011 Rainbow Street) should not be removed from the EDPA (p. 6 – Option 1 presented in the report).

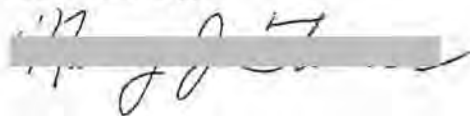
As a long time resident of Saanich, I have witnessed tremendous losses of natural habitat from development throughout the municipality. These two properties, with their mature Garry Oak trees, are remnants of an ecosystem that was once prevalent and extensive, covering most of Greater Victoria and the Saanich Peninsula, and carefully managed by Straits Salish Indigenous Peoples. It included not only the trees and associated shrubs but a whole range of indigenous herbaceous plants such as camas, wild celery consumption plant, chocolate lilies, wild strawberries and other species like wild caraway seldom seen anywhere around at the present time. Many different songbirds and other birds, mammals, amphibians, garter snakes and alligator lizards, have also now largely disappeared, but I remember them well from my childhood days here.

Today, the Garry Oak savannahs and habitats are fragmented and diminished, with understories largely taken over by introduced species or urban gardens. The big oak trees

are priceless, in my view, both for what they represent as miniscule glimpses into our past environment, and for their future potential as sites for ecological and ecocultural restoration. In all of Canada, this is the only region where this particular ecosystem exists. It is a part of our cultural and natural heritage. The oak ecosystems in these properties may be degraded but the trees still provide connectivity with other, more intact, areas, and allow at least some of the original ecosystem processes and species to be retained. I believe this was the rationale for the original designation in the EDPA Atlas and, if anything, the argument to retain what is left is even stronger today as more and more of these natural areas are eroded.

Thank you for considering these comments. I am proud to be a Freeman of Saanich Municipality, and I think it remains one of the most beautiful municipalities in Canada. I support, wholeheartedly, the concept of the EDPA Atlas as a critically important tool to preserve Saanich's ecological integrity. I believe that future generations of Saanich residents will be even more appreciative of the foresight represented by this Atlas, in ensuring that our precious ecological heritage will endure.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nancy J. Turner', is written over a grey rectangular redaction box.

Nancy J. Turner CM, OBC, PhD, FLS, FRSC  
Distinguished Professor, Hakai Professor in Ethnoecology

cc. North Quadra Community Association, attention Haji Charania  
<[hajicharania@shaw.ca](mailto:hajicharania@shaw.ca)>





Mayor  
Councillors  
Administrator

Council  
Administrator  
Media

The Corporation of the District of Saanich

# Report

**To:** Mayor and Council  
**From:** Sharon Hvozdzanski, Director of Planning  
**Date:** April 18, 2016  
**Subject:** Removal from the Environmental Development Permit Area (EDPA)  
File: 2860-25 • 4351 Gordon Head Road

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## PROJECT DETAILS

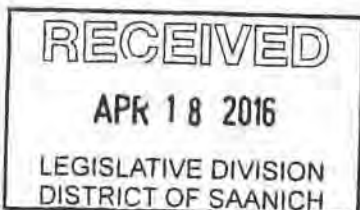
**Project Proposal:** The applicants request that the subject property be removed from one of the two Environmentally Significant Areas (ESAs) of the Environmental Development Permit Area (EDPA). The property was originally included in the EDPA to provide enhanced protection to the Coastal Bluff Sensitive Ecosystem, as well as the Marine Backshore. The applicants are asking to be removed from the Coastal Bluff Sensitive Ecosystem.

The request is based on the submission of a second opinion prepared by biologist Mr. Ted Lea which indicates that there is no Coastal Bluff Sensitive Ecosystem on the property.

If Council supports this request, the associated covenant which was established to temporarily protect unmapped Coastal Bluff, based on the original work of biologist Mr. Matt Fairbarns, would need to be discharged by Council. The EDPA Atlas would also need to be amended.

**Address:** 4351 Gordon Head Road  
**Legal Description:** Lot 1, Section 45, Victoria District, Plan 16045  
**Owner:** Chris and Charmaine Phillips  
**Applicant:** Chris and Charmaine Phillips  
**Application Received:** February 16, 2016  
**Parcel Size:** 6478 m<sup>2</sup>  
**Existing Use of Parcel:** Single Family Dwelling

**CM  
E.9**



<b>Existing Use of Adjacent Parcels:</b>	North: Single Family Dwelling (RS-16) South: Single Family Dwelling (RS-12) East: Ocean West: Single Family Dwelling (RS-12)
<b>Current Zoning:</b>	RS-16
<b>Minimum Lot Size:</b>	N/A
<b>Proposed Zoning:</b>	No Change proposed
<b>Proposed Minimum Lot Size:</b>	N/A
<b>Local Area Plan:</b>	Gordon Head
<b>LAP Designation:</b>	Residential

---

## PROPOSAL

The applicants request that the subject property be removed from one of the two Environmentally Significant Areas (ESAs) of the Environmental Development Permit Area (EDPA). The property was originally included in the EDPA to provide enhanced protection to the Coastal Bluff Sensitive Ecosystem, as well as the Marine Backshore. The applicants are asking to be removed from the Coastal Bluff Sensitive Ecosystem.

The request is based on the submission of a second opinion prepared by biologist Mr. Ted Lea which indicates that there is no Coastal Bluff Sensitive Ecosystem on the property.

If Council supports this request, the associated covenant which was established to temporarily protect unmapped Coastal Bluff, based on the original work of biologist Mr. Matt Fairbarns, would need to be discharged by Council. The EDPA Atlas would also need to be amended.

The owners have confirmed that they are not seeking to remove the 15 m Marine Backshore portion of the EDPA and that they do not plan to undertake any alteration in that 15 m setback on their property.

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## PLANNING POLICY

### Official Community Plan (2008)

- 4.1.2.1 "Continue to use and update the "Saanich Environmentally Significant Areas Atlas" and other relevant documents to inform land use decisions."
- 4.1.2.3 "Continue to protect and restore habitats that support native species of plants, animals and address threats to biodiversity such as invasive species."
- 4.1.2.4 "Protect and restore rare and endangered species habitat and ecosystems, particularly those associated with Garry Oak ecosystems."
- 4.1.2.5 "Preserve "micro-ecosystems" as part of proposed development applications, where possible."

**Gordon Head Local Area Plan (2003)**

- 4.1 "Protect indigenous vegetation, wildlife habitats, and landscapes when considering applications for change in land use."
- 4.2 "Ensure that new development minimizes impact on the water quality of the ocean or Mount Douglas Creek."
- 4.3 "Ensure that new development adjacent to the foreshore minimizes impact on the health and diversity of plant life, wildlife, and marine environments."
- 4.4 "Seek opportunities to vegetate areas with appropriate native species that will support indigenous wildlife."

**General Development Permit Area Guidelines (1995)**

1. "Major or significant wooded areas and native vegetation should be retained wherever possible."

**Environmental Development Permit Area Guidelines (2012)**

- 1.b.i) and iv) "Development within the ESA shall not proceed except for the following:  
Proposals that protect the environmental values of the ESA including:
- the habitat of rare and endangered plants, animals and sensitive ecosystems;
  - the marine backshore."
2. "In order to minimize negative impacts on the ESA, development within the buffer of the ESA shall be designed to:
- Avoid the removal/modification of *native vegetation*;
  - Avoid the introduction of *non-native invasive vegetation*;
  - Avoid impacts to the *protected root zones of trees* within the ESA;
  - Avoid disturbance to wildlife and habitat;
  - Minimize the use of *fill*;
  - Minimize soil disturbance;
  - Minimize blasting;
  - Minimize changes in hydrology; and
  - Avoid run-off of sediments and construction-related contaminants."
3. "No alteration of the *ESA* will be permitted unless demonstrated through professional environmental studies that it would not adversely affect the natural environment. Prior to the issuance of a development permit, the following information may be required:
- A sediment and erosion control plan;
  - An arborist report according to the "Requirements For Plan Submission and Review Of Development or Building Related Permits" (Saanich Parks);
  - A biologist report;
  - A surveyed plan; and/or
  - A bond."
4. "The following measures may be required to prevent and mitigate any damage to the *ESA*:
- Temporary or permanent fencing;
  - Environmental monitoring during construction;



- Demarcation of wildlife corridors, *wildlife trees*, and significant trees;
  - Restricting *development* activities during sensitive life-cycle times; and
  - Registration of a natural state covenant.”
5. “Revegetation and restoration may be required as mitigation or compensation regardless of when the damage or degradation occurred.”

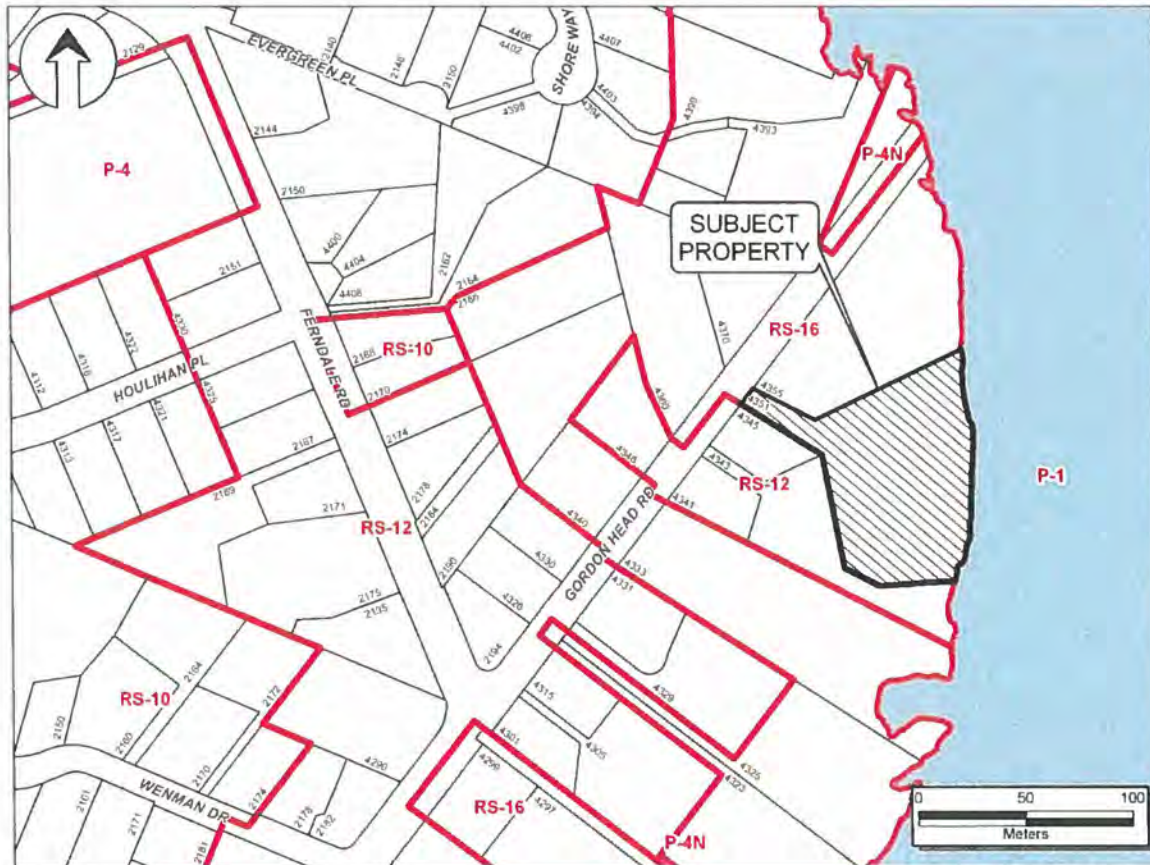


Figure 1: Context Map

## BACKGROUND

### Environmental Development Permit Area

The Environmental Development Permit Area (EDPA) was adopted by Council in 2012. Part of the EDPA Bylaw is the EDPA Atlas which illustrates the location of five Environmentally Significant Area inventories and associated buffers on properties in Saanich. As with the Streamside Development Permit Area (SDPA), it is acknowledged that the EDPA Atlas will always need to be maintained and updated over time.



There are four ways mapping inaccuracies can be approached according to the EDPA Guidelines:

1. Exemption #14 allows for a professional to refine boundaries of an Environmentally Significant Area and potentially proceed without an EDP if a development proposal is shown to be outside of the ESA. This exemption was designed to avoid undue process or delays for applicants where mapping could be improved.
2. Exemption #15 allows for intrusions into the EDPA where covenants are used to secure comparable natural features which were not previously mapped.
3. As with the SDPA, staff collate proposed EDPA mapping changes as property owners note inaccuracies (which are documented by staff) or biologists hired during the development application process do a more detailed assessment. These changes are brought forward in batches to Council as recommended amendments.
4. Where a proposed mapping amendment is outside of the scope of these provisions, Council approval is required.

In the case of 4351 Gordon Head Road, the property owners are seeking an exemption (option 1, above). Staff are of the opinion that the request goes beyond delegated authority in that an Environmental Development Permit has already been issued for the proposed development and there are conflicting biologist opinions on the legitimacy of the Coastal Bluff. As such, this report has been prepared for Council's review and consideration. If Council believes the removal request has merit, a Public Hearing on the matter would need to be called.

At the September 28, 2015 meeting, Council approved the following motion in a similar situation:

“Postpone further consideration of the request to remove the properties at 4007 and 4011 Rainbow Street from the Environmental Development Permit Area Atlas until after public consultation takes place.”

As Council is aware, the public consultation phase is not yet complete. Per Council's motion at the March 16, 2016 Committee of the Whole meeting, staff has brought forward draft Terms of Reference for the hiring of a consultant to develop potential solutions in relation to the application of the/an EDPA in Saanich. The draft Terms of Reference include a public consultation component as part of the development of potential solutions.

### **Existing EDPA Mapping**

The EDPA on the subject property is in reference to two Environmentally Significant Areas (ESAs): the Coastal Bluff and the Marine Backshore.

Coastal Bluff is one the ecosystem categories of the Provincial/Federal Sensitive Ecosystem Inventory. The Coastal Bluff ecosystem is naturally rare and represents less than 0.3% of the regional landscape. It is characterized as rocky, with grasses and low-growing plants, influenced by the shallow soils and salt spray. Coastal Bluff is the preferred habitat for nesting birds, snakes, small mammals, and minute rare plants.

Marine Backshore is based on a measurement, not an ecosystem boundary. The Marine Backshore is the area as measured 15 m from the natural boundary of the ocean. This

approach is similar to the Riparian Areas Regulation which identifies standardized setbacks based on the space needed for a healthy riparian area, rather than only protecting areas that are dominated by native vegetation. The principle is to reserve the space needed for the future rather than building new permanent structures.

The EDPA adds a 15 m buffer to the Marine Backshore for a total of 30 m. Property owners can apply for a permit to develop within the buffer area. 15 m is the most common width designated by local governments to protect the marine backshore. Saanich has produced several studies and inventories to verify 15 m as an appropriate marine setback for an EDPA.

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### **ISSUED ENVIRONMENTAL DEVELOPMENT PERMIT**

- The owners applied to build a single family dwelling on the property.
- As part of the standard review process it was determined that the existing sewage disposal system was not satisfactory.
- It was also determined that the only suitable location for the new sewage disposal system was within the EDPA.
- The property owners hired Biologist Matt Fairbarns to prepare a report supporting siting the new sewage disposal system within the EDPA, based on the presence of Coastal Bluff.
- The Biologist's report was received by staff and the Environmental Development Permit was issued.
- As Council typically updates the EDPA Atlas on a periodic basis as demand requires, a restrictive covenant was registered on the property to safeguard the areas not protected under the current bylaw that were offered as mitigation for areas excluded from the EDPA, in order to support the construction of the new sewage disposal system.
- Once Council amends the EDPA Atlas to reflect the recommended changes in mapping on this property, the covenant would be discharged.
- If Council so directs, the mapping could be amended immediately, so as to allow the covenant to be discharged.
- A Building Permit has been prepared for the construction of the owners' single family home.
- The property owners wish to have a decision on their removal request resolved, prior to deciding whether to proceed with construction.

As part of the EDP application process, a biological report was submitted by Mr. Matt Fairbarns of Aruncus Consulting. Mr. Fairbarns remapped the Coastal Bluff ecosystem and determined that the condition of the Coastal Bluff was fair, the restoration potential was good to excellent, and the landscape context was good.

A consultant, specializing in waste treatment systems, worked by the project arborist and biologist to come up with a plan for a new system within the Coastal Bluff. The treatment system was proposed for the Coastal Bluff in the most degraded area, to be reseeded with native vegetation, and in exchange for covenanting previously unmapped Coastal Bluff as per exemption 15. Not all of the newly mapped Coastal Bluff was covenanted. Covenants issued under Exemption 15 are considered temporary and may be lifted if Council adopts revised mapping and amends the EDPA Atlas. Staff will be recommending this mapping change to Council in the next report to Council regarding the EDPA Atlas. This should also alleviate the concern that the value of the subject property has been negatively impacted by the covenant.

Figure 2 shows the existing house, Zoning Bylaw setbacks, the original Coastal Bluff mapping, and the revised (Fairbarns) mapping.

Staff do not recall an alternative building footprint being presented for consideration. The Building Permit that has been prepared for the proposed new home expands past the footprint of the current home. The owner could explore different footprints.



Figure 2: Existing Coastal Bluff Site Considerations



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**REMOVAL REQUEST**

The owners have requested the Coastal Bluff Sensitive Ecosystem and the associated covenant be removed from their property. In support of the request, the owners have submitted “summaries from two biologists who have visited the property at various times throughout the year and confirm that there is no sensitive ecosystem on our property”. The reports are:

- “Field Verification and Assessment of the Coastal Bluff SEI Mapping of an Environmentally Significant Area (ESA) at 4351 Gordon Head Road and Reassessment by Matt Fairbarns” by Ted Lea; and
- “Field Verification and Assessment of the Coastal Bluff SEI Mapping of an Environmentally Significant Area (ESA) at 4351 Gordon Head Road” by Ted Lea.

There are two biologists' opinions presented and they are in conflict. Matt Fairbarn's opinion, when presented in his own report, is that the property has extensive Coastal Bluff. He notes that the Provincial mapping standards are not appropriate for use in the EDPA. “Since it is evident that the application of these standards to Garry Oak and Coastal Bluff ecosystems would not be effective, because they would lead to the false conclusion that systems that to any practiced eye are evidently at least in moderate condition, I urge the municipality to treat the Provincial standards as useful tools rather than the final word.” Mr. Fairbarns also acknowledges that Saanich encourages some professional discretion in assessing condition within the EDPA.

Staff biologists agree with the assessment by Mr. Fairbarns.

The second opinion, by Ted Lea, is that there is no Coastal Bluff Sensitive Ecosystem on the property due to the dominance of invasive species on all parts of the property. Mr. Lea has provided a second report to corroborate his findings apparently by a second biologist (Matt Fairbarns), however Mr. Lea is the author of the report and Mr. Fairbarns has stated the report is incorrect (email correspondence attached).

The owner has not requested to be removed from the Marine Backshore of the EDPA. To support this, Ted Lea has stated it ‘could remain’ in his report.

Saanich Official Community Plan policies support the protection and restoration of rare and endangered ecosystems and the Marine Backshore in this area.

The Environment and Natural Areas Committee has not considered this request.

Figure 3 illustrates the Marine Backshore remaining on the property if Council were to remove the Coastal Bluff ecosystem and associated covenant from the property.



Figure 3: Post Removal Site Considerations (Coastal Bluff removed/Marine Backshore remaining)

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**OPTIONS**

- 1) Do not support the request to remove the Coastal Bluff Sensitive Ecosystem mapping from the EDPA Atlas and associated covenant based on the findings of the first Biologist's report prepared by Mr. Matt Fairbarns.

If Council chooses this Option, give direction to staff to expedite the process to update the EDPA Atlas for this property and subsequently release the covenant.

- 2) Support the request to remove the Coastal Bluff Sensitive Ecosystem mapping from the EDPA Atlas and the associated covenant based on the findings of the second Biologist's report prepared by Mr. Ted Lea.
- 3) Postpone a decision on this application pending the outcome of the final phase of the EDPA "check-in" which would be undertaken by a consultant selected by Council.

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**SUMMARY**

The owners of 4351 Gordon Head Road have the requested removal of the Coastal Bluff EDPA mapping and associated covenant from their property. The owners have a building permit (ready to be picked up) and an Environmental Development Permit for a new home and septic system.

As part of their EDP application, Mr. Matt Fairbarns evaluated the Coastal Bluff and remapped its boundaries. This allowed for the owners to place a septic system in the rare ecosystem and covenant another area in exchange. The covenant is considered temporary in that it may be removed should Council adopt new mapping.

After the EDP was issued, Mr. Ted Lea has submitted two reports stating that there is no Coastal Bluff on the property. Mr. Fairbarns and Mr. Lea disagree on this point.

Staff biologists agree with Mr. Fairbarn's mapping and evaluation of the Coastal Bluff ecosystem on the property.

Staff could expedite the process to bring forward revised mapping to Council for adoption if directed. This may help to alleviate the concerns over the impacts of the covenant on the property value.



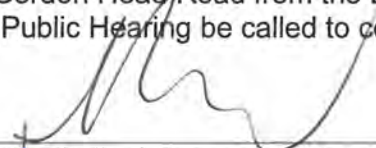
**RECOMMENDATION**

That the request to remove the Coastal Bluff and associated covenant of the Environmental Development Permit Area from the subject property not be supported (Option 1).

Note: If Council wishes to support the removal request at this time, the motion(s) would be as follows:

- a) That Covenant CA3924305 be discharged; and
- b) That staff be requested to prepare an amendment to Plate 29 of Schedule 3 to Appendix N of the Official Community Plan Bylaw, 2008, No. 8940 for the removal of the Coastal Bluff at 4351 Gordon Head Road from the Environmental Development Permit Area Atlas, and that a Public Hearing be called to consider the amendment.

Report prepared by:




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Adriane Pollard, Manager Environmental Services

Report reviewed by:




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Sharon Hvozdzanski, Director of Planning

AP/gv  
G:\CURRENT APPLICATIONS\Gordon Head\Gordon Head Road 4351 EDPA Removal\AP\_4351 GHRD\_APR 15.docx

Attachments

cc: Paul Thorkelsson, CAO  
Graham Barbour, Manager of Inspections Services

**ADMINISTRATOR'S COMMENTS:**

I endorse the recommendation of the Director of Planning.



for Paul Thorkelsson, CAO

To Adriane Pollard  
Manager of Environmental Services  
District of Saanich

May 31, 2015

**Re: Field Verification and Assessment of the Coastal Bluff SEI Mapping of an Environmentally Significant Area (ESA) at 4351 Gordon Head Road**

Please accept this as a letter report assessing whether there is an occurrence of a Coastal Bluff Sensitive Ecosystem ESA on this property. I have visited this property at various times in April, 2015 and many times since then.

I have followed the provincial *Standard for Mapping Ecosystems at Risk in British Columbia: An Approach to Mapping Ecosystems at Risk and Other Sensitive Ecosystems*, BC MOE Resources Information Standards Committee (December 2006), and the standard for the Vancouver Island SEI (see below). If the methods from these reports are followed, as recommended by the District of Saanich document: *Guidelines for Verifying and Defining Boundaries of Sensitive Ecosystem Inventory Polygons In the Environmental Development Permit Area (#29)*, it is clear that **there is no Coastal Bluff Sensitive Ecosystem on this property, and therefore, no Sensitive Ecosystem Environmentally Significant Area occurs on the property.**

The Saanich guidelines recommend for a biologist to: "Evaluate each ecological community for ecological sensitivity and at-risk status and determine which class and subclass of Sensitive Ecosystem it belongs to, if any." Following the ecological condition assessment as determined in April, 2015 and comparing these to wording in the *Standard for Mapping Ecosystems at Risk in British Columbia*, this property does not fit at-risk status for any Ecological Community, so is not a Sensitive Ecosystem ESA.

I have consulted the two standards recommended by Saanich's 2013 Guidelines and recent Interim Guidance document:

- 1) Standard for Mapping Ecosystems at Risk in British Columbia: An Approach to Mapping Ecosystems at Risk and Other Sensitive Ecosystems, Ministry of Environment, Resources Information Standards Committee, December 5, 2006, Version 1.0
- 2) Sensitive Ecosystems Inventory: East Vancouver Island and Gulf Islands 1993-1997. Volume 2: Conservation Manual

According to # 1: "Ecosystems at risk are those that can support ecological communities which are considered to be provincially at risk as designated by the B.C. Conservation Data Center. Sensitive Ecosystems are those that are at-risk or are ecologically fragile. The vegetation species composition and structure **must fall within the expected range of the defined plant association before it is considered an occurrence of that particular plant association.** The ecosystem occurrence itself must have sufficient ecological

integrity to be sustained in the foreseeable future if it is to have practical conservation value.”

According to # 2, Sensitive ecosystem guidelines seek to conserve the seven sensitive ecosystems in a **relatively natural state**.

There is no Sensitive Ecosystem in a relatively natural state on the property as all of the property meets the poor ecological condition category, due to the dominance of invasive species on all parts of the property. There is no ecological community on the property that meets the provincially at risk definition, for the same reason. Following these standards and guidelines it is my professional opinion that there is no Coastal Bluff Sensitive Ecosystem in a relatively natural state on this property. The Sensitive Ecosystem boundaries can be removed from the property, as there is no Environmentally Significant Area in terms of a Sensitive Ecosystem on this property.

Due to the above, and following Clause # 14 of the EDPA bylaw, the EDPA designation should be removed from the property for the mapped Coastal Bluff Sensitive Ecosystem ESA polygon. The ESA and EDPA for the Marine Backshore found on the property could remain, however, Saanich staff should provide clarification as to what this ESA is attempting to protect in this particular situation, as there are no known species at risk on the property, and there are very limited native species within this portion of the property, as it is all in poor ecological condition.

If any of this property is left alone, with no restoration or maintenance, it will become dominated by a dense cover of invasive grasses, followed in succession by a dense cover of Scotch broom, Himalayan blackberry and English ivy, as has occurred on sites within, and to the north of this property, on both private property and in the District of Saanich’s Gordon Head North Park.

In conclusion, there is no Coastal Bluff Sensitive Ecosystem Environmentally Significant Area (ESA) on the property at 4351 Gordon Head Road, and the EDPA for this ESA should be removed from the property.

Ted Lea, R.P.Bio.  
Vegetation Ecologist

cc. Chris and Charmaine Phillips



To Chris and Charmaine Phillips  
4351 Gordon Head Road  
Victoria

May 31, 2015

**Re: Field Verification and Assessment of the Coastal Bluff SEI Mapping of an Environmentally Significant Area (ESA) at 4351 Gordon Head Road and Reassessment by Matt Fairbarns**

Please accept this as a letter report assessing whether there is an occurrence of a Coastal Bluff Sensitive Ecosystem ESA on your property. It also provides comments from Matt Fairbarns of Aruncus Consulting. I have visited your property at various times in April, 2015. I also visited the property with Matt Fairbarns of Aruncus Consulting on April 24, 2015.

I have reviewed the “Environmentally Significant Area Evaluation 4351 Gordon Head Road” by Aruncus Consulting.

In our visit together on April 24, 2015, Matt Fairbarns concluded that by “following the Municipal and Provincial Standards provided, I would calculate the majority of the area within the EDPA at 4351 Gordon Head Road, as in “poor” condition”. He concluded that “In the spring of 2015, the non-native species appear to be much more abundant than was the case when I conducted my previous assessment in the summer of 2013”. Matt made it clear that he did not agree with the results provided by following the methodology and that the methods should be reassessed and changed (see Appendix A). I have followed the standards, as that is what the District of Saanich documents have recommended.

The Aruncus Consulting report, however, does not assess whether the property is actually a Sensitive Ecosystem ESA or not, following the provincial *Standard for Mapping Ecosystems at Risk in British Columbia: An Approach to Mapping Ecosystems at Risk and Other Sensitive Ecosystems*, BC MOE Resources Information Standards Committee (December 2006), nor does this report assess the property in accordance with the Sensitive Ecosystem standard for the Vancouver Island SEI (see below). It is my professional opinion, that if the methods from these reports are followed, as recommended by the District of Saanich document: *Guidelines for Verifying and Defining Boundaries of Sensitive Ecosystem Inventory Polygons In the Environmental Development Permit Area (#29)*, it is clear that **there is no Coastal Bluff Sensitive Ecosystem on this property, and therefore no Sensitive Ecosystem Environmentally Significant Area (ESA)**.

The Saanich guidelines recommend for a biologist to: “Evaluate each ecological community for ecological sensitivity and at-risk status and determine which class and subclass of Sensitive Ecosystem it belongs to, if any.” Following the Conservation Value Assessment provided by the Aruncus Consulting Report, which was done in September and October of 2012, and the update to the ecological condition as determined on April 24, 2015 and comparing these to wording in the *Standard for Mapping Ecosystems at*

*Risk in British Columbia*, this property does not fit at-risk status for any Ecological Community, so is not a Sensitive Ecosystem ESA.

I have consulted the two standards recommended by Saanich's 2013 Guidelines and recent Interim Guidance document:

- 1) Standard for Mapping Ecosystems at Risk in British Columbia: An Approach to Mapping Ecosystems at Risk and Other Sensitive Ecosystems, Ministry of Environment, Resources Information Standards Committee, December 5, 2006, Version 1.0
- 2) Sensitive Ecosystems Inventory: East Vancouver Island and Gulf Islands 1993-1997. Volume 2: Conservation Manual

According to # 1: "Ecosystems at risk are those that can support ecological communities which are considered to be provincially at risk as designated by the B.C. Conservation Data Center. Sensitive Ecosystems are those that are at-risk or are ecologically fragile. The vegetation species composition and structure **must fall within the expected range of the defined plant association before it is considered an occurrence of that particular plant association**. The ecosystem occurrence itself must have sufficient ecological integrity to be sustained in the foreseeable future if it is to have practical conservation value."

According to # 2, Sensitive ecosystem guidelines seek to conserve the seven sensitive ecosystems in a **relatively natural state**.

There is no Sensitive Ecosystem in a relatively natural state on your property as all of the property meets the poor ecological condition category, due to the dominance of invasive species on all parts of the property. There is no ecological community on the property that meets the provincially at risk definition, for the same reason. Following these standards and guidelines it is my professional opinion that there is no Coastal Bluff Sensitive Ecosystem in a relatively natural state on your property. The Sensitive Ecosystem ESA boundary can be removed from your property, as there is no Environmentally Significant Area in terms of a Sensitive Ecosystem on this property.

Due to the above and following Clause # 14 of the EDPA bylaw, the EDPA designation should be removed from the property for the mapped ESA Coastal Bluff Sensitive Ecosystems ESA polygon. The ESA and EDPA for the Marine Backshore found on the property could remain, however, Saanich staff should provide clarification as to what this ESA are attempting to protect in this particular situation, as there are no species at risk found on the property, and there are very limited native species within this portion of the property, and it is all in poor ecological condition. As well, the EDPA mapping and methodology should clearly indicate what the Marine Backshore ESA is attempting to protect.

If any of your property is left alone, with no restoration or maintenance, it will become more dominated by a dense cover of invasive grasses, followed in succession by a dense cover of Scotch broom, Himalayan blackberry and English ivy, as has occurred on sites within, and to the north of your property, on both private property and in the District of Saanich's Gordon Head North Park. Matt Fairbarns has also recently indicated that: "I believe that the site is most likely to be taken over by invasive species in the absence of management to prevent such an outcome. That is my best opinion as a biologist with considerable experience watching such ecosystems. I would hasten to add, however, that the same could be said of virtually every coastal bluff community in Saanich."

When Matt Fairbarns and I met on the property, we also discussed an area in the central portion of your property, below the road to your present house, as being a location where your family had wished to originally position a new house, but were told by the District of Saanich that you could not move the house location, due to the EDPA. I have the understanding that your family was told this by the District of Saanich before the Aruncus Consulting biological assessment was done on the Sensitive Ecosystem mapped on the property. Matt Fairbarns indicated in May, 2015 that "This location was never presented to me when I assessed the property in 2013. I have assessed condition of this area as above and appropriateness for building at that location. This site is immediately north of the Garry oak grove in the central part of the property."

Matt went on to state about this central area on your property that "Almost the entire area was covered in *Hypericum calycinum*. That monoculture is undeniably an ecosystem in poor condition and there would be negligible lost conservation values as long as the building activities do not extend into adjacent rock bluff habitat and structures do not significantly alter the moisture or nutrient regime." Matt Fairbarns did indicate that careful consideration for protection of the Garry oak grove, in terms of root zones and additional water inputs needs to be considered if a structure is added to this area.

Ted Lea, R.P.Bio.  
Vegetation Ecologist

## **Appendix A**

**Matt Fairbarns of Aruncus Consulting provides the following opinion, knowing that this does not follow the standards provided by the District of Saanich:**

### **Condition Assessment Following My Professional Opinion**

"If I was to apply a more reasonable standard I would assess the majority of the habitat where soils are less than 10 cm deep as being in fair condition; the soil is intact and the cover of native plant species is at least 60% of what might be expected in pristine



ecosystems on similar sites although non-native species have displaced a significant (< 40%) of the native flora”.

“Based on my extensive experience with similar ecosystems in the region, I would rank the majority of areas with soils > 10 cm deep as in “poor” condition due to the presence of a thick sward of invasive garden species such as *Hypericum calycinum* or perennial invasive weed species such as *Dactylis glomerata*.”

**From:** Adriane Pollard  
**To:** Planning  
**CC:** Shari Holmes-Saltzman  
**Date:** 2/23/2016 1:35 PM  
**Subject:** Fwd: RE: Phillips property-4351 Gordon Head Rd, DVP #: 00331, File #: BLD15224, Project #: PRJ2012-00757

>>> "Matt Fairbarns" <aruncus\_consulting@yahoo.ca> 2/22/2016 12:59 PM >>>

Ted is incorrect. Much of the shallow soil sites have a relatively low cover of invasive grasses and are not, therefore, in poor condition. Part of my graduate work focussed on the propensity of vegetation ecologists to greatly over-estimate the cover of grasses on some sites and the shallow-soil sites fit right into that pattern so while I find fault with Ted's conclusion that grass cover is high on the shallow soil sites he is not unusual in that regard; it's a common failing amongst vegetation ecologists. If this really becomes a major source of contention I am quite happy to get some point-cover equipment and do proper cover measurements on the site (point cover sampling is the only objective method to determine the actual cover of grasses) but be warned, this is a time-consuming process. Because I have used such equipment on a vast number of sites, both while doing my grad work and over the subsequent years as I was tasked with coming up with unequivocal estimates of grass cover for studies monitoring vegetation change, I have become far better than most at visually estimating grass cover as a result. Even so my estimates are imperfect. I continue to believe that the coastal bluff areas are not, for the most part, in poor condition.

Ted is quite right, however, that the cover of invasive grasses on deep soil sites is quite high. The sort of vegetation found on these sites is not as prone to errors in the visual estimation of cover. Those areas are in poor condition and in my opinion there is little prospect of restoring them even to moderate condition without an massive effort.

The suggestion that the provincial standards can be changed is misleading, as the province is not inclined to put resources into developing ecosystem-specific standards even though their process allows for doing exactly that. Since they are very slow to accept standards tailored to specific ecosystems, we end up with a clumsy one-size-fits-all situation that often fails. NatureServe is quite willing to change their standards; indeed they have a fine process for addressing the sorts of situation we face in Garry Oak woodlands. It is simply a matter of finding the funding necessary to develop standards suited to Garry Oak and rock bluff ecosystems. I imagine I could, based on my experience with these ecosystems and my standing within NatureServe, come up with new standards which would be accepted within NatureServe. Would anyone like to fund this work?

The bottom line is that the provincial standards which Ted espouses would lead to the rejection of almost all Garry Oak woodlands and most coastal bluff ecosystems throughout Saanich and adjacent municipalities as being in poor condition even when their natural ecosystem processes (such as water and nutrient cycling) are quite similar to that of pristine ecosystems and much of the native flora is still present. Doggedly insisting on application of the wholly inadequate provincial standards is fine if one wishes to find an argument for not protecting Garry Oak and coastal bluff ecosystems but is inconsistent with the overarching goal of the Saanich EDPA to protect the best remaining examples of each.

Regards,  
Matt Fairbarns

**From:** Ted Lea [redacted]  
**Sent:** February-22-16 11:09 AM  
**To:** Matt Fairbarns; 'Chris & Charmaine Phillips'; 'Hvozdanski Sharon'; Paul.Thorkelsson@saanich.ca; 'Adriane Pollard'  
**Cc:** mayor@saanich.ca; 'Haynes Fred'; Fred@FredHaynes.ca; 'Plant Colin'; 'Wergeland Leif'; 'Brownoff Judy'; vicderman@shaw.ca; 'Sanders Vicki'; susan.brice@saanich.ca; dean.murdock@saanich.ca  
**Subject:** Re: Phillips property-4351 Gordon Head Rd, DVP #: 00331, File #: BLD15224, Project #: PRJ2012-00757

Response to All:

I agree with Mr. Fairbarns, that if there was just one Scotch broom plant in an otherwise excellent condition Coastal Bluff Sensitive Ecosystem, then I would not consider the area to be in poor ecological condition. However, this is definitely not the case on the Phillips property. The entire property has a significant cover of invasive grass species, on both deeper and shallow soils areas.

The District of Saanich could have decided not to use the Provincial Standards for assessments of Ecosystems at Risk and Sensitive Ecosystems, however, **District documents indicate to biologists to follow the standards.**

The Guidance document that has been provided to biologists for assessing Sensitive Ecosystems that were mapped by the Sensitive Ecosystem Inventory (SEI) is very clear in stating that: "*When SEI mapping was first produced, standards and criteria were under development. However, the 2006 Standard for Mapping Ecosystems at Risk in British Columbia included applicable mapping and reporting standards used in Terrestrial and Predictive Ecosystem, and added many more Sensitive Ecosystems Classes and*

*Subclasses. In order to recommend changing a SEI boundary or potentially eliminating/adding an SEI polygon, the same standards must be met."*

Nowhere in the Guidance document does it state that a biologist can be given the leeway to not use the provincial standards because they may not like the result of an assessment.

The District of Saanich's Environmentally Significant Areas (ESA) Atlas states that:  
"to be included in the ESA atlas, data must be from a comprehensive environmental inventory using technically acceptable standards."

These provincial standards are found in the following report: Standard for Mapping Ecosystems at Risk in British Columbia: An Approach to Mapping Ecosystems at Risk and Other Sensitive Ecosystems, Ministry of Environment, Resources Information Standards Committee, December 5, 2006, Version 1.0

These standards are based on international methods and field testing that have been used throughout the Western Hemisphere. NatureServe is the body that represents many countries in North, Central and South America, whose methodology the BC Conservation Data Center follows. Our ecosystems have the same threats as in other areas, such as invasive species.

The other concept that the provincial standard presents is that of viability, that is: "*Viability is the likelihood that if current conditions remain unchanged, an occurrence will persist for a defined period of time, generally 20-100 years. Viability is defined in terms of species populations; for ecological communities, viability is more appropriately termed ecological integrity. The ecosystem occurrence itself must have sufficient ecological integrity to be sustained in the foreseeable future if it is to have practical conservation value.*"

The Phillips property does not support a self-sustaining, viable ecosystem, and over time the whole property will remain dominated by invasive grasses, and the shrub layer will become dominated by Scotch broom, blackberry, ivy and other invasive shrubs, as presently occurs at Gordon Head North Park.

If Mr. Fairbairns believes that there are grave problems with the methodology, he needs to convince the provincial authorities or NatureServe that the standard should be changed. Until that time, Saanich guidance documents to biologists should be followed, so that Saanich landowners get a consistent approach when they have their properties assessed. If assessing this property or others with no standard in mind, other biologists may interpret the value of this property in many different ways. Saanich guidance documents to biologists have indicated that 2006 Standard for Mapping Ecosystems at Risk in British Columbia standards are to be used.

Ted Lea, R.P.Blo.  
Vegetation Ecologist

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

**From:** [Matt Fairbairns](#)

**To:** '[Chris & Charmaine Phillips](#)'  
; '[Hvozdanski Sharon](#)'  
; [Paul.Thorkelsson@saanich.ca](mailto:Paul.Thorkelsson@saanich.ca) ; '[Adriane Pollard](#)'

**Cc:** [mayer@saanich.ca](mailto:mayer@saanich.ca) ; '[Haynes Fred](#)'  
; [Fred@FredHaynes.ca](mailto:Fred@FredHaynes.ca) ; '[Plant Colin](#)'  
; '[Wergeland Leif](#)'  
; '[Brownoff Judy](#)'  
; [vicderman@shaw.ca](mailto:vicderman@shaw.ca) ; '[Sanders Vicki](#)'  
; [susan.brice@saanich.ca](mailto:susan.brice@saanich.ca) ; [dean.murdock@saanich.ca](mailto:dean.murdock@saanich.ca) ; '[Ted Lea](#)'

**Sent:** Friday, February 19, 2016 12:30 PM

**Subject:** RE: Phillips property-4351 Gordon Head Rd, DVP #: 00331, File #: BLD15224, Project #: PRJ2012-00757

To whom it may concern:



In the second attachment dated May 31, 2015, Mr. Lee has correctly captured some of my comments but incorrectly summarized a very important conclusion.

First, perhaps the most significant point upon which Mr. Lee and I agree:

The area between the road and the Garry Oak grove - which is currently dominated by an invasive plant variously known as Rose-of-Sharon, St John's-wort, Aaron's Beard, and *Hypericum calycinum* - is in very poor condition by any reasonable measure and I see negligible conservation value.

I believe Mr. Lee has misrepresented the conservation value of the shallow-soil rock outcrops that comprise a significant portion of the remaining property.

In his [appendix 2](#) he states that "Matt Fairbarns of Aruncus Consulting provides the following opinion, knowing that this does not follow the standards provided by the District of Saanich". He references two provincial standards.

- 1) Standard for Mapping Ecosystems at Risk in British Columbia: An Approach to Mapping Ecosystems at Risk and Other Sensitive Ecosystems, Ministry of Environment, Resources Information Standards Committee, December 5, 2006, Version 1.0
- 2) Sensitive Ecosystems Inventory: East Vancouver Island and Gulf Islands 1993-1997. Volume 2: Conservation Manual

These standards have been developed on a "one-size-fits-all" basis and as might be expected, lead to counter-intuitive conclusions when applied to some situations. Specifically, when applied to Garry Oak and Coastal Bluff ecosystems they would find that most, if not all examples of such ecosystems in the CRD to be in poor condition for reasons that relate more to poorly conceived methodology than to actual conservation value.

As an example of how these provincial standards may fail in even the most obvious situations, consider how they would change the assessed condition of a pristine Garry oak meadow: if a single knee-high Scotch Broom plant were to become established the condition of that meadow would change from excellent to poor.

Since it is evident that the application of these standards to Garry Oak and Coastal Bluff ecosystems would not be effective, because they would lead to the false conclusion that systems that to any practiced eye are evidently at least in moderate condition, I urge the municipality to treat the provincial standards as useful tools rather than the final word.

The grave problems associated with applying these imperfect provincial protocols to Garry Oak and Coastal Bluff ecosystems may explain why the EDPA guiding documents which I have been working from were phrased so that there was some discretion in assessing condition rather than being straightjacketed into unwarranted conclusions by strict application of ineffective site condition classes such as those presented by the provincial standards referenced by Mr. Lee.

I hope I have provided clarity to this situation. I would also like to add that I have great sympathy for the predicament that Chris and Charmaine Phillips are facing and hope that they succeed in getting more flexibility to develop those portions of the property where the conservation values are evidently low.

Regards,  
Matt Fairbarns

**From:** Chris & Charmaine Phillips  
**Sent:** February-18-16 11:51 AM  
**To:** Hvozdzanski Sharon; Paul.Thorkelsson@saanich.ca; Adriane Pollard  
**Cc:** mayor@saanich.ca; Haynes Fred; Fred@FredHaynes.ca; Plant Colin; Wergeland Leif; Brownoff Judy; vicderman@shaw.ca; Sanders Vicki; susan.brice@saanich.ca; dean.murdock@saanich.ca; Ted Lea; matt fairbarns  
**Subject:** Phillips property-4351 Gordon Head Rd, DVP #: 00331, File #: BLD15224, Project #: PRJ2012-00757  
**Importance:** High

To: Mr. Paul Thorkelsson - CAO, Ms. Sharon Hvozdzanski - Director of Planning and Ms. Adriane Pollard - Manager of Environmental Services,

**RE: 4351 Gordon Head Rd**

**DVP #:** 00331

**File #:** BLD15224

**Project #:** PRJ201200757

As you are aware, our property fell within the EDPA mapping area and, due to this and the additional buffer zones, we were forced to place our home in a single location and forced into a Covenant in order to get a building permit.


We have attached reports and summaries from two biologists who have visited the property at various times throughout the year and confirm that there is no sensitive ecosystem on our property. We also attach our email to Mayor and Council dated 5<sup>th</sup> May 2015, which gives a summary of the ordeal we have been subjected to because of the EDPA bylaw.

We are now requesting that the EDPA for the Coastal Bluff Sensitive Ecosystem and the Covenant be removed from our property in accordance with No. 14 (under Exemptions) in the bylaw, which states, "Where field verification by a Registered Professional Biologist, or other appropriate professional approved by Saanich, reveals the boundaries can be refined and the proposed development is shown to be outside the ESA". We would like confirmation within two weeks that the municipality is going to abide by the rules of their own bylaw and that the EDPA and Covenant will be removed as a matter of priority as our Building Permit is still pending.

Clearly, this has already cost us tens of thousands in excess of what we originally budgeted, and moving forward to build a new home only to find out that the value has been compromised due to the EDPA and Covenant, does not make financial sense. We would hope that Saanich would like to avoid the liability associated with legal action and do everything in their power to ensure that we do not need to exercise that option. Failing this, we have already received a legal opinion and intend to proceed with legal action.

We trust that you will see how discriminatory the EDPA mapping has been and move quickly to remove this designation and Covenant from our property.

Yours truly,  
Christopher & Charmaine Phillips  
4351 Gordon Head Road  
Victoria, BC V8N 3Y4

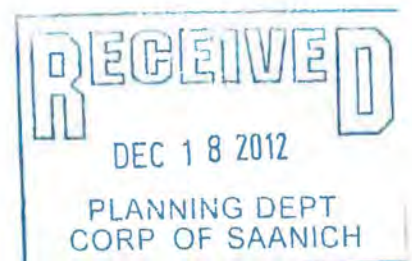


# Environmentally Significant Area Evaluation

## 4352 Gordon Head Road

**Matt Fairbarns**

Aruncus Consulting  
2130 Kings Road  
Victoria, BC V8R 2P9  
**October 2012**



## EXECUTIVE SUMMARY

Botanical surveys were conducted in portions of an Environmentally Sensitive Area that lie within 4351 Gordon Head Road – a residential lot in Saanich, British Columbia. The Gordon Head Road property occurs within the moist maritime subzone of the Coastal Douglas-fir biogeoclimatic zone. Natural environments in the region are largely occupied by young to mature, zonal forests of Douglas-fir and/or Garry Oak but Coastal Bluff Ecosystems dominate natural shoreline areas in the vicinity of the property.

A Coastal Bluff habitat polygon was established as an Environmentally Sensitive Area because it had been previously identified as a Sensitive Ecosystem during a regional analysis.

Field studies were conducted on September 27 and October 18, 2012; dates suitable for assessment of the extent and many aspects of the condition of the Coastal Bluff ecosystem but unsuited to the detection of rare species.

The surveys revealed that the original mapping had underestimated the extent of the coastal bluff polygon. A new map was prepared, showing the full extent of Coastal Bluff ecosystems within the property limits. Most of the polygon is in fair to good condition and has good restoration potential. The surveys revealed that the some portions of the Coastal Bluff unit - where invasive grasses, Himalayan Blackberry and/or English Ivy dominate - are in poor condition. The restoration potential of these disturbed areas is fair, or in some extreme cases poor. It would take several years of extensive work to restore those areas currently in poor to fair condition to good condition, involving intensive weed control and extensive re-planting of native species.



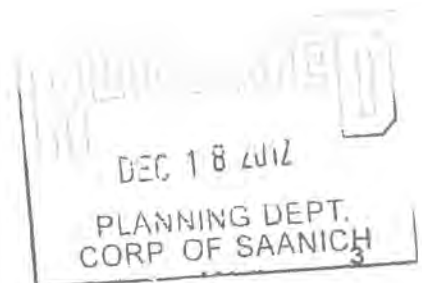


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## INTRODUCTION AND OBJECTIVES

The property at 4351 Gordon Head Road consists of a privately-owned residential lot in Saanich, British Columbia. The site occurs within the moist maritime subzone of the Coastal Douglas-fir biogeoclimatic zone. Natural environments on lower slope positions within the vicinity of the study area are largely occupied by young to mature, zonal forests of Garry Oak and Douglas-fir with a shrub layer dominated by Common Snowberry (*Symphoricarpos albus*) and a species-rich herb layer. Such forests tend to occur on deep, medium-textured soils on gentle slopes and their soils are generally submesic to mesic. On higher slope positions one finds shallower soils that tend to support similar forests with less luxuriant understories, as well as areas of Terrestrial Herbaceous and Coastal Bluff vegetation on dry rock balds. Dense forests in this region rarely support threatened or endangered plant species, although rare plants may occur in small atypical environments within the forest matrix. In contrast, some of the open woodlands, meadow and rock outcrop ecosystems include habitats where rare plants of the region are most likely to be found.

The Sensitive Ecosystems Inventory (SEI) identified a polygon centred on the Gordon Head Road (C0016/CB:cl) as a Coastal Bluff (cliff variant) ecosystem and noted the presence of a cormorant nesting site. No vegetation data were collected from the site during the SEI project. The SEI defines Coastal Bluffs as shallow-soil, sparsely-vegetated ecosystems along coastlines. The thin organic layer provides limited protection from erosion and disturbance, which makes these areas extremely susceptible to any type of use including trampling (Ward *et al.* 1998).

The District of Saanich has designated the full polygon as an Environmentally Significant Area. The SEI defines Coastal Bluffs as shallow-soil, sparsely-vegetated ecosystems along coastlines. The thin organic layer provides limited protection from erosion and disturbance, which makes these areas extremely susceptible to any type of use including trampling (Ward *et al.* 1998).

The SEI project for east Vancouver Island and the Gulf Islands was regional in scope and the polygons were not mapped with sufficient precision to allow for fine-scale management and planning such as applies to single residential lots. As well, many of the polygons were not ground-truthed so it is not possible to determine ecological condition from SEI data alone.

This report describes the results of a 2012 project to survey and describe the distribution and condition of the Coastal Bluff SEI polygon on the 4351 Gordon Head Road property. Specifically, the project undertook to:

1. Remap the Coastal Bluff polygon boundaries at a scale suited to planning and managing the property, and
2. Describe the condition of the Coastal Bluff polygon.



## METHODS

Prior to the initiation of field studies, existing known information was compiled from the following sources:

1. BC Conservation Data Centre website (B.C. Conservation Data Centre: Conservation Data Centre Mapping Service 2008)
2. 2005, 2007, 2009 and 2011 air photography available on the District of Saanich GIS map service ([http://www.saanich.ca/gis5.2/imf.jsp?site=saanich\\_axl](http://www.saanich.ca/gis5.2/imf.jsp?site=saanich_axl))
3. SEI maps and databases ([http://a100.gov.bc.ca/appsdata/acat/documents/r2124/sei\\_9914\\_map92B-044\\_1112900102217\\_254df925e1ff482d9354e77bf6f1f9fc.pdf](http://a100.gov.bc.ca/appsdata/acat/documents/r2124/sei_9914_map92B-044_1112900102217_254df925e1ff482d9354e77bf6f1f9fc.pdf) and [http://a100.gov.bc.ca/appsdata/acat/documents/r2124/SEI\\_9914\\_eep\\_1177962375481\\_1e38f7f7aab74f629adf994800750847.csv](http://a100.gov.bc.ca/appsdata/acat/documents/r2124/SEI_9914_eep_1177962375481_1e38f7f7aab74f629adf994800750847.csv))

Field studies were conducted on September 27 and October 18, 2012. The survey dates were suitable for assessment of the extent and condition of the Coastal Bluff ecosystem but unsuited to the detection of rare species. The surveyor (Matt Fairbarns) has over 25 years experience as a botanical field investigator, has demonstrated the taxonomic experience to identify (in the field) most plant species he comes across in the survey area, and the remainder later through taxonomic determination, has an extensive knowledge of plant ecology and has over 18 years experience studying the local flora and with an emphasis on the rare species which potentially exist within the habitats surveyed.

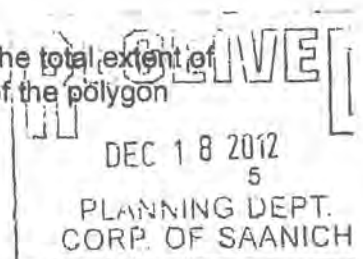
The polygon boundaries were determined by marking up an orthophotograph in the field, and then transferring the mark-up information into a shape file suitable for use in Geographic Information Systems (GIS) and Computer-assisted Drawing (CAD) software.

Soil pits were not dug because of the extreme sensitivity of the site, and the lack of a critical need for soil data. The polygon condition was determined by noting the presence and abundance of invasive species but vegetation data could not be collected because it was too late in the season to detect most species. The polygon condition was assessed according to standards adopted by the BC Conservation Data Centre (BC Ministry of Environment 2006).

## SUMMARY OF RESULTS

### Polygon Re-mapping

The polygon within the residential lot was re-mapped based on the total extent of the Garry Oak canopy within the property. This led to an expansion of the polygon



beyond the extent mapped in the SEI project.

### **Element Rank Evaluation**

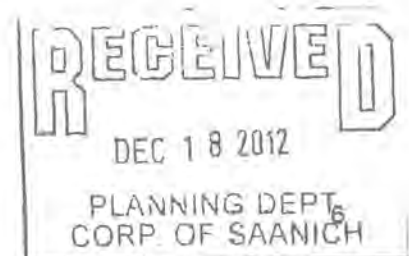
#### Size

The original SEI polygon measured approximately 1.77 ha, of which 0.35 ha lay within the property lines of 4351 Gordon Head Road. The revised polygon occupies 0.41 ha of the Gordon Head Road property.)

#### Condition

The condition of a rare plant community is an assessment of its composition, structure and ecological function. It can be thought of as the degree of departure from the structure, function, and distribution of late seral ecological communities prior to European settlement. Changes in natural disturbance regimes and anthropogenic disturbances reduce condition. The potential for an ecosystem to recover is a significant consideration when assessing condition. The proportion of invasive alien species is of particular importance (BC Ministry of Environment 2006).

The vegetation of the Coastal Bluff polygon is characterized by a well-developed moss/lichen mat on exposed bedrock with intervening areas of shallow soil in which herbaceous species dominate (Figure 1). The areas of moss/lichen mat are generally in good ecological condition. Slightly deeper (and hence less drought-stress soils) between rock outcrops are dominated by tall herbaceous vegetation (Figure 2). Most of the tall herbaceous vegetation was dominated by (non-native) Orchard Grass (*Dactylis glomerata*) and other exotic species at the date of survey. In some areas the Orchard Grass is very dense and likely prevents the development of a significant native flora, even in the spring (before Orchard Grass has fully developed) (Figure 3). Much of the area dominated by Orchard Grass at the date of survey, however, has less thatch and may support an assemblage of native grasses and forbs in the spring. Areas in which Orchard Grass is relatively sparse may still be in good condition (spring surveys would be necessary to confirm condition). There are small inclusions of shrub land and small peripheral patches of woodland dominated by low-growing, wind-pruned Garry Oak of undetermined age.







**Figure 1. Moss/lichen community on rocky balds**



**Figure 2. Herbaceous vegetation between rock outcrops**

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CORP. OF SAANICH



**Figure 3. Degraded Orchard Grass vegetation**

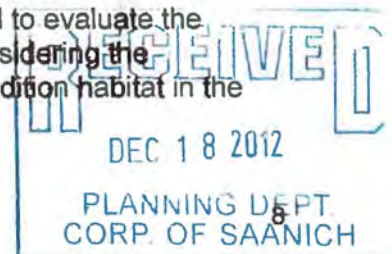
Note Garry Oak woodland in background

There is a fringe of shrub land dominated by exotic species - most notably Himalayan Blackberry (*Rubus armeniacus*) - along the northern edge of the property. This area, which presumably supported tall herbaceous vegetation in the past, is in such poor condition that restoration to its original condition would be expensive and, quite possibly, unsuccessful.

English Ivy (*Hedera helix*) is expanding over the soil surface, radiating from centres in the Garry Oak woodland patches and the Himalayan Blackberry shrub lands. English Ivy presents a serious threat to the condition of the tall herbaceous vegetation between rock outcrops. Spurge-laurel (*Daphne laureola*) and Scotch Broom (*Cytisus scoparius*) are also present in many areas of tall herbaceous vegetation and Garry Oak woodland. Neither species is abundant yet, but both may become dominant over the next decade.

#### Landscape context

Landscape context considers both the abiotic and biotic features of the geographic area adjacent to and surrounding the Woodland polygon. The condition of the surrounding landscape is considered using the same methods used to evaluate the Coastal Bluff polygon itself. Landscape context is assessed by considering the patchiness, fragmentation and connectivity of good to excellent condition habitat in the surrounding landscape (BC Ministry of Environment 2006).





The landscape context of the Coastal Bluff polygon is good. The polygon extends north and south of the Gordon Head Road property and many adjoining portions are in fair to good condition.

## SUMMARY

### Overall Ranking

The condition of the Coastal Bluff polygon within the Gordon Head property is ranked as fair because invasive species dominate 20-60% of the grassland areas, the landscape context is good, and the polygon itself is relatively extensive.

### Recovery/Restoration Potential

The restoration potential of the rock bald habitats is excellent. The restoration potential of the tall herbaceous vegetation in slightly deeper soils appears to be good in many places (spring surveys would be necessary to confirm this) but some in some spots the Orchard Grass is dense, produces a heavy thatch, and could not be restored without several years of work. The restoration of the Garry Oak woodland patches is fair to good; several years of work may be necessary to restore it to excellent condition. The restoration potential of the shrub thickets is poor, and restoration work in these areas is best aimed at prevented the further spread of invasive shrubs and English Ivy. The overall restoration potential of the Coastal Bluff polygon is good.

## LITERATURE CITED

B.C. Conservation Data Centre: Conservation Data Centre Mapping Service [web application]. 2008. Victoria, British Columbia, Canada. Available: [http://webmaps.gov.bc.ca/imfx/imf.jsp?site=imapbc&savessn=Ministry%20of%20Environment/Conservation\\_Data\\_Centre.ssn](http://webmaps.gov.bc.ca/imfx/imf.jsp?site=imapbc&savessn=Ministry%20of%20Environment/Conservation_Data_Centre.ssn) (accessed April 18, 2012).

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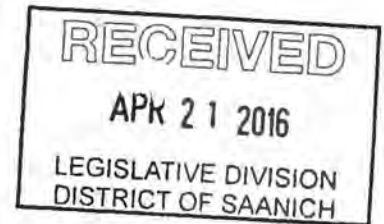
2860-25 Gordon Head

**ClerkSec - Comments on staff report**

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**From:** Charmaine Phillips [REDACTED]  
**To:** <mayor@saanich.ca>  
**Date:** 4/21/2016 2:36 PM  
**Subject:** Comments on staff report  
**CC:** Brice Susan <susan.brice@saanich.ca>, <dean.murdock@saanich.ca>, Brownoff Judy <judy.brownoff@saanich.ca>, Colin Plant <colinplant@shaw.ca>, Sanders Vicki <vicki.sanders@saanich.ca>, <Vic.Derman@saanich.ca>, <Fred.Haynes@saanich.ca>, <Leif.Wergeland@saanich.ca>, <Paul.Thorkelsson@saanich.ca>, Sharon Hvozdzanski <Sharon.Hvozdzanski@saanich.ca>, Adriane Pollard <Adriane.Pollard@saanich.ca>

**Attachments:** Biologist report from Jonathan Secter-Ecological Characterization April 5, 2016\*\*.pdf; 2016-04-18 4351-gordon-head-edpa-removal-request.pdf; Email from Adriane Pollard-05May15 re EDPA guidelines.pdf; Guidelines for Verifying and Defining Boundaries 3rd draft.doc



Dear Mr. Mayor and Members of Council,

We do not agree with many of the comments made by staff in the report to Council (attached below for ease of reference), and feel compelled to comment ahead of the upcoming April 25th meeting.

Page 2:

Our request for removal is not solely based on a submission by registered professional biologist Ted Lea, but by fears that our property had been devalued significantly. Two days prior to the March 16th Mayor & Council meeting, BC Assessment confirmed that the EDPA/covenant had devalued our property by \$1,000,000. I am disappointed that staff neither acknowledges nor makes reference to this fact.

Page 5:

It seems disingenuous to keep scheduling meetings only to have staff continually say that the public consultation process is not yet complete. If this is always going to be the reason to deny a request, why then schedule any hearings before the public consultation process is complete? Again, our case is not simply about a report from the only registered professional biologist, but proof that our property has been devalued by \$1,000,000.



As far as the DP is concerned, that is due to expire next month and if that is the reason staff does not wish to release our property, then cancel it immediately.

Page 6:

- The on-site septic system was only considered inadequate after we were refused connection to the municipal sewer system that all our neighbours enjoy, forcing us to upgrade the already existing septic field.
- The property owners DID NOT "hire Matt Fairbarns to prepare a report supporting siting the new sewage disposal system". The Manager of Environmental Services (MES) gave us the name of Matt Fairbarns and told us to hire him to prepare an assessment/inventory two months before we even applied to be included on the municipal sewer system, and almost nine months before we were denied connection by Saanich Engineering. The MES told us that Matt Fairbarns would have to approve the location of the new on-site septic system, even though he is neither an engineer nor a registered professional biologist. The application for a variance was made in December 2012 and two months later, in February 2013, the MES wrote telling us we would need a covenant to continue on.
- Most of the proposed septic field is to be sited in areas so heavily overgrown with invasives, that Saanich didn't even want these areas in their covenant.
- We do ask that Council so directs that the mapping be amended immediately so as to allow the covenant to be discharged.
- The first biologist, Matt Fairbarns, did not follow the provincial standards and has indicated in an email to Council that he does not believe in following these provincial standards, nor these guidelines. Yet this guideline document is what Saanich staff have written and provided for biologists to follow. *Matt Fairbarns, who is not a Registered Professional Biologist, was the only biologist that the MES recommended to us.* He did not follow provincial standards and he included restoration potential, both of which are not included in the bylaw approved by Council. His entire report should not have been accepted by staff, instead it was vetted and approved by the MES and we find that the MES continues to embrace this erroneous report. The staff report indicates that the MES accepts his report as the appropriate assessment of our property, even though Matt Fairbarns did not follow Provincial standards and the Guidelines attached; Guidelines which the MES has provided to us. Mr. Ted Lea, R.P.Bio. followed the District of Saanich Guideline document and the Provincial Standards as indicated in this Guideline document and came to the conclusion that there is no Sensitive Ecosystem left on our property. We have subsequently had an assessment done by Mr. Jon Sector, R.P.Bio.

and Mr. Bill Hubbard, P.Ag. (ret.) who also indicate that there is no Sensitive Ecosystem remaining on the property. It appears that Saanich staff, who are authors to this guideline document, do not wish to follow it, even though they provide it to consulting biologists to assess properties. How can landowners get consistent results by environmental professionals if some of them are unwilling to follow standards and staff are willing to support these individuals' results, despite clear direction in a Guideline document to follow provincial standards? Attached is the document that the MES provided us on May 5th 2015, which consulting biologists are supposed to follow to assess properties in the EDPA that have Sensitive Ecosystems and to which she has no recollection as to what guidelines she gave to Matt Fairbarns. We have highlighted relevant portions in yellow, that clearly state that biologists are to follow the provincial standard for ecosystems at risk and Sensitive Ecosystems.

- The MES also admits that the on-site septic system was to be located in the most degraded areas—then why did we even need a covenant? If, in fact, staff have no objection to correcting the EDPA atlas and the covenant is, in fact, temporary, why not remove it now? It is no longer a “concern” that our property has been negatively impacted by the EDPA—BC Assessment has confirmed this as a fact that there is a \$1,000,000 loss in value due to the EDPA and covenant—why skirt around the facts?

#### Page 7:

We did not submit an alternate plan. We had started a design exercise to see if there was any cost efficiencies to renovate the existing house vs. siting a new home somewhere in the flattest area of the property, when we were told by the MES that due to the EDPA mapping we could not build anywhere else other than the existing footprint and any new design would have to be moved upslope as much as possible so as to have minimum impact on the EDPA. This was told with no science—just maps.

#### Page 8:

Matt Fairbarns continues to support his restoration and non-provincial ideas with staff's full blessing. His report does say that if he were to follow provincial guidelines, the entire property would be considered in poor condition. This is confirmed by a third registered professional biologist report from Jonathan Sector and Bill Hubbard—see attached.

#### Page 10:

Item 3—again this is very frustrating and seems like an attempt to “pass the buck”. Council does not need any further input on the generalities of the

EDPA to address our expropriation/loss of value to our property.

Summary:

If the Coastal Bluff represents only 0.3% of the regional landscape and there are 2,000 waterfront properties in Coastal Bluff, then removing our parcel accounts for losing 0.0001% of the TOTAL inventory—an extremely negligible amount in the EDPA inventory, but life changing to our old age security. We request that Council discharge covenant CA3924305 and instruct staff to amend Plate 29 of Sch 3 to Appendix N of the Official Community Plan bylaw 2008 No. 8940 for the removal of Coastal Bluff at 4351 Gordon Head Road from the EDPA atlas.

Thank you all very much and we sincerely hope you understand that the EDPA does not affect all properties equally, and ours is indeed a unique and extremely compromised case, which Council needs to rectify to restore justice to a property owner who has been severely impacted by the EDPA

If you have any questions or would like to meet prior to the meeting, please let me know.

Best regards,  
Chris & Charmaine Phillips  
[REDACTED] Gordon Head Rd  
[REDACTED]





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## **ECOLOGICAL SITE CHARACTERIZATION**

**4351 Gordon Head Road, Saanich, B.C.**

**Prepared for Confidential SERC Client**

**April 5, 2016**

### **1.0 Introduction**

This report is prepared on behalf of a confidential SERC Client who, having reviewed the tenor of ongoing discussions with Saanich with respect to the restriction of use on the subject property, has requested the conduct of an independent professional analysis of the ecological character of the subject property.

It is the view of the client that it is a widely accepted premise that if the ecological attributes of a property situated within the EDPA, or portions thereof, are found not to be ecologically unique, or sensitive, or significant, or realistically restorable as a result of analysis by a Qualified Environmental Professional (QEP) i.e., RP Bio, PAg, RPF, PLA, then there is no scientific or technical justification for it (or portions thereof) to remain within and subject to the EDPA. Conversely, such an analysis will confirm what could and should remain within the EDPA, if found to be ecologically warranted.

The client has cleared the undersigned to authorize the distribution and use of this report in relation to any consideration of the subject property by municipal government.

### **2.0 The Subject Property**

The subject property located at 4351 Gordon Head Road, occupies a relatively narrow strip of rocky shoreline at the north end of Gordon Head Road. It is owned by Chris and Charmaine Phillips. This property was examined previously and separately by a non-"QEP" Biologist in 2012 and a by a Registered Professional Biologist in 2015. The resultant reports have intentionally not been viewed by the undersigned. The subject site was visited and examined by the undersigned on March 29, 2016 in the company of Chris Phillips.

## **2.1 Site Description**

The property, which covers approximately 0.61 hectares (1.5 acres), is located at Gordon Head in Saanich Municipality, approximately 8 kilometres northeast of the centre of Victoria. It is situated between the shore of Haro Strait which lies to the directly to the east and Gordon Head Road which borders the adjacent properties to the north and west. A private residence with associated gardens, outbuildings and a gravelled parking area occupies much of the upper, landward side of the property. There is a septic field and associated infrastructure in a deep soiled area below the house.

## **3.0 Climate**

Gordon Head, like the rest of Saanich, is characterized by a Mediterranean type of climate with warm, dry summers and moist but only moderately cool winters with little or no snow. Climatic figures for the Gonzales Bay weather station, located near the Strait of Juan de Fuca at an elevation of 70 metres a.s.l. and approximately 7 kilometres to the south south-west show a mean annual precipitation of just over 650 millimetres with a maximum of 122 millimetres in December and a minimum of 12 millimetres in July. Mean temperatures for these months are 5 degrees and 15.5 degrees Celsius respectively. Owing to the immediate proximity of Haro Strait, temperatures at the site may be slightly moderated with higher minima and lower maxima. It is also conjectured that precipitation figures may be slightly lower than at Gonzales, particularly during the summer months. Owing to the property's location and exposure, winds will likely be severe at times.

## **4.0 Terrain**

The elevation ranges from sea level at the base of the cliff frontage to approximately 15 metres above sea level (a.s.l.) at the top (western boundary) of the property. Overall, the terrain slopes steeply in an easterly or north-easterly direction toward Haro Strait, terminating in an essentially vertical cliff 5-6 metres in height above the water. However, slopes on the property are not constant, and it contains several flat to gently sloping terraces alternating with areas of relatively steep gradient.

## 5.0 Geology and Soils

The subject property is situated at the top of a bedrock cliff. From exposures along Haro Strait, it is likely that the surficial layer over much of the property consists of glacial of varying depths over basalt bedrock, probably with the addition of some colluvium from the low cliffs to the west. Micro-terrain on the property is quite uneven and there are several almost level deep-soiled terraces of substantial size, interspersed with steeper areas of presumably much thinner soil grading into exposures of bare rock.

## 6.0 Surface Drainage and Water Bodies

There are no indications of any natural or modified water bodies on the property. There was some evidence, however, of rainwater and/or surficial drainage accumulation in small convexities (ephemeral pools) in the deep soiled portions of the noted terraces.

## 7.0 Vegetation

In common with the whole of the Saanich Peninsula, the subject property lies within the Moist Maritime Subzone of the Coastal Douglas Fir Biogeoclimatic zone which is characterized by warm dry summers, and moist but only moderately cool winters. Although exact delineation of the site series originally characterizing the property is rendered difficult by the highly variable terrain and by the very high level of invasion by non-native and/or weedy plant species, it is discerned that three site types once formed the subject property - Fescue-Camas(FC) meadows; Garry Oak-Brome(QB) upper slopes, and Cladina-Selaginella (CORock Outcrops) - now present mostly in a highly modified form, and either in discrete patches, or more commonly forming a mosaic.

The physical character of the non-developed areas of the property is representative of the Coastal Bluff Sensitive Ecosystem type as defined within the joint Federal/Provincial Government Sensitive Ecosystem Inventory: East Vancouver Island and Gulf Island.

However, while the property is a classic Coastal Bluff/Coastal Cliff in location and configuration, the size and numbers of the areas of moist deep soil are somewhat unusual. The native vegetation which would normally characterize such an ecosystem has been largely eradicated, with the few exceptions of a single grove of stunted and wind-twisted Garry Oaks(*Quercus garryana*), a pair of young Broad-leafed



Maples (*Acer macrophyllum*), and widely scattered specimens of only a few of the many typical coastal flowering plant species, mosses, and lichens. These are now almost entirely restricted to the scattered “islands” of thin soil and to the frequent rock outcrops, and in the case of Camas, to a few of the deeper soiled areas. Flowering species noted included Blue-eyed Mary (*Collinsia parviflora*), Camas (*Camassia sp.*), Owl Clover (*Orthocarpus sp.*), Wild Onion (*Allium sp.*) and Stonecrop (*Sedum sp.*), although a greater number of native species would undoubtedly been evident slightly later in the year. A very few shrub species characteristic of such sites were noted, including Snowberry (*Symphoricarpos albus*) and an occasional specimen of Tall Oregon Grape (*Berberis aquifolium*). As is normal for sites of this nature, moss species on the outcrops were dominated by *Polytrichum juniperinum* and *Rhacomitrium canescens*.

Virtually the whole of the moister and deeper soiled portions of the property is dominated by a variety of introduced grass, herb, or shrub species including, in particular, Himalayan Blackberry (*Rubus discolor*) (much of which appeared to have been recently cut back to the root), English Ivy (*Hedera helix*), Orchard Grass (*Dactylis glomerata*) and other similarly aggressive types. In some of the thinner soiled areas, Scotch Broom (*Cytisus scoparius*) appears to be taking hold, especially at the south end of the property. There is a very large patch of the introduced and aggressive St. John's Wort (*Hypericum sp.*) immediately below the parking area. It appears that this may be the remnant of an old planting. Identification of many of the herbaceous species on the property was rendered difficult not only by the earliness of the season but also by extremely heavy grazing and browsing by both Coast Deer (*Odocoileus hemionus columbianus*) and, reportedly, by introduced Rabbits – likely Eastern Cottontail (*Sylvilagus floridanus*).

## **8.0 Wildlife**

As noted above, there was evidence of extensive Coast Deer browsing on the shrubs and low vegetation present on portions of the property and of extremely heavy grazing by deer and, reportedly, by introduced Rabbits – likely Eastern Cottontail (*Sylvilagus floridanus*). Several Canada Geese (*Branta canadensis*) were seen overflying the property, No evidence of their grazing or nesting was seen.

## **9.0 Conclusions**

### **9.1 Ecological Character & Sensitivity**

The Sensitive Ecosystems Inventory considers the Coastal Bluff/Coastal Cliff sensitive ecosystem type to be one of the scarcer categories in its classification, although it is far less uncommon on the coast southern Vancouver Island and the adjacent Gulf Islands than it is further to the north. Unfortunately, while sites which will once have been characterized by this ecosystem type are not uncommon in the Greater Victoria area, these very have proven to be most desirable for residential and recreational

development as a consequence of their scenic qualities and proximity to the ocean. Owing to their generally thin soils and preponderance of flowering herbaceous vegetation, they are also far more vulnerable to disturbance than are some of the other Sensitive Ecosystem categories (a fact amply illustrated by the subject property). A portion of the subject area was identified and mapped as Sensitive Ecosystem in 1993-1994 without having undergone a field check to verify the validity of that classification. However, the invasive-dominated plant communities now covering most of the subject property are no longer ecologically natural and therefore cannot be viewed as sensitive.

However, as with many properties on which there remains no intact natural or sensitive ecosystems, the subject property contains several environmental features which merit avoidance from major land altering disturbance in order to ensure their sustained retention on the site. On this property, these include a number of “islands” of exposed bedrock or very thin soil and remnants of deeper soiled terraces remaining on the property which do retain a limited amount of their natural ecological integrity. In addition, the essentially unvegetated vertical or near vertical Coastal Cliff variant of Coastal Bluff ecosystem immediately adjacent to the shore of Haro Strait shows relatively little sign of any major disturbance. Also notable is the small grove of Garry Oaks located on the mid terrace of the property. While their associated understory contains absolutely no semblance of Garry Oak ecosystem, and while the trees *per se* are adequately protected via the Saanich Tree By-law, avoidance of this grove to the extent circumscribed is warranted to ensure that no subsurface excavation with the potential to harm the roots of the present Garry Oaks will occur on this property. In total, these features encompass a scattered area of 0.18 ha (0.45 acres) (Figure 1).

It is these areas that would be identified for prescribed avoidance measures if this Ecological Characterization was to be extended into a Project Environmental Assessment of any land altering project proposed for the subject site. That said, however, it is emphasized that the excessive all-restricting measures of the EDPA are neither warranted nor desirable here as a protective vehicle in that such areas need not be precluded from sound environmentally based routine maintenance supported by a formal commitment on the part of the property owner to not subject these areas to any form of development or land altering activities in the course of his present and future land management on the subject property.

### **In Terms of the Prevailing Saanich Standards:**

~ Ecosystems at risk are those that can support ecological communities which are considered to be provincially at risk as designated by the B.C. Conservation Data Center.

~ Sensitive Ecosystems are those that are at-risk or are ecologically fragile.

~ The vegetation species composition and structure must fall within the expected range of the defined plant association before it is considered an occurrence of that particular plant association.

~ The ecosystem occurrence itself must have sufficient ecological integrity to be sustained in the foreseeable future if it is to have practical conservation value.”

~ Sensitive ecosystem guidelines seek to conserve seven sensitive ecosystems in a relatively natural state.

### **Contextual Findings:**

- With the exception of the noted scattered parcels of relatively undisturbed rock and/or thin soil and the noted Coastal cliff variant , the subject property contains no sensitive ecosystem in anything even approaching a relatively natural state;
- The vegetative communities throughout the property uniformly meet the poor ecological condition classification. This is due to the dominance of invasive species on virtually all parts of the property and to the ongoing contribution of severe over grazing by deer and rabbits.
- None of the ecological communities present on the property meets the BC provincial “at risk definition”.
- The Coastal Bluff Ecosystem on this property is in not now in a natural state and as such cannot be viewed as sensitive, although it does retain the physical configuration of such an ecosystem type.



**FIGURE 1. 4351 Gordon Head Road  
 – Vegetation Character with Land Alteration Avoidance Commitment Areas Indicated  
 by Red Boundary**

4351 GORDON HEAD ROAD – LANDSCAPE FEATURES	
1	Garage
2	House
3	Patio
4	Driveway & Parking
5	Septic Pump House
6	Xeric Garden
7	Fir Forest & Scrub
8	Dense St. John's Wort
9	Garry Oak Grove
10	Introduced Grasses & Pathway
11	Introduced Grasses with Blackberry & Ivy
12	Rock with Broom-Blackberry Shrub Mosaic
13	Deep Soiled Terraces with Introduced Grasses & Camas
14	Grassed Thin Soil with Bedrock Outcrops
15	Grassed Thin Soil with Broom
16	Bluff with bedrock and Sparse Vegetation



## 9.2 The Potential For Ecological Restoration

It is clear that the upper portion of the property, now occupied by the house and its infrastructure and introduced plantings, has been wholly compromised and that any restoration or rehabilitation is, from any practical standpoint, wholly inconceivable.

With respect to the mid and adjacent lower portions of the property any attempt to restore these areas to something approaching their original state, would entail an active process involving an extensive and continuous amount of effort and work (cutting, uprooting, planting and weeding) over a very long period of time as a consequence of the very aggressive nature of some of the invasive species now occupying the site. Indeed, it is likely that some of these non-native species, such as the Hairgrasses (*Aira spp.*) and various Brome Grasses (*Bromus spp.*) have now become to all intents and purposes naturalized and could never be wholly eradicated. Judging from similarly heavily invaded sites around the Victoria coastline, such as the Dallas Road waterfront, natural regeneration of native plant cover will occur only very slowly, if at all.

As to the lower portion of the property, it is noted that the above statements do not apply to the vertical or near vertical Coastal Cliff variant of the Coastal Bluff ecosystem fronting the property, which shows relatively little sign of any of the major types of disturbance.

Any areas on this property that would be required to be protected via EDPA restriction of all activity thereon will, over a very few years, inevitably and most certainly will develop a dense understory of invasive grasses and shrubs that are already well present. The natural plant communities that once characterized this property will not return to their natural state without the application of significant costly and time consuming restoration efforts. Many areas currently identified as being ESA sites within the EDPA – including Coastal bluff meadow sites - are now neither sensitive nor can they ever be realistically restored. To “restore” such areas would require the re-introduction of ecosystem processes that led to the creation of these habitats over the past 10,000-12,000 years, including periodic fire, and possibly tending by First Nations.

Without significant and expensive site modification, it is unrealistic to expect that a property modified by decades of colonization by invasive grass species can be readily returned to anything near a natural ecosystem without significant costs and an ecological knowledge that is beyond that of an average homeowner. It is unfortunate but true that not every site that constitutes a Coastal bluff landscape can or should be rehabilitated. This applies to both residential and public properties.

The potential for realistic restoration of the degraded and /or altered upper and mid portions of this property to any semblance of a natural coastal bluff ecosystem under the passive restrictive requirements of the EDPA is virtually zero; except over an extremely long multi-century time frame.

### 9.3 The Prevailing Restrictive Covenant

A restrictive covenant was placed on a 0.268ha (0.66 acre) portion of the subject property in September of 2014 (Figure 2). The subject covenant is apparently intended to restrict development from assumed sensitive areas of the property presumably warranting environmental protection. This covenant was demanded by Saanich via the Saanich Environment Department as a prerequisite condition to a pending Building Permit application by the owner to upgrade the septic field on the subject property (C. Phillips , Pers Com 2016). The noted covenant (0.268 ha) covers 43.9% of the subject property (0.61ha). The intent of said covenant is stated as

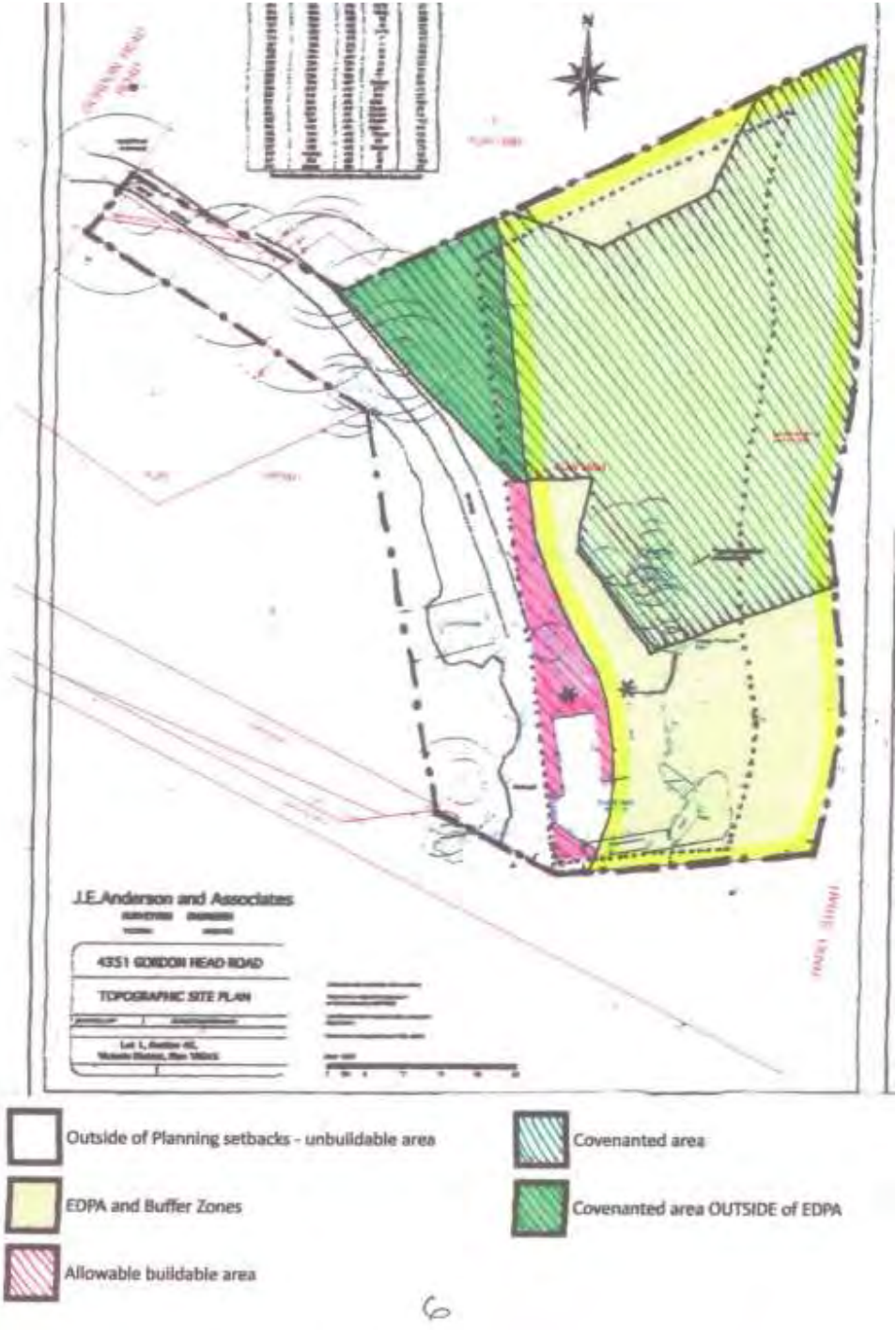
- (a) to protect, preserve, conserve, maintain, enhance or restore the Protected Area in its natural state as of the reference date of this Agreement; and*
- (b) to prevent any occupation or use of the Protected Area that will impair or interfere with the natural state of the Protected Area.*

In fact, the noted “protected area” on the subject property, i.e., that presently within the EDPA, is not now in a natural state and has no temporally realistic prospects of being restored to a natural state. Accordingly, it directly follows that the possibility of occupation or use of the “protected area” either impairing or interfering with its “natural state” is non-existent. The intent and purpose of said covenant is thus meaningless and thus wholly invalid.

Of the covenanted area:

- 0.032ha (0.08 acre) is situated outside of the EDPA, and in no way constitutes a sensitive environmental area warranting protection;
- Of the 0.236 ha. (0.583 acre) covenanted within the EDPA ,virtually none is either ecologically unique, sensitive or realistically restorable, thus rendering these areas ineligible for further inclusion in the EDPA and undeserving of covenanted status.

There is certainly no basis for Saanich demanding a restrictive environmental covenant on the subject property at all, let alone as a price for a being eligible to be approved for the upgrading of needed services on the subject property. Neither the ecological character nor the extent of the presently covenanted area is in any way environmentally justifiable or supportable for such an action. It is therefore recommended that immediate steps be taken to remove the noted covenant from the subject property.



**FIGURE 2. 4351 Gordon Head Road – with Covenanted Areas and EDPA Areas Indicated**

#### 9.4 Re Ocean-front EDPA Inclusion Boundaries

Marine Backshore is defined as that part of the shore lying above the mean high tide line and influenced by marine processes. The backshore is dry under normal conditions, is often characterised by berms or cliffs and is often without vegetation. The backshore is only exposed to waves under extreme events with high tide and storm surge. The backshore boundary is technically the line that forms the boundary between the land and the highest influence of the marine waters, i.e., the foot of the cliff or the base of the dunes.

Indeed, the adoption, re-definition and use of the prevailing DFO Canada marine shore setbacks for the purposes of the Saanich EDPA are noteworthy. From a marine shore conservation perspective, the 15meter DFO non-commercial setback and the 30m DFO commercial-industrial setback are intended as a buffer between foreseen and proposed building activity and the functional marine foreshore. These setbacks measure a linear distances shoreward from the mean high tide line - not from property boundaries *per se*-, and are in force in order to ensure that there is minimal to no risk of activities on the backshore interfering or disrupting the shore processes, structure and functions of the adjacent marine system, via the any of the following:

- The disruption or destruction of key sub-tidal, inter-tidal and backshore habitats;
- The interruption or impairment of longshore and onshore materials drift and deposition
- The mobilization of silt and or contaminants into the marine environment;
- Impacts consequent to any of the above on fish, marine fauna and wildlife and their shore and marine habitats.

It is a fact that depending on the physiographic and geo-morphologic configuration of the shore and its dynamic nature at any given location, the setback warranted could justifiably be well reduced (or extended) from a rote arbitrary 15m requirement. On eroding shores such setbacks help to ensure that buildings & structures are sited a reasonable distance from vulnerable shores and that there will be adequate room to implement appropriate shore protective works with minimal interference with shore processes. On sheer and sloping cliff fronts, such setbacks may well be motivated by geo-technical and safety concerns, rather than by ecological constraints *per se* .

In light of the above, the rote application of EDPA marine shore setbacks as 15m back from the shoreward property line is ill conceived and un-necessary. This is especially evident on properties already fronted by seawalls of various form and composition, where any connection of the backshore on the property to the structure and function and process of the adjacent beach backshore and/or foreshore has long been severed.

On current District of Saanich Mapping, the 15 meter EDPA shore setback fronting the cliff on this property is presented as a lateral linear strip into Haro Strait from the base of the cliff....an area of Provincial foreshore and sub-tidal nearshore, well beyond the jurisdiction of the District of Saanich. In fact, at this point of the Saanich coast, the intertidal zone constitutes a largely vertical rise and fall on



the face of the rock cliff, not a lateral egress and ingress into Haro Strait. If mapped correctly from the mean high tide line to a lateral point 15 meters landward, this strip would properly cover the full extent of the present cliff face to a point somewhere above the cliff top. It is indeed noteworthy that on the subject property by virtue of its location, its steep configuration, and associated safety factors, the vegetated edge of the cliff top, the entire cliff face, and the fronting inter-tidal zone are wholly precluded from human use and development and as such from environmental risk to Haro Strait. The manifestation and use of the EDPA on this portion of the Saanich coast is therefore largely inapplicable and unnecessary. Indeed, as presently administered, there is no clear indication or rationale regarding what Saanich is attempting or desiring to protect on any given marine-front property.

### **10.0 Recommendation re EDPA Disposition**

Based on the conclusions of the above analyses, it is recommended that:

- In that the 0.39ha (0.96 acres) of the subject property presently within the EDPA, has no unique, sensitive or realistically restorable ecological attributes, the entirety of the subject property at 4351 Gordon Head Road be immediately removed from the EDPA;
- Immediate steps be taken to remove the noted excessive and arbitrarily established Restrictive Covenant of September 2014 from the subject property;
- Given the physiographic configuration and character of the backshore cliff front of the property, and given the adequate protection that is afforded by that and by prevailing federal regulation, the present Saanich marine shore setback is removed from the subject property.
- A notarized Statement of Commitment from the property owner be acquired and retained to the effect that the 0.18 ha (0.45 acres) area marked in red on Figure 1, encompassing environmental features which merit avoidance from major land altering actions will not be subjected to any form of development or land altering activities, and that routine yard care and maintenance conducted on those areas will be undertaken in accordance with sound diligent environmental best practices. These entail scattered areas of bedrock and /or thin soil and a deep soiled terrace which retain some semblance of their original ecological integrity; the mid-terrace Garry Oak grove; and the cliff front backshore of the property.

*Original signed by:*

**J .P. Sector , R,P. Bio  
Systems Ecologist & Natural Resource Planner**

**W. F. Hubbard, P Ag, ret'd  
Plant Ecologist & Land Use Analyst**

## Literature Consulted

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Adriane Pollard

May 5, 2015 at 9:42 AM



To: Phillips Charmaine

Re: 4351 Gordon Head Road - Phillips proposed residence

Hello Chris and Charmaine,  
I have checked my records and I don't have anything to show what version of the assessment guidelines were provided to Matt. The assessment guidelines at that time were in a draft format and under review by various biologists and staff. I have attached the final draft of that document but it may not be exactly the same. Have you asked Matt for this information? I note from his report that he does not reference Saanich's guidelines but instead used provincial references.

Adriane

>>> Chris & Charmaine Phillips [REDACTED] 5/4/2015 4:05 PM >>>

Dear Adriane,

I wonder if you'd be so kind as to send us the assessment guidelines for Sensitive Ecosystems that were used on our property in 2012 by Matt Fairbarns from Aruncus Consulting.

Thanks so much,  
Chris and Charmaine



Draft Guidelines for  
Verifying an...daries.doc

## **Guidelines for Verifying and Defining Boundaries of Sensitive Ecosystem Inventory Polygons In the Environmental Development Permit Area (#29)**

### **Background**

In order to qualify for an exemptions 13, 14, and/or 15; or to assist in meeting the Environmental Development Permit Area (EDPA) guidelines, a report should be completed by a Registered Professional Biologist or other appropriate professional approved by Saanich. This document provides guidelines to assist in completing reports that meet expectations, as well as identifying key publications that should be used. Biologists are encouraged to contact Saanich Environmental Services before undertaking any work.

The EDPA Atlas includes the Sensitive Ecosystem Inventory (SEI), Conservation Data Centre at risk element occurrences, the marine backshore, isolated wetlands and watercourses, and wildlife trees. These guidelines address SEI mapping only. To see the atlas, guidelines and other useful information, please see <http://www.saanich.ca/living/natural/planning/edpa.html>.

The SEI inventory is a Provincial/Federal initiative produced in 1998. It is recognized that the inventory is incomplete and accuracy can be improved in some locations, either due to changes in the landscape or errors in aerial photo interpretation. The Disturbance Mapping product updated many SEI polygons and identified areas of disturbance between the time of initial mapping and 2002.

When SEI mapping was first produced, standards and criteria were under development. However, the 2006 Standard for Mapping Ecosystems at Risk in British Columbia included applicable mapping and reporting standards used in Terrestrial and Predictive Ecosystem, and added many more Sensitive Ecosystems Classes and Subclasses. In order to recommend changing a SEI boundary or potentially eliminating/adding an SEI polygon, the same standards must be met.

### **Reference Documents**

Understanding which standards, forms, and other factors to use may be confusing. The best documents to use to understand the standards are:

1. Standard for Mapping Ecosystems at Risk in British Columbia: An Approach to Mapping Ecosystems at Risk and Other Sensitive Ecosystems, Ministry of Environment, Resources Information Standards Committee, December 5, 2006, Version 1.0

This document describes the following steps for the biologist:

- Compile existing known information (e.g. CDC element occurrences, CDF TEM products, SEI mapping, etc)
- Aerial Photo Interpretation utilizing the most current imagery
- Field Sampling using the following forms:
  - Site Visit Form (FS1333)  
[http://www.for.gov.bc.ca/hre/becweb/Downloads/Downloads\\_Forms/FS1333\\_2011.pdf](http://www.for.gov.bc.ca/hre/becweb/Downloads/Downloads_Forms/FS1333_2011.pdf)
  - Conservation Evaluation Form (condition, landscape context which is still natural;  
[http://www.env.gov.bc.ca/cdc/documents/Cons\\_Eval\\_Form\\_Aug09.pdf](http://www.env.gov.bc.ca/cdc/documents/Cons_Eval_Form_Aug09.pdf)
- Identification of ecosystem type (based on field sampling)
- Evaluate each ecological community for ecological sensitivity and at-risk status and determine which class and subclass of Sensitive Ecosystem it belongs to, if any.



- Reporting (as per 1-6 of section 2.11 of document #1)

2. Field manual for describing terrestrial ecosystems. -- 2nd ed. (Land management handbook, 0229-1622; 25) BC Ministry of Forests and Range, B.C. Ministry of Environment, 2010.

3. Sensitive Ecosystems Inventory: East Vancouver Island and Gulf Islands 1993 – 1997, Volume 2: Conservation Manual, Pacific and Yukon Region 2000, Canadian Wildlife Service Technical Report Series Number 345, 2000. For More information: <http://www.env.gov.bc.ca/sei/>

This document describes the ecosystems for identification (see page 4). Please see the original document for complete information.

### **Secondary Assessment**

While most local terrestrial ecologists will be familiar with the SEI types, difficulties arise when ecosystems are small, disturbed, or urbanized. A methodology and documentation is needed in order to validate recommended changes. If an area is considered an SEI polygon, a secondary assessment is needed to determine a practical, long-term conservation value for Saanich. Within the scope of SEI, Saanich's ecosystems are disturbed by a variety of factors and located within a densely populated region. The biologist must consider and report on the criteria (page 3) which have been adapted from the CDC's Conservation Evaluation Form (found in *Standard for Mapping Ecosystems at Risk in British Columbia*) in consultation with provincial and federal representatives. The methodology was further developed by our consultant while working on our ESA Mapping project in 2012. Any suggestions for improvements to the methodology are welcome.

### **Reporting**

A report can be submitted to the Manager of Environmental Services for consideration. The report should include completed forms, field notes, and a sketch map if changes are proposed. The final recommendation of the biologist should be based on the methodology plus any other ecological factors that the biologist feels are significant, such as wildlife habitat. Please note that Saanich Council has adopted the EDPA atlas and any proposed changes must be scientifically supportable yet sensitive to the context of urban ecology and community values.

### **Contact Information**

If you have any questions, please contact Adriane Pollard, Manager of Environmental Services Planning Department, District of Saanich, 770 Vernon Avenue, Victoria, BC V8X 2W7  
Adriane.pollard@saanich.ca  
Phone: 475-5494, ext 3556 Fax: 475-5430

## Conservation Value Assessment

<b>Landscape context (L) <sup>1</sup></b>	
Excellent – Score 4	The surrounding landscape has <25% fragmentation due to roads, urban areas, and rural settlements, and no recent industrial activity. Site occurs within a larger landscape with some formal protection status or protected by conservation covenants.
Good – Score 3	Up to 50% of the surrounding landscape is fragmented. The larger landscape context provides some protection from anthropogenic disturbance, although changes to natural disturbance regimes exist (fire suppression; flooding control).
Fair – Score 2	More than 50% of the surrounding landscape is fragmented and affected by anthropogenic influences. Development may affect the ecosystem’s existence.
Poor – Score 1	Less than 15% of the surrounding landscape consists of natural or semi-natural vegetation, or the ecosystem is completely isolated from natural areas and protected areas.
<b>Condition (C) <sup>2</sup></b>	
Excellent – Score 4	Minor cover of exotic species occur in the site (<10%). Forested ecological communities are climax vegetation. The community may have minor internal fragmentation (<5%). Wetland and riparian communities have natural hydrology regimes. No artificial structures occur at the site.
Good– Score 3	Some cover of exotic species (10 - 40%). Forested ecological communities may be late seral vegetation. Wetland and riparian communities have largely natural hydrology regimes. There could be moderate internal fragmentation (<25%).
Fair– Score 2	Significant cover of exotic species (40 - 75%). Forested ecological communities typically are young seral vegetation after anthropogenic disturbance. There may be significant alterations of hydrology regime in wetlands and riparian ecological communities. There is moderate internal fragmentation (<25%).
Poor– Score 1	Exotic species dominate a vegetation layer or may total >75%. Significant anthropogenic disturbance, such as removal of soil material or vegetation. There are significant alterations to the hydrology regime in wetlands and riparian ecosystems. High internal fragmentation (>25%), and/or presence of artificial structures or barriers.
<b>Restoration potential (R)</b>	
Excellent – Score 4	The natural species, soils and disturbance regime are mostly intact, only a minor control of invasive species is needed.
Good– Score 3	The natural species, soils and disturbance regime are present, but sustained invasive species work is needed to achieve restoration.
Fair– Score 2	Alterations to the natural disturbance regime require major work. The removal of invasive species will leave major portions of exposed soil, requiring plantings. Many years of work will be needed, to achieve a complete natural appearance.
Poor– Score 1	Soils and vegetation were removed, and site is dominated by alien invasive species. Site may be affected permanently.

<sup>1</sup> The area considered in Landscape Context takes varies depending on the size of the site and the type of ecosystem:

- ⤴ For streams and wetlands: the local catchment.
- ⤴ For smaller terrestrial sites (<1 ha): 100 ha
- ⤴ For larger forested sites: 500ha

2 Condition evaluation criteria primarily takes into account the structural integrity of the site or how intact the components of the ecosystem are ( typical species). In other words, how close the site resembles the description of the ecosystem type it represents.

DRAFT

## Summary of Sensitive Ecosystem Inventory Classifications for Saanich

### **CB Coastal Bluff**

General Description: rocky shorelines with grasslands, rocky shorelines with mosses, vegetated rocky islets that are dominated by grasses, forbs, mosses and lichens; beginning at the water's edge to the lands above the high tide mark.

Types: CB and CB:cl (coastal cliffs)

Soils: Thin to no soils. Glacial outwash deposits. Usually sand to sandy-loam, often with high salinity

Vegetation: Adapted to hostile environmental conditions such as salt-spray from crashing waves, winds, storms and heat. CB lack continuous vegetation cover over their entire landforms; the remainder is exposed bedrock. May be interspersed with other SEI ecosystems such as HT, WD, OF, and SV.

Common Plants: Garry Oak, Arbutus, Douglas-fir, native roses, Oceanspray, Salal, Stonecrops, licorice fern, native onions, Harvest Brodiaea, mosses, lichens, Scotch Broom.

### **SV Sparsely Vegetated**

General Description: Discontinuous vegetation interspersed with bare sand, gravel, or exposed bedrock. Landforms are often in a dynamic state of change due to factors such as water level changes, sediment deposition, sediment erosion and mass wasting.

Types: SV:sd (coastal sand dunes); SV:sp (coastal sand and gravel spits); SV:cl (inland cliffs and bluffs)

Soils: in formative years, a lack of distinct soil horizons and organic layers; shallow soils, well drained

Vegetation: newly- and slowly-developing plant communities that are formed by species adapted to hostile environmental conditions, low diversity but specialized, often stunted. Usually interspersed with other SEI ecosystems such as HT: ro and OF.

Common Plants: Dune Grass, Beach Pea, Common Strawberry, Yellow Sand Verbena, Grasses and Mosses. Cliffs can have trees and shrubs such as Garry Oak, Arbutus, Douglas-fir, native roses, kinnikinnick, and ferns.

### **HT Terrestrial Herbaceous**

General Description: open wildflower meadows and grassy hilltops with herbs—grasses and forbs—and mosses and lichens; outside the salt spray zone near shorelines; summits of local hills and mountains.

Types: HT (grass-forb dominated areas with less than 10% tree cover and less than 20% shrub cover); HT:ro (grass-forb areas interspersed with rocky outcrops); and HT:sh (grass-forb areas with more than 20% shrub cover).

Soils: shallow and rapidly draining

Vegetation: predominantly herbaceous vegetation, continuous except where interspersed with bare rock outcrops, minimal tree and shrub cover. When found near shorelines, there may be an overlap with species common to the coastal bluff ecosystem, or may be interspersed with other SEI ecosystems such as WD, OF, and older second growth forest. May also include moisture-loving species in seepage areas and vernal pools.

Common Plants: Garry Oak, Arbutus, Douglas-fir, Shore Pine, Oceanspray, Snowberry, Stonecrop, Sea Blush, Fawn Lily, Satin Flower, Camas, Miner's Lettuce, grasses, and many mosses.

### **WN Wetland**

General Description: Characterized by daily, seasonal, or year-round water, either at or above the surface, or within the root zone of plants. Wetlands are mosaics of several wetland classes, and many are transitional between more than one wetland class.

Types: WN:bg (bog), WN:fn (fen), WN:ms (marsh, including coastal salt and estuarine marshes), WN: sp (swamp), WN:sw (shallow water), and WN:wm (wet meadow).



Soils: Wetlands are generally divided into peatlands (bog, fen) and mineral wetlands.

Vegetation: Plant communities are adapted to wet conditions; some are tolerant of complete submergence whereas others depend on drier conditions during the summer growing season.

Common Plants (peat): Shore Pine, Western Hemlock, Western Red Cedar, Labrador Tea, Hardhack, Salal, Sedges, Mosses.

Common Plants (mineral): Western Red Cedar, Alder, Pacific Crabapple, Willows, Red-osier Dogwood, Salmonberry, Skunk Cabbage, ferns, sedges, cattail, reed canary grass, pondweeds, mosses

### **RI Riparian**

General Description: Adjacent to lakes, streams, and rivers, where increased soil moisture supports plant communities and soils distinct from surrounding terrestrial areas. Commonly linear corridors. Includes gullies which may not be associated with surface water flow, but maintain moist soil conditions. Width may vary from a few metres to greater than 100 metres. Narrow bands of streamside forest surrounded by agricultural fields and disturbed urban stream corridors were not typically included as riparian ecosystems.

Types:

RI:1 (Sparse/bryoid—moss and lichen dominated, <10% treed, <20% shrub/herb)

RI:2 (Herb—herb dominated, <20% shrub, <10% treed)

RI:3 (Shrub/herb—>20% shrub, <10% treed)

Pole/sapling RI:4 (Trees >10m tall, densely stocked; shaded understorey) ,

Young forest RI:5 (Uniform aged trees, generally less than 80 years old, dense understorey)

Mature forest RI:6 (Layered canopy, generally 80 to more than 200 years old, well developed understorey)

Old Forest RI:7 (Trees >250 years old, structurally complex, snags, coarse woody debris)

Soils: Gravel, silt, cobble bars, rocky, to rich organic soils.

Common Plants: Red Alder, Western Redcedar, Bigleaf Maple, Western Hemlock, willows, Red-osier Dogwood, Salmonberry, Indian Plum, ferns, mosses,

### **WD Woodland**

General Description: Open deciduous forests of Garry oak, mixed stands of Arbutus and Douglas-fir, or pure stands of Trembling Aspen. Most occur on rocky knolls, south facing slopes, and ridges where summer soil moisture is low and shallow soils are common. Trembling Aspen woodlands are an exception, and are typically associated with moist, rich sites. Mature big-leaf maple may also be the dominant tree species. Typically interspersed with other SEI ecosystems such as CB and HT.

Types:

*Garry Oak Woodlands* (open oak woodlands and meadows, as well as more densely forested oak/conifer plant associations)

Common Plants: Garry Oak, Douglas-fir, Arbutus, Oceanspray, Snowberry, Camas, Spring Gold, Satin-flower, ferns, mosses, grasses.

*Arbutus—Douglas-fir Woodlands* (dry sites with rocky, nutrient-poor soils; typically arbutus with Garry oak and Douglas-fir)

Common Plants: Arbutus, Douglas-fir, Garry Oak, Dull Oregon Grape, Salal, Snowberry, mosses.

*Trembling Aspen Woodlands* (common on disturbed sites with moist soils)

Common Plants: Trembling Aspen, Black Hawthorne, Hardhack, Indian-plum, Snowberry.

## **OF Older Forest**

General Description: Conifer-dominated forests with an average tree age of 100 years or greater.

Types: OF:co (coniferous stands with less than 15 percent deciduous trees); OF: mx (mixed coniferous-deciduous stands in which deciduous trees occupied more than 15 percent of the canopy). OF has three prominent characteristics: large live trees, large standing dead trees, and large fallen trees. In Saanich, the biogeoclimatic subzone is the Coastal Douglas-fir, moist maritime subzone (CDFmm).

Soils: varied

Vegetation. Douglas-fir is the dominant tree on drier sites. On sites with higher precipitation and moister soil conditions, western redcedar is more common

Common Plants: Douglas-fir, grand fir, and western redcedar, seedlings, Ocean Spray, Salal, Sword Fern, lichens, mosses.