

From: Jan Kennedy [REDACTED]
Sent: Tuesday, March 7, 2023 2:13 PM
To: Grant Scott <gcscott@telus.net>; Alex Allen <aallen@islandstrust.bc.ca>; Timothy Peterson <tpeterson@islandstrust.bc.ca>; sharon@byshoreplanning.com
Cc: Patricia Maloney <pattheplanner54@gmail.com>; Sonja Zupanec <szupanec@islandstrust.bc.ca>; Wendy Burton [REDACTED]; Daniel Siegel [REDACTED]
Subject: Hornby OCP Review - STVRs

Please find attached my letter regarding the current Hornby OCP review, particularly concerning STVRs and their effect on Year-round residential housing.

Best,

Jan Kennedy

43 yr. Hornby resident



Hornby Island Short Term Rental Association

Email: hornbyshortterm@gmail.com

March 2, 2023

To:

Timothy Peterson, Chair Hornby Island LTC

Alex Allen, Hornby Island Trustee

Grant Scott, Hornby Island Trustee

CC:

Patricia Maloney, Consultant

Sharon Horsburgh, Consultant

Sonja Zupenec, Islands Trust

Wendy Burton, APC Chair

HIRRA

HICCEC

Hornby Island Housing

Hornby Island Water Stewardship

HISTRA and our members, strongly support the need to address affordable/accessible housing and water sustainability on Hornby. This has been the focus of our efforts in the last year, to ask our LTC to put your energy, time and money into solving these problems. We believe that the Hornby Island LTC would receive broad community support in making these two issues the central focus of their work for the next 4 years.

The stories and experiences of our community are important. For those who shared publicly on February 27th, the underlying issues expressed were primarily one of three real and difficult concerns:

1. access to long term housing and frustration that it is difficult to find and to keep;
2. significant concerns about the pressure on our ground water wells and
3. homes that host too many visitors and disrupt their neighbourhoods.

Some very important facts were confirmed at the Community Public Meeting February 27, 2023:

1. The Consultants were clear the Additional Dwelling Units can be added, via bylaw change, to any zones **as long term rentals only** without any changes to the STVR rules. Members of the APC, participating as individuals at the February 27th community meeting, stated that this was not the information they were given during their work in creating the recommendations.
 - Hornby Island and the LTC can meet the APCs intentions in its recommendations, to help create long term housing that cannot become STVRs, and address the real need of long term housing without any changes to the STVR bylaws.



Hornby Island Short Term Rental Association

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2. Changing the OCP to remove STVRs as a legal use will not impact the existing STVRs if they have rented recently, continue to rent consistently and are in bylaw compliance.
 - They will all be grandfathered as a legal non-conforming use per the laws of BC: http://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/r15001_14#division_d0e50260
 - That use stays with the property if it is sold.
3. The community was clear that more and better bylaw enforcement is essential to address the small number of STVR owners who are not yet compliant with the bylaws, HISTRA agrees this is important.
 - Since HISTRA was established in 2019, the number of bylaw complaints has declined substantially. While there are 11 open complaints we have been told by the bylaw officer that most, if not all, have been open for 3 years or more.
 - HISTRA now represents between 2/3 and 3/4 of the STVRs on Hornby. We actively promote the requirements for bylaw compliance and best practices in environmental protection, water conservation and considerate management. We are committed to expanding our support to help STVRs on Hornby to operate in a manner that respects their neighbors and meets our islands needs
4. While we agree that the poll taken at the meeting was both a moment in time and not statistically valid, it does, on its face, support the results from the 2017 Islands Trust survey that showed that 3 in 5 Hornby residents supported STVRs as a legal property use, following the stated regulations and in the stated zones. There will always be members of our community who do not support STVRs, but consistently we have seen that most do.
5. The APC at its February 21st public meeting stated that they are not trying to end or limit STVRs, they are trying to find solutions for long term housing.

HISTRA recognizes that if the APCs intentions had been made clear to us, we would have supported their intention last March. This has been our central message from the beginning – the 2 decade challenge with housing on Hornby requires our whole community's attention, effort and focus. The proposed changes to the STVR bylaws and the OCP cannot accomplish either goal. We urge that along with water sustainably, housing should be the core of the LTCs work for not just this 4 year term but until both are demonstrably resolved.

We stand by the data we collected and provided in September of 2022, that demonstrate changes to our STVR bylaws cannot resolve the affordable housing crisis on Hornby. We want to reiterate:

1. Each of the current Hornby Trustees, and the APC in its recommendations document, have made it clear they don't believe changing the STVR rules will improve housing accessibility or affordability on Hornby.
2. Most owners on Hornby are not investors but community members who live on the Island year round and/or part time and therefore do not have a long term rentals to offer in place of an STVR. This has been established through two separate surveys over the past few years.



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3. Hornby is unique amongst the gulf islands in allowing STVRs as a legal property use in the property zoning. This was a Hornby made solution to enable and support a long standing Hornby tradition. It has allowed many of our legacy community members to keep their family homes and remain deeply rooted on Hornby.
4. Our data demonstrate that STVRs are not growing out of control, if fact, right now, there is a demonstrable decline in visitors planning to stay in STVRs in 2023
5. The Temporary Use Permit is time consuming for both the applicant and the LTC.
 - TUP decisions must be made based on clear, measurable and fair criterion, applied openly and evenly.
 - Without these attributes in the process the LTC leaves itself open to legal challenges on any decision.
6. We do not have large number of investors in our STVR owners (under 10% of the current STVR owners say they are investors vs. almost 50% in the Vancouver condo market). STVR Owners are largely long term community members who use the income to allow them to remain on Hornby. We need to protect this for the future community members who will need it to remain on Hornby.
7. 45% of STVR properties have some form of rainwater collection as a water source.

We believe that the statement made at the LTC meeting in September, that as a community we need to start with the things we agree on, must guide our actions and behaviours.

With that in mind we offer some other ideas that could have broad community support to enable the creation of affordable housing and greater water security:

1. Any new/changes to commercial developments must provide some staff accommodation as a condition of application.
2. Encourage/streamline rezoning for existing commercial properties to build staff accommodation.
3. Proactively zone sites to allow affordable housing (crown land or specified large lots where the neighbors agree to the change).
4. Fast track any proposal (non-profit, government, private, etc.) for developments that propose affordable housing.
5. Lobby government to provide funds for affordable housing.
6. If the changes to add Additional Dwelling units cannot be limited to long term rentals, use a modified Temporary Use Permit (TUP) like process to support the creation of long term rental housing.
 - For owners who wish to put secondary units on their property, including appropriate water and septic systems, with a requirement that the unit can only be used for residential long term rentals.



Hornby Island Short Term Rental Association

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7. Island Trust should lobby for themselves or through their associated Regional Districts, to be allowed to issue business licenses. STVRs could then be licensed creating both an inventory and the potential for local revenue to support community needs
8. All dwellings on Hornby, new or established, should have appropriate water and septic systems, including STVRs, but not only STVRs.
9. Require all new builds to have rainwater harvesting systems, at least as well augmentation.
10. The LTC actively assist and support in the transition to rainwater harvesting for water systems. The HIRRA funds for this transition could be promoted more broadly to help make this happen.
11. Set a target for 50% (or more) of all Hornby residences to have at least rainwater augmentation of groundwater wells by 2030. Develop programs to support this transition.
12. Non-food garden water systems should transition away from ground water wells to rainwater harvest or grey water reclamation systems by 2035.

We call on the consultants and the LTC put their limited resources into recommendations, actions and policies that the community can come together to support and that can help to solve housing and water security for our beloved home.

Sincerely the HISTRA Board, representing our 100+ Hornby Island Community members

Ray Therrien, President, Patrick Lui, Michael Williams, Angela Hudson, Karen Ross, Arifin Graham, Michelle Easterly, Karen Young, Donna Tuele, Eulala Mills

March 6, 2023

To:

Timothy Peterson, Chair Hornby Island LTC

Alex Allen, Hornby Island Trustee

Grant Scott, Hornby Island Trustee

CC:

Patricia Maloney, Consultant

Sharon Horsburgh, Consultant

Sonja Zupenec, Islands Trust

Wendy Burton, APC Chair

HIRRA

Re: Taking Leadership to Address Short Term Vacation Rentals

I have just read HISTRA's letter, dated March 2, 2023, regarding any changes to the HI Bylaws for STVRs. In response, I believe it must be understood that HISTRA is a lobby group for a particular commercial sector that is unwilling to consider any restraints being placed on their businesses. Sadly, they seem completely unwilling to recognize or consider any other local concerns. I believe **HISTRA has been given more than enough opportunity to be heard**, including all the time that their representative spent at the APC table participating in the process!

The reality of the well-researched APC report and its suggestions, is that there will be no changes or restrictions applied to the large number of STVRs currently operating on Hornby, as long as they follow our local Islands Trust Bylaws. Despite their earlier claims that that the APC was trying to put them out of business, it does appear from their Mar. 2 letter that HISTRA now understand this.

The APC recommendations would simply require new STVRs to apply for a permit. and would enable the local trust committee, if it chooses, to cap the number of permits issued. Apparently, it is the simple possibility of having future STVR numbers **controlled, in any way**, that HISTRA finds so very onerous.

*When a property is sold on Hornby Island, new owners can currently choose among:

- a) using the dwelling as a primary residence;
- b) renting to residential tenants;
- c) using the dwelling part-time;
- d) using the dwelling part time + doing STVRs
- e) using the dwelling for STVRs

*Options d) and e) are not available in other areas of BC - including the Gulf Islands, all of Central Vancouver Island and the Sunshine Coast (or they at least require a business license or temporary use permit). Where Hornby Island differs is by allowing home owners to derive income from operating a vacation rental. The practise of doing private vacation rentals began to increase substantially in the 1980s when a local real estate agent worked to aggressively market Hornby properties by encouraging buyers to rent their properties during the summer season to offset the cost of their house purchase. With the advent of the internet and property management, vacation rentals morphed into more of a business activity, using residential property for commercial tourist accommodation.

For anyone observing both the STVR increase and the changes in the residential rental market on Hornby over the past 40 years, this practice has clearly affected the affordability and accessibility of housing for residential ownership and tenancies. It became common practice for local renters to have to leave their homes for weeks or months during the summer to accommodate the land owners choice to market the space to summer visitors willing and able to pay a much higher rent during the summer season. **This practice has, in effect, pushed local people into homelessness for the summer season**, the same season in which they are working the hardest. As rates for summer rentals have continued to rise this situation has intensified and we now have a much lower % of residential rentals available here than the BC average.

I am very appreciative of Tony Law's very detailed letter of March 3, 2023 written in response to HISTRA's Mar.3 letter. His thorough articulation of how and why STVRs were made a permitted use on all Hornby residential properties and the results regarding local rental housing availability as compared to the BC averages. I am also grateful for his detailed assemblage of how other communities have come to deal with vacation rentals, as well as the stands now being taken by such organizations as the Province of BC Advisory Group and the Union of BC Municipalities. He makes a very good case for the need for our Hornby LTC to take leadership in addressing STVRs through the methods presented in the APC report released a year ago. Tony has done such a thorough job that I feel no need to further articulate the points that he has made; I simply agree with his experience and his conclusions and recommendations to you, our LTC.

It is now time for the LTC to be fully in control of the process and to take leadership in the community by affirming the need to control current STVRs not following Bylaw rules and any future STVRs. The "wild west" atmosphere on Hornby Island concerning STVRs, must be brought under control for the sake of addressing the negative impacts to our community on:

- Housing availability
- Nuisances
- Ferry waits and line-ups
- Garbage generation and waste disposal
- Freshwater resource use
- Septic capacity

It is my sincere hope that, in addition to implementing the APCs recommendations with the use of TUPs, our Bylaws will also be amended to include:

- **Proven** septic capacity for **ALL** vacation rentals, rather than just those in Zone A1. The majority of STVRs advertise for 6 or 8 people, with some even offering space to 10 or 11 people; far more people per residence than an average Hornby home. Septic fields

do not clear out excess summer effluent over the winter season; any excess loads on the septic field affects the surrounding ground health, and possible ground water, immediately.

In addition, I would be very happy to see the following points included in our local Bylaws:

- Rainwater collection to be used to supplement all water needs not met by an onsite well on any property housing a vacation rental. As stated above, the number of people using a vacation rental significantly exceeds the average Hornby household. The Climate Emergency is upon us, and water needs have the potential to figure strongly in food security, fire prevention, etc.
- Owner/operator of a STVR must reside onsite throughout the rental period. (I suspect that this may be impossible to implement given the ramifications of STVRs being a legal land use up to now, but it is on my wish-list.)

I believe strongly in the mandate of Islands Trust, as a unique land-use planning agency, acting for residents of both the Trust Area and the province generally, and having a special conservation-oriented responsibility - to preserve and protect the Trust Area and its unique amenities and environment.

We are a finite island community with limited infrastructure and amenities. Our peaceful rural way of life on this beautiful island is precious. Our ground water aquifers are vulnerable and need protection. Our local residents deserve stable year-round housing. The Climate Emergency is becoming an ever more clear and present danger. We cannot continue to “hope” that everything will turn out OK without our taking action, and in some cases, drastic actions. While we cannot solve all these big problems by ourselves, we can, as the “back to the landers” of the 1970 and 1980s were committed to doing, endeavor to make right what we can on our corner of this planet.

Sincerely,
Jan Kennedy

Tony Law
2435 St Johns Point Road, Hornby Island, BC V0R1Z0
250-335-1155 tlaw1@telus.net

04 March 2023

Dear Alex, Grant and Tim:

re: Taking Leadership to Address Short Term Vacation Rentals

It is a year since the APC presented its recommendations. Time has been lost due to the intense lobbying and misrepresentation with respect to the APC's recommendations and the failure of the consultants to effectively deal with this.

In June 2022, the Hornby LTC endorsed a project charter to review and update the Hornby Official Community Plan (OCP) and Land Use Bylaw (LUB) regulations with regards to housing, short term vacation rentals, First Nations acknowledgements, and riparian areas.

The charter notes:

The APC spent much of 2021 and early 2022 meeting and providing recommendations regarding amendments.

Since then, the following deadlines have been missed:

Community workshops - September, October

(workshops were conducted in October and February but did not go beyond the topic of short term vacation rentals)

Consultants report and recommendation – November

(No report or recommendations from the consultants– just a memo in January indicating that the deliverables will not be completed)

First reading February

(Nowhere close!)

It is now time for the LTC to be fully in control of the process and to take leadership in the community by affirming the following:

- 1. Short term vacation rentals are supported in the Official Community Plan and are not going to be eliminated.**
- 2. There is no clear evidence to indicate that Hornby Island has been, and will continue to be, immune to the impacts of short term vacation rentals upon the affordability and availability of residential housing.**
(As described in reports prepared for the Province of BC, the Union of BC Municipalities, and the Federation of Canadian Municipalities).

3. **There is no clear evidence to indicate that Hornby Island has been, and will continue to be, immune to the trend of increasing numbers and commercial character of short term vacation rentals across the country.**
(As described in studies by Statistics Canada and McGill University).
4. **Every other local government in our region has measures in place to protect their small communities from the impacts of a potential increase in the number and commercial character of short term vacation rentals.**
(ie: Denman, Gabriola, Galiano, Gambier, Lasqueti, Mayne, North Pender, Salt Spring, Saturna, South Pender and Thetis Island Local Trust Committees and Comox Valley, Nanaimo and Alberni-Clayoquot Regional Districts and the municipalities of Bowen, Tofino, Ucluelet, Cumberland and Port Alberni)
5. **Hornby Island is the only jurisdiction in our region that allows short term vacation rentals on every lot in residential zones with no ability to address the future number of residential dwellings that might be used for this purpose over and above all those already operating.**
6. **The Hornby Island Local Trust Committee can regain the ability to address the number and character of any additional short term vacation rentals, by requiring that potential new operations apply for a Temporary Use Permit, while all existing vacation rentals can continue to lawfully operate (in accordance with part 12, division 14 of the *Local Government Act*) without requiring a permit.**
7. **Staff should work with the APC to draft amending bylaws that would enable Temporary Use Permits to be considered for any new short term vacation operations (plus those that might be operating in contravention of existing regulations) while clarifying that this will not impact the lawfulness of all existing operations or require them to apply for a permit. This will result in Hornby Island continuing to have the most favourable regime for existing vacation rentals in our region, but with more community control over growth.**

.....

Here is some supporting information for these statements:

1. Short term vacation rentals are supported in the Official Community Plan and are not going to be eliminated.

As with just about every other OCP and Zoning Bylaw in BC, the use of residential dwellings for short term vacation rentals was not mentioned historically in our land use documents because the activity was “off the radar”.

Vacation rentals were first officially identified as a practice happening on Hornby Island in a 1971 planning study conducted by the Comox Strathcona Regional District. They continued as a low-key activity that got little attention until the 1990s when they became a more widespread and commercial-style use due to the emergence of internet advertising and property management companies.

Concerns were brought to the attention of local government by neighbours who were being impacted by vacation rental activities and by residential tenants being displaced by short term rentals.

Short term rentals were not a permitted use in the Land Use Bylaw. The choice was to enforce against the operation of vacation rentals as they were complained about or to find a way to permit them.

The choice was made to permit vacation rentals, recognizing that they were an established and accepted use that was valued by much of the community, even if had not been officially permitted.

The process of legalizing was spread over four election terms, involving five different local trustees. Few local governments had begun to tackle this issue so there were not well-established models to follow.

There were two potential options: to permit through lot-specific temporary use permits or to allow them on every lot as an outright permitted use in zoning regulations. Staff recommended Temporary Use Permits (TUPs) as the only way for the community to have some control over the extent of the use and its cumulative impacts.

In 2009, a survey of residents and non-resident property owners indicated the majority (55%) supported either using Temporary Use Permits (42%) or not allowing vacation rentals at all (15%) while 40% supported allowing them as an outright permitted use in zoning regulations. The majority of respondents were non-residents.

TUPs were opposed by people who were conducting rentals. It was asserted that TUPs were unnecessary because so little money was to be made from vacation rentals that they would remain a low-key, low-number activity. People resisted having to apply for a permit to continue what they were already doing. In fact, it was indicated that there might be an organized refusal to apply for permits. This would have presented the Islands Trust with a huge enforcement issue.

OCP policies and land use regulations to permit the use through zoning were carefully crafted with significant community input considered. Draft bylaws were taken to public hearing. The Executive Committee raised concerns about potential impacts on water supply, community character, and residential housing. They were informed that such potential impacts had been considered but were not anticipated under the regulatory framework that had been developed.

The amendments to the Official Community Plan included policies to implement these objectives: *(1) to allow vacation home rental use while ensuring that the residential use of property and its residential character are retained, and (2) to address potential impacts of vacation home rentals.*

The amendments to the Land Use Bylaw allowed vacation home rentals as a permitted use in residential zones and the agricultural zone with regulations designed to keep occupancy at the levels already permitted for B&Bs, plus other measures to protect residential character.

Planning staff made it clear that once these regulations were adopted the LTC could not rescind them without vacation home rentals operating under them continuing to be a lawful non-conforming use.

2. There is no clear evidence to indicate that Hornby Island has been, and will continue to be, immune to the impacts of short term vacation rentals upon the affordability and availability of residential housing.

Here are some recent conclusions about the impact of vacation rentals on housing costs:

“A Home for Everyone: A Housing Strategy for British Columbians”
- Union of BC Municipalities, 2018

The proliferation of short-term rental opportunities through platforms such as Airbnb has had the impact of contributing towards demand by making investment in residential real estate more desirable, and further drawing down already limited long-term rental stock in communities across the province.

“Priorities for Action on Short-Term Rentals”
- Province of BC Advisory Group and Union of BC Municipalities, 2021

The potential for earning revenue from short-term rental use of properties (whole or in part) often supports higher property prices than local incomes can support.

From 2001 to 2016:

On Hornby Island, median prices of dwellings sold increased 106% - from \$250,000 to \$514,000

- Across Canada, the increase was 60% - from \$150,000 to \$241,000

On Hornby Island, median household incomes increased 18% - from \$29,997 to \$35,328

- Across Canada, the increase was 60% \$52,548 to \$84,000

Here are some recent conclusions about the impact of vacation rentals on rental housing:

“Priorities for Action on Short-Term Rentals”
- Province of BC Advisory Group and Union of BC Municipalities, 2021

The use of housing units for travellers has reduced long-term rental housing capacity at a time when housing availability and costs are already under pressure.

“Regulating Short-Term Rentals -A Toolkit for Canadian Local Governments”,
- Federation of Canadian Municipalities, 2021

The short story is that the proliferation of STRs leads to a worsening of both housing availability and affordability system-wide and over time, with non-principal dwelling unit STRs being the main culprit.

if an operator is listing any dwelling unit other than their principal dwelling unit, whether or not they ever use the unit themselves, a potential long-term home is being lost.

The communities and neighbourhoods experiencing the greatest negative impacts of STRs on housing availability and affordability will often be those with a high concentration of non-principal dwelling unit STRs

STRs are growing faster, concentrating faster, and removing housing from the long-term market faster in rural areas.

Hornby Island is a rural community with a significant proportion of non-principal dwelling units.

According to the 2018 Housing Needs Assessment for Hornby Island, out of 1,104 dwellings, 470 are principal dwellings occupied by owners. A further 11 units were rentals provided by Elder Housing.

That leaves 623 units that were secondary dwellings owned by people whose primary dwellings are on Hornby Island or (more likely) elsewhere.

Both residential tenancies and short-term vacation rentals come from this pool of secondary dwellings.

- With respect to residential rentals:

According to the 2008 Housing Needs Assessment for Hornby Island:

- In 2006, there were 93 residential tenancies from a pool of 414 secondary dwellings

According to the 2018 Housing Needs Assessment for Hornby Island:

- In 2016, there were 104 residential tenancies from a pool of 623 secondary dwellings

From 2001 to 2006:

The number of residential rental units had dropped by 40% (from 165 to 100)

This was during a period of significant growth in short term vacation rentals.

From 2006 to 2016:

The percentage of secondary dwellings used for residential tenancies decreased from 22% to 16% (In BC, about 30% of dwellings are residential rentals.)

- With respect to vacation rentals:

In 2016, there were 519 secondary dwellings not being used for residential tenancies.

They were being used;

- for part time or occasional use by owners (unknown number), or
- for part time or occasional use by owners + vacation rentals (unknown number), or
- for vacation rentals (unknown number)

The total number of vacation rentals is not accurately known, nor is the breakdown between those being conducted in a primary residence, those being conducted in a secondary residence that is also being used by the owners, and those being conducted as the main use of the dwelling.

The “Priorities for Action on Short-Term Rentals” report states:

Where the available data or evidence falls short of the reliability necessary for conclusive analysis, governments should exercise caution but also act to prevent likely harms.

Observations by local governments indicate there is a significant unmeasured threat to long-term housing. As 70% of B.C.'s renter households rely on secondary rental market housing, and in some communities up to 100% of rental housing is in the secondary market, there is a strong case for responding to the potential impacts of short-term rentals even in lieu of appropriate data sources.

About 91% of Hornby Island's renters rely on secondary rental market housing.

The Hornby Island Local Trust Committee cannot restrict or reduce the existing permitted vacation rentals happening using secondary dwellings. A cautious approach would be to at least have the ability to manage additional vacation rentals over and above what is already permitted.

3. There is no clear evidence to indicate that Hornby Island has been, and will continue to be, immune to the trend of increasing numbers and commercial character of short term vacation rentals across the country

From: "Measuring private short-term accommodation in Canada"
- Statistics Canada, 2017

*Growth in private short-term accommodation in Canada has been rapid as total revenues increased nearly tenfold (940%) between 2015 and 2018.
(In BC, revenues grew from \$92,000 in 2015 to \$876,000 in 2018)*

From: "Short-term rentals in Canada: Uneven growth, uneven impacts"
- Combs, et al, School of Urban Planning, McGill University, 2020

Active listings, total revenue, hosts with multiple listings, and frequently rented entire-home listings are all growing at substantially higher rates in small towns and rural areas.

On Hornby Island, the number of vacation rentals advertised increased from about 120 in 2009 to about 180 in 2019, a 50% increase.

The range of rental rates for advertised vacation rentals grew from between \$500 and \$2,000 per week in 2009 to between \$1,000 to \$5,000 per week in 2019 (with a few outliers in each case). That is a 100% increase at the low end of the range and a 150% at the high end. (Median household incomes grew from \$32,000 in 2006 to \$35,000 in 2016.)

In 2017, in a survey conducted by the LTC on Hornby Island, the majority of respondents perceived that vacation rentals conducted on the island were having negative impacts on:

- Housing availability
- Nuisances
- Ferry waits and line-ups
- Garbage generation and waste disposal
- Freshwater resource use
- Septic capacity

All this indicates that vacation rentals grew rapidly in number and in commercial character over the five years since they became a permitted use, creating perceived negative impacts in the community.

Five more years on, it is hard to predict if another period of growth might be ahead and what the impacts might be.

4. Every other local government in our region has measures in place to protect their small communities from the impacts of a potential increase in the number and commercial character of short term vacation rentals.

In the Islands Trust area and on Central Vancouver Island, this how local governments are addressing vacation rentals in order to have control over the type and number of operations in small and rural communities:

- Vacation rentals not permitted in residential zones:
 - Comox Valley Regional District*
 - Nanaimo Regional District*
 - Denman Island*
 - Lasqueti Island*
 - Salt Spring Island*
 - South Pender Island*
- Vacation rentals permitted only by Temporary Use Permit
 - Alberni-Clayoquot Regional District*
 - Gabriola Island*
 - Galiano Island*
 - North Pender Island*
- Vacation rentals permitted only as a home occupation
(a resident in a primary dwelling renting out a permitted secondary dwelling on the same lot)
 - Gambier Island*
 - Maybe Island*
 - Saturna Island*
 - Thetis Island*
- Vacation rentals permitted by a Business Licence issued by a municipality
 - Bowen Island*
 - Tofino*
 - Ucluelet*
 - Port Alberni*
 - Cumberland*

5. Hornby Island is the only jurisdiction in our region that allows short term vacation rentals on every lot in every residential zone with no ability to address the future number of residential dwellings that might be used for this purpose over and above all those already operating.

Unlike other jurisdictions in our region, Hornby Island's zoning regulations permit vacation rentals to be conducted on any lot in the residential zones and agricultural zone.

This means the LTC, unlike other jurisdictions, has no ability to limit the type and number of additional vacation rentals on Hornby Island, resulting in the potential for unchecked growth.

Additional vacation rentals could be established as a result of:

- a resident re-locating off-island for a period
(eg for employment, education, etc)
- a non-resident property owner unable to use their property due to changed circumstances
(eg economic, health, employment, relocation)
- a property changing hands
(eg with the new owner seeing the dwelling as a source of income)
- a new build or re-build
(eg maybe purpose-built as a vacation rental, as is happening elsewhere)

On Hornby Island, an owner has five choices of use for a residential property:

- 1) Primary residence
- 2) Residential tenancy
- 3) Part-time use or occasional use
- 4) Part-time use or occasional use + vacation rental use
- 5) Vacation rental use

In other rural communities in our region, choices 4) and 5) either don't exist or require an application for a Temporary Use Permit. This enables local governments to limit the number of vacation rentals in their communities. It encourages owners who are not using secondary dwellings to consider using them for residential tenancies.

6. The Hornby Island Local Trust Committee can regain the ability to address the number and character of any additional short term vacation rentals, by requiring that potential new operations apply for a Temporary Use Permit, while all existing vacation rentals can continue to lawfully operate (in accordance with part 12, division 14 of the *Local Government Act*) without requiring a permit.

If there is a need for the community to potentially have the ability to manage the future growth of vacation rentals, the only way to do this is to require all new operations to apply for a Temporary Use Permit. A Temporary Use Permit (TUP) can carry specific conditions. If necessary, the LTC can use a Standing Resolution to limit the number of TUPs issued or to restrict them to specified zones or areas of the island.

There has been some discussion about the potential use of Business Licences.

Business licenses are not available to local trust committees. They function under the *Islands Trust Act* which provides the authority of a regional district board, but only for planning and land use management. Business licences are not a planning and land use management tool. Regional districts do not have authority to issue business licences.

When I was a trustee, there was almost zero support among other trustees to pursue business licensing. In 2021, I wrote to the Minister of Municipal Affairs about the possibility of the Hornby Island Local Trust Committee being given this authority. Here is the response:

In your letter you requested that all regional districts, and all local trust committees, receive the additional authority to regulate business licensing. More specifically you expressed an interest in business licensing for short-term rental accommodations to address service challenges on Hornby Island.

As you may know, local trust committees operate under the Islands Trust Act. The Islands Trust's objects (powers) and authorities in the legislation are in relation to land use and planning. If business licensing is to be pursued on Hornby Island, it would be through the regional district legislative framework.

With respect to regional districts having business licensing authority, the response was:

The Ministry of Municipal Affairs (MUNI) continues to be interested and willing to work with regional districts that are wanting to explore this authority. There are many implications and considerations that would be involved in a legislative change to provide additional powers to regional districts. As such, a collaborative approach that involves working with a regional district to enable business licensing through a possible regulation would allow MUNI and the regional district to come to a common understanding of matters such as costs, impacts and enforcement implications of business licensing in a more rural context before pursuing a more general authority.

Currently, there is no regional district directly requesting the additional authority.

A regional district board that is interested in requesting the additional authority is encouraged to provide the Minister of Municipal Affairs with a rationale for their request, which would include information about the need for the additional authority and how the business regulation would be used and implemented.

For business licenses to be applied to Hornby Island a three-step decision process would be involved:

- The Comox Valley Regional District would have to decide that it needs this authority and to write to the Ministry requesting it;
- The Ministry would have to decide that the additional authority is warranted;
- If granted, the CVRD would have to decide whether to set up a business licensing service that would apply to vacation rentals on Hornby Island.

It is unlikely these decisions will be made because

- a) the Hornby Island Local Trust has authority to use TUPs;
- b) other local governments are already using TUPs to permit vacation rental uses, eg:

The Town of Gibsons

Alberni-Clayoquot Regional District

Regional District of Okanagan-Similkameen

Thompson- Nicola Regional District

Columbia Shuswap Regional District

Gabriola Island Local Trust Committee

Galiano Island Local Trust Committee

North Pender Island Local Trust Committee

If the CVRD did obtain business licensing authority and chose to set up a service, there would be a complex division of decision-making around vacation rentals, with the Hornby Island LTC making land use decisions and the CVRD Board making business license decisions.

Case law indicates uncertainty about whether a local government has authority to limit the number of business licenses it issues. If the CVRD chose to take a cautious approach, business licenses would not provide the ability to limit the potential growth of vacation rental operations on Hornby.

It seems that the main reason for some to prefer business licenses over TUPs is the assumption that TUPs involve a higher fee. Business licenses need to be applied for every year. A TUP lasts for 3 years and can then be renewed for a further 3 years (after which a new permit can be applied for).

*In Tofino, a business licence is required with a fee of \$495 in 2023 and \$505 in 2024
The annual cost is \$500.*

*On North Pender, a TUP is required with a fee of \$900 fee and a renewal fee of \$165
The annual cost is \$353.*

Thus the TUP process can be cheaper. It can also be made more efficient by batching applications.

If the LTC does adopt the requirement for TUPs, it will have zero impact upon the ability of existing vacation rentals to continue operating legally under the regulations that have been in place for the past decade. Part 12, division 14 of the *Local Government Act* provides this assurance.

When the LTC was considering how to allow vacation rentals, there was strong lobbying on the part of operators against TUPs as they did not want to go through a permitting process. Their wish was granted, but with the result that the local government lost control over the future growth of vacation rentals.

Now, again, vacation rental operators are lobbying against TUPs because they don't want to go through a permitting process. Their wish will be granted again, because they will have a legal status that does not require this.

What is proposed here will be a win-win situation. Those who are concerned about continuing to operate vacation rentals and those concerned about having the possibility of managing future impacts will both have their interests met.

7. Staff should work with the APC to draft amending bylaws that would enable Temporary Use Permits to be considered for any new short term vacation operations (plus those that might be operating in contravention of existing regulations) while clarifying that this will not impact the lawfulness of all existing operations or require them to apply for a permit. This will result in Hornby Island continuing to have the most favourable regime for existing vacation rentals in our region, but with more community control over growth.

There has been some advocacy around making no changes and abandoning attention to vacation rentals so that attention can be given to the priority issues of housing and water. I believe the community in general sees housing and water as priority issues and many of us, including those wanting to see vacation rentals appropriately addressed, are keen to see these issues being worked on.

Ironically, what has been delaying completion of the work on vacation rentals is the time and resources taken up responding to the lobbying and misinformation by those who are now saying that the time and resources should be applied differently!

Although they are incorporated, Tofino (with 1,205 dwellings) and Ucluelet (with 997 dwellings) are similar to Hornby Island (with 1,117 dwellings) in being small destination communities.

Housing and water seem to be even bigger challenges for those communities. Yet both have seen the importance, in the last year or so, of giving attention to the impact of vacation rentals on their communities.

Tofino is checking in on its local vacation rental supply to determine whether restrictions could help create residential affordability. Ucluelet is cracking down on the proliferation of short-term rentals in residential neighbourhoods as it grapples with a housing shortage.

So Hornby Island would not be out-of-step with its peer communities in completing the task that has been well started.

This completion should involve the APC and Island Trust planning staff working together to draft amending bylaws for the LTC to consider bringing to first reading.

The APC members worked on this for over a year and have developed an understanding of the issue, including by inviting representatives of HISTRA, HICEEC and Hornby Housing Society to attend.

Planning staff have an understanding of the islands and of Islands Trust policy, legislative framework and administrative processes. There is also in-house experience of establishing the use of temporary use permits for vacation rentals on other LTAs.

While, according to case law (*Saunders v. Langley*), the onus is on a property owner claiming a lawful non-conforming use to establish that the lawful use was in place when new zoning regulations were established, it would be helpful if the Islands Trust could work with HISTRA to provide straightforward ways for the legality of existing vacation rentals to be ascertained and maintained. This could, perhaps, involve a registry. I imagine if operators to retain records, such as PST submissions and advertisements for their rentals, these provide evidence of their operation's lawful status.

Some clarity and reassurance could also be provided through OCP policies and an information note in the LUB.

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Possible changes to Hornby Island Official Community Plan policies:

Policies:

6.5.3.1 ~~Where a dwelling is permitted on a parcel by the land use regulations, the rental of that dwelling as a vacation home rental should be permitted in the zoning regulations:~~

~~a) provided that the owner or tenant of the parcel is ordinarily resident on the property and the vacation home rental use is occurring during the temporary absence of the owner or tenant; or~~

~~b) where the owner or a residential tenant of the parcel resides seasonally in the dwelling and the vacation~~

~~home rental use is occurring during the absence of the owner or tenant; or~~

~~c) where the owner or residential tenant is residing in another lawful dwelling on the property while the vacation home rental is occurring.~~

Vacation home rental use may be permitted upon application for a Temporary Use Permit

~~6.5.3.2 Vacation home rental use should be subject to regulations which:~~

The conditions of a Temporary Use Permit should:

a) require a level of continuous occupancy that allows visitors to experience and develop an awareness of the local community and Hornby Island in general through a vacation experience;

b) limit the portion of year that a vacation home rental use may be in operation so as to ensure that the residential use of the property is retained;

c) limit the total number of bedrooms and beds which may be accommodated based on the area of the lot on which the dwelling is located so as to ensure that the scale of vacation home rental occupancy does not exceed what might otherwise be accommodated by normal residential use;

d) require adequate off-street parking spaces to limit vehicle crowding on public roadways;

e) ensure that the residential appearance and character of a property is not altered by the vacation home rental use; and

f) require that accommodation be within the permitted dwelling and prohibit camping or use of tents or recreational vehicles for vacation home rental use;

g) address supply of water and treatment of sewage

h) address the provision of contact information to visitors and neighbours and of timely response to issues that may be presented to them in relation to the vacation home rental use.

6.5.3.3 The local trust committee may, by Standing Resolution, cap the number of Temporary Use Permits that may be issued for vacation rentals and specify zones or locations where Temporary Use Permits may or may not be considered.

6.5.3.4 In accordance with part 12, division 14 of the *Local Government Act*, all vacation home rentals that were being lawfully conducted in accordance with the land use regulations in place before the amendment of the Hornby Island Land Use Bylaw to require Temporary Use Permits for vacation home rental uses will continue to be lawful provided they continue to be operated in accordance with those regulations.

6.5.3.35 Owners of vacation home rentals, especially those located in the Whaling Station Bay/Anderson Drive area and other small lot areas, are strongly encouraged to minimize impacts upon groundwater resources by:

a) utilizing a rainwater catchment and storage system;

b) installing water-saving fixtures; and

c) providing information about water conservation practices to all guests.

~~6.5.3.4 Vacation home rentals that do not comply with limitations imposed by land use regulations may be considered upon application for Temporary Use Permit.~~

6.5.3.56 Owners of vacation home rentals are encouraged to ~~form~~ **join** an association to establish bylaws or best practices that would be required of all members in good standing and to consider informing owners, visitors and other interested persons of Local Trust Committee regulations. Any

such association is encouraged to augment such regulations with other requirements that would assist in resolution of any potential issues that may arise such as requiring on-island contact information of association members or managers who could respond in a timely manner to neighbourhood issues.

~~6.5.3.6 Owners of vacation home rentals are encouraged, in the absence of any association membership, to provide contact information to visitors and neighbours and to provide timely response to issues that may be presented to them in relation to the vacation home rental use.~~

6.5.3.7 The Local Trust Committee should monitor the rate of use of vacation home rental development and be satisfied that such use is not increasing the commercial use of the housing stock so as to effectively displace the ability to provide residential housing.

~~6.5.3.9 The Local Trust Committee should consider reviewing with the community the regulations for vacation home rentals in 2017~~

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Possible changes to the Hornby Island Land Use Bylaw

Part 1.1 Definitions

- Retain the definition of “Vacation Home Rental Use”

3.2 Uses Prohibited in All Zones (1)

- Add:

(w) Vacation home rental use except where permitted by a Temporary Use Permit

3.7 Vacation Home Rental Uses

- replace this section with:

Vacation home rental uses are only permitted by Temporary Use Permit.

INFORMATION NOTE:

The information in the rest of this section is not part of the Bylaw and is provided for information purposes only.

Vacation home rental uses that were operating in zones R1, R2, R4 and A1, in compliance with the definition of vacation home rentals, and in compliance with the regulations in place in this bylaw before the bylaw was amended to only permit vacation rentals by temporary use permit, will remain lawful according to what is specified in part 12, division 14 of the Local Government Act.

The lawful status will be lost if the use is continued on a scale or to an extent or degree greater than what was permitted by those previous regulations; a Temporary Use Permit will be required to resume operating.

For information only, these were the previous regulations:

(1) Vacation home rental uses must be in accordance with the following limitations:

(a) A dwelling unit may only be occupied by paying guests during the months of May, June, July, August and September.

(b) Despite article 3.7(1)(a), on any lot permitted two dwelling units, one dwelling unit may be occupied by paying guests at any time, provided that an owner or tenant is resident in a second lawful dwelling unit on the lot during the vacation home rental occupancy.

(c) During any period of seven consecutive days a dwelling unit may be occupied by only one guest or guest party.

INFORMATION NOTE: The following information is

Regulation 3.7.1(c) permits the use of a vacation home rental for a period of less than seven days (for example a three night rental). As an example, the regulation does not permit a vacation rental unit to be rented for three days to one group and then three days to a different group during that same seven day period. Limiting rental turnover within a seven day rental period in a dwelling is important in helping maintain the rural residential character of Hornby's neighbourhoods, while allowing vacation home rental use to occur in a dwelling.

(d) A dwelling used for vacation home rental use shall not be used to accommodate more than two beds per bedroom or more than three bedrooms if the lot on which the dwelling is located has an area of less than 1.0 hectare, or more than four bedrooms if the lot has an area of 1.0 hectare or more.

(e) A vacation home rental use shall not alter the residential character or appearance of the lot in which the vacation home rental use is located, with the exception of required parking spaces and the sign required in Section 3.7, which may be posted only when a vacation home rental is occurring.

(f) On lots designated as Aquifer IA on Schedule D2 of the Hornby Island Official Community Plan Bylaw No. 149, vacation home rental use is permitted provided that an authorized person as defined in the Sewage System Regulations under the Public Health Act has stated in writing to the Islands Trust that the sewage disposal system to which the building accommodating the proposed vacation home rental use is connected to is capable of providing adequate sewage treatment for residential use and for the proposed vacation home rental use.

(2) A sign must be posted on the premises of each vacation home rental use while the use is occurring, clearly legible from a public road, indicating contact information including the name and telephone number of the owner of the premises or an agent of the owner who is reasonably available to deal with any impacts of the rental use on neighbouring premises.

Part 8 Zone Regulations

- Delete “vacation home rental use” from the permitted uses in the R1, R2,R4 and A1 zones

Part 10 Temporary Use Permit Areas

- Consider adding specific guidelines for vacation home rental use.
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Concluding words:

As a local trustee, I served through the four terms during which a long process, leading to the permitting of short term vacation rentals, was carried out. I also represented the Hornby Local Trust Committee in the meeting at which the bylaws were considered and approved. I therefore feel a degree of responsibility for the current situation.

We listened hard to the community. But perhaps we heard too much from those loudly articulating immediate interests and less from those quietly speaking to future consequences, too often sidelined by the loud voices. Perhaps in listening to the community, we did not listen enough to professional advice.

We did not have any established models in BC to follow, We were breaking new ground.

It is very telling that not a single other local government has followed our path!

As more and more local governments are having to address vacation rentals, they are all taking a different, more cautious approach; there is now more understanding about the potential consequences for a community.

I regret that the present LTC now has less choice than in the past. Whatever the LTC does, the existing uses will continue in lawful non-conformity. But you do have the option to ensure the community has some measure of control over future growth of vacation rentals.

You have the diligent work of the APC to build upon. And you have probably heard enough from HISTRA and enough from people like me offering different perspectives.

I believe it is time to make a decision and to set a clear path forward.

I wish you well in this. I know how difficult it is.

I hope this input has been helpful.

Sincerely,
Tony Law