



Policy:	4.2.2
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Policy Holder:	Legislative Services Manager

ADVISORY PLANNING COMMISSION OPERATING GUIDELINES

Purpose

To provide guidance to Local Trust Committees on directing the operations of Advisory Planning Commissions.

A. Policy (Guidelines)

1. Statutory

The Local Trust Committee (LTC), by bylaw pursuant to Section 461 of the *Local Government Act*, establishes an Advisory Planning Commission (APC) to provide advice to the Local Trust Committee on land use, community planning or bylaws under Part 14 of the *Local Government Act*. The *Act* in sections 226 and 223 requires all meetings be in public and that proper minutes are kept and made available to the public.

2. Introductory

- 2.1 The APC, in advising the LTC, is required to operate in line with the provisions of the *Local Government Act* and the legislated object of the Islands Trust, and in compliance with the provisions of the island's Official Community Plan, regulatory bylaws, and the APC procedural bylaw.
- 2.2 The APC exists for the purpose of advising the LTC, and the APC shall ensure that the proceedings are limited to that purpose. In responding to requests for its advice, the APC shall make recommendations that reflect the best interests of the community at large.

3. LTC/APC Referral Process

- 3.1 The APC shall consider only those matters referred to it by resolution of the LTC.
- 3.2 The LTC may resolve to request the provision of a staff report to accompany a referral to the APC.
- 3.3 The LTC, by resolution, shall provide written direction to the APC on the matters to be considered in relation to a referral, including the specification of a latest date for the APC to provide a response, and the provision of opportunities for public involvement.
- 3.4 All APC recommendations on referrals must be recorded as resolutions in approved minutes made available to the public.

- 3.5 The APC, in dealing with referrals and upon request by the LTC, may consult with other island public bodies and, through the LTC, may request information from Trust staff or other government agencies.

4. Notification of APC Meetings

- 4.1 When the APC Chair has called a meeting, the secretary shall give at least five days notice of the date, time, location, and proposed agenda to all APC members, the LTC, and applicants where required by statute.
- 4.2 LTC members are entitled to attend and observe all APC meetings, and may act in a resource capacity.
- 4.3 Public notice of meetings must be posted on the notice board on-island and, where applicable, in the Islands Trust Victoria office at least 72 hours before the meeting and must include the place, time and date of meeting.

5. Minutes

- 5.1 Minutes of all APC meetings shall be legible and signed by the APC Chair. Copies of the minutes shall be provided to the LTC members and to the Planning Secretary of the Islands Trust and, upon request, must be made available to the public.
- 5.2 The minutes shall record the resolutions regarding the recommendations, and related reasons where appropriate, on the matters referred to the APC by the LTC.
- 5.3 The recommendations to the LTC shall be communicated expeditiously and, when necessary, before subsequent approval of the related minutes. The Chair of the APC shall ensure that the recommendations are communicated accurately and reflect the views of the Commission.
- 5.4 Official minutes of APC meetings shall be made available to the public after they have been approved at a subsequent APC meeting.

6. APC Response Direction

6.1 Application Consideration

- 6.1.1 Subsection 461(8) of the *Local Government Act* requires that applicants for an amendment to a plan or bylaw, or for the issuance of a permit, are "entitled to attend at meetings of the commission (APC) and be heard". There is therefore a statutory duty imposed on an APC when such referrals are under consideration. Any breach of this duty may lead to a legal challenge of related decisions made by the LTC.
- 6.1.2 In responding to referrals on particular applications, the APC should provide advice in terms of the object, the local characteristics of the site under consideration and the APC's assessment of the needs and expectations of the community as a whole.

6.2 Bylaw Referral

- 6.2.1 When responding to the referral of a proposed bylaw, the APC should consider the implications of any proposed changes in terms of the existing plan and regulations.
- 6.2.2 Where a proposed bylaw relating to a particular application is being referred, such a referral is also subject to the Subsection 461(8) provision entitling applicants to attend at meetings of the APC, and to be heard. There is therefore a statutory duty imposed on the APC, any breach of which may lead to a legal challenge of related decisions made by the LTC.
- 6.2.3 Where a proposed bylaw being referred has been initiated by the LTC, the APC may be requested to make a recommendation based on the results of: APC sub-committee investigations; reports provided by other agencies; public input; and its own deliberations.
- 6.2.4 In responding to referrals of proposed bylaws, the APC should provide advice in the form of a clear recommendation, with associated reasons, to the LTC to:
 - 6.2.4.1 Take the bylaw forward to Public Hearing.
 - 6.2.4.2 Proceed with the bylaw on a conditional basis.
 - 6.2.4.3 Not proceed with the bylaw.
 - 6.2.4.4 Not proceed with the bylaw at this time.

7. Public Meeting

All meetings of the APC must be held in public. The APC bylaw should specify how, and under what procedures, the APC may receive delegations or comments from the public at its meetings, except for the ones required to be heard under section 461(8).

8. Public Hearings

- 8.1 The APC operates as a statutory referral agency in relation to proposed bylaws that are the subject of a public hearing. The APC recommendation on the referral at this stage will be read into the record of the public hearing.
- 8.2 It is not appropriate for the APC to otherwise intervene at a public hearing, which is held for the purpose of public (not agency) input. Members of an APC should feel free to speak at public hearings as individuals, but not as members of the APC.
- 8.3 The LTC should not receive comments regarding a proposed bylaw from the APC after a public hearing on that bylaw has been held.

9. Communications

9.1 The APC is an advisory body only and its advice is for the sole benefit of the LTC.

9.2 The LTC cannot fetter its discretion in any way, and cannot therefore be placed under any obligation to follow the recommendations of an APC. However, the LTC may recognize the desirability of communicating its decision-making rationale where appropriate, in the interests of maintaining an effective working relationship between the APC and LTC.

B. Legislated References

Local Government Act, Section 461

C. Attachments/Links to Supporting Forms, Documents, Websites, Related Policies and Procedures

n/a