



Date: December 9, 2024
Time: 2:00 pm
Location: Electronic Meeting, and a physical location to view the livestream of the meeting:
Islands Trust Victoria Office
#200 - 1627 Fort Street
Victoria, BC V8R 1H8

	Pages
1. CALL TO ORDER	
2. APPROVAL OF AGENDA	
2.1 Introduction of New Items	
2.2 Approval of Agenda	
2.2.1 Agenda Context Notes - None	
3. BYLAWS FOR APPROVAL CONSIDERATION	
3.1 Galiano Island Local Trust Committee Bylaw No. 283 - Supplemental Briefing	1 - 3
3.2 Galiano Island Local Trust Committee - Bylaw Nos. 283 and 284 - Request for Decision	4 - 46
1. THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 283, cited as “Galiano Island Official Community Plan Bylaw 108, 1995, Amendment No. 1, 2022” in accordance with Section 27 of the <i>Islands Trust Act</i> .	
2. THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 284, cited as “Galiano Island Land Use Bylaw 127, 1999, Amendment No. 1, 2022” in accordance with Section 27 of the <i>Islands Trust Act</i> .	
4. NEW BUSINESS	
4.1 Executive/Trust Council	
4.2 Trust Area Services	
4.3 Planning Services	
4.4 Administrative Services	
4.5 Legislative and Information Services	
5. CLOSED MEETING	
That the meeting be closed to the public subject to Section 90(1)(i) of the Community Charter in order to consider matters related to receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and that staff be invited to remain in the meeting.	
6. RISE AND REPORT DECISIONS FROM CLOSED MEETING (if applicable)	

7. CORRESPONDENCE (for information unless raised for action)

7.1	2024-11-18 S Pottle - Galiano Island Proposed Bylaw 283	47 - 49
7.2	2024-11-18 J Margison - Letter for Nov.20 EC Mtg re- Galiano Bylaw 283	50 - 54
7.3	2024-11-18 A Forget - Galiano By Law 283	55 - 58
7.4	2024-11-18 J Bartley - Protest Bylaw 283 Executive Committee for Approval	59 - 60
7.5	2024-11-18 M Czuma - re-bylaw 283	61 - 64
7.6	2024-11-18 S Webster - Letter of concern.Galiano Island bylaw 283	65 - 65
7.7	2024-11-19 A Moses - Galiano LTC proposed bylaw 283	66 - 68
7.8	2024-11-19 B Hotte - Protesting Bylaw 283 Galiano Local Trust Committee	69 - 69
7.9	2024-11-19 D Arber - NB Islands Trust Executive Committee	70 - 71
7.10	2024-11-19 D Holmes - Proposed Galiano Local Trust Committee Bylaws# 283 284	72 - 72
7.11	2024-11-19 G Gaylor - Galiano Bylaws 283 and 284	73 - 74
7.12	2024-11-19 J Buttery - Bylaw 283 Bylaw 284	75 - 75
7.13	2024-11-19 J Webster - Letter of concern. Galiano Island bylaw 283	76 - 76
7.14	2024-11-25 B Campbell - Bylaw 283	77 - 77
7.15	2024-11-25 D Holmes - Letter to Executive Committee Re: Draft Galiano LTC Bylaws 283 and 284	78 - 81
7.16	2024-11-25 K Ramsay - Galiano Bylaw 283	82 - 82
7.17	2024-11-25 P Ramsay - Bylaw 283 Exemption P	83 - 84
7.18	2024-11-25 S Anderson - Expression of concern re- Galiano Island LTC - Bylaws 283 and 284	85 - 85
7.19	2024-11-25 T Rockafella - Bylaw 283, exemption (p)	86 - 86
7.20	2024-11-26 R Beairsto - Bylaw 282 exemption	87 - 87
7.21	2024-11-27 K Kyle - Bylaw 238	88 - 88
7.22	2024-11-27 J Bowers - Implications of exemption P as proposed in Bylaw 283	89 - 89
7.23	2024-11-27 L Whynot - Galiano LTC by-law 283	90 - 90
7.24	2024-11-28 M Howell - Bylaw 283	91 - 91
7.25	2024-11-28 S Rybak - GLTC Bylaw. 283 - exemption "p"	92 - 93
7.26	2024-11-28 J Bartley - Letter To EC re: Galiano Bylaw #283	94 - 99
7.27	2024-12-01 H Schofield - Galiano Island proposed bylaw 283, Item P	100 - 100
7.28	2024-12-01 L Seay - Galiano LTC Bylaw 283	101 - 101
7.29	2024-12-02 T Flynn - Galiano Bylaw 283	102 - 102
7.30	2024-12-6 C de Menyhart - <i>It is my belief that clause "q" is insulting for First Nations</i>	103 - 104

8. ADJOURNMENT

BRIEFING

To: Executive Committee **For the Meeting of:** December 9, 2024

From: Robert Kojima, RPM **Date Prepared:** November 28, 2024
Kim Stockdill, Island Planner

SUBJECT: Galiano Island Local Trust Committee Bylaw No. 283 – Supplemental Briefing

PURPOSE: To provide Executive Committee with additional information on the organizational, financial and legal implications of approval of Galiano Island Local Trust Committee Bylaw 283.

BACKGROUND:

The Galiano Island Local Trust Committee has referred proposed Bylaws 283 and 284 to Executive Committee for approval. At the meeting of November 20, 2024, EC reviewed the proposed bylaws and, after going into closed meeting, adopted the following resolutions in open meeting:

That the Executive Committee postpone consideration of proposed Galiano Island Local Trust Committee bylaws 283 and 284 to a special meeting to be held by Zoom prior to the deadline of December 15 and that the planning staff that have been in conversation with Penelakut Tribe on this issue be invited to attend.

That the Executive Committee request further information from staff regarding organizational, financial and legal implications of approval of Galiano Local Trust Committee Bylaws 283 and 284.

Although the resolution references both Bylaws 283 and 284, EC deliberation focused on Bylaw 283 and specifically proposed Development Permit Area (DPA) exemption '(q)' (previously referred to as exemption 'p') in the updated Groundwater Recharge Protection DPA, which would exempt from any requirement to obtain a Development Permit:

- (q) Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage.

To assist EC in understanding legal implications, staff have obtained a further legal opinion, which is included in the closed meeting agenda, expanding upon the opinion provided in 2023 and addressing several specific concerns.

ANALYSIS:

Organizational Implications:

1. Reconciliation: approval of the Bylaw could be considered to further reconciliation. Penelakut Chief attended the Public Hearing, along with members, and spoke in support of the Bylaw during the Community Information Meeting. The following are an excerpt from the [October 8, 2024 Community Information Meeting minutes](#):

“[Penelakut] Chief Jack made the following comments:

- The Islands Trust is not given enough credit for the work that it does
- I hear the concerns of the community members
- I want to reassure the community that we hold ourselves to a high standard, and are not just haphazardly doing work
- I speak in the direction that my Elders and Council have directed me; the agenda put forward is from our community and our Elders
- The integrity in how I speak is from my grandparents who raised me; I always try to honour my grandparents and our Elders
- I'm grateful that you are including us in a document and have pride that we are finally being included in a document that we were removed from not by choice
- Exemption 'p' is a topic of conversation; I want to hear the concerns and how we best work together to be able to move all our work forward
- When we are included in the documents, I appreciate and honour that and will work with people that are willing to work with me
- I say to the community, 'help us help you help us' in being able to move all our agendas forward working as one
- Thank you for being strong enough to stand up and put something in a document
- We appreciate the voice when we have never had one; we appreciate being included in a document when we have never had one; this is the foundation of the Declaration on the Rights of Indigenous Peoples Act, the United Nations Declaration on the Rights of Indigenous Peoples and reconciliation
- If we were to do anything that goes against our community as a whole we would have to answer to them"

Relationships with [Penelekut] Chief Jack may be negatively impacted if Bylaw 283 is not approved given Chief Jack's expressed support.

Approving Bylaw 283 could create expectations from Indigenous people in the future. Indigenous peoples may perceive exemptions or exclusions from bylaws as removing barriers to Indigenous customs and traditions. However, an Indigenous owner, once they have developed and improved fee simple land without a permit, is free to transfer that land to a non-Indigenous owner. Therefore, extending this practice for exempting Indigenous owners may harm future relationships based on unrealistic expectations.

2. Other local trust committees may wish to consider the same, or similar, exemptions in DPAs, extending the risk associated with this specific DPA. Additionally, some LTCs may consider extending the concept beyond DPA exemptions to other approval processes, which could have additional legal implications.
3. Interpretation: an assertion by a landowner that they would be exempt from a DP (due to exemption (q)) may be more difficult to interpret than other typical DP exemptions. Staff would likely rely on the advice of the Senior Indigenous Relations Advisor, and potentially on legal advice. However, exemptions relying solely on (q) would likely be limited in this DPA as there are a number of other exemptions that would apply to most work: Managed Forest land status, exemption letter from a qualified professional, work within a homeplate, and small-scale tree removal.

Financial Implications:

1. Establishing that a landowner's claim to be exempt under exemption (q) could involve staff time beyond that of a typical exemption claim, and potentially require a legal opinion or advice.

2. In the event the bylaw were to be challenged, litigation defense would involve costs. Even if EC or the LTC chose not to defend the bylaw, potentially costs could be awarded.

Legal Implications:

1. The supplemental legal opinion addresses a number of legal questions. However, generally staff understand that the proposed exemption would be at risk of being found invalid if subject to judicial review. However there are potential defenses and, if found invalid, exemption (q) would likely be severed, not affecting the rest of the DPA. Additionally, the risk of a challenge may be mitigated by the fact that landowners subject to the DPA would not benefit from a successful legal challenge.
2. Approving the bylaw with the exemption clause, whether or not the exemption clause was eventually found to be invalid, would not have any implications for other LTC bylaws, unless other bylaws were also adopted or amended to include a similar clause. If the proposed exemption clause was adopted and later found to be invalid, it would almost certainly be invalid if included in other development permit areas and perhaps even in other types of bylaws (for example if a zoning bylaw included an exemption from one or more zoning rules, for an Indigenous land owner). If the proposed exemption clause was never replicated or imitated in other bylaws, then its invalidity in the Galiano groundwater development permit area would not affect other LTC bylaws.

Penelakut Tribe communications: EC has requested that staff involved in discussions with Penelakut Tribe be requested to attend. Staff have met several times with Penelakut Tribe staff and council members to discuss several LTC initiatives and rezoning applications, not limited to this project.

The RFD and package from the November 10th EC meeting will be placed after this briefing in the December 9th, 2024 agenda package for consideration of approval of the bylaws.

ATTACHMENT(S): none.

FOLLOW-UP: Executive Committees' decision whether or not to approve Galiano Island Local Trust Committee bylaws 283 will be communicated to the Galiano Island Local Trust Committee.

Prepared By: Robert Kojima, RPM
Kim Stockdill, Island Planner

Reviewed By/Date: Director, Planning Services /December 2, 2024



Islands Trust

REQUEST FOR DECISION

LOCAL TRUST COMMITTEE BYLAW SUBMISSION

File No.: 3900-04/6500-20
(Groundwater Project)

DATE OF MEETING: November 20, 2024
TO: Islands Trust Executive Committee
FROM: Kim Stockdill, Island Planner
SUBJECT: Galiano Island Local Trust Committee – Bylaw Nos. 283 and 284

RECOMMENDATION

1. **THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 283, cited as “Galiano Island Official Community Plan Bylaw No. 108, 1995, Amendment No. 1, 2022” in accordance with Section 27 of the *Islands Trust Act*.**
2. **THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 284, cited as “Galiano Island Land Use Bylaw No. 127, 1999, Amendment No. 1, 2022” in accordance with Section 27 of the *Islands Trust Act*.**

DIRECTORS COMMENTS

Galiano Island Local Trust Committee has referred Bylaw Nos. 283 and 284 to the Executive Committee for approval under Section 27 of the *Islands Trust Act*. Staff recommends that the Executive Committee approve the bylaws as it is not contrary to or at variance to the Islands Trust Policy Statement.

IMPLICATIONS OF RECOMMENDATION

Organizational

None

Financial

None

Policy

None

Implementation/Communications

Communication to **Galiano Island Local Trust Committee** regarding the Executive Committee decision by **November 22, 2024**.

Other

None

PURPOSE

Galiano Island Local Trust Committee proposed Bylaw No. 283, cited as “Galiano Island Official Community Plan Bylaw No. 108, 1995, Amendment No. 1, 2022” (Attachment 6) will amend the Galiano Island Official Community Plan Bylaw No. 108, 1995 by updating relevant groundwater policies and objectives, replacing Schedule D – Water Resources with a new Schedule D – Groundwater Regions, and replacing the Development Permit Area (DPA) 4 – Elevated Groundwater Catchment with a new DPA 4 – Groundwater Recharge Protection.

Galiano Island Local Trust Committee proposed Bylaw No. 284, cited as “Galiano Island Land Use Bylaw No. 127, 1999, Amendment No. 1, 2022” (Attachment 7) will amend the Galiano Island Land Use Bylaw No. 127, 1999 by including new cistern requirements, updates to subdivision proof of water regulations, and new definitions.

BACKGROUND

Galiano Island Local Trust Committee Bylaw Nos. 283 and 284

In February 2021 the Galiano LTC received a report on the preliminary results of the mapping and data analysis phases of the Groundwater Sustainability Project and subsequently endorsed the project charter. The draft Bylaw Nos. 283 and 284 were first presented to the Galiano Island LTC in May 2022. Over the course of a year, the draft bylaws were amended further and currently comprise:

- **Bylaw 283 - General Amendments to Official Community Plan (OCP)**
 - Minor changes to Official Community Plan (OCP) language
 - Updates to relevant policies and objectives to ensure consistency with revised language, the new Groundwater Recharge Protection DPA, and other proposed changes to the OCP and the LUB
 - Replacement of Schedule D – Water Resources, with a new Schedule D – Groundwater Regions
 - Replacement of Schedule G – DPA Area 4: Elevated Groundwater Catchment, with a new DPA 4: Groundwater Recharge Protection
- **Bylaw 283- A Groundwater Recharge Protection Development Permit Area**
 - New Critical Aquifer Recharge Development Permit Area (DPA) guidelines which would amend the current Galiano Elevated Groundwater Catchment DPA. Amendments include: reference to 2021 mapping of recharge areas, additional exemptions (forest fire protection measures and land owned by persons with federal Indigenous status), changes consistent with introduction of cistern requirements for new builds, and changing the name of the DPA
 - The proposed Bylaw includes the schedule map for the 5 hectare critical aquifer coverage option with the parks and protected areas taken out. This is the DPA option that had been endorsed by the previous LTC
- **Bylaw 284 - Amendments to the Land Use Bylaw (LUB)**
 - New definitions
 - Cistern Requirements for all new builds (18,000 litres). An increase in cistern size for secondary suites to 18,000 litres. Captured and stored water is not required to be connected to the dwelling except in the Water Management Areas as per existing regulation 13.23

- References to “rainwater” with respect to cisterns has been changed to “freshwater” to support the capture and retention of groundwater as well as rainwater
- Updates to regulations related to proof of water for subdivision based on provisions developed for the North Pender LUB.

The LTC gave first reading of proposed Bylaw Nos. 283 and 284 on March 14, 2023. The LTC considered and determined that proposed Bylaw Nos. 283 and 284 are not contrary to or at variance with the Islands Trust Policy Statement on March 14, 2023 (Attachment 4).

A Community Information Meeting and Public Hearing were held on October 8, 2024.

Following the close of the public hearing, the LTC deferred further reading of the proposed bylaws until the next LTC meeting. The LTC then gave second and third readings to Bylaw Nos. 283 and 284 at the November 8, 2024 meeting after making the following amendments to the proposed bylaws:

- To exempt the cutting and removal of small trees with a trunk diameter of less than 20 centimetres
- To change the term ‘property’ to ‘lot’
- Moving cistern requirements from the subdivision servicing section of the LUB to the general regulations sections
- Amended the Schedule G map to remove a Nature Protection property from the DPA.

As mentioned above, the LTC had amended proposed OCP Bylaw No. 283 to include a DPA exemption that states: “Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage.” Questions were raised by the community regarding the validity of such exemption and how it would be enforced. The Galiano LTC has received a legal opinion regarding the exemption – publicly released version can be [found here](#). In summary the legal opinion suggested the exemption could be found to be invalid based on the principle that the Development Permit Area should focus on the regulation of land development activities and an exemption based on landowner identity could be challenged. Alternatively, there is support for the exemption as it could be deemed to be consistent with UNDRIP and due to the Islands Trust commitment to reconciliation. If the exemption was to be found invalid, the exemption would likely be severed from the OCP and would not impact the validity of the rest of the OCP or DPA.

Issues Relating To Provincial Interest

The proposed Bylaws were referred to Ministry of Municipal Affairs, Ministry of Forest, Lands and Natural Resource Operations – Water Protection, Ministry of Transportation and Infrastructure, Capital Regional District – Building Inspection, Islands Trust Bylaw Enforcement, Mayne, Salt Spring and Thetis Island Local Trust Committees for comment.

No major issues were raised.

Issues Relating To First Nation Interest

The proposed Bylaws were referred to Cowichan Tribes, Halalt First Nation, Ts’uubaa-asatx (Lake Cowichan) First Nation, Lyackson First Nation, Malahat First Nation, Musqueam Indian Band, Pauquachin First Nation, Penelakut Tribe, Semiahmoo First Nation, Snuneymuxw First Nation, Stz’uminus First Nation, Tsartlip First Nation, Tsawout First Nation, Tsawwassen First Nation, Tseycum First Nation and WSANEC Leadership Council for comment.

In addition to the early engagement letter, bylaw referral, and the Public Hearing notice, a letter was sent to local First Nations and members of an indigenous family with historical and cultural ties to Galiano Island to provide further comments on the Groundwater Sustainability Project and DPA exemption 'p'. The responses received included 'no comment or concerns'. The Penelakut Nation Chief, council members, and staff attended the Public Hearing on October 8, 2024 and verbally expressed support for the proposed bylaws.

Issues Relating To Resources and Enforcement

None.

Public Comments

None.

Staff Comments

The Executive Committee is being asked to approve Galiano Island Local Trust Committee Bylaw No. 283, cited as "Galiano Island Official Community Plan Bylaw No. 108, 1995, Amendment No. 1, 2022" and Galiano Island Local Trust Committee Bylaw No. 284, cited as "Galiano Island Land Use Bylaw No. 127, 1999, Amendment No. 1, 2022" in accordance with Section 27 of the *Islands Trust Act*.

Based on the foregoing, the recommendations on page 1 are supported as:

- The proposed bylaws have been determined to be consistent with the ITPS by the LTC;
- First Nation referrals were completed and no concerns were raised;
- Agency referrals were completed and no concerns were raised;
- Statutory processes have been completed including the statutory notification and holding of a public hearing prior to third reading of the bylaw.

RELEVANT POLICY

- Section 27 of the *Islands Trust Act*
- Islands Trust Policy Statement Directive Policies
- Islands Trust Policy 1.3.i [Policy Statement Implementation Policy]

ALTERNATIVE

1. Determine that the bylaw is contrary to the Islands Trust Policy Statement:

THAT the Executive Committee request that staff advise Galiano Island Local Trust Committee in writing that the Executive Committee considers that Bylaw No. 283, cited as “Galiano Island Official Community Plan Bylaw No. 108, 1995, Amendment No. 1, 2022” is contrary to or at variance with the Islands Trust Policy Statement for [INSERT REASONS], and advise the Galiano Island Local Trust Committee on steps needed to address the specified issues.

THAT the Executive Committee request that staff advise Galiano Island Local Trust Committee in writing that the Executive Committee considers that Bylaw No. 284, cited as “Galiano Island Land Use Bylaw No. 127, 1999, Amendment No. 1, 2022” is contrary to or at variance with the Islands Trust Policy Statement for [INSERT REASONS], and advise the Galiano Island Local Trust Committee on steps needed to address the specified issues.

Submitted By:	Kim Stockdill, Island Planner	November 8, 2024
Concurrence:	Stefan Cermak, Director Planning Services	November 14, 2024

ATTACHMENTS

1. EC Submission Cover
2. Bylaw Submission Checklist
3. Bylaw Referrals Report
4. Islands Trust Policy Statement Directives Only Checklist
5. EC Policy Checklist
6. Bylaw No. 283
7. Bylaw No. 284
8. First Nations follow-up Tracking



Local Trust Committee Bylaws
Submission for Executive committee Approval

Local Trust Committee: Galiano Island Local Trust Committee

Bylaw No.: GL-283

Bylaw Type: Official Community Plan Bylaw

Date of resolution referring bylaw to Executive Committee: 08-Nov-2024

- ☒ Bylaw Submission Checklist attached
- ☒ Policy Statement Checklist attached*
* not required for administrative bylaws
- ☒ Summary of Bylaw Intent Attached

Received by Islands Trust Secretary:

Signature: _____
Secretary

Date: _____

Deadline for Executive Committee decision (one month after receipt by Secretary as determined pursuant to the Interpretation Act*): _____

Date bylaw will appear on Executive Committee agenda: _____

- *a month means "a period calculated from a day in one month to a day numerically corresponding to that day in the following month, less one day"*
- *In the calculation of time expressed as clear days, weeks, months or years, or as "at least" or "not less than" a number of days, weeks, months, or years, the first and last*

Distribution: Executive Committee

Director, LPS

Local Trust Committee

Planner

Planning Clerk



Local Trust Committee Bylaws
Submission for Executive committee Approval

Local Trust Committee: Galiano Island Local Trust Committee

Bylaw No.: GL-284

Bylaw Type: Land Use Bylaw

Date of resolution referring bylaw to Executive Committee: 08-Nov-2024

- ☒ Bylaw Submission Checklist attached
- ☒ Policy Statement Checklist attached*
* not required for administrative bylaws
- ☒ Summary of Bylaw Intent Attached

Received by Islands Trust Secretary:

Signature: _____
Secretary

Date: _____

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Distribution: Executive Committee

Director, LPS

Local Trust Committee

Planner

Planning Clerk

Bylaw: GL-283

Trust Area: Galiano Island Local Trust Committee

Type: Official Community Plan Bylaw

Bylaw No.: GL-283

Application No.:

Trust Initiated: Yes

Proofread By:

Clerk: Yes
Planner: Yes

Technical Staff: No

First Reading Date: 14-Mar-2023

Bylaw Sent to Referrals: Yes

Date Proposed Bylaw to Web: 10-Feb-2023

Resolutions:

Resolution Waiving Public Hearing: No

Resolution Authorizing Public Hearing: Yes

Resolution to Proceed no Further Date:

Secretary Signature Block:

Secretary's Signature: Chonk, Jas

Date: 17-Sep-2024

File complete and ready for Public review: Yes

Public Hearings:

Location: Galinao Lions Club Hall

Proofread By: Chonk, Jas

Legal Paper: Gulf Island Driftwood

First Publish Date: 25-Sep-2024

Second Publish Date: 02-Oct-2024

Alternate Paper: Gulf Island Driftwood

First Publish Date:

Second Publish Date:

Mailout Date:

Delivery Notices:

Date Public Hearing Held:

Second Reading Date: 08-Nov-2024

Third Reading Date: 08-Nov-2024

Bylaw: GL-284

Trust Area: Galiano Island Local Trust Committee

Type: Land Use Bylaw

Bylaw No.: GL-284

Application No.:

Trust Initiated: Yes

Proofread By:

Clerk: Yes

Technical Staff: No

Planner: Yes

First Reading Date: 14-Mar-2023

Bylaw Sent to Referrals: Yes

Date Proposed Bylaw to Web: 10-Feb-2023

Resolutions:

Resolution Waiving Public Hearing: No

Resolution Authorizing Public Hearing: Yes

Resolution to Proceed no Further Date:

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Secretary's Signature: Chonk, Jas

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Second Publish Date: 02-Oct-2024

Alternate Paper: Gulf Island Driftwood

First Publish Date:

Second Publish Date:

Mailout Date:

Delivery Notices:

Date Public Hearing Held:

Second Reading Date: 08-Nov-2024

Third Reading Date: 08-Nov-2024

Referrals: Bylaw GL-283

Agency	Sent	Received
Bylaw Enforcement <i>Islands Trust: Warren Dingman</i>	07-Feb-2023	
Capital Regional District - All Referrals Aggie Chan and Jessica Arnet <i>625 Fisgard Street: Aggie Chan</i> <i>Comment: Integrated Water Services - The Bylaw update applies to the CRD water service area on Galliano Island (Stick Allison area). CRD Integrated Water Services wants to ensure the update takes into account the CRD water service supply. Has the CRD water supply for the Sticks Allison water service area on Galiano been considered in this bylaw amendment? Please confirm why the land where the water supply well sits, and is adjacent to, was not categorized as a Development Permit Area critical groundwater recharge area? CRD Building Inspection Dept. -Plumbing Permits will be required for plumbing systems or alterations to a plumbing system on site.</i>	07-Feb-2023	08-Mar-2023
Cowichan Tribes <i>5760 Allenby Rd: Tracey Flemming</i> <i>Comment: No Comment Received</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Halalt First Nation <i>7973 Chemainus Rd: Raven August</i> <i>Comment: No Comment Received</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Lake Cowichan First Nation <i>313B Deer Road: Carole Livingstone</i> <i>Comment: Ts'uubaa-asatx Nation does not have any comments to provide at this time regarding this application proceeding. Please note that this "no comment" response is specifically intended for this application and is without prejudice to all future consultation with our Nation regarding not only the renewal of this application but any other application or decision within the Ts'uubaa-asatx Nation traditional territory. Furthermore, we may choose in the future to address the issues of Aboriginal rights and/or title infringement and compensation through the treaty process, the courts or other dispute resolution processes. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	20-Mar-2023
Lyackson First Nation <i>8017 Chemainus Road: Linda Aidnell</i> <i>Comment: No Comment Received</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Malahat First Nation <i>110 Thunder Road, RR4: Heather Adams</i>	07-Feb-2023 22-Mar-2023	06-Apr-2023

Referrals: Bylaw GL-283

Agency	Sent	Received
<i>Comment:</i> Malahat Nation notes that the proposed activity falls outside of core Malahat traditional territory, and as such we acknowledge and respect the local First Nation(s)' opportunity to act as primary correspondents in this case. However, in the event they do not, or are unable to respond we reserve our right to consultation and engagement, and continue to require disclosure on an ongoing basis regarding these draft bylaws.	25-Jul-2024	26-Sep-2024
Mayne Island Local Trust Committee <i>Islands Trust:</i> Jas Chonk <i>Comment:</i> Interests unaffected by bylaw.	07-Feb-2023	27-Mar-2023
Ministry of Environment, Water Stewardship Division - Water Protection & Sustainable Branch <i>PO Box 9362:</i> No Contact Name Groundwater Section	07-Feb-2023	
Ministry of Municipal Affairs and Housing <i>Planning and Land Use Management:</i> Ron Burleson	07-Feb-2023	
Ministry of Transportation and Infrastructure <i>Ministry of Transportation and Infrastructure:</i> Owen Page <i>Comment:</i> The Ministry has no objections to the proposed changes to the OCP.	07-Feb-2023	01-Mar-2023
Musqueam Nation <i>6735 Salish Dr.:</i> Referrals Coordinator <i>Comment:</i> Thank you for reaching out to Musqueam Indian Band. Our referrals team has reviewed the document for Galiano Island Local Trust Committee Draft Bylaws 283 and 284. We defer this referral to other closely affected First Nations.	07-Feb-2023 22-Mar-2023 25-Jul-2024	11-Apr-2023
Pauquachin First Nation <i>9010 West Saanich Road:</i> Darlene Henry <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Penelakut Tribe <i>Box 360:</i> Denise James <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 24-Jul-2024	
Salt Spring Island Local Trust Committee <i>1 - 500 Lower Ganges Road:</i> Peter Luckham	07-Feb-2023	
Semiahmoo First Nation <i>16049 Beach Rd:</i> Chief & Council <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Snuneymuxw First Nation <i>668 Centre Street:</i> Desiree Thomas <i>Comment:</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Stz'uminus First Nation	07-Feb-2023	

Referrals: Bylaw GL-283

Agency	Sent	Received
12611A Trans Canada Hwy: Chenoa Akey <i>Comment:</i>	22-Mar-2023 25-Jul-2024	
Thetis Island Local Trust Committee <i>Northern Office:</i> Laura Patrick <i>Comment:</i> Interests unaffected by bylaw.	07-Feb-2023	28-Feb-2023
Tsartlip First Nation <i>PO Box 70:</i> Karen Harry <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Tsawout First Nation <i>Box 121:</i> Cathy Webster <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Tsawwassen First Nation <i>1926 Tsawwassen Drive:</i> Victoria Williams <i>Comment:</i> Tsawwassen First Nation (TFN) has no concerns regarding this file, at this time. However, TFN requests all copies of interim and final environmental and archaeological reports produced for this project.	07-Feb-2023 22-Mar-2023 25-Jul-2024	21-Aug-2024
Tseycum First Nation <i>1210 Totem Lane:</i> Chief Tanya Jimmy <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
WSANEC <i>WSANEC Leadership Council Society:</i> Joni Olsen <i>Comment:</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	

Referrals: Bylaw GL-284

Agency	Sent	Received
Bylaw Enforcement <i>Islands Trust: Warren Dingman</i>	07-Feb-2023	
Capital Regional District - All Referrals Aggie Chan and Jessica Arnet <i>625 Fisgard Street: Aggie Chan</i> <i>Comment: Integrated Water Services - The Bylaw update applies to the CRD water service area on Galliano Island (Stick Allison area). CRD Integrated Water Services wants to ensure the update takes into account the CRD water service supply. Has the CRD water supply for the Sticks Allison water service area on Galiano been considered in this bylaw amendment? Please confirm why the land where the water supply well sits, and is adjacent to, was not categorized as a Development Permit Area critical groundwater recharge area? CRD Building Inspection Dept. -Plumbing Permits will be required for plumbing systems or alterations to a plumbing system on site.</i>	07-Feb-2023	08-Mar-2023
Cowichan Tribes <i>5760 Allenby Rd: Tracey Flemming</i> <i>Comment: No Comment Received</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Halalt First Nation <i>7973 Chemainus Rd: Raven August</i> <i>Comment: No Comment Received</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Lake Cowichan First Nation <i>313B Deer Road: Carole Livingstone</i> <i>Comment: Ts'uubaa-asatx Nation does not have any comments to provide at this time regarding this application proceeding. Please note that this "no comment" response is specifically intended for this application and is without prejudice to all future consultation with our Nation regarding not only the renewal of this application but any other application or decision within the Ts'uubaa-asatx Nation traditional territory. Furthermore, we may choose in the future to address the issues of Aboriginal rights and/or title infringement and compensation through the treaty process, the courts or other dispute resolution processes. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	20-Mar-2023
Lyackson First Nation <i>8017 Chemainus Road: Linda Aidnell</i> <i>Comment: No Comment Received</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Malahat First Nation <i>110 Thunder Road, RR4: Heather Adams</i>	07-Feb-2023 22-Mar-2023	06-Apr-2023

Referrals: Bylaw GL-284

Agency	Sent	Received
<i>Comment:</i> Malahat Nation notes that the proposed activity falls outside of core Malahat traditional territory, and as such we acknowledge and respect the local First Nation(s)' opportunity to act as primary correspondents in this case. However, in the event they do not, or are unable to respond we reserve our right to consultation and engagement, and continue to require disclosure on an ongoing basis regarding these draft bylaws.	25-Jul-2024	26-Sep-2024
Mayne Island Local Trust Committee <i>Islands Trust:</i> Jas Chonk <i>Comment:</i> Interests unaffected by bylaw.	07-Feb-2023	27-Mar-2023
Ministry of Environment, Water Stewardship Division - Water Protection & Sustainable Branch <i>PO Box 9362:</i> No Contact Name Groundwater Section	07-Feb-2023	
Ministry of Municipal Affairs and Housing <i>Planning and Land Use Management:</i> Ron Burleson	07-Feb-2023	
Ministry of Transportation and Infrastructure <i>Ministry of Transportation and Infrastructure:</i> Owen Page <i>Comment:</i> The Ministry has no objections to the proposed changes to the OCP.	07-Feb-2023	01-Mar-2023
Musqueam Nation <i>6735 Salish Dr.:</i> Referrals Coordinator <i>Comment:</i> Thank you for reaching out to Musqueam Indian Band. Our referrals team has reviewed the document for Galiano Island Local Trust Committee Draft Bylaws 283 and 284. We defer this referral to other closely affected First Nations.	07-Feb-2023 22-Mar-2023 25-Jul-2024	11-Apr-2023
Pauquachin First Nation <i>9010 West Saanich Road:</i> Darlene Henry <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Penelakut Tribe <i>Box 360:</i> Denise James <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Salt Spring Island Local Trust Committee <i>1 - 500 Lower Ganges Road:</i> Peter Luckham	07-Feb-2023	
Semiahmoo First Nation <i>16049 Beach Rd:</i> Chief & Council <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Snuneymuxw First Nation <i>668 Centre Street:</i> Desiree Thomas <i>Comment:</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Stz'uminus First Nation	07-Feb-2023	

Referrals: Bylaw GL-284

Agency	Sent	Received
12611A Trans Canada Hwy: Chenoa Akey <i>Comment:</i>	22-Mar-2023 25-Jul-2024	
Thetis Island Local Trust Committee <i>Northern Office:</i> Laura Patrick <i>Comment:</i> Interests unaffected by bylaw.	07-Feb-2023	28-Feb-2023
Tsartlip First Nation <i>PO Box 70:</i> Karen Harry <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
Tsawout First Nation <i>Box 121:</i> Cathy Webster <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
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Tseycum First Nation <i>1210 Totem Lane:</i> Chief Tanya Jimmy <i>Comment:</i> No Comment Received	07-Feb-2023 22-Mar-2023 25-Jul-2024	
WSANEC <i>WSANEC Leadership Council Society:</i> Joni Olsen <i>Comment:</i>	07-Feb-2023 22-Mar-2023 25-Jul-2024	



ISLANDS TRUST POLICY STATEMENT DIRECTIVES ONLY CHECKLIST

File Name: 2021 Groundwater
Implementation

PURPOSE

To provide staff with the Directives Only Checklist to highlight issues addressed in staff reports and as a means to ensure Local Trust Committees address certain matters in their official community plans and regulatory bylaws, Island Municipalities address certain matters in their official community plans, and to reference any relevant sections of the Policy Statement.

POLICY STATEMENT

The Policy Statement is comprised of several parts. Parts I and II outline the purpose, the Islands Trust object, and Council's guiding principles. Parts III, IV and V contain the goals and policies relevant to ecosystem preservation and protection, stewardship of resources and sustainable communities.

There are three different kinds of policies within the Policy Statement as follows:

- Commitments of Trust Council which are statements about Council's position or philosophy on various matters;
- Recommendations of Council to other government agencies, non-government organizations, property owners, residents and visitors; and
- Directive Policies which direct Local Trust Committees and Island Municipalities to address certain matters.

DIRECTIVES ONLY CHECKLIST

The Policy Statement Directives Only Checklist is based on the directive policies from the Policy Statement (Consolidated April 2003) which require Local Trust Committees to address certain matters in their official community plans and regulatory bylaws and Island Municipalities to address certain a matters in their official community plans in a way that implements the policy of Trust Council.

Staff will use the Policy Statement Checklist (Directives Only) to review Local Trust Committee and Island Municipality bylaw amendment applications and proposals to ensure consistency with the Policy Statement. Staff will add the appropriate symbol to the table as follows:

- ✓ if the bylaw is consistent with the policy from the Policy Statement, or
- ✗ if the bylaw is inconsistent (contrary or at variance) with a policy from the Policy Statement, or
- N/A if the policy is not applicable.

PART III: POLICIES FOR ECOSYSTEM PRESERVATION AND PROTECTION

CONSISTENT	No.	DIRECTIVE POLICY
	3.1	Ecosystems
✓	3.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and protection of the environmentally sensitive areas and significant natural sites, features and landforms in their planning area.
✓	3.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning, establishment, and maintenance of a network of protected areas that preserve the representative ecosystems of their planning area and maintain their ecological integrity.
N/A	3.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the regulation of land use and development to restrict emissions to land, air and water to levels not harmful to humans or other species.
	3.2	Forest Ecosystems
✓	3.2.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of unfragmented forest ecosystems within their local planning areas from potentially adverse impacts of growth, development, and land-use.
	3.3	Freshwater and Wetland Ecosystems and Riparian Zones
✓	3.3.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means to prevent further loss or degradation of freshwater bodies or watercourses, wetlands and riparian zones and to protect aquatic wildlife.
	3.4	Coastal and Marine Ecosystems
N/A	3.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.
N/A	3.4.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.

PART IV: POLICIES FOR THE STEWARDSHIP OF RESOURCES

CONSISTENT	No.	DIRECTIVE POLICY
	4.1	Agricultural Land
N/A	4.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and preservation of agricultural land for current and future use.
N/A	4.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation, protection, and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses.
N/A	4.1.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of adjacent properties to minimize any adverse affects on agricultural land.
CONSISTENT	No.	DIRECTIVE POLICY
N/A	4.1.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the design of road systems and servicing corridors to avoid agricultural lands unless the need for roads outweighs agricultural considerations, in which case appropriate mitigation measures shall be required to derive a net benefit to agriculture.
N/A	4.1.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address land uses and activities that support the economic viability of farms without compromising the agriculture capability of agricultural land.
N/A	4.1.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of Crown lands for agricultural leases.
	4.2	Forests
N/A	4.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the need to protect the ecological integrity on a scale of forest stands and landscapes.
N/A	4.2.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the retention of large land holdings and parcel sizes for sustainable forestry use, and the location and construction of roads, and utility and communication corridors to minimize the fragmentation of forests.
N/A	4.2.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of forest ecosystem reserves where no extraction will take place to ensure the preservation of native biological diversity.
CONSISTENT	No.	DIRECTIVE POLICY

	4.3	Wildlife and Vegetation
	4.4	Freshwater Resources
✓	4.4.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, water quality is maintained, and existing, anticipated and seasonal demands for water are considered and allowed for.
N/A	4.4.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure water use is not to the detriment of in-stream uses
	4.5	Coastal Areas and Marine Shorelands
N/A	4.5.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the needs and locations for marine dependent land uses.
N/A	4.5.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the compatibility of the location, size and nature of marinas with the ecosystems and character of their local planning areas.
N/A	4.5.10	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.
N/A	4.5.11	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address opportunities for the sharing of facilities such as docks, wharves, floats, jetties, boat houses, board walks and causeways.
	4.6	Soils and Other Resources
N/A	4.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of productive soils.

PART V: POLICIES FOR SUSTAINABLE COMMUNITIES

CONSISTENT	No.	DIRECTIVE POLICY
	5.1	Aesthetic Qualities
N/A	5.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
	5.2	Growth and Development
N/A	5.2.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.
✓	5.2.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.
N/A	5.2.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.
N/A	5.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.
	5.3	Transportation and Utilities
N/A	5.3.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of a classification system of rural roadways, including scenic or heritage road designations, in recognition of the object of the Islands Trust.
N/A	5.3.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the impacts of road location, design, construction and systems.
N/A	5.3.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of areas for the landing of emergency helicopters.
N/A	5.3.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of land use patterns that encourage establishment of bicycle paths and other local and inter-community transportation systems that reduce dependency on private automobile use.
	5.4	Disposal of Waste
N/A	5.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of acceptable locations for the disposal of solid waste.
CONSISTENT	No.	DIRECTIVE POLICY

	5.5	Recreation
N/A	5.5.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the prohibition of destination gaming facilities such as casinos and commercial bingo halls.
N/A	5.5.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location and type of recreational facilities so as not to degrade environmentally sensitive areas, and the designation of locations for marinas, boat launches, docks and anchorages so as not to degrade sensitive marine or coastal areas.
N/A	5.5.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of sites providing safe public access to beaches, the identification and designation of areas of recreational significance, and the designation of locations for community and public boat launches, docks and anchorages.
N/A	5.5.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and designation of areas for low impact recreational activities and discourage facilities and opportunities for high impact recreational activities.
N/A	5.5.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for bicycle, pedestrian and equestrian trail systems.
	5.6	Cultural and Natural Heritage
N/A	5.6.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification, protection, preservation and enhancement of local heritage.
N/A	5.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation and protection of the heritage value and character of historic coastal settlement patterns and remains.
	5.7	Economic Opportunities
N/A	5.7.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.
	5.8	Health and Well-being
N/A	5.8.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address their community's current and projected housing requirements and the long-term needs for educational, institutional, community and health-related facilities and services, as well as the cultural and recreational facilities and services.

	POLICY STATEMENT COMPLIANCE
✓	<i>In compliance with Trust Policy</i>
	<i>Not in compliance with Trust Policy for the following reasons:</i>

Executive Committee

Policy Checklist

Checklist Key:

Consistent	The bylaw is consistent with the Islands Trust Policy Manual Chapter 2, Section 4, Subsection iv
Contrary	The bylaw is inconsistent (contrary or at variance) with the Islands Trust Policy Manual Chapter 2, Section 4, Subsection iv
Not-Applicable	The policy is not applicable with the Islands Trust Policy Manual Chapter 2, Section 4, Subsection iv .

Executive Committee Legislative Role Policy (2.4)

Consistent	i	Bylaw is consistent with the object of the Trust
Consistent	ii	Bylaw is not contrary to or at variance to the Islands Trust Policy Statement
Consistent	iii	Bylaw does not expose the Islands Trust to unreasonable expense in the administration or enforcement of the bylaw
Consistent	iv	Bylaw is not enacted without legal authority, including inconsistency with the relevant OCP (based on legal advice)

Checklist Key:

Requires Resources	Staff resources required to assist with administration.
No Resources Required	No staff resources required.

The Bylaw has been Examined Against Best Management Practices for Delivery of Local Planning Services as found in Section 5.9 of the Islands Trust Policy Manual

No Resources Required	B.5	Bylaw is consistent with the object of the Trust
No Resources Required	B10	Bylaw is not contrary to or at variance to the Islands Trust Policy Statement

Comments

Completed By: Jas Chonk

Status

Date Resolution Referred to Exective Committee: 08-Nov-2024

Reading:

Executive Committee

Policy Checklist

Checklist Key:

Consistent	The bylaw is consistent with the Islands Trust Policy Manual Chapter 2, Section 4, Subsection iv
Contrary	The bylaw is inconsistent (contrary or at variance) with the Islands Trust Policy Manual Chapter 2, Section 4, Subsection iv
Not-Applicable	The policy is not applicable with the Islands Trust Policy Manual Chapter 2, Section 4, Subsection iv .

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Comments

Completed By: Jas Chonk

Status

Date Resolution Referred to Exective Committee: 08-Nov-2024

Reading:

PROPOSED

GALIANO ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 283

A BYLAW TO AMEND GALIANO ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 108, 1995

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

1. CITATION

This Bylaw may be cited for all purposes as “Galiano Island Official Community Plan Bylaw No. 108, 1995, Amendment No. 1, 2022”.

2. SCHEDULES

Galiano Island Official Community Plan No. 108, 1995 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 14TH DAY OF MARCH 2023.

PUBLIC HEARING HELD THIS 8TH DAY OF OCTOBER 2024.

READ A SECOND TIME THIS 8TH DAY OF NOVEMBER 2024.

READ A THIRD TIME THIS 8TH DAY OF NOVEMBER 2024.

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS _____ DAY OF _____ 20____

APPROVED BY THE MINISTER MUNICIPAL AFFAIRS THIS _____ DAY OF _____ 20____

ADOPTED THIS _____ DAY OF _____ 20____

CHAIR

SECRETARY

**GALIANO ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 283**

SCHEDULE 1

The Galiano Island Official Community Plan No. 108, 1995, is amended as follows:

1. Table of Contents Section V is amended by deleting “4. Development Permit Area 4 – Elevated Groundwater Catchment Areas” and replacing it with “4. Development Permit Area 4 – Groundwater Recharge Protection”.
2. Section II Land Use, Residential Policy “o)” is amended by deleting “Community, Sport and Cultural Development” and replacing it with “Municipal Affairs”.
3. Section II Land Use, Subsection 5.4 Light Industry, Light Industry Advocacy Policy “m)” is amended by inserting “recharge and” after “groundwater” and before “catchment areas”.
4. Section III Services, Subsection 2 Water Supply, Water Supply Objectives is amended by deleting Objectives 1-4 in entirety and replacing with:
 - “1) to ensure an adequate supply of potable freshwater to all users now and into the future,
 - 2) to ensure that groundwater use, and alteration to the land does not pollute or otherwise increase the vulnerability of groundwater regions,
 - 3) to protect critical groundwater recharge areas by evaluating land use decision based on available groundwater vulnerability data and applying the precautionary principle to land use decisions, and
 - 4) to consider and address climate change impacts on freshwater supply and quality.”
5. Section III Services, Subsection 2 Water Supply, Water Supply Policies is amended by deleting policy “a)” in its entirety and replacing it with:
 - “a) Areas identified to be key areas for water supply, fresh water catchment, storage and recharge shall be preserved and protected.

Land identified through groundwater recharge mapping to have significant recharge potential shall be designated as a development permit area for the protection of the watershed.”

6. Section III Water Supply, Water Supply Policy “b) vi)” is amended by deleting “elevated groundwater catchment” and replacing it with “groundwater recharge protection”.
7. Section III Water Supply, Water Supply Policies is amended by removing policy “c)” in its entirety and replacing it with “c) Regulations may require new developments to provide cisterns.”
8. Section IV Conservation and Environment is amended by deleting all instances of “Fresh Water” and replacing them with “Freshwater”.
9. Section IV Conservation and Environment, Freshwater Advocacy Policies is amended by deleting “and the Provincial Ministry of Environment, Ministry of Transportation and Infrastructure, and Ministry of Forests, Lands and Natural Resource Operations” and replacing it with “and relevant Provincial Ministries”.
10. Section V Development Permit Areas is amended by deleting subsection “4. Development Permit Area 4-Elevated Groundwater Protection” in its entirety and replacing it with:

“4. Development Permit Area 4 – Groundwater Recharge Protection

4.1 Description of Area

Development Permit Area 4 includes critical groundwater recharge areas identified on Schedule G. Critical groundwater recharge areas contain hydrogeological conditions that facilitate aquifer recharge and/or transmit contaminants to an underlying aquifer. Factors considered in the identification of critical aquifer recharge areas include topography, remote sensing, satellite multispectral analysis depth to water table, presence of highly permeable soils, land-cover analysis, structural geology, presence of flat terrain, and the presence of more permeable surficial geology.

4.2 Authority

The Groundwater Recharge Protection Development Permit Area is designated a development permit area pursuant to Section 488(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biological diversity and Section 488(1)(i) of the *Local Government Act* for the establishment of objectives to promote water conservation.

4.3 Special Conditions and Objectives that Justify the Designation

It is the Object of the Islands Trust to “Preserve and protect the Trust Area and its unique amenities and environment of the Trust Area for the benefit of the residents of the Trust Area, and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia.”

It is Provincial legislation in Section 473(1)(d) of the *Local Government Act* that an official community plan must include statements and map designations for the area covered by the Plan respecting restrictions on the use of land that is environmentally sensitive to development.

The Islands Trust Council has committed to identifying, protecting and, where possible, restoring or rehabilitating groundwater recharge areas in the Trust Area.

It is policy of the Islands Trust Council that Local Trust Committees address measures that ensure:

- neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, and
- the quality and quantity of drinking water sources for current and future Trust Area residents is preserved and protected, and
- the overall health of watersheds and ground water in the Islands Trust Area is protected.

Mapping of recharge and water balance completed in 2021 for Galiano Island identifies that the island has a number of areas of critical concern with respect to groundwater vulnerability.

The Objectives of the development permit area are:

- to protect and sustain access to a reliable and safe supply of drinking water for groundwater wells
- to protect and sustain the quality and supply of surface and groundwater necessary to the provision of ecological services
- to mitigate the impacts of development and climate change on groundwater supplies

4.4 Development Approval Information

The Groundwater Recharge Protection DPA is also designated an area for which development approval information (DAI) may be required according to Section 485(1) of the *Local Government Act*. The designation of these areas for this purpose is based on the special conditions or objectives supporting the designation of the DPA. Development approval information means information on the anticipated impact of the proposed activity or development on the community or the natural environment.

4.5 Applicability

A development permit is required for the subdivision of land, construction of, addition to or alteration of a building or other structure, or land alteration, including the cutting of trees, unless exempted below.

4.6 Development Permit Exemptions

The following activities are exempt from any requirement for a development permit:

- a) Development for which Islands Trust has been provided with a written statement from a registered professional hydrogeologist with relevant experience certifying that the proposed would have no impact on critical groundwater recharge.

- b) Repair, maintenance, alteration, additions to, or reconstruction of existing lawful buildings, structures or utilities, including those that are lawfully non-conforming (a building permit may still be required).
- c) Dwellings, cottages, accessory buildings and structures, and associated land alteration that are clustered within a residential home plate not exceeding an area of 1000m², and one access driveway and overhead utility lines and poles outside of the residential home plate.
- d) Land that is subject to a conservation covenant under section 219(4) of the *Land Title Act* in relation to natural, environmental, wildlife or plant life value relating to the land, granted to the Local Trust Committee or a covenantee designated under section 219(3)(c) of the *Land Title Act*.
- e) Repair and maintenance of existing roads, driveways, paths and trails, provided there is no expansion of the width or length of the road, driveway, path or trail, and no creation of additional impervious surfacing, including paving asphaltting or similar surfacing.
- f) Removal of invasive species.
- g) Cutting and removal of up to 5 trees per hectare (with a trunk diameter greater than 20 centimetres measured 1.5 metres above the ground) within a 12-month period on any one lot.
- h) Cutting and removal of trees with a trunk diameter less than 20 centimeters measured 1.5 metres above the ground.
- i) Removal of trees that have been examined by an arborist and certified to pose an immediate threat to life or property.
- j) Farm operations as defined in the *Farm Practices Protection (Right to Farm) Act* and farm uses as defined in Section 2(2), (3), (4) and (5) of the *Agricultural Land Reserve Use, Subdivision, and Procedure Regulation*.
- k) Forest management activities, as defined in the *Private Managed Forest Land Regulation*, on land classified as managed forest land under the *Private Managed Forest Land Act*.
- l) The construction of an accessory building or structure with a lot coverage of less than 100m².
- m) Construction of trails or fences that does not alter contours of the land.
- n) Emergency actions required to prevent, control or reduce an immediate threat to human life, the natural environment or public or private property including:
 - i. Forest fire protection measures;
 - ii. Flood and erosion protection works;
 - iii. Protection, repair or replacement of public facilities;
 - iv. Clearing of an obstruction from a bridge, culvert, dock wharf or stream; or
 - v. Bridge repairs.

- o) Works undertaken by a local government or a body established by a local government.
- p) Works authorized under a provincial statute.
- q) Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage.

4.7 Guidelines

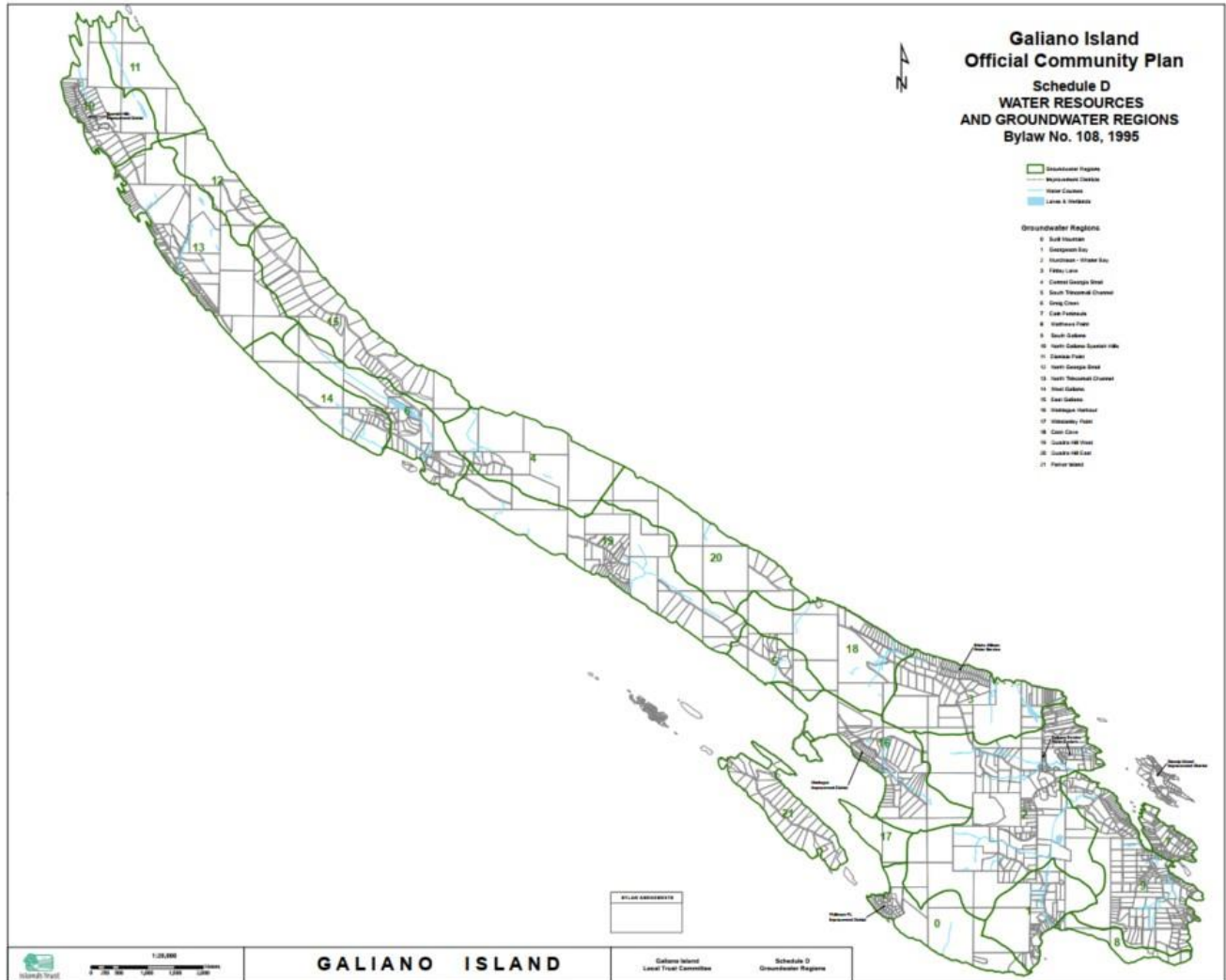
The *Local Government Act* prohibits construction of buildings and structures and the alteration of land and subdivision in Development Permit Area 4 unless the owner first obtains a development permit. Development permits will be issued in accordance with the following guidelines.

1. In general, development should minimize negative impacts on the quality and quantity of subsurface water supplies.
2. Where a qualified professional hydrogeologist or engineer has made recommendations for mitigation measures, the permit conditions may include a requirement for security in the form of an irrevocable letter of credit, to ensure the protection of groundwater supply quality or quantity consistent with the measures and recommendations described in the report.
3. Where the qualified professional hydrogeologist or engineer's report describes an area as suitable for development with special mitigating measures, the development permit should only allow the development to occur in compliance with the measures described in the report. Monitoring and regular reporting by a hydrogeologist or other professional at the applicant's expense may be required during construction and development phases, as specified in a development permit.
4. Where an application involves the subdivision of land, layout of the subdivision should be, to the greatest extent possible, designed to:
 - a) replicate the function of a naturally vegetated watershed;
 - b) maintain the hydraulic regime of surface and groundwater pre-development flow rates;
 - c) minimize interference with groundwater recharge;
 - d) not introduce or remove material where it would cause erosion of or the filling in of natural watercourses or wetlands.
5. Where freshwater collection and storage cisterns are required as a condition of the construction of a building, impervious surfaces should be minimized.
6. Where freshwater collection cisterns are required as a condition of construction of a building, the LTC may require that all new dwelling units include:
 - i. External equipment for collecting and distributing rainwater from the dwelling unit roof;
 - ii. A pumping system;
 - iii. An overflow handling system.

7. The use of impervious paved driveways shall be discouraged.
8. Where tree removal is not exempt from the requirement for a permit:
 - a. Removal of trees from steep slopes should only be allowed where necessary and where replacement vegetation / erosion control measures are established. Plans delineating extent of vegetation / tree removal and location of proposed construction, excavation and / or blasting, may be required.
 - b. All development should be undertaken and completed in such a manner as to prevent the release of sediment to any watercourse. An erosion and sediment control plan, including actions to be taken prior to land clearing and site preparation and the proposed timing of development activities to reduce the risk of erosion, may be required as part of the development permit application.
 - c. Existing, native trees should be retained wherever possible and trees to be retained near development should be clearly marked prior to development, and temporary fencing installed at the drip line to protect them during clearing, grading and other development activities.
 - d. If the area has been previously cleared of trees, or is cleared during the process of development, replanting requirements may be specified in the development permit. Areas of undisturbed bedrock exposed to the surface or natural sparsely vegetated areas should not require planting.
 - e. Tree species used in replanting, restoration or enhancement should be selected to suit the soil, light and groundwater conditions of the site, should preferably be native to the area, and should be selected for erosion control and/or wildlife habitat values as needed. Suitably adapted, non-invasive, non-native trees may also be considered acceptable.
 - f. All replanting should be maintained by the property owner for a minimum of 2 years from the date of completion of the planting to ensure survival. This may require removal of invasive, non-native weeds (e.g., Himalayan blackberry, Scotch broom, English ivy) and irrigation. Unhealthy, dying or dead trees should be replaced at the owner's expense in the next regular planting season. Permits may include, as a condition, the provision of security to guarantee the performance of terms of the permit.
9. Roads, driveways, trails and pathways should follow the contours of the land and appropriately manage drainage. The construction of roads and utility corridors and other activities involving the disturbance of the soil, must be conducted in such a manner that the productivity of the local groundwater recharge area is not impaired through soil compaction, altered surface drainage patterns, siltation, erosion, or salt water intrusion.
10. Parking areas should be located and constructed so as to minimize erosion and water pollution by controlling storm runoff. Structural measures such as catch basins, oil separators, bio- filtration trenches or swales, unpaved or permeable all-weather surfaces should be considered for this purpose.
11. Permits may include minor variances to subdivision or building and structure siting or size regulations to meet the objectives of the development permit area."

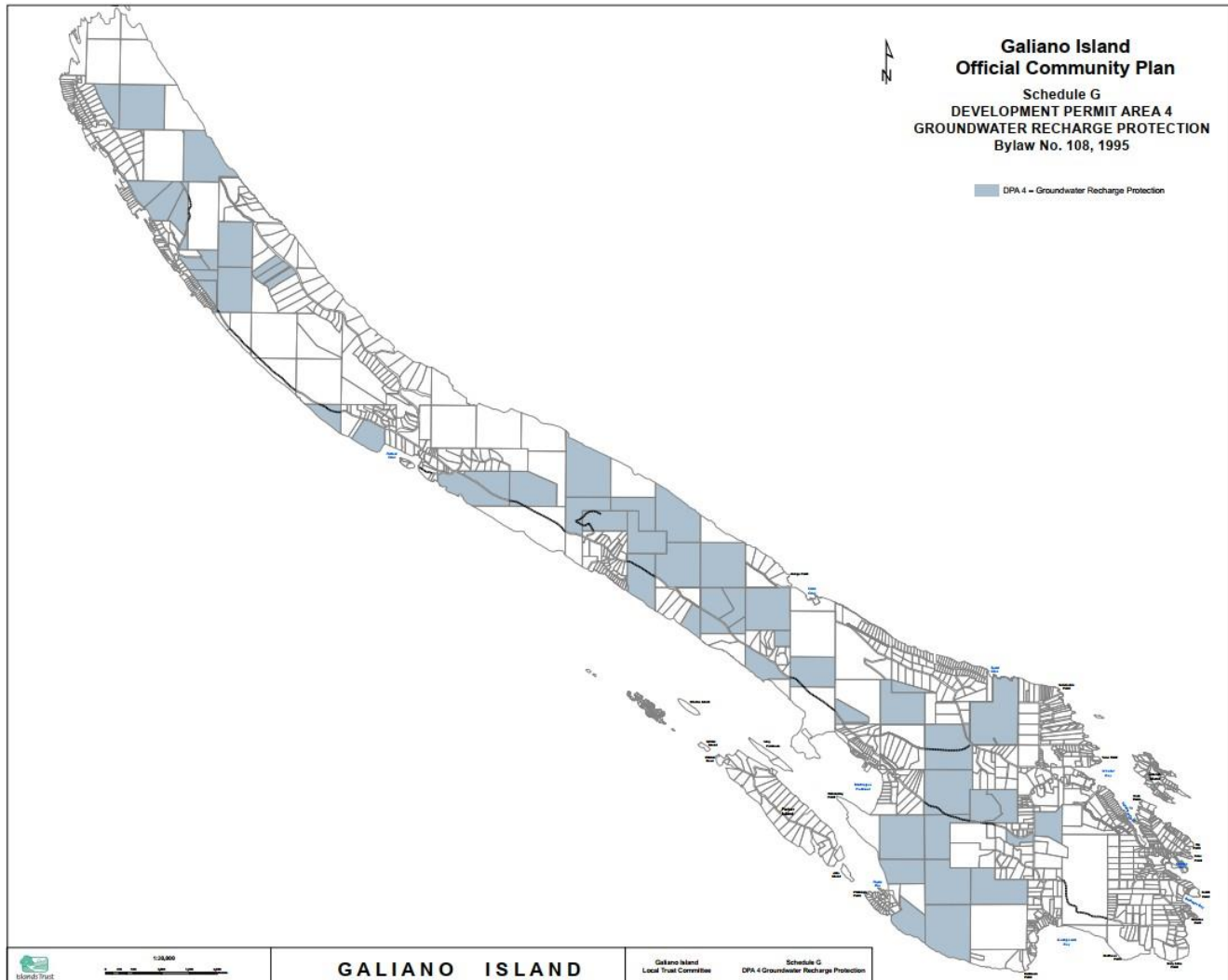
12. Section VI Development Approval Information, Subsection 2. Special Conditions “ii” is amended by deleting “elevated groundwater catchments” and replacing it with “groundwater recharge”.
13. Schedule “D – Water Resources” is removed and replaced with Schedule “D – Groundwater Regions” as shown on Plan No. 1 attached and forming part of this bylaw.
14. Schedule “G – Development Permit Area 4: Elevated Groundwater Catchment” is removed and replaced with Schedule “G – Development Permit Area 4: Groundwater Recharge Protection” as shown on Plan No. 2 attached and forming part of this bylaw.

GALIANO ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 283
Plan No. 1



GALIANO ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 283
Plan No. 2

Schedule G – Development Permit Area 4: Groundwater Recharge Protection



PROPOSED

GALIANO ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 284

A BYLAW TO AMEND GALIANO ISLAND LAND USE BYLAW, NO. 127, 1999

The Galiano Island Local Trust Committee, being the Local Trust Committee having jurisdiction in respect of the Galiano Island Local Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “Galiano Island Land Use Bylaw No. 127, 1999, Amendment No. 1, 2022”.

2. Galiano Island Local Trust Committee Bylaw No. 127, cited as “Galiano Island Land Use Bylaw No. 127, 1999,” is amended as follows:

2.1 Section 2 General Regulations, Subsection 2.28– Secondary Suites is amended by removing 2.28.6 in entirety and replacing it with “2.28.6 A building permit for a lot outside a water service area shall not be issued for a secondary suite unless a freshwater catchment and storage system having a capacity of at least 18,000 litres is installed on the lot.”

2.2 Section 2 General Regulations is amended by inserting “Cistern Requirements” as a new heading under Section 2.28.

2.3 Section 2 General Regulations is amended by inserting, under the heading “Cistern Requirements” the following:

“2.29 A building permit for a lot outside a water service area shall not be issued for a new building to be used as a dwelling, including a cottage, unless a cistern (or combination of cisterns) for the storage of freshwater having a capacity of at least 18,000 litre is installed on the lot.

2.30 The floor area occupied by any cistern located in a building and the housing provided for such cistern is excluded from the calculation of the floor area of the building and the lot coverage of the lot on which it is located.”

2.4 Removing Subsection 13.23 from Part 13 ‘Subdivision and Development Regulations’ to Section 2 ‘General Regulations’ as a new subsection and by replacing the word “16,000” with “18,000”.

2.5 Section 13 Subdivision and Development Regulations is amended by deleting 13.24 through 13.29 in its entirety and replacing it with the following and by making such consequential numbering alterations to effect this change.

“Standards for Potable Water Supply

Information Note: If more than one dwelling unit is connected to the same source of water, the water system may be subject to the Drinking Water Protection Act, the Water Utility Act or other regulations pertaining to water supply systems.

Information Note: Water obtained from a stream, or non-domestic groundwater use requires a licence under the Water Sustainability Act.

- 13.24 Where potable water is proposed to be supplied to lots in a subdivision by an established community water system, the applicant for subdivision must provide written confirmation from the community water system that it is able to supply potable water for the permitted principal use and density to each lot.
- 13.25 Where potable water is proposed to be supplied to lots in a subdivision by creating a community water system, the applicant for subdivision must provide proof of all authorizations required under the *Drinking Water Protection Act*, the *Water Utility Act* or any other enactment pertaining to water supply systems.
- 13.26 Where potable water is proposed to be supplied to lots in a subdivision from a stream, the applicant for subdivision must provide proof of authorization in the form of a water licence confirming that the total volume of water granted to the licence holder is able to supply potable water for domestic uses at the volume specified in Table 1 to each lot.
- 13.27 Where potable water is proposed to be supplied to lots in a subdivision by drilled wells the applicant for subdivision must provide written certification under seal of a hydrogeologist that:
 - a. Each well has been constructed in accordance with the *Groundwater Protection Regulation*;
 - b. Each well has been constructed in accordance with Sections 13.29, 13.30 and 13.31;
 - c. Each well has sufficient available groundwater to provide the daily required volume of potable water for the permitted domestic uses on each lot in accordance with Table 1;
 - d. Each well for which a water licence has not been issued has sufficient available groundwater volume for all permitted non-domestic, non-agricultural, non-park, non-conservation area principal uses for each lot at the permitted density of use; and
 - e. Includes recommendations for mitigation measures, if applicable, to ensure long-term sustainable yield of the drilled well.

TABLE 1 DOMESTIC POTABLE WATER SUPPLY STANDARDS FOR SUBDIVISION	
USE	VOLUME (litres per day)
<i>Per lot (including one dwelling)</i>	2000
<i>Each additional permitted dwelling and cottage per lot</i>	2000

- 13.28 Where the potable water is proposed to be supplied to lots in a subdivision by drilled wells, for any well where a water licence has not been issued the applicant for subdivision must also provide written certification under seal of a hydrogeologist:
- Results of a water quality analysis, completed by an accredited laboratory;
 - A plan of the proposed subdivision indicating the location where each water sample was taken;
 - A statement that the water samples upon which the water quality analysis was performed were unadulterated samples taken from the locations indicated on the plan.
 - Confirmation, based on the accredited laboratory water quality analysis, that each proposed water supply source is potable, or can be made potable, with a treatment system; and
 - Confirmation, based on the accredited laboratory water quality analysis of chloride concentrations, that each drilled well is not likely to be affected by the intrusion of saline groundwater or sea water in accordance with the Province of British Columbia guidance documents.
- 13.29 Where a water license has not been issued and where potable water is proposed to be supplied to lots in a subdivision by a drilled well, a pumping test shall be carried out on each well in a proposed subdivision by:
- pumping groundwater, at a constant rate, for a minimum period of 12 hours; and
 - withdrawing the total daily required volume specified in section 13.27 over a maximum period of 24 hours; and
 - monitoring groundwater levels continuously during the pumping test and during the recovery period.
- 13.30 Where potable water is to be supplied by a drilled well a sounding tube or wellhead port must be installed to enable the insertion of water level monitoring equipment.
- 13.31 Drilled wells used for the purposes of subdivision must not be located within 50 metres of the natural boundary of the sea.

- 13.32 If the daily required volume of potable water cannot be supplied in accordance with Section 13.24 or if the certification in Subsections 13.27(c) and 13.27(d) cannot be made, the Approving Officer may nonetheless approve the subdivision provided that the applicant grants a s.219 covenant to the Galiano Island Local Trust Committee and the Capital Regional District that restricts the development of the subdivision to the uses or density of the uses for which a certification has been made under Sections 13.24 or 13.27.
- 13.33 Where the certification under subsection 13.28(d) states that a water supply is not potable but can be made potable with a treatment system, the Approving Officer may approve subdivision provided that the applicant grants a s. 219 covenant under the *Land Title Act* to the Galiano Island Local Trust Committee and the Capital Regional District that requires on-going treatment of the water to potable water standards recommended by a hydrogeologist.
- 13.34 For the purposes of subdivision, drilled wells impacted by seawater intrusion or whose operation is likely to cause seawater intrusion are not permitted sources of potable water.
- 13.35 For the purposes of subdivision, alternative potable water supplies including, but not limited to, shallow dug wells, rainwater catchment and desalination are not permitted sources of potable water.
- 13.36 The requirements of Sections 13.24-13.35 do not apply where the proposed subdivision is a boundary adjustment that does not result in an increase in the number of lots or permitted dwelling units, provided that all lots in the subdivision are currently serviced by existing wells, community water system connection or water licence.
- 2.6 Section 17 Interpretation, Subsection 17.1 Definitions, is amended by inserting the following in alphabetical order:
- “aquifer” means a geological formation; or a group of geological formations, or a part of one or more geological formations that is groundwater bearing and capable of storing, transmitting and yielding groundwater.
- “groundwater” means water naturally occurring below the surface of the ground.
- “Hydrogeologist” means an engineer or geoscientist with competency in the field of hydrogeology, regulated under the *Professional Governance Act*, Engineers and Geoscientists Regulation.
- “potable” means water that is safe to drink, fit for domestic purposes and meets the Health Canada Guidelines for Canadian Drinking Water Quality or any guidance documents or legislation which may be enacted in substitution.
- “pumping test” means a flow test to determine the long-term sustainable yield of a well, conducted under supervision of a hydrogeologist, and that is consistent with the

British Columbia Guide to Conducting Pumping Tests, Guidance for Technical Assessments in Support of an Application for Groundwater Use in British Columbia, other guidance documents which may be issued, applicable legislation, and consists of pumping groundwater from a well typically for 12 to 72 hours depending on aquifer characteristics.

- 2.7 Section 17 Interpretation, Subsection 17.1 Definitions, is amended by removing the definition of “community water system” in its entirety and replacing it with:

““community water system” means a system of waterworks that serves more than one lot and is owned, operated and maintained by an improvement district, a regional district, a water utility, a society, or a water supplier.”

- 2.8 Section 17 Interpretation, Subsection 17.1 Definitions, is amended by adding the following in alphabetical order:

“aquifer” means a geological formation; or a group of geological formations, or a part of one or more geological formations that is groundwater bearing and capable of storing, transmitting and yielding groundwater.

“groundwater” means water naturally occurring below the surface of the ground.

“Hydrogeologist” means an engineer or geoscientist with competency in the field of hydrogeology, regulated under the *Professional Governance Act*, Engineers and Geoscientists Regulation.

“potable” means water that is safe to drink, fit for domestic purposes and meets the Health Canada Guidelines for Canadian Drinking Water Quality or any guidance documents or legislation which may be enacted in substitution.

“pumping test” means a flow test to determine the long-term sustainable yield of a well, conducted under supervision of a hydrogeologist, and that is consistent with the British Columbia Guide to Conducting Pumping Tests, Guidance for Technical Assessments in Support of an Application for Groundwater Use in British Columbia, other guidance documents which may be issued, applicable legislation, and consists of pumping groundwater from a well typically for 12 to 72 hours depending on aquifer characteristics.

- 2.9 Section 17 Interpretation, Subsection 17.1 Definitions, is amended by removing the definition of “community water system” in its entirety and replacing it with:

““community water system” means a system of waterworks that serves more than one lot and is owned, operated and maintained by an improvement district, a regional district, a water utility, a society, or a water supplier.”

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	14 TH	DAY OF	MARCH	2023.
PUBLIC HEARING HELD THIS	8 TH	DAY OF	OCTOBER	2024.
READ A SECOND TIME THIS	8 TH	DAY OF	NOVEMBER	2024.
READ A THIRD TIME THIS	8 TH	DAY OF	NOVEMBER	2024.
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS				
	_____	DAY OF	_____	20____
ADOPTED THIS	_____	DAY OF	_____	20____

CHAIR

SECRETARY

First Nation Engagement

Referral of: Galiano Bylaws No. 283 and 284 (OCP & LUB Amendments)
Re: Groundwater Sustainability Project

First Nation: Cowichan Tribes

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Halalt

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Ts'uubaa-asatx (Lake Cowichan)

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 20, 2023	Ts'uubaa-asatx Nation does not have any comments to provide at this time regarding this application proceeding. Please note that this "no comment" response is specifically intended for this application and is without prejudice to all future consultation with our Nation regarding not only the renewal of this application but any other application or decision within the Ts'uubaa-asatx Nation traditional territory. Furthermore, we may choose in the future to address the issues of Aboriginal rights and/or title infringement and compensation through the treaty process, the courts or other dispute resolution processes. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Lyackson

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Malahat

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
April 6, 2023 Sept. 26, 2024	Malahat Nation notes that the proposed activity falls outside of core Malahat traditional territory, and as such we acknowledge and respect the local First Nation(s)' opportunity to act as primary correspondents in this case. However, in the event they do not, or are unable to respond we reserve our right to consultation and engagement, and continue to require disclosure on an ongoing basis regarding these draft bylaws.	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Musqueam Indian Band

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
April 11, 2023	Thank you for reaching out to Musqueam Indian Band. Our referrals team has reviewed the document for Galiano Island Local Trust Committee Draft Bylaws 283 and 284. We defer this referral to other closely affected First Nations.	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Pauquachin First Nation

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Penelakut Tribe

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Semiahmoo

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Snuneymuxw

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Stz'uminus

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Tsartlip First Nation

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Tsawout First Nation

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Tsawwassen First Nation

Date	Comment/Action	Initial
February 10, 2023	Sent Referral	JC
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
August 21, 2024	Tsawwassen First Nation (TFN) has no concerns regarding this file, at this time. However, TFN requests all copies of interim and final environmental and archaeological reports produced for this project.	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: Tseycum First Nation

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

First Nation: WSANEC Leadership Council

Date	Comment/Action	Initial
February 10, 2023	First Referral Sent	JC
March 22, 2023	Second Referral Sent	JC
July 25, 2024	Third Referral Sent	JC
Sept. 12, 2024	Sent Follow-up Email in regards to Public Hearing.	JC

Z:\10 Leg & Reg\3900 Bylaws\04 LTC OCP & LUB - Proposed (P)\04 GL\BL 283 - OCP - AMD - Groundwater Sustainability\FN Responses\GL-BLs-283-284_FN-Followup-tracking.docx

From: Sandy Pottle <[REDACTED]>
Sent: Monday, November 18, 2024 8:30 AM
To: Executive Admin
Subject: Galiano Island proposed bylaw 283, the bylaw of concern due to exemption (p),
Attachments: jenine georgeson .docx

Dear Executive Committee

Please return Galiano Bylaw 283 to the LTC with direction for further consideration of exemption (p).

I believe that the Executive Committee has a responsibility to direct the LTC give further consideration of the bylaw with reference to the legal opinion of Young Anderson.

I am aware that this OCP amendment will have to be approved by the Province but do not feel the islands Trust Executive should shirk it's responsibility to make informed decisions that affect the preserve and protect mandate.

I am forwarding you a copy of a delegation presented at a Galiano Island LTC meeting by a member of Galiano Island Community. Jenine Georgeson is First Nations. She raises very relevant points on this matter. I hope you will find them helpful in your deliberations.

Yours sincerely

Sandy Pottle
[REDACTED]

Galiano island BC
V0N1P0

Hello,

My name is Jeannine Georgeson. On the non-Indigenous side of my family, I am a 6th generation resident of Galiano, mother and grandmother to the 7th and 8th. On my Indigenous side, it goes back many generations – your guess is as good as mine as to how many it could be.

I stand here today as an Indigenous woman and hopefully, one day a matriarch. It has been brought to my attention that one of our Trustees has brought forward a Notice of Motion to replace Standing Resolution 2019-053. In lines: c, d, and e, the Trustee suggests the changes to include “and organizations”. This would be a disservice to the Indigenous community members that come from families who have been residents of these communities for generations but are not affiliated with these Indigenous organizations and due to the oppression and division of the Indian Act efforts to erase our Indigeneity, we are not a part of or represented by Indigenous governing agencies. I propose our Trustees consider replacing the proposed “and organizations” with Knowledge Holders in an effort to be inclusive of all Indigenous community members with a proven historical connection to these lands and waters.

In this same motion, the Trustee proposed the addition of the line “Direct staff to not take enforcement action against any Indigenous Peoples in regards to their traditional and Inherent Rights.” I am curious what the parameters of Traditional and Inherent rights would be in the context of this proposed addition. Would this include mining if an Indigenous person holds the mining rights title, development in a watershed, or logging of our forests? I believe this motion to include this line is disguised to serve a small portion of Indigenous community members and is not put in as an effort to preserve our lands and waters for our future generations. Indigenous people deserve the right to learn and practice their cultural and inherent rights but these to be in line with the long-standing laws, practices, and protocols of Indigenous people since time immemorial and not dictated by individuals or organizations.

I was a part of the Freshwater Sustainability strategy in 2021 as an Indigenous Knowledge Holder with other Knowledge Holders from throughout the Islands Trust region. With the support and guidance of Planner Chadwick and Lisa Wilcox through the lengthy and thorough process, they provided us with the space to have our voices heard regarding our connections to water, land, the cultural practices and teachings that have been a part of who we are as Indigenous people for generations. We all had time to review, consider, provide input, request edits, and approve the draft document that was created in collaboration with other agencies.

In Bylaw 283, it has been suggested by a Trustee that “Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage” be exempt from any requirement for a development permit. I ask you, who would stand to gain from this motion?? Any Indigenous person taking action to preserve our land, waters, and culture for future generations would not favour including this motion! Water, fresh and salt, is sacred to our people for many reasons and proposing that Indigenous people be exempt from requiring a permit to develop on one of our most sacred resources is baffling to me! You have to be living under a rock to not see the impacts colonization, development, and human activities are having on our waters both fresh and salt and the fight we are having to protect these resources.

Why would developing on or in the area of one of our most sacred resources be something an Indigenous person would want to proceed with? Indigenous people and allies all over the world are fighting to protect this natural resource and it's being suggested in this document to exempt Indigenous people from requiring a permit so they can proceed for their own selfish reasons and not consider our future generations and what the impact of these actions would have. This proposed inclusion would not serve Indigenous peoples as a collective but only as individuals.

As for the term "federal Indigenous status", this is the Indian Act hard at work to create division and oppress Indigenous people further. Please look at myself and my family lineage and tell me I am not Indigenous because I do not have a status card and I do not carry the same rights as someone with a card. Please tell me I do not have a right to culture, language, or practice in my territory because I do not have a status card. The inclusion of the term "federal Indigenous status" continues to perpetuate the oppression and erasure of Indigenous people through the Indian Act and it would be detrimental to our Indigenous brothers, sisters, and children if this is the narrative the Islands Trust wants to create for our people. Yes, I have something against the Indian Act and I would hope the Islands Trust would as well considering whose land you are on and what has been taken from our people for too long. I suggest keeping this term out of policies, procedures, and motions.

Sincerely,

Jeannine Georgeson
Galiano Island, BC

From: Jennifer Margison [REDACTED] >
Sent: Sunday, November 17, 2024 9:29 PM
To: Executive Admin
Subject: Letter for Nov. 20 EC Mtg re: Galiano Bylaw 282
Attachments: Letter of Concern re Galiano Bylaw 283.pdf; Legal Opinion on Bylaw 283 Exemption (p) copy.pdf

To the Islands Trust Executive Committee:

Please accept the following letter as correspondence regarding Agenda Item 7.1. of the November 20 Executive Committee meeting.

7.1 Galiano Island Local Trust Committee - Bylaw Nos. 283 and 284 - Request for Decision 25 - 67

THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 283, cited as “Galiano Island Official Community Plan Bylaw 108, 1995, Amendment No. 1, 2022” in accordance with Section 27 of the Islands Trust Act.

THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 284, cited as “Galiano Island Land Use Bylaw 127, 1999, Amendment No. 1, 2022” in accordance with Section 27 of the Islands Trust Act.

We ask that you not approve Bylaw 283 and return it to the Galiano Local Trust Committee based on the concerns in the attached letter and legal opinion.

Sincerely,

Carmita de Menyhart and Jorge Menyhart
Jennifer Margison and Jim Henshall
John Ronsley

Memorandum

TO: Kim Stockdill
FROM: Guy Patterson
DATE: September 27, 2023
RE: Summary of DP exemption opinion
FILE No.: 00002-0958

You asked for a summary of our previous advice on whether the following proposed development permit exemption (the "proposed exemption") would be valid:

Land owned by a person with federal Indigenous status living in their traditional territory with proof of family lineage.

We assumed the reference to land ownership meant ownership under the BC Torrens system for registration of title to land, and that a person's entitlement to the exemption would not be called into question. We reviewed possible arguments in support of and against the validity of the exemption, including under the provincial *Human Rights Code* and the *Canadian Charter of Rights and Freedoms*, and concluded that it would likely be invalid, but severable.

The main reason we concluded it would likely be invalid was based on a theory that a local government's authority to specify exemptions under a development permit scheme, although not subject to any express limits or criteria in the statute, would be interpreted in light of the development permit scheme more generally. The scope of that scheme, in our view, is limited to regulation of land development activities, and therefore granting an exemption based on the identity of a landowner might be considered as falling outside the powers the legislature intended to grant to local governments.

Despite our conclusion that the exemption would most likely be invalid, we suggested two potential arguments in favour of it. First, section 8.1 of the *Interpretation Act* says all legislation must be construed as being consistent with UNDRIP. We thought there might be some support in UNDRIP for the proposed exemption, in which case it might be open to the LTC to interpret the *Local Government Act* as authorizing the proposed exemption. Second, the LTC and the Islands Trust both have strong policy statements favouring reconciliation, and the proposed exemption might be defended based on those kinds of policies.

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1616 - 808 Nelson Street, Box 12147 Nelson Square, Vancouver, BC V6Z 2H2 | tel. 604.689.7600 | fax. 604.689.3444 | toll free: 1.800.665.3540
201 - 1456 St. Paul Street, Kelowna, BC V1Y 2C6 | tel. 250.712.1130 | fax. 250.712.1180

November 17, 2024

To the Islands Trust Executive Committee,

We are writing to formally protest a recent bylaw decision made by the Galiano Local Trust Committee (LTC). On November 8, 2024, the LTC voted to forward Bylaw 283 to the Secretary of the Islands Trust for Executive Committee approval.

While we support the intent of the bylaw—which seeks to amend the Galiano Island Official Community Plan by replacing the current Galiano Elevated Groundwater Catchment DPA with Development Permit Area 4 (Groundwater Recharge Protection Area)—we have significant concerns regarding an exemption and a voting trustee's potential conflict of interest.

According to the March 14, 2023 Staff Report, "Mapping of recharge and water balance completed in 2021 for Galiano Island identifies that the island has a number of areas of critical concern with respect to groundwater vulnerability." The objectives of this Development Permit Area include:

- Protecting and sustaining access to a reliable and safe water supply for groundwater wells.
- Preserving the quality and supply of surface and groundwater necessary to support ecological services.
- Mitigating the impacts of development and climate change on groundwater supplies.

Bylaw 283 represents the first concrete action stemming from the extensive studies and significant funds invested in the Groundwater Sustainability Project. It aligns with the Trust Policy Statement 4.2.2, which asserts that:

- Neither the density nor intensity of land use should increase in areas with known issues related to the quality or quantity of freshwater.
- The quality and quantity of drinking water sources for current and future Trust Area residents must be preserved and protected.
- The overall health of watersheds and groundwater in the Islands Trust Area must be safeguarded.

However, this bylaw's impact is severely undermined by an extensive list of exemptions. These include lands under PMFL designation, parks, and lands subject to conservation covenants, which collectively diminish the bylaw's intended protections.

While some exemptions are unavoidable—for instance, federal and provincial parks are not subject to local government regulation—our concern lies with an additional exemption (p), introduced by the LTC despite clear opposition from community members and a legal opinion (attached) indicating its likely invalidity. **Exemption (p) reads:**

"Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage."

We respectfully request that the Executive Committee reject Bylaw 283 as long as exemption (p) remains included. This exemption sets a concerning and complex precedent by granting an exemption based on the identity of the landowner rather than land use.

During the September Quarterly Trust Council meeting, discussions about the draft Trust Policy Statement (TPS) and First Nations land jurisdiction clarified this matter. The Acting CAO, Julia Mobbs, emphasized that *"Indigenous rights are collective rights and that fee simple land is indeed subject to your bylaws."* Similarly, the Director of Legislative and Information Services, David Marlor highlighted the principle of equal treatment for fee simple landowners, stating: *"It's not the person; it's the land use and the process."* We find that Bylaw 283 with exemption (p) included is not consistent with these fundamental principles of land use bylaws as far as the Islands Trust is concerned.

We have additional concerns regarding the inadequate information provided during the Community Information Meeting (CIM) and Public Hearing for Bylaws 283 and 284. This lack of transparency has left significant questions unanswered, including:

- How many lots will this exemption impact?
- What will the process be for determining a landowner's eligibility under exemption (p), and who will make these decisions?
- What are the implications for neighboring landowners if one is exempted due to Indigenous status but engages in activities—such as logging—that negatively affect adjacent properties?
- How will eligibility for this exemption be determined in cases where corporations or shareholder groups own land?
- If this exemption is allowed, what precedent will it set for other bylaws across the Islands Trust area, potentially leading to further conflicts within our communities?

The way exemption (p) is written is very problematic.

- The exemption reads as including not only a local First Nations resident but also an owner of a lot who has federal indigenous status BUT could actually reside elsewhere **so long as they reside on their traditional lands in those areas**. That person then owning a lot on Galiano, would qualify for exemption (p) despite the fact that Galiano is not their "traditional territory" and whether or not they actually reside on the lot.
- We don't understand the intent of "with proof of Indigenous family lineage". This becomes an additional criterion to having "federal Indigenous status". Having federal status is in fact proof of lineage, as we understand it. Exemption (p) seems to say that "having status with proof of lineage" implies someone can have status without proof of indigenous family lineage".

Further, we question whether the originator of the inclusion of exemption (p), Galiano Trustee Mabberey, will benefit personally from exemption (p) or whether his family and friends, the people he has publicly stated he is working for will benefit from exemption (p). He has a sign posted at the entrance to his property that states: "GOOD FAITH NOTICE This land is occupied by the Coast Salish Peoples of Galiano island, a Sovereign Nation. DONOT ENTER WITHOUT PRIOR CONSENT Pursuant to Sec. 35 of the Constitution Act 1982 HYCH'KA

LELUM SAR AUGH TA NAOGH". We are unsure what this means and of the implications for the application of this bylaw

While we fully support the Trust's commitment to reconciliation and a stronger role for First Nations in Trust area matters, the potential result for the Islands Trust of approving Bylaw 283 with clause "p" included, is to create a serious controversy and division among the residents of the Islands Trust area, as well a potential legal challenge. This is not a thoughtful or even meaningful Trust movement towards reconciliation. It is surprising that the Galiano LTC went ahead approving Bylaw 283 even after receiving legal counsel informing them that the exemption would likely be invalid. It seems that the Galiano LTC is saying that they don't care about legal opinions unless the opinion supports their view, and they don't care about the possible legal expenses to be borne by the residents of the islands under the mandate of the Islands Trust in case of a legal challenge to Bylaw 283.

The protection of critical groundwater recharge areas is far too important to allow this bylaw to proceed as written. Exemption (p) cannot be framed as reconciliation—it disadvantages all landowners, including Indigenous landowners, and undermines the fundamental purpose of the Groundwater Implementation OCP and LUB Amendments in Bylaws 283 and 284: "to protect the ability of aquifers to provide sustainable water resources to the ecosystems and communities of Galiano Island" (June 2, 2022 memo).

Furthermore, the September 27, 2022 Staff Report introducing these bylaws stated that the proposed DPA, "which is likely to lead to the retention of trees and forest coverage that may otherwise be removed, has the potential to increase support for the ecological integrity of the island. The health of the ecosystem is critical to the sustainability of groundwater resources."

In light of these concerns, we respectfully urge the Islands Trust Executive Committee to return Bylaw 283 to the Galiano Local Trust Committee for revision. The bylaw, as it stands, is inconsistent with the fair and equitable application of regulations, the Trust Policy Statement's Directive 4.2.2, and the stated objectives of the Groundwater Sustainability Project and the Young Anderson legal opinion.

Sincerely,

Carmita de Menyhart, [REDACTED] Galiano

Jennifer Margison and Jim Henshall, [REDACTED] Galiano

John Ronsley, [REDACTED] Galiano

From: Allan Forget [REDACTED]
Sent: Monday, November 18, 2024 9:28 AM
To: Executive Admin
Subject: Galiano By Law 283
Attachments: Letter of Concern re Galiano Bylaw 283.pdf

This is to notify you that I support the attached Letter concerning Galiano By Law 283.

Thank you.

Allan Forget
[REDACTED].

November 17, 2024

To the Islands Trust Executive Committee,

We are writing to formally protest a recent bylaw decision made by the Galiano Local Trust Committee (LTC). On November 8, 2024, the LTC voted to forward Bylaw 283 to the Secretary of the Islands Trust for Executive Committee approval.

While we support the intent of the bylaw—which seeks to amend the Galiano Island Official Community Plan by replacing the current Galiano Elevated Groundwater Catchment DPA with Development Permit Area 4 (Groundwater Recharge Protection Area)—we have significant concerns regarding an exemption and a voting trustee's potential conflict of interest.

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- The overall health of watersheds and groundwater in the Islands Trust Area must be safeguarded.

However, this bylaw's impact is severely undermined by an extensive list of exemptions. These include lands under PMFL designation, parks, and lands subject to conservation covenants, which collectively diminish the bylaw's intended protections.

While some exemptions are unavoidable—for instance, federal and provincial parks are not subject to local government regulation—our concern lies with an additional exemption (p), introduced by the LTC despite clear opposition from community members and a legal opinion (attached) indicating its likely invalidity. **Exemption (p) reads:**

"Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage."

We respectfully request that the Executive Committee reject Bylaw 283 as long as exemption (p) remains included. This exemption sets a concerning and complex precedent by granting an exemption based on the identity of the landowner rather than land use.

During the September Quarterly Trust Council meeting, discussions about the draft Trust Policy Statement (TPS) and First Nations land jurisdiction clarified this matter. The Acting CAO, Julia Mobbs, emphasized that *"Indigenous rights are collective rights and that fee simple land is indeed subject to your bylaws."* Similarly, the Director of Legislative and Information Services, David Marlor highlighted the principle of equal treatment for fee simple landowners, stating: *"It's not the person; it's the land use and the process."* We find that Bylaw 283 with exemption (p) included is not consistent with these fundamental principles of land use bylaws as far as the Islands Trust is concerned.

We have additional concerns regarding the inadequate information provided during the Community Information Meeting (CIM) and Public Hearing for Bylaws 283 and 284. This lack of transparency has left significant questions unanswered, including:

- How many lots will this exemption impact?
- What will the process be for determining a landowner's eligibility under exemption (p), and who will make these decisions?
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- If this exemption is allowed, what precedent will it set for other bylaws across the Islands Trust area, potentially leading to further conflicts within our communities?

The way exemption (p) is written is very problematic.

- The exemption reads as including not only a local First Nations resident but also an owner of a lot who has federal indigenous status BUT could actually reside elsewhere **so long as they reside on their traditional lands in those areas**. That person then owning a lot on Galiano, would qualify for exemption (p) despite the fact that Galiano is not their "traditional territory" and whether or not they actually reside on the lot.
- We don't understand the intent of "with proof of Indigenous family lineage". This becomes an additional criterion to having "federal Indigenous status". Having federal status is in fact proof of lineage, as we understand it. Exemption (p) seems to say that "having status with proof of lineage" implies someone can have status without proof of indigenous family lineage".

Further, we question whether the originator of the inclusion of exemption (p), Galiano Trustee Mabberey, will benefit personally from exemption (p) or whether his family and friends, the people he has publicly stated he is working for will benefit from exemption (p). He has a sign posted at the entrance to his property that states: "GOOD FAITH NOTICE This land is occupied by the Coast Salish Peoples of Galiano island, a Sovereign Nation. DONOT ENTER WITHOUT PRIOR CONSENT Pursuant to Sec. 35 of the Constitution Act 1982 HYCH'KA

LELUM SAR AUGH TA NAOGH". We are unsure what this means and of the implications for the application of this bylaw

While we fully support the Trust's commitment to reconciliation and a stronger role for First Nations in Trust area matters, the potential result for the Islands Trust of approving Bylaw 283 with clause "p" included, is to create a serious controversy and division among the residents of the Islands Trust area, as well a potential legal challenge. This is not a thoughtful or even meaningful Trust movement towards reconciliation. It is surprising that the Galiano LTC went ahead approving Bylaw 283 even after receiving legal counsel informing them that the exemption would likely be invalid. It seems that the Galiano LTC is saying that they don't care about legal opinions unless the opinion supports their view, and they don't care about the possible legal expenses to be borne by the residents of the islands under the mandate of the Islands Trust in case of a legal challenge to Bylaw 283.

The protection of critical groundwater recharge areas is far too important to allow this bylaw to proceed as written. Exemption (p) cannot be framed as reconciliation—it disadvantages all landowners, including Indigenous landowners, and undermines the fundamental purpose of the Groundwater Implementation OCP and LUB Amendments in Bylaws 283 and 284: "to protect the ability of aquifers to provide sustainable water resources to the ecosystems and communities of Galiano Island" (June 2, 2022 memo).

Furthermore, the September 27, 2022 Staff Report introducing these bylaws stated that the proposed DPA, "which is likely to lead to the retention of trees and forest coverage that may otherwise be removed, has the potential to increase support for the ecological integrity of the island. The health of the ecosystem is critical to the sustainability of groundwater resources."

In light of these concerns, we respectfully urge the Islands Trust Executive Committee to return Bylaw 283 to the Galiano Local Trust Committee for revision. The bylaw, as it stands, is inconsistent with the fair and equitable application of regulations, the Trust Policy Statement's Directive 4.2.2, and the stated objectives of the Groundwater Sustainability Project and the Young Anderson legal opinion.

Sincerely,

Carmita de Menyhart, [REDACTED] Galiano

Jennifer Margison and Jim Henshall, [REDACTED] Galiano

John Ronsley, [REDACTED] Galiano

From: Joan Bartley <[REDACTED]>
Sent: Monday, November 18, 2024 7:30 PM
To: Executive Admin
Subject: Protest Bylaw 283 Executive Committee for Approval

Attention: Islands Trust Executive Committee

It has been drawn to our attention of the pending proposal of bylaw 283 (p) by the Galiano Local Trust Committee for approval by the Secretary of the Islands Trust for approval.

Please add my name to the November 17, 2024 formal protest:

We ask that you not approve Bylaw 283 and return it to the Galiano Local Trust Committee for amendments based on the concerns in the attached letter and legal opinion.

Respectfully submitted,

Joan Bartley
[REDACTED]

Galiano Island, BC

The EC meeting, to consider proposed bylaw 283, the bylaw of concern due to exemption (p), is on Wednesday so there was not time to ask for additional signatures on the letter. If you agree with the concerns we have outlined in our letter, we ask that you email execadmin@islandstrust.bc.ca **as soon as possible before Wednesday** to express y

legal opinion



November 17, 2024
To the Islands Trust Executive Committee,

We are writing to formally protest a recent bylaw decision made by the Galiano Local Trust Committee (LTC). On November 8, 2024, the LTC voted to forward Bylaw 283 to the Secretary of the Islands Trust for Executive Committee approval.

...potential conflict of interest

...

--

Joan Bartley

[REDACTED]

Winnipeg, MB

[REDACTED]



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From: Marek Czuma <[REDACTED]>
Sent: Monday, November 18, 2024 9:23 AM
To: Executive Admin
Subject: re: bylaw 283
Attachments: Letter of Concern re Galiano Bylaw 283.pdf

This is to notify you that I support the attached letter.
Marek Czuma [REDACTED]

November 17, 2024

To the Islands Trust Executive Committee,

We are writing to formally protest a recent bylaw decision made by the Galiano Local Trust Committee (LTC). On November 8, 2024, the LTC voted to forward Bylaw 283 to the Secretary of the Islands Trust for Executive Committee approval.

While we support the intent of the bylaw—which seeks to amend the Galiano Island Official Community Plan by replacing the current Galiano Elevated Groundwater Catchment DPA with Development Permit Area 4 (Groundwater Recharge Protection Area)—we have significant concerns regarding an exemption and a voting trustee's potential conflict of interest.

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However, this bylaw's impact is severely undermined by an extensive list of exemptions. These include lands under PMFL designation, parks, and lands subject to conservation covenants, which collectively diminish the bylaw's intended protections.

While some exemptions are unavoidable—for instance, federal and provincial parks are not subject to local government regulation—our concern lies with an additional exemption (p), introduced by the LTC despite clear opposition from community members and a legal opinion (attached) indicating its likely invalidity. **Exemption (p) reads:**

"Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage."

We respectfully request that the Executive Committee reject Bylaw 283 as long as exemption (p) remains included. This exemption sets a concerning and complex precedent by granting an exemption based on the identity of the landowner rather than land use.

During the September Quarterly Trust Council meeting, discussions about the draft Trust Policy Statement (TPS) and First Nations land jurisdiction clarified this matter. The Acting CAO, Julia Mobbs, emphasized that *"Indigenous rights are collective rights and that fee simple land is indeed subject to your bylaws."* Similarly, the Director of Legislative and Information Services, David Marlor highlighted the principle of equal treatment for fee simple landowners, stating: *"It's not the person; it's the land use and the process."* We find that Bylaw 283 with exemption (p) included is not consistent with these fundamental principles of land use bylaws as far as the Islands Trust is concerned.

We have additional concerns regarding the inadequate information provided during the Community Information Meeting (CIM) and Public Hearing for Bylaws 283 and 284. This lack of transparency has left significant questions unanswered, including:

- How many lots will this exemption impact?
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The way exemption (p) is written is very problematic.

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LELUM SAR AUGH TA NAOGH". We are unsure what this means and of the implications for the application of this bylaw

While we fully support the Trust's commitment to reconciliation and a stronger role for First Nations in Trust area matters, the potential result for the Islands Trust of approving Bylaw 283 with clause "p" included, is to create a serious controversy and division among the residents of the Islands Trust area, as well a potential legal challenge. This is not a thoughtful or even meaningful Trust movement towards reconciliation. It is surprising that the Galiano LTC went ahead approving Bylaw 283 even after receiving legal counsel informing them that the exemption would likely be invalid. It seems that the Galiano LTC is saying that they don't care about legal opinions unless the opinion supports their view, and they don't care about the possible legal expenses to be borne by the residents of the islands under the mandate of the Islands Trust in case of a legal challenge to Bylaw 283.

The protection of critical groundwater recharge areas is far too important to allow this bylaw to proceed as written. Exemption (p) cannot be framed as reconciliation—it disadvantages all landowners, including Indigenous landowners, and undermines the fundamental purpose of the Groundwater Implementation OCP and LUB Amendments in Bylaws 283 and 284: "to protect the ability of aquifers to provide sustainable water resources to the ecosystems and communities of Galiano Island" (June 2, 2022 memo).

Furthermore, the September 27, 2022 Staff Report introducing these bylaws stated that the proposed DPA, "which is likely to lead to the retention of trees and forest coverage that may otherwise be removed, has the potential to increase support for the ecological integrity of the island. The health of the ecosystem is critical to the sustainability of groundwater resources."

In light of these concerns, we respectfully urge the Islands Trust Executive Committee to return Bylaw 283 to the Galiano Local Trust Committee for revision. The bylaw, as it stands, is inconsistent with the fair and equitable application of regulations, the Trust Policy Statement's Directive 4.2.2, and the stated objectives of the Groundwater Sustainability Project and the Young Anderson legal opinion.

Sincerely,

Carmita de Menyhart, [REDACTED] Galiano

Jennifer Margison and Jim Henshall, [REDACTED] Galiano

John Ronsley, [REDACTED], Galiano

From: Shirley Webster <[REDACTED]>
Sent: Monday, November 18, 2024 5:55 PM
To: Executive Admin
Subject: Letter of concern..Galiano Island bylaw 283

I understand your meeting on Nov 20 will include a review of Galiano Island Local Trust Committee bylaw 283. I support the above letter requesting you not approve bylaw 283 and return it to Galiano Local Trusr Committee for amendments.

Thank you
Shirley Webster
Sent from my iPhone

From: Art Moses <[REDACTED]>
Sent: Tuesday, November 19, 2024 5:03 PM
To: Executive Admin
Subject: Galiano LTC proposed bylaw 283

To members of the Islands Trust Executive Committee

I am writing to urge you not to approve the Galiano Local Trust Committee's proposed bylaw 283 and return it back to the Galiano LTC for revision.

While I support the objectives of the LTC's groundwater sustainability project and the proposed bylaws to establish a Groundwater Recharge Development Permit Area, I have serious concerns about exemption (p) in the proposed OCP amendment bylaw 283.

The exemption would declare that the requirements under the new regulations would not apply to a specific group of fee-simple landowners, while they would apply to all other fee-simple landowners. These individual landowners granted the exemption would not be required to apply for a development permit on land in a groundwater recharge area before carrying out certain land uses potentially harmful to groundwater recharge. Other individual landowners would be required to apply for a permit.

This would be very bad law and very bad land use planning. What's next – a bylaw that exempts certain fee-simple landowners from obtaining CRD building permits, while others still have to get them?

The groundwater recharge sustainability regulations went through a lengthy years-long process of study involving groundwater scientists, planners, trustees and members of the public. The requirements are designed to ensure that the supply of freshwater is assured for all landowners and residents of Galiano no matter who they are.

It makes no sense to exclude a specific group of individuals from measures designed to protect this resource for everybody.

It's doubtful you could find land use bylaws anywhere else in Canada that exempt certain specific individuals from regulations that would apply on their individually-owned, fee-simple land, while applying the rules to others.

As a gesture supposedly promoting reconciliation with Indigenous people, this one would be rather empty. I believe very few Indigenous people on Galiano would qualify for the exemption because few own land here that fall into groundwater recharge areas.

My understanding is that Indigenous rights under the Canadian Constitution are not individual rights; they are communal rights, collective rights held through association with indigenous tribes or nations.

I believe there are much more effective measures the LTC could take to encourage and facilitate reconciliation with Indigenous residents and with our neighbours in the Penelakut Tribe.

As I suggested at the recent Public Hearing into these bylaws, trustees should work to include indigenous knowledge holders, particularly those with expertise in water resources, in a co-management regime along with Trust staff to jointly oversee the protection of groundwater and supervise the administration of these groundwater sustainability bylaws for everyone.

That would be a truly meaningful step toward reconciliation by recognizing the role of indigenous government and collective indigenous knowledge on these Trust islands.

To exempt a small portion of indigenous fee-simple individual landowners from bylaws designed to protect freshwater resources for everyone would be very bad law, an empty gesture for reconciliation and almost certainly to be ruled invalid after putting the Islands Trust through potentially costly litigation.

Thank you for your attention.

Sincerely,

Art Moses,

[REDACTED],

Galiano

Sent from my iPad

From: Brenda Hotte <[REDACTED]>
Sent: Tuesday, November 19, 2024 2:00 PM
To: Executive Admin
Subject: Protesting Bylaw 283 Galiano Local Trust Committee
November 8, 2024

To the Island Trust Executive Committee,

I am writing regarding Agenda Item 7.1. of the upcoming November 20 Executive Committee meeting.

I attended the meeting as I am interested in learning how to solve freshwater issues on Galiano Island.

I support bylaws that focus on conservation.

I do not support that certain individuals on the island would be except from these bylaws. We believe this will cause division in our community.

7.1 Galiano Island Local Trust Committee - Bylaw Nos. 283 and 284 - Request for Decision 25 - 67

THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 283, cited as "Galiano Island Official Community Plan Bylaw 108, 1995, Amendment No. 1, 2022" in accordance with Section 27 of the Islands Trust Act.

THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 284, cited as "Galiano Island Land Use Bylaw 127, 1999, Amendment No. 1, 2022" in accordance with Section 27 of the Islands Trust Act.

:

We ask that you not approve Bylaw 283 and return it to the Galiano Local Trust Committee for amendments based on the concerns in the attached letter and legal opinion.

Sincerely.

Brenda Hotte [REDACTED]
Frits Huckriede [REDACTED]

From: Daphne Arber <[REDACTED]>
Sent: Tuesday, November 19, 2024 5:08 PM
To: Executive Admin
Subject: NB Islands Trust Executive Committee
Attachments: Legal Opinion on Bylaw 283 Exemption (p) copy.pdf

To all:

I ask you not to approve Galiano's Bylaw 283, and return it to the Galiano Local Trust Committee for amendments based on the concerns in the attached Letter and legal opinion.

Daphne Arber
[REDACTED]

Galiano, BC
V0N 1P0

Memorandum

TO: Kim Stockdill
FROM: Guy Patterson
DATE: September 27, 2023
RE: Summary of DP exemption opinion
FILE No.: 00002-0958

You asked for a summary of our previous advice on whether the following proposed development permit exemption (the "proposed exemption") would be valid:

Land owned by a person with federal Indigenous status living in their traditional territory with proof of family lineage.

We assumed the reference to land ownership meant ownership under the BC Torrens system for registration of title to land, and that a person's entitlement to the exemption would not be called into question. We reviewed possible arguments in support of and against the validity of the exemption, including under the provincial *Human Rights Code* and the *Canadian Charter of Rights and Freedoms*, and concluded that it would likely be invalid, but severable.

The main reason we concluded it would likely be invalid was based on a theory that a local government's authority to specify exemptions under a development permit scheme, although not subject to any express limits or criteria in the statute, would be interpreted in light of the development permit scheme more generally. The scope of that scheme, in our view, is limited to regulation of land development activities, and therefore granting an exemption based on the identity of a landowner might be considered as falling outside the powers the legislature intended to grant to local governments.

Despite our conclusion that the exemption would most likely be invalid, we suggested two potential arguments in favour of it. First, section 8.1 of the *Interpretation Act* says all legislation must be construed as being consistent with UNDRIP. We thought there might be some support in UNDRIP for the proposed exemption, in which case it might be open to the LTC to interpret the *Local Government Act* as authorizing the proposed exemption. Second, the LTC and the Islands Trust both have strong policy statements favouring reconciliation, and the proposed exemption might be defended based on those kinds of policies.

WWW.YOUNGANDERSON.CA

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201 - 1456 St. Paul Street, Kelowna, BC V1Y 2C6 | tel: 250.712.1130 | fax: 250.712.1180

From: Keith Holmes <[REDACTED]>
Sent: Tuesday, November 19, 2024 9:09 AM
To: Executive Admin
Subject: Proposed Galiano Local Trust Committee Bylaws # 283 & 284

To the Islands Trust Executive Committee

Please accept the following letter as correspondence regarding Agenda Item 7.1. of the upcoming November 20 Executive Committee meeting.

7.1 Galiano Island Local Trust Committee - Bylaw Nos. 283 and 284 - Request for Decision 25 - 67
THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 283, cited as "Galiano Island Official Community Plan Bylaw 108, 1995, Amendment No. 1, 2022" in accordance with Section 27 of the Islands Trust Act.

THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 284, cited as "Galiano Island Land Use Bylaw 127, 1999, Amendment No. 1, 2022" in accordance with Section 27 of the Islands Trust Act.

I ask that you not approve Bylaw 283 and Bylaw 284 and return them to the Galiano Local Trust Committee for amendments

Question : Why wasn't the incredible mandate given to this island by the Appeal Court decision in August of 1995 - the strongest hand in land-use planning ever dealt a B. C. community - even being played for a fraction of its worth ? Why are we being asked to give away a royal flush to the discard pile. Bylaw # 127 secured equality in the Forest Zone 6000 acres - it secured preservation and protection of the groundwater for the whole island. To advance these draft bylaws would be a total abandonment of public responsibility and concern for our island place. Galiano Island is one distinct recharge area it cannot be broken up - science tells us land-use planning for Galiano Island must consider the whole. There is no place for reconciliation in land-use planning for ground water quantity and quality - every human being must be treated equally.

Sincerely,

Debbie Holmes
Galiano Local Trust 1996 - 2002

From: Geoff Gaylor <[REDACTED]>
Sent: Tuesday, November 19, 2024 4:27 PM
To: Executive Admin
Subject: Galiano Bylaws 283 and 284

Dear Trust Executive,

My name is Geffrey Gaylor, a 49 year resident of Galiano and owner of district lot 51, a 160 acre parcel in the very center of Galiano island, which has been left undeveloped for all those years. I write to express grave concerns about the proposed bylaws 283 to 284 on Galiano island. Galiano's aquifer, as clearly established by hydrologist Al Kohut, in his in-depth studies, is simply that the whole island is trapped water in cacks in the sediment, and it's only sourced by rainwater over the centuries. The aquifer and its ability to sustain development was drastically degraded by clearcut logging of up to 60% of the island as part of a tree farm license by Macmillan Bloedel and subsequent purchasers.

Subsequently we developed a "no increase in density" policy on the whole island based solely on the depleted aquifers capacity to provide potable water for our community. The proposed bylaws 283 and 284 should include the whole island and not just artificially proposed areas that are "solely responsible" for attempting to repair and recharge the whole aquifer compounded by a list of 15 exemptions which add to the exclusion of up to half the island. By mapping these bylaws, we will clearly not provide the preservation of and protection needed for Galiano's water resources.

As a holder of water license 054057 on DL 51 for over 40 years I feel that it is an issue that has not been addressed properly.

I also question the exemption of "Q" which would set a unclear precedent of exemptions by race rather than actual use of the land.

It seems that the participation of the community has been minimal, with no specific big public meetings, and no reference in the last three monthly editions of our local trust information section in our well read Active Page magazine. Many of my acquaintances on the island are expressing concern about this, and it's hurried second and third readings, and the extremely quick hearing by the executive committee to discuss and possibly give approval before going to the Minister Kahlon before enforcement.

With respect, I ask that your committee return the bylaws to our local Galiano committee for more input and discussion on the numerous exemptions included in this proposal.

Sincerely,
Geoff Gaylor
Member of the last 2 OSP Review committees
Past Chair of the Forestry Committee

Community Rep on the O's Forest and Land Use council
Member of The Transportation Advisory Committee
Founding Director of the Galiano Conservancy
Former President of the Galiano Chamber of Commerce

From: [REDACTED]
Sent: Tuesday, November 19, 2024 3:24 PM
To: Executive Admin
Subject: Bylaw 283 Bylaw 284

Dear Sirs Madam

We urge you not pass bylaws 283 and 284.

Today is the first we have heard about these bylaws

We live next to currently protected Crown Lands

How is it that this can come up for ratification without a publicized input in the process?

Again we urge you not to pass bylaws 283 and 284 and to initiate due process

We oppose any groups being excepted from the original goals of the Islands Trust

John and Lois Buttery

[REDACTED]

Galiano BC
VON 1P0

From: Jeff Webster <[REDACTED]>
Sent: Tuesday, November 19, 2024 1:51 PM
To: Executive Admin
Subject: Letter of concern..Galiano Island bylaw 283

I understand your meeting on Nov 20 will include a review of Galiano Island Local Trust Committee bylaw 283. I support the above letter requesting you not approve bylaw 283 and return it to Galiano Local Trust Committee for amendments.

Thank you

Jeff Webster

--

Jeffrey Dean Webster, PhD,
Faculty Emeritus, Psychology,
Langara College,
Email: [REDACTED]

From: Bob Campbell <[REDACTED]>
Sent: Sunday, November 24, 2024 10:24 AM
To: Executive Admin
Subject: Bylaw 283

I wish to express my full support to the opposition to Bylaw 283 as expressed by Jennifer Margison et al. Ms. Margison has comprehensively, accurately and eloquently expressed a very well-reasoned opposition to this Bylaw and I agree with all the arguments she puts forward. It appears that the indigenous exclusion proposed to this Bylaw is poorly thought out, has not considered all the ramifications, does not represent the opinion of the majority of residents, is illegal, is a serious and real conflict of interest for one Trustee, and is potentially detrimental to the environment.

In addition, do you not believe, with this proposed action, you are embarking on a seriously slippery slope? There appears to be no logical connection between what is being proposed and the consequence of or remedy of any historical grievance. It seems completely gratuitous. Why stop here? Why not proclaim that indigenous residents are not subject to any Island Bylaws? And as pointed out, indigenous owners do not even have to be residents.

I would urge you to reconsider this Bylaw and specifically if you are representing the will of residents by including the indigenous exclusion clause.

Warm regards,

Bob Campbell

[REDACTED]
Galiano Island

Bob Campbell PEng

[REDACTED]
Surrey, B.C. [REDACTED]

[REDACTED] (home)
[REDACTED] (cell)

From: Keith Holmes <[REDACTED]>
Sent: Sunday, November 24, 2024 10:47 AM
To: Executive Admin
Subject: Letter to Executive Committee Re: Draft Galiano Local Trust Committee Bylaws # 283 & 284
Attachments: pg 1.jpg; pg 2.jpg; pg 3.jpg

To the Islands Trust Executive Committee

Please accept the following letter as correspondence - it refers to your meeting agenda of November 20 2024.

7.1 Galiano Island Local Trust Committee - Bylaw Nos. 283 and 284 - Request for Decision 25 - 67

THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 283, cited as "Galiano Island Official Community Plan Bylaw 108, 1995, Amendment No. 1, 2022" in accordance with Section 27 of the Islands Trust Act.

THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 284, cited as "Galiano Island Land Use Bylaw 127, 1999, Amendment No. 1, 2022" in accordance with Section 27 of the Islands Trust Act.

I ask that you not approve Bylaw 283 and Bylaw 284 with exemption (p).

Under the Municipal Act and the Islands Trust Act a Local Trust Committee cannot vary "use" or "density" of land except by using a Temporary Use Permit - that mechanism is very precise and applies to only one lot individually and is time specific. The exemption (p) proposed in draft bylaws 283 & 284 would have the effect of multiple Temporary Use Permits to vary "land use" and "land density" in the Galiano Local Trust Committee Area without any studies of landuse impact. The exemptions that are now in draft would not be temporary or would they ? How can landuse planning for an island function when Lands are sporadically exempt ? The proposed exemption from the Community Plan would apply to fee simple land. When the fee simple land is sold does the exemption run with the land or does it revert to Bylaw # 108 the Official Community Plan and regulatory Bylaws ? Would the proposed exemption (p) also exempt "select" loggers from the sustainable allowable cut Bylaw which applies over all of Galiano Island for the protection of groundwater recharge (except of course not applied to the Penelekut Lands of North Galiano). Approving draft exemption (p) would essentially create a "Rogue Community Plan" separate and unassailable from Bylaw # 108 - the Official Community Plan. What kind of cohesive land-use planning could be expected after that ? On Galiano Island Land-use planning under The Islands Trust Act hasn't been simple or easy - a glimpse of the enormous task to plan an island with 60% of the land base under MacMillan Bloedel in Tree Farm status after the Forest company dumped all their land at once on to the real estate market billing the business move as "An Investment in Paradise" is attached and to be considered part of this letter to you.

I ask that you do not approve draft Bylaws 283 & 284 with exemption (p).

Sincerely,

Debbie Holmes

Galiano Local Trust 1996-2002

GALIANO LOCAL TRUST COMMITTEE RESPONDS TO THE ARTICLE IN THE SCRIVENER

In his article, "Land Grab – Galiano Style", in the *Scrivener* for October, 2001, Mr. Wayne Strandlund provides a version of the recent history of Galiano Island which leads the reader to believe that landowners had been manipulated out of their property rights. Mr. Strandlund also serves notice that his article is designed to bolster his political views. But he has got his facts wrong.

Mr. Strandlund also wishes to be provocative. He paraphrases Mr. Robbie Preston who, "asks if a local government can remove a residential right from your land, and then sell the same right back to you in exchange for 75 per cent of your property . . .". The answer on Galiano, as elsewhere in B.C., is no. But, Mr. Strandlund's purpose is to inflame the sensibilities of his readers, and he does not tell them that Mr. Preston is wrong.

The case made by Mr. Strandlund and others is basically that landowners' rights on Galiano were obviated in the following way. A major landowner, Macmillan Bloedel, proposed to develop its forest holdings on Galiano. When it appeared that land use negotiations among the community, Mac Blo and government would falter, Mac Blo decided to put property in Tree Farm 19 on the market. To protect forestry, which occupied 60% of Galiano, the Local Trust Committee of the day adopted bylaws which would set minimum lot size on the forest parcels at 50 acres, and prohibit residential uses. This was a downzoning from the existing 20 acre density. Mac Blo

None of the current forest lot owners, who did not own this land in 1992, had his property rights removed. In fact, these rights are now enhanced by new options for residential use in the forest.

challenged these bylaws in the Supreme Court of BC and, according to Mr. Strandlund, Mr. Justice Paris *struck down* (our emphasis) the bylaws in 1993. To continue with Mr. Strandlund's contention, the way was now clear for Mac Blo to sell its land, zoned for a principal use of forestry, with an expectation of 20 acre subdivision. Everyone agrees that the Justice Paris declaration was set aside by the Court of Appeal, although not until 1995.

MacMillan Bloedel... required purchasers to sign a declaration that they had read the disclosure. No one who bought land from MacMillan Bloedel could have failed to understand the development potential of the forest property they were buying.

Mr. Strandlund misses two critical points. First, the 1992 bylaws were never struck down. MacMillan Bloedel sought "a declaration" on the validity of the bylaws from Mr. Justice Paris. The declaration favoured MacMillan Bloedel. But it did not by itself set aside or nullify the bylaws. That would have required a separate proceeding, which they never undertook. In other words, MacMillan Bloedel sought an unusual remedy, amounting to an opinion from the court. Having got a favourable opinion, they did not act on it to have the bylaws quashed. The 1992 bylaws, setting minimum lot size at 50 acres, were never repealed. None of the current forest lot owners, who did not own this land in 1992, had his property rights removed. In fact, these rights are now enhanced by new options for residential use in the forest.

Mr. Strandlund could easily be forgiven for being misled on this point, given the difference between a declaration of the court, and an order invalidating the bylaws. But this confusion has been carefully cultivated over time by those who would prefer to obscure the fact that the bylaws stood.

Mr Strandlund misses a second critical factor. Before Mr. Justice Paris' decision, MacMillan Bloedel apprised its prospective purchasers that amended bylaws were proposed, and what they permitted, through a disclosure statement. They continued this practice after the Paris decision and required purchasers to sign a declaration that they had read the

disclosure. They continued this requirement for every forest parcel they sold. No one who bought land from MacMillan Bloedel could have failed to understand the development potential of the forest property they were buying.

If anyone was an aggrieved landowner, it was MacMillan Bloedel, who had seen the density on their forest property reduced. In fact, they challenged the motivation of the trustees in the Supreme Court. But the Court of Appeal rejected their argument.

What is certainly true is that the period between court decisions was awful. Some forest property was resold, and we are left to wonder whether MacMillan Bloedel's scruples regarding disclosure to buyers were observed by the new vendors. Some purchasers frankly speculated on the upcoming Appeal Court decision in full knowledge that it might not favour them. Some purchases were made by people who could have been genuinely confused if the court decision and pending appeal were not explained to them, or if they failed to seek legal advice. The effect of Mr. Justice Paris' decision on the Trust Committee was to disable them from enforcing the bylaws or from requiring that subdivision and building permits be refused. The effect of the Appeal Court decision was to allow the Local Trust Committee to resume administration of the bylaws.

Following the unanimous Appeal Court decision, the trustees were presented with one of the hardest decisions ever faced by local government in B.C. The community was divided between those who maintained that their development rights had been taken away, and those who regarded the Appeal Court decision as not only a victory in principle, but an imperative which it would be

The so called land-grab is an upzoning, entirely at the owner's request, where he may choose to use land to buy increased density.

Elsewhere, this provision is called amenity zoning. It is prized equally by developers and local governments.

inconscionable to ignore.

The trustees elected in 1996 ran on a platform of implementing the 1992 bylaws insofar as they concerned the forest. In their own minds, they felt they had to decide between recognizing the undersized parcels which were created speculatively between the court decisions, or sticking with the density provided in the 1992 bylaw. They decided that recognizing the greater density would amount to inequality of opportunity. In effect, they would be saying to those who speculated in spite of knowledge of the bylaws "Go Ahead", and to those who had respected the bylaws, and might otherwise have invested differently, "Tough Luck." They chose instead to treat all comers equally.

Two measures were, however, adopted, which went beyond the provisions of the 1992 bylaw, which did not provide for residential use of forest land. The trustees reintroduced residential density on forest land. They specified that this could happen only through rezoning, because they were presented with an entire island, much of which had been in tree farm license, where watershed protection and a road network were not yet planned. Madame

Justice Southin of the Court of Appeal specifically recognized these difficulties in her written judgement.

A second device was adopted to recognize the circumstances of those who had sought 20 acre zoning. And here we return to Mr. Preston's question about taking away residential rights and selling them back. Where an owner wished to achieve density to 20 acres on forest land, he could do so at the rate of one density per 20 acres, which would be realized on 5 acre parcels. The balance of the land (75%) would be given to an organization that would guarantee sound forest practices henceforward. The bylaw thus includes provision for upzoning, entirely at the option of the landowner. No one is required to take this option. It was in fact offered at the request of forest land owners. The so called land-grab is an upzoning, entirely at the owner's request, where he may choose to use land to buy increased density.

Elsewhere, this provision is called amenity zoning. It is prized equally by developers and local governments. In the Islands Trust area, it is used to provide development premiums in exchange for green space or other amenities which communities desire. On Galiano, three owners of forest land have now judged the provision advantageous to them, and have taken advantage of it. At the time the bylaws were written, this option was seen as a temporary expedient, and the sunset clause seemed appropriate. Extension of the deadline can also be considered by the Trust Committee.

The balance of Mr. Strandlund's article includes a highly speculative version of the role of the Galiano Conservancy Association, which is beyond the

scope of this article to refute, beyond saying that it is wrong. Again, the Trust Committee was supported by the Court of Appeal which specifically rejected allegations of influence over the trustees by the Galiano Conservancy. Mr. Strandlund is wrong on a point of detail, the Conservancy did not appeal the lower court ruling, the Local Trust Committee did.

Using the device of reporting the question of a third party, Mr. Strandlund allows himself to ask the provocative question, "Why was it necessary to draft the OCP behind closed doors, without public input?" Again, he does not answer. Perhaps wisely, at least from the point of view of misinformation. If he had

answered, he would have had to report that an unprecedented number of public meetings were held. Overall, hundreds of persons attended. Moreover, in an extraordinary and fascinating demonstration of democratic openness, no fewer than 52 orderly speakers stated their views before the entire Council of Islands Trust for seven hours on September 16, 1999.

We are also unequipped to comment on the Ministerial papers obtained under FOI. The Chairman of the Galiano Local Trust Committee received The Hon. Jimmy Doyle's written approval of the bylaws during a meeting between the Minister and Trust Executive. The Minister urged us to use great sensitivity to help a

troubled community move forward.

Mr. Strandlund does not help this process. He nurtures myths of past wrong which have already been laid to rest by the highest court in the Province. The Local Trust Committee has offered purchasers of forest land development opportunities beyond what was confirmed by the Court of Appeal. They are also listening to creative suggestions within the bylaws for careful development of a scarce forest resource on Galiano Island.

David Borrowman

Debbie Holmes

Margaret Griffiths

Galiano Local Trust Committee

This is a paid advertisement.

Pebble Beach Management Plan

**Public Meeting
South Community Hall, Galiano Island
Feb. 25th, 7:00PM**

Rick Searle & Associates is currently preparing a management plan for the proposed Pebble Beach nature reserve. A copy of the draft management plan will be available for review beginning Feb. 18th at the Islands Trust Offices on Galiano and in Victoria.

The public is invited to provide oral comments at the public meeting and written comments will be received until Mar. 4th. Written comments can be submitted to Searle & Associates by fax: 250-598-5135 or by e-mail: rsearle@coastnet.com

Trustee Resigns

South Pender Local Trustee John Rumble submitted his resignation from the South Pender Island Local Trust Committee early in the new year, citing on-going health concerns.

Islands Trust have begun immediate preparations for a by-election to elect a new Local Trustee for South Pender Island. The Chief Elections Officer, Thomas Moore, was appointed January 22, and the February Nomination Notice is expected to be out in mid February.

While dates have not been finalised for the by-election, April 13 has been targeted as a possible date. The successful candidate will fill the position vacated by Rumble until the term ends in early December.

General Local Elections for the entire Islands Trust will be held in November of this year, in accordance with the schedule for local elections throughout British Columbia. ■

Cont. from P22

help of Tish Saunders, the Club Board had decorated the Hall in suitable festive season finery. Amidst this splendour, a dozen and more crafts people exhibited their wares while members of The Galiano Club managed a Bake Table and served a small menu of edibles from the Hall kitchen. A commercial success was reported by all participants with The Galiano Club alone raising over \$1,000. Director Sue Evans thanks all the donors of baked goodies, and Club Vice President Nancy McPhee thanks everyone else who participated, helping The Club to once again celebrate the Christmas Season.

From: Kevin Ramsay <[REDACTED]>
Sent: Monday, November 25, 2024 1:33 PM
To: Executive Admin
Subject: Galiano Bylaw 283

I am a Galiano land owner and a government consultant. I regularly work with First Nations around the Province and across the country. I am an advocate for First Nations rights and title but am extremely concerned by a proposed exemption to proposed Bylaw 283:

"Exemption (p) exempts from Bylaw 282:

"Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage."

This exemption does not, in any way, promote strong relations between indigenous and landowners with respect to appropriate land use. Providing this exemption will only create animosity by creating different rules for different interests. And, more importantly, with all the work I do with First Nations they consistently agree with: sustaining safe, reliable groundwater for wells; protecting water quality vital for ecosystems; mitigating development and climate change impacts; and, upholding the Islands Trust mandate to "preserve and protect the unique amenities and environment."

Thank you for your consideration.

Kevin Ramsay, ASCT, RTMgr
Innova Strategy Group
[REDACTED]

www.innovastrategygroup.com

From: Patrick Ramsay <[REDACTED]>
Sent: Monday, November 25, 2024 4:00 PM
To: Executive Admin
Subject: Bylaw 283 Exemption P

I am writing with regards to Exemption P contained within Bylaw 283, discussed at the Galiano Island November 20th LTC meeting. Please include this letter with any documents related to this bylaw.

The Islands Trust has put considerable time, effort and monetary investment into developing an overarching set of bylaws to protect and maintain the watershed areas on our island and other islands in the Salish Sea.

To allow an exemption for anyone, for whatever reason, cultural, political or otherwise, of bylaws created to protect the environment is surprisingly naïve and dynamites the whole purpose of the bylaws, as they will no longer be effective or enforceable on large tracts of land.

While I appreciate Trustees efforts towards reconciliation, Exemption P in my opinion does not enhance reconciliation and creates a legal loophole that could be exploited without consequence, while ignoring environmental responsibilities.

If one was to apply some logic, Exemption P has the potential to create division, without consequence even within Indigenous Communities where some are environmentally conscious and others not so much.

This to me does not sound like a loophole that would be supported by any person honestly concerned about the environment and sustainability.

I ask that this exemption be removed from the bylaws.

Sincerely, Patrick Ramsay

From: Sheila Anderson <[REDACTED]>
Sent: Monday, November 25, 2024 7:20 AM
To: Executive Admin
Subject: Expression of concern re: Galiano Island Local Trust Committee - Bylaws # 283 and 284 - Request for EC Decision

To the Islands Trust Executive Committee,
I request that this email be received as correspondence relating to an item on your Nov. 20th meeting agenda which is "7.1 Galiano Island Local Trust Committee - Bylaws # 283 and 284 - Request for Decision"

I am compelled to express strong objection to the EC approving these flawed bylaws. My concern is mainly about the exemption for Indigenous landowners, but I also disagree with exemption for land with covenants.

As a former Trustee I am quite shocked to see bylaws get this far along that are basing their application on the ancestry of the landowner as opposed to the land itself.

Poorly conceived concepts such as this are not ever going to advance reconciliation with First Nations. Instead will plant a divisive seed to later sprout into ongoing conflicts between Indigenous and non-Indigenous community members.

Further, the goal of these amendments is to protect the freshwater resources of the island for ALL who depend on it. Therefore it must be applied evenly.

I do not agree with exemption of lands with covenants either.

Clearly the Trust's hands are tied as far as the PMFL. We can only hope that soon the Province will correct the inequitable exemptions contained within its regulations.

The Trust is always concerned about legal costs so I fail to understand why the EC would approve these bylaws as written when they clearly set the stage for legal challenge.

Please return these Bylaws to the Galiano LTC with clear direction as to how they must be corrected to ensure their application to be as effective as possible in protecting our freshwater resources.

Respectfully,

Sheila Anderson

[REDACTED], Galiano Island, BC
[REDACTED]

From: Tahirih <[REDACTED]>
Sent: Saturday, November 23, 2024 5:41 PM
To: Executive Admin
Cc: Timothy Peterson; Lisa Gauvreau
Subject: Bylaw 283, exemption (p)

Dear Executive Committee,

I understand you requested further information regarding Galiano's proposed Bylaw 283 at last week's EC meeting.

I appreciate that the current LTC has continued to work on this very important project that will inform development and support groundwater on Galiano into the future, however, identifying a group of people and excluding them based on their heritage from the proposed DPAs - exemption (p) - sets a bizarre precedent that is highly susceptible to legal challenge. Fee simple land is not dictated by the lineage of the owner. This is not the place, nor the mechanism, to accomplish reconciliation goals. People of all race and creed desire fresh, clean water. There should be no need to exclude a particular group from this DPA, given it benefits the whole.

I urge the EC to consider this when discussing this bylaw.

Sincerely,

Tahirih Rockafella

From: Ric Beairsto <[REDACTED]>
Sent: Tuesday, November 26, 2024 8:48 AM
To: Executive Admin
Cc: Jennifer Margison
Subject: Bylaw 282 exemption

Dear Islands Trust Executive Committee Members,

I write on behalf of my wife and myself, as Galiano Island residents and landowners, to express our concern re. the proposed exemption (p) from Bylaw 283, that is:

"Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage."

We fully support the unceded rights, including reconciliation, of Galiano's Indigenous residents, but surely the bylaw is intended to protect the land and groundwater regardless of the status of the landowner. Does an exemption like this mean that an Indigenous landowner may do anything they like with their land -- landfill, clearcut, used car lot? In general it seems the exemption could use greater clarity, and specificity, as well as greater transparency in the process of its consideration.

As an additional note, I assume that any committee member who is in a position to benefit from this exemption will be recusing themselves from the related decision-making, on the basis of a possible conflict of interest.

Respectfully,

Ric & Jennifer Beairsto
[REDACTED]
Galiano Island, BC

From: Kendall Kyle <[REDACTED]>
Sent: Wednesday, November 27, 2024 11:09 AM
To: Executive Admin; Lisa Gauvreau
Subject: Bylaw 238

I am writing to express my concern both legally and practically about exemption P in Bylaw 238.

Thank you for your attention regarding this matter.

Regards,
Kendall Kyle

[REDACTED]

Galiano Island

From: jackie bowers <[REDACTED]>
Sent: Wednesday, November 27, 2024 12:21 PM
To: Executive Admin
Cc: Lisa Gauvreau
Subject: Implications of exemption P as proposed in Bylaw 238

Hi,

I request that the Executive Committee reject Bylaw 283 as long as exemption P remains included in the Bylaw. This exemption sets a concerning and complex precedent by granting an exemption based on the identity of the landowner rather than land use.

Indigenous people and allies all over the world are fighting to protect their natural resources, yet it's being suggested in this document that certain Indigenous individuals - by virtue of their particular heritage - be exempt from the need to obtain a permit, thus enabling them to ignore the impact of their actions on future generations, both Indigenous and non-Indigenous.

Please return Bylaw 238 to the LTC with direction for further consideration of Exemption P.

With thanks for your work you do to protect our environment,

Jacqueline Bowers (Galiano Island resident)

From: Elizabeth Whynot <[REDACTED]>
Sent: Wednesday, November 27, 2024 2:07 PM
To: Executive Admin
Cc: Lisa Gauvreau
Subject: Galiano LTC by-law 283

To: Executive Committee

From: Liz Whynot

Re: ill considered exemption "P"

The recent approval of by-law 283 with hastily included proposed exemption "Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage." is greatly concerning from many perspectives, practical, legal , ecological and historic.

Please review and reconsider this decision as soon as you can. I do not support its being put forward for approval in its current, misconceived, form.

Liz Whynot,
Galiano Resident

From: Margaret Howell <[REDACTED]>
Sent: Thursday, November 28, 2024 8:32 AM
To: Executive Admin; Lisa Gauvreau
Subject: Bylaw 238

We would like to voice our concerns both legally and practically about the implications of exemption P in bylaw 238. Please consider. Thank you. Margaret and Dexter Howell. Galiano Island

From: Stephen Rybak <[REDACTED]>
Sent: Thursday, November 28, 2024 3:56 PM
To: Executive Admin
Subject: GLTC Bylaw. 283 - exemption "p"

Thank you for taking the time and effort to examine the request from the Galiano Island Local Trust Committee for approval of Bylaw 283 with a critical and necessary re-assessment. I strongly urge the Executive Committee to reject approval of Bylaw 283 and return it to the Local Trust Committee to amend or delete exemption "p" from Section 4.6 of the Bylaw.

By including exemption "p", which creates a class of land user, in a list of exemptions for land uses, the GLTC has undermined one of the basic tenets of land use regulation - that land use applications be adjudged on the merits of the land use, not the applicant or land user. This basic tenant is publicly and explicitly acknowledged when land use applications or new regulations come before the Local Trust Committee.

In addition to undermining a basic principle of land use regulation found in all of its current bylaws and the Official Community Plan, approval of this land user exemption would leave the GLTC and the Islands Trust open to a costly and unnecessary court challenge - as legal advice to the GLTC notes.

If you access the public records of the development of this Bylaw, the Community Information Meeting and the subsequent Public Hearing (October 08, 2024) it is apparent there was strong support for acknowledging and including an exemption for traditional indigenous water and land uses in the Bylaw to replace the proffered exemption "p" - an ill-defined and open-ended class of land user.

This was recognized by a Trustee during the CIM, who suggested a potential land use wording cementing indigenous land uses in a bylaw. Indeed, during the subsequent Public Hearing I was asked by a Trustee if I, and by extension other participants, would accept such an amendment to ensure inclusion and recognition of indigenous interest in an amended Bylaw . exemption. I acknowledged and endorsed (as asked) the proposal to replace exemption "p" with a land use definition and fully expected that to occur in the conclusion of the public hearing - which was deferred to the GLTC November 08, 2024 meeting.

During the CIM, it was readily apparent that the inclusion of exemption"p" - creating a class of land user - was being proposed as a reconciliation measure towards the Penelakut First Nation and some aboriginal families on Galiano. One Trustee did note that the use of an administrative instrument such as a land use bylaw was not the vehicle to introduce such an important public policy statement, which would have implications for all Galiano LTC bylaws and the Community Plan. During the CIM, Island Trust staff admitted they did not know how many or what properties regulated by the Bylaw would be impacted by the inclusion of the land user class as an exemption. There was no analysis and there is still no inclusion of that number in the public record, despite enumeration of other exemptions (ie. PFML properties).

The resumption of the public hearing included other "technical" amendments to the draft Bylaw 283, but none was forthcoming to either strike exemption "p" due to its questionable legal basis or to replace it with a land use exemption. The public disappointment was palpable when Trustees decided to approve the draft bylaw, with its potential legal liabilities, as a matter of expediency - "to get the project off the books". The Chair noted that "we could always come back and amend the wording".

In other remarks made during the reconvened Public Hearing, a Trustee noted that “so much is exempted, what is left ... all of the “p” lands are already exempted”... . The quotations are taken from my personal transcribed notes of the discussion, which, I trust, will be borne out by either the audio recording of the session or by the final minutes of the Public Hearing - if noted by the recorded.

If such is the case - that exemption “p” properties are already covered by other exemptions, then why include this attempt to create a class of land user in an instrument of land use. Exemption “p” is, by the sponsoring Trustee’s admission, unnecessary.

The only rationale ever given for inclusion of exemption “p” was that “They were here first”. There is a strong desire among our Island community to take meaningful measures to advance reconciliation and recognize unceded First Nations lands. During the CIM and Public Hearing, suggestions were made to explore means of involving First Nations and their knowledge of sustainable water resource uses and management in the subsequent administration of the Ground Water Sustainability Bylaws. There is no indication if the GLTC will pursue such suggestions from the public with the Penelakut.

Galiano Island is open to and needs a bold, transparent policy statement and amendment of the Official Community Plan - not a superfluous, legally risky, ambiguously worded exemption in a relatively minor land use regulatory instrument.

Please reject this Bylaw and return it to the GLTC for either the removal of exemption “p” or its replacement with a defined land use description encompassing traditional indigenous practices. Please maintain the integrity of land use governance in the Islands Trust.

Stephen Rybak

████████████████████

Galiano Island

From: Joan Bartley <[REDACTED]>
Sent: Thursday, November 28, 2024 7:13 PM
To: Executive Admin
Subject: Letter To EC re: Galiano Bylaw #283
Attachments: Letter to EC re Bylaw 283 11-27-24.pdf; Delegation from Jeannine Georgeson.pdf

To the Islands Trust Executive Committee:

Please find attached two documents/letters in support of the return of Bylaw 283 with exemption (p) to the Galiano Local Trust Committee for an amendment to remove exemption (p) from Bylaw 283:

1. Letter to EC from Galiano community members;
2. Appendix 1: Delegation from Jeannine Georgeson.

Respectfully submitted,

Joan Bartley

[REDACTED]

Galiano Island, BC

Hello,

My name is Jeannine Georgeson. On the non-Indigenous side of my family, I am a 6th generation resident of Galiano, mother and grandmother to the 7th and 8th. On my Indigenous side, it goes back many generations – your guess is as good as mine as to how many it could be.

I stand here today as an Indigenous woman and hopefully, one day a matriarch. It has been brought to my attention that one of our Trustees has brought forward a Notice of Motion to replace Standing Resolution 2019-053. In lines: c, d, and e, the Trustee suggests the changes to include “and organizations”. This would be a disservice to the Indigenous community members that come from families who have been residents of these communities for generations but are not affiliated with these Indigenous organizations and due to the oppression and division of the Indian Act efforts to erase our Indigeneity, we are not a part of or represented by Indigenous governing agencies. I propose our Trustees consider replacing the proposed “and organizations” with Knowledge Holders in an effort to be inclusive of all Indigenous community members with a proven historical connection to these lands and waters.

In this same motion, the Trustee proposed the addition of the line “Direct staff to not take enforcement action against any Indigenous Peoples in regards to their traditional and Inherent Rights.” I am curious what the parameters of Traditional and Inherent rights would be in the context of this proposed addition. Would this include mining if an Indigenous person holds the mining rights title, development in a watershed, or logging of our forests? I believe this motion to include this line is disguised to serve a small portion of Indigenous community members and is not put in as an effort to preserve our lands and waters for our future generations. Indigenous people deserve the right to learn and practice their cultural and inherent rights but these to be in line with the long-standing laws, practices, and protocols of Indigenous people since time immemorial and not dictated by individuals or organizations.

I was a part of the Freshwater Sustainability strategy in 2021 as an Indigenous Knowledge Holder with other Knowledge Holders from throughout the Islands Trust region. With the support and guidance of Planner Chadwick and Lisa Wilcox through the lengthy and thorough process, they provided us with the space to have our voices heard regarding our connections to water, land, the cultural practices and teachings that have been a part of who we are as Indigenous people for generations. We all had time to review, consider, provide input, request edits, and approve the draft document that was created in collaboration with other agencies.

In Bylaw 283, it has been suggested by a Trustee that “Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage” be exempt from any requirement for a development permit. I ask you, who would stand to gain from this motion?? Any Indigenous person taking action to preserve our land, waters, and culture for future generations would not favour including this motion! Water, fresh and salt, is sacred to our people for many reasons and proposing that Indigenous people be exempt from requiring a permit to develop on one of our most sacred resources is baffling to me! You have to be living under a rock to not see the impacts colonization, development, and human activities are having on our waters both fresh and salt and the fight we are having to protect these resources.

Why would developing on or in the area of one of our most sacred resources be something an Indigenous person would want to proceed with? Indigenous people and allies all over the world are fighting to protect this natural resource and it's being suggested in this document to exempt Indigenous people from requiring a permit so they can proceed for their own selfish reasons and not consider our future generations and what the impact of these actions would have. This proposed inclusion would not serve Indigenous peoples as a collective but only as individuals.

As for the term "federal Indigenous status", this is the Indian Act hard at work to create division and oppress Indigenous people further. Please look at myself and my family lineage and tell me I am not Indigenous because I do not have a status card and I do not carry the same rights as someone with a card. Please tell me I do not have a right to culture, language, or practice in my territory because I do not have a status card. The inclusion of the term "federal Indigenous status" continues to perpetuate the oppression and erasure of Indigenous people through the Indian Act and it would be detrimental to our Indigenous brothers, sisters, and children if this is the narrative the Islands Trust wants to create for our people. Yes, I have something against the Indian Act and I would hope the Islands Trust would as well considering whose land you are on and what has been taken from our people for too long. I suggest keeping this term out of policies, procedures, and motions.

Sincerely,

Jeannine Georgeson
Galiano Island, BC

November 27, 2024

To the Islands Trust Executive Committee:

Please receive this letter as correspondence relating to the November 20, 2024 EC agenda:

7.1 Galiano Island Local Trust Committee - Bylaw #283 - Request for Decision

THAT the Islands Trust Executive Committee approve Galiano Island Local Trust Committee Bylaw No. 283, cited as "Galiano Island Official Community Plan Bylaw 108, 1995, Amendment No. 1, 2022" in accordance with Section 27 of the Islands Trust Act.

As Galiano residents who have only recently become aware of this matter, we urge the Executive Committee to return Bylaw 283 with exemption (p) to the Galiano Local Trust Committee and request an amendment to remove exemption (p) from Bylaw 283.

Exemption (p) in Bylaw 283 reads:

"Land owned by a person with federal Indigenous status living in their traditional territory with proof of Indigenous family lineage."

We understand that our Local Trust Committee approved this bylaw on November 8 and forwarded it and Bylaw 284 onto you for approval. We understand this decision has been deferred to a Special Meeting to be held prior to December 15. If the Executive Committee decides to approve the bylaw and forward them onto the Minister, we intend to appeal to the Minister and will consider legal action.

You are aware of the intent of the bylaws which in fact we do support. However, approving Bylaw 283 with exemption (p) would create a dangerous and unprecedented inequity on our island that has nothing to do with meaningful reconciliation between First Nations and the Islands Trust.

If you have not already done so, we hope you will take the time to review Jeannine Georgeson's delegation to a Galiano LTC meeting (Appendix 1), in which, speaking as a Galiano resident, Indigenous woman and as part of the Freshwater Sustainability work in 2021, she clearly presents her views on this exemption and the overall importance of protecting our freshwater resources.

Despite community concerns and legal advice suggesting the exemption's invalidity, Bylaw 283 and its accompanying Bylaw 284 were approved by the Galiano Local Trust Committee following a Community Information Meeting and Public Hearing that was sandwiched into the middle of a regular LTC meeting on Nov. 8. There was minimal public notice and little information provided to the public. This exemption threatens to undermine the effectiveness of the intended watershed protection of the DPA and would

create a situation where a bylaw applies to some fee simple landowners but not to others.

We ask you to consider these significant concerns with exemption (p):

1. Inconsistency with Land Use Principles

Regulations should apply to land use, not landowner identity. Acting Islands Trust CAO Julia Mobbs has emphasized that "Indigenous rights are collective rights and that fee simple land is indeed subject to bylaws." Regarding bylaws, the Islands Trust Director of Legislative and Information Services, David Marlor stated "It's not the person; it's the land use process."

2. Precedent for Inequity and Community Conflict

Applying regulations inequitably undermines governance, creates divisiveness and could set a precedent for other bylaw exemptions across the Islands Trust area based on landowner identity.

3. Legal Risk

The Trust's legal counsel has advised against the exemption's validity. The exemption risks costly legal challenges that would be borne by the taxpayer and the EC should return the bylaw to the LTC for this reason.

4. Ecological Risks

The exemption undermines the bylaws' intent to preserve groundwater and ecosystems. Activities like logging or development in recharge areas threaten ecosystems, affecting all neighbours and our natural ecosystems.

5. Problematic and Ambiguous Wording

The exemption appears to include individuals with federal Indigenous status who may not reside on Galiano or consider it their traditional territory. It appears that they could own land here but live on their traditional territory elsewhere and qualify for the exemption. Requirements for "proof of Indigenous family lineage" are redundant, as federal status already confirms lineage. There are concerns as well among local Indigenous people who do not have "federal Indigenous status" under the terms of the Indian Act. Additionally, Non-Indigenous people owning a lot with an Indigenous person could benefit from exemption (p).

6. Lack of Transparency

The Community Information Meeting and Public Hearing failed to address many key questions:

- oHow many lots are affected?
- oWho determines eligibility and what will the process entail?
- oWould the bylaw exemption require a Temporary Use Permit?
- oDoes this apply to corporate-owned lots?
- oHow will harmful activities be regulated or monitored?
- oDoes the Galiano trustee who originated exemption (p) need to declare a conflict of interest?

This exemption does not represent thoughtful reconciliation with our First Nations neighbours. It could lead to unnecessary conflict without advancing shared

environmental or social goals. It undermines ecological protection and equity. It would create chaos within our land use planning process by allowing land use and land density without any consideration of its environmental impact as required by both Bylaw 108, our OCP; the Island Trust mandate and the Trust Policy Statement.

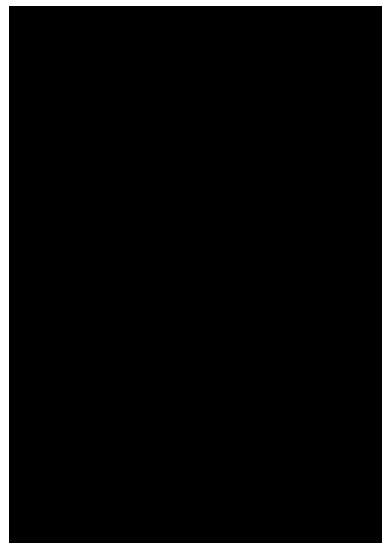
In addition to exemption (p), Bylaw 283 contains so many exemptions - for parks, PMFLs, lands with conservation covenants, etc.- as to render it almost toothless in terms of protecting Galiano's one island-wide aquifer.

We request that the Islands Trust Executive Committee return Bylaw 283 to the Galiano Local Trust Committee, request that they remove exemption (p) from Bylaw 283 and consider crafting a much more effective bylaw in order to protect Galiano's groundwater and ensure equitable stewardship of Galiano's vital water resources.

We also suggest there needs to be a broader and more in-depth community conversation on groundwater protection strategies than was afforded Bylaw 283.

Sincerely,

Daphne and John Arber
Joan Bartley
Sylvie Beauregard and Nichole D'Allaire
Bob Campbell
Ian Chunn and Susan Reaney
Mark Czuma
Veronika Florianova and John Zickmantel
Jan Fenby
Werner Heinrich
Jim Henshall and Jennifer Margison
Maureen Jack LaCroix and Derek Lacroix
Carmita de Menyhart and Jorge Menyhart
Margaret Stember
Mary Lee Striker
Helen Tsephopoulos



Appendix 1

Delegation from Jeannine Georgeson

From: Holly Schofield <[REDACTED]>
Sent: Sunday, December 1, 2024 4:04 PM
To: Executive Admin
Subject: Galiano Island proposed bylaw 283, Item P

Dear Executive Committee Members,

Please return Galiano Bylaw 283 to the LTC with direction for further consideration of Item P.

The legal opinion of Young Anderson is clear -- this will not stand up under provincial or federal laws. The Executive Committee has a fiduciary duty not to enter into situations that could easily end up being costly in legal fees.

Further, due process at the LTC was NOT followed. Trustee Mabberly slid Item P into the bylaws without appropriate engagement through the Local Trust Committee. There was no notice of motion nor a Request for Decision (RFD), there was no background information, staff scrutiny, or even a clearly defined rationale.

In addition, I believe you have received correspondence from the local Indigenous population who feel that Item P is not worded in a way that benefits reconciliation.

Item P is open to misinterpretation. It does not fit the standard for exemptions, which should be activity-based on the land use itself, not identity-based. It will incur lawsuits and legal troubles down the road.

Please reject it and send it back to the LTC table.

Sincerely,

Holly Schofield

[REDACTED]

Galiano, BC V0N 1P0

From: Lori Seay <[REDACTED]>
Sent: Sunday, December 1, 2024 7:52 PM
To: Executive Admin
Cc: Lisa Gauvreau
Subject: Galiano LTC Bylaw 283

I urge you to return Galiano Bylaw 283 to the Galiano LTC for appropriate consideration of exemption(P.). The lack of engagement with the community and scope issues raised by Trust legal counsel are sound reasons for this request.

Additionally, it has been deeply troubling to see the deterioration of public engagement and discourse on display at the LTC in recent months. Speakers who ask questions or seek further information on significant land use changes, many outside the Trust's mandate, are publicly accused by Trustee Mabberly of being opposed to UNDRIP. This kind of polarizing approach destabilizes engagement and information sharing. One of the core principles of Truth and Reconciliation is truth-telling. Please give this item the daylight it deserves.

Lori Seay - Potter

[REDACTED]

Galiano Island BC

From: Trish Flynn <[REDACTED]>
Sent: Monday, December 2, 2024 12:14 PM
To: Executive Admin
Subject: Galiano Bylaw 283

Regarding the exemption P requested.
No. And no again.

There are so many reasons to not grant
this exemption. I wonder if you ever
take in to account the conflict of interest of the Trustee - and how the exemption would affect his lands.

Zoning is for land use attached to the parcel of land. Not for the advantage of the persons who might
own the land.

I know it's not PC, but definitely no on exemption P.

PM Flynn
[REDACTED]
Galiano

December 6th, 2024

To the Islands Trust Executive Committee,

I would have like to speak during the Dec. 8 meeting but for medical reasons I will not be able to do it. I am sending instead this letter.

It is my belief that clause “q” is insulting for First Nations.

This is the definition of Development Permit Area form the East Kootenay Regional District:

“A development permit is a land use management tool that ensures proposed developments comply with objectives and policies in an Official Community Plan. The Local Government Act establishes what development permits can be used for. In the case of environmentally sensitive areas, the purpose of the development permit is protection of the natural environment, its ecosystems and biological diversity.”

In the case of Galiano Bylaw 283/284 the permits are to protect groundwater, undoubtedly the essential natural resource of the Gulf Islands.

Staff Report Nov. 28th- page 1 –“though the resolution references both Bylaws 283 and 284, EC deliberation focused on Bylaw 283 and specifically proposed Development Permit Area (DPA) exemption ‘(q)’ (previously referred to as exemption ‘p’) in the updated Groundwater Recharge Protection DPA, **which would exempt from any requirement to obtain a Development Permit:**

(q) Land owned by a person with federal Indigenous status living in their traditional territory

with proof of Indigenous family lineage.

Have you asked yourselves why clause “q” have been inserted in Bylaw 283?

Reading the Staff report the only reason stated is **Reconciliation.**

Staff Report - Organizational Implications:

1. Reconciliation: approval of the Bylaw could be considered to further reconciliation. Penelakut Chief attended the Public Hearing, along with members, and spoke in support of the Bylaw during the Community Information Meeting.

“[Penelakut] Chief Jack made the following comments

I’m grateful that you are including us in a document and have pride that we are finally, being included in a document that we were removed from not by choice”

Chief Jack is grateful for her people to be included in a document, but it is this a document that dignified in anyway Galiano’s Indigenous people?

It is my opinion that clause “q” instead of helping reconciliation is rather insulting for the Galiano indigenous people.

- Does the Galiano LTC believe that indigenous owners will act in ways that could cause environmental damage in their lands, and for this reason they need clause “q” exemption?
- Isn’t clause “q” reinforcing the way of thinking of racist people, considering indigenous people as irresponsible, incapable of choosing between what is right or wrong, in this case the protection of groundwater for everybody on Galiano?
- Isn’t this way of thinking insulting of First Nations?

I will finish this letter with **Jeannine Georgeson** words:

“I ask you, who would stand to gain from this motion?

Any indigenous person taking action to preserve our land, waters, and culture for future generations would not favour including this motion! Water, fresh and salt, is sacred to our people for many reasons and proposing that Indigenous people be exempt from requiring a permit to develop on one of our most sacred resources is baffling to me! You have to be living under a rock to not see the impacts colonization, development, and human activities are having on our waters both fresh and salt and the fight we are having to protect these resources

Why would developing on or in the area of one of our most sacred resources be something an Indigenous person would want to proceed with? Indigenous people and allies all over the world are fighting to protect this natural resource and it’s being suggested in this document to exempt Indigenous people from requiring a permit so they can proceed for their own selfish reasons and not consider our future generations and what the impact of these actions would have. This proposed inclusion would not serve Indigenous peoples as a collective but only as individuals.”

Kind Regards,

Carmita de Menyhart

Galiano Island