



STAFF REPORT

File No.: 6500-20- Land Use
Bylaw Review

To: South Pender Island Local Trust Committee
For the meeting of September 16, 2014

From: Robert Kojima
Regional Planning Manager

Re: Land Use Bylaw Review

Interim Report

The purpose of this report is to provide the Local Trust Committee (LTC) with preliminary staff comments on Focus Group recommendations for amendments to the Land Use Bylaw (LUB).

Project Background

The LTC has been considering amendments to the LUB since 2011. In February 2014, the LTC determined that it wished to undertake comprehensive community consultation on potential amendments to the LUB rather than proceed with the then proposed amendments (Bylaw 111). At the April meeting, the LTC endorsed terms of reference for Focus Groups and requested that the three Focus Groups provide preliminary reports by June 17th. At the June meeting the LTC endorsed a project charter and received reports from two Focus Groups, along with some preliminary comments from a third. At that meeting the LTC requested that (1) staff review and provide comments on the recommendations received from Focus Groups 1 and 2; and (2) that a new Chair reconvene Focus Group 3 and provide recommendations to the LTC in time for the September 18th meeting. Further background on the project is available on the [webpage](#).

Relevant Policy and Land Use Considerations

Islands Trust Policy Statement

Any bylaw adopted by a local trust committee may not be contrary to or at variance with the Islands Trust Policy Statement. At consideration of First Reading the LTC will be requested to review the Islands Trust Policy Statement Directives Checklist prepared by staff and resolve that the draft bylaw is not contrary to or at variance with the Islands Trust Policy Statement.

Official Community Plan

The project charter establishes that any potential LUB amendments that would require amendments to OCP Goals or Objectives, or that would require significant changes to OCP policies are outside the scope of this project. This would not preclude minor changes to OCP provisions for consistency.

Land Use Bylaw

Review of the Land Use Bylaw (LUB) is the focus of this project. Potential amendments may subsequently be considered.

Bylaw Enforcement:

No current enforcement issues or patterns have been identified by bylaw enforcement staff that should be considered during the review.

Climate Change Mitigation and Adaption

The OCP was amended last term to incorporate some goals and policies pertaining to GHG emission mitigation. Impacts of climate change and regulatory changes to support adaption have not been considered to date.

Analysis

The purpose of the project is to undertake a comprehensive review of the LUB and obtain widespread input. The project would not include potential amendments that would require significant OCP policy amendments.

The LTC has tasked three Chairs to convene Focus Groups to review different sections of the LUB, obtaining the widest possible community participation, and provide comments on potential amendments to the LTC and the community. The expectation is that the Focus Groups would provide any and all comments or recommendations that arose during discussions, with the understanding that some recommendations may be out of scope of the project, some may be issues that fall outside the purview of zoning, or are not technically feasible; finally, some recommendations may not ultimately be supported by the LTC. Because the Focus Groups were not expected to limit their recommendations, I am suggesting that the LTC consider the following framework or criteria when considering options:

1. Is the recommendation in scope? In other words, it would result in an LUB amendment consistent with OCP policies.
2. Is it an issue that is best addressed by zoning? There may be issues that arise in the review for which zoning is not the optimal tool, or even feasible, to address the problem.
3. Is there a clear issue or problem with the current regulation(s) that justify an amendment? Amendments should be undertaken to address an identified problem or achieve a defined objective. This could be simple, but the tests should be correcting an error or reducing vagueness or uncertainty. And changes

to regulatory bylaws should be considered carefully as they can result in unintended consequences and, even if bundled with other amendments, involve significant costs in staff, community and trustee time.

The first point (consistency with OCP policy) is identified in the Project Charter, if the LTC supports the other two parameters they could also be incorporated in the scope section of the project charter.

To date two of the three Focus Groups have reported. I have copied the specific recommendations or suggestions (and in a few cases questions) into the attached tables and provided corresponding comments for each. Generally, the staff comments fall into one of several categories:

- An issue for further consideration: these are issues that have emerged to date from the groups and will require additional analysis and deliberation. These are:
 - Permitting non-residential buildings prior to dwellings, which includes a review of accessory buildings generally;
 - Increasing the height of accessory buildings;
 - Removing the provision requiring the operator of a home occupation to be a permanent resident;
 - Consideration of groundwater protection measures.
- A technical amendment that would add clarity, reduce uncertainty or correct errors;
- A recommendation suggesting changing specific wording that would require further technical / legal review of implications
- A recommendation that would require OCP policy amendments, these are currently out of scope but could be noted for LTC future projects
- A recommendation that requires further information defining the specific problem or concern that needs to be addressed.
- A change that is not recommended either because it would have unintended consequences, is not needed, or would not address the problem or issue.
- Answers to questions raised in the notes of the Focus Group discussions.

The recommendations of Focus Group 3 were not received prior to the agenda deadline. A similar review could be conducted on those recommendations for the next meeting.

Project Charter

A copy of the project charter is attached for reference. No changes to the timeline are suggested at this time, but the LTC may wish to request that staff revise the scope section to include the two criteria mentioned above.

Next Steps

Consistent with the project charter, the next steps would be to receive the Focus Group 3 recommendations, along with staff comments at the November meeting.

RECOMMENDATIONS:

THAT the South Pender Island Local Trust Committee request that staff review and provide comments on the Focus Group 3 recommendations for November LTC meeting.

Prepared and Submitted by:



Robert Kojima, RPM

September 5, 2014

Date

Attachments:

Focus Group 1 Recommendation Table

Focus Group 2 Recommendation Table

Proejct Charter

Focus Group Recommendation	Comments
<p>It is suggested that where a “definition” is used in the LUB Document that it be identified in some way, perhaps in italics or an asterisk, so as to identify to the reader that there is a “definition” for this term.</p>	<p>Italics are used in some bylaws to identify defined terms, this would potentially improve interpretation. This would be a technical change and could improve readability.</p>
<p>a complete review of, and likely the redefining of Definitions that are used in conjunction with “<u>accessory</u>”. The general consensus would be to eliminate “accessory” as a definition by reworking the definitions such as “building” and “structure” as these two definitions are used extensively in all Parts and many Sections</p>	<p>Need a better understanding and clarification of what the problem or issue is with the current approach. These terms are widely used in zoning bylaws and exist under common law, there would be issues and unintended consequences with removing accessory uses and structures from the bylaw: uses commonly now falling under the heading of accessory would be rendered non-conforming or no longer permitted. The discussion appeared to focus on accessory <i>buildings</i>, uses and structures are also customarily accessory to principal uses.</p>
<p>“building” means a roofed structure, including a mobile home, used or intended to be used for supporting or sheltering any use or occupancy.</p> <ul style="list-style-type: none"> • If a structure such as a “car port” – having a roof but no traditional walls defined as a building or structure? • Does the “car port” roof count in the square footage for “Lot Coverage”? 	<p>Question: yes, a carport is a building (and is a structure – buildings are a subset of structures). Lot coverage would be engaged, but not floor area if not walled.</p>
<p>Outbuilding v. storage building</p>	<p>This is an issue for further deliberation: specifically as to the range of uses that should be permitted in non-residential buildings in the absence of a residence, and second, the maximum height of non-residential buildings.</p>
<p>A definition for “<u>cottage</u>” is contained in the OCP and the LUB documents – while both definitions are the same, is this necessary?</p>	<p>A definition is not required in the OCP, but having it in the OCP precludes amending cottage provisions in LUB alone, or relaxing max floor area by variance. This may well have been the intention of the drafters of the OCP and thus may be out of scope of this review</p>

<p>"dwelling, single family" means a building used as a residence for a single household and containing sleeping and living areas plus a single set of facilities for food preparation and eating; for this purpose it also includes a mobile home.</p> <ul style="list-style-type: none"> • Do we need "single family" included as part of the definition? • Should we consider "in-law suites" as part of the definition • Should there be some consideration for "assisted living facilities" for care givers, for an aging community? 	<p>Questions:</p> <ul style="list-style-type: none"> • No, could be redrafted, but SFD is the conventional term, there are no legal issues with using it, and it is widely known and used. • Usually are treated as a separate use; would need an OCP amendment, and would be out of scope of this review • Assisted living facilities would be a new use, requiring review of and potentially changes to OCP policies and thus out of scope.
<p>Is a greenhouse included in the "Lot Coverage" calculation?</p>	<p>yes</p>
<p>Is "<u>pump/utility house</u>" included in lot coverage calculation?</p>	<p>yes</p>
<p>"residence" This definition needs to be reworded.</p>	<p>Would need clarification on the problem or issue that has arisen with the current definition. In the LUB 'Residence' is used in the definition of dwelling and short term vacation rental, and a prohibition on residential uses of boats. The current approach in this LUB is appropriate: it defines dwelling in relation to the use (residence), not just as a type of building, which is more consistent with legislative authority best practices stemming from recent case law.</p>
<p>"structure"</p> <ul style="list-style-type: none"> • This definition is used significantly in all Parts, and needs to be reworked for a better definition of the intent of its meaning 	<p>More clarity or better understanding of the problem with the current definition is needed. It is a standard definition used in bylaws. The exclusions could be reviewed for other structures to be excluded. Caution should be exercised about changing fundamental provisions because of unintended consequences</p>
<p>"ecological reserve" means an area of land (or water) established as an ecological reserve under <i>Ecological Reserves Act</i>.</p> <ul style="list-style-type: none"> • add "the" to "<u>under Ecological Reserves Act</u>", also remove "s" from "<u>Reserves</u>" 	<p>Delete this definition, it is out of date. Where the term appears in the general provisions should be replaced with updated terminology or removed (e.g. the land is now part of National Park Reserve)</p>
<p>"farm use"</p> <ul style="list-style-type: none"> • remove "<u>Provincial</u>" from "<u>Provincial Agricultural Land Commission</u>" 	<p>Technical change, consistent with current terminology</p>

<p>“floor area” .</p> <ul style="list-style-type: none"> Do we wish to revisit the change proposed in the defeated Bylaw 111? <u>“means the sum of the horizontal areas of all storeys in a building, measured to “outer surface of the exterior walls”</u> changed to <u>“the interior surface of the exterior walls.”</u> Floor area – as per earlier draft, clarify that cistern does not have to be just <u>for rainwater collection</u>. Reference should be “cistern used for the storage of water” It should be noted that Section 3.5.5 also talks about <u>“cisterns”</u> for <u>“accessory buildings or structures”</u> – we need to make sure that the two sections are consistent in their description. 	<ul style="list-style-type: none"> There is no recommendation, just flagged as an issue. Technical change for increased certainty and clarity of intent Yes, should be reviewed
<p>“highway” includes a street, road, lane, bridge, viaduct and any other way open to the use of the public, but does not include a private right-of-way on private property.</p> <ul style="list-style-type: none"> why do we use the term “highway”? According to Schedule H, there are no highways on South Pender Island. Suggestion – use “road” or “roadway”. This change would have to be in consideration of the terms “roads” used in the OCP 6.1.3. 	<p>Highway stems from definition under the Land Title Act and other provincial legislation, has a more extensive and specific meaning than just a road or roadway. Would not recommend changing this.</p>
<p>“home occupation” means a commercial use that is accessory to a permitted residential use on the same lot.</p> <ul style="list-style-type: none"> this could be changed to “home based business” for clarity Use of the term <u>“accessory”</u>? This definition requires review with respect to the “full time resident” qualification It also needs to accommodate Section 3.6 Please refer to the Cameron Thorn’s letter “13.08.1 – LUB Amendments – Home Occupation” 	<ul style="list-style-type: none"> Not clear why change is suggested: home occupation is the term used in the OCP and is common. “Occupation” was probably considered more extensive and accurate than just “business” Accessory is used in order to define the use as secondary and incidental to the residential use, otherwise it would just be a principal commercial use Definition doesn’t limit the use to full-time residents, but ss 3.6(5) does: permanent residence requirement for home occupation – recommend this reference be removed or changed to include seasonal or part-time residents.
<p>“landscape screen.</p> <ul style="list-style-type: none"> What does this definition define or cover that is not defined in Section 3.9? 	<p>Could be duplication, recommend that it be reviewed</p>

<p>“lot” means any parcel, block or other area in which land is held or into which it is subdivided whether under the <i>Land Title Act</i> or the <i>Condominium Act</i>.</p> <ul style="list-style-type: none"> • Lot – correct name of act. Condominium Act is now the Strata Property Act. • Suggest simpler wording: means a parcel of land registered in the Land Title Office and includes a strata lot • <u>“subdivided whether under”</u> if not rewritten – remove whether 	<ul style="list-style-type: none"> • Update reference to legislation – a technical amendment • This could be reviewed for legal implications, but would seem to change meaning somewhat • Appears ok to remove “whether”, but should be reviewed for technical implications
<p>“lot coverage”</p> <ul style="list-style-type: none"> • Lot coverage – Should coverage be based on enclosed buildings and structures? • Include Carports, covered patios? Exclude steps, eaves, open courtyards, pergolas, patios, driveways, parking, retaining walls, and fences? • Should the measurement be to the drip line? Need to consider this in context of what is included in the definition of “structure” as there are many structures that would not really be pertinent to calculating the lot coverage. 	<ul style="list-style-type: none"> • Floor area regulates the interior space of buildings. Lot coverage has a different intent: to limit the development of parcels in order to retain vegetation, limit run-off from impervious surfaces, and generally protect rural character. The use of drip line is indicative of the intent to limit run-off.
<p>“lot line” means the boundary of a lot as shown on a plan of survey registered with the BC Land Titles Office, and <u>“of survey registered with the BC Land Titles Office”</u> change ...registered with the Land Title Office....</p>	<p>Technical amendment - should be updated to LTSA</p>
<p>“principal” in relation to a use, building or structure means the main or primary use, building or structure, as the case may be, conducted or constructed on a lot.</p> <ul style="list-style-type: none"> • What is the intent? • Do we need this definition? 	<p>This is a standard definition – purpose is to support and define the distinction between principal permitted uses in each zone and accessory uses which are not usually listed or specified. Would not recommend removing this definition.</p>
<p>“utilities”</p> <ul style="list-style-type: none"> • This is referenced in Section 3.1(1). • Needs work. What is broadcast transmission? Perhaps change to “public utilities” <p>With the ever expanding Wireless Universe, should we be concerned with the growing number of cellular transmitters and/or the potential for broadcast towers</p>	<p>Should be reviewed for technical accuracy and currency; could be clearer about those exempt from LG regulation (Hydro, Cellular towers) and those that should be permitted outright and exempt from setbacks (cable, underground) and those that should be regulated.</p>
<p>PART2</p>	
<p>2.2 Conformity (1)</p> <ul style="list-style-type: none"> • “other legislation applicable to <u>their</u> use of land” change to “the” 	<p>Not sure of problem: a change would slightly alter the meaning of the sentence: “their” is linked to “any person”</p>

<p>2.3 Inspection</p> <p>(1)</p> <ul style="list-style-type: none"> • Needs revision. • Should need to notify the “owner” as well as the “<i>occupier</i>” as it is the owner that could face an action or penalty. • “Islands Trust Bylaw <i>Investigation</i> Officer” – s/b “Enforcement” Officer? • Also see <i>Community Charter</i> requirements – see below. Perhaps we need to reference this. 	<p>Refer to Bylaw Enforcement coordinator for review and comment</p>
<p>2.4 Violation</p> <p>(1)</p> <ul style="list-style-type: none"> • Revise wording for clarity • “<u>Any person who does any act or thing or permits any act or thing to be done in contravention of the provisions of this Bylaw</u>” – simplify for clarity • “<u>who neglects to do or refrains from doing any act or thing which is required to be done by any of the provisions of this Bylaw is deemed to have committed an offence under this Bylaw</u>” <p>_ as above simplify - Suggestion.....”by any provisions of this Bylaw commits an offence against this Bylaw.”</p> <p>(2) Suggestion - Add</p> <ul style="list-style-type: none"> • “Each day that a violation is continued shall constitute a separate offence.” <p>(3) Suggestion</p> <ul style="list-style-type: none"> • Relocate information in section 2.5 as it is relevant to this topic. 	<p>Refer to Bylaw Enforcement Coordinator for review and comment</p>

<p>2.5 Penalty (1)</p> <ul style="list-style-type: none"> • pursuant to the "<u>Offences Act</u>", s/b "Offence Act" • not exceeding "<u>\$2,000</u>" - Remove the dollar amount as this number changes over time which would then require amendments • "<u>Each day during which an offence against this Bylaw is continued is deemed to constitute a new and separate offence.</u>" - Suggestion :- Move this to Section 2.4 • Suggestion for 2.5 :- "A person who commits an offence against this bylaw is liable, upon summary conviction, to a fine pursuant to the <i>Offence Act</i>." <p>Note: South Pender does not have a "Ticketing Bylaw". There was a significant discussion on the process, if a Bylaw Officer were to issue a "ticket" for a violation. Clarification is needed on how or can "ticketing" be applied and processed leading to fines. Is the procedure and process defined in the "Community Charters" and if so should this be referenced in our LUB?</p>	<p>Refer to Bylaw Enforcement Coordinator for review and comment. Consideration of a Bylaw Enforcement Notification system of tickets would be separate bylaw, distinct from these sections of the LUB.</p>
<p>2.6 Covenants (1)</p> <ul style="list-style-type: none"> • This subsection appears to be rather "wordy" perhaps it should at least be broken into shorter sentences. 	<p>Technical review</p>
<p>2.8 Enforcement of Siting Regulations (1)</p> <ul style="list-style-type: none"> • Title not relative to subsection does not deal with "<u>Enforcement</u>" • Suggestion for title "Siting Requirements" or "Siting Requirements for Development Permits or Development Variance Permits" 	<p>Technical review</p>

<p>2.9 Bylaw Amendments -Add A member of the public can also propose amendments to the LUB so this provision should be noted. (1) Suggestion: Add “Except for amendments initiated by the South Pender Island Local Trust Committee, any person applying to have any provision of this Bylaw amended shall apply in writing by submitting an application in the form and manner prescribed in the Development Procedures Bylaw No. 60 (as amended).”</p> <p>(2.10) Development Permits and Temporary Commercial and Industrial Use Permits Sited in the Official Community Plan Comment by Jane Perch: I always wonder how one knows that there may be some requirements in the OCP that may pertain to development of a property so I think that there should be some mention of this as the OCP is a visionary document and not one that you would normally look at when researching the regulations regarding development of a property. I also wonder why these provisions are not in the LUB rather than the OCP. (1) Suggestion: Add “The provisions of the development permit system included within the Official Community Plan apply in addition to the regulations in this Bylaw.”</p>	<p>Could be added as information notes, but not as provisions of the bylaw.</p>
<p>Part 8</p>	
<p>8.1 – Lot Area Calculations –</p> <p>Clarity:</p>	
<p>(1) Lot Area Calculations:</p> <ul style="list-style-type: none"> • This subsection refers to Part 5, Paul to make sure Part 5 refers to Part 8 • When determining Lot Area Calculations for a proposed subdivision is the Average Lot Area determined before common areas such as road rights of way, parkland etc. is removed? • In conjunction with the above point, there is no definition for “Average Lot Area” and how it is calculated 	<p>Questions:</p> <ul style="list-style-type: none"> • Different purposes and authroity– Part 5 is zoning, Part 8 are subdivision regulations; • Yes, it’s the sum of the areas of the proposed lots • No definition as it is defined within s. 8.1 within the regulations.

<p>(2)</p> <ul style="list-style-type: none"> • It should be clear that if a greater portion of a proposed subdivision is being dedicated to parkland that the “average lot area of the lots” will be smaller, than those defined in Zone Regulations (Part 5), • Also that the total number of allowable lots will not be reduced because of the greater portion of donated parkland 	<ul style="list-style-type: none"> • It says that, but could be reviewed for certainty. It says that, but could be reviewed for certainty
<p>(3)</p> <ul style="list-style-type: none"> • It was felt that the second part of this subsection “<u>and no lot is to be created in respect of any fractional area resulting from such a calculation</u>” should be reviewed for a clearer meaning. 	<p>Recommend Review, but caution over technical and legal implications</p>
<p>8.3 – Covenants Prohibiting Further Subdivision and Development</p>	
<p>(1)</p> <ul style="list-style-type: none"> • Remove “accessory” from the term “<u>accessory cottages</u>” 	<p>Yes</p>
<p>(3)</p> <ul style="list-style-type: none"> • Terms appearing in this subsection that are variations which do not have definitions and should be removed or redefined. “<u>Sleeping Cabin</u>” – how is it defined, does it have bathroom or kitchen facilities and should it be removed? “<u>Accessory Guest Cottage</u>” – simplified to “Cottage”? 	<p>Yes, sleeping cabin should be removed. Yes, should just be cottage</p>
<p>8.4 - Boundary Adjustment Subdivisions</p>	
<p>(2)</p> <ul style="list-style-type: none"> • the second part of this subsection “<u>except where the lots being subdivided are located in two or more zones</u>” created confusion with no clear resolution, clarification is needed, especially when related to 8.7.1 and 8.3.2. 	<p>Intent is not to preclude boundary adjustments where the parent lot(s) is split-zoned. Review wording for consistency with similar provisions in other bylaws.</p>
<p>8.5 – Section 946 Subdivisions (Residence for a Relative)</p>	
<p>(1)</p> <ul style="list-style-type: none"> • During our meeting it was of a general consensus that this section referred to ALR land only and there was discussion on how or whether this statement complies or contradicts permissible subdivisions covered under Part 5 Zone Regulations i.e. 10 acres versus 20 acres?. Paul is to review. • Subsequent to the meeting a review of Section 946 (a copy of which is enclosed), suggests that further review and clarification of this subsection is required in relation to Section 946, especially for non ALR zones. • Is the Section required? 	<ul style="list-style-type: none"> • No, the opposite, ALR land is exempt from this provision; without this provision s. 946 provides a means of avoiding adherence to the minimum lot area provisions in the bylaw

8.11 – Highway Standards

This section refers to "Ministry of Transportation and Highways, dated October 20, 1992 and amended July 18, 1996". Is this indeed the latest version of "Ministry of Transportation and Highways" document

yes

FOCUS Group 2 recommendations

	Focus Group Recommendation	Comments
1.	<p>The possibility of incorporating the permitted uses from Part 3 within Part 5 for each zone and eliminating 3.1 and 3.2 in Part 3 was explored. The objective would be to consolidate the permitted uses in one place where it was most likely to be referenced by residents. The participants reviewed the Denman Island LUB that provides the permitted uses for each zone in a checklist /table for categories of zones (e.g. the permitted uses for the 3 rural residential zones, the permitted uses for the three resource zones, etc). There was general agreement that the approach in the Denman Island LUB had considerable merit and should be considered as an alternate approach in Part 5 of our current LUB.</p>	<p>No clear problem or issue has been noted with the current format, it is legal, consistent with model LUB, and provides certainty. Revising and amendment would entail a significant re-working of the bylaw. Should consider whether or not this is a serious enough concern to warrant work. Reviewing 3.1 is supported, eliminating it is not recommended as it succinctly establishes uses permitted outright. Reviewing 3.2 is supported, in practice it is useful as providing certainty and for bylaw enforcement specifies certain uses as prohibited and does not require the exercise of determining if an activity is part and parcel of a permitted use, or is an accessory use, or is immune from zoning.</p>
2.	<p>Suggestion is to add an introduction to the RR zones: Section 3.1 of the South Pender Official Community Plan (OCP) states the objectives and policies for residential land use and development. Sections 5.1, 5.2 and 5.3 of the LUB detail the regulations that implement the OCP requirements for the three rural residential zones. Schedule B of the LUB designates which residential zone applies to South Pender properties. The primary distinction between the three residential zones is the minimum and average lot area requirements for any lot created by subdivision as specified in Section 3.1.2(c) of the OCP as follows:</p> <ul style="list-style-type: none"> • 0.4 hectares (1.0 acre) for lots in the RR1 zone • 0.8 hectare (2.0 acres) for lots in the RR2 zone • 4.0 hectare (9.9 acres) for lots in the RR3 zone” 	<p>Not clear what the problem is that this would address. Caution is that every part of the bylaw has meaning in a legal sense and that it would have to be clear that it is not somehow changing the intent. Information notes could be added that are not considered part of the bylaw.</p>
3.	<p><u>Flexibility in regulations:</u> Some of the discussion related to making the zoning regulations in Part 5 of the LUB more flexible to better reflect the rural character of the Island as expressed in OCP Goal 2.2.1:</p>	
4.	<ul style="list-style-type: none"> • How can we be more flexible with regulations while maintaining the standard of protection? e.g can we have a bathroom in a workshop. 	<p>Yes, bathrooms are permitted currently</p>
5.	<ul style="list-style-type: none"> • How can we build flexibility to promote food security and respond to climate change? What provision should be made for housing for agriculture workers? 	<p>Agriculture is permitted as a principal use in the RR zones currently. Best mechanism for bone fide farmworkers is TUP.</p>
6.	<ul style="list-style-type: none"> • Should we have smaller setbacks for roadside stands? 	<p>This is recommended as a technical amendment: exempt roadside stands from setbacks</p>

	Focus Group Recommendation	Comments
7.	<ul style="list-style-type: none"> The current building height for outbuildings was considered too restrictive for our Island and does not allow flexibility for multiple use buildings with a smaller footprint 	Should be further reviewed as a potential regulatory change. Caution is that two storey accessory buildings often evolve into a residence on the second storey and review should consider explicitly permitting this.
8.	<ul style="list-style-type: none"> What is the process for gaining greater flexibility for subdivision of forestry land? LUB 5.8(9). It was agreed that this would likely require an OCP amendment if there was community support for such a change. (an informal working group has been established to explore this issue) 	Would need more review of what “flexibility” could entail: smaller lot sizes? Lot averaging? Amenity bonus? – All would require amendment to OCP policies and thus out of scope. “Forest Lands” has been identified as a future LTC project on the projects list.
9.	<ul style="list-style-type: none"> The issue of flexibility in the maximum cottage floor area established in the OCP was discussed. A proposal to increase the maximum floor area of a cottage up to 750 sq. feet with a corresponding reduction (150 sq. feet) in the total floor area of all accessory buildings so the overall maximum floor area would not change was reviewed. This idea would require an OCP change if there was community support for such a change 	As noted, this would require an OCP amendment so would be out of scope of this project. Could be added to projects list as a future review.
10.	<ul style="list-style-type: none"> A similar proposal to have a cottage located over a garage was also discussed. This would require a change in the OCP if there was community support for such a change. These OCP issues are flagged for the trustees if they wish to further investigate these issues 	As noted, this would require an OCP amendment so would be out of scope of this project. Linked to suggestion for permitting higher accessory buildings. Could be added to projects list as a future review
	<u>Protecting the environment.</u> Another line of discussion related protecting the natural environment for future generations as expressed in OCP Goal 2.2.2:	
11.	<ul style="list-style-type: none"> How do we protect the limited water supply on South Pender and give effect to the OCP policy 2.4.1 regarding “inordinate consumption of freshwater”. 	<ul style="list-style-type: none"> - Consider re-establishing proof of potable water provisions in sub regulations - Require cisterns in new dwellings - Groundwater protection DPA (OCP issue) – out of scope
12.	<ul style="list-style-type: none"> How do we manage unnecessary tree cutting with respect to OCP section 2.4.4 regarding green house gas reduction? 	DPAs: this would require an OCP amendment so would be out of scope of this project, but is on projects list as implementation of ecosystem mapping
13.	<ul style="list-style-type: none"> How do we maintain the balance between protecting the environment and enjoying the rural lifestyle? 	DPAs are the land use tool for environmental protection; this would require an OCP amendment so would be out of scope of this project. On projects list as a implementation of ecosystem mapping
14.	<ul style="list-style-type: none"> How do we protect natural areas while still providing access to residents and visitors? (trails, parks, etc) - LUB sections 5.9, 5.10, 5.11 &5.12 	Not a zoning issue: NR zone (5.9) is a large lot residential zone. P1, P2 and P3 zones are for community parks, which are owned by CRD and managed by parks commission.
15.	<ul style="list-style-type: none"> How do we document where the Island is at now so we can ensure that the pace of development is sustainable 	Build out analyses, ecosystem mapping. Separate potential projects.
	House keeping	

	Focus Group Recommendation	Comments
16.	There was general agreement that the establishment of zones (part 4) should precede Part 3, since specific zones are discussed in Part 3.	Part 4 precedes part 5 because the zones to which these provisions apply are listed in part 5 immediately following. Part 3 are General Regulations which can apply in any zone. This format is consistent with other bylaws and the model LUB.
17.	A number of participants indicated the use of the term “accessory” in the LUB is confusing which makes it difficult to understand and/or rationalize some provisions. - why do we need to specify which is principal and which is accessory use and the order in which the various permitted uses occur? There was general agreement that there is no need to distinguish a storage building as a separate building category	Accessory uses and structures, not just buildings are regulated and permitted: this allows for all the common and minor structures and activities on properties. Caution: changing accessory provisions would lead to unintended consequences. Better to focus on deliberation around the distinct issue of outbuildings without affecting other provisions that are standard, necessary and that have caused no issues.
18.	There was some discussion regarding the interpretation on whether the ‘accessory uses’ in section 5.7(1)(e) were applicable to farm use only or other uses in 5.7(1)(b)(c) & (d)	Yes, accessory uses could be accessory to any of the listed the principal uses.
19.	There was a brief discussion regarding the new section 3.14 proposed under the previously recinded bylaw 111. It was unclear what advantage would be accomplished by that provision. There was no apparent interest in further pursuing that option	3.14 would allow attached dwellings where more than one dwelling is permitted. Advantage would be to reduce building costs, impacts on the site, and lower emissions.
20.	It was suggested that we need better definitions for “Interior” and “exterior” lot lines	Need more information on what the issue or problem is with the current definitions? These are standard wording and caution should be exercised as any change could create non-conformity or alter development potential as unintended consequences
21.	Some provisions (e.g height restrictions on farm outbuildings without “Farm Status”?) are restrictive and may not be necessary	Accessory building heights should be considered for amendment.
22.	What is the status of employee accommodation at the resort in LUB 5.4(1)(c and in the development permit? (It was proposed that the provisions of the commercial resort zone (5.4) are complex and carefully drafted and should be left intact.)	Question: employee housing is permitted, but would require a new DP or amendment to existing permit to construct. No change seems to be recommended.
23.	There was a general discussion regarding the boundaries of the Schedule B map and what process is available for addressing significant boundary issues (e.g agriculture - ALR designated land). There is a typo in Natural Resource – NP (should be NR) in Section 4	<ul style="list-style-type: none"> - Typo should be corrected. - Not sure what boundary issue refers to, would need more information.
24.	Why are different identifiers used on the Zoning map than are used on the Map following the OCP – that is, W1 – 5 , not MC, MG, MP etc – can’t the identifiers be the same on all maps? Is there a reason for the differences	OCP map identifies land use designations pertaining to respective land use policies in the OCP. Land Use policies are broader, zoning is more specific and implements the policies. There is no need to be same. If zoning is amended would require extensive changes to the bylaw.

	Focus Group Recommendation	Comments
25.	We need to review the whole LUB to use plain language wherever possible and provide a clear explanation (definition) for technical terms	Caution – the Land Use Bylaw is a legal enactment not a policy document, caution should be exercised in changing terms in the LUB leading to unintended consequences, loss of legal certainty and precision, and introduction of unclear meanings or vagueness. Specific instances of language that is vague or uncertain should be addressed where they are identified.
26.	There was agreement that terms in the LUB that are defined should be footnoted to indicate that there is an applicable definition	Italics are used in some bylaws, this could considered be technical amendment.



Project Charter

Project Name: South Pender Island Land Use Bylaw Review

Creation Date: June 3, 2014

Last Updated: June 24, 2014

Version: 2

Purpose

This project is intended to provide an opportunity for comprehensive community consultation on potential amendments to the Land Use Bylaw

Background

This project has been initiated by the South Pender Island Local Trust Committee in order to provide for comprehensive community consultation on which elements of the Land Use Bylaw should be considered for amendment. The LTC considered a number of amendments (Bylaw 111) in 2013, leading up to and including a public hearing, before deciding in January 2014 to proceed no further in the formal bylaw process and to provide further opportunity for community consultation. In April 2014 the LTC appointed three persons to Chair focus groups, each tasked with reviewing different sections of the LUB and reporting back to the LTC and the community. Following the chairs' reports, the LTC will make further decisions on how to proceed which may result in revisions to the project timeline.

Project Objectives

- To provide an opportunity for comprehensive and holistic community input on the Land Use Bylaw
- To consider amendments to the LUB based on the widest possible community consultation

Project Scope

In Scope	Out of Scope
<ul style="list-style-type: none"> ▪ Community consultation in the form of focus group meetings, community information meetings, APC comments, written submissions and informal comment ▪ Consideration of amendments to regulations in the Land Use Bylaw ▪ Legislative process to amend the LUB 	<ul style="list-style-type: none"> ▪ LUB Amendments that would require amendments to OCP Goals or Objectives, or significant changes to OCP policies

Project Deliverables

- Community consultation in the form of reports from the three focus group chairs
- APC comment on focus group recommendations
- One or more community information meetings for community comment on focus group input
- Staff report(s) on feasibility of implementing focus group recommendations
- Draft amending bylaw(s)
- One or more community information meetings to consult on potential amendments
- Legislative process to amend LUB

Stakeholders

Stakeholder	Represented by	Interests, expectations, concerns
<i>Owners and residents generally</i>	<i>Individually and /or through Focus Groups</i>	<ul style="list-style-type: none"> • Potential impact of regulatory changes on property, development, environment, quality of life, neighbourhood character and amenities
<i>Development community</i>	<i>Contractors, designers, surveyors, architects, etc</i>	<ul style="list-style-type: none"> • Potential impact of regulatory changes on practices
<i>Agencies and NGOs</i>	<i>Building Inspection, Parks and Recreation Commission, Conservancy, etc.</i>	<ul style="list-style-type: none"> • Various – potential impacts of changes on areas of interest or jurisdiction
<i>Businesses</i>	<i>Poet's Cove, home-based businesses</i>	<ul style="list-style-type: none"> • Potential impact of regulatory changes on business
<i>Advisory Planning Commission</i>	<i>APC</i>	<ul style="list-style-type: none"> • To provide advice to the LTC on potential amendments to the Land Use Bylaw

First Nations: As with all LTC projects, First Nations with asserted aboriginal rights in the subject area will be contacted early to inform them of the project and ask them to identify any aboriginal rights that may be impacted by the proposed change.

Project Team Resources

Name	Role	Responsibility
<i>SPILTC</i>	<i>Project Sponsor</i>	Provides direction through maintaining the project as a work program priority, giving direction and approvals as required
<i>Robert Kojima, Regional Planning Manager</i>	<i>Project Champion</i>	Provides adequate project resources, strategic direction and oversight, and ensures project remains aligned with overall goals and objectives
<i>Robert Kojima, Regional Planning Manager</i>	<i>Project Manager</i>	Day-to-day management of the project, and undertakes or directs all project work
<i>TBD</i>	<i>Planner</i>	Planning support in the form of research, bylaw drafting, meeting attendance and support for legislative processes as required
<i>Barb Dashwood</i>	<i>GIS/Mapping Support</i>	Mapping as required
<i>Sharon Lloyd-deRosario and Lori Foster</i>	<i>Administrative support</i>	General administrative support, including advertising, booking meetings, preparing notices, updating website, etc

Project Budget

Item	Details	Fiscal Yr 2014-15	Fiscal Yr 2015-16
Communications	Mail out	\$500	
Meetings and Workshops	Focus Groups - \$500 APC - \$500 CIM - \$500	\$1500	
Public Hearing	Notice, Hall, Minute-taker, mail-out		\$2000
Contingency		\$1000	\$1000
Totals		\$3000	\$3000

Project Timeline

Deliverable / Milestone	Target Completion Date
Focus Group Preliminary Reports delivered	June 16, 2014
LTC receipt of Preliminary Reports, Consideration of Project Charter, preliminary feedback to Focus Group Chairs	June 24, 2014
Preliminary Review of Focus Group Reports	September 16, 2014
Review of Final Focus Group Reports	November 2, 2015
Focus Group Reports Referred to APC for comment	November 2, 2014
Local Government Elections	November 15, 2014
Review of Focus Group reports, APC recommendations and staff comments by new LTC.	February 2015
Community Information Meeting to present Focus Group Reports	March 2015
LTC direction to prepare draft bylaw(s)	April 2015
Review of draft bylaw(s) by LTC	June 2015
Draft bylaw(s) referred to agencies for comment	July 2015
Community Information meeting, on-line comments, mail-out	July - August 2015
First Reading	September 2015
Public Hearing	October 2015
Second, Third Readings, EC Approval	November 2015
Adoption	December 2015

Endorsements

	Name	Endorsement Date
Project Sponsor	Local Trust Committee	
Project Champion/Manager	Robert Kojima	