



A NOTICE OF A BUSINESS MEETING OF **THE DENMAN ISLAND LOCAL TRUST COMMITTEE**
to be held at 10:30 am on Tuesday, July 16, 2013 at the Denman Seniors Hall,
1111 Northwest Road, Denman Island, BC

AGENDA

		Page No.	*Approx. Time*
1.	CALL TO ORDER		10:30 am
2.	APPROVAL OF AGENDA		
3.	CHAIR'S REPORT		
4.	TRUSTEES' REPORT		
5.	MINUTES		10:45 am
5.1	Local Trust Committee Meeting Minutes of June 4, 2013 – <i>for adoption</i>	1-10	
5.2	Local Trust Committee Special Meeting Minutes for a Community Information Meeting dated June 4, 2013 – <i>for adoption</i>	11-14	
5.3	Local Trust Committee Public Hearing Record dated June 4, 2013 – <i>for receipt</i>	15-19	
5.4	Section 26 Resolutions Without Meeting - <i>none</i>		
5.5	Denman Island Advisory Planning Commission Minutes - <i>none</i>		
5.6	Denman Island Marine Advisory Planning Commission Draft Minutes - <i>none</i>		
6.	BUSINESS ARISING FROM MINUTES		10:50 am
6.1	Follow-up Action List dated July 10, 2013 - <i>attached</i>	20-22	
7.	APPLICATIONS AND PERMITS - <i>none</i>		11:15 am
7.1	DE-ALR-2013.1 (Ellis – 2626 Swan Road) Staff Report dated June 11, 2013 - <i>attached</i>	23-48	
7.2	DE-DP-2013.1 (Stoneman – 2600 Swan Road) Staff Report dated July 10, 2013 – <i>to be distributed</i>		
8.	DELEGATIONS		
9.	TOWN HALL DISCUSSION		11:45 am
10.	CORRESPONDENCE <i>Correspondence specific to an active development application and/or project will be received by the Denman Island Local Trust Committee when that application and/or project is on the agenda for consideration.</i>		

11.	REPORTS		12:00 pm
11.1	Work Program		
	11.1.1 Top Priorities Report and Projects Report dated July 10, 2013 - <i>attached</i>	49-50	
11.2	Applications Log		
	11.2.1 Report dated July 10, 2013 - <i>attached</i>	51-55	
11.3	Trustee and Local Expenses		
	11.3.1 Expenses posted the May 31, 2013 - <i>attached</i>	56	
	11.3.2 Expenses posted to June 30, 2013 - <i>attached</i>	57	
11.4	Policies and Standing Resolutions		
	11.4.1 Report – <i>attached for information</i>	58	
	BREAK		12:10 pm
12.	LOCAL TRUST COMMITTEE PROJECTS		12:25 pm
12.1	Consultation on Housing Needs Staff Report dated July 2, 2013 - <i>attached</i>	59-69	
13.	NEW BUSINESS		12:45 pm
13.1	Proactive Bylaw Enforcement of Illegal Structures on the Foreshore Memorandum dated June 18, 2013 - <i>attached</i>	70-76	
14.	BYLAWS		12:55 pm
14.1	(Affordable Housing) Proposed Bylaw No. 204, cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2012” – <i>for consideration of second and third readings and submission to Executive Committee for approval</i>	77-79	
14.2	(Housing Agreement) Proposed Bylaw No. 205, cited as “Denman Island Housing Agreement Bylaw No. 205, 2012” – <i>for consideration of second and third readings and submission to Executive Committee for approval</i>	80-91	
14.3	Proposed Bylaw No. 206, cited as “Denman Island Official Community Plan, 2008, Amendment No. 1, 2013” – <i>for consideration of second and third readings and submission to Executive Committee and to the Minister of Community, Sport and Cultural Development for approval</i>	92-94	
15.	ISLANDS TRUST WEBSITE		
15.1	Denman Pages – <i>for discussion</i>		
16.	NEXT MEETING		
	Tuesday, September 24, 2013 at 10:30 am at The Denman Seniors Centre, 1111 Northwest Road, Denman Island, BC		
17.	TOWN HALL DISCUSSION – <i>time permitting</i>		
18.	ADJOURNMENT		1:15 pm

*Approximate time is provided for the convenience of the public only and is subject to change without notice.

DRAFT

**MINUTES OF THE DENMAN ISLAND LOCAL TRUST COMMITTEE
BUSINESS MEETING
HELD AT 10:30 AM ON TUESDAY, JUNE 4, 2013
AT THE DENMAN SENIORS HALL,
1111 NORTHWEST ROAD, DENMAN ISLAND, BC**

MEMBERS PRESENT:

Peter Luckham	Chair
Laura Busheikin	Local Trustee
David Graham	Local Trustee

STAFF PRESENT:

Aleksandra Brzozowski	Island Planner
Rob Milne	Island Planner
Vicky Bockman	Recorder

MEDIA AND OTHERS PRESENT:

Seth Wright Student Planner
Approximately five (5) members of the public – am
Approximately four (4) members of the public – pm

1. CALL TO ORDER

Chair Luckham called the meeting to order at 10:30 am. He welcomed the public and introduced himself, the local trustees, staff and recorder. He acknowledged that the meeting was being held in the traditional territory of Coast Salish First Nations.

2. APPROVAL OF AGENDA

The agenda was adopted by consensus with the following amendments:

- Add item 10.1: Association of Denman Island Marine Stewards Delegation;
- Add item 15.2: Comox Valley Regional District Annual Meeting Preparation; and
- Add item 15.3: Meeting Agendas.

3. CLOSED MEETING**DE-029-2013**

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee closes the next part of the June 4, 2013 business meeting to discuss matters pursuant to Section 90(1)(f) (Bylaw Enforcement) of the *Community Charter* and that Staff be invited to attend this meeting.

CARRIED

The meeting was closed to the public at 10:32 am.

4. RECALL TO ORDER

The meeting was re-opened to the public at 11:17 am.

4.1 *Rise and Report from Closed Meeting*

Chair Luckham reported on the following points regarding the Pentlatch Seafoods Shellfish Aquaculture Tenure in Henry Bay:

- we understand that the license holder is required, as a condition of their license, to comply with applicable local government bylaws; and
- Islands Trust bylaw enforcement staff will be contacting the license holder to seek voluntary compliance with the Denman Island Land Use Bylaw which could mean removing the rafts or making an application to rezone the area.

5. CHAIR'S REPORT

Chair Luckham reported that preparations are being made for the upcoming Trust Council meeting which will be held on Mayne Island. He noted that two main topics of discussion will be Kinder Morgan's presentation on the shipping safety aspects of their proposed oil tanker increase, and carbon neutrality through local initiatives – the Community Carbon Marketplace Initiative.

6. TRUSTEES' REPORT

Trustee Graham reported that he held Trustee Office Hours and had two separate interesting discussions with community members on the topic of the Official Community Plan Housing Policy 16 of the Housing Section. He noted that this policy encourages the Local Trust Committee to consider applications for site-specific zoning to allow secondary dwelling units or suites on lots of two hectares or more that are in the R2 zone. He commented that the conversations included discussion of the barriers involved and noted that the application fee was a discouraging factor. Trustee Graham indicated that he is preparing for the Trust Council meeting.

Trustee Busheikin reported that she attended the Islands Studies Conference on Gabriola which she found to be interesting and informative. She noted that she considered the First Nations workshop presented by Cheryl Ward to have been valuable and thought that consideration might be given to presenting this session on Denman Island. Trustee Busheikin commented that she attended the Denman Community Land Trust Association Annual General Meeting and found their work being done on housing in Agricultural Land Reserve land to be of interest and she looks forward to hearing more. She also noted that she held Trustee Office Hours and was pleased that it had been well attended.

7. MINUTES

7.1 *Local Trust Committee Special Meeting Minutes of March 13, 2013*

The minutes were adopted by consensus.

7.2 *Local Trust Committee Meeting Minutes of May 8, 2013*

The minutes were adopted by consensus.

7.3 *Section 26 Resolutions Without Meeting*

None.

7.4 *Denman Island Advisory Planning Commission Minutes*

None.

7.5 *Denman Island Marine Advisory Planning Commission Minutes*

None.

8. **BUSINESS ARISING FROM MINUTES**

8.1 *Follow-up Action List dated May 27, 2013*

Planner Brzozowski reviewed the Follow-up Action List dated May 27, 2013, provided verbal updates and responded to questions that arose. The application for representation of a local trustee on the Department of Fisheries and Oceans Shellfish Aquaculture Management Advisory Committee was discussed with process and potential benefits considered.

DE-030-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee nominate Trustee Laura Busheikin as a representative from the Denman Island Local Trust Committee to sit on the Shellfish Aquaculture Management Advisory Committee being assembled by the Department of Fisheries and Oceans.

CARRIED

There was discussion on the timing of the May 8, 2013 Follow-Up Action to correspond with BC Ferries requesting that they install a barricade at the north end of the Denman West terminal. It was confirmed that sending the proposed letter at this time would be useful even as BC Ferries considers its long-term plan for terminal changes.

9. **APPLICATIONS AND PERMITS**

None.

10. **DELEGATIONS**

10.1 *Association of Denman Island Marine Stewards regarding the Pentlatch Seafoods Ltd. Contravention of Denman Island Trust Zoning Bylaws and the Draft Amendments to Bylaw No. 186*

Edi Johnston presented a document for the record: June 4, 2013 LTC Delegation Notes Re: Pentlatch Seafoods Ltd. contravention of D.I. Trust zoning bylaws. On behalf of the Association of Denman Island Marine Stewards (ADIMS) she expressed concern regarding the operation of an aquaculture tenure at Henry Bay in Marine Conservation waters. She requested that the Denman Island Local Trust Committee meet with both Department of Fisheries and Oceans (DFO) and Integrated Land Management Bureau (ILMB) to consider possible solutions including offering an existing rafted tenure which is either dormant or for sale in exchange for the Henry Bay location. Additionally, she requested the Local Trust Committee consider declaring a moratorium on any future industrialization, including expansion of existing tenures, of Baynes Sound until an independent environmental study is conducted to determine the impact on the environment from existing industry and how much more, if any, Baynes Sound can accommodate.

Shelley McKeachie presented a document for the record: ADIMS June 4, 2013 LTC Delegation Notes Re: the draft amendments to Bylaw No. 186. She requested the Local Trust Committee proceed with the draft bylaw amendments to address all three of the identified issues.

Trustee Graham indicated that he hopes that the Local Trust Committee can discuss the situation and ideas presented here in meetings with DFO officials. Trustee Busheikin commented that the scientific aspects of industry expansion are an important element of the issue.

Sharon Small commented that a study being completed at Vancouver Island University addressing aquaculture within a larger ecosystem might be a helpful scientific tool.

11. TOWN HALL DISCUSSION

Edi Johnston – presented a document for the record regarding vehicle use on beaches, predator netting and banning beach modification. She requested that the Denman Island Local Trust Committee:

- prohibit vehicle access to W1 Marine Conservation areas by use of beach rights of way which are also considered conservation areas;
- ask for an independent environmental review to be done to determine the value of the predator nets and the impact on the environment;
- address the issue of beach modification which was not discussed in the May 27, 2013 staff report; and
- meet with DFO to find solutions to these issues.

Shelley McKeachie – expressed concern with predator netting, stating that studies have been completed that recognize the damaging effects of predator netting including reducing species diversity on the foreshore and rendering unavailable 62% of the critical bird habitat of Baynes Sound, an internationally-recognized bird habitat that includes several species on the endangered list.

Sharon Small – commented that tenure licenses include the condition that predator netting be kept in good repair, however, ADIMS has had over 300 complaints of net problems and there is no enforcement of that condition.

Pat McLaughlin – expressed an additional concern regarding predator netting, questioning who would bear the responsibility should there be an accident resulting from unsecured netting.

Edi Johnston – described an accident that occurred in the past involving predator netting in poor condition.

12. CORRESPONDENCE

None.

13. REPORTS

13.1 Work Program Reports

13.1.1 Top Priorities and Projects List Report dated May 27, 2013

Planner Brzozowski reviewed the Top Priorities and Projects List dated May 27, 2013.

DE-031-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee reprioritize the Top Priority list, moving Review of Housing Policies to number 2 and Implementing Riparian Areas Regulation to number 3.

CARRIED

13.2 Applications Log

13.2.1 Report dated May 27, 2013

Planner Brzozowski summarized the Applications Log dated May 27, 2013.

Trustee Busheikin noted that in the Log the purpose of file number DE-SUP-2011.10 includes “one wind turbine” however, this is no longer a part of the application and should be removed from the report.

13.3 Trustee and Local Expenses

13.3.1 Expenses posted to March 31, 2013 (Fiscal Year-end Final)

The expenses posted to March 31, 2013 were received.

13.4 Policies and Standing Resolutions

13.4.1 Report

The Policies and Standing Resolutions report was received for information.

By general consent the meeting was recessed at 12:03 pm and reconvened at 12:21 pm.

14. **LOCAL TRUST COMMITTEE PROJECTS**

14.1 Review of Aquaculture Policies and Regulations Staff Report dated May 27, 2013

Planner Brzozowski summarized the report which discusses potential bylaw amendments regarding prohibiting predator netting and driving on the foreshore and outlines the draft language for the potential amendments. She advised that given the consideration of the jurisdictional and bylaw enforcement difficulties that might be involved with proceeding with the proposed bylaw amendment to prohibit the use of predator netting, staff instead recommends advocacy with DFO to review their policies and standards on the authorization of predator netting.

The Trustees debated the proposed approach to the aquaculture policies, regulations and creation of potential bylaw amendments.

Trustee Graham commented that there is value in proceeding with the draft amendments to communicate the Local Trust Committee's position; and that the normal industry practice is to not use vehicles on the foreshore which provides a foundation to ban driving on the foreshore.

Trustee Busheikin noted that given the jurisdictional and bylaw enforcement difficulties of the potential bylaw amendments, she supported expanding advocacy work to engage DFO to discuss aquaculture practices, common interests and concerns.

The discussion on the potential amendment prohibiting driving on the foreshore included the following key points:

- the use of both terms "ground-based machinery" and "vehicular driving" in the description of the prohibited use was supported; and
- ensuring that aquaculture operators have access to their lease through their lease without trespassing on other property would be an important consideration.

Chair Luckham observed that the Local Trust Committee has attempted to have a dialog with DFO on a variety of issues; however these attempts have not come to fruition. Trustees supported drafting the bylaws and sending a referral to DFO for their referral response.

DE-032-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee ask staff to proceed with draft amendments to Bylaw No. 186 which would restrict predator netting as a permitted use and beach modification in the W3 zone and to add amendments which ban vehicular driving and ground based machinery on the foreshore in the W3 zone.

CARRIED

DE-033-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee request staff to set up a meeting with Department of Fisheries and Oceans aquaculture management personnel regarding aquaculture practices in Baynes Sound.

CARRIED

*14.2 Consultation on Housing Needs
Staff Report dated May 27, 2013*

Student Planner Wright presented the staff report proposing format and communications for community meeting consultations on housing needs strategies. Trustees indicated their support for the following changes to the Communications and Community Engagement Plan:

Scope

- Out of Scope: add multi-unit projects as these have been addressed;
- In Scope: add density cap and temporary use permits;
- Out of Scope: add Denman Community Land Trust Association affordable housing projects and Agricultural Land farm housing;
- reduce the number of topics as the background issues have been thoroughly addressed through the years;

Action Plan

- an assignment to the Advisory Planning Commission might be considered in this timeline, asking for their attendance in these meetings and providing feedback on conclusions;
- Communications: keep the focus on consultation on secondary dwelling units;
- Grapevine insert invitation to include a newsletter with information on Advisory Planning Commission work from last term and Accessory Dwelling Advisory Commission work from several years ago;
- there is a need to ensure that people are sufficiently engaged to attend the second meeting; various strategies to achieve this were considered, including emails, posting on the Denman Island Facebook bulletin board, and allowing for written comments to be submitted.

Meeting Format

- a preference was expressed for a panel format with an expanded introduction, possibly with Advisory Planning Commission participation, someone from the Accessory Dwelling Advisory Commission, Trustees speaking to existing policies, a senior and a renter to put faces to stories;

- first meeting to focus on obstacles and opportunities with the second meeting to discuss possible solutions;
- the “reporting back” inclusion of the most popular ideas in the Obstacles and Opportunities meeting might be premature;
- a meeting format strategy was suggested that included an introduction, lists solutions that have been suggested before to avoid going over the same information another time, asking for other ideas to be followed by a policy meeting that acknowledges the community input;

Next Step Timeline

- timelines suggested in the staff report will change based on the need to incorporate the requested changes.

DE-034-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee request staff to redraft the Consultation on Housing Needs Strategies for the July meeting for discussion.

CARRIED

Possible date, times and location for the first meeting were considered. Sunday, August 25, 2013, in the Back Hall, with doors opening at 2:30 pm and meeting start of 3:00 pm were tentatively suggested. Trustees indicated that the discussion regarding Advisory Planning Commission engagement might be considered after the staff report is received. Chair Luckham volunteered to facilitate the meeting and the Trustees welcomed the offer.

15. NEW BUSINESS

15.1 Executive Committee Local Trust Area (Ballenas-Winchelsea Islands) Bylaw Referral Request for Response

Chair Luckham summarized the Bylaw Referral form.

DE-035-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee advise the Executive Committee that the Denman Island Local Trust Committee’s interests are not affected by proposed Bylaws No. 27 and 28.

CARRIED

15.2 Comox Valley Regional District Annual Meeting Preparation

Planner Brzozowski reported that an initial meeting including Islands Trust staff and staff from the Comox Valley Regional District (CVRD) will be held prior to the July 3, 2013 annual meeting. She suggested that staff report back to the Local Trust Committee on the meeting involving staff and that the annual meeting topics for discussion along with an agenda might be prepared in consultation with the Local Trust Committee at that time.

Trustees suggested that possible topics for discussion might include the CVRD proposed Aquaculture and Fisheries policies, the CVRD Parks and Greenways Master Plan Cross-Island Trail, road safety, general areas of interest, development and zoning in Baynes Sound, cumulative environmental and social impacts of aquaculture.

15.3 Meeting Agendas

Trustee Graham commented that he would like to prepare for Local Trust Committee meetings in a paperless manner, however, has not been able to create online notations on documents being received online from the Northern Office. He requested this be reviewed and improved if possible.

By general consent the meeting was recessed at 3:14 pm and reconvened at 3:20 pm.

Student Planner Wright left the meeting at 3:20 pm.

16. BYLAWS

None.

17. ISLANDS TRUST WEBSITE

17.1 Denman Page

DE-036-2013 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee request staff to populate the Housing Section of the Denman webpage with past information relevant to the upcoming discussion.

CARRIED

18. NEXT BUSINESS MEETING DATE

18.1 Community Information Meeting at 7:00 pm

There will be a Community Information Meeting held on Tuesday, June 4, 2013 at Denman Island Community Hall, 1196 Northwest Road, Denman Island, BC regarding proposed Bylaw Nos. 204, 205, and 206 (Rezoning Application – 2016 Northwest Road).

18.2 Public Hearing at 7:30 pm

There will be a Public Hearing held on Tuesday, June 4, 2013 at Denman Island Community Hall, 1196 Northwest Road, Denman Island, BC regarding Bylaw Nos. 204, 205, and 206 (Rezoning Application – 2016 Northwest Road).

18.3 Local Trust Committee Business Meeting

The next meeting of the Denman Island Local Trust Committee will take place on Tuesday, July 16, 2013 at 10:30 am at the Denman Seniors Centre, 1111 Northwest Road, Denman Island, BC.

19. **TOWN HALL DISCUSSION**

Shelley McKeachie – expressed support for the language “cumulative effects” rather than “carrying capacity” when addressing aquaculture issues and provided rationale for that viewpoint. She asked what the proposed marine zoning is for the Ballenas-Winchelsea Islands area. She also commented that ADIMS would like to invite Planner Milne to view their power-point presentation on marine issues.

Chair Luckham responded that the Ballenas-Winchelsea Islands area zoning has been set at 300 metres or mid-channel, whichever is less. He commented that an abbreviated version of the power-point presentation might be useful at the CVRD meeting or other venues.

Pat McLaughlin – thanked the trustees and staff for the opportunity to present the ADIMS delegation, for listening to concerns, and for addressing these issues.

20. **ADJOURNMENT**

By general consent the meeting was adjourned at 3:32 pm.

Recorder

Chair

**MINUTES OF THE DENMAN ISLAND SPECIAL BUSINESS MEETING
TO HOLD A COMMUNITY INFORMATION MEETING
REGARDING PROPOSED BYLAW NOS. 204, 205 AND 206
(REZONING OF 2016 NORTHWEST ROAD TO PERMIT SUBDIVISION AND ONE DWELLING UNIT
FOR AFFORDABLE HOUSING ON THE NEW LOT,
ACCESSED FROM CHICKADEE ROAD)
HELD AT 7:00 PM, TUESDAY, JUNE 4, 2013
DENMAN ISLAND COMMUNITY HALL (BACK HALL)
1196 NORTHWEST ROAD, DENMAN ISLAND, BC**

MEMBERS PRESENT:

Peter Luckham	Chair
Laura Busheikin	Local Trustee
David Graham	Local Trustee

STAFF PRESENT:

Courtney Simpson	Regional Planning Manager
Aleksandra Brzozowski	Island Planner
Rob Milne	Island Planner
Lisa Webster-Gibson	Planning Clerk
Vicky Bockman	Recorder

MEDIA AND OTHERS PRESENT:

Approximately twenty-five (25) members of the public

1. CALL TO ORDER

Chair Luckham called the meeting to order at 7:15 pm.

By general consent the agenda was adopted as presented.

2. INTRODUCTIONS AND OPENING REMARKS FROM THE CHAIR AND TRUSTEES

Chair Luckham welcomed the public and introduced himself, trustees, staff and recorder. He acknowledged that the meeting is being held in traditional territory of Coast Salish First Nations.

He remarked that this meeting is an opportunity to discuss proposed Bylaw Nos. 204, 205, and 206, to provide a forum for the public to ask questions and to clarify technical points. He pointed out the location of the hearing binder, copies of the proposed bylaws that are available for the public, and the location where written submissions may be placed.

Trustee Graham commented that it has been an interesting process and that the Denman Community Land Trust Association (DCLTA), a registered non-profit society, has undertaken a difficult role that has led to this evening's Community Information Meeting.

3. **BYLAW NOS. 204, 205, AND 206**
REZONING OF 2016 NORTHWEST ROAD TO PERMIT SUBDIVISION AND ONE DWELLING
UNIT FOR AFFORDABLE HOUSING ON THE NEW LOT ACCESSED FROM CHICKADEE
ROAD

Regional Planning Manager Simpson presented an overview of the proposed three bylaws related to the establishment of affordable housing on a single lot on Denman Island. She reported that:

- proposed Bylaw No. 204 amends the Land Use Bylaw with an amendment to mapping and text that allows subdivision of the lot, defines affordable housing, establishes a site-specific zone for the new lot and limits the home occupation use;
- proposed Bylaw No. 205 is the Housing Agreement, adopted by bylaw and amended by bylaw, sets out the terms of the Housing Agreement and Tenant Selection Procedure, and requires DCLTA to submit a statutory declaration annually to the Local Trust Committee; and
- proposed Bylaw No. 206 amends the Official Community Plan with a mapping change to amend the boundaries of the land use designations on the subject property that is split-designated between Rural and Sustainable Resources so that the boundaries coincide with the new land use designation boundaries.

She displayed a map of the location of the property, outlined the proposal, timeline, next steps, and summarized the Housing Agreement and Tenant Selection Procedure. She noted that the proposed project increases density by one dwelling and that the proposal meets the Official Community Plan policies C.4 and E.1.

4. **PUBLIC COMMENTS AND QUESTIONS**

Chair Luckham opened the floor to questions of a technical nature about the proposed bylaws and explained that there will be an opportunity for opinions to be recorded in the Public Hearing record.

Daniel Terry – observed that many places on Denman do not have boundaries that match. He asked for the rationale for including the steep slope area in the Agricultural Land Reserve (ALR) because if a Development Permit does not take precedence over the ALR requirements, the slope would be endangered from potential tree cutting, a significant negative impact.

Regional Planning Manager Simpson responded that a Development Permit is still required for any agricultural activity and it was the opinion of the Agricultural Land Commission and Islands Trust staff that the likelihood of agriculture occurring on the steep slope was slim. She added that as a result of the boundary change, a buffer has been created between the lots.

Dave Tweedie – asked how the building will be financed and who will be building it.

Chair Luckham responded that this information is not known by the Local Trust Committee and asked if the DCLTA would like to address the question.

David Critchley, responding for DCLTA, commented that he cannot provide particulars, however, there may be an agreement that provides for the tenant to contribute labour and funds for construction materials with the building being donated to DCLTA.

Nathan Kinmont – asked if the bylaws being talked about at this meeting are specific to this property.

Chair Luckham confirmed that the proposed bylaws are specific to this project.

Louise Bell – asked what will happen to the property and house when the housing agreement ceases to apply after the ninety-ninth year.

Regional Planning Manager Simpson responded that the intention of the donor is that the land would become conservation land after the ninety-ninth year. She described the technical obstacles to implementing that objective; however, confirmed that the rezoning would remain for affordable housing only.

Louise Bell – commented that this means that DCLTA would own it after ninety-nine years and would either have to donate it to a conservancy agency with a building on it or manage it as a conservancy property themselves.

Nathan Kinmont – asked who paid for the surveying of the property. He asked if the tenant will be paying for all construction materials and who will pay to bring power to the property.

Regional Planning Manager Simpson responded that DCLTA paid for the survey.

Chair Luckham advised that the Islands Trust is involved in the zoning changes and the landowner will be responsible for all the construction aspects, adding that the Local Trust Committee does not have access to that type of information.

David Critchley, responding for DCLTA, indicated that funding will be from the tenant under an agreement with DCLTA. He added that there are limits to the amount of assets that the tenant can have under the qualifications for affordable housing and confirmed that the house would be modest in size and occupancy.

Dave Tweedie – asked if this project falls into the public housing criteria that requires that it must be an engineered structure and inspected by all trades.

Regional Planning Manager Simpson advised that the construction of this dwelling must meet the British Columbia building code and is subject to electrical inspection.

Dave Tweedie – asked what the source of funding was for this project to get it to where it is today; were grants received and if so who were the grantors, and inquired if any of this funding was public money.

Regional Planning Manager Simpson advised that DCLTA applied to have the rezoning application sponsored by the Islands Trust and that request was granted at a \$4,500 value.

David Critchley, responding for DCLTA, stated that DCLTA had received many donations, many of which were small amounts, for this project. It was suggested that if desired, this subject might be discussed at a future time, other than at the Community Information Meeting.

Nathan Kinmont – asked how the power would be provided to the project, if a temporary power pole would be put in prior to construction, and if the project still includes a proposal to utilize solar power.

David Critchley, responding for DCLTA, replied that there are no plans to run a generator.

Regional Planning Manager Simpson advised that the solar proposal was not something regulated in the Land Use Bylaw and is not a part of the bylaws being discussed at this meeting.

Dave Tweedie – asked if the property is subject to the British Columbia Residential Tenancy Act and followed up by asking who would be the landlord.

Chair Luckham advised that it is subject to the Residential Tenancy Act and that DCLTA would be the landlord.

Taina Uitto – asked procedurally when it would be appropriate for her to disagree with the statement made that this whole process was supported by the community at the previous Community Information meeting, when that had not been her experience. She asked if statements heard here are used to inform the Local Trust Committee's decisions.

Chair Luckham responded that the Public Hearing which will follow this meeting would be the opportunity to express opinions.

5. **CLOSE OF THE MEETING**

Chair Luckham asked three times if there were any more questions, and hearing none adjourned the meeting at 7:48 pm.

Recorder

Chair

Public Hearing Record
Received for Information
By Local Trust Committee

**DENMAN ISLAND LOCAL TRUST COMMITTEE
PUBLIC HEARING RECORD
REGARDING**

**PROPOSED BYLAW NO. 204, CITED AS “DENMAN ISLAND LAND USE BYLAW, 2008,
AMENDMENT NO. 1, 2012”
AND
PROPOSED BYLAW NO. 205, CITED AS “DENMAN ISLAND HOUSING AGREEMENT BYLAW NO.
205, 2012”
AND
PROPOSED BYLAW NO. 206, CITED AS “DENMAN ISLAND OFFICIAL COMMUNITY PLAN, 2008,
AMENDMENT NO. 1, 2013”**

**HELD AT 7:30 P.M. ON TUESDAY, JUNE 4, 2013
AT THE DENMAN ISLAND COMMUNITY HALL
1196 NORTHWEST ROAD, DENMAN ISLAND, BC**

MEMBERS PRESENT:

Peter Luckham	Chair
Laura Busheikin	Local Trustee
David Graham	Local Trustee

STAFF PRESENT:

Courtney Simpson	Regional Planning Manager
Aleksandra Brzozowski	Island Planner
Rob Milne	Island Planner
Lisa Webster-Gibson	Planning Clerk
Vicky Bockman	Recorder

MEDIA AND OTHERS PRESENT:

Approximately twenty-five (25) members of the public

1. CALL TO ORDER

Chair Luckham called the meeting to order at 7:48 pm.

2. OPENING REMARKS FROM THE CHAIR AND TRUSTEES

Chair Luckham pointed out the location of the hearing binder, copies of the bylaws that are available for the public, and the location where written submissions may be placed. He advised that after the conclusion of this Public Hearing the Local Trust Committee is not permitted to

receive any new information and that all written submissions must be received by the Local Trust Committee before the close of this Hearing. He read the opening statement.

3. **PROPOSED BYLAWS:**

PROPOSED BYLAW NO. 204, CITED AS “DENMAN ISLAND LAND USE BYLAW, 2008, AMENDMENT NO. 1, 2012”

AND

PROPOSED BYLAW NO. 205, CITED AS “DENMAN ISLAND HOUSING AGREEMENT BYLAW NO. 205, 2012”

AND

PROPOSED BYLAW NO. 206, CITED AS “DENMAN ISLAND OFFICIAL COMMUNITY PLAN, 2008, AMENDMENT NO. 1, 2013”

Planning Clerk Lisa Webster-Gibson read the Public Hearing Notice. She stated that the Notice of Public Hearing had been posted and made available to the public in various locations. She advised that the proposed bylaws are three bylaws related to the establishment of affordable housing on a single lot on Denman Island and described the purpose of each proposed bylaw.

Regional Planning Manager Simpson advised that the proposed bylaw referrals had been sent out to other agencies and she summarized the responses that had been received.

4. **PUBLIC COMMENTS AND QUESTIONS**

Chair Luckham opened the Public Hearing to submissions from the floor.

Susan-Marie Yoshihara, 3906 Wren Road – declared that she is currently a Denman Community Land Trust Association (DCLTA) board member. She urged the Local Trust Committee to approve this project and pass the bylaws as there is a housing crisis on Denman Island. She noted that this is a small project and that much has been learned. She expressed thanks for the generous donation that has made it possible, and hoped that the neighbours can feel it is a benefit to everyone.

Dave Tweedie, 2341 Chickadee Road – opposed the proposed project. He expressed his opinion that affordable housing is needed, however, this project is more like a private deal between two entities that benefits one person rather than an affordable housing project. His reasons for opposition include the considerable distance to amenities; that the tenancy is not available for seniors, children or others to fill the generation gap; water for fire suppression is lacking; and the hill leading to the property makes emergency vehicle access difficult. He urged the Local Trust Committee to permit secondary suites and/or cottages as a housing solution, and to give consideration to options that are available rather than creating something new.

Daniel Terry, 1840 Northwest Road – declared that he is a neighbour and is generally in favour of affordable housing. He expressed support for dedicated rental housing as opposed to secondary dwellings for housing options. He objected to the condition that the donor chooses the occupant for this affordable housing project. He opposed putting the steep slope into the Agricultural Land Reserve as the ridge is vulnerable and he is against anything that provides even a slim opportunity for logging that area.

Taina Uitto, 2350 Chickadee Road – opposed the proposed project, although she stated that she does support affordable housing in general. She stated her agreement with statements made by Dave Tweedie. She added that she objects in principal because donating land so that a particular person can live there is an abuse of the system, has cost time and money, and sets a precedent.

David Critchley, 2850 Swan Road – declared that he is the lawyer for DCLTA and a resident of Denman. He stated that he supports affordable housing in general and this application in particular. He commented that this project is not perfect, but this project will “get the ball rolling” on Denman at no cost to society or taxpayers. He remarked that the donor, who is nominating the first tenant, is making a generous donation to a charitable organization run by volunteers, and is not doing this for personal benefit. He noted that if this project were to be turned down, it would be a blow to DCLTA, affordable housing, this donor, and other potential donors at a time when donations need to be encouraged.

Harlene Holm, 3900 Lacon Road - submitted a statement for the record. She expressed her support for proposed Bylaws Nos. 204 and 205, however is concerned that proposed Bylaw No. 206 has introduced aspects which do not reflect DCLTA’s application for the zoning amendment and may cause confusion. She commented that Bylaw Nos. 204 and 205 will support entire generations of affordable housing initiatives and the Housing Agreement can act as a template to continue to offer security for future tenants, donors and the community.

Louise Bell, 3325 Kirk Road – stated that she is in favour of Bylaw Nos. 204, 205 and 206. She noted several reasons for her support: Islands Trust has made a commitment to address this need, DCLTA is the only body that has come up with an affordable housing project for Denman Island, the land for this project is being donated, there is no density trade-off, no personal gain, and the project provides a model for the complicated requirements. She added that the biggest challenge for any land-use project is finding available land and this project could inspire others to make donations. She encouraged the Local Trust Committee to move forward and adopt these bylaws.

Nathan Kinmont, 2350 Chickadee Road – agreed with Dave Tweedie’s comments. He opposes the project as he has concern with the donor’s condition of tenant selection and the property is not suitable for anyone who might struggle to have a vehicle or funds for building. He commented that the push to move forward with this important issue has left these people behind.

Patti Willis, 3780 Lake Road – expressed her support, on balance, for this project and bylaws. She indicated that she had been an Advisory Planning Commission member considering this issue and reported that the Commission had struggled with many of the concerns expressed here tonight, but decided it was of benefit to proceed. She added that Bylaw Nos. 204 and 205 are setting foundation stones and templates for future projects which, hopefully, will be more central. She expressed concern with Bylaw No. 206 and the vulnerability of the steep slope, worrying that it might set a precedent for future applications, and urged the Local Trust Committee to honour the Steep Slope Development Permit Area.

Dave Tweedie, 2341 Chickadee Road – declared that he is an adjacent landowner. He questioned the accuracy of the statement which asserted that there was no cost to taxpayers. He questioned the tenant’s qualifications for affordable housing income requirements, noting that this person has skills to build a house. He objected to the project, stating that a lot of work and time has gone into this project but that doesn’t make it a good project or right.

Lisa Wood, 4078 Denman Road – opposed the proposed project, although she stated that she does support affordable housing in general. She stated that she does not support this project for reasons Dave Tweedie has outlined.

Anne deCosson, 2831 East Road – declared that she is a board member of DCLTA with a long-term interest in affordable housing. She expressed her support for the project and the proposed bylaws. She stated that she believes in the need for affordable housing and while this has not been an ideal project, it has been an important first step and learning process that has resulted in templates that will help move other projects forward.

Jane Lighthall, 1896 Corrigan Road – declared that she is a past DCLTA board member. She stated that she supports the project and bylaws because it is a start on affordable housing initiatives and although it is not an ideal site it sets an example and creates an incentive for people to donate land. She added that the project will have a small footprint and will be a good neighbour.

Dave Tweedie, 2341 Chickadee Road – asked what incentive an individual would have to move beyond and out of affordable housing. He stated that funding for training an individual would be a better approach.

Daniel Terry, 1840 Northwest Road – objected to the condition that does not permit children to occupy the affordable housing unit. He suggested that no one needs affordable housing more than a single mum and considered it an inappropriate condition for this project.

Taina Uitto, 2350 Chickadee Road – objected to the condition that does not allow children to be residents. She declared that she is a neighbour who is off-grid and pointed out that power costs will have to be borne by the project and will be expensive.

Marion Cobb, 3700 Lake Road – expressed her support for affordable housing, however, objected to the process involved in this project. She specifically objected to the choosing of the tenant early in the process and finds the condition that does not allow children to be shameful.

Dave Tweedie, 2341 Chickadee Road – commented that there are lots available in “downtown” Denman from time-to-time and he suggested that it might be possible to get donations and volunteer labour to create an affordable unit close to the village that would work for seniors and families.

Megan Blu, 1180 Lacon Road - supports community affordable housing and considers it to be an immediate concern and vitally important to find homes for those that need them. She noted that she does not have enough information to have an opinion on this particular project.

Sarah Hodson, 2331 Chickadee Road – declared that she is a neighbour. She opposed the proposed project, although she stated that she supports affordable housing in general. She stated that she considers this project to be convoluted and inappropriate for the Denman community. She noted that there are many properties with secondary dwellings on Denman, however, it is illegal to rent them and she wondered why that is not being reviewed as a potential solution to the housing problem.

Sheila Simpson, 6791 Denman Road – observed that she cannot legally rent her secondary dwelling even though there was recently an elder who could not find a place to live on Denman.

She suggested there should be an amnesty for people with secondary dwellings, ceilings put on rental rates and elder housing should be a top priority.

Kari Willis, 2341 Chickadee Road – opposed the proposed project and bylaws for many of the reasons expressed here tonight.

Lia Verkade, Lot 3 Chickadee Road – stated that she is not against affordable housing, however, feels it should be concentrated in the “downtown” area. She objects that the tenant has already been selected and that the project only benefits one person. She asked the Local Trust Committee to remove obstacles to make it easier for people to find accommodations.

Megan Blu, 1180 Lacon Road – commented that loopholes are found to subdivide but energy is not being found to approve second, third or fourth rentals and that is backwards. If someone needs a place to live and can find a way to get around bylaws to do that then she supports that and expects others to support her when she or anyone else finds a way to survive or to provide an opportunity for others to have a home on this island.

Chair Luckham called three times for further submissions on proposed Bylaw No. 204 Cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2012”, proposed Bylaw No. 205, Cited as “Denman Island Housing Agreement Bylaw No. 205, 2012”, and proposed Bylaw No. 206, Cited as “Denman Island Official Community Plan, 2008, Amendment No. 1, 2013”. There were no further submissions.

Chair Luckham called for written submissions to be handed in. He thanked everyone for attending this meeting.

5. ADJOURNMENT

Chair Luckham closed the Public Hearing at 9:03 pm.

I CERTIFY THAT THIS IS A FAIR AND ACCURATE SUMMARY OF THE NATURE OF REPRESENTATIONS RESPECTING THE MEETING HELD.

Recorder

Date



Islands Trust

Follow Up Action Report w/ Target Date

Denman Island Sep-12-2011

No.	Activity	Responsibility	Target Date	Status
1	Reschedule the meeting with the K'omoks First Nation. Meeting to be separate from Hornby LTC, but on same day and directly after.	Rob Milne	Oct-25-2011	On Going

Jun-05-2012

No.	Activity	Responsibility	Target Date	Status
1	Invite BC Shellfish Growers Association to the to-be-scheduled meeting with DFO and ILMB on aquaculture.	Rob Milne	Jul-17-2012	On Going

Oct 2, 2012 update: wait until staff has attended first working group meeting to provide more info to LTC.

1	Add "Discussion of Bylaw Enforcement" to the Denman Island Local Trust Committee business meeting in 18 months time (December, 2013) possibly to coincide with a discussion on affordable housing.	Rob Milne	Dec-01-2013	On Going
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Nov-06-2012

No.	Activity	Responsibility	Target Date	Status
1	Staff to write a letter or email to agencies that deal with shellfish aquaculture requesting that when engaging with planning and consultation they invite the Association of Denman Island Marine Stewards to participate.	Aleksandra Brzozowski	Dec-11-2012	On Going

Dec-11-2012

No.	Activity	Responsibility	Target Date	Status
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1	Prepare report and amended draft bylaw addressing APC comments for draft DPA 4 guidelines. Recommend to LTC that revised DPA 4 and draft DAI are referred to the APC together. Update Jan 22, 2013: Revised DPA 4 guidelines to move forward in concert with RAR mapping, to take place later in 2013.	Rob Milne	Jan-22-2013	On Going
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Feb-26-2013

No.	Activity	Responsibility	Target Date	Status
1	Draft amendments to Land Use Bylaw that serve to restrict structures in W3 and vehicular traffic on shorelines.	Rob Milne	Jun-04-2013	Done
1	Assist with planning the 'State of the (Baynes) Sound' conference hosted by Vancouver Island University. Update April 2, 2013: Target date extended due to rescheduling of conference to October 2013.	Rob Milne	Nov-01-2013	On Going

May-08-2013

No.	Activity	Responsibility	Target Date	Status
1	Prepare proposal for two community meetings regarding housing needs strategies, including proposal for format and communications.	Rob Milne Seth Wright	Jun-04-2013	Done
1	Staff to arrange request to AVICC Executive that Islands Trust be one of the representatives sent from AVICC to the Shellfish Aquaculture Management Advisory Committee being assembled by the Department of Fisheries and Oceans.	Aleksandra Brzozowski	Jun-04-2013	Done
1	Send letter to BC Ferries requesting that they install a barricade at the North end of Denman West Terminal, to prevent motorized vehicle access along the foreshore. The TLC re-visited the matter at their June 4 meeting and re-affirmed the need to send a letter notwithstanding the potential re-design/re-development of the Denman West Terminal.	Rob Milne	Jul-16-2013	Done

Jun-04-2013

No.	Activity	Responsibility	Target Date	Status
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1	Staff to set up a meeting with Department of Fisheries and Oceans aquaculture management personnel regarding aquaculture practices in Baynes Sound	Rob Milne		On Going
1	Staff to populate the Housing Section of the Denman webpage with past information relevant to the upcoming discussion.	Rob Milne Seth Wright	Jul-16-2013	On Going
1	Staff to redraft the Consultation on Housing Needs Strategies for the July meeting for discussion.	Rob Milne Seth Wright	Jul-16-2013	Done



STAFF REPORT

Date: June 11, 2013

File No.: DE-ALR-2013.2 (Francis Dean Ellis)

To: Denman Island Local Trust Committee
For Meeting of July 16, 2013

From: Linda Prowse, Planner

CC: Rob Milne, Island Planner

Re: **Agricultural Land Reserve Application for Subdivision**

Owner: Francis Dean Ellis

Applicant: Same as owner

Location: 2626 Swan Road, Denman Island, BC

Lot B, Section 23, Denman Island, Nanaimo District, Plan VIP74719
 PID 025-563-254

1. THE PROPOSAL:

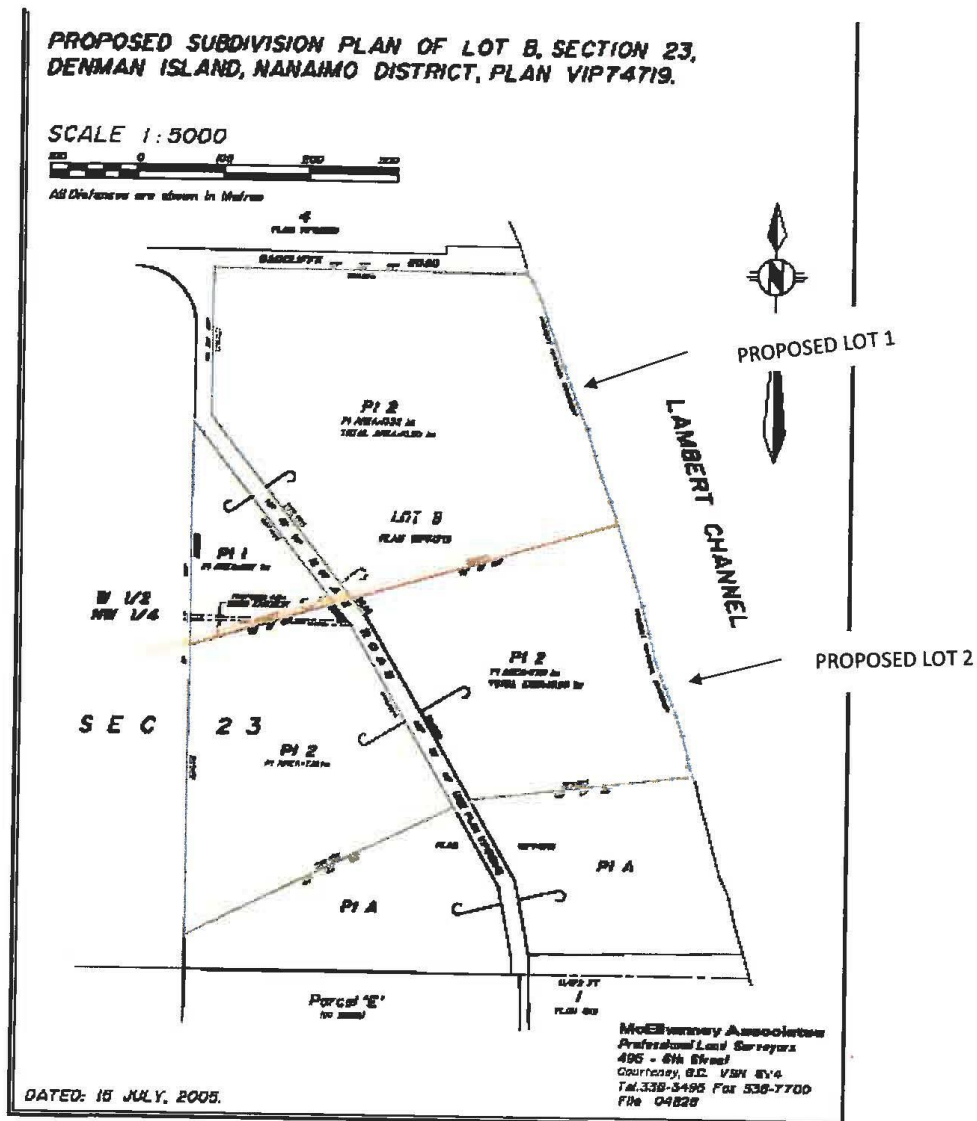
The applicant seeks the approval of the Agricultural Land Commission (ALC) for the subdivision of an approximately 31 ha (76.5 acre) parcel into two lots of 15.5 ha (38.3 acres) under Section 21, 25, 34 of the *Agricultural Land Commission Act* (see Attachment 1 for ALC application).

The subject property is in the Agricultural Land Reserve (ALR) and subdivision requires Agricultural Land Commission (ALC) approval. The Denman Island Local Trust Committee (LTC) has the discretion to decide whether or not to forward this application to the ALC. The LTC must pass a resolution to forward this application to the ALC for it to proceed. The LTC can forward the application with or without additional comments or resolve that the application proceed no further, which is a denial of the proposal.

If this ALR application is successful, the applicants may apply to the Ministry of Transportation and Infrastructure for subdivision. Islands Trust planning staff would receive a referral, and at that stage a more detailed, technical analysis of the specific lot configuration of the subdivision would be completed by staff. For this ALR application, the subdivision proposal should be considered at a conceptual level.

See below for subject property location and proposed subdivision plan.

LAND UNDER APPLICATION



SITE CONTEXT

The subject property is approximately 31 ha in size, and is a “hooked lot” with Swan Road running through it. According to the applicant’s application, the following are located on the property:

- 1000 square foot barn,
- 400 square foot equipment storage/shop
- 40 foot trailer,
- Hay field
- Gravel road
- A stream traverses the property and there are several ponds

Uses on lots adjacent to the subject property include:

- 40 acre hobby farm the North;
- Ocean to the East
- 23 acre hobby farm to the South; and
- 60 acre Christmas tree farm to the West.

2. CURRENT PLANNING STATUS OF SUBJECT LANDS:

2.1 Trust Policy Statement:

This proposal is not at variance with the Trust Policy Statement. Relevant policies include:

- 4.1.4 Local trust committees....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...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.
- 4.1.6 Local trust committees...shall, in their official community plans and regulatory bylaws, address the use of adjacent properties to minimize any adverse affects on agricultural lands.
- 4.1.8 Local trust committees...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.

2.2 Denman Island Official Community Plan, 2008:

The subject properties are in the **Sustainable Resources designation**.

E.4 – Resources

- Policy 1 In the Sustainable Resource designation:
- the principal uses should be agriculture and silviculture; and
 - zoning regulations may permit small-scale local value-added wood working industries and the development of non-timber forest products on land with silviculture as a principal use.
- Policy 7 The Local Trust Committee should only support an application for non-farm use or subdivision on land in the Agricultural Land Reserve if the proposed non-farm use or subdivision is consistent with zoning regulations and either:
- allows an activity that supplements the farm income and does not decrease the farming capability of the property; or
 - protects the land for conservation purposes.
- Policy 9 The area designated Sustainable Resource in this Plan are designated to ensure that land uses involving renewable resources are sustainable and compatible with the small-scale rural character of the Island. The objectives of the designation of this area as an area within which development approval information may be required, include protecting the Agricultural Land Reserve; encouraging diverse agricultural activities; promoting employment through agricultural activities that have minimal negative environmental impact; promoting local employment through sustainable, ecologically sensitive silviculture; and fostering sustainable use of resources. Development approval information may be required to help the Local Trust Committee to determine appropriate uses, density and siting of development in the Sustainable Resource designation.

Development Permit Areas:

A portion of the subject property is within the Komas Bluff development permit area, Development Permit Area No. 1. Should this application achieve the appropriate approval from the ALC, a development permit application showing how the proposal meets the DP Area No. 1 Guidelines would be required at the time of subdivision.

A portion of the subject property (Danes Creek Headwaters) is within the Streams, Lakes and Wetlands development permit area, Development Permit Area No. 4. Should this application achieve the appropriate approval from the ALC, a development permit application would NOT be required for subdivision within Development Permit Area No. 4, as approval of a development permit is not a requirement for subdivision.

2.3 Denman Island Land Use Bylaw, 2008:

The subject properties are in the **Agriculture (A) zone**.

The minimum lot area permitted by subdivision in this zone is 15.0 hectares.

The proposal would meet the minimum lot area permitted by subdivision in this zone.

2.4 Sensitive Ecosystems and Hazard Areas:

There are no sensitive ecosystems mapped for this property. Hazard areas mapped include the Komas Bluff area.

2.5 Archeological Sites:

There are no recorded archaeological sites on or within 50 metres of the subject property.

2.6 Covenants:

There are no covenants registered on the subject property.

2.7 Riparian Areas Regulation Designated Watershed

A portion of the subject property is within a designated Riparian Areas Regulation watershed. Should this proposal be forwarded to the Agricultural Land Commission and approved, a subdivision application would trigger the Riparian Areas Regulation, and the applicant would be required to retain a qualified environmental professional to prepare a riparian area assessment report.

2.8 Denman Island Farm Plan

The *Denman Island Farm Plan* was initiated to enhance and preserve farming in the region and work towards increased farm production that is both sustainable and resilient. The Farm Plan is not a bylaw, but is meant to guide the Local Trust Committee when deciding on possible Official Community Plan/ Land Use Bylaw amendments to enhance farming on Denman Island.

The Farm Plan excerpt below gives specific soil information on the eastern part of Denman, including the Swan Road area where the subject property is located.

Location	Soil Type	Soil Series	Soil Texture	Topography	Drainage	Notes
Eastern part of the island, along Swan Rd., East Rd., Corrigan Rd., Jemima Rd., and Beaver Rd. Found mixed with Parksville Soils.	Brown Podzol*	**Bowser (B)	Loamy sand	Gently sloping	Imperfectly drained.	Coarse marine sediments underlain by glacial till or marine clay, stone-free.

*Podzols: Podzols are found in forested areas on sandy glacio-fluvial deposits with high levels of annual precipitation. Typically they occur under coniferous, mixed, and deciduous forest vegetation, but may also occur under shrub and grass vegetation (AAFC, 1998). Brown Podzolic soils are characterized by a top layer that is 1 to 2 inches thick of dark grayish brown to nearly black moderately well-decomposed organic litter. The B horizon is yellowish-brown to strong brown and the color fades with depth. The parent materials are medium to medium high in base-saturation but non-calcareous. These soils are distributed over the area south of Campbell River exclusive of the Alberni Basin. The vegetation is second

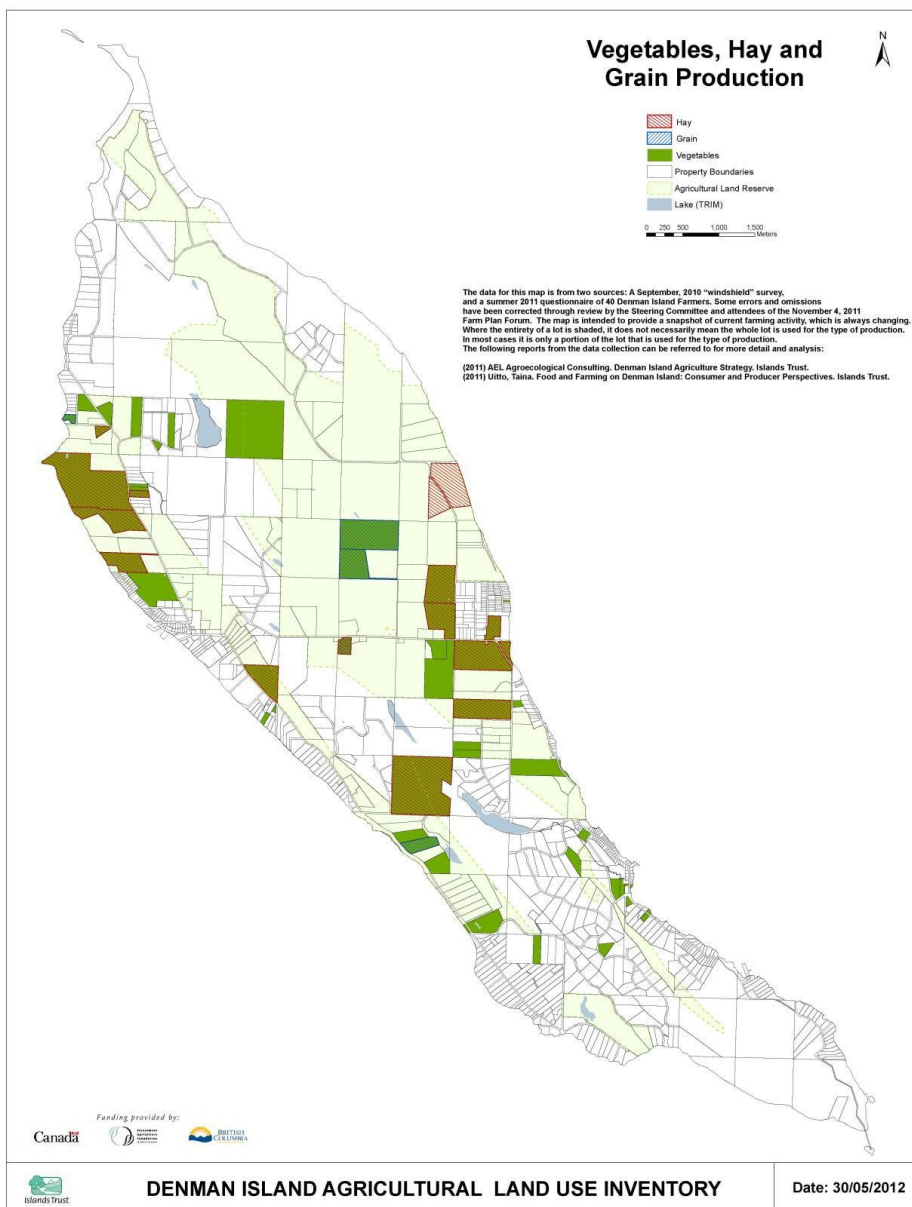
growth fir, hemlock, maple and red cedar. At one time there were many large fir and hemlock trees which provided excellent lumber.

****Bowser Soil Series** (Description is adapted from Day et al. (1959), Kenk and Sondeim (1987), and Keser and St. Pierre (1979)).

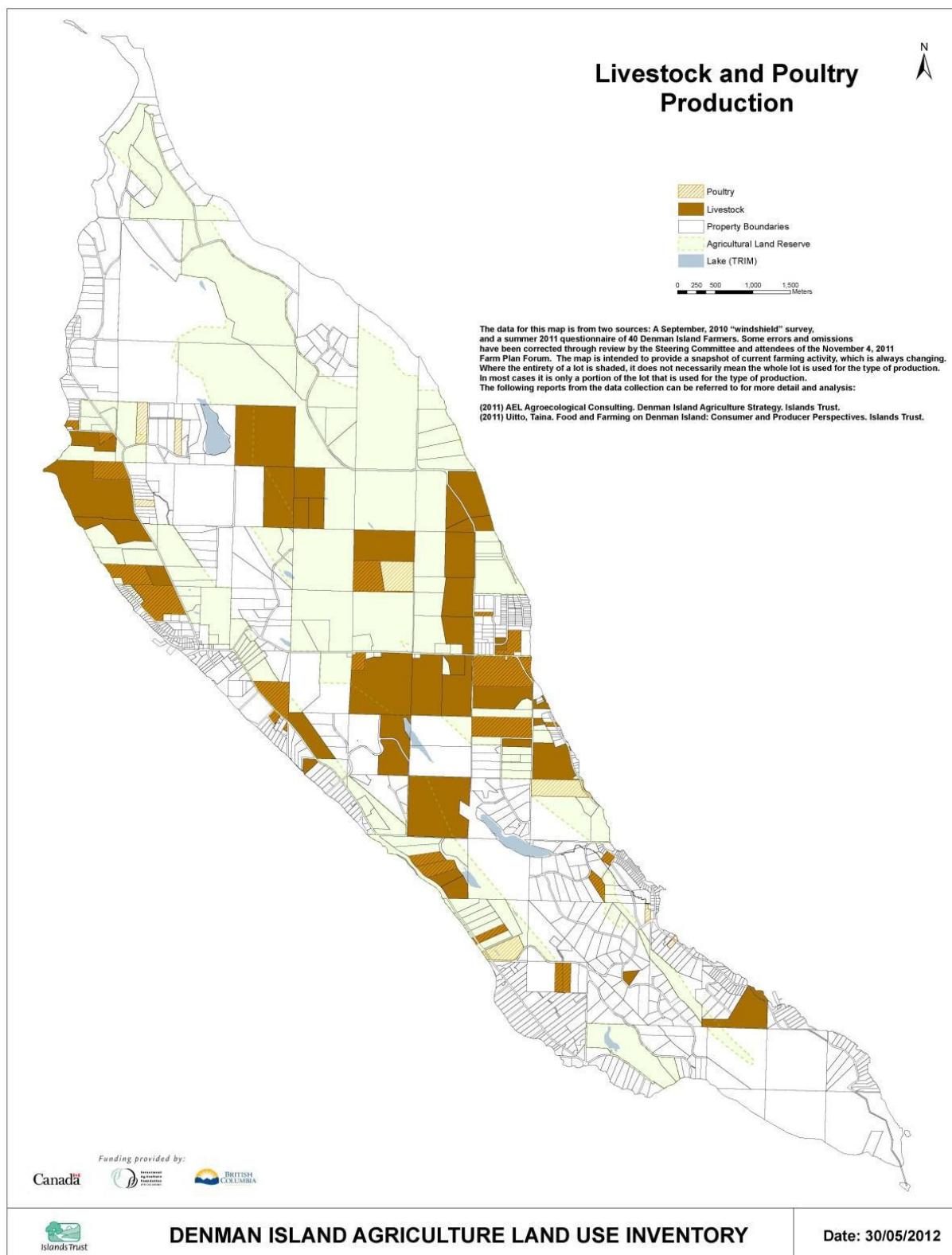
Only a small percentage of this soil is cultivated and it is used mainly for hay and pasture. Seepage water maintains the subsoil in a moist condition throughout most of the year. The moisture-holding capacity is moderately low, total phosphorus is low and the exchange complex is quite unsaturated. Generally Bowser soils are moderately suited for agriculture. On Denman Island Bowser soils are found in conjunction with Tolmie soils, which elevates their agricultural capability.

The two maps below are also excerpts from the Denman Farm Plan

Map 1 - Vegetables, Hay and Grain Production



Map 2 – Livestock and Poultry Production



4. RESULTS OF CIRCULATION/COMMUNITY INFORMATION MEETING(S):

No public notice or community information meeting is required for an application to subdivide within the ALR.

5. ISSUES SUMMARY:

- a) Conformity with land use designations and zoning
- b) Conformity with Official Community Plan agriculture policies
- c) Reduce negative impacts on Agriculture
- d) Conformity with the Provincial Riparian Areas Regulation

6. STAFF COMMENTS:

a) **Conformity with land use designations and zoning:**

The proposed subdivision conforms to the land use designations and zoning. If the ALC approves this application, the applicant would be required to apply for subdivision with the Ministry of Transportation and Infrastructure, and the Islands Trust planning staff would receive a referral for comment on conformity with the LTC bylaws. The applicant would also be required to apply to the Denman Island Local Trust Committee for a Development Permit under Development Permit Area No. 1: Komas Bluff. .

b) **Conformity with Official Community Plan goals, objectives and policies:**

Policy 7 of OCP Section E.4 [Resources] states that subdivision in the ALR should only be supported if it allows an activity that supplements the farm income and does not decrease the farming capability of the property, or protects land for conservation purposes.

Supplementing farm income: The applicant has indicated that he wishes to continue using the northern portion of the lot as a hay producing operation, and that the southern portion of the lot could perhaps be utilized by a farmer for perhaps a small orchard, berry crops, poultry farming or market gardening.

The applicant has not submitted a farm plan with his application to indicate how subdividing the property would supplement farm income.

Large lots facilitating agricultural use: The OCP clearly indicates that the primary land use in the Sustainable Resources designation is to be agriculture and silvaculture, and that parcel sizes should be large to facilitate this use. There is a residential land use designation in other parts of the island. Clearly these separate designations provide a vision for large lots facilitating agricultural use in the Sustainable Resources designation, and smaller lots for primarily residential use are to be located in other areas.

Conservation: Part of Policy 7 in OCP section E.4 supports subdivision if the subdivision protects land for conservation, and that is not relevant in this case.

- c) **Impact on agriculture:** This property is currently being farmed for hay production and the applicant mentions that he wishes to keep the northern portion of the current lot to farm hay. In terms of whether the subdivision would decrease the farming capability of the property, the application does not provide enough information to judge this. The smaller lot sizes could limit the viability of the property as a farm into the future, or the approximately 15 ha size of each proposed lot may be a suitable farm size for Denman Island depending on the type of agriculture practiced. Islands Trust staff cannot make this assessment, and the Agricultural Land Commission will consider the impact of subdivision on farming capability, should the Local Trust Committee choose to forward this application.
- d) **Conformity with the Provincial Riparian Areas Regulation:** If the ALC approves the application for subdivision in the ALR and the Islands Trust receives a subdivision referral from the Ministry of Transportation and Infrastructure, part of the subdivision approval process would include the applicant obtaining an assessment from a Qualified Environmental Professional to determine possible impacts of subdivision and how they apply to the Riparian Areas Regulation.

With the information provided, there is no description of plans to undertake activities to supplement farm income and in the opinion of staff, there is not enough information to say that the proposal complies with OCP policy

7. SUMMARY OF OPTIONS:

The LTC has several options:

- Defer consideration of this application;
- Refer this application to the Advisory Planning Commission;
- Pass a resolution to not forward this application to the ALC;
- Pass a resolution to forward this application to the ALC; or
- Pass a resolution to forward this application to the ALC with comment.

8. RECOMMENDATION:

THAT the Denman Island Local Trust Committee instruct staff to forward this application DE-ALR-2013.2 (Ellis) to the Agricultural Land Commission.

Respectfully submitted by:

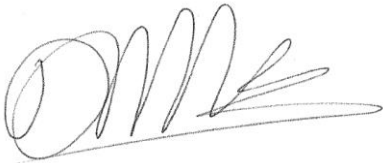


Linda Prowse, Planner

June 18, 2013

Date of signature

Concurred in by:



David Marlor, Director of Local Planning

June 20, 2013

Date of signature

Attachments:

1. Application by Land Owner for Subdivision in the ALR

ATTACHMENT NO. 1 – Application by Land Owner for Subdivision in ALR

2626 SWAN RD DENMAN IS.



APPLICATION BY LAND OWNER

NOTE: The information required by this form and the documents you provide with it are collected to process your application under the Agricultural Land Commission Act and regulation. This information will be available for review by any member of the public. If you have any questions about the collection or use of this information, contact the Agricultural Land Commission and ask for the staff member who will be handling your application.

TYPE OF APPLICATION (Check appropriate box)

- ☐ **EXCLUSION**
under Sec. 30(1) of the Agricultural Land Commission Act
- ☒ **SUBDIVISION in the ALR**
under Sec. 21(2) of the Agricultural Land Commission Act
- ☐ **INCLUSION**
under Sec. 17(3) of the Agricultural Land Commission Act
- ☐ **Non-farm USE in the ALR**
under Sec. 20(3) of the Agricultural Land Commission Act

APPLICANT

Registered Owner: Francis Dean Ellis		Agent:	
Address: 3830 Salal Drive		Address:	
Hornby Island			
BC	Postal Code V0R 1Z0		Postal Code
Tel. (home) (335)2669 (work) ()		Tel. ()	
Fax ()		Fax ()	
E-mail deanonrain@gmail.com		E-mail	

LOCAL GOVERNMENT JURISDICTION (Indicate name of Regional District or Municipality)

Denman Island ~~Island~~ Trust

LAND UNDER APPLICATION (Show land on plan or sketch)

Title Number	Size of Each Parcel (Ha.)	Date of Purchase	
		Month	Year
07424.025	31.00	March	2002

OWNERSHIP OR INTERESTS IN OTHER LANDS WITHIN THIS COMMUNITY
(Show information on plan or sketch)

If you have interests in other lands within this community complete the following:

Title Number(s):

PROPOSAL (Please describe and show on plan or sketch)

see attached documents

CURRENT USE OF LAND (Show information on plan or sketch)

List all existing uses on the parcel(s) and describe all buildings

existing uses hay production, some seedlings

buildings 1000 sq ft barn, 400 sq ft equipment storage/shop, plus a 40 foot trailer

USES ON ADJACENT LOTS (Show information on plan or sketch)

North 40 acre FLR hobbie

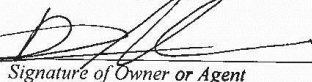
East water

South 23 acres hobbie farm

West 60 acre A1 Christmas trees

DECLARATION

I/we consent to the use of the information provided in the application and all supporting documents to process the application in accordance with the *Agricultural Land Commission Act* and regulation. Furthermore, I/we declare that the information provided in the application and all the supporting documents are, to the best of my/our knowledge, true and correct. I/we understand that the Agricultural Land Commission will take the steps necessary to confirm the accuracy of the information and documents provided.

APRIL 17/13 
Date Signature of Owner or Agent

DEAN ELLIS
Print Name

Date Signature of Owner or Agent

Print Name

Date Signature of Owner or Agent

Print Name

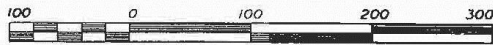
Please ensure the following documents are enclosed with your application:

- Application fee payable to the Local Government
- Certificate of Title or Title Search Print
- Agent authorization (if using agent)
- Map or sketch showing proposal & adjacent uses
- Proof of Notice of Application *(See instructions)
- Photographs (optional)

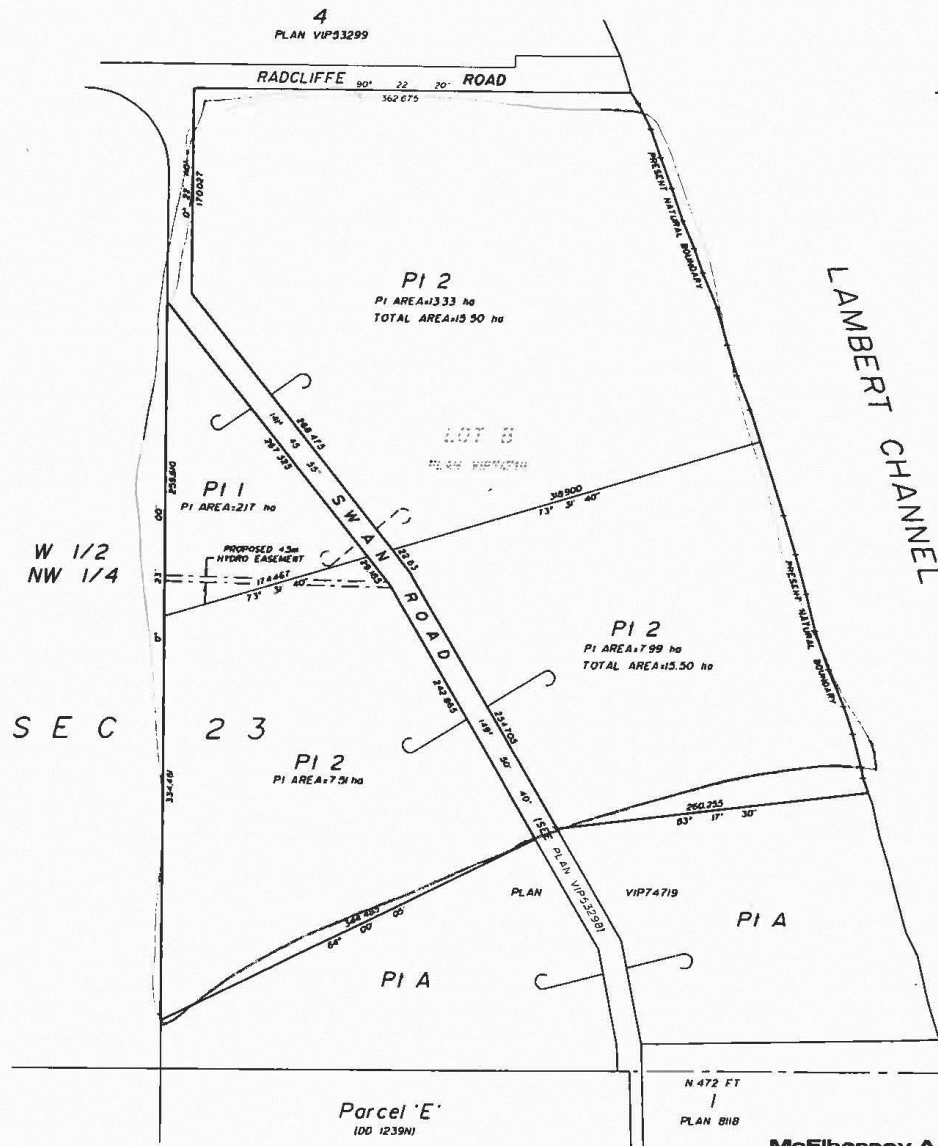
PROPOSED SUBDIVISION PLAN OF LOT B, SECTION 23,
DENMAN ISLAND, NANAIMO DISTRICT, PLAN VIP74719.

BCGS 92F 076

SCALE 1:5000



All Distances are shown in Metres



DATED: 15 JULY, 2005.

McElhanney Associates
Professional Land Surveyors
495 - 6th Street
Courtenay, B.C. V9N 6V4
Tel. 338-5495 Fax 338-7700
File 04828

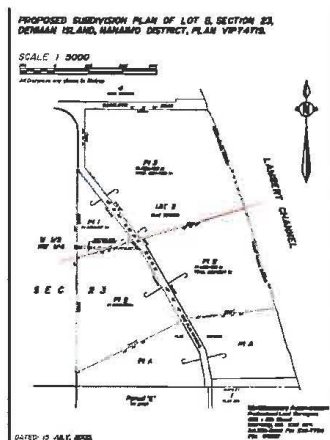
HISTORY

I purchased the land after it had been clearcut in 2002. During the next 3 years I cleared the land and planted hay. This is before and after. The land is in the Komasa Bluff DP areas 111



In 2005 I wished to subdivide off 40 acres and to keep the north half to farm. I was stopped by litigation and liens from Islands trust. DILTC said I needed a geotechnical report to sign off on subdivision (I had produced 4 geotechnical reports and all were denied.) Now as a result of the Denman Island Farm Plan that has maps that show my property may not be in the DP area and the change of the former DILTC position that ALR lands should be preserved as forest or parkland, I am applying for subdivision. Also the court ordered a geotechnical report from Thurber Engineering, it stated once the Highways ditches were rerouted off my property, the land was now stable. This was agreed upon by all parties by consent order in 2009.

Denman Farm Plan <http://www.islandstrust.bc.ca/lrc/de/pdf/defarmplanfinalnov152012.pdf>

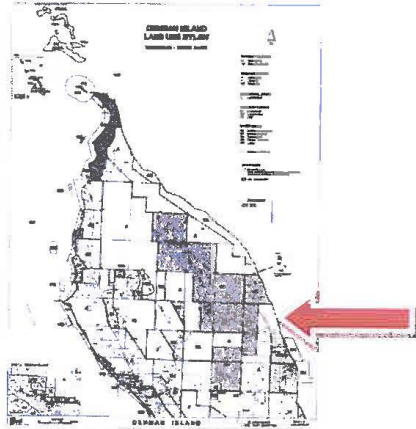


. In 2005 I had put in 2 approved septic fields and had McElhaney do a proposed subdivision proposal.

Denman Islands Trust Zoning

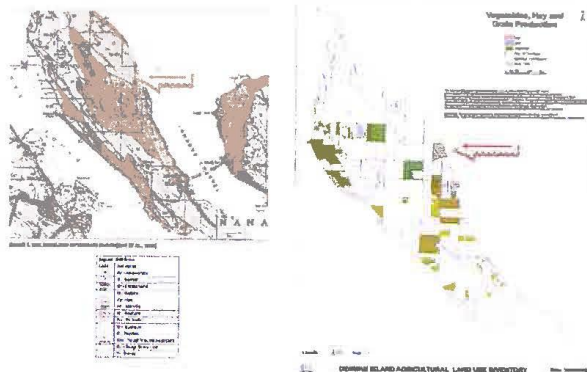
The land is 31 ha is in Agriculture and can be subdivided into 15 ha parcels.

Denman Land Use Bylaws page 26 Resource Zone Agriculture A 1Minimum lot area permitted by subdivision, subject to the regulations in Section 2.8 15 ha



SOILS and THE DENMAN ISLAND FARM PLAN

The soils are class 4 and 5, towards the water side of the property on the bluff plateau there is a 100m strip of loamy soil no doubt carried down the slope as sediment, that if drained can be productive The rest of the soils on the property are gravelly and not very productive. The recent Farm plan identifies my soils and that the land is in hay production.



Application so Subdivide, 2626 Swan Road, Denman Island

Page 2

Reasons to subdivide 31 ha to 2- 15.5 parcels as per zoning

- My intentions to subdivide (as shown by subdivision plan and septic fields) were before ALC disapproved of subdivision.
- The existing road network on the land services both pieces.
- The nature of the land would lend itself to more intensive localized use in the small front area rather than the very marginal hay usage on the not very productive gravelly soils above.
- Because this is an island with high transportation costs, smaller ALR parcels are more likely to attract farmers willing to in fact subsidize a small farm operation, a hobby along simply to enjoy a rural island lifestyle and produce food. The large ALR plots on Denman are all left dormant.
- Today the serious income dependent farmer simply isn't interested with ferry fares, ferry line-ups and off island machinery maintenance. It simply isn't economically feasible as there is more cost efficient cheaper ALR land elsewhere closer to markets and supplies. Lack of labour and costs of labour seriously constrain larger farms.
- On a large scale deer fencing becomes an expensive and difficult issue.
- The land is best suited for small scale orchard, berry crops, poultry farming or market gardening that can be sold locally.
- The Denman Farm Plan shows the only economic farms are the smaller localized ones
- 40 acres is still a very large farming parcel on Denman.
- In recent litigation 2 Judges have stated my land has subdivision potential.

Judge Curtis states *Stoneman v. Denman Island Local Trust Committee* Page 6

[7] "Development Permit Area No. 1: Komasa Bluff

Category:

The area indicated on Schedule "E" as Development Permit Area No 1: Komasa Bluff is designated a development permit area according to Section 879(1)(b) of the Municipal Act for the protection of development from hazardous conditions.

Area:

Development Permit Area No. 1: Komasa Bluff shown on Schedule "E"

Justification:

In 1980 the Resource Analysis Branch of the Ministry of Environment conducted a reconnaissance study and identified bank instability in the area referred to as the Komasa Bluff. Sloughing was confirmed by detailed site inspection. The majority of the area was classified as active or inactive, with relatively little classified as stable. Past logging and road construction have already demonstrated that this area is prone to landslides and other forms of erosion. **The area has subdivision potential.**

Judge Saunders states *Denman Island Local Trust Committee v. Ellis*, 2007 BCCA 536

[43] The purpose of ss. 919.1 and 920 of the Act is to empower local authorities to designate development permit areas to further particular objectives, including the protection of development from hazardous conditions. **The inclusion of subdivision and alteration of land as activities that require permits indicates that one purpose of the power to designate permit areas is to protect development potential, and that a local authority may consider how any alteration of land may affect development potential. Thus, the term "development" in s. 919.1(1)(b) should be interpreted as including future development.**

RECENT LITIGATION

Islands Trust contends that my land is in the Komass Bluff Development Permit Area and has been the subject of 3 court cases all of which the DILTC has been successful in showing there is a 180m , forest top "buffer" zone where they can regulate farming. I have applied for 4 permits and provided 8 geotechnical reports to support of farming within 15m of the bluff. I have been unsuccessful. Islands Trust has continually stated any land alteration what so ever in this 180m zone requires a new development permit, this making it completely uneconomic to farm. DILTC has never issued a permit to farm. This is still the situation now but I am hoping it will end soon.

ALC is very familiar with this case, ALC states part of Komass Bluff DPA is contrary to ALC legislation. ALC has not taken any part of the litigation and have in fact repassed this bylaw under a promise DILTC will properly map the areas. ALC has let this unkept promise lapse since 2009. ALC is fully aware DILTC has no intention of defining hazard boundaries (which would remove my land from the DPA). These cases have been very expensive for me. I am hoping with the adoption of the **Denman farm Plan**, DILTC will not use this land to further other agendas rather than agriculture^{pg 69}. The **Denman Farm Plan** map also shows my property to not be in erosive soils^{pg 91}. I am also hoping ALC and AGRI become successful in applying provincial legislation as they have stated for some time now.

Farm Plan <http://www.islandstrust.bc.ca/ltc/de/pdf/defarmplanfinalnov152012.pdf>

1. January 2008, Erik Karlsen, chair ALC, to Bill Huot, Ministry of Community Affairs,

"In particular DPA 1 Komass Bluffs and DPA 4 ...the Commission's position has changed and it now has concerns relating to these provisions, similar to those outlined in a letter dated 12 December 2006" (do not have)

"In this light the Commission is no longer able to condone the DPA provisions and considers that they may be contrary in whole or in part to the spirit of the Commission's legislation and inconsistent, of no force and effect".

2. August 2008, ALC Staff Summary Report- Planning Issues^{1.107 1.99}

"Similar concerns to those expressed previously remain –That the extent of the DPAs can be justified having regard to their purpose"

"In respect of the Komass Bluff and Steep Slopes DPA this would involve justification from a geotechnical perspective for the extent of the areas included in the DPAs". Same as 4064 appeal courts asked for

3. December 2009, Bert Van Dalfsen, AGRI to Chris Jackson, Islands Trust^{1.117}

"Likewise without details of the criteria that determined the boundaries of the Komass Bluff (DPA 1) it is difficult to assess the implications on agriculture of that DPA".^{206 132}

4. March 2009, Chris Jackson, Island Trust to Rodger Cheetham, ALC and Bert Van Dalfsen, AGRI,

Concerns in regard to Denman Bylaws 185 and 186 Chris Jackson states:

- *mapping - hazard area is being extended to Denman in the 2009/2010 timeframe,*
- *Hazard Area Mapping is a component of the second phase of the OCP/LUB review, work expected completed by 2009*

Application so Subdivide, 2626 Swan Road, Denman Island

Page 4

- The above mapping products are essential before re-establishing DPA BoundariesStaff commits to recommending to the DILTC to review and rewrite guidelines for the DPA's to bring them into compliance with RAR regulations and to address concerns raised by AGRI and ALC.
- We understand in exchange for Islands Trust Staff commitments listed above, the ALC and AGRI will advise their respective officials to remove objections to bylaw 185 and advise Bill Hout to forward bylaws for approval as soon as possible ¹⁴²

5. May 2009, ALC Staff Summary Report, Planning Issues,

"priority be given to raise issues resolving the issues relating to Komas Bluff DPA" ^{139 1.107}

6. May 2009, Eric Karlsen, Chair , ALC to Linda Adams, Islands Trust, New Denman Island Official Plan and Land Use Bylaw

" documents recently provided to the Commission and to Jill Hatfield of the Ministry of Agriculture by Dean Ellis that call into question the delineation of the Komas Bluff DPA. ...consideration be given to prioritizing the work relating to this DPA" ^{1.108 137}

7. October 09, Eric Karlsen, chair ALC to L. Pierce, Komas Bluff DPA: Dan and Deb Stoneman,

"Specifically with regard to the Komas Bluff DPA the Trust has indicated its willingness to review the boundaries of the DPA in the context of hazard area mapping to be undertaken by the Trust over the next year. Further it has agreed to review sections of the DPAhaving regard to the purpose of the DPA." ⁴⁰⁰

8. Rodger Cheetham to MacFraser, Director, Local Planning Services, Nov 2009¹⁴⁹

"With regard to the Hazard Mapping we had expectations that the work would have progressed and now understand that it will only be getting under way in February of next year with an anticipated completion date in early 2011. As you are aware the Commission is particularly anxious to see a resolution of the issues relating to the Komas Bluff DPA for which the hazard mapping is critical."

9. Feb 2010 Bert Van Dalfsen to Dan Stoneman, cc'd to R. Cheetham, ALR. Bill Huot, Ministry of Community affairs, Jill Hatfield, AGRI ,

" the Ministry has requested the Islands Trust to carry out additional work to refine their hazardous area mapping particularly for Komas Bluffs", The Islands Trust is being asked to better define these areas AGRI still not clear on the map and area

10. April 2010, Eric Karlsen to Mac Fraser, Islands Trust,

"provide an update in particular with regard to the Komas Bluff DPA" , cc'd to all participants

11. November 2011, Wes Shoemaker, Deputy Minister AGRI to Dan Stoneman,

"In 2008/09 AGRI staff , together with ALC received a commitment from DILTC to review the mapping of the Komas Bluff DP boundaries. I am advised that the DILTC has not met their timeframes for reviewing the mapping of the Komas Bluff DPA boundaries." ^{212a}

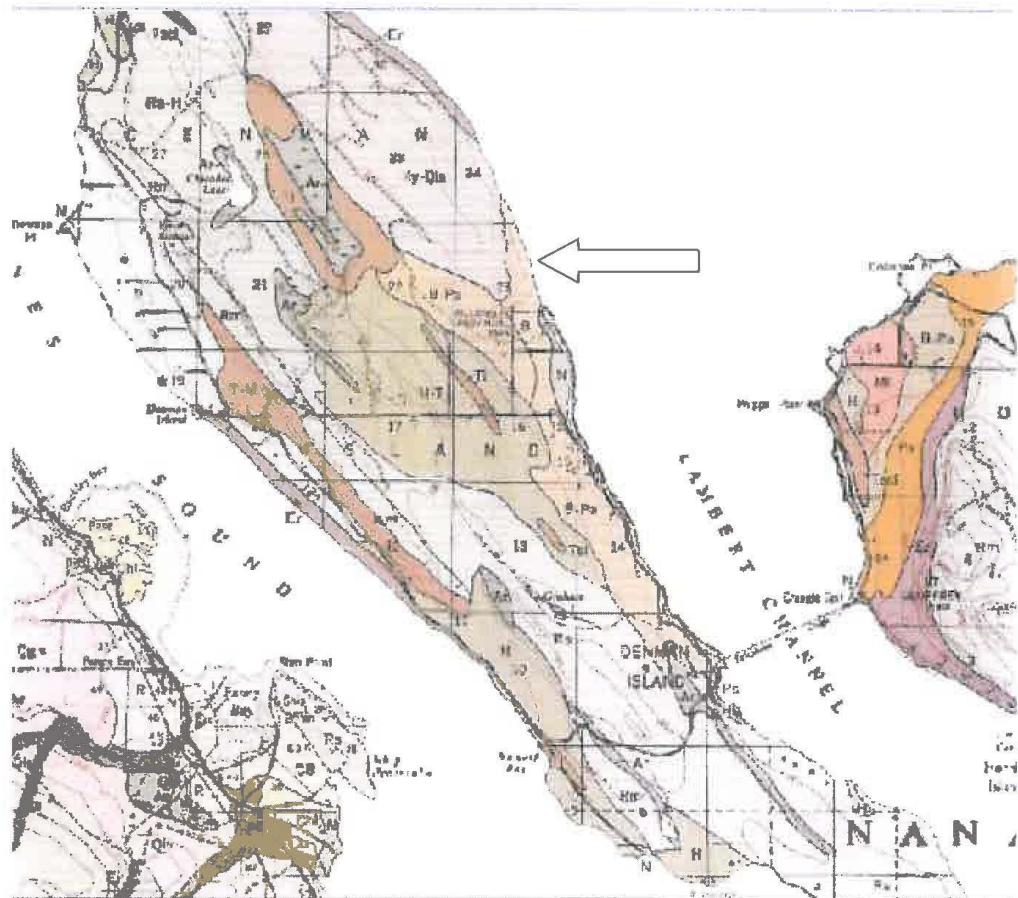
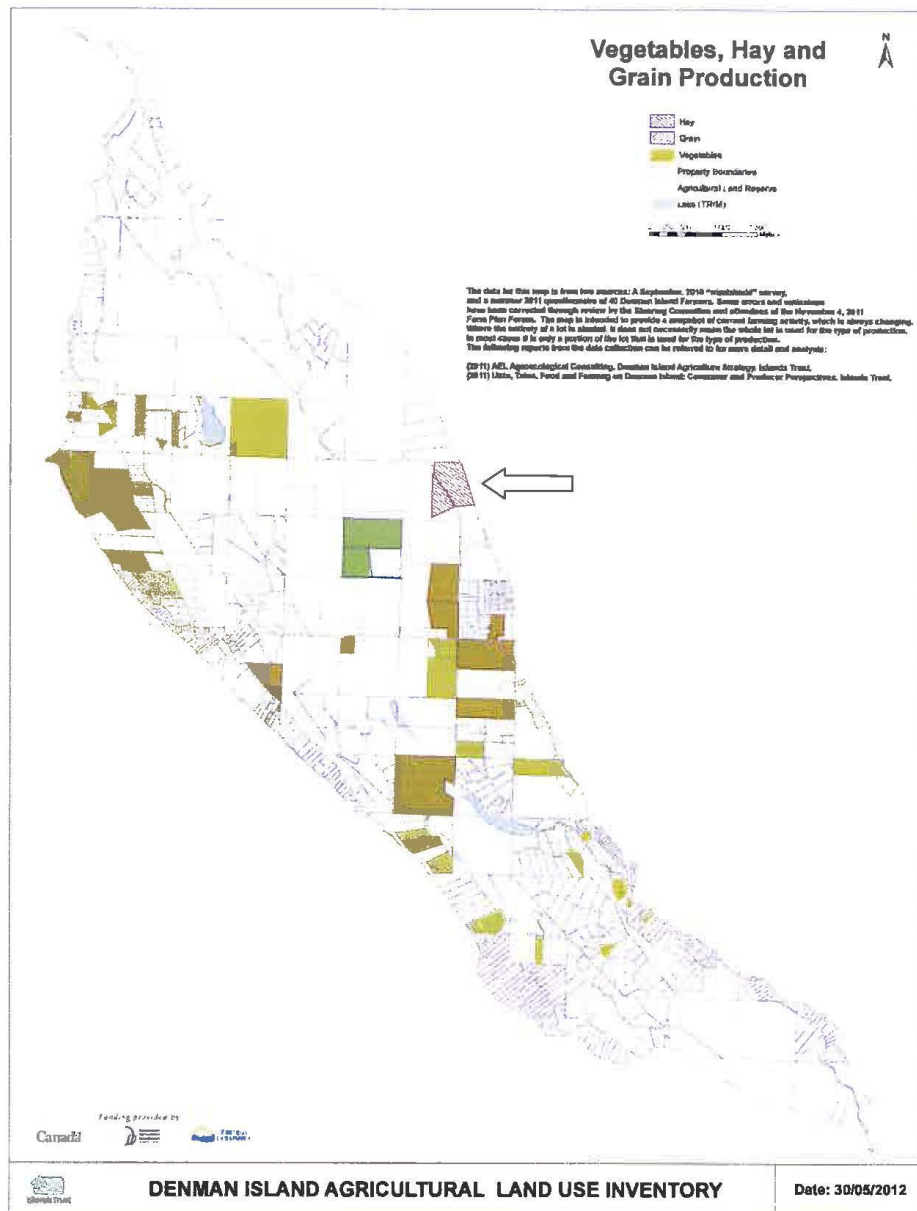
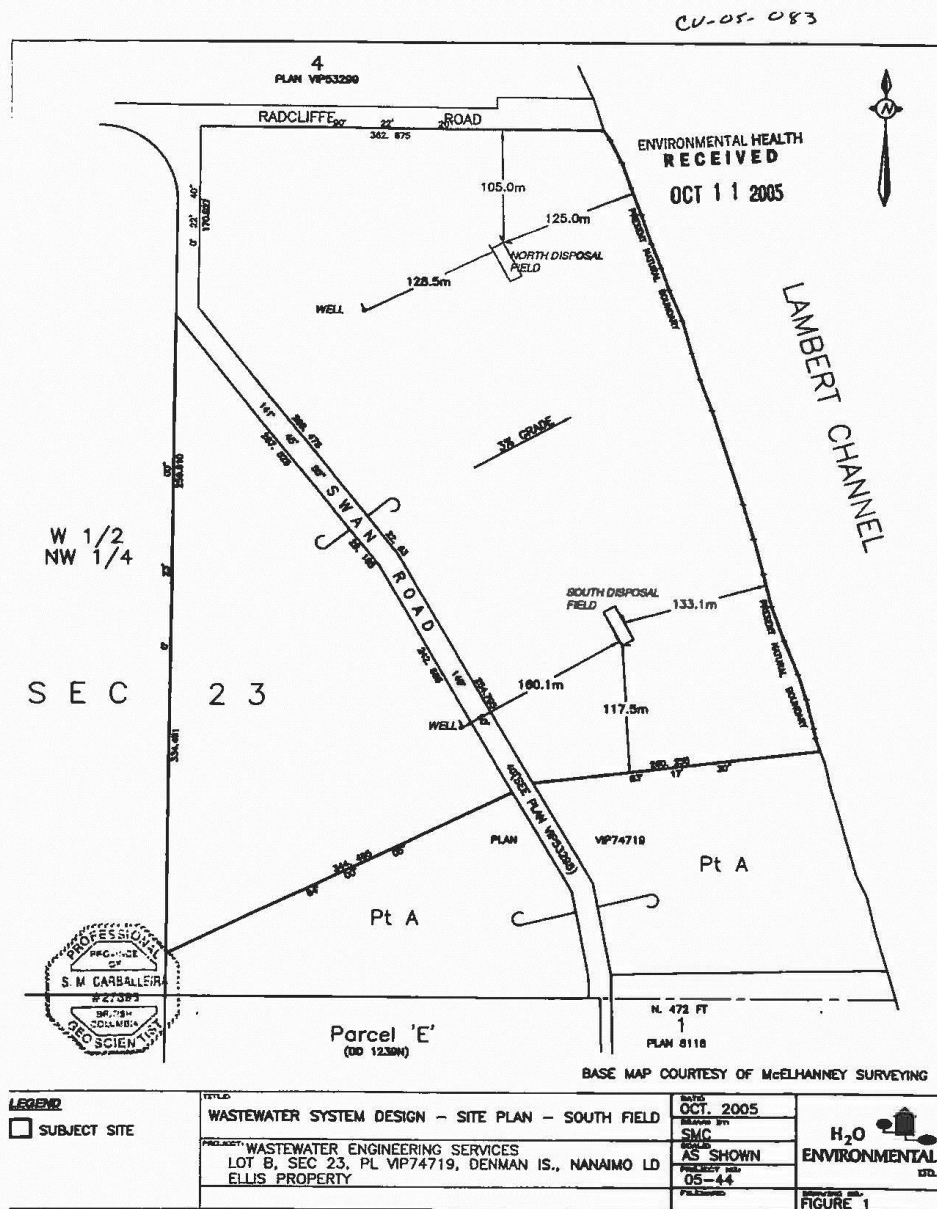


FIGURE 4. SOIL SERIES MAP OF DENMAN ISLAND (DAY ET AL., 1959)

Legend	Soil Series
Ar	Ar - Arrowsmith
B	B - Bowser
Er	Er - Eroded Land
H	H - Haslam
Ky	Ky - Kyne
M	M - Merrill
N	N - Neptune
P	P - Parkville
Q	Q - Ujalicut
R	R - Royston
Rm	Rm - Rough Mountainous Land
Rr	Rr - Rough Rocky Land
T	T - Tolmie

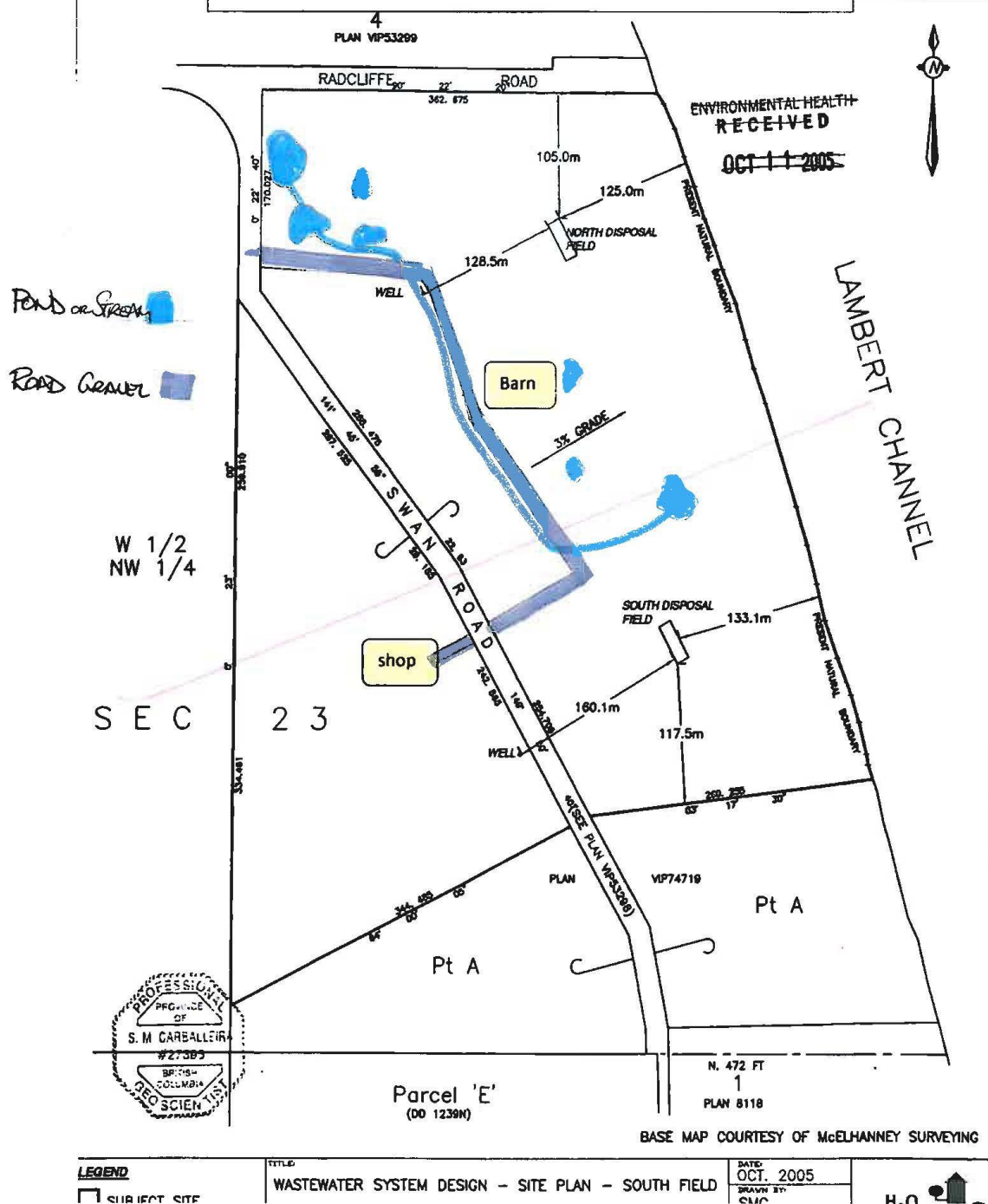




Application to Subdivide, 2020 Swan Road, Denman Island

Page 0

Current Use of Land





Google earth

feet 3000
km 1



NORTH

40 ACRE FLR

EAST

60 ACRE ALR CHRISTMASS TREES

SOUTH

22 ACRE ALR HOBBIE

ADJACENT LAND USE



Google earth

feet 2000
meters 600



Date: 01-Apr-2013
Requestor: (PA71300)
Folio:

TITLE SEARCH PRINT
DEN-MARA ENTERPRISES LTD.
TITLE - EV2774

Time: 06:21:34
Page 001 of 002

VICTORIA LAND TITLE OFFICE TITLE NO: EV2774
FROM TITLE NO: ET17894
ET17895

APPLICATION FOR REGISTRATION RECEIVED ON: 10 JANUARY, 2003
ENTERED: 14 JANUARY, 2003

REGISTERED OWNER IN FEE SIMPLE:
FRANCIS DEAN ELLIS, BUSINESSPERSON
75 CENTRAL ROAD,
HORNBY ISLAND, BC
V0R 1Z0

TAXATION AUTHORITY:
COURTENAY ASSESSMENT AREA

DESCRIPTION OF LAND:
PARCEL IDENTIFIER: 025-563-254
LOT B SECTION 23 DENMAN ISLAND NANAIMO DISTRICT PLAN VIP74719

LEGAL NOTATIONS:

THIS CERTIFICATE OF TITLE MAY BE AFFECTED BY THE AGRICULTURAL LAND
COMMISSION ACT; SEE AGRICULTURAL LAND RESERVE PLAN NO. 3, DEPOSITED
29.5.74

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL
GOVERNMENT ACT, SEE EP76912

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL
GOVERNMENT ACT, SEE ET110372

CHARGES, LIENS AND INTERESTS:

NATURE OF CHARGE
CHARGE NUMBER DATE TIME

UNDERSURFACE RIGHTS

M76301
REGISTERED OWNER OF CHARGE:
HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA
M76301
REMARKS: A.F.B. 38.106.D32048;
INTER ALIA SECTION 172(3)

CERTIFICATE OF PENDING LITIGATION

EV111657 2003-09-22 14:52
REGISTERED OWNER OF CHARGE:
DENMAN ISLAND LOCAL TRUST COMMITTEE
EV111657
REMARKS: INTER ALIA

JUDGMENT

FB275483 2009-06-19 10:10
REGISTERED OWNER OF CHARGE:
DENMAN ISLAND LOCAL TRUST COMMITTEE

Date: 01-Apr-2013
Requestor: (PA71300)
Folio:

TITLE SEARCH PRINT
DEN-MARA ENTERPRISES LTD.
TITLE - EV2774

Time: 06:21:34
Page 002 of 002

FB275483
REMARKS: INTER ALIA
RENEWED BY CA2044656

UNDERSURFACE RIGHTS
FB337930 2010-03-25 12:50
REMARKS: PURSUANT TO MINERAL LAND TAX ACT, MINERALS HEREIN,
FORFEITED AND VESTED IN THE CROWN

JUDGMENT
CA2044656 2011-06-06 12:05
REGISTERED OWNER OF CHARGE:
DENMAN ISLAND LOCAL TRUST COMMITTEE
CA2044656
REMARKS: INTER ALIA
RENEWAL OF FB275483

"CAUTION - CHARGES MAY NOT APPEAR IN ORDER OF PRIORITY. SEE SECTION 28, L.T.A."

DUPLICATE INDEFEASIBLE TITLE: NONE OUTSTANDING

TRANSFERS: NONE

PENDING APPLICATIONS: NONE

*** CURRENT INFORMATION ONLY ~ NO CANCELLED INFORMATION SHOWN ***



Islands Trust

Top Priorities

Denman Island

No.	Description	Activity	Received/Initiated	Responsibility	Target Date	Status
1	Review of OCP section C3 with a view to addressing the impacts of shellfish farming on the natural marine environment and residential properties, and review of associated LUB regulations.	Specifically to address: 1. Removal of predator netting from beach 2. Banning driving on the foreshore 3. Banning beach modification.	Oct-25-2011		Oct-31-2014	Done
2	Staff preparing for two community meetings to identify and review viable solutions.	Consider potential use of secondary dwelling units or other approaches for affordable care giver, special needs, and elder housing and visitor accommodation.	Nov-06-2012	Rob Milne	Sep-01-2014	Done
3	Implementing Riparian Areas Regulation	Mapping of all streams and wetlands on Denman Island and amending DPA 4 to comply with RAR.	Aug-03-2010	Rob Milne	Sep-01-2014	On Going



Projects

Denman Island

No.	Description	Activity	Received/Initiated	Status
1	Bylaw amendments to address food security	Consider amendments based on "Exploring Food Security in the Islands Trust Area" final report dated November 16, 2010.	Mar-15-2011	On Going
1	A Protected Area Network on Denman Island		Mar-15-2011	On Going
1	Housekeeping project	1. Land Use Bylaw definition of intensive agriculture; remove "and excluding feedlots". 2. Formatting of Agriculture definition	Aug-15-2011	On Going
1	Regulations governing wind towers and Ocean Loop Geo-Exchange Systems.	Monitor recommendation from Trust Council.	Aug-15-2011	On Going
1	Affordable Housing Strategy		Oct-25-2011	On Going
1	Regulation limiting the gross floor area of a dwelling		Oct-25-2011	On Going
1	Regulations to promote greenhouse gas emissions reduction.		Oct-25-2011	On Going
1	Review and Update of Development Procedures Bylaw No. 71		Dec-11-2012	On Going
1	Review of OCP/LUB regarding implementation of Denman Island Farm Plan.		Apr-02-2013	On Going



Applications w/ Status - Denman Island Status: Open

Applications

Agricultural Land Reserve

File Number	Applicant Name	Date Received	Purpose
DE-ALR-2013.2	Dean Ellis Planner: Linda Prowse	Apr-17-2013	Subdivision in ALR

Planning Status

Status Date: Jun-19-2013

Staff report ready to go to July LTC meeting for decision

Status Date: Apr-19-2013

Assigned to planner

Development Permit

File Number	Applicant Name	Date Received	Purpose
DE-DP-2006.2	Daniel/Debra Stoneman Planner: Courtney Simpson	Aug-31-2006	The use of presently cleared areas within the Komias Bluff permit area for agricultural use.

Planning Status

Status Date: Apr-04-2011

No change: waiting for info from applicant.

Status Date: Feb-04-2010

No change

Status Date: May-01-2009

No change

File Number	Applicant Name	Date Received	Purpose
-------------	----------------	---------------	---------

DE-DP-2011.1

Denman
Community Land
Trust Association
(Brons)
Planner: Courtney Simpson

Mar-15-2011

2016 Northwest Road, Construction of affordable housing dwelling and associated land alteration in DP 2 Steep Slopes. Joint with SUP application DE-SUP-2011.10.

Planning Status

Status Date: May-26-2011

On hold until outcome of forthcoming rezoning application is known.

Status Date: Apr-04-2011

Planner Reviewing

File Number	Applicant Name	Date Received	Purpose
DE-DP-2011.2	Ella Day Planner: Marnie Eggen	Mar-21-2011	For barn sited within DP #1: Komas Bluff

Planning Status

Status Date: Nov-01-2011

Awaiting info from applicant

Status Date: Jun-15-2011

On hold until DVP out come.

Status Date: May-27-2011

Barn sited over lot line into owners adjacent property. Applicant will be applying for a variance.

File Number	Applicant Name	Date Received	Purpose
DE-DP-2013.1	Daniel & Debra Stoneman Planner: Courtney Simpson	Jun-17-2013	

Planning Status

Status Date: Jun-24-2013

Planner Reviewing File

Development Variance Permit

File Number	Applicant Name	Date Received	Purpose
DE-DVP-2011.1	Ella Day Planner: Marnie Eggen	May-13-2011	Barn on property line

Planning Status

Status Date: Nov-09-2012

BCLS survey confirms barn sited on lot line; Applicant intends to apply for lot line adjustment

Status Date: Oct-05-2012

Letter sent to applicant requesting further information otherwise issue will be transferred over to bylaw enforcement

Status Date: Jun-05-2012

Met with applicant to clarify application requirements

Rezoning

File Number	Applicant Name	Date Received	Purpose
DE-RZ-2011.1	Denman Community Land Trust Association Planner: Courtney Simpson	Aug-10-2011	Density transfer from density bank or density increase for one unit of affordable housing.

Planning Status

Status Date: Apr-24-2013

Agency / First Nation referrals sent in relation to bylaws

Status Date: Mar-12-2013

Legal review of housing agreement complete

Status Date: Nov-29-2012

Reviewing results of legal review of housing agreement

Subdivision

File Number	Applicant Name	Date Received	Purpose
DE-SUB-2011.5	Steven Carballeira (Graeb/Charles King Medical Inc. (1691 Lacon Rd) Planner: Linda Prowse	Mar-28-2011	to create 2 lots

Planning Status

Status Date: Mar-21-2013

Water quality and quantity tests received as well as final subdivision plan. E-mail sent to MOTI signing off on subdivision

Status Date: Nov-24-2011

Preliminary Layout Approval received

Status Date: May-05-2011

Referral Response sent to MOTI, LTC and applicant

File Number	Applicant Name	Date Received	Purpose
DE-SUB-2013.1	David Critchley	Feb-19-2013	2 lot subdivision 2016 Northwest Road (I. Brons/Denman Community Land Trust)

Planner: Courtney Simpson

Planning Status

Status Date: Jun-13-2013

PLA received

Siting and use Permit

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2006.7	Daniel/Debra Stoneman	Aug-31-2006	Agricultural (including buildings consistent with ALR legislation)

Planner: Courtney Simpson

Planning Status

Status Date: Jan-08-2009

On hold pending outcome of court case

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2009.14	Jean Ella Day	Nov-02-2009	2900 SWAN RD One 26 foot high barn.

Planner: Marnie Eggen

Planning Status

Status Date: Jun-30-2011

On hold until outcome of DP and DVP.

Status Date: Mar-03-2011

New info submitted by applicant indicates bld sited on lot line; options provided to applicant

Status Date: Jan-20-2011

Applicant submitted partial application

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2011.10	Denman Community Land Trust Association (Brons)	Mar-15-2011	2016 NORTHWEST RD one Residence, garage/workshop, wood shed, pump shed. Joint DP application DE-DP-2011.1

Planner: Rob Milne

Planning Status

Status Date: May-26-2011

On hold until outcome of rezoning application is known.

Status Date: Mar-21-2011

Planner Reviewing File

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2013.6	Daniel & Debra Stoneman Planner: Rob Milne	Jun-17-2013	

Planning Status

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2013.7	Henning Nielsen Planner: Jason Youmans	Jul-25-2013	2321 Chickadee Road Single Family Dwelling - Cottage

Planning Status

From: Nicole Ranger

Sent: June-07-13 4:22 PM

To: Aleksandra Brzozowski; David Graham; Laura Busheikin; Peter Luckham; Rob Milne; Becky McErlean

Cc: Nancy Roggers

Subject: Denman LTC expense report to May 31, 2013

<i>Islands Trust</i>					
LTC EXP SUMMARY REPORT F2014					
Invoices posted to May 31, 2013					
615 Denman		Invoices posted to May 31, 2013	Budget	Spent	Balance
	65000 615	LTC "Trustee Expenses"	1,100.00	-	1,100.00
	65200 615	LTC Local Exp LTC Meeting Expenses	2,500.00	587.87	1,912.13
	65210 615	LTC Local Exp APC Meeting Expenses	1,000.00	-	1,000.00
	65220 615	LTC Local Exp Communications	500.00	-	500.00
	65230 615	LTC Local Exp Special Projects	2,000.00	-	2,000.00
	65240 615	LTC Local Exp Miscellaneous	500.00	-	500.00
TOTAL LTC Local Expense			6,500.00	587.87	5,912.13

Thanks!

Nancy Roggers
Finance Officer

Islands Trust
#200 1627 Fort Street
Victoria, B.C. V8R 1H8
Phone: (250) 405-5154
Fax: (250) 405-5155
www.islandstrust.bc.ca

Preserving *island* communities, culture and environment

Please consider the environment before printing this email.

From: Nicole Ranger
Sent: June-26-13 12:01 PM
To: Aleksandra Brzozowski; David Graham; Laura Busheikin; Peter Luckham; Rob Milne; Becky McErlean
Cc: Nancy Roggers
Subject: Denman LTC Expenses - June 30/13

Islands Trust
LTC EXP SUMMARY REPORT F2014
 Invoices posted to June 30, 2013

615 Denman	Invoices posted to June 30, 2013	Budget	Spent	Balance
65000 615	LTC "Trustee Expenses"	1,100.00	-	1,100.00
65200 615	LTC Local Exp LTC Meeting Expenses	2,500.00	1,103.05	1,396.95
65210 615	LTC Local Exp APC Meeting Expenses	1,000.00	-	1,000.00
65220 615	LTC Local Exp Communications	500.00	-	500.00
65230 615	LTC Local Exp Special Projects	2,000.00	-	2,000.00
65240 615	LTC Local Exp Miscellaneous	500.00	-	500.00
TOTAL LTC Local Expense		6,500.00	1,103.05	5,396.95

Nicole Ranger

Finance Clerk
 Islands Trust
 200-1627 Fort Street
 Victoria, BC V8R 1H8
 Phone: (250) 405-5152
 Fax: (250) 405-5155

*Preserving **Island** communities, culture and environment*



Please consider the environment before printing this email

Denman Island Local Trust Committee

POLICIES AND STANDING RESOLUTIONS

No	Meeting Date	Resolution No.	Issue	Policy
1.	May 1, 2012	DE-041-2012	Home Based Guest Accommodation	It was MOVED and SECONDED: 1. That as the Denman Island Local Trust Committee intends to review the home based guest accommodation regulations in Bylaw No. 186 bylaw enforcement activity is restricted where the guest accommodation provides the following unlawful facilities: 1. a second set of cooking facilities is provided in a lawful dwelling for the use of guests; 2. accessory buildings are used as bedrooms for guest accommodation provided that no more than three bedrooms exist in total; 2. That despite section 1 and 2 above bylaw enforcement activity will not be restricted if: 1. there are issues related to health, safety, or environmental damage; 2. there is a written complaint about bona fide serious nuisance issues such as noise or parking congestion related to the guest accommodation; 3. That nothing in this enforcement policy should be interpreted as giving permission to violate the Land Use Bylaw and the Denman Island Trust Committee may change this policy at any time and may give direction to expand enforcement activities at any time without notice; 4. That unless the Denman Island Local Trust Committee extends the effective period on this enforcement policy it expires on December 31, 2012 or when the guest accommodation regulation review is complete, whichever is the sooner. CARRIED
2.	December 11, 2012	DE-081-2012	Home Based Guest Accommodation	It was MOVED and SECONDED that the Denman Island Local Trust Committee renew the Standing Resolution No. DE-041-2012 to be extended until December 31, 2013. CARRIED



STAFF REPORT

Date: July 2, 2013

File No.: DE 6500-20
(Review of Housing Policies)

To: Denman Local Trust Committee
For meeting of July 16, 2013

From: Seth Wright, Student Planner

CC: Rob Milne, Island Planner
Courtney Simpson, Regional Planning Manager

Re: Consultation on Secondary Dwelling Units

PURPOSE

The purpose of this Staff Report is to provide a Consultation plan to inform the revision of Denman housing policy in regard to secondary dwelling units and the definition of dwelling.

BACKGROUND

Objective

To identify, through public consultation, policy solutions to housing challenges on Denman Island pertaining to secondary dwelling units and definitions of dwelling units.

Overarching Project Goals

- To achieve broad and meaningful community participation
- To create a dialogue between the Local Trust Committee and the community whereby community needs and concerns can be effectively addressed
- To effectively focus and record dialogue so that it may inform the development of land use bylaws

Context

This project has been initiated by the Denman Island Local Trust Committee (LTC) pursuant to the Islands Trust Council Strategic Plan (2008-2011) objective 4.3 "Use land use planning tools and decisions to improve the availability of affordable/accessible/ appropriate housing." The Local Trust Committee is now prioritizing this objective in response to increasing community demand.

A 2008 '*Housing needs on Hornby and Denman Island*' report identified "at least 26 renter households and about 42 elder households on Denman Island are living in housing which is unacceptable according to nationally established standards." The report also highlights that 13.5

percent of households are in housing need with affordability of owning/renting a home as the main barrier. A narrowing age demographic towards older residents, a lack of rental options, and a deficiency of housing models able to accommodate a growing senior population also arose as common themes.

The 2010 *Seniors Housing Strategy* report also highlights the need for amendments to housing regulations to ensure that seniors can remain within their island community. The Local Trust Committee has also received various requests, over that past decade, to allow secondary kitchen facilities within visitor accommodation and bed and breakfast units.

Ultimately, the Denman Local Trust Committee has now identified secondary dwelling units and the definition of a dwelling unit as the primary driver for this consultation process, but recognizes that policy options should be generally agreeable to the community, suited to the Denman Island context, and effective within the jurisdictional framework of the Local Trust Committee.

The issue of additional density on the island has been identified as a critical and challenging question within the community. The Denman Island Official Community Plan (Part E.1 - Housing) proposes that density should be determined through environmental limits and existing zoning regulations, but that housing should also accommodate diversity (as quoted below).

RELEVANT LEGISLATION & POLICY

Residential Tenancy Act (2002)

The *Residential Tenancy Act* defines the terms and standard for all tenancy agreements, rental units and other residential property subject to rental for dwelling purposes. The Act, however, does not apply to co-op housing, student housing, vacation accommodation, emergency housing, care facilities or housing where the tenant shares a bathroom or kitchen with the owner.

Islands Trust Policy Statement (2003)

The Islands Trust Policy Statement contains the following directive policies relevant to housing:

- 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.

Denman Island Official Community Plan Bylaw No. 185

E.1 - HOUSING

Some islanders are concerned that growth and development of Denman Island could produce an accompanying sharp rise in land prices and could lead to a decrease in the diversity of the population in coming years. Comments submitted during the development of this Plan expressed a desire for a wide range of housing options to limit this possibility. As a result, this Plan introduces alternatives to the current land use pattern. Nonetheless, single family lots will continue to make up the majority of the land base on Denman Island.

This community acknowledges the need for affordable and special needs housing to maintain a diverse population in the face of rising land prices and to encourage seniors to remain on the Island. Limits on these forms of housing are designed to address the possible negative impact of locally increased density. Initiatives to provide opportunities for affordable housing of various kinds are ongoing.

Guiding Objective

To encourage housing that accommodates the needs of a variety of families and individuals while protecting the natural environment, the social fabric and the rural character of the community.

Housing - Objectives

- Objective 1 To ensure that housing options are sensitive to ground water availability and sewage disposal capability, guard against contamination of ground water and preserve the rural nature of Denman Island
- Objective 2 To ensure housing options preserve human diversity in the community
- Objective 3 To set the maximum for the overall residential density of the Island as the residential density possible with the zoning regulations in place at the time of adoption of this Plan while providing flexibility for a range of dwelling types
- Objective 4 To support the establishment of affordable housing, rental opportunities and special needs housing and provide the opportunity for Island seniors to remain in the community, especially in their own or their families' homes

Housing – Policies

Use and Density

- Policy 9 In the Residential designation, unless otherwise permitted by Policy 29, zoning regulations should permit one dwelling unit per 1.0 hectare of lot area to a maximum of five dwelling units, provided that the land owner provides the Local Trust Committee with proof that adequate water supply is available for each dwelling unit without endangering the water supply of adjacent land owners. One dwelling unit should be permitted on lots that are less than 1.0 hectare in area.
- Policy 10 In the Rural designation, unless otherwise permitted by policies 16 and 29, zoning regulations should permit one dwelling unit per 4.0 hectares of lot area, provided that the land owner provides the Local Trust Committee with proof of adequate water supply for each dwelling unit without endangering the water supply of adjacent land owners. One dwelling unit should be permitted on lots that are less than 4.0 hectares in area.

- Policy 11 The overall residential density on Denman Island should generally not increase beyond that permitted by existing zoning on the date this Plan was adopted except that an increase of approximately 5 percent may be permitted to accommodate zoning amendments for special needs and affordable housing, including secondary dwelling units pursuant to Policy 16 or site-specific zoning amendment applications under Policy 29 of this Section.
- Policy 12 Landowners are encouraged to ensure that all dwelling units comply with the building safety and waste disposal regulations found in the B.C. Building Code and the applicable health standards.
- Policy 13 In the Sustainable Resource designation, unless otherwise permitted by policies 14 and 29, zoning regulations should permit no more than one dwelling per parcel.
- Policy 14 In the Sustainable Resource designation, unless otherwise permitted by Policy 29, on land in the Agricultural Land Reserve:
- one dwelling could be permitted per the minimum lot area permitted by Subdivision; and
 - additional dwellings could be permitted if they are required for full-time farm help.
- Policy 15 Landowners are encouraged to cluster houses and buildings accessory to a residential use to leave areas of undeveloped space.

Special Needs and Affordable Housing

- Policy 16 The Local Trust Committee should consider zoning amendment applications for site-specific zoning to allow small secondary dwelling units or secondary suites on lots of two hectare or more that are in the Rural or Sustainable Resource designation provided proof of adequate water is provided.

INFORMATION NOTE: A secondary dwelling unit on land in the Agricultural Land Reserve requires the approval of the Agricultural Land Commission.

- Policy 19 The Local Trust Committee should review the policies in this section once the final report is available for the Hornby and Denman Island Housing Needs Assessment, with a view to determining whether further opportunities for affordable housing are needed and what form any such opportunities should take.

DISCUSSION & STAFF COMMENTS

The June 4, 2013 Denman Island Local Trust Committee meeting received a staff report outlining a possible format and communications plan for a consultation on housing needs strategies. The LTC discussed the proposed plan at some length and made a number of suggestions to reframe the scope of the process:

- **Narrow scope to focus on secondary dwelling units and definition of dwelling units.** The LTC identified that Secondary Dwelling Units was the central issue and would be a feasible undertaking in the time available. Staff suggested that the inclusion of definitions of dwelling would allow for broader discussions regarding regulation of secondary kitchens, including both visitor accommodation and bed and breakfast facilities.
- **Include efforts of Advisory Planning Commission.** The LTC acknowledged that the APC has played a significant role in addressing this issue, and therefore, their relevant efforts, conclusions, and recommendations ought to be included. The LTC may wish to include the current APC in the consultation process and it was noted that efforts should be made to ensure participation of past and present APC members throughout the process.
- **Begin first consultation meeting with panel.** The LTC suggested that a panel could effectively frame the context of the ensuing discussion by identifying key stakeholders and central themes. Potential panelists indicated by the LTC include seniors needing care, renters facing housing challenges, an APC member, and a local trustee.
- **Engage public between meetings.** The LTC identified that a critical component to this consultation was maintaining contact with attendees and the public throughout the entire consultation process, and especially between the first and second meetings. Email, Denman Island's Facebook page, and written communication were suggested as appropriate media for such communication in addition to both written pieces and advertisements in the Grapevine and Flagstone.

The Local Trust Committee subsequently requested a revised plan to reflect the comments and suggestions put forward:

DE-033-2013 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee request staff to redraft the Consultation on Housing Needs Strategies for the July meeting for discussion.

CARRIED

Pursuant to this resolution, this staff report revises the previous plan to reflect the feedback provided at the June 4th Local Trust Committee meeting.

Scope

In Scope	Out of Scope
Primary Topics ▪ Secondary suites and/or cottages – including visitor accommodation ▪ Reviewing definition of a dwelling unit Secondary Topics ▪ Temporary Use Permits ▪ Density Cap ▪ Relevant density and population growth concerns ▪ Desirable demographic diversity ▪ Long-term economic sustainability ▪ Bed and Breakfast accommodations ▪ Affordable Housing Agreements	▪ Density bank ▪ Density transfer ▪ Short-term vacation rentals ▪ Multi-unit projects (i.e. co-housing or senior housing)

Stakeholder Matrix

Stakeholder	Interests, expectations, concerns
<i>Islands Trust Executive Committee</i>	• Preservation and protection of the Trust Area ecosystems • The scale, rate and type of development in the Trust Area are compatible with maintenance of the integrity of Trust Area ecosystems • To sustain island character and healthy communities
<i>Homeowners</i>	• New housing permissions do not threaten rural character • New policies should be fair, clear, and respect needs • Policies should not significantly impact land values • Expect clear, proactive communication
<i>Renters</i>	• Greater availability of legal rental housing to meet housing need • Solutions that incentivize additional housing rather than penalize users of existing, potentially substandard housing
<i>Seniors</i>	• Housing that meets changing needs (e.g. caretaker suites)
<i>Community at large</i>	• Any additional density or population does not exceed groundwater supply, septic capacity, or threaten rural character • Additional housing should maintain and encourage demographic diversity

Engagement Plan

Task	Context	Cost	Target Date	Who
<i>Website updates</i>	Invitations to Consultations/Reports		ongoing	Staff

Task	Context	Cost	Target Date	Who
	Following			
<i>Trustee's Notebook & Trustee's Report</i>	Invitation to both meeting and outline of process		Ongoing	Trustees
<i>Facebook & Word of Mouth</i>	Prior to and following each consultation meeting		Aug. & Oct.	Trustees
<i>Posters</i>	Promote events at key locations		Aug. & Oct.	Staff/Trustees
<i>Newsletter Promotions</i>	Advertising (including insert) , calendar dates, and written materials in Grapevine and Flagstone	\$300	August & October	Staff
<i>First Meeting</i>	Provide a forum for discussion of key issues	\$250	August 2013	All
<i>Short Report for webpage and newsletters</i>	Summarize meeting, outline next steps, and invite participation		Sept. 2013	Staff
<i>Distill Discussion</i>	Examine content of first meeting and distill for second meeting		Sept. 2013	Staff
<i>Second Meeting</i>	Outline key concerns and opportunities for various approaches and narrow solutions	\$250	Oct. 2013	All
Total		\$800		

Resources

Staff is responsible for preparing and distributing communication materials, excepting Trustee Notebook and Trustee Reports. The LTC is asked to endorse this plan, but will not necessarily be given the opportunity to endorse future written materials due to time constraints between LTC meetings. By endorsing this Plan, the LTC is directing staff to prepare and distribute the listed materials and organize the meetings detailed above.

Format of Meetings

First Meeting

This meeting will provide a forum for the open discussion of factors that should be considered in relation to Secondary Dwelling Units and definitions of dwellings. Ideas, interests, opinions, and values about both housing needs and potential implications of possible housing policies will be encouraged. The discussion will be broad and diverse perspectives will be encouraged, but will be focussed within the defined scope of this broader review.

Small Group Breakout Discussions

Pursuant to discussion at the June 4th Local Trust Committee meeting and in light of the extensive work undertaken over the past decade on Denman's housing challenges and OCP policies, staff believe that a strategic evaluation process of potential housing approaches will provide the community with an engaging and meaningful way to discuss the pertinent issues. Up to five or six housing approaches can be set out as a framework for discussion. These approaches will provide the context to evaluate possible benefits and implications of various strategies in addressing Denman's housing needs and will provide the community with a thought process to assess what considerations should be included in the subsequent policy development process.

As way of introduction, a number of posters shall be produced to outline the various efforts and OCP policies pertaining to this discussion. By demonstrating the significant community demand for secondary dwelling units and definitions of dwellings, these frameworks will allow the community to connect these discussion frameworks with community needs. It should also be emphasized that these approaches are not pre-defined options, but simply a means for the community to discuss the various issues that deserve consideration.

1. **Open up the definition of dwelling and allow secondary dwelling units across the island.** This approach – the most permissive – would allow any form of rental unit permitted by other agencies (Vancouver Island Health Authority, Residential Tenancy Branch, etc.) to provide the greatest potential additional housing, to provide the greatest flexibility to landowners, and to provide the least cumbersome regulations. This approach would amend all zones that permit dwellings to allow secondary units as long as the landowner can demonstrate adequate septic and potable water capacity. Discussion should address how many additional units should be permitted per lot if there are multiple units (e.g. multiple bed and breakfast units, or visitor accommodation and a rental cottage).
2. **Permit a secondary dwelling unit on specific lots or specific areas.** This approach would allow secondary dwelling units on lots greater than a specified size or in specified areas (e.g. close to the village, along main roads, etc.). Evidence of sufficient water supply and septic capacity must be met. The Salt Spring Island Secondary Suite Bylaw provides a model of this approach.
3. **Allow secondary suites and secondary kitchens through Temporary Use Permits.** This would allow the Local Trust Committee to evaluate each request on a case-by-case basis, yet require a more onerous permitting process.
4. **Maintain the status quo and do not change Denman's current housing regulation.** This approach would see the prevailing model continue on indefinitely. It is recognized that illegal housing is occurring with an increasing frequency and that non-conforming housing is addressed on a complaint-driven basis.
5. **Another approach or two suggested from the community.**

Participants will be invited to join a group that most appeals to their interests or concerns. Each group will be instructed to explore the respective approach through a modified SWOT analysis.

This will provide an effective big picture perspective and illustrate the trade-offs involved in each approach.

Wall posters, as previously mentioned, can be used by small group facilitators to assist discussion along identified needs and challenges (i.e. how this approach supports or impedes senior housing need, affordability, tourism, etc.).

Participants will be asked to first brainstorm the strengths and weaknesses of the particular approach for 7 minutes. During this strengths and weaknesses assessment, they will be encouraged to think from an objective or neutral approach. For another 7 minutes, participants will be asked to discuss their needs and concerns about the respective approach. During the needs and concerns session, participants will be encouraged to consider the policy approach from a personal, subjective perspective.

Item	Time	Description
Introduction	5 minutes	<i>Denman LTC Chair Peter Luckham will outline current consultation/review process, discuss Islands Trust and LTC goals and policies, highlight the relevant Denman OCP housing goals, provide agenda, and invite open and inclusive dialogue.</i>
Panel	40 minutes	<i>Five panelists (an APC member, a senior, a renter, a B&B operator, and a trustee) will provide presentations (from 5 to 8 minutes each) discussing key challenges and outlining what issues need to be addressed as part of this consultation and longer-term policy development process.</i>
Small Group Breakout	1 hour total 15 min./group	<i>People will be invited to choose one of up to six approaches (outlined above). A facilitator (staff/trustee/volunteer) will be assigned to each group to keep discussion fluid and focused. Flipchart paper and felts will be used to record themes and issues discussed. Facilitators should encourage open dialogue and ensure all individuals are included. Participants will rotate to new groups after 15 minutes and have the opportunity to address three or four of the possible approaches. Each theme should have a note-taker to record the discussion.</i>
Reporting Back	15 minutes	<i>Each facilitator will speak about the most common themes discussed within their group and highlight.</i>
“Dot-acracy”	15 minutes	<i>The public will be provided with a number of coloured stickers to highlight what factors they see as most central while tea/coffee and cookies are served.</i>
Conclusion/Next Steps	7 minutes	<i>A trustee will thank all participants, volunteers and staff, outline future opportunity for involvement, and request ongoing participation.</i>

Potential Names for Meeting

The Local Trust Committee suggested the name Needs and Fears for the first meeting. This title, however, conveys a possible cause for alarm. A number of names are, therefore, suggested below as potential titles for the first meeting:

- Dwellings on Denman
- Cabins and Kitchens
- Cooking up Housing Policy
- Legalizing Secondary Dwelling Units: A Forum
- Secondary Suites and Curious Cottages

Distillation of Feasible Policy Solutions

Following the first meeting, staff will bring together public input and distill themes and issues into a summary document. This document will then inform the Trustees columns and the subsequent meeting.

Second Meeting

This meeting will provide a secondary forum where the community can provide input on the development of a number of possible housing policies. To begin, the trustees can outline past efforts and define the process and goals of the current review process. Planning staff will then present a distillation of factors raised during the first meeting and describe a series of policies that can be used to address those factors. For example, a concern about future subdivision potential of secondary dwelling units could be mitigated by a policy requiring that units share a single driveway and are within 20 metres of the primary dwelling. Such policies, once defined, can be workshopped in small group roundtables to determine how such policies should most effectively and appropriately respond to community needs and desires. The public can rotate through the small groups to enable an opportunity to contribute to each area. The meeting should conclude with a reporting back of small group discussions, highlighting key points, and outlining the next steps.

This meeting will effectively inform staff on the development of a series of policies that should comprise a proposed housing bylaw.

NEXT STEPS

This consultation process will be undertaken over the summer and fall beginning with the first meeting, which has been scheduled for the afternoon of August 25th at the Back Hall. By January 2014, staff will aim to provide the Local Trust Committee with a draft bylaw based on LTC direction and consultation discussions. The final bylaw should be adopted by October 2014 at the latest.

RECOMMENDATION

THAT the Denman Island Local Trust Committee endorses the Consultation Plan for the Secondary Dwelling Units project in the July 5, 2013 staff report.

Respectfully Prepared and Submitted by:

Seth Wright

July 5, 2013

Seth Wright
Student Planner

Date

Concurred in by:

Courtney Simpson

July 8, 2013

Courtney Simpson
Regional Planning Manager

Date



Memorandum

13.1

Date June 18, 2013 File Number 4020-20 Foreshore Structures

To Local Trust Committee

From Local Planning Committee

Re **PROACTIVE BYLAW ENFORCEMENT OF ILLEGAL STRUCTURES ON THE FORESHORE**

At the May 9th, 2013 Local Planning Committee (LPC) meeting the following resolution was passed:

It was MOVED and SECONDED

That the Local Planning Committee direct staff to ask the Local Trust Committees if they are willing to pilot a project on proactively enforcing illegal structures on the foreshore.

CARRIED

As a result, this memo is to ask whether there is willingness to participate in a pilot project regarding proactively enforcing illegal structures on the foreshore. Attached is a copy of the staff briefing report considered at the LPC meeting.

The purpose of this project is to address the issue of proactive bylaw enforcement of illegal structures on the foreshore and to develop a generalized approach that all islands could use through education, proactive enforcement and regulation. The intent of this project is to address the issue of illegal foreshore structures (e.g. buildings, decks, seawalls, etc.) through various methods of improving awareness about, and enforcement of, regulations pertaining to structures built near the sea.

At this stage, it is just to gather the interest of the LTCs and then a decision will be made on which LTC and what sort of pilot project it will be given the resources (staff and funding) available.

Please indicate your interest by e-mail to Kris Nichols, Island Planner at knichols@islandstrust.bc.ca . The LPC will take the LTCs interests and comments into consideration at the August LPC Meeting.

Attachment: Staff Briefing Report

Pc David Marlor, Director

To: Local Planning Committee

For the Meeting of: May 9, 2013

From: Kris Nichols, Island Planner

Date Prepared: April 30, 2013

pc: David Marlor, Director

File No: 4020-20 Foreshore Structures

SUBJECT: PROACTIVE BYLAW ENFORCEMENT OF ILLEGAL STRUCTURES ON THE FORESHORE

DESCRIPTION OF ISSUE:

Local Planning Committee (LPC) has as its number one priority on its Work Program, “Develop Mechanism for Proactive Bylaw Enforcement of Illegal Structures on the Foreshore”. The purpose of this work program priority/project is to address the issue of proactive bylaw enforcement of illegal structures on the foreshore and to develop a generalized approach that all islands could use through education, proactive enforcement and regulations.

Initially, this priority was to be addressed in the form of a project charter. It was decided by staff in consultation with the LPC Chair and the Director of Local Planning Services that a project charter would not be the best approach to take at this time given the uncertainty of some of the issues around doing proactive enforcement, participation by the Local Trust Committees and resources (staff, time and money) required to carry out the project given the current budget of \$2000.00. Staff determined that a report would be the best approach in order to provide information to understand the issues around proactive bylaw enforcement of illegal structures on the foreshore and to present options for consideration of moving forward.

The intent of this report is to outline the issues and the possible scope of enforcement that could occur and present options for LPC discussion and direction for moving forward.

BACKGROUND:

This project has been initiated by the Local Planning Committee (LPC). This topic is in the Strategic Plan as item 2.2. The intent of this project is to address the issue of illegal foreshore structures (e.g. buildings, decks, seawalls, etc.) through various methods of improving awareness about and enforcement of regulations pertaining to structures built near the sea.

Residents that have built within the setback to the sea have done so either through not being aware of current bylaw regulations or thinking that a replacement structure is permitted without adhering to the bylaws. Some may also believe that if a building permit is not required (e.g. seawall construction) there is no issue with other local bylaw requirements such as setbacks from the sea or development permits. As well, those that do build ignoring the regulations recognize that currently there is little risk. The structures are also generally not that visible except from the seaward side of the property that bylaw officers cannot easily access, making proactive enforcement difficult when you don't know where the structures are. The best option for viewing these foreshore structures is by boat, plane or helicopter, but to do this for all the islands with approximately 1377 km of shoreline may not be a feasible solution. Residents that chose to ignore the regulations are generally aware that they can apply for a development

variance permit retroactively and in many cases these get approved, thereby weakening the argument for restrictive development of structures within the foreshore.

Generally, bylaw enforcement is complaint driven. That being said, the Islands Trust bylaw enforcement policy does permit bylaw enforcement officers to initiate enforcement on the foreshore without complaint as these areas are considered as environmentally sensitive. Pro-active enforcement is generally the best approach which should be combined with education (i.e. workshops, letters, brochures, web postings, newspaper advertisements, etc.) as bylaw officers have limited resources and capacity to do this on their own. Increasing proactive enforcement should result in greater compliance as it would increase the risk to property owners who ignored the regulations, but more importantly education of the regulations and their rationale and subsequent enforcement should help to reduce the number of bylaw infractions and protect these environmentally sensitive areas.

Rationale for Proactive Enforcement of Illegal Foreshore Structures

In establishing some of the background rationale for this priority staff has met with Bylaw Enforcement staff to gain a further understanding of the need for proactive enforcement and the specific file types (e.g. docks, decks, seawalls, etc.). Staff has reviewed the bylaw files pertaining to illegal foreshore structures on each of the islands. There are 38 files bylaw enforcement files currently open. They are as follows:

Island	Files	Generalized Type
Denman	6	Stairs to Foreshore: 5 Building: 1
Gabriola	1	Stairs to Foreshore & Log Seawall: 1
Galiano	2	Retaining Wall: 1 Stairs to Foreshore: 1
Gambier	8	Concrete Dock: 1 Structure (not specified): 5 Rip Rap Seawall: 2
Hornby	0	N/A
Lasqueti	0	N/A
Mayne	0	N/A
North Pender	5	Wooden Ramp to Foreshore: 1 Seawall (Possibly Rip Rap): 1 Dock: 2 Stairs to Foreshore: 1
Saturna	3	Deck: 2 Platform: 1
Salt Spring	8	Seawall (no indication of what type): 2 Groyne: 1 Deck with Stairway to Beach: 2 Deck: 2 Concrete Seawall: 1
South Pender	0	N/A
Thetis	5	Concrete Seawall: 1 Deck and Dock: 1 House/Deck/Stairs: 1 Float/Boat Ramp/Stairs: 1 Addition to Cabin: 1
Totals	38	Stairs to Foreshore: 7 Building: 1 Stairs to Foreshore & Log Seawall: 1 Retaining Wall: 1 Concrete Dock: 1 Structure (not specified): 5

		Rip Rap Seawall: 2 Wooden Ramp to Foreshore: 1 Seawall (not specified what type): 3 Dock: 2 Deck: 4 Platform: 1 Groyne: 1 Deck with Stairway to Beach: 2 Concrete Seawall: 2 Deck and Dock: 1 House/Deck/Stairs: 1 Float/Boat Ramp Stairs: 1 Addition to Cabin: 1
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Table 1 – Foreshore Enforcement Files

The files listed above give a good indication of the issues that are prevalent for bylaw enforcement in addressing illegal structures on the foreshore with the most prevalent being providing access to the foreshore through the construction of stairs. The enforcement of these files will help to establish that there are regulations pertaining to illegal structures within the foreshore. It is hoped that through such enforcement that others will learn of the need to follow the regulations. This would have to be coupled with proactive enforcement in order to be more effective in getting the word out or to tackle those that were not a result of a complaint or happened upon by the enforcement officer. Again, bylaw enforcement will have to consider existing resources in order to determine whether they can expand their current enforcement program which will be needed at the outset. It should be noted that because four local trust committees do not have foreshore violations does not mean that they do not have illegal structures on the foreshore, they just don't have any recorded complaints.

Project Outline:

Staff has outlined in brief the project objectives and scope to address illegal foreshore structures. This is based on the original discussion at LPC, however, after some analysis staff realize that the project will have to be further defined prior to proceeding with further (more detailed) project evaluation.

Proposed Project Objectives

- Initiate proactive enforcement through regulation, education and awareness.
- Reduce the number of development variance permits that are applied for retroactively in the foreshore areas.
- Educate property owners with sea frontage on the importance of maintaining these environmentally sensitive areas and providing alternatives to hard structures where "green" structures could be utilized lessening the environmental impact.
- Educate agencies (e.g. CRD, VIHA, etc.) and contractors that deal with property owners with sea frontage (e.g. building permits, septic fields, etc.)
- Develop as required regulations that will help to protect the foreshore areas from illegal structures (e.g. development permits, additional setbacks, etc.)
- Establish general procedures for the enforcement of regulations with a combination of proactive enforcement and education. This would include an analysis as to the best way to establish a benchmark and the subsequent reviews of the island shorelines.

Proposed Project Scope

- Increase communication around education and awareness regarding foreshore/setback from the sea structure construction.
- Review of existing regulations on all Islands to determine if new regulations are required.
- Review of differing island approaches being taken for pro-active foreshore enforcement (i.e. existing bylaws, communication, etc.)
- Review of the current regulations used on each island regarding the ability to construct structures within the foreshore/setback to the sea.
- Determine the best approach to identifying structure on the foreshore (i.e. boat, plane, helicopter, roads, etc.) initially and a timeframe for subsequent analysis.

ATTACHMENT(S):

AVAILABLE OPTIONS:

Options to Consider for Proactive Enforcement

There are a number of options that should be considered by the LPC as to the direction to take toward increasing proactive enforcement of illegal structures on the foreshore. It is important to remember that currently the budget for this project is \$2000.00 and that as this is an enforcement issue there are limited staff resources that need to be considered.

1. Trust Wide Proactive Enforcement

This would be the most financially, staffing and time dependent option. It would involve researching the shorelines of all the islands to locate through GPS possible infractions and then identifying the specific properties and determining whether they had been given variances to accommodate the infractions or to determine when they may have occurred. It would then entail being proactive with the land owners and following up with their infractions. Follow up would be required by either bylaw enforcement staff or planning staff. Creating a foreshore picture of illegal structures would be a useful tool, but would have to be maintained every 2-3 years to be effective.

Pros – this would create the best record of structures on the foreshore for all the local trust areas. It would enable staff to be proactive in their approach by identifying specific properties and thereby proposing specific remedies.

Cons – It would be costly and time consuming for staff to establish the record and for follow up. Additionally, funding would be required and buy-in from all the local trust committees and respective staff. It would also have to be done every 2-3 years to remain effective. It would take staff away from current bylaw enforcement duties and file management. It may increase staff requirements for follow up.

2. Island Proactive Enforcement – Establish Generalized Approach

The intent would be to take one local trust area to establish a proactive enforcement approach and to use that approach, once determined, in other local trust areas (with variations).

In addition, this approach could involve establishing an education and awareness program that could ultimately be used for other islands.

Pros – this approach would create a sample proactive enforcement approach for a specific local trust area that could be used in other local trust areas. It would provide an

idea of what extra resources (i.e. staffing, time and money) would be required to do the proactive enforcement.

Cons – this approach would be specific to one local trust area and not address illegal foreshore structures immediately in all the local trust areas.

3. Education and Awareness Approach – Trust Wide

This would be the least resource dependent approach and would deal with ways to educate land owners of the need to protect the shoreline and likely could be started with the \$2000 allocated at this time. However, it could be argued that this is the least likely way to get results.

1. Mail outs – to select foreshore property owners for a targeted mail out of information regarding island specific enforcement (i.e. setbacks, development permit areas, etc.)
2. Pamphlets/Brochures – a more general approach through the development of a brochure to be available at offices and possibly used for a mail out and placed on website.
3. Website Updates – to be placed on all Island's web pages in a similar format with the brochure, but with island specific references (i.e. links to zones, Development Permit Areas, etc.)
4. Information meetings – build on Shoreline Workshops held over the past couple of months, but with specific reference to enforcement issues and what can and cannot be built in the foreshore areas.
5. Encouraging Local Trust Committees to adopt Development Permits for Shorelines Areas – while this may not stop illegal structures from occurring, the process of implementing Development Permit Areas will help to educate people about the importance of protecting the foreshore areas.

Pros – this approach is the least costly method to get information out to the residents. It ensures that those that are most likely to be able to impact the foreshore will be made aware of what is permitted to be constructed and what is not. May be a first approach to enforcement and could be evaluated at a later date to see what else may be needed. It fits within the allocated budget.

Cons – this approach may be the least likely to get results as it may just be considered another piece of paper and or meeting by the local trust committee.

4. Status Quo Approach

Given that illegal foreshore activities are only 13.9% of enforcement files and the anticipated impact that proactive enforcement may have on current resources (staff, time and money) that no proactive enforcement be taken.

Pro – keeps resources as they are currently being used.

Con – illegal foreshore structures may continue to be an issue for many islands and enforcement will remain to be both complaints driven and proactive where noticed.

Staff Summary:

It should also be noted that the active files indicated in the table (See Table 1) represent 13.9% of the total number of open enforcement files (273) currently. It should also be noted that being proactive regarding illegal foreshore structures is important in order to address some environmental concerns; however, the reality is that it will have an impact on the existing enforcement resources and will undoubtedly increase the number enforcement files that staff will have to address. It will also likely impact planning staff for follow up where applications are made. It has to be understood that a shift in the allocation of the limited resources (i.e. staff,

time and money) would be required to be more proactive in enforcement thereby impacting what kind, how and when infractions are being dealt with.

A sample approach could be done with the \$2000 currently allocated for this project, but certainly not the most effective approach, which is to survey all the foreshore properties in order to be truly proactive as to what currently exists on the foreshore properties. The LPC in making its decision about how to proceed will have to consider:

- The amount of resources (staffing, time and money) they want the Islands Trust to spend on being proactive?
- Given the amount of resources required to do this proactive enforcement in an effective manner and the resultant impact it will have on current enforcement. Should this still be an LPC top priority for all the Islands?
- There is no additional staffing enforcement resources and that bylaw files will grow and that the initiation of taking proactive enforcement measures will take some time to fully implement?
- Would education and awareness through brochures, website, and/or mail outs be sufficient given the resource limitations?

Given the possible breadth of this project and its scope staff is providing information to inform the LPC discussion on the various options considering the allocated budget available. Given the budget allocated, the most cost effective approach would be to do a brochure that could be useable for all islands and put on the websites as information as to what can and cannot be done and who to contact for further information.

FOLLOW-UP:

That the Local Planning Committee discuss and decide upon an option regarding proactive bylaw enforcement for illegal foreshore structures based on the information provided in this report entitled, "*Proactive Bylaw Enforcement of Illegal Structures on the Foreshore*" dated April 30, 2013.

Prepared By: Kris Nichols, Island Planner

Date: April 30, 2013

Reviewed By: David Marlor, Director of Local Planning Services

PROPOSED

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 204

A BYLAW TO AMEND DENMAN ISLAND LAND USE BYLAW, 2008

WHEREAS the Denman Island Local Trust Committee is the Local Trust Committee having jurisdiction on and in respect of the Denman Island Local Trust Area, pursuant to the Islands Trust Act;

AND WHEREAS the Denman Island Local Trust Committee wishes to amend Denman Island Land Use Bylaw No. 186, 2008 to increase the density and amend the zoning regulations on one lot for the provision of affordable housing;

AND WHEREAS the Denman Island Local Trust Committee has held a Public Hearing;

NOW THEREFORE the Denman Island Local Trust Committee enacts in open meeting assembled as follows:

A. Bylaw No. 186, cited as "Denman Island Land Use Bylaw, 2008" is amended as follows:

1. That the following amendments are made to Schedule "A" of Bylaw No. 186 cited as "Denman Island Land Use Bylaw, 2008":

a) To Section 1.1 [Definitions] by adding the following new definition in alphabetical order:

"dwelling unit, affordable housing means a deed restricted and/or rent controlled *dwelling unit* that is secured by a housing agreement, and is available to persons with a low income as defined by housing agreement for the dwelling unit;"

b) To Section 3.3 [Residential Zoning Tables], Table 8 [Site-Specific Regulations] by adding a new site-specific zone R1(4), in numerical order, as follows:

- "R1(4)
- 1 Despite Tables 2 and 3 of this section, single family dwelling units and buildings and structures accessory to single family dwelling units are not permitted and instead, one *affordable housing dwelling unit* is permitted, and buildings and structures accessory to the *affordable housing dwelling unit* are permitted.
 - 2 In addition to Table 6 of this section, the maximum gross floor area for an *affordable housing dwelling unit* is 93 square metres.
 - 3 Despite Section 2.1, travel trailers are not permitted to be stored on the lot or to be used as a principal dwelling unit. However, a travel trailer may be used on the lot for up to six months during construction of the *affordable housing dwelling unit*.
 - 4 Home occupation uses are permitted as an *accessory* use. Despite Section 2.4, home-based *guest accommodation*, welding shops, including sale of products produced on site, daycare, and automobile repair and maintenance, are not permitted."

- c) To Section 3.4 [Resource Zoning Tables], Table 8 [Site-Specific Regulations] by adding a new site-specific zone A(14), in numerical order, as follows:

“A(14) 1 Despite Table 7 of this section, the minimum lot area permitted by subdivision, subject to the regulations in Section 2.8 is 9.0 ha.”

2. That Schedule “B” [zoning map] of Bylaw No. 186 cited as “Denman Island Land Use Bylaw, 2008” is amended by changing the zoning classifications as follows:

- a) On portions of land legally described as Lot 1, Sections 20 and 21, Denman Island, Nanaimo District, Plan 32301, the zoning classification is changed:

From Agriculture (A) to Agriculture (A(14));
From Rural Residential (R2) to Agriculture (A(14)); and
From Rural Residential (R2) to Residential (R1(4))

As shown on Plan No. 1 attached to and forming part of this bylaw.

3. This Bylaw may be cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2012”.

READ A FIRST TIME THIS 2nd DAY OF April , 2013

PUBLIC HEARING HELD THIS 4th DAY OF June , 2013

READ A SECOND TIME THIS _____ DAY OF _____ , 201_

READ A THIRD TIME THIS _____ DAY OF _____ , 201_

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
_____ DAY OF _____ , 201_

ADOPTED THIS _____ DAY OF _____ , 201_

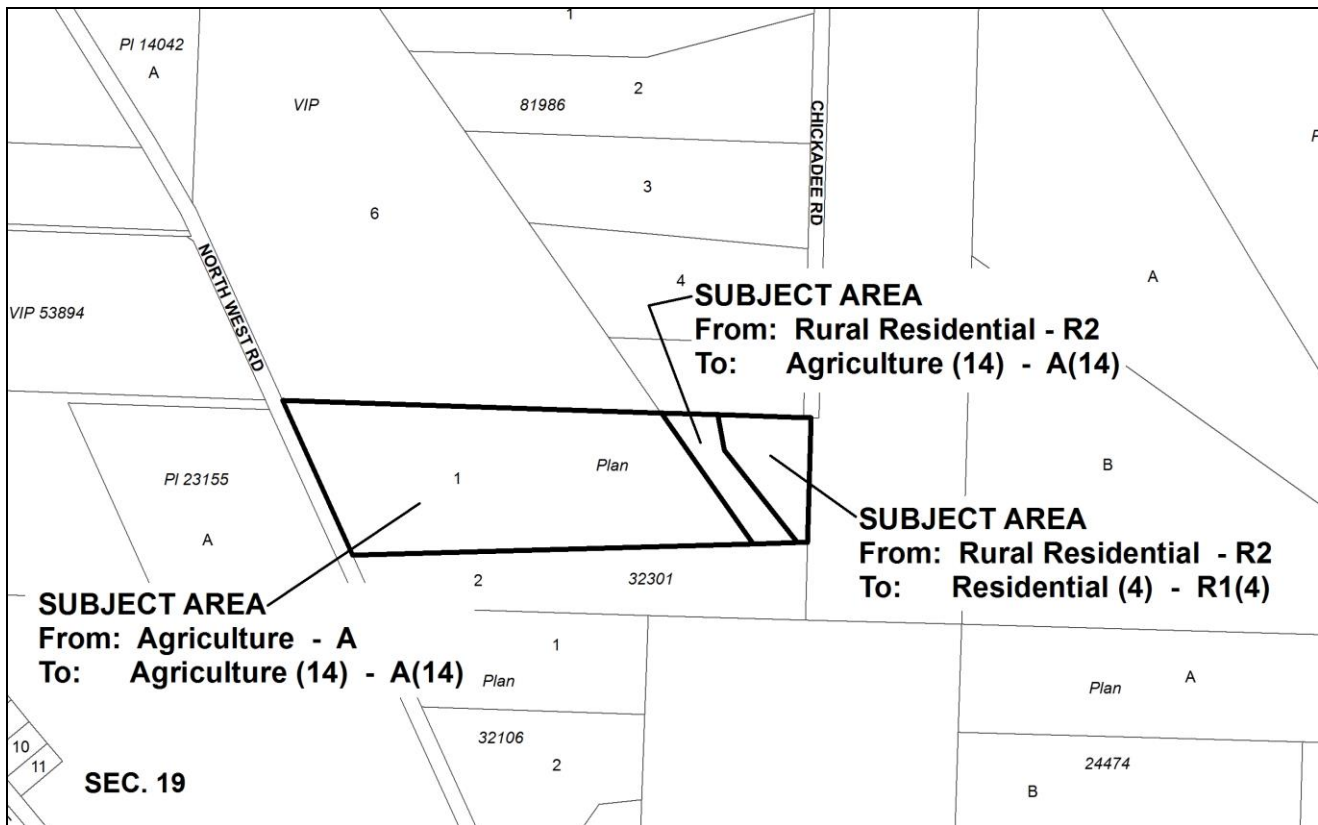
SECRETARY

CHAIRPERSON

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 204

Plan No. 1



PROPOSED

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 205

A Bylaw to Authorize a Housing Agreement

WHEREAS the Denman Island Local Trust Committee is the Local Trust Committee having jurisdiction on and in respect of the Denman Island Local Trust Area, pursuant to the *Islands Trust Act*;

AND WHEREAS Section 905 of the Local Government Act and Section 29 of the *Islands Trust Act* permit the Local Trust Committee to enter into a housing agreement;

AND WHEREAS the Denman Island Local Trust Committee wishes to enter into a Housing Agreement;

NOW THEREFORE the Denman Island Local Trust Committee enacts in open meeting assembled as follows:

1. This Bylaw may be cited for all purposes as “Denman Island Housing Agreement Bylaw No. 205, 2012”.
2. Any two Trustees of the Denman Island Local Trust Committee are authorized to execute an agreement in the form attached to this Bylaw with Denman Community Land Trust Association.

READ A FIRST TIME this 2nd day of April, 2013

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____

SECRETARY

CHAIRPERSON

Housing Agreement and Section 219 Covenant

THIS AGREEMENT DATED FOR REFERENCE THE..... DAY OF, 2013 is

BETWEEN:

DENMAN COMMUNITY LAND TRUST ASSOCIATION, a society incorporated under the laws of the province of British Columbia and having its office at 3900 Lacon Road, Denman Island, B.C., V0R 1T0

(the “Society”)

AND:

DENMAN ISLAND LOCAL TRUST COMMITTEE, a corporation under the *Islands Trust Act*, having an office at 2nd Floor, 1627 Fort Street, Victoria, B.C., V8R 1H8

(the “Trust Committee”)

WHEREAS:

- A. The Society is the registered owner of the Lands;
- B. The Society has applied to the Trust Committee for a rezoning of the Lands to permit the construction and use of one residential dwelling unit for affordable housing on the Lands as more particularly described in this Agreement;
- C. The Society intends to lease the Lands, by way of a leasehold agreement, at an affordable rate to Qualified Occupants;
- D. The Trust Committee may, pursuant to Section 29 of the *Islands Trust Act* and Section 905 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure and availability to specified classes of persons of dwelling units located on those lands;
- E. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the Trust Committee in respect of the use of land or construction on land;
- F. The Society and the Trust Committee wish to enter into this Agreement to provide affordable housing on the Lands on the terms and conditions of this Agreement; and
- G. The Trust Committee has, by bylaw, authorized the execution of this Agreement and the Society has duly authorized the execution of this Agreement.

THIS AGREEMENT is evidence that in consideration of \$2.00 paid by the Trust Committee to the Society (the receipt of which is acknowledged by the Society), and in consideration of the promises exchanged below, the Trust Committee and the Society agree, as covenants granted by the Society to the Trust Committee under Section 219 of the *Land Title Act*, and as a housing agreement between the Society and the Trust Committee under Section 905 of the *Local Government Act*, as follows:

1. **Definitions** – In this Agreement:

“Affordable Housing Unit” means a single-family dwelling on the Lands in respect of which the construction, tenure, rental and occupancy are restricted in accordance with sections 2 through 8 of this agreement;

“Household Income” means the aggregate of income from all sources of all the occupants of an Affordable Housing Unit, or of the sole occupant if such be the case;

“Lands” means that parcel of land located on Denman Island, B.C., legally described as: NO PID, Lot A Section 21 Denman Island Nanaimo District, Plan _____;

“Qualified Occupant” means a person who meets the eligibility criteria for tenancy of the Affordable Housing Unit that are set out in Schedule “A”.

2. **Construction and Maintenance** – The Society covenants and agrees with the Trust Committee that, while this Agreement is in effect:

(a) the Lands shall not be used, and no building or structure shall be constructed on the Lands, except for one Affordable Housing Unit that:

- (i) is reasonably adequate in size and composition for the number of occupants;
- (ii) is free of conditions that pose a threat to human health; and
- (iii) has a total floor space that does not exceed 93 square metres (1,000 square feet),

and accessory buildings as permitted by bylaw;

(b) the Lands shall not be used and no building or structure shall be constructed on the Lands except in accordance with any siting and use permits issued by the Trust Committee;

(c) the Society must at all times ensure that the Lands are used and occupied in compliance with all statutes, laws, regulations, and order of any authority having jurisdiction;

(d) it will design, construct and maintain in a reasonable state of repair one Affordable Housing Unit on the Lands in accordance with the terms of this Agreement;

(e) the Lands must be used only in accordance with this Agreement;

- (f) if the Society wishes to cease using the Lands for affordable housing and the Trust Committee agrees to release this agreement from title to the Lands, the Society shall use the Lands thereafter only for conservation use.
3. **Occupancy** – The Society agrees that it shall not lease the Affordable Housing Unit or any part of the Lands to any person, or allow any person to occupy the Affordable Housing Unit or any part of the Lands, except for a Qualified Occupant and that person’s spouse. In consideration of the cliff adjacent to the Lands, the Society agrees not to permit the Affordable Housing Unit to be occupied as a residence by anyone under the age of 19 years.
4. **Rental of Affordable Housing Unit** – The Society must:
- (a) rent or lease the Affordable Housing Unit only by way of a Leasehold agreement;
 - (b) include in every Leasehold agreement a prohibition on subletting and assignment to any person who is not a Qualified Occupant, and a provision entitling the Society to terminate the Leasehold in the event of any breach of that prohibition;
 - (c) deliver to the Trust Committee a true copy of every Leasehold agreement entered into in respect of any Affordable Housing Unit within 10 days of any request to do so;
 - (d) specify in every Leasehold agreement the existence of this Agreement and the occupancy restrictions applicable to the Affordable Housing Unit, and provide to each tenant, upon their request, a copy of this agreement;
 - (e) select tenants in accordance with the tenant selection procedures attached as Schedule “A”, which procedures shall not be amended unless such amendment is approved by a bylaw adopted by the Trust Committee with the consent of the Society.
5. **Maximum Rent** – The Society shall:
- (a) not charge any tenant under a Leasehold a monthly rent, inclusive of utilities, that is greater than 30% of the monthly Household Income of all occupants of the Affordable Housing Unit; and
 - (b) not require any tenant under a Leasehold to pay any extra charges or fees for use of any well or septic, or property taxes. For clarity, this limitation does not apply to cablevision, telecommunications, laundry, or gas or electricity utility fees or charges.
6. **Order to Comply** - If the Society is in default of the performance or observance of this Agreement, the Trust Committee may give the Society a notice of default requiring the Society to comply with this Agreement within the time stated in the notice. The Society agrees that any breach or default in the performance of this Agreement on its part must be corrected, to the satisfaction of the Trust Committee, within the time stated on the notice of default provided to the society by the Trust Committee.
7. **Statutory Declaration from Society** – The Society shall deliver to the Trust Committee by the end of June of each year, a completed statutory declaration, substantially in the form attached as Schedule

“B”, sworn by the Society, in relation to the Leasehold. The Society irrevocably authorizes the Trust Committee to make inquiries it considers necessary and reasonable in order to confirm compliance with this Agreement.

8. **Management** – The Society covenants and agrees to furnish good and efficient management of the Lands. If and when the Trust Committee has reasonable grounds to believe that a continuing breach of this Agreement exists, the Trust Committee may authorize its representatives to inspect the Lands at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act* and subject to the concurrent delivery of such a notice to the Society.
9. **No Transfer** – Except for a reconveyance to the donor, Ilsa Pamela Brons, or her heirs, the Society must not transfer the Lands, other than to another non-profit organization or society incorporated under the *Society Act*, having as its objective the management of affordable housing. The Trust Committee must approve any transfer prior to its finalization and may require that, until a new organization is found, no further leases may be granted on the Lands.
10. **Society Standing** – The Society must maintain its standing as a society under the *Society Act*, and must not amend its Constitution in any manner that would prevent, or adversely affect, the ability of the Society to perform its obligations under this Agreement.
11. **Specific Performance of Agreement** – The Society agrees that the Trust Committee is entitled to obtain an order for specific performance of this Agreement and a prohibitory or mandatory injunction in respect of any breach by the Society of this Agreement, in view of the public interest in restricting the occupancy of the Affordable Housing Unit. The Society further acknowledges that a breach of this Agreement may constitute a breach of the Trust Committee’s Land Use Bylaw, as amended from time to time.
12. **Term** – The Trust Committee covenants and agrees with the Society that this Agreement will cease to apply and have effect from and after the ninety-ninth (99th) anniversary of the date this Agreement was registered in the Land Title Office, and the Trust Committee agrees to sign a release of this Agreement prepared by the Society after that date.
13. **Assignment** – The Society acknowledges that the Trust Committee may delegate or assign the administration and management of this Agreement to a third party, and, in that event, any reference in this Agreement to the Trust Committee shall be interpreted as a reference to that party provided that the Trust Committee has so advised the Society.
14. **Indemnity** – The Society shall indemnify and save harmless the Trust Committee and each of its elected officials, officers, directors, employees, and agents from and against all claims, demands, actions, loss, damage, costs, and liabilities for which any of them may be liable by reason of any act or omission of the Society or its officers, directors, employees, agents or contractors or any other person for whom the Society is at law responsible, including breaches of this Agreement.
15. **Release** – The Society releases and forever discharges the Trust Committee and each of its elected officials, officers, directors, employees, and agents and each of their heir, executors, administrators, personal representatives, successors and assigns from all claims, demands, damages, actions, or causes of action arising out of the performance by the Society of its obligations under this Agreement, or the enforcement of this Agreement.

16. **Survival** – The obligations of the Society set out in sections 14 and 15 shall survive any termination of this Agreement.
17. **Trust Committee Powers Unaffected** – This Agreement does not limit the discretion, rights, duties or powers of the Trust Committee under any enactment or the common law, impose on the Trust Committee any duty or obligation, affect or limit any enactment relating to the use or subdivision of the Lands, or relieve the Society from complying with any enactment.
18. **No Public Law Duty** – Wherever in this Agreement an act, determination, consent, approval or agreement of the Trust Committee is provided for, such act, determination, consent, approval or agreement may be done or made in accordance with the terms of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice shall have any application.
19. **No Waiver** – No condoning, excusing or overlooking by the Trust Committee of any default under this Agreement, nor any consent, approval, or agreement whether written or otherwise shall be taken to operate as a waiver by the Trust Committee of any subsequent default or of the necessity for further consent, approval or agreement in respect of a subsequent matter requiring it under this Agreement, or in any way to defeat or affect the rights or remedies of the Trust Committee.
20. **Arbitration** – Any matter in dispute between the parties under this Agreement, including any disputes as to whether a particular individual is eligible to occupy a Affordable Housing Unit, must be referred to a single arbitrator if the parties can agree on one, and otherwise to three arbitrators, one to be appointed by each of the parties and the third by those two so appointed, and the matter must be resolved in accordance with the provisions of the *Commercial Arbitration Act* of British Columbia.
21. **Notice on Title** – The Society acknowledges and agrees that this Agreement constitutes both a covenant under Section 219 of the *Land Title Act* and a housing agreement under Section 905 of the *Local Government Act*, and agrees that the Trust Committee will register a notice of this housing agreement against title to the Lands.
22. **Covenant Runs with the Land** – Every obligation and covenant of the Society in this Agreement constitutes both a contractual obligation and a covenant granted by the Society to the Trust Committee in accordance with section 219 of the *Land Title Act* in respect of the Lands and this Agreement burdens the Lands and runs with it and binds the Society's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including, by subdivision or by strata plan.
23. **Limitation on Society's Obligations** – The Society is only liable for breaches of this Agreement that occur while the Society is the registered owner of the Lands.
24. **Amendment and Termination** – This Agreement may not be modified or amended except by bylaw of the Trust Committee, upon an agreement in writing between the Trust Committee and the Society.

25. **Notices** – Any notice required to be given pursuant to this Agreement shall be in writing and shall be given to the Society or the Trust Committee, as the case may be, at the address first above written, or to any other address of which either the Society or the Trust Committee may advise the others in writing in accordance with this paragraph. Notice to the Trust Committee must be addressed to the Secretary of the Islands Trust. If given in person or by facsimile transmission, such notice will be deemed to be received when delivered and, if mailed, such notice will be deemed to be received only when actually received by the party to whom it is addressed.
26. **Enurement** – This Agreement is binding upon and enures to the benefit of the parties and their respective successors and permitted assigns.
27. **Remedies Cumulative** – The remedies of the Trust Committee specified in this Agreement are cumulative and are in addition to any remedies of the Trust Committee at law or in equity. No remedy shall be deemed to be exclusive, and the Trust Committee may from time to time have recourse to one or more or all of the available remedies specified herein or at law or in equity.
28. **Severability** – Each covenant and agreement contained in this Agreement is, and shall be construed to be, a separate and independent covenant or agreement and the breach of any such covenant or agreement by the Society shall not discharge or relieve the Society from its obligations to perform. If any term or provision of this Agreement, or its application to any person or circumstance shall to any extent be found to be invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.
29. **Joint and Several** – In the case of more than one owner, the grants, covenants, conditions, provisions, agreements, rights, powers, privileges and liabilities of the Society shall be construed and held to be several as well as joint.
30. **Included Words** – Wherever the singular or the masculine is used in this Agreement, it shall be deemed to include the plural or the feminine, or the body politic or corporate, where the context or the parties so require.
31. **Governing Law** – This Agreement shall be governed by and construed in accordance with the laws of the province of British Columbia.
32. **Joint Venture** – Nothing in this Agreement shall constitute the Society as an agent, joint venture or partner of the Trust Committee or give the Society any authority or power to bind the Trust Committee in any way.
33. **Time of Essence** – Time is of the essence in this Agreement.
34. **Further Assurances** – The parties shall execute and do all such further deeds, acts, things and assurances as they reasonably require to carry out the intent of this Agreement.
35. **Priority** – The Society agrees to do everything necessary at the Society's expense to ensure that this Agreement is registered against title to the Lands with priority over all financial charges, liens and encumbrances registered or pending at the time of application for registration of this Agreement.

36. **Deed and Contract** – By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

SCHEDULE "A" TO THE HOUSING AGREEMENT

Denman Community Land Trust Association (DCLTA)

Tenant Selection Procedure

1. The first tenant shall be selected by Ms. Ilsa Pamela Brons, the donor of the Lands to the Society.
2. Thereafter, selection of tenants shall be determined by a committee of not less than five people appointed by the directors of the Society. The committee members need not be members of the Society but must be residents of Denman Island who have been such for not less than three years. Where possible, the committee will include two members nominated by two other charitable societies on Denman Island (one nominee per society) and a retired or practicing physician. Committee members must not be related to, or close friends with, any of the people who are then applying for a tenancy.
3. A vacancy for an affordable housing tenancy shall be advertised in at least two editions of one or more publications circulated on Denman Island.
4. The committee shall first screen applicants to determine those who meet the following mandatory requirements:
 - i) the Household Income of the applicant for the previous three years must be shown to be less than 120% of the Low Income Cutoff as determined by Statistics Canada or its successor agency*;
 - ii) the applicant must have been primarily resident on Denman Island for at least the two years preceding the consideration of the application;
 - iii) the aggregate household assets of the applicant must not exceed \$50,000 (plus an inflation adjustment after 2012) unless the applicant has agreed to enter into an Equity Sharing Agreement** with DCLTA for use of the amount exceeding \$50,000. Assets included for valuation are: cash, funds on deposit, stocks, bonds, term deposits, annuities, mutual funds, equity in a business or real estate, RRSPs and RRIFs. Assets excluded for valuation are: personal jewelry, furniture, a vehicle for personal use, bursaries and scholarships, and trade tools for employment.
 - iv) the applicant must have provided satisfactory references to establish that the applicant would be a responsible tenant, i.e. would pay rent promptly, cause no damage, and create no nuisance.

*If Statistics Canada discontinues the publication of the Low Income Cutoff, the committee may substitute a similar monetary amount based upon available statistical information (adjusted to economic circumstances on Denman Island) which estimates the minimum income required to meet basic living needs and which, for example, may include reference to the CMHC Core Needs Income Threshold.

5. From the qualified applicants, the committee will select the tenant(s) by a points system applied to each of the following criteria:
 - i) the length of the applicant's connection to Denman Island;
 - ii) the contribution of the applicant to Denman Island through paid or volunteer work;
 - iii) the degree of unsuitability of the applicant's present housing;
 - iv) the degree of suitability of the personal characteristics of the applicant to the type of the available affordable housing project (e.g. seniors, special needs, single person, family, etc.).
6. In each of the points categories, each committee member shall evaluate the relative degree to which the criteria apply among the applicants and shall award from 0 to 10 points to each applicant accordingly.
7. The applicant with the greatest aggregate number of points from the committee members shall be selected as the tenant.
8. If a tie occurs the selection shall be made, from the tied applicants, by a majority vote of the committee.

****An Equity Sharing Agreement provides a method for low income people to develop an equity ownership interest in a home structure on land leased from the Society. At the end of the Agreement the home structure is either: donated to the Society, sold to the Society on a non-profit basis through an agreed formula, or removed to another location.**

SCHEDULE "B"

OWNER STATUTORY DECLARATION

CANADA

PROVINCE OF BRITISH COLUMBIA

IN THE MATTER OF A HOUSING AGREEMENT
WITH THE DENMAN ISLAND LOCAL TRUST
COMMITTEE ("Housing Agreement")

declare that:

1. I am the _____ [director, officer, employee] of the Denman Community Land Trust Association, the owner of the land known as _____, Denman Island, legally described as: _____ (the "Lands")
2. I make this declaration to the best of my personal knowledge.
3. This declaration is made pursuant to the Housing Agreement registered against the Lands.
4. For the period from _____ to _____, the Affordable Housing Unit was used only by Qualified Occupants (as defined in the Housing Agreement).
5. At no time during the last year was the Affordable Housing Unit used as a short term vacation rental.
6. The lease payments charged for the Affordable Housing Unit were in compliance with the Housing Agreement and are listed in the attached.
7. No subletting of the Lands has been permitted.
8. I acknowledge and agree to comply with all of the Society's obligations under the Housing Agreement, and other charges registered against the Lands and confirm that the Society has complied with all of its obligations under these Agreements.
9. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

DECLARED BEFORE ME at _____, British Columbia, this ____ day of _____.

A Commissioner for taking Affidavits
in British Columbia

Signature of person making declaration

Names of Occupants

Monthly Payment amount

PROPOSED

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 206

A BYLAW TO AMEND DENMAN ISLAND OFFICIAL COMMUNITY PLAN, 2008

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

1. That Denman Island Local Trust Committee Bylaw No. 185 cited as "Denman Island Official Community Plan, 2008" is altered as shown on Schedule "A" of this amending bylaw.
2. This Bylaw may be cited as "Denman Island Official Community Plan, 2008, Amendment No. 1, 2013".

READ A FIRST TIME THIS 2nd DAY OF April , 2013

PUBLIC HEARING HELD THIS 4th DAY OF June , 2013

READ A SECOND TIME THIS ____ DAY OF _____ , 201_

READ A THIRD TIME THIS ____ DAY OF _____ , 201_

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
 ____ DAY OF _____ , 201_

APPROVED BY THE MINISTER OF COMMUNITY, SPORT AND CULTURAL DEVELOPMENT

THIS ____ DAY OF _____ , 201_

ADOPTED THIS ____ DAY OF _____ , 201_

 SECRETARY

 CHAIRPERSON

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 206

Schedule A

Denman Island Local Trust Committee Bylaw No. 185, cited as “Denman Island Official Community Plan, 2008” is amended as follows:

1. Schedule C [Land Use Designations] be amended by changing the land use designation on a portion of land legally described as Lot 1, Sections 20 and 21, Denman Island, Nanaimo District, Plan 32301 from Rural to Sustainable Resources as shown on Plan No. 1 attached to and forming part of this bylaw.

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 206

Plan No. 1

