



# BOARD REPORT

**TO:** Chair and Directors

**File No:** BL900-25  
PL20180098

**SUBJECT:** Electoral Areas C, E & F: Lakes Zoning Amendment (CSR D) Bylaw No. 900-25

**DESCRIPTION:** Report from Jennifer Sham, Planner, dated July 17, 2018.  
Electoral Areas C, E & F

**RECOMMENDATION:** THAT: Lakes Zoning Amendment (CSR D) Bylaw No. 900 be read a first time this 16<sup>th</sup> day of August, 2018;

AND THAT: the Board utilize the simple consultation process for Bylaw No. 900-25 and it be referred to the following agencies, First Nations, and stakeholders:

- Advisory Planning Commission C;
- Ministry of Environment;
- Ministry of Forests, Lands, Natural Resource Operations, and Rural Development;
- Ministry of Forests, Lands, Natural Resource Operations, and Rural Development – Lands Branch;
- FrontCounterBC;
- Department of Fisheries and Oceans;
- Transport Canada;
- City of Salmon Arm;
- District of Sicamous;
- CSR D Operations Management;
- All relevant First Nation Bands and Councils;
- Dock builders and installers working in the Shuswap;
- Shuswap Waterfront Owners Association (SWOA);
- Swansea Point Community Association;
- South Shuswap Chamber of Commerce; and,
- North Shuswap Chamber of Commerce.

## SHORT SUMMARY:

Development Services staff is proposing to amend the Lakes Zoning Bylaw No. 900 (Bylaw No. 900) by increasing the total upward facing surface area of a floating or fixed dock, increasing the width of a floating or fixed dock surface, and increasing the width of a permanent or removable walkway surface.

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**VOTING:**      Unweighted Corporate        LGA Part 14 (Unweighted)        Weighted Corporate        Stakeholder (*Weighted*)   

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## BACKGROUND:

Lakes Zoning Bylaw No. 900 (Bylaw No. 900) was adopted on August 16, 2012 in response to concerns about the proliferation of docks and buoys on Shuswap and Mara Lakes. Bylaw No. 900 regulates the use, size and siting of docks, buoys, and swimming platforms in Electoral Areas C (South Shuswap), E (Rural Sicamous), and F (North Shuswap).

The Provincial Private Moorage Program was amended on January 17, 2017 to streamline Provincial approval processes for private docks. A summary of these changes was presented at an EAD meeting on April 4, 2017. Prior to the January 2017 amendment, the Province permitted a total maximum upward facing surface area of a dock of 24 m<sup>2</sup>, which was reflected in Bylaw No. 900. The Province has retained a maximum dock width of 3 m, but slightly larger dock widths are often approved to account for the imperial to metric measurement conversion rounding issue. The primary Provincial change made to the Private Moorage Policy in 2017 was that there is no longer a total maximum upward facing surface area of a dock of 24 m<sup>2</sup> to qualify for a General Permission; when applying the maximum distance that a dock may extend off a walkway, the maximum permitted area could be 128.1 m<sup>2</sup> (42 m x 3.05 m). See "2017-04-04\_EAD\_DS\_BL900\_GEN.pdf" and "2017-04-04\_EAD\_Minutes.pdf" attached.

At the November 2, 2017 EAD meeting, DS staff presented a verbal report and powerpoint regarding Bylaw No. 900 (bylaw administration update and next steps) including considerations for future Lakes Zoning priorities. At that time, the EAD agreed that Bylaw No. 900 should continue to regulate private mooring buoys and that the maximum dock surface area of 24 m<sup>2</sup> should be reviewed and options for a larger area be provided for the Committee's consideration. See "2017-11-02\_EAD\_Docks\_Buoys.pdf" and Agenda Item 4.2 of "2017-11-02\_EAD\_Minutes.pdf" attached.

Since the adoption of Bylaw No. 900, staff have presented a number of bylaw amendments and development permits with variances for larger docks or walkways to the Board. These variances range from minor variance requests at 27.87 m<sup>2</sup> sized docks (16.13% increase from 24 m<sup>2</sup>) to over 40 m<sup>2</sup> sized docks (+66.67% increase from 24 m<sup>2</sup>). The Manager of Development Services has the ability to issue technical development permits, but only if the variance requested does not exceed the bylaw by more than 10% and if there is a hardship. In almost every application to the Board for a dock size (increase of over 10%, 10% with no hardship, or a fixed dock instead of a floating dock), a variance due to conversion from Imperial to Metric units was required for the dock width. Since the summer of 2017, the Manager of Development Services has been issuing Development Permits with a minor variance, with the hardship being the conversion between Imperial and Metric units in using standardized building materials (i.e. dock width from 3 m to 3.05 m) in order to expedite the dock permitting process.

Further to the direction DS staff received at the November 2, 2017 EAD meeting, staff presented a report and powerpoint regarding maximum total upward facing surface area of a dock size options, and proposed maximum dock and walkway width increases at the June 7, 2018 EAD meeting. See "2018-06-07\_EAD\_DS\_BL900-25.pdf" and "2018-06-07\_EAD\_presentation\_BL900-25.pdf" attached.

At the June 2018 EAD meeting, DS staff were directed by the EADs to bring forward a report and amendment to the Lakes Zoning Bylaw No. 900 to:

1. Increase the total upward facing surface area of a dock to 30 m<sup>2</sup>;
2. Increase the maximum width of any portion of a floating or fixed dock surface to 3.05 m; and,
3. Increase the maximum width of any portion of a permanent or removable walkway surface to 1.52 m.

Staff were also directed to add two special interest groups (Swansea Point Community Association and South Shuswap Chamber of Commerce) as part of the referral process after first reading; given the addition of the South Shuswap Chamber of Commerce to the referral list, staff are also recommending that the proposed bylaw be referred to the North Shuswap Chamber of Commerce as well. Further, staff were directed to examine the issue of public access along the foreshore and make a recommendation to the Board. See "2018-06-07\_EAD\_Minutes.pdf" attached.

**POLICY (Excerpts):**

Provincial General Permission for the Use of Crown Land for Private Moorage (Version: January 17, 2017)

"Foreshore" means that land lying between the highest water mark and the lowest water mark that is alternatively covered by water and exposed with the normal rise and fall of the level of the body of water.

"Mobile dock" means a dock with movable walkway and float used in lakes with seasonally fluctuating water levels, that can be readily moved away from the natural boundary as lake levels decrease, such that the required depth of water for boat moorage is achieved.

"Natural boundary" means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water is so common and usual, and so long continued in all ordinary years as to mark on the soil of the bed of the body of water a character distinct from that of its the banks in vegetation, as well as in the nature of the soil itself.

3.8. A Dock in a freshwater environment must not:

- a. extend beyond a distance of 42 m from the point where the walkway begins, measured perpendicular from the general trend of the shoreline;
- b. have more than a 3 m wide moorage platform or float; or
- c. have more than a 1.5 m wide walkway connecting the platform or float to the shore; and
- d. for mobile docks located in waterbodies that have seasonally fluctuating water levels, the outermost extent of the dock must not be more than a distance of 60 m from the present natural boundary.

6.3 The Dock must not unduly obstruct public access along the foreshore or beach.

Delegation Bylaw No. 5582, 2010

Delegation of Authority to Issue Development Permits

4. The power to issue technical development permits is delegated to the Manager of Development Services.

Development Services Procedures Bylaw No. 4001

9.1.1 The Board approves:

- Technical Development Permits for which the applicant is also seeking to vary the provisions of a bylaw under [Part 14] of the Local Government Act, when such a variance would exceed what is allowed under the bylaw by more than 10%;
- Development Variance Permits;

9.2.1 The CSRD Board hereby delegates to the Manager the power to issue or grant the following:

- Technical Development Permits;

- Technical Development Permits for which the applicant is also seeking to vary the provisions of a bylaw under [Part 14] of the Local Government Act, when such a variance application can illustrate hardship and would not exceed what is allowed under the bylaw by more than 10%;

#### Electoral Area C Official Community Plan Bylaw No. 725

##### 12.2 Foreshore and Water Development Permit Area

#### Electoral Area F Official Community Plan Bylaw No. 830

##### 13.2 Foreshore and Water Development Permit Area

A Foreshore and Water Development Permit is required in Electoral Area C & F for new and replacement docks or swimming platforms, new private mooring buoys, and other land alterations.

#### Proposed Electoral Area E Official Community Plan Bylaw No. 840

##### 18.2 Foreshore and Aquatic Development Permit Area

A Foreshore and Water Development Permit may be required in Electoral Area E for structures including docks, private mooring buoys, and community moorage facilities on all lakes in Electoral Area E including Shuswap Lake and Mara Lake.

#### Lakes Zoning Bylaw No. 900

##### 2.2 Application

.1 This bylaw applies to the areas below the natural boundary of Adams Lake, Humamilt Lake, Hunakwa Lake, Little White Lake, Mara Lake, Shuswap Lake and White Lake, as shown in Schedule B of the Lakes Zoning Bylaw No. 900.

Foreshore Residential 1 (FR1), Foreshore Residential 2 (FR2), Foreshore Multi-Family 1 (FM1), Foreshore General 1 (FG1), Foreshore General 2 (FG2), Foreshore Park (FP) all contain a maximum upward facing surface area and maximum dock and walkway surface widths.

Foreshore Multi-Family 2 (FM2), Foreshore Multi-Family 3 (FM3), Foreshore Commercial 1 (FC1), Foreshore Commercial 2 (FC2), Foreshore Commercial 3 (FC3), Foreshore Commercial 4 (FC4), Foreshore Industrial (FI) contain maximum dock surface width.

#### **FINANCIAL:**

There may be minor financial implications to the CSRD with regard to this proposed amendment. With the increase in the total upward facing dock surface area, staff expect to see fewer applications requiring Board approval, which could result in a reduction of income from application fees. Generally, Board approval (permit) application fees are a minimum of \$650, plus \$150 Land Title Office (LTO) registration fee. A delegated approval permit application fee is \$200, plus the LTO registration fee. This reduction in income would be offset by reduced application expenses, including allocation of staff time. In addition, DS staff expect to receive fewer bylaw enforcement complaints regarding oversized docks, which may allow bylaw enforcement resources to be reallocated to other bylaw enforcement issues.

#### **KEY ISSUES/CONCEPTS:**

### Dock Size

The current upward facing surface area of a fixed or floating dock is 24 m<sup>2</sup> in the FR1, FR2, FM1, FG1, FG2, and FP zones. Based on general dock inquiries received, the applications received, in consultation with a local dock builder/installer, and Board direction given at the June 2018 EAD meeting, staff is recommending that the maximum dock size be increased to 30 m<sup>2</sup> (322.92 ft<sup>2</sup>). This is an increase of 25% from the current maximum dock size and is recommended partly based on staff researching common lengths of pre-owned boats for sale in the Shuswap area, with the majority being under 9.17 m (30.08 ft) long.

Staff note that if an applicant can illustrate hardship, the Manager of Development Services may issue a delegated Foreshore and Water DP for a 33 m<sup>2</sup> (355.21 ft<sup>2</sup>) dock with the proposed maximum dock size increase; however, it is expected that this scenario would be rare. Staff also note that currently, and in the future, an applicant has the option to apply for a bylaw amendment for an oversized dock, if the increased maximum dock size in the bylaw does not meet their needs. The Board then has the option to approve oversized docks on a case-by-case basis, the same as they do now.

### Conversion

It is commonly known that the construction industry continues to use the Imperial system of measuring units, whereas most of the measurements listed in Canadian bylaws or regulations are in Metric units. Due to converting between these two units of measurements, discrepancies have occurred causing non-compliance with maximum sizes and widths, or additional dock materials being purchased and modified to meet the metric units. Staff are proposing to change the dock and walkway width measurements in Bylaw No. 900 to reflect two decimal places to account for the conversion from Imperial to Metric.

Widths	Current	Proposed
Maximum floating or fixed dock surface width	3 m (9.84 ft)	3.05 m (10 ft)
Maximum Permanent or Removable walkway width	1.5 m (4.92 ft)	1.52 m (5 ft)

### Pedestrian Access

According to the Provincial website<sup>1</sup> regarding Land Use – Private Moorage, "the Province owns nearly all freshwater and saltwater foreshore. Land adjacent to foreshore may be privately owned, but in common law the public retains the privilege or 'bare licence' to access the foreshore." The website further states that all private mooring facilities must not obstruct public access along the foreshore. There is no additional information regarding what constitutes an obstruction on the foreshore and there are no details regarding who the public is or what level of mobility they have. Staff are not recommending addressing this issue of pedestrian access along the foreshore in this amendment. The foreshore is Crown Land and any enforcement of public access rights should be directed to the Province. <https://www2.gov.bc.ca/gov/content/industry/natural-resource-use/land-use/crown-land/crown-land-uses/residential-uses/private-moorage>

Staff is also amending the Foreshore Commercial 3, Foreshore Commercial 4, and Foreshore Park Zones by renumbering the regulation section in each zone to correct a duplication or omission in subsections.

### SUMMARY:

DS staff is recommending first reading of Bylaw No. 900-25 for the following reasons:

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- To provide larger dock options for waterfront property owners;
- The proposed larger dock size could encourage increased compliance with Bylaw No. 900, especially in areas with Development Permits, and there could be a reduction in time and the cost to issue a development permit for a dock;
- This bylaw amendment could potentially reduce the number of Board approved variances required to place a dock in Shuswap and Mara Lakes; and,
- This bylaw amendment could help reduce the number of bylaw enforcement complaints regarding oversized docks.

**IMPLEMENTATION:**

## Consultation Process

CSRD Policy No. P-18 regarding Consultation Processes-Bylaws, indicates that a simple consultation process can be followed. No notice of Development signs will be posted because this is a CSRD initiated bylaw amendment affecting the entire Lakes Zoning Bylaw No. 900 area.

**COMMUNICATIONS:**

## Referrals

If the Board gives BL900-25 first reading, the bylaw will be sent out to the following referral agencies, stakeholders, and special interest groups for comments:

- Advisory Planning Commission C;
- Ministry of Environment;
- Ministry of Forests, Lands, Natural Resource Operations, and Rural Development;
- Ministry of Forests, Lands, Natural Resource Operations, and Rural Development – Lands Branch;
- FrontCounterBC;
- Department of Fisheries and Oceans;
- Transport Canada;
- City of Salmon Arm;
- District of Sicamous;
- CSRD Operations Management;
- Adams Lake Indian Band;
- Little Shuswap Indian Band;
- Lower Similkameen Indian Band
- Neskonlith Indian Band;
- Okanagan Indian Band;
- Okanagan Nation Alliance;
- Penticton Indian Band;
- Shuswap Indian Band;
- Simpcw First Nation;
- Splots'in First Nation;
- Dock builders and installers working in the Shuswap;
- Shuswap Waterfront Owners Association (SWOA);
- Swansea Point Community Association;
- South Shuswap Chamber of Commerce; and,
- North Shuswap Chamber of Commerce.

In addition to referrals, staff will advertise in local newspapers and publications including the Shuswap Market News, the North Shuswap Kicker and the South Shuswap Scoop, and CSRD social media regarding the online comment form on the CSRD website about the proposed amendments.

After the June 2018 EAD meeting agenda was published, staff received two pieces of correspondence regarding the proposed amendments. These comments will be provided to the Board at second reading along with the online comment form results and any other public submissions received.

**DESIRED OUTCOMES:**

That the Board endorse the staff recommendation.

**BOARD'S OPTIONS:**

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

**LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:**

1. Delegation Bylaw No. 5582, 2010
2. Development Services Procedures Bylaw No. 4001
3. Electoral Area C Official Community Plan Bylaw No. 725
4. Electoral Area F Official Community Plan Bylaw No. 830
5. Proposed Electoral Area E Official Community Plan Bylaw No. 840
6. Lakes Zoning Bylaw No. 900
7. Provincial General Permission for the Use of Crown Land for Private Moorage Version: January 17, 2017

**Report Approval Details**

Document Title:	2018-08-16_Board_DS_BL900-25_CSRD.docx
Attachments:	- BL900-25_first.pdf - 2018-06-07_EAD_DS_BL900-25_CSRD.pdf - 2018-06-07_EAD_Minutes_.pdf - 2017-11-02_EAD_Docks_Buoys.pdf - 2017-11-02_EAD_Minutes.pdf - 2017-04-04_EAD_DS_BL900_GEN.pdf - 2017-04-04_EAD_Minutes.pdf
Final Approval Date:	Aug 3, 2018

This report and all of its attachments were approved and signed as outlined below:

**No Signature - Task assigned to Corey Paiement was completed by workflow administrator Tommy Test**

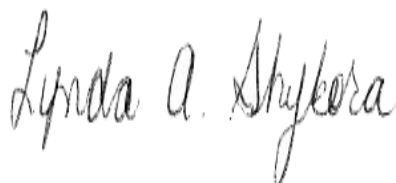
**Corey Paiement - Jul 26, 2018 - 4:24 PM**



**Gerald Christie - Jul 26, 2018 - 4:37 PM**



**Jodi Pierce - Aug 2, 2018 - 12:49 PM**



**Lynda Shykora - Aug 3, 2018 - 2:08 PM**

**No Signature - Task assigned to Charles Hamilton was completed by assistant Lynda Shykora**



**Charles Hamilton - Aug 3, 2018 - 2:13 PM**