

July 17, 2025

Reply to the attention of Kim Stockdill
ALC Planning Review: 104741

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

**Re: Proposed South Pender Island Local Trust Committee Bylaw no. 129:
a Bylaw to Amend South Pender Island Land Use Bylaw No. 114, 2016**

Thank you for forwarding a draft copy of the proposed South Pender Island Local Trust Committee Bylaw no. 129 ("Bylaw 129") for review and comment by the Agricultural Land Commission (the "ALC" or "Commission"). Bylaw 129 amends the South Pender Island Land Use Bylaw No. 114, 2016 (the "LUB"), as a result of community engagement about a 2022 LUB amendment ("Bylaw 122"). Bylaw 122 was referred to the ALC for review and comments in 2022.

Please note that the comments below reflect ALC staff's review of the amendments to the LUB proposed under Bylaw 129, and do not constitute a review of the LUB in its entirety.

[Section 46 of the ALCA](#) requires local governments to ensure their bylaws are consistent with the *Agricultural Land Commission Act* ("ALCA"), Agricultural Land Reserve ("ALR") regulations, and any orders of the Commission. Inconsistent bylaws include (but are not limited to) those which allow a use of land in the ALR that is not permitted under the ALCA or contemplate a use of land that would impair or impede the intent of the ALCA. ALC staff provide the following comments to help ensure that the bylaw is consistent with the purposes of the ALCA, ALR regulations, and any previous decisions of the ALC. Please note that ALC staff cannot endorse any inconsistencies – that requires a resolution of the Commission.

General Comments

The amendments proposed under Bylaw 129 under General Regulations and the Agriculture zone would allow for residential uses that are not consistent with the ALCA and its regulations, and that would require the submission and approval of an ALC non-adhering residential use application.

Based on the [South Pender Island LUB Zoning Map](#), ALC staff understand that there are many parcels split-zoned Agriculture and Rural Residential / Forestry / Natural Resource. As no GIS data was provided with the referral package, ALC staff are unable to determine whether the zoning and ALR boundaries are completely consistent but understand that the intention is for all ALR land to be zoned Agricultural. ALC staff support this intention, however, note that if there are inconsistencies in the zoning and ALR boundaries, the ALCA takes precedence on ALR lands, and there is potential for confusion and non-compliant uses in the ALR.

Specific Comments

The following table provides detailed comments from ALC staff on any concerns raised in the review of Bylaw 129.

Bylaw 129: ALC staff comments

PROPOSED AMENDMENT	ALC COMMENTS
<p>2.2 Section 1.1 – Definitions</p> <p>Amending the definition of floor area to read:</p> <p>“floor area” means the sum of the horizontal areas of all storeys in a building, measured to the inner surface of the exterior walls, exclusive of any floor area occupied by a cistern used for the storage of water for domestic use or fire protection, and exclusive of all areas of a storey having a floor and a ceiling less than 1.8 metres apart, and exclusive of a storey that is not fully enclosed by a floor, ceiling, and four walls or glass.</p>	<p>The Commission has definitions of total floor area for principal residences (Commission Resolution No. 095N/2022) and additional residences (Commission Resolutions No. 106N/2023 and 109N/2024), as defined in the Glossary section of ALC Information Bulletin 05: Residences in the ALR.</p> <p>ALC staff note some discrepancies, for example, principal residences in the ALR are measured to the <i>outer</i> surface of exterior walls.</p> <p>ALC staff recommend that, in determining whether a residence meets size permissions on ALR land, the more restrictive floor area calculation apply. This definition should clarify that residences in the ALR must be consistent with the ALC Act, its regulations, and any Resolution of the Commission.</p>
<p>2.5-2.6 – Section 3 - General Regulations - Accessory Buildings and Structures</p> <p>Amending Article 3.5(6)(b) and 3.5(6)(c), which regulate the number of shipping containers allowed as an accessory use on a lot, limiting permissions to two shipping containers on lots up to 1.6 ha and three shipping containers on lots 1.6 ha or greater.</p>	<p>No issues with the proposed amendments.</p> <p>However, section 3.5 of the LUB regulates accessory buildings and structures and makes no reference to the ALR and appears to permit uses that are not consistent with the ALCA and its Regulations.</p> <p>If a property exceeds the residential permissions in the ALR, use of an accessory building as a temporary dwelling requires Commission authorization by means of a non-adhering residential use application.</p> <p>Accessory structures in the ALR should be necessary and, if fill is required, the landowner must submit a Notice of Intent (NOI) to the Commission. Additional information is available in the ALC’s Guides for Accessory Residential Use Structures in the ALR and for Necessary Farm Use Structures.</p>

<p>2.7 – 2.11 Section 3.10 General Regulations - Use of Recreational Vehicles as a Dwelling</p> <p>Section 3.10 is amended, and allows (subject to conditions) the <i>use of a recreational vehicle</i> as a temporary <i>dwelling</i> prior to the construction of a <i>dwelling</i> on the same <i>lot</i> is permitted in any <i>zone</i> where a <i>dwelling</i> is a permitted <i>use</i>.</p>	<p>If a property exceeds the residential permissions in the ALR, use of a recreational vehicle as a temporary dwelling requires Commission authorization by means of a non-adhering residential use application.</p>
<p>2.13-2.15 Section 5.1 – Rural Residential Zones - Siting and Size</p>	<p>No issues with the proposed amendments provided the ALR and zoning boundaries are accurately aligned, and the Rural Residential zone does not contain any lands within the ALR.</p>
<p>2.17-2.18 Section 5.5 – Agriculture (A) – Permitted Uses</p> <p>Amending Article 5.5(1)(d) and 5.5(1)(e), to define permitted agri-tourism and associated accommodation as:</p> <p>(d) Accessory <i>agri-tourism</i> as permitted by the Agricultural Land Commission);</p> <p>(e) Accessory agri-tourist accommodation as permitted by the Agricultural Land Commission;</p>	<p>No issues with the proposed text amendments.</p> <p>However, this section does not reference fill placement or soil removal associated with agri-tourism or agri-tourist accommodation. Section 35 of the ALR Use Regulation permits certain fill for farm use, and construction of farm building and a principal residence. However, fill is not outright permitted for agri-tourism or agri-tourist accommodation. Fill for structures not contemplated in s. 35 may require an NOI or application to the ALC.</p> <p>ALC staff recommend an information note such as:</p> <p>Information Note: <i>Uses and fill placement or removal of soil within the Agricultural Land Reserve must be compliant with the Agricultural Land Commission Act, Regulation, and any Resolution for the Agricultural Land Commission.</i></p>
<p>2.19 Section 5.5 – Agriculture (A) – Density</p> <p>Amending Subsection 5.5(3) to allow one additional cottage or dwelling for the housing of persons engaged in on-going agricultural activities on the lot.</p>	<p>No issue with the proposed density; however, residences must comply with the sizes permitted in the ALCA and ALR Use Regulation, i.e., 500 m² for a principal residence and 90 m² for an additional residence. Non-compliant residences require Commission approval by means of a non-adhering residential use application.</p>

2.20 – 2.22 Section 5.5 – Agriculture (A) – Siting and Size

Subsections 5.5(9) – 5.5(11) are amended to read:

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.*

(9) Maximum Floor Area:

(a) The total floor area of all buildings per lot may not exceed the area in Column A;

(b) For a lot that has no dwelling or contains a dwelling with a floor area less than Column B, then the maximum floor area of a new, replacement, or altered dwelling may not exceed the floor area in Column B;

(c) For a lot that contains a legal dwelling constructed prior to September 15, 2022 that exceeded the floor area in Column B, the floor area of a re-constructed or replacement dwelling may not exceed the lesser of:

- i. the floor area of the dwelling on September 15, 2022, or
- ii. the area in Column C.

(d) Where 5.5(9(c)(i) is applicable, the Local Trust Committee may require an owner to submit substantive evidence to establish the size and siting of the dwelling at the time of the adoption of the bylaw.

The amendments proposed appear to remove the size restriction on cottages, and to permit re-construction of dwellings to total floor areas larger than those permitted in the ALR.

ALC staff support the inclusion of the information note, however have concerns about the omission of a reference to the maximum total floor areas of the two permitted residences in the ALR.

ALC staff are concerned that, despite the information note, the amendments will set an expectation that larger dwellings are permitted in the ALR. Any new, or replaced, principal residences or additional residences in the ALR must not exceed the ALCA and ALR Use Regulation without Commission authorization by means of a non-adhering residential use application.

Total floor area for residences in the ALR and rules for replacement of residences are found in [ALC Information Bulletin 05: Residences in the ALR](#).

	Column A	Column B	Column C	
Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:	The floor area of a dwelling may not exceed:	
Less than 0.4 ha (1 Acre)	465 m ² (5000ft ²)	279 m ² (3000 ft ²)	353 m ² (3800 ft ²)	
0.4 ha to < 0.8 ha (1 to 2 Acres)	557 m ² (6000ft ²)	325 m ² (3500 ft ²)	418 m ² (4500 ft ²)	
0.8 ha to < 1.6 ha (2 to 4 Acres)	743 m ² (8000ft ²)	372 m ² (4000ft ²)	520 m ² (5600 ft ²)	
1.6 ha to < 4.0 ha (4 to 10 Acres)	836 m ² (9000 ft ²)	395 m ² (4250 ft ²)	543 m ² (5845 ft ²)	
4.0 ha (10acres) or greater	1394 m ² (15000 ft ²)	418 m ² (4500 ft ²)	560 m ² (6030 ft ²)	
2.23-2.24 Section 5.6 – Forestry (F) – Siting and Size Amending the maximum floor area allowances under Subsections 5.6(7) – 5.6(8).				No issues with the proposed amendments provided the ALR and zoning boundaries are accurately aligned, and Forestry zone does not contain any lands within the ALR. ALC staff also note that there appear to be numbering inconsistencies under Article 5.6(7)(c).
2.26 – 2.27 Section 5.7 – Natural Resource (NR) – Siting and Size Amending the maximum floor area allowances under Subsections 5.7(6) – 5.7(7)				No issues with the proposed amendments provided the ALR and zoning boundaries are accurately aligned, and the Natural Resource zone does not contain any lands within the ALR. ALC staff also note that there appear to be numbering inconsistencies under Subsection 5.7(6).

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 236-468-1617 or by e-mail at ALC.Referrals@gov.bc.ca.

Yours truly,



Alex Haalboom, Regional Planner

Enclosures:

- Referral of the proposed South Pender Island Local Trust Committee Bylaw no. 129
- South Pender Island Local Trust Committee Bylaw no. 114

CC: Ministry of Agriculture and Food – Attention: Reed Bailey

104741m1

Jas Chonk

From: realestate <realestate@crd.bc.ca>
Sent: Thursday, July 17, 2025 4:22 PM
To: SouthInfo
Cc: Jas Chonk
Subject: RE: South Pender Island Local Trust Committee Proposed Bylaw No. 129 Referral - For Response

Hi,

This is a late response.

Regional Planning – No additional comments at this time

Parks, Recreation and Environmental Services – Does not impact their interest.

Regards,

Aggie Chan (she/her)

Senior Administrative Secretary | Real Estate Services
T: 250.360.3176

[Facebook](#) | [X](#) | [Instagram](#) | [LinkedIn](#) | www.crd.bc.ca



Capital Regional District
625 Fisgard Street
Victoria, BC V8W 1R7

From: Jas Chonk <jchonk@islandstrust.bc.ca>
Sent: Tuesday, May 27, 2025 11:00 AM
To: Aggie Chan <AChan@crd.bc.ca>; Jessica Arnet <jarnet@crd.bc.ca>; 'ALC.Referrals@gov.bc.ca' <ALC.Referrals@gov.bc.ca>; administration <administration@penderfire.ca>
Cc: Kim Stockdill <kstockdill@islandstrust.bc.ca>
Subject: South Pender Island Local Trust Committee Proposed Bylaw No. 129 Referral - For Response

CRD IT SECURITY WARNING: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Referral Coordinators,

The South Pender Island Local Trust Committee has asked that its Proposed Bylaw No. 129 be referred to you for comment. The referral package prepared by Island Planner Kim Stockdill is attached.

Purpose: Bylaw No. 129 is the result of the 2024-2025 Minor Land Use Bylaw (LUB) Amendments Project. The project's purpose is to consider a targeted review of amendments made during the previous LUB review project which resulted in the adoption of LUB amending Bylaw No. 122. The South Pender Island Local Trust Committee's (LTC) Bylaw No. 122 was adopted in September 2022 which included a number of LUB amendments including new agricultural regulations,

reduction to residential dwelling maximum floor areas, increasing setbacks for new residential dwellings and cottages, increasing the setback to the natural boundary of the sea, and other minor amendments.

Project background, proposed bylaw, and staff reports are available on the South Pender LTC Projects webpage: <https://islandstrust.bc.ca/island-planning/south-pender/projects/>

A reply is respectfully requested by **June 25, 2025**.

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

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

Thank you for your time and attention to this matter.

Sincerely,

Jas Chonk (she, her, hers)

Legislative Clerk

Islands Trust

200-1627 Fort Street | Victoria BC V8R 1H8

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

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



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

I respectfully acknowledge that the Islands Trust Area is located within the treaty lands and territories of the BOŖÉĆEN, Cowichan Tribes, K'ómoks, Lyackson, MÁLEXEL, Qualicum, scəwəðən, səlilwətaʔ, SEMYOME, shíshálh, Skwxwú7mesh, Snaw-naw-as, Snuneymuxw, Songhees, Spune'luxutth', SṠÁUTW, Stz'uminus, ʔaʔəmen, Ts'uubaa-asatx, Wei Wai Kum, We Wai Kai, WJOLELP, WSIKEM, Xeláltxw, Xwémalhkww, Xwsepsum, and xʷməθkʷəy̓əm First Nations. Islands Trust is committed to reconciliation and to working together to preserve and protect this ecologically, culturally, and spiritually significant region in the Salish Sea.

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BYLAW REFERRAL FORM
 RESPONSE SUMMARY

- ☐
 Approval Recommended for Reasons Outlined Below
- ☐
 Approval Recommended Subject to Conditions Outlined Below
- ☒
 Interests Unaffected by Bylaw
- ☐
 Approval Not Recommended Due to Reason Outlined Below

South Pender Island Local Trust Area
 (Island)

J. Chonk
 (Signature)

July 24, 2025
 (Date)

129
 (Bylaw Number)

Jas Chonk, Legislative Clerk
 (Name and Title)

Saturna Island Local Trust Committee
 (Agency)

BYLAW REFERRAL FORM RESPONSE SUMMARY

☐

Approval Recommended for Reasons Outlined Below

☐

Approval Recommended Subject to Conditions Outlined Below

☒

Interests Unaffected by Bylaw

☐

Approval Not Recommended Due to Reason Outlined Below

South Pender Island Local Trust Area

(Island)

J. Chonk

(Signature)

July 25, 2025

(Date)

129

(Bylaw Number)

Jas Chonk, Legislative Clerk

(Name and Title)

North Pender Island Local Trust Committee

(Agency)



Pauquachin First Nation

28-May-2025 09:59 PDT

Islands Trust

Attn: Jas Chonk

Proposed Decision: Defer to other Coast Salish

Project Name: South Pender Island Local Trust Committee Bylaw No. 129

Date Received: 27-May-2025

Pauquachin First Nation's Consultation Spectrum Assessment: Level 1

Pauquachin First Nation is in receipt of the referral for: South Pender Island Local Trust Committee Bylaw No. 129

This area appears to be on/in an area that Pauquachin First Nation would recognize as being outside our title and governance areas. As such, I would categorize this as a Level 1 rights area for Pauquachin First Nation. Level 1 identifies that the project appears to be wholly within another First Nations title and Governance area. Our interests in this area would be limited to Trade, First Nations Government-to-Government and inter-community relationships, but not necessarily Title and governing authorities, which would be Pauquachin First Nation's highest S.35 interests and would require high end of the Haida spectrum consultation.

Given this assessment we would defer to the First Nation(s) whose traditional territory this project lies within or is affected by the project. Should Pauquachin First Nation identify greater interests in the future we retain the right to revise this assessment. However, at this time, we defer to any Nation(s) whose title and governing authorities are directly affected.

Sincerely,

Monty Horton, Lands Governance Officer

Pauquachin First Nation

Tel: 250-937-9195

Email: lands@pauquachin.com



Ts'uubaa-asatx Nation
313B Deer Lake Road
Lake Cowichan, British Columbia
V0R 2G0
Phone: 250-749-3301
Fax: 250-749-4286

28-May-2025 10:09 PDT

Islands Trust
Attn: Jas Chonk

Proposed Decision: L3 - Defer to Other First Nation(s)
Project Name: South Pender Island Local Trust Committee Bylaw No. 129
Date Received: 27-May-2025
Ts'uubaa-asatx Nations Consultation Spectrum Assessment: Level 1

'Au Si'em:

Ts'uubaa-asatx Nation is in receipt of the referral for: South Pender Island Local Trust Committee Bylaw No. 129

This area appears to be on/in an area that Ts'uubaa-asatx Nation would recognize as being outside our title and governance areas. As such, I would categorize this as a Level 1 rights area for Ts'uubaa-asatx Nation. Level 1 identifies that the project appears to be wholly within another First Nations title and Governance area. Our interests in this area would be limited to Trade, First Nations Government-to-Government and inter-community relationships, but not necessarily Title and governing authorities, which would be Ts'uubaa-asatx Nation's highest S.35 interests and would require high end of the Haida spectrum consultation.

Given this assessment we would defer to the First Nation(s) whose traditional territory this project lies within or is affected by the project. Should Ts'uubaa-asatx Nation identify greater interests in the future we retain the right to revise this assessment. However, at this time, we defer to any Nation(s) whose title and governing authorities are directly affected.

'Uy' Skweyul,

Monty Horton

Hul'q'umi'num language terms:
'Au Si'em: a term denoting high respect.



SṪÁUTW FIRST NATION

7728 TETAYUT RD | SAANICHTON, BC | V8M 2E4

2025-07-16

Islands Trust
200-1627 Fort St, Victoria, BC, V8R 1H8

SṪÁUTW First Nation File No. 2025-00150

RE: South Pender Island Local Trust Committee Bylaw No. 129 - SP-BL-129

Dear Jas Chonk,

Thank you for your referral to the SṪÁUTW First Nation regarding your project on our traditional territory. SṪÁUTW First Nation advises that we have completed the activity reviews of South Pender Island Local Trust Committee Bylaw No. 129 and based on our findings, we have concluded that we do not have any concerns at this time. However, we reserve the right to comment or object at a later date if we discover unforeseen impacts to our rights or interests.

If the scope of your project changes, please contact us so we can ensure that our Nation's best interests continue to be protected.

HÍSWƷE,

Bel Manson | Referrals Coordinator
BManson@tsawout.ca

From: Matthew Perkins <matthew.perkins@malahatnation.com>
Sent: Tuesday, July 22, 2025 2:24 PM
To: Jas Chonk
Subject: Malahat Nation Response
Attachments: R25075 Malahat Nation Response.pdf

Good afternoon Jas,

Attached is Malahat Nation's response to the proposed bylaw No 129 for South Pender Island.

huy ch q'u



Matthew Perkins
Referrals Coordinator

Malahat Nation
7 Kwunew Kwasun Lane | Mill Bay, BC | V8H 1B8
Cel: (250) 884-1465 | Tel: (250) 743-3231
www.malahatnation.com

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Malahat Nation

110 Thunder Road | Mill Bay, BC | V0R 2P4

Tel: (250) 743-3231 | Fax: (250) 743-3251

info@malahatnation.com | www.malahatnation.com

July 22, 2025

Malahat Referral No: R25075

Jas Chonk
Legislative Clerk
Islands Trust

Via email: jchonk@islandstrust.bc.ca

RE: Malahat Nation Response to the Islands Trust Committee Proposed Bylaw No 129 – South Pender Island

Dear Jas Chonk,

Thank you for your consultation request dated May 27th, 2025, regarding the proposed Bylaw 129; Pender Island is located in Malahat Nation's traditional territory.

At this time and with the documents you have provided the Malahat Nation has no objections with the proposed bylaw No. 129.

Thank you for your time, consideration and ongoing correspondence with the Nation.

Sincerely,

Matthew Perkins
Referrals Coordinator
Malahat Nation