

**JUAN DE FUCA LAND USE COMMITTEE**

Notice of Meeting on Tuesday, **September 15, 2020 at 7:00 p.m.**

Juan de Fuca Local Area Services Building, #3 – 7450 Butler Road, Otter Point, BC

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**SUPPLEMENTARY AGENDA**

1. Additional information received for the following agenda item:
  - a) Agenda Item 6 a) RZ0000242 - That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R (PID: 009-592-342); Lot 1, Section 97, Renfrew District, Plan EPP24972 (PID: 028-991-125) (17110 Parkinson Road); That Part of District Lot 17, Renfrew District Shown Outlined in Red on Plan 347R (PID: 009-575-006) (6598 Baird Road); 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, Shown Outlined in Red on Licence V905027, Containing 3.86 Hectares, More or Less
    - Pacheedaht First Nation Letter Dated September 8, 2020
    - Amended Supplementary Report to the Juan de Fuca Land Use Committee



## Pacheedaht First Nation

350 Kalaid Street  
Port Renfrew, BC  
V0S 1K0

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

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September 8, 2020

### VIA EMAIL

Capital Regional District  
625 Fisgard Street  
Victoria, BC V8W 1R7

**Attention: Iain Lawrence**  
**Manager, Juan de Fuca Community Planning**  
**(ilawrence@crd.bc.ca)**

Dear Sirs/Mesdames:

**Re: Proposed New Pacific Gateway Marine Comprehensive Development Zone  
Comprehensive Community Development Plan Amendment Application (“Application”) for:  
That Part of District Lot 17, Renfrew District Shown Outlined in Red on Plan 347R (PID: 009-575-006)  
(with reference to the Draft By-law, “Lot 1”);  
That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R (PID: 009-592-342) (“Lot  
2”);  
Lot 1, Section 97, Renfrew District, Plan EPP24972 (PID: 028-991-125) (“Lot 3”, and together with Lots 1  
and 2, the “Uplands”); 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, Shown Outlined in  
Red on Licence V905027, Containing 3.86 Hectares, More or Less (“Water Lot”)**

Thank you for your letter dated July 31, 2020, in which you reference the concerns we set out in our letter dated June 16, 2020 in relation to the above-noted Application.

As you referenced in your letter, the CRD’s existing development application process does not allow for our meaningful participation for the consideration of proposed developments within our traditional territory. The process employed to date for this Application has not resulted in any meaningful opportunity for our input on the proposed rezoning, or for dialogue between the CRD and Pacheedaht about our concerns. As you noted, Pacheedaht was merely advised of the Application, and our earlier comments were attached to the staff report. This approach has not resulted in any real engagement on the Application.

In order to support a meaningful discussion about our concerns with the Application, we have set out some of our main concerns with the Application as currently proposed below.



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Concerns with PGM's Application as Proposed

**1. Separation of Marina and Uplands Development Portions of Application**

As you noted in your letter, Pacific Gateway Marina Sport Fishing and Marina Inc. ("PGM") engaged in some consultation with Pacheedaht in connection with the application for the licence of occupation ("LOO") from the Province and the temporary use permit ("TUP") from the CRD. PGM's marina site was changed in late 2015. The marina layout has been fairly well established since that time. This stands in contrast to the Uplands development, a serious plan for which has only been disclosed in 2020.

It is our understanding that PGM was seeking to secure an LOO over the Water Lot, where the marina is located, from FLNRORD at the same time that it was seeking to obtain a TUP from the CRD. We recall that Juan de Fuca Electoral Area Director Mike Hicks was unable to participate in discussions with the Province in connection with the LOO application due to concerns that he may have been in a position of personal conflict as the owner of a fishing charter and lodge business, which would be a potential patron of the marina. However, the CRD was not excluded from the Province's process for the LOO.

The Province granted a two-year LOO to PGM on February 16, 2016. Also in 2016, we understand that the CRD granted PGM a three-year TUP (our copy is undated and unsigned). Both the TUP and the LOO set out similar permitted activities and cover only the Water Lot, not the Uplands. The marina is now built, and, no matter the status of the LOO or the TUP, will not be removed.

Although we had conversations with the Province with respect to the granting of the LOO and the development of the marina, in our view, not all matters were resolved. It is also important to note that this consultation did not touch on the Uplands development.

Now that the marina has been in operation for four years, we, together with the Port Renfrew community and the CRD, have had the opportunity to observe and experience the impacts from its operations. Our concerns echo those concerns we expressed back in 2015. We also have additional concerns, such as about the disposal of grey water and sewage. Our community is extremely close to the marina; any marine impacts have a direct impact on our community, land management, and important resource harvesting.

We believe that the zoning for the marina requires multi-agency input to ensure that the marina's operations are conducted in a way that minimizes their environmental effects and impacts to our Aboriginal rights. Although the foreshore is under Provincial jurisdiction, the Comprehensive Community Development Plan ("CCDP") sets land use policies around a marine-protection zone. This demonstrates that the CRD perceives a role in respect to zoning and land use in connection with the marine area, by, as noted in the CCDP, "non-government persons for non-government purposes."<sup>1</sup> The CRD should bring its own experience to ensure that the types of operations it permits fit in harmoniously with the region, keeping in mind sustainability, community development, and priorities for investment in the Port Renfrew community, such as water and sewer infrastructure, and housing for the community.

Given the different considerations at play and the different stages of engagement that have occurred with respect to planning and operations as between the marina and the Uplands development, we suggest that the PGM marina zoning be separated from the residential development application and proceed on a separate track. We also suggest that the CRD think carefully about the options at its disposal with respect to the zoning of the marina, and not take the position that FLNRORD completed this job back in 2016.

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<sup>1</sup> CCDP, section 4.2.



It is important to remember that at the time the LOO was issued, it was just the marina being considered and none of the residential development of the Uplands. The level of Uplands development currently being proposed was not a focus at the time, let alone subject to assessment or consultation with Pacheedaht. From our perspective, the Uplands development poses a completely different and serious set of impacts, including to the network of sea caves adjacent to the PGM site. These impacts were not considered when the marina was approved. The proposed Uplands development is a distinct and complex project that needs to be subject to its own thorough assessment before being allowed to proceed. It cannot be allowed to piggy-back on the existing approvals for the marina.

Finally, with regards to the marina portion of the Application, we ask that you apprise us of the current status of the TUP, given that the three year term would have expired last year.

## 2. CRD's Consideration of Proposed Uplands Development

As noted above, the PGM marina plan, reflected in the LOO and the TUP, has been known since late 2015 / early 2016. The development plan for the Uplands seeks to piggyback on that work without engagement specific to the area, which contains important archaeological sites. In Pacheedaht's view, the area around the sea caves should include a no-build zone. The work that has been done to date has demonstrated the risk to carrying on residential development; we should learn from the developments that have been previously approved (in different zoning) rather than use those developments as a basis for approving a development that is even closer to the sea caves.

You mention the following reports relevant to the CRD's consideration of the Uplands. These reports need to be discussed with Pacheedaht.

### a) Archaeological Report

The Archaeological Inventory and Impact Assessment of Sea Caves in the Vicinity of the Pacific Gateway Marina Project in Port Renfrew BC by Duncan McLaren, Cordillera Archaeology dated July 31, 2018 (the "AIA") that you reference in your letter was prepared with Pacheedaht input. We have concerns with your suggested approach of preparing summaries of the AIA and November 19, 2015 Ryzuk geotechnical report ("Ryzuk Report") that is attached for the September 15, 2020 Land Use Committee (the "Committee"), and also with the proposed measure of registering a covenant that would set vibration thresholds. This approach seems likely to distill a complex report touching on archaeology, history and environment down to a set of construction guidelines.

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The AIA is the product of the latest effort to learn more about the network of sea caves adjacent to the PGM site. As noted in the AIA, the work resulted in the registration of a heritage site (DdSc-24, the "Registered Cave"), being the one burial cave that has been located and identified. This burial cave is the subject of much of the AIA. However, we draw your attention to the map at Figure 7 of the AIA, which labels nine known sea caves on or near PGM's lands and development plans.

Pacheedaht oral history indicates that there is an additional burial cave, which has not yet been found. The AIA notes that possible candidates are caves 1, 2, 5, or possibly 7 (marked on Figure 7 of the AIA).<sup>2</sup> The AIA notes that Cave 5 may be a significant and large cave feature with a high archaeological potential; Cave 7 includes an area

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above the high tide line with a moderate archaeological potential.<sup>3</sup> Technology is advancing at a rapid pace, even since the work conducted in connection with the AIA. Pacheedaht has not yet lost hope of finding the second burial cave. We do not accept that the caves that have not yet been found or accessed are inaccessible.

Our oral history indicates that the network of sea caves was not limited to the area indicated on Figure 7, but was extensive, and led to Botanical Beach. More contemporary accounts from Port Renfrew residents describe the network of sea caves being used to walk to the general store. In our view, there is more to learn, protect and restore about the network of sea caves. In the highlighting of the registration of the Registered Cave, and in subsequent summaries and reference, there is a tendency to place emphasis on the Registered Cave to the exclusion of the cave network and the caves that have not yet been accessed.

The AIA focuses on the damage that has been done to the Registered Cave and also on mitigation measures that were recommended to preserve the Registered Cave from further damage during construction or due to more people accessing the Registered Cave site in connection with the marina construction and property development by Three Point Properties. We note that the AIA was not evaluating any PGM proposed residential development plan of the Uplands, as there was not one to evaluate.

Pacheedaht emphasizes the historical, spiritual and ecological importance of the cave network. In addition to this historical importance, Pacheedaht views the cave network as having an ongoing cultural importance, and we hope to be able to once again use the Registered Cave for ceremonial purposes. The mitigation measures proposed to date, such as a fence preventing access to the Registered Cave, are insufficient protection measures and would also block Pacheedaht ready access to this important site. Development of the area will irreparably harm the sea caves and accordingly we reiterate our view that building near the cave network should not be permitted, as it is likely to harm the cave network.

We continue to have serious concerns about the proposed development blocking off our access and permanently damaging this incredibly significant site, which will have serious adverse effects on our cultural connection to the sacred burial cave and our ability to conduct ceremonies there.

#### b) Geotechnical Report

The AIA references the blasting guidelines set out in the Ryzuk Report as among the management recommendations that PGM should follow around the Registered Site. However, Pacheedaht has concerns that neither the AIA nor the Ryzuk Report give sufficient weight to the uncertainty and irreparable harm that are likely to arise in connection with residential development.

The Ryzuk Report notes that the impact of vibrations on caves is not as well understood as on other structures.<sup>4</sup> In making their recommendations, the consultants reference one study from England about blasting from quarrying near limestone caves.<sup>5</sup> We are unsure if this study is applicable to the sea caves, which are not limestone, and if it should be relied on. For example, these caves are shale. Fallen fragments that have impeded cave access have been observed and reported on to the authorities. The consultants set out an important proviso to their conclusion that blasting may be safely carried out: "it is certainly possible that additional rockfall may be experienced from time to time, and such may have no discernible trigger mechanism."<sup>6</sup>

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<sup>3</sup> AIA, page 16, 3<sup>rd</sup> additional recommendation.

<sup>4</sup> Page 4.

<sup>5</sup> Page 4.

<sup>6</sup> Page 5.



The Ryzuk Report also references the blasting that previously occurred in connection with the development of the Wild Coast Cottages, behind Lot 1. The Report notes that the blasting was carried out with no monitoring. Although there were no reported impacts, the consultants noted “the possibility that blasting at the Wild Coast Cottages development may have contributed to the apparent relatively recent rockfall event that partially blocked the cave entrance cannot be discounted.” It also notes that “anecdotal evidence suggests that the fractured phyllite or slate rock at the cave entrance has been unstable for some time, although it is possible that such has been exacerbated by recent construction activity in the area.”

The AIA notes that “some of the West Coast Cottages may be built on relatively unstable sea cave roofs. Erosion in and around these features appears to be more rapid than away from them as indicated by the V-shaped indents in which the caves are situated.” These observations demonstrate that past development behind Lot 1 may have occurred on ground less stable than it was understood to be, and may have impacted the ground and the sea caves below. In our view, this demonstrates that the further construction associated with the proposed development, of Lot 1 in particular, poses serious risk.

#### c) Environmental Report

The Environmental Impact Assessment conducted by Cascadia Biological Services dated March 10, 2019 (“Environmental Report”) places emphasis on the fact that the Uplands are not in a natural state. However, developing the Uplands would make permanent the disturbed condition. Once the Uplands are subdivided into small residential lots, there will be no going back.

The Environmental Report does not take into account Pacheedaht ecological knowledge in its consideration of the Application. Pacheedaht was unaware that this report was being done. Pacheedaht needs to be a part of the environmental work undertaken to fully evaluate the uplands portion of the Application.

#### Uplands Development Should Not Proceed at This Time

On the basis of these unaddressed concerns, and as there has yet to be a meaningful assessment of PGM’s proposed development of the Uplands, Pacheedaht requests that the CRD not approve the development of the Uplands, in order to identify a no-build zone on the Uplands that will protect not only the Registered Cave, but the cave network, including the burial cave that has yet to be located.

Should the CRD be unwilling to designate a no-go zone, as set out in our comments above on the various reports, much more work is needed in terms of identifying and assessing potential impacts from any development of the Uplands, as well as any required mitigation. This work must be completed with Pacheedaht’s involvement before any future applications are considered for the Uplands.

#### **Working Together**

It is critical to improve on these processes to allow for the CRD and Pacheedaht to work together on the review, consideration and approval stages of development processes. The task of evaluating a proposed rezoning application is made all the more difficult in the absence of an updated CCDP.

Thank you for letting us know that the CRD is committed to reviewing the Official Community Plan component of the CCDP in 2021. Pacheedaht is ready, willing and able to meaningfully participate in this important process. An updated CCDP to which the communities have had the opportunity to contribute, will:

- allow all community members to understand how rezoning applications fit in to the overall vision for the area;



- enable more effective application processes; and
- address the perception that there is a different set of rules applicable to certain proponents.

In the meantime, Pacheedaht and CRD should be engaging in a joint decision-making process for the Application given the size of the development and the importance of the area, especially the spiritually and culturally important sea caves, and would like to discuss with you how that might be done. In considering the Application, sufficient time must be allowed for working with Pacheedaht and for our concerns to be considered and addressed. With this in mind, in our view September 15<sup>th</sup> is not a realistic date for the Committee to consider the rezoning application. More time is needed to consider the full range of issues involved.

### Closing

We ask that the CRD:

- I. Proceed with the Application on two tracks, one for the marina and the other for the development for the Uplands;
- II. Work with Pacheedaht to determine a no build zone for the Uplands, to reflect the unacceptable risk of developing in a way that is likely to irreparably harm the network of sea caves; and
- III. Alternatively, work with Pacheedaht to determine the further work required to proceed with the proposed development of the Uplands.

We do not believe that consideration of the Application can proceed with the scheduled Committee meeting on September 15<sup>th</sup>, but suggest that we arrange a meeting the week of September 8<sup>th</sup>.

Yours truly,

PACHEEDAHT FIRST NATION

A handwritten signature in black ink, appearing to read "Jeff Jones", with a long horizontal line extending to the right.

Chief Jeff Jones

cc: Capital Regional District, Attn. Mike Hicks, Regional Director, Juan de Fuca Electoral Area ([directorjdf@crd.bc.ca](mailto:directorjdf@crd.bc.ca))  
Mandell Pinder LLP, Attn. Rosanne Kyle ([rosanne@mandellpinder.com](mailto:rosanne@mandellpinder.com))



Making a difference...together

**AMENDED SUPPLEMENTARY REPORT TO  
JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, SEPTEMBER 15, 2020**

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**SUBJECT**      **Comprehensive Community Development Plan Amendment Application for: That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R (PID: 009-592-342); Lot 1, Section 97, Renfrew District, Plan EPP24972 (PID: 028-991-125); That Part of District Lot 17, Renfrew District Shown Outlined in Red on Plan 347R (PID: 009-575-006); 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, Shown Outlined in Red on Licence V905027, Containing 3.86 Hectares, More or Less**

**ISSUE SUMMARY**

This report provides further supplementary information and a revised bylaw for the Report tabled by the Juan de Fuca Land Use Committee (LUC) on June 16, 2020, and the supplementary report provided as part of the September 15, 2020, Land Use Committee meeting agenda package in response to correspondence received from Pacheedaht First Nation on September 8, 2020.

**BACKGROUND**

Subsequent to concerns raised by Pacheedaht First Nation in their correspondence of June 16, 2020, receipt by JdF Planning of additional information from the applicant, and the writing of a supplementary report to the September 15, 2020, JdF Land Use Committee meeting, further correspondence dated September 8, 2020, (Appendix A) was received from Pacheedaht expressing remaining concerns related to areas of cultural and archaeological significance within the subject properties and providing three potential solutions.

In response to those remaining concerns, the applicant has agreed to remove the property, known colloquially as “Little Renfrew” (legally described as That Part of District Lot 17, Renfrew District Shown Outlined in Red on Plan 347R; PID: 009-575-006) from the application. JdF Planning staff have amended Bylaw No. 4096 accordingly by removing said property from the amendments to the Land Use Designation and Zoning maps of the Port Renfrew Comprehensive Community Development Plan, Bylaw No. 3109, and by removing Development Areas E and F from proposed Bylaw No. 4096 (Appendix B).

**CONCLUSION**

In response to the September 8, 2020, correspondence from Pacheedaht First Nation, and at the applicant’s request, JdF Planning staff have amended proposed Bylaw No. 4096. Staff recommend that original recommendation from the September 15, 2020, Land Use Committee report remain unchanged, but that the amended version of the bylaw be considered for first and second reading.

**RECOMMENDATION**

That the Land Use Committee recommends to the Capital Regional District (CRD) Board:

a) That the referral of proposed Bylaw No. 4096, “Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 1, 2003, Amendment Bylaw No. 13, 2020” to a Public Information Meeting in Port Renfrew, the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission; CRD departments; BC Hydro; Cowichan Valley Regional District; Department of Fisheries and Oceans; District of Sooke; Island Health; Ministry of Environment and Climate

Change Strategy; Ministry of Forests, Lands and Natural Resource Operations; Ministry of Transportation and Infrastructure; Pacheedaht First Nation; RCMP; Sooke School District #62 be approved and the comments received;

- b) That proposed Bylaw No. 4096, “Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 1, 2003, Amendment Bylaw No. 13, 2020” be introduced and read a first time and read a second time;
- c) That in accordance with the provisions of Section 469 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a public hearing with respect to Bylaw No. 4096; and
- d) That prior to adoption of the bylaws, the applicant:
  - i. Register a covenant on the title of the lands pursuant to Section 219 of the *Land Title Act* in favour of the CRD securing the Archaeological Impact Assessment prepared by Duncan McLaren, PhD, dated July 31, 2018, and the geotechnical report prepared by Bruce Dagg, P.Eng., dated November 19, 2015.

Submitted by: Iain Lawrence, MCIP, RPP, Manager, Juan de Fuca Community Planning
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**ATTACHMENT:**

Appendix A: Correspondence from Pacheedaht First Nation, September 8, 2020

Appendix B: Bylaw No. 4096

Appendix A: Correspondence from Pacheedaht First Nation



**Pacheedaht First Nation**

350 Kalaid Street  
Port Renfrew, BC  
V0S 1K0  
Phone: (250) 647-5521  
Fax: (250) 647-5561

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September 8, 2020

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**Attention: Iain Lawrence**  
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<sup>2</sup> AIA, page 17, 7.A5.



above the high tide line with a moderate archaeological potential.<sup>3</sup> Technology is advancing at a rapid pace, even since the work conducted in connection with the AIA. Pacheedaht has not yet lost hope of finding the second burial cave. We do not accept that the caves that have not yet been found or accessed are inaccessible.

Our oral history indicates that the network of sea caves was not limited to the area indicated on Figure 7, but was extensive, and led to Botanical Beach. More contemporary accounts from Port Renfrew residents describe the network of sea caves being used to walk to the general store. In our view, there is more to learn, protect and restore about the network of sea caves. In the highlighting of the registration of the Registered Cave, and in subsequent summaries and reference, there is a tendency to place emphasis on the Registered Cave to the exclusion of the cave network and the caves that have not yet been accessed.

The AIA focuses on the damage that has been done to the Registered Cave and also on mitigation measures that were recommended to preserve the Registered Cave from further damage during construction or due to more people accessing the Registered Cave site in connection with the marina construction and property development by Three Point Properties. We note that the AIA was not evaluating any PGM proposed residential development plan of the Uplands, as there was not one to evaluate.

Pacheedaht emphasizes the historical, spiritual and ecological importance of the cave network. In addition to this historical importance, Pacheedaht views the cave network as having an ongoing cultural importance, and we hope to be able to once again use the Registered Cave for ceremonial purposes. The mitigation measures proposed to date, such as a fence preventing access to the Registered Cave, are insufficient protection measures and would also block Pacheedaht ready access to this important site. Development of the area will irreparably harm the sea caves and accordingly we reiterate our view that building near the cave network should not be permitted, as it is likely to harm the cave network.

We continue to have serious concerns about the proposed development blocking off our access and permanently damaging this incredibly significant site, which will have serious adverse effects on our cultural connection to the sacred burial cave and our ability to conduct ceremonies there.

#### b) Geotechnical Report

The AIA references the blasting guidelines set out in the Ryzuk Report as among the management recommendations that PGM should follow around the Registered Site. However, Pacheedaht has concerns that neither the AIA nor the Ryzuk Report give sufficient weight to the uncertainty and irreparable harm that are likely to arise in connection with residential development.

The Ryzuk Report notes that the impact of vibrations on caves is not as well understood as on other structures.<sup>4</sup> In making their recommendations, the consultants reference one study from England about blasting from quarrying near limestone caves.<sup>5</sup> We are unsure if this study is applicable to the sea caves, which are not limestone, and if it should be relied on. For example, these caves are shale. Fallen fragments that have impeded cave access have been observed and reported on to the authorities. The consultants set out an important proviso to their conclusion that blasting may be safely carried out: "it is certainly possible that additional rockfall may be experienced from time to time, and such may have no discernible trigger mechanism."<sup>6</sup>

<sup>3</sup> AIA, page 16, 3<sup>rd</sup> additional recommendation.

<sup>4</sup> Page 4.

<sup>5</sup> Page 4.

<sup>6</sup> Page 5.



The Ryzuk Report also references the blasting that previously occurred in connection with the development of the Wild Coast Cottages, behind Lot 1. The Report notes that the blasting was carried out with no monitoring. Although there were no reported impacts, the consultants noted “the possibility that blasting at the Wild Coast Cottages development may have contributed to the apparent relatively recent rockfall event that partially blocked the cave entrance cannot be discounted.” It also notes that “anecdotal evidence suggests that the fractured phyllite or slate rock at the cave entrance has been unstable for some time, although it is possible that such has been exacerbated by recent construction activity in the area.”

The AIA notes that “some of the West Coast Cottages may be built on relatively unstable sea cave roofs. Erosion in and around these features appears to be more rapid than away from them as indicated by the V-shaped indents in which the caves are situated.” These observations demonstrate that past development behind Lot 1 may have occurred on ground less stable than it was understood to be, and may have impacted the ground and the sea caves below. In our view, this demonstrates that the further construction associated with the proposed development, of Lot 1 in particular, poses serious risk.

#### c) Environmental Report

The Environmental Impact Assessment conducted by Cascadia Biological Services dated March 10, 2019 (“Environmental Report”) places emphasis on the fact that the Uplands are not in a natural state. However, developing the Uplands would make permanent the disturbed condition. Once the Uplands are subdivided into small residential lots, there will be no going back.

The Environmental Report does not take into account Pacheedaht ecological knowledge in its consideration of the Application. Pacheedaht was unaware that this report was being done. Pacheedaht needs to be a part of the environmental work undertaken to fully evaluate the uplands portion of the Application.

#### Uplands Development Should Not Proceed at This Time

On the basis of these unaddressed concerns, and as there has yet to be a meaningful assessment of PGM’s proposed development of the Uplands, Pacheedaht requests that the CRD not approve the development of the Uplands, in order to identify a no-build zone on the Uplands that will protect not only the Registered Cave, but the cave network, including the burial cave that has yet to be located.

Should the CRD be unwilling to designate a no-go zone, as set out in our comments above on the various reports, much more work is needed in terms of identifying and assessing potential impacts from any development of the Uplands, as well as any required mitigation. This work must be completed with Pacheedaht’s involvement before any future applications are considered for the Uplands.

#### **Working Together**

It is critical to improve on these processes to allow for the CRD and Pacheedaht to work together on the review, consideration and approval stages of development processes. The task of evaluating a proposed rezoning application is made all the more difficult in the absence of an updated CCDP.

Thank you for letting us know that the CRD is committed to reviewing the Official Community Plan component of the CCDP in 2021. Pacheedaht is ready, willing and able to meaningfully participate in this important process. An updated CCDP to which the communities have had the opportunity to contribute, will:

- allow all community members to understand how rezoning applications fit in to the overall vision for the area;



Pacheedaht First Nation

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- 
- enable more effective application processes; and
  - address the perception that there is a different set of rules applicable to certain proponents.

In the meantime, Pacheedaht and CRD should be engaging in a joint decision-making process for the Application given the size of the development and the importance of the area, especially the spiritually and culturally important sea caves, and would like to discuss with you how that might be done. In considering the Application, sufficient time must be allowed for working with Pacheedaht and for our concerns to be considered and addressed. With this in mind, in our view September 15<sup>th</sup> is not a realistic date for the Committee to consider the rezoning application. More time is needed to consider the full range of issues involved.

#### Closing

We ask that the CRD:

- I. Proceed with the Application on two tracks, one for the marina and the other for the development for the Uplands;
- II. Work with Pacheedaht to determine a no build zone for the Uplands, to reflect the unacceptable risk of developing in a way that is likely to irreparably harm the network of sea caves; and
- III. Alternatively, work with Pacheedaht to determine the further work required to proceed with the proposed development of the Uplands.

We do not believe that consideration of the Application can proceed with the scheduled Committee meeting on September 15<sup>th</sup>, but suggest that we arrange a meeting the week of September 8<sup>th</sup>.

Yours truly,

PACHEEDAHT FIRST NATION

A handwritten signature in black ink, appearing to read "Jeff Jones".

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Chief Jeff Jones

cc: Capital Regional District, Attn. Mike Hicks, Regional Director, Juan de Fuca Electoral Area ([directorjdf@crd.bc.ca](mailto:directorjdf@crd.bc.ca))  
Mandell Pinder LLP, Attn. Rosanne Kyle ([rosanne@mandellpinder.com](mailto:rosanne@mandellpinder.com))

**CAPITAL REGIONAL DISTRICT  
BYLAW NO. 4096**

\*\*\*\*\*  
**A BYLAW TO AMEND BYLAW NO. 3109,  
THE "COMPREHENSIVE COMMUNITY PLAN FOR PORT RENFREW, BYLAW NO. 1, 2003"**  
\*\*\*\*\*

The Capital Regional District Board, in open meeting assembled, enacts as follows:

1. Bylaw No. 3109 being the "Comprehensive Community Plan for Port Renfrew, Bylaw No. 1, 2003" is hereby amended:

**A. SCHEDULE A, SECTION 4.0 DEVELOPMENT POLICIES**

- (a) By inserting a new Section 4.5 "Pacific Gateway Marina (PGM) Policies" after Section 4.4, to be read as follows:

**4.5. Pacific Gateway Marina (PGM) Policies**

**Objective**

The objective of the PGM designation is to provide a mix of community uses, year-round residential accommodation, vacation properties, and commercial tourism, recreation and marina services to the general public. Development within the PGM designation should support the economic, social and cultural well-being of the Port Renfrew community.

**4.5.1. Development (PGM) Policies**

- 1) In order to facilitate the increased level of use supported by the PGM designation the following services should be constructed and bylaws adopted prior to development:
  - a) Installation of a second water reservoir to expand the capacity of the Port Renfrew Water Supply System to the satisfaction of the Capital Regional District.
  - b) Adoption of an amendment to the Port Renfrew Water Supply Local Service Establishment Bylaw No. 1, 1989, Bylaw No. 1747, to include all those lands and the surface of the water within the PGM land use designation.
  - c) Adoption of an amendment to the Port Renfrew Fire Protection Local Service Establishment Bylaw, 1989, Bylaw No. 1743, to include all those lands and the surface of the water within the PGM land use designation.
- 2) The following amenity is of interest to the community and should be completed in accordance with the requirements specified by the Pacific Gateway Marina Comprehensive Development (PGM-CD) zone:
  - a) Construction of a public trail and staircase providing connectivity between the Juan de Fuca Electoral Area Community Parks and Recreation trail on Lot 64, Plan VIP24755, and Baird Road. The route provided by this trail and staircase should be protected by a statutory right-of-way in favour of the CRD.
- 3) Areas of known archaeological significance that are located within the area under the PGM designation are to be protected in accordance with Provincial legislation.

and renumbering Section 4 accordingly.

**B. SCHEDULE B, PART IV ZONES**

- (a) By inserting a new "Pacific Gateway Marina Comprehensive Development (PGM-CD)" zone after Section 27, to be read as follows:

**28.0 Pacific Gateway Marina Comprehensive Development (PGM-CD) Zone**

**Purpose**

The purpose of this zone is to implement the Pacific Gateway Marina (PGM) land use designation in order to provide a mix of community uses, year-round residential accommodation, vacation properties, and commercial tourism, recreation and marina services to the general public.

The PGM-CD zone is divided into Development Areas A – D, which are shown in Section 28.05. Development within each Development Area is to occur in accordance with the regulations indicated below.

Except where otherwise provided for in this Bylaw, only the specified list of permitted uses may be carried out on the parcels within the PGM-CD zone.

**28.01 PGM-CD Zone – General Regulations**

- (a) Permitted uses:
- (i) Single-family residential
  - (ii) Accessory buildings and structures
- (b) Maximum density:
- (i) One single-family dwelling
- (c) Where the following services and amenities are provided, the permitted uses, densities and regulations of Development Areas A-D, as specified in Sections 28.02 to 28.05, shall apply:
- (i) Connection to the Port Renfrew Water Supply System to the satisfaction of the Capital Regional District.
  - (ii) Connection to a community sewer system to the satisfaction of Island Health where total daily flows are less than 22,700 L/day, and to the satisfaction of the Ministry of Environment where total daily flows exceed 22,700 L/day.
  - (iii) Provision of a public trail constructed in a location and to a standard approved by Juan de Fuca Electoral Area Community Parks and Recreation, connecting Development Area A with Development Areas B and C. The trail is to be protected for public use via statutory right-of-way and maintenance agreement in favour of the Capital Regional District.
- (d) The Development Area boundaries, as shown in Section 28.05 shall be deemed to be lot boundaries for the purposes of determining applicable uses, densities and regulations.
- (e) Where a survey plan approved by the Surveyor General indicates the adjustment of a parcel boundary due to accretion, the zoning and development area designation applicable to the parcel is deemed to extend to the new parcel boundary despite the zoning designation of the accreted area indicated in Section 28.05.
- (f) As a requirement of subdivision, each proposed parcel within the PGM-CD zone must be connected to a community sewer system to the satisfaction of Island Health or the Ministry of Environment, and to a community water system to the satisfaction of the Capital Regional District.

**28.02 Development Area A – Specific Regulations**

(1) Permitted uses	(a) Single-family residential (b) Duplex residential (c) Accessory buildings or structures to the above permitted uses
(2) Minimum lot size for subdivision purposes	0.75 ha
(3) Minimum front yard setback	6.0 m
(4) Minimum interior side yard setback	3.0 m
(5) Minimum exterior side yard setback	4.5 m
(6) Minimum rear yard setback	4.5 m
(7) Maximum floor area ratio of residential units shall be:	0.30
(8) Maximum lot coverage	40% of the parcel area
(9) Maximum principal building height	11.75 m
(10) Maximum accessory building height	6.0 m

**28.03 Development Areas B and D – Specific Regulations**

(1) Permitted uses	(a) Single-family residential (b) Duplex residential (c) Home based business (d) Staff accommodation (e) Accessory buildings or structures to the above permitted uses
(2) Minimum lot size for subdivision purposes: (a) Development Area B (b) Development Area D	0.26 ha 0.34 ha
(3) Minimum front yard setback	6.0 m
(4) Minimum interior side yard setback	3.0 m
(5) Minimum exterior side yard setback	4.5 m
(6) Minimum rear yard setback	4.5 m
(7) Maximum combined floor area ratio of residential, tourist accommodation and staff accommodation units (a) Development Area B (b) Development Area D	0.35 0.25
(8) Maximum lot coverage	40% of the parcel area

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(9) Maximum principal building height	11.75 m
(10) Maximum accessory building height	6.0 m

**28.04 Development Area C – Specific Regulations**

(1) Permitted uses	(a) Commercial marina (b) Community uses (c) Conference centre (d) Fish processing (e) Food service establishments (f) Hotels and motels (g) Office uses (h) Retail establishments (i) Staff accommodation (j) Tourist facilities and related amenities (k) Accessory buildings or structures to the above permitted uses
(2) Minimum lot size for subdivision purposes	1.0 ha
(3) Minimum front yard setback	6.0 m
(4) Minimum interior side yard setback	3.0 m
(5) Minimum exterior side yard setback	4.5 m
(6) Minimum rear yard setback	4.5 m
(7) Maximum combined floor area ratio of tourist accommodation and staff accommodation units	0.60
(8) Maximum lot coverage	50% of the parcel area
(9) Maximum principal building height	12.0 m
(10) Maximum accessory building height	6.0 m

**28.05 PGM-CD Zone Development Areas Map**



**C. SCHEDULE B, MAP NO. 2 – LAND USE DESIGNATIONS**

- (a) By deleting That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R (PID: 009-592-342) and Lot 1, Section 97, Renfrew District, Plan EPP24972 (PID: 028-991-125) from the Residential (R) designation and adding said lots to the Pacific Gateway Marina (PGM) designation, as shown on Plan No. 1; and
- (b) By deleting 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, Shown Outlined in Red on Licence V905027, Containing 3.86 Hectares, More or Less from the Marine Protection (M) designation and adding said licence area to the Pacific Gateway Marina (PGM) designation, as shown on Plan No. 1.

**D. SCHEDULE B, MAP NO. 3 – ZONING**

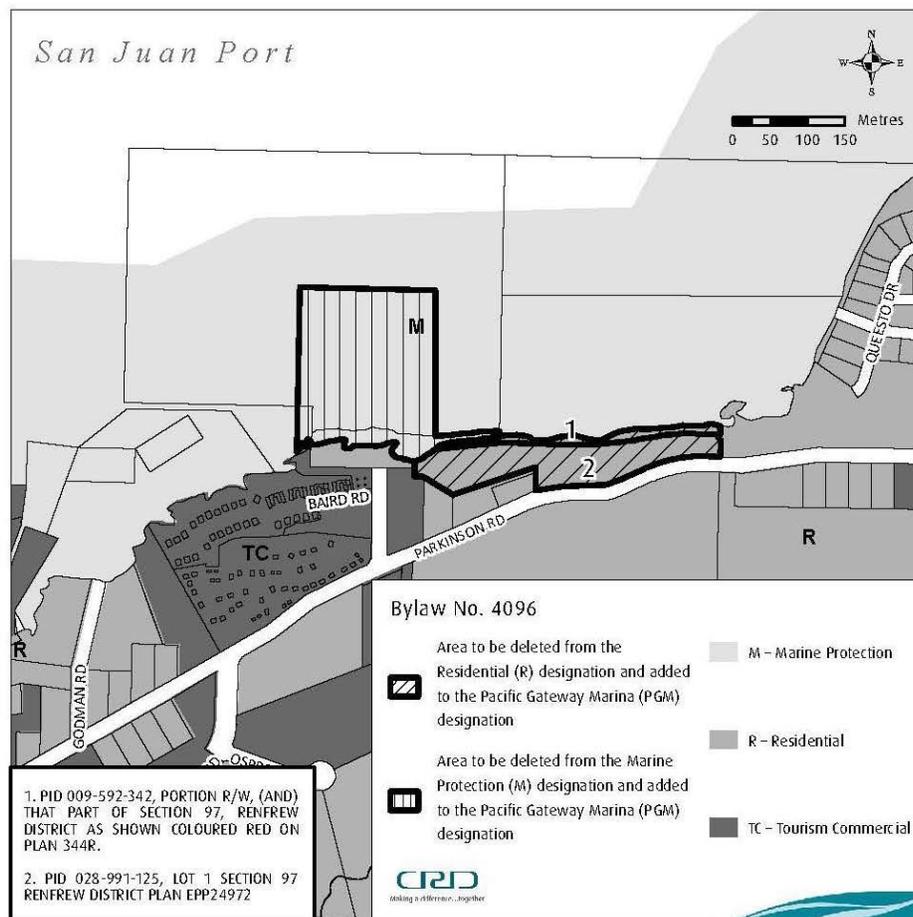
- (a) By deleting That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R (PID: 009-592-342) and Lot 1, Section 97, Renfrew District, Plan EPP24972 (PID: 028-991-125) from the Community Residential – One (CR-1) zone and adding said lots to the Pacific Gateway Marina Comprehensive Development (PGM-CD) zone, as shown on Plan No. 2; and
- (b) By deleting 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, Shown Outlined in Red on Licence V905027, Containing 3.86 Hectares, More or Less from the Marine (M) zone and adding said licence area to the Pacific Gateway Marina Comprehensive Development (PGM-CD) zone, as shown on Plan No. 2.

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**Plan No. 1 of Bylaw 4096, an amendment to Bylaw No. 3109**

That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R (PID: 009-592-342); Lot 1, Section 97, Renfrew District, Plan EPP24972 (PID: 028-991-125) 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, Shown Outlined in Red on Licence V905027, Containing 3.86 Hectares, More or Less shown on this plan attached to and forming part of this bylaw.



CRD Bylaw No. 4096

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**Plan No. 2 of Bylaw 4096, an amendment to Bylaw No. 3109**

That Part of Section 97, Renfrew District as Shown Coloured Red on Plan 344R (PID: 009-592-342); Lot 1, Section 97, Renfrew District, Plan EPP24972 (PID: 028-991-125) 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, Shown Outlined in Red on Licence V905027, Containing 3.86 Hectares, More or Less shown on this plan attached to and forming part of this bylaw.

