



North Pender Island Local Trust Committee

Regular Meeting Agenda

Date: April 5, 2024
Time: 10:00 am
Location: Anglican Parish Hall
4703 Canal Road, RR#1, North Pender Island, BC

	Pages
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	10:40 AM - 11:10 AM
7.1 Fire Management Planning	
8. PUBLIC HEARING - None	
9. MINUTES	11:10 AM - 11:20 AM
9.1 Local Trust Committee Minutes Dated February 23, 2024 (for Adoption)	4 - 9
9.2 Section 26 Resolutions-without-meeting Report Dated March 2024	10 - 10
9.3 Advisory Planning Commission Minutes - None	
10. BUSINESS ARISING FROM THE MINUTES	
10.1 Follow-up Action List Dated March 2024	11 - 15
11. DELEGATIONS	11:20 AM - 11:30 AM
11.1 Active Port Washington Group	

12.	CORRESPONDENCE	11:30 AM - 11:40 AM
	<i>Correspondence received concerning current applications or projects is posted to the LTC webpage</i>	
12.1	Kathi Allinson re Lights	16 - 16
12.2	Sara Labadie re Local Trust Committee Meetings	17 - 17
12.3	Sara Miles re Attendance	18 - 18
12.4	Ben McConchie re Town Hall	19 - 19
12.5	Mae and Les Quitzau re Port Washington neighbourhood vs. Industrial	20 - 20
13.	APPLICATIONS AND REFERRALS	11:40 AM - 12:30 PM
13.1	NP-TUP-2024.2 (Pettyfer) - Staff Report (attached)	21 - 46
13.2	NP-DP-2024.2 and NP-DVP-2024.1 (Milliken) - Staff Report (attached)	47 - 75
13.3	NP-RZ-2024.1 (Grimmer) - Staff Report (attached)	76 - 113
14.	LOCAL TRUST COMMITTEE PROJECTS	12:30 PM - 1:15 PM
14.1	Raptor Nest Mapping DPA Project - Staff Report (attached)	114 - 136
14.2	Housing Access and Affordability Project - Staff Report (attached)	137 - 139
14.3	North Pender Local Trust Committee Draft Fees Bylaw No. 226 - Staff Report - Consideration of Adoption (attached)	140 - 147
15.	REPORTS	1:15 PM - 1:25 PM
15.1	Work Program Report (attached)	
15.1.1	<u>Active Projects Report Dated March 2024</u>	148 - 148
15.1.2	<u>Future Projects Report Dated March 2024</u>	149 - 150
15.2	Applications Report Dated March 2024 (attached)	151 - 158
15.3	Trustee and Local Expense Report Dated Feb 2024 (attached)	159 - 159
15.4	Adopted Policies and Standing Resolutions (attached)	160 - 163
15.5	Local Trust Committee Webpage	
15.6	Islands Trust Conservancy Report Dated Jan 2024	164 - 165
16.	NEW BUSINESS	1:25 PM - 1:45 PM
16.1	Housing Statute Changes to British Columbia Legislation - Staff Memo (attached)	166 - 180

16.2 North Pender Island Local Trust Committee Bylaw No. 230 - Bylaw Enforcement
Notification Amendment - Staff Report (attached)

181 - 187

17. UPCOMING MEETINGS

17.1 Next Regular Meeting Scheduled for May 25, 2024 at the Pender Island Community
Hall, Pender Island

17.2 Schedule a Special Meeting for Applications

18. TOWN HALL 1:45 PM - 2:00 PM

19. CLOSED MEETING - None

20. ADJOURNMENT 2:00 PM - 2:00 PM

North Pender Island Local Trust Committee

Minutes of Regular Meeting

Date: February 23, 2024

Location: Electronic Meeting

Members Present: David Maude, Chair (electronic)
Aaron Campbell, Local Trustee (electronic)
Deb Morrison, Local Trustee (electronic)

Staff Present: Brad Smith, Island Planner (electronic)
Phil Testemale, Planner 2 (electronic)
Warren Dingman, Bylaw Enforcement & Compliance Manager (electronic)
Lisa Millard, Recorder (electronic)

Others Present: There were ten (10) members of the public present.

1. CALL TO ORDER

Chair Maude called the meeting to order at 10:00 a.m. He acknowledged that the meeting was held on the territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

The following additions and changes to the agenda were presented for consideration:

Add Item 5 New Business

- 5.1 Request to Consider Funding for the Association of Vancouver Island Coastal Communities Conference Registration
- 5.2 Fire Management Information Session

Change Item 8 to Rise and Report

Renumber subsequent agenda items as follows:

- 6. Upcoming Meetings
- 7. Closed Meeting
- 9. Adjournment

By general consent the agenda was adopted as amended.

3. MINUTES

3.1 Local Trust Committee Minutes Dated January 26, 2024 (for Adoption)

By general consent the North Pender Local Trust Committee meeting minutes of January 26, 2024 were adopted as presented.

4. APPLICATIONS AND REFERRALS

4.1 NP-TUP-2024.1 (Landale) – Staff Report

Planner Testemale summarized the staff report and made the following points for clarification:

- The application is for a renewal of an existing temporary use permit
- As a renewal application, there is no ability for the LTC to amend the permit to include or alter restrictions on the number of rental days allowed in the summer
- The property did not have zoning for a cottage so if the temporary use permit was denied the cottage would not be an allowed use

The applicant indicated that the property had only been receiving a few rentals per month and that she had not considered it for long term use as her family uses the cottage when visiting because the primary residence is small.

It was noted that the rental had been well organized and there was a request that the applicant have the cottage fire-safety inspected.

NP-2024-018

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of renewal Temporary Use Permit NP-TUP-2024.1 (Landale) for a period of three (3) years.

CARRIED

4.2 NP-TUP-2023.6 (Kroeker) – Staff Report

Planner Testemale summarized the staff report and highlighted the following:

- A temporary use permit was issued in 2018 and renewed once, therefore this is considered a new application
- The applicant is requesting that the number of bedrooms and number of guests allowed be kept the same as previous
- The current use does not meet the new guidelines for the number of guests allowed and there is some doubt if it meets the guidelines for owner occupancy
- If the application can not meet current guidelines the applicant should be encouraged to make a rezoning application
- There had been no response from neighbors regarding the application

The applicant was in attendance and made the following comments:

- While the family does not live on site they are there every few weeks and the property managers live a few minutes away
- The property is a family legacy home and the reason a short-term vacation rental was initiated was because the parents needed to move off island and the rental income generated is used, in part, for the care of his elderly mother
- They had been paying accommodation taxes through the Vacation Rentals by Owner (VRBO) rental booking site

- The home has 8 (eight) bedrooms with 16 (sixteen) beds and one kitchen, and the current temporary use permit guidelines requiring that the number of bedrooms be restricted is not feasible within the layout of the home
- The home has no neighbours and there is no impact on the neighbourhood
- They have been responsible property owners for over 30 (thirty) years
- They are not considering rezoning as they do not think designating a private home as commercial use would be accepted by the community

Discussion ensued and the Local Trust Committee noted the following:

- There was a lot of community input when the guidelines were changed, and a primary concern was water use and fire safety
- There is a challenge when dealing with unique situations such as this property
- The guidelines are for reference and temporary use permits are discretionary
- Water monitoring and appropriate fire prevention information is required

NP-2024-019

It was Moved and Seconded

that North Pender Island Local Trust Committee approve the draft Temporary Use Permit NP-TUP-2023.6 (Kroeker) for a period of three (3) years.

CARRIED

Trustee Morrison stated *on record* that the reason she is approving this application is due to the long-standing relationship of the family in the community and that all concerns have been met related to no concerns from the neighbours.

4.3 NP-DP-2023.5 (Lansdowne) - Staff Report

Planner Testemale summarized the staff report and highlighted the following:

- The Development Permit Application provides protection of a raptor tree, perching trees, and interlocking forest canopy as well as for removal of dead, dying, or suppressed Douglas Fir trees
- The siting rationale provided by the applicant minimizes the impacts to the raptor DPA
- The application is supported by a professional report, which states in part that there are no active, or inactive, nest sites on the property, that upper Development Permit Application Tree (1) one is of good health and remains a viable nesting site, but Tree (2) two has no viability for perching habitat

Discussion ensued and the Local Trust Committee clarified the following points with the biologist that submitted the QEP report:

- The 10 (ten) trees tagged for removal will not negatively impact the raptor tree, the potential viable trees, or the root systems
- The site is on the side of a hill with many rock outcroppings and while the siting of the house could be pulled back slightly doing so would lose the opportunity for a view and would not impact the raptor zone differently
- There is a good buffer of trees and forest between the house and the raptor zone

NP-2024-020

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2023.5 (Lansdowne).

CARRIED

Trustee Morrison stated *on record* that she feels this is a good plan provided the homeowner keeps the integrity of the recommendations of protection.

4.4 NP-DP-2024.2 (Bardon) - Staff Report

Planner Testemale summarized the staff report and the Local Trust Committee indicated that they had no concerns or questions regarding the development permit application.

NP-2024-021

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2024.1 (Bardon).

CARRIED

The meeting was recessed for a break 11:35 a.m. and reconvened at 11:38 a.m.

4.5 NP-DVP-2023.1 and NP-DVP-2023.5 (McKerrell) - Staff Report

Island Planner Smith summarized the staff report and noted the following:

- There were two legal non-conforming docks built in the 1950's that required repair and replacement
- The docks were removed but not replaced within six months and therefore they lost legal non-confirming status
- The new platforms were installed on the previous existing concrete piers
- The new dock floats are smaller than the previous docks but they are slightly larger than the current Bylaw allows (i.e. 37 m²)

Concerns were raised regarding the proximity of the docks to known archaeological sites. The applicant was urged to have a discussion with First Nations, as the Local Trust Committee was not able to make a referral to First Nations a condition of a development variance application. Discussion ensued.

NP-2024-022

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of Development Variance Permit application NP-DVP-2023.1 (McKerrell).

CARRIED

NP-2024-023

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of Development Variance Permit application NP-DVP-2023.5 (McKerrell).

CARRIED

5. NEW BUSINESS

5.1 Request to Consider Funding for the Association of Vancouver Island Coastal Communities Conference Registration

Trustee Morrison would like to attend the Association of Vancouver Island Coastal Communities conference in part to attend the discussion on housing. Island Planner Smith outlined options regarding budget. Discussion ensued.

NP-2024-024

It was Moved and Seconded

that North Pender Island Local Trust Committee request that the Executive Committee approve funding for Trustee Morrison to attend the Association of Vancouver Island Coastal Communities conference and if denied that the Local Trust Committee approve spending a portion of the 2024 Special Project budget in the amount of \$400 (four hundred dollars).

CARRIED

It is noted that Resolution NP-2024-024 was moved by Trustee Campbell, seconded by Chair Maude, and that Trustee Morrison abstained from the vote.

5.2 Fire Management Information Session

Trustee Morrison stated that she has spoken with fire department members about fire management, and she would like a fire management information session to be added to the April, 2024 Local Trust Committee meeting. Staff agreed to add to April 5 agenda.

6. UPCOMING MEETINGS

6.1 Next Regular Meeting Scheduled for April 5, 2024 at the Anglican Church Hall, Pender Island

7. CLOSED MEETING (Distributed Under Separate Cover)

7.1 Motion to Close Meeting

NP-2024-025

It was Moved and Seconded,

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

CARRIED

The regular meeting was closed to go *in camera* at 12:26 pm and reconvened at 12:37 pm.

8. RISE AND REPORT

Chair Maude rose and reported that the Local Trust Committee appointed an additional member, Kathy Cronk, to the Advisory Planning Commission.

9. ADJOURNMENT

By general consent the meeting was adjourned at 12:39 p.m.

David Maude, Chair

Certified Correct:

Lisa Millard, Recorder



Resolutions Without Meetings Log

North Pender Island

Resolution Number	Action	Date
2024-002 To appoint APC Members That North Pender Island Local Trust Committee appoint Julia Nicholls and Lisa Baile to the North Pender Island Advisory Planning Commission, commencing immediately for a term ending March 1, 2025.	Carried	18-Mar-2024
2024-001 To adopt Bylaw No. 234 That 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 adopted.	Carried	11-Mar-2024

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 NOV 15 UPDATE - staff will coordinate with CRD to attend in new year combined with discussion of nuisance lighting issue	Brad Smith Jas Chonk	Target: 12-May-2023	Completed

28-Jul-2023

Activity	Responsibility	Dates	Status
1 LTC to identify date for standalone meeting re topic communications with local landowners - PENDING 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 10.1 FUAL - set up discussion with CRD at LTC meeting re nuisance lighting issues 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	Completed

Follow Up Action Report

North Pender Island

29-Sep-2023

Activity	Responsibility	Dates	Status
2 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 NOV 15 UPDATE - Staff continue to seek input from applicant re detailed quotes for restoration	Brad Smith	Target: 27-Oct-2023	Completed

26-Jan-2024

Activity	Responsibility	Dates	Status
1 9.1 September 29, 2023 LTC meeting minutes adopted as amended (Emily see email from Deb)	Emily Bryant	Target: 09-Feb-2024	Completed
2 9.2 October 21, 2023 LTC special meeting minutes adopted as amended (Emily see email from Deb for amendment)	Emily Bryant	Target: 09-Feb-2024	Completed
3 13.1 NP-RZ-2023.1 (PIHS) - Bylaws given 1 2, 3 reading - staff to update draft bylaws and send to Executive Committee for approval. Staff to initiate adoption by RWM following EC approval.	Brad Smith Jas Chonk	Target: 09-Feb-2024	Completed
4 12. Correspondence: Staff to add letters in 12.2 and 12.5 to NP Housing Project Correspondence file	Brad Smith Emily Bryant	Target: 09-Feb-2024	Completed
5 13.2 NP-SUB-2023.2 (James Island) - staff to include LTC resolution in referral response considerations to MOTI	Brad Smith	Target: 09-Feb-2024	Completed

Follow Up Action Report

North Pender Island

26-Jan-2024

Activity	Responsibility	Dates	Status
6 13.3 NP-DP-2023.3 (Shave) - staff to continue to seek to obtain 3 estimates to complete work from property owner	Brad Smith Warren Dingman	Target: 09-Feb-2024	In Progress
7 13.4 NP-DP-2023.4 (Balmer) - DP approved as presented - staff to issue permit, update any monitoring requirements in Tapis and close-out file	Bruce Belcher Emily Bryant Jas Chonk	Target: 09-Feb-2024	Completed
8 13.5 NP-DP-2023.6 (Funk) - amending DP approved as presented - staff to issue permit, update any monitoring requirements in Tapis and close-out file	Brad Smith Emily Bryant Jas Chonk	Target: 09-Feb-2024	Completed
9 13.6 and 13.7 - bylaw referrals Proposed bylaws Saturna 140/141 and SSI 536 - LTC determined interests unaffected by bylaw	Jas Chonk	Target: 09-Feb-2024	Completed
10 14.1 Fees Bylaw - BL 226 given 1, 2, 3 reading, - staff to update bylaw and send to Executive Committee for approval	Brad Smith Jas Chonk Robert Kojima	Target: 09-Feb-2024	Completed

Follow Up Action Report

North Pender Island

26-Jan-2024

Activity	Responsibility	Dates	Status
11 19. Closed Meeting Rise and Report: 3.1) July 28, 2023 Meeting minutes adopted as presented 4.1) BOV appointment - John Spalding 4.2) APC appointments - Rob Botterell, Mary Beth Rondeau, Peter Pare, Shauna Doll, Gregory Nicholls	Emily Bryant Jas Chonk	Target: 09-Feb-2024	Completed

23-Feb-2024

Activity	Responsibility	Dates	Status
1 4.1 NP-TUP-2024.1 (Landale) TUP renewal approved for 3 yrs - staff to issue permit, update any monitoring and close file.	Jas Chonk	Target: 08-Mar-2024	Completed
2 4.2 NP-TUP-2023.6 (Kroeker) - TUP approved for 3 yrs - staff to issue permit, update any monitoring and close file.	Jas Chonk	Target: 08-Mar-2024	Completed
3 4.3 NP-DP-2023.5 (Lansdowne) - DP approved as presented- staff to issue permit, update any monitoring and close file.	Jas Chonk	Target: 08-Mar-2024	Completed
4 4.4 NP-DP-2024.1 (Bardon) - DP approved as presented- staff to issue permit, update any monitoring and close file.	Jas Chonk	Target: 08-Mar-2024	Completed
5 4.5 NP-DVP-2023.1 and 2023.5 (McKerrell) - DVPs approved - staff to issue permits and close file.	Jas Chonk	Target: 08-Mar-2024	Completed

Follow Up Action Report

North Pender Island

23-Feb-2024

Activity	Responsibility	Dates	Status
6 Staff to arrange LTC/staff site visits to: 1) James Island - Complete - planned for May 2/3 2) Sidney Island and Associated Islands via water taxi in spring/summer 2024	Brad Smith	Target: 05-Apr-2024	In Progress

From: Kathi Allinson <[REDACTED]>

Sent: Wednesday, January 24, 2024 2:26 PM

To: SouthInfo <SouthInfo@islandstrust.bc.ca>; Deb Morrison <dmorrison@islandstrust.bc.ca>; Aaron Campbell <acampbell@islandstrust.bc.ca>; David Maude <dmaude@islandstrust.bc.ca>

Subject: Lights

Unfortunately I haven't been as active with following Islands Trust business as I would like due to caregiving and family illnesses. Anyway I recently noticed an agenda item regarding lights.

I would like to say that I am vehemently opposed to any light bylaw or rules. I would not be happy being told to either take my lights down or change them with great expense to me. My lights are set up for my safety for not falling when I am on my property at night coming or going or out on the property with my dog. I am a senior and have had my share of falls. As for migrating birds I am cautious and leave my lights off overnight and when not needed in the evening. I am also careful re level of lumens and level of Kelvin for temperature to make sure I have a warmer tone to the lights.

Given this I would hope that others are considerate about lights for neighbors and birds. Perhaps there needs to be more out there to educate people and when people purchase property lighting can be mentioned in a package given to buyers. There will always be people who blast a spotlight at neighbors to be inconsiderate and that may be another issue.

I hope going forward you will consider not having a bylaw or rules in regards to lights unless lights are shining directly on another property.

Sincerely,
Kathi Allinson

Sent from my iPhone

From: Sara Labadie <[REDACTED]>
Sent: Monday, February 12, 2024 10:41 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Friday meeting

Good morning Island Trust,

I hope you are having a good day so far.

I like to share some of my thoughts with you.

I am new to Island Trust meetings and even if I voted, I never had the chance to participate in a meeting.

I am a bit disappointed that most of the meetings occur on Fridays (except May and September) because I don't think a lot of people can attend as they are working on Friday morning. Unless you are focusing on retired people only to come to this discussion. I usually work on Friday too but not this week and I was excited to participate in my first Trustee assembly.

And I am more disappointed by the next Island Trust meeting (Friday 23th of February) that will be ONLY electronic. I like to meet my Trustees in person and talk/support other Pender residents. Online discussions are always challenging and I find them unclear and exhausting to be part of. To me, this is not a very democratic way to interact with Pender residents. I will appreciate if you don't plan anymore Online meetings.

I wish we can meet in person one day.

Thanks for your time.

Best Regards.

Sara Labadie

> From: Sara Miles <[REDACTED]>
> Sent: Monday, February 12, 2024 10:42 PM
> To: SouthInfo <SouthInfo@islandstrust.bc.ca>
> Subject: Attendance
>
> Dear North Pender Trustees,
>
> Will you please hold your next few meetings in person?
>
> Thank you for your consideration.
>
> Sincerely,
> Sara Miles

From: Ben McConchie <[REDACTED]>
Date: February 23, 2024 at 10:21:36 AM PST
To: Deb Morrison <dmorrison@islandstrust.bc.ca>, Aaron Campbell
<acampbell@islandstrust.bc.ca>, David Maude <dmaude@islandstrust.bc.ca>, Robert Kojima
<rkojima@islandstrust.bc.ca>
Subject: No Town Hall portion of LTC meeting today

Hey North Pender LTC:

Thanks for your work on behalf of our community -

Surprised at the lack of Town Hall - folks on the island are already feeling a general lack of community engagement from the NPLTC. A Town Hall is an opportunity to let folks feel connected and heard. The variances you are determining today are highly important to our community and the public deserves an opportunity to speak to them.

There should be no-such-thing as a "routine variance" - otherwise what is the point of your committee? Why not just get A.I. to approve these things? The public is essential to this part of the process.

Regarding the dock variance - Islands Trust has not done a thorough job of addressing issues with First Nations/Archaeology. This decision should be deferred until FN have been properly consulted and notified - it is irrelevant that the existing cement structures are in place. The planner's rationale misses the point of FN engagement here.

Thanks again for your work - Ben

--

[REDACTED]
[REDACTED]
[REDACTED]

From: Mae Moore <[REDACTED]>

Sent: Saturday, March 16, 2024 7:59 AM

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

Subject: Port Washington neighbourhood vs. Industrial

Dear Trustees and Officials,

It has come to our attention that the TUP for Brayden's Big Dig'em operation, has come and gone. What hangs in balance is the future of our beloved neighbourhood and historic road, a road that people from across North Pender utilize for cycling, scenic walks with each other, their dogs, their children and in our case, our horses. We moved into our home (built in 1920) on Port Washington Rd., twenty-two years ago, enamoured of the bucolic environment and quiet, peaceful living. We are designated Rural-Residential, but what we are subjected to, multiple times a day, is an assault on all of our senses from the noise, vibration and exhaust of the big tandem-trailer trucks. The road at the intersection of Otter Bay Rd and Port Washington Road has been torn up more than a few times and the whole road compromised by the turning and overweightness of these large trucks. Our road is narrow, with blind spots and shoulders overgrown with blackberries...there is often no room to move off of the road safely to accommodate these vehicles. To allow more industrial activities into our neighbourhood, is not what many of us want.

I understand that Big Dig'em provides a valuable service to Penderites, we have used his services ourselves, but the current location is inappropriate and is creating an untenable position for residents. I can think of two more appropriate possible sites. One beside the Recycling Centre and the other at Jim Allen's yard off Otter Bay, just before South Otter Bay Rd. It is very possible there may be more suitable sites that could remediate this problem.

I ask that you consider and listen to the voices of property owners and people who put their trust (no pun intended) in your abilities to weigh all sides fairly and without prejudice, and preserve our rural integrity. We task you, our elected representatives, with finding a workable solution, not just the easy one.

Thank you,

Mae and Les Quitzau

[REDACTED]
Pender Island, BC
[REDACTED]

"When in doubt, compassion is the answer."

File No.: NP-TUP-2024.2 (Pettyfer)
(NP-TUP-2021.2;
NP-TUP-2018.1)

DATE OF MEETING: April 5, 2024

TO: North Pender Island Local Trust Committee

FROM: Phil Testemale, Planner 2
Southern Team

COPY: Brad Smith, Island Planner

SUBJECT: Temporary Use Permit for STVR
Applicant: Robin Pettyfer
Location: 1601 Strom Crescent

RECOMMENDATION

1. That the North Pender Island Local Trust Committee approve issuance of Temporary Use Permit NP-TUP-2024.2 (Pettyfer) for a period of three (3) years.

REPORT SUMMARY

The purpose of the report is to consider a Temporary Use Permit (TUP) for a Short Term Vacation Rental (STVR) within a dwelling unit.

BACKGROUND

The TUP for the STVR use was first issued for property in 2018 (NP-TUP-2018.1) for three (3) years and renewed in June of 2021 (NP-TUP-2021.2) for a further three (3) years. There have been no complaints received since the original TUP was issued.

Issuance of the proposed TUP will allow for the STVR use to continue in compliance with the Land Use Bylaw (LUB).

The Short Term Vacation Rental use is proposed within an existing 285.8 m² (3076 ft²), four (4) bedroom dwelling built in 2000 (Attachment 2).

The extended family and their friends use the property regularly including for extended periods in the summer months. The rationale for the STVR use is to provide island accommodation and help offset property costs such as property tax, utilities, maintenance, etc.

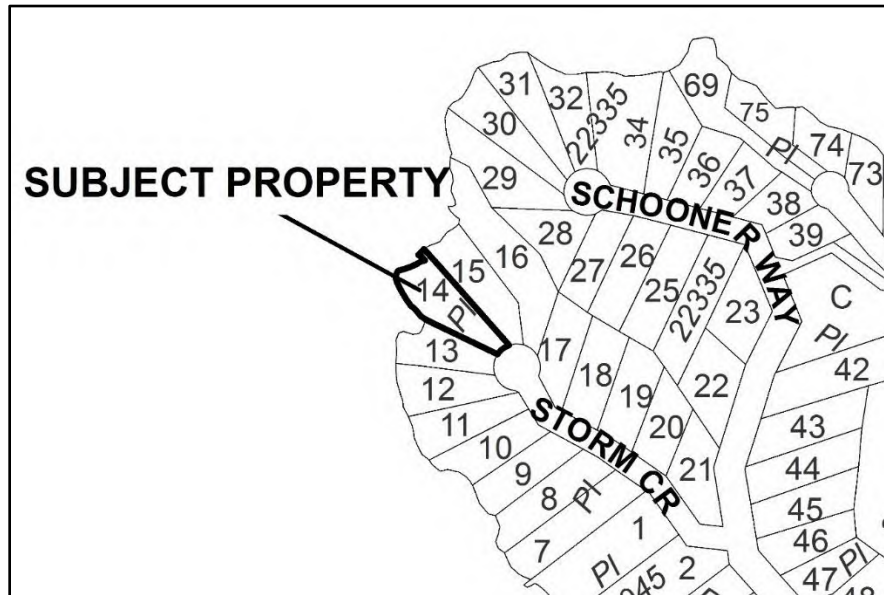
The property is 0.19 ha (0.48 ac) in size and located at the end of Storm Crescent on Mouat Point (see Figure 1). The property is fan shaped and well treed at the entrance from the road becoming more open along the shoreline a high bank/cliff (fenced for safety). There are no other buildings on the property (Attachment 2)

There is no new construction or land alteration associated with this application.

A copy of TUP Checklist is Attachment 5

A copy of the Notice is Attachment 7 and the proposed NP-TUP-2021.9 is Attachment 8.

Figure 1 – Location of subject property



ANALYSIS

Policy/Regulatory

Official Community Plan:

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

Guidelines for TUP applications for STVRs are contained in the OCP. The application is analyzed within TUP Checklist which is Attachment 5 and is substantively consistent with the OCP guidelines.

There are no **Development Permit Areas (DPAs)** on the subject property. Notwithstanding, the owner voluntarily provides information to guests on Woodland Sensitive and Coastal Douglas-fir ecosystems as part of the guest information to all guests.

Land Use Bylaw:

The property is zoned **Rural Residential (RR)** in the North Pender Island Land Use Bylaw No. 224, 2022. **RR** zoning permits a single-family dwelling and accessory uses.

The renewal of the TUP will allow the specific STVR use to continue on the property in compliance with the LUB.

Figure 2 – Orthophoto of subject property



Issues and Opportunities

Compliance - Original TUP

Staff contacted the applicant requesting confirmation that: they have complied with all conditions over the valid period of the TUP; that all contacts are current and, if they were updated, that those have been supplied to neighbours; and whether there have been any changes to the STVR use or use of the property. The applicant has confirmed in writing that they have adhered to the permit conditions and provided an up-to-date guest information package and list of contacts which is Attachment 3.

STVR/TUP Guidelines

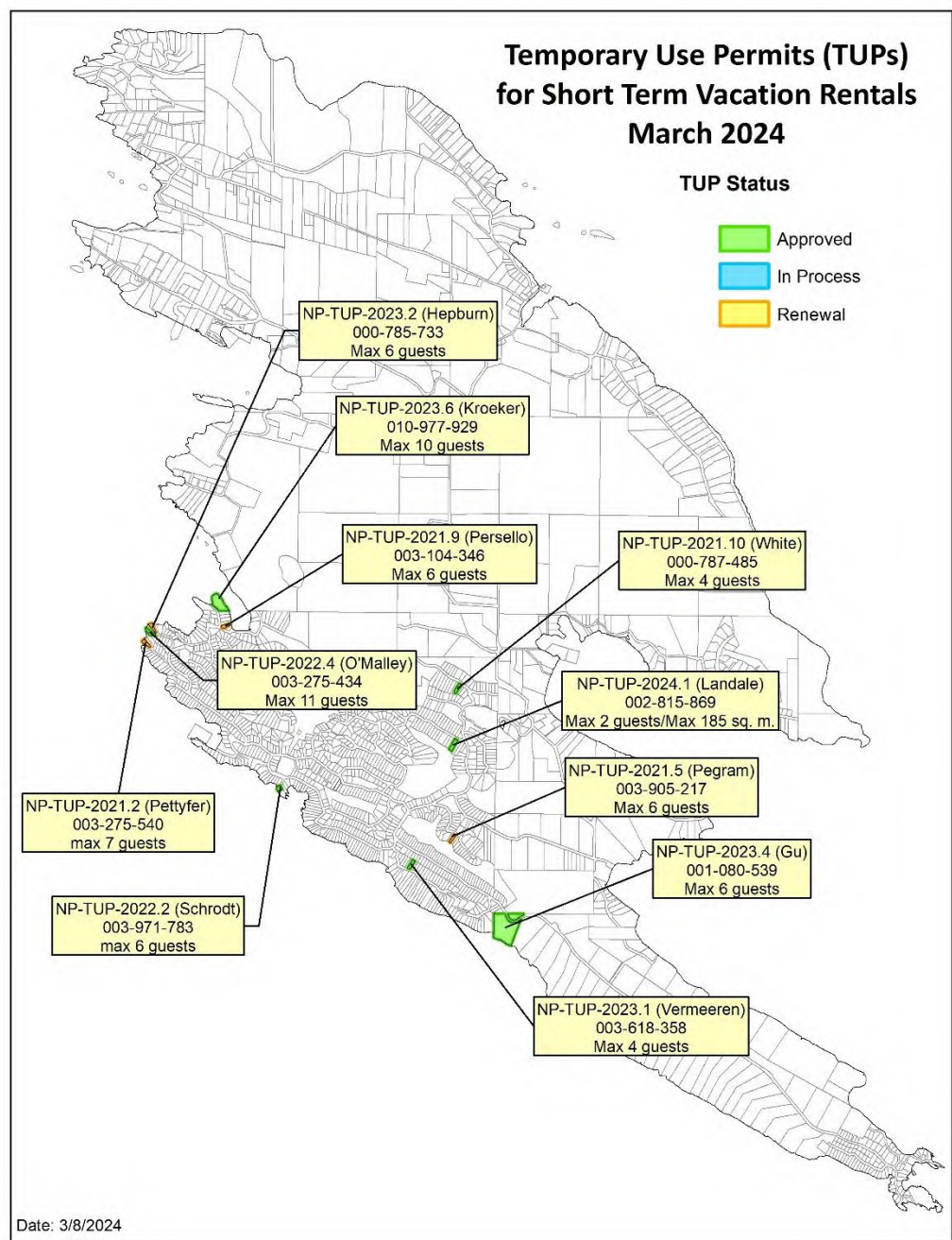
The guidelines are analyzed in Attachment 5. With the exception of the guideline for a limitation on the amount of days permitted in the summer months, the TUP conforms to the guidelines. The maximum of 90 days is reasonable and consistent with recent applications and issued permits.

Cumulative Impacts, Proximity and Number of STVRs

Assessing cumulative impacts entails that the LTC's exercise its discretion to determine where the threshold for impacts lie for a local neighbourhood and the island as a whole on a case-by-case basis. Assessing compliance with existing policies for maximum guest capacity, a cap on STVRs numbers in Magic Lake Estates, distance to other STVRs, and other information provides guidance for that determination.

There are two other permitted STVRs (NP-TUP-2022.4 and NP-TUP-2023.2) that are located on Schooner Way approximately 75 metres at the closest as the crow flies (Figure 3). Guideline Policy 6.4.18 limits the maximum number of permits to twenty (20). There are currently eleven (11) TUPs issued for STVRs, all are in Magic Lake Estates with one exception.

Figure 3 – STVR Map



TUP Conditions

TUP conditions have the objective of ensuring that the use does not have an unreasonable impact on neighbours and the local area, and, in the event it does, provide the ability to enforce compliance with the conditions of the TUP. The recommended term of three (3) years is the maximum permitted by legislation (above), and the owners would be eligible to apply to renew for a further three (3) years. The LTC may opt to reduce that

timeframe if they judge that a shorter time to gauge any impacts and concerns prior to a renewal application is preferable.

There are other guidelines that have not been included in the draft TUP that the LTC may opt to include by amendment. These are as follows:

- The following **mitigating measures** are required:
 - retention of existing screening and fencing; and/or,
 - the installation of addition screening; and
- The **dates** during which the use may occur are limited to _____.

Consultation

Statutory Requirements

TUP Notices were circulated to surrounding property owners and residents, published in the *Driftwood* newspaper (Attachment 7) and posted on North Pender Island community bulletin boards. The notification period ends at 4:30 p.m. on March 27, 2024.

At the time of writing, staff has received one response to notification that expresses general concerns with STVRs, not this application (Attachment 6). The applicant has provided three (3) letters of support from neighbours (above). Any submissions received prior to the LTC Meeting will be forwarded to the LTC and reported at the meeting.

First Nations

There is no additional development proposed outside the current footprint of the existing dwelling with no proposed disturbance or impact to any possible archaeological sites. The Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. As reviewed, the application is consistent with respect to LTC Standing Resolutions on reconciliation. Notwithstanding, to provide applicants with awareness regarding unknown archaeological areas, staff forwarded the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on *Heritage Act* directly to the applicants with the initial application.

Rationale for Recommendation

- There have been no complaints about the STVR since the original TUP was issued in 2018.
- The guest capacity is modest at six (6).
- Ninety (90) rental days in the summer is reasonable and consistent with recent, similar applications.
- The application substantively meets the TUP guidelines of the OCP.
- The applicant has provided three (3) letters of support from neighbours.
- The permit provides conditions to ensure that the use does not have an unreasonable impact on the local area, and, in the event it does, there is the ability to enforce compliance with the TUP.

ALTERNATIVES

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

1. Issue for a different time period

The LTC may opt to approve the renewal for a longer or shorter time period. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee approve application NP-TUP-2024.2 (Pettyfer) for a period of ____year(s).

2. Request further information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific application, the 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 for application NP-TUP-2024.2 (Pettyfer) submit to the Islands Trust the following _____.

3. Amend or Add conditions

The LTC may wish to further amend the TUP by placing further limits on the adding conditions. If selecting this alternative the LTC should specify the additional conditions. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee amend Temporary Use Permit NP-TUP-2024.2 (Pettyfer) be amended by the addition of the following condition(s): _____

4. Deny the application (s)

The LTC may deny the application. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee deny application NP-TUP-2024.2 (Pettyfer)

Submitted By:	Phil Testemale, Planner 2	March 22, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	March 22, 2024

ATTACHMENTS

- 1. Site Context
- 2. Photographs
- 3. Applicant Checklist
- 4. Guest Information
- 5. STVR Checklist
- 6. Correspondence
- 7. Notice
- 8. Proposed NP-TUP-2024.2

APPENDIX 1 – SITE CONTEXT

LOCATION

Legal Description	Lot 14, Section 9, Pender Island, Cowichan District, Plan 22335
PID	003-275-540
Civic Address	1601 Storm Crescent
Property Size	0.19 ha (0.48 ac)

LAND USE

Current Land Use	(Waterfront) Rural Residential and Short Term Vacation Rental
Surrounding Land Use	Rural Residential

HISTORICAL ACTIVITY

File No.	Purpose
NP-TUP-2021.2	Renewal of previous TUP
NP-TUP-2018.1	TUP for STVR
NP-DVP-2000.4	To relax the setback from the sea from 15 metres to 12.2 metres for construction of the dwelling unit

POLICY/REGULATORY

Official Community Plan Designations	RR (Rural Residential) in the North Pender Island Official Community Plan No. 171, 2007 (OCP). No Development Permit Areas designated on the property.
Land Use Bylaw	Rural Residential (RR) in the North Pender Island Land Use Bylaw No. 224, 2022
Other Regulations	Existing viewing platform may violate Section 3.7.1 requiring that structures be set back 15 metres from the natural boundary of the sea.
Covenants	N/A
Bylaw Enforcement	NP-BE-2017.17 – Unlawful STVR

SITE INFLUENCES

Islands Trust Fund	Islands Trust Conservancy interests unaffected.
Regional Conservation Strategy	This application has no considerations for the Regional Conservation Plan.
Species at Risk	Coast Douglas Fir/Oregon Grape Ecological Community
Sensitive Ecosystems	Islands Trust mapping does not show the subject property to contain a sensitive ecosystem.
Hazard Areas	The shoreline of the subject property is of moderate slope hazard risk.
Archaeological Sites	Archaeological Potential on property (See report under 'First Nations')
Climate Change Adaptation and Mitigation	Potential for additional greenhouse gas emissions associated with the proposed use as guests will consume fossil fuels travelling from their points of origin.

	The property does not appear to be at immediate risk of climate change related hazards.
Shoreline Classification	Rock Shoreline - Low Rock/Boulder
Shoreline Data in TAPIS	Islands Trust shoreline mapping does not indicate presence of eelgrass, forage fish or bull kelp in immediate vicinity of subject property.

ATTACHMENT 4 – PHOTOGRAPHS (2018)



Image 3: Property entrance from Storm Crescent



Image 4: West elevation of subject dwelling



Image 5: Proximity of subject dwelling to dwelling on adjacent northeast lot



Image 6: Proximity of subject dwelling to dwelling on adjacent southern lot



Image 7: View of carport and parking area

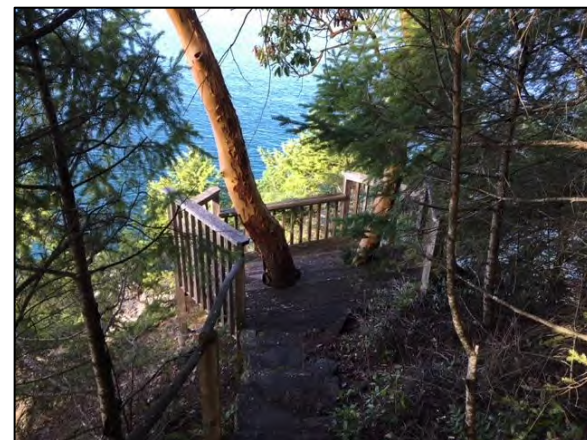


Image 8: Shoreline deck



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Telephone **(250) 405-5151**
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Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC **1.800.663.7867**

Email information@islandstrust.bc.ca

Web www.islandstrust.bc.ca

North Pender Island Local Trust Committee
Temporary Use Permit Applications
for Short Term Vacation Rentals (STVRs)
Development Approval Information Checklist

The attached checklist is intended to assist land owners and their agents in submitting complete and relevant information to the Local Trust Committee when applying for a Temporary Use Permit (TUP) to operate a Short Term Vacation Rental (STVR) on North Pender Island.

Instructions

A completed checklist and supporting documentation or professional reports must be submitted to the Islands Trust along with the standard [Temporary Use Permit](#) application form.

Where one of the listed items cannot be provided or may not be relevant to the application, provide Islands Trust staff with the reason(s) for not providing the information in the 'Comments' or 'Additional Comments' section at the end of the checklist.

Note

It is at the determination of the Islands Trust planner whether or not specific information is required. Failure to provide complete information without prior consultation with, and the approval of, the Islands Trust may result in delays in processing an application or requirements for additional information.

OFFICE USE ONLY

File No: _____

NORTH PENDER ISLAND STVR TUP CHECKLIST

Issue	Information and Documentation Required	✓	Comments
Site Plan	Depending on the proposal, a site plan <i>may</i> be required.	☐	Not applicable
	Site Plans must be drawn to scale and based on a legal survey, and contain the following:		
	Existing buildings and structures labeled as to their use and their floor area.	☐	
	Roads and driveways	☐	
	Streams or other water bodies	☐	
	Natural boundary of the sea	☐	
	Well location	☐	
	Septic field location	☐	
	Off-street parking area showing dimensions sufficient to accommodate at least two vehicles, and more as required by the proposed use	☐	
	Any fences or vegetative screening between adjacent lots or the road	☐	
Intensity of Use Proposed	Applicant should provide the following information:	☐	
	No. of bedrooms proposed for STVR use	☒	4
	Maximum no. of guests to be permitted at one time. Note: the number is limited to six (6) for properties located within the Magic Lake Estates Water System Area	☒	6
	No. of weeks per year unit is proposed to be available. :	☒	25 weeks
	No. of days from May 1 to September 30 in a calendar year. Note: maximum of thirty (30)	☒	90 days
Potable Water	Where the subject property is serviced by groundwater, the applicant should provide:	☐	Not applicable -- On Magic Lk. Treated Water System
	A written statement concerning the quantity and quality of water available on the subject lot.	☐	Approximation of water consumed annually is 370 cubic m.
	Any available supporting documentation related to the quantity and quality of potable water on the subject lot.*	☐	
	*Islands Trust staff may ask for further information, including professional reports, related to quantity and quality of available water.	☐	
	Where a subject property has insufficient groundwater to support the proposed use, applicant should provide: Plans for a rainwater catchment, storage, and delivery system.	☐	
Septic Capacity	Where the property is serviced by a septic system, the applicant should provide:	☐	
	A written statement about the septic system on the subject property including: - Date of installation - Capacity of the system	☐	Installation: August, 2001. Last pumped out by Eco Source Septic May 2, 2019. Capacity: 1,000.00 gallons (Liquid volume of septic tank); length of pipe chamber: 150 ft.

NORTH PENDER ISLAND STVR TUP CHECKLIST			
Issue	Information and Documentation Required	✓	Comments
	Any available supporting documentation related to the quantity and quality of potable water on the subject lot.* *Islands Trust staff may ask for further information, including professional reports, related to sewage disposal systems.		
Residential Appearance	If building or land alterations are proposed as part of the STVR use, they should not alter the residential appearance of any existing residence and the applicant should provide:		Not applicable
	Plans showing form, character and floor area of proposed building or land alterations.		
Sensitive Ecosystems	Where a property is located within, or contains, a sensitive ecosystem*, applicant should provide: A copy of the information intended to be provided to guests indicating the location of the sensitive areas, and information on how to avoid impacting these sensitive features. Applicant should state how this information will be conveyed to guests. *Use Islands Trust's MapIT program or the Development Permit Area map for North Pender Island to identify sensitive ecosystems on your property. Or, contact Islands Trust staff for further information. Please note, where new development or vegetation removal is to be undertaken as a part of the proposed STVR use, a Development Permit for work within a sensitive ecosystem may be required.	✓ ✓	Provided in application. Information on DPA Woodland & Coastal Douglas Fir Ecosystems provided for guests in front hall and dining room area.
Building Information	Confirmation of an occupancy permit	✓	Built in 2000
	Is there are monitored fire detection system		Smoke alarms but not monitored by security company.
On-Island Contact	Applicant should provide contact information for an on-Island owner or manager to address issues that may arise from the proposed use, 24 hours/day, seven days per week.	✓	Provided in application
Information for Guests	Applicant should provide a copy of information to be provided to guests that:	✓	Provided in application
	Reminds them they are in a residential area	✓	
	Provides information regarding noise bylaws, water conservation, fire safety, storage and disposal of garbage and recycling, septic care, and control of pets (if pets permitted)	✓	
	Provides emergency service contact information and offers use of a phone for the duration of the stay, if required. Emergency contact information should include the civic address of the property.	✓	
	Application should also demonstrate where above information will be posted in the building	✓	Front Hall by Front Door
Signage	If signage is proposed, applicant should provide a rendering of the proposed sign that includes its dimensions.		Not applicable

NORTH PENDER ISLAND STVR TUP CHECKLIST

Issue	Information and Documentation Required	✓	Comments
	Confirmation that there is clearly marked civic address signage at the driveway	✓	Provided at driveway
Accessory Buildings	If the proposed use is to occur in an accessory building, the applicant should provide information demonstrating:		Not applicable
	That accessory building has an occupancy permit for residential use under the BC Building Code		
	That the total floor area of all buildings on the property does not exceed 185 m ² .		

Additional Comments	
---------------------	--

“STORM END”

1601 Storm Crescent, Pender Island

Welcome! We do hope you have a peaceful time here at “Storm End”.

On-Island Contact – For urgent issues: **Crystal Shirk**: 250-318-7227.

Emergency: 911

1. GUEST LIMITS

No more than six (6) adults permitted, unless authorized. If you have not already done so, please provide the host with the full names of all adult guests.

2. NATURE

Please respect the environment – the trees, the sea, the beaches, and all life on Pender.

Please see on hall-table below: 1) *Coastal Douglas-fir Ecosystems* & 2) *Woodland Ecosystems*.

3. WATER SCARCITY & CONSERVATION

Water:

Pender Island does not have an abundant water supply. Please do not run water unnecessarily for showers, washing dishes, brushing teeth, flushing toilets etc. Please do not excessively wash clothes. Please do not wash clothes & shower simultaneously.

Dishwasher: Please rinse dishes before placing in dishwasher. Please don't run tap when rinsing dishes. Fill up the sink first with water, then rinse with the same water. You will be happier with the results. Please use provided detergents. Cycle takes 1 ¾ hrs. Allot time to finish cycle before turning water off at departure.

Electricity:

Please turn heat off when leaving rooms. And please only use ceiling lights on main floor when needed.

4. SEPTIC

This home uses a septic tank. NO meat, coffee grounds, grease, bleach etc. down the drains. Please use a “grease jar” or a can for kitchen fat or hot grease. Don't put down the drains or toilet that, which you can not put into your body.

5. GARBAGE

Please take all your garbage with you when you leave, and don't leave on the property. This is because there is no garbage collection. You can drop your garbage at the

Medicine Beach Liquor Store at 5827 Schooner Way on the way to the ferry for \$8.00 per regular bag. If you choose to leave your garbage or recyclables, a \$ 20.00 fee per bag will be charged against your damage deposit.

Bottles: You can take all water & pop bottles to the Tru Value grocery store, and liquor bottles and cans to the liquor store. Both are at the Driftwood Mall and give refunds.

Compost: You can leave in the blue bin outside the front door.

Recyclables: Other recyclables can be taken to the Pender Island Recycling Depot at 4402 Otter Bay Rd. on way to the ferry or taken home with you.

6. FIRE PREVENTION

No smoking: “Storm End” is a “no-smoking” home. Please ensure there is no smoking within 20 feet of house & the decks.

Woodstove: *Do NOT use during summer* (chimney sparks cause wildfires).

Outdoor Fires Prohibited.

7. PENDER COMMUNITY & OUR NEIGHBOURS

Please be Quiet: This is a quiet neighbourhood with full-time residents. Please respect them and their space.

Neighbours: You MUST stay within boundaries of this property indicated by hedges & natural boundaries. It is against the law to trespass onto neighbouring properties.

Neighbours’ Docks: The docks, platforms, and stairs on the adjacent properties to the left and right are on our neighbours’ properties. Like all private property, these are strictly OUT-OF-BOUNDS. Please do NOT ask neighbours to use them.

8. CARS, BOATS & CAMPING

Parking: Park all vehicles on the driveway or carport. There is room for 3 cars. Please do NOT park vehicles in cul-de-sac or on the road.

No auto idling: Please use your engine as little as possible to keep Pender’s air clean.

Recreational Vehicles: Prohibited on this property & on the Storm Cres. Right-of-way.

Motorboats: Motorized boats are prohibited at this property.

No Camping: Camping & recreational vehicles are prohibited on this property & on the Storm Cres. right-of-way.

9. SAFETY

Walking: Walking on the property is AT YOUR OWN RISK. Our home is on a high bank over the sea. An adult MUST ACCOMPANY ALL CHILDREN UNDER 14. MONITORING CHILDREN IS ESSENTIAL when WALKING NEAR THE BANK EDGES.

Shoreline Access: Shoreline access from this property is NOT safe. The nearest public shoreline access is at:

- Shingle Bay Park, at end of Shingle Bay Road
- Thieves Bay Marina, on Anchor Way (250-629-3686)

10. HOUSEKEEPING

- **Slippers:** Please remove outdoor footwear & wear slippers indoors.
- **WIFI -- Network:** _____; Password: _____
- **Housekeeping:** We wash all linens, make fresh beds, clean floors and windows, and do all other cleaning for the next guest.
- **Plant Watering** -- Please feel free to water plants. It is appreciated.
- **Furniture** -- Please do NOT move furniture.
- **Toilet Plunger** – Under laundry sink at back of cupboard.
- **Cutting** -- Please do NOT cut directly on table surfaces including kitchen counters. Instead, please use cutting boards in the kitchen.
- **Cold Cupboard** – Below kitchen counter on left. Useful space for storing bread, veggies, fruit.

11. CHECKING OUT

As a courtesy for the cleaners, please:

- a) Take all garbage away including paper.
- b) Ensure dishes are washed.
- c) Unload the dishwasher after dishes are clean. If no time, please open the dishwasher so plates dry.
- d) Hang wet towels -- do not leave on furniture or floor.
- e) Lift used bed linen and leave in separate piles on the beds.
- f) Ensure deck gate closed for the deer; and
- g) Leave main gate on driveway OPEN

Thank you. Enjoy your “end of the storm”!

Robin Pettyfer

Attachment 5: TUP Checklist for Short Term Vacation Rental

NP-TUP-2024.2 (Pettyfer)
1601 Storm Crescent

Guidelines	Comments
Overall TUP Guidelines	
a) Time Period - For the purpose of a temporary use permit, “short term vacation rental” means the use of a dwelling or cottage as temporary commercial accommodation for a period of less than a month at a time by persons, other than the owner or a permanent occupier.	The proposed use meets the definition of STVR.
b) Residential Appearance - The Local Trust Committee may consider issuance of a short term vacation rental permit provided the proposal would not alter the residential appearance of the residence	No exterior changes proposed.
c) Cumulative Effects - The Local Trust Committee may consider the cumulative effects on the neighborhood and Island of all the temporary use permits issued for commercial vacation rentals.	The STVR has operated for the past 6 years. No cumulative effects are expected.
d) Distance to Another STVR - The Local Trust Committee should not approve more than one short term vacation rental temporary use permit within a 200 metre radius from another short term vacation rental temporary use permit.	There are two STVR TUPs within 200 metres of the subject property (STVR Map in Report)
e) Water Supply - The landowner should demonstrate an adequate supply of water and septic capacity for the duration of the proposed use:	
i. Private Well - If the property is serviced by a private well, the applicant must demonstrate the well has adequate quality and quantity of water for the short term vacation use. A pump test or other report may be requested in the application process. Where there is inadequate groundwater, a rainwater cistern may be required as a condition of the permit.	N/A
ii. Community Water System (Magic Lake & Razor Point) - If the property is serviced by a community water system, the draft permit must be sent to the water system for information.	Yes - Property is on Magic Lake Water. If approved, staff will refer the TUP to the CRD.
iii. Trincomali Improvement District - A short term vacation rental temporary use permit must not be issued if located within the Trincomali Improvement District.	N/A

Attachment 5: TUP Checklist for Short Term Vacation Rental

Guidelines	Comments
f) Parking - the landowner should demonstrate that the property is able to accommodate off-street parking for a minimum of two (2) vehicles	Complies.
g) Sensitive Ecosystems - If the proposal is located on a property identified as containing a sensitive ecosystem, the permit should require that the landowner provide information for guests indicating the location of the sensitive areas, and information on how to avoid impacting the sensitive features.	N/A Applicant voluntarily provides information on Coastal Douglas-fir and Woodland Ecosystems to guests.
h) Signage - The Permit should restrict advertising to one unilluminated sign, with a maximum area of 0.6 m ² .	Yes – condition in TUP.
i) Operator Contact - The permit should require that the owner or other contact be available on North or South Pender Island by telephone 24 hours/day, seven days per week.	Yes – condition in TUP.
j) Operator Contact & TUP to Neighbours - The permit should require the owner or manager provide neighbours within a 100 metre radius of the vacation rental with the owner or manager's phone number, and a copy of the temporary use permit	Yes – condition in TUP.
k) Guest Information - The permit should require the landowner post the following information for guests:	
i. remind guests that the property is located in a residential area;	Yes
ii. information on noise bylaws, water conservation, fire safety, storage and disposal of garbage and recycling, septic care and control of pets (if pets are permitted);	Yes
iii. emergency services contact information, and to provide a means for contacting them if the property is located in an area with no cellular service; and,	Yes
iv. the applicant provide the name and contact information of the property owner or designated contact who is available on North or South Pender Island at all times when the short term vacation rental is in use.	Yes
l) Permit Conditions - In addition to any other conditions the LTC may consider appropriate, the permit may:	
i. limit the number of bedrooms that can be used for short term vacation rentals;	A maximum of four (4) bedrooms as stated in TUP condition.
ii. limit the number of guests to six (6) for properties located within the Magic Lake Estates Water System Area;	Complies.
iii. limit the number of days the short term vacation rental may be in use from the period	Does not comply: Applicant has requested a limit of 90 days from May 1 st to September 30 th .

Attachment 5: TUP Checklist for Short Term Vacation Rental

Guidelines	Comments
of May 1 to September 30 in a calendar year to a total of thirty days;	
iv. require mitigating measures to address neighbours' concerns , such as retention of existing screening and fencing, or installation of additional screening;	Not a condition, property and dwelling reasonably isolated from neighbours.
v. require the landowner/operator to post contact information and permit information at the entrance to the property;	Yes, a condition of the TUP.
vi. prohibit camping or occupancy of RVs on the property;	Yes, a condition of the TUP.
vii. prohibit the rental or provision of motorized personal watercraft;	Yes, a condition of the TUP.
viii. prohibit watercraft that has been brought from off island to be used on Magic Lake or Buck Lake;	Yes, a condition of the TUP.
ix. prohibit outdoor fires; and	Yes, a condition of the TUP.
x. establish the dates during which the use may occur.	Not a condition.
m) Agriculture Land Reserve - A temporary use permit a short term vacation rental on a parcel in the Agricultural Land Reserve must require the approval of the Agriculture Land Commission prior to the permit being issued.	N/A
n) Owner Occupancy - An application for a short term vacation rental temporary use permit must not be considered if the dwelling unit is not occupied on a regular basis by the property owners.	The family (applicant) does not reside full time, however the home is used extensively all year and for extended periods in the summer months.
o) Maximum Number of STVRs - The Local Trust Committee must not approve more than twenty (20) temporary use permits for short term vacation rentals within the Magic Lake Estates Water System Area.	The total number of issued TUPs in Magic Lakes is eleven (11).
p) Occupancy Permit - A short term vacation rental temporary use permit must not be issued in a dwelling or cottage that does not have Occupancy Permit approval	Yes.
q) Bylaw Enforcement - The Permit should include a provision stating that the bylaw enforcement officer may enter the property between certain hours, without prior consultation, if a complaint is received	Yes, condition of TUP.

March 11, 2024

Re: Robin Pettyfer
Permit renewal for short-term rentals

To whom it may concern,

This letter is to confirm that my family is aware of the short-term rental business being conducted by Robin Pettyfer at 1601 Storm Crescent. We have contact information for both Robin and his on-island contact Crystal Shirk, both of whom have been communicative and pleasant to deal with in our time getting to know them.

As newer residents of Storm Crescent, we have no concerns with Robin's permit renewal and ongoing short-term rentals at 1601, and we appreciate our getting to know each other as neighbours. Feel free to reach out to me directly at [REDACTED] as required - thank you.

Sincerely,

[REDACTED]

Eric Douglas

[REDACTED]

North Pender Island, BC

Attachment 6 (Cont'd)

March 11, 2024

The North Pender Local Trust Committee

Re: Robin Pettyfer
1601 Storm Crescent
Permit for Short-term rentals.

To Whom it May Concern:

This letter is to confirm that we have been aware of the short-term rentals at 1601 Storm Crescent over the past number of years, and that we have on-island contact information, Crystal Shirk, as well as off-island contact information, Robin Pettyfer.

Robin keeps us informed of the goings on at the property, which we appreciate, and is always pleasant to speak with. We have not had any past concerns with the guests that have stayed at his beautiful house, and as such, have no objection with a renewal of his short-term rental permit.

I may be reached by email, [REDACTED], if you need to contact me.

Yours truly,

[REDACTED]

Ed Hunt

[REDACTED]

North Pender Island

Attachment 6 (Cont'd)

From Ellen Barry-Lane

[REDACTED], North Pender Island

Tel: [REDACTED]

Re. Short Term Rentals for the Pettyfers at 1601 Storm Crescent:

March 16, 2024:

To the North Pender Island's Trust:

I write to say that I am aware of the Pettyfer's application for a short-term rental permit for their home on 1601 Storm Crescent. I have known about their permit since they began, and they have always kept me informed. I support the Pettyfer's continuing their permit and like the guests they have.

Please note that I have met their on-site property contact, Crystal Shirk and I have her contact information. I also have the Pettyfer's contacts, and we keep in touch, especially when they are on Pender.

If you have any questions, I can be contacted at: [REDACTED].

Thank you and sincerely,

[REDACTED]

Ellen Barry-Lane

[REDACTED], N.Pender

Attachment 6 (Cont'd)

From: Kathy Gilbert <[REDACTED]>
Sent: Tuesday, March 26, 2024 3:33 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Cc: Bob Gilbert <[REDACTED]>
Subject: NP-TUP-2024.2

Hello NPI Islands Trustees and staff – We recently received a notice of the above proposed permit to permit an STVR at 1601 Storm Crescent (Lot 14, Plan 22335.) My husband and I live at [REDACTED]. While the present situation has not presented noise or traffic situations, our concerns relate to the commercialization of residential properties without going through a rezoning process. Should you have any questions, we would be happy to discuss them.

Kathy and Bob Gilbert
[REDACTED]
[REDACTED]



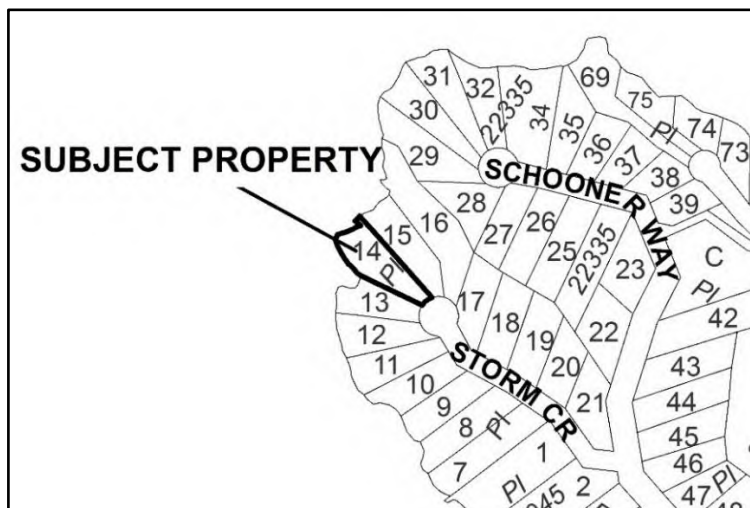
NOTICE
NP-TUP-2024.2
North Pender Island Local Trust Committee

NOTICE is hereby given pursuant to Section 494 of the *Local Government Act* that the North Pender Island Local Trust Committee (LTC) will be considering a resolution allowing for the issuance of a Temporary Use Permit. The proposed permit would apply to LOT 14, SECTION 9, PENDER ISLAND, COWICHAN DISTRICT, PLAN 22335 (PID: 003-275-540). This property is located at **1601 Storm Crescent**, North Pender Island.

The purpose of this temporary use permit would be to permit a **Short Term Vacation Rental** use within the Dwelling Unit.

The establishment of these uses would be subject to the conditions specified in the attached proposed permit. The permit would be issued for three (3) years and the owner may apply to the LTC to have it renewed once for an additional three (3) years. The use has been permitted by a previous Temporary Use Permit that was issued in 2018 and renewed in 2021.

The general location of the subject property is shown on the following sketch:



A copy of the proposed permit may be inspected at the Islands Trust Office, 200 - 1627 Fort Street, Victoria, B.C. V8R 1H8 between the hours of 8:30 a.m. to 4:30 p.m. Monday to Friday inclusive, excluding statutory holidays, commencing **March 15, 2024** and continuing up to and including **March 27, 2024**.

For the convenience of the public only, and not to satisfy Section 499 (2) (c) of the *Local Government Act*, additional copies of the Proposed Permit may be inspected at various Notice Boards on North Pender Island.

Enquiries or comments should be directed to Phil Testemale, Planner 2 at (250) 405-5170, for Toll Free Access, request a transfer via Enquiry BC: In Vancouver 660-2421 and elsewhere in BC 1-800-663-7867; or by fax (250) 405-5155; or by email to: southinfo@islandstrust.bc.ca before 4:30 p.m., **March 27, 2024**.

The North Pender Island Local Trust Committee may consider a resolution allowing for the issuance of the permit during the regular business meeting starting at **10:00 a.m., April 5, 2024** at the **St. Peter's Anglican Church Hall, 4703 Canal Road**, on North Pender Island.

All applications are available for review by the public with prior appointment. Written comments made in response to this notice will also be available for public review.



**North Pender Island Local Trust Committee
Temporary Use Permit
NP-TUP-2024.2 (*Pettyfer*)**

1601 Storm Crescent

To: Mary Pettyfer c/o Robin Pettyfer

1. This Permit applies to the land described below:

Lot 14, Section 9, Pender Island, Cowichan District, Plan 22335
(PID: 003-275-540).

2. This Permit is issued for the purpose of permitting the owner to conduct the following use on their property:

a) a **Short Term Vacation Rental** within the Dwelling Unit.

3. and is subject to the following conditions:

- a) A **parking** area that will accommodate a minimum of two (2) vehicles for the Short Term Vacation Rental (STVR) is required and must be wholly contained on the subject property;
- b) **signage** advertising the STVR use may not exceed 0.6 m²;
- c) either the property owner or other designated **contact** must be available on North or South Pender Island by telephone 24 hours per day, seven days per week when the STVR is in use, and the name (s) and contact information shall be provided to STVR guests upon arrival;
- d) either the property owner or other designated **contact** must provide neighbours within a 100 metre radius of the vacation rental with the owner or manager's phone number, and a copy of the temporary use permit ;
- e) the property owner must post within the dwelling the following **information for guests**:
 - i. remind guests that the property is located in a residential area;
 - ii. information on noise bylaws, water conservation, fire safety, storage and disposal of garbage and recycling, septic care and control of pets (if pets are permitted); and
 - iii. emergency services contact information, including the civic address of the property, and to provide a means for contacting them if the property is located in an area with no cellular service;
 - iv. the name and contact information of the property owner or designated contact who is available on North or South Pender Island at all times when the STVR is in use;
- f) the **maximum number of bedrooms** that can be used for the STVR use is limited to **four (4)**;
- g) the **maximum number of guests** is limited to **six (6)**;
- h) the STVR use is limited to a **ninety (90) days** from the period of May 1 to September 30 in a calendar year;
- i) The following activities are **prohibited**:
 - i. camping and occupancy of recreational vehicles;
 - ii. the rental or provision of motorized personal watercraft;

- iii.* the use on Magic Lake or Buck Lake of watercraft brought from off island; and,
iv. outdoor fires;
- j) the holder of this Permit, will be held accountable for any violation of the conditions of this Permit. The Islands Trust Bylaw Investigations Officer may enter the property between the hours of 9:00 am and 5:00 pm on any day without prior consultation with the holder of the Permit, or STVR renter for the purpose of investigating a complaint;
4. This permit is valid for **three (3)** years from date of issuance of the permit and upon expiry of the permit the owner of the site shall discontinue the temporary use to the satisfaction of the Islands Trust, or apply for a renewal of this permit.
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, 2022" and to obtain other approvals necessary for completion of the proposed development, including approvals from the Capital Regional District, Island Health and Ministry of Transportation and Infrastructure.

AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS ##TH DAY OF MONTH, 202#.

Deputy Secretary, Islands Trust

Date Issued

STAFF REPORT

File No.: NP-DP-2024.2 &
NP-DVP-2024.1 (Milliken)
(NP-SUB-2020.1)

DATE OF MEETING: April 5, 2024
TO: North Pender Island Local Trust Committee
FROM: Phil Testemale, Planner 2
Southern Team
COPY: Brad Smith, Island Planner
SUBJECT: Combined Development Permit and Development Variance Permit
Applicant: June Milliken
Location: 1601 Chart Drive (Lot 69) and 1610 Schooner Way (Lot 35)

RECOMMENDATION

1. That the North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2024.2 (Milliken);
2. That the North Pender Island Local Trust Committee approve issuance of Development Variance Permit NP-DVP-2024.1 (Milliken); and,
3. That the North Pender Island Local Trust Committee EXEMPT proposed Lot B of subdivision NP-SUB-2020.1 from the 1/10 perimeter provision of Section 512 of the *Local Government Act* and Subsection 8.5 (1) of North Pender Island Land Use Bylaw No. 224, 2022.

REPORT SUMMARY

This report is to consider combined Development Permit (DP) and Development Variance Permit (DVP) application required for a proposed boundary adjustment subdivision (NP-SUB-2020.1). Development is restricted to the realignment of the boundary between the two subject properties. The number of properties will remain the same and there is no construction or land alteration associated with the application.

The draft DP is supported by a Biologist's report (Attachment 3) with the purpose of protecting a designated raptor nest site with lot configurations that have a sufficient developable area outside of the Development Permit Area (DPA) that meets the LUB regulations.

The rationale of the DVP is to facilitate the completion of the subdivision by remedying historical siting infractions for an existing dwelling, and by varying the subdivision regulations for the configuration of one of the proposed lots.

The minimum frontage established in Section 512 of the *Local Government Act* (LGA) is 10% of the perimeter of the lot which is also forms section 8.5 (1) of the LUB. The Local Trust Committee has jurisdiction to exempt a lot or a subdivision from this requirement.

BACKGROUND

The combined application was submitted to meet Islands Trust conditions for the subdivision application.

The applicants own both Lots 35 and 69 (Figure 1) and the purpose of the reconfiguration (Figure 2) is to remedy historic siting infractions on Lot 69 where the dwelling currently straddles the property line encroaching onto Lot 35. The dwelling was built in 1976 assumedly without a legal survey which led to the siting errors. The room on the south side of the house that encroaches on Lot 35 was reportedly built in the 1990s by previous owners.

There is a legal easement in place for the encroaching portion of the dwelling and a variance was granted in 1999 (NP-DVP-1999.4) to site the dwelling to 0 feet from the interior side line. However, moving the boundary line would remedy infractions and create a more functional lot (proposed Lot B) and give more legal certainty to both properties. Lot 35 is currently vacant.

The lots were part of the original Magic Lake Estates subdivision of the late 1960's.

Development Permit

The purpose of the **DP** is to provide measures for the protection of the sensitive ecosystem for a proposed boundary adjustment subdivision (NP-SUB-2020.1) within **Development Permit Area Seven – Raptor Nests (DPA 7)**.

The specific objective of the designation of the DPA is:

To preserve and protect remaining raptor and heron nesting sites.

The application is supported by a professional report by Dan Baxter, R.P. Bio and Erin O'Brien, Ph.D. (24 March 2021 – 'Biologist's Report') which is Attachment 3 (see: 'Issues and Opportunities' - below).

Development Variance Permit

The purpose of the **DVP** is to comply with the Land Use Bylaw (LUB) firstly for the siting of the existing dwelling and secondly for the lot configuration regulations for proposed Lot B.

The dwelling was sited within 4.2 metres of the natural boundary of the sea, where the regulation requires a 15 metre setback. Proposed Lot B improves the configuration of existing Lot 69 where the width of the access strip is unchanged and the length to width ratio is improved from a ratio of 4.5 to 1 to 4.0 to 1. The regulation requires 3 to 1.

The specific variances are to the **setback to the natural boundary of the sea** and the **subdivision regulations (lot configuration)** in the North Pender Island Land Use Bylaw No. 224, 2022 (LUB) as shown in Figure 2 and as follows:

- a) Article 3.3 (1) (a) which states that no *building or structure* may be sited within **15 metres** upland of the *natural boundary of the sea* is varied to permit the siting of an existing *dwelling* with an attached deck within **4.2 metres** upland from the *natural boundary of the sea*;

- b) Subsection 8.5 (2) which states that if a panhandle lot is not capable of being further subdivided, the minimum width of the access strip at any point must be **10 metres** is varied to permit an access strip with a minimum width of **9 metres**; and,
- c) Subsection 8.5 (4) which states that no lot shall have an average depth greater than **three times** its average width is varied to permit a lot with an average depth **four times** greater than its average width.

Ten Percent Frontage

The intent of the regulation is to avoid the layout of multiple-lot subdivisions with panhandle shapes that converge on highway frontage. The frontage of existing Lot 69 is less than 10% of the perimeter of the lot, and Lot B will also be less, however it will increase the percentage as the new lot will be slightly larger. Waiving this requirement will have no impact as the frontage on Chart drive will remain unchanged.

Figure 1 - Subject properties

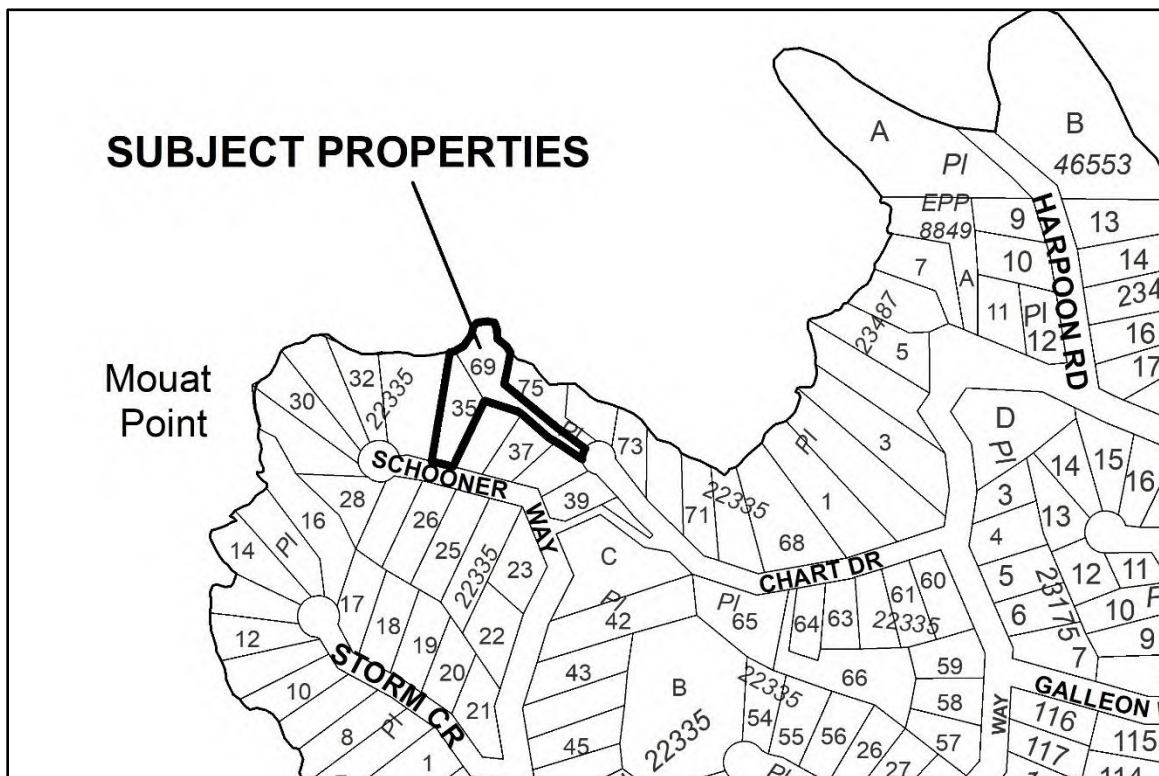
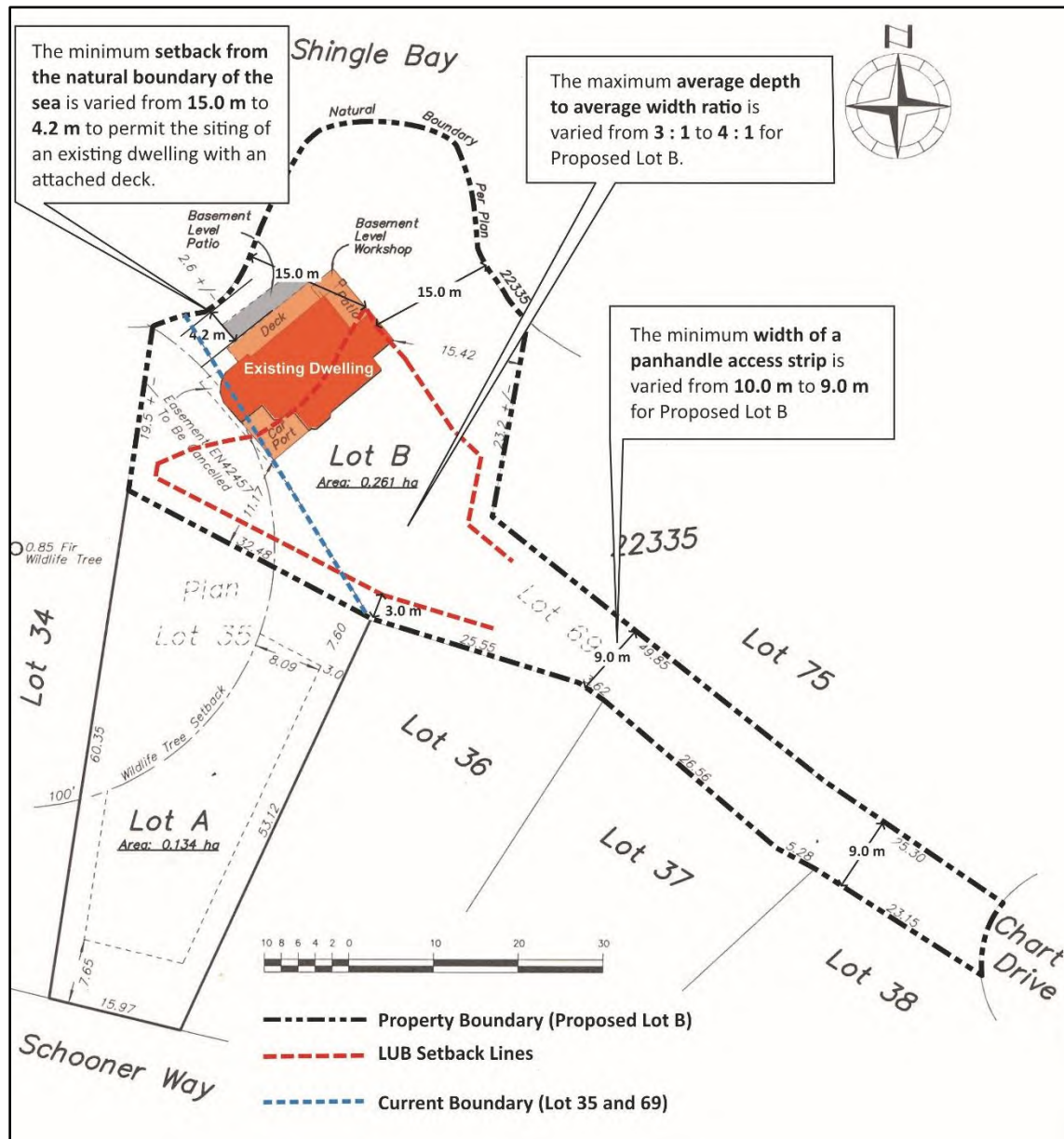
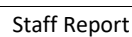


Figure 2 – Proposed Subdivision Plan with Variances



Islands Trust



5 51

ANALYSIS

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

Development Permit Area:

Development Permit Area 7 (DPA) – Raptor Nests is designated for a 30 m radius from a nest tree located on neighbouring Lot 33 as shown in Figure 3 (above) and Attachment 1. Development (including subdivision) requires either an exemption or that a DP be obtained complying with the DPA guidelines.

The DP as drafted meets the objective and applicable guideline of the DPA (see ‘Issues and Opportunities’ - below).

Land Use Bylaw:

The property is zoned **Rural Residential 1 (RR1)** in the North Pender Island Land Use Bylaw No. 224, 2022 (Attachment 1). The use and density of Lot B meets the requirements of the LUB. Approval of the variances will bring that lot into conformity with the LUB.

Issues and Opportunities

Development Permit

Biologist’s Report

The draft DP is based on a Biologist’s report that confirms that the one applicable DP Guideline has been met in order to protect the designated, active nesting site.

The report confirmed in 2021 that subject nest site had been active for many decades. The report references the DPA guidelines and Provincial regulations that would pertain to the future development of proposed Lot 35.

It confirms that the buildable area of proposed Lot A has been cleared and levelled and is “highly disturbed” state (p.2). And, that the DPA would extend into a portion of proposed Lot B, but that area is unlikely to be developed due to steepness of the area and geotechnical constraints (Attachments 1 and 2).

The report concludes:

Providing all local and provincial regulations and guidelines as described above are followed with any future development or other activities on the subject properties, impacts to the bald eagles nesting in the immediate area can be minimized. (p.5)

DP Conditions

There is one applicable OCP DP guideline (5.2.8.7 1.) that applies to subdivision:

Where an application involves a proposal to subdivide land, the layout of proposed lots should be configured in such a manner as to ensure, to the extent practical, that Bald Eagle, other raptor, or Blue Heron nesting trees are protected by clustering lots through lot averaging or bare land strata. Where feasible, the lot containing the nesting tree should be of a sufficient size to accommodate the permitted level of development, including driveway access, septic disposal systems, and accessory uses, in addition to an adequate buffer around the nesting tree

The proposed reconfiguration for the (vacant) Lot A makes the existing Lot 35 smaller, however it does not lessen the buildable area in practical terms owing to the topography of the area that will become part of Lot B.

Further, the area of the DPA on both proposed lots will be more balanced. Primarily, there will be sufficient size outside of the DPA to accommodate the permitted level of development on both properties. (Figure 3)

It is noted that the future development on proposed Lot A, and/or Lot B, and within the DPA, will require that an exemption or a new DP be obtained where conditions consistent with other guidelines would be included.

Development Variance Permit

Impact on Neighbouring Properties

The most impacted neighbours by the proposed variance would be the abutting Lots 34 and 36. With the proposed configuration and size, the building site size and distances to neighbouring properties will not change.

The Intent of the Regulation being Varied

The overall purpose of siting regulations are to minimize impacts on the natural environment, adjacent properties and the public realm related to:

- Ensuring the development is a suitable distance from the sea to limit potential environmental impacts of development
- Limiting the visual impact of development on adjacent properties.
- Establishing a consistent development pattern within a local area.
- Protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
- Maintaining a rural character.
- Establishing certainty with respect to development by maintaining consistent height and siting regulations.

The overall purpose of the subdivision configuration regulations are to:

- Ensure that lot configuration provides a functional width for access.
- Ensure that lots are not overly long and narrow and are of a width that facilitates development that can conform to siting regulations and would not be impactful to neighbouring properties.

Potential Impacts of Granting the Variance

Granting a variance can potentially create an expectation in the community with regard to future applications. As variances consider the unique circumstances pertaining to a particular situation that may warrant the relaxation of a specific zoning regulation each application should be evaluated on its own merits.

Consultation

DVP Notices were circulated to surrounding property owners and residents. The notification period ended at 4:30 p.m. on March 27, 2024.

At the time of writing, staff have one submission in response to notification that expresses support. Any other submissions received prior to the LTC Meeting will be forwarded to the LTC and reported at the meeting.

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

First Nations

With respect to the potential for archaeological material to be found on the property during the proposed site preparation and construction, Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. As reviewed, the DP application is consistent with respect to LTC Standing Resolutions on reconciliation. Notwithstanding, to provide applicants with awareness regarding unknown archaeological areas staff has forwarded the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on *Heritage Act* compliance have provided the Islands Trust directly to the applicants.

Rationale for Recommendation

In summary, the recommendation for approving NP-DP-2024.2 on page 1 is supported as:

- The objective and specific guideline of the DPA have been met.
- A Biologist's Report has confirmed that the proposed subdivision provides a sufficient developable and previously disturbed area outside the DPA and that it will not impact the DPA raptor nest.

The recommendation for approving NP-DVP-2024.1 on page 1 is supported as:

- The rationale for the variance is reasonable.
- The siting variance is for an existing dwelling, and the lot configuration variances are non-impactful or improve existing lot configuration.
- Impacts on neighbouring properties and uses from approval of the variances would be negligible.
- The proposed variances do not challenge the intent of the regulation.
- At the time of writing, there has been one response to the notification in support.

In summary, the recommendation for waiving the 10% frontage waiver is supported as:

- The frontage on Chart Drive remains unchanged and non impactful.

ALTERNATIVES

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

Development Permit

1. Request further information

The LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are a potential delay in construction and costs to the applicant. 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 permit and approve the permit as amended

The LTC may opt to make amendments to the permit based on the guidelines in the DPA.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee amend NP-DP-2024.2 (Milliken) by adding the following condition(s) ____; and,

That the North Pender Island Local Trust Committee approve issuance of NP-DP-2024.2 (Milliken) as amended.

3. Deny the application

The LTC may deny the application. Note, if this alternative is selected, the decision MUST be accompanied by specifying which guideline(s) the application does not comply with.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee deny application NP-DP-2024.2 (Milliken) as it does not comply with guideline_____.

Development Variance Permit

4. Request further information

The LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are [insert implications, e.g. budget, time, staff resources]. 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

5. Amend and Approve

The LTC may opt to amend the permit by adding conditions or denying specific variances. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee amend application GL-DVP-2024.1 (Milliken) as follows: _____; and,

That the North Pender Island Local Trust Committee approve application NP-DVP-2024.1 (Milliken) as amended.

6. Deny the application

The LTC may deny the application.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee deny application NP-DVP-2024.1 (Milliken).

Submitted By:	Phil Testemale	March 22, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	March 22, 2024

ATTACHMENTS

1. Site Context
2. Photographs
3. Biologist's Report
4. Draft Development Permit NP-DP-2024.2
5. Notice
6. Draft Development Variance Permit NP-DVP-2024.1
7. Correspondence

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	LOT 69, SECTION 9, PENDER ISLAND, COWICHAN DISTRICT, PLAN 22335; and LOT 35, SECTION 9, PENDER ISLAND, COWICHAN DISTRICT, PLAN 22335
PID	003-278-191 and 003-277-151
Civic Address	1601 Chart Drive (Lot 69) and 1610 Schooner Way (Lot 35)
Property Size	0.22 ha & 0.18 ha

LAND USE

Current Land Use	1601 Chart Drive : Dwelling and private dock;1610 Schooner: Vacant
Surrounding Land Use	Rural Residential

HISTORICAL ACTIVITY

File No.	Purpose
NP-DVP-1999.3	Encroachment of dwelling onto Lot 35
NP-SUB-2020.1	Boundary Adjustment
NP-BP-2016.16	Minor addition to dwelling

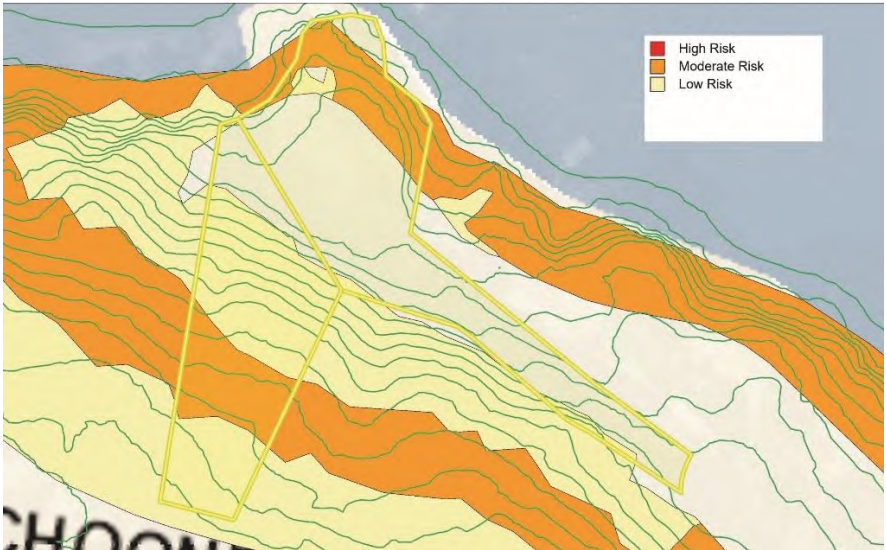
POLICY/REGULATORY

Official Community Plan Designations	Designated as Residential – R in the North Pender Island Official Community Plan No.171, Development Permit Area 7 – Raptor Nests (DPA) are designated on the property:  <i>DPA</i>s
--------------------------------------	--

Land Use Bylaw	Zoned as Rural Residential 1 (RR1) in the North Pender Island Land Use Bylaw No.224, 2022  <i>Zoning</i>
Other Regulations	
Easement	EN42457 – Easement for encroachment on Lot 35 of dwelling
Bylaw Enforcement	NP-BE-2015.14 STVR use

SITE INFLUENCES

Islands Trust Conservancy	The application has no considerations for the Islands Trust Conservancy
Regional Conservation Strategy	This application has no considerations for the Regional Conservation Plan.
Species at Risk	Eagles Nest (adjacent Lot 33) – DPA (Above)
Sensitive Ecosystems	 North Pender Tertiary Class - FW - WN - RI - OF - CL - MF - IT - HB - WD - CB North Pender Secondary Class - FW - WN - RI - OF - CL - MF - IT - HB - WD - CB North Pender Primary Class - Freshwater - Wetland - Riparian - Older Forest - Cliff - Mature Forest - Intertidal - Herbaceous - Woodland <i>Sensitive Ecosystem Mapping</i>

Hazard Areas	 <i>Steep Slope Hazard and 2 m Contour Mapping</i>
Archaeological Sites	Archaeological Potential on property (See report under 'First Nations')
Climate Change Adaptation and Mitigation	GHG emission changes are linked to allowable density on the property and will not change with approval of the DVP and DP

ATTACHMENT 2 – PHOTOGRAPHS



Dwelling from shoreline (looking southeast)



Dwelling's northwest elevation



Dwelling front entrance (southeast elevation)



View southeast along driveway

ATTACHMENT 2 – PHOTOGRAPHS



Building site proposed Lot A



Approximate boundary line between
proposed lots



Caurinus Environmental

3601 Masthead Cr.
Pender Island BC Canada
V0N 2M2
250-222-0370; 250-222-4571
caurinusenvironmental@gmail.com

24 Mar 2021

Islands Trust:

Re: Boundary Adjustment Subdivision of Lot 35, Section 9, Pender Island, Cowichan District, Plan 22335 (PID: 003-277-151), and Lot 69, Section 9, Pender Island, Cowichan District (PID: 003-278-191) – 1610 Schooner Way & 1601 Chart Drive

Caurinus Environmental was retained to review the proposed property boundary adjustment at 1610 Schooner Way (Lot 35) and 1601 Chart Drive (Lot 69) on Pender Island. The subject property on Schooner Way hosts a portion of a Raptor and Heron Nests DPA protecting a nest site which bald eagles have occupied annually for many decades (Plate 1), and the proposed property boundary adjustment will move part of that DPA into the boundaries of the property on Chart Drive. This proposed boundary adjustment was reviewed to determine whether there would be any impacts on future development under the new configurations in both Lot B and Lot A (see Appendix A), with respect to DPA and provincial restrictions protecting the raptor nest.

Plate 1. Bald eagle nest located adjacent to Lots 35 and 69 (center of photo). The nest is active in the 2021 breeding season, and the pair was present and vocalizing near the nest at the time of the property visit on 16 March.



The purpose of the Raptor and Heron Nests DPA and the Provincial guidelines is to provide protection for the core features of a nest site by minimizing potentially adverse effects from disturbance due to human activities. The overriding regulation in Section 34 of the Wildlife Act states that:

“A person commits an offence if the person, except as provided by regulation, possesses, takes, injures, molests or destroys: a) a bird or its egg, b) the nest of an eagle, peregrine falcon, gyrfalcon, osprey, heron or burrowing owl, or c) the nest of a bird not referred to in paragraph (b) when the nest is occupied by a bird or its egg.”

Disturbances can include access by humans and their pets, changes in microclimate, access by predators, equipment operation, blasting, aircraft operation or other acoustic disturbance. Buffers help to maintain the long-term environmental and economic values of an environmentally sensitive area, generally preclude permanent structures and require the retention of natural vegetation. During the breeding season for bald eagles on the BC coast (Jan 1- Aug 31) this species can be especially sensitive to activities such as machine landscaping and construction. Hence, although the Eagle and Heron Nests DPA extends 30-50 m from the trunk of the nest tree, provincial recommendations state that there should be a protective buffer of 100 m around a bald eagle nest, and to provide further protection from acoustic disturbance, any construction activities taking place during the breeding season should have an *additional* 100 m ‘quiet’ buffer zone (BC Ministry of Water, Land and Air Protection 2005).

The proposed property boundary adjustments will place the Raptor and Heron nests DPA within both Lot B and Lot A (Appendix A). This change retains sufficient area on Lot A for construction of a dwelling, providing it is located outside of the DPA boundaries. The area of the lot that is suitable for building outside of the protective buffer the eagle nest is afforded by the DPA is already highly disturbed (Plate 2) and is sufficiently large to accommodate a reasonably sized structure. Moving north toward Lot B, the subject property retains forest cover and healthy salal understory (Plate 3). Although outside of the DPA boundary, the property slopes steeply downward toward Chart Drive on this north side, and geotechnical constraints would likely limit development; retention of all canopy and understory vegetation in this area would be advisable to maintain slope stability.

Plate 2. Disturbed and levelled area on Lot A which is suitable for building and is located outside of the Raptor and Heron Nests DPA.



Plate 3. Steeply sloped north portion of Lot A supporting healthy canopy trees, regenerating seedlings and understory shrubs. Vegetation should be retained in this area to maintain slope stability.



Provincial guidelines regarding additional protections for bald eagle nests would generally restrict future construction activity from occurring anywhere on Lot 35 during the breeding season window (up to 200 m buffer from Jan 1 – Aug 31, see above); however, providing these timing restrictions are observed, no impacts to the productivity of the existing eagle nest are likely to occur as a result of future development on Lot A following the proposed boundary adjustment, and reasonable development to accommodate occupancy of the property is possible.

Adjusting the lot boundary for Lot 69 will result in Lot B now containing a portion of the Raptor and Heron Nests DPA (Appendix A); hence, no canopy tree or understory plant removal can occur within that portion of Lot B as stated in the North Pender Island Official Community Plan Bylaw No. 171 (p. 87, Section 5.2.8), and it would be subject to the same provincial restrictions with respect to equipment and other acoustic disturbance or construction activity between Jan 1 – Aug 31. Indeed, given that provincial guidelines recommend a buffer of 100 – 200 m from trees containing active eagle nests, care should be taken by the property owners to minimize any equipment operation or other acoustic disturbance from Jan - Aug throughout Lot B moving forward. The section of Lot 35 that will be added to Lot 69 is very steeply sloped (Plate 4); hence, beyond the ecological constraints, vegetation in this area should not be disturbed from a geotechnical perspective to avoid erosion of the bank toward the existing dwelling.

Plate 4. Steeply sloped portion of Lot A at the border with Lot B. Fence posts are located at the approximate location of the new proposed property boundary.



Canopy tree species present on the subject properties are typical of Douglas-fir – Salal ecosystems, including Douglas-fir (*Pseudotsuga menziesii*), grand fir (*Abies grandis*), Western redcedar (*Thuja plicata*) and arbutus (*Arbutus menziesii*). There are several veteran Douglas-fir within the DPA on Lot A (Plate 5), which are functioning as critical seed trees for regeneration, as well as perch trees for the resident pair of eagles.

Plate 5. Veteran Douglas-fir on Lot A, located within the Raptor and Heron Nests DPA.



Understory shrubs and forbs on the subject properties include salal (*Gaulthoria shallon*), Oregon grape (*Mahonia aquifolium*), sword fern (*Polystichum munitum*), Oregon beaked moss (*Kindbergia oregana*), as well as many regenerating Douglas-fir, grand fir and cedar seedlings. The disturbed area on Lot 35 has allowed the incursion of invasive Scotch broom (*Cytisus scoparius*) and spurge-laurel (*Daphne laureola*).

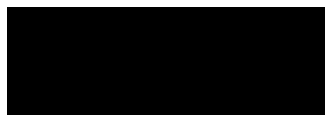
We recommend that the property owners remove invasive Scotch broom and spurge-laurel located within the Raptor and Heron Nests DPA as well as throughout the newly configured lots as part of ongoing land stewardship. As there will be a seed bank remaining in the soil, continuing invasive plant removal in future growing seasons will be necessary. Removal of large plants should be achieved by cutting below the top-most root (below the root collar) to ensure plants are not able to resprout and to minimize soil disturbance, as this can promote germination of remaining seeds in the soil. Because these plant species can encroach into the DPA via seed dispersal and inhibit growth and propagation of native species, it is important that control efforts are maintained throughout the subject properties. Any revegetation on the properties in the future should be completed using only locally sourced native plants.

Providing all local and provincial regulations and guidelines as described above are followed with any future development or other activities on the subject properties, impacts to the bald eagles nesting in the immediate area can be minimized. Lot A (subsequent to proposed property boundary adjustment) includes a levelled and cleared location for any dwelling construction; this area is located outside of the Raptor and Heron Nests DPA and given the steep slope on the north end of the property would be the most appropriate for any future development plans in order to minimize erosion.

Please do not hesitate to contact us if you have any additional questions or concerns, or if you require additional information.

CAURINUS ENVIRONMENTAL

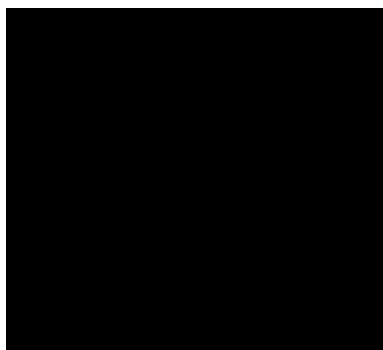
Per:



Dan Baxter, B.Sc., R.P.Bio. #1999
Project Manager



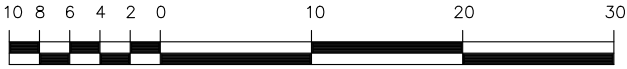
Erin O'Brien, Ph.D.
Director of Science



APPENDIX A

Site Plan for 1610 Schooner Way and 1601 Chart Drive, Pender Island BC

*Proposed Subdivision Plan of
Lots 35 and 69, Section 9, Pender Island,
Cowichan District, Plan 22335.*



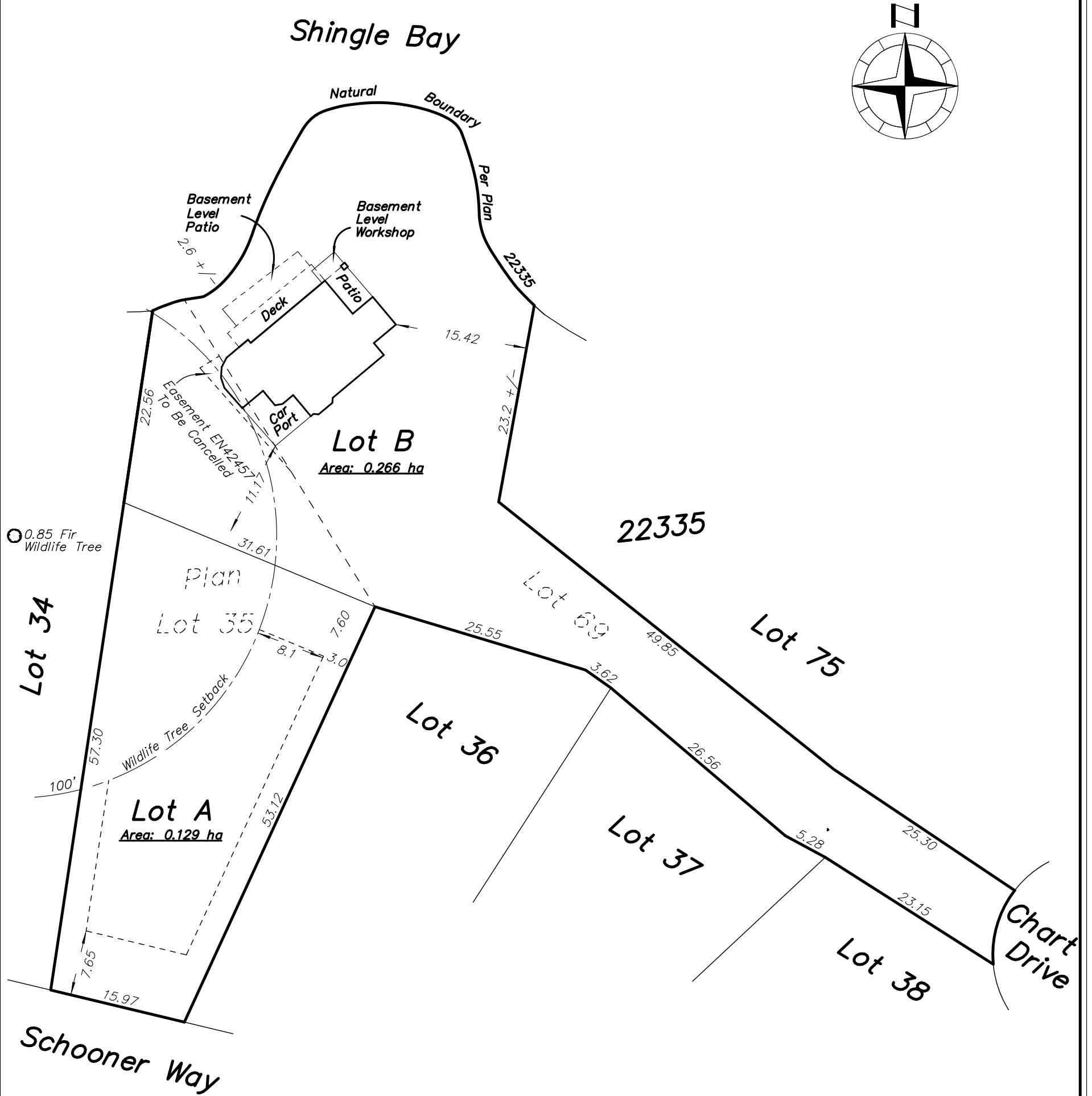
Scale = 1:500

Dated this 13th day of October, 2020.

Distances shown are in metres.

This document shows the relative location of the surveyed structures and features with respect to the boundaries of the parcel described above. This document shall not be used to define property lines or property corners.

This site plan is for the exclusive use of our client, June Milliken.



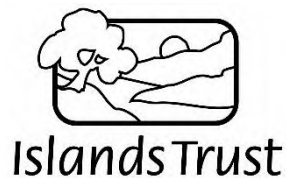
Wey Mayenburg Land Surveying Inc.

www.weysurveys.com

#4-2227 James White Boulevard
Sidney, BC V8L 1Z5

Telephone (250) 656-5155

File: 160119b\Pro\LE



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT NP-DP-2024.2**

To: Bradford Gilbert and June Milliken

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

LOT 69, SECTION 9, PENDER ISLAND, COWICHAN DISTRICT, PLAN 22335
(PID: 003-278-191); and,

LOT 35, SECTION 9, PENDER ISLAND, COWICHAN DISTRICT, PLAN 22335
(PID: 003-277-151)

2. This Development Permit NP-DP-2024.2 authorizes a proposed boundary adjustment subdivision as indicated in Schedule 'A' within **Development Permit Area ('DPA') 7 – Raptor Nests**, subject to the following requirements and conditions:
 - a. The registered subdivision layout plan shall be substantively in accordance with Schedule 'A', attached to and forming part of this permit.
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
##RD DAY OF MONTH, 2024.**

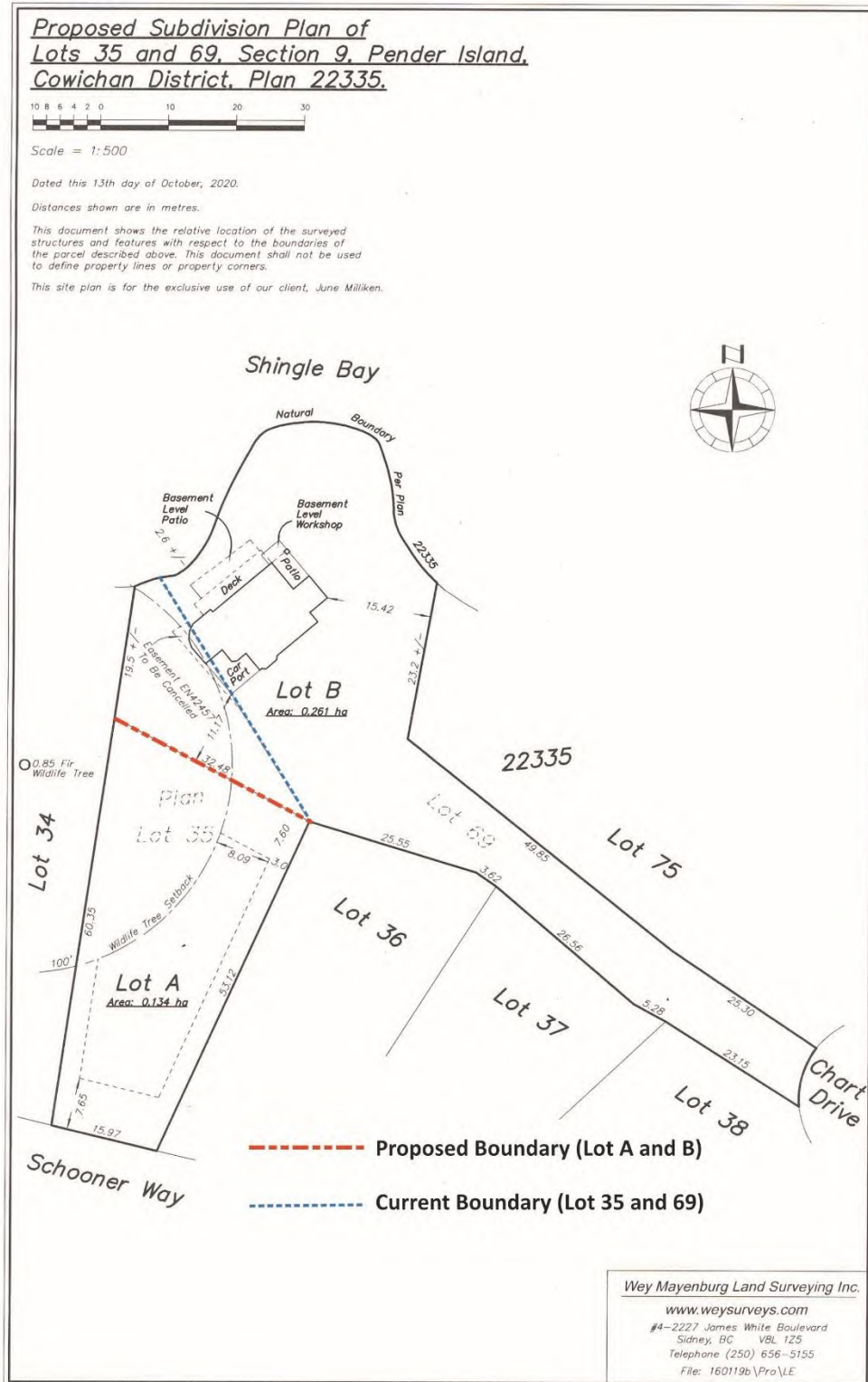
Deputy Secretary, Islands Trust

Date of Issuance

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE #TH DAY OF ##, 202#, THIS
PERMIT AUTOMATICALLY LAPSES.

DRAFT

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT NP-DP-2024.2
SCHEDULE 'A'
Site Plan**





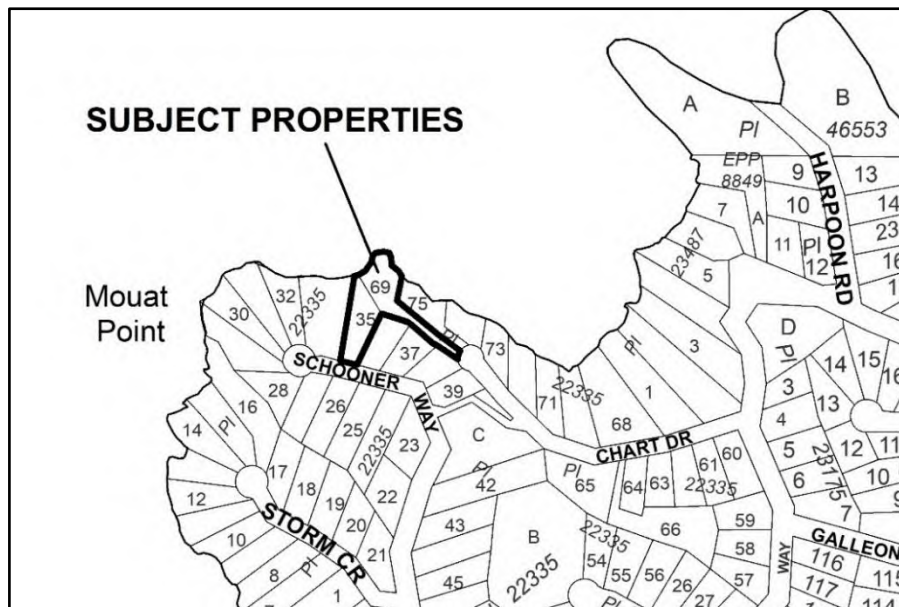
NOTICE
NP-DVP-2024.1
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

NOTICE is hereby given pursuant to Section 499 of the *Local Government Act* that the North Pender Island Local Trust Committee will be considering a resolution allowing for the issuance of a Development Variance Permit, the proposed permit would vary the North Pender Island Land Use Bylaw No. 224, 2022 by:

- Varying the setback to the natural boundary of the sea for an existing dwelling; and, the width of an access strip and the length to width ratio for a proposed lot.
- The properties are the subject of a boundary adjustment subdivision (NP-SUB-2020.1) where the number of lots will remain the same.
- The variances are for the siting of the existing dwelling and the proposed reconfiguration (enlargement) of Lot 69.

The properties are located at **1601 Chart Drive** and **1610 Schooner Way** and are legally described as LOT 69, SECTION 9, PENDER ISLAND, COWICHAN DISTRICT, PLAN 22335 (PID: 003-278-191), and LOT 35, SECTION 9, PENDER ISLAND, COWICHAN DISTRICT, PLAN 22335 (PID: 003-277-151), respectively.

The general location of the subject property is shown on the following sketch:



A copy of the proposed permit may be inspected at the Islands Trust Office, 200 - 1627 Fort Street, Victoria, B.C. V8R 1H8 between the hours of 8:30 a.m. to 4:30 p.m. Monday to Friday inclusive, excluding statutory holidays, commencing **March 15, 2024** and continuing up to and including **March 27, 2024**.

For the convenience of the public only, and not to satisfy Section 499 (2) (c) of the *Local Government Act*, additional copies of the Proposed Permit may be inspected at various Notice Boards on North Pender Island.

Enquiries or comments should be directed to Phil Testemale at (250) 405-5170, for Toll Free Access, request a transfer via Enquiry BC: In Vancouver 660-2421 and elsewhere in BC 1-800-663-7867; or by fax (250) 405-5155; or by email to: southinfo@islandstrust.bc.ca before 4:30 pm, **March 27, 2024**.

The North Pender Island Local Trust Committee may consider a resolution allowing for the issuance of the permit during the regular business meeting starting at **10:00 a.m., April 5, 2024** at the **St. Peter's Anglican Church Hall, 4703 Canal Road**, on North Pender Island.

All applications are available for review by the public with prior appointment. Written comments made in response to this notice will also be available for public review.



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT VARIANCE PERMIT
NP DVP-2024.1**

To: Bradford Gilbert and June Milliken

1. This Development Variance Permit applies to the lands described below:

LOT 69, SECTION 9, PENDER ISLAND, COWICHAN DISTRICT, PLAN 22335
(PID: 003-278-191); and,

LOT 35, SECTION 9, PENDER ISLAND, COWICHAN DISTRICT, PLAN 22335
(PID: 003-277-151)

2. North Pender Island Land Use Bylaw 224, 2022 is varied for **proposed 'Lot B'** as follows:

- a) Article 3.3 (1) (a) which states that no *building* or *structure* may be sited within **15 metres** upland of the *natural boundary of the sea* is varied to permit the siting of an existing *dwelling* with an attached deck within **4.2 metres** upland from the *natural boundary of the sea*;
- b) Subsection 8.5 (2) which states that if a panhandle lot is not capable of being further subdivided, the minimum width of the access strip at any point must be **10 metres** is varied to permit an access strip with a minimum width of **9 metres**; and,
- c) Subsection 8.5 (4) which states that no lot shall have an average depth greater than **three times** its average width is varied to permit a lot with an average depth **four times** greater than its average width.

The development shall be consistent with Schedule 'A' is attached to and forms part of this permit.

3. 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 224, 2022" and to obtain other approvals necessary for completion of the proposed development, including approval of the Capital Regional District and Ministry of Transportation and Infrastructure.

AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS ##th DAY OF [MONTH], 2024

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.

SCHEDULE 'A'



Attachment 7

From: Bruce Alexander <[REDACTED]>
Sent: Sunday, March 24, 2024 2:23 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Notice NP-DVP-2024.1

To The Islands Trust,

We have reviewed document NP-DVP-2024.1, which requests a permit to vary North Pender Island Land Use Bylaw No.224 as requested by our neighbours Brad Gilbert and June Milliken of 1601 Chart Drive and [REDACTED] Schooner Way. We have also discussed the proposed changes with Brad and June. We are near neighbours on both Chart Drive and Schooner Way, as our property (Lot "C" on the map) fronts on Schooner Way and backs onto Chart Drive.

We have no objection to the proposed permit, and consider it a routine adjustment that will not inconvenience anyone or harm the environment. My wife will be responding in a separate letter, also supporting the proposed permit.

Yours Sincerely,
Bruce Alexander, [REDACTED].

DATE OF MEETING: April 5, 2024
TO: North Pender Island Local Trust Committee
FROM: Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: Rezoning Application – Concrete Plant at 4415 Bedwell Harbour Rd.
Applicant: Aaron Grimmer – Gulf Excavating Ltd.
Location: 4415 Bedwell Harbour Rd.

RECOMMENDATION

1. That the North Pender Island Local Trust Committee directs staff to proceed with application NP-RZ-2024.1 (Grimmer) and to prepare draft bylaws.

REPORT SUMMARY

The purpose of this preliminary report is to provide information regarding rezoning application NP-RZ-2024.1 (Grimmer) and to seek direction from the North Pender Island Local Trust Committee (LTC) to proceed, or not proceed, with the application, including the preparation of draft bylaws.

The above recommendation is supported as:

- At the outset, the proposal appears reasonable and consistent with policies of the North Pender Island Official Community Plan No. 171 (OCP) and Islands Trust Policy Statement (ITPS);
- The business provides an important community service and there have been no complaints or concerns raised with the operation under the current Temporary Use Permit (TUP);
- Directing staff to proceed will trigger the issuance of a terms of reference (TOR) that will identify any additional information and professional reports required from the applicant; and,
- Proceeding with draft bylaws will facilitate First Nations and agency referrals and public input to identify any outstanding issues or concerns with the proposed rezoning.

BACKGROUND

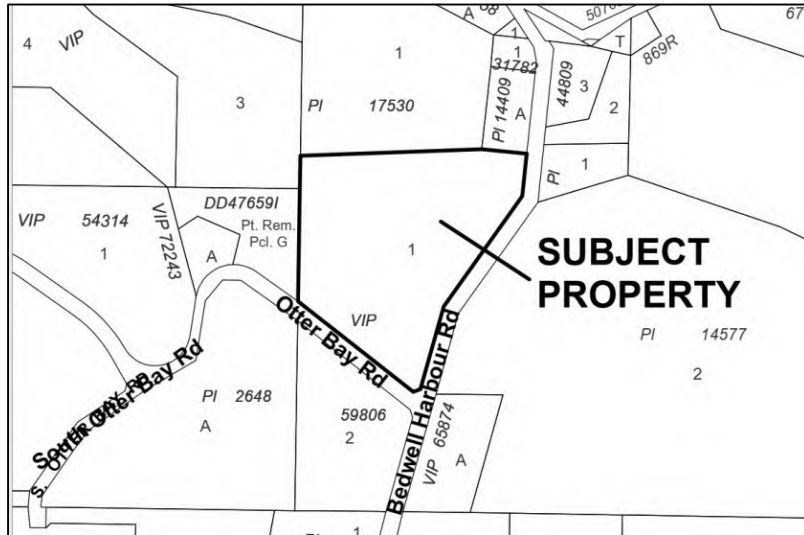
The property owner and business operator have submitted a rezoning application to permit the continued operation of a concrete batch plant and associated uses on a portion of the subject property shown in Figure 1, which is zoned Rural (R) and does not permit industrial uses.

The operation of the concrete plant is currently permitted under temporary use permit NP-TUP-2023.5 (Attachment 1) which expires on July 28, 2026. A bylaw enforcement file (NP-BE-2012.8) originally cited the extension of the excavation business from 3418 South Otter Bay Road to the subject property. As a remedy, the

\\islandstrust.local\DFSMain\EDM\09 Current Planning\09 NP\3650 RZ\25 Applications (P)\2024\NP-RZ-2024.1 (Grimmer)\06 Staff Reports\2024-04-05\NP-RZ-2024.1 (Grimmer)_2024-03-05_RPT.docx

property owner was required to get a TUP. Bylaw enforcement staff continue to monitor the activities on the land base for compliance with the TUP and the operator has been cooperative in addressing any concerns.

Figure 1 – Subject Property



Based on the direction of the LTC to require that the property seek a permanent change in land use through rezoning rather than the ongoing issuance of TUPs, the following condition is included in NP-TUP-2023.5.

Rezoning Application Submission

- ii) The property owner shall submit a rezoning application to the North Pender Island Local Trust Committee for the long-term operation of the concrete batch plant on the property within six (6) months of the issuance of the permit or this permit shall cease to be valid.

As such, the applicant has now submitted a rezoning application seeking to rezone a portion of the property from Rural (R) to General Industrial (GI), consistent with the current TUP area as shown in Figure 2.

[illegible]

4415

Existing constructed pond

Dug well

Drilled well - Not in use

Man made screening berm

Wash water containment / treatment area

Mandated ground water monitoring well

Existing workshop area

Existing constructed pond

4414

BEDWELL HARBOUR RD

Proposed shipping container workshop, approx. 10mx13m

Proposed Electrical building, approx. 3mx3m

Contained and locked concrete additive storage

Proposed cement silo

Aggregate storage bins

Natural screening berm

Existing driveway

Man made screening berm

Existing constructed pond

Existing workshop area

Mandated ground water monitoring well

Wash water containment / treatment area

Contained lock block production area

Batching Area

Contained sludge drying bin

Cement truck parking

Dumptruck and tractor parking

78

ANALYSIS

Policy/Regulatory

Islands Trust Policy Statement:

The proposed rezoning to permit a site specific industrial use on a portion of the lot for the operation of a concrete plant would not appear to be contrary or at variance with any Policy Statement directive policies; however a more comprehensive review with a checklist would be provided at consideration of First Reading if the application proceeds.

Official Community Plan

The property is designated as R- Rural in the North Pender Island Official Community Plan No. 171, 2007 (OCP).

Rezoning of a portion of the property to permit industrial uses would require an OCP amendment. The Industrial Land Use Policies of the OCP need to be considered, including minimizing impacts on neighbouring properties and the environment.

Consistent with policy 2.5.4, the applicant will be required to prove sustainable water supply and waste disposal capability. Screening should also be required for industrial activity, parking and storage areas. The existing GI zone includes screening requirements.

There are no Development Permit Areas designated on the subject property. However, if the amendment proceeds, the industrial zone would become designated as a Commercial and Industrial Form and Character DPA and the applicant would then be required to obtain a development permit consistent with the requirements of DPA 9 in the OCP prior to operating.

Land Use Bylaw

A majority of the subject property is zoned as **Rural (R)** in the North Pender Island Land Use Bylaw (LUB) No. 224, 2022 (LUB). Rural zoning does not permit the industrial use currently authorized through TUP.

A portion of the parcel is also zoned General Industrial(e), which is a site specific zoning that permits a waste transfer facility commercial composting, and commercial recycling. The operation of this business on the same subject parcel is completely independent from the concrete plant business.



As with the GI(e) zoned portion of the lot, where a site specific regulation is in place to further limit what specific industrial activities can occur on that portion of the parcel, staff would likely recommend site specific regulations for this rezoning proposal, limiting the permitted uses to those specific to operating the concrete plant and associated activities.

Issues and Opportunities

Community Benefit

Since NP-TUP-2023.5 was issued, there have no known complaints or concerns raised with the operation of the concrete plant. It is understood by staff that the local family run business provides an important service to the island and appears to be well operated. If the land was successfully rezoned, the applicant has stated it would provide the necessary certainty to upgrade the batch plant to allow for automatic feeding of the base materials that would significantly increase efficiency and productivity.

Section 219 Covenant

The LTC could require that the applicant grant a s. 219 Land Title Act covenant to the LTC for any additional restrictions not included in the LUB amendments. For example, a covenant could include ongoing conditions for water use/quality monitoring and reporting, or a more detailed site plan such as that shown in Figure 3 that describes very specifically where structures can be located, size etc.

Terms of Reference

Should the LTC direct staff to proceed, staff will issue a terms of reference (TOR) consistent with North Pender Island Development Approval Information Bylaw No. 134 (DAI). This TOR will further describe the reporting requirements of the applicant in respect of the rezoning proposal. Prior to the issuance of the TOR, staff will review the reports already submitted as part of the previous TUP applications, and in particular the existing groundwater and waste disposal information with the Senior Freshwater Specialist.

Consultation

Draft bylaws would be sent to potentially affected government agencies and First Nations for referral.

In accordance with regular statutory requirements as an OCP amendment is needed, a public hearing is required and it is normal practice to hold a Community Information Meeting (CIM) prior to that. With direction from LTC, these would be scheduled either separately or concurrently after draft bylaws are complete, reviewed and have received at least First Reading.

Public hearing notice would be posted as per statutory and bylaw requirements in advance of a public hearing, including notification of the proposed rezoning to all properties located within 100 m of the subject property.

Timeline

If the LTC supports proceeding, amending bylaws would be drafted and brought back for consideration of First Reading, referrals and scheduling of a public hearing.

Archaeological Sites

Islands Trust reviews all applications/permits to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. In this case, there are no registered archaeological sites on the subject property, however there is archaeological potential identified.

Further to that review, staff direct the applicant to the following guidelines:

- All archaeological and cultural heritage is protected under the *Heritage Conservation Act* and areas of archaeological potential may contain undocumented archaeological sites which would be automatically protected under the *Heritage Conservation Act* (including all intact or disturbed sites) and require a permit from the BC Archaeology Branch. Further information regarding permits: <https://www2.gov.bc.ca/gov/content/industry/natural-resource-use/archaeology/permits>
- In the event that archaeological features or materials are found, either intact or disturbed on the subject property, stop work immediately and contact the BC Archaeology Branch at 250-953-3334 or archaeology@gov.bc.ca.
- Any impacts, would include the following: landscaping, tree removal, digging, using heavy equipment, development, fencing, footings, or any form of groundwork.
- For more information regarding registered archaeological sites and archaeological potential on the subject property, submit an Archaeological Information Request Form: www.archdatarequest.nrs.gov.bc.ca.

Rationale for Recommendation

The recommendation on page 1 is supported as:

- At the outset, the proposal appears reasonable and consistent with policies of the North Pender Island Official Community Plan No. 171 (OCP) and Islands Trust Policy Statement (ITPS);
- The business provides an important community service and there have been no complaints or concerns raised with the operation under the current Temporary Use Permit (TUP);
- Directing staff to proceed will trigger the issuance of a terms of reference that will identify any additional information and professional reports required from the applicant; and,
- Proceeding with draft bylaws will facilitate First Nations and agency referrals and public input to identify any outstanding issues or concerns with the proposed rezoning.

ALTERNATIVES

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

1. Request further information

The LTC may refer back to staff requesting further information prior to making a decision. Recommended wording for a resolution is as follows:

That the North Pender Island Local Trust Committee request that staff report back with....

2. Deny the application

The LTC may deny the application. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee proceed no further with application NP-RZ-2024.1.

3. Hold the application in abeyance

The LTC may choose to hold the application in abeyance.

4. Receive for information

The LTC may receive the report for information

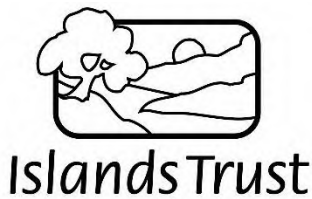
NEXT STEPS

Based on direction from the LTC, staff will initiate the drafting of amending bylaws and issue a TOR to the applicant consistent with the DAI bylaw.

Submitted By:	Brad Smith, Island Planner	March 24, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	March 25, 2024

ATTACHMENTS

1. Temporary Use Permit NP-TUP-2023.5
2. Site Context
3. Mapping and Plans
4. Rationale Letter from Applicant



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
TEMPORARY USE PERMIT
NP-TUP-2023.5 (Grimmer)**

4415 Bedwell Harbour Road

To: Barbara and Glenn Grimmer
c/o Aaron Grimmer

1. This Permit applies to the land described below:

That portion of:

Lot 1, Section 18, Pender Island, Cowichan District, Plan VIP59806
(PID: 018-948-421).

Indicated as 'Temporary Use Area' on Schedule 'A' attached to and forming part of this permit.

2. This permit is issued for the purpose of permitting the owner to conduct the following uses and no others in the Temporary Use Area of the property:
- a) A concrete batch plant operation.
 - b) The storage, handling and wholesale of aggregates defined as sand, drainage rock and gravel.
 - c) For certainty, and for the purposes of this permit, handling is defined as blending, but does not include screening, sorting, crushing or washing.
 - d) Storage of motorized and non-motorized vehicles and equipment directly required for the concrete and excavation business know as "Gulf Excavating Ltd".
3. This permit allows the following existing buildings and structures as shown on Schedule 'A'.
- a) Buildings and structures accessory to the uses permitted in Section 2. (above) and as shown on Schedule 'A' attached to and forming part of this permit and specified as follows:
 - i. One (1) concrete hopper;
 - ii. One (1) 'Pull in Bay' constructed of concrete 'lock-blocks';
 - iii. Impermeable wastewater holding tanks, and a retention pond adequate in number and capacity for wastewater collection and recycling for the concrete batch operation;
 - iv. One (1) fuel storage building ('sea container');
 - v. One (1) Maintenance Structure (fabric/'coverall' type) a with maximum area of 463.6 m² (4990 ft²) and a maximum height of 4.6 metres.

4. The uses may be carried out subject to the following conditions and specifications shown on Schedules 'B', 'C', 'D', 'E', 'F' and 'G' attached to and forming part of this permit:

General

- a) The uses permitted in Section 2. (above) may not result in any contamination or degradation of the groundwater aquifers in the vicinity of the subject property or downstream aquatic areas.
- b) All vehicles, equipment, buildings and materials permitted by Section 2. and 3. (above) are to be removed from the site by the date of the expiry of this permit. The removal of screening is not a condition of this permit.
- c) Unless a rezoning application is received by the Islands Trust, upon the expiry of this permit, the Temporary Permit Area of the property shall be remediated to return to the condition prior to the commencement of the concrete batch plant operation in 2016.
- d) The maximum volume of concrete produced each month is limited to 382 m³ (500 yd³).
- e) The maximum volume of aggregates stored on site is limited to 2294 m³ (3000 yd³).
- f) Storage and use of motorized and non-motorized vehicles and equipment accessory to the uses permitted in Section 2. (above), and motorized vehicles are further limited as follows:
 - i. Two (2) dump truck;
 - ii. One (1) 'pup' loader;
 - iii. Two (2) 'pup' trailers';
 - iv. Three (3) excavators;
 - v. One (1) Tractor with low-bed trailer,
 - vi. Four (4) concrete trucks; and,
 - vii. A maximum of two (2) other vehicles

Access and Hours of Operation

- g) Vehicle access to and from the Temporary Use Area shall be restricted to the use of only one of the two access point on Bedwell Harbour Road at any given time as indicated on Schedule 'A'.
- h) Both vehicular access driveways shall be surfaced with road base (or similar) extending a minimum of 75 metres from Bedwell Harbour Road, and the surface shall be maintained for the duration of the permit and any renewal period.
- i) There is to be no public access to and from the concrete batch plant area of the Temporary Use Area Site.
- j) The specific area containing wastewater holding tanks shall be guarded with a locked, non mountable fence to a height of 1.8 metres to prevent access.
- k) The specific area containing retention pond (overflow) shall be guarded with locked, non mountable fence to a height of 1.8 metres to prevent access.
- l) Hours of operation, including movement of vehicles and equipment, are restricted to between 8:00 a.m. and 4:30 p.m., Monday to Friday.
- m) Hours of operation, including movement of vehicles and equipment, are restricted to between 9:00 a.m. and 3:00 p.m. on Saturdays with no more than two (2) deliveries on any Saturday and where all reasonable measures are taken to abate noise.

- n) Hours of operation may be extended to between 5:00 a.m. and 7:00 p.m., Monday to Friday exclusively for off-island loads as necessarily determined by ferry schedules and where all reasonable measures are taken to abate noise.

Water and Waste Management

- o) All paved surfaces within the 'concrete batching area' as shown on Schedule 'A' are to be bounded by a 150 mm x 150 mm extruded curb with a minimum reverse 1% grade for wastewater capture and collection in accordance with the specifications shown on Schedule 'C'.
- p) The lined secondary containment area for the wastewater holding tanks is to be lined and maintained with a minimum 45 mil. rubber pond liner.
- q) Surface water not related to concrete production shall be directed away from wastewater collection areas.
- r) Siltation control is to be installed to prevent the release of any suspended materials in surface runoff from the Temporary Use Area within all site ditching as shown on Schedule 'A' and specified in Schedule 'C' attached to and forming part of this permit.
- s) Dust control measures shall be implemented in accordance with the "Recommended Guidelines for Environmental Management Practices for Canadian ready Mixed Concrete Industry" as excerpted on Schedule 'D'.
- t) All waste concrete shall be disposed of through creating concrete "loc-blocks" on site.
- u) Aggregates stored on-site shall be contained within areas delineated along three sides with concrete "loc-block" walls measuring a maximum height of two (2) blocks (1.5 m).
- v) Aggregates stored on-site shall be covered with secured tarps in good condition to prevent leachates caused by rainfall.
- w) The operator shall ensure that wastewater / excess concrete has been treated / covered / stored within a sealed vessel (10,000 gallon tank) ahead of rain fall.

Hydrocarbon Management

- x) Storage of chemicals and hydrocarbons is to be contained in corrosion-resistant tanks securely anchored on flat surfaces.
- y) Storage of chemicals and hydrocarbons is to be contained in a locked, weather protected (roofed) structure ('sea container') with a 15.25 cm (6 in.) "kick plate" as shown on Schedule 'A'.
- z) Containment for chemicals and hydrocarbons within the seacan is to be contained in a lined cell providing a minimum of 120% of the volume of stored liquids.
- aa) Emergency spill kits are to be provided at all areas where chemicals and/or fuel is stored.

Landscape & Screening

- bb) The earthen berms planted with Douglas fir and speria as shown on Schedule 'F' and described in Schedule G must be maintained and irrigated as necessary to assist in survival for the entire period of the temporary use permit.
- cc) The berms are to be maintained in a roughened state and contoured to an angle of 3H:1V to prevent runoff.

Groundwater Monitoring

- dd) A groundwater monitoring well shall be installed down gradient from the concrete batch plant and water management area within one (1) year of the issuance of this permit to allow for monitoring of groundwater quality resulting from TUP activities.

Environmental Management Plan and Reporting

- ee) The uses permitted in Section 2. (above) shall conform to all operational methods, environmental mitigation measures, best management practices and environmental monitoring requirements contained in the “Environmental Management Plan” (‘EMP’ - Islander Engineering Ltd., October 2019) and submitted to the Islands Trust, Victoria Office on October 3, 2019.

Monitoring

- ff) The ‘Monitoring Environmental Consultant’ shall be Islander Engineering Ltd. or a qualified professional licenced in the Province of BC with relevant experience in Environmental Management and hydrogeology.
- gg) The Monitoring Environmental Consultant shall prepare and submit to the Islands Trust a monitoring report on adherence to the ‘Environmental Management Plan’ within one (1) year of the issuance of this permit, and that report shall include a completed checklist as shown on Schedule ‘E’, attached to and forming part of this Permit.
- hh) The Islands Trust Bylaw Enforcement Officer may enter the property between the hours of 9:00 am and 5:00 pm on any day without prior consultation with the holder of the Permit for the purpose of investigating a complaint.

Rezoning Application Submission

- ii) The property owner shall submit a rezoning application to the North Pender Island Local Trust Committee for the long-term operation of the concrete batch plan on the property within six (6) months of the issuance of the permit or this permit shall cease to be valid.
5. Pursuant to Section 502 of the *Local Government Act*, the Local Trust Committee requires security to ensure that any damage to the natural environment resulting from the contravention of a condition of this permit is corrected:
- a) Where the Local Trust Committee considers that a condition in the permit has been contravened resulting in damage to the natural environment, the Local Trust Committee may undertake and complete the works required to correct the damage to the natural environment, 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 5.c.i 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; And,
 - iii. In the amount of \$10,000.00
 - d) Where the use authorized by this permit has ceased; or a rezoning application has been received by the Islands Trust; or the permit has expired and the use on the land ceased prior to commencement of any work pursuant to this permit, the security shall be returned to the permit holder, minus any funds still required to satisfy the Condition 5.a of this permit, provided that the conditions have been met.
6. This permit is valid for three (3) years from date of issuance of the permit and upon expiry of the permit the owner of the site shall discontinue the temporary use to the satisfaction of the Islands Trust, or apply for a renewal of this permit.
7. 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 for regulatory compliance and requirement to obtain other approvals necessary for the proposed uses with other authorities including the Provincial Ministry of Environment, Ministry of Transportation and Infrastructure, Capital Regional District, or Island Health.

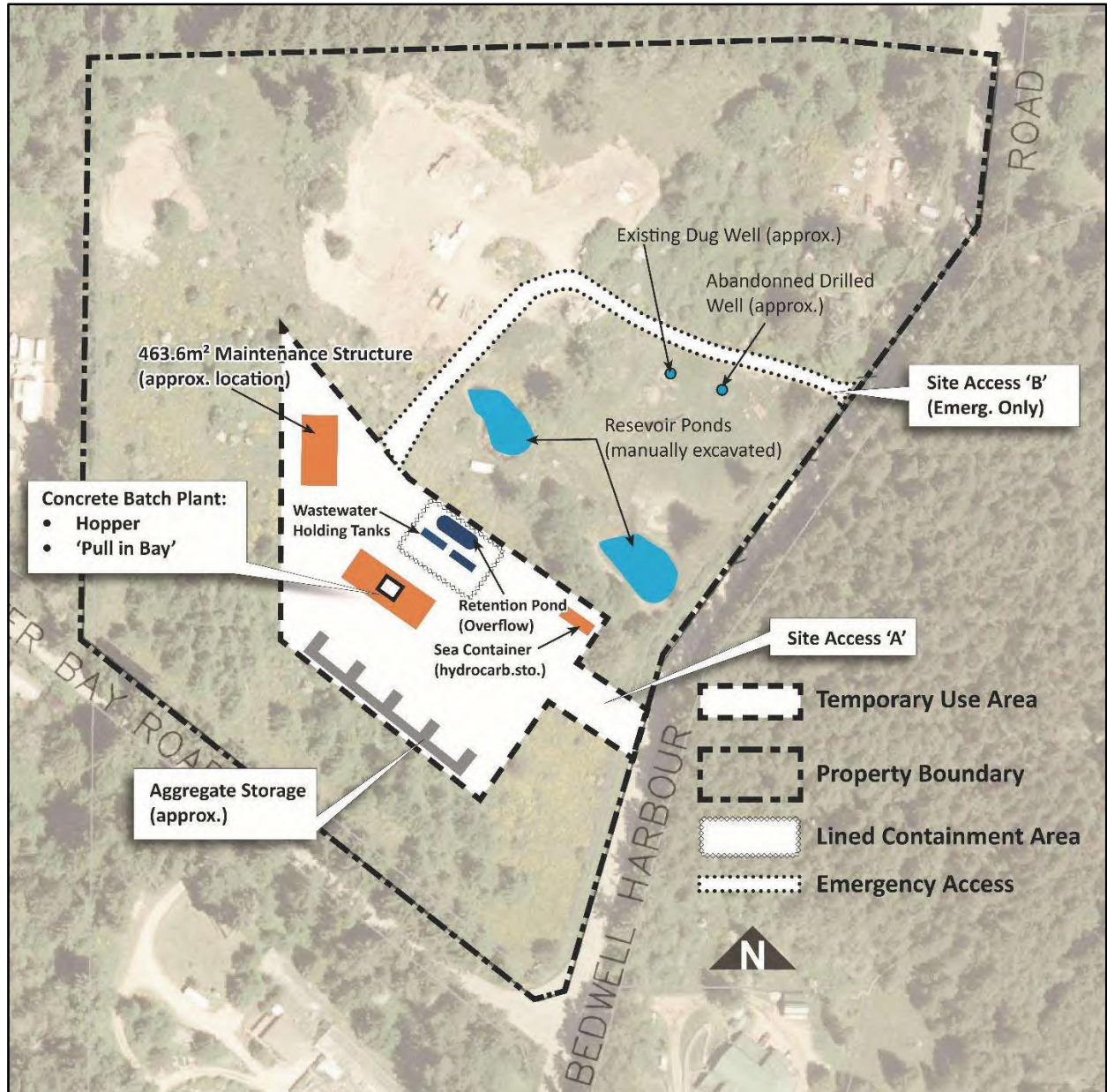
AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS 28TH DAY OF JULY, 2023.

Deputy Secretary, Islands Trust

July 31, 2023
Date Issued

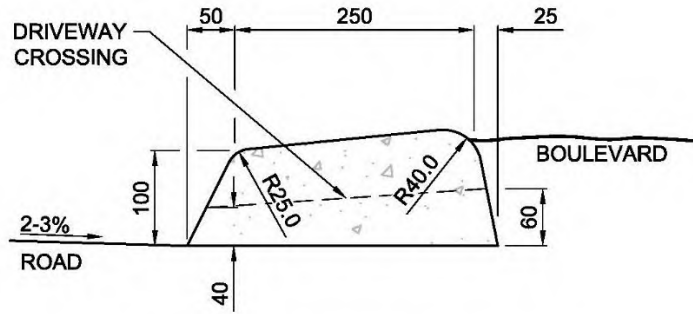
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-TUP-2023.5
SCHEDULE 'A'

SITE PLAN

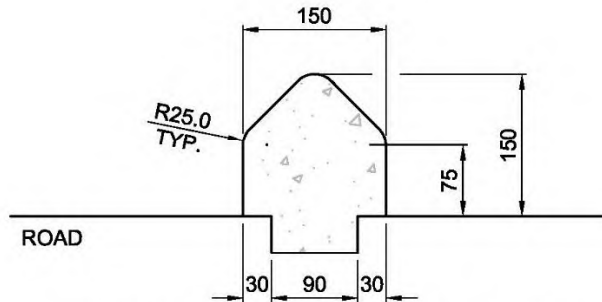


NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-TUP-2023.5
SCHEDULE 'B'

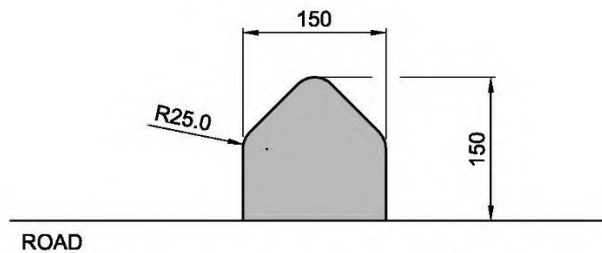
CURB CROSS SECTIONS



TEMPORARY CONCRETE CURB 1



TEMPORARY CONCRETE CURB 2



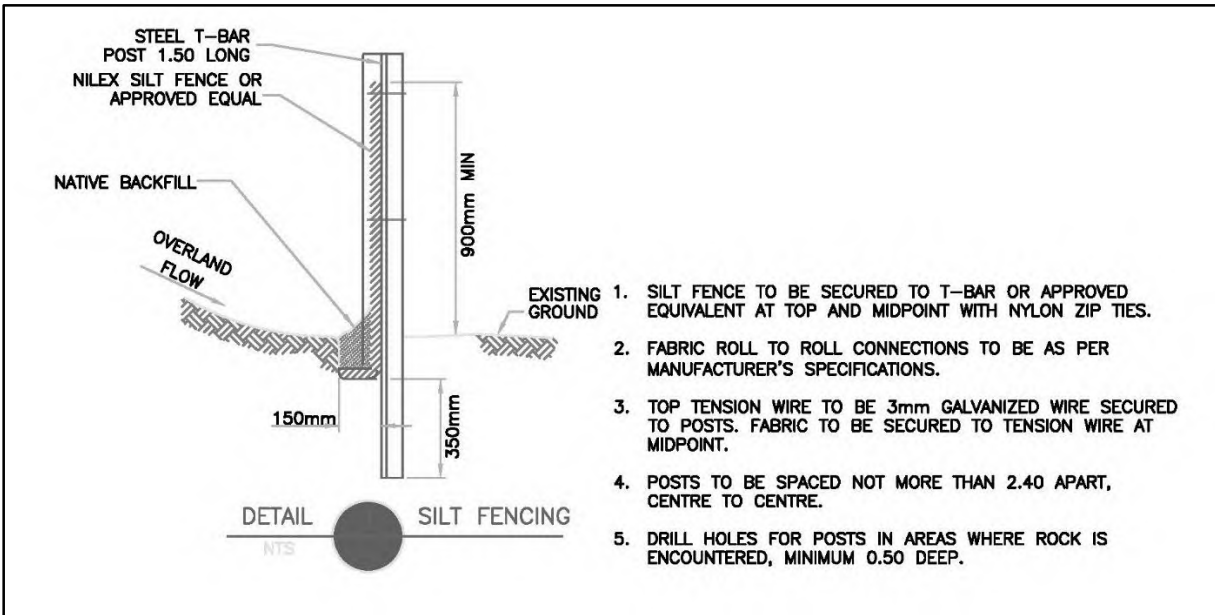
TEMPORARY ASPHALT CURB

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

NP-TUP-2023.5

SCHEDULE 'C'

SILT FENCE SPECIFICATIONS



NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-TUP-2023.5
SCHEDULE 'D'

DUST SUPPRESSION

MINIMIZING SOURCES FOR DUST EMISSIONS – Excerpted from ‘Recommended Guidelines for Environmental Management Practices for Canadian Ready Mixed Concrete Industry’

The plant manager’s air quality management program should address the following objectives:

- Identify all sources for dust emissions that are released into the atmosphere from the plant and property by plant operations.
- Collect airborne particulates from point source dust emissions through air filtration mechanisms where practical.
- Suppress the airborne particles from fugitive source dust emissions generated from the plant and property site.
- It is important for any air quality management program to also consider local climatic conditions for the plant site, with consideration for prevailing wind directions, average daily temperatures and seasonal precipitation.

Batch Plant Operations

The handling or transfer of aggregates and other raw materials into or within the batch plant can help minimize and eliminate batch plant dust emissions. Some alternatives for minimizing dust emissions from batch plant operations:

- Fine tune the batching sequence to deliver a smooth, controlled flow of raw material into the plant mixer
- Consider covers or partial enclosures for elevated conveyors into plant
- Enclose or shield aggregate storage areas and transfer points

Aggregate Storage and Handling

The storage or handling of aggregates and any other raw materials around the plant site can help minimize and eliminate plant site dust emissions. Some alternatives for minimizing dust emissions from aggregates storage:

- Consider higher moisture content in aggregates delivered to yard
- Partial enclosures or below grade pads for aggregate stockpile areas
- Minimize exposed surface area of aggregate stockpiles
- Minimize number of transfer points for raw materials
- Minimize drop heights for conveyor or hoppers

Traffic Areas

Some alternatives for minimizing dust emissions from plant site traffic:

- Consider paving or hard surfacing of high traffic areas around yard
- Keep paved or hard surfaced areas clean
- Dust suppression using water or chemical dust suppressants

Diesel Engine Exhaust Emissions

Diesel engine exhaust systems for all fixed and mobile equipment in use at the plant site provide multiple point source emissions. As mixer trucks wait in the yard, it is important to minimize the amount of engine idling time to reduce exhaust emissions and save fuel.

Maintaining correct engine-operating temperatures also helps in reducing exhaust emissions and prolongs equipment life. A regular preventive maintenance program will keep equipment and vehicle

engines running at optimal performance. Equipment and vehicle pollution control devices should be included as part of the regular maintenance inspection.

Dust Suppression

Small water droplets, produced by water spray bars, are effective as a dust suppression measure. The dust particles cling to the small water droplets, preventing the dust particles from becoming airborne. Some best management practices for dust suppression:

- Using a water spray bar or spray ring to rinse down the charge hopper at the truck mixer load point.
- Using a water truck with spray bars for wetting down plant yard surfaces and roadways.
- Wetting down aggregate stockpiles using water spray bars or sprinklers.

These best management practices for dust suppression would also require coordination with water management for the plant site and property:

- Using spray bars for dust suppression at aggregate transfer points (e.g., at the end of the conveyor belt which charges the aggregate bins).
- Installing a soaker hose or spray bar at the plant yard entrance for mixer truck wheel wash.
- Water used for dust suppression purposes should not be allowed to mix with surface runoff from the plant property.

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-TUP-2023.5
SCHEDULE 'E'

CHECKLIST

Checklist for Compliance with Environmental Management Plan (Islander Engineering, Oct. 2019)

CONDITION/REGULATION	COMPLETED /COMPLIANT (Y/N)	SCHEDULE DATE TO BE COMPLETED/COMMENTS
ENVIRONMENTAL MGMT ACT		
- Contaminated Sites Regulation		
- Fisheries Act		
- Waste Discharge Act		
- Spill Reporting Regulation		
- Hazardous Waste Regulation		
- Water Sustainability Act		
ASSIGNMENT OF ROLES & RESPONSIBILITIES (p.5)		
- Supervisor		
- Health, Safety & Environmental Representative		
- All Employees		

5. WATER MANAGEMENT		
5.1.1 Wastewater Reduction (BMP):		
- Minimize the need for exterior truck washing by controlling dust losses from the batching area;		
- Train employees with regards to water use, ensuring that they understand the importance of controls and the possible impact to the environment and company liability;		
- Limit or eliminate freshwater use by recycling processed water and using captured storm water runoff wherever possible; Reduce total water usage during drum washout by using multiple small rinses, rather than large volume single rinses;		

CONDITION/REGULATION	COMPLETED /COMPLIANT (Y/N)	SCHEDULE DATE TO BE COMPLETED/COMMENTS
- Consider the use of hydration stabilization admixtures;		
- Consider dry washout procedures;		
5.1.2 Water Collection/Containment (p.9)		
- All paved surfaces within the batching area should be curbed and graded to allow for effective capture and collection of wastewater;		
- Any surface water not related to concrete production should be directed away from wastewater collection areas;		
- Equipment and vehicular traffic should be minimized through batching area where wastewater may be present;		
- Sufficient capacity must be provided for wastewater holding tanks / basins;		
- Wastewater holding tanks / basin shall be impermeable;		
- Sufficient secondary containment (i.e., berms) shall be provided to capture any overflow from wastewater holding facilities.		
- Any breaches in containment facilities that cause release of wastewater to the environment shall be considered a spill incident and spill response measures, described in Section 6, shall be followed.		

CONDITION/REGULATION	COMPLETED /COMPLIANT (Y/N)	SCHEDULE DATE TO BE COMPLETED/COMMENTS
5.2. Storm Water Runoff		
5.2.2 BMP:		
- Encourage surface water to seep into the soil naturally;		
- Preserve natural vegetation where possible;		
- If possible, retain woody debris and organic matter on-site as mulch;		
- Roughen or terrace slopes to prevent erosion. Limit slope steepness and length to reduce runoff velocity;		
- Cover soil stockpiles and bare slopes with mulch, tarps, etc;		
- Re-vegetate or landscape disturbed areas of the Site as soon as possible. If areas of the Site must be left disturbed during the rainy seasons, sow a temporary cover crop,		
- apply mulch or lay geotextile to stabilize exposed soils;		
- Keep machinery within specific access areas. Limit the extent of machine access areas to the minimum necessary to conduct operations in a feasible and practical manner;		
- Control disposal or runoff of water containing suspended materials or other harmful substances in accordance with federal, provincial and municipal requirements;		
- If it is not possible to isolate and divert flowing water from a work area (due to water depth and volume) isolate works with a structure (e.g., silt curtain, sand bags, earthen berm, etc.) to keep silty water from leaving the Site;		

CONDITION/REGULATION	COMPLETED /COMPLIANT (Y/N)	SCHEDULE DATE TO BE COMPLETED/COMMENTS
- Avoid clearing vegetation from work zones during snowmelt or heavy rains;		
- Isolate work / excavation areas from all flowing water;		
- Inspect all silt fences and other controls (i.e., catch basin inserts, stop logs) on a daily basis prior to the start of work and correct deficiencies immediately. Pay special attention in areas where construction activities have changed natural contours or drainage patterns to ensure that controls are properly located for effectiveness		
5.3 Water Treatment		
- Protocol in place for overflow incidents		

CONDITION/REGULATION	COMPLETED /COMPLIANT (Y/N)	SCHEDULE DATE TO BE COMPLETED/COMMENTS
6. CHEMICAL AND PETROLEUM HYDROCARBON MANGEMENT		
6.2 Storage and Handling		
- Concrete additives are currently stored within manufacturer containers within a covered, plastic sheet-lined secondary containment structure at the top of the batch plant.		
- Mechanical fluids (oils / waste oils) are stored within a transportation seacan with a welded lip at the entrance, which provides secondary containment to small jugs of hydraulic fluid within. Waste oil is stored within an above ground storage tank within a separate plastic sheet-lined cell within the seacan.		
- Fuel is stored within fuel tanks and tidy tanks aboard various vehicles and equipment throughout the Site. There is no bulk fuel storage on Site		
Best Management Practices		
- Locate storage facilities away from high traffic areas, with reasonable protection from vehicle / equipment damage;		
- Provide storage areas with a means (i.e., lock and key) to control access to the materials so that only authorized (e.g., trained) personnel may remove and use the materials;		
- Ensure tanks are corrosion-resistant and stable / anchored securely on a flat surface;		
- If possible, store drums and pails of related products in same area;		

CONDITION/REGULATION	COMPLETED /COMPLIANT (Y/N)	SCHEDULE DATE TO BE COMPLETED/COMMENTS
- Ensure all materials are properly labelled and remain in original containers with lid intact for as long as reasonable for Site operations;		
- Protect liquids from freezing, where applicable;		
- Provide minimum 120% secondary containment for all volumes of liquid stored;		
- Provide with a means of segregating combustible and flammable materials from oxidizing agents and other sources of ignition (i.e., away from sparks and/or with physically separated storage areas)		
- Provide with a means of preventing water reactive and pyrophoric materials from coming in contact with accumulated water (i.e., roofed enclosures)		
- Provide emergency spill kits/supplies within the storage area, including fire extinguishers, non-sparking shovels, sand bags, etc.		
6.3 Disposal		
- Source reduction procedure in place		
- Returns procedure in place		

CONDITION/REGULATION	COMPLETED /COMPLIANT (Y/N)	SCHEDULE DATE TO BE COMPLETED/COMMENTS
7. SPILL RESPONSE AND PREVENTION		
7.1 Spill Response		
- Spill Response Steps reviewed by all staff (pp. 14 -16)		
- Spill Response Steps posted in appropriate areas		
7.2 Spill Response Equipment		
- Standard Spill Kit		
- Vehicle Spill Kit		
7.3 Spill Prevention (BMP)		
- Equipment is to be inspected daily to ensure that it is leak-free and functioning as intended. All fuel/oil caps will be manually checked to ensure that they are tightened down. Equipment will be tagged out of service if found to be leaking. Servicing of equipment that is absolutely necessary on-site is to be done within containment areas (i.e., bermed or otherwise isolated) or at an appropriate work yard operated by the contractor or his supplier;		
- Equipment or machinery found to be leaking will have containment trays/buckets placed under drips/leaks that cannot be stopped (e.g., cannot be drained into an appropriate container), will have absorbent pads wrapped around leaky connections or placed under areas where a tray or bucket cannot be fitted, etc.). The person identifying the malfunction or accidental leak will notify the foreman or site supervisor, who will arrange repairs or transport off-site, and/or mechanic, if on site.		

CONDITION/REGULATION	COMPLETED /COMPLIANT (Y/N)	SCHEDULE DATE TO BE COMPLETED/COMMENTS
- All workers/operators will be responsible for cleaning up observed leaks and/or wiping down equipment, even if the leak or spill is non-reportable.		
- Grease and oil required for maintenance will be properly applied. Excess will be cleaned up and disposed of in an environmentally appropriate manner, as will all containers, lids, and contaminated cloths and applicators.		
- During fuelling of larger compressors, light plants, etc., a portable drip tray lined with absorbent pads will be placed under the fuel tube and cap area. Absorbent pads will be used to wipe off any drips on the fuel spigot or side of equipment.		
- Jerry cans will be stored within a sealed tool box tray with lid or other suitable storage locker with ventilation, and placed in a containment tray when outside of the storage container.		
- When heavy machinery is not in use (i.e., overnight, weekends, or idle for the day), a portable drip tray will be placed under the main engine compartment.		

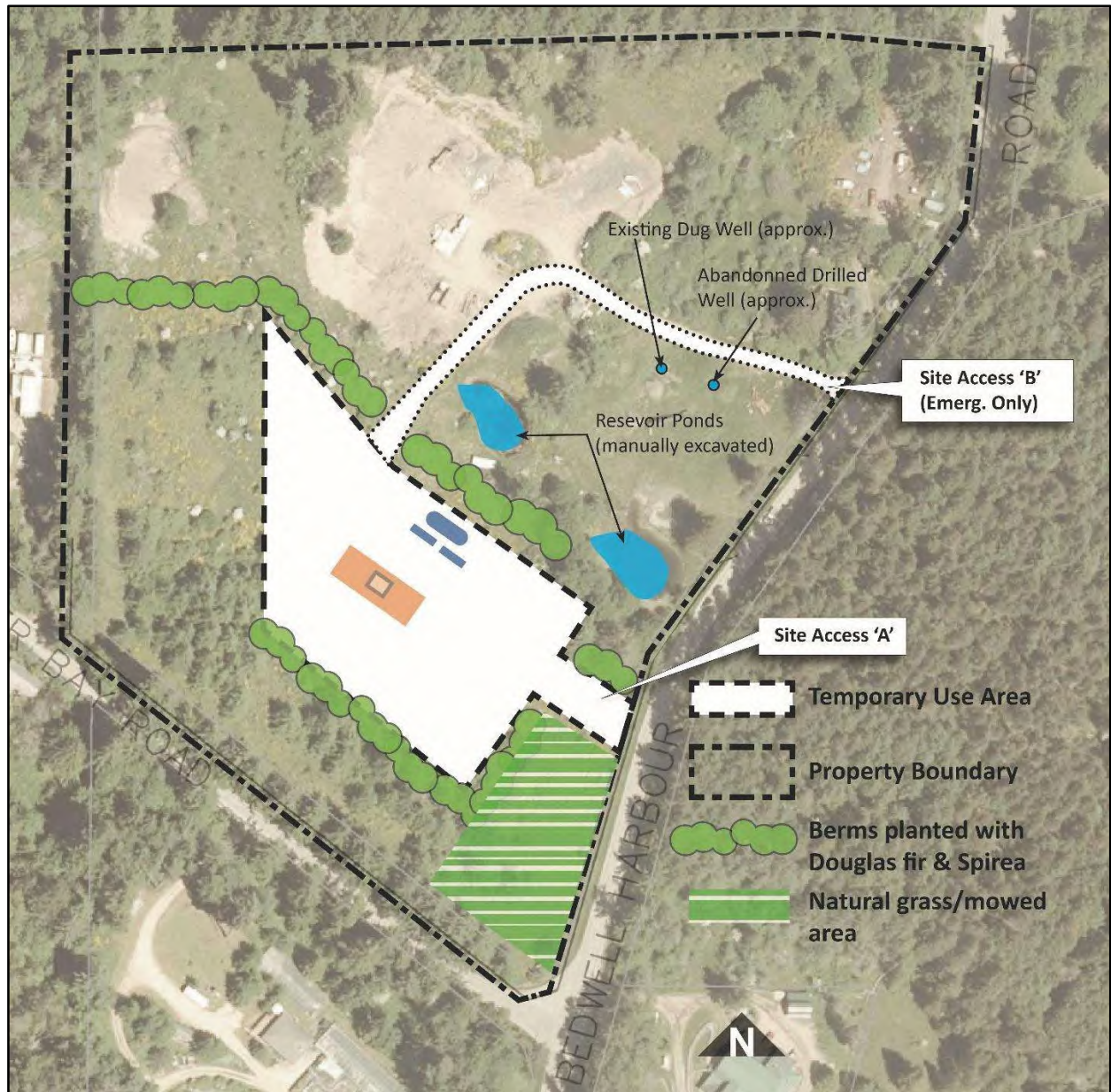
CONDITION/REGULATION	COMPLETED /COMPLIANT (Y/N)	SCHEDULE DATE TO BE COMPLETED/COMMENTS
- Fire extinguishers and other emergency response equipment and supplies will be kept in known and visible locations and access to them will not be blocked by other materials or equipment. A list of emergency contacts will be posted at predetermined, accessible and visible locations, as well as kept with the emergency response equipment. By law, fire extinguishers are routinely inspected and certified, as is other fire-suppressant equipment and materials.		
- Waste oil or materials will be removed from site as soon as possible in accordance with Transportation of Dangerous Goods requirements and the BC Special Waste Regulations.		
- The Emergency Spill Response Plan will be implemented when required.		
- The Emergency Spill Response Plan will be posted on-site, and all personnel made aware of its content and location of response materials, as well as emergency contact names and numbers.		
- Oil spill response materials and equipment, such as absorbent pads, booms and leak proof containers, will be kept on-site in sufficient quantities and in an easily accessible location to contain and clean up the amount of fuel, oil or other petroleum hydrocarbons used/stored on site.		

CONDITION/REGULATION	COMPLETED /COMPLIANT (Y/N)	SCHEDULE DATE TO BE COMPLETED/COMMENTS
8. MONITORING AND REPORTING		
8.1 Environmental Consultant		
- Scheduled Follow-Up Monitoring (Wet Season)		
- Annual Monitoring		
8.2 Gulf Excavating Ltd.		
- Procedure for weekly Site Inspection including completion of 'Environmental Monitoring Checklist/Report' with each inspection.		

Additional Comments:		

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-TUP-2023.5
SCHEDULE 'F'

LANDSCAPE PLAN



NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-TUP-2023.5
SCHEDULE 'G'

PLANTING SCHEME

Islandscapes

3724 Port Road, Pender Island, BC V0N 2M2 250.629.6053

July 4, 2018

Proposed Landscape Plan for Gulf Excavating Temporary Use Permit Application:

1. South and east areas bordering proposed new driveway at Bedwell Harbour Road and Otter Bay Road: restore farm pastureland by removing invasive species, primarily broom. Finish rake areas with farm equipment and seed with pasture seed mixture. Do not change existing grades or natural contours, retain native trees and shrubs. The natural contours completely screen the proposed temporary use application area from view.

2. There is a 50 foot strip below the upper pond and an adjacent 10 foot strip that should be planted to screen the temporary use application area from view from Bewell Harbour Road. These areas at base of upper pond dam to be planted with 10 *Chamaecyparis lawsonia* 5 gallon (Leyland cypress)* on staggered 6 foot centers to provide coniferous screen and 15 feet away from the base of the dam to not affect the integrity of the dam. The area in front to the cypress closest to Bedwell Harbour Road to be planted with 4 *Malus fesca* 3 gallon (Pacific crab apple), 3 *Holodiscus discolor* 3 gallon (ocean spray) and 3 *Philadelphus lewisii* 3 gallon (native mock orange). Sizes are suggested, and will depend on availability. These native shrubs will soften the informal cypress hedge and allow it to act as a pollinator-attracting hedgerow. Disturbed soils to be finish raked and seeded with a low growing fescue grass mixture to hold soils while plants are established. Plantings to be screened from deer and irrigated for a period of three years.

section deleted

* Leyland cypress are fast-growing conifers that provide excellent screening. They are not native to the island. The native alternative would be *Thuja plicata* (Western Redcedar). It would not necessarily be appropriate to the area as it has higher water needs than the area will provide over time. Many of the island cedar are dying.

3. A 6 foot high solid cedar gate to be built at proposed emergency access road (existing driveway) at the entrance to the temporary use application area to complete visual screening from Bedwell Harbour Road.

4. Estimated cost:

- pull broom with excavator special attachment: 3,780.00
- finish rake and seed with farm equipment: 1,500.00
- seed: 570.00
- plant material: 1,019.20
- irrigation and screening: 450.00
- wooden gate: 1,500.00

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	Lot 1, Section 18, Pender Island, Cowichan District, Plan VIP59806
PID	018-948-421
Civic Address	4415 Bedwell Harbour Road

LAND USE

Current Land Use	Rural (Residential, agriculture [grazing, orchard] and quarry.
Surrounding Land Use	North – Rural and Community Service (Library; Nu to Yu) East – Rural Residential and Agriculture South – Community Service (Community Centre) and Rural West – Industrial (site specific) and Rural

HISTORICAL ACTIVITY

File No.	Purpose
NP-SUB-1993.4 and 1994.6	Historical subdivision files
NP-TUP-2018.5, 2021.4, 2023.5	Temporary use permit for concrete batch plant
NP-TUP-2019.7 and 2022.3	Temporary use permit for waste transfer facility use

POLICY/REGULATORY

Official Community Plan Designations	The property is designated as R- Rural in the North Pender Island Official Community Plan No. 171, 2007 (OCP). There are no Development Permit Areas designated on the subject property.
Land Use Bylaw	The property is zoned as Rural (R) in the North Pender Island Land Use Bylaw (LUB) No. 103, 1996 (LUB). The TUP would permit the specific uses (structures) on property it into compliance with the LUB.
Other Regulations	DAI Letter issued September 18, 2018. Requirement for EA Report; Details of operation and water usage.
Covenants	None
Bylaw Enforcement	NP-BE-2012.8. Active file. Application is for compliance (Industrial uses of land without zoning).

SITE INFLUENCES

Islands Trust Conservancy	The application has no considerations for the Islands Trust Conservancy.
Regional Conservation Strategy	The application has no considerations the Regional Conservation Strategy Plan.
Species at Risk	See page 8 of EA report

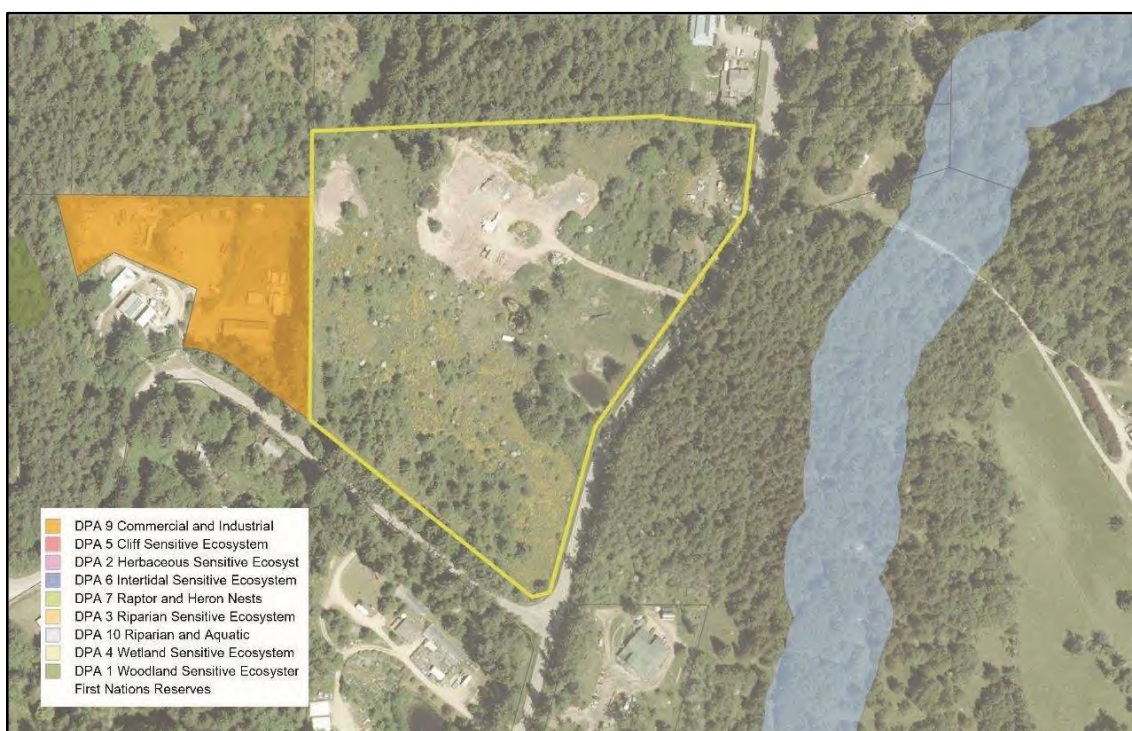
Sensitive Ecosystems	See discussion in EA Report ; in the main body of the report; and, Attachment 2.2
Hazard Areas	N/A
Archaeological Sites	There is a mapped archaeological site (also shown on Figure 2 in report body) on the southeast corner of the property. An Archaeological Impact Assessment (AIA) was contracted by the Local Trust Committee as part of the waste transfer project. The AIA by Stantec Consulting (dated September 11,) surveyed the property to determine the extent of archaeological resources and encountered no archaeological resources (including within the mapped site). Notwithstanding the foregoing and information from RAAD, and by copy of this report, the owners and applicant should be aware that there is still a chance that the lot may contain previously unrecorded archaeological material that 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.
Climate Change Adaptation and Mitigation	N/A
Shoreline Classification	Not Applicable
Shoreline Data in TAPIS	Not Applicable

ATTACHMENT 2 – MAPS, PLANS, DRAWINGS, PHOTOGRAPHS

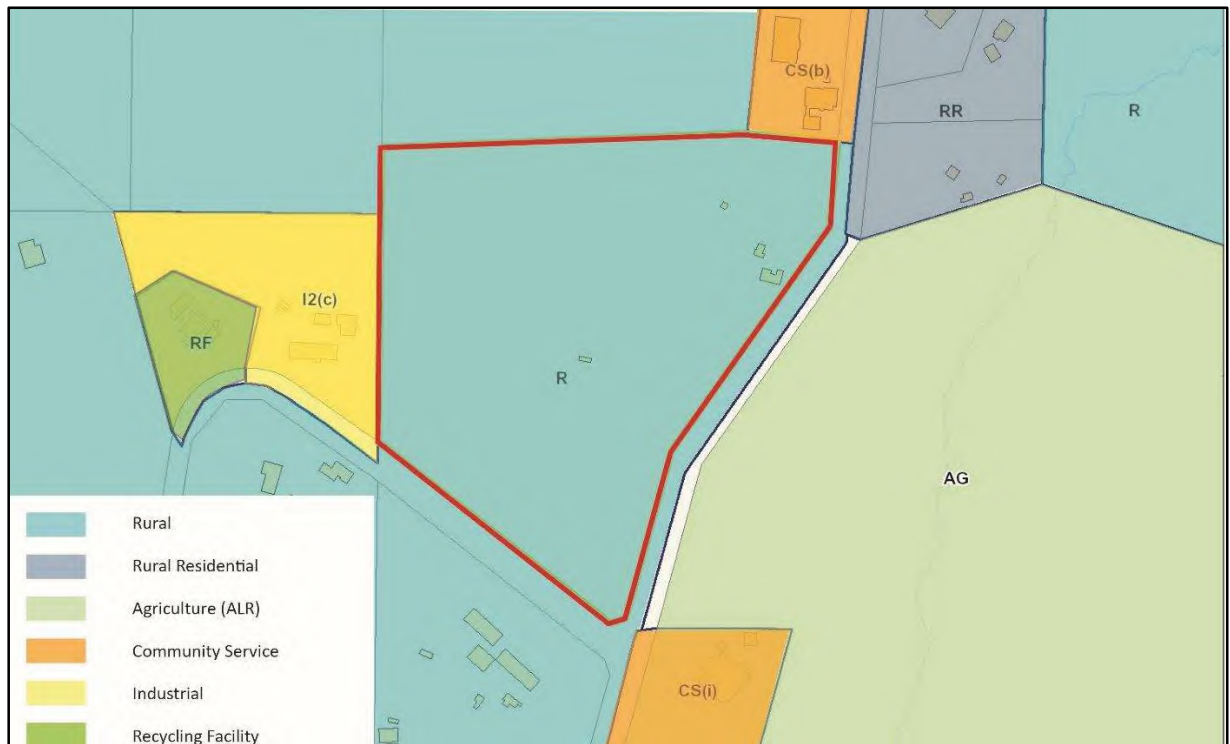
2.1 ZONING AND ORTHOPHOTO



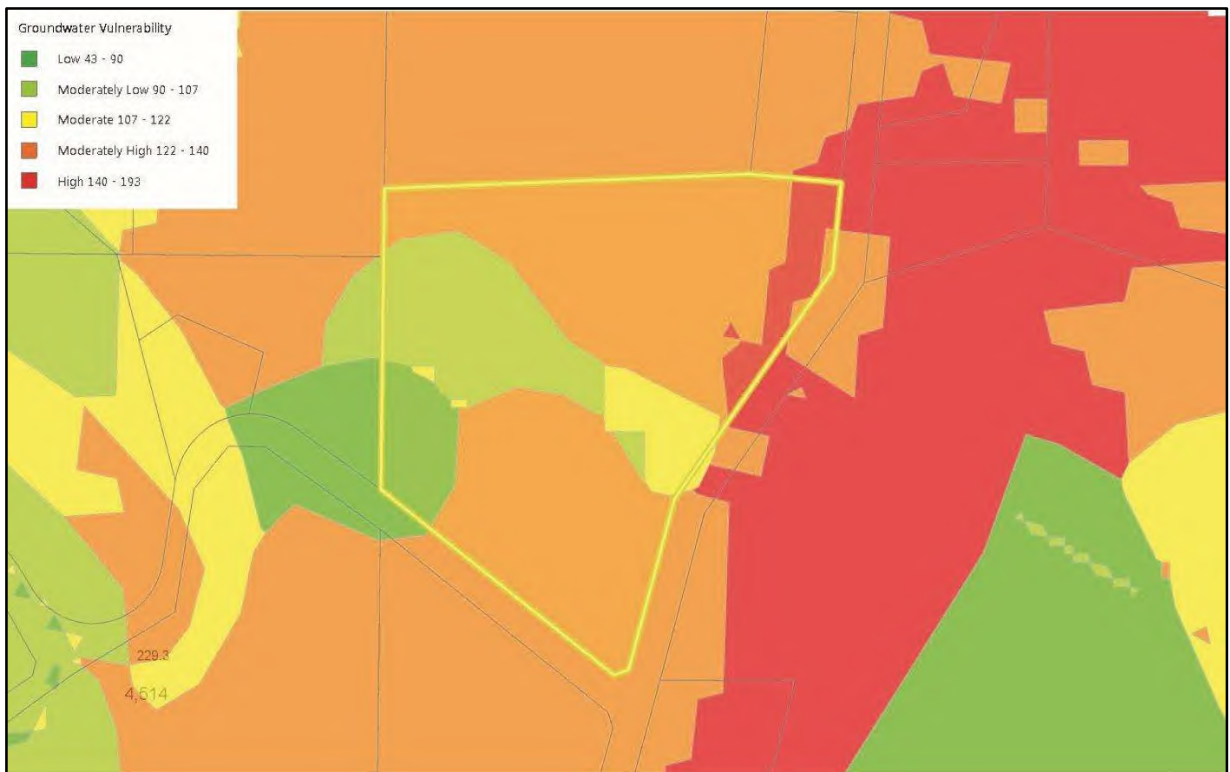
2.2 DEVELOPMENT PERMIT AREAS



2.3 LAND USES



2.4 GROUNDWATER VULNERABILITY

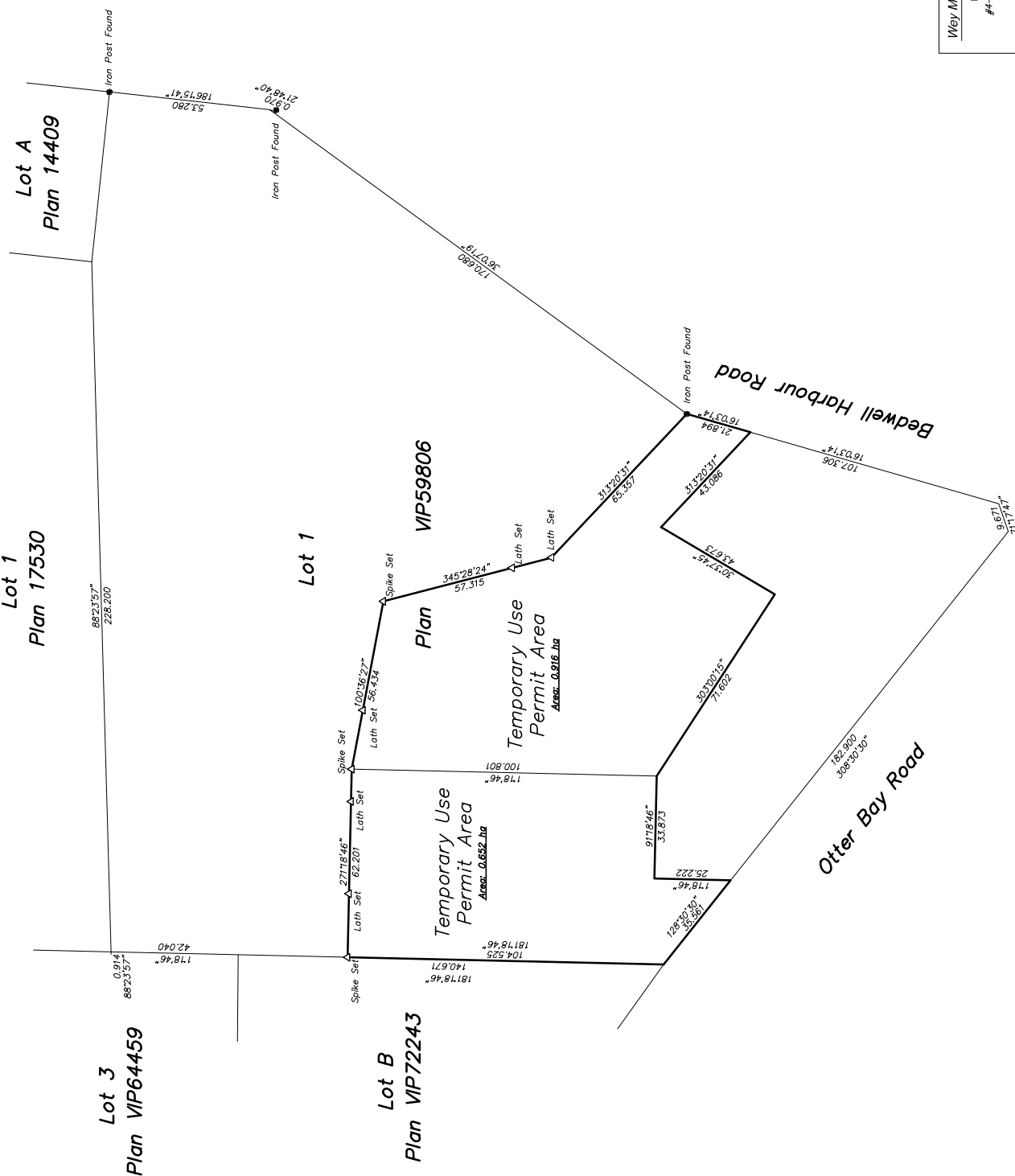


Lot 1, Section 18, Pender Island,
Cowichan District, Plan VP59806.
P.I.D. 018-948-421



Dated this 21st day of May, 2020.

Distances and elevations shown are in metres.



Wey Mayenburg Land Surveying Inc.
www.weysurveys.com
#4-2227 James White Boulevard
Sidney, BC V8L 1Z5
Telephone (250) 656-5155
File: 200137\Sit\LE



**SITE PLAN FOR
REZONING APPLICATION:
NP-RZ-2024.1**

**LOT 1, SECTION 18, PENDER
ISLAND, COWICHAN
DISTRICT, PLAN VIP 59806,
PID 018-948-421**

**GULF EXCAVATING LTD
4415 BEDWELL HARBOUR RD
PENDER ISLAND, BC V0N2M1
office@gulfeexcavating.com**

NOTES:
PROPERTY IS CURRENTLY ZONED AS
RURAL, BORDERING INDUSTRIAL ZONED
PROPERTY TO THE WEST

PROPOSED CEMENT SILO WILL BE LOW
PROFILE, SO AS NOT TO BE VISIBLE FROM
OUTSIDE THE CURRENT TUP AREA.



GULF EXCAVATING LTD.
4415 BEDWELL HARBOUR RD.
PENDER ISLAND, BC, V0N2M1
office@gulfexcavating.com

MARCH 13, 2024

FILE NUMBER : NP-RZ-2024.1

RE: LOT 1, SECTION 18, PENDER ISLAND, COWICHAN DISTRICT, PLAN VIP 59806, PID 018-948-421

ATTENTION: NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

AS MOST TRUST MEMBERS ARE AWARE, GULF EXCAVATING LTD HAS BEEN CONTINUING TO OPERATE AT THE SUBJECT PROPERTY WITHIN THE PROPOSED BOUNDARIES UNDER THE MOST CURRENT TEMPORARY USE PERMIT **NP-TUP-2023.6**.

AS SUCH, THE CURRENT USES IN THE PRESCRIBED AREA OF THE SUBJECT PROPERTY DESCRIBED IN **NP-TUP-2023.6** ARE THE USES REQUIRED TO BE SET FORTH IN THIS REZONING APPLICATION.

WITH THE EXCEPTION OF THE CONSTRUCTION OF A SMALL POWER BUILDING, A SHIPPING CONTAINER STRUCTURE WORKSHOP, AND A LOW-PROFILE CEMENT SILO THE FACILITY WILL REMAIN UNCHANGED FROM CURRENT USAGE.

IN REGARD TO NEIGHBOURING PROPERTIES; TO THE WEST 3418 SOUTH OTTER BAY RD. IS ZONED INDUSTRIAL AND IS USED FOR WAREHOUSING. IN THE NORTH WEST CORNER OF THE PROPERTY A SMALL PORTION BORDERS 3303 AMIES RD, ZONED RURAL WITH A SINGLE FAMILY DWELLING. TO THE NORTH, THE PROPERTY SHARES A BORDER WITH 4315 CORBETT RD, ZONED RURAL, WITH A SINGLE FAMILY DWELING, AND 4409 BEDWELL HARBOUR RD, ZONED RURAL AND IS USED FOR A PUBLIC LIBRARY, COMMUNITY THRIFT STORE, AND CHILD DAYCARE FACILITY THAT IS CURRENTLY UNDER RENOVATIONS. TO THE EAST 4414 BEDWELL HARBOUR ROAD IS ZONED RURAL AND IS HOME TO AN INDUSTRIAL MACHINE SHOP. TO THE SOUTH EAST IS A PARCEL DONATED BY THE OWNER OF 4414 BEDWELL HARBOUR ROAD, USED FOR THE ISLANDS COMMUNITY HALL, 4418 BEDWELL HARBOUR RD. TO THE SOUTH 4417 BEDWELL HARBOUR RD IS ZONED RURAL WITH A SINGLE FAMILY DWELLING. FINALLY, TO THE SOUTHWEST 4401 OTTER BAY RD IS ZONED RURAL WITH A SINGLE FAMILY DWELLING.

THE LTC HAS IN ITS POSSESSION ALL ENVIRONMENTAL REPORTS CONDCUTED BY ISLANDER ENGINEERING, BUT WE ARE ABLE TO PROVIDE AGAIN IF NECESSARY.

IN THE COMPANY'S OPINION, REZONING IS THE ONLY LOGICAL NEXT STEP FORWARD TO BE ABLE TO CONTINUE TO PROVIDE JOBS, GENERATE TAX DOLLARS, AND PROVIDE RELIABLE AND ECONOMICAL SOLUTIONS FOR PENDER AND THE SURROUNDING GULF ISLANDS.

REGARDS,

AARON GRIMMER, GULF EXCAVATING LTD



File No.: Raptor Nest DPA Review
Project

DATE OF MEETING: April 5, 2024
TO: North Pender Island Local Trust Committee
FROM: Robert Kojima, Regional Planning Manager
Southern Team
COPY: Brad Smith, Island Planner
SUBJECT: Raptor Nest DPA Review Project – Preliminary Data Review

RECOMMENDATION

1. That the North Pender Island Local Trust Committee direct staff to prepare a draft bylaw to update Schedule O of the North Pender Island Official Community Plan No. 171, 2007 and associated Development Permit Area 7 guidelines consistent with the professional report submitted by Caurinius Environmental dated March 2024.
2. That the North Pender Island Local Trust Committee direct staff to conduct early engagement with property owners by sending an information letter regarding the project to all registered property owners of land parcels that contain either existing or newly proposed Development Permit Area 7 raptor nest sites.

REPORT SUMMARY

The purpose of this staff report is to provide the North Pender Local Trust Committee (LTC) with an update on the Raptor Nest Development Permit Area Review Project including preliminary data reporting and analysis.

The above recommendation is supported as:

- The professional report identifies several new active or potentially viable sites that could be added to the Schedule O map;
- The other recommendations in the professional report are well considered and consistent with provincial guidelines; and,
- Proceeding with a draft bylaw will facilitate First Nations and agency referrals and public input to identify any issues or concerns with the proposed amendments.

BACKGROUND

The LTC has been working on the Raptor Nest Development Permit Area Review project since May 2023. The review includes potential updates to Schedule O of the North Pender Island Official Community Plan No. 171, 2007 (OCP) and associated Development Permit Area 7 (DPA 7) guidelines.

Since the last staff memo in January 2024, the following has been completed:

- Staff have received the draft report from Caurinius Environmental and have provided comments to the author (Draft report included as Attachment 1);
- Staff have received nesting site GIS points from Caurinius Environmental and have plotted on them on a draft map (Attachment 2); and,
- Staff have sent an early engagement letter to First Nations in respect of the project (Attachment 3).

Staff are now seeking direction on proceeding with next steps including the drafting of an amending bylaw.

ANALYSIS

Issues and Opportunities

Professional Report

A draft professional report has been submitted by Caurinius Environmental (Attachment 1). The scope of required work included:

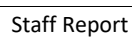
- Data collection, analysis and ground-truthing
- Provision of data points in a GIS format consistent with Islands Trust mapping standards
- Summary report including:
 - Description of project scope, purpose and data collection methods
 - Summary and analysis of existing and new site specific nesting data
 - Recommendations for potential amendments to OCP nesting site mapping (Schedule O) and Raptor Nest DPA sections

Mapping Results

Eighteen new nests were identified in the draft study results, as shown in the preliminary map in Figure 1. The consultant's report has only recently been received, and as such staff need to conduct a more detailed review of each 'new' site including the associated data table in the draft report.

The consultant also visited all of the existing DPA 7 schedule sites and determined that they are all still potentially viable and should remain on the Schedule O map, except for the existing Heron nest site located at 4185 Schooner Way which has been deemed to be no longer viable.

Islands Trust



OCP Recommendations:

The professional report largely references the updated provincial guidelines when making recommendation with respect to potential OCP DPA 7 wording amendments: [*Develop with Care series \(2013\): Guidelines for Raptor Conservation during Urban and Rural Land Development in British Columbia*](#). These guidelines provide the best practices for raptor conservation in the province of BC.

Consistent with the guidelines, the changes being proposed by the RP Bio. include:

- The inclusion of “other raptors” in the DPA 7 designation;
- The expansion of minimum buffer areas to 60 m (currently 30-50 m);
- Additional context on special conditions or objectives that justify the designation;
- Changes to critical nesting periods consistent with new provincial guidelines;
- Several other recommendations for implementation of increased buffering zone requirements on Schedule O mapping and within s. 5.2.8.7. of OCP consistent with new provincial guidelines; and
- Updated referencing to 2013 provincial guidelines.

Staff are of the view that the recommendations are well considered and appropriate, and recommend that the LTC direct staff to proceed with drafting changes based on the report. As staff initiate the drafting process, a more detailed review of all of the changes will occur and staff may provide additional specific revisions when the draft bylaw is brought back to the LTC for further consideration. Staff will also continue to seek feedback from First Nations, and will forward them the professional report.

Staff have reviewed other local government jurisdictions with more recent raptor DPA guidelines and they are largely consistent with the most recent provincial guidelines and the approaches already taken or being recommended for North Pender, and in particular with respect to the increased buffering areas.

Property Access Limitations

Some of the data points required private access to verify. Through the next step in data review, staff will identify those specific sites, and will make the property owners aware. In some cases, property owners may be willing to provide voluntary access to verify the data point.

Where some of the trees do not have verified data points, the specific locations would need to be confirmed at the time of application. The bylaw will need to ensure the DPA provisions and designations address this issue.

Consultation

First Nations Engagement

Staff have sent an early engagement letter to the standardized list of First Nations for the North Pender Local Trust Area, which is included as Attachment 3. The letter offers to engage First nations on next steps of the project including data review and analysis. To date, no responses to the letter have been received. Staff will send a follow-up response in with the finalized professional report for their review and input. Bylaw referrals would also be sent to this same list of First Nations, should the LTC proceed to that point.

Community Consultation

As an initial step in community consultation, staff recommend that the LTC direct staff to send an information letter to all registered property owners of land parcels that contain either existing or newly proposed Development Permit Area 7 raptor nest sites regarding the project, including the potential scope of the bylaw changes and how to provide input.

When a draft bylaw is further developed, further community consultation would be undertaken, including community meeting(s), website updates, and communications materials. As part of this outreach, staff would likely recommend a standalone Community Information Meeting (CIM) to present the project results and proposed bylaw amendments for community input. Bylaw referrals would also be sent to potentially affected agencies and local governments.

Legislative process

In order to implement changes to the DPA, an amendment would be required to the OCP, consisting of bylaw readings, a public hearing, and Executive Committee and Ministerial approval.

Timeline

The project charter describes the project in 7 phases. The project is currently moving into Phase 4.

Phase 1: Project Initiation: preliminary report and mapping contract procurement process.

Phase 2: Analysis: review of DPA provisions, options to LTC, contact with stakeholder groups and landowners.

Phase 3: First Nations consultation: early engagement and on-going consultation as requested by Nations.

Phase 4: Drafting: LTC review of amendment options and direction to prepare bylaws.

Phase 5: Community Consultation: early contact and community meeting, public review, bylaw referrals.

Phase 6: Legislative Phase: bylaw readings, public hearing, EC and Ministerial approval.

Phase 7: Implementation: public and landowner communication, procedural updates.

Rationale for Recommendation

The recommendation on page 1 is supported as:

- The professional report identifies several new active or potentially viable sites that could be added to the Schedule O map;
- The other recommendations in the professional report are well considered and consistent with provincial guidelines; and,
- Proceeding with a draft bylaw will facilitate First Nations and agency referrals and public input to identify any issues or concerns with the proposed amendments.

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. Staff advise that the implications of this alternative are that commencing work on the project would be delayed. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request that...

2. Not Proceed with the Project

The LTC may decide to not proceed with the project.

3. Receive for information

The LTC may receive the report for information.

NEXT STEPS

Based on the direction of the LTC, staff will initiate drafting of an amending bylaw.

Submitted By:	Brad Smith, Island Planner	March 26, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	March 27, 2024

ATTACHMENTS

1. Draft Professional Report dated March 2024
2. Preliminary GIS Map with Data Points
3. First Nations Engagement Letter

**Raptor and Heron Nests Development Permit Area
(DPA) Review
North Pender Island, Pender Island BC**



Caurinus Environmental

March 2024

RAPTOR AND HERON NEST DPA REVIEW: NORTH PENDER ISLAND TRUST AREA – CONTRACT 2024-0056

1.0 Project Scope

Since its inception, Schedule O (Raptor and Heron Nest DPA) of the North Pender Island Official Community Plan (OCP) has not been formally updated. The scope of this project was to review and update mapping of raptor and heron nests and to identify, document and analyze raptor nest sites (and associated data) on North Pender Island, including a review of existing sites and new sites identified that may be considered for inclusion on Schedule O through a North Pender OCP amendment. Further, based on these nest locations and with reference to the *Develop with Care series (2013): Guidelines for Raptor Conservation during Urban and Rural Land Development in British Columbia*, Development Permit Area designations and provisions included in Schedule O were reviewed.

2.0 Purpose

The purpose of this project is to identify, document and analyze raptor nest sites (and associated data) on North Pender Island including a review of existing sites identified on Schedule O of the North Pender OCP and new sites that may be considered for inclusion on Schedule O through an OCP amendment. The current Raptor and Heron Nests Development Permit Area (DPA) was adopted in 2008 based on surveys conducted by local volunteers in 2005 and 2006 through the Wildlife Tree Stewardship initiative (WiTS). Nest trees were mapped with assistance of Islands Trust staff. An update of wildlife trees is currently needed as new nests have been established and older ones abandoned. In addition, DPA provisions should be reviewed and updated with reference to current provincial guidelines and best management practices.

The goals of this DPA review are to:

- Review all raptor nests across North Pender Island to determine whether new, current or historical nests are still viable for nesting raptors.
- Document GPS coordinates of all historical and new nest sites.
- Provide recommendations for potential amendments to OCP nest site mapping (Schedule O) and Raptor and Heron Nests (DPA) provisions.

3.0 Data Collection Methods

Based on the Schedule O - Raptor nest site map (Island Trust), each raptor nest site was visited to determine its current status. Also, based on local naturalist David Manning's yearly record keeping of raptor sites on Pender Island, we visited undocumented raptor nest sites across North Pender Island. At each tree we recorded GPS coordinates and where a nest was not present, the viability of each documented raptor nest tree to support a nest in the future was assessed. Some nest sites were not accessible, and therefore an approximate nest site coordinate was recorded.

4.0 Results

Eighteen new nests were detected during our survey of North Pender Island. All older nest sites from the initial survey are still viable as nest sites, although some have not been used by raptors for some years (Table 1).

**Table 1: New Raptor nests on North Pender Island since 2008
(Species Codes: Bald Eagle (BAEA), Osprey (OSPR), Peregrine Falcon (PEFA))**

Species	Name	Easting	Northing	Address	Ownership
BAEA	Wein Farm	480037	5404483	4506 Bedwell Harbour	Private
BAEA	Brackett Cove	479884	5402832	4601 Pecos Rd	Private
BAEA	Irene Bay	476739	5404038	Irene Bay Rd	Private
BAEA	Timbers, Bedwell Harbour	482135	5399340	6901 Shark Pl	Private
BAEA	Thieves Bay South	477388	5401801	2731 Anchor Way	Private
BAEA	Golf Course	477343	5405552	2314 Otter Bay Rd	Private
BAEA	Hooson Ridge	479815	5404775	5442 Hooson	Private
BAEA	Davidson Bay	478085	5407144	3206 Clam Bay Rd	Private
BAEA	Colston Cove B, Hope Bay	478636	5406161	4312 Clam Bay Rd	Private
BAEA	Bald Cone Middle	481348	5404362	Crown Land or Lot 14 or 15	Private
BAEA	Corbett Rd	478513	5405676	4311 Corbett Rd	Private
BAEA	Bedwell Harbour, Shark Pl-C	481564	5399682	6903 Pirates Rd	Private
BAEA	Bedwell Harbour, Shark Pl B	481627	5399632	6903 Pirates Rd	Private
PEFA	Pirates Rd	479783	5400392	Near 4809 Pirates Rd	Private
OSPR	Shark Cove	481041	5401309	5747 Canal Rd	Private
OSPR	Shark Place	481448	5399555	6905 Shark Pl	Private
OSPR	Masthead Trail	477805	5402753	Shingle Creek	Community Park
OSPR	Oaks Bluff	480123	5399641	5915 Pirates Rd	Private

All existing raptor nest trees in the Islands Trust Raptor and Heron Nest DPA database are still viable nest sites for raptors. Currently there are no known great blue heron nests on Pender Island; the last known great blue heron nest occurred at 4815 Schooner Way, adjacent to an osprey nest DPA that remains valid and enforceable. The historical great blue heron nesting site is no longer viable, as the alder trees that supported the nesting site have fallen down. I recommend removing the historical Raptor and Heron DPA for the Heron nesting site at 4815 Schooner Way.

5.0 Future Recommendations for OCP Amendment

These recommendations apply solely to The North Pender Island Official Community Plan (OCP) areas: Schedule O - Raptor and Heron Nests Development Permit Area (DPA).

The current stipulations in the Schedule O - Raptor and Heron Nests Development Permit Area (DPA) are based on *Best Management Practices for Raptor Conservation during Urban and Rural Land Development in British Columbia (2005)*. Updated guidelines have been published by the BC Government in the form of *Develop with Care series (2013): Guidelines for Raptor Conservation during Urban and Rural Land Development in British Columbia*. I referred to this updated document in developing recommendations and best practices for the protection of raptor nesting activities, nest trees and nest tree areas on North Pender Island as part of this project. Earlier editions were also reviewed along with subsequent BC Ministry reports to incorporate a wide range of information for these recommendations.

Locations of raptor and heron nest trees

Nesting birds such as raptors and great blue herons are especially sensitive to development and other disturbances due to human activity; hence, their persistence in our communities requires special protection. The locations of the raptor and heron nesting trees identified in Appendix A (Raptor Nest Map) are intended to provide an approximate location only, as not all sites on private property were accessible. Ground-truthing may be required by a Qualified Environmental Professional (QEP) to accurately determine the location of the tree or trees used for nesting at any given site for individual projects.

Retention of existing habitats and features

The most effective means to protect raptor and heron nests and habitat is to retain existing habitats and habitat features. Retaining natural forest, including mature trees and understorey vegetation, near nest sites provides habitat for prey animals, nesting cover for raptors, and protection of nest trees from wind throw. Conserving these existing habitats is of greater benefit to raptors and herons than restoring or rehabilitating damaged habitat; restoration prescriptions that require replanting of seedlings will not provide appropriate habitat for over a century, until trees are at least 150 years old. Hence, all existing mature forest and veteran trees are critical to retain on the landscape.

Important raptor habitats and key features in urban and rural areas of British Columbia include not only nest sites, but also perching and roosting sites, and foraging areas. Protecting roosting, foraging and perching sites near nests benefits raptor and heron populations by allowing birds to rest and obtain adequate food for reproduction and survival. These sites may be used year-round by one or more individuals (e.g., turkey vultures and bald eagles). QEPs assessing Raptor and Heron Nest DPAs should recognize the ecological importance of features such as perching or roosting trees and ensure development avoids disturbance to these features as well as nest trees.

A single strict buffer size for all species and situations is not generally feasible or biologically appropriate. Best management practices help determine buffers for certain habitat values, but their application can differ based on different criteria. For example, the provincial guidelines specify buffers for raptor nests, but the standard is different depending on the ability of individual birds to tolerate human disturbance, the time of year, and whether the nest is located in urban, rural or undeveloped

areas. As a result, depending on species, the buffer may be as little as 1.5 tree lengths (60 m) or as wide as 500 metres. For the purposes of the North Pender Island OCP, I have used the bald eagle and the great blue heron as a baseline buffer distance for all raptor nests. The minimum recommended buffer of undisturbed natural vegetation for urban raptor nests is 1.5 tree lengths, which is equivalent to a radius of approximately 60 m. The assigned QEP for individual permitting projects will need to refer to *Develop with Care series (2013): Guidelines for Raptor Conservation during Urban and Rural Land Development in British Columbia* to determine a biologically appropriate buffer for each project context and species.

The following two sections are taken from the current Schedule O (Raptor and Heron Nest DPA) of the North Pender Island OCP. Suggested wording changes to align the DPA provisions with current provincial guidelines are shown in **red**.

5.2.8.5 Designation

Development Permit Area Seven is shown in a generalized representation on Schedule O and generally incorporates a ~~30-50 metre~~ **(60 m radius)** radius around identified eagle, osprey, **other raptor** and great blue heron nesting sites.

The definitive designation and delineation of Development Permit Area Seven consists of a digital record compiled by means of air photograph interpretation. This digital record is stored and maintained in a Geographic Information System (GIS) at the offices of the Islands Trust.

5.2.8.6 Special Conditions or Objectives that Justify the Designation

The North Pender Island Local Trust Area contains habitat used by bald eagles, other raptors and great blue herons for nesting and breeding.

Great blue herons are a Species of Special Concern in Canada and are blue-listed in British Columbia. The number of active nests on Vancouver Island and the Gulf Islands averages 525 annually. Bald eagles require large territories and generally locate nest sites 1km away from another breeding pair. Both species nest near large bodies of water such as lakes, large rivers or the ocean, near their main food source. The loss of available nesting habitat due to human disturbance reduces the birds' ability to reproduce and successfully raise their young. Section 34 of the Wildlife Act provides for the protection of bald eagles and great blue heron and several other at-risk bird species.

Bald eagles are a regionally significant species and include both resident and wintering birds. Resident eagles establish a territory around a nest, with most pairs using the same site for all their breeding life. Nests are semi-permanent structures which represent a considerable investment of energy. Nest abandonment – either permanent or temporary – can result from tree damage or removal, nest damage or human disturbance during the critical nesting period from ~~January 15th to August 30th~~ **(January 5 to August 31)**. Eagle nest trees requirements are specialized: typically large, very old trees near the water and although second growth trees are sometimes used, most nest trees are Douglas-firs over 150 years of age, usually within one kilometre of the shoreline. Human activity related to logging and land development have resulted in the loss of nest sites, which results in a permanent reduction in the nesting population. Gradual loss of nesting habitat is considered to be the most significant factor affecting bald eagle abundance in B.C. (BC Ministry of Environment, Lands and Parks. Environmental Objectives, Best Management Practices and Requirements for Land Developments, 2001) and specifically on Vancouver Island and the Gulf Islands, habitats within low-elevation coastal habitats in

the Coastal Douglas-fir Biogeoclimatic zone have been degraded by human development (BC Ministry of Water, Land and Air Protection. Best Management Practices for Raptor Conservation during Urban and Rural Land Development in British Columbia. 2005) **(Guidelines for Raptor Conservation during Urban and Rural Land Development in British Columbia (2013)).**

Great blue herons breeding sites are concentrated in the Strait of Georgia, with large colonies generally occurring in relatively contiguous forest, fragmented forest or solitary trees and associated with extensive estuarine mudflats and eelgrass beds. Avoid any new disturbance, especially early in the season as herons are particularly susceptible to disturbance. Great blue heron breeding window is between January 15 and September 15. Colonies are dynamic, especially in areas of high disturbance and habitat destruction and human disturbance has been implicated in historical colony abandonment. In particular, disturbance from humans can cause herons to temporarily abandon breeding attempts, allowing predators to take eggs. **The Province of British Columbia recommends a buffer of at least 300 m in undeveloped areas, 200 m in rural areas, and 60 m in urbanized areas. An additional 200 metre 'no disturbance' buffer is recommended during the nesting season, especially for colonies not previously accustomed to people and their activities. (Develop with Care 2014: Fact Sheet #11 - Great Blue Heron: Environmental Guidelines for Urban and Rural Land Development in British Columbia)**

Summary of proposed changes to Schedule O (Raptor and Heron Nest DPA) of the North Pender Island OCP.

- a) For Bald Eagle Nest Trees – the Development Permit Area applies to all mapped trees containing bald eagle nests and shall be:
 - i. a 60 m radius from the nest tree in high density areas (Rural Residential RR1 - North Pender Island Land Use Bylaw No. 224, 2022, Schedule B) of Pender Island (i.e. Magic Lake, Trincomali); and
 - ii. a 100 m radius from the nest tree in all other zone areas of Pender Island.
 - iii. an added 100 m radius from the nest tree during their breeding season as a 'Breeding season quiet buffer'.

'Breeding season quiet buffer': During their breeding season (Feb 5 to Aug 31), especially during early courtship and egg-laying periods, bald eagles are very sensitive to noise disturbances and may abandon their nests and young. In every case, *Develop with Care series (2013): Guidelines for Raptor Conservation during Urban and Rural Land Development in British Columbia* should be referred to when establishing an appropriate nest site buffer.

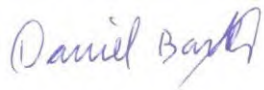
- b) For Great Blue Heron Nest Trees – the Development Permit Area applies to all mapped trees containing great blue heron nests, and shall be:
 - i. a 60 m radius from the nest tree in high density areas (Rural Residential RR1 - North Pender Island Land Use Bylaw No. 224, 2022, Schedule B) of Pender Island (i.e. Magic Lake, Trincomali); and
 - ii. a 200 m radius from the nest tree in all other zone areas of Pender Island.
 - iii. an added 200m radius from the nest tree during the breeding season as a 'Breeding season quiet buffer'.

'Breeding season quiet buffer': During their breeding season (Jan 15 to Sept 15), especially early in the breeding season, herons are very sensitive to noise disturbances and may abandon their nests and young.

- c) All other raptor Nest Trees or cliff nest locations (falcons, hawks, ospreys, and owls) – the Development Permit Area applies to all mapped trees or cliff sites containing raptor nests and shall be:
 - i. a 60 m radius from the nest tree or site in high density areas (Rural Residential RR1 - North Pender Island Land Use Bylaw No. 224, 2022, Schedule B) of Pender Island (i.e. Magic Lake, Trincomali); and
 - ii. a 100 m radius from the nest tree or site in all other areas of Pender Island.
 - iii. Refer to species- specific criteria, such as breeding season quiet buffers, listed in *Develop with Care series (2013): Guidelines for Raptor Conservation during Urban and Rural Land Development in British Columbia*.
- d) Retain raptor and great blue heron roosting/perching sites within an existing raptor and great blue heron DPA. A QEP may recommend additional mitigation measures based on site-specific observations to:
 - i. protect trees, cliffs or other specific sites that are in regular use for roosting, perching or feeding.
 - ii. protect primary foraging sites such as shorelines, wetlands, shrubby areas, hedgerows and riparian areas.

I trust this report meets with your requirements. Please do not hesitate to contact me if you require additional information.

Best regards,



Dan Baxter (BSc, RPBio)



Appendix A



Caurinus Environmental

3601 Masthead Cr.
Pender Island BC Canada
V0N 2M0
250-222-0370; 250-222-4571
caurinusenvironmental@gmail.com

30 June 2022

To Whom it may Concern:

**Re: Review of Raptor and Heron Nests Development Permit Areas (DPAs) on Lot 7 Plan VIP1695
Section 7 Land District 16 Portion Pender Island (PID: 007-094-591) – 4815 Schooner Way.**

Caurinus Environmental was retained to review the Raptor and Heron Nest DPAs present at 4815 Schooner Way on North Pender Island. The subject property on Schooner Way hosts two Raptor and Heron Nests DPAs, protecting nest sites which historically have been used by great blue herons (*Ardea herodias*) and osprey (*Pandion haliaetus*; Figure 1). The subject property was visited on June 26, 2022 and the Raptor and Heron Nest DPAs were assessed to determine the viability of the nest trees for current and future use by raptors or herons.

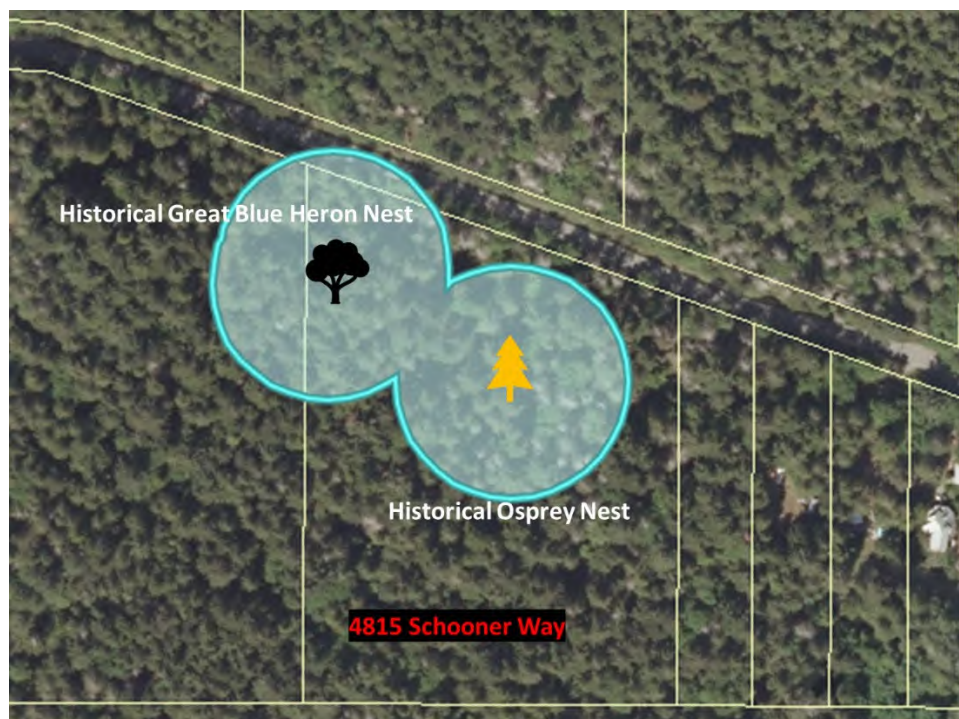


Figure 1: Location of the Raptor and Heron Nest DPAs at 4815 Schooner Way on Pender Island.

The purpose of the Raptor and Heron Nests DPA and the Provincial guidelines is to provide protection for the core features of a nest site by minimizing potentially adverse effects from disturbance due to human activities. The overriding regulation in Section 34 of the Wildlife Act states that:

“A person commits an offence if the person, except as provided by regulation, possesses, takes, injures, molests or destroys: a) a bird or its egg, b) the nest of an eagle, peregrine falcon, gyrfalcon, osprey, heron or burrowing owl, or c) the nest of a bird not referred to in paragraph (b) when the nest is occupied by a bird or its egg.”

Disturbances can include access by humans and their pets, changes in microclimate, access by predators, equipment operation, blasting, aircraft operation, or other acoustic disturbance. Buffers help to maintain the long-term environmental and economic values of an environmentally sensitive area, generally preclude permanent structures, and require the retention of natural vegetation. During the breeding season, bald eagles (Feb 5- Aug 31) on the BC coast can be especially sensitive to activities such as machine landscaping and construction. Hence, although the Raptor and Heron Nests DPA extends 30-50 m from the trunk of the nest tree, provincial recommendations state that there should be a minimum protective buffer of 100 m around an osprey nest. To provide further protection from acoustic disturbance for osprey, any construction activities taking place during the breeding season should have an *additional* 100 m ‘quiet’ buffer zone (BC Ministry of Water, Land and Air Protection 2005).

The historical osprey nest tree is a mature veteran Douglas-fir (*Pseudotsuga menziesii*) and is approximately 35m from the current dwelling on the property.

Table 1: Location of the Raptor and Heron Nests DPAs at 4815 Schooner Way on Pender Island.

Nest Species	Tree Type	UTM Northing	UTM Easting
Osprey	Douglas-Fir (OSP1)	479860	5401051
Great blue heron	Red Alder (GBH1)	479781	5401094
Great blue heron	Red Alder (GBH2)	479784	5401100

Currently, the Douglas-fir osprey nest tree (OSP1; Plate 1) is well-rooted, shows no sign of decay, and has retained the large supporting upper branches; hence, it remains viable as a future nesting site for not only osprey, but bald eagles as well. It is surrounded by other mature trees that can serve as perching areas for adult birds during nesting and rearing of young.

Plate 1. Douglas fir osprey nest tree (centre of photo) located at 4815 Schooner Way. The tree is not currently supporting a raptor nest in the 2022 breeding season (Photo Credit Murrough O’Brien).



At present, the great blue heron nest trees (GBH1 & GBH2) have died and no longer have any appropriate structures to support great blue heron nests. GBH1 has come down and all that remains is a stump and remnant coarse woody debris (Plate 2). GBH2 is still standing but has lost all viable nesting structure (top of tree, branches) and will likely come down over the next few winters (Plate 3).

Plate 2. Photo of historical red alder great blue heron nest tree (GBH1) located at 4815 Schooner Way.



Plate 3. Photo of historical red alder great blue heron nest tree (GBH2) located at 4815 Schooner Way.



Canopy tree species present on the subject property are typical of Douglas-fir – Salal ecosystems, including Douglas-fir, grand fir (*Abies grandis*), and Western redcedar. There are several other veteran Douglas-fir within the vicinity of OSP1 in the Raptor and Heron Nests DPA, which are functioning as critical seed trees for regeneration, as well as perch and foraging trees for songbirds and raptors in the area. Birds detected on the property during the site visit include: pacific wren (*Troglodytes pacificus*), house finch (*Haemorrhous mexicanus*), red-breasted nuthatch (*Sitta canadensis*), western tanager (*Piranga ludoviciana*), Pacific-slope flycatcher (*Empidonax difficilis*), dark-eyed junco (*Junco hyemalis*), orange-crowned warbler (*Leiothlypis celata*), chestnut-backed chickadee (*Poecile rufescens*), American robin (*Turdus migratorius*), song sparrow (*Melospiza melodia*) and purple martin (*Progne subis*).

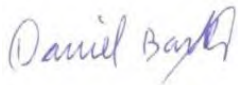
We recommend that any proposed future development planned within the Raptor and Heron Nests DPA GBH1 & GBH2 (Table 1) be exempt from requiring a Development Permit as there is no longer any viable supporting tree in the area that could accommodate a new raptor or heron nest. Any proposed future development within the DPA centered around the Douglas-fir (OSP1, Table 1) should continue to require the issuance of a Development Permit, however, because the supporting veteran tree remains in good condition to support raptor nests in future years. Large veteran trees are becoming increasingly rare in the Coastal Douglas-Fir ecoregion due to ongoing losses to enhance view corridors or accommodate development, as well as losses due to storms. Given that the reproductive success of raptors such as bald eagles and osprey is entirely dependent on the presence of large veteran trees on the landscape, it is essential that those veteran trees that remain are afforded as much protection as possible. The tree in question has supported raptor nests in the past; the objective of the Raptor and Heron Nests DPA is “to preserve and protect remaining raptor and heron nesting sites” (North Pender Island OCP, Section 5.2.8.6), including the retention of “existing natural habitats suitable for raptors and herons, such as potential or currently unoccupied nesting trees, perches, roosting trees, snags, and trees with cavities” (Section 5.2.8.7).

We also recommend that current and future property owners remove any invasive species located within the Raptor and Heron Nests DPA as well as throughout the property as part of ongoing land stewardship. Any revegetation on the properties in the future should be completed using only locally sourced native plants.

Please do not hesitate to contact us 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

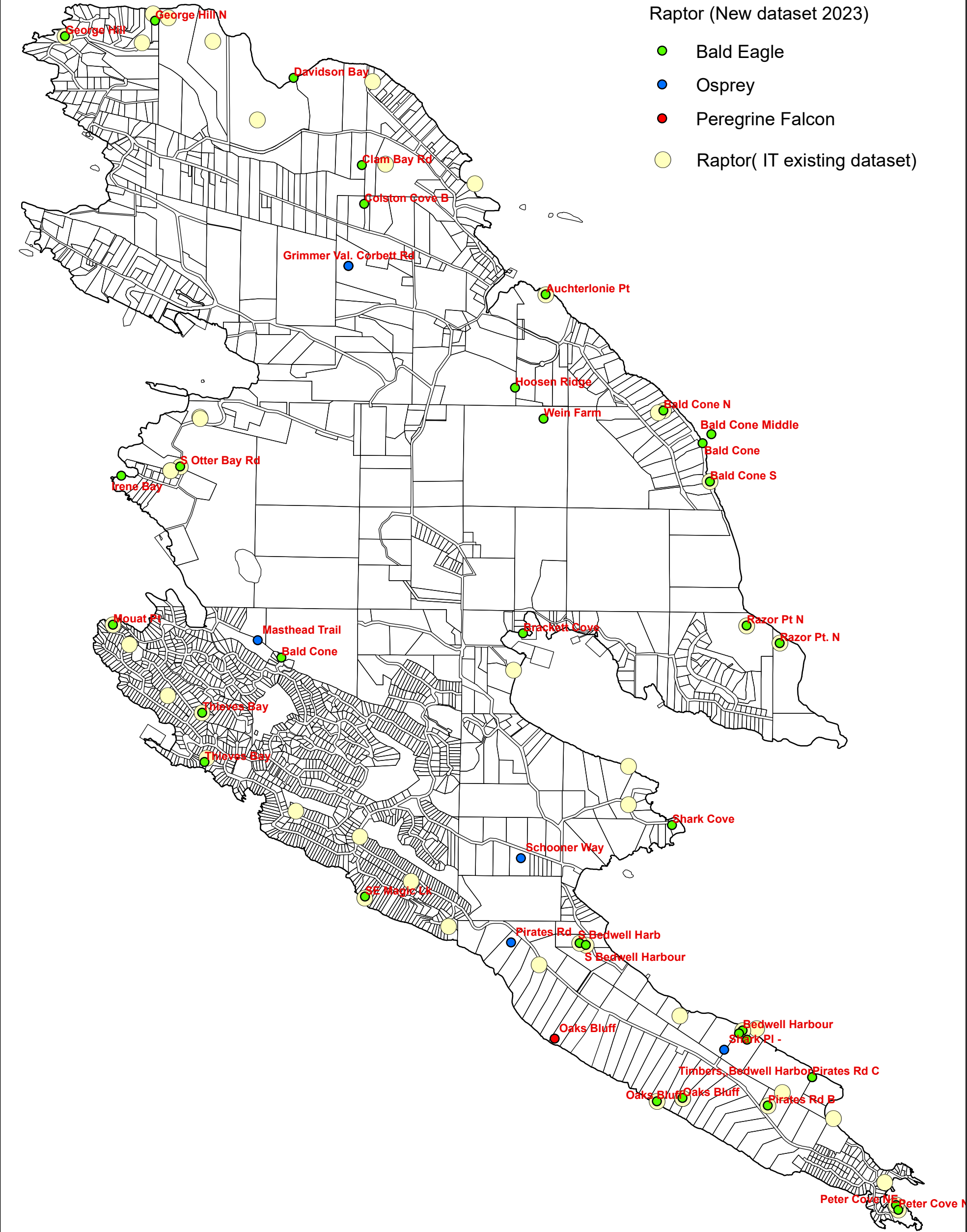


Erin O'Brien, Ph.D.
Director of Science

North Pender Raptor Nest Sites

Draft March 2024

- Raptor (New dataset 2023)
- Bald Eagle
 - Osprey
 - Peregrine Falcon
 - Raptor(IT existing dataset)



XXXX XX, 2024

IT File: NP-LTC
 Raptor Nest DPA Review Project

Via E-mail:

Cowichan Tribes
 Halalt First Nation
 Lake Cowichan 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

Dear Chief and Council:

Re: Raptor Nest Development Permit Area Review Project

I am writing to you on behalf of the North Pender Island Local Trust Committee (LTC) to inform you of the LTC's **Raptor Nest Development Permit Area (DPA) Review project** and to invite you to participate in the next stages of data analysis and review.

The [North Pender Island Official Community Plan No. 171 \(OCP\)](#) includes development permit area requirements for the protection of natural ecosystems, the environment, its ecosystems and biological diversity. The objective of DPA 7 is to preserve and protect raptor and heron nest sites.

DPA 7 areas were first established in 2007. Since then, there has not been a consistent effort to update the underlying [Schedule O](#) mapping data or the associated guidelines to ensure best practices are maintained. As such, the LTC is now seeking to update the DPA 7 mapping, as well as review the DPA 7 provisions in consideration of community and First Nation interests and current best practices.

The LTC has hired a professional biologist to conduct a study of existing designated and potential new sites on North Pender Island in collaboration with a volunteer coordinator who was also involved in the original data collection. A final report from the biologist, including recommendations in respect to amendments to Schedule O and associated DPA 7 provisions is due at the end of March, 2024.

As the LTC moves forward with reviewing the report and considering policy and regulatory changes in respect of DPA 7 on North Pender Island, include potential mapping and OCP policy updates, we would like to know your Nation's interest in the project and how you would like to be involved.

More information on the project, including the [project charter](#) and staff reports, are located here: <https://islandstrust.bc.ca/island-planning/north-pender/projects/>

Thank-you for considering our request to engage on this LTC project initiative.

Respectfully,

Preserving **Island** communities, culture and environment

BSmith

Brad Smith
Island Planner – North Pender Island Local Trust Area

cc: North Pender Island Local Trust Committee

File No.: NP-6500-20-2023: Housing
Access and Affordability
Project

DATE OF MEETING: April 5, 2024
TO: North Pender Island Local Trust Committee
FROM: Brad Smith, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: Housing Access and Affordability Project – Direction to Proceed

RECOMMENDATION

1. **That the North Pender Island Local Trust Committee request staff to report back with a Project Charter and Work Plan, Community and First Nations Engagement Plan, and a draft discussion paper for the North Pender Island Housing Access and Affordability Project.**

REPORT SUMMARY

The purpose of this report is to seek direction from the North Pender Island Local Trust Committee (LTC) on how to proceed with Phase 1 of their Housing Access and Affordability Project.

The recommendation above is supported as:

- Housing access and affordability is a priority for the LTC and all levels of government in Canada;
- Trust Council has now endorsed the project business case including the \$15,000 budget request;
- A project charter, workplan and engagement plan are needed to proceed; and,
- A discussion paper will allow for all preliminary analysis and community input to be summarized for LTC consideration of next steps including potential amendments to bylaws.

BACKGROUND

Lack of affordable housing has long been a concern of the North Pender community. Previous local trust committees have taken actions such as permitting secondary suites and limiting and regulating short-term vacation rentals as discrete initiatives. Housing is also a priority in Trust Council's strategic plan and is a priority of the Regional Planning Committee.

To further address housing issues on North Pender, the LTC has initiated a Housing Access and Affordability Project. A project business case with a \$15,000 budget was endorsed by Trust Council at their March Trust Council meeting, and staff are now seeking direction on how to proceed with the project.

The endorsed business case directs the project to proceed in three phases over two fiscal years:

Phase 1: Establish project scope, gather data and research, and to engage in consultation with the community, First Nations, and stakeholder groups.

Phase 2: LTC to review the results of consultation, consider options and give direction to draft bylaw amendments and to draft a housing action plan.

Phase 3: LTC to undertake consultation on draft bylaws and housing action plan, and proceed with the legislative steps to amend the OCP and LUB.

Potentially a fourth phase could include implementation of non-regulatory housing action plan items. This could be considered as a separate project by the LTC.

The proposed timeline for the project as identified in the endorsed business case is as follows:

DRAFT PROJECT WORK PLAN	
Milestone	Target Dates
Pre-Project	2023
LTC endorsement of Business Case, forwarded to Committees	July
Committees and Trust Council consideration of business case	Sept – Dec
Project Initiation	2024
LTC scoping of project, development of engagement plan and development of Project Charter	Feb – May
Research, data gathering and presentation	March - May
Phase 1: Consultation	2024
First Nation, stakeholder group, and public consultation	May - Dec
Phase 2: Drafting	2025
LTC Review of consultation results and policy options	Jan - March
Direction to draft bylaws and a housing action plan	March
Phase 3: Legislative	2025
LTC Review of draft bylaws and housing action plan	April - June
Referrals, Community Information Meeting(s), revisions and first reading	June - Sept
Community Information Meeting/Public Hearing	Oct
3 rd reading, Executive Committee, Minister	Oct - Dec
Phase 4: Implementation	2026
Communications and implementation	Jan - March

As an initial step, staff will develop a Project Charter and Work Plan and Community and First Nations Engagement Plan for LTC approval, based on the endorsed business case.

Staff also propose to provide the LTC with a discussion paper summarizing the current housing profile and challenges, and identifying options for further exploration based on a review of the housing toolkit and community input including at the Saturday, May 25 Community Information Meeting (CIM) on housing.

This discussion paper could then be used as a basis for the next steps of First Nation, stakeholder group and public consultation and support consideration of potential amendments to bylaws.

Rationale for Recommendation

The recommendation on page 1 is supported as:

- Housing access and affordability is a priority for the LTC and all levels of government in Canada;
- Trust Council has now endorsed the project business case including the \$15,000 budget request;
- A project charter, workplan and communications plan are needed to proceed; and,
- A comprehensive discussion paper will allow for all preliminary analysis and community input to be summarized for LTC consideration of next steps including potential amendments to bylaws.

ALTERNATIVES

1. The LTC could choose not to proceed with this project

If the LTC chooses not to proceed with this project they open the opportunity to proceed with an alternative major project. However, they will not have funding to support this alternative in the 2024/25 fiscal year unless Trust Council agrees to redirect funding that was supported for the Housing Project.

NEXT STEPS

With direction from the LTC, staff will draft a project charter, work plan and communication plan for LTC endorsement. Staff will also initiate a draft discussion paper based on the housing toolkit template.

Submitted By:	Brad Smith, Island Planner	March 25, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	March 25, 2024

File No.: Fee Bylaw 226

DATE OF MEETING: April 5, 2024
TO: North Pender Island Local Trust Committee
FROM: Robert Kojima, Regional Planning Manager
Southern Team
SUBJECT: Proposed Fee Bylaw

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 adopted.**

REPORT SUMMARY

The purpose of this report is for the North Pender Island Local Trust Committee (LTC) to consider adoption of Bylaw No. 226, which would replace the current 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 requested all local trust committees to adopt the new fees bylaw. The North Pender Island Local Trust Committee received the request at their October 2021 regular business meeting and requested staff to draft a new fees bylaw based on the new model fees bylaw. At several meetings in 2022 the LTC considered the draft bylaw, a community information meeting was held, and ultimately the LTC of the day deferred consideration of the new fee bylaw to the current term. In January 2023 the LTC deferred consideration until November, ultimately the LTC considered the draft bylaw at the January regular business meeting, gave first, second and third readings and forwarded it to the Executive Committee for approval. Executive Committee approved the bylaw at the meeting of February 28th. The bylaw is on the agenda for consideration of adoption.

Rationale for Recommendation

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.

Submitted By:	Robert Kojima Regional Planning Manager	March 26, 2024
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ATTACHMENTS

1. Proposed Bylaw No. 226

PROPOSED

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*.

PROPOSED

“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.

TABLE 1 – Bylaw Amendments (OCP and Zoning Bylaw	
Column 1: Type of Application	Column 2: Fee
Major (e.g. change to density or OCP)	\$8,112
Minor (e.g. regulation change without changing density or OCP amendment)	\$4,784

PROPOSED

TABLE 2 – Permits	
Column 1: Development Permit in Respect of:	Column 2: Fee
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
Type of Development Variance Permit	
9. Development variance permit (commercial, industrial or institutional development)	\$1,976
10. Development variance permit (residential development)	\$1,976
Type of Temporary Use Permit	
11. Temporary Use Permit (residential/commercial/industrial)	\$2,236
12. Temporary Use Permit Renewal	\$728
Other Permits	
13. Heritage Alteration Permit	\$1,768
Combination Applications	
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

PROPOSED

TABLE 3 – Subdivision Referrals	
Column 1	Column 2: Fee
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

TABLE 4 – Other Applications	
Column 1: Type of Application	Column 2: Fee
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.

PROPOSED

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.

PROPOSED

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 26TH DAY OF JANUARY , 2024

READ A SECOND TIME THIS 26TH DAY OF JANUARY , 2024

READ A THIRD TIME THIS 26TH DAY OF JANUARY , 2024

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
28TH DAY OF FEBRUARY , 2024

ADOPTED THIS _____ DAY OF _____ , 202X

CHAIR

SECRETARY

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

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 including forest cover, tree cutting and removal.

11-Aug-2022

Future Projects Report

North Pender Island

6. *Browning to Driftwood Corridor Plan*

Responsible

Date Received

Coordination on a transportation plan for the Driftwood to Port Browning corridor.

11-Aug-2022

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 MANAGEMENT INC	23-May-2018	Application for development permit for a building in a form and character DPA
Planner: Phil Testemale			
Planning Status			
Status Date: 28-Mar-2024			
Applicant in communication with MoTI and Driftwood over access.			
Status Date: 21-Feb-2024			
Meeting BS, PT and Karen Hillel (Architect) - Anticipate end of March for submission of plans.			
Status Date: 31-Jan-2024			
Architect hired to prepare plans for DP application			

File Number	Applicant Name	Date Received	Purpose
NP-DP-2023.3	Shave, Becky	04-May-2023	4815 SCHOONER WAY: Application for a DP for development in a DPA.
Planner: Brad Smith			
Planning Status			
Status Date: 29-Jan-2024			
LTC deferred application at Jan 26 meeting, directed BL enforcement to send demand letter to applicant requiring 3 quotes			
Status Date: 08-Jan-2024			
Staff email applicant seeking cost estimate - no response again - application on Jan 26 agenda with recommendation to proceed with existing quote + large contingency			
Status Date: 08-Dec-2023			
Staff email applicant seeking cost estimate - no response			

Applications

Development Permit

File Number	Applicant Name	Date Received	Purpose
NP-DP-2024.2	Milliken, June	05-Feb-2024	1610 SCHOONER WAY & 1601 CHART DR: A combination DP and DVP application for a development in a woodland Development Permit Area.

Planner: Phil Testemale

Planning Status

Status Date: 16-Feb-2024

April 5 agenda for consideration

Status Date: 12-Feb-2024

Planner Testemale assigned

Status Date: 12-Feb-2024

Fee received

File Number	Applicant Name	Date Received	Purpose
NP-DP-2024.3	Gamel, Robert	16-Feb-2024	385 EVERGREEN LANE: Application for a DP for development in the Sidney Island Geotechnical Area B DPA.

Planner: Phil Testemale

Planning Status

Status Date: 18-Mar-2024

May/June meeting for consideration.

Status Date: 18-Mar-2024

Emailed applicant about timing and process. PT

Status Date: 04-Mar-2024

Planner Testemale assigned

Applications

Development Variance Permit

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2024.1	Milliken, June	05-Feb-2024	1610 SCHOONER WAY & 1601 CHART DR: A combination DP and DVP application for a development in a woodland Development Permit Area.

Planner: Phil Testemale

Planning Status

Status Date: 16-Feb-2024
April 5 agenda for consideration

Status Date: 12-Feb-2024
Planner Testemale assigned

Status Date: 12-Feb-2024
mapping requested.

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2024.2	Tretick, Sandra	13-Feb-2024	5706 CANAL RD: Application for a variance for the height of an accessory building

Planner: Phil Testemale

Planning Status

Status Date: 06-Mar-2024
May/June agenda for LTC consideration

Status Date: 21-Feb-2024
Application assigned to Planner Testemale

Status Date: 15-Feb-2024
Fee received

Applications

Development Variance Permit

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2024.3	Houssian, Joey	01-Mar-2024	6601 RAZOR POINT RD: Application for a variance for siting of a dwelling in a setback, the combined building area (existing cottage), and the height of the new building.

Planner: Brad Smith

Planning Status

Status Date: 27-Mar-2024

Planned for late May early June LTC meeting agenda - date TBD

Status Date: 05-Mar-2024

Fee received

Status Date: 05-Mar-2024

Application assigned to Planner Smith

Rezoning

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2024.1	Gulf Excavating	08-Jan-2024	4415 BEDWELL HARBOUR RD: Application for rezoning to amend the land use bylaw and OCP to permit Gulf Excavating to continue operations as established under the temporary use permit.

Planner: Brad Smith

Planning Status

Status Date: 27-Mar-2024

Preliminary staff report on April 5, 2024 LTC agenda

Status Date: 26-Mar-2024

Application assigned to Planner Smith

Status Date: 08-Jan-2024

Application received

Applications

Subdivision

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2020.1	BRADFORD & MILLIKEN	05-Mar-2020	1610 Schooner Way - A subdivision referral for a boundary adjustment subdivision.

Planner: Phil Testemale

Planning Status

Status Date: 16-Feb-2024

NP-DP-2024.2 and NP-DVP-2024.1 Rec'd

Status Date: 31-Jan-2024

Applicant making DP/DVP application shortly.

Status Date: 26-Jan-2024

Emailed with applicant about IT requirements

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

Planner: Bruce Belcher

Planning Status

Status Date: 15-Nov-2023

Referral response sent to MOTI - Awaiting PLR

Status Date: 26-Sep-2023

Application assigned to Planner Belcher

Status Date: 25-Sep-2023

Payment received

Applications

Subdivision

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

Planner: Brad Smith

Planning Status

Status Date: 08-Mar-2024

Referral letter sent to MOTI from Islands Trust staff - includes same conditions as last application and strengthened recommendations with respect to need for a community water supply

Status Date: 17-Jan-2024

Staff memo on Jan 26 LTC agenda

Status Date: 10-Jan-2024

Planner met with applicants legal representative

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2023.3	Pender Island Conservancy	19-Oct-2023	3201 ARMADALE RD: A referral for a subdivision application for 1 new lot

Planner: Brad Smith

Planning Status

Status Date: 01-Mar-2024

Referral letter sent to MOTI with conditions of subdivision including required DVP and DP

Status Date: 17-Jan-2024

Planner met with Erin O'Brien to review application status and potential PLR conditions

Status Date: 21-Dec-2023

Planner conducted site visit

Applications

Subdivision

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2024.1	Polaris Land Surveying Inc.	13-Feb-2024	1208 OTTER BAY RD: a subdivision application for a 2 lot conventional subdivision.
Planner: Phil Testemale			
Planning Status			
<u>Status Date:</u> 18-Mar-2024 Email to Tara B. (MoTI) will provide comments March 28.			
<u>Status Date:</u> 13-Mar-2024 Coordinate with Gillian N. to review/provide comments.			
<u>Status Date:</u> 22-Feb-2024 Fee received			

Temporary and Industrial Use Permit

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2024.2	Pettyfer, Robin	12-Feb-2024	1601 STORM CRES: A temporary use permit for a short term vacation rental.
Planner: Phil Testemale			
Planning Status			
<u>Status Date:</u> 17-Feb-2024 April 05 LTC Agenda for consideration			
<u>Status Date:</u> 14-Feb-2024 Fee received			
<u>Status Date:</u> 14-Feb-2024 Application assigned to planner Testemale			

Applications

Temporary and Industrial Use Permit

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2024.4	Riley, Wilma	11-Mar-2024	1628 SCHOONER WAY: Application for a temporary use permit for a short term vacation rental.

Planner: Phil Testemale

Planning Status

Status Date: 18-Mar-2024

May/June meeting for consideration

Status Date: 18-Mar-2024

Emailed applicant about timing and process. PT

Status Date: 12-Mar-2024

fee received

Islands Trust
LTC EXP SUMMARY REPORT F2024
Invoices posted to Month ending February 2024

650 North Pender	Invoices posted to Month ending February 2024	<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	2,837.74	-1,584.74
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>2,879.64</u>	<u>-697.64</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
2023-040 (Standing) Proposed Bylaws 224 & 229 - 4606 Razor Point Rd 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
2022-002 (Standing) Travel Trailer Enforcement that the North Pender Island Local Trust Committee direct bylaw staff to defer enforcement on unlawful dwellings, except in the following circumstances: a. There are concerns regarding health and safety; 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; c. There are concerns of possible contamination of wells or other drinking water sources; d. Unlawful dwellings are in environmentally sensitive areas; e. There are non-permitted campgrounds; and 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
2020-010 (Standing)	Carried	30-Jan-2020
15.1 Policy options for Bylaw Enforcement Compliance on unlawful uses that the North Pender Island Local Trust Committee adopt the following policy on unlawful land uses and planning applications: 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. 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. 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 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.		
2019-074 (Standing)	Carried	04-Jul-2019
13.3 Model Cell Tower Strategy - Staff Briefing that the North Pender Island Local Trust Committee adopt the model cell tower strategy for future review and consideration of proposals.		

Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2019-072 (Standing) 13.2 Standing Resolution - Reconciliation Report 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
2019-061 (Standing) 16.2. Rise and Report 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
2019-030 (Standing) 13.2 Advisory Planning Commission - Staff Memo 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
2019-016 (Standing) 12.4 Adopted Policies and Standing Resolutions 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
2018-070 (Standing) 12.2 Retail Cannabis Licensing - Staff Report 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
2006-080 (Standing) Communications Policy Policy Number NP-LTC-01-06 (Communications Policy) establishes guidance for the preparation and dissemination of routine non-statutory notices, extraordinary notices and trustee newsletters.	Carried	25-May-2006



ISLANDS TRUST CONSERVANCY REPORT TO LOCAL TRUST COMMITTEES AND BOWEN ISLAND MUNICIPALITY

HIGHLIGHTS OF ISLANDS TRUST CONSERVANCY NOVEMBER 21st, 2023 and JANUARY 23RD, 2024 BOARD MEETINGS

*NOTE: For more detail on Conservancy meetings, including meeting minutes, please visit
<https://islandstrust.bc.ca/whats-happening/meetings-and-events/>*

1. ORGANIZATION UPDATES/TEAM

- Trustee Risa Smith was elected Chair of the ITC Board. Trustee Gauvreau was elected Vice-Chair of the ITC Board.
- Trustee Gauvreau was appointed as a representative to the Governance Committee.
- Mike Richards was hired as the new Strategic Fundraising Specialist.
- Aislyn King was hired as the Temporary GIS Technician.
- The ITC Board approved a 2024 meeting schedule.

2. STRATEGIC PLANNING/ADMINISTRATION

- The Islands Trust, Trust Area Services Director provided background on the following:
 - Advised Board members that Trust Council will receive a briefing with the climate change emergency materials, produced in 2019, to support a discussion about further action regarding the climate change emergency.
 - Provided background on the eelgrass mapping project and funding for phase II.
 - Presented a briefing from Trust Council about Islands Trust 50th Anniversary Activities.
 - Noted that Executive Committee will be considering a request to sponsor a Natural Area Protection Tax Exemption Program (NAPTEP) fee.
- Trustee Elliot advised Chair Smith's presentation to Trust Council in September on NAPTEP was well received.
- The Islands Trust Conservancy Board directed staff to review ITC Board policies regarding approval of acquisitions of land, conservation covenants or leases to require that applicants waive confidentiality for the purpose of engagement with First Nations.
- The Islands Trust Director presented a briefing on ITC Mapping and Technical Needs. The Board directed staff to forward the briefing to the Executive Committee for the January 31st meeting.
- The ITC Board recommended to the Islands Trust Council that the 2024-2025 budget include funding for a permanent Protected Areas Manager and selection and implementation of a protected area management database.
- The Trust Area Director presented an update on the Municipal Insurance Association Agreement. Staff are reassessing insurance coverage for the Conservancy, including coverage for volunteers. Staff are reviewing and will report back to the Board on the development risk-management policy.



ISLANDS TRUST CONSERVANCY REPORT TO LOCAL TRUST COMMITTEES AND BOWEN ISLAND MUNICIPALITY

- Trustee Elliot provided updates of interest to the Conservancy from Executive Committee including:
 - The policy statement amendment project which is currently with First Nations for comment in line with Islands Trust commitment to reconciliation. Once comments are in, the Board will be able to provide further review before approval.
 - An invitation to ITC Board members to attend the regular Executive Committee meeting on January 31st.

3. COVENANT AND PROPERTY ACQUISITIONS

- ITC increased the size of the Nighthawk Hill NAPTEP Covenant on North Pender Island by 1 ha.
- ITC registered a revised covenant over Brooks Point Regional Park on South Pender, including expanding the covenant to cover the entire 5.2 ha park.

4. COVENANT AND PROPERTY MANAGEMENT

- ITC's Property Monitoring Specialist presented the ITC Nature Reserves Monitoring Report for 2023. The Board accepted the 2023 report and as appropriate, requested staff explore opportunities to engage the public in nature reserve monitoring.
- ITC's Covenant Management and Outreach Specialist presented the ITC NAPTEP Covenant Monitoring Report for 2023. The Board accepted the 2023 report and directed staff to address violations and ecological concerns as identified in the report.
- The ITC Board endorsed the Operational Plan for the eradication of Fallow Deer from Sidney Island, subject to terms and conditions to mitigate risk of damage to ITC covenant areas.

5. COMMUNICATIONS AND OUTREACH

- ITC issued its Fall 2024 Heron Newsletter available at <https://islandstrust.bc.ca/conservancy/heron-newsletter/>

6. FUNDRAISING AND CONSERVANCY SUPPORT

- The ITC Board approved an Opportunity Fund Grant of up to \$7,000 be awarded to Gabriola Land and Trails Trust for costs associated with placing a NAPTEP conservation covenant on a Gabriola property.

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- **Learn more about Islands Trust Conservancy:** <https://islandstrust.bc.ca/conservancy/>

Subscribe for Islands Trust Conservancy updates: <https://islandstrust.bc.ca/subscribe/>

MEMORANDUM

File No.: 400-30
12-RPT-HSNG

DATE OF MEETING: January or February 2024
TO: All Local Trust Committees
FROM: Stefan Cermak, Director
Planning Service
SUBJECT: **Housing Statute Changes to British Columbia Legislation**

PURPOSE

The purpose of this memorandum is for Local Trust Committee's to receive a copy of the Housing Statutes and Regulation Changes to BC Legislation briefings received at Trust Council December 7, 2023 and subsequently updated at Executive Committee December 20, 2023. The Executive Committee recommends that Local Trust Committees consider requesting to opt-in to the provincial's principal residence requirement for short term rental accommodations.

BACKGROUND

On December 7, 2023, Trust Council received a briefing: Housing Statute Changes to British Columbia (Attachment 1). The briefing provided an update and speaking notes on:

- The Short Term Rental Accommodation Act (Bill 35)
- The Housing Statutes (Residential Development) Amendment Act (Bill 44)
- Housing Statutes (Development Financing) Amendment Act (Bill 46)
- Housing Statutes (Transit Oriented Areas) Amendment Act (Bill 47)
- Speculation and Vacancy Tax Act

On December 20, 2023, the Executive Committee received an update (Attachment 2) to the above briefing as provincial regulations were adopted the same day Trust Council considered the original briefing. After consideration, the Executive Committee carried the following resolution:

"That Executive Committee request staff to forward the housing statutes and regulation changes of BC legislation to local trust committees with a recommended consideration of request for opting in to the short term accommodation regulation for the 2025 intake."

CARRIED

As per the attached briefing:

A sample Local Trust Committee resolution to opt-in to the provincial principle residence requirement may read:

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

Requests should include appropriate background information that describes the area and jurisdiction. The request must be submitted to the Minister of Housing by March 31, 2024, and the prescribed period of time starts on November 1, 2024. If the Province grants a change to exempt land status, that change remains in effect indefinitely unless a subsequent request to reverse the exemption is made by March 31 of a future year.

NEXT STEPS

All Local Trust Committees, to the exception of Ballenas-Winchelsea, meet before the 2024 March Trust Council meeting. Staff will respond to the ministry in one letter that contains all opt-in resolutions immediately following Trust Council in March 2024. Staff will provide the appropriate background information that describes the area and jurisdiction.

Submitted By:	Stefan Cermak Director, Planning Services	January 18, 2024
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ATTACHMENTS

1. Attachment 1 - Trust Council Housing Statue Changes to British Columbia Briefing for the meeting December 7, 2023
2. Attachment 2 – Executive Committee Housing Statue Changes to British Columbia Briefing Update for the meeting December 20, 2023

To:	Trust Council	For the Meeting of:	December 5, 2023
From:	Stefan Cermak, Director, Planning Services	Date Prepared:	November 15, 2023
SUBJECT:	Housing Statute Changes to British Columbia Legislation		

PURPOSE: To provide Trust Council with an update on recent and upcoming legislative changes regarding provision of housing in British Columbia, and how the legislation may affect the Islands Trust Area and local trust committees.

BACKGROUND:

The British Columbia Government has so far enacted, or is in the process of enacting, five pieces of legislation to increase housing supply throughout BC. They are:

1. ***Speculation and Vacancy Tax Act*** – came into force in on November 27, 2018. The Speculation and Vacancy Tax Regulation was last amended April 3, 2023.
2. ***The Short Term Rental Accommodation Act (Bill 35)*** – received Royal Assent on October 26, 2023 and will be brought into force by Ministerial regulations expected in December 2023.
3. ***The Housing Statutes (Residential Development) Amendment Act (Bill 44)*** - received First Reading on November 6, 2023, and is expected to receive Royal Assent before the end of 2023. This Act will also be brought into force by Ministerial regulations, which are expected in early 2024.
4. ***Housing Statutes (Development Financing) Amendment Act (Bill 46)*** – received First Reading on November 7, 2023, and is expected to receive Royal Assent before the end of 2023.
5. ***Housing Statutes (Transit Oriented Areas) Amendment Act (Bill 47)*** received First reading on November 8, 2023 and is expected to receive Royal Assent before the end of 2023.

Speculation and Vacancy Tax Act

The *Speculation and Vacancy Tax Act* requires owners in prescribed areas to declare their primary home, and with certain exceptions, would be taxed on homes that they do not occupy as a primary residence. The Act applies to areas specified in the Act (municipalities in the Capital Regional District and Metro Vancouver, as well as seven other municipalities (Abbotsford, Chilliwack, Kelowna, Nanaimo, West Kelowna, Lantzville and Mission)). The Act also includes one unincorporated area, the University Endowment Lands. In April 2023, the list was expanded by Ministerial regulation to include six more municipalities (Duncan, North Cowichan, Squamish, Ladysmith, Lake Cowichan and Lions Bay).

Islands Trust Area and the rest of the Province is excluded from the *Speculation and Vacancy Tax Act* requirements. The Act allows the Minister, by regulation, to add areas to the list of areas to which the *Speculation and Vacancy Tax Act* applies.

The Short-Term Rental Accommodation Act.

The attached Speaking Notes” provides an overview of the Act and how it applies in the Islands Trust Area. Staff understands that the regulations that bring the Act into force will include the ability for any municipality, regional district electoral area or local trust committee area, that are currently not included in the principal residence requirement for a short-term vacation rental, to opt-in. The regulation should address whether opting-out (once in) is something that could be considered, and if so, what the mechanism would be. Staff will know more about this once the regulations are released in December 2023.

The Act requires that platforms that advertise short-term rental accommodations to be registered with the Province. This may help with bylaw enforcement if the Province shares that information with local governments (the Act authorizes disclosure of personal information collected by the province under the authority of the legislation to be disclosed to local governments to support bylaw enforcement).

The Act also allows regional districts to issue business licenses for short-term rental accommodations, and where a business license scheme is in place, that a business license be required for advertising on platforms. The option for business licenses is not open to local trust committees, only regional districts.

The Act also removes legal non-conforming protection for short-term rental accommodation uses.

Action for the Islands Trust is for each local trust committee to consider whether or not it wants to opt-in. Opting-in would mean the Provincial restriction on short-term rental accommodations will over-ride any schemes that the local trust committee has enacted (where there is a collision between them).

The Housing Statutes (Residential Development) Amendment Act

The attached Speaking Notes” provides an overview of the Act and how it applies in the Islands Trust Area.

Residential Density Requirements

The Islands Trust Area is excluded by an amendment to the *Islands Trust Act* from the provincially mandated minimum density requirements. Ministerial regulation will establish to which municipalities the minimum density requirements will apply (staff understands that this will be all municipalities over 5,000 population).

The Act also allows the Minister by regulation to add an electoral area to the list on request of a regional district board. It is important to note that local trust committee areas could never be included in the density requirement without an amendment to the *Islands Trust Act*. However, Bowen Island Municipality could be included by Ministerial regulation either by virtue of its population (if the population goes over 5,000 Bowen may be automatically included), or on request of Bowen Island Municipal Council. The Act excludes land that is not on a municipal water or sewer system, is protected or are lots over a certain size.

There is no action required on this for local trust committees.

Housing Needs Reports Amendments

Housing Needs Reports now must include housing needs for 20 years (previously it was 5 years), and the first report is due by December 2028. Transitional provisions in the Act require that an interim report be received before a date to be prescribed by Ministerial regulation, or existing reports be updated by the

prescribed date to reflect the new 20 year horizon and a few other changes to housing needs content requirements.

These reports must then be published as soon as possible to the Islands Trust website, and the requirement to consider them in official community plans is continued. It appears that the mandatory requirement to adopt an official community plan and land use bylaw to reflect the housing needs report does not apply to local trust committees (this appears to apply only to municipal councils). This is a point that needs clarification with Ministry staff.

Action for Islands Trust is to ensure resources and funding is in place to update existing housing needs reports to meet the new requirements so they qualify as transitional, and then plan budget and resources to commission updates to the housing needs reports starting in 2028 and then every five years after that. While it is not mandatory for local trust committees, there should also be a program to ensure that all 20 official community plans are kept up to date reflecting the housing needs reports findings.

Public Hearing Changes

The Act now prohibits public hearings being held for land use bylaw amendments that are consistent with the official community plan and exclusively, or at least 50 per cent, residential. The intent is to allow public comment at the policy level (amendments to official community plans still require public hearings) and to streamline the approval process. There is nothing in the legislation that would prohibit less formal discussions between the local trust committees and Bowen Municipal Council and the community, such as open houses, surveys and community information meetings.

Action for Islands Trust is a change in process for local trust committees when considering land use bylaw amendments that are consistent with the Official Community Plan for residential rezonings, or land use bylaw amendments that contains at least a 50 per cent component of residential. Note that if there is a Official Community Plan amendment as part of the land use bylaw amendment, then a public hearing is required for the amendment to the Official Community Plan.

Housing Statutes (Development Financing) Amendment Act

Amenity Cost Charges

The Act adds a new section to the *Local Government Act* regulating how local governments develop and levy amenity cost charges (ACC), and makes changes to development cost charges and development cost levies (in the Vancouver Charter). The new system provides a framework and regulation on what may be considered as an amenity, who may be required to pay them and who may be exempted, the process to develop an amenity cost charges bylaw, and a reporting requirement. Amenity cost charges are charged at time of subdivision or issuance of a building permit.

Local trust committees are excluded by an amendment to the *Islands Trust Act* from the new ability of local government to levy amenity cost charges. Local trust committees are already exempt from the ability to levy development cost charges. The reason for the exemption is that both of these tools are intended to fund infrastructure improvements related to development, and local trust committee are not responsible for infrastructure.

The new legislation appears to apply to regional districts, and regional districts could, by bylaw, determine to collect amenity cost charges for new construction in the Islands Trust Area.

Housing Statutes (Transit Oriented Areas) Amendment Act

The Act adds a new section to the *Local Government Act* establishing minimum density and height requirements around prescribed transit stations and major bus stops. Regulations will establish which transit stops are included (likely in larger cities) and establish the distance around the stop and the minimum height requirements.

While local trust committees are excluded by an amendment to the *Islands Trust Act*, this is included here to complete the currently known legislative updates to the local government planning legislation.

ATTACHMENT(S):

Speaking Notes – Bill 35 (Short-term Vacation Accommodation) and Bill 44 (Housing Statutes).

FOLLOW-UP:

As requested by the Regional Planning Committee.

As this is new information, staff will update as more information on regulations becomes available. This should be forwarded to Trust Council and all trustees for information and to assist with answering public questions.

Prepared By: David Marlor, Director, Legislative Services

Reviewed By/Date: Robert Kojima, Regional Planning Manager
Stefan Cermak, Director, Planning Services/ November 8, 2023

Backgrounder/Speaking Notes

Bill 44 - Housing Statutes (Residential Development) Amendment Act, 2023 (First Reading version)

Bill 35 - 2023 Short-Term Rental Accommodations Act (Royal Assent)

November 9, 2023

[Bill 44 Housing Statutes \(Residential Development\) Amendment Act, 2023](#)

- The first reading of Bill 44 – 2023 Housing Statutes (Residential Development) Amendment Act, 2023 was on November 1.
- In this Act, "housing unit" means a self-contained dwelling unit
- "local government" includes a local trust committee as defined in section 1 of the *Islands Trust Act*

Minimum Density Requirements

The new provincially mandated minimum residential density requirements added to the planning section (Part 14) of the Local Government Act do not apply to local trust committees by a consequential amendment to the Islands Trust Act. Staff understanding is that this section will also not apply to municipalities under a certain population. The BC Government news release suggests most municipalities with a population under 5,000 people will be exempt; however this will be implemented by regulation. Likely this section will not apply to Bowen Island Municipality based on population. And if it does, would only apply where lots are connected to municipal water and sewage and the legislation excludes specified protected lots or large lots. Staff will need to wait for the regulation to know for sure.

Housing Needs Reports

Changes to the Housing Needs Reports requirements apply to local trust committees and Bowen Island Municipality as follows:

- Housing needs report must be received by December 31, 2028, and then by December 31st every five years after that. A transitional provision in the legislation requires that existing housing needs reports are updated to reflect the new requirements by a prescribed date – that date will be in the forthcoming regulations and will likely be by the end of 2024 or early 2025.
- Housing needs reports must consider five-year and 20-year timelines for expected housing requirements (previously only five years required).
- When developing or amending an Official Community Plan (OCP), the governing body must consider the most recent housing needs report and the OCP must include statements and map designations. The housing needs report should include approximate location, amount, type, and density of residential development that is required to meet anticipated housing needs over a period of 20 years.
- An OCP must now include provisions for 20 years of housing as determined in the housing needs report
- OCPs must be updated within a time period to be prescribed by regulation following receipt of an updated housing report (which will be required once every five years).
- The minimum requirements for housing must be permitted outright in the OCP, not conditional (i.e. cannot require conditions (such as provision of amenities) for the housing to be provided).

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

Bowen, Denman, Gabriola, Galiano, Gambier, Hornby, Lasqueti, Mayne, N. Pender, Salt Spring, Saturna, S. Pender, Thetis

Public Hearing for Housing Rezoning

The following changes to the public hearing requirements for housing rezoning apply to local trust committees and Bowen Island Municipality:

- Public hearings on proposed zoning bylaws must **not** be held if:
 - an official community plan is in place for that area
 - the bylaw is consistent with the official community plan
 - the purpose of the bylaw is to permit a residential development
 - the residential component of the development accounts for at least half of the floor area of all proposed structures in the development
- Note that notice must be given if a public hearing is not held.

Official Community Plan Adoption

Previously, the decision to adopt an official community plan was discretionary. **Now it is mandatory.** This appears to not apply to the Islands Trust as it states municipal council and a prescribed class of regional districts. This needs to be clarified with Ministry staff but will be obvious once the regulation has been released.

- All municipal councils, board of a regional district, or a board in a prescribed class of regional districts must adopt one or more OCPs.

Bill 35: 2023 Short-Term Rental Accommodations Act

- **Royal Ascent October 26, 2023**– will be brought into force by regulation, which is expected in December 2023.

Registration of Short Term Rental Platforms

- Requires that all platforms advertising short-term rentals must be registered with the Province

Restrictions on Homes that can be used for Short Term Rentals

- For those lands not exempted, legislation requires that the short term rental occurs in the host's residence, or in not more than one accessory dwelling unit.
- Local trust committees are exempted; municipalities under a certain size will be exempted, unless adjacent to a major municipality that is not exempted. Staff not sure if Bowen Municipality will be included or exempted given its proximity to Metro Vancouver.
- Provincial staff have advised that local trust committees will be able to opt-in so that the residence restriction applies. How this happens will be determined by regulation; however, it is likely a resolution of the local trust committee requesting to be removed from the exempted list. The regulation will also indicate how a local trust committees that chooses to opt-in can opt-out in the future.

No Legal Non-Conforming Status

- The legislation removes legal non-conforming status for short-term rentals. This means that if there are any short-term rentals operating and the bylaws change to prohibit them, those short-term rentals cannot continue to operate. Non-conforming use protection will continue to exist for other land uses.

Business Licenses

- The legislation now allows regional districts to require business licenses for short term rentals. This option is not available to local trust committees.

Focus of the Legislation

- The legislation focuses on three key areas:
 - Increasing fines for Municipal Ticket Information (MTI), and strengthening tools for local governments. This is not applicable in all local trust areas, since only three LTCs have MTI bylaws (though those that don't can adopt an MTI bylaw). Bylaw Enforcement Notification ticketing can continue to be used to enforce.
 - Returning more short-term rentals to long-term homes
 - Establishing provincial rules and enforcement
- This proposed legislation will not apply to:
 - Hotels and motels
 - Additional types of properties, for example, timeshares and fishing lodges
 - Communities on First Nations reserve land
 - Modern Treaty Nations will also be exempt but will be able to opt into the legislation, if desired
 - Resort municipalities and mountain resort areas
 - Regional district electoral areas
 - Municipalities of less than 10,000 population, unless adjacent to a larger municipality that is under the regulation (but not an electoral area close to one)

Islands Trust Background:

- Islands Trust is a special-purpose government mandated to preserve and protect over 450 Islands and surrounding waters in the Salish Sea in cooperation with other levels of government
 - Poorly managed growth could threaten the preservation and protection of the Trust Area
- The Islands Trust Council has declared that a housing equity and workforce shortage crisis exists on many of the islands within the Islands Trust Area
 - Strengthening housing affordability is an Islands Trust Council priority
 - Lack of available workforce housing impacts the viability of island businesses, the ability to deliver services, and other aspects of community life such as volunteerism
- Short Term Vacation Rentals (STVR) have been a long standing concern for Islands Trust
 - In 2012, the Salt Spring Island Local Trust Committee was unsuccessful at seeking an injunction via the Supreme Court of British Columbia to restrain a company from using or offering residentially-zoned properties for commercial guest accommodation rather than on individual property owners
- It is recognized that STVRs likely have a positive economic impact on the islands
- While some STVRs are operated legally and responsibly, many are completely unlawful

- The funds generated through the rental of STVRs are also, in many cases, vital to the financial well-being and solvency of the property owner
- Primary concerns with STVRs are around impacts on availability of long-term rental housing, as well as the effect on limited groundwater resources
- Other negative impacts which are frequently mentioned are:
 - Increased noise, traffic and parking concerns
 - Increased fire risk
 - Increased consumption of disposable goods, production of solid waste, and sewage
 - Impacts to community character and cohesiveness
 - Lack of a fair playing field between legal and non-legal STVR operators, as well as regular commercial accommodation such as hotels and motels

Existing Islands Trust Regulations

- Local trust committees have taken a variety of approaches consistent with its each island's individual culture, history, and intensity of tourist use
- The main tools available to LTAs under the *Islands Trust Act* are modifications to the official community plans (OCP) and associated land use bylaws (LUB) to include STVR-specific provisions
 - Within the LUBs, this generally takes the form of home occupation regulations or zoning that specifically permits STVR use, and places limits upon their operations.
- The OCP allows Temporary Use Permits to be issued for limited periods of time, and several islands have created specific guidelines
 - Bowen Island Municipality issues business licenses to operate a Residential Guest Accommodation, as it is incorporated as an island municipality and has more powers than local trust areas
 - There is interest from some islands in advocating to regional districts to institute business licenses for STVRs

Current Islands Trust Enforcement

- Since the 2012 Islands Trust loss in the Supreme Court of BC of a case that would have restrained a rental agent from using or facilitating the use of residential homes for STVRs on Salt Spring Island, Islands Trust has continuously found that accommodation platforms are not cooperative or assistive to bylaw enforcement efforts. In the 2012 case the judge found that the activities of the rental agent did not, on their own, constitute a breach of the land use bylaw.
- Currently, 204 open bylaw enforcement files, with the majority on Salt Spring Island
- There may be 500+ advertisements at any given time for all local trust areas, which must be continually vetted to ensure compliance
- Bylaw staff regularly review and update a database for the known operators
 - Co-op planning students have, at times, reviewed the listings
 - Since 2005, 532 STVR enforcement files have been closed

- During the peak summer season, the majority of bylaw staff resources are for STVRs
- Seven local trust areas have directed proactive bylaw enforcement on STVRs because of concerns about diminishing housing supply
- Bylaw notices (tickets) are issued when contraventions are confirmed. There is a mixed response to ticketing:
 - Some are disputed and there is a good response to negotiating compliance agreements to ensure a cease of unlawful operations
 - For those that have proceeded to adjudication, 90 percent of the tickets are upheld by an adjudicator
 - However, with a \$500.00 limit on bylaw notices penalties, the upscale operations charging \$500-700 per night can treat the penalties as the cost of doing business and makes court action, the next step in enforcement, an expensive choice.
- Enforcement staff note that the clear bylaw language in the Gabriola Island Land Use Bylaw has resulted in less complications and conflicts than have occurred in other local trust areas.
 - The Gabriola Island Land Use Bylaw also explicitly states that you cannot operate without that permit:
 - *B.6.3 Commercial Vacation Rentals*
 - B.6.3.1 All dwelling units, including secondary suites, are for residential use and any use for overnight accommodation on less than a monthly basis for monetary gain is prohibited except where a temporary use permit has been issued by the Local Trust Committee*
- There is currently a trend towards “glamping” operations on larger lots in an effort to maximize the number of rentals:
 - These operations are considered non-permitted campgrounds and it appears to be the next trend for STVRs, as it offers a lower cost for guests
 - These non-permitted campgrounds create a unique challenge because of the risks of improper sewage disposal for a large number of customers, and the threat to neighboring wells

Provincial Statistics

- In British Columbia in June 2023, there was an average of 28,510 short-term rental listings active each day (a year-over-year increase of 17.8%)*
- While the province’s STVR market is dominated by commercial operators*, this may not be the case for the Islands Trust Area
- The top 10% of hosts earned 48.8% of revenue*
- Listings operated by hosts with multiple listings were 48.4% of active listings and 51.7% of total host revenue in June 2023*
- In June 2023, 16,810 housing units were taken off BC’s long-term and shifting to the STVR market*

**Data from The Housing Impacts of Short-Terms Rentals in British Columbia’s Regions. A report prepared by researchers from the Urban Politics and Governance research group, School of Urban Planning, McGill University*

BRIEFING

To:	Executive Committee	For the Meeting of:	December 20, 2023
From:	Stefan Cermak, Director, Planning Services	Date Prepared:	December 14, 2023
SUBJECT:	Housing Statute and Regulation Changes to British Columbia Legislation		

PURPOSE:

To provide the Executive Committee with an update on recent and upcoming legislative and regulatory changes regarding provision of housing in British Columbia, and how the changes may affect the Islands Trust area and local trust committees.

Key Takeaways:

- A draft resolution is provided for local trust committees to opt-in to the principal residence requirement for Short Term Rental. Such a resolution needs to be made by March 31, 2024 to take effect by November 1, 2024.
- Local Trust Committees with MTI Bylaws (Gabriola, North Pender, Salt Spring, and Thetis) may amend the penalty fees to \$3,000 per infraction per day. Other LTCs would require MTI bylaws if seeking the extra short term rental disincentive.
- Housing Need Reports Regulations have not been adopted at time of drafting this briefing.

BACKGROUND:

On December 7, 2023, the Islands Trust Council was briefed on five recent and upcoming provincial legislative changes designed to increase housing supply throughout BC. On the same day, the province adopted Orders-In-Council (Regulations) for Bills 35 and 44 (Short Term Rental Accommodation and Housing Statutes (Residential Development) respectively) and released policy documents to assist local governments implement the changes.

1. **The Short Term Rental Accommodation Act (Bill 35)**
 - Received Royal Assent on October 26, 2023
 - NEW regulations (Order in Council) adopted December 7, 2023
2. **The Housing Statutes (Residential Development) Amendment Act (Bill 44)**
 - Received Royal Assent on November 30, 2023
 - NEW regulations (Order in Council) adopted December 7, 2023
3. **Housing Statutes (Development Financing) Amendment Act (Bill 46)**
 - Received Royal Assent on November 30, 2023
 - Does not apply to Local Trust Committees; applies to Bowen Island Municipality
4. **Housing Statutes (Transit Oriented Areas) Amendment Act (Bill 47)**
 - Received Royal Assent on November 30, 2023

- Does not apply to Local Trust Committees; applies to Bowen Island Municipality
5. **Speculation and Vacancy Tax Act**
- Came into force in on November 27, 2018
 - The *Speculation and Vacancy Tax Regulation* was last amended November 16, 2023
 - Does not apply to properties in the Islands Trust area

The Short-Term Rental Accommodation Act and Regulations.

Materials pertaining to [Bill 35](#) - *Short-Term Rental Accommodation Act* include:

- Order in Council [679](#) – bringing into force specific provisions of the *Short-Term Rental Accommodation Act*, and making a regulation that addresses various details including interpretation, changes to exempt land, and general and specific exemptions.
- A policy guidance [document](#) for local governments detailing the new short-term rental framework including key considerations relating to principal residence requirements, time period regulations, legal non-conforming use, business licensing updates and enforcement responsibilities.
- Properties in the Islands Trust Area are exempt from the principal residence requirement. A local trust committee or Bowen Island Municipality needs a resolution requesting to be removed from the list of exempt land in order to “opt-into” the principal residence requirement. Opting-in would mean the provincial restriction on short-term rental accommodations will over-ride any schemes that the local trust committee has enacted (where there is a collision between them).
- A sample LTC resolution to opt-in may read:
 - That the [XX Local Trust Committee] request that the Minister of Housing, on behalf of the Lieutenant Governor in Council, apply the principal residence requirement to the [XX Local Trust Area] and that the [XX Local Trust Area] be removed from the exempt land as per S. 15 of the *Short-Term Rental Accommodation Act*.
 - Requests should include appropriate background information that describes the area and jurisdiction. The request must be submitted to the Minister of Housing by March 31, 2024, and the prescribed period of time starts on November 1, 2024.
 - If the Province grants a change to exempt land status, that change remains in effect indefinitely unless a subsequent request to reverse the exemption is made by March 31 of a future year.
- Order in Council [680](#) - increases possible maximum bylaw ticketing fine from \$1,000 to \$3,000 (amends BC Reg 425/2003).
 - The maximum fine that a local trust committee may set for a bylaw ticket has been increased to \$3,000 per infraction per day in accordance with the Community Charter Bylaw Enforcement Ticket Regulation. Note that this has been implemented via “Municipal Ticket Information System Bylaws” (MTI Bylaw) within the Islands Trust Area. The following local trust committees have MTI Bylaws: Gabriola, North Pender, Salt Spring, and Thetis (Table 1).
 - MTI Bylaws have been generally replaced in favour of Bylaw Enforcement Notification (BEN) Bylaws. The maximum Local Trust Committee bylaw notices penalty of \$500 under the Local Government Bylaw Notice Enforcement Act (Bylaw Enforcement Notification (BEN) Bylaws) is overseen by the Ministry of Attorney General and remains unchanged (Table 1).

Table 1 LTCs Enforcement Bylaws and Associated Maximum Permitted Penalty

Local Trust Committee	MTI Bylaw (max: \$3,000 penalty)	BEN Bylaw (max: \$500 penalty)
Ballenas-Winchelsea	N/A	✓
Denman	N/A	✓
Gabriola	✓	✓
Galiano	N/A	✓
Gambier	N/A	✓
Hornby	N/A	✓
Lasqueti	N/A	N/A
Mayne	N/A	✓
North Pender	✓	✓
Salt Spring	✓	✓
Saturna	N/A	N/A
South Pender	N/A	✓
Thetis	✓	✓

- Effective May 1, 2024, the *Short-Term Rental Accommodation Act* removes legal non-conforming protection for short-term rental accommodation uses.

Bill 35, Order in Council 679, and the policy guidance document for local governments will be forwarded to the Regional Planning Committee as per the December 7, 2023 [draft] Islands Trust Council resolution:

“THAT Trust Council request the Regional Planning Committee to evaluate the Short Term Rental Accommodation Act to identify opportunities and challenges for implementation of the act on the management of short term rentals in the Trust Area.”

The Housing Statutes (Residential Development) Amendment Act

Materials pertaining to [Bill 44](#) – *Housing Statutes (Residential Development) Amendment Act* include:

- A Policy [Manual](#) & Site Standards document to guide updates to zoning bylaws, other regulatory bylaws, and policies undertaken to comply with Small Scale Multi-Unit Housing (SSMUH) legislation. In preparing, amending, or adopting a zoning bylaw to permit the use and density required by the SSMUH legislation, a local government must consider any applicable guidelines for SSMUH, including this Policy Manual.
- Order in Council [673](#) – bringing into force specific provisions of the *Housing Statutes (Residential Development) Amendment Act* and making a Local Government Zoning Bylaw Regulation that among other things, prescribes: minimum densities, distances and parcel sizes. The regulation also provides additional details on what constitutes a bus stop, and details exemptions from small-scale multi-family housing requirements. Does not apply to local trust committees.

ATTACHMENT(S):

- Hyperlinks provided to Orders In Council and Policy Manuals

FOLLOW-UP:

Staff will update as more information on regulations becomes available (ex: Housing Needs Reports).
Staff may forward to Local Trust Committees for consideration of opting to the principal residence regulations.

Prepared By: Stefan Cermak, Director, Planning Services

Reviewed By/Date:

File No.: 4050-03

DATE OF MEETING: April 5, 2024

TO: North Pender Island Local Trust Committee

FROM: Warren Dingman, Bylaw Compliance & Enforcement Manager, Local Planning Services

SUBJECT: Bylaw Enforcement Notification Bylaw Amendments

RECOMMENDATION

1. That the North Pender Island Local Trust Committee Bylaw No. 230, cited as “North Pender Island Local Trust Committee Bylaw Enforcement Notification Bylaw, 2011, Amendment No.1, 2024”, be read a first time.
2. That the North Pender Island Local Trust Committee Bylaw No. 230, cited as “North Pender Island Local Trust Committee Bylaw Enforcement Notification Bylaw, 2011, Amendment No.1, 2024”, be read a second time.
3. That the North Pender Island Local Trust Committee Bylaw No. 230, cited as “North Pender Island Local Trust Committee Bylaw Enforcement Notification Bylaw, 2011, Amendment No.1, 2024”, be read a third time.
4. That the North Pender Island local Trust Committee Bylaw No. 230, cited as “North Pender Island Local Trust Committee Bylaw Enforcement Notification Bylaw, 2011, Amendment No.1, 2024”, be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee.

REPORT SUMMARY

This report recommends that North Pender Island Local Trust Committee amend North Pender Island Local Trust Area Bylaw Enforcement Notification Bylaw No. 188, 2011 (BEN) in order to adopt contravention schedules for Land Use Bylaw No. 224; include recent changes in North Pender Associated Islands Land Use Bylaws (LUB); and to add a penalty for failure to obtain a development permit for both the North Pender Island Official Community Plan and the North Pender Associated Islands Official Community Plan.

BACKGROUND

The Bylaw Enforcement Notification Bylaw No. 188 was adopted in 2011 with contravention schedules for the North Pender Island Land Use Bylaw No. 103, and subsequently amended in 2019. The repeal of Land Use Bylaw No. 103, and the adoption Land Use Bylaw No. 224 in 2023, makes it necessary to amend Bylaw No. 188, and adopt new contravention schedules. Bylaw Officers cannot issue bylaw notices until the new schedules are in place.

There is also the issue of a lack of enforcement options for development permit areas within the North Pender Island Local Trust Area. It is proposed that contravention schedules be added so that a penalty can be assessed when development occurs without the necessary permit as required by the Official Community Plan Bylaw No. 171.

Section 4 of *Local Government Bylaw Notice Enforcement Act* states that a local government may designate bylaw contraventions that may be dealt with by bylaw notice under the *Act*, and the *Bylaw Notice Enforcement Regulations* prescribes the North Pender Island Local Trust Committee as a local government under the *Act*.

PENALTIES & SURCHARGE

The amended contravention schedules contain a shorter list of contraventions and penalties. The penalty for more serious contraventions is \$500 while the less serious contraventions are \$350. All penalties are discounted by \$100 if paid within 14 days, and a standard surcharge of \$300 applies if the payment is late or there is no response and a default on the bylaw notice. The surcharge is necessary as there are increased costs when debt collection must occur through small claims court and the debt placed on the property title.

Compliance agreements are available for all contraventions and there is a 100% discount on the penalty amounts for signing a compliance agreement.

RATIONALE FOR RECOMMENDATION

The BEN Bylaw has not been updated since the adoption of the new North Pender Islands Land Use Bylaw No. 224 and the amendments are necessary for the continued use of the BEN system and for adding a penalty for the failure to obtain a development permit in the North Pender Island Local Trust Area.

Submitted By:	Warren Dingman Bylaw Enforcement Manager	March 25, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	March 26, 2024

ATTACHMENT

1. NP-LTC-BEN-Amendment-Bylaw-230

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 230**

**A BYLAW TO AMEND THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW ENFORCEMENT
NOTIFICATION BYLAW, NO. 188, 2011**

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

1. CITATION

This Bylaw may be cited as “North Pender Island Local Trust Committee Bylaw Enforcement Notification Bylaw, No. 188, 2011, Amendment No. 1, 2024.”

2. North Pender Island Local Trust Committee Bylaw cited as “North Pender Island Local Trust Committee Bylaw Enforcement Notification Bylaw, No. 188, 2011” is amended as follows:

a) By deleting section 10 (a) and replacing it with the following:

(a) Schedule A – North Pender Island Contraventions & Penalties.

b) By deleting section 10(b) and replacing it with the following:

(b) Schedule B – North Pender Associated Islands Contraventions & Penalties.

c) By deleting Schedule A and replace it with the new Schedule A, attached to and forming part of this bylaw.

d) By deleting Schedule B and replace it with new Schedule B, attached to and forming part of this bylaw.

3. SEVERABILITY

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

READ A FIRST TIME THIS 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

SECRETARY

CHAIR

Schedule A
NORTH PENDER ISLAND
CONTRAVENTIONS AND PENALTIES

Bylaw Section	Bylaw & Contravention description: North Pender Island Land Use Bylaw No. 224	A1 Penalty Amount	A2 Discounted Penalty (within 14 days)	A3 Late Payment including \$300.00 Surcharge (after 28 days)	A4 Compliance Agreement	A5 Agreement Discount
2.3	Fail to permit inspection	\$500.00	\$400.00	\$800.00	Yes	100%
3.2	Prohibited use, building or structure	\$500.00	\$400.00	\$800.00	Yes	100%
3.3	Non Permitted siting in setback area from the sea, lake, wetland or stream	\$500.00	\$400.00	\$800.00	Yes	100%
3.3 (4-8)	Non Permitted siting in setback area	\$500.00	\$400.00	\$800.00	Yes	100 %
3.4	Fail to comply with height regulations	\$350.00	\$250.00	\$650.00	Yes	100%
3.5	Non permitted accessory use, building or structure; or Fail to provide landscape screen	\$350.00	\$250.00	\$650.00	Yes	100%
3.6	Fence exceeds height restriction	\$350.00	\$250.00	\$650.00	Yes	100%
3.7	Fail to comply with Home Business Regulations	\$350.00	\$250.00	\$650.00	Yes	100%
3.8	Fail to comply with Home Industry Regulations	\$350.00	\$250.00	\$650.00	Yes	100%
3.9	Fail to comply with landscape regulations	\$350.00	\$250.00	\$650.00	Yes	100%
3.10	Fail to comply with secondary suite regulations	\$350.00	\$250.00	\$650.00	Yes	100%
3.11	Fail to comply with cistern requirements	\$350.00	\$250.00	\$650.00	Yes	100%
3.12	Fail to comply with derelict vehicle regulations	\$350.00	\$250.00	\$650.00	Yes	100%
3.13	Fail to comply with Agri-tourism or Agri-tourist Accommodation Regulations	\$350.00	\$250.00	\$650.00	Yes	100%
5.1 – 5.26 inclusive	Non Permitted use in Any Zone	\$500.00	\$400.00	\$800.00	Yes	100%
5.1 – 5.26 inclusive	Non Permitted density in Any Zone	\$500.00	\$400.00	\$800.00	Yes	100%

Schedule A
NORTH PENDER ISLAND
CONTRAVENTIONS AND PENALTIES

Bylaw Section	Bylaw & Contravention description: North Pender Island Land Use Bylaw No. 224	A1 Penalty Amount	A2 Discounted Penalty (within 14 days)	A3 Late Payment including \$300.00 Surcharge (after 28 days)	A4 Compliance Agreement	A5 Agreement Discount
5.1 – 5.26 inclusive	Non Permitted siting, size, height in Any Zone	\$350.00	\$250.00	\$650.00	Yes	100%
5.1 – 5.26 inclusive	Fail to comply with site specific regulations in Any Zone	\$350.00	\$250.00	\$650.00	Yes	100%
6.1-5 inclusive	Fail to comply with sign regulations	\$350.00	\$250.00	\$650.00	Yes	100%
7.1-4 inclusive	Fail to comply with parking regulations	\$350.00	\$250.00	\$650.00	Yes	100%
9.1-2 inclusive	Fail to comply with campground regulations	\$350.00	\$250.00	\$650.00	Yes	100%

Bylaw Section	Bylaw & Contravention description: North Pender Island Official Community Plan Bylaw No 171	A1 Penalty Amount	A2 Discounted Penalty (within 14 days)	A3 Late Payment with \$300.00 Surcharge (after 28 days)	A4 Compliance Agreement	A5 Agreement Discount
5.2 - 5.11 inclusive	Fail to obtain a development permit	\$500.00	\$400.00	\$800.00	Yes	100%

Schedule B
NORTH PENDER ASSOCIATED ISLANDS CONTRAVENTIONS & PENALTIES

Bylaw Section	Bylaw & Contravention Description: North Pender Associated Islands Land Use Bylaw No. 148, 2003	A1 Penalty Amount	A2 Discounted Penalty (within 14 days)	A3 Late Payment including \$300 Surcharge (after 28 days)	A4 Compliance Agreement Available	A5 Compliance Agreement Discount
2.3	Fail to permit Inspection	\$500.00	\$400.00	\$800.00	Yes	100 %
3.2.	Prohibited use, building or structure	\$500.00	\$400.00	\$800.00	Yes	100%
3.3	Non Permitted Siting	\$500.00	\$400.00	\$800.00	Yes	100%
3.4	Non Permitted Height	\$350.00	\$250.00	\$650.00	Yes	100%
3.5	Fail to comply with regulations for Accessory use, building, or structure	\$350.00	\$250.00	\$650.00	Yes	100%
3.6	Fail to comply with home occupation regulations	\$350.00	\$250.00	\$650.00	Yes	100%
3.7	Fail to comply with regulations for Agricultural use, building or structure	\$350.00	\$250.00	\$650.00	Yes	100%
3.8	Fence Exceeds Maximum Permitted Height	\$350.00	\$250.00	\$650.00	Yes	100%
3.9.1	Inadequate Landscape Screen	\$350.00	\$250.00	\$650.00	Yes	100%
3.10.1	Non Permitted Use Of Recreation Vehicle	\$350.00	\$250.00	\$650.00	Yes	100%
3.11.1	Non Permitted derelict vehicle storage	\$350.00	\$250.00	\$650.00	Yes	100%
3.14	Fail to comply with Agricultural Land Reserve Farm Use Regulations	\$500.00	\$400.00	\$800.00	Yes	100%
5.1-5.21 inclusive	Non Permitted Use In Any Zone	\$500.00	\$400.00	\$800.00	Yes	100%
5.1-5.21 inclusive	Non Permitted Density in Any Zone	\$500.00	\$400.00	\$800.00	Yes	100%
5.1-5.21 inclusive	Non Permitted siting or size in Any Zone	\$350.00	\$250.00	\$650.00	Yes	100%
5.1-5.21 inclusive	Fail to comply with site specific regulations in Any Zone	\$350.00	\$250.00	\$650.00	Yes	100%

Schedule B
NORTH PENDER ASSOCIATED ISLANDS CONTRAVENTIONS & PENALTIES

Bylaw Section	Bylaw & Contravention Description: North Pender Associated Islands Land Use Bylaw No. 148, 2003	A1 Penalty Amount	A2 Discounted Penalty (within 14 days)	A3 Late Payment including \$300 Surcharge (after 28 days)	A4 Compliance Agreement Available	A5 Compliance Agreement Discount
6.2-6 inclusive	Failure to comply with sign regulations	\$350.00	\$250.00	\$650.00	Yes	100%
7.1-4 inclusive	Fail to comply with parking regulations	\$350.00	\$250.00	\$650.00	Yes	100%

Bylaw Section	Bylaw & Contravention description: North Pender Associated Island Official Community Plan Bylaw No 147, 2002	A1 Penalty Amount	A2 Discounted Penalty (within 14 days)	A3 Late Payment including \$300.00 Surcharge (after 28 days)	A4 Compliance Agreement	A5 Agreement Discount
701, 702, 703	Fail to obtain a development permit	\$500.00	\$400.00	\$800.00	Yes	100%