



# North Pender Island Local Trust Committee

## Regular Meeting Agenda

Date: January 26, 2024  
Time: 10:00 am  
Location: Anglican Parish Hall  
4703 Canal Road, RR#1, North Pender Island, BC

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|                                                                                         | <b>Pages</b>        |
|-----------------------------------------------------------------------------------------|---------------------|
| 1. CALL TO ORDER                                                                        | 10:00 AM - 10:00 AM |
| 2. APPROVAL OF AGENDA                                                                   | 10:00 AM - 10:05 AM |
| 3. TRUSTEE REPORT                                                                       | 10:05 AM - 10:15 AM |
| 4. CHAIR'S REPORT                                                                       | 10:15 AM - 10:20 AM |
| 5. ELECTORAL AREA DIRECTOR'S REPORT                                                     | 10:20 AM - 10:25 AM |
| 6. TOWN HALL AND QUESTIONS                                                              | 10:25 AM - 10:40 AM |
| 7. COMMUNITY INFORMATION MEETING - None                                                 |                     |
| 8. PUBLIC HEARING - None                                                                |                     |
| 9. MINUTES                                                                              | 10:40 AM - 10:50 AM |
| 9.1 Local Trust Committee Minutes Dated September 29, 2023 (for Adoption)               | 4 - 12              |
| 9.2 Local Trust Committee Special Meeting Minutes Dated October 21, 2023 (for Adoption) | 13 - 20             |
| 9.3 Section 26 Resolutions-without-meeting Report Dated Jan 2024                        | 21 - 21             |
| 9.4 Advisory Planning Commission Minutes - None                                         |                     |
| 10. BUSINESS ARISING FROM THE MINUTES                                                   |                     |
| 10.1 Follow-up Action List Dated Jan 2024                                               | 22 - 24             |
| 11. DELEGATIONS                                                                         |                     |

|            |                                                                                                         |                            |
|------------|---------------------------------------------------------------------------------------------------------|----------------------------|
| <b>12.</b> | <b>CORRESPONDENCE</b>                                                                                   | <b>10:50 AM - 11:00 AM</b> |
|            | <i>Correspondence received concerning current applications or projects is posted to the LTC webpage</i> |                            |
| 12.1       | Michelle Marsden re Proposing a Ban on Fireworks                                                        | 25 - 25                    |
| 12.2       | Michael Symons re Housing on North Pender Island                                                        | 26 - 27                    |
| 12.3       | Julia Nicholls re Short Term Vacation Rentals                                                           | 28 - 28                    |
| 12.4       | Karen Bell re Lighting Issues on Pender Islands                                                         | 29 - 31                    |
| 12.5       | Letter of Support for BC Housing Funding Applications for Affordable Housing Projects                   | 32 - 33                    |
| <b>13.</b> | <b>APPLICATIONS AND REFERRALS</b>                                                                       | <b>11:00 AM - 12:20 PM</b> |
| 13.1       | NP-RZ-2023.1 (Pender Islands Housing Society) - Staff Report (attached)                                 | 34 - 60                    |
| 13.2       | NP-SUB-2023.2 (James Island Properties) - Staff Memo (attached)                                         | 61 - 69                    |
| 13.3       | NP-DP-2023.3 (Shave) - Staff Report (attached)                                                          | 70 - 87                    |
| 13.4       | NP-DP-2023.4 (Balmer) - Staff Report (attached)                                                         | 88 - 137                   |
| 13.5       | NP-DP-2023.6 (Funk) - Staff Report (attached)                                                           | 138 - 158                  |
| 13.6       | Saturna Island Local Trust Committee Referral for Proposed Bylaws 140 and 141 (for Response) (attached) | 159 - 161                  |
| 13.7       | Salt Spring Island Local Trust Committee Referral for Draft Bylaw No. 536 (for Response) (attached)     | 162 - 163                  |
| <b>14.</b> | <b>LOCAL TRUST COMMITTEE PROJECTS</b>                                                                   | <b>12:20 PM - 12:50 PM</b> |
| 14.1       | North Pender Local Trust Committee Draft Fees Bylaw No. 226 - Staff Report (attached)                   | 164 - 173                  |
| 14.2       | Raptor Nest Mapping DPA Project – Staff Memo (attached)                                                 | 174 - 174                  |
| <b>15.</b> | <b>REPORTS</b>                                                                                          | <b>12:50 PM - 1:00 PM</b>  |
| 15.1       | Work Program Report (attached)                                                                          |                            |
| 15.1.1     | <u>Active Projects Report Dated Jan 2024</u>                                                            | 175 - 175                  |
| 15.1.2     | <u>Future Projects Report Dated Jan 2024</u>                                                            | 176 - 177                  |
| 15.2       | Applications Report Dated Jan 2024 (attached)                                                           | 178 - 184                  |
| 15.3       | Trustee and Local Expense Report Dated Nov 2023 (attached)                                              | 185 - 185                  |
| 15.4       | Adopted Policies and Standing Resolutions (attached)                                                    | 186 - 189                  |

**15.5 Local Trust Committee Webpage**

**15.6 Islands Trust Conservancy Report - None**

**16. NEW BUSINESS**

**17. UPCOMING MEETINGS**

**17.1 Next Regular Electronic Meeting Scheduled for February 23, 2023**

**18. TOWN HALL** 1:00 PM - 1:15 PM

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

**19.1 Motion to Close Meeting**

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

- personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;

AND that the recorder and staff attend the meeting.

**19.2 Recall to Order**

**19.3 Rise and Report**

**20. ADJOURNMENT** 1:15 PM - 1:15 PM

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

**Date:** September 29, 2023  
**Location:** Anglican Parish Hall  
4703 Canal Road, RR#1, North Pender Island, BC

**Members Present:** David Maude, Chair  
Aaron Campbell, Local Trustee  
Deb Morrison, Local Trustee

**Staff Present:** Brad Smith, Island Planner  
Charly Caproff, Planner 1  
Pat Todd, Recorder

**Others Present:** Joanne Lum, Senior Environmental Health Officer, Island Health  
Xiao Qi Ren, Environmental Health Officer, Island Health  
There were fourteen (14) members of the public present.

### 1. CALL TO ORDER

Chair Maude called the meeting to order at 10:11 am. He acknowledged that the meeting was being held on the territory of the Coast Salish First Nations. Chair Maude apologized for the delay due to problems with Wi-Fi.

### 2. APPROVAL OF AGENDA

The following additions to the agenda were presented for consideration:

- Item 16 New Business 16.2 Plum Tree Court  
16.3 2024 LTC Meeting Schedule

**By general consent**, the agenda was adopted as amended.

### 3. TRUSTEE REPORT

Trustee Campbell spoke to Trust Council (TC) meeting on North Pender Island the past week. There were a number of meetings, discussions, and engaged participants. He expressed appreciation for how respectful everyone is during conversations regarding their concerns.

Trustee Morrison reported feeling saturated with some of the politics at the Trust Council level. She reminded everyone of the importance to contact Islands Trust (IT)/LTC with questions and/or concerns. There is an upcoming meeting in Sidney regarding Bylaw Enforcement, Trustee Morrison was hoping to get co-ordination between agencies and better practices.



#### **4. CHAIR'S REPORT**

Chair Maude expressed appreciation for hospitality extended to Trust Council. He agreed there are a lot of politics involved and the dynamics are fascinating. The Union of British Columbia Municipalities (UBCM) met last week. There were meetings with Minister of Municipal Affairs and BC Ferries. Communication is ongoing with Ministry of Transportation regarding highways and ferries. A Task Force is being reinstated to address roadway issues. He expressed appreciation to staff for their technical support and efforts.

Trustee Morrison added that there is provincial funding for secondary suites, however islands don't qualify to access. She plans to publish an article that will be in next Pender Post.

#### **5. ELECTORAL AREA DIRECTOR'S REPORT – None**

LTC agreed to move the Community Information Meeting ahead of the Town Hall.

#### **6. COMMUNITY INFORMATION MEETING**

##### **6.1 Community Discussion with Island Health**

Joanne Lum from Island Health advised that Xiao Qi Ren is the Environmental Health Officer for the local district and presented information on the responsibilities and jurisdiction of Island Health. The presentation is available on the IT Meeting Event webpage.

Presentation Points:

- Their office deals with food legislation, which includes: food vending businesses, markets, retail, licensing, inspections, and investigating complaints
- There are different types of permits and approvals depending on the circumstances and levels of risk with the foods being sold.
- Examples of low risk foods that can be made at home and sold at a farmers market: cookies, pies, and items without protein products
- Examples of high risk foods that must be prepared in a commercial kitchen: meats, fermented foods, cheeses, kombucha, hummus, sauerkraut, and hot ready-to-eat foods.
- The Farmer's Market Manager works with Island Health to make it safe and they are responsible for keeping records if there is an outbreak and making sure vendors are selling only the products that have been approved
- There is a requirement for testing to ensure that foods are actually low risk
- The food safety plan for high risk foods should address how they treat and store food stuffs
- Restaurants with existing permits can also sell foods at the farmers market without a letter of confirmation
- Special events are different than private events, because they do not have predetermined guest lists. Food preparation can be done on-site, but an application is required.
- A private potluck would not be regulated by Island Health
- Outhouses are a risk because of exposure to wells and the general public, but you can apply for a holding tank in order to meet requirements to make the outhouse legal.

- Grey Water is considered to be Domestic Sewage and must be discharged into a municipal sewer system or holding tank unless a local bylaw allows for the water to be discharged into the ground.
- Single-family residences are exempt from Rain Water catchment regulations

#### Discussion

- Food sales at the end of a driveway are not allowed, but you can do online sales where clients can pick up the foods from the home
- Legal food facilities are listed on the Island Health website along with details from the last inspection
- How to define Home Based Businesses related to food sales? LTC Lenience around home based businesses does not mean that Island Health rules and regulations can be ignored
- Vendors should consider pre-packaging foods and keeping the product out of the sun
- Members of the public are encouraged to ask food vendors to produce their letter confirming that high risk foods are prepared in a commercial kitchen
- Food vendors are also encouraged to display their letter confirming the food is prepared in a commercial kitchen
- Island Health is willing to work with vendors to find creative ways to bring food businesses up to legal standards
- Information links to be added to the Pender Post
- If LTC has Issues regarding outhouses in the community, they can contact Island Health

## 7. TOWN HALL AND QUESTIONS

**Elaine Horvat:** spoke to the NP-TUP-2023.3 application on Pirates Road. Elaine is a neighbour of site for Temporary Use Permit (TUP) application and has concerns with potential increase to tourist traffic and issues of trespass, increased garbage, littering, etc. Elaine expressed a need for education about road safety for cyclists. Elaine pointed out that road lines are needed.

**Carole Sheaves:** spoke against the NP-TUP-2023.3 application. Carole believes that STVRs do not contribute to the Pender Island Community and they create traffic. There are danger trees on the STVR property.

There was a discussion about the address for the NP-TUP-2023.3 application. The fire department is the authority on legal addresses.

**Speaker:** Referred to a letter from the water stewards on September 27th. The speaker commented on the remediation requirements for a DPA violation on 4815 Schooner Way and encouraged LTC to get a realistic estimation of the costs for landscape work.

**Speaker:** attended a recent water stewardship meeting. The speaker questioned the status of proposed Advisory Water Committee, and noticed that the water stewardship groups have not been asked to provide a representative. The speakers suggested that governance could be improved with one ministry representative to tie into all applicable ministries.

LTC and Islands Trust have been making every effort to connect and work in co-operation with the various ministries within the provincial government.

Island Planner Smith added that the Water Committee will be an Advisory Planning Commission (APC). Applications have been coming forward and the Committee is to be formalized by end of November. The scope will be in accordance with the *Local Government Act* and focussed on intersection of water sustainability and housing issues.

**Speaker:** expressed concern about the survey distributed by the Magic Lake Property Owners Society because they feel it does not speak to the concerns of the whole Pender island community.

Magic Lake Property Owners Society asked Capital Regional District (CRD) to conduct study and it is open to everyone. There will be a link to the survey in the Pender Post. There would be a referendum before any of the survey results are implemented.

**Speaker:** Spoke to the NP-TUP-2023.3 application. The speaker stated that LTC should insist on fencing because another STVR property still has no fencing after 5 years of no action. They would like STVRs to have to apply for building permits. They would like to see the STVR limited to 30 days between May and September.

Island Planner Smith noted that issuing building permits is not within the jurisdiction of the Islands Trust. The CRD is responsible for building permits. There are 2 types of STVR: a) owner on site and b) owner off site. To date, LTC has approved ~11 permits for STVR. LTC is notified when a Bylaw file is opened on an illegal STVR, which allows the LTC to be informed on the issue. When a TUP comes up for renewal, LTC can choose not to renew it if the applicant did not follow through with all of the conditions of their permit.

**Julia Nicholls:** expressed appreciation for action being taken against the DPA violation on Schooner Bay road. Julia was told that the Crown Counsel report was confidential, but wanted to know if the Trustees have access. Julia is concerned that the Crown Counsel report would describe the property owners as cooperative or that they did not realize that their property was in a DPA. Julia urged LTC to ensure the report contains a list of the property owners' many infractions.

**Speaker:** The Island Health presentation clarified important issues, but they felt it could have been edited down and more focused on local issues. The speaker believes there are too many Islands Trust staff and that they are getting in the way of real work being done.

**Judy Walker:** Noted the lack of enforcement on logging practices. They were concerned that the next person to live on their property will ignore the DPA and cut down trees. They were disappointed that LTC has not been able to prevent trees from being cut down. The speaker was concerned that the former Trust Council was supposed to get the Province involved, but the current Trust Council rescinded the request.

The Trust Council rescinded request for tree cutting permitting powers because they felt it wouldn't be successful. The legal opinion on the Galiano DPA is that it is enforceable, so LTC might look into that further. Trust council needs to better define the mandate "preserve and protect". Now that it has been proven that the Galiano DPA is enforceable, the North Pender LTC is in a better position to affect change with logging practices.

Island Planner Smith confirmed that a DPA is not listed on a property title. Buyers need to be made aware of conditions on property. Realtors are not required to provide information on DPAs to new buyers, but the local realtors may make the effort to provide this information. Island Planner Smith confirmed that the DPA on the Schooner Bay property was identified by a local biologist who did not rely only on satellite imagery. Regional Planning Manager Robert Kojima has background material to compile updated brochures for new land owners. LTC does not have a mechanism to require realtors to provide this information

**Speaker:** Would like to have a local municipality because the nearby municipalities control logging bylaws and people don't believe that the Trust is able to do anything about their concerns.

**Speaker:** Pointed out that there were four trustees that voted to rescind the request for tree cutting permitting powers. The speaker wanted to know if this issue comes up again, will LTC vote for more power regarding tree cutting?

Trustee Morrison responded that she would vote for local control next time.

Trustee Campbell stated that he is not certain that the LTC can legally have that level of authority and enforcement over logging and more analysis is needed. He agreed that we need to protect what we have.

LTC went on break from 12:11 p.m. to 12:16 p.m.

## **8. PUBLIC HEARING – None**

## **9. MINUTES**

### **9.1 North Pender Island Local Trust Committee Minutes Dated July 28, 2023**

The minutes were amended prior to the meeting.

**By general consent** the North Pender Local Trust Committee meeting minutes of July 28, 2023 were adopted as amended.

### **9.2 Local Trust Committee Public Hearing Record of May 13, 2023 - Received for information**

### **9.3 Section 26 Resolutions-without-meeting Report - None**

### **9.4 Advisory Planning Commission Minutes - None**

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

### **10.1 Follow-up Action List Dated Sept 2023**

Island Planner Smith summarized legal advice with regards to the Clam Bay Farm building. The staff interpretation in 2021 was correct. If neighbors believe that there are non-farm uses occurring in the building they should contact bylaw compliance and enforcement.

Island Planner Smith confirmed that regular and special meetings are no longer hybrid. Community members can watch online, but if they wish to participate in the town hall they will have to attend the meeting in person. Land Use Permit applicants are still able to make comments on their application over zoom when arranged for by staff.

LTC expressed interest in working with the CRD to get lighting regulations. Staff to follow-up with CRD staff.

**11. DELEGATIONS**

**12. CORRESPONDENCE**

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

**13. APPLICATIONS AND REFERRALS**

**13.1 NP-DP-2023.3 (Shave)**

Island Planner Smith reviewed the actions taken on this application to date.

Discussion regarding the amount of the deposit ensued:

- LTC expressed concern that the estimate may not fully cover the actual cost of doing the remediation work on the lot
- Chair Maude expressed further concern that the coming winter may negatively impact the outcome of the remediation work if it is not promptly completed
- Island Planner Smith cautioned that the applicant cannot be required to begin the remediation work until they receive the development permit

**NP-2023-089**

**It was Moved and Seconded,**

that North Pender Island Local Trust Committee directs staff to obtain a more detailed cost estimate from the applicant, including three locally based quotes, on the deposit for remediation work for application NP-DP-2023.3 (Shave).

**CARRIED**

**13.2 NP-TUP-2023.4 (Gu)**

Planner Caproff reported on the application. Planner Caproff had spoken with the applicant and they confirmed the cistern onsite was 2000 gallons. The Fire Department does not require an increase for fire suppression on this property. Five letters of opposition from the community were received during the notification period for the July LTC and two letters of opposition were received during the notification period for the September meeting.

Discussion:

- Applicant waiting for approval before hooking up the cistern
- Even if LTC issued a permit, the applicant cannot operate the STVR until the TUP conditions are met
- The property manager confirmed that the danger trees will be removed on October 9
- Concerns regarding number of letters/issues identified by the community
- Some issues brought forward by the community have already been addressed

- Discussed the possibility of issuing a shorter term permit that allows for fewer guests
- Owner could keep a log of number of guests and this information could come back to LTC at time of renewal
- LTC wished to make it clear that all issues raised by neighbours will be addressed as conditions of the permit
- Further discussion needed on STVRs and B&Bs in general; maybe a cap on number of permits; is owner on/off island, is it a commercial operation.
- Part of housing survey – information important
- LTC recommends the owner contact the Fire Department to correct the address

**NP-2023-090**

**It was Moved and Seconded,**

that North Pender Island Local Trust Committee amend NP-TUP-2023.4 (Gu) to reduce the permit duration to one year and to reduce the number of guests per stay to six and to include a condition to remove 2 danger trees as shown in Schedule A.

**CARRIED**

**NP-2023-091**

**It was Moved and Seconded,**

that North Pender Local Trust Committee approve issuance of NP-TUP-2023.4 (Gu) as amended.

**CARRIED**

**14. LOCAL TRUST COMMITTEE PROJECTS**

**14.1 Raptor Nest DPA Review Project Update**

Island Planner Smith reviewed the staff memo. Staff will initiate procurement for data when ready to be received from Dave Manning.

**15. REPORTS**

**15.1 Work Program Report**

**15.1.1 Active Projects Report Dated Sept 2023**

Island Planner Smith reported that all the items have been updated.

LTC would like to look at the effects of STVRs on housing affordability and consider an “empty house” tax as part of the Housing Project.

Island Planner Smith advised that the existing research has found pros and cons to the presence of STVRs on the gulf islands.

Salt Spring Island requested an exemption from empty house tax.

**15.1.2 Future Projects Report Dated Sept 2023**

Island Planner Smith reported that Mayne Island Flex Housing Project is collecting extensive information and statistics.

Meeting Oct. 21<sup>st</sup>. could be used to identify needs and issues.

**15.2 Applications Report Dated Sept 2023** – received for information

**15.3 Trustee and Local Expense Report Dated July 2023** – received for information

**15.4 Adopted Policies and Standing Resolutions** – received for information

**15.5 Local Trust Committee Webpage** – will be updated

**15.6 Islands Trust Conservancy Report** - None

## **16. NEW BUSINESS**

### **16.1 Census Infographics**

The infographics will be added to the Islands Trust website. Island Planner Smith will identify where to put the information on the North Pender web page.

### **16.2 Plum Tree Court**

Discussion ensued:

- Regional Planning Manager, Robert Kojima, sent information and options to the LTC
- Island Planner Smith advised that the best option is to submit a rezoning application to Islands Trust
- Rolls into affordable housing issues
- Current zoning allows for 2 family units only, but there is interest in adding multiple family residences
- Letter from LTC to accompany application to BC Housing was discussed
- Working to provide flexible options and seeking legal review
- Island Planner Smith advised that Plum Tree Court's application to BC housing should make it clear that they are applying for multifamily housing and identify where they are at in the rezoning process
- LTC willing to go through rezoning process and would encourage the Plum Tree Court Board to submit a rezoning application to Islands Trust
- Plum Tree court can seek reimbursement for the application fee
- If the rezoning application is submitted by October 15<sup>th</sup>, it could be on the agenda for the Special Meeting October 21

### **16.3 2024 LTC Meeting Schedule**

- The expectation that things can get done quickly on the island, which means the LTC is pushed to approve permits faster
- Other LTCs have been instituting an application window to control the amount of development happening in the islands
- Another concern is the pressure on staff to meet deadlines for frequent meetings

- The structure of regular meetings leaves less room for community conversation and would like to see more community meetings instead
- One regular LTC meeting every 2 months and 2-3 meetings for community information and discussion without making decisions
- Community Information Meetings could host guest speakers and be held on the weekends
- There was a discussion about one of the Community Information Meetings being about fire management and the literature being distributed on Salt Spring

**NP-2023-092**

**It was Moved and Seconded,**

that North Pender Island Local Trust Committee direct staff to draft a 2024 meeting schedule with six regular meeting and three Community Information Meetings.

**CARRIED**

**17. UPCOMING MEETINGS**

**17.1 Special Meeting Scheduled for October 21, 2023 at the Anglican Hall, Pender Island**

**17.2 Next Regular Meeting Scheduled for November 24, 2023 at the Anglican Hall, Pender Island**

**18. TOWN HALL**

**19. CLOSED MEETING - None**

**20. ADJOURNMENT**

**By general consent** the meeting was adjourned at 2:13 pm.

\_\_\_\_\_  
David Maude, Chair

Certified Correct:

\_\_\_\_\_  
Pat Todd, Recorder



## North Pender Island Local Trust Committee

### Minutes of Special Meeting

**Date:** October 21, 2023  
**Location:** Anglican Parish Hall  
4703 Canal Road, RR#1, North Pender Island, BC

**Members Present:** David Maude, Chair  
Deb Morrison, Local Trustee  
Aaron Campbell, Local Trustee

**Staff Present:** Brad Smith, Island Planner  
Narissa Chadwick, Island Planner  
Emily Bryant, Recorder

**Others Present:** Approximately ten (10) members of the public were present

#### 1. CALL TO ORDER

Chair Maude called the meeting to order at 1:01 p.m. He acknowledged that the meeting was held on the territory of the Coast Salish First Nations.

#### 2. APPROVAL OF AGENDA

By general consent the agenda was approved as presented.

#### 3. BUSINESS ITEMS

##### 3.1 Current Islands Trust Housing Initiatives – Staff Presentation and Q and A

Island Planner Smith introduced Island Planner Chadwick, and explained that the discussion today will be the first step in the housing action plan for the community housing project. LTC have directed staff to make housing a major project, and they have been working towards budget approval from Trust Council.

Trustee Morrison Arrived at 1:06 p.m.

Island Planner Chadwick began the presentation by explaining their work on a housing project as the Island Planner for Mayne Island. Island Planner Chadwick has also been working on housing projects on a regional scale, including projects on Denman and Mayne Island. These processes provide a starting point for the North Pender housing project.

- An Interim Strategic Plan for the whole Trust Area will be presented to Trust Council at their next meeting
- The key actions have been identified
- Currently gathering data for the suitable land analysis

- The plan is about increasing housing options, in recognition of the challenges on the islands
- Multiplexes are typically much more cost effective and a better way to go
- Community engagement led to an action plan
- Gabriola Island has been working on an Official Community Plan (OCP) review with a focus on housing
- Working with the Capital Regional District (CRD) to apply for federal funding
- The Island Housing Strategy focuses on helping low and middle income households continue living in the Trust Area

Island Planner Chadwick explained the Housing Toolkit and the process of creating it:

- A package of information, mapping tools, action plans, and strategy templates
- Designed to inform the development of an action plan, business case, and project charter
- Helpful in building relationships with Regional Districts
- Includes a discussion paper that provides an opportunity to get all the information together, to make sure we're all on the same page
- Community members have been doing their own research on housing
- We've been updating the needs assessment as we have been going along
- Compiled a list of potential OCP policies from other communities in order to look at all the possible options to consider
- Snapshot housing profiles created from census data
- Annotated bibliography provides a rundown of all of the sources
  - Those sources are available on the website
- Some work has already been done on North Pender Island
- There is a document on the Islands Trust website that provides a breakdown of the various responsibilities of various levels of government
- The baseline report is every island's policy relating to housing

Mayne Island has been in conversation about housing for years and held lots of Community Information Meetings to identify community needs. Denman Island decided to have a community housing Advisory Planning Committee (APC).

**Speaker:** wanted to know if there has been any input from the North Pender community and if that includes indigenous consultation.

Island Planner Chadwick replied that the toolkit is not a predetermined plan for North Pender Island. This is research and information made available for the community to decide on a plan going forward. The LTC can choose what they direct Islands Trust Staff to do. This is an opportunity for the community to express their needs to the Islands Trust.

The 2008 North Pender Island OCP review project generated so much useful information on North Pender Island. We have all of this data on freshwater, so we can look at where we have the water to support more density, or to identify where we shouldn't increase the density.

Mayne Island used mapping and freshwater data to identify:

- A pilot area for this concept of flex housing
- Maximum floor for all dwellings
- Which areas are the most vulnerable in terms of lack of ground water
- The Mayne Island LTC advised where not to build
- Looked at saltwater intrusion
- Challenges with pollution of ground water

The housing project on North Pender Island will help to develop this methodology further. Other mapping done at the Trust-wide level will be looking at subdivision potential. These maps can all be accessed on the Islands Trust website. Denman Island has a housing project with a sophisticated rainwater catchment system, which can be analysed. All of this information shows us where we are at and what possibilities are open to us to develop an action plan.

The Toolkit contains a template for an action plan. The Mayne Island LTC came up with a set of actions and adapted the language for their application to the federal government. Island Planner Chadwick explained the development of the Mayne Island Action Plan:

- Alternative housing and tiny homes
- Affordable rental ownership programs
- Building a good relationship with Habitat for Humanity

North Pender is about 9 months out from having an action plan. Mayne took 4 years, but it allows North Pender to develop their plan faster. The Major Project won't get started until April because staff are waiting on Trust Council for budget approval. Regardless, the North Pender LTC could be doing work on this in the meantime. For example, the LTC can work on allowing subdivision for donation of land or make the rezoning process easier.

**Speaker:** stated that we need to update the needs assessment in order to progress with this. For the Housing Accelerator Fund, there are 50 indicators in the needs assessment to qualify for funding. We would want to align ourselves with the format that we need to apply to housing accelerator plan.

Island Planner Chadwick agreed that North Pender has the advantage of building their plan so they can align with new requirements from government funding opportunities. The LTC acknowledged that it is important to be ready for whenever funding is available. It would be ideal to get this in place in less than a year.

**Speaker:** came here to discuss the rezoning application. It is the last thing we are talking about. We want to get these six units built. If we can't do that, then how can we do everything the project is out to do?

The LTC decided to move the Plum Tree Court application up in the agenda, before the break.

Island Planner Chadwick stated that Justine Starke from the CRD has been working on a rural housing initiative. If this funding comes through we will be able to move forward

with this project and develop an incentive program for accessory units and provide more support for non-profits.

The next steps for North Pender include letters to First Nations and community involvement.

### 3.2 NP-RZ-2023.1 (Pender Islands Housing Society) - Preliminary Staff Report

Island Planner Smith gave a description of the rezoning application:

- The current zoning only allows for two unit dwellings, and they want to build multi unit dwellings up to six units
- The bylaw amendment would be consistent with the OCP, so the LTC do not have to have the public hearing process
- LTC will have to give notice before giving first reading of the amending bylaw if they want to proceed without a public hearing

**Speaker:** I don't think we need a zoning application at all. All we are doing is changing the configuration, not the use. The purpose of the lot is community housing run by a not-for-profit, and this is not going to change.

Island Planner Smith advised that if you are changing the use, which includes density or siting, you have to go through a rezoning process to change the bylaw. Island Planner Smith added that the Pender Islands Housing Society (PIHS) can apply to have the application fee refunded.

**Speaker:** The application for BC Housing meant that PIHS couldn't start application for rezoning because it would disqualify them for funding from BC Housing. If we can get it done without rezoning, let's do it.

Island Planner Smith advised that Provincial legislation requires us to go through the process.

**Speaker:** stated that the LTC is asking for proof of water. If PIHS went ahead with current zoning they will have to cut down trees and use more space, which they could do if they get the funding.

**Speaker:** advised that you can't get around the need to do the amendment. They have done a lot of work with BC Housing, and there are ways to work with them to move things along.

Island Planner Smith commented that BC Housing can be very understanding when it comes to applications, and can work with the rezoning process even if PIHS is not ready by November 17.

**Speaker:** is concerned that there is so little money available, which means that BC Housing won't even look at their application if there are any issues with the land. If we get the rezoning, we should get to the table. Have tried to stick with their zoning all along. They want to move on to bigger projects.

Island Planner Smith reiterated that the LTC can't change the wording in the bylaw without the due process. Staff have been moving this forward as fast as possible. There are no other pathways to circumvent due process.

The LTC expressed interest in the next steps to move this process one step forward.

**Speaker:** stated that these processes add immeasurable costs to the housing project.

**NP-2023-93**

**It was MOVED and SECONDED,**

That the North Pender Island Local Trust Committee directs staff to proceed with application NP-RZ-2023.1 (PIHS) and to prepare a draft bylaw.

**CARRIED**

LTC could make a resolution to not hold a Public Hearings to move this forward faster. To do that notice must be sent out prior to giving first reading. Once the referral end date is determined, the LTC can schedule a special meeting or schedule a Special Meeting after that to consider first reading. Staff would initiate notice as per statutory requirements.

The LTC went on break at 2:35 p.m. and resumed at 2:46 p.m.

### **3.3 Housing Project Discussion**

Island Planner Chadwick acknowledged that a lot of work and research on housing matters may have already been done by the community, and invited the public to share any research that Islands Trust may not be aware of.

**Speaker:** would like to return to live on their property on North Pender so they asked their tenant to move out, but can't find a place for her tenant and tenant's son. The tenant is part of the community and doesn't want to move away from Pender Island. They are willing to invest in a tiny home or some other alternative housing to put on their property and continue to rent the house to someone with a family. Would need to invest a lot to get an RV to work on the property, but it's not a long term solution. The Bylaw would have to change to allow a secondary home on her property. Would take about a year to get the permits.

Island Planner Chadwick responded that the action needed here would be a rezoning. The flexible housing model would allow for a maximum combined floor area of the two buildings. One option to consider is a flexible housing rezoning. This example would be a site specific zoning. The RV would create more challenges. On North Pender, the lot would have to be a minimum of 3 acres to live in an accessory building.

The LTC discussed strategies to improve the process more broadly in the future:

- Flexible housing options could be prepared to work for Magic Lake
- Housing project allows for the LTC to look at all the options that makes sense for the area, but If you decided to do it carte blanche you would have a lot of thinking to do
- Secondary suites are currently allowed in Magic Lake, but they are underbuilt, and the change in language could allow for more than that

- Could decide to do this as a series of smaller projects and do all the different things in succession
  - This could take longer over all, but you would move some things along quicker
  - One option at a time, or all of the options together
  - Even if Trust Council didn't support this, you could still work on these little projects

**Speaker:** North Pender needs housing that is affordable now. People are living in cars. The *Residential Tenancy Act* makes it not appealing to be a landlord and makes people sell their houses or start Airbnbs.

Justine Starke at the CRD has been working on this stuff for years, including incentives for builders to put housing in. Islands Trust is working on the zoning to put these in.

**Speaker:** stated that, logistically we could put RV Pads up in 6 months.

Rob Fenton, the Alternate Director for the Southern Gulf Islands with the CRD has been putting effort into RV matters.

**Speaker:** stated that the whole island should look at secondary suites, not just Magic Lake. Much of the issues with housing were not included in the bylaw review project because they were going to do the housing project. The water in Magic Lake can serve 1200 lots that are there. If every lot built the secondary suites, they would need to do upgrades.

There is interest in swapping density into smaller clusters of housing and breaking up square footage. For example, people are aging in place, and they want someone to live there to help them. They don't want to subdivide, because they want to continue to own the land.

Tiny homes on wheels are essentially the same as a recreational vehicles with regards to building code, which means they would not be regulated. Manufactured homes have to be on a concrete pad and hooked up.

**Speaker:** stated that in their experience they had to have certified engineers to find information that can just be pulled of the shelf just to address water concerns.

**Speaker:** spoke to their past experience in a past housing needs. The pilot project was successful with provincial and federal government. The speaker emphasized that this is a real housing crisis and got a lot of traction with that.

When Mayne Island allowed for secondary suites a couple years ago, there wasn't any uptake. The LTC remarked that we need to look at how we can tailor the bylaws.

The flex housing bylaw. Maybe Pender could be the model for pads. We can work amongst each other.

Trustee Morrison: people often don't want to be a landlord. Is there a way to have a housing authority to work across the land? The housing authority would be the landlord.



**Speaker:** would like purpose built housing, then it remains rental housing even if the owner sells. Property is always going to be sold at some point.

**Speaker:** finds it difficult to make the numbers work on a non-subsidized home. The overhead costs are too high. The speaker suggested a model with distributed locations with the same rental manager.

The LTC emphasized the value of having these discussions because it is hard to make a decision on how to move forward with housing, unless you hear about the specifics or people who are struggling.

**Speaker:** added that people have no trouble finding short term rentals in the winters, but it is a struggle in the summer months.

**Speaker:** commented that if housing must be close to services, it should be close to the Driftwood for people with transportation issues. Housing should be close to transportation routes because it can be difficult to get around on the island. Approval for public funding for housing must be close to public housing.

Chair Maude spoke to a conversation with Adam Olsen about the need for a property management company, who would run the rental units. Lots of people don't want the hassle of renting. Island Planner Smith added that property managers do financial and reference checks, and can be quite thorough.

**Speaker:** stated that 10 years ago people rented little cottages for \$600-800 a month. A lot of them were sold off and rental stock had dipped significantly since then. The current situation does not provide security for tenants and those cottages are now worth a lot.

**Speaker:** asked if we can make an allowance for secondary housing? People are more willing to rent out a separate place on their property. They added that businesses are having trouble getting staff because we don't have housing for people to live in.

**Speaker:** stated that people were starting to have a hard time finding places to rent in the late 2000s due to commercial use of residential zones. They expressed concern about situations where tenants are kicked out of their housing, and then they have difficulties with storing their belongings on short notice. They also spoke to the Southern Gulf Islands Housing Strategy that Justine Starke has been working on, and related it to a discussion in 2008 about whether commercial development should be concentrated or distributed on Pender Island. The speaker urged the LTC to consider zoning for a coffee shop and store for 250 people, which has the advantage of being able to walk.

The PowerPoint presentation from the meeting today will be available online and more information can be found on the project page. Island Planner Chadwick added that the toolkit is going to the Regional Planning Committee to be finalized and it will be added to the website.

The LTC returned to the discussion regarding the process for moving forward with application NP-RZ-2023.1 without holding a Public Hearing.

**NP-2023-94**

**It was MOVED and SECONDED,**

that, pursuant to *Local Government Act* s. 464(2), the North Pender Island Local Trust Committee resolves to not hold a public hearing for Bylaw No.234, and that staff give notice of First Reading in accordance with s.467 of the *Local Government Act*.

**CARRIED**

**3.4 Discussion of the Schooner Way Trail**

Island Planner Smith requested the LTC add a brief discussion about the proposed active transportation trail to the agenda.

The LTC considered the question of how the LTC can support the Southern Gulf Islands Active Transportation Plan. The LTC is not able to provide financial support. The next move would be to provide a letter that endorses and commits to coordinating with other levels of government on the trail.

LTC would need to decide if they have support for submitting a funding grant. Wants to promote active transportation. The North Pender Island OCP is supportive of active transportation.

**NP-2023-95**

**It was MOVED and SECONDED,**

that North Pender Island Local Trust Committee has considered the request by the Pender Islands Parks and Recreation Commission and is in support of the 2023 BC Active Transportation Grant Application for the Schooner Way Trail.

**CARRIED**

**4. ADJOURNMENT**

**By general consent** the meeting was adjourned at 4:02 p.m.

---

David Maude, Chair

Certified Correct:

---

Emily Bryant, Recorder





## Resolutions Without Meetings Log

### North Pender Island

| Resolution Number                                                                                                                                                                                                                 | Action         | Date               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------|
| <b>2023-003</b><br><br>To adopt Bylaw No. 229<br><br>That North Pender Island Local Trust Committee Bylaw No. 229, cited as "North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2022", be adopted.                | <b>Carried</b> | <b>12-Dec-2023</b> |
| <b>2023-002</b><br><br>To adopt Bylaw No. 223<br><br>That North Pender Island Local Trust Committee Bylaw No. 223, cited as "North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No. 1, 2021", be adopted. | <b>Carried</b> | <b>12-Dec-2023</b> |
| <b>2023-001</b><br><br>To adopt 2024 mtg schedule<br><br>That the North Pender Island Local Trust Committee adopt the 2024 Local Trust Committee Regular Business Meeting Schedule as presented.                                  | <b>Carried</b> | <b>12-Dec-2023</b> |

## Follow Up Action Report

### North Pender Island

#### 05-May-2023

| Activity                                                                                                                                                                                                                                                               | Responsibility          | Dates               | Status      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|---------------------|-------------|
| 1 16.1 Protocol agreements - staff to invite CRD Director Paul Brent to a future LTC meeting to discuss NP LTC and CRD protocol agreements<br>NOV 15 UPDATE - staff will coordinate with CRD to attend in new year combined with discussion of nuisance lighting issue | Brad Smith<br>Jas Chonk | Target: 12-May-2023 | In Progress |

#### 28-Jul-2023

| Activity                                                                                                                                                                     | Responsibility | Dates               | Status      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------|-------------|
| 1 LTC to identify date for standalone meeting re topic communications with local landowners - PENDING<br>Staff to provide background info package in prep for meeting - DONE | Brad Smith     | Target: 15-Sep-2023 | In Progress |

#### 29-Sep-2023

| Activity                                                                                                                                                                                                         | Responsibility | Dates               | Status      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------|-------------|
| 1 9.1 July 28, 2023 LTC meeting minutes adopted as amended - amendments approved consistent with Emily's suggested edits                                                                                         | Emily Bryant   | Target: 13-Oct-2023 | Completed   |
| 2 10.1 FUAL - set up discussion with CRD at LTC meeting re nuisance lighting issues<br>NOV 15 UPDATE - Staff have discussed issue with CRD staff and will arrange a time for CRD to attend a meeting in new year | Brad Smith     | Target: 13-Oct-2023 | In Progress |

## Follow Up Action Report

### North Pender Island

#### 29-Sep-2023

| Activity                                                                                                                                                                                                                                                                                                                                                                                        | Responsibility                              | Dates               | Status      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|---------------------|-------------|
| <p>3 13.1 - NP-DP-2023.3 (Shave) Staff to seek a more detailed cost estimate from the applicant for security deposit with at 3 quotes for completing restoration work</p> <p>NOV 15 UPDATE - Staff continue to seek input from applicant re detailed quotes for restoration</p>                                                                                                                 | Brad Smith                                  | Target: 27-Oct-2023 | In Progress |
| <p>4 13.2 NP-TUP-2023.4 (Gu) - Permit approved for ONE year with following changes:</p> <ul style="list-style-type: none"> <li>·Maximum occupancy of six people</li> <li>·Add condition requiring removal of two identified danger trees and add reference photo of trees to schedules</li> </ul> <p>Charly - add monitoring in Tapis to confirm tree removal and that cistern is operating</p> | Charly Caproff<br>Emily Bryant<br>Jas Chonk | Target: 13-Oct-2023 | Completed   |
| <p>5 16.1 Staff to determine if/where census infographic link can be pointed to in NP webpage content</p>                                                                                                                                                                                                                                                                                       | Brad Smith                                  | Target: 13-Oct-2023 | Completed   |
| <p>6 16.2 Staff to draft a 2024 tentative LTC meeting schedule with 6 regular meetings on Thursdays and 3 Saturday CIMs</p>                                                                                                                                                                                                                                                                     | Emily Bryant                                | Target: 20-Oct-2023 | Completed   |

#### 21-Oct-2023

| Activity | Responsibility | Dates | Status |
|----------|----------------|-------|--------|
|----------|----------------|-------|--------|

## Follow Up Action Report

### North Pender Island

**21-Oct-2023**

| Activity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Responsibility             | Dates               | Status      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|---------------------|-------------|
| <b>1</b> NP-RZ-2023.1 (PIHS) - staff directed to proceed with drafting of bylaw and initiation of referrals - resolution also passed initiate notification to not hold public prior to consideration of 1st reading<br>Jas - provide draft bylaw and initiate referrals - Brad - draft amending bylaw Emily - update PPt on webpage and create links to<br>UPDATE - NOV 14 - Bylaw referrals sent out - staff to initiate notification to not hold a public hearing after referrals are done | Brad Smith<br>Jas Chonk    | Target: 27-Oct-2023 | In Progress |
| <b>2</b> CRD Trail Grant - Staff to send letter to Pender Island Parks Commission confirming LTC support for project                                                                                                                                                                                                                                                                                                                                                                         | Brad Smith<br>Emily Bryant | Target: 27-Oct-2023 | Completed   |

----- Forwarded Message -----

From: fortmarsden <[REDACTED]>

To: fortmarsden <[REDACTED]>

Sent: Sat, 04 Nov 2023 12:54:41 -0600 (MDT)

Subject: Proposing a Ban on Fireworks

To whom it may concern, I am writing to express my concerns about the use of fireworks following this past Halloween night event in Port Browning Harbour, Pender Island. This activity created air, sea and land pollution and the noise frightened livestock, domestic and wild animals. Fireworks are made of potassium nitrate, sulfur and charcoal- 3 components we don't want to put into the atmosphere. Along with barium, strontium, sodium, titanium, copper, zirconium, magnesium alloys and other metals, the shell is usually cardboard & polymers (plastic foil packaging), and all this is exploded releasing gases responsible for global warming and debris raining down that contaminates soil and water. Fireworks sudden sound and flashes at dark make wildlife move to roadways, birds take flight, horses spook and pets are frightened. Fireworks produce noise that can exceed 140 decibels, exposing all animals to trauma and stress. Fireworks are a fire hazard lit nearby roofs or boat decks. Toxic gases are released during ignition and are harmful to human health. There are other safety concerns and risks for those discharging fireworks- accidents, burns, operating impaired. The cons of fireworks use far outweigh any benefit. In response to these concerns from the community for the reasons of pollution, pets and changing climate and environment, the city of Vancouver banned the consumer use and sale of fireworks recently. The purchase, possession and discharge of fireworks is no longer permitted. These little explosions have a much bigger negative impact than most know. The statistics are incredibly high of pollution released Halloween, New Year's eve, Canada Day, weddings, birthdays and other events. As a long-time resident of the Pender Islands I think it is time to ban fireworks. Clearly, other communities have indeed seen the residual affects and have gone from permits or regulations to simply banning this activity. There is support in our community to follow suit. Fireworks are a thing of the past. I encourage you to please assess these concerns and work towards a Ban. I would be happy to supply additional facts, references and petition. This is something we can do to lessen our carbon footprint and protect our environment. I look forward to your discussion on this matter. Sincerely, Michelle Marsden [REDACTED]

**From:** michael <[REDACTED]>  
**Date:** October 29, 2023 at 11:05:14 AM PDT  
**To:** David Maude <[dmaude@islandstrust.bc.ca](mailto:dmaude@islandstrust.bc.ca)>  
**Subject:** Housing

Hello Chairman Maude: I intended to participate in the recent meeting on housing but other matters intervened. Please accept the attached piece, also copied below, as a late submission on that issue.

Regards,

Michael Symons

North Pender Island

=====

Re: Housing problem on N. Pender Island

It has been said that everyone is entitled to their own opinion, but not to their own facts. I would like to point out some facts, then some opinions.

### **Facts**

- The Islands Trust was formed in part as a response to the Magic Lake Estates subdivision, then the largest of its kind in Canada.
- North Pender Island is the most densely populated of all the Outer Gulf Islands.
- Development of presently unbuilt lots will further increase the population here.
- Three Local Trust Committees ago a bylaw was enacted, on the justification of addressing the housing problem, which has the potential to significantly increase the overall population on N. Pender by allowing development of secondary suites as dwellings.
- The resources and infrastructure of N. Pender are presently overtaxed; roads are deteriorated, ferries are subject to overloading, the Health Centre is overloaded during Summer months, water and sewer systems are operating at or above capacity.
- Anecdotal, freshwater is being depleted. Potable water delivery trucks are regularly seen arriving on the ferries. Residents report wells running dry and/or being subject to saltwater intrusion more frequently than in the past.

### **Opinion**

- The foregoing facts demand that any proposal which will further increase planned population density be rejected on that basis alone.
- The principle of the Islands Trust that islands should be developed in a manner which respects the carrying capacity of that island, e.g. water availability, militate against any further increases in population density.
- The Gulf Islands, and North Pender Island in particular, are simply not the place to solve the province's housing problems. We are overpopulated, under-resourced, and have a vulnerable ecosystem.
- In seeking to address shortage of housing on N. Pender it would be most productive to examine the current supply. A significant percentage of homes here sit vacant most of the year. The NPLTC would do well to pay heed to what the province and other jurisdictions are doing to address the problem of *de facto* conversion of residential housing to tourist accommodations, i.e. short term rentals.
- A properly designed needs assessment would also be a good starting point for understanding the parameters of housing needs on North Pender.

Michael Symons, N. Pender Isl.

**From:** Julia Nicholls <[REDACTED]>

**Sent:** Friday, November 10, 2023 12:37 PM

**To:** Deb Morrison <[dmorrison@islandstrust.bc.ca](mailto:dmorrison@islandstrust.bc.ca)>; Aaron Campbell <[acampbell@islandstrust.bc.ca](mailto:acampbell@islandstrust.bc.ca)>;  
David Maude <[dmaude@islandstrust.bc.ca](mailto:dmaude@islandstrust.bc.ca)>; SouthInfo <[SouthInfo@islandstrust.bc.ca](mailto:SouthInfo@islandstrust.bc.ca)>

**Subject:**

Dear

The short-term rental market in BC has grown out of control over the past few years, with 30% of Vancouver listings going unlicensed, and stories of unsafe rentals all over the news. Short-term rentals keep units out of the housing market, reducing the number of available units in a province that already struggles to meet housing demands.

Are you willing to make all rental properties long term?

Sincerely

Julia Nicholls



**From:** karen karenbell.ca <[REDACTED]>  
**Sent:** Wednesday, November 22, 2023 3:42 PM  
**To:** [REDACTED]; Deb Morrison <[dmorrison@islandstrust.bc.ca](mailto:dmorrison@islandstrust.bc.ca)>; Aaron Campbell <[acampbell@islandstrust.bc.ca](mailto:acampbell@islandstrust.bc.ca)>; Brad Smith <[bsmith@islandstrust.bc.ca](mailto:bsmith@islandstrust.bc.ca)>; SouthInfo <[SouthInfo@islandstrust.bc.ca](mailto:SouthInfo@islandstrust.bc.ca)>  
**Cc:** Joyce Thayer <j[REDACTED]>; stephenson <[REDACTED]>; Verity Rolfe <[REDACTED]>  
**Subject:** Lighting Issues on Pender Islands

Hello all,

Please see the attached letter in which I have set out a formal request for you to work together to develop regulation to address the use of unnecessary, excessive or invasive artificial lighting on the Pender Islands.

In addition, I wanted to bring to your attention that my expression of concern about nuisance lighting is not new.

I remind Trustee Morrison and advise Trustee Campbell, Director Brent and Planner Smith that on August 12, 2022, I sent an email expressing concern about a nuisance lighting situation and proposed an amendment to Bylaw 244 to attempt to address it with the expectation that the regulation apply to all properties retroactively. No response was received.

*"One of the challenges that those living proximate to [REDACTED] have been dealing with apart from the building of the Barn is the 'security' lighting that the owner has placed around the dwelling. Not only do these lights shine directly into the adjacent homes but also across Bricky Bay to other homes. Despite requests, the owner has not made the necessary adjustments to address our concerns. We are not familiar with any provision that offers us protection to which we can fashion a formal complaint. To avoid this invasive and annoying situation as well to help other Penderites in other neighbourhoods who might suffer a similar situation, we propose that a 'lighting restriction' be incorporated into the new bylaw 224 similar to that which most municipalities have in place. We have drafted a motion for your review and convenience as follows: **Moved that the following be added to the conditions of use in s. 5 of proposed bylaw 224 after s. (14) "No exterior artificial lighting may be installed that casts light directly into a neighbour's window or unreasonably disturbs the peace, rest, enjoyment, comfort or convenience of the neighbouring properties and occupants."**" "*

I look forward to hearing from you with an indication of how you propose to address the matter.  
Thank you in advance,  
Karen Bell

**November 22, 2023**

**Sent by email to:**

**Paul Brent, CRD Director, Gulf Islands**

**Deb Morrison, North Pender Trustee, Islands Trust**

**Aaron Campbell, North Pender Trustee, Islands Trust**

**Brad Smith, North Pender Planner, Islands Trust**

**Sent by Canada Post to:**

**Outer Gulf Islands RCMP**

**Re: Lighting Issues**

I am a full-time resident in the Rural Residential #2 Zone of North Pender Island. I am writing to express concern about a number of issues related to lighting in both our neighbourhood as well as the rest of Pender Island, and the need for regulation or enhanced regulation of same.

“Over lighting” from dusk on into the darkness is a growing problem as it interferes with/pollutes the night sky, poses an annoying and invasive nuisance to neighbours, is harmful to wildlife who depend on darkness and is a waste of electricity.

I believe that the following instances of nighttime lighting require some regulation in order to satisfy all interests involved:

1. External lighting of buildings, gardens and driveways that is left on all night.
2. External lighting of any building or grounds when it is not downward cast.
3. Indoor lighting in accessory buildings not shaded that is left on during some or all of night.
4. Indoor lighting of residences facing neighbouring residences that is not shaded.

As my representatives of North Pender Islands Trust (NPIT) and the Capital Regional District (CRD) you have the jurisdiction to manage use of properties on the Pender Islands. I have not been able to identify any particular lighting regulation by CRD. NPIT currently regulates lighting to some degree under Bylaw 224 vis a vis Home Businesses (3.7(5)) and Home Industries (3.8(5)). I have included the RCMP as it is my understanding that the RCMP receive/investigate complaints about use.

The overlap of your three authorities presents enormous confusion to residents as to what the rules are, who has jurisdiction for their enforcement and when they are enforced. I believe we need a collaborative approach that is clear and practical, and affords all residents the ‘quiet enjoyment’ of their property to which they are entitled at the same time as preserving and protecting the environment of Pender and the other islands under the Islands Trust. This would seem to require clarifying current ‘lighting’ rules and likely making new ones. Any rules should apply to all current lighting in place as exempting current lighting would result in the untenable situation that current problems would not be addressed.

Letter dated November 22, 2023 from Karen Bell

I request that you as a group collaborate to build regulation that will cover

- the type of lighting that is appropriate (e.g. energy efficient),
- the strength of light (low lighting versus high wattage lighting)
- the direction of lighting so as not to throw light off to neighbours or animals (e.g. downward cast)
- the length of time for certain types of lighting to be used (to depend on purpose with a view to limiting unnecessary or excessive accessory uses in particular), and
- means of enforcement of any regulations

Other jurisdictions have done research on these issues and developed rules that we can look to and build on. Examples include the Vancouver Bylaw that covers Lighting in Residential Buildings and the Bown Island Municipality Night Sky Bylaw No. 272, 2010.

I would be happy to work with you on my request and welcome your response.

Respectfully,

A solid black rectangular box used to redact the signature of Karen Bell.

Karen Bell



200-1627 Fort Street, Victoria BC V8R 1H8  
Telephone **(250) 405-5151** Fax (250) 405-5155

Toll Free via Enquiry BC in Vancouver 604.660.2421.  
Elsewhere in BC **1.800.663.7867**

Email: [information@islandstrust.bc.ca](mailto:information@islandstrust.bc.ca)

Web: [www.islandstrust.bc.ca](http://www.islandstrust.bc.ca)

December 14, 2023

File No.: 11-5770-20-10

Vincent Tong  
Chief Executive Officer  
BC Housing

Via email: [HousingHub@bchousing.org](mailto:HousingHub@bchousing.org)

Dear Vincent Tong:

**Re: Letter of Support for BC Housing Funding Applications for Affordable Housing Projects on Mayne, North Pender and Denman Islands**

On behalf of Islands Trust Council, I wish to extend our support for three Community Housing Fund applications that are currently with BC Housing for consideration. They are:

- Mayne Island: Salish Grove affordable housing project which proposes to add 10 units
- North Pender: Plum Tree Court <https://www.penderhousing.ca/expansion>
- Denman: Denman Green affordable housing project <https://denmanhousing.ca/denman-green/> which will add 20 units of affordable housing

In the Islands Trust Area, there is a pressing need for accessible and affordable housing options, especially for seniors, families, persons with disabilities, and workforce members who are finding it especially difficult to find suitable housing.

Trust Council recognizes the significant positive impact these projects could have by allowing seniors to age in place, families to have a safe and nurturing environment for their children to grow, persons with disabilities to have suitable housing, and workers to be able to accept employment on the islands because they can find housing. These benefits are critical to the viability of our isolated rural island communities.

Given the very positive impact of these affordable housing projects on all three islands, Islands Trust Council would like to convey its strong support for these projects and urges you to fund all three.

Yours sincerely,

Peter Luckham  
Chair, Islands Trust Council  
[pluckham@islandstrust.bc.ca](mailto:pluckham@islandstrust.bc.ca)

***Preserving and protecting over 450 islands and surrounding waters in the Salish Sea***

cc.

Denman Island Local Trust Committee

Mayne Island Local Trust Committee

North Pender Island Local Trust Committee

Islands Trust Executive Committee

Islands Trust website

DATE OF MEETING: January 26, 2024  
TO: North Pender Island Local Trust Committee  
FROM: Brad Smith, Island Planner  
Southern Team  
COPY: Robert Kojima, Regional Planning Manager  
SUBJECT: Plum Tree Court Rezoning Application - 5719 Canal Rd – Draft Bylaw Approval  
Applicant: Pender Islands Housing Society

## RECOMMENDATION

1. That the North Pender Island Local Trust Committee Bylaw No. 234, cited as “North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2023” be read a first time.
2. That the North Pender Island Local Trust Committee Bylaw No. 234, cited as “North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2023” be read a second time.
3. That the North Pender Island Local Trust Committee Bylaw No. 234, cited as “North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2023” be read a third time.
4. That the North Pender Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 234, cited as “North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2023” is not contrary to or at variance with the Islands Trust Policy Statement.
5. That the North Pender Island Local Trust Committee proposed Bylaw No. 234 be forwarded to the Secretary of the Islands Trust for Executive Committee Approval.

## REPORT SUMMARY

The purpose of this staff report is to provide a summary of First Nation and agency referral responses regarding rezoning application NP-RZ-2023.1 (PIHS) and to seek direction from the North Pender Island Local Trust Committee (LTC) on next steps with respect to draft Bylaw No. 234.

The above recommendation is supported as:

- The proposal is reasonable and consistent with policies of the North Pender Island Official Community Plan No. 171 (OCP) and the Islands Trust Policy Statement (ITPS);
- The creation of affordable and accessible housing solutions is a priority of the Islands Trust and the LTC;
- There have been no significant concerns raised as part of the bylaw referral process specific to the change from two-family to multi-family zoning; and,
- No public hearing is required as the proposed bylaw amendment is consistent with the OCP.

**BACKGROUND**

A rezoning application was received in October 2023. The property owner and housing provider, the [Pender Islands Housing Society](#) (PIHS), is seeking to rezone the subject parcel to permit multi-family dwellings. Currently, the North Pender Island Land Use Bylaw No. 224 (LUB) limits the use to only two-family dwellings.

Staff have now completed bylaw referrals for draft Bylaw No. 234 and are seeking direction from the LTC on next steps.

**ANALYSIS**

***Official Community Plan***

The application is consistent with the policies of the OCP and no OCP amendments are required.

***Land Use Bylaw***

The subject property is zoned Community Housing (CH). The permitted uses are as follows:

|                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>5.12 Community Housing (CH) Zone</b></p> <p><b>Permitted Uses</b></p> <p>(1) The following <i>uses</i> are permitted, subject to the regulations set out in this Section and the general regulations, and all other <i>uses</i> are prohibited:</p> <p>(a) Two-family <i>dwellings</i> managed by a non-profit society; and,</p> <p>(b) <i>Accessory uses, buildings and structures</i>.</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The applicant is seeking rezoning to permit construction of multi-family units. The proposed LUB amendment is as follows:

- (a) ~~Two~~ Multi-family dwellings managed by a non-profit society; and,

There are no other proposed changes to the LUB including to density or use. (Draft Bylaw 234 is included as Attachment 1). Specifically, the number of permitted units will not change.

***Islands Trust Policy Statement***

Staff are of the view that draft Bylaw No. 234 is not contrary to or at variance with Islands Trust Policy Statement (ITPS) policies, in particular with respect to policies related to ecosystem protection and preservation, stewardship of resources, groundwater, and growth and development.

The ITPS policy checklist is included as Attachment 2 for consideration of endorsement by the LTC.

## Issues and Opportunities

The proposed change in use from multi-family to two-family will improve the viability of construction for PIHS as a single multi-unit structure is more cost-efficient than multiple standalone 2 family units. A multi-unit design may improve access to BC Housing and other public/private funding for build-out. If constructed, the additional units would be in high demand as options on North Pender for affordable seniors housing is limited.

As there is no change in permitted density or any other bylaw provisions, the impact of the change on adjacent neighbours and groundwater supply will be minimal.

## Consultation

### Statutory Requirements

In this case, consistent with *Local Government Act* s. 464 (2), the LTC has decided to not hold a public hearing. Notice to consider First Reading of draft Bylaw No. 234 was completed in accordance with statutory requirements (Notice included as Attachment 3).

### Agencies

Staff referred Bylaw No. 234 to the following agencies for bylaw referral:

- CRD, Planning and Protective Services, Building Inspection
- Island Health
- Ministry of Transportation and Infrastructure
- Ministry of Environment - Water, Lands, Resource Stewardship - Water Protection
- Mayne Island Local Trust Committee
- South Pender Island Local Trust Committee
- Saturna Island Local Trust Committee
- Salt Spring Island Local Trust Committee

Island Health responded in favour of the amendment but did provide a number of comments and recommendations in respect of future development at the property in consideration of drinking water, sewerage disposal and Island Health's healthy built environment initiative (Letter included as Attachment 4).

The Ministry of Environment Water, Lands, Resource Stewardship - Water Protection Branch recommends approval subject to a number of conditions related to water licensing and well protection (Letter included as Attachment 5). The leading comment in the response states "*The change in the by-law from permitting two-family dwellings within the Community Housing 1 zone to multi-family dwellings will result in the requirement for more water.*" However, in this case, there is no change in density only number of units/per building so there is no expected increase in water demand.

The CRD's Southern Gulf Islands Economic Sustainability Commission recommends approval because flexibility is important in providing housing that is accessible and affordable. Salt Spring Island and Mayne LTCs responded that their interests are unaffected. No other responses were received.

No specific bylaw amendments or conditions of rezoning are recommended in response to these agency referrals.



## **First Nations**

Staff initiated referrals to all identified First Nations consistent with the standardized list maintained by staff. The Snuneymuxw First Nation, Malahat Nation, Tsawwassen First Nation and Ts'uubaa-asatx Nation responded generally with no comment or no objections (Referral responses included as Attachment 6).

The Lyackson First Nation have provided a letter with a number of overarching concerns specifically pertaining to how the Islands Trust is working to meaningfully address housing needs of local Indigenous peoples (Attachment 6). In this letter, there is no specific objection to the rezoning proposal or the amendment from two-family to multi-family that would be permitted by approval of Bylaw No. 234.

Staff have responded to this letter clarifying that the referral was initiated by an application process via the property owner who is a non-profit seniors housing provider, and that Islands Trust is reviewing engagement processes with First Nations in cooperation with provincial staff (Attachment 7).

No other responses were received from First Nations.

## **RATIONALE**

The recommendation on page 1 I supported:

- The proposal is reasonable and consistent with policies of the North Pender Island Official Community Plan No. 171 (OCP) and the Islands Trust Policy Statement (ITPS);
- The creation of affordable and accessible housing solutions is a priority of the Islands Trust and the LTC;
- There have been no significant concerns raised as part of the bylaw referral process specific to the change from two-family to multi-family zoning; and,
- No public hearing is required as the proposed bylaw amendment is consistent with the OCP.

## **ALTERNATIVES**

The LTC may consider the following alternatives to the staff recommendation:

### **1. Request further information**

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request.

Resolution:

*That the North Pender Island Local Trust Committee request that the applicant submit to the Islands Trust*  
\_\_\_\_\_.

### **2. Deny the application**

The LTC may deny the application.

Resolution:

*That the North Pender Island Local Trust Committee proceed no further with application NP-RZ-2023.1(PIHS).*

### 3. Hold the application in abeyance

The LTC may choose to hold the application in abeyance pending completion of a significant study or OCP process, etc.

Resolution:

*That the North Pender Island Local Trust Committee hold application NP-RZ-2023.1 (PIHS) in abeyance.*

### NEXT STEPS

With direction from the LTC, staff will refer Bylaw No. 234 to Executive Committee for consideration of approval.

|               |                                          |                  |
|---------------|------------------------------------------|------------------|
| Submitted By: | Brad Smith, Island Planner               | January 10, 2024 |
| Concurrence:  | Robert Kojima, Regional Planning Manager | January 12, 2024 |

### ATTACHMENTS

1. Draft Bylaw No. 234
2. ITPS Checklist
3. Statutory Notice to Consider 1st Reading
4. Island Health Referral Letter
5. MOE Referral Letter
6. First Nation Referral Responses
7. Staff response to Lyackson First Nation

# DRAFT

## NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 234

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### A BYLAW TO AMEND NORTH PENDER ISLAND LAND USE BYLAW NO. 224, 2022

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

1. Citation

This bylaw may be cited for all purposes as “North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2023”.

2. North Pender Island Local Trust Committee Bylaw No. 224, cited as “North Pender Island Land Use Bylaw No. 224, 2022,” is amended as follows:

Section 5.12 – Community Housing Zone, Article 5.12(1)(a) is amended by adding the words “and multiple-family” such that it reads “Two-family and multi-family dwellings managed by a non-profit society; and,”

3. SEVERABILITY

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

|                                                               |       |        |       |        |
|---------------------------------------------------------------|-------|--------|-------|--------|
| READ A FIRST TIME THIS                                        | _____ | DAY OF | _____ | 20____ |
| PUBLIC HEARING HELD THIS                                      | _____ | DAY OF | _____ | 20____ |
| READ A SECOND TIME THIS                                       | _____ | DAY OF | _____ | 20____ |
| READ A THIRD TIME THIS                                        | _____ | DAY OF | _____ | 20____ |
| APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS | _____ | DAY OF | _____ | 20____ |
| ADOPTED THIS                                                  | _____ | DAY OF | _____ | 20____ |

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CHAIR

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SECRETARY



Islands Trust

## **POLICY STATEMENT DIRECTIVES ONLY CHECK LIST**

**Bylaw and File No: 234  
SA-RZ-2023.1 (PIHS)  
LTC Endorsement:**

### **PURPOSE**

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

### **POLICY STATEMENT**

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

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

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

### **DIRECTIVES ONLY CHECK LIST**

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

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

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

### **Part III Policies for Ecosystem Preservation and Protection**

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

### **PART IV: Policies for the Stewardship of Resources**

| CONSISTENT | NO.          | DIRECTIVE POLICY                                                                                                                                                                                                                                                        |
|------------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|            | <b>4.1</b>   | <b>Agricultural Land</b>                                                                                                                                                                                                                                                |
| <b>N/A</b> | <b>4.1.4</b> | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and preservation of agricultural land for current and future use.                                                           |
| <b>N/A</b> | <b>4.1.5</b> | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation, protection, and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses. |
| <b>N/A</b> | <b>4.1.6</b> | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of adjacent properties to minimize any adverse affects on agricultural land.                                                           |

| CONSISTENT | NO.    | DIRECTIVE POLICY                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| N/A        | 4.1.7  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the design of road systems and servicing corridors to avoid agricultural lands unless the need for roads outweighs agricultural considerations, in which case appropriate mitigation measures shall be required to derive a net benefit to agriculture                                                     |
| N/A        | 4.1.8  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address land uses and activities that support the economic viability of farms without compromising the agriculture capability of agricultural land.                                                                                                                                                                |
| N/A        | 4.1.9  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of Crown lands for agricultural leases.                                                                                                                                                                                                                                                            |
|            | 4.2    | <b>Forests</b>                                                                                                                                                                                                                                                                                                                                                                                                                      |
| N/A        | 4.2.6  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the need to protect the ecological integrity on a scale of forest stands and landscapes.                                                                                                                                                                                                                   |
| N/A        | 4.2.7  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the retention of large land holdings and parcel sizes for sustainable forestry use, and the location and construction of roads, and utility and communication corridors to minimize the fragmentation of forests.                                                                                          |
| N/A        | 4.2.8  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of forest ecosystem reserves where no extraction will take place to ensure the preservation of native biological diversity.                                                                                                                                                                |
|            | 4.3    | <b>Wildlife and Vegetation</b>                                                                                                                                                                                                                                                                                                                                                                                                      |
|            | 4.4    | <b>Freshwater Resources</b>                                                                                                                                                                                                                                                                                                                                                                                                         |
| ✓          | 4.4.2  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, water quality is maintained, and existing, anticipated and seasonal demands for water are considered and allowed for. |
| N/A        | 4.4.3  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure water use is not to the detriment of in-stream uses                                                                                                                                                                                                                                   |
|            | 4.5    | <b>Coastal Areas and Marine Shorelands</b>                                                                                                                                                                                                                                                                                                                                                                                          |
| N/A        | 4.5.8  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the needs and locations for marine dependent land uses.                                                                                                                                                                                                                                                    |
| N/A        | 4.5.9  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the compatibility of the location, size and nature of marinas with the ecosystems and character of their local planning areas.                                                                                                                                                                             |
| N/A        | 4.5.10 | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.                                                                                                                                    |
| N/A        | 4.5.11 | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address opportunities for the sharing of facilities such as docks, wharves, floats, jetties, boat houses, board walks and causeways.                                                                                                                                                                               |
|            | 4.6    | <b>Soils and Other Resources</b>                                                                                                                                                                                                                                                                                                                                                                                                    |
| N/A        | 4.6.3  | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of productive soils.                                                                                                                                                                                                                                                                        |

**PART V: Policies for Sustainable Communities**

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

| CONSISTENT | NO.          | DIRECTIVE POLICY                                                                                                                                                                                                      |
|------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|            | <b>5.5</b>   | <b>Recreation</b>                                                                                                                                                                                                     |
| <b>N/A</b> | <b>5.5.3</b> | Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the prohibition of destination gaming facilities such as casinos and commercial bingo halls. |

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

| POLICY STATEMENT COMPLIANCE |                                                                |
|-----------------------------|----------------------------------------------------------------|
| ✓                           | COMPLIANCE WITH TRUST POLICY                                   |
|                             | NOT IN COMPLIANCE WITH TRUST POLICY for the following reasons: |





**North Pender Island Local Trust Committee**  
**NOTICE OF FIRST READING**  
**Draft Bylaw No. 234**

**NOTICE** is hereby given pursuant to s.467 of the *Local Government Act* that the North Pender Island Local Trust Committee will consider first reading of draft Bylaw No. 234, cited as “North Pender Island Land Use Bylaw No. 224, 2022, Amendment No. 1, 2023” at its Regular Business Meeting scheduled at 10:00 a.m., Friday, January 26, 2024, to be held at the St. Peter’s Anglican Church Hall, 4703 Canal Rd, North Pender Island.

**What is Draft Bylaw No. 234 about?**

**Draft Bylaw No. 234** will, if adopted, amend the North Pender Island Land Use Bylaw No. 224 (LUB) to permit multi-family dwellings at the **Plum Tree Court Senior Housing Society** property located at 5719 Canal Road, Pender Island. Currently, the LUB limits the use to only two-family dwellings at this property. There is no proposed change in overall density.

The Local Trust Committee is not holding a public hearing for this bylaw under the authority granted in Section 464(2) of the *Local Government Act* that states that a local government may decide not to hold a public hearing on a draft bylaw if an Official Community Plan is in effect for the area that is subject to a draft zoning bylaw, and the draft bylaw is consistent with the plan. Draft Bylaw No. 234 is consistent with the North Pender Island Official Community Plan No. 171.

**How Do I Get More Information?**

A copy of the draft bylaw may be viewed at the **Islands Trust Office, 200-1627 Fort Street, Victoria, BC**, or on the Islands Trust website <https://bit.ly/NPBylaw234> commencing Friday, January 12, 2024 and ending Thursday, January 25, 2024 during regular business hours (8:30 am – 4:30 pm).

**Enquiries or Written Comments** may be directed to **Brad Smith**, Island Planner by email [bsmith@islandstrust.bc.ca](mailto:bsmith@islandstrust.bc.ca), or phone at (778) 679-5185. For toll-free access, request a transfer to the above telephone number via Service BC: in Vancouver at 604-660-2421 and elsewhere in BC at 1-800-663-7867. Written submissions must be received at the Islands Trust Victoria Office via email to [vicphsub@islandstrust.bc.ca](mailto:vicphsub@islandstrust.bc.ca) or Mail or Drop Off: Islands Trust, 200-1627 Fort Street, Victoria, BC, V8R 1H8, no later than 4:30 p.m., Thursday, January 25, 2024.

Jas Chonk, Deputy Secretary



December 18, 2023

Jas Chonk  
Legislative Clerk  
Islands Trust  
200 – 1627 Fort Street  
Victoria, BC V8R 1H8

Sent via email to: [southinfo@islandstrust.bc.ca](mailto:southinfo@islandstrust.bc.ca)

Dear Jas Chonk:

**Re: Review – 5719 Canal Road, Pender Island Zoning Amendment**

Thank you for the opportunity to comment on the Zoning Amendment for 5719 Canal Road. The past few years have seen significant advances in linking urban planning with a variety of health outcomes. These include, encouragement of physical activity, healthier eating, greater safety, cleaner air and healthier living environments, access to health services, food security, age friendly communities, and improved social interaction.

Island Health appreciates the opportunity to provide evidence based recommendations and comments for this referral, as itemized below:

**Highlights**

- The proposed amendment will allow for much needed affordable housing units to the area. Access to safe, affordable housing for vulnerable populations, such as seniors, low-income groups, single parent families, and people with disabilities helps keep them safe from violence, reduces the risk of injury and communicable diseases. Healthy affordable housing also allows for more income to go towards affording basic sustaining health needs such as healthy food for nourishment and accessing health services, thereby improving general health and quality of life. Housing stability helps reduce stress and enables people to better care for themselves and their families. Quality housing is associated with an increased sense of safety, decreased crime, and improved social connections. These factors help people enjoy better health and improved quality of life.

**Regulatory Considerations**

**Drinking Water**

- Under the *Drinking Water Protection Act and Regulation*, any construction, installation, alteration, or extension of (a) a water supply system, or (b) works, facilities, or equipment that are intended to be a water supply system or part of a water supply system, must be issued a construction permit from our Public Health Engineer. Consultation with our Drinking Water Officer will also be needed (for more information: [Island Health - Drinking Water Legislation & Approval](#)).

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**Gateway Village Health Unit**

201 - 771 Vernon Avenue | Victoria, BC V8X 5A7  
Email: [Gateway\\_office@viha.ca](mailto:Gateway_office@viha.ca)

Tel: 250.519.3401 | Fax: 250.519.3402  
[www.islandhealth.ca](http://www.islandhealth.ca)

### **Sewerage Disposal**

- Sewage disposal for the proposed development must be in compliance with the *Sewerage System Regulation* or the *BC Municipal Wastewater Regulation*.

### **Recommendations under Island Health's Healthy Built Environment Initiative**

- Retain as much of the existing natural environment (i.e. mature trees) as possible. Tree/shrubbery screening also provides a barrier to noise, helps improve air pollution, and lessens the impacts of extreme weather events, including providing shade and cooling during heat waves, and providing stability during heavy rain events to lessen flooding.
- To help build resiliency against weather events consider permeable or reflective paving materials, drought resistant vegetation, light-coloured rooftops, passive building cooling design features and energy efficient mechanical systems to help lessen heat related health impacts.
- Increases in housing units can add capacity pressure to city utilities such as water and sewer systems. On-site water conservation such as low flow devices to lessen drought impacts as part of the new building construction can help lessen impacts of climate change.
- Consider the inclusion of an outdoor area play spaces, garden areas, public gathering spaces and rooftop patio/garden space will support positive health outcomes. The addition of greenery and garden spaces will provide exposure to nature. Research supports a strong relationship between exposure to nature and the reduction of stress, chronic disease, depression, anxiety, improved concentration and cognitive functioning. Gathering and play spaces provide spaces that encourages neighbourly interactions. Studies have shown that the more socially connected a person felt, the better they perceived their mental and physical health to be.
- The referral documents made mention of ecosystem protection and preservation. Do ensure such measures are in place to protect sensitive ecosystems. Healthy natural environments sustain the essential elements we need to live. Current evidence supports a relationship between biodiversity and improved water quality, soil health and pollination. Protection of biodiversity provides positive impacts on health outcomes.

If you have any questions or comments please do not hesitate to contact the undersigned for further clarification or to discuss further.

Sincerely,



Angela Wheeler, CPHI(C)  
Healthy Built Environment Consultant

AW/cmd

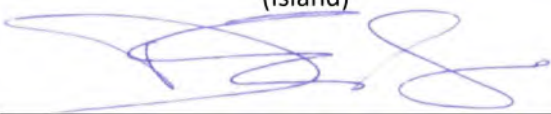
cc: Joanne Lum, Team Lead  
Xiao Qi Ren, Environmental Health Officer

**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

Refer to attached page

North Pender Island Local Trust Area  
 (Island)

  
 (Signature)

December, 07, 2023  
 (Date)

234  
 (Bylaw Number)

David van Everdingen, Regional Hydrogeologist  
 (Name and Title)

Water, Lands, Resource Stewardship - Water Protection  
 (Agency)



The change in the by-law from permitting two-family dwellings within the Community Housing 1 zone to multi-family dwellings will result in the requirement for more water. The following information is provided irrespective of the by-law change.

As this area does not appear to have a local water service provider, the applicants should be advised that a water licence for surface water or for non-domestic groundwater use is required under the *Water Sustainability Act*

(<https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/14015> ). Information about water application requirements and process can be found here:

<https://portal.nrs.gov.bc.ca/web/client/-/water-licence-application>. Increased development in the area and low aquifer yield may result in groundwater availability issues and impacts to other water supply wells in the area. If a water service is planned a licence for diversion of groundwater is required which also requires approval from Vancouver Island Health Authority under the [Drinking Water Protection Act](#) and the [Drinking Water Protection Regulation](#) which regulate protection of drinking water.

Bedrock aquifer 720 is classified as having an overall moderate vulnerability to contaminants introduced at the land surface because of the thin layer of unconsolidated material overlying the aquifer. Intrinsic vulnerability mapping (<https://catalogue.data.gov.bc.ca/dataset/drastic-aquifer-intrinsic-vulnerability>) indicates that aquifer vulnerability to contamination in the area of the subject parcel may be moderate.

The Groundwater Wells database (GWELLS) shows one well record, WTN 114702, on the subject property (LOT 1, SECTION 11, PENDER ISLAND, COWICHAN DISTRICT, PLAN 45713) may need to be licensed; it is currently unlicensed. It has a completion depth of approximately 116 m; no lithological details were available but it is assumed to be in the bedrock aquifer 720. Ground elevation is approximately 35 m which puts the bottom of the well below sea level. There may be a potential for sea water intrusion ([sea water intrusion advisory s gulf islands final.pdf \(gov.bc.ca\)](#)).

No additional concerns are noted with respect to the proposed bylaw.

**From:** Desiree Thomas <Desireet@snuneymuxw.ca>  
**Sent:** Friday, November 10, 2023 11:20 AM  
**To:** Jas Chonk  
**Cc:** Brad Smith; Hannah Paulson; Lands Clerk  
**Subject:** Re: North Pender Island Local Trust Committee Draft Bylaw No. 234  
Referral - For Response

Good morning,  
Thank you for the referral details and application information. Snuneymuxw First Nation defers comment on the above mentioned referral. Snuneymuxw's deferral is only applicable to initial notification and is non-transferrable. Snuneymuxw's deferral does not mean that there are no potential impacts to Snuneymuxw's Aboriginal and Treaty rights and title, or contributions to cumulative effects from this referral. Nor does Snuneymuxw's deferral define or derogate from Snuneymuxw's Aboriginal and Treaty rights and title. Snuneymuxw reserves the right to review this deferral if new information arises.

Please feel free to contact our Referrals clerk at [landsclerk@snuneymuxw.ca](mailto:landsclerk@snuneymuxw.ca) if you have any questions.  
Hay ce:ep q'a

**Desiree Thomas**

Lands Coordinator

668 Centre Street, Nanaimo BC, V9R 4Z4

EMAIL: [desireet@snuneymuxw.ca](mailto:desireet@snuneymuxw.ca)

PHONE: 250-824-1351

**Snuneymuxw First Nation**

668 Centre Street, Nanaimo BC, V9R 4Z4

TEL: 250-740-2300/1-888-636-8789

Fax: 250-753-3492

Web: <http://www.snuneymuxw.ca>

*My working day may not be your working day. Please do not feel obliged to reply to this email outside of your normal working hours #WorkLifeBalance*

Please note that this e-mail and/or the documents accompanying it may contain privileged and/or confidential information intended for a specific purpose and for the use of the individual or institutions to which it is addressed. Any distribution, use or copying of this e-mail, or the information it contains by other than the intended recipient is unauthorized. If you received this e-mail in error please advise the sender immediately by return e-mail or contacting us at (250) 740-2300 and delete this email and its attached documents, if any. Thank you.

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**From:** Jas Chonk <[jchonk@islandstrust.bc.ca](mailto:jchonk@islandstrust.bc.ca)>  
**Sent:** Friday, November 10, 2023 10:44 AM  
**To:** Desiree Thomas <[Desireet@snuneymuxw.ca](mailto:Desireet@snuneymuxw.ca)>  
**Cc:** Brad Smith <[bsmith@islandstrust.bc.ca](mailto:bsmith@islandstrust.bc.ca)>  
**Subject:** North Pender Island Local Trust Committee Draft Bylaw No. 234 Referral - For Response

Hello Snuneymuxw First Nation Referral Coordinators:

The North Pender Island Local Trust Committee has asked that its draft Bylaw No. 234 be referred to you for comment. The referral package prepared by Island Planner Brad Smith is attached.

**Purpose:** The purpose of draft Bylaw No. 234 is to make amendments to the North Pender Island Land Use Bylaw No. 224 (LUB) to permit multi-family dwellings within the Community Housing 1 (CH1) zone.

Currently, the LUB limits the permitted use within the CH1 zone to only two-family dwellings. The property owner and non-profit housing provider, the Pender Islands Housing Society (PIHS), is seeking to broaden their options for construction of affordable housing units. No changes to density are being considered, only the number of permitted dwelling units allowed in each building.

Additional background, including the preliminary staff report and draft Bylaw No. 234 are located at: <https://islandstrust.bc.ca/island-planning/north-pender/current-applications/>

A reply is respectfully requested by **Monday, January 8, 2024.**

Should you have any questions, or require further information, please contact Island Planner Brad Smith at 250-405-5194 or [bsmith@islandstrust.bc.ca](mailto:bsmith@islandstrust.bc.ca) and he would be happy to answer any questions you may have.

Please direct referral responses to [southinfo@islandstrust.bc.ca](mailto:southinfo@islandstrust.bc.ca) or by mail to: Islands Trust, Victoria Head Office – 200-1627 Fort Street, Victoria BC V8R 1H8.

Thank you for your time and attention to this matter.

Sincerely,

**Jas Chonk**  
Legislative Clerk  
Islands Trust  
200-1627 Fort Street | Victoria BC V8R 1H8

T 250-405-5164 | [islandstrust.bc.ca](http://islandstrust.bc.ca)

You can also reach us toll-free via Service BC 1-800-663-7867 | 604-660-2421



### Preserving and protecting over 450 islands and surrounding waters in the Salish Sea

*I respectfully acknowledge that the Islands Trust Area is located within the treaty lands and territories of the BOKÉĆEN, Cowichan Tribes, K'ómoks, Lyackson, MÁLEXEL, Qualicum, scəwəθən, səliwətaʔ, SEMYOME, shishálh, Skwxwú7mesh, Snaw-naw-as, Snuneymuxw, Songhees, Spune'luxutth', SÁÁUTW, Stz'uminus, ʔaʔəmen, Ts'uubaa-asatx, Wei Wai Kum, We Wai Kai, WJOŁELP, WSIKEM, Xeláltxw, Xwémalhkwx, Xwsepsum, and xʷməθkʷəy̓əm First Nations. Islands Trust is committed to reconciliation and to working together to preserve and protect this ecologically, culturally, and spiritually significant region in the Salish Sea.*

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



**From:** no-reply-ts-fn@knowledgekeeper.ca  
**Sent:** Friday, November 10, 2023 12:27 PM  
**To:** Jas Chonk  
**Subject:** Decision regarding consultation: NP-BL-234 - North Pender LTC Bylaw No. 234  
**Attachments:** consultation-response-15716-np-bl-234-20231110-1227.pdf

To whom it may concern,

Please see the attached PDF concerning: North Pender LTC Bylaw No. 234



# Ts'uubaa-asatx Nation

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**Project Name:**

North Pender LTC Bylaw No. 234

**FN Consultation ID:**

NP-BL-234

**Consulting Org Contact:**

Jas Chonk

**Consulting Organization:**

[Islands Trust](#)

**Date Received:**

Friday, November 10, 2023

Ts'uubaa-asatx Nation  
313B Deer Lake Road  
Lake Cowichan, British Columbia  
V0R 2G0  
Phone: 250-749-3301  
Fax: 250-749-4286

November 10, 2023

Islands Trust  
Attn: Jas Chonk

'Au Si'em:

Ts'uubaa-asatx Nation is in receipt of the referral for: North Pender LTC Bylaw No. 234

This referral is located within the Ts'uubaa-asatx Nation statement of intent area; it is the interest of the Ts'uubaa-asatx Nation to respectfully maintain our rights and access to the lands and resources throughout our territory.

Ts'uubaa-asatx Nation does not have any comments to provide at this time regarding this amendment proceeding. Please note that this "no comment" response is specifically intended for this amendment and is without prejudice to all future consultation with our Nation regarding not only the renewal of this application but any other application or decision within the Ts'uubaa-asatx Nation traditional territory.

Furthermore, we may choose in the future to address the issues of Aboriginal rights and/or title infringement and compensation through the treaty process, the courts or other dispute resolution processes. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.

Should you require any further information, please do not hesitate to contact our office.

'Uy' Skweyul,

Monty Horton

Hul'q'umi'num language terms:

'Au Si'em: a term denoting high respect.

'Uy' Skweyul: good day.

---

**From:** TFN Referrals <referrals@tsawwassenfirstnation.com>  
**Sent:** Thursday, November 23, 2023 3:45 PM  
**To:** Jas Chonk  
**Cc:** Robin Buss  
**Subject:** Re: North Pender Island Local Trust Committee Draft Bylaw No. 234 Referral - For Response  
**Attachments:** NP-BL-234\_FN-Referral-PKG.pdf

Hi Jas,

Thank you for the email.

Tsawwassen First Nation (TFN) has no concerns regarding this file, at this time. However, TFN requests all copies of interim and final environmental and archaeological reports produced for this project.

hay čx<sup>w</sup> qə  
Thank you

**Amelia Cooper**, B.A., Cert.  
**Referrals Analyst**  
**Treaty Rights and Title Department**  
**Tsawwassen First Nation**  
1926 Tsawwassen Drive, Tsawwassen, BC V4M 4G4  
C 604-619-6930



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**From:** Jas Chonk <[jchonk@islandstrust.bc.ca](mailto:jchonk@islandstrust.bc.ca)>  
**Sent:** Friday, November 10, 2023 10:50 AM  
**To:** TFN Referrals <[referrals@tsawwassenfirstnation.com](mailto:referrals@tsawwassenfirstnation.com)>  
**Cc:** Brad Smith <[bsmith@islandstrust.bc.ca](mailto:bsmith@islandstrust.bc.ca)>  
**Subject:** North Pender Island Local Trust Committee Draft Bylaw No. 234 Referral - For Response

Hello Tsawwassen First Nation Referral Coordinator:

The North Pender Island Local Trust Committee has asked that its draft Bylaw No. 234 be referred to you for comment. The referral package prepared by Island Planner Brad Smith is attached.

**Purpose:** The purpose of draft Bylaw No. 234 is to make amendments to the North Pender Island Land Use Bylaw No. 224 (LUB) to permit multi-family dwellings within the Community Housing 1 (CH1) zone.

Currently, the LUB limits the permitted use within the CH1 zone to only two-family dwellings. The property owner and non-profit housing provider, the Pender Islands Housing Society (PIHS), is seeking to broaden their options for construction of affordable housing units. No changes to density are being considered, only the number of permitted dwelling units allowed in each building.

Additional background, including the preliminary staff report and draft Bylaw No. 234 are located at: <https://islandstrust.bc.ca/island-planning/north-pender/current-applications/>

A reply is respectfully requested by **Monday, January 8, 2024.**

Should you have any questions, or require further information, please contact Island Planner Brad Smith at 250-405-5194 or [bsmith@islandstrust.bc.ca](mailto:bsmith@islandstrust.bc.ca) and he would be happy to answer any questions you may have.

Please direct referral responses to [southinfo@islandstrust.bc.ca](mailto:southinfo@islandstrust.bc.ca) or by mail to: Islands Trust, Victoria Head Office – 200-1627 Fort Street, Victoria BC V8R 1H8.

Thank you for your time and attention to this matter.

Sincerely,

**Jas Chonk**

Legislative Clerk

Islands Trust

200-1627 Fort Street | Victoria BC V8R 1H8

T 250-405-5164 | [islandstrust.bc.ca](https://islandstrust.bc.ca)

You can also reach us toll-free via Service BC 1-800-663-7867 | 604-660-2421



### Preserving and protecting over 450 islands and surrounding waters in the Salish Sea

*I respectfully acknowledge that the Islands Trust Area is located within the treaty lands and territories of the BOKEĆEN, Cowichan Tribes, K'ómoks, Lyackson, MÁLEXEL, Qualicum, scəwəθən, səliwətaʔ, SEMYOME, shishálh, Skwxwú7mesh, Snaw-naw-as, Snuneymuxw, Songhees, Spune'luxutth', SÁÁUTW, Stz'uminus, ʔaʔəmen, Ts'uubaa-asatx, Wei Wai Kum, We Wai Kai, WJOLELP, WSIKEM, Xeláltxw, Xwémalhkwx, Xwsepsum, and xʷməθkʷəy̓əm First Nations. Islands Trust is committed to reconciliation and to working together to preserve and protect this ecologically, culturally, and spiritually significant region in the Salish Sea.*



**Malahat Nation**

110 Thunder Road | Mill Bay, BC | V0R 2P4

Tel: (250) 743-3231 | Fax: (250) 743-3251

info@malahatnation.com | www.malahatnation.com

Jan 8<sup>th</sup> 2024

Islands Trust, Victoria Head Office  
200-1627 Fort Street, Victoria BC

**Malahat Referral No: R23162**

*Via email: southinfo@islandstrust.bc.ca*

**RE: Malahat Nation Response to North Pender Island Local Trust Committee Draft Bylaw No. 234**  
**Referral**

Dear Jas Chonk,

Thank you for your consultation request for raft Bylaw No. 234 dated November 10<sup>th</sup> 2023, located in Malahat Nation's traditional territory.

Malahat Nation notes that the proposed activity falls on the edge of core Malahat traditional territory, and as such we acknowledge and respect the local First Nation(s)' opportunity to act as primary correspondents in this case. However, in the event they do not, or are unable to respond we reserve our right to consultation and engagement, and continue to require disclosure on an ongoing basis regarding this bylaw.

Thank you for your time and consideration.

Sincerely,

Kate Richey  
Referrals Coordinator  
Malahat Nation



# Lyackson First Nation

8017 Chemainus Road  
Chemainus BC V0R 1K5  
Telephone: (250) 246-5019

November 17, 2023

Brad Smith, Island Planner  
Islands Trust  
Via Email: [bsmith@islandstrust.bc.ca](mailto:bsmith@islandstrust.bc.ca)

**File #: NP-BL-234**  
**Proponent: North Pender Island Local Trust**  
**Location: North Pender Island**

Thank you for your email.

Lyackson First Nation recognizes this referral as being in the Hul'qumi'num Treaty Group's Marine Statement of Intent area. As one of the five constituent members of the Quw'utsun Nation, Lyackson First Nation has had harvesting, hunting and culturally significant sites, trade, Nation to Nation relations and governance authority within this area since time immemorial. As you may be aware, we have never ceded title to the lands and waters of our territory.

In August of 2022, we expressed a number of concerns with proposed bylaw NP-BL-223, specifically pertaining to *how* it would meaningfully address housing needs of local Indigenous peoples. In September 2022, we received a response from Clare Frater that broad stroke covered a number of bylaws that Lyackson had brought forward as problematic, and stated "At the moment, we are caught in transition as we work toward understanding what we need to do to foster more meaningful engagement with First Nations when considering, designing and implementing new projects."

To date, we have received no updates or additional information as to how Islands Trust will be incorporating our feedback into its processes, nor have our concerns regarding housing needs for local Indigenous peoples been meaningfully addressed. We would like to understand how NP-BL-234 is aligned with Islands Trust Reconciliation Declaration, specifically Articles 29 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), as embedded in your Reconciliation Action Plan. Since we last wrote, as I am sure you are well aware, the housing situation has become even more dire, with disproportionate impacts to Indigenous peoples. Once again, we ask how this bylaw takes into consideration Lyackson First Nation's previous feedback on similar referrals?

Lastly, we must remind you that we are regularly inundated with requests from Islands Trust. Simply embedding a link for additional information means that we have to sift through dozens of documents which is not only administratively cumbersome, but puts the onus onto our already over-subscribed staff to try to ensure we have all the pertinent documents.

We look forward to hearing your response to our concerns.

*Huy ch q'u,*

Cristina Hoffmann

Referrals Coordinator  
Lyackson First Nation

**From:** Brad Smith  
**Sent:** Wednesday, January 17, 2024 2:22 PM  
**To:** 'referrals@Lyackson.bc.ca'  
**Subject:** Referral response follow-up - Referral File #: NP-BP-234  
**Attachments:** 2023-11-17\_Lyackson-Nation-response.pdf

Hi Cristina,

Thank you for your attached letter in response to referral file NP-DP-234. The bylaw referral was initiated by a rezoning application process via the property owner who is a non-profit seniors housing provider. The proposed bylaw change is a minor amendment that only considers a change in permitted numbers of units/per building with no impact on overall density or use.

Staff are aware of your concerns with respect to our bylaw referral process and the Islands Trust Council is prioritizing a review of engagement processes with First Nations in cooperation with provincial staff. Trust Council is also prioritizing the development of affordable and safe housing options for within the Trust in coordination with other agencies. I have forwarded your comments to regional planning staff that are working on those Trust-wide housing initiatives.

Best regards, Brad

**Brad Smith, PAg**

Island Planner, Southern Team

200-1627 Fort Street | Victoria BC V8R 1H8

(778) 679-5185 | bsmith@islandstrust.bc.ca | [www.islandstrust.bc.ca](http://www.islandstrust.bc.ca)

You can also reach us toll-free via Service BC 1-800-663-7867 | 604-660-2421



# MEMORANDUM

File No.: NP-SUB-2023.2  
(JI Properties c/o Reed Pope)

DATE OF MEETING: January 26, 2024  
TO: North Pender Island Local Trust Committee  
FROM: Robert Kojima, Regional Planning Manager  
Southern Team  
COPY: Brad Smith, Island Planner  
SUBJECT: James Island Subdivision

## PURPOSE

To provide the LTC with an update on the new subdivision application submitted for James Island.

## BACKGROUND

In 2019 the owner of James Island (JI Properties) revived a 2008 subdivision application for the island, proposing 78 residential lots and 3 commercial lots. While the proposed subdivision was consistent with zoning, the LTC of the day had concerns that First Nations, specifically Tsawout, had not been adequately consulted, nor the Nation's interests accommodated. In April 2021, the LTC adopted a resolution advising the Provincial Approving Officer (PAO) that the LTC considered that approval of the subdivision would not be in the public interest as objections continued to be expressed by the Tsawout First Nation.

Ultimately, in May 2022 the PAO refused the application, citing a number of decision reasons, including but not limited to, outstanding impacts on the Tsawout's Aboriginal Interests.

In October 2023, a new subdivision application for James Island was referred to Islands Trust from MoTI. The proposed lot layout is identical that in the previous proposal. Staff have confirmed with MoTI staff that this proposal will be considered as a new application. JI Properties' agent provided Islands Trust with a completed application and fee in late November. At the request of Islands Trust staff the applicant has also provided the attached memo summarizing how the new application would differ from the original proposal and how the applicant proposes to address the PAO's decision rationale for refusing the previous application.

At this point, as with any subdivision referral, staff will review the preliminary proposal for consistency with zoning and covenant requirements, and respond to MoTI with conditions precedent. MoTI staff will conduct their review and, if potentially approvable, provide the applicant with a preliminary layout review letter (PLR) which would set-out all the conditions of a future approval.

Currently, there is no specific decision required from the LTC, staff will provide regular updates to the LTC, and the LTC would have the opportunity to provide advice to the PAO following First Nations consultation.

However, if the LTC wishes, it could adopt a resolution requesting that the PAO consider that the new subdivision would not be in public interest until the duty to consult with First Nations has been fully satisfied and if necessary Nations' interests accommodated. Such a resolution would be communicated to the PAO along with the staff referral response.

Z:\09 Current Planning\09 NP\3435 SUB\20 Referrals (P)\2023\NP-SUB-2023.2 (Reed Pope - JI Properties)\Staff reports and memos\NP-LTC\_2024-01-26\_James Island SUB\_memo.docx

## NEXT STEPS

Staff finalize review of the new layout proposal and provide conditions to MoTI. At such time that a PLR letter is issued, staff will update the LTC.

|               |                                          |                  |
|---------------|------------------------------------------|------------------|
| Submitted By: | Robert Kojima, Regional Planning Manager | January 16, 2024 |
|---------------|------------------------------------------|------------------|

## ATTACHMENTS

1. Memo of January 12<sup>th</sup> – Greg Atkins, Reed Pope

**To:** Islands Trust  
c/o Robert Kojima & Brad Smith

**Date:** January 12, 2024

**Re:** Summary of Amendments to New Subdivision Application

We are solicitors and authorized agents for J.I. Properties, Inc. (the “**Applicant**”), the registered owner of the five titled parcels comprising James Island (the “**Island**”). On May 26, 2023, the Applicant submitted to the Ministry of Transportation and Infrastructure (“**MOTI**”) a Preliminary Subdivision Application to subdivide the Island into 79 bare land strata lots (the “**New Application**”). On October 10, 2023, MOTI referred the New Application to Islands Trust for comments. On November 23, 2023, at the request of Islands Trust, we submitted to Islands Trust a Land Use Application in respect of the New Application along with the required fee of \$9,680.00.

### **Background**

Zoning and land use on James Island are governed by the Islands Trust’s North Pender Associated Islands Land Use Bylaw No. 148, 2003 (the “**Land Use Bylaw**”), and the Land Use Bylaw supports the lot configuration and land use proposed by the New Application. The New Application is the second subdivision application that the Applicant has advanced for James Island under the Land Use Bylaw. The initial subdivision application (Islands Trust file NP-SUB-2008) (the “**Initial Application**”) was developed and progressed over the course of several years through conversations with Ryan Evanoff in his role as Provincial Approving Officer (the “**PAO**”) and Islands Trust staff, and much of the information that was provided to the PAO and Islands Trust staff as part of the Initial Application remains relevant for the purposes of this New Application.

On May 25, 2022, the PAO delivered his decision to refuse to approve the Initial Application. The Applicant has reviewed the PAO’s decision rationale closely and is advancing this New Application with a specific view to addressing the concerns raised by the PAO with the Initial Application. This memo details the most pertinent differences between the Initial Application and the New Application.

### **Consultation with Tsawout First Nation**

As part of the Initial Application, the Province engaged in consultation with Tsawout First Nation (“**Tsawout**”) regarding the proposed subdivision. Unrelated to the Initial Application, Tsawout

previously filed and is currently pursuing a civil claim against the governments of British Columbia and Canada for a declaration of Aboriginal title to the Island. It should be noted that, despite Tsawout's ongoing claim, the Applicant holds indefeasible fee simple title to the Island, and pursuant to established law, the Applicant, as the fee simple titleholder, has the exclusive right to occupy, possess and enjoy the Island.

As one would expect in light of their civil claim, Tsawout strenuously opposed the Initial Application on the basis that development of the Island would be prejudicial to their claim and would impact their Aboriginal interests on and around the Island. Unfortunately, the PAO and his legal counsel declined to take a leadership role in the course of the consultation process with Tsawout on the Initial Application, instead leaving it to the Applicant to lead engagement with Tsawout with no meaningful guidance or defined objectives from the Province. The Province did not outline steps for gathering information from Tsawout, did not develop any proposals for potential measures to accommodate their Aboriginal interests and did not seek to reach agreement with Tsawout with respect to any accommodation measures proposed by the Applicant. Despite this, the Applicant made considerable efforts to engage directly with Tsawout regarding these accommodation measures, but Tsawout maintained the position that the only acceptable form of accommodation was granting ownership of the entire Island to them.

With respect to the New Application, the Applicant is committed to supporting and participating in a formal Crown-lead consultation process with Tsawout. That said, the duty to consult with First Nations rests with the Crown, and although the Crown may delegate procedural aspects of the consultation process to the Applicant, the Province is ultimately responsible for ensuring that the Crown's duty to consult is satisfied.

To that end, the Applicant is committed to providing Tsawout with a reasonable offer of capacity funding to assist Tsawout's meaningful participation in the consultation process, which may include opportunities to pursue the studies, investigations and reports that Tsawout may request. Where appropriate, the Applicant will support the Province and Tsawout in developing and further refining measures to accommodate and promote Tsawout's Aboriginal interests on and around the Island.

The Applicant is willing to consider new accommodation measures, and maintains its offer of the multitude of accommodation measures that were proposed by the Applicant under the Initial Application, including, but not limited to:

- i. a substantial participating interest in the development;
- ii. formalized perpetual access rights to the Island;
- iii. co-management of certain portions of the Island;

- iv. a dedicated parcel of land on the Island for Tsawout's agricultural and cultural purposes;
- v. a Marine Protection Zone;
- vi. a set of Marine Traffic Communication Protocols;
- vii. an Indigenous marine and environmental monitoring program;
- viii. a clam garden restoration program; and
- ix. a communication protocol with respect to Tsawout's privacy interests.

The Applicant is also prepared to provide Tsawout with a reasonable offer of capacity funding to enable Tsawout to hire one or more full-time staff members who are dedicated to dealing exclusively with matters concerning James Island. Additional staff resources should allow Tsawout to engage with the Province and Applicant meaningfully in respect of the New Application, both in terms of pre-subdivision Crown consultation and post-subdivision development operations.

### **Water Supply**

In this New Application, the Applicant is proposing to substantially alter its approach with respect to supplying potable water to the development. In the Initial Application, the Applicant proposed to satisfy the requirement for a suitable water supply via a s. 219 covenant restricting construction on each new strata lot until a well was drilled and proven on that lot, which meant that the Applicant was not required to drill or test any new wells until after approval of the subdivision. The PAO initially confirmed the acceptability of that approach and even approved the draft s. 219 covenant that the Applicant had prepared in support. The Applicant only learned of the PAO's concerns with that approach once the PAO issued his decision on the Initial Application.

With the New Application, the Applicant still intends to supply each strata lot via groundwater wells. However, the approach to using individual wells to service each strata lot will differ from the Initial Application in several key ways:

- i. *Drill, test, analyze and certify wells for each strata lot prior to subdivision approval*

The Applicant will take the significant step of drilling, testing, analyzing and receiving certification of a well on each strata lot prior to subdivision approval. This approach was recommended by Islands Trust's Senior Freshwater Specialist, William Shulba, in a memo dated August 1, 2019 provided to the PAO as part of the Initial Application. The Applicant notes that the Land Use Bylaw contains no water supply requirements, but by taking the

approach proposed here, the Applicant will hold itself to the more stringent standards of the North Pender Island Land Use Bylaw No. 103, 1996 (which bylaw is different from the Land Use Bylaw and does not apply to James Island), as recommended by Mr. Shulba.

ii. *Implement formal requirements regarding well water monitoring*

In support of the Initial Application, the Applicant obtained a groundwater feasibility report from Western Water Associates Ltd. (“**WWAL**”) which demonstrated the suitability and sustainability of proceeding with individual wells for each strata lot, and which included recommendations for well maintenance and monitoring to minimize the risk of drawdown and saltwater intrusion. With the New Application, the Applicant will commission a water management plan, including risk management strategies, best practices for operation of wells and monitoring requirements for groundwater use, water levels and saltwater intrusion. The Applicant will formalize the recommendations of this water management plan as binding requirements by registering a s. 219 covenant on each strata lot in favour of the Province and Islands Trust.

iii. *Make the strata corporation responsible for well monitoring and maintenance requirements*

In his decision rationale on the Initial Application, the PAO stated that a lack of year-round residents on the Island could be problematic for water monitoring. With the New Application, the Applicant will make the strata corporation responsible for the maintenance and monitoring of the wells, thereby ensuring a continuous year-round presence on the Island and an enduring responsibility for that work.

iv. *Potential to Share Wells*

The Applicant will work with professional hydrogeologists within the bounds of the applicable legislation and regulations to determine the feasibility of consolidating the number of wells on the Island so that, where possible, a single well may serve multiple strata lots. This consolidation would reduce the total amount of required monitoring and maintenance of the wells.

### **Sewage Disposal**

In support of the Initial Application, the Applicant obtained approval from Island Health for the strata lots to dispose of sewage by way of individual septic systems pursuant to the *Sewerage System Regulation*. Island Health extensively studied the Island, undertaking hundreds of permeameter tests across the proposed strata lots, and their septic system experts concluded that each strata lot was ideal for supporting an on-site sewage disposal system and they had no objections to the subdivision

proposal. The PAO confirmed to the Applicant in writing that this septic system approach satisfied the wastewater disposal requirements of the PAO's Preliminary Layout Review. Notwithstanding the approval from Island Health and the PAO's own written confirmation of acceptability, and despite offering no independent evidence of his own, in his decision on the Initial Application the PAO cited a specific concern with the use of individual septic systems for each strata lot due to the potential risk of environmental contamination.

In order to address this concern, the Applicant will commission a formal report from a qualified professional in support of the New Application demonstrating that on-site sewage disposal systems on the Island do not pose any material environmental risk.

### **Access & Potential Impacts**

In his decision on the Initial Application, the PAO cited concerns about the potential for a proliferation of unapproved docks and wharves around the Island should the development proceed. He was also concerned about the potential for the two existing marinas on the Island to be expanded. Neither of these concerns had been raised by the PAO to the Applicant prior to the decision on the Initial Application, nor was the Applicant asked to provide additional information in response to these issues.

The Applicant notes that the physical makeup of the Island and the surrounding marine environment do not allow for additional docks or wharves to be constructed around the Island. The strict regulatory process for installation and operation of docks, wharves and marinas combined with the Island's high waterfront banks, hazardous waters and multi-layered environmental and archaeological protections simply do not allow for construction of those facilities.

During the course of the Initial Application, the PAO repeatedly refused invitations from our client to visit the Island, and as a result did not properly understand these limitations. With the New Application, the assigned Provincial Approving Officer has already visited the Island in order to better understand this unique property and its suitability for the proposed development. If the Provincial Approving Officer believes it to be necessary on the New Application, the Applicant will register a s. 219 covenant on title to each strata lot restricting construction of any new dock or wharf appurtenant to that lot unless all applicable Federal, Provincial and local regulations and bylaws are adhered to.

Finally, if the New Application is approved, the Applicant will decommission the existing private air strip on the Island.

### **Archaeology**

In his decision on the Initial Application, the PAO stated that without careful planning and restriction of the development of the Island, there was potential to damage previously unrecorded

archaeological sites. The Applicant shares this concern and commissioned an Archaeological Impact Assessment Report (the “**AIA Report**”) in support of the Initial Application identifying and defining archaeological sites on the Island that could conflict with development activities. The AIA Report was commissioned in consultation with Tsawout, and Tsawout members participated in the field work necessary to complete the report. This AIA Report remains applicable to the New Application, and the Applicant is prepared to consider supplementary investigations that the Province or Tsawout may request to bolster the findings of the AIA Report.

Further, in addition to the legislative protections offered by the *Heritage Conservation Act* in respect of archaeological discoveries during construction on private lands, the Applicant will create a further layer of protection by implementing the Province’s own Archaeological Chance Find Procedure as a s. 219 covenant registered on title to the entire Island, such that it will bind each strata lot and the common property. The Applicant will also incorporate this Chance Find Procedure into the Design Guidelines (as discussed in the *Guiding Environmental Requirements* section below).

Further, the Applicant proposes to provide Tsawout with a reasonable offer of capacity funding to enable them to have on-Island monitors present during the construction phase of the development to ensure compliance with archaeological requirements and monitor for chance finds.

### **Guiding Environmental Requirements**

In his decision on the Initial Application, the PAO stated that, although he had never requested or required such information from the Applicant, he had not been presented with any form of guiding environmental requirements or restrictions for the development. The PAO also indicated that additional planning features such as lot servicing plans and building schemes could help to protect known or potential archaeological deposits.

In recognition of the environmental sensitivity of the Island and out of desire to maintain the Island in its natural state to the greatest extent possible, the Applicant has prepared a substantial set of design guidelines (the “**Design Guidelines**”) that contain very strong environmental protections for the design and development of improvements on each strata lot. With the New Application, the Applicant will register those Design Guidelines on title to each strata lot and further bind each purchaser of a strata lot to those Design Guidelines through purchase contracts.

The Applicant will also provide a preliminary layout for each strata lot which will include the proposed siting of buildings, wells and septic systems, and which will account for regulatory setbacks, archaeological and environmental restrictions and geotechnical restrictions. These lot layouts will demonstrate that each strata lot will contain a suitable building site while meeting the applicable regulatory requirements.



The Applicant also notes that these Design Guidelines and the strata lot layouts can be refined and modified based on information that may be gathered during the Crown's consultation process with Tsawout.

### **Strata Plan Layout**

We confirm that the layout of the Strata Plan under the New Application is functionally identical to the Strata Plan advanced under the Initial Application. In the context of the Initial Application, Phil Testemale confirmed on behalf of the Islands Trust that the strata plan conformed with the requirements of the Land Use Bylaw.

### **Summary**

Although the layout of the strata plan under the New Application is the same as put forward under the Initial Application, the Applicant has taken particular care to identify the concerns raised by the PAO in his decision not to approve the Initial Application, and has carefully refined the submission of the New Application to specifically address those concerns.

Further, the Applicant stands ready and willing to support the Crown's efforts to fulfill its duty to engage and consult with Tsawout First Nation in respect of the New Application.

The Applicant expects a procedurally fair, clear and transparent process from the Crown and Islands Trust in considering the New Application, including issuing decisions within reasonable time frames.

Should you require any additional information in respect of the New Application, please do let us know. We look forward to working with you as we advance this New Application.

Yours truly,

**REED POPE LAW CORPORATION**

Per:



Greg Atkins\*

gatkings@reedpope.ca

*\*Practicing as Greg Atkins Law Corporation*

DATE OF MEETING: January 26, 2024

TO: North Pender Island Local Trust Committee

FROM: Brad Smith, Island Planner  
Southern Team

COPY: Robert Kojima, Regional Planning Manager

SUBJECT: Development Permit NP-DP-2023.3  
Applicant: Becky Shave  
Location: 4815 Schooner Way

## RECOMMENDATION

1. **That the North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2023.3 (Shave), as amended.**

## REPORT SUMMARY

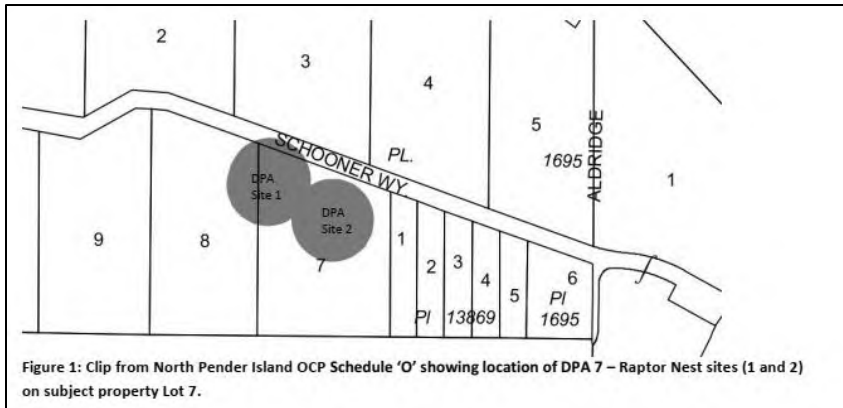
The purpose of this report is for the North Pender Local Trust Committee (LTC) to further consider a Development Permit (DP) application to require restoration of forest habitat impacted by unauthorized tree removal within Development Permit Area 7 – Raptor Nests (DPA 7), on the above noted property.

The recommendation is supported as:

- In the absence of a DP issued prior to development, a DP requiring restoration will impose conditions for site restoration and future protection;
- The conditions within the draft DP are based on a well-considered and comprehensive assessment report completed by a professional biologist and are supported by staff;
- The inclusion of a security deposit with a 100% additional contingency added on will provide further assurance that restoration activities will be completed consistent with the conditions of the DP; and,
- The draft DP also includes specific conditions for Douglas-Fir nesting tree protection and future development within the DPA.

## BACKGROUND

In the fall of 2022, the subject property was purchased by the current owners (Figure 1). Portions of the land were subsequently logged. The tree removal included areas of forest habitat impacted by unauthorized logging within Development Permit Area 7 – Raptor Nests (DPA 7).



The LTC first considered this DP application at the July 28, 2023 meeting. At that meeting, the LTC deferred making a decision on the application and passed the following resolution:

**NP-2023-081**

**It was Moved and Seconded,**

that North Pender Local Trust Committee defer NP-DP-2023.3 (Shave) and direct staff to obtain an estimate for a security deposit.

**CARRIED**

Based on this resolution, a cost estimate for restoration was provided to the LTC at the subsequent September 29, 2023 meeting. At that meeting, the LTC determined they were not satisfied with the quote provided and passed the following resolution:

**NP-2023-089**

**It was Moved and Seconded,**

that North Pender Island Local Trust Committee directs staff to obtain a more detailed cost estimate from the applicant, including three locally based quotes, on the deposit for remediation work for application NP-DP-2023.3 (Shave).

**CARRIED**

Staff have unsuccessfully sought to get a more detailed quote from the applicant since that time, and are now seeking direction from the LTC to proceed with the permit and include a security requirement based on the original quote but with a large contingency.

**ANALYSIS**

***Cost Estimate for Restoration***

The following cost estimate was provided In September 2023 for undertaking restoration consistent with the conditions of the DP. The estimate was completed by the professional biologist that also authored the ecological assessment report.

| 4815 Schooner Way Pender Island - Restoration - Rough Estimate (based on prescription in Keith Erickson Report) |           |                |
|-----------------------------------------------------------------------------------------------------------------|-----------|----------------|
| Native Plants/Trees                                                                                             | 95 @ \$17 | \$1,615        |
| Fencing materials                                                                                               | 55 @ \$12 | \$660          |
| Labour                                                                                                          | 24 @ \$42 | \$1008         |
| Machine Time + move                                                                                             | 6 @ \$165 | \$990          |
| QEP monitoring/report                                                                                           | 8 @ \$95  | \$760          |
| <b>Total Rough Estimate</b>                                                                                     |           | <b>\$5,033</b> |

The consultant emphasized this is a rough estimate only and has not been costed out specific to labour on North Pender Island.

### ***Efforts to Obtain a More Detailed Quote***

Based on the resolution passed at the September 29, 2023 LTC meeting, staff attempted to contact the applicant on four separate occasions via email (October 4, October 25, November 8 and December 15, 2023) and no response was received to any of these emails. Staff also left a phone message with the applicant on November 8, 2023 and no response was received.

In the absence of more detailed quotes, staff are of the view that the cost estimate may be reasonable as a rough estimate for establishing a security deposit, an additional 100% contingency has been included above the quoted estimate in the draft permit for cost overruns.

### ***Amended Development Permit***

The attached draft DP (Attachment 1) has been amended to include the following condition with respect to a security deposit. Other than this addition, there are no other changes to the draft permit that was presented to the LTC on July 28, 2023 and September 29, 2023.

#### ***Security Deposit***

- W. Pursuant to Section 502 of the *Local Government Act*, the Local Trust Committee requires security to ensure that any conditions respecting nesting tree protection, ecological restoration and monitoring elements are satisfied:
- a. Where the Local Trust Committee considers that a condition in the permit respecting restoration has not been satisfied the Local Trust Committee may undertake and complete the works required to satisfy the condition, at the cost of the permit holder, and may apply the security in payment of the cost of the works with any excess to be returned to the permit holder.
  - b. Any interest earned on the security provided under Condition W shall accrue to the permit holder and be paid to them immediately on return of the security or, on default, become part of the amount of the security.
  - c. The security provided by the permit holder shall be in the form of:
    - i. An irrevocable letter of credit with a clause for automatic renewal, or cash equivalent.
    - ii. Payable to the Islands Trust,
    - iii. In the amount of 200% of the quoted landscaping cost of \$5033.00 based upon the cost estimate provided by Keith Erikson, RP Bio, dated September 12, 2023 and included as Schedule E.
  - d. The applicant shall submit to the North Pender Island Local Trust Committee, within two years of the date of permit issuance, a letter from a qualified professional stating that the nesting tree protection and ecological restoration conditions have been completed substantially in accordance with Schedules A, B, C, D, and E and will, upon standard upkeep, become established.
  - e. Where the development authorized by this permit has been completed, the security shall be returned to the permit holder provided the conditions have been met.

**Consultation**

There is no public or agency consultation regularly associated with a Development Permit application. In addition, there is no statutory notification required.

**Rationale for Recommendation**

The recommendation on page one (1) is supported as:

- In the absence of a DP issued prior to development, a DP requiring restoration will impose conditions for site restoration and future protection;
- The conditions within the draft DP are based on a well-considered and comprehensive assessment report completed by a professional biologist and are supported by staff;
- The inclusion of a security deposit with a 100% additional contingency added on will provide further assurance that restoration activities will be completed consistent with the conditions of the DP; and,
- The draft DP also includes specific conditions for Douglas-Fir nesting tree protection and future development within the DPA.

**ALTERNATIVES**

The LTC may consider the following alternatives to the staff recommendation:

**1. Request further information**

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

*That the North Pender Island Local Trust Committee request that the applicant submit to the Islands Trust \_\_\_\_\_.*

**2. Amend the draft permit**

The LTC may amend the draft permit. If selecting this alternative, the LTC should describe the specific changes requested and the rationale for them. Recommended wording for the resolution is as follows:

*That the North Pender Island Local Trust Committee amends the draft development permit for application NP-DP-2023.1 by \_\_\_\_\_.*

**3. Deny the application**

The LTC may deny the application. If this alternative is selected, the LTC MUST state the reasons for denial.

Recommended wording for the resolution is as follows:

*That the North Pender Island Local Trust Committee deny application NP-DP-2023.3 (Shave) for non-compliance with the following guideline(s) \_\_\_\_\_.*

|               |                            |                  |
|---------------|----------------------------|------------------|
| Submitted By: | Brad Smith, Island Planner | January 10, 2024 |
|---------------|----------------------------|------------------|

|              |                                          |                  |
|--------------|------------------------------------------|------------------|
| Concurrence: | Robert Kojima, Regional Planning Manager | January 12, 2024 |
|--------------|------------------------------------------|------------------|

## ATTACHMENTS

1. Draft Amended Development Permit



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE  
DEVELOPMENT PERMIT  
NP-DP-2023.3**

To: Linda Shave

1. This Development Permit (the "Permit") applies to the land described below and all buildings, structures and other developments therein:

Lot 7, Section 7, Pender Island, Cowichan District, Plan 1695  
PID: 007-094-591

2. This Development Permit NP-DP-2023.3 authorizes retroactive habitat restoration and shrub/tree planting within Development Permit Area 7 – Raptor Nests (DPA 7) to address unauthorized tree removal. It also sets out conditions for protection of the designated Douglas-Fir nesting tree and future development within the DPA.

***General***

- A. All land alteration, habitat restoration and shrub/tree planting shall be substantively consistent with Schedules 'A', 'B' 'C' 'D' and E attached to and forming part of this permit.

***Nesting Tree Protection***

- B. A 'critical rooting zone' (CRZ) is established around the protected Douglas-Fir where no disturbance to the natural vegetation or soil shall occur, except within the footprint of the pre-existing cabin site and driveway. For the purposes of this permit the CRZ is determined using a 1 to 12 ratio or 12cm of buffer radius for every 1cm of diameter at breast height (dbh). The dbh of the subject Douglas-fir is 140cm, which results in a 16.8 m protected radius around the tree. The CRZ boundaries may be adjusted in accordance with a certified arborist report.
- C. There shall be no cutting, removal, or otherwise damage to remaining trees within the DPA (50m radius around subject Douglas-fir) except in accordance with North Pender Island OCP Section 5.2.8.4.i that exempts "the removal of dangerous trees posing an immediate threat to life or property", or Section 5.2.8.4.j exempting "the removal of invasive, non-indigenous trees or vegetation".
- D. No additional construction, development of infrastructure, or land alteration is permitted within 30 m of the base of the protected Douglas-fir.
- E. A qualified environmental professional (QEP) shall be consulted if future development or construction is planned outside of the 30m buffer but within the 50m DPA setback area. The QEP must determine if a raptor nest has been established and if so, whether it is occupied or active. If necessary, a subsequent DPA application shall then be made with specific recommendations pertaining to such future development.
- F. There shall be no widening or expansion of the pre-existing driveway surface (as surveyed in Schedule B) within the DPA.

- G. Where the driveway passes through the CRZ, there shall be no excavating below the top dressing to minimize further impacts to the rooting zone. This measure may be adjusted in accordance with a certified arborist report.
- H. BC Hydro lines, water lines, and other utilities travelling through the DPA shall be buried under or immediately alongside the footprint of the existing driveway (as shown on Map2), except for the portion of driveway located within the CRZ (as per condition (i) below).
- I. If establishing a power line connection from the pre-existing cabin to a future development site outside of the DPA, the installer shall minimize impact to the CRZ by locating trenching and/or pole excavation outside of the CRZ and/or as far away from the subject Douglas-fir tree as possible. This measure may be adjusted in accordance with a certified arborist report.
- J. All excavating, landscaping, forestry or construction contractors and personnel who will be working on the property shall be notified of the location of the subject Douglas-fir, the boundaries of the CRZ and the boundaries of the DPA along with the conditions of the Permit.

#### ***Ecological Restoration - General***

- K. Remediation of areas where soils have been compacted and/or stripped shall rely on use of the 'rough and loose' methodology. A description and methodology for making sites 'rough and loose', can be found at the following link:  
[https://www.cclmportal.ca/sites/default/files/2020-02/Making\\_Site\\_Rough\\_and\\_Loose.pdf](https://www.cclmportal.ca/sites/default/files/2020-02/Making_Site_Rough_and_Loose.pdf)
- L. Existing seedlings or young trees shall be managed to provide the best opportunity for survival (i.e. removal of competing vegetation and non-native species as needed, protection from deer browsing).
- M. The planting methodology described in Schedule C shall be utilized to maximize planting survivability.
- N. All planted trees and shrubs, except for Douglas-fir and sword fern, shall be fenced to protect them from deer browse while they establish a healthy root system. Individual plants can be protected using 1.3 m tall stucco wire or chicken wire made into a circle with an 0.45 - to 0.60 m diameter, placed over top of the seedling, and secured to the ground by tying (using rebar wire or zap straps) to a " to 0.75 m length of rebar that is pounded into the ground.
- O. All replanting shall be maintained by the property owner including necessary irrigation for a period of 3 (three) years from the date of completion of the planting, or until they have reached a suitable 'free to grow' stage of 1.5 metres, to ensure survival. Unhealthy, dying or dead stock shall be replaced at the owner's expense in the next regular planting season.
  - a. Contractors shall inspect their equipment and vehicles to ensure they do not transport invasive plant species seeds onto or off the property. All equipment shall be washed prior to arrival. Manual removal of weeds from equipment shall be performed regularly.
  - b. A spill control kit shall remain on site for the entire period when machines are being used.

#### ***Ecological Restoration – "Restoration Area" Site Prescriptions***

- P. Site specific restoration prescription boundaries shall be defined by *Restoration Areas 1, 2a, 2b, 3a, 3b, and 3c, Driveway Rehabilitation Area, Gravel Storage/Landing Area, and Restoration Area 4* as shown on Map 2 -Schedule A.
- Q. The site specific restoration prescriptions included as Schedule D for Restoration Areas 1, 2a, 2b, 3a, 3b, and 3c, Driveway Rehabilitation Area, Gravel Storage/Landing Area, and Restoration Area 4 shall be implemented substantively in accordance with the specific conditions described for each Restoration Area within Schedule D.



- R. The number and type of plantings shall be consistent with the summary planting list included in Schedule D.

#### ***Timing***

- S. Machine work including rough and loose treatments and dispersal of debris and topsoil shall be completed in late summer to early fall (September – October).
- T. Planting and fencing shall be completed in late fall to early spring (November –March).

#### ***Monitoring***

- U. Monitoring and guidance is to be conducted by a registered professional biologist (R.P. Bio.) to ensure that all restoration conditions herein have been met to the satisfaction of the R.P. Bio.
- V. The monitoring QEP(s) shall prepare and submit to the Islands Trust written confirmation of compliance with all conditions with this permit as issued within three months (3) of the development work being completed.

#### ***Security Deposit***

- W. Pursuant to Section 502 of the *Local Government Act*, the Local Trust Committee requires security to ensure that any conditions respecting nesting tree protection, ecological restoration and monitoring elements are satisfied:
  - a. Where the Local Trust Committee considers that a condition in the permit respecting restoration has not been satisfied the Local Trust Committee may undertake and complete the works required to satisfy the condition, at the cost of the permit holder, and may apply the security in payment of the cost of the works with any excess to be returned to the permit holder.
  - b. Any interest earned on the security provided under Condition W shall accrue to the permit holder and be paid to them immediately on return of the security or, on default, become part of the amount of the security.
  - c. The security provided by the permit holder shall be in the form of:
    - i. An irrevocable letter of credit with a clause for automatic renewal, or cash equivalent.
    - ii. Payable to the Islands Trust,
    - iii. In the amount of 200% of the quoted landscaping cost of \$5033.00 based upon the cost estimate provided by Keith Erikson, RP Bio, dated September 12, 2023 and included as Schedule E.
  - d. The applicant shall submit to the North Pender Island Local Trust Committee, within two years of the date of permit issuance, a letter from a qualified professional stating that the nesting tree protection and ecological restoration conditions have been completed substantially in accordance with Schedules A, B, C, D, and E and will, upon standard upkeep, become established.
  - e. Where the development authorized by this permit has been completed, the security shall be returned to the permit holder provided the conditions have been met.
- 3. The area described herein shall be developed in accordance with the terms, conditions and provisions of this Permit, and any plans and specifications attached to this Permit, which shall form a part thereof.

4. Any further development within the designated Development Permit Areas will require a new Development Permit, or a Development Permit Amendment.
5. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of North Pender Island Land Use Bylaw No. 224, 2003 and to obtain other approvals necessary for the lawful completion of the proposed development.

**AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS DAY OF , 2023.**

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Deputy Secretary, Islands Trust

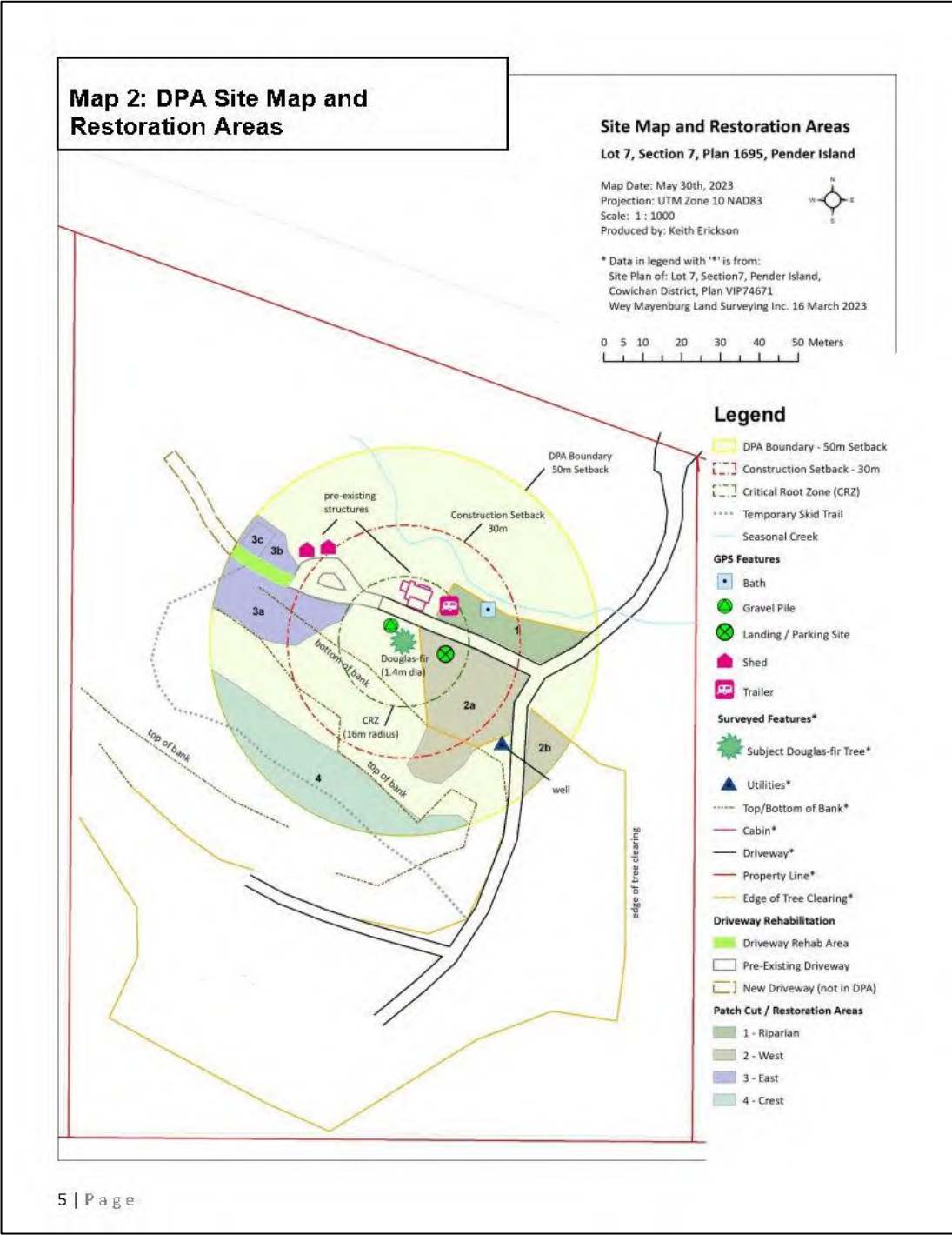
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Date of Issuance

**IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE \_\_\_\_ DAY OF \_\_\_\_\_, 2026, THIS PERMIT AUTOMATICALLY LAPSES.**

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

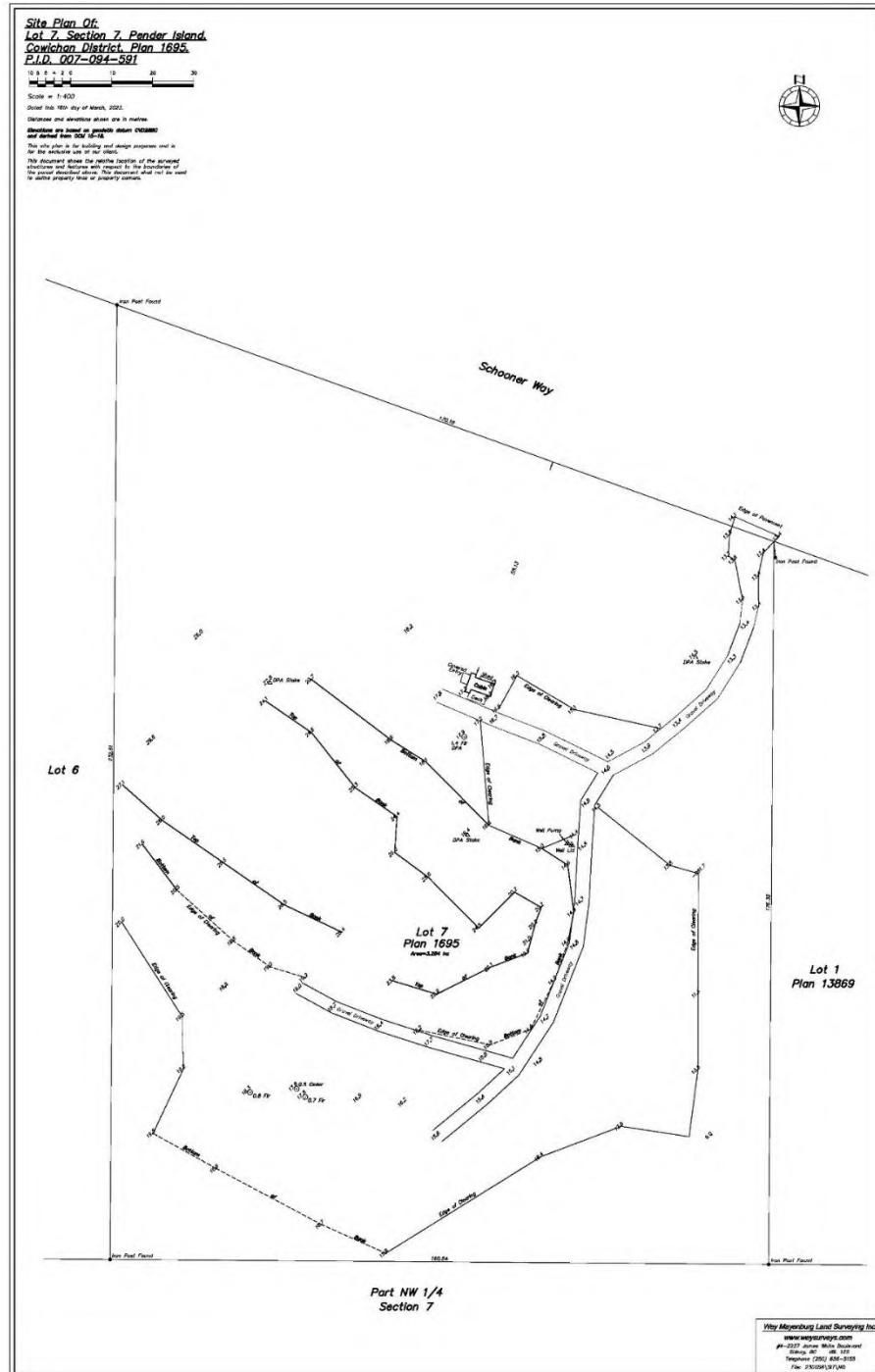
DEVELOPMENT PERMIT 2023.3  
Schedule "A" - Site Map and Restoration Areas



# NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

## DEVELOPMENT PERMIT 2023.1

### Schedule "B" – Site Plan



## NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

### DEVELOPMENT PERMIT 2023.1 Schedule "C" – Planting Methodology

5. Planting: The following excerpt provides guidance on planting (from *Technical Note #6 Planting Trees on Upland Forested Sites* Milo Mihajlovich and Pat Wearmouth, 2012, *The Boreal Research Institute* <https://www.nait.ca/applied-research/technical-resources>)

"The best microsite provides moisture, nutrients, light, and warmth to the seedling. This means planting a seedling mid-slope at the micro level, where roots will not dry out or be flooded. Rocks, lumps of soil, or logs and stumps absorb heat from the sun during the daytime and radiate that heat at night. A seedling planted next to these obstacles stays warmer during the night, so has more energy for establishment and growth. Obstacles also reduce the wind at ground level, and catch snow during the winter, further protecting the planted seedling.

At the chosen microsite, the seedling needs to be planted correctly. First, the planting hole needs to be deep enough that the seedling is planted to the top of the root plug. If any portion of the root plug is exposed to the sun and wind the roots will dry out quickly, killing the seedling. If the hole is too shallow, the planter may have to force the root plug into the hole, damaging the roots, or causing the roots to bend upwards – a condition known as a "J-root". This impairs the future growth of the seedling. Planting deep is better than shallow.

After backfilling around the root plug with soil the seedling should be upright and firmly placed, with no air pockets around the roots. Often bark, moss and leaf litter are used for backfilling. These materials are not suitable as they are highly aerated so result in the root plug drying out. J-roots, air pockets and poor backfilling can be judged by digging up a sample of seedlings to check the root position, and then replanting the seedling. Firmness can be checked by pulling gently on the top of the seedling. Seedlings that have not been backfilled properly or with unsuitable materials will easily lift out of the ground."

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**

**DEVELOPMENT PERMIT 2023.1**

**Schedule "D" – Restoration Area Prescriptions and Planting List**

## Prescription

### *Restoration area 1(~300m<sup>2</sup>)*

1. Relocate travel trailer to a site outside of the 50m DPA setback. Apply 'rough and loose' treatment to area of compacted and leveled soil in and directly around the footprint of the trailer.
2. Rehabilitate concrete bath area to reduce impacts from use and clearing directly adjacent to the seasonal creek. The concrete bath is located only a meter or so from the edge of the creek channel and its depth is not known. Removal of the bath from the site would require excavation very close to the channel resulting in a potential breach and potential sediment contributions through erosion. It is recommended instead that the bath be filled and covered to the natural grade with topsoil (use soil from pile immediately adjacent to bath). While depth of soil over the concrete will not be sufficient to support rooting and growth of large trees/shrubs, it occupies a very small area and will readily support growth of a variety of ferns and smaller shrubs.
3. Remove slash pile from site. Do not burn slash pile in place – the extreme heat will sterilize the soil underneath the pile and impede revegetation of the site. Large diameter slash (branch or log diameter greater than 7.5cm) can be spread across the patch cut sites in a more natural pattern and not in thick accumulations or piles.
4. Remove soil piles from site. Topsoil can be used to rehabilitate compacted landing and road areas or should be stored outside the DPA. When moving, minimize excavation and compaction to native soils under the piles. Ensure site is left rough and hummocky rather than flat and graded.
5. Augment natural regeneration by planting and fencing.
  - a. 6 x sword fern in trailer site after rough and loose.
  - b. 4 x sword fern on bath site after burial and grading with topsoil.
  - c. Plant 12 trees (6 x western redcedar, 2 x Douglas-fir, 2 x bigleaf maple, 2 x red alder (*Alnus rubra*), scattered throughout the polygon 1 area with a rough guide of 5m spacing
  - d. 20 x shrubs scattered within a 5m buffer of the creek channel and over its entire length. Shrub species should include salmonberry and Scouler's willow (*Salix scouleriana*) and may also include thimbleberry (*Rubus parviflora*), mock orange (*Philadelphus Lewisii*), red-osier dogwood (*Cornus stolonifera*), nootka rose (*Rosa nootkensis*), or other suitable native species for moist, rich soil conditions.

### *Restoration Area 2a (~700m<sup>2</sup>)*

1. Apply 'rough and loose' treatment to the soils in the compacted landing/parking site in polygon 2a (see Map 2).
2. Coarse woody debris (diameter >7.5cm) can be added to polygon 2a, sources from slash piles in other restoration polygons.
3. Plant and fence 28 trees (6 x western redcedar, 16 x Douglas-fir, 4 x bigleaf maple, 2 x grand fir), scattered throughout the polygon with a rough guide of 5m spacing.

### *Restoration Area 2b (135m<sup>2</sup>)*

1. This small polygon, located on the opposite side of the driveway to the subject Douglas-fir, and on the margin of the 50m setback, has includes a large pile of slash that can be used as a source of large woody debris for restoration of Polygon 2a. It is otherwise recommended that the slash accumulation be removed from the site (burned / chipped etc.) to reduce fire risk.

### *Restoration Area 3a and 3b (~500m<sup>2</sup>)*

1. Remove slash pile from site. Do not burn slash pile in place – the extreme heat will sterilize the soil underneath the pile and impede revegetation of the site. Large diameter slash (branch or log diameter greater than 7.5cm) can be spread across the patch cut sites in a more natural pattern and not in thick accumulations or piles to provide essential coarse woody debris related ecological services (habitat, moisture retention, long-term nutrients).
2. Remove soil piles from site. Topsoil can be used to rehabilitate compacted landing and road areas or should be stored outside the DPA. When moving, minimize excavation and compaction to native soils under the piles. Ensure site is left rough and hummocky rather than flat and graded.
3. Plant and fence 20 trees (4 x western redcedar, 12 x Douglas-fir, 2 x bigleaf maple, 2 x grand fir), scattered throughout the polygons with a rough guide of 5m spacing.

### *Restoration Area 3c (~40m<sup>2</sup>)*

1. Relocate timber and or other stored material outside of the DPA.
2. Apply rough and loose treatment to the compacted soil area.
3. Scatter coarse woody debris (diameter >7.5cm), sourced from slash piles within the DPA, across the site.
4. Plant and fence 2 trees (any - Western redcedar / Douglas-fir / bigleaf maple / grand fir) in the rough and loose area.



#### *Driveway Rehabilitation Area (~60m<sup>2</sup>)*

1. Strip crush rock off driveway surface and relocate outside of DPA.
2. Add topsoil to driveway surface using piles located throughout the DPA (roughly to grade if enough material available).
3. Apply rough and loose treatment to the roadbed area.
4. Scatter coarse woody debris (diameter >7.5cm), sourced from slash piles within the DPA, across the site.
5. Plant and fence 3 trees (any - Western redcedar / Douglas-fir / bigleaf maple / grand fir) in the rough and loose area.

#### *Gravel Storage / Landing Area (~25m<sup>2</sup>)*

1. Remove gravel from this site immediately. Be careful not to damage underlying native soils through excavation or compaction while moving gravel.
2. Scarify or gently loosen top 4 inches of compacted duff/soil directly under gravel with tines of excavator bucket. Deeper excavation will increase the risk of damage to the root systems of surrounding trees, including the subject Douglas-fir.
3. Scatter coarse woody debris (diameter >7.5cm), sourced from slash piles within the DPA, across the site.
4. Fence or otherwise block access to this area where it meets the edge of the driveway to prevent compaction of the soils.

#### *Restoration Area 4 (~840m<sup>2</sup>)*

1. This polygon is located on the periphery of the DPA outside of the 30m buffer area, on the crest of the hill and is buffered from the subject Douglas-fir by a stand of maturing trees where only single tree selection logging was completed. Impacts from the patch cut in this polygon on the subject Douglas-fir tree are minimal. A single skid trail was used to access this site by tracked machine and resulting compaction is limited. Allowing for natural forest regeneration and vegetation growth in this area is considered adequate.

#### *Timing*

- Machine work including rough and loose treatments and dispersal of debris and topsoil should be completed in late summer to early fall (September – October).
- Planting and fencing should be completed in late fall to early spring (November – March).

### *Summary Planting List*

|                                               |           |
|-----------------------------------------------|-----------|
| Western redcedar                              | 16        |
| Douglas-fir                                   | 30        |
| bigleaf maple                                 | 8         |
| grand fir                                     | 4         |
| red alder                                     | 2         |
| Any (cedar/fir/doug-fir/maple)                | 5         |
| Scouler's willow / Salmonberry / other shrubs | 20        |
| Sword fern                                    | 10        |
| <b>TOTAL PLANTINGS</b>                        | <b>95</b> |

4815 Schooner Way Pender Island - Restoration - Rough Estimate (based on prescription in Keith Erickson Report)

|                             |           |                |
|-----------------------------|-----------|----------------|
| Native Plants/Trees         | 95 @ \$17 | \$1,615        |
| Fencing materials           | 55 @ \$12 | \$660          |
| Labour                      | 24 @ \$42 | \$1008         |
| Machine Time + move         | 6 @ \$165 | \$990          |
| QEP monitoring/report       | 8 @ \$95  | \$760          |
| <b>Total Rough Estimate</b> |           | <b>\$5,033</b> |

DATE OF MEETING: January 26, 2024  
TO: North Pender Island Local Trust Committee  
FROM: Bruce Belcher, Planner 1  
Southern Team  
COPY: Robert Kojima, Regional Planning Manager  
SUBJECT: Development Permit NP-DP-2023.4  
Applicant: Kevin Balmer  
Location: 3811 Cutlass Court

## RECOMMENDATION

1. That the North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2023.4 (Balmer)

## REPORT SUMMARY

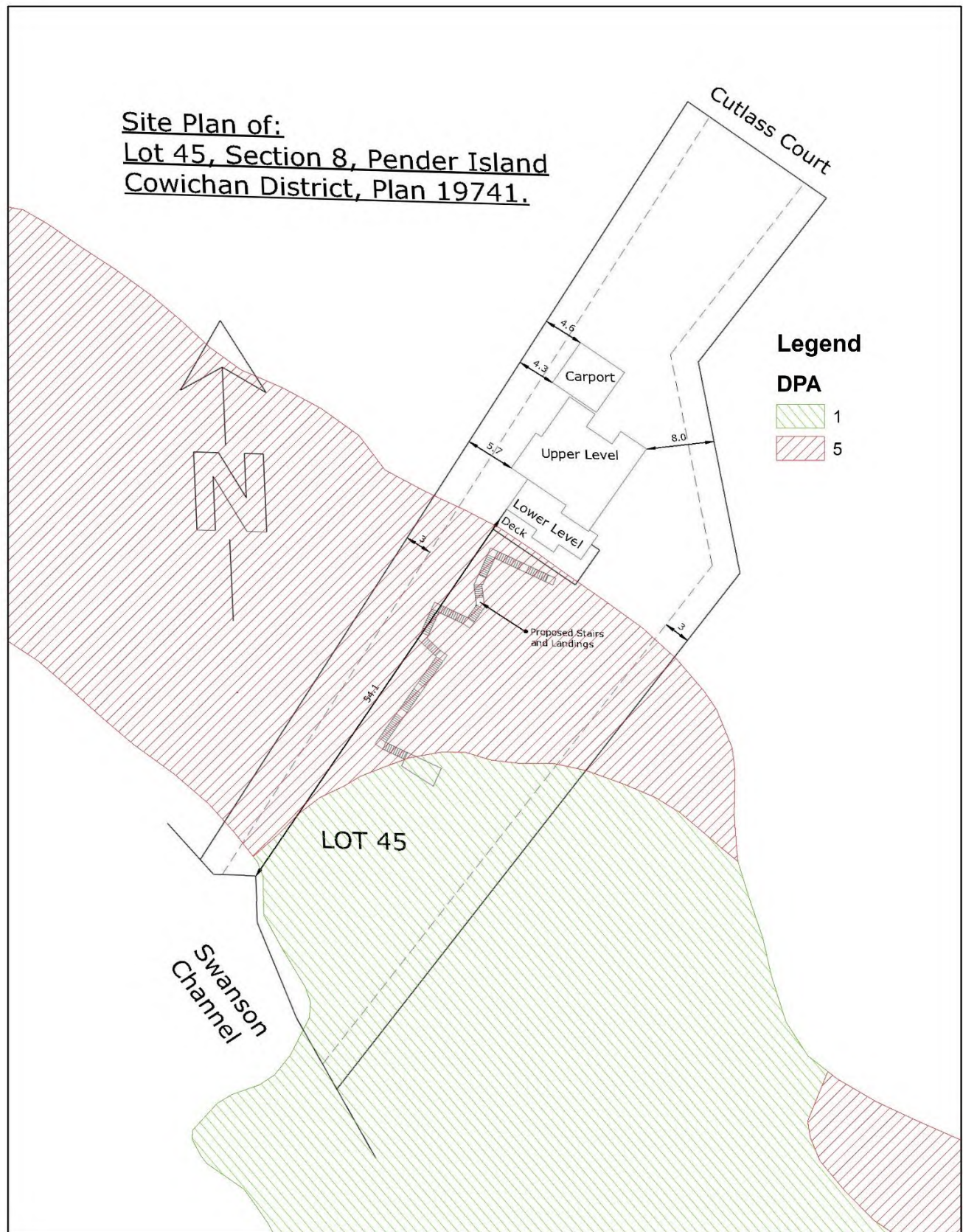
This report is to consider a Development Permit (DP) application.

The purpose of the **DP application** is for the new construction of a staircase and boardwalk within **Development Permit Area (DPA) Five – Cliff Ecosystems** and **Development Permit Area One – Woodland Ecosystems**.

## BACKGROUND

The DP application was submitted to the Islands Trust in order to evaluate the proposed building area for the new construction of a staircase and boardwalk within the Development Permit Areas in advance of a Building Permit application.

Approximately 60% of the property is designated within the North Pender Island Official Community Plan No. 171 (OCP) as DPA Five – Cliff Ecosystems, and DPA One - Woodland Ecosystems. The entirety of the proposed construction takes place in DPA One and DPA Five with majority of the work in the Cliff Ecosystems DPA (Figure 1). In accordance with the North Pender Island OCP any construction of permanent structures within the either of the two DPAs requires a DP or DP exemption.



**Figure 1: Site Plan and Development Permit Areas**

## ANALYSIS

### Policy/Regulatory

#### ***Islands Trust Policy Statement:***

The relevant policies to the proposed development:

**3.4.4** Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.

**3.4.5** Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.

**5.2.3** Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.

The policies have been implemented through zoning regulations and designation of the DPA.

#### ***Official Community Plan:***

The property is designated as Rural Residential in the North Pender Island Official Community Plan No. 171, 2007.

There are two development permit areas on the property, Woodland Sensitive Ecosystem and Cliff Sensitive Ecosystem.

#### **Development Permit Area One – Woodland Ecosystems**

The OCP includes areas designated as DPA 1 – Woodland Ecosystem. The stated objective of DPA 1 is: *To preserve and protect remaining sensitive woodland ecosystems.*

#### **Development Permit Area Five – Cliff Ecosystems**

The OCP includes areas designated as DPA 5 – Cliff Ecosystem. The stated objective of DPA 5 is: *To preserve and protect remaining sensitive cliff ecosystems.*

The staircase, boardwalk, and associated land alteration are not exempt from the requirement to obtain a DP and therefore require this Development Permit to be issued prior to the construction.

#### ***Land Use Bylaw:***

The property is zoned as **Rural Residential 1 (RR1)** in the North Pender Island Land Use Bylaw No. 224, 2022.

The plans for the proposed construction of a staircase and boardwalk comply with all of the lot setbacks and the natural boundary setback. Prior to construction of the staircase and boardwalk a preliminary plan review will be completed to verify that the plans meet all of the zone and LUB requirements.

## 2023 Environmental Review

As required, an environmental assessment of the property was completed by Swell Environmental Consulting (Lehna Malmkvist, MSc, RPBio; Conan Webb, BSc) and submitted to the Islands Trust as part of the DP application (Attachment 3).

In summary, the assessment report:

- Reviewed the existing development permit areas and confirmed the sensitive cliff and woodland ecosystems on the property.
- Reviewed the existing site conditions including the vegetation communities present, a site inventory of plants, potential sharp tailed snake habitat, and presence of invasive species that could be removed to enhance the habitat.
- Established construction methods required to reduce the risk of soil erosion, vegetation trampling, and overall habitat destruction.
- Established environmental protection measures to protect and enhance the remaining sensitive ecosystems on property.
- Recommended the QEP biologist review the final route prior to construction, monitor the project throughout construction.

The assessment is based on observations made during a site visit to the property conducted June 5<sup>th</sup>, 2023. Due to the late spring site visit the QEP biologist did note that the assessment is limited in its ability to assess the early season vegetation. Given the small footprint of the proposed work and proposed construction methods, the impact to the ecosystem is expected to be minimal and will help control trampling within the ecosystem. There is no proposed landscaping within the construction plans and the QEP biologist has not identified any necessary restoration measures following construction.

Islands Trust staff visited the site on December 5<sup>th</sup>, 2023. Photos were taken of the existing site conditions (Attachment 2). The QEP biologist was consulted regarding the route's foundation locations and confirmed that the final route was acceptable.

## Consultation

There is no public or agency consultation regularly associated with a Development Permit application. In addition, there is no statutory notification required.

## Rationale for Recommendation

The recommendation on page one (1) is supported as:

- The application is based on a professional biologist's assessment which meets all of the relevant objectives and guidelines for the DPA and therefore is supported by staff;
- All recommendations of that assessment have been incorporated in the proposed DP.

**ALTERNATIVES**

The LTC may consider the following alternatives to the staff recommendation:

**1. Request further information**

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

*That the North Pender Island Local Trust Committee request that the applicant submit to the Islands Trust*  
\_\_\_\_\_.

**2. Deny the application**

The LTC may deny the application. If this alternative is selected, the LTC MUST state the reasons for denial, including the guideline(s) the proposed development is not consistent with. Recommended wording for the resolution is as follows:

*That the North Pender Island Local Trust Committee deny application NP-DP-2023.4 for the follows reasons*  
\_\_\_\_\_.

|               |                                          |                 |
|---------------|------------------------------------------|-----------------|
| Submitted By: | Bruce Belcher, Planner 1                 | January 4, 2024 |
| Concurrence:  | Robert Kojima, Regional Planning Manager | January 5, 2024 |

**ATTACHMENTS**

- 1. Site Context
- 2. Maps, Plans, Photographs
- 3. Environmental Assessment Report
- 4. DPA Guideline Checklist
- 5. Draft Development Permit



## ATTACHMENT 1 – SITE CONTEXT

### LOCATION

|                   |                                                                 |
|-------------------|-----------------------------------------------------------------|
| Legal Description | LOT 45, SECTION 8, PENDER ISLAND, COWICHAN DISTRICT, PLAN 19741 |
| PID               | 003-618-471                                                     |
| Civic Address     | 3811 Cutlass Court, North Pender Island BC                      |
| Lot Size          | 3,318.43m <sup>2</sup>   0.33ha                                 |

### LAND USE

|                      |                              |
|----------------------|------------------------------|
| Current Land Use     | Rural Residential 1          |
| Surrounding Land Use | Rural Residential 1, Water 1 |

### HISTORICAL ACTIVITY

| File No.     | Purpose                                                                                             |
|--------------|-----------------------------------------------------------------------------------------------------|
| NP-DP-2017.2 | Building Permit for construction of a deck and repair the foundation of the Single Family Dwelling. |

### POLICY/REGULATORY

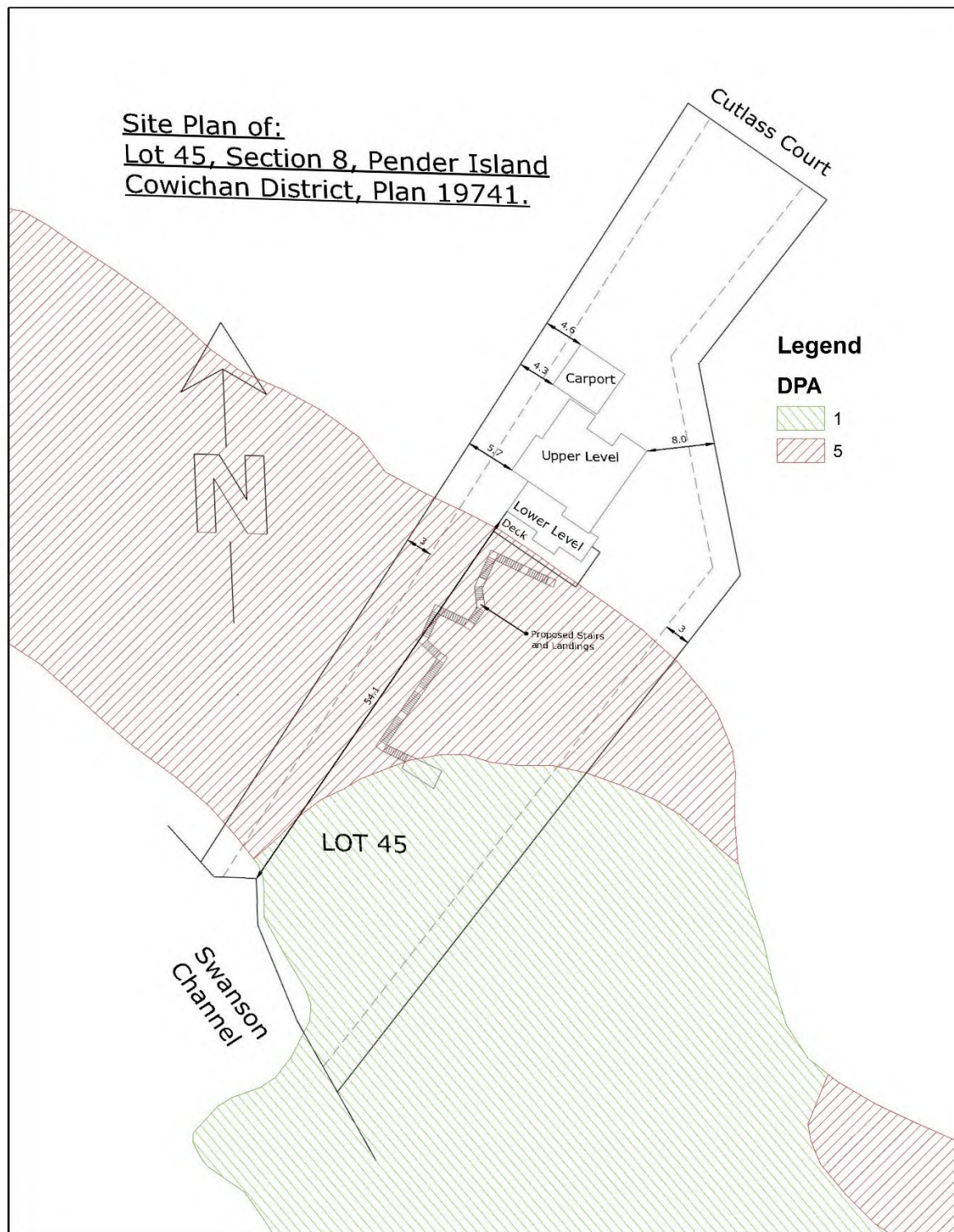
|                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Official Community Plan Designations | <p>North Pender Island OCP No. 171, 2007 Designations: <b>Rural Residential; Development Permit Areas:</b></p>  <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> DPA 9 - Commercial &amp; Industrial</li> <li><input checked="" type="checkbox"/> DPA 5 - Cliff</li> <li><input checked="" type="checkbox"/> DPA 2 - Herbaceous</li> <li><input checked="" type="checkbox"/> DPA 6 - Intertidal</li> <li><input checked="" type="checkbox"/> DPA 7 - Raptor and Heron Nests</li> <li><input checked="" type="checkbox"/> DPA 3 - Riparian</li> <li><input checked="" type="checkbox"/> DPA 10 - Riparian and Aquatic (PAPR)</li> <li><input checked="" type="checkbox"/> DPA 4 - Wetland</li> <li><input checked="" type="checkbox"/> DPA 1 - Woodland</li> </ul> <p><i>Development Permit Areas Mapping</i></p> |
| Land Use Bylaw                       | North Pender Island LUB No. 224, 2022: <b>Rural Residential 1 (RR1)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Covenants                            | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Bylaw Enforcement                    | NP-BE-2015.7 – Short Term Vacation Rental (previous owner)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

### SITE INFLUENCES

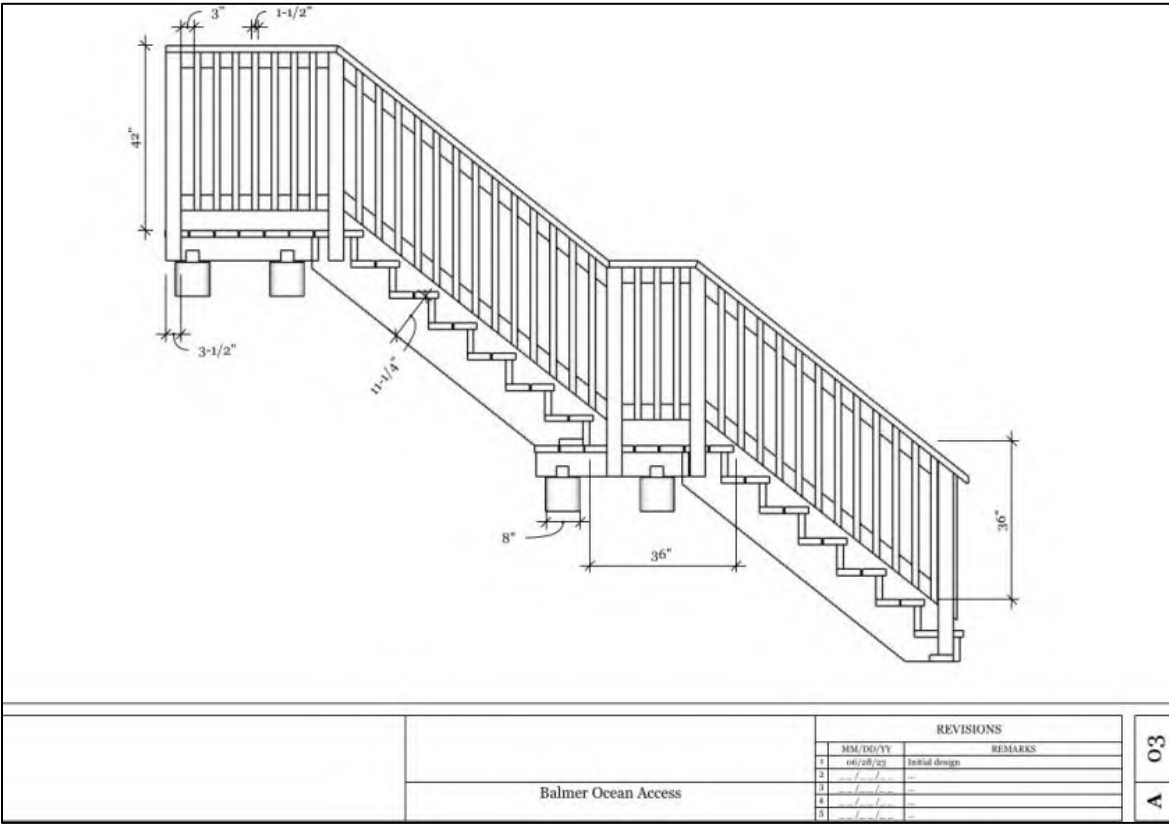
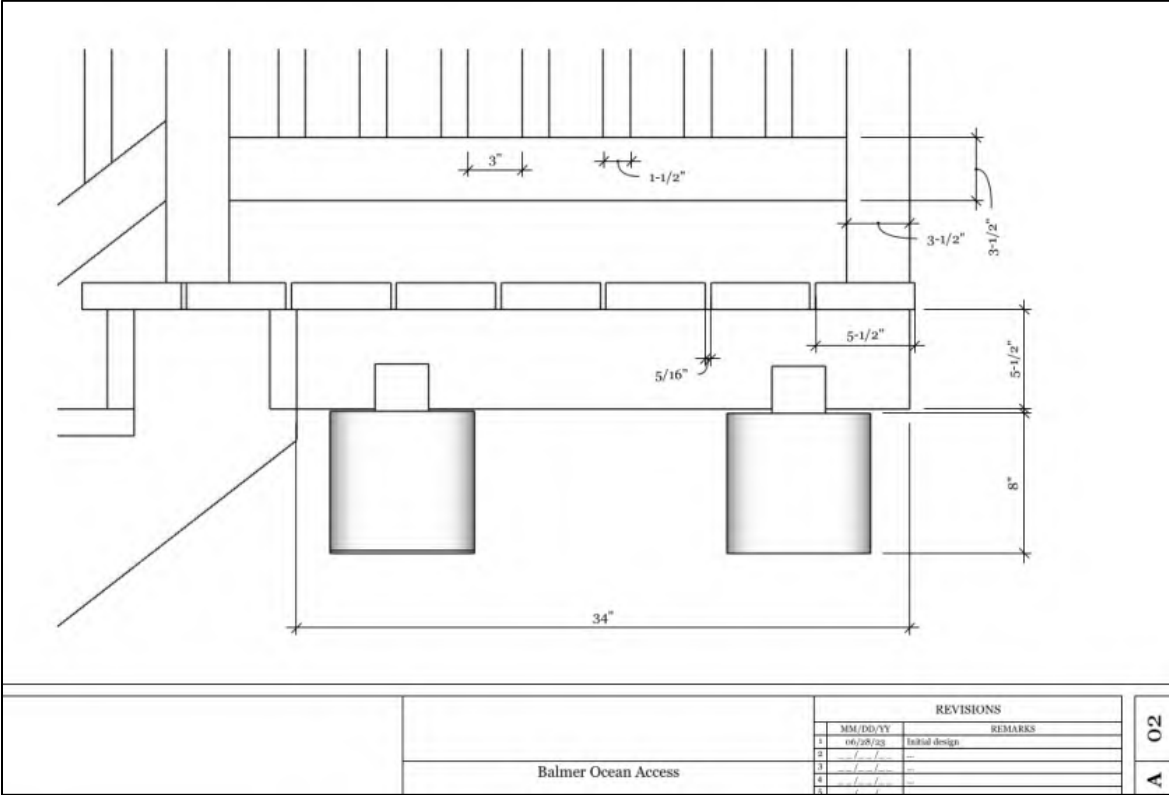
|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Islands Trust Conservancy                | There are no Conservancy covenants or properties in the direct area; therefore the proposal does not impact the ITC and no referral has been made.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Regional Conservation Strategy           | The proposal does not impact the objectives and priorities of the Islands Trust Conservancy regional conservation plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Species at Risk                          | None on TAPIS, Biologist identifies potential Sharp-Tailed Snake Habitat.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Sensitive Ecosystems                     | Woodland, Cliff                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Hazard Areas                             | High, Moderate, and Low risk steep slopes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Archaeological Sites                     | Remote Access to Archaeological Data (RAAD) information indicates there are no archaeological sites on the property. However, there are areas of high archaeological potential mapped on the property and therefore the applicant has been sent the Islands Trust Chance Find Protocol and provincial guidance on archaeological sites. By copy of this report, the owners and applicant should be aware that unrecorded archaeological material is protected under the <i>Heritage Conservation Act</i> . If such material is encountered during development, all work should cease and Archaeology Branch should be contacted immediately as a <i>Heritage Conservation Act</i> permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work. The applicant has also been sent the Islands Trust Chance Find Protocol and provincial guidance on archaeological site |
| Climate Change Adaptation and Mitigation | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Shoreline Classification                 | Sea Cliff                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Shoreline Data in TAPIS                  | Moderate Bull Kelp Beds                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

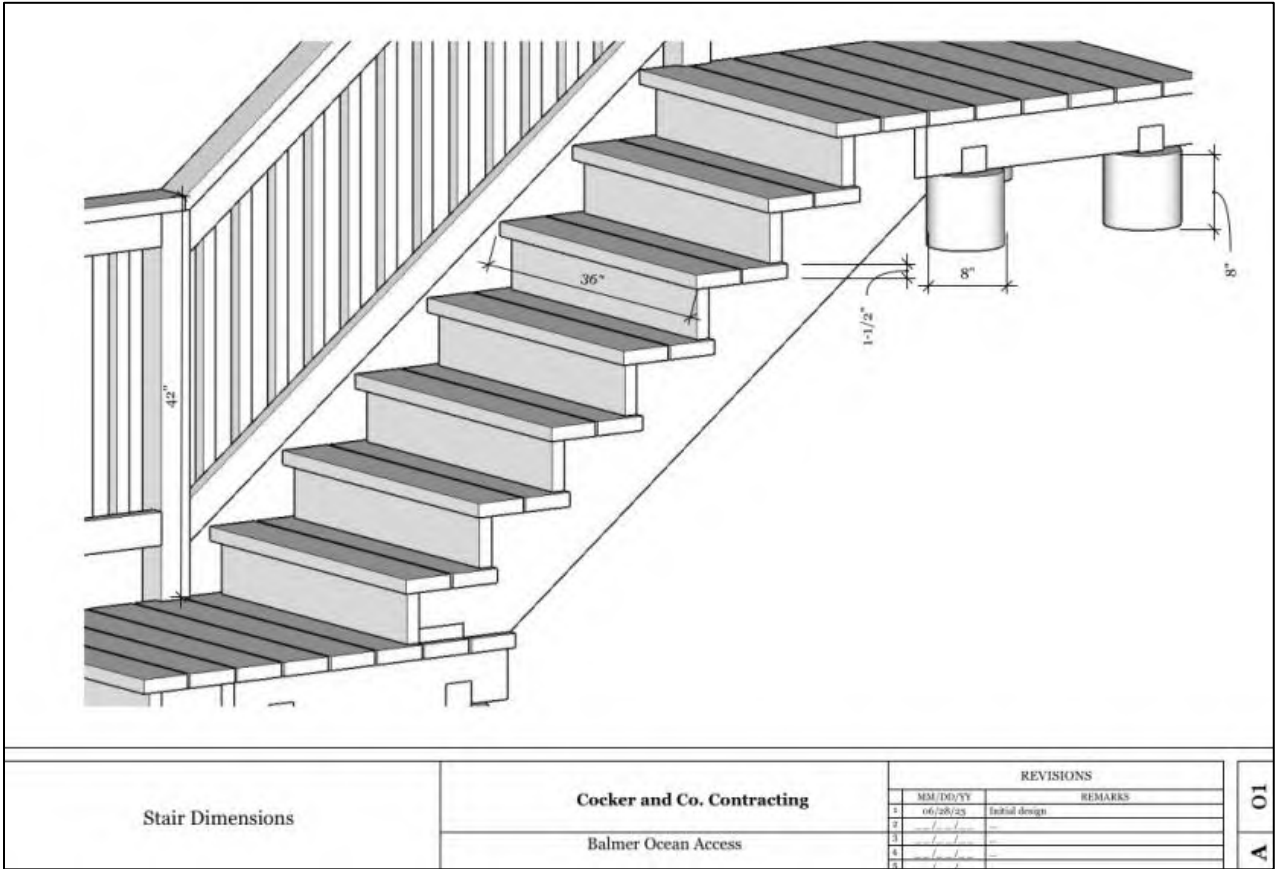
## ATTACHMENT 2 – MAPS, PLANS, PHOTOGRAPHS

### 2.1 SITE PLAN



2.2 PLANS







## 2.3 PHOTOS



*2.3.1 Stairway route seen from deck, looking south-west*



*2.3.2 Deck attached to dwelling, looking north-west*





*2.3.3 Stairway foundation location and deck, looking north-east*



*2.3.4 Stairway route, looking south-west*





Kevin Balmer  
3811 Cutlass Court  
North Pender Island, BC  
V0N 2M2

August 17, 2023

**RE: Environmental Review for Development Permit Application for Proposed Access Route (Stairs/boardwalk) in Development Permit Area #5 (Cliff Ecosystem) at 3811 Cutlass Court, North Pender Island.**

Conan Webb, BSc. visited 3811 Cutlass Court, North Pender Island on June 5, 2023 with regard to assessing the property as it pertains to the potential for sensitive ecosystems (Figure 1), species at risk (Figure 2), and associated Islands Trust Development Permit Areas (DPA): DPA #1 Woodland Ecosystems and DPA #5 Cliff Ecosystems (Figure 3).

Areas south and east of the house were assessed with regard to a proposed future development: staircase and boardwalk. The feasibility of the proposed building site was assessed with respect to the Sensitive Ecosystem Inventory descriptions for each ecosystem type, rare species and their habitat, and rare plant communities. In addition, several online databases were accessed and searched for the presence of important features such as rare plants, animals, or habitats present on the property.

The proposed staircase and boardwalk route is shown in Figure 1 and 3.

**PROPOSED DEVELOPMENT DETAILS**

The proposed work for which a Development Permit is requested is:

- The owners would like to construct a staircase and boardwalk to improve safe access to lower portions of the property (Figure 1 and 3).





Figure 1. 3811 Cutlass Court showing mapped sensitive ecosystems. Note: length of boardwalk and stair sections along route is not to scale as final determination will be made during construction based on site conditions.



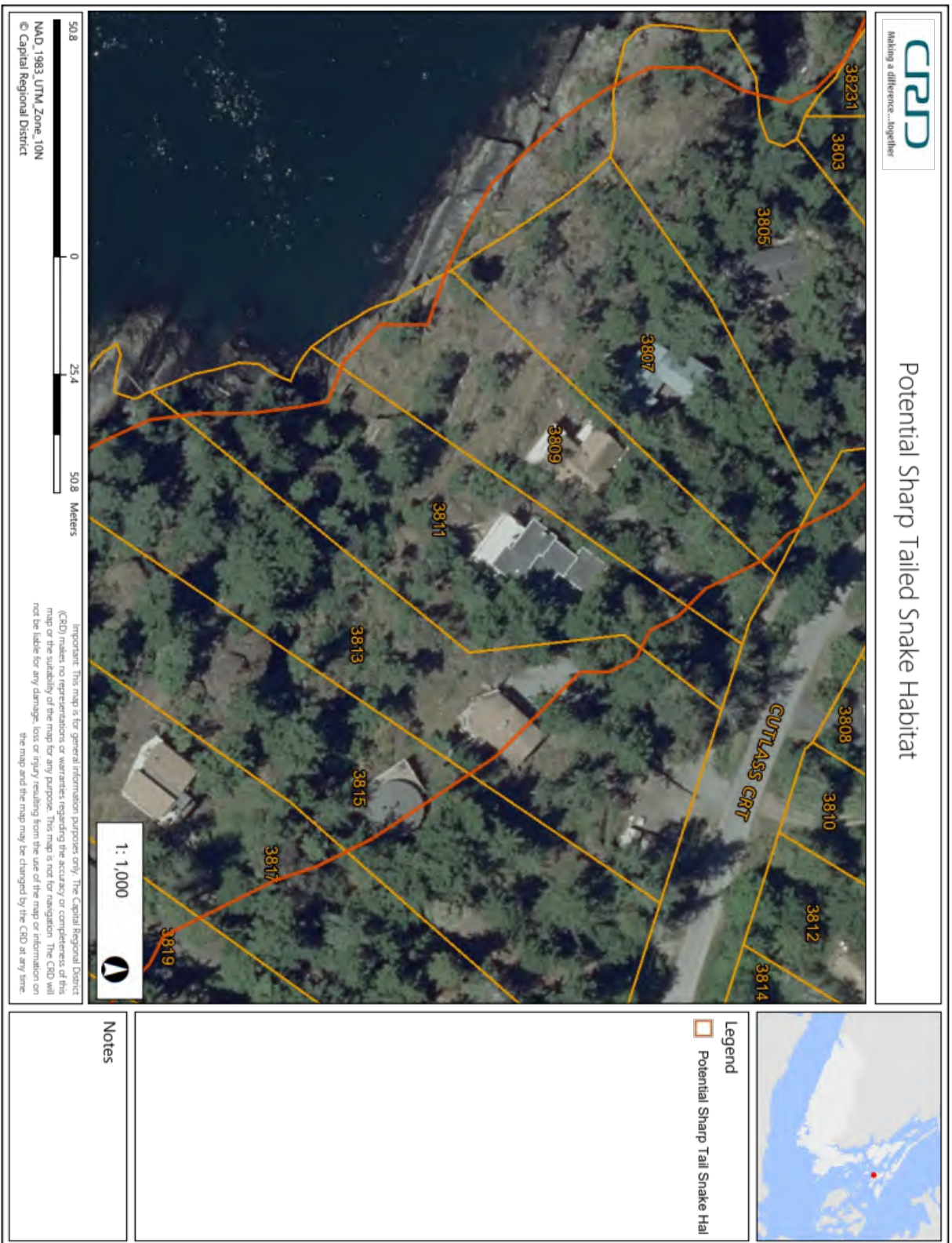


Figure 2. CRD map showing mapped potential Sharp-tailed snake habitat.





Figure 3. 3811 Cutlass Court with mapped sensitive ecosystem DPAs and preliminary stair/boardwalk route. Note: length of boardwalk and stair sections along route is not to scale.

The proposed work is construction of a series of staircases and a boardwalk to provide access to the lower part of the property:

- approximately 3 m of boardwalk.
- approximately 25 m of staircase.

Boardwalk design:

- Use existing informal paths/deer trails as much as possible to minimize vegetation disturbance.
- Maximum width 36".
- Surface on boardwalk: Treated lumber.
- Railing height: 42" on boardwalk, handrail on both sides where dangerous conditions exist. If the area is deemed to be safe, guardrails will not be used.

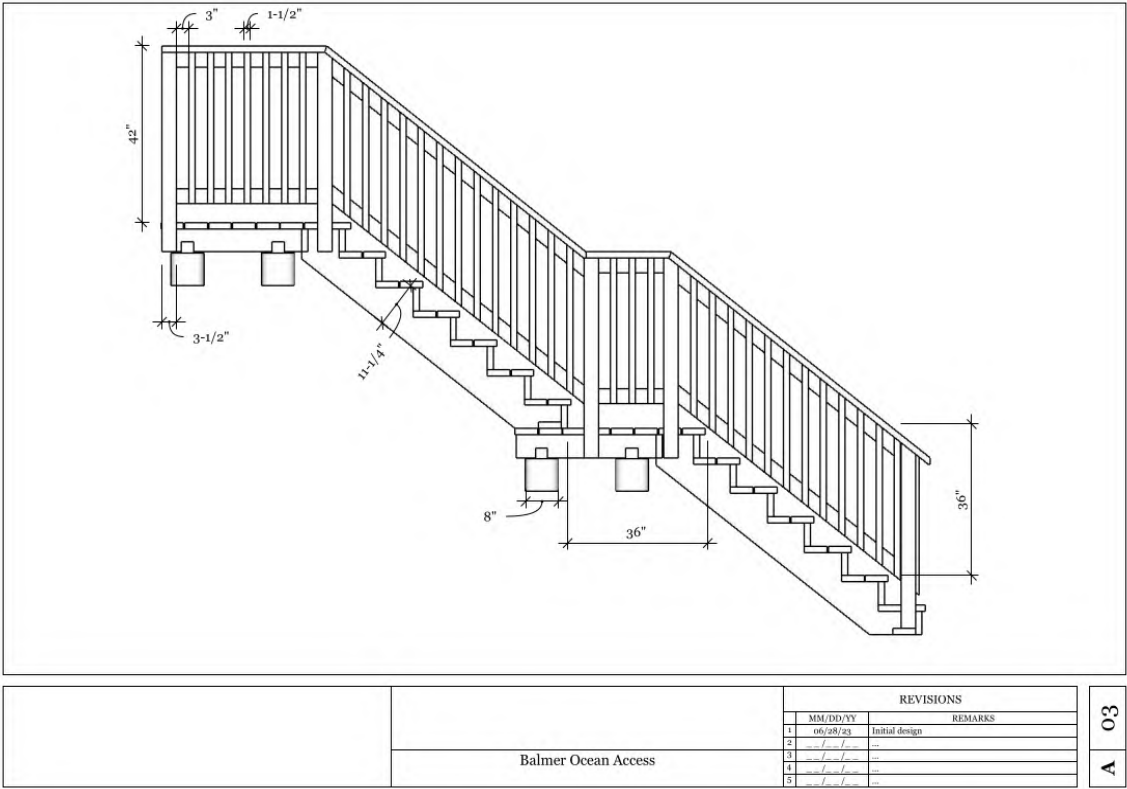
Stairway design (Figures 4, 5, and 6):

- The length of the staircases and vertical drop of staircases will vary considerably due to site conditions, so this is not listed on the drawings provided and the length of the staircase and boardwalk sections in Figures 1 and 3 are approximate.
- Material used on stairs: Treated lumber.
- Footing material: Concrete with rebar reinforcement.
- Railings: 1.5"x1.5" balusters with 2"x 6" handrail on both sides of stairs and landings where dangerous conditions exist. If the area is deemed to be safe, guardrails will not be used.
- Tread gap: 5/16" – this value will increase to roughly 3/8"-1/2" once the lumber has dried.
- Height off ground: 8" +/-.
- Landing Dimensions: 36"x36".
- Number of staircases: 5.
  - Width of Stairs: 36".
  - Railing height: 36".
  - Length: will vary based on site conditions approximately 25 m in total.
- Footings: 8" Sonotube, 8" tall. Depending on the footing location and conditions. It may be necessary to install a square concrete footing of greater dimensions underneath the sonotube. It may also be necessary to increase or decrease the footing height to accommodate site conditions.

Construction Methods

- Construction will not be carried out during heavy rain to reduce the risk of erosion.
- Construction will not occur during the period of March to May to reduce the risk to sensitive early spring flora.
- Construction traffic will remain within the footprint of the staircase and boardwalk as much as possible to avoid trampling damage to surrounding vegetation and moss.
- Stairs and boardwalk is to be built to 36" width with the goal to have the minimum impact on the adjacent vegetation.
- Stairs and boardwalk will be constructed by hand.
- Concrete mixing by hand in wheel barrow on tarp to catch spills. Carried down slope to footing location by bucket.

Figure 4: Staircase design detail.



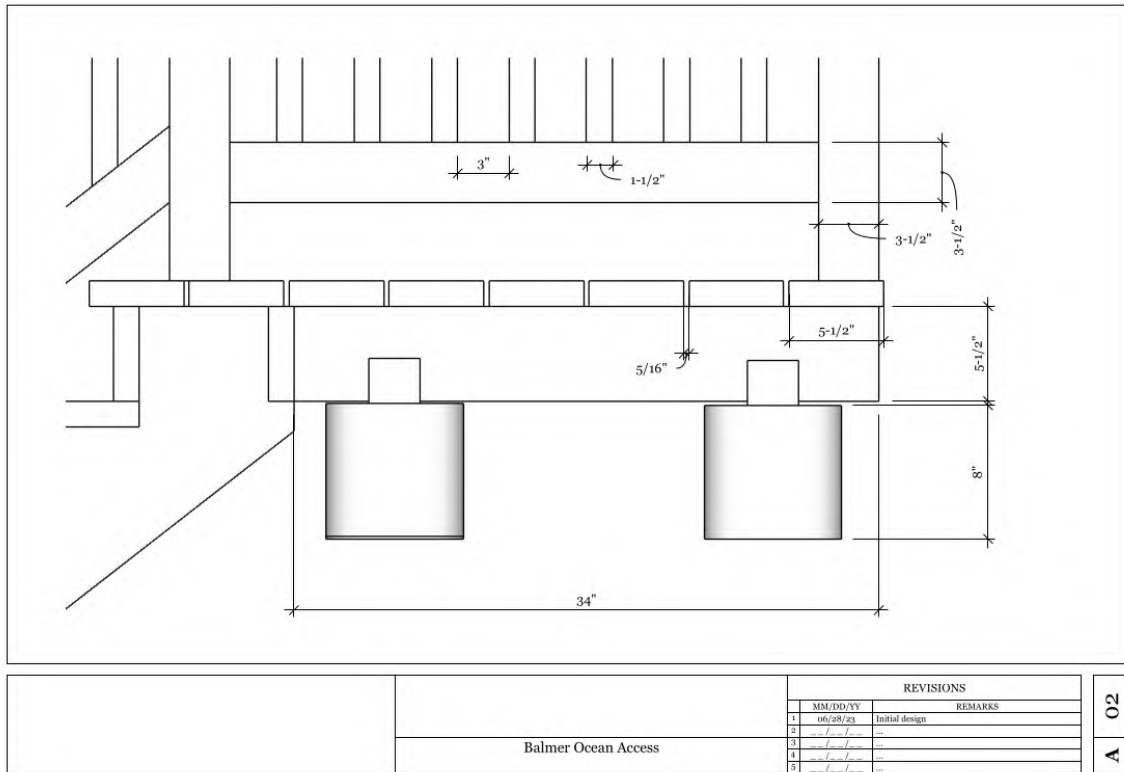


Figure 5: Staircase design detail.

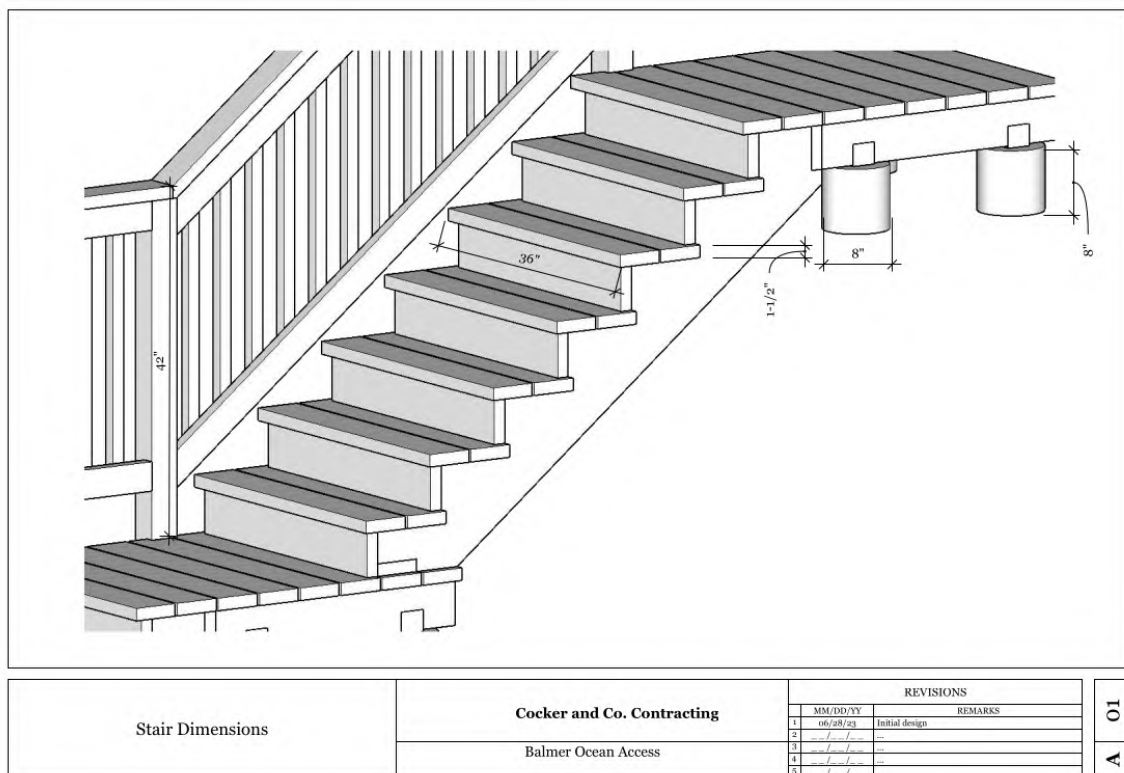


Figure 6: Staircase design detail.



## EXISTING SITE CONDITIONS

The property at 3811 Cutlass Court is southwest facing ocean front and situated at the top of a steep slope to the ocean. The north of the property is relatively narrow and flat and largely developed with a combination of utilities and driveway. Along the edges of the driveway is a combination of exotic and remnant native understory plants with a tree canopy of Douglas-fir (*Pseudotsuga menziesii*) and Western Red Cedar (*Thuja plicata*). The house is centrally situated at the top of the steep 45 to 90 degree slope with conglomerate bedrock exposed in many places and forming cliffs and narrow benches that step down to the ocean southeast of the house.

The following sensitive ecosystems and habitats are mapped on 3811 Cutlass Court by various organizations and discussed in more detail below:

- Woodland sensitive ecosystem and associated Development Permit Area (DPA #1) (Figure 3) is mapped by Islands Trust on the southeastern corner of this lot and this habitat type was observed on site, and no adjustment to the DPA#1 boundary is recommended. The Woodland DPA consists of the rare Douglas-fir / Alaska Oniongrass (*Pseudotsuga menziesii* / *Melica subulata*) community.
- Cliff sensitive ecosystems and associated Development Permit Area (DPA #5) (Figure 3) are mapped by Islands Trust south of the house and extending to the water and the edge of the Woodland DPA. This habitat type was observed on site, no adjustments to the DPA#5 boundaries are recommended.
- Potential Sharp-tailed Snake habitat is mapped by Capital Regional District (CRD) in the Natural Areas Atlas (Figure 2) and was observed on site.
- The Douglas-fir / Dull Oregon-grape (*Pseudotsuga menziesii* / *Berberis nervosa*) rare ecological community is mapped by the BC Conservation Data Centre (CDC) (Figure 1), but has been largely destroyed by preexisting development and is not present on the property.
- The Douglas-fir / Alaska Oniongrass (*Pseudotsuga menziesii* / *Melica subulata*) rare ecological community is mapped by the BC Conservation Data Centre (Figure 1) and was observed on site in the Woodland DPA.

A number of priority invasive species listed by the Provincial Priority Invasive Species BC Inter-Ministry Invasive Species Working Group were identified on site. For further details see Appendix 2 and the BC Priority Invasive Species website<sup>1</sup>. These species include: Scotch broom (*Cytisus scoparius*), and spurge-laurel (*Daphne laureola*) shrubs which could be removed to enhance sensitive habitats.

Additional invasive species that could be considered for removal to enhance habitat due to their currently limited distribution and ability to spread extensively are bull thistle (*Cirsium vulgare*) which is present in the gully and cliff areas and oxeye daisy (*Leucanthemum vulgare*) which is currently restricted to the top of the Cliff Ecosystem.

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<sup>1</sup> <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/invasive-species/priority-species>

No wildlife trees were noted on the property during the site visit. It was noted however, that there are several mature Douglas-fir trees with one particularly large old Douglas-fir beside the driveway. The Wildlife Tree Stewardship Atlas was consulted and there are no records of wildlife trees on 3811 Cutlass Court. There are two wildlife trees recorded to the east and southeast approximately 100 to 150 m away.

Wildlife Species Inventory spatial layers were reviewed and no incidental or survey observations of habitat features, birds, or mammals were present on 3811 Cutlass Court.

The BC Conservation Data Centre (CDC) was consulted regarding 3811 Cutlass Court and two element occurrences are mapped on the property: Douglas-fir / Dull Oregon-grape (*Pseudotsuga menziesii* / *Berberis nervosa*) ecological community and Douglas-fir / Alaska Oniongrass (*Pseudotsuga menziesii* / *Melica subulata*) ecological community. These ecological communities are discussed further below.

The BC CDC also noted the presence of Common Sharp-tailed Snake on North Pender and that there is potential for this species in suitable habitat in the area.

## SPECIES AND ECOSYSTEMS AT RISK

### *Cliff Sensitive Ecosystem DPA# 5*

The presence of a cliff ecosystem a few metres south of the house site was confirmed and the boundaries of the mapped DPA are representative of the location of this ecosystem type on the ground. The topography in this area of the property consists of a southwest facing 45 to 90 degree slope that steps down to the ocean in a series of narrow benches, steep slopes, and vertical or near vertical rock faces up to 10 m or more in height.

Due to the nature of this ecosystem type two distinct plant communities separated by season are present, an early season herb and forb community that grows when water is plentiful and a later season grass dominated community that dominates as soil water levels diminish over the late spring. At the time of survey there was very little soil moisture, most herbs had withered and dried and grass was dominant. As such, **this assessment is limited in its ability to assess the early season vegetation and important early season plant communities or rare plants may have been missed.** Given the small footprint of the proposed work and the proposed construction methods, the impact of the stairs to a possible sensitive ecosystem is expected to be minimal, and will help control trampling within the ecosystem.

Late season vegetation in the cliff ecosystem consists of Broad-leaved stonecrop (*Sedum spathulifolium*), moss and lichen on rock faces and exotic grasses and shrubs on benches including Scotch Broom (*Cystitis scoparius*). The slope was dominated by hedgehog dog-tail (*Cynosurus echinatus*) grass and exotic brome grasses with pockets of Scotch broom in deeper soil pockets. Remains of miners lettuce (*Claytonia perfoliata*) and Dove's Foot Geranium (*Geranium molle*) and an unidentified clover were common and may represent the dominant species of the spring flora. The extensive cover of exotic species indicates a highly modified vegetation community. The area meets the definition of a cliff ecosystem in DPA#5, the vegetation community on the shallow soil/rocky outcrop areas is highly disturbed and likely doesn't meet the definition of



a sensitive vegetation ecosystem, however, a spring survey to confirm the early season vegetation would be needed to confirm this observation. Further vegetation details discussed below in the Douglas-fir / Alaska Oniongrass ecological community section.

#### *Woodland Sensitive Ecosystem DPA #1*

A woodland ecosystem matching DPA#1 was observed on site. Islands Trust describes the DPA #1 Woodland Ecosystem as “open deciduous forests, composed of pure or mixed stands of Garry oak **or mixed stand of arbutus and Douglas- fir**”. The area where DPA# 1 is mapped is a rare Douglas-fir / Alaska Oniongrass ecological community (discussed below) and is a mixed stand of arbutus and Douglas-fir.

#### *Sharp-tailed Snake (Contia tenuis)*

Critical Habitat for Sharp-tailed Snake has been identified on North Pender Island in the Federal Recovery Strategy for Sharp-tailed snake. There is no Critical Habitat for Sharp-tailed Snake on 3811 Cutlass Court as it is outside of the area within which Critical Habitat is identified. Critical habitat for Sharp-tailed snakes has been identified 600 m to the northwest and other locations on North Pender are known to support this rare species. While no critical habitat has been identified for Sharp-tailed Snake on 3811 Cutlass Court, the presence of suitable habitat was confirmed. At this time no Sharp-tailed snakes are known to use the property; however, there is potential for this species to be present on site in suitable habitat. Should Sharp-tailed snakes be discovered they can be reported to the BC Conservation Data Centre. For reference the currently Endangered Sharp-tailed Snake is a small (20–45 cm), uncommon reddish brown snake. And suitable habitat would be similar to the Critical Habitat as identified in The Recovery Strategy for the Sharp-tailed Snake:

- sparsely forested or treeless rocky openings (approximately 10 m diameter and greater) with warm (southerly) aspects; which:
  - provides for thermoregulation (warming)
- within 20 m of the openings, open canopy forest habitat (20 to 60% closure; following Wilkinson et al. 2007), which:
  - supports prey populations (for example, slugs), and
  - provides for thermoregulation (cooling); and
- within these openings and the adjacent open canopy forest, 3-dimensional features composed of rock (for example, talus slopes or patches, or fissures in rock outcrops) or coarse woody debris (including large decaying logs or stumps with sloughing bark) that provide microhabitats which:
  - provide temperature regimes for thermoregulation (warming and cooling)
  - retain moisture to support inactive phases and prey species for foraging
  - provide locations for egg-laying and adequate moisture and temperature regimes for incubation, and
  - provide cover/shelter during active and inactive phases

Further information about this species and conservation measures can be located in the Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia (2014) (page 96 – 98)<sup>2</sup>, The Species at Risk Public Registry<sup>3</sup>, and the BC Species and Ecosystems Explorer<sup>4</sup>.

#### *Douglas-fir / Dull Oregon-grape rare ecological community*

The mapped Douglas-fir / Dull Oregon-grape ecological community polygon covers the northern portion of 3811 Cutlass Court and overlaps The Douglas-fir / Alaska Oniongrass polygon in the central area of the property (Figure 1). The Douglas-fir / Dull Oregon-grape ecological community is ranked S1 (the highest level of rarity) and is on the BC Red List of the most at risk species and ecosystems in the province.

The northern portion of the property was observed to contain remnant native plants consistent with a former Douglas-fir / Dull Oregon-grape ecological community; however, the development of driveways (on 3811 Cutlass Court and adjacent properties), utility infrastructure, landscaping, and invasion of exotic species from Cutlass Court have largely destroyed this rare ecological community leaving only a few large trees along with small patches of native vegetation. See Appendix 2 for partial species list.

#### *The Douglas-fir / Alaska Oniongrass rare ecological community*

The mapped Douglas-fir / Alaska Oniongrass ecological community polygon covers the southern portion of 3811 Cutlass Court and overlaps the Douglas-fir / Dull Oregon-grape ecological community in the central area of the property (Figure 1). The Douglas-fir / Alaska Oniongrass ecological community is ranked S1 (the highest level of rarity) and is on the BC Red List of the most at risk species and ecosystems in the province.

The Douglas-fir / Alaska Oniongrass ecological community was confirmed on site and the mapped boundaries are representative of the general location on the ground. The occurrence consists of a mix of shady gully with more extensive Douglas-fir canopy and sparse understory of grasses and few shrubs on talus (Percent cover of tree: 75-90%, shrub: 12%, herb/grass: 50%, rock: 40%, moss/lichen: <10%, soil: <10%), and open bluffs with scattered Douglas-fir with thin soil on conglomerate bedrock with an understory of dense exotic grasses and moderately dense shrub cover (Percent cover of tree: 25%, shrub: 25%, herb/grass: 80%, rock: 12%, moss/lichen: 50%). See Appendix 2 for species list.

The Douglas-fir / Alaska Oniongrass ecological community includes a mix of forest and open rocky bluffs and the mapped polygon covers both the woodland DPA and the cliff DPA areas. While the vegetation in the woodland DPA is representative of a Douglas-fir / Alaska Oniongrass ecological

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<sup>2</sup> Guidelines for Amphibian and Reptile Conservation during Urban and Rural Land Development in British Columbia (2014): <http://a100.gov.bc.ca/pub/eirs/finishDownloadDocument.do?subdocumentId=11181>

<sup>3</sup> Species at Risk Public Registry : <https://species-registry.canada.ca/index-en.html#/species/586-237>

<sup>4</sup> BC Species and Ecosystems Explorer: <http://a100.gov.bc.ca/pub/eswp/reports.do?elcode=ARADB09010>

community the late season vegetation in the cliff DPA is not representative of a Douglas-fir / Alaska Oniongrass ecological community due to domination by exotic invasive species. The ability to assess the distinct early season vegetation is limited by the timing of the site visit as discussed above in section *Cliff Sensitive Ecosystem DPA# 5*. A search for remnant early season vegetation was conducted with only a few species discovered. **Further assessment of the early season vegetation in April or early May would be needed to confirm whether the vegetation in the cliff DPA matches a Douglas-fir / Alaska Oniongrass ecological community**; however, due to the limited evidence of native early spring flora and dominance of perennial scotch broom, and other exotic species the vegetation in the cliff DPA may not match a Douglas-fir / Alaska Oniongrass ecological community. Given the small footprint of the proposed work and the proposed construction methods, the impact of the stairs to a possible sensitive ecosystem is expected to be minimal, and will help control trampling within the ecosystem.

#### *Additional unmapped rare species and ecosystems*

During the site assessment no additional rare species or ecosystems were located. However, it must be noted that the ecological communities on site had already shifted to late season vegetation and many rare plants only grow in early to mid spring and are difficult to detect later in the season as they have withered and died.

Many rare plant species in the local area are associated with specific habitats that are flooded or wet in the spring; there was no sign of habitats such as vernal pools or seeps within the proposed stair/boardwalk footprint. Some mosses indicating seepage areas were observed on rock faces lower down the slope.

## **DPA RECOMMENDATIONS**

The Sensitive Ecosystem Inventory (SEI) Methodology and the Standards for Mapping Ecosystems at Risk do not provide quantitative thresholds for when a mapped SEI polygon would not meet the SEI requirements for being categorized as a sensitive ecosystem. However, the purpose of sensitive ecosystem mapping is to identify, classify, and map terrestrial ecosystems that exist in a relatively unmodified state within the region (Ward et al. 1998). Whether a site matches recognized BC CDC tracked plant communities is important and comparisons would need to be made in the proper time of year (e.g., early spring) if applicable. The Islands Trust has mapped Woodland and Cliff sensitive ecosystems on 3811 Cutlass Court. These broad categories of sensitive ecosystems are based on one or more vegetation communities recognized by the province of BC. The purpose of this assessment was to compare the existing site conditions with descriptions of recognized rare vegetation communities that fit within the categories of Cliff or Terrestrial herbaceous ecosystems.

### *DPA #1 Woodland Ecosystems Comparison*

The presence of a woodland sensitive ecosystem was confirmed on site and the mapped boundaries are representative of the location of this ecosystem on the ground.

### *DPA #5 Cliff Ecosystems*

The presence of a cliff sensitive ecosystem was confirmed on site and the mapped boundaries are representative of the location of this ecosystem on the ground.

## **DEVELOPMENT PERMIT GUIDELINES**

Due to the location of the proposed project within the Cliff Ecosystems DPA the following measures will have to be taken to meet the intent of the Development Permit Guidelines to protect the sensitive ecosystems.

### *5.2.1.5 Overall Development Permit Guidelines*

*1. Where lots are not subject to further subdivision, applicable guidelines should be considered to the extent reasonable within the constraints of the site and the lot.*

- The DPA guidelines have been assessed and considered as outlined below.

*2. Avoid locating development in areas containing important, rare or fragile sensitive ecosystems or habitat where reasonable alternative sites exist.*

- The access route to the lower area of the property is constrained by the terrain. Cliff Ecosystems comprise the entire lower section of the property and there is no way to route a staircase and boardwalk system around them.

*3. The area cleared and disturbed for development should be minimized.*

- This guideline has been considered in the boardwalk and staircase design process. A minimum number of stairs, boardwalk, and landings are included to meet the goal of safe access to lower portions of the property.

*4. Fewer, but larger, undisturbed areas should be retained, rather than small or isolated undisturbed areas.*

- The access route to the lower area of the property is constrained by the terrain. Consideration has been given to accommodating animal passage under stairs and minimizing barriers such as railings where feasible within safety considerations.

*5. Buildings and associated infrastructure should be sited with sufficient undisturbed space around significant mature or established trees to protect root systems.*

- No tree roots will be disturbed. The route lies on bedrock where there are no large tree root systems present. Some deadfall or limbing may be needed where branches overhang stairs.

*6. Undeveloped buffer areas should be retained around sensitive ecosystems, features or habitat where feasible. Buffer areas should be of sufficient width to limit access by invasive plants.*

- There is no ability to create a buffer as the route is through the Cliff Ecosystem; however, the staircase/boardwalk will allow more safe and regular access to the slope to control the already existing invasive species.

*7. Natural features should be retained through incorporation into the design of the development. In particular, unique or special natural features such as native grasses, rare plants, unique land forms, rock outcroppings, mature trees, spits and dunes should be protected.*

- The staircase and boardwalk is intended to utilize existing benches and game trails where possible. No rare plants, or significant native vegetation was noted that would need to be avoided. The staircases will be supported on foundations suspended above the substrate which will retain wildlife access to, and vegetation on rock faces.

*8. Connections and corridors should be maintained to provide continuity between sensitive ecosystems and important habitat.*

- The design will incorporate space for wildlife travel under raised staircases and gaps in railings where safety allows. Care will be taken when a staircase joins a east/west bench that could be used for wildlife movement that travel along the bench across the bottom of the staircase is not impeded
- Railings will only be installed where required for safety.

*9. Use of drought resistant and native plants in landscaping should be encouraged. The planting or introduction of non-native plants should be avoided.*

- No landscaping is required for the construction of this project. However, if the final design does incorporate any landscaping use of drought resistant native plants can be considered.

*10. Soil removal and deposit within or adjacent to a sensitive ecosystems or habitat should be avoided.*

- Building practices can accommodate the retention of soil or its removal to a non-sensitive sites.

*11. Alteration of natural drainage systems in ways that increase or decrease the amount of water available to a sensitive ecosystem should be avoided.*

- As most of the existing area consists of hard substrate (thin soil over bedrock) the addition of additional hardened surfaces is not expected to significantly alter natural drainage.

Further, gaps between stair treads will allow rainfall to pass through the steps and boardwalk.

*12. Septic fields should be located in such a manner that the possibility of pollution of sensitive ecosystems or habitat is avoided.*

- No septic fields are part of this proposal.

*13. Driveways and other accesses should be limited to the number required for safe access, with shared driveway access where feasible. Driveway lengths and widths should be limited to the minimum necessary. The use of impervious surfaces should be discouraged.*

- No driveways are part of this proposal.

#### *5.2.6.3 Cliff Ecosystem Development Permit Guidelines*

The proposed project route runs through sensitive Cliff Ecosystem and DPA guidelines are assessed below.

*1. Denning and nesting sites of rare, threatened or endangered species should be protected.*

- No denning or nesting sites of rare, threatened, or endangered species are known to be present and none were observed during the site visit. It is possible that denning or nesting sites could be hidden in cracks and crevices on rock faces and where staircases span rock faces, cracks and crevices should be left undisturbed to continue as habitat features. The design uses staircases suspended on footings to retain wildlife access to substrate underneath the staircases.

*2. Native grasses, rare plants, and wildflower ecosystems and associated soils should be protected and maintained.*

- The existing vegetation in the DPA#5 is predominantly exotic. The boardwalk sections largely follow existing game trails which are already disturbed to bare soil. The design uses staircases that are suspended above the substrate on footings and utilize permeable treads to allow light and water to reach the underlying vegetation and reduce disturbance.

*3. Talus and rock debris that occurs at the base of rock outcroppings should be maintained.*

- Talus and rock debris are not present within the proposed boardwalk/staircase area.

*4. The faces of rock outcrops and cliffs should be protected.*

- The design uses staircases that are suspended above the substrate on footings and utilizes permeable treads to allow light and water to reach the underlying rock faces and reduce disturbance.

- Erosion will be reduced by defining the access route and minimizing new exposed soils.

*5. Permit conditions requiring the restoration of native vegetation where it has been disturbed should be considered.*

- Stairs will provide increased safety and opportunity to conduct restoration of native vegetation such as invasive species removal.

*6. Stairs, boardwalks and other access within a sensitive ecosystem adjacent to a shoreline should be limited to that required for safe access, with shared access where feasible. Stairs should incorporate landings, follow the existing contours of the site, utilize small concrete pilings and have gaps between boards.*

- The design is limited to that required for safe access, the boardwalk and stairs incorporate landings, use small footings, and have gaps between boards.

## ENVIRONMENTAL PROTECTION MEASURES

The following measures are recommended to protect the remaining ecological features on the site:

- Utilize native species for any planting and landscaping (e.g. along stairs by house) for examples and ideas see:
  - Garry Oak Gardeners Handbook<sup>5</sup>:
  - Selecting Plants for Pollinators: A Guide for Gardeners, Farmers, and Land Managers in the Eastern Vancouver Island Ecoregion (Sooke, Victoria and Area, Nanaimo, Port Alberni, and Campbell River).<sup>6</sup>
- Environmental protection measures must be implemented for:
  - Protection/enhancement of remaining sensitive ecosystem on the property.
    - Stairway route will be confirmed with the Qualified environmental professional (QEP)/Biologist prior to any clearing or tree limbing, or installation of footings.
    - Stairway and boardwalk will be 36" width with the goal to have the minimum impact on the adjacent vegetation.
    - Materials and supplies will be stored outside the DPA area or within the staircase/boardwalk footprint as much as possible to reduce damage to adjacent vegetation.
  - Maintenance of wildlife corridors
    - The design will incorporate a mix of staircases and boardwalks with railings only be installed where required for safety to reduce barriers to wildlife travel.
    - Wildlife corridors will be incorporated where feasible so that large wildlife will be able to pass underneath staircases.

<sup>5</sup>[https://www.goert.ca/gardeners\\_restoration/garryoak\\_gardener.php](https://www.goert.ca/gardeners_restoration/garryoak_gardener.php)

<sup>6</sup> <https://www.pollinator.org/pollinator.org/assets/generalFiles/E.Vancouver.Island.2017.pdf>



- Protection of trees
  - No tree roots will be disturbed and only minor limbing may be needed where branches overhang staircases.
- Erosion and sediment control
  - Conduct trail excavation work during dry weather, halt work if rainfall causes muddy areas or sediment run off.
  - Minimize vegetation removal.
  - Cover exposed soils, if needed to prevent sediment laden runoff from leaving the site (e.g. poly, tarps, mulch).
- Spill prevention and response
  - Equipment is inspected for leaks prior to beginning work.
  - Spill response kits (capable of addressing the volume of fuel/oils/chemicals on site) on site when heavy machinery is working, and operators are trained in their use.
  - Equipment refueling is at a designated location >30 m from any creeks.
  - Fuel generators must be placed in a spill-proof container (e.g. plastic bin, or other impermeable containment area such as poly-lined bermed depression
  - Store all fuel cans in spill-proof containers.
  - Concrete wash-water and wet concrete is highly alkaline and toxic to fish and other aquatic organisms. All concrete wash-water from equipment, trucks and/or hand tools needs to be directed to a settling area away from runoff paths to the waterbodies. Freshly poured concrete needs to be covered and isolated from waterbodies during the curing process.
- Environmental Monitoring
  - Prior to construction: flag final route and provide photos and/or video to the Qualified environmental professional (QEP)/Biologist.
  - During construction: provide periodic update photos or video to the Qualified environmental professional (QEP)/Biologist.
  - This project represents relatively little risk to sensitive ecosystems as outlined. With adherence to environmental protection measures, and communication with the Qualified environmental professional (QEP)/Biologist through photo and/or video further site visits are not expected to be necessary.

## SUMMARY

Woodland Ecosystems and Cliff Ecosystems were confirmed on site and the associated DPA boundaries are consistent with the location of these ecosystems.

Recommendations for DPA #1 Woodland Ecosystems (Figure 3):

- Retain DPA #1 Woodland Ecosystems, no boundary modification required.

Recommendations for DPA #5 Cliff Ecosystems (Figure 3)

- Retain DPA #5 Cliff Ecosystems, no boundary modification required.

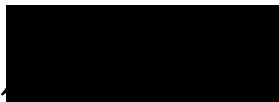
Provided the staircases and boardwalks are installed as described, and the environmental protection measures implemented during installation, the Development Permit Guidelines should be met for this project, with minimal risk to the sensitive ecosystem.

Opportunities for consideration to further improve and enhance the ecological conditions of the site and existing natural areas:

- Commitment to ongoing restoration and maintenance of degraded areas of habitat:
  - invasive species removal (especially Scotch broom and spurge-laurel and control or removal of oxeye daisy and rose campion at the top of the slope near the deck),
  - native species planting,
  - restrict trampling outside already disturbed areas such as built staircases, boardwalks, and wildlife trails.

Please do not hesitate to contact us with any questions you may have.

Sincerely,



Lehna Malmkvist, MSc, RPBio (#1613)



Conan Webb, BSc.



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## Appendix 1: Photos



Figure 1: Top of cliff sensitive ecosystem. Proposed pathway route will begin with a staircase off the far corner of deck.



Figure 2: Route starting down cliff, just in front of the cluster of small Douglas-fir Trees, along existing rope visible in photo.





Figure 3: Route running diagonally across slope on rock benches in lower section of photo.  
Towards switch back point.



Figure 4: Switchback point in trail.





Figure 5: Mockup of final landing of staircase.





Figure 6: Mockup of final landing of staircase.





Figure 7: Looking up slope from the proposed lower landing. Extensive Scotch broom invasion is apparent.



Figure 8: Vertical rock face below walkway end point.



Figure 9: Representative herbaceous ground cover present in cliff ecosystem showing dominant exotic Hedgehog Dogtail cover.





Figure 10: Boundary between cliff sensitive ecosystem at top of gully and woodland sensitive ecosystem in the gully starting at the base of the vertical and overhanging rock faces.



Figure 11: Talus and broken boulders in Douglas-fir /Alaska Oniongrass ecological community (Woodland DPA) in gully at base of cliff sensitive ecosystem, an example of possible Common Sharp-tailed snake habitat.





Figure 12: Looking into Woodland DPA, Douglas-fir /Alaska Oniongrass ecological community.



Figure 13: Small patch of remnant Douglas-fir / Dull Oregon Grape ecological community under notably large Douglas-fir (trunk on right side of photo).





Figure 14: Developed portion of property showing no Douglas-fir / Dull Oregon Grape ecological community.

## Appendix 2: Plant list

Exotic species indicated with an “\*”, priority invasive species indicated with a “P”.

Douglas-fir / Alaska Oniongrass rare ecological community: Cliff Ecosystem

### Trees

- Douglas-fir (*Pseudotsuga menziesii*)
- bigleaf maple (*Acer macrophyllum*)
- arbutus (*Arbutus menziesii*)

### Shrubs

- Scotch broom (*Cytisus scoparius*)\*P
- spurge-laurel (*Daphne laureola*)\*P
- Garry oak (*Quercus garryana*)
- hairy honeysuckle (*Lonicera hispidula*)
- tall Oregon-grape (*Mahonia aquifolium*)
- oceanspray (*Holodiscus discolor*)
- trailing blackberry (*Rubus ursinus*)
- willow (*Salix* sp.)

### Herbs

- orchard-grass (*Dactylis glomerata*)\*
- blue wildrye (*Elymus glaucus*)
- hedgehog dogtail (*Cynosurus echinatus*)\*
- broad-leaved stonecrop (*Sedum spathulifolium*)
- hairy cat's-ear (*Hypochaeris radicata*)\*
- bedstraw (*Galium* sp.)
- *Sonchus* sp.\*
- dovefoot geranium (*Geranium molle*)\*
- Alaska brome (*Bromus sitchensis*)
- annual brome (*Bromus* sp.)\*
- small-flowered nemophila (*Nemophila parviflora*)
- goldenback fern (*Pentagramma triangularis*)
- miner's-lettuce (*Claytonia perfoliata*)
- yerba buena (*Clinopodium douglasii*)
- licorice fern (*Polypodium glycyrrhiza*)
- *Camassia* sp.
- yarrow (*Achillea millefolium*)
- Wallace's selaginella (*Selaginella wallacei*)
- reindeer lichens (*Cladina* sp.)
- Hooker's onion (*Allium acuminatum*)
- *Anthriscus* sp.\*P

- oxeye daisy (*Leucanthemum vulgare*)\*
- rip-gut brome (*Bromus rigidus*)\*
- rose campion (*Lychnis coronaria*)\*
- grey rock-moss (*Racomitrium canescens*)
- bull thistle (*Cirsium vulgare*)\*
- clover (*Trifolium* sp.)
- thread-moss (*Bryum* sp.)

#### Douglas-fir / Alaska Oniongrass rare ecological community: Gully

##### Trees

- Douglas-fir (*Pseudotsuga menziesii*)
- arbutus (*Arbutus menziesii*)

##### Shrubs

- dull Oregon-grape (*Mahonia nervosa*)
- hairy honeysuckle (*Lonicera hispidula*)
- spurge-laurel (*Daphne laureola*)\*P
- oceanspray (*Holodiscus discolor*)
- willow (*Salix* sp.)
- Scotch broom (*Cytisus scoparius*)\*P
- baldhip rose (*Rosa gymnocarpa*)
- saskatoon (*Amelanchier alnifolia*)

##### Herbs

- mountain sweet-cicely (*Osmorhiza berteroi*)
- bull thistle (*Cirsium vulgare*)\*
- Alaska oniongrass (*Melica subulata*)
- hairy cat's-ear (*Hypochaeris radicata*)\*
- orchard-grass (*Dactylis glomerata*)\*
- red fescue (*Festuca rubra*)
- bedstraw (*Galium* sp.)
- Tarweed (*Madia* sp.)
- Groundsel (*Senecio* sp.)
- Vetch (*Vicia* sp.)
- Pacific sanicle (*Sanicula crassicaulis*)
- *Sonchus* sp.\*
- small-flowered nemophila (*Nemophila parviflora*)
- blue wildrye (*Elymus glaucus*)
- yerba buena (*Clinopodium douglasii*)
- dovefoot geranium (*Geranium molle*)\*

- licorice fern (*Polypodium glycyrrhiza*)
- wall lettuce (*Mycelis muralis*)
- goldenback fern (*Pentagramma triangularis*)
- broad-leaved stonecrop (*Sedum spathulifolium*)
- *Heuchera* sp.
- hedgehog dogtail (*Cynosurus echinatus*)\*
- nipplewort (*Lapsana communis*)\*

#### Douglas-fir / Dull Oregon-grape rare ecological community partial list

##### Trees

- Douglas-fir (*Pseudotsuga menziesii*)
- western redcedar (*Thuja plicata*)
- juniper (*Juniperus* sp.)

##### Shrubs

- salal (*Gaultheria shallon*)
- dull Oregon-grape (*Mahonia nervosa*)
- hairy honeysuckle (*Lonicera hispidula*)
- Scotch broom (*Cytisus scoparius*)\*P
- trailing blackberry (*Rubus ursinus*)
- spurge-laurel (*Daphne laureola*)\*P
- oceanspray (*Holodiscus discolor*)
- salmonberry (*Rubus spectabilis*)

##### Herbs

- Alaska brome (*Bromus sitchensis*)
- blue wildrye (*Elymus glaucus*)
- Tarweed (*Madia* sp.)
- wall speedwell (*Veronica arvensis*)\*
- orchard-grass (*Dactylis glomerata*)\*
- creeping buttercup (*Ranunculus repens*)\*
- lady fern (*Athyrium filix-femina*)
- stinging nettle (*Urtica dioica*)
- Various other exotic species



| Guidelines                                                                                                                                                                                                                                                                       | Comments                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Overall DPA Guidelines</b>                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                |
| 1. Where lots are not subject to further subdivision, applicable guidelines should be considered to the extent reasonable within the constraints of the site and the lot.                                                                                                        | The DPA guidelines have been assessed and considered as outlined below                                                                                                                                                                                                                                                                         |
| 2. Avoid locating development in areas containing important, rare or fragile sensitive ecosystems or habitat where reasonable alternative sites exist.                                                                                                                           | The access route to the lower area of the property is constrained by the terrain. Cliff Ecosystems comprise the entire lower section of the property and there is no way to route a staircase and boardwalk system around them                                                                                                                 |
| 3. The area cleared and disturbed for development should be minimized.                                                                                                                                                                                                           | This guideline has been considered in the boardwalk and staircase design process. A minimum number of stairs, boardwalk, and landings are included to meet the goal of safe access to lower portions of the property.                                                                                                                          |
| 4. Fewer, but larger, undisturbed areas should be retained, rather than small or isolated undisturbed areas.                                                                                                                                                                     | The access route to the lower area of the property is constrained by the terrain. Consideration has been given to accommodating animal passage under stairs and minimizing barriers such as railings where feasible within safety considerations                                                                                               |
| 5. Buildings and associated infrastructure should be sited with sufficient undisturbed space around significant mature or established trees to protect root systems.                                                                                                             | No tree roots will be disturbed. The route lies on bedrock where there are no large tree root systems present. Some deadfall or limbing may be needed where branches overhang stairs                                                                                                                                                           |
| 6. Undeveloped buffer areas should be retained around sensitive ecosystems, features or habitat where feasible. Buffer areas should be of sufficient width to limit access by invasive plants.                                                                                   | There is no ability to create a buffer as the route is through the Cliff Ecosystem; however, the staircase/boardwalk will allow more safe and regular access to the slope to control the already existing invasive species.                                                                                                                    |
| 7. Natural features should be retained through incorporation into the design of the development. In particular, unique or special natural features such as native grasses, rare plants, unique land forms, rock outcroppings, mature trees, spits and dunes should be protected. | The staircase and boardwalk is intended to utilize existing benches and game trails where possible. No rare plants, or significant native vegetation was noted that would need to be avoided. The staircases will be supported on foundations suspended above the substrate which will retain wildlife access to, and vegetation on rock faces |
| 8. Connections and corridors should be maintained to provide continuity between sensitive ecosystems and important habitat.                                                                                                                                                      | The design will incorporate space for wildlife travel under raised staircases and gaps in railings where safety allows. Care will be taken when a staircase joins a east/west bench that could be used for wildlife movement that travel                                                                                                       |

| Guidelines                                                                                                                                                                                                                                                                              | Comments                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                         | along the bench across the bottom of the staircase is not impeded.<br>Railings will only be installed where required for safety.                                                                                                                                                       |
| 9. Use of drought resistant and native plants in landscaping should be encouraged. The planting or introduction of non-native plants should be avoided.                                                                                                                                 | No landscaping is required for the construction of this project. However, if the final design does incorporate any landscaping use of drought resistant native plants can be considered.                                                                                               |
| 10. Soil removal and deposit within or adjacent to a sensitive ecosystems or habitat should be avoided.                                                                                                                                                                                 | Building practices can accommodate the retention of soil or its removal to a non-sensitive sites.                                                                                                                                                                                      |
| 11. Alteration of natural drainage systems in ways that increase or decrease the amount of water available to a sensitive ecosystem should be avoided.                                                                                                                                  | As most of the existing area consists of hard substrate (thin soil over bedrock) the addition of additional hardened surfaces is not expected to significantly alter natural drainage. Further, gaps between stair treads will allow rainfall to pass through the steps and boardwalk. |
| 12. Septic fields should be located in such a manner that the possibility of pollution of sensitive ecosystems or habitat is avoided.                                                                                                                                                   | No septic fields are part of this proposal                                                                                                                                                                                                                                             |
| 13. Driveways and other accesses should be limited to the number required for safe access, with shared driveway access where feasible. Driveway lengths and widths should be limited to the minimum necessary. The use of impervious surfaces should be discouraged.                    | No driveways are part of this proposal                                                                                                                                                                                                                                                 |
| 14. Shoreline structural modifications should be limited in number and extent and should be necessary to support or protect a permitted or existing use or structure.                                                                                                                   | N/A                                                                                                                                                                                                                                                                                    |
| 15. Preference should be given to shoreline structures that have a lesser impact or enhance ecological functions, including vegetation enhancement, drainage control, beach enhancement, anchor trees, gravel placement. Harder construction measures should be avoided where possible. | N/A                                                                                                                                                                                                                                                                                    |
| 16. Shoreline stabilization should not interrupt natural processes solely to reduce erosion of undeveloped land, except for agriculture. Vegetation which helps stabilise banks, reduce erosion and provides habitat should be retained or enhanced.                                    | N/A                                                                                                                                                                                                                                                                                    |

| Guidelines                                                                                                                                                    | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17. The permit conditions may include:                                                                                                                        | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| a) the construction of permanent or temporary fencing around sensitive features;                                                                              | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| b) fencing, flagging and posting of notices during construction;                                                                                              | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| c) limits on blasting in sensitive areas;                                                                                                                     | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| d) limits on construction timing;                                                                                                                             | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| e) provision of works to maintain or restore the quantity or quality of water reaching environmentally sensitive areas or habitat;                            | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| f) restoration or enhancement of disturbed sensitive ecosystems and habitat                                                                                   | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 18. The LTC may consider variances to siting or size regulations where the variance could result in enhanced protection of an environmentally sensitive area. | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b><i>Cliff Ecosystem Guidelines</i></b>                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1. Denning and nesting sites of rare, threatened or endangered species should be protected.                                                                   | No denning or nesting sites or rare, threatened, or endangered species are known to be present and none were observed during the site visit. It is possible that denning or nesting sites could be hidden in cracks and crevices on rock faces and where staircases span rock faces, cracks and crevices should be left undisturbed to continue as habitat features. The design uses staircases suspended on footings to retain wildlife access to substrate underneath the staircases |
| 2. Native grasses, rare plants, and wildflower ecosystems and associated soils should be protected and maintained.                                            | The existing vegetation in the DPA#5 is predominantly exotic. The boardwalk sections largely follow existing game trails which are already disturbed to bare soil. The design uses staircases that are suspended above the substrate on footings and utilize permeable treads to allow light and water to reach the underlying vegetation and reduce disturbance                                                                                                                       |
| 3. Talus and rock debris that occurs at the base of rock outcroppings should be maintained.                                                                   | Talus and rock debris are not present within the proposed boardwalk/staircase area                                                                                                                                                                                                                                                                                                                                                                                                     |
| 4. The faces of rock outcrops and cliffs should be protected.                                                                                                 | The design uses staircases that are suspended above the substrate on footings and utilizes permeable treads to allow light and water to reach the underlying rock faces and reduce disturbance. Erosion will be reduced by defining the access route and minimizing new exposed soils                                                                                                                                                                                                  |

| Guidelines                                                                                                                                                                                                                                                                                                                  | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5. Permit conditions requiring the restoration of native vegetation where it has been disturbed should be considered.                                                                                                                                                                                                       | Stairs will provide increased safety and opportunity to conduct restoration of native vegetation such as invasive species removal                                                                                                                                                                                                                                                                                                                                                       |
| 6. Stairs, walkways and other access within a sensitive ecosystem adjacent to a shoreline should be limited to that required for safe access, with shared access where feasible. Stairs should incorporate landings, follow the existing contours of the site, utilize small concrete pilings and have gaps between boards. | The design is limited to that required for safe access, the boardwalk and stairs incorporate landings, use small footings, and have gaps between boards                                                                                                                                                                                                                                                                                                                                 |
| <b><i>Woodland Ecosystem Guidelines</i></b>                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 1. Large mature and old trees, trees containing cavities, the root systems of trees, rare plant species, native grasses and associated understorey vegetation should be protected.                                                                                                                                          | No tree roots will be disturbed. The route lies on bedrock where there are no large tree root systems present. Some deadfall or limbing may be needed where branches overhang Stairs.                                                                                                                                                                                                                                                                                                   |
| 2. Unnecessary removal of dead or declining trees, downed logs, snags and leaf litter should be avoided.                                                                                                                                                                                                                    | No dead or declining trees within the proposed route.                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 3. Consideration should be given to requiring fencing as a condition of a permit in order to manage access.                                                                                                                                                                                                                 | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 4. Where feasible, cut dangerous trees to a level where they are safe rather than removing entirely.                                                                                                                                                                                                                        | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 5. Denning and nesting sites or rare, threatened or endangered species should be protected.                                                                                                                                                                                                                                 | No denning or nesting sites or rare, threatened, or endangered species are known to be present and none were observed during the site visit. It is possible that denning or nesting sites could be hidden in cracks and crevices on rock faces and where staircases span rock faces, cracks and crevices should be left undisturbed to continue as habitat features. The design uses staircases suspended on footings to retain wildlife access to substrate underneath the staircases. |
| 6. Stairs, walkways and other access within a sensitive ecosystem adjacent to the shoreline should be limited to that required for safe access, with shared access where feasible. Stairs should incorporate landings, follow existing contours of the site, utilize small concrete pilings and have gaps between boards.   | The design is limited to that required for safe access, the boardwalk and stairs incorporate landings, use small footings, and have gaps between boards.                                                                                                                                                                                                                                                                                                                                |

To: Kevin Balmer

1. This Development Permit (the “Permit”) applies to the land described below:

LOT 45, SECTION 8, PENDER ISLAND, COWICHAN DISTRICT, PLAN 19741  
PID: 003-618-471

2. This Development Permit NP-DP-2023.4 authorizes the construction of a stairway and boardwalk within the Development Permit Area One (DPA 1) – Woodland Ecosystems and Development Permit Area Five (DPA 5) – Cliff Ecosystems, subject to the following requirements and conditions:

***General***

- a. The siting, dimensions, and construction of the stairway and boardwalk shall be substantially consistent with Schedule ‘A’ and ‘B’ attached to and forming part of this permit.

***Construction Management***

- b. All contractors and construction personnel are to be notified of the DPA locations and the conditions of this development permit by providing copies to all contractors.
- c. Construction shall minimize disturbance and maintain undeveloped habitat in as natural a state as possible.
- d. Construction traffic should remain within the footprint of the staircase and boardwalk to avoid trampling damage to surrounding vegetation and moss.
- e. Material and supplies will be stored outside the DPA or within the staircase/boardwalk footprint to reduce damage to adjacent vegetation.
- f. All concrete wash-water from equipment, trucks, and/or hand tools needs to be directed to a settling area away from the development permit areas. Freshly poured concrete needs to be covered and isolated from the sensitive ecosystems during the curing process.
- g. Spill response kits capable of addressing the volume of fuel/oils/chemicals shall remain on site for the entire period when machines are being used.
- h. All fuel cans and generators must be placed in spill-proof containers, and all refueling is to be completed at a designated location >30 m from any development permit area boundary

***Erosion Control***

- i. Trail excavation work to be completed during dry weather, halt work during heavy precipitation events to reduce the risk of erosion.

***Timing***

- j. Construction should not occur during the period of March to May to reduce the risk to sensitive early spring flora.

***Monitoring***

- k. Monitoring and guidance is to be conducted by a registered professional biologist (R.P. Bio.) to ensure that all conditions herein have been met to the satisfaction of the R.P. Bio.

- l. The monitoring R.P. Bio. at a minimum should complete a pre-construction review of the flagged final route, a review of the construction while in progress, and a final review of the completed construction.
  - m. The monitoring QEP(s) shall prepare and submit to the Islands Trust written confirmation of compliance with all conditions within this permit as issued within three months (3) of the development work being completed.
- 3. Any further development within designated Development Permit Areas will require a new Development Permit, or a Development Permit Amendment.
  - 4. The area described herein shall be developed in accordance with the terms, conditions and provisions of this Permit, and any plans and specifications attached to this Permit, which shall form a part thereof.
  - 5. This permit does not relieve the applicant from complying with the provisions of the North Pender Island Land Use Bylaw unless varied by this Permit.

This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of North Pender Island Land Use Bylaw No. 224, 2022 and to obtain other approvals necessary for completion of the proposed development.

**AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS ##th DAY OF MONTH, YEAR.**

\_\_\_\_\_  
Deputy Secretary, Islands Trust

\_\_\_\_\_  
Date of Issuance

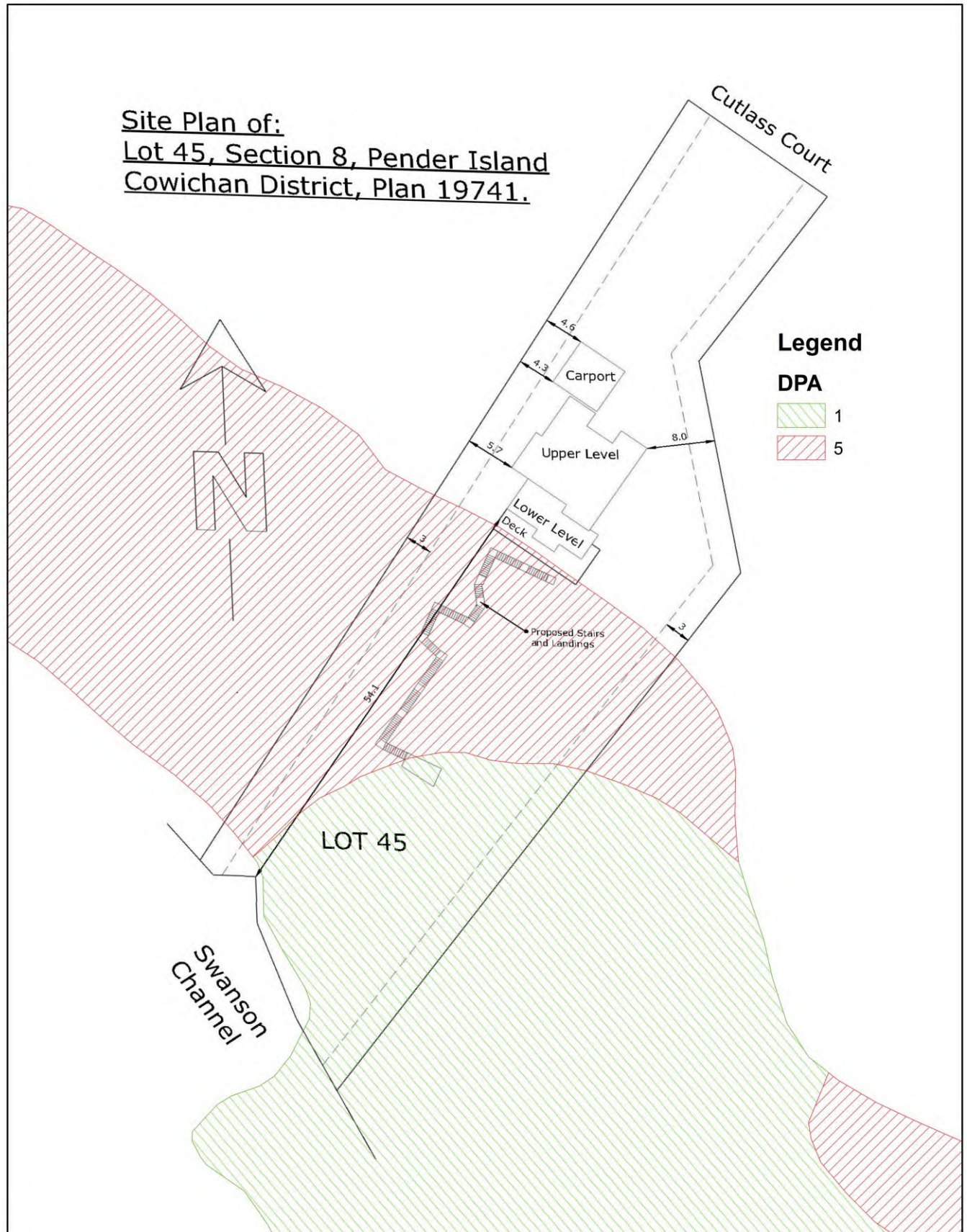
**IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE ##th DAY OF MONTH, YEAR, THIS PERMIT AUTOMATICALLY LAPSES.**



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**

**NP-DP-2023.4**

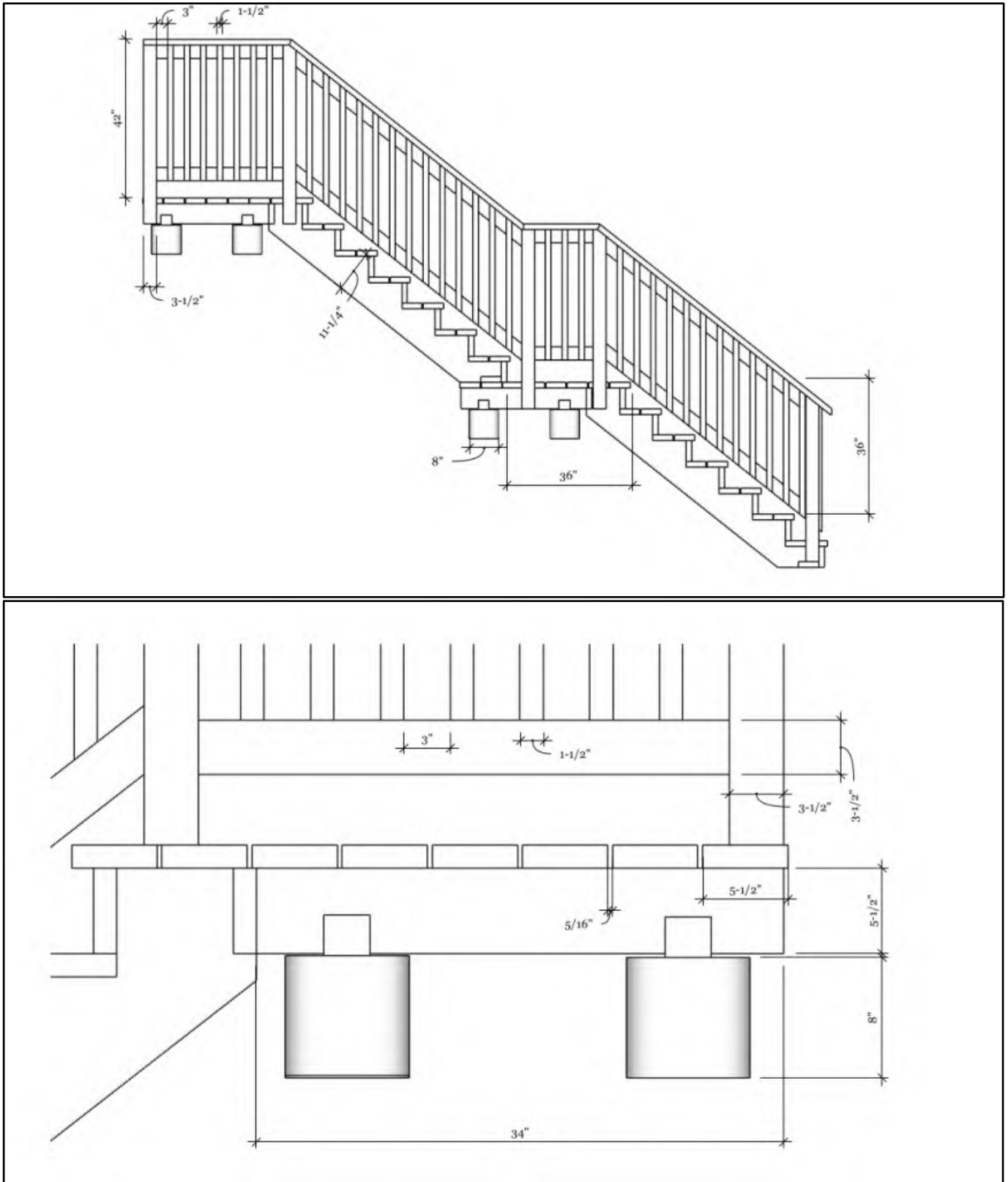
**SCHEDULE 'A' – Site Plan**



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**

**NP-DP-2023.4**

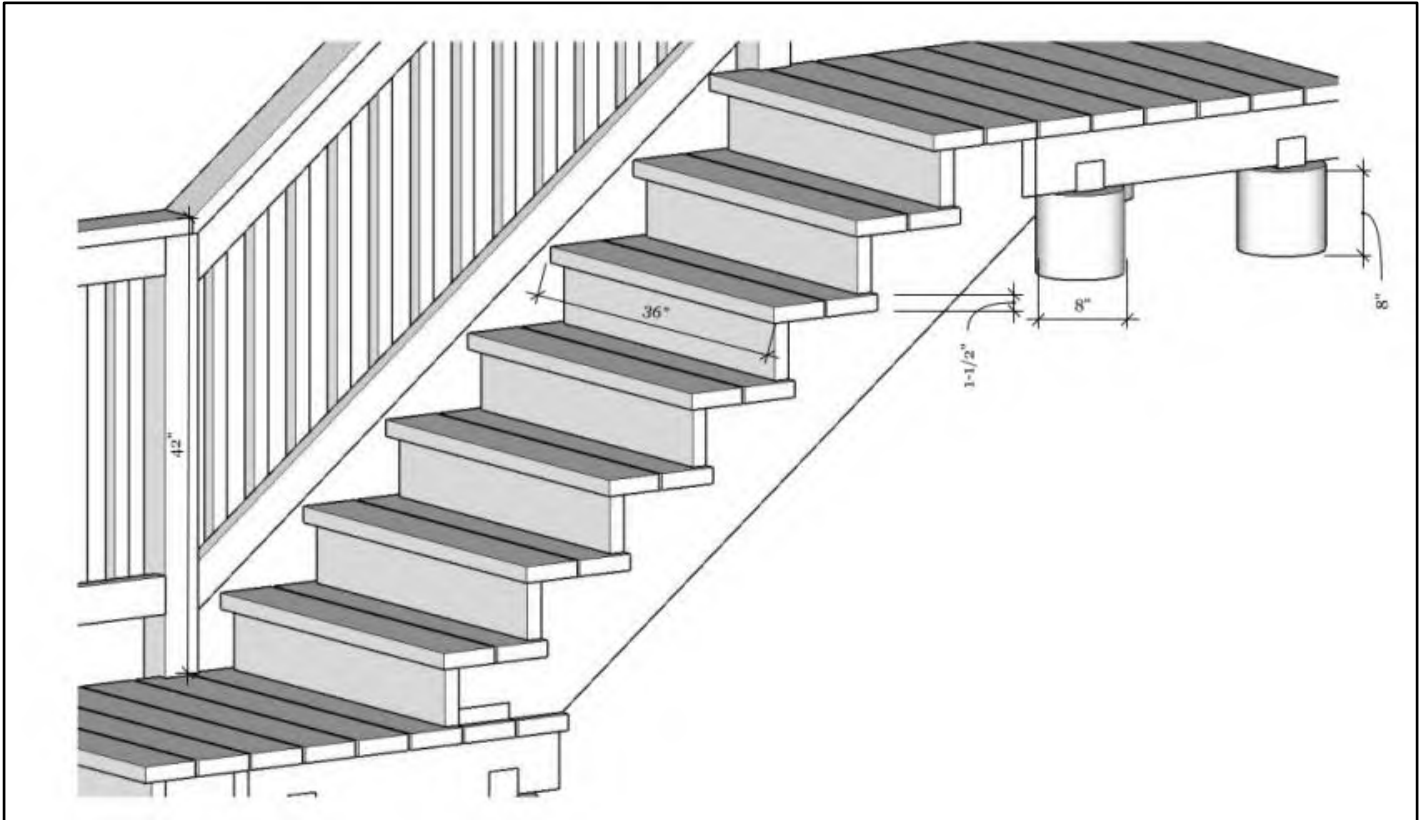
**SCHEDULE 'B' – Construction Elevations**



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**

**NP-DP-2023.4**

**SCHEDULE 'B' – Construction Elevations**



File No.: NP-DP-2023.6 (Funk) x-ref  
NP-DP-2022.2 (Funk)

DATE OF MEETING: January 26, 2024  
TO: North Pender Island Local Trust Committee  
FROM: Brad Smith, Island Planner  
Southern Team  
COPY: Robert Kojima, Regional Planning Manager  
SUBJECT: Development Permit Amendment Application  
Applicant: Dayton Funk  
Location: 1346 MacKinnon Road

## RECOMMENDATION

1. That the North Pender Island Local Trust Committee approve issuance of amending Development Permit NP-DP-2023.6 (Funk).

## REPORT SUMMARY

This report is to consider a Development Permit (DP) amendment application for the subject property located at 1346 Mackinnon Road.

The purpose of the previously approved DP (NP-DP-2022.2) is for land alteration, tree removal and establishment of building areas within **Development Permit Area (DPA) One – Woodland Ecosystems**. The proposed amendment is to allow for an adjustment of the siting of the proposed dwelling and accessory building (garage) within DPA 1. The recommendation above is supported as:

- The objectives and guidelines of the DPA have been met in the original permit and the amendment,
- A biologist has provided a report addendum that concludes DPA 1 will not be impacted by the adjustment to the siting of the proposed dwelling and garage;
- Implementation and monitoring conditions in the original DP and amending DP will ensure the protection of the sensitive woodland ecosystem.

## BACKGROUND

The original DP application was submitted to establish buildable areas and proceed with site preparation activities and the installation of infrastructure in advance of detailed building design and Building Permit application(s).

Permit NP-DP-2022.2 was approved by the LTC and issued in August 2022.

[illegible]

Issued permit NP-DP-2022.2 is included as Attachment 1 for reference. The staff report presented to the LTC at time of approval is located on p. 22 of the August 11, 2022 LTC [meeting agenda package](#).

## Proposed Amendments

Draft Permit NP-DP-2023.6 (Attachment 2) includes the following conditions to allow for these adjustments:

- If the amending DP is approved by the LTC, all other permit conditions of approved permit NP-DP-2022.2 that are unaffected by the new permit would continue to apply.



Figure 2 shows the amended site plan with new house and garage location, and new development area boundary.

**Figure 2. Amended Site Plan with New Development Area Boundary**



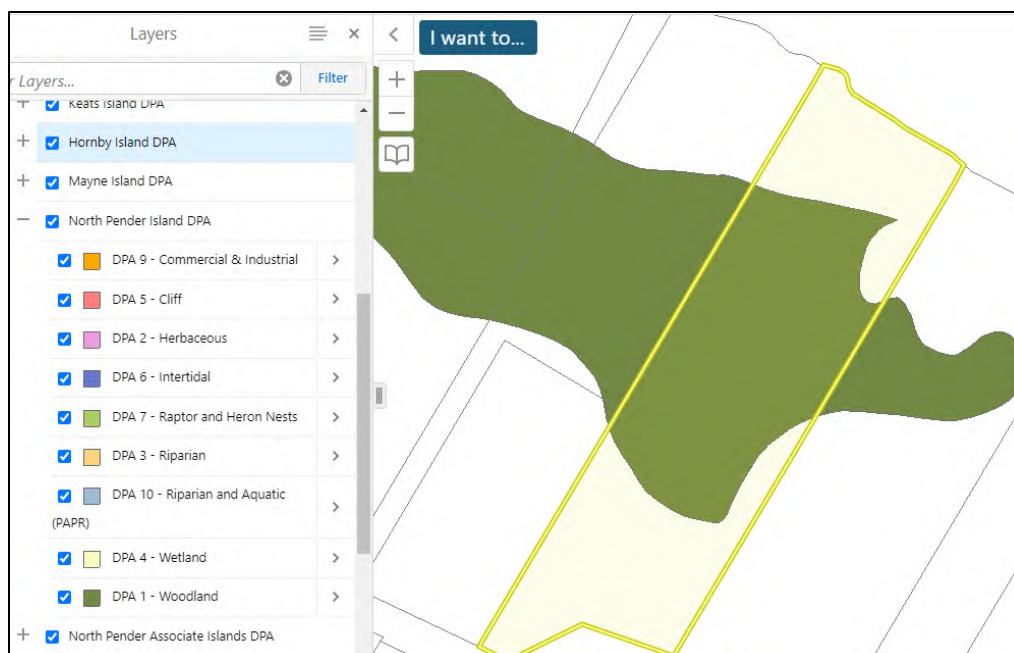
## Policy/Regulatory

### Official Community Plan

The property is designated **RR - Rural Residential** in the North Pender Island Official Community Plan No. 171, 2007.

DPA 1 is designated on the subject property as shown below:





DPA guidelines were presented at the time of original permit approval, with staff determining that the proposed development substantively meets the objective and guidelines of the DPA. The proposed amendments are minor and are also consistent with these objectives and guidelines.

### ***Land Use Bylaw***

The property is zoned **Rural Residential (RR)** in the North Pender Island Land Use Bylaw No. 22, 2022. The proposed uses and density meet the requirements of the LUB.

### **Issues and Opportunities**

#### ***Biologist's Report Addendum***

The property owner has obtained a report from the same professional biologist that completed the original assessment. In the addendum report, dated November 29, 2023 (Attachment 3) the professional concludes:

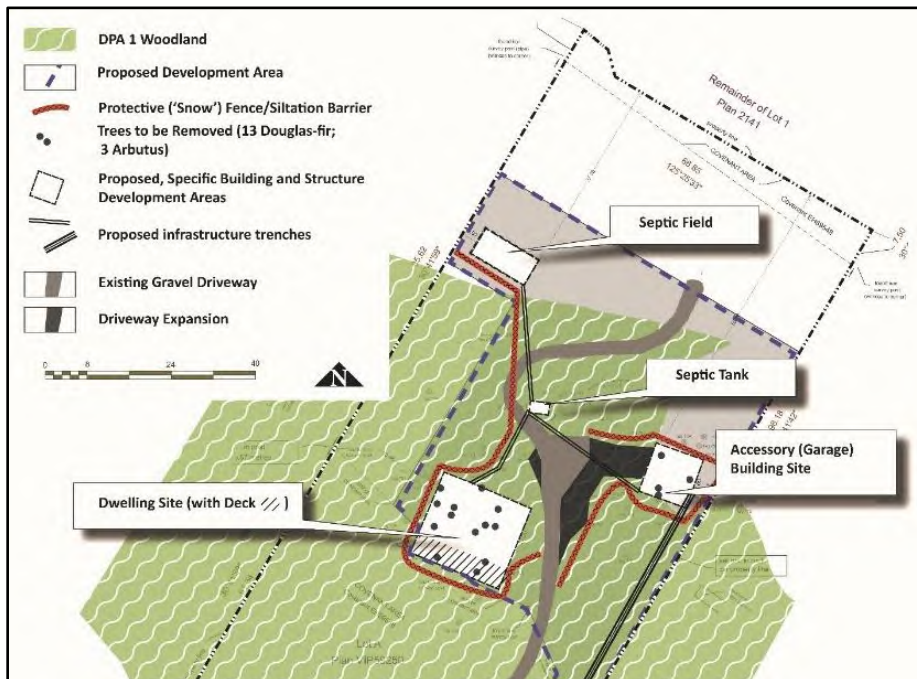
It is my professional opinion that the Woodland Ecosystem DPA will not be impacted by the adjustment of the proposed construction of a primary dwelling and a garage at 1346 MacKinnon Road, Pender Island BC. It is my opinion that with continued care of existing seedlings and/or young trees in the Woodland Ecosystem DPA, no further detrimental impacts to the sensitive and threatened ecosystems on the subject will occur.

The recommendations in the report addendum for maintaining native species are already included as conditions in NP-DP-2022.2.

### ***Tree Removal***

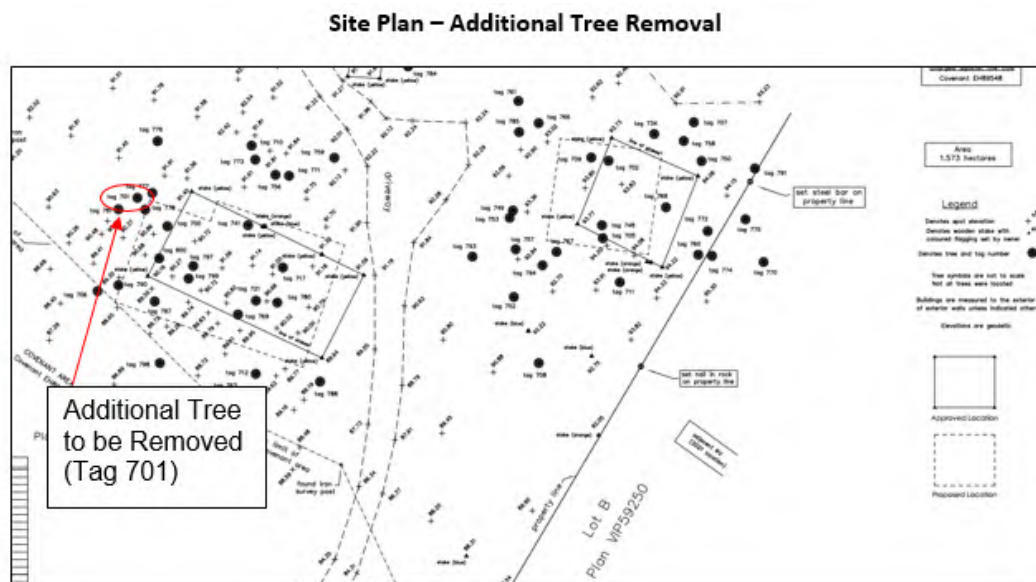
Land clearing has already resulted in the removal of the 16 trees approved in the original permit (Figure 1).

**Figure 3. Tree Removal Plan – Permit NP-DP-2022.2**



For the amending permit, the dwelling location has been adjusted to move the northeast corner of the house west. This adjustment will result of the loss of one additional Douglas-fir tree (Tag 701).

The garage has been rotated to avoid further removal of an arbutus and a Douglas-fir. Post-approval of NP-DP-2022.2, further inspection revealed that these two trees would have made it difficult to navigate properly when entering the garage. The property owner chose to rotate the garage in a way to help protect the two trees without the loss of any additional trees.



The initial report recommended compensatory plantings consisting of 44 Douglas-fir and 16 arbutus seedlings. The property owner has more than doubled the required plantings by planting 50 arbutus and approximately 100 Douglas-fir trees. Therefore, it is the opinion of the biologist that there is no need for any further tree planting.

compensation as the result of the loss of one additional Douglas-fir and no further restoration conditions have been added by staff to the draft DP.

### **Consultation**

There is no public or agency consultation regularly associated with a DP application or amendment, nor any requirement for statutory notification.

### **First Nations**

Islands Trust reviews all applications/permits using Remote Access to Archaeological Data (RAAD) mapping to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. Staff have provided the Islands Trust Chance Find Protocol and the Provincial Archaeological Branch guidelines on *Heritage Act* to the applicant.

### **Rationale for Recommendation**

The recommendation on page 1 is supported as:

- The objectives and guidelines of the DPA have been met in the original permit and the amendment,
- A biologist has provided a report addendum that concludes DPA 1 will not be impacted by the adjustment to the siting of the proposed dwelling and garage;
- Implementation and monitoring conditions in the original DP and amending DP will ensure the protection of the sensitive woodland ecosystem.

### **Alternatives**

The LTC may consider the following alternatives to the staff recommendation:

#### **1. Request further information**

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

*That the North Pender Island Local Trust Committee request that the applicant submit to the Islands Trust \_\_\_\_\_.*

#### **2. Determine that the DPA guidelines are not being met**

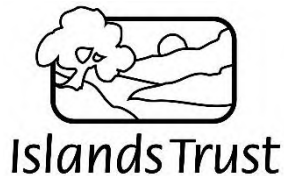
The LTC may determine that the application as presented does not meet one or more guidelines of DPA-1. If this is the case, the LTC may request that the applicant amend the proposal to more closely align with DPA guidelines. The LTC should indicate which guidelines are not being met and the reasons for this. Recommended wording for the resolution is as follows:

*That the North Pender Island Local Trust Committee has determined that application NP-DP-2023.6 (Funk as presented on January 26, 2024 does not meet guideline(s) \_\_\_\_\_ for the following reasons: \_\_\_\_\_.*

|               |                                          |                  |
|---------------|------------------------------------------|------------------|
| Submitted By: | Brad Smith, Island Planner               | January 16, 2024 |
| Concurrence:  | Robert Kojima, Regional Planning Manager | January 16, 2024 |

#### ATTACHMENTS

1. Approved Permit NP-DP-2022.2
2. Draft Permit NP-DP-2023.6
3. Biologist's report addendum, Nov 29, 2023



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE  
DEVELOPMENT PERMIT NP-DP-2022.2**

To: Dayton and Carol Funk  
Jonathan Funk  
Jason Funk and Jennifer Rai

1. This Development Permit (the "Permit") applies the land described below and all buildings, structures and other developments therein:

LOT A, SECTION 17, PENDER ISLAND, COWICHAN DISTRICT, PLAN VIP59250  
PID: 018-876-838

2. This Development Permit NP-DP-2022.2 authorizes the alteration of land including site preparation and installation of in-ground infrastructure for the siting of a dwelling and accessory building, including the removal of thirteen (13) mature Douglas-fir and three (3) Arbutus trees and restoration planting within **Development Permit Area ('DPA') 1 – Woodland Sensitive Ecosystem**, subject to the following requirements and conditions:

***General***

- a. Overall the permitted development within the DPA shall minimize land and vegetation disturbance and maintain undeveloped habitat in as natural a state as possible.
- b. Development shall be substantively consistent with Schedules 'A', 'B' and 'C', attached to and forming part of this permit.
- c. The development of a dwelling and accessory building is permitted in the specific locations and areas shown on Schedules 'A' and 'B', and any expansion or relocation of the areas would require an amendment to this permit or a new permit.

***Mitigation and Restoration (Tree Replacement & Retention)***

- d. A total of sixty (60) replacement small seedlings (forty-four (44) Douglas-fir and sixteen (16) Arbutus) shall be planted in the DPA outside of the area of permitted development.
- e. Site selection for seedling planting shall be in areas selected for soil type and depth, and shading in consultation with the monitoring QEP.
- f. All seedlings used in replanting shall be selected to suit the soil, light and groundwater conditions of the site, shall be native to the region, shall be of a size that minimizes the need for machinery and should be selected for wildlife habitat values where possible.
- g. All restoration planting shall occur in the fall (Sept-Oct) or spring (Feb-Mar) to allow for plant root establishment and soil stabilization before being exposed to the peak drought season or winter precipitation.
- h. All new seedling trees shall be maintained by the property owner until they have reached a "free to grow" height of 1.5 m. to include; exclusion fencing as per condition 2(i); the removal of invasive weeds (e.g., Himalayan blackberry (*Rubus armeniacus*), Scotch broom); and, irrigation through the summer drought months to ensure seedling establishment.

- i. All new seedlings shall be protected from foraging by wildlife by the use of exclusion fencing consisting of expandable metal cages and/or fencing that starts close to the ground and is expanded and maintained until the trees reach a minimum height of 1.5 metres.
- j. Unhealthy, dying or dead stock shall be replaced at the owner's expense in the next regular planting season to maintain the total replacement number of seedlings at sixty (60).
- k. To maintain ecological integrity of the ecosystem and to provide habitat, nesting opportunities and shelter, all existing trees, including standing dead trees ("snags"), and native plant species shall be retained within the DPA.
- l. With the exception of the minimum amount of excavation and clearing for the designated building sites, there shall be no further soil removal or deposit within the DPA as shown on Schedules 'A' and 'B'.
- m. The retention of mature trees and snags in areas of the property outside of the DPA is strongly encouraged.

#### ***Hydrology***

- n. Stormwater drainage of roof areas and impermeable landscape features (terrace) should be redirected toward the replacement seedling plantings in the DPA where feasible.
- o. The installation of rainwater catchment systems with the dwelling and accessory buildings are encouraged.

#### ***Native and Invasive Species Management (Retention, Planting & Removal)***

- p. The area of DPA outside of permitted development areas shall be maintained in an undeveloped habitat in as natural a state as possible.
- q. Additional landscaping and restoration inside the DPA, shall be conducted using only native plant species.
- r. The ongoing removal of invasive plant species (particularly Scotch broom) is required within replanting areas, to prevent its continued spread and improve the quality of natural areas.
- s. Removal of Scotch broom shall be undertaken by cutting larger plants at or just below the ground to avoid soil disturbance and erosional loss, as well as to reduce germination of seeds contained in the soil seed bank.
- t. The use of native plant species for landscaping and removal of invasive species in areas of the property outside of the DPA is strongly encouraged.

#### ***Construction Management***

- u. Prior to the commencement, and for the duration, of development the following measures shall be undertaken by the property owner:
  - i. The DPA shall be delineated on the ground and construction access limited to the area of development with the installation of a combined snow/silt fence between the proposed development area and the DPA boundary as shown in Schedule 'B' and in accordance with the specification in Schedule 'C', attached to and forming part of this permit.
  - ii. Mature trees adjacent to the construction footprint should be protected from damage with the installation of snow-fencing around the drip line of trees to prevent compaction of root systems by heavy equipment.
- v. Any hired contractors shall inspect their equipment and vehicles to ensure they do not transport invasive plant species seeds onto or off the property; the manual removal of invasive weed species from machinery and equipment should occur regularly, and all machinery and equipment shall be washed prior to arrival.



- w. Seedling replanting should be done by hand where feasible, and where machinery is required for replanting and building excavation the lightest possible machinery shall be use.
- x. There shall be no incursion by machinery or equipment into the DPA outside of the permitted building envelopes as shown on Schedules 'A' and 'B'.
- y. There shall be no storage of construction supplies and waste in the DPA outside of the permitted building envelopes as shown on Schedules 'A' and 'B'.
- z. Any soils exposed or deposited for a period of greater than two (2) weeks and/or prior to any significant rainfall event shall be covered and maintained by means of tarps in good repair, jute, straw and/or hydromulch (without seeds).
- aa. Construction, restoration and landscaping should be undertaken during dry weather and not during periods of prolonged wet, windy and rainy weather.
- bb. Where feasible construction activities should avoid the peak annual songbird nesting windows of May 1<sup>st</sup> to July 22<sup>nd</sup>.

***Monitoring***

- cc. A follow-up site visit by a QEP once the revegetation is completed is required to assess the effectiveness of the restoration.
  - dd. The monitoring QEP(s) shall prepare and submit to the Islands Trust written confirmation of compliance with all conditions with this permit as issued within one (1) month of the restoration work being completed.
3. Any further development within designated Development Permit Areas will require a new Development Permit, or a Development Permit Amendment.
  4. The area described herein shall be developed in accordance with the terms, conditions and provisions of this Permit, and any plans and specifications attached to this Permit, which shall form a part thereof.
  5. This permit does not relieve the applicant from complying with the provisions of the North Pender Island Land Use Bylaw unless varied by this Permit.

This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of North Pender Island Land Use Bylaw No. 103, 1996 and to obtain other approvals necessary for completion of the proposed development.

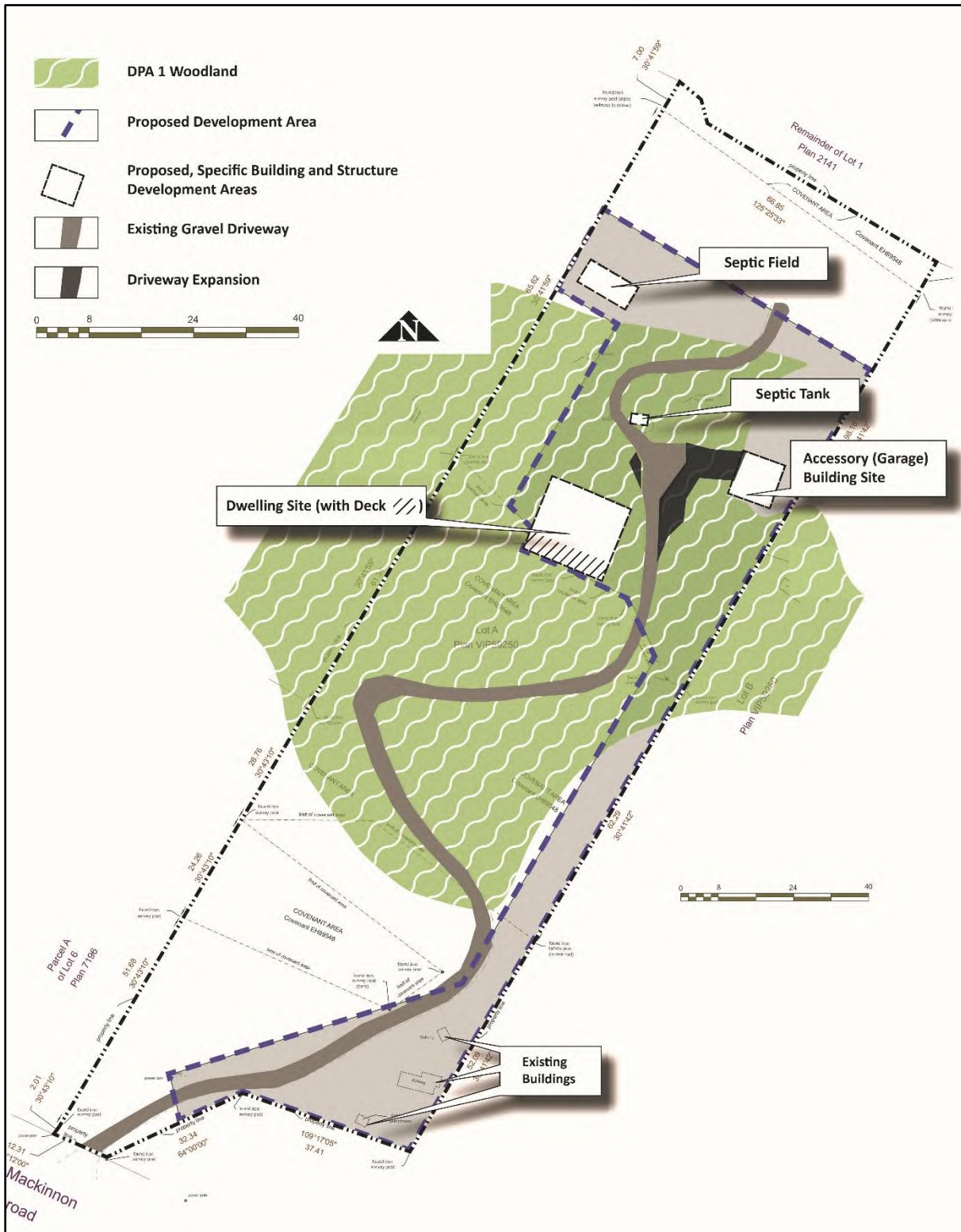
**AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS 11<sup>TH</sup> DAY OF AUGUST, 2022.**

\_\_\_\_\_  
Deputy Secretary, Islands Trust

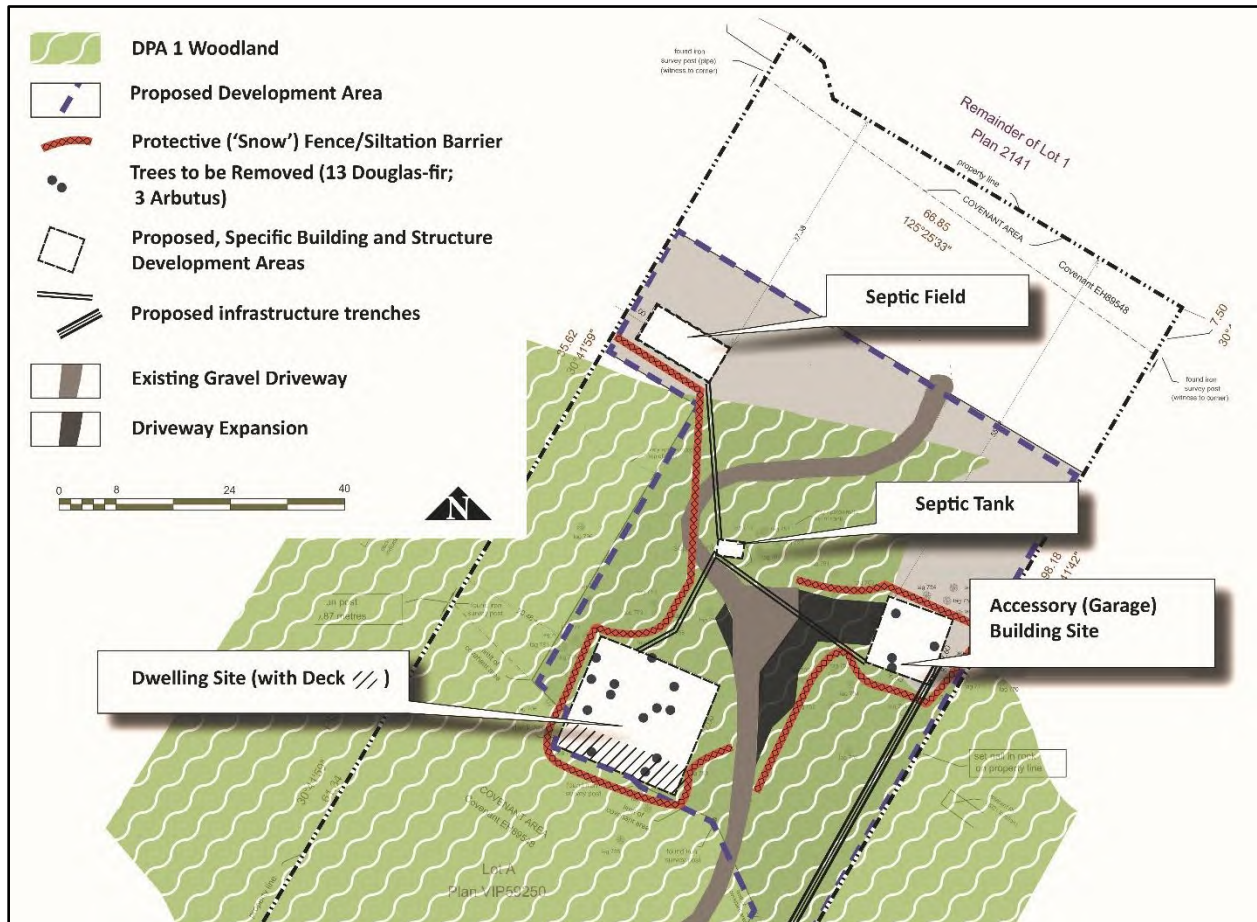
\_\_\_\_\_  
August 12, 2022  
Date of Issuance

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE 12<sup>TH</sup> DAY OF AUGUST, 2024, THIS PERMIT AUTOMATICALLY LAPSES.

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**  
**DEVELOPMENT PERMIT NP-DP-2022.2**  
**SCHEDULE 'A'**  
**Site Plan**



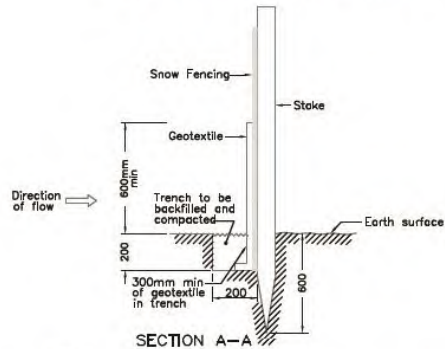
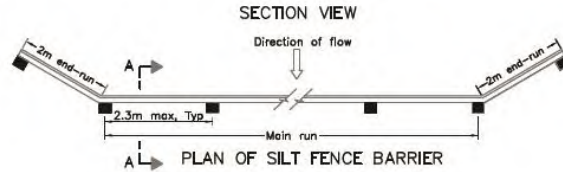
**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**  
**DEVELOPMENT PERMIT NP-DP-2022.2**  
**SCHEDULE 'B'**  
**Detail Site Plan – Tree Removal**



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE  
DEVELOPMENT PERMIT NP-DP-2022.2  
SCHEDULE 'C'  
Erosion and Sedimentation Control Measures**

**EROSION AND SEDIMENTATION**

- 1) PRE-STAKED SILT FENCE TO BE INSTALLED AS SHOWN PRIOR TO CONSTRUCTION AS DIRECTED BY THE ENGINEER.
- 2) TOPSOIL STRIPPED FOR REUSE TO BE STOCKPILED AWAY FROM WATER COURSES, DRAINAGE PATHS AND PROPERTY AND SHALL BE COVERED AND / OR SEEDED TO REDUCE EROSION.
- 3) ALL DISTURBED AREAS TO BE RESTORED AND LANDSCAPED AS SOON AS POSSIBLE FOLLOWING CONSTRUCTION.
- 4) ALL EROSION AND SEDIMENT CONTROL MEASURES TO BE INSPECTED AND MAINTAINED ON A REGULAR BASIS THROUGHOUT THE COURSE OF CONSTRUCTION BY THE CONTRACTOR. THE QUALIFIED ENVIRONMENTAL MONITOR (QEM) JOHN GRODS SHALL HALT PROGRESS OF ANY AND ALL WORK AND SHALL DIRECT CONTRACTOR TO REPAIR / ALTER CONSTRUCTION MITIGATION MEASURES IF THEY ARE NOT PERFORMING ADEQUATELY.

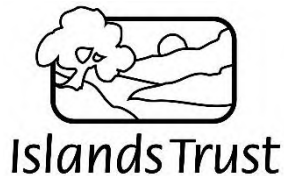


**NOTE:**

All dimensions are in millimetres or metres unless otherwise shown.

**SILT FENCE WITH SNOW FENCE DETAIL**

NTS



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE  
DEVELOPMENT PERMIT NP-DP-2023.6 (x-ref NP-DP-2022.2)**

To: Dayton and Carol Funk  
Jonathan Funk  
Jason Funk and Jennifer Rai

1. This Development Permit (the "Permit") amends Development Permit NP-DP-2022.2 and applies to the land described below and all buildings, structures and other developments therein:

LOT A, SECTION 17, PENDER ISLAND, COWICHAN DISTRICT, PLAN VIP59250  
PID: 018-876-838

2. This Development Permit NP-DP-2023.6 authorizes the alteration of land including site preparation and installation of in-ground infrastructure for the siting of a dwelling and accessory building, subject to the following amending requirements and conditions:

***General***

- a. Development shall be substantively consistent with Schedule 'A' attached to and forming part of this permit which supplements and amends Schedule A of Development Permit NP-DP-2022.2.
- b. The development of a dwelling and accessory building is permitted only in the specific locations shown on Schedule 'A' and any expansion or relocation of these structures would require an amendment to this permit or a new permit.

***Construction Management***

- c. The Development Area boundary is amended as shown in Schedule 'A' attached to and forming part of this permit
- d. The required installation of a combined snow/silt fence as shown in Schedule B of Development Permit NP-DP-2022.2 must be adjusted to follow the new footprint of the dwelling and accessory building as shown in Schedule A of this amending permit.

***Tree Removal***

- e. The removal of one (1) additional Douglas-fir (Tag 701) is permitted as shown in Schedule 'B' attached to and forming part of this permit which supplements the permitted removal of 13 Douglas-fir and 3 arbutus as shown in Schedule B of Development Permit NP-DP-2022.2.
3. This permit amends Development Permit NP-DP-2022.2 (Funk). All other conditions described within Development Permit NP-DP-2022.2 and not amended by this Development Permit remain valid and applicable.
  4. Any further development within designated Development Permit Areas will require a new Development Permit, or a Development Permit Amendment.

5. The area described herein shall be developed in accordance with the terms, conditions and provisions of this Permit, and any plans and specifications attached to this Permit, which shall form a part thereof.
6. This permit does not relieve the applicant from complying with the provisions of the North Pender Island Land Use Bylaw unless varied by this Permit.

This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of North Pender Island Land Use Bylaw No. 224, 2022 and to obtain other approvals necessary for completion of the proposed development.

**AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS  
\_\_ DAY OF \_\_\_\_, 2024.**

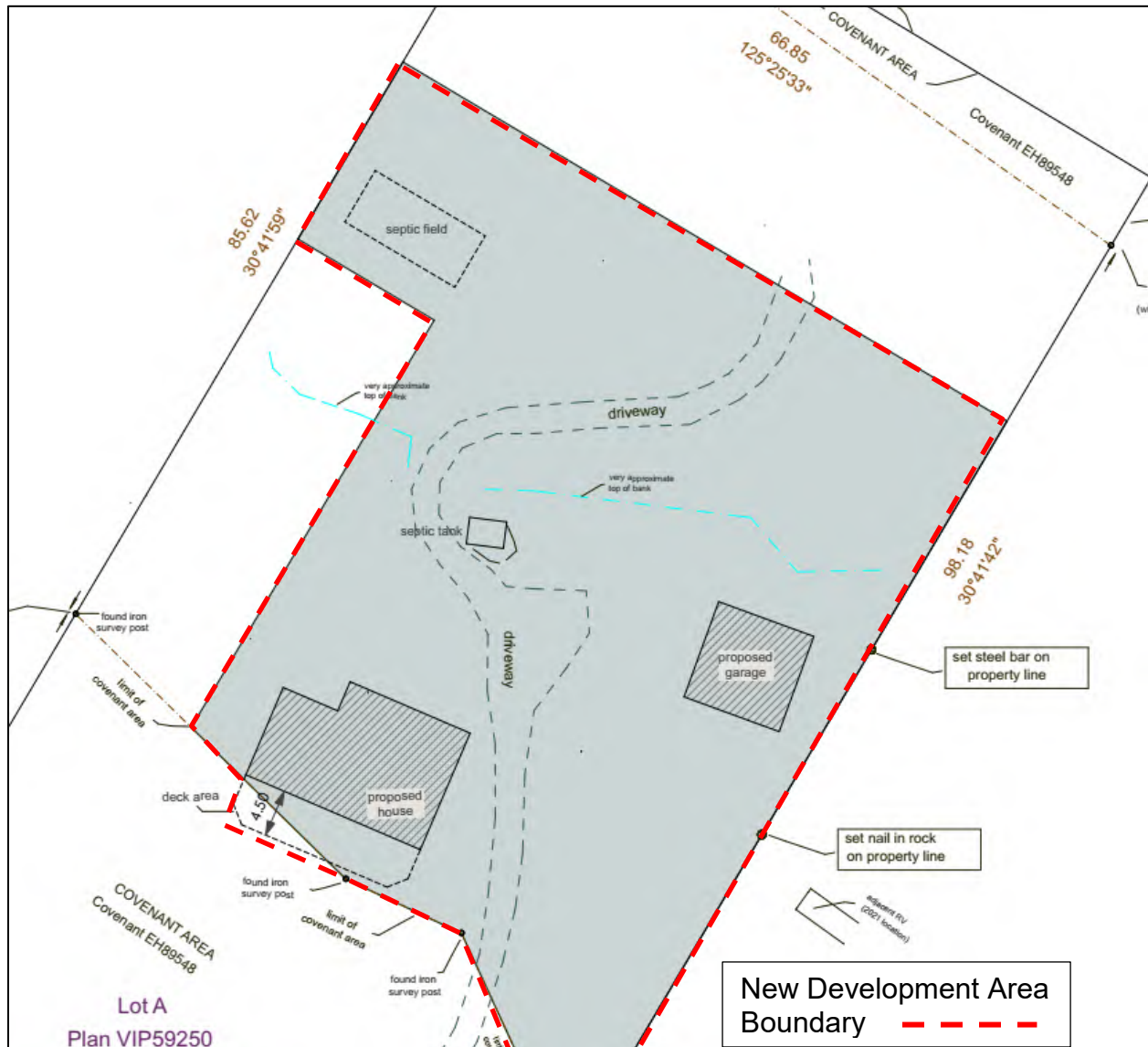
\_\_\_\_\_  
Deputy Secretary, Islands Trust

\_\_\_\_\_  
Date of Issuance

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE \_\_ DAY OF \_\_\_\_, 2026, THIS PERMIT AUTOMATICALLY LAPSES.

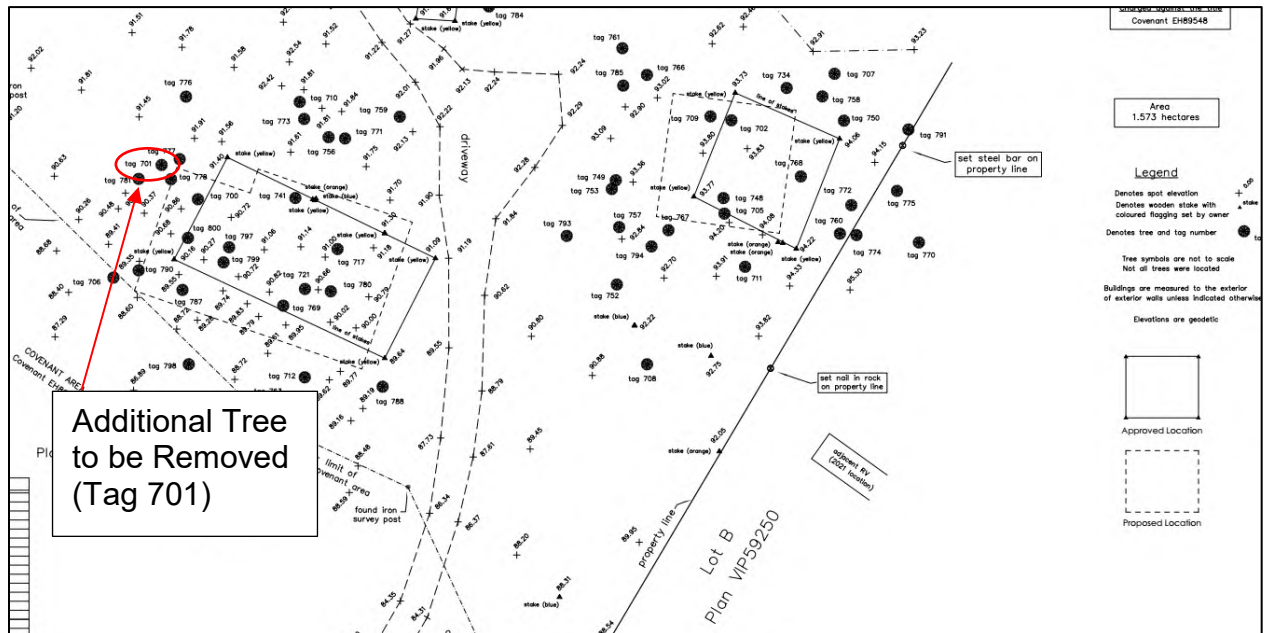


**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**  
**DEVELOPMENT PERMIT NP-DP-2023.6 (x-ref NP-DP-2022.2)**  
**SCHEDULE 'A'**  
**Site Plan - Amended**



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE  
DEVELOPMENT PERMIT NP-DP-2023.6 (x-ref NP-DP-2022.2)  
SCHEDULE 'B'**

**Site Plan – Additional Tree Removal**





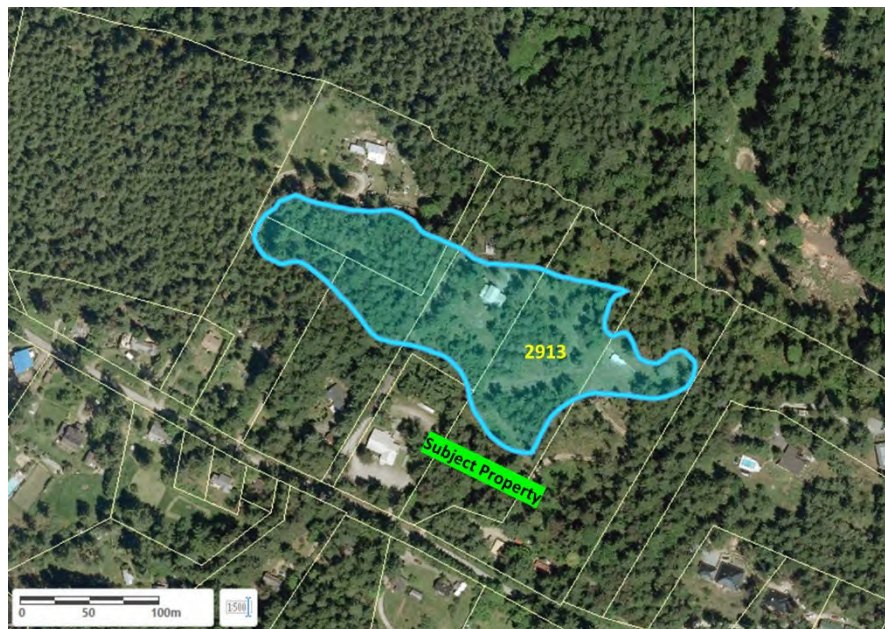
3601 Masthead Cr.  
Pender Island BC Canada  
V0N 2M0  
250-222-4571  
[caurinusenvironmental@gmail.com](mailto:caurinusenvironmental@gmail.com)

29 November 2023

**Brad Smith:**

**Re: Review of building adjustment in the Woodland Ecosystem Development Permit Area (DPA) located at Lot A Plan, VIP59250 Section 17, Land District 16, Portion Pender Island (PID: 018-876-838) - 1346 MacKinnon Road.**

Caurinus Environmental was retained to review a plan to adjust the placement of the primary dwelling and a garage within the Woodland Ecosystem Development Permit Area (DPA) located at 1346 MacKinnon Road on North Pender Island. The purpose of the Woodland Ecosystem DPA is to offer protection to the remaining woodland ecosystems on North Pender Island by guiding any new development that might occur within them. Portions of the property at 1346 MacKinnon Road have been locally designated as a Woodland Ecosystem DPA by the Islands Trust. This designation includes forest such as open deciduous and mixed deciduous conifer. They are generally restricted to areas with shallow soils on south-facing slopes in areas with extremely dry summers. The Woodland Ecosystem DPA present is designated as 70% Douglas-fir - Shore Pine – Arbutus, Young Forest; 30% Douglas-fir Salal, Young Forest (Figure 1).



**Figure 1. Location of Woodland Ecosystem DPA on subject property. 2913: 70% Douglas-fir - Shore Pine – Arbutus, Young Forest; 30% Douglas-fir Salal, Young Forest (Islands Trust (MapIT) 2023).**



The proposed dwelling has been adjusted to move the NE corner of the house West, away from the driveway and while simultaneously adjusting the proposed structure to face in a more southerly direction take advantage of the direct sunlight for solar panel use. This adjustment will result of the loss of one additional Douglas-fir tree in the vicinity of the proposed dwelling (Plate 1).

**Plate 1. Location of one Douglas-fir tree (centre of photo) to be removed with the readjustment of the proposed primary dwelling in the Woodland Ecosystem DPA at 1346 MacKinnon Road.**



The garage as shown in the new plans have been rotated to avoid removing an arbutus and a Douglas-fir (Figure 3). Post Woodland Ecosystem DPA approval, further inspection revealed that these two trees would have made it difficult to navigate properly when entering the garage. The property owner chose to rotate the garage in a way to help protect the two trees without the loss of any additional trees.



**Plate 2. Location of two trees to be retained in the Woodland Ecosystem DPA at 1346 MacKinnon Road.**



The initial report recommended compensatory plantings consisting of 44 Douglas-fir and 16 arbutus seedlings. The property owner more than doubled the required plantings by planting 50 arbutus and approximately 100 Douglas-fir trees. Therefore, in my opinion, there will be no need for any further tree planting compensation as the result of the loss of one additional Douglas-fir.

### **Maintaining Native Species**

To maintain ecological integrity of the Woodland Ecosystem DPA and the larger property, it is recommended that no tree removal beyond what was required for the protection of current structures should occur. This includes the retention of standing dead trees (snags), as these features provide critical habitat for many species of birds, bats, and invertebrates. Existing seedlings or young trees should be managed to provide the best opportunity for survival (e.g. removal of competing vegetation and non-native species as needed, protection from deer browsing). Retention of all mature trees currently present in the Woodland Ecosystem DPA on the property will help stimulate the natural tree regeneration process, since mature trees provide a source of seed for future regeneration. The continued removal of invasive species (particularly Scotch broom) is recommended inside the Woodland Ecosystem DPA, including throughout the entire property, to prevent its continued spread and improve the quality of natural areas.

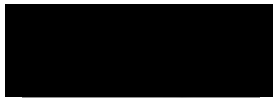
Landscaping and restoration of natural areas throughout the Woodland Ecosystem DPA should be completed using only locally sourced native plants.

It is my professional opinion that the Woodland Ecosystem DPA will not be impacted by the adjustment of the proposed construction of a primary dwelling and a garage at 1346 MacKinnon Road, Pender Island BC. It is my opinion that with continued care of existing seedlings and/or young trees in the Woodland Ecosystem DPA, no further detrimental impacts to the sensitive and threatened ecosystems on the subject will occur.

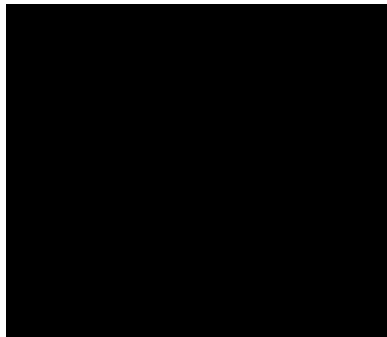
Please do not hesitate to contact me if you have any additional questions or concerns, or if you require additional information.

**CAURINUS ENVIRONMENTAL**

Per:



Dan Baxter, B.Sc., R.P.Bio. #1999  
Project Manager







# BYLAW REFERRAL FORM

Suite 200, 1627 Fort Street  
Victoria, B.C. V8R 1H8  
Ph: (250) 405-5151  
Fax: (250) 405-5155  
southinfo@islandstrust.bc.ca  
www.islandstrust.bc.ca

Island: Saturna Island Local Trust Area Bylaw No.: 140/141 Date: October 27, 2023

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 30 days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

**APPLICANTS NAME / ADDRESS:**

100/101 Payne Rd and 201 Harris Road

**PURPOSE OF BYLAW:**

Amendments would be made to the Saturna Island Official Community Plan Bylaw No. 70, 2000 (OCP) and the Saturna Island Land Use Bylaw No. 119, 2018 (LUB) to rezone the parcel located at 100/101 Payne Road to allow for an additional dwelling density to be added. Currently, the shared property has a single primary dwelling and an accessory cottage which are lived in by separate families, and these families are now seeking to separate their financial/property obligations to ensure their estate planning is properly taken care of.

The density for the additional dwelling is to be transferred from the parcel located at 201 Harris Road, which has been arranged through a private agreement between the property owners. As the additional proposed density is to be transferred from another parcel on Saturna, there is no net increase in overall density. In addition, three (3) densities would be removed from the Harris Road property and transferred to the Community Amenity Density Reserve (CADR) for potential future use by the LTC in meeting land conservation objectives. The transfer of these three (3) densities to the CADR is voluntary at the request of the property owner.

**GENERAL LOCATION:**

Saturna Island Local Trust Area

**LEGAL DESCRIPTION:**

100/101 Payne Road: Lot 1, Section 18, Saturna Island, Cowichan District, Plan 6417  
201 Harris Road: Lot 1, Section 5, Saturna Island, Cowichan District, Plan 25360

**SIZE OF PROPERTY AFFECTED:**

100/101 Payne Road: 1.69 ha  
201 Harris Rd: 14.4 ha

**ALR STATUS:**

A portion of the  
100/101 Payne Rd  
property is located  
in the ALR

**OFFICIAL COMMUNITY PLAN DESIGNATION:**

100/101 Payne Road: Rural  
201 Harris Road: Rural, Watershed

**OTHER INFORMATION:**

Additional information, including a preliminary staff report and the current bylaws, is available at:  
<https://islandstrust.bc.ca/island-planning/saturna/current-applications/>

Please fill out the Response Summary. If your agency's interests are "*Unaffected*", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.

*BSmith*

(Signature)

Name: Brad Smith

Title: Island Planner  
Contact Info: Tel: 778-679-5185  
Email: [bsmith@islandstrust.bc.ca](mailto:bsmith@islandstrust.bc.ca)

**This referral has been sent to the following agencies:**

**Government Agencies**

Parks Canada  
Ministry of Transportation and Infrastructure

**Regional Agencies**

CRD, Planning and Protective Services, Building Inspection  
CRD, Integrated Water Services (Lyall Harbour – Boot  
Cove Water System)  
Island Health

**Adjacent Local Trust Committees and Municipalities**

North Pender Island Local Trust Committee  
Mayne Island Local Trust Committee  
South Pender Island Local Trust Committee

**First Nations**

Cowichan Tribes  
Halalt First Nation  
Ts'uubaa-asatx First Nation  
Lyackson First Nation  
Malahat First Nation  
Pauquachin First Nation  
Penelakut Tribe  
Semiahmoo First Nation  
Snuneymuxw First Nation  
Stz'uminus First Nation  
Tsartlip First Nation  
Tsawout First Nation  
Tsawwassen First Nation  
Tseycum First Nation  
WSANEC Leadership Council

**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

Saturna Island Local Trust Area  
\_\_\_\_\_  
(Island)

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

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

140/141  
\_\_\_\_\_  
(Bylaw Number)

\_\_\_\_\_  
(Name and Title)

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



Islands Trust

# BYLAW REFERRAL FORM

1-500 Lower Ganges Road  
Salt Spring Island, BC V8K 2N8  
Ph: (250) 537-9144  
ssiinfo@islandstrust.bc.ca  
www.islandstrust.bc.ca

Island: Salt Spring Island Trust Area Bylaw No.: 536 Date: 4 December 2023

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 30 days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

**APPLICANTS NAME / ADDRESS:**

Mischa Gelb, PO Box 674, Hope BC V0X 1L0

**PURPOSE OF BYLAW:**

A proposal to permit four (4) dwellings and one (1) seasonal cottage on the property.

**GENERAL LOCATION:**

Sec 50 Musgrave Road, Salt Spring Island

**LEGAL DESCRIPTION:**

THE NORTH EAST 1/4 OF SECTION 50, SOUTH SALT SPRING ISLAND, COWICHAN DISTRICT

**SIZE OF PROPERTY AFFECTED:**

63.56 Ha – 157.07 Ac

**ALR STATUS:**

Not in ALR

**OFFICIAL COMMUNITY PLAN DESIGNATION:**

Forestry (F)

**OTHER INFORMATION:**

The applicant is seeking to use the shared residential policy in the OCP (H.2) to allow for four single family dwellings and one seasonal cottage on the subject property. The application satisfies policies in this section and is a reduction in density from what would otherwise be permitted through subdivision, as the site could yield 7 lots. 7 lots would allow for one single family dwelling and one seasonal cottage on each lot (totalling 7 single family dwellings and 7 seasonal cottages in total). The proposed rezoning is a reduction in overall density on the site and would restrict future subdivision through a covenant.

Please fill out the Response Summary on the back of this form. If your agency's interests are "*Unaffected*", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.

(Signature)

Name: Rob Pingle

Title: Legislative Clerk – Deputy Secretary

This referral has been sent to the following agencies:

**Federal Agencies**

Fisheries & Oceans, Canada - Pacific Region  
Indian & Northern Affairs Canada

**First Nations**

Cowichan Tribes  
Halalt First Nation  
Lyackson First Nation  
Penelakut Tribe  
Stz'uminus First Nation  
Pauquachin First Nation  
Semiahmoo First Nation  
Tsartlip First Nation  
Tsawout First Nation  
Tsawwassen First Nation  
Tseycum First Nation  
Ts'uubaa-Asatx (Lake Cowichan) First Nation

**Adjacent Local Trust Committees and Municipalities**

Galiano Island Local Trust Committee  
Mayne Island Local Trust Committee  
North Pender Island Local Trust Committee  
Thetis Island Local Trust Committee  
Cowichan Valley Regional District

**Regional Agencies**

CRD – All Referrals & K. Campbell (SSI Senior Manager)  
CRD – SSI Parks and Recreation  
CRD – SSI Building Inspection  
CRD – Environmental Eng. Division  
CRD – Parks & Community Services  
Vancouver Island Health Authority  
Islands Trust – Islands Trust Conservancy  
SSI Advisory Planning Commission

**Provincial Agencies**

Ministry of Environment and Climate Change Strategy  
(BC Parks and Conservation Officer Service Division)  
Ministry of Forests, Lands, Natural Resource Operations  
and Rural Development – Archaeology  
Ministry of Forests, Lands, Natural Resource Operations  
and Rural Development – Crown Land Authorizations  
Ministry of Municipal Affairs  
Ministry of Transportation and Infrastructure  
BC Assessment Authority  
Front Counter BC

**Non-Agency Referrals**

SSI Fire-Rescue  
Salt Spring Island Coast Salish Society

**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)

536  
(Bylaw Number)

(Title)

(Agency)

# MEMORANDUM

File No.: Fee Bylaw 226

DATE OF MEETING: January 26, 2024  
TO: North Pender Island Local Trust Committee  
FROM: Robert Kojima, Regional Planning Manager  
Southern Team  
COPY: Brad Smith, Island Planner  
SUBJECT: Proposed Fee Bylaw 226

## PURPOSE

This memo is to provide an update on proposed Fee Bylaw No. 226.

In January 2023 the LTC considered the attached staff report on the new model fee bylaw. At that meeting, the LTC deferred consideration to the March 2023 meeting. At the March meeting, the LTC passed the following resolution:

### NP-2023-048

#### **It was Moved and Seconded,**

that the North Pender Island Local Trust Committee defer consideration of Draft Fees Bylaw No. 226 to the November meeting.

### **CARRIED**

The November meeting was cancelled, consequently the fee bylaw is now on this agenda. Please note, that as the model fee bylaw includes annual increase, the fees in draft Bylaw 226 have been revised to be consistent with the fees as of April 1<sup>st</sup> in the bylaws adopted by the other LTCs.

The North Pender and Saturna LTCs remain the only LTCs in the Trust Area to have not adopted the new model fee bylaw. The Saturna Island Local Trust Committee gave direction to proceed with the bylaw and bring it back for consideration of readings in February.

The recommendation remains for the LTC to give three readings to the draft bylaw and refer it to Executive Committee. Resolution wording is in the attached January 2023 staff report.

|               |                                          |                 |
|---------------|------------------------------------------|-----------------|
| Submitted By: | Robert Kojima, Regional Planning Manager | January 8, 2024 |
|---------------|------------------------------------------|-----------------|

## ATTACHMENTS

1. Staff report of January 20, 2023
2. Draft Bylaw 226



DATE OF MEETING: January 20, 2023  
TO: North Pender Island Local Trust Committee  
FROM: Robert Kojima, Regional Planning Manager  
Southern Team  
COPY: Brad Smith, Island Planner  
SUBJECT: Proposed Fee Bylaw 226

## RECOMMENDATION

1. That the North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be given First Reading
2. That the North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be given Second Reading
3. That the North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be given Third Reading
4. That the North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee

## REPORT SUMMARY

The purpose of this report is for the North Pender Island Local Trust Committee (LTC) to consider three readings of Bylaw No. 226 which would replace Bylaw No. 173 (LTC Fees Bylaw) to include:

- An expanded Interpretation section.
- Fee increases for the various applications.
- Fees for applications received though work or activity is already undertaken or in operation.
- Clarification of collection of fees and refunds.
- A new section to address Extraordinary Service Costs (ESC)
- A new section to address Annual Fee Increases.

## BACKGROUND

At its regular business meeting in June 2021, Trust Council adopted a new Application Processing Services Policy that includes a model Fee Bylaw. At the same meeting, Trust Council recommended that local trust committees adopt new fees bylaws based on the model.

The Model Fees Bylaw was endorsed by Trust Council in 2021 to establish applications fees that are more consistent with the costs of processing applications. There has been a significant and growing gap between the application fees being received and costs incurred to process those applications since the current fee bylaw was adopted in 2007. The Regional Planning Committee spent several meetings reviewing costs, fees and developing recommended new fees. As LTCs are obligated to consider applications, in the absence of increased fees application processing will be increasingly funded from general revenues. Increased fees would not fund 100% of the cost of processing applications, but would create a more equitable balance between ‘user pay’ and the general taxpayer. Increased fees were also recommended in the recent governance review (“greater cost recovery is required”).

It may be useful to clarify when application fees are paid to Islands Trust. Fees are required for the following:

- When owners, rarely, apply to amend the zoning on their property.
- Land use permit applications, including most commonly:
  - Temporary use permits, predominantly for short term vacation rentals
  - Development permits – most are to manage development in environmentally sensitive areas
  - Development variance permits by owners who feel that their development cannot comply with siting regulations
  - Owners who apply to subdivide their land into new lots

Many services are not, or cannot be funded by fees, including:

- Owners applying for a building permit: at the request of regional districts, Islands Trust staff review building plans for compliance with zoning but cannot charge a fee. Building permit fees are charged by the CRD.
- Inquiries: owners, professionals and other agencies do not pay a fee for inquiries about zoning, development permit areas, or to ask about process or jurisdiction, or for staff to direct inquiries to appropriate agencies.
- Applications by community organizations, where there is a community benefit, can apply to have fees refunded

Most applications are the result of regulations put in place by the Local Trust Committee to protect the environment and minimize impacts of development on the community, for example:

- Development permits to ensure that development that occurs in sensitive areas has appropriate conditions
- Temporary use permits for vacation rentals ensure that neighbours get a say and that appropriate conditions are put in place
- Variances which provide an opportunity for neighbours to comment and for the LTC to consider impacts
- Subdivision regulations ensure that new lots comply with minimum lot sizes, minimum frontage and have sufficient groundwater

In addition to increased fees, other Trust-wide changes have been implemented as part of the Planner Services review, including:

- Hiring of a planning technician to review building permit plans
- One dedicated planner in each office assigned exclusively to processing land use permit applications.
- Delegation of the authority to issue development permits to staff

- New application tracking software
- Application processing procedures are being reviewed resulting in revised processes and forms

At the September 2021 regular business meeting, the LTC passed the following resolution:

**NP-2021-094**

**It was Moved and Seconded**

That the North Pender Local Trust Committee request staff to draft a new Fee Bylaw based on the model fee bylaw attached to Trust Council Policy “5.6.1 Application Processing Services”.

**CARRIED**

At several meetings in 2022 the LTC considered the draft bylaw, a community information meeting was held, and ultimately the LTC deferred consideration of the new fee bylaw to the current term.

**Rationale for Recommendation**

The new fee bylaw was developed by the Regional Planning Committee, was endorsed by Trust Council in 2021, and has been adopted by 10 local trust committees. Adopting the new fee bylaw would bring greater cost recovery to the processing of applications, and would bring the North Pender LTC’s fees in line with those of the other LTCs.

**Next Steps**

If the LTC gives three readings to the bylaw, it will be referred to Executive Committee for approval and come back to the LTC for consideration of adoption.

|               |                                            |                  |
|---------------|--------------------------------------------|------------------|
| Submitted By: | Robert Kojima<br>Regional Planning Manager | December 2, 2021 |
|---------------|--------------------------------------------|------------------|

**ATTACHMENTS**

1. Draft Bylaw No. 226

## NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

### BYLAW NO. 226

---

A bylaw to prescribe fees for amending bylaws, issuing permits, examining applications for subdivision, and examining other referrals and applications.

---

WHEREAS Section 462 of the *Local Government Act* provides that a local government may, by bylaw, impose fees related to applications and inspections; Section 41 of the *Liquor Control and Licensing Act* and Section 35 of the *Cannabis Control and Licensing Act* provides that a local government may, by bylaw, impose fees for referral of a license under that Act;

NOW THEREFORE the North Pender Island Local Trust Committee, being the Local Trust Committee having jurisdiction in respect of the North Pender Island Local Trust Area in the Province of British Columbia pursuant to the *Islands Trust Act*, enacts as follows:

#### Citation

- 1.1 This bylaw may be cited as the "North Pender Island Local Trust Committee Fees Bylaw, 2021".

#### Interpretation

- 2.1 In this bylaw:

"Applicant" means:

- 2.1.1 the person authorized under the North Pender Island Local Trust Committee Development Procedures Bylaw No. 72, 1992 to make an application in respect of a bylaw or permit under the *Islands Trust Act* or Part 14 or Part 15 of the *Local Government Act*;
- 2.1.2 an applicant for a license under the *Liquor Control and Licensing Act* in respect of which the Local Trust Committee is requested or required to provide comments or recommendations;
- 2.1.3 an applicant for a license under the *Cannabis Control and Licensing Act* in respect of which the Local Trust Committee is requested or required to provide comments or recommendations;
- 2.1.4 an applicant for subdivision review under the *Land Title Act* or the *Strata Property Act*;
- 2.1.5 an applicant for the conversion of a previously occupied building to strata lots under the *Strata Property Act*;
- 2.1.6 an applicant for a soil deposit permit or soil removal permit issued pursuant to a bylaw enacted under Part 14 of the *Local Government Act*; or
- 2.1.7 an applicant to a board of variance established under Part 14 of the *Local Government Act*.

“Application Processing Fee” means the initial amount payable to the Islands Trust in respect of any application under this bylaw.

“General Service Cost” includes average hourly cost of each staff position involved in processing the applications multiplied by the average number of hours taken to complete processing of that type of application, and includes administrative overhead costs.

“Estimated Direct Costs” for bylaw amendments listed in Table 1 means the Islands Trust’s estimate of its actual average cost of disbursements associated with the processing of an application, including:

1. newspaper advertising for one community meeting,
2. notifications, postal and delivery costs of statutory notifications for one public hearing,
3. rental of premises for one community meeting and/or one public hearing,
4. contract minute-taker costs recording or preparation of minutes of one community meeting and/or one public hearing and,
5. staff travel expenses for one site visit, one community meeting and one public hearing.

“Estimated Direct Costs” for temporary use permits listed in Table 2 means the Islands Trust’s estimate of its actual average cost of disbursements associated with the processing of an application, including

1. one newspaper advertisement, notifications, postal and delivery costs of statutory notifications for one community meeting,
2. rental of premises for one community meeting,
3. contract minute-taker costs recording or preparation of minutes of one community meeting, and
4. staff travel expenses for one site visit, one community meeting.

“Islands Trust” means the Director of Local Planning Services or their authorized representative.

## **Application Fees**

- 3.1 Prior to the processing of an application listed in Column 1 of Table 1, Table 2, Table 3 or Table 4, the applicant must deliver to Islands Trust the corresponding application processing fee in the amount shown in Column 2 subject to section 4. The application fee includes general service costs and estimated direct costs.

| <b>TABLE 1 – Bylaw Amendments (OCP and Zoning Bylaw</b>                  |                      |
|--------------------------------------------------------------------------|----------------------|
| <b>Column 1: Type of Application</b>                                     | <b>Column 2: Fee</b> |
| Major (e.g. change to density or OCP)                                    | \$8,112              |
| Minor (e.g. regulation change without changing density or OCP amendment) | \$4,784              |

| <b>TABLE 2 – Permits</b>                                                                                                                                              |                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Column 1: Development Permit in Respect of:</b>                                                                                                                    | <b>Column 2: Fee</b> |
| 1. Protection of Natural Environment, Ecosystems and Biological Diversity                                                                                             | \$1,040              |
| 2. Protection of Development from Hazardous Conditions                                                                                                                | \$1,040              |
| 3. Protection of Farming                                                                                                                                              | \$1,040              |
| 4. Objectives for Form and Character                                                                                                                                  | \$1,768              |
| 5. Objectives to Promote Energy Conservation                                                                                                                          | \$1,040              |
| 6. Objectives to Promote Water Conservation                                                                                                                           | \$1,040              |
| 7. Objectives to Promote the Reduction of Greenhouse Gas Emissions                                                                                                    | \$1,040              |
| 8. Development Permit Amendment                                                                                                                                       | \$1,040              |
|                                                                                                                                                                       |                      |
| <b>Type of Development Variance Permit</b>                                                                                                                            |                      |
| 9. Development variance permit (commercial, industrial or institutional development)                                                                                  | \$1,976              |
| 10. Development variance permit (residential development)                                                                                                             | \$1,976              |
|                                                                                                                                                                       |                      |
| <b>Type of Temporary Use Permit</b>                                                                                                                                   |                      |
| 11. Temporary Use Permit (residential/commercial/industrial)                                                                                                          | \$2,236              |
| 12. Temporary Use Permit Renewal                                                                                                                                      | \$728                |
|                                                                                                                                                                       |                      |
| <b>Other Permits</b>                                                                                                                                                  |                      |
| 13. Heritage Alteration Permit                                                                                                                                        | \$1,768              |
|                                                                                                                                                                       |                      |
| <b>Combination Applications</b>                                                                                                                                       |                      |
| 14. Development Permit in respect of a protection area or water and energy conservation in combination with a companion application for a Development Variance Permit | \$2,600              |
| 15. Development Permit in respect of form and character in combination with a companion application for a Development Variance Permit                                 | \$3,120              |



| <b>TABLE 3 – Subdivision Referrals</b>                                                               |                      |
|------------------------------------------------------------------------------------------------------|----------------------|
| <b>Column 1</b>                                                                                      | <b>Column 2: Fee</b> |
| 1. Application for Subdivision Review – base fee                                                     | \$1,040              |
| 2. Application for Subdivision Review – per additional lot created                                   | \$104                |
| 3. Application for Subdivision Review – parcel line adjustments only, creating no additional parcels | \$520                |

| <b>TABLE 4 – Other Applications</b>                                                                                                   |                      |
|---------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Column 1: Type of Application</b>                                                                                                  | <b>Column 2: Fee</b> |
| 1. Board of Variance                                                                                                                  | \$2,288              |
| 2. Land Use Contract amendment                                                                                                        | \$2,080              |
| 3. Liquor & Cannabis Regulation Branch – Retail License Application and Process and referrals requiring local government consultation | \$1,560              |
| 4. Liquor & Cannabis Regulation Branch – Temporary License Change                                                                     | \$520                |
| 5. Strata Conversions                                                                                                                 | \$1,560              |

#### **4. Fee for After-the-Fact Application**

- 4.1 An application for a permit or bylaw amendment to authorize work or an activity already undertaken, or in operation as of the date the application is made, the rate in 3.1 will be subject to a 20% surcharge.

#### **5. Collection and Refund of Application Processing Fee Amounts**

- 5.1 The total application processing fee must be received before the processing of the application can begin.
- 5.2 An applicant may withdraw their application at any time through written notice to the Planning Team Assistant and/or the Planner responsible for processing the application.
- 5.3 If an applicant withdraws an application before staff undertakes any planning work on the application, the Islands Trust must refund to the applicant the Application Fee, less \$100.
- 5.4 For an application in Table 1, or a Temporary Use Permit in Table 2, the applicant will be eligible for: 75% refund if the application is withdrawn once the file has been assigned by the regional planning manager to the planner; 50% refund if the first staff report has been submitted to the LTC; 25% refund once public notice of a public hearing or permit has been sent out, no refund will be provided after a Public Hearing or after consideration of the Permit by the local trust committee.
- 5.5 For applications in Table 2 (except for Temporary use Permit applications), Table 3 and Table 4, the applicant will be eligible for: 75% refund if the application is withdrawn once the file has been assigned to the planner; no refund will be provided if the first staff report has been submitted to the LTC, Board of Variance, or formal referral response submitted to the relevant agency.

## **6. Extraordinary Service Costs (ESC)**

- 6.1 Extraordinary Services Costs will be paid by the Applicant through a cost recovery agreement, entered into with Islands Trust, in addition to the application processing fee.
- 6.2 Where legal work is required for the preparation of covenants, registration of covenants at Land Title Offices, registration of notice of a permit or housing agreement at the Land Title Office or for other purposes related to the application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.3 Where site visits involving First Nations are required for the processing of an application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.4 Where there may be need for additional community information meeting or public hearing not covered by the application processing fee, staff will provide the Applicant with an estimate of costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.5 Where other additional costs beyond the general service costs and estimated direct costs not specified above are required for processing of an application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.6 If the amount paid by Islands Trust in respect of Extraordinary Service Costs is more than the deposit provided to the Islands Trust, the Islands Trust shall provide the Applicant with the amount and the applicant shall pay the amount upon receipt. The local trust committee may withhold the consideration of issuance of any permit or hold the consideration of adoption of any bylaw in abeyance until the amount has been paid.
- 6.7 Islands Trust must refund the unused portion of any Extraordinary Service Costs deposit to the applicant if it is unused for any reason.

## **7. Annual Fee Increases**

- 7.1 Fees in section 3.1 increase by 2% on April 1st of each year following the date of adoption of the bylaw.
- 7.2 The North Pender Island Local Trust Committee will maintain a record of annual 2% increases and make that record available for public inspection.

## 8. Application Fee Sponsorship

- 8.1 Pursuant to Islands Trust Policy 4.1.13, Guidelines for Executive Committee Sponsored or Local Trust Committee Initiated Development Applications, an applicant may apply to the Executive Committee of Islands Trust for development application fee sponsorship.

## 9. Severability

- 9.1 In the event a portion of this bylaw is set aside by a court of competent jurisdiction, the invalid portion shall be severed and the remainder of the bylaw remains in force and in effect.

## 10. Repeal

- 10.1 “North Pender Island Local Trust Committee Fees Bylaw No. 173, 2007” is repealed upon adoption of this bylaw.
- 10.2 Any application for which a fee has been fully paid at the time this bylaw comes into force shall be processed to completion in accordance with the fee provisions of the repealed bylaw.

READ A FIRST TIME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 202X

READ A SECOND TIME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 202X

READ A THIRD TIME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 202X

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 202X

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 202X

\_\_\_\_\_  
CHAIR

\_\_\_\_\_  
SECRETARY

# MEMORANDUM

File No.: 6500-20-Raptor Nest DPA  
Project

DATE OF MEETING: January 26, 2024  
TO: North Pender Island Local Trust Committee  
FROM: Brad Smith, Island Planner  
Southern Team  
COPY: Robert Kojima, Regional Planning Manager  
SUBJECT: Raptor Nest Development Permit Area Review Project

## PURPOSE

The purpose of this staff memo is to provide the North Pender Local Trust Committee (LTC) with an update on the Raptor Nest Development Permit Area Review Project.

## PROJECT UPDATE

At the Nov 11, 2023 meeting, the LTC was provided an update on project progress via a staff memo. Since that meeting, the following has occurred:

- The service contract with Mr. Baxter of Caurinus Environmental has been finalized and work is underway. The contract is expected to be completed by March 31, 2024.
- The scope of work in the finalized contract includes:
  - Data collection, analysis and ground-truthing
  - Provision of data points in a GIS format consistent with Islands Trust mapping standards
  - Summary report including:
    - Description of project scope, purpose and data collection methods
    - Summary and analysis of existing and new site specific nesting data
    - Recommendations for potential amendments to OCP nesting site mapping (Schedule O) and Raptor Nest DPA sections
- Staff are also reviewing the existing DPA provisions and will report to the LTC with options and recommendations for amendments based on this review and input from the consultant.
- Upon receipt of the GIS data files, staff will map the proposed sites and create amending bylaw maps.

## NEXT STEPS

Staff will continue to support the consultant in contract delivery and will bring preliminary results of the analysis to the LTC in a future staff report.

|               |                                            |                  |
|---------------|--------------------------------------------|------------------|
| Submitted By: | Brad Smith, PAg<br>Island Planner          | January 10, 2024 |
| Concurrence:  | Robert Kojima<br>Regional Planning Manager | January 12, 2024 |

## Active Projects Report

### North Pender Island

#### 0. Major project - Housing Access and Affordability Project

##### Responsible

##### Dates

Pre-project phase: establish project scope and submit business case for Trust Council approval

Rec'd: 26-May-2023  
Target: 31-Dec-2023

#### 0. Minor project - Update of Raptors Nest DPAs

##### Responsible

##### Dates

To review and update DPA mapping, DPA provisions, undertake consultation and legislative process to adopt OCP amendment

Brad Smith

Rec'd: 26-May-2023  
Target: 31-Mar-2024

#### 1. LUB Review Project

##### Responsible

##### Dates

Bylaws 223 and 229 to be considered for adoption upon Ministerial approval

Brad Smith  
Kim Stockdill

Rec'd: 07-Nov-2019  
Target: 01-May-2023

## Future Projects Report

### North Pender Island

#### 1. *Coastal Douglas Fir Ecosystem*

Responsible

Date Received

Consider implementation of toolkit and mapping  
- LPC to develop model bylaw in 2021-22

01-Feb-2019

#### 2. *Raptors Nests*

Responsible

Date Received

To update the raptor nests mapping.

27-Jan-2022

#### 3. *Affordable Housing Options*

Responsible

Date Received

A project to review affordable housing options.

24-Mar-2022

#### 4. *Accessory Dwelling Units*

Responsible

Date Received

Review options for accessory dwelling units on North Pender.

26-May-2022

#### 5. *Review DPAs*

Responsible

Date Received

To review the Development Permit Areas in the NP Official Community Plan to update guidelines, requirements, and outline options for new DPAs.

11-Aug-2022

#### 6. *Browning to Driftwood Corridor Plan*

Responsible

Date Received

Coordination on a transportation plan for the Driftwood to Port Browning corridor.

11-Aug-2022



## Future Projects Report

### North Pender Island

#### 7. *Soil Bylaw Project*

Responsible

Date Received

Work on Soil bylaw was undertaken in 2021 and 2022. Project deferred prior to bylaw readings

29-Apr-2021

#### 8. *Public engagement on groundwater data*

Responsible

Date Received

Project to present information on groundwater project to public and educate landowners

26-May-2023

## Applications

### Development Permit

| File Number                                                                                                         | Applicant Name                                                       | Date Received | Purpose                                                                       |
|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|---------------|-------------------------------------------------------------------------------|
| NP-DP-2018.5                                                                                                        | PICSS c/o HARDAL<br>MANAGEMENT INC<br><b>Planner:</b> Phil Testemale | 23-May-2018   | Application for development permit for a building in a form and character DPA |
| <b>Planning Status</b>                                                                                              |                                                                      |               |                                                                               |
| <b>Status Date:</b> 08-Jan-2024<br>File transferred back to Phil                                                    |                                                                      |               |                                                                               |
| <b>Status Date:</b> 15-Nov-2023<br>Applicant in the process of hiring an architect, preparing application materials |                                                                      |               |                                                                               |
| <b>Status Date:</b> 29-Sep-2023<br>Emailed applicant regarding status of DP application.                            |                                                                      |               |                                                                               |

| File Number                                                                                                                                                                                              | Applicant Name                             | Date Received | Purpose                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|---------------|-------------------------------------------------------------------|
| NP-DP-2023.3                                                                                                                                                                                             | Shave, Becky<br><b>Planner:</b> Brad Smith | 04-May-2023   | 4815 SCHOONER WAY: Application for a DP for development in a DPA. |
| <b>Planning Status</b>                                                                                                                                                                                   |                                            |               |                                                                   |
| <b>Status Date:</b> 08-Jan-2024<br>Staff email applicant seeking cost estimate - no response again - application on Jan 26 agenda with recommendation to proceed with existing quote + large contingency |                                            |               |                                                                   |
| <b>Status Date:</b> 08-Dec-2023<br>Staff email applicant seeking cost estimate - no response                                                                                                             |                                            |               |                                                                   |
| <b>Status Date:</b> 15-Nov-2023<br>Staff emailed and phoned applicant again re cost estimates - no response - application deferred to January agenda                                                     |                                            |               |                                                                   |

## Applications

### Development Permit

| File Number  | Applicant Name | Date Received | Purpose                                                                                |
|--------------|----------------|---------------|----------------------------------------------------------------------------------------|
| NP-DP-2023.4 | Balmer, Kevin  | 06-Oct-2023   | 3811 Cutlass Court - Application for a DP for development in a sensitive ecosystem DPA |

**Planner:** Bruce Belcher

#### Planning Status

**Status Date:** 11-Jan-2024

Staff Report on Jan 26th LTC meeting agenda

**Status Date:** 05-Dec-2023

Site visit and pictures uploaded to file

**Status Date:** 07-Nov-2023

Fee Received

| File Number  | Applicant Name                   | Date Received | Purpose                                                                              |
|--------------|----------------------------------|---------------|--------------------------------------------------------------------------------------|
| NP-DP-2023.5 | Heath Lansdowne<br>Design Studio | 30-Nov-2023   | 5589 Hooson Road: Application for a DP for development in a sensitive ecosystem DPA. |

**Planner:** Phil Testemale

#### Planning Status

**Status Date:** 08-Jan-2024

File re-assigned to Phil

**Status Date:** 07-Dec-2023

Fee received

**Status Date:** 07-Dec-2023

Planner Belcher assigned to application

## Applications

### Development Permit

| File Number  | Applicant Name | Date Received | Purpose                                                                                                                |
|--------------|----------------|---------------|------------------------------------------------------------------------------------------------------------------------|
| NP-DP-2023.6 | Funk, Dayton   | 30-Nov-2023   | 1346 Mackinnon Road: Application for an amendment to a DP (NP-DP-2022.2) for development in a sensitive ecosystem DPA. |

**Planner:** Brad Smith

#### Planning Status

**Status Date:** 20-Dec-2023

Scheduled for Jan 26 LTC meeting agenda

**Status Date:** 06-Dec-2023

Planner Smith assigned to application

**Status Date:** 04-Dec-2023

Fee Requested

| File Number  | Applicant Name   | Date Received | Purpose                                                                                                        |
|--------------|------------------|---------------|----------------------------------------------------------------------------------------------------------------|
| NP-DP-2024.1 | Bardon, Nicholas | 05-Jan-2024   | 377 EVERGREEN LANE: Application for a DP for development in Sidney Island Geotechnical Development Permit Area |

**Planner:** Phil Testemale

#### Planning Status

**Status Date:** 09-Jan-2024

Assigned to Planner Testemale

**Status Date:** 08-Jan-2024

Fee received

**Status Date:** 05-Jan-2024

Application received

## Applications

### Development Variance Permit

| File Number   | Applicant Name   | Date Received | Purpose                                                        |
|---------------|------------------|---------------|----------------------------------------------------------------|
| NP-DVP-2023.1 | McKerrell, David | 13-Mar-2023   | 5727 CANAL RD: Application for a variance for siting of a dock |

**Planner:** Brad Smith

#### Planning Status

**Status Date:** 20-Dec-2023

Scheduled for Feb 23 electronic meeting

**Status Date:** 21-Nov-2023

Planner Smith assigned

**Status Date:** 25-Aug-2023

File in abeyance until further notice.

| File Number   | Applicant Name | Date Received | Purpose                                                       |
|---------------|----------------|---------------|---------------------------------------------------------------|
| NP-DVP-2023.5 | Island Marine  | 21-Nov-2023   | 5709 Canal Road - Application for a variance of a float area. |

**Planner:** Brad Smith

#### Planning Status

**Status Date:** 20-Dec-2023

Scheduled for Feb 23 electronic meeting

**Status Date:** 30-Nov-2023

Fee received

**Status Date:** 30-Nov-2023

Planner Smith assigned

## Applications

### Rezoning

| File Number                                                                                                                         | Applicant Name                                                  | Date Received | Purpose                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|---------------|------------------------------------------------------------------------|
| NP-RZ-2023.1                                                                                                                        | Pender Islands<br>Housing Society<br><b>Planner:</b> Brad Smith | 04-Oct-2023   | 5719 Canal Road - To amend the LUB to permit Multiple-family dwellings |
| <b>Planning Status</b>                                                                                                              |                                                                 |               |                                                                        |
| <b>Status Date:</b> 17-Jan-2024<br>Referral period complete - application on Jan 26 LTC agenda for consideration of 1st-3rd reading |                                                                 |               |                                                                        |
| <b>Status Date:</b> 20-Dec-2023<br>Planner prepared notice for not holding a public hearing                                         |                                                                 |               |                                                                        |
| <b>Status Date:</b> 08-Nov-2023<br>Amending bylaw drafted and sent out for referrals                                                |                                                                 |               |                                                                        |

### Subdivision

| File Number                                                                                      | Applicant Name                                           | Date Received | Purpose                                                                           |
|--------------------------------------------------------------------------------------------------|----------------------------------------------------------|---------------|-----------------------------------------------------------------------------------|
| NP-SUB-2020.1                                                                                    | BRADFORD &<br>MILLIKEN<br><b>Planner:</b> Phil Testemale | 05-Mar-2020   | 1610 Schooner Way - A subdivision referral for a boundary adjustment subdivision. |
| <b>Planning Status</b>                                                                           |                                                          |               |                                                                                   |
| <b>Status Date:</b> 08-Jan-2024<br>File re-assigned to Phil                                      |                                                          |               |                                                                                   |
| <b>Status Date:</b> 29-Sep-2023<br>Emailed applicant regarding update on subdivision conditions. |                                                          |               |                                                                                   |
| <b>Status Date:</b> 24-Aug-2023<br>File transferred to Bruce Belcher                             |                                                          |               |                                                                                   |



## Applications

### Subdivision

| File Number                                                                      | Applicant Name                    | Date Received | Purpose                                                                                      |
|----------------------------------------------------------------------------------|-----------------------------------|---------------|----------------------------------------------------------------------------------------------|
| NP-SUB-2023.1                                                                    | Wey Mayenburg Land Surveying Inc. | 22-Sep-2023   | 2218 Clam Bay Road - Edgewood Estates - Re-activated subdivision for 12 lot bare land strata |
| <b>Planner:</b> Bruce Belcher                                                    |                                   |               |                                                                                              |
| <b>Planning Status</b>                                                           |                                   |               |                                                                                              |
| <b>Status Date:</b> 15-Nov-2023<br>Referral response sent to MOTI - Awaiting PLR |                                   |               |                                                                                              |
| <b>Status Date:</b> 26-Sep-2023<br>Application assigned to Planner Belcher       |                                   |               |                                                                                              |
| <b>Status Date:</b> 25-Sep-2023<br>Payment received                              |                                   |               |                                                                                              |

| File Number                                                                         | Applicant Name      | Date Received | Purpose                                                                       |
|-------------------------------------------------------------------------------------|---------------------|---------------|-------------------------------------------------------------------------------|
| NP-SUB-2023.2                                                                       | Reed Pope Law Corp. | 18-Oct-2023   | Lots 1-5, James Island: Referral of a subdivision application for 79 new lots |
| <b>Planner:</b> Brad Smith                                                          |                     |               |                                                                               |
| <b>Planning Status</b>                                                              |                     |               |                                                                               |
| <b>Status Date:</b> 17-Jan-2024<br>Staff memo on Jan 26 LTC agenda                  |                     |               |                                                                               |
| <b>Status Date:</b> 10-Jan-2024<br>Planner met with applicants legal representative |                     |               |                                                                               |
| <b>Status Date:</b> 25-Nov-2023<br>Application assigned to Planner Smith            |                     |               |                                                                               |

## Applications

### Subdivision

| File Number                                                                                                                | Applicant Name                                          | Date Received | Purpose                                                                  |
|----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|---------------|--------------------------------------------------------------------------|
| NP-SUB-2023.3                                                                                                              | Pender Island Conservancy<br><b>Planner:</b> Brad Smith | 19-Oct-2023   | 3201 ARMADALE RD: A referral for a subdivision application for 1 new lot |
| <b>Planning Status</b>                                                                                                     |                                                         |               |                                                                          |
| <b>Status Date:</b> 17-Jan-2024<br>Planner met with Erin O'Brien to review application status and potential PLR conditions |                                                         |               |                                                                          |
| <b>Status Date:</b> 21-Dec-2023<br>Planner conducted site visit                                                            |                                                         |               |                                                                          |
| <b>Status Date:</b> 28-Nov-2023<br>Fee recieved                                                                            |                                                         |               |                                                                          |

### Temporary and Industrial Use Permit

| File Number                                                 | Applicant Name                                  | Date Received | Purpose                                                                                  |
|-------------------------------------------------------------|-------------------------------------------------|---------------|------------------------------------------------------------------------------------------|
| NP-TUP-2023.6                                               | Kroeker, Mark<br><b>Planner:</b> Phil Testemale | 19-Oct-2023   | 2602 HARPOON RD: Application for a temporary use permit for a short term vacation rental |
| <b>Planning Status</b>                                      |                                                 |               |                                                                                          |
| <b>Status Date:</b> 08-Jan-2024<br>File re-assigned to Phil |                                                 |               |                                                                                          |
| <b>Status Date:</b> 27-Nov-2023<br>Fee received             |                                                 |               |                                                                                          |
| <b>Status Date:</b> 27-Nov-2023<br>Planner Belcher assigned |                                                 |               |                                                                                          |

***Islands Trust***  
LTC EXP SUMMARY REPORT F2024  
Invoices posted to Month ending November 2023

| 650 North Pender        | Invoices posted to Month ending November 2023    | <u>Budget</u>    | <u>Spent</u>    | <u>Balance</u>  |
|-------------------------|--------------------------------------------------|------------------|-----------------|-----------------|
| 65000-650               | LTC "Trustee Expenses"                           | 468.00           | 0.00            | 468.00          |
| LTC Local               |                                                  |                  |                 |                 |
| 65200-650               | LTC - Local Exp - LTC Meeting Expenses           | 1,253.00         | 2,187.31        | -934.31         |
| 65210-650               | LTC - Local Exp - APC Meeting Expenses           | 399.00           | 41.90           | 357.10          |
| 65220-650               | LTC - Local Exp - Communications                 | 250.00           | 0.00            | 250.00          |
| 65230-650               | LTC - Local Exp - Special Projects               | 280.00           | 0.00            | 280.00          |
| TOTAL LTC Local Expense |                                                  | <u>2,182.00</u>  | <u>2,229.21</u> | <u>-47.21</u>   |
| Projects                |                                                  |                  |                 |                 |
| 73001-650-2006          | North Pender OCP/LUB                             | 3,000.00         | 1,392.31        | 1,607.69        |
| 73001-650-4115          | North Pender Groundwater Strategy Implementation | 2,500.00         | 0.00            | 2,500.00        |
| 73001-650-4132          | North Pender Raptor Nest DPA update              | 5,000.00         | 0.00            | 5,000.00        |
| TOTAL Project Expenses  |                                                  | <u>10,500.00</u> | <u>1,392.31</u> | <u>9,107.69</u> |

## Standing Resolutions Log

### North Pender Island

| Resolution Number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Action  | Date        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|-------------|
| <b>2023-040 (Standing)</b><br><br><b>Proposed Bylaws 224 &amp; 229 - 4606 Razor Point Rd</b><br><br>That the North Pender Island Local Trust Committee move to suspend bylaw enforcement on the Industrial zoned portion of 4606 Razor Point Road until the completion of Bylaw 224 and 229.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Carried | 11-Mar-2023 |
| <b>2022-002 (Standing)</b><br><br><b>Travel Trailer Enforcement</b><br><br>that the North Pender Island Local Trust Committee direct bylaw staff to defer enforcement on unlawful dwellings, except in the following circumstances:<br>a. There are concerns regarding health and safety;<br>b. There are concerns that sewage is not being disposed of in an approved septic or sewage disposal system; or that septic or sewage disposal systems are beings used in excess of capacity or ability as a result of unlawful dwellings;<br>c. There are concerns of possible contamination of wells or other drinking water sources;<br>d. Unlawful dwellings are in environmentally sensitive areas;<br>e. There are non-permitted campgrounds; and<br>f. That the North Pender Island Local Trust Committee may give direction to resume enforcement on activities on any property that poses risk to the health and safety of the neighbouring residents or the residents on the property subject to enforcement. | Carried | 27-Jan-2022 |

## Standing Resolutions Log

### North Pender Island

| Resolution Number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Action         | Date               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------|
| <b>2020-010 (Standing)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>Carried</b> | <b>30-Jan-2020</b> |
| <p><b>15.1 Policy options for Bylaw Enforcement Compliance on unlawful uses</b></p> <p>that the North Pender Island Local Trust Committee adopt the following policy on unlawful land uses and planning applications:</p> <p>a. Where an application is received and a use is continuing in contravention of a land use bylaw, staff are directed to request that the applicant cease the use prior to processing the application, and staff are directed to continue with enforcement until the use is ceased.</p> <p>b. The applicant may request that the Local Trust Committee proceed with consideration of the application while the use is continuing; and, where the Local Trust Committee considers there is a community need to process the application while the prohibited use is continuing, the Local Trust Committee may direct that bylaw enforcement actions, including the issuing of notices, cease.</p> <p>c. Where the Local Trust Committee does not consider that there is a community need, or the applicant has not made such a request of the Local Trust Committee, bylaw enforcement actions, including the issuing of notices will continue</p> <p>d. In deciding whether to grant land use approval for a use that was commenced in contravention of a land use bylaw, the Local Trust Committee may consider whether the applicant has suspended the prohibited land use pending a decision on the application.</p> |                |                    |
| <b>2019-074 (Standing)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>Carried</b> | <b>04-Jul-2019</b> |
| <p><b>13.3 Model Cell Tower Strategy - Staff Briefing</b></p> <p>that the North Pender Island Local Trust Committee adopt the model cell tower strategy for future review and consideration of proposals.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                |                    |

## Standing Resolutions Log

### North Pender Island

| Resolution Number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Action  | Date        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|-------------|
| <b>2019-072 (Standing)</b><br><br><b>13.2 Standing Resolution - Reconciliation Report</b><br><br>that the North Pender Island Local Trust Committee adopt the following standing resolution with respect to First Nations in the Local Trust Area: Whereas the Local Trust Committee seeks to engage in Reconciliation with local First Nations, governments and the island community by honouring the Truth and Reconciliation Commission (TRC) Calls to Action, United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples, and Islands Trust First Nations Engagement Principles, the Local Trust Committee endeavours to: a) Annually, write a letter to First Nations, (re)introducing trustees and staff and provide a schedule of known Local Trust Committee meetings for the upcoming year, as well as, provide an update of current projects and advocacy activities; b) For various Local Trust Committee meetings, invite elders from local First Nations to attend and provide a traditional welcome to the territory; c) Work with First Nation governments on cooperative initiatives, including and not limited to, language, place names, territorial acknowledgements, and community education on Coast Salish and local First Nations' cultural heritage and history; d) Work with First Nation governments on engagement principles for inclusive land use, marine use, and climate change planning; advocacy, protection and stewardship; and knowledge and information sharing protocols; e) Establish and maintain government-to-government dialogue with First Nations, now and into the future, based on respect and recognition of Aboriginal rights and title, treaty rights, and First Nations' traditional territories within the Islands Trust Area. | Carried | 04-Jul-2019 |
| <b>2019-061 (Standing)</b><br><br><b>16.2. Rise and Report</b><br><br>that the North Pender Local Trust Community refer Short Term Vacation Rental Temporary Use Permits in the Magic Lake sewer catchment to the Magic Lake Sewer and Water Committee to confirm infrastructure capacity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Carried | 30-May-2019 |
| <b>2019-030 (Standing)</b><br><br><b>13.2 Advisory Planning Commission - Staff Memo</b><br><br>that the North Pender Island Local Trust Committee request that prior to expiration of Advisory Planning Commission members terms of office, staff write to commissioners asking if they wish to be reappointed and also advertise for expressions of interest for new commissioners.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Carried | 28-Feb-2019 |



## Standing Resolutions Log

### North Pender Island

| Resolution Number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Action  | Date        |
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| <b>2019-016 (Standing)</b><br><br><b>12.4 Adopted Policies and Standing Resolutions</b><br><br>that the North Pender Island Local Trust Committee directs 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Carried | 31-Jan-2019 |
| <b>2018-070 (Standing)</b><br><br><b>12.2 Retail Cannabis Licensing - Staff Report</b><br><br>that the North Pender Island Local Trust Committee adopt the following standing resolution with respect to the processing of non-medical cannabis retail license applications: - Proposed or amended licenses for non-medical cannabis retail establishments require an application to the Local Trust Committee. - The application process shall comprise a public consultation component, which includes at least one notification to neighbours, one public meeting, posting of public notices and one advertisement in a local periodical. - The public consultation process shall be determined by the local trust committee after initial review of the proposal. - However, as a minimum, the Local Trust Committee will mail or otherwise deliver a notice to all owners and residents of properties within a 500 metre radius of the subject property, where the establishment is proposed at least 10 days before adoption of a resolution providing comment on the application. The required notice shall include the following information: o Name of the applicant and a description of the proposal in general terms. o The location of the proposed establishment and the subject site. o The place, date and time when, both a build meeting will be held and a resolution of the Local Trust Committee is considered. o The name and contact information of the Islands Trust planning staff member who can provide copies of the proposed or amended license application. o How public comments may be submitted to the local trust committee. | Carried | 06-Sep-2018 |
| <b>2006-080 (Standing)</b><br><br><b>Communications Policy</b><br><br>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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Carried | 25-May-2006 |