

DATE: August 30, 2017

FILE: 3350-20 / CP 1CV 17 & PJ 3CV 16

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

RE: Shoreline Protection Device Review Process - Official Community Plan Amendment

Purpose

To amend the Official Community Plan (OCP) to change the process for property owners seeking to install shoreline protection devices, both “hard” and “soft” approaches (Figure 1) from rezoning to development permit.

Policy Analysis

Sections 472, 475 and 477 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) enable local governments to adopt OCPs and outline procedures for their amendment, including consultation. Sections 484 and 485 of the LGA, establish a framework under which local governments can obtain information about the anticipated impact of a proposed development. The Comox Valley Regional District (CVRD) has a Development Approval Information (DAI) Area bylaw, being “Comox Valley Regional District Development Approval Information Bylaw No. 369, 2015”. Section 488 enables local governments to designate development permit areas (DPA) to achieve a range of OCP policy objectives, including protection of the natural environment and protection of development from hazardous condition.

Updating all DPA’s to incorporate “Greenshore” principles is an operational strategic priority of the board. This work is planned for 2018.

Executive Summary

- The OCP promotes restoration of shoreline resiliency through the adoption of best management practices, including a general prohibition on new “hard”, non-reflective structural interventions (e.g. seawalls, concrete groins, rip rap);
- Currently, the OCP requires that, prior to installing a shoreline protection device property owners must rezone their property to recognize the shoreline protection device as a permitted land use and obtain a development permit;
- The rezoning tool would establish a hardened shoreline as a permitted land use, however the long-term intent is to eliminate hardened shorelines wherever possible;
- Instead, the development permit tool, alone, will facilitate a more flexible and sustainable approach whereby owners can work toward developing a resilient shoreline;
- Staff recommends initiation of an OCP amendment to remove the rezoning requirement;
- A coastal resiliency initiative is underway and it will contribute to development of an integrated coastal shoreline management program for the CVRD;
- Staff will report progress at a later date, but a general scope of work is attached as Appendix D.

Recommendation from the Chief Administrative Officer:

THAT proposed Bylaw No. 489, being Amendment No. 1 to Bylaw No. 337, the “Rural Comox Valley Official Community Plan”, be granted first and second readings;

AND THAT proposed Bylaw No. 489, be referred to the external agencies identified in Appendix C of staff report dated August 30, 2017 for review and comment;

AND FINALLY THAT Comox Valley Regional District staff consult with First Nations on proposed Bylaw No. 489 in accordance with the referrals management program dated September 25, 2012.

Respectfully:

R. Dyson

Russell Dyson
Chief Administrative Officer

Background/Current Situation

Since 2011 the CVRD has had a “shoreline protection device” DPA. The DPA was created in response to increasing public frustration with “hard” devices that destroyed intertidal area habitat, blocked beach access during high tide, intercepted natural sediment transfer along the beach, and negatively impacted adjacent properties. The general intent of the DPA is to discourage the installation of shoreline hardening and prevent negative impacts of shoreline protection devices on a site-by-site basis. Since 2011, planning staff has reviewed approximately 12 applications for shoreline protection devices: the majority have included “hard” shore design. Staff has had some success working with applicants to “soften” proposals and incorporate features that enhance resiliency and conserve habitat values.

In 2014, OCP policy was introduced to prohibit new hardened shorelines. Language was also added to the shoreline protection device DPA that established two review processes for shoreline protection device development permit applications based on the design approach and related impact on the shoreline (i.e. “hard” versus “soft”). A requirement to rezone was also introduced and it is specifically this component that presents challenges to the CVRD in achieving the long-term objective of improved coastal resiliency.

Official Community Plan

The OCP confirms an intent to promote shoreline development best management practices that protect and restore coastline health. In part, this is related to climate change adaptation policy to develop strategies to create hazard resilient communities whereby people and natural systems can better withstand hazardous conditions including conditions arising from extreme storm surge.

The OCP prohibits new shoreline hardening, except by site specific rezoning. Within the shoreline protection device DPA guidelines there is a requirement for proponents of any type of shoreline protection device, including “soft” designs, to rezone their property to recognize their shoreline protection device as a land use. Appendix A contains the policy and development permit area guideline excerpts that convey the requirement to rezone.

A technical challenge arises with use of the rezoning tool, specifically entrenching a hardened shoreline as a permitted land use. Staff’s proposed OCP amendment (Appendix B) maintains the

intent of the OCP's natural environment and coastal areas policies, but addresses the unintended consequences of the rezoning tool.

Zoning Bylaw

Zoning is the primary planning tool to regulate land use. Among the unintended consequences that could result from recognizing shoreline protection devices as land uses is the creation of lawful, non-conforming status for existing hardened shorelines (including those that were installed prior to the creation of the shoreline protection device DPA in 2011). There are existing “hard” shoreline protection devices across the electoral areas that have created negative impacts. Over time, as owners may seek development permit approval to maintain or replace these devices, there may be opportunity to employ strategies to soften shoreline devices that will restore elements of shoreline resiliency, such as reintroducing a more natural beach profile to accommodate wave run-up versus vertical walls that direct wave energy to adjacent properties and eventually exacerbate erosion and beach scour. Once entrenched in zoning, it may be difficult to avoid defaulting to hard shore design.

Development Approval Information Bylaw

When the OCP was adopted, the CVRD did not have a DAI bylaw. This meant that it was often difficult to request impact assessment information about a proposed development. A DAI bylaw has since been adopted. DAI is information on the anticipated impact of a proposed activity or development. In respect to the installation of shoreline protection devices, it is clear that there are impacts on the natural environment as well as potential for impact on adjacent properties. Throughout the electoral areas, there are examples of shoreline protection devices that have created seriously negative impacts on adjacent private and public property. Through the development permit process staff can obtain impact information from qualified professionals: this is key as it can inform contextually appropriate design options.

Coastal Resiliency Initiative

Staff is working with a consultant to undertake a multi-year initiative to enhance shoreline resiliency within the electoral areas. The general scope of this project is attached as Appendix D. Key project objectives include:

- Classify and map shoreline types to identify best management practices for each shoreline type;
- Assess larger scale coastal processes by area to identify opportunities for conservation and restoration (e.g. low, medium and high energy zones; areas of erosion and accretion);
- Enable staff and elected officials to make science-based coastal management decisions;
- Monitor changes to the shoreline over time;
- Provide citizens with information resources in order to improve resiliency of private property, including shoreline data on the iMap system;
- Build on coastal citizens' existing knowledge of coastal processes and effects of intervention through public outreach;
- Develop a series of policy tools and strategies that protect the coastline and enhance resiliency.

Baseline data collection is underway. This data will help to define physical and biological attributes, identify existing conflicts (i.e. altered shorelines) and areas where restoration opportunities may exist. The data will be used to develop an integrated shoreline management program for the CVRD that can be used to inform decision making.

Options

The board may:

1. Accept staff's recommendation to initiate an OCP amendment to remove the requirement to rezone property to install a shoreline protection device and instead review all proposals through the development permit process only.
2. Maintain the status quo and require proponents of both "hard" and "soft" shoreline protection devices to apply for a site specific rezoning, followed by a development permit.

The technical differences between these two tools in the context of shoreline protection devices are discussed elsewhere in this report. The material differences between the two options relate to time and money for the property owner and the ability over the long-term to implement "soft" shore measures to address improved coastal resiliency in the face of a changing climate. Staff recommends option 1.

Financial Factors

The main costs associated with a CVRD initiated OCP amendment pertain to staff time and public notification. These costs will be borne by the CVRD. The cost of development permit and rezoning applications are defined in Bylaw No. 328, being "Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014".

Legal Factors

Staff's recommendation is consistent with the LGA.

Regional Growth Strategy Implications

The overall project of improved coastal resiliency is consistent with the objectives and policies of the RGS, specifically promoting the principle of precaution respecting ecosystem connectivity and restoration, and adapting to climate change.

Intergovernmental Factors

Staff recommends referral of proposed Bylaw No. 489 to the agencies and First Nations identified in Appendix C. In the review of shoreline protection development permits, staff works with the Ministry of Forests, Lands and Natural Resource Operations and the Ministry of Transportation and Infrastructure, as required.

Interdepartmental Involvement

There are no interdepartmental factors related to staff's recommendation, however, planning consults with engineering and building staff during the technical review of shoreline protection device development permit applications.

Citizen/Public Relations

An OCP amendment triggers a statutory public process that will be conducted in accordance with the planning procedures and fees bylaw (Bylaw No. 328).

In respect to the effect of removing the requirement to rezone, a zoning bylaw amendment application triggers a statutory public process; a development permit application does not. This is because issuance of a development permit is not discretionary. Provided that a development proposal complies with all of the guidelines in a DPA, the board (or delegate) must issue the permit. In the CVRD, development permits that have not been delegated to a CVRD officer are referred to the applicable electoral area Advisory Planning Commission (APC) for comment.

Prepared by:

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Attachments: Appendix A - “OCP policy and development permit language excerpts”
Appendix B - “Proposed Bylaw No. 489”
Appendix C - “External Agency and First Nation referral list”
Appendix D - “Coastal Resiliency Initiative – general scope”



Above: Before and after beach nourishment (soft shore) at Tyee Spit, Campbell River
Photo: B.C.P. Harrison

Below: Typical “hard” shore example, Thetis Island (N.B. “Before” photo in a pilot project to move towards “softening”)
Photo: Islands Trust



Figure 1: “Soft” and “Hard” Shore Design Examples

Appendix A

Shoreline Protection Device Policy and Development Permit Area Guidelines Excerpts

Official Community Plan policy that establishes that “hard” shoreline protection devices require rezoning:

Freshwater Policies

67(1) **Prohibit hardening of the shoreline** through the use of rip rap, concrete embankments and revetment walls, and other similar structural interventions that permanently alter the ecological function, disturb natural vegetation, and/or destroy fish habitat, including forage and spawning areas. Such development is prohibited **unless site specific board approval is obtained in the form of a rezoning.**

Coastal Areas Policies

70(8) **Prohibit the hardening of the coastal shoreline** through the use of rip rap, concrete embankments and revetment walls and other similar structural interventions that interrupt natural sediment transfer, disturb natural vegetation, redirect wave energy to adjacent properties and/or destroy fish habitat, including forage and spawning areas, **unless provided for by a site specific rezoning.**

Shoreline Protection Device Development Permit Area Guidelines

(That establish that all shoreline protection devices require rezoning regardless of design approach.)

The board delegates to the CVRD officers the issuance of development permits. Where an applicant has proposed the installation, replacement or repair of a shoreline protection device under these guidelines the design of the device should follow the soft shore and greenshore approach to foreshore development. **Prior to issuance of a shoreline protection device development permit a shoreline protection device must be a permitted use under the zoning bylaw.**

The board delegates to the CVRD officers through the delegation bylaw, the power to issue development permits. Where an applicant has proposed a shoreline protection device under these guidelines that follows the soft shore and greenshore approach to foreshore development, the permit will be processed through the delegation granted under the delegation bylaw.

Where an applicant is proposing the use or replacement of hard shore protection measures the development permit will be reviewed by the board. Development permits shall be issued in accordance with the following guidelines. Where it is anticipated that shoreline protection devices may cause erosion or other physical damage to adjacent or other properties, the development permit may not be issued.

Appendix B
Proposed Bylaw No. 489

Bylaw No. 489
Comox Valley Regional District

STATUS

Title: Rural Comox Valley Official Community Plan Bylaw No. 337,
2014, Amendment No. 1

Applicant: Comox Valley Regional District

Electoral Area: All

File No.: CP 1CV 17/PJ 3CV 16

Purpose: To amend the Rural Comox Valley Official Community Plan

Participants: All Electoral Areas



Application Received: **Date: N/A**

Electoral Areas Services
Committee: **Date:**
Recommendation:

Comox Valley Regional District Board: **Date:**
Decision:

Public Hearing: **Date:**

Comox Valley Regional District Board: **Date:**
Decision:

Comox Valley Regional District Board: **Date:**
Decision:

Schedule A

Section One Text Amendment

1. Part Two, Regional Objectives and Policies, section 67(1), “Freshwater policies” be amended by deleting the existing text;

“67(1) Fresh Water – policies

Prohibit hardening of the shoreline through the use of rip rap, concrete embankments and revetment walls, and other similar structural interventions that permanently alter the ecological function, disturb natural vegetation, and/or destroy fish habitat, including forage and spawning areas. Such development is prohibited unless site specific board approval is obtained in the form of a rezoning.”

and inserting the following new text:

“67(1) Fresh Water - policies

Generally prohibit hardening of the shoreline through the use of rip rap, concrete embankments and revetment walls, and other similar structural interventions that alter the ecological function and service of the riparian area, disturb natural vegetation, disrupt natural riparian processes, and/or destroy riparian habitat. Subject to receipt of development approval information from a qualified professional that demonstrates that shoreline hardening is required to protect life or a principal building on the property, and that impacts can be mitigated, the board may consider issuance of a shoreline protection device development permit.”

2. Part Two, Regional Objectives and Policies, section 70(8), Coastal Areas - policies” be amended by deleting the existing text;

“70(8) Coastal Areas – policies

Prohibit the hardening of the coastal shoreline through the use of rip rap, concrete embankments and revetment walls and other similar structural interventions that interrupt natural sediment transfer, disturb natural vegetation, redirect wave energy to adjacent properties, and/or destroy fish habitat, including forage and spawning areas, unless provided for by a site specific rezoning.”

and inserting the following new text:

“70(8) Coastal Areas - policies

Generally prohibit hardening of the coastal shoreline through the use of rip rap, concrete embankments and revetment walls, and other similar structural interventions that alter the ecological function and service of the coastal shoreline, disturb natural vegetation, disrupt natural coastal processes, redirect wave energy to adjacent properties, and/or destroy coastal shore habitat, including forage and spawning areas. Subject to receipt of development approval information from a qualified professional that demonstrates that shoreline hardening is required to protect life or a principal building on the

property, and that impacts can be mitigated, the board may consider issuance of a shoreline protection device development permit.”

3. Part Four, Administration of the OCP, section 83 “Shoreline Protection Devices - Guidelines” be amended by deleting the existing text;

“The board delegates to the CVRD officers the issuance of development permits. Where an applicant has proposed the installation, replacement or repair of a shoreline protection device under these guidelines the design of the device should follow the soft shore and greenshore approach to foreshore development. Prior to issuance of a Shoreline Protection Device Development Permit a shoreline protection device must be a permitted use under the zoning bylaw.

The board delegates to the CVRD officers through the delegation bylaw, the power to issue development permits. Where an applicant has proposed a shoreline protection device under these guidelines that follows the soft shore and greenshore approach to foreshore development, the permit will be processed through the delegation granted under the delegation bylaw.

Where an applicant is proposing the use or replacement of hard shore protections measures the development permit will be reviewed by the board. Development permits shall be issued in accordance with the following guidelines. Where it is anticipated that shoreline protection devices may cause erosion or other physical damage to adjacent or other properties, the development permit may not be issued.”

And inserting the following new text:

“Where an applicant proposes the installation, replacement or repair of a shoreline protection device under these guidelines, the design of the device shall contribute to shoreline resiliency by following soft shore (e.g. “Greenshore”) principles:

- Conserve or restore natural coastal or riparian processes (e.g. sediment transfer);
- Maintain habitat function and diversity;
- Prevent pollutants from entering the aquatic or riparian environment;
- Avoid or reduce cumulative impacts on the shoreline environment, including coastal or riparian processes.

All proposals shall incorporate design elements that contribute to coastal resiliency by protecting or restoring natural coastal processes and habitat. Except when a hardened shoreline is proposed (i.e. based on the findings of a qualified professional that shoreline hardening is required to protect life and/or a principal building), shoreline protection device development permits can be approved under delegated authority. Proposals to harden a shoreline, including replacement and/or maintenance of an existing hard shoreline with similar hard design elements shall require board approval of the development permit.”

Appendix C
AGENCY AND FIRST NATIONS REFERRAL LIST

First Nations

<input checked="" type="checkbox"/>	K'ómoks First Nation	<input checked="" type="checkbox"/>	Wei Wai Kum First Nation / Kwiakah First Nation of the Kwiakah Treaty Society
<input checked="" type="checkbox"/>	We Wai Kai Nation of the Laich-Kwil-Tach Treaty Society	<input checked="" type="checkbox"/>	Homalco Indian Band

Provincial Ministries and Agencies

<input type="checkbox"/>	Agricultural Land Commission	<input type="checkbox"/>	Ministry of Community, Sport and Cultural Development
<input type="checkbox"/>	BC Assessment	<input type="checkbox"/>	Ministry of Forests, Lands and Natural Resource Operations
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Ministry of Energy and Mines
<input type="checkbox"/>	BC Transit	<input type="checkbox"/>	Ministry of Environment
<input type="checkbox"/>	Ministry of Aboriginal Relations and Reconciliation	<input type="checkbox"/>	Ministry of Jobs, Tourism and Skills Training
<input type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	Ministry of Transportation and Infrastructure
		<input type="checkbox"/>	BC Wildfire Services

Other

<input type="checkbox"/>	Agricultural Advisory Planning Commission	<input type="checkbox"/>	Comox Valley Economic Development Society
<input checked="" type="checkbox"/>	Electoral Area 'A' Advisory Planning Commission Baynes Sound – Denman/Hornby Islands	<input type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	Electoral Area 'B' Advisory Planning Commission Lazo North	<input type="checkbox"/>	School District #71 (Comox Valley)
<input checked="" type="checkbox"/>	Electoral Area 'C' Advisory Planning Commission Puntledge – Black Creek		

Appendix D

Coastal Resiliency Initiative (File PJ 3CV 16)

Overall Objective

To enhance resiliency in the face of climate change by developing a coastal shoreline management framework to enable the CVRD and citizens to make science based decisions regarding coastal management.

General scope of work (DRAFT)

Phase 1: Baseline Mapping and Classification of shoreline

- Classify shoreline types and identify best management practices for each type
- Highlight important biological and physical attributes (including anthropogenic attributes such as seawalls, rip rap, boat launches)
- Rank shoreline segments to illustrate potential interactions between sensitive habitat and existing shoreline protection devices (linked to future phase assessment of opportunities for conservation and restoration)

Phase 2: Public Outreach

- Present baseline findings
- Host public panel discussion with coastal experts to raise awareness about coastal processes and best management practices
- Host film screening

Phase 3: Implementation

- Incorporate all baseline findings (e.g. coastal shore type) into iMap system
- Develop web resources for property owners (e.g. understanding coastal jurisdiction, coastal processes and habitat values, options for shoreline protection, permitting process)
- Assess need for any OCP policy or development permit area amendments
- Develop monitoring program (e.g. to track changes to the shoreline – per cent of soft and hardened, etc.)
- Identify related opportunities to augment coastal resiliency (e.g. upland rainwater management, hazard area identification)
- Identify partnership opportunities to undertake a pilot project