



South Pender Island Local Trust Committee Regular Meeting Agenda

Date: February 2, 2024
Time: 10:30 am
Location: South Pender Fire Hall
8961 Gowlland Point Road, South Pender Island, BC

			Pages
1.	CALL TO ORDER	10:30 AM - 10:30 AM	
2.	OPENING AND WELCOME - CHIEF ERIC WŁÍKINEM PELKEY	10:30 AM - 11:00 AM	
3.	APPROVAL OF AGENDA	11:00 AM - 11:05 AM	
4.	TRUSTEE REPORT	11:05 AM - 11:10 AM	
5.	CHAIR'S REPORT	11:10 AM - 11:15 AM	
6.	ELECTORAL AREA DIRECTOR'S REPORT		
7.	TOWN HALL AND QUESTIONS	11:15 AM - 11:50 AM	
8.	COMMUNITY INFORMATION MEETING - None		
9.	PUBLIC HEARING - None		
10.	MINUTES	11:50 AM - 12:00 PM	
10.1	Adopted Local Trust Committee Minutes Dated November 10, 2023 (for Information)		4 - 12
10.2	Section 26 Resolutions-without-meeting Dated Jan 2024		13 - 13
10.3	Advisory Planning Commission Minutes - None		
11.	BUSINESS ARISING FROM THE MINUTES		
11.1	Follow-up Action List Dated Jan 2023		14 - 15
12.	DELEGATIONS		
13.	CORRESPONDENCE	12:00 PM - 12:05 PM	

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

13.1	Monica and Paul Petrie re First Nation Consultation - Bylaw No. 123	16 - 18
14.	APPLICATIONS AND REFERRALS	12:05 PM - 12:15 PM
14.1	North Pender Island Local Trust Committee Referral for Draft Bylaw No. 234 (for Response) (attached)	19 - 21
15.	LOCAL TRUST COMMITTEE PROJECTS	12:15 PM - 12:50 PM
15.1	Minor LUB Amendments Project – Staff Report (attached)	22 - 25
16.	REPORTS	12:50 PM - 1:00 PM
16.1	Work Program Reports (attached)	
16.1.1	<u>Active Projects Report Dated Jan 2023</u>	26 - 26
16.1.2	<u>Future Projects Report Dated Jan 2023</u>	27 - 28
16.2	Applications Report Dated Jan 2023 (attached)	29 - 29
16.3	Trustee and Local Expense Report Dated Dec 2023 (attached)	30 - 30
16.4	Adopted Policies and Standing Resolutions (attached)	31 - 33
16.5	Local Trust Committee Webpage	
16.6	Reconciliation and First Nation Relationship Building	34 - 35
16.7	Islands Trust Conservancy Report - None	
17.	NEW BUSINESS	1:00 PM - 1:20 PM
17.1	Housing Statute Changes to British Columbia Legislation - Staff Memo (attached)	36 - 50
18.	UPCOMING MEETINGS	
18.1	Next Regular Meeting Scheduled for May 10, 2024 at the Fire Hall, Pender Island	
19.	TOWN HALL	1:20 PM - 1:40 PM
20.	CLOSED MEETING (Distributed Under Separate Cover)	

20.1 Motion to Close the Meeting

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

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

AND that the recorder and staff attend the meeting.

20.2 Recall to Order

20.3 Rise and Report

21. ADJOURNMENT

1:40 PM - 1:40 PM

South Pender Island Local Trust Committee

Minutes of Regular Meeting

Date: November 10, 2023
Location: South Pender Fire Hall
8961 Gowlland Point Road, South Pender Island, BC

Members Present: Tobi Elliott, Chair
Dag Falck, Local Trustee
Kristina Evans, Local Trustee

Staff Present: Robert Kojima, Regional Planning Manager (Electronic)
Kim Stockdill, Island Planner
Carly Bilney, Recorder

Others Present: There were approximately 23 members of the public present.

1. CALL TO ORDER

Chair Elliott called the meeting to order at 10:30 a.m. She acknowledged that the meeting was being held on the territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

By general consent, the agenda was approved as presented.

3. TRUSTEE REPORT

Trustee Evans expressed appreciation for the high level of involvement and engagement that community members have shown at the Local Trust Committee (LTC) meetings. She provided an update on meetings held since the last LTC meeting and noted she will share her update on the Trustee Corner.

Trustee Falck expressed a desire to ensure all avenues are open to allow community members to participate in meetings regardless of where they are located.

4. CHAIR'S REPORT

Chair Elliott made the following comments:

- Discussions were held at Trust Council about determining a vision statement that includes the perspectives of First Nations
- Following debates in the Legislature about Short Term Vacation Rentals (STVR), discussions about regulating STVR will be held at the LTC level
- The Islands Trust Senior Indigenous Relations Advisor has resigned, however, the Reconciliation Learning Group will continue

5. ELECTORAL AREA DIRECTOR'S REPORT – none

6. TOWN HALL AND QUESTIONS

Town hall was held and the following comments were made:

- Trust Council will not articulate a vision for the whole Islands Trust area at the exclusion of any group
- A standing line item has been added to all future agendas on Reconciliation and First Nation Relationship Building as an opportunity to report out to the community about what is going on
- The Reconciliation Learning Group is for internal learning among Trustees and staff to encourage respectful decision-making
- Since Bylaw No. 123 was rejected the response from WSÁNEĆ Leadership Council that was given post Public Hearing (PH) can now be received by the LTC if the question reopens
- The response from the Minister of Municipal Affairs to Bylaw No. 123 notes there did not appear to be any early engagement with First Nations
- There are many positive aspects about the changes to the Land Use Bylaw and reviewing these changes before they have been given a chance to work would be wasteful
- Not everyone can afford to apply for a Development Variance Permit
- Trustees should not interfere in areas that dictate how people can live on their land
- Some support Bylaw No. 122 changes while others do not - a process is needed that makes everyone feel respected and heard
- The Trustees brought the Bylaw No. 122 changes upon the community and people felt ignored
- There is a need to put opinions aside and find common ground, and to have open discussion without getting angry with each other
- There was no vote or survey undertaken by the LTC to determine whether or not to proceed with the Bylaw No. 122
- A suggestion was made to leave Bylaw No. 122 as it is and incorporate the concerns of First Nations
- Comments were made that items such as house size were not discussed fully, but rather discussed relatively quickly over the span of about an 8-month period
- It would be helpful to have an environmental impact assessment done so that Bylaw No. 122 may be addressed with scientific rationale
- On Nov 15, the library will host a SENĆOŦEN language workshop

7. COMMUNITY INFORMATION MEETING – None

8. PUBLIC HEARING – None

9. MINUTES

9.1 Adopted South Pender Island Local Trust Committee Minutes Dated September 1, 2023 - Received for information.

9.2 Section 26 Resolutions-without-meeting Dated Nov 2023

9.3 Advisory Planning Commission Minutes – None

10. BUSINESS ARISING FROM THE MINUTES

10.1 Follow-up Action List Dated Nov 2023

Received for information.

11. DELEGATIONS – None

12. CORRESPONDENCE

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

13. APPLICATIONS AND REFERRALS

13.1 Saturna Island Local Trust Committee Referral for Proposed Bylaws 140 and 141 (for Response)

Chair Elliott reviewed the referral from the Saturna Island Local Trust Committee for Proposed Bylaws 140 and 141.

SP-2023-044

It was Moved and Seconded,

that South Pender Island Local Trust Committee interests are unaffected by the Saturna Island Local Trust Committee Bylaw No. 140 and Bylaw No. 141.

CARRIED

14. LOCAL TRUST COMMITTEE PROJECTS

14.1 Land Use Bylaw Review Project

Island Planner Stockdill provided an update on the Land Use Bylaw Review Project. She described the procedure for amending a bylaw post-public hearing as laid out in the Local Government Act. Discussion was held about whether the Advisory Planning Commission (APC) could be tasked with consulting the public. The following comments were made:

- Staff has identified the amendments outlined in Bylaw No. 122 and organized them by major and minor topics as outlined in the agenda
- If the LTC decides to proceed with this project, early engagement letters would be sent to First Nations
- The Project Charter is a living document and can be amended as the project proceeds, but changes must be done via LTC resolution
- The process for assessing the bylaw, and whether the amendments address specific stated goals, should be agreed to first
- The following APC terms of reference (later referred to as the “framework for Land Use Bylaw (LUB) review” or “the framework”) was proposed as a way to measure the success of achieving the proposed goals:

Proposed Terms of Reference for APC

1. Identify potential reasons and goals for the amendment e.g. To preserve and protect the South Pender environment, or unique amenities
 2. Spell out details of how the reasons and goals are connected to the amendments and how exactly the amendments address the specific goals
 3. Evaluate if understanding of the goals for the amendments are shared goals or controversial to the constituents of South Pender
 4. If goals are controversial, more discussion needs to happen to attempt to reach more consensus
 5. If goals are shared, evaluate if amendments are successful in achieving the goals. The level of successfully achieving the goals should be scored e.g. 1-10
 6. If goals are shared and scored above 6 for achieving the goals, as compared to the pre-existing (114) Bylaw, consider recommending to keep the amendment
 7. If goals are shared but scored below 4, consider reverting to pre-existing Bylaw, or if a better avenue to achieve the goal is available, consider drafting a new amendment
- The goal of the process should be to give everyone a chance to be heard and to allow neighbours to understand each other even if they disagree
 - Environmental and housing impacts should be reviewed equally
 - The review should begin with public input
 - Generally, the LTC sends the APC specific questions or topics to guide discussion
 - Perhaps the APC could apply a single topic (e.g. the amendments to Section 2.9 regarding water storage) to the proposed framework to test the process

A break was held between 12:16 – 12:28 p.m.

- A referral should be sent to the APC that includes the proposed terms of reference and specifies a topic to test the terms of reference
- The proposed terms of reference can be edited by the LTC via email
- Generally, the LTC gets community input and the APC advises the LTC
- Perhaps it is better to hold a Community Information Meeting (CIM) before referring a topic to the APC
- Built into the Project Charter is an assumption that there will be several special meetings, however, there are other means to gather community input (e.g. online surveys, questionnaires, requesting emails during a consultation period); Trustees could also individually request in-person feedback
- Support was expressed for setting up a community consultation process
- The terms of reference should instead be called the Guiding Principles and should preface the consultation period
- A suggestion was made to explore the framework, then allow for a consultation period before sending a referral to the APC on a specified topic

It was moved and seconded that the South Pender Island Local Trust Committee approve the Project Charter for the Land Use Bylaw with amendments.

Discussion on the motion was held and comments were made about how the Project Charter is necessary to get the project going as it establishes the deliverables, scope and budget; it was noted that the Project Charter is a living document that can be adjusted as needed.

Discussion was held about amending the Project Charter by removing “APC referral” and changing the target date for public engagement from January to November.

Caution was expressed for exceeding the budget by scheduling special meetings. Comments were made about how Trustees can individually facilitate gatherings where community members could propose solutions.

SP-2023-045

It was Moved and Seconded,

that South Pender Island Local Trust Committee approve the Project Charter for the Land Use Bylaw Amendments project.

CARRIED

Discussion continued and the following comments were made:

- A special meeting should be scheduled to discuss the proposed framework and explore a topic together
- It was moved that the LTC request staff to schedule a special meeting to explore a topic in the minor land use Bylaw Amendment Project using the framework suggested by Trustee Falck
- Staff can informally send the staff report to each APC member and let them know the Project is starting and that they will likely be engaged by the LTC later

It was moved and seconded, that the South Pender Island Local Trust Committee request that staff schedule two Community Information Meetings for the Minor Land Use Bylaw Amendment Project.

Discussion on the motion was held and the following comments were made:

- Trustees could hold individual meetings in January; the LTC could then reconvene and schedule dates for CIMs at the end of February and beginning of March
- Passing a resolution that requests staff to schedule CIMs shows that the LTC plans to hold CIM meetings in the near future, even if it is not yet ready to specify dates

SP-2023-046

It was Moved and Seconded,

that South Pender Island Local Trust Committee request staff to schedule two Community Information Meetings for the Minor Land Use Bylaw Amendment Project.

CARRIED

Discussion continued about whether or not to define a topic to be considered at community gatherings led by individual Trustees.

SP-2023-047

It was Moved and Seconded,

that South Pender Island Local Trust Committee direct staff to prepare a notice advertising Trustee-hosted workshops on the Land Use Bylaw Review.

CARRIED

15. REPORTS

15.1 Work Program Reports

15.1.1 Active Projects Report Dated Nov 2023

Received for information.

15.1.2 Future Projects Report Dated Nov 2023

Received for information.

15.2 Applications Report Dated Nov 2023

Received for information.

15.3 Trustee and Local Expense Report Dated August 2023

Received for information. It was noted that the LTC is under-spending on a monthly basis.

15.4 Adopted Policies and Standing Resolutions

Received for information.

15.5 Local Trust Committee Webpage

It was noted that anything put into the Pender Post will also be posted to the Trustee Corner.

15.6 Reconciliation and First Nation Relationship Building

Discussion was held and the following comments were made:

- Pender Island Public Library will host a free SENĆOŦEN language workshop on November 15

- A SENĆOŦEN grade 10 class travelled to Pender Island as part of a revitalization engagement project that focused on connecting the W̱SÁNEĆ with their homeland; community members will notify the LTC when there is a scheduled date for the project's films to be shared
- The South Pender Historical Society has a grant to create podcasts with W̱SÁNEĆ Elders about their connection with SḎAY̱ES; the podcasts should be completed in the spring
- Community members were asked to notify the LTC of any related items or events so that Trustees can publish a report to the community

15.7 Islands Trust Conservancy Report – None

16. NEW BUSINESS

16.1 Firework Regulation (Discussion)

Discussion was held and the following comments were made:

- It was noted that fireworks have a negative impact on the environment as well as on some people and animals
- Trustee Falck invited community feedback on whether islanders would support the LTC in sending a letter to the Capital Regional District requesting a fireworks ban
- Model rockets fall under the fireworks category though they do not blow up or make noises - legislating fireworks can have unintended consequences
- Staff will invite the Electoral Area Director to the first meeting of 2024

17. UPCOMING MEETINGS

17.1 Next Regular Meeting

17.1.1 Draft 2024 LTC Meeting Schedule (for approval)

Staff requested the following changes to the Draft 2024 LTC Meeting Schedule:

- Change the meeting scheduled for May 3 to May 10, and the meeting scheduled for September 6 to September 13

SP-2023-048

It was Moved and Seconded,

that South Pender Island Local Trust Committee adopt the 2024 meeting schedule as amended.

CARRIED

Comments were made about inviting an Elder to open the first meeting of 2024.

18. TOWN HALL

Town hall was held and the following comments were made:

- Appreciation was expressed to the LTC for moving through the bylaw review process
- The LTC was encouraged to find ways to help people understand the proposed amendments, including using staff resources to visually convey planning concepts
- The LTC intends to fill the APC vacancy and seek balanced opinion
- It is an honour to receive input from the WSÁNEĆ Leadership Council on Bylaw No. 123 given the high volume of requests the Council receives; disregarding the letter would be disrespectful
- The LTC should respond to the WSÁNEĆ Leadership Council and explain the procedural processes behind what happened
- It would be useful to have clarification of 'nonconforming' so the community better understands the term and its implications
- Support was expressed for including environmental impacts (e.g. fire protection and blasting) in Bylaw review discussions
- A suggestion was made to address community conflict resolution through a process that involves convening groups for discussion where comments can only be positive and must include suggestions - then the discussion would be posted so people could provide further comment
- A suggestion was made to assess the benefits of the former Bylaw provisions versus Bylaw No. 122 by measuring the values against goals stated in the Official Community Plan

19. CLOSED MEETING (Distributed Under Separate Cover)

19.1 Motion to Close the Meeting

SP-2023-049

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)(i) 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;

(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

AND that the recorder and staff attend the meeting.

CARRIED

19.2 Recall to Order

19.3 Rise and Report

20. ADJOURNMENT

By general consent the meeting was adjourned at 1:58 p.m.

Tobi Elliott, Chair

Certified Correct:

Carly Bilney, Recorder



Resolutions Without Meetings Log

South Pender Island

Resolution Number	Action	Date
2024-001	Carried	16-Jan-2024

That the South Pender Island Local Trust Committee regular business minutes of November 10, 2023 be adopted as presented.



Follow Up Action Report

South Pender Island

01-Aug-2023

Activity	Responsibility	Dates	Status
1 Chair Elliott is authorized to sign both covenants related to 8970 Gowlland Point Road. (IN PROGRESS) Staff to notify ALC of error in draft covenant (DONE).	Jas Chonk Kim Stockdill	Target: 15-Sep-2023	In Progress

10-Nov-2023

Activity	Responsibility	Dates	Status
1 13.1 Saturna LTC Bylaw Nos. 140 & 141 - interests unaffected.	Jas Chonk	Target: 24-Nov-2023	Completed
2 14.1 Minor LUB Review Project 1. Project Charter endorsed. Update Project Charter with endorsement date. 2. Staff to schedule two Special Meetings/CIMs - dates to be determined (Feb/March). 3. Staff to draft notice for Trustee-hosted workshops. 4. Staff to prepare a FAQ regarding legal non-conforming.	Emily Bryant Kim Stockdill	Target: 15-Dec-2023	Completed
3 SP LTC minutes for November 10, 2023 to be adopted (when completed) by RWM.	Emily Bryant	Target: 24-Nov-2023	Completed
4 5. Invite Paul Brent, CRD EA Director, to Feb 2, 2024 SP LTC meeting. (defer to May 10th meeting)	Kim Stockdill	Target: 22-Dec-2023	In Progress

Follow Up Action Report

South Pender Island

10-Nov-2023

Activity	Responsibility	Dates	Status
5 17.1.1 2024 SP LTC meeting schedule adopted as amended - move May 3rd to May 10th and September 6th to September 13th.	Emily Bryant	Target: 24-Nov-2023	Completed
6 SP LTC In-camera meeting minutes adopted as is for August 1, August 17, and September 1, 2024.	Emily Bryant	Target: 24-Nov-2023	Completed
7 SP LTC appointed Jon Spalding to the Board of Variance commencing immediately for a term ending May 6, 2025.	Emily Bryant Jas Chonk	Target: 01-Dec-2023	Completed
8 SP LTC requests staff to advertise for the SP APC, commencing immediately for a term ending January 1, 2026. Post notice on community boards, and send via email subscriber list (not in Pender Post).	Emily Bryant Jas Chonk	Target: 01-Dec-2023	Completed

December 19, 2023

Trustees,

This letter is in response to a request at the November 10 LTC meeting for information regarding the consultation process for Bylaw 123. The following is submitted for consideration under the Reconciliation agenda item at the February 2, 2024, LTC meeting.

Background

In July 2022 the South Pender Local Trust Committee (LTC) held a public hearing on Bylaw No. 123 to amend the Official Community Plan (OCP) to include an acknowledgement statement recognizing the long history of the W̱SÁNEĆ People on S,DÁYES (South Pender) and committing to recognize Indigenous rights and respect for their rich and vibrant culture. Trustees approved the Bylaw on August 12, 2022, and referred it to the Trust Executive Committee which also endorsed the bylaw on September 7, 2022. As is required for OCP amendments, the bylaw was referred to the Minister of Municipal Affairs for final approval.

Consultation

There is little detail available on the consultation with First Nations on the OCP amendment, except that the Trust policy advisor who drafted the Bylaw amendment “reached out” to her contact at the W̱SÁNEĆ Leadership Council and did not receive a response before the public hearing. It is not unusual for First Nations representatives to not respond immediately to outside general requests given the wide-ranging demands of First Nations in their own communities, and the limited resources available to deal with those challenges. Commenting on settler initiatives for which they have little direct involvement is generally not a high priority among their competing interests and demands.

Sometime after the public hearing the Bylaw was brought to the attention of the W̱SÁNEĆ Elders Council. The Elders Council, which provides guidance on community-to-community engagement, offered the following statement for the Minister’s consideration in October 2022.

The Elders (SELWÁN) have reviewed Bylaw 123 and consider it “a strong document”. They would like the following statement to be added to the document through the appropriate procedures. The SELWÁN would like to see Bylaw 123 adopted without further delay and urge you to refer Bylaw 123 back to the Islands Trust for adoption.

[SELWÁN \(W̱SÁNEĆ Elders\) Statement](#)

It is a good thing to work with the people who live on our islands, and we appreciate the efforts made to incorporate the proposed amendments into the official community plan on S,DÁYES South Pender Island. We see the value of sharing our knowledge, but not for people to culturally appropriate for commercial purposes. Conservation has always been our way of life, our belief to only take what is needed. There are cultural protocols that W̱SÁNEĆ people have followed forever. We strongly encourage respect for these ways, our natural laws, when interacting in the ecosystems of our homeland. There are certain species that are natural markers and seasonal indicators of our seasonal rounds in our homeland. We need to protect those and what they mean to us. Certain families have the knowledge, the language, the spiritual gift, to keep our traditional ways moving forward. These ceremonial ways are our laws and important to be passed down to future generations within our traditional homeland. The sacred ways and words must remain sacred – our ČELÁÑEN.

HÍ,SW̱ ḴE MEQ SÁN

J,SIṈTEN – John Elliott Sr

ČOSINIYE – Linda Elliott

SELILIYE – Belinda Claxton

Because this statement was received post public hearing, it appears it was not considered by the Minister. Trust policy precludes receipt of submissions after the close of public hearings. This policy requirement was not conveyed to the Elders Council with respect to their submission and Bylaw No. 123 remained on the Minister's desk for the next six months without any apparent communication.

In May the Minister referred Bylaw 123 back to the LTC for further consideration. The Minister said:

Before considering the bylaw, I would like to understand the potential for First Nations' concerns with the content and for more meaningful involvement with First Nations in the writing of the statement and the commitments it contains.

Trust planners provided a May 18, 2023, report to the LTC offering trustees two basic options: (1) Proceed no further with Bylaw No. 123, or (2) Engage in further consultation with First Nations. Because of the post public hearing policy, the trustees did not receive or consider the Elders' statement. Without considering the Elders' statement the trustees decided to proceed no further with Bylaw No. 123 and the Bylaw was defeated. There has been no communication with the Elders' Council regarding the disposition of their October 2022 submission.

Next steps.

At the September 1 LTC meeting trustees considered the LTC Standing Resolution on Reconciliation and indicated that Reconciliation is to be embedded in all the work of the LTC and it does not have to be a designated Project. The LTC passed a resolution requesting that "Reconciliation and First Nations relationship building be added to future agendas as a standing item..."

At the November 10 LTC meeting trustees requested notification of First Nations events that would be of interest to South Pender community members. Registration information was provided for the November 15 SENĆOTEN language workshop co-sponsored by the TETÁĆES Revitalization Project, the W̱SÁNEĆ School Board and the Pender Library. Trustees expressed an interest in having a W̱SÁNEĆ representative attend an LTC meeting to provide a welcome to S,DÁYES/Pender Island a part of W̱SÁNEĆ Traditional Homeland.

We understand that arrangements are being made for a representative of the W̱SÁNEĆ FN to speak at the February 2, 2024, LTC meeting. We appreciate the efforts of trustees and Trust staff to take this step forward.

Monica Petrie, [REDACTED]

Paul Petrie, [REDACTED]

CC: Tye Swallow, W̱SÁNEĆ School Board

Peter Paré, SGI Community Resources Centre



Islands Trust

BYLAW REFERRAL FORM

Suite 200, 1627 Fort Street
Victoria, B.C. BC V8R 1H8
Ph: (250) 405-5151
Fax: (250) 405-5155
information@islandstrust.bc.ca
www.islandstrust.bc.ca

Island: North Pender Island Local Trust Area Bylaw No.: 234 Date: November 9, 2023

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 30 days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

APPLICANTS NAME / ADDRESS:

Pender Islands Housing Society (PIHS), #7-5719 Canal Road Pender Island, BC V0N2M1

PURPOSE OF BYLAW:

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

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

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

GENERAL LOCATION:

North Pender Island Local Trust Area

LEGAL DESCRIPTION:

LOT 1, SECTION 11, PENDER ISLAND, COWICHAN DISTRICT, PLAN 45713

SIZE OF PROPERTY AFFECTED:

1.43 hectares

ALR STATUS:

N/A

OFFICIAL COMMUNITY PLAN DESIGNATION:

Community Service

OTHER INFORMATION:

Additional information, including the current bylaws, is available at: <https://islandstrust.bc.ca/island-planning/north-pender/projects/> under the heading "Land Use Bylaw Review".

Please fill out the Response Summary on the back of this form. If your agency's interests are "*Unaffected*", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.

BSmith

(Signature)

Name: Brad Smith

Title: Island Planner

Tel: 250-405-5194
Contact Email: bsmith@islandstrust.bc.ca
Info:

PLEASE TURN OVER 

This referral has been sent to the following agencies:

Federal Agencies

n/a

Provincial Agencies

Ministry of Municipal Affairs & Housing

Ministry of Forests - Water Protection Branch

Non-Agency Referrals

None

Regional Agencies

Capital Regional District – Building Inspection

Capital Regional District – Planning & Protective Services

Adjacent Local Trust Committees and

Municipalities

Mayne Island Local Trust Committee

Saturna Island Local Trust Committee

South Pender Island Local Trust Committee

Salt Spring Island Local Trust Committee

First Nations

Cowichan Tribes

Halalt First Nation

Lake Cowichan First Nation

Lyackson First Nation

Malahat First Nation

Pauquachin First Nation

Penelakut Tribe

Semiahmoo First Nation

Snuneymuxw First Nation

Stz'uminus First Nation

Tsartlip First Nation

Tsawout First Nation

Tsawwassen First Nation

Tseycum First Nation

WSANEC Leadership Council

**BYLAW REFERRAL FORM
RESPONSE SUMMARY**

- ☐ Approval Recommended for Reasons Outlined Below
- ☐ Approval Recommended Subject to Conditions Outlined Below
- ☐ Interests Unaffected by Bylaw
- ☐ Approval Not Recommended Due to Reason Outlined Below

North Pender Island Local Trust Area
(Island)

(Signature)

(Date)

234
(Bylaw Number)

(Name and Title)

(Agency)

File No.: SP Minor LUB Amendments
Project

DATE OF MEETING: February 2, 2024
TO: South Pender Island Local Trust Committee Kim
FROM: Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: South Pender Minor LUB Amendments Project

RECOMMENDATION

1. That the South Pender Island Local Trust Committee refer the Trustee workshop summaries, Community Information Meeting minutes, and staff reports associated with the Minor Land Use Bylaw Amendment Project to the South Pender Advisory Planning Commission to evaluate potential Land use Bylaw amendments.

REPORT SUMMARY

This report is intended to provide the South Pender Island LTC with a Frequently Asked Question (FAQ) document and to outline further options for community engagement for the Minor LUB Amendments Project.

BACKGROUND

At the November 10, 2023 regular meeting, the South Pender LTC passed the following resolutions:

SP-2023-045

It was Moved and Seconded,

that South Pender Island Local Trust Committee approve the Project Charter for the Land Use Bylaw Amendments project.

CARRIED

SP-2023-046

It was Moved and Seconded,

that South Pender Island Local Trust Committee request staff to schedule two Community Information Meetings for the Minor Land Use Bylaw Amendment Project.

CARRIED

SP-2023-047

It was Moved and Seconded,

that South Pender Island Local Trust Committee direct staff to prepare a notice advertising Trustee-hosted workshops on the Land Use Bylaw Review.

CARRIED

The South Pender LTC concluded at the November 10th meeting that the next step for the Minor LUB Amendments Project would be to schedule Trustee-lead workshops early in 2024 and to schedule Community Information Meetings (CIMs) thereafter. Comments gathered from these events would be then forwarded to the South Pender Island Advisory Planning Commission (APC) for further comment.

ANALYSIS

Trustee Hosted Workshops

Four community brainstorm workshops were scheduled in January 2024 hosted by Trustee Evans and Trustee Falck as the first phase of public engagement. The focus of the workshops was to facilitate discussion regarding setbacks and maximum house size for the project. These meetings were intended to generate and collect the community's ideas and suggestions and forward them to the South Pender Island APC for deliberation. As Islands Trust staff nor a minute taker attended these four sessions, staff request that the Trustees summarize the discussions from these workshops and forward them to staff.

Community Information Meetings

At the November 10, 2024, the South Pender LTC gave direction to staff to schedule two CIMs for the second phase of public engagement. Further direction is required from the South Pender LTC regarding the two CIMs:

- CIM dates – Staff recommend scheduling the two meetings for early to middle of March 2024. The LTC should decide what days of the week the CIMs should be scheduled. For example, one on a weekday (Friday) and one on a weekend (Saturday).
- Attendance - Would the LTC like the two meetings to be both in-person, or have one CIM in-person and the other online via Zoom?
- Notification – Routinely CIM notices are circulated by email subscriber list, posted on the Islands Trust website, and posted to community notice boards. The LTC should give direction to staff if further options for notification are desired (for example, posting in the March 2024 edition of the Pender Post).
- Focused topics – Should the CIMs focus on specific topics, or are all LUB topics permitted to be discussed.
- Venue If a large turn-out is anticipated for the CIMs consider scheduling the meeting(s) at a larger venue. The LTC should provide direction to staff if the location of the meetings(s) should be on island at Poets Cove or on North Pender. Scheduling one meeting at Poets Cove (more expensive venue) is within the budget for this fiscal (excerpt from Project Charter):

Budget		
Budget Sources:		
Fiscal	Item	Cost
2023/24	Legal Opinion (optional)	\$2000
2023/24	APC Referral	\$500
2023/24	Public engagement (hall rental, advertising, minute taker, supplies)	\$2500

Advisory Planning Commission

The South Pender LTC indicated at the last LTC meeting that comments gathered from public engagement phase one and two should be sent to the APC for further deliberation. Additionally, the following framework was suggested for the APC to follow to evaluate the community input and the project topics (discussed below):

1. Identify potential reasons and goals for the amendment e.g. To preserve and protect the South Pender environment, or unique amenities.
2. Spell out details of how the reasons and goals are connected to the amendments and how exactly the amendments address the specific goals.
3. Evaluate if understanding of the goals for the amendments are shared goals or controversial to the constituents of South Pender.
4. If goals are controversial, should more discussion happen to attempt to reach more consensus.
5. If goals are shared, evaluate if amendments are successful in achieving the goals. The level of successfully achieving the goals should be scored e.g. 1-10.
6. If goals are shared and scored above 6 for achieving the goals, as compared to the pre-existing (114) Bylaw, consider recommending to keep the amendment.
7. If goals are shared but scored below 4, consider reverting to pre-existing Bylaw, or if a better avenue to achieve the goal is available, consider drafting a new amendment.

It is important to identify specific topics for the APC to focus their discussion and attention. As identified in the November 10, 2023 staff report, staff have outlined four major topics: setback from the natural boundary of the sea, height regulations for dwellings, total floor area and maximum floor area for dwellings, and side lot line setbacks for Rural Residential dwellings and cottages. The LTC should identify any other topics the APC should focus their deliberations on.

If the LTC feels as though the four topics would be too much work to give to the APC, a Special APC could be created for this project (Alternative No. 3). Staff would then create a Terms of Reference for the Special APC which would be circulated to the LTC for comment.

A formal referral will be sent to the South Pender APC in late March after the completion of the CIMs and the minutes from the CIMs are adopted by Resolution Without Meeting (RWM). After the February 2nd meeting, staff will informally send information on the project and minutes to date each APC member notifying them of the upcoming referral.

FAQ Document

Staff have produced a frequently asked question document to answer questions regarding legal non-conforming and [Bylaw No. 122](#). The FAQ document can be found under Folder 6 “Other Information” for the Minor LUB Amendments Project on the [South Pender Project webpage](#).

Statutory Requirements

In the first stage of the project (i.e. APC referrals and undertaking community engagement) there are no statutory requirements to consider. If at a later stage the LTC resolves to undertake a bylaw amendment, statutory notification requirements of the Local Government Act will need to be considered including appropriate agency and First Nation referrals, public hearing option and bylaw adoption procedures. Early engagement letters will also be sent out as the project proceeds.

Rationale for Recommendation

Staff will work with the South Pender LTC to schedule two Community Information Meetings in March 2024. No resolution is required for this action as a resolution was provided at the November 10, 2023 LTC meeting to schedule the CIMs.

ALTERNATIVES

1. Request further information

The LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are potential delays to commencing and completing the project. 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 South Pender Island Local Trust Committee request that the staff provide further information regarding...

2. Request revisions to the draft project charter

The LTC may request revisions to the draft project charter. If selecting this alternative, the LTC should describe the specific revisions needed and the rationale for this request. Recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee request that staff make the following revisions to the draft Project Charter for the Minor LUB Amendments Project:...

3. Creation of a Special Advisory Planning Commission

The LTC may choose to create a Special Advisory Planning Commission:

That the South Pender Island Local Trust Committee request staff to draft a Terms of Reference for the Special Advisory Planning Commission.

4. Receive for information

The LTC may receive the report for information.

NEXT STEPS

Next steps include:

- Booking two Community Information Meetings for March 2024
- Send informal referral information to South Pender APC

Submitted By:	Kim Stockdill, Island Planner	January 25, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	January 25, 2024

Active Projects Report

South Pender Island

1. <i>Minor LUB Review Project</i>	Responsible	Dates
	Kim Stockdill	Rec'd: 01-Sep-2023

Future Projects Report

South Pender Island

1. *Development Permit Areas*

Responsible

Date Received

Review of existing and potential development permit areas

28-Apr-2015

2. *Sea level Rise and Shoreline Erosion*

Responsible

Date Received

Review of policies and regulations including setback from the sea, structures permitted in setback

28-Apr-2015

3. *First Nations Language*

Responsible

Date Received

Consider OCP amendment to include a more fulsome historical accounting of First Nations

01-Nov-2019

4. *Groundwater Sustainability Project*

Responsible

Date Received

Consider Implementation options of Southern Gulf Islands Groundwater initiative

09-Apr-2021

5. *Raptor's Nest Mapping*

Responsible

Date Received

To update the mapping of raptor's nest on South Pender Island.

04-Feb-2022

6. *Shoreline Review Project*

Responsible

Date Received

Shoreline Review Project

05-May-2023



Print Date: January 25, 2024

Follow Up Action List

Future Projects Report

Applications

Subdivision

File Number	Applicant Name	Date Received	Purpose
SP-SUB-2021.1	Taylor Johnson or Rachel Thomas/Airey Homes Inc. Planner: Kim Stockdill	01-Jun-2021	8970 GOWLLAND POINT RD- proposed three lot bareland strata subdivision
Planning Status			
Status Date: 14-Oct-2021 Review letter received from MOTI. ALC approval req'd as condition prior to issuance of PLR.			
Status Date: 28-Jun-2021 payment received letter sent to applicant, assigned to Phil, - DL			
Status Date: 24-Jun-2021 fees received - DL			

Islands Trust
LTC EXP SUMMARY REPORT F2024
Invoices posted to Month ending December 2023

665 South Pender	Invoices posted to Month ending December 2023	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-665	LTC "Trustee Expenses"	76.00	0.00	76.00
LTC Local				
65200-665	LTC - Local Exp - LTC Meeting Expenses	627.00	2,122.22	-1,495.22
65210-665	LTC - Local Exp - APC Meeting Expenses	333.00	0.00	333.00
65220-665	LTC - Local Exp - Communications	250.00	0.00	250.00
65230-665	LTC - Local Exp - Special Projects	270.00	0.00	270.00
TOTAL LTC Local Expense		<u>1,480.00</u>	<u>2,122.22</u>	<u>-642.22</u>
Projects				
73001-665-4118	South Pender LUB Minor Amendments	<u>2,000.00</u>	<u>0.00</u>	<u>2,000.00</u>
TOTAL Project Expenses		<u>2,000.00</u>	<u>0.00</u>	<u>2,000.00</u>

Standing Resolutions Log

South Pender Island

Resolution Number	Action	Date
2021-016 (Standing) 15.2 APC Appointments That the South 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	05-Nov-2021
2019-015 (Standing) 15.3 Standing Resolution - Reconciliation Report that the South 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	06-Sep-2019



Standing Resolutions Log

South Pender Island

Resolution Number	Action	Date
2019-014 (Standing) 15.2 Model Cell Tower Strategy - Staff Briefing that the South Pender Island Local Trust Committee endorse the Model Cell Tower Strategy.	Carried	06-Sep-2019
2019-001 (Standing) 13.2 Cannabis Retail Application License Application Fees - Staff Report - 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. - The proposed license should also be referred to First Nations for comment. - 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 where, and date and time when, both a public meeting will be held and a resolution of the local trust committee 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	01-Feb-2019
2015-015 (Standing) Printed Agenda Packages That whereas full agendas are available for public perusal on the website, and whereas the SPILTC endeavours to lower its ecological footprint be it moved that full paper printed agenda packages no longer be provided for future SPILTC meetings.	Carried	28-Apr-2015

Standing Resolutions Log

South Pender Island

Resolution Number	Action	Date
2010-000 (Standing)	Carried	05-Oct-2010

Send FUAL to trustees once drafted following the meeting.

2006-012 (Standing)	Carried	23-May-2006
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Adoption of Minutes

That staff prepare draft of meeting minutes for Local Trust Committee reading, correction and amendment as soon as possible following meetings. The South Pender Island Local Trust Committee will adopt these minutes by Resolution without Meeting within fourteen business days, if possible, of each meeting.

Trustees,

We write in support of the September 1, 2023, LTC decision to add First Nations relationship building to future agendas as a standing item. The Pender community has been building a respectful and progressive community-to-community relationship with the W SÁNEĆ First Nation for the last 10 years and former trustees on both North and South Pender have played an important role in supporting these initiatives.

We both serve on the S,DÁYES Reconcili-action team which works closely with the W SÁNEĆ Elders Council, the W SÁNEĆ School Board and the W SÁNEĆ Leadership Council to develop reconcili-action initiatives that respond to W SÁNEĆ priorities. In November 2022 we convened a community-to-community workshop to develop a range of new initiatives. In October 2023 we met with the W SÁNEĆ Elders Council to prioritize the initiatives. The Elders selected as key priorities:

- creating SENĆOŦEN language signage for appropriate locations on S,DÁYES/Pender, and
- engagement with W SÁNEĆ youth to increase accessibility and reconnection to Homeland.

We are currently applying for grant funding to support a range of signage initiatives now at various stages of development on both North Pender (e.g. signage and art installation at the community hall) and South Pender (e.g. installation of signage commemorating the original reef net site at QENEN,IW /Poet's Cove Resort). These installation events will include cultural celebrations involving W SÁNEĆ youth. We will provide the LTC and staff of more details as these initiatives unfold.

Plans are in place for another SENĆOŦEN language workshop on Wednesday March 27 at the Pender Library. Library staff will soon provide registration information which we will pass on to trustees and staff.

Future steps

In our December 19, 2023 letter to trustees we summarized the disposition of the previous Bylaw No. 123 that contained a detailed acknowledgement statement recognizing the long history of W SÁNEĆ presence on S,DÁYES, their unceded Traditional Territory and Homeland and their cultural values. Our letter also contains the W SÁNEĆ Elders Council's positive response to the acknowledgement statement. Unfortunately, the Elders' response was not considered by trustees because of post public hearing limitations, and they decided not to proceed any further with Bylaw 123.

First Nations Relationship building notes Feb. 2, LTC meeting

We believe there continues to be value in further consideration of an acknowledgement statement in our OCP, particularly given the positive response of the Elders Council. We are prepared to work with the Elders Council, trustees and staff to carry out the Minister of Municipal Affairs advice to explore "...the potential for First Nations' concerns with the content and for more meaningful involvement with First Nations in the writing of the statement and the commitments it contains." We will keep the LTC apprised of our efforts on this issue.

Yours Truly,
Monica and Paul Petrie
9920n Gowlland Point Rd.



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

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

PURPOSE

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

BACKGROUND

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

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

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

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

CARRIED

As per the attached briefing:

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

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

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

NEXT STEPS

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

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

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

To: Trust Council **For the Meeting of:** December 5, 2023

From: Stefan Cermak, Director,
Planning Services **Date Prepared:** November 15, 2023

SUBJECT: Housing Statute Changes to British Columbia Legislation

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

BACKGROUND:

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

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

Speculation and Vacancy Tax Act

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

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

The Short-Term Rental Accommodation Act.

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

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

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

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

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

The Housing Statutes (Residential Development) Amendment Act

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

Residential Density Requirements

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

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

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

Housing Needs Reports Amendments

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

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

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

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

Public Hearing Changes

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

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

Housing Statutes (Development Financing) Amendment Act

Amenity Cost Charges

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

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

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

Housing Statutes (Transit Oriented Areas) Amendment Act

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

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

ATTACHMENT(S):

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

FOLLOW-UP:

As requested by the Regional Planning Committee.

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

Prepared By: David Marlor, Director, Legislative Services

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

Backgrounder/Speaking Notes

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

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

November 9, 2023

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

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

Minimum Density Requirements

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

Housing Needs Reports

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

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

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

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

Public Hearing for Housing Rezoning

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

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

Official Community Plan Adoption

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

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

Bill 35: 2023 Short-Term Rental Accommodations Act

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

Registration of Short Term Rental Platforms

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

Restrictions on Homes that can be used for Short Term Rentals

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

No Legal Non-Conforming Status

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

Business Licenses

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

Focus of the Legislation

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

Islands Trust Background:

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

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

Existing Islands Trust Regulations

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

Current Islands Trust Enforcement

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

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

Provincial Statistics

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

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

To: Executive Committee **For the Meeting of:** December 20, 2023

From: Stefan Cermak, Director,
Planning Services **Date Prepared:** December 14, 2023

SUBJECT: Housing Statute and Regulation Changes to British Columbia Legislation

PURPOSE:

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

Key Takeaways:

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

BACKGROUND:

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

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

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

The Short-Term Rental Accommodation Act and Regulations.

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

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

Table 1 LTCs Enforcement Bylaws and Associated Maximum Permitted Penalty

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

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

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

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

The Housing Statutes (Residential Development) Amendment Act

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

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

ATTACHMENT(S):

- Hyperlinks provided to Orders In Council and Policy Manuals

FOLLOW-UP:

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

Prepared By: Stefan Cermak, Director, Planning Services

Reviewed By/Date: