

Regional District of Nanaimo Board – Meeting Date: April 23, 2024

This document contains closed 'in-camera' meeting decisions that have been released because they are no longer considered sensitive.

Request for Dedication or Transfer of Lands for Qwiyluss Regional Park, Electoral Area E

That staff advise the applicant of the Board's decision; and further that the report titled "Request for Dedication or Transfer of Lands for Qwiyluss Regional Park, Electoral Area E" dated April 23, 2024" be released in its entirety following a letter being sent to Snaw-Naw-As First Nation.

Released: July 8, 2024



**REQUEST FOR DEDICATION OR TRANSFER OF LANDS FOR QWIYULASS REGIONAL PARK
ELECTORAL AREA E**

RECOMMENDATIONS

1. That the Board direct staff to notify the owner in writing of its decision that the land to comprise Qwiyluss Regional Park be received as a transfer of a fee simple parcel of land rather than as a dedication of park on a registered plan of subdivision.
2. That the Board direct staff to notify the owner in writing that its preference is to receive all further Regional Park lands within the Lakes District as a transfer of a fee simple parcel rather than by dedication of park on a registered plan of subdivision.

BACKGROUND

The Regional District of Nanaimo (RDN) is in receipt of the first subdivision application applicable to the Lakes District lands which proposes a total of four parcels ranging in size from 2.5 ha to 12.0 ha (see Attachment 1 – Proposed Plan of Subdivision). The purpose of the subdivision is to subdivide Independent Area 1 to establish four development parcels that can be further subdivided in accordance with the “Regional District of Nanaimo Phased Development Agreement (Lakes District and Schooner Cove) Authorization Bylaw No. 1692, 2013 (PDA) at a later date.

The PDA includes a number of requirements that are triggered by the submission of the first subdivision application for lands within the Lakes District. Specific to the current subdivision application, the PDA requires the owner, concurrently with the registration of the first subdivision, to transfer or dedicate to the RDN, at no cost, the Notch Summit for Regional Park (See Attachment 2 - Lakes District Parks Phasing Plan).

In 2015, in preparation to receive the land for Regional Park, the Board approved the following motion at its June 6, 2015 meeting:

MOVED Director Rogers, SECONDED Director Haime, that the name “Qwiyluss Regional Park” be approved for the future Regional Park within the Fairwinds Lake District.

Qwiyluss is the Snaw-naw-as name for Notch Hill; it is a hul’qumi’num term that means “The Watch”. The name was suggested by public survey respondents and supported by the Snaw-naw-as First Nation and the Regional Park Master Plan Advisory Committee.

The Board also approved the Regional Park Master Plan for the Fairwinds Lakes District 2015-2025 at its June 23, 2015 meeting (Master Plan). This Master Plan provides a summary of the PDA requirements and an overview of the management issues related to future Regional Parks in the Lakes District.

As per the PDA, the RDN has the discretion as to whether it wants to accept the land as 'Park' dedicated on a plan of subdivision or as a fee simple lot that is transferred to the RDN for park purposes. The PDA requires that the RDN notify the owner in writing of its choice no later than 30 days after receipt of the first proposed subdivision. The proposed subdivisions were deemed to be accepted by the RDN on March 28, 2024 with the submission of the applicable subdivision application fees. Therefore, a decision on land dedication or transfer is required by April 26th, 2024 as April 27th falls on a Saturday when the office is closed.

LAND TENURE IMPLICATIONS

As per the PDA, the RDN has the option to choose whether it wants to accept the land as 'PARK' dedicated on a plan of subdivision or as a fee simple lot that is transferred to the RDN for park purposes.

Park dedicated on a Plan of Subdivision

The alternative to the transfer of the lot is dedication by plan under section 107 of the *Land Title Act*. When the landowner identifies the land on the plan as park and the subdivision plan is deposited, the land dedicated as park vests with the municipality. If the land lies within an electoral area, the park vests in the Crown. Through this method, no legal title to the park will exist, it will show as Crown land. However, the RDN is entitled to possession and control of the park if under section 510 (13)(b) of the *Local Government Act*, where it provides a community park service.

Fee Simple Transfer of Ownership

The alternative to park dedication is fee simple transfer. This option involves the owner creating a fee simple parcel of land with a certificate of title that would be transferred into the RDN's name. The RDN would then be the legal owner of the lands. Most Regional Parks in the RDN are held as fee simple lots.

Once ownership of the land is transferred to the RDN, staff will initiate an amendment to the Regional District Parkland Dedication Bylaw No. 1726, 2015. This will allow the new park to fall under the regional park portfolio. This option provides the most security to the RDN regarding ownership and management of the land.

As transfer of the land to the RDN as a fee simple lot will result in the most security and is consistent with how most other RDN Regional Parks are held, it is recommended that the Board choose to receive all Lakes District regional park land as registered lots with a transfer of ownership/title to the RDN through the land titles office.

PHASED DEVELOPMENT AGREEMENT IMPLICATIONS

The PDA contains several requirements that are triggered by the first subdivision of Lakes District lands. Please refer to Attachment 3 – PDA Requirements Overview for more information on the requirements of the PDA as it relates to the current phase of subdivision. As the owner has elected to proceed with a bulk subdivision that would not result in residential lots being created, most of the requirements contained in the PDA do not apply at this time.

The requirements of the PDA in relation to the proposed subdivision include the transfer or dedication of Qwiyulass for Regional Park, securing an option to purchase agreement and Section 219 Covenant prohibiting construction on the Notch Option to Purchase Lands, the construction of the temporary Notch trail (see Attachment 4 - Lakes District Park Improvements Phasing Plan), and the establishment of the required Local Service Area to deliver the range of services that the PDA commits the RDN to provide.

The applicant has submitted a survey, prepared by JE Anderson & Associates dated May 1, 2023 which confirms that the proposed boundary of the lands to be received by the RDN for *Qwiyulass Regional Park* are consistent with the boundaries identified in the PDA. The area of land to be received for regional park is approximately 21 ha. The lands include road frontages adjacent to Link Place and Bosun Drive. It is noted that the lands are identified as a lot in the survey, should the Board wish to receive the land as a park land dedication, the applicant will update the proposed plan of subdivision accordingly.

A report will be presented to the Board requesting parkland acceptance following the issuance of a Preliminary Layout Review by the Ministry of Transportation and Infrastructure. All applicable PDA requirements will be secured through the subdivision process.

INTERGOVERNMENTAL IMPLICATIONS

For the development of the Lakes District and Schooner Cove Neighbourhood Plans the Snaw-naw-as participated and provided input on the plans. Subsequently the Snaw-naw-as also participated in the development of the PDA. During the development of the PDA, Snaw-Naw-As First Nation expressed a particular interest in the Qwiyulass lands.

As it has been some time since the PDA was adopted, an update to the requirements of the PDA will be provided to the Snaw-naw-as. Due to the 30-day time imposed by the PDA, staff have not had an opportunity to discuss the proposal with representatives from Snaw-Naw-As. However, a letter is in the process of being prepared and request to meet with Snaw-Naw-As will be sent following the Board's decision.

FINANCIAL IMPLICATIONS

As outlined in the PDA, all costs associated with the dedication or transfer of Qwiyulass for Regional Park shall be covered by the owner. Further, all costs associated with construction of the temporary Notch trail shall also be covered by the owner as per the PDA.

STRATEGIC PLAN ALIGNMENT

The dedication or transfer of land for Qwiyulass for Regional Park is consistent with the Board's 2023 – 2026 Strategic Plan Focus Area of Protecting Our Vital Lands & Ecosystems by helping to preserve an area with high conservation and recreation values.

REVIEWED BY:

- P. Thompson, Manager, Current Planning
- S. Reilly, Parkland Administrator
- L. Grant, General Manager, Development and Emergency Services
- D. Holmes, Chief Administrative Officer

ATTACHMENTS

1. Proposed Plan of Subdivision
2. Lakes District Parks Phasing Plan
3. PDA Requirements Overview
4. Lakes District Park Improvements Phasing Plan

RISE AND REPORT- PUBLIC

That staff advise the applicant of the Board's decision; and further that the report titled "Request for Dedication or Transfer of Lands for Qwiyulass Regional Park, Electoral Area E" dated April 23, 2024" be released in its entirety following a letter being sent to Snaw-Naw-As First Nation.

Attachment 1
Proposed Plan of Subdivision

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**PROPOSED SUBDIVISION
NOTCH SUMMIT PARK**

FW DEVELOPMENTS

REM. LOT 1, DL 30 & 78, PLAN 26219; REM. DL 11; REM. DL 30; AND REM. DL 78; ALL IN NANOOSE DISTRICT

ADDRESS : FAIRWINDS LAKES DISTRICT, NANOOSE BAY, B.C.

PROJECT SURVEYOR : D.W. HOLME

DRAWN BY : DWH DATE : MAY 1/23

OUR FILE : 90575 REVISION :



1A - 3411 SHENTON ROAD, NANAIMO, B.C. V9T 2H1
TEL. 250 - 758 - 4831 FAX 250 - 758 - 4680
E-MAIL : nanaimo@jeanderson.com
NANAIMO - VICTORIA - PARKSVILLE - CAMPBELL RIVER

LEGEND

ALL DIMENSIONS ARE IN METRES

SUBJECT TO CHARGES SHOWN ON:

TITLE NO. CA4579517
(P.I.D. 002-730-421) AS TO
REM. LOT 1, PLAN 26219

TITLE NO. BB3052630
(P.I.D. 006-598-293) AS TO
REM. DISTRICT LOT 11

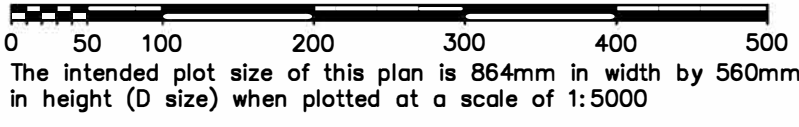
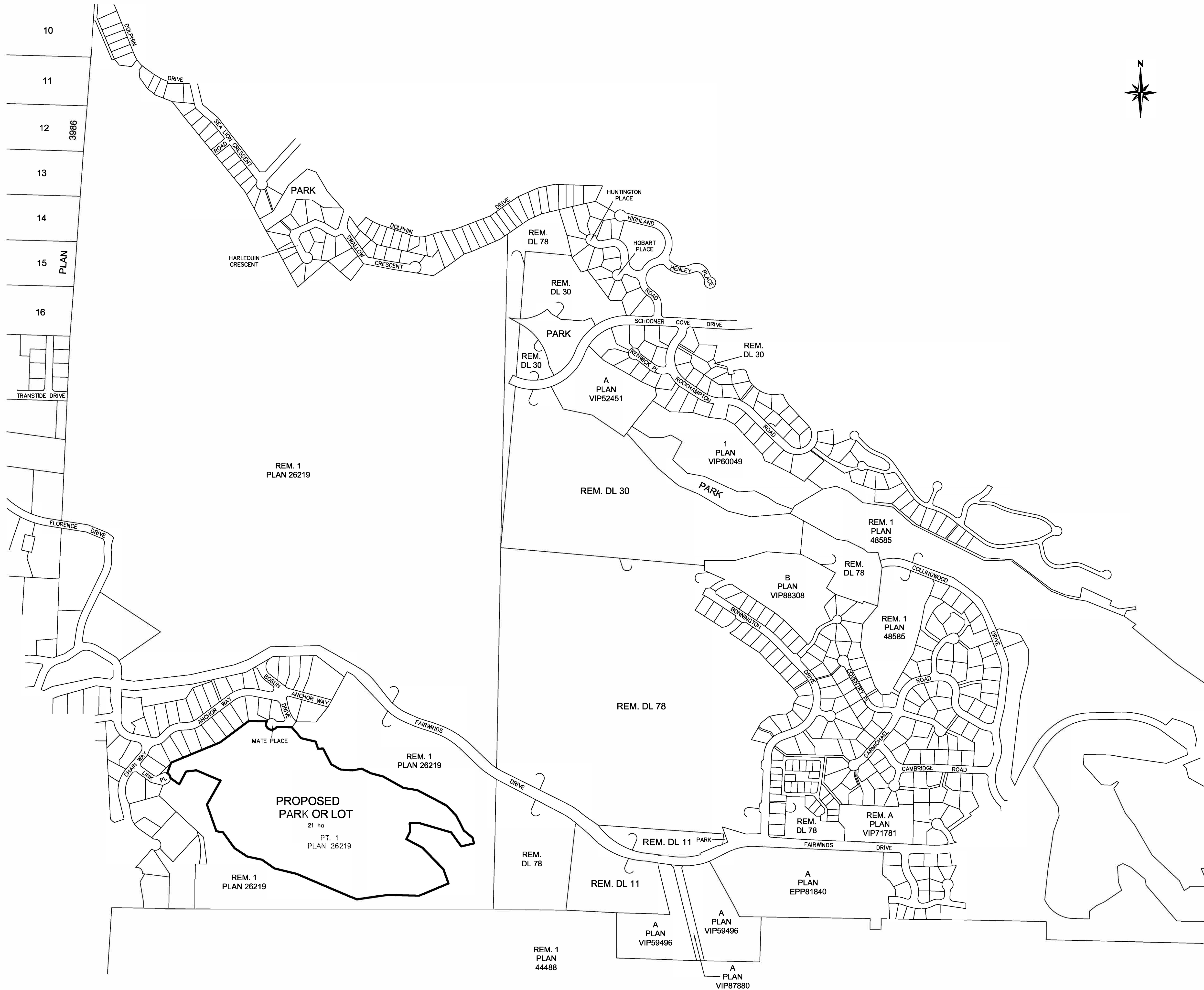
TITLE NO. CA4579514
(P.I.D. 006-598-323) AS TO
REM. DISTRICT LOT 30

TITLE NO. BB3052631
(P.I.D. 006-598-439) AS TO
REM. DISTRICT LOT 78

DIMENSIONS ARE DERIVED FROM
LAND TITLE OFFICE RECORDS

THIS PLAN HAS BEEN PREPARED IN
ACCORDANCE WITH THE PROFESSIONAL
REFERENCE MANUAL

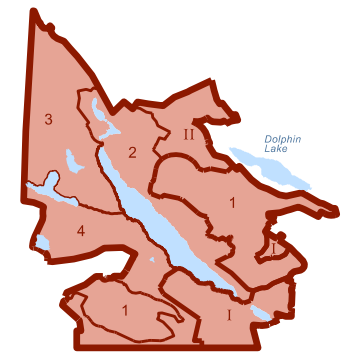
THIS PLAN IS PREPARED FOR
DISCUSSION PURPOSES ONLY



Attachment 2
Lakes District Parks Phasing Plan

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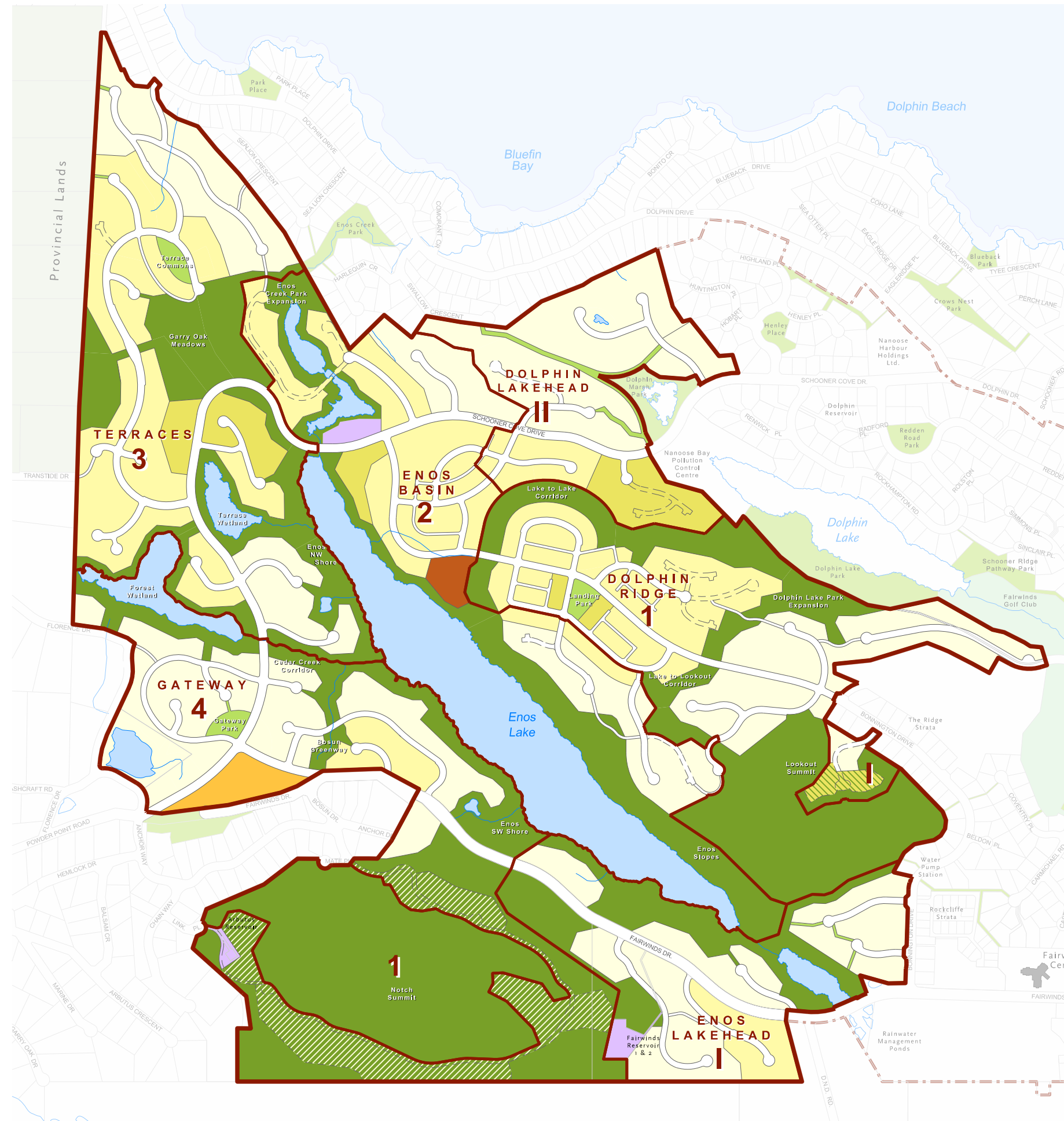
LAKES DISTRICT LAND USE PHASING



LEGEND

APRIL 2014

- Lakes District Neighbourhood Plan Area
- Phase Boundary
- Regional Park
- Community Park
- Single Dwelling
- Single Dwelling & Duplex
- Multiple Dwelling
- Neighbourhood Mixed Use
- Lakehouse Center
- Civic Infrastructure
- Public Road ROW
- Lookout Development Lands subject to Option to Purchase
- Notch Park Lands subject to Option to Purchase



PHASE 1	Percentage	Area (ha)	Units
	63%	43.61	
	1%	0.41	
	14%	9.68	
	14%	9.99	
	1%	0.57	
	7%	5.42	
Total	100%	69.68	351

PHASE 2	Percentage	Area (ha)	Units
	53%	30.76	
	14%	8.40	
	21%	12.20	
	2%	0.97	
	2%	0.92	
	1%	0.54	
	7%	4.56	
Total	100%	58.35	310

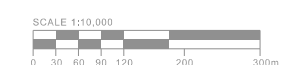
PHASE 3	Percentage	Area (ha)	Units
	29%	15.49	
	1%	0.46	
	20%	10.48	
	30%	16.14	
	6%	2.94	
	14%	7.41	
Total	100%	52.92	554

PHASE 4	Percentage	Area (ha)	Units
	54%	28.27	
	1%	0.44	
	29%	14.96	
	4%	2.09	
	3%	1.93	
	1%	0.27	
	8%	4.37	
Total	100%	52.37	175

INDEPENDENT AREA I	Percentage	Area (ha)	Units
	34%	10.65	
	3%	0.92	
	41%	12.74	
	8%	2.34	
	2%	0.56	
	12%	3.86	
Total	100%	31.07	112

INDEPENDENT AREA II	Percentage	Area (ha)	Units
	4%	0.82	
	59%	12.69	
	10%	2.16	
	15%	3.24	
	12%	2.52	
Total	100%	21.43	173

TOTAL	Percentage	Area (ha)	Units
	45%	128.78	
	1%	2.24	
	24%	69.00	
	15%	44.92	
	3%	8.53	
	1%	1.93	
	1%	0.92	
	1%	1.37	
	9%	28.14	
Total	100%	285.82	1675



Attachment 3 PDA Requirements Overview

On July 22nd, 2014, the Board approved the Lakes District and Schooner Cove Phased Development Agreement (PDA), which applies to approximately 283.02 hectares of primarily undeveloped lands located in the Fairwinds and Schooner Cove areas of Electoral Area E. At full buildout, it is anticipated that the development supported by the PDA would result in approximately 2,035 dwelling units, 128 ha of Regional Park, 2.2 ha of community park, and a range of other community amenities.

As a legally binding agreement between the RDN and the owner of the lands within Lakes District and Schooner Cove, the PDA specifies the requirements related to all aspects of development.

The PDA includes requirements for the phasing of development, the provision and timing of community amenities, construction standards related to streets and park improvements, and the obligations of both parties. The term of the Agreement is 20 years and it is set to expire in 2034.

As the owner has elected to proceed with a bulk subdivision as the first phase in the Lakes District, an approach different than what was originally envisioned by the PDA is required. Creating bulk development lots prior to the subdivision envisioned by the PDA is a systematic approach to a complex development project. It is likely that the owner may also wish to proceed with bulk subdivision on future phases as a way to streamline the development approval process.

The proposed bulk subdivision will create five developable parcels that will be subdivided into residential lots at a later date. As such, it is not practical to fulfil PDA requirements related to road standards, park dedication or transfer, servicing, amenity construction etc. prior to the preparation of a survey plan for the residential subdivision, which identifies a proposed lot layout, and locates the required park land and community amenities required by the PDA.

Despite the approach chosen by the owner, there are a number of PDA requirements that apply to bulk subdivision. The following is a summary of the PDA requirements that are applicable to the bulk subdivision proposed by the owner.

Notch Option to Purchase Lands

A parcel of developable land located on what will become Qwiyluss Regional Park (Regional Park) is designated in the PDA as "Option to Purchase Lands". These lands are located in an approximate ring around the Regional Park. The intent is to add these lands to the Regional Park for the enjoyment of the community.

The PDA specifies that the Option to Purchase has a five-year term and will include a Section 219 covenant prohibiting construction on the option to purchase lands. The option to purchase and Section 219 covenant will be included as conditions of approval of the proposed subdivision. From a practical perspective, this requirement will be satisfied prior to the RDN issuing a subdivision

compliance letter or concurrent with the deposit of the applicable plan of subdivision at the Land Titles Office where a letter of undertaking has been provided to the satisfaction of the RDN.

Once the Option to Purchase agreement has been registered on title of the lands, the RDN will have five years to decide if it wishes to purchase the lands.

Parks Department staff will come to the Board at a later date for further discussion and to seek direction on the potential purchase of the option to purchase lands.

Amenity construction and security

To provide access to the newly acquired Qwiyluss Regional Park, the PDA requires the owner to grant a 1.57 metre wide statutory right-of-way over the temporary trail concurrent with the registration of the first subdivision in the Lakes District. The right-of-way is to provide temporary pedestrian public access in the area shown on Schedule E of the PDA. The statutory right-of-way is to be released upon construction of the permanent Qwiyluss Regional Park trail.

The PDA requires the owner to construct a temporary Qwiyluss trail not more than 12 months after granting of the statutory right-of-way. The trail is to be in the location specified by the PDA and constructed to the standards set out in the Lakes District Regional Park Masterplan and Development Guidelines.

Security in the amount of 125% of the cost of materials and labour is required to satisfy the PDA security provisions.

As per the PDA, the trail will be managed by the RDN.

Local Service Area

The PDA requires the provision of urban-type amenities including landscaped boulevards, street trees, multi-use pathways, ornamental lighting, stormwater management systems, and rain gardens. In order to deliver on these commitments, a Local Service Area (LSA) is required to provide a mechanism to cover the cost of maintenance.

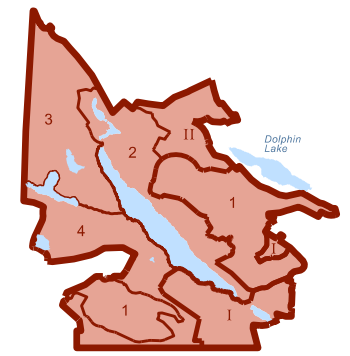
As the owner currently holds all the undeveloped parcels subject to the PDA, it is critical that a LSA be established prior to any parcels potentially being sold to other parties. This helps ensure that the requisite elector approval can be obtained much easier than if approval from multiple property owners was required.

The owner is in the process of preparing a petition to request the RDN establish the required LSA. Staff have been in discussions with the owner and MOTI to discuss the required LSA. Once the details of the LSA have been determined, a report will be presented to the Board to initiate the establishment of the required LSA.

Attachment 4
Lakes District Park Improvements Phasing Plan

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LAKES DISTRICT PARK IMPROVEMENTS PHASING



LEGEND APRIL 2014

- Lakes District Neighbourhood Plan Area
- Phase Boundary
- Regional Park
Water, wetlands and watercourses surrounded by Regional Park will be dedicated as Park and included in area calculations for Park.
- Community Park
- Notch Park Lands subject to Option to Purchase
- Lookout Development Lands subject to Option to Purchase
- Development
- Public Road ROW
- Trail Type I : Multi-Use (2.5 - 3.0m width)
- Trail Type II : Walking (1.5 - 2.25m width)
- Trail Type III : Hiking (0.75 - 1.0m width)
- Trail Type III : Notch Trail (Temporary)
- Boardwalk (varies)
- Lookout
- Major Staging Area
- Minor Staging Area
- Trail Access Point
- Dock
- Multi-Use Pathway (3.0m width) †
- Collector Sidewalk (2.4m width) †
- Emergency Connector Pathway (4.0m width) †
- Local Sidewalk (1.8m width) †
- Designated Street Crossing †
- Potential Transit Stop and Shelter †

Note: Trail locations and types reflect the Neighborhood Plan and are subject to topographic feasibility.
 Trail alignment through Nanoose Pollution Control Center to be determined by the Regional District of Nanaimo.
 † Park Improvements outside the Lakes District (within NPCC Site, Dolphin Lake Community Park and Schooner Ridge Pathway Community Park) are completed with the more proximate of Sub Phase 1b & 1c respectively.
 † Elements are not part of Park Improvements Phasing Plan but illustrate pedestrian connectivity.



EKISTICS

Phase	Trail Length (m)	Trail Type	Area (%)	Area (ha)
PHASE 1	1099 m	Trail Type I	34%	43.60 ha
	1482 m	Trail Type II	18%	0.41 ha
	4323 m	Trail Type III	-	-
	205 m	Trail Type III (Notch)	-	-
	99 m	Boardwalk	-	-
	1040 m	Boardwalk	-	-
	2347 m	Boardwalk	-	-
PHASE 2	575 m	Trail Type I	24%	30.76 ha
	1407 m	Trail Type II	-	-
	61 m	Trail Type III	-	-
	21 m	Trail Type III (Notch)	-	-
	460 m	Boardwalk	-	-
	439 m	Boardwalk	-	-
	1661 m	Boardwalk	-	-
PHASE 3	2562 m	Trail Type I	12%	15.49 ha
	926 m	Trail Type II	18%	0.44 ha
	227 m	Trail Type III	2%	0.02 ha
	3052 m	Boardwalk	-	-
	1715 m	Boardwalk	-	-
	540 m	Boardwalk	-	-
	1804 m	Boardwalk	-	-
PHASE 4	1715 m	Trail Type I	22%	28.27 ha
	76 m	Trail Type II	20%	0.44 ha
	507 m	Trail Type III	-	-
	65 m	Boardwalk	-	-
	1804 m	Boardwalk	-	-
	1231 m	Boardwalk	-	-
	1616 m	Boardwalk	-	-
INDEPENDENT AREA I	1231 m	Trail Type I	8%	10.65 ha
	173 m	Trail Type II	5%	0.11 ha
	205 m	Trail Type III	-	-
	78 m	Boardwalk	-	-
	108 m	Boardwalk	-	-
	1616 m	Boardwalk	-	-
	896 m	Boardwalk	-	-
INDEPENDENT AREA II	499 m	Trail Type I	-	-
	502 m	Trail Type II	-	-
	323 m	Trail Type III	37%	0.82 ha
	896 m	Boardwalk	-	-
	2173 m	Boardwalk	-	-
	8899 m	Boardwalk	-	-
	11376 m	Boardwalk	-	-
TOTAL	2173 m	Trail Type I	100%	128.77 ha
	8899 m	Trail Type II	56%	1.26 ha
	5097 m	Trail Type III	44%	0.98 ha
	486 m	Boardwalk	100%	2.24 ha
	237 m	Boardwalk	-	-
	3256 m	Boardwalk	-	-
	11376 m	Boardwalk	-	-

