



North Pender Island Local Trust Committee Special Meeting Agenda

Date: May 12, 2021
Time: 4:00 pm
Location: Electronic Meeting

Pages

1. CALL TO ORDER
2. APPROVAL OF AGENDA
3. BUSINESS ITEMS
 - 3.1. Land Use Bylaw Review – Staff Report 2 - 32
4. ADJOURNMENT



DATE OF MEETING: May 12, 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 – Options

RECOMMENDATION

- 1. That the North Pender Island Local Trust Committee give direction to staff to draft bylaw amendments based on recommendations for Tourist Commercial Regulation options as outlined in Table 1 attached to the Staff Report dated May 12, 2021.**
- 2. 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.**
- 3. 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 3 attached to the Staff Report dated May 12, 2021.**

REPORT SUMMARY

The purpose of this report is to provide further information on the topic areas and seek direction from the North Pender Local Trust Committee (LTC). The staff report highlights three topic areas: tourist commercial (C2) review, marine and shoreline review, and the table of minor and technical amendments. Staff have provided some recommendations for each topic but also requests clear direction from the LTC where indicated in the staff report and attachments.

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 seven topic areas:

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

The North Pender Local Trust Committee held (5) electronic meetings for the Land Use Bylaw Review (Official Community Plan Implementation) Project in 2020; one in conjunction with the South Pender LTC. A second Community Information Meeting in conjunction with the South Pender LTC was held on January 15, 2021 to collect comments from the community regarding maximum floor area regulations. 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 March 18, 2021 LTC Special Meeting, the LTC passed the following resolutions:

NP-2021-031

It was moved and seconded,

that the North Pender Local Trust Committee defer a decision on the recommendations of the Agricultural Advisory Planning Commission to the April Local Trust Committee regular business meeting and further that the Agricultural Advisory Planning Commission be invited to the April meeting for discussion of their recommendations.

CARRIED

NP-2021-032

It was moved and seconded,

That, regarding the *North Pender Island Local Trust Committee Official Community Plan Implementation Options* 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

NP-2021-033

It was moved and seconded,

That, regarding the *North Pender Island Local Trust Committee Official Community Plan Implementation Options* dated March 18, 2021, item 16, the North Pender Island Local Trust Committee direct staff to apply general industrial zoning.

CARRIED

NP-2021-034

It was moved and seconded,

That the North Pender Island Local Trust Committee give direction to staff to schedule an additional special meeting to continue the discussion for the Land Use Bylaw Review Project.

CARRIED

At the April 29th regular LTC meeting, the LTC passed the following resolutions in relation to this project:

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.

CARRIED

NP-2021-043

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

CARRIED

ANLYSIS

Tourist Commercial regulation review

A letter was sent to property owners with C2 zoned land and operators, and neighbours surrounding C2 zoned properties. All received correspondence can be found on the Project webpage under '[Public Correspondence](#)'. Staff have provided recommendations in the attached table for the LTC's consideration based on options in the [Tourist Commercial Discussion Paper](#).

Marine shoreline regulations review

Staff have provided recommendations in the attached table for the LTC's consideration based on options in the [Marine and Shoreline Discussion Paper](#). Further information regarding the setback from the natural boundary of the sea and rezoning for docks is found below.

Setback from the sea:

The Provincial Guidelines incorporate sea level rise (SLR) into land use planning and future development, and recommends local governments adjust setbacks according to the Year 2100 Global SLR prediction of 1.0 metre. Using the Year 2100 SLR prediction of 1.0 metre as the minimum elevation, local governments can regulate flood construction levels (FCL) of buildings and structures, including docks. The FCL is used to establish the elevation of the underside of a wooden floor system or top of concrete slab for habitable buildings.

The Provincial Guidelines also recommend that building setback should be at least the greater of 15 m from the future estimated Natural Boundary (NB) of the sea at Year 2100, or landward of the location where the natural ground elevation contour is equivalent to the Year 2100 FCL. The North Pender LUB currently requires a 15 metres setback from the natural boundary of the sea for buildings and structures. The North Pender LTC should consider adding a minimum elevation of 1.5 metres above the natural boundary of the sea to the North Pender LU in order to meet the provincial guidelines. The following LTA's include a minimum elevation requirement of 1.5 metres: Denman, Gabriola, Gambier, Hornby, Lasqueti, Mayne, Salt Spring, and Thetis. The following wording are examples from other LUBs:

Denman Island LUB:

"The minimum difference in elevation between the underside of the lowest floor in the building or structure and the elevation of the natural boundary of the sea is 1.5 metres, except for a boathouse."

Gabriola Island LUB:

"Despite all other siting references in this Bylaw excepting B.2.1.4c, third party signs, fences, pump/utility houses, retaining walls, ground level decks, structures and buildings, excepting boathouses, must be sited a minimum of 7.5 metres (24.6 feet) from and 1.5 metres (4.9 feet) above the natural boundary of the sea and a minimum of 15 metres (49.2 feet) from and 1.5 metres (4.9 feet) above the natural boundary of any lake, stream, or wetland. Where the frontage on the sea is not adequately protected from erosion by natural bedrock or works as certified by a professional engineer, buildings and structures must be sited a minimum of 15 metres (49.2 feet) from and 1.5 metres (4.9 feet) above the natural boundary of the sea."

Mayne Island LUB:

"No building or structure may be constructed, reconstructed, moved, located or extended with the underside of the floor system of any area used for habitation, business or storage of goods damageable by floodwaters, or in the case of a mobile home or unit the ground level on which it is located, lower than 1.5 metres (4.92 ft.) above the natural boundary of the sea or any natural watercourse, except: (a) fence; (b) utility shed; (c) navigational aid; (d) structures supporting a permitted dock; or (e) stairs or walkways required to access the foreshore or a permitted dock."

Salt Spring LUB:

“The underside of the floor system of any portion of a building used for habitation, or for the storage of goods damageable by floodwaters, must be at least 1.5 m higher in vertical elevation than the elevation of the natural boundary of any water body that lies within 30 m of the building.”

Staff recommend adding a minimum floor elevation of 1.5 metres to the North Pender LUB. If the LTC agrees with this recommendation, staff will include this in the draft bylaw based on similar regulations in other LUBs.

Rezoning for Docks

Water 1 (W1) Zone is the most extensive foreshore zone extending around most of the perimeter of North Pender and is intended to permit private moorage uses. It permits outright: private floats, wharves, ramps and walkways accessory to the residential use of an abutting upland lot or lots abutting the sea; pilings necessary for the establishment or maintenance of the uses; boat launching ramps; and marine navigation, marine navigation aids and marker buoys. The Water 3 (W3) Zone extends to the boundary of the North Pender Island Local Trust Area and permits only marine navigation, marine aides and marker buoys and on other uses.

At the January 28, 2021 LTC meeting, the LTC expressed an interest to amend the LUB in order to restrict the construction of new private docks. In order to restrict the construction of new private docks, the foreshore areas that do not currently have existing docks would be rezoned (by amendment the LUB map) from W1 to W3. Those foreshore areas that currently do have a dock (by issuance of a provincial private moorage lease or licence of occupation) would be retain the W1 zoning that permits private floats, wharves, ramps and walkways. This is a similar approach to South Pender LUB amendments what were completed in 2017. The image below shows the private moorage lease (yellow), the existing docks (by orthophoto) and the W1 zone that permits the dock on South Pender.

The image also shows that private moorage leases issued by the province do not accurately depict where the dock is actually located; therefore rezoning all areas outside of private moorage leases or licences would not accurately reflect where existing docks are located. If the LTC wishes to proceed with only allowing future docks by rezoning, Islands Trust GIS technicians will map out all areas that have existing docks and these areas would retain W1 zoning; all other areas would be rezoned to W3.

Image 1 – South Pender W1 zoning & location of provincial leases



The North Pender LTC should also consider amending the Coastal Areas section of the OCP to provide new policies for dock rezoning applications within the Marine designation, and provide criteria for assessing such rezoning applications. The following is criteria from the South Pender OCP (Section 4.2b(iv)):

“Docks or wharves are to be allowed in the following circumstances: existing private moorage for docks permitted on a site-specific basis in those areas designated as Marine (M) on Schedule “B”.

New applications for private moorage for docks may be considered by site-specific rezoning subject to:

- *the proposal demonstrating minimal impacts on the marine environment, including eelgrass,*
- *bull kelp, forage fish, or other important habitat;*
- *the proposal demonstrating minimal impacts on upland sensitive ecosystems or habitat;*
- *the proposal demonstrating no impacts on archaeological or cultural sites or resources;*
- *structures being appropriately sited and of a scale to minimize visual impacts;*
- *structures incorporating current best practices for dock construction;*
- *consideration being given to providing for shared or common moorage; and*
- *consideration being given to the cumulative impacts of private moorage.”*

Minor and technical amendments

The Minor and technical amendments were referred to the North Pender APC in December 2020. The minutes from the three North Pender APC meetings (January 18, February 2, and February 4 2021) did not include discussions related to the minor and technical amendment list. The LTC has the option to re-refer the minor and technical amendment list to the APC with a response deadline in order for the LTC and staff to receive the comments before a secondary special meeting is scheduled. The minor and technical amendments table is attached with staff’s comments.

Timeline

The following is the timeline from the Project Charter:

Workplan Overview	
Deliverable/Milestone	Date
<i>Project charter endorsed</i>	<i>January 2020</i>
<i>Staff research and analysis of options, preparation of background documents, reports and discussion papers</i>	<i>Feb – June 2020</i>
<i>LTC review of background material and consideration of public consultation options</i>	<i>June 2020</i>
<i>First Nations engagement</i>	<i>June – Nov 2020</i>
<i>Public consultation (scope, extent and timing to differ for topic areas), early referrals</i>	<i>July – Nov 2020</i>
<i>LTC review of consultation results and consideration of amendment options</i>	<i>Jan – Feb 2021</i>
<i>Preparation of draft bylaw (blackline and new format)</i>	<i>Mar – May 2021</i>
<i>LTC Consideration of draft bylaw</i>	<i>May 2021</i>
<i>Community Information meetings / agency and First Nations referrals</i>	<i>June – Aug 2021</i>
<i>Legislative Process (longer if OCP amendments required)</i>	<i>Sept – Dec 2021</i>

Agencies

A list of referral agencies and First Nations will be provided to the LTC at a subsequent meeting when a draft bylaw is in process.

First Nations

Early referrals were sent out to First Nations. To date responses were received from the Lyackson First Nation and Cowichan Tribes (attached). Cowichan Tribes provided the following comments with regards to the Marine and Shoreline Discussion paper:

- Option to prohibit derelict docks, floats, ramps, and walkways in all marine water zones – “Cowichan Tribes would support this LUB amendment.”
- Require rezoning for new docks – “Cowichan Tribe would strongly support this LUB amendment.”
- Changes to zoning to encourage soft shore mitigation efforts – “Cowichan Tribes would support this LUB amendment”

Staff will work with the Islands Trust Senior Intergovernmental Policy Advisor to respond to Cowichan Tribes as they had a number of questions related to the content in the Discussion Paper.

Rationale for Recommendation

If the LTC provides staff with clear direction with how to proceed with the above mentioned topics, staff will continue with bylaw drafting.

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 one or more Discussion Papers, or a table or chart to the Advisory Planning Commission to provide comments on the options outlined in the Discussion Paper(s). Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request staff to XXX Discussion Paper 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. Staff will also report back with further information from the Special Agriculture Advisory Planning Commission.

Submitted By:	Kim Stockdill, Island Planner	May 6, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	May 7, 2021

ATTACHMENTS

1. LUB Review Options Table
2. Minor & Technical Amendment Table
3. Structures exempt from setback of the sea (table) – excerpt from [Gambier Island LTC discussion paper](#)
4. Cowichan Tribes Early Referral Response

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
OFFICIAL COMMUNITY PLAN IMPLEMENTATION OPTIONS**

Conservation Subdivision Review, Tourist Accommodation Review, and Marine & Shoreline Review

#	Option for Consideration	Staff's recommendation to include in the bylaw amendment?	Staff Comments	LUB or OCP Amendment ?
TOURIST COMMERCIAL REGULATION REVIEW				
1.	<p>A review of the total number of permitted units and the appropriateness of the current zoned locations as discussed above. Options include:</p> <ul style="list-style-type: none"> i) Reducing the number of permitted units in some locations ii) Changing the mix of uses along with a smaller number of tourist accommodation units in some locations. 	Direction from the LTC required	<p>i) The LTC should consider reducing the density of commercial guest accommodation units. The following are options for the LTC's consideration:</p> <ul style="list-style-type: none"> 1. Reduce the number of commercial guest accommodation units (CGAUs) for all C2 zoned properties. For example, the LTC could rezone the properties to reduce the density to what is currently being established on each property. See Table 1 in Tourist Commercial Discussion Paper. 2. Reduce the number of CGAUs for just those properties on MacKinnon Rd only (excluding Currents). These four properties are permitted to have a total of 55 CGAUs which is a high density for this area. 3. Rezone properties on MacKinnon Rd excluding those properties that currently have existing CGAUs (Arcadia – 1329 MacKinnon Road and Currents at Otter Bay). The three MacKinnon Road properties (1333, 1349, and 1325) that do not have existing CGAUs could be rezoned to Rural Residential (RR). 4. Retain current densities. <p>ii) The LTC may also want to consider removing certain permitted uses for some locations. For example, removing the "accessory laundromat, restaurant, café, recreation facility, boat rental and premises, other than a neighbourhood pub, licenses under the Liquor Control and Licensing Act" from the four MacKinnon Rd properties due to location surrounding residential properties.</p>	LUB

#	Option for Consideration	Staff's recommendation to include in the bylaw amendment?	Staff Comments	LUB or OCP Amendment ?
2.	Provide flexibility in the size of the units, for example permitting a smaller number of larger units as supported by OCP policy, and as implemented at Port Browning.	Yes	The definition of a commercial guest accommodation unit (CGAU) states that the maximum floor area of CGAU is 56 m ² (603 ft ²). The LTC could increase the maximum floor area of a unit and also establish a total maximum floor area for all units. This would provide more flexibility (always some larger units and smaller) although could also add further confusion to the zone by adding an additional floor area regulation.	LUB
3.	Simplifying the zoning, for example, by establishing a maximum number of units per hectare or maximum floor area ratio throughout the zone.	Yes	As mentioned in option no. 1.	LUB
4.	Amendments to allow more employee housing and in different forms.	Yes	The C2 zone currently permits up to two accessory dwelling units for the caretaker, owner, operator or employees. The C2 zone does not permit an employee to reside in a commercial guest accommodation unit. In order to add flexibility to employee housing the LTC could amend the C2 zone to, similar to the provision amended in the C3 zone for Port Browning, to allow the use of employee housing to occupy either one dwelling unit or a portion of the commercial guest accommodation.	LUB
5.	Consideration to requiring employee accommodation on-site for new developments over a certain density. This would essentially involve establishing two densities – base density of units and a second higher density that in order to be developed would require provision of employee accommodation on-site.	No	This should be completed on a case by case basis, either by rezoning or a TUP.	
6.	Amend the principal permitted use to 'tourist accommodation', and amend the related definitions, with the density regulations and definitions establishing the form, number and maximum size of units.	Yes	Remove the permitted uses "hotel, motel, and lodge" and replace it with "tourist accommodation". This is consistent with best practice of permitting a use rather than a type of building.	LUB

#	Option for Consideration	Staff's recommendation to include in the bylaw amendment?	Staff Comments	LUB or OCP Amendment ?
7.	Amend 'Marina' to marina services accessory to a permitted commercial marine zone, with a definition if warranted.	Yes	Remove 'marina' as a permitted use and add 'marina services' as a permitted accessory use only when adjacent to W2 zones (commercial marine zones).	LUB
8.	Review and amend the Campground regulations in section 3.16 to make relevant for small, private, accessory campgrounds along with reasonable limits on the number of tenting sites.	Direction from the LTC requested	Campground uses and regulations (Section 3.16 of the LUB) are modelled on provincial public campground standards and are not relevant or appropriate for small scale private camping and should be reviewed. One benefit of retaining the current campground regulations is that if a small-scale campground is proposed and does not meet the campground regulations, the applicant could apply for a TUP or rezoning application. The LTC could then tailor specific regulations to campground proposal.	
9.	Make 'retail sales' an accessory use.	Yes	Retail sales are currently an outright permitted use rather than an accessory use, there are no locations in the C2 zone where there are retail sales operating as a principal use, nor is it the intent of this designation in the OCP to permit retail sales as a principal use. The LUB should be amended to make 'retail sales' an accessory use.	LUB
10.	Clarify the list of accessory uses, including the accessory dwelling units.	Yes	Review the list of accessory uses to determine if any should be removed or added.	LUB
11.	Incorporate Section 1.2, which limits length of stays in tourist accommodation units, into the definitions as in other bylaws.	Yes	Straight forward text amendment. Section 1.2 should be removed and add the length of stay into the definition of commercial guest accommodation.	LUB

#	Option for Consideration	Staff's recommendation to include in the bylaw amendment?	Staff Comments	LUB or OCP Amendment ?
12.	Changes to the setback from the natural boundary of the sea	Yes	Staff recommends adding a minimum elevation of 1.5 metres from the natural boundary of the sea for buildings and structures. This would be align with the provincial guidelines. Staff to report back with a draft regulation based on best practices. See further information in staff report.	LUB
13.	Prohibit derelict “docks, floats, ramps and walkways” in all marine water zones.	Yes	The LTC could add the following to the Prohibited Uses in the General Regulation section of the LUB: derelict or abandoned docks, floats, ramps or walkways. This would be a straightforward LUB amendment.	LUB
14.	Require rezoning for docks.	Yes	Staff recommend rezoning all areas that do not currently have a dock to the W3 zone. See staff report.	LUB/OCP
15.	Changes to zoning to encourage soft shore mitigation efforts	No	Best planning tool to encourage the use of shoreline mitigation efforts (soft shore/green shore approach) would be by Development Permit Area. Currently, an owner proposing shoreline mitigation could apply for a variance, providing the LTC with discretion to approve if soft shore methods are proposed. It would be difficult to permit structures that would be exclusively soft shore and exclude hardening in zoning regulations	N/A
16.	Definitions: existing marine related definitions should be reviewed for accuracy and relevance, and terms such as “dock”, “float”, “wharf” , “ramp”, walkway” and “derelict” should be considered for inclusion in the definitions, this would foster consistency with other bylaws, provide clearer interpretation and contribute to enforcement where needed.	Yes	Add definitions for the marine related terms to be consistent with best practices and other LTA LUBs.	LUB

#	Option for Consideration	Staff's recommendation to include in the bylaw amendment?	Staff Comments	LUB or OCP Amendment ?
17.	<p>Use Categories: review the use categories in the W1, W2 and W4 zones, and consider changes to:</p> <ul style="list-style-type: none"> • Clarify private moorage as the principal permitted use in W1 • Remove boat launch ramps as a permitted use abutting residential lots in W1 • Clarify marinas as the principal use in W2 • Clarify community docks and ferry terminals as the principal use in W4 	Yes	Staff recommend reviewing the uses in the W1, W2, and W4 zones.	LUB
18.	<p>Review structures in the setback from the natural boundary: while current regulations limit permitted structures to stairs and walkways, the regulations should be reviewed for potential amendments that would address the extent and scale of walkways.</p>	Yes	<p>Staff recommend amending Section 3.7.1 and 3.7.2 of the LUB for clarity as these sections are not clear. Also review the width and height of stairs and walkways requirements. In addition, it is not clear if fences are required to meet the setback from the NB of the sea as they are not considered a structure (definition of structure does not include fences). See attachment no. 3 for examples of structures that are exempt from setback from the setback from the NB of the sea from other Local Trust Area's LUBs.</p>	LUB

Table of Minor and Technical Amendments – updated May 2021

Topic	Policy	Ref.	Issues	Comments
a) Landscape Screening Review	Regulations to retain screening vegetation	2.1.C	<i>Review of effectiveness, intent, and practicality of existing regulations; consider potential amendments</i>	- existing requirements are often unsuited for rural landscapes - ambiguity in regulations: screening, fencing, planting
b) Home Business	Noise regulation	2.1.3.2	<i>No noise regulations for home business regulations.</i>	-provision similar to the Home Industry regulations: "the home business must not generate any noise in the course of its operations that may be heard at any lot line."
c) Home Industry Regulations	Home Industry regulations review	2.1.3.6 – 2.1.3.9	<i>OCP establishes policies for updating these regulations</i>	- harmonize/review regulations (i.e. lot coverage and setbacks) - review list of uses and consider broader use categories - ensure regulations address mitigation of impacts - use should be manufacturing/processing - address parking of vehicles/equipment
d) Subdivision regulations	Review of subdivision servicing regulations, including proof of potable water, applicability of road standards and drainage.	3.3.1.1	<i>Opportunity to provide updated standards for subdivision regulations</i> <i>Road and storm drainage regulations are not LTC jurisdiction</i>	- amendments should be technical changes - update proof of potable water standards and refer to Senior Freshwater Specialist - consider harmonization with South Pender regulations, with updated/revised proof of water requirements
e) Renewable energy	Review zoning regulations to permit renewable energy devices	4.5.2 4.7.10	<i>Siting of fixtures would be main amendment.</i>	-Add siting exemptions for solar panels and power sheds
f) Mandatory rainwater catchment systems	Regulations may be considered requiring the installation of rainwater catchment systems in new construction	3.2.4 4.7.5	<i>Non-potable water storage requirements can be implemented through zoning regulations. Priority areas may be identified following completion of the groundwater review project</i>	- define scope and application of a regulation, ie new principal dwelling and cottages on wells - review experiences on Galiano, Saturna -LTC may consider keeping this amendment on the LUB technical amendment list until the Groundwater Sustainability project is complete.
g) Commercial zoning Review	Review C1 zoning	4.7.2 4.7.4	<i>Review site-specific zones, update use categories, parking alternatives</i>	- review use categories, -consider rezoning the old port Washington store site
h) Ferry Terminal	Ferry terminal zoning	3.1.1.6	<i>Upland portion of ferry terminal should be zoned to a community service zone (currently RR)</i>	- technical amendment only (i.e. Mayne terminal zoning) - terminal upgrades are planned, any significant expansion of terminal should be by a separate rezoning - engagement with First Nations prior to initiating any amendments
i) Incorporate TUPs into zoning	Consider amending zoning to make on-going (non-STVR) TUPs permanent uses		<i>Non-STVR TUPs that may be candidates for LTC-initiated zoning amendments that would make the uses permanent</i>	- TUP-2019.4 - medicine beach drop-off - TUP-2016.1 – site-specific zoning on portion of Rural lot behind Driftwood - TUP-2018.4 Disc park shelter

Topic	Policy	Ref.	Issues	Comments
j) Community Park zoning			<i>Relevance of existing 2 zones, no buildings permitted</i>	<i>Consult with parks commission, consider amendments to permit shelters and storage buildings</i>
k) Forestry and Agricultural buildings	Amendments to AG and R zoning to address agricultural and forestry building height		<i>Agricultural buildings defined by use only, consider amendments to permit higher buildings on AG lots with larger setbacks. Rural zoning does not specifically allow for non-agricultural buildings that are not accessory to a dwelling.</i>	<i>-heights of AG buildings to be reviewed as part of AG discussion (SAAPC). -forestry buildings height of 10 meters – clarify what constitutes a forestry building. - minor amendments should be considered to address persistent interpretation issues</i>
l) Accessory buildings	Construction of accessory buildings prior to residence		<i>Permit one non-residential building on RR, R, RC1, and RC2 zoned lots prior to construction of dwelling</i>	<i>- review other LUBs, should be limited and minor;</i>
m) Prohibited uses	Review of prohibited uses		<i>Update to address shipping containers, pit toilets and uses identified in other bylaws</i>	<i>Review for consistency with other LUBs</i>
n) Use permitted in all zones	Review		<i>General review for accuracy</i>	<i>Review for consistency with other LUBs</i>
o) Technical Amendments	Technical updates / corrections		<ul style="list-style-type: none"> • <i>Alphabetical order of definitions (e.g. cottage, multiple-family dwelling)</i> • <i>“multiple-family dwelling” definition should be “more than two households” or “three or more households” and a definition of “two-family dwelling” should be added.</i> • <i>Add Definition of pumphouse and electrical shed</i> • <i>Permit pumphouses and electrical sheds prior to principal dwellings, allow electrical sheds in setbacks and establish size restrictions</i> • <i>Siting exemptions for utilities lines</i> • <i>Mapping:C2(c) and C2(d) zone boundary</i> • <i>Magic Lake tennis courts – consider adding as a permitted use</i> • <i>Add secondary suites to RC zones</i> • <i>Add provision to resolve Inconsistency between natural boundary and lot line setbacks</i> • <i>Add ‘ponds’ to natural boundary setbacks.</i> • <i>clarity that no residential use of RVs</i> • <i>review regulations on connections between buildings for consistency with BCBC</i> • <i>Review lot coverage for split zoned lot calculations</i> • <i>Rezone/OCP map amendment for Baile Nature Reserve</i> • <i>Administration and enforcement: currently states that enforcement officers must give prior notice: update to be consistent with other bylaws that state entry at reasonable times.</i> • <i>Correct typos, update legislative references</i> 	
p) Formatting	Re-format LUB to Islands Trust LUB template, adopt a new base bylaw		<i>Any extensive amendments to LUB should include re-formatting LUB into standard template and adopting a new base bylaw</i>	

APPENDIX 4 - SUMMARY OF OTHER LOCAL TRUST AREA REGULATIONS

Island, Bylaw No.	Setback from Natural Boundary of the Sea	Min. elevation above the NB of the Sea	Exemptions from Setback from NB of the Sea	Other (permitted bldgs. or structures) within Setback from NB of the Sea	Shoreline Development Permit Area – Y/N
Ballenas-Winchelsea Islands Land Use Bylaw No. 28, 2013	15 m	-	-	<ul style="list-style-type: none"> Ocean loop geo-exchanges systems. 	Shoreline DPA <ul style="list-style-type: none"> All construction within 30 m of the NB of the sea requires a Development Permit.
Bowyer and Passage Islands Land Use Bylaw No. 114, 2011 (in Gambier Island Local Trust Area)	7.6 m	-	<ul style="list-style-type: none"> Boathouse, including accessory ramps; Propane tank; Utility lines; Stairs, ramps or walkways not exceeding 2.5 m in width, to access the foreshore or a permitted dock; Decks or platforms not exceeding a height of 1.2 m above natural grade and 17 m² (183 sq.ft.) in area within the setback area; Lifting devices. 	<i>Note:</i> There are property-specific min. setbacks from the NB of the sea for (historic) buildings or structures that apply to identified properties within the LUB (i.e. Kildare Estates on Passage Island).	No.
Denman Island Land Use Bylaw No. 186, 2008	15 m 30 m (sewerage system, building/structure for intensive	1.5 m	<ul style="list-style-type: none"> Boathouse (5 m setback required); Fence; Access stairway. 	-	No.

	agriculture or domesticated animals)				
Gabriola Island Land Use Bylaw No. 177, 1999	7.5 m* (*15 m where frontage is not adequately protected from erosion by natural bedrock or works as certified by a professional engineer) 30 m (septic sewage disposal field)	1.5 m	<ul style="list-style-type: none"> Boathouses; Walkways and stairs (average max. elevated floor height of 0.3 m and max. width of 1 m). 	-	<p>DPA 2 – Lock Bay</p> <ul style="list-style-type: none"> Area of DPA 4 shown on Schedule D. <p>DPA 4 – Flat Top Islands Area</p> <ul style="list-style-type: none"> Area of DPA 4 shown on Schedule D. <p>DPA 5 – Gabriola Pass Marine Protected Area</p> <ul style="list-style-type: none"> Area of DPA 5 shown on Schedule D.
Galiano Island Land Use Bylaw No. 127, 1999	7.5 m 30 m (sewage absorption fields, buildings/ structures for farm animals)	-	<ul style="list-style-type: none"> Sign; Pumphouse with a floor area less than 10 m². 	-	<p>DPA 2 – Shoreline</p> <ul style="list-style-type: none"> All land 15 m upland of the natural boundary of the sea, and seaward to the boundary of the area of bylaw application.
Gambier Island Land Use Bylaw No. 78, 2004	15 m 40 m (animal enclosures, pens, feeding troughs, animal runs, manure piles)	1.5 m	<ul style="list-style-type: none"> Signs, arbours and trellises; Boat houses, stairs, or walkways required for foreshore access or a permitted ramp associated with a dock may be sited within 15 metres of the natural boundary of the sea. 	<ul style="list-style-type: none"> Allows up to 0.6 m projection for a projecting feature (i.e. bay windows, chimneys, roof overhangs, eaves, gutters, etc.). Allows up to 1 m projection for a projecting feature (i.e. canopies, sunshades, unenclosed balconies, patios, porches, etc.). Structures no more than 0.6 m above grade level (i.e. wellheads, parking spaces), 	<p>DPA 2 – Brigade Bay Area</p> <ul style="list-style-type: none"> Area of DPA 2 shown on Schedule I.

				except sewage disposal systems and fields shall comply with Provincial regulations.	
Gambier Associated Islands Land Use Bylaw No. 120, 2013 (including Anvil, Pasley, North and South Thormanby Islands)	7.5 m	-	<ul style="list-style-type: none"> • One boathouse not exceeding 18.5 m²; • Propane tanks; • Utility lines; • Lifting devices associated with permitted marine uses; • Stairs, ramps or walkways not exceeding 2.5 m in width, to access the foreshore or a permitted dock; • Decks or platforms not exceeding a height of 1.2 m above natural grade and 10 m² in area within the setback area. 	-	No.
Hornby Island Land Use Bylaw No. 150, 2014	15 m 30 m (feed troughs, manure piles, buildings/ structures housing animals; sewage disposal fields)	1.5 m	-	<ul style="list-style-type: none"> • Signs or fences that do not exceed 2 m in height. 	No.
Lasqueti Island Land Use Bylaw No. 78, 2005	15 m* (*reduced to 7.5 m where frontage is adequately protected from erosion by natural bedrock or works as certified by a	1.5 m	<ul style="list-style-type: none"> • Boathouse (5 m setback required); • Fence; • Access stairway. 	-	No.

	professional engineer)				
Mayne Island Land Use Bylaw No. 146, 2008	7.5 m	1.5 m	<ul style="list-style-type: none"> Fence; Utility shed; Navigational aid; Structures supporting a permitted dock or wharf; Stairs or walkways required to access the foreshore or a permitted dock. 	<ul style="list-style-type: none"> Allows up to 1 m projection for a projecting feature (i.e. steps, eaves and gutters, etc.) and for balconies, decks and sun shades. 	No.
North Pender Island Land Use Bylaw No. 103, 1996	15 m 60 m (sewage disposal field or septage pit)	-	<ul style="list-style-type: none"> Walkways and stairs for dock or foreshore access, not exceeding 1 m in height and 1.2 m in width; Anchor pads or abutments up to 1.5 metres in width for securing a dock structure or wharf to the upland; Up to 3 metres length of a dock walkway or ramp; Pumphouses used exclusively for housing an individual water system. 	<ul style="list-style-type: none"> Allows up to 0.6 m projection for a projecting feature (i.e. chimneys, gutters, sills, bay windows, steps, eaves, sunlight control projections, balconies, or porches, etc.). 	DPA 6 – Intertidal Sensitive Ecosystems <ul style="list-style-type: none"> Areas of DPA 6 shown on Schedule N.
North Pender Associated Islands Land Use Bylaw No. 148, 2003	15 m* 50 m for the CD3(a) zone on James Island	-	-	-	Shoreline DPA <ul style="list-style-type: none"> All non-Crown land within 15 m upland of the NB of the sea. *Buildings and structures may not be sited within 15 m of the NB of the sea, without first obtaining a Development Permit.
Salt Spring Island Land Use Bylaw No. 355, 1999	15 m* (*reduced to 10 m with engineer certification the NB	1.5 m	<ul style="list-style-type: none"> Pumphouse; Boathouse. 	In the CA1(c) and CA1(d) zones, building setbacks from the NB of the sea do not apply to buildings or structures used for boat	DPA 3 – Shoreline <ul style="list-style-type: none"> DPA area shown on Map 20.

	is located on non-erodible material) 30 m (sewage disposal field or septage pit, and for identified commercial, institutional or agricultural activities)			building, boat repairs, boat rental and marina administration and services.	
Saturna Island Land Use Bylaw No. 119, 2018	7.6 m	-	<ul style="list-style-type: none"> • Fences; • One small boat storage platform not exceeding a floor area of 18.5 m²; • One boathouse not exceeding a floor area of 18.5 m²; • Stairways; • Wharf and dock ramps and their footings. 	-	No.
South Pender Island Land Use Bylaw No. 114, 2016	7.6 m	-	<ul style="list-style-type: none"> • Fence, • Pump/utility house, • Stairway, • Wharf and dock ramps or their footings. 	<ul style="list-style-type: none"> • Allows up to 1 m projection for steps, eaves, gutters, retaining walls, balconies, decks, etc. • Retaining structures less than 1.2 metres (4 feet) in height at all points <u>not</u> included in definition of "Structure". 	No.
Thetis Island Land Use Bylaw No. 89, 2011	7.6 m	-	<ul style="list-style-type: none"> • Boathouse, • Pumphouse. 	<ul style="list-style-type: none"> • Allows up to 0.6 m projection for a projecting feature (i.e. chimneys, sills, bay-windows and ornamental architectural features). • Allows up to 1.8 m projection for a projecting feature (i.e. steps, eaves, awnings, 	No.

				<p>canopies, balconies, decks or porches).</p> <ul style="list-style-type: none"> Fences, free-standing lighting poles, warning devices, antennas, masts, utility poles, wires, flagpoles, signs and sign structures may be sited on any portion of a lot. 	
<p>Thetis Associated Islands Land Use Bylaw No. 94. 2014 (incl. Ruxton, Reid Islands)</p>	10 m	1.5 m	<ul style="list-style-type: none"> Fence, Utility shed, Boathouse located within the R2, R3, R4 or R5 zones, Platform with a max. area of 5 m², a set of stairs or a walkway or combination of the two, for accessing the foreshore, Boat ramp. 	-	No.

Cowichan Tribes Response: see notes within document
NORTH PENDER ISLAND
LAND USE BYLAW REVIEW

MARINE AND SHORELINE
DISCUSSION PAPER

JULY 2020



Islands Trust

Table of Contents

Background	1
Discussion.....	2
Options.....	8
Conclusion.....	9

Background

The North Pender Island Local Trust Committee has initiated a project to implement Official Community Plan (OCP) policies through amendments to the Land Use Bylaw (LUB). The LTC has endorsed a [project charter](#) which establishes a process and timeline for the project.

The project is categorized into 7 topic areas:

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

Some topics will likely involve greater community engagement and consultation than others. In the initial phase, the project charter identifies that staff will undertake a review of the topics and issues, and prepare background material and options for consideration.

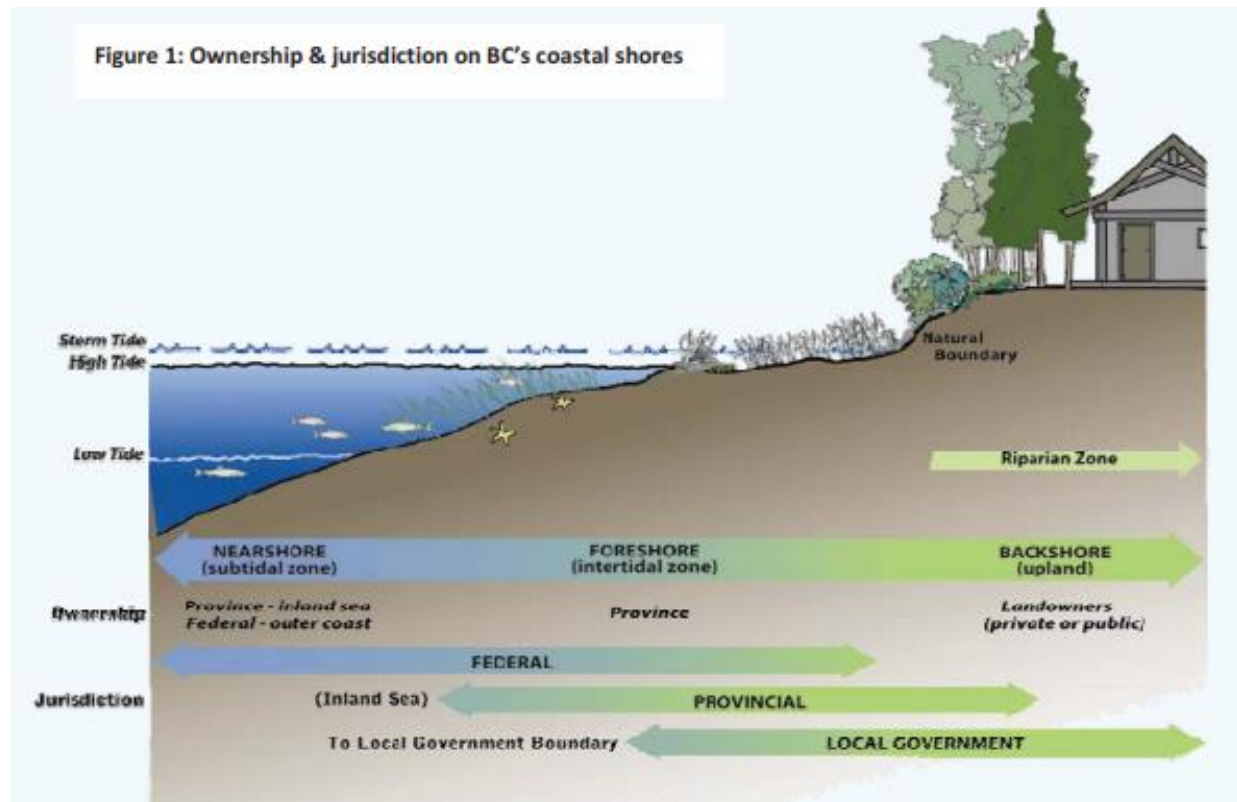
Discussion Paper Purpose:

The purpose of this Discussion Paper is review North Pender's marine zoning and shoreline regulations and identify how they support OCP objectives as well as address climate impacts. The discussion paper includes a high level overview of jurisdiction, identifies key issues related to marine and shoreline environments and proposes options for Land Use Bylaw amendments.

Discussion

1. Marine Shoreline Jurisdiction

All levels of government have some role in managing coastal shores in BC. Area of ownership and jurisdiction on BC's coastal shores is identified in Figure 1.



Source: https://www.salishsea.ca/resources/Riparianrights/Greenshores%20JurisdictionIssueSheet_finalVer4.pdf

Local Governments have the authority to plan and regulate land use within its boundaries, which may extend over the surface of the water in the foreshore and nearshore out to the jurisdictional boundary. Policy and regulatory tools include: official community plans, zoning, develop permit areas and subdivision authority. Local government zoning regulation of water is valid and applicable to the extent that it does not directly conflict with provincial or federal regulation, or impair core aspects of the federal jurisdiction over shipping and navigation. Federally owned land, such as port land, or Reserve land, as well as the Province's use of its own land and waters, will be immune from land use regulation.

The provincial government owns most of the foreshore (the area between the low water level and the natural boundary of the sea). The province issues permits, licenses or leases for a range of issues including: private and public moorage, wharves, marinas, aquaculture, and log storage. The Province also establishes regional coastal zone plans where needed.

The federal government has jurisdiction over offshore waters –from the low water mark out to about 12 nautical miles along the outer coast. Responsibilities include: fish and fish habitat protection including shoreline/riparian vegetation and the protection of public navigation.

First Nations have authority similar to provincial and local governments over upland and aquatic lands within Reserves. Outside reserves, traditional rights to marine resources are the subject of ongoing Treaty negotiations. All other governments have a duty to consult with First Nations on any shoreline tenure applications.

2. North Pender’s Marine and Shoreline Policies and Regulations

OCP Policies

The key goals in the North Pender Island Official Community plan that relate to shoreline and marine environments are those that speak to the need to “protect sensitive areas and at-risk species” and “plan for a pattern of activity and land use which ensures the sustainable use of natural resources and protects biodiversity, natural processes, habitats and species”. There are a number of OCP policies that support these goals in the shoreline and marine environment.

Coastal Areas Policies (4.2) focus on the protection of sensitive coastal areas. They are as follows:

- 4.2.1 Regulations should protect natural coastal processes from the impacts of development.
- 4.2.2 Ocean vistas may be protected by regulation.
- 4.2.3 Use of the foreshore, and the surface of marine waters within the North Pender Island Local Trust Area shall be regulated by zoning.
- 4.2.4 All offshore reefs and islets shall remain free of any development of structures other than aids to navigation.
- 4.2.5 The Local Trust Committee shall implement zoning regulations, appropriate development permit area guidelines and consider adoption of a development approval information bylaw in order to ensure that all tidal and coastal fresh water marshlands are retained in their natural state.
- 4.2.6 Marshes, bluffs and other natural features along the coast shall be protected from erosion, pollution and other impacts of development by: a) ensuring that any use of the foreshore does not result in permanent damage to natural features; b) encouraging use of community docks or multi-user docks; and c) ensuring that waterfront development is sufficiently setback to permit natural erosion and accretion processes to occur without endangering structures.
- 4.2.7 Maintenance of public access and the right to recreational use of the foreshore shall be protected.
- 4.2.8 Filling, deposit, or excavation of materials on the foreshore shall be prohibited.
- 4.2.9 Aquaculture shall be subject to rezoning.
- 4.2.10 No structures, including boathouses and multi-user docks, should be permitted in coastal and foreshore areas unless an environmental impact assessment indicates that there is no disruption to natural coastal processes.

Other OCP policies related to the shoreline and marine environments include:

- Prohibiting marine industrial activities that would damage or adversely alter the foreshore (2.5.7).

- Prohibiting the permanent anchoring of floating camps or houseboats and residential use of any vessel moored or beached, except for one marina caretaker residence (3.1.1.5).
- Limiting shoreline structural modifications in number and extent to support or protect permitted or existing use or structure (5.2.1.5 (14))
- Preference to shoreline structures that have a lesser impact or enhance ecological functions, including vegetation enhancement, drainage control, beach enhancement, anchor trees, gravel placement. Avoiding harder construction methods where possible (5.2.1.5 (15)).
- Shoreline stabilization should not interrupt natural processes solely to reduce erosion of undeveloped land, except for agriculture. Vegetation which helps stabilise banks, reduce erosion and provides that habitat should be retained or enhanced (5.2.1.5 (16)/5.2.1.6 (8)/ 5.2.2.4 (Woodland Ecosystem DPA Guidelines)/ 5.2.3.3 (Herbaceous Ecosystem DPA Guidelines).
- The Commercial and Industrial DPA includes a number of guidelines related to structures in the foreshore to limit visual impact.
- Recognition of the need for efforts and policies to help the community adapt to climate change impacts.
- The OCP also contains an Intertidal Ecosystem DPA (DPA 6) developed to “preserve and protect remaining sensitive intertidal ecosystems”.

In considering potential amendments to the LUB to better implement OCP policies related to the marine and shoreline environment, attention should be paid to what is currently in the OCP (as identified above) and what is missing with respect to addressing the impacts of climate change and the interest of First Nations. While climate change is acknowledged in the OCP there are no specific policies related to climate change impacts such as sea level rise. There are also no policies related to First Nations interests in the marine and shoreline environments.

Relevant LUB Definitions:

"marina" means the use of a water area for the temporary storage of boats and includes the installation of floats, wharves, piers, ramps and walkways, marine sewage pump-out stations and the provision of wharfage services to the boating public.

"moorage" means the tying of a boat to a buoy or similar object that is in turn anchored to the bed of the sea.

"natural boundary" means the visible high water mark of the sea, a lake, a stream or other body of water, where the presence and action of water are so common and usual and so long continued in all ordinary years as to mark upon the soil or rock of the bed of the body of water a character distinct from that of the bank, in vegetation, as well as in the nature of the soil itself.

"personal watercraft" means a vessel less than 5 metres in length that is propelled by machinery, commonly a jet pump, and designed to be operated by a person standing, kneeling or sitting on the vessel rather than standing or sitting inside the vessel.

"wharfage" means the tying of a boat or seaplane to a wharf, float or dock that is in turn connected to an upland lot by a ramp or walkway

Items in the marine environment that are mentioned in zoning but not defined include: “dock”, “float”, “wharf”, “ramp”, and “walkway”.

Relevant LUB Regulations:

General Regulations

Prohibited Uses

3.2.1 The following uses, buildings and structures are prohibited in every zone: BL 179 (1) yacht clubs and marinas the use of which is restricted to members of a private club;

Siting

3.7.1 No building or structure other than one referred to in Subsection 3.7.2 may be sited, nor fill placed to support a building or structure, within 15 metres upland of the natural boundary of the sea nor 7.6 metres upland of the natural boundary of a lake, wetland or stream, and for this purpose paved areas of asphalt, concrete or similar material are "structures".

3.7.2 Walkways and stairs to access a dock or the foreshore and not exceeding a height of 1 metre and a width of 1.2 metres, anchor pads or abutments up to 1.5 metres in width for the purpose of securing a dock structure or wharf to the upland, up to 3 metres length of a dock walkway or ramp, and pumphouses are exempt from Subsection 3.7.1, and pumphouses used exclusively for housing an individual water system are exempt from setback provisions specified in Part 8 of this Bylaw.

Zoning

North Pender has five marine water zones which extend over the surface of the water (see Schedule D map of LUB).

Water 1 (W1) Zone is the most extensive foreshore zone extending around most of the perimeter of the island and is intended to permit private moorage uses. It permits outright: private floats, wharves, ramps and walkways accessory to the residential use of an abutting upland lot or lots abutting the sea; pilings necessary for the establishment or maintenance of the uses; boat launching ramps; and marine navigation, marine navigation aids and marker buoys. Only one float, wharf, ramps and walkway is permitted abutting each upland lot. Size of floats and wharves is limited to 37m². The width of ramps and walkways is limited. No structure may be located within 3 metres of the seaward projection of any side lot line of the abutting upland lot. Building on a float or wharf is not permitted. Living in a structure, boat or vessel in W1 is not permitted.

Water 2 (W2) Zone is intended to regulate marinas and the three existing marinas are included in this zone. It permits a number of uses specific to that use including: sale and rental of boats and sporting equipment, except personal watercraft; marinas; yacht clubs; wharfage facilities for water taxis, ferries, fishing boats, sea planes and similar craft; marine fuelling stations. Accessory buildings are permitted on docks. The maximum floor area may not exceed 37m². Living in a structure, boat or vessel in W2 is not permitted.

Water 3 (W3) Zone extends to the boundary of the North Pender Island Local Trust Area and permits only marine navigation, marine aides and marker buoys and on other uses.

Water 4 (W4) Zone is intended for public wharf facilities, and the zone includes the ferry terminal and the community docks. The zone permits marine navigation, marine navigation aids, marker buoys, ferry dock, public port facilities, and seawalls, breakwaters, ships, docks, piers, dolphins, and pilings necessary for the establishment or maintenance of such port facilities . All other uses are prohibited.

Water 5 (W5) Zone recognizes the National Park Reserve Marine component; while the federal government is not subject to zoning, the zone permits marine navigational aids, natural resource management and protection and docks, wharfage, and moorage accessory to the upland National Park lands. No other uses are permitted.

3. Issues and Interests Related to the Marine and Shoreline Environment

There are a number of issues and interests related to the marine and shoreline environments in the Islands Trust area identified below.

People living aboard structures, boats and vessels within the marine areas of Islands Trust. This can be a more significant problem in Local Trust Areas where living in structures, boats and vessels in marine zones is not clearly prohibited in regulation. North Pender’s zoning bylaws explicitly prohibit this use. BC Supreme Court ruled in the case of District of West Kelowna v. Newcomb (August 2013) that a local government’s zoning power can extend to regulation of long-term moorage. This was affirmed by the BC Court of Appeal. There are currently no bylaw enforcement files on North Pender Islands related to this issue.

Debris related to derelict docks and other structures are a common problem in the Islands Trust Area¹. In addition to abandoned boats, barges, and buoys, broken-up floats and docks scatter the marine environment creating hazards and negative ecological impact. Currently the only water zone on North Pender that prohibits “derelict or abandoned floats, ramps or walkways” is Water 6 Zone which is designated on Buck Lake and Magic Lake.

Ecological Impacts of development in shoreline and marine environments range from those related to onshore ecosystems to those in the intertidal area and beyond (which can include impacts on Southern Resident Killer Whales). Any type of disturbance in these areas can have impacts on ecological processes. Having the setback of 15 metres from the natural boundary of the sea enables North Pender to prohibit development in a large portion of the foreshore (except for walkways, stairs and pumphouses) without a development variance permit. This, in addition to the restrictions on the size of docks and width of walkways and stairs, effectively reduces ecological impacts. North Pender’s OCP also designates extensive sensitive ecosystem development permit areas, and many of the terrestrial ecosystem designations occur in backshore areas. In addition there is the existing intertidal DPA described above.

¹ <http://www.islandstrust.bc.ca/media/346733/abandoned-vessels-web-10-30-2018.pdf>

Sealevel Rise is an issue of increasing concern as climate change impacts become increasingly evident. Provincial environmental reporting indicates that the average seal level has risen along most of the B.C. coast over the past century. Sea Level rise in combination with storm surge could result in damage to coastal infrastructure, property loss from erosion, habitat loss, decreasing biodiversity, saltwater intrusion into coastal aquifers, and loss of cultural and historical sites. North Pender's 15 metre setback from the sea helps to mitigate some potential impacts. This setback can also be seen as a procedural hurdle for property owners wanting to take measures to protect their properties using both hard infrastructure and soft shore approaches. Development variance permits (DVP) are required for any structures within a setback. Soft shore approaches utilize natural materials and work with ecological processes to mediate impacts such as erosion, bank instability and other changes to shoreline that can result from sea level rise, storm surge and other factors. Most hard infrastructure and some soft shore treatments may require a DVP. However, there would be soft shore treatments not involving structures that do not require a variance, effectively incentivizing soft shore approaches over hardening.

First Nations interests and knowledge must be considered, where possible, with any in development or alteration of marine and shoreline environment. First Nations interests include mitigating and addressing shifts in the health of ecosystems which impact the livelihood and cultural ways of life of Indigenous Peoples on the coast. Mapping on North Pender identifies a significant amount of potential archeological sites along the shoreline. Bylaw referral processes require First Nations consultation, so any rezoning applications along the foreshore or backshore would involve consultation. The Islands Trust is working to improve engagement with First Nations and the integration of Indigenous knowledge into all land use planning processes.

Options

The options below identify potential LUB amendments.

1. Changes to Setback from the Natural Boundary of the Sea

Increasing the setback from the natural boundary of the sea in areas subject to significant impacts from sea level rise and erosion, which could help to limit property damage resulting from rising sea levels and storm surge events. Implementing this option would require data related to elevation and sea level rise potential over time to identify at-risk areas and appropriate setbacks.

Creating a vertical, as well as a horizontal, set back requirement could also be considered. Vertical setbacks are not typically used in Islands Trust Area bylaws . This option would assist in implementing provincial recommendations and requirements for building and subdivision. It would require investigation into the potential of implementing height in setbacks from the natural boundary of the sea generally in zoning.

2. Prohibit derelict “docks, floats, ramps and walkways” in all marine water zones

Currently the only water zone on North Pender that prohibits “derelict or abandoned floats, ramps or walkways” is Water 6 Zone which related to Buck and Magic lakes. While including such a prohibition in all the water zones may assist in some enforcement instances, in many cases the owner of an abandoned dock cannot be located or the enforcement may not be possible.



3. Require rezoning for new docks

Currently “private floats, wharves, ramps and walkways accessory to the residential use of an abutting upland lot or lots abutting the sea” are permitted outright in the W1 zone. New docks must comply with the size restrictions in the zone, but otherwise need no discretionary approval. The LTC may wish to consider changes that would make new docks a discretionary use, rather than the current outright use. This would be implemented by restricting the W1 zoning to current private moorage tenures and require rezoning to W1 for any future docks. In the process of rezoning, site specific considerations and restrictions could be addressed. This changed approach was implemented last term in South Pender’s updated Land Use Bylaw. While there are not a large number of new dock tenures annually, the LTC should consider the impact of processing private moorage rezoning applications.



4. Changes to Zoning to Encourage Soft Shore Mitigation Efforts

Soft shore approaches to addressing erosion, bank instability and other changes to shoreline that are associated with a variety of factors including sea level rise and storm surge recognize the ecological features and functions of the shoreline ecosystems. In addition to addressing impacts, soft shore approaches can contribute to the preservation of ecosystems. “Green Shores” is a program of the Stewardship Centre of BC which promotes the use of “soft shore” approaches.



As a soft shore/green shores approach relies on the use of natural materials, in a number of cases the introduction of these materials into the setback from the natural boundary of the sea would not require

a development variance permit. However, there may be cases where the extent to which the use natural materials constitute a structure. Zoning provisions could be reviewed to see if amendments could be made to permit structures associated with a green shores approach within the natural boundary setback from the sea, while still prohibiting shoreline hardening.

5. Additional Potential Amendments to Regulations

Definitions: existing marine related definitions should be reviewed for accuracy and relevance, and terms such as “dock”, “float”, “wharf”, “ramp”, walkway” and “derelict” should be considered for inclusion in the definitions, this would foster consistency with other bylaws, provide clearer interpretation and contribute to enforcement where needed.

Use Categories: review the use categories in the W1, W2 and W4 zones, and consider changes to:

- Clarify private moorage as the principal permitted use in W1
- Remove boat launch ramps as a permitted use abutting residential lots in W1
- Clarify marinas as the principal use in W2
- Clarify community docks and ferry terminals as the principal use in W4

Structures in the setback from the natural boundary: while current regulations limit permitted structures to stairs and walkways, the regulations should be reviewed for potential amendments that would address the extent and scale of walkways.

6. Other Opportunities (Out of Scope)

While the purpose of this discussion paper is to focus on amendments to the LUB, a further project that could be considered in future is the implementation of a shoreline Development Permit Area to protect the shoreline and marine ecosystem, address impacts associated with sea level rise and storm events on structures and to regulate shoreline alteration. The Galiano Local Trust Area currently has a DPA that serves this purpose. It includes guidelines encouraging soft shore approaches to shoreline protection. Also, Islands Trust Local Planning Committee has recently initiated a project to examine issues related to the Marine and Shoreline environment in the Trust Area and identify policy and regulatory opportunities for Local Trust Committees.

Conclusion

The North Pender Island OCP contains a number of policies related to the marine and shoreline environment. North Pender Island land use bylaw includes provisions such as setbacks and restrictions on walkway width and dock size as well as prohibiting living in structures, boats or vessels in marine water zones support a number of these policies.

There a number of amendments to LUB regulations, and other regulatory approaches, that could be considered in order to support the OCP goals of protecting “sensitive areas and at-risk species” and planning “for a pattern of activity and land use which ensures the sustainable use of natural resources and protects biodiversity, natural processes, habitats and species” in the marine and shoreline environment, as well as address climate change impacts related to sea level rise and storm surge.