

## Deepwater recovery MP

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From: Bailey, Annette FLNR:EX  
To: Ton Trieu <ttrieu@comoxvalleyrd.ca>  
Sent: January 4, 2021 4:19:19 PM PST  
Attachments: image001.jpg, 2019-11-27 Management Plan for Tenure Replacement Form.pdf  
Hi Ton

Thank you for the phone call.

I have attached the Management Plan we have received regarding water lot 0021050 tenure.

I have also attached a snip of our latest correspondence with Deepwater Recovery requesting more information about the proposed tenure activities as they relate to aquaculture.

We would like you to consider measures that are likely to make your proposed activities consistent with the important aquaculture interests of Bayne Sound and First Nation's Aboriginal rights. These measures may include:

- Providing a report from a registered professional biologist that outlines:
  - Proposed measures to minimize or avoid impacts to water quality;
  - Proposed measures to control surface water runoff from your upland property and prevent runoff from entering the marine environment;
  - Proposed measures to avoid impacting nearby aquaculture operations; and/or

Thanks

Annette Bailey, RPBio  
Authorizations Specialist  
South Island Natural Resource District  
4885 Cherry Creek Road  
Port Alberni, BC V9Y 8E9  
NEW 250-736-6843

We would like you to consider measures that are likely to make your proposed activities consistent with the important aquaculture interests of Bayne Sound and First Nation's Aboriginal rights. These measures may include:

- Providing a report from a registered professional biologist that outlines:
  - Proposed measures to minimize or avoid impacts to water quality;
  - Proposed measures to control surface water runoff from your upland property and prevent runoff from entering the marine environment;
  - Proposed measures to avoid impacting nearby aquaculture operations; and/or

## Management Plan for Tenure Replacement

File Number:	
Lands Representative	Name: Contact Info:
Location of Tenure:	Union Bay, BC
Tenure Holder	Union Bay Industries Ltd.
Purpose of Tenure: The <i>Purpose Statement</i> , often in the "Grant and Term" Section.	To facilitate upland activity
Area of the Tenure	
Tenure Type	Industrial General

You must fill out this document to support the review of your tenure replacement application. If information is received or is inadequate, your application review may be delayed or disallowed. If you have questions, please contact your Lands Representative or Front Counter BC.

Tenure replacement application name	Union Bay Industries Ltd.
Address	5545 Island Hwy S, Union Bay, BC V0R 3B0
Phone	s.22
Email	mark@deepwaterrecovery.com

If you are planning changes to the original tenure with respect to the purpose, tenure type, or area, please contact your Lands Representative or Front Counter BC

### Project Overview

1. Describe continued need for the tenure? What is the requested replacement term for this tenure?

The need for the tenure is to support the upland activities of the company's operation. The requested replacement term should represent the current contractual term, which we believe is for 25 years of which 24 years still remain.

## Management Plan for Tenure Replacement

2. Describe your current and or proposed activities on the site.

Current Site map and photos must be attached.

Please indicate in the box that you have included ☒

Include additional information for this tenure.

Please see attached "Project Overview" document.

3. Has there been a change or are there plans to change the tenure purpose?

No ☐ Yes ☒

If yes, please describe

Change from Log Handling to Industrial General.

4. Are you requesting a change to the tenure footprint?

No ☒ Yes ☐

If yes, please describe

5. What infrastructure currently exists on this tenure?

Example: roadway, buildings, wharf, cooling station for vehicles, etc.

Dolphins as can be seen in attached aerial photographs. (Exhibit A)

6. Are you planning new construction beyond basic maintenance on this tenure?

No ☒ Yes ☐

If yes, please describe



## Management Plan for Tenure Replacement

7. Please list other tenures or private property / leases / agreements you hold, related to this tenure.

Examples: Are you the upland owner, roadway tenure may have a road permit, crown lease, other users, license to cut, maintenance agreement, industrial use license, utility right-of way, notice of work or other agreement.

May include other authorization under associated *Land Act*, *Forest Act*, *Water Sustainability Act*, *Mineral Act*, *Mines Act* and local government by-laws/zoning agreements.

Upland owner.

8. Have there been any changes for access to this site?

No

## Maintenance and Inspections

9. Describe the existing site conditions and maintenance plans for the land and improvements, including schedule:

Not applicable.

10. Is there a water crossing or bridge within your tenure area? If yes, please provide most recent inspection report. (photos)

No

11. Are you planning maintenance around a stream or waterway?

Working around a waterway may require an authorization, contact FrontCounter BC.

## Management Plan for Tenure Replacement

Yes, regular maintenance of marine moorings.

12. Have other inspections been done for this tenure?

Example: archaeological, geotechnical, biological or wildlife including riparian (fish) and bird, or other.

Yes, Fisheries.

### Waste

13. What wastes do you create within the tenure and how are they disposed? Are there waste permits or other special use permits associated with your tenure? Please provide details.

No waste will be generated within the tenure. The dismantling process takes place on the upland site

Example: wood, waste, sewage, grey water, air emissions, camp waste/ garbage, biological, etc.

### First Nations Consideration

The Province of British Columbia is legally obligated to consult and, where appropriate, accommodate First Nations on decisions that could impact treaty rights or Aboriginal rights and title ("Aboriginal Interests"). Provincial decision makers are responsible for ensuring adequate and appropriate consultations and accommodations.

For more information please review the information available on the Ministry of Forests, Lands, Natural Resource Operations and Rural Development website: 'Consulting First Nations'.

Specifically, proponents are advised to review: "Guide to involving Proponents When consulting First Nations" (<http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations> ).

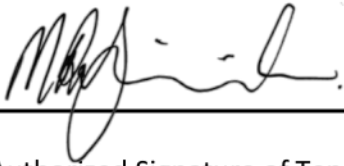
Describe any contact you may have had, including the name of the First Nation(s) and representatives contacted. If no Previous contact has occurred, consult Land Representative first about your role in consultation.

We have had no contact with First Nations at this time.

## Safety Plan

A safety plan that meets the Occupational Health and Safety (OHS) criteria set out by WorkSafe BC may be requested.

As per WorkSafe regulations.



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Authorized Signature of Tenure Holder

11-27-19

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Date

## Project Overview

2. Deep Water Recovery's principle business is the dismantling and recycling of decommissioned and/or derelict vessels and barges. As we have only recently purchased the site, we have not yet begun activities.

The purpose of the tenure is to facilitate the upland activities which in essence is the core of the company's business. The purpose of the tenure is to facilitate the transit of vessels or barges from the water to the land. Once the vessel or barge has been transferred to the upland location, then the dismantling process can begin at which time the material (*primarily steel and non-ferrous metals*) will be sent away for recycling and repurpose. For anyone who is curious, the steel is sent to Seattle where it is melted down and processed into rebar which is then used for civil engineering and general construction.

We are proposing to tie a barge (*hereafter referred to as site barge*) at the end of the existing ramp, and this barge will serve the purpose of providing a transit point for those vessels/barges that will be removed from the water. For example: when a tugboat delivers a vessel or barge for recycling, they will need somewhere to release the vessel/barge so as we can physically take possession. Once the vessel/barge has been released to us, it would be secured to the site barge so as it could be readied for haul-out and repurpose.

The purpose of tying these assets to the site barge is to both allow the tugboat to release its cargo, and provide us with a working platform that will allow us to remove any items prior haul-out. These items may include loose pieces of equipment that could be sitting on the deck of a vessel/barge or fixed items that we may remove in order to reduce weight. Once a vessel or barge has been deemed ready for haul-out, we would then prepare the necessary rigging in order to complete the haul-out process and the item would then be transferred to the upland portion of the property where the dismantling would be effected.

### Haul-Out Process

When we first identified the site, our objective was to analyze together with two marine biologists, a methodology that would enable us to remove vessels and barges from the water and in doing so having a "zero-impact" process on environment. After having analyzed various methods of vessel retrieval, we concluded that large inflatable airbags being employed with the fortuitous tidal activity (*12-15 foot daily tide change*), would allow us to retrieve these vessels without disturbing the ocean floor. Due to the large surface area of each airbag (*each airbag is six feet in diameter and fifty feet long*) combined with low air pressure (*airbags are inflated between eight and twelve pounds*), we are able to remove vessels with no impact on the environment. (See Exhibit B)

## **Upland Process**

The upland site can be described as an area of approximately 200,000 sq. feet, this area consists of a sealed surface (*asphalt*) and appropriate pendage for water runoff in which case the water is directed into a large catchment drain and water filtration system.

Once the vessel/barge has been transferred to the upland site, the dismantling process can begin. From our experience, we have been able to either recycle or repurpose in excess of 99% of the total sum of all material from any given vessel. The only waste that we must contend with will usually refer to furnishings, such as carpets, cushions for seating, and in some cases mattresses, however we typically donate these items to local community groups such as the boy scouts or similar. Items such as galley (*kitchen*) equipment is typically resold for reutilization to local restaurants and the like, machinery such as winches, cranes, generators are repurposed for local fishermen, school engineering projects and/or local charities.

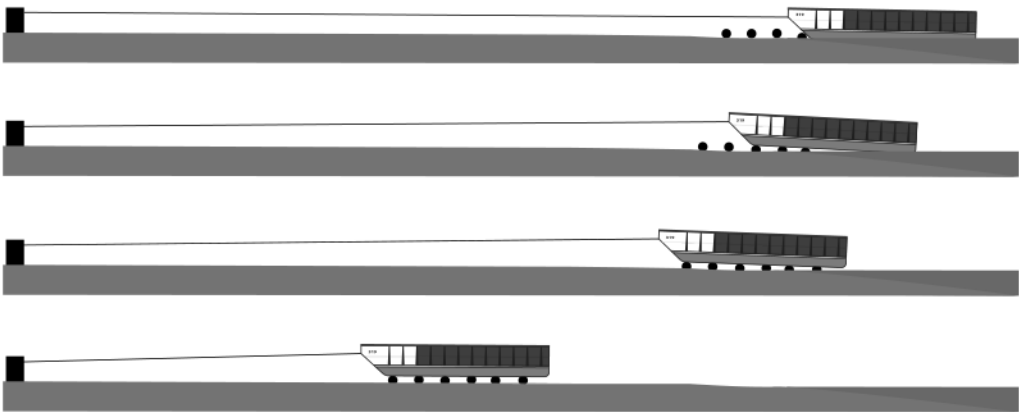
## Exhibit A

Arial Photograph with Proposed Use of Tenure.

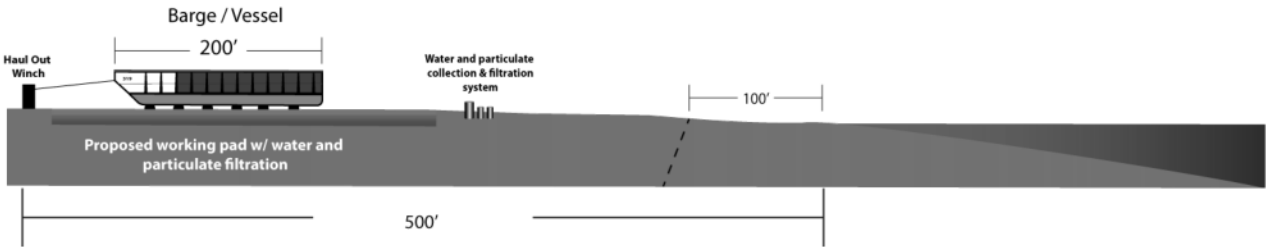


Exhibit B

Artist’s Impression of Haul-Out Process



Side View of Purposed Work Area



## RE: Seaspn

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From: Ton Trieu <ttrieu@comoxvalleyrd.ca>  
To: Bailey, Annette FLNR:EX <Annette.Bailey@gov.bc.ca>  
Sent: March 2, 2021 1:01:01 PM PST  
Attachments: image003.jpg, image005.jpg, image006.jpg, image004.jpg, image001.gif, image002.gif, image007.gif, 2019-11-27 Management Plan for Tenure Replacement Form.pdf

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Hi Annette,

The regional district will be providing comments but I was wondering if you can provide a file number. The document you sent didn't have a file number.

Thanks,  
Ton

Ton Trieu, MCIP, RPP  
Manager of Planning Services  
Planning and Development Services Branch  
Comox Valley Regional District  
770 Harmston Avenue, Courtenay, BC V9N 0G8  
Phone 250-334-6021 Toll free: 1-800-331-6007



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**From:** Ton Trieu  
**Sent:** March 2, 2021 12:17 PM  
**To:** 'Bailey, Annette FLNR:EX' <Annette.Bailey@gov.bc.ca>  
**Subject:** RE: Seaspn

Thanks Annette. I was wondering if I can get clarification on the first sentence in your email below “.....*water lot was change in purpose*”? We receive referrals from the province for tenure extensions, change in names and new applications but when a tenure is amended to a new use the province doesn't send out referrals? That is something new to me.

Thanks,  
Ton

Ton Trieu, MCIP, RPP  
Manager of Planning Services  
Planning and Development Services Branch  
Comox Valley Regional District  
770 Harmston Avenue, Courtenay, BC V9N 0G8  
Phone 250-334-6021 Toll free: 1-800-331-6007





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**From:** Bailey, Annette FLNR:EX [mailto:Annette.Bailey@gov.bc.ca]  
**Sent:** March 2, 2021 11:39 AM  
**To:** Ton Trieu <ttrieu@comoxvalleyrd.ca>  
**Subject:** RE: Seaspan

CAUTION! EXTERNAL EMAIL

Hi Ton

Thanks for the email.

As we have discussed previously there was no referral sent to CVRD as the only change on the water lot was change in purpose. It remains an Industrial site.

I have sent you the application and Management Plan previously, and have indicated if you have any concerns or comments they can be sent directly to me and I will ensure they are filed and captured in the file review.

Hope this helps

Annette

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**From:** Ton Trieu <ttrieu@comoxvalleyrd.ca>  
**Sent:** March 1, 2021 4:23 PM  
**To:** Bailey, Annette FLNR:EX <Annette.Bailey@gov.bc.ca>  
**Subject:** RE: Seaspan

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Hi Annette,

Thank you again for the information. I am unable to locate the referral that was sent to the regional district. Can you please confirm if the province sent a referral to the regional district and if we did respond can I please have a copy of our comments?

Thank you,  
Ton

Ton Trieu, MCIP, RPP  
Manager of Planning Services  
Planning and Development Services Branch  
Comox Valley Regional District  
770 Harmston Avenue, Courtenay, BC V9N 0G8  
Phone 250-334-6021 Toll free: 1-800-331-6007



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**From:** Ton Trieu  
**Sent:** February 4, 2021 1:48 PM  
**To:** 'Bailey, Annette FLNR:EX' <Annette.Bailey@gov.bc.ca>  
**Subject:** RE: Seaspan

Hi Annette,

Great thank you for the email. I wanted to share this YouTube video with you showing five barges on land and a vessel. This video was posted Dec 24, 2020 and I can confirm that the barges and vessel was there when staff did a site visit on January 13, 2021. I can also share pictures that were taken during the site visit. Could I get a copy of the approval for the two barges to be pulled out of the water?

[NOASS Surveyor 4K - A Fly Over with the Mini 2 - YouTube](#)

Kind regards,  
Ton

Ton Trieu, MCIP, RPP  
Manager of Planning Services  
Planning and Development Services Branch  
Comox Valley Regional District  
770 Harmston Avenue, Courtenay, BC V9N 0G8  
Phone 250-334-6021 Toll free: 1-800-331-6007



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**From:** Bailey, Annette FLNR:EX [<mailto:Annette.Bailey@gov.bc.ca>]  
**Sent:** February 4, 2021 1:17 PM  
**To:** Ton Trieu <[ttrieu@comoxvalleyrd.ca](mailto:ttrieu@comoxvalleyrd.ca)>  
**Subject:** RE: Seaspan

CAUTION! EXTERNAL EMAIL

Hi

We have requested further information from the applicant but have not received it yet.

Thanks  
Annette

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**From:** Ton Trieu <[ttrieu@comoxvalleyrd.ca](mailto:ttrieu@comoxvalleyrd.ca)>  
**Sent:** February 4, 2021 11:46 AM  
**To:** Bailey, Annette FLNR:EX <[Annette.Bailey@gov.bc.ca](mailto:Annette.Bailey@gov.bc.ca)>  
**Subject:** RE: Seaspan

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Thank you Annette. I was wonder if you received an environment assessment or biophysical assessment. Could you share this document with me?

Kind regards,  
Ton

Ton Trieu, MCIP, RPP  
Manager of Planning Services  
Planning and Development Services Branch  
Comox Valley Regional District

770 Harmston Avenue, Courtenay, BC V9N 0G8  
Phone 250-334-6021 Toll free: 1-800-331-6007



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**From:** Bailey, Annette FLNR:EX [<mailto:Annette.Bailey@gov.bc.ca>]  
**Sent:** February 4, 2021 11:16 AM  
**To:** Ton Trieu <[ttrieu@comoxvalleyrd.ca](mailto:ttrieu@comoxvalleyrd.ca)>  
**Subject:** Seaspan

CAUTION! EXTERNAL EMAIL

Annette Bailey, RPBio  
Authorizations Specialist  
South Island Natural Resource District  
4885 Cherry Creek Road  
Port Alberni, BC V9Y 8E9  
**NEW** [250-736-6843](tel:250-736-6843)

## Land fine 0021050 Union Bay Environmental Management Plan

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From: Bailey, Annette FLNR:EX  
To: Ton Trieu <ttrieu@comoxvalleyrd.ca>  
Sent: March 8, 2021 12:36:52 PM PST  
Attachments: Deep Water Recovery EMP March 2021.pdf  
Hi Ton

We have received the attached from Deepwater Recovery regarding the water lot 0021050 at Union Bay.

thanks

Annette Bailey, RPBio  
Authorizations Specialist  
South Island Natural Resource District  
4885 Cherry Creek Road  
Port Alberni, BC V9Y 8E9  
**NEW** 250-736-6843

**March 5, 2021**

## **1.0 INTRODUCTION**

Castor Consultants Ltd. has been retained by Deep Water Recovery Ltd. (DWRL) to generate a site-specific Environmental Management Plan for their location at 5804 Island Highway South, Union Bay, B.C. to protect the local marine environment and in recognition of the importance and economic value of the aquaculture business in Baynes Sound.

DWRL is very much aware of the shellfish recreational values and the importance of the aquaculture businesses operating in Baynes Sound as indicated on the BC Shellfish Growers Association and Aboriginal Aquaculture Association web sites ([www.bcsqa.ca](http://www.bcsqa.ca) and [www.aboriginal.aquaculture.com](http://www.aboriginal.aquaculture.com)). Although greater focus is concentrated on oysters utilizing long line, raft culture (trays), and beach harvesting methods, scallops, mussels, and clams are also a significant revenue stream employing similar farming methods to oysters. It is also recognized that geo-duck is harvested in Baynes Sound from the ocean floor in both intertidal and subtidal areas.

DWRL is engaged in the protection and regeneration of native plant life along its shoreline which is almost a kilometer in length on the southern side of the industrial zone.

DWRL has taken measures to ensure that the management practices of its operation focus strongly on Responsible Environmental Custodianship. DWRL has initiated procedures for non-emergency vessels and barges, requiring the removal of all hydrocarbons from these vessels prior to their arrival at the site. Although DWRL's operations are primarily on the upland side, precautionary measures have been set in place such as Oil Boom Containment Curtains (see photographs attached), and 24-hour onsite personnel.

As a precautionary measure, DWRL requires all incoming vessels and barges to be surveyed for both safe passage from their departure point and also to ensure that there is no environmental risk upon their arrival in Union Bay. The survey is required to identify hydrocarbons or other deleterious substances and in the case of barges or vessels that are involved in the finfish aquaculture industry, the survey is needed to ensure that there are no biological contaminants that may be harmful to the aquaculture in Baynes Sound.

In addition to aquaculture, the current and future tourism development and infrastructure is also an ongoing concern that DWRL is following closely as the company has been approached by both local government and local marine tourism operators for the haul-out and maintenance of Whale Watching & Wildlife Adventure Tours watercraft. Given its close proximity to Denman & Hornby Islands and the 780-acre development site adjacent to DWRL, environmental stewardship will be critical to the future development of Baynes Sound.

It is the intent of DWRL, its affiliates, consultants, suppliers, and subcontractors to take all reasonable and practicable steps in order to prevent the discharge of deleterious material into the environment or to cause any harm to fish or fish habitat.

For background, DWRL's facility provides a vessel decommissioning service for the marine industry on the coast. The service decommissions derelict vessels or those at the end of their serviceable life. It is an essential service in that it enables the safe disposal and recycling of vessels that might otherwise release deleterious substances into the marine environment, or become hazards to other vessels in navigable waters. DWRL, through its contract arrangements with clients (e.g. Seaspan), conforms to the international quality management standards ISO9001 and ISO9002, which basically encourage risk-based thinking in their on-site practices.

**2.0 RESPONSIBILITIES**

**2.1 Site Manager – Mark Jurisich Phone: s.22**

- a) Responsible for the implementation of a site Environmental Management Plan.
- b) Responsible for the delegation of authority necessary to carry out the elements of that plan.

**2.2 Environmental Monitor – Rob Waters, Castor Consultants Ltd. Phone: s.22**

The Site Manager is responsible for assignment of an environmental monitor. Regular and arbitrary monitoring is to be conducted at the discretion of the monitor. The frequency of the discretionary visits will be reasonable and appropriate. On-site visits will be made during procedural changes, during new activities, prior to cleanout from any sumps, during periods of heavy rainfall, and on any other occasions deemed appropriate. Call-out procedures will be established during work activities; however, the monitor will be ‘on-call’ as required.

Environmental monitoring reports will be issued to DWRL following each site visit, and to any other agency DWRL identifies as having requested such reports. Additional reports will be issued in the event of unusual situations and/or emergencies.

**2.3 Spill Response Coordinator – Mark Jurisich Phone: s.22**

- a) Responsible to identify all Federal, Provincial, Municipal and Owner requirements relating to spill prevention, control and remediation.
- b) Responsible to produce and periodically update a potentially hazardous materials inventory upon which site specific procedures will be based.
- c) Responsible for documentation and co-ordination of notifications and reports pertaining to spills.
- d) Responsible to initiate, oversee and direct activities relating to the prevention and recovery of any accidental release of hazardous materials into the environment
- e) Responsible to co-ordinate training of spill response teams.
- f) Responsible to liaise and co-ordinate communications and activities with other general and subcontractors, regulators and owner representatives during containment and remedial operations.

**2.4 Site Supervisors**

- a) Responsible to conduct their work in a manner which will reduce the likelihood of environmental spills.
- b) Responsible to assist the Spill Response Coordinator in the control and remediation of any accidental spills.
- c) Responsible to communicate environmental requirements as well as the elements of spill prevention, control and remediation to their crews through weekly Tool Box meetings or special meetings.

**2.5 Employees**

- a) Responsible to conduct their work in a manner that achieves the required environmental protection and which will reduce the likelihood of accidental spills.
- b) Responsible to assist in spill containment and remediation as directed.

### **3.0 PROCEDURES**

#### **3.1 Materials and Information Inventories**

- a) DWRL Spill Response Coordinator will cause an inventory to be taken of all materials which if inadvertently released could be hazardous to the environment.
- b) This inventory will identify the types of products, their quantities as well as storage and use conditions as outlined in the Material Safety Data Sheet (MSDS).
- c) The inventory will be current, will be updated monthly (or more frequently if necessary), and will be posted and made available to the Owner or any agency upon request.
- d) The Spills Response Coordinator will retain a personal file of MSDS sheets for material on site.
- e) The MSDS sheets will be retained at a known location on site and be accessible for review in accordance with the Workplace Hazardous Materials Information System (WHMIS) legislation.
- f) Emergency Spill Kits - The Spill Kits will be deployed as appropriate to the site work areas and be well marked and kept in close proximity to working machinery. A 45-gallon drum or equivalent container capable of storing wasted (i.e. oiled or concrete) materials will be included with each kit. In addition, smaller Spill Kits and sorbent pads will be kept on each major piece of equipment for emergency first response use. Devices capable of blocking flows to culverts or storm drains will be kept adjacent to culverts or storm drains that have potential to receive contaminated water during construction activities.

#### **3.2 Site Plan**

- a) At this time, fueling and servicing requirements for the site will be done via small fuel totes and / or at the refueling station supplied with spill control materials.
- b) Equipment Repairs - Hydraulic oil spills will be locally contained using Spill Kits. In the event of larger oil spills, the Spill Response Coordinator will be notified in accordance with Section 2.4 and 8.0. Primarily equipment repairs will be made on site, with the provision to move equipment off site if necessary. Oil and fuel spills will be contained with sorbent pads and this material will be disposed of in accordance with regulatory requirements.

#### **4.0 STORM WATER DRAINAGE CONTROL PLAN**

The purpose of the Storm Water Drainage Plan is to control runoff from the site and to prevent materials including metal cuttings, welding residue and any other substances from being released into the marine environment or any fish-bearing watercourse.

All storm water and runoff water from the work area will flow to and be collected in the existing sumps located down slope from the work areas; one sump is in the NE corner of the site and a second is located near the site centre just south of the existing groyne. The paved work area has been built to handle heavy equipment and graded to facilitate runoff control to the sumps, all of which were purpose built for the dryland log sort and as such work for the current purpose as well.

Routine monitoring and pumping out of the sumps is planned on a regular basis based on sediment buildup. A record of pump outs will be maintained. Water quality testing for parameters associated with the operation may be conducted at the direction of the Environmental Monitor. If results exceed the specified criteria, consideration will be given to the source and appropriate steps will be taken to rectify the situation. During these situations testing will be conducted until the problem is resolved.

#### **5.0 METHODOLOGY**

Barges/vessels will be positioned and hauled out of the water up the ramp on inflatable rollers by means of large winches set upland. The barges, once out of the water, will be relocated off the ramp onto the paved area for decommissioning.

The vessel owner prior to delivery will have pumped all vessels arriving at the site of bilge water and related hydrocarbon residues. As a precautionary measure barges/vessels will be checked for residues before and after haul-out to ensure suitability before decommissioning to avoid spills. Any residues will be removed and contained in barrels for offsite disposal at an approved waste facility.

Decommissioning the barges/vessels entails cutting the metal, mainly steel and aluminum, structure by means of cutting torches and related specialized metal cutting equipment. Large and smaller pieces of the metal residues will be placed in barrels for shipment. Sweeping the work deck around the barges will collect finer materials generated by these methods. The sumps will contain any fines missed by this housekeeping process.

As noted spill containment kits and associated equipment will be located adjacent each work area and moved as required to be close to the workers for rapid deployment.

##### **On-going Site Maintenance**

Site clean up (i.e., shoveling and sweeping, shop-vacuuming) will be an on-going maintenance activity during and after processing of each barge/vessel. The paved deck surface will be kept free of cuttings and associated materials to prevent their entry to storm drains or the adjacent marine environment. Site inspection and clean up will be conducted at the end of the day.



### **Solid Waste Management Plan**

Trash on the site, including related decommissioning waste (filters, rags, etc) will be collected and disposed of in barrels/dumpsters for off site disposal. The site will be cleaned on a regular basis to prevent the accumulation of excessive solid waste not associated with the metal recycling.

Oily rags, oils and other fluids generated during equipment repairs and maintenance will be collected and disposed of in accordance with applicable standards and regulations. Routine equipment repairs and maintenance will be done within the site area, away from tidewater where possible.

### **Dust Control**

In the event that dust becomes a problem on the site, a water spray may be used as a suppressant. Care will be taken to ensure that the amount of water used is insufficient to cause a run-off quality problem. In no event will chemical dust suppressants be used.

## **6.0 ORIENTATION AND TRAINING**

- a) The Site Manager will ensure that each new employee or contractor is properly introduced to and instructed on the policies and procedures established by the site's Environmental Management Plan.
- b) DWRL's hire-on orientation will include a section on safety and environmental awareness and responsibilities. Each employee will be required to complete the environmental orientation before being permitted to go to work.
- c) Environmental issues will be discussed at all safety Tool Box meetings and general safety meetings. In addition, at the start up of all operations that could affect the environment, all affected employees or contractors will be instructed upon specific procedures to protect the surrounding environment.
- d) In the unlikely event of an environmental problem or incident, all employees or contractors will be re-instructed and re-trained as deemed necessary by the site's Environmental Monitor and the Site Manager.
- e) The Site Superintendent will ensure each employee is made aware of the proper use, handling and storage of materials on site which could present a hazard to the environment, as well as the location, use and limitations of spill containment and recovery equipment.

## **7.0 SPILLS – NOTIFICATION AND RESPONSE**

### **7.1 Internal Notification**

- a) All employees on site will be instructed during their initial orientation and subsequently within Tool Box meetings or special meetings to immediately report any and all releases of deleterious materials to the Spill Response Coordinator.
- b) The Spill Response Coordinator will be advised of all reports of spilled materials without delay and will attend the scene in order to assess the situation.

- c) The Spill Response Coordinator will inform the Environmental Monitor of all reports and activities resulting from an accidental release of deleterious material. Where appropriate, the Spill Response Coordinator will liaise with the Environmental Monitor in the development and implementation of spill response.
- d) The Spill Response Coordinator will post an internal and external notification flow chart to be published and posted at the site office.

## **7.2 External Notification**

- a) DWRL's Site Manager will be responsible to either initiate or be aware of all external notifications as outlined in the notification flow chart.
- b) Owner's Representative and Environmental Monitor will be notified immediately.
- c) DWRL's Site Manager will be responsible to notify the Provincial Environment Program and the Department of Fisheries and Oceans (DFO) Radio Room at 604-666-3500 for spills that affect or have potential to affect aquatic resources and if the volume spilled requires mandatory reporting.
- d) The Spill Response Coordinator is advised to contact CANUTEC (0-613-996-6666) as soon as possible after an accident so as to utilize their expertise and ability to link response personnel at the scene with individuals and organizations in a position to offer technical advice and/or on site assistance.
- e) DWRL's Spill Response Coordinator will maintain a log of all external contacts made which will include the date, time, organization contacted, essence of the notice or information transmitted/received, and whenever possible the name and title of individuals receiving or issuing notification or instructions.
- f) DWRL's Spill Response Coordinator will himself or will designate some other competent person to maintain a standby position at the site office in order to monitor spill related communications.

## **8.0 SPILLS – DISCOVERY AND RESPONSE**

### **8.1 Discovery**

- a) Any employee noticing an environmentally hazardous spill of materials is required to immediately notify their supervisor and/or the Spill Response Coordinator.
- b) The person reporting a spill is to attempt to stem the flow if possible by closing valves or by using other available means of containment readily available.

### **8.2 Response**

- a) The Spill Response Coordinator shall immediately proceed to the scene where he will make an initial assessment of:
  - 1. The type of material spilled.
  - 2. The estimated quantity spilled.
  - 3. The total quantity which could potentially be involved.
  - 4. The surface area involved or affected.
  - 5. Specific hazards of an imminent nature which may require emergency response groups or other specialized handling.
  - 6. Criteria for containing the spilled material.
  - 7. Determination of personnel and equipment necessary to initiate remedial action and recovery.
- b) The Spill Response Coordinator will assess the required manpower and equipment requirements in addition to those available on the site.

- c) The Spill Response Coordinator will then directly control all activities relating to the stemming of additional flow or escape, containment and extraction of spilled material and the restoration of the site.
- d) The Spill Response Coordinator will ensure that containment and recovery equipment is available on site in such quantities and character as to sufficiently respond to the most serious potential spill condition identified through the materials inventory.
- e) The Site Manager will functionally liaise with regulatory agencies and Owner representatives on the scene and keep them informed as to the status of the on-going operations.

#### **9.0 SPILLS – DISPOSAL**

- a) The disposal of spilled material and/or contaminated soil is governed under provincial legislation. The Site Manager shall maintain a copy of those requirements on site for reference.
- b) The Spill Response Coordinator and Site Manager shall determine if the local disposal areas are available and registered for those materials which could be spilled during the course of operations.
- c) The Spill Response Coordinator shall establish a listing of available outside contractors with sufficient capability, capacity and disposal permits to accommodate any anticipated need.

#### **10.0 SPILLS – DOCUMENTATION**

- a) The Spill Response Coordinator or his designate will be responsible to attend the scene in order to collect samples of any spilled materials or contaminated soils as well as to photograph and measure the affected area.
- b) The Site Manager will cause a full report to be written within seven (7) days of the completion of remedial activities. All spills and remedial measures will be reported and documented. Reporting will include but not be limited to:
  - The reporting person's name and telephone number.
  - The name and telephone number of the person who caused the spill.
  - The location and time of the spill.
  - The type and quantity of the substance spilled.
  - The cause and effect of the spill.
  - Details of action taken or proposed.
  - A description of the spill location and of the area surrounding the spill.
  - The details of further action contemplated or required.
  - The names of agencies on the scene.
  - The names of other persons or agencies advised concerning the spill.
  - The chronological sequence of events including internal and external notifications.
  - An analysis of the events leading up to the spill and a critique of the internal response and handling of the incident.
- c) The Site Manager will provide the Owner with a copy of the report within ten (10) days of completion of remedial activities.

## **Deep Water Recovery Environmental Management Plan**

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### **CONTACTS**

**CANUTEC** (CALL COLLECT; SPILL ADVISE) 0-613-996-6666

**SPILL CLEAN UP SERVICES:**

BURRARD CLEAN

EMERGENCY 604-294-9116  
NON-EMERGENCY 604-294-6001

**ENVIRONMENT CANADA – ENVIRONMENTAL PROTECTION**

EMERGENCY 24 HOURS

1-604-666-6100

**PROVINCIAL EMERGENCY PROGRAM** (VICTORIA 24 HOURS)

1-800-663-3456

**COAST GUARD**

PARKSVILLE

1-800-567-5111  
250-480-2600

**MINISTRY OF ENVIRONMENT**

MINISTRY OF ENVIRONMENT (General)

250-952-5848

WILDLIFE (Emergency)

1-800-663-9453

**FISHERIES (DFO)**

DFO RADIO ROOM CONTACT

1-800-465-4336  
604-666-3500

**DWRL:**

**Mark Jurisich**

Site Manager  
Site Superintendent  
Environmental, Health & Safety  
Co-ordinator

s.22

**Rob Waters**

Environmental Monitor

Office: 250-245-0225  
s.22

**LOCAL PORT AUTHORITY:**

**Comox Harbour Authority**

250-339-6041

Prepared by



Rob Waters, R.P.Bio.

March 5, 2021

File: 3220-20 / 27074.100

March 29, 2021

Sent via email only: [Annette.Bailey@gov.bc.ca](mailto:Annette.Bailey@gov.bc.ca)

Annette Bailey, RPBio  
Authorizations Specialist  
South Island Natural Resource District  
Ministry of Forests, Lands, Natural Resource Operations and Rural Development  
4885 Cherry Creek Road  
Port Alberni BC V9Y 8E9

Dear Ms. Bailey:

**Re: Tenure Replacement - Union Bay Industries Ltd.**

In response to the proposed tenure replacement from Log Handling to Industrial General associated with the upland property located at 5545 Island Highway South, please accept the following comments.

Both the water tenure area and the upland area are zoned Industrial Marine in the Rural Comox Valley Zoning Bylaw No. 520 (Zoning Bylaw). This zone allows for a Barge Facility which is defined as “an area on the surface of water together with a ramp facility at an adjacent upland location or a dock facility from an upland location extending into the water which allows for the movement of equipment or goods between a floating barge and the upland.” The proposed management plan for tenure replacement is consistent with the Zoning Bylaw.

The tenure area is within the Official Community Plan’s Coastal Areas designation. The policies of this designation seek to permit industrial marine uses while minimizing impacts to the natural environment, its ecosystems, and the physical processes (e.g. sediment transport) of the shoreline. Following these policies, it is requested that a tenure replacement be subject to a limit in the number of vessels being anchored within the tenure area, bi-yearly monitoring reports, and a short term expiry of the tenure. Please ensure there is meaningful consultation with neighbouring property owners and nearby aquaculture tenure holders and that measures are taken to protect and restore foreshore habitats.

Please note that a Development Permit is required for any land alterations (e.g. vegetation removal, resurfacing or excavation) within 30 metres of the shoreline. The application for this Development Permit must include a Biophysical Assessment by a Qualified Environmental Professional with recommendations for protecting, restoring or enhancing habitat. A Development Permit is also required for the construction of any building on the lot, consistent with the Commercial and Industrial (form and character) guidelines of Section 85 in the Rural Comox Valley Official Community Plan, Bylaw No. 337.

Should you have any questions in regards to the above, please contact Jodi MacLean at 250-334-6041 or by email to [planning@comoxvalleyrd.ca](mailto:planning@comoxvalleyrd.ca).

Sincerely,

***T. Trieu***

Ton Trieu, RPP, MCIP  
Manager of Planning Services  
Planning and Development Services

/jm

*Comox Valley Regional District*

## RE: Review of referral for 0021050 Deepwater recovery

---

From: Jodi MacLean <jmacLean@comoxvalleyrd.ca>  
To: Bailey, Annette FLNR:EX <Annette.Bailey@gov.bc.ca>  
Cc: Ton Trieu <ttrieu@comoxvalleyrd.ca>  
Sent: March 29, 2021 2:53:11 PM PDT  
Attachments: 20210329 Trieu Union Bay Industries - Deep Water Recovery.pdf

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Annette,

Attached, please find a copy of the CVRD comments regarding the change of tenure.

Thanks.

Jodi MacLean  
Planner  
Planning and Development Services Branch  
Comox Valley Regional District  
770 Harmston Avenue, Courtenay, BC V9N 0G8  
Tel: 250-334-6041  
Tel: 1-800-331-6007

---

**From:** Ton Trieu  
**Sent:** March 23, 2021 3:46 PM  
**To:** Bailey, Annette FLNR:EX <Annette.Bailey@gov.bc.ca>  
**Cc:** Jodi MacLean <jmacLean@comoxvalleyrd.ca>  
**Subject:** RE: Review of referral for 0021050 Deepwater recovery

Hi Annette,

The letter is with the general manager of planning and development for signing. I would expect the letter to be sign shortly.

Ton

Ton Trieu  
Manager of Planning  
Comox Valley Regional District  
Sent from my mobile device

---

**From:** Bailey, Annette FLNR:EX <Annette.Bailey@gov.bc.ca>  
**Date:** Tuesday, Mar 23, 2021, 3:38 PM  
**To:** Ton Trieu <ttrieu@comoxvalleyrd.ca>  
**Subject:** Review of referral for 0021050 Deepwater recovery

CAUTION! EXTERNAL EMAIL

Hi Ton

I am wondering if you have had an opportunity to comment on the land tenure change of purpose for 0021050 Deepwater Recovery in Union Bay.  
You have indicated previously that CVRD would be sending comments.

Thanks for the update.

Annette Bailey, RPBio  
Authorizations Specialist  
South Island Natural Resource District  
4885 Cherry Creek Road  
Port Alberni, BC V9Y 8E9  
**NEW** 250-736-6843



## Land file 0021050 Deepwater Recovery

---

From: Bailey, Annette FLNR:EX  
To: Ton Trieu <ttrieu@comoxvalleyrd.ca>  
Sent: November 2, 2021 9:22:00 AM PDT  
Attachments: 2021-10-15 Reasons for Decision 0021050.pdf  
Hi Ton

We have completed the review and consultation on the land file 0021050 Deepwater Recovery at Union Bay. We have offered the change in purpose to Deepwater Recovery for the remaining term and made the tenure area approximately 3ha smaller.  
I have included the Reasons for Decision document for your records.

Thank you

Annette Bailey, RPBio  
Senior Project Manager  
Habitat Officer | Water Officer  
South Island Natural Resource District  
4885 Cherry Creek Road  
Port Alberni, BC V9Y 8E9  
250-736-6843



## REASONS FOR DECISION

**FILE NUMBER:** 0021050

**APPLICANT:** Union Bay Industries Ltd  
Deepwater Recovery

**BACKGROUND:** Application was made for a change in purpose of an existing *Land Act* Industrial – Log Handling lease to an Industrial – General lease fronting the Applicant's private land near Union Bay, BC. The purpose of the change is to facilitate upland activities and the transit of vessels or barges from the water to the upland.

**DECISION DATE:** October 15, 2021

**DECISION:** PROCESSED - TENURE ISSUED

The decision is for the amendment of a current lease for a new purpose and to reduce its size. The term of this lease will not change. The replacement date of the lease remains September 9, 2038.

### REASONS FOR DECISION:

#### Considerations:

- **Land Use Report (LUR)**

Land Use Report is complete and on file

- **Land Act Policy and Procedures**

Industrial General and Crown Allocation Principles were used in making this lease amendment decision.

- **Land Status Review**

Status was completed – no outstanding conflicts or concerns

- **Referral Responses**

This is amendment no referrals are required

- **Public Engagement.**

Public comments were received, summarized, and considered. Comments were mainly related to the upland private property and outside the area of this lease. Other comments have been addressed in the applicant's Environmental Management Plan (EMP). The applicant will be required to adhere to the EMP.

- **First Nation Consultation**

First Nations interests have been considered and addressed in the EMP.

- **Additional Information or Evidence**

**Summary Statement:**

The Provincial Government is committed to the responsible management of Crown land, including submerged land, for the benefit of the public, through sound, transparent and durable *Land Act* decisions which consider social, economic, and environmental needs, and recognize and support the interests of First Nations. This application meets those goals and commitments.

**DECISION MAKER:**

Rhonda Morris  
District Manager  
South Island Natural Resource District

*Delegated authority under Land Act s. 11*

**For more information contact:**

Annette Bailey  
Authorizations Specialist  
250-736-6843  
annette.bailey@gov.bc.ca

File: 3220-20 / 09800.000  
4020-20 / 20-A-044

December 1, 2021

Sent via email and mail: [mark@deepwaterrecovery.com](mailto:mark@deepwaterrecovery.com)

Union Bay Industries  
C/O Mark Jurisich  
PO Box 276  
Union Bay BC V0R 3B0

Dear Mark Jurisich:

**Re: 5084 Island Highway  
PCL A (DD 27784N) of Lot 11, Nelson District, except parts outlined in red on Plans 397RW  
and 1414R, and except those parts in Plans 7190, 8906, 21511, 22414, 28338, 29341 and 29342,  
PID 004-758-901**

---

Thank you for meeting with myself and Planner Jodi MacLean on November 18, 2021 at the Comox Valley Regional District (CVRD) office to discuss the activities occurring on the above noted lot, your intentions for future use of the lot and how it relates to the Rural Comox Valley Zoning Bylaw No. 520, 2019. After speaking with you and being on site previously with you, I believe the CVRD now has a better understanding of the scope of uses and their scale. It is noted that 5084 Island Highway is split-zoned with the shoreline, and with much of the work area being zoned Industrial Marine (IM) and the remainder Rural Twenty (RU-20) and Country Residential One (CR-1).

It is CVRD's understanding that the nature of the work occurring within the IM area on the above noted lot is the dismantling of boats (commonly known as ship breaking). At the meeting staff advised you that this use is not a permitted use within the IM zone. The IM zone allows for "Boat building and repairs and service and sales". The Zoning Bylaw does not specifically define "Boat building and repairs and service and sales" but is not interpreted so broadly as to include the dismantling of boats.

In order to comply with CVRD Bylaw No. 520, you have the following options:

1. The non-permitted use (dismantling of boats) needs to be removed;
2. Apply for a Temporary Use Permit (TUP) to permit the additional use; or
3. Apply for a rezoning.

In addition, please note that an Aquatic and Riparian Habitat Development Permit is required for any land alterations within 30 metres of the shoreline. A Commercial/Industrial (form and character) Development Permit is required for any building constructed on the IM area of the lot.

Enclosed is the relevant planning application for your information.

Please be advised that this matter is now considered an active bylaw enforcement file, and a response which confirms your position on this matter, and what steps you will be taking towards achieving compliance is required by December 15, 2021. Please feel free to contact Ton Trieu, Manager of Planning Services at 250-334-6021 or by email to [ttrieu@comoxvalleyrd.ca](mailto:ttrieu@comoxvalleyrd.ca) if you have any questions or to discuss the application procedure.

Sincerely

***T. Trieu***

Ton Trieu, RPP, MCIP  
Manager of Planning Services

Enclosure

/jm

Sincerely,

***A. Yasinski***

Amanda Yasinski  
Manager of Bylaw Compliance

*Comox Valley Regional District*

**Property information** (Refer to your tax assessment notice or certificate of title.)

Legal description	
Civic address	
PID	BC Assessment roll No. 771 -

**Application type** (If more than one application is needed, check the additional applicable boxes.)

<b>Bylaw amendment</b>		
<input type="checkbox"/> Official community plan	<input type="checkbox"/> Zoning bylaw (i.e., rezoning)	
<b>Development permit</b>		
<input type="checkbox"/> Aquatic and Riparian Habitat	<input type="checkbox"/> Eagle Nest	<input type="checkbox"/> Blue Heron Nest
<input type="checkbox"/> Shoreline Protection Devices	<input type="checkbox"/> Steep Slopes (Hazardous Conditions)	<input type="checkbox"/> Farm Land Protection
<input type="checkbox"/> Mt. Washington mixed use development	<input type="checkbox"/> Union Bay Tourism Highway Commercial	<input type="checkbox"/> Kensington Comprehensive Development
<input type="checkbox"/> Commercial and Industrial (Form & Character)		
<b>Variance</b>		
<input type="checkbox"/> Development variance permit	<input type="checkbox"/> Board of variance	
<b>Others</b>		
<input type="checkbox"/> Temporary use permit	<input type="checkbox"/> Site specific amendment to floodplain	<input type="checkbox"/> Strata conversion
<input type="checkbox"/> Home occupation, bed and breakfast...	<input type="checkbox"/> Temporary occup. of additional dwelling	<input type="checkbox"/> Property information request

**Owner information**

Name(s)	Company	
Mailing address	City	
	Province	Postal code
Phone(s)	Email	

**Applicant information** (If the applicant is not the owner(s), complete this and the agent authorization sections. All communication will be forwarded to the applicant only.)

Name(s)	Company	
Mailing address	City	
	Province	Postal code
Phone(s)	Email	

**Agent authorization** (Complete only if the applicant is not the owner(s).)

I/we, (owner's name)	
declare that I am/we are the property owner(s) noted on this form, and hereby authorize	
(agent's name)	to act as agent in the matter of this/these application(s).

Owner's name 1	Signature
Owner's name 2	Signature

All owners shown on the certificate of title must sign. Attach a separate page with additional signatures.

**Development proposal** (Describe the present and intended uses, and reasons for proposal. Attach additional pages if needed.)

**Provincial site profile**

Section 40(1) of the *Environmental Management Act* requires a site profile to be completed with an application when the applicant knows, or reasonably should know, that a site has been used or is being used for commercial or industrial purposes. If any activities found in Schedule 2 of the *Contaminated Sites Regulation* apply to the subject property, the applicant is required to complete a site profile. Schedule 2 and the site profile application form are available in the "land remediation" section of the BC Government web site ([www.gov.bc.ca](http://www.gov.bc.ca)), as well as at the Comox Valley Regional District (CVRD). If any of the listed activities in Schedule 2 applies, contact the CVRD. If any of the listed activities in Schedule 2 does not apply, complete the following declaration:

**I hereby declare that, based upon my current knowledge of the subject property, no Schedule 2 activities have been carried out.**

Signature	Date
-----------	------

**Notice of collection of personal information**

Personal information on this application form is collected for the administration, enforcement and processing of this application. The personal information is collected under the authority of the *Freedom of Information and Protection of Privacy Act* (FIPPA), *Local Government Act* and CVRD bylaws. All documentation, drawings, plans and information submitted in support of this application can be made available for public inspection pursuant to the FIPPA. For questions about the collection of personal information, please contact the corporate legislative officer at 770 Harmston Avenue, Courtenay BC or at 250-334-6007.

**Declaration**

I, the undersigned, have attached the required documentation, as noted on the submission checklist, along with the required application fee and hereby agree to submit further information deemed necessary for processing this application. I hereby certify that the documentation and information provided with respect to this application is full and complete<sup>1</sup> and is, to the best of my knowledge, a true statement of the facts related to this application. Lastly, I hereby acknowledge that an incomplete application will not be processed and will be returned to me, and that any fees paid are non-refundable except as noted in the Planning Procedures and Fees Bylaw.

Signature	Date
-----------	------

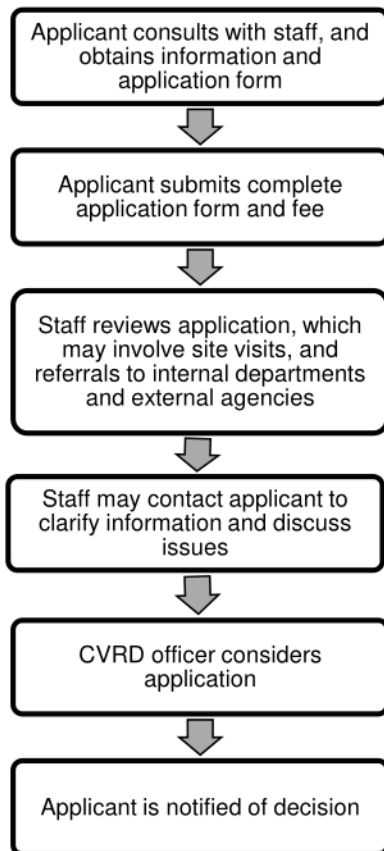
<sup>1</sup> A complete application includes: application form properly filled out and all fees paid; plans and supporting information compiled by applicant into a complete, required set; compliance with existing development agreements on certificates of title and conditions of previous planning approvals; identification of existing easements and rights-of-way. Incomplete applications will not be processed and will be returned.

**Office use**

<b>PSR</b>	Date received	Received by
	Fee \$	Security deposit \$
<b>Planning staff</b>	Date assigned	Assigned to

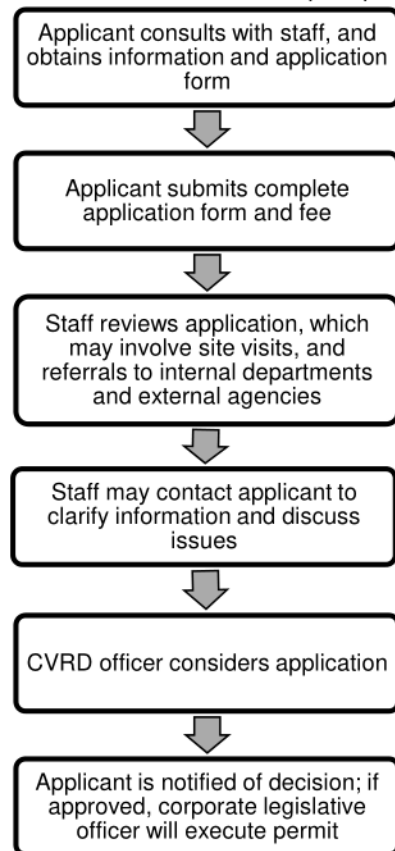
Please email planning application to: [planning@comoxvalleyrd.ca](mailto:planning@comoxvalleyrd.ca)

**Generalized process for a home occupation / domestic industrial use application<sup>2</sup>**



**Generalized process for a DP application that requires CVRD officer consideration**

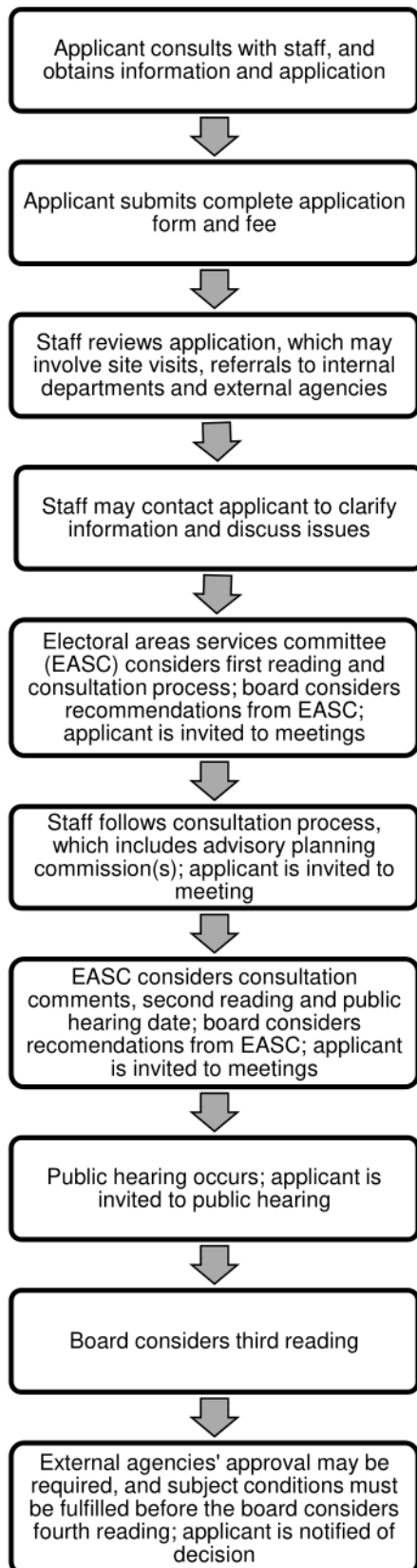
(e.g., aquatic, eagle nest trees, heron nest sites, shoreline protection devices and steep slopes)<sup>2</sup>



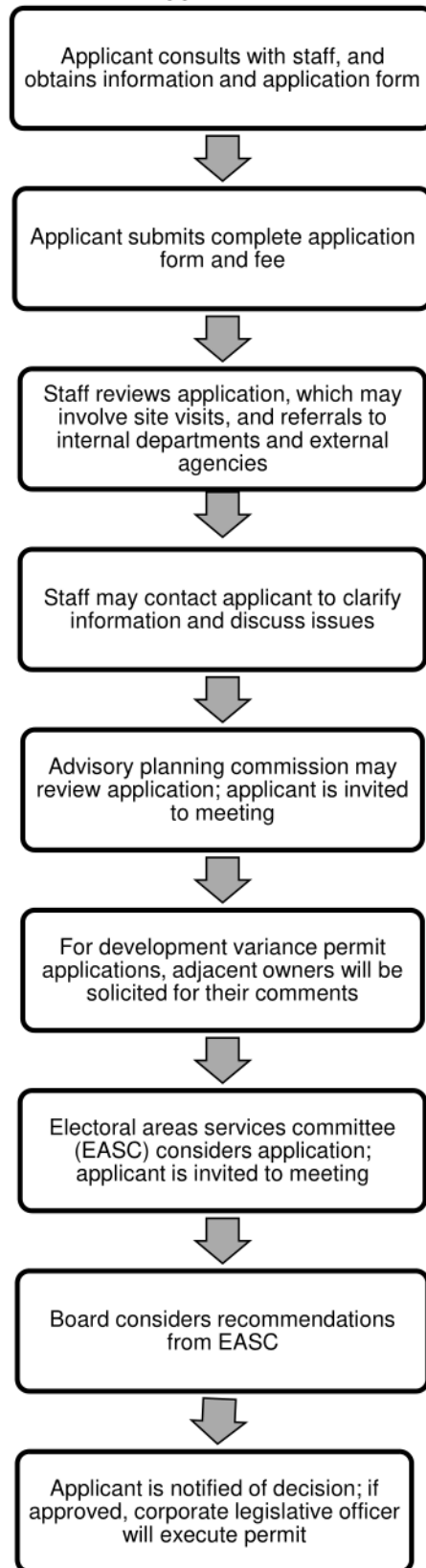
<sup>2</sup> These processes are simplified for illustrative purposes only.



**Generalized process for an OCP amendment or zoning bylaw amendment application<sup>2</sup>**



**Generalized process for a DP application that requires board consideration or a development variance permit application<sup>2</sup>**



<sup>2</sup> These processes are simplified for illustrative purposes only.

## compliance letter

---

From: Ton Trieu <ttrieu@comoxvalleyrd.ca>  
To: Bailey, Annette FLNR:EX <Annette.Bailey@gov.bc.ca>  
Sent: December 2, 2021 3:37:28 PM PST  
Attachments: image003.jpg, image005.jpg, image006.jpg, image007.gif, image004.jpg, image001.gif, image002.gif, Trieu Yasinski 09800000 Deep Water Recovery Enforcement 20A044.pdf

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Hi Annette,

Thank you for arranging the meeting today. Per Ronda's request please see the attached compliance letter.

Ton

Ton Trieu, MCIP, RPP  
Manager of Planning Services  
Planning and Development Services Branch  
Comox Valley Regional District  
770 Harmston Avenue, Courtenay, BC V9N 0G8  
Phone 250-334-6021 Toll free: 1-800-331-6007



## FW: Ship Breaking in Union Bay

---

From: Russell Dyson <rdyson@comoxvalleyrd.ca>  
To: Morris, Rhonda M FLNR:EX <Rhonda.Morris@gov.bc.ca>  
Cc: McDonald, Andrea LASS:EX <Andrea.McDonald@leg.bc.ca>, Alana Mullaly <amullaly@comoxvalleyrd.ca>  
Sent: December 13, 2021 6:42:40 PM PST  
Attachments: image001.png

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Hello Rhonda, I hope you are doing well and are about to enjoy the season with some time off. I have copied to you here a very succinct and effective bit of information shared by Andrea McDonald of MLA Josie Osborne's office regarding the "ship breaking" matter in Union Bay. I appreciate that you and your staff are working with the Comox Valley Regional District staff on this matter to ensure communications is clear. I would appreciate an opportunity for us to chat if you have a chance in the next few days. Please let me know what works for your schedule.

### **Russell Dyson**

Chief Administrative Officer  
Comox Valley Regional District  
Tel: 1-250-334-6055 Cell: 250 218-6270

*The Comox Valley Regional District respectfully acknowledges the land on which it operates is on the unceded traditional territory of the K'ómoks First Nation, the traditional keepers of this land.*

---

**From:** McDonald, Andrea [mailto:Andrea.McDonald@leg.bc.ca]  
**Sent:** December 13, 2021 11:22 AM  
**To:** Russell Dyson <rdyson@comoxvalleyrd.ca>  
**Subject:** FW: Ship Breaking in Union Bay

CAUTION! EXTERNAL EMAIL

Hi Russell,

Please see below the response we are sending to concerned constituents.  
I have also sent this to Director Arbour.

Cheers,  
Andrea

Hello,

Thank you for writing MLA Osborne regarding concerns surrounding ship breaking activities in Union Bay. As her constituency assistant I am pleased to respond on her behalf.

MLA Osborne understands the urgency behind this issue, particularly as Baynes Sound is such an important environmental area for birds, salmon, herring, and shellfish. She also understands that neighbours and community members in Union Bay are concerned about impacts like noise and potential pollution.

This issue involves activities that take place on an upland area, and on the water.

The upland area is a privately owned property, and activities and uses on this land are regulated by the Comox Valley Regional District (CVRD) through their zoning bylaw.

The adjacent aquatic area is 'Crown land,' and uses on it are regulated by the Province through the provincial Land Act. The BC Ministry of Forest, Lands, and Natural Resource Operations (FLNRO) administers the tenuring process for the water lot.

Because there are two orders of government involved in the land uses, when our office first received concerns about the shipbreaking activities, we reached out immediately to both FLNRO and the CVRD to gain a clear understanding about history of the area and to understand the regulatory processes used to permit activities on the land and water.

Regarding the water lot:

- The previous tenure holder used this as a log storage site, under a Crown Land Tenure use classified as "Industrial – Log Handling"
- In November 2019, it is our understanding that the new property owner (Deep Water Recovery) applied to FLNRO to change the use from "Industrial - Log Handling" to "Industrial - General" which permits the anchoring and storage of vessels, as well as the transfer of vessels and barges from the water to the upland.
- In October 2021, the FLNRO permitted this change after undertaking its approval process and due diligence, including a referral process that engaged both the CVRD and the K'omoks First Nation.
- To our knowledge, there is no ship breaking occurring on the water lot.

Regarding the upland portion:

- The upland lot was previously used as a log sort and handling area and is zoned marine industrial.
- A new owner purchased the property in 2018, and log handling activity ceased.
- We understand the CVRD is aware of current activities taking place on the upland and is in dialogue with the property owner to ensure their activities comply with zoning bylaws.
- Questions or concerns about activities on the upland portion should be directed to the CVRD.

We further understand there have been complaints and concerns about environmental pollution. We can confirm that the Province's compliance and enforcement staff in FLNRO have been notified and are working with DFO.

Our office is working closely with the CVRD, through their staff and through the electoral area director – and we are grateful for their help. We have offered any assistance we can (and vice versa), noting that upland uses remain under their jurisdiction and that marine uses on the water lot remain under the jurisdiction of the Province.

As a final note, if you see any concerning pollution in the area, we encourage you to contact the RAPP line. The RAPP program is a toll-free tip line and online service that also allows you to report known or suspected violations of fisheries, wildlife, or environmental protection laws anonymously and without risk of confronting the offender. More information on the RAPP line can be found here - <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/natural-resource-law-enforcement/conservation-officer-service/cos-rapp>

Thank you for writing.

**Andrea McDonald** | Constituency Assistant

office of **Josie Osborne, MLA**

Mid Island-Pacific Rim

(pronouns: she/her/hers)



We acknowledge that we are living and working on the traditional lands of the Ahousaht, Ditidaht, Hesquiaht, Hupaçasath, Huu-ay-aht, K'ómoks, Qualicum, Tla-o-qui-aht, Toquaht, Tse-shaht, Uchucklesaht, and Yuułuʔiłʔatḥ.

CONFIDENTIALITY NOTICE: The above message contains confidential information intended for a specified individual and purpose. The information is private and protected by law. Any copying or disclosure of this transmission by anyone other than the intended recipient is prohibited. If you are not the intended recipient, please notify the sender immediately and delete this message and any attachments from your system. Thank you.

## FW: FOR IMMEDIATE RELEASE - K'ómoks First Nation press release on Deep Water Recovery

From: Russell Dyson <rdyson@comoxvalleyrd.ca>  
To: Morris, Rhonda M FLNR:EX <Rhonda.Morris@gov.bc.ca>  
Sent: December 16, 2021 9:51:35 AM PST  
Attachments: KFN Press Release on Deep Water Recovery - 2021 12 16.pdf, image002.png

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

**Russell Dyson**  
Chief Administrative Officer  
Comox Valley Regional District  
Tel: 1-250-334-6055 Cell: 250 218-6270

*The Comox Valley Regional District respectfully acknowledges the land on which it operates is on the unceded traditional territory of the K'ómoks First Nation, the traditional keepers of this land.*

---

**From:** Emily Shopland <emily.shopland@komoks.ca>  
**Sent:** December 16, 2021 9:23 AM  
**To:** Garbutt, Geoff <ggarbutt@courtenay.ca>; Jordan Wall (jwall@comox.ca) <jwall@comox.ca>; Russell Dyson <rdyson@comoxvalleyrd.ca>; cpostings@cumberland.ca  
**Cc:** Todd Boychuk <todd.boychuk@komoks.ca>  
**Subject:** [Possible SPAM] FOR IMMEDIATE RELEASE - K'ómoks First Nation press release on Deep Water Recovery  
**Importance:** Low

CAUTION! EXTERNAL EMAIL

Hello,

Please see attached a press release from K'ómoks First Nation on Deep Water Recovery.

Gilakas'la / ʔimot ,



Emily Shopland  
Assistant Band Administrator  
K'ómoks First Nation  
Courtenay, BC  
P: 250.339.4545 ext. 128

*tuwa akʷs ʁoxot ʔa xʷ yixmetet (ʔa) kʷums hehaw tums giʔe*

"Care takers of the 'land of plenty' since time immemorial", ʔaʔajuθəm (eye-uhh-juu-eth-em Island Comox)

### Disclaimer

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Kómoks First Nation

3330 Comox Rd., Courtenay BC, V9N 3P8 | Ph: 250.339.4545 | F: 250.339.7053 | E: [reception@komoks.ca](mailto:reception@komoks.ca)

December 16, 2021, Comox Valley, BC  
FOR IMMEDIATE RELEASE

**An environmental disaster waiting to happen: KFN strongly opposed to Deep Water Recovery's ship-breaking activities in Union Bay.**

Copyright

Copyright

#### **Media Contacts**

Reception:  
250 339 4545  
[reception@komoks.ca](mailto:reception@komoks.ca)

**Nicole Rempel**  
Hegus (Chief Councillor)  
K'ómoks First Nation

**Todd Boychuk**  
Director of Intergovernmental Relations  
K'ómoks First Nation

[www.komoks.ca](http://www.komoks.ca)

## FW: Tenure replacement letter

---

From: Ton Trieu <ttrieu@comoxvalleyrd.ca>  
To: Bailey, Annette FLNR:EX <Annette.Bailey@gov.bc.ca>  
Sent: December 20, 2021 2:52:57 PM PST  
Attachments: image003.jpg, image005.jpg, image006.jpg, image007.gif, image004.jpg, image001.gif, image002.gif, 20210329 Trieu Union Bay Industries - 27074.100 Deep Water Recovery tenure change.pdf

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

FYI. For your copy.

Thanks,  
Ton

Ton Trieu, MCIP, RPP  
Manager of Planning Services  
Planning and Development Services Branch  
Comox Valley Regional District  
770 Harmston Avenue, Courtenay, BC V9N 0G8  
Phone 250-334-6021 Toll free: 1-800-331-6007



---

**From:** Ton Trieu  
**Sent:** December 20, 2021 2:51 PM  
**To:** 'mark@deepwaterrecovery.com' <mark@deepwaterrecovery.com>  
**Subject:** Tenure replacement letter

Hi Mark,

Please see the attached document. The document is CVRD's referral comments to the Ministry of Forests, Lands, Natural Resource Operations and Rural Development in regards to the proposed tenure replacement.

Kind regards,  
Ton

Ton Trieu, MCIP, RPP  
Manager of Planning Services  
Planning and Development Services Branch  
Comox Valley Regional District  
770 Harmston Avenue, Courtenay, BC V9N 0G8  
Phone 250-334-6021 Toll free: 1-800-331-6007





File: 3220-20 / 27074.100

March 29, 2021

Sent via email only: [Annette.Bailey@gov.bc.ca](mailto:Annette.Bailey@gov.bc.ca)

Annette Bailey, RPBio  
Authorizations Specialist  
South Island Natural Resource District  
Ministry of Forests, Lands, Natural Resource Operations and Rural Development  
4885 Cherry Creek Road  
Port Alberni BC V9Y 8E9

Dear Ms. Bailey:

**Re: Tenure Replacement - Union Bay Industries Ltd.**

In response to the proposed tenure replacement from Log Handling to Industrial General associated with the upland property located at 5545 Island Highway South, please accept the following comments.

Both the water tenure area and the upland area are zoned Industrial Marine in the Rural Comox Valley Zoning Bylaw No. 520 (Zoning Bylaw). This zone allows for a Barge Facility which is defined as “an area on the surface of water together with a ramp facility at an adjacent upland location or a dock facility from an upland location extending into the water which allows for the movement of equipment or goods between a floating barge and the upland.” The proposed management plan for tenure replacement is consistent with the Zoning Bylaw.

The tenure area is within the Official Community Plan’s Coastal Areas designation. The policies of this designation seek to permit industrial marine uses while minimizing impacts to the natural environment, its ecosystems, and the physical processes (e.g. sediment transport) of the shoreline. Following these policies, it is requested that a tenure replacement be subject to a limit in the number of vessels being anchored within the tenure area, bi-yearly monitoring reports, and a short term expiry of the tenure. Please ensure there is meaningful consultation with neighbouring property owners and nearby aquaculture tenure holders and that measures are taken to protect and restore foreshore habitats.

Please note that a Development Permit is required for any land alterations (e.g. vegetation removal, resurfacing or excavation) within 30 metres of the shoreline. The application for this Development Permit must include a Biophysical Assessment by a Qualified Environmental Professional with recommendations for protecting, restoring or enhancing habitat. A Development Permit is also required for the construction of any building on the lot, consistent with the Commercial and Industrial (form and character) guidelines of Section 85 in the Rural Comox Valley Official Community Plan, Bylaw No. 337.

Should you have any questions in regards to the above, please contact Jodi MacLean at 250-334-6041 or by email to [planning@comoxvalleyrd.ca](mailto:planning@comoxvalleyrd.ca).

Sincerely,

***T. Trieu***

Ton Trieu, RPP, MCIP  
Manager of Planning Services  
Planning and Development Services

/jm

*Comox Valley Regional District*

**Meeting with Comox Valley Regional District (CVRD) December 2, 2021 11:00 to 12:00pm regarding Land Act File 0021050**

**Attendance:**

**CVRD** - Alanna Mullaly, Ton Trieu

**FLNRORD** - Rhonda Morris, Annette Bailey, Dave Robinson

**Objective of meeting:**

The purpose of the meeting was to discuss the many comments and inaccuracies circulating on social media about file 0021050 - Deepwater Recovery and the newly arrived BC Ferries Queen of Burnaby in Union Bay. Also, to discuss the current position of CVRD regarding the file.

**Meeting Summary:**

Rhonda reiterated that there is no decommissioning of vessels in the lease area.

CVRD indicated they were going in camera with elected officials on Monday December 6 including the electoral area directors to discuss the private upland lot and zoning.

CVRD is stating the activity is not permissible (recent decision) and CVRD has sent a letter to Deepwater Recovery indicating an application is required for either a temporary permit or a change to zoning. CVRD is requesting Deepwater stop work while a decision is being made.

CVRD explained the process for the temporary permit and/or rezoning. A temporary permit will allow the use of the area for up to 3 years which will allow Deepwater to "test" the use. The board is the decision maker - 3 regional rural directors. The process usually takes 4-6 months. Rezoning could potentially take 12- 18 months.

CVRD has indicated that EMP and MP will be used as part of the temporary permit review

Rhonda indicated Province would respond to latest letter from Robert Kerr and will cc CVRD on the letter.

CVRD has committed to working with the Province and has provided next steps to Deepwater Recovery.

**Action Items:**

- 1) Province will cc CVRD (Alanna) response to Kerr letter - David Robinson
- 2) Province will share copy of Lease, MP and EMP - Annette - **complete**
- 3) CVRD will send copy of letter to Deepwater Recovery to Province - Ton - **complete**

DRAFT

## Draft Minutes from December 2 meeting with CVRD

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From: Bailey, Annette FLNR:EX  
To: Ton Trieu <ttrieu@comoxvalleyrd.ca>, Alana Mullaly <amullaly@comoxvalleyrd.ca>, Morris, Rhonda M FLNR:EX <Rhonda.Morris@gov.bc.ca>, Robinson, David FLNR:EX <David.Robinson@gov.bc.ca>  
Sent: December 21, 2021 1:58:28 PM PST  
Attachments: Meeting minutes and action items December 2, 2021.docx  
Hi

Please see attached draft minutes for your review from our December 2, 2021 meeting.

Let me know if there are area changes/concerns and I will update and finalize the document.

Thank you

Annette Bailey, RPBio  
Senior Project Manager  
Habitat Officer | Water Officer  
South Island Natural Resource District  
4885 Cherry Creek Road  
Port Alberni, BC V9Y 8E9  
250-736-6843

## **CVRD: ship breaking and Deep Water Recovery staff report**

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From: Amanda Yasinski <ayasinski@comoxvalleyrd.ca>  
To: Bailey, Annette FLNR:EX <Annette.Bailey@gov.bc.ca>  
Sent: January 31, 2022 8:46:32 AM PST  
Attachments: SR CVRD Deep Water Recovery.pdf

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Good morning Annette,

As discussed last week- please see the attached public report that is being presented to the CVRD Committee this morning (starts at 11:00am).

Link below is for the YouTube feed- CVRD meetings.

<https://www.comoxvalleyrd.ca/about/board-directors/live-board-committee-meetings>

Regards,  
Amanda

---

**From:** Bonnie Kozlowski  
**Sent:** January 28, 2022 3:50 PM  
**To:** Amanda Yasinski <ayasinski@comoxvalleyrd.ca>  
**Subject:** ship breaking and Deep Water Recovery staff report

Hello,

As stakeholders in the ship breaking and Deep Water Recovery please find attached a copy of the staff report on the EASC agenda for Monday January 31, 2022.

Thank you,

**Bonnie Kozlowski**  
Branch Assistant – Corporate Services  
Comox Valley Regional District  
770 Harmston Avenue, Courtenay, BC V9N 0G8  
Tel: 250-334-6057  
Fax: 250-334-4358; Toll free: 1-800-331-6007

**DATE:** January 28, 2022**FILE:** 4020-20/20-A-044**TO:** Chair and Directors  
Electoral Areas Services Committee**FROM:** Russell Dyson  
Chief Administrative OfficerSupported by Russell Dyson  
Chief Administrative Officer***R. Dyson*****RE: Deep Water Recovery –  
5084 Island Highway - Land Use Contrary to Zoning****Purpose**

To provide an update on the bylaw enforcement file and advise of potential next steps in enforcement to halt any non-compliant land use activities related to Ship Breaking on the subject property. This report also addresses trespass and land alterations into Glover Community Nature Park, a Comox Valley Regional District (CVRD) Park; by the operators of the subject property.

**Recommendation from the Chief Administrative Officer:**

THAT the Comox Valley Regional District Board considers ship breaking a \_\_\_\_\_  
**(permitted or non permitted)** use in the Industrial Marine zone in the Rural Comox Valley Zoning Bylaw No. 520, 2019.

If the Board determines a ship breaking use is not permitted in the Industrial Marine (IM) zone the Chief Administrative Officer recommends the Board consider endorsement of the following direction:

1. THAT the Comox Valley Regional District Board approve legal action and enforcement to halt contravention of the Zoning Bylaw on the property legally described as; PCL A (DD 27784N) of Lot 11, Nelson District, except parts outlined in red on Plans 397RW and 1414R, and except those parts in Plans 7190, 8906, 21511, 22414, 28338, 29341 and 29342, PID 004-758-901;
2. THAT the Comox Valley Regional District Board approve legal action and enforcement to halt contravention of the Aquatic and Riparian Habitat Development section of Bylaw No. 337 being the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014" on the property legally described as; Lot 9, District Lot 11, Nelson, District, Plan 8906 (Glover Community Nature Park), PID 005-481-252;
3. THAT the Comox Valley Regional District Board authorize its solicitors to provide an undertaking as to damages in support of an application for an interim injunction to enforce the bylaws of the Comox Valley Regional District.

**Executive Summary**

Following initial inquiries and bylaw complaints received in March 2020 regarding ship breaking and associated activities, CVRD staff have reviewed all available information related to use on the subject property, and have determined in their opinion that the activities involved in the process of ship breaking are not covered under the Industrial Marine (IM) zone in the Zoning Bylaw.

For the use of the property for ship breaking to be permitted, the use must fall within the scope of one of the principal or accessory uses expressly permitted on the property under the Zoning Bylaw. To allow ship breaking on the subject property and in an IM zone, an application for either a Temporary Use Permit or a Zoning Bylaw amendment would be required.

- The owner has been sent correspondence from the CVRD that clarifies any ship breaking activities are not permitted within the IM Zone.
- There was a deadline of January 17, 2022 to respond and confirmation of the owner's position to comply with CVRD bylaws.
- No application has been received to date.
- Staff are recommending that the Board determine whether this use is or is not permitted. If not;
- Staff are recommending proceeding with injunctive relief in order to stop the unlawful uses.
- Trespass and land alteration into Glover Community Nature Park need to be addressed if the operators of the subject property failed to apply for the required development permits and action any necessary remediation.

Prepared by:

**A. Yasinski**

---

Amanda Yasinski  
Manager of Bylaw Compliance

Concurrence:

**A. Mullaly**

---

Alana Mullaly, RPP, MCIP  
General Manager of Planning and  
Development Services

#### Government Partners and Stakeholder Distribution (Upon Agenda Publication)

K'ómoks First Nation	✓
Concerned Citizens of Union Bay	✓

#### Background/Current Situation

In March 2020, the CVRD became aware that the company Deep Water Recovery (DWR) purchased Union Bay Industries for its property located at 5084 Island Highway South and its foreshore/ water lease (former log sort) after an initial bylaw complaint was received regarding the change of use. In response to this complaint a preliminary investigation into the change of use was undertaken.

As part of the preliminary investigation, CVRD staff reached out to the Province to obtain further information on any involvement from the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (MoFLNRO). The water lease portion of the subject property was modified by MoFLNRO in October 2021. The modification changed the purpose of the lease from Industrial Handling to Industrial General and reduced the size of the existing lease. This allows DWR moorage and storage of vessels on the water and the transit of vessels to the shore. The lease does not authorize the dismantling of vessels on the foreshore and expires in September 2038.

Initially in the early stages of the file, CVRD staff met with the property agent for DWR to get a better understanding of the type of operation and what ship breaking entailed. It was understood that DWR intended to use the property and its tenures for the purpose of recovering and dismantling decommissioned and/or derelict ships and barges. After multiple site visits and discussions with the owner's agent, staff determined that the activities involved in the process of



ship breaking are not covered under the Industrial Marine (IM) zone and that an application would be required to permit the use.

On November 18, 2021 CVRD planning staff met with an agent of the owner and advised that the current use of the subject property for dismantling ships is not permitted within the IM zoning and that to continue the use an application for either a Temporary Use Permit or a Zoning Bylaw amendment would be required. Staff followed up in writing to the property owner on December 1, 2021 and asked that DWR respond with their intended action to achieve compliance. CVRD staff received subsequent communications from legal representation of DWR on January 13, 2022, but has not received a formal statement on their position or a land use application to date.

At the January 10, 2021 Electoral Areas Services Committee, a delegation from the Concerned Citizens of Union Bay (CCUB) presented concerns regarding the consequences over ship breaking over beaches within residential areas. Forming part of that presentation was a specific list of questions posed to the CVRD regarding the ship breaking activities occurring on the subject property. The questions provided by the CCUB delegation were responded to and provided by staff to the delegation and several neighbours verbally on January 21, 2022. They are attached to this report as Appendix A and have been copied to the delegation.

In addition to the bylaw file on ship breaking, in September 2021 staff noted that land alterations took place in a CVRD park, namely Glover Community Nature Park, which affected the southernmost portion of Glover Park. CVRD staff have met with the agent of DWR on-site to confirm the extent of the alterations as well as review and discuss next steps. DWR has acknowledged that they undertook land alterations relating to drainage and rainwater management, some of which occurred within Glover Park. Staff has followed up in writing to DWR and advised that an Aquatic and Riparian Habitat Development Permit is required for those land alterations that occurred within 30 metres of the watercourse and that an application to the province for “works in-and-about a stream” may be required if the watercourse itself had been altered. Any remediation work required to the affected areas in Glover Park are to be done through the assistance of a registered professional biologist at DWR’s expense. Staff also acknowledge that a K’ómoks First Nation cultural heritage permit may be required and has advised DWR to contact K’ómoks First Nation directly to discuss.

Local government zoning bylaws are to be interpreted not on a restrictive nor on a liberal approach but rather with a view to giving effect to the intention of the local government as expressed in the bylaw upon a reasonable basis that will accomplish that purpose. An overview of the applicable zoning definitions is attached as Schedule A of this report.

Section 102.1 of the Zoning Bylaw provides that:

“No land, surface of water, building, or structure in any zone shall be used for any purpose other than those specified for the zone in which it is located. Uses not expressly listed as a principal or accessory use within a zone are prohibited.”

In addition, Section 302.1 of the Zoning Bylaw provides that:

“Any use not expressly permitted in this bylaw is prohibited in every zone ....”

For the use of the property for ship breaking to be permitted, the use must fall within the scope of one of the principal or accessory uses expressly permitted on the property under the Zoning Bylaw.

The ship breaking use is not an expressly permitted accessory use of the property. Under the Zoning Bylaw, “accessory” means “customarily incidental and subordinate to a principal use of land, building or structure permitted on the same lot ...”. By definition, to be a permitted accessory use, there must be a permitted principal use of the property. As there is no other current use of the property, the operation cannot be a permitted accessory use.

With respect to the question of whether the ship breaking use is an expressly permitted principal use under the Zoning Bylaw, the following principal uses are expressly permitted in the IM zone:

- a) Boat building and repairs and service and sales
- b) Seafood processing and sales
- c) Marina
- d) Barge facility
- e) Waterfront freight handling facility
- f) Log handling and storage facility
- g) Storage and works yard and warehousing
- h) Offices

The ship breaking use does not fall within the scope of any of the expressly permitted principal uses in the IM Zone when the Zoning Bylaw is interpreted in a manner that gives effect to the intention of the CVRD Board as expressed in the bylaw upon a reasonable basis that will accomplish that purpose.

With respect to “boat building and repairs and service and sales”, the ship breaking use is not boat sales; it does not involve the sale of boats at all. Moreover, the use is not boat building or repair; rather, it is the opposite, it is the dismantling of boats for recycling or repurposing. Finally, the use is not boat service; it does not involve the servicing of boats; boat servicing involves activities for the betterment of boats, not their dismantling.

With respect to “seafood processing and sales”, the ship breaking use does not fall within the definition of “seafood processing” in the Zoning Bylaw. Moreover, the operation does not involve the sales of seafood.

With respect to “marina”, the ship breaking use does not fall within the definition in the Zoning Bylaw.

With respect to “barge facility”, ship breaking use does not fall within the definition in the Zoning Bylaw.

With respect to “waterfront freight handling facility”, the ship breaking use does not fall within that use as it does not involve the handling of freight.

With respect to “log handling and storage facility”, ship breaking use does not fall within the definition of log handling in the Zoning Bylaw. Moreover, the operation clearly does not involve log storage.

With respect to “storage and works yard and warehousing”, the ship breaking use does not, in our view, fall within either the definition of “storage and works yard” or “warehousing” in the Zoning Bylaw.

Finally, with respect to “offices”, the ship breaking use does not fall within the definition in the Zoning Bylaw.

In addition to the foregoing, further support for the conclusion that the ship breaking use is not a permitted use in the IM zone can be found in the second part of Section 302.1 of the Zoning Bylaw, which provides that:

“... Where particular use is expressly permitted in one zone, such a use is prohibited in every zone where it is not also expressly permitted.”

In the Industrial Heavy (IH) zone under the Zoning Bylaw, heavy industrial use is an expressly permitted principal use. The definitions in the Zoning Bylaw for “heavy industrial use”, “scrap salvage yard”, “derelict vehicle”, and “boat”, indicated that if the ship breaking use is an expressly permitted use under the Zoning Bylaw, it is permitted as a heavy industrial use, which use is only permitted in the IH zone. As such, pursuant to the second part of Section 302.1 of the Zoning Bylaw, the operation is prohibited in the IM zone.

The CVRD is authorized to bring proceedings in Supreme Court in order to enforce, prevent, and restrain contravention of its bylaw pursuant to Section 274 (1)(a) of the Community Charter, S.B.C. 2003, Chapter 26.

Staff propose that the Board put its mind to whether the use is permitted or not and as such, if the Board agrees that the ship breaking use is not permitted, then start the following motions that staff has prepared.

The CVRD’s Bylaw Enforcement Policy requires Board approval, prior to any injunction proceedings or when action through Supreme Court is commenced. However, the Board has no duty on the part of the CVRD to take enforcement action with respect to every contravention of every bylaw that may be occurring within its jurisdiction. Discretion must be exercised by the Board on a case-by-case basis and must not be made in bad faith.

### **Options**

Board consideration is requested respecting the ship breaking use in the Industrial Marine zone in the Rural Comox Valley Zoning Bylaw and whether it is deemed permitted or non-permitted.

Depending on the Board’s determination of the above question the following options are available:

1. Direct legal action and enforcement to halt contravention of the Zoning Bylaw and the OCP. This would include legal proceedings in the Supreme Court to obtain a mandatory (and permanent) injunction against the property owner. It would also include addressing unlawful land clearing that took place in Glover Park without the required development permits.
2. Direct staff to not pursue legal action and enforcement to halt contravention of the Zoning Bylaw and the OCP.
3. Direct enforcement on only one of the contraventions noted above.

This report supports Option 1 should the Board affirm that ship breaking is not a permitted use.

### **Financial Factors**

Any legal fees incurred would have to be paid from the Bylaw Enforcement Function No. 502 budget. As on other legal action files, staff will work within the parameters of an injunction to maintain compliance and keep any additional or unnecessary legal costs down.

**Intergovernmental Factors**

The lease agreement between the province and DWR for use of the foreshore/water area requires consistency with the approved Environmental Management Plan (EMP) prepared by the Qualified Professionals Castor Consultants Ltd. Provincial staff maintains that the EMP has been enhanced and strengthened after review by all relevant federal, provincial and local government agencies, and significant review and input by K'ómoks First Nation. Key components of the EMP that have been shared with CVRD staff include:

- Routine and ongoing water sampling to be conducted by an independent Environmental Monitor.
- Inspection of all vessels and barges by an approved Marine Surveyor, prior to their arrival in Union Bay, to identify hydrocarbons or other deleterious substances that may be harmful to the marine environment.
- A spill response plan that includes the requirement for on-site spill kits, a containment boom and spilled oil recovery equipment.
- An upgraded storm water runoff system to control and collect all water runoff from the upland property into settling tanks for filtration and to prevent entry into the marine environment.
- Annual dive surveys of the water lot area to monitor the ocean floor and marine life.
- Adherence to all local, provincial and federal laws including, but not limited to the *Environmental Management Act*, *Water Sustainability Act*, *Riparian Areas Protection Regulation*, *Fisheries Act*, and *Navigation Protection Act*.

The CVRD does not have a role in ensuring the EMP is followed, this lies solely with the Province. However, the CVRD will continue to work with and assist other agencies in obtaining compliance on this file.

**Citizen/Public Relations**

The CVRD has received considerable correspondence and calls from individuals concerned about the change of use from a historic log sort to ship breaking activities. Concerns over the use itself, environmental impacts, noise and negative impacts of property values have all been brought up in correspondence received. The primary concern from citizens has been over the CVRD potentially having changed the use of the property without public consultation or providing a permit for DWR to operate - such as a business licence. Inquiries from the public on this file are responded to in order to provide clarity on our position and processes for any land use applications should we receive one.

Appendix A – Response to January 10, 2022 Delegation Questions

Schedule A – Zoning Bylaw Definitions

**Concerned Citizens of Union Bay Delegation's questions from January 10, 2022 EASC agenda:**

**Question 1:** (Will the CVRD) Confirm that ship breaking is non-compliant with the existing land use for 5084 Island Hwy South?

**CVRD staff response:** Staff's interpretation is that "ship breaking" is not permitted within the Industrial Marine zone.

**Question 2:** (Will the CVRD) Verify that it has not entered into any agreement(s) with the current owners of UBIL or Deep Water Recovery (the operator) regarding a change in land use of 5084 Island Hwy South,

**CVRD staff response:** The CVRD authorizes land use through bylaw or temporary use permit. The CVRD has not amended the subject property's zone or issued a temporary use permit: an application for zoning amendment or temporary use permit has not been made by the property owner or its agent.

**Question 3:** (Will the CVRD) Verify that ship breaking anywhere in the Comox Valley is inconsistent with the Comox Valley Official Community Plan, its goals and objectives,

**CVRD staff response:** Staff will report to the EASC on this question on January 31, 2022.

**Question 4:** (Will the CVRD) Issue a cease and desist order to stop the ship breaking operation at 5084 Island Hwy South immediately?

**CVRD staff response:** Staff is working with the owner's agent to garner compliance on the subject property. The CVRD Board reserves the right to take legal action on a case by case basis.

**Delegation's questions posed during the January 10, 2022 EASC agenda:**

**Question 1:** What was said (by the CVRD) to FLNR (Ministry of Forests, Lands, Natural Resource Operations), which approved the water lease?

**CVRD staff response:** CVRD staff provided this [letter](#) to FLNRO staff on March 29, 2021.

**Question 2:** Does the Union Bay Volunteer Fire Department (UBFR) have the appropriate resources to respond to a hazardous spill, chemical fire or catastrophic event?

**CVRD staff response:** Deep Water Recovery Operations is within the UBFR fire services jurisdiction (to high tide line). As a result, UBFR would respond to 9-1-1 pages for this location. Steps taken would vary greatly depending on the nature of the concern. As an example, outbuilding fires or individual emergency medical concerns may be handled fully through existing department resources. That said, given the complexities arising from the range of emergencies that can occur on any site, mutual aid support could be needed for additional resources such as hazmat control, confined space operations, etc.

**Question 3:** What is being done about the creek diversion? The creek diversion was completed by UBIL/DWRL without required assessment and a development permit. What is the path forward?

**CVRD staff response:** Alterations undertaken within a development permit area without the benefit of a permit are included in the bylaw compliance file.

**Question 4:** DWRL has been operating in non-compliance to the CVRD zoning bylaws. How long are you going to allow this hazardous waste operation to continue? What has and is the CVRD doing on a regular basis to monitor and ensure that public safety and the environment are being protected, while DWRL operates in non-compliance? If so, provide logs and meeting minutes.

**CVRD staff response:** CVRD staff will be reporting back to EASC on January 31, 2022 with a recommendation on next steps.

**Question 5:** Why are you continuing to jeopardize Baynes Sound and the health of your constituents?

**CVRD staff response:** The CVRD is working to gain compliance on this site: next steps will be recommended to the EASC on January 31, 2022.

**Question 6:** We understand that in January of last year there was a site tour. We want to know who attended the tour and what the outcome of the tour was.

**CVRD staff response:** CVRD staff was invited by the owner's agent, Mr. Mark Jurisich, to visit the subject property. These staff were: Ton Trieu (Manager of Planning Services), Amanda Yasinski (Manager of Bylaw Compliance), Michael Dinesen (Bylaw Compliance Officer), and Scott Smith (former General Manager of Planning and Development Services). Also present, were John Watson (former Comox Valley Economic Development Society representative), Daniel Arbour (Electoral Area A director), Mark Jurisich (owner's representative). For CVRD staff, the purpose of this visit was to assist with the investigation of a noise complaint received by the CVRD.

File: 3220-20 / 27074.100

March 29, 2021

Sent via email only: [Annette.Bailey@gov.bc.ca](mailto:Annette.Bailey@gov.bc.ca)

Annette Bailey, RPBio  
Authorizations Specialist  
South Island Natural Resource District  
Ministry of Forests, Lands, Natural Resource Operations and Rural Development  
4885 Cherry Creek Road  
Port Alberni BC V9Y 8E9

Dear Ms. Bailey:

**Re: Tenure Replacement - Union Bay Industries Ltd.**

In response to the proposed tenure replacement from Log Handling to Industrial General associated with the upland property located at 5545 Island Highway South, please accept the following comments.

Both the water tenure area and the upland area are zoned Industrial Marine in the Rural Comox Valley Zoning Bylaw No. 520 (Zoning Bylaw). This zone allows for a Barge Facility which is defined as “an area on the surface of water together with a ramp facility at an adjacent upland location or a dock facility from an upland location extending into the water which allows for the movement of equipment or goods between a floating barge and the upland.” The proposed management plan for tenure replacement is consistent with the Zoning Bylaw.

The tenure area is within the Official Community Plan’s Coastal Areas designation. The policies of this designation seek to permit industrial marine uses while minimizing impacts to the natural environment, its ecosystems, and the physical processes (e.g. sediment transport) of the shoreline. Following these policies, it is requested that a tenure replacement be subject to a limit in the number of vessels being anchored within the tenure area, bi-yearly monitoring reports, and a short term expiry of the tenure. Please ensure there is meaningful consultation with neighbouring property owners and nearby aquaculture tenure holders and that measures are taken to protect and restore foreshore habitats.

Please note that a Development Permit is required for any land alterations (e.g. vegetation removal, resurfacing or excavation) within 30 metres of the shoreline. The application for this Development Permit must include a Biophysical Assessment by a Qualified Environmental Professional with recommendations for protecting, restoring or enhancing habitat. A Development Permit is also required for the construction of any building on the lot, consistent with the Commercial and Industrial (form and character) guidelines of Section 85 in the Rural Comox Valley Official Community Plan, Bylaw No. 337.

Should you have any questions in regards to the above, please contact Jodi MacLean at 250-334-6041 or by email to [planning@comoxvalleyrd.ca](mailto:planning@comoxvalleyrd.ca).

Sincerely,

***T. Trieu***

Ton Trieu, RPP, MCIP  
Manager of Planning Services  
Planning and Development Services

/jm

*Comox Valley Regional District*



## Schedule A

### Bylaw No. 520 - “Rural Comox Valley Zoning Bylaw, No. 520, 2019”

Column A	Column B Definition
Seafood processing and sales	means the gutting of finfish, the shucking of mollusks or crustaceans, the freezing, salting, smoking or packaging of aquatic organisms, or the mechanical or chemical transformation of any aquatic organism after it is harvested.
Marina	means a facility for berthing, fueling, launching, mooring, securing, servicing and storing boats, float planes and other marine vessels, including accessory uses such as administrative offices, public facilities for showering and laundry, restaurants, retail and rental shops, and tourist kiosks but does not include permanent or indefinite moorage or berthing of vessels occupied as a residence.
Barge facility	means an area on the surface of water together with a ramp facility at an adjacent upland location or a dock facility from an upland location extending into the water which allows for the movement of equipment or goods between a floating barge and the upland.
Log handling and storage facility	means log dumping, storage, sorting, booming, barging and hauling.
Storage and works yard and warehousing	means the use of land for storage, repairs, maintenance and vehicle parking.
Offices	means the occupancy or use of a building for the purpose of carrying out business, financial or professional activities including financial institutions, travel or real estate agencies, insurance or legal offices, government offices, medical or dental offices, physical therapy, and chiropractor or acupuncture clinics.