

APPENDIX 'B'

Agency Referral Responses

Area 'F' Advisory Planning Commission	Recommended denial.
Interior Health Authority	<p>The location and number of mooring buoys, docks, swimming platforms, and boat launches would be reviewed solely for the potential risk to the drinking and recreational water quality.</p> <p>Interior Health would be concerned with:</p> <ul style="list-style-type: none"> <li>• A lake intake within this area that is part of a community drinking water supply system (Celistra Water System).</li> <li>• A swimming area if there was a potential concern with the recreational water quality.</li> <li>• Facilities within the park/picnic area that have been established or could be established for park users.</li> </ul>
Ministry of Transportation and Infrastructure	No response.
Ministry of Environment	No response.
Department of Fisheries and Oceans	No response.
Ministry of Forests, Land and Natural Resource Operations - Lands Branch	<p>Preliminary thoughts. January 27, 2015.</p> <p>We may consider legalizing 1 dock and 1 boat launch ramp. It is our hope that in doing so, it may encourage the Association to entertain the prospect of 1 group moorage structure, which would align with our current policies and guidelines.</p> <p>We are not in support of legalizing all 12 docks and 2 boat launches for the following reasons:</p> <ul style="list-style-type: none"> <li>• Does not align with current policy.</li> <li>• None of the docks currently meet with today's standards.</li> <li>• Currently a UREP (or Notation of Interest for public use) is in place, it was established in 1996 for this section of foreshore which specifically states that this area remain open to public use.</li> <li>• The UREP was established in response to the lack of lake access by local and periphery residents.</li> <li>• We issue tenures when it is in the best interest of the public – we question that this application is not in the best interest of the public (as previously mentioned)</li> </ul>

	<p>but whether it is in the best interest of the Association members, given that 11 of the docks are privately owned.</p> <ul style="list-style-type: none"> <li>• It is my opinion that legalizing 12 docks and boat ramps will essentially privatize the beach for the exclusive use of the private park – or at the very least give that perception to local users – thus indirectly excluding public use even if the Association does not impede public access.</li> </ul>
<p>Ministry of Forests, Land and Natural Resource Operations - Lands Branch</p>	<p>Email to MCPPA May 10, 2017.</p> <p>Thank you for letter indicating your wish to keep 6 of the 12 docks.</p> <p>We received your application in October of 2014 to legalize 12 existing docks and 2 boat launches fronting a privately owned park in Shuswap Lake. After extensive in-house reviews, on-site meetings inclusive with local government and environment staff we reached the following decision.</p> <p>We would consider legalizing 3 moorage facilities for your group. One servicing each boat launch and a group moorage structure.</p> <p>The decision was made based on the following:</p> <ol style="list-style-type: none"> <li>1) The foreshore is fronting one lot that has a restricted covenant of being used as a park, either public or private</li> <li>2) A reserve was placed on the foreshore fronting the park to withdraw the opportunity for any privately owned works (docks) – the foreshore has and is still being managed for the enjoyment of the public (not just the private park owners)</li> <li>3) 12 docks hinders the ability of the public to use the beach or their perception that it is available for their use</li> <li>4) There are few opportunities for local residents in that area to access a public beach</li> <li>5) Some of the present structures do not meet the standards of a dock that would be authorized under any of our policies</li> </ol> <p>Present direction still remains that we will only allow 3 moorage structures and the existing boat launches.</p> <p>While I sympathize with the position you are in being the liaison between your large membership and the authorizing agencies, I will recommend that you send me your new designs for our consideration by September 1, 2017. Failure to</p>

	<p>do so will result in a disallowance of your application. Further, the situation will be reported to Compliance and Enforcement who may ultimately remove all structures at your expense.</p>
<p>Ministry of Forests, Land and Natural Resource Operations - Lands Branch</p>	<p>Clarification to MCPA June 29, 2017.</p> <p>I have attached a copy of the reserve (UREP) for your information.</p> <p>As for determining who has the legal right to request that the docks be removed, I'm not sure I can rephrase as it is kind of a moot point considering that ALL THE DOCKS ARE IN TRESPASS AGAINST THE CROWN. I'm sorry for the caps, but it seems like the point is being missed that all the docks fronting the park are trespassing against the Crown.</p> <p>If your application is unsuccessful because your group refuses to comply by not removing those docks then the CROWN will hold MCPA responsible for financing the removal of those docks. You are correct that any repercussions will fall on the MCPA as they are the upland title holder. Please be aware that if your members refuse to remove their docks, then you will not receive the appropriate authorization from the Province and I suspect will not receive your rezoning based on the fact that you are not compliant (but I would let Dan speak to that).</p> <p>Given that you have triggered the process, be assured that if you fail to comply, I will be sending this file (all 3 years) to C&amp;E for removal of the trespass structures. There really isn't any other outcome at this point.</p> <p>I guess what I'm saying is whether or not MCPA has the legal authority to request that the docks be removed, the Province does, and all docks will be removed at MCPA's expense. For clarification, the wording of "May and ultimately" is used because I do not have control over another business line (C&amp;E) and professionally would not commit them to take an action. I can only explain the process and infer the consequences that will likely arise.</p>
<p>Ministry of Forests, Land and Natural Resource Operations – Habitat Branch (Ecosystems Biologist)</p>	<p>Removal of structures that do not comply with shoreline management guideline for fish and fish habitat; Shuswap, Mara and Little Shuswap Lakes. The area in question overlaps known Lake Trout shore spawning habitat and has docks that do not comply with the guidelines noted above, therefore recommends removal of the non-compliant docks prior to rezoning approval.</p> <p>See attached letter.</p>

<p>Transport Canada - Navigation Protection Program</p>	<p>The purpose of the Navigation Protection Act (NPA) is to regulate works and obstructions that risk interfering with navigation in the navigable waters listed on the schedule to the Act. It is the responsibility of the Navigation Protection Program (NPP) to administer and enforce the NPA.</p> <p>Please be advised that the Order Amending the <i>Minor Works and Waters (Navigable Waters Protection Act) Order</i> came into effect on March 31, 2014. The Order allows for works to be constructed if they meet the criteria for the applicable class of works, as well as specific terms and conditions for construction.</p> <p>Upon initial screening, we have determined that the above-noted work(s), although proposed to be constructed on a body of water listed on the schedule, may not require notice to the Minister as they appear to meet a class of works as defined in the order.</p>
<p>Ministry of Forests, Land and Natural Resource Operations- Archaeology Branch</p>	<p>According to Provincial records there are no known archaeological sites recorded on the subject property. However, archaeological potential modeling for the area indicate it has potential to contain unknown archaeological sites.</p> <p>Archaeological sites (both recorded and unrecorded) are protected under the <i>Heritage Conservation Act</i> and must not be altered or damaged without a permit from the Archaeology Branch. Given the potential to contain unknown archaeological sites, an Eligible Consulting Archaeologist (ECA) should be engaged prior to any land-altering activities to determine if development activities are likely to impact unknown archaeological sites. An Eligible Consulting Archaeologist is one who is able to hold a Provincial heritage permit that allows them to conduct archaeological studies. Ask an archaeologist if he or she can hold a permit, and contact the Archaeology Branch (250-953-3334) to verify an archaeologist's eligibility. Consulting archaeologists can be contacted through the BC Association of Professional Archaeologists (<a href="http://www.bcapa.ca">www.bcapa.ca</a>) or through local directories. If the archaeologist determines that development activities will not impact any archaeological deposits, then a site alteration permit is not required. I am informing you of this archaeological potential so proponents are aware of the potential risk for encountering a site if they choose to conduct any land-altering activities on the property. Proponents should contact an archaeologist prior to</p>

	<p>development to conduct an in-field assessment and/or detailed review of the development area. However, the Archaeology Branch is not requiring the proponent conduct an archaeological study or obtain a permit prior to development in this area. In this instance it is a risk management decision for the proponent(s).</p> <p>If any land-altering development is planned and proponents choose not to contact an archaeologist prior to development, owners and operators should be notified that if an archaeological site is encountered during development, activities <b>must</b> be halted and the Archaeology Branch contacted at 250-953-3334 for direction. If an archaeological site is encountered during development and the appropriate permits are not in place, proponents will be in contravention of the <i>Heritage Conservation Act</i> and face possible fines and likely experience development delays while the appropriate permits are obtained..</p>
<p>CSRD Operations Management</p>	<p>Team Leader Utilities – Utilities has no concerns, however it should be noted the privately owned Celistra community water system utilizes this same property for its lake intake and could have some concerns.</p> <p>Team Leader Community Services – Concern if fuel is being dispensed from docks. Celistra FD must be consulted to complete pre-incident planning for fire suppression on docks. Consideration to access for firefighting apparatus to dock area required.</p> <p>Team Leader Environmental Health – No concerns.</p> <p>Community Parks and Recreation Operator – Concerns for public access below high water, in that a public lake access (Highway Right-of-Ways) border both ends of this property to allow the public a pedestrian access to the lake. The beach is, of course, public and 60 or 61 docks become unnecessary barriers to public access without without constant detouring into private property. The lake zoning bylaw encourages multi-family properties to support one/few dock with slips further from shore. This approach would minimize public access above high water. Does their proposal reduce the 2 boat launches to a single boat launch facility as implied by boat launch facilities? Intentions unclear, please clarify if 2 existing boat launches are to be reduced to one single facility.</p>

	Manager Operations Management – No concerns.
Adams Lake Indian Band	No response.
Coldwater Indian Band	No response.
Cooks Ferry Indian Band	No response.
Esh-kn-am Cultural Resources Management Services	No response.
Lower Similkameen Indian Band	No response.
Neskonlith Indian Band	No response.
Nlaka'pamux Nation Tribal Council	No response.
Okanagan Indian Band	No response.
Okanagan Nation Alliance	No response.
Penticton Indian Band	No response.
Siska Indian Band	No response.
Splats'in First Nation	No response.
Simpcw First Nation	At this time, we have no concerns with the bylaw amendments.

BC900-09



<input type="checkbox"/> CAO	<input type="checkbox"/> Agenda	Ownership:
<input type="checkbox"/> Works	<input type="checkbox"/> Reg Board	File #
<input type="checkbox"/> DS	<input type="checkbox"/> in Camera	
<input type="checkbox"/> Fin/Adm	<input type="checkbox"/> Other Mtg	
<b>JAN 29 2015</b>		
<input type="checkbox"/> Ec Dev	RECEIVED	Ask Sent:
<input type="checkbox"/> IT	<input type="checkbox"/> Staff to Report	<input type="checkbox"/> Fax
<input type="checkbox"/> Parks	<input type="checkbox"/> Staff to Respond	<input type="checkbox"/> Mail
<input type="checkbox"/> SEP	<input type="checkbox"/> Staff Info Oly	<input type="checkbox"/> Email
<input type="checkbox"/> HR	<input type="checkbox"/> Dir Mailbox	
<input type="checkbox"/> Other	<input type="checkbox"/> Dir Circulate	

January 29, 2015

File: 58000-35-08  
Your File: 900-9

Columbia Shuswap Regional District  
431 Hudson Ave. NE.  
Salmon Arm, BC

Attention: Dan Passmore

Re: Meadow Creek Properties Park Association Referral

The Ecosystems Section of the Ministry of Forests, Lands and Natural Resource Operations (FLNR) provides the following response to the above noted referral.

We have determined that this proposal presents a risk to fish and fish habitat. The proposal area occurs along shoreline identified as Lake Trout shore spawning habitat with known use. Because the proposal occurs in an identified sensitive site, on non-vegetated foreshore, at a shore spawning site, the *Shoreline Management Guidelines for Fish and Fish Habitat; Shuswap, Mara and Little Shuswap Lakes* prescribes following DFO best management practices, without requiring a fish habitat review. The *DFO Dock and Boathouse Construction In Freshwater Systems Operational Statement* prescribes a minimum distance of 50 m of un-disturbed shoreline between adjacent docks. The proposal area has a shoreline for approximately 450 m and can therefore accommodate no more than 8 docks without exceeding these guidelines based on the presence of other in water structures in the form of concrete boat ramps at each end of the proposal area.

Based on the submitted proposal many of the docks do not adhere to the guidelines for floating docks in the *Shoreline Management Guidelines for Fish and Fish Habitat; Shuswap, Mara and Little Shuswap Lakes*. Docks B, D, E, and F exceed the 24 m<sup>2</sup> limitation on total dock size, docks A, E, F, and H exceed the 3m limitation on dock width. The summary table describing the construction details of the existing docks indicated in the proposal was not found, so assessment of dock construction was based on the supplied photographs. Docks B, E, F, G, H, J, K, and L are not constructed with deck spacing to allow light penetration or float distribution to allow migration of juvenile fish. The grounding exhibited by many of the docks in the photographs will also impede movements of juvenile fish along the shore. Solid concrete boat launches are not recommended as they reduce the amount of potential shore spawning and rearing habitat

Ministry of  
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for Lake Trout. Boat launches should be constructed with breaks that allow exposure to the natural foreshore substrate.

Based on these considerations it is recommended that all docks in the proposal not be licensed. To minimize impacts to Lake Trout habitat it is recommended that docks A, B, D, E, F, G, H, J, K, and L be removed as soon as possible. Remaining docks should be maintained so that the dock structure is floating in a minimum 1.5 m of water without any gangway grounding. Due to the proximity of the two boat launches it is recommended that one launch be removed, and the area rehabilitated. The remaining boat launch should be upgraded to a design that maintains access to the foreshore substrate for juvenile fish.

If a decision is reached that the docks are to be removed the proponent should be advised:

1. Existing roads and trails should be used whenever practicable, and any new temporary access must be deactivated upon completion of works.
2. Proponents should be reminded that it is their responsibility to understand and comply with relevant Sections of Provincial and Federal legislation.
  - Water Act – Section 9 if any works occur below high water marks of rivers, streams, lakes or wetlands the proponent must submit an application under the Water Act.
  - Wildlife Act – Section 34 provides protection for birds, eggs, and nests during the breeding season and nests of eagles, peregrine falcons, gyrfalcon, osprey, heron, and burrowing owls year round.
  - Federal Fisheries Act – Sections 35 to 42 – Fisheries Protection and Pollution Prevention

If the above noted conditions are not included in the permit or authorization, please inform the undersigned in writing.

If you have any other questions or require further information please feel free to contact me.

Sincerely,

Bevan Ernst  
Ecosystem Biologist  
Ministry of Forests, Lands and Natural Resource Operations  
Thompson Okanagan Region  
250 371 6273  
Bevan.Ernst@gov.bc.ca