



**REGIONAL DISTRICT OF CENTRAL KOOTENAY**

# Memo to General Manger of Development Services

**Date of Memo:** September 24, 2019  
**Author:** Dana Hawkins, Planner  
**Subject:** DEVELOPMENT PERMIT (Peeters – 10182 Hwy 31)  
**File:** 09/4260/20/2019/DP1907D-03042.000-Peeters-DP000091

<b>Applicants</b>	Jeannie Peeters and Chris Campbell (leases of Crown land)
<b>Civic Address</b>	10182 Hwy 31, Shutty Bench
<b>Legal Description</b>	Lot A, District Lot 819, Kootenay District, Plan EPP83669
<b>PID</b>	030-731-542
<b>Lot Size</b>	0.33 ha

**PROPOSAL:**  
 The permit is for existing development on the property including a 69.0 m<sup>2</sup> dry cabin, 6.0 m<sup>2</sup> outbuilding and 4.0 m<sup>2</sup> outhouse constructed on a flat bench at the east end of the property that borders Kootenay Lake. The existing cabin was constructed in 2016 and is sited 4 m from the present natural boundary. Development within the foreshore includes an existing groyne to the south of the cabin. Additional proposed uses include a 8.9 m<sup>2</sup> deck off the south facing door of the cabin to connect a staircase that has been built, and a staircase from the upper access road down to the south door of the cabin.

<b>Electoral Area</b>	D
<b>Development Permit Area</b>	Watercourse

<b>Guidelines</b>	<b>Meets?</b>	<b>Comments</b>
All development proposals subject to this permit will be assessed by a Qualified Environmental Practitioner (QEP) in accordance with the Riparian Areas Regulation established by the Provincial and/or Federal governments as used elsewhere in the Province.	Yes	QEP report prepared by Masse Environmental Consultants Ltd. dated October 19, 2018
A WDP shall not be issued prior to the RDCK ensuring that a QEP has submitted a report	Yes	QEP report meets RDCK Terms of Reference

certifying that they are qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a lesser setback will not negatively affect the functioning of a watercourse or riparian area and that the criteria listed in the Riparian Areas Regulation has been fulfilled.		
The Riparian Areas Regulation implemented through the WDP does not supersede other Federal, Provincial and or local government requirements, including that of other development permit areas, building permits, flood covenants, Federal or Provincial authorization. Land subject to more than one development permit area designation must ensure consistency with the guidelines of each development permit area, to provide comprehensive stewardship of both fish and wildlife habitat.	Yes	

<b>Zoning</b>	n/a
<b>OCP</b>	Rural Residential (RC)
<b>ALR</b>	n/a
<b>Floodplain</b>	Setback 15.0 m FCL 536.5 G.S.C. -see F1903D
<b>NSFEA</b>	n/a
<b>Geohazard</b>	None known
<b>Archeology Sites</b>	Arch Overview Assessment Potential High
<b>Within RDCK Water System</b>	No
<b>Relevant Covenants and Reports</b>	QEP report prepared by Masse Environmental Consultants Ltd. dated October 19, 2018
<b>Review Title for Miscellaneous Charges</b>	See Crown Land Lease File no. 0280412

<b>KOOTENAY LAKE SHORELINE INVENTORY:</b>	
<b>Aquatic Habitat Index Rating</b>	High
<b>Erosion</b>	None
<b>Vegetation</b>	Riparian Corridor (RC)
<b>Site Sensitivity</b>	Aquatic (A)
<b>Enhanced Engagement</b>	No
<b>Critical White Sturgeon Habitat</b>	No
<b>Archeological Values</b>	Red Zone (R)



<b>REFERRAL COMMENTS:</b>
<b>Kootenay Lake Partnership</b>
No comments received.
<b>Archeology Branch, May 10, 2019</b>
<p>Provincial records indicate that there are no known archaeological sites recorded on the property. However, archaeological potential modeling indicates there is the possibility for unknown/unrecorded archaeological sites to exist on the property.</p> <p>Archaeological sites (both recorded and unrecorded, disturbed and intact) are protected under the Heritage Conservation Act and must not be altered or damaged without a permit from the Archaeology Branch.</p> <p>In the absence of a confirmed archaeological site, the Archaeology Branch cannot require the proponent to conduct an archaeological study or obtain a permit prior to development. In this instance it is a risk management decision for the proponent.</p> <p>Prior to any land alterations (e.g., addition to home, property redevelopment, extensive landscaping, service installation), an eligible consulting archaeologist should be contacted to review the proposed activities and, where warranted, conduct a walk over and/or detailed study of the property to determine whether the work may impact protected archaeological materials.</p> <p>An eligible consulting archaeologist is one who is able to hold a Provincial heritage permit that allows them to conduct archaeological studies. Ask an archaeologist if he or she can hold a permit, and contact the Archaeology Branch (250-953-3334) to verify an archaeologist's eligibility. Consulting archaeologists can be contacted through the BC Association of Professional Archaeologists (<a href="http://www.bcapa.ca">www.bcapa.ca</a>) or through local directories.</p> <p>If the archaeologist determines that development activities will not impact any archaeological deposits, then a permit is not required. Occupying an existing dwelling or building without any land alterations does not require archaeological study or permitting.</p> <p>If any land-altering development is planned and proponents choose not to contact an archaeologist prior to development, owners and operators should be notified that if an archaeological site is encountered during development, activities must be halted and the Archaeology Branch contacted at 250-953-3334 for direction. If an archaeological site is encountered during development and the appropriate permits are not in place, proponents will be in contravention of the Heritage Conservation Act and likely experience development delays while the appropriate permits are obtained.</p>
<b>BC Hydro, May 14, 2019</b>
B.C. Hydro has no comments on these referrals and Fortis holds the water licence on Kootenay Lake.
<b>Interior Health Authority</b>
<b>June 19, 2019</b>
Under the Sewerage System Regulation (SSR), effective May 31 2005, domestic sewage must be discharged into a public sewer, a holding tank or a sewerage system that is constructed and maintained in accordance to the SSR.

The applicant describes the cabin as having a “lined pit toilet ... designed to be serviced by a sewage pumping vehicle”. This type of “lined pit toilet” is also known as a ‘vault privy’ and is recognized as a ‘holding tank’ under the SSR. An internal file search produced no documentation on any existing holding tank at this location. Thus, this office recommends that the applicant provide documentation to support that this holding tank meets the current SSR.

Furthermore, the applicant describes an additional “unlined pit toilet located on the property ... that is used periodically”. The construction and use of an ‘unlined pit privy is no longer an acceptable form of sewage disposal under the SSR. The existing unlined pit toilet may be required to be decommissioned if found to be causing a health hazard.

**June 28, 2019**

This letter is provided as a follow up to the letter issued by this office on June 19, 2019 regarding an application for a development permit to further develop an existing dry cabin serviced by an outhouse.

Given additional information provided via phone conversation with the applicant on June 27, 2019, this office recommends that the applicant obtain and provide to the Regional District an Authorized Persons report indicating that the existing lined pit toilet will not cause a health hazard based on its current and proposed use.

**July 9, 2019**

Yes I have informed her that the unlined toilet can no longer be used as a method of sewage disposal. It is only required to be removed if it is causing a health hazard, and I haven’t received any evidence of that at this point.

**Ministry of Transportation & Infrastructure, May 22, 2019**

The applicant should apply for a current residential access permit for access to Hwy 31 - if they have not already. I am unable to find one in our files.

**Habitat Branch, May 31, 2019**

There appears to be historic unauthorized work of the foreshore including beach clearing and groyne construction. Any work associated with the construction of a deck off the south door should not impede any further onto the foreshore. No placement of retaining wall, rock or fill should be placed in front of the cabin or within the natural boundary.

Any further works fronting the cabin, including potential work to the stairs to the foreshore, are subject to the Provincial Water Sustainability Act. Please review the Kootenay Region’s Terms and Conditions for Instream works available at: [https://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/working-around-water/terms\\_conditions\\_kootenays.pdf](https://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/working-around-water/terms_conditions_kootenays.pdf) and instream fish windows at: [https://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/working-around-water/work\\_window\\_kootenays.pdf](https://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/working-around-water/work_window_kootenays.pdf) to ensure that you can abide by these guidelines.

Recommend that all invasive weed mitigation measures outlined in Section 5.8 of Masse Environmental Consultants Ltd 10182 Highway 31 Shutter Bench, BC Riparian Assessment dated October 19, 2018, are implemented.

**Ministry of Forests Lands and Natural Resource Operations, June 19, 2019**

In short, no, we cannot add to terms of lease agreement; however, we can add the geotechnical report to the file. The lease expires in 2022 and we will be asking for a new Management Plan for



replacement of the tenure. I could add a note to the report and the file that whoever is replacing the file that it gets attached to the Management Plan. The lease agreement document reads 'as per your management plan' throughout, so it does bind them to adhere to any recommendations.

I don't have any comments with respect to the Development Permit.

#### **Area D Director, May 29, 2019**

The Masse report has photos addressing HWM were taken in April, when Kootenay Lake is low. June 20th would be a better time to assess the actual HWM and potential impacts to the development

Do we know if the groynes were approved under permit? If not, are we obligated to report them? We know through the shoreline guidance document that there are good reasons for ensuring foreshore development follows regulations, can we request this be addressed within this process?

Parking on the foreshore - is that permitted or is it above the line enough that it would not be a concern for foreshore habitat?

Was there a building permit issued for the cabin? I would assume not as the floodplain exemptions and DP would have been triggered then? Are they in compliance with the building code or is a Notice on Title on its way as well?

Given the riparian guidelines indicate 30 M from the natural boundary and they are a mere 4M, I am surprised to see this exemption and DP recommended, is it because it's already built? Is it not the standard practice to apply then build?

A lined pit house at 10M from the natural boundary- again 20M too close. The report indicates the location and a sealed liner make it safe, I would question what IHA has to say about it.

The report itself indicates the water levels can fluctuate up to 4M in a year indicating it is not far fetched to think this cabin could be flooded in the future.

The report references the shoreline guidance documents but fails short of noting the infractions to the shoreline nor mitigation options.

#### **Rural Affairs Committee, September 18, 2019 (F1903D)**

RESOLUTION NO. 679/19

That the Board APPROVE a Site Specific Exemption to reduce the required setback to Kootenay Lake from 15.0 metres from the natural boundary to 4.0 metres from the natural boundary in accordance with the Engineering Report prepared by Deverney Engineering Services Ltd. for property located at 10182 Highway 31 and legally described as Lot A, District Lot 819, Kootenay District, Plan EPP83669 (PID 030-731-542)

SUBJECT to inclusion of the Engineering Report prepared by Deverney Engineering Services Ltd., dated February 4, 2019 in the Management Plan of Crown Lease File No. 0280412;

AND SUBJECT to written confirmation from Interior Health Authority that the Sewerage System Regulation is met for pit toilets on the property;

AND FURTHER, no placement of retaining wall, rock or fill should be placed in front of the cabin or within 15 metres the natural boundary.

**RECOMMENDATION:**

That the General Manager of Development Services APPROVE the issuance of Development Permit DP1907D-03042.200-PEETERS-DP000091 for the property legally described as Lot A, District Lot 819, Kootenay District, Plan EPP83669 (030-731-542).

Respectfully submitted,



Dana Hawkins, MCIP, RPP  
Planner 2

**CONCURRENCE**

**Initials:**

Planning Manager  
General Manager of Development Services



**ATTACHMENTS:**

Attachment A – Development Permit