



City of Delta
COUNCIL REPORT
Regular Meeting

To: **Council**

File No.: **LU009737**

From: **Development Department**

Date: **October 10, 2025**

Amendment of Environmental Covenant CA6438337

The following report has been reviewed and endorsed by the City Manager's Office.

▪ **RECOMMENDATION:**

THAT Section 219 Covenant CA6438337, which secures on- and off-site riparian landscaping works related to the development of the properties located at 6291 to 6351 River Road, be amended as described in this report.

▪ **PURPOSE:**

The purpose of this report is for Council to consider the request to amend Covenant CA6438337 (Covenant), which is registered on the subject properties at 6291 to 6351 River Road. An aerial photo of the properties is provided in Attachment A.

▪ **BACKGROUND:**

In 2013, Delta Council gave third reading to a rezoning application to subdivide the parent property and construct 11 single detached dwellings on upland lots with 11 float homes on proposed water lots in Deas Slough. Over the following years, the developer (previous owner) addressed technical aspects of the project. In addition to City of Delta bylaw requirements, a *Fisheries Act* authorization from Fisheries and Oceans Canada (DFO) was required due to the property containing intertidal marsh and riparian areas which would be impacted by the development. Final adoption of the rezoning application was granted on September 11, 2017.

As a condition of granting final adoption to the rezoning, the Covenant was registered on the subject properties to ensure compliance with on- and off-site fish habitat compensation requirements consistent with DFO approval, which the developer proposed and agreed to undertake. Habitat compensation works were required to offset fish habitat impacts resulting from the development. As part of the original developer's proposal, off-site habitat compensation works would be undertaken on Provincially owned Big Hart and Little Hart Islands within the Fraser River. Securities related to this commitment were secured by Delta. Under the Covenant, before obtaining building permits and commencing construction on the homes, the owner is required to obtain approvals from DFO and the Provincial Ministry of Water, Land and Resource Stewardship to complete the off-site habitat compensation works. Additionally, in 2019, DFO issued a *Fisheries Act* direction to the developer after discovering unauthorized

depositions of fill material in the intertidal area of Deas Slough, leading to a *Fisheries Act* violation. DFO ordered the developer to remove a portion of the fill, create intertidal marsh in Deas Slough and complete the off-site fish habitat compensation.

The developer completed all civil utility works required to service the new lots. The on-site restoration work involving removing fill and creating an intertidal marsh was also completed by the developer, but the off-site habitat works have not been completed. The developer has since sold the properties to various new owners, who now intend to build homes on the lots. As the Covenant runs with the land, the new owners are now responsible for completing any unfulfilled terms of the Covenant.

It is noted that the developer was challenged in securing water lots due to current Provincial restrictions on new float home communities. A rezoning application (LU009489) was approved by Council in 2023 to amend Comprehensive Development Zone No. 431 (C.D. 431) to allow for the transfer of floor area from a float home to the upland dwelling allowing for larger upland structures. At the time of this rezoning, it was noted the obligations under the Covenant remained. The new owners have submitted a third rezoning application, as described below. In advance of this rezoning application, the new owners have requested that the Covenant be amended to remove the no build restriction, and that the City continue to hold the riparian landscaping security originally provided by the developer until the off-site habitat compensation work has been completed or another arrangement is made with DFO in its place.

Council Policy:

The Official Community Plan (OCP) designation for this site is Marine Mixed Use (MMU). This designation is intended for water-related commercial, light industrial and residential uses. Main building types include a mix of building types with limited residential including floating homes with no maximum height for commercial or industrial buildings and up to three storeys for residential. The current zoning and proposed future zoning are consistent with the OCP.

The current zoning of the site is Comprehensive Development Zone No. 431. The C.D. 431 Zone is intended for single detached homes in the upland area and floating homes in the water lot area. Under the small-scale multi-unit housing (SSMUH) regulations, the C.D. 431 Zone allows for the development of SSMUH on each lot with a maximum density of 225 m² (2,422 ft²) on Lots 1 to 7 and 11 and 293 m² (3,154 ft²) on Lots 8 to 10. The new owners have submitted a development application (LU009737) to rezone the properties to a new Comprehensive Development Zone that would remove "floating home, single family" as a principal use, add "dwelling, duplex" as a principal use, increase the maximum height to three storeys, and increase the maximum floor area density on the upland lots to 385 m² (4,144 ft²).

The subject site is within the Streamside Protection and Enhancement Development Permit Area (SPEA), which sets guidelines to protect fish and wildlife habitats in and along streams. Approval of SPEA development permits are delegated to the General Manager of Development. A property is exempt from a SPEA development permit where a developer has received *Fisheries Act* authorization from DFO. In the case of the original application, Delta's SPEA bylaw requirements were satisfied through the

DFO authorization and the on- and off-site riparian landscaping requirements were secured in the Covenant.

Section 6.4(c) of “Delegation of Authority Bylaw No. 8199, 2022” delegates authority to the General Manager of Development, granting them the discretion, on behalf of the City, to execute the release of obsolete covenants acquired by the City in relation to any development application. In this case, the Covenant is not considered obsolete, as the off-site habitat compensation commitments it secures have not been fulfilled. Only the on-site intertidal marsh works have been completed to date.

▪ **DISCUSSION:**

The new owners are requesting an amendment to the Covenant to allow them to apply for building permits with the City and proceed with construction on the lots. They have advised that they have not obtained approval from the Provincial Ministry of Water, Land and Resource Stewardship for the necessary tenure to construct the habitat compensation works on Little and Big Hart Islands, despite multiple attempts. As a result, they are unable to complete the off-site habitat compensation works as required by the Covenant.

Amending the covenant would not remove the owners’ responsibility to complete any unfulfilled obligations under the original DFO authorization. The owners are expected to do their due diligence with respect to obtaining all necessary external environmental approvals prior to commencing construction.

Delta’s Streamside Protection and Enhancement Development Permit Area (SPEA):

The new owners are required to apply for a SPEA development permit prior to obtaining building permits. They may choose to apply collectively through the rezoning application process or individually through the building permit process. Based on the recent environmental report by Envirowest Consultants Inc., the proposed increase in building height and size of the upland dwellings will not impact fish habitat, and no new DFO authorization is required for the current rezoning proposal.

Implications:

Financial Implications – There are no financial implications.

Environmental Implications – If Council agrees to amend the Covenant, the new owners would be permitted to apply for building permits on their lots prior to securing the necessary provincial authorizations required to fulfill the original rezoning conditions. Delta would maintain the financial security and the owners would remain responsible to work with DFO and the Province to meet their environmental obligations.

Legal Implications – In the absence of a letter from DFO stating that previously required compensation works and order no longer apply to the properties, the new owners may still have obligations related to the previous DFO orders and authorizations. Staff recommend that the new owners continue to work with their

qualified environmental professional and DFO to satisfy the requirements of the covenant.

▪ **CONCLUSION:**

The new owners of the subject lots have requested that Section 219 Covenant CA6438337, which secures on- and off-site fish habitat compensation works, be amended to remove the requirement to complete off-site riparian compensation works prior to building on the subject properties.



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Department submission prepared by: Paul Belzile, Senior Planner
PB/rl

This report has been prepared in consultation with the following listed department.

Concurring Department		
Department	Name	Signature
Corporate Services	Mike Brotherston	MB

▪ **ATTACHMENT:**

A. Aerial Photo of Subject Properties