



# North Pender Island Local Trust Committee

## Regular Meeting Agenda

Date: June 28, 2017  
Time: 10:00 am  
Location: Royal Canadian Legion  
1344 MacKinnon Road

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	<b>Pages</b>
1. CALL TO ORDER	10:00 AM - 10:15 AM
2. APPROVAL OF AGENDA	
3. TOWN HALL AND QUESTIONS	
4. COMMUNITY INFORMATION MEETING	
none	
5. PUBLIC HEARING	
none	
6. MINUTES	10:15 AM - 10:20 AM
6.1 Local Trust Committee Minutes Dated May 25, 2017 (for Adoption)	3 - 10
6.2 Local Trust Committee Public Hearing Record Dated May 25, 2017 (for Receipt)	11 - 11
6.3 Section 26 Resolutions-without-meeting Report	
none	
6.4 Advisory Planning Commission Minutes	
none	
7. BUSINESS ARISING FROM THE MINUTES	
7.1 Follow-up Action List Dated June 2017	12 - 13
8. DELEGATIONS	10:20 AM - 10:30 AM
8.1 M. Burandt re Proposed Cell Towers	
9. CORRESPONDENCE	
<i>Correspondence received concerning current applications or projects is posted to the LTC webpage</i>	
9.1 L. Henshaw - Email Dated March 9, 2017 (attached)	14 - 14

9.2	M. Burandt - Letter Dated June 6, 2017 (attached)		15 - 18
10.	APPLICATIONS AND REFERRALS	10:30 AM - 10:40 AM	
10.1	Salt Spring Island Local Trust Committee Bylaws 487 & 496 Referral (for response)		19 - 20
11.	LOCAL TRUST COMMITTEE PROJECTS	10:40 AM - 11:00 AM	
11.1	Housing: Secondary Suites - Staff Report		21 - 24
12.	REPORTS	11:00 AM - 11:15 AM	
12.1	Work Program Report (attached)		
12.1.1	<u>Top Priorities Report Dated June 2017</u>		25 - 25
12.1.2	<u>Projects List Report Dated June 2017</u>		26 - 28
12.2	Applications Report Dated June 2017(attached)		29 - 34
12.3	Trustee and Local Expense Report Dated May 2017(attached)		35 - 35
12.4	Adopted Policies and Standing Resolutions (attached)		36 - 37
12.5	Local Trust Committee Webpage		
12.6	Chair's Report	11:15 AM - 11:30 AM	
12.7	Trustee Report		
12.8	Trust Fund Board Report none		
13.	NEW BUSINESS	11:30 AM - 12:00 PM	
13.1	Trust Area's Services Well and Groundwater Workshops - Staff Memo & Poster		38 - 40
13.2	Bylaw Enforcement re Short Term Vacation Rental (STVR) Enforcement - Staff Report		41 - 43
13.3	James Island Right of Way re Educational Access - Staff Memo		44 - 56
14.	UPCOMING MEETINGS		
14.1	Next Regular Meeting Scheduled for July 27, 2017 at the Community Hall, Pender Island		
15.	TOWN HALL	12:00 PM - 12:15 PM	
16.	CLOSED MEETING none		
17.	ADJOURNMENT	12:15 PM - 12:15 PM	



**DRAFT**

**Local Trust Committee  
Minutes Subject to Approval By  
the Local Trust Committee**

## **North Pender Island Local Trust Committee Minutes of Regular Meeting**

**Date:** May 25, 2017  
**Location:** Pender Island Community Hall  
4418 Bedwell Harbour Road, North Pender Island, BC

**Members Present** George Grams, Chair  
Dianne Barber, Local Trustee  
Derek Masselink, Local Trustee

**Staff Present** Justine Starke, Island Planner  
Shannon McConchie, Recorder

**Public Present** Approximately twelve (12) members of the public present.

### **1. CALL TO ORDER**

Chair Grams called the meeting to order at 3:30 p.m. He made introductions and acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations. He also announced that the meeting was being recorded and read a written statement.

### **2. APPROVAL OF AGENDA**

Chair Grams recommended moving item 14, "Closed Meeting" to the end of the meeting.

**By general consent** the agenda was approved as amended.

### **3. TOWN HALL AND QUESTIONS**

**Michael Sketch** noted that he has submitted two written submissions to the Local Trust Committee (LTC) and provided an overview of their content. In his overview he requested that the LTC consider two amendments to the minutes and also that they revise Draft Bylaw 202 with his recommended wording.

**Don Korbin** addressed two resolutions from the previous meeting regarding staff directions for the Waste Management Project. He spoke against the resolutions and provided rationale for requesting that the Local Trust Committee reconsider their decision.

#### **4. MINUTES**

##### **4.1 Local Trust Committee Minutes Dated April 27, 2017 (for Adoption)**

The following amendment to the minutes was presented for consideration:

- Under item 15, Town Hall, replace the speaker's name from Oliver Gannon to Bill Gannon.

A discussion was held regarding NP-2017-050, and confirmation was received that staff will address the limited parcel, not the entire property.

**By general consent** the minutes were adopted as amended.

##### **4.2 Section 26 Resolutions-without-meeting Report Dated May 2017**

Received for information.

##### **4.3 Advisory Planning Commission Minutes**

None

#### **5. BUSINESS ARISING FROM THE MINUTES**

##### **5.1 Follow-up Action List Dated May 2017**

Trustee Masselink requested an update on the "First Nations Interests" project.

Planner Starke reported that Fiona XETXATTEN MacRaid, Senior Intergovernmental Policy Advisor, will attend the June 28, 2017 meeting with a report.

#### **6. DELEGATIONS**

None

#### **7. CORRESPONDENCE**

*Correspondence received concerning current applications or projects is posted to the LTC webpage.*

None

#### **8. APPLICATIONS AND REFERRALS**

##### **8.1 NP-RZ-2016.1 (Mainroad) - Staff Report**

Planner Starke provided an overview of the report, including the related staff recommendations.

A discussion was held regarding the the benefits of referring the matter to the Advisory Planning Commission (APC).

**NP-2017-055**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee Bylaw No. 202, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No.1, 2016”, be read a first time.

**CARRIED**

**NP-2017-056**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee direct staff to schedule a public hearing and community information meeting for Bylaw No.202, cited as “North Pender Island Land Use Bylaw 103,1996, Amendment No. 1, 2016.”

**CARRIED**

**NP-2017-057**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee endorse the Islands Trust Policy Statement Directive Policies Checklist for proposed Draft Bylaw No. 202.

**CARRIED**

**NP-2017-058**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee refer NP-RZ-2016.1 (Mainroad) to the North Pender Island Advisory Planning Commission for review and comment.

**CARRIED**

**9. LOCAL TRUST COMMITTEE PROJECTS**

None

**10. REPORTS**

**10.1 Work Program Report (attached)**

10.1.1 Top Priorities Report Dated May 2017

Planner Starke provided an overview on the progress of each project, including the target timeline for the ongoing Capital Regional District Housing Needs Assessment.

10.1.2 Projects List Report Dated May 2017

For information.

**10.2 Applications Report Dated May 2017 (attached)**

For information.

**10.3 Trustee and Local Expense Report**

None

**10.4 Adopted Policies and Standing Resolutions (attached)**

For information.

**10.5 Local Trust Committee Webpage**

No comments were made.

**10.6 Chair's Report**

Chair Grams provided a report, including the following points:

- Provided an overview of a recent round table with the Sannich Inlet Protection Society and Tsawout First Nations.
- Federal Funding is being provided for derelict vessels, and Islands Trust is being considered as a potential partner in the matter.
- Trust Executive and Senior Staff met in Nanaimo to discuss formative issues in the Trust Area.

**10.7 Trustee Report**

Trustee Masselink reported that progress has been made in ensuring First Nation's access to James Island and provided an overview of the issue's history.

Trustee Barber requested an update on the local Islands Trust office.

Planner Starke reported that no formal announcement has been made.

**10.8 Trust Fund Board Report April 21, 2017**

Trustee Masselink noted community discomfort with a recent limbing of an arbutus tree at Medicine Beach. He recommended stronger communication in the future.

Planner Starke acknowledged the comment and remarked that she will share the recommendation with the appropriate parties.

## 11. NEW BUSINESS

### 11.1 2016-2017 Annual Report - Approval of North Pender Island LTC Section - Request For Decision (attached)

**NP-2017-059**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee approve the attached text for inclusion in the 2016-2017 Annual Report for approval (as amended) by Trust Council and submission to the Minister of Community, Sport and Cultural Development.

**CARRIED**

## 12. UPCOMING MEETINGS

### 12.1 Next Regular Meeting Scheduled for June 28, 2017, at the Royal Canadian Legion Hall, Pender Island

## 13. TOWN HALL

**Dale Henning** requested advice on the best process for community members who would like to correct erroneous information that may be giving during Town Halls.

Chair Grams recommended addressing significant matters of fact in writing to staff, and cautioned that Town Halls are not to be used for debate.

**Michael Sketch** addressed the announcement of improved First Nation's access to James Island and provided a history of the Islands Trust's role in that issue. He encouraged the LTC to consider revising the James Island Bylaw.

**Michael Sketch** asked Chair Grams which aspects of the Trust Act will be addressed in the proposed review.

Chair Grams reported that no formal decisions have been made and provided an overview of some issues that have been recommended.

Addressing the James Island issue, Trustee Masselink noted that this matter could be addressed to Fiona XETXATTEN MacRaidl.

## 14. COMMUNITY INFORMATION MEETING

### 14.1 North Pender Island Local Trust Committee Bylaws 206, 207, 208, 209 & 210

Planner Starke provided an overview of the purpose of a Community Information Meeting and each of those Bylaws being addressed.

**Michael Sketch** asked planning staff whether the larger floor area is a new trend for tourist accommodations on island.

Planner Starke explained the floor area was requested by the applicant for the specific proposal.

**Jim Petrie** requested information regarding the retrieval and storage of material from boat pump-outs.

**Duane Shaw**, Mill Bay Group, provided an overview of the process.

**Mike Streeter** addressed wave attenuators, requesting Information on the criteria used and whether the changes will have an impact on the nature and biological features of the area.

**Duane Shaw** provided an overview of the Wave and Wind Study and how it was used to establish the criteria.

**Linda Westen** addressed increased fresh water demand and asked how the matter is being assessed and managed.

**Duane Shaw** provided an overview of the water system, an overview of the reservoir being used, and the studies used to assess performance.

## **15. PUBLIC HEARING**

### **15.1 Recess for Public Hearing**

Chair Grams recessed the Regular meeting at 4:58 p.m and called the Public Hearing was called to order at that time.

#### **15.1.1 North Pender Island Local Trust Committee Bylaws 206, 207, 208, 209 & 210**

See separate Public Hearing (PH) record dated May 25, 2017.

### **15.2 Recall to Order**

Chair Grams recalled the Regular Meeting to order at 5:06 p.m.

## **16. APPLICATIONS CONT'D**

### **16.1 NP-RZ-2016.2 & NP-RZ-2016.3 (Port Browning Marina/Group) - Staff Memo**

#### **16.1.1 North Pender Island Local Trust Committee Bylaws 206, 207, 208, 209 & 210 (for further consideration)**

Planner Starke provided an overview of process moving forward.

**NP-2017-060**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee Bylaw No. 206, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 3, 2016”, be read a third time.

**CARRIED**

**NP-2017-061**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee Bylaw No. 207, cited as “North Pender Island Official Community Plan Bylaw 171, 2007, Amendment No. 3, 2016”, be read a third time.

**CARRIED**

**NP-2017-062**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee Bylaw No. 208, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 4, 2016”, be read a third time.

**CARRIED**

**NP-2017-063**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee Bylaw No. 209, cited as “North Pender Island Official Community Plan Bylaw 171, 2007, Amendment No. 4, 2016”, be read a third time.

**CARRIED**

**NP-2017-064**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee Bylaw No. 210, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 5, 2016”, be read a third time.

**CARRIED**

**NP-2017-065**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee proposed Bylaws No. 206, 207, 208, 209, and 210 be forwarded to the Secretary of the Islands Trust for Executive Committee Approval.

**CARRIED**

**NP-2017-066**

**It was MOVED and SECONDED,**

that the North Pender Island Local Trust Committee proposed Bylaws No. 207 and 209 be forwarded to the Minister of Community, Sport and Cultural Development for approval.

**CARRIED**

**17. CLOSED MEETING (Distributed Under Separate Cover)**

**17.1 Motion to Close Meeting**

**NP-2017-067**

**It was MOVED and SECONDED,**

that the meeting be closed to the public in accordance with the Community Charter, Part 4, Division 3, s. 90(1) (a & d) for the purpose of considering:

Adoption of In-Camera Meeting Minutes Dated April 6, 2017;

Appointment of APC Members,

AND that the recorder and staff attend the meeting.

**CARRIED**

**17.2 Recall to Order**

Chair Grams recalled the meeting to order at 5:21 p.m.

**17.3 Rise and Report**

Chair Grams announced that Barbara Johnstone Grimmer was appointed to the North Pender Island APC for a term ending March 1, 2018.

**18. ADJOURNMENT**

**By general consent** the meeting was adjourned at 5:23 p.m.

\_\_\_\_\_  
George Grams, Chair

Certified Correct:

\_\_\_\_\_  
Shannon Brayford, Recorder



**DRAFT**

**Public Hearing  
Record Subject to Approval  
By the Local Trust Committee**

**North Pender Island Local Trust Committee  
Record of a Public Hearing  
Proposed Bylaws No. Bylaws 206, 207, 208, 209 & 210**

**Date:** May 25, 2017  
**Location:** Pender Island Community Hall  
4418 Bedwell Harbour Road, North Pender Island, BC

**Members Present** George Grams, Chair  
Dianne Barber, Local Trustee  
Derek Masselink, Local Trustee

**Staff Present** Justine Starke, Island Planner  
Shannon McConchie, Recorder

**Public Present** Approximately twelve (12) members of the public present.

15.1.1 North Pender Island Local Trust Committee Bylaws 206, 207, 208, 209 & 210

Chair Grams recessed the Regular Meeting at 4:59 pm to hold the Public Hearing. He read a prepared statement outlining the content, purpose, and process of the Public Hearing.

Planner Starke provided a summary of the Public Hearing notice and the agency referrals that were received.

Chair Grams made a first, second, and third request for submissions.

None were made.

Chair Grams closed the public hearing at 5:06 p.m.

**I CERTIFY THAT THIS IS A FAIR AND ACCURATE SUMMARY OF THE NATURE OF REPRESENTATIONS RESPECTING THE MEETING HELD.**

\_\_\_\_\_  
**RECORDER**

\_\_\_\_\_  
**DATE**

## Follow Up Action Report

### North Pender Island

#### 26-Jan-2017

Activity	Responsibility	Target Date	Status
Top Priority - First Nations Interests: - Staff to organize a public educational event in September focused on the archaeological findings of the canal excavation between the two islands during the summers of 1984-85-86.	Justine Starke	31-May-2017	On Going

#### 28-Apr-2017

Activity	Responsibility	Target Date	Status
Waste Transfer - Direction to draft LUB and OCP bylaws based on staff reports recommendations.	Sharon Lloyd-deRosario Justine Starke	22-Jun-2017	On Going

#### 25-May-2017

Activity	Responsibility	Target Date	Status
Minutes of April 27 amended and adopted. Amendment: Last town hall - Replace Oliver Gannon with Bill Gannon.	Sharon Lloyd-deRosario Regina Robinson	28-Jun-2017	Done
NP-RZ-2016.1 (mainroad) - Bylaw 202 given first reading (Done); direction to schedule a CIM and PH; Endorsement of ITPS checklist. Referred to Advisory Planning Commission. (Done) Refer Bylaw 202 to agencies (Done)	Sharon Lloyd-deRosario Phil Testemale	28-Jun-2017	On Going
NPI LTC Annual Report language adopted.	Robert Kojima	28-Jun-2017	Done
Barbara Grimmer appointed to APC.	Sharon Lloyd-deRosario	14-Jun-2017	Done



Islands Trust

Print Date: June 22, 2017

## Follow Up Action Report

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NP-RZ-2016.2&3 - Bylaws 206, 207, 208, 209, 210 given third reading(Done) and referred to EC and MCSCD where appropriate.

Justine Starke  
Phil Testemale

28-Jun-2017

Done

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COPIED TO

PLANNER  
 LTC  
 4c



**From:** Lou Henshaw [mailto: [REDACTED]]

**Sent:** Thursday, March 09, 2017 8:36 AM

**To:** dibarber@shaw.ca; George Grams; Derek Masselink; Justine Starke; Duane Shaw; Michael Sketch

**Subject:** Islands Trust

Good Morning = I have found in the trust minutes that [REDACTED] authorized a letter to go to Pender Island Conservancy (PICA) and the Pender Island Protection Society, (whatever that is and I see they help pay for trust court costs in a document I have) thanking them for their work on the Wetland Map that has devalued and made useless all the Henshaw acreages by putting orange lines through them indicating water courses. Trouble is the water course is in the next valley which was known as the airport property and has water rights. Water rights people said we didn't need because we just logged and dug a very deep hole for a pond. I sat in my lawyers office as it was discussed with them. [REDACTED] said he would change it, never did. We cant find the supposed streams the orange lines supposedly indicate. Please remove them. I believe letter was dated May 10, 2010.

[REDACTED] was also quoted in an article about him in the Times Colonist he didn't believe in any exclusions in ALR land, yet he appears to have pushed for exactly that on the Burdett Farm.

In an Islands Trust news release by [REDACTED], [REDACTED] and [REDACTED] on February 27, 08 about the New Official Community Plan it says zero exclusion policy to protect ALR lands, and support for agriculture that recognizes working farms and the growing importance of a local source for our food. ([REDACTED] raised beef cattle and also on the other farm, now had sheep, gone now fences and shelters still there). THIS IS IN PRESS RELEASE ABOUT THE OCP that I have.

I have heard there is talk of opening up Ketch Road as a second exit from Magic Lake. That valley is only a couple of hundred feet wide and it would be a horror to live there if this happens. I believe the Driftwood may want it, not sure. We still have eleven acres there on the narrowest part of the valley so it doesn't make much sense to me to open it up as it would be an unlivable nightmare. Oh yes, it would start as an emergency road but would never stay that way I am convinced. Besides it borders the Browning water supply with their pond that catches rain. To me it would be a dangerous situation for that and a nuisance to us.

I lived in Furry Creek when it was just a logging camp and no road till the sea to sky opened then. It was a hardship, water access only. Yet there is a perfectly easy access from Vancouver to Furry Creek which would have been easy access and not have to build the dangerous expensive Sea to Sky from Horseshoe Bay to Furry Creek. Reason was there are two lakes Phyllis and Marion on the easy valley access but are the watershed for Vancouver so they didn't allow. I used to fish in those lakes. I think the same here, a danger to the water supply for Browning and a nightmare to us. There are lots of other access that could be. Apparently 5 acres of crown land behind the driftwood, open that up. Anyway, same old.

COPIED TO

PLANNER  
 LTC  
 L/c

**From:** M&G Burandt [mailto: [REDACTED]] On Behalf Of Burandt  
**Sent:** Tuesday, June 06, 2017 10:06 AM  
**To:** North Pender Planner  
**Subject:** Proposed Cell Phone Tower MacKinnon Road, Pender Island

Hello,

My name is Manfred Burandt and my wife [REDACTED] and I reside at [REDACTED] MacKinnon Road. I am notifying the Islands Trust of our, and our neighbours objection to the proposed 150 ft. cell phone tower installation by Freedom Mobile.

Being within 75m of the tower once constructed it will loom over our house and emit high levels of radiation from which we cannot escape. Our neighbours are in a similar situation.

We question the ability of the owner of 1348 MacKinnon Road, [REDACTED] Pender residents, but who do not reside on this property, to arbitrarily lease out Rural Residential zoned land for a commercial venture without notification.

The attached Submission outlines the position of the immediate neighbours and we request the Islands Trust review this proposed installation and reject it for the reason outlined.

We appreciate your assistance in this matter.

Manfred Burandt  
[REDACTED]

## **Proposed Cell Phone Tower MacKinnon Road, Pender Island**

Freedom Mobile is proposing to build a 45m (150ft) cell phone tower on private land at 1348 MacKinnon Road, Pender Island and has mailed a Public Notification Package dated May 28, 2017.

The proposed property location is zoned Rural Residential (RR) - single family dwellings only. The tower is within 150m of at least seven properties.

The purpose of the tower is to provide cellphone coverage for the Southern Gulf Islands, Greater Victoria and BC Ferries customers. It provides very marginal benefit for Pender Island.

Parks Canada has banned new tower installations within the park lands which is the logical location for these towers. The fact that Parks Canada has banned further tower installations on its land raises a flag of concern - Industry Canada approves cell tower locations and Parks Canada bans them?

The proposed tower will serve a large area and requires powerful equipment which is of major concern to anyone near this installation. We are informed that an array of future equipment will be gradually added as service needs increase.

The island resident owner of the property does not reside at 1348 MacKinnon Road and has entered into a lease arrangement without prior consultation with any neighbours. The Letter of Intent from the cell phone company was only sent to the few residents who were within the 150m distance. No one else on the island has been notified as far as we have determined. The company has placed a very short less than 30 day window of opportunity to question or challenge their proposal. They have only done the bare minimum notification and their secretive process is of concern.

Telecommunication providers are required by the Ministry of Innovation, Science, and Economic Development Canada (ISED) to consult with local authorities, however since telecommunications fall within Federal jurisdiction apparently local bylaws and zoning can be bypassed.

The tone of their letter implies that this is a project that only requires consultation with local authorities, not requiring approval. As for the property owner it seems odd that a property owner who is subject to local land-use bylaws is able to lease a portion of their property to another party and effectively bypass the local bylaws. In other words how can they do something indirectly that they would not be permitted to do directly?

Firstly, the biggest concern is the health and welfare of surrounding families having to live adjacent to a tower of this magnitude. We would be subjected to this powerful EMF at very close range 24/7. There are enough worldwide studies of EMF radiation that experts advise people to stay away from them. Although Health Canada guidelines state that these facilities are safe, nevertheless we are not willing to be subjected to this level of EMF radiation risk as there are widely varying opinions on safety from experts in the field. According to news sources Health Canada is far behind current research on cell

tower safety and will not talk about it. They say there no is credible evidence. This tower would loom high directly over houses and disrupt the quiet enjoyment of our homes. The Radio Signals are less than 250 ft above our properties and invade our airspace. Other situations would have a view of the tower front and centre out living room windows blocking the views over the islands.

Secondly, it has been proven that the value of real estate is substantially reduced in locations where nearby cell towers have been installed. Residents of our area have substantial investment in their homes and properties and are not willing to risk financial damage as a result of a profit-making venture invading our area. Studies have shown that 97% of people surveyed have indicated they are not willing to purchase property near cell phone towers.

Thirdly, the MacKinnon Road area is a beautiful, old established residential area of Pender Island with considerable history. Residents cherish their way of island life being away from large centres and take care in maintaining the rural atmosphere. A tower simply does not fit in and we are not willing to accept this invasion into our lives.

Freedom Mobile is owned by Shaw Communications and they have facilities throughout lower Vancouver Island and greater Victoria. There are already multiple mountain top locations that would be suitable to serve this vast area. We understand the need for telecom towers and they need to be in strategic locations to serve the public, but why should the tiny, pristine MacKinnon Road neighbourhood have to be the location for this cell service provider?

We respectfully request the regulatory agencies not approve this site for a cell phone tower.

Submitted to Islands Trust, Capital Regional District, Elizabeth May, MP, Adam Olsen, MLA

Manfred & Gayle Burandt



Jamie Graham & Diane Cuthbert



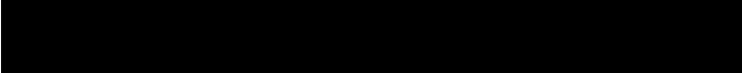
Arn & Sonia Berry



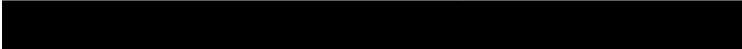
Paul & Treasa Martin



Steve Alvey



Esmond French & Lois Kinnersley





# BYLAW REFERRAL FORM RESPONSE SUMMARY

Approval Recommended for Reasons Outlined Below

Approval Recommended Subject to Conditions Outlined Below

Interests Unaffected by Bylaw

Approval Not Recommended Due to Reason Outlined Below

\_\_\_\_\_  
Salt Spring Island Trust Area  
(Island)

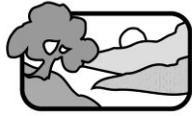
\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
487 and 496  
(Bylaw Numbers)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Agency)



DATE OF MEETING: June 28, 2017  
TO: North Pender Island Local Trust Committee  
FROM: Justine Starke, Island Planner, Local Planning Services  
SUBJECT: **Update Report**  
LTC Top Priority Housing – Secondary Suites

## RECOMMENDATION

1. That the North Pender Island Local Trust Committee directs staff to schedule a community information meeting as a special business meeting to consult the community on secondary suites.
2. That the North Pender Island Local Trust Committee directs staff to schedule work with Capital Regional District on incentives for water conservation to supplement the secondary suites land use planning project.

## REPORT SUMMARY

The purpose of this report is to update the Local Trust Committee on the secondary suites project and seek direction for scheduling a community information meeting and working with the Capital Regional District (CRD) to supplement this project with water conservation initiatives.

## BACKGROUND

The North Pender Island Local Trust Committee (LTC) made housing a top priority in 2015 and on November 24, 2016 added Secondary Suites as a focus under its Top Priority work program.

A secondary suite is an accessory dwelling unit usually located within the principal residential building. The BC Building Code limits the maximum size of a secondary suite to 40% of the floor area of the principal dwelling unit - to a maximum floor area of 90 m<sup>2</sup> (969 sq ft). Secondary suites are typically affordable, ground oriented and market based. Given the number of single family residences on North Pender Island, and its aging and growing population, the ability to provide legalized secondary suites could assist the community in addressing its perceived housing diversity and affordability issues. On February 23, 2017, the LTC received a [preliminary staff report](#) and endorsed a [project charter](#) to manage the work program.

The project charter's work plan identified consultation with stakeholders as a first step in engaging community feedback on the idea of legalizing secondary suites.

## UPDATE

Staff have consulted with the CRD staff, the Magic Lake Water and Sewer Committee as well as representatives from the Trincomali Improvement District, but have been unable to connect with representatives from the Razor Point Improvement District. Consultations with the water districts were prioritized, but took longer to schedule than anticipated. For this reason, the project is behind the schedule proposed by the timeline in the project charter.

### **Magic Lake Water and Sewer Service Area**

The Magic Lake Estates Water System provides drinking water to 1,263 lots in a Water Service Area on North Pender Island. The system obtains drinking water from two surface water sources, Buck Lake and Magic Lake. The water treatment process used by the Buck Lake Water Treatment Plant (WTP) consists of primary disinfection with ozone, pressure sand filtration, post chlorination and ammoniation while the Magic Lake WTP consists of primary disinfection with ozone, pressure sand filtration and post chlorination.

Made up of local residents and property owners, including the Sothern Gulf Islands Electoral Area Director, the Magic Lake Water and Sewer committee is a commission of the Capital Regional District and provides community input for the delivery of the water service. This service is managed and operated by the CRD Integrated Water Services Department.

Islands Trust planning staff met with the Senior Manager of Infrastructure and Engineering of the CRD's Integrated Water Services on May 17, 2017 and met with the committee on June 13, 2017. Islands Trust planning presented information in a [power point presentation](#). The following information was provided by CRD staff and discussed at the meeting:

#### **Water**

- Service area includes 1,206 parcels of which 1,012 are serviced.
- All serviced lots are metered.
- At 3 people per service, the estimated current service population is 3,036 with a buildout population of 3,618.
- Based on recent system upgrades and allowing 3 people per service, the ultimate population that can be served is 7,024.

#### **Sewer**

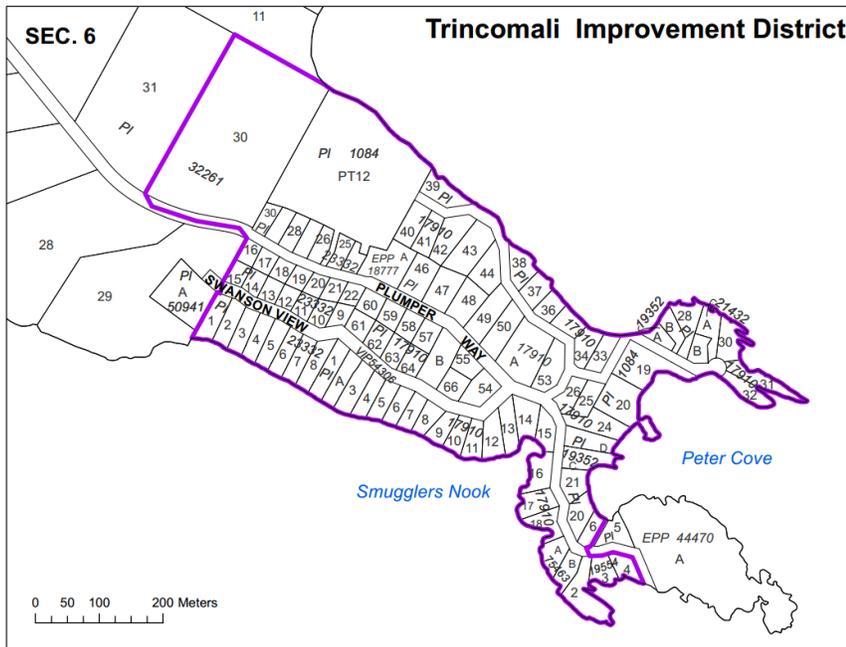
- Two separate sewage systems in one service area
- Service area of 714 parcels, 638 are serviced.
- Currently the two systems cannot meet the current peak wet weather flows; no capacity available for growth.
- Sewage system upgrades within next 4 years, subject to a borrowing referendum.

Planning staff clarified that if zoning were changed to permit secondary suites, the Magic Lake Water and Sewer Committee (MLWSC) would have the opportunity to consider each application on a case by case basis through the building permit referral process. It was also suggested that there is an opportunity to promote water conservation education and incentives through a partnership between Islands Trust and CRD as part of this project. The Magic Lake Water and Sewer Committee agreed to discuss the subject again on and provide the Local Trust committee with a formal feedback.

## Trincomali Improvement District

The [Trincomali Improvement District](#) manages a small water system for the Trincomali neighbourhood on the southern end of North Pender Island. The water service area includes:

- 89 connections, 104 lots
- 6 wells
- 2 concrete cisterns that hold 500 000 imperial gallons (2.25 million litres) of water



Islands Trust planning staff met with a representative from the Trincomali Improvement District on June 15, 2017 and spoke with another representative on June 20, 2017. The water district is closely managed to ensure the conservation of the limited water supply. Planning staff suggested that LTC could consider special zoning to reflect the water sensitivity of the neighbourhood as part of or separate from this process. Representatives of Trincomali will bring the proposal for secondary suites to the Annual General Meeting on August 5 to consult with the rate payers and submit more formal feedback to the Local Trust Committee after that.

### Opportunities for Water Conservation

Policy initiatives to consider added units such as secondary suites are beneficial to consider alongside supportive programs that promote and incentivize water conservation. For example, the Capital Regional District could initiate a rebate program for rainwater barrels or low flow appliances that applicants for secondary suite building permits could be eligible for. Islands Trust staff could work with the Capital Regional District to explore what programs might be available to supplement the secondary suites land use planning program.

### Community Engagement

Beyond targeted stakeholder consultation, the Project Charter work program proposes two community information meetings to consult the larger community about secondary suites on North Pender Island. To enable participation by the Local Trust Committee, the meetings should be scheduled as special business meetings of the LTC.

A preliminary meeting is proposed for September 2017. The format will include small group discussions and be structured to encourage broad participation in discussing the benefits and challenges of zoning for secondary suites. A second community meeting will be scheduled once the LTC has moved the project forward and considered draft bylaws for discussion.

**Rationale for Recommendation**

The Project Charter proposes two community information meetings to consult the larger community about secondary suites on North Pender Island. The LTC needs to pass a resolution to schedule a special business meeting. Additionally, water conservation programs offer infrastructure support to the social benefits of secondary suites programs. There may be opportunities to work with the CRD towards implementing a complimentary program.

**Alternatives**

**1. Direct staff to draft bylaws prior to holding a public meeting.**

While the project charter does anticipate a second meeting after bylaws have been drafted, the LTC may consider having a more developed approach prior to consulting the broader community.

**2. Decide to not pursue secondary suites and take it off the top priority list.**

The LTC may consider other more pressing priorities in the project list to address at this time.

**NEXT STEPS**

The next steps include:

- 1) Community Information Meeting #1
- 2) Draft bylaws for consideration of further consultation
- 3) Review by Advisory Planning Commission
- 4) Community Information Meeting #2
- 5) Formal Bylaw process begins
- 6) Public Hearing
- 7) Consideration of Adoption

Submitted By:	Justine Starke, Island Planner	June 20, 2017
Concurrence:	Robert Kojima	June 20, 2017



**Top Priorities**

**North Pender Island**

No.	Description	Activity	R/Initiated	Responsibility	Target Date
1	Land Use Planning for Waste Management	Identify land to be zoned for solid waste transfer facilities. Involves coordination with the Capital Regional District Solid Waste Management planning process.		Justine Starke	
2	Housing	This is a broad scope project focused on housing; the first priority was consideration of vacation rentals in residential zones (COMPLETED). The LTC will now consider permitting secondary suites on North Pender.	03-Feb-2015	Justine Starke	
3	First Nations Interests	LTC to consider First Nations issues and interests affecting North Pender.	24-Nov-2016		



### Projects

#### North Pender Island

Description	Activity	R/Initiated
Potable Water		29-Oct-2015
Conservation Subdivisions	Continue exploring 2013-2014 work on conservation subdivisions. Consult with community on recommendations for LUB and OCP amendments.	03-Feb-2015
Agricultural Projects	Consider implementing agricultural initiatives identified in OCP, including an Area Farm Plan	22-Jan-2009
Other OCP projects: 1. View corridor review 2. Parks and Conservation area review 3. Pedestrian and Cycle paths - DONE 4. Groundwater protection strategy 5. Include advocacy policies for ultra vires regulations removed from the LUB (commercial airstrips, private marinas, use of personal watercraft) 6. Marine riparian areas		22-Jan-2009
Agricultural Building Watercourse Setbacks		28-Jul-2011
Geological Hazard Mapping	Continue work on proposed DPA for Hazardous Areas	22-Feb-2012



### Projects

## North Pender Island

Description	Activity	R/Initiated
LUB Amendments	<ul style="list-style-type: none"> <li>·review of industrial zoning, including waste management</li> <li>·tourist commercial zoning review</li> <li>·home industry regulation</li> <li>·review of commercial (C1) zoning</li> <li>·incorporate TUP's into zoning</li> <li>·landscape screening review</li> <li>·review of marine zoning regulations in conjunction with overall shoreline development review</li> <li>·amendments to permit renewable energy</li> <li>·review of floor area calculations, applicable for cottages in support of alternative, energy efficient building designs, and review maximum floor area restriction</li> <li>·height exemptions for agricultural or forestry buildings</li> <li>·max floor area for principal dwellings</li> </ul>	22-Mar-2012
Road Side Signs		26-Apr-2012
Applications after the fact	options to address situations where construction work has occurred without the required permits or approvals	28-Jun-2012
LUB/OCP Amendments Related to Roadway and Transportation Initiatives	<ul style="list-style-type: none"> <li>·NZEV designation</li> <li>·Level 2 Charging Stations</li> <li>·Additional Car Stop Locations</li> <li>·Additional Bicycling-Walking Routes</li> <li>·Heritage Roads</li> <li>·Road standards in subdivision servicing regulations</li> <li>·Related policy and regulatory options</li> </ul>	20-Sep-2012

Item 10.1 LUB Technical Amendments Project: Bylaw Enforcement Manager to provide a report regarding the applicability of the NPILTC Bylaw Infraction Investigations Bylaw No. 54, 1990, including recommended amendments.



## Projects

### North Pender Island

Description	Activity	R/Initiated
Shoreline information communications (QR Codes)	Investigate incorporating shoreline information and classification into new Gulf Islands app and using QR code for smart phones	
Climate Change Adaptation and Community Resilience	Review available baseline data and consider policy and regulatory land use changes to address climate change adaption and community resilience	22-Jan-2009



**Development Permit**

File Number	Applicant Name	Date Received	Purpose
NP-DP-2017.1	LAURENCE BARRETT, CYNTHIA BARRETT <b>Planner:</b> Jason Youmans	04-May-2017	7907 Trincoma Place - add carport canopy and main floor expansion away from natural boundary, plus accessory building studio / greenhouse
<b>Planning Status</b>			
<b><u>Status Date:</u></b>			

**Development Variance Permit**

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2017.1	LAURENCE BARRETT, CYNTHIA BARRETT <b>Planner:</b> Jason Youmans	04-May-2017	7909 Trincoma Place - construct car port with storage, expanded main floor and replace shed/greenhouse with accessory building; include existing triangular deck in DVP
<b>Planning Status</b>			
<b><u>Status Date:</u></b>			

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2017.2	DAVID G RICHARDSON EDNA M HEMSWORTH <b>Planner:</b> Phil Testemale	15-May-2017	3210 ARMADALE RD - Variance for depth to width ratio for subdivision
<b>Planning Status</b>			
<b><u>Status Date:</u></b> 15-Jun-2017			
Waiting for PLA (x-ref NP-SUB-2017.1) prior to drafting DVP and sending notification			
<b><u>Status Date:</u></b> 19-May-2017			



### Applications

Created file folder in LAN, scanned application package for e-file. Scanned cheque and pink copy of receipt for files (original receipt handed directly to applicant on day of submission); cheque forwarded to Finance Clerk. Package emailed to LTC and Planner, hard file forwarded to RPM per his advice.

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2017.3	JOHNSON, BRAD	13-Jun-2017	Variance required for access stairs to lower main deck of existing pathway, stairs and dock.

**Planner:** Phil Testemale

**Planning Status**

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**Status Date:** 22-Jun-2017  
Processing file for September, 2017 LTC agenda

**Status Date:** 14-Jun-2017  
opened file, processed fees, notified LTC, mapping for notification, gave to planner

### Rezoning

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2016.1	Mainroad South Island Contracting	11-Jan-2016	3323 PORT WASHINGTON RD To change from a TUP to permanent zoning for works yard.

**Planner:** Phil Testemale

**Planning Status**

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**Status Date:** 15-Jun-2017  
Bylaw 202 referred to APC and agencies. Schedule Public Hearing for September LTC.

**Status Date:** 15-Jun-2017  
Amendment being considered for storage of off-site fill.

**Status Date:** 16-May-2017  
Staff Report and rec. for First Reading on May 26, 2017 LTC agenda.

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2016.2	PORT BROWNING MARINA RESORT LTD INC.NO. BC1037734	09-May-2016	4605 OAK RD Rezone the water lot adjacent to the current Marina

**Planner:** Phil Testemale



## Applications

### Planning Status

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**Status Date:** 15-Jun-2017

Bylaws 206 through 210 to July 19 EC for approval.

**Status Date:** 15-Jun-2017

Covenants being drafted by YA

**Status Date:** 16-May-2017

Public Hearing scheduled for May 25, 2017. PPH Report for Third Reading.

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2016.3	MILL BAY MARINE GROUP c/o HENSHAW	20-May-2016	4602 and 4606 and 4605 Oak Road\n\n005-636-639\nRequest that area zoned SD(a) passing through lots 3 and 4 be re-aligned to be adjacent to the westerly boundaries AND rezone the part of lot 3 that sits NE of Oak Rd to be C3(a).

**Planner:** Justine Starke

### Planning Status

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**Status Date:** 15-Jun-2017

Bylaws 206 through 210 to July 19 EC for approval.

**Status Date:** 20-Apr-2017

Report to LTC for consideration of second reading.

**Status Date:** 14-Feb-2017

Bylaw Referrals sent to Agencies and FN. CIM Meeting tentative schedule for April 8, 2017

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2016.4	PENDER ISLAND COMMUNITY SERVICE SOCIETY PICSS c/o RAE	27-Oct-2016	4605 BEDWELL HARBOUR RD - OCP AND LUB Amendment from Rural to Community Service Zoning

**Planner:** Phil Testemale

### Planning Status

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**Status Date:** 22-Jun-2017

Applicant has completed a geotechnical assessment and is in the process of completing further DAI requirements. Anticipate 1st Reading for September agenda.



## Applications

**Status Date:** 16-May-2017

Waiting for DAI Info prior to 1 st Reading

**Status Date:** 14-Feb-2017

Preliminary Staff Report on Feb 23, 2017 Agenda.

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2017.1	PENDER ISLAND PARKS AND RECREATION COMMISSION (CRD)	24-Jan-2017	PIPRC - AMEND LUB TO ADD PICNIC SELTER AS A PERMITTED USE AND STRUCTURE
<b>Planner:</b> Phil Testemale			
<b>Planning Status</b>			

**Status Date:** 15-Jun-2017

CIM and PH tentative for July 27 LTC (pending outcome of PRC meeting June 16)

**Status Date:** 02-May-2017

Bylaw 213 referred to agencies

**Status Date:** 27-Apr-2017

First Reading and direction to schedule a CIM and Public Hearing.

## Subdivision

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2012.4	Edgewood Estates c/o Graham Ross	29-Nov-2012	2218 CLAM BAY RD \nTo create 11 lots including remainder
<b>Planner:</b> Phil Testemale			
<b>Planning Status</b>			

**Status Date:** 22-Jun-2017

Update meeting with applicant - todays date

**Status Date:** 21-Mar-2017

PLA extension requested by applicant. Staff comments sent to MOTI stating no amendments to Island Trust conditions in PLA are required.



### Applications

**Status Date:** 29-Sep-2015  
Subdivision exempt from DPAs (PLA condition no. 3)

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2016.2	PORT BROWNING MARINA RESORT	06-Jun-2016	4605 and 4602 OAK Rd\nBoundary adjustment
<b>Planner:</b> Phil Testemale			
<b>Planning Status</b>			

**Status Date:** 22-Jun-2017  
Pending - rezoning NP-RZ-2016.3 - Bylaws 207 and 208

**Status Date:** 05-Oct-2016  
PLA rec'd from MoTI

**Status Date:** 15-Sep-2016  
Waiting for PLA

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2017.1	DAVID G RICHARDSON EDNA M HEMSWORTH	16-Mar-2017	3210 ARMADALE RD - proposed subdivision to create 2 residential parcels
<b>Planner:</b> Phil Testemale			
<b>Planning Status</b>			

**Status Date:** 22-Jun-2017  
Waiting for PLA. Required DVP Application has been submitted.

**Status Date:** 04-Apr-2017  
Subdivision Referral Review sent to MoTI.

**Status Date:** 16-Mar-2017  
File opened and forwarded to planner

### Temporary and Industrial Use Permit

File Number	Applicant Name	Date Received	Purpose
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### Applications

NP-TUP-2017.1    ANN HEWLETT    02-May-2017    2705 Yawl Lane - application to amend TUP to construct alternate screening  
 PAUL C  
 STEPHENSON  
**Planner:** Phil Testemale

**Planning Status**

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**Status Date:** 07-Jun-2017  
Bylaw Enforcement site inspection

**Status Date:** 16-May-2017  
Created file folder in LAN, scanned application package for e-file. Receipt issued, scanned (with cheque) for files; emailed scanned receipt to applicant, original mailed; cheque forwarded to Finance Clerk. Package emailed to NP LTC and Planner, hard file forwarded to Planner.

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2017.2	WILMOTT, ALAN	13-Jun-2017	TUP for milling lumber.

**Planner:** Robert Kojima

**Planning Status**

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**Status Date:** 15-Jun-2017  
opened file, processed fee, gave to planner

**Islands Trust**  
 LTC EXP SUMMARY REPORT F2018  
 Invoices posted to Month ending May 2017

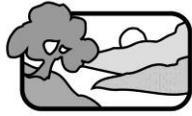
650 North Pender	Invoices posted to Month ending May 2017	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-650	LTC "Trustee Expenses"	1,500.00	0.00	1,500.00
<b>LTC Local</b>				
65200-650	LTC - Local Exp - LTC Meeting Expenses	4,000.00	675.00	3,325.00
65210-650	LTC - Local Exp - APC Meeting Expenses	600.00	0.00	600.00
65220-650	LTC - Local Exp - Communications	500.00	0.00	500.00
65230-650	LTC - Local Exp - Special Projects	500.00	0.00	500.00
<b>TOTAL LTC Local Expense</b>		<u>5,600.00</u>	<u>675.00</u>	<u>4,925.00</u>
<b>Projects</b>				
73001-650-2006	North Pender OCP/LUB	5,000.00	0.00	5,000.00
73001-650-4054	North Pender Waste Management Review	7,000.00	0.00	7,000.00
73001-650-4086	North Pender Secondary Suites Review	5,000.00	0.00	5,000.00
73001-650-4087	North Pender Housing Needs Assessment	2,000.00	0.00	2,000.00
<b>TOTAL Project Expenses</b>		<u>19,000.00</u>	<u>0.00</u>	<u>19,000.00</u>

# North Pender Island Local Trust Committee

## POLICIES AND STANDING RESOLUTIONS

No	Meeting Date	Resolution No.	Issue	Policy
1.	January 27, 2005	NP-LTC-05-05	Advisory Planning Commission Appointments	The LTC will appoint Advisory Planning Commission members as representative of various local areas on North Pender and/or representative of various community organizations
2.	May 25, 2006	NP-LTC-80-06	Communications Policy	Policy Number NP-LTC-01-06 (Communications Policy) establishes guidance for the preparation and dissemination of routine non-statutory notices, extraordinary notices and trustee newsletters.
3.	May 25, 2006	NP-LTC-82-06	Enforcement Policy - STVR	<p>1. THAT given finite resources available for enforcement activities and in order to ensure the most effective results for enforcement activities, STVRs that have one or more of the following characteristics will be subject to enforcement:</p> <ol style="list-style-type: none"> <li>1. They are advertised on the internet, newspapers or other media;</li> <li>2. They are not managed by the property owner;</li> <li>3. More than one dwelling on the lot is simultaneously made available for STVR;</li> <li>4. While the property is rented persons are also staying in tents, trailers or RVs;</li> <li>5. There are issues related to health and safety;</li> <li>6. There is a written complaint by owners or residents about bona fide nuisance issues such as noise or parking congestion related to the STVR;</li> <li>7. The owner of the property uses more than one property on North Pender Island as a STVR.</li> </ol> <p>2. THAT nothing in this enforcement policy should be interpreted as giving permission to violate the Land Use Bylaw and the North Pender Island Local Trust Committee may change this policy at any time and may give direction to expand enforcement activities at any time;</p>
4.	August 30, 2007	NP-LTC-146-07	Special Occasion License Policy	THAT where a Liquor Control and Licensing Branch Special Occasion License referral relates to property on which North Pender Island Land Use Bylaw No. 103 permits public assembly uses, such as restaurants, community halls or church halls, and there are no issues related to parking or past complaints, staff may approve the Special Occasion License without referral to the Local Trust Committee. All other Special Occasion License referrals are to be referred to the Local Trust Committee for consideration.
5.	April 28, 2011	NP-LTC-50-11	Adopting In Camera Minutes	It was Moved and Seconded that the North Pender Island Local Trust Committee direct staff that they will adopt In Camera minutes when there are other reasons to close a meeting to the public.

6.	September 10, 2015	NP-LTC-63-15	Enforcement Policy - storage and disposal of waste and vehicles	THAT North Pender Island Local Trust Committee authorizes bylaw enforcement officers to commence bylaw investigations and enforcement without written complaint if bylaw violations related to disposal or storage of waste or recyclable materials or storage of vehicles or vehicle parts are observed by the bylaw enforcement officer while doing inspections for other issues or if it is reliably reported to the officer that such activity may be taking place.
7.				



File No.: 8021  
TPC Water and Marine  
Conservation

DATE: May 23, 2017  
TO: Local Trust Committees  
FROM: Shelley Miller, Planner 1  
Trust Area Services  
SUBJECT: Wells and Groundwater Workshops

### PURPOSE

The purpose of this memorandum is to inform Local Trust Committees and Bowen Island Municipality of wells and groundwater education workshops scheduled for the Islands Trust Area this spring and summer.

### WORKSHOP DETAILS

As part of the Trust Programs Committee Water Conservation Advocacy and Education project, the Islands Trust has partnered with the Ministry of Forests, Lands and Natural Resource Operations (FLNRO) and local health authorities to deliver a series of free, private well owner and groundwater education workshops in the Islands Trust Area. Please see Attachment 1 for a poster advertisement that includes the dates, times and locations for each workshop.

The workshops will consist of an introduction to the Islands Trust, a FLNRO presentation on groundwater and well protection, and a health authority (Island Health or Vancouver Coastal Health) presentation on water quality and well water testing, followed by a question and answer period. The Islands Trust arranged for a local laboratory, Maxxam Analytics, to provide water testing kits that will be available for pick up at the workshops. Maxxam Analytics will provide a 10% discount on select well water testing for workshop participants. In addition, the Environmental Operators Certificate Program will offer Continuing Education Units to Certified Operators who attend these workshops.

Staff have researched water conservation issues and projects and contacted local groups within the Trust Area, including regional districts, improvement districts, and water conservation community groups. Estaff have also collected educational materials on water conservation from various organizations to be distributed at the workshops. In addition, staff developed an Islands Trust water conservation handout that will be available at the workshops and on the Islands Trust website.

### NEXT STEPS

The Islands Trust encourages trustees and community members to promote and participate in these workshops.

Submitted By:	Shelley Miller, Planner 1	May 23, 2017
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Concurrence:	Clare Frater, Director, Trust Area Services	May 23, 2017
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**ATTACHMENTS**

- 1. Islands Trust Wells and Groundwater Workshop Poster



Islands Trust

# Wells and our groundwater

**Concerned about your well going dry?  
Worried about well water safety?  
Interested in groundwater?**

*Water testing kits and 10% discount on select well water testing provided by Maxxam Analytics*

Join us for a **FREE** workshop to learn about:

- 💧 Groundwater and your well
- 💧 How to protect your water source
- 💧 How to test and treat your well water

*Everyone interested in learning about groundwater is welcome! Refreshments provided.*

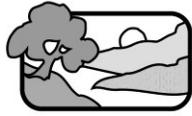
ISLAND	DATE	WORKSHOP TIME	MEETING HALL
Mayne	June 2	1:00pm–3:30pm	Mayne Island Agricultural Hall, 430 Fernhill Road
Thetis	June 9	10:00am–12:30pm	Thetis Island Community Centre (Forbes Hall), 292 North Cove Road
Galiano	June 16	1:00pm–3:30pm	Galiano South Community Hall, 141 Sturdies Bay Road
Denman	June 23	12:30pm–3pm	Denman Island Community Hall (Back Hall), 1196 Northwest Road
Salt Spring	June 30	10:00am–12:30pm	Hart Bradley Memorial Hall (Lion's Hall), 103 Bonnet Avenue
North Pender	July 7	10:30am–12:30pm	Pender Island Community Hall (Upper Hall), 4418 Bedwell Harbour Road
Hornby	July 14	1:00pm–3:30pm	New Horizons Hall, 1765 Sollans Road
Saturna	July 21	12:30pm–3pm	Saturna Recreation and Cultural Centre, 104 Harris Road
Gabriola	July 28	10am–12:30pm	Gabriola Arts and Heritage Centre, 476 South Road
Bowen	August 10	1:00pm–3:30pm	Bowen Island Municipal Hall (Council Chambers), 981 Artisan Lane
Gambier	August 11	9:30am–12pm	Gambier Island Community Centre, 721 Andy's Bay Road

**Water affects us all,  
let's keep it clean!**

[islandstrust.bc.ca/water](http://islandstrust.bc.ca/water)

WORKSHOP PARTNERS:





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DATE OF MEETING: June 28, 2017  
TO: North Pender Island Local Trust Committee  
FROM: Miles Drew, Bylaw Enforcement Manager  
SUBJECT: Short Term Vacation Rental Enforcement and Implementation Strategy

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## RECOMMENDATION:

1. That the North Pender Island Local Trust Committee rescinds Standing Resolution NP-LTC-82-06 made on May 25 2006 entitled Enforcement Policy – STVR.

## REPORT SUMMARY

This report outlines the reasons to rescind the standing resolution on short term vacation rentals and to rely on the Trust Council bylaw enforcement policy which permits enforcement without complaint for advertised unlawful uses. The report also outlines the implementation strategy that planners and bylaw enforcement officers will use to bring into full effect the regulations for STVRs found in the North Pender Island Land Use Amendment Bylaw no. 204 adopted April 6, 2017.

## BACKGROUND

The bylaw enforcement team has followed the enforcement policy adopted by the NPLTC in May of 2006:

### Enforcement Policy- STVR

1. THAT given finite resources available for enforcement activities and in order to ensure the most effective results for enforcement activities, STVRs that have one or more of the following characteristics will be subject to enforcement:

1. They are advertised on the internet, newspapers or other media;
2. They are not managed by the property owner;
3. More than one dwelling on the lot is simultaneously made available for STVR;
4. While the property is rented persons are also staying in tents, trailers or RVs;
5. There are issues related to health and safety;
6. There is a written complaint by owners or residents about bona fide nuisance issues such as noise or parking congestion related to the STVR;
7. The owner of the property uses more than one property on North Pender Island as a STVR.

2. THAT nothing in this enforcement policy should be interpreted as giving permission to violate the Land Use Bylaw and the North Pender Island Local Trust Committee may change this policy at any time and may give direction to expand enforcement activities at any time.

During this period, STVRs were not a permitted use under the North Pender Island Land Use Bylaw. However, after extensive consultation with the community, the LTC amended the LUB in April of 2017 to make STVRs lawful as a home based business if the operator of the STVR lives in a permitted dwelling or cottage on the same property as the STVR. Additionally, the LTC now has guidelines for Temporary Use Permits for STVR uses.

Given the new regulations the existing STVR enforcement policy is obsolete.

**ANALYSIS**

**Policy/Regulatory:**

The existing Trust Council bylaw enforcement policy is found in the Trust Council Policy and Procedure Manual Section 5.5.i Policy and Procedure –Bylaw Enforcement, and authorizes proactive bylaw enforcement in the following circumstances.

7. A Bylaw Enforcement Officer may commence an investigation without written complaint where:

- a) bylaw violations are observed by the Bylaw Enforcement Officer, the consequences of which may threaten or damage natural ecosystems as referenced in the Islands Trust Policy Statement Part III, Section 3.3.1;
- b) bylaw violations are observed by the Bylaw Enforcement Officer as part of a building permit process or other permitting process administered by a local government or the Islands Trust;
- c) a referral is received from a permitting agency that identifies land use bylaw violations associated with the permit request;
- d) advertisements for uses believed to be illegal have been observed.

**Issues and Opportunities:**

Staff believes that given the new STVR bylaw the default Trust Council bylaw enforcement policy adequately mandates bylaw enforcement staff to take enforcement action against unlawful STRVs which are advertised.

Based on experiences in the North Pender Island and other Local Trust Areas, unless there is an effective communication and enforcement strategy implemented many of the existing unlawful STVRs will continue to operate unlawfully. Therefore planning and bylaw enforcement staff have devised the below STVR implementation strategy which relies primarily on direct communications with unlawful STVR operators and eventually resorts to enforcement if that should become necessary. Staff estimates that there are approximately thirty unlawful STVR operators on North Pender Island.

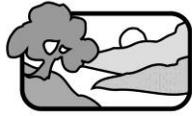
Action	Details	Responsibility	Timeline
Review and update list of STVR operators	<ul style="list-style-type: none"> <li>• Review existing enforcement files</li> <li>• Close files that are dormant or compliant</li> <li>• Review on-line listings</li> </ul>	Bylaw Enforcement	End of May
Prepare and send letter to potential operators	<ul style="list-style-type: none"> <li>• Prepare letter to individuals who may be operating an STVR:               <ul style="list-style-type: none"> <li>○ Explain new regulations and TUP options</li> <li>○ Invite to apply for TUP</li> </ul> </li> </ul>	Bylaw Enforcement will provide draft letter; Planning will	Early July

	<ul style="list-style-type: none"> <li>○ Note that there would no enforcement once a complete application is received</li> </ul>	review it, send it, and field initial inquiries.	
Prepare Application processing	<ul style="list-style-type: none"> <li>• Prepare checklist and material for applicants</li> <li>• Prepare checklist for staff report</li> <li>• Prepare map: applications in process, approved, etc.</li> <li>• Prepare tracking document to add contact comments</li> <li>• Prepare response wording for applicants detailing information requirements</li> <li>• Update webpage</li> <li>• Establish procedure for Bylaw Enforcement and Planning to communicate and coordinate contact with operators/applicants</li> <li>• Establish referral procedure to CRD and water districts</li> <li>• Prepare material for owners to provide to tenants and post to webpage</li> </ul>	Planning	Mid-July
Enforcement	<ul style="list-style-type: none"> <li>• Enforcement letter to operators who have not contacted Planning, applied for TUP, or ceased use</li> <li>• Warning notices</li> </ul>	Bylaw Enforcement	End of July September
TUP application process	<ul style="list-style-type: none"> <li>• Batch applications</li> <li>• Co-ordinate site visits</li> <li>• Co-ordinate follow up with Bylaw Enforcement</li> </ul>	Planning	On-going
Enforcement	<ul style="list-style-type: none"> <li>• Assess outstanding unlawful STVRs and issue BVNs when necessary</li> </ul>	Bylaw Enforcement	October

## ALTERNATIVES

1. The LTC could decide to rescind the existing enforcement policy and instruct staff not to deploy the implementation strategy until the true voluntary uptake by STVR operators is known.
2. The LTC could request bylaw enforcement staff to propose a revised specific STVR enforcement policy.

Submitted By:	Miles Drew Bylaw Enforcement Manager	June 6, 2017
Concurrence:	David Marlor, Director Local Planning Services	June 7, 2017



File No.: File Number(s)  
(File Name or Cross Ref. No.)

DATE OF MEETING: June 28, 2017  
TO: North Pender Island Local Trust Committee  
FROM: Fiona XETXÁTTEN MacRaid  
Local Planning Services  
SUBJECT: 1697187 James Island Registered Statutory Right of Way – Educational Access

## PURPOSE

To update the North Pender Island Local Trust Committee (LTC) on the status of developing, in coordination with the Nature Conservancy of Canada (NCC), a publically accessible application process to access the James Island Conservation Covenant Areas for educational and research purposes.

## BACKGROUND

A Statutory Right-of-way (SRoW) was registered on title to James Island in 2008 as a condition of rezoning, providing access to the conservation covenant areas for educational and research purposes relating to wildlife and habitat (attached). As a result of a recent request by the UVic Indigenous Language Revitalization program to access James Island, staff have initiated a process to provide for publically available guidelines for written requests for access. Any reasonable request for access can be approved by Islands Trust or NCC without the consent of the owner (JI Properties), subject to meeting the criteria of the SRoW. Previous requests for access have been handled informally between NCC and the island caretaker.

The following steps have been taken to date:

- A draft written application process (per the SRoW requirements) has been submitted to NCC staff on June 7, 2017 for their review and feedback.
- NCC contacted the island caretaker, providing a copy of the SRoW and introducing Islands Trust staff to the island caretaker.
- A meeting has been scheduled between NCC and Islands Trust staff to review the proposed process for institutions or researchers to apply for access.
- Islands Trust staff have spoken with the James Island caretaker, explaining that NCC and Islands Trust are in the process of developing a written process for institutions or researchers proposing access for educational and research purposes, and encouraging JI Properties representatives to accommodate First Nations access requests that fall outside the scope of the SRoW. A potential LTC site visit in the fall was also discussed.

**NEXT STEPS**

- Islands Trust and NCC staff to finalize written application process for Educational and Research visits.
- Process to be communicated to JI Properties representatives.
- Islands Trust staff to follow up with JI Properties representatives on opportunities for First Nations access that falls outside the scope of the SRoW.
- Post process for making application for access on the Islands Trust and NCC websites.
- Coordinate a site visit by the Local Trust Committee.

The North Pender Island Local Trust Committee will be notified once the documentation is put online.

Submitted By:	Fiona XETXÁTTEN MacRaid, First Nations and Marine Issues Management	June 20, 2017
Concurrence:	Robert Kojima, Regional Planning Manager, Southern Team	June 20, 2017

**ATTACHMENTS**

1. Attachment 1: 1687187 Registered Statutory Right of Way – Educational Access

FORM C

(Section 23?)

10 JUN 2008 14 51

FB180724

Province of  
British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office Use)

PAGE 1 of 11 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)  
 BULL, HOUSSER & TUPPER LLP, Barristers & Solicitors, 3000 - 1055 West Georgia Street, Vancouver,  
 British Columbia, V6E 3R3 604. 687.6575 (LTO File No. 11299) (File No. 95-2977) (Section 219 Covenant)



Per:

LARRY R. SANDRIN

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:\*
- |              |                     |
|--------------|---------------------|
| (PID)        | (LEGAL DESCRIPTION) |
| SEE SCHEDULE |                     |

3. NATURE OF INTEREST:\*

DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
Statutory Right-of-Way under Section 218, <i>Land Title Act</i>	Entire Instrument	North Pender Island Local Trust Committee and The Nature Conservancy of Canada

4. TERMS: Part 2 of this instrument consists of (select one only):

- |                                 |                                     |                                       |
|---------------------------------|-------------------------------------|---------------------------------------|
| (a) Filed Standard Charge Terms | <input type="checkbox"/>            | D.F. Number:                          |
| (b) Express Charge Terms        | <input checked="" type="checkbox"/> | Annexed as Part 2                     |
| (c) Release                     | <input type="checkbox"/>            | There is no Part 2 of this instrument |

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):\*

J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street, Vancouver, British Columbia, V6E 3R3

6. TRANSFEREE(S): (including postal address(es) and postal code(s))\*

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local trust committee under the *Islands Trust Act*,  
 200 - 1627 Fort Street, Victoria, British Columbia, V8R 1H8 and

THE NATURE CONSERVANCY OF CANADA (Registration No. XS-0033684), Suite 300, 1205 Broad Street,  
 Victoria, British Columbia, V8W 2A4

7. ADDITIONAL OR MODIFIED TERMS:\*

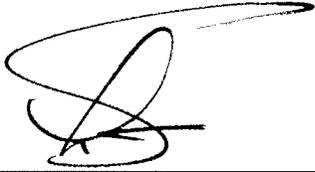
N/A

8. EXECUTION(S):\*\* This instrument creates, assigns, modifies, enlarges, discharges, or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

EXECUTION DATE

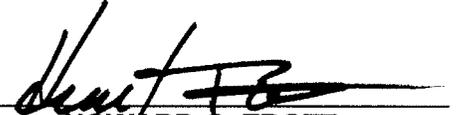
Party(ies) Signature(s)



Y	M	D
08	05	26

TRANSFEROR:

J.I. PROPERTIES, INC. by its authorized signatory:



Name:

Name: HOWARD G. TROTT

LARRY R. SANDRIN  
BARRISTER & SOLICITOR  
BULL, HOUSSE & TUPPER LLP  
#3000, 1055 WEST GEORGIA  
VANCOUVER, B.C. V6E 3R3  
(604) 641-4873

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

\* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

\*\* If space insufficient, continue executions on additional page(s) in Form D.

Officer Signature(s)

EXECUTION DATE

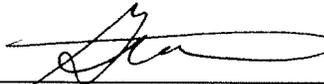
Party(ies) Signature(s)

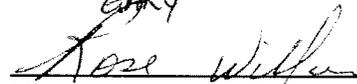
  
 Name: \_\_\_\_\_

Y	M	D
08	06	03
08	05	23

TRANSFeree:

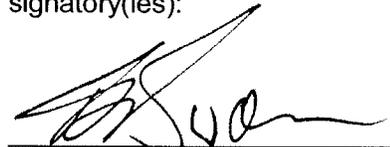
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE by its authorized signatory(ies):

  
 Name: B. STEEVES

  
 Name: ROSE WILLOW

TRANSFeree:

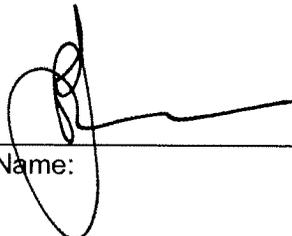
THE NATURE CONSERVANCY OF CANADA by its authorized signatory(ies):

  
 Name: Thomas Swann

Name: \_\_\_\_\_

(as to both signatures)

**LINDA JOAN ADAMS**  
 Commissioner for Taking Affidavits  
 for British Columbia  
 200 - 1627 Fort Street  
 Victoria, BC V8R 1H8  
 Ph (250) 405-5151

  
 Name: \_\_\_\_\_

(as to both signatures)

**PETER D. JOHNSON**  
 Barrister & Solicitor  
 2nd FLOOR, 837 BURDETT AVENUE  
 VICTORIA, BRITISH COLUMBIA  
 V8W 1B3

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**FORM E**

**SCHEDULE**

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL INSTRUMENT FORM

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:

(PID)	(LEGAL DESCRIPTION)
1. _____ - _____ - _____	Lot 1 of Parcel 1, James Island, Cowichan District, Plan VIP <u>85132</u>
2. _____ - _____ - _____	Lot 2 of Parcel 2, James Island, Cowichan District, Plan VIP <u>8532</u>
3. _____ - _____ - _____	Lot 3 of Parcel 3, James Island, Cowichan District, Plan VIP <u>85132</u>
4. _____ - _____ - _____	Lot 4 of Parcel 4, James Island, Cowichan District, Plan VIP <u>85132</u>
5. _____ - _____ - _____	Lot 5 of Parcel 5, James Island, Cowichan District, Plan VIP <u>85132</u>

**TERMS OF INSTRUMENT - PART 2**

**STATUTORY RIGHT OF WAY**

THIS AGREEMENT, dated for reference May 29, 2008,

BETWEEN:

**J.I. PROPERTIES, INC.**, c/o 3000 - 1055 West Georgia Street,  
Vancouver, British Columbia, V6E 3R3

(the "**Owner**")

AND:

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**, a local  
trust committee under the *Islands Trust Act*, 200 - 1627 Fort  
Street, Victoria, British Columbia, V8R 1H8

(the "**Local Trust Committee**")

AND:

**THE NATURE CONSERVANCY OF CANADA**, Suite 300,  
1205 Broad Street, Victoria, British Columbia, V8W 2A4

(the "**NCC**")

WITNESSES WHEREAS:

- A. In addition to the terms defined above, any terms employed in these Recitals will have the meanings respectively ascribed to them in Section 1 of this Agreement;
- B. The Owner is the registered owner of the Lands, including the Conservation Areas;
- C. The Local Trust Committee has required the execution and registration of this Agreement as a condition of the adoption of Bylaw 170 of the Local Trust Committee; and
- D. The Owner has agreed to grant the Statutory Right-of-Way to the Local Trust Committee and to the NCC and the Statutory Right-of-Way is necessary for the operation and maintenance of the Local Trust Committee's and the NCC's respective undertakings,

NOW THEREFORE in consideration of the sum of TEN DOLLARS (\$10.00) now paid by the Local Trust Committee and the NCC to the Owner and for other good and valuable

consideration (the receipt and sufficiency of which the Owner hereby acknowledges), the Owner, the Local Trust Committee and the NCC covenant, each with the others, as follows:

## 1. DEFINITIONS

- (a) **“Access Invitee”** means any person determined by the NCC or by the Local Trust Committee in the exercise of their respective Sole Discretion, to require and merit access to all or any of the Conservation Areas for Educational and Research Purposes, in accordance with this Agreement;
- (b) **“Conservation Areas”** means those portions of the Lands defined and established as “Conservation Areas” pursuant to the Environmental Conservation Covenant;
- (c) **“Educational and Research Purposes”** means the purposes of reasonable and *bona fide* education and research relating to wildlife and habitat located upon the Lands and within the Conservation Areas by researchers and primary, secondary, post-secondary and other students, based upon applications to the NCC and to the Local Trust Committee for access across the Lands;
- (d) **“Environmental Conservation Covenant”** means that Section 219 Covenant and Section 218 Statutory Right-of-Way granted by the Owner in favour of the NCC and the Local Trust Committee and registered at the Victoria Land Title Office under numbers F318072 and F318073;
- (e) **“Lands”** means the lands and premises legally described in Item 2 of the Form C General Instrument Part 1 to which these Terms of Instrument are attached;
- (f) **“Sole Discretion”** means, with respect to any party to this Agreement, the sole, absolute and unfettered discretion of such party; and
- (g) **“Statutory Right-of-Way”** means that statutory right-of-way granted by the Owner to the NCC and to the Local Trust Committee pursuant to Section 2.1 of this Agreement.

## 2. STATUTORY RIGHT-OF-WAY RE: ACCESS FOR EDUCATIONAL AND RESEARCH PURPOSES

2.1 Pursuant to Section 218 of the *Land Title Act*, the Owner hereby grants to the Local Trust Committee and to the NCC, and, subject to Section 2.5, their respective officers, employees, contractors and Access Invitees, in perpetuity, the right, liberty and easement by way of Statutory Right-of-Way on, over and across the Conservation Areas and, in order to access the Conservation Areas, the rest of the Lands for Educational and Research Purposes; PROVIDED THAT, in connection with the exercise of this Statutory Right-of-Way:

- (a) the NCC and/or the Local Trust Committee will provide publicly accessible information as to the methodology by which parties proposing to obtain access to Conservation Areas for Educational and Research Purposes may contact and

make application to the NCC and/or the Local Trust Committee for such purposes;

- (b) the NCC and the Local Trust Committee will each be solely responsible to determine the qualifications of their respective applicants requesting access to the Conservation Areas for Educational and Research Purposes;
- (c) upon the NCC or the Local Trust Committee determining, in its Sole Discretion, that any applicant for access to Conservation Areas for Educational Research Purposes is so qualified and merits such access, the NCC or the Local Trust Committee, as the case may be, will provide advance written notice of not less than 48 hours' duration to the Owner of the names and general purposes of such proposed access by such Access Invitees across the Lands as so approved by the NCC or the Local Trust Committee, together with the proposed times, dates and duration of any such proposed access upon or across the Lands for Educational and Research Purposes, together with the proposed methodology by which such Access Invitees may exercise such access to any relevant Conservation Areas;
- (d) the Owner will not be obligated to incur any expenses (other than reasonable overhead expenses) in connection with any access by Access Invitees across the Lands to Conservation Areas for Educational and Research Purposes;
- (e) the Owner may impose reasonable terms and conditions with respect to proposed access by Access Invitees to Conservation Areas for Educational and Research Purposes, including, without limitation, reasonable restrictions or conditions relating to the use of established roadways and pathways for such access so long as reasonably providing continuous and practical access to the Conservation Areas and prohibitions on access to and across golf courses and other recreational areas or facilities, restrictions upon entry into or affecting lakes, ponds, wetlands and watercourses upon any portions of the Lands outside Conservation Areas and prohibitions on access to residential, recreational, service, amenity or other buildings or improvements located upon the Lands outside the Conservation Areas, all so as to avoid any unreasonable interference with the use and enjoyment of such Lands or buildings, amenities, services and facilities by persons authorized by the Owner to use and enjoy the same; and
- (f) the NCC and the Local Trust Committee will each be solely responsible to ensure compliance with the terms and conditions of this Agreement and with the Environmental Conservation Covenant by their respective Access Invitees.

2.2 The NCC and the Local Trust Committee acknowledge and agree that:

- (a) with respect to the portions of the Lands outside of the Conservation Areas, the Statutory Right-of-Way granted may:

- (1) only be exercised over such areas as may be established by the Owner as vehicular roadways and pedestrian pathways, provided that this limit shall only apply if such roadways and pedestrian pathways provide reasonable, continuous and practical access to the Conservation Areas, and
  - (2) only be exercised only for the purposes of providing reasonable, continuous and practical access to the Conservation Areas; and
- (b) if requested by the Owner, at any time and from time to time, the NCC and the Local Trust Committee will execute such documentation as may reasonably be required to modify and/or partially discharge the Statutory Right-of-Way so as to restrict the charge of the Statutory Right-of-Way to such portions of the Lands as may be designated as "common property" on any bare land strata plan filed in connection with the Lands and/or to any portion of the Lands shown on any Reference Plan of Statutory Right-of-Way (and first approved by the NCC and by the Local Trust Committee, each acting promptly and reasonably) showing roadways and pathways, provided the NCC and the Local Trust Committee shall only be obligated under this paragraph if such common property and/or portion of the Lands, as the case may be, provide reasonable, continuous and practical access to the Conservation Areas .

2.3 The Statutory Right-of-Way granted to the NCC and to the Local Trust Committee pursuant to Section 2.1 is necessary for the operation and maintenance of the NCC's and the Local Trust Committee's respective undertakings.

2.4 The Owner agrees that the Local Trust Committee and the NCC will be entitled, during the term of the Statutory Right-of-Way, to an appurtenant licence to the use of any wharves or docks reasonably required for the purposes of the exercise of the rights of access contemplated in the Statutory Right-of-Way; PROVIDED THAT such licence will not constitute an interest in land and may only be exercised by the Local Trust Committee and by the NCC during the term of any tenure (and subject to any relevant terms and conditions imposed) under any leases or easements held by the Owner in connection with any such wharves or docks. The Owner will secure the agreement of each successor in title to the Lands that such successors in title will be bound by the grant of the licence set out in this Section 2.4.

2.5 Notwithstanding anything to the contrary contained in this Agreement, no rights of possession, nor access nor remedies are granted to the general public with respect to any of the Conservation Areas nor to any other portion of the Lands by this Agreement, and no member of the general public will have any standing to enforce or enjoy any rights or remedies granted by this Agreement to the NCC and the Local Trust Committee, or either of them, except as an Access Invitee through the NCC and the Local Trust Committee.

### **3. DISPUTE RESOLUTION**

3.1 If there is a disagreement regarding a breach of this Agreement which has occurred or is threatened, or if there is disagreement as to the meaning of this Agreement, the Owner or the

NCC and/or the Local Trust Committee may give notice to the other requiring a meeting between such parties within 5 days of receipt of the notice.

3.2 The Owner and the NCC and/or the Local Trust Committee will diligently, reasonably and in good faith, endeavour to resolve the subject of any such disagreement within 10 days following receipt of a notice as contemplated in Section 3.1.

3.3 If the Owner and the NCC and/or the Local Trust Committee are not able to resolve the disagreement within 10 days following receipt of such notice, those parties may appoint a mutually acceptable person to mediate the matter and such parties will act diligently, reasonably and in good faith and co-operate with the mediator and with one another in an attempt to resolve the matter within 10 days after the mediator is appointed. Any costs of any such mediation will be borne equally by the Owner and the NCC and/or the Local Trust Committee.

3.4 If the Owner and the NCC and/or the Local Trust Committee are not able to resolve the matter in dispute through mediation, or if either party refuses or fails to participate in mediation, then either the Owner or the NCC and/or the Local Trust Committee may submit the matter in dispute to a single arbitrator appointed jointly by the parties; PROVIDED THAT if the Owner and the NCC and/or the Local Trust Committee are unable to agree upon the appointment of an arbitrator, an arbitrator shall be appointed pursuant to and shall act in accordance with the *Commercial Arbitration Act* (British Columbia) to render a determination through arbitration of any issue in dispute.

3.5 Any determination of the arbitrator appointed pursuant to Section 3.4 shall be final and binding upon the Owner and the NCC and/or the Local Trust Committee.

3.6 Any costs of arbitration pursuant to this Article 3 will be borne equally by the Owner and the NCC and/or the Local Trust Committee.

#### 4. NOTICES

4.1 Any notice or other communication (collectively, a “**Notice**”) required or permitted under this Agreement shall be:

- (a) delivered in person; or
- (b) sent by prepaid registered mail or courier to the address of the parties at their respective addresses as set out in Sections 5 or 6, as the case may be, of Part 1 of this General Instrument;

PROVIDED THAT if the Lands are subdivided by the filing of a strata plan, including a bare land strata plan, then following the deposit of any such strata plan at the Victoria Land Title Office, any Notice may be delivered by the Local Trust Committee or by the NCC to the registered office of the strata corporation created by the filing of any such strata plan.

4.2 If a Notice is delivered in person, the party receiving the Notice shall forthwith acknowledge receipt of same in writing, and the Notice shall be deemed to have been received

on the earlier of the date of such acknowledgment and the date that is 5 days after the Notice is sent.

4.3 If a Notice is sent by pre-paid registered mail or courier, it shall be deemed to have been received on the fourth business day following the day on which the Notice was sent.

4.4 Each party agrees to immediately give written notice to the other of any change in its address from that set out in Sections 5 or 6, as the case may be, in Part 1 of this General Instrument.

4.5 If a party refuses to sign an acknowledgment of receipt of a Notice, the person delivering the Notice may swear an affidavit of service and the Notice shall be deemed to have been received on the date of service set out in the affidavit.

4.6 In this section, "business day" means a day other than a Saturday, Sunday or statutory holiday in British Columbia.

## 5. GENERAL

5.1 The Owner will do or cause to be done at its expense all acts reasonably necessary for the Local Trust Committee and the NCC to gain priority for this Agreement over all liens, charges and encumbrances which are or may be registered against the Lands save and except those in favour of the Local Trust Committee and those specifically approved in writing by the Local Trust Committee and the NCC.

5.2 Nothing contained or implied herein will prejudice or affect the rights and powers of the Local Trust Committee in the exercise of its functions under any statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered.

5.3 The Owner covenants and agrees that in addition to any remedies which are available under this Agreement or at law, the Local Trust Committee and the NCC will be entitled to all equitable remedies, including specific performance, injunction and declaratory relief, or any combination thereof, to enforce their rights under this Agreement. The Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement.

5.4 This Agreement will enure to the benefit of and be binding upon the Local Trust Committee and the NCC and their respective successors and assigns and will enure to the benefit of and be binding upon the Owner and its successors and assigns and (subject to the following provisions of this Section 5.4) will run with the Lands and enure to the benefit of and be binding upon the Owner's successors in title and their respective heirs, executors, administrators, trustees and successors; PROVIDED THAT:

- (a) every reference to the parties is deemed to include the respective successors and assigns of such parties; and

- (b) neither the Owner named in this Agreement nor any future owner is liable for a breach of this Agreement after the Owner named herein or any future owner, as the case may be, ceases to have any interest in the relevant portions of the Lands which are charged by this Agreement.

5.5 Wherever the singular or masculine is used herein the same will be construed as meaning the plural, feminine or the body corporate or politic where the contents or the parties so require.

5.6 If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a Court of competent jurisdiction, the invalid portion will be severed and the decision that it is invalid will not affect the validity of the remainder of this Agreement.

5.7 The parties hereto will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by signing the "Form C - General Instrument - Part 1" attached hereto.

END OF DOCUMENT