

From: Julia Nicholls <[REDACTED]>

Sent: Tuesday, February 13, 2024 5:07 PM

To: Deb Morrison <dmorrison@islandtrust.bc.ca>; Aaron Campbell <acampbell@islandtrust.bc.ca>; David Maude <dmaude@islandtrust.bc.ca>; SouthInfo <SouthInfo@islandtrust.bc.ca>

Subject: project charter from July 2023

Re: strengthening DPA's

Thank you for refusing to authorize the permit for the property at [REDACTED]. You were under a lot of pressure to do so.

It seems to me that all of us want to make sure that clear-cutting does not continue and that the only way to stop it is to make sure it is not profitable. A good way to discourage further such violations would be to assess a large fine. Unfortunately, one of the long-standing problems with DPAs is that the Province does not allow local government to issue a fine for a violation. You would need to ask the court to issue a penalty, which is expensive for the trust and, as we've seen, there is no assurance of success. Could it be that our Provincial Government does not care about protecting the environment?

At the last meeting it was stated that:

1. There is no sense in having DPA's if we cannot enforce them, and also
2. there are so few people who clear-cut that putting a lot into it is not worth it.

I would like to respond to these points. Because laws are not currently enforceable, or that few people break the laws this should not mean we give up on them. If laws are worth having, they are worth enforcing. Also, the fact that few people respect DPAs should not mean they get

off. And we should not effectively penalize those people who obey the law when they necessarily incur costs for doing so.

In short, we must find ways to have enforceable DPAs. And we should consider this a priority

It also seems to me that this work should not be done by each local Trust organization but rather by the whole Islands Trust.

We are hoping that with the determination and support of the Islands Trust, the Forest Stewards, and other concerned organizations and citizens, we can ensure that all future DPA's are meaningful and enforceable.

We hope that you follow up on the project passed at the July 2023 LTC meeting attached below.

Julia Nicholls
Forest Stewards

Raptor Nest Development Permit Area Review - Project Charter

North Pender Island Local Trust Committee

LTC Endorsement Date: July 28, 2023

Purpose: To review and update mapping of raptor nests on North Pender Island, and to review and update Development Permit Area designations and provisions as a Minor LTC Project.

Background: The current Raptor Nest DPA was adopted in 2008 based upon surveys conducted by local volunteers in 2005 and 2006 through the Wildlife Tree Stewardship initiative (WiTS). Nest trees were mapped with assistance of Islands Trust staff. An update of wildlife trees is needed as new nests are established and older ones abandoned. In addition DPA provisions should be reviewed and updated.

Deliverables <i>Updated mapping of wildlife trees consistent with Islands Trust mapping standards and with recent changes to the Professional Governance Act and regulations.</i> <i>Revised DPA provisions</i> <i>Amendments to OCP.</i>	In Scope <ul style="list-style-type: none"> - Raptor nest tree mapping - Report by or endorsed by RP Bio - Review of Raptor Nest DPA - Community consultation on amendments - First Nations consultation - OCP amendment 	Out of Scope <ul style="list-style-type: none"> - Other amendments to OCP or LUB - Other mapping or professional reports. 	IAP2 Engagement Level: <input checked="" type="checkbox"/> Inform <input checked="" type="checkbox"/> Consult <input type="checkbox"/> Involve <input type="checkbox"/> Collaborate
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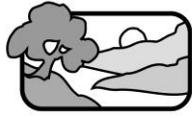
Workplan Overview

Deliverable/Milestone	Target Date
<i>Project Charter endorsed</i>	July 2023
<i>Project initiation and preliminary report to LTC</i>	Sept 2023
<i>Procurement process for updated mapping</i>	Oct - Nov 2023
<i>Staff review, project summary paper, landowner and stakeholder group engagement</i>	Sept – Nov 2023
<i>Early consultation with First Nations</i>	Sept – Dec 2023
<i>LTC review of amended DPA provisions</i>	Nov 2023
<i>Direction to prepare bylaws</i>	Jan 2024
<i>Final mapping delivered</i>	March 2024
<i>Community consultation on draft bylaws, bylaw referrals</i>	Apr - June 2024
<i>Legislative process to amend OCP</i>	May – Sept 2024
<i>Implementation and communications</i>	Sept – Oct 2024

Project Team	
<i>Brad Smith, Island Planner</i>	<i>Project Manager</i>
<i>Robert Kojima, RPM</i>	<i>Project Sponsor</i>
<i>Mark van Bakel, IS Manager</i>	<i>Mapping</i>
<i>Emily Bryant</i>	<i>Admin support</i>
RPM Approval: <i>Robert Kojima</i> Date: July 14, 2023	LTC Endorsement: Resolution #: Date: xxx

Budget		
Budget Sources:		
Fiscal	Item	Cost
2023-24	Mapping	\$5000
2024-25	Consultation and public hearing	\$3000
2024-25	Contingency	\$2000
	Total	\$10,000

Meeting	Deliverable/Milestone
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Late 2024	Final adoption upon Ministerial approval of bylaw



DATE OF MEETING: July 28, 2023
TO: North Pender Island Local Trust Committee
FROM: Robert Kojima, Regional Planning Manager
Southern Team
COPY: Brad Smith, Island Planner
SUBJECT: Raptor Nest DPA Review Project – Preliminary Report

RECOMMENDATION

- 1. That the North Pender Island Local Trust Committee endorse the attached project charter for the Raptor Nest DPA Review Project.**

REPORT SUMMARY

The report attaches a project charter for the Raptor Nest DPA Review Project. The report also outlines the project and provides a preliminary timeline and scope.

BACKGROUND

At the May meeting the LTC adopted the LUB (Bylaw 224) and proposed two new projects: to request funding for a Major project for housing and to initiate a Minor Project to update the Raptor Nest DPA designations. The following resolution was adopted:

NP-2023-075

It was Moved and Seconded,

that the North Pender Island Local Trust Committee defer Groundwater Education with landowners as a Minor Project and establish updating Raptors Nesting Mapping as a priority Minor Project.

A Minor Project is an LTC project that is anticipated to require a budget of under \$5,000 in any given fiscal year, is relatively limited in scope, and can be supported by LTC's assigned the Island Planner. Each LTC may have one minor project at any one time and funding is supported from a minor projects budget allocated by Trust Council and assigned by the Director of Planning Services.

Staff have prepared the attached project charter for the project.

ANALYSIS

Issues and Opportunities

Project Scope and Budget

The proposed work plan would limit the scope of the project to updating the mapping for DPA 7, reviewing the DPA provisions, engaging in consultation and undertaking the legislative process to amend the OCP. The budget requested would be for \$5,000 in the current fiscal year, with up to an additional \$5,000 in the next fiscal year. Staff resources are estimated to be primarily the Island Planner's time, with support from other staff as needed.

Update mapping

The initial work and the bulk of the budget in the first year would be to undertake the procurement process to update the mapping, ensuring that it is consistent with the provincial regulations for applied biologists and Islands Trust mapping standards (in Sept 2022, the Province brought in [regulations](#) which effectively require that anyone doing biology must be registered with the College of Applied Biology).

Review existing DPA provisions

Staff would review:

- the current guidelines, exemptions and other elements the DPA
- past applications and permits, other jurisdictions regulations
- current best practices.

Resulting in a report to the LTC with options and recommendations, and preparation of a project summary document for public and landowners.

First Nations consultation

Staff would undertake early engagement to determine Nation's interests and desired level of involvement.

Landowner and stakeholder group engagement:

Staff would work with the contractor to contact affected landowners to obtain permission to enter property where required.

Community consultation:

Once the LTC has provided direction to prepare a bylaw amendment, community consultation would be undertaken, including community meeting(s), website updates, and communications materials.

Legislative process

In order to implement changes to the DPA, an amendment would be required to the OCP, consisting of bylaw readings, a public hearing, and Executive Committee and Ministerial approval.

Implementation

The final phase would be to implement the amendment through communications to landowners and professionals, and to update to application procedures.

Project Benefits and Risks

Benefits of undertaking an amendment to the DPA would include:

- An update of the near two decade old mapping, including incorporating new raptor nests.

- An update of DPA provisions based on experience with applications and any changes to best practices.
- Landowner education on new and existing nest trees.
- Providing a model process and bylaw provisions applicable to other local trust areas.

Potential risks associated with the project may include:

- Incomplete mapping stemming from an inability to gain access to private property, alternatives may need to be considered in these cases.
- Cost and delays resulting from the requirement to involve a Registered Professional Biologist.
- First Nations capacity and timelines to consult may not be consistent with project timeline and budget.

Timeline

The project is proposed to be completed relatively quickly as a targeted review, with the project consisting of the following phases.

Phase 1: Project Initiation: preliminary report and mapping contract procurement process.

Phase 2: Analysis: review of DPA provisions, options to LTC, contact with stakeholder groups and landowners.

Phase 3: First Nations consultation: early engagement and on-going consultation as requested by Nations.

Phase 4: Drafting: LTC review of amendment options and direction to prepare bylaws.

Phase 5: Community Consultation: early contact and community meeting, public review, bylaw referrals.

Phase 6: Legislative Phase: bylaw readings, public hearing, EC and Ministerial approval.

Phase 7: Implementation: public and landowner communication, procedural updates.

Phase	2023												2024											
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
Pre-Project																								
Project Initiation																								
Analysis																								
FN Consultation																								
Bylaw Drafting																								
Community Consultation																								
Legislative																								
Implementation																								

Rationale for Recommendation

The recommendation is to proceed with the project as the LTC’s Minor Project. While there are risks to the project associated with budget and timeline, the desire to expeditiously review these DPA provisions, the targeted scope of the project and the availability of funds and staff resources support proceeding as proposed.

ALTERNATIVES

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

1. Request further information

The LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are that commencing work on the project would be delayed. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request that...

2. Not Proceed with the Project

The LTC may decide to not proceed with the project.

3. Receive for information

The LTC may receive the report for information.

NEXT STEPS

If the LTC endorses the project charter, staff will report back at the September LTC meeting.

Submitted By:	Robert Kojima, Regional Planning Manager	July 17, 2023
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ATTACHMENTS

1. Project Charter

Raptor Nest Development Permit Area Review - Project Charter

North Pender Island Local Trust Committee

LTC Endorsement Date: xxx

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From: Sara Miles <[REDACTED]>
Sent: Tuesday, July 30, 2024 8:29 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Raptor Nest Project comment

Dear North Pender Local Trust Committee Member:

I am writing to express support for your work on the Raptor Nest DPA Review.

It is exciting to learn there are two new eagle nesting sites in the Port Washington Rd neighbourhood. They are called "Clam Bay Rd" site, and "Colston Cove" in the environmental report.

I urge you to create stronger environmental protections for the entire hillside above Port Washington Road. New nest sites in this area show the importance of this pristine area for wildlife.

The April 5 Staff Report prepared by Planning Manager Kojima includes a very important Review by Caurinus Environmental biologists: [NP-LTC_2024-04-05_Raptor Nest Project_StaffReport.pdf \(islandstrust.bc.ca\)](#)

I would be happy to also share my observations of raptors in this area, through my photographs and journals. From my home location, I have a unique vantage point from which I can observe the many raptors who live and nest above Port Washington Road. Maintaining intact forest along here is critical to these creatures' success, and it is in fact is the main reason they are here.

Best regards, Sara Miles

From: Brad Smith <bsmith@islandstrust.bc.ca>
Sent: Wednesday, October 23, 2024 12:20 PM
To: '██████████' <██████████>
Cc: North Pender Island Local Trust Committee
<NorthPenderIslandLocalTrustCommittee@islandstrust.bc.ca>
Subject: RE: Raptor DPAs

Hello Michael,

Thanks for taking the time to meet with me at your property last week. Yes, based on my onsite observations, it is my professional opinion that the DPA tree in question still has the criteria needed to be a viable nest/perching site for raptors. As we discussed, it would be fair to say that if the structure of the tree goes through further significant changes, it can be reassessed as a viable nesting or perching structure.

I have followed up directly with the QEP that authored the report and he concurs with my findings. As such, staff will be recommending that the tree continue to be maintained as a Raptor DPA tree for now.

Best regards,

Brad

Brad Smith, PAg

Island Planner, Southern Team
200-1627 Fort Street | Victoria BC V8R 1H8
(778) 679-5185 | bsmith@islandstrust.bc.ca | www.islandstrust.bc.ca
You can also reach us toll-free via Service BC 1-800-663-7867 | 604-660-2421

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

I respectfully acknowledge that the Islands Trust Area is located within the treaty lands and territories of the BOKÉĆEN, Cowichan Tribes, K'ómoks, Lyackson, MÁLEXEŁ, Qualicum, scəwəθən, səliwətał, SEMYOME, shíshálh, Skwxwú7mesh, Snaw-naw-as, Snuneymuxw, Songhees, Spune'luxutth', S'ÁUTW, Stz'uminus, ʔaʔəmen, Ts'uubaa-asatx, Wei Wai Kum, We Wai Kai, WJOLEŁP, WSIKEM, Xeláltxw, Xwémalhkwu, Xwsepsum, and xʷməθkʷəy̓əm First Nations. Islands Trust is committed to reconciliation and to working together to preserve and protect this ecologically, culturally, and spiritually significant region in the Salish Sea.

From: David Maude <dmaude@islandstrust.bc.ca>
Sent: Monday, October 21, 2024 3:15 PM
To: Brad Smith <bsmith@islandstrust.bc.ca>
Subject: Fw: Raptor DPAs

Mayne Island Trustee
Trust Council Vice Chair

Wi'la'mola - *we are all travelling together*

From: michael <[REDACTED]>
Sent: October 21, 2024 12:36 PM
To: David Maude; Aaron Campbell; Deb Morrison
Subject: Raptor DPAs

Hello N. Pender LTC: I am writing concerning your current review of raptor nest DPAs. When we purchased our home and property in 2007 we were excited about it having an eagle nest on the property. Shortly after purchasing we learned that the eagles had abandoned the nest two or three years earlier. In the intervening 17 years the nest gradually deteriorated and there is no longer any trace of it. The tree, which was already basically a large snag, has also deteriorated and is down to one large branch.

As there has been no nesting activity in this tree; no eagles, no osprey, no herons, no ravens, in the past twenty years and as all the structure necessary to support a larger nest is gone, I contacted your planner, Brad Smith, and requested that this tree be removed from your raptor DPA roster. I invited him to visit the site to see the conditions. It was clear from my conversation with him, and his conduct when he visited, that he had already made up his mind on the matter. He stated, without having seen the site, that it could be "potentially viable" and repeated this conclusion when he arrived here and again when viewing the tree.

So, you now have a protected "raptor tree" which has no raptor nesting activity, hasn't had for about 20 years, and has not been used by any other large avian species in that time despite the tree being open and available. It is shown on your map as an eagle nest but no eagle will ever nest in it again as there is no structure to support an eagle nest. The phrase "junk science" comes to mind. This kind of conduct is what has led to the Islands Trust losing credibility in the community.

Regards,
Michael Symons

[REDACTED]
Pender Island

Jonathan and Suzanne Liteplo

████████████████████
North Pender Island, BC
(████████████████████)

November 22, 2024

Sent by Email to: bsmith@islandstrust.bc.ca

Islands Trust
200 – 1627 Fort Street
Victoria, BC V8R 1H8

**Attention: Brad Smith
Island Planner, Southern Team**

Dear Brad:

Re: Raptor Nest Development Permit Area Review Project

We are writing in response to your letter dated October 4, 2024 in respect of the above-captioned Project, enclosing a copy of the *Raptor and Heron Nests Development Permit Area (DPA) Review Report* dated June 2024 (authored by Mr. Dan Baxter of Caurinus Environmental), and *Raptor Nest Draft Map v2* dated August 2024.

Background

We are the registered owners of ████████████████████ on North Pender Island (████████████████████). The property is 1.238 ha in size and is zoned RR2. We received your letter at our primary residence on or about October 11, 2024.

The revised map attached as Appendix A to the June 2024 Caurinus report (i.e., the map marked “Draft August 2024”) indicates that a DPA relating to a new bald eagle nest site is being proposed for our property and adjacent properties (marked as “53”). The earlier “Draft June 2024” map did not include the proposed DPA.

From the map, it appears that the DPA would center on one of two large Douglas Fir trees located on our property near the west boundary line, although we understand from your email that it is only one tree that would form the basis for the DPA. Although we are not certain at this point, we assume the specific tree identified by Mr. Baxter is the larger of the two.

We purchased the property four years ago in the fall of 2020 in an undeveloped state. We first viewed the property in late August, 2020, and inspected it carefully in the ensuing weeks leading up to completing our purchase at the end of October, 2020. At that time, there was no

eagle nest on the property (intact or partial), including in either of the two large Douglas Fir trees. Nor was there any physical evidence indicating that an eagle nest had been present on the property at some point in the past (such as the remains of a nest that may have fallen out of a tree, prey remains, etc.). We also researched the Islands Trust website, and determined that there were no DPAs applicable to the property, and that there were no known raptors' nests on or near the property.

Since that time, there has been no eagle nest on the property. Nor have we seen any indication that a nest is under construction, including in either of the two large Douglas Fir trees.

In 2021, the Islands Trust and CRD granted our application for a building permit for the property, and no mention was made during that approval process of an eagle nest site on the property. As we know you appreciate, we have invested substantial resources, including money and time, to acquire and develop the property.

Our Initial Questions on Mr. Baxter's Report

Neither your letter nor Mr. Baxter's report provide specific details as to why a DPA is now being proposed at this location. Mr. Baxter's report includes the following general comments:

"... based on local naturalist David Manning's yearly record keeping of raptor sites on Pender Island, we visited undocumented raptor nest sites across North Pender Island. ... where a nest was not present, the viability of each documented raptor nest tree to support a nest in the future was assessed. Some nest sites were not accessible, and therefore an approximate nest site coordinate was recorded."

Based on this passage and Mr. Baxter's report more generally, we indicated in an email to you (October 16, 2024) that we wanted to understand what data, analysis or other information the Islands Trust and its consultant were relying on to conclude that a DPA is required at this location. We also asked the following specific questions:

- Do David Manning's records indicate that a nest was present at some point at this location? If so, over what period of time?
- How do we obtain a copy of his records?
- Is there a description in his records as to how he conducted his yearly record keeping?
- Did Mr. Baxter visit this site and view the specific tree? If so, when and from what vantage point(s), and what were his site-specific observations at the time?
- Given that there is no nest present, did Mr. Baxter conduct an assessment of the viability of the tree(s) to support a nest in the future? If so, what did that assessment involve, what were his conclusions, and on what analysis were those conclusions based?

You responded to our questions by email (October 24, 2024) as follows:

"I have followed up with the biologist and this is what I understand:

1. *The data point was not captured in the June 2024 report or map as an oversight, this was identified by Islands Trust staff during follow-up QA/QC on the mapping data to produce the August 2024 map*
2. *The tree is known to have housed a nest in the past – the biologist notes that the old nest that was there came down in a storm, prior to any construction, but recently there have been signs of stick placement in the tree*
3. *The biologist assessed the tree from an adjacent property and determined with limited time viewing the tree it seems that there was still a viable structure for nesting in the tree and recommends inclusion as a DPA*
4. *Although a known site, the tree was not included in the current DPA layer and if now included would become a new DP area.”*

Our Concerns

With respect, the information set out in Mr. Baxter’s report and the additional information provided in your email do not in our view provide a reasonable basis for including this site in DPA 7. Importantly, it is not apparent how Mr. Baxter’s assessment of the tree “from an adjacent property” and “with limited time viewing” is a reliable basis for concluding that “it seems that there was still a viable structure for nesting in the tree” or that “recently there have been signs of stick placement in the tree”. The closest potential vantage points on adjacent properties are a considerable distance from and below the base of the trees. In addition, no details or records appear to be available respecting the basis on which “the tree is known to have housed a nest in the past”, the specific time period over which a nest was present, or the basis on which Mr. Baxter understands that the “old nest that was there came down in a storm”.

We spend considerable time on the property and keenly observe our trees and the wildlife that frequent our land. The two adult eagles that spend time on our property (and the three properties to the northwest and two properties to the southeast of our land), come across Navy Channel from Mayne Island. They spend short periods of time on our side of the Channel, perching in a number of trees and hunting fish along the shoreline, typically when the water is calm. On a couple of occasions, we have seen them fly across from Mayne aggressively when, for example, one or two Osprey come down the shoreline from the northwest to hunt fish near our and our neighbours’ properties. At different points during the nesting season, we don’t see the eagles on our side of the Channel for lengthy periods of time. Others have indicated that they believe the pair has one or more nests that they actively use on Mayne Island. We have not observed any eagle nest being constructed on our property.

Our Requests

It does not appear to us that the proposed DPA for this site is warranted. There is no eagle nest currently present in the trees, there hasn’t been a nest for at least four years (and perhaps considerably longer given that there was no evidence of a nest having been present, either in the trees or on the ground around the trees, when we purchased the property), and we don’t see evidence of stick placement in the trees, much less a partially constructed nest. Further, it

isn't immediately apparent to us that a structure exists in the trees that would support such a substantial construct.

For these reasons, we respectfully request that the Trustees not include the site in DPA 7.

If the Trustees do not agree with our request, then we respectfully ask that the Trustees delay their consideration of the proposed DPA for this site to provide us with a reasonable period of time to retain an expert, to independently investigate the site and provide their professional assessment. The facts set out above, combined with the significant impact that the proposed DPA could have on our use of the property and its value, establish a reasonable basis for questioning the appropriateness of the proposed DPA and our desire to obtain an assessment from an independent expert. Given all of the relevant circumstances, procedural fairness requires that we, as the owners of a property that will be directly and significantly impacted by the proposed DPA, be given a reasonable opportunity, including a reasonable period of time, to obtain such expert assistance and then provide the Trustees with further submissions before they make a determination as to whether or not the site should be added to DPA 7.

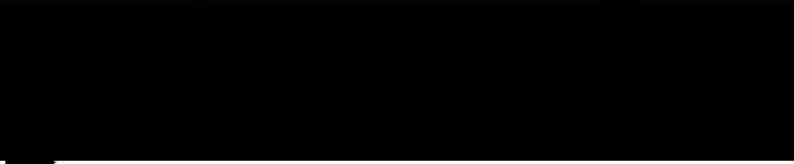
We also have concerns with respect to the considerable increases that Mr. Baxter appears to be proposing with respect to the size of the DPAs. For example, the 200m radius that he appears to be recommending during nesting season would impact our entire property, as well as at least five properties to the northwest of our property, three to the southwest and two to the southeast. Even his 100m recommendation outside of nesting season would encompass the vast majority of our property and the majority or considerable portions of a number of adjacent properties. We require a reasonable opportunity to consult with an expert on the appropriateness of Mr. Baxter's sizing proposals and to make further submissions to the Trustees in that regard.

Conclusion

From your email, we understand that the next step in this process is that staff would bring specific bylaw amendments to the Trustees for consideration, and perhaps the Trustees would give them first and second reading, at their meeting on November 29, 2024. Unfortunately, we will not be able to attend the meeting. (I have been scheduled since early 2024 to be in Ontario from November 28 to December 1 at Board of Director and Management meetings for an international development organization that I'm a Board member of, and I have to attend.) We ask that you provide this letter to the Trustees, along with our regrets that we are unable to attend.

Thanks again, Brad, for your helpful responses to our initial questions. Please keep us posted on further developments on this file, including the Trust's response to this letter, and any future process and schedule that is established. Best to reach us by email ([REDACTED]) or cell ([REDACTED]).

Yours truly,

A large black rectangular redaction box covering the signature area.

Jonathan and Suzanne Liteplo

Nadine and Chris Pettman

[REDACTED], North Pender Island
[REDACTED]

November 25, 2024

Islands Trust
200-1627 Fort St.
Victoria, BC V8R 1H8

Attention: Brad Smith, Island Planner, Southern Team

Sent by email to bsmith@islandstrust.bc.ca

Re: Proposed changes to the Raptor Nest Development Permit areas on North Pender

Dear Brad,

We ask that this correspondence be submitted to the ITC ahead of the upcoming committee meeting scheduled for November 29, 2024.

We are writing in regard to the proposed new DPAs related to potential raptor nesting locations on North Pender. We own the property at [REDACTED] and have just recently been made aware that a new DPA is proposed for a location on a neighboring property which could, if implemented, have significant impact on our property. We were only recently made aware that this island-wide project was being undertaken by the ITC. While we believe in a balance between human use and enjoyment of the land alongside flourishing flora and fauna, we ask that our Islands Trust representatives consider a few key points as you work towards decisions that will impact many Islanders:

- As we understand the process, the proposed DPA zones are based on the views of one biologist. While we don't question their credentials, we feel it would be prudent to get a wider range of independent, professional opinions given the magnitude of and potential impact of the proposed DPA zones.
- We request that all of the detailed data and observations informing the recommendations laid out in the staff report be made readily available for public review.
- We understand that there is a proposal to increase the buffer zones beyond their current radius, which brings even greater potential impact to relatively small properties. We would like to better understand the science-based data that supports the need for DPAs of this scope and size.
- The current proposals are vast in their number and size and have the potential to cause immeasurable impact on land owners of affected properties. In our case, virtually all of our property is encompassed in the proposed primary buffer zone. We invested in the property on Pender Island for the long term and to become active members of the community over decades to come. We intend to build modestly on the property for our own personal use and recognize that should this DPA be put in place, that applying for development permit variances would be a

possible avenue to still do so. However, there are no guarantees that we would be granted a variance and we would need to invest a considerable amount of money in plans and planning before we would even know that our proposal, otherwise within the limits of the building regulations, would be approved. A DPA of this nature would create significant doubt as to our ability to build at all. Given the uncertainty of this process, our raw land, which is a significant part of our retirement planning, will decrease in land value relative to others not encumbered by this proposed DPA. So should we opt to sell, there will be significant financial impacts.

The most recent staff report states that all property owners with identified nest sites have been contacted, but we request that all future correspondence also include the properties who are within the proposed buffer zones so we can be well-informed and engage on a subject that could significantly impact us. As stated above, we did not receive any official communication or consultation on this topic.

Thank you for your consideration of these points and the impact that these proposals will have on families such as ours.

Regards,

Chris & Nadine Pettman

████████████████████

██

From: michael <[REDACTED]>
Date: January 4, 2025 at 11:24:11 AM PST
To: Aaron Campbell <acampbell@islandstrust.bc.ca>, Deb Morrison <dmorrison@islandstrust.bc.ca>, David Maude <dmaude@islandstrust.bc.ca>
Cc: b s <[REDACTED]>
Subject: Raptor DPAs

Dear North Pender Island LTC: Your proposed Bylaw 235, raptor DPAs should not be adopted. It is an unwarranted intrusion on the rights of affected property owners' use and enjoyment of their land and is unnecessary. Abrogation of property rights you should be a last resort and only when supported by compelling reasons, which are absent here.

The proposed changes would blanket nearly the entire end of our peninsula with restrictions. The fact that these regulations are not needed is borne out by the fact that the species intended to be protected are apparently thriving here without these regulations.

The area adjacent to our property, which has heron nests which you apparently believe require large areas of regulated activities and nearly year-round "quiet times", has been the subject of ongoing development in the past few years, including: installation of a new road, with extensive tree removal, construction of a new home, with ongoing contractor traffic, and installation of high tension power lines, with associated large scale tree removal. Yet the herons have established their nests, which they continue to use. (One is reminded of the storks which famously nest atop chimneys in the Netherlands.)

Furthermore, the data to support application of this DPA on our property has been falsified, as you are well aware, having been previously apprised of that fact. The fact that you are willing to misrepresent the facts regarding our property makes one wonder about the validity of the designations on the rest of the island.

This is a textbook case of unnecessary regulation. Arbitrarily applying a provincial guideline to this an inhabited area is irresponsible (you can't seriously contend that a bird nesting down by Bedwell Harbour will be disturbed by someone using a leaf blower clear over on Swanson View). Additionally, the complex scheme of calendar periods, exemptions, and exceptions, would make both compliance and enforcement problematic.

To summarize; the proposed bylaw is not supported by valid evidence, is overbroad, and unnecessary. The phrase "arbitrary and capricious" comes to mind. This kind of 'regulation for the sake of regulation' erodes the Islands Trust's credibility and invites contempt of the law.

Regards, Michael Symons



Magic Lake Property Owners' Society
[REDACTED]
[REDACTED]
[REDACTED]

Sunday, January 19, 2025

Islands Trust
200-1627 Fort St.
Victoria, BC V8R 1H8

Attention: Brad Smith, Island Planner, Southern Team, Deb Morrison and Aaron Campbell,
North Pender Trustees

Sent by email to bsmith@islandstrust.bc.ca

Re: Proposed increases to the Raptor Nest Development Permit areas on North Pender

Dear Brad Smith, Deb Morrison and Aaron Campbell:

I am writing at the behest of the Magic Lake Property Owners' Society (MLPOS) Board of Directors who, after hearing a presentation by a member of the society who's property will be severely impacted by the proposals referenced above, wish me to convey their concern over the negative impacts of the proposals to the members of our society and the property owners of the community of Magic Lake. You must be aware that the majority of the lots in Magic Lake aren't 120 meters wide, meaning a raptor's nest, or possible nesting site in the middle of the lot would render it impossible to build on, or improve if already developed. We also believe that, in the case of Eagles, these are not an endangered species in need of stringent protection. The proposed new restrictions are both unwarranted and unnecessary.

To be specific:

- The Ministry guidelines state that the proposed measures are more for "...colonies not previously accustomed to people and their activities." This does not describe the existing and potential sites in Magic Lake.
- The proposed 60 meter exclusion zone is based on a formula of 1.5 tree lengths for the Magic Lake Estates area. There are no references quoted to back up this assertion. Rather than use the height of the particular tree in question, the formula suggests an assumption of 40 Meters (over 131 feet). As Bald Eagles and Ospreys prefer a saddle at the top of the tree it is doubtful the trees are even 30 meters which would suggest an inclusion zone of less than 45 meters.
- The proposed doubling of the size of the DPA area includes a large number of properties that do not have raptor nests, but whose properties would be adversely

affected. Yet these owners have not been notified so they can be aware of, and included in the process.

- The proposed DPA sites appear to include trees that have in previous years had nests that have fallen and some have never had raptor nests, but are included due to their “potential”.
- There are no properties in Magic Lake that come anywhere near 120M in width, the diameter of the proposed exclusion zone. This sized exclusion zone would make all of the vacant lots in Magic Lake unusable should a raptor nest or potential for a raptor nest be identified. Indeed, an identified or potential nest will affect multiple properties adjacent to the lot.
- The proposed “added” 100 meter radius, (200 M diameter) buffer during the breeding season would coincide with the season the residents do work on their lots including construction of additions, driveways modifications, garages, paving, clearing etc. Requesting they refrain from this during breeding season means not only less enjoyment of their yards and homes, loss of the weather window for this type of work, and a build up of fuel for wildfires.
- The proposed bylaw includes species and settings not discussed in the report or other materials.
- The primary raptor nesting in Magic Lake, Bald Eagles, are not a species at risk according to the Nature Conservancy of Canada.

The proposed changes to the DPA areas in RR1 zones on North Pender Island (Magic Lake and Trincomali) will result in major drops in property values for many residents and major, if not insurmountable, obstacles for property owners of a number of the vacant lots, many of whom do not have any actual or potential raptor nests and are, therefore, collateral damage if these measures go ahead. The changes are unnecessary as the resident raptors in question are already habituated to the semi-urban situation in those two communities.

The proposed changes are unnecessary and must not be applied to RR1 Zones on North Pender Island

Sincerely



Bob Coulson
President

From: Herb Katz <[REDACTED]>
Sent: Monday, February 24, 2025 10:47 AM
To: Emily Bryant <ebryant@islandstrust.bc.ca>
Subject: Re: Eagle Nest near Thieves Bay Park

Hello Emily,

Thank you for your email. I should be clear that I'm not upset about expanding the area around eagles' nests. We've spent over 20 years watching and logging the activities of the eagle pairs that have occupied the nest close to our home. When one of the earlier pairs was injured in an aerial battle with an intruder we helped save it. Earlier, when one almost drowned we helped get it back to its nest. When the eaglet fell from the nest during the intruder attack we saved it, contacted OWL, bundled it up and got it to the helicopter. These eagles have become a part of our lives.

My point is simply that if Islands Trust is to make changes to existing regulations, these changes must be based on current data. Some work has to be done on this. Otherwise, these regulations will be questionable.

You can attached this message to the earlier document that you are posting to the Islands Trust website.

Herb

> On Feb 24, 2025, at 9:01 AM, Emily Bryant <ebryant@islandstrust.bc.ca> wrote:

>

> Hello Herb,

>

> Thank you for your email. Correspondence addressed to Trustees is circulated to the North Pender LTC. Please note that your correspondence will form a part of public record and as such may be posted to the Islands Trust website. All personal information except for your name will be redacted.

>

> All the best,

>

> Emily Bryant (she, her, hers)

> Planning Team Assistant

> Islands Trust

> 200-1627 Fort Street | Victoria BC V8R 1H8 T 250-405-5163 |

> islandstrust.bc.ca You can also reach us toll-free via Service BC

> 1-800-663-7867 | 604-660-2421

>

> Preserving and protecting over 450 islands and surrounding waters in

> the Salish Sea I respectfully acknowledge that the Islands Trust Area is located within the treaty lands and territories of the BOKEĆEN, Cowichan Tribes, K'ómoks, Lyackson, MÁLEXEŁ, Qualicum, scəwəθən, səlilwətəl, SEMYOME, shíshálh, Skwxwú7mesh, Snaw-naw-as, Snuneymuxw, Songhees, Spune'luxutth', STÁUTW, Stz'uminus, łaʔəmen, Ts'uubaa-asatx,

Wei Wai Kum, We Wai Kai, W̱JOLELP, W̱SIKEM, Xeláltxw, Xwémalhḵwu, Xwsepsum, and x̱w̱m̱əθḵw̱əy̱əm First Nations. Islands Trust is committed to reconciliation and to working together to preserve and protect this ecologically, culturally, and spiritually significant region in the Salish Sea.

>

> -----Original Message-----

> From: Herb Katz <[REDACTED]>

> Sent: Friday, February 21, 2025 9:03 AM

> To: Aaron Campbell <acampbell@islandstrust.bc.ca>; Aaron Campbell

> <acampbell@islandstrust.bc.ca>

> Cc: [REDACTED] Emily Bryant <ebryant@islandstrust.bc.ca>

> Subject: Eagle Nest near Thieves Bay Park

>

> The nest off of Schooner Way near Thieves Bay Park as indicated on the map attached to the MLPOS email has not existed since 2019. It was badly damaged during the December 2018 storm and fell after another storm in 2019. The eagle pair established another nest approximately 200m to the west of the old nest. That second nest was destroyed after a storm took down the top half of the tree on which it was sited. The eagle pair have not reestablished a nest in this area since then.

>

> As you possibly understand, nature is not static. You must keep your data updated. If, as it appears, you have not done so, your proposed plans are based on stale data (in addition to the several false assumptions mentioned in the MLPOS email). I think that you must reexamine your work with these points in mind.

>

> C.H.Katz, PhD.

> Professor, retired,

> University of Alberta

From: Robert Adria <[REDACTED]>
Date: March 11, 2025 at 7:04:29 PM PDT
To: David Maude <dmaude@islandstrust.bc.ca>
Subject: Proposed Bylaw 235, Raptor DPA's

I am a land and home owner on North Pender Island. I own land that is impacted by protected wetland, protected intertidal zones, protected windswept forest, Arbutus and Gary Oak tree protections, as well as Raptor and Eagle nesting areas. I understand the need to be aware of and work around/create solutions that protect natural/sensitive ecosystems and areas.

However, I am opposed to the proposed Bylaw 235, raptor DPAs, and believe that it should not be adopted. I believe it unfairly impacts the enjoyment and use of one's land without the scientific support that extended protection is required. It borders on the expropriation of land rights without the process of law which should only be done with the most compelling of reasons.

The proposed changes would blanket nearly the entire end of our peninsula with restrictions. The fact that these regulations are not needed is borne out by the fact that the species intended to be protected are apparently thriving here without these regulations. Compared to the 2020 map on the Island Trust website, the nesting grounds, as shown in a recent brochure, are flourishing.

In our end of the island (south end of Pender Island opposite Poets Cove Resort) where we have for years had heron nests, and during that time we have had homes built, new power lines put in, and roads excavated and built (in addition to the ongoing lawn cutting, tree cutting and home maintenance of the existing housing stock), and all these areas were cleared in advance to accommodate these new roads, homes and powerlines - and yet the nests have flourished and expanded. They do not appear to need the nearly year-round "quiet times" and severe and extensive limits on human dwelling/living that the bylaw proposes.

A neighbour told me of the storks in Netherlands which nest atop chimneys.

The complex scheme of calendar periods, exemptions, and exceptions proposed, would make both compliance and enforcement problematic.

It is hard to determine what the status of the Proposed Bylaw 235 is, however it comes before you, I trust you will not vote in favour of it, as the proposed bylaw is not supported by any valid evidence, is excessive, and is unnecessary.

Sincerely,

Robert S. Adria

From: Carl Wilkins [REDACTED]
Sent: Wednesday, July 2, 2025 7:50 AM
To: Brad Smith <bsmith@islandstrust.bc.ca>
Subject: Raptor Nest DPA Review Project

Hi Brad,

I'm writing in response to your correspondence of June 23, 2025, seeking feedback on the raptor nest DPA review project (IT file: NP-LTC) on Pender Island.

I don't agree that an increase in buffering distances from nesting trees is needed. The birds seem to be doing just fine with the current buffer zones. I also don't see any evidence that existing buffer zones are having any positive or negative impact on the birds.

Thanks for the opportunity to provide feedback.

Carl Wilkins

[REDACTED]
Pender Island, BC [REDACTED]

From: Shelley Robinson [REDACTED]
Sent: Wednesday, July 16, 2025 1:57 PM
To: Brad Smith <bsmith@islandstrust.bc.ca>
Cc: [REDACTED]
Subject: Feedback on Letter Raptor Nest Development Permit

Dear Brad Smith:

I am the owner of [REDACTED]. I understand that there is a tree that will be impacting my property with regards to new permitting guidelines.

My feedback is that the area surrounding these trees should be narrower and should still allow owners to build and develop with these trees in mind. I find that the proposal is very restrictive for property owners impacted by it, and I am confident that there can be ways to mitigate building and development with these birds in mind. I do not agree with these serious and severe restrictions for property owners and I'd like it to go on record that there should be a smaller range around the trees with only seasonal considerations. As well, when people buy property, their ability to develop on it should be grandfathered in as we bought with the understanding that we were able to develop on these pieces of land given the island trust guidelines of that time.

Sincerely,
Shelley Robinson, PhD

[REDACTED]
[REDACTED]

From: Garrett Franklin [REDACTED]
Sent: Sunday, August 10, 2025 11:43 PM
To: Brad Smith <bsmith@islandstrust.bc.ca>
Cc: Garrett Franklin [REDACTED]
Subject: Fwd: From the vancouver community on Reddit: Peregrine Falcon on Grandville randville highrise

Hello Brad

I am writing today to comment in response to a letter I received in June 2025 to Changes to the Land use Bylaw and DPA 7 protected Raptor Tree boundaries .

I do agree steps and guidelines and continued community education are required for property owners to understand and to maintain the DPA.

I purchased Property [REDACTED] Pender Island North [REDACTED] solely based on the response I received in writing from Island Trust January 20 2025 for land use under the bylaw 224 and the specific terms of the DP 2023.3 issued to the property of a 30 & 50 meter radius of the Douglas fir tree. There was no comment on the current review in progress or the coming draft bylaw 235 and changes to the or the dpa 7.

The Property I purchased was Commercial Logged by the previous owners, I took on the responsibility to restore it with future plans for home occupation which will require construction of primary dwelling, outbuildings and amenity services.

I will assume the focus of the DPA 7 review and proposed changes to DPA 7 are primarily because of these persons actions. I Will suggest a substantial fine be considered for commercial logging of property or destruction of habitat vs limiting owners from actively using their private property.

I will share with you a unique experience I have personally had from spring 2025 with a Raptor Nesting ground in the heart of Downtown Vancouver.

My company specializes in Commercial and Industrial Installations. Our project required opening of the roof of [REDACTED] or the job site was 200' above the pedestrian sidewalk below .

Granville street is considered one of Vancouver's busiest streets with traffic, transit, pedestrians sirens and horns and even the public protest marches we all see quite regularly on the news it's "alive" down there all hours of the day.

We started to notice some occasional Bald Eagles circling high above and a Falcon was constantly on patrol swooping and calling out , almost chasing them off or just sitting at the roof of the neighbouring building on watch.

I inquired to the Building owners if this was someone's exotic pet that was brought into the office daily and allowed out to hunt Pigeons.

To my surprise this Peregrine Falcon is wild and has its nesting "grounds" on the roof of the building directly across from us at [REDACTED] which is owned by the same

people as [REDACTED]. One of the staff shared this photo from the fall when she first returned to the nest for 2025. It was reported there were 3 eggs and the Eyasses survived. This falcon is tracked and the Government Authority attended the building to check the nest at one point with a drone.

Here is a clip of on of the Essays possibly taking a brief rest on the sidewalk from learning to fly

[REDACTED]

I understand the current DPA zoning is from the year 2007 and could be in need of some modernization. Tools could be made readily available to property owners in the form of a checklist application that require a master plan for the site listing type of work they are planning to be created by a Professional Architect based within the Gulf Islands with previous experience with The Island Trust and the CRD.

An unbiased review by Industry Professionals and application tier system based on dollar value being spent and area of the lot the work is happening could be implemented to allow property owners to have the full use and full value of their privately owned land with respect given to the land and wildlife that shares it.

I do not agree with the statement in the June 2025 letter to owners that " your land is worth more with raptor nesting grounds ".

I do not agree with proposed Draft Bylaw 235. If there is an opportunity to work with you and staff to find a balanced solution please reach out.

Forest Fire protection is a topic that needs more focus if a property owner is doing a renovation or construction based on the current land use bylaws.

Dedicated Increase to cistern storage requirements for properties not in the municipal water works adding individual mechanical fire pump installation

"when an owner applies to build anything over a certain dollar amount they need to purchase, install and maintain fire protection criteria."

Best Regards
Garrett Franklin

[REDACTED]

[REDACTED] Pender Island

From: David Wilks [REDACTED]
Sent: Thursday, August 28, 2025 8:40 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Raptors Nest Development Project- By law Revisions

We are the owners of [REDACTED]. According to your maps, our lot will be affected by two eagle raptor trees which are not on our lot. Neither tree has a nest. The nest in the tree to the east of our property fell down 5/6 years ago. The tree to the south, the entire top broke off during the last winter taking the nest with it.

With the current by law, 1/3 of our lot has been subject to the 30 metre buffer distance.

In 2022, we obtained an exemption to cut down a few small trees in the non - nesting season. There was no nest in the tree at that time.

The proposed 60 metre buffer distance in non-nesting season would cover 2/3 of our lot. The proposed 160 metre buffer distance in nesting season would cover our entire lot for 7 months a year. These revisions would put severe restrictions on what can be done on our lot which is not fully developed.

They would affect the value of our lot. Our enjoyment of owning this property would decrease, because you would be wondering what you could undertake during the various times of the year.

Also, when there are no nests in the trees and only the potential of a nest being built, your revisions begin to lack credibility.

The eagle population appears to be doing well on Pender and other urban areas.

We do not support the revisions to the DPA bylaw.

Thank you for your consideration.

David Wilks and Linda Park
Sent from my iPad

From: Chris Pettman [REDACTED]
Sent: Thursday, September 11, 2025 11:17 PM
To: Brad Smith <bsmith@islandstrust.bc.ca>
Subject: Raptor Nest Development Area Review Project

Attn: North Pender Island LTC c/o
Brad Smith
Island Planner- North Pender Island Local Trust Area

Re: Raptor Nest Development Permit Area Review Project

Dear Brad,

We are the owners of the property located at [REDACTED] on North Pender Island and are in receipt of your letter regarding proposed changes to the DPA 7 bylaws.

As originally communicated to you and the LTC upon first hearing of the potential impact of these changes, we remain opposed to the proposal in its current form.

The reasons for our concerns with the overall proposed changes include:

- It has not been communicated as to why there is a need for any updates to the current bylaws specifically with respect to eagle nests and potential nesting trees. The bald eagle is not listed by the province of British Columbia as a species at risk and is in fact listed as a species that has a moderate to high ability to co-exist with human activities near nesting sites. Has the LTC commissioned a study to assess the risks to bald eagle populations and habitat on North Pender Island? If so, is the population being threatened and require these changes?
- It is reasonable to assume that any science based approach to protecting natural ecosystems and biological diversity would begin with a comprehensive study to ascertain what if any specific risks to species exist on the island so that an informed approach can be taken to ensure they are appropriately mitigated. To my knowledge this has not been done as part of this review.
- Provincial regulations already exist to protect any trees with active raptor nests in them. Why does the LTC find it necessary to create redundant bylaws within the OCP as the proposed changes appear to be?
- Why is only one biologist being used to develop this plan, particularly when questions about specific proposed sites are raised? It is not appropriate for the reviewing professional of a challenged/questioned proposed site be the same professional that originally proposed the site. This is a clear conflict of interest. Any questioned sites should be reviewed by an at arms length professional biologist to ensure an unbiased second opinion.
- The inclusion of 'potential' nesting sites in this review is extremely problematic. There is no guarantee that any proposed tree that has been identified as being able to support a raptor nest will actually be used by eagles or even be viable. These sites should not be included in this DPA.

- To suggest that the proposed map is an exhaustive list of all trees that eagles may eventually use to nest is simply not credible. There are certainly many more trees that may be viable that are not on the proposed list of new DPA sites and several that are on the list that will not be. How does the LTC propose to ensure the DPA is kept current moving forward if these changes are enacted?
- The proposed changes to the buffer zones around raptor trees is particularly concerning for lots that have not yet been developed. The proposed changes would very likely lead to development restrictions that make it nearly impossible to build any structures on these lots particularly given the proposed 200m buffer during breeding season that could effectively prevent building activities for 9 months of the year. This is unreasonably punitive to property owners.
- The potential impact of this proposal is significant in the sheer number of properties that stand to be negatively impacted should these changes be approved. The ability to develop these properties within the guidelines currently laid out in the OCP will become much more challenging if not impossible for many of these properties.
- The resulting decline in property values that will likely be resultant from these changes cannot be ignored or understated. The inability or severe restriction on building what would be otherwise compliant dwellings will without any doubt significantly decrease the value of impacted properties. This is an unfair burden to place on property owners who bought land in good faith outside of the many DPAs in place on the island. What is LTC's position on this issue and the potential liabilities it may be placing on itself should these changes be approved?
- The resulting restrictions on a large number of properties across the island has the potential to significantly decrease the inventory of complaint dwellings required to sustain the healthy population and community of North Pender Island. Sustainable and affordable housing are also mandates of the Islands Trust and do not appear to be considered in this review.
- The proposal in it's current form does not outline what the potential development restriction details would be. In the absence of these details it must be assumed that any development permit application within proposed buffer zones would be rejected.

Our property would be impacted by proposed site 53. Our objection to the inclusion of this site specifically beyond the reasons stated above include:

- There is no eagle nest in the tree in question and has not been since at least 2020.
- While there is anecdotal commentary that there was once a nest in this tree, it is no longer present in the tree. Given this fact and the fact that eagles have not been successful in building subsequent nests in the tree, it is reasonable to assume the tree is no longer a viable nesting tree.
- Our lot is largely undeveloped. If the DPA is put in place in and around this tree our lot will be 100% covered by the buffer zones. This is of great concern to us as this will likely make building a dwelling on the property difficult and potentially impossible should the LTC decide not to grant a development permit in the buffer

zone in the future. This is very distressing as we have invested a considerable amount of money in this land and have the intent of building a modest sustainable home on the property in the future.

- Given potential for development challenges should these changes be enacted there is potentially for a significant monetary loss.
- We value conservation and purposely bought this lot because it did NOT have any DPAs on it.
- Despite our initial questions to you and the LTC as to how the LTC hired biologist gained access to the site in order to evaluate the tree, we have received no response. Please respond to this question: did the biologist gain access through our property without first getting the required permissions from us as the land owners? While we would not look to restrict access, it is important to state that any activities undertaken on behalf of the LTC should be done so with full transparency and cooperation from land owners.

In summary, we are opposed to the proposed changes to DPA 7 sites and request that they not be approved in their current form. Impacted land owners will be unfairly and disproportionately punished by these changes. There has been no evidence provided that the raptor population of North Pender Island is at risk and that these changes are even needed to protect them.

Please pass this letter for reading and due consideration ahead of the scheduled LTC meeting on October 3, 2025. I can be reached for discussion at the number below.

Sincerely,

Chris and Nadine Pettman

██████████

North Pender Island

██████████

September 11, 2025

Islands Trust
200-1627 Fort St.
Victoria, BC, V8R 1H8

Attention: Brad Smith, Island Planner, Southern Team

Sent by email to bsmith@islandstrust.bc.ca

Deb Morrison dmorrison@islandstrust.bc.ca

Aaron Campbell acampbell@islandstrust.bc.ca

David Maude dmaude@islandstrust.bc.c

Re: Proposed changes to the Raptor Nest Development Permit areas on North Pender

Brad,

I ask that this correspondence be submitted to the ITC for the committee's consideration.

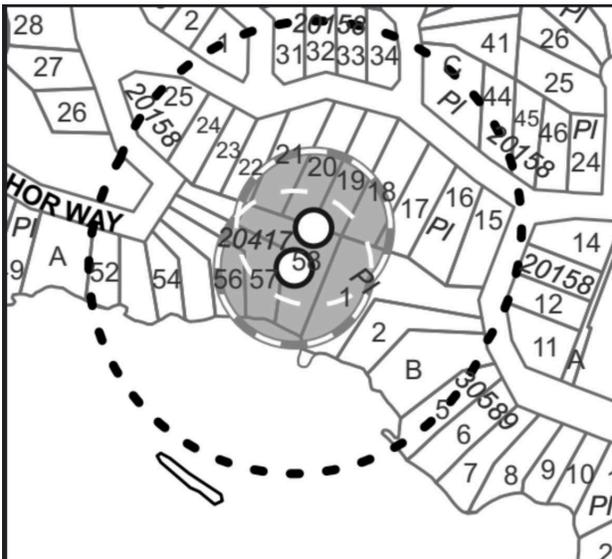
We are writing in regard to the proposed new DPAs related to potential raptor nesting locations on North Pender. The comments on this fall primarily into comments on how the Trust has misrepresented facts and data.

- The Islands trust (IT) has chosen to designate a tree as a bird tree even if it has no nest and has not for years. In fact if you review the IT response to the Symons letter the IT will count a tree even if abandoned for many years or even if it is subjectively considered to be a viable nesting or perching structure. This is ridiculous and is in contrast to Provincial and Federal definitions that require a tree to have a nest in it to be protected. This is an unreasonable position and attracts valid criticisms such as “The fact that you (IT) are willing to misrepresent the facts regarding our property makes one wonder about the validity of the designations on the rest of the island” (Symons)
- The IT fails to clearly and accurately describe or apparently even consider the effects on affected land owners. Restrict activities (other than existing development maintenance) between January 5 to August 31. Numerous environmental studies and approval gates. Basically whatever the IT wants.
- The proposed “added” 100 meter radius (200 M diameter) buffer during the breeding season would coincide with the season the residents do work on their lots including construction of additions, driveways modifications, garages, paving, clearing etc. Requesting them to refrain from this during the breeding season means not only less enjoyment of their yards and homes, loss of the weather window for this type of work, and a build up of fuel for wildfires. (MPLOS)
- The proposed doubling of the size of the DPA area includes a large number of properties that do

not have raptor nests, but whose properties would be adversely affected. Yet these owners were not notified in the initial mailout so they would be aware of, and included in the process. It was not until public outcry that affected property owners were included in the notice.....clearly a breach of trust by the IT. Indeed, the notice of this proposed bylaw should be sent to everyone on North Pender as they will be dramatically affected should a nest or perch be built or designated on or near any property. The following diagrams clearly demonstrate the unwarranted increase in DPA area.



The result of the 2008 DPA



Proposed DPA

- In addition the notice does not mention the draconian restrictions and approval processes required under a DPA versus existing regulations. Valid criticisms such as “Borders on the expropriation of land rights without the process of law” (Adria) are valid and warranted.
- In the April 4, 2025 public meeting the trustees make the ridiculous statement that the point of the bylaw is so there can be a conversation about a landowners development.(min 56-59). In reality the effect of a DPA on a property is to stop you from doing any development until the demands of the IT are satisfied, versus current where you may build as long as you are within the building regulations. REALLY THIS IS A WAY FOR THE IT TO FORCE YOU TO BUILD WHAT THEY WANT VS WHAT YOU WANT. Saying anything else is untrue.
- IT purports that this is merely updating the 2008 DPA to reflect new best practices. If one dives into the supporting documents the reality is that the supposed “new” guidelines are from 2013 and 2014. Certainly not new or even current.
- In discussions with David Manning the issue is lack of trees of suitable size to accommodate Raptor nests. Current trends in Raptor accommodation are the development of artificial nest platforms that can withstand the wind and weight loads being installed on public lands. <https://www.northislandgazette.com/news/artificial-nest-for-bald-eagles-the-first-of-its-kind-on-vancouver-island-1407241> Perhaps the IT should consider this type of solution that benefits both the raptors , and minimizes the negative effects of private landowners considering that the primary raptor nesting, Bald Eagles, are not a species at risk according to the Nature Conservancy of Canada.

This trust initiative seems to be one of dominance, authority and obedience and submission over property owners, and the ability to accept, deny, and control landowners and their decisions, additions and plans . Yet, the property owners are the ones that paid for the land and in fact pay for the IT’s salaries. This in essence translates into a poorly defined government entity attempting to have the ability to control, encumber, and materially change the development and use of the property of others, which directly impacts the value of the property while using manipulated bird data on birds that are actually thriving within existing measures. This cannot be seen as fair and reasonable.

We are sensitive to a culture of sustainability without handicapping property owners' ability to utilize the land that they bought and paid for. Our hope is to see the longevity of ecosystems and the enjoyment and fair treatment of property owners and their rights for future generations.

In summary this entire exercise is a good example of why there is a growing movement to dissolve the islands trust. Poorly thought out and executed projects, gross misrepresentation by IT and council, duplicate and unnecessary regulations and government bureaucracy and limited economic benefits to islanders as IT jobs are in Victoria.

This is nothing more than an attempt to gain bureaucratic development control over private property using grossly misrepresented information.

I trust the proposed bylaw changes will be relegated to the dustbin

Dan and Leanne Sutherland

Pender Island

September 11, 2025

Brad Smith
Island Planner – North Pender Island Local Trust Area

Re: Raptor Nest Development Permit Area Review Project – Nesting Tree Locations

Dear Mr. Smith,

I am writing to you in response to your letter dated June 23, 2025 that provided an update regarding the Development Permit Area (DPA) review project and, as we requested, the proposed new buffer zones that were provided in *.kml format so that we were able to view them on Google Earth. As the Islands Trust MapIT tool is no longer publicly available, we would like to request the current DPA area for our property [REDACTED] in *.kml format so that we can compare it to the proposed new areas.

As owners of a property where a raptor nest is located, we would be affected by the proposed updated DPA requirements. We appreciate the need for DPAs to protect the natural environment on the Gulf Islands and generally agree with the proposed changes; however, we would like to respectfully provide the following feedback for consideration by the Local Trust Committee (LTC):

- The proposed new DPA areas represent a significant change from the existing ones. For our property, the proposed new year-round buffer extends south past an area that was previously cleared and the breeding season quiet buffer area encompasses most of the property.
- With respect to the proposed amendments to Bylaw No. 171, as outlined in North Pender Island Local Trust Committee Bylaw No. 235, Schedule 1, we note the following:
 - Section 5.2.8.2 indicates that for discrepancies between digital records and the actual locations of nesting trees, the minimum radius distances apply to the actual location of the nesting tree, as verified a qualified professional (QP). It is unclear how a discrepancy would be identified, if the Islands Trust or the property owner would retain the QP and what would be required to document the QP's opinion. If the property owner is responsible to retain the QP, this would be a financial burden.
 - Section 5.2.8.6, h) indicates "...examined by an arborist and certified...". It would be helpful to define "certified" and indicate what documentation is required.
 - Section 5.2.8.7, 2, c) indicates "...ensure that species specific breeding season quiet buffers are applied where applicable." Can some further clarification be provided regarding "quiet buffers"? We understand that certain activities such as blasting and hammering with an excavator could be disruptive for birds; however, limiting other construction-related activities to the period from August 31 to February 4 over such a broad area would be a significant constraint.
 - Section 5.2.8.7, 5: We note that extension of the DPA areas to those proposed would result in the following being applicable to many more properties: "...a significant portion or all of the developable area of the parcel falls within a raptor or heron DPA...". This could represent a significant challenge for development of some properties.
 - Section 5.2.8.7, 5, b) refers to a 'residential home plate'. It would be helpful to further define this term and indicate what would be reasonably expected for an appropriate area. We recommend

that a balanced approach be undertaken to enable property owners to undertake development while respecting nesting trees and maintaining natural habitat.

If the proposed changes to DPA 7 are implemented, we are concerned that there could be significant limitations to how we could develop our property and/or there would be additional costs incurred. Our intention is to build a primary residence at our property in the future in compliance with what is permitted for properties zoned as RR2. We would appreciate it if more information could be provided regarding the decision-making process to approve development permits, specific requirements regarding building methods in buffer areas, and anticipated costs and schedule implications.

Thank you for your consideration.

Sincerely,

Mark and Brenda Bolton

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Magic Lake Property Owners' Society

[REDACTED]
[REDACTED]
[REDACTED]

Friday, September 12, 2025

Islands Trust
200-1627 Fort St.
Victoria, BC V8R 1H8

Attention: Brad Smith, Island Planner, Southern Team, Deb Morrison and Aaron Campbell, North Pender Trustees

Sent by email to bsmith@islandstrust.bc.ca

Re: Proposed increases to the Raptor Nest Development Permit areas on North Pender

Dear Brad Smith, Deb Morrison and Aaron Campbell:

Further to our letter of Jan 19, 2025, The Magic Lake Property Owners' Society Board of Directors adds the following points in opposition of the above referenced plan:

- The "study" commissioned by the Islands Trust to support this plan is not a study.. It is, at best, a report on an inventory conducted of trees that fall into the categories described above. There is no abstract, no statistical analysis, and no references for the reader to check supporting peer reviewed studies.
- Two BC Government documents are referred to in the report. The first, a 2005 document entitled: "*Best Management Practices for Raptor Conservation during Urban and Rural Land Development in British Columbia*" is no longer available on the Ministry of the Environment's website but appears, by the title, to be intended for developers developing land, not existing communities with an established, habituated, population of raptors. The second document: "*Guidelines for Raptor Conservation during Urban and Rural Land Development in British Columbia.*" Is most definitely for the use of developers and not intended to be used for the purpose that trustees are planning.
- Current research on Bald Eagles on the South Coast of British Columbia refutes the assertions of the author of the Trust's report. It describes how the our local trustee's plan will actually be counterproductive in maintaining our population. You can view it at: <https://rapt.kglmeridian.com/view/journals/rapt/55/1/article-p65.xml>

The MLPOS Board wishes to register its opposition to this plan in the strongest possible terms. It is ill conceived, contrary to the welfare of the target wildlife, and an undue infringement on the rights of property owners in Magic Lake.

Sincerely

[REDACTED]

Bob Coulson
President