



**REGIONAL DISTRICT OF CENTRAL KOOTENAY**

**Memo to General Manger of  
Development and Community  
Sustainability Services**

**Date of Memo:** December 2, 2021  
**Author:** Eileen Senyk, Planner 1  
**Subject:** DEVELOPMENT PERMIT Premier Resorts – DP2114A  
**File:** DP2114A-04339.100-Premier\_Resorts\_Ltd.-DP000119

<b>Owner</b>	Premier Lake Resorts
<b>Civic Address</b>	10141 Highway 3A (Twin Bays, East Shore Kootenay Lake)
<b>Legal Description</b>	LOT 1 DISTRICT LOTS 2636B, 2637 AND 15821 KOOTENAY DISTRICT PLAN NEP71491
<b>PID</b>	025-441-001
<b>Lot Size</b>	19.67 ha

**PROPOSAL:**

<b>Electoral Area</b>	A
<b>Development Permit Area</b>	Environmentally Sensitive Development Permit Area (ESDP)

<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 Protection Regulation established by the Provincial and/or Federal governments as used elsewhere in the Province	Yes	The Environmental Assessment provided by Mase Environmental meets all of the requirements of this guideline.
A ESDP shall not be issued prior to the RDCK ensuring that a QEP has submitted a report	Yes	Section 7 of the Riparian Assessment certifies that the QEP is qualified to carry out the assessment.

<p>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.</p>		<p>The QEP states that:  “(i) if the development is implemented as proposed, or (ii) if the streamside protection and enhancement areas identified in the report are protected from the development, and (iii) if the developer implements the measures identified in the report to protect the integrity of those areas from the effects of the development, then there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area.”</p>
<p>The Riparian Areas Protection Regulation implemented through the ESDP 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.</p>	<p>Yes</p>	<p>This application for an ESDP has been made to support an application for subdivision. The proponent will be required to ensure that the requirements of RDCK Subdivision Bylaw No. 2159, 2011 are provided and that minimum site areas and setbacks identified in Comprehensive Land Use Bylaw No. 2316, 2013 and RDCK Floodplain Management Bylaw No. 2080, 2009 are adhered to.  The proponent has not proposed any works that would require Provincial approvals at this time.</p>

<p><b>Zoning</b></p>	<p>Country Residential (R2)</p>
<p><b>OCP</b></p>	<p>Country Residential (CR)</p>
<p><b>ALR</b></p>	<p>Not applicable</p>
<p><b>Floodplain</b></p>	<p>Kootenay Lake (FCL 536.5 GSC datum, 15m setback)</p>
<p><b>NSFEA</b></p>	<p>Not applicable</p>
<p><b>Geohazard</b></p>	<p>Not applicable</p>
<p><b>Archeology Sites</b></p>	<p>Three ‘High Archaeological Potential’ (HAP) areas identified. Preliminary Field Reconnaissance (non-permit)</p>

	was provided for the purpose of subdivision. HAPs are identified in Appendix 2 of the Masse report.
<b>Within RDCK Water System</b>	Not applicable
<b>Relevant Covenants and Reports</b>	Preliminary Field Reconnaissance (non-permit) was provided by Tipi Mountain Eco-Cultural Services and dated February 2, 2021
<b>Review Title for Miscellaneous Charges</b>	No charges or legal notations of concern

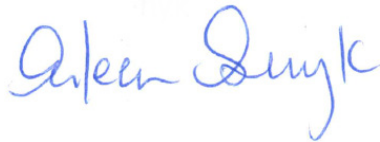
<b>KOOTENAY LAKE SHORELINE INVENTORY:</b>	
<b>Aquatic Habitat Index Rating</b>	Moderate
<b>Erosion</b>	Moderate
<b>Vegetation</b>	N/A – rock bluffs
<b>Site Sensitivity</b>	Environment (E)
<b>Enhanced Engagement</b>	Yes
<b>Critical White Sturgeon Habitat</b>	No
<b>Archeological Values</b>	Red zone and Orange zone (2 shoreline segments)

<b>REFERRAL COMMENTS:</b>	
Interior Health Authority	The IH Healthy Community Development Team has received the above captioned referral from your agency. Typically we provide comments regarding potential health impacts of a proposal. More information about our program can be found at <a href="#">Healthy Built Environment</a> . An initial review has been completed and no health impacts associated with this proposal have been identified. As such, <u>our interests are unaffected by this proposal</u> . Please note that this response does not automatically confer Interior Health support for a future subdivision. Additional information will be required at the subdivision stage in order for Interior Health to meaningfully comment on the sewerage servicing capability of the land and long-term sustainability.
Ministry of Forests Lands and Natural Resource Operations	The Ministry of Forests, Lands, Natural Resource Operations & Rural Development – Terrestrial Resource Management Division - reviewed this Development Permit on October 19, 2021. FLNRORD has determined that this project should not impact the Resource Management Division's legislated responsibilities as long as mitigation and recommendations outlined in Masse Environmental Consultants Ltd's 10141 HIGHWAY 3A SUBDIVISION TWIN BAYS, BC Environmental Assessment, dated August 2, 2021 are abided by. It is recommended that if future development of the lots occurs, a 30 metre setback from

	<p>the wetland is implemented and a minimum of 15m setback from Kootenay Lake is maintained.</p> <p>Vegetation clearing should adhere to the least risk timing windows for nesting birds (i.e. construction activities should occur only during least risk period). Nesting birds and some nests are protected by the Provincial <i>Wildlife Act</i> Sec.34 and Federal Migratory Bird Act. Nesting periods can be identified by a qualified professional. General least risk windows for bird species are designed to avoid the nesting period. If nests are present at this site or adjacent to it and will be impacted by the works, the following work windows apply:</p> <p style="text-align: center;">-</p> <table border="1" data-bbox="711 699 1040 1035"> <thead> <tr> <th style="background-color: #d3d3d3;">Species</th> <th style="background-color: #d3d3d3;">Least Risk Window</th> </tr> </thead> <tbody> <tr> <td>Raptors (eagles, hawks, falcons, &amp; owls)</td> <td style="background-color: #ffffcc;">Aug 15 – Jan 30</td> </tr> <tr> <td>Herons</td> <td style="background-color: #ffffcc;">Aug 15 – Jan 30</td> </tr> <tr> <td>Other Birds</td> <td style="background-color: #ffffcc;">Aug 1 – March 31</td> </tr> </tbody> </table>	Species	Least Risk Window	Raptors (eagles, hawks, falcons, & owls)	Aug 15 – Jan 30	Herons	Aug 15 – Jan 30	Other Birds	Aug 1 – March 31
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<p>Ministry of Transportation and Infrastructure</p>	<p>MOTI has reviewed the proposed subdivision of this property and issued a Preliminary Layout Review letter, Amended, dated March 24, 2021. This PLR requires 2 covenant documents to be filed with the final plan and documents for the future 4 lots.</p> <ol style="list-style-type: none"> <li>1.) to ensure no building/structure construction within 15m of Kootenay Lake;</li> <li>2.) in accordance with the Preliminary Field Reconnaissance Report (as referenced in the Massey EA document), no land altering activities within the 3 HAPs (High Arch Potential areas). Additionally, the HAPs have to be identified on a reference plan and both the reference plan and the PFR attached to the covenant for filing.</li> </ol> <p>The above covenants may not prevent all potential land disturbance within the SPEA therefore a site specific review may be necessary at the time of building permit.</p>								
<p>Ktunaxa Nation</p>	<p>Water Values Comments:</p> <ol style="list-style-type: none"> <li>1. The wetland should be left intact with a no development zone surrounding it as per the recommendations in section 5 MEASURES TO PROTECT THE INTEGRITY OF SPEA.</li> </ol>								

	<p>Wetlands surrounding Kootenay Lake are a natural water filter and help to deliver clean water to Kootenay Lake. Impairing wetlands will impair water quality.</p> <p>2. The applicant should be aware the the "coves" identified in the Masse report do hold substrate that is conducive to providing native freshwater mussel habitat and the substrate should not be disturbed. These coves also offer refuge for small fish species and juvenile fish from a larger predatory fish and are therefore important to protect as much of the shoreline habitat on Kootenay Lake has been fragmented. Mussels, if indeed present, will most likely not be visible during winter months as they may bury themselves in to the substrate or seek deeper water refuge during the colder months.</p>
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Respectfully submitted,



Eileen Senyk, Planner 1

**CONCURRENCE**

**Initials:**

Planning Manager

General Manager of Development Services

**ATTACHMENTS:**

Attachment A – Development Permit