

Housing and Short Term Rentals

Recommendations from Hornby Island Advisory Planning Commission

March 29, 2022

These are the over-arching principles of the Official Community Plan: to protect groundwater, to preserve ecosystems and biodiversity.

All recommendations have been considered through the lens of climate change.

We work with the awareness of unintended consequences. We know there are no guarantees these recommendations will lead to affordable, available housing. We acknowledge our recommendations are part of a process to improve housing accessibility and to regulate short term rentals and their impact on housing availability and affordability.

We proceed from evidence based on research from similar communities in British Columbia and Canada experiencing similar problems.

We exercise the Precautionary Principle, that is, when in doubt we exercise caution in our recommendations.

Addressing the lack of affordable, available housing on Hornby Island is a long-range process.

These recommendations, if accepted by the local trustees, will be sent on to the contracted planner, who will write the relevant language for the OCP and the respective bylaws. Part of this process is extensive community consultation through the 1st, 2nd, and 3rd Readings.

Advisory Planning Commission: Vicki Bale, Wendy Burton, Christine Hunt, Rob McCreary, Joanne Ovitsland

Resource People: Rudy Rogalsky, HICEEC; Patrick Lui, HISTRA; April Lewis or Sadie Chezenko, HIHS; Tony Law, Fred Hunt, former trustees.

Density

Rationale

One would think the solution to the housing crisis on Hornby Island would be simple. Build more houses. Permit more density everywhere. Revoke all land use bylaws, re-write the Official Community Plan and create hundreds of houses.

Increasing density will not automatically lead to an increase in affordable housing stock. Being able to subdivide a R2 parcel to build a second dwelling will drive up property values and could remove potential farm land. Putting a second home on a half-acre parcel will not mean residential rental tenure for the more than 30 families looking for affordable accommodation.

Hornby Island continues to be a community with water scarcity, vulnerable eco-systems, and limited productive farmland. Food security is a concern on Hornby Island; reducing available land by putting up more houses will lead to less sustainable food production and will do nothing to guarantee year-round affordable and available homes.

Recommendations

1. In Large Lot Residential zone, allow multi-family development through site-specific subdivision re-zoning. Limit the development to “residential rental tenure.”
2. In Large Lot Residential zone, create a new zone permitting permanent second dwelling, Short Term Rental (STR) prohibited. The location of this new zone will be determined through community consultation.
3. Permit in all zones: site specific applications to permit a second dwelling for residential rental tenure, verifying proven septic, water, and lot coverage. The Province regulates septic capacity and identifies water use requirements, based on science-based evidence.

Temporary Use Permit

Rationale

The Islands Trust cannot issue business licenses to Short Term Rental (STR) operators. Currently, there is no way for the community to know who is operating where and under what conditions. The last official count of STR was 162 in 2018. A survey of advertised STR in 2020 indicated 125 properties operating as STR. Anecdotal evidence indicates the number is at least as high as 2018. Proactive bylaw enforcement began in 2019, and the ongoing enforcement was seriously hampered by Covid19 safety plans that prevented the Bylaw Enforcement Officer from attending in person. The recently-formed Hornby Island Short Term Rental Association (HISTRA), advised us they are a “best practices” association; membership is not required to operate an STR on Hornby Island and compliance to existing bylaws is advised but not required for membership.

The only tool local trustees have is the Temporary Use Permit (TUP). Such permits are required for STR in the Whaling Station subdivision and as far as we know not one has been issued.

TUP are also available for secondary dwellings in permitted zones, and as far as we know not one has been issued. We encourage the local trustees to advise home owners to consider applying for a TUP, to increase density and to provide residential rental tenure where appropriate and desired.

For those who operate a STR that is currently non-compliant, there is this option:

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.

Our rationale is simple. In order to regulate and control a land use that has a demonstrated impact on housing stock, housing availability and housing affordability, in order to understand the nature of the sector, in order to plan appropriately for the growth of this sector, Hornby Island has to know how many, where, when, and for whom (occupancy). For these reasons, we are recommending the following:

Recommendations

1. Short Term Rentals as a permitted use is revoked in all zones.
2. At the same time all STR operators apply for TUP effective [*date of bylaw change*]
 - a.) provide water and septic certification and maintenance plan (part of TUP)
 - b.) TUP for STR be batch processed and the fee adjusted to \$250 and to \$0 if the permit is to provide a community benefit, ie community housing
 - c.) Current occupancy limits be confirmed as part of TUP process
3. Rental period defined as three months, for example June 15 to September 15

SHORT TERM RENTAL (STR)

Rationale

The members of the APC recognize the connection between affordable, available housing, increased tourism, and short term rental accommodation. When STR became a permitted use, and bylaws were created to regulate this use, few could have foreseen the proliferation of STR. The hypothetical STR operator, described in 2009, was an older woman living alone in a large home, endeavouring to rent part of her home for a few weeks in the summer to earn enough money to pay her taxes and finance home repairs. Regulations on how long and how many were put in place to preserve the rural nature of the community and protect the eco-systems of the Island. Water capacity and septic capacity were intended to be part of the protect mandate.

The growth of tourism, while appreciated by many, is a source of concern for a sustainable, viable future for all who live on the Island. The community has to be given an opportunity to discuss how much is too much and/or how much is not enough.

These recommendations govern all Short Term Rentals (STR) that are operating currently and would therefore be legally non-conforming and all STR authorised by approved TUP.

Recommendations

1. All STR (including those advertised on AirBnB and any other advertising platform) must register with Islands Trust. A registry will be maintained by Islands Trust.
2. All STR have proven septic and water capacity. The Province regulates septic capacity and identifies water use requirements, based on science-based evidence.
3. STR are conducted within the principal residence on the property (not a secondary building) where permitted.
4. The rental period is reduced from five months to three months, for example, from May 1 - September 30 to June 15 to September 15

This is a contentious recommendation. The existing period was the result of extensive community consultation in the 2000's before the bylaws were created. Many community members now believe the period is too long. Other community members, especially those in the visitor accommodation sector, now believe it is too short. Many STR are in non-compliance, that is, they operate year round or outside the rental period of May 1 to September 30. The argument that shortening the period would affect MRDT funds coming to the community is one that has to be put to the community.

5. One STR per property
6. Enforce bylaws about STR in secondary dwellings where permitted.

This recommendation is to do with STR provided in secondary dwellings in zones where such a use is permitted. Addressing the bylaw compliance of secondary dwellings that are not being used for STR in all zones is outside our referral. Year round dwellings / housing should not have enforcement even when moratorium on enforcement is discontinued. It would be next to impossible for enforcement of year round housing as there is no reliable way to monitor availability and use and the threat of enforcement could diminish available residential housing stock

7. Proactive enforcement of all Visitor Accommodation (inclusive of resorts, campgrounds, glamping).
8. Require all platforms to list only those properties in compliance.

9. Require all platforms to provide data (*cf* Union of BC Municipalities stakeholders report, June 2021).¹

10. Clarify the occupancy limits by zone for STR.

Tie advertising to occupancy, i.e. the advertised occupancy conforms to bylaws

11. Number of STR on Hornby Island be capped.

While STR are a permitted use on Hornby Island, the number cannot be capped

12. Permit limited number of long-term residential occupancy of seasonal campgrounds

ZONING

Rationale

The reason for the first recommendation is this: water scarcity in all subdivisions (Whaling Station, Galleon, Sandpiper) is a fact. Inadequate septic capacity on many R1 lots is a fact. Currently, the only properties on Hornby Island that are required to prove septic capacity are STR in the Whaling Station Water Zone. As far as we know, not one TUP has been issued for STR in this zone. Recommendation #1 will provide information about how many properties are operating a STR.

Recommendations

1. All SR (Small Lot Residential) lots/zones be designated IA Heavily Developed Aquifer.

Any STR operating in a IA Heavily Developed Aquifer would apply for a TUP and would be required to certify septic capacity.

2. Create bylaws governing Lerena Vineyards and Fossil Beach Farm.

3. Clarify “visitor accommodation” and relevant bylaws for Hornby Island Resort (the “Thatch”) development.

4. Amend the bylaws governing Public Use Zone to add (e):

¹ This report makes several recommendations. The Province is urged to require STR operators to register as business; platforms advertising STR be required to provide a section for hosts to display business licenses or permits; platforms advertising STR be required to collect data and make data available to the province and available to local governments; and platforms advertising be required to refuse advertisements from non-compliant businesses.

Despite 8.21(1), the only permitted uses are:

- (a) Cemetery;*
- (b) Public utility storage yard;*
- (c) Highways maintenance yard;*
- (d) Recycling depot; and*
- (e) Community trades and services, including associated retail.***

ADMINISTRATIVE

1. Change LUB 8.5 where Elder Housing and ISLA are named. Change to Hornby Island Housing Society.
2. All site plans and permits be checked for compliance with on-site visits.

DEFINITIONS

1. Community housing includes mobile homes, tiny homes, caravans, yurts. We recommend revising this language so it is inclusive of seasonal work-force housing.

Current OCP: “Community Housing” is housing that is provided specifically by bylaw to address affordable or special needs housing requirements, including housing that is provided on land designated for community services use, but community housing does not include housing that may be provided as part of a land cooperative; as a secondary suite; as part of a mixed use development such as in association with a commercial land use or as a secondary dwelling on a property; even though such housing may contribute to the provision of housing that is affordable, available for rent or that accommodates the needs or persons with special needs. The Community Housing designation is intended to designate areas that are considered suitable for such housing.

2. Define “tank” to exclude cisterns.
3. Define cistern. We recommend cisterns continue to be governed by setback requirements on all zones.
4. Clarify if septic field and absorption field mean the same thing.

ADVOCACY

1. Continue to request the provincial government allow Islands Trust communities to issue business licenses for short term rentals. If it becomes possible to issue business licenses, then the HOAPC recommends requiring a business license for all STR and removing the requirement to apply for a TUP.
2. Advocate the provincial government mandate that all platforms advertising short term rentals be required to provide data and to advertise only those businesses that are compliant with existing, local bylaws.
3. As well as providing information about water conservation, STR operators provide guests with information about Indigenous presence and occupation of Hornby Island
4. Prepare a simplified Guide to LUB to educate owners and operators about Hornby Island's OCP and LUB.
5. Advocate that realtors provide information about LUB and STR regulations

Wendy Burton and Joanne Ovitsland, on behalf of Hornby Island Advisory Planning Commission

Recommendations approved by consensus at a formal meeting of the HOAPC on March 29, 2022.

Appendix A: Document List

Documents consulted by APC and Resource People November 2021 to March 2022

1. G Horvath Document 1, email August 30, 2021: Well Water Turning Grey
2. T Law Document 2 Vacation Rentals – Hornby Island 2009
3. T Law Document 3 August 13 2020 Vacation Home Rentals – account
4. T Law Document 4 November 2012 History of STR
5. T Law Document 5 October 22 2021 Email Residential rentals on Hornby
6. T Law Document 6 24 October 2021 Correcting a Problem in the Vacation Home Rental Regulations
7. T Law Document 7 27 October 2021 Addressing Over-occupancy of Vacation Home Rentals
8. T Law Document 8 22 October 2021 Capping the number of vacation home rentals
9. S Chezenko Document 9 10 October 29 STR Policy Options
10. A Lewis Document 10 October 2021 Summary of Advertised Paying Guests
11. Same as #9
12. A. Lewis 28 October 2021 Housing and Short Term Rental Strategies (Facebook compilation)
13. Ferry Ridership.png
14. Land Use Regulation and Housing – T. Law - 2022
15. Regulations STR Toolkit 2021
16. Vacation Rentals 2017 – Staff Report
17. Vacation Rentals HICEEC
18. Hornby VHR FAQ Document
19. Home Rental Policy Review 2017
20. Rainwater Guidelines BC Government
21. Vacation Rental Backstory 2011 onward
22. Enabling additional rental and temporary housing opportunities – T Law
23. Policy Areas Housing Priorities for Short Term Rentals – BC Government
24. Vacation Home Rental Survey Results

25. Email from Ed Hoepfner, January 8, 2022
26. Informal note from Rob McCreary on first brainstorm list (see minutes of January 28, 2022 meeting)
27. Horvath document and ministerial response
28. Minimum Lot Size Rural Residential 2 Tony Law
29. Community Water Supply (HI)
30. Jo Ovitsland summary of STR Management Toolkit
31. Density Benefits for Housing and Hornby Island
32. MRDT Program Requirements September 2021
33. Food Security Report January 18, 2022, Nym Hughes
34. HIHS OCP Bylaw Revisions