



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, APRIL 19, 2016**

---

**SUBJECT**      **Temporary Use Permit Application on That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R; Lot 1, Section 97, Renfrew District, Plan EPP24972; and those Parts of Block A and B, District Lot 751, together with Unsurveyed Crown Foreshore or Land Covered by Water Being Part of the Bed of Port San Juan, all within Renfrew District, Containing 3.86 Hectares, More Or Less**

**ISSUE**

The purpose of this report is to consider a request for a temporary use permit to allow the construction and operation of a 60-slip commercial marina, providing moorage for commercial vessels and private pleasure craft, as well as offices, fish processing, food services, fuel sales, retail sales, helicopter landing, boat trailer parking and boat storage within the Marine (M) and Community Residential 1 (CR-1) zones, as shown in Appendices A and B.

**BACKGROUND**

An application has been received for a temporary use permit to allow the operation of a 60-slip commercial marina. The subject properties, located in Port Renfrew, are zoned Marine (M) and Community Residential 1 (CR-1) under the Comprehensive Community Development Plan (CCDP) for Port Renfrew, Bylaw No. 3109. The subject properties have a combined total area of approximately 6.0 ha, and front Parkinson and Baird roads to the south, Port San Juan to the north and west, Tourist Commercial 1 (TC-1) zoned land to the southwest, and Community Use (CU) zoned land to the east. Only a portion of the upland parcels will be used as part of the marina operation.

The lands under Plan 344R and the area under the original licence of occupation were previously conveyed from TFL Forest Ltd. to Three Point Properties, who operated a commercial marina at the site for two years. The lands and licence were then conveyed to the applicant, who has operated a seasonal commercial marina with ancillary fuel sales under Temporary Use Permit TUP-04-13, which was issued on May 8, 2013. Since TUP-04-13 expires on May 8, 2016, and since there had been some uncertainty regarding the timeline for approval of a new licence of occupation by the Province, the applicant applied to renew the temporary use permit in order that the seasonal marina could continue operating in its present location. Renewal of TUP-04-13 was considered by the Land Use Committee at its meeting on March 15, 2016. The site used by the seasonal marina is located on the east side of the existing breakwater.

In preparation for submitting a zoning amendment application to allow for a permanent, year-round marina, the applicant submitted an application to the Province for an expanded licence of occupation. As part of the licence approval process, the Province was required to enter into meaningful consultation with any affected First Nations.

On February 25, 2016, Pacheedaht First Nation, issued correspondence to the Ministry of Forest Lands and Natural Resources Operations, indicating that the applicant and Pacheedaht had identified ways to address earlier concerns identified by Pacheedaht (Appendix C). On the basis of commitments made by the applicant, the letter confirmed that Pacheedaht no longer objected to approval of the new licence of occupation. The Ministry subsequently issued a new licence that allows the applicant to construct a new breakwater and 60-slip marina, and to carry out ancillary marine uses. The site for the new marina has been shifted to the west side of the existing breakwater and the new breakwater system will allow for the year-round moorage of vessels.

In addition to the area under the new licence of occupation, the new marina includes lands under Plan 344R and Plan EPP24972. Since the water and land within the licence area are zoned Marine, and since the upland parcels are zoned Community Residential 1, the construction and operation of a permanent commercial marina requires an amendment to the Port Renfrew CCDP.

The applicant began the work involved in submitting a bylaw amendment application, including resolving issues related to the new Licence, in 2013, and is currently working to complete the application submission. Since the applicant wishes to begin construction and operation of the marina for the 2016 season in

accordance with the recently issued Licence, the applicant has applied for a temporary use permit. Issuance of the permit would allow the applicant to construct and operate the marina, while a more detailed review of the CCDP amendment is undertaken.

### **ALTERNATIVES**

1. a) That staff be directed to refer Temporary Use Permit TP000008, as specified in Appendix D, to allow the construction and operation of a commercial marina, on That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R; Lot 1, Section 97, Renfrew District, Plan EPP24972; and those Parts of Block A and B, District Lot 751, together with Unsurveyed Crown Foreshore or Land Covered by Water Being Part of the Bed of Port San Juan, all within Renfrew District, Containing 3.86 Hectares, More Or Less, to a public information meeting and to the following agencies and relevant CRD departments for comment:

BC Hydro	MFLNRO – Archaeology Branch
Cowichan Valley Regional District	Ministry of Transportation and Infrastructure
Department of Fisheries and Oceans	Pacheedaht First Nation
Ministry of Environment	
- b) That all comments received be forwarded to the CRD Board for consideration; and
- c) That the Land Use Committee endorse approval of Temporary Use Permit TP000008 subject to agency comments and public notification.
2. That Temporary Use Permit TP000008 not be referred.
3. That the application be referred back to staff for more information.

### **LEGISLATIVE IMPLICATIONS**

Section 492 of the *Local Government Act (LGA)* enables a local government to issue temporary use permits within areas designated by the Official Community Plan. Temporary use permits may be issued throughout the Port Renfrew CCDP area as outlined in Bylaw No. 3109 and in accordance with Sections 493 to 497 of the *LGA*.

If a local government proposes to pass a resolution to issue a temporary use permit, it must give notice in accordance with Sections 466 and 494 of the *LGA*. Sections 466 and 494 require that notice be given to each resident/tenant within a given distance as specified by bylaw. CRD Bylaw No. 3110, Development Procedures Bylaw, states that a notice of intent must be mailed to the owners and occupants of land adjacent to the site under consideration within a distance of not more than 500 m.

CRD Bylaw No. 3166, provides the Land Use Committee the opportunity to make recommendations regarding who will be consulted on the preparation and issuance of a temporary use permit. Such recommendations are considered by the CRD Board immediately prior to consideration of the permit. The CRD Board determines which bodies are consulted in accordance with the *LGA*.

### **PUBLIC CONSULTATION & APPLICATION PROCESS IMPLICATIONS**

The temporary use permit application will be heard by the Land Use Committee at its meeting on April 19, 2016, to consider referral of the application to selected agencies, CRD departments and affected First Nations, for comment.

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee (LUC) on land use planning matters referred to them relating to Part 14 of the *LGA*; however, at this time, the Port Renfrew Advisory Planning Commission is inactive. Staff proposes holding a public information meeting to obtain community comments on TP000008. Since newspaper circulation in Port Renfrew is limited, notice of the public information meeting will be mailed directly to the registered owners of land within 500 m of the subject properties, and distributed to local residents through a Canada Post unaddressed mail drop. Any responses received from the public will be presented to the CRD Board.

The application would be heard by the CRD Board at its meeting on June 8, 2016, at which time it would consider the Land Use Committee's referral list, and consider any comments received from referral agencies. Upon review of referral comments, the CRD Board would then consider a resolution to issue the permit. In accordance with the *LGA*, notice of the CRD Board's intention to adopt a resolution regarding

the permit would be posted in the Sooke News Mirror at least 3 and not more than 14 days before the CRD meeting. Notice of the meeting would be mailed directly to the registered owners of land within 500 m of the subject properties, and distributed to local residents through a Canada Post unaddressed mail drop. Any responses received from the public would be presented to the Board at its meeting on June 8, 2016.

### **LAND USE IMPLICATIONS**

The applicant proposes to construct a 60-slip commercial marina that include services such as fuel sales, food services, retail sales, a helipad, and onsite boat trailer parking and boat storage. A facility for fish processing will also be constructed; however, at this time, it will be used for private purposes and will not be available to the public.

The Comprehensive Community Development Plan for Port Renfrew supports tourism through Economic Goal 3.1.3, which seeks to establish a healthy tourism sector, and through Plan Objective 11, which supports the improvement of tourism infrastructure in Port Renfrew. The establishment of a year-round marina and related services will provide improved facilities for fishing and eco-tourism vessels, and for private pleasure craft, and is expected to contribute to the local economy by providing stable employment opportunities for local residents.

Section 4.5 of the CCDP states that the CRD Board may issue a temporary use permit if the following conditions have been met:

- a. The impacts to any of the existing land uses are kept to a minimum.
- b. It does not involve the construction or erection of a new building.
- c. It does not involve numerous delivery trucks travelling to the site on a daily basis, to either pick up or drop off freight or other materials.
- d. The activity serves the needs of the community or is a part of the tourism sector.
- e. The activity will be carried out wholly within the principal building.
- f. There must be no on street parking.

The proposed new marina generally complies with the above conditions and CRD staff received no complaints from members of the public regarding operation of the seasonal marina.

The application process for the new licence of occupation included an assessment of environmental and social impacts, and required meaningful consultation with any affected First Nations. These assessments have been completed to the satisfaction of the Province, and Pacheedaht have issued correspondence supporting the applicant's proposal for the new commercial marina. A licence of occupation for the new marina has recently been issued by the Province that allows the applicant to construct a breakwater and commercial marina, and carry out ancillary marine uses.

In addition to the licence of occupation, the applicant is required to amend the CCDP in order to allow permanent operation of the proposed commercial marina. Issuance of a temporary use permit provides an interim measure that will allow the applicant to construct and operate the marina as per the terms of the new licence of occupation. At such time as an amendment application is received, the associated bylaw will proceed through the amendment review and adoption process in accordance with Bylaw No. 3110.

Staff recommend proceeding with Alternative 1, referral of the temporary use permit to a public information meeting, relevant agencies, CRD departments and affected First Nations, and endorsement of permit approval subject to agency comments and public notification.

### **CONCLUSION**

A seasonal commercial marina has been in operation on the east side of the existing breakwater under Temporary Use Permit TUP-04-13 since May 2013. The Land Use Committee recommended renewal of that permit for a period of three years at its meeting on March 15, 2016. The applicant has recently received a new licence of occupation from the Province for a 60-slip commercial marina and expanded ancillary marine uses following an indication of support from Pacheedaht First Nation. The new marina will be located to the west of the site of the existing marina. A subsequent CCDP amendment is required in order to allow permanent operation of the marina.

The proposed marina would contribute to the health of the tourism sector in Port Renfrew and provide employment opportunities of local residents. The proposal also generally complies with the Temporary Use Permit criteria established by Bylaw No. 3109. Therefore, staff recommend proceeding with referrals

and public notification of the temporary use permit application. Staff also recommend that the Land Use Committee endorse approval of the temporary use permit in order that comments may be provided directly to the CRD Board after the referral period, for a decision on the temporary use permit.

### **RECOMMENDATION**

- a) That staff be directed to refer Temporary Use Permit TP000008, as specified in Appendix D, to allow the construction and operation of a commercial marina, on That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R; Lot 1, Section 97, Renfrew District, Plan EPP24972; and those Parts of Block A and B, District Lot 751, together with Unsurveyed Crown Foreshore or Land Covered by Water Being Part of the Bed of Port San Juan, all within Renfrew District, Containing 3.86 Hectares, More Or Less, to a public information meeting and to the following agencies and relevant CRD departments for comment:

BC Hydro  
Cowichan Valley Regional District  
Department of Fisheries and Oceans  
Ministry of Environment

MFLNRO – Archaeology Branch  
Ministry of Transportation and Infrastructure  
Pacheedaht First Nation

and;

- b) That all comments received be forwarded to the CRD Board for consideration; and  
c) That the Land Use Committee endorse approval of Temporary Use Permit TP000008 subject to agency comments and public notification.

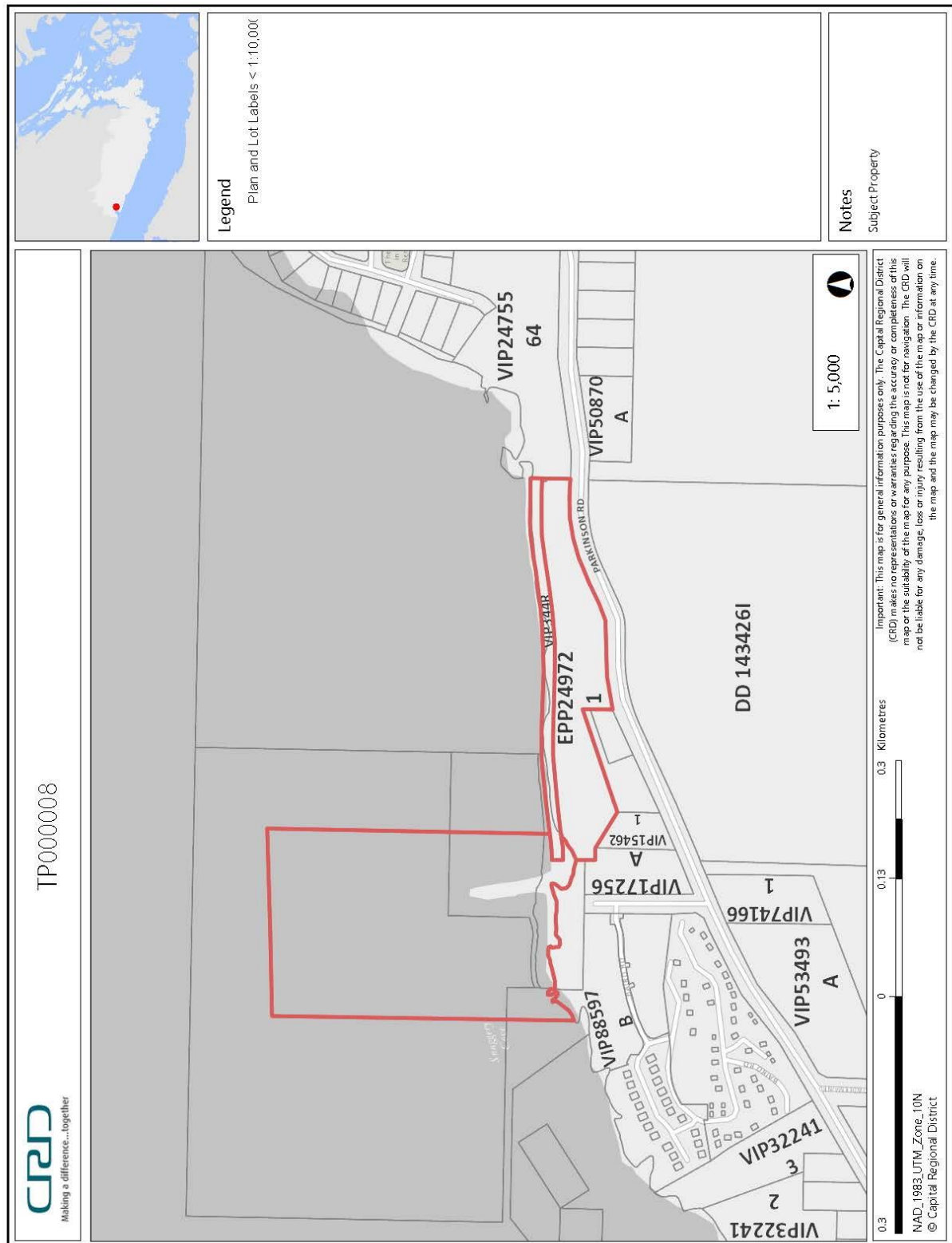
Submitted by:	Iain Lawrence, Supervisor, Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services

IL:wm

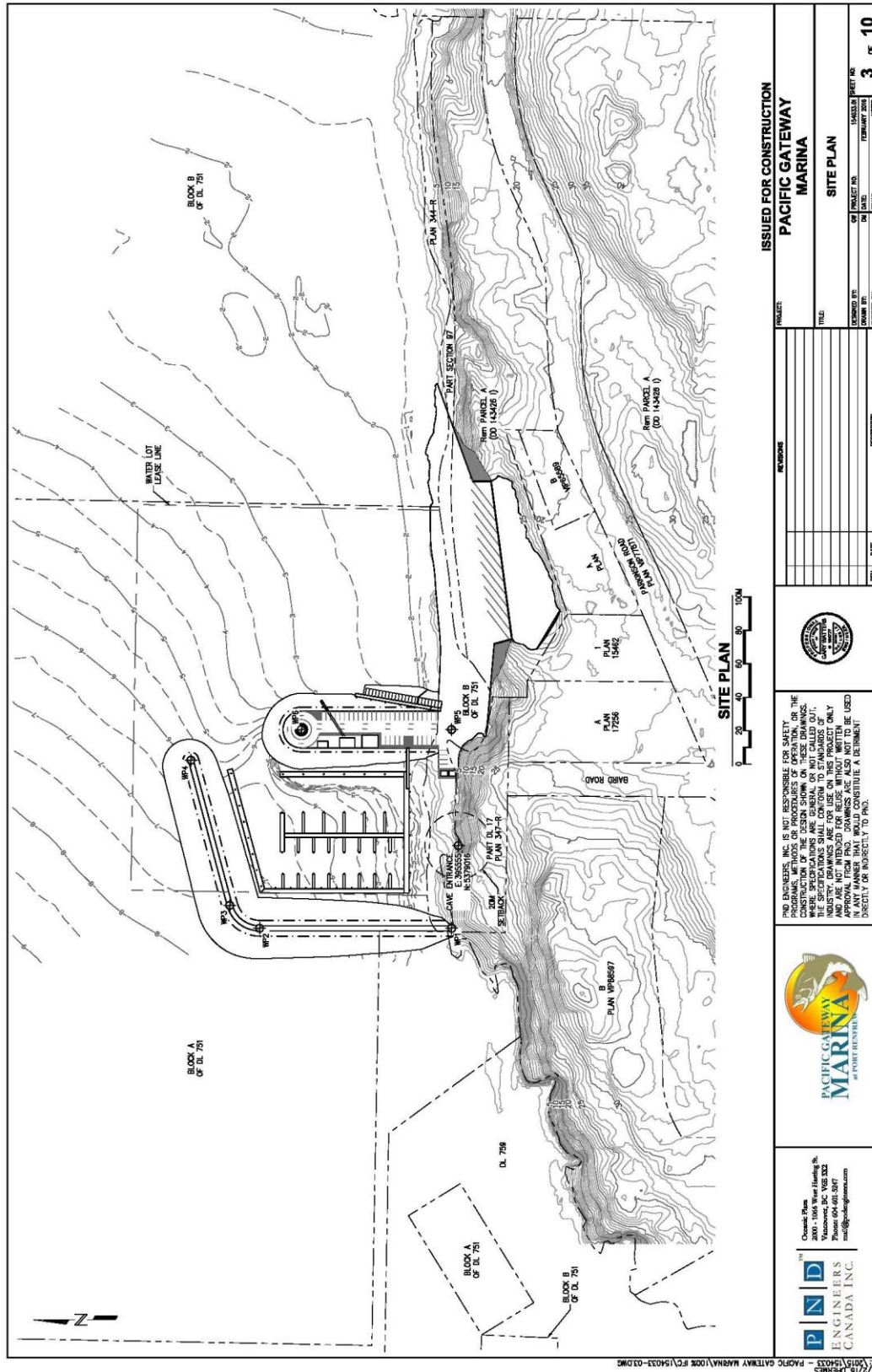
### Appendices:

- A. Subject Property Map
- B. Site Plans, PND Engineers Canada Inc., February 2016
- C. Letter of Support for Marina Development from Pacheedaht Chief Councillor, Jeff Jones to Rudi Mayser, Ministry of Forests, Lands and Natural Resource Operations, February 25, 2016
- D. Temporary Use Permit TP000008

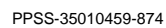
## PPSS-35010459-874



## Appendix B: Site Plans









**Pacheedaht First Nation**

350 Kalaid Street  
Port Renfrew, BC  
V0S 1K0

Phone: (250) 647-5521  
Fax: (250) 647-5561

February 25, 2016

Delivered by E-mail: [Rudi.Mayser@gov.bc.ca](mailto:Rudi.Mayser@gov.bc.ca)

Rudi Mayser, Manager  
Ministry of Forests, Lands, and  
Natural Resource Operations ("FLNRO")  
142-2080 Labieux Road  
Nanaimo, BC V9T 6J9

Dear Mr. Mayser:

**Re: Pacheedaht First Nation position regarding Pacific Gateway Marina**

I write to inform you that the Pacheedaht First Nation has continued to engage with the proponent Pacific Gateway Marina Ltd. (PGM) regarding its proposed marina in Port Renfrew (the Marina). We have recently made further progress in identifying ways to continue to monitor and seek to address our concerns about the Project's potential to adversely impact Pacheedaht's Aboriginal Rights, title, and culture and our interests in the BC Treaty Process.

On the basis of commitments PGM has made to Pacheedaht, I confirm that Pacheedaht no longer objects to FLNRO's approval of PGM's application for a Licence of Occupation for the development of its Marina, as described in PGM's final application documents dated February 2, 2016.

Pacheedaht expects that FLNRO will continue to consult with Pacheedaht regarding the establishment of a reserve or designated use area over the water lot east of the existing breakwater for the purpose of preserving our fisheries and cultural values. Please forward your detailed proposal for this reserve or designated use area as soon as possible.

Yours truly,

A handwritten signature in black ink, appearing to read 'Jeff Jones', is written over the typed name.

Jeff Jones

Pacheedaht Chief Councillor





**CAPITAL REGIONAL DISTRICT**  
**TEMPORARY USE PERMIT NO. TP000008**

1. This Temporary Use Permit is issued subject to compliance with all of the bylaws of the Regional District applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Temporary Use Permit applies to and only to those lands within the Regional District described below (legal description), and any and all buildings, structures, and other development thereon:  
**PIDs:** 009-592-342  
028-991-125  
**Legal Description:** That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R;  
Lot 1, Section 97, Renfrew District, Plan EPP24972; and  
**Licence of Occ.:** V9805027: Those Parts of Block A and B, District Lot 751, Together with Unsurveyed Crown Foreshore or Land Covered by Water Being Part of the Bed of Port San Juan, all within Renfrew District, Containing 3.86 Hectares, More Or Less
3. Pursuant to Section 492, 493, 495, 496, 497 of the *Local Government Act*, and Section 4.5 of the Capital Regional District's **Port Renfrew Comprehensive Community Development Plan, 2003, Bylaw No. 3109**, this Temporary Use Permit is issued subject to the following conditions:
  - a. For the purposes of this permit "Temporary Use" shall mean: "A 60-slip commercial marina as shown on the attached Location Map (Attachment 1) and Site Plans (Attachment 2), providing moorage for commercial vessels and private pleasure craft, as well as offices, fish processing, food services, fuel sales, retail sales, helicopter landing, boat trailer parking and boat storage".
  - b. Access to the marina is to be from Parkinson Road via a private strata road through Lot 1, Section 97, Renfrew District, Plan EPP24972 (PID: 028-991-125).
  - c. Access to the marina through Lot 64, Section 1, Renfrew District, Plan 24755 except Plan VIP57563, VIP68427 and Section 36, Township 13, is to be used by emergency vehicles only.
  - d. That a covenant be registered pursuant to Section 219 of the *Land Title Act* to permit the temporary use for the period of the permit. The covenant shall also include an agreement by the owner to indemnify and save harmless the CRD against all costs and expenses incurred by the CRD, in default by the owner, in the conversion, demolition or removal of the temporary use, and/or legal costs incurred in pursuing such legal remedies as the CRD sees fit. The covenant shall be registered within 30 days of the date of approval of the permit.
  - e. That an Irrevocable Letter of Credit in the amount \$10,000, be held for the period of the permit to ensure compliance with the permit conditions.
  - f. In default of compliance with any of the provisions of this permit, the permit shall lapse.
  - g. Nothing shall be done which is or will become an annoyance or nuisance to the surrounding areas by reason of unsightliness, the emission of odours, liquid effluence, dust, fumes, smoke, vibration, noise or glare; nor shall anything be done which creates or causes a health, fire, or explosion hazard, electrical or navigation interference.
4. The land described herein shall be developed strictly in accordance with the terms, conditions and



Making a difference...together

TP000008

provisions of this Permit, and any plans and specifications attached to this Permit which shall form a part hereof.

5. Notice of this Permit shall be filed in the Land Title Office at Victoria under Section 503 of *the Local Government Act*, and the terms of this Permit (TP000008) or any amendment hereto shall be binding upon all persons who acquire an interest in the land affected by this Permit.
6. The following plans and specifications are attached to and form part of this Permit:
  - a. Location Map
  - b. Site Map
7. This Permit is NOT a Building Permit
8. This permit renewal shall expire 3 years after the date of issuance of the permit.

**RESOLUTION PASSED BY THE BOARD, THE \_\_\_\_ day of \_\_\_\_\_, 2016.**

**ISSUED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Corporate Officer

