

STATUTORY ALIGNMENT & INTER-AGENCY HYDROGEOLOGICAL REVIEW

A Legislative Critique of the First Reading Draft Gabriola Island Official Community Plan (OCP)

TO: Gabriola Island Local Trust Committee

ATTN: Trustee Tobi Elliot & Trustee-Elect Bob Andrew

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PREAMBLE: PROCEDURAL CONTEXT & THE STATUTORY GAP

1. Closure of Administrative Technical Intake:

Following community engagement on the freshwater footprint project, a formal 24-point technical interrogatory was submitted to planning staff to establish baseline hydrogeological parameters for the First Reading draft OCP. In formal correspondence dated September 2026, Island Planner Narissa Chadwick confirmed that staff's technical compilation (the July 26 Q&A) is complete, indicating that staff will not provide further responses to technical interrogatories and directing all further policy inquiries directly to the Local Trust Committee (LTC).

2. The Inescapable Statutory Duty:

With administrative technical reviews officially closed, full legal responsibility for the First Reading draft rests with the Local Trust Committee. Section 3(1) of the *Islands Trust Act* establishes the primary object of the Trust: "*to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of British Columbia generally.*" This statutory obligation cannot be delegated to staff Q&A documents, nor can it be waived by consultant disclaimers under the *Professional Governance Act*.

3. Alignment with Section 475 Referral Window:

Because the First Reading draft is currently undergoing agency and First Nations referrals under Section 475 of the *Local Government Act*, this submission is framed to assist both the LTC and reviewing referral agencies (**Snuneymuxw First Nation, Island Health, MOTT, and RDN**) in identifying fundamental hydrogeological and policy omissions before the bylaw advances to Public Hearing.

SECTION I: RESTORING THE PRIMACY OF "PRESERVE & PROTECT" (SECTION 3)

- **Ecological Limits Over Development Bias:** The First Reading draft reflects a conventional municipal orientation, assuming density can be accommodated wherever surface hazards are not explicitly mapped. Section 3 of the *Islands Trust Act* requires the LTC to operate from the opposite premise: land-use approvals must remain strictly within proven ecological carrying capacities.
- **Omitting the Provincial Interest Mandate:** Section 3(1) explicitly charges the Trust to preserve and protect the area "*for the benefit of the residents of the trust area and of British Columbia generally.*" The First Reading draft treats Gabriola's hydrogeological and terrestrial features as localized municipal planning constraints rather than ecosystems of provincial significance. By failing to integrate policies that preserve regional groundwater recharge, forest canopy integrity, and Salish Sea watershed health for the broader public of BC, the draft falls short of its overarching statutory charge.
- **Reversing Statutory Drift:** By treating growth targets as the primary driver and environmental mitigation as secondary, the draft exposes fragile island ecosystems to incremental degradation. The OCP text must explicitly state that ecological integrity and freshwater protection hold absolute legal precedence over land development expectations.
- **Enforceable Environmental Ceilings:** A legally defensible OCP cannot rely on discretionary policy guidelines. The draft must establish enforceable ecological limits—including hard ceilings on canopy loss, cumulative soil compaction, and watershed drawdowns—beyond which no net-new density may be approved.

SECTION II: SNUNEYMUXW CO-GOVERNANCE & RECONCILIATION

(For the attention of the Local Trust Committee & Snuneymuxw First Nation)

- **From Passive Referral to Statutory Co-Governance:** The First Reading draft treats First Nations engagement as a standard administrative referral process. True reconciliation and watershed protection require embedding joint decision-making directly into the OCP policy framework under *Snawayalth*—the Snuneymuxw mandate for multi-generational land stewardship.
- **The Gabriola Water Stewardship Table:** The OCP text must formally establish a permanent inter-jurisdictional governance body—the **Gabriola Water Stewardship Table**—uniting the Local Trust Committee, Snuneymuxw First Nation leadership, the RDN, Island Health, and MOTT.

- **Reciprocal Density Transfer & Kensington Protection:** Establishing a formal co-governance structure creates the legal framework to protect the island's primary high-elevation recharge engine (the Kensington Upland). Partnering with Snuneymuxw leadership allows the co-governance table to coordinate reciprocal density transfers to hydrogeologically suitable civic hubs, aligning Treaty Reconciliation with long-term water security.

SECTION III: HYDROGEOLOGICAL DEFENCE & WATER NEUTRALITY

(For the attention of the Local Trust Committee & Regional District of Nanaimo - RDN)

- **Inadequacy of Surface Hazard DPAs:** The First Reading draft attempts to manage water risk by drawing two-dimensional "Water Hazard Area" Development Permit Areas (DPAs) on surface maps. Because Gabriola's bedrock aquifer consists of semi-isolated 3D fracture compartments, drawing surface lines creates an optical illusion of protection. It restricts property owners inside the lines while granting a false sense of security to developments immediately adjacent to connected fracture zones.
- **The Island-Wide Water Neutrality Mandate:** To fulfill its statutory obligation without picking arbitrary "winners and losers," the LTC must replace static hazard mapping with a fair, universal standard: an **Island-Wide Water Neutrality Mandate**. Any net-new density or commercial application must rely 100% on engineered rainwater harvesting and seasonal storage, guaranteeing zero net-new groundwater draw from shared aquifers.
- **Closing the Cistern Extraction Loophole:** A generic Land Use Bylaw (LUB) requirement to install a rainwater cistern fails if well connections remain unrestricted. Without an extraction cap, occupants top up dry cisterns from the aquifer during late-summer drought—precisely when neighboring wells experience peak drawdown. True Water Neutrality requires matching catchment footprints to occupancy loads or executing binding groundwater extraction caps.

SECTION IV: SURFACE INFRASTRUCTURE & RUNOFF RETENTION

(For the attention of the Local Trust Committee & Ministry of Transportation and Transit - MOTT)

- **Unmodeled Compounded Surface Hardening:** Current build-out assumptions evaluate static site conditions, ignoring cumulative infiltration losses caused by roofs, driveways, roadside ditching, and surface hardening.

- **High-Elevation Recharge Integrity (The Kensington "Water Tower"):** High-elevation sandstone ridges provide the hydraulic pressure head driving freshwater deep into down-gradient bedrock aquifers. Accelerating surface runoff along road rights-of-way directly deprives the deep bedrock matrix of recharge, exacerbating premature coastal saltwater intrusion.
- **Biological Retention Targets:** The OCP must incorporate explicit biological retention multipliers and ditch-retention guidelines in coordination with MOTT to ensure atmospheric storm events are absorbed locally into forest soils rather than directed out to sea.

SECTION V: GROUNDWATER QUALITY & PUBLIC HEALTH

(For the attention of the Local Trust Committee & Island Health)

- **Unmonitored Septic Return Loops:** In high-density bedrock fracture zones, intense well extraction combined with onsite septic effluent discharge creates semi-closed hydrogeological feedback loops.
- **Cumulative Chemical Loading:** The First Reading draft lacks monitoring mechanisms for cumulative Total Dissolved Solids (TDS), nitrate buildup, and saltwater upconing caused by localized over-pumping.
- **Public Health Thresholds:** Island Health and the LTC must align OCP policies to ensure that density approvals are conditioned on verified, long-term chemical baseline testing, preventing localized aquifer contamination during extended drought periods.

CONCLUSION & RECOMMENDED MOTION FOR THE LTC

The Local Trust Committee cannot fulfill its statutory obligations under Section 3 of the *Islands Trust Act* by adopting an OCP that manages development while leaving its underlying hydrology to chance, nor by failing to protect Gabriola's natural assets for the broader public interest of British Columbia.

To assist the Local Trust Committee in navigating these statutory requirements without jeopardizing the procedural momentum of the OCP review, enabling policy language and tracked-change amendments—focused on measurable targets, ecological-groundwater interdependence, and post-adoption implementation frameworks—can be seamlessly integrated into the advocacy and implementation clauses prior to Second Reading.

Recommended Action for the Local Trust Committee:

That the Gabriola Island Local Trust Committee direct Staff to amend the First Reading draft OCP prior to scheduling Public Hearings by: (1) explicitly re-anchoring all land-use directives under the primacy of the Section 3 "Preserve and Protect" mandate for both local residents and British Columbia generally; (2) embedding the Gabriola Water Stewardship Table into the OCP text as a permanent co-governance mechanism with the Snuneymuxw First Nation; and (3) replacing static Water Hazard DPAs with an island-wide Water Neutrality Mandate for all net-new density.

Respectfully submitted,

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Gabriola Island, BC