



Hornby Island Local Trust Committee

Special Meeting Agenda

Date: April 17, 2023
Time: 4:00 pm
Location: Electronic Meeting

Pages

- | | | |
|---|-------------------|--------|
| 1. CALL TO ORDER | 4:00 PM - 4:05 PM | |
| "Please note, the order of agenda items may be modified during the meeting. Times are provided for convenience only and are subject to change." | | |
| 2. APPROVAL OF AGENDA | 4:05 PM - 4:10 PM | |
| 3. PUBLIC COMMENTS | 4:10 PM - 4:25 PM | |
| 4. BUSINESS ITEMS | | |
| 4.1 Hornby Island Official Community Plan Review Project - Consultant's Report March 30, 2023 | 4:25 PM - 5:25 PM | 2 - 45 |
| 4.2 Hornby Island Official Community Plan Review Project - Staff Report (to be distributed) | 5:25 PM - 6:25 PM | |
| 5. UPCOMING MEETING | | |
| 5.1 Next Regular Meeting Scheduled for Friday, May 5, 2023 at 11:30 am at Room to Grow | | |
| 6. ADJOURNMENT | 6:25 PM - 6:25 PM | |

March 2023

Patricia Maloney Consulting



Islands Trust

Hornby Island Official Community Plan Engagement Summary report

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Executive Summary

Hornby Island is located 31 km Southeast of Courtenay and includes the Islands of Toby Island, Flora Islet and Norris rocks. It has a population of 1,225 (2021). It is one of the best summer destinations as it is rich in nature and culture. It has long sandy beaches and scenic trails.

The Hornby Island, as with many of the Gulf Islands, has a permanent population, but a large recreational component, making many of the properties being used for weekend and summer use only. It takes two BC Ferries to access Hornby Island via Buckley Bay and Denman Island.

In August 2022 Patricia Maloney Consulting, in partnership with Bayshore Planning Inc., was engaged by the Hornby Island Local Trust Committee to undertake a targeted Official Community Plan (OCP) review of the following four topic areas:

1. Riparian Areas
2. First Nations
3. Affordable Housing
4. Short Term Vacation Rentals

Community engagement on these four topic areas was conducted and options for potential amendments are provided to update the Hornby Island Official Community Plan (OCP) and Land Use Bylaw (LUB).

This report provides a summary of the major points gathered from public engagement, specifically related to these topics. The preliminary recommendations and directions for optional amendments were provided to the Local Trust Committee, however no clear direction has been determined, and as such, this report will present policy recommendations and options for consideration by the Local Trust Committee (LTC).

Some of the key messages that were gathered from the consultation includes:

- Riparian Areas – There is some confusion about the results of the two riparian studies that were completed in 2011 and 2014 with some people feeling the reports are conflicting. A consolidation and update of these reports would be helpful. There is also community misunderstanding about the Riparian Area Regulation requirements with regards development around streams. There needs to be clarification with regards the Province's Water Sustainability Act and how it applies to domestic and commercial water use.
- First Nations Language – The existing OCP does not include the recent update of the Islands Trust acknowledgement statements demonstrating a commitment to United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and much of the current OCP celebrates the colonial and settler development on the island and does not recognize the indigenous history. The LTC and community have expressed the importance of building relationships with First Nations. The need for early and meaningful engagement with the K'omoks First Nation was expressed.
- Affordable Housing – There is general agreement that affordable housing is required, but not necessarily on how it should be provided.
- Short-Term Vacation Rentals – The community expressed a wide range of concerns and comments regarding STVR's including: they are needed to maintain the local economy, they cause mis-use of

the groundwater and septic fields, they allow people to get mortgages, they bring disrespectful visitors to the island, they take long term rental out of the market, people who rent out their homes would never rent long term. STVR's or Vacation Home Rentals were allowed bylaw amendment to the OCP in 2011 and to the Land Use Bylaw in 2012. Many of the existing STVR's are legal.

This report provides options for OCP/LUB amendment in Section 5. The Local Trust Committee will have to determine what options they wish to pursue. It is the Consultants' view that in some cases the community misunderstanding is due to lack of knowledge of provincial regulations (which the LTC has no ability to change or modify), and that there are some issues and topics for which the community will never agree.

1.0 Introduction

1.1 Scope of Work

The Hornby Island Local Trust Committee embarked on a targeted Official Community Plan (OCP) review of four topic areas. Patricia Maloney Consulting was engaged in August 2022 to conduct community engagement on these four topic areas and to present potential amendments to update the Hornby Island Official Community Plan (OCP) and Land Use Bylaw (LUB). The four topic areas are:

1. Riparian Areas
2. First Nations
3. Affordable Housing
4. Short Term Vacation Rentals

This report provides a summary of the major points gathered from public engagement, specifically related to these topics. The preliminary recommendations and directions for potential amendments were provided to the Local Trust Committee, however since no decisions were made, this report will present policy recommendations and options for consideration by the Local Trust Committee (LTC).

1.2 Engagement

In October 2022, a Zoom webinar was held, Chaired by the LTC. All four topic areas were on the agenda. A presentation was made and the participants were able to provide comment. There was concern raised that the meeting was ended after two hours, and that the timeframe was insufficient to discuss four topic areas. Subsequent to the meeting, the consultant received over 34 emails with comments, suggestions and ideas that were responded to, forwarded to Islands Trust staff and the Local Trustees.

In January 2023, Staff presented a summary memo to the LTC, with the consultant available for questions.

In February 2023, the consultant had an in-person meeting with the Hornby Island Advisory Planning Committee (APC). This meeting reviewed previous submission by the APC, allowing the consultant to provide information about best practices and suggestions for how to incorporate some of the APC recommendations. The APC has provided submissions to the LTC for consideration for amendment to the OCP including direction for Short Term Vacation Rentals (STVR)'s and wording changes in the OCP for Indigenous language.

Later in February 2023 another zoom webinar Community Information Meeting was held. Again, chaired by the LTC, but this time the presentation and consultation was focused solely on Short Term Vacation Rentals. The conversation often strayed to Affordable Housing. The two topics are inextricably connected and it was difficult for the participants to separate the two topics. **Table 1** summarizes the engagement.

Table 1 COMMUNITY ENGAGEMENT PLAN SUMMARY		
October 6 th LTC Special Meeting	Zoom Meeting	Members of the public participate in workshop.
January 20, 2023 LTC Meeting	Zoom Meeting	Update to the LTC meeting
February 21 st Advisory Planning Committee (APC)	In person meeting with APC	Attendance at the APC meeting to hear the recommendations
February 27 th LTC Special Meeting	Zoom Meeting	Members of the public participate in workshop.

Through the consultation process this is what we heard:

1. Indigenous Communication
 - Indigenous communications is an ongoing commitment by the Islands Trust and terminology will reflect the direction for Islands Trust;
 - The participants generally supported that land use decisions should be guided by the directions of reconciliation;
 - Building a relationship with the K'ómoks First Nation (KFN) Chief and Council is seen as beneficial;
 - The OCP should be clear that anyone developing lands on Hornby Island must ensure that impacts on cultural heritage are incorporated into the development process;
 - The APC have proposed recommended wording changes to the OCP, the consultant has reviewed these recommendations and edited/added language to ensure that the wording in the OCP is respectful and supports and encourages reconciliation and good relations;
 - It was recognized that the draft OCP should be circulated to the K'ómoks First Nation for comment;
 - It was recognized that sending letters or emails of notice is not engagement with a First Nation and that the communication needs to be built on relationships; and
 - Important Indigenous sites should be identified and protected.
2. Riparian Areas
 - There were many questions with regards the Province's Water Sustainability Act and how it applies to Island Health's licensing requirements for domestic and commercial wells, secondary units, home based businesses, short term vacation rentals etc., making it evident that the regulations were not generally understood by the community;
 - There were many questions related to why a Qualified Environmental Professional was required and why residents may have to pay for this. Again, generally people do not understand the Riparian Area Protection Regulations;
 - Residents did not understand why intermittent streams, ditches, seasonal wetlands and ephemeral waterbodies) could be considered riparian areas;
 - There was some opposition to the inclusion of sea level rise in the considerations of setbacks;

- There was no agreement on the two existing environmental/riparian reports completed. Many people felt the two reports were conflicting, when both Islands Trust staff and the consultant believe they are complimentary. These studies, while fairly old, were done as a mapping exercise to assist the Islands Trust with future land use decisions; and
 - It is not clear that any property owner who wishes to develop and there is a riparian area (including intermittent streams, ditches, and seasonal ponds) will need to go through the RAPR program with riparian.
3. Affordable Housing
- General support for affordable housing for young people, families, people who work in agriculture or the service industry;
 - Concern that affordable housing units may be used for Short Term Vacation Rental;
 - Concern that additional residential units on the island may put pressure on ground water and ferries;
 - Concern that if additional residential units are allowed, that they will not be affordable; and
 - There were questions about how the well and septic would be tested and demonstrated to be appropriate for an additional dwelling unit.
4. Short Term Vacation Rentals
- Residents were split on the benefit of Short Term Vacation Rentals;
 - Many residents spoke to the nuisance of STVR's in terms of noise and partying, others spoke to the lack of respect for the island, others spoke to the abuse of wells and septic fields, others spoke to the fact that STVR's took long term rental out of the market;
 - Many people spoke in support of STVR's saying that they create jobs and economic benefit to the island, support people who do not live on Hornby full time (and say they would never rent out their house for long term rental), provides mortgage helpers for people, and do not create any more stress on groundwater than a full time residence;
 - It was very clear that the two groups (supportive and not supportive) will never accept the other's position;
 - There was general misunderstanding that many of the existing STVR's are legal based on the existing zoning and that even if the zoning is changed, they can continue to operate;
 - There were questions related to the licensing of wells (not required by the Ministry because STVR's, like bed and breakfast, are not considered commercial uses); and
 - There were people who were misinformed about the current bylaw enforcement efforts (people did not think there was any bylaw enforcement on illegal STVR's) and it was pointed out that there were (as of October 2022) 11 active cases being investigated.



2.0 Riparian Areas

2.1 Existing Legislation, Policies and Bylaws

The existing current policies in the OCP for Riparian Areas/Development Permit Areas are consistent and support the Water Sustainability Act and the Riparian Area Protection Regulation.

Currently the protection of Riparian Areas is the provincial responsibility. All properties bordering on streams (which may include ditches under provincial definition) need to address setback requirements. The options are 30-meter setback from all development, or have a Qualified Environmental Professional prepare a Streamside Protection Environmental Assessment report (SPEA) to be reviewed and approved by the province. This will determine the appropriate setback distance (which could be more or less than 30-meters). This is not something that Islands Trust, or the Hornby Island Local Trust Committee have any ability to change.

It is evident that the community does not necessarily understand the regulations or the need to follow the setback requirements, or what is a riparian area.

2.2 Hornby Island Background Studies

There were also questions from some community members about the validity of the Mimulus (2011) and Madrone (2014) Reports on Hornby Island Riparian Areas. The two reports on streams and riparian areas were commissioned by Islands Trust to mapping data as part of the 2014 OCP review. It should be noted this information is only one part of the collected data that Islands Trust can access when identifying watercourses in riparian areas.

To provide more clarity it may be worthwhile updating these two reports to include the latest Provincial data on sea level rise and to identify any areas that are at risk to ocean flows into creeks and streams potentially creating longer term implications for riparian areas.

Both studies set out to complete a Stream Identification Survey. This included identifying watercourses, streams and/or wetlands that fit the definition of a stream under Riparian Areas Protection Regulation. The streamside mapping defines a watercourse as a stream and both projects included methods to identify fish presence or potential fish presence during their studies.

This definition of stream is defined within the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRO) - Riparian Areas Protection Regulation Tech Assessment Manual Nov 2019.

“The RAPR defines a stream as any watercourse providing fish habitat, natural or human-made that contains water on a perennial or seasonal basis and is scoured by water or contains observable deposit of mineral alluvium; or has a continuous channel bed including a watercourse that is obscured by overhanging or bridging vegetation or soil mats...A stream may not be currently inhabited by fish, but may provide water, food and nutrients to other streams that do support fish.”

This explains why ditches, intermittent or seasonal creeks can be considered Riparian areas as they could be determined to have Fish Presence or Potential Fish Presence.

The methodologies employed by the Mimulus/Madrone reports to assess Hornby Island watercourses to determine fish access, fish presence, and habitat suitability included:

- Field Survey-Walking stream to determine habitat suitability and to assess physical parameters such as channel width, water flow, morphology, gradient, and substrate composition, combined with collection of GPS information.
- Desktop Review- Fish distribution and other information for the stream were researched on the Fisheries Info Summary System (FISS) database, as well as within reports and maps from local and regional sources.
- No fish trapping was completed as part of both assessments. This type of sampling requires rigorous sampling procedures during specific times of the year. As the purpose of the project was to identify fish-bearing or potential fish-bearing drainages, no detailed sampling procedures were conducted.

Further review of watercourses on Hornby Island by Islands would achieve the following objectives:

- Updating current mapping would confirm streams that should be protect fish and fish habitat from future development.
- This mapping exercise would allow the Islands Trust to accurately identify the Streamside Protection and Enhancement Area (SPEA) for the identified streams in both projects.
- Any proposed development within the boundaries of the SPEA would trigger an Assessment Report under the Riparian Areas Protection Regulation (RAPR).

The watersheds and identified Streams of the Mimulus (2011) and Madrone Reports (2014) include both the Ford Creek Watershed and the Beulah Creek Watershed.

These studies also demonstrated:

- No barriers to potential upstream fish movement from tidal waters, although low quality of fish habitat was present and lack of spawning areas and seasonal flow regime;
- No barriers detected to fish habitat movement into the main stem, therefore all mapped watercourses within the report are defined as Creeks and should be provided protection under RAPR;

- No barriers to potential upstream fish movement were observed from tidal waters, suitable fish habitat was observed in the lower reaches of drainage, though overall the system would represent low quality fish habitat; and
- Diverse habitat within the lower reaches. The dam structure is possible during high flows and the lower reaches are more likely to support fish.

2.3 Provincial Regulations

Riparian Areas, setbacks and protection are regulated by the Provincial Government under the WSA or the Riparian Areas Protection Act. Currently the OCP addresses Riparian Areas in the Development Permit guidelines. Ultimately the protection of Riparian Areas is the provincial responsibility. All properties bordering on streams (which may include ditches under provincial definition) need to address setback requirements. The options are 30 m setback from all development, or have a Qualified Environmental Professional prepare a Streamside Protection Environmental Assessment report (SPEA) to be reviewed and approved by the province. This will determine the appropriate setback distance (which could be more or less than 30 m). It was evident in the engagement session on October 6th, that many residents do not understand the authority or the definitions (particularly with intermittent streams, ditches, seasonal wetlands and ephemeral waterbodies).

The current OCP already has a Development Permit Area regulating setback or requirement for a QEP to assess the site and provide setback distances.

2.4 Options for OCP/LUB Amendment

After reviewing the current OCP/Development Permit policies and regulations, it is noted that they conform to the Provincial Regulations for the identification and protection of Riparian areas. The Local Trust Committee and Islands Trust cannot reduce or eliminate these regulations. All landowners who wish to develop and are in proximity to any creek, stream, shore, pond, ditch or other water body, whether it is intermittent, seasonal, manmade or natural, must comply with the Riparian Area Protection Regulations, as well as the OCP and Development Permit Guidelines.

Therefore, there **are no suggestions for options for amendment to the OCP**. However, there are other actions that the Local Trust Committee could consider:

Option 1: Request funds to update and consolidate the Mimulus (2011) and Madrone Reports (2014), include:

- a. the latest Provincial data on sea level rise and for areas impacted by ocean flows into creeks and streams, and
- b. definitions and clarification of what may constitute a riparian area.

Option 2: Prepare educational materials to put on the Hornby Island Website to inform people of what Provincial regulations control riparian areas, what the definitions are, provide links to the mapping, Development Permit Area and any updated studies.



3.0 Indigenous Language

3.1 Islands Trust Policy

Islands Trust has adopted policies regarding reconciliation, respect, communication and action but build relations with Indigenous Communities on whose traditional and unceded lands the Islands Trust operates.

On March 14, 2019, Islands Trust Council adopted the following Reconciliation Declaration:

Islands Trust Council acknowledges that the lands and waters that encompass the Islands Trust Area have been home to Indigenous Peoples since time immemorial and honours the rich history, stewardship, and cultural heritage that embody this place we all call home.

Islands Trust Council is committed to establishing and maintaining mutually respectful relationships between Indigenous and non-Indigenous Peoples. Islands Trust states a commitment to Reconciliation with the understanding that this commitment is a long-term relationship-building and healing process.

Islands Trust Council will strive to create opportunities for knowledge-sharing and understanding as people come together to preserve and protect the special nature of the islands within the Salish Sea.

The consultant reviewed the existing Hornby Island OCP language in light of this declaration. In addition, the Hornby Island Advisory Planning Commission previously reviewed the language in the OCP and made several recommendations. The consultant reviewed these suggestions and edited and added to the suggested modifications. This “redlined” version of the OCP is provided in **Appendix A** of this report.

3.2 Provincial Regulation

In addition to the Islands Trust declaration, the 2014 OCP references the Heritage Conservation Act with regards land use development and that it shall be located away from areas of archaeological sites unless authorized by a

permit issued under the Heritage Conservation Act. Working with the First Nations, Hornby Island LTC could better identify additional sites important to the First Nations.

Several terms are referenced in the Act that should be noted in the OCP and defined such as Culturally Modified Trees. Culturally modified trees (CMT) are living trees that has been visibly altered or modified by indigenous peoples for usage in their cultural traditions. In British Columbia, groups of CMT 's are classified as "forest utilization sites" and if it can be determined it was modified before 1846, then the trees in that group are protected by the *Heritage Conservation Act* (1966). The modification includes alterations of stripping bark or removal of planks, generally from red and yellow western cedar.

Other indigenous sites automatically protected are archaeological sites older than 1846, including spiritual, ceremonial and cultural sites of particular interest to First Nations.

The Hornby Island Local Trust Committee should work with the K'ómoks Nation to identify and log all sites on Hornby Island for protection.

3.3 Options for OCP Amendment

The following Options for OCP Amendment are provided:

Option 1 – Add the Islands Trust reconciliation declaration to the OCP (as drafted in **Appendix A**).

Option 2 – Consider additional wording changes as outlined in **Appendix A**. Also, critical to reconciliation and respect for the traditional Indigenous communities, reduce the emphasis on the colonialization and settlement of the island. The OCP could recognize that the settlers caused deforestation and farming practices that have potentially destroyed or changed the lands from when the First Nations lived here. In addition, the possession of these lands by the settlers was an act of theft and as such, should not be honoured as much as is currently outlined in the Official Community Plan. The document needs to recognize that a number of indigenous peoples used Hornby Island in some manner, but that the K'ómoks First Nation is the primary Nation that Hornby Island will work with.

The following advocacy policies be considered for the OCP:

Option 3 - Participate in Heritage and Traditional knowledge mapping with the K'ómoks First Nation. This mapping will:

- attempt to better understand the relationship between Indigenous cultural heritage preservation, species at risk, and freshwater resource sustainability;
- gather information to inform meaningful engagement with First Nations; and
- inform policy development related to the preservation of areas of cultural significance.

Option 4 - Consider the use of Covenants (enabled under S. 219 of the Land Title Act) in conjunction with rezoning applications, to reduce the direct impacts of development on Indigenous culturally sensitive areas.

Option 5 - Improve communication with K'ómoks First Nation by setting up regular LTC/Chief and Council meetings to discuss a wide range of issues of mutual concern.

Option 6 - Consider the development of an agreement similar to the qathet Regional District, City of Powell River and Tla'amin Nation First Nation (https://www.ubcm.ca/sites/default/files/2021-08/Tlaamin_PowellRiver_20190909.pdf).

Option 7 - Work with K'ómoks First Nation, determine how K'ómoks wants to be engaged, circulated and involved in review of development and policy plans.

Option 8 - Consider inviting a K'ómoks representative to attend (as a non voting member) Advisory Planning Committee meetings and Local Trust Committee meetings.

No specific Land Use Bylaw amendments have been identified.



4.0 Affordable Housing

4.1 Housing Needs Assessment

In 2018, the Islands Trust North Region Housing Needs Assessment was completed by Dillon Consulting. The report included Hornby Island. The study completed population projections, assessment of the current housing stock, the existing and future housing needs and types of housing required.

During the preparation of the assessment, a community survey was distributed, along with community engagement meetings. The participants were asked what they felt the housing needs were and over 85% of the respondents said affordable housing and 80% said seniors housing.

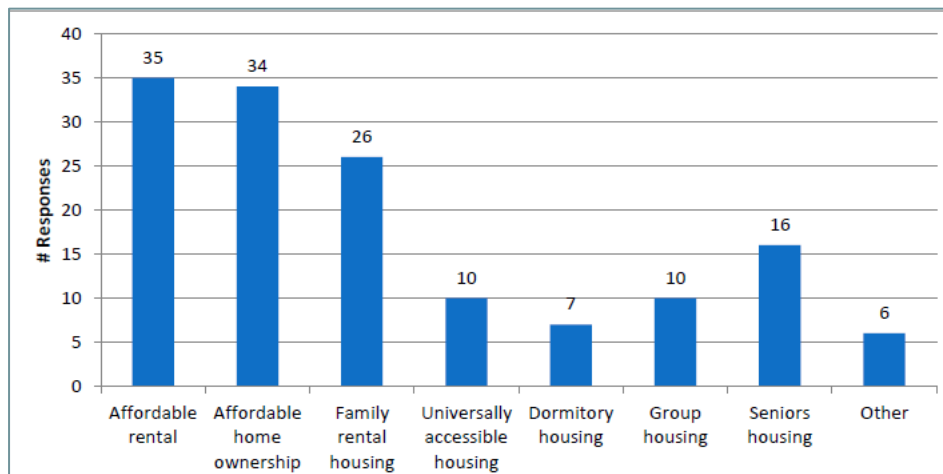
The median age of the population in the 2016 census was 60.3. That median age has increased to 62.8 in 2021 based on the Federal Census. While many seniors were aging in their own home the Hornby Island Housing Society has also been managing an eleven unit independent living studios for residents over 55 years of age. The Elder Village has been operating successfully for over 20 years. In addition, HIHA is also planning for an affordable housing development at “Beulah Creek for residents of all ages, including families. This project is in partnership with BC Housing. Water and sewer provision will be a challenge for this development but the units will be needed in the community.

The Housing Needs Assessment concluded that, based on the population projections, “there could be a need for potentially 165 residential units in the next 25 years”. Given that the 2016 average income was \$20,000 below the regional average, 25.4% of the total population falls within the no and low income category, and 38% falls within the no, low and low-moderate income levels. With rising housing prices, the demand is for secure, long term, affordable, accessible housing. Figure 2 illustrates the perceived housing gaps on Hornby Island, as expressed by the survey respondents during the 2018 Housing Needs Assessment Engagement.

Affordable housing can be provided through a number of means, including projects supported by BC Housing and managed by a non-profit organization (such as HIHS) or through secondary suites. While there is no guarantee

that a secondary suite is affordable, nor is there any guarantee that a secondary suite provides long term rental accommodation (not evicting tenants in the summer for higher rent short term rentals), the allowance for more secondary suites will at least provide opportunity for affordable rental units.

Figure 2
Housing Supply Gaps on Hornby Island



4.2 Current Policies and Bylaw

The Official Community Plan and Land Use Bylaw provide limited direction for Affordable Housing.

4.2.1 Official Community Plan

The 2014 Official Community Plan identified three main issues with residential development:

- “(1) a substantial proportion of the long-term resident population is now in the older age brackets; some may appreciate the availability of special housing in their senior years while others may wish to be supported while remaining in their own homes;
- (2) property prices are out of scale with the incomes that can be derived on the Island, making it difficult for younger people to become established here; and
- (3) the majority of properties are owned by non-residents and most of these are occupied and/or rented seasonally thereby limiting the availability of year-round rental accommodation.”

The same issues are identified today.

The policies and objectives of the OCP address protecting ground water, support water catchment, supports land sharing and cooperative housing. Section 6.3.5, Housing, outlines a series of objectives:

- “(1) to provide for a range of housing opportunities including the creation of affordable, rental and special needs housing;
- (2) to enable affordable, rental and special needs housing options that are compatible with the Island’s environment and character;

- (3) to provide for community initiatives to address the housing needs associated with age, disability, and/or moderate and low income through the provision of community housing;
- (4) to provide opportunity for non-profit housing situations to meet the needs associated with age, disability, and/or moderate and low income; and
- (5) to support land cooperatives with the intention of providing opportunity for common ownership through cooperative land tenure.”

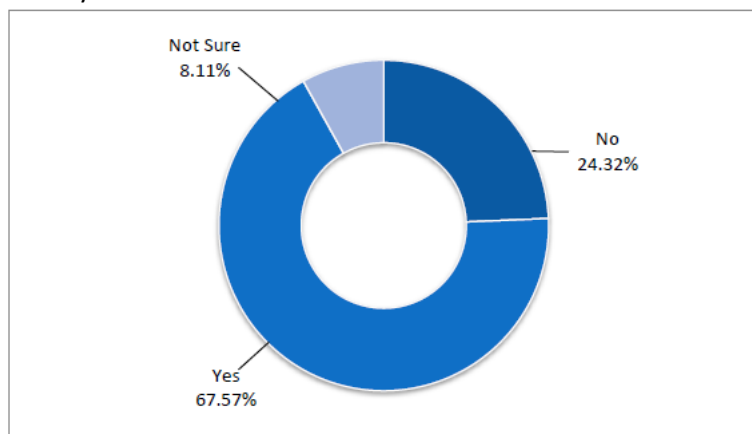
Secondary suites are not specifically addressed in the OCP. However, the Land Use Bylaw outlines policies regulating secondary suites.

Affordable housing is defined for the purpose of the OCP as: “housing that is by intent and policy more affordable than identical housing that is or could be provided elsewhere in the community and is housing that by design and size provides for residential accommodation that can be acquired with 30 per cent of the median gross income of families or individuals on Hornby Island. While this is not generally the accepted definition of housing, CMHC defines “affordable” housing that costs less than 30% of a household’s before-tax income. This puts the definition on the individual or household and does not use a statistic from the entire community.

The Local Trustees indicated the need to separate the topics of affordable housing and vacation home rental. However, the community identified during the engagement for the 2018 Housing Needs Assessment, that the two topics are inextricably linked.

Figure 3

Do you think that seasonal/ short term rentals have reduced the availability of long term rental housing on Hornby Island?



4.2.2 Land Use Bylaw

The current Land Use Bylaw allows secondary suites in existing buildings on parcels over 2 ha in size in zones, R2 Large Lot, R4 Forest, Agriculture 1, Agriculture 2, Agriculture 3, and Agriculture 4.

Secondary suites are defined as a separate dwelling unit located wholly within a building which is a single real estate entity used for residential use and which contains only one other dwelling unit. And Section 3.8 outlines more regulations for secondary suites.

Section 3.8 Secondary Suites outlines the following additional regulations:

(1) Where a secondary suite is permitted in Part 8 of this Bylaw, the suite must:

- (a) be authorized by a Siting and Use Permit;
- (b) meet all requirements of the British Columbia Building Code;
- (c) contain at least one bedroom and bathroom, a separate kitchen and living area;
- (d) be allocated at least one off-street parking area on the same lot, in addition to any parking requirements for the principle dwelling unit;
- (e) be located wholly within the principle residential dwelling;
- (f) be occupied by the owner or residential tenant; and
- (g) be limited in size to 40% of the floor area of the principal dwelling unit to a maximum floor area of 90 square metres.

The regulations also state that before a secondary suite is approved, the owner must state in writing to the Islands Trust that the sewage disposal system to which the building accommodating the secondary suite is connected to is capable of providing adequate sewage treatment for the principal dwelling and secondary suite. In addition, a secondary suite, regardless of being a permitted use, may not be permitted on a lot with high vulnerability aquifer designation.

As noted earlier, there is nothing to guarantee that the secondary suites are affordable, or rented at an affordable rate.

4.3 Island Health Septic Requirements

Island Health is the authority for septic requirements. However, the approval is no longer under their direct control, but they require a report on the installation of the sewage system to be completed by a Registered Onsite Wastewater Practitioner (ROWP). In 2014, the Province of British Columbia adopted the Sewerage System Standard Practice Manual (<https://www2.gov.bc.ca/assets/gov/environment/waste-management/sewage/spmv3-24september2014.pdf>).

The Practitioners are responsible for on-site systems for under 5,000 IGPD (22,700 liters) and to ensure that they meet the guidelines in the manual. The on-site wastewater system is designed to reflect the size of the house, the number of bedrooms, the number of bathrooms and generally calculating the flows. It is not based on the number of people who will inhabit the house.

The Islands Trust, nor the Local Trust Committee, have any influence or ability to increase standards.

4.4 The Provincial Water Sustainability Act

The Provincial Water Sustainability Act (WSA) came into effect on February 29, 2016. The WSA has brought a number of important changes for surface water and groundwater users that may impact property owners using well water within Island Trust areas such as Hornby Island. The modernization of Province of British Columbia's provincial water laws introduced new licensing requirements for non-domestic use provides that promotes a fair and transparent process. The introduction of the WSA legally requires all non-domestic groundwater users to obtain a water licence from the Province of BC through Island Health. This requirement allows the Province to

better understand and manage water usage. Through improved monitoring of water resources this provided information on the impacts of seasonal weather conditions on aquifers and streams and provides data to manage water usage during drought conditions. It is important to note that the province does not consider Bed and Breakfast or Vacation Home Rentals non-domestic. Both are considered residential uses.

The WSA introduced a number of changes for property owners using well water within Island Trust areas such as Hornby Island. A summary of the WSA changes are as follows:

- Water rights and licencing requirements for non-domestic groundwater users (e.g. industrial, agricultural, commercial.)
- Stronger protection for aquatic ecosystems
- Fees and rentals for water use from surface water and groundwater sources
- Expanded protection of groundwater including new requirements for well construction and maintenance
- Increased dam safety and awareness, and compliance and enforcement Licensing of Groundwater.

Applications can be made under either Groundwater New Use (groundwater use that began after February 29, 2016) or Groundwater Existing Use (groundwater use began before March 1, 2016). However, application for license for an existing well is not mandatory.

As OCP's are updated across the province, it is recommended that new information about water availability and vulnerability information is included into land use policies and regulations. Including this information could reduce risks related to unsustainable resource use and deterioration of water quality. Depending on the local water circumstances, this may entail reconfiguring zoning, so density is situated in areas with sufficient water availability and lower risk. This is not an area specifically related to the four topics the consultant was asked to consult on.

4.5 Options for OCP/LUB Amendment

The basis for the options for OCP and LUB Amendments are to generally increase the number of housing units with the intent that the majority of these units are affordable.

4.5.1 Official Community Plan Amendments

There are several options for amendment to the Official Community Plan provided. They are not mutually exclusive.

Option 1 - Update the 2018 Housing Needs Assessment.

Option 2 – Allow secondary / accessory dwelling units in all zones. In small lot zones, allow secondary units within the primary residence that does not exceed the original number of bedrooms for which the septic field was designed. On lots over 2 ha, allow secondary suites internal to the primary residence, or attached to the primary residence with report from a Registered Onsite Wastewater Practitioner (ROWP) that the septic field is sufficient. Or allow detached accessory dwelling units that have individual well and septic, designed and constructed by a Registered Onsite Wastewater Practitioner (ROWP).

Option 3 - Include policies that fully support cooperative housing and purpose built rental housing.

Option 4 – Revise the definition of affordable housing to match that of BC Housing.

Option 5 – Use housing agreements to ensure that the housing unit remains affordable for a period of time.

Option 6 - Update the Development Permit Area guidelines to enable an elevated level of protection for sensitive areas (e.g., vulnerable groundwater areas) or to promote water conservation. The DPA would apply to applications for new construction, renovations, alterations, construction of accessory buildings.

Option 7 - Use covenants to secure commitments from property owners for stormwater management, or for monitoring and reporting of private well levels.

Option 8 – Require all new wells be registered and monitored and require all wells for new secondary suites or accessory dwelling units be registered and monitored.

In addition to policy changes, there are some advocacy policies that could be included in the OCP:

Option 9 - Provide more education on the Islands Trust website for residents and visitors about proper use of wells and septic fields, including long term maintenance.

Option 10 - Work with the Comox Valley Regional District to offer rebates or reduced prices on rainwater collection devices, and incentives for the use of rain barrels.

Option 11 - Develop workshops and literature that provide residents with information on managing private wells; Land Use Bylaw Amendments

Option 12 - The Local Trust Committee and/or the APC work directly with the Hornby Island Housing Society to get the approvals for affordable housing on Hornby Island.

4.5.2 Land Use Bylaw Amendments

In addition to OCP policies, the Land Use Bylaw could be amended to include:

Option 13 - Update definitions of secondary suites (internal to the primary residence) and Accessory Dwelling Units (attached or detached to the primary dwelling)

Option 14 – Change permitted uses to allow Secondary Suites on all zones (not to exceed the number of bedrooms the septic field has been designed and constructed for) and to allow Accessory Dwelling Units on lots over 2ha in size, with an approved on-site wastewater system, rain water harvest, and grey water reuse (for garden and irrigation);



5.0 Short Term Vacation Rentals

5.1 Current Policies and Bylaw

It is important to note that the current Hornby Island bylaws include Vacation Home Rentals as permitted uses in certain areas. The inclusion of Vacation Home Rentals or Short Term Vacation Rentals in these bylaws was completed with community engagement, public hearing, community information meetings and Local Trust Committee meetings with four readings of the Bylaw.

Note that in this report, Short Term Vacation Rentals and Vacation Home Rentals are used interchangeably.

In February 2012, Bylaw No. 142 amended the OCP to allow Vacation Home Rentals. This was supported by Bylaw No. 143 in February 2012 to amend the Land Use Bylaw to include the definitions and the regulations. In July 2012, the Land Use Bylaw was further amended by Bylaw No. 145 to clearly limit Vacation Home Rental uses to one per lot.

5.1.1 Official Community Plan

The 2014 Official Community Plan, Section 6.5.3 allows Vacation Home Rentals, with a series of guidelines. The rationale for allowing this is to recognize the Island's increasing popularity as a summer destination, and address the demand for visitor accommodation while maintaining the residential nature of the island. The OCP states that "Property owners benefit from the opportunity to raise funds whether to assist with property costs or as a

means to augment income while retaining their residence for its primary residential use for most of the year. Visitors benefit from a range of accommodation options to experience the Island's environment and amenities. The community benefits from the economic inputs from these visitors."

The OCP includes a number of policies that regulate who can have a vacation home rental, limitations for the portion of the year that the house can be rented, limitation to the number of bedrooms to not exceed the bedrooms of a "normal residential use", adequate off street parking, retention of the residential appearance, and accommodation remain inside the main house. Vacation home rentals on R-1 or Small Lot Residential are encouraged to minimize impacts on ground water resources by installing a rain catchment and storage system, water conservation fixtures, and provide information to the renters about the importance of water conservation.

The OCP suggests that vacation home rentals that do not comply with limitations imposed by land use regulations may be considered upon application for a Temporary Use Permit.

Owners of vacation home rentals were encouraged to start an association, which they did: the Hornby Island Short Term Rental Association (HISTRA). This Association was encouraged to provide additional regulations for rentals to protect the environment and the neighbourhoods in which the rentals are located.

There were two other directions for the LTC:

- a. To monitor the rate and use of vacation home rentals, and
- b. To review the regulations for vacation home rentals in 2017.

Section 6.3.2.15 of the OCP states that "Vacation home rentals should only be permitted if the number of guests does not exceed the design capacity of the sewage treatment system". This is not an enforceable or measurable policy. The septic is designed generally for the number of bedrooms but how many people sleep in those bedrooms is not something that can be regulated.

While many residents would like to be able to limit the number of guests, that is not possible through the OCP or LUB. It would be possible through a business license. Islands Trust does not have the ability to issue business licenses. If the Regional District were to agree to administer this, Business Licenses could be required for any Vacation Home Rental.

5.1.2 Land Use Bylaw

To conform to the OCP, the Land Use Bylaw was amended to include vacation home rental use in several zones, including: Residential 1 – Small Lot (R1) Zone (Galleon Beach, Shingle Spit, Sandpiper, Whaling Station Bay/Anderson Drive and portion of Klaver Lot), Residential 2 – Large Lot (R2) Zone, Residential 4 – Forest (R4) Zone, and Agriculture 1 (A1) Zone.

The Bylaw defines Vacation Home Rental as

"the use of a residential dwelling unit for the temporary accommodation of paying guests, where:

- (a) an owner or tenant of the lot on which the dwelling unit is located is ordinarily a resident in the dwelling and the vacation home rental use is occurring during a temporary absence of that owner or tenant; or
- (b) the owner or tenant is residing in another lawful dwelling on the same lot while the vacation home rental is occurring; or
- (c) the owner of the lot resides seasonally in the dwelling unit and the vacation home rental use is occurring during the absence of that owner; and includes such a use of a dwelling unit the residential use of which is a lawfully nonconforming use under Section 528 of the Local Government Act, unless such residential use is discontinued for a continuous period of six months.”

There are no additional regulations listed in Section 3 of the Land Use Bylaw.

It is important to note that should the Land Use Bylaw be amended to remove Vacation Home Rentals from the permitted uses, the use can continue as a legal non conforming use until such time as the use stops operating for at least 6 months.

5.2 Provincial Regulations

There are several provincial Acts and regulations that would apply to Vacation Home Rental or Short Term Vacation Rental, but only in terms of the residential dwelling and the original construction. The Province of British Columbia does not regulate vacation rental homes directly. There are some instruments the Province has developed that could be considered for Hornby if the community supported.

The province regulates potable water, on site wastewater, setbacks and protections from riparian areas, subdivision, roads, what a local government can regulate in the Official Community Plan, Land Use Bylaw, Development Permits etc.

The Province can also regulate tax rates for houses that are purchased by foreign interests and for domestic interests that are going to rent for short term. Currently Nanaimo and Lantzville, along with the Victoria Capital region and parts of the lower mainland and Kelowna have these taxes applied. These taxes could apply as follows:

- a) Non Resident Tax on Purchase - The British Columbia Non-Resident Speculation Tax (NRST) forces foreign homebuyers to pay a **20%** tax on purchases in specific regions. Proceeds from the tax are invested into affordable housing initiatives within the province.
- b) Non Resident Annual Tax – The home must be inhabited for at least 6 months by the owner or a permanent resident to avoid paying speculation and vacancy taxes.

5.3 Official Community Plan and Land Use Bylaw Amendments

5.3.1 Official Community Plan

The Official Community Plan has clear policies and objectives for Vacation Home Rentals (VHR). These policies were put in place with a public process. It appears that one component of the community supports VHR. They feel that it supports the owner of the home, brings business to the commercial operators on the island and does

not degrade the residential character of the community. There is another group of residents that feel that VHR place extra pressure on the ground water, ferry system and do not contribute to the larger community.

The following are options for how the Local Trust Committee could move forward with VHR;

Option 1 – Do not change the policies in the OCP. The current policies were adopted using a public engagement process and there are many legal existing VHR. There are also illegal VHR's located in zones that do not allow VHR as a permitted use. Continue enforcing the bylaw to shut down the illegal VHR. Increase the regulations for new VHR such as mandatory rain water harvest, RWOP statement that the existing septic has capacity for the existing house and number of bedrooms.

Option 2 – Amend the OCP and the Land Use Bylaw to Prohibit VHR. By deleting VHR from the bylaws, there would be no new legal VHR. The existing VHR in zones Residential 1 – Small Lot (R1) Zone (Galleon Beach, Shingle Spit, Sandpiper, Whaling Station Bay/Anderson Drive and portion of Klaver Lot), Residential 2 – Large Lot (R2) Zone, Residential 4 – Forest (R4) Zone, and Agriculture 1 (A1) Zone, would remain legal non-conforming and could continue to operate permanently as they are. All of the current illegal VHR would remain illegal.

Option 3 – Assess Current VHR's. Regardless of the option selected, the Local Trust Committee should follow through with the policy in the OCP to monitor the rate and use of vacation home rentals. During the engagement it was clear that no one actually knows how many legal and illegal VHR there are on the island (the estimates range between 80 and 120). It is critical to understand how many VHR there currently are, review their wells, septic and determine if in fact they are having a detrimental impact on the environment and then determine a future direction.

Advocacy policies may include:

Option 4 - LTC work closely with HISTRA to manage rentals, educate owners and renters, license wells and protect the groundwater.

Option 5 - Consider the use of Temporary Permits for all VHR in the future.

Option 6 – Support and Direct increased Bylaw Enforcement on illegal Vacation Home Rentals.

5.3.2 Land Use Bylaw

Changes to the Land Use Bylaw will be dependent upon the changes to the OCP. However, the following edits can be made to the regulations for new development. As per the Water Sustainability Act, require new wells to be registered and private homeowners are encouraged to register wells and to conduct regular testing.



6.0 Summary

Islands Trust engaged Patricia Maloney Consultants, in partnership with Bayshore Planning Services Inc. (the Consultant), to complete research and engagement on four key topic areas for a targeted OCP Review and potential Land Use Bylaw amendments. The four key topics were:

1. Riparian Areas
2. First Nations
3. Affordable Housing
4. Short Term Vacation Rentals

The Consultant reviewed the four topic areas, considered provincial legislation and regulations, past bylaws adopted by the Hornby Island Local Trust Committee (LTC), reviewed work completed by the Hornby Island Advisory Planning Committee (APC), reviewed how other municipalities and Islands managed policies and bylaws for the four key topics.

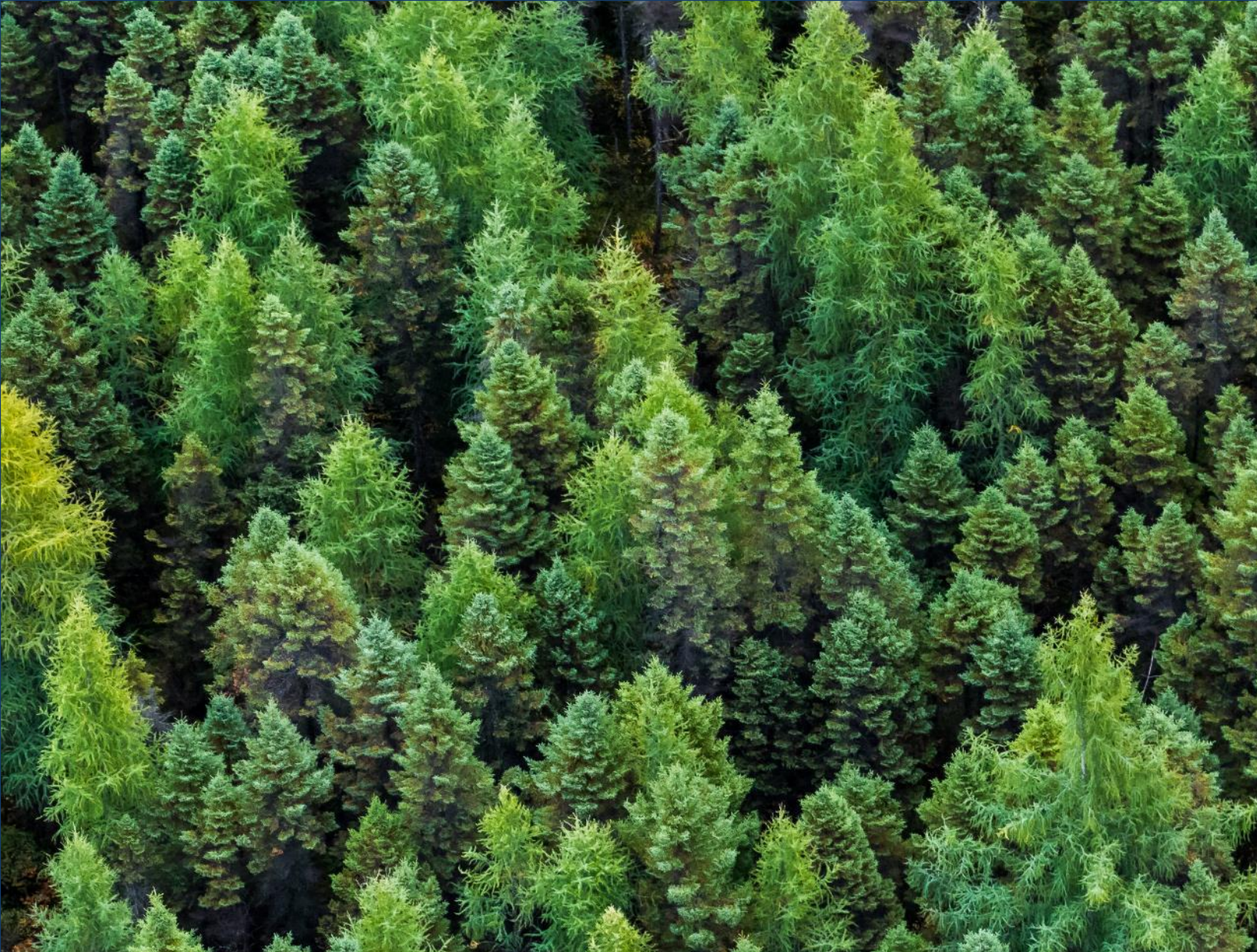
The Consultant completed two virtual community information meetings, an in person meeting with the APC and reviewed and responded to over 35 emails from community members.

The options and suggestions provided in this report are based on the work and engagement completed. At this point, the Consultant cannot draft amendments to the OCP or the Land Use Bylaw as there has been no direction from the LTC as to how they wish to address the four key topic areas.

The engagement has demonstrated that the island residents and property owners have different views on some of the topics, specifically the benefit or disbenefit of Vacation Home Rentals. Other topic areas demonstrate that the residents/property owners are not familiar with Provincial legislation, for which the LTC and Islands Trust has

no control (such as Riparian Area Protection Regulations, On Site Wastewater regulations, Water Sustainability Act etc.). In addition, many residents are not aware that planning cannot be retroactive and that a use that was permitted can remain in existence even if the Land Use Bylaw is amended and the use is removed from the permitted uses in a zone.

At such time as the LTC is ready to determine direction for the OCP amendments, after they are comfortable that the community engagement has been sufficient, then the actual amendments to the OCP and LUB can be drafted and taken back out to the community.



Appendix A

**Indigenous Appropriate Proposed Wording
Amendments for the OCP**



This provides the sections of the OCP where edits, amendments and adjustments are recommended that support the appropriate Indigenous language and policies that support the Islands Trust Reconciliation Declaration. If a section is not referenced, no changes are recommended.

SCHEDULE A

HORNBY ISLAND OFFICIAL COMMUNITY PLAN

SECTION I— BACKGROUND

1.1— Context and Interpretation

~~1.1 ACKNOWLEDGMENT~~ Islands Trust Council acknowledges that the Islands Trust Area is located within the treaty and territorial lands and waters of the BOKÉCEN, K'ómoks, Lək'wəənən, Lyackson, MÁLEXEL, Qualicum, Quw'utsun Tribes, scə́waθən məsteyəxʷ, Scia'new, sə́lilwəətaɁ, SEMYOME, shíshálh, Skwxwú7mesh, Snaw -naw-as, Snuneymuxw, Spune'luxutth, SʔÁUTW, Stz'uminus, ɬaɁəmen, toq qaymıxʷ, Ts'uubaa-asatx, Wei Wai Kum, We Wai Kai, WJOŁŁŁP, WSIKEM, Xeláltxw, Xwémalhkwx/Ɂop qaymıxʷ, and xʷməθkʷəy̓ə m (collectively referred to hereinafter as 'First Nations'). Islands Trust Council acknowledges that the lands and waters encompassing the Trust Area are subject to the treaty and territorial rights of First Nations. The Trust Area has been home to Indigenous Peoples since time immemorial and their relationship to these lands and waters continues to this day. Islands Trust Council honours the rich history and cultural heritage within the region and has stated its commitment to reconciliation and meaningful engagement with First Nations in the Trust Area.

1.2 Context and Interpretation

~~This is an updated version of the plan is an update to the~~ Hornby Island Official Community Plan Bylaw No. 14904, (2014) reflecting the community engagement that occurred in the fall of 2022 and the spring of 2023 to address policies and development permit regulations regarding Riparian Areas, Indigenous language and Reconciliation, Affordable Housing and Short Term Vacation Rentals. 02 and has been assigned a new bylaw number to denote the update. An update, in contrast to a review of the plan, focuses on updates to legislative references and clarification of the text where previous use of objectives or policies have identified lack of clarity. A review was undertaken of Section VI— Objectives and Policies for Sustainable Land Use” with a focus on housing and the economy and amendments are incorporated into this plan. Other areas of review included new objectives and policy on wind energy and amendments to land use designations on some properties.

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The Plan update distinguishes between “Policies” and “Advocacy Policies”. “Policies” are those that are within the authority of the Hornby Island Local Trust Committee to implement. Community goals and objectives included in this Bylaw that address matters that are outside the jurisdiction of the Hornby Island Local Trust Committee are considered “advocacy policies”. These advocacy policies encourage others to take actions that the Local Trust Committee believes would contribute to the goals and objectives of the plan. This Bylaw cannot and does not represent a commitment from other agencies or persons to act according to community goals, objectives or policies.

Properties are noted with a land use designation on Schedule B attached to this Plan. Each designation is referenced in the text of this Plan with stated objectives and policies. In addition there are sections of the text of this Plan that apply to all properties on Hornby Island. If a property has more than one land use designation as defined on Schedule B to this Plan, then the objectives and policies applicable to each designation shall apply to that property.

The term “Information Note” is used periodically within the Plan. An information note is not part of the official community plan bylaw. An information note is added to the published bylaw document after adoption of the bylaw to assist in the understanding and interpretation of the Plan.

1.2 Purpose

~~The purpose of this official community plan bylaw is to further the object of the Islands Trust Act through long range land use policies for the Hornby Local Trust Area. This bylaw provides a statement of local government goals, objectives and policies. It is intended to provide policy guidance for the Hornby Island Local Trust Committee and the public regarding the existing and proposed land use and development in the Local Trust Area.~~

1.3 Islands Trust Authority

~~The Islands Trust Act gives the Islands Trust, via its Local Trust Committees, essentially the same land use planning authority as a regional district board under the Local Government Act. Bylaws must be submitted to the Islands Trust Executive Committee for approval and must not be approved if they are contrary to or at variance with the Trust Policy Statement. In the case of Official Community Plans, approval by the Minister of Community, Sport and Cultural Development is also required before adoption by the Local Trust Committee.~~

~~The Hornby Island Local Trust Committee is the Local Trust Committee with responsibility for land use planning and regulations within the Hornby Island Local Trust Area. This committee has three members; two locally elected trustees and a member of the Executive Committee appointed by the chairperson of the Islands Trust Council.~~

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The purpose of the Trust Council, Executive Committee, and Local Trust Committees, is to carry out the object of the Islands Trust which is:

~~To preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of the Province generally, in cooperation with relevant Indigenous communities, municipalities, regional districts, improvement districts, other persons and organizations and the government of the province.~~

The legislated object defines the purpose of providing authority to the Islands Trust for land use regulation. The Trust Policy Statement is a general statement of policies to carry out the object of the Trust. Local Trust Committees employ the available planning powers of the *Local Government Act* to preserve, protect, and effectively maintain the rural nature, health, natural environment and vitality of the Trust Area.

1.4 Historical Perspectives

Someone has said "a people without a history can have no vision". Hornby Island has been home to the Coastal Salish people from time immemorial. Settlers arrived in the 1800's and changed the land. We share the respect for the land and the history of The people of Hornby Island are standing on history. It is to be found in the remnants of snake fences, and in the dethe ocean and the land, the blackened shell-flecked soil in shoreline middens, in uplands pits for preparation of food or shelter, further inland in trees modified for cedar bark for clothing, baskets and nets, and in the indigenous use of the plants and shrubs from which the first people took their sustenance. relict orchards, in the blackened shell-flecked soil around the shores, and in the indigenous trees and shrubs from which the first people took their sustenance. It is to be found in the soil and in the sandstone and conglomerate sedimentary rocks, in the pebbles on the beaches, and in the basement rock on which the Island rests.

Perhaps the phrase "a people without a history can have no vision for the future," was an attitude of European settlers in the 1800s on Hornby Island and elsewhere around the Salish Sea. That recent history on Hornby is in the remnants of snake fences and derelict orchards of settlers. However, the present population is standing on a much longer history found in the blackened shell-flecked soil in shoreline middens, in uplands pits for preparation of food or shelter, further inland in trees modified for cedar bark for clothing, baskets and nets, and in the oral history of plants and shrubs from which the first people take their sustenance. That long oral history covers thousands of years of the use and occupation of Hornby Island before contact.

The rocks of Hornby Island are part of the island arc Wrangellia, which started its life as molten lava, three hundred and fifty million years ago, south of the equator. The arc, the result of one ocean plate meeting another and subducting, journeyed north on the back of the Pacific Plate, eroding gathering limestone. On reaching the latitude of present-day Mexico, about one

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hundred and seventy million years ago, another set of volcanic eruptions added more volcanic rock to the terrain.

From these two major geological events came the Island's basement rock, and later, 65 to 70 million years ago, most of the ingredients for the Island's sedimentary rock, the pebbles in the conglomerate and the eroded rock from the tumbling hillsides, came from the recycled substance of Wrangellia's earlier geological history. Also in the sediment are found fossils of sea creatures, and pieces of petrified wood dating from trees that grew at that time.

Continuing tectonic plate pressure first folded and then faulted the layers of sedimentary rock. The movement of glaciers and the rising and falling of seas in the interglacial periods, scoured the rock and then padded the dips and valleys with clay, sand, and glacial till. Some of the boulders and cobbles were brought from as far away as the Coast Range Mountains.

Ten thousand years ago, three thousand years after the last glacier retreated, the receding seas started slowly to reveal Hornby Island with much the same shape that it is today. Vegetation started to grow and by five thousand years ago people from Deep Bay were visiting the Island gathering the Island's bounty and fishing from its shores.

During the 1860's Hornby Island saw colonial settlement. The land was cleared, whaling began and settlers came and selected lands to build their homes, farms and businesses. was virtually empty of people, as a result of the devastating small pox epidemic of 1862. It was the sight of the island on fire at the end of the decade that decided George Ford, one of the earliest recorded settlers, to move from the settlement in Comox to Hornby Island. Fires made clearing land easier. Other settlers followed. In 1870 a whaling company moved its base of operations to Hornby island, but in less than two years it went into liquidation and one hundred acres at Whaling Station Bay with wharf, sheds and other buildings were auctioned off. By the 1900's

The early settlers were able to choose land which was sheltered, amply provided with water, and having deep fertile soil. By the turn of the century Hornby had become a fairly prosperous farming community, with the addition of logging as a profitable way to clear the land. although many who came to farm found the sale of logs from the clearing of land more profitable than the farming itself.

Recommend this section be edited and shortened and remove much of the colonial references.

Hornby Island, like all islands, promised a dream. The Island challenged, dared, and offered an escape. Not everyone who came succeeded and even those who did succeed, often found

their children seeking dreams elsewhere. By 1960 most land had changed hands several times. Families had come and gone. Some orchards were derelict and many fields were overgrown. The 150 people on the Island were made up of fishermen, subsistence farmers, resort owners, their children and one or two retired intellectuals. Towards the end of the sixties developers discovered the Island and three farms were turned into small lot residential subdivisions.

To avoid more indiscriminate carving up of the Island, a policy restricting subdivision to a ten-acre minimum lot size was introduced. In 1969 through a provincial cabinet Order-in-Council known as the "Ten-Acre Freeze", applying it to all of the Gulf Islands. The decree permitted no further subdivision creating lots under 10-acres in size, with a maximum of two dwellings per parcel, and was to continue to apply until zoning and subdivision bylaws could be enacted by the local governments for each island. As well, in about 1972, using existing soil analysis mapping, the Province established the BC Agricultural Land Reserve (ALR), and its Commission known as the ALC, covering all the known useable farm and grazing land in BC to prevent further subdivision or development of the Province's remaining farmland, except through application to the ALC (this was estimated to include no more than 3% of the province's land mass). In 1973, the Comox-Strathcona Regional District responded to the call for land use regulation by assisting the Hornby community to develop and pass its first set of local land use and subdivision bylaws (Bylaws Nos. 137 and 139). This coincided with the arrival of the counter-culture people, and the Island flowered with artists, craftsmen and academics seeking a more meaningful life. In 1974 the Islands Trust was formed to preserve and protect the Gulf Islands, which include Hornby Island, against inappropriate use and development. In April 1977, the new Hornby Island Local Trust Committee, following lengthy discussion with Hornby residents, approved the first Official Community Plan for the Island.

Legislation does not ensure the spirit of a place. Hornby Island itself with its beauty, with its history deep into the past, its tranquility, its changing light and seasons, is a place for reconciliation and collaboration. Many changes have occurred in the last 200 years due to colonization. The future must consider how Hornby Island can sustain both the Indigenous people and the settlers. must be allowed to capture the hearts of those who dwell here. Hornby will endure although it has not always been an island and one day may not be again. It has traveled a long way and gone through many changes. It will be here long after the human population has gone. Every person who owns land holds it as a temporary tenant, in trust for future generations.

1.6 Socio-economics of Hornby Island

A permanent population of 1,255 persons in 2021 represents a population increase of 20.6 percent since the 2016 census. This is reflective of people moving to remote areas or recreational homes during COVID to work. decrease of 10.8% since 2001. The population is generally aging with a median age of 62.5 years. The average household size is 1.9 persons. There were 1,117 private residences identified in the Federal Census, 653 of which were

inhabited by the usual residents. The population is characterized by lower than average incomes and higher than average education. If trends continue, the challenges of ensuring housing affordability and safety, mobility and security will increase and efforts to provide for supportive services will be of concern.

-The economy follows a seasonal cycle and is highly dependent on a population of visitors that is estimated to quadruple the island population in summer months. There are an estimated 100 businesses on Hornby Island, of which about 80% operate as home based businesses. Tourism is the major economic driver manifested in the range of accommodations, services, arts and crafts, performing arts and alternative health experiences that are available. There has been a long history of homeowners renting their homes to others for short periods of time (vacation home rentals) as a means of creating an income or to offset some home ownership costs. This activity has made a significant contribution to the island's economy. The construction industry, some public service positions and an increasing number of caregivers rounds out an integrated economy.

The Hornby Island Community Profile (March 2010) provides more detailed information.

UPDATE

1.7 Principles

The principles behind the development of this Plan are based on the mandate of the Islands Trust Act, "to preserve and protect, the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of the Province generally, in cooperation with relevant Indigenous communities, municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia."

SECTION II — PRIMARY OBJECTIVES AND POLICIES

2.1 Broad Community Objectives

The following statement of general objectives express the values that are significant to the people of Hornby Island and together with the specific objectives listed in each topic area sets the direction to be followed when interpreting and implementing the policy statements.

To promote the conservation, preservation or restoration of:

- a) areas of natural, scenic, historical, archaeological (including areas of First Nations significance) or scientific value,
- b) watershed and groundwater recharge areas,
- c) public land and parks,
- d) areas of significant vegetation, the forests, the wildlife and their habitat,
- e) land with agricultural potential,
- f) shoreline, foreshore and the Island's surrounding marine ecosystem, and
- g) water courses and riparian areas.

To ensure all human activities are carried out in a manner that is sensitive to the protection of fresh water resources and to the fragility and interaction of natural ecosystems, are compatible with activities of surrounding neighbours, and are in keeping with the rural scale of land use on the Island. To minimize pollution of air and water.

To limit or reduce present and future stresses upon natural and community resources, particularly those generated by increasing seasonal uses.

To establish a respectful relationship with the K'ómoks First Nation to work towards reconciliation, partnerships and collaboration.

To encourage a self-reliant rural community based on agriculture, low impact businesses and home occupations that are sustainable and non-polluting.

To ensure changes, growth and development are gradual and support the sustainability of the community.

To maintain the community's sense of unity and to promote a residential development pattern consistent with the rural character of the Island.

To encourage residents and visitors to take an active role in the preservation of natural and social values on the Island.

To encourage consultation with and participation of the public, and the K'ómoks First Nation, and when applicable, of K'ómoks First Nation in local government Hornby Island LTC decisions and in the management of Provincial resources by appropriate agencies ,including relevant Indigenous communities.

To protect through sound long-range planning policies and strategies, the agricultural potential of lands, foreshore and intertidal areas, forested areas and groundwater recharge areas.

To support community awareness and participation in achieving lifestyles and buildings which ensure energy efficiency.

To ~~encourage~~ strive towards ~~ensure~~ a relationship with First Nations with interests in Hornby and the surrounding waters.

To preserve the rural character of the Island.

Groundwater

Groundwater is the primary source of potable water supply on Hornby Island. Studies have identified the importance of protecting the groundwater supply, ensuring that catchment areas are protected to provide for effective groundwater recharge, that groundwater is not contaminated from development and that the rate and use of groundwater does not exceed the rate of replenishment both in localized areas of the island and for the island in general. Effective planning and land use management are identified as some of the most effective means to address groundwater management.

2.2 Over-riding Land Use Objectives:

The objectives that apply to all sections of this Plan are:

- (1) to preserve the natural ecosystems and biodiversity of the Island, and
- (2) to protect the groundwater resource.

Over-riding Land Use Policies:

Policies 2.2.1 and 2.2.2 apply to all sections of this Plan.

2.2.1 In order to preserve the natural ecosystems and biodiversity of the Island the following should be addressed: a) wherever possible through zoning and land use regulations and where appropriate through Development Permit Areas; b) when considering applications for permits, rezoning and subdivision; and c) through information and advocacy directed to residents, property owners and agencies with jurisdiction on Hornby Island:

- i) protecting identified sensitive ecosystems and important habitat from the adverse effects of development;
- ii) conserving relatively undisturbed natural areas;
- iii) retaining areas of native vegetation on each property wherever possible, especially along lot lines;
- iv) managing undeveloped public land so as to maintain or restore natural biodiversity and ecological integrity;
- v) securing connectivity between natural areas whenever the opportunity arises;

- vi) sustaining the forested areas of the island through timber harvesting practices that retain tree cover and forest ecosystems and ~~vii)~~ preventing the spread of invasive species, and;
- vii) Protecting culturally relevant Indigenous artifacts.

SECTION III—OBJECTIVES AND POLICIES FOR PROTECTION OF THE ENVIRONMENT

3.1 Environmental Stewardship

Background:

The Hornby Island Trust Committee recognizes the need to protect the environment and finite resources of an isolated and fragile ecosystem from polluting activities in surrounding areas as well as those taking place on the island. Additional pressures are placed on the local natural systems by the influx of visitors in the summer months.

Hornby Island residents are generally aware of the need for personal diligence in minimizing the impact of human activities on environmental systems. The community is always seeking ways to encourage visitors to the Island and senior levels government with jurisdiction over resources on the Island to adopt the same commitment. There are currently no active mineral claims on the Island and any future development of metal or coal mines on the Island is inappropriate. The community encourages water conservation through water storage, catchment and water recycling.

Area

All areas within the Hornby Island Local Trust Area are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to encourage senior governments to preserve and protect the environment;
- (2) to inform residents and visitors of actions necessary to protect the island's ecosystems, freshwater resources, and preserve native biological diversity; and
- ~~(3)~~ (3) to ensure that permitted land uses do not threaten the sensitive environment of the Island and its native biological diversity and
- ~~(3)(4)~~ to identify, preserve and protect remnant signs of Indigenous occupation, such as middens, culturally modified trees, clam beds and gardens and fish traps.

Advocacy Policies:

3.1.9 Tourism-related businesses, real estate agents and other organizations that provide information to visitors or potential owners of island property are requested to include information on the legislated "preserve and protect" mandate of the Islands Trust and the objectives and policies of the Official Community Plan to protect the island's ecosystems and

freshwater supply, ~~and~~ to preserve native biological diversity, and to acknowledge we are living and working on traditional Indigenous lands.

3.2 *Environmentally Sensitive Areas*

-Advocacy Policies

3.2.9 Where significant ecological, natural or historical areas reflecting Indigenous or Settler occupation or significant habitat areas are located on Crown land, the Ministry of Sustainable Resource Management and the Ministry of Environment are requested to secure these areas in protective reserves, Parks or through transfer to the Islands Trust Fund, and to keep them in the public domain with access appropriate to the level of sensitivity.

3.2.10 Voluntary covenants or easements to protect natural features and the donation or sale of sensitive areas to a conservation land trust such as the Islands Trust Fund are encouraged.

3.2.11 Voluntary stewardship programs that provide information, support and recognition to landowners with respect to protecting natural areas and areas where Indigenous land use is evident or suspected on private land are encouraged.

~~3.2.12 Educational efforts to protect coastal rock formations and other natural features from disturbance are supported.~~

~~-Policies relating to protection of the marine environment are included in subsection 3.6 Marine Conservation.~~

3.3 *Parks and Protected Areas*

Background:

The natural features of the Island provide many opportunities for recreational use by members of the local community and visitors. A large area of Crown land and a system of traditional trails through private land have provided access to forest areas and scenic viewpoints. In addition, the public has access to three Provincial Parks and two Regional Nature Parks There are also four small community parks; four water accesses managed by the Comox Valley Regional District as neighbourhood parks and a number of other water accesses and unused road dedications under the jurisdiction of the Ministry of Transportation and Infrastructure that provide public open space and/or contribute to the trail system. The K'omoks Agreement in Principle, signed by the governments of Canada, British Columbia and K'omoks First Nation in March 2012, states that a new protected area (the present vacant Crown land on Mount Geoffrey) will be established on Hornby Island and named by K'omoks. Update this.

Hornby Island's Provincial and Regional Nature Parks provide recreational opportunities in the context of preserving ecological values. These parks are all located where there are high

natural values and together contain a representative cross-section of the Island's ecological systems thereby offering valuable educational potential. Apart from Tribune Bay Outdoor Education Centre, none of the parks are developed for artificial use, reflecting a long-standing community interest in seeing minimal disturbance in these areas.

Hornby Island's Provincial Parks are Helliwell, established in 1966, Tribune Bay, established in 1978 and Mount Geoffrey Escarpment, established in 2004. There is evidence of traditional use of the Helliwell Park area by [Indigenous peoples, including cultivated camas beds, middens, prescribed burns and culturally modified trees](#). All of the parks are designated "Class A" Parks under the *Park Act*. Helliwell Park contains a 69 hectare (173 acre) terrestrial component on the peninsula culminating in St. John's Point and a 2803 hectare (7008 acre) marine component. Most of the terrestrial area is heavily forested; grasslands extend inland from the shore-line, which mostly consists of rocky bluffs.

-Objectives:

The objectives of this subsection are:

- (1) to ensure that parks remain in an essentially natural state and that the bio-diversity, sensitive ecosystems and wild life habitat are preserved;
- (2) to allow for recreational and educational opportunities, [including interpretive signage regarding Indigenous presence](#), for visitors and residents that are managed and monitored to ensure minimal environmental degradation and to fully protect fragile areas;
- (3) to encourage a system of walking, bicycling and horseback trails, with minimal development, through forested areas, to and from parks and across and around the island; and
- (4) to encourage community and neighbourhood involvement in the planning and stewardship of parks.

Advocacy Policies

3.3.3 Owners of properties on which there are established public trails and appropriate organizations are encouraged to work together to achieve the long term protection of the trails through covenants or other means.

3.3.4 The Ministry of Environment is requested to:

- a) maintain the natural values and not permit development, other than those required for public health and education in Helliwell and Tribune Bay Provincial Parks;
- b) continue to regularly consult with the community's parks committee and/or the Local Trust Committee on matters relating to the management and infrastructure of the parks on Hornby in particular to address community, conservation, [Indigenous historical impacts](#), aesthetics and safety concerns;
- c) involve the community in stewardship programs with respect to the parks;

- d) prohibit camping uses in the Parks except those associated with the Outdoor Education Centre at Tribune Bay Park; and
- e) implement ecosystem-based management plans for Helliwell, Tribune Bay and Mount Geoffrey Escarpment Provincial Parks.

f) _____

3.4 Groundwater Protection-Sustainable Ecosystem Management Area (Mount Geoffrey Area)

A report prepared by an ad-hoc Committee of the Hornby Island Residents and Ratepayers Association "*The Heart of Hornby Island—A Forest, a Watershed (2000)*" reports on the mapping project and explores in detail the tenure options available to the community. A report prepared by the Advisory Crown Lands Committee for the Local Trust Committee "The Heart of the Island" submitted in July 2000 outlined historical, community and ecological issues and provided recommendations. A central theme of all of this work is the protection of the land under local control. The K'omoks First Nation must be recognized as being the original inhabitants of Hornby Island.

Area

All areas identified as Groundwater Recharge/Environmental Protection Area (GW/EPA) on Schedule B (Map Designations) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to protect and enhance the groundwater recharge function of the area;
- (2) to enable the continuing recovery, restoration and protection of the forest so that the natural structure, composition and bio-diversity characteristic of a Coastal Douglas fir forest ecosystem are re-established;
- (3) to protect the forest from major disturbance by fire;
- (4) to maintain the aesthetics/visual qualities of the forest;
- (5) to encourage tenure arrangements that enable community control and stewardship of this area;
- (6) to provide for low impact recreation activities that are compatible with the first three objectives; and
- (7) to ensure that any silvicultural activities or extraction of forest products are compatible with and subordinate to the first four objectives.

Policies:

3.4.1 This area should be conserved as a forested area and all planning should be undertaken with the perspective of a forest-based rather than a human-based time scale.

3.4.2 This area should not be subdivided except to create nature reserves or other land holding arrangements for the protection of the natural environment.

3.4.3 No permanent buildings should be permitted on the land; other structures should be limited by regulation to those required in pursuit of the objectives of this sub-section

3.4.4 Sensitive ecosystems within this area should be fully protected. Transfer of this area to conservation or park is supported in order to protect the wetlands.

Advocacy Policies

3.4.5 The use of fertilizers and pesticides and the storage and disposal of waste material, hazardous chemicals and other potential pollutants should be prohibited to protect the groundwater resource and natural ecology.

3.4.6 Excavation, quarrying, soil removal, road development, ditching and drainage works should be regulated to protect against alteration of natural surface drainage or groundwater catchment and storage functions and against impacts upon identified ecological values.

3.4.7 Studies that provide additional data on the groundwater catchment and flow system should be supported.

3.4.8 The Ministry of Environment is requested to consider acquisition of the Mount Geoffrey area identified by the GW/EPA designation on Schedule B for a provincial park or other type of protected area.

3.4.9 As a preferred alternative tenure option, the Minister of Environment is requested to propose legislation that would enable the designation of this area as a community groundwater recharge area for the protection of the community's groundwater resource, to be managed through community stewardship with objectives and policies compatible with this Official Community Plan.

3.4.10 As an alternate tenure option, the Comox Valley Regional District is requested to investigate in consultation with the Local Trust Committee,

the community and relevant First Nations, the appropriate options for obtaining tenure that would be compatible with the objectives and policies of this Official Community Plan.

3.4.11 Ministry of Forests, Lands and Natural Resource Operations is requested to only consider dispositions of this land or interests in this land that is compatible with the objectives and policies of this Official Community Plan.

3.4.12 The Ministry of Forests and Range is requested to only establish tenures that enable the implementation of the objectives and policies of this community plan.

Features

Culturally modified trees – culturally modified tree (CMT) is a living tree that has been visibly altered or modified by indigenous peoples for usage in their cultural traditions. In British Columbia, groups of CMT's are classified as "forest utilization sites" and if it can be determined it was modified before 1846, then the trees in that group are protected by the *Heritage Conservation Act* (1966). The modification includes alterations of stripping bark or removal of planks, generally from red and yellow western cedar.

In 2014, four paragraphs were deleted on "historical perspectives which the K'omoks First Nation had concerns about, with the expectation that the LTC would work with K'omoks to establish revised wording which could subsequently be added to the OCP (Tony Law, First Nations Heritage Site Protection, Hornby Island, 24 March 2021: correspondence to Hornby Island Local Trust Committee **Has this been done.**

3.7.2 Development shall be located away from areas of archaeological sites unless authorized by a permit issued under the *Heritage Conservation Act*.

NOTE: Responsibility for the regulation and licensing of aquaculture in British Columbia is shared by a number of Provincial and Federal Agencies. The Local Trust Committee is committed to working cooperatively with other agencies to address situations where First Nations' interests in aquaculture may be affected

4.2 Forestry

Background:

Hornby Island was logged extensively up until the middle of the last century and most forested areas now consist of recovering second and third growth with some stands of old growth and scattered veteran trees. Most privately-owned forest is in relatively small holdings. The cost of transporting logs over two ferries to an off-island market (and conversely bringing wood products to the Island) can make the provision of wood products for on-island use a natural focus for forestry activity. Sustainable forest management has been described as "forest

management regimes that maintain the productive and renewal capacities, as well as the genetic, species and ecological diversity of forest ecosystems." In addition, it is important to protect Indigenous culturally modified trees.

6.4.3 Mariculture

Background:

The relatively unpolluted water surrounding Hornby make it an attractive area for aquaculture. The alienation of areas for commercial operations can conflict with the interests of residents, the visiting public and boaters requiring anchorage. There is also concern about impacts upon the natural ecology of largescale or intensive operations or of a large proportion of the foreshore used for mariculture. In 2009 the assessment rolls listed six aquaculture operations on the Island.

NOTE: Responsibility for the regulation and licensing of aquaculture in British Columbia is shared by a number of Provincial and Federal Agencies. The Local Trust Committee is committed to working cooperatively with other agencies to address situations where First Nations' interests in aquaculture may be affected.

Area

All areas below the natural boundary of Hornby Island within the Hornby Island Local Trust Area are subject to the following objective and policies.

Objectives:

The objectives of this subsection are:

- (1) to ensure the negative impact of commercial mariculture uses on the upland owners is minimized;
 - (2) to ensure maximum protection of the foreshore and of the native life forms inhabiting it;
 - (3) to support low impact mariculture operations; and
 - (4) to ensure commercial use of marine resources does not pollute the foreshore and surrounding waters, nor preclude the use or enjoyment of the shoreline by the public or upland property owners.
- (4)(5) To respect Indigenous mariculture licenses and options for licenses with the DFO, within the context of the first four objectives.

Policies:

4.3.1 Fish farms such as finfish net pen aquaculture operations should not be permitted.

4.3.2 Intensive mariculture, nori farms and long-line oyster culture requiring floats, buildings and structures should not be permitted in front of residential neighbourhoods of Sandpiper, Whaling Station Bay and Galleon Beach.

4.3.3

4.3.4 All new mariculture sites, including bottom culture, should be subject to redesignation, rezoning and subsequent regulations.

4.3.5 The areas from Collishaw Point Ford Cove has potentially suitable biophysical conditions and proposals for Mariculture use may be considered by the Local Trust Committee upon application for rezoning

4.3.5 Rezoning for mariculture should only be considered after there has been a review of the coastal area to identify significant and representative ecosystems, species, habitat and features, and the measures required to protect them such as processes required under the *Canadian Environmental Assessment Act (CEAA)*. Important to understand that this does not apply to First Nations and they are able to establish fish farming in coastal waters regardless of residential development.

SECTION V — OBJECTIVES AND POLICIES FOR A SUSTAINABLE INFRASTRUCTURE

5.2 Water Supply Protection Areas

Background

The Whaling Station Bay Improvement District owns and operates a water collection system that provides water to about 35 property owners in the Whaling Station Bay area. There are public wells (some of them now disused) located on public land at Grassy Point, Sollans Road, Anderson Drive (two) and Jerow Road. There is also a public well within Tribune Bay Provincial Park that is now capped. [The Sollans Road public well is held and maintained as a crown land lease area by HIRRA. The lease was granted after consultation with K'omoks First Nation.](#)

6.3.3 Rural Residential

Background:

In the previous Plan the Rural Residential designation was further divided into a Large Lot Residential designation that was used to identify properties that could be subdivided if there were two long-standing homes built and the owners were owners in common prior to 1991, and a Large Lot Residential/Water Resource Protection Area on a 6.5 acre parcel where one additional lot could be created and it was so designated to recognize its role in community water supply. [The K'omoks First Nation has pending ownership of 10.8 hectares of land between Sollans Road and Carmichael Road \(excluding the public well leased owned by HIRRA.](#)

6.3.4 Forest

Objectives:

The objectives of this subsection are to:

- (1) preserve scenic, aesthetic, ~~and~~ ecological values, including –evidence of Indigenous occupation, such as culturally modified trees;
- (2) minimize ground disturbance and retain forest cover in order to protect water catchment areas;
- (3) preserve traditional public trail access through forested areas especially to escarpment view points;
- (4) promote retention of large parcels of land;
- (5) provide some limited opportunity for land sharing without encouraging subdivision,
- (6) maintain the visual quality of the residential neighbourhoods; and
- (7) allow for a wide diversity of home occupations subject to regulations which ensure maintenance of the rural residential character of the areas designated Rural Residential and to ensure minimal negative impact on neighbouring properties.

6.4.1 Agriculture

Background:

The early European settlers development of Hornby Island included agriculture as a primary occupation and cleared land to grow food -tthrough deforestation and prescribed burns. However by 2009 the Assessment Authority listed 190 parcels with an agricultural assessment. Many of the largest holdings with good soil have now been subdivided or are vacant. Residential uses of agricultural land has increased pressure for subdivision. Small-scale farming operations serving primarily local needs are prevalent.