



Hornby Island Local Trust Committee

Special Meeting Agenda

Date: March 22, 2024
Time: 11:30 am
Location: Hornby Island Community Hall
Central Road, Hornby Island, BC

Pages

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| 1. | CALL TO ORDER | 11:30 AM - 11:35 AM | |
| | “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 | | |
| 3. | BUSINESS ITEMS | 11:35 AM - 1:35 PM | |
| 3.1 | Review of New Provincial Short Term Rental Accommodation Act and Options for Hornby island Official Community Plan Review Project - Staff Report | | 2 - 11 |
| 4. | ADJOURNMENT | 1:35 PM - 1:40 PM | |



DATE OF MEETING: March 22, 2024

TO: Hornby Island Local Trust Committee

FROM: Sonja Zupanec, Island Planner
Northern Office

SUBJECT: Review of New Provincial *Short Term Rental Accommodation Act* and Options for Hornby Island Official Community Plan Review Project

RECOMMENDATION

1. That the Hornby Island Local Trust Committee request staff to prepare draft amendments to the Official Community Plan and Land Use Bylaw Review Project Charter to reflect the:
 - a) *[specify option motion selected by Local Trust Committee]*;
 - b) updated project engagement plan with K'ómoks First Nation; and
 - c) updated work plan, community engagement plan and budget;
2. That the Hornby Island Local Trust Committee request staff to bring forward the updated Project Charter for the Official Community Plan and Land Use Bylaw Review to the April 26, 2024 regular business meeting for LTC endorsement.

SUMMARY

The purpose of this report is to present the Hornby Island Local Trust Committee (LTC) with an overview of the implications of the new provincial [Short-Term Rental Accommodation Act](#), and identify opportunities and challenges in considering its implementation as part of the Official Community Plan (OCP) and Land Use Bylaw (LUB) Review Project. Staff is seeking direction from the LTC on a clear approach it wishes to proceed with regulating vacation home rentals on Hornby Island so that staff can update the Project Charter (Attachment 1) with the necessary work plan, engagement plan and budget for 2024/2025.

BACKGROUND

The Provincial Government has advised local governments in BC to **not** grant zoning (or other permission) to short-term rental hosts, where inconsistent with (or more permissive than) the new provincial *Short-Term Rental Accommodations Act*. Despite the Islands Trust being exempt from the mandatory legislation, all local governments are being asked to review their bylaws and consider whether any updates may be warranted in light of the new provincial approach designed to support enforcement of short-term rental bylaws, return short-term rentals to the long-term housing market, and establish a provincial role in the regulation of short-term rentals.

The following is a staff review of the Hornby Island bylaws to highlight the intersection with the new provincial legislation that the LTC may wish to consider as it determines how to advance the OCP/LUB Review Project in the next fiscal.

NEW PROVINCIAL LEGISLATION

The province has released a comprehensive overview of the [provincial policy guidance](#) for local governments for the *Short-Term Rental Accommodations Act*. The following Table 1 illustrates the five key elements of the provincial legislation and the implications for the Hornby Local Trust Area.

Table 1. Opportunities and Implications of *Short-Term Rental Accommodations Act*

<i>Short-Term Rental Accommodations Act</i>	<i>Potential Opportunities</i>	<i>Hornby Island Implications</i>
Allows Regional District business licensing for short term accommodation rentals	Once the LTC has identified the policy and regulatory framework it wishes to employ to regulate short term accommodation rentals on the island, the LTC can in cooperation with the Comox Valley Regional District (CVRD), explore business licensing as a tool to monitor and ensure compliance with those policies/regulations.	Currently this element of the legislation is not applicable as the Islands Trust does not have authority to issue business licenses. - Comox Valley Regional District would need to prioritize this action and administer on behalf of Denman and/or Hornby. - Significant financial resources are anticipated to develop this service. LTC direction needed to confirm the enabling suite of OCP policies and LUB regulations related to short term rental accommodation before a comprehensive review of the efficacy and sustainability of this particular tool can be commenced.
Increased Fines for non-compliant vacation rentals	Increase fines up to \$3,000 / day	Not applicable. Does not currently apply to Hornby Bylaw Enforcement Notification (BEN) Bylaw.
Principal residence requirement (vacation rental can only be in host's principal residence or one secondary suite/secondary dwelling unit on the property)	- Province will enforce principle residence requirement and registry requirement. - Supersedes local government zoning and temporary use permit regulations. - Several regions of the province affected; others can opt-in. LTC may opt in by March 31st <u>each year</u> to take effect by	Currently not applicable as the Islands Trust is an exempt jurisdiction unless the LTC decides to opt-in. Hornby Island LUB currently allows for owners or tenants of parcels to conduct vacation rentals regardless of whether or not the property is their principle residence.

	November 1 st of the same year.	- When considering whether to request to opt-in of the principal residence requirement, the LTC should consider their Housing Needs Report, the number of short-term rental listings, and the rental vacancy rate for their community as well as other factors. LTC direction needed to opt-in.
End of legal non-conforming status for all existing vacation rentals	Need to educate public and enforce existing non-conforming rentals after May 31, 2024.	APPLIES TO HORNBY ISLAND. Any non-conforming rentals (non-conforming with the current Hornby regulations) will need to come into compliance immediately as no provincial protection is provided after May 31, 2024. All future rentals will need to comply with both local and provincial regulations, including the provincial principal residence requirement, if the LTC opts in.
Provincial Registry	- Province will share registry data with all local governments when the system is created. - Province will enforce against non-compliant registrants.	APPLIES TO HORNBY ISLAND. Timing of enacting the registry system is late 2024. Will apply to ANY short term accommodation host on Hornby Island regardless of whether the local government has opted in or not. This could provide valuable updates to the local government on this land use in lieu of business licensing.
Provincial Enforcement	Province only enforcing its legislation – not local bylaws. Does not apply to use of RVs, tents or other types of shelters being used for short term vacation rentals.	- No provincial enforcement of the principal residence requirement unless LTC opts in. - Province will enforce registry requirement regardless of opt-in.

Table 2. Outlines the relevant sections of the Hornby Island Land Use Bylaw (LUB) regulations related to the Act and potential considerations and implications.

Table 2. Opportunities and Implications of Existing Hornby Island Regulations

Hornby LUB Regulation Section	Existing Hornby LUB Regulations	Staff Comments on how this aligns with Provincial legislation
Part 1 Definitions	1.1 vacation home rental use means 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.	NOT ALIGNED This definition permits hosts to operate in a dwelling that is not their principal residence. NOT ALIGNED Definition would need to be amended if the LTC chooses to align with the Provincial approach to this type of land use occurring only in someone's principal residence. APC recommendations in 2022 also highlighted this option for principal residence requirement. Legal non-conforming use protection will no longer be granted after May 2024.
Part 3 General Regulations	3.2-Uses Prohibited in All Zones (d) Overnight accommodation in tents or recreational vehicles accessory to or in association with vacation home rental use.	ALIGNED Provincial regulations do not extend to tents or RVs and currently the Hornby LUB does not authorize the use.
Part 3 General Regulations	3.7 Vacation Home Rental Use (1) Vacation home rental uses must be in accordance with the following limitations: (a) A dwelling unit may only be occupied by paying guests during the months of May, June, July, August and September. (b) Despite article 3.7(1)(a), on any lot permitted two dwelling units, one dwelling unit may be occupied by paying guests at any time, provided that an owner or tenant is resident in a second lawful dwelling unit on the lot during the vacation home rental occupancy.	ALIGNED and more restrictive Hornby LUB is currently more restrictive than the provincial approach in the way that it limits the use May – September and requires one guest/party per seven consecutive days. NOT ALIGNED Hornby LUB permits operator to use a dwelling/property that is not their principal residence.

Hornby LUB Regulation Section	Existing Hornby LUB Regulations	Staff Comments on how this aligns with Provincial legislation
	(c) During any period of seven consecutive days a dwelling unit may be occupied by only one guest or guest party.	
Part 3 General Regulations	<i>3.7 Vacation Home Rental Use</i> (d) A dwelling used for vacation home rental use shall not be used to accommodate more than two beds per bedroom or more than three bedrooms if the lot on which the dwelling is located has an area of less than 1.0 hectare, or more than four bedrooms if the lot has an area of 1.0 hectare or more.	ALIGNED and more restrictive Hornby LUB more restrictive than provincial approach in the way it limits the maximum number of beds/bedrooms.
Part 8 Zone Regulations	8.1 Residential 1 – Small Lot (R1) Zone (Galleon Beach, Shingle Spit, Sandpiper, Whaling Station Bay/Anderson Drive and portion of Klaver Lot) 8.2 Residential 2 – Large Lot (R2) Zone 8.4 Residential 4 – Forest (R4) Zone 8.5 Agriculture 1 (A1) Zone	ALIGNED Four residential zones currently permit this use outright. The LTC has the authority to determine which zones this land use is appropriate for.
PART 10 Temporary Use Permit Areas	10.2 Objectives (9) to allow vacation home rental use that does not comply with limitations imposed by land use regulation. (10) In consideration of applications for vacation home rentals the Local Trust Committee may consider the following: (a) the cumulative effects, both positive and negative, on the neighbourhood and island of all temporary use permits issued for vacation home rentals; (b) limitations on any signage that may be placed on the property; (c) a requirement for information to be posted that will inform guests regarding the location of property lines by way of a map, any applicable noise bylaws, measures to address water conservation, fire safety, storage and management of garbage, septic system care and control Hornby Island Land Use Bylaw No. 150,	For those parcels that do not meet the LUB criteria for the vacation home rental, a TUP can be applied for. NOT ALIGNED. The LTC can continue to use the TUP process despite not being consistent with the provincial principal residence requirement. If the LTC choses to opt-in, the TUP requirements would need to be updated.

Hornby LUB Regulation Section	Existing Hornby LUB Regulations	Staff Comments on how this aligns with Provincial legislation
	2014 – Schedule A 69 of pets (if pets are permitted) in accordance with standards applicable by regional district bylaw, as stated in the permit or as determined by the owner or manager to effectively manage the site; (d) the proposed maximum number of occupants; (e) the proposed time periods that the dwelling will be available for rental or months of the year when the rental will occur; and (f) other considerations the LTC considers appropriate.	

OPTIONS

The LTC can consider the following options to regulate vacation home rentals in order to proceed with the OCP/LUB Review Project:

1. Maintain existing OCP policies and LUB regulations permitting vacation home rental use and not opt-in to provincial principal residence requirement.

All hosts on Hornby will be required to register their operation with the provincial registry in late 2024, once registry is established. This registry is anticipated to provide the LTC with a means to track operators, show the geographic density of hosts in any particular area of the island, allow for monitoring and assist with compliance. The LTC can decide at any point in the future, to opt-in to the principal residence requirement. The LTC can proceed with the various housing, First Nation and other amendments to the OCP and LUB Project.

ACTION: Request staff to update the OCP/LUB project charter to remove vacation home rental use as in-scope for draft bylaw amendments.

If this option is selected the LTC resolution wording would be as follows:

That the Hornby Island Local Trust Committee request staff to update the project charter to include draft amendments to remove vacation home rental use from the scope of the project.

2. Maintain existing OCP policies and LUB regulations permitting vacation home rental use and opt-in to the provincial principal residence requirement by March 31, 2024.

Possible implications of opting in to this requirement includes a percentage of vacation home rental operators not being able to comply by 2025 and ceasing their home rental operation. There would not be legal non-conforming protection available for those hosts and the parcel/dwellings may eventually become available for long term residential use.

ACTION: Request staff to update the Hornby Project charter scope to ensure zoning and TUP guidelines are consistent with the provincial principal residence requirement.

If this option is selected the LTC resolution wording would be as follows:

That the Hornby Island Local Trust Committee request that the Minister of Housing, on behalf of the Lieutenant Governor in Council, apply the principal residence requirement to the Hornby Island Local Trust Area and that the Hornby Island Local Trust Area be removed from the exempt land as per S. 15 of the Short-Term Rental Accommodation Act.

And,

That the Hornby Island Local Trust Committee request staff to update the project charter to include draft amendments to address zoning regulations and TUP guidelines consistency with the provincial principal residence requirement.

3. Amend existing vacation home rental regulations and choose whether or not opt-in/out of principal residence requirement.

The Hornby Island community has over the last several years, identified a number of issues related to vacation home rental use that could be addressed through changes to existing regulations. The important distinction is that now, legal non-conforming protection will no longer be available to vacation home rental operators when/if the bylaws are updated or modified. The LTC can request draft bylaw amendments be prepared, for example, to increase the minimum lot size requirement; restrict the number of zones that the use can be conducted in; require proof of septic and water for all users; reduce the number of months the use can be in operation; limit one rental per parcel, etc. The Advisory Planning Commission [recommendations to the LTC in 2022](#) identified several of these potential options to address the impacts of existing regulations.

ACTION: Request staff to update the Hornby Project charter scope with the following amendments to existing vacation home rental regulations (specify amendments).

If this option is selected the LTC resolution wording would be as follows:

That the Hornby Island Local Trust Committee request staff to update the project charter to include draft amendments to [specify] .

[Opt-in] And,

That the Hornby Island Local Trust Committee request that the Minister of Housing, on behalf of the Lieutenant Governor in Council, apply the principal residence requirement to the Hornby Island Local Trust Area and that the Hornby Island Local Trust Area be removed from the exempt land as per S. 15 of the Short-Term Rental Accommodation Act.

4. Remove Vacation Home Rental Use from Zoning and require TUP for each operator. Can be combined with principal residence requirement.

The LTC may remove the zoning provisions for vacation home rental uses on Hornby Island entirely and instead require all vacation home rentals to obtain a valid Temporary Use Permit. The TUP guidelines would need to be updated to incorporate various requirements to ensure compatibility with the islands' form, character, concerns for protection of the natural environment etc. Possible implications of this option are that the number of hosts may decrease due to the application costs/time; there may be significant administrative impacts due to the anticipated volume of TUP applicants in the first year of the requirement and subsequent renewals that require processing time by staff and a decision by the LTC.

ACTION: Request staff to update the Hornby Project charter scope by removing vacation home rental use from zoning and require a TUP for each operator.

If this option is selected the LTC resolution wording would be as follows:

That the Hornby Island Local Trust Committee request staff to update the project charter to include draft amendments to remove vacation home rental use from the zoning and require a Temporary Use Permit for each operator.

NEXT STEPS

Staff have identified a number of potential changes and updates required for the OCP/LUB Project Charter (Attachment 1). Staff is seeking clear direction from the LTC on how it wishes to proceed with regulating vacation home rental use within the OCP/LUB Review Project. With that direction, staff will prepare the necessary amendments to the Project Charter for LTC endorsement at the April 2024 regular business meeting.

Staff will continue to work with K'ómoks First Nation staff on engagement for the priority topics of mutual concern and provide regular updates to the LTC to inform draft bylaw development for this project.

Submitted By:	Sonja Zupanec, RPP, MCIP, Island Planner	March 11, 2024
Concurred By:	Renée Jamurat, RPP, MCIP, Regional Planning Manager	March 11, 2024

Attachment:

1. September 2023 OCP/LUB Review Project Charter – annotated with staff comments

Hornby OCP and LUB Review Project - Charter v 2.2

Hornby Island Local Trust Committee

Endorsement Date: **September 8, 2023**

Purpose: To review and update the Hornby Official Community Plan (OCP) policies and Land Use Bylaw (LUB) regulations to increase housing options, restrict short term vacation rentals in residential zones and update First Nations references in the OCP.

Background: The Local Trust Committee (LTC) prioritized a “Comprehensive OCP/LUB Review” project in 2021 and requested the Hornby Island Advisory Planning Commission to provide recommendations for OCP and LUB amendments related to four specific topics. The APC spent much of 2021 and early 2022 meeting and providing recommendations regarding amendments. A consultant was hired in 2022 and prepared a report of final recommendations for LTC consideration of next steps in the 2023/24 fiscal year. In May 2023 the LTC confirmed the scope and purpose of the project as updated policies and regulations related to secondary suites/dwellings, prohibiting new short term vacation rentals and updating First Nations references in the OCP.

Objectives

Amend the Hornby Island OCP and LUB by incorporating select recommendations of the Hornby Island Advisory Planning Commission; consultant’s recommendations and public feedback to restrict short term vacation rentals; increase housing options and update First Nations references.

In Scope

- Draft OCP and LUB Bylaw amendments:
 - o Supporting cooperative and purpose built rental housing;
 - o Supporting rezoning applications for ‘Large Lot Residential’ parcels to multi-family development for residential rental tenure;
 - o Permitting secondary suites in all small lot zones within the principle dwelling where septic capacity allows and sufficient groundwater is available;
 - o Permitting secondary suites or attached/detached secondary dwelling on lots over 2ha where septic capacity allows and sufficient groundwater is available;
 - o Prohibiting new short term vacation rentals (STVRs) as an outright permitted use in residential zones;
 - o Designating all small lots in the Galleon and Sandpiper area as within the heavily developed aquifer (IA).
- Updating OCP language, references to include First Nations.
- Add the Islands Trust Reconciliation declaration to the OCP.
- Develop a system to monitor the rate and use of STVRs.

Out of Scope

Public engagement beyond legislative requirements (one major community information meeting and one minor CIM immediately prior to the public hearing).

Deliverables

- One OCP Amendment Bylaw specific to First Nations references;
- One OCP amendment specific to housing and short term vacation rentals;
- One LUB Amendment Bylaw specific to housing and short term vacation rentals.
- Develop a vacation home rental monitoring program to monitor the rate and use of STVRs on the island.
- Post Bylaw adoption community communication materials.

Commented [SZ1]: To be updated once LTC endorses all necessary changes.

Commented [SZ2]: Requires updating to reflect current LTC approach to regulating vacation home rentals.

Commented [SZ3]: K’omoks has identified several priorities for engagement in 2024 regarding potential land use planning considerations. Once the capacity funding agreement has been signed those priorities need to be referenced in the Project Charter.

Commented [SZ7]: Update deliverables to specify whether separating out topics for bylaw drafting is appropriate at this stage in engagement with K’omoks.

Commented [SZ6]: LTC to provide direction on extent of public engagement considering the budget for 2024/2025

Commented [SZ4]: Update required upon confirmation from LTC on desired approach to regulating vacation home rentals.

Commented [SZ5]: Update required upon confirmation from LTC on desired approach to regulating vacation home rentals.

Workplan Overview

Deliverable/Milestone	Date
Project Charter Endorsed - COMPLETED	June, 2022
Execute Consultant Contract - COMPLETED	August, 2022
First Community Workshop - COMPLETED	October, 2022
Second Community Workshop - COMPLETED	Winter, 2022/23
Consultant Report on Workshops and Recommendations for Bylaws - COMPLETED	Spring, 2023

Project Charter September 2023 – v. 2.2

LTC endorsement of project charter - COMPLETED	June and Sept 2023
Staff to begin engagement with K’omoks; prepare three draft bylaws (2 OCP; 1 LUB)	Summer/Fall 2023
Draft Bylaws presented to LTC for consideration of First Reading or referral to APC for comment	Fall/Winter 2023
1 st Reading of bylaws and referral to First Nations, agencies, APC and community groups	Winter 2023/2024
Community Information Meeting following referral submissions/2 nd Reading of bylaws	Winter 2024
CIM/Public Hearing – END OF FISCAL	March 2024
3 rd Reading and forward to EC and Ministry	Spring 2024
Adoption	Summer/Fall 2024

Commented [SZ8]: Update all work plan deliverables and timelines.

Project Team	
Island Planner	Project Manager/ bylaw drafting
Legislative Clerk	Legislative Process / Bylaw Review
RPM Approval: Renee Jamurat, RPM June 2023	LTC Endorsement: Resolution #: 10-Jun-22; 9-Sept-22; Jun 16-23; Sep 8-23

Budget		
Budget Sources: TC Line Item Budget allocation		
2022/23	Consultant Contract	\$13,450 SPENT
2022/23	Minute-Taker	\$600 SPENT
2023/24	K’omoks First Nation Engagement/Capacity Funding	PENDING \$14,700
2023/24	Community Information Meeting after 1 st reading	\$1,000
2023/24	CIM/Public Hearing after second reading	\$1,800
	Total up to	\$15,000

Commented [SZ9]: Update budget to reflect \$ in 2023/2024 fiscal for K’omoks capacity funding agreement. Identify available funds for 2024/2025 – currently estimated at \$xx and identify estimated expenditures.