



South Pender Island Local Trust Committee Regular Meeting Agenda

Date: July 23, 2022
Time: 11:00 am
Location: Anglican Parish Hall
4703 Canal Road, RR#1, North Pender Island, BC

Pages

- | | | |
|------|---|---------------------|
| 1. | CALL TO ORDER | 11:00 AM - 11:00 AM |
| 2. | APPROVAL OF AGENDA | 11:00 AM - 11:05 AM |
| 3. | TRUSTEE REPORT | 11:05 AM - 11:10 AM |
| 4. | CHAIR'S REPORT | 11:10 AM - 11:15 AM |
| 5. | TOWN HALL AND QUESTIONS | 11:15 AM - 11:30 AM |
| 6. | COMMUNITY INFORMATION MEETING | |
| 6.1. | Land Use Bylaw Amendments Project - Proposed Bylaw No. 122 | 11:30 AM - 11:50 AM |
| 6.2. | Minor Official Community Plan Amendments Project - Proposed Bylaw No. 123 | 11:50 AM - 12:10 PM |
| 7. | PUBLIC HEARING | |
| 7.1. | Land Use Bylaw Amendments Project - Proposed Bylaw No. 122 | 12:10 PM - 1:00 PM |
| | 7.1.1. <u>Recess for Public Hearing</u> | |
| | 7.1.2. <u>Recall to Order</u> | |
| 7.2. | Minor Official Community Plan Amendments Project - Proposed Bylaw No. 123 | 1:00 PM - 1:35 PM |
| | 7.2.1. <u>Recess for Public Hearing</u> | |
| | 7.2.2. <u>Recall to Order</u> | |
| 8. | MINUTES | 1:35 PM - 1:40 PM |
| 8.1. | Adopted Local Trust Committee Minutes Dated May 6, 2022 (for Adoption) | |

8.2.	Local Trust Committee Special Meeting Minutes Dated June 2, 2022 (for Adoption)	13 - 17
8.3.	Section 26 Resolutions-without-meeting Dated July 2022	18 - 18
8.4.	Advisory Planning Commission Minutes - None	
9.	BUSINESS ARISING FROM THE MINUTES	
9.1.	Follow-up Action List Dated July 2022	19 - 20
10.	DELEGATIONS	
11.	CORRESPONDENCE	
	<i>Correspondence received concerning current applications or projects is posted on the LTC webpage</i>	
12.	APPLICATIONS AND REFERRALS	
13.	LOCAL TRUST COMMITTEE PROJECTS	1:40 PM - 2:10 PM
13.1.	Land Use Bylaw Amendments Project – Staff Report (attached)	21 - 35
13.2.	Minor Official Community Plan Amendments Project – Staff Report (attached)	36 - 50
14.	REPORTS	2:10 PM - 2:15 PM
14.1.	Work Program Reports (attached)	
14.1.1.	<u>Top Priorities Report Dated July 2022</u>	51 - 51
14.1.2.	<u>Projects List Report Dated July 2022</u>	52 - 52
14.2.	Applications Report Dated July 2022 (attached)	53 - 54
14.3.	Trustee and Local Expense Report Dated May 2022 (attached)	55 - 55
14.4.	Adopted Policies and Standing Resolutions (attached)	56 - 57
14.5.	Local Trust Committee Webpage	
14.6.	Islands Trust Conservancy Report Dated May 2022	58 - 60
15.	NEW BUSINESS	
16.	UPCOMING MEETINGS	
16.1.	Next Regular Meeting Scheduled for September 9, 2022 at the Fire Hall, Pender Island	
17.	TOWN HALL	2:15 PM - 2:30 PM

18. CLOSED MEETING

None

19. ADJOURNMENT

2:30 PM - 2:30 PM



DRAFT

Local Trust Committee
Minutes Subject to Approval By
the Local Trust Committee

South Pender Island Local Trust Committee

Minutes of Regular Meeting

Date: May 6, 2022
Location: South Pender Fire Hall
8961 Gowlland Point Road, South Pender Island, BC

Members Present: Peter Luckham, Chair
Steve Wright, Trustee
Cameron Thorn, Trustee

Staff Present: Robert Kojima, Regional Planning Manager
Kim Stockdill, Island Planner
Lauren Edwards, Recorder (by recorded media)

28 members of the public were in attendance

1. CALL TO ORDER

Chair Luckham called the meeting to order at 11:05 am. He introduced himself and explained that Chair Patrick has resigned for personal reasons and that he is now chair for South Pender Local Trust Committee (LTC).

He acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations and that May 5, 2022 was a day of recognition and mourning for missing indigenous First Nations women and children. He commented on the culturally rich area in which we live and the opportunity to learn its history.

He apologized for the technical challenges (no internet and live streaming).

2. APPROVAL OF AGENDA

- Staff reported that there was correspondence received by the Local Trust Committee (LTC) in the hours prior to the meeting; and
- Chair Luckham asked that this additional correspondence which relate to the proposed bylaws 122 and 123 be taken into consideration for the purpose of the public hearing record.

By general consent the agenda was approved as presented.

3. TRUSTEE REPORT

Trustee Wright reported that:

- There is a good deal of development occurring and that a request was made to staff that development applications be referred to trustees for comment prior to approval;
- He commented on a concern regarding a property scheduled for blast work on which active eagle nesting was confirmed. Staff were informed and contacted the Provincial BC Wildlife Branch and the work was temporarily halted for the safety of the hatchlings.

Trustee Thorn reported that:

- There is ongoing dialogue with the Ministry of Transportation and Infrastructure (MoTI) for information to be conveyed regarding timelines and plans for work on “the dip” and that wait times are up to a half hour.

4. CHAIR'S REPORT

Chair Luckham reported that:

- Islands Trust Council is scheduled to meet June 21 to 23. There will be early reporting on the concluded Phase Three of the 2050 Policy Statement Review and the Governance Review will also be considered; and
- Regarding the anchorages issue, he met with the Port of Vancouver for the purpose of engagement in response to the federal government’s direction that the Port address efficiencies and impacts of vessels anchoring in the Salish Sea.

5. TOWN HALL AND QUESTIONS

Members of the public raised the following issues:

- Emergency preparedness plan as it relates to the issue of “the dip” and bridge was discussed. Discussed the community supports available through the Emergency Program;
- Request to address Chair Patrick’s resignation, and the ability of Chair Luckham to proceed with bylaws. Chair Luckham addressed the role of the meeting chair and his preparation;
- It was questioned why the bylaw change was not put forward to a vote of the population affected. Chair Luckham addressed this issue and stated the *Islands Trust Act* empowers trustees to make decisions through public consultation and that voices will be listened to; and
- Discussion occurred that the venue is too small and that some people did not attend due to concerns of Covid. It was commented that the meeting was being recorded, but not streamed as there is no internet connectivity. Discussed options including deferring the meeting to a larger venue.

SP-2022-022

It was Moved and Seconded,

that the Public Hearing for Bylaw Nos. 122 and 123 be delayed to a later date.

CARRIED

(1 opposed)

-----Recessed for 10 minutes-----

6. COMMUNITY INFORMATION MEETING

Deferred.

7. PUBLIC HEARING

Deferred.

8. MINUTES

8.1 Adopted Local Trust Committee Minutes Dated March 4, 2022 (for Adoption)

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

8.2 Section 26 Resolutions-without-meeting - None

8.3 Advisory Planning Commission Minutes – None

Chair Luckham advised that an Advisory Planning Commission should be appointed.

9. BUSINESS ARISING FROM THE MINUTES

9.1 Follow-up Action List Dated April 2022

Received for information.

10. DELEGATIONS - None

11. CORRESPONDENCE

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

11.1 Electoral Boundaries Commission

March 3, 2022 letter from Justice Nitya Iyer, Commission Chair, to Councillor Sue Ellen Fast, Island Municipality of Bowen Island, regarding the province's current electoral district boundaries - received for information.

12. APPLICATIONS AND REFERRALS

12.1 SP-ALR-2021.1 and SP-ALR-2022.1 – Staff Report

Planner Stockdill summarized the application and recommended requesting the applicant to provide additional information.

Applicant, Taylor Johnson, representing the property owners, spoke to the application and the property owners' intention to formalize the subdivision for the two dwellings. Specifically,

- Farm activity: no current farming activities, considered horse and sheep but not feasible;
- Agricultural capability impact: nothing contemplated that would impact the agricultural portion, road is existing, would not require significant alteration;
- No means to access residential portion of lot without going through agricultural portion; and
- Covenant will restrict dwellings on agricultural portion.

Trustee Thorn asked about Agricultural Land Commission (ALC) process and confirmed that there would be no subdivision within the ALR portion.

Trustee Wright commented that the property has never been an active farm. The property has greater subdivision potential than being requested, access has always been there, access is maintenance only. He has no issues advancing to Agricultural Land Commission (ALC).

Chair Luckham asked about adding restrictions in covenant to prevent further subdivision.

RPM Kojima pointed out challenges with re-subdividing a bare land strata.

SP-2022-023

It was Moved and Seconded,

that the applicant be requested to provide a restriction on further subdivision of the Rural Residential lots in the s. 219 covenant.

CARRIED

SP-2022-024

It was Moved and Seconded,

that the South Pender Island Local Trust Committee supports applications SP-ALR-2021.1 and SP-ALR-2022.1 (Airey Group) for subdivision and non-farm use within the Agricultural Land Reserve and directs staff to forward the application to the Agricultural Land Commission for further consideration and to include the following comments: that the Local Trust Committee supports the application because it reduces overall density and protects the agricultural lands and capability for agriculture.

CARRIED

12.2 Saturna Island Local Trust Committee Referral for Proposed Bylaws 133 and 134 (for response)

SP-2022-025

It was Moved and Seconded,

that the South Pender Island Local Trust Committee indicates that its interests are unaffected by the Saturna Island proposed bylaws 133 and 134.

CARRIED

12.3 Mayne Island Local Trust Committee Referral for Proposed Bylaws 184 and 189 (for response)

SP-2022-026

It was Moved and Seconded,

that the South Pender Island Local Trust Committee indicates that its interests are unaffected by the Mayne Island proposed bylaws 184 and 189.

CARRIED

12.4 Mayne Island Local Trust Committee Referral for Proposed Bylaws 186 and 187 (for response)

SP-2022-027

It was Moved and Seconded,

that the South Pender Island Local Trust Committee indicates that its interests are unaffected by the Mayne Island proposed bylaws 186 and 187.

CARRIED

13. LOCAL TRUST COMMITTEE PROJECTS

13.1 South Pender Island Local Trust Committee Proposed Fees Bylaw No. 124 - Consideration of Adoption – Staff Report

SP-2022-028

It was Moved and Seconded,

that the South Pender Island Local Trust Committee Bylaw No. 124, cited as “South Pender Island Local Trust Committee Fees Bylaw, 2021”, be adopted.

CARRIED

13.2 Land Use Bylaw Amendments Project – Staff Report

- Chair Luckham raised the question of whether to proceed with further work on the bylaw;
- The LTC agreed to proceed with discussing potential amendments;
- A series of amendments were discussed and formulated for the following items:
 - water catchment requirement and flexibility of cistern use;
 - floor area amendments (residential, cottage, farm retail);
 - maximum house size;
 - side lot line clarity wording;
 - pump/utility house placement in relation to waterfront;

- lot coverage changed to maximum floor area (Agri-tourism); and
- limitation of the number of guests and bedrooms.
- It was discussed and agreed that building height and lot coverage would receive further discussion; and
- Consideration and discussion were given to timelines and public communication.

SP-2022-029

It was Moved and Seconded,

that the South Pender Island Local Trust Committee rescind first reading of bylaw 122.

CARRIED

SP-2022-030

It was Moved and Seconded,

that the following amendments, as discussed, be made to Bylaw 122:

- 2.4 by “and by removing the words “pump/utility house”;
- 2.5 adding the words “except for a fence, stairway, wharf and dock ramps or their footings” after the “buildings or structures”;
- section 2.7 by deleting “except for a lot located within the Agricultural Land Reserve, the combined floor area must not exceed....”;
- 2.8 (rainwater catchment for cottages): to read “ a building permit shall not be issued for a dwelling, excluding a cottage, unless a building on the lot is equipped with cisterns for freshwater storage with a minimum storage capacity of 18,000 litres”;
- 2.12 – add “side” lot line;
- 2.13 removing the words “does not exceed” and replacing them with “is not less than”, and adding the word “side” before the words “lot line”;
- 2.18 change floor area of cottage to 70m²;
- 2.20 change retail sales floor area to 500 square feet maximum 47m²;
- 2.21 - 5.5(18) by deleting “lot coverage of 5%” and replacing with “floor area of 90m²”; and
- 2.21 – 5.5(21) change to “10 guests and 5 bedrooms”.

CARRIED

SP-2022-031

It was Moved and Seconded,

that Bylaw 122 be amended, as discussed, to read 2.9 floor area table changes:

Less than 1 acre:	5000 and 2500
1 – 2 acres:	6000 and 3000
2-4 acres:	8000 and 3500
4-10 acres:	9000 and 3500
10+ acres:	15000 and 3500

CARRIED

SP-2022-032

It was Moved and Seconded,

that bylaw 122 be amended to apply the table in 5.5(1) to the Agriculture, Forest and Natural Resource zones.

CARRIED

SP-2022-033

It was Moved and Seconded,

that the South Pender Island Local Trust Committee proposed Bylaw No. 122, cited as “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021” be given first reading as amended.

CARRIED

SP-2022-034

It was Moved and Seconded,

That South Pender Island Local Trust Committee request staff to report back with options to address issues with height, natural grade and flat roofed buildings.

CARRIED

SP-2022-035

It was Moved and Seconded,

that the South Pender Island Local Trust Committee request staff to find venues and schedule Community Information meetings and a Public Hearing on bylaws 122 and 123.

CARRIED

13.3 Minor Official Community Plan Amendments Project – Staff Report

No discussion occurred.

14. REPORTS

14.1 Work Program Reports

14.1.1 Top Priorities Report Dated April 2022

Received for information.

14.1.2 Projects List Report Dated April 2022

Received for information.

14.2 Applications Report Dated April 2022

Received for information.

14.3 Trustee and Local Expense Report Dated Feb 2022

Received for information.

14.4 Adopted Policies and Standing Resolutions

Received for information.

14.5 Local Trust Committee Webpage

14.6 Islands Trust Conservancy Report Dated January 2022

Received for information.

15. NEW BUSINESS

15.1 Draft Annual Report Wording - for approval

By general consent the South Pender Island Local Trust Committee approves the format and outline of contents for the 2021/22 Annual Report.

16. UPCOMING MEETINGS

16.1 Next Regular Meeting Scheduled for June 24, 2022 at the South Pender Fire Hall, Pender Island, BC

17. TOWN HALL

18. CLOSED MEETING (Distributed Under Separate Cover)

18.1 Motion to Close the Meeting

SP-2022-036

It was Moved and Seconded,

that the meeting be closed to the public in accordance with the Community Charter, Part 4, Division 3, s. 90(1) (a)(d) for the purpose of considering:

- *Adoption of In-Camera Meeting Minutes Dated February 4, 2022*
- *Appointment of Board of Variance Members*

AND that the recorder and staff attend the meeting.

CARRIED

18.2 Recall to Order

18.3 Rise and Report

19. ADJOURNMENT

By general consent the meeting was adjourned at 2:05 pm.

Peter Luckham, Chair

Certified Correct:

Lauren Edwards, Recorder



South Pender Island Local Trust Committee

Minutes of Special Meeting

Date: June 02, 2022
Location: Poets Cove, 9801 Spalding Rd, South Pender Island BC

Members Present: Peter Luckham, Chair
Steven Wright, Trustee
Cam Thorn, Trustee

Staff Present: Kim Stockdill, Island Planner
Robin Ellchuk, Recorder

There were approximately 45 members of the public in attendance.

1. CALL TO ORDER

Chair Luckham called the meeting to order at 10:57 am. He 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 Community Information Meeting – To discuss the South Pender Island Local Trust Committee’s Land Use Bylaw Amendments Project – Proposed Bylaw No. 122.

Planner Stockdill introduced herself and summarized Bylaw 122 and addressed the most common questions received regarding Bylaw 122.

- Floor area – The floor area is calculated to the inner surface of the exterior walls of the building. Carports are not included in the calculation of floor area as they do not have exterior walls;
- Covered verandas are not included in the calculation of floor area;
- A dwelling may be entirely reconstructed if damaged by a fire as long as it does not exceed the floor area and siting to the exterior or interior side lots lines of the dwelling at the time of Bylaw 122 adoption.
- Property owners have the option to apply for a Development Variance Permit (DVP) or Board of Variance (BOV) to vary a Land Use Bylaw (LUB) regulation.

Chair Luckham addressed a community member’s concerns regarding rules of conduct and a respectful meeting. The Chair stated the public has the right to speak and be heard and options to file an administrative complaint and the situation will be investigated.

Community member concerns addressed:

House size:

- Expressed concerns that the table of allowable dwelling size has been changed many times;
- The table section 2.8 of allowable dwelling size is a bit confusing;
- The floor area sizes in the table seem arbitrary;
- How the maximum floor areas were decided;
- There is some support for the reduction of house size to 3500 sq ft;
- Criteria for maximum home sizes would be better received by the community if information was based on a consultation of a panel of experts;
- Question regarding why the maximum floor area is being changed within the new proposed Bylaw;
- Concerns that the specific reasons for the regulations being proposed Bylaw No. 122 are not clear;
- Community member asked how can the community stop the proposed bylaw from adoption;
- Community member believes that the current bylaws are sufficient;
- Community member asked the question if other Southern Islands have a maximum floor area restrictions;
- Community member cautioned on the use of the precautionary principle to make bylaw regulations for the Island;
- The question was raised as to why a maximum house size and setbacks are being changed in the same proposed bylaw and how it affects current buildings; and
- Concerns regarding crawl space being included with the total maximum floor area.

Setbacks:

- Concerns regarding if a dwelling is destroyed by fire and if the new dwelling would have to comply with the new regulations or apply for a variance; and
- Trustees are trying to develop a baseline of regulations so that new development must follow regulations.

DVP & BOV:

- Variance provides neighbours with the ability to influence what an owner can do with their lot;
- Criteria should be added to a bylaw when reviewing variance applications; and
- If an owner wished to build a dwelling that exceeds maximum floor area regulations in the LUB, they could apply for a variance.

Trustee Wright left the room at 1:04pm.

Meeting break – 1:05-1:24pm.

Trustee Wright rejoined the meeting at 1:24pm.

Insurance:

- Concerns about lack of protection for the home owners with regards to the rebuilding of a destroyed dwelling; and
- Concerns about the insurance coverage for a destroyed dwelling would only allow to rebuild to the existing Bylaw regulations, not the previous house size. This could be a difficulty for the property owner if their original house size was larger than the maximum floor area in the LUB and they wanted to rebuild their dwelling to the same square footage as the original building.

Legal Non-Conforming:

- Concerns about legal non conforming;
- Concerns regarding legal non conforming issues, the Local Government Act is different than Bylaw No. 122 and creates a conflict for owners;
- The question was raised as to why the current bylaws should be changed at this time;
- Several reasons of concern that the Bylaw 122 will limit the ability for necessary buildout to accommodate future needs for the family dwelling; and
- The point made that 80% of the island is developed. The Bylaws are said to protect against future over development, but that is only for 20% of the island that is undeveloped.

Wording of the Bylaw:

- There is the suggestion that the rationale for the new regulations should be included in the proposed bylaw; and
- The proposed Bylaw is missing aging in place, caretaker suites, and affordable housing solutions.

Website:

- The question was asked if there is a possibility to have a tutorial created for community members to learn to navigate the Islands Trust website.

Trustee response:

- The research completed by Trustees to reduce the maximum house size was based on a three bedroom home for the average Canadian home;
- Trustees take a precautionary principle and therefore have looked at trends in other communities regarding house size and there is a trend towards larger homes being developed;
- Spoke to the issue that there needs to be steps taken to preserve the rural character of the island. Providing a maximum dwelling size is a step to be taken to preserve the rural character;
- Research using the BC Assessment data was used to determine maximum dwelling size;
- Some community members would like to have the neighbours of properties being built upon to have input and some community members would like to have regulations in place;
- Agreed there might be a need for more clarity for legal non conforming wording in the proposed bylaw;

- The community members need to attend the Public Hearing and speak to their issues and concerns regarding the proposed bylaw;
- Protection of Rural character and environment were the reasons for the proposed bylaw changes as well as precautionary principle.

Staff response:

- A dwelling can be rebuilt if the siting and floor area is the same or less dimensions at the time of bylaw adoption for maximum floor area and interior/exterior side lot lines;
- The setback provision for the natural setback from the sea for the Bylaw may be amended to allow a dwelling to be rebuilt.
- There are currently no other southern Islands, except for North Pender Associated Islands, that have a maximum floor area for dwellings.

3.2 Community Information Meeting – To discuss the Minor Official Community Plan Amendments Project – Proposed Bylaw No. 123.

Planner Stockdill summarized the main two aspects of the proposed Bylaw:

1. Add an introductory statement acknowledging First Nations to be put at the beginning of the Official Community Plan; and
2. Proposed building design and siting guidelines

Community member comments and concerns:

- A community member spoke in favor of proposed Bylaw 123 with regards to the acknowledgement of the First Nations. This area has the long history of indigenous peoples and is a sacred place for the Salish people. Archaeology has shown evidence of First Nations settlement dating as far back as 3500 BC. Recognition of the indigenous presence is important. This is seen as a positive step forward;
- Concerns that the design guidelines should not be included in the proposed bylaw;
- The questions was posed asking if the guidelines can be pulled from the bylaw and be in a separate supporting document to be used in the manner intended which is to assist Trustees with DVP applications;
- Discussion commenced with regards to concerns that the guidelines put forth in the proposed bylaw are not enforceable. The guidelines should be in a separate document;
- The questions was asked if South Pender is the only Island with design guidelines;
- Language in the bylaw needs to be more clear on the definition of indigenous persons;
- Question raised as to the details of the bylaw that state to preserve and protect certain natural items for the indigenous peoples; what does this mean for private land owners now. How do they interpret this section of the proposed bylaw? What is the land owners role in to “preserve and protect” these items. The language in the proposed bylaw needs to be more clear and more explanations are needed; and
- The proposed Bylaw 123 assists to open up the space for conversation with First Nations and land owners in a positive respectful way.

Trustee response:

- Chair Luckham addressed the concerns about the guidelines that are included in the proposed bylaw are there to assist with the Trustees to have guidelines to follow with regards to decisions to be made regarding Land Use Bylaws;
- Guidelines are for the Trustees to be able to have the criteria to make consistent decisions with regards to possible variance applications.

The next meeting will be an electronic meeting on June 17, 2022.

4. ADJOURNMENT

By general consent the meeting was adjourned at 3:31pm.

Peter Luckham, Chair

Certified Correct:

Robin Ellchuk, Recorder



Resolutions Without Meetings Log

South Pender Island

Resolution Number	Action	Date
2022-003	Carried	22-Jun-2022
That in consideration of the spread of COVID 19 on the Penders, the recommendations of the Pender Islands Recreational and Agricultural Hall Association concerning the use of the Community Hall, and concerns expressed by community members, the South Pender Island Local Trust Committee cancel the Public Hearing and Regular Meeting scheduled for June 24th on bylaws 122 and 123, and that the hearing be rescheduled for a later date.		

Follow Up Action Report

South Pender Island

04-Mar-2022

Activity	Responsibility	Dates	Status
1 14.3 Shoreline Review Project - bring to LTC when staff resources allow	Robert Kojima	Target: 01-Sep-2022	In Progress

06-May-2022

Activity	Responsibility	Dates	Status
1 8.1 SP LTC minutes dated March 4, 2022 adopted as is.	Robin Ellchuk	Target: 20-May-2022	Completed
2 Bylaw No. 122 & 123 1. CIM and Public Hearing delayed until a later date. Venue must be larger than the SP Fire Hall room.	Jas Chonk Kim Stockdill Robin Ellchuk	Target: 24-Jun-2022	Completed
3 12.1 SP-ALR-2022.1 & SP-ALR-2022.2. 1. Staff to forward application to the ALC in support with comments. 2. Applicant requested to provide restriction on further subdivision on RR2 lots by S.219 covenant.	Kim Stockdill	Target: 27-May-2022	Completed
4 12.2 Saturna LTC Bylaw Nos. 133 & 134 - Interests Unaffected.	Jas Chonk	Target: 20-May-2022	Completed
5 12.3 Mayne LTC Bylaw Nos. 184 & 189 - Interests Unaffected.	Jas Chonk	Target: 20-May-2022	Completed



Follow Up Action Report

South Pender Island

06-May-2022

Activity	Responsibility	Dates	Status
6 12.4 Mayne LTC Bylaw Nos. 186 & 187 - Interests Unaffected.	Jas Chonk	Target: 20-May-2022	Completed
7 13.1 SP Fee Bylaw No. 124 1. Fee Bylaw No. 124 adopted - update bylaw and post new bylaw to website.	Jas Chonk Robert Kojima Robin Ellchuk	Target: 27-May-2022	Completed
8 13.2 LUB 1. First Reading rescinded 2. Staff to make amendments to draft bylaw. 3. First Reading given to bylaw no. 122 as amended. 4. Staff to report back to address height, natural grade, and flat roofed buildings. 5. Staff to schedule CIMs and Public Hearings for Bylaw Nos. 122 and 123.	Jas Chonk Kim Stockdill	Target: 24-Jun-2022	Completed
9 15.1 SP LTC approved format and outline for Annual Report.	Robert Kojima	Target: 20-May-2022	Completed
10 16.1 In Camera 1. Feb 4, 2022 in camera minutes adopted as is. 2. All 3 BOV members appointed.	Jas Chonk Robin Ellchuk	Target: 20-May-2022	Completed



File No.: SP LUB Amendments
Project

DATE OF MEETING: July 23, 2022
TO: South Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Victoria Office
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: Project Update & Post Public Hearing Report – LUB Amendments Project

DRAFT MOTIONS:

The following are draft motions found throughout the staff report for the South Pender Local Trust Committee's (LTC) consideration for the Land Use Bylaw (LUB) Amendments Project:

1. **That the South Pender Island Local Trust Committee proposed Bylaw No. 122, cited as "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021" be amended:**
 - a. **By adding the following to the clause regarding maximum floor area and setback regulations: "and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw."**
 - b. **By adding a clause to the Agriculture, Forestry, and Natural Resource zones to allow for a replacement dwelling that would not exceed the floor area at the time of bylaw adoption.**
 - c. **By adding the following to the definition of 'floor area': "or any portion of a storey with a lower floor that is located 1.5 metres or more below natural grade."**
 - d. **By adding a clause to the setback from the natural boundary of the sea to allow the reconstruction of a dwelling within the same location as long as the dwelling is not closer to the natural boundary of the sea.**
 - e. **By adding a height restriction that at no point may a dwelling exceed 12 metres in height.**

REPORT SUMMARY

The purpose of this staff report is to provide an update on proposed Bylaw No. 122, and also provide options for the South Pender Island Local Trust Committee (LTC)'s consideration after the Public hearing.

BACKGROUND

Z:\12 Long Range Planning\11 SP\6500 LTC Work Program\20 Projects (P)\2021 - LUB Amendments\Staff reports\SP-LTC_2022-07-23_LUB-Amendments_Staff-Rpt.docx

A Community Information Meeting (CIM) and Public Hearing was scheduled for the May 6, 2022 South Pender Island Local Trust Committee (LTC) regular meeting. Due to the inadequate meeting space, large number of community member attending the meeting, and lack of internet connection, the CIM and Public Hearing were to be scheduled at a later date in a larger meeting space. The following resolution was passed at the May 6, 2022 LTC meeting:

SP-2022-022

It was Moved and Seconded,

that the Public Hearing for Bylaw Nos. 122 and 123 be delayed to a later date.

CARRIED

The South Pender Island LTC held an in-person CIM on June 2, 2022 with over 50 community members in attendance. A second CIM will be held online on June 17, 2022.

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/>

In addition, a blackline version of the Land Use Bylaw (LUB) with the integrated amendments of proposed Bylaw No. 122 can be found [here](#).

PROPOSED BYLAW NO. 122

The proposed Bylaw No. 122 was given First Reading on March 4, 2022 and formal referrals were sent out to First Nations and agencies. Correspondence received regarding the project can be found on the [South Pender Project](#) webpage and formal public hearing submissions and referral responses can be found in the [public hearing binder](#) (under the heading 'About this Meeting').

Topics for Further Discussion/Direction or Clarification

Below are a list of questions staff have noted over the past month from the Community Information Meetings and correspondence received:

1. Maximum Floor Area

Legal Non-Conforming: if the LTC were to ultimately amend the Land Use Bylaw (LUB) to further restrict maximum floor area for dwellings, dwellings that were lawfully constructed before the date of the adoption of the bylaw and which exceed the new, more restrictive maximum floor area would be considered legally non-conforming in terms of the dwelling's size. The implications of this would be that the house could be maintained, extended or altered only to the extent that the repair, extension or alteration involved no further contravention of the bylaw – in other words while extensive repairs or alterations could be made, the house's floor area could not be increased beyond what existed at the time the bylaw amendment was adopted as per Section 529 of the Local Government Act. In order to eliminate creating legal non-conforming situations, the South Pender LTC included a clause to Bylaw No. 122 that would legalize the maximum floor areas of those dwellings that would not comply with the new, more restrictive regulations (see 'Re-building a dwelling' below).

75 percent rule: the reference to if a house burns down beyond 75% of its value that it could not be re-built except in conformity with the bylaw. The reference to 75% of value of a building or structure is from Section 532 of the Local Government Act, and applies only to situations where a use is non-conforming; this would not

be the case for a maximum floor area regulation (which is a 'size' restriction), where repairs, maintenance, alterations or extensions can be made provided the size of the dwelling is not increased.

Re-building a dwelling: the LTC has included a clause in proposed Bylaw No. 122 that states:

"Despite [the new, more restrictive maximum floor area regulations], on a lot that contains a legal dwelling constructed prior to the adoption of this bylaw, a replacement dwelling may be 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."

Proposed Bylaw No. 122 also includes a similar clause for the more restrictive interior and exterior side lot line regulations. In other words, if you need to rebuild a dwelling, you may do so and rebuild it to the floor area or siting of the pre-existing dwelling at the time of bylaw adoption.

In order to add further clarity and based on legal suggestion, staff recommend adding the following to the clause: *"and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw."* The clause would then read:

"Despite [the new, more restrictive maximum floor area regulations], on a lot that contains a legal dwelling constructed prior to the adoption of this bylaw, a replacement dwelling may be 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 and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw."

Motion 'a':

That the South Pender Island Local Trust Committee proposed Bylaw No. 122, cited as "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021" be amended by adding the following to the clause regarding maximum floor area and setback regulations: "and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw."

At the May 6th LTC meeting, the LTC added maximum floor area regulations to the Agriculture, Forestry and Natural Resource zones. Staff suggested adding the above clause to these zones.

Motion 'b':

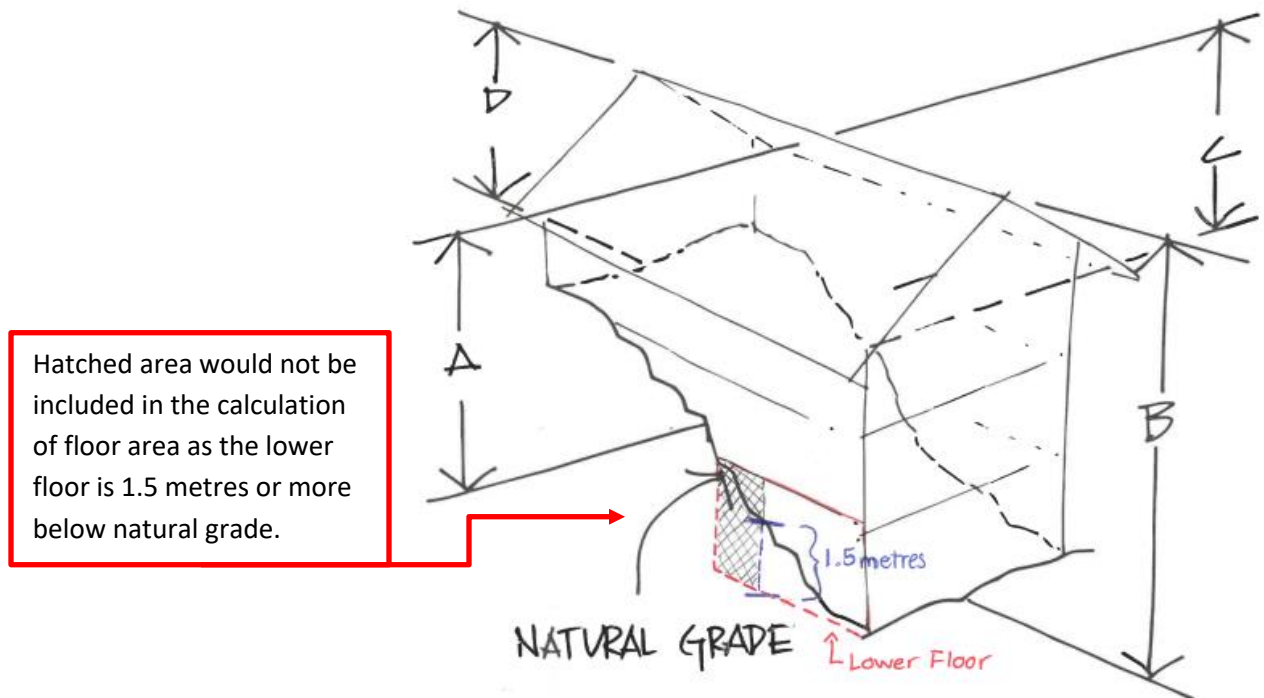
That the South Pender Island Local Trust Committee proposed Bylaw No. 122, cited as "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021" be amended by adding a clause to the Agriculture, Forestry, and Natural Resource zones to allow for a replacement dwelling that would not exceed the floor area at the time of bylaw adoption.

Basements: The calculation of floor area currently excludes those areas that have a floor and ceiling less than 1.5 metres apart (generally crawlspaces and loft areas). Comments were received to eliminate basements from the calculation of floor area for dwellings. The issue with this approach is determining what constitutes a basement. If the LTC wishes to exclude basements from the calculation of floor area, staff recommend the

amending the definition of 'floor area' to exclude those portions of a storey where the lower floor is located 1.5 metres or more below natural grade (new edits outlined in **bold** and as shown in Drawing No. 1):

““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 **or any portion of a storey with a lower floor that is located 1.5 metres or more below natural grade.**”

Drawing No. 1 – Height Calculation with minor slope



Motion 'c':

That the South Pender Island Local Trust Committee proposed Bylaw No. 122, cited as "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021" be amended by adding the following to the definition of 'floor area': "or any portion of a storey with a lower floor that is located 1.5 metres or more below natural grade."

2. Setback to the NB of the Sea

The proposed Bylaw No. 122 currently does not have a clause that would allow the reconstruction of a dwelling in the same location prior to bylaw adoption. The LTC could consider the following draft motion to amend proposed Bylaw No. 122:

Motion 'd':

That the South Pender Island Local Trust Committee proposed Bylaw No. 122, cited as "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021" be amended by adding a clause to the natural boundary of the sea setback to allow the reconstruction of a dwelling within the same location as long as the dwelling is not closer to the natural boundary of the sea.

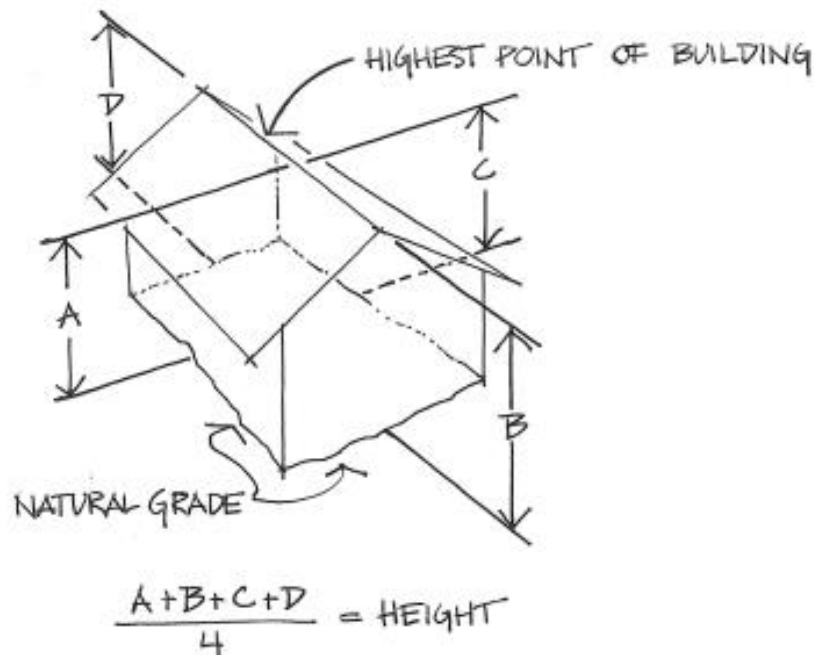
3. Height

At the May 6, 2022 meeting, the discussion on if the calculation for height in the South Pender Island LUB could be improved. Currently height is defined as:

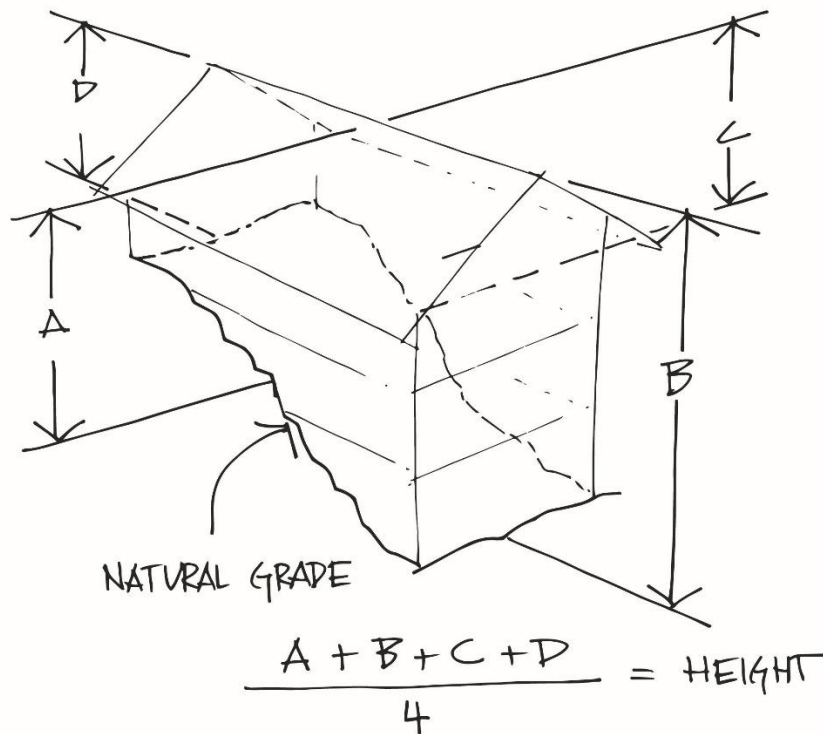
"height" means the vertical distance between the highest point of a building or structure and the average natural grade, being the average undisturbed elevation of the ground at the perimeter of the building or structure calculated by averaging the distance between the natural grade and the highest point of a building or structure measured at the midpoints of all the exterior walls."

If the natural grade has a minor (or no) slope, the calculation of height is easily determined and the mass of the building is relative to the 9.2 metre (30 feet) height restriction for dwellings. In contrast, when a dwelling is constructed on a steep slope, one side of the dwelling may be only one-storey in height (see Point D in Drawing No. 3 below) and the opposite side of the house could be three or more storeys in height (see Point B in Drawing No. 3) yet the building would still comply with the maximum height of a dwelling. These types of dwellings are more evident on visible properties with a steep slope. When viewing these dwellings from the road or the water, it can give the impression that the dwelling throughout is over three storeys, not in compliance with the height restriction, and creates the appearance of large massed buildings.

Drawing No. 2 – Height Calculation with minor slope
(drawing from SP LUB)



Drawing No. 3 – Height Calculation on Steep Slope



If the LTC is concerned with the visual impact of large dwellings on steep slopes, staff suggest retaining the maximum height of 9.2 metres for dwellings, but the LTC could consider adding an additional regulation that states that at no point shall a dwelling exceed a height of X metres. Since 2018, staff have only received one building permit review where a dwelling required a height survey to confirm height. This dwelling was to be constructed on a steep slope (similar to Drawing No. 3) and the maximum building height elevation was 12.8 metres (at Point B). This allowed for a three-storey structure and small crawlspace on the elevation facing the waterfront. Based on the one BP received over the past five years for a dwelling on a steep slope, the LTC could add an additional regulation that states at no point shall a dwelling height elevation exceed 12.0 metres (40 feet) in height.

Motion 'e':

That the South Pender Island Local Trust Committee proposed Bylaw No. 122, cited as "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021" be amended by adding a height restriction that at no point may a dwelling exceed 12 metres in height.

4. In-Stream Building Permit Applications at Bylaw Adoption/Grace Period

If a property owner is in the process of constructing, and Bylaw No. 122 is adopted during the construction, regulations would apply where an owner has an initiated work to establish the use (, land clearing, constructing driveway, foundation, etc.). If no work has commenced, the new, more restrictive regulations would apply, even if a Building Permit has been issued. As staff review an average of 6 South Pender building permits per year, a fraction of which are for new dwellings, the likelihood that there would be an in-stream building permit application for a new dwelling that would not comply the new regulations is small. If the bylaw advances to

consideration of adoption, staff would review recent building permit reviews and advise the LTC if there were any that may not comply the new regulations.

AMENDMENTS:

The LTC has the discretion to amend the bylaw before or after the Public Hearing. A bylaw may be altered after the public hearing, based on information received or heard by the LTC at any point prior to the close of the hearing, provided that the amendments do not alter use or increase density, or decrease density without a landowner's consent.

PUBLIC HEARING

A public hearing is scheduled for July 23, 2022. A public hearing is a quasi-judicial process within and following which specific procedures must be followed.

Following the hearing, the LTC may choose to give further readings to a bylaw, defeat a bylaw, or alter a bylaw within certain parameters. The procedural steps following the close of the hearing are as follows:

1. Consideration of Second Reading (this may include amendments to alter a bylaw).
2. Consideration of Third Reading.
3. Forwarding of the bylaw to Executive Committee for approval (Minister approval is not required for LUB amendments).
4. Reconsideration and adoption.

Following the close of the hearing, the LTC may not hear further submissions without holding a new hearing. The principle is that if new information is considered by the LTC, all other interested parties also need to have the opportunity to consider any new relevant material and to make further representations to the LTC. The courts have clarified that this does not open the door to endless public hearings: a local government body can legitimately decide that after a hearing it wishes to hear further from staff on issues raised at the hearing.

If the Executive Committee approves proposed Bylaw No. 122, the next step for the LTC would be to adopt the bylaw.

FIRST NATIONS: At this time the recommendations comply with the Islands Trust Reconciliation Declaration and the Local Trust Committee Standing Resolutions on Reconciliation.

RATIONALE FOR RECOMMENDATION

At this time, staff are not providing the LTC with a formal recommendation based on the strong opposition from some community members. In order to address some of the concerns expressed from written communication and the CIMs, the LTC may wish to consider amending the proposed bylaw to alter or eliminate the contentious issues by:

- Removing the restrictions to maximum floor area; or
- Increasing the maximum floor area numbers proposed in Bylaw No. 122.

Furthermore, the LTC may need time to absorb and reflect on the comments and opinions received during the Public Hearing on July 23rd. As show in Option No. 1 on page 8 of the staff report, the LTC can defer making any

further decisions on this bylaw until an online Special Meeting can be scheduled. The difficulty with this approach is that since the proposed bylaw is post public hearing, no further comments by the public may be received by the LTC. The purpose of this Special Meeting would be for the LTC to consider any further amendments to the proposed bylaw, give Second/Third reading, and send to Executive Committee for approval.

The LTC also has the option to move forward with proposed Bylaw No. 122 by making amendments (noted in the staff report) and to proceed with Second and Third Reading to the bylaw, and then send it to Executive Committee for approval. Direction on how to proceed is required and options are outlined on the next page.

OPTIONS

1. Schedule an online Special Meeting

The LTC may wish to schedule an online meeting to further discuss the comments received during the Community Information Meetings and the Public Hearing. At this special meeting, the LTC can decide if the proposed bylaw should be amended, give further readings to the bylaw, and send the bylaw to EC for approval.

Resolution:

That the South Pender island Local Trust Committee request staff to schedule an online Special Meeting to discuss the next steps of the Land Use Bylaw Amendments Project.

2. Make amendments to the bylaw

The South Pender Island LTC may amend proposed Bylaw No. 122.

Resolution:

That the South Pender Island Local Trust Committee proposed Bylaw No. 122, cited as "South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021" be amended by:...

3. Give the bylaw Second Reading

Resolution:

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

4. Give the bylaw Third Reading

Resolution:

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

5. Send the bylaw to Executive Committee for approval

Resolution:

That the South Pender Island Local Trust Committee proposed Bylaw No. 122 be forwarded to the Secretary of the Islands Trust for Executive Committee Approval.

6. Receive for information

The LTC may receive the report for information.

7. Proceed no further with the bylaw.

The LTC may decide to proceed no further with Bylaw No. 122.

Resolution:

That the South Pender Island Local Trust Committee proceed no further with Bylaw No. 122.

Submitted By:	Kim Stockdill, Island Planner	July 7, 2022
Concurrence:	Robert Kojima, Regional Planning Manager	July 11, 2022

ATTACHMENTS

1. Proposed Bylaw No. 122

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)” and by removing the words “pump/utility house” 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*, except a fence, stairway, wharf and dock ramps or their footings, 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 “excluding a *cottage*” after the words ‘used as a dwelling’, by deleting the word ‘rainwater’ and replacing it with “freshwater”, by deleting the word ‘cistern’ after the word ‘minimum’ and replacing it with “storage” and by deleting the words ‘9,000 litres (1980 gallons)’ and replacing it with “18,000 litres (3960 gallons)” for Subsection 3.14(1) so it reads:

‘A building permit shall not be issued for a new *building* to be used as a *dwelling*, excluding a *cottage*, on a *lot* in the RR(1), RR(2) or RR(3) zones unless a *building* on the *lot* is equipped with a freshwater catchment system and cistern(s) for the storage of freshwater with a minimum storage capacity of 18,000 litres (3960 gallons).

2.8 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)	232 m ² (2500 ft ²)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m ² (6000 ft ²)	279 m ² (3000 ft ²)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m ² (8000 ft ²)	325 m ² (3500 ft ²)
1.6 ha to < 4 ha (4 to 10 acres)	836 m ² (9000 ft ²)	325 m ² (3500 ft ²)
4.0 ha (10 acres) or greater	1394 m ² (15000 ft ²)	325 m ² (3500 ft ²)

”

2.9 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 be 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.”

2.10 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).” ✓ ✓ ✓

2.11 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* shall be 6.0 metres (20 ft.) from any interior or exterior side *lot line*.” ✓ ✓ ✓

2.12 By add the following new subsection after Subsection 5.1(9):

“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 be constructed, or the existing *dwelling* or *cottage* re-constructed or altered, provided the distance from the interior or exterior side *lot line* to the replacement, re-constructed or altered *dwelling* or *cottage* is not less than the distance from the interior or exterior side *lot line* to the *dwelling* or *cottage* on the *lot* at the time of the adoption of this bylaw.”

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(15);”

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(14) to 5.5(21), and as permitted by the Agricultural Land Commission;”

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

2.16 By deleting Subsection 5.5(9) 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 (5000 ft ²)	232 m ² (2500 ft ²)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m ² (6000 ft ²)	279 m ² (3000 ft ²)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m ² (8000 ft ²)	325 m ² (3500 ft ²)
1.6 ha to < 4 ha (4 to 10 acres)	836 m ² (9000 ft ²)	325 m ² (3500 ft ²)
4.0 ha (10 acres) or greater	1394 m ² (15000 ft ²)	325 m ² (3500 ft ²)

"

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

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

2.18 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."*

2.19 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 47 m² (500 ft²).

2.20 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 *floor area* of 90 m² (969 ft²).

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 5 bedrooms.

2.21 By deleting Subsection 5.6(7) 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 (5000 ft ²)	232 m ² (2500 ft ²)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m ² (6000 ft ²)	279 m ² (3000 ft ²)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m ² (8000 ft ²)	325 m ² (3500 ft ²)
1.6 ha to < 4 ha (4 to 10 acres)	836 m ² (9000 ft ²)	325 m ² (3500 ft ²)
4.0 ha (10 acres) or greater	1394 m ² (15000 ft ²)	325 m ² (3500 ft ²)

”

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 deleting Subsection 5.7(6) 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 (5000 ft ²)	232 m ² (2500 ft ²)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m ² (6000 ft ²)	279 m ² (3000 ft ²)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m ² (8000 ft ²)	325 m ² (3500 ft ²)
1.6 ha to < 4 ha (4 to 10 acres)	836 m ² (9000 ft ²)	325 m ² (3500 ft ²)
4.0 ha (10 acres) or greater	1394 m ² (15000 ft ²)	325 m ² (3500 ft ²)

"

2.24 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 6TH DAY OF MAY 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

File No.: SP Minor OCP
Amendments Project

DATE OF MEETING: June 24, 2022

TO: South Pender Island Local Trust Committee

FROM: Kim Stockdill, Island Planner
Victoria Office

COPY: Robert Kojima, Regional Planning Manager

SUBJECT: Project Update & Post Public Hearing Report – Minor OCP Amendments Project

RECOMMENDATION

1. That the South Pender Island Local Trust Committee proposed Bylaw No. 123, cited as “South Pender Island Official Community Plan Bylaw No. 107, 2011, Amendment No. 1, 2021” be read a second time.
2. That the South Pender Island Local Trust Committee proposed Bylaw No. 123, cited as “South Pender Island Official Community Plan Bylaw No. 107, 2011, Amendment No. 1, 2021” be read a third time.
3. That the South Pender Island Local Trust Committee proposed Bylaw No. 123 be forwarded to the Secretary of the Islands Trust for Executive Committee Approval.
4. That the South Pender Island Local Trust Committee proposed Bylaw No. 123 be forwarded to the Minister of Municipal Affairs for approval.
5. That the South Pender Island Local Trust Committee place draft Bylaw No. 126 on hold until next term’s projects are established.

REPORT SUMMARY

The purpose of this staff report is to provide an update on proposed Bylaw No. 123, and also provide options for the South Pender Island Local Trust Committee (LTC)’s consideration after the Public hearing. In addition, the staff report will provide further detail and a recommendation on draft Bylaw No. 126 (Rights of Nature document).

BACKGROUND

A Community Information Meeting (CIM) and Public Hearing was scheduled for the May 6, 2022 South Pender Island Local Trust Committee (LTC) regular meeting. Due to the inadequate meeting space, large number of community member attending the meeting, and lack of internet connection, the CIM and Public Hearing were to be scheduled at a later date in a larger meeting space. The following resolution was passed at the May 6, 2022 LTC meeting:

SP-2022-022

It was Moved and Seconded,

that the Public Hearing for Bylaw Nos. 122 and 123 be delayed to a later date.

CARRIED

The South Pender Island LTC held an in-person CIM on June 2, 2022 with over 50 community members in attendance. A second CIM will be held online on June 17, 2022.

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/>

Proposed Bylaw No. 123

The proposed Bylaw No. 123 was given First Reading on November 5, 2021 and formal referrals have been sent out to First Nations and agencies. Correspondence received regarding the project can be found on the [South Pender Project](#) webpage and formal public hearing submissions and referral responses can be found in the [public hearing binder](#) (under the heading 'About this Meeting').

At the June 2, 2022 CIM, a question was raised as to how the First Nations acknowledgement statement would affect property owners. The First Nations acknowledgement statement is strictly an acknowledgement statement at the beginning of the OCP, and does not include specific OCP policies. Staff are aware that the South Pender Island OCP should be updated at a later date to initiate a full review to address First Nations policies that would align with Islands Trust Reconciliation Declaration and the Local Trust Committee Standing Resolutions on Reconciliation.

Questions were also raised at the CIM regarding the enforceability of the building design and siting guidelines and if bylaws can include guidelines. An Official Community Plan bylaw "is a statement of objectives and policies to guide decisions on planning and land use management, within the area covered by the plan, respecting the purposes of local government" (Section 471 of the Local Government Act). For example, the South Pender Island OCP includes guidelines for Temporary Use Permit applications. In contrast, a Land Use Bylaw is a regulatory bylaw that regulates density, use, siting, size, etc. A LUB should not include guidelines.

The guidelines found in the OCP are not enforceable as the OCP document is a policy bylaw (not a regulatory bylaw). OCPs are used to help guide decisions for the LTC, planners, and community members. The building design and sitting guidelines, if adopted, would act as a reference document for the LTC when reviewing applications, such as Development Variance Permits, but a variance application could not be required to be consistent with the guidelines.

The LTC has the discretion to amend the bylaw before or after the Public Hearing. A bylaw may be altered after the public hearing, based on information received or heard by the LTC at any point prior to the close of the hearing, provided that the amendments do not alter use or increase density, or decrease density without a landowner's consent.

The next steps for proposed Bylaw No. 123 are outlined below under 'Public Hearing'. Draft motions can be found listed as Recommendation No. 1 to 4 if the LTC wishes to give Second and Third Reading to the bylaw, and then to send the bylaw to Executive Committee and the Minister for approval.

Draft Bylaw No. 126

At the February 4, 2022 meeting, the LTC gave direction to staff to draft a secondary OCP amendment bylaw for Rights of Nature wording. The draft Bylaw No. 126 is attached for the LTC's reference. This bylaw was sent out on early referral to First Nations with a requested response date of mid-June.

To date only one early referral response was received (from Lyackson – see Attachment No. 3). Due to the lack of response to the early referral, vacancy of the senior intergovernmental policy advisory position, and the timing of the draft bylaw before the fall election, staff recommend placing draft OCP Bylaw No. 126 on hold until next term's projects are established. Staff's recommendation can be found listed as Recommendation No. 5 on page 1 of the staff report. If the LTC would like to proceed with the draft bylaw, a draft first reading motion is below.

Alternative option for draft Bylaw No 126 – Give First Reading:

"That the South Pender Island Local Trust Committee Bylaw No. 126, cited as the "South Pender Island Official Community Plan Bylaw No. 107, 2011, Amendment No. 1, 2022" be read a first time."

PUBLIC HEARING

A public hearing is scheduled for June 24, 2022. A public hearing is a quasi-judicial process within and following which specific procedures must be followed.

Following the hearing, the LTC may choose to give further readings to a bylaw, defeat a bylaw, or alter a bylaw within certain parameters. The procedural steps following the close of the hearing are as follows:

1. Consideration of Second Reading (this may include amendments to alter a bylaw).
2. Consideration of Third Reading.
3. Forwarding of the bylaw to Executive Committee for approval.
4. Forwarding of the bylaw to the Minister's office for approval (OCP amendment bylaws only).
5. Reconsideration and adoption.

Following the close of the hearing, the LTC may not hear further submissions without holding a new hearing. The principle is that if new information is considered by the LTC, all other interested parties also need to have the opportunity to consider any new relevant material and to make further representations to the LTC. The courts have clarified that this does not open the door to endless public hearings: a local government body can legitimately decide that after a hearing it wishes to hear further from staff on issues raised at the hearing.

If the Executive Committee and Minister approves proposed Bylaw No. 123, the next step for the LTC would be to adopt the bylaw.

FIRST NATIONS: At this time the recommendations comply with the Islands Trust Reconciliation Declaration and the Local Trust Committee Standing Resolutions on Reconciliation.

Rationale for Recommendation:

The recommendations are supported by staff as the amendments are minor and no referral comments were received in objection.

ALTERNATIVES

1. Make amendments to the bylaw(s)

The South Pender Island LTC may amend one, or both, of the bylaws.

Resolution:

That the South Pender Island Local Trust Committee proposed Bylaw No. 123, cited as "South Pender Island Official Community Plan Bylaw No. 107, 2011, Amendment No. 1, 2021" be amended by:...

That the South Pender Island Local Trust Committee draft Bylaw No. 126, cited as "South Pender Island Official Community Plan Bylaw No. 107, 2011, Amendment No. 1, 2022" be amended by:...

2. Receive for information

The LTC may receive the report for information.

3. Proceed no further with the bylaw.

The LTC may decide to proceed no further with Bylaw Nos. 123 or 126.

Resolution:

That the South Pender Island Local Trust Committee proceed no further with Bylaw Nos. 123 or 126.

NEXT STEPS

Upon direction from LTC, staff will send proposed Bylaw No. 123 to the Islands Trust Executive Committee and the Minister for approval.

Submitted By:	Kim Stockdill, Island Planner	June 16, 2022
Concurrence:	Robert Kojima, Regional Planning Manager	June 16, 2022

ATTACHMENTS

1. Proposed Bylaw No. 123
2. Draft Bylaw No. 126
3. Lyackson Response to draft Bylaw No. 126

PROPOSED

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 123

A BYLAW TO AMEND SOUTH PENDER ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 107, 2011

The South Pender Island Local Trust Committee enacts in open meeting assembled as follows:

1. CITATION

This Bylaw may be cited for all purposes as “South Pender Island Official Community Plan Bylaw No. 107, 2011, Amendment No. 1, 2021”.

2. SCHEDULES

South Pender Island Official Community Plan No. 107, 2011 is amended as shown on Schedule 1, attached to and forming part of this bylaw.

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	5 TH	DAY OF	NOVEMBER	2021.
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__
APPROVED BY THE MINISTER MUNICIPAL AFFAIRS AND HOUSING THIS	_____	DAY OF	_____	20__
ADOPTED THIS	_____	DAY OF	_____	20__

CHAIR

SECRETARY

**SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 123**

SCHEDULE 1

The South Pender Island Official Community Plan Bylaw No. 107, 2011, is amended as follows:

1. By adding the following new Subsection under Section '1.2 Introduction' and renumbering the Subsections accordingly:

"1.2.1 Acknowledgement and Reconciliation of First Nations Place, Context and Inherent Rights

S,DÁYES – wind drying

Central Coast Salish Peoples have occupied and utilized the lands and waters of S,DÁYES, the place now known as South Pender Island, since time immemorial. The SENĆOŦEN and Hul̓qumíñuṁ speaking people include the W̱JOŁŁP (Tsartlip), BOŖÉĆEN (Pauquachin), S̱ÁUTW (Tsawout), W̱SIKEM (Tseycum) and MÁLEXEL (Malahat) Nations; and the SEMYOME, Tsawwassen, Penelakut, Lyackson, Halalt, Stz'uminus, and Lake Cowichan Nations.

The W̱SÁNEĆ Peoples (meaning The Emerging Peoples) speak a language called SENĆOŦEN, and have a rich and vibrant economic, social, cultural, and spiritual life that is connected to these lands and waters. The lands and waters of the W̱SÁNEĆ Peoples is enriched with history, place names, village sites, cultural locations and ancestral resting places, and sacred sites that need to be honoured and respected. The history of the Central Coast Salish Peoples is sustained and continues in the language, oral history, place names, village sites, cultural and sacred sites, and landscapes that encompass this place they call home, it was never extinguished and continues in the treaty, and territorial lands and waters they caretake for future generations.

South Pender Island is also the location of the S̱ÁUTW (Tsawout) First Nation and W̱SIKEM (Tseycum) First Nation reserve #7. South Pender Island is a place with many village sites and places names including: QENENIW̱ (meaning watching the slack tide); SMONEĆ (meaning pitch for fire-starting); S̱TIS (meaning candle neck duck); YEUWE (meaning fortune teller from oral history stories); and XELISEN – (meaning lost middle). The preservation and protection of village sites, cultural heritage sites, archaeological sites and objects, and ancestral resting places requires sensitivity and respect and is an important part of reconciliation. Cultivation areas both on land and in marine areas include camas meadows, reef-netting locations and clam gardens, and hunting and harvest areas for Indigenous food resources, inherent rights, and medicine.

The South Pender Island Local Trust Committee is committed to reconciliation and the acknowledgement of Indigenous place and history. The South Pender Island Local Trust Committee seeks to build relationships and to collaborate with First Nations and the Indigenous community to protect cultural places, preserve and increase access to culturally

significant species and food sources, and celebrate the culture, history, language, and art of First Nations within the area.

As part of the South Pender Island Local Trust Committee (LTC) commitment to support the goals of reconciliation the South Pender LTC recognizes the importance of preserving and protecting the following culturally significant plants and food/medicines for First Nations and Indigenous communities:

- SPÁÁNW (camas) and any areas of SPÁÁNW meadows or cultivation areas;
- KÁŦEŁĆ (ocean spray) a hardwood for making tools from arrows and harpoon shafts, to salmon skewers and needles;
- ELILE,İŁĆ (salmonberry) and DEKĖNİŁĆ (thimbleberry) plants their shoots and berries and cultivation areas;
- ŁEKES (Porphyra) edible seaweeds and the conservation of shoreline and upland areas that preserve ŁEKES habitat;
- Á,ĆEX (crab) a traditional food;
- SQŁÁ,İ, (littleneck clam), S,OXE, (butter) SWÁÁM (horse clam), STELO,EM, (cockles), ŁÁU,ĶEM, (bay mussel) and İEXİEX (pacific oyster) and the areas in which they are harvested; including conservation to reduce pollutants that lead to the closer and degradation of these species;
- XPÁ, (western red cedar) for house posts and planks, totem poles, dugout canoes, mats, baskets, clothing, and cordage, and the preservation of this species for future generation;
- ŦŦÁ,ELĆ (broad-leaf maple) for paddles and spindle whorls;
- JSÁ,İŁĆ (Douglas-fir), SKĖMÍ,ĖKS (grand fir), and KĖKĖYİŁĆ (arbutus) and the conservation of these species for future generations.

The South Pender LTC will undertake actions within its regulatory bylaws and advocacy work in collaboration with the local community to welcome and meaningfully include local First Nations and Indigenous community to the islands and waters of the area to:

- identifying sites of First Nations significance and ensure their protection;
- celebrate and look for opportunities to incorporate First Nation languages on public signage;
- advocate for the renaming places of significance;
- prioritize local Indigenous public art;
- respect and honour First Nations village sites and ancestral resting places;
- preserve traditional harvesting, fishing, and medicine gathering locations including fish trap areas, sacred places, traditional trails, canoe runs, and bathing sites, and allow for ceremonial use of those locations;
- advocate with community to create opportunities to learn, understand, and honour First Nations culture, history, and values;

- seek to engage meaningfully with local First Nations before developing park areas, public spaces, beach accesses, trails, and educational materials;
- consider changes to land use, building height and density to reduce impacts in areas defined as culturally sensitive and/or significant due to cultural heritage sites, or cultural food sources.”

2. By adding the following new clause to Article 3.1.2(a) (Land Use):

“v) If the Local Trust Committee considers Development Variance Permit applications to vary the maximum floor area of residential dwellings, ‘Appendix 10.1 South Pender Island Local Trust Committee Building Design and Siting Guidelines’ should be incorporated into the building proposal where feasible.”

3. By adding the following new part after ‘Part 9 – Administration’:

“PART 10 – APPENDICES

10.1 South Pender Island Local Trust Committee Building Design and Siting Guidelines

Vision Statement:

The South Pender Island Local Trust Committee Building Design & Siting Guidelines are intended to support the South Pender Island Official Community Plan and in particular, the following two Official Community Plan policies:

2.2.1 To maintain the island’s rural character so community members and visitors may continue to enjoy a sense of tranquility, privacy, freedom from disturbance, and relative self-sufficiency within a visually attractive environment.

2.2.4 To ensure land use, development, and associated servicing are compatible with the rural island character and that their growth is gradual and sustainable.

The guidelines draw upon objective criteria and a variety of approaches for creating thoughtfully designed, energy efficient dwellings and accessory buildings and structures which also relate to, and are in harmony with, the natural surroundings. The guidelines are intended to promote an appreciation of South Pender Island’s history, create an understanding of the rural character, and reinforce the regional identity. The guidelines are presented to encourage imaginative, site specific designs while achieving the guideline’s objectives for design, siting and size.

Purpose: The guidelines encourage the design and siting of buildings and structures on a property by considering the topography of the land, its ecology, and the natural and rural character of South Pender Island.

Objectives:

- To site buildings and structures on a property that will integrate with the landscape, through the use of a diversity of architectural styles and the use of exterior colours which compliment the natural character of the island;

- To encourage the use of energy saving technologies to reduce greenhouse gases;
- To encourage the consideration and respect of neighbouring properties when siting and designing a building or structure; and,
- To encourage designs of buildings and structures that maintain compatibility with the character of the neighbourhood and community, and to decrease the visual prominence of a building or structure.

Guideline 1 - Principles of Design

A design should consider every aspect of a building and its setting to achieve an outcome that responds to the needs of the individual while integrating into the landscape. Designs should also take into account future maintenance and repair requirements. Historically, most homes were simple, modest, and owners had the knowledge and ability to maintain and repair their homes.

- Consider designs in a restrained, proportionate, manner such that each building remains subordinate to the natural and rural character.
- Consider a diversity of styles. Avoid a repetition of a single style within a neighbourhood and choose designs that contribute to the overall character of the community.
- Complex designs or complicated construction methods and materials may difficult to source.
- Be consistent within an individual building. Avoid a variety of design features or those that are nonfunctional, or ostentatious.
- Consider age-friendly design principles to create easy access or reduce mobility issues.

Guideline 2 - Define the Objectives

Consider reducing the floor area of the building or structure while still achieving the desired form and function.

Guideline 3 - Selecting a Building Site

Selecting an appropriate building site can influence how successful a dwelling can blend into its natural surroundings. Siting of buildings and structures should be addressed at the pre-design stage and should utilize the natural topography while minimizing disturbance to the ecology and the visual impact in order to blend in with the nature environment. Consider local knowledge when siting dwelling units and take into account the particular micro-climate influences in your specific area, such as potable water sources, soil conditions, wind and rain direction, summer heat, early frosts, and drainage routes. Well selected building sites can offer shelter from the elements, privacy and take advantage of solar applications. Consideration should be given to the prominence of the building or structure and how it impacts views from adjacent properties and other view corridors.

Guideline 4 - Produce a Design Concept and Site Plan

- Prepare a visual design concept plan, building and elevation plans, and site plan that will achieve the objectives of these guidelines. A site contour map may also be beneficial.

Guideline 5 - Site Preparation

- Clear the land only where necessary while maintaining as much contiguous forest cover as possible. Prior to removing trees, consider shade requirements, wind direction, wildlife habitat, water retention and drainage. In addition, road access, services, drainage and sewage disposal should be considered along with location of buildings and structure which will result in a well-integrated site plan. Excessive excavation and its mitigation can be expensive, unnecessary, and damaging to the natural landscape.

Guideline 6 - Landscaping

- The character of the rural garden can be defined as something which requires minimal intervention to the existing landscape and native plants. Select plants that are deer resistant, drought tolerant and non-invasive.
- Planting zones can create pathways, enclosures, privacy, wildlife habitats, and can reduce or limit expansive areas of pavement and lawns. Planting can be used to soften the geometric impact between the built environment and the natural landscape.
- The endangered Coastal Douglas Fir ecosystem is one of the most important features of the community. Unnecessary fragmentation of this forest landscape is discouraged. Rather than cut trees for view corridors, consider “windowing” by trimming branches.

Guideline 7 - Hard surfaces and Paving Materials

- For driveways, patios, and walkways, avoid large, continuous areas of paving and consider using porous materials that permit percolation of water and aeration in soils.

Guideline 8 - Fencing

- Not every property needs a fence or wall along its entire perimeter. Keep fencing to a minimum around specific areas requiring protection and/or screening.
- Consider the neighbourhood and adjoining properties when designing and installing a fence or wall.”

DRAFT

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 126

A BYLAW TO AMEND SOUTH PENDER ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 107, 2011

The South Pender Island Local Trust Committee enacts in open meeting assembled as follows:

1. CITATION

This Bylaw may be cited for all purposes as “South Pender Island Official Community Plan Bylaw No. 107, 2011, Amendment No. 1, 2022”.

2. SCHEDULES

South Pender Island Official Community Plan No. 107, 2011 is amended as shown on Schedule 1, attached to and forming part of this bylaw.

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__

APPROVED BY THE MINISTER MUNICIPAL AFFAIRS AND HOUSING
THIS _____ DAY OF _____ 20__

ADOPTED THIS _____ DAY OF _____ 20__

CHAIR

SECRETARY

**SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 126**

SCHEDULE 1

The South Pender Island Official Community Plan Bylaw No. 107, 2011, is amended as follows:

1. By adding the following new subsection after Subsection 5.1.5 Hazardous Condition Areas:

“5.1.6 South Pender Island & Rights of Nature

South Pender Island, known as SDÁY,ES/stéyəs to the W’ SÁNEĆ People, lies within the Coastal Douglas fir biogeoclimatic ecological zone, one of the smallest of British Columbia’s fourteen ecological zones, a place acknowledged to contain “some of the most unique, and most threatened, ecosystems in the province.” Many bird species and other animals within this zone are diminishing in numbers and within the Salish Sea, many species of fish, shellfish, and sea birds are also in decline. The Southern Killer Whale (Orca), one of the most iconic mammals of the region, is under constant and increasing threat by the degradation of their environment due, directly or indirectly to human activity and climate change.

The South Pender Official Community Plan (OCP), recognizes that South Pender Island and its present 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 the rural character and natural features so valued by all people: Indigenous people, residents, property owners, and visitors. To achieve these goals 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 associated OCP policies is “the concept that land use and development should be compatible with the inherent capacity of the island.” Indigenous people that inhabited this region since time immemorial embrace a long-range view, understanding that we all depend upon, connect to, and hold responsibility for, the sustainability of the land, waters and all species. The understanding that all species are “relatives” requires the principle of “reciprocity”; caring for, nurturing, and respect. Understanding this “way of knowing”, was learned through oral history passed down, observation, and experience through millennia. This way of knowing and understanding aligned with the Rights of Nature.

The Rights of Nature recognizes the negative impact from settler activity that saw Nature as a resource, that Nature is an object or property, rather than an interrelationship of life forms. If we recognize the importance of “sustainability” then we must also recognize the mutual need to maintain a balance in the ecosystems that we share with the plants, forests, and animals, by limiting our use of, and impacts upon, Nature.

The basic right of future generations to a healthy environment can only be ensured if present generations recognize that this requires us to look beyond present and short-term “needs”, particularly those of Euro settler viewpoints of economic progress and development. For example, while it may be necessary to cut down trees to build a home, the clear cutting of large swaths of trees destroys a forest and the associated ecosystem which plant and animal species depend upon to survive.

The South Pender Island Official Community Plan recognizes the Rights of Nature within an overall framework of sustainable development, in conjunction with other agencies, First Nation governments, and with the involvement and participation of property owners, to encourage and enhance our efforts to:

- a) Recognize that climate change, pollution, erosion, and other forms of environmental degradation, to the land, waters, and all species, is a threat to the environment and ecosystems;
- b) Conduct and promote land use planning with a view to the location of activities that minimizes environmental impact, balancing social and economic development with the restoration of the landscape and ecological enhancement;
- c) Classify and develop natural and recreational areas, to protect landscapes, in such a way as to guarantee the conservation of nature and the preservation of First Nations’ cultural values, traditional activities, and assets;
- d) Promote the rational use of natural resources, while safeguarding their ability to renew themselves and ensure 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 and the protection of traditional First Nations’ areas;
- f) Promote the integration of environmental objectives into the various policies of a sectoral nature;
- g) Promote environmental education and respect for First Nations’ values;
- h) Promote the Natural Area Protection Tax Exemption Program (NAPTEP), of the Trust Conservancy and encourage the compatibility of development with the protection of the environment and the quality of all life,
- i) Recognize that limitations must be determined since incremental growth, even green incremental growth, erodes the functionality of fragile and limited ecosystems and resources;
- j) Recognize that “stewardship” reflects the role First Nations have to actively steward and manage their territorial areas.”

From: Kim Stockdill
Sent: Thursday, June 2, 2022 2:54 PM
To: Jas Chonk
Subject: FW: South Pender Island Official Community Plan - Draft Bylaw No. 126 - For Response
Attachments: SP-BL-126_Minor-OCP-Review_DRAFT.pdf

From: Referrals <Referrals@Lyackson.bc.ca>
Sent: Thursday, June 2, 2022 2:52 PM
To: Kim Stockdill <kstockdill@islandstrust.bc.ca>
Cc: Clare Frater <cfrater@islandstrust.bc.ca>
Subject: FW: South Pender Island Official Community Plan - Draft Bylaw No. 126 - For Response

Good afternoon Kim,

Prior to commenting on the "Rights of Nature," Lyackson First Nation is interested in understanding what Islands Trust has done to date to meaningfully achieve reconciliation and advance the rights of Indigenous peoples.

We look forward to hearing from you.

Huy ch q'a

Cristina Hoffmann
Referrals

Lyackson First Nation
8017 Chemainus Road
Chemainus BC V0R 1K5
Email: referrals@lyackson.bc.ca

From: Jas Chonk <jchonk@islandstrust.bc.ca>
Sent: April 22, 2022 10:16 AM
To: 'Tracy Fleming' <Tracy.Fleming@cowichantribes.com>; 'referrals@halalt.org' <referrals@halalt.org>; 'carole@lcfm.ca' <carole@lcfm.ca>; Referrals <Referrals@Lyackson.bc.ca>; 'referrals@malahatnation.com' <referrals@malahatnation.com>; 'reception@pauquachin.com' <reception@pauquachin.com>; 'denisej@penelakut.ca' <denisej@penelakut.ca>; 'jcharles@semiahmoofirstnation.org' <jcharles@semiahmoofirstnation.org>; 'desireet@snuneymuxw.ca' <desireet@snuneymuxw.ca>; 'reception@tsartlip.com' <reception@tsartlip.com>; 'admin@tsartlip.com' <admin@tsartlip.com>; 'landsmanager@tsawout.ca' <landsmanager@tsawout.ca>; 'TFN Referrals' <referrals@tsawwassenfirstnation.com>; 'chief@tseycum.ca' <chief@tseycum.ca>; 'justin.fritz@wsanec.com' <justin.fritz@wsanec.com>; 'sfn.reception@stzuminus.com' <sfn.reception@stzuminus.com>
Cc: Kim Stockdill <kstockdill@islandstrust.bc.ca>
Subject: South Pender Island Official Community Plan - Draft Bylaw No. 126 - For Response

Dear First Nation Referral Coordinators,

The Islands Trust and the South Pender Island Local Trust Committee (LTC) is proposing an amendment to the South Pender Island Official Community Plan (OCP) to include a background statement and advocacy policies regarding Rights of Nature. The draft wording is attached.

As part of the Islands Trust commitment to reconciliation we have drafted initial wording for your review and hope that we would be able to engage to discuss these initial changes to the South Pender Island Official Community Plan (draft wording attached). Your guidance in ensuring that this wording is appropriate is essential and we welcome a meeting to discuss this OCP amendment and process. Once the South Pender Island LTC gives first reading to the bylaw (potentially at the end of June 2022), a second more formal referral will be sent to you in July or August of this year.

A reply is respectfully requested by **Friday, June 17, 2022**.

Should you have any questions, or require further information, please contact Island Planner Kim Stockdill at 250-405-5157 or kstockdill@islandstrust.bc.ca and she would be happy to answer any questions you may have.

Please direct referral responses to southinfo@islandstrust.bc.ca or by mail to: Islands Trust, Victoria Head Office – 200-1627 Fort Street, Victoria BC V8R 1H8.

Thank you for your time and attention to this matter.

Jas Chonk

Legislative Clerk

Islands Trust

200-1627 Fort Street | Victoria BC V8R 1H8

T 250-405-5164 | www.islandstrust.bc.ca

You can also reach us toll-free via Service BC 1-800-663-7867 | 604-660-2421



Preserving and protecting over 450 islands and surrounding waters in the Salish Sea

I am humbly thankful to live and work in the treaty lands and territories of the BOKEĆEN, K'ómoks, Lá' wəjan, Lyackson, MÁLEXEL, Qualicum, Quw'utsun Tribes, scáwáðan məsteyəx", Scia'new, səliłwataʔ, SEMYOME, shishálh, Skwxwú7mesh, Snaw-naw-as, Snuneymuxw, Spune'luxutth, SÁÁUTW, Stz'uminus, ʔaʔamen, toq qaymux", Ts'uubaa-asatx, Wei Wai Kum, We Wai Kai, WJOŁŁP, WSIKEM, Xeláltxw, Xwémalhkwx/ʔop qaymux", and x"məðk"əyəm.

Top Priorities Report

South Pender Island

1. <i>Land Use Bylaw Amendments Project</i>	Responsible	Dates
Potential amendments: 1. Maximum floor area 2. Setback Review 3. Agricultural Regulations 4. Shipping containers 5. Minor and technical amendments	Kim Stockdill	Rec'd: 09-Apr-2021 Target: 30-Sep-2022
2. <i>Minor OCP Amendments</i>	Responsible	Dates
Building Design & Siting Guidelines, FN OCP Language, and Rights of Nature statement	Kim Stockdill	Rec'd: 09-Apr-2021 Target: 30-Sep-2022
3. <i>Shoreline Review Project</i>	Responsible	Dates
Initial community consultation prior to LTC direction to proceed		Rec'd: 09-Apr-2021



Projects Report

South Pender Island

1. *Development Permit Areas*

Responsible

Date Received

Review of existing and potential development permit areas

28-Apr-2015

2. *Sea level Rise and Shoreline Erosion*

Responsible

Date Received

Review of policies and regulations including setback from the sea, structures permitted in setback

28-Apr-2015

3. *First Nations Language*

Responsible

Date Received

Consider OCP amendment to include a more fulsome historical accounting of First Nations

01-Nov-2019

4. *Building and Siting Guidelines*

Responsible

Date Received

Review policy and regulations related to building and siting on residential properties, including floor area, setbacks, siting and other regulations.

31-Jan-2020

5. *Groundwater Sustainability Project*

Responsible

Date Received

Phase 3

09-Apr-2021

6. *Raptor's Nest Mapping*

Responsible

Date Received

To update the mapping of raptor's nest on South Pender Island.

04-Feb-2022



Applications

Agricultural Land Reserve

File Number	Applicant Name	Date Received	Purpose
SP-ALR-2021.1	Rachel Thomson for Airey Homes Inc.	27-May-2021	8970 GOWLLAND POINT RD - ALR application for subdivision

Planner: Kim Stockdill

Planning Status

Status Date: 24-May-2022

Submitted to the ALC via application portal.

Status Date: 27-Apr-2022

On May 6, 2022 agenda.

Status Date: 02-Mar-2022

Applicant in process of applying for NFU application with ALC.

File Number	Applicant Name	Date Received	Purpose
SP-ALR-2022.1	Airey Homes Inc.	01-Mar-2022	Agricultural Land Commission Application ID 63805 (Non Farm Use)

Planner: Kim Stockdill

Planning Status

Status Date: 24-May-2022

Submitted to the ALC via application portal.

Status Date: 27-Apr-2022

On May 6, 2022 agenda.

Status Date: 13-Apr-2022

Robert K. assigned the file to Kim Stockdill.



Applications

Subdivision

File Number	Applicant Name	Date Received	Purpose
SP-SUB-2021.1	Taylor Johnson or Rachel Thomas/Airey Homes Inc.	01-Jun-2021	8970 GOWLLAND POINT RD- proposed three lot bareland strata subdivision

Planner: Kim Stockdill

Planning Status

Status Date: 14-Oct-2021

PLRS received. ALC approval req'd as condition precedent.

Status Date: 28-Jun-2021

payment received letter sent to applicant, assigned to Phil, - DL

Status Date: 24-Jun-2021

fees received - DL

Islands Trust
LTC EXP SUMMARY REPORT F2023
Invoices posted to Month ending May 2022

665 South Pender	Invoices posted to Month ending May 2022	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-665	LTC "Trustee Expenses"	77.00	138.16	-61.16
LTC Local				
65050-665	LTC "Executive Expense on LTC's"	203.00	0.00	203.00
65200-665	LTC - Local Exp - LTC Meeting Expenses	1,561.00	57.14	1,503.86
65210-665	LTC - Local Exp - APC Meeting Expenses	333.00	0.00	333.00
65220-665	LTC - Local Exp - Communications	250.00	0.00	250.00
65230-665	LTC - Local Exp - Special Projects	270.00	0.00	270.00
TOTAL LTC Local Expense		<u>2,617.00</u>	<u>57.14</u>	<u>2,559.86</u>
Projects				
73001-665-4117	South Pender OCP Minor Amendments	1,500.00	1,033.50	466.50
73001-665-4118	South Pender LUB Minor Amendments	1,500.00	1,033.50	466.50
TOTAL Project Expenses		<u>3,000.00</u>	<u>2,067.00</u>	<u>933.00</u>



Applications

Agricultural Land Reserve

File Number	Applicant Name	Date Received	Purpose
SP-ALR-2021.1	Rachel Thomson for Airey Homes Inc.	27-May-2021	8970 GOWLLAND POINT RD - ALR application for subdivision

Planner: Kim Stockdill

Planning Status

Status Date: 24-May-2022

Submitted to the ALC via application portal.

Status Date: 27-Apr-2022

On May 6, 2022 agenda.

Status Date: 02-Mar-2022

Applicant in process of applying for NFU application with ALC.

File Number	Applicant Name	Date Received	Purpose
SP-ALR-2022.1	Airey Homes Inc.	01-Mar-2022	Agricultural Land Commission Application ID 63805 (Non Farm Use)

Planner: Kim Stockdill

Planning Status

Status Date: 24-May-2022

Submitted to the ALC via application portal.

Status Date: 27-Apr-2022

On May 6, 2022 agenda.

Status Date: 13-Apr-2022

Robert K. assigned the file to Kim Stockdill.



Applications

Subdivision

File Number	Applicant Name	Date Received	Purpose
SP-SUB-2021.1	Taylor Johnson or Rachel Thomas/Airey Homes Inc.	01-Jun-2021	8970 GOWLLAND POINT RD- proposed three lot bareland strata subdivision

Planner: Kim Stockdill

Planning Status

Status Date: 14-Oct-2021

PLRS received. ALC approval req'd as condition precedent.

Status Date: 28-Jun-2021

payment received letter sent to applicant, assigned to Phil, - DL

Status Date: 24-Jun-2021

fees received - DL



**HIGHLIGHTS OF ISLANDS TRUST CONSERVANCY MAY 24, 2022 BOARD MEETING
(OPEN PORTION)**

*NOTE: For more detail on Conservancy meetings, including meeting minutes, please visit
<https://islandstrust.bc.ca/whats-happening/meetings-and-events/>*

1. ORGANIZATION UPDATES/TEAM

- The Islands Trust Conservancy (ITC) continues to have a vacancy for one Ministerial appointment to the ITC Board. The [Crown Agencies and Board Resourcing Office](#) is responsible for posting the position.
- ITC Board welcomed Aislyn King as the summer Co-op Student to the ITC team. She will be working as the GIS & Conservation Technician over the summer.
- ITC Board received verbal updates from the ITC Chair and Vice Chair about the Islands Trust Governance Review, the final 2022/23 Islands Trust Budget and the Policy Statement Review Process.
- ITC Board approved audited financial statements for 2021/22.

2. STRATEGIC PLANNING/ADMINISTRATION

- The ITC Manager presented the request for decision regarding the ITC Plan Review to Board members, advising the plan will have a shorter timeline than previous plans (three years instead of five years), and noted the timelines for internal and First Nations referrals processes. The intent is to move towards a more robust engagement of First Nations over the next two to three years in preparation for the next ITC Plan. ITC Board approved the draft ITC Three-Year Plan and directed staff to refer it to local trust committees, the Bowen Island Municipality, Trust Council and First Nations and to bring a final draft to the Board for approval at its November 2022 meeting.
- ITC Board directed staff to prepare a Project Charter for the next ITC Five-Year Plan (2026-2030) with an emphasis on First Nations engagement.
- ITC Board provided input for the draft, July 13, 2022, ITC/Executive Committee liaison meeting. The liaison meeting provides an opportunity for ITC to liaise with Executive Committee regarding overlapping Trust Council and ITC work priorities.
- ITC Board reviewed correspondence received since the last meeting.

3. COVENANT AND PROPERTY ACQUISITIONS

- The ITC Manager presented the Sandy Beach Nature Reserve Management Plan to Board members. Board members discussed adding climate solutions to future management plans including planting of niche species adaptive to climate change. Staff noted that the current



Climate Change Project is examining mitigation and adaptation actions for ITC managed lands. ITC Board approved the plan as amended.

4. COVENANT AND PROPERTY MANAGEMENT

- ITC Board discussed the referral of Proposed Bylaw 526 - Farm Housing Project (Salt Spring). ITC Board recommended approval of Salt Spring Island Local Trust Committee Bylaw 526, subject to the following conditions:
 - Increase of setbacks for any new uses from all lot lines adjacent to the McFadden Creek Nature Sanctuary of 200m, due to potential heron nesting areas (a blue listed species at risk); and
 - Increase of setbacks for any new uses from all lot lines adjacent to other ITC conservation areas to 30 m.

ITC Board also requested the Salt Spring Island Local Trust Committee consider the development of other protections for conservation areas on Salt Spring Island, such as:

- Restrictions on timing of construction to September 15 – January 15 for lots adjacent to ITC and other conservation areas;
 - Implementation of erosion controls and soil compaction controls during construction for lots adjacent to ITC and other conservation areas; and
 - Increase of setbacks for all lots adjacent to and/or near sensitive ecosystems.
- ITC Board approved placement of a Memorial Bench in the McRae NAPTEP Covenant (Gabriola) noting the bench is in memory of the late Stanley and Maxine McRae..
 - ITC Board received a Fallow Deer briefing for Mayne Island and passed a resolution encouraging Trust Council to strongly advocate to the Province for the implementation of sustained, evidence based solutions to invasive Fallow Deer populations on Mayne Island, as requested by the Mayne Island Conservancy Society, to prevent Fallow Deer invasions to other islands.

5. COMMUNICATIONS AND OUTREACH

- ITC Board were presented with the draft 2021/22 Annual Report for approval. Minor edits were noted and the text was approved (as amended) for approval by Trust Council. Communications Specialist noted that this Annual Report was designed to compliment the ITC [Impact Report](#) that is now available on the website.
- The Species at Risk Coordinator briefed Board members on the results of the Gathering for Species at Risk workshop (held March 17, 2022) and [highlighted outcomes of workshop](#).
- The ITC Ecosystem Protection Specialist briefed Board members on the recent Bull Kelp polygon mapping. The [mapping has been uploaded into Map IT and TAPIS mapping](#).

6. FUNDRAISING AND CONSERVANCY SUPPORT

- ITC Board approved the following Opportunity Fund Grants:



ISLANDS TRUST CONSERVANCY

ISLANDS TRUST CONSERVANCY REPORT TO LOCAL TRUST COMMITTEES AND BOWEN ISLAND MUNICIPALITY

- \$6,000 to Gabriola Land and Trails Trust in support of their Nature Stewards program;
- \$4,950 to the Galiano Conservancy Association for items noted in their application;
- \$5,000 to help Raincoast Conservation Foundation and the Pender Islands Conservancy Association protect 18 hectares (44.5 acres) of land known as KELÁ_EKE Kingfisher Forest on North Pender Island. Thanks to the generosity of an anonymous donor and the Sitka Foundation this donation will be matched, making it a \$10,000 contribution towards the protection of this forest. See our [News Release for further details](#).
- ITC Board received a Species at Risk Program update, including information about extension of funding from Environment and Climate Change Canada. ITC Board directed staff to draft and sign an amended contribution agreement with Environment and Climate Change Canada (ECCC), extending the existing Species at Risk Program funding until March 31, 2026, including a budget increase for the 2022/23 fiscal year of \$25,000 and the addition of \$220,000/year in funding for the next three fiscal years (2023/24 through 2025/26).

To find out more about Islands Trust Conservancy and our current goals, to donate to our Opportunity Fund, or to subscribe to email updates, visit our website: <https://islandstrust.bc.ca/conservancy/>

Shortcuts of interest:

- **Goals:** <https://islandstrust.bc.ca/conservancy/conservation-planning/>
- **Opportunity Fund:** (context) <https://islandstrust.bc.ca/conservancy/supporting-local-conservancies/opportunity-fund-grants/> ; (to donate online) <https://islandstrust.bc.ca/donate-to-conservancy/>
- **Request key updates via email:** <https://islandstrust.bc.ca/subscribe/> (NB: by scrolling down, you may also add your home address for a free hardcopy of the Heron newsletter, published three times per year)