



DATE OF MEETING: January 28, 2021
TO: North Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: NP STVR Project - Update

PURPOSE

The purpose of this staff memo is to provide the North Pender Local Trust Committee (LTC) with an update on the Short Term Vacation Rental (STVR) Project.

BACKGROUND

At the October 29, 2020 LTC meeting the LTC gave First Reading to proposed Bylaw No. 222 (bylaw attached) and determined that the proposed bylaw was not contrary or at variance with the Islands Trust Policy Statement. The LTC passed then following resolution at the November 29, 2020 LTC meeting:

NP-2020-054

that the North Pender Island Local Trust Committee request staff to schedule a Community Information Meeting and Public Hearing for Bylaw No. 222, cited as “North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No. 1, 2020”.

Background information regarding the project and the updated Project Charter can be found on the North Pender Project webpage: <http://www.islandstrust.bc.ca/islands/local-trust-areas/north-pender/projects-initiatives/np-stvr-review-project/>

ANALYSIS

Proposed Bylaw No. 222

Proposed Bylaw No. 222 amends the Temporary Use Permit (TUP) section of the North Pender Official Community Plan (OCP) for STVRs. The proposed bylaw includes, but not limited to, the following amendments to the TUP guidelines for STVRs:

- Restriction on the number of STVR TUPs (no more than one TUP STVR within a 200 metre buffer from another TUP STVR);
- Additional drinking water guidelines and restrictions;
- Amended notification requirements and additional contact information guidelines;
- Limit the number of guests to 6 within Magic Lake Estates Water System Area;
- Limit number of days a STVR may operate during the summer months to a total of 30 days; and
- A restriction on STVR TUP applications from absentee property owners.

Referrals

Referrals were sent out in November 2020 to the list of agencies and First Nations outlined in the October 29, 2020 staff report. To date, we have received a number of responses – see the attached Referral Report. Any further comments received will be circulated to the LTC and will be included in the Public Hearing binder.

The Capital Regional District (CRD) provided the following comments on the proposed bylaw:

Approval recommend subject to conditions:

CRD Integrated Water Services - *Currently, the Magic Lake Estates wastewater system is at its capacity (particularly during the winter months due to inflow and infiltration), but if the Short Term Vacation Rental (STVR) is not discharging more wastewater than what can be reasonably expected from a rural residential property, then the wastewater system should not see any overall increased demand. So, the TUP should require STVR's to confirm that the number of occupants and the volume of wastewater discharge shall not exceed what can be reasonably expected from an existing rural residential property use.*

CRD Planning & Protective Services - Building Inspection Department: *Approval recommended only for dwelling units, secondary suites, or cottages with Occupancy Permit approval.*

The proposed bylaw includes a guideline that limits the number of guests to six for properties located within Magic Lake Estates Water System. As all properties located within the wastewater service area are also located within the water service area, the restriction to limit the number of guests to 6 would currently apply to those properties located within the CRD wastewater system.

If the LTC agrees to address comments made by the CRD Building Inspection Department, the LTC could make an amendment to the proposed bylaw that would add a new TUP guideline as follows:

“6.4.19 A short term vacation rental temporary use permit should not be issued in a dwelling, cottage, or secondary suite that does not have Occupancy Permit approval.”

Adding this guideline would clearly demonstrate clear intent from the LTC that it would not support a STVR TUP in a building without proper CRD approvals. The applicant would then need to include the Occupancy Permit with the TUP application.

Alternatively, the North Pender [“Temporary Use Permit Applications for Short Term Vacation Rentals Development Approval Information \(DAI\) Checklist”](#) could be updated when the bylaw is adopted to add a requirement that the applicant must provide occupancy permit for the dwelling unit, suite, or cottage used as a STVR. This is a straightforward administrative action. This option would not require an amendment to the proposed bylaw, nor would it require a resolution from the LTC. It could result in an applicant still applying for a STVR TUP even if an Occupancy Permit was never received and therefore the LTC would have to decide to approve or not approve the TUP based on the application’s merits and rationale at a LTC meeting.

Bylaw Amendments

A bylaw may be altered after the public hearing, based on information received or heard by the LTC at any point prior to the close of the hearing, provided that the amendments do not alter use or increase density, or decrease density without a landowner’s consent. The LTC stated at the November 26, 2020 meeting that it may make an amendment to the TUP guideline concerning summer rental limits, but would do so after the public hearing once they hear from the community. Staff will include a draft resolution to make amendments to the bylaw in the staff report presented at the next LTC meeting for the LTC’s consideration.

Public Hearing

In accordance with regular statutory requirements, a Public Hearing is required for any bylaw amendment. A Public Hearing for proposed Bylaw No. 222 is scheduled to be held at the regular LTC meeting on February 25, 2021. A Community Information Meeting will be held on the same date prior to the Public Hearing.

NEXT STEPS

A Community Information Meeting and Public Hearing will be scheduled for the February 25, 2021 LTC meeting.

Submitted By:	Kim Stockdill, Island Planner	January 18, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	January 18, 2021

ATTACHMENTS

1. Proposed Bylaw No. 222
2. Referral Report - dated January 21, 2021
3. CRD Referral Response

PROPOSED

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 222

A BYLAW TO AMEND NORTH PENDER ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 171, 2007

The North Pender Island Local Trust Committee enacts in open meeting assembled as follows:

1. CITATION

This Bylaw may be cited for all purposes as “North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No. 1, 2020”.

2. SCHEDULES

North Pender Island Official Community Plan No. 171, 2007 is amended as shown on Schedule 1, attached to and forming part of this bylaw.

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS	29TH	DAY OF	OCTOBER,	2020
PUBLIC HEARING HELD THIS	_____	DAY OF	_____	20____
READ A SECOND TIME THIS	_____	DAY OF	_____	20____
READ A THIRD TIME THIS	_____	DAY OF	_____	20____
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____	DAY OF	_____	20____
APPROVED BY THE MINISTER MUNICIPAL AFFAIRS AND HOUSING THIS	_____	DAY OF	_____	20____
ADOPTED THIS	_____	DAY OF	_____	20____

CHAIR

SECRETARY

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 222**

SCHEDULE 1

The North Pender Island Official Community Plan Bylaw No. 171, 2007, is amended as follows:

1. By deleting Part 6 Temporary Use Permits and replacing it with the following:

“PART 6 TEMPORARY USE PERMITS

An Official Community Plan may designate areas where temporary uses may be allowed. A temporary use permit may allow a use not permitted by zoning, specify conditions under which the temporary use may be carried on, and allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued. A permit may be issued for a period of up to three years and may be renewed only once, after which a new application is required.

Temporary Use Permit Policies and Guidelines

- 6.1 The North Pender Island Local Trust Committee may issue temporary use permits for any area covered by this plan.
- 6.2 The Local Trust Committee may consider requiring development information for temporary use permit applications through adoption of a development approval information bylaw.
- 6.3 The Local Trust Committee should consider the climate change impacts of any significant change in use in reviewing temporary use permit applications.
- 6.4 In addition, the following guidelines apply when the Local Trust Committee is considering the issuance of a short term vacation rental temporary use permit:
 - 6.4.1 For the purpose of a temporary use permit, “short term vacation rental” means the use of a dwelling, cottage, or secondary suite as temporary commercial accommodation for a period of less than a month at a time by persons other than the owner or a permanent occupier.
 - 6.4.2 The Local Trust Committee may consider issuance of a short term vacation rental temporary use permit provided the short term vacation rental use would not alter the residential appearance of the residence.
 - 6.4.3 The Local Trust Committee should consider the cumulative effects on the neighbourhood and Island of all temporary use permits issued for short term vacation rentals.

- 6.4.4 The Local Trust Committee should not approve more than one short term vacation rental temporary use permit within a 200 metre radius from another short term vacation rental temporary use permit.
- 6.4.5 The applicant should demonstrate an adequate supply of water and septic capacity for the duration of the proposed use.
- 6.4.6 If the property is serviced by a private well, the applicant must demonstrate the well has adequate quality and quantity of water for the short term vacation use. A pump test, professional report, or rainwater system may be required for the application or as a condition of the permit.
- 6.4.7 If the property is serviced by a community water system, the application should be referred to the water system for information.
- 6.4.8 A short term vacation rental temporary use permit should not be issued if located within the Trincomali Improvement District.
- 6.4.9 The applicant should demonstrate that the property is able to accommodate off-street parking for a minimum of two vehicles.
- 6.4.10 If the proposal is located on a property identified as containing a sensitive ecosystem, the temporary use permit should require that the applicant provide information for guests indicating the location of the sensitive areas, and information on how to avoid impacting the sensitive features.
- 6.4.11 The temporary use permit should restrict advertising to one unilluminated sign, with a maximum area of 0.6 m².
- 6.4.12 The temporary use permit should require that the owner or other designated contact be available on North or South Pender Island by telephone or email at all times when the short term vacation rental is in use.
- 6.4.13 The temporary permit should require the owner or manager provide neighbours within a 100 metre radius of the vacation rental with the owner or manager's phone number and email, and a copy of the temporary use permit.
- 6.4.14 The permit should require the applicant post the following information for guests:
- a) remind guests that the property is located in a residential area;
 - b) information on noise bylaws, water conservation, fire safety, storage and disposal of garbage and recycling, septic care and control of pets (if pets are permitted);
 - c) emergency services contact information, and to provide a means for contacting them if the property is located in an area with no cellular service; and

- d) the applicant provide the name and contact information of the property owner or designated contact who is available on North or South Pender Island at all times when the short term vacation rental is in use.

6.4.15 In addition to any other conditions the Local Trust Committee may consider appropriate, in some situations the permit may:

- a) limit the number of bedrooms that can be used for short term vacation rentals;
- b) limit the number of guests to 6 for properties located within the Magic Lake Estates Water System Area;
- c) limit the number of days the short term vacation rental may be in use from the period of May 1 to September 30 in a calendar year to a total of thirty days;
- d) require mitigating measures to address neighbours' concerns, such as retention of existing screening and fencing, or installation of additional screening;
- e) require the landowner/operator to post contact information and permit information at the entrance to the property;
- f) prohibit camping or occupancy of RVs on the property;
- g) prohibit the rental or provision of motorized personal watercraft;
- h) prohibit watercraft that has been brought from off island to be used on Magic Lake or Buck Lake;
- i) prohibit outdoor fires; and
- j) establish the dates during which the use may occur.

6.4.16 A temporary use permit for a short term vacation rental on a parcel in the Agricultural Land Reserve may require the approval of the Agriculture Land Commission prior to the permit being issued.

6.4.17 A temporary use permit may be issued for a short term vacation rental within a secondary suite.

6.4.18 An application for a short term vacation rental temporary use permit should not be considered if the dwelling unit is not occupied on a regular basis by the property owners.



Referrals: Bylaw NP-222

Agency	Sent	Received
BC Assessment Authority <i>Policy, Audit and Legal Services: Cathie McIntyre</i>	13-Nov-2020	
Capital Regional District - All Referrals Christine Condron <i>625 Fisgard Street: Christine Condron</i> <i>Comment: The CRD responded with 'Approval recommended for reasons outlined' * See attached response with additional comments under Planning & Projective Services & Integrated Water Services*</i>	13-Nov-2020	11-Dec-2020
Capital Regional District Planning & Protective Services <i>Building Inspection Division Headquarters: Robert Gutierrez</i> <i>Comment: M. Taylor Manager Chief Building Inspector responded with: particularly for suites, Building Permit and Occupancy approval from the CRD Building Inspection Dept. is required. There are a considerable amount of secondary suites, and cottages and houses that are without final occupancy approval for one reason or another. (Provided an attachment of more explanation re: Integrated Water Services & Planning & Protective Services.)</i>	13-Nov-2020	21-Jan-2021
Capital Regional District, Justine Starke, Manager, Southern Gulf Islands Service Delivery <i>Capital Regional District: Justine Starke</i>	13-Nov-2020	
Cowichan Tribes <i>Chief and Council: Candace Charlie</i> <i>Comment: Cowichan Tribes responded to say they have no comments.</i>	13-Nov-2020	26-Nov-2020
Halalt First Nation <i>7973 Chemainus Rd: Raven August</i> <i>Comment:</i>	13-Nov-2020	
Halalt First Nation <i>Chief and Council: Jack Smith</i> <i>Comment: Halalt FN - responded by saying "no comments".</i>	13-Nov-2020	18-Nov-2020
Islands Trust, Bylaw Enforcement <i>200 - 1627 Fort Street: Warren Dingman</i>	13-Nov-2020	
Lake Cowichan First Nation <i>313B Deer Road: Carole Livingstone</i> <i>Comment:</i>	13-Nov-2020	
Lyackson First Nation <i>7973A Chemainus Road: Linda Aidnell</i> <i>Comment: Lyackson First Nation defers to those First Nations' whose title and governing authorities are directly affected. By deferring this referral to another local First Nation, Lyackson First Nation in no way surrenders its current rights and title claims.</i>	13-Nov-2020	08-Dec-2020



Referrals: Bylaw NP-222

Agency	Sent	Received
<p>Magic Lake Estates Water & Sewer Local Services Committee <i>479 Island Highway: Ted Robbins</i></p>	13-Nov-2020	
<p>Malahat First Nation <i>110 Thunder Road, RR4: Heather Adams</i> <i>Comment:</i></p>	13-Nov-2020	
<p>Mayne Island Local Trust Committee <i>Islands Trust: Jas Chonk</i> <i>Comment: Interests Unaffected.</i></p>	13-Nov-2020	30-Nov-2020
<p>Ministry of Municipal Affairs and Housing <i>Planning and Land Use Management: Kris Nichols</i></p>	13-Nov-2020	
<p>Pauquachin First Nation <i>9010 West Saanich Road: Darlene Henry</i> <i>Comment: No Comment Received</i></p>	13-Nov-2020	
<p>Penelakut Tribe <i>Box 360: Denise James</i> <i>Comment: No Comment Received</i></p>	13-Nov-2020	
<p>Razor Point Improvement District <i>6612A Harbour Hill Road: Lynda Challis</i></p>	13-Nov-2020	
<p>Salt Spring Island Local Trust Committee <i>1 - 500 Lower Ganges Road: Peter Luckham</i> <i>Comment: Interests unaffected.</i></p>	13-Nov-2020	16-Dec-2020
<p>Saturna Island Local Trust Committee <i>200 - 1627 Fort Street: Jas Chonk</i></p>	13-Nov-2020	
<p>Semiahmoo First Nation <i>16049 Beach Rd: Chief & Council</i> <i>Comment:</i></p>	13-Nov-2020	
<p>South Pender Island Local Trust Committee <i>200 - 1627 Fort Street: Jas Chonk</i></p>	13-Nov-2020	
<p>Trincomali Improvement District <i>7903 Trincoma Place: Mel MacDonald</i></p>	13-Nov-2020	04-Dec-2020



Referrals: Bylaw NP-222

Agency	Sent	Received
<p><i>Comment:</i> TID responded with: "Approval Recommended" but could have, in the alternative, responded "Interests Unaffected" due to the inclusion of the exception for TID under Part 6.4.8. The TID highlights that the clause excluding Trincomali Improvement District from vacation rental use was the reason they find the bylaw acceptable.</p>		
<p>Tsartlip First Nation <i>PO Box 70: Karen Harry</i> <i>Comment:</i></p>	13-Nov-2020	
<p>Tsawout First Nation <i>Box 121: Cathy Webster</i> <i>Comment:</i></p>	13-Nov-2020	
<p>Tsawwassen First Nation <i>1926 Tsawwassen Drive: Victoria Williams</i> <i>Comment:</i></p>	13-Nov-2020	
<p>Tseycum First Nation <i>1210 Totem Lane: Chief Tanya Jimmy</i> <i>Comment:</i></p>	13-Nov-2020	

CRD Staff Referral Response Form

Referral No.:

	Interests Unaffected	Approval recommended for reasons outlined	Approval recommended subject to conditions	Approval <i>not</i> recommended due to reasons outlined	Comments
Executive Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Finance & Technology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Integrated Water Services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Currently, the Magic Lake Estates wastewater system is at its capacity (particularly during the winter months due to inflow and infiltration), but if the Short Term Vacation Rental (STVR) is not discharging more wastewater than what can be reasonably expected from a rural residential property, then the wastewater system should not see any overall increased demand. So, the TUP should require STVR's to confirm that the number of occupants and the volume of wastewater discharge shall not exceed what can be reasonably expected from an existing rural residential property use.
Legislative Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Parks & Environmental Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Planning & Protective Services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Building Inspection Dept. Approval recommended only for dwelling units, secondary suites, or cottages with Occupancy Permit approval.