



TSAWWASSEN FIRST NATION
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Community Governance Act

TREE REGULATION

Date Enacted: 23 September 2015

Order Number: O.066-2015

This version of the Regulation is not the official version, and is for informational purposes only. Persons who need to rely of the text of the Regulation for legal or other purposes may access the official version held in the TFN Laws Registry by contacting the TFN Administration Office at (604) 943-2112.

Table of Regulation Changes

Section(s) Amended	Date	Order number	Come Into Force Date
This regulation repeals and replaces the Tree Regulation enacted by Order O.025-2009			Sep 23 1015

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Authority

- 1 This regulation is enacted under the authority of sections 21 and 22 of the *Community Governance Act* (Tsawwassen).

Definitions

- 2 In this regulation

“Bluff Management Zone” means the zone within the Stahaken leasehold area identified in Schedule A of the leases as Bluff Management Zone on Plan 65458, Plan 77166 and Plan 75030, all of New Westminster Land Title Office, as may be amended, but specifically excluding Lots 1, 2, 31 and 32 inclusive on LTO Plan 75030 illustrated generally on Schedules A and B to this regulation;

“Culturally Modified Tree” means a tree that has been altered by aboriginal people as part of their traditional use;

“Director” means the Director of Lands or his or her successor or designate;

“Northwest Holdings Society” means the Society established by owners of beach lot leases and the holder of an access lease to the following lands: Parcel ID 027-866-491, Lot 24, District Lot 169, Group 2, New Westminster District Plan BCP 38107, which is located on the TFN Bluff Lands;

“Pacific Drive Homeowner” means the owner of fee simple lots within the Corporation of Delta located generally on west side of Pacific Drive adjacent to TFN lands, with legal addresses of Lots 11-22 inclusive of LTO Plan 19914, Lots 91-95 inclusive of LTO Plan 25919, Lots 145-149 inclusive of LTO Plan 29136 and Lots 262-269 inclusive of LTO Plan 3747, Delta, B.C.;

“Primary View Direction” means

- (a) due Southwest for 893 Pacific Drive through 1043 Pacific Drive, inclusive;
- (b) due West for 1053 Pacific Drive through 1179 Pacific Drive, inclusive;
- (c) due Northwest for 1201 Pacific Drive through 1215 Pacific Drive, inclusive; and
- (d) due North for 1217 Pacific Drive through 1267 Pacific Drive, inclusive.

“Qualified Arborist” means a means a person certified by the International Society of Arboriculture (IBA) as an arborist, and approved by the TFN Director;

“Qualified Geotechnical Professional” means a professional engineer or professional geoscientist, registered with the Association of Professional Engineers and Geoscientists of British Columbia and authorized to conduct geotechnical work;

“View” means a view in the Primary View Direction from a single viewpoint, located at ground level in the backyard of an applicant’s property, and provides a defined view, framed or in corridors, from the viewpoint;

“TFN” means Tsawwassen First Nation;

“TFN Bluff Lands” means the area identified in grey on Schedule A;

“TFN Bluff Lessee” means the holder of a leasehold interest or designated assignee on TFN lands Lots 25-30 inclusive on LTO Plan 75030; Lots 16-27 inclusive on LTO Plan 77166; and Lots 50-64 inclusive on LTO Plan 65458;

“Tree” means a woody perennial plant with one or more substantially erect main trunks or stems, including its root system, that is capable of reaching a mature height of 4.5 metres or greater within its natural range;

“Tree Works” means work that results in an alteration to a tree, native brush or ground cover and may include, but is not limited to,

(a) the brushing, trimming and or cutting of native brush or ground cover, not including grass,

(b) the cutting of trees, tree limbs or treetops or other activity that involves the cutting or alternation of a tree or brush, or

(c) the removal of a tree, native brush or ground cover,

and is

(d) intended to establish, maintain, or amend a View,

(e) required where a tree is diseased, or

(f) required to address slope instability.

Purpose and Application

- 3 (1) This regulation applies to the TFN Bluff Lands and the Bluff Management Zone.
- (2) The primary purpose of this regulation is to protect, preserve and promote the stability of the TFN Bluff Lands, while also providing an opportunity for residents living on top of the TFN Bluff Lands to establish or maintain a view from their homes in a way that does not adversely impact TFN Bluff Lands.
- (3) No person is entitled to undertake any Tree Works on the TFN Bluff Lands or in the Bluff Management Zone, except in accordance with this regulation.
- (4) Notwithstanding subsection (3), limited Tree Works on upslope land immediately adjacent to Pacific Drive Homeowners may be exempt from the requirements of this regulation provided that they are authorized under a separate agreement between TFN and applicable interest holders.

- (5) When reviewing an application to establish, maintain or amend a View under this regulation, the Director must ensure that any proposed Tree Works do not
 - (a) compromise the stability of the slope,
 - (b) adversely impact a Culturally Modified Tree,
 - (c) cause significant detrimental impacts to any wildlife habitat determined by TFN, in its sole discretion, to be of a sensitive and critical nature, or
 - (d) negatively impact the natural ridgeline of the bluff.
- (6) For greater certainty, Tree Works are not permitted unless approved by the Director, who may approve Tree Works
 - (a) pursuant to sections 5 and 6 of this regulation,
 - (b) where the tree is diseased as confirmed by a Qualified Arborist, or
 - (c) removal of the tree is required to address slope instability as confirmed by a Qualified Geotechnical Professional.

Tree Works for view management limited to prescribed timeframes

- 4 (1) In order to establish an efficient, cost-effective approach to view management, Tree Works to establish, maintain or amend a View will occur on a prescribed date in the Spring of each year.
- (2) Applications to undertake Tree Works under section 5 must be submitted to the Director pursuant to that section and prior to March 31, or other date prescribed by the Director, of each year in order to be eligible to undertake Tree Works for view management.

Application to establish, maintain or amend a View

- 5 (1) TFN Bluff Lessees and Pacific Drive Homeowners may apply to establish, maintain or amend a View by submitting an application in the form prescribed in Appendix A to the Director in accordance with the timelines established pursuant to section 4.
- (2) An application to amend a View may request a change to the viewpoint used to define the initial View.
- (3) Applicants under this section must pay a non-refundable application fee as set out in Appendix A to this Regulation.

Review of an application

- 6 (1) On receipt of an application to establish, maintain or amend a View, the Director must review the application and co-ordinate with the applicant and Qualified Arborist, if necessary, to determine the viewpoint.

- (2) Where the Director is of the opinion that the proposed Tree Works
 - (a) are necessary to support, maintain or amend a View, and
 - (b) would not adversely impact slope stability, sensitive habitat or cultural resources, including any Culturally Modified Trees,
 the Director shall identify the Tree Works required to support the application.
- (3) Applications made by a Pacific Drive Homeowner under section 5 must also be reviewed and approved by the Northwest Holdings Society in the event that a request for Tree Works is situated on land under lease to the Northwest Holdings Society.
- (4) In addition to the requirements set out in this section, the Director may, at his or her sole discretion, require a habitat assessment at the cost of an applicant to ensure that any permitted tree works do not adversely impact any sensitive wildlife habitat located on or adjacent to the TFN Bluff Lands.

Views and record keeping

- 7 (1) If the Director approves of the establishment of a View under section 6, the Director must record the location of the viewpoint selected to establish the View, and the dimensions of the View in a Lot View Record Book.
- (2) The Lot View Record Book must be updated to reflect any amendments made to a View.
- (3) The Lot View Record Book shall be maintained at the TFN Lands office and available for review during regular office hours.
- (4) Viewpoints from individual properties, sketches showing approximate potential views facing North and West are set out in Schedules A to C of this regulation.

Tree Works

- 8 (1) If the Director authorizes any Tree Works in support of an application made under section 5, the Director must contract with a professional tree service company who will be responsible for undertaking the Tree Works on each of the Lots where an application was approved.
- (2) The cost of
 - (a) the professional tree service company contracted to undertake Tree Works in respect of an approved applicant's lot, and
 - (b) any Qualified Geotechnical Professional and Qualified Arborist retained under section 6 to evaluate an applicant's application
 will be charged to each individual approved applicants during a Tree Work period.

- (3) Applicants must pay the costs under subsection (2) to the Director prior to the commencement of any approved Tree Works and failure to pay will result in a cancellation of any authorization to undertake Tree Works issued under section 6.
- (4) The Director may authorize Tree Works on TFN Bluff Lands and the Bluff Management Zone not subject of an application, provided that the tree is,
 - (a) in the opinion of a Qualified Arborist, determined to be diseased,
 - (b) required to mitigate a tree risk identified by a Qualified Arborist who is tree risk assessment qualified by the International Society of Arboriculture, or
 - (b) in the opinion of a Qualified Geotechnical Professional, poses a health and safety risk.
- (5) Applicants are entitled to a refund in full for any authorized Tree Works which are not completed within one year of the later of authorization of the Tree Works and receipt of payment by the Director.
- (6) Any authorization of Tree Works made by the Director under this Regulation is neither a representation nor a warranty by TFN that the Tree Works authorized will not have an adverse impact on the stability of the TFN Bluff Lands.

Penalties and fines for unauthorized activities on the TFN Bluff Lands

- 9 (1) The Director may inspect TFN Bluff Lands and the Bluffs Management Zone for compliance with this regulation and he or she may delegate that authority to the TFN enforcement officer or another person who has the authority to enforce TFN laws and regulations.
- (2) A fine of up to \$2,000 may be levied for unauthorized Tree Works.
- (3) Where the Director intends to inspect a portion of the TFN Bluff Lands within an area that is under lease (e.g. the Northwest Holdings Society, Stahaken Lots), the Director will provide the lessee with advance notice of the inspection.
- (4) The Director may, with reasonable notice to applicable leaseholders, enter the Bluff Management Zone to inspect a property for compliance with this regulation.
- (5) In the event that unauthorized Tree Works take place on the TFN Bluff Lands or the Bluff Management Zone the Director may, in addition to the penalties set out in this section,
 - (a) replant or reseed areas where unauthorized Tree Works have occurred and charge offenders for the associated costs, and
 - (b) establish fencing on TFN Bluff Lands adjacent to the back property line of a TFN Bluff Lessee or Pacific Drive Homeowner lot where the unauthorized activity took place.


- (6) For greater certainty, any person who undertakes Tree Works on the TFN Bluff Lands not in compliance with the regulation is in trespass under the *Land Act* (Tsawwassen) and may also be in trespass under the *Trespass Act* (British Columbia) if the Tree Works took place within the leased area of the TFN Bluff Lands under lease, and may be subject to penalties imposed under either of those pieces of legislation.

Repeal

- 10 The *Tree Protection Regulation* enacted pursuant to Executive Council order O.025-2009 is hereby repealed on the coming into force of this regulation.

APPENDIX A – APPLICATION FORM

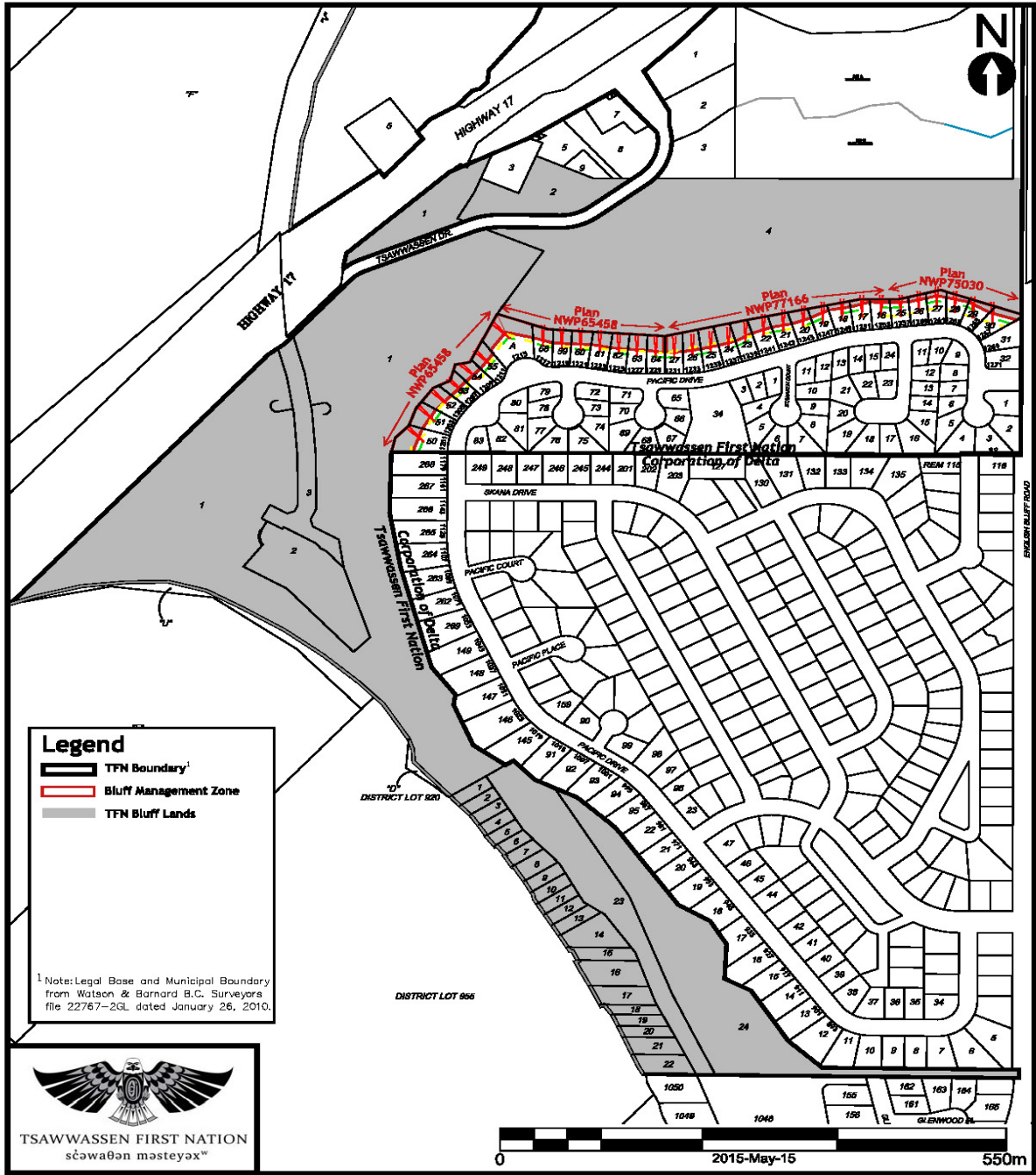
SOME OF THE INFORMATION REQUIRED ON THIS FORM IS PERSONAL INFORMATION WITHIN THE MEANING OF THE *FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT*. THIS INFORMATION IS REQUIRED ONLY FOR THE PURPOSES OF ASSISTING THE TSAWWASSEN GOVERNMENT TO ENSURE THAT ALL LAWS, REGULATIONS AND POLICIES GOVERNING LAND ALLOCATIONS ARE BEING COMPLIED WITH. ALL OF THE INFORMATION COLLECTED HEREIN WILL BE PROTECTED IN ACCORDANCE WITH THE *FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT*.

 <p style="text-align: center; font-size: small;">TSAWWASSEN FIRST NATION sčəwaθən məsteyəx™</p>	Application to Establish, Maintain or Amend a View
All applications must include a completed application form and applicable fees.	
<p>Applicant Name: FULL LEGAL NAME of Applicant: _____</p> <p>Contact Name for Applicant: _____</p> <p>Applicant Mailing Address: _____ _____ _____</p> <p>Postal Code _____</p> <p>Applicant Contact Numbers: Phone: _____ Alternate Phone: _____</p> <p>Applicant Email Address: _____</p>	<p>Are you an Agent submitting this application on behalf of your client? Yes No</p> <p>Letter of Agency attached Yes No</p> <p>Agent Name & Mailing Address: _____ _____ _____</p> <p>Postal Code _____</p> <p>Agent Contact Numbers: Phone: _____</p> <p>Agent Email Address: _____</p>
Are you applying to (please check one)	
○ Establish a View	<input type="checkbox"/>
○ Maintain a View	<input type="checkbox"/>
○ Amend the viewpoint of an existing View	<input type="checkbox"/>
In the event that you are applying to amend a View, please identify specifically what you would like to change:	

<p>Application Fees The following fees must be paid on submitting this application and applications received without a fee will not be reviewed by TFN.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Fee to establish a View:</td> <td style="text-align: right;">\$300</td> </tr> <tr> <td>Fee to maintain a View:</td> <td style="text-align: right;">\$300</td> </tr> <tr> <td>Fee to amend a viewpoint:</td> <td style="text-align: right;">\$1,000</td> </tr> </table>	Fee to establish a View:	\$300	Fee to maintain a View:	\$300	Fee to amend a viewpoint:	\$1,000
Fee to establish a View:	\$300					
Fee to maintain a View:	\$300					
Fee to amend a viewpoint:	\$1,000					
<p>Acknowledgement and Waiver</p> <p><input type="checkbox"/> By submitting this application and by checking this box, I acknowledge that despite the process set out in this regulation, TFN makes no representation or guarantee that the Tree Works I am seeking to have done in support of a View will not adversely impact the stability of the Bluff. I further agree to waive any and all claims I have or may have in the future against TFN from any and all loss directly or indirectly related to the Tree Works, and I acknowledge the limitations on TFN's liability identified in this Regulation and Part 5A of the <i>Land Act</i> (Tsawwassen).</p>						
<p>For Office Use Only: Date Application Received (mm/dd/yyyy): Application Fee Paid (Y/N): Comments:</p> <p>Staff Initials:</p>						
<p>Qualified Geotechnical Professional and/or Qualified Arborist Comments Arborist report supplied: (Y/N) Date of Report Geotechnical report supplied [if required]: (Y/N) Date of Report</p>						

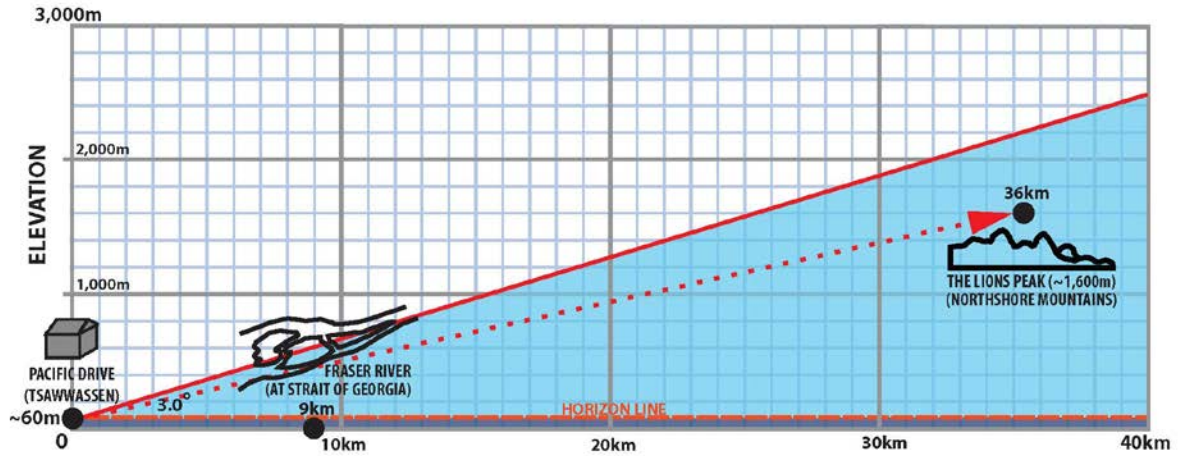
<p>Director Comments</p>

SCHEDULE A: TFN BLUFF LANDS

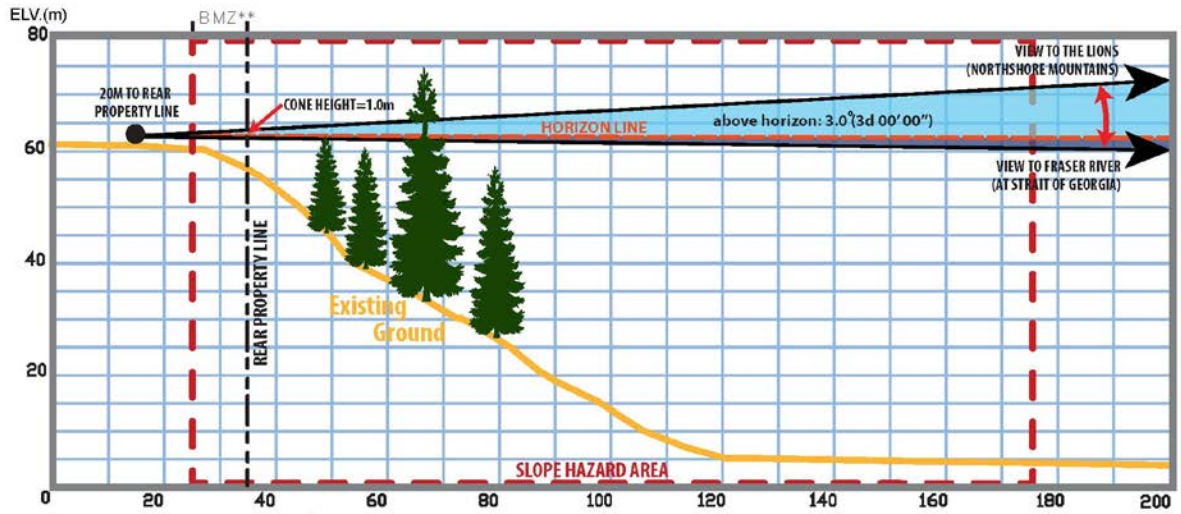


SCHEDULE B: TFN BLUFF LANDS – NORTH VIEW SECTION SKETCHES 1 AND 2

Section Sketch 1 – Potential North View from Tsawwassen Bluffs to North Shore Mountains



Section Sketch 2 – Potential North View from Tsawwassen Bluffs - Detail

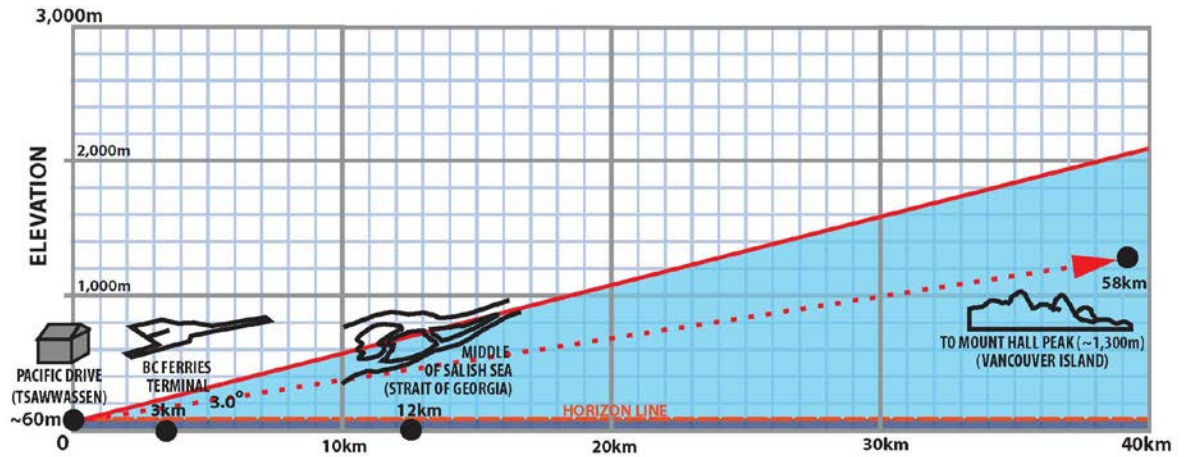


Note: Slope Hazard Area from Fig 4 of "Golder Landslide Risk Assessment, English Bluff Area of TFN Lands, Tsawwassen, BC" dated 2010–Nov–18.

**Bluff Management Zone per TFN Tree Regulation.

SCHEDULE C: TFN BLUFF LANDS – WEST VIEW SECTION SKETCHES 1 AND 2

Section Sketch 1 – Potential West View from Tsawwassen Bluffs to Vancouver Island



Section Sketch 2 – Potential West View from Tsawwassen Bluffs – Detail Section

