



DATE OF MEETING: April 26, 2018  
TO: North Pender Island Local Trust Committee  
FROM: Justine Starke, Island Planner, Local Planning Services  
SUBJECT: **Bylaws 216 and 217 : Secondary Suites**

## RECOMMENDATION

1. THAT the North Pender Island Local Trust Committee Bylaw No. 216, cited as “North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No. 1, 2018,” be read a second time.
2. THAT the North Pender Island Local Trust Committee Bylaw No. 217, cited as “North Pender Island Land Use Bylaw, 103, 1996, Amendment No. 1, 2018,” be amended as show in Appendix 2 of the staff report for the April 26 2018 North Pender Island Local Trust Committee meeting.
3. THAT the North Pender Island Local Trust Committee Bylaw No. 217, cited as “North Pender Island Land Use Bylaw, 103, 1996, Amendment No. 1, 2018,” be read a second time.
4. THAT the North Pender Island Local Trust Committee direct staff to schedule a community information meeting and public hearing for Bylaws 216 and 217.

## REPORT SUMMARY

The purpose of this report is to present agency referral responses to [Bylaw 216](#) and [Bylaw 217](#), bylaws which would permit and regulate secondary suites as accessory dwellings permitted within primary dwellings on North Pender Island.

## BACKGROUND

The North Pender Island Local Trust Committee (LTC) made housing a top priority in 2015 and on November 24, 2016 added Secondary Suites as a focus under its Top Priority work program. The Local Trust Committee has endorsed a [project charter](#) to manage the work program for this policy priority.

[Bylaw 216](#) and [Bylaw 217](#) would permit and regulate secondary suites as accessory dwellings permitted within primary dwellings on North Pender Island; they received First Reading on January 30, 2018.

Bylaw 216 is an amendment to the Official Community plan to enable and make specific reference to secondary suites. It proposes a new general residential policy: “Accessory housing options such as secondary suites may be permitted as a way to increase the stock of rental housing without negatively impacting the rural sense of place or the carrying capacity of the island,” and includes various other policies to implement this.

Bylaw 216 also proposes to amend the Temporary Use Permit guidelines to discourage secondary suites from being used as short term vacation rentals.

## **ANALYSIS**

### **Policy/Regulatory**

See previous staff reports, especially the [staff report](#) received by the North Pender Island Local Trust Committee on January 30, 2018.

### **First Nations Referrals**

[Bylaw 216](#) and [Bylaw 217](#) were referred the following First Nations on February 8, 2018:

Cowichan Tribes  
Halalt First Nation  
Lake Cowichan First Nation  
Lyackson First Nation  
Malahat First Nation - TE'Mexs Treaty Association  
Pauquachin First Nation  
Penelakut Tribe  
Semiahmoo First Nation  
Stz'uminus First Nation  
Tsartlip First Nation  
Tsawout First Nation  
Tsawwassen First Nation  
Tseycum First Nation

### **Lake Cowichan First Nation responded on February 15 2018, stating:**

“This area appears to be on/in an area that Lake Cowichan First Nation would recognize as being in close proximity to other First Nation territorial lands. As such, I would categorize this as a Level 2 rights area for Lake Cowichan First Nation. Level 2 identifies that Lake Cowichan had harvesting, trade and Nation to Nation relations, but not necessarily Title and governing authorities, which would be Lake Cowichan’s highest S.35 interests and would require high end of the Haida spectrum consultation. However, Level 2, is still considered to be a very high consultation matter as it represents our marine fishing and harvesting areas. Despite this we would generally defer to the First Nation(s) whose traditional territory fronts this area. Should Lake Cowichan First Nation identify greater interests in the future we retain the right to revise this assessment. However, at this time, we defer to any Nation(s) whose title and governing authorities are directly affected.”

### **Malahat First Nation responded on April 5, 2018 stating:**

“Malahat Nation’s interests are unaffected and we have no objection to the passing of the bylaws. We defer to our neighbouring Nations with regard to impacts on Aboriginal interests and support them in their stewardship of the land.”

### **Agency Referrals**

[Bylaw 216](#) and [Bylaw 217](#) were referred the following agencies on February 8, 2018. Please see Table 1 for a summary of agency responses. Substantive responses have been posted on the [website](#):

- BC Assessment Authority
- Ministry of Forest, Lands & Natural Resource Operations, Water Protection
- Agricultural Land Commission
- CRD, Building Inspection Services
- CRD, Electoral Area Director

- CRD, Infrastructure Engineering (Integrated Water Services)
- Magic Lake Water and Sewer Commission
- North Pender Island Fire Rescue
- North Pender Island Advisory Planning Commission
- Gulf Islands School District No. 64
- Outer Gulf Islands RCMP
- Razor Point Improvement District
- Trincomali Water Improvement District
- Island Health
- Galiano Island Local Trust Committee
- Mayne Island Local Trust Committee
- Saturna Island Local Trust Committee
- Salt Spring Island Local Trust Committee
- South Pender Island Local Trust Committee
- Thetis Island Local Trust Committee (in error)

**Table 1: Summary of Agency Responses**

<b>Agency</b>	<b>Response</b>	<b>Conditions/Comments</b>
Salt Spring LTC	Interests Unaffected	N/A
South Pender LTC	Interests Unaffected	N/A
Saturna LTC	Interests Unaffected	N/A
Galiano LTC	Interests Unaffected	N/A
Thetis LTC	Interests Unaffected	N/A
<a href="#">Agricultural Land Commission</a>	Approval Recommended for reasons outlined below.  <a href="#">Link to Referral Response.</a>	Proposed amendments appear consistent with ALR Regulations (3(1)(b.1)i).
<a href="#">Trincomali Water District</a>	Did not indicate on form but sent letter of response.  <a href="#">Link to referral response.</a>	Request to be excluded from Bylaws.
<a href="#">Magic Lake Water/Sewer Committee (CRD – Integrated Water Services)</a>	Approval not recommended due to reasons outlined below.  <a href="#">Link to Referral Response.</a>	Responded on behalf of Magic Lakes Water and Wastewater Committee requesting the area within the Magic Lake Sewer Service be excluded from consideration.
<a href="#">Razor Point Improvement District</a>	Interests Unaffected  <a href="#">Link to Referral Response</a>	N/A
<a href="#">Pender Island Fire Rescue</a>	Approval Recommended subject to conditions.  <a href="#">Link to Referral Response.</a>	The bylaw should include a provision to insure secondary suites meet current building and fire codes. The bylaw should also include a provision to insure there is adequate access for emergency vehicles and an adequate fire protection water supply readily available at or near the secondary

		suite.
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### North Pender Island Advisory Planning Commission

The [draft minutes](#) are posted on the website. The APC passed the following resolution:

**NP-APC-2018-001**

**It was moved by Dorothy Murdoch, seconded by Ron Underhill,**

That the Advisory Planning Commission recommend that the bylaw amendment require that all existing secondary suites would have to apply for a building permit to ensure compliance with the building code.

**CARRIED**

**NP-APC-2018-002**

**It was moved by Michael Symons, seconded by Ron Underhill,**

That the Advisory Planning Commission recommend that the bylaw amendment state that the use of secondary suites as short term vacation rentals be prohibited.

**CARRIED**

**NP-APC-2018-003**

**It was moved by Ben McConchie, seconded by Michael Symons,**

That the Advisory Planning Commission encourage the Local Trust Committee to further study the impact that policies which increase density can have on resources and infrastructure.

**CARRIED**

One dissenting, Dorothy Murdoch

### Discussion of Referral Responses:

#### Trincomali Improvement District:

The Trincomali Improvement District is authorized under the Local Government Act and is governed by a Board of Trustees. It is not managed by the Capital Regional District Integrated Water Services. The District operates a water supply system that consists of six groundwater wells with a storage and distribution system to service 104 properties. The Improvement District operates conservatively due to existing supply limitations and has concerns regarding the future water supply due to changes in climate. Other risks include salt water intrusion, competition for the groundwater resource from immediate neighbours, and other unknown risks. The neighbourhood is zoned Rural Residential which has been mostly built out at an average minimum lot area of 0.6 ha (1.4 acres). The Trincomali Improvement District has requested exclusion from Bylaw 217. Staff support this proposal and have presented draft amendments to the bylaw in response.

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

Made up of local residents and property owners, including the Sothern Gulf Islands Electoral Area Director, the Magic Lake Water and Sewer Committee is a commission of the Capital Regional District and provides community input for the delivery of the water service. The Magic Lake Water/Sewer System provides drinking water and sewerage services in Magic Lake Estates. CRD Integrated Water Services is responsible for the overall operation of the system with day-to-day operation and maintenance, design and construction of system facilities provided by the CRD Infrastructure Engineering and Operations Divisions. The quality of drinking water provided to customers in the Magic Lake Estates Water System is overseen by the CRD Water Quality Division. The sewer service is approximately 210 hectares in size and includes 714 parcels (in 2016) of which 623 are serviced.

On behalf of the Magic Lake Water and Sewer Committee, CRD Integrated Water Services has responded with a request for the Magic Lake Sewer Service be excluded from Bylaw 217 because the sewer is at capacity and requires upgrades before it can take on additional flow. A sewer upgrade must be approved by referendum of the rate payers.

The Capital Regional District manages the system as well as administers the BC Building Code through CRD Building Inspection. If permitted by zoning, secondary suites require building permits to be legal. Until the Magic Lake Sewer Service is upgraded, the CRD will most likely not issue building permits for secondary suites in the sewer service area. The General Manager Planning and Protective Services at the Capital Regional District has confirmed to Islands Trust staff that the CRD will not issue a building permit without meeting all requirements of servicing. Confirmation that there is capacity in both the water supply and sewer system is required before a building permit is issued. If the LTC permits secondary suites in the zoning, they will still need to be approved through the building permit process. Staff are not recommending the LTC amend Bylaw 217 to exclude the Magic Lake Sewer Service.

### **Pender Island Fire Rescue**

The Pender Island Fire Rescue has requested the bylaw include a provision to ensure secondary suites meet current building and fire codes, that it include a provision for adequate emergency vehicle access, and that adequate water supply for fire protection be readily available at or near the secondary suite. These issues are all addressed through the building permit process. As mentioned, the Capital Regional District administers the BC Building Code through CRD Building Inspection.

The Pender Island Fire Rescue has also suggested life safety code compliance could be accomplished through an initial inspection process or possibly accomplished through a self-reporting checklist and report form signed by the property owner. The General Manager Planning and Protective Services at the Capital Regional District has advised that instituting a self-reporting checklist system for life safety provisions is not something that the CRD would manage in its building permit process. The fire code requirements are addressed in the building code and an applicant will only get a building permit after the applicant has met the requirements.

### **North Pender Island Advisory Planning Commission**

The Advisory Planning Commission (APC) has suggested:

- The use of secondary suites as short term vacation rentals be prohibited;
  - Section 3.18.6 of BL 217 already does prohibit the use of secondary suite for a short term vacation rental or a bed and breakfast home business.
- That the LTC further study the impact that policies which increase density can have on resources and infrastructure.
  - This is something the LTC could do within the context of its top priorities. As study of freshwater resources on North Pender Island is advised as a work program topic.
- That the LTC require that all existing secondary suites would have to apply for a building permit to ensure compliance with the building code.
  - This requirement is already in place under the BC Building Code and administered and enforced by the Capital Regional District.

### **Amendments to Bylaw 217**

Amendments to Bylaw 217 have been suggested as shown in Appendix 1. The amendments propose to create a new zone variation Rural Residential (b) and would have the effect of excluding properties within the Trincomali Water District from being permitted secondary suites.

### **Community Consultation**

On October 21, 2017, the North Pender Island Local Trust Committee hosted a community information workshop to discuss secondary suites. The majority of input was very supportive of secondary suites and the concerns people had were more related to secondary suites not being allowed or the process moving too slowly. The results of this community meeting are documented in the staff report received by the NPILTC on [November 23, 2017](#).

There is a staff recommendation to schedule a community information meeting and a public hearing for Bylaws 216 and 217. The LTC should discuss whether the CIM should be scheduled at a separate time from the public hearing.

### **Rationale for Recommendation**

The Trincomali Improvement District (TIC) has groundwater supply limits that cannot be easily addressed with infrastructure upgrades. TIC is not a Capital Regional District Service Area; it does not have administrative staff and the board meets infrequently. A referral relationship between the CRD and TIC for building permit applications cannot be confirmed or relied upon.

Staff are recommending the LTC continue to include the Magic Lake Sewer System in Bylaw 217. Until the sewer system is upgraded, the CRD will not issue building permits for secondary suites. Zoning for secondary suites is planning for the future; zoning has a longer term horizon than the shorter term need for upgrades of the sewer infrastructure. One of the major conclusions of the Southern Gulf Islands Housing Needs Assessments (commissioned by the CRD) is the urgently short supply of rental housing on the North Pender Island; a primary objective of the secondary suites project is to give the ability in zoning for homeowners to provide accessory rental housing units. Bylaw 217 would not be effective in achieving this objective over the long term if 714 parcels within Magic Lake Estates are excluded due to the current infrastructure limits.

Based on the experience of legalizing secondary suites on other islands in the Islands Trust Area, the expectation is that there will be limited numbers of suites built as a result of these bylaws. While some new construction can be expected to incorporate suites and there may be some new suites put into existing houses, the rate of uptake tends to be slow. Existing unlawful suites would no longer face the possibility of enforcement for non-compliance with zoning but would be subject to enforcement under the BC Building Code by the Capital Regional District.

### **Alternatives**

1. Give Second Reading to Bylaws 216 and 217 without amending Bylaw 217 to exclude the Trincomali Improvement District.
2. Direct staff to amend the draft bylaws to exclude the Magic Lake Sewer Service Area from Bylaw 217.
3. Direct staff to proceed no further with this project.

**NEXT STEPS**

The next steps include:

- 1) Community Information Meeting
- 2) Public Hearing
- 3) Consideration of Third Reading
- 4) Review by Islands Trust Executive Committee
- 5) Consideration of adoption

Submitted By:	Justine Starke, Island Planner	April 17, 2018
Concurrence:	Robert Kojima	April 17, 2018

**Attachments:**

Appendix 1: Bylaw 216

Appendix 2: Bylaw 217 with draft amendments

# PROPOSED

## NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 216

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### A BYLAW TO AMEND NORTH PENDER ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 171, 2007

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The North Pender Island Local Trust Committee enacts in open meeting assembled as follows:

1. CITATION

This Bylaw may be cited for all purposes as “North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No. 1, 2018”.

2. SCHEDULES

North Pender Island Official Community Plan No. 171, 2007, is amended as shown on Schedule 1, attached to and forming part of this bylaw.

3. SEVERABILITY

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

READ A FIRST TIME THIS	30 <sup>th</sup>	DAY OF	JANUARY	2018
PUBLIC HEARING HELD THIS	_____	DAY OF	_____	20____
READ A SECOND TIME THIS	_____	DAY OF	_____	20____
READ A THIRD TIME THIS	_____	DAY OF	_____	20____
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____	DAY OF	_____	20____
APPROVED BY THE MINISTER COMMUNITY, SPORT AND CULTURAL DEVELOPMENT THIS	_____	DAY OF	_____	20____
ADOPTED THIS	_____	DAY OF	_____	20____

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Chair

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Secretary



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE  
BYLAW NO. 216**

**SCHEDULE 1**

The North Pender Island Official Community Plan No. 171, 2007, is amended by:

1. Inserting a new policy Residential 2.1.H:

“2.1.H Accessory housing options such as secondary suites may be permitted as a way to increase the stock of rental housing without negatively impacting the rural sense of place or the carrying capacity of the island.”

2. Inserting a new Rural Residential land use policy 2.1.1.10:

“2.1.1.10: Secondary suites may be permitted within principal dwellings with the intent of providing long term rental housing options for residents. A maximum of one secondary suite, limited in floor area, shall be permitted per lot.”

3. Inserting a new Rural land use policy 2.1.2.9:

“2.1.2.9: Secondary suites may be permitted within principal dwellings with the intent of providing long term rental housing options for residents. A maximum of one secondary suite, limited in floor area, shall be permitted per lot.”

4. Inserting a new Agricultural land use policy 2.2.26 and renumbering subsequent policies accordingly:

“2.2.26: Secondary suites may be permitted within principal dwellings with the intent of providing long term rental housing options for residents. A maximum of one secondary suite, limited in floor area, shall be permitted per lot.”

5. Removing the title of Part 6: Temporary Commercial and Industrial Use Permits and replacing it with “Temporary Use Permits.”

6. Removing the subtitle of Part 6: Temporary Commercial and Industrial Use Permit Policies” and replacing it with “Temporary Use Permit Policies.”

7. Adding a new policy 6.4.14:

“6.4.14 A temporary use permit may not be issued for a short term vacation rental within a secondary suite.”

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ADOPTED THIS	_____	DAY OF	_____	20____

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Chair

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Secretary

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7. Adding a new policy 6.4.14:

“6.4.14 A temporary use permit may not be issued for a short term vacation rental within a secondary suite.”