



PUBLIC HEARING

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE

May 6, 2022

South Pender Island Fire Hall, 8961 Gowlland Point Road

PROPOSED BYLAW NO. 122

Project: Land Use Bylaw Amendments

RELEVANT BACKGROUND INFORMATION REFERENCE BINDER

➤ ***CHAIR'S OPENING STATEMENT***

1. NOTICE OF PUBLIC HEARING

2. SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE PROPOSED BYLAW

- a. Bylaw No. 122 – South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021

3. REFERRALS TO AGENCIES & FIRST NATIONS

- a. Bylaw Referral – No. 122
- b. Agencies & First Nations Referral Responses Received

4. RELEVANT MINUTES/RESOLUTIONS WITHOUT MEETING

- a. January 15, 2021
- b. April 9, 2021
- c. May 7, 2021
- d. July 9, 2021
- e. August 21, 2021
- f. September 24, 2021
- g. November 5, 2021
- h. February 4, 2022
- i. March 4, 2022

5. STAFF REPORTS / MEMOS

- a. March 5, 2021
- b. May 7, 2021
- c. July 9, 2021
- d. September 24, 2021
- e. November 5, 2021
- f. February 4, 2022
- g. March 4, 2022

6. CORRESPONDENCE

- a. May 2021 to June 2021
- b. October 2021
- c. November 2021
- d. February 2022
- e. March 2022
- f. April 2022

7. PUBLIC HEARING SUBMISSIONS

- a.
- b.

8. OTHER

- a. Project Charter – May 7, 2021
- b. Legal Non-Conforming FAQ – July 2022

CHAIRPERSON'S OPENING STATEMENT

The following is an example of an opening statement to be made by the Chairperson of the Local Trust Committee at the beginning of a Public Hearing.

"This Public Hearing is being convened pursuant to Section 465 of the *Local Government Act* in order to consider the following proposed bylaw(s):

- **Proposed Bylaw No. 122 – cited as "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021".**

All persons who believe that their interest in property is affected by the proposed bylaw(s) will be given a reasonable opportunity to be heard or to present written submissions respecting matters contained in the proposed bylaw(s).

Those wishing to speak should commence their presentation by clearly stating their name and address.

Members of the Local Trust Committee may, if they wish, ask questions of you following your presentation. However, the main function of the Local Trust Committee members is to listen to the views of the public. It is not the function of Committee members to debate the merits of the proposed bylaw(s) with individual citizens.

Everyone will be given a reasonable opportunity to be heard and none should feel discouraged from presenting his or her views.

In considering the proposed bylaw(s), the Local Trust Committee has received documents, which may influence its decision. Those documents are available for review during this hearing, on our website, and as indicated in the public hearing notice.

Any person who wishes to present a written submission to the Local Trust Committee may do so and all written submissions must be received by the Local Trust Committee before the close of the hearing. Send written submissions to vicphsub@islandstrust.bc.ca.

Your only opportunity to comment on the proposed bylaw(s) is during this hearing, as members of the Local Trust Committee may not receive further submissions after the close of the hearing.

After this Public Hearing has concluded, the Local Trust Committee may, without further notice, make whatever decision it deems proper with respect to the bylaw(s) that is the subject of the Public Hearing."



Islands Trust

**HAVE
YOUR
SAY**

**Community
Information
Meeting and
Public Hearing**

Friday, May 6, 2022
at 11:00 a.m.

**South Pender Island
Fire Hall**

8961 Gowlland Point Road,
South Pender Island, BC

Who should attend?

Anyone affected by
the proposed bylaw.



Enquiries?

Kim Stockdill
Island Planner
Islands Trust

kstockdill@islandstrust.bc.ca
250-405-5157



Proposed Bylaw No. 122

Land Use Bylaw Amendments

COMMUNITY INFORMATION MEETING & PUBLIC HEARING

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE

What is Proposed Bylaw No. 122 about?

Proposed Bylaw No. 122 will amend the South Pender Land Use Bylaw to include new agricultural regulations to align with the Agricultural Land Commission, reduce maximum floor areas for dwellings in the rural residential zones, reduce setbacks for dwellings and cottages in the rural residential zones, increase the setback from the natural boundary of the sea, include clauses for those buildings or structures that maybe be deemed legal non-conforming due to the new regulations, and other minor amendments.

How do I get more information?

A copy of the proposed bylaw, the Public Hearing Binder and other information on the project is available on the [South Pender Current Project webpage](#) and, at the Islands Trust office at 200-1627 Fort Street, Victoria, BC, V8R 1H8 from the hours of 8:30 a.m. to 4:30 p.m. Monday to Friday, excluding statutory holidays, after April 19, 2022.

A Community Information Meeting (CIM) will be held prior to the Public Hearing and will provide the opportunity for members of the public to ask questions about the proposed bylaw amendments.

Submissions

Written submissions are welcome up until the conclusion of the Public Hearing and can be emailed to vicphsub@islandstrust.bc.ca, mailed or dropped off at the Islands Trust office by Thursday, May 5, 2022. Written comments made in response to this notice will be available for public review.

PROPOSED

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 122

A BYLAW TO AMEND SOUTH PENDER ISLAND LAND USE BYLAW NO. 114, 2016

The South Pender Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the South Pender Island Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021”.

2. South Pender Island Local Trust Committee Bylaw No. 114, cited as “South Pender Island Land Use Bylaw No. 114, 2016” is amended as follows:

2.1 By adding the following new definitions to Section 1.1 ‘Definitions’:

““agri-tourism” means an activity referred to in Section 12 of the *Agricultural Land Reserve Use Regulation*.”

““agri-tourist accommodation” means a use accessory to a *farm use* for the purpose of accommodating commercial guests within specific structures on specific portions of a *lot* as referred to in Section 33 of the *Agricultural Land Reserve Use Regulation*.”

““farm retail sales” means the retail sale of tangible farm products grown or raised on a farm or association to which the owner of the farm belongs.”

““Farm Status” means land classified as a farm pursuant to the *(BC) Assessment Act*.”

2.2 By removing the words “floor area of 70m² or less” and replacing it with “limited floor area” in the definition of ‘cottage’.

2.3 By removing the word “outer” and replacing it with “inner” in the definition of ‘floor area’.

2.4 By removing the words “7.6 metres (25 feet)” and replace it with “15 metres (50 feet)” in Subsection 3.3(3).

2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly:

“Despite Subsection 3.3(3), *buildings or structures* legally constructed prior to [insert date of Bylaw No. 122 adoption] shall not be sited within 7.6 metres (25 feet) of the *natural boundary* of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are “structures”.”

2.6 By adding the following new subsections to Section 3.5 'Accessory Buildings and Structures' as follows:

- “(6) Shipping containers are a permitted accessory use on a *lot* subject to the following:
- (a) On a *lot* less than 0.8 ha (2 acre) in area, a maximum of one (1) shipping container is permitted.
 - (b) On a *lot* 0.8 (2 acres) or greater in area, but less than 1.2 ha (3 acres) in area, a maximum of two (2) shipping containers are permitted.
 - (c) On a *lot* with an area greater than 1.2 ha (3 acres), a maximum of three (3) shipping containers are permitted.
- (7) Shipping containers must be screened from neighbouring *lots*, roads, or the sea by use of landscaping screening in compliance with Section 3.9.”

2.7 By adding the words “except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²)” at the end of Subsection 3.6(4) so it reads:

‘The combined *floor area* used in all *home businesses* on a *lot*, except a *bed and breakfast*, must not exceed 65 m² (700 ft²) except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²).’

2.8 By adding the words “or *cottage*” after the words ‘used as a dwelling’ to Subsection 3.14(1) so it reads:

‘A building permit shall not be issued for a new *building* to be used as a *dwelling* or *cottage* on a *lot* in the RR(1), RR(2) or RR(3) zones unless a *building* on the *lot* is equipped with a rainwater catchment system and cistern(s) for the storage of rainwater with a minimum cistern capacity of 9,000 litres (1980 gallons).

2.9 By deleting the words Table from Subsection 5.1(5) and replacing it with

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000 ft ²)	255 m ² (2750 ft ²)
0.4 ha to < 1.2 ha (1 to 3 acres)	557 m ² (6000 ft ²)	279 m ² (3000 ft ²)
1.2 ha to < 4 ha (3 to 10 acres)	743 m ² (8000 ft ²)	325 m ² (3500 ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000 ft ²)	4372 m ² (4000 ft ²)

”

2.10 By add the following new subsection after Subsection 5.1(5):

“Despite Subsection 5.1.(5), on a *lot* that contains a legal *dwelling* constructed prior to the adoption of this bylaw, a replacement *dwelling* may constructed, or the existing *dwelling* re-constructed or altered, provided the *floor area* of the replacement, re-constructed or altered *dwelling* does not exceed the *floor area* of the *dwelling* on the *lot* at the time of the adoption of this bylaw.”

2.11 By adding the following new subsection after the newly created Subsection 5.1(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).” ✓ ✓ ✓

2.12 By adding the following new subsection directly after the newly renumbered Subsection 5.1(9) and renumbering accordingly:

“Despite Subsection 5.1(9), the setback for a *dwelling* or *cottage* shall be 6.0 metres (20 ft.) from any interior or exterior *lot line*.” ✓ ✓ ✓

2.13 By add the following new subsection after Subsection 5.1(5):

“Despite Subsection 5.1.(9), on a *lot* that contains a legal *dwelling* or *cottage* constructed prior to the adoption of this bylaw, a replacement *dwelling* or *cottage* may constructed, or the existing *dwelling* or *cottage* re-constructed or altered, provided the distance from the interior or exterior *lot line* to the replacement, re-constructed or altered *dwelling* or *cottage* does not exceed the distance from the interior or exterior *lot line* to the *dwelling* or *cottage* on the *lot* at the time of the adoption of this bylaw.”

2.14 By removing “560 m² (6028 ft²) and replacing it with “500 m² (5382 ft²) in Subsection 5.5(9).

2.15 By removing the word “Rescinded” from Article 5.5(1)(d) and replacing it with “Accessory *agri-tourism* subject to Subsections 5.5(11) to 5.5(14);”

2.16 By adding the words “and *farm retail sales*.” after the words ‘on the same lot’ in Article 5.5(1)(e).

2.17 By adding the following new article after Article 5.5(1)(d) and renumber accordingly:

“Accessory agri-tourist accommodation, subject to Subsections 5.5(13) to 5.5(19), and as permitted by the Agricultural Land Commission;”

2.18 By adding the following new subsection after Subsection 5.5(9) and renumbering accordingly:

“The maximum floor area of a cottage must not exceed 90 m² (969 ft²).”

2.19 By adding the following ‘Information Note’ after the newly created Subsection 5.5(10):

“Information Note: *The maximum floor area of a dwelling or cottage located within the Agricultural Land Reserve must be compliant with the Agricultural Land Commission Act, Regulation, and any Resolution for the Agricultural Land Commission.”*

2.20 By removing the word “Rescinded” adding the following to the newly renumbered Subsection 5.5(11):

“Farm retail sales are permitted on a lot located within the Agricultural Land Reserve, and the total indoor and outdoor floor area for the farm retail sales shall not exceed 300 m² (3229 ft²).

2.21 By adding the following new subsections after Subsection 5.5(11) under ‘Conditions of Use’ and renumber accordingly:

“5.5(12) Agri-tourism buildings or structures are not permitted.

5.5(13) Agri-tourism must be in compliance with the Agricultural Land Reserve Use Regulation.

5.5(14) Agri-tourism and agri-tourist accommodation are only permitted on a lot with Farm Status.

5.5(15) Agri-tourism and agri-tourist accommodation are only permitted on a lot located in the Agricultural Land Reserve.

5.5(16) Agri-tourist accommodation must be accessory to an active agri-tourism activity.

5.5(17) Agri-tourist accommodation must be accessory to a farm use.

5.5(18) Agri-tourist accommodation buildings and structures must not exceed a lot coverage of 5 percent.

5.5(19) Agri-tourist accommodation must not be in use for more than 180 days in a calendar year.

5.5(20) Agri-tourist accommodation may include associated uses such as meeting rooms and dining facilities for paying registered guests contained wholly within the

agri-tourism accommodation unit, but may not include a *restaurant* or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.

5.5(21) The maximum number of guests that may be accommodated in any *agri-tourist accommodation* at any one time, either alone or in combination with a *bed and breakfast*, is not to exceed 10 guests or 10 bedrooms.

2.22 By adding the following new subsection after Subsection 5.6(7) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

2.23 By adding the following new subsection after Subsection 5.7(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS	4 TH	DAY OF	MARCH	2022.
PUBLIC HEARING HELD THIS	_____	DAY OF	_____	20____
READ A SECOND TIME THIS	_____	DAY OF	_____	20____
READ A THIRD TIME THIS	_____	DAY OF	_____	20____
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____	DAY OF	_____	20____
ADOPTED THIS	_____	DAY OF	_____	20____

CHAIR

SECRETARY



Islands Trust

BYLAW REFERRAL FORM

Suite 200, 1627 Fort Street
Victoria, B.C. V8R 1H8
Ph: (250) 405-5151
Fax: (250) 405-5155
information@islandstrust.bc.ca
www.islandstrust.bc.ca

Island: South Pender Island Local Trust Area Bylaw No.: 122 Date: Dec 15, 2021

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 30 days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

APPLICANTS NAME / ADDRESS:

N/A

PURPOSE OF BYLAW:

The South Pender Island Local Trust Committee (LTC) is proposing to amend the South Pender Land Use Bylaw (LUB) to include new agricultural regulations to align with the Agricultural Land Commission, to reduce maximum floor areas for new dwellings in the rural residential zones, and to increase the setback from the natural boundary of the sea for new development.

Additional project background and staff reports are available on the Land Use Bylaw Amendments project webpage:
<https://islandstrust.bc.ca/island-planning/south-pender/projects/>

GENERAL LOCATION:

South Pender Island Local Trust Area

LEGAL DESCRIPTION:

N/A

SIZE OF PROPERTY AFFECTED:

N/A

ALR STATUS:

N/A

OFFICIAL COMMUNITY PLAN DESIGNATION:

N/A

OTHER INFORMATION:

Additional information, including the current bylaws, is available at: www.islandstrust.bc.ca

Please fill out the Response Summary on the back of this form. If your agency's interests are "*Unaffected*", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.

(Signature)

Name: Kim Stockdill

Title: Island Planner
Contact Info: Tel: 250-405-5157
Email: kstockdill@islandstrust.bc.ca

PLEASE TURN OVER →

This referral has been sent to the following agencies:

Federal Agencies

N/A

Provincial Agencies

Agricultural Land Commission

Non-Agency Referrals

N/A

Regional Agencies

Capital Regional District – Building Inspection

Adjacent Local Trust Committees and Municipalities

North Pender Island Local Trust Committee

Saturna Island Local Trust Committee

First Nations

Cowichan Tribes

Halalt First Nation

Lake Cowichan First Nation

Lyackson First Nation

Malahat First Nation

Pauquachin First Nation

Penelakut Tribe

Semiahmoo First Nation

Stz'uminus First Nation

Tsartlip First Nation

Tsawout First Nation

Tsawwassen First Nation

Tseycum First Nation

WSANEC Leadership Council

BYLAW REFERRAL FORM RESPONSE SUMMARY

☐

Approval Recommended for Reasons Outlined Below

☐

Approval Recommended Subject to Conditions Outlined Below

☐

Interests Unaffected by Bylaw

☐

Approval Not Recommended Due to Reason Outlined Below

South Pender Island Local Trust Area

(Island)

122

(Bylaw Number)

(Signature)

(Name and Title)

(Date)

(Agency)

DRAFT

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 122

A BYLAW TO AMEND SOUTH PENDER ISLAND LAND USE BYLAW No. 114, 2016

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““agri-tourist accommodation” means a use accessory to a *farm use* for the purpose of accommodating commercial guests within specific structures on specific portions of a *lot*.”

““farm retail sales” means the retail sale of tangible farm products grown or raised on a farm or association to which the owner of the farm belongs.”

““Farm Status” means land classified as a farm pursuant to the *(BC) Assessment Act*.”

2.2 By removing the words “floor area of 70m² or less” and replacing it with “limited floor area” in the definition of ‘cottage’.

2.3 By removing the word “outer” and replacing it with “inner” in the definition of ‘floor area’.

2.4 By removing the words “7.6 metres (25 feet)” and replace it with “15 metres (50 feet)” in Subsection 3.3(3).

2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly:

“Despite Subsection 3.3(3), *buildings or structures* legally constructed prior to [*insert date of Bylaw No. 123 adoption*] shall not be sited within 7.6 metres (25 feet) of the *natural boundary* of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are “*structures*”.”

- 2.6 By adding the words “except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²)” at the end of Subsection 3.6(4) so it reads:

‘The combined *floor area* used in all *home businesses* on a *lot*, except a *bed and breakfast*, must not exceed 65 m² (700 ft²) except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²).’

- 2.7 By deleting the words “Maximum *Floor Area* per *lot*” from Subsection 5.1(5) and replacing it with

“For a *lot* where a legal *dwelling* was constructed prior to [insert date of Bylaw No. 123 adoption] the following maximum *Floor Area* per *lot* apply:”

- 2.8 By adding a new subsection after Subsection 5.1 (5) and renumbering accordingly:

(6) For a *lot* where a *dwelling* is constructed after [insert date of Bylaw No. 123 adoption] the following maximum *Floor Area* per *lot* apply:”

✓ ✓ ✓

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	255 m ² (2750ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	348 m ² (3750ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	372 m ² (4000ft ²)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000 ft ²)	418 m ² (4500ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	465 m ² (5000ft ²)

- 2.9 By adding the following new subsection after Subsection 5.1(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

✓ ✓ ✓

- 2.10 By adding the following new subsection directly after the newly renumbered Subsection 5.1(8) and renumbering accordingly:

“Despite Subsection 5.1(8), the setback for a *dwelling* or *cottage* shall be 6.0 metres (20 ft.) from any interior or exterior *lot line*.”

✓ ✓ ✓

2.11 By removing “560 m² (6028 ft²) and replacing it with “500 m² (5382 ft²) in Subsection 5.5(9).

2.12 By removing the word “Rescinded” from Article 5.5(1)(d) and replacing it with “Accessory *agri-tourism* subject to Subsections 5.5(11) to 5.5(14);”

2.13 By adding the words “and *farm retail sales*.” after the words ‘on the same lot’ in Article 5.5(1)(e).

2.14 By adding the following new article after Article 5.5(1)(d) and renumber accordingly:

“Accessory agri-tourist accommodation, subject to Subsections 5.5(13) to 5.5(19), and as permitted by the Agricultural Land Commission;”

2.15 By adding the following new subsection after Subsection 5.5(9) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 90 m² (969 ft²).”

2.16 By removing the word “Rescinded” adding the following to Subsection 5.5(10):

“*Farm retail sales* are permitted on a lot located within the Agricultural Land Reserve, and the total indoor and outdoor *floor area* for the *farm retail sales* shall not exceed 300 m² (3229 ft²).

2.17 By adding the following new subsections after Subsection 5.5(10) under ‘Conditions of Use’ and renumber accordingly:

“5.5(11) *Agri-tourism buildings or structures* are not permitted.

5.5(12) *Agri-tourism* must be in compliance with the *Agricultural Land Reserve Use Regulation*.

5.5(13) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* with *Farm Status*.

5.5(14) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* located in the Agricultural Land Reserve.

5.5(15) *Agri-tourist accommodation* must be *accessory* to an active *agri-tourism* activity.

5.5(16) *Agri-tourist accommodation* must be *accessory* to a *farm use*.

5.5(16) *Agri-tourist accommodation buildings and structures* must not exceed a *lot coverage* of 5 percent.

5.5(17) *Agri-tourist accommodation* must not be in use for more than 180 days in a calendar year.

5.5(18) *Agri-tourist accommodation* may include associated uses such as meeting rooms and dining facilities for paying registered guests, but may not include a *restaurant* or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.

5.5(19) The maximum number of guests that may be accommodated in any *agri-tourist accommodation* at any one time, either alone or in combination with a *bed and breakfast*, is not to exceed 10 guests or 10 bedrooms.

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2.19 By adding the following new subsection after Subsection 5.7(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS	____ - ____ DAY OF	_____	20____
PUBLIC HEARING HELD THIS	_____ DAY OF	_____	20____
READ A SECOND TIME THIS	_____ DAY OF	_____	20____
READ A THIRD TIME THIS	_____ DAY OF	_____	20____
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____ DAY OF	_____	20____
ADOPTED THIS	_____ DAY OF	_____	20____

CHAIR

SECRETARY



Islands Trust

BYLAW REFERRAL FORM

Suite 200, 1627 Fort Street
Victoria, B.C. V8R 1H8
Ph: (250) 405-5151
Fax: (250) 405-5155
information@islandstrust.bc.ca
www.islandstrust.bc.ca

Island: South Pender Island Local Trust Area Bylaw No.: 122 Date: April 4, 2022

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 30 days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

APPLICANTS NAME / ADDRESS:

N/A

PURPOSE OF BYLAW:

The South Pender Island Local Trust Committee (LTC) is proposing to amend the South Pender Land Use Bylaw (LUB) to include new agricultural regulations to align with the Agricultural Land Commission, to reduce maximum floor areas for new dwellings in the rural residential zones, and to increase the setback from the natural boundary of the sea for new development.

Additional project background and staff reports are available on the Land Use Bylaw Amendments project webpage:
<https://islandstrust.bc.ca/island-planning/south-pender/projects/>

GENERAL LOCATION:

South Pender Island Local Trust Area

LEGAL DESCRIPTION:

N/A

SIZE OF PROPERTY AFFECTED:

N/A

ALR STATUS:

N/A

OFFICIAL COMMUNITY PLAN DESIGNATION:

N/A

OTHER INFORMATION:

Thank you for your comments dated January 21, 2022. The recommendations provided by ALC Planning staff were incorporated into the draft bylaw. The proposed Bylaw No. 122 was given First Reading on March 4, 2022. This is our formal referral to the ALC for any further comments.

Additional information, including the current bylaws, is available at: www.islandstrust.bc.ca

Please fill out the Response Summary on the back of this form. If your agency's interests are "Unaffected", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.

Kim Stockdill
(Signature)

Name: Kim Stockdill

Title: Island Planner
Contact Info: Tel: 250-405-5157
Email: kstockdill@islandstrust.bc.ca

PLEASE TURN OVER →

This referral has been sent to the following agencies:

Federal Agencies

N/A

Regional Agencies

N/A

Provincial Agencies

Agricultural Land Commission

Adjacent Local Trust Committees and Municipalities

N/A

Non-Agency Referrals

N/A

First Nations

N/A

BYLAW REFERRAL FORM RESPONSE SUMMARY

☐

Approval Recommended for Reasons Outlined Below

☐

Approval Recommended Subject to Conditions Outlined Below

☐

Interests Unaffected by Bylaw

☐

Approval Not Recommended Due to Reason Outlined Below

South Pender Island Local Trust Area

(Island)

122

(Bylaw Number)

(Signature)

(Name and Title)

(Date)

(Agency)

Referrals: Bylaw SP-122

Agency	Sent	Received
Agricultural Land Commission <i>Rm. 133 4940 Canada Way: Gordon Bednard</i> <i>Comment: See response in EDM folder.</i>	16-Dec-2021 05-Apr-2022	24-Jan-2022
Capital Regional District - All Referrals Christine Condron <i>625 Fisgard Street: Referrals Coordinator</i>	16-Dec-2021	
Cowichan Tribes <i>Chief and Council: Tracey Flemming</i>	16-Dec-2021	
Halalt First Nation <i>7973 Chemainus Rd: Raven August</i> <i>Comment: No Comment Received</i>	16-Dec-2021	
Lake Cowichan First Nation <i>313B Deer Road: Carole Livingstone</i> <i>Comment: No Comment Received</i>	16-Dec-2021	
Lyackson First Nation <i>7973A Chemainus Road: Linda Aidnell</i> <i>Comment: No Comment Received</i>	16-Dec-2021	
Malahat First Nation <i>110 Thunder Road, RR4: Heather Adams</i> <i>Comment: Thank you for your consultation request for Draft Bylaw No. 122 dated December 16th 2021, located in Malahat Nation's traditional territory. Malahat Nation notes that the proposed activity falls outside of core Malahat traditional territory, and as such we acknowledge and respect the local First Nation(s)' opportunity to act as primary correspondents in this case. However, in the event they do not, or are unable to respond we reserve our right to consultation and engagement, and continue to require disclosure on an ongoing basis regarding this and other related bylaws.</i>	16-Dec-2021	17-Jan-2022
North Pender Island Local Trust Committee <i>Islands Trust: Laura Patrick</i> <i>Comment: Interests unaffected by Bylaw.</i>	16-Dec-2021	27-Jan-2022
Pauquachin First Nation <i>9010 West Saanich Road: Darlene Henry</i> <i>Comment: No Comment Received</i>	16-Dec-2021	
Penelakut Tribe <i>Box 360: Denise James</i> <i>Comment: No Comment Received</i>	16-Dec-2021	
Saturna Island Local Trust Committee	16-Dec-2021	

From: Kim Stockdill
Sent: Monday, January 24, 2022 3:03 PM
To: Jas Chonk
Subject: FW: 46801m1 - ALC Response to Bylaw No. 122, amending Land Use Bylaw No. 114, 2016
Attachments: 46801m1 - ALC Response to Bylaw 122.pdf

From: Lambie, Shannon ALC:EX <Shannon.Lambie@gov.bc.ca>
Sent: Friday, January 21, 2022 9:20 AM
To: Kim Stockdill <kstockdill@islandstrust.bc.ca>; SouthInfo <SouthInfo@islandstrust.bc.ca>
Cc: Bailey, Reed AFF:EX <Reed.Bailey@gov.bc.ca>
Subject: 46801m1 - ALC Response to Bylaw No. 122, amending Land Use Bylaw No. 114, 2016

Good morning,

Please find attached the Agricultural Land Commission's response with respect to Bylaw No. 122, amending Land Use Bylaw No. 114, 2016.

The ALC strives to provide a detailed response to all bylaw referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft bylaw provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any Orders of the Commission.

If you have any questions, please do not hesitate to contact me.

Sincerely,
Shannon

Shannon Lambie

Island and South Coast Regional Planner | Agricultural Land Commission
201-4940 Canada Way, Burnaby, BC, V5G 4K6 | T 236-468-2026 (**NEW**)
shannon.lambie@gov.bc.ca | www.alc.gov.bc.ca



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000 | Fax: 604 660-7033

January 18, 2022

Reply to the attention of Shannon Lambie
ALC Planning Review: 46801

Kim Stockdill
Island Planner, Islands Trust
kstockdill@islandstrust.bc.ca and southinfo@islandstrust.bc.ca

DELIVERED ELECTRONICALLY

Re: Bylaw No. 122, amending Land Use Bylaw No. 114, 2016

Thank you for forwarding a draft copy of Bylaw No. 122 (the “Bylaw”) for review and comment by the Agricultural Land Commission (ALC). The following comments are provided to help ensure that the Bylaw is consistent with the purposes of the *ALC Act*, the Agricultural Land Reserve (ALR) General Regulation, the ALR Use Regulation, and any decisions of the ALC.

The Bylaw is an amending bylaw, updating South Pender Land Use Bylaw No. 114, 2016. ALC staff thank Islands Trust for the opportunity to review the Bylaw and provide the following comments for consideration:

PROPOSED AMENDMENT	ALC COMMENTS/SUGGESTED EDITS
2.1 By adding the following new definitions to Section 1.1 ‘Definitions’: ““agri-tourism” means an activity referred to in Section 12 of the Agricultural Land Reserve Use Regulation.”	ALC do not object to this.
““agri-tourist accommodation” means a use accessory to a farm use for the purpose of accommodating commercial guests within specific structures on specific portions of a lot.”	““agri-tourist accommodation” means a use accessory to a farm use for the purpose of accommodating commercial guests within specific structures on specific portions of a lot as referred to in Section 33 of the ALR Use Regulation. ”
““farm retail sales” means the retail sale of tangible farm products grown or raised on a farm or association to	ALC staff do not object to this.

which the owner of the farm belongs.”	
2.2 By removing the words “floor area of 70m ² or less” and replacing it with “limited floor area” in the definition of ‘cottage’.	ALC staff do not object to this.
2.3 By removing the word “outer” and replacing it with “inner” in the definition of ‘floor area’.	The ALC’s definition for the “total floor area” for both the principal residence and the additional residential dwelling are measured to the outer surface. ALC staff request that Islands Trust staff update this definition by clarifying that residences in the ALR must be consistent with the ALC Act, its regulations, and any Resolution of the Commission.
2.4 By removing the words “7.6 metres (25 feet)” and replacing it with “15 metres (50 feet)” in Subsection 3.3(3).	ALC staff do not object to this.
2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly: “Despite Subsection 3.3(3), buildings or structures legally constructed prior to [insert date of Bylaw No. 123 adoption] shall not be sited within 7.6 metres (25 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are “structures”.”	ALC staff do not object to this.
2.6 By adding the words “except for a lot located within the Agricultural Land Reserve, the combined floor area must not exceed 100 m ² (1076 ft ²)” at the end of Subsection 3.6(4) so it reads: ‘The combined floor area used in all home businesses on a lot, except a bed and breakfast, must not exceed 65 m ² (700 ft ²) except for a lot located within the Agricultural Land Reserve, the combined floor area must not exceed 100 m ² (1076 ft ²).’	ALC staff do not object to this.
2.7 By deleting the words “Maximum Floor Area per lot” from Subsection 5.1(5) and replacing it with “For a lot where a legal dwelling was constructed prior to [insert	ALC staff are unclear what the reference to <i>Bylaw</i> 123 means, but ALC staff note that in section 5.1 (5) of Bylaw 114, 2016, the maximum floor area for properties larger than 0.8 ha exceeds 500m ² .

date of Bylaw No. 123 adoption] the following maximum Floor Area per lot apply:"

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	353 m ² (3800ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	418 m ² (4500ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	520 m ² (5600ft ²)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000ft ²)	543 m ² (5845ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	560 m ² (6030ft ²)

Please note that effective February 22, 2019, the ALC Act was amended and the ALR Use Regulation was created, including changes to the use of ALR land for residences. Specifically, the total floor area of a principal residence must be 500 m² or less. If the date for *Bylaw 123* is after February 22, 2019, then this would appear inconsistent with the ALR Use Regulation for any properties that are within the ALR and the Rural Residential zone. ALC staff also note that Section 5.1 (3) permits two dwellings and two cottages. Properties in the ALR are limited to one principal residence and one accessory residential dwelling.

2.8 By adding a new subsection after Subsection 5.1 (5) and renumbering accordingly: (6) For a lot where a dwelling is constructed after [insert date of Bylaw No. 123 adoption] the following maximum Floor Area per lot apply:"

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	255 m ² (2750ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	348 m ² (3750ft ²)

ALC staff do not object to this.

0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	372 m ² (4000ft ²)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000 ft ²)	418 m ² (4500ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	465 m ² (5000ft ²)

2.9 By adding the following new subsection after Subsection 5.1(6) and renumbering accordingly:

"The maximum floor area of a cottage must not exceed 70 m² (753 ft²)."

ALC staff do not object to this.

2.10 By adding the following new subsection directly after the newly renumbered Subsection 5.1(8) and renumbering accordingly: "Despite Subsection 5.1(8), the setback for a dwelling or cottage shall be 6.0 metres (20 ft.) from any interior or exterior lot line."

ALC staff do not object to this.

2.11 By removing "560 m² (6028 ft²) and replacing it with "500 m² (5382 ft²) in Subsection 5.5(9).

ALC staff do not object to this. ALC staff note that sections 5.6 *Forestry* and 5.7 *Natural Resource* list the maximum floor area for a residence as 560m². While ALC staff recommend all properties in the ALR be zoned *Agricultural*, at times, some ALR properties are zoned for uses other than agriculture. Please note that properties in the ALR in these zoning designations are limited to a principal residence size of 500m².

2.12 By removing the word "Rescinded" from Article 5.5(1)(d) and replacing it with "Accessory agri-tourism subject to Subsections 5.5(11) to 5.5(14);"

ALC staff do not object to this.

2.13 By adding the words "and farm retail sales." after the words 'on the same lot' in Article 5.5(1)(e).

ALC staff do not object to this.

2.14 By adding the following new article after Article 5.5(1)(d) and renumber accordingly: "Accessory agri-tourist accommodation,

ALC staff do not object to this.

subject to Subsections 5.5(13) to 5.5(19), and as permitted by the Agricultural Land Commission;"

2.15 By adding the following new subsection after Subsection 5.5(9) and renumbering accordingly: "The maximum floor area of a cottage must not exceed 90 m² (969 ft²)."

ALC staff do not object to this.

2.16 By removing the word "Rescinded" adding the following to Subsection 5.5(10): "Farm retail sales are permitted on a lot located within the Agricultural Land Reserve, and the total indoor and outdoor floor area for the farm retail sales shall not exceed 300 m² (3229 ft²).

ALC staff do not object to this.

2.17 By adding the following new subsections after Subsection 5.5(10) under 'Conditions of Use' and renumber accordingly:

ALC staff do not object to 5.5(11) through 5.5 (17).

"5.5(11) Agri-tourism buildings or structures are not permitted.

5.5(12) Agri-tourism must be in compliance with the Agricultural Land Reserve Use Regulation.

5.5(13) Agri-tourism and agri-tourist accommodation are only permitted on a lot with Farm Status.

5.5(14) Agri-tourism and agri-tourist accommodation are only permitted on a lot located in the Agricultural Land Reserve.

5.5(15) Agri-tourist accommodation must be accessory to an active agri-tourism activity.

5.5(16) Agri-tourist accommodation must be accessory to a farm use.

5.5(16) Agri-tourist accommodation buildings and structures must not exceed a lot coverage of 5 percent.

5.5(17) Agri-tourist accommodation must not be in use for more than 180 days in a calendar year.

5.5(18) Agri-tourist accommodation may include associated uses such as meeting rooms and dining facilities for paying registered guests, but may not include a restaurant or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.	If the associated uses, such as a meeting room or dining facility, are located within a residence that is housing the agritourism sleeping units (such as a Bed and Breakfast in the principal residence or sleeping units within the additional residential dwelling unit, then guests may use existing space within the residence for dining or meeting. A separate structure, however, cannot be constructed in order to accommodate these associate uses.
5.5(19) The maximum number of guests that may be accommodated in any agri-tourist accommodation at any one time, either alone or in combination with a bed and breakfast, is not to exceed 10 guests or 10 bedrooms.	ALC staff do not object to this.
2.18 By adding the following new subsection after Subsection 5.6(7) and renumbering accordingly: "The maximum floor area of a cottage must not exceed 70 m² (753 ft²)."	ALC staff do not object to this.
2.19 By adding the following new subsection after Subsection 5.7(6) and renumbering accordingly: "The maximum floor area of a cottage must not exceed 70 m² (753 ft²)."	ALC staff do not object to this.

The ALC strives to provide a detailed response to all referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any decisions of the Commission.

This response does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

If you have any questions about the above comments, please contact the undersigned at 236-468-2026 or by e-mail (shannon.lambie@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink that reads "S. Lambie". The signature is written in a cursive, flowing style.

Shannon Lambie, Regional Planner

CC: Ministry of Agriculture – Attention: Reed Bailey (reed.bailey@gov.bc.ca)

46801m1

Referrals: Bylaw SP-122

Agency	Sent	Received
200 - 1627 Fort Street: Laura Patrick		
Semiahmoo First Nation	16-Dec-2021	
16049 Beach Rd: Chief & Council		
Comment: No Comment Received		
Stz'uminus First Nation	16-Dec-2021	
12611A Trans Canada Hwy: Chenoa Akey		
Tsartlip First Nation	16-Dec-2021	
PO Box 70: Karen Harry		
Comment: No Comment Received		
Tsawout First Nation	16-Dec-2021	
Box 121: Cathy Webster		
Comment: No Comment Received		
Tsawwassen First Nation	16-Dec-2021	
1926 Tsawwassen Drive: Victoria Williams		
Comment: No Comment Received		
Tseycum First Nation	16-Dec-2021	
1210 Totem Lane: Chief Tanya Jimmy		
Comment: No Comment Received		
WSANEC	16-Dec-2021	
WSANEC Leadership Council Society: Justin Fritz		



Adopted

North & South Pender Island Local Trust Committee Minutes of Special Meeting

Date: **January 15, 2021**

Location: **Electronic Meeting (Zoom Webinar)**

Members Present: **Laura Patrick, Chair
Steve Wright, Local Trustee, South Pender Island
Cameron Thorn, Local Trustee, South Pender Island**

Staff Present: **Robert Kojima, Regional Planning Manager
Kim Stockdill, Island Planner
Maple Hung, Planning Assistant, Host
Shannon Brayford, Recorder**

Public: **There were approximately fifty-five (55) attendees at the Zoom Webinar.**

1. CALL TO ORDER

Chair Patrick called the meeting to order at 10:00 a.m. She acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

By general consent the agenda was approved as presented.

3. BUSINESS ITEMS

3.1 Staff presentation – Legal Non-Conforming

Planner Stockdill delivered a presentation on the concept of Legal Non-Conforming, which included a slideshow presentation through the shared screen function. The presentation included the answers to frequently asked questions and concerns from the community.

Members of the North Pender Local Trust Committee and South Pender Local Trust Committee (LTC) noted some of the concerns that they have heard from the community and provided information regarding those concerns.

Chair Patrick invited members of the community to speak:

A member of the community identified as “Rose”, requested and received information on how Legal Non-Conforming regulations apply when the foundation of the structure is damaged.

A discussion was held regarding the impact of complete damage to a dwelling unit in terms of Legal Non-Conforming status.

Bruce McConchie addressed the changing nature of the Penders and the challenges of defining “rural” as the community and its membership evolves. He provided an overview of the history of the current Islands Trust South Pender Island Bylaws and their role in limiting house size.

Jim Morgan spoke in favour of including exemptions in the bylaw that would allow property owners to rebuild a legal non-conforming home should it suffer destruction. He requested and received information on how the regulations would impact accessory buildings.

Wayne Kouf requested and received direction on how to locate both the Frequently Asked Questions about Legal Non-Conforming document and also the options being considered for limiting floor size.

David Hooper noted that a large family may require greater square footage than the 2000 square feet used in the example.

A discussion of limiting square footage and providing for clear direction around variances.

A member of the community identified as “Michael” requested information on the process for making bylaw amendments and expressed concern about public engagement when meetings are held during the regular work day.

A discussion of the decision-making process, public notification, and challenges of public engagement was held.

David Goudge used his own property as an example of one for which a 2000 square foot rebuild limitation causes concern for him, not on the grounds of personal need for space, but due to land valuation and resale.

Rhonda Porter requested information from the South Pender Island LTC regarding whether the size limitations in the South Pender Island Bylaws are working. She encouraged both LTCs to work together to develop a uniform bylaw for both of the Penders.

Shelley Richards spoke in favour of adopting a similar sliding scale for size limitation on North Pender as they have on South Pender.

Niall Parker spoke in favour of gradual increase noted that challenge for the community is that concentrating usage in high density is the most efficient, but that for the Penders, balancing that with rural character is the goal. He further noted that development permits and appeals increase the cost of a home and prices them out of people’s reach.

Shahid Hussain encouraged the LTC to consider alternative modes of protecting the rural nature that still allow flexibility for families to build suitable sized homes to meet their needs. He expressed concern that property owners have over the impact of legal non-conforming on their property value and ability to rebuild a damaged home.

It was noted that the LTC’s could benefit from hearing the ranges of square footage that the community members would like to see should floor area be limited.

Diane Logan encouraged the LTC to select a square footage that minimizes the number of homes that are legal non-conforming. She further encouraged the LTC to consider the relevance of property sizes in the area of the build and also the value larger homes encouraging visiting friends and families who then support the local economy.

Donna Spalding noted that the participation in the current meeting, which involves two islands, is still much smaller than the attendance that South Pender Island attracts in times of in-person meetings. She addressed concerns with rationales for limiting house size on the grounds that it will protect rural character, or protect affordable housing. She encouraged the LTC to consider a sliding scale.

Murray Vaseliv spoke in favour of a graduated approach to limiting home size. He requested information on how many undeveloped lots are available on each of the islands and how many are available within the Magic Lake Estates. He further encouraged the LTC to send letters regarding this matter to property owners in order to ensure that off-island property owners are notified.

Planner Stockdill acknowledged the request for data.

A member of the community identified as “**Rose**” spoke in favour of online meetings for convenience and accessibility. She encouraged the LTC to identify the types of undesirable houses and create legislation to prevent that, which consideration of the larger properties available on Pender.

Karen Bell noted that she has emailed the North Pender LTC Trustees a number of questions and echoed the encouragement to of sending a mail out to all North Pender property owners. She encouraged the LTC to consider the qualities of a home that make the community rural beyond house size.

Sue Long encouraged the LTC to communicate information about meetings by mailed letter. She provided options for the LTC to consider in order to limit house size in relationship to the lot size and with consideration of Magic Lake Estates as a unique area.

3.2 Town Hall – Maximum Floor Area Discussion

Note: Public comments on this matter were heard under item 3.1.



Adopted

South Pender Island Local Trust Committee Minutes of Special Meeting

Date: April 9, 2021
Location: Electronic Meeting (Zoom Webinar)

Members Present: Laura Patrick, Chair
Steve Wright, Local Trustee
Cameron Thorn, Local Trustee

Staff Present: Robert Kojima, Regional Planning Manager
Kim Stockdill, Island Planner
Maple Hung, Planning Assistant, Host
Kathy Gilbert, Recorder

Public: There were approximately 3 attendees at the Zoom Webinar.

1. CALL TO ORDER

Chair Patrick called the meeting to order at 10:30 am. She acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

The following addition to the agenda was presented for consideration:

A Town Hall was requested at the end of the meeting.

By general consent the agenda was approved as amended.

3. BUSINESS ITEMS

3.1 Work Program – Staff report

Planner Stockdill presented her report (available on the Islands Trust website.)

Top Priorities as identified by the Local Trust Committee (LTC) are:

- Groundwater Sustainability Project;
- STVR Review Project;
- Alternative Housing Project.

It was noted that the Groundwater Sustainability Project is on-going and may not be completed within the present term of office. The other two Top Priorities are with the Executive Committee, so the LTC's work on these two projects is drawing to a close.

SP-2021-040

It was Moved and Seconded

that the Groundwater Sustainability Project be moved off the Top Priorities list.

CARRIED

SP-2021-041

It was Moved and Seconded

that the Alternative Housing Project be removed from the Top Priorities list.

CARRIED

Chair Patrick advised that a Trust-Wide Strategic Planning initiative is underway. A Project Charter will be developed, and First Nations would like to be part of the process.

Prior to consideration of any proposed changes to the Official Community Plan (OCP) Trustee Wright noted that preservation of the rural character of South Pender Island (SPI) and protection of the coastline are paramount values to be considered in any amendments to the OCP.

Regional Planning Manager (RPM) Kojima presented 4 potential OCP projects for the LTC's consideration:

1. Building design and siting guidelines;
2. Foreshore Development Permit Area (DPA) to address sea level rise and sensitive ecosystems (including Coastal Douglas Fir protection);
3. First Nations OCP Language;
4. Rights of Nature Policy.

Trustees and staff discussed the proposed amendments and various approaches that might be used to achieve the goals of the proposed amendments:

- The building and design guidelines have already been written;
- Provision of the building and design guidelines and Rights of Nature document to owners planning on building on South Pender Island (SPI) was recommended;
- First Nations language relating to acknowledgement of First Nations that might be used, as a starting point, the model that the Saturna Island LTC developed, and referral to local First Nations;
- There are traditional First Nations names describing attributes and place names on SPI;
- The Foreshore Development Permit (DPA) to address sea level rise and sensitive ecosystems (including Coastal Douglas Fir protection,) should be a separate project;
- Using the Gambier Island project as a model for the proposed Foreshore DPA and invite the Island's Trust Planner whose responsibility includes Gambier Island, to a future SPI LTC meeting.

RPM Kojima described some of the tools and approaches available to the LTC, such as the use of DPAs, inclusion of policies, introductory statements or maps within the OCP.

RPM Kojima will provide the Gambier Island coastal protection guidelines to Trustees.

Chair Patrick commented that archaeological protection can be included in a heritage conservation area but not in a DPA.

Chair Patrick stated that in any proposed changes to the OCP and LUB, the LTC should clearly articulate the objectives that the LTC is seeking to achieve.

SP-2021-042

It was Moved and Seconded

That the South Pender Island Local Trust Committee refer building design and guidelines and The Rights of Nature document to the Advisory Planning Commission and report back to the Local Trust Committee prior to the May 7, 2021 Local Trust Committee meeting.

CARRIED

RPM Robert Kojima, presented six potential Land Use Bylaw (LUB) projects for the LTC to consider:

1. Maximum floor area regulations;
2. Agricultural lands regulation in accordance with ALC policy L-26;
3. Derelict vehicle and machinery;
4. Shipping containers;
5. Setback to the natural boundary of the sea;
6. Any other minor technical amendments.

With respect to potential LUB amendments, it was noted that the maximum floor area regulations:

- tie into other issues, including environmental, resource, affordable housing and rural character;
- have had some work done already identifying the number of vacant lots by size and the number of houses by total size of house;
- the need to protect existing homes, should those homes be larger than the maximum house size permitted; and
- the need to examine house size in relation to lot size (referred to as floor area ratio).

It was noted that there will be a need for public consultation throughout the process.

Trustee Thorn drew those present to a publication by the Ministry of Agriculture Policy Intentions Paper titled "Residential Flexibility in the ALR."

Trustees stated that the derelict vehicle and machinery project can be removed from the projects list.

Trustees also noted the shipping container regulations should include requirements around screening, maximum number of units and other conditions.

The setback to the natural boundary of the sea project should be broadened to develop a shoreline protection project.

A discussion between Trustees and staff followed around agricultural land, especially the type and size of housing required on agricultural land. Points discussed included:

- A desire to discourage owners from buying agricultural land, treating the land as an estate and building a large house;
- Recognition that some farmers need farm help, particularly at certain times of the year;
- That the type of farm housing might include a cottage or a bunkhouse, depending on the needs of the farmer;
- The need to consider farm succession;
- The need to look at housing as related to subdivision potential;
- Building siting to maximize the land available for farming, and possible clustering of homes;
- Various regulatory options, such as issuance of development permits and the option to use site-specific zoning to address differing circumstances.

Trustee Wright will discuss needs and regulatory options with the agricultural landowners.

Trustees and staff discussed stairways leading down to the shoreline, particularly on high bank properties, as an aesthetic issue. Trustee Wright stated that maintaining the shoreline in as natural state as possible is important.

SP-2021-043

It was Moved and Seconded

that shoreline stairs be referred to the APC for their consideration and solutions and to report back to the Local Trust Committee prior to the May 7, 2021 meeting.

CARRIED

SP-2021-044

It was Moved and Seconded

that the Local Trust Committee add Land Use Bylaw amendments to the Top Priorities list.

CARRIED

Trustee Wright noted that the suggested LUB amendments will need to be fleshed out prior to the May 7 meeting.

Trustee Thorn suggested that a newsletter be sent out the SPI residents and owners and refer them to the LTC website, in order to receive feedback on the proposed LUB amendments.

SP-2021-045

It was Moved and Seconded

that the Local Trust Committee add 3 minor Official Community Plan amendments to the Local Trust Committee Top Priorities list as noted:

- Building and design guidelines;
- First Nations Official Community Plan language;
- Rights of Nature policy;

And further that, staff report back with a project charter.

CARRIED

SP-2021-046

It was moved and Seconded

that the Local Trust Committee move the Groundwater Sustainability project from the Top Priorities list to the Project list.

CARRIED

SP-2021-047

It was Moved and Seconded

that the Local Trust Committee add Shoreline Review to the Top Priorities list.

CARRIED

4. TOWN HALL

Gordie Duncan expressed interest in the number of lots and the number of developed lots. He was referred to BC Assessment Authority's website. Trustees agreed to share their research with their constituents.

Donna Spalding asked whether subdivision potential took into account unique taxation status such as Managed Forest, and whether the buildable area of the lots reflected the development potential. She was advised that the numbers of lots was an overview of potential lot development, rather than an in-depth lot by lot analysis.

SP-2021-040

It was Moved and Seconded,

that South Pender Island Local Trust Committee Bylaw No. 121, cited as “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 1, 2021”, be adopted.

CARRIED

13.2 Shoreline Review – Staff Memo

Regional Planning Manager (RPM) Kojima provided an overview of the staff memo including the recommended approach for the LTC as they move forward with a shoreline review.

A discussion of the staff memo and recommendation was held. It was recommended that matter be referred to the South Pender Advisory Planning Commission (APC), that the LTC give careful consideration to facilitating broad public engagement, and that establishment of a working group be considered.

There was general consent, that the project shall remain a top priority and be revisited at the next meeting.

13.3 Land Use Bylaw Project – Staff Report

Planner Stockdill provided an overview of the Staff Report and noted the details of the proposed timeline.

A discussion of the Project Charter was held including:

- Consideration of including interior setbacks
- Opportunities for using a conditional approval or similar model to encourage good design and performance principles.
- Consideration of which amendments to the Official Community Plan (OCP) would be within the scope of the project.

SP-2021-041

It was Moved and Seconded,

that the South Pender Island Local Trust Committee request that staff revise the draft Project Charter for the Land Use Bylaw Amendments Project to include all setbacks.

CARRIED

SP-2021-042

It was Moved and Seconded,

that the South Pender Island Local Trust Committee approve the Project Charter, as amended, for the Land Use Bylaw Amendments project.

CARRIED

13.4 Minor Official Community Plan Amendments Project – Staff Report

9. MINUTES

9.1 Local Trust Committee Minutes Dated May 7, 2021 (for Adoption)

By general consent, the Local Trust Committee meeting minutes of May 7, 2021 were adopted as presented.

9.2 Section 26 Resolutions-Without-Meeting Dated June 2021

Received for information.

9.3 Advisory Planning Commission Minutes Dated June 17, 2021

Received for information.

10. BUSINESS ARISING FROM THE MINUTES

10.1 Follow-up Action List Dated June 2021

Received for information.

11. DELEGATIONS

None

12. CORRESPONDENCE

Correspondence received concerning current applications or projects are posted on the LTC webpage.

13. APPLICATIONS AND REFERRALS

None

14. LOCAL TRUST COMMITTEE PROJECTS

14.1 Land Use Bylaw Amendments Project – Staff Report

Planner Stockdill gave a summary of her Staff Report and discussed feedback from the Trustees.

14.2 Minor Official Community Plan Amendments Project – Staff Report

Planner Stockdill gave an overview of her Staff Report and discussed the various items in the report with the Trustees.



ADOPTED

South Pender Island Local Trust Committee

Minutes of Special Meeting

Date: August 21, 2021
Location: South Pender Fire Hall
8961 Gowlland Point Road, South Pender Island, BC

Members Present: Steve Wright, Local Trustee/Acting Chair
Cameron Thorn, Local Trustee

Staff Present: Shannon Brayford, Recorder

Regrets: Laura Patrick, Chair

Public: There were approximately 27 members of the public.

1. CALL TO ORDER

Trustee Wright noted that Chair Patrick sent her regrets.

By general consent, it was agreed that Trustee Wright would serve as Chair.

Chair Wright called the meeting to order at 11:00 am. He acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

Chair Wright provided an overview of the current projects of the South Pender Local Trust Committee (LTC), including the work of the Advisory Planning Commission (APC) and community working groups. The LTC provided an overview of the purpose of the meeting and outlined the expectations of fulsome conversation.

A discussion of the proposed agenda was held, including the rationale for not including the Trust Policy statement in the agenda.

By general consent the agenda was approved as presented.

3. BUSINESS ITEMS

3.1 Community Information Meeting – To discuss the South Pender Island Local Trust Committee’s Top Priority Projects and the draft Islands Trust Policy Statement

3.1.a Building and Siting Design Guidelines

Trustee Thorn provided an overview for the rationale of considering the development of Building and Siting Design Guidelines which would be considered when property owners seek approval of a variance.

Members of the community requested further information and discussions were held regarding the following topics:

- Rationale of giving the guidelines bylaw status.
- Which authorities would be charged with developing the guidelines.
- Purpose of the document in influencing, without obligation, new builds.
- Future community consultation, including involvement of the APC, prior to adoption.
- Opportunities to change the bylaws to ensure that they are in line with the principals of the Official Community Plan (OCP).

3.1.b Setbacks

Members of the community requested further information and discussions were held regarding the following topics:

- Consideration of amending side setbacks to increase privacy.
- Additional considerations that will be unique to each property.
- Community concerns that amending setbacks would result in legal non-conforming structures. Discussion included reporting that legal opinion had been received to confirm that buildings can be reconstructed in original footprint even if fully destroyed by fire. It was further noted that legal conforming should not impact insurance, but could impact construction of an addition.
- Recommendations for alternative setback regulations including maintaining the current setback for accessory buildings and using a percentage ratio for main residence setbacks.

3.1.c Floor Area of Residences

Members of the community requested further information and discussions were held regarding the following topics:

- Consideration of an alternative to rendering properties “legal non-conforming” by including a schedule to the Land Use Bylaw (LUB) that identifies each specific house and recognize it as being permitted under the LUB.
- A discussion of the history of regulating floor area maximums on South Pender Island.
- Risk that insurance companies will only cover cost of rebuilding up to a conforming size and not to previous legal non-conforming floor area.
- Recommendation that floor area sizes, setbacks, and other matters be referred to the APC.
- Concerns in the community that large houses and their owners are being judged unfairly.
- Concerns in the community about the impact of further regulating floor area.
- Questions of the validity of the data of average house size and inclusion of smaller residences used prior to building main residence.
- Alternative recommendations for considering house size data such as reviewing the full spread of sizes, considering only those homes built in the last 10 years, and/or taking a weighted average that prioritizes contemporary builds over older buildings.
- Rationale and clarification of how sub terrain space could be considered.
- Community concern that increased regulations will overwhelm the Islands Trust’s ability to process applications.
- A discussion of affordable housing was held including opportunities to increase available housing and challenges. Allowing secondary suites was discussed.
- Community concern that regulations can become unreasonable.

Note: A break was held from 12:58 until 1:27. Informal discussions were held during the break.

3.1.d Shoreline Protection

Trustee Wright reported that a community working group met on a number of occasions to discuss opportunities to protect shorelines. He further reported that the Ministry of Transportation and Infrastructure (MOTI) has requested a 50 ft set back from the ocean for all new developments to cope with sea level rise.

Members of the community requested further information and discussions were held regarding the following topics:

- Possibility of creating a Development Permit Area (DPA) for the foreshore and extending 1000 m into the water.

- Rationale for regulating shoreline protection for sea level rise, protection of rural character, and protection of sensitive eco systems.
- Discussion of allowable and prohibited methods for protecting against sea level rise.
- Community concern that regulations would continue to expand to regulate or prevent all tree cutting.
- Recommendation that APC members be consulted during consideration of stair construction regulations in the foreshore

A discussion of communication challenges was held and frustrations with not receiving up-to-date information were voiced.

4. ADJOURNMENT

By general consent the meeting was adjourned at 2:11 pm.

Steve Wright, Acting Chair

Certified Correct:

Shannon Brayford, Recorder

- Trustee Thorn suggested that transparency warrants more of a discussion than a decision
- Chair Patrick expressed that the First Nations communities wish to be part of the conversation at the implementation step versus being consulted at the “solution step” – i.e. DPA
- the use of different tools such as LUB review, sea level rise elevations, etc. and not just DPA

SP-2021-046

It was MOVED and SECONDED

that the South Pender Island Local Trust Committee direct staff to draft two Project Charter options.

CARRIED

SP-2021-047

It was MOVED and SECONDED

that the South Pender Island Local Trust Committee direct staff to advise the Regional Planning Committee that the LTC will consider undertaking amendments to Shoreline Protection.

CARRIED

Meeting was paused at 12:58pm and resumed at 1:05pm.

13.2 Minor OCP Amendments Project – Staff Report

Planner Stockdill provided an overview of the staff report. Discussion was held regarding the project:

- Trustee Thorn discussed going into the community with bigger picture ideas and macro-level guidelines for the community to think about, not micro managing aspects such as aesthetic planning; he also reiterated the importance of consulting with First Nations in the planning phase.
- Trustee Wright questioned whether the LTC can deny a Development Variance Permit application and suggested having a value-based guideline for the rural aesthetic character of South Pender.

SP-2021-048

It was MOVED and SECONDED

that the South Pender Island Local Trust Committee request staff to prepare a draft bylaw for the Minor Official Community Plan Amendments Project.

CARRIED

13.3 LUB Amendments Project – Staff Report

Staff presented a staff report regarding the Land Use Bylaw (LUB) Amendment project. Trustee Thorn suggested specific square footage numbers based on lot sizes, recognizing that currently a lot that is less than 1 acre has a maximum dwelling floor area of 3800 sq ft. The proposed maximum square footage put forth by Trustee Thorn per lot sizes are:

- less than 1 acre – max 2750 sq. ft.
- 1-2 acres – max 3750 sq. ft.
- 2-4 acres – max 4000 sq. ft.
- 4-10 acres – max 4500 sq. ft.
- 10 acres or greater – max 5000 sq. ft.

Discussion also included:

- Setbacks: increase interior side yard setback to 6 metres (20 feet) for properties with a width of greater than 30 metres (100 feet)
- With respect to contiguous forests, concern for clearing cutting a lot for residential construction
- It is paramount to recognize “legal non-conforming” for those properties that will exceed the newly created maximum floor areas.

SP-2021-049

It was MOVED and SECONDED

that the South Pender Island Local Trust Committee request staff to prepare a draft bylaw for the Land Use Bylaw Amendments Project and to incorporate three specific points:

- i) to increase setback to 20 feet for dwelling units in Rural Residential zones
- ii) to amend maximum floor area for dwelling units in Rural Residential zone as per Trustee Thorn and;
- iii) site specific zoning for non-conforming dwellings.

CARRIED

Meeting was adjourned here (2:12pm) and the rest of the agenda was deferred to the subsequent meeting.

16. UPCOMING MEETINGS

16.1 Next Regular Meeting Scheduled for November 5, 2021 at the South Pender Fire Hall, Pender Island

17. TOWN HALL

Donna Spalding addressed the shoreline review and noted that the South Pender Island Advisory Planning Commission is ready and willing to consider review of shorelines.

- Concern for shoreline erosion, limitations to government support and oversight, and options for property owners.
- Limitations of the DPA in preventing shoreline erosion.
- Estimate that the number of waterfront properties that are undeveloped is twenty-two.
- Concern that the LTC will limit property owners' ability to access the water from their properties.

SP-2021-052

It was MOVED and SECONDED

That the South Pender Island Local Trust Committee endorse the project charter for the shoreline compressive review project.

CARRIED

Trustee Wright Opposed

13.3 Land Use Bylaw Amendments Project - Staff Report

Planner Stockdill provided an overview of the staff report. She highlighted the requests made by the Trustees, including increasing setbacks, site specific zoning for those properties that currently exceed the maximum floor area, and allowance of shipping containers depending on lot size.

A discussion was held including the following points:

- Benefits of allowing shipping containers for residential and agricultural use.
- Importance of further consultation on the number of shipping containers and requirements for screening.
- Benefits of protecting the character of the island with limitations to residential size.
- Legal non conforming status, community concerns, and how legal non conforming is viewed in other jurisdictions.
- Options for coping with legal non-conforming including eliminating the status by using a protection under a schedule included in the bylaw.
- A community member's recommendation that two sets of regulations exist for properties developed before and after a set date.

SP-2021-053

It was MOVED and SECONDED

That the South Pender Island Local Trust Committee amend the bylaw to create a second set of regulations for setback and floor size for new construction, while maintaining the existing regulations for existing structures, and also amend the setback from the highwater mark for new construction to 15 m.

CARRIED

SP-2021-054

It was MOVED and SECONDED

That for the South Pender Island Local Trust Committee Remove stairways from the bylaw amendment.

CARRIED

SP-2021-055

It was MOVED and SECONDED

That for the South Pender Island Local Trust Committee remove shipping containers from the bylaw amendment.

CARRIED

13.4 Minor Official Community Plan Amendments Project - Staff Report

Planner Stockdill provided an overview of the staff report including the recommended options and the timeline for moving forward.

Further discussion was held regarding the following points:

- Timeline options
- Benefits of acknowledging the Rights of Nature.
- Opportunities for First Nations consultation on wording the Rights of Nature.
- Building Design and Siting Guidelines, including the history, community feedback, and rationale
- Potential amendments to the guidelines and consideration of the practical impact they would have.
- Benefits of including the principles and guidelines and challenges of implementation.

SP-2021-056

It was MOVED and SECONDED

That the South Pender Island Local Trust Committee defer the Rights of Nature from the South Pender Island Local Trust Committee Bylaw No. 123.

CARRIED

A discussion was held regarding recommended amendments to the Building and Siting Guidelines. It was noted that directions on regionally sourced materials and the phrase to “keep the design simple” needed consideration. The LTC provided staff with direction to delete the phrase “the use of regionally sourced building materials” and to amend the phrase “keeping the design simple” with clarified language.

13.2 LUB Amendments Project – Staff Report

Planner Stockdill provided an overview of the amendments requested by the LTC at a previous meeting and the manner by which these amendments were incorporated into the document.

Planner Stockdill also provided an overview of errors in the previous draft that should be corrected and the recommendations provided by the Agricultural Land Commission.

A discussion was held, including the following points:

- Relationship among STVR regulations, agritourism accommodations, and the LUB. It was noted that the LTC would like to receive additional feedback from local farm owners on this matter during the upcoming community information meetings;
- Community feedback on increasing side yard setbacks, rationale for considering the increase, and opportunities for mitigating the creation of legal non-conforming status;
- Rationale for limiting residential sizes to protect rural character, water consumption, affordable house values, etc;
- Rationale for calculating floor area based on internal square footage; and
- Inclusion or exclusion of pump houses in larger setbacks.

An alternative option for limiting residential house size per hectare and the number of homes currently in existence exceeding those limits were discussed. The recommendation was that properties be limited as follows:

- 0.5 hectare with maximum of 2500 square feet;
- 1 hectare with a maximum of 3000 square feet; and
- >1 hectare with a maximum 3500 square feet.

A discussion of how to accommodate properties that would otherwise be rendered legal non-conforming due to dwelling size or setback was held. Staff shared an example of the clause being considered by the North Pender Local Trust Committee and there was general consensus in support of considering use of this clause.

By general consent, the LTC requested that staff return to the March 2022 meeting with a revised table for maximum dwelling size.

A discussion of shipping container regulations was held. It was decided that the bylaw allow one container per acre to a maximum of three containers. It was noted that the shipping containers would be subject to all screening, setback, and total floor area regulations.

SP-2022-011

It was Moved and Seconded,

that the South Pender Island Local Trust Committee hold a Community Information Meeting electronically on March 4, 2022 in conjunction with the Regular Business Meeting.

CARRIED

SP-2022-012

It was Moved and Seconded,

that the South Pender Island Local Trust Committee direct staff to make the amendments to Bylaw 122 and bring them forward to the Regular Business meeting on March 4, 2022.

CARRIED

13.3 Minor OCP Amendments Project – Staff Report

Planner Stockdill provided an overview of the project and the consideration of re-incorporating the Rights of Nature into Bylaw 123, which was previously removed.

Planner Stockdill noted that the Community Information Meeting for the project was originally scheduled for this meeting, however it had been postponed due to the electronic meeting. She provided an overview of the process moving forward depending on the LTC's decision.

A discussion was held.

SP-2022-013

It was Moved and Seconded,

that the Rights of Nature be reintroduced to the Trust Committee's project list as a new bylaw amendment to the Official Community Plan and referred out to First Nations.

CARRIED

SP-2022-014

It was Moved and Seconded,

That the South Pender Local Trust Committee direct staff to schedule a public hearing for Bylaw 123.

CARRIED

14. REPORTS

14.1 Work Program Reports (attached)

14.1.1 Top Priorities Report Dated Jan 2022

Received for information.

14.1.2 Projects List Report Dated Jan 2022

Received for information.

6. TOWN HALL AND QUESTIONS

In response to a question about being informed of the work by the LTC:

- Residents were encouraged to register to receive email notifications through the Islands Trust website and Trustee Thorn commented that his cell and email have been made available.
- The LTC will begin in person meetings at the next meeting.

7. COMMUNITY INFORMATION MEETING

7.1 Land Use Bylaw Amendment Project

Planner Stockdill introduced the Land Use Bylaw (LUB) Amendment Project which is for LTC's consideration of amendments to regulations for total and maximum floor areas, setbacks and agricultural land use as well as shipping containers and other minor and technical amendments. She stated that the first reading has not yet been given and there will be a second Community Information meeting in the late spring/early summer if the LUB proceeds.

In response to a question concerning waterfront setbacks:

- Bylaw 122 attached to the agenda was referenced;
- Changes under sections 2.4 and 2.5 restrict setback to 15 metres;
- The setback from the sea can be found under General Regulations;
- Current structures, if legally constructed, would be protected if the new regulation is more restrictive; and
- Repairs to current structures will be addressed during bylaw consideration.

In response to a concern regarding the maximum floor space and that the five tier model be reduced:

- It was reported that a number of house size options had been put forward as well as a proposal for changes to house size or setbacks in order to be legally conforming.

In response to a suggestion that an equal cap be set on short-term vacation rentals (STVRs):

- It was reported that a separate project has been completed for this issue and an email will be sent today.

In response to a question about the changing square footage figures in the drafts:

- Trustee Thorn reported that the square footage opinions differ, but that his numbers are based on rural consideration and captures 85 to 95 percent of the current building stock, but that there is fluidity to that number.

In response to a concern raised about public reaction and dialogue, the following was reported:

- In the absence of changes to the LUB, a variance can be sought, but there are no criteria for trustees to rely on; and
- In 2019, design and siting guidelines were developed and would be attached as appendices to the OCP to provide principles to consider that reflect the values of the Official Community Plan (OCP); and

- Trustee Thorn reported that he focussed on land use issues only for square footage figures.

A concern was raised about uncertainties in the variance process and the mechanisms for decision making by trustees.

- It was reported that variance considerations are of rural character, which includes privacy and natural landscape as well as maintaining setbacks for side yard boundaries and homes; and
- The two mechanisms for variance processes were described.

In response to a request for the actual proposals for house sizes:

- Planner Stockdill reported that if adopted as currently drafted, there will be the existing maximum floor area regulations for those dwellings that currently exist and more restrictive regulations for new builds.

Comments from the community members in attendance were:

- One individual was in favour of the original proposal and adopting a tier structure similar to North Pender;
- One individual supported the blackline draft of page 24, but that could change based on amendments; and
- One individual suggested that there should be a unique solution for South Pender as it is more rural than North Pender.

In response to a concern raised about the BC Assessment data and the calculation of unfinished areas:

- Trustee Thorn reported that his proposal is meant to avoid non-conforming properties through a schedule to the bylaw as opposed to a table of existing and new bylaws; and
- Attached garages should be recognized in the schedule to the bylaw.

In response to concern expressed on the rationale for changes:

- Trustee Thorn reported the goal is to have a mechanism to recognize existing properties within the LUB.

8. PUBLIC HEARING

None

9. MINUTES

9.1 Local Trust Committee Minutes Dated February 4, 2022 (for Adoption)

By general consent the Local Trust Committee meeting minutes of February 4, 2022 were adopted.

9.2 Section 26 Resolutions-without-meeting - None

9.3 Advisory Planning Commission Minutes – None

10. BUSINESS ARISING FROM THE MINUTES

10.1 Follow-up Action List Dated Feb 2022

11. DELEGATIONS

12. CORRESPONDENCE

Correspondence received concerning current applications or projects is posted on the LTC webpage

13. APPLICATIONS AND REFERRALS

14. LOCAL TRUST COMMITTEE PROJECTS

14.1 LUB Amendments Project – Staff Report

Planner Stockdill provided an overview of this topic for LTC consideration. Three topic areas where staff had provided comment were: maximum floor areas; shipping containers; and groundwater recommendations. She reported that shipping container regulations were added.

Planner Stockdill described Draft Bylaw 122 with two options that would eliminate legal non-conforming maximum floor area. One option has two regulations and the second option (not detailed in the staff report) has one regulation.

Planner Stockdill described the differences as:

- Two sets of regulations allows the property owner to add an addition if structure is under the bylaw maximum; and
- One regulation with a restricted house size for both new builds and current structures, the floor area could be retained but could not be expanded.

Discussion occurred on this issue and included:

- Progressing this issue in the absence of Trustee Wright;
- Planner Stockdill reported that Trustee Wright sent comments on a number of issues which she can highlight but not paraphrase;
- Concern was raised that with two tables, new construction on an existing home may avoid new size restrictions and remain legal non-conforming and outside the LUB;
- A single table that recognizes construction prior to LUB can be reflected in a schedule to the LUB;
- Communication to be sent to residents with an 18 month response time for a site plan;
- Amending Bylaw 122 to one table with a clause to retain or rebuild to the existing floor area;
- An example can be brought back for the May 6th meeting in a blackline version of the bylaw as well; and
- The available tables and the certainty for first reading was discussed.

SP-2022-017

It was Moved and Seconded,

that the South Pender Island Local Trust Committee amend draft bylaw 122 as follows:

by using the table on page 15 exhibiting four land use categories as Table 3 in the Staff Report in the right-hand column;

and,

the draft bylaw include clauses recognizing homes in terms of house size and setbacks that would have been built before the adoption of this new bylaw;

and,

that the bylaw include only one table.

CARRIED

Planner Stockdill requested direction on groundwater protection regulation and discussion included:

- Cistern catchment for storage of freshwater;
- The building permit for a house or cottage triggers the requirement to install a cistern on the lot.

SP-2022-018

It was Moved and Seconded,

that the South Pender Island Local Trust Committee amend draft Bylaw No. 122 as amended by amending the Groundwater Protection Regulation Section 3.14 to include a cottage as a new building.

CARRIED

SP-2022-019

It was Moved and Seconded,

that the South Pender Island Local Trust Committee Bylaw No. 122, cited as the "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021" as amended be read a first time.

CARRIED

SP-2022-020

It was Moved and Seconded,

that the South Pender Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 122, cited as "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021", is not contrary to or at variance with the Islands Trust Policy Statement.

CARRIED

SP-2022-021

It was Moved and Seconded,

that the South Pender Island Local Trust Committee direct staff to schedule a Community Information Meeting and a Public Hearing for proposed Bylaw No. 122.

CARRIED

Chair Patrick stated that a Community information meeting will be held May 6th for the proposed bylaw followed by a Public Hearing.

14.2 Minor OCP Amendments Project – Staff Report

Region Planning Manager (RPM) Kojima reported that both draft versions of the Rights of Nature bylaw are attached and will be going to First Nation consultation and referral and that the remaining OCP amendments are going to public hearing.

14.3 Shoreline Review – Draft Discussion

RPM Kojima reported the project's draft version of the discussion paper is attached.

- Discussed timeline for consultation and community meeting as well as coordination with other shoreline projects;
- Chair Patrick reported that the Lyackson First Nation asked to be involved in the project definition phase for new projects and that trips to each first nations will occur; and
- RPM Kojima will report back in the May or June meeting with an update on a potential new timeline.

15. REPORTS

15.1 Work Program Reports (attached)

15.1.1 Top Priorities Report Dated Feb 2022

15.1.2 Projects List Report Dated Feb 2022

15.2 Applications Report Dated Feb 2022

- RPM Kojima reported that there is no news on the ALR application; and
- TUP file is closed and will be taken off the applications report.

15.3 Trustee and Local Expense Report Dated Dec 2021

15.4 Adopted Policies and Standing Resolutions

15.5 Local Trust Committee Webpage

15.6 Islands Trust Conservancy Report - None

16. NEW BUSINESS

DATE OF MEETING: March 5, 2021
TO: South Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: Report Subject: Work Program Report

RECOMMENDATION

1. That the South Pender Island Local Trust Committee remove the Short Term Vacation Rental Project from the Top Priorities List.
2. That the South Pender Island Local Trust Committee remove the Alternative Housing Project from the Top Priorities List.
3. That the South Pender Island Local Trust Committee add Land Use Bylaw Amendments to the South Pender Island LTC Top Priority List and that staff report back with a project charter.

REPORT SUMMARY

The purpose of this report is to provide options to the South Pender Island Local Trust Committee (LTC) on how to proceed with their Work Program for the remainder of its term and to identify new Top Priority projects.

BACKGROUND

At the January 29, 2021 regular South Pender Island LTC meeting, the LTC requested staff to provide a list of projects that could be grouped under Land Use Bylaw (LUB) amendments or OCP amendments. Staff also requested Trustees forward any addition items to be added to the Project List to staff. Comments received by the Trustees are included as attachments to this report.

The following are the current Top Priority projects and their status:

1. Groundwater Sustainability Project – Project deliverables for phase 1 and 2 expected spring 2021. The SP LTC has expressed an interest in progressing with phase 3 of the project.
2. STVR Review Project – Public Hearing scheduled for March 5, 2021. Bylaws expected to be referred to EC and the Minister of Municipal Affairs this spring.
3. Alternative House Project – Public Hearing scheduled for March 5, 2021. Bylaws expected to be referred to EC and the Minister of Municipal Affairs this spring.

The following are items on the Projects Report:

1. Development Permit Areas
2. Sea level rise and shoreline erosion

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3. Steel storage containers
4. Derelict vehicle and machinery
5. First Nation language
6. Building and siting guidelines

ANALYSIS

Top Priority List

The Top Priorities list defines the LTC's work program. An LTC can identify up to three top priorities at any given time, however given limited resources it is unlikely that three significant projects can be managed and delivered simultaneously. It is more effective for an LTC to focus on one or two projects. When proposing new Top Priorities the LTC should be aware of available resources, including budget and staff, and relevance of the project. Once a project is proposed as a Top Priority, direction should be given to staff to draft a project charter. The draft project charter must then be endorsed by the LTC and Regional Planning Manager prior to a budget being allocated and the project proceeding.

Projects List

The purpose of the Projects List is to keep a record of topics raised for future work by the LTC. The Projects list also provides a basis for budget requests for the next fiscal year. Before any work beyond basic scoping or preliminary discussion with other agencies begins, the item should be moved to the Top Priorities list to ensure that staff resources are not diverted from other priorities. An LTC can have any number of projects on a projects list, however staff recommends this list be reviewed periodically to ensure the projects can be feasibly initiated in the term. Attachment 2 appends the project list that was endorsed by the LTC in the previous term. The LTC may wish to amend the projects list to add or remove potential topics. New topics should have a clear objective and be within the jurisdiction of the Islands Trust.

Potential Project Topics

Below are a list of topics provided by Trustee Wright and Trust Thorn (see attached documents). The items have been divided into two lists - potential Land Use Bylaw (LUB) amendments and potential Official Community Plan (OCP) amendments.

Potential LUB Amendments

1. Maximum floor area regulations.
2. Agricultural lands regulation in accordance with ALC policy L-26.
3. Derelict vehicle and machinery.
4. Shipping containers.
5. Setback to the natural boundary of the sea.
6. Any other minor, technical amendments.

The above topics identified by South Pender Trustees can be grouped together into one Top Priority project that would include technical amendments to the Land Use Bylaw. Staff have provided a recommendation for the LTC's consideration (recommendation no. 3) to place the above amendments on the Top Priority's List and for staff to

report back with a project charter. This project would focus on a number of technical amendments. A full review of the land use bylaw would be out of scope.

Potential OCP Amendments

1. Building Design & Siting Guidelines.

Staff comments: A [staff report](#) was prepared in November 2019 outlining options for the LTC's consideration in regards to building design and siting guidelines. With respect to the identification of Development Permit Area (DPA) objectives related to form and character, the legislation is very clear that this does not apply to single-family dwellings unless they can be considered to be intensive residential. Developing additional DPAs for the protection of the environment, and promotion of energy and water conservation and the reduction of greenhouse gas emissions could influence some aspects of building siting as well as design aspects such as building orientation, roof design, renewable energy, exterior lighting, water management (including pervious surfaces), and construction materials. Staff recommend the LTC review the staff report dated November 2019 and identify which regulatory and policy options would best achieve the LTC's desire for building design and siting guidelines.

2. Foreshore DPA to address sea level rise and sensitive ecosystems (including Coastal Douglas-fir protection).

Staff comments: Establishing a marine/foreshore DPA could achieve a number of the LTC's goals to protect the marine/foreshore sensitive ecosystem, areas of Coastal Douglas Fir within the foreshore area, and building design guidelines to protect sensitive ecosystems and identify hazard areas (steep slopes). There is a similar project proceeding in the Gambier LTA which could provide a model.

3. First Nations OCP Language.

Comments: Adding First Nation's names to OCP maps would require a separate project to ensure that there is dedicated time to engage in meaningful discussions with First Nations. Alternatively, the South Pender LTC should consider adding an introductory statement/acknowledgement to First Nations in the OCP similar to the Saturna LTC's project: http://www.islandstrust.bc.ca/media/349685/sa-ltc-bl-132_ocp_fnrb_2nd-3rd-readings.pdf. The South Pender LTC could use Saturna's First Nation acknowledge statement as a template and it could be included in an OCP amendment bylaw with another OCP project. For example, if the LTC moves forward with establishing a DPA, this would require an OCP amendment bylaw which could include both DPA guidelines and the First Nations acknowledgment, an acknowledgment is the minimum standard for OCP amendments.

4. Rights of Nature policy – Trust Wright's notes attached.

Staff recommend the LTC consider how it would like to proceed with an OCP project. The LTC should develop some clear and concise objectives and direction that are all within the legislative powers of the LTC and Islands Trust.

Rationale for Recommendation

Staff are recommending three separate motions for the South Pender LTC to consider. The first two involve removing the two projects (STVR project and the Alternative Housing project) from the Top Priority lists as they are near completion. Removing these two projects is only recommended if the project's bylaws receive second and third reading, and are directed to be referred to the Executive Committee and the Minister for approval at the March 5, 2021 LTC meeting. If the project's bylaws are not given second and third reading, these two projects should remain on the Top Priority's list.

The third recommendation is to add the Land Use Bylaw Amendments project to the Top Priority list and to request staff to draft a project charter for this project. This recommendation is supported by staff only if the other two Top Priority project's (STVR and Alternative Housing) bylaws have progressed at the March 5, 2021 LTC meeting.

In addition, the LTC could add a project related to OCP amendments once the LTC has clear direction on the scope of the project.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation:

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 South Pender Island Local Trust Committee request that the staff provide further information regarding...

2. Add OCP Amendment project to the Top Priority List

If the LTC has clear direction as how to proceed with an OCP amendment project, then the LTC may use the resolution below that includes a specific project name (for example, Foreshore DPA Project):

That the South Pender Island Local Trust Committee add XXX to the South Pender Island LTC Top Priority List and that staff report back with a project charter.

3. Add project to the Projects List

The LTC may wish to add new topics to the Projects List. Recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee request staff to add XXX to the Projects List.

NEXT STEPS

Once the South Pender LTC has given direction on the Top Priority List, staff can report back with information on scope, budget, and timelines for each Top Priority project.

Submitted By:	Kim Stockdill, Island Planner	February 26, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	February 26, 2021

ATTACHMENTS

1. Trust Wright notes dated February 4, 2021
2. Trust Thorn notes dated February 25, 2021
3. Rights of nature notes provided by Trustee Wright dated January 27, 2021

Priority List

1. Groundwater Sustainability Report
 - findings included in Maps
 - develop OCP policies and LUB regs to reflect limited supply areas and amend density/use accordingly
2. STVR Review
 - amend bylaws to take to Public Hearing
3. Alternative Housing
 - RVs to be permitted as temporary dwellings for 60 days
 - RVs to be permitted as full time dwellings for 2 yrs with active bldg permit
 - requirement to be connected to approved septic system
 - amend bylaws to take to Public Hearing

Project List

Under OCP Amendments:

1. Development Permit Areas - along foreshore (CDF ecosystem, sea level rise, climate change)
2. Adding FN names to maps
3. Building Design and Siting Guidelines
4. include policy on Rights of Nature

Under LUB amendments:

1. Steel storage Containers
 - include as accessory buildings
 - 1 per 1 A lots
 - 2 max
 - screening if seen from neighbour or public road
 2. Derelict Vehicles & Machinery
 - amendments as needed for enforcement purposes
 3. Agriculture land
 - max floor size of residence to be 2800 sq ft
 - remove 5.5 (3) and apply through variance
- put ALC policy for buildings siting in regulations
policy paper (ALC Policy L-26), 3.0

3.0 Limiting housing's physical impact on the productive parcel

The type of additional residential structure should reflect the agricultural use of the property.

Preference will be provided to residential uses which utilize existing structures and/or residences that are sized appropriately and located in an area which minimizes negative impacts to the agricultural land or can easily be removed from the property, such as a manufactured home.

The total residential footprint, meaning the portion of a property used for the principal residence, the additional residence(s), and the accessory residential facilities (e.g. yard, driveway, servicing, etc.), should maintain a viable agricultural remainder and should not unnecessarily infringe upon the productive farming area of the property. Unless a more restrictive local government bylaw is in place, the following parameters, consistent with the Minister's Bylaw Standards, will inform the Commission's consideration of the appropriate total residential footprint:

- a) Principal Residence: The total residential footprint for a principal residence should not be more than 2,000 m².
- b) Additional Residence: The total residential footprint for each permitted additional residence should not be more than 1,000 m².
- c) Temporary Farm Worker Housing: The total residential footprint for each permitted temporary farm worker housing space should not be more than 35 m² per worker.
- d) Siting: The setback from the front lot line to the rear or opposite side of the total residential footprint should not be more than 60 metres. Lots narrower than 33 metres are exempted from the 60-metre maximum setback guideline (for the total residential footprint) from the front lot line, however, the footprint should fill the front of the lot to a maximum of 2,000 m².
- e) The following exceptional circumstances may also apply to the siting of residential footprints and may be considered by the Commission:
 - i) Existing Footprints: The clustering of a residence with other existing non-agricultural uses on the property to limit the fragmentation of ALR land and avoid the restriction of agricultural activities.
 - ii) Commodity-Specific Needs: The strategic placement of a residence to benefit or optimize the agricultural operation (e.g. monitoring of livestock on a large property).
 - iii) Topographic Features: Siting of a residence as appropriate to reduce the use of potentially productive farming land for residential purposes (e.g. sited on a non-farmable area of the property).

4. Maximum floor area of residences

- continue discussion with NP
- set size limits in relation to lot size

5. Increase setbacks to:

- 50 ft setback from shoreline
- 20 ft side lot lines
- remove “stairways” from LUB 3.3 (3)

South Pender LTC – Proposed 2021 – 2022 Work Plan

With the South Pender Local Trust Committee now entering the second half of its four year term, it is an appropriate time to summarize the accomplishments achieved thus far and, chart a work plan for the remaining two years. Throughout the term the consistent objective of the LTC has been and continues to be, the development of policies and regulations that both support the vision and goals of our Official Community Plan, and respond to emerging issues in a manner consistent with the OCP and community values.

The OCP embodies a consensus of South Pender Islanders' views about how best to nurture a sustainable economy, environment and community in a manner that preserves and protects what we most value for the generations to follow.

At a fundamental level our OCP goals "are intended to act as focal points in protecting and maintaining the rural island character and natural features so valued by South Pender Island residents, property owners and visitors. These goals include:

- To maintain the island's rural character;
- To protect the natural features and biological diversity of the island and its immediate surroundings;
- To protect both the archaeological and historic features of the island's cultural settlement and the scenic amenities derived from its areas of forest cover, natural vegetation, farm lands, residences, and coastline;
- To ensure land use, development, and associated servicing are compatible with the rural island character and that their growth is gradual and sustainable.

During the first two years of the term, the South Pender LTC has:

- **Community Dialogue:** Provided opportunities for regular and interactive dialogue with the community. In addition to the regularly scheduled LTC meetings, Trustees organized a number of informal community information meetings at the Fire Hall in 2018 and 2019. Notwithstanding the pandemic and the prohibitions against in-person gatherings, the LTC has also held four Special Meetings between September 2020 and January 2021 to consult with the community on new policy initiatives.
- **Design Guidelines:** Prepared the draft "South Pender Building Design and Siting Guidelines" based on the vision and goals of the OCP
- **Advisory Planning Commission Referrals:** Referred a number of policy initiatives to the APC including Short Term Vacation Rentals and the Building Design and Siting Guidelines
- **Short Term Vacation Rentals and Bylaw 117:** Amended regulations within the South Pender Land Use Bylaw to place a moratorium on the establishment of new STVR operations with the explicit commitment replace Bylaw 117 with a new bylaw amendment enacted in response to a comprehensive short term vacation rental policy for South Pender Island. The process of developing a new, forward looking STVR policy has been guided by several community

information meetings, public feedback and, the results of poll mailed to every property owner on the island.

- Bylaw Enforcement Notification Bylaw: Adopted the BEN bylaw in 2019 to provide a more cost-effective, efficacious approach to enforcement of the zoning bylaw.
- Promoted pan-island cooperation: Collaborated with the North Pender LTC on common issues including more effective bylaw enforcement, protection of the environment and preservation of our rural character while preserving the autonomy of the two islands.

Over the next two years, the proposed LTC Work Plan includes:

- Short Term Vacation Rentals: Finalize a STVR policy and companion regulations.
- Design Guidelines: Finalize the Building Design and Siting Guidelines following recommendations from the APC and input from the public. The intent would be to add the finalized Guidelines as a Schedule to the Official Community Plan.
- House Size: Establish a maximum house size by lot area with variance opportunities provided where applications respond affirmatively to the Building Design and Siting Guidelines. In conjunction with house size regulations, the intent would be to establish regulations such that existing or approved dwellings that would exceed new house size regulations could be re-built – in the event of damage or destruction - to their present size despite new maximum house size regulations.
- Agricultural Lands: Protection of farm (agricultural) lands consistent with the policies of the Official Community Plan and the Agricultural Land Commission. In particular, protection of farmland may include regulations on siting of buildings in accordance with section 3.5.1 of the OCP and ALC Policy L-26.
- Development Permit Areas: designation of the foreshore as a development permit area and consider increasing the setback from the foreshore to 50 feet both to protect the natural environment and to protect development from hazardous conditions exacerbated from climate change.

South Pender Island lies within the Coastal Douglas fir bio-geoclimatic ecological zone which as a result of climate change, is becoming endangered. Many bird species and other animals within this zone are also diminishing in numbers. In the Salish Sea, one of our most iconic mammals, the Southern Killer Whale (Orca), is threatened by the activities and degradation of their environment by humans. Many species of fish, shellfish, and sea birds are also in decline.

The South Pender Official Community Plan (OCP), maintains that “South Pender Island and its community are an expression of the cumulative interactions of people and the island’s environment. The goals of the OCP are intended to act as focal points in protecting and maintaining the rural island character and natural features so valued by South Pender Island residents, property owners, and visitors.” To achieve this goal the OCP calls for “for leadership in stewardship – that is, voluntary, cooperative actions that nurture and take responsibility for the long-term integrity of the environment and amenities of the Trust Area.” One of the policies to realize this goal is “the concept that land use and development should be compatible with the inherent capacity of the island.” This in itself, recognizes a person’s right to a healthy environment.

The Rights of Nature recognizes the impact by human beings is caused primarily by our attitude towards nature which views nature as an object or property, rather than a myriad of life forms. If we recognize the importance of “sustainability” then we need also to recognize limiting our use and impacts to Nature if we are to maintain a balance in the ecosystems in which we share with the plants, forests, and animals. Humans are ultimately connected to Nature, and our present and future generations can only be sustained when the environment is respected and healthy. For example, cutting down trees to build a home may be necessary but the clear cutting of large swaths of trees destroys a forest and the ecosystem in which many other plants and animal species depend upon to survive.

The First Nations who inhabited this region since time immemorial understood their connection to, and responsibility for, the sustainability of the land, waters and all other species, which ensured their survival through millennia.

I propose that the South Pender Island Official Community Plan recognize the Rights of Nature within an overall framework of sustainable development, in conjunction with other agencies, and with the involvement and participation of property owners, to:

- a) Prevent and control pollution and its effects and the harmful forms of erosion;
- b) Conduct and promote land use planning with a view to a correct location of activities, balanced social and economic development and the enhancement of the landscape;
- c) Create and develop natural and recreational areas and classify and protect landscapes and places, in such a way as to guarantee the conservation of nature and the preservation of cultural values and assets;

- d) Promote the rational use of natural resources, while safeguarding their ability to renew themselves and maintain ecological stability, with respect for the principle of inter-generational solidarity;
- e) Act in cooperation with other authorities, to promote the environmental quality of rural settlement, particularly on the architectural level and as regards the protection of historic zones;
- f) Promote the integration of environmental objectives into the various policies of a sectoral nature;
- g) Promote environmental education and respect for environmental values;
- h) Promote a tax policy that renders development compatible with the protection of the environment and the quality of life.

<https://therightsofnature.org/>

File No.: SP LUB Amendments Project

DATE OF MEETING: May 7, 2021
TO: South Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: South Pender Minor OCP Amendments – Project Charter

RECOMMENDATION

1. That the South Pender Island Local Trust Committee approve the Project Charter for the LUB Amendments project.

REPORT SUMMARY

This report is intended to provide the South Pender Island Local Trust Committee (LTC) with a draft project charter for the Land Use Bylaw (LUB) Amendments project.

BACKGROUND

At the April 9, 2021 Special Meeting, the South Pender LTC passed the following resolutions:

SP-2021-040

It was Moved and Seconded

that the Groundwater Sustainability Project be moved off the Top Priorities list.

CARRIED

SP-2021-041

It was Moved and Seconded

that the Alternative Housing Project be removed from the Top Priorities list.

CARRIED

SP-2021-042

It was Moved and Seconded

that the South Pender Island Local Trust Committee refer building design and guidelines and The Rights of Nature document to the Advisory Planning Commission and report back to the Local Trust Committee prior to the May 7 2021 Local Trust Committee meeting.

CARRIED

SP-2021-043

It was Moved and Seconded

that shoreline stairs be referred to the APC for their consideration and solutions and to report back to the Local Trust Committee prior to the May 7 2021 meeting.

CARRIED

SP-2012-044

It was Moved and Seconded

that the Local Trust Committee add Land Use Bylaw amendments to the Top Priorities list.

CARRIED

SP-2021-045

It was Moved and Seconded

that the Local Trust Committee add 3 minor Official Community Plan amendments to the Local Trust Committee Top Priorities list as noted:

- Building and design guidelines;
- First Nations Official Community Plan language;
- Rights of Nature policy;

And further that, staff report back with a project charter.

CARRIED

SP-2021-046

It was moved and Seconded

that the Local Trust Committee move the Groundwater Sustainability project from the Top Priorities list to the Project list.

CARRIED

SP-2021-047

It was Moved and Seconded

that the Local Trust Committee add Shoreline Review to the Top Priorities list.

CARRIED

ANALYSIS

Official Community Plan:

There are no anticipated amendments to the South Pender Official Community Plan (OCP) in regards to this project.

Land Use Bylaw:

The South Pender LTC has indicated that the following topics should be included in the LUB amendment project:

Potential LUB Amendments

1. Maximum floor area regulations – to review the current residential maximum floor area regulations and the addition of a provision that would ensure existing dwelling units could rebuild to their current floor area prior to a newly established maximum floor area.
2. Agricultural lands regulation in accordance with ALC policy L-26. – consider regulating maximum floor area for dwelling units to align with ALC regulation (500 m² maximum floor area), home plate regulations, farm worker housing regulations, and other topics as identified by the LTC.
3. Shipping containers – consider regulating maximum number of permitted shipping containers on a parcel, screening requirements and other potential regulations.
4. Setback to the natural boundary of the sea – this could be addressed through the Shoreline Review project or through this project.
5. Any other minor, technical amendments - review the LUB to correct any numbering errors, incorrect legislation references, or other technical amendments.

Project Charter

The project charter is attached for the LTC's consideration. The project charter includes the scope of the project, timeline, and budget. If the LTC wishes to amend the draft project charter, an alternative recommendation is outlined below (alternative no. 2).

Consultation

Staff are recommending early consultation with community members beyond what is required by statutory requirements. The LTC should consider scheduling a Community Information Meeting in the fall, as indicated on the Project Charter, as the project proceeds.

Members of the LTC have expressed a desire to complete a mail out to all community members notifying them of the projects the South Pender LTC has completed to date, and about the three new top priority projects. If the LTC would like to initiate this mail out, a resolution is required. The LTC should be aware that there is a cost associated with this (cost to mail) as well as the administrative time to organize a mail out. There are also two different options for mail outs with pros and cons to each approach – a letter mailed directly to property owners (those who are on the property title although those renting the property would not receive the letter) or dropping leaflets into each mail slot (this would go only to those currently residing at the property). Staff do believe a mail out should be completed for this and perhaps in conjunction with other projects, but the LTC should discuss the timing of the mail out. A mail out to notify community members of the early CIM in the fall could be considered.

Statutory Requirements

In the first stage of the project (i.e. reviewing proposed documents, and undertaking community consultation) there are no statutory requirements to consider. If at a later stage the LTC resolves to undertake bylaw amendments, statutory notification requirements of the Local Government Act will need to be considered including appropriate agency and First Nation referrals, public hearing requirements and bylaw adoption procedures.

Rationale for Recommendation

If the LTC is satisfied with the scope of work proposed (the potential LUB amendments identified above), approval of the project charter by resolution is recommended to allow work to proceed. Alternatively the LTC could ask staff to report back with changes to the project scope and to the charter.

ALTERNATIVES

1. Request further information

The LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are potential delays to commencing and completing the project. 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 South Pender Island Local Trust Committee request that the staff provide further information regarding...

2. Request revisions to the draft project charter

The LTC may request revisions to the draft project charter. If selecting this alternative, the LTC should describe the specific revisions needed and the rationale for this request. Recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee request that staff make the following revisions to the draft Project Charter for the LUB Amendments Project:...

3. Reconsideration of project

The LTC may choose to focus on different priorities instead of a technical review of the LUB. If selecting this alternative, recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee not pursue the LUB Amendments Project and to remove the project from the Top Priority Project List.

4. Mail out

That the South Pender Island Local Trust Committee direct staff to notify community members by mail that...

5. Receive for information

The LTC may receive the report for information

NEXT STEPS

Next steps include:

- Finalize project charter, if required
- Present LUB amendment options to the SP LTC via a staff report prior to commencement of public, stakeholder, and First Nation consultation

Submitted By:	Kim Stockdill, Island Planner	April 29, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	April 30, 2021

ATTACHMENTS

1. Project Charter

LUB Amendments - Charter v1

South Pender Island Local Trust Committee

Date: May 7, 2021

Purpose: To consider minor amendments to the South Pender Land Use Bylaw (LUB).

Background: The South Pender Local Trust Committee identified a number of topics to consider for amendments to the LUB. The project would review options for amending the maximum floor area regulations, agricultural land regulations (in accordance with ALC Policy L-26), shipping containers, and other minor and technical amendments.

Objectives

To review, amend or add new regulations to the LUB.

In Scope

- Consider the following amendments to the LUB:
 - Maximum floor area;
 - Agricultural regulations;
 - Shipping containers;
 - Minor and technical amendments.
- Providing recommendations to LTC
- Drafting of bylaw amendments
- Public and stakeholder engagement
- Bylaw referrals
- Bylaw amendment process

Out of Scope

- Substantive review of the LUB.
- OCP amendments (other than consequential)
- Other regulatory or policy amendments

Workplan Overview

Deliverable/Milestone	Date
Project charter endorsed	May 2021
Staff research and analysis of options for the LTC's consideration	July 2021
LTC review of background material and consideration of public consultation options	Sept 2021
Public consultation (CIM) and early referrals	Fall 2021
LTC review of consultation results and consideration of amendment options, direction to draft bylaw and legal review	Nov 2021
First reading	Jan/Feb 2022
Community Information Meeting/Public Hearing	March 2022
Further bylaw readings, EC referral	Summer 2022

Project Team

Kim Stockdill	Project Manager
Maple Hung	Admin Support
Jas Chonk	Admin Support
Jackie O'Neil	GIS/Mapping Support
RPM Approval: Robert Kojima Date: Apr 29, 2021	LTC Endorsement: Resolution #: Date: xxx

Budget

Budget Sources:		
Fiscal	Item	Cost
2021-22	Consultation & Mail-out	\$1500
2021-22	Legal Review	\$1000
2021-22	Public Hearing	\$1000
2021-22	Contingency	\$500
	Total	\$4000



DATE OF MEETING: July 9, 2021
TO: South Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: South Pender LUB Amendments – Project Update

RECOMMENDATION

No recommendation at this time. Staff will continue to work on the Land Use Bylaw (LUB) Amendment project and report back to the LTC with further recommendations.

REPORT SUMMARY

This report is intended to provide options to the South Pender Island Local Trust Committee (LTC) regarding the LUB Amendment project for the LTC to provide further direction to the staff.

BACKGROUND

At the May 7, 2021 Special Meeting, the South Pender LTC passed the following resolutions with regards to the LUB Amendments Project:

SP-2021-041

It was Moved and Seconded,

that the South Pender Island Local Trust Committee request that staff revise the draft Project Charter for the Land Use Bylaw Amendments Project to include all setbacks.

CARRIED

SP-2021-042

It was Moved and Seconded,

that the South Pender Island Local Trust Committee approve the Project Charter, as amended, for the Land Use Bylaw Amendments project.

CARRIED

Background information regarding the project, staff reports, correspondence, and the Project Charter can be found on the South Pender Project webpage: <https://islandstrust.bc.ca/island-planning/south-pender/projects/>

ANALYSIS

Official Community Plan:

There are no anticipated amendments to the South Pender Official Community Plan (OCP) in regards to this project.

Land Use Bylaw:

The South Pender LTC has indicated that the following topics should be included in the LUB amendment project:

Maximum floor area regulations

The following are floor area regulations for dwelling units in the South Pender LUB:

Definition – “floor area means the sum of the horizontal areas of all storeys in a building, measured to the outer surface of the exterior walls, exclusive of any floor area occupied by a cistern used for the storage of water for domestic use or fire protection, and exclusive of all areas of a storey having a floor and a ceiling less than 1.5 metres apart.”

Agriculture Zone - Subsection 5.5(9) -The floor area of a dwelling may not exceed 560 m² (6028 ft²).

Forestry Zone - Subsection 5.6(7) -The floor area of a dwelling may not exceed 560 m² (6028 ft²).

Natural Resource Zone - Subsection 5.7(6) -The floor area of a dwelling may not exceed 560 m² (6028 ft²).

Table 1 – Rural Residential Maximum Floor Areas

Siting and Size			<u>RR1</u>	<u>RR2</u>	<u>RR3</u>
(5)	<i>Maximum Floor Area per lot:</i>		✓	✓	✓
	Lot Area	The total floor area of all buildings may not exceed:			
	Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)			
	0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)			
	0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)			
	1.6 ha to 3.9 ha (4 to 10 acres)	836 m ² (9000 ft ²)			
	4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)			
		The floor area of a dwelling may not exceed:			
		353 m ² (3800ft ²)			
		418 m ² (4500ft ²)			
		520 m ² (5600ft ²)			
		543 m ² (5845ft ²)			
		560 m ² (6030ft ²)			

The LTC has expressed an interest in reducing the floor area for a dwelling unit in the Rural Residential 1 (RR1), Rural Residential (2), and Rural Residential (3) zones. As shown in Table 1, the LUB currently regulates floor areas in two ways: by establishing a maximum floor area for a dwelling, and also by establishing a total floor area of all buildings located on the property. The following are items for the LTC to consider with regards to amending floor area:

- If the LTC wishes to amend floor area for dwelling units in all zones, or just for the Rural Residential zones.
- For Rural Residential zones, if the LTC wishes to reduce the floor area for just dwelling units and all buildings located on the property (reduce amounts in both columns in Table 1), or to reduce the floor area for dwelling units only.
- Provide direction to staff to decrease the maximum floor areas in Table 1 by a certain amount.

Other options the LTC may want to consider to reduce the impact of the built form on rural properties:

1. The current definition of floor area in the South Pender LUB measures the floor area to the outside surface of the external walls. The LTC could amend this definition to measure floor area to the interior surface of the exterior walls which could encourage environmentally friendly building practices (use of thicker insulation within walls). Currently Gabriola, Galiano (for Environmentally Friendly Buildings), Lasqueti, and Saturna all measure floor area to the interior side of the external walls. The North Pender LTC also gave direction to staff to amend the definition of floor area to measure to the interior side as part of their LUB amendments.
2. Establish a maximum permitted lot coverage for residential properties.
Lot coverage is a measure of the proportion of a lot that may be covered by buildings or structures, but excludes paving or similar surfaces. It differs from floor area in that it is measured on a horizontal plane only (from a bird's-eye view), includes all structures, and is measured to the drip line. Establishing a lot coverage may be an option supporting the objectives of retaining rural character and minimizing the impacts of massive or extensive building and development. It would also indirectly limit the size of dwellings, protect greenspace and encourage on-site retention of drainage. In terms of impacts, existing properties could potentially be rendered non-conforming – although existing buildings and structures could be repaired and maintained. Such a change may increase demand for variances as owners would more readily run up against lot coverage limits during development. Administratively, there would be increased requirements at time of development (including during minor additions or construction of accessory buildings) in order to determine compliance with the regulation. For example, survey plans showing all buildings and structures would need to be required more often than currently in order to determine compliance.
3. Establish lot coverage regulation and include impervious surfaces.
This would support two objectives of the lot coverage provision: to retain greenspace and encourage on-site retention of drainage, but would not alter the regulation for current owners with respect to buildings or other structures. There is the potential that if there were existing properties with extensive paving they could be rendered non-conforming – however the effects of non-conformity would be minimal as existing structures could be repaired or maintained. In terms of administration, there would be increased requirements at time of development (including during minor additions or construction of accessory buildings) in order to determine compliance with regulations. For example, survey plans would have to include the area and extent of all paved surfaces. Also, as there is no permitting of new paving, there is no ready mechanism for administering the regulation in absence of a building permit for a building or structure.

Setback regulations

At the last LTC meeting on March 5, 2021, the LTC asked staff to add the review of setback regulations to the LUB Amendment project. In order to provide recommendations to the LTC, the LTC should identify the issues and determine the goal or intent for the amendments.

There are a number of ways to amend setback regulations:

- Reduce current setback regulations.
- Increase current setback regulations.
- Increase/decrease setback regulations based on lot size or if a property is abutting a certain zone.
- Establish setback regulations as a percentage of the lot depth. There are many issues with this type of regulation. First, South Pender properties generally have an irregular lot shape making it difficult to determine the lot depth. Secondly, there will be interpretation issues as determine lot depth and the

percentage may be too complex for some to easily interpret. It will also increase staff's time to ensure the calculation for the setback was completed correctly. Setback regulations as a percentage of lot depth are more often seen in urban areas based on the reasons outlined above and may not be well suited for rural areas.

Agricultural lands regulation

The table below outlines the current agriculture regulations, the ALC policy and recommendations and options for the LTC to consider. The LTC should give direction to staff if other agriculture topics should be considered.

Table 2 – Agriculture Zone and ALC Considerations

	<i>Agriculture (A) Zone</i>	<i>ALC Policy & Regulations</i>	<i>LUB - Regulatory Options</i>
<i>Cottage</i>	Allowed use in zone	ALC Act amend. (Feb 2019) - Second dwelling only by application to ALC.	Potential amendment A zone for consistency with current or proposed ALC amendments..
<i>Farm Worker Housing</i>	Permitted use 'c' allows a Cottage or other dwelling for the housing of persons engaged in on-going agricultural activities.	ALC Act amend. (Feb 2019) - By application to ALC	Consider amendment to A zone to include use with note "only by ALC Approval".
<i>Non-Adhering Residential Use (NARU)</i>	No reference in A zone.	Policy L-26 decision-making guidelines for consideration of non-adhering uses (second dwellings, temporary farm dwellings, dwellings over 500 m ² , etc.)	No Action
<i>Dwelling Size</i>	Maximum floor area for a dwelling is 560m ²	Total floor area of a dwelling is 500 m ² in ALR	Consider amendment to A zone to reduce the maximum floor area to 500 m ² .
<i>Agri-Tourism</i>	No reference in zone, but may be considered a farm use which is permitted in the A zone.	Policy L-04. A farm use. Must have farm status. Limited to list of approved activities including heritage farm equip. displays, farm tours, educational or demonstration of farm operations, rides (tractor, etc.), activities that promote or market livestock, harvest festivals, etc.)	Consider adding a 'agri-tourism' definition and regulations in A zone to harmonize with ALC Regulation by defining and restricting use.
<i>Agri-Tourism Accommodation</i>	Not a permitted use in the A zone.	ALC Act – A permitted farm use. Must be in relation to <i>Agri-Tourism Activity</i> ; total developed area 5% of parcel; 10 units maximum; seasonal or short-term.	Consider amending the A zone to harmonize with ALC Regulation by defining and restricting agri-tourism accommodation use.

	Agriculture (A) Zone	ALC Policy & Regulations	LUB - Regulatory Options
Home Business (Occupation)	Yes - Home business is permitted in the A zone with a maximum floor area of 65 m ² .	Policy L-07: Permitted as a non-farm use up, accessory to residential or farm use on the property and a maximum area of 100 m ² or maximum by Local Government (whichever is less) Further limits on facilities (no daycares, preschool/schools, group homes and health and community care facilities) and size	Consider amending the General Regulations (size and types) to be consistent with ALC for Home Business and Home Industry in ALR
Farm Retail Sales	Yes - permitted as a home business but provided that at least 70% of the goods or products for sale are produced, processed or repaired as part of the home business	Policy L-02 A permitted farm use. If all products originate or are produced on the farm on which the sales are taking place, there is no limitation for the retail sales area. Thresholds if farm or non-farm products offered for sale originate elsewhere, there is a retail sales area limitation (based on origin - max. 300 m ²)	Consider adding definition of 'farm retail sales' and add regulations to align with ALC (farm retail sales must not exceed 300 m ²).
'Farm Use'	Definition in LUB	'Farm Use'	Amend definition to harmonize with ALC definitions for 'farm use' and allowable uses.

Shipping containers

The South Pender LUB does not currently regulate the density or use of shipping containers. Shipping containers are permitted on South Pender as they are considered a structure, and must meet the siting regulations (setbacks, floor area, lot coverage, height, etc.) of that zone. Due to the concern of the possible proliferation of shipping containers on properties, specifically on residential properties, the LTC may want to regulate the maximum number of shipping containers permitted on a lot and require vegetative screening. The following LTC should consider the following points:

- Differentiate the density of shipping containers for different zones. For example, the LTC may want to limit the number of shipping containers on residential lots to two (2) whereas have a higher limit, or no limit for agricultural properties.
- Determine the type of screening required, if any. The South Pender LTC outlines the following requirements for vegetative screening:

Subsection 3.9(1) - *Where vegetative landscape screening is required by this Bylaw, it shall be provided in the form of:*

(a) Existing vegetation of the required height that provides a complete visual screen between the uses being separated in all seasons of the year; or,

(b) A row of drought-tolerant evergreen plants that will attain the required height, planted and maintained continuously so as to provide a complete visual screen in all seasons of the year between the uses being separated; and such screening.

Subsection 3.9(1) could be required for all shipping containers or could be required only for shipping containers in certain zones, or abutting certain zones.

Setback to the natural boundary of the sea -Stairways

Currently the South Pender Land Use Bylaw No. 114 exempts stairways from complying to the setback from the natural boundary of the sea (Subsection 3.3.(3)):

“Buildings or other structures, except a fence, pump/utility house, stairway, wharf and dock ramps or their footings, shall not be sited within 7.6 metres (25 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "structures”.

The following are options or items to consider with regards to regulating stairways within the natural boundary of the sea:

- Currently regulations do not regulate size (width or length) of stairways permitted within the setback from the natural boundary of the sea;
- The LUB does not regulate best practices for stairway construction in terms of vegetation retention, location of stairway, sensitive ecosystems and land alteration. Best practices to construct stairways are best regulated through the Development Permit process.
- Reviewing stairway regulations and best practices may be better addressed through the Shoreline Review project.

As per direction from the LTC, staff requested the South Pender Advisory Planning Commission (APC) to consider implications of stairways located within the setback from the natural boundary of the sea and has expressed concern with stairways located within steep slope hazard areas along the foreshore. The South Pender APC provided the following resolutions at their June 20, 2021 meeting:

SP-APC-2021-006

It was Moved and Seconded,

That the South Pender Island Advisory Planning Commission recommends to the South Pender Island Local Trust Committee that the Advisory Planning Commission be given the opportunity to review the latest draft, in preparation for a finalized version of the proposed guidelines with the opportunity then for greater public transparency and input in respect of the complicated discussion that is going to honor the history of the development on South Pender with the acknowledgement that we live in the present.

CARRIED

Other minor, technical amendments

Staff will review the LUB to correct any numbering errors, incorrect legislation references, or other technical amendments.

Consultation

Staff are recommending early consultation with community members beyond what is required by statutory requirements. The LTC should consider scheduling a Community Information Meeting in the fall, as indicated on the Project Charter, as the project proceeds.

Statutory Requirements

In the first stage of the project (i.e. reviewing proposed documents, and undertaking community consultation) there are no statutory requirements to consider. If at a later stage the LTC resolves to undertake bylaw amendments, statutory notification requirements of the Local Government Act will need to be considered including appropriate agency and First Nation referrals, public hearing requirements and bylaw adoption procedures.

Rationale for Recommendation

If the LTC is satisfied with the scope of work proposed (the potential LUB amendments identified above), approval of the project charter by resolution is recommended to allow work to proceed. Alternatively the LTC could ask staff to report back with changes to the project scope and to the charter.

ALTERNATIVES

1. Request further information

The LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are potential delays to commencing and completing the project. 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 South Pender Island Local Trust Committee request that the staff provide further information regarding...

2. Reconsideration of project

The LTC may choose to focus on different priorities instead of a technical review of the LUB. If selecting this alternative, recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee not pursue the LUB Amendments Project and to remove the project from the Top Priority Project List.

3. Receive for information

The LTC may receive the report for information

NEXT STEPS

Next steps include:

- Provide further recommendations to the LTC based on discussion from the July 9, 2021 LTC meeting.
- Provide options to the LTC for public engagement for the Fall.

Submitted By:	Kim Stockdill, Island Planner	June 25, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	June 25, 2021

File No.: SP LUB Amendments Project

DATE OF MEETING: September 24, 2021
TO: South Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: South Pender LUB Amendments – Project Update

RECOMMENDATION

1. That the South Pender Island Local Trust Committee request staff to prepare a draft bylaw for the Land Use Bylaw Amendments Project.

REPORT SUMMARY

This report is intended to provide options to the South Pender Island Local Trust Committee (LTC) regarding the LUB Amendment project and a request to provide further direction to the staff.

BACKGROUND

At the July 9, 2021 Special Meeting, staff presented a staff report outlining options for the LTC's consideration. No resolutions were made regarding this project.

Background information regarding the project, staff reports, correspondence, and the Project Charter can be found on the South Pender Project webpage: <https://islandstrust.bc.ca/island-planning/south-pender/projects/>

ANALYSIS

Land Use Bylaw:

The South Pender LTC has indicated that the following topics should be included in the LUB amendment project:

Maximum floor area regulations

The following are floor area regulations for dwelling units in the South Pender LUB:

Definition – “floor area means the sum of the horizontal areas of all storeys in a building, measured to the outer surface of the exterior walls, exclusive of any floor area occupied by a cistern used for the storage of water for domestic use or fire protection, and exclusive of all areas of a storey having a floor and a ceiling less than 1.5 metres apart.”

Agriculture Zone - Subsection 5.5(9) - The floor area of a dwelling may not exceed 560 m² (6028 ft²).

Forestry Zone - Subsection 5.6(7) - The floor area of a dwelling may not exceed 560 m² (6028 ft²).

Natural Resource Zone - Subsection 5.7(6) - The floor area of a dwelling may not exceed 560 m² (6028 ft²).

Table 1 – Rural Residential Maximum Floor Areas

Siting and Size			<u>RR1</u>	<u>RR2</u>	<u>RR3</u>
(5) Maximum Floor Area per lot:			✓	✓	✓
Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:			
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	353 m ² (3800ft ²)			
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	418 m ² (4500ft ²)			
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	520 m ² (5600ft ²)			
1.6 ha to 3.9 ha (4 to 10 acres)	836 m ² (9000 ft ²)	543 m ² (5845ft ²)			
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	560 m ² (6030ft ²)			

The LTC has expressed an interest in reducing the floor area for a dwelling unit in the Rural Residential 1 (RR1), Rural Residential (2), and Rural Residential (3) zones. As shown in Table 1, the LUB currently regulates floor areas in two ways: by establishing a maximum floor area for a dwelling, and also by establishing a total floor area of all buildings located on the property.

If the LTC would like more information to help inform their consideration of amendments to reduce floor area, the LTC should give direction to staff by resolution. For example, reviewing floor area sizes relative to property size for other rural communities through analysis of issued Building Permits for other Local Trust Areas (LTAs) or reviews of available BC Assessment data. Depending on the scope, this could be a lengthy exercise, therefore the LTC should give clear direction to staff. A draft motion is included in the 'Alternatives' section of the staff report (Alternatives No. 1).

Other options the LTC may want to consider to reduce the impact of the built form on rural properties:

1. The current definition of floor area in the South Pender LUB measures the floor area to the outside surface of the external walls. The LTC could amend this definition to measure floor area to the interior surface of the exterior walls which could encourage environmentally friendly building practices (use of thicker insulation within walls). Currently Gabriola, Galiano (for Environmentally Friendly Buildings), Lasqueti, and Saturna all measure floor area to the interior side of the external walls. The North Pender LTC also gave direction to staff to amend the definition of floor area to measure to the interior side as part of their LUB amendments.
2. Establish a maximum permitted lot coverage for residential properties.
Lot coverage is a measure of the proportion of a lot that may be covered by buildings or structures, but excludes paving or similar surfaces. It differs from floor area in that it is measured on a horizontal plane only (from a bird's-eye view), includes all structures, and is measured to the drip line. Re-establishing a maximum lot coverage may be an option that supports the objectives of retaining rural character and minimizing the impacts of massive or extensive building and development. It would also indirectly limit the size of dwellings, protect greenspace and encourage on-site retention of drainage. In terms of impacts, existing properties could potentially be rendered non-conforming – although existing buildings

and structures could be repaired and maintained. Such a change may increase demand for variances as owners would more readily run up against lot coverage limits during development. Administratively, there would be increased requirements at time of development (including during minor additions or construction of accessory buildings) in order to determine compliance with the regulation. For example, survey plans showing all buildings and structures would need to be required more often than currently in order to determine compliance.

3. Establish lot coverage regulation and include impervious surfaces.
This would support two objectives of the lot coverage provision: to retain greenspace and encourage on-site retention of drainage, but would not alter the regulation for current owners with respect to buildings or other structures. There is the potential that if there were existing properties with extensive paving they could be rendered non-conforming – however the effects of non-conformity would be minimal as existing structures could be repaired or maintained. In terms of administration, there would be increased requirements at time of development (including during minor additions or construction of accessory buildings) in order to determine compliance with regulations. For example, survey plans would have to include the area and extent of all paved surfaces. Also, as there is no permitting of new paving, there is no ready mechanism for administering the regulation in absence of a building permit for a building or structure.
4. Remove all storeys below natural grade (subterranean space) from the calculation of floor area.
The LTC could reduce the maximum floor area for dwelling units, and also remove any storey located below natural grade from the calculation. This would allow property owners who would like to increase the floor area of their proposed dwelling unit by adding a basement level. Disadvantages with this approach is that it is bias to those properties with the ability to add such space. Properties or building areas comprised of bedrock would be subject to expensive construction costs and disruptive techniques (blasting, rock removal, etc.) to adhere to the regulations, or would be required to apply for a Development Variance Permit or Board of Variance to increase the maximum floor area.
5. Adding a provision for built dwelling units to retain current floor area.
An option for consideration is to include a provision in LUB that would permit existing dwelling units to retain its current floor area prior to the newly established maximum floor area. The provision can be drafted in a number of ways; for example:
Option No. 1 – LUB would have two different maximum floor area regulations: retain the current regulations for houses constructed prior to the LUB amendment bylaw, and a second set of more restrictive maximum floor area regulations for dwelling units constructed after the LUB amendment.
Option No. 2 – Reduce current maximum floor area regulations but add a provision that states that all legal dwelling units constructed prior to the LUB amendment may maintain the floor area (at the time of bylaw adoption).
Option No. 3 – Create site-specific zones in the LUB permitting existing floor areas for all constructed dwelling units that are known to exceed the newly established maximum. This option would be most effective if the number of dwellings exceeding new maximum floors areas is relatively limited.

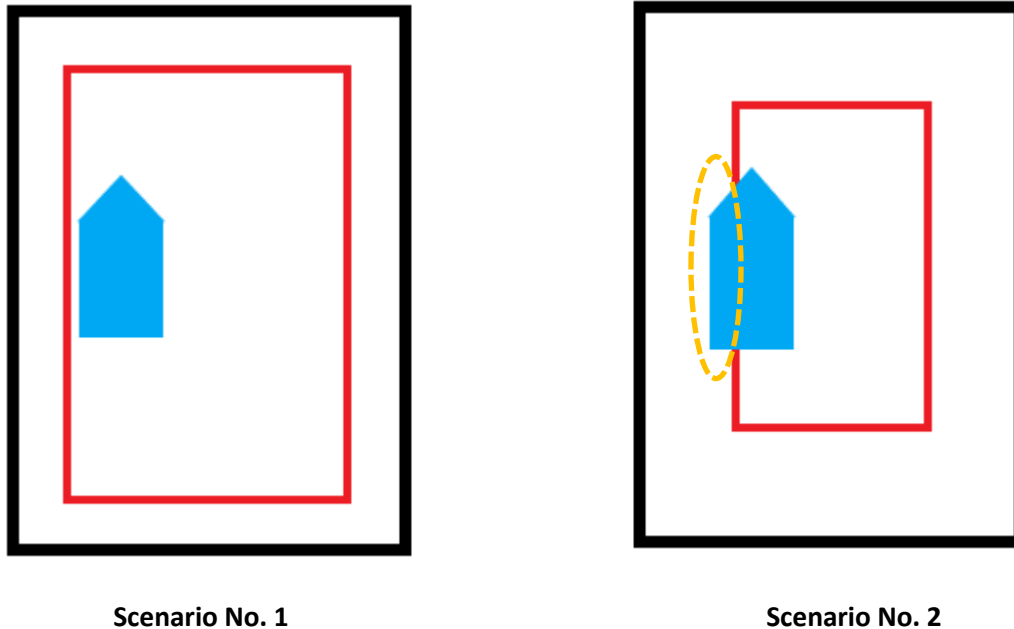
Legal Non-conforming – see attached FAQ document

A number of community members expressed concern regarding the LTC establishing a maximum floor area that is less than the floor area of their home; more specifically, concerns regarding legal non-conforming status and their ability to rebuild to the prior floor area. Section 529 of the *Local Government Act* (LGA) provides legal non-conforming protection for buildings or structures that exceed new siting, size or dimensions regulations. That section states that buildings or structures may be maintained, extended or altered, but only to the extent that

the repair, extension or alteration involves no further contravention of the bylaw. In other words, you could renovate, maintain or repair your non-conforming house, but you could not put on an addition that would increase the floor area. See attached FAQ document.

In terms of setback regulations, if the LTC amends the Land Use Bylaw to increase setback regulations for a building or structure, then the Section 529 of the LGA would also apply. Graphic no. 1 below demonstrates how more restrictive setback requirements would apply to an existing dwelling or structure.

Graphic No. 1



Scenario No. 1

Setbacks (red line) – 3 metres from property line (black line)
House – conforms to current setbacks

Scenario No. 2:

Setbacks (red line) – LTC amends the LUB by increasing the setback to 6 metres from property line (black line)
House – portion of house does not conform to new setback regulations. House is protected under 529 of the LGA and the house may be maintained, extended (although not further into the setback), or altered as long as it's not increasing the non-conformity. If property owner wants to add an addition to the portion of the house located within the setback (as indicated by the orange dashed line shown above) a Development Variance Permit (DVP) or Board of Variance order is required to vary the new setback. Any additions to the home that meet the 6 metre setback regulation would not require a DVP.

Setback regulations

There are a number of ways to amend setback regulations:

- Establishing different setback regulations for dwelling units and accessory buildings. For example, accessory buildings and structures could have less restrictive setbacks in order for greater siting options on a lot.
- Establish varying setback requirements based on lot size.

- Increase/decrease setback regulations based on lot size or if a property is abutting a certain zone.
- Establish setback regulations as a percentage of the lot depth. There are many issues with this type of regulation. First, South Pender properties generally have an irregular lot shape making it difficult to determine the lot depth. Secondly, there will be interpretation issues as determine lot depth and the percentage may be too complex for some to easily interpret. It will also increase staff's time to ensure the calculation for the setback was completed correctly. Setback regulations as a percentage of lot depth are more often seen in urban areas based on the reasons outlined above and may not be well suited for rural areas.

Agricultural lands regulation

The table below outlines the current agriculture regulations, the ALC policy and recommendations and options for the LTC to consider. The LTC should give direction to staff if other agriculture topics should be considered.

Table 2 – Agriculture Zone and ALC Considerations

	<i>Agriculture (A) Zone</i>	<i>ALC Policy & Regulations</i>	<i>LUB - Regulatory Options</i>
<i>Cottage</i>	Allowed use in zone	ALR amendment on December 31, 2021 that would allow a second residence on an ALR lot.	No amendment required as cottage is already a permitted accessory use.
<i>Farm Worker Housing</i>	Permitted use 'c' allows a Cottage or other dwelling for the housing of persons engaged in on-going agricultural activities.	ALC Act amend. (Feb 2019) - By application to ALC	Consider amendment to A zone to include use with note "only by ALC Approval".
<i>Non-Adhering Residential Use (NARU)</i>	No reference in A zone.	Policy L-26 decision-making guidelines for consideration of non-adhering uses (second dwellings, temporary farm dwellings, dwellings over 500 m ² , etc.)	No Action
<i>Dwelling Size</i>	Maximum floor area for a dwelling is 560m ²	Total floor area of a dwelling is 500 m ² in ALR	Consider amendment to A zone to reduce the maximum floor area to 500 m ² .
<i>Agri-Tourism</i>	No reference in zone, but may be considered a farm use which is permitted in the A zone.	Policy L-04. A farm use. Must have farm status. Limited to list of approved activities including heritage farm equip. displays, farm tours, educational or demonstration of farm operations, rides (tractor, etc.), activities that promote or market livestock, harvest festivals, etc.)	Consider adding a 'agri-tourism' definition and regulations in A zone to harmonize with ALC Regulation by defining and restricting use.

	Agriculture (A) Zone	ALC Policy & Regulations	LUB - Regulatory Options
Agri-Tourism Accommodation	Not a permitted use in the A zone.	ALC Act – A permitted farm use. Must be in relation to <i>Agri-Tourism Activity</i> ; total developed area 5% of parcel; 10 units maximum; seasonal or short-term.	Consider amending the A zone to harmonize with ALC Regulation by defining and restricting agri-tourism accommodation use.
Home Business (Occupation)	Yes - Home business is permitted in the A zone with a maximum floor area of 65 m ² .	Policy L-07: Permitted as a non-farm use up, accessory to residential or farm use on the property and a maximum area of 100 m ² or maximum by Local Government (whichever is less) Further limits on facilities (no daycares, preschool/schools, group homes and health and community care facilities) and size	Consider amending the General Regulations (size and types) to be consistent with ALC for Home Business and Home Industry in ALR
Farm Retail Sales	Yes - permitted as a home business but provided that at least 70% of the goods or products for sale are produced, processed or repaired as part of the home business	Policy L-02 A permitted farm use. If all products originate or are produced on the farm on which the sales are taking place, there is no limitation for the retail sales area. Thresholds if farm or non-farm products offered for sale originate elsewhere, there is a retail sales area limitation (based on origin - max. 300 m ²)	Consider adding definition of 'farm retail sales' and add regulations to align with ALC (farm retail sales must not exceed 300 m ²).
'Farm Use'	Definition in LUB	'Farm Use'	Amend definition to harmonize with ALC definitions for 'farm use' and allowable uses.

Shipping containers

The South Pender LUB does not currently regulate the density or use of shipping containers. Shipping containers are permitted on South Pender as they are considered a structure, and must meet the siting regulations (setbacks, floor area, lot coverage, height, etc.) of that zone. Due to the concern of the possible proliferation of shipping containers on properties, specifically on residential properties, the LTC may want to regulate the maximum number of shipping containers permitted on a lot and require vegetative screening. The following LTC should consider the following points:

- Differentiate the density of shipping containers for different zones. For example, the LTC may want to limit the number of shipping containers on residential lots to two (2) whereas have a higher limit, or no limit for agricultural properties.
- Determine the type of screening required, if any. The South Pender LTC outlines the following requirements for vegetative screening:

Subsection 3.9(1) - *Where vegetative landscape screening is required by this Bylaw, it shall be provided in the form of:*

(a) Existing vegetation of the required height that provides a complete visual screen between the uses being separated in all seasons of the year; or,

(b) A row of drought-tolerant evergreen plants that will attain the required height, planted and maintained continuously so as to provide a complete visual screen in all seasons of the year between the uses being separated; and such screening.

Subsection 3.9(1) could be required for all shipping containers or could be required only for shipping containers in certain zones, or abutting certain zones.

Setback to the natural boundary of the sea - Stairways

Currently the South Pender Land Use Bylaw No. 114 exempts stairways from complying to the setback from the natural boundary of the sea (Subsection 3.3.(3)):

“Buildings or other structures, except a fence, pump/utility house, stairway, wharf and dock ramps or their footings, shall not be sited within 7.6 metres (25 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "structures”.

The following are options or items to consider with regards to regulating stairways within the natural boundary of the sea:

- Currently regulations do not regulate size (width or length) of stairways permitted within the setback from the natural boundary of the sea;
- The LUB does not regulate best practices for stairway construction in terms of vegetation retention, location of stairway, sensitive ecosystems and land alteration. Best practices to construct stairways are best regulated through the Development Permit process.
- Reviewing stairway regulations and best practices may be better addressed through the Shoreline Review project.

As per direction from the LTC, staff requested the South Pender Advisory Planning Commission (APC) to consider implications of stairways located within the setback from the natural boundary of the sea and has expressed concern with stairways located within steep slope hazard areas along the foreshore. The South Pender APC provided the following resolutions at their July 16, 2021 meeting:

SP-APC-2021-012

It was Moved and Seconded,

Recommended that the SPI LTC defer further any amendments to the SPI LUB until there can be coordination with the current Islands Trust Shoreline Project.

CARRIED

If the LTC would still like to proceed with amending regulations related to stairways, staff recommend removing ‘stairways’ as being exempted from the natural boundary of the sea setback. By doing this, if a property owner wishes to construct stairways to the foreshore a Development Variance Permit would be required. Any further analysis of stairway located within shoreline setbacks, specifically in steep slope or other hazardous areas, may be better addressed as part of the Coastal Area Review project.

Other minor, technical amendments

Staff will review the LUB to correct any numbering errors, incorrect legislation references, or other technical amendments.

Consultation

Staff are recommending early consultation with community members beyond what is required by statutory requirements. The LTC should consider scheduling a Community Information Meeting, as indicated on the Project Charter, as the project proceeds.

Statutory Requirements

In the first stage of the project (i.e. reviewing proposed documents, and undertaking community consultation) there are no statutory requirements to consider. If at a later stage the LTC resolves to undertake bylaw amendments, statutory notification requirements of the Local Government Act will need to be considered including appropriate agency and First Nation referrals, public hearing requirements and bylaw adoption procedures.

Rationale for Recommendation

If the LTC is satisfied with the scope of work proposed (the potential LUB amendments identified above), direction by resolution to prepare a draft bylaw is recommended to allow work to proceed in a timely manner. Alternatively the LTC could ask staff to report back with changes to the project scope and to the charter.

ALTERNATIVES

1. Request further information

The LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are potential delays to commencing and completing the project. 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 South Pender Island Local Trust Committee request that the staff provide further information regarding...

-an analysis on dwelling unit floor area in relation to lot size for X LTA for the period of 20XX to 20XX.

2. Give specific direction as what to include in the bylaw amendment.

If the LTC gives direction to staff to draft bylaws, the LTC should also give direction on specific regulations to be included. Example wording is as follows:

That the South Pender Island Local Trust Committee direct staff to include the XXX in the draft bylaw for the Land Use Bylaw Amendment Project.

3. Remove stairway regulations from Project

If the LTC wishes to remove the review of stairway regulations as part of this project, and to add it to the Coastal Area Review Project, the following motion is recommended:

That the South Pender Island Local Trust Committee request staff to remove the review of stairway regulations from the Land Use Bylaw Amendment Project and add it to the Coastal Area Review Project.

4. Reconsideration of project

The LTC may choose to focus on different priorities instead of a technical review of the LUB. If selecting this alternative, recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee not pursue the LUB Amendments Project and to remove the project from the Top Priority Project List.

5. Receive for information

The LTC may receive the report for information

NEXT STEPS

Next steps include:

- Receive further direction from the LTC on how to proceed with the project.

Submitted By:	Kim Stockdill, Island Planner	September 17, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	September 17, 2021

ATTACHMENTS

1. Legal Non-Conforming FAQ

Legal Non-Conforming FAQ

Will my house be “grandfathered” if the Land Use Bylaw is amended to establish a maximum floor area?

Yes, if a Local Trust Committee (LTC) amends the Land Use Bylaw (LUB) to establish a maximum floor area for dwellings a dwelling that was lawfully constructed before the date of the adoption of the bylaw, and which would exceed the new maximum floor area, would be considered legally non-conforming.

Section 529 of the *Local Government Act* (LGA) provides legal non-conforming protection for buildings or structures that exceed new siting, size or dimensions regulations. That section states that buildings or structures may be maintained, extended or altered, but only to the extent that the repair, extension or alteration involves no further contravention of the bylaw. In other words, you could renovate, maintain or repair your non-conforming house, but you could not put on an addition that would increase the floor area.

What if my house burns down more than 75%, is my house still grandfathered?

The reference to a building that is destroyed to 75% or more of its value is from Section 532 of the Local Government Act, and applies only to situations where there is a **non-conforming use** (for example a residential use in an area only zoned for commercial use). This section would not apply to a dwelling that has been legally constructed but becomes non-conforming as the result of changes to setback or floor area regulations.

If a dwelling was damaged beyond 75%, it may still be possible to be repaired, provided the repair would not increase the floor area of the house. The words “repair” and “maintain” are not defined or limited by the LGA and so what would be considered “repair” would include anything that could commonly and reasonably be considered repairs.

What if I need to build a new house?

A new dwelling would have to meet the current regulations in the Land Use Bylaw. However, an owner could apply for a Development Variance Permit or make an application to the Board of Variance if they felt that they needed a larger floor area. See links below for information regarding variance applications.

What if I sell my house, and the house size is greater than the maximum floor area?

Legal non-conforming protection is not limited to a specific owner, it “runs with the land” (or property).

Do I need to apply for legal non-conforming status?

No, it is legal protection that exists because of provincial legislation. But if an owner needed to repair or maintain a dwelling, it is the responsibility of the owner to demonstrate that it is legal non-conforming. A building permit or other documentation could provide proof of non-conforming status.

Local Government Act: https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/r15001_00
DVP or BOV Application Forms & Guides: <https://islandstrust.bc.ca/island-planning/land-use-application-guides-and-forms/>



DATE OF MEETING: November 5, 2021
TO: South Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: SP LUB Amendments Project – Draft Bylaw No. 122

RECOMMENDATION

For the South Pender Island Local Trust Committee (LTC) to receive the draft bylaw and provide any revisions if necessary.

REPORT SUMMARY

The purpose of this report is to present a draft bylaw for the Land Use Bylaw (LUB) Amendments project (Attachment No. 1) and provide a timeline for the project.

BACKGROUND

At the September 24, 2021 regular LTC meeting, staff presented a staff report outlining options for the LTC's consideration. The following resolution was passed:

SP-2021-049

It was MOVED and SECONDED

that the South Pender Island Local Trust Committee request staff to prepare a draft bylaw for the Land Use Bylaw Amendments Project and to incorporate three specific points:

- i) to increase setback to 20 feet for dwelling units in Rural Residential zones
- ii) to amend maximum floor area for dwelling units in Rural Residential zone as per Trustee Thorn and;
- iii) site specific zoning for non-conforming dwellings.

CARRIED

Background information regarding the project, staff reports, correspondence, and the Project Charter can be found on the South Pender Project webpage: <https://islandstrust.bc.ca/island-planning/south-pender/projects/>

ANALYSIS

Draft Bylaw No. 122

The draft bylaw is attached for the LTC's review and the following topics are included in the bylaw.

Maximum Floor Area Regulations (for Rural Residential 1, 2, & 3 zones)

The draft bylaw includes the following amendments to the Rural Residential 1 (RR1), Rural Residential 2 (RR2) and Rural Residential 3 (RR3) zones:

- Decreasing the maximum floor area for dwellings as specified at September 24, 2021 meeting.
- Increasing the setback for all rural residential dwellings and cottages from 3.0 metres (10 ft) to 6.0 metres (20 ft) for interior side lot lines and from 4.5 metres (15 ft) to 6.0 metres for exterior side lot lines. At the September 24, 2021 there was a discussion to only increase the setbacks for those lots with a width greater than 30 metres (100 feet). Due to the irregular shapes of most lots on South Pender, determining where to take this measurement would be difficult and subjective. If the LTC wishes to amend the setbacks from side lot lines for dwellings and cottages for only larger lots, staff recommend amending the draft bylaw to state that the 6.0 metre setback is only applicable to those lots greater than 0.4 ha. For example the regulation could read:
 - *Despite Subsection 5.1(6), the setback for a dwelling or cottage shall be 6.0 metres (20 ft.) from any interior or exterior lot line for a lot with an area greater than 0.4 ha.*

The draft bylaw does not contain the site specific zoning for those nine properties that would become legal non-conforming if the maximum floor area for dwellings is decreased. Staff will work with the Trustees to identify the nine properties and determine their exact floor areas in order to give the lots site specific zoning. Once those lots are identified, further amendments will be incorporated in the bylaw, along with the consequential map amendments.

Agriculture Regulations

The draft bylaw includes the following amendments:

- Decreasing the maximum floor area for dwellings from 560 m² (6028 ft²) to 500 m² (5382 ft²) to align with Agricultural Land Commission (ALC) regulations.
- Increase the maximum floor area for cottages from 70 m² (753 ft²) to 90 m² (969 ft²). This is to align with the new ALC regulations coming into effect at the end of 2021. The new regulations would allow a secondary dwelling with a maximum floor area of 90 m² to be located on property in the Agricultural Land Reserve (ALR) to be used as an additional residence for housing family, as a rental suite, or for farm worker accommodation (without the requirement for the ALC's approval).
- Add definitions for the following terms: agri-tourism, agri-tourist accommodation, farm retail sales, and farm status.
- Add agri-tourism and agri-tourist as permitted accessory uses in the Agriculture (A) zone with conditions for those lots with Farm Status and located within the ALR. While agri-tourism is a farm use under the ALC regulations, this would recognize that use and establish that is accessory to principal the uses.
- Add farm retail sales as permitted accessory uses in the Agriculture (A) zone with conditions for those properties located within the ALR.
- Increasing the maximum floor area for home businesses located in the ALR from 65 m² (700 ft²) to 100 m² (1076 ft²) to align with ALC regulations.

Shipping Containers

The draft bylaw includes two regulations for shipping containers. The first new regulation permits only one shipping container on properties over 0.4 ha in the Rural Residential 1 (RR1), Rural Residential 2 (RR2), and Rural Residential 3 zones (RR3). Subsequently shipping containers would not be a permitted accessory use on RR1, RR2, and RR3 properties less than 0.4 ha.

The second regulation would require any shipping container placed on a lot to be adequately screened (in compliance with the landscape screening regulations in the LUB).

LTC Consideration: The draft bylaw does not regulate the number of shipping containers in zones other than in the RR1, RR2, and RR3 zones. Direction from the LTC is required if the LTC wishes to regulate this use in other zones (Agriculture zone, Forestry zone, Commercial Resort zone, etc.).

Setback to the natural boundary of the sea – Stairways

The draft bylaw removes 'stairways' from Subsection 3.3(3) which exempts certain structures from complying with the 7.6 metres (25 feet) setback from the natural boundary. If the bylaw is adopted, a property owner would be required to apply for a variance in order to construct stairways within the 7.6 metre setback.

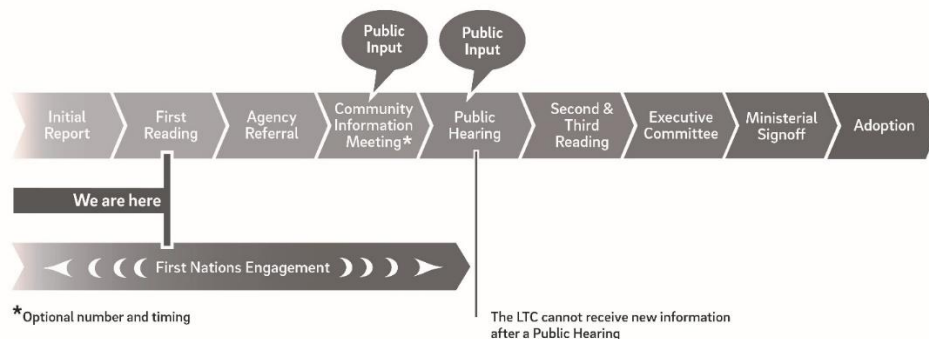
If the LTC wishes to make any amendments to the draft bylaw, the LTC should put a resolution forward as outlined in the 'Alternatives' section of this staff report – Alternative no. 1.

Timeline

Staff recommend the following timeline for the Minor OCP project:

- September 24, 2021 regular LTC meeting:
 - LTC gave direction to **staff to draft bylaw**
- November 5, 2021 regular LTC meeting:
 - LTC to review draft bylaw
 - LTC to give direction to staff to make any further amendments to the bylaw
 - Staff to send draft bylaw out for **referral** to First Nations and government agencies but will have to re-refer bylaw after First Reading to the ALC
- February 4, 2022 regular LTC meeting:
 - LTC can make amendments to draft bylaw
 - LTC to consider **First Reading of draft bylaw**
 - LTC to determine if proposed bylaw is in compliance **with current Islands Trust Policy Statement (ITPS)**
 - Staff to re-refer proposed bylaw to the ALC
 - LTC to give **direction to schedule a Community Information Meeting (CIM)** at next regular LTC meeting (tentatively scheduled for March 4, 2022)
 - LTC to give **direction to staff to schedule a Public Hearing** for the LTC meeting (May 6th)
- March 4, 2022 regular LTC meeting
 - **Community Information Meeting** for proposed Bylaw No. 122
- May 6, 2022 regular LTC meeting:
 - LTC to review comments/recommendations from formal referrals and from the March 4th CIM
 - **Formal Public Hearing is held** as part of May 6th regular meeting
 - LTC can amend proposed bylaw based on comments from the CIM and referrals
 - LTC to give **Second Reading and Third Reading**
 - LTC to refer **bylaw to EC for approval**

The above timeline is in line with the timeline outlined on the [Project Charter](#). The graphic below provides a visual representation of a typical bylaw adoption process. As this is a Land Use Bylaw amendment, approval from the Minister of Municipal Affairs is not required.



Statutory Requirements

In accordance with regular statutory requirements, a public hearing is required for any bylaw amendment and it is normal practice to hold a Community Information Meeting (CIM) prior to that. Staff recommend scheduling a CIM at a separate LTC meeting from the public hearing (as outlined above under 'Timeline'). A Public Hearing would then be tentatively scheduled for the May 6, 2022 regular LTC meeting.

Rationale for Recommendation

The LTC gave direction to staff to draft bylaw amendments based on recommendations made in the September 24th, 2021 staff report. Staff have presented a draft bylaw for the LTC's review based on their recommendation and the project charter. As the bylaw is still in draft form and further amendments are required, staff at this time have no recommendations until the draft bylaw is finalized.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation:

1. Direction to amend draft bylaw

The LTC may wish to make amendments to the draft bylaw. Recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee amend draft Bylaw No. 122 by...

2. 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 South Pender Island Local Trust Committee request staff to provide further information on...

3. Refer staff report with draft bylaw to the Advisory Planning Commission

The LTC may opt to refer the staff report with the draft bylaw to the Advisory Planning Commission to provide comments on the draft bylaw or other possible amendments. Recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee request staff to refer the staff report dated November 5, 2021 and draft Bylaw No. 122 regarding the Minor OCP Amendments Project to the South Pender Island Advisory Planning Commission for comment.

4. Proceed no further

The LTC may choose to make no amendments to the South Pender OCP. The project would be removed from the Top Priority List.

NEXT STEPS

Based on direction from the LTC, staff will:

- Continue to make amendments to the draft LUB
- Send draft bylaw out for referral

Submitted By:	Kim Stockdill Island Planner	October 29, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	October 29, 2021

Attachments:

1. Draft Bylaw No. 122 (LUB amendment)
2. Notes taken by Trustee Wright at Community Gathering on October 23, 2021

**SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 122**

A BYLAW TO AMEND SOUTH PENDER ISLAND LAND USE BYLAW No. 114, 2016

The South Pender Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the South Pender Island Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No.2, 2021".

2. South Pender Island Local Trust Committee Bylaw No. 114, cited as "South Pender Island Land Use Bylaw No. 114, 2016" is amended as follows:

2.1 By adding the following new definitions to Section 1.1 'Definitions':

"“agri-tourism” means an activity referred to in Section 12 of the *Agricultural Land Reserve Use Regulation*.”

"“agri-tourist accommodation” means a use accessory to a *farm use* for the purpose of accommodating commercial guests within specific structures on specific portions of a *lot*.”

"“farm retail sales” means the retail sale of tangible farm products grown or raised on a farm or association to which the owner of the farm belongs.”

"“Farm Status” means land classified as a farm pursuant to the *(BC) Assessment Act*.”

2.2 By removing the words “floor area of 70m² or less” and replacing it with “limited floor area” in the definition of ‘cottage’.

2.3 By removing the word “outer” and replacing it with “inner” in the definition of ‘floor area’.

2.4 By removing the word “stairway” from Subsection 3.3(3).

2.5 By adding the following two new subsections to Section 3.5 ‘Accessory Buildings and Structures’ as follows:

(6) “One accessory shipping container may be placed on a lot greater than 0.4 hectares in area in the Rural Residential 1, Rural Residential 2, and the Rural Residential 3 zones.”

(7) “Shipping containers must be screened from neighbouring lots, roads, or

the sea by use of landscape screening in compliance with Section 3.9.”

- 2.6 By adding the words “except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²)” at the end of Subsection 3.6(4) so it reads:

‘The combined *floor area* used in all *home businesses* on a *lot*, except a *bed and breakfast*, must not exceed 65 m² (700 ft²) except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²).’

- 2.7 By deleting Subsection 5.1 (5) and replacing it with:

Maximum *Floor Area* per *lot*:

✓ ✓ ✓

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	255 m ² (2750ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	348 m ² (3750ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	372 m ² (4000ft ²)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000 ft ²)	418 m ² (4500ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	465 m ² (5000ft ²)

- 2.8 By adding the following new Subsection after Subsection 5.1(5) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

✓ ✓ ✓

- 2.9 By adding the following new Subsection directly after the newly renumbered Subsection 5.1(7) and renumbering accordingly:

“Despite Subsection 5.1(6), the setback for a *dwelling* or *cottage* shall be 6.0 metres (20 ft.) from any interior or exterior *lot line*.”

✓ ✓ ✓

- 2.10 By removing “560 m² (6028 ft²) and replacing it with “500 m² (5382 ft²) in Subsection 5.5(9).

- 2.11 By removing the word “Rescinded” from Article 5.5(1)(d) and replacing it with “Accessory *agri-tourism* subject to Subsections 5.5(11) to 5.5(14);”

2.12 By adding the words “and *farm retail sales*.” after the words ‘on the same lot’ in Article 5.5(1)(e).

2.13 By adding the following new article after Article 5.5(1)(d) and renumber accordingly:

“Accessory agri-tourist accommodation, subject to Subsections 5.5(13) to 5.5(19), and as permitted by the Agricultural Land Commission;”

2.14 By adding the following new subsection after Subsection 5.5(9) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 90 m² (969 ft²).”

2.15 By removing the word “Rescinded” adding the following to Subsection 5.5(10):

“*Farm retail sales* are permitted on a lot located within the Agricultural Land Reserve, and the total indoor and outdoor *floor area* for the *farm retail sales* shall not exceed 300 m² (3229 ft²).

2.16 By adding the following new subsections after Subsection 5.5(10) under ‘Conditions of Use’ and renumber accordingly:

“5.5(11) *Agri-tourism buildings or structures* are not permitted.

5.5(12) *Agri-tourism* must be in compliance with the *Agricultural Land Reserve Use Regulation*.

5.5(13) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* with *Farm Status*.

5.5(14) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* located in the Agricultural Land Reserve.

5.5(15) *Agri-tourist accommodation* must be *accessory* to an active *agri-tourism* activity.

5.5(16) *Agri-tourist accommodation* must be *accessory* to a *farm use*.

5.5(16) *Agri-tourist accommodation buildings and structures* must not exceed a *lot* coverage of 5 percent.

5.5(17) *Agri-tourist accommodation* must not be in use for more than 180 days in a calendar year.

5.5(18) *Agri-tourist accommodation* may include associated uses such as meeting rooms and dining facilities for paying registered guests, but may not include a *restaurant* or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.

5.5(19) The maximum number of guests that may be accommodated in any *agri-tourist accommodation* at any one time, either alone or in combination with a *bed and breakfast*, is not to exceed 10 guests or 10 bedrooms.

2.17 By adding the following new subsection after Subsection 5.6(7) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

2.18 By adding the following new subsection after Subsection 5.7(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS	___ - ___ DAY OF _____	20___
PUBLIC HEARING HELD THIS	_____ DAY OF _____	20___
READ A SECOND TIME THIS	_____ DAY OF _____	20___
READ A THIRD TIME THIS	_____ DAY OF _____	20___
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____ DAY OF _____	20___
ADOPTED THIS	_____ DAY OF _____	20___

CHAIR

SECRETARY

Community Information gathering – Maximum Floor Area for Residences, Oct 23, 2021

The meeting began at 10:30 at the SP Fire Hall with 25 members of the public in attendance. Cameron Thorn acted as moderator. Steve wright was in the audience and did not participate in the discussion but took notes of the meeting. The question of whether this was legally a formal LTC meeting was raised, not as a complaint or concern, but to note that both trustees were in the same room and the discussion will relate to items which will be on the LTCs agenda. People expressed their appreciation for holding informal meetings and felt it was useful in presenting an opportunity for open dialogue.

The first issue raised was about the potential for existing properties to be designated as “legal non-conforming”. The concern centered on the number of structures (homes and accessory bldgs), the appraised value of properties being diminished, and implications about insurance policies that may result from that designation. The question over replacement of the current, legal structure to the existing size if destroyed was also raised. It was stated that trustees intended any changes to bylaws would not penalize existing structures. An example was provided in which if the side setback was increased, the new setback could apply to residences, not accessory buildings. This was welcomed by a number of attendees. A suggestion was made to present a deeper explanation about what “legal non-conforming” was, its meaning and its implications as there seemed to be some differences in understanding of the possible repercussions.

The discussion turned to whether this initiative was necessary should not proceed further because the previous LTC advanced a similar project in 2017 in which a compromise arose from much debate and resulted in the current figures for residential floor area. Comments followed ranging from a distrust in the data being provided, to the limited number of undeveloped lots (54) making this exercise over-reactive, to being pushed purely for political reasons. It was suggested that because the majority of persons at this meeting opposed the initiative, then trustees should not continue with this project and should they do so, it was evidence that they were not listening to the “community”. It was explained that trustees should act pro-actively when recognizing trends elsewhere to protect or maintain the character and natural resources of the island and that house size plays a significant role. It was added that the number of attendees in the meeting did not in fact represent a “majority” and it was important to hear from all residents/property owners. One response was to provide evidence that 51% of residents supported this initiative and if that is successful, those opposing the proposal would then support it.

Recognizing that the atmosphere in the meeting was becoming overtly aggressive, it was suggested that hostility and polarization were not helpful in this debate. A speaker stated that they were uncomfortable with the atmosphere and that was a primary reason why they and others did not attend these types of meetings. They went on to explain why they supported the trustees in this and other proposals to maintain the character of the island and if people liked the island as it is now, then steps have to be taken to maintain it for future generations. Other speakers agreed with those sentiments and it lowered the temperature and nature of the discussion. One suggestion was that the discussion was focused on the metrics of the floor area rather than the principles and objectives of any changes. They continued to say if retention of the character was what everyone agreed upon then the community should begin to consider options of how that can be done. It was agreed that setbacks, height of buildings, total lot coverage, could also go a long way in meeting those objectives.

Solutions offered by speakers included whether any new regulations could apply only to new development, consideration of incentives, the use of variances to help respond to site specific issues found to be problematic to owners, and to defer amendments because the cost of construction was prohibitive to building larger homes.

The meeting came to a close with more agreement in principle than it began with and a desire for trustees to consider what had been said and present a re-consideration of the proposal along with more information at a future meeting.

This is a synopsis of the meeting from notes taken by Steve Wright

DATE OF MEETING: February 4, 2022
TO: South Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: SP LUB Amendments Project – Draft Bylaw No. 122

RECOMMENDATION

1. That the South Pender Island Local Trust Committee amend draft Bylaw No. 122 by incorporating the amendments in Table 3 as shown in the Staff Report dated February 4, 2022.
2. That the South Pender Island Local Trust Committee Bylaw No. 122, cited as the “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021” as amended be read a first time.
3. That the South Pender Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 122, cited as “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021”, is not contrary to or at variance with the Islands Trust Policy Statement.

REPORT SUMMARY

The purpose of this report is to present the amended draft bylaw for the Land Use Bylaw (LUB) Amendments project. The amended draft bylaw is attached (Attachment No. 1) for the South Pender Island Local Trust Committee’s (LTC) consideration and the Islands Trust Policy Statement is attached (Attachment No. 2) for the LTC’s review. The staff report also outlines amendments to the draft bylaw as recommended by the Agricultural Land Commission (ALC).

BACKGROUND

At the November 5, 2021 regular LTC meeting, staff presented a staff report outlining options for the LTC’s consideration. The following resolution was passed:

SP-2021-053

It was MOVED and SECONDED

That the South Pender Island Local Trust Committee amend the bylaw to create a second set of regulations for setback and floor size for new construction, while maintaining the existing regulations for existing structures, and also amend the setback from the highwater mark for new construction to 15 m.

CARRIED

SP-2021-054

It was MOVED and SECONDED

That for the South Pender Island Local Trust Committee Remove stairways from the bylaw amendment.

CARRIED

SP-2021-055

It was MOVED and SECONDED

That for the South Pender Island Local Trust Committee remove shipping containers from the bylaw amendment.

CARRIED

Background information regarding the project, staff reports, correspondence, and the Project Charter can be found on the South Pender Project webpage: <https://islandstrust.bc.ca/island-planning/south-pender/projects/>

ANALYSIS

Draft Bylaw No. 122

The draft bylaw includes the amendments made at the November 5, 2021 LTC meeting.

Setback from the Natural Bound of the Sea

The draft bylaw includes a new regulation that requires new construction (buildings and structures) to meet a 15 metre setback from the natural boundary of the sea. The following shows the proposed integrated amendments in red:

“3.3 Siting and Setback Regulations

(3) *Buildings* or other *structures*, except a fence, *pump/utility house*, stairway, wharf and *dock* ramps or their footings, shall not be sited within ~~7.6 metres (25 feet)~~ **15 metres (50 feet)** of the *natural boundary* of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "*structures*".

(4) **Despite Subsection 3.3(3), *buildings* or *structures* legally constructed prior to [insert date of Bylaw No. 123 adoption] shall not be sited within 7.6 metres (25 feet) of the *natural boundary* of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "*structures*".**

Maximum Floor Area

The following table shows the existing regulations for maximum floor area in the Rural Residential zones:

Table 1 – Existing Floor Area Regulations in the SP LUB

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	353 m ² (3800ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	418 m ² (4500ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	520 m ² (5600ft ²)
1.6 ha to 3.9 ha (4 to 10 acres)	836 m ² (9000 ft ²)	543 m ² (5845ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	560 m ² (6030ft ²)

The following table shows the proposed new regulations for maximum floor area in the Rural Residential 1, 2, and 3 zones:

Table 2 – Proposed Floor Area Regulations in the SP LUB

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	255 m ² (2750ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	348 m ² (3750ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	372 m ² (4000ft ²)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000 ft ²)	418 m ² (4500ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	465 m ² (5000ft ²)

Agriculture Regulations

The draft bylaw includes the following amendments:

- Decreasing the maximum floor area for dwellings from 560 m² (6028 ft²) to 500 m² (5382 ft²) to align with Agricultural Land Commission (ALC) regulations.
- Increase the maximum floor area for cottages from 70 m² (753 ft²) to 90 m² (969 ft²). This is to align with the new ALC regulations coming into effect at the end of 2021. The new regulations would allow a secondary dwelling with a maximum floor area of 90 m² to be located on property in the Agricultural Land Reserve (ALR) to be used as an additional residence for housing family, as a rental suite, or for farm worker accommodation (without the requirement for the ALC's approval).
- Add definitions for the following terms: agri-tourism, agri-tourist accommodation, farm retail sales, and farm status.
- Add agri-tourism and agri-tourist as permitted accessory uses in the Agriculture (A) zone with conditions for those lots with Farm Status and located within the ALR. While agri-tourism is a farm use under the ALC regulations, this would recognize that use and establish that is accessory to principal the uses.
- Add farm retail sales as permitted accessory uses in the Agriculture (A) zone with conditions for those properties located within the ALR.
- Increasing the maximum floor area for home businesses located in the ALR from 65 m² (700 ft²) to 100 m² (1076 ft²) to align with ALC regulations.

Staff sent the draft bylaw to the Agricultural Land Commission (ALC) for comment. The ALC provided the following comments related to certain sections of the draft bylaw (see Attachment No. 3 & 4) and staff agree with the recommendations:

Table 3 – ALC Recommendations for Draft Bylaw No. 122 Amendments

	Proposed Amendment	ALC Comments	Staff Comments
1	"agri-tourist accommodation" means a use accessory to a farm use for the purpose of accommodating commercial	"agri-tourist accommodation" means a use accessory to a farm use for the purpose of accommodating commercial	-Staff recommend this amendment.

	guests within specific structures on specific portions of a lot.”	guests within specific structures on specific portions of a lot as referred to in Section 33 of the ALR Use Regulation. ”	
2	2.3 By removing the word “outer” and replacing it with “inner” in the definition of ‘floor area’.	The ALC’s definition for the “total floor area” for both the principal residence and the additional residential dwelling are measured to the outer surface. ALC staff request that Islands Trust staff update this definition by clarifying that residences in the ALR must be consistent with the ALC Act, its regulations, and any Resolution of the Commission.	-Staff recommend this amendment to clarify that dwellings located within the ALR must be consistent with the ALC Act.
3	Reference to Bylaw 123 in draft bylaw.	ALC staff are unclear what the reference to Bylaw 123 means.	-Bylaw 123 is an error and should read “Bylaw 122”. Staff recommends this amendment.
4	“5.5(18) Agri-tourist accommodation may include associated uses such as meeting rooms and dining facilities for paying registered guests, but may not include a restaurant or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.”	If the associated uses, such as a meeting room or dining facility, are located within a residence that is housing the agritourism sleeping units (such as a Bed and Breakfast in the principal residence or sleeping units within the additional residential dwelling unit), then guests may use existing space within the residence for dining or meeting. A separate structure, however, cannot be constructed in order to accommodate these associate uses.	-Staff recommend amending the draft bylaw to specify that separate structures for associated uses as outlined in 5.5(18) are not permitted and must be contained within the residence that is housing the agritourism sleeping units.

Staff have provided a recommendation (No. 1) to include amend the draft bylaw based on recommendations in the above table.

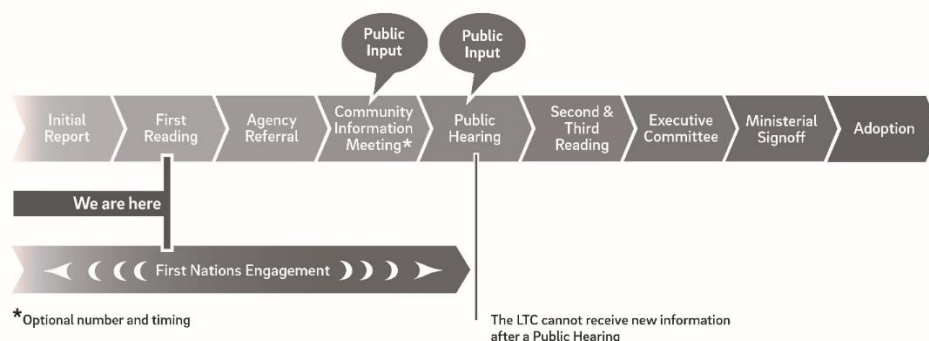
Timeline

Staff recommend the following timeline for the Minor OCP project:

- November 5, 2021 regular LTC meeting
 - LTC reviewed the draft bylaw
 - LTC gave direction to staff to make any further amendments to the bylaw
 - Staff sent draft bylaw out for **referral** to First Nations and government agencies

- February 4, 2022 regular LTC meeting:
 - LTC can make amendments to draft bylaw
 - LTC to consider **First Reading of draft bylaw**
 - LTC to determine if proposed bylaw is in compliance **with current Islands Trust Policy Statement (ITPS)**
 - Staff to re-refer proposed bylaw to the ALC
 - LTC to give **direction to schedule a Community Information Meeting (CIM)** at the next in person regular LTC meeting (tentatively scheduled for May 6, 2022) or as an in-person Special Meeting.
 - LTC to give **direction to staff to schedule a Public Hearing** for the LTC meeting (May 6th) or an in-person Special Meeting
- May 6, 2022 regular LTC meeting:
 - **Formal CIM and Public Hearing is held** as part of May 6th regular meeting
 - LTC can amend proposed bylaw based on comments from the CIM and referrals
 - LTC to give **Second Reading and Third Reading**
 - LTC to refer **bylaw to EC for approval**

The above timeline is still roughly in line with the timeline on the [Project Charter](#). The graphic below provides a visual representation of a typical bylaw adoption process. As this is a Land Use Bylaw amendment, approval from the Minister of Municipal Affairs is not required.



Statutory Requirements

In accordance with regular statutory requirements, a public hearing is required for any bylaw amendment and it is normal practice to hold a Community Information Meeting (CIM) prior to that. Staff recommend tentatively scheduling a CIM and Public Hearing together so they can be held in person at the May 6, 2022 regular LTC meeting.

Islands Trust Policy Statement

The draft bylaw amendment is consistent with the policy directives of the Policy Statement. The Policy Statement Directives Checklist is included as Attachment 2 and will need to be endorsed by the LTC if the LTC gives first reading to the draft bylaw. The checklist will then be forwarded to the Executive Committee after third reading of the proposed bylaw.

Rationale for Recommendation

If the LTC agrees with the recommendations provided by the LTC, staff recommend amending the draft bylaw and then proceeding with First Reading. Further amendments to the bylaw can be made upon receipt of further referral comments up to the closing of the Public Hearing.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation:

1. Direction to amend draft bylaw

The LTC may wish to make amendments to the draft bylaw. Recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee amend draft Bylaw No. 122 by...

2. 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 South Pender Island Local Trust Committee request staff to provide further information on...

3. Refer staff report with draft bylaw to the Advisory Planning Commission

The LTC may opt to refer the staff report with the draft bylaw to the Advisory Planning Commission to provide comments on the draft bylaw or other possible amendments. Recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee request staff to refer the staff report dated November 5, 2021 and draft Bylaw No. 122 regarding the Minor OCP Amendments Project to the South Pender Island Advisory Planning Commission for comment.

4. Proceed no further

The LTC may choose to make no amendments to the South Pender OCP. The project would be removed from the Top Priority List.

NEXT STEPS

Based on direction from the LTC, staff will:

- Make further amendments to the draft bylaw,
- Send out formal referral to the ALC, and
- Schedule CIM and Public Hearing.

Submitted By:	Kim Stockdill Island Planner	January 28, 2022
Concurrence:	Robert Kojima, Regional Planning Manager	January 28, 2022

Attachments:

1. Draft Bylaw No. 122 (LUB amendment) with amendments
2. Islands Trust Policy Statement
3. Referral Responses (to date)
4. ALC Referral Response

DRAFT

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 122

A BYLAW TO AMEND SOUTH PENDER ISLAND LAND USE BYLAW No. 114, 2016

The South Pender Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the South Pender Island Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021”.

2. South Pender Island Local Trust Committee Bylaw No. 114, cited as “South Pender Island Land Use Bylaw No. 114, 2016” is amended as follows:

2.1 By adding the following new definitions to Section 1.1 ‘Definitions’:

““agri-tourism” means an activity referred to in Section 12 of the *Agricultural Land Reserve Use Regulation*.”

““agri-tourist accommodation” means a use accessory to a *farm use* for the purpose of accommodating commercial guests within specific structures on specific portions of a *lot*.”

““farm retail sales” means the retail sale of tangible farm products grown or raised on a farm or association to which the owner of the farm belongs.”

““Farm Status” means land classified as a farm pursuant to the *(BC) Assessment Act*.”

2.2 By removing the words “floor area of 70m² or less” and replacing it with “limited floor area” in the definition of ‘cottage’.

2.3 By removing the word “outer” and replacing it with “inner” in the definition of ‘floor area’.

2.4 By removing the words “7.6 metres (25 feet)” and replace it with “15 metres (50 feet)” in Subsection 3.3(3).

2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly:

“Despite Subsection 3.3(3), *buildings or structures* legally constructed prior to [insert date of Bylaw No. 123 adoption] shall not be sited within 7.6 metres (25 feet) of the *natural boundary* of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are “structures”.”

- 2.6 By adding the words “except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²)” at the end of Subsection 3.6(4) so it reads:

‘The combined *floor area* used in all *home businesses* on a *lot*, except a *bed and breakfast*, must not exceed 65 m² (700 ft²) except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²).’

- 2.7 By deleting the words “Maximum *Floor Area* per *lot*” from Subsection 5.1(5) and replacing it with

“For a *lot* where a legal *dwelling* was constructed prior to [insert date of Bylaw No. 123 adoption] the following maximum *Floor Area* per *lot* apply:”

- 2.8 By adding a new subsection after Subsection 5.1 (5) and renumbering accordingly:

(6) For a *lot* where a *dwelling* is constructed after [insert date of Bylaw No. 123 adoption] the following maximum *Floor Area* per *lot* apply:”

✓ ✓ ✓

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	255 m ² (2750ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	348 m ² (3750ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	372 m ² (4000ft ²)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000 ft ²)	418 m ² (4500ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	465 m ² (5000ft ²)

- 2.9 By adding the following new subsection after Subsection 5.1(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

✓ ✓ ✓

- 2.10 By adding the following new subsection directly after the newly renumbered Subsection 5.1(8) and renumbering accordingly:

“Despite Subsection 5.1(8), the setback for a *dwelling* or *cottage* shall be 6.0 metres (20 ft.) from any interior or exterior *lot line*.”

✓ ✓ ✓

2.11 By removing “560 m² (6028 ft²) and replacing it with “500 m² (5382 ft²) in Subsection 5.5(9).

2.12 By removing the word “Rescinded” from Article 5.5(1)(d) and replacing it with “Accessory *agri-tourism* subject to Subsections 5.5(11) to 5.5(14);”

2.13 By adding the words “and *farm retail sales*.” after the words ‘on the same lot’ in Article 5.5(1)(e).

2.14 By adding the following new article after Article 5.5(1)(d) and renumber accordingly:

“Accessory agri-tourist accommodation, subject to Subsections 5.5(13) to 5.5(19), and as permitted by the Agricultural Land Commission;”

2.15 By adding the following new subsection after Subsection 5.5(9) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 90 m² (969 ft²).”

2.16 By removing the word “Rescinded” adding the following to Subsection 5.5(10):

“*Farm retail sales* are permitted on a lot located within the Agricultural Land Reserve, and the total indoor and outdoor *floor area* for the *farm retail sales* shall not exceed 300 m² (3229 ft²).

2.17 By adding the following new subsections after Subsection 5.5(10) under ‘Conditions of Use’ and renumber accordingly:

“5.5(11) *Agri-tourism buildings or structures* are not permitted.

5.5(12) *Agri-tourism* must be in compliance with the *Agricultural Land Reserve Use Regulation*.

5.5(13) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* with *Farm Status*.

5.5(14) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* located in the Agricultural Land Reserve.

5.5(15) *Agri-tourist accommodation* must be *accessory* to an active *agri-tourism* activity.

5.5(16) *Agri-tourist accommodation* must be *accessory* to a *farm use*.

5.5(16) *Agri-tourist accommodation buildings and structures* must not exceed a *lot coverage* of 5 percent.

5.5(17) *Agri-tourist accommodation* must not be in use for more than 180 days in a calendar year.

5.5(18) *Agri-tourist accommodation* may include associated uses such as meeting rooms and dining facilities for paying registered guests, but may not include a *restaurant* or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.

5.5(19) The maximum number of guests that may be accommodated in any *agri-tourist accommodation* at any one time, either alone or in combination with a *bed and breakfast*, is not to exceed 10 guests or 10 bedrooms.

2.18 By adding the following new subsection after Subsection 5.6(7) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

2.19 By adding the following new subsection after Subsection 5.7(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS	____ - ____ DAY OF	_____	20____
PUBLIC HEARING HELD THIS	_____ DAY OF	_____	20____
READ A SECOND TIME THIS	_____ DAY OF	_____	20____
READ A THIRD TIME THIS	_____ DAY OF	_____	20____
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____ DAY OF	_____	20____
ADOPTED THIS	_____ DAY OF	_____	20____

CHAIR

SECRETARY



Islands Trust

ISLANDS TRUST POLICY STATEMENT DIRECTIVES ONLY CHECKLIST

File No.: 6500-20 LUB Amendments Project

File Name: SP LTC Bylaw No. 122

PURPOSE

To provide staff with the Directives Only Checklist to highlight issues addressed in staff reports and as a means to ensure Local Trust Committees address certain matters in their official community plans and regulatory bylaws, Island Municipalities address certain matters in their official community plans, and to reference any relevant sections of the Policy Statement.

POLICY STATEMENT

The Policy Statement is comprised of several parts. Parts I and II outline the purpose, the Islands Trust object, and Council's guiding principles. Parts III, IV and V contain the goals and policies relevant to ecosystem preservation and protection, stewardship of resources and sustainable communities.

There are three different kinds of policies within the Policy Statement as follows:

- Commitments of Trust Council which are statements about Council's position or philosophy on various matters;
- Recommendations of Council to other government agencies, non-government organizations, property owners, residents and visitors; and
- Directive Policies which direct Local Trust Committees and Island Municipalities to address certain matters.

DIRECTIVES ONLY CHECKLIST

The Policy Statement Directives Only Checklist is based on the directive policies from the Policy Statement (Consolidated April 2003) which require Local Trust Committees to address certain matters in their official community plans and regulatory bylaws and Island Municipalities to address certain matters in their official community plans in a way that implements the policy of Trust Council.

Staff will use the Policy Statement Checklist (Directives Only) to review Local Trust Committee and Island Municipality bylaw amendment applications and proposals to ensure consistency with the Policy Statement. Staff will add the appropriate symbol to the table as follows:

- ✓ if the bylaw is consistent with the policy from the Policy Statement, or
- ✗ if the bylaw is inconsistent (contrary or at variance) with a policy from the Policy Statement, or
- N/A if the policy is not applicable.

PART III: POLICIES FOR ECOSYSTEM PRESERVATION AND PROTECTION

CONSISTENT	NO.	DIRECTIVE POLICY
	3.1	Ecosystems
N/A	3.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and protection of the environmentally sensitive areas and significant natural sites, features and landforms in their planning area.
N/A	3.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning, establishment, and maintenance of a network of protected areas that preserve the representative ecosystems of their planning area and maintain their ecological integrity.
N/A	3.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the regulation of land use and development to restrict emissions to land, air and water to levels not harmful to humans or other species.
	3.2	Forest Ecosystems
N/A	3.2.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of unfragmented forest ecosystems within their local planning areas from potentially adverse impacts of growth, development, and land-use.
	3.3	Freshwater and Wetland Ecosystems and Riparian Zones
N/A	3.3.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means to prevent further loss or degradation of freshwater bodies or watercourses, wetlands and riparian zones and to protect aquatic wildlife.
	3.4	Coastal and Marine Ecosystems
✓	3.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.
✓	3.4.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.

PART IV: POLICIES FOR THE STEWARDSHIP OF RESOURCES

CONSISTENT	No.	DIRECTIVE POLICY
	4.1	Agricultural Land
✓	4.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and preservation of agricultural land for current and future use.
✓	4.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation, protection, and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses.
N/A	4.1.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of adjacent properties to minimize any adverse affects on agricultural land.
CONSISTENT	No.	DIRECTIVE POLICY
N/A	4.1.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the design of road systems and servicing corridors to avoid agricultural lands unless the need for roads outweighs agricultural considerations, in which case appropriate mitigation measures shall be required to derive a net benefit to agriculture.
✓	4.1.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address land uses and activities that support the economic viability of farms without compromising the agriculture capability of agricultural land.
N/A	4.1.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of Crown lands for agricultural leases.
	4.2	Forests
N/A	4.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the need to protect the ecological integrity on a scale of forest stands and landscapes.
N/A	4.2.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the retention of large land holdings and parcel sizes for sustainable forestry use, and the location and construction of roads, and utility and communication corridors to minimize the fragmentation of forests.
N/A	4.2.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of forest ecosystem reserves where no extraction will take place to ensure the preservation of native biological diversity.
CONSISTENT	No.	DIRECTIVE POLICY

	4.3	Wildlife and Vegetation
	4.4	Freshwater Resources
N/A	4.4.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, water quality is maintained, and existing, anticipated and seasonal demands for water are considered and allowed for.
N/A	4.4.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure water use is not to the detriment of in-stream uses
	4.5	Coastal Areas and Marine Shorelands
N/A	4.5.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the needs and locations for marine dependent land uses.
N/A	4.5.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the compatibility of the location, size and nature of marinas with the ecosystems and character of their local planning areas.
✓	4.5.10	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.
N/A	4.5.11	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address opportunities for the sharing of facilities such as docks, wharves, floats, jetties, boat houses, board walks and causeways.
	4.6	Soils and Other Resources
N/A	4.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of productive soils.

PART V: POLICIES FOR SUSTAINABLE COMMUNITIES

CONSISTENT	No.	DIRECTIVE POLICY
	5.1	Aesthetic Qualities
✓	5.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
	5.2	Growth and Development
✓	5.2.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.
N/A	5.2.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.
N/A	5.2.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.
N/A	5.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.
	5.3	Transportation and Utilities
N/A	5.3.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of a classification system of rural roadways, including scenic or heritage road designations, in recognition of the object of the Islands Trust.
N/A	5.3.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the impacts of road location, design, construction and systems.
N/A	5.3.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of areas for the landing of emergency helicopters.
N/A	5.3.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of land use patterns that encourage establishment of bicycle paths and other local and inter-community transportation systems that reduce dependency on private automobile use.
	5.4	Disposal of Waste
N/A	5.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of acceptable locations for the disposal of solid waste.
CONSISTENT	No.	DIRECTIVE POLICY

	5.5	Recreation
N/A	5.5.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the prohibition of destination gaming facilities such as casinos and commercial bingo halls.
N/A	5.5.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location and type of recreational facilities so as not to degrade environmentally sensitive areas, and the designation of locations for marinas, boat launches, docks and anchorages so as not to degrade sensitive marine or coastal areas.
N/A	5.5.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of sites providing safe public access to beaches, the identification and designation of areas of recreational significance, and the designation of locations for community and public boat launches, docks and anchorages.
N/A	5.5.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and designation of areas for low impact recreational activities and discourage facilities and opportunities for high impact recreational activities.
N/A	5.5.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for bicycle, pedestrian and equestrian trail systems.
	5.6	Cultural and Natural Heritage
N/A	5.6.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification, protection, preservation and enhancement of local heritage.
N/A	5.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation and protection of the heritage value and character of historic coastal settlement patterns and remains.
	5.7	Economic Opportunities
✓	5.7.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.
	5.8	Health and Well-being
N/A	5.8.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address their community's current and projected housing requirements and the long-term needs for educational, institutional, community and health-related facilities and services, as well as the cultural and recreational facilities and services.

	POLICY STATEMENT COMPLIANCE
✓	<i>In compliance with Trust Policy</i>
	<i>Not in compliance with Trust Policy for the following reasons:</i>

Referrals: Bylaw SP-122

Agency	Sent	Received
Agricultural Land Commission <i>Rm. 133 4940 Canada Way: Gordon Bednard</i> <i>Comment: See response in EDM folder.</i>	16-Dec-2021	24-Jan-2022
Capital Regional District - All Referrals Christine Condron <i>625 Fisgard Street: Referrals Coordinator</i>	16-Dec-2021	
Cowichan Tribes <i>Chief and Council: Tracey Flemming</i>	16-Dec-2021	
Halalt First Nation <i>7973 Chemainus Rd: Raven August</i> <i>Comment: No Comment Received</i>	16-Dec-2021	
Lake Cowichan First Nation <i>313B Deer Road: Carole Livingstone</i> <i>Comment: No Comment Received</i>	16-Dec-2021	
Lyackson First Nation <i>7973A Chemainus Road: Linda Aidnell</i> <i>Comment: No Comment Received</i>	16-Dec-2021	
Malahat First Nation <i>110 Thunder Road, RR4: Heather Adams</i> <i>Comment: Thank you for your consultation request for Draft Bylaw No. 122 dated December 16th 2021, located in Malahat Nation's traditional territory. Malahat Nation notes that the proposed activity falls outside of core Malahat traditional territory, and as such we acknowledge and respect the local First Nation(s)' opportunity to act as primary correspondents in this case. However, in the event they do not, or are unable to respond we reserve our right to consultation and engagement, and continue to require disclosure on an ongoing basis regarding this and other related bylaws.</i>	16-Dec-2021	17-Jan-2022
North Pender Island Local Trust Committee <i>Islands Trust: Laura Patrick</i>	16-Dec-2021	
Pauquachin First Nation <i>9010 West Saanich Road: Darlene Henry</i> <i>Comment: No Comment Received</i>	16-Dec-2021	
Penelakut Tribe <i>Box 360: Denise James</i> <i>Comment: No Comment Received</i>	16-Dec-2021	
Saturna Island Local Trust Committee	16-Dec-2021	

Referrals: Bylaw SP-122

Agency	Sent	Received
200 - 1627 Fort Street: Laura Patrick		
Semiahmoo First Nation	16-Dec-2021	
16049 Beach Rd: Chief & Council		
Comment: No Comment Received		
Stz'uminus First Nation	16-Dec-2021	
12611A Trans Canada Hwy: Chenoa Akey		
Tsartlip First Nation	16-Dec-2021	
PO Box 70: Karen Harry		
Comment: No Comment Received		
Tsawout First Nation	16-Dec-2021	
Box 121: Cathy Webster		
Comment: No Comment Received		
Tsawwassen First Nation	16-Dec-2021	
1926 Tsawwassen Drive: Victoria Williams		
Comment: No Comment Received		
Tseycum First Nation	16-Dec-2021	
1210 Totem Lane: Chief Tanya Jimmy		
Comment: No Comment Received		
WSANEC	16-Dec-2021	
WSANEC Leadership Council Society: Justin Fritz		

From: Kim Stockdill
Sent: Monday, January 24, 2022 3:03 PM
To: Jas Chonk
Subject: FW: 46801m1 - ALC Response to Bylaw No. 122, amending Land Use Bylaw No. 114, 2016
Attachments: 46801m1 - ALC Response to Bylaw 122.pdf

From: Lambie, Shannon ALC:EX <Shannon.Lambie@gov.bc.ca>
Sent: Friday, January 21, 2022 9:20 AM
To: Kim Stockdill <kstockdill@islandstrust.bc.ca>; SouthInfo <SouthInfo@islandstrust.bc.ca>
Cc: Bailey, Reed AFF:EX <Reed.Bailey@gov.bc.ca>
Subject: 46801m1 - ALC Response to Bylaw No. 122, amending Land Use Bylaw No. 114, 2016

Good morning,

Please find attached the Agricultural Land Commission's response with respect to Bylaw No. 122, amending Land Use Bylaw No. 114, 2016.

The ALC strives to provide a detailed response to all bylaw referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft bylaw provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any Orders of the Commission.

If you have any questions, please do not hesitate to contact me.

Sincerely,
Shannon

Shannon Lambie

Island and South Coast Regional Planner | Agricultural Land Commission
201-4940 Canada Way, Burnaby, BC, V5G 4K6 | T 236-468-2026 (**NEW**)
shannon.lambie@gov.bc.ca | www.alc.gov.bc.ca



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000 | Fax: 604 660-7033

January 18, 2022

Reply to the attention of Shannon Lambie
ALC Planning Review: 46801

Kim Stockdill
Island Planner, Islands Trust
kstockdill@islandstrust.bc.ca and southinfo@islandstrust.bc.ca

DELIVERED ELECTRONICALLY

Re: Bylaw No. 122, amending Land Use Bylaw No. 114, 2016

Thank you for forwarding a draft copy of Bylaw No. 122 (the “Bylaw”) for review and comment by the Agricultural Land Commission (ALC). The following comments are provided to help ensure that the Bylaw is consistent with the purposes of the *ALC Act*, the Agricultural Land Reserve (ALR) General Regulation, the ALR Use Regulation, and any decisions of the ALC.

The Bylaw is an amending bylaw, updating South Pender Land Use Bylaw No. 114, 2016. ALC staff thank Islands Trust for the opportunity to review the Bylaw and provide the following comments for consideration:

PROPOSED AMENDMENT	ALC COMMENTS/SUGGESTED EDITS
2.1 By adding the following new definitions to Section 1.1 ‘Definitions’: ““agri-tourism” means an activity referred to in Section 12 of the Agricultural Land Reserve Use Regulation.”	ALC do not object to this.
““agri-tourist accommodation” means a use accessory to a farm use for the purpose of accommodating commercial guests within specific structures on specific portions of a lot.”	““agri-tourist accommodation” means a use accessory to a farm use for the purpose of accommodating commercial guests within specific structures on specific portions of a lot as referred to in Section 33 of the ALR Use Regulation. ”
““farm retail sales” means the retail sale of tangible farm products grown or raised on a farm or association to	ALC staff do not object to this.

which the owner of the farm belongs.”	
2.2 By removing the words “floor area of 70m ² or less” and replacing it with “limited floor area” in the definition of ‘cottage’.	ALC staff do not object to this.
2.3 By removing the word “outer” and replacing it with “inner” in the definition of ‘floor area’.	The ALC’s definition for the “total floor area” for both the principal residence and the additional residential dwelling are measured to the outer surface. ALC staff request that Islands Trust staff update this definition by clarifying that residences in the ALR must be consistent with the ALC Act, its regulations, and any Resolution of the Commission.
2.4 By removing the words “7.6 metres (25 feet)” and replacing it with “15 metres (50 feet)” in Subsection 3.3(3).	ALC staff do not object to this.
2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly: “Despite Subsection 3.3(3), buildings or structures legally constructed prior to [insert date of Bylaw No. 123 adoption] shall not be sited within 7.6 metres (25 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are “structures”.”	ALC staff do not object to this.
2.6 By adding the words “except for a lot located within the Agricultural Land Reserve, the combined floor area must not exceed 100 m ² (1076 ft ²)” at the end of Subsection 3.6(4) so it reads: ‘The combined floor area used in all home businesses on a lot, except a bed and breakfast, must not exceed 65 m ² (700 ft ²) except for a lot located within the Agricultural Land Reserve, the combined floor area must not exceed 100 m ² (1076 ft ²).’	ALC staff do not object to this.
2.7 By deleting the words “Maximum Floor Area per lot” from Subsection 5.1(5) and replacing it with “For a lot where a legal dwelling was constructed prior to [insert	ALC staff are unclear what the reference to <i>Bylaw</i> 123 means, but ALC staff note that in section 5.1 (5) of Bylaw 114, 2016, the maximum floor area for properties larger than 0.8 ha exceeds 500m ² .

date of Bylaw No. 123 adoption] the following maximum Floor Area per lot apply:"

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	353 m ² (3800ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	418 m ² (4500ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	520 m ² (5600ft ²)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000ft ²)	543 m ² (5845ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	560 m ² (6030ft ²)

Please note that effective February 22, 2019, the ALC Act was amended and the ALR Use Regulation was created, including changes to the use of ALR land for residences. Specifically, the total floor area of a principal residence must be 500 m² or less. If the date for *Bylaw 123* is after February 22, 2019, then this would appear inconsistent with the ALR Use Regulation for any properties that are within the ALR and the Rural Residential zone. ALC staff also note that Section 5.1 (3) permits two dwellings and two cottages. Properties in the ALR are limited to one principal residence and one accessory residential dwelling.

2.8 By adding a new subsection after Subsection 5.1 (5) and renumbering accordingly: (6) For a lot where a dwelling is constructed after [insert date of Bylaw No. 123 adoption] the following maximum Floor Area per lot apply:"

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	255 m ² (2750ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	348 m ² (3750ft ²)

ALC staff do not object to this.

0.8 ha to 1.59 ha (2 to 4 acres)	743 m2 (8000ft2)	372 m2 (4000ft2)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m2 (9000 ft2)	418 m2 (4500ft2)
4.0 ha (10 acres) or greater	1858 m2 (20000ft2)	465 m2 (5000ft2)

2.9 By adding the following new subsection after Subsection 5.1(6) and renumbering accordingly:

"The maximum floor area of a cottage must not exceed 70 m² (753 ft²)."

ALC staff do not object to this.

2.10 By adding the following new subsection directly after the newly renumbered Subsection 5.1(8) and renumbering accordingly: "Despite Subsection 5.1(8), the setback for a dwelling or cottage shall be 6.0 metres (20 ft.) from any interior or exterior lot line."

ALC staff do not object to this.

2.11 By removing "560 m² (6028 ft²) and replacing it with "500 m² (5382 ft²) in Subsection 5.5(9).

ALC staff do not object to this. ALC staff note that sections 5.6 *Forestry* and 5.7 *Natural Resource* list the maximum floor area for a residence as 560m². While ALC staff recommend all properties in the ALR be zoned *Agricultural*, at times, some ALR properties are zoned for uses other than agriculture. Please note that properties in the ALR in these zoning designations are limited to a principal residence size of 500m².

2.12 By removing the word "Rescinded" from Article 5.5(1)(d) and replacing it with "Accessory agri-tourism subject to Subsections 5.5(11) to 5.5(14);"

ALC staff do not object to this.

2.13 By adding the words "and farm retail sales." after the words 'on the same lot' in Article 5.5(1)(e).

ALC staff do not object to this.

2.14 By adding the following new article after Article 5.5(1)(d) and renumber accordingly: "Accessory agri-tourist accommodation,

ALC staff do not object to this.

subject to Subsections 5.5(13) to 5.5(19), and as permitted by the Agricultural Land Commission;"

2.15 By adding the following new subsection after Subsection 5.5(9) and renumbering accordingly: "The maximum floor area of a cottage must not exceed 90 m² (969 ft²)."

ALC staff do not object to this.

2.16 By removing the word "Rescinded" adding the following to Subsection 5.5(10): "Farm retail sales are permitted on a lot located within the Agricultural Land Reserve, and the total indoor and outdoor floor area for the farm retail sales shall not exceed 300 m² (3229 ft²)."

ALC staff do not object to this.

2.17 By adding the following new subsections after Subsection 5.5(10) under 'Conditions of Use' and renumber accordingly:

ALC staff do not object to 5.5(11) through 5.5 (17).

"5.5(11) Agri-tourism buildings or structures are not permitted.

5.5(12) Agri-tourism must be in compliance with the Agricultural Land Reserve Use Regulation.

5.5(13) Agri-tourism and agri-tourist accommodation are only permitted on a lot with Farm Status.

5.5(14) Agri-tourism and agri-tourist accommodation are only permitted on a lot located in the Agricultural Land Reserve.

5.5(15) Agri-tourist accommodation must be accessory to an active agri-tourism activity.

5.5(16) Agri-tourist accommodation must be accessory to a farm use.

5.5(16) Agri-tourist accommodation buildings and structures must not exceed a lot coverage of 5 percent.

5.5(17) Agri-tourist accommodation must not be in use for more than 180 days in a calendar year.

5.5(18) Agri-tourist accommodation may include associated uses such as meeting rooms and dining facilities for paying registered guests, but may not include a restaurant or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.	If the associated uses, such as a meeting room or dining facility, are located within a residence that is housing the agritourism sleeping units (such as a Bed and Breakfast in the principal residence or sleeping units within the additional residential dwelling unit, then guests may use existing space within the residence for dining or meeting. A separate structure, however, cannot be constructed in order to accommodate these associate uses.
5.5(19) The maximum number of guests that may be accommodated in any agri-tourist accommodation at any one time, either alone or in combination with a bed and breakfast, is not to exceed 10 guests or 10 bedrooms.	ALC staff do not object to this.
2.18 By adding the following new subsection after Subsection 5.6(7) and renumbering accordingly: "The maximum floor area of a cottage must not exceed 70 m ² (753 ft ²)."	ALC staff do not object to this.
2.19 By adding the following new subsection after Subsection 5.7(6) and renumbering accordingly: "The maximum floor area of a cottage must not exceed 70 m ² (753 ft ²)."	ALC staff do not object to this.

The ALC strives to provide a detailed response to all referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any decisions of the Commission.

This response does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

If you have any questions about the above comments, please contact the undersigned at 236-468-2026 or by e-mail (shannon.lambie@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink that reads "S. Lambie". The signature is written in a cursive, flowing style.

Shannon Lambie, Regional Planner

CC: Ministry of Agriculture – Attention: Reed Bailey (reed.bailey@gov.bc.ca)

46801m1

DATE OF MEETING: March 4, 2022
TO: South Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: SP LUB Amendments Project – Draft Bylaw No. 122

RECOMMENDATION

1. That the South Pender Island Local Trust Committee amend draft Bylaw No. 122 by amending the Groundwater Protection Regulation Section 3.14 to include a cottage as a new building.
2. That the South Pender Island Local Trust Committee Bylaw No. 122, cited as the “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021” as amended be read a first time.
3. That the South Pender Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 122, cited as “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021”, is not contrary to or at variance with the Islands Trust Policy Statement.
4. That the South Pender Island Local Trust Committee direct staff to schedule a Community Information Meeting and a Public Hearing for proposed Bylaw No. 122.

REPORT SUMMARY

The purpose of this report is to present the amended draft bylaw for the Land Use Bylaw (LUB) Amendments project. The amended draft bylaw is attached (Attachment No. 1) for the South Pender Island Local Trust Committee’s (LTC) consideration and the Islands Trust Policy Statement is attached (Attachment No. 2) for the LTC’s review. The staff report also outlines amendments to the draft bylaw as recommended by the Agricultural Land Commission (ALC).

BACKGROUND

At the February 4, 2022 regular LTC meeting, the LTC passed the following resolutions:

By general consent, the LTC requested that staff return to the March 2022 meeting with a revised table for maximum dwelling size.

SP-2022-011

It was Moved and Seconded,
that the South Pender Island Local Trust Committee hold a Community Information Meeting electronically on March 4, 2022 in conjunction with the Regular Business Meeting.

CARRIED

SP-2022-012**It was Moved and Seconded,**

that the South Pender Island Local Trust Committee direct staff to make the amendments to Bylaw 122 and bring them forward to the Regular Business meeting on March 4, 2022.

CARRIED

Background information regarding the project, staff reports, correspondence, and the Project Charter can be found on the South Pender Project webpage: <https://islandstrust.bc.ca/island-planning/south-pender/projects/>

ANALYSISMaximum Floor Area

The following table shows the proposed new regulations for maximum floor area in the Rural Residential 1, 2, and 3 zones as currently shown in the draft LUB amendment bylaw (Attachment No. 1):

**Table 1 – Proposed Floor Area Regulations in the draft LUB Amending Bylaw No. 122
(5 Lot Area Groups)**

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000 ft ²)	255 m ² (2750 ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000 ft ²)	348 m ² (3750 ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000 ft ²)	372 m ² (4000 ft ²)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000 ft ²)	418 m ² (4500 ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000 ft ²)	465 m ² (5000 ft ²)

At the February 4, 2022 the LTC discussed the option to revise the table by reducing the lot area groups from five (as seen above) to three groups:

**Table 2 – Possible Floor Area Regulations for Draft Bylaw No. 122
(3 Lot Area Groups)**

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.5 ha (1.24 acres)	465 m ² (5000 ft ²)	232 m ² (2500 ft ²)
0.5 ha to 0.99 ha (1.24 acres to 2.46 acres)	557 m ² (6000 ft ²)	279 m ² (3000 ft ²)
1.0 ha (2.47 acres) or greater	743 m ² (8000 ft ²)	325 m ² (3500 ft ²)

In addition, the LTC requested an option for a table that reflects the same lot area groups as displayed in the North Pender Land Use Bylaw. Table no. 2

**Table 3 – Possible Floor Area Regulations for Draft Bylaw No. 122 based on NP LUB Lot Area Groups
(4 Lot Area Groups)**

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed*:	Proposed max. floor area from draft NP LUB Bylaw (for comparison)
Less than 0.4 ha (Less than 1 acre)	465 m ² (5000 ft ²)	232 m ² (2500 ft ²)	232 m ² (2500 ft ²)
0.4 ha to < 1.2 ha (1 to 3 acres)	557 m ² (6000 ft ²)	265 m ² (2850 ft ²)	279 m ² (3000 ft ²)
1.2 ha to < 4 ha (3 to 10 acres)	743 m ² (8000 ft ²)	297 m ² (3200 ft ²)	325 m ² (3500 ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000 ft ²)	325 m ² (3500 ft ²)	372 m ² (4000 ft ²)

*numbers roughly based on Table 2

Based on the tables above, staff require direction from the LTC to amend the draft Bylaw No. 122 if the LTC decides to choose Table 2 or Table 3. Table 1 is currently in the draft LUB Bylaw No. 122. Staff have included a blackline version of the draft LUB bylaw based on amendments proposed to the Rural Residential zones using Table 1 (all amendments are noted in red in the blackline version – Attachment No. 2).

Legal Non-Conforming

The LTC requested staff to provide an option for an additional legal non-conforming clause based on the clause from the North Pender draft Land Use bylaw. The following statement could follow after the new maximum floor area regulations

“Despite Subsection 5.1.X [new maximum floor area regulations], on a lot that contains a legal dwelling constructed prior to the adoption of this bylaw, a replacement dwelling may constructed, or the existing dwelling re-constructed or altered, provided the floor area of the replacement, re-constructed or altered dwelling does not exceed the floor area of the dwelling on the lot at the time of the adoption of this bylaw.”

A similar clause can be added after the more restrictive interior and exterior setbacks for a new dwelling or cottage:

“Despite Subsection 5.1.X [new setback regulations for dwellings and cottages], on a lot that contains a legal dwelling constructed prior to the adoption of this bylaw, a replacement dwelling may constructed, or the existing dwelling re-constructed or altered, provided the replacement, re-constructed or altered dwelling does not project further into the setback as constructed a the time of the adoption of this bylaw.”

Staff note that these two clauses are not necessary as the draft LUB amendment bylaw legally permits the floor area and siting of a dwelling and cottage constructed prior to the adoption of draft Bylaw No. 122.

Shipping Containers

At the February 4, 2022 LTC meeting, the LTC requested staff to amend the draft bylaw to include regulations to permit shipping containers as a permitted accessory use. The draft bylaw includes regulations (see Section 2.6 in draft bylaw) that would allow one shipping container on properties less than 1.9 acres in area, two shipping containers on properties 2 acres to 2.9 acres in area, and 3 shipping containers on properties with an area of 3 acres or more. All shipping containers must be screened in compliance with Section 3.9 'Landscaping Screening' of the South Pender Land Use Bylaw.

Groundwater Protection Regulation

The South Pender LUB currently includes a groundwater protection regulation that requires a rainwater catchment system for new dwellings:

"3.14 Groundwater Protection

(1) A building permit shall not be issued for a new building to be used as a dwelling on a lot in the RR(1), RR(2) or RR(3) zones unless a building on the lot is equipped with a rainwater catchment system and cistern(s) for the storage of rainwater with a minimum cistern capacity of 9,000 litres (1980 gallons)."

There have been a number of interpretation issues with the regulation above. They are:

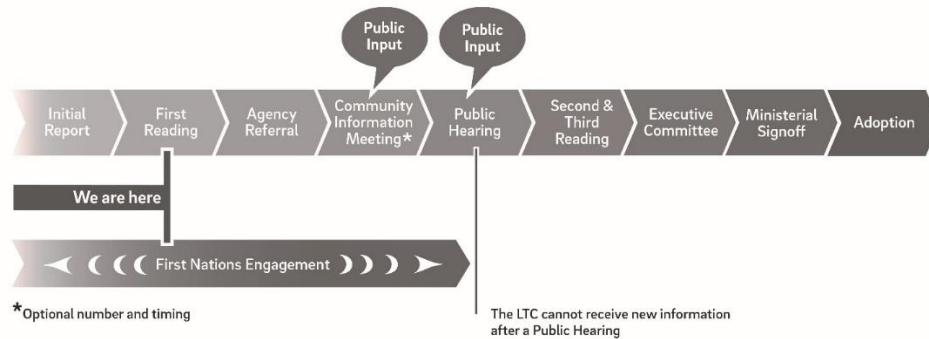
- Clarify if 'a dwelling' includes a cottage. Staff's interpretation based on the definition of a cottage is that since a cottage is a dwelling, a cottage would trigger the requirement for a rainwater catchment system. If so, the regulation should be amended to make it more clear that Section 3.14 is also applicable to a cottage. Staff have provided a resolution under Recommendation No. 1.
- Confirm that one rainwater catchment system of 9,000L on the subject property satisfies Section 3.14. For example, if a rainwater catch system with a capacity of 9,000L or greater is already installed on a building on the lot, a second system would not be required. If the LTC agrees with this interpretation, no further amendments (other than the one above) are required to Section 3.14.

Timeline

Staff recommend the following timeline for the LUB Amendment project:

- March 4, 2022 regular LTC meeting:
 - LTC holding **CIM**
 - LTC to consider **First Reading of draft bylaw**
 - LTC to determine if proposed bylaw is in compliance **with current Islands Trust Policy Statement (ITPS)**
 - Staff to re-refer proposed bylaw to the ALC
 - LTC to give **direction to schedule a Community Information Meeting (CIM) and Public Hearing** at the next in person regular LTC meeting (tentatively scheduled for May 6, 2022) or as an in-person Special Meeting.
- May 6, 2022 regular LTC meeting:
 - **Formal CIM and Public Hearing is held** as part of May 6th regular meeting
 - LTC can amend proposed bylaw based on comments from the CIM and referrals
 - LTC to give **Second Reading and Third Reading**
 - LTC to refer **bylaw to EC for approval**

The above timeline is still roughly in line with the timeline on the [Project Charter](#). The graphic below provides a visual representation of a typical bylaw adoption process. As this is a Land Use Bylaw amendment, approval from the Minister of Municipal Affairs is not required.



Statutory Requirements

In accordance with regular statutory requirements, a public hearing is required for any bylaw amendment and it is normal practice to hold a Community Information Meeting (CIM) prior to that. Staff recommend scheduling a CIM and Public Hearing together so they can be held in person at the May 6, 2022 regular LTC meeting.

Islands Trust Policy Statement

The draft bylaw amendment is consistent with the policy directives of the Policy Statement. The Policy Statement Directives Checklist is included as Attachment 3 and will need to be endorsed by the LTC if the LTC gives first reading to the draft bylaw. The checklist will then be forwarded to the Executive Committee after third reading of the proposed bylaw.

Rationale for Recommendation

If the LTC agrees with the recommendations provided by the LTC, staff recommend amending the draft bylaw (if required) and then proceeding with First Reading. Further amendments to the bylaw can be made upon receipt of further referral comments up to the closing of the Public Hearing.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation:

1. Direction to amend draft bylaw

The LTC may wish to make amendments to the draft bylaw. Recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee amend draft Bylaw No. 122 by...

2. 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 South Pender Island Local Trust Committee request staff to provide further information on...

3. Proceed no further

The LTC may choose to make no amendments to the South Pender LUB. The project would be removed from the Top Priority List.

NEXT STEPS

Based on direction from the LTC, staff will:

- Make further amendments to the draft bylaw (if necessary),
- Present a blackline version of the amendments at the May 6th LTC meeting,
- Send out formal referral to the ALC, and
- Schedule CIM and Public Hearing.

Submitted By:	Kim Stockdill Island Planner	February 25, 2022
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Attachments:

1. Draft Bylaw No. 122 (LUB amendment) with amendments
2. Blackline version of the RR zones
3. Islands Trust Policy Statement

DRAFT

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 122

A BYLAW TO AMEND SOUTH PENDER ISLAND LAND USE BYLAW No. 114, 2016

The South Pender Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the South Pender Island Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021”.

2. South Pender Island Local Trust Committee Bylaw No. 114, cited as “South Pender Island Land Use Bylaw No. 114, 2016” is amended as follows:

2.1 By adding the following new definitions to Section 1.1 ‘Definitions’:

““agri-tourism” means an activity referred to in Section 12 of the *Agricultural Land Reserve Use Regulation*.”

““agri-tourist accommodation” means a use accessory to a *farm use* for the purpose of accommodating commercial guests within specific structures on specific portions of a *lot* as referred to in Section 33 of the *Agricultural Land Reserve Use Regulation*.”

““farm retail sales” means the retail sale of tangible farm products grown or raised on a farm or association to which the owner of the farm belongs.”

““Farm Status” means land classified as a farm pursuant to the *(BC) Assessment Act*.”

2.2 By removing the words “floor area of 70m² or less” and replacing it with “limited floor area” in the definition of ‘cottage’.

2.3 By removing the word “outer” and replacing it with “inner” in the definition of ‘floor area’.

2.4 By removing the words “7.6 metres (25 feet)” and replace it with “15 metres (50 feet)” in Subsection 3.3(3).

2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly:

“Despite Subsection 3.3(3), *buildings or structures* legally constructed prior to [insert date of Bylaw No. 122 adoption] shall not be sited within 7.6 metres (25 feet) of the *natural boundary* of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are “structures”.”

2.6 By adding the following new subsections to Section 3.5 'Accessory Buildings and Structures' as follows:

- “(6) Shipping containers are a permitted accessory use on a *lot* subject to the following:
- (a) On a *lot* less than 0.8 ha (2 acre) in area, a maximum of one (1) shipping container is permitted.
 - (b) On a *lot* 0.8 (2 acres) or greater in area, but less than 1.2 ha (3 acres) in area, a maximum of two (2) shipping containers are permitted.
 - (c) On a *lot* with an area greater than 1.2 ha (3 acres), a maximum of three (3) shipping containers are permitted.
- (7) Shipping containers must be screened from neighbouring *lots*, roads, or the sea by use of landscaping screening in compliance with Section 3.9.”

2.7 By adding the words “except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²)” at the end of Subsection 3.6(4) so it reads:

‘The combined *floor area* used in all *home businesses* on a *lot*, except a *bed and breakfast*, must not exceed 65 m² (700 ft²) except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²).’

2.8 By deleting the words “Maximum *Floor Area* per *lot*” from Subsection 5.1(5) and replacing it with

“For a *lot* where a legal *dwelling* was constructed prior to [insert date of Bylaw No. 122 adoption] the following maximum *Floor Area* per *lot* apply:”

2.9 By adding a new subsection after Subsection 5.1 (5) and renumbering accordingly:

(6) For a *lot* where a *dwelling* is constructed after [insert date of Bylaw No. 122 adoption] the following maximum *Floor Area* per *lot* apply:”

✓ ✓ ✓

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	255 m ² (2750ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	348 m ² (3750ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	372 m ² (4000ft ²)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000 ft ²)	418 m ² (4500ft ²)

4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	465 m ² (5000ft ²)
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2.10 By adding the following new subsection after Subsection 5.1(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).” ✓ ✓ ✓

2.11 By adding the following new subsection directly after the newly renumbered Subsection 5.1(8) and renumbering accordingly:

“Despite Subsection 5.1(8), the setback for a *dwelling* or *cottage* after [insert date of Bylaw No. 122 adoption] shall be 6.0 metres (20 ft.) from any interior or exterior *lot line*.” ✓ ✓ ✓

2.12 By removing “560 m² (6028 ft²) and replacing it with “500 m² (5382 ft²) in Subsection 5.5(9).

2.13 By removing the word “Rescinded” from Article 5.5(1)(d) and replacing it with “Accessory *agri-tourism* subject to Subsections 5.5(11) to 5.5(14);”

2.14 By adding the words “and *farm retail sales*.” after the words ‘on the same lot’ in Article 5.5(1)(e).

2.15 By adding the following new article after Article 5.5(1)(d) and renumber accordingly:

“Accessory *agri-tourist* accommodation, subject to Subsections 5.5(13) to 5.5(19), and as permitted by the Agricultural Land Commission;”

2.16 By adding the following new subsection after Subsection 5.5(9) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 90 m² (969 ft²).”

2.17 By adding the following ‘Information Note’ after the newly created Subsection 5.5(10):

“Information Note: *The maximum floor area of a dwelling or cottage located within the Agricultural Land Reserve must be compliant with the Agricultural Land Commission Act, Regulation, and any Resolution for the Agricultural Land Commission.*”

2.18 By removing the word “Rescinded” adding the following to the newly renumbered Subsection 5.5(11):

“*Farm retail sales* are permitted on a lot located within the Agricultural Land

Reserve, and the total indoor and outdoor *floor area* for the *farm retail sales* shall not exceed 300 m² (3229 ft²).

2.19 By adding the following new subsections after Subsection 5.5(11) under 'Conditions of Use' and renumber accordingly:

"5.5(12) *Agri-tourism buildings or structures* are not permitted.

5.5(13) *Agri-tourism* must be in compliance with the *Agricultural Land Reserve Use Regulation*.

5.5(14) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* with *Farm Status*.

5.5(15) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* located in the Agricultural Land Reserve.

5.5(16) *Agri-tourist accommodation* must be *accessory* to an active *agri-tourism* activity.

5.5(17) *Agri-tourist accommodation* must be *accessory* to a *farm use*.

5.5(18) *Agri-tourist accommodation buildings and structures* must not exceed a *lot coverage* of 5 percent.

5.5(9) *Agri-tourist accommodation* must not be in use for more than 180 days in a calendar year.

5.5(20) *Agri-tourist accommodation* may include associated uses such as meeting rooms and dining facilities for paying registered guests contained wholly within the *agri-tourism accommodation unit*, but may not include a *restaurant* or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.

5.5(21) The maximum number of guests that may be accommodated in any *agri-tourist accommodation* at any one time, either alone or in combination with a *bed and breakfast*, is not to exceed 10 guests or 10 bedrooms.

2.20 By adding the following new subsection after Subsection 5.6(7) and renumbering accordingly:

"The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²)."

2.21 By adding the following new subsection after Subsection 5.7(6) and renumbering accordingly:

"The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²)."

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS ____ - ____ DAY OF _____ 20____

PUBLIC HEARING HELD THIS _____ DAY OF _____ 20____

READ A SECOND TIME THIS _____ DAY OF _____ 20____

READ A THIRD TIME THIS _____ DAY OF _____ 20____

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
_____ DAY OF _____ 20____

ADOPTED THIS _____ DAY OF _____ 20____

CHAIR

SECRETARY

PART 5 ZONE REGULATIONS

5.1 Rural Residential Zones

Permitted Uses

- (1) The following *uses* are permitted, subject to the regulations set out in this Section and the general regulations, and all other *uses* are prohibited:
- (a) *Dwelling*;
 - (b) *Cottage*;
 - (c) *Agriculture*;
 - (d) *Rescinded*;
 - (e) *Accessory uses, buildings and structures*, including, but not limited to, *home businesses* and roadside stands for the sale of produce grown on the same *lot*.

RR1

RR2

RR3

✓

✓

✓

✓

✓

✓

✓

✓

✓

✓

✓

✓

✓

✓

✓

Density

- (2) On a parcel less than 0.8 hectares (2 acres) in area, one (1) *dwelling* is permitted and no *cottage* is permitted.
- (3) On a parcel 0.8 hectares (2 acres) or greater in area, but less than 4.0 ha (10 acres) in area, one (1) *dwelling* and one (1) *cottage* are permitted.
- (4) On a parcel 4 hectares (10 acres) or greater in area, two (2) *dwelling*s and two (2) *cottage*s are permitted.

RR1

RR2

RR3

✓

✓

✓

✓

✓

✓

✓

✓

✓

Siting and Size

- (5) For a *lot* where a legal *dwelling* was construction prior to [insert date of Bylaw No.122] the following maximum *Floor Area per lot* apply:

RR1

RR2

RR3

✓

✓

✓

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	353 m ² (3800ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	418 m ² (4500ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	520 m ² (5600ft ²)
1.6 ha to 3.9 ha (4 to 10 acres)	836 m ² (9000 ft ²)	543 m ² (5845ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	560 m ² (6030ft ²)

- (6) For a *lot* where a legal *dwelling* is construction after [insert date of Bylaw No.122] the following maximum *Floor Area* per *lot* apply:

✓ ✓ ✓

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	255 m ² (2750ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	348 m ² (3750 ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	372 m ² (4000 ft ²)
1.6 ha to 3.9 ha (4 to 10 acres)	836 m ² (9000 ft ²)	418 m ² (4500 ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	565 m ² (5000 ft ²)

- (7) The maximum floor area of a cottage must not exceed 70 m² (753 ft²)

✓ ✓ ✓

- (8) The minimum *setback* for any *building* or *structure*, except a fence or *pump/utility house*, shall be:

- (a) 7.6 metres (25 ft.) from any front or rear *lot line*;
 (b) 3.0 metres (10 ft.) from any interior side *lot line*;
 (c) 4.5 metres (15 ft.) from any exterior side *lot line*.

✓ ✓ ✓
 ✓ ✓ ✓

- (9) Despite Subsection 5.1(8), the setback for a *dwelling* or *cottage* constructed after [insert date of Bylaw No. 122 adoption] shall be 6.0 metres (20 ft.) from any interior or exterior *lot line*.

✓ ✓ ✓

- (10) The *floor area* of any *accessory building* may not exceed 140 m² (1507 ft²).

✓ ✓ ✓

Conditions of Use

RR1	RR2	RR3
✓	✓	✓

BL 117

- (11) Rescinded.

Subdivision Lot Size Requirements

RR1	RR2	RR3
0.4 ha	0.8 ha	4.0 ha

- (12) Subject to subsection 5.1(10), the minimum and average *lot* area requirements for any *lot* created by subdivision are:

Site-Specific Regulations

- (13) The following table denotes locations where, despite or in addition to the regulations in this Section, specific regulations apply. In the first column, the *zone* abbreviation and the lower-case letter reference the notation on the zoning map. The second column describes the location where the specific regulations set out in the third column apply:

Site-Specific Zone	Location Description	Site Specific Regulations
RR1(a)	<i>Lots 1 through 7, inclusive, of Plan VIP53829, Section 21, Pender Island, Cowichan District</i>	(a) Despite 5.1(11), the minimum <i>lot</i> area is 0.76 hectares (1.90 acres) and the average <i>lot</i> area is 1.05 hectares (2.6 acres)
RR1(b)	<i>Lots 8 and 9 of Plan VIP53829, Section 21, Pender Island, Cowichan District</i>	(a) Despite 5.1(11) the minimum <i>lot</i> area is 0.8 hectares (2 acres) and the average <i>lot</i> area is 2.3 hectares (5.7 acres)



Islands Trust

ISLANDS TRUST POLICY STATEMENT DIRECTIVES ONLY CHECKLIST

File No.: 6500-20 LUB Amendments Project

File Name: SP LTC Bylaw No. 122

PURPOSE

To provide staff with the Directives Only Checklist to highlight issues addressed in staff reports and as a means to ensure Local Trust Committees address certain matters in their official community plans and regulatory bylaws, Island Municipalities address certain matters in their official community plans, and to reference any relevant sections of the Policy Statement.

POLICY STATEMENT

The Policy Statement is comprised of several parts. Parts I and II outline the purpose, the Islands Trust object, and Council's guiding principles. Parts III, IV and V contain the goals and policies relevant to ecosystem preservation and protection, stewardship of resources and sustainable communities.

There are three different kinds of policies within the Policy Statement as follows:

- Commitments of Trust Council which are statements about Council's position or philosophy on various matters;
- Recommendations of Council to other government agencies, non-government organizations, property owners, residents and visitors; and
- Directive Policies which direct Local Trust Committees and Island Municipalities to address certain matters.

DIRECTIVES ONLY CHECKLIST

The Policy Statement Directives Only Checklist is based on the directive policies from the Policy Statement (Consolidated April 2003) which require Local Trust Committees to address certain matters in their official community plans and regulatory bylaws and Island Municipalities to address certain a matters in their official community plans in a way that implements the policy of Trust Council.

Staff will use the Policy Statement Checklist (Directives Only) to review Local Trust Committee and Island Municipality bylaw amendment applications and proposals to ensure consistency with the Policy Statement. Staff will add the appropriate symbol to the table as follows:

- ✓ if the bylaw is consistent with the policy from the Policy Statement, or
- ✗ if the bylaw is inconsistent (contrary or at variance) with a policy from the Policy Statement, or
- N/A if the policy is not applicable.

PART III: POLICIES FOR ECOSYSTEM PRESERVATION AND PROTECTION

CONSISTENT	No.	DIRECTIVE POLICY
	3.1	Ecosystems
N/A	3.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and protection of the environmentally sensitive areas and significant natural sites, features and landforms in their planning area.
N/A	3.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning, establishment, and maintenance of a network of protected areas that preserve the representative ecosystems of their planning area and maintain their ecological integrity.
N/A	3.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the regulation of land use and development to restrict emissions to land, air and water to levels not harmful to humans or other species.
	3.2	Forest Ecosystems
N/A	3.2.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of unfragmented forest ecosystems within their local planning areas from potentially adverse impacts of growth, development, and land-use.
	3.3	Freshwater and Wetland Ecosystems and Riparian Zones
N/A	3.3.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means to prevent further loss or degradation of freshwater bodies or watercourses, wetlands and riparian zones and to protect aquatic wildlife.
	3.4	Coastal and Marine Ecosystems
✓	3.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.
✓	3.4.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.

PART IV: POLICIES FOR THE STEWARDSHIP OF RESOURCES

CONSISTENT	No.	DIRECTIVE POLICY
	4.1	Agricultural Land
✓	4.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and preservation of agricultural land for current and future use.
✓	4.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation, protection, and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses.
N/A	4.1.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of adjacent properties to minimize any adverse affects on agricultural land.
CONSISTENT	No.	DIRECTIVE POLICY
N/A	4.1.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the design of road systems and servicing corridors to avoid agricultural lands unless the need for roads outweighs agricultural considerations, in which case appropriate mitigation measures shall be required to derive a net benefit to agriculture.
✓	4.1.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address land uses and activities that support the economic viability of farms without compromising the agriculture capability of agricultural land.
N/A	4.1.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of Crown lands for agricultural leases.
	4.2	Forests
N/A	4.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the need to protect the ecological integrity on a scale of forest stands and landscapes.
N/A	4.2.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the retention of large land holdings and parcel sizes for sustainable forestry use, and the location and construction of roads, and utility and communication corridors to minimize the fragmentation of forests.
N/A	4.2.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of forest ecosystem reserves where no extraction will take place to ensure the preservation of native biological diversity.
CONSISTENT	No.	DIRECTIVE POLICY

	4.3	Wildlife and Vegetation
	4.4	Freshwater Resources
N/A	4.4.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, water quality is maintained, and existing, anticipated and seasonal demands for water are considered and allowed for.
N/A	4.4.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure water use is not to the detriment of in-stream uses
	4.5	Coastal Areas and Marine Shorelands
N/A	4.5.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the needs and locations for marine dependent land uses.
N/A	4.5.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the compatibility of the location, size and nature of marinas with the ecosystems and character of their local planning areas.
✓	4.5.10	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.
N/A	4.5.11	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address opportunities for the sharing of facilities such as docks, wharves, floats, jetties, boat houses, board walks and causeways.
	4.6	Soils and Other Resources
N/A	4.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of productive soils.

PART V: POLICIES FOR SUSTAINABLE COMMUNITIES

CONSISTENT	No.	DIRECTIVE POLICY
	5.1	Aesthetic Qualities
✓	5.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
	5.2	Growth and Development
✓	5.2.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.
N/A	5.2.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.
N/A	5.2.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.
N/A	5.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.
	5.3	Transportation and Utilities
N/A	5.3.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of a classification system of rural roadways, including scenic or heritage road designations, in recognition of the object of the Islands Trust.
N/A	5.3.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the impacts of road location, design, construction and systems.
N/A	5.3.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of areas for the landing of emergency helicopters.
N/A	5.3.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of land use patterns that encourage establishment of bicycle paths and other local and inter-community transportation systems that reduce dependency on private automobile use.
	5.4	Disposal of Waste
N/A	5.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of acceptable locations for the disposal of solid waste.
CONSISTENT	No.	DIRECTIVE POLICY

	5.5	Recreation
N/A	5.5.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the prohibition of destination gaming facilities such as casinos and commercial bingo halls.
N/A	5.5.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location and type of recreational facilities so as not to degrade environmentally sensitive areas, and the designation of locations for marinas, boat launches, docks and anchorages so as not to degrade sensitive marine or coastal areas.
N/A	5.5.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of sites providing safe public access to beaches, the identification and designation of areas of recreational significance, and the designation of locations for community and public boat launches, docks and anchorages.
N/A	5.5.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and designation of areas for low impact recreational activities and discourage facilities and opportunities for high impact recreational activities.
N/A	5.5.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for bicycle, pedestrian and equestrian trail systems.
	5.6	Cultural and Natural Heritage
N/A	5.6.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification, protection, preservation and enhancement of local heritage.
N/A	5.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation and protection of the heritage value and character of historic coastal settlement patterns and remains.
	5.7	Economic Opportunities
✓	5.7.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.
	5.8	Health and Well-being
N/A	5.8.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address their community's current and projected housing requirements and the long-term needs for educational, institutional, community and health-related facilities and services, as well as the cultural and recreational facilities and services.

	POLICY STATEMENT COMPLIANCE
✓	<i>In compliance with Trust Policy</i>
	<i>Not in compliance with Trust Policy for the following reasons:</i>

From: Geoff Henshaw <[REDACTED]>
Date: May 15, 2021 at 5:10:57 PM PDT
To: Steve Wright <stwright@islandstrust.bc.ca>
Cc: Cameron Thorn <cameron@cameronthorn.com>, Laura Patrick <lpatrik@islandstrust.bc.ca>, Shelley Henshaw <[REDACTED]>
Subject: Re: SPI Trust - Looking for Clarification on Farm Home size on ALR

Hi Steve, thanks for this, to be as clear as possible:

- I referenced 3,000 sq ft as an example - we have no plans and are not clear what requirements would be. I do not expect that to be used as input in "deliberations".
- Happy to help, Pender is an important place for my family and I.

Thanks again.

Geoff

On Fri, 14 May 2021 at 19:21, Steve Wright <stwright@islandstrust.bc.ca> wrote:

Hi Geoff,

As I told you on the phone, we are in the preliminary stages of doing research and considering options that we can present to the community for their consideration to maintain the rural character of SP and to protect the environment and its resources, house size being one of them. Your comment that your family requires a 3,000 sq ft home is the type of input that we need in our deliberations. I hope your participation in this and other matters will continue.

S

From: Geoff Henshaw [mailto:[REDACTED]]
Sent: Friday, May 14, 2021 3:03 PM
To: Steve Wright
Cc: Cameron Thorn; Laura Patrick
Subject: Re: SPI Trust - Looking for Clarification on Farm Home size on ALR

Hi Steve, thank you for the call this afternoon.

As discussed - there is no proposal and no decisions have been made re house size on ALR land.

As I mentioned:

- Henshaws are into their fourth generation on South Pender (which we are grateful for), as a family we have always thought generationally and this is no exception - we are thinking about the impact this potential proposal could have on my kids (who are focused on STEM at the moment versus farming the land!).

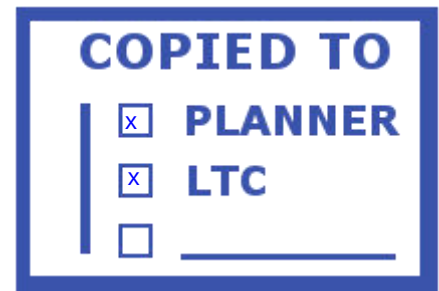
- Couple of points (which we could admittedly debate for hours!) which I mentioned on our call:
 - Large homes on farms is a trend we see in Richmond, Delta and into the Fraser Valley; this is driven by demographic and economic circumstances that may be different than the ones on Pender.
 - There may be other areas to look at that protect the character of the Island that are far less contentious and less impacted by macro influences (eg currency rates, lending costs, etc), these areas include - aggressive clear cutting of property (example to the west of your house) and fencing (example to the south of your house), there are many more.

Thanks again for your time on this Steve.

Have a great weekend.

Geoff

From: Cameron Thorn
Sent: Monday, May 31, 2021 11:23 PM
To: Donna Spalding
Cc: Steve Wright; Laura Patrick
Subject: South Pender - Existing House Size by Lot Size



Hi Donna,

As discussed, please see the attached spreadsheet showing the size of existing houses built on South Pender. As you are aware, under the current land use bylaw there is a maximum house size associated with each category of lot size.

The spreadsheet provides the average, median and 70% percentile house size of existing homes under each of the lot size categories. The data demonstrates that even at the 70% percentile, the size of existing homes is smaller by a margin of 50% or more than what is permitted under the current land use bylaw. Clearly there is a very weak correlation between the size of existing homes and what is permitted under the land use bylaw.

A further discussion on this is certainly warranted, but one of the first questions that comes to mind is, what was the empirical data used to arrive at the maximum house size numbers in the bylaw.

Please let me know if you would like to 'walk through' the data in the spreadsheet.

Best,

Cameron



From: Cameron Thorn
Sent: Tuesday, June 1, 2021 4:53 PM
To: Donna Spalding
Cc: Steve Wright; Laura Patrick
Subject: RE: And to finish my thoughts - South Pender - Existing House Size by Lot Size

Hi Donna,

Yes, certainly more discussion on house size is warranted. I actually sent the spreadsheet to Gordie this morning as I remembered he was interested in digging into the details.

I also recognize that not all the data in the spreadsheet is in 'real time' given that the BC Assessment Authority (BCAA) generates reports annual. Certainly if we are able to supplement the BCAA data with new information that would be helpful.

I certainly recall the joint submission that Paul Petrie and I prepared. The maximum dwelling sizes as suggested were a reflection of the dialogue within the community back some 5 years ago and were in my view, a better alternative than the previous iterations of the LUB whereby maximum house size was defined by 25% lot coverage, setbacks and roof ridge height. As I pointed out in community meetings at the time, theoretically someone on a 1 acre site could build a house in the range of 11,000 SF or, 22,000 SF if it was built into the slope!

I attach for your reference other correspondence I submitted during the 2016 LUB review which I believes, remains relevant to the current discussions. Looking forward to furthering this discussion particularly as we now, finally, have a truer picture of the existing housing sizes on the island.

Regards,

Cameron

From: Donna Spalding <[REDACTED]>
Sent: June 1, 2021 4:39 PM
To: Cameron Thorn <cthorn@islandstrust.bc.ca>
Cc: Steve Wright <stwright@islandstrust.bc.ca>; Laura Patrick <lpatrik@islandstrust.bc.ca>
Subject: And to finish my thoughts - South Pender - Existing House Size by Lot Size

All - hit the wrong button - I wasn't quite finished The relevant section of the Thorn/Petrie proposal similar to what we have in place in the LUB, some lower, some higher.

All the best, Donna Spalding

Thorn-Petrie Recommendations

Table 1 Maximum building allowances						
Category	size of lot	maximum building allowance A	maximum dwelling allowance %	maximum dwelling size B	allowable cottage size C	accessory buildings allowance D
1	1 acre or less	5000 sq. ft	75%	3,750 sq. ft	N/A	1,250 sq. ft.
2	1.01 ac. to 1.99 ac.	6,000 sq. ft	70%	4,200 sq. ft	N/A	1,800 sq. ft.
3	2 ac. to 4.99 ac.	8,000 sq. ft.	60%	4,800 sq. ft	750 sq. ft	2,450 sq. ft
4	5 ac. to 9.99 ac.	10,000 sq. ft	60%	6,000 sq. ft	750 sq. ft	3,200 sq.ft
5	10 ac. or more	20,000 sq. ft	30%	6,000 sq ft (X2)	750 sq. ft. (x 2)	6,500 sq. ft

From: "dspalding" <[REDACTED]>
To: "Cameron Thorn" <cthorn@islandstrust.bc.ca>
Cc: "Steve Wright" <stwright@islandstrust.bc.ca>, "Laura Patrick" <lpatrick@islandstrust.bc.ca>
Sent: Tuesday, June 1, 2021 4:04:09 PM
Subject: Re: South Pender - Existing House Size by Lot Size

Cameron

Thank you this is great information. At a first glance I can see that opportunities exist for addition discussion.

For instance [REDACTED] is the Spalding property. Your spread sheet notes a house size at the maximum, however we are currently at our limit of two houses, one cottage and would be able to repair the second cottage which has fallen into disrepair. So no house in the 6,000 sq. ft. range. Additionally I am not sure, but I think some of this as it relates to vacant lots may be out of date - for instance I am pretty sure (according to Google maps) that there is a residence on 9986 Canal Road. With your permission I would like to share this with Gordie Duncan for further investigation because I think there are some lots on the information you were able to access that have already been built on - let me know how you feel about that. I have a large zoning map of the Island and we should be able to colour in the ones that are still vacant.

Even considering the information in your spread sheet we are talking about 34 parcels that are either vacant or have a building/trailer but no house (7 10acres).

I would agree that there seems to be no empirical data that could be referenced regarding maximum house sizes in the by-law - mostly historical and plain common sense, which of course is now subject to the ever increasing cost of building. Jon and I have some experience with the later, the cost for a 1500 sq.ft. house has increased \$30K in less than 2 months.

So what was used to come up with the current LUB numbers? It is amazing what we keep and/or remember - the attached is a copy of the presentation made by yourself and Paul Petrie in 2016 when we had the last discussion about house size, it seems the Trustees at the time pretty much took your information and here we are today.

Sent from my iPad

On May 31, 2021, at 11:22 PM, Cameron Thorn <cthorn@islandstrust.bc.ca> wrote:

Hi Donna,

As discussed, please see the attached spreadsheet showing the size of existing houses built on South Pender. As you are aware, under the current land use bylaw there is a maximum house size associated with each category of lot size.

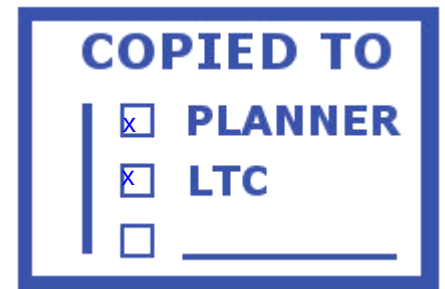
The spreadsheet provides the average, median and 70% percentile house size of existing homes under each of the lot size categories. The data demonstrates that even at the 70% percentile, the size of existing homes is smaller by a margin of 50% or more than what is permitted under the current land use bylaw. Clearly there is a very weak correlation between the size of existing homes and what is permitted under the land use bylaw.

A further discussion on this is certainly warranted, but one of the first questions that comes to mind is, what was the empirical data used to arrive at the maximum house size numbers in the bylaw.

Please let me know if you would like to 'walk through' the data in the spreadsheet.

Best,

Cameron



From: Steve Wright
Sent: Tuesday, May 11, 2021 10:41 AM
To: Geoff Henshaw
Cc: Cameron Thorn; Laura Patrick
Subject: RE: SPI Trust - Looking for Clarification on Farm Home size on ALR

Hi Geoff,

To date there has been no proposals or recommendations put forward regarding floor area for residences in any zone. We are currently collecting data for the community to consider whether limiting floor area should be discussed to meet the objectives of the OCP and object of the Trust for protecting the environment and character of the island. One of the reasons for having this discussion include Agriculture land is because of the trend to purchase agriculture land (due to lower land costs and property tax advantages), and build a large home without any intention of farming. That is a trend we hope to avoid on SP as it raises the value of farm land, making it unaffordable for farming in the future, and removes suitable land from farming activities.

As I said earlier, the figure of 2800 sq ft came from discussions with other ALR land owners about having a second residence on large properties. One suggestion was to allow 2 residences with a floor area of no more than the total allowable under the ALC of 5400 sq ft. This is only one suggestion. I have been talking to all the owners (except your mother who declined to meet with me), to get a sense of their needs to make their farms more viable by having reasonable housing for farm workers. This suggestion may still be under consideration by one or two of the owners but that will be talked about as soon as I can arrange a meeting with all owners when Covid restrictions and vaccinations allow.

If you or your mother wish to have their thoughts heard, please don't hesitate to contact either Cameron or myself.

s

From: Geoff Henshaw [REDACTED]
Sent: Tuesday, May 11, 2021 11:12 AM
To: Cameron Thorn; Steve Wright
Cc: Laura Patrick
Subject: SPI Trust - Looking for Clarification on Farm Home size on ALR

Hi Cameron and Steve, hope your weeks are off to a good start.

During last week's SPI Trust meeting I asked a question during the Town Hall & Questions section that I wanted to make sure I was clear on, my question was: what is the rationale of a trustee recommendation for a maximum size of 2800 sq. ft. farm home on ALR land?

What I heard back was: this is no longer a recommendation and that, this had been communicated to the majority of residents owning property in the ALR.

Do I have this correct?

Thank you everyone for your time on the Trust.
Geoff

From: Geoff Henshaw <[REDACTED]>
Date: May 15, 2021 at 5:10:57 PM PDT
To: Steve Wright <stwright@islandstrust.bc.ca>
Cc: Cameron Thorn <cameron@cameronthorn.com>, Laura Patrick <lpatrik@islandstrust.bc.ca>, Shelley Henshaw <[REDACTED]>
Subject: Re: SPI Trust - Looking for Clarification on Farm Home size on ALR

Hi Steve, thanks for this, to be as clear as possible:

- I referenced 3,000 sq ft as an example - we have no plans and are not clear what requirements would be. I do not expect that to be used as input in "deliberations".
- Happy to help, Pender is an important place for my family and I.

Thanks again.

Geoff

On Fri, 14 May 2021 at 19:21, Steve Wright <stwright@islandstrust.bc.ca> wrote:

Hi Geoff,

As I told you on the phone, we are in the preliminary stages of doing research and considering options that we can present to the community for their consideration to maintain the rural character of SP and to protect the environment and its resources, house size being one of them. Your comment that your family requires a 3,000 sq ft home is the type of input that we need in our deliberations. I hope your participation in this and other matters will continue.

S

From: Geoff Henshaw [mailto:[REDACTED]]
Sent: Friday, May 14, 2021 3:03 PM
To: Steve Wright
Cc: Cameron Thorn; Laura Patrick
Subject: Re: SPI Trust - Looking for Clarification on Farm Home size on ALR

Hi Steve, thank you for the call this afternoon.

As discussed - there is no proposal and no decisions have been made re house size on ALR land.

As I mentioned:

- Henshaws are into their fourth generation on South Pender (which we are grateful for), as a family we have always thought generationally and this is no exception - we are thinking about the impact this potential proposal could have on my kids (who are focused on STEM at the moment versus farming the land!).

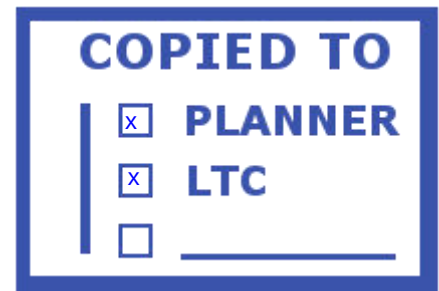
- Couple of points (which we could admittedly debate for hours!) which I mentioned on our call:
 - Large homes on farms is a trend we see in Richmond, Delta and into the Fraser Valley; this is driven by demographic and economic circumstances that may be different than the ones on Pender.
 - There may be other areas to look at that protect the character of the Island that are far less contentious and less impacted by macro influences (eg currency rates, lending costs, etc), these areas include - aggressive clear cutting of property (example to the west of your house) and fencing (example to the south of your house), there are many more.

Thanks again for your time on this Steve.

Have a great weekend.

Geoff

From: Cameron Thorn
Sent: Monday, May 31, 2021 11:23 PM
To: Donna Spalding
Cc: Steve Wright; Laura Patrick
Subject: South Pender - Existing House Size by Lot Size



Hi Donna,

As discussed, please see the attached spreadsheet showing the size of existing houses built on South Pender. As you are aware, under the current land use bylaw there is a maximum house size associated with each category of lot size.

The spreadsheet provides the average, median and 70% percentile house size of existing homes under each of the lot size categories. The data demonstrates that even at the 70% percentile, the size of existing homes is smaller by a margin of 50% or more than what is permitted under the current land use bylaw. Clearly there is a very weak correlation between the size of existing homes and what is permitted under the land use bylaw.

A further discussion on this is certainly warranted, but one of the first questions that comes to mind is, what was the empirical data used to arrive at the maximum house size numbers in the bylaw.

Please let me know if you would like to 'walk through' the data in the spreadsheet.

Best,

Cameron



From: Cameron Thorn
Sent: Tuesday, June 1, 2021 4:53 PM
To: Donna Spalding
Cc: Steve Wright; Laura Patrick
Subject: RE: And to finish my thoughts - South Pender - Existing House Size by Lot Size

Hi Donna,

Yes, certainly more discussion on house size is warranted. I actually sent the spreadsheet to Gordie this morning as I remembered he was interested in digging into the details.

I also recognize that not all the data in the spreadsheet is in 'real time' given that the BC Assessment Authority (BCAA) generates reports annual. Certainly if we are able to supplement the BCAA data with new information that would be helpful.

I certainly recall the joint submission that Paul Petrie and I prepared. The maximum dwelling sizes as suggested were a reflection of the dialogue within the community back some 5 years ago and were in my view, a better alternative than the previous iterations of the LUB whereby maximum house size was defined by 25% lot coverage, setbacks and roof ridge height. As I pointed out in community meetings at the time, theoretically someone on a 1 acre site could build a house in the range of 11,000 SF or, 22,000 SF if it was built into the slope!

I attach for your reference other correspondence I submitted during the 2016 LUB review which I believes, remains relevant to the current discussions. Looking forward to furthering this discussion particularly as we now, finally, have a truer picture of the existing housing sizes on the island.

Regards,

Cameron

From: Donna Spalding <[REDACTED]>
Sent: June 1, 2021 4:39 PM
To: Cameron Thorn <cthorn@islandstrust.bc.ca>
Cc: Steve Wright <stwright@islandstrust.bc.ca>; Laura Patrick <lpatrik@islandstrust.bc.ca>
Subject: And to finish my thoughts - South Pender - Existing House Size by Lot Size

All - hit the wrong button - I wasn't quite finished The relevant section of the Thorn/Petrie proposal similar to what we have in place in the LUB, some lower, some higher.

All the best, Donna Spalding

Thorn-Petrie Recommendations

Table 1 Maximum building allowances						
Category	size of lot	maximum building allowance A	maximum dwelling allowance %	maximum dwelling size B	allowable cottage size C	accessory buildings allowance D
1	1 acre or less	5000 sq. ft	75%	3,750 sq. ft	N/A	1,250 sq. ft.
2	1.01 ac. to 1.99 ac.	6,000 sq. ft	70%	4,200 sq. ft	N/A	1,800 sq. ft.
3	2 ac. to 4.99 ac.	8,000 sq. ft.	60%	4,800 sq. ft	750 sq. ft	2,450 sq. ft
4	5 ac. to 9.99 ac.	10,000 sq. ft	60%	6,000 sq. ft	750 sq. ft	3,200 sq.ft
5	10 ac. or more	20,000 sq. ft	30%	6,000 sq ft (X2)	750 sq. ft. (x 2)	6,500 sq. ft

From: "dspalding" <[REDACTED]>
To: "Cameron Thorn" <cthorn@islandstrust.bc.ca>
Cc: "Steve Wright" <stwright@islandstrust.bc.ca>, "Laura Patrick" <lpatrik@islandstrust.bc.ca>
Sent: Tuesday, June 1, 2021 4:04:09 PM
Subject: Re: South Pender - Existing House Size by Lot Size

Cameron

Thank you this is great information. At a first glance I can see that opportunities exist for addition discussion.

For instance [REDACTED] is the Spalding property. Your spread sheet notes a house size at the maximum, however we are currently at our limit of two houses, one cottage and would be able to repair the second cottage which has fallen into disrepair. So no house in the 6,000 sq. ft. range. Additionally I am not sure, but I think some of this as it relates to vacant lots may be out of date - for instance I am pretty sure (according to Google maps) that there is a residence on 9986 Canal Road. With your permission I would like to share this with Gordie Duncan for further investigation because I think there are some lots on the information you were able to access that have already been built on - let me know how you feel about that. I have a large zoning map of the Island and we should be able to colour in the ones that are still vacant.

Even considering the information in your spread sheet we are talking about 34 parcels that are either vacant or have a building/trailer but no house (7 10acres).

I would agree that there seems to be no empirical data that could be referenced regarding maximum house sizes in the by-law - mostly historical and plain common sense, which of course is now subject to the ever increasing cost of building. Jon and I have some experience with the later, the cost for a 1500 sq.ft. house has increased \$30K in less than 2 months.

So what was used to come up with the current LUB numbers? It is amazing what we keep and/or remember - the attached is a copy of the presentation made by yourself and Paul Petrie in 2016 when we had the last discussion about house size, it seems the Trustees at the time pretty much took your information and here we are today.

Sent from my iPad

On May 31, 2021, at 11:22 PM, Cameron Thorn <cthorn@islandstrust.bc.ca> wrote:

Hi Donna,

As discussed, please see the attached spreadsheet showing the size of existing houses built on South Pender. As you are aware, under the current land use bylaw there is a maximum house size associated with each category of lot size.

The spreadsheet provides the average, median and 70% percentile house size of existing homes under each of the lot size categories. The data demonstrates that even at the 70% percentile, the size of existing homes is smaller by a margin of 50% or more than what is permitted under the current land use bylaw. Clearly there is a very weak correlation between the size of existing homes and what is permitted under the land use bylaw.

A further discussion on this is certainly warranted, but one of the first questions that comes to mind is, what was the empirical data used to arrive at the maximum house size numbers in the bylaw.

Please let me know if you would like to 'walk through' the data in the spreadsheet.

Best,

Cameron

From: WENDY MUNROE [REDACTED]
Sent: Monday, October 11, 2021 11:41 AM
To: Steve Wright; Cameron Thorn; Laura Patrick
Subject: Public Meetings

Dear Trustees,

I am writing because my husband and I will be away and unable to attend the upcoming meetings regarding shoreline protection, maximum floor area and building design.

Shoreline protection is of the utmost importance. I would support whatever steps you think necessary to achieve shoreline preservation and protection.

I believe that moderation should be shown concerning maximum floor area and building design so that new construction will only allow homes suitable to a rural landscape, discouraging "monster homes".

Thank you for the work you are doing on our behalf.

Sincerely,

Wendy Munroe

[REDACTED]
South Pender Island

Sent from my iPad

From: Neville West [REDACTED]
Sent: Tuesday, October 26, 2021 12:06 PM
To: Laura Patrick
Subject: Fwd: Objection to zoning downgrades for property sq. Footage

Steve and other committee members,

We must object to the plan to downgrade property building sq. footage allowances. This flies in the face of reason as it discourages larger residences on large properties. It would in fact have downgraded our sq. footage allowance to half over a period of 4 years. This discourages seniors including granny accommodations for live in help as they age in place and definitely removes the incentive to make any allowances for younger worker home boarding opportunities which was very common in my young years and is a crunch point on the islands in terms of young worker accommodations.

We can understand the need for setbacks to be examined given rising sea levels but if you persist in downgrading sq ft allowances then you must expect those with larger acreages to start demanding the right to subdivide, which seems short sighted as it means more area being cleared to achieve the same sq.footage.

Islands Trust seems to be trying to go in the opposite direction to the rest of the world when it comes to accommodating more people without losing more natural area. See attached article.

Neville and Mariette West
[REDACTED]

S.P.I. <https://vancouver.sun.com/business/real-estate/new-zealand-housing-move-attracts-attention-in-b-c>

From: Connie Sears - Van Nutritionist - Nutritious Life [REDACTED]
Sent: Wednesday, October 27, 2021 11:01 AM
To: Steve Wright; Cameron Thorn; Laura Patrick
Cc: SouthInfo
Subject: Land Use Amendments Project, Maximum Floor Area for a Residence

Hello South Pender Trustees,

I hope my email finds you well and it's not too late to share our opinions about the proposed "Maximum Floor Area for a Residence" reduction/limitation for new buildings here on South Pender.

We disagree that we need additional limitations to be put into place and have no issues with the current allocation of square footage allowed. Though we were unable to attend the meeting on October 23rd, we wanted to share opinions here.

Please let me know if you need additional information and have a great week,

Connie Sears

Nutritious Life

Registered Holistic Nutritionist, R.H.N.

www.nutritiouslife.ca

604-600-3697

From: Connie Sears - Van Nutritionist - Nutritious Life [REDACTED]
Sent: Thursday, October 28, 2021 8:44 AM
To: Steve Wright
Cc: Cameron Thorn; Laura Patrick
Subject: Re: Land Use Amendments Project, Maximum Floor Area for a Residence

Hi Steve,

We see very little advantage to limiting the square footage allowance, alongside the amount of effort being put forth to put these restrictions in place. The difference between what is currently allowed and what is being proposed for the restriction isn't overly large. The tendency with an increase of restrictions, ends up in even more restrictions and we don't feel there is a need for more restrictions in this area.

This does not affect us personally in any way. We're happy with our property and structure size.

Hope that clarifies and thanks,
Connie

On Wed, Oct 27, 2021 at 5:33 PM Steve Wright <stwright@islandstrust.bc.ca> wrote:

Thanks Connie,

If you could expand on why you disagree or how it would affect you personally, it would help me better understand your position. If you have other questions, please don't hesitate to contact either trustee.

Cheers,

s

From: Connie Sears - Van Nutritionist - Nutritious Life [mailto:[REDACTED]]
Sent: Wednesday, October 27, 2021 11:01 AM
To: Steve Wright; Cameron Thorn; Laura Patrick
Cc: SouthInfo
Subject: Land Use Amendments Project, Maximum Floor Area for a Residence

Hello South Pender Trustees,

I hope my email finds you well and it's not too late to share our opinions about the proposed "Maximum Floor Area for a Residence" reduction/limitation for new buildings here on South Pender.

We disagree that we need additional limitations to be put into place and have no issues with the current allocation of square footage allowed. Though we were unable to attend the meeting on October 23rd, we wanted to share opinions here.

Please let me know if you need additional information and have a great week,

Connie Sears

Nutritious Life

Registered Holistic Nutritionist, R.H.N.

www.nutritiouslife.ca



From: gordie duncan <[REDACTED]>

Date: November 4, 2021 at 9:50:04 AM PDT

To: Laura Patrick <lpattick@islandstrust.bc.ca>, Steve Wright <stwright@islandstrust.bc.ca>, Cameron Thorn <cthorn@islandstrust.bc.ca>

Cc: Communications <Communications@islandstrust.bc.ca>

Subject: South Pender Bylaw Amendments - Bylaw 122

Dear Trustees

I wish to express my concerns about the reduction of Maximum Dwelling sizes as well as the Setbacks increases. The fact that many properties could become Legal Non-Conforming with the implementation of Proposed Bylaw 122 are unjustifiable in my opinion.

A review of the proposed Maximum Dwelling square footage sizes, along with the current Maximum Dwelling sizes contained in the LUB, show that there is no conformity relative to Maximum Dwelling size versus the Lot Size classification.

In the current LUB there is no correlation or acknowledgement that a lot size doubling receives a proportioned increase of Maximum Dwelling size. Indeed, larger lots have a proportionately smaller maximum Dwelling Size increase relative to smaller lots, even though the larger lots would have a significantly smaller maximum Lot Coverage % than the smaller lots.

I would like to propose an option for Maximum Dwelling Size and Setbacks, most of which was recommended in a Staff Report presented at the Sept. 24/21 LTC meeting (Agenda P.81)

"5. Adding a provision for built dwelling units to retain current floor area. An option for consideration is to include a provision in LUB that would permit existing dwelling units to retain its current floor area prior to the newly established maximum floor area. The provision can be drafted in a number of ways; for example:

*Option No. 1 – LUB would have two different maximum floor area **and setbacks** regulations: retain the current regulations for houses constructed prior to the LUB amendment bylaw, and a second set of more restrictive maximum floor area regulations for dwelling units constructed after the LUB amendment."*

This simple solution in my opinion makes eminent good sense if you (the Trustees) truly do not wish to "penalize" or render as few existing homes as possible to a Legal Non-Conforming status.

Benefits when applied to Maximum Dwelling size and Setbacks:

- No special zoning required to accommodate dwellings that would become Legal Non-Conforming, as proposed
- No expense required to have Staff audit all properties for Max Dwelling ft2 compliance under the new Dwelling Floor Area restrictions that would then be included in the proposed new Zoning Classification
- Approximately 80% of the 270 (OCP) developed lots have established dwellings which were built under the existing regulations and therefore would not be subject to potential non-Conformity
- New builds and or rebuilds would have to meet the new maximums

- Additions or expansions of existing dwellings could be limited to the new maximums for both dwelling size and setback
- Concerns about issues around Legal Non-Conformity such as rebuilding (after a house fire), insurance, and mortgages to name a few would be kept to a minimum or non-existent
- With my proposed changes it is likely that there would be 1 or 2 homes left non-Conforming
- A number of members of the community at a recent Community Meeting suggested they would endorse this type of proposal

The second part of my proposal would be to create uniformity and fairness in **Table 1 – Rural Residential Maximum Floor Areas.**

Two Steps to achieving uniformity and equality:

- Change **Current LUB Max Dwelling** size on the larger Lot Size categories.
- Those changes would reflect a 700 ft2 Maximum Dwelling size increase applied equally across every Lot Size category change (**see red in the chart**)
- The 700 ft2 Maximum Dwelling size was obtained from the difference between Category 1 (less than 1 acre) and Category 2 (1 to 2 acres) which includes the largest majority of homes
- Finally, a **25%** Maximum dwelling size reduction could be applied fairly and equally across all lot categories to achieve nearly what is proposed in Bylaw 122

Revised Table 1 – Rural Residential Maximum Floor Areas.

	LUB	LUB	LUB	LUB
	Current ft2	Current ft2	Current ft2	Proposed ft2
Lot Size (Acres)	Lot Total ft2	Max Dwelling	Change	Max Dwelling
<1	5000	3800	3800	2850
1->2	6000	4500	4500	3375
2->4	8000	5600	5200	3900
4>10	9000	5845	5900	4425
>10	20000	6030	6600	4950

I urge you to adopt this Staff Recommended option including my suggested additions, as it will address your concerns about future Mega developers invading South Pender, but more importantly it recognizes and respects rights of vast majority of property owners who have developed their properties under the present bylaws. Please do not hesitate to contact me with any questions or concerns.

Gordie Duncan

South Pender Island

From: Laura Patrick
Sent: Sunday, November 28, 2021 8:15 PM
To: Kim Stockdill
Subject: Fwd: Comments on Draft Trust Policy and Building size limits

Sent from my iPhone

Begin forwarded message:

From: Steve Wright <stwright@islandstrust.bc.ca>
Date: November 28, 2021 at 7:43:44 PM PST
To: Cameron Thorn <cthorn@islandstrust.bc.ca>, Dag Falck
<[REDACTED]>
Cc: Laura Patrick <lpattick@islandstrust.bc.ca>, Deb Morrison
<dmorrison@islandstrust.bc.ca>, Benjamin McConchie
<bemcconchie@islandstrust.bc.ca>
Subject: RE: Comments on Draft Trust Policy and Building size limits

Hi Dag,

This proposal has been before the community for more than a year. At the beginning and in consequent meetings, the rationality for considering further restrictions was explained from the perspectives of the mandate, the Policy Statement, and the South Pender OCP. I regret you are coming into this conversation at such a late date and missed this information. I will try to find some of my notes to send to you and I regret the minutes of the meetings are scarce in details. You can view the recorded meetings by going to the SP page on the Trust website: www.islandstrust.bc.ca and can perhaps catch up.

Thanks for your note,

steve

From: Cameron Thorn
Sent: Sunday, November 28, 2021 1:28 PM
To: Dag Falck
Cc: Steve Wright; Laura Patrick; Deb Morrison; Benjamin McConchie
Subject: Re: Comments on Draft Trust Policy and Building size limits

Hi Dag,

Thank you for sharing your comments and suggestions on the content and layout/format of draft Trust Policy Statement.

I will certainly take your comments into consideration.

Best,

Cameron Thorn
Trustee, South Pender Island

On Nov 28, 2021, at 11:54 AM, Dag Falck <[REDACTED]> wrote:

Dear South Pender Trustees

Cameron Thorn, Steve Wright, and Laura Patrick,

I'm attaching my comments on the Trust Policy Draft, and hope you can take my views into consideration when debating the Trust Policy Draft with all the Trustees. It took me many days of study of the Draft Policy to develop my comments.

Regarding the proposed new restrictions to building sizes for South Pender:

Sorry I wasn't free to attend the meeting at the firehall on this, but wanted to let you know my views on the issue.

I'm concerned about adding more restrictions on building sizes, and that this comes so soon after further restrictions were already implemented. I find it hard to reconcile the mandates for the Trust, and the proposed bylaw changes. What exactly is the relationship between this proposal and the mandates for the Trust?

I'd like it if every proposal started with a layout of exactly which mandates are addressed, and some specifics on how the proposal addresses those mandates, otherwise I find it hard to engage in a positive manner, and my first instinct is to say no.

If I can understand better the issues, (presumably some kind of protection of environment), and if the proposed restriction to

building sizes makes sense in that context, I'd be in a better position to comment.

Hope some of this information is available and able to be sent to me, so I can weigh in on this.

Thanks for your work as trustees, it's important that we address issues that affect us on the Southern Gulf Islands.

Kind regards,
Dag

[REDACTED]
[REDACTED]

From: Neville West <[REDACTED]>

Sent: Tuesday, February 1, 2022 11:54 PM

To: SouthInfo <SouthInfo@islandstrust.bc.ca>; Mariette West <mariette.west@yahoo.ca>

Subject: Equity theft.. please replace earlier error transmission

Sq footage reduction question: How do you justify stealing back such a huge portion of sq footage building allowances? If this proposal is adopted it will in my case a 50% reduction in the space of 4 years. I paid taxes on the 'equity' for 20 years. It is not just my equity but equity that belongs to the community. If you want to steal that equity you should be prepared to refund us half our 20 years of property tax. This proposal reduces my allowable build for 3.4 acres to less than allowed in a 33 x 120 ft lot in Vancouver. This is nothing short of outrageous. We do not own such equity. It owns us. I paid taxes on that equity. It belongs to the community. You claim to serve us. This is a very odd way of showing respect for the community you claim to serve.

Neville and Mariette West

[REDACTED]

S.P.I.

From: Cameron Thorn <cthorn@islandstrust.bc.ca>

Sent: Thursday, February 3, 2022 6:13 AM

To: gordie duncan <[REDACTED]>

Cc: Steve Wright <stwright@islandstrust.bc.ca>; Laura Patrick <lpatrick@islandstrust.bc.ca>; SouthInfo <SouthInfo@islandstrust.bc.ca>

Subject: Re: Proposed Bylaw 122 Changes

Hi Gordie,

Thank you for the ideas/approaches you have presented in your tables.

I also appreciate your comments on non-conformity that may result from setback improvements, I look forward to talking more on that tomorrow.

Best,

Cameron Thorn

Trustee, South Pender Island

On Feb 2, 2022, at 4:44 PM, Steve Wright <stwright@islandstrust.bc.ca> wrote:

Thanks Gordie,

I have identified some of the issues you raise and as a result will not be supporting the proposed bylaw as it is written. I still support a decrease of the maximum floor area of residences and will provide my reasons at our Friday meeting. I also believe that some alteration of setbacks is necessary to maintain the character of the island. It is still my intention to ensure existing property owners will not be unreasonably impacted but have yet to receive any verifiable, negative implications of a legal nonconforming designation. Be that as it may, both Cameron and I have indicated we will include options for avoiding that scenario.

I'll work my way through your charts and see where I can support your findings.

Cheers

s

From: gordie duncan <[REDACTED]>

Sent: Wednesday, February 2, 2022 3:29 PM

To: SouthInfo; Cameron Thorn; Steve Wright; Laura Patrick

Subject: Proposed Bylaw 122 Changes

RE: Land Use Bylaw Amendments Project – Proposed Bylaw 122 Amendment (SP-LTC_2022-02-04_AGD_PKG_FINAL)

Trustees Thorn, Wright and Patrick

To begin with I will acknowledge that there is fair amount of data and figures in my letter, but I believe it is necessary to demonstrate to you and to aid you in drafting Proposed Bylaw 122 which is not only logical but also fair and equitable.

Maximum Dwelling Size

Further to your decision to proceed with a “second set of regulations for setback and floor size for new construction, while maintaining the existing regulations for existing structures, and also amend the setback from the highwater mark for new construction to 15 m” (SP-2021-053), I would like to provide additional information for your consideration.

A review of the spreadsheet shows further support for amending the Current **Bylaw Table 1** to create a logical and easy to understand table, not only for the current dwellings but it also forms the basis for creating the **New Table** for new construction.

A	B	C	D	DD	E	EE	F	FF	G	
Current LUB	LUB	LUB	LUB	LUB	Proposed	Proposed	Option 1	Option 2	122 Proposed	122 P
Table 1 Lot Area	Table 1 ft2	Table 1 ft2	Table 1 Max Dwelling	Table 1 Max Dwelling	Changes to Table 1 Max ft2	Changes to Table 1 Max %	Proposed Dwelling ft2 for 122	Proposed Dwelling ft2 for 122	Max Dwelling ft2	M Dwelling
Lot Category Size (Acres)	Total Floor Area	Max Dwelling Size	Size Differential/ Lot Category ft2	Size Differential/ Lot Category %	Increase Max Dwelling Size / Lot Category	Increase Max Dwelling Size / Lot Category	Max Dwelling ft2 Reduction by %	Max Dwelling ft2 Reduction by %	House Ft2 Reduction in ft2	Hou Redu
			700				25%	20%		
Less than 1 Acre	5000	3800	3800		3800		2850	3040	2750	2
1 to 2 Acres	6000	4500	+700	18%	4500	18%	3375	3600	3750	1
2 to 4 Acres	8000	5600	+1100	24%	5200	16%	3900	4160	4000	2
4 to 10 Acres	9000	5845	+245	4%	5900	13%	4425	4720	4500	2
Greater than 10 Acres	20000	6030	+185	3%	6600	12%	4950	5280	5000	1

- Column C shows the current **Table 1 – Max Dwelling Size**, Column D & DD shows the illogical Dwelling Size increases as the **Lot Category Size (A)** increases in size.
- Proposed Bylaw 122 as seen in Column G & H will reflect further those illogical Dwelling Size changes if an unchanged **Table 1** is used. For example, why is there a **1000 ft2** increase between <1 acre and 1<>2 acre, yet only **250 ft2** increase from 1<>2 acre and 2<>4 acre (G)??
- As proposed in my letter dated Nov. 4, 2021, applying a **700** square foot (ft2) Dwelling Size

increase for each Lot Area Size increase as seen in Column E & EE not only provides a logical progression for Dwelling Size increase but is fair and equitable for all property owners regardless of their Lot\Size Category

- Providing an equitable **25%** reduction to the Proposed Changed Table 1 then creates a Max Dwelling Size reduction for the **New Table 2** (New Construction) as reflected in Column F which is very similar to **Proposed 122 (G)**.
- Upon reflection and further investigation, it appears to me that a **20%** reduction to the Proposed Changed Table 1, Column FF, would be just as realistic and more than sufficient to meet your objective of smaller future homes on South Pender, yet still be only an average of 4.4% higher than **Proposed 122**.

Setbacks

I have created a model which shows what a significant impact of increased Setbacks combined with various Lot Profiles can have on a property owners' ability to build or to utilize their lot.

“2.10 By adding the following new subsection (P.70 Agenda)” **Side Setbacks** for all properties will increase from **10ft** to **20ft** (Row 2 & 4).

“3.3 Siting and Setback Regulations – Proposed 122” states that the setback for the Highwater Mark of waterfront properties be amended from the current **25 ft** to **50 ft** for new construction.

The Shoreline Review Project is also proposing **50ft** setbacks (Row 3) in the form of a Development Permit Area (DPA) for all waterfront properties.

The **Lot Coverage** expressed in % of the property that is lost due to Setbacks is shown. The model represents a **1-acre** lot with three different Lot Profiles. Current Setbacks (Row 1)

EX: Increasing the side setbacks to **20ft** increases the % **Setback Lot Coverage** for a **Narrow Frontage** lot to **40%**. (2/A).

Further a **Wide Frontage** Lot with **20ft** Side and **50ft** Front setbacks the % **Setback Lot Coverage** increases to **60%** (4/C) leaving only 40% of the lot available for New Construction. For existing **Developed WF Properties** with the New Side Setbacks at (**20ft**) and/or the new proposed Shoreline Highwater mark setbacks at (**50ft**), again **60%**.

		LOT Profile		
		140'	208'	311'
		3	2	1
		1	0	140'
		1	9	
		Setback LOT Coverage		
	SetBacks	A	B	C
	S/F/R	%	%	%
1	10/25/25	28	31	40
2	20/25/25	40	39	44
3	10/50/25	35	42	57
4	20/50/25	46	48	60

- In this model, **% Setback Lot Coverage** increases from an average of **33%** (Row 1) to an average of **41%**. (Row 2) by increasing Side Setbacks to **20ft**.
- When Side Setbacks are increased to **20ft** (Row 4) and the Front Setback is increased to **50ft**, the average **% Setback Lot Coverage** increases to **51%**.
- Keep in mind that while the % of Lot Coverage goes down with larger lots, it also goes up for smaller lots. I believe this model is representative as there are approximately 155 lots under 2 acres out of a total of 271 properties which would reflect these types of percentages increases.
- The Shoreline Review Project proposes **50ft** Setbacks from the high watermark for not just new development but all existing Waterfront Properties as well. This would affect approximately 140 Waterfront Properties, many if not most, of which are under 2 acres in size.

Your motion (SP-2021-053) at the Nov 5, 2021 Regular Meeting was “second set of regulations for setback and floor size for new construction, while maintaining the existing regulations for

existing structures, and also amend the setback from the highwater mark for new construction to 15 m". Why is this not reflected in Proposed Bylaw 122 with respect to setbacks?

What possible justification is there for even considering the potential of rendering some of the nearly 80% (approximately 215/271 properties) of "Legal Dwellings" to Legal Non-Conforming status?

What logic says that it would be okay to build an accessory building in excess of 1000ft² at the 10ft setback, yet a dwelling or cottage must be at 20ft setback?

In summary I believe that the setbacks should remain unchanged for Developed Properties and for New Construction or Shoreline, as I think that there has been few if any demonstrable problems to date.

At the very least Side Setbacks for Developed Properties (Legal Dwellings) should remain at **10ft** (current) with perhaps 20ft Side Setbacks for "New Construction". This would then be consistent with what you have proposed for existing Maximum Dwelling Size and Waterfront Highwater Mark setbacks.

Given the various lot profiles and the uneven terrain, some lots could potentially be rendered undevelopable or very expensive to develop.



Example of Lot Profiles

I would be glad to answer any questions or provide further details supporting my points and thank you in advance for considering them and making the appropriate changes accordingly.

Gordie Duncan



Enclosure: Word Document of the Email content

From: Dennis [REDACTED]
Sent: Thursday, February 3, 2022 7:22 PM
To: Steve Wright; Cameron Thorn; Laura Patrick
Subject: Land Use Bylaw Amendments - Proposed Bylaw 122

South Pender Island Local Trust Committee,

I have concerns about Proposed Bylaw 122.

You will recall that during the last term of trustees, we underwent a very major and controversial change to dwelling sizes and lot coverage. The changes that were subsequently adopted closely reflect the numbers that Cameron Thorn and Paul Petrie proposed at that time. I am questioning what has changed to require a further reduction of dwelling sizes. I appreciate that a provision is proposed to ensure current dwellings in the rural residential zones will not be affected by the proposed bylaw. However, I still would like an explanation of the need for such a change.

I do not support the proposed changes to the setbacks. While provision is being proposed to ensure existing dwellings and cottages constructed on the waterfront will not be affected by increasing the setback from the sea from 25 ft to 50 ft, no similar provision has been provided for the proposed change to side setbacks. It is quite possible that existing dwellings or cottages may be situated according to the 10 ft setback. Have you done an assessment to see how many dwellings and cottages would be affected by your new proposal? If you are proposing to ensure that the change to the setback from the sea will not affect those who have already built, why is this same provision not being provided for other proposed setback changes?

In terms of lot coverage, besides setbacks, there are other restrictions that a property owner may have to address including:

- Restrictive covenants,
- Separation of well from septic field requirements, and
- Topography.

The cumulation of these restrictions may drastically reduce the area that an owner of an undeveloped lot may have available for construction.

Also, it is my understanding that most lots on South Pender have already been developed. If the proposed bylaw will ensure that existing dwellings and cottages will not be affected by it, it seems unwarranted to undertake this change for approximately 20% of the lots that have not yet been developed.

Please add my email to the public correspondence on this issue. Thank you.

Jane Perch

From: gordie duncan <[REDACTED]>

Sent: Wednesday, March 2, 2022 4:20 PM

To: Cameron Thorn <cthorn@islandstrust.bc.ca>; Steve Wright <stwright@islandstrust.bc.ca>; Laura Patrick <lpatrik@islandstrust.bc.ca>; SouthInfo <SouthInfo@islandstrust.bc.ca>

Subject: Draft Bylaw 122

Trustees Thorn, Wright and Patrick

RE: Draft Bylaw 122 Dwelling Size and Setbacks

I support the Proposed Draft Bylaw 122 "Siting and Size 5.1(5)" as written on Agenda Pages 24 & 25 in the "Blackline" version with respect to Floor Areas and Setbacks for existing developed properties.

As written this simple solution respects all legally developed properties, yet addresses your concerns about future development. This solution also precludes the need for creating a Schedule to list a large number of properties which would become Legal Non-Conforming or the need for those property owners to prove and register their property before a certain future date if one of the more restrictive Dwelling Size tables and the increased Setbacks were to be chosen to replace the current table and setbacks.

While Table 1 wouldn't be my first choice for new development (After Date) it is acceptable when combined with the above. Table 2 should not even be considered.

I do however have some confusion and concerns about Agenda Item 2.5 (3.3(3) Page 19) changes, but I trust that those concerns will be addressed at the CIM.

Sincerely

Gordie Duncan

South Pender Island

Sent from [Mail](#) for Windows

From: Dennis [REDACTED]
Sent: Thursday, March 3, 2022 6:41 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Proposed Bylaw 122

South Pender Island Local Trust Committee,

I am very confused by proposed Bylaw 122 changes to setbacks with respect to front setbacks. It appears that the intent is to change the front setback from 7.6 metres (25 ft) to 15 metres (50ft) per 2.4 & 2.5 of Draft Bylaw 122. You have noted that this would result in changes to section 3.3(3) of the Land Use Bylaw yet there is no change to section 5.1.8(a). Could you please clarify the intent.

In addition, specific exemptions to the current front setback have been removed without any explanation or discussion.

The highlighted provisions noted below are currently permitted within the front setback in our current Land Use Bylaw. No provision has been made to ensure these types of construction are exempted from proposed Bylaw 122 as has been done for buildings and structures. That will mean that any owner who has existing stairs, wharf, dock, etc. will become non-conforming.

3.3(3) Buildings or other structures, except a fence, pump/utility house, stairway, wharf and dock ramps or their footings, shall not be sited within 7.6 metres (25 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "structures".

2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly:

"Despite Subsection 3.3(3), buildings or structures legally constructed prior to [insert date of Bylaw No. 122 adoption] shall not be sited within 7.6 metres (25 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "structures"."

I find the above 2.5 totally confusing. Could you provide a blackline version of the bylaw with all proposed changes highlighted in red as you have done for other proposed changes?

I understood that the trustees had stated that all existing construction would not be affected. Also, I understood that there was to be a foreshore review which has not yet occurred. I think that any change to the front setback is premature and requires further discussion with the community in conjunction with the foreshore review.

Jane Perch

From: Jane Perch [REDACTED]
Sent: Thursday, March 17, 2022 2:46 PM
To: Steve Wright
Cc: Cameron Thorn; Laura Patrick
Subject: RE: Floor area calculation

Hi Steve,

Thanks for considering my comments.

I still believe that unfinished areas such as crawl spaces mechanical rooms should not be calculated in the floor area. Increasing the height exemption from 1.5 m to 1.7 m does little to address the problem particularly for mechanical rooms which require adequate height not only for equipment but also the ability to access and service equipment. As an example, our electrical panel is over 1.7 m as is our hot water tank and furnace.

As for carports, I do not think they are exempt from the floor area according to the definition of a building which I have noted below.

"building" means a roofed structure, wholly or partially enclosed by walls, used or intended to be used for supporting or sheltering any use or occupancy.

"floor area" means the sum of the horizontal areas of all storeys in a building, measured to the outer surface of the exterior walls, exclusive of any floor area occupied by a cistern used for the storage of water for domestic use or fire protection, and exclusive of all areas of a storey having a floor and a ceiling less than 1.5 metres apart

Thanks for giving these issues more consideration.

Jane

From: Steve Wright [<mailto:stwright@islandstrust.bc.ca>]
Sent: March-15-22 7:05 PM
To: Jane Perch
Subject: Floor area calculation

Hi Jane,

In listening to the CIM, I noted your points in considering floor area calculation which I agree should be considered. I have mentioned to Cameron that crawl spaces/mechanical rooms should be exempt from the calculation should their height be restrictive. I've suggested anything below 1.7 M (5.5 ft) should not be included.

Carports would be exempt unless or until they were enclosed. Garages are more problematic because they can be converted to living space without being permitted. That being said, if there was some way to have a garage designated as an "attached accessory building" then I think that might work to keep it out of the total floor area of the residence. We'll give this more thought.

steve

From: Cameron Thorn <cthorn@islandstrust.bc.ca>
Sent: Friday, March 18, 2022 7:43 PM
To: Jane Perch <[REDACTED]>
Cc: South Pender Island Local Trust Committee
<SouthPenderIslandLocalTrustCommittee@islandstrust.bc.ca>
Subject: Re: Proposed Bylaw 122

Hi Jane,

Thanks for your comments on aspects of proposed bylaw 122. I have tried to be consistently clear that existing structures, including fences, stairs, wharfs and docks that have been legally constructed within the foreshore setback area should not be rendered legal non-conforming should bylaw 122 be adopted.

During discussions on bylaw 122 at the March 4 LTC I also strongly expressed my intent that appropriate language in the LUB needs to be drafted and/or a schedule to the LUB needs to be created to ensure that proposed changes to setbacks for dwellings and changes to maximum house size do not result in legal non-conforming status for dwellings with lesser setbacks or, that are larger in size than the proposed maximums.

Page 15 of the March 4 LTC package suggest language that could address legal non-conformity but, I'm not convinced the proposed wording achieves the intent.

Should bylaw 122 be adopted I want to see clear, understandable language in the LUB confirm that:

- Existing dwellings that are larger than the maximum house size for the applicable Lot Area can be rebuilt to their existing size.
- As a caveat this also means that existing dwellings within each category of Lot Area would NOT be entitled to expand or rebuild under the previous maximum house sizes that were applicable prior to the adoption of bylaw 122. For example, in the "less than 1 acre" category if an existing house is 3,000 SF, it could be rebuilt to 3,000 SF despite the new maximum of 2,500 SF, however it could not be expanded or rebuilt to 3,800 SF which is the current maximum house size for properties less than 1 acre.
- Existing dwellings legally sited with respect to existing setbacks can be rebuilt as currently sited despite any changes to setbacks.

In other words, what is currently, legally built with respect to size or setbacks needs to be recognized as legally conforming. This would include those dwellings where a garage is attached to the dwelling.

I continue to believe the cleanest, clearest and most air-tight approach would be the creation of a schedule to the bylaw that would specifically recognize and confirm the legal conformity of dwellings on properties that might otherwise be legal non-conforming. The table would identify the property by its legal description and specifically note the size and or siting of a dwelling and that such dwelling is recognized under the LUB.

There is at least 1 dwelling and perhaps more that are presently legal non-conforming under the existing LUB. The intent would be to also include such dwellings under the proposed table.

As I proposed during the last LTC meeting those property owners who were concerned about the implications of legal non-conformity would have an extended period of time (perhaps 12 months) to provide verifiable details of their dwelling (square footage or setbacks) to the Islands Trust such that their property could be included in the schedule to the bylaw.

Best,

Cameron Thorn
Trustee, South Pender Island

From: Dennis <[REDACTED]>
Sent: Thursday, March 3, 2022 6:41 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Proposed Bylaw 122

South Pender Island Local Trust Committee,

I am very confused by proposed Bylaw 122 changes to setbacks with respect to front setbacks. It appears that the intent is to change the front setback from 7.6 metres (25 ft) to 15 metres (50ft) per 2.4 & 2.5 of Draft Bylaw 122. You have noted that this would result in changes to section 3.3(3) of the Land Use Bylaw yet there is no change to section 5.1.8(a). Could you please clarify the intent.

In addition, specific exemptions to the current front setback have been removed without any explanation or discussion.

The highlighted provisions noted below are currently permitted within the front setback in our current Land Use Bylaw. No provision has been made to ensure these types of construction are exempted from proposed Bylaw 122 as has been done for buildings and structures. That will mean that any owner who has existing stairs, wharf, dock, etc. will become non-conforming.

3.3(3) Buildings or other structures, except a fence, pump/utility house, stairway, wharf and dock ramps or their footings, shall not be sited within 7.6 metres (25 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "structures".

2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly:

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natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "structures".

I find the above 2.5 totally confusing. Could you provide a blackline version of the bylaw with all proposed changes highlighted in red as you have done for other proposed changes?

I understood that the trustees had stated that all existing construction would not be affected. Also, I understood that there was to be a foreshore review which has not yet occurred. I think that any change to the front setback is premature and requires further discussion with the community in conjunction with the foreshore review.

Jane Perch

From: Cameron Thorn <cthorn@islandstrust.bc.ca>

Sent: Tuesday, April 5, 2022 8:01 PM

To: Jane Perch <[REDACTED]>

Cc: Steve Wright <stwright@islandstrust.bc.ca>; Laura Patrick <lpatrik@islandstrust.bc.ca>; South Pender Planner <southpenderplanner@islandstrust.bc.ca>

Subject: Proposed Bylaw 122

Hi Jane,

I see, and appreciate that Steve has also responded to your email. I trust that you received my March 18, 2022 email in which I responded to many of the same concerns you raised today.

Again, my firm intent is to ensure that structures - including stairs or docks within a setback - that were constructed in compliance with the applicable LUB at the time of construction, are permitted to be maintained, repaired and replaced within their footprint in the future should Bylaw 122 be adopted.

Notwithstanding that many properties across the province are "legal non conforming" as a result of zoning changes made by the applicable local government, we have proposed specific language within an amended LUB that would provide "legal conformity" to dwellings previously and legally constructed.

You are of course free to disagree with me on policy proposals or approaches land use planning, however I am confident that we have communicated with the community on multiple occasions on the topics of dwelling size and setbacks, and, the rationale for our proposals.

You note there is "no need to rush these proposals". I agree. We have been discussing these topics for many, many months now.

Cameron Thorn
Trustee, South Pender Island

On Apr 5, 2022, at 12:39 PM, Jane Perch <[REDACTED]> wrote:

South Pender Island Local Trust Committee,

I have been following the various proposals relating to again reducing maximum dwelling sizes despite the controversial changes that resulted in substantial reductions in maximum dwelling sizes passed during the term of our last trustees. It has been very confusing and hard to understand what the various proposals are based on. I did write and participate in a portion of the last LTC meeting in March and have now watched the recording of that meeting. It was very difficult to follow and understand the basis for all the various proposals contained in the Staff Report.

In addition to maximum dwelling sizes, I understand that Bylaw 122 also proposes changes to setbacks. I had asked for a blackline version of these particular changes as I found the information in the Staff Report very difficult to understand. I still have not received it. I did ask in writing about the changes to setbacks as some of the uses currently permitted in our LUB in the setback from the sea such as stairs, fences, wharfs and docks are no longer provided for. Is that an error or is that the intent? I did not see

this explained as I watched the meeting so I still am unclear as to what is being proposed. If it is an error, how will those of us who have such structures/construction be protected as not all these constructions required permits?

After listening to the recording of the last LTC meeting I understand First Reading was given to yet another version of maximum dwelling sizes which has not previously been presented to our community. In addition, a reorganization of the lot size categories was also added and approved. I also understand that a motion was passed at that meeting to proceed with a Community Information Meeting and Public Hearing on May 6th, 2022.

As these are substantial changes, I am asking that you notify all property owners by mail of the newest proposed changes to our Land Use Bylaw. It is important that property owners have ample time to review all proposed changes and reflect on the impact they may have on them. I am also asking that the May meeting not include a Public Hearing in order that you have time to give thought to input you may receive at the Community Information Meeting. It is also important that you use the community meeting to take the time to explain the measures you are proposing, the reasons for these changes and what you have based your changes and data on. Including a Public Hearing following a Community Information Meeting gives the impression that you have already made up your minds to proceed regardless of what the community may have to say. There must be an open and transparent process.

I am also concerned that such major changes relating to Bylaw 122 were given first reading at the last LTC meeting without Trustee Wright being in attendance. While there may be differing views and disagreement between trustees, these matters need to be discussed at an LTC meeting with our elected representatives present so that the community has opportunity to listen to and understand all points of view. There is no need to rush this process. Why not wait until both our elected trustees are available, listen to public input and then make the motions on whether or not to proceed with these substantial changes? You must know that trust in the Trust is at its lowest point and these types of actions only add fuel to the fire.

Jane Perch

LUB Amendments - Charter v1

South Pender Island Local Trust Committee

Date: May 7, 2021

Purpose: To consider minor amendments to the South Pender Land Use Bylaw (LUB).

Background: The South Pender Local Trust Committee identified a number of topics to consider for amendments to the LUB. The project would review options for amending the maximum floor area regulations, setback review, agricultural land regulations (in accordance with ALC Policy L-26), shipping containers, and other minor and technical amendments.

Objectives

To review, amend or add new regulations to the LUB.

In Scope

- Consider the following amendments to the LUB:
 - Maximum floor area;
 - Setback review
 - Agricultural regulations;
 - Shipping containers;
 - Minor and technical amendments.
- Providing recommendations to LTC
- Drafting of bylaw amendments
- Public and stakeholder engagement
- Bylaw referrals
- Bylaw amendment process

Out of Scope

- Substantive review of the LUB.
- OCP amendments (other than consequential)
- Other regulatory or policy amendments

Workplan Overview

Deliverable/Milestone	Date
Project charter endorsed	May 2021
Staff research and analysis of options for the LTC's consideration	July 2021
LTC review of background material and consideration of public consultation options	Sept 2021
Public consultation (CIM) and early referrals	Fall 2021
LTC review of consultation results and consideration of amendment options, direction to draft bylaw and legal review	Nov 2021
First reading	Jan/Feb 2022
Community Information Meeting/Public Hearing	March 2022
Further bylaw readings, EC referral	Summer 2022

Project Team

Kim Stockdill	Project Manager
Maple Hung	Admin Support
Jas Chonk	Admin Support
Jackie O'Neil	GIS/Mapping Support
RPM Approval: Robert Kojima Date: Apr 29, 2021	LTC Endorsement: Resolution #:SP-2021-042 Date: May 7, 2021

Budget

Budget Sources:		
Fiscal	Item	Cost
2021-22	Consultation & Mail-out	\$1500
2021-22	Legal Review	\$1000
2021-22	Public Hearing	\$1000
2021-22	Contingency	\$500
	Total	\$4000

Legal Non-Conforming FAQ

Will my house be “grandfathered” if the Land Use Bylaw is amended to establish a maximum floor area?

Yes, if a Local Trust Committee (LTC) amends the Land Use Bylaw (LUB) to establish a maximum floor area for dwellings a dwelling that was lawfully constructed before the date of the adoption of the bylaw, and which would exceed the new maximum floor area, would be considered legally non-conforming.

Section 529 of the *Local Government Act* (LGA) provides legal non-conforming protection for buildings or structures that exceed new siting, size or dimensions regulations. That section states that buildings or structures may be maintained, extended or altered, but only to the extent that the repair, extension or alteration involves no further contravention of the bylaw. In other words, you could renovate, maintain or repair your non-conforming house, but you could not put on an addition that would increase the floor area.

What if my house burns down more than 75%, is my house still grandfathered?

The reference to a building that is destroyed to 75% or more of its value is from Section 532 of the Local Government Act, and applies only to situations where there is a **non-conforming use** (for example a residential use in an area only zoned for commercial use). This section would not apply to a dwelling that has been legally constructed but becomes non-conforming as the result of changes to setback or floor area regulations.

If a dwelling was damaged beyond 75%, it may still be possible to be repaired, provided the repair would not increase the floor area of the house. The words “repair” and “maintain” are not defined or limited by the LGA and so what would be considered “repair” would include anything that could commonly and reasonably be considered repairs.

What if I need to build a new house?

A new dwelling would have to meet the current regulations in the Land Use Bylaw. However, an owner could apply for a Development Variance Permit or make an application to the Board of Variance if they felt that they needed a larger floor area. See links below for information regarding variance applications.

What if I sell my house, and the house size is greater than the maximum floor area?

Legal non-conforming protection is not limited to a specific owner, it “runs with the land” (or property).

Do I need to apply for legal non-conforming status?

No, it is legal protection that exists because of provincial legislation. But if an owner needed to repair or maintain a dwelling, it is the responsibility of the owner to demonstrate that it is legal non-conforming. A building permit or other documentation could provide proof of non-conforming status.

Local Government Act: https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/r15001_00
DVP or BOV Application Forms & Guides: <https://islandstrust.bc.ca/island-planning/land-use-application-guides-and-forms/>