



North Pender Island Local Trust Committee

Regular Meeting Agenda

Date: July 26, 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 - None		
8.	PUBLIC HEARING - None		
9.	MINUTES	10:40 AM - 10:50 AM	
9.1	Local Trust Committee Minutes Dated June 14, 2024 (for Adoption)		3 - 7
9.2	Section 26 Resolutions-without-meeting Report - None		
9.3	Advisory Planning Commission Minutes - None		
10.	BUSINESS ARISING FROM THE MINUTES		
10.1	Follow-up Action List Dated July 2024		8 - 9
11.	DELEGATIONS		
12.	CORRESPONDENCE		
	<i>Correspondence received concerning current applications or projects is posted to the LTC webpage</i>		
13.	APPLICATIONS AND REFERRALS	10:50 AM - 11:20 AM	

13.1	NP-DP-2023.3 (Shave) - Staff Report (attached)	10 - 25
14.	LOCAL TRUST COMMITTEE PROJECTS	11:20 AM - 12:20 PM
14.1	Housing Project – Project Charter and Workplan - Staff Report (attached)	26 - 30
14.2	Housing Project - Business Case - Staff Report (attached)	31 - 35
14.3	Raptor Nest DPA Review Project – Staff Report (attached)	36 - 50
15.	REPORTS	12:20 PM - 12:30 PM
15.1	Work Program Report (attached)	
15.1.1	<u>Active Projects Report Dated July 2024</u>	51 - 51
15.1.2	<u>Future Projects Report Dated July 2024</u>	52 - 53
15.2	Applications Report - Verbal Update	
15.3	Trustee and Local Expense Report Dated May 2024 (attached)	54 - 54
15.4	Adopted Policies and Standing Resolutions (attached)	55 - 58
15.5	Local Trust Committee Webpage	
15.6	Islands Trust Conservancy Report Dated April 2024 and May 2024	59 - 62
16.	NEW BUSINESS	12:30 PM - 12:50 PM
16.1	North Pender Island Bylaw Compliance and Enforcement Policy - Staff Report (attached)	63 - 73
17.	UPCOMING MEETINGS	
17.1	Next Special Meeting Scheduled for September 28, 2024 at the Pender Island Community Hall, Pender Island	
18.	TOWN HALL	12:50 PM - 1:05 PM
19.	CLOSED MEETING - None	
20.	ADJOURNMENT	1:05 PM - 1:05 PM

North Pender Island Local Trust Committee Minutes of Special Meeting

Date: June 14, 2024

Location: Electronic
Meeting

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

Staff Present: Robert Kojima, Regional Planning Manager (electronic)
Brad Smith, Island Planner (electronic)
Phil Testemale, Planner 2 (electronic)
Rob Kroeker, host (electronic)

Others Present: There were approximately five (5) 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 being held in territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

By general consent the agenda was approved as presented.

3. TOWN HALL AND QUESTIONS

No comments were made.

4. MINUTES

4.1 April 5, 2024 Local Trust Committee Minutes (for Adoption)

By general consent, the North Pender Island Local Trust Committee minutes of April 5, 2024 were approved as presented.

4.2 May 25, 2024 Local Trust Committee Special Meeting Minutes (for Adoption)

By general consent, the North Pender Island Local Trust Committee minutes of May 25, 2024 were approved as presented.

5. BUSINESS ITEMS

6. APPLICATIONS AND REFERRALS

6.1 NP-DVP-2024.2 (Tretick) - Staff Report

Planner Testemale reviewed the staff report. Discussion was held and the following comments were made:

- The accessory building will be completely unobservable from the road
- The school should be notified that the building is being constructed

NP-2024-043

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of NP-DVP-2024.2 (Tretick).

CARRIED

6.2 NP-DP-2018.5 (PICSS – Hillel Archit.) - Staff Report

Planner Testemale reviewed the staff report. Discussion was held and the following comments were made:

- There was no timeline for landscaping at the Driftwood to be completed
- Management of the Driftwood had indicated they will be making an application to amend their Development Permit, and this would provide opportunity for the Local Trust Committee to develop a schedule for landscaping

NP-2024-044

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2018.5 (PICSS - Hillel Arch.).

CARRIED

6.3 Mayne Island Local Trust Committee Referral for Draft Bylaw No. 193 (for Response)

Discussion was held and comments were made about how this is a straightforward update to the Land Use Bylaw that should have no effect on North Pender Island.

NP-2024-045

It was Moved and Seconded,

that North Pender Island Local Trust Committee interests are unaffected by the Mayne Island Local Trust Committee Draft Bylaw No. 193.

CARRIED

6.4 NP-TUP-2024.5 (Dine) - Staff Report

Island Planner Smith reviewed the staff report. Discussion was held and the following comments were made:

- Community members will want to know whether they can provide similar accommodations on their properties
- The Local Trust Committee can discuss what form accessory dwellings may take
- The Pender Island Fire Protection Society must acquire a building permit for the positioning of the structures, and the structures must meet demanding compliance, safety, and accountability requirements set by the Canadian Standards Association (CSA)
- The Pender Island Fire Protection Society is a non-profit society that is providing a public service
- Anyone can put forward an application for a Temporary Use Permit
- This is not an expansion of residential density because the sites are used by people who will not be living in them full-time
- Support was expressed for including both fire halls in the application
- The buildings are strategically placed so there is no further site or neighbourhood disturbance
- This application relates to a critical community service that affects everyone on the island
- The units will be certified at the CSA A227 level – classification that allows for year-round safe living space

NP-2024-046

It was Moved and Seconded,

That North Pender Island Local Trust Committee approve issuance of Temporary Use Permit NP-TUP-2024.5 for a period of three (3) years.

CARRIED

6.5 NP-DVP-2024.3 (Houssian) - Staff Report

Island Planner Smith reviewed the staff report. Discussion was held and the following comments were made:

- The cap on house size was not meant to totally restrict house size, but rather to open conversation with applicants about what would be happening overall on a property
- Concern was raised about density issues and the applicant, or future property owners, wanting to subdivide and build multiple dwellings
- The applicant noted it is not his intention to subdivide to build multiple smaller houses
- The Trustees do not have guarantees beyond the word of the applicant
- A Section 219 covenant could limit the subdivide density into the future
- Trustees indicated they expect the applicant to pursue a covenant on the property

- The applicant identified an area of least disturbance for the site of the proposed new buildings, which is primarily where the existing structures lie
- The applicant expressed a desire to preserve the natural site as much as possible
- The applicant hired a water consultant and expressed interest in the technology available to build energy efficient houses
- The proposed buildings would have green roofs

NP-2024-047

It was Moved and Seconded,

that North Pender Island Local Trust Committee approve issuance of Development Variance Permit application NP-DVP-2024.3.

CARRIED

7. CLOSED MEETING (Distributed Under Separate Cover)

7.1 Motion to Close the Meeting

NP-2024-048

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)(g) for the purpose of considering:

- (a) 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;
- (g) litigation or potential litigation affecting the municipality;.

CARRIED

7.2 Recall to Order

7.3 Rise and Report

Chair Maude reported:

- The Minutes of the February 23, 2024 Local Trust Committee in-camera meeting have been adopted
- Carly Bilney has been appointed Secretary of the North Pender Advisory Planning Commission
- The Local Trust Committee has requested that staff advertise for members of the North Pender Advisory Planning Commission

8. ADJOURNMENT

By general consent the meeting was adjourned at 11:50 a.m.

David Maude, Chair

Certified Correct:

Carly Bilney, Recorder

Follow Up Action Report

North Pender Island

23-Feb-2024

Progress	Activity	Responsibility	Dates	Status
50%	1 Staff to arrange LTC/staff site visits to: 1) James Island - Complete - scheduled for May 2 2) Sidney Island and Associated Islands via water taxi in spring/summer 2024	Brad Smith	Target: 05-Apr-2024	In Progress

05-Apr-2024

Progress	Activity	Responsibility	Dates	Status
0%	1 14.1 Raptor Nest project - LTC directed staff to proceed - staff to draft amending bylaw and send a notification letter all to property owners with new or existing raptor sites on their property Jas - please create new OCP bylaw # - Done - BL-235	Brad Smith Jas Chonk	Target: 19-Apr-2024	In Progress
0%	2 13.3 NP-RZ-2024.1 (Grimmer) - LTC directed staff to proceed - staff to draft amending bylaw and send TOR (Done) to applicant Jas - please create new LUB and OCP bylaw # - Done - BLs 236-237	Brad Smith Jas Chonk	Target: 24-May-2024	In Progress
0%	3 14.2 Housing Project - LTC directed staff to proceed staff to report back with a Project Charter\ Work Plan, Engagement Plan	Brad Smith	Target: 19-Jul-2024	Completed
0%	4 7.1 Fire Management - staff to consult with fire department re: future STVR conditions	Brad Smith	Target: 30-Apr-2024	In Progress
0%	5 16.2 BEN Bylaw - Enforcement schedule a webinar about current bylaw enforcement practices and policies in North Pender Island\ Bylaw Enforcement produce a Bylaw Compliance and Enforcement Policy Document in plain language for public awareness\n	Warren Dingman	Target: 10-May-2024	In Progress

Follow Up Action Report

North Pender Island

14-Jun-2024

Progress	Activity	Responsibility	Dates	Status
100%	1 4.1 April 5, 2024 LTC meeting minutes adopted as presented 4.2 May 25, 2024 LTC special meeting minutes adopted as presented	Emily Bryant	Target: 28-Jun-2024	Completed
0%	2 6.1 NP-DVP-2024.2 (Tretick) - DVP approved as presented - staff to issue permit, update any monitoring requirements in TAPIs and close out file	Jas Chonk Phil Testemale	Target: 28-Jun-2024	Completed
0%	3 6.2 NP-DP-2018.5 (PICSS) - DP approved as presented - staff to issue permit <u>after</u> deposit received for landscaping, and close out file	Jas Chonk Phil Testemale	Target: 28-Jun-2024	In Progress
0%	4 6.3 Mayne Island BL No. 193 - LTC responds that interests are unaffected	Jas Chonk	Target: 28-Jun-2024	Completed
0%	5 6.4 NP-TUP-2024.5 (Dine) - TUP approved as presented - staff to issue permit, update any monitoring requirements in TAPIS and close out file	Brad Smith Jas Chonk	Target: 28-Jun-2024	Completed
0%	6 6.5 NP-DVP-2024.5 (Houssain) - Application approved as presented - Staff to issue permit and close-out file.	Brad Smith Jas Chonk	Target: 28-Jun-2024	Completed
0%	7 In-Camera 1) Feb 23, 2024 In camera meeting minutes adopted as presented 2) Carly Bilney appointed as APC secretary 3) Staff to initiate re-advertising of APC to fill currently vacant 5th APC position	Emily Bryant Jas Chonk	Target: 28-Jun-2024	In Progress
0%	8 NP-DP-2023.3 (Shave) - Include application on July 26, 2024 agenda - ensure to include Pender Island Conservancy letter	Brad Smith Jas Chonk	Target: 28-Jun-2024	Completed

DATE OF MEETING: July 26, 2024
TO: North Pender Island Local Trust Committee
FROM: Brad Smith, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: Development Permit NP-DP-2023.3
Applicant: Becky Shave
Location: 4815 Schooner Way

RECOMMENDATION

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

REPORT SUMMARY

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

The recommendation is supported as:

- In the absence of a DP issued prior to development, a DP requiring restoration will impose conditions for site restoration and future protection;
- The conditions within the draft DP are based on a well-considered and comprehensive assessment report completed by a professional biologist and are supported by staff;
- The increased security deposit with 150% contingency as recommended by staff is based on a more comprehensive and realistic cost estimate than what was previously provided by the applicant;
- The applicant has been contacted repeatedly by staff to provide their own more detailed quotes and they have not responded; and,
- The security deposit is only utilized if the holder of the permit does not fulfill the conditions of the DP, and any remaining security deposit funds would be returned to the property owner upon successful completion of DP conditions.

BACKGROUND

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

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

NP-2023-081

It was Moved and Seconded,

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

CARRIED

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

NP-2023-089

It was Moved and Seconded,

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

CARRIED

Since then, the applicant has not submitted additional cost estimates despite substantive efforts from staff to obtain them. Staff are now recommending that the LTC to proceed with approving the DP including a security deposit requirement based on the estimate provided by staff in this staff report.

ANALYSIS

Consultant's Cost Estimate for Restoration

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

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

Acting on the direction of the LTC to seek more detailed quotes, staff have tried repeatedly to get further information from the applicant, with no response.

Staff Cost Estimate

Based on the scope of work required within the conditions of the proposed DP, and recent security deposit amounts collected for other North Pender Island projects requiring a DP (see further reference to examples below), staff are of the view that the original quote provided by the applicant's professional is too low.

Staff provide the following more detailed analysis of work required in Table 1. The project is estimated to cost \$18,500. A contingency of 50% is also included, for a total security deposit requirement of \$27,750.

Table 1. Staff Cost Estimate for Work Completion

ITEM	COST
Installation of 95 plants – Restoration Areas 1-4 (including plant purchase, delivery, material/fencing/irrigation costs, and labour)	\$9500 (estimate \$100/plant)
Site restoration – Restoration Areas 1-4 and driveway and gravel storage/landing area ~2600 m2 area in total (including contracted machine work for soil/gravel removal, concrete bath area rehabilitation, slash pile removal and scattering across patch cut sites, topsoil rehabilitation including rough and loose treatment method where required, additional labour and materials to complete works e.g fencing costs)	\$6,000 (estimate 3 days @ \$2000/day)
QEP reporting and monitoring (including onsite monitoring and guidance during development work and written confirmation of compliance with all conditions within three months of work completion)	\$3,000 (estimate 3 days @1000/day)
Total	\$18,500
Contingency @150% of quoted cost	\$9,250
Grand Total	\$27,750

The attached draft DP (Attachment 1) has been amended to adjust the security deposit amount from \$5033 to \$18,500, and the contingency is changed from 200% to 150%, which is a more typical contingency amount. The 200% was recommended previously by staff to increase the amount of the original quote in support of the recommendation to approve the DP. No other changes have been made or are recommended by staff.

Other Examples of Security Deposits

Recent examples of security deposits on North Pender include file NP-DP-2021.8, where a deposit of \$13,725 was required for the planting, browse protection and maintenance of 32 trees at a private residence (see Attachment 2) as a result of unauthorized tree removal in a Woodland DPA; and the recently approved Nu to Yu commercial development DP, where a \$45,571 security deposit was required for completion of DP landscaping conditions.

Consultation

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

Rationale for Recommendation

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

- In the absence of a DP issued prior to development, a DP requiring restoration will impose conditions for site restoration and future protection;
- The conditions within the draft DP are based on a well-considered and comprehensive assessment report completed by a professional biologist and are supported by staff;
- The increased security deposit with 150% contingency as recommended by staff is based on a more comprehensive and realistic cost estimate than what was previously provided by the applicant;
- The applicant has been contacted repeatedly by staff to provide their own more detailed quotes and they have not responded; and,
- The security deposit is only utilized if the holder of the permit does not fulfill the conditions of the DP, and any remaining security deposit funds would be returned to the property owner upon successful completion of DP conditions.

ALTERNATIVES

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

1. Request further information

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

That the North Pender Island Local Trust Committee request that the applicant submit to the Islands Trust _____.

2. Amend the draft permit

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

That the North Pender Island Local Trust Committee amends the draft development permit for application NP-DP-2023.3 (Shave) by _____.

3. Deny the application

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

Recommended wording for the resolution is as follows:

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

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

ATTACHMENTS

1. Draft Amended Development Permit
2. Pender Island Conservancy Letter, Sept 2023



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

To: Linda Shave

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

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

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

General

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

Nesting Tree Protection

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

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

Ecological Restoration - General

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

Ecological Restoration – "Restoration Area" Site Prescriptions

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

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

Timing

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

Monitoring

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

Security Deposit

- W. Pursuant to Section 502 of the *Local Government Act*, the Local Trust Committee requires security to ensure that any conditions respecting nesting tree protection, ecological restoration and monitoring elements are satisfied:
 - a. Where the Local Trust Committee considers that a condition in the permit respecting restoration has not been satisfied the Local Trust Committee may undertake and complete the works required to satisfy the condition, at the cost of the permit holder, and may apply the security in payment of the cost of the works with any excess to be returned to the permit holder.
 - b. Any interest earned on the security provided under Condition W shall accrue to the permit holder and be paid to them immediately on return of the security or, on default, become part of the amount of the security.
 - c. The security provided by the permit holder shall be in the form of:
 - i. An irrevocable letter of credit with a clause for automatic renewal, or cash equivalent.
 - ii. Payable to the Islands Trust,
 - iii. In the amount of 150% of the estimated landscaping cost of \$18,500.00 based upon the cost estimate provided in the July 26, 2024 staff report
 - d. The applicant shall submit to the North Pender Island Local Trust Committee, within two years of the date of permit issuance, a letter from a qualified professional stating that the nesting tree protection and ecological restoration conditions have been completed substantially in accordance with Schedules A, B, C, D, and E and will, upon standard upkeep, become established.
 - e. Where the development authorized by this permit has been completed, the security shall be returned to the permit holder provided the conditions have been met.
- 3. The area described herein shall be developed in accordance with the terms, conditions and provisions of this Permit, and any plans and specifications attached to this Permit, which shall form a part thereof.

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

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

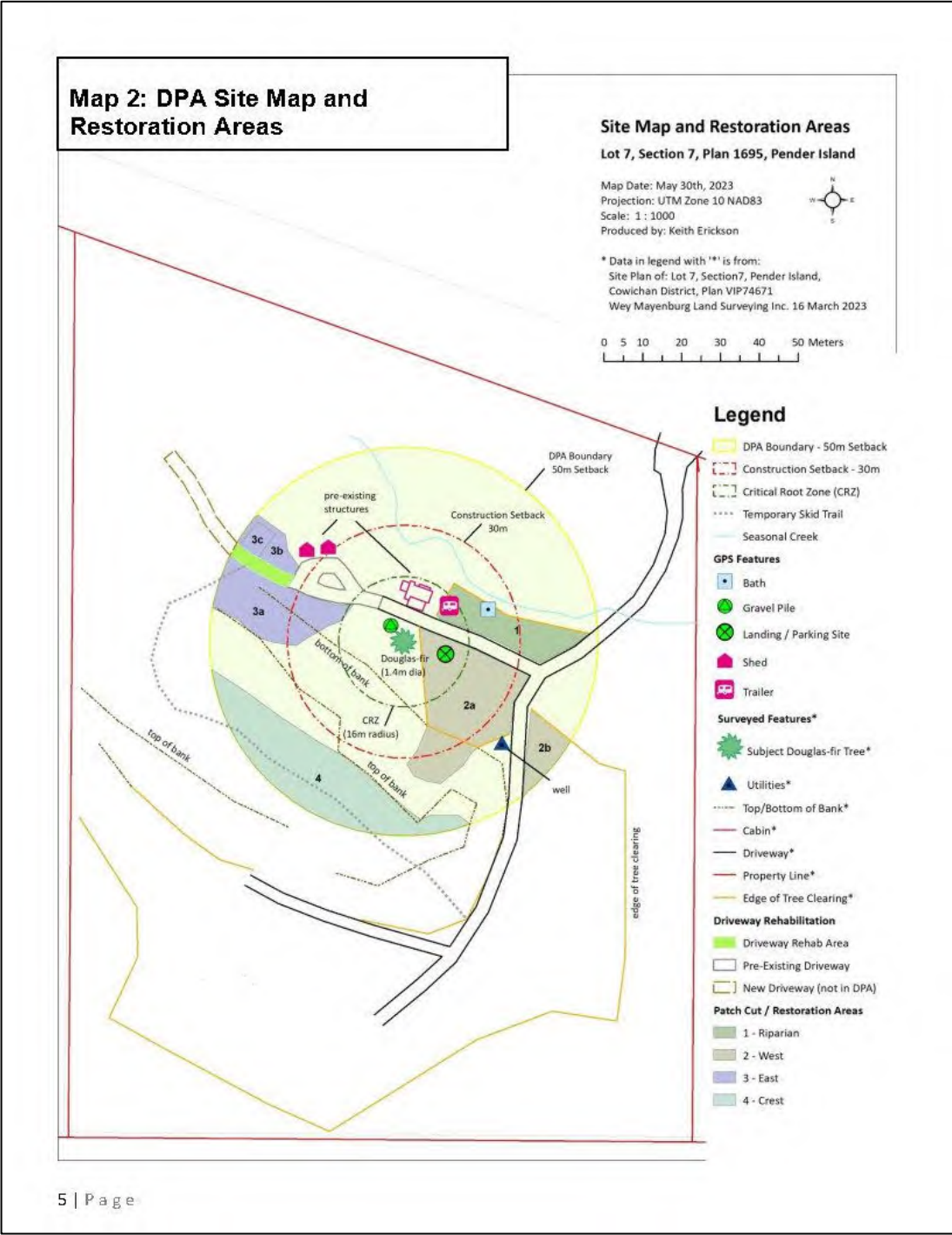
Deputy Secretary, Islands Trust

Date of Issuance

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

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

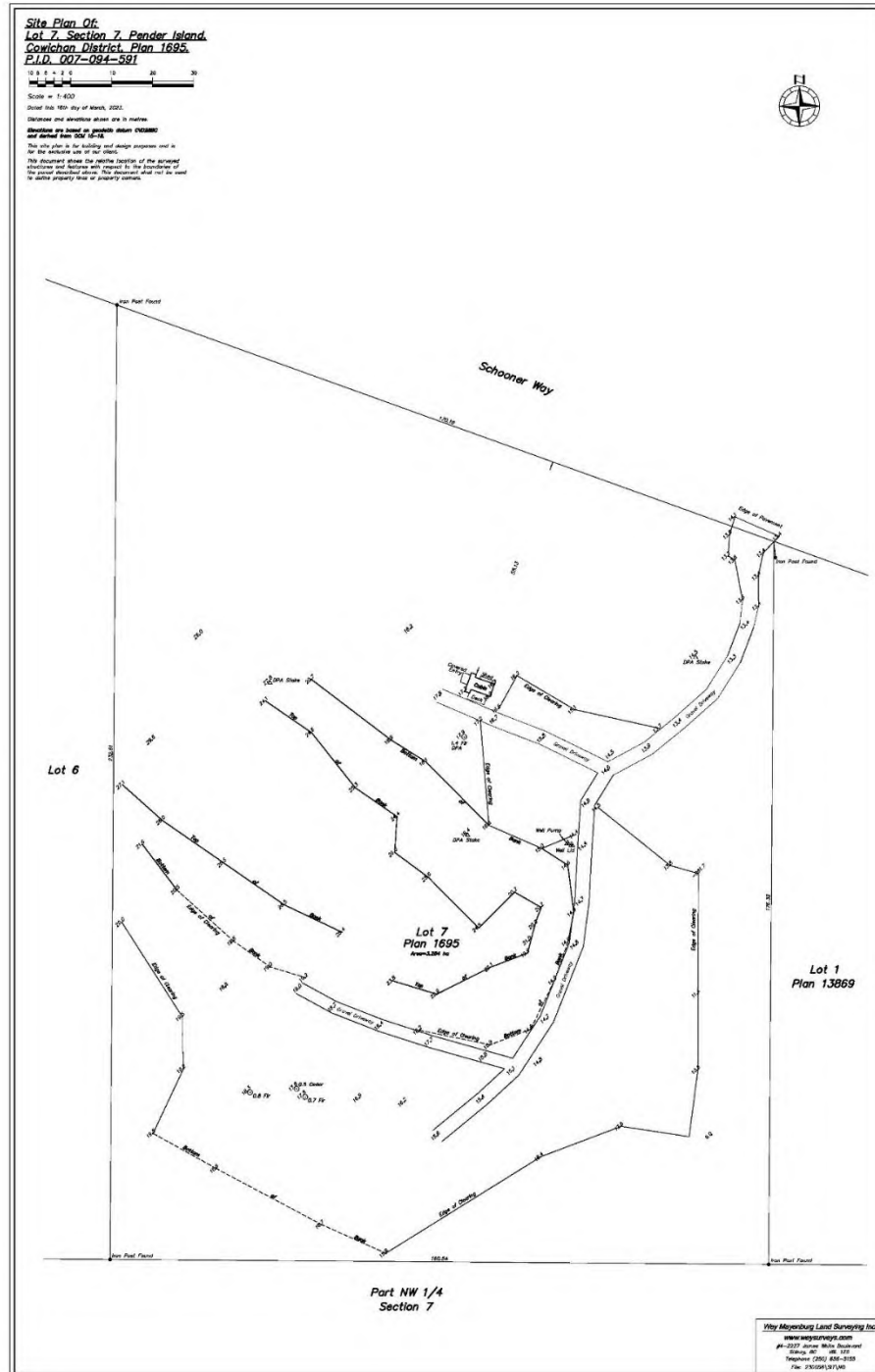
DEVELOPMENT PERMIT 2023.3
Schedule "A" - Site Map and Restoration Areas



NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

DEVELOPMENT PERMIT 2023.1

Schedule "B" – Site Plan



NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

DEVELOPMENT PERMIT 2023.1 Schedule "C" – Planting Methodology

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

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

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

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

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

DEVELOPMENT PERMIT 2023.1

Schedule "D" – Restoration Area Prescriptions and Planting List



Pender Islands
Conservancy

PO Box 52, Pender Island BC V0N 2M0

19 July 2023

Dear Trustees Campbell, Morrison, and Maude:

I am writing this letter on behalf of the Pender Islands Conservancy Association to express our concern about the violation of the Raptor and Heron Nest DPA at 4815 Schooner Way on North Pender Island.

The conditions of the Raptor and Heron Nest DPA in the North Pender Island Official Community Plan (OCP, 2007) are intended to:

- (1) *protect the integrity of the focal nest tree, including protection of its root zone from physical damage and soil compaction, wind-firmness by retaining surrounding canopy trees, and soil moisture by retaining understorey vegetation*
- (2) *protect surrounding mature trees* to allow for new nest trees to develop within the same territory (raptors such as eagles and ospreys require trees that are 150 or more years old, as stated in the North Pender Island OCP, Section 5.2.8.6)
- (3) *protect the nesting territory* from ongoing disturbance, to allow birds to choose to return and use the territory in subsequent years.

The activities that have taken place at 4815 Schooner Way have violated all these protections, and the existing osprey nesting territory has been functionally lost, regardless of whether the focal nest tree itself was retained.

For example:

- With the installation of a hard packed roadbed and widening of the road / driveway immediately adjacent to the nest tree, soil permeability within the root zone has been compromised, thereby reducing the amount of water available to the tree and increasing its current and future drought stress. This directly contravenes the condition stated in Section **5.2.8.4(m)** of the North Pender Island OCP (2007). With reduced soil permeability, given increasing drought severity in the Coastal Douglas-fir ecoregion, any loss of soil water recharge capacity can push even mature, established trees to a critical water deficit condition during summer months.
- Ongoing activity and disturbance within the DPA during the osprey nesting window following tree removals, such as parking and operation of trucks and recreational vehicles, as well as burning slash piles, has further ensured that this territory was effectively uninhabitable by this species during its breeding season.

- The commercial logging operation used unnecessarily heavy equipment for the scale and sensitivity of the site, causing soil disturbance and loss of understorey vegetation within much of the area immediately surrounding the nest tree. The logging and excessive ground disturbance within the DPA contravenes Sections 5.2.8.7.2(b,c,d) of the North Pender Island OCP (2007).

The conditions of the North Pender Island OCP clearly state that the surrounding habitat, including the surrounding canopy and potential future nesting trees, understorey vegetation and soils must be protected along with the focal nest tree. In effect, since the habitat surrounding the nest tree has been significantly damaged, the tree in question has been lost as a functioning nest site and these actions are therefore a clear violation of the Raptor and Heron Nest DPA, indistinguishable in consequence from the removal of the nest tree itself. Since the violation of this DPA has caused the functionally permanent loss of this natural resource from North Pender Island, it is important to ensure real and meaningful enforcement.

Since part of your role as our elected trustees is to uphold our OCP by ensuring DPA violations are met with meaningful enforcement action, we are asking if you will ensure that the significant violation of the Raptor and Heron Nest DPA at 4815 Schooner Way is met with proportionate and significant enforcement action?

Some landowners who violate DPAs state that they were unaware of a DPA when they purchased their property. This is unfortunate, yet it is the responsibility of the landowners to be aware of DPAs and other legally binding restrictions on what they can do with the natural features of their land, just as they would need to be informed about legal setback restrictions and building codes. Regardless, ignorance of the DPA does not apply in this situation: The assessment letter the Trust has on file, dated 30 June 2022, confirming the validity of the Raptor and Heron Nest DPA around the osprey nest tree at 4815 Schooner Way, was produced upon request of the current land holders as a condition of purchase. They were therefore clearly aware of the existence of a DPA at that location prior to any commercial logging (and indeed prior to even purchasing the property).

We understand that a restoration plan for the Raptor and Heron Nest DPA at 4815 Schooner Way will be considered at the North Pender Island LTC regular meeting on July 28, 2023. When deciding whether to approve the restoration plan for this DPA, we ask that you consider that ecological restoration involves assisting the recovery of an ecosystem that has been degraded, such that the restored system supports a level of biodiversity and ecosystem services comparable to pre-degradation levels. Merely planting an agreed upon number of seedlings does not restore a sensitive and functioning ecological system with a complex understorey and 150-year-old canopy trees. Planting seedlings also does not restore the ecological function and ecosystem services provided to our community by a mature, species-diverse coastal forest, including the protection and enhancement of soil stability and productivity, enhancement of groundwater recharge capacity, increasing drought and wildfire resistance of our environment,

and even stimulating nearshore marine productivity through the provision of critical forest-derived nutrient outflows. These values will not be restored for many generations.

A meaningful plan of remediation must include, along with tree planting, ongoing maintenance to ensure tree survival (watering of plantings, deer browse protection), surface remediation to restore soil permeability in the root zone of the nest tree, and revegetation and protection of the understorey. A meaningful plan of remediation should also require the payment by the offending land holders, at minimum, of a security deposit for the full amount of the estimated cost of carrying out the plan until the plan has been fully implemented.

Will you require a meaningful and complete remediation plan in response to the significant violation of this Raptor and Heron Nest DPA?

We thank you in advance for considering and responding to our questions.

Respectfully,

Elizabeth Miles
Board President
Pender Islands Conservancy Association

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

DATE OF MEETING: July 26, 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 – Project Charter and Work Plan

RECOMMENDATIONS

1. That the North Pender Island Local Trust Committee endorse the attached Project Charter, Work Plan and Engagement Strategy for the North Pender Island Housing Access and Affordability Project.
2. That the North Pender Island Local Trust Committee direct staff to initiate a web-based qualitative housing needs survey targeting local residents and property-owners to gather additional data for use in the North Pender Island Housing Access and Affordability Project.

REPORT SUMMARY

This report is to seek approval from the North Pender Island Local Trust Committee (LTC) on the attached project charter, work plan and engagement strategy for the LTC's Housing Access and Affordability Project and to seek direction on conducting a web-based survey.

The recommendations above are supported as:

- An endorsed project charter, work plan and engagement plan are needed to proceed;
- The project deliverables, timelines and engagement strategies are reasonable and achievable, and,
- To help inform project outcomes, a web-based survey will allow for input from a broader range of community members and stakeholders than is currently being reached through public meetings.

BACKGROUND

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. The LTC subsequently directed staff to proceed with the drafting of a project charter, work plan and engagement strategy at the April LTC meeting

Staff are now seeking further direction on the project charter/work plan and engagement strategies, as well as approval to proceed with a web-based qualitative housing needs survey for North Pender Island.

Issues and Opportunities

Project Charter and Work Plan

The attached project charter and work plan (Attachment 1) are consistent with the project scope and milestones outlined in the business case approved by Trust Council. The timelines for charter/work plan approval are slightly amended (from May to July) and the completion of a web-based survey is now included in the project scope and deliverables.

Engagement Strategy

The project charter also include an overview of engagement strategies and timelines. Proposed engagement strategies include:

- Early engagement letter to First Nations
- Referrals to APC (note: a Terms of Reference to guide the work of the APC is a project deliverable)
- Completion of web-based survey
- Directed engagement with community groups, stakeholders and First Nations (including meeting with Pender Islands Housing Society)
- Holding of several Community Information Meetings
- Public Hearing on bylaw amendments (if required)
- Implementation outreach and education

Qualitative Housing Needs Survey

With limited community engagement so far at public meetings relating to the project, staff recommend that the LTC conduct a web-based qualitative housing needs survey. Staff have had good results using this method of information collection and have access to the [survey-monkey](#) platform so there would be limited cost.

The survey would be targeted to North Pender Island residents and property-owners, and conducted between August and October 2024. The survey could be promoted at the proposed Saturday September 28 CIM and final results would be summarized for the LTC's November meeting. The scope of survey questions may include:

- What are your current and future housing needs?
- Are those housing needs currently being met? If not, why?
- What would help you to realize those housing needs?
- Are there any specific regulatory or policy changes that you could see would help?
- What other actions would you like to be seen to improve housing access and affordability?

If the LTC directs staff to proceed, staff will vet the draft survey questions to the LTC for comment before finalizing. Any further input on survey scope or questions of interest from the LTC would be helpful.

An updated Housing Needs Report will be completed by early 2025 as part of broader Trust Area housing initiatives, and, while high level, will further inform the project and survey results.

Rationale for Recommendation

The recommendations on page 1 are supported as:

- An endorsed project charter, work plan and engagement plan are needed to proceed;
- The project deliverables, timelines and engagement strategies are reasonable and achievable, and,

- To help inform project outcomes, a web-based survey will allow for input from a broader range of community members and stakeholders than is currently being reached through public meetings.

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

With direction from the LTC, staff will finalize project planning documents, initiate a web-based survey, and update the Islands Trust website with project materials.

Submitted By:	Brad Smith, Island Planner	July 17, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	July 17, 2024

1. Project Charter/Work plan and Engagement Strategy

Housing Access and Affordability - Project Charter and Engagement Plan - Draft

North Pender Island Local Trust Committee

LTC Endorsement Date:

Purpose: To engage in community consultation, to consult with First Nations, and to engage with stakeholder groups to review housing options and to undertake amendments to the OCP and LUB and development of a housing action plan to improve access to affordable housing in the community.

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. There are also a number of opportunities and ongoing housing related initiatives across the Trust Area that have relevance to this project.

Deliverables

- Staff reports with data, analysis and recommendations
- Qualitative Housing Needs Survey
- Potential amendments to LUB and OCP
- Housing Action Plan
- Communications plan

In Scope

- Review housing policies and regulations
- Conduct a web-based qualitative housing needs survey
- Community, stakeholder and First Nations consultation
- LUB and OCP legislative amendments
- Community education

Out of Scope

- Other non-housing related amendments to OCP or LUB
- Other mapping or professional reports.

IAP2 Engagement Level:

- ☒ Inform
- ☒ Consult
- ☐ Involve
- ☐ Collaborate

Workplan Overview

Deliverable/Milestone	Target Date
Project Charter endorsed and project initiation	Jul 2024
Engagement letter to First Nations	Aug 2024
Conduct web-based housing needs assessment survey/	Aug - Oct 2024
Draft Terms of Reference for APC	Sep 2024
Preliminary report with analysis	Nov 2024
LTC review of options	Nov 2024 – Jan 2025
Initiate drafting of housing Action Plan	Jan 2025
Recommendations to LTC, LTC review, direction to prepare bylaws	Feb 2025
Community consultation on draft bylaws, bylaw referrals, First Nations engagement, Finalize Housing Action Plan	Feb – Apr 2025
Legislative process to amend LUB/OCP (timeline much shorter if not requiring OCP amendments)	May – Dec 2025
Implementation and communications	Jan – Mar 2026

Project Team

Brad Smith, Island Planner	Project Manager
Robert Kojima, RPM	Project Sponsor
GIS co-ordinator	Mapping
Emily Bryant	Admin support
RPM Approval: Robert Kojima	LTC Endorsement:

Budget

Budget Sources:		
Fiscal	Item	Cost
2024-25	Consultation	\$10,000
	Legal	\$3,000
	Contingency	\$2,000
	Total 2024-25	\$15,000

Date: July 17, 2024	Resolution #: Date: xxx			
		2025-26	Consultation	\$4000
			Public Hearing	\$2000
			Legal/Contingency	\$2000
			Total 2025-26	\$8,000

Deliverables Schedule

Meeting	Deliverable/Milestone
Jul 26, 2024	LTC endorsement of project charter/work plan
Saturday, Sep 28, 2024	Community Information Meeting
Nov 29, 2024	Report to LTC with data review and analysis including survey results and APC report
Feb 2025	LTC considers options and recommendations and provides direction to proceed with bylaw amendments, Action Plan development
May 2025	Consideration of first reading, scheduling of public hearing, completion of referrals, finalizing of Housing Action Plan
Jul 2025	Public Hearing (if required), second and third readings, referral to EC and Minister
Nov 2025	Final adoption of bylaws, LTC review of communications/implementation plan
Jan-Mar 2026	Project implementation and community outreach completed
Mar 2026	Implementation update to LTC and project close-out

Engagement Strategy/Timelines

Timeline	Deliverable/Milestone
Aug 2024	Early Engagement Letter to First Nations
Aug – Oct 2024	Conduct web-based housing needs assessment survey
Sep 2024	Community Information Meeting – needs assessment
Aug 2024 – Jan 2025	Directed engagement with community, First Nations and stakeholders (Including meeting with Pender Islands Housing Society)
January/Feb 2025	Community Information Meeting - Action Planning and recommendations
spring/summer 2025	CIM with Public Hearing on proposed bylaw amendments
Fall/Winter 2025	Development of implementation strategy and communications plan
Winter/ Spring 2026	Project implementation including community outreach and education, updated web content, community mail-out on bylaw amendments and other housing initiatives

File No.: Housing Access and
Affordability Project

DATE OF MEETING: July 26, 2024
TO: North Pender Island Local Trust Committee
FROM: Robert Kojima, Regional Planning Manager
Southern Team
COPY: Brad Smith, Island Planner
SUBJECT: Housing Access and Affordability Project – Business Case

RECOMMENDATION

1. **That the North Pender Island Local Trust Committee endorse the attached business case for the Housing Access and Affordability Project for fiscal year 2026 and that staff forward the business case to the relevant committees and to Trust Council.**

REPORT SUMMARY

This report attaches a draft business case for the allocation of funding and staff resources for the completion of the LTC's Housing Project for the next fiscal year.

BACKGROUND

The LTC has initiated the North Pender Island Housing Access and Affordability Project this year. This project is a Major Project supported by a business case, approved for up to \$15,000 this fiscal year. As the project is not scheduled to be completed within the current fiscal year (FY2025), a business case for the next fiscal year (FY2026) will need to be approved by Trust Council. LTCs are advised to endorse any business cases by July in order to have them reviewed by the Regional Planning Committee and by the Financial Planning Committee in their October and November meetings. The Financial Planning Committee's recommendations on the business case would then be considered at the December Trust Council for inclusion in the budget for the following fiscal year.

ANALYSIS

The project focusses on consideration of bylaw amendments to support an increased variety of housing options. The bulk of the consultation and consideration of options is scheduled to be completed this fiscal year. For the next fiscal, staff are proposing a budget of \$8,000 to complete the project by April 2026. This budget would be for the costs of on-going engagement and consultation and a public hearing, along with a legal contingency.

Rationale for Recommendation

Staff are of the opinion that the project as outlined in the business case is feasible, subject to the availability of planning staff and funding from Trust Council. The alternative would be to focus on specific bylaw amendments as LTC minor projects.

ALTERNATIVES

- 1. Request further information**
The LTC may request further information prior to making a decision. Staff advise that deferring endorsement of the business case may result in committee deadlines being missed.
- 2. Revise the business case**
If the LTC wishes to revise some aspects of the business case, staff recommend that direction be given to make changes and to forward to the relevant committees with the revisions.
- 3. Not Proceed with the Project**
The LTC may choose to not proceed with the project.
- 4. Proceed with the initiative as a Minor Project**
The LTC may request that staff report back with options to proceed with the balance of the project as a Minor Project.

NEXT STEPS

If the business case is endorsed, staff will forward it to the Regional Planning Committee and Financial Planning Committee for consideration.

Submitted By:	Robert Kojima, Regional Planning Manager	July 15, 2024
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ATTACHMENTS

- 1. Business Case



Islands Trust

**Budget Funding Request
Short-Form Business Case**

Completion of this form initiates a request to the management team, FPC, and ultimately Trust Council for allocation funding in the next fiscal year budget. The form is to be completed and submitted at the start of the decision making process. The business case forms part of the Annual Budget Process (refer to Islands Trust Council Budget Process Policy 6.3.i).

TO BE COMPLETED BY INITIATOR

Requested by (Committee or Operational Unit):
North Pender Island Local Trust Committee

Department:
Planning Services

Name of Request:
North Pender LTC Housing Access and Affordability Project

\$ Value of Request:

Fiscal Year 2026 - \$8,000
Fiscal year 2025 - \$15,000

Budget Source (select all that apply):

- ☐ **Specific Project Funding** (select all that apply)
- ☐ Third Party Contractors
 - ☐ Staff Travel Expense
 - ☐ Staff Overtime Expense
 - ☐ New Staff Member – Temporary for project
 - ☐ Computer Hardware/Software

☐ **Furniture & Equipment**

☐ **Computer Hardware/Software/Supplies**

- ☐ **New Staff Resources** (see Staff Costing Tool)
- ☐ Permanent
 - ☐ Temporary

Temp Duration: _____

☒ **Other – please describe:** _____

For fiscal year 2026:

- On-going community consultation, on-going First Nations consultation, Bylaw amendments, and legal contingency

Date of Submission to Finance:

Funding Required for (date range):
April 1, 2025 – March 31, 2026

TIE TO ISLANDS TRUST GUIDING DOCUMENTS

Islands Trust Council [Strategic Plan 2018-2022](#). Objective: Strengthen Housing Affordability Throughout the Islands Trust Area. In June 2023, [Islands Trust Council amended the Strategic Plan](#) to:

- “Prioritize elements of the strategic plan that support land use decision making”, and
- “Update the strategic initiatives related to housing to focus on projects that will develop healthy, resilient island communities by employing two lenses: mitigating and adapting to the effects of climate change, and managing growth by cultivating equitable, inclusive and resilient communities and the natural environment.”

ISSUE/OPPORTUNITY:

The North Pender Island Local Trust Committee has identified access to affordable housing as a priority issue. A Budget Funding request was submitted to Trust Council last year and approved in the amount of \$15,000 for fiscal year 2025 for a Major Project to engage in community consultation, to consult with First Nations, to engage with stakeholder groups, to review housing options and to undertake amendments to the OCP and LUB and development of a housing action plan to improve access to affordable housing in the community.

Work is currently underway on the project, with community and First Nations consultation, and a review of housing options scheduled to be completed by the end of the fiscal year (March 31, 2025). The LTC is requesting funding of \$8,000 for the subsequent phase of the project, which would involve bylaw drafting, readings, public hearing, on-going community and First Nations consultation, along a contingency for any legal questions.

This project would be consistent with Islands Trust Council Strategic Plan Goal to “Strengthen housing affordability throughout the Trust Area”. It is also utilizing the recent completed housing toolkit prepared on behalf of the Regional Planning Committee. A Housing Strategy for the Southern Gulf Islands was recently adopted by the CRD Board. Housing related initiatives are currently underway in several other local trust areas and this project would apply and build on options, experiences and lessons from those initiatives.

PROJECTED RESULTS/DELIVERABLES: the project would result in amendments to the OCP and LUB that would provide opportunities and options for greater housing diversity and affordability. A Housing Action Plan that includes non-bylaw actions may also be developed.

RISK ASSESSMENT: There are several contingencies that could negatively affect the project outcome or deliverables:

1. Lack of staff resources: the regional planning team may not be able to support the project due to other on-going projects or staff shortages. Currently preliminary work is being undertaken by the Island Planner.
2. First Nations’ capacity and timing may not align with project timelines.
3. The LTC may choose to not proceed with amendments.
4. Costs may exceed the budget due to consultation or other factors.

ALTERNATIVES CONSIDERED:**If the project is not funded for Fiscal 2026:**

Option 1: Proceed with the initiative as a Minor LTC Project – this would limit the project budget to a maximum of \$5,000 for the fiscal year.

Option 2: Defer: the completion of project could be deferred to a future fiscal year.

CRITICAL SUCCESS FACTORS: The project would be considered successfully completed if relevant amendments to the OCP and LUB are adopted. Ultimate success would be measured over the longer term through improvements to housing options, accessibility and affordability.

RECOMMENDED OPTION: The recommended option is to fund the initiative at the requested amount of \$8,000 for the coming fiscal year. This provides sufficient funding to complete the project.

COST/BENEFIT ANALYSIS:

Quantitative Analysis: \$8,000 for fiscal 2026 for:

- On-going community consultation - \$2,000
- On-going First Nations consultation - \$2000
- Public hearing - \$2,000
- Legal contingency - \$2,000

Qualitative Analysis: project would benefit from efficiencies associated with similar projects in other LTA and build on those experiences.

PURCHASING PROCEDURE: N/A

PROPOSED IMPLEMENTATION STRATEGY: The project is proposed to be completed over two fiscal years, with final year consisting of on-going consultation, drafting and review of bylaws, legislative process, and implementation.

STAFF RESOURCING: The project would be managed by a planner assigned from the Regional Planning Team, estimated at 0.25 FTE, with support from the RPM (up to 0.10 FTE), admin support (0.10 FTE) and support from the Senior Indigenous Relations Advisor, the Senior Freshwater Specialist, mapping and communications staff as needed.

CHANGE MANAGEMENT/COMMUNICATIONS/COLLABORATION: N/A

Requested by (Committee or Business unit): North Pender Island Local Trust Committee

Prepared by (name, title)/date: Robert Kojima, July 12, 2024

Reviewed by (name, title)/date:

File No.: Raptor Nest DPA Review
Project

DATE OF MEETING: July 26, 2024
TO: North Pender Island Local Trust Committee
FROM: Brad Smith, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: Raptor Nest DPA Review Project – Final Report

RECOMMENDATION

1. That the North Pender Island Local Trust Committee directs 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 provisions consistent with the final professional report submitted by Caurinus Environmental, including the recommendations to increase nest tree buffering radiuses consistent with provincial guidelines.
2. That the North Pender Island Local Trust Committee directs staff to schedule a Community Information Meeting for the Raptor Nest DPA Review Project as part of the Saturday September 28, 2024 special meeting agenda, and to advertise this meeting in the Pender Post.

REPORT SUMMARY

The purpose of this staff report is to provide the North Pender Island Local Trust Committee (LTC) with the final report from the consultant for the Raptor Nest Development Permit Area Review Project and to seek direction from the LTC on next steps.

The above recommendations are 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;
- 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; and,
- The Saturday September 28 special meeting is well-timed to present an amending bylaw to the LTC and to seek input from the community.

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.

Z:\12 Long Range Planning\09 NP\6500 LTC Work Program\20 Projects (P)\2023 Raptor Nest Mapping DPA\2023 Raptor Nest Mapping DPA\2023 Raptor Nest Mapping DPA\Staff reports\2024-07-26\NP-LTC_2024-07-26_Raptor Nest Project.docx

At the April 5, 2024 LTC meeting, the LTC received a draft consultant's report for review and comment. At that time, the mapping was still preliminary and there were a number of Great Blue Heron nest sites and associated guidelines changes that had not yet been added to the report. This work is now complete.

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

ANALYSIS

Issues and Opportunities

Professional Report

A final professional report has been submitted by Caurinus Environmental (Attachment 1). The required scope of 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

Twenty-three new nests are identified in the final study results, as shown in the map in Figure 1. These include:

- 14 Bald Eagle nests
- 5 Osprey nests
- 3 Great Blue Heron nests
- 1 Peregrine Falcon nest

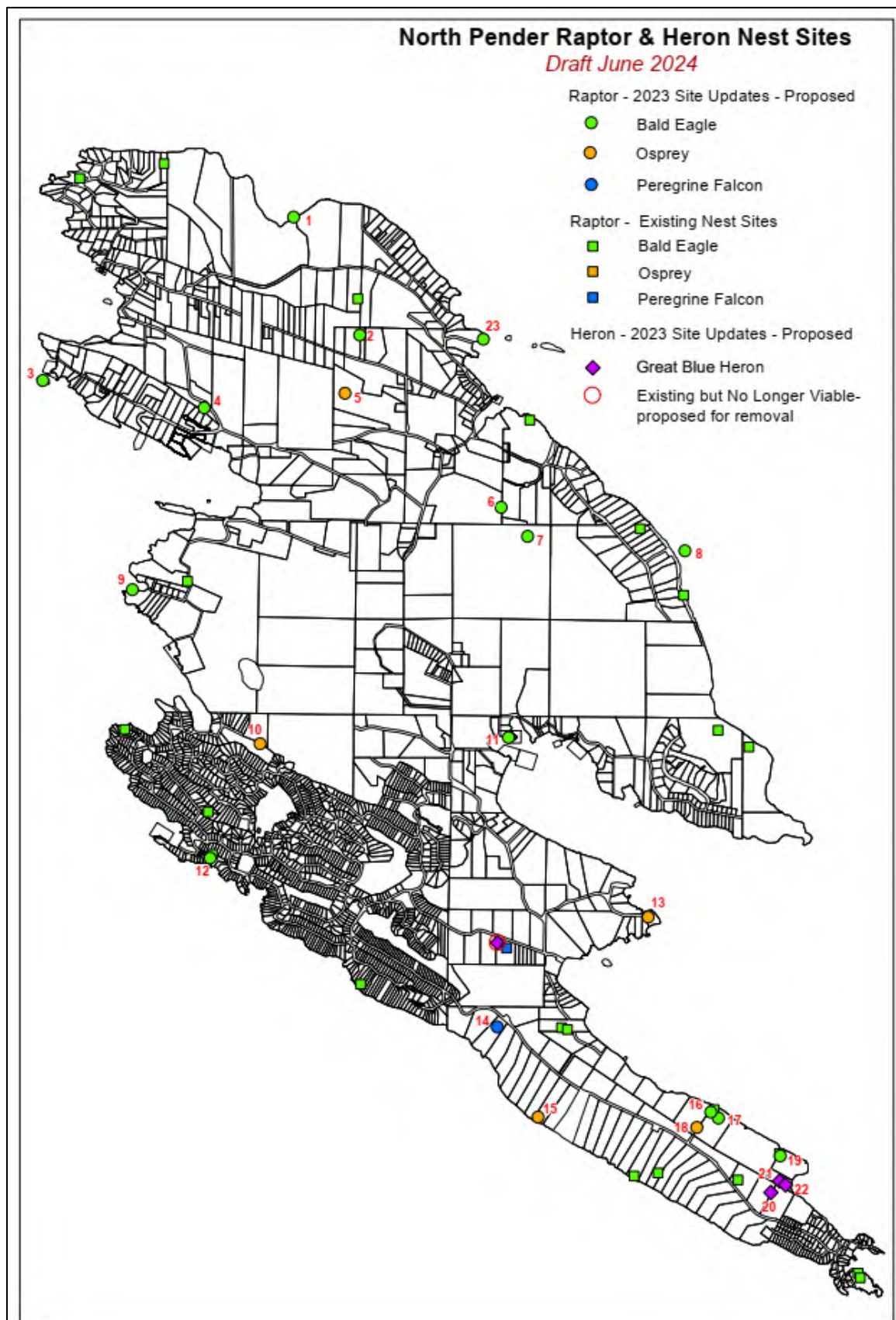
In addition, the consultant visited all of the existing DPA 7 schedule sites and has determined that they are all still potentially viable and should remain on the Schedule O map, except for the Great Blue Heron nest site located at 4185 Schooner Way, which has been deemed no longer viable.

As a next step in mapping, planning staff will work with GIS staff to verify the accuracy of site locations and will prepare an amended Schedule O map for inclusion in an amending bylaw. As previously directed by the LTC, staff will also send a letter to all property owners where a new or existing site has been located, informing them of the project and that a nesting site has been identified on their property.

Some of the data points may require private land access to verify. Through the next step in data review, staff will identify those specific sites. 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.

Figure 1. Preliminary Draft Map of All Nest Sites



Proposed Changes to OCP Wording

The recommendations in the consultant's report are consistent with the most recent provincial guidelines: [*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.

Staff are of the view that the recommendations by the consultant are well considered and appropriate. 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. The proposed changes 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 the OCP consistent with new provincial guidelines; and
- Updated referencing to 2013 provincial guidelines.

The main changes from the draft report presented in April 2024 and the final report is the inclusion of Great Blue Heron wording under the Special Conditions section 5.2.8.6 of the OCP and associated buffering radius recommendations (on p. 5 and 6 of 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.

Consultation

First Nations Engagement

Staff have already sent an early engagement letter to the standardized list of First Nations for the North Pender Local Trust Area. 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 now send a follow-up response with the finalized professional report for their further 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 already directed by the LTC, staff will 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 consultation process, staff are recommending that the LTC consider holding a CIM at the already scheduled Saturday September 28 special meeting 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, should the LTC proceed to that point.

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;
- 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; and,
- The Saturday September 28 special meeting is well-timed to present an amending bylaw to the LTC and to seek input from the community.

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	July 16, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	July 16, 2024

ATTACHMENTS

1. Final Report, Caurinus Environmental, June 2024

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



Caurinus Environmental

June 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

Twenty three 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; Appendix A (Raptor Nest Map)).

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

Site #	Species	Name	Easting	Northing	Address	Ownership
1	BAEA	Davidson Bay	478085	5407144	3206 Clam Bay Rd	Private
2	BAEA	Colston Cove B	478636	5406161	4312 Clam Bay Rd	Private
3	BAEA	Waterlea Island	475996	5405789	1309 McKinnon Rd	Private
4	BAEA	Golf Course	477338	5405554	2314 Otter Bay Rd	Private
5	OSPR	Corbett Rd	478513	5405676	4311 Corbett Rd	Private
6	BAEA	Hoosen Ridge	479815	5404725	5442 Hoosen	Private
7	BAEA	Wein Farm	480037	5404483	4506 Bedwell Harbour Rd	Private
8	BAEA	Bald Cone Middle	481348	5404362	Crown Land or Lot 14 or 15	Private
9	BAEA	Irene Bay	476739	5404038	2501 Irene Bay Rd	Private
10	OSPR	Masthead Trail	477805	5402753	Shingle Creek Pk	Comm Park
11	BAEA	Brackett Cove	479877	5402806	4601 Pecos	Private
12	BAEA	Thieves Bay South	477388	5401801	2731 Anchor Way	Private
13	OSPR	Shark Cove	481041	5401309	5747 Canal Rd	GINPR
14	PEFA	Pirates Rd	479783	5400392	4809 Pirates ?	Private
15	OSPR	Oaks Bluff	480123	5399641	5915 Pirates Rd?	Private
16	BAEA	Bedwell Harbour, Shark Pl-C	481564	5399682	6903 Pirates Rd	Private
17	BAEA	Bedwell Harbour, Shark Pl B	481627	5399632	6903 Pirates Rd	Private
18	OSPR	Shark Pl -	481448	5399555	6905 Shark Pl	Private
19	BAEA	Timbers, Bedwell Harbor	482143	5399318	6901 Shark Pl	Private
20	GBHE	Starvation Bay	482064	5399015	Pirates Rd	Private
21	GBHE	Starvation Bay	482137	5399109	Pirates Rd	Private
22	GBHE	Starvation Bay	482185	5399078	Pirates Rd	Private
23	BAEA	Welcome Cove	479666	5406125		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 is only one known great blue heron rookery containing three nests located off Pirates Road near Starvation Bay. These newly discovered nests are the only known nesting sites on Pender Island. Prior to this recent discovery, 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. I would therefore recommend removing the historical Raptor and Heron Nest DPA for the Heron nesting site at 4815 Schooner Way, but again stress that the adjacent osprey nest DPA on the same property remains viable and enforceable.

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

North Pender Raptor & Heron Nest Sites

Draft June 2024

Raptor - 2023 Site Updates - Proposed

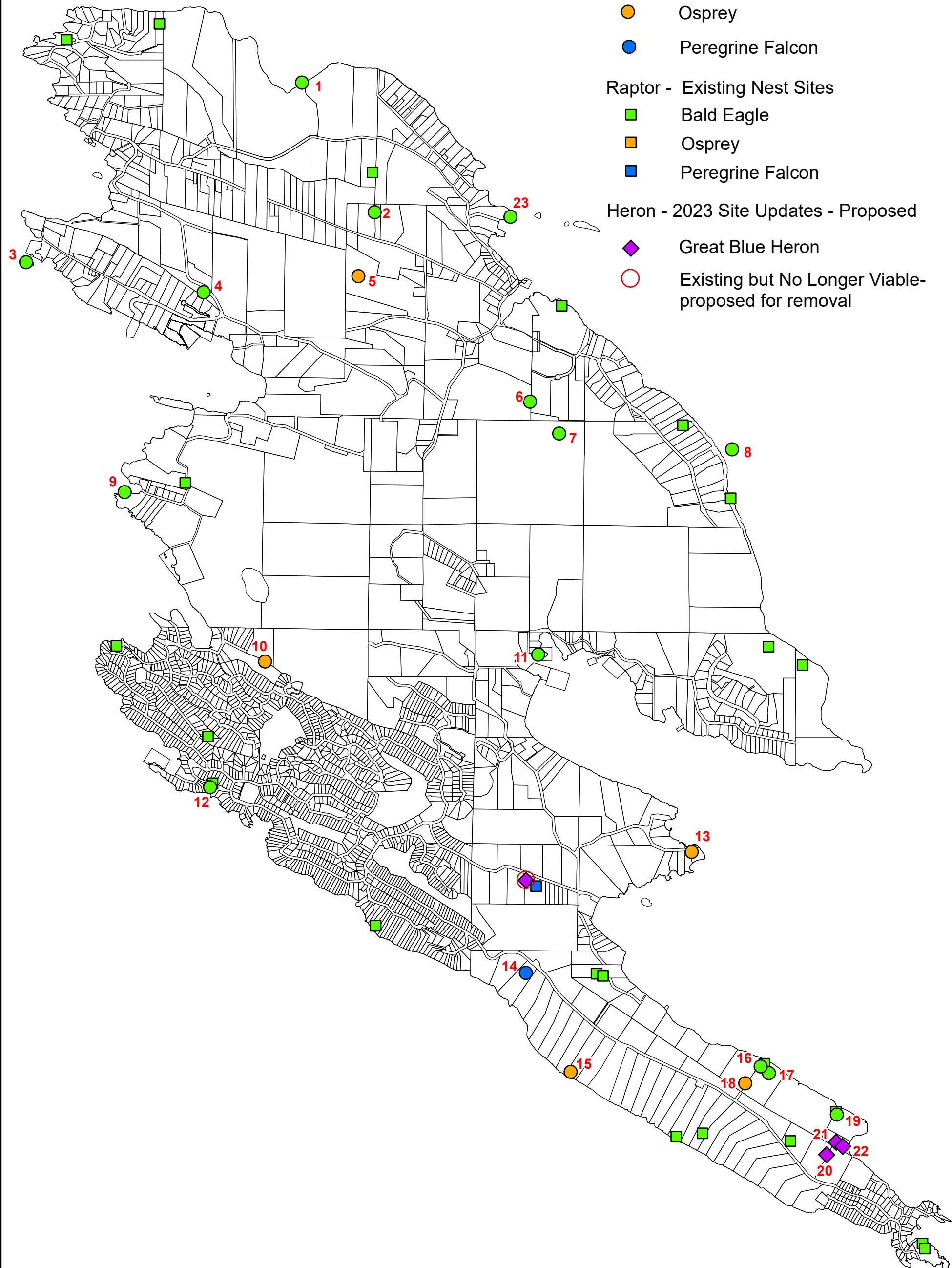
- Bald Eagle
- Osprey
- Peregrine Falcon

Raptor - Existing Nest Sites

- Bald Eagle
- Osprey
- Peregrine Falcon

Heron - 2023 Site Updates - Proposed

- ◆ Great Blue Heron
- Existing but No Longer Viable-proposed for removal



0 0.5 1 Kilometers

Date: 6/11/2024

Active Projects Report

North Pender Island

0. Major project - Housing Access and Affordability Project

Responsible

Dates

Activity:

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

Activity:

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

9. *Fire Inspection requirements for STVRs*

Responsible

Date Received

05-Apr-2024

Islands Trust
LTC EXP SUMMARY REPORT F2025
Invoices posted to Month ending May 2024

650 North Pender	Invoices posted to Month ending May 2024	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-650	LTC "Trustee Expenses"	300.00	0.00	300.00
LTC Local				
65200-650	LTC - Local Exp - LTC Meeting Expenses	1,670.00	498.50	1,171.50
65210-650	LTC - Local Exp - APC Meeting Expenses	300.00	0.00	300.00
TOTAL LTC Local Expense		<u>1,970.00</u>	<u>498.50</u>	<u>1,471.50</u>
Projects				
73001-650-4132	North Pender Raptor Nest DPA update	5,000.00	0.00	5,000.00
73001-650-4137	North Pender Housing Access & Affordability	15,000.00	0.00	15,000.00
TOTAL Project Expenses		<u>20,000.00</u>	<u>0.00</u>	<u>20,000.00</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 MARCH 19th, 2024 BOARD MEETING

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

1. STRATEGIC PLANNING/ADMINISTRATION

- The ITC Board received the Minister of Municipal Affairs' response on the Islands Trust Conservancy (ITC) Plan which included a request to engage further with First Nations regarding creation of the ITC Plan. Manager Emmings advised that any new acquisitions or covenants need to come to the Minister for review before the Board signs off on them. The ITC Board directed staff to respond to the Minister of Municipal Affairs acknowledging directions in the letter and requesting:
 - Authorization to invest ITC funds as permitted under the provisions of the *Trustee Act*
 - Direction on interaction with the Minister regarding property management of new acquisitions of covenants and nature reserves
- The ITC Board approved the Project Charter for the development of the 2026-2030 ITC Plan.
- The ITC Board amended three land securement and management policies, providing direction for early First Nations engagement prior to approval of securement projects.
- Trustee Elliot provided updates of interest to the ITC Board from Executive Committee including:
 - Executive Committee's interest in continuing to meet with Islands Trust Conservancy to strategize on how to gain support from the province
 - ITC presence at the 50th anniversary celebration of Islands Trust on Salt Spring Island
- The ITC Board requested that Executive Committee set aside time for an ITC presentation to Trust Council at the June 2024 meeting
- Trustee Gauvreau provided updates of interest to the ITC Board from Governance Committee including:
 - The roles and responsibilities of the committee to oversee the organization's governance structure, ensuring transparency and efficiency, and providing recommendations to Trust Council
 - The Committee is currently reviewing the 2022 governance review, which requires input from staff and trustees
 - The report needs to be reviewed and discussed at Trust Council before a letter is drafted to the province



2. COVENANT AND PROPERTY ACQUISITIONS

- The ITC Board approved a conservation proposal for the Doris McHardy NAPTEP conservation covenant on North Pender Island, subject to review of First Nations responses and Ministerial approval.
- Manager Emmings provided the Board with a status update on public applications for Crystal Mountain Nature Reserve, Robert Leader NAPTEP Covenant, and Koontz NAPTEP Covenant following the decision to decline approval of the ITC Plan by the Minister of Municipal Affairs.

3. COVENANT AND PROPERTY MANAGEMENT

- The ITC Board instructed staff to proceed with the development of a risk management policy for all nature reserves, which includes warning users of the risk of danger trees.
- The ITC Board directed staff to begin work on signage for the S'ul-hween X'pey (Elder Cedar) Nature Reserve on Gabriola Island, to address risk management efforts.

4. FUNDRAISING AND CONSERVANCY SUPPORT

- The ITC Board approved a contribution of \$3,500 to support the 2024 Salish Sea Conservation Forum on Galiano Island.
- The ITC Board approved the request from the Galiano Conservation Association to install a water meter at the existing drilled well on Trincomali Nature Sanctuary to log water levels and temperature data to inform a water conservation project on Galiano Island. This approval is subject to:
 - Proper installation as guided by the Water Sustainability Act and Groundwater Protection Regulation regarding work in and around groundwater wells
 - Removal of all equipment at the end of the project

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

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



HIGHLIGHTS OF ISLANDS TRUST CONSERVANCY MAY 28TH, 2024 BOARD MEETING

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

1. ORGANIZATION UPDATES/TEAM

- Manager Emmings notified the Islands Trust Conservancy (ITC) Board that the posting for a board member vacancy is live and has been broadly distributed. The posting closes June 7th, 2024.
- The ITC Board was introduced to Emily McLean, ITC's summer co-op student.
- Manager Emmings notified the ITC Board of her temporary appointment as Manager with the BC Conservation Data Centre from June 10th, 2024 to September 16th, 2025.
- Director Frater informed the ITC Board that Carolyn Stewart will be Acting Manager for ITC starting June 17th, 2024 until January 16th, 2025.

2. STRATEGIC PLANNING/ADMINISTRATION

- The ITC Board considered the 2024/25 Work Plan and approved the following:
 - Extension of the Regional Conservation Plan by two years until December 2029.
 - Rescind resolution ITC-2020-030: "That the ITC Board direct staff to complete an ITC Reconciliation Action Plan that incorporates actions in Goal 2 of the Regional Conservation Plan" to ensure that steps towards Reconciliation are informed by First Nations engagement for the ITC Plan.
 - Prioritization of: Goal Two of the Regional Conservation Plan related to strengthening relationships with First Nations; components of Goal One related to knowledge, information, and data management of ITC properties; and, components of Goal Three related to ongoing management of ITC protected areas.
 - Removal of the current Climate Change Impacts Project from the ITC Work Plan.
 - Exploration of climate change projects and research to address the climate emergency in ITC protected areas once ITC has a new Property Management Team Lead.
- The ITC Board approved the Audited Financial Statements for the 2023/24 fiscal year, and referred the statements to Islands Trust Council for information.
- The ITC Board directed staff to prepare an ITC budget request, including budget allocation for \$220,000 associated with the Species at Risk Program.

3. COVENANT AND PROPERTY ACQUISITIONS

- The ITC Board received updates on negotiations for four conservation covenants and two acquisitions.



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

4. COVENANT AND PROPERTY MANAGEMENT

- The ITC Board directed staff to delay work on nature reserve management plans until an approved ITC Plan from the Minister of Municipal Affairs is received.
- The ITC Board directed staff to continue work on a Risk Assessment Policy through a phased approach that includes public safety with reference to the BC *Occupier Liabilities Act*, and identification of properties that would benefit from a core policy of conservation and environmental management.

5. COMMUNICATIONS AND OUTREACH

- ITC issued its Spring 2024 Heron Newsletter available at <https://islandstrust.bc.ca/conservancy/heron-newsletter/>.
- The ITC Board approved the ITC Annual Report text for approval by Trust Council and submission to the Minister of Municipal Affairs.
- The ITC Board directed staff to develop communications materials for stakeholders and the public with regards to the updated ITC Work Plan and elements of the Regional Conservation Plan (2017-2029).

6. FUNDRAISING AND CONSERVANCY SUPPORT

- ITC issued its 2023/24 Impact Report available at <https://islandstrust.bc.ca/conservancy/our-impact/>.
- The ITC Board approved an Opportunity Fund Grant for the Bowen Island Conservancy.

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

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



DATE OF MEETING: July 26, 2024
TO: North Pender Island Local Trust Committee
FROM: Warren Dingman, Manager - Compliance and Enforcement
Local Planning Services
SUBJECT: Bylaw Compliance and Enforcement Policy

RECOMMENDATION

1. That the North Pender Island Local Trust Committee direct staff to revise the proposed Bylaw Compliance and Enforcement Policy as necessary and bring it back for consideration.

REPORT SUMMARY

The purpose of this report is to present a draft Bylaw Compliance and Enforcement Policy document for review and consideration by the Local Trust Committee. The proposal is to incorporate all current standing resolutions for compliance and enforcement into a single document and to provide clarity on current policies.

BACKGROUND

Islands Trust is currently conducting a bylaw enforcement review in an effort to ensure that bylaw enforcement matters are being resolved efficiently and with minimal conflict. The first priority was the review of Trust Council Bylaw Compliance and Enforcement Policies to ensure that policies, procedures, and guidelines are administratively fair, reasonable, and transparent.

As part of this process, a bylaw compliance and enforcement policy document template was developed and draft policy documents prepared for the consideration of Local Trust Committees (LTC) in order to address their local issues. LTCs currently use standing resolutions to establish enforcement policies, and the proposal is to place all adopted standing resolutions into one document, which also includes additional policies and procedures for specific issues not addressed in Trust Council Policy 5.5.1.

TRUST COUNCIL POLICY

Trust Council Policy 5.5.1, which is attached, provides direction to staff and Local Trust Committees on when compliance and enforcement investigations will be commenced and closed; the priority of investigation; the role of Local Trust Committees in bylaw enforcement; use of mediation; when legal action should be commenced; confidentiality of complainants; and bylaw notice debt.

However, it does not contain policies for the following:

1. Notice of Site inspections
2. Time to Comply
3. Frivolous or vexatious complaints
4. Definition of minor contraventions

5. Use of discretion

Trust Council policy states that Local Trust Committees can open and close files and adopt policies to address specific issues regarding compliance and enforcement, and the proposed policy document is an opportunity to ensure that those issues are addressed in an open and transparent manner, and to allow the Local Trust Committee the opportunity to provide additional direction to staff on how to conduct bylaw compliance and enforcement activities.

PROPOSED POLICIES

The proposed policy contains the current policies adopted by standing resolution and it also provides additional policies on when site inspections are to occur, or not occur, when files should be closed at the discretion of staff. It also includes consideration on whether or not those subject to compliant should face enforcement or penalties if they are financially unable to comply.

These draft policies, other than the standing resolutions, are consistent with the draft policies presented to other LTCs and which will be considered by Regional Planning Committee as a recommended model. This is the opportunity for the LTC to consider if some of the draft policies are not supported for the Local Trust Area, or if other policies should be considered. If the LTC does wish to consider revisions, general direction should be given to staff and a revised version will be brought back to the LTC at a future meeting. Once the LTC has adopted the policy, it will be made available on the Islands Trust webpage.

RATIONALE FOR RECOMMENDATION

Local governments throughout British Columbia have bylaw enforcement policy documents that provide direction to staff regarding how bylaw compliance will be sought and how enforcement will be conducted. Within the Islands Trust, Local Trust Committees have been establishing such policies piecemeal and for individual issues through the adoption of standing resolutions. Establishing the policies into one document that can be readily accessed by staff and the general public should ensure a more efficient and open and transparent access to information and policies, and a better understanding of how bylaw enforcement is conducted.

ALTERNATIVES

1. That the North Pender Island Local Trust Committee adopt the North Pender Island Local Trust Committee Bylaw Compliance and Enforcement Policy as drafted
2. That the North Pender Island Local Trust Committee direct staff to proceed no further with work on the policy document.

Submitted By:	Warren Dingman, Manager – Compliance and Enforcement	July 11, 2024
Reviewed By:	Robert Kojima, Regional Planning Manager	July 12, 2024

Attachments

1. Proposed North Pender Island Bylaw Enforcement Policy
2. Trust Council Policy 5.5.1

PROPOSED

North Pender Island Local Trust Committee Bylaw Compliance & Enforcement Policy

Bylaw Compliance & Enforcement Policy No. 1, effective ____XXX_____, 2024

Version No. 1

Purpose

To establish policies and procedures for bylaw compliance and enforcement in the North Pender Island Local Trust Area in accordance with the adopted Trust Council Policies contained in Policy 5.5.1., and that are within the authority of the Local Trust Committee to enforce, and to ensure that policies and procedures are efficient, transparent, reasonable, and consistent with local community standards.

PART A

1.0 Application

This policy will apply to the North Pender Island Local Trust Area and the enforcement of all applicable regulatory bylaws.

2.0 Definitions & Abbreviations

BEN – bylaw enforcement notice

LUB – Land Use Bylaw

LTC – Local Trust Committee

Minor structure – any structure that does not require a building permit, and that is not located in a development permit area or located within any other environmentally sensitive area

Respondent – a property owner whose property is subject to a bylaw enforcement complaint

Health & Safety concerns – fire, unsafe construction, hazards relating to steep slopes or cliffs

Approved septic system – one that has been registered with the Vancouver Island Health Authority

3.0 References

North Pender Island Land Use Bylaw No. 224

North Pender Island Associated Islands Land Use Bylaw No. 148

North Pender Island Local Trust Committee Bylaw Enforcement Notification Bylaw No. 263

4.0 Priorities

- 4.1** Enforcement on short-term vacation rentals is a priority and proactive enforcement is authorized.
- 4.2** Enforcement on violations related to disposal or storage of waste or recyclable materials or storage of vehicles or vehicle parts is authorized without a written complaint.
- 4.3** Enforcement on non-compliant dwellings will be deferred unless there are contraventions in development permit areas, or other environmentally sensitive areas, or there are concerns about health and safety, or the lack of an approved septic system, or if there are non-permitted campgrounds.
- 4.4** Enforcement on unlawful land uses where a property owner has submitted a planning application are a priority until the unlawful use has ceased.
 - 4.4.1** If the applicant does not receive approval from the Local Trust Committee to continue the unlawful land use based on consideration of community needs while a planning application is being considered, enforcement will continue, including the issuance of violation notices or legal action.

5.0 Inspection

- 5.1** Bylaw Enforcement Officers are authorized under the Land Use Bylaw to enter any lot at any reasonable time to determine if regulations are being observed.
- 5.2** At the start of any investigation, Bylaw Enforcement Officers will determine if entry is necessary to investigate the alleged contravention or if the investigation can be conducted from a public road or other lands.
- 5.3** Bylaw Enforcement Officers are encouraged to request mutually agreeable times to arrange site inspections and provide 24 hours notice if appropriate.
- 5.4** Investigations into health and safety issues and matters that may cause adverse environmental impact and result in irreversible damage are a priority and may be investigated without notice.
- 5.5** Enforcement on non-compliant short-term vacation rentals is a priority and inspections may be investigated without notice.
- 5.6** Holders of temporary use permits will be held accountable for any violations of their Permit. Bylaw Enforcement Officers may enter properties between the hours of 9:00 am and 5:00 pm, on any day, without prior consultation with the holder of a Temporary Use Permit for the purpose of investigating a complaint.
- 5.7** If a Respondent has indicated that they will work towards compliance, and have agreed on a time to comply, a site inspection is only required to confirm compliance.
- 5.8** If a Respondent provides photographic evidence, a survey, or a professional report that confirms compliance, a site inspection is not required.

6.0 Enforcement Procedures

- 6.1** If a bylaw contravention is confirmed, there will be notice in writing, and Respondents will be given a minimum of 90 days to comply with the relevant LUB.
- 6.2** Bylaw Enforcement Officers can use their discretion to consider any reasonable time to comply request from Respondents but the term cannot be for more than one year.

- 6.3** If there are contraventions in environmentally sensitive areas, or development permit areas, or if there is a risk to health and safety, there will be a demand for the Respondent to cease the use or activity immediately.
- 6.4** If the Respondent wishes to consider a planning application that will bring the property into compliance, the Bylaw Enforcement Officer will advise planning staff and they will arrange a meeting to discuss the feasibility of such an application.
- 6.5** If there is no agreement on time to comply, a Respondent will be provided written notice that enforcement action will be escalated and this may include a request for legal action or the use of the BEN system.
- 6.6** Respondents will be given a Bylaw Warning Notice with a minimum of 45 days to comply before a Bylaw Violation Notice is issued, unless there are health and safety concerns, or contraventions in environmentally sensitive areas, that may require more immediate action.
- 6.7** Bylaw Violation Notices will not be issued more than once per week unless authorized by the Manager of Compliance and Enforcement.

7.0 Closing Files

- 7.1** If the identity of a complainant cannot be confirmed during the course of an investigation, or if a complainant used a false name, the file will be closed.
- 7.2** If the contravention is for a minor structure that has only received one written complaint from one person, the file can be closed.
- 7.3** If it is unreasonable for a Respondent to comply, whether due to specific circumstances or finances, Bylaw Enforcement Officers or the Manager of Compliance and Enforcement can use their discretion to close the file.
- 7.4** If a contravention has been identified that is subject to deferred enforcement by the LTC, the file can be closed unless there are contraventions that exist in environmentally sensitive areas or there are concerns about health and safety.
- 7.5** If it is determined during an investigation that the complaint was frivolous, repeat, or vexatious in nature, the Manager of Bylaw Compliance and Enforcement can use their discretion to close the file unless there is work in a development permit area, or work in an environmentally sensitive area, or there are health and safety concerns.
- 7.6** The LTC will be notified when any file is closed.

8.0 Frivolous, Repeat or Vexatious Complaints

- 8.1** Complaints that are made in bad faith, false, or made for retaliatory purposes may be considered vexatious.
- 8.2** Repeated complaints that form a part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process may be considered frivolous or vexatious.
- 8.3** Frivolous, repeat or multiple complaints about the same issue or a matter that has been investigated with no offence found may be considered vexatious.

- 8.4** If a decision is made to not act upon a complaint that is considered frivolous, repeat, or vexatious, the complainant will be advised of the decision, the reason for it, and may be advised of the circumstances under which it may be reconsidered.

9.0 Communications

- 9.1** When a file is opened and an investigation commenced, Respondents will be advised of the Trust Council Policy that authorized the opening of the file and that an investigation has commenced.
- 9.2** Respondents will receive as much information about complaints against their properties as possible without revealing the identity of the complainant.
- 9.3** If there are questions or concerns regarding individual files, Trustees or the LTC will communicate with the Manager of Compliance and Enforcement.
- 9.4** The Manager of Compliance and Enforcement will arrange public information and education sessions regarding bylaw enforcement when appropriate and time permitting.

10.0 Reporting

- 10.1** The LTC will receive regular reporting on open files where investigations have been completed, and the reporting will state whether or not enforcement or legal action of any kind is recommended.
- 10.2** The Manager of Compliance and Enforcement will report to the LTC any concerns, trends, or issues with enforcement that they believe the LTC needs to be aware of.
- 10.3** The Manager of Compliance and Enforcement will maintain the North Pender Island Bylaw Enforcement Policy and will report to the LTC if amendments are recommended or required.

PART B

Bylaw Enforcement Notice Bylaw Screening Officer's Powers and Duties Policy

Appointment of Screening Officers

Pursuant to section 7.2 of the North Pender Island Local Trust Committee Bylaw Enforcement Notification Bylaw No. 263, 2011, (the Bylaw) the persons holding the following positions are appointed as screening officers:

- 1) Regional Planning Manager;
- 2) Manager of Compliance and Enforcement; and
- 3) Bylaw Compliance and Enforcement Assistant.

Screening Officer Powers and Duties

The powers and duties of the screening officer are contained in section 7.3 of the Bylaw. It is the direction of the North Pender Island Local Trust Committee (LTC) that these powers and duties are only exercised in respect to each of the above positions as follows:

- 1) Regional Planning Manager. In respect to Bylaw Violation Notices issued by the Manager of Compliance and Enforcement, only the Regional Planning Manager, acting as Screening Officer, may exercise all of the powers and duties in Section 7.3 of the Bylaw;
- 2) Manager of Compliance and Enforcement. In respect to Bylaw Violation Notices issued by Bylaw Compliance and Enforcement Officers, only the Manager of Compliance and Enforcement, acting as Screening Officer, may exercise all of the powers and duties in Section 7.3 of the Bylaw;
- 3) Bylaw Compliance and Enforcement Assistant. In respect to Bylaw Violation Notices issued by the Manager of Compliance and Enforcement, and Bylaw Compliance and Enforcement Officers, the Bylaw Compliance and Enforcement Assistant, acting as Screening Officer, may exercise only those powers and duties in Section 7.3(1) and 7.3(2) of the Bylaw.

Authorized Reasons to Cancel Bylaw Violation Notices

The Screening Officer may cancel a Bylaw Violation Notice if satisfied that one or more of the following reasons exist:

1. Voluntary compliance has been achieved.
2. The Bylaw Violation Notice was issued to the wrong person;
3. The Bylaw Violation Notice was not completed properly.
4. The issuance of the Bylaw Violation Notice did not adhere to established Trust Council or LTC policies.
5. It is unreasonable for the person to pay the penalty;
6. An exception specified in the bylaw or related enactment or LTC Standing Resolution exists;
7. A permit exists or has been obtained that authorises the alleged contravention;
8. There is poor likelihood of success at adjudication for the Local Trust Committee the following reasons:
 - a. The evidence is inadequate to show a contravention;
 - b. Incorrect information was relied on in issuing the Bylaw Violation Notice;
 - c. The disputant intends to challenge the bylaw with a legal argument that is ill suited to the adjudication process or the legal arguments are too complicated to be decided by an adjudicator.
9. It is not in the public interest to proceed to adjudication for one of the following reasons:
 - a. The bylaw has changed since the Bylaw Violation Notice was issued and now authorizes the contravention;
 - b. An LTC resolution has deferred enforcement on the specific contravention;
 - c. The LTC has closed the file.
 - d. The offence occurred because of a circumstance that made it unreasonable for the person to comply with the bylaw.



Policy:	5.5.1
Approved By:	Trust Council
Approval Date:	March 11, 1995
Amendment Date(s):	June 6, 1997; June 6, 1998; June 13, 2003; December 5, 2003; December 10, 2004; June 17, 2005; March 10, 2006; March 13, 2019, December 2, 2021
Policy Holder:	Director of Local Planning Services

BYLAW COMPLIANCE AND ENFORCEMENT

Purpose

The purpose of the bylaw compliance and enforcement program is to support the object of the Islands Trust to preserve and protect the trust area and its unique amenities and environment for the benefit of residents of the trust area and of the province generally by ensuring compliance with Local Trust Committees' Bylaws.

A. Definitions

1. "Long-form information" means a complaint sworn before a Provincial Court judge by a bylaw compliance and enforcement officer

B. Policy

1. COMPLIANCE

- 1.1 Compliance is sought through a combination of education, mediation and enforcement techniques. Bylaw compliance is primarily sought through an attempt to achieve voluntary compliance. Voluntary compliance is indicated by a commitment to corrective action as soon as reasonably possible and the cessation of unlawful activity.

2. BEST PRACTICES MANUAL

- 2.1 The Bylaw Compliance and Enforcement Manager will maintain a best practices operating manual in accordance with the administrative fairness principles outlined in the BC Ombudsperson's report ["Bylaw Enforcement: Best Practices Guide for Local Governments"](#), March, 2016.

3. COMMENCING INVESTIGATIONS

- 3.1 Bylaw investigations may be commenced and an investigation file opened in one or more of the following circumstances:
 - 3.1.1 in response to written complaints of an alleged contravention made by any person;
 - 3.1.2 bylaw contraventions appear to occur in setbacks from water bodies or in development permit areas;
 - 3.1.3 bylaw contraventions appear to cause health and safety issues;
 - 3.1.4 bylaw contraventions appear to occur as part of a building permit process or other permitting process administered by a local government or the

- Islands Trust;
- 3.1.5 a referral is received from a permitting agency that identifies alleged land use bylaw contraventions associated with the permit request;
- 3.1.6 advertisements exist for apparently unlawful uses;
- 3.1.7 a Local Trust Committee directs staff to commence an investigation.

4. CLOSING INVESTIGATIONS

- 4.1 Bylaw investigation files can be closed in one or more of the following circumstances:
 - 4.1.1 if no contravention existed;
 - 4.1.2 if compliance has been achieved;
 - 4.1.3 on direction of a Local Trust Committee;
 - 4.1.4 if the Director of Local Planning Services concurs with the Bylaw Compliance and Enforcement Manager that the contravention is of a minor character and does not suit the public interest to enforce.

5. PRIORITY OF INVESTIGATION

- 5.1 The workload for bylaw investigations will be prioritized as follows:
 - 5.1.1 by specific direction of a Local Trust Committee;
 - 5.1.2 health and safety issues;
 - 5.1.3 adverse environmental impact that could result in irreversible damage if not prevented in a timely fashion;
 - 5.1.4 contraventions of land use bylaws and other bylaws.

6. MEDIATION

- 6.1 Bylaw investigation efforts to gain compliance should be conducted using the principles and techniques employed in mediation.
- 6.2 Persons alleged to have committed contraventions and complainants may be invited to participate in a process designed to:
 - 6.2.1 provide full information and exchange of information;
 - 6.2.2 confirm facts;
 - 6.2.3 explore opportunities for compliance;
 - 6.2.4 negotiate a timeline for compliance;
 - 6.2.5 reach a compliance solution.

7. LEGAL ACTION

- 7.1 If unlawful activity does not cease or if compliance is not achieved, a bylaw enforcement officer may:
 - 7.1.1 issue a bylaw violation notice; or
 - 7.1.2 make recommendations to the Local Trust Committee on how to proceed, including taking civil action or closing the investigation without compliance.
- 7.2 Immediate legal action may be recommended to Local Trust Committees or bylaw violation notices issued if impacts of unlawful activity risk serious harm to persons or the environment.
- 7.3 Offence Act prosecutions may be recommended to the Local Trust Committees under

the following conditions:

- 7.3.1 Offence Act prosecutions are to be used only for serious land use permit contraventions.
- 7.3.2 A long-form information may be sworn only after approval by a local trust committee; and
- 7.3.3 Executive Committee has approved legal funding for the prosecution; and
- 7.3.4 The long-form information has been reviewed and prepared by legal counsel.

8. BYLAW NOTICE DEBT

- 8.1 Debts incurred as the result of default on bylaw notices may be cancelled if the Director of Local Planning Services and the Bylaw Compliance and Enforcement Manager concur that contraventions on the subject property no longer exist, and it is not in the interest of Islands Trust to pursue the debt.

9. CONFIDENTIALITY

- 9.1 Information in regards to a complainant is kept confidential. However, confidentiality cannot be guaranteed should litigation proceed against the violator or where a request for information is received under the *Freedom of Information and Protection of Privacy Act*.

10. LOCAL TRUST COMMITTEES, TRUST COUNCIL, AND TRUSTEES

- 10.1 Trustees will be immediately advised when a bylaw investigation file is opened indicating the type and area where the contravention is alleged to occur but names and addresses of the complainant and alleged violator will not be communicated.
- 10.2 Trustees may make a written complaint alleging a bylaw contravention.
- 10.3 Local Trust Committees and trustees are not to be involved in the investigation of a complaint or the preparation of bylaw enforcement reports.
- 10.4 Local Trust Committees may make bylaw enforcement policies to direct compliance and enforcement in regards to specific issues.
- 10.5 Local Trust Committees may request reports about specific investigations or about general enforcement activity in the Local Trust Area.
- 10.6 Trust Council will be informed of the volume and type of bylaw enforcement files bi-annually.

C. Legislated References

- 1. [Islands Trust Act](#)
- 2. [Offence Act](#)

D. Attachments/Links to Supporting Forms, Documents, Websites, Related Policies and Procedures

- [BC Ombudsperson's report "Bylaw Enforcement: Best Practices Guide for Local Governments", March, 2016](#)
- [BC Local Government Bylaws>Bylaw Enforcement](#)