



DATE OF MEETING: February 4, 2022

TO: South Pender Island Local Trust Committee

FROM: Kim Stockdill, Island Planner
Southern Team

COPY: Robert Kojima, Regional Planning Manager

SUBJECT: SP LUB Amendments Project – Draft Bylaw No. 122

RECOMMENDATION

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

REPORT SUMMARY

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

BACKGROUND

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

SP-2021-053

It was MOVED and SECONDED

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

CARRIED

SP-2021-054

It was MOVED and SECONDED

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

SP-2021-055

It was MOVED and SECONDED

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

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

ANALYSIS

Draft Bylaw No. 122

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

Setback from the Natural Bound of the Sea

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

“3.3 Siting and Setback Regulations

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

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

Maximum Floor Area

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

Table 1 – Existing Floor Area Regulations in the SP LUB

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

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

Table 2 – Proposed Floor Area Regulations in the SP LUB

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

Agriculture Regulations

The draft bylaw includes the following amendments:

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

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

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

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

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

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

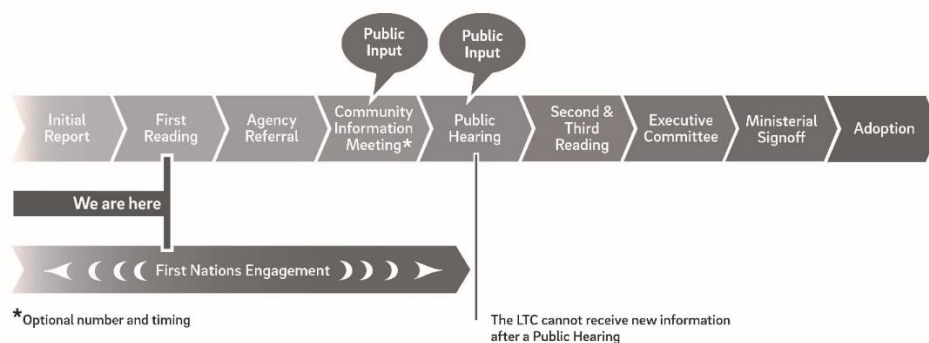
Timeline

Staff recommend the following timeline for the Minor OCP project:

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

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

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



Statutory Requirements

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

Islands Trust Policy Statement

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

Rationale for Recommendation

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

ALTERNATIVES

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

1. Direction to amend draft bylaw

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

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

2. Request further information

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

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

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

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

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

4. Proceed no further

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

NEXT STEPS

Based on direction from the LTC, staff will:

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

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

Attachments:

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

DRAFT

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 122

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

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

1. Citation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. SEVERABILITY

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

READ A FIRST TIME THIS _____ - _____ DAY OF _____ 20____

PUBLIC HEARING HELD THIS _____ DAY OF _____ 20____

READ A SECOND TIME THIS _____ DAY OF _____ 20____

READ A THIRD TIME THIS _____ DAY OF _____ 20____

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS _____ DAY OF _____ 20____

ADOPTED THIS _____ DAY OF _____ 20____

CHAIR

SECRETARY



Islands Trust

ISLANDS TRUST POLICY STATEMENT DIRECTIVES ONLY CHECKLIST

File No.: 6500-20 LUB Amendments Project

File Name: SP LTC Bylaw No. 122

PURPOSE

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

POLICY STATEMENT

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

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

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

DIRECTIVES ONLY CHECKLIST

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

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

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

PART III: POLICIES FOR ECOSYSTEM PRESERVATION AND PROTECTION

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

PART IV: POLICIES FOR THE STEWARDSHIP OF RESOURCES

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

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

PART V: POLICIES FOR SUSTAINABLE COMMUNITIES

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

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

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



Referrals: Bylaw SP-122

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



Referrals: Bylaw SP-122

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

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

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

Good morning,

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

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

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

Sincerely,
Shannon

Shannon Lambie

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



January 18, 2022

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

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

DELIVERED ELECTRONICALLY

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

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

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

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

<p>which the owner of the farm belongs.”</p>	
<p>2.2 By removing the words “floor area of 70m² or less” and replacing it with “limited floor area” in the definition of ‘cottage’.</p>	<p>ALC staff do not object to this.</p>
<p>2.3 By removing the word “outer” and replacing it with “inner” in the definition of ‘floor area’.</p>	<p>The ALC’s definition for the “total floor area” for both the principal residence and the additional residential dwelling are measured to the outer surface. ALC staff request that Islands Trust staff update this definition by clarifying that residences in the ALR must be consistent with the ALC Act, its regulations, and any Resolution of the Commission.</p>
<p>2.4 By removing the words “7.6 metres (25 feet)” and replacing it with “15 metres (50 feet)” in Subsection 3.3(3).</p>	<p>ALC staff do not object to this.</p>
<p>2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly:</p> <p>“Despite Subsection 3.3(3), buildings or structures legally constructed prior to [insert date of Bylaw No. 123 adoption] shall not be sited within 7.6 metres (25 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are “structures”.”</p>	<p>ALC staff do not object to this.</p>
<p>2.6 By adding the words “except for a lot located within the Agricultural Land Reserve, the combined floor area must not exceed 100 m² (1076 ft²)” at the end of Subsection 3.6(4) so it reads:</p> <p>‘The combined floor area used in all home businesses on a lot, except a bed and breakfast, must not exceed 65 m² (700 ft²) except for a lot located within the Agricultural Land Reserve, the combined floor area must not exceed 100 m² (1076 ft²).’</p>	<p>ALC staff do not object to this.</p>
<p>2.7 By deleting the words “Maximum Floor Area per lot” from Subsection 5.1(5) and replacing it with “For a lot where a legal dwelling was constructed prior to [insert</p>	<p>ALC staff are unclear what the reference to <i>Bylaw 123</i> means, but ALC staff note that in section 5.1 (5) of Bylaw 114, 2016, the maximum floor area for properties larger than 0.8 ha exceeds 500m².</p>

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

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m2 (5000ft2)	353 m2 (3800ft2)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m2 (6000ft2)	418 m2 (4500ft2)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m2 (8000ft2)	520 m2 (5600ft2)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m2 (9000ft2)	543 m2 (5845ft2)
4.0 ha (10 acres) or greater	1858 m2 (20000ft2)	560 m2 (6030ft2)

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

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

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m2 (5000ft2)	255 m2 (2750ft2)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m2 (6000ft2)	348 m2 (3750ft2)

ALC staff do not object to this.

0.8 ha to 1.59 ha (2 to 4 acres)	743 m2 (8000ft2)	372 m2 (4000ft2)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m2 (9000 ft2)	418 m2 (4500ft2)
4.0 ha (10 acres) or greater	1858 m2 (20000ft2)	465 m2 (5000ft2)

2.9 By adding the following new subsection after Subsection 5.1(6) and renumbering accordingly:
 "The maximum floor area of a cottage must not exceed 70 m² (753 ft²)."

ALC staff do not object to this.

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

ALC staff do not object to this.

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

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

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

ALC staff do not object to this.

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

ALC staff do not object to this.

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

ALC staff do not object to this.

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

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

ALC staff do not object to this.

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

ALC staff do not object to this.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

S. Lambie

Shannon Lambie, Regional Planner

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

46801m1