




Islands Trust

OPTIONS FOR LOCAL GOVERNMENTS (LOCAL TRUST COMMITTEES AND ISLAND MUNICIPALITIES) IN THE TRUST AREA TO MANAGE DEVELOPMENT

	DEVELOPMENT ISSUE	Action required by an LTC or IM if a community wishes to <i>limit</i> this form of development	Comments regarding actions to limit this form of development	Other options to <i>manage</i> this form of development, or the time spent considering it
<p>MOST DIFFICULT TO INFLUENCE</p> 	<p>1. BUILDING PERMITS (or SITING AND USE PERMITS WHERE APPLICABLE)</p> <p>Property owners are applying for building permits (or Siting and Use Permits -- SUP) to undertake developments that are permitted by current zoning regulations.</p> <p>Current economic circumstances have led to an increase in the rate at which new buildings are being proposed and built.</p> <p>Some community</p>	<p>Amend zoning regulations to reduce the level of development permitted in various zones (i.e. downzone).</p> <p>With limited exceptions, local governments cannot zone to restrict the kinds of owners who can occupy permitted buildings and cannot zone to restrict the way that people own permitted buildings.</p>	<ul style="list-style-type: none"> • A building permit (or SUP) cannot be issued for buildings that are inconsistent with the relevant zoning bylaw. • Local governments cannot arbitrarily withhold building permits or SUPs where the proposed building is permitted by the local zoning regulations and the application meets the requirements of the relevant building bylaw. • Local governments cannot zone private property in a manner that does not permit the property owner some way of using their property for a private use. • While zoning changes that decrease the development potential of a property often result in community controversy or legal 	<ul style="list-style-type: none"> • Amend zoning regulations to address specific concerns without eliminating development potential. For example, permitted building size can be reduced or greater setbacks can be required to reduce impacts. • Create Development Permit Areas to guide the form and character of commercial and multi-family development to reduce impacts on the community. • Create Development Permit Areas to reduce impacts of building in special areas (subject to limitations in the Local Government Act). <p><i>(Note: Development Permits</i></p>

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	<p>members are concerned about the scale and/or pace of this new development.</p> <p>Because many people are not aware of the current development potential in their community, some have a perception that local governments in the Trust Area are active in approving the new development that they see.</p> <p>Some community members are concerned because the type of owners or ownership structures of existing or new development is different from traditional ownership.</p>		<p>challenge, local governments are legally allowed to make these zoning changes without compensation to affected property owners.</p> <ul style="list-style-type: none"> • Under the <i>Local Government Act</i>, zoning changes that reduce development potential are only effective if they are initiated at least seven days before a building permit application is made for a contrary development. • Zoning changes that reduce development potential cannot be made for an 'improper' purpose* and should affect similar properties in similar ways. • In regards to land in the Agricultural Land Reserve or land that has Private Managed Forest Land tax classification, local governments cannot adopt bylaws that prohibit certain types of development consistent with agriculture and forestry, respectively. • Local governments can use zoning to restrict 'fractional ownership' of residential buildings, if the fractional ownership structure is inconsistent with residential use. • Local governments can use Housing Agreements to restrict 	<p><i>cannot have conditions that are so restrictive that a property owner cannot develop their property as permitted by the relevant zoning regulations – reduction in development potential can only be achieved through changes to zoning regulations.)</i></p>


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			housing to use by those with special needs such as affordable or seniors' housing.	
			<i>*BC case law indicates that bylaws that change development potential must be adopted for the purpose of regulating land use and cannot be passed in bad faith.</i>	•
	<p>2. SUBDIVISIONS</p> <p>Property owners are applying for subdivisions that are permitted by current zoning regulations.</p> <p>Current economic circumstances have led to an increase in the rate at which subdivisions are being proposed.</p> <p>Some community members are concerned about the scale and/or pace of new subdivisions.</p> <p>Because many people are not aware of the current subdivision potential in their community, some have a perception that local governments in the Trust Area are approving increased land use</p>	Amend zoning regulations to reduce the density of subdivision development permitted in various zones (i.e. downzone by increasing the minimum size of a lot that can be created by subdivision)	<ul style="list-style-type: none"> • A subdivision approving officer (provincial or municipal) cannot permit a subdivision that is inconsistent with the relevant zoning and subdivision servicing regulations adopted by a local government. • A subdivision approving officer (provincial or municipal) cannot arbitrarily withhold subdivision approval if the subdivision is permitted by local zoning and subdivision servicing regulations and the application meets the requirements of the <i>Land Title Act</i>. • While zoning changes that decrease the development potential of a property often result in community controversy or legal challenge, local governments are legally allowed to make these of zoning changes without compensation to affected property owners. 	<ul style="list-style-type: none"> • Amend subdivision regulations to address specific concerns without eliminating development potential. For example, subdivision servicing requirements or lot configuration requirements can be amended to address some impacts on neighbouring properties. • Create Development Permit Areas to reduce impacts of subdivision in special areas (Note: cannot reduce density with Development Permits). <p><i>Note: Some have suggested that the rate of subdivision development could be managed by not processing subdivision applications. Section 85 of the Land Title Act requires approval (or rejection</i></p>

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	<p>densities when they comment on or process subdivision applications.</p> <p>Some community members are concerned about the staff time that is spent reviewing subdivision applications.</p>		<ul style="list-style-type: none"> • Under the <i>Local Government Act</i>, changes to subdivision regulations do not apply for 12 months to subdivision applications made prior to adoption of the new regulations. 	<p><i>with valid reasons) within two months after a subdivision application is made. Local Trust Committees that do not respond regarding subdivision referrals could lose the opportunity to comment effectively.</i></p>
	<p>3. DEVELOPMENT PERMITS</p> <p>Where their property is included within a Development Permit Area, property owners are applying for development permits to undertake developments that are permitted by current zoning regulations.</p> <p>Current economic circumstances have led to an increase in the rate at which new developments are being proposed.</p> <p>Some community members are concerned about the scale and/or pace of this new development.</p>	<p>Amend zoning regulations to reduce the level of development permitted in various zones (i.e. downzone)</p>	<ul style="list-style-type: none"> • Local governments cannot arbitrarily withhold development permits where the proposed development is permitted by local zoning regulations and the development meets the guidelines of the relevant development permit area. • Local governments cannot issue development permits with conditions that are not related to the development guidelines for the relevant development permit area. • Local governments cannot issue development permits with conditions that are so strict that a property owner cannot achieve the use and density permitted by zoning regulations; nor can they issue permits that increase the uses or density permitted in zoning regulations. 	<ul style="list-style-type: none"> • Development permit area guidelines can be amended to address specific issues that can reduce impacts on the community (Note: This can only be done to achieve specific purposes that are outlined in the <i>Local Government Act</i>). • Applicants for Development Permits can be required to supply Development Approval Information (DAI) about the anticipated impact of the development on the community. DAI requirements for LTCs must be identified by Trust Council bylaw.

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	<p>Because many people are not aware of the current development potential in their community, some have a perception that local governments in the Trust Area are approving new land uses and densities when they issue Dev. Permits.</p>			
	<p>4. DEVELOPMENT VARIANCES Local governments can approve variances to land use regulations provided they do not change the use or density of land use permitted in zoning regulations.</p> <p>Some community members have expressed concerns about variances to land use regulations.</p> <p>Some community members are not aware of the development potential in their neighbourhood and have a perception that local governments in the Trust Area are approving new land uses and densities when they</p>	<p>Local governments have complete discretion regarding Development Variance Permits and are not required to vary bylaws if they do not wish to do so.</p> <p>Local governments with zoning regulations are also required (by the <i>Local Government Act</i>) to establish an independent Board of Variance. Property owners who feel that a zoning regulation is causing them an undue hardship may appeal to the Board for minor variances. The Board may grant minor variances to bylaws but cannot vary the land use or density restrictions in the local government’s zoning regulations.</p>	<p>Local governments must consider** applications received and cannot refuse to receive them.</p> <p>Applications are reviewed in the context of the Islands Trust Policy Statement and the relevant Official Community Plan and Land Use Bylaw</p>	<p>To reduce the staff time used to process Development Variance Permits, local governments could consider whether zoning regulations should be amended (for example, to permit a type of development that is always approved through the DVP process).</p>

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	approve Development Variance Permits.			
	<p>5. TEMPORARY COMMERCIAL OR INDUSTRIAL USE PERMITS</p> <p>Local governments issue permits for temporary commercial or industrial land uses in areas that have been identified in the relevant Official Community Plan as suitable for such permits.</p>	Local governments have complete discretion regarding Temporary Commercial or Industrial Use Permits and are not required to issue them if they do not wish to do so, even if they meet relevant guidelines.	<p>Local governments must consider** applications received and cannot refuse to receive them.</p> <p>Applications are reviewed in the context of the Islands Trust Policy Statement and the relevant Official Community Plan and Land Use Bylaw</p>	<p>Temporary commercial and industrial use permits can only be issued in areas that have been identified in the OCP or LUB as appropriate for such permits. OCPs can include policies to guide the types of conditions that are included in such permits.</p> <p>Applicants for Temporary Commercial and Industrial Use Permits can be required to supply Development Approval Information (DAI) about the anticipated impact of the development on the community. DAI requirements for LTCs must be identified by Trust Council bylaw.</p>
	<p>6. REZONING APPLICATIONS (CONSISTENT WITH OFFICIAL COMMUNITY PLAN GUIDELINES)</p> <p>Property owners are applying to rezone their land to permit different uses or to increase their development potential, as anticipated by the relevant Official Community Plan.</p>	Local governments have complete discretion regarding Rezoning Applications and are not required to rezone land, even if the proposal is consistent with Official Community Plans.	Local governments must consider** rezoning applications that they receive and cannot refuse to receive them.	<p>Local governments can direct their staff as to the proportion of time they spend processing rezoning applications, provided that enough time is allowed to permit the local government to consider** applications received.</p> <p>To reduce the number of rezoning applications received,</p>

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	<p>Some community members are concerned about the scale of new development that has been approved through rezoning applications. Concerns have also been raised about the need for different or additional policies before consideration of applications for amenity zoning or the transfer of development potential.</p> <p>Some community members are concerned that planning staff spend time processing rezoning applications rather than undertaking planning projects with broader community benefits.</p>			<p>a local government can request its staff to advise prospective rezoning applicants that it is unlikely to give favourable consideration to certain types of rezoning applications.</p> <p>Applicants for rezoning can be required to supply Development Approval Information (DAI) about the anticipated impact of the development on the community. DAI requirements for LTCs must be identified by Trust Council bylaw.</p>
	<p>7. REZONING APPLICATIONS (NOT CONSISTENT WITH OFFICIAL COMMUNITY PLAN) Property owners are applying to rezone their land to permit different uses or to increase their</p>	<p>Local governments have complete discretion regarding Rezoning Applications and are not required to rezone land or to make amendments to the Official Community Plan.</p>	<p>Local governments must consider** applications that they receive to amend zoning or to amend the Official Community Plan.</p>	<p>Local governments can direct their staff as to the proportion of time they spend processing rezoning applications, provided that enough time is allowed to permit consideration of applications received.</p> <p>To reduce the number of</p>

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 EASIEST TO INFLUENCE	<p>development potential, in a manner that is not consistent with the relevant Official Community Plan.</p> <p>Some community members are concerned about proposed developments that are not consistent with Official Community Plans.</p> <p>Community members are also concerned that planning staff spend time processing such applications rather than undertaking planning projects with broader community benefits.</p>			<p>rezoning applications received, a local government can request its staff to advise prospective rezoning applicants that it is unlikely to give favourable consideration to rezoning applications that require amendment to an Official Community Plan.</p> <p>To reduce staff time spent on applications inconsistent with OCP policies, a local government can direct its staff not to process a rezoning application that requires an OCP amendment, unless the OCP amendment has been considered and approved first.</p> <p>Applicants for rezoning can be required to supply Development Approval Information (DAI) about the anticipated impact of the development on the community. DAI requirements for LTCs must be identified by Trust Council bylaw.</p>
	<p><i>** Section 895(2) of the Local Government Act requires local governments to ‘consider’ every application to amend a bylaw or issue a permit. For this purpose, it is sufficient that the local government has the application placed before its members at a meeting and that the minutes record that fact. A local government can, if it chooses, decide at this point that the application does not have sufficient merit to proceed further. In practice, a local government would likely receive a staff report and debate an application to some degree as part of its ‘consideration’.</i></p>			