



## REPORT TO COUNCIL

Council Meeting: May 31, 2022

500 Matterson Drive, Ucluelet, BC V0R 3A0

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**FROM:** BRUCE GREIG, DIRECTOR OF COMMUNITY PLANNING

**FILE NO:** 6480-20-OCP

**SUBJECT:** UPDATE / REPLACEMENT OF OFFICIAL COMMUNITY PLAN

**REPORT NO:** 22- 64

**ATTACHMENT(S):** APPENDIX A – EXCERPTS HIGHLIGHTING CHANGES TO THE OCP  
APPENDIX B – UCLUELET OCP BYLAW NO. 1306, 2022

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### RECOMMENDATIONS:

**THAT** Council consider the following resolutions:

1. **THAT** Council has considered the consultation requirements under Section 475 of the *Local Government Act* in relation to *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*;
2. **THAT** Council is satisfied that given the extensive consultation with owners of land affected by the *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*, during the 5 years of preparation of the draft Official Community Plan that was adopted by *District of Ucluelet Official Community Plan Bylaw No. 1236, 2020*, earlier this year, is sufficient for the purpose of consultation under Section 475 of the *Local Government Act*;
3. **THAT** Council is satisfied that consultation under Section 475 of the *Local Government Act* in relation to *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*, does not need to be early and ongoing;
4. **THAT** Council is satisfied that, given that the narrow focus of changes incorporated into *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*, are specific to Francis Island and minor clarifications, consultation on *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*, with the persons, organizations, and authorities identified in section 475(2)(b) of the *Local Government Act*, including the Yuuʷuʷiʷaṭṭṭ Government, Alberni-Clayoquot Regional District, District of Tofino, School District 70 Board of Education or provincial agencies, is not required;
5. **THAT** Council has consulted with the boards of education of those school districts whose area includes the area covered by *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*;

6. **THAT** Council give first reading to *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*;
7. **THAT** Council give second reading to *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*;
8. **THAT** Council consider *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*, in conjunction with the District of Ucluelet Financial Plan;
9. **THAT** Council consider *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*, in conjunction with the Waste Management Plan;
10. **THAT** Council refer *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*, to a public hearing; and,
11. **THAT** Council direct staff to refer the staff report and bylaw to the Yuuʷuʷiʷpaḥ Government for their information.

**PURPOSE:**

The purpose of this report is to provide information on steps to adopt a new Official Community Plan (OCP) bylaw - including new notification of a public hearing - for a draft OCP containing the same content as the recently adopted 2020 OCP, but with minor changes to clarify District policy affecting Francis Island.

**BACKGROUND:**

At its January 25, 2022, regular meeting Council adopted *District of Ucluelet Official Community Plan Bylaw No. 1236, 2020* (the “**2020 OCP**”).

In February, the owners of Francis Island applied for judicial review seeking to have the 2020 OCP bylaw declared invalid by the BC Provincial Court. The owners raised concerns with the content of the newly adopted OCP, and identified that the notice of public hearing published for the 2020 OCP did not fully meet the requirements under section 475 of the *Local Government Act*.

To avoid any uncertainty, staff recommend that replacing the 2020 OCP bylaw with the draft 2022 OCP bylaw is the best course of action.

**CHANGES:**

Almost the entire content of the draft *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022* (the “**draft 2022 OCP**”) found in **Appendix ‘B’**, is unchanged from the 2020 OCP. All proposed changes in the draft are highlighted in **Appendix ‘A’**. These proposed changes are specifically aimed at:

1. clarifying the policies regarding offshore rocks and islets with the Marine Conservation land use designation;
2. clarifying the intent of policy 3.175 which is specific to Francis Island; and,
3. fixing a line error on Schedule 'C' (showing a future sidewalk alignment).

The changed text is highlighted in **Appendix 'A'**. Staff recommend drawing the proposed changes to the attention of the owners of Francis Island, who may wish to provide comment as part of the public process should Council move forward with consideration of the 2022 OCP bylaw.

**PROCESS:**

Under Section 475 of the *Local Government Act*, when adopting or amending an Official Community Plan (OCP) bylaw, Council must consider what the appropriate level of consultation is with persons, organizations and authorities it considers will be affected. For a new or significantly updated OCP it is common to include extensive and ongoing public engagement opportunities - as is appropriate for what is ultimately the community's plan.

For a bylaw including only minor changes, Council should consider what impacts those changes might have on the community or external agencies. For a narrow range of changes the degree of consultation and input may be quite focussed on specific property owners or occupants. In such cases a public hearing is still a part of the bylaw adoption process, providing an opportunity for external agencies and all community members to provide input to Council.

**ANALYSIS OF OPTIONS**

Staff recommend that Council consider giving first and second reading to *District of Ucluelet Official Community Plan Bylaw No. 1306, 2022*, found in **Appendix 'B'**, and refer the bylaw to a public hearing to be scheduled in June.

<b>A</b>	Proceed with steps to adopt a new 2022 OCP bylaw including new notification for a public hearing on the bylaw.	<b><u>Pros</u></b>	<ul style="list-style-type: none"> <li>• Removes possibility of the current OCP Bylaw No. 1236 being overturned on basis of incomplete notification.</li> <li>• Clarifies intent of policy on Francis Island.</li> </ul>
		<b><u>Cons</u></b>	<ul style="list-style-type: none"> <li>• Requires additional time for staff, Council and the community.</li> </ul>
		<b><u>Implications</u></b>	<ul style="list-style-type: none"> <li>• Reduces the risk of the OCP bylaw being overturned by a legal challenge.</li> </ul>
<b>B</b>	Provide additional opportunities for early and ongoing	<b><u>Pros</u></b>	<ul style="list-style-type: none"> <li>• Provides further opportunities for comment by the public and external agencies.</li> </ul>
		<b><u>Cons</u></b>	<ul style="list-style-type: none"> <li>• Would add considerable time to the process (typically 60 to 90 days referral period).</li> </ul>

	consultation on the “new” OCP bylaw.		<ul style="list-style-type: none"> <li>Changes to the draft OCP are minimal and extremely focussed – it is unlikely that referral to external agencies would result in new comments.</li> <li>Additional work would divert staff time from other projects.</li> </ul>
		<b>Implications</b>	<ul style="list-style-type: none"> <li>A broader process of consultation would require additional time and resources; in this circumstance the additional process would be repeating consultations previously undertaken on the OCP from 2017 through early 2022.</li> </ul>
		<b>Suggested Motion</b>	<ol style="list-style-type: none"> <li>1. <b>THAT</b> Council has considered the consultation requirements under Section 475 of the <i>Local Government Act</i> in relation to <i>District of Ucluelet Official Community Plan Bylaw No. 1306, 2022</i>;</li> <li>2. <b>THAT</b> Council give first reading to <i>District of Ucluelet Official Community Plan Bylaw No. 1306, 2022</i>;</li> <li>3. <b>THAT</b> Council direct staff to refer <i>District of Ucluelet Official Community Plan Bylaw No. 1306, 2022</i>, to persons, organizations, and authorities identified in section 475(2)(b) of the <i>Local Government Act</i>, including the Yuuʔuʔiʔath Government, Alberni-Clayoquot Regional District, District of Tofino, School District 70 Board of Education and provincial agencies, for a period of 90 days.</li> </ol>
C	No action.	<b>Pros</b>	<ul style="list-style-type: none"> <li>No additional resources required at this stage.</li> </ul>
		<b>Cons</b>	<ul style="list-style-type: none"> <li>OCP bylaw No. 1236 may be vulnerable to challenge on procedural grounds.</li> </ul>
		<b>Implications</b>	<ul style="list-style-type: none"> <li>At some point in the future, another party which disagrees with the policy or regulations in the 2020 OCP bylaw might choose to apply for judicial review to try to overturn the bylaw.</li> </ul>
		<b>Suggested Motion</b>	This option is not recommended.

#### NEXT STEPS

- Staff time will be necessary for coordinating next steps in the bylaw process including a public hearing. Notice will be given for the public hearing, with particular care to satisfy all requirements of the *Local Government Act*.

Respectfully submitted:

Bruce Greig, Director of Community Planning

Duane Lawrence, CAO