



ALBERNI-CLAYOQUOT REGIONAL DISTRICT

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MEMORANDUM

To: ACRD Board of Directors
From: Alex Dyer, Planning Manager
Meeting Date: December 21, 2022
Subject: Public Hearing Report for Bylaw P1443
Sproat Lake Official Community Plan Amendment Bylaw

Recommendations:

THAT Bylaw P1443, Sproat Lake Official Community Plan Amendment Bylaw be read a second time.

THAT Bylaw P1443, Sproat Lake Official Community Plan Amendment Bylaw be read a third time.

December 21, 2022 Update:

At the December 14 meeting, the Board received the public hearing report and minutes, and deferred a decision on the bylaws until the December 21 special Board meeting. There was feedback received at the Sproat Lake OCP Amendment Bylaw public hearing about the level of communication from the ACRD in advertising the public hearing. Staff intend to discuss communication strategies with the Board for advertising public hearings and public engagement on projects moving forward.

The amendments to the Sproat Lake OCP proposed in Bylaw P1443 have been informed by substantial public engagement with the community as part of the overall Zoning Bylaw Review Project. Over the past two years, community consultation on the Sproat Lake OCP amendment bylaw has included:

- Open houses held online on April 7/22 and in-person at the Sproat Lake Community Hall on April 11/22.
- Sproat Lake Advisory Planning Commission meetings held: June 6/22, December 6/21, and October 18/21.
- Summer 2021: bulk flyer mail out, newspaper and radio ads, sandwich boards, social media, email distribution to the Sproat Lake Community Association, and Sproat Lake newsletter mail out.
- Online survey in summer 2021 with over 290 responses to a question about the proposed dock regulations in the Sproat Lake OCP, the majority of which were supportive of the proposed regulations.
- Reports to the Electoral Area Directors Committee or ACRD Board: November 30/22, July 27/22, April 27/22, September 22/21, and January 27/21.
- Continuous updates to the ACRD Zoning Bylaw Review webpage and ongoing dialogue with Sproat Lake residents and property owners through in-person, email, and phone interactions regarding the draft OCP amendments and draft updated Zoning Bylaw.

In staff's opinion, the development of Bylaw P1443 has been informed through significant public consultation with the community. The engagement activities undertaken prior to first reading of the bylaw in April 2022 provided a number of opportunities for public participation in the proposed OCP updates. The advertising of the public hearing for Bylaw P1443 was conducted in accordance with the requirements of the *Local Government Act* and the ACRD Development Procedures Bylaw.

Bylaw P1443 - Sproat Lake OCP Amendment

Members: City of Port Alberni, District of Ucluelet, District of Tofino, Yuułuṭit̓aṭṭ Government, Huu-ay-aht First Nations, Uchucklesaht Tribe, Toquaht Nation
Electoral Areas "A" (Bamfield), "B" (Beaufort), "C" (Long Beach), "D" (Sproat Lake), "E" (Beaver Creek) and "F" (Cherry Creek)

At this time, recognizing that there was significant public input into the proposed Sproat Lake OCP amendments and the development of Bylaw P1443 prior to the December 5, 2022 public hearing, staff recommend that the Board proceed with second and third readings of the bylaw.

Summary:

A public hearing for Bylaw P1443 was held in the ACRD Board Room on Monday, December 5, 2022, at 7pm. The hearing was conducted in a hybrid format with electronic participation via Zoom and in-person participation in the Board Room. The hearing was chaired by Penny Cote, Director for Electoral Area 'D' - Sproat Lake. ACRD staff Mike Irg, Alex Dyer, Amy Anaka, and Kathy McArthur participated in the hearing. A total of twenty-three (23) members of the public were in attendance in the ACRD Board Room and online via Zoom.

The public hearing was advertised in accordance with the *Local Government Act* for an Official Community Plan (OCP) amendment bylaw that impacts an entire Community Plan area, and in accordance with the ACRD Development Procedures Bylaw P1403. The notice for this public hearing was advertised in two consecutive issues of the Alberni Valley News on November 23 and November 30, and on the ACRD website in the event calendar and on the Zoning Bylaw Review Project webpage.

Included with the public hearing minutes are twenty-three (23) referral agency and First Nation responses received by the Regional District. A copy of all the responses received and a summary table of the responses is available in Appendix 'A'. Agency and First Nation responses received either noted they were in support of the bylaw subject to the reasons outlined in their responses, that their interests were unaffected or that they had no concerns, comments or objections. Staff are continuing to engage with referral agencies and First Nations where questions have been raised that can be addressed as part of the updated Zoning Bylaw or as part of longer-term comprehensive updates to the area OCPs.

Fourteen (14) letters of public correspondence were received prior to the hearing. A copy of all the responses received is available in Appendix 'B', which included: general concerns about the amount of notice given for the public hearing and requesting additional public consultation; concerns about the significant changes proposed to dock construction and development near Sproat Lake; and the need to restrict boat speeds. One of the letters received expressed general support for the amendment bylaw noting accountability for environmental protection, and one of the letters asked a clarifying question about docks and floats.

Questions raised from the public in attendance at the hearing in the Board Room and online via Zoom included: concerns with the impact of increasing the riparian protection development permit area from 15 to 30 metres on Sproat Lake and the associated development permit application requirements, the reliance on a professional completing the environmental reports, and the transparency of the reports; concerns about the amount of notice given and advertising process for the public hearing, and requesting additional public consultation; clarifying questions about regulating the surface of the water and the impact of the 200-year floodplain on development; concerns about logging on Crown and private forestry lands near the lake foreshore and Provincial Riparian Areas Protection Regulation; and concerns about the significant changes proposed to dock construction and development near Sproat Lake.

Background:

As part of the Zoning Bylaw Review Project, amendments are proposed to the Sproat Lake Official Community Plan (OCP) to align OCP policies and objectives with the updated Zoning Bylaw. The comprehensive rewrite of the Zoning Bylaw was not considered as part of the Sproat Lake OCP Amendment Bylaw public hearing, and the Zoning Bylaw remains in draft form.

Bylaw P1443 - Sproat Lake OCP Amendment

The development of the minor policy amendments to the OCP included multiple opportunities for engagement with members of the public, referral agencies and First Nations, members of the Sproat Lake Advisory Planning Commission and Board members. The OCP Amendment Bylaw was given first reading on April 13, 2022 where the Board gave first reading to amendment bylaws for each of the six Electoral Area OCPs as required to align policies with the updated Zoning Bylaw.

Highlights of updates to the Sproat Lake OCP include:

- Added policies relating to the construction of docks and moorage facilities and included foreshore and riparian development permit area (DPA I) guidelines for the construction of new docks and moorage facilities on the water.
- Extend the riparian development permit area boundary (DPA I) into the foreshore by including all land and water within 30 metres of the natural boundary of a major stream (15 metres of a minor stream) measured horizontally in both the upland and foreshore directions. The intent of the amendment is to extend the development permit requirement to the construction of new docks and foreshore improvements.
- Defined Sproat Lake as a “major stream” to extend the riparian development permit area from 15 metres to 30 metres from the natural boundary of the lake. This amendment would not introduce an increased building setback from the lake but instead aims to expand the protection of the natural environment within the riparian area and to protect the water quality of Sproat Lake.
- Reduced the minimum lot size in the Resource Use designation from 20 hectares to 16 hectares to align with the Resource zoning in the updated Zoning Bylaw.
- Standardized policy wording across the six OCPs, where appropriate.
- Updated *Local Government Act* references.
- Updated Agricultural Land Commission references.
- Statement about the consideration of the Housing Needs Reports in the area OCPs.
- Revised wording in definitions to align with Zoning Bylaw including accessory dwelling units, flood construction level, manufactured home, mobile home, modular home, home occupations, and home industry.
- Revised flood construction level guidelines in the natural hazard development permit areas to align with the Zoning Bylaw which references the 200-year designated floodplain.
- Map 2 Land Use Designations and Map 3 Development Permit Areas updated with new formatting, improved labelling, data source tracking and new mapsheet tile format for improved readability.

Public Consultation:

Over the course of the Zoning Bylaw Review Project, staff have undertaken a number of public consultation activities and a variety of advertising to gain input on the draft Zoning Bylaw and associated minor amendments to each of the six Electoral Area OCPs at various stages. Each step over the course of this Project has been informed by community discussions throughout the region, and every draft version has incorporated the input received.

There have been 21 open houses across the Electoral Areas regarding the Zoning Bylaw Review Project, most recently in April 2022 with an online session and an in-person open house held at the Sproat Lake Community Hall on April 11. Each of the open houses included information about the OCP amendments required as part of the Project. In addition to public open houses, there have been 15 Advisory Planning Commission (APC) meetings to discuss the Zoning Bylaw Review Project where the associated OCP amendments have been considered, most recently in June 2022 when staff last met with the Sproat Lake APC to discuss the Project.

There was an online survey conducted in 2021 which received over 340 responses, many of which included detailed responses to a number of questions about the proposed zoning and OCP updates. The survey included a question asking respondents if they support the proposed OCP updates that add to the development guidelines

Bylaw P1443 - Sproat Lake OCP Amendment

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Electoral Areas "A" (Bamfield), "B" (Beaufort), "C" (Long Beach), "D" (Sproat Lake), "E" (Beaver Creek) and "F" (Cherry Creek)

for private moorage facilities (docks). Of the 293 respondents to this question, 44% were in support and 37% were not in support (14% unsure and 5% other).

Planning staff continue to engage in conversations with the public on the draft updated Zoning Bylaw with the most recent Zoning Bylaw draft published in October 2022. There is ongoing dialogue with community members, referral agencies, First Nations, and Committee and Board members as staff work on preparing a final draft Zoning Bylaw that is anticipated to be considered by the Board a first time during the first quarter of 2023.

Planning staff recommend that the Board of Directors receive the public hearing report and minutes and proceed with second and third readings of Bylaw P1443.

Submitted by: *Alex Dyer*
Alex Dyer, MCIP, RPP, Planning Manager

Reviewed by: *Michael Irg*
Mike Irg, MCIP, RPP, General Manager of Planning and Development

Approved by: *Daniel Sailland*
Daniel Sailland, MBA, Chief Administrative Officer

Bylaw P1443 - Sproat Lake OCP Amendment

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REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT

BYLAW NO. P1443

**A BYLAW TO AMEND BYLAW NO. P1310
SPROAT LAKE OFFICIAL COMMUNITY PLAN**

WHEREAS by Section 478(2) of the *Local Government Act*, all bylaws enacted by the Regional Board must be consistent with an existing official community plan;

AND WHEREAS the Regional Board may amend an existing official community plan;

NOW THEREFORE the Board of Directors of the Regional District of Alberni-Clayoquot in open meeting assembled enacts as follows:

1. TITLE
This bylaw may be cited as the Sproat Lake Official Community Plan Amendment Bylaw No. P1443.
2. Sproat Lake Official Community Plan Bylaw P1310, Schedule A, has been amended to include all revisions as outlined in P1443 Schedule 'A' – List of Amendments to the Sproat Lake Official Community Plan, which is attached to and forms part of this bylaw.
3. This bylaw shall come into force and take effect upon the adoption thereof.

Read a first time this 13th day of April, 2022
Public Hearing held this 5th day of December, 2022
Read a second time this day of ,
Read a third time this day of ,

Adopted this day of ,

Corporate Officer

Chair of the Regional Board

REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT

P1443 SCHEDULE 'A' – LIST OF AMENDMENTS TO THE SPROAT LAKE OFFICIAL COMMUNITY PLAN

- Cover: Added “Revised: April 2022”.
- Footer: Updated to “Revised: April 2022”.
- Map List:
 - Updated Map No. 2 from “Land-Use Designations” to “Land Use Designations”.
 - Replaced “Sproat Lake OCP Map No. 2 Land Use Designations”.
 - Replaced “Sproat Lake OCP Map No. 3 Development Permit Areas and Development Approval Information Areas”.
- Table of Contents: Updated.
- 1.1 Plan Preparation:
 - Updated “has undertaken” to “undertook”.
 - Added: “In 2022, minor amendments were made to Bylaw No. P1310 as part of the Zoning Bylaw Review project to align OCP policies and objectives with the updated Zoning Bylaw.”
- 1.3 Legislative Assembly:
 - Updated LGA Section “877” to “473”.
 - Added: “Section 473 (2.1) of the LGA also requires that an OCP “must consider the most recent housing needs report the local government received, and the housing information on which the report is based” when developing or amending an OCP in relation to statements, map designations or housing policies included in Section 473 (1) of the LGA. In 2021, the ACRD Board received the Sproat Lake Electoral Area ‘D’ Housing Needs Report. The report includes key recommendations and a high level approach to address housing gaps in Sproat Lake and across the region. In consideration of the Housing Needs Report, housing statements and policies will be updated or added to Bylaw No. P1310 as part of future comprehensive OCP updates.”
- 1.4 Jurisdiction:
 - Updated “Activities on land within the Agricultural Land Reserve (ALR) are subject to the *Agricultural Land Commission Act* and BC Regulation 171/2002, both of which are administered by the Agricultural Land Commission (ALC). Section 46 of the ALC Act requires local governments ensure consistency of their bylaws with the Act, regulations and ALC orders. The Regional District has referred this OCP to the ALC and is of the opinion that it is consistent with the *Agricultural Land Commission Act*.” to “Activities on land within the Agricultural Land Reserve (ALR) are subject to the *Agricultural Land Commission Act* (ALCA), the *Agricultural Land Reserve General Regulation*, the *Agricultural Land Reserve Use Regulation*, and any Orders of the Agricultural Land Commission (ALC).”
- 1.7 Definitions:

- Changed “Accessory residential dwelling unit” to “accessory dwelling unit” and updated to: “means a second dwelling unit, incidental or ancillary to a principal dwelling on a lot, in accordance with regulations for accessory dwelling units in the Zoning Bylaw.”
- Carriage home: Updated “accessory residential dwelling unit” to accessory dwelling unit”.
- Community water or sewer system: Updated “five connections” to “two connections”.
- Density bonusing: Updated LGA Section “904” to “482”.
- Flood construction level: Updated to “means the minimum elevation above the natural boundary of a water body to the underside of a floor system, or to the top of a slab on grade, for buildings located within an area that is subject to, or likely to be subject to, flooding. An area below flood construction level is not to be used for habitation, mechanical or electrical infrastructure, business or storage of goods damageable by flood water.” and removed diagram image.
- Home industry: Updated to “means a business or industry, conducted in an accessory building, structure or outside, that is incidental and ancillary to the principal residential use of a lot, may include accessory retail sales and may include processing, assembly and manufacturing of products, in accordance with the provisions of home industry in the Zoning Bylaw.”
- Home occupation: Updated to “means a business or occupation conducted entirely within a principal dwelling unit, accessory dwelling unit, accessory building or in a combination, that is incidental and ancillary to a principal residential use of a lot, and may include accessory retail sales, in accordance with the provisions of home occupation regulations in the Zoning Bylaw. Includes boarding and lodging, and bed and breakfast, where guest bedrooms are rented, with the tenant or owner residing in the building.”
- Added:
 - ““Manufactured home” means a single family dwelling that conforms to either the Canadian Standards Association Z240-MH standard as a mobile home, or to the Canadian Standards Association A277 standard as a modular home.
 - “Mobile home” means a factory-built manufactured home that is used, or intended to be used, as a single family dwelling and which conforms to the Canadian Standards Association (CSA) Z240-MH series standard. A mobile home excludes trailers and recreational vehicles.
 - “Modular home” means a factory-built manufactured home that is used, or intended to be used, as a single family dwelling and which conforms to the Canadian Standards Association (CSA) A277 standard. A modular home excludes trailers or recreational vehicles.”
- 2.1 Setting the Stage: Removed “existing” from 2005 Sproat Lake OCP reference.
- 2.3 Land-Use Designations:
 - Changed “Manufactured home park” to “Mobile home park”.
 - Changed “Parks” to “Parks and Recreation”.
- Policy 3.2.9, 10.0, 10.2.2, 10.2.9, 10.2.10, 19.0, 19.3: Changed “accessory residential dwelling unit” to “accessory dwelling unit”.

- Policy 3.2.9: Changed “Accessory residential dwelling units within the ALR require approval from the ALC.” to “For land in the ALR, an accessory dwelling unit may only be permitted if permitted in the Agricultural Land Commission Act and Regulations, or approved through application to the ALC.”
- Policy 3.2.11: Updated LGA Section “921” to “493”.
- Policy 3.2.16: Updated LGA Section “921” to “488”.
- Policy 5.2.1: Changed “20 ha” to “16 ha”.
- Policy 8.2.7: Added “and the Short Term Vacation Rentals Temporary Use Permit Policy”.
- Policy 10.2.8: Changed “manufactured” to “mobile”.
- Policy 12.2.2: Updated LGA Sections “903, 904, 905.1” to “516, 517, 518”.
- 17.0 Parks and Recreation Use and Policy 17.2.4: Updated LGA Section “941” to “510”.
- Policy 18.2.1:
 - Changed “high water mark” to “natural boundary” and removed “Sproat Lake” from minor stream and changed to a major stream.
 - Updated to: “Designate development permit areas 30 metres from the natural boundary of major streams, measured horizontally in both upland and foreshore directions, and 15 metres from minor streams.”
- Policy 18.2.4: Added “accordance with other applicable provincial regulations”.
- Policy 18.2.5: Changed “high water mark” to “natural boundary”, and “Land Act tenure” to “tenure or licence”.
- Policy 18.2.18: Changed “Fish Protection Act” to “Riparian Areas Protection Act”.
- Policy 18.2.22: Changed from “Discourage the use of uncoated styrofoam floats for docks.” to “Styrofoam used in the construction of floats and docks is discouraged. Any styrofoam, plastic foams or other non-biodegradable materials used in construction of floats and docks shall be fully encased within sealed rigid plastic shells to prevent escape into the natural environment.”
- 19.0 Natural Environment:
 - Updated LGA Section “877(3)” to “473”.
 - Policy 19.2.5: Removed outdated website link.
- 20.0 Implementation: Deleted “While vacation rentals are not currently permitted in residential designations in the plan area, there is an interest by some property owners to look at options for vacation rentals. As part of the OPC implementation, a study looking at options for vacation rentals, should be undertaken by the Regional District.” as Short Term Vacation Rentals are permitted in residential designations with a valid Temporary Use Permit.
- 20.1 Development Permit Areas:
 - Updated LGA Section “919.1(1)” to “488”.
 - DPA I: Added “Foreshore and” to “Riparian Areas Protection”.
 - DPA II: Updated “Protection from Natural Hazard Area” to “Natural Hazard Areas Protection”.
 - DPA III: Updated “Objectives for Form and Character” to “Form and Character”.
- Guideline 20.2.3: Updated LGA Section “920(2)” to “490”.
- 20.4 DPA I – Foreshore and Riparian Areas Protection:
 - Added “Foreshore” to title and throughout Policy 20.4 to include “foreshore and riparian areas”.

- Updated LGA Section “919.1(1)a” to “488”.
- Changed Sproat Lake from a minor to a major stream with 30 m setback, added “measured horizontally in both upland and foreshore directions” and updated to “DPA I areas include all lands within 30 metres, measured horizontally in both upland and foreshore directions, from the natural boundary of major streams, including Sproat Lake, and within 15 metres of minor streams.”
- Changed “high water mark” to “natural boundary”.
- Removed “Two Rivers” from the list of major streams as it’s included in Sproat Lake.
- Added “upland” to: “for a minor stream, a 15 -metre strip on both upland sides of the stream measured from the natural boundary.”
- Removed ii: “A QEP should be retained for the purpose of preparing a report detailing site conditions and describing any measures that must be taken in order to protect the riparian area.”
- Added:
 - i. “Unless otherwise exempt under 20.3, prior to undertaking any development on the lands within this DPA, the owner of the lands must apply to the ACRD for a Development Permit, and must include the following information with the application:

An assessment report that has been prepared by a Qualified Environmental Professional, with demonstrated experience regarding the subject matter. The assessment report will identify how the proposed development will affect aquatic resources, and recommend measures to reduce or mitigate any negative impacts, such as the:

 - a) Appropriate siting of buildings, structures, landscaping and placement of fill, moorage facilities, roads, driveways, parking areas, trails, paths, and utilities;
 - b) Retention or restoration of native vegetation and soils;
 - c) Removal of invasive species;
 - d) Designation of buffer areas to protect environmentally sensitive features or habitat;
 - e) Specification of any activities that may occur within the buffer areas; and
 - f) Must state that the proposal is suitable for the area intended for development.”
- Added:
 - “The construction of a private, commercial and group moorage facility are permitted in DPA I subject to the following conditions:
 - a) Refer to the Province for General Permission for private moorage facilities, and authorization for Specific Permission, or under the Residential Policy or Commercial Marina Policy for group moorage, or under the Adventure Tourism Policy for moorage for adventure tourism activities, where applicable on Crown land.
 - b) Commercial moorage facilities must be designed and constructed in compliance with the applicable best management practices of the

Province.

- c) Before construction of a dock in marine waters the property owner must obtain and adhere to a Marine Habitat Assessment Report for the site which must be completed by a qualified registered professional biologist, where applicable on Crown land.
 - d) New docks and ramps shall be allowed only for water-dependent uses or for public access, and only permitted when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.
 - e) Docks shall not extend over marshes or other productive foreshore areas, including critical areas such as fish habitats.
 - f) Boat launch ramps are discouraged and will only be considered if they can be located on stable, non-erosional banks where a minimum amount of substrate disturbance or stabilization is necessary.
 - g) Structures in contact with the water shall be constructed of stable materials, including finishes and preservatives that will not degrade water quality.
 - h) All docks shall be constructed so that they do not rest on the bottom of the foreshore at low water levels.
 - i) Styrofoam used in the construction of floats and docks is discouraged. Any styrofoam, plastic foams or other non-biodegradable materials used in construction of floats and docks shall be fully encased within sealed rigid plastic shells to prevent escape into the natural environment.
 - j) Preference is given to the placement of mooring buoys and floats instead of docks.
 - k) No more than one dock shall be located on any single residential lot.
 - l) Placement of docks must remain sensitive to views, impacts on neighbours, and orientation to neighbouring docks.
 - m) Keep the dock and land beneath the dock safe, clean and in sanitary condition.
- The consideration of the issuance of a Development Permit by the ACRD in no way exempts the property owner from obtaining all necessary permits and approvals from provincial and federal agencies.”
 - Removed outdated website link “The following website should be referred to: http://www.agf.gov.bc.ca/resmgmt/publist/800Series/823400-1_Agriculture_Building_Setback_Factsheet.pdf” and updated to “Refer to the provincial ministry responsible for agriculture for setback distances for farm buildings and streams on existing farmland and for new agricultural buildings.”.
- 20.5 DPA II – Protection from Natural Hazards:
 - Updated LGA Section “919.1(1)b and 920(7.1)” to “488 and 491”, and “920(11)” to “491”.
 - Changed “Protection from Natural Hazards” to “Natural Hazard Areas Protection”.
 - Removed “The toe of the Beaufort Range, for example, is an area where, due to

- topographic conditions, the possibility of land slippage is considered significant.”
- Guideline iv.: Updated to “The recommended flood construction level for coastal areas in the ACRD is 10 metres or as determined by a qualified professional taking into consideration the slope of the land, foreshore conditions, anticipated sea-level rise, storm surges and freeboard, in accordance with the Zoning Bylaw.”.
 - Guideline vii: Updated to add “in accordance with the Zoning Bylaw”.
 - Guideline xiii: Updated to “Where lands within DPA II areas subject to seasonal flooding are proposed for development, the flood construction level should be established by designated 200-year floodplain mapping, or where a location is determined to be safe for the intended use by a qualified professional. Where the 200-year floodplain has not been established and in the absence of an assessment by a qualified professional, the flood construction level should be a vertical elevation at least three metres (3 m.) above the natural boundary, in accordance with the Zoning Bylaw and provincial regulations.”
- 20.6 DPA III – Objectives for Form and Character:
 - Changed to “Form and Character”.
 - Updated LGA Section “919.1(f)” to “488”.
 - 20.7 Development Approval Information: Updated LGA Section “920.01 and 920.1” to “484 and 485”.