

**From:** [REDACTED]  
**Sent:** Saturday, October 16, 2021 5:44 PM  
**To:** Dan Rogers; Jane Wolverton; Tahirih Rockafella  
**Cc:** Art Moses; Suzanne Fournier  
**Subject:** Submissions regarding Crystal Mountain Society rezoning proposal  
**Attachments:** CMS\_brief3\_Water\_oct11.pdf; CMS\_brief2\_Upper Ridge\_Oct 11.pdf;  
CMS\_brief4\_Policy Violations on Fragmentation\_Oct11.pdf;  
CMS\_brief5\_Indigenous consultation\_Oct11.pdf; CMS\_brief1\_Procedural  
Problems and Errors\_Oct12.pdf

To the members of the Galiano Island Local Trust Committee

Dear trustees,

We were encouraged by your discussion of the Crystal Mountain rezoning proposal on Sept. 7, the last time the application was on your agenda.

Although you approved first reading, you did not accept the planner's recommendation to send the proposal to a public hearing. You each expressed significant misgivings about the application, particularly about allowing two separate, unconnected developments on a single F1 lot, and about inadequate information about groundwater availability and use. Chair Rogers was particularly incisive in refusing to accept the premature staff sign-off claiming the application met the directives on groundwater in the Islands Trust Policy Statement.

Accordingly, a group of neighbours and other residents and owners have drafted a series of briefing papers (attached) to illustrate more of our concerns on these and other outstanding issues. We fully endorse these papers and are submitting them to the LTC as submissions from the two of us.

Please review these papers. In the next couple of days we will be requesting meetings with each of you to discuss them.

Thank-you.

Art Moses and Suzanne Fournier

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Galiano

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# **Crystal Mountain Development Plan – Brief 1:**

## **Procedural Problems and Errors**

The following lists the most concerning procedural issues with this application and the process having been taken to date by the Galiano Local Trust Committee. It is not intended to be exhaustive, but is a highlight report briefing the Trustees on the most concerning problems.

### **1. Proposed Zoning**

- Proposed zoning under ‘Community Facility and Utilities’ is a vastly inaccurate and misleading representation of what has been occurring on this land for some 20 years and what will occur if the rezoning is approved:
  - a. Despite this proposal being a type of wellness tourism, accommodating guests who will pay fees for their stay, staff are not placing it under commercial zoning like all other facilities for visitor accommodation on the island. Instead it is being placed in a section called Community Facilities and Utilities, designed for uses such as seniors’ and community housing and halls, schools, libraries, health and emergency services.
  - b. There is no demonstrated local community need for a spiritual retreat centre, as there is for the existing Community Facility & Utilities sites (*e.g.* firehalls, medical centre, community halls, seniors residential, community housing).
  - c. There are no programs offered specifically for Galiano residents, free or for fees.
  - d. The public is excluded from using the forest trails or site for wellness activities. This has been made explicitly clear during this application process.
  - e. The excessive sprawl described in the application (with well over twenty buildings) neither fits into the existing OCP nor into ‘Community Facility & Utilities’.
  - f. Not a single private interest is currently listed under Community Facility & Utilities.
- Commercial zoning is the most accurate representation of what is occurring on this land.
- Commercial zoning needs to use main road frontage, which Crystal Mountain has (Porlier Pass Rd), but chooses not to use. Note that traffic to the proposed retreat zone areas will add non-residential traffic through residential (Devina) or heritage (Cook) roads.
- If put under OCP Economic Activity, as it should, the development would need a site-specific commercial zone for a retreat. As such, a new ‘zone’ would still be required, accurately reflecting the type of land use, instead of shoehorning it as a ‘Community Facility & Utilities’.
- Comparisons with the Millard Learning Centre (MLC) are inappropriate: the MLC offers multiple programs to Galiano residents (many free of charge), provides public trails all year, has public EV chargers, is carbon neutral and serves as a public emergency gathering point offering shelter and water.

### **2. Disregard for Official Community Plan (OCP) and Land-use Bylaws (LUB)**

- The Galiano OCP and LUBs are not meant to be suggestions: they are legally enforceable; decision making for rezoning applications is not exempt from the implications of these documents. As such, the Galiano OCP represents thousands of hours of community discussions resulting in a compromise document that is not ‘subject to negotiation’. The role of the planners – who are civil servants - is to make developers compliant with the OCP and not to shoehorn non-

compliant applications by opening up the OCP or to develop artificial workarounds that make a mockery of the existing OCP.

- When challenged on why the proposed zoning for Crystal Mountain has remained in ‘Community Facility & Utilities’ despite strong community support for a ‘Commercial’ zoning designation, the planner’s explanation was that it will not be in opposition to the OCP because it requires the addition of a new zone to the OCP. So in essence, it does not need to reflect the community’s pre-approved zoning options because planning staff choose to make a new classification.
- Although pointed out repeatedly to the applicant and the two recent planners, the problem of critical fragmentation depicted in the application fails to be addressed. Ecosystem, land and forest fragmentation contravenes the Galiano OCP and the Island Trust Policy Statement.
- Proposed activities (gas or diesel heaters, gas cooking, gas generator, etc.) contravene Islands Trust policies regarding climate change mitigation.

### **3. Conflict of Interest**

- Professional arm’s length conduct is critical for reducing bias and maintaining integrity in professional advice, assessments, and findings. The BC Professional Governance Act has a [report on professional reliance](#) in the natural resources.
- The fact that the “third party” ecological assessment professional is also the Project Manager for Crystal Mountain’s rezoning process creates a clear conflict of interest. This generates unavoidable bias and lack of credibility in this process. The Galiano LTC must seriously consider the requirement for an arms-length third-party environmental assessment of this proposed development before proceeding any further.
- Consider the precedent being set by the LTC accepting professional advice from the same individual being paid to successfully rezone a property. This sets the stage for the LTC to allow this conflict of interest to repeat in future rezoning applications.

### **4. Density of Development**

- With the present densities being considered, this offers Crystal Mountain the highest resort density on the island, located adjacent to single-family home residential areas. Other business operators may – fairly – respond with applications to increase density on their own resort sites.
- Consider downstream consequences of a high level of density and the precedent setting it will inevitably cause.

### **5. Precedent Setting**

- Consider the guarantee of precedent setting from the above issues for all of Galiano Island. It is not simply a risk but a guarantee, if the Galiano LTC proceeds on its current trajectory with this application. Precedents include:
  - a. Over-riding the OCP and allowing retreat development on forest lands;
  - b. Defining a community facility that provides no community benefit;
  - c. Over-riding the requirement for consolidation of infrastructure to prevent forest fragmentation;

- d. Ignoring climate change mandates delineated in Islands Trust Policy Statements;
- e. Allowing the expansion of retreat developments into residential neighbourhoods;
- f. Regularizing illegal activities because the developer wants to continue illegal uses, rather than setting the boundaries for development based on the LUBs;
- g. Unprecedented density of dwelling units and excessive build-out, contravening the mandate to cluster development and minimize environmental impact;
- h. Allowing two separate developments both with maximum sprawl and duplicated infrastructure (well, water storage, septic tank, septic field, shower facility, etc.) and separate access roads
- i. Dismissing the need for impact on neighbours of groundwater use in already stressed and vulnerable water zones;
- j. There has been no enforcement of by-laws on this property, and others. The message to all land-owners is that you can do whatever you want and eventually the Trust will bend Galiano's LUBs to make illegal activities compliant.

## **6. Development Permit Areas**

- The Upper Ridge development appears to be in the steep slope DPA (see Galiano Island OCP Bylaw No. 108, Development Permit Areas Compilation Map), as acknowledged by Planner Smith at the most recent LTC (Sept. 7, 2021). As such, any development will need to be assessed by a qualified engineer as part of Development Information as required by the OCP.
- Development Permit process must be completed before this rezoning application can proceed to public hearing.

## **7. Indigenous Consultation / Interests**

- Indigenous interests, which are considerable in this area, have not been adequately addressed. We have included a more detailed brief (brief #5) on why this matters and why it must be addressed before the proposal can go any further.

*This document (Brief 1 of 5) was prepared by Galiano residents and landowners who are concerned about the Crystal Mountain application: Sheila Anderson, Serena Coutts, Jenna Falk, Akasha Forest, Suzanne Fournier, Dan Gaucher, Bob Grist, Diana Lilly, Brad Lockett, Pat Mayhill, Ian Mayhill, Tom Mommsen, Art Moses, Sandy Pottle, John Ronsley, Risa Smith*

# Crystal Mountain Development Plan – Brief 2: Duplicate Infrastructure on Upper Ridge

*“It does seem a stretch for a portion of the community to rezone a forest lot to a Community Facility potentially and then to take it a step further, the hooked lot configuration. It is a bit of a difficult step for me to make and it has been since the first day I’ve seen it...I’m just aware that I’m not comfortable with a totally separate piece of property being a part of the rezoning.”* Trustee Tahirih Rockafella, Galiano Local Trust Committee meeting, Sept. 7, 2021

**There’s absolutely no justification for allowing Crystal Mountain Society (CMS) to build cabins and a second extensive set of infrastructure on its Upper Ridge, above a cliff and completely cut off and unconnected with the main intensive development area on the same forest lot down below.**

## Duplicate Infrastructure

Area 2 (Upper Ridge development) would duplicate facilities already proposed for the lower retreat area - a separate well (yet to be drilled), a separate septic tank, a separate septic field, and separate kitchen, bathhouse, laundry, storage building, access for service vehicles and parking. The three larger sleeping cabins (225 sq. ft.) on the Upper Ridge are supposed to accommodate “long term” visitors for retreats of up to six months.



Source: Staff Report Sept.7, 2021. Map showing Area 1 and Area 2 as completely separate lots.

The Upper Ridge has no connection to the rest of the development and no access to grid electricity. As such, all infrastructure (power, pumps, water heating, building heat, cooking, etc.) will have to be supplied by fossil fuels which contravenes Islands Trust Policy Statement on climate change. Neither is extensive use of fossil fuels advisable in forested areas, especially during the summer months. Further, parking space will require removal of trees and shrubbery from an area deemed important to replenishing the water table of the lower sections of the property and adjacent areas.

No precedent exists for this kind of disjointed development anywhere on the island, on land currently zoned F-1 - for forestry use only, where no enclosed buildings are allowed. This development conforms to no accepted planning principle other than, according to planning staff, "it's important to the applicant". Further, this type of duplicated infrastructure directly contravenes the Galiano OCP and its directive to cluster and minimize developed areas. In fact, the proposed development appears to maximize sprawl by scattering the cabins and support structures over the entire area of the Upper Ridge.

### **Other problems with this Upper Ridge (Area 2):**

1. Road access to the Upper Ridge for construction equipment, service vehicles and supplies such as propane or diesel for generators, food, support staff such as cooks and caretakers and pumping of septic tank would be by a private easement through two adjacent properties. The current path does not support any heavy machinery or frequent use.
2. Access and parking area will require substantial tree removal.
3. One of the proposed sleeping cabins is to be located on a lower bench on the cliffside, likely within a Development Permit Area controlling development above a steep slope.
4. At least part of the cliffside is also classified as a Sensitive Ecosystem DPA, because it is in an old forest. CMS' project manager, who also prepared the CMS ecological assessment, stated during the recent Community Information Meeting that locating development on the Upper Ridge is "not ideal" because it fragments the forest ecosystem. It also carves up the land CMS is exchanging with the Islands Trust Conservancy into disjointed chunks.

**The Galiano Trustees should firmly reject any development on the Upper Ridge and require CMS to remove this disjointed, fragmented development concept from the application.**

*This document (Brief 2 of 5) was prepared by Galiano residents and landowners who are concerned about the Crystal Mountain application: Sheila Anderson, Serena Coutts, Jenna Falk, Akasha Forest, Suzanne Fournier, Dan Gaucher, Bob Grist, Diana Lilly, Brad Lockett, Pat Mayhill, Ian Mayhill, Tom Mommsen, Art Moses, Sandy Pottle, John Ronsley, Risa Smith*

## Crystal Mountain Development Plan – Brief 3: Critical issues regarding water

*“Water is what will ultimately determine our island’s population capacity. There have been many more reports this year about wells going dry, sediment in people’s water and boil water advisories,”* **Trustees Tahirih Rockafella and Jane Wolverton, Trustee Report Active Page, September 2021**

*“So judging by the groundwater use and the risk of salt water intrusion on the areas closer to the coast and the well density, there’s a lot of wells there... so even though there is a lot of recharge there is... a high amount of water use in that groundwater region compared to other areas in the north... So putting it all together that creates a highly vulnerable situation.”* William Shulba, Islands Trust Freshwater Specialist, speaking about the area of the proposed Crystal Mountain retreat development, Galiano Island Local Trust Committee Sept. 7, 2021. See map below.

### CM Proposal in a Highly Vulnerable Groundwater Area

*“A highly vulnerable situation”, “areas that are in need of critical attention”* – that’s how the Islands Trust Fresh Water Specialist describes the area where the Crystal Mountain Society (CMS) wants to develop a year-round 22-unit retreat centre for international and domestic visitors on land currently zoned for forest use only.



Source: Presentation by W. Shulba, Groundwater Sustainability Implementation Project, Galiano OCP



Curiously, Islands Trust Planning staff made no reference to these critical classifications when they declared there's enough water from one of CMS' existing wells on the property to support the retreat's intensive year-round water use without affecting neighbouring wells.

## **Serious Underestimate of Water Use**

At the same time, staff are seriously underestimating how much water CMS will need to run its operations.

In October 2020, the planner reported that a pump test result on the well CMS is planning to use was 4,069 litres per day (L/d). Once accounting for the 2275 L/d required under Galiano's Land Use Bylaw for the caretaker residence, that leaves only 1,794 L/d for retreat operations involving up to 19 resident retreatants in the main area, for a per person amount of less than 95 L/d per person, not counting support staff, teachers and an undisclosed number of retreatants accommodated elsewhere on Galiano.

This is well below the standard established by Natural Resources Canada of 249 L/d per person.

CMS' Water Management Plan Overview presented to the LTC last April envisages "maximum peak daily demand" as 3,052 litres per day. The planner told the Sept. 7/21 LTC meeting that "the proposed water use in the water report is a maximum of 2,890 L/d". For the Upper Ridge, where a well has yet to be drilled, the Water Management Plan Overview estimates water consumption will be only 94.6 L/d for each of the three visitors accommodated, not counting support staff. In all cases, these numbers are far below the NRCan standard for daily per person water demand.

These low-ball figures bear no relation to the requirements of Galiano's Land Use Bylaw (LUB). The LUB sets out strict allowances for daily water demand "for each building, structure or use of land permitted by this bylaw," resulting from a subdivision, which this application clearly would be. Complying with the bylaw would require at least 2,275 L per day for "each building, structure or use of land", 3,185 L if it was classified as visitor accommodation and 3,640 L for a commercial development.

## **Ignores effects of climate change on water availability**

Planning staff are relying on a 2015 hydrogeological report, but:

- The report was written six years before climate change has deepened and extended dry seasons and increased evaporation.
- The 2015 report relied on a 12-hour pump test performed in October, even though the industry standard for a pump test is 72 hours and maximum water demand will be in the dry summer months.
- During this limited pump test no neighbouring wells were monitored for potential interference.
- No data logging has been done on either of the two other existing wells on the property to assess fluctuating water levels in the aquifer.
- No assessment has been done on the impact of the additional well the applicant plans to drill on its upper ridge.
- Planners have never asked for data from the Spotlight Cove community, which shows a negative effect on groundwater quality during the dry summer months, or the adjacent properties on Clementine Lane and Dobson Lane.



## Non-Compliance with Islands Trust Water Directives

In his report to the LTC September 7, 2021, the Planner checked off the Islands Trust Policy Statement directives about water.

*” Local Trust Committees and Island Municipalities shall in their official community plans and regulatory bylaws address measures that ensure that neither the density or intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, water quality is maintained and existing, anticipated and seasonal demands for water are considered and allowed for.”*

*Local Trust Committees and Island Municipalities shall in their official community plans and regulatory bylaws address measures that ensure water use is not to the detriment of in-stream users.*

**No work has been done to comply with these directives.** And the numbers regarding water consumption don't add up. So why did the planner check the directives off? LTC chair Dan Rogers was right to say he was not prepared to sign off on any matters concerning water.

Instead, trustees are now requiring CMS to place a data logger in one of their secondary wells to monitor aquifer levels from Oct. 2021 and provide data to the LTC by January 2022.

However, to get an effective view of the state of the aquifer from which CMS are intending to draw large amounts of water, the LTC should require data-logging to continue well into the next dry season. That way the Trust will know exactly when water levels drop and how low they go in the summer months when the water use in the proposed retreat will be greatest. That's what the planner, himself, said, while questioning the value of limited data logging this fall.

At the same time, LTC must require monitoring of wells in the neighbourhood, particularly the wells downstream from the CMS development in Spotlight Cove and wells on adjacent properties on Clementine Lane and Dobson Lane.

Otherwise, trustees will be leaving neighbours in the dark, trusting out-of-date information and relying on water consumption estimates that defy local bylaws and common sense.

Water quality and availability are critical issues for all of Galiano, including the vulnerable North End neighbourhood (see map above). The CMS application provides no meaningful assurances their proposal won't negatively affect freshwater.

*This document (Brief 3 of 5) was prepared by Galiano residents and landowners who are concerned about the Crystal Mountain application: Sheila Anderson, Serena Coutts, Jenna Falk, Akasha Forest, Suzanne Fournier, Dan Gaucher, Bob Grist, Diana Lilly, Brad Lockett, Pat Mayhill, Ian Mayhill, Tom Mommsen, Art Moses, Sandy Pottle, John Ronsley, Risa Smith*

# **Crystal Mountain Development Plan – Brief 4: Violation of Trust Policies on Forest Fragmentation and Clustered Development**

The Crystal Mountain (CMS) rezoning proposal is a clear example of forest fragmentation, which the Islands Trust Policy Statement as well as Galiano's Official Community Plan (OCP) and its Land Use Bylaws (LUBs) specifically direct the Local Trust Committee (LTC) to prohibit (see attached Annex 1 for details). It also violates policies requiring any development on forest land and commercial development to be carefully clustered. Clustering is an important tool to achieve development without fragmentation.

The Upper Ridge development is particularly egregious to policies and directives related to forest fragmentation, as it requires separate infrastructure, including cabins, septic tanks and fields, water, drilled wells, kitchens, parking areas, bathhouses, laundries, access roads, etc.

Islands Trust planners have all recognized that the configuration of the proposed CMS development is contrary to policies that would prevent forest fragmentation, and even the CMS project manager has acknowledged that this configuration is "not ideal". Yet every CMS proposal has continued to show a fragmented configuration with two distinct developments, including one on the upper ridge. Instead, the LTC should reject the CMS proposal unless it is brought into compliance with Islands Trust Policy Statement and the Galiano OCP. It is not enough to say that the proponent insists on this fragmented configuration. It is up to the LTC to tell the proponent that their wishes are not compatible with our OCP or Islands Trust Policy Statement.

The relevance of policies on forest fragmentation may seem abstract to the LTC and the planners. We are hoping that this short paper will help to explain why policies on avoiding forest fragmentation are so vital to the integrity of Galiano's ecosystems and their ability to support both people and biodiversity over the long term.

## **What is fragmentation?**

There are volumes written on forest fragmentation, what it is and why it is a threat to forest health, causes loss of biodiversity, increases invasive plants, pests and pathogens and results in reductions in water quality (Snyder 2014) as well as a host of other impacts on the ecosystem services that unfragmented forests provide. One of the least technical descriptions, and one that is particularly pertinent to Galiano Island, is found in Snyder (2014). Snyder describes how fragmentation happens in "an incremental way, with cleared patches here and there, until eventually the forest is reduced to scattered disconnected forest islands". This is exactly what is happening on Galiano Island.

## **Why forest fragmentation matters**

"The most significant direct drivers of biodiversity loss are habitat loss and fragmentation and direct exploitation" (Woodley *et al.* 2021). Habitat fragmentation disrupts habitats, threatens biodiversity, impedes climate change adaptation and disrupts the ecosystem services which intact, connected ecosystems provide including provision for clean water. A large body of science and theory has been developing to address solutions to fragmentation, but of course the most effective solution is to prevent fragmentation in the first place.

## **How has the Island Trust Policy Statement addressed fragmentation?**

Encouragingly the Islands Trust Policy Statement recognizes the importance of preventing forest fragmentation, as it requires "protection of unfragmented forested ecosystems within ... local planning areas from potentially adverse impacts of growth, development and land use" (Page 9).

Annex 1 (below) identifies the most pertinent policies, found in the current Islands Trust Policy Statement but in even greater detail in the proposed revisions to the Islands Trust Policy Statement.

### **How does Galiano’s OCP address fragmentation?**

Galiano Island OCP – Consolidated July 2021 - includes a section on forest objectives which are intended to “preserve and protect the forest, its biodiversity, integrity and ecological services”. This includes maintenance of carbon storage and sequestration. All of these objectives require unfragmented forests to be met.

Trustee Wolverton, in a post on August 2, 2019, demonstrated a good understanding of these issues. In her words Directive Policies 4.2.7 require “*OCPs and regulatory bylaws to address the retention of large land holdings and parcel sizes for sustainable forestry and the location and construction of roads and utility and communication corridors to minimize the fragmentation of the forest*”.

### **References**

- Snyder M (2014). What is Forest Fragmentation and Why is it a Problem? *Northern Woodlands Autumn*.  
<https://northernwoodlands.org/articles/article/forest-fragmentation>
- Woodley S, Jarvis JB, Rhodes A (2021). Ensuring area-based conservation meets the twin challenges of biodiversity loss and climate change. *Parks Stewardship Forum* 37.  
<https://doi.org/10.5070/P537354729>

### **Annex 1: Islands Trust and Galiano OCP Policies that are violated by the Crystal Mountain Proposal.**

Below are the policies and directives that require protection of unfragmented forests, none of which are met by the highly fragmented Crystal Mountain proposal.

1. *Island Trust Policy Statement Consolidated – April 2003* directs LTC in their OCPs and LUBs to address the protection of unfragmented forested ecosystems within their local planning areas from potentially adverse impacts of growth, development and land use (page 9).

2. *Proposed Islands Trust Policy Statement, Draft Bylaw No. 183, Part 4. Ecosystem Preservation and Protection*

“In the Trust Areas, the establishment of networks of protected areas and unfragmented forest reserves that are large enough to contain and sustain native Trust Area species is essential to environmental integrity” (Page 15).

Environmental Integrity Policies 4.1.3 – “Trust Council commits to establish and sustain a network of protected areas throughout the Trust area, in collaboration with the Island Trust Conservancy Board, acknowledging that unfragmented connectivity is necessary to preserve ecosystems in sufficient size and distribution to sustain their environmental integrity”.

Directive Policy for Local Trust Committees (page 16) 4.1.7 would require local trust committees to preserve protect and support “contiguous, unfragmented forests and associated ecosystems, freshwater networks and groundwater recharge areas, and sensitive ecosystems (cliffs, freshwater, herbaceous, old and mature forests...” among other things.

Directive Policies 4.3.6 (page 20) would require local trust committees in their OCPs to prioritize the environmental integrity of the Trust Area by protecting unfragmented forest ecosystems, on a scale of forest

stands and landscapes, from the potentially adverse impacts of growth, development and land use”.

Directive 4.3.7 (page 20) would require LTCs in their OCPs “to retain large land holdings and parcel sizes to enable sustainable forest harvesting practices and direct the location of roads and utility corridors to minimize the fragmentation of the forests”.

### **3. Galiano Island Official Community Plan Bylaw No. 108, 1995. Consolidated July 2021**

#### Forest Policies, page 15 – 16

“Unplanned proliferation of residential uses throughout the forest would be contrary to many of the objectives and policies in this plan, including particularly those dealing with the integrity of forest ecosystems and surface water and groundwater supplies and the impact of residential services such as roads. Instead, in order to preserve and protect the forest resource, the plan favours the clustering of residential uses on sites within the forest, carefully selected as the basis of sound planning principles, with the balance of the lands being set aside for forest uses in perpetuity”.

a) “... in order to preserve and protect the forest resource, the plan favours the clustering of residential uses on sites within the forest...”

k) “ The fragmentation of Forest-designated lands by roads or other service or communication corridors shall be minimized”.

#### Section II Land use- Land Use Policies

Land use decisions for all zones shall be directed by the following criteria where relevant  
xii) “the importance of forest cover and the retention of unfragmented forest ecosystems”

*This document (Brief 4 of 5) was prepared by Galiano residents and landowners who are concerned about the Crystal Mountain application: Sheila Anderson, Serena Coutts, Jenna Falk, Akasha Forest, Suzanne Fournier, Dan Gaucher, Bob Grist, Diana Lilly, Brad Lockett, Pat Mayhill, Ian Mayhill, Tom Mommsen, Art Moses, Sandy Pottle, John Ronsley, Risa Smith*

## **Crystal Mountain Development Plan – Brief 5: Lack of Meaningful Indigenous Consultation**

The Crystal Mountain (CMS) application involves significant indigenous interests that have not been addressed in the usual pro-forma referral letters sent to area First Nations by the Islands Trust.

Several Coast Salish communities and key political entities have claims for indigenous rights and title in the Southern Gulf Islands. With the exception of the Tsawwassen First Nation, the vast majority of area indigenous nations have never signed treaties with the Crown and continue to assert unceded aboriginal rights and title. Because fee simple title (privately-owned) is off the table, future settlements with non-treaty First Nations in the Southern Gulf Islands typically must involve BC Crown land.

The land involved in the CMS application is immediately adjacent to a key piece of BC Crown land - District lot 87. The status of DL-87 has not been resolved. The government has not transferred it to BC Parks, and it may well form the basis of a treaty settlement with area First Nations. Therefore, the indigenous consultation on the CMS application must be far more fulsome and comprehensive than the usual pro-forma referral request letters sent to 13 indigenous nations, as reported in the recent staff report to the Local Trust Committee.

Islands Trust Planner Brad Smith reported that only two First Nations, Tsawout and Tsawwassen "replied that they had no concerns". However: *"Lyackson First Nation has flagged some general concerns regarding a limited capacity to respond to referrals without funding and a lack of clarity on how the proposed zoning will respect traditional ways of being or support traditional cultural practices."* Smith resolved to turn the matter over to Lisa Wilcox, the Trust's senior intergovernmental policy advisor, and the Galiano trustees surprisingly proceeded to give the first reading of the CMS bylaws.

This is by no means sufficient consultation with Penelakut, Lyackson or any of the 13 indigenous nations whose future territorial claims and traditional use may be impacted by a dense development like CMS, adjacent to a Rural Residential Neighbourhood just south of the Penelakut reserve. The disposition of Crown Land DL 87 has never been discussed with indigenous nations.

Nor has the Galiano Island LTC included in its referrals the Galiano-based Lelum Sar Augh Ta Naogh. The group speaks for some indigenous families who never left Galiano, yet their matriarchs were stripped of federal Indian status when they married non-indigenous men. Members of this house (or Lelum) have regained individual indigenous status and have asked for Galiano LTC land-use referrals. Both Galiano trustees attended a recent Galiano healing ceremony held by Lelum Sara Ta Naogh and its member families are well-known among Galiano's pioneers.

At a time when this country is facing a national reckoning and many indigenous nations are dealing with retraumatization over the discovery of unmarked graves at indigenous residential schools across Canada, including the Kuper Island Residential School on Penelakut Island, this limited and perfunctory 30-day referral is simply insensitive and unacceptable.

The Penelakut community office has been closed due to Covid for much of the last two years. At no time should the Galiano trustees conclude that lack of indigenous response implies consent. It is imperative for the Galiano trustees to take responsibility for meaningful consultation with indigenous communities around us. The CMS file should not proceed one step further until Galiano trustees take the initiative and reach out to area First Nations to meet face-to-face to discuss specific indigenous interests that may be raised by this application, including the disposition of DL 87.

*This document (Brief 5 of 5) was prepared by Galiano residents and landowners who are concerned about the Crystal Mountain application: Sheila Anderson, Serena Coutts, Jenna Falk, Akasha Forest, Suzanne Fournier, Dan Gaucher, Bob Grist, Diana Lilly, Brad Lockett, Pat Mayhill, Ian Mayhill, Tom Mommsen, Art Moses, Sandy Pottle, John Ronsley, Risa Smith*