



File No.: SP Minor LUB Amendments Project

DATE OF MEETING: May 10, 2024

TO: South Pender Island Local Trust Committee

FROM: Kim Stockdill, Island Planner  
Southern Team

COPY: Robert Kojima, Regional Planning Manager

SUBJECT: South Pender Minor LUB Amendments Project – Referral to South Pender APC

## RECOMMENDATION

1. That the South Pender Island Local Trust Committee request staff to send a referral to the South Pender Advisory Planning Commission regarding the Minor LUB Amendment Project to evaluate potential land use bylaw amendments and to provide comments and recommendations specifically related to the setback to the natural boundary of the sea, maximum floor area for dwellings, and setbacks to the interior lot line for dwellings and cottages.

## REPORT SUMMARY

This report is intended to provide the South Pender Island Local Trust Committee (LTC) with a summary of community input to date for the Minor Land Use Bylaw (LUB) Amendments Project and to provide recommendations for a referral to the South Pender Island Planning Advisory Committee (APC).

## BACKGROUND

At the February 2, 2024 regular meeting, the South Pender LTC passed the following resolutions:

### SP-2024-002

that South Pender Island Local Trust Committee give direction to staff to schedule an electronic special meeting to discuss the Community Information Meetings for the Minor Land Use Bylaw Amendments Project.

**CARRIED**

### SP-2024-003

that South Pender Island Local Trust Committee request that staff revise the Minor Land Use Bylaw Amendments Project Charter to the updated timeline.

**CARRIED**

As per the resolution above, staff amended the [Minor LUB Project Charter](#) to reflect the updated timeline. In addition, an electronic special meeting was held on March 7, 2024 to discuss the scheduling of the two Community Information Meetings (CIMs). It was determined that an in-person CIM would be held on April 7, 2024 with a targeted discussion on dwelling height, freshwater catchment regulations, agriculture regulations, shipping containers, definitions and other minor amendments. A second in-person CIM would be held on April 26, 2024 to discuss residential floor area and setbacks.

## **Trustee Hosted Workshops**

Community workshops were scheduled in January and February 2024 hosted by Trustee Evans and Trustee Falck. The focus of the workshops was to facilitate discussion regarding setbacks and maximum house size for the project. These meetings were intended to generate and collect the community's ideas and suggestions and forward them to the South Pender Island APC for deliberation. As Islands Trust staff nor a minute taker attended these sessions, the Trustees summarized the discussions from these workshops and have posted them to the [South Pender Trustee Corner website](#).

## **Community Information Meetings**

Two in-person CIMs were held on April 7 and April 26 2024 to provide a formal setting for community members to ask questions and provide comments on the targeted project topics. Staff have summarized the comments received at the CIMs below.

## **ANALYSIS**

### **Trustee-led Workshop Summary**

Below is a summary of the comments collected through the trustee-led workshops:

#### **1. House Size**

The rationale expressed in the workshops for keeping current regulations are multifaceted, emphasizing the need to conserve resources and preserve the rural identity of South Pender. Concerns about the environmental impact of larger houses, which consume more resources, underscore the importance of maintaining the current regulations. Furthermore, maintaining smaller house sizes can improve affordability and accessibility for a wider range of residents.

Any proposed changes to the South Pender LUB should aim to address housing needs while navigating these concerns carefully. Suggestions include allowing secondary suites to ease the housing crisis, tightening lot regulations to match house sizes with lot configurations, and exploring alternative zoning methods to maintain rural character. Adjustments to accommodate larger house sizes or offer variances for specific situations were also proposed, alongside measures to ensure accessibility and balance environmental concerns with housing demands. Additionally, there were comments received related to accommodating multi-generational living arrangements by expanding size allowances for caregiver dwellings.

In addition, certain issues were discussed with considered maximum floor area like considering factors such as irregular lot shapes and attached garages. Recommendations could include removing attached garages from the calculation of floor area.

#### **2. Height**

There was an overall support to revert the height regulations as they were prior to the adoption of Bylaw No. 122 as the new regulation has created legal non-conforming situations.

#### **3. Setbacks – Interior lot line**

Comments included a mix of support and opposition for the more restrictive setback regulation to the interior lot line for dwellings and cottages. Some suggested keeping the regulation but create a more flexible approach, suggesting different setbacks related to the size or width of the property. Some

advocated for keeping the current setback rules (Bylaw No. 122) to increase privacy between properties. Others expressed support to revert the bylaw back to less restrictive regulations based on a lack of rationale for the regulation, and would also like to keep interior lot line setbacks consistent with other Local Trust Areas.

#### **4. Setback – Natural boundary to the Sea**

Community members expressed the importance of adapting building setbacks to accommodate rising sea levels due to climate change. Siting buildings back from the natural boundary of the sea not only protects against erosion and storm damage but also preserves the fragile coastal ecosystems and prevents the need for shoreline armouring, which can have negative environmental impacts. Some advocated for individualized setbacks determined by professionals rather than a one-size-fits-all approach.

Some expressed that a new Development Permit Area may be a better tool to address the protection of the marine sensitive ecosystem.

### **CIM Summary**

The following is a summary of the comments collected at the two CIMs in April 2024.

1. **Definitions:** There was generally support for the changes to the definitions due to the adoption of Bylaw no. 122 as they were all primarily technical in nature. Inclusion of new definitions were to align Agricultural Land Commission regulations. Community feedback included considerations for insulation efficiency and impacts on different building types in regards to supporting the change to the floor area definition.
2. **Height Regulations:** Support was voiced for reverting to the original regulation. It was expressed that variances do offer adjacent property owners a chance to express views to Trustees if new buildings obstruct their view, but they should not serve as remedies for bylaws. The proposed regulation affects existing buildings, potentially rendering some legal non-conforming if the bylaw remains unchanged.
3. **Shipping Containers:** Regulations were proposed to limit the number of shipping containers, including screening and siting restrictions. General support was voiced regarding the inclusion in the bylaw.
4. **Cistern Requirements:** The discussion centered on the changes to Section 3.14 regarding freshwater catchment systems and cisterns. Notably, the regulation was amended to clarify that the regulation does not apply to cottages, "rainwater" was relabeled as "freshwater," and cistern storage capacity increased from 9,000L to 18,000L. Support was expressed for the changes, though some suggested modifying terminology and the inclusion of definitions. Questions were posed about mandatory cistern connections and the jurisdiction of the Islands Trust. Staff will further investigate these matters and invite the Islands Trust Senior Freshwater Specialist to address concerns about freshwater definitions.
5. **Agriculture:** Aligning regulations with Agricultural Land Commission standards was discussed, with a focus on agri-tourism accommodations and house size restrictions. The only agriculture regulation that became more stringent was the limit on guests for agri-tourism accommodations. There was a suggestion to remove the agriculture regulations introduced by Bylaw No. 122 from the LUB, leaving restrictions to the Agricultural Land Commission (ALC). Some participants questioned the necessity of including these provisions if the ALC already regulations Agriculture Land Reserve uses.

6. **Residential Floor Area and Setbacks:** Discussions covered setback adjustments, considerations for ecological preservation, and balancing property rights with environmental protection.
7. **House Size:** Concerns and suggestions were raised regarding house size limits, variances, and the need for clarity in the bylaw language. Considerations for environmental impact and community character were emphasized.

Overall, the meetings aimed to gather community input on proposed changes and ensure alignment with the Official Community Plan goals while balancing diverse interests and environmental concerns.

Staff have summarized the amendments included in Bylaw No. 122 in an attached chart (Attachment No. 1). Staff have identified which amendments are recommended to be retained, removed, amended, or where further discussion is required. Topics highlighted in dark blue indicate where recommendations from the South Pender APC are required.

### **Advisory Planning Commission**

The South Pender LTC indicated at the last LTC meeting that comments gathered from public engagement through the trustee-led workshops and the two CIMs should be sent to the APC for further deliberation. As outlined in the [Project Charter](#), a referral to the APC is to commence from May to July 2024.

It is important for the LTC to identify specific topics for the APC to focus their discussion and attention. As highlighted in previous staff reports and supported by the comments collected through the trustee-led workshops and LTC CIMs, the following major topics have been identified as required to be referred to the APC:

- setback from the natural boundary of the sea
- total floor area and maximum floor area for dwellings
- interior side lot line setbacks for rural residential zoned dwellings and cottages

Staff have provided a recommendation to the South Pender LTC to refer a package of information to the South Pender APC (see page 1 of staff report). The package of information would include:

- Staff reports to date regarding the project including links to staff reports regarding the previous LTC project (Bylaw No. 122)
- Summaries prepared by the trustees for their trustee-led workshops (also available on the [Trust Corner webpage](#))
- Minutes from the two April 2024 Community Information Meetings
- An introductory letter outlining the three major topics (identified above) and providing an overview of each topic and provide guidance on how to address the topics by requesting the APC to:
  - Identify and discuss what the three major topics/amendments are trying to achieve (what problem(s) are they trying to address/solve)
  - Identify and discuss if the APC supports the amendment(s) in Bylaw No. 122 and determine if the amendment(s) achieve their goal
  - If the APC does not support the amendment(s), provide comment on how they can be changed, or provide other amendments/tools the South LTC could adopt to achieve the goals.
- Staff will also attend the first APC meeting, and any other APC meetings, to provide information and guidance
- A copy of the [South Pender Island APC Bylaw No. 98](#)
- Updated copy of the FAQ document

The LTC should indicate to staff if any further information or guidance should be included in the referral to the South Pender APC.

### **FAQ Document**

Staff produced a frequently asked question document to answer questions regarding legal non-conforming and [Bylaw No. 122](#). At the Community Information Meeting on April 26, 2024 it was identified that further clarification and edits were required to the FAQ document prior to forwarded it to the South Pender APC. The FAQ document will be updated prior to the May 10, 2024 regular South Pender LTC meeting and posted in Folder 6 “Other Information” for the Minor LUB Amendments Project on the [South Pender Project webpage](#).

### **Statutory Requirements**

In the first stage of the project (i.e. APC referrals and undertaking community engagement) there are no statutory requirements to consider. If at a later stage the LTC resolves to undertake a bylaw amendment, statutory notification requirements of the Local Government Act will need to be considered including appropriate agency and First Nation referrals, public hearing option and bylaw adoption procedures. Early engagement letters will also be sent out as the project proceeds.

### **Rationale for Recommendation**

As shown in the Project Charter, the next step in the project is to send a referral to the South Pender APC in order to comment and provide guidance on certain topics in the Minor LUB Amendments Project.

## **ALTERNATIVES**

### **1. Request further information**

The LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are potential delays to commencing and completing the project. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

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

### **2. Request revisions to the draft project charter**

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

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

### **3. Creation of a Special Advisory Planning Commission**

The LTC may choose to create a Special Advisory Planning Commission:

*That the South Pender Island Local Trust Committee request staff to draft a Terms of Reference for the Special Advisory Planning Commission.*

### **4. Conduct further Community Information Meetings over the summer months**

The LTC may choose to hold additional Community Information Meetings if deemed necessary over the summer months:

*That the South Pender Island Local Trust Committee request staff to schedule # of Community Information Meeting(s) for the Minor LUB Project to engage further on....*

**5. Receive for information**

The LTC may receive the report for information.

**NEXT STEPS**

Next steps include:

- Send the formal referral information to South Pender APC

Submitted By:	Kim Stockdill, Island Planner	May 3, 2024
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**Attachment No. 1**

Bylaw No. 122 Section	Amendment Summary (for exact regulation refer to Bylaw No. 122)	Retain	Remove	Amend	Undecided	Staff Comments
2.1	New definitions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No major discussions regarding the definitions
2.2	Definition - cottage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	General support for keeping this definition.
2.3	Definition – floor area	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	General support for keeping this definition.
2.4	Changing setback to the natural boundary of the sea from 25 feet to 50 feet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	A mix of opinions to keep, change or remove this amendment. Further discussion and recommendation from the APC required.
2.5	Clause permits buildings and structures that were sited prior to September 15, 2022 to retain the 25 feet setback.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Dependent on decision of Section 2.4. If the LTC recommends to retain the setback of 50 feet from the natural boundary of the sea, then staff recommend to retain this regulation.
2.6	Clause that permits a legal dwelling, cottage or accessory building constructed prior to Sept 15/24 to be replaced or altered.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Dependent on decision of Section 2.4. If the LTC recommends to retain the setback of 50 feet from the natural boundary of the sea, then staff recommend to retain this regulation.
2.7	Addition to height regulation – restricts a dwelling or cottage to not exceed 9.2 metres at any point.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	General support to remove this regulation and reverting the height regulation as it was prior to the adoption of Bylaw No. 122.
2.8	Shipping container regulations	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	General support to keep the shipping container regulations with the option to change the lot sizes so they are the same as the lot sizes displayed the maximum floor area regulations.
2.9	Freshwater catchment regulations	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	General support for keeping this regulation. Possible amendments are to add definitions for “freshwater” and “cistern”.

Bylaw No. 122 Section	Amendment Summary (for exact regulation refer to Bylaw No. 122)	Retain	Remove	Amend	Undecided	Staff Comments
2.10	RR Zones – more restrictive maximum floor area and total floor area	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Further comments and recommendations from the APC required.
2.11	Clause that allows legal dwellings to be constructed with the same floor area as it was at the time of Bylaw No. 122 adoption.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Dependent on decision of Section 2.10. If the LTC recommends to retain regulation or amend the maximum floor area and total floor area, then staff recommends to retain this regulation.
2.12	Maximum floor area of a cottage in the RR zones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Technical amendment and support to retain as is.
2.13	Setback from interior lot line for dwellings and cottages to be 20 feet.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Further comments and recommendations from the APC required.
2.14	Clause that allows legal dwellings and cottages to be sited as they were prior to the adoption of Bylaw No. 122 (Sept. 15/22).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Dependent on decision of Section 2.13. If the LTC recommends to retain setback of 20 feet to interior lot line for new dwelling and cottages, then staff recommends to retain this regulation.
2.15	Adding permitted accessory agri-tourism use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Retain but remove reference to “subject to Subsections 5.5(13) to 5.5(16)”.
2.16	Adding permitted accessory agri-tourist accommodation use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Retain but remove reference to “subject to Subsections 5.5(15) to 5.5(22)”.
2.17	Adding farm retail sales as accessory use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	General support to retain.
2.18	Maximum floor area and total floor area for dwellings in the Agriculture zone.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Some support to remove this regulation as it was expressed at the Agricultural Land Commission (ALC) regulates maximum floor area for dwellings located in the Agricultural Land Reserve (ALR).
2.19	Clause that allows legal dwellings to be constructed with the same floor area as it was at the time of Bylaw No. 122 adoption.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Dependent on decision of Section 2.18. If the LTC recommends to retain regulation or amend the maximum floor area and total floor area, then staff recommends to retain this regulation.
2.20	Maximum floor area of cottage in the Agriculture zone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Technical amendment and support to retain as is.



Bylaw No. 122 Section	Amendment Summary (for exact regulation refer to Bylaw No. 122)	Retain	Remove	Amend	Undecided	Staff Comments
2.21	Information Note	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Technical amendment and support to retain as is.
2.22	Farm retail sales regulation related to indoor and outdoor floor area permitted for the use.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	General support to remove all conditions that are currently regulated by the ALC.
2.23	Conditions of use for agri-tourism and agri-tourist accommodation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	General support to remove all conditions that are currently regulated by the ALC <u>except</u> to retain the condition that limits the number of guests and bedrooms for an agri-tourist accommodation use.
2.24	Maximum floor area and total floor area for dwellings in the Forestry zone.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Further comments and recommendations from the APC required.
2.25	Clause that allows legal dwellings to be constructed with the same floor area as it was at the time of Bylaw No. 122 adoption.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Dependent on decision of Section 2.24. If the LTC recommends to retain regulation or amend the maximum floor area and total floor area, then staff recommends to retain this regulation.
2.26	Maximum floor area of cottage in the Forestry zone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Technical amendment and support to retain as is.
2.27	Maximum floor area and total floor area for dwellings in the Natural Resource zone.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Further comments and recommendations from the APC required.
2.28	Clause that allows legal dwellings to be constructed with the same floor area as it was at the time of Bylaw No. 122 adoption.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Dependent on decision of Section 2.27. If the LTC recommends to retain regulation or amend the maximum floor area and total floor area, then staff recommends to retain this regulation.
2.29	Maximum floor area of cottage in the Natural Resource zone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Technical amendment and support to retain as is.

Box shaded dark blue - a priority for APC comment	Box shaded light blue – comment from APC may be required	Box shaded white – no comments from APC required
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