



DATE OF MEETING: April 29, 2021
TO: North Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: LUB Review Project – Agriculture Review

RECOMMENDATION

- 1. That the North Pender Island Local Trust Committee give direction to staff to include the recommendations found in Attachment No. 1 to the draft bylaw.**

REPORT SUMMARY

The purpose of this report is to provide further information on the Agriculture topic area and seek direction from the North Pender Local Trust Committee (LTC). Staff have provided some recommendations for each item found in the attached table but also requests clear direction from the LTC where indicated in the staff report and attachment.

BACKGROUND

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

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

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

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

<http://www.islandstrust.bc.ca/npender/ocp-implementation-project>

At the March 22, 2021 LTC Special Meeting, the LTC passed the following resolutions:

NP-2021-031

It was moved and seconded,

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

CARRIED

NP-2021-032

It was moved and seconded,

That, regarding the North Pender Island Local Trust Committee Official Community Plan Implementation Options dated March 18, 2021, item 10, the North Pender Island Local Trust Committee direct staff to draft a bylaw to combine the two industrial zones into a single general industrial zone.

CARRIED

NP-2021-033

It was moved and seconded,

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

CARRIED

NP-2021-034

It was moved and seconded,

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

CARRIED

ANALYSIS

Agricultural regulations amendments

The Special Agricultural Advisory Committee (SAAPC) has provided an extensive referral report that includes comments and recommendations on the Agricultural Discussion Paper and the Minor & Technical Amendments list. The SAAPC report can be found here on the LUB Project webpage:

<http://www.islandstrust.bc.ca/media/350667/land-use-bylaw-review-north-pender-agricultural-advisory-planning-commission-jan-2021.pdf>

Attached is a list of the SAAPC recommendations (Attachment No. 1) with details pertaining to if they are within the project's scope, if they should be included in the bylaw amendments, and staff comments. The SAAPC was invited to attend the April 29, 2021 LTC meeting to answer questions from the LTC.

Agencies

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

First Nations

Early referrals were sent out to First Nations. To date one response was received from the Lyackson First Nation and Cowichan Tribes. Staff will continue to speak with the Islands Trust Senior Intergovernmental Policy Advisor on how to proceed with the correspondence received.

Rationale for Recommendation

The SAAPC provided a list of thorough recommendations for the NP LTC to consider. Staff recommends including the recommendations identified in the attached table into the draft LUB amendment bylaw for the LUB Review project.

ALTERNATIVES

1. Request further information

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

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

2. Schedule additional Special Meetings

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

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

3. Referral to the Advisory Planning Commission or Special Agriculture Advisory Planning Commission

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

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

4. Proceed no further

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

NEXT STEPS

A second Special Meeting to discuss the Tourist Commercial Regulation Review, the Marine and Shoreline Regulations Review, Conservation Subdivision Review, and the minor and technical amendments is in the process of being scheduled. Draft bylaws will be presented to the LTC in the coming months.

Submitted By:	Kim Stockdill, Island Planner	April 20, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	April 21, 2021

ATTACHMENTS

1. Agricultural Review table

Special Agricultural Advisory Planning Commission Recommendations
Date: March 2021

No.	SAAPC Recommendation	Within Scope?	Include in bylaw amendments?	Staff Comments
1.	Divide the Rural (R) and Rural Residential (RR) zones into two zones each: <ul style="list-style-type: none"> • Rural – divide into Rural / Magic Lake and Rural / General • Rural Residential – divide into RR / Magic Lake and RR/ General. 	No	Maybe	There are no Rural zoned properties located within Magic Lake Estates. The LTC could look at differentiating RR zoned areas that are within a water system. This would only be recommended if there are specific agricultural uses or regulations that would apply to RR zoned properties without water systems. More discussion may be required regarding what agricultural activities would be beneficial on RR zoned lots.
2.	Agriculture be permitted, encouraged and promoted in all zones, including ALR classified land, and all farmers have the rights provided under The Farm Practices Protection Act.	Yes	Maybe	An accessory horticulture use is permitted in every zone. Currently the R, RC1, RC2, and AG zones permit principal agriculture uses. The NP OCP Rural Residential policy 2.1.14.1 states that the principal use shall be residential. Accessory uses shall not detract from the rural character of the island. In addition, NP Rural Policy 2.1.2.1 states that the principle uses on lands in the Rural land use designation shall be residential and agricultural. Adding Agriculture as a principal permitted use to the RR zone would be in conflict with the OCP. The LTC could look at adding certain agricultural activities to the RR zone as an accessory use that would not detract from the rural character of the island.
3.	Agriculture involves land clearing and water, wildlife, and vegetation management. Any bylaw revisions limiting or restricting activities in these areas must not inadvertently or intentionally restrict agriculture, and they should not inhibit or restrict environmentally responsible farming practices.	Yes	No	For the LTC's reference, draft bylaws will be forwarded to the Regional Agrologist at the Ministry of Agriculture and the Agricultural Land Commission to provide comment.
4.	"Farm Status" should be defined pursuant to the Assessment Act (BC) as administered by the BC Assessment Authority.	Yes	No	There is only one reference to 'Farm Status' in the NP LUB and the reference already refers to the BC Assessment Authority. NP LUB Article 3.1.1(7): "where agriculture is permitted in any zone, farm retail sales are permitted, providing the property has farm status under the BC. Assessment Act."
5.	The building of 2nd residences on ALR land be in accordance with the ALUR subject to our recommendations below on farm worker housing and agri-tourism accommodation. Existing regulations allowing for "cottages" on non- ALR land in the RR, R and Ag zones	Yes	Yes	Although the AG zone permits cottages on lots greater than 1.2 ha, there is an Information Note regarding the use of the cottage and ALC regulations. This Information Note should be updated to reflect the ALC's updated regulations (use of

	should be sustained.			cottage would be permitted on ALC land if the ALC issues approval for non-adhering residential use’.
6.	The use of Manufactured Homes or mobile homes should not be prohibited, and rather should be encouraged as a means increase the stock of affordable housing on Pender as well as provide options for farm worker accommodation. Manufactured homes should be defined in the LUB more broadly than “mobile home”, and should include all forms of housing built offsite and moved to a site.	Yes	No	As ‘manufactured home’ is not referred to specifically in the LUB, therefore a definition is not required. Manufactured homes would meet the definition of a ‘building’ in the LUB and therefore could be considered a ‘dwelling’.
7.	The LUB should permit temporary and permanent farm worker housing on farms having Farm Status that demonstrate a need for farm workers. The ALC and ALUR provide farm worker housing regulations for large scale commercial farms that are not directly suitable for the scale of farm operations found on Pender.	Yes	Yes	Permit one farm worker dwelling unit subject to approval from the ALC. This dwelling unit would only be permitted on those lands within the ALR.
8.	The ALUR standards setting a maximum of 500 m2 size for residential homes on ALR land is an appropriate standard for the LUB.	Yes	Yes	Staff recommend establishing a maximum floor area for dwelling units located within the ALR in compliance with Section 20.1(1)(b) of the Agricultural Land Commission Act. Local Governments may impose a lower maximum floor area than the 500m ² as stipulated by the ALC.
9.	The existing lot coverage requirements that buildings and structures not exceed 35%, plus an additional 40 percent for commercial greenhouses only, is an appropriate standard for AG zoned properties when lot coverage, other than for a principal residence, is for agricultural purposes.	-	No	SAAPC supports current regulations, other than the maximum lot coverage for dwelling units.
10.	Agri-tourism be defined consistent with the ALUR, and be applicable on all farms having Farm Status. The conditions provided by the ALUR (Sec 33) be adopted for agri-tourist accommodation on Pender, including: <ul style="list-style-type: none"> • The accommodation be on agricultural land that is classified as a farm under the Assessment Act, and that it be secondary to the principal activity on the property – farming. • The total developed area used to provide the accommodation be <5% lot coverage, • Subject to lot size, the accommodation be limited to 10 sleeping units, where sleeping units are defined as a bedroom located in a residence or cabin, and including a vehicle, trailer, tent or other structure. • Being available for seasonal or short-term use only. 	Yes	Yes	Bylaw amendment to include the following: <ul style="list-style-type: none"> -Amend ‘agri-tourism accommodation’ definition to be consistent with ALC definition. -The accommodation be on agricultural land that is classified as a farm under the Assessment Act, and that it be secondary to the principal activity on the property – farming. -The total developed area used to provide the accommodation be <5% lot coverage, -Being available for seasonal or short-term use only. <p>The LUB currently permits 3 bedrooms and 6 guests max for agri-tourism accommodation. The ALC permits up to 10 sleeping units, where sleeping units are defined as a bedroom located in a residence or cabin, and including a vehicle, trailer, tent or other structure. LTC could consider increasing the numbers permitted.</p>

11.	The ALUR limits “Home Occupation”, referred to as “Home Business” and “Home Industry” in the LUB, to the use of an area of 100 m ² in a dwelling or accessory building on ALR land. For non-farm businesses requiring >100 m ² , approval of a non-farm use of ALR land is required. These standards should be adopted for ALR land on Pender. The Committee has not reviewed Trust proposals of intent for home industry more broadly, and will comment when these intentions are made clear.	Yes	Yes	LTC could consider increasing the maximum floor area for home businesses within the ALR from 65m ² to 100m ² to be consistent with the ALC>
12.	Cannabis production is a farm use under the ALUR and cannot, therefore, be prohibited on ALR land. The Staff recommendation to limit building size for indoor cannabis production on Ag and Rural zoned land is undefined with no apparent consideration for lot size or economic viability. Therefore, the Committee cannot make an informed comment at this stage of the LUB review process but does question the intent of imposing size limitations.	Yes	No	No amendments as per SAAPC.
13.	The ALUR definition of Farm Retail Sales (below) be adopted. <i>“farm retail sales” means the retail sale to the public of tangible farm products grown or raised on a farm or association to which the owner of the farm belongs, from that farm or farms and may include the sale of non-farm products as permitted by the Use Regulation.</i>	Yes	Yes	Add definition for Farm Retail Sales that is aligned with ALC definition.
14.	Farm Retail Sales be a permitted use for all farms with Farm Status in all zones where agriculture is a permitted use with similar conditions as prescribed by the Agricultural Land Use Regulation for ALR land.	Yes	No	Currently permitted in the LUB.
15.	Farm retail sale facility size limitations should be tied to lot size with a maximum of 300 m ² being the limit allowed by the ALUR.	Yes	Yes	Add regulation that states that total area for Farm Retail Sales, both indoor and outdoors, cannot exceed 300m ² (as per ALC).
16.	Farm Retail Sales should specifically include “association” sales where a cooperative marketing agreement has been established by a group of producers, and “association” be defined as <i>an association incorporated or continued under this Act or a former Act, and includes a housing cooperative and a community service cooperative;</i> (see Cooperative Association Act SBC 1999 Chapter 28).	Yes	Yes	Add definition for Farm Retail Sales that is aligned with ALC definition.
17.	Landscape Screening and Landscape Strip provisions: a) Where landscape screens or strips are called for, they should be diverse plantings of native species, be maintained free of invasive species, and promote pollinator and beneficial insect and bird	Yes	No	a) indigenous/native vegetation is already a requirement for landscape screening. LTC could add language that encourages the “use of vegetation that promotes pollination”.

	<p>populations.</p> <p>B) Landscape screens should not be a requirement in the Ag zone. Landscape screens currently only relate to commercial greenhouses (which are undefined) in the Ag zone.</p> <p>c) Landscape Strips have the potential to materially impact agriculture in the RR zone (lots >2.4ha) and R zone (lots >8ha) where they could take up to 5% of the lot area out of production, and should not be required where productive agricultural land would be taken out of production.</p>			<p>b) SAAPC recommends removing landscape screen requirement for commercial greenhouses and suggest a landscape screen would only be required if its beneficial to the farmer. The LTC could amend this requirement to only require landscape screening for commercial greenhouses in certain situations. For example, if commercial greenhouses are located within 30 metres from a R, RR, RC1, or RC2 zoned property or a highway.</p> <p>c) The LTC could consider exempting R zoned properties located within the ALR or with Farm Status from the landscape strip requirement.</p>
18.	Renewable Energy - Renewable energy installation should be encouraged on agricultural properties.	Yes	Yes	Add siting exemptions for solar panels and power sheds as stated in the minor and technical amendments list.
19.	Forestry and Agriculture buildings – bylaws associated with agricultural buildings on ALR land should be guided by the ALC “Guide for Bylaw Development” suggesting maximum height restriction of 15m, and for silos and grain elevation systems the maximum height should be 46m.	Yes	Yes	Currently the NP LUB states that buildings used for farm purposes may not exceed 10 metres in height. LTC may consider increasing the height as the ALC states that a local government should have a maximum eight for agricultural buildings no less than 15 metres. The LTC could allow agricultural buildings with a maximum of 15 metres but must meet a setback of 30 metres from property lines. A definition for agricultural buildings could be added to the NP LUB to help address issues with overheight accessory buildings purporting to be farm buildings.
20.	<p>Prohibited Uses –</p> <ul style="list-style-type: none"> Shipping Containers can be excellent storage, transport and potentially growing facilities on farms independent of residency. They should not be prohibited, and in fact should be encouraged. Pit toilets should not be prohibited on farms. 	Yes	Yes	<p>Shipping containers are currently considered accessory structures, the LTC has identified the use of shipping containers as an issue. The LTC could consider permitting a limited number of shipping containers on some properties (for example, properties zoned agriculture, industrial, forestry, etc.). The LTC could also consider requiring landscaping screening for shipping containers.</p> <p>Currently the NP LUB is silent on pit toilets. The LTC has identified this an issue to be potentially regulated. Direction is required from the LTC if there should be language in the LUB to restrict the use.</p>
21.	<p>Technical Amendments –</p> <ul style="list-style-type: none"> Bylaw officer entry onto a farm premises without prior notice and reasonable grounds should not be permitted. There are health, biosecurity, liability and safety considerations on farms and rural 	Yes	No	Bylaw Enforcement Officers is authorized to enter at reasonable times, consistent with legislation. No change recommended.

	properties. Additionally, all entries arising from complaints should be disclosed to the property owner, including the nature and source(s) identity of the complaint, prior to arranging entry. Anonymous complaints should not be investigated.			
22.	The ALUR requirements for soil removal / placement for agriculture on ALR land be adopted for all land capable of supporting agricultural plant growth whether in the AG zone.	No	No	Adoption of a Soil Bylaw is out of scope for this project. Local governments are permitted to issue Soil Deposit Permits with the stipulation that all of the Commission's pre-fill application conditions have been met and the Commission has notified the local authority in writing that filling activities can proceed.
23.	<p>The ALUR regulations for soil removal / placement be supplemented by the following requirements:</p> <ul style="list-style-type: none"> • If soil is removed, it be placed where it will be available for future agricultural use, • Authorization for removal or placement be approved administratively by the IT Staff, • Applications specifically not require 3rd party, professional consulting reports in cases involving less than [250 m³/ha]. 	No	No	Adoption of a Soil Bylaw is out of scope for this project.