



North Pender Island Local Trust Committee

Special Meeting Agenda

Date: October 22, 2021
Time: 1:30 pm
Location: Electronic Meeting

Pages

1. CALL TO ORDER
2. APPROVAL OF AGENDA
3. BUSINESS ITEMS
 - 3.1. Land Use Bylaw Review Project - Staff Report (attached) 2 - 18
 - 3.2. Soil Bylaw Project – Staff Report (attached) 19 - 25
4. ADJOURNMENT



DATE OF MEETING: October 22, 2021
TO: North Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: LUB Review Project

RECOMMENDATION

1. That the North Pender Island Local Trust Committee request staff to schedule a Special Meeting in December 2021 to present the draft bylaws for the Land Use Bylaw Review Project to the Local Trust Committee for review and comment.

REPORT SUMMARY

The purpose of this report is to introduce further amendments to the draft bylaw document, seek further direction on outstanding topics and to outline next steps for the project.

BACKGROUND

The project was identified by the LTC in late 2019 and the project charter was endorsed in January 2020 (attached). The objective of the project is to implement Official Community Plan (OCP) policies through amendments to the North Pender LUB. The project encompasses the following topic areas:

1. Residential floor area review.
2. Tourist Commercial regulation review.
3. Marine shoreline regulations review.
4. Agricultural regulations amendments.
5. Industrial regulation review.
6. Minor and technical amendments

Background information regarding the project, staff reports, Discussion Papers, PowerPoint presentations, correspondence, and the Project Charter can be found on the North Pender Project webpage:

<https://islandstrust.bc.ca/island-planning/north-pender/projects/>.

At the July 29, 2021 LTC Special Meeting, the LTC passed the following resolutions:

NP-2021-081

It was Moved and Seconded

that the North Pender Island Local Trust Committee request that staff refer farm worker accommodation and the new Agricultural Land Commission residential rules to the North Pender Island Agricultural Advisory Planning Commission.

NP-2021-081**It was Moved and Seconded**

that the North Pender Island Local Trust Committee request staff to schedule two Special Meetings in the Fall 2021 to present the draft bylaws for the Land Use Bylaw Review Project.

Staff have incorporated the items outlined in the NP LTC resolution chart (attachment no. 1) in a blacklined version of the draft bylaw. Due to the size of the draft bylaw, it will not be attached to the staff report but can be found on the [Project's webpage](#) under "LUB Review Project – 8. Draft Bylaws": Blackline Draft Bylaw. The blackline version of the draft bylaw will be updated on the website prior to each subsequent LTC meeting (if changes have been made).

ANLYSIS**Maximum Floor Area**

At the June 24, 2021 the LTC requested staff to amend the definitions of lot coverage (to include impervious materials) and to floor area (to measure to the inner side of the exterior walls). These amendments are included in the draft bylaw. In addition, the LTC requested staff to reduce the maximum floor area regulations as shown in the June 24, 2021 staff report by 500 m² each. The following chart is now included in the draft bylaw for the Rural Residential 1 (RR1), Rural Residential 2 (RR2), Rural (R), Rural Comprehensive 1 (RC1), Rural Comprehensive 2 (RC2) and the Agriculture (AG) zone.

Table 1 – Maximum Floor Areas for Draft Bylaw

Lot Area	The floor area of a dwelling must not exceed:
Less than 0.4 ha (<i>Less than 1 acre</i>)	232 m ² (2500 ft ²)
0.4 ha to < 1.2 ha (<i>1 to 2 acres</i>)	279 m ² (3000 ft ²)
1.2 ha to < 4 ha (<i>2 to 4 acres</i>)	325 m ² (3500 ft ²)
4.0 ha or greater (<i>10 acres</i>) or greater	372 m ² (4000 ft ²)
For dwelling located within the <i>Agricultural Land Reserve</i>	500 m ² (5382 ft ²)

In addition, staff have included a provision in the draft bylaw that permits existing legal dwelling units that would become non-conforming to retain their floor areas at the time of bylaw adoption if they exceed the newly established maximums. Staff will request legal counsel to review the provision therefore minor amendments to the provision may be required. The provision is located in under the 'Maximum Floor Area' section in the RR1, RR2, R, RC1, RC2, and AG zones.

The provision currently reads: *"Despite Article XXX, all legal conforming dwelling units built prior to the adoption of this bylaw may retain the floor area of the said dwelling at the time of adoption of this bylaw."*

At the June 24th LTC meeting, the LTC also gave direction to staff to provide an option to regulate total floor area for all buildings and structures located on a residential lot. The LTC could consider establishing a total maximum floor area for all buildings and structures similar to the approach found in the South Pender Land Use Bylaw (LUB). The South Pender LUB regulates floor area in two ways: by establishing a maximum floor area for all buildings and structures, and by establishing a maximum floor area specific to dwelling units. Staff have included figures below for the LTC to consider. The total floor area numbers were derived by reducing the South Pender's regulation by 33 percent (which is the percentage that the floor area for dwelling units was reduced by).

Table 2 – Maximum Floor Areas (FA) including total FA for all buildings and structures

Lot Area	The total floor area of all buildings and structures may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (<i>Less than 1 acre</i>)	307 m ² (3300ft ²)	232 m ² (2500 ft ²)
0.4 ha to < 1.2 ha (<i>1 to 2 acres</i>)	429 m ² (4620ft ²)	279 m ² (3000 ft ²)
1.2 ha to <4 ha (<i>2 to 4 acres</i>)	521 m ² (5610ft ²)	325 m ² (3500 ft ²)
4.0 ha or greater (<i>10 acres</i>) or greater	1226 m ² (13200ft ²)	372 m ² (4000 ft ²)

LTC considerations:

- Generally the purpose of establishing a total floor area of all buildings and structures on a lot is to regulate/limit the built form. The LUB already includes a lot coverage regulation which theoretically achieves this objective.
- It should be made clear that the calculation includes the total floor area of all buildings and structures. This calculation not only includes the floor area of accessory buildings but the calculation also includes the floor areas of dwelling units, cottages, and secondary suites.
- Establishing a total maximum floor area of all buildings and structures on a lot could create additional obstacles for a property owner or applicant. For example, if a property owner wishes to build a shed on the property, as part of this Building Permit process staff may require site surveys, and buildings plans for all existing buildings and structures to ensure the proposal would not exceed the total maximum floor area.
- If the LTC established a total floor area, the provision above for legal non-conforming will be amended.
- The RR1, RR2, R, RC1, RC2, zones currently regulate lot coverage to not exceed 25 percent; and the AG zone lot coverage is 35 percent.

If the LTC would like staff to include the above total floor area figures for buildings and structures, the following motion may be used:

- That the North Pender Island Local Trust Committee direct staff to include total floor area figures as shown in staff report dated October 22, 2021 for the Land Use Bylaw Review Project draft bylaw.

If the LTC would like to retain the current lot coverage regulations in the LUB then no action is required.

Agriculture LUB Amendments

At the July 29, 2021 meeting, the LTC gave direction to forward staff comments related to farm worker accommodation and the new Agricultural Land Commission regulations to the Special Agricultural Advisory Planning Commission (AAPC). With the new ALC regulations coming into effect at the end of 2021, a second detached dwelling (a cottage) with a maximum floor area of 90 m² may be used as an additional residence for housing extended family, agritourism accommodation, housing for farm labour or a rental property for supplemental income. In other words, cottages of up to 90 m² (970 ft²) could be used for farm worker accommodation without Agricultural Land Commission approval. In addition, there would be no limit on the number of farm workers residing in a cottage; a cottage could accommodate 2-8 workers comfortably.

Information regarding the new Agricultural Land Commission allowing additional residences effective December 31, 2021 can be found here:

- https://www.alc.gov.bc.ca/assets/alc/assets/legislation-and-regulation/the-act-and-regulation/oic_438_2021_additional_residences.pdf
- <https://news.gov.bc.ca/releases/2021AFF0043-001352>

The AAPC provided comments to the LTC – see attached. To summarize, the AAPC expressed concern that allowing the use of cottages for farm worker accommodation is not a sufficient solution to provide adequate farm worker accommodation on North Pender. In addition, the AAPC states that it is willing and interested to discuss this topic in more detail with the LTC. Staff agree that addressing farm work accommodation requires further time and research in order to provide in-depth solutions for the agriculture community on North Pender although. For example, identifying larger agricultural properties on North Pender that would be appropriate for larger scale farm worker accommodation (Clam Bay Farm as an example). It is apparent that there is a need for a project dedicated solely to enhancing and supporting agriculture on North Pender to dive deeper into matters that go beyond the scope of this project, therefore the LTC should consider adding a project to the Project List that would involve an in depth review of all agriculture regulations and OCP policies.

The LTC has the following options for consideration:

1. Adding a review of Agricultural regulations and policies to the Project List
2. Request the AAPC to add additional research and comments for farm worker accommodation. This option could delay the timeline by 2-4 months.

To highlight new amendments to the LUB and OCP draft bylaws, staff have included the following:

- Regulation that increases the maximum floor area of cottages located within the Agricultural Land Reserve to 90 m²; and
- An OCP policy that states agriculture is a principal use on Rural Residential lands that are not connected to a water system, with the exception to those lots connected to the Razor Point Water System (see attached draft OCP bylaw).

Commercial Tourist Accommodation

Staff have provided amendments to the Commercial 2 (C2) zone based on direction given at the May 12, 2021 LTC meeting and as outlined in Attachment 1 of the [staff report](#) (dated May 12, 2021). The following points were also discussed at the July 29, 2021 LTC meeting although the LTC decided to defer any decisions related to the C2 zones until after the Groundwater Project presentation in September 2021. Staff have requested updated maps from the Senior Freshwater Specialist in order to assist with the LTC's decision making. At the time of writing this report, the groundwater vulnerability maps were not available. Although as indicated during the groundwater presentation in September, concerns for groundwater availability, and more specifically in areas where usage

exceeds available groundwater should be in the forefront of land use planning decisions. The LTC has the option to defer further decisions on the C2 zone until mapping becomes available later this month. Staff can report back at the November 25, 2021 LTC meeting.

As discussed at the last LTC meeting, there are limited opportunities for the LTC to request groundwater data to confirm quality and quantity for the proposed use (or existing uses) from property owners or applicants. Generally this information is provided at the time of subdivision, or through a rezoning or Temporary Use Permit process. In addition, adding a provision to the LUB for rainwater catchment cisterns would only apply to new development. These regulations may be best addressed through the Groundwater Sustainability Project.

If the LTC wishes to move forward with reducing density limits on C2 zoned properties, but retain an option for owners to subsequently apply to increase the number of units, staff recommend adding a policy to the Official Community Plan (OCP). Such a policy would be specific to these properties, outline the maximum additional density, and establish requirements or information to support the request for an increase to tourist accommodation density. The rezoning process could provide the LTC with an opportunity to place additional conditions on the requested use. For example, the LTC could request the applicant register a Section 219 covenant that requires rainwater catchment systems and water storage for fire emergencies.

The following comments are from the July 29, 2021 staff report:

The following points require further direction from the LTC:

1. MacKinnon Road Properties (1325, 1329, 1333, & 1349)

At the May 12, 2021 LTC meeting, the LTC requested staff to contact C2 zoned property owners on MacKinnon Road to notify them of the potential zoning changes to their properties. The LTC has received written comments from three of the MacKinnon property owners, while the fourth property (1333 MacKinnon Road) is currently for sale.

The draft amendments include density changes to 1325 MacKinnon Road (reduction of 9 Commercial Accommodation Units to 3) as they were the only property owners expressing support to reduce the density. As outlined in Table 1, property owners for 1329 and 1349 MacKinnon Road have requested to retain the CGAU density.

The LTC has the following options for consideration:

- a) Make no changes to the density for the four MacKinnon Road properties;
- b) Only reduce the CGAU density for 1325 MacKinnon Rd and retain the density for the three other MacKinnon Road lots (as shown the draft bylaw); or
- c) Reduce the density for all four properties.

Table 1 – MacKinnon Rd C2 zoned properties

Property	Zoning	Property Information	Comments
1325 MacKinnon Rd	C2(e) – permits 9 CGAUs.	-1 dwelling unit and 1 trailer 0.56 ha (1.4 acres) with the intent to eventually have one dwelling unit and 3 CGAUs on the property.	Property owners have stated that they have no object with reducing the permitted CGAUs from 9 to 3.
1329 MacKinnon Rd – The Tides	C2(d) – permits 26 CGAUs.	-Currently 6 CGAUs on the property with the intent to expand the commercial accommodation business. -Property was recently purchased in Fall 2020. -Property owners stated they will write a letter to the LTC expressing their opinion regarding the permitted density. -1.2 ha	The property owner has indicated a desire to retain the current density as permitted in the zone (26 CGAUs).
1333 MacKinnon Rd	C2(b) – permits 10 CGAUs.	-1 Dwelling Unit -0.57 ha (1.4 acres) -Property for sale	Property is currently for sale.
1349 MacKinnon Rd – Otter Shores	C2(c) – permits 10 CGAUs	-5 CGAUs currently on property. -Property owner plans to construct 4 more CGAUs (fourplex building) -Property owners recently purchased property -Property owners stated they will write a letter to the LTC expressing their opinion regarding the permitted density. -0.75 ha	Property owner has indicated a desire to retain the current density as permitted in the zone (10 CGAUs).

2. Driftwood Centre

At the May 12, 2021 LTC meeting, the LTC gave direction to staff to reduce the CGAUs to the number currently established on the property. The Driftwood Centre property is permitted to operate 27 CGAUs and two accessory dwelling units and to date there are no CGAUs or dwelling units constructed on the portion of the property zoned Commercial 2. The LTC has the following options:

- Reduce the number of permitted CGAUs. This would require the applicant to go through the rezoning process and provide a report stating there is sufficient groundwater for the proposed density;
- Retain the current permitted 27 CGAUs; or
- Rezone the property to a Commercial 1 (C1) use (or another zone).

The property manager drafted a letter to the LTC (attached) requesting the LTC at the minimum retain the existing density.

Marine & Shoreline Amendments

At the July 29, 2021 LTC regular meeting, the LTC discussed options for in-stream dock applications with the Province. To date, the province has 11 applications for private moorage. Although there is currently a two year moratorium for new private moorage applications, the province has indicated that the in-stream applications will continue to be processed.

A suggestion was made for the in-stream applications to be granted conditional zoning to permit a private dock only if the application with the province is approved. Conditional zoning like this is not possible, however the in-stream docks could not be constructed if the province does not grant tenure. The LTC has two options for the 11 in-stream provincial applications in regards to this project:

1. Zone to permit (foreshore would retain Water 1 zoning that permits private docks) the in-stream applications to allow a private dock; or
2. Amend zoning of the foreshore to Water 3 (which does not permit private docks) for these 11 applications. Applicants would then be required to apply for a rezoning application to allow the use.

Final Bylaw Draft

The Community Information Meetings (CIMs) will be scheduled for early December and early 2022. Staff is proposing to present the final draft bylaw to the LTC at a Special Meeting in early December to the LTC to review the following:

- Final bylaw for the LUB that includes map amendments; and
- Supporting OCP amendment bylaw (to include policy amendments for dock rezonings, house size variance incentives, and C2 rezoning requirements).

This special meeting is recommended to be held in-person; a resolution to schedule is required by the LTC.

After this Special Meeting, staff will schedule the two additional CIMs for community members to ask questions and make comments on the draft bylaw in February 2022. The LTC would then give First Reading to the bylaws in March or April 2022.

This timeline would give the Islands Trust GIS technician sufficient time to draft the map amendments associated with this bylaw. A draft resolution is outlined on Page 1 of the staff report for the LTC's consideration.

Rationale for Recommendation

If the LTC provides staff with clear direction with how to proceed with the above mentioned topics, staff will continue with drafting the bylaws and schedule the Special Meeting in December.

ALTERNATIVES

1. Request further information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request staff to provide further information on...

2. Schedule additional Special Meetings

The LTC may wish to hold additional Special Meetings in order to gather further information on one or more of the topic areas. Recommended working for the resolution is as follows:

That the North Pender Island Local Trust Committee request staff to schedule a Special Meeting to discuss [insert topic area].

3. Referral to the Advisory Planning Commission

The LTC may opt to refer an item or topic to the Advisory Planning Commission for comment. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request staff to refer XXX to the North Pender Island Advisory Planning Commission for comment.

4. Proceed no further

The LTC may choose to proceed no further with the project.

NEXT STEPS

Staff to continue with bylaw drafting and present the final draft bylaw at an upcoming Special Meeting.

Submitted By:	Kim Stockdill, Island Planner	October 15, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	October 15, 2021

ATTACHMENTS

1. NP LTC Resolutions Chart
2. B. Johnstone/AAPC letter dated October 4, 2021
3. D. Murdoch letter dated July 26, 2021

LTC Resolutions/Direction to Staff

NP LUB Amendment Project

Date	Topic	Resolution or Informal Direction	Motion/Direction	Staff Comments
January 28, 2021	Marine & Shoreline	Direction	LTC supports removing docks as a permitted use and to grandfather existing docks by zoning tenures.	-Staff will recommend LTC makes this a resolution at the next LTC meeting.
March 18/21	Max Floor Area	Resolution	NP-2021-030 It was Moved and Seconded, that the North Pender Islands Local Trust Committee direct staff to create a report reflecting the discussion on floor area review on March 18, 2021.	-comments regarding floor area definition (to internal side of external walls), lot coverage and impermeable surfaces, and South Pender maximum floor area.
March 18/21	Agriculture Regulations	Resolution	-Invite SAAPC to April 29 th NP LTC meeting to discussion the SAAPC recommendations.	-Give SAAPC a specific time of discussion (10am?) -Highlight question regarding RR zoning and potential Ag regs.
March 18/21	Industrial Regulations	Direction	LTC supports the removal of Industrial designations and and industrial zoning from steep slope areas, specifically Port Washington area and steep slope adjacent to recycling centre.	Chart 7 -Organize with mapping
		Direction	LTC supports amending OCP designation for 005-773-954 to Industrial (lot east of home hardware), level portion only	Chart 9 -Map amendment
		Direction	Amend the OCP and Zoning for portions of 3418 Otter Bay Rd currently zoned I2(b) and I2(c). New OCP designation – Community Service. New zoning for I2(b) would be Community Service that permits waste transfer and new LUB zoning for I2(c) would permit waste transfer, composting and recycling.	
		Resolution	NP-2021-032 It was moved and seconded,	Chart 10

			That, regarding the <i>North Pender Island Local Trust Committee Official Community Plan Implementation Options</i> dated March 18. 2021, item 10, the North Pender Island Local Trust Committee direct staff to draft a bylaw to combine the two industrial zones into a single general industrial zone. CARRIED	
		Direction	Review and update the industrial permitted uses and to allow basic, light industrial uses (including contractor yards and storage).	Chart 11
		Direction	Amend subdivision lot sizes to permit industrial zoned lands to be subdivided from split-zoned or hooked lots.	Chart 13
		Decision on hold	Rezone 3338 Port Washington (Home Hardware) to commercial	Chart 14
		Direction	Keep site specific zoning for boat storage on Hamilton Road	Chart 15
		Resolution	NP-2021-033 It was moved and seconded, That, regarding the <i>North Pender Island Local Trust Committee Official Community Plan Implementation Options</i> dated March 18. 2021, item 16, the North Pender Island Local Trust Committee direct staff to apply general industrial zoning.	Chart 16 - Rezone 3323 Port Washington (Mainroad) to the general industrial zone.
		Direction	Rezone 3334Port Washington (TUP) to the general industrial zone.	Chart 17
April 29, 2021	AG	Resolution	NP-2021-042 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff to include the recommendations found in Attachment No. 1 to the draft bylaw, including the amendments to items 1, 2, and 21 and that the amendments be referred to the North Pender Agricultural Advisory Planning Commission for comment.	-Focus on scale of agriculture in terms of new RR zone (RR2) -RR2 to be all areas outside of Magic Lake and Trincomali water districts.
	AG	Resolution	It was Moved and Seconded, that the North Pender Island Local Trust Committee request that the North Pender Agricultural Advisory Planning Commission review the staff report on the agricultural review, dated April 29, 2021, and provide written feedback	

May 12,2021	C2 zone	Resolution	Staff to contact four MacKinnon Rd owners/operators and notify them the LTC is considering reducing the permitted Commercial Guest Accommodation units for each property, and is considering rezoning the properties to Rural Residential. The LTC is also requesting comments from the owners regarding removal of certain accessory uses. NP-2021-050 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff to write a letter to the property owners of C2B, C2C, C2D, C2E advising them of the Local Trust Committee's intent to either reduce the number of tourism units or rezone to Rural Residential. By general consent, the LTC requested that staff include the removal of additional uses in the letter to the property owners of C2B, C2C, C2D, and C2E.	-Staff to provide comments from each property owner in next staff report. -Bring back recommendation to ask staff to draft bylaw based on recommendations in the table (for C2 topic).
		Resolution	NP-2021-051 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff to have the remaining Commercial Tourism zoned properties remain at the current number of units as established on the property	Reduce the number of permitted Commercial Guest Accommodation Units to the existing density on each property.
		Direction	Add provision that requires employee accommodation for higher density developments.	
		Direction	Staff to provide options for requiring onsite operators 24/7.	
	Minor Amendments	Direction	By general consent, the LTC requested that staff propose amendments to the campground regulations that would limit or prohibit generator use	Add generator use (restriction of) to campground regulations.
May 12, 2021	Marine/ Shoreline	Resolution	NP-2021-053 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff to draft bylaw amendments based on recommendations for Shoreline and Marine Regulation options as outlined in Table 1 attached to the Staff Report dated May 12, 2021.	Draft bylaws based on recommendations found in Table 1 attached to May 12, 2021 staff report.

		Resolution	NP-2021-052 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff that stairs would not be exempt from the setback of the natural boundary of the sea.	Stairs not to be exempt from the setback to the natural boundary of the sea.
May 12, 2021	Minor Amendments	Direction	Remove 'fencing' from option for Landscape Screening. Screening should be planning/vegetation only.	-“a” in Table of Minor & Tech Amendments
		Direction	Add regulation to require cisterns for all new buildings in every zone, and that cisterns have external connection for fire protection.	-“f” in Table of Minor & Tech Amendments.
		Direction	Add regulation to allow one accessory building/structure with a maximum floor area of 10m ² .	-“l” in Table of Minor & Tech Amendments
		Direction	Add regulations for shipping containers. Consideration to only allow shipping containers on a certain lot size, and require vegetated screening.	-“m” in Table of Minor & Tech Amendments
		Resolution	NP-2021-054 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff to draft bylaw amendments based on recommendations for Minor and Technical Amendment options as outlined in Table 2 attached to the Staff Report dated May 12, 2021.	Add minor/technical amendments to draft bylaw.
May 27, 2021	Minor Amendments	Resolution	NP-2021-068 It was Moved and Seconded, that the North Pender Island Local Trust Committee add a prohibition on recreational helicopters as a part of the Land Use Bylaw Review.	-This item has been added to the technical amendment list.
June 24, 2021	Max Floor Area	Resolution	NP-2021-073 It was Moved and Seconded, that the North Pender Island Local Trust Committee direct to staff to draft bylaw amendments for establishing a gradual scale maximum floor area, as outlined in Table 2 Example B, for properties zoned Rural Residential, Rural, Rural Comprehensive 1 and Rural Comprehensive 2 and to amend the definitions of lot coverage and floor area in the North Pender Land Use Bylaw as outlined in the Staff Report dated June 24, 2021 with the amendment to reduce each of	-include options to regulation total maximum floor area for all buildings and structures.

			the floor areas by 500 square feet.	
		Resolution	NP-2021-074 It was Moved and Seconded, that the North Pender Island Local Trust Committee direct staff to provide a list of incentives in the Official Community Plan for addressing house size variance.	
July 29, 2021	Agriculture	Resolution	NP-2021-081 It was Moved and Seconded that the North Pender Island Local Trust Committee request that staff refer farm worker accommodation and the new Agricultural Land Commission residential rules to the North Pender Island Agricultural Advisory Planning Commission.	
	C2 zone	Direction	-Defer decision on MacKinnon Road properties until after Groundwater Project presentation in September 2021 -Requirement for alternative methods/sources of groundwater other than from a well for existing uses and new density. -Water storage for fire also a requirement for existing uses and new density. -Add provision that requires employee housing where tourist accommodation units exceeds 20 units.	
	Marine/Shoreline	Direction	-Active private moorage applications with the province should receive conditional zoning (permitting the private dock) only if the application with the province is approved.	
	Community Engagement	Resolution	NP-2021-081 It was Moved and Seconded that the North Pender Island Local Trust Committee request staff to schedule two Special Meetings in the Fall 2021 to present the draft bylaws for the Land Use Bylaw Review Project.	

From: Barbara Johnstone <[\[redacted\]](#)>
>**Sent:** Monday, October 4, 2021 4:32 PM
To: Deb Morrison <dmorrison@islandstrust.bc.ca>; Benjamin McConchie
<bemcconchie@islandstrust.bc.ca>; Laura Patrick <lpatrik@islandstrust.bc.ca>
Cc: Shannon Brayford <sbrayf@gmail.com>; Kim Stockdill <kstockdill@islandstrust.bc.ca>
Subject: Farmworker Housing Response by NP AAPC

Dear Local Trust Committee,

The North Pender Agricultural Advisory Planning Commission would like to meet with the North Pender Local Trust Committee to discuss the attached response to the staff memo of August 25, 2021.

On Sept 23 and 27 the NP AAPC met to discuss farmworker housing and the changes to the upcoming ALC secondary housing options.

We have previously requested a meeting with the NP LTC (in an email Sept 27) to discuss the agricultural portion of the draft Trust Policy Statement.

We would like to suggest that these two topics could be discussed at a meeting outside of the regular NP Trust Committee meeting, and hope that you agree with this suggestion.

We are looking forward to hearing from you soon, and meeting with you in the next few weeks.

Sincerely,

Barbara Johnstone, Chair
North Pender Agricultural Advisory Planning Commission

To: Laura Patrick, Deb Morrison, and Ben McConchie
North Pender Local Trust Committee

From: North Pender Agricultural Advisory Planning Commission (NPAAPC)

Date: Sept 27, 2021

Re: NP LUB Bylaw Review Project - Farm Worker Housing

We are in receipt of Planner Kim Stockdill's Memorandum to the NPAAPC dated August 25th, 2021. The Memo responded to our recommendation: *"The AAPC recommends allowing farm worker housing on all lots having farm tax status and where there is a demonstrated need and appropriate lot size."* We were requested to provide our response to Planner Stockdill's memo by October 6, 2021.

As a summary Planner Stockdill's Memorandum says two things:

1. Farm worker housing cannot be done on AG zoned land without amending the OCP or by allowing a TUP, and
2. Amendments to the ALC's rules will allow a 2nd dwelling on ALR land effective December 31 and would provide the LTC the option to permit a "cottage" on AG zoned land, and this could then be used for farm worker housing.

We draw the LTC's attention to the recommendations made by the NPAAPC in our Land Use Bylaw Review report regarding agriculture. (These were made prior to the announced changes to the ALR with respect to secondary housing.)

5. The building of 2nd residences on ALR land be in accordance with the ALUR subject to our recommendations below on farm worker housing and agri-tourism accommodation. Existing regulations allowing for "cottages" on non- ALR land in the RR, R and Ag zones should be sustained.

7. The LUB should permit temporary and permanent farm worker housing on farms having Farm Status that demonstrate a need for farm workers. The ALC and ALUR provide farm worker housing regulations for large scale commercial farms that are not directly suitable for the scale of farm operations found on Pender.

With all due respect, the staff response provided does not adequately respond to our recommendations. It provides no reasonable consideration of advancing agriculture on the islands as is apparently important in the TPS and the OCP. Instead, it seems to simply dismiss our recommendations. The response has provided no indication of creativity, flexibility, or options other than accepting the proposed changes in the ALR, and then constraining them further.

The LTC may be interested to know that the flexible housing options permitted under the new ALC regulations include, but are not limited to:

- Garden suites, guest houses, carriage suites, accommodation above an existing building, and manufactured homes.
- Square footage is not limited to 50 m² (600 ft²) as defined by the LUB as a "cottage": for a property less than 40 ha a 90 m² (1000 ft²) accessory home will be allowed by the ALC.
- The additional residence can be used for housing extended family, agritourism accommodation, housing for farm labour or a rental property.

It is critical to island agriculture that farm worker housing be accommodated for smaller scale, diverse, ecologically minded farms that strive to produce food on the islands. Rather, the response is essentially you cannot do it, but if we allow a cottage now as the ALC will allow as an option, that will solve your problem. It won't.

We are prepared to roll up our sleeves and work on some proposed rules that might facilitate farm worker housing on Pender. If this requires OCP amendments, so be it. But before we spend any more time on this issue, we would like to be assured that the Trust will engage, listen to, and collaborate with us on this issue.

We would like to have a discussion with the LTC on this issue.

Thank you.

Sincerely,

Barbara Johnstone, Chair
North Pender Agricultural Advisory Planning Commission

Hardal Management Inc.

150 – 3751 Jacombs Road, Richmond, BC V6V 2R4

Tel: (604) 269-0030
Email: hardal@shaw.ca

To Kim Stockdill
Planner
Islands trust, North Pender

26th July 2021

Re C2 zoning at Driftwood Centre

Good morning Kim,

I am sorry we did not respond sooner to the proposed changes of our C2 property at 4605 Bedwell Harbour Road (Driftwood Centre).

We are in the planning stages of developing this property as per the guidelines of the current C2 zoning. We do not wish the number of Commercial Guest Accommodation Units to be reduced, in fact we would like this to be increased. With the current regulations we would only be able to fit in 12 camping spots. This would not be financially viable. If this could be increased, it would allow us to incorporate staff housing for employees that work at Driftwood Centre, or Commercial Guest Accommodation Units.

The Options for Consideration in the Staff Report are definitely some changes we would like to see as follows:

1. Provide flexibility in the size of the units, we would be interested in doing a similar project to Port Browning with the Yurts and/or camp ground.
2. Amendments to allow more employee housing and in different forms.
3. Amend the principal permitted use to tourist accommodation and remove permitted use hotel, motel and lodge.
4. We do not believe that establishing a maximum number of units per hectare, or maximum floor area ration is fair.

Tourism is the life blood of this community, employing more people than any other industry. If we want a diverse community of people of all ages, we need tourism. For a business on this island to survive, 60% of its customers need to be local. That is the breakeven point. To be successful and offer our community selection at a reasonable price, we need the tourists. We also need the accommodation for people working in our community. Low-cost housing is a dream, there is no such thing, not at over \$400 a square foot to build. Density on housing is the only way it can lower the cost.

Again, my apologies in the delay of writing his response.

Sincerely

Dorothy Murdoch, Property Manager
Driftwood Centre - [REDACTED] email driftwoodcentre@shaw.ca

DATE OF MEETING: October 22, 2021
TO: North Pender Island Local Trust Committee
FROM: Robert Kojima, Regional Planning Manager
Southern Team
COPY: Kim Stockdill, Island Planner
SUBJECT: Soil Bylaw Project

RECOMMENDATION

1. THAT the North Pender Island Local Trust Committee receive the report for information

REPORT SUMMARY

The report updates the LTC on the project and provides a summary of the key provisions of the draft Soil Deposit and Removal Bylaw.

BACKGROUND

At the June meeting, staff provided the LTC with a report identifying issues and providing options for LTC direction. The LTC provided direction on key objectives for the bylaw and adopted a resolution providing for preparation of a draft soil removal and deposit bylaw.

ANALYSIS

Staff have reviewed other jurisdictions' soil deposit and removal bylaws, and have prepared a draft of the main regulatory provisions of a Soil Deposit and Removal Bylaw. The draft bylaw would be similar to other soil bylaws in terms of regulations, but would attempt to maintain clarity and ease of interpretation and administration by:

- Establishing simple volumetric amounts for triggering the need for a permit; the quantity of soil exempted varies greatly between bylaws and many bylaws have different amounts for different sized lots, for deposit versus removal or for different locations;
- Creating a separate section that would establish conditions that are applicable to all soil deposit and removal activities (whether requiring a permit or not);
- Provide clear guidelines for the conditions that can be included in a permit, while recognizing that the bylaw cannot prohibit soil deposit or removal.

The draft regulatory provisions are attached, and in summary:

1. Exemptions: the purpose of the exemptions is to minimize the requirement for a permit where work is minor in terms of impacts, is regulated through other processes, or is exempt from regulation by legislation. The draft exemptions would:

- Require permits for soil deposit or removal exceeding 30m³ on smaller lots (roughly three truckloads) or 60m³ on larger lots. These quantities are based on the Metchosin bylaw, a rural community that completed a review of its bylaw in the last several years. These amounts are likely to be the subject of consultation;
 - Exempt work directly related to permitted construction, including septic system installation;
 - Exempt driveway work that does not involve significant grade alterations;
 - Exempt landscape and nursery businesses and golf courses where the activity is part of the business and is on a lot zoned for the business. This provision will likely be further revised to include contractor yards where soil is stockpiled.
 - Would not extend exemptions to work in DPAs, setbacks from the sea or waterbodies, high hazard slopes or areas with archaeological or heritage designations. This is a key provision as it would allow for enforcement of any land alteration in these areas, and would require a permit for any work, no matter how minor, in these areas.
2. General Provisions: these regulations would establish minimum requirements for any soil removal or deposit activity, regardless of whether a permit is required or not. These would set basic requirements for exempt work, like hours of operation, dust and noise control, and to protect water bodies, wells, adjacent lots, and the ALR and topsoil.
 3. Permit Conditions: this section of the bylaw would set out the conditions to be included in a permit, the specifics of each condition in a permit would be provided through the plans and report submitted by the applicant. Not all conditions would be relevant to all permits, so conditions could vary. Conditions would include prescribing an area on the lot where the activity would occur in conjunction with a minimum 10m buffer to adjacent lots, along with specific measures to minimize impacts.
 4. In addition to legal recitals in the bylaw, other sections would be:
 - a. Definitions: to refine the meaning of specific terms in the bylaw
 - b. Application requirements: establishing the standards for plans and reports
 - c. Fees and security
 - d. Renewal of permits
 - e. Contraventions and enforcement
 - f. Schedules

Companion bylaw amendments may also be required to the fee bylaw and for bylaw enforcement.

Next Steps

If the LTC does not request further revisions or information, the next steps would be to:

1. Conduct preliminary consultation with contractors. Contractors would be provided with the draft provisions, but prior to finalizing a draft bylaw.
2. Finalize draft of the bylaw.
3. Circulate for legal and bylaw enforcement review.
4. Report back to the LTC with a finalized draft.

ALTERNATIVES

1. Request further information

The LTC may direct revisions to the draft bylaw:

That the North Pender Island Local Trust Committee request that staff revise the draft Soil bylaw to...

2. Proceed no Further with the Project

The LTC may choose to not proceed further with the project:

That the North Pender Island Local Trust Committee project no further with the Soil Bylaw Project.

Submitted By:	Robert Kojima, Regional Planning Manager	October 15, 2021
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ATTACHMENTS

1. Draft exemptions
2. Draft general provisions
3. Draft permit conditions

1. A permit is not required for the deposit or removal of uncontaminated soil where:
 - a. the deposit or removal does not exceed 30m³ over a period of 12 consecutive months on lots 4 ha or less in area.
 - b. the deposit or removal does not exceed 60m³ over a period of 12 consecutive months on lots greater than 4 ha in area.
 - c. the deposit or removal is necessary in the opinion of a building inspector for the construction of basements, footings and foundations or for the installation of a septic field, rainwater management facilities, utility connections or driveway in conjunction with a construction project for which a building permit has been issued and remains in force; and this exemption does not extend to any work that is within a setback except for utility connections and one driveway;
 - d. deposit or removal is necessary of an Authorized Person to install, maintain or replace a septic servicing system installed in accordance with the Public Health Act and its regulations;
 - e. deposit or removal for the construction, repair, or maintenance of a driveway provided the deposit or removal of soil does not involve grade alterations greater than 200mm.
 - f. deposit or removal is required for the construction or repair of works, roads, highways or services by or on behalf of the Ministry of Transportation and Infrastructure and is on land owned by the Ministry of Transportation and Infrastructure;
 - g. deposit or removal is on land owned the federal or provincial government and is undertaken by or on behalf of the government in question;
 - h. deposit or removal is required as part of a soil remediation process approved under the Environmental Management Act;
 - i. deposit or removal is a permitted farm use in the ALR, in accordance with ALC regulations
 - j. deposit or removal is authorized under the Mines Act;
 - k. deposit or removal is on land lawfully used as a landscape business, nursery, or golf course, and such deposit or removal is a necessary part of the business.
 - l. these exemptions do not extend to deposit or removal occurring in one or more of the following:
 - i. a development permit area, other than a commercial or industrial form and character DPA;
 - ii. a heritage conservation area;
 - iii. a required setback from the sea or other waterbody established in the North Pender Island Land Use Bylaw;
 - iv. an area mapped as a high hazard slope [reference]
 - v. an area containing a registered cultural or archaeological site [reference wording].
 - m. The onus of demonstrating compliance with this Section shall be at all times on the person undertaking the deposit or removal of soil, who shall provide to the Director, on request, sufficient documentation to confirm that the person meets the conditions of an exemption.



No person shall Deposit or Remove Soil on a parcel except in accordance with the following requirements, unless otherwise authorized by a permit:

1. removal and deposit activities which create measurable noise at the boundaries of the Lot shall only occur between the hours of 7:00 a.m. to 8:00 p.m. Monday through Saturday, and is prohibited on Sundays and statutory holidays;
2. no removal or deposit activities shall pollute, obstruct, divert, impede, damage, destroy or introduce soil to any body of water;
3. no removal or deposit activities shall contravene any other bylaws of the LTC, Capital Regional District, or any other pertinent provincial or federal legislation;
4. no removal or deposit activities shall occur within a Riparian Assessment Area;
5. no removal or deposit activities threaten the health, safety or welfare of the public;
6. no removal or deposit activities shall foul, obstruct, divert, impede, damage or destroy any ditch, drain, sewer, sewage disposal system, water utility, or water well whether privately or publicly owned;
7. no removal or deposit activities shall occur over any highway or registered statutory right-of-way without the Owner first providing written approval for the Deposit or Removal from the authority having jurisdiction over the highway or right-of-way;
8. no removal or deposit activities shall compromise the hydrological function or drainage capacity of the lot or adjoining lots;
9. no removal or deposit activities shall result in soil on the lot or on adjacent lots becoming unstable or susceptible to erosion, slippage, landslide, slumping or settling;
10. no removal or deposit activities shall permit dust, dirt or noise to escape the property boundary that may cause a private or public nuisance;
11. no removal or deposit activities shall impair the agricultural capability of adjacent ALR lands
12. no removal or deposit activities shall result in the coverage of topsoil;
13. no removal or deposit activities shall permit the promotion of growth of invasive species.



1. The Director may impose conditions in a permit that restrict the location of deposit or removal and the type and volume of soil to be deposited or removed based on the information supplied by the applicant under section 9 of the Bylaw, to ensure the deposit or removal occurs in the manner and amount specified in the application. The requirements in section 6 of the Bylaw and the following shall be included as conditions in permits, unless excluded by the Director:
 - a. the effects or impacts of Soil Removal or Deposit shall be confined within a Permit Area on the lot so that such activities do not encroach upon, compromise, or damage any adjacent lot, building, structure, highway, septic disposal system, well, utility, watercourse, waterbody, environmentally sensitive area, or other amenity or natural or cultural feature
 - b. the boundary of the Permit Area shall be clearly marked both on the site and on the plan and maintained on the site for the duration of the Permit
 - c. the finished grade of a Permit Area shall have a maximum slope of 1 meter rise in 2 meters of run and a steeper grade only as approved in a report by a Registered Professional
 - d. a Buffer of at least 10 metres shall be provided and maintained for the duration of the Permit except that the Buffer may be reduced by the terms of the Permit in cases where a 10 meter Buffer would completely preclude any viable deposit or removal and a berm or other measure substituted.
 - e. measures shall be required to contain dust, dirt, mud and other debris generated by the Soil Removal or Deposit on the lot upon which the Removal or Deposit is occurring
 - f. measures to require the removal of all dirt, mud, and debris deposited on a highway or roadside ditch from the transfer by the end of the day on which such deposit occurred or as deemed necessary
 - g. measures to ensure drainage facilities, natural watercourses, wetlands, wells or ground water shall be kept free of silt, clay, sand, rubble, debris, gravel, and all other matter originating from any Soil Removal or Deposit which might cause fouling or obstruction
 - h. measures to ensure Soil Removal or Deposit shall not result in lowering the water table in wells on any adjacent lot or the contamination of a well.
 - i. measures to ensure Soil Removal or Deposit shall not cause the groundwater table to rise on an adjoining parcel or other public or private property so as to cause flooding or malfunctioning of a septic disposal system or contamination of a well.
 - j. measures to ensure Soil Removal or Deposit shall not interfere with, or impact the established above or below ground drainage pattern of any adjoining parcel or any other public or private property, and measures consistent with good engineering

practice will be implemented to ensure that any such interference or impact is prevented.

- k. measures to ensure that upon completion a minimum cover of topsoil and appropriate plantings.