STAFF REPORT

File No.: 6500-02
Work Program 2023 Report

DATE OF MEETING:	September 1, 2023
TO:	South Pender Island Local Trust Committee
FROM:	Kim Stockdill, Island Planner Southern Team
COPY:	Robert Kojima, Regional Planning Manager
SUBJECT:	Local Trust Committee Work Program

RECOMMENDATION

1. **That the South Pender Island Local Trust Committee amend its Work Program to identify "Minor LUB Review Project" as the minor Active Project.**

2. **That the South Pender Island Local Trust Committee request staff to draft a Project Charter and report back with options for a minor Land Use Bylaw Review Project.**

REPORT SUMMARY

This report outlines options for the South Pender Island Local Trust Committee (LTC) to consider regarding the next Active Project.

COMMUNITY INFORMATION MEETING

The South Pender Island LTC held a Community Information Meeting (CIM) on March 25, 2023 in order to gather comments from community members for ideas on new projects. The following topics were discussed as possible LTC projects at the March 25th meeting:

1. Revisiting Bylaw No. 122 (and possibly Bylaw No. 123 if adopted).
2. Affordable Housing options (secondary suites, garage suites, employee housing, STVRs)
3. Groundwater Studies – this can be a continuation of Phase One of the Groundwater Sustainability project
4. Coastal Douglas Fir (CDF) Project – establishing a CDF Development Permit Area
5. South Pender LTC Communication Strategy – outline issues with current LTC communication and provide solutions
6. Review and expand DPAs – sensitive ecosystem or Raptor Nests.

A second CIM was held on June 3, 2023 to gather further input. At the June 3rd meeting, the following resolutions were passed by the South Pender LTC:

SP-2023-027
It was Moved and Seconded,

that the South Pender Island Local Trust Committee proceed no further with the Minor Official Community Project and Proposed Bylaw No. 123.

CARRIED

SP-2023-028
It was Moved and Seconded,
that the South Pender Local Trust Committee repeal Bylaw 122.

CARRIED

SP-2023-029
It was Moved and Seconded,
that the minor project for the South Pender Local Trust Committee is to conduct further community engagement on the 2021 Land Use Bylaw Amendments Project and the staff be requested to prepare a report with options for the next Local Trust Committee meeting in September 2023.

CARRIED

An overwhelming number of community members supported the decision to revisit South Pender Bylaw No. 122 that was adopted in September 2022. During the June 3rd meeting, the South Pender LTC passed a motion to repeal Bylaw 122. Members of the South Pender LTC expressed that the intent of the resolution was to indicate the LTC's willingness to revisit Bylaw No. 122, and had no intention to repeal the bylaw at that time. The South Pender LTC is aware that Resolution Number SP-2023-028 has no force or effect, and to rescind a bylaw the LTC must follow the proper legislative process. Attached to the staff report is an email from Robert Kojima, Regional Planning Manger, dated June 27, 2023, outing the legislative process to rescind a bylaw.

Correspondence related to the 2023 Work Program can be found on the LTC's Project webpage: https://islandstrust.bc.ca/island-planning/south-pender/projects/

History of Bylaw No. 122

The Land Use Bylaw (LUB) Amendment Project was initiated in May 2021. The previous South Pender LTC had a number of topics they wished to address with the project: new agricultural regulations, reduce maximum floor areas for dwellings in the rural residential zones, reduce setbacks for dwellings and cottages in the rural residential zones, increase the setback from the natural boundary of the sea, include clauses for those buildings or structures that maybe be deemed legal non-conforming due to the new regulations, and other minor amendments.

Due to a large turn-out for the initially scheduled Public Hearing in May 2022, the LTC decided to reschedule the Public Hearing to another date with a large venue. The LTC also gave direction to staff to hold additional Community Information Meetings (one in-person and one online) prior to the Public Hearing. At the Community Information Meetings and Public Hearing the community expressed a mix of support and also opposition to the proposed bylaw. The South Pender LTC made additionally amendments to the proposed bylaw at the August 12, 2022 special meeting to try to address concerns raised by the community.

- First Reading: May 6, 2022
- Second Reading: August 12, 2022
- Third Reading: August 12, 2022
- Public Hearing: July 23, 2022
- EC Approval: September 7, 2022

The bylaw was then adopted by Resolution without Meeting by the previous South Pender LTC on September 15, 2022.

Proposed Work Program Project

Based on the LTC resolutions passed at the June meeting, staff propose that the LTC initiate a new LUB Amendment Project that focuses on reviewing the amendments made by Bylaw No. 122, along with any other minor amendments. Community members have expressed support to review the amendments in Bylaw No. 122, yet other community members have stated that some of the regulations in the bylaw should be retained.

If the LTC agrees, the next step in the process would be for staff to report back at the November 10th LTC meeting with:

- a Project Charter that would outline the project's purpose, objectives, scope (in and out), timeline, and budget for review and endorsement by the LTC
- an initial review of Bylaw No. 122 highlighting potential amendments the LTC may wish to consider.

Rationale for Recommendation

Staff recommend the LTC identify a "Minor LUB Review Project" as the LTCs' Active Minor Project. Each LTC can have up to one Minor Project at a time. A Minor project requires of budget of less than $5000 per year, is relatively limited in scope, can be supported by the LTC's assigned Island Planner and is funded from a budget allocated by the Director of Planning Services.

In addition, direction from the LTC is required to draft a project charter and prepare a preliminary report to review the amendments made by Bylaw No. 122 and other minor potential LUB amendments.

ALTERNATIVES

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

1. **Schedule a Special Meeting**

   The LTC may wish to schedule a further special meeting to review the Work Program. The resolution can be worded as:

   That the South Pender Island Local Trust Committee request staff to schedule a special meeting for the purpose of setting LTC Work Program priorities.

2. **Alternative Active Project**

   The LTC may wish to focus on a different topic for the Active Project. The resolution can be worded as:

   That the South Pender Island Local Trust Committee to add "…" as the minor Active Project.

Submitted By:	Kim Stockdill, Island Planner	August 23, 2023
Concurrence:	Robert Kojima, Regional Planning Manager	August 24, 2023

ATTACHMENTS:

1. Email from Robert Kojima dated June 27, 2023
2. Bylaw No. 122 (adopted)

From: Robert Kojima
Sent: Tuesday, June 27, 2023 8:56 AM
To: Tobi Elliott
Cc: Kristina Evans; Dag Falck; Kim Stockdill
Subject: RE: Motion regarding intent to rescind bylaw 122
Attachments: YOUNG-ANDERSON-SEPT-UBCM-NEWSLETTER_2021.pdf; SP-BL-122_LUB-Review_Adopted.pdf

Hi Tobi,

Legally, Bylaw 122 cannot be 'rescinded': once Bylaw 122 was adopted the amendments legally 'merged' into the LUB (Bylaw 114), becoming part of the LUB. So any changes would require a new bylaw to amend Bylaw 114, with all the legislative steps associated with that process (I've attached an article from Bill Buholzer that explains the legal basis and procedures related to amending bylaws).

For community clarity, the LTC should be discussing what amendments it wishes to consider making to the LUB that would have the effect of undoing some or all of the changes previously made by Bylaw 122, rather than speaking about 'rescinding bylaw 122' as that is both not an option and implies a lesser process than would actually be required.

Practically, Bylaw 122 made a number of amendments beyond the contentious maximum floor area amendments, some of which were minor improvements to the bylaw or seemed to have broad support (copy attached). So, I would think that the LTC would want to review all the amendments made by Bylaw 122 and consult with the community on which provisions should be removed or amended.

In terms of holding a public hearing: given the degree of community interest, proceeding to amend the LUB without holding a public hearing would likely be controversial. Also, holding a hearing does have the advantage of establishing a formal process for receiving public submissions both in writing during an established period leading up to the hearing and at the hearing itself, and then after close of the hearing no further submissions can be received without holding a new hearing. The hearing would essentially be the culmination of the consultation process, with a series of community meetings held as part of the process.

The steps that the LTC should take to proceed are:

1. Identify the initiative as the LTC's Top Priority project. As this project would almost certainly meet the criteria as a 'minor project', no business case is required and work can proceed almost immediately
2. Request the planner to draft a project charter with a timeline and budget for the LTC to review and endorse.

Assuming the budget is small, I would request the funding from Stefan and confirm with Kim that she has the capacity to manage the project.

The timeline in the project charter would include options for community consultation and referral to the APC. This would be the bulk of the project, actually drafting of a new amending bylaw would be relatively straightforward.

Robert Kojima
Regional Planning Manager, Southern Team
Islands Trust | 250.405.5159

not "in common". The Court cautioned, however, that the boundary of "100 properties" cannot be assumed as a guideline for the community of interest exception in *all* communities, which suggests that such a guideline may vary with each community.

Therefore, in *Redmond v. Wiebe*, despite the respondent's financial interest in the Temporary Patio Program, the Court held that the participation restrictions in the *Vancouver Charter* did not apply to him. This decision was appealed on August 10, 2021.

This case highlights the context-specific nature of the conflict of interest analysis. The task for councillors voting on matters of wider importance, but which also affect them personally, is a difficult one. They must decide whether their interest is in common with "electors generally". It remains unclear in what circumstances the term "electors generally" will be equated to a smaller comparator group, such as owners of restaurants and bars, as was the case in *Redmond*. Perhaps the Court of Appeal will take the opportunity to provide greater clarity with respect to how broadly, or narrowly, the group of "electors generally" must be defined in order for a councillor to take the benefit of the interest in common exception.

Julia Tikhonova & Nick Falzon


The Concept of Merger: What Municipal Bylaw Drafters Should Know

One of the aspects of statutory interpretation that comes into play in the drafting and interpretation of local government bylaws, in particular amendment bylaws, is the concept of merger*. At the instant that an amending bylaw comes into force, each amendment that it makes* merges *with the bylaw that is being amended, with the result that the bylaw now reads as amended. The amending bylaw is at that instant "spent"; it has fully performed its task and has no further purpose or effect.*

Merger is codified in s. 34 of the BC *Interpretation Act* (which applies to the interpretation of municipal bylaws unless a contrary intention appears in the bylaw): "An amending enactment must be construed as part of the enactment that it amends." This has a number of important consequences for those of us who draft and administer municipal bylaws.

1. Except in regard to the time at which the amended provision comes into operation, the effect of merger is that the amended bylaw must now be interpreted as if it had contained the amended provision from the outset (though amended provisions have no retroactive effect). This legal fiction assumes that the drafter of the amendment turned their mind to how the amendments fit with the balance of the bylaw and included all amendments necessary to ensure the continuation of a seamless and coherent bylaw

scheme. This is why it is so important for amendment drafters to check any existing bylaw definitions, for example, for words and phrases that are being used in the amendment to ensure that the definitions make sense in these new provisions, and to ensure that the vocabulary used in the amendment is the same vocabulary that was used in the existing bylaw. Thus, if the zoning bylaw uses the term "duplex", a zoning amendment bylaw shouldn't use the term "two-family dwelling" to refer to the same type of building, regardless of the semantic preferences of the drafter.

2. Because an amendment bylaw is spent at the instant that it comes into force, one does not (with the single exception noted below) subsequently amend an amendment bylaw, and any such amendment would usually be of doubtful validity. The correct procedure is to once again amend the parent bylaw that the amendment bylaw amended. For example, if a fees and charges bylaw has been amended to increase the fee for a building permit application from $50 to $100, the correct procedure for further increasing the fee to $150 is to amend the building bylaw again rather than amending the amendment bylaw to enact a larger increase. According to the concept of merger, the first amendment bylaw is spent and cannot be amended. While enacting a further fee increase by amending a previous fee increase in this way may be rare, we have seen bylaws that purport to amend the text of zoning amendment bylaws that have already been adopted, are already in force and are therefore spent.

3. The *Community Charter* in s. 136 says that a bylaw comes into force on the later of the date it is adopted and any later date specified in the bylaw. If an amendment bylaw has been adopted but hasn't yet come into force, it can be amended. The provisions of the second amendment merge with the provisions of the first amendment on the effective date of the second amendment, and all of the amendments merge with the provisions of the parent bylaw on the in-force date of the first amendment.

4. The fact that an amendment bylaw is spent, by the way, doesn't mean that it can be discarded; like all bylaws it must be kept in a safe place and made available to the public for inspection as required by s. 97(1)(a) of the *Community Charter*. The corporate officer will have to consult these bylaws if an official bylaw consolidation (see below) is prepared.

5. One of the consequences of merger is that it is unnecessary to include in an amendment bylaw that will come into force upon adoption a provision establishing how the bylaw may be cited – the so-called "short title" of the bylaw (which in many cases is not short at all). No occasion to formally cite the bylaw will arise, at least in any other bylaw.

6. When a bylaw that has been amended is repealed, the repeal provision may simply refer to the bylaw by its designated name, rather than the bylaw "as amended". For example, if a zoning bylaw that has been frequently amended "may be cited for all purposes as Zoning Bylaw No. 2000", a new zoning bylaw that repeals it may simply indicate that Zoning Bylaw No. 2000 is repealed. The reference to the bylaw automatically includes every amendment that has merged with the original bylaw. (Any amendment bylaws

that have been adopted but have not yet come into force should, however, also be repealed. A bylaw may always be repealed before it comes into force.)

7. When a local bylaw that has been amended is referenced in another local bylaw (for example a zoning bylaw that defines "structure" as a structure as defined in Building Bylaw No. 1000), the zoning bylaw may simply refer to Building Bylaw No. 1000 rather than "Building Bylaw No. 1000 as amended from time to time". Again, the reference to the bylaw automatically includes all amendments that have merged with the original bylaw. If, however, the intention is to freeze the building bylaw definition for the purposes of the zoning bylaw so that subsequent building bylaw amendments will not have consequences for the zoning bylaw, the zoning bylaw must say so, by defining "structure" as "a structure as defined in Building Bylaw No. 1000 as of the date of first reading" of the zoning bylaw.

8. It follows from all of the above that a written version of the true contents of an amended bylaw, whether in hard copy or electronic format, might not exist at any particular time except as a legal notion. The contents of any amended bylaw may however, as of any date, be revealed in several different ways. The formal manifestation of the bylaw is an official bylaw consolidation prepared by the corporate officer in the manner permitted by s. 139 of the *Community Charter*, in which provisions added by amendment are included and from which repealed provisions are removed. These are quite rare. Unofficial consolidations of bylaws, on the other hand, are often prepared for publication on local government websites and are sometimes also printed for internal use by the local government. There are usually ongoing consolidations of frequently-amended bylaws such as zoning bylaws and fees and charges bylaws, with each amendment identified with a marginal notation which would not appear in an official consolidation. The corporate officer may also prepare and certify a copy of a local government bylaw for use in legal proceedings, as contemplated by s. 28 of the *Evidence Act*; this doesn't have to be a s. 139 consolidation. As a matter of law, however, at every point in time the merged bylaw actually exists, somewhat like an image that may be caught by a computer screen grab, even though no consolidation has ever been prepared or the official or unofficial bylaw consolidation is out of date.

Merger also operates in respect of provincial laws; when these laws are amended, the amendments merge with the provisions being amended and the law is interpreted as if the amendments had been included at the outset, except as regards the temporal operation of the amendments themselves (unless the legislature specifically made the amendments retroactive, something that local governments are generally not allowed to do). As a result, for example, a reference in a local government bylaw to the BC *Land Title Act* is automatically interpreted as a reference to the Act including all amendments that have merged with the Act. It's not necessary to refer to "the *Land Title Act* as amended from time to time". There is also a merger rule in the federal *Interpretation Act*.

Bill Buholzer

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 122

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

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

1. Citation

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

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

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

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

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

   ""basement floor area" means any portion of a storey in a dwelling with a lower floor that is located 1.5 metres or more below natural grade."

   ""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" to the definition of 'floor area' and by adding the words "and exclusive of a storey that is not fully enclosed by a floor, ceiling, and four walls or glass" at the end of the definition of 'floor area'.

   2.4 By removing the words "7.6 metres (25 feet)" and replace it with "15 metres (50 feet)" and by removing the words "pump/utility house" in Subsection 3.3(3).

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

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

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

"Despite Subsection 3.3(3), on a lot that contains a legal dwelling, cottage, or accessory building constructed prior to the adoption of this bylaw, a replacement dwelling, cottage, or accessory building may be constructed, or the existing dwelling, cottage, or accessory building re-constructed or altered, provided the distance from the natural boundary of the sea to the replacement, re-constructed or altered dwelling, cottage, or accessory building is not less than the distance from the natural boundary of the sea to the dwelling, cottage, or accessory building on the lot at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the siting of the dwelling, cottage, or accessory building at the time of the adoption of this bylaw."

2.7 By deleting Subsection 3.4(1) and replacing it with: "A dwelling or cottage shall not exceed 9.2 metres (30 feet) in height and at no point may a dwelling or cottage exceed 9.2 metres (30 feet) in height.".

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

"(6) Shipping containers are a permitted accessory use on a *lot* subject to the following:

(a) On a *lot* less than 0.8 ha (2 acre) in area, a maximum of one (1) shipping container is permitted.

(b) On a *lot* 0.8 (2 acres) or greater in area, but less than 1.2 ha (3 acres) in area, a maximum of two (2) shipping containers are permitted.

(c) On a *lot* with an area greater than 1.2 ha (3 acres), a maximum of three (3) shipping containers are permitted.

(7) Shipping containers must be screened from neighbouring *lots*, roads, or the sea by use of landscaping screening in compliance with Section 3.9."

2.9 By adding the words "excluding a *cottage*" after the words 'used as a dwelling', by deleting the word 'rainwater' and replacing it with "freshwater", by deleting the word 'cistern' after the word 'minimum' and replacing it with "storage" and by deleting the words '9,000 litres (1980 gallons)' and replacing it with "18,000 litres (3960 gallons)" for Subsection 3.14(1) so it reads:

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

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

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m^2 (5000 ft^2)	232 m^2 (2500 ft^2)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m^2 (6000 ft^2)	279 m^2 (3000 ft^2)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m^2 (8000 ft^2)	325 m^2 (3500 ft^2)
1.6 ha to < 4 ha (4 to 10 acres)	836 m^2 (9000 ft^2)	348 m^2 (3750 ft^2)
4.0 ha (10 acres) or greater	1394 m^2 (15000 ft^2)	372 m^2 (4000 ft^2)

"

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

"Despite Subsection 5.1(5), on a *lot* that contains a legal *dwelling* constructed prior to the adoption of this bylaw, a replacement *dwelling* may be constructed, or the existing *dwelling* re-constructed or altered, provided the *floor area* of the replacement, re-constructed or altered *dwelling* does not exceed the *floor area* of the *dwelling* on the *lot* at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw."

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

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

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

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

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

"Despite Subsection 5.1.(9), on a *lot* that contains a legal *dwelling or cottage* constructed prior to the adoption of this bylaw, a replacement *dwelling or cottage* may be constructed, or the existing *dwelling or cottage* re-constructed or altered, provided the distance from the interior or exterior side *lot line* to the replacement, re-constructed or altered *dwelling or cottage* is not less than the distance from the interior or exterior side *lot line* to the *dwelling* or cottage on the *lot* at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw."

2.15 By removing the word "Rescinded" from Article 5.5(1)(d) and replacing it with "Accessory *agri-tourism* subject to Subsections 5.5(13) to 5.5(16);"

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

"Accessory agri-tourist accommodation, subject to Subsections 5.5(15) to 5.5(22), and as permitted by the Agricultural Land Commission;"

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

2.18 By deleting Subsection 5.5(9) and replacing it with:

"Maximum *Floor Area* per lot:

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m^2 (5000 ft^2)	232 m^2 (2500 ft^2)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m^2 (6000 ft^2)	279 m^2 (3000 ft^2)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m^2 (8000 ft^2)	325 m^2 (3500 ft^2)
1.6 ha to < 4 ha (4 to 10 acres)	836 m^2 (9000 ft^2)	348 m^2 (3750 ft^2)
4.0 ha (10 acres) or greater	1394 m^2 (15000 ft^2)	372 m^2 (4000 ft^2)

"

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

Despite Subsection 5.5(9), on a *lot* that contains a legal *dwelling* constructed prior to the adoption of this bylaw, a replacement *dwelling* may be constructed, or the existing *dwelling* re-constructed or altered, provided the *floor area* of the replacement, re-constructed or altered *dwelling* does not exceed the *floor area* of the *dwelling* on the *lot* at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw."

2.20 By adding the following new subsection after the new Subsection 5.5(10) and renumbering accordingly:

"The maximum *floor area* of a *cottage* must not exceed 90 m^2 (969 ft^2)."

2.21 By adding the following 'Information Note' after the newly created Subsection 5.5(11):

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

2.22 By removing the word “Rescinded” adding the following to the newly renumbered Subsection 5.5(12):

“*Farm retail sales* are permitted on a lot located within the Agricultural Land Reserve*,* and the total indoor and outdoor *floor area* for the *farm retail sales* shall not exceed 47 m² (500 ft²).

2.23 By adding the following new subsections after Subsection 5.5(12) under ‘Conditions of Use’ and renumber accordingly:

“5.5(13) *Agri-tourism buildings or structures* are not permitted.

5.5(14) *Agri-tourism* must be in compliance with the *Agricultural Land Reserve Use Regulation*.

5.5(15) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* with *Farm Status*.

5.5(16) *Agri-tourism and agri-tourist accommodation are* only permitted on a *lot* located in the Agricultural Land Reserve.

5.5(17) *Agri-tourist accommodation* must be *accessory* to an active *agri-tourism* activity.

5.5(18) *Agri-tourist accommodation* must be *accessory* to a *farm use*.

5.5(19) *Agri-tourist accommodation buildings and structures* must not exceed a *floor area* of 90 m² (969 ft²).

5.5(20) *Agri-tourist accommodation* must not be in use for more than 180 days in a calendar year.

5.5(21) *Agri-tourist accommodation* may include associated uses such as meeting rooms and dining facilities for paying registered guests contained wholly within the agri-tourism accommodation unit, but may not include a *restaurant* or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.

5.5(22) The maximum number of guests that may be accommodated in any *agri-tourist accommodation* at any one time, either alone or in combination with a *bed and breakfast*, is not to exceed 10 guests or 5 bedrooms.

2.24 By deleting Subsection 5.6(7) and replacing it with:

"Maximum *Floor Area* per lot:

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m^2 (5000 ft^2)	232 m^2 (2500 ft^2)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m^2 (6000 ft^2)	279 m^2 (3000 ft^2)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m^2 (8000 ft^2)	325 m^2 (3500 ft^2)
1.6 ha to < 4 ha (4 to 10 acres)	836 m^2 (9000 ft^2)	348 m^2 (3750 ft^2)
4.0 ha (10 acres) or greater	1394 m^2 (15000 ft^2)	372 m^2 (4000 ft^2)

"

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

Despite Subsection 5.6(7), on a *lot* that contains a legal *dwelling* constructed prior to the adoption of this bylaw, a replacement *dwelling* may be constructed, or the existing *dwelling* re-constructed or altered, provided the *floor area* of the replacement, re-constructed or altered *dwelling* does not exceed the *floor area* of the *dwelling* on the *lot* at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw."

2.26 By adding the following new subsection after Subsection 5.6(8) and renumbering accordingly:

"The maximum *floor area* of a *cottage* must not exceed 70 m^2 (753 ft^2)."

2.27 By deleting Subsection 5.7(6) and replacing it with:

"Maximum *Floor Area* per lot:

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m^2 (5000 ft^2)	232 m^2 (2500 ft^2)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m^2 (6000 ft^2)	279 m^2 (3000 ft^2)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m^2 (8000 ft^2)	325 m^2 (3500 ft^2)
1.6 ha to < 4 ha (4 to 10 acres)	836 m^2 (9000 ft^2)	348 m^2 (3750 ft^2)
4.0 ha (10 acres) or greater	1394 m^2 (15000 ft^2)	372 m^2 (4000 ft^2)

"

2.28 By adding the following new subsection after Subsection 5.7(7) and renumbering accordingly:

Despite Subsection 5.7(7), on a *lot* that contains a legal *dwelling* constructed prior to the adoption of this bylaw, a replacement *dwelling* may be constructed, or the existing *dwelling* re-constructed or altered, provided the *floor area* of the replacement, re-constructed or altered *dwelling* does not exceed the *floor area* of the *dwelling* on the *lot* at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw."

2.29 By adding the following new subsection after Subsection 5.7(8) and renumbering accordingly:

"The maximum *floor area* of a *cottage* must not exceed 70 m^2 (753 ft^2)."

3. SEVERABILITY

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

READ A FIRST TIME THIS	6TH	DAY OF	MAY	2022.
PUBLIC HEARING HELD THIS	23RD	DAY OF	JULY	2022.
READ A SECOND TIME THIS	12TH	DAY OF	AUGUST	2022.
READ A THIRD TIME THIS	12TH	DAY OF	AUGUST	2022.
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	7TH	DAY OF	SEPTEMBER	2022.
ADOPTED THIS	15TH	DAY OF	SEPTEMBER	2022.

_____ _____

CHAIR SECRETARY