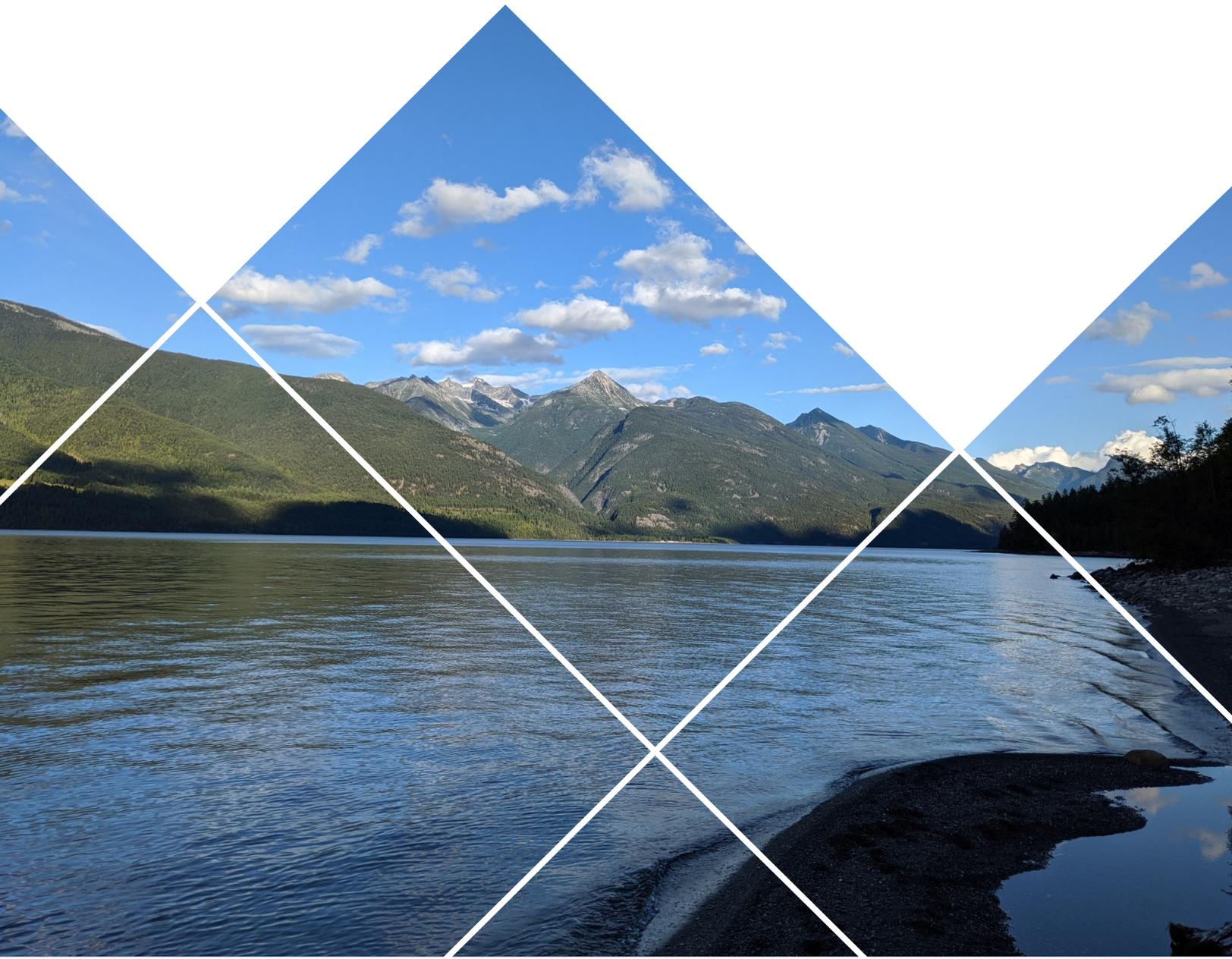




# Kootenay Lake Development Permit Area Review

## What We Heard Report



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## Executive Summary

The Kootenay Lake Development Permit Area Review began in spring 2020 as an effort to make the Environmental Development Permit Areas (EDPAs) in the Electoral Areas around Kootenay Lake ('A', 'D', 'E', 'F') more clear and consistent, and ensure they are reflective of community values and environmental conservation best practices.

The need to undertake this Review was highlighted following the creation of the Shoreline Guidance Document by the Kootenay Lake Partnership (KLP). The creation of this document demonstrated that better management of the riparian areas upland of the natural boundary of Kootenay Lake would be crucial in order to ensure a healthy Lake into the future. This need was further emphasized by the results of the 2021 Foreshore Integrated Management Planning (FIMP) Project completed by Living Lakes Canada, which evidenced further losses of riparian areas between 2012 and 2021 primarily on private residential parcels.

The RDCK Board of Directors directed staff to undertake the Review in April 2020. Since that time there have been a number of different engagement activities for the project. These activities, and their results, have been summarized periodically throughout the course of the project in the following update reports to the Board:

- [July 2020 – Engagement Plan](#)
- [November 2020 – Additional Public Education Materials Endorsement](#)
- [July 2021 – Engagement Update #1 \(Phases 1 & 2\)](#)
- [February 2022 – Kootenay Lake Buffer Analysis](#)
- [July 2022 – Engagement Update #2 \(FIMP & Phase 3\)](#)

This Public Engagement Summary ('What We Heard') Report is intended to summarize key engagement information and results from the reports listed above in addition to the engagement activities and outcomes since July 2022. This Report highlights the engagement plan (p.5-6); engagement process and activities (p.6-8); what we heard (p.8-16); key findings (p.16-17); and, recommendations (p.17-18).

While the content outlined above is described in detail throughout the remainder of this Report, a short summary of key findings and recommendations is provided in this executive summary to emphasize their importance.

Key findings include:

- [Core values and concerns of engagement participants are often similar, regardless of support or non-support of EDPAs](#)
- [A healthy natural environment and fish habitat are by and large the most commonly shared values and concerns for Kootenay Lake](#)
- [Although the local context \(Kootenay Lake\) is unique, the problems are not](#)
- [Professional opinion favours a consistent approach to riparian areas management](#)
- [EDPA implications for property owners are often perceived to be more burdensome than they actually are](#)
- [Historical development patterns have created a challenging situation for redevelopment](#)
- [Local governments have limited authority to address some key issues and concerns, namely those specifically impacting fish habitat \(federal\) or areas below the natural boundary \(provincial and federal\)](#)

These key findings are described in greater detail in the "Key Findings" section of the report.

Recommendations resulting from the engagement activities include:

- EDPAs should focus primarily on promoting a healthy natural environment and fish habitat
- A pragmatic EDPA approach to ensure greater success in implementation
- Consistency between the EDPAs to ensure a healthier aquatic ecosystem as a whole
- Continue to advocate for a unified enforcement approach with other levels of government
- Continue public education efforts to support, and build, the Region's culture of environmental stewardship
- Make continual efforts to promote and incentivize shoreline stewardship on private properties

Similar to the key findings, these recommendations are elaborated on in greater detail in the "Recommendations" section.

## Background

The Kootenay Lake Development Permit Area Review Project began in the spring of 2020. The goal of the Review is to ensure that the Environmental Development Permit Areas (EDPAs) around Kootenay Lake are consistent with best management practices, the Shoreline Guidance Document, and shared values for Kootenay Lake.

Although there is a strong culture of environmental stewardship within the Regional District of Central Kootenay (RDCK), general awareness of riparian area stewardship principles and permitting requirements may not be as prominent as in other places that have robust frameworks for preserving the natural environment. Recognizing this challenge, public engagement was identified early on in the project as an important component of the Review.

Public engagement activities were designed to gather input to help guide the review process and prioritize the preservation of commonly shared values for Kootenay Lake in a new EDPA. The process for public engagement sought to identify and understand the gaps in the current EDPAs as well as the shared values for the Lake. The following engagement objectives were identified early in the Review:

1. Understand the challenges in implementing the existing EDPAs.
2. Identify shared values along Kootenay Lake.
3. Translate the shared values for Kootenay Lake into the objectives of a new EDPA.
4. Enable stakeholders to provide input on EDPA direction.
5. Increase awareness about the EDPA, shoreline stewardship, conservation best practices and the Shoreline Guidance Document.

In recognizing that not everyone's values neatly align, the following project challenges were identified:

- Promoting environmental conservation practices in areas where this may not have always been a priority.
- Varying understandings of the importance of riparian areas and their crucial role in aquatic ecosystem health and drinking water quality.
- Achieving consistent environmental conservation practices throughout the Region.
- Accounting for constrained sites and areas where environmental mitigation is not possible.
- Knowledge of permitting requirements is not always known before work is undertaken.
- Some knowingly choose to work within riparian and environmentally sensitive areas without obtaining the necessary permits.

These challenges were given careful consideration when the engagement activities were designed. Additionally, the information resources compiled for the project (described further in the "Engagement Opportunities" section below) were created with these challenges in mind. Beyond the engagement for this Review, enforcement-related challenges will require a commitment to diligently addressing EDPA contraventions, working with other agencies with similar or overlapping jurisdictions (the Province; Fisheries and Oceans Canada), and continued public education efforts to support and grow the existing culture of environmental stewardship around Kootenay Lake.

Similar to the challenges outlined above, there were a number of potential benefits identified, including:

- Aid in minimizing human impacts along the shoreline of Kootenay Lake.
- Contribute to a regionally consistent approach for riparian area conservation.
- Enhance clarity of guidelines that are already in place.
- Encourage a more proactive approach to stewardship along the foreshore.
- Give greater consideration to the environment in (re)developing along the Lake.
- Create awareness for existing EDPAs.

Engagement activities and communications materials were also designed with these potential benefits in mind. Fully realizing these benefits will depend in part on implementing an EDPA approach that is more effective than the current one as well as fostering greater public awareness of shoreline stewardship.

The engagement strategy utilized International Association for Public Participation’s (IAP2) foundations and techniques for public engagement. Table 1 illustrates the IAP2 engagement spectrum and the level of stakeholder involvement at each stage of the decision-making process.

*Table 1 - Decision-making process for the project situated within the IAP2 engagement spectrum*

Engagement Level	Define Problem/ Opportunity	Decision Criteria	Explore Values and Objectives	Evaluate Options	Make Decision
INFORM	X				
CONSULT					
INVOLVE			X	X	
COLLABORATE	X	X	X	X	X
EMPOWER					

The project team informed and collaborated with internal RDCK departments, other governments and agencies, and rightsholders to identify issues, challenges, and opportunities with the current regulatory framework. Decision criteria was informed by these activities and discussions. The same stakeholders, as well as environmental practitioners, shoreline property owners, Indigenous Nations, and the general public were involved in the identification of shared values for the Lake, which were then translated into EDPA “objectives”. The EDPA objectives were presented to these same groups in order to evaluate the options for a potential revised EDPA. The feedback received from the engagement will be used collaboratively to inform the decision that is made on whether to revise the EDPAs.

This Engagement Summary (“What We Heard”) Report highlights the engagement activities for the Review. The feedback received is intended to inform the decision-making process, and help answer the question:

*What changes, if any, should be made to the existing EDPAs to ensure we are effectively caring for Kootenay Lake’s shoreline as development activities take place?*

## Engagement Opportunities

The Review was split into three key phases based on the engagement activities taking place. The three phases as well as the goals and key milestones of each are shown in Figure 1.

### Phase 1 – Project Initiation (September 2020 – February 2021)

The project initiation phase was comprised of three main activities:

1. A presentation was given to the RDCK’s Development Services and Community Sustainability Department to inform staff of the initiative and discuss opportunities for internal collaboration. Individual outreach to other departments with a perceived interest in the Review was also completed.
2. A Director information session was held to discuss project opportunities, challenges, and expectations with the Electoral Area A, D, E, and F Directors.
3. An inter-agency workshop with Kootenay Lake Partnership (KLP) partners to provide information on the project and receive feedback on challenges, concerns, and values related to Kootenay Lake.

The first Phase was intended to provide a sounding board for RDCK staff, Elected Officials, and KLP partners to discuss issues, challenges, experiences, and opportunities related to shoreline regulation around Kootenay Lake. It also encouraged reflecting on personal values associated with the Lake as a pilot for the next project phase.

### Phase 2 – Values Identification (February – July 2021)

The second phase of the Review was initially designed to solicit stakeholder, Indigenous, and broad public feedback on the various values associated with Kootenay Lake. This feedback would then be used to inform potential recommended changes to the EDPAs around the Lake. However, it became apparent during the first phase of the Review that more substantial public education efforts would be required to get effective feedback. As such, the following activities were completed prior to further engagement:

- Compile “Frequently Asked Questions” (FAQ) for the project webpage. This information was recently collated into its own separate document for the website. It will be updated to reflect the outcome of this Review and remain available to the public following the conclusion of the project.
- Create information videos for YouTube to provide general information on Development Permit Areas and more targeted information on EDPAs to encourage a better understanding of the Review’s subject matter.
- Adapt “A Resource for Okanagan Lakeshore Living” to the Kootenay Lake context. The newly adapted document – “A Resource for Kootenay Lake Living” – provides general information on the importance of riparian areas, the roles of different levels of government along the shoreline, and basic stewardship principles.
- Record a podcast with the Friends of Kootenay Lake Stewardship Society to discuss EDPAs and promote the educational materials.

These materials were also promoted through the RDCK’s social media accounts, the Kootenay Conservation Program, Friends of Kootenay Lake Stewardship Society, and continue to be promoted by RDCK Staff.

Following the release of the educational materials, values identification workshops were hosted online in April 2021 to share information on riparian areas, EDPAs, and the project. Feedback was gathered during the two online workshops to better understand residents’ values and concerns as they relate to Kootenay Lake. Additionally, a survey covering the same material was circulated to those unable to attend the workshops who may want to provide feedback.

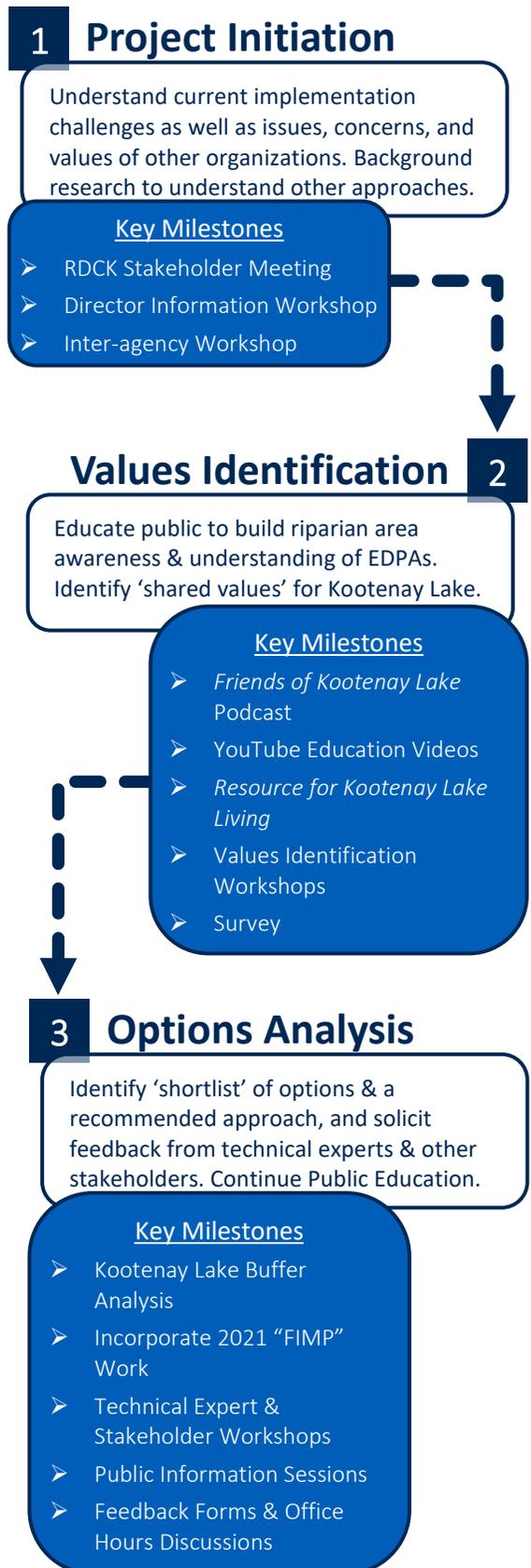


Figure 1 – Key EDPA Review Phases.

### Phase 3 – Analysis of Options (July 2021 – present)

The third phase of the project focuses on evaluating approaches used elsewhere in the Province in the context of the values, concerns, and challenges identified in the first two phases of the Review. This phase is comprised of the following activities:

- Best management practices review (ongoing for the project’s duration).
- Buffer analysis of shoreline private properties on Kootenay Lake to better understand potential implications of changes to the current regulatory regime (November 2021 – February 2022).
- Focus groups to assess preliminary objectives and approaches from other jurisdictions (April – June 2022).
- Director information session #2 to discuss preliminary EDPA direction and potential implications associated with the various approaches (August 2022).
- Public information sessions presenting project information, revised draft objectives, and how to provide feedback to the public. Representatives from the Ktunaxa Nation Council supported RDCK staff by attending these sessions and presenting on Ktunaxa cultural and archaeological values for Kootenay Lake (November 2022).
- Public consultation period for residents to learn more about the Review and provide their feedback. Feedback forms were posted to the project webpage and sent directly to residents who noted an interest in the project as well as members of the development community (November – December 2022).

### Communications and Outreach

Throughout the course of the Review, a range of outreach and communications efforts have been utilized, including:

- Project webpage – FAQ document, presentation recordings and slides, staff reports, and other resources
- Individual/group stakeholder outreach
- Newspaper ads
- Social media posts
- Media releases
- Posters in high-traffic public areas
- Periodic mentions in newsletters from the Friends of Kootenay Lake Stewardship Society, Kootenay Conservation Partnership, and Kootenay Lake Waterfront Property Owners Society
- Project manager interviews with local journalists (print and radio)
- Direct follow-up with individuals requesting periodic project updates

In addition to the deliberate communications and outreach listed above, the Review has seen exposure from multiple newspaper articles in the Nelson Star, Valley Voice, and Nelson Daily.

### What We Heard

A summary of the engagement activities completed and feedback received is illustrated in Figure 2.

The Review has been informed by feedback received throughout, with the outcome of each phase guiding the approach for the next. This feedback is summarized in the following sections.



### Phase 1

- 3 Information Sessions
- 10 Organizations Engaged
-  RDCK Stakeholders Involved



### Phase 2

- 47 Online Workshop Participants
- 74 Online Survey Responses



### Phase 3

- 24 Focus Groups Participants
- 34 Public Information Session Participants
- 17 Feedback Forms/E-mail Follow-up

Figure 2 - Summary of Engagement.

## Phase 1 – Information Sessions (RDCK Staff, Elected Officials) & KLP Workshop (KLP Partners)

Common themes discussed early on in the first phase include the historical development pattern around Kootenay Lake and the resulting challenges; un-authorized works below the natural boundary; and, accretions leading to degradation of the riparian area. These themes have commonalities to those identified in the KLP Shoreline Guidance Document (2020) and Friends of Kootenay Lake Stewardship Society “Future of Kootenay Lake Community Values Survey” (2018), as well as the key areas of concern that other riparian area EDPAs around the Province focus on.

The inter-agency workshop with KLP partners was designed with these key themes in mind. The workshop was carried out using online live polling and targeted discussions to explore three topics related to Kootenay Lake:

1. [Challenges in governance](#)
2. [Areas of concern](#)
3. [Individual/organizational values](#)

The questions asked in the live poll during the workshop and the top five answers to each are shown in Table 2.

Table 2 - Inter-agency Workshop, Challenges in Governance and Concerns - Key Themes

Rank	What are the biggest challenges you or your organization face when it comes to Kootenay Lake? (5 choices)	What are your greatest concerns (either as an individual or organization) when it comes to Kootenay Lake? (5 choices)
1	Unauthorized Works	Environmental Degradation
2	Compliance with Regulations	Non-permitted Works (Buildings & Structures)
3	Public Awareness	Development Pressures
4	Recognition of Indigenous Ecological, Cultural, and/or Archaeological Values	Water Quality
5	Vegetation Removal	Loss of Indigenous Cultural, Ecological and Archaeological Values

Responses to the poll questions, as well as the subsequent conversations for each of the topics, indicated that there is a need for increased public awareness around riparian areas. Additionally, having a coordinated approach to land use regulation along shorelines was identified as being important. Resource constraints and the ability to enforce regulations along the shoreline was also identified as a significant challenge across almost all organizations.

Organizational/individual concerns focused heavily on environmental aspects. Again, public awareness surrounding the consequences of disturbance to riparian areas was a main topic of conversation. The cumulative impacts of stream and shoreline modification and how they can contribute to climate change, more thoughtful approaches to

erosion protection and archaeological values were all flagged as key messages that should be a focus for future public education.

The final activity focused on answering the question: what are the things that matter most about Kootenay Lake? 22 responses were provided and, upon further group discussion, sorted into 4 key thematic areas:

1. [Fish and Wildlife Habitat](#)
2. [Water](#)
3. [Managing Development Pressures](#)
4. [Recreation](#)

## Phase 2 – Values Identification Workshops

Prior to undertaking broad public engagement, staff focused efforts on the creation of public education materials. These efforts were in response to the input received early on in Phase 1 and through the workshop with KLP partners.

The content of *A Resource for Kootenay Lake Living* was adapted from the Okanagan template with the assistance of a local Qualified Environmental Professional. Further, staff consulted with various Provincial Ministries, Ktunaxa Nation Council, Yakan Nukiy, KLP Co-ordinator, and the Friends of Kootenay Lake Stewardship Society to solicit feedback on the content. The document was used as an information primer for the subsequent public engagement workshops. It is available on the RDCK’s website, with print copies also available at the RDCK’s offices.

There were a total of 47 participants at the two online public engagement workshops, which were held on April 27<sup>th</sup> and 28<sup>th</sup>, 2021. The presentation was made available on the project webpage and a short online survey was created to provide information to and solicit feedback from those who were unable to attend. There were a total of 74 respondents to the survey in addition to those who completed it during the workshops. Survey respondent locations are summarized in Table 3.

*Table 3 - Phase 2 Engagement Participants by Electoral Area.*

A live poll was used at the workshops to solicit feedback on the questions:

1. [What are the top 2 things you value most about Kootenay Lake?](#)
2. [What are your top 5 greatest concerns when it comes to Kootenay Lake?](#)

Respondents could select choices from lists of potential responses. The lists were pre-determined to prevent selections that an EDPA cannot address, as the *Local Government Act (LGA)* requires EDPAs to be designated for “protection of the natural environment, its ecosystems and biological diversity”. Separate response fields were provided for respondents to write in their own responses where they felt the selections did not capture their views. While an EDPA cannot consider matters outside of the scope provided by the *LGA*, as described above, other sections of an Official Community Plan (OCP) may be able to. The other responses received may be most appropriately addressed through other policy sections within an OCP.

Electoral Area 'A'	9
Electoral Area 'D'	7
Electoral Area 'E'	60
Electoral Area 'F'	6
A Municipality or Village within the Regional District (ex. Nelson, Kaslo, etc.)	9
Another Electoral Area ('B' 'C' 'G' 'H' 'I' 'J' 'K')	6
Outside of the RDCK	0
I'm not sure which Electoral Area	3
I'd prefer not to say	1
No Answer	1
<b>Total</b>	<b>102</b>

### Question 1 Responses: What are the top 2 things you value most about Kootenay Lake?

The top selection for what mattered most to people about Kootenay Lake was “the natural environment” (32%) followed by “clean and abundant water” (25%). “Recreation/personal enjoyment” (16%) and “wilderness” (14%) were also selected by a significant proportion of respondents. Responses to the first question are shown in Figure 3.

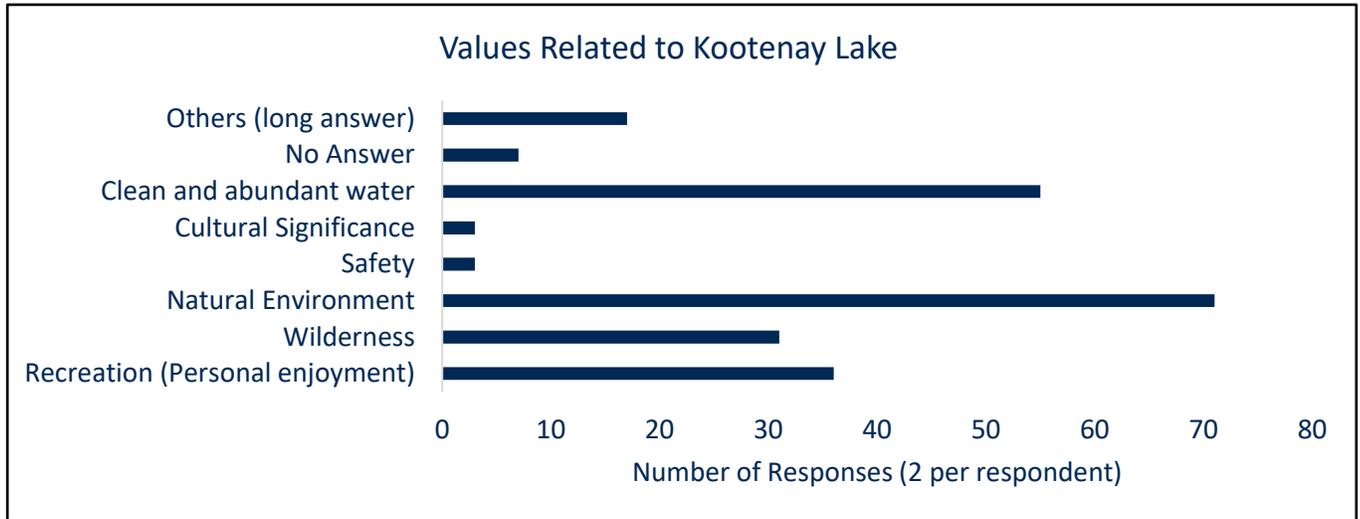


Figure 3 - Responses to the question: What are the top 2 things you value most about Kootenay Lake?

Responses not in the list that were added by respondents (“Other (long answer)” in Figure 3) touched on the following themes:

- All of the above
- Being able to build a home in nature
- Tourism opportunities
- A low-density residential pattern in the RDCK

### Question 2 Responses: What are your top 5 greatest concerns when it comes to Kootenay Lake?

The top responses for the second question, related to concerns around Kootenay Lake, include: “healthy fish habitat” (13%); “development pressures” (12%); “environmental degradation” (11%); and, “water quality” (10%). A complete list of responses is shown in Figure 4. The difference in proportion of respondents may be attributable to a larger number of responses available and more specific targeted options to select.

Responses not in the list that were added by respondents include:

- Riparian area disturbance/destruction by seasonal residents
- Destroyed fish and waterfowl habitat
- The number of private docks
- Government regulation on private property
- Individual property owners’ riparian rights
- An ineffective balance between the needs of humans and nature (human needs being favoured)

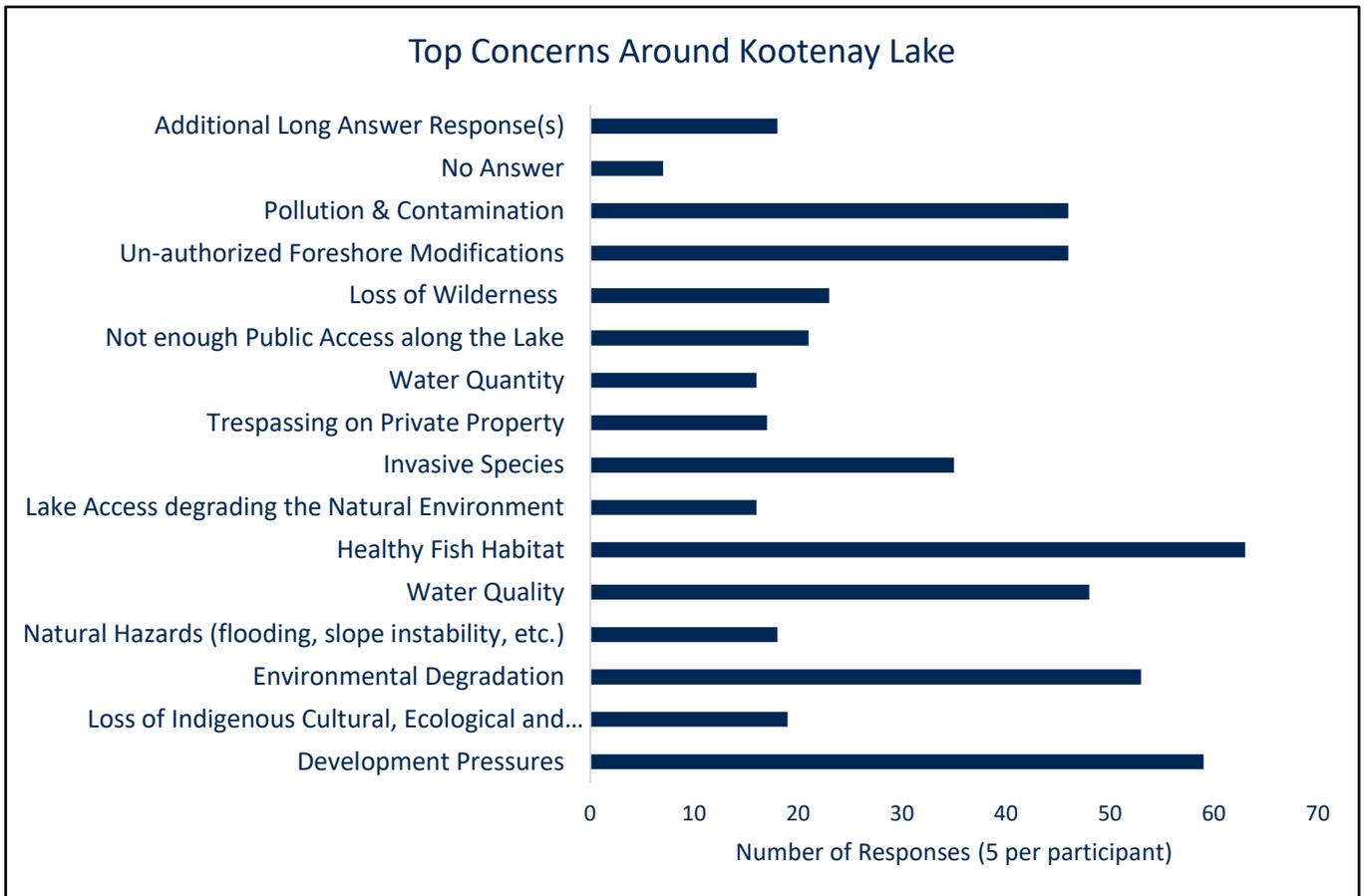


Figure 4 - Responses to the question: What are your top 5 greatest concerns when it comes to Kootenay Lake?

Discussion topics in the workshops included biodiversity loss and the impacts from boats, docks, pollution, lake access, and accretions. Many of the themes identified in the first Phase by KLP partners were raised again in the second Phase by the public and other stakeholders. From the values identification engagement activities, there is a clear focus on the health of the natural environment and water quality/quantity. Development pressures were identified as a key concern from all stakeholder groups engaged in the first two Phases and, as suggested by one respondent, there is an underlying theme of thoughtfully making an effort to try and balance the needs of humans and nature.

The predominant values and concerns identified and discussed in the first two phases of engagement were used to create four draft “objectives” for a revised EDPA. The thematic areas these draft objectives covered are:

1. [The Natural Environment](#)
2. [Fish and Wildlife Habitat](#)
3. [Water](#)
4. [Human Disturbance](#)

### Phase 3 – Focus Groups, Public Information Sessions & Feedback Forms

Two focus groups were held on May 10<sup>th</sup> and 11<sup>th</sup>, 2022. Participants in the focus groups included representatives from regulatory agencies, stewardship organizations, and the development community as well as qualified environmental professionals from around the region, longstanding waterfront property owners (residents), and members of RDCK Advisory Planning and Heritage Commissions (APHCs). A diversity of attendees was invited to

encourage a range of varying opinions on EDPA approaches, namely guideline and exemption practicality, based on participant interests. Focus group workbooks were also circulated to each group to provide an opportunity for participants to give detailed feedback following the meetings.

Riparian EDPA approaches from 14 local governments across BC were presented to focus group participants and discussed in greater detail to solicit feedback on how well a similar approach may work for Kootenay Lake. Draft objectives were the first item discussed at the focus groups, and feedback for each objective is summarized as follows:

- The “Natural Environment” objective should focus primarily on riparian/sensitive area protection, recognizing that streams themselves are dynamic and cannot necessarily be ‘preserved’. Streams are also managed by the Province so the upland area should be the focus for local governments. Specifying what a “stream” includes is also important for clarity.
- The “Fish & Wildlife Habitat” objective should acknowledge climate change and species at risk and encourage strong protection of biodiversity and landscape connectivity.
- The “Water” objective should tie the importance of riparian areas into the health of streams, like Kootenay Lake.
- The “Human Disturbance” objectives could better capture the symbiotic relationship between humans and the natural environment rather than creating an adversarial narrative between the two.

Five key areas were identified for EDPA guidelines to address in Phases 1 and 2 of the Review: riparian assessment reports; building and parcel siting; fish and wildlife habitat protection; setback areas; and storm water and hazard management. Guidelines for each were examined in the focus groups with the following directions being identified for further guideline refinement:

- Riparian Assessment Reports from QEPs should continue to be required where the potential for disturbance of riparian areas exists, but RDCK staff having some discretion to not require one under specific circumstances could be beneficial.
- Guidelines should encourage the evaluation of development proposals based on individual site values.
- Language should be clear and consistent, and guidelines should avoid using discretionary language (“may”, “encourage”, “should”, etc.).
- Concepts (such as “no-net loss” and “leave strips”) should be addressed through thoughtful guideline design that uses existing resources to the area, such as the Kootenay Lake Partnership’s Shoreline Guidance Document and Living Lakes Canada’s Foreshore Integrated Management Planning work.
- Guidelines should recognize the cumulative impacts that storm water and hazards from individual parcels can have on a watercourse.
- Overall, guidelines should encourage the preservation and enhancement of riparian areas.

Similar to EDPA guidelines, key focus areas for exemptions were identified as: activities that do not result in further disturbance of the riparian area; minor works; activities that are authorized by other levels of government; subdivisions where disturbing the riparian area is not necessary; specific emergency works; and, specific agricultural activities that follow best management practices. The potential unintended consequences of exemptions for each were discussed with the focus groups and the following considerations have been identified for further exemption refinement:

- Exemptions for activities that do not further disturb riparian areas may be appropriate but should consider whether the current state of a property negatively impacts the aquatic ecosystem as well as proactive mitigation of potential risks.
- “Minor works” should consist of activities that will have negligible impacts on riparian areas and be specified.

- Activities covered under a Provincial or Federal authorization where riparian area impacts are effectively mitigated as part of that approval.
- Subdivisions that do not result in disturbance to the riparian area should be considered in the context of topography, impacts of site infrastructure, and future development activity. Tools like limits of disturbance (silt and snow fencing) and restrictive covenants could be helpful in ensuring accountability.
- Exempting emergency works where they are clearly defined, subject to professional oversight, and reported to the RDCK (and deemed acceptable) prior to being undertaken.
- Although agricultural activities have had significant lasting negative impacts on the natural environment in the past, if they are undertaken with care following the guidance of the Ministry of Agriculture then their impacts could be minimized.

Following the focus groups, the objectives were revised based on the feedback received. Similarly, the guidelines and exemptions presented to the groups were narrowed down to formulate an approach appropriate for Kootenay Lake and other riparian areas in the Electoral Areas. This preliminary approach was presented to the RDCK's Rural Affairs Committee for feedback prior to further public information sessions.

Two public information sessions were held on November 8<sup>th</sup> (1:00PM – 2:30 PM PST) and November 9<sup>th</sup> (6:30PM – 8:00PM PST), 2022 with a total of 34 participants (24 and 10, respectively). A presentation was given by representatives from the Ktunaxa Nation Council on Ktunaxa cultural and archaeological values along Kootenay Lake. RDCK staff followed with a presentation on EDPAs and the Review project. The remainder of each session was spent on Q&A and discussion, and the following themes were raised:

- Clarifying how and where EDPAs are designated, the types of activities triggering the need for a Development Permit, and whether development is permitted within an EDPA
- Whether “existing non-conformities” would apply, similar to zoning regulations
- Survey reliability and the impact of accretions on determining natural boundary
- Costs and timelines associated with a riparian assessment report and whether they are necessary for “minor works”
- Project timeline
- Potential impacts on constrained properties where building within the riparian area (EDPA) is unavoidable
- The broader significance of this project with respect to the natural environment and long-term health of Kootenay Lake
- Shoreline stewardship resources and conservation opportunities for shoreline property owners
- Impacts of public day use, namely washroom facilities and black/greywater disposal
- Kootenay Lake is a drinking water source for many
- Curbing the “do first, ask permission later” attitude that heavily contributes to compliance issues
- Changes that could be made to better prevent habitat loss
- Incentivizing responsible development and shoreline stewardship – giving recognition to good stewards to exemplify the stewardship that is trying to be promoted

A public consultation period was open from October 31 to December 9, 2022. Feedback forms describing the EDPA objectives, guidelines, and exemptions were posted to the project webpage to provide direct feedback on the EDPA objectives and any general comments. The webpage was highlighted on the RDCK's main page and promoted through social media posts, monthly newsletters from the Kootenay Conservation Partnership and Friends of Kootenay Lake Stewardship Society, and in news articles in the Valley Voice and Nelson Star. Additionally, feedback

forms were e-mailed directly to residents who noted an interest in providing their feedback throughout the course of the project as well as developers, homebuilders, and other professionals working within the development community.

9 feedback forms were submitted to RDCK staff, in addition to 8 e-mails and an opinion letter published in the Nelson Star. The opinion letter is included in Appendix A, and was supportive although it is omitted from the results summary.

Sentiments varied, with 71% of feedback (12 responses) being supportive of a revised EDPA, 24% being opposed to EDPA's (4 responses), and 6% raising concerns but not indicating support/non-support (1 response). It should be noted that 2 of the supportive responses indicated that the draft objectives did not accurately reflect what they valued most about Kootenay Lake; these 2 respondents noted that, in addition to the themes already covered by the draft objectives, increased public access opportunities and better representation of human interests (personal enjoyment and recreation) along the shoreline should also be included.

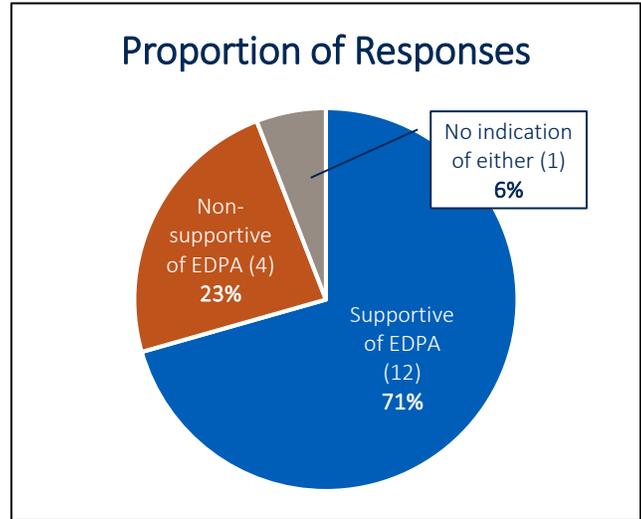


Figure 5 - Phase 3 Public Feedback Summary

Key themes and concerns raised in the feedback forms and e-mail responses are summarized in Table 4. The Table is organized by the most commonly raised themes and categorized by colour: **green text** indicates supportive themes, **orange text** indicates non-supportive themes, and **grey text** indicates themes raised that are neither but still relevant to the topic.

Table 4 - Phase 3 Feedback Form Themes and Concerns Summary

Theme/Concern Raised	Number of Responses
General support for staff's preliminary approach (30m EDPA)	5
Preserving riparian habitat for its many environmental values	5
Increasing "red tape" for property owners	4
Flexibility for already existing development & urbanized areas	3
Ensuring EDPA can be enforced effectively	3
Desire for RDCK to subsidize riparian assessments for shoreline property owners	2
Ensuring approach is pragmatic	2
Clarifying when/how setbacks apply	2
Ensuring site design addresses higher risk land uses and site layouts	1
Balancing development and economic, social, and environmental values	1
Ensuring guideline flexibility for low-risk activities	1
Monitoring ecosystem health	1
Incorporating Ktunaxa cultural values	1
Whether an EDPA reduces property value	1
The need for further public education	1

Redacted copies of the feedback forms and a summary of e-mails received are included in Appendix B. Additionally, RDCK staff were available for dedicated ‘office hours’ in person, over the phone, and online during the consultation period. Residents who utilized office hours were encouraged to fill out feedback forms but in most cases did not; however, common themes raised in many of those conversations include:

- Recognition of the importance of riparian areas to aquatic ecosystem health regardless of support/non-support of an EDPA
- Ensuring EDPA approach is pragmatic
- Concern of there being increased “red tape”
- Financial implications for shoreline property owners
- Clarifying how/when setbacks apply
- Further public education

The feedback received in the third phase of engagement suggests that there is a general recognition that it is important to maintain and encourage a healthy shoreline and riparian areas around Kootenay Lake. Key concerns raised focussed primarily on ensuring the approach taken to EDPAs around the Lake is pragmatic and does not result in overbearing permitting requirements for shoreline property owners, particularly in urbanized areas. These concerns are consistent with those raised throughout the duration of the project by most stakeholders and are addressed further in the Recommendations section.

## Key Findings

### *Core values and concerns are often similar*

Regardless of support or non-support for a revised EDPA approach, or EDPAs in general, core values and concerns of those who participated in the project engagement were often quite similar. Values recognizing the general importance of healthy aquatic and riparian ecosystems and shoreline stewardship are common, even in those who may be skeptical of EDPAs. Diverging opinions emerge when contemplating the management of riparian areas and use of EDPAs as a regulatory tool to better preserve them.

### *A healthy natural environment and fish habitat are the most common values and concerns for Kootenay Lake.*

Public engagement activities identified the natural environment as the most commonly valued aspect of the Lake. Similarly, healthy fish habitat was the most common concern selected by engagement participants. Other topics that frequently resonated with respondents include clean and abundant water, environmental degradation, development pressures, and unauthorized foreshore modifications.

### *Although the local context is unique, the problems are not*

Loss of riparian areas has been occurring at a rapid rate as development pressures have accelerated around the Province for decades. The Provincial *Riparian Areas Protection Regulation (RAPR)* – formerly the *Riparian Areas Regulation* – was introduced in the 2000s to address these issues. While the *RAPR* provides the standard methodology for riparian assessments in the Province, its application as a blanket approach can often be very rigid, particularly in instances where development activities will have negligible risks or impacts to a riparian area. Utilizing the best management practices contained within the *RAPR* will be essential for maintaining a consistent approach; however, some discretion to not require permits in all cases where activity is proposed within an EDPA was noted as desirable by public engagement participants.

### *Professional opinion favours a consistent approach*

Discussions with qualified environmental professionals (QEPs) resulted in a number of key findings, namely:

- Regulatory requirements should be consistent and follow a well-defined methodology, the most apparent one being the *RAPR*.
- Some discretion should be embedded into EDPAs to ensure practicality and offer flexibility in situations where requiring a DP is excessive.
- QEP oversight will continue to be pivotal in ensuring development adjacent to aquatic and riparian habitats is done sensitively.
- EDPAs should follow Provincial best management practices (*RAPR*) and apply to a minimum 30-metre wide area above natural boundary. Some QEPs favoured EDPA width being determined by specific habitat features on a property but recognized that data to support such an approach is limited and that bolstering public awareness would be much more time and resource intensive.

While the Provincial *RAPR* provides a consistent methodology that is grounded in biological best management practices, and is the standard across the Province, the RDCK has an opportunity to better address riparian habitat preservation by adapting this standard to the Region's local context.

### *EDPA implications for property owners are perceived to be more burdensome than they actually are*

The public engagement process has illuminated a fear that EDPAs, particularly where they are 30 metres wide, will result in land use sterilization and greater financial burden for many shoreline property owners. It must be kept in mind that the presence of an EDPA does not automatically mean a property owner needs to apply for a Development Permit. Technically, properties within 30m of Kootenay Lake would fall within the EDPA but the vast majority of people would not require a Development Permit. Minor works, maintenance, renovations that do not alter a building footprint, activities outside of the riparian area, emergency works, hazard vegetation removal, and many other activities are all desired to be exempt. A Development Permit should only be required in instances where there are risks to riparian and/or aquatic ecosystems associated with the development that need to be understood and mitigated.

### *Historical development patterns have created a challenging situation for redevelopment*

Past decisions regarding road location and the subdivision of waterfront property made by the Ministry of Transportation and Infrastructure (MoTI) have resulted in environmental constraints on some properties. This concern was continually raised during public engagement and has remained a key focus of staff both in understanding the potential impacts of regulatory changes and in finding a reasonable solution that balances the needs of humans/shoreline property owners and the natural environment.

### *Local Governments have limited authority to address some key issues/concerns*

Many of the issues and concerns raised during the public engagement process relate to unauthorized work below the natural boundary, private moorage structures, accretions, and the illegal release of untreated black and grey water into Kootenay Lake from houseboats and other recreational users. These issues and concerns often fall under the jurisdiction of the Province, with limited recourse for local governments. The RDCK continues to advocate to address these issues and concerns by directing the public to the correct channels (FrontCounter BC, BC Conservation Service, Fisheries and Oceans Canada, Report All Poachers and Polluters hotline and webpage); maintaining open communication with various Ministries; and, working through the Kootenay Lake Partnership to encourage multi-organizational collaboration to address these issues.

## Recommendations

### *At their core EDPAs should promote a healthy natural environment and fish habitat*

There are a wide variety of values and concerns for Kootenay Lake, and riparian areas generally, that reflect individual experiences and beliefs. One common thread seen throughout the engagement process from many participants is a value for the natural environment. Riparian areas ultimately bolster healthy aquatic ecosystems by providing food and habitat for fish and other animals, buffering against increasingly unpredictable climate change impacts, and filtering water of pollutants, contaminants, and sediments. The role that riparian areas play as natural assets is crucial and EDPAs should recognize this role and encourage the continuation of the many benefits we realize from maintaining healthy riparian areas. It is important to closely consider the professional opinions of QEPs in order to ensure that the EDPA approach is effective in preserving these important ecosystems.

### *Ensure pragmatic EDPAs are utilized*

EDPAs should not result in unnecessary permitting requirements that place additional burdens on shoreline property owners and workloads on RDCK staff.

#### No Riparian Area Impact = No Development Permit Requirement

EDPAs should be required in cases where there are potential impacts to riparian areas and the health of aquatic ecosystems that need to be understood and mitigated prior to disturbance of an area.

### *Take a consistent approach in riparian areas and along Kootenay Lake's shoreline*

Sensitive habitats do not end at political boundaries, so inconsistent approaches will further fragment biodiversity within riparian and aquatic ecosystems. Discussions with QEPs indicate that an EDPA approach would benefit from continuing to utilize the Provincial *RAPR* methodology. There is a general consensus among this group of technical experts that 30 metre wide EDPAs provide a reasonable opportunity to preserve riparian areas and that built-in discretion and exemptions can help to eliminate unnecessary DP applications. Anything less than 30 metres will fail to adequately protect against further losses of sensitive habitats. Furthermore, a consistent approach around the Lake also results in simpler key messaging for future public awareness campaigns increasing the chances of success.

### *Continue to advocate for a unified enforcement approach with other agencies*

Although the RDCK does not have jurisdictional authority below the natural boundary, it can continue to work with the agencies that do to help address the shared values for Kootenay Lake. Increased communication with Provincial ministries and collaborative problem solving serve as two actions the RDCK is currently undertaking that will continue to be pivotal into the future. Additionally, aligning the EDPA approach with the Provincial *RAPR* would help ensure all agencies are speaking the same technical language, in turn reducing organizational barriers to collaborative enforcement.

### *Continue public education efforts*

Future public education efforts will be key in supporting the culture of environmental stewardship in the Region. Continued focus on raising public awareness, as well as support of the efforts of the Kootenay Lake Partnership and Friends of Kootenay Lake Stewardship Society, will be paramount moving forward.

### *Make continual efforts to promote and incentivize shoreline stewardship*

A program that celebrates and rewards shoreline property owners who exemplify shoreline stewardship principles could help reinforce the culture of environmental stewardship and curb undesirable behaviours over the medium and long term.

# Appendix A:

Opinion Letter to Nelson Star





# LETTER: Respecting our Kootenay Lake waterfront lands

From reader John Alton

Dec. 1, 2022 8:00 a.m. / [LETTERS](#) / [OPINION](#)

*Re: [Tightening Kootenay Lake shoreline regulations examined, Nov. 21](#)*

I was happy to read about the RDCK moving ahead on regulation to protect our lake and river riparian lands. The RDCK said the new regulations will help protect habitat for species, and certainly the Kokanee do need habitat protection.

I think private ownership has long been seen as “I own it, I can do whatever I want” by many people. However I believe in protective measures for not only waterfront but also forests, and we should consider recreation too.

Ad removed. [Details](#)

Thankfully, the water's edge is public land in Canada, unlike the U.S., so we can all go for a stroll along any waterway up to the high water mark. However I have seen barriers such as rock walls or signs that discourage public access. This is also a class issue, I believe, as most waterfront is expensive so most of the public can not afford it.

Coincidentally, this morning I went for a walk with friends along the Taghum waterfront just west from the hall where there is a well-used trail. To my dismay, for the first time I saw "private property, no trespassing" signs. I was sad and frustrated because whoever bought this property recently must have seen the well-worn trails and realized that the public has been walking there for quite some time.

I wish the RDCK could buy it back and make a park from that beautiful historic property with old apple trees and wetlands. With all the birds that call it home, it could be a bird sanctuary. A recent example of this was the Slocan riverside property that a landowner donated to the RDCK to expand that wonderful regional park at Crescent Valley.

**John Alton**

**Nelson**

# Appendix B:

## Redacted Feedback Forms & E-mail Correspondence

\*Note: Feedback form responses are shown in highlighted text.



# Kootenay Lake DPA Review Feedback Form

This form is intended to provide residents in the Regional District of Central Kootenay (RDCK) an opportunity to provide feedback for the Kootenay Lake Development Permit Area Review Project.

The Review Project has been underway since 2020, and in that time RDCK staff have been busy working to answer the question:

*How can we ensure we are effectively caring for Kootenay Lake's shoreline as development activities take place?*

To help guide development activities along most of Kootenay Lake's shoreline, the RDCK utilizes Environmental Development Permit Areas (EDPAs). The intention of the Kootenay Lake EDPA is to protect important "**riparian areas**" surrounding the Lake in order to reduce the impacts of development on the Lake. EDPAs are one of the most common and practical tools available to local governments, like the RDCK, to help protect the natural environment. As such, it is crucial to ensure that Kootenay Lake's EDPA reflects the commonly shared values that we all have for the Lake.

We want to hear from **YOU** on how well your values for Kootenay Lake are reflected by the "key themes" and EDPA "Objectives" listed below. The feedback received will be used to inform any proposed changes to the current EDPAs by the RDCK Board of Directors.

Sharing any other thoughts you may have on development along Kootenay Lake's shoreline or the Review Project is encouraged, and space can be found at the end of this form to provide that feedback.

Completed forms can be submitted to the RDCK Planning Department:

- Through e-mail to [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca)
- In person at the RDCK's Lakeside Drive office in Nelson (address below)
- By mail to:

**Box 590  
202 Lakeside Drive  
Nelson, BC V1L 5R4**

If you would like to learn more about the Kootenay Lake Development Permit Area Review Project before filling out the feedback form, please visit the project webpage for more information: [rdck.ca/KootenayLakeDPA](http://rdck.ca/KootenayLakeDPA). You can also contact the Planning Department by phone at (250) 352-6665 or by e-mail [plandept@rdck.bc.ca](mailto:plandept@rdck.bc.ca).

*Thank you for participating in the Review!*

## EDPA OBJECTIVES

Since the beginning of the Kootenay Lake Development Permit Area Review in 2020, RDCK staff have been evaluating public and stakeholder input to identify a set of key themes that represent the commonly shared values for Kootenay Lake. These key themes have been used to draft the “Objectives” for a revised Kootenay Lake EDPA.

Objectives are a fundamental part of an EDPA that are used to identify its purpose. They demonstrate why the EDPA is important and what it is trying to preserve or protect.

The table below lists the key themes and corresponding Objectives that have been drafted for a revised EDPA that could apply to Kootenay Lake as well as other riparian areas.

KEY THEME	DRAFT OBJECTIVE
Natural Environment	To protect and restore riparian areas in order to enhance the function of their adjacent ecosystems, watercourses, and natural features.
Fish & Wildlife Habitat	To protect biodiversity and ensure landscape connectivity between watercourses and upland riparian areas.
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Human Interaction with Riparian Areas	To ensure activities within riparian areas are undertaken in a way that is sensitive to the natural environment and encourages shoreline stewardship.

Do you think the Objectives listed in the table above accurately reflect **what you value most about Kootenay Lake?**

Yes

No – If no, why not?

Comments (optional)

# GUIDELINES FOR DEVELOPMENT

Guidelines refer to the guiding principles for development that are used to achieve the objectives laid out in an EDPA. Not all guidelines will be relevant to every proposal. Proposals are examined based on the specific characteristics of that site. Five key areas have been identified for EDPA guidelines to focus on:

1. [Requirement for a Report from a Qualified Environmental Professional \(QEP\)](#)

Riparian Assessment Reports are currently required in the RDCK when development activities are proposed in an EDPA. These Reports are crucial in understanding what habitat values exist on a property and how to mitigate negative impacts to riparian areas.

2. [The location of new lots, buildings, and structures](#)

Guidelines for the location of new lots, buildings, and structures are typically concerned with eliminating or otherwise minimizing the amount of disturbance to the riparian areas surrounding Kootenay Lake.

3. [Protection of important fish and wildlife habitat features](#)

Important habitat features are identified by a QEP for the lands affected by the proposed development activity. Recommendations for avoidance or mitigation options are included in the Riparian Assessment Report.

4. [Identifying and designating an appropriate setback from a watercourse](#)

Based on the QEP's assessment, a minimum setback is recommended. Development activities must adhere to that setback in order to eliminate or reduce impacts to important habitat features and the watercourse.

5. [Storm water and hazard management](#)

Site alterations that may increase storm water runoff or hazard potential (like steep slopes) are considered and avoided to prevent creating conditions that result in a higher likelihood of erosion and/or sedimentation.

## EXEMPTIONS FROM THE EDPA

Exemptions refer to specific instances or activities where a Development Permit should not be required. They are intended to provide flexibility and cut down on the duplication of efforts between regulatory authorities (like the RDCK and the Province). Six key areas have been identified for EDPA exemptions to focus on:

1. [Development activities that do not result in disturbance of a riparian area](#)

These typically include things like renovations or additions partially within the EDPA, where a covenant is registered to protect sensitive areas, or having a QEP confirm that the area of disturbance falls outside of the riparian area.

2. ['Minor' works, such as small additions to existing structures or gardening/yard maintenance](#)

Development activity that is minor and would not result in any impact to the riparian area or involve machinery (for example an excavator) to complete the work. Minor works would be further defined in the EDPA.

3. [Activities permitted under an approval from the Provincial or Federal governments](#)

This would include authorizations that have already mitigated potential impacts above the natural boundary.

4. [Subdivisions that can accommodate future development entirely outside of the EDPA](#)

Subdivision exemptions could be used in specific cases where development activities for a new lot's creation are accommodated outside of the EDPA, recognizing that building on the lot may trigger the EDPA in the future.

5. [Emergency works under specific circumstances and with notice to the RDCK](#)

This would cover activities like vegetation removal under the recommendations of a FireSmart Assessment, hazard tree pruning/removal, or emergency response efforts from government agencies to name just a few.

6. [Agricultural activities consistent with Provincial best management practices & legislation](#)

Exemptions of this nature would apply to agricultural activities that strictly comply with Provincial guidance on undertaking the activity in a way that has negligible impacts on adjacent riparian areas.

*The EDPA "Objectives" will ultimately shape what kinds of "Guidelines" and "Exemptions" are recommended. If you have any other feedback you would like to provide on the Objectives or any thoughts on the key areas that the Guidelines or Exemptions could focus on, please let us know in the space provided below!*

**Thank you for taking the time to fill out the Kootenay Lake DPA Feedback Form!**

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# RESPONSES

#1/9

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Objectives are a fundamental part of an EDPA that are used to identify its purpose. They demonstrate why the EDPA is important and what it is trying to preserve or protect.

The table below lists the key themes and corresponding Objectives that have been drafted for a revised EDPA that could apply to Kootenay Lake as well as other riparian areas.

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Human Interaction with Riparian Areas	To ensure activities within riparian areas are undertaken in a way that is sensitive to the natural environment and encourages shoreline stewardship.

Do you think the Objectives listed in the table above accurately reflect what you value most about Kootenay Lake?

Yes

No  – If no, why not?

Comments (optional)

4. [Subdivisions that can accommodate future development entirely outside of the EDPA](#)

Subdivision exemptions could be used in specific cases where development activities for a new lot's creation are accommodated outside of the EDPA, recognizing that building on the lot may trigger the EDPA in the future.

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Do you think the Objectives listed in the table above accurately reflect what you value most about Kootenay Lake?

Yes

No  – If no, why not?

Comments (optional)

Emphasize the importance of measuring and monitoring ecosystem health, or something like that.

4. Subdivisions that can accommodate future development entirely outside of the EDPA

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**Emphasize that setbacks will be evaluated on a case by case basis. You may get a lot of push back for blanket statements like 30m setbacks.**

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Do you think the Objectives listed in the table above accurately reflect **what you value most about Kootenay Lake?**

Yes

No  – If no, why not?

Comments (optional)

Draft objectives should mention protection of and respect for Ktunaxa cultural values within the EDPA.

4. Subdivisions that can accommodate future development entirely outside of the EDPA

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We support the 30 metre wide EDPA extending inland from the lakeshore.

We support a uniform EDPA around the entire lake that includes protection of riparian areas.

If Ministry of Agriculture Best Practices are followed we would support an exemption for agricultural activity.

There should be no exemption for either industrial or institutional projects.

The creation of non-structural impervious or semi-pervious surfaces within the 30 metre EDPA should be strictly controlled.

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Do you think the Objectives listed in the table above accurately reflect what you value most about Kootenay Lake?

Yes

No  – If no, why not?

Comments (optional)

I understand that EDPA objectives are to protect riparian zones.

Additionally, I think that enhancing public access to Kootenay Lake needs to be considered because most of the most accessible access to Kootenay lake in Area A is via private land owned by wealthy people. This poor planning has resulted in limited access for the general public, mainly for seniors, people with disabilities, and young children. The lakeshore should not be privately owned. The lakefront needs to be accessible to the public.

4. Subdivisions that can accommodate future development entirely outside of the EDPA

Subdivision exemptions could be used in specific cases where development activities for a new lot's creation are accommodated outside of the EDPA, recognizing that building on the lot may trigger the EDPA in the future.

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Human Interaction with Riparian Areas	To ensure activities within riparian areas are undertaken in a way that is sensitive to the natural environment and encourages shoreline stewardship.

Do you think the Objectives listed in the table above accurately reflect **what you value most about Kootenay Lake?**

Yes

No  – If no, why not?

Comments (optional)

#### 4. Subdivisions that can accommodate future development entirely outside of the EDPA

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The riparian habitat is very important for many species that are integral to that habitat; aquatic, terrestrial, and amphibious; as well the riparian zone is needed by very many terrestrial species as a source of water and as a migration corridor.

The proposed EDPA is very important for habitat conservation and the prevention of species extinction. This proposal is definitely needed!

I'm interested in how riparian habitat destruction can be policed if the property owners are non-communicative and have all access barred off with "No Trespassing" signs.

Often it's local knowledge of what species utilize the habitat and I hope that when the QEP's assessment work is being done that citizen science will be considered.

Thank you.

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# EDPA OBJECTIVES

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Do you think the Objectives listed in the table above accurately reflect what you value most about Kootenay Lake?

Yes

No  - If no, why not?

Comments (optional)

Firstly, I don't know what a Yes/No survey of one question is going to provide? To prove I can read the first page?

I think this whole process will just create more 'red' tape and bureaucracy. Having to get a DPA so I can put a waterline to the lake to get water is outrageous and infringing on a homeowner/citizen to provide water for them + their family. I also don't understand why a 15m setback/DPA was already implemented for Area E + A and 30m for Area D. I think it is because Area F (with no setback) has a higher population + therefore more issues to deal with so RDCK decided to use the other Areas as a test

or guinea pig. I think this whole process is flawed & unrealistic. Remember who pays the taxes it's not the special interest groups such as Friends of Kootenay Lake and others.

## GUIDELINES FOR DEVELOPMENT

Guidelines refer to the guiding principles for development that are used to achieve the objectives laid out in an EDPA. Not all guidelines will be relevant to every proposal. Proposals are examined based on the specific characteristics of that site. Five key areas have been identified for EDPA guidelines to focus on:

1. Requirement for a Report from a Qualified Environmental Professional (QEP)

Riparian Assessment Reports are currently required in the RDCK when development activities are proposed in an EDPA. These Reports are crucial in understanding what habitat values exist on a property and how to mitigate negative impacts to riparian areas.

2. The location of new lots, buildings, and structures

Guidelines for the location of new lots, buildings, and structures are typically concerned with eliminating or otherwise minimizing the amount of disturbance to the riparian areas surrounding Kootenay Lake.

3. Protection of important fish and wildlife habitat features

Important habitat features are identified by a QEP for the lands affected by the proposed development activity. Recommendations for avoidance or mitigation options are included in the Riparian Assessment Report.

4. Identifying and designating an appropriate setback from a watercourse

Based on the QEP's assessment, a minimum setback is recommended. Development activities must adhere to that setback in order to eliminate or reduce impacts to important habitat features and the watercourse.

5. Storm water and hazard management

Site alterations that may increase storm water runoff or hazard potential (like steep slopes) are considered and avoided to prevent creating conditions that result in a higher likelihood of erosion and/or sedimentation.

## EXEMPTIONS FROM THE EDPA

Exemptions refer to specific instances or activities where a Development Permit should not be required. They are intended to provide flexibility and cut down on the duplication of efforts between regulatory authorities (like the RDCK and the Province). Six key areas have been identified for EDPA exemptions to focus on:

1. Development activities that do not result in disturbance of a riparian area

These typically include things like renovations or additions partially within the EDPA, where a covenant is registered to protect sensitive areas, or having a QEP confirm that the area of disturbance falls outside of the riparian area.

2. 'Minor' works, such as small additions to existing structures or gardening/yard maintenance

Development activity that is minor and would not result in any impact to the riparian area or involve machinery (for example an excavator) to complete the work. Minor works would be further defined in the EDPA.

3. Activities permitted under an approval from the Provincial or Federal governments

This would include authorizations that have already mitigated potential impacts above the natural boundary.

4. Subdivisions that can accommodate future development entirely outside of the EDPA

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Objectives are a fundamental part of an EDPA that are used to identify its purpose. They demonstrate why the EDPA is important and what it is trying to preserve or protect.

The table below lists the key themes and corresponding Objectives that have been drafted for a revised EDPA that could apply to Kootenay Lake as well as other riparian areas.

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Do you think the Objectives listed in the table above accurately reflect what you value most about Kootenay Lake?

Yes

No  – If no, why not?

Comments (optional)

I'm happy with the objectives but thought I'd mention that the word "preservation" or "preserve" would fit nicely in there as one of the main goals of an EDPA would be to preserve natural features and values, to ensure they are not lost or destroyed. Protect is similar, but by definition means to keep something safe, which seems just slightly more ambiguous than preserve. Very minor point, but worth considering.

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Perhaps the guidelines should also outline something about the types of structures to be built and consider the pollution they could cause. Never know what some people might choose to build, especially if they are running a business on their property. For example, a small milling operation could produce lots of sawdust etc. that could get into the lake. A mechanic shop could be a source of oils, gas, or other fluids leaking, spilling or being dumped and finding their way into the lake. Septic systems should be of special consideration as well. Facilities that have potential to leak or produce some sort of pollutant should probably adhere to stricter regulations or be farther back from the lake. The storm water management section could include considerations for this, ensuring driveways, garages etc. don't point downslope toward the lake and are located far enough back.

If a setback were identified, how would docks, boat ramps, riprap, buoys, pilings, wave reduction fencing and other in-stream or near-stream developments fit into that? What types of developments would need to adhere to setbacks and which would not? Do in-lake developments even fall within the EDPA?

I really hope that the implementation of EDPAs will help to address the issue of loss of natural habitat on the lake and I hope brand new developments will be held to strict standards so we see a decrease in the rate of natural shoreline loss. From my perspective, the EDPAs will be great for ensuring disturbance to important habitats are mitigated and overall deterring people.

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Do you think the Objectives listed in the table above accurately reflect what you value most about Kootenay Lake?

Yes

No  – If no, why not? See comments below.

Comments (optional)

Agree with all of these objectives but feel there should be a human focused objective. Perhaps something like "To protect the ability of people to enjoy the natural beauty of Kootenay Lake in a way that is safe for themselves and the environment."

People will always try to live near the lake and recreate in and on the lake and I think the objectives should recognize that this needs to be considered in some way. If there are ways people can access the lake the rules are likely to be followed. If it becomes challenging to access the lake then people will do so anyway in an uncontrolled manner which isn't good for people or the environment.

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**I haven't read through the above guidelines in detail but wonder if they will be risk based or if there is a materiality threshold. For example it doesn't seem reasonable to reject a development plan if there is an adverse impact to the foreshore however it is negligible or de minimus. Do the guidelines allow the qualified professional to make such judgements?**

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Yes

No  – If no, why not?

Comments (optional)

BUT: With such a vast amount of undeveloped shoreline along the western shore of the lake (across from Kuskanook up to west arm), consideration should be given to lessen the requirements along other shorelines.

BUT: Existing developments (including those that infringe upon the proposed riparian boundaries) should be "grandfathered" - including future activities for maintenance, repairs, upgrades to those existing developments.

4. [Subdivisions that can accommodate future development entirely outside of the EDPA](#)

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## Kootenay Lake DPA Phase 3 Engagement – E-mail Response Summary:

### **#1**

I have reviewed the information presented regarding a consistent application of a DPA for riparian areas around Kootenay Lake.

I fully support the objectives and other information as presented. Over the decades I have seen a creeping loss of riparian habitat through development and inappropriate activities and uses. It is a classic example of the "tragedy of the commons".

This is an important initiative that needs to move forward.

[REDACTED]  
[REDACTED]

### **#2**

Dear Corey

I think in place of the development permit process which pits government against property owners you could make available biology experts to advise property owners how they could improve their shoreline for the enhancement of aquatic and terrestrial animals. I think you would have many owners buy-in to improving their riparian areas in a mutual collaboration without the draconian permit process. I would be willing to improve our property and I'm sure most lakeshore owners would also be willing to do the same. This would be a speedier process with less cost to the government as I would be willing to do the work and bare much of the cost.

Yours Sincerely

[REDACTED]

### **#3**

We read with interest the article in the Nov. 17 issue of the Valley voice about the Kootenay Lake shoreline situation. What a tragic thing to lose 4.5 kilometers of natural lake-shoreline, so much rare, ecologically vital, fragile habitat lost.

It's fair to conclude from that loss that voluntary compliance and public education alone are not the answer to the "accelerating lakeshore disturbance and natural habitat degradation" that is happening.

There is much social (human behavioral) science to this challenge of trying to shift ecologically destructive human behaviour. You are up against a bulwark of entitlement mentality from the owners of lakeshore parcels. They feel they paid a high price for their land, have built a big expensive house there (and likely a dock for their boats and jet-skis), they pay more taxes than their inland neighbours... and therefore feel they have the "right" to do whatever they want.

There are some who understand the genuine privilege and responsibility it is to be stewards of such ecologically fragile property, and who seek to "do no harm" to the shoreline. But it is disheartening for those responsible folks to see their neighbours getting away with blue murder, with seemingly no consequences.

When we reported the SPEA violations done by the [REDACTED] owners to the foreshore in front of their property [REDACTED]), we got vehement push-back from [REDACTED] and some of [REDACTED] neighbours along that strip of developed lakeshore. [REDACTED] and [REDACTED] neighbours, and some local haters who piled on to amplify the issue, posted repeatedly in two local community Facebook groups.

Their reaction can be summarized as unmitigated outrage that private landowners would be "harassed" and "persecuted" in this manner. These are people who clear-cut their lakeshore, tore up that fragile ecosystem, cleared every rock and every bit of vegetation from "their" beaches, built groynes, built a [REDACTED] literally in the lake, even one enterprising landowner who built a massive poured-concrete ramp right across the foreshore and many meters out into the lake itself.

To summarize their attitude: "we own this land, you meddling busybodies have no right to tell us what we can do here... furthermore you're just jealous because we have lakeshore property... (and furthermore you're

[REDACTED]).

The solution here will not be doing more gentle public relations outreach. The root of the problem is that lakeshore landowners don't understand or are willfully blind to the fact that the lakeshore is not their personal private property to do with as they wish. There were just three letters on this topic in the Valley Voice, all telling a different set of "facts" about the public's right to use the foreshore in front of a private dwelling -- proof that people are genuinely confused about this.

So, while we wholeheartedly support your proposed Environmental Development Permit Areas and related regulations, they must be accompanied with some very targeted outreach to property owners, news which will not please most of them nor support their deep-seated entitlement mentality.

To say "the goal of protecting the lakeshore needs buy-in from local residents" -- when referring to the property owners in question -- is like requiring buy-in from road racers before lowering the speed limit in an area that see frequent crashes. Instead, you should be following the science and listening to "the resounding feedback from biologists consulted during the process" and setting regulations that have some enforcement teeth.

[REDACTED]

#### **#4**

Hello Corey,

As a resident of the RDCK, in Nelson, please register my support in support of the 30-metre wide DPA around the entire Kootenay Lake, subject to suitable exemptions, as recommended by RDCK staff to the RDCK Board.

Sincerely,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## #5 (full redacted correspondence between staff and respondent)

If this passes we will approach the BC Assessment Authority for a reduction in our property assessment (this will reduce the tax revenue the RDCK will receive). The proposal will prevent me from A. Fire proofing the area within 30 m B. Prevent the treatment of invasive weeds within 30 m . C prevent me from remodelling our home.

I realize using the paint everything with a broad brush approach is easy to do however the values you are trying to protect are area site specific and do not occur in every 30 m parcel. Cost of having a “professional “ asses property will probably cost a land owner \$5,000 not 2.

Terrible approach

[REDACTED]

RE:...

Hi [REDACTED],

Your feedback regarding the Kootenay Lake DPA Review was forwarded to me.

Thank you for taking the time to share your thoughts with us.

I wanted to follow-up to provide some more information on the concerns you have outlined in your e-mail.

1. Regarding a reduction in property assessment – I would be curious to hear BC Assessment’s thoughts on this. Please feel free to relay back what they say if you feel it is appropriate. A development permit area (DPA) does not make an area unusable, it would just mean a permit would be required prior to undertaking certain development activities (that aren’t exempt) in that area.
2. A – fire proofing: Oddly enough, the current DPAs along Kootenay Lake don’t exempt this activity so a permit would currently be required for this in areas where the DPA exists. To that effect, staff’s preliminary recommendations suggested an exemption to remove that barrier and not require a permit for such activities: *“the environmentally sensitive removal of trees, shrubs or landscaping designated as hazardous in a FireSmart Assessment or fuel management prescription, prepared by a Registered Professional Forester (RPF) or RDCK Wildfire Mitigation Specialist, where such trees, shrubs or landscaping are compensated for elsewhere within the RPDP Area using the replacement ratios provided in the RDCK’s “Terms of Reference for Riparian Assessment Reports”.* I will add that FireSmart Assessments from RDCK Wildfire Mitigation Specialists are free, confidential, and voluntary so a person would not be obligated to do the work laid out in a FireSmart Assessment as a result of getting the assessment.
3. B – invasive weeds treatments: Similar to concern ‘A’ above, this is something that also would currently require a permit in the DPAs that we would be looking to exempt by adding the following exemption: *“Removal of noxious weeds and/or invasive species in accordance with the Central Kootenay Invasive Species Society’s “Integrated Pest Management Options” for specific invasive species.”*
4. C – preventing from remodelling: the presence of a DPA would not prevent from remodelling; a permit may be required prior to work being started, depending on the extent to which you are renovating (basically, if you have heavy machinery roaming around in the riparian area or are clearing vegetation or altering the land or drainage in that area). Most renovation activities are likely

to be exempt depending on the nature of the renovation. Added clarity is suggested for the current exemption as follows: *“There is a change of use or renovation of a building where all of the following can be achieved within the RPDP Area: • the building footprint will not be altered or increased; • no heavy machinery will be present; and, • the riparian area is delineated by brightly coloured snow fencing and silt fencing for the duration of the development activities occurring on the lands.”*

More information regarding the project can be found on the project webpage: [www.rdck.ca/KootenayLakeDPA](http://www.rdck.ca/KootenayLakeDPA) . A lot of people find the FAQ document and ‘preliminary’ recommendations report particularly helpful:

1. FAQ: <https://www.rdck.ca/assets/Services/Land~Use~and~Planning/Documents/2022-10-20-KLDPA-FAQ.pdf>
2. Preliminary recommendations report: [https://www.rdck.ca/assets/Services/RAC-Kootenay\\_Lake\\_DPA-Phase\\_3\\_Update-CAO-APV-no\\_sig.pdf](https://www.rdck.ca/assets/Services/RAC-Kootenay_Lake_DPA-Phase_3_Update-CAO-APV-no_sig.pdf)

I hope that this helps to provide more information on the concerns you have outlined.

Kind regards,

Corey

RE:...

I have waited a few days before responding to your last email.

A. Yes properties have had their assessment reduced due to restrictions in place on the shoreline. I am sure BC Assessment Authority can provide you with that information.

B. Once again with fire proofing and invasive weeds the RDCK believes property owners are ignorant and require the guidance of Big Brother ( at a cost of course) in order to deal with fire proofing and invasive weeds.

Once again your insistence on using the broad paint brush approach (easy) to address items that are site specific (expensive to determine for RDCK) passes the onus on property owners ( at great expense).

Why is nothing being done to protect the habitat from raw sewage being duped from house boats and sail boats or the use of unsealed styrofoam used in docks which create micro plastic particles?

██████████

#### **#6 (full redacted correspondence between staff and respondent)**

Hi Corey, we talked yesterday regarding the proposed 30 m area for the environmental assessment, since I talked to you I have contacted several of my neighbors and people that I know who have properties on the waterfront and have yet to hear that one of them is in favor of increasing the area from 15 m to 30 m. When you said 60% of the people were in favor of it, more than likely they don't have waterfront property and so have no reason to be concerned with this. Everyone I have talked to is fine with it being 15 m around the whole lake for consistency, including one of my neighbors who is part of the ██████████. I am wondering where the 30 m proposal came from as it actually does not seem to make any sense for protecting the foreshore. Looking forward to your response, ██████████

RE:...

Hi [REDACTED],

Thank you for following up, and for reaching out to discuss this with your neighbours. It's great to hear that there is community interest in this project.

To clarify, the 60% I was referring to was in response to your question on what the general sentiment has been in the feedback we've heard so far. As I stated, we haven't heard from everyone and that number of people to provide feedback is certainly going to go up. We've only been receiving it for the last week and a half or so, and I suspect we will get more as the news articles continue to circulate.

It sounds like there may be some folks who might be interested in more information to help inform what the Review is actually trying to accomplish. We have put together a number of different resources related to this Review, which can all be found on the project webpage: [www.rdck.ca/KootenayLakeDPA](http://www.rdck.ca/KootenayLakeDPA). I have heard that the following documents from that page can be particularly helpful:

- FAQ: <https://www.rdck.ca/assets/Services/Land~Use~and~Planning/Documents/2022-10-20-KLDPA-FAQ.pdf>
- Recording of the public info session from earlier this month: <https://www.youtube.com/watch?v=xG2nd5bazzp4>
- Preliminary recommendations report: [https://www.rdck.ca/assets/Services/RAC-Kootenay\\_Lake\\_DPA-Phase\\_3\\_Update-CAO-APV-no\\_sig.pdf](https://www.rdck.ca/assets/Services/RAC-Kootenay_Lake_DPA-Phase_3_Update-CAO-APV-no_sig.pdf)

We have heard from folks who both own and don't own property around the Lake. We consider all feedback in the recommendations that we make, as Kootenay Lake is a natural asset that has broader values that contribute to tourism, recreation, local economic development, conservation values, cultural and archaeological values of local Indigenous groups namely the Ktunaxa and yaqan nukiy, flood hazard mitigation, and buffering the impacts of climate change just to name a few.

I would encourage anyone who's interested to review the materials on that website and if they have concerns to please contact me.

I am off tomorrow but would be more than happy to chat more next week if you'd like.

Kind regards,

Corey

Re:...

Hi Corey, I've talked to many people in the last week or so about this and most of us have decided that the forum provided is inadequate for us to express our concerns. What we have all decided to do and have done is contact our area representative Cheryl Graham and let her know our dissatisfaction and concerns with this proposal. She has told me that most of the people she has talked to, including people who don't own waterfront property are against expanding this from 15 m and she will be making this clear at the RDCK meeting. We feel that this is the best way for us to get our concerns across. She also informed me that there had been a study done to determine what are environmentally sensitive areas of the lake and the

information is already on file. We and her feel that those are the areas that may require expansion of environmental protection, not already developed areas that have been disturbed for almost 100 years. I'm sure there are many better ways that time and money could be spent to protect the lake then making it more difficult and expensive for tax paying property owners to do things on their properties

#7

Hello,

I found the feedback process very frustrating and incapable of accepting commentary beyond a few words. I have attached a scanned copy of the feedback form which cut me off partway through my comments when I tried to print the feedback form to scan and attach to this email. I have inserted my complete comments below.

Complete feedback comment:

Frustrating that the feedback form is so limited with no direct online submission capability. Limiting feedback to the motherhood Key Themes/Objectives will result in a false impression of wholehearted support in the whole program. In general, how can anyone disagree with these themes and objectives? Although I agree in general, I do not agree that the Objective for the Natural Environment theme should include "restore" when it applies to already-developed property unless restoration is optional, not mandated. Agreeing with the themes/objectives does not, however, mean agreeing with the proposed EDPA implementation, and the feedback "form" does not seek comment on implementation proposals. As a citizen who grew up on the waterfront of the West Arm in the [REDACTED] where we built our retirement home with due respect for maintaining and encouraging the riparian ecosystem, I am very aware of the rape and pillaging of waterfront that has taken place on many properties. I have volunteered [REDACTED] I volunteer [REDACTED]. Clearly the environment is very important to me, so I do support the EDPA initiative in general. But I do not agree with the 30 metre scope of it. From my perspective, living in Area E, a 15 meter EDPA is more than adequate for the intended purpose given the typical elevation increase directly above the Present Natural Boundary. Admittedly there are some properties where the elevation change is minimal and 30 meters could be applicable, but this should be the exception, not the rule, for existing developed residential properties.

Regards,

[REDACTED]  
[REDACTED]

RE:...

Hi [REDACTED],

Thank you for providing your feedback for the Review.

That is frustrating with the feedback form. I just tried it myself and was able to paste a 9-page report into both feedback boxes so I am not sure what is going on there – technology constantly continues to throw us curveballs! That said, we can consider everything you raise in your e-mail, so no worries there.

I wanted to get back to you directly about the key themes and objectives piece as well as the DPA width. Apologies in advance for the lengthy response hopefully I don't lose you! If I do, please feel free to give me a call and we can chat further.

The reason for such a heavy emphasis on the Objectives is that they are the piece of an EDPA that can best capture resident sentiments. Because guidelines and exemptions (the other 2 key components of an EDPA) are technical in nature, opening them up for comment by anyone comes with its own set of risks that go beyond just the EDPA, and extends to engagement efforts as a whole for any future RDCK project.

With guidelines and exemptions we have to balance the technical feedback from planners, biologists, engineers, and other professionals with the specific values identified by residents to create an EDPA that makes the most sense. If a resident has taken the time to learn about an initiative and provide their feedback, and sees that a different direction has been taken (due to technical considerations that they may not be aware of) it can lead to a sense of frustration and feeling that they are not being listened to. This can in turn lead to a lack of participation in future initiatives where public feedback is crucial.

You use the example of a 15/30m wide EDPA, which I think is a great one to illustrate this point.

Development activity within an EDPA triggers the need for a Development Permit (unless it meets exemption criteria) and a local government cannot refuse to issue a Development Permit where the guidelines are met by a proposal.

The *Riparian Areas Protection Regulation (RAPR)* is used as the standard criteria for riparian assessments, and is the key guideline that must be met (currently and more than likely into the future). It requires a minimum setback (essentially the "SPEA") from a watercourse based on the characteristics of that habitat and the watercourse itself. Where riparian habitat exists along Kootenay Lake, in the 10+ years of having EDPAs in place in Areas A, D, and E, the RDCK has never received a riparian assessment that identifies a SPEA less than 15m wide (this has also been my experience with large lakes in other parts of the Province). Because of this, the current guidelines are impossible to meet with any proposal where the EDPA is 15m wide (this is because building within the SPEA is inconsistent with the *RAPR*). The RDCK would either need to depart from using Provincial best management practices and the recommendations of professional biologists in order to create guidelines that can be satisfied with a 15m wide EDPA, which would more than likely lead to further habitat loss, or adjust the approach altogether – widening the EDPA and offering more fulsome exemptions for cases where it does not make sense for someone to have to apply for a permit (the preferred approach from staff's point of view).

Getting back to the local government's obligation to issue Development Permits, the 15m EDPA is very problematic. The local government cannot refuse to issue a permit but at the same time the development proposal will never be able to meet the guidelines. This is a huge frustration for everyone involved and is the key issue with a 15m wide EDPA.

The other issue is that there are many areas along the Lake where the SPEA is larger than 15m wide. Kootenay Lake Village in Procter, for example, has a long stretch of shoreline where the SPEA is 25m+ wide and I am sure with your extensive experience along the Lake you have encountered areas where sensitive areas are much wider than 15m. The local government only has the authority to evaluate development activity happening within the EDPA (15m from natural boundary). In these cases, that 10m+ wide strip of sensitive habitat that falls outside of the EDPA is potentially (and in the case of Kootenay Lake Village, was) lost. Once habitat is lost, as I am sure you are well aware, getting it back is a mountainous task (not impossible but pretty darn close).

Recognizing that requiring a permit for any activity within 30m of the Lake along the entirety of the Lake, as is the case where *RAPR* is Provincially mandated elsewhere in the Province, is probably an overly cautious approach, we have suggested making the exemptions much more robust, including exemptions for:

1. Renovations that do not expand a footprint (where the riparian area is delineated with snow & silt fencing to keep machinery and sediment runoff out)
2. Where a Qualified Environmental Professional has inspected the site and confirms the lands subject to development are not riparian area

to name two of the more substantive ones. If you have not already seen it, this staff report provides a comprehensive list of exemptions that are being considered: [https://www.rdck.ca/assets/Services/RAC-Kootenay\\_Lake\\_DPA-Phase\\_3\\_Update-CAO-APV-no\\_sig.pdf](https://www.rdck.ca/assets/Services/RAC-Kootenay_Lake_DPA-Phase_3_Update-CAO-APV-no_sig.pdf) (pages 22-25).

I hope this provides greater context for the points you have raised.

Kind regards,

Corey

RE:...

Hi Corey ,

Thanks for taking the time to provide me with the broader context for your DPA project given the constraints inherent in the provincial *RAPR*. Clearly I did not appreciate the bigger picture! I also understand why opening up technical guidelines and exemptions to broad public comment during their development would likely be disruptive on multiple levels. You did not lose me with the details; rather, you gained my support for your overall project approach and your aim of providing reasonable exemptions within a 30m EDPA in situations where an assessment or permit does not make sense. Those reasonable exemptions will make or break public attitude towards the EDPA implementation, particularly for maintenance of already developed properties.

I appreciate your efforts to find a practical and flexible approach for RDCK to comply with provincial regulations. Best of luck going forward.

Cheers,

[REDACTED]

**#8**

Good morning:

[REDACTED]

I have read through the information on the RDCK website and several things became obvious.

First, it doesn't seem logical that area F has no plan. (I live in area E, by the way) That area has heavy development on the lakeshore for a considerable distance.

Second, the comment that there needs to be more clarity in the existing regulations, and that there should be more concise and easily understandable information is definitely true. I suggest a clear and concise

mailout to area residents. Mailout as opposed to email or media so more people have access to the information.

Third, more uniform application of the existing regulations. Going from 15 to 30 meters might not be necessary if everyone understood the current regulations. There are many sites where 30 meter restrictions would cover practically the entire property. There could easily be more residents ignore the wider area as it would be more onerous for development.

Fifth, in many places it is hard to determine the natural boundary because of the variations in lake level. Kootenay Lake has become a reservoir and is managed as such.

Sixth, there need to be a common-sense, case by case approach to development, especially in the case of emergency situations like hazard trees threatening residences or flood-borne driftwood. These matters can't wait for inspections and/or permits.

All of us in the [REDACTED] have a vested interest in the preservation and conservation of the Kootenay Lake Area. We all want to see development happen in a logical and reasonable manner.

Thank you,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

