Islands Trust

A NOTICE OF A BUSINESS MEETING OF **THE DENMAN ISLAND LOCAL TRUST COMMITTEE**
to be held at 10:30 AM on Tuesday, January 22, 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 December 11, 2012 – *for adoption*	1-8	
5.2	Section 26 Resolutions Without Meeting - *none*		
5.3	Denman Island Advisory Planning Commission Minutes - *none*		
5.5	Denman Island Marine Advisory Planning Commission Draft Minutes - *none*		
6.	**BUSINESS ARISING FROM MINUTES**		10:50 am
6.1	Follow-up Action List dated January 10, 2013 - *attached*	9-11	
6.2	Integrated Shoreline Mapping Workshop – *verbal update*		
6.3	Bylaw Interpretation Review regarding DE-SUP-2011.5 (Corlan Winery, 8441 McFarlane Road) Review Bylaw Interpretation that an Operating Winery at 8441 McFarlane Road cannot hold Special Public Events. Memorandum dated January 9, 2013 – *attached*	12-18	
7.	**APPLICATIONS AND PERMITS**		
8.	**DELEGATIONS**		11:15 am
8.1	Graham Brazier for Denman Opposes Coal		
9.	**TOWN HALL DISCUSSION**		

10.	**CORRESPONDENCE** *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.*		11:30 am
10.1	Email dated November 27, 2012 from Dean Ellis regarding Denman Island Local Trust Committee - *attached*	19	
10.2	Emails dated November 27, 2012, December 18 and 21, 2012 from Dean Ellis and Responses regarding Ditch on Radcliffe Road - *attached*	20-24	
10.3	Email dated December 8, 2012 from Dean Ellis regarding Denman Farm Plan Maps Erosive Soils - *attached*	25-30	
10.4	Email dated January 5, 2013 from Edina Johnston of Denman Island Forage Fish Group regarding Negative Impacts of the Removal of Large Amounts of Seaweed with Summary Document - *attached*	31-40	
11.	**REPORTS**		11:40 am
11.1	**Work Program** Top Priorities Report and Projects Report dated January 10, 2013 - *attached*	41-42	
11.2	**Applications Log** Report dated January 10, 2013 - *attached*	43-46	
11.3	**Trustee and Local Expenses** Expenses posted to December 31, 2012- *attached*	47	
12.	**LOCAL TRUST COMMITTEE PROJECTS**		11:55 am
12.1	Review of Development Permit Area No. 4: Streams, Lakes and Wetlands Staff Report dated January 9, 2013 - *attached*	48-68	
13.	**NEW BUSINESS**		
13.1	Islands Trust Planner – On Island Office Hours Memorandum dated January 8, 2013 - *attached*	69	
3.2	Rescheduling of September 2013 meeting – *verbal report*		
14.	**BYLAWS**		
15.	**ISLANDS TRUST WEBSITE**		
15.1	Denman Page - *attached*	70-71	
16.	**NEXT MEETING DATE** Tuesday, February 26, 2013 at 10:30 am at The Denman Seniors Centre, 1111 Northwest Road, Denman Island, BC		
17.	**TOWN HALL DISCUSSION – *time permitting***		
18.	**ADJOURNMENT**		12:30 pm

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

MINUTES OF THE DENMAN ISLAND LOCAL TRUST COMMITTEE BUSINESS MEETING HELD AT 10:30 AM ON TUESDAY, DECEMBER 11, 2012 AT THE DENMAN SENIORS HALL, 1111 NORTHWEST ROAD, DENMAN ISLAND, BC

PRESENT:	Peter Luckham	Chair
	Laura Busheikin	Local Trustee
	David Graham	Local Trustee
	Courtney Simpson	Acting Regional Planning Manager
	Aleksandra Brzozowski	Island Planner
	Vicky Bockman	Recorder

There were six (6) members of the public in attendance.

1. CALL TO ORDER

Chair Luckham called the meeting to order at 10:34 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 the Coast Salish First Nations.

2. APPROVAL OF AGENDA

The agenda was adopted by consensus with the following amendments:

- Add item 6.2: Integrated Shoreline Mapping Workshop Discussion
- Add item 10.3: Correspondence from Denman Conservancy Association
- Add item 13.2: Participation in Island Studies Conference - Discussion

3. CHAIR'S REPORT

Chair Luckham reported that he attended the Trust Council meeting held on Salt Spring Island recently. He commented that the meeting included advocacy work for ferry issues, coal ship terminals and oil spills; and that the presentation from Richard Bullock, Chair of the Agricultural Land Commission, was informative.

4. TRUSTEES' REPORT

Trustee Graham noted that he attended the Trust Council meeting; however, he did not have a report to present.

Trustee Busheikin commented that she also attended the Trust Council meeting and found the presentation and discussion with Richard Bullock, Chair of the Agricultural Land Commission, to be very useful. She reported that in her role as a member of the Ferry Advisory Committee she attended meetings regarding the Cable Ferry and BC Ferries public consultation process. She noted that she attended a Denman Island Residents Association meeting where members were encouraged to participate in the ferry consultation process and advocacy actions on ferry matters will be undertaken. Trustee Busheikin advised that there will be an open house and public meeting on the Cross Island Trail on January 16, 2013.

5. MINUTES

5.1 *Local Trust Committee Meeting Minutes dated November 6, 2012*

The minutes were adopted by consensus with the following amendments:

- Page 1, item 2, last line: correct punctuation to read: "agenda; however,"
- Page 4, item 8, last paragraph, second line: change "effect" to "effects"
- Page 7, item 11.1: correct formatting to remove italic type from "Received for information."
- Page 10, item 17, second line: change "report" to "funding proposal"

5.2 *Section 26 Resolutions Without Meeting Log* – None.

5.3 *Denman Island Advisory Planning Commission Minutes* – None.

5.4 *Denman Island Marine Advisory Planning Commission Minutes* – None.

6. BUSINESS ARISING FROM MINUTES

6.1 *Follow-up Action List dated November 29, 2012*

The Follow-up Action List dated November 29, 2012 was reviewed.

6.2 *Integrated Shoreline Mapping Workshop Discussion*

Acting Regional Planning Manager Simpson reported that the deadline for funding and holding this workshop had been extended and, as directed in a previous meeting, scheduling of the workshop would now be appropriate. She advised that a presentation from SeaChange on eelgrass mapping could be presented at the same workshop for an additional $200.00 expense and requested clarification on whether this was desired. She also noted that advertising for the event is not included in the grant funding and requested Committee direction on advertising, noting that it might be possible to share the cost of the advertising with Hornby Island. The matter was discussed and the importance of an eelgrass presentation and advertising were considered.

DE-084-2012 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee request staff to invite SeaChange as an additional presentation for the Integrated Shoreline Mapping presentation at a cost of $200.00 with an additional $100.00 to cover joint local advertising with Hornby Island for the event.

CARRIED

Discussion on the workshop continued after agenda item 13.2.

7. <u>APPLICATIONS AND PERMITS</u> – None.

8. <u>DELEGATIONS</u> – None.

9. <u>TOWN HALL DISSCUSSION</u>

David Critchley – stated that the Denman Community Land Trust Association had received the Islands Trust lawyer's review of the Housing Agreement. On behalf of the Denman Community Land Trust Association he expressed his objection to the numerous substantive changes to the document that do not represent the collaborative wishes of the community, land donor, society, and Local Trust Committee. He cited various changes made and explained reasons for opposing the changes. He requested the Local Trust Committee's assistance to resolve the problems resulting from this review.

Harlene Holm – stated her objection to the review of the Denman Community Land Trust Association Housing Agreement by Islands Trust lawyers that had been received. She referenced revisions that were now being requested to key components of the agreement including some that are in contradiction to the donor's requests, change agreed-upon definitions, would be logistically difficult to manage, and require lease agreement procedures that could even require periodic bylaw amendments. She stated that this review has created an economic and personnel burden and has left the affordable housing group discouraged.

Trustees responded that it had not been their intent for the legal review to rework the Housing Agreement and confirmed their desire to see the affordable housing project move forward. Acting Regional Planning Manager Simpson advised that she will review the document and work with the applicant and lawyers to resolve specific issues.

Simon Palmer – presented a letter dated December 10, 2012 requesting reconsideration of the notation in the approval of the Siting and Use Permit No. DE-SUP-2011.05 for Selwyn and Pat Jones that states that the Denman Island Land Use Bylaw does not permit an area to be used for the purpose of holding special events for commercial purposes. He advised that he had spoken to Islands Trust staff who indicated that the interpretation might be reviewed for reconsideration and he requested the Local Trust Committee's assistance.

Pat Jones – explained that their vineyard has been approved for wine tastings and picnic area yet they cannot obtain a liquor license for special events without confirmation that they meet land use bylaw requirements. She provided rationale for reconsideration and noted that holding special events would have the additional benefit of increasing employment opportunities for islanders.

Selwyn Jones – requested re-evaluation of the interpretation, stating that the special events that they are contemplating might also include seminars, all of which would be considered agritourism, a practice that is supported in the Denman Island Farm Plan. He added that farm and agricultural special events are common occurrences around the Gulf Islands.

Trustee Graham noted that the Denman Island Farm Plan encourages agritourism and the Agriculture Plan Steering Committee has recommended that bylaws be examined for encumbrances to carrying out these activities if necessary. Trustee Busheikin requested clarification on the criteria for definition of special events, whether they are permitted, and if not permitted the concerns that underlie the regulation.

Acting Regional Planning Manager Simpson responded that staff will provide a verbal update at the next meeting to address these questions. She indicated that she will discuss the issue with Planner Prowse, who is assigned to the file and advised the applicants that they will be informed of the review and if the review determines that special events are allowed, a revised letter will be issued to them.

10. CORRESPONDENCE

10.1 Denman WORKS! - Petition regarding Visitor Services Bylaw Amendments

The Denman WORKS! petition regarding Visitor Services Bylaw Amendments was received.

10.2 Letter dated October 24, 2012 from Kris Christensen regarding Short Term Rental

The letter dated October 24, 2012 from Kris Christensen regarding Short Term Rentals was received.

10.3 Correspondence from Denman Conservancy Association

Trustee Busheikin summarized the correspondence, explaining that Denman Conservancy Association is applying for a grant relating to habitat protection for the endangered Taylor's Checkerspot butterfly. She indicated that the Denman Conservancy Association is requesting a letter of endorsement of this proposal from the Local Trust Committee.

Trustee Busheikin agreed to draft a letter for Chair Luckham's signature and Committee members will agree to it by consent.

11. REPORTS

11.1 Work Program Reports
Top Priorities and Projects List Report dated November 29, 2012

The Top Priorities and Projects List report was reviewed.

11.2 Applications Log
Report dated November 29, 2012

The Applications Log dated November 29, 2012 was reviewed and Acting Regional Planner Manager Simpson answered questions that arose.

11.3 Trustee and Local Expenses
Expenses posted to November 30, 2012

The expenses posted to November 30, 2012 were reviewed.

12. LOCAL TRUST COMMITTEE PROJECTS

12.1 Denman Island Farm Plan
Memorandum dated November 29, 2012

Acting Regional Planning Manager Simpson presented the memorandum dated November 29, 2012 with a status report on the final Denman Island Farm Plan. The distribution of copies of the plan was discussed and additional copies were requested for:

- Trustee Busheikin's home office
- Denman Island Islands Trust Office
- Denman Island Community School
- Richard Bullock, Chair, Agricultural Land Commission
- Don McRae, Comox Valley MLA and Minister of Education
- John Duncan, MP

It was confirmed that the remainder will be held in the Northern Office and distributed as needed.

DE-085-2012 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee endorse the Denman Island Farm Plan, November 2012.

CARRIED

12.2 Review of Development Permit Area No. 4: Streams, Lakes and Wetlands
Staff Report dated November 28, 2012

Acting Regional Planning Manager Simpson outlined the staff report regarding the Development Approval Information Bylaw including the project overview; proposed bylaw content and approval process; benefits to staff, the Local Trust Committee, applicants and the broader community; and recommendations.

Trustee Busheikin acknowledged that the bylaw would provide clarity, transparency and efficiencies; however, she questioned if it might be possible to add a preamble to indicate that this bylaw replaces an existing bylaw and does not add any additional requirements.

Chair Luckham commented that the staff report was generally informative and useful; however, he noted that the last paragraph of the *Local Government Act* on page 2 of the staff report was difficult to understand without reading the bylaw, and he recommended that staff rewrite this paragraph for the benefit of the general public.

Trustee Busheikin indicated that she will forward to staff a few changes that she had identified for possible integration into the document. It was determined that the draft Development Approval Information Bylaw will be referred to the Advisory Planning Commission subsequent to the Local Trust Committee's review and consideration of the revised draft document.

DE-086-2012 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee give notice to Trust Council that it intends to forward a Development Approval Information Bylaw for Trust Council's consideration at the regularly scheduled March 2013 Trust Council meeting for the purpose of allowing the Denman Island Local Trust Committee to obtain information on the anticipated impacts of development permit, temporary use permit and zoning amendment applications.

CARRIED

DE-087-2012 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee request staff to revise the draft Development Approval Information Bylaw No. 149 by including a preamble setting out its intention.

CARRIED

DE-088-2012 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee amend their Projects List to include the review and update of Denman Island Development Procedure Bylaw, No. 71.

CARRIED

The meeting was recessed at 12:15 pm and reconvened at 12:25 pm.

13. NEW BUSINESS

13.1 Advisory Planning Commission Membership
Staff Report dated November 29, 2012

Acting Regional Planning Manager Simpson summarized the staff report, outlining recommendations for procedures to replace or reappoint members of the current Advisory Planning Commissions and to establish an Agriculture Advisory Planning Commission. She confirmed that Commission members must be electors in the Islands Trust area; however, any member of the public may attend meetings.

DE-089-2012 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee instruct staff to advertise for:

- up to three members for the Advisory Planning Commission;
- up to three members for the Marine Advisory Planning Commission; and
- up to six members for the Agriculture Advisory Planning Commission

CARRIED

13.2 Participation in Island Studies Conference - Discussion

Trustee Busheikin indicated that she would like to consider the possibility of attending and making a presentation on the topic of land co-ops at the Island Studies Conference on Gabriola Island in May, 2013. She requested input regarding protocol and expense considerations. Committee members expressed support for the idea and indicated that Local Trust Committee expenses can be used for educational opportunities. It was suggested that Trustee Busheikin contact Trust Area Services to discuss the proposed presentation.

6.2 Integrated Shoreline Mapping Workshop Discussion (Continued)

Scheduling of the Integrated Shoreline Mapping Workshop was discussed and it was determined that the preferred timetable for the program would be an evening presentation beginning at 7:30 pm (doors opening at 7:00 pm) and limiting the workshop to two hours.

The agenda was amended by consensus as follows:

- move items 15 and 16 to follow item 19 and renumber accordingly.

14. BYLAWS – None.

15. ISLANDS TRUST WEBSITE

15.1 Denman Page

There were no changes requested to the Denman page of the website.

16. NEXT BUSINESS MEETING DATE

The next meeting of the Denman Island Local Trust Committee will take place on Tuesday, January 22, 2013 at 10:30 am at the Denman Seniors Centre, 1111 Northwest Road, Denman Island, BC.

17. TOWN HALL DISCUSSION - None

18. CLOSED MEETING

DE-090-2012 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee close the next part of the December 11, 2012 business meeting to discuss matters pursuant to Section 90(1)(d) of the *Community Charter* to consider adoption of Closed Meeting minutes and that staff be invited to attend this meeting.

CARRIED

Chair Luckham closed the meeting at 12:46 pm to hold an in-camera meeting.

Chair Luckham reconvened the open meeting at 12:48 pm to rise and report.

19. RECALL TO ORDER

Rise and Report from Closed Meeting

Chair Luckham reported that closed meeting minutes were adopted in the *in-camera* session.

20. ADJOURNMENT

Chair Luckham adjourned the meeting at 12:49 pm.

___________________________ ______________________________
Recorder Chair

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.	Aleksandra Brzozowski	Oct-25-2011	On Going

May-02-2012

No.	Activity	Responsibility	Target Date	Status
1	Staff to provide report on bylaw enforcement mechanisms to: a) remove predator netting; b) ban driving on the foreshore; and c) ban beach modification.	Courtney Simpson	Jul-17-2012	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. Oct 2, 2012 update: wait until staff has attended first working group meeting to provide more info to LTC.	Aleksandra Brzozowski	Jul-17-2012	On Going
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.	Aleksandra Brzozowski	Dec-01-2013	On Going

Oct-02-2012

No.	Activity	Responsibility	Target Date	Status

1	In the defintion of "dwelling unit, affordable housing" in draft bylaw 204, clarify that "purchase price" refers to a monthly financed price and is called an "installment" or "payment". Also consider adding Imperial measurements in brackets (need to check for consistency with base bylaw).	Aleksandra Brzozowski	Nov-06-2012	On Going
1	Explore variations on the definition of dwelling unit, affordable housing as it pertains to DE-RZ-2011.1 with a view to making it more general.	Courtney Simpson	Nov-21-2012	On Going
1	For draft bylaw 204, clarify meaning of "including sale of products produced on site". And, under 1 (c), insert comma after "2.8". And, in schedule revise boundary of new zone to match that of recent survey.	Aleksandra Brzozowski	Nov-21-2012	On Going

Nov-06-2012

No.	Activity	Responsibility	Target Date	Status
1	Organize public education consultation event through greenshores program in early 2013.	Aleksandra Brzozowski	Dec-11-2012	On Going
1	Staff to request Ministry of Agriculture to include the Denman Island Local Trust Committee in any application referrals for seaweed harvesting licenses in the Denman Local Trust Area. (cc Ballenas-Winchelsea LTC)	Aleksandra Brzozowski	Dec-11-2012	On Going
1	Staff to write a letter or email to agencies that deal with shellfish aquaculture reqesting 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
1	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.	Miles Drew	Dec-11-2012	On Going
1	On the Denman webpage, add a link to the Natural Drainage Area map	Aleksandra Brzozowski	Dec-11-2012	On Going

Dec-11-2012

No.	Activity	Responsibility	Target Date	Status

1	Invite SeaChange as additional presentation to Integrated Shoreline Mapping Workshop at a cost of $200.	Aleksandra Brzozowski Nancy Roggers	Jan-22-2013	On Going
1	LTC releases $100 from Local Expense Account for joint advertising with Hornby LTC of Integrated Shoreline Mapping Workshop.	Aleksandra Brzozowski Nancy Roggers	Jan-22-2013	On Going
1	Staff to provide verbal update on DE-SUP-2011.05 (Jones) and LUB regulations regarding special event use in the zone.	Aleksandra Brzozowski	Jan-22-2013	On Going
1	Mail copies of Denman Farm Plan to Steering Committee Members and other relevant organizations. (cc LTC on letters)	Courtney Simpson	Jan-22-2013	Done
1	Give notice to Trust Council that it intends to forward a Development Approval Information Bylaw for Trust Council's consideration at the regularly scheduled March 2013 Trust Council meeting.	Aleksandra Brzozowski	Jan-22-2013	On Going
1	Revise the draft DAI bylaw to include a preamble setting out its intention.	Aleksandra Brzozowski	Jan-22-2013	On Going
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.	Aleksandra Brzozowski	Jan-22-2013	On Going
1	Advertise for membership in APC, Marine APC and Agriculture APC.	Aleksandra Brzozowski	Feb-26-2013	On Going

Islands Trust

Memorandum

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Date	January 9, 2013	File Number	DE-SUP-2011.5
To	Denman Island Local Trust Committee		
From	Linda Prowse Planner Local Planning Services		
Re	Bylaw Interpretation Review		

At the December 11, 2012 Denman Island Local Trust Committee business meeting, the Local Trust Committee asked staff to review the bylaw interpretation that an operating winery at 8441 McFarlane Road on Denman Island cannot hold special public events as this use is not permitted in the Denman Island Land Use Bylaw.

Background

This matter arose during the processing of a siting and use permit submitted by Mr. and Mrs. Jones. The siting and use permit was for an existing single family dwelling, a number of existing auxiliary buildings, and a proposed implement shed. The proposed use of the land was to have a winery and wine tasting room within a building to sell the products produced on their property. All of this was approved, but the applicants' request to be permitted to have a picnic area to be able to hold special events (e.g. celebration of life; birthdays, anniversaries, weddings) was refused as this use was not permitted under the Denman Island Land Use Bylaw. The applicant has requested the Local Trust Committee provide and explanation of this bylaw interpretation.

Bylaw Interpretation

The applicants' property is zoned Rural Residential (R2), and "home occupations" and "agriculture" are permitted in this zone. Please refer to attached Schedule 1 being the Denman Land Use Bylaw definition of "agriculture", and Schedule 2 being the Denman Land Use Bylaw home occupation regulations.

The definition of "agriculture" includes "storage, processing or direct marketing by a farmer of farm products". This would allow for a farmer to sell farm products produced on their property.

The home occupations section allows the "sale of agricultural products produced on-site". Again, this confirms that the farmer may sell farm products produced on the farm property.

Holding special public events in an area on the applicants' property is not a permitted use in the bylaw. The home occupation regulations have clear criteria for uses permitted outdoors (Section 2.4.12), and does not include holding public special events. Holding special public events is interpreted as a commercial use involving a number of people which could result in impacts to the residential enjoyment of the neighbourhood such as heightened parking, noise, possibly signage, etc. and commercial use is not permitted in the R2 zone.

<u>Alternatives for the Applicants to Consider</u>

1. The applicants' property is not in the Agricultural Land Reserve. It their property was in the Agricultural Land Reserve, “Agricultural Land Commission Policy #3 – Activities Designated as Farm Use: Wineries and Cideries in the ALR” would apply. This Policy is attached as Schedule 3, and describes how an “ancillary use” of a winery can mean that a winery could conduct tours and/or have a food and beverage lounge regulated in area both indoor and outdoor. Moreover, the Policy states that picnicking areas are permitted as an ancillary farm use where a winery has a “picnicking endorsement” in its liquor license. An exhaustive review of exactly how this would apply on ALR land is outside the scope of this memo, but it is noted that although the Land Use Bylaw could not prohibit this use, the LocalTrust Committee Land Use Bylaw could regulate the use.

2. The applicants could hold occasional not for profit private functions for family and friends (i.e. weddings, celebrations of life, etc.) as this would not be considered a commercial use.

3. The applicants could apply for an Official Community Plan and Land Use Bylaw Amendment to rezone the property for commercial use, as this use permits “occasional markets, fairs and festivals”.

pc Aleksandra Brzozowski, Island Planner

SCHEDULE 1 – DEFNITION OF “AGRICULTURE” FROM DENMAN LAND USE BYLAW NO. 86

agriculture means the use of land, buildings or structures for any of the following activities:

- growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals;
- clearing, draining, irrigating or cultivating land;
- using farm machinery, equipment, devices, materials and structures;
- applying fertilisers, compost, manure and other growing agents;
- intensively cultivating, in plantations, speciality wood crops or speciality fibre crops prescribed by the Minister of Agriculture, Food and Fisheries;
- turf production;
- aquaculture;
- raising or keeping of game, within the meaning of the Game Farm Act, by a person licensed to do so under the Act;
- raising or keeping fur bearing animals, within the meaning of the Fur Farm Act, by a person licensed to do so under the Act;
- storage, processing or direct marketing by a farmer of farm products;

but does not include any of the following activities:

- a forest practice defined in the Forest Practices Code of British Columbia Act
- the sale of processed wood products;
- breeding pets;
- operating a kennel or equestrian stable;
- growing, producing, raising or keeping of exotic animals as defined by the Minister of Agriculture, Food and Fisheries;

SCHEDULE 2 – HOME OCCUPATION REGULATIONS FROM DENMAN LAND USE BYLAW NO. 86

2.4 Home Occupation Regulations

1 A home occupation, when permitted in any zone, shall be subject to regulations 2 to 16 of this section.

Permitted Home Occupation Uses

2 The following uses, and no other uses, are permitted as home occupations

- home-based guest accommodation
- artist or artisan studios, including sale of products produced on site
- general business offices
- professional offices, including health services
- personal services
- welding shops, including sale of products produced on site
- manufacture, repair and assembly of goods
- sale of agricultural products produced on-site
- trades-person offices including storage of tools of the trade
- daycare
- food processing
- automobile repair and maintenance on lots larger than 2.0 hectares

General Regulations

3 Home occupations must be accessory to an active residential use.

4 The external appearance of the premises on which the home occupation is operated must retain a residential appearance.

5 The maximum combined floor area used for home occupations:

- on lots less than 1.0 hectare is 60 per cent of the floor area of the dwelling unit in which the home occupations are located; and
- on lots of 1.0 hectares or larger is 60 per cent of the combined floor area of the dwelling unit and accessory buildings in which the home occupations are located.

6 A daycare is limited to the care at any one time of no more than seven children.

7 A home occupation may not produce, store or use hazardous materials, except for household goods and required materials for trades, welding, artistic or health care purposes.

8 Only those goods, arts, and crafts produced on the site may be sold from a home occupation.

9 The use of a permanent sawmill or portable sawmill as part of a home occupation is prohibited.

Location of Uses

10 On lots that are less than 1.0 hectares, the use shall be conducted entirely within a building containing a dwelling unit.

11 On lots of 1.0 hectares or larger, home occupations may be in the principal dwelling unit and in accessory buildings.

Uses Permitted Outdoors

12 Despite regulations **10** and **11** of this section, kilns used exclusively for the home occupation may be freestanding outside the dwelling unit, and a play area for a daycare may be permitted outside the dwelling unit.

13 Despite regulation **10** and **11** of this section, outdoor storage associated with home occupations involving trades, manufacture repair and assembly of goods or automobile repair and maintenance is permitted provided that the lot coverage used collectively by all home occupation activities does not exceed 10 per cent of the lot area including areas for the storage of vehicles, equipment and materials used in the home occupation.

Number of Employees

14 The maximum number of non-resident employees permitted per lot is:

- one on lots less than 1.0 hectare;

- two on lots of 1.0 ha and less than 2.0 hectares;
- three on lots of 2.0 ha and less than 3.0 hectares; and
- four on lots of 3.0 hectares or larger.

Home-based Guest Accommodation

15 Despite Regulation **11** of this section, home-based guest accommodation must be contained within the principal dwelling unit.

16 Unless otherwise permitted in Part 3 of this Bylaw, a home occupation providing home-based guest accommodation shall have no more than three bedrooms, with a maximum of two beds each, which may be rented to transient paying guests.

17 Meals may be served to transient paying guests in a home occupation providing home-based guest accommodation.

00 **Information Note:** The provisions of meals, other than breakfast as part of a Bed and Breakfast operation, must comply with the British Columbia Food Premises Regulation under the *Public Health Act*.

SCHEDULE 3 – AGRICULTURAL LAND COMMISSION POLICY #3 – ACTIVITIES DESIGNATED AS FARM USE: WINERIES AND CIDERIES IN THE AGRICULTURAL LAND RESERVE

ALC *Agricultural Land Commission Act*	**Policy #3 March 2003** **ACTIVITIES DESIGNATED AS FARM USE: WINERIES AND CIDERIES IN THE ALR**

This policy provides advice to assist in the interpretation of the Agricultural Land Commission Act, 2002 and Regulation. In case of ambiguity or inconsistency, the Act and Regulation will govern.

REFERENCE:

Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg. 171/2002), the "Regulation", Section 2 (1) and 2 (2) (b) and Section 1 (1).

*Section 2 (1) For the purposes of subsection (2) (b), **"ancillary use"** means any of the following activities carried on at a British Columbia licensed winery or cidery:*

- *(a) processing, storage and retail sales;*
- *(b) tours;*
- *(c) a food and beverage service lounge, if the area does not exceed 125 m2 indoors and 125 m^2 outdoors.*

Section 2 (2) The following activities are designated as farm use for the purposes of the Act and may be regulated but must not be prohibited by any local government bylaw except a bylaw under Section 917 of the Local Government Act:

- *(b) a British Columbia licensed winery or cidery, and an ancillary use, if the wine or cider produced and offered for sale is made from farm product and*
  - *(i) at least 50% of that farm product is grown on the farm on which the winery or cidery is located, or*
  - *(ii) the farm that grows the farm products used to produce wine or cider is more than 2 ha in area, and, unless otherwise authorized by the commission, at least 50% of the total farm product for processing is provided under a minimum 3 year contract from a farm in British Columbia;*

*Section 1 (1) **"farm product"** means a commodity that is produced from a farm use as defined in the Act or designated by this regulation.*

INTERPRETATION:

Both a British Columbia licensed winery and cidery are designated by the Regulation as farm uses, and as such, may not be prohibited by a local government bylaw, except a farm bylaw approved by the Minister of Agriculture, Food and Fisheries under Section 917 of the *Local Government Act*. These permitted farm activities are in addition to general farm uses permitted under the Act.

The Regulation permits licensed wineries and cideries on a parcel in the ALR, provided at least 50% of the farm products (fruit) used to make the wine or cider are produced on the farm on which the winery or cidery is located. The farm may be comprised of one or several parcels of land owned or operated by a farmer as a farm business. Alternatively, the use is permitted if the farm that grows the fruit to make the wine or cider is 2 ha or larger and at least 50% of the fruit used to make the wine or cider comes from a BC farm under a minimum 3 year contract to provide fruit to the winery or cidery.

The 50% threshold is measured by the quantity (measured by volume or weight) of farm product processed calculated on an annual basis. Despite the threshold, the Commission may recognize unusual circumstances in the production of BC wine grapes and their effect on wine production.

Wine retail sales, winery tours and food and beverage service in a lounge are permitted provided they are ancillary to the winery or cidery. The winery/cidery must be licensed under the *Liquor Control and Licensing Act* of British Columbia. A food and beverage service lounge is allowed up to a maximum area of 125 square meters indoors and 125 square meters outdoors. The outdoor area of 125 square meters includes patio space but does not include areas set aside for picnicking. Picnicking areas are permitted as an ancillary use where the winery has a "picnicking endorsement" to its licence. The 125 square meter floor space or outdoor area is roughly equivalent to a seating capacity of 65 persons in the lounge or on the patio. Thus the maximum capacity is potentially 130 persons, where both indoors and outdoors seating are provided. However the person or patron capacity remains subject to the limits and conditions established by the general manager under the *Liquor Control and Licensing Act*.

Wine tasting or the free offering or sale of product samples is considered part of the winery tour activity and is permitted. Special promotional events held at wineries may be allowed under Section 2 (2) (e) of the Regulation that permits certain temporary agri-tourism activities on assessed farms. See Commission Policy "Activities Designates as Farm Use: Agri-tourism Activities in the ALR".

Uses that do not meet the threshold established in the Regulation for wineries or cideries, or associated uses not permitted in the Regulation, require application to and approval from the Commission.

The Regulation does not permit breweries, U-brews and U-vins which are considered non-farm uses and require application to the Commission.

TERMS:

Food and beverage service lounge — means an establishment serving alcohol products produced on the premises, in addition to food, that has a "winery lounge endorsement" to the winery licence issued under the *Liquor Control and Licensing Act*. The threshold area specified in the Regulation for the lounge does not include the sampling room which is the area within the winery set aside for wine tasting.

(All references to wineries include references to cideries).

From: dean@deanellis.ca [mailto:dean@deanellis.ca]
Sent: November-27-12 10:05 AM
To: deltcwebmail
Cc: dean@deanellis.ca
Subject: Denman Island Local Trust Committee

Islands Trust
Preserving **island** communities, culture and environment.

November 27, 2012

From: Dean Ellis
Email: dean@deanellis.ca

Subject: Denman Island Local Trust Committee

I have sent several letters asking for assistance in Islands Trust rerouting the ditch down Radcliffe Road onto the adjacent easement and over the bluff. This ditch still discharges on my property

Elaine Malo,Highways, Aug 2012 "Road standards are set out in a letter of agreement between Ministry of Transportation and Islands Trust confirmed at time of final subdivision documents plans."

In the BC Forest Manual on Windthrow www.for.gov.bc.ca/hfd/pubs/docs/wp/wp01.htm there are many references to trees growing on shallow or poorly drained soils. 4.3,4.5, table 1

The Trust has a history of ignoring my letters and forcing these issues to litigation. No doubt you will use the " your correspondence has been forwarded to Islands Trust legal counsel" as an excuse to do nothing. Do you believe what counsel say anymore? Can you this time just fix the problem.

Angie Allwood, angie.allwood@gov.bc.ca Highways contact

www.islandstrust.bc.ca

-------- Original Message --------
Subject: Discharge of Trust/Highways ditches on Ellis land
Date: Tue, 27 Nov 2012 10:11:15 -0800
From:dean ellis <deanonrain@gmail.com>
To: Peter Luckham <pluckham@islandstrust.bc.ca>, Laura Busheikin <lbusheikin@islandstrust.bc.ca>, David Graham <dgraham@islandstrust.bc.ca>, Tony Law <tlaw1@telus.net>
CC: Dan Stoneman <dan_stoneman@me.com>

Laura, David, Tony and Mr. Luckham November 27. 2012

I have sent several letters asking for assistance in Islands Trust rerouting the ditch that flows down Radcliffe Road onto the adjacent easement and over the bluff. This ditch still discharges on my property

When Islands Trust approved the Radcliffe subdivision (now owned by Ella Day, Chritchley, Radcliffe and Baxter), they also approved the roads and drainage plans. **Elaine Malo, Development Technician, Highways, Aug 2012** *"Road standards are set out in a letter of agreement between Ministry of Transportation and Islands Trust confirmed at time of final subdivision documents plans."*

Tony I have included you in this request as this water issue has been known by you and the Trust since before Jan 2004 (when you included us in litigation). In a letter to Bob Gerath, Thurber Engineering, Franchesca Marzari requesting expert advice says *"water was discharging from two existing ditches from the road on the property out to the edge of the bluff".* In fact there are 3 ditches, this northern one was never fixed. The Denman Ratepayers in June 2004 wrote the Trust *"about torrents of water from two culverts which direct runoff under Swan Road, disastrous to the Stability of Bluff"*

BC Forest Manual on Windthrow www.for.gov.**bc**.ca/hfd/pubs/docs/wp/wp01.htm references to trees growing on shallow or poorly drained soils.

- **4.3 Soil *Characterisitcs*** *It notes the increase windthrow on saturated soils, wet soils not having shear strength to supply sufficient anchorage and soil factors that control rooting depth contribute most significantly to the risk of windthrow.* These conditions exist on my property.
- In **4.5 Meteorological Conditions** *Prolonged storms allow more time for the swaying bole to break roots and loosen anchorage. Windthrow is often more severe during storms when soil has been wet by previous heavy rainfall.*
- In **Table 1. Windthrow hazard evaluation** pg 17 my land would all be in the HIGH HAZARD classification because of this water saturation.

The Trust has a history of ignoring my letters and forcing these issues to litigation. No doubt you will use the *" your correspondence has been forwarded to Islands Trust legal counsel" as an excuse to do nothing.* Do you believe what counsel say anymore? **Maybe it is time to just fix the problem before it becomes one more in a series of ongoing litigation events where you give mis-information to the public and general trustee's.**

Angie Allwood, angie.allwood@gov.bc.ca is the contact person at Highways. .

I have also included a compilation of documents concerning ditches and their results on the trees and my farm. The specific documents are available if you are interested.

Thank-you Dean Ellis

On Fri, Dec 14, 2012 at 3:11 PM, Courtney Simpson <CSimpson@islandstrust.bc.ca> wrote:

Dear Mr. Ellis,

I am writing in response to your emails of November 27, 2012 to the Denman Island Local Trust Committee regarding drainage on Radcliffe Road.

I have spoken with Angie Allwood at the Ministry of Transportation and Infrastructure who you have also contacted, and I understand she will be providing you a response to your enquiry regarding this drainage. I believe she should be able to answer your questions about it and provide you with information about any ability the Ministry of Transportation and Infrastructure may have to assist you.

Regards,

Courtney Simpson, MCIP, RPP

Acting Regional Planning Manager

Islands Trust Northern Office

700 North Road

Gabriola Island, BC V0R 1X3

Tel: (250) 247-2209

Or toll free through Enquiry BC 1-800 663-7867

From: dean ellis [mailto:deanonrain@gmail.com]
Sent: December-18-12 6:25 PM
To: Courtney Simpson
Subject: Re: Radcliffe Road Drainage

Thanks Courtenay

Can you confirm this is the official position of DILTC.

Thank-you

Dean Ellis

On Thu, Dec 20, 2012 at 3:50 PM, David Marlor <dmarlor@islandstrust.bc.ca> wrote:

Mr. Ellis,

If you require the Denman Island Local Trust Committee's legal position on an issue in relation to your legal claim against the Local Trust Committee, that request should be made through your counsel to the Denman Island Local Trust Committee's counsel in that litigation.

David Marlor, MCIP RPP

Director of Local Planning Services

Islands Trust

From: dean ellis [mailto:deanonrain@gmail.com]
Sent: December-21-12 11:42 AM
To: David Marlor; Courtney Simpson; Laura Busheikin; David Graham
Cc: Dan Stoneman
Subject: Re: Radcliffe Road Drainage

Thanks David

Concerning the DILTC continuing to dump millions of gallons of drainage on the Ellis property

. Thank you for your non answer DILTC reply. I will just assume the Trusts legal position is exactly what Courtenay said Angie Allwood said " will not do anything" eventhough the DILTC signed off with highways on the Radcliffe subdivision which was responsible for the road and the collection of water (about a million gallons of water a day). This large area of upland drainage field is now dumped onto my land when it could of very easily been taken under the road and down the easement.

There is now enough data from the 2 southern ditches the Trust had dumped on my land and the series of geotechical reports (especially the one done for the courts that said there was no erosion after the 2 highways ditches were rerouted), I think you said the same thing in your affidavit concerning Stonemans..

It is a shame you forgot about the continuing northern drainage ditch but it very much proves the point. There was a prominent court case with Jensen and Cowachin district concerning local government destroying farmland. If you look at that case you will see the geoteck was Gordon Butt, the man you said was only an inadequate agrologist in your staff reports when you rejected my permits. If you read the Windthrow Handbook of BC you will also find that saturated soils are a big cause of windthrow and as your Thurber report said "incautious human activity". (maybe more yours than mine).

I wonder when the whole bluff will just slump as you have put the plug in the sink and left the water running.

Cheers

Dean

From: dean ellis [mailto:deanonrain@gmail.com]
Sent: December-08-12 5:01 AM
To: Tony Law; David Graham; Laura Busheikin; Courtney Simpson; Hatfield, Jill AL:EX; Roger.Cheetham@gov.bc.ca; Bert.vanDalfsen@gov.bc.ca; Dan Stoneman
Subject: Denman Farm Plan Maps Erosive soils

Tony, David, Laura, Alex, Courtenay, Jill, Rodger and Bert Dec 8, 2012

In the just released Denman Farm Plan on page 92 there is a map of soils. The real Komas Bluff is outlined as erosive soils, our property is Bowser over glacial till, (reasonable agricultural soil). This area of erosive soils corresponds to the Holden"Memo to file" geotechnical report commissioned by the Trust in 1989 that was acknowledged in the Hopwood Report (also commssioned by the Trust) as the area of the Komas Bluff DP area.

There are more maps that define the location of the real Komas Bluff as defined by Holden (our property is 2km to the south) .

- The Denman Conservancy map used when they wanted to sell Komas Bluffs pre 4064
- Denman Island Forestry Committee map of 1984
- The Komas Bluffs "Heratige or History" a map the Denman community made to define Komas Bluffs referenced by Harlene Holm in the development of the Komas Bluff DP
- Trustee Harlene Holm described the section number of the land in Komas Bluff DPA, 24,31,and 32, we are section 23
- The Ministry of Forests maps of 1981 defines the area of sensitive areas on Komas Bluffs
- Imap BC showing past logging roads on Denman (the OCP states logging had occurred on the Komas Bluffs and thus the reason for the DP) these logging roads do not go to our land and our land was only logged in 2000.
- ALR land maps that show ALR lands stop almost exactly where the erosive soil starts. ALR would not of included unstable land for farming in the ALR.
- The Ministry of Enviroment clearly defines the Komas Bluff area in their 1984 water allocation map

This soil map could be used as the Hazard Mapping exercise Chris Jackson promised to Ministry of Community Services for the approval of bylaw 186. It is interesting the ALC and AGRI (as well as the courts) have been asking for the proper Hazard Mapping for years now. Maybe ALC and AGRI have these soil maps, they were produced in 1959.

If you would like any of these maps with the relationship of our property, I can send them, although they are all Trust maps.
My question is why is the Trust suing Stoneman and previously me when you have always had all these maps, especially now with the farm plan map of erosive soils (Day 1959) is public. Why is the Trust not fixing the bylaw?

Dean Ellis

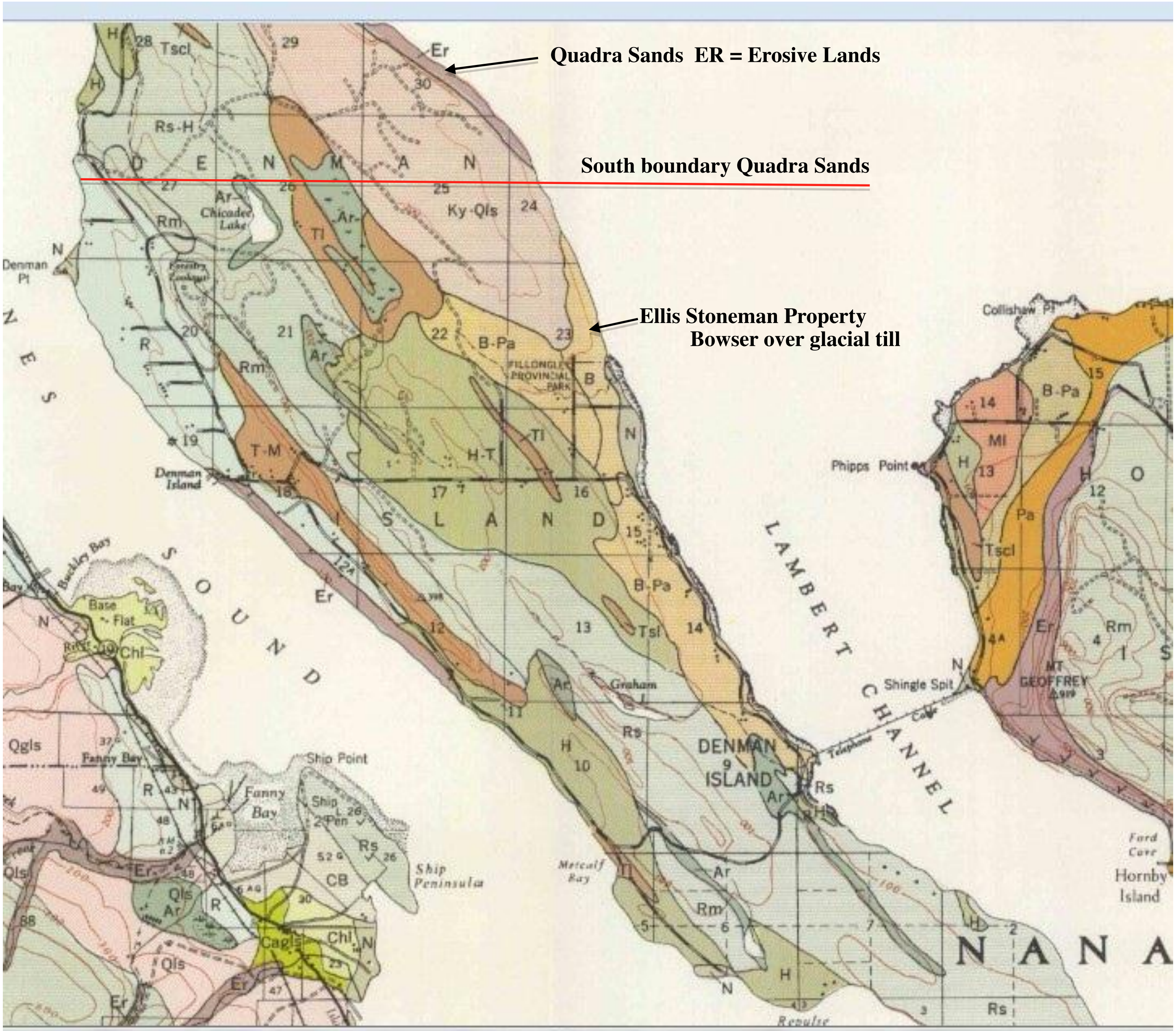

FIGURE 4. SOIL SERIES MAP OF DENMAN ISLAND (DAY ET AL., 1959)

Legend - Soil Series	
Code	Soil Series
	Ar – Arrowsmith
	B – Bowser
	Er - Eroded Land
	H – Haslam
	Ky – Kye
	M – Merville
	N – Neptune
	Pa – Parksville
	Q – Qualicum
	R – Royston
	Rm – Rough Mountainous Land
	Rs – Rough Stony Land
	T – Tolmie

Location	Soil Type	Soil Series	Soil Texture	Topography	Drainage	Notes
Surrounding Chickadee Lake, in pockets east of Chickadee Lake and west of Swan Rd., wetland areas in the southern part of the island.	Peat	Arrowsmith (Ar)	Peat	Depressional	Poorly drained.	Deep undecomposed organic material (peat), stone-free
Eastern part of the island, along Swan Rd., East Rd., Corrigal 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.
Bluffs along western island ridges (west of Lacon Rd. and south of Denman Rd.) and north eastern ridges.		Eroded land (Er)	N/A	Very steeply sloping	Variable drainage	Escarpments, beach bluffs, etc.
Found mixed with Tolmie soils in central part of the island bisected by Denman Rd. and stretching north to end of N. Central Rd. Found also in southwestern portion of the island along Lacon Rd. between Woodham Rd. and Hilton Rd.	Brown Podzol	Haslam (H)	Shaly loam	Gently sloping to steeply sloping	Well drained	Glacial scoured consolidated shale and sandstone, few stones
Mixed with Qualicum soils in the northeastern portion of the island (east and north of Chickadee Lake).	Podzol	Kye (Ky)	Loamy sand	Level to gently sloping	Well drained	Stone free
Mixed with Tolmie soils in a narrow band running NW to SE just east of NW Rd. and Lacon Rd. from north of Piercy Rd. to Woodham Rd.	Podzol	Merville (M)	Loam	Gently sloping	Moderately well drained, saturated during winter months	Medium-fine marine sediments underlain by marine clay or glacial till
Found in small pockets along easter bluff (east of Fillongley Prov Park), at the southern end of Lacon Rd., and at Denman Point.	Rendzina	Neptune (N)	Gravelly loamy sand and sandy loam	Gently sloping	Well drained	Loose gravelly loam sand or sandy loam over gravel, sand, shells, and organic debris. Few stones.
Mixed with Bowser soils, see Bowser location description.	Dark Grey Gleysol mix	Parksville (Pa)	Sandy loam	Level	Poorly drained, receives seepage from higher elevations	Coarse marine sediments underlain by glacial till or marine clay, stone-free.

5

March 15, 1989
File: 925-3100-S

MEMO TO FILE

29

KOMAS BLUFFS - DENMAN ISLAND

Background

Komas Bluffs (North 49° 35', West 124° 45') is located on the northeast side of Denman Island (see Figure 1). In May 1988, Mr. Nick Gilbert of the Islands Trust requested the Minister of Environment to initiate an investigation and documentation of the erosion of Komas Bluffs. The intention of this investigation was to document the effect of tree removal on the bluff erosion rate. Komas Bluffs was inspected by the writer and three Islands Trust representatives (Hamish Tait, Glen Snook and Alan Fraser) on November 30, 1988. The same site was previously inspected by the writer in June 1982, before the removal of trees from the bluff face. This memorandum documents the Nov.30/88 site inspection and comments on bluff erosion and vegetation removal

Site Description

In November 1988 Komas Bluff was found to be largely clear-cut logged over the face of the bluff and back to about 100 metres from the crest (see Figures 2A and 2B). A single-lane logging road runs along the crest of the bluff and a strip of trees have been left at the toe of the bluff near the water's edge. It is now possible to climb down the face of the bluff; whereas, this was not possible at the 1982 site inspection. It appears that parts of the bluff have now slumped and the slope is less steep than in 1982. The north end of Komas Bluffs is Quadra sand; however, toward the south end the material changes to a mixture containing a blue clay (see Figure 3). This mixture and the blue clay is still erodible, however, it is not as easily eroded as the Quadra sand deposits.

General Comments

The prevailing winds in the Strait of Georgia are from the southeast; hence, the the prevailing wave direction is from the southeast also (see Figure 4). Along the shoreline at the toe of Komas Bluff, littoral drift is towards the northwest, to Longbeak Point and Comox Bar. Material eroded from Komas Bluffs will eventually be transported by the prevailing wave action toward Longbeak Point and Comox Bar.

There are numerous Quadra sands bluffs in the Strait of Georgia (see Figure 3) and Komas Bluff is largely Quadra sand with a change in material toward the south. Quarda sand bluffs erode and recede naturally by the action of groundwater, frost action, mass landslides, surface runoff, wave erosion and wind erosion. When these bluffs are left undisturbed and well vegetated, the natural erosion is usually slow and uneventful. A thick mat of natural vegetation stops surface erosion, reduces direct rain and wind erosion and reduces the groundwater penetration into the bluff.

When the natural vegetation cover is removed and the till surface layer of the bluff disturbed, the rate of erosion accelerates. When all the vegetation is removed, then 100% of the rainfall strikes the surface and increases the direct surface runoff erosion. Exposure of the Quadra sands also facilitates increased wind erosion. Vegetation removal (particularly when the glacial till surface is broken) results in an increase in the groundwater penetration into the bluff. Increased groundwater increases the erosion rate by enhancing mass landslides and frost action. All material eroded from the bluff will eventually slide to the toe and be transported northwestward by wave energy.

The best way to protect Quadra sands bluffs from increased erosion is to leave the vegetation and groundwater regime in its natural state and to require any construction activities to setback a safe distance from the crest of the bluff. Although bluff erosion is a necessary source of beach material, the Quadra sands bluffs erode at the slowest natural rate when left undisturbed.

B J Holden
Brendan Holden, P.Eng.
Coastal Engineer
Special Projects Section

BH:khh

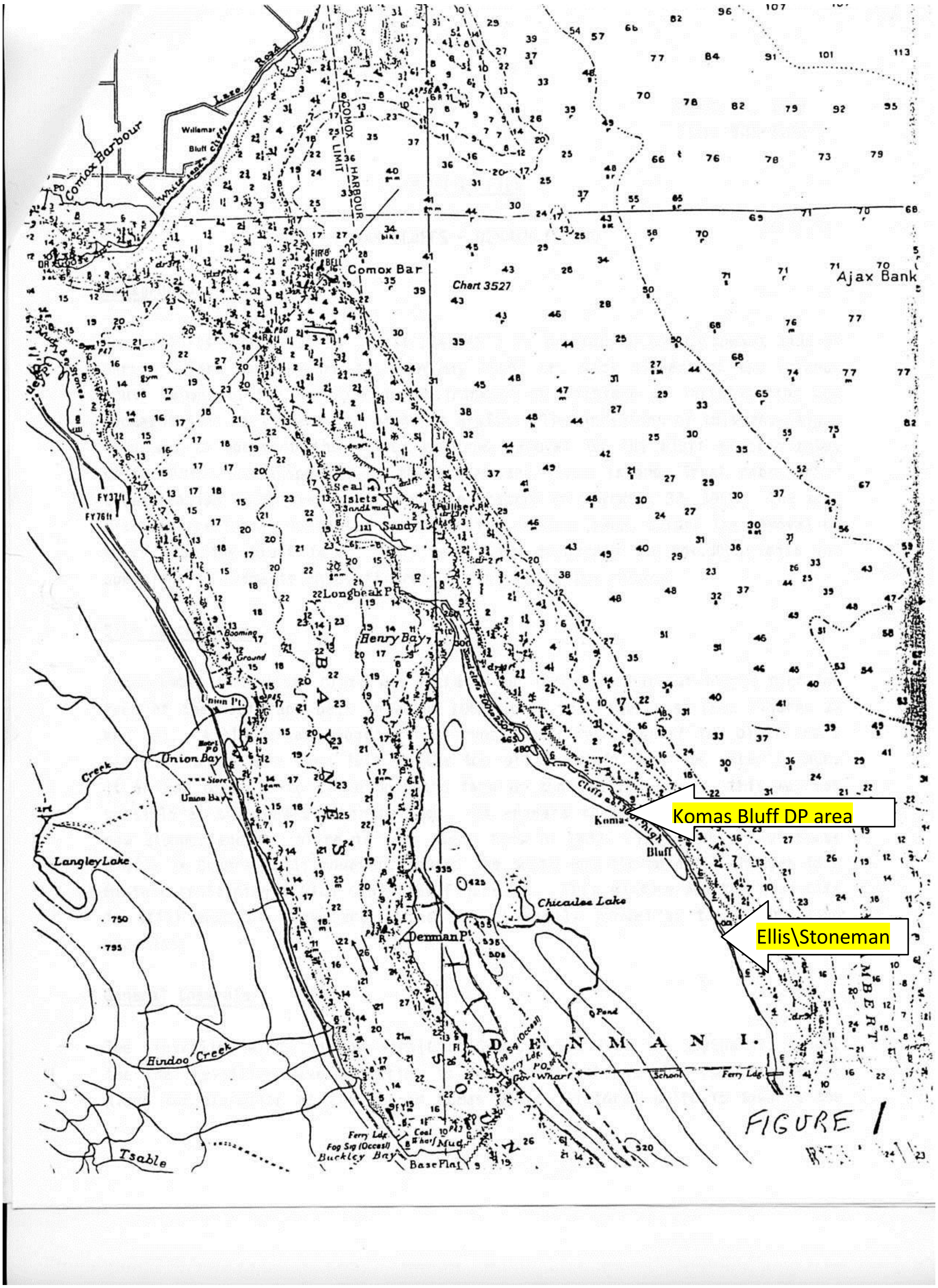
Comox Harbour
Willemar Bluff
White Cliffs
Laso Road
COMOX HARBOUR LIMIT
Comox Bar
Chart 3527
Ajax Bank
Seal Islets
Sandy I.
Longbeak Pt.
Henry Bay
Booming Ground
Union Pt.
Union Bay
Creek
Langley Lake
Komas Bluff DP area
Komas Bluff
Ellis\Stoneman
Chickadee Lake
Denman Pt.
Hindoo Creek
Buckley Bay
Ferry Ldg.
Fog Sig (Occas)
Coal Wharf
Mud
Base Flat
Tsable
School
Pond
DENMAN I.
BAYNES SOUND

FIGURE 1

From: Edina Johnston [edijohnston@gmail.com]
Sent: January 5, 2013 3:23 PM
To: Sheila Malcolmson; David Graham; Laura Busheikin; Peter Luckham
Cc: Harold Birkeland; Sue Crowther; Dorrie Woodward; Ramona deGraaf; Pat McLaughlin
Subject: Fwd: summary document

Dear Trustees,

The Denman Island Forage Fish Group (DIFFG) is concerned about the negative impacts of harmful aquaculture practices (such as the harvesting of seaweed) on the marine environment. The attached document is a summary of facts and issues raised by marine biologists and environmental groups on the negative impacts of the removal of large amounts of seaweed.

Unfortunately, there appears to be a serious lack of process when aquaculture licenses are granted with no base line or environmental impact studies being done and no consultation opportunity for stakeholders or other government agencies such as the Islands Trust to voice their concerns. In the case of the Min. of Agriculture granting commercial seaweed harvesting licenses from Deep Bay to Qualicum Bay, the existing procedure for approval from Fisheries and Oceans Canada appears to have been ignored.

The DIFFG feels that in order for the Islands Trust to fulfill its mandate to preserve and protect the waters it has jurisdiction over, there needs to be a process in place whereby the Islands Trust is included in the decision making or at the very least- consulted. We would therefore encourage the Islands Trust explore any and all options available to ensure that the seas in the Trust area are protected in order to maintain a healthy, diverse, and sustainable marine environment.

Thank you for your time and consideration,

Edina Johnston
Denman Island Forage Fish Group

Summary of issues regarding seaweed harvest

The following are points pulled together from a variety of people with various backgrounds including some marine and fisheries biologists that have been working for a more informed approach to the seaweed harvest.

The points are in no particular order of significance.

There are many points raised, which can only indicate that there is still much work to do before a sustainable seaweed harvest can be considered for the BC coast.

Please use these points, or a selection of them, to write your letters, post your tweets and communicate your concerns regarding a seaweed harvest in BC.

Pilot Harvest

This harvest may not seem signficant - 21 km of the BC coast, but it is a pilot study. This means that what is approved here sets the precedent for the rest of the BC coast. In other areas that have attempted to create a sustainable seaweed harvest, they have in the end seriously impacted their nearshore ecosystems "On the east coast (eg. PEI), recent aggressive harvesting of the Irish moss (Chondrus c) red seaweed resulted in the demise of that industry and the seaweed itself. Elsewhere, countries like Norway are experiencing similar levels of ecological alteration and economic losses"). PEI companies are currently advancing this pilot seaweed industry in BC. If we are to have such an industry in BC it must be based on the carrying capacity of the natural system, and cause no negative impacts to other industries/economic drivers reliant on the surrounding marine environment, including shellfish production, fisheries, tourism, and real estate. This harvest raises some big picture questions. Are we going to see a carrageen extraction industry on this coast? Is Mazzaella japonica (M.j.) just the starting point? Will this move to culturing red seaweeds and subtidal leases like in the Philippines?? From beach harvest to subtidal raking or dive removal?

Consultations

It appears that this harvest was approved without consultation with the public or appropriate parties including First Nations, local governments such as the Islands Trust or Regional Districts, or ENGOs and individuals. Considering the wide range of potential impacts, this is unacceptable.

Approvals

DFO has not approved this harvest. MoA is required to get approval of DFO prior to granting licence for this harvest.

Fisheries act: Section 2: Interpretation

"fish" includes

(a) Parts of fish,
(b) Shellfish, crustaceans, marine animals and any parts of shellfish, crustaceans or marine animals, and
(c) The eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish, crustaceans and marine animals;

S32: Killing of fish

(1) No person shall kill fish by any means other than fishing.

Exception

(2) No person contravenes subjection (1) if the killing of fish
   a. Is done as a result of carrying on a prescribed work, undertaking or activity in or around any prescribed Canadian fisheries waters and is done in accordance with any prescribed conditions;
   b. Is done in accordance with the regulations;
   c. Is authorized by the Minister and is done in accordance with the conditions established by the Minister;
   d. Is authorized by a prescribed person or entity and is done in accordance with the prescribed conditions; or
   e. Is done as a result of doing anything that is authorized, otherwise permitt4ed or required under this act.

In other words, you can't kill fish without authorization. They have no such authorization. Nor is this being done in accordance to prescribed conditions or regulations, as there are none. The MoA is using a draft document of "suggested directions" from DFO staff prepared in 2007 as approval. MoA has also conviently removed a paragraph from these directions prescribing protection of nearshore habitats and fish.

Environmental Assessment

No prior environmental assessment was done to determine potential impacts of this harvest. No baseline data was collected. A study by one PhD student which began investigating the introduced seaweed *Sargassum* has now been adapted to study *Mazzaela japonica* and this pilot "fishery" with a wide range of study points, subject to the support and funding available from (an NSERC Industrial scholarship with contributions from MOA and harvesters). The student is on a learning curve regarding forage fish (she mentioned she is not working on forage fish aspects- she expects MoA to take care of this, possibly with Ramona, a volunteer with limited time and resources to provide this work. MOA has also been quoted by others who have contacted them and asked about the studies to say that they hope Ramona will provide them with the forage fish information, but it is not a formal part of their studies) and possibly other topics related to the harvest (this is likely with most theses). As only one student we are VERY concerned about the time and resources available to properly conduct an EA on such an important situation. There is no baseline data collected to which any study of the harvest can be compared and so the EA is difficult to conduct objectively. (Note she was not notified before harvest began so she could not conduct the baseline assessment)

(The student is studying the impacts of the harvest on invertebrate communities, though running into difficulties as harvesters are not notifying her of their harvest times and she didn't get a chance to do baseline sampling. She is also doing observational studies to examine if birds are utilizing the invert communities in the wrack. She is also looking at options to leave a layer of seaweed after harvest and how that will help to mitigate impacts. Some investigation on the role of MJ as an invasive, but not really relevant to the harvest.)

There is no proper estimate of the pre-harvest volume of seaweed on the beach, yet 5 licences were granted. There seems to be a lack of monitoring of how much is being removed. It is also not clear whether the approved removal rate of 1,000 tonnes per licence for a total of 5,000 tonnes or 11,000,000 pounds is wet seaweed or dry, though one person had a discussion that indicated it was wet. It is ironic that one of the licensees has a greater knowledge of the potential volume of *Mazzaela japonica* available than the MoA. There appears to be no data from MoA on volume estimates, yet the MoA states they have been investigating the possibility of this "fishery" since 2006 when PEI companies noticed the beach wrack on Baynes Sound shores.

Invasive Species

Proponents of the harvest are saying that the harvest will remove an invasive species. This is a red herring for a couple of reasons. First, Georgia Strait has a significant number of invasive species and so the benefit of the removal of this one in patches along the coast is likely outweighed by the negatives. Also, the seaweed may be invasive in the low intertidal/subtidal area, but very likely provides habitat that if removed may/may not return. Based on experiences elsewhere it would seem that it would not, and we suggest that we err on the side of conservation and maintain the habitat given its value to other marine life. Once on the beach as wrack, the seaweed will definitely be providing important biological functions to the nearshore outlined elsewhere in this summary. As a result, it must be treated as part of the current biodiversity of the intertidal/subtidal habitat. (Note: harvest of unattached blades in the winter is not a means of invasive control.)

Wrack Line

The wrack is that line of seaweeds and other material left by the high tides on the beach. On some beaches you will see distinct lines of it indicating where high tides have reached on different days. On other beaches the shoreline is so narrow that there is no line, it appears as just a dump of material on the beach.

In a healthy nearshore ecosystem, consisting of all the zones - including upland shrubs and trees, backshore grasses and other herbaceous perennials and logs, and the intertidal and subtidal, the wrack consists of bark, cones, leaves, feathers, seaweeds, sponges, shells, dead crabs or other animals and it is all jumbled up by the waves. In areas that do not have the uplands area or backshore there may just be the plants and animals from the sea - mostly plants and algae like eelgrass, kelps, and seaweeds.

Studies in California estimated that 50% of the wrack is consumed on the beach by worms, birds, and other tiny life. The other 50% performs a few important functions that we all benefit from.

According to work done on the eastern US coast, the wrack line helps stabilize the shoreline by holding the sand and gravel and preventing it being blown around. This same process also helps build the beach as the sand is held in the wrack and builds up over time, eventually creating tiny "sand dunes" necessary to balance the removal of sand by wind and wave.

The wrack also acts like compost in your garden. It breaks down freeing up nutrients that are driven by the rain down into the groundwater that is flowing underneath the beaches out to the intertidal and subtidal areas. This groundwater that now contains the nutrients fertilizes the life in the intertidal and subtidal. Beach wrack is also important in providing nutrient flows to the uplands (marine riparian) by both direct contribution of dissolved nutrients and also by terrestrial insects that feed among the wrack systems (Levings and Jamieson).

In the area of the harvest and other areas on our coast, birds like the Black Brant geese feed on eelgras both by foraging among beach wrack as well as intact eelgrass plants. These birds feed here before they fly to their nesting grounds and need enough food to survive the nesting period and feeding their young until they fly south again. Removal of wrack-based eelgrass as a “bycatch” when hauling away 1000 tonnes of wrack may have a significant impact on this species. In the 1930, the loss of east coast eelgrass to wasting disease resulted in a major migratory shift for Brant.

As it decays, the tiny particles of carbon that are released are essential nutrients for phytoplankton, the first link in the marine food chain.

Wrack is home to numerous invertebrates and terrestrial predatory insects which in turn become prey for migrating juvenile salmon.

The wrack is part of the detrital food web in the ocean both nearshore and beyond the beach slope to deep canyons. Detritus is the name for non-living material such as decaying animals and vegetation. After the wrack is pounded by waves, small bits of the wrack are transported upland, along the beach, and to the subtidal. This detritus forms a base for the growth of various algae that feed ocean wildlife. Some animals graze just on the algae and leave smaller particles of detritus (now called "particulate organic carbon") behind. The smaller particles again support algal growth for smaller animals who graze on the smaller, but nutritious algal layer. This process continues until the detritus becomes so small that it literally dissolves into the ocean, becoming dissolved organic carbon—micronutrients. Detrital food webs feed zooplankton, shellfish, crabs, sea cucumbers, sand dollars, and fish.

Detritus is important not only to nearshore food webs, but has a yet another life. For example, detritus in estuaries fuels a critical food web that feeds juvenile salmon, seabirds, fish and their predators. Then the tides and currents move it back out to the eelgrass beds where it feeds a different marine community. In addition, vegetative detritus (from seaweed and eelgrass) is key in the ocean's food chain moving from the nearshore to the deep sea.

In the area of the harvest, human impacts have removed a lot of the seagrasses and other vegetation from the natural system. We have anecdotal stories of huge eelgrass beds in that area, and also kelp beds. In the absence of these native species, the seaweeds washing up onto shore would now be providing some of these services, and so a study needs to look at these dynamics, or else we could be impacting our shellfish industry and our fisheries, tourism and real estate industries in the area.

In addition, some highlights from a few studies done on the beach wrack and it's place in the marine ecosystem include the following:

Although scientific studies are lacking on the influence of beach wrack on Surf smelt or Sand lance spawning deposits, removal of the wrack should be studied for effects to the embryos."

Many marine intertidal invertebrates are limited to specific elevations on the beach. Invertebrates living in the wrack may be dependent on wrack that is specific to zones such as the berm and upper intertidal. Terrestrial invertebrates are also users of marine wrack. Wrack removal may interfere with these invertebrate-interactions and perhaps alter species biodiversity, thus alterring food chains and other relationships in the ecosystem.

Also, studies show that a study in one area related to wrack linkages in the ecosystem does not make sense. Because different wave exposures and currents move the wrack and because ecosystem function is complex involving chemical and physical elements, to conduct only a study at the harvest site and only a simple one is not sufficient. See comments on detritus above. We lack a full understanding of the PhD student's experimental study design to test wrack- removal effects and question the ability to assess impacts with just one PhD study.

One study showed that different types of wrack vegetation break down at different rates and provide different nutrients into the system, this has been matched initially to the existence of different beach fauna that consume the wrack. The same studies also found that some of the beach fauna prefer the drying wrack on the beach and some prefer the floating wrack. This is an area that has not been studied very much in BC at all, and more work is needed to understand how this system works and what a harvest might actually mean in a certain location. It also hints that a harvest in one location may create different results than in another location. More work is needed to understand the details of this dynamic. Is one PhD study adequate to address all of these complex ecological questions in a field that has been so understudied/understood to date?

Marine Beach Spawning Forage Fish

Pacific sand lance is often referred to as the most important fish in the North East Pacific due to its unique role as forage to marine fishes, seabirds and marine mammals (Robards 1999). Surf smelt are also important prey to marine predators and are managed by DFO Fisheries under the Surf Smelt Management Plan for commercial and recreational fishers and their population abundance is declining.

Both species of fish are marine beach spawners. Pacific sand lance spawn in the upper third of the intertidal zone on sandy/gravel to gravel/sand beaches. Pacific sand lance spawn from Nov-January and incubating embryos can be found in beach sediments into February. Surf smelt spawn in the upper one quarter of the intertidal zone on sand/gravel to gravel/sand beaches. Surf smelt spawn in distinct winter and summer stocks as well as year round in Puget Sound. In BC, similar trends are being documented.

Both species in Puget Sound spawn up to the MHHW mark and are being found in the same area of the beach in Georgia Strait. Because of egg size and spawning behaviour, spawning sites are not always visible to the naked eye unless found in heavy concentrations, common in the 1970's but less so recently due to human impacts to the shorelines and fishery.

At one of the harvest sites, samples have revealed sand lance embryos. Much of the area of the harvest is potential spawning habitat for one or both species. Field surveys are required to define these spawning areas.

Wrack harvesting methods can destroy forage fish embryos both by disturbing the substrate by use of rakes and from vehicles crushing eggs and compacting the substrate.

Spawning sediments can become compacted due to use of vehicles on beaches. In Puget Sound, under current regulatory provisions, shellfish aquaculture operations are limited to harvest by boat and barge as vehicles are not permitted on the sites. In British Columbia, several NGOs are encouraging the newly formed DFO Shellfish division to investigate beach areas along Denman Island which appear to be compacted in the upper intertidal area due to vehicle use. This is an area of research that should be considered in BC or the implementation of a risk-management approach that eliminates the use of any machinery within beach spawning forage fish habitat areas. This would also benefit recruiting invertebrate species that use gravel beaches as well as resident meiofaunal species.

Surf smelt and Pacific sand lance spawn deposits are found on the beach surface to a few centimetres below. Washington Department of Fish and Wildlife has recorded damage to surf smelt spawn deposits by surf smelt recreational fishermen using traditional "smelt rakes" (Penttila personal communication). Disturbing the beach surface using rakes and pitchforks could result in mortality of embryos. Without enforcement, there is likelihood that seaweed harvest using rakes and pitchforks is a high risk to forage fish embryos.

Pacific sand lance burrowing habitat includes intertidal areas, usually along the beach flat. There is concern that boats/barges could ground out on these locations and damage/destroy burrowed sand lance.

Herring

Herring is another important forage fish. The area of the harvest is one of the key herring spawning regions of the province. Mid-intertidal spawn deposits of herring and/or herring spawn on cobble will be crushed if seaweed harvesters area allowed to use boats and barges that ground out. How will vehicles and or boats be monitored? Are we going to see fisheries officers on the beach constantly?

Monitoring of the Activities to Harvest

It does not seem possible for Federal or Provincial officers to monitor the industry. This leaves the beach-based harvesters without supervision and fish spawning grounds at risk. In 2014, Courtenay will lose its DFO based Enforcement staff. Even a move to boat/barge use will require monitoring in intertidal areas.

Various Points or Concerns that Have Come Up

Does the Strait of Georgia suffer from eutrophication? Probably not on a significant scale. (see link http://www.wri.org/project/eutrophication/map shows a single measure in the 1990's that documented the SOG as eutrophic near Puget sound. Likely cause includes high nutrient load in Fraser plume)

> "Large-scale eutrophication is unlikely for two reasons. First, ambient nitrate+ammonia concentrations are high (2–20 µM N) over much of the total area, so that total primary productivity is relatively insensitive to moderate increases or decreases. Second, exchange of water by estuarine and tidal currents is rapid (*c*. 1 year turnover time), and entering water carries naturally high nutrient concentrations. Natural nitrogen inputs by the estuarine circulation are very much larger than all other sources combined: 2600–2900 tonnes N day^{-1}for the entire system and 1400–1500 tonnes N day^{-1}for the inner basins (Strait of Georgia and Puget Sound)*vs*. <100 tonnes N day^{-1}for sewage inputs, <160 tonnes N day^{1}for river inputs plus sewage, <15 tonnes N day^{-1}for coastal groundwater discharge exclusive of sewage, and <10 tonnes N day^{-1}for atmospheric inputs." (http://www.sciencedirect.com/science/article/pii/S0272771496901109)

Aside from that very science based explanation, areas that suffer from eutrophication suffer what is called "harmful algal blooms". Algae yes, but it does not refer to benthic macrophytes but rather to Plankton Blooms.

There is a report from France about "rotting seaweed" killing a horse and "nearly" killing its rider (August 2009). The seaweed in question was refererred to as "sea lettuce" so we suspect it was Ulva and not a red algae such as is being discussed in this harvest. Also, references have been found to Venice cleaning out its lagoons to prevent the anoxic situation caused by Ulva, confirming that Ulva can produce this kind of situation.

There were concerns in California about drift seaweed very recently as per the link below:

> http://www.lajollalight.com/2012/09/26/rotting-seaweed-poses-no-danger/

Some proponents of the harvest are using the existence of hydrogen sulfide as a reason to support the harvest. But in the above article, a fisheries expert from NOAA is quoted as saying that "in open, ventilated space, such as at Bird Rock beach-es, the concentration of hydrogen sulfide in the air is not harmful. Acknowledging the "rotten egg smell," Kard said in closed spaces, such as sewers, hydrogen sulfide could be harmful, but not in a beach setting."

Vetter's advice is **to not disturb or move the seaweed to avoid the release of more hydrogen sulfide**. Additionally, he said, it is the wave patterns in San Diego that disturb the seaweed in the water, furthering the release and carrying it to shore.

As per the above, even if it was decided that the issues of gasses produced by the wrack was signficant, the solution would seem to be to leave it. If you move it, you release the "deadly gas".

Also, some comments have been made about methane reduced by harvesting the seaweed. But not all of the rotting seaweed is converted to methane, only part of it. It depends on many factors, also much of the methane that is produced becomes re-mineralized to form CO2 as it is released.

Toxic Wrack

The oyster growers in Baynes Sound are limited to a certain level of harvest due to heavy metals in the water. As far as we can determine there has been no study of the chemical content of the seaweed to test if it is safe to use in food and cosmetic products as carageenan. What we do know is that seaweeds are very efficient in absorbing minerals, so this issue should be investigated, particularly in light of the fact that Baynes Sound oysters pose a threat to human health if too many are consumed

Improper Practices in Current Harvest

The licences that were granted did provide a few guidelines for operators. To date in our observations of the harvest several of these have not been followed.

Access points have been created for machinery to drive on the beach, on the wrack. These access points have been created at points that Ministry of Transportation had placed large boulders in order to prevent access and so erosion to the beach. Beach vehicle of one harvester has been seen stuck in these locations digging holes into the beach area. This same harvester has violated the conditions of the license by driving indiscriminately on the beach and not staying to one defined track.

Sorting of the seaweed is done by raking and pitchfork. The sorting methods are not enforceable but guidelines require the collector to shake the pitchfork in order to select the target species. Only one of the two operators seen harvesting is following this condition..

Plastic bags from the harvest are being left on the beach area and in the water.

There are 5 licences granted and it would seem that MOA's guidelines and licence requirements are not enough to protect the resource and ensure a sustainable industry.

And perhaps most importantly, how is the industry going to be carried out to guidelines if even the current – weak – guidelines cannot be enforced?

Islands Trust

Print Date: Jan-10-2013

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	Courtney Simpson	Oct-31-2014	On Going
2	Implementing Riparian Areas Regulation	Mapping of all streams and wetlands on Denman Island and amending DPA 4 to comply with RAR.	Aug-03-2010	Courtney Simpson	Sep-01-2014	On Going
3	Review of Housing Policies E.1 with respect to secondary cottages and suites in residential designations.	Consider potential use of secondary dwelling units for affordable care giver, special needs, and elder housing and visitor accommodation.	Nov-06-2012	Courtney Simpson	Sep-01-2014	On Going

Islands Trust

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	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

Applications w/ Status - Denman Island Status: Open

Applications

Agricultural Land Reserve

File Number	Applicant Name	Date Received	Purpose
DE-ALR-2011.3	Bruce, Lee, Aaron Holden, Jacobs, Aronson	Nov-16-2011	Proposed 2 lot subdivision

Planner: Marnie Eggen

Planning Status

Status Date: Jun-18-2012

Sent to ALC June 18th

Status Date: Jun-05-2012

LTC passed resolution to forward application to ALC

Status Date: Apr-17-2012

Staff awaiting further information from applicant

File Number	Applicant Name	Date Received	Purpose
DE-ALR-2012.0			

Planner:

Planning Status

Development Permit

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

Planner: Courtney Simpson

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)	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.

Planner: Courtney Simpson

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	Mar-21-2011	For barn sited within DP #1: Komas Bluff

Planner: Marnie Eggen

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.

Development Variance Permit

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

Planner: Marnie Eggen

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 transfered 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: Nov-29-2012

Reviewing results of legal review of housing agreement

Status Date: Nov-06-2012

EC advise that cost of housing agreement legal review cannot be waived

Status Date: Jul-17-2012

Applicant request to waive cost 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: Nov-24-2011

Preliminary Layout Approval received

Status Date: May-05-2011

Referral Response sent to MOTI, LTC and applicant

Siting and use Permit

File Number	Applicant Name	Date Received	Purpose

DE-SUP-2006.7	Daniel/Debra Stoneman **Planner:** Courtney Simpson	Aug-31-2006	Agricultural (including buildings consistent with ALR legislation)

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) **Planner:** Courtney Simpson	Mar-15-2011	2016 NORTHWEST RD one Residence, garage/workshop, wood shed, pump shed, and one wind turbine. Joint DP application DE-DP-2011.1

Planning Status

Status Date: May-26-2011

On hold until outcome of rezoning application is known.

Status Date: Mar-21-2011

Planner Reviewing File

From: Nicole Ranger
Sent: January-07-13 12:06 PM
To: Aleksandra Brzozowski; Courtney Simpson; David Graham; Laura Busheikin; Peter Luckham; Theresa Warren; Becky McErlean
Cc: Nancy Roggers
Subject: Denman Expense Report Dec 2012

Islands Trust

LTC EXP SUMMARY REPORT F2012

Invoices posted to December 31, 2012

615 Denman	**Invoices posted to December 31, 2012**	**Budget**	**Spent**	**Balance**
65000 615	LTC "Trustee Expenses"	250.00	333.05	(83.05)
65200 615	LTC Local Exp LTC Meeting Expenses	2,500.00	1,805.37	694.63
65210 615	LTC Local Exp APC Meeting Expenses	500.00	-	500.00
65220 615	LTC Local Exp Communications	300.00	-	300.00
65230 615	LTC Local Exp Special Projects	300.00	-	300.00
65240 615	LTC Local Exp Miscellaneous	550.00	-	550.00
TOTAL LTC Local Expense		4,150.00	1,805.37	2,344.63
73001 615 3001	Denman RAR	4,000.00	135.29	3,864.71
TOTAL Project Expense		4,000.00	135.29	3,864.71

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

STAFF REPORT

Date: January 9, 2013

File No.: 4990-20
Riparian Areas
Regulation

To: Denman Island Local Trust Committee
For the meeting of January 22, 2013

From: Aleksandra Brzozowski
Island Planner

CC: Courtney Simpson
Acting Regional Planning Manager

Re: Review of Development Permit Area No. 4: Streams, Lakes and Wetlands – Development Approval Information Bylaw

PROJECT OVERVIEW:

The Denman Island Local Trust Committee (LTC) has initiated the review of Development Permit Area No. 4: Streams, Lakes and Wetlands pursuant to the Islands Trust Council 2008-2011 Strategic Plan Objective 1.1 "to identify and protect riparian areas".

This is the fifth staff report on this project. Please refer to reports on the May 1, 2012, July 17, 2012, October 2, 2012, and December 11, 2012 meeting agendas for complete background.

The Project Charter identifies the review and update of the *Denman Island Local Trust Committee Impact Assessment Bylaw No. 57, 1998* as within the scope of this project. The review and update of the DAI bylaw is recommended to effectively implement proposed new development permit area regulations for riparian areas and to ensure that staff have the authority to require information on the anticipated impacts of proposed development in a way that is administratively consistent.

The purpose of this staff report is to address revisions made to the draft development approval information (DAI) bylaw, and to update the LTC on the time frame required for DAI bylaw approval.

REVISIONS TO THE PROPOSED BYLAW:

A draft DAI bylaw was presented to the LTC as part of a staff report on the December 11, 2012 meeting agenda. Comments and suggested revisions to the draft DAI bylaw were received from LTC members. In addition, staff also consulted with planning staff currently implementing DAI bylaws in other Local Trust Areas. Resulting from this feedback, a revised draft DAI Bylaw is attached to this staff report (Attachment 1) wherein the following concerns have been addressed and/or revised:

Intention of the bylaw
At the December 11, 2012 regular business meeting, the LTC directed staff to revise the draft DAI Bylaw by including a preamble setting out its intention. Staff has been advised that in order to preserve legal efficacy in the bylaw, including such information in an additional preamble would not be advisable; therefore, PART II PURPOSE has been expanded upon to better address the full intention of the bylaw (addition has been italicized):

> 2. The purpose of this bylaw is to allow the Local Trust Committee to obtain information on the anticipated impact of proposed activities or development on the community, *and to provide a degree of certainty and consistency in the nature and content of reports required from applicants*.

Approachability for applicants
LTC members expressed concern that the DAI bylaw would seem overwhelming to applicants. While this cannot be addressed in the bylaw itself, it can be addressed when implementing the DAI bylaw. The following three actions are recommended to communicate the DAI bylaw in a 'user-friendly' fashion:

- The current "Development Permit Areas on Denman Island Guide" will need to be revised following amendments to DPA 4 and this would be a good place to add explanation regarding DAI requirements and customary DAI procedure, including the pre-application process.
- For the more complex applications requiring rezoning, a cover letter using user-friendly language to explain the DAI bylaw and the Terms of Reference procedure could be produced and handed out alongside application forms.
- A DAI "checklist" is being developed in other LTAs that have recently approved DAI bylaws. The checklist is intended to serve as an opportunity for the assigned planner to clearly communicate to both applicants and consultants what information would be required for an application. A similar approach is recommended for Denman Island.

Deadlines in Terms of Reference
Concerns were expressed regarding the requirement in Part VI Section 26 and PART VII Section 27 for setting dates by which reports must be provided. This has been addressed by modifying the wording to "time frame" and staff notes the aim to be reasonable when drafting the Terms of Reference.

Appropriate Professionals
One comment questioned the level of qualification needed from those reporting on information requested through the DAI bylaw. While much of a development application can be completed by an applicant, the majority of information discussed in the DAI bylaw involves impact assessment information, which typically must be completed by professionals in a particular field. Accepted qualifications are outlined in PART III Section 5 and PART V Section 17, and the procedure for approving proposed professionals is outlined in PART VII Sections 29-30. Please note the term "appropriate professional" is used where possible.

LTC input on Terms of Reference
Planning staff have noted that it may be advisable to specify when LTCs would have the opportunity to comment on a DAI Terms of Reference. As such, the following has been added to PART VI - TERMS OF REFERENCE:

20. Once draft Terms of Reference are provided to and reviewed by the applicant, the draft Terms of Reference will be forwarded to the Local Trust Committee for comment before finalizing.

Please note that while there will be opportunity for LTCs to provide input, LTCs do not have the authority to approve or deny draft Terms of Reference.

PROPOSED BYLAW APPROVAL TIME FRAME:

At its December 11, 2012 regular business meeting, the Denman Island LTC passed the following resolution:

DE-086-2012 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee give notice to Trust Council that it intends to forward a Development Approval Information Bylaw for Trust Council's consideration at the regularly scheduled March 2013 Trust Council meeting for the purpose of allowing the Denman Island Local Trust Committee to obtain information on the anticipated impacts of development permit, temporary use permit and zoning amendment applications.

CARRIED

Trust Council adopted Policy 2.1.viii in 1998 which describes the process for Trust Council to consider DAI bylaws proposed by local trust committees (Attachment 2). This policy requires that any proposed development approvals information bylaws must be submitted to the Executive Committee no later than 4 weeks prior to the date of the Trust Council quarterly meeting. In order to meet this requirement, the draft DAI bylaw and accompanying Request for Decision (RFD) must be submitted to the Executive no later than February 5, 2013.

A RFD has been prepared should the LTC wish to proceed with the next step in the DAI Bylaw approval process (Attachment 3).

STAFF COMMENTS:

Based upon the time frame logistics discussed above, the LTC may wish to consider the following options:

1. Approve the revised draft DAI bylaw as submitted with this staff report and submit it along with the Request for Decision (RFD) to Executive Committee by February 5, 2013.
2. Direct staff to further revise the draft DAI bylaw and approve revisions at a subsequent regular business meeting. This course of action would require the LTC to rescind resolution #DE-086-2012, which gave notice to Trust Council that it intended to forward a draft DAI bylaw for consideration at the March 2013 meeting.
3. Direct staff to further revise the draft DAI bylaw and approve revisions at a Special Meeting occurring no later than February 4, 2013, in order to submit it along with the Request for Decision (RFD) to Executive Committee by February 5, 2013.

RECOMMENDATIONS:

Dependent upon the level of comfort with the revised draft DAI bylaw, staff recommends that the LTC pursue one of the following sets of resolutions:

THAT the Denman Island Local Trust Committee:

- approve the submitted revisions to the draft DAI bylaw (including any amendments); and,
- submit the draft DAI bylaw cited as "Denman Island Local Trust Committee Development Approval Information Bylaw No. 149, 2013" with the accompanying Request for Decision to Executive Committee for consideration at the Trust Council March 2013 quarterly meeting.

OR

THAT the Denman Island Local Trust Committee:

- direct staff to revise the draft DAI Bylaw addressing additional comments noted by the LTC;
- rescind resolution # DE-086-2012, which gave notice to Trust Council that it intended to forward a draft DAI bylaw for consideration at the March 2013 meeting;
- give notice to Trust Council that it intends to forward a Development Approval Information Bylaw for Trust Council's consideration at the regularly scheduled June 2013 Trust Council meeting for the purpose of allowing the Denman Island Local Trust Committee to obtain information on the anticipated impacts of development permit, temporary use permit and zoning amendment applications; and,
- direct staff to prepare a Request for Decision for submission to the Executive Committee.

Prepared and Submitted by:

Aleksandra Brzozowski	***January 9, 2013***
MA Island Planner	Date

Concurred in by:

Courtney Simpson	January 10, 2013
	Date

ISLANDS TRUST COUNCIL
BYLAW NO. 149

****
A bylaw to establish procedures and policies for requiring development approval information for the Denman Island Local Trust Area
****

WHEREAS the Denman Island Local Trust Committee, pursuant to s.920.01 of the *Local Government Act*, has specified in an official community plan areas and circumstances for which development approval information may be required;

The Islands Trust Council, pursuant to s.920.1 of the *Local Government Act* and s.29(3.1) of the *Islands Trust Act*, enacts as follows:

PART I TITLE

1. This Bylaw may be cited for all purposes as "Denman Island Local Trust Committee Development Approval Information Bylaw No. 149, 2013".

PART II PURPOSE

2. The purpose of this bylaw is to allow the Local Trust Committee to obtain information on the anticipated impact of proposed activities or development on the community, and to provide a degree of certainty and consistency in the nature and content of reports required from applicants.

PART III APPLICATION OF BYLAW

3. The requirements of this Bylaw apply to:

    a. applicants for amendments to a bylaw of the Denman Island Local Trust Committee enacted under s.903 of the *Local Government Act*;

    b. applicants for a development permit; and

    c. applicants for a temporary use permit,

    if the activity or development that is the subject of the application is in an area specified for the provision of development approval information in Denman Island Official Community Plan Bylaw No. 185 or is an activity or development for which development approval information is otherwise required by that Bylaw.

4. The requirements of this Bylaw do not apply to any application for an activity or development that is a reviewable project under the *Environmental Assessment Act*.

5. Where development approval information is to be provided, the information shall be provided by the applicant, at the applicant's cost, in the form of a report prepared by the appropriate professional as set out in this bylaw.

PART IV PROCEDURE

6. The official assigned from time to time to provide planning services to the Denman Island Local Trust Committee is the official for the purposes of this Bylaw.

7. Within 30 days of receipt of an application, an official shall determine whether and to what extent development approval information will be required in accordance with this bylaw and shall communicate the requirement to the applicant in writing.

8. An official may determine that all or part of the required development approval information must be provided for each application, either in a report described in Sections 15 and 16 in the case of development permit applications described in those sections, or pursuant to terms of reference that establish the scope of the required impact information for applications described in Section 19.

9. An applicant may request reconsideration by the Local Trust Committee of a decision of an official under this Bylaw within 30 days of the date on which the decision is mailed, faxed or emailed to them.

10. A request for reconsideration must be delivered in writing to the Planning Clerk and must set out the grounds on which the applicant considers the requirement is inappropriate and what, if any, requirement the applicant considers the Local Trust Committee ought to substitute.

11. The Planning Clerk must place each request for reconsideration on the agenda of the next meeting of the Local Trust Committee following the date on which the request for reconsideration was delivered, provided the request is received at least 10 days prior to that meeting.

12. The Planning Clerk must notify the applicant and any other person who the Planning Clerk reasonably considers may be affected by the reconsideration, of the date of the meeting at which the reconsideration will occur.

13. At the meeting, the Local Trust Committee may either confirm the requirement or decision of the official or substitute its own requirement or decision.

PART V S. 920 (DEVELOPMENT PERMIT) APPLICATION REQUIREMENTS

14. For Development Permit applications specified in Sections 15 and 16 of this bylaw, the applicant shall provide, as part of the development permit application, all or part of a report in the specified form as determined by the official.

15. For an application for a permit in respect of a development permit area designated under s. 919.1(1)(a) of the *Local Government Act* for protection of **Streams, Lakes and Wetlands**, the report shall contain the following information:

    a. A site plan professionally prepared at an appropriate scale, based on a legal survey, delineating the proposed development and associated features, the development permit area boundary, existing buildings and structures, roads and driveways, topographic features, the locations of the top of bank, high water mark, Streamside Protection and Enhancement Area (SPEA) widths, the width of any zones of sensitivity, and measures to maintain the integrity of the SPEAs. Site profiles and cross sections demonstrating terrain conditions prior to disturbance and intended conditions post development shall be included.

    b. A site inventory providing a description and evaluation of the riparian values, including species of fish that frequent the waterbody, and riparian features and habitat present.

    c. A description of the proposed development detailing construction, cut and fill, blasting, road or driveway construction, vegetation clearing, alteration to hydrological systems, alterations affecting the watercourse, septic field installation, landscaping, or other land alteration during or after the development phase. The report should also identify alternative development options.

d. An assessment of the nature and extent of the impact of the proposed development. For a stream, as defined under the Riparian Areas Regulation: the results of the riparian assessment, using a detailed or simple assessment as indicated in the Riparian Areas Regulation, and establishing the SPEA width for the subject parcel. For other watercourses, that is, those that do not meet the definition of a stream under the Riparian Areas Regulation: an assessment of anticipated impacts on riparian habitat and features, the watercourse, and site hydrology. The assessment should identify impacts stemming from the construction phase, the intended long-term use of the site, and any cumulative impacts of development.

e. For a stream, as defined under the Riparian Areas Regulation: a description of all measures that will be taken to maintain and protect the SPEA from development, including, where appropriate, assessment and treatment of danger trees, windthrow, slope stability, tree protection during construction, encroachment and sediment and erosion control. For other watercourses, that is, those that do not meet the definition of a stream under the Riparian Areas Regulation: recommended measures to limit, mitigate and manage the impacts of the proposed development on riparian habit and features, the watercourse, and site hydrology.

f. Any recommended monitoring requirements, identifying actions that will be taken to ensure all proposed activities are completed as described, including a monitoring schedule and process for resolving any non-compliance.

g. Recommended actions to restore or enhance riparian functions or habitat that have been degraded prior to development or that would be impacted by the proposed development.

h. For a stream, as defined under the Riparian Areas Regulation, professional certification by the Qualified Environmental Professional(s) preparing the report that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides his or her professional opinion that:
   i. If the development is implemented as proposed there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area, or
   ii. If the streamside protection and enhancement areas identified in the report are protected from the development and the measures identified in the report as necessary to protect the integrity of those areas from the effects of the development are implemented by the developer, there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area.

16. For an application for a permit in respect of a development permit area designated under s. 919.1(1)(a) of the *Local Government Act* for the purpose of requiring development permits for **Steep Slopes**, the report shall contain the following information:

a. A site plan professionally prepared at an appropriate scale, based on a legal survey, delineating the proposed development and associated features, the development permit area boundary, existing buildings and structures, roads and driveways, topographic features and significant features identified in the site inventory and conservation evaluation. Site profiles and cross sections demonstrating terrain conditions prior to disturbance and intended conditions post development shall be included.

b. A site inventory, commenting on the ecosystem classification, and based on current best practices, such as the Resources Information Standards Committee Standards for Describing Terrestrial Ecosystems in the Field, providing information on the existing plant communities, aquatic and terrestrial habitats, sensitive ecosystems, nesting trees, the presence of rare species and rare plant communities, current on-site and adjacent land uses, slope stability, erosional processes, hydrology and topography.

c. A site background analysis that includes the following known information on the site:
   - A check for observed species and ecosystems at risk;
   - A description of the context of the site including the use of adjacent lands and proximity to protected areas;
   - A check for the presence of raptor and heron nests;
   - A check for the presence of fish-bearing water courses.

d. A description of the proposed development detailing construction, cut and fill, blasting, road or driveway construction, vegetation clearing, alteration to hydrological systems, septic field installation, landscaping, or other land alteration during or after the development phase. The report should also identify alternative development options.

e. An assessment of the nature and extent of the impact of the proposed development, in particular anticipated impacts on identified environmentally valuable features, including but not limited to sensitive ecosystems, rare plant communities, rare species habitat, and site hydrology. The assessment should identify impacts stemming from the construction phase, the intended long-term use of the site, and any cumulative impacts of development in the area. The assessment should also include identification of potential impacts on adjacent sites and proximate sensitive areas.

f. Recommended measures to limit, mitigate and manage the impacts of the proposed development on environmentally valuable features. The report should describe mitigation measures and their anticipated effectiveness in maintaining the health, form and function of environmentally valuable features.

g. Any recommended monitoring requirements, identifying actions that will be taken to ensure all proposed activities are completed as described, including a monitoring schedule and process for resolving any non-compliance.

h. Recommended actions to restore or enhance ecosystem functions or habitat that have been degraded prior to development or that would be impacted by the proposed development.

17. Development approval information required in Sections 15 and 16 must be prepared by a professional or professionals, with qualifications specified in the table below, and in good standing with his/her professional organization within British Columbia, acting within his/her area of expertise, and with demonstrated and pertinent experience and/or training; except that the official may approve the involvement of a person having different qualifications if demonstrated, relevant, experience and qualifications are in the official's opinion suitable for the preparation of the information being provided in relation to a particular development permit application:

TYPE OF INFORMATION	CONSULTING PROFESSIONAL
Riparian Areas	Qualified Environmental Professional
Steep Slopes	Registered Professional Biologist (R.P. Bio.) or Registered Professional Forester (RPF)

18. If the official is not satisfied that the impact information provided by the applicant is sufficient to comply with the requirements of the bylaw, either in scope, level of detail, accuracy or in any other respect, or does not address any particular information requirements that are identified in or arise from any applicable guidelines in an official community plan, the official may require the applicant to provide, at the applicant's expense, further information reasonably required to comply with the bylaw, but a requirement for further information may be imposed once only.

PART VI TERMS OF REFERENCE

19. Within 30 days of the receipt of an application for amendments to a bylaw of the Denman Island Local Trust Committee enacted under s.903 of the *Local Government Act,* the official shall provide to the applicant written draft Terms of Reference for the preparation of information on the impact of the activity or development that is the subject of the application.

20. Once draft Terms of Reference are provided to and reviewed by the applicant, the draft Terms of Reference will be forwarded to the Local Trust Committee for comment before finalizing.

21. To the extent that the proposed activity or development can reasonably be expected to have an appreciable impact on any of the following matters, the Terms of Reference must include those matters in the scope of the information that is to be prepared:

    a. the natural environment of the area affected, including sensitive ecosystems and the habitat of rare or threatened species, including surrounding habitats impacted by the development activity ;

    b. hazards, including geological, flood, stormwater, and wildfire hazards;

    c. greenhouse gas emissions, anticipated energy usage, and carbon emissions;

    d. groundwater resources;

    e. local infrastructure, including highways, ferry, water supply and sewage systems, fire protection systems, solid waste disposal and recycling facilities, utilities, local parking facilities and any other affected public infrastructure;

    f. local and off-island public or community facilities;

    g. local and off-island commercial services and employment opportunities;

    h. affordable and seniors housing needs;

    i. agricultural reserve lands and agricultural and forestry uses in the vicinity of the development;

j. cultural heritage resources including resources of historical, cultural, archaeological, paleontological or architectural significance whether on land or underwater; and

k. aesthetic values including the visual appearance of the development from adjacent properties, public lands, or the sea, and the effect of any artificial lighting proposed.

22. In addition to any matter listed in s.21, the official may include in the Terms of Reference any other matter on which the official considers information ought to be provided to the Local Trust Committee to permit a full understanding of the impact of the proposed activity or development on the island community affected.

23. The Terms of Reference must address any particular information requirements that are identified in or arise from any applicable guidelines in an official community plan, and in all cases must address any particular information requirements specified for such an application in any development application procedures bylaw of the Local Trust Committee.

24. In addition to any other requirements the Terms of Reference may require the person preparing the impact information to provide information on the relationship between the proposed activity or development and

    a. the object of the Islands Trust set out in the *Islands Trust Act*;

    b. the Islands Trust Policy Statement;

    c. the Islands Trust Fund Plan; and

    d. in the case of a proposed zoning amendment, the official community plan of the Local Trust Committee.

25. The Terms of Reference may specify that the impact information will be prepared by a person having professional expertise in the matters included in the Terms of Reference, and may include information specifying the identity, qualifications and experience of the person who the applicant proposes to engage to prepare the information.

26. The Terms of Reference must specify the form and the number of copies in which the impact information will be provided, as well as a time frame outlining when the impact information will be provided.

PART VII PREPARATION OF DEVELOPMENT APPROVAL INFORMATION

27. The applicant must prepare and provide to the Local Trust Committee the impact information in accordance with the accepted Terms of Reference, at the applicant's expense, and within the time frame specified in the Terms of Reference.

28. For every matter within the scope of s.21 that is included in the Terms of Reference, the applicant must

    a. identify relevant baseline information and document the nature of the resource or other matter on which the proposed activity or development may have an impact;

b. identify and describe the potential and likely impacts of the activity or development including any cumulative effects when combined with other projects proposed or under development;

c. evaluate the impacts in terms of their significance and the extent to which and how they might be mitigated; and

d. make recommendations as to conditions of approval that may be appropriate to ensure that undesirable impacts are minimized or avoided,

all in accordance with generally accepted impact assessment methodology.

29. If the Terms of Reference specify professional expertise in the preparation of impact information, prior to authorizing the preparation of the information by any person the applicant must deliver to the official information specifying the identity, qualifications and experience of the person who the applicant proposes to engage to prepare the information, unless that information was included in the approved Terms of Reference.

30. Within 10 business days of receipt of the information, the official must advise the applicant whether the proposed person is acceptable, and if the person is not acceptable the official must advise the applicant in writing of the reason and may propose one or more alternative acceptable persons. If such advice is not provided by the end of the tenth business day, the official is deemed to have accepted the proposed person.

31. If the official is not satisfied that the impact information provided by the applicant is sufficient to comply with the Terms of Reference, either in scope, level of detail, accuracy or in any other respect, the official may require the applicant to provide, at the applicant's expense, further information reasonably required to comply with the Terms of Reference, but a requirement for further information may be imposed once only. If the additional information is found to be deficient by the official, the application will be declined.

PART VIII INDEPENDENT REVIEW

32. If the official considers that the impact information provided by the applicant, or any portion of it, requires an independent review prior to being considered by the Local Trust Committee, the official may require the applicant to provide such a review of the information including the methodology used in its preparation.

33. The official may specify that the independent review be conducted by a member of the relevant professional association, and may specify terms of reference for the review.

34. The applicant must arrange for the independent review to be conducted and submitted in writing to the Local Trust Committee, at the applicant's expense and within the time specified by the official.

PART IX PROPRIETARY RIGHTS IN INFORMATION

35. The information that is provided to the Local Trust Committee pursuant to this Bylaw is required by the Local Trust Committee in the exercise of its powers under the *Local Government Act* and the *Islands Trust Act*. Every report or other document provided to the Local Trust Committee pursuant to this Bylaw must accordingly contain an

express grant of permission to the Local Trust Committee to use and reproduce the information contained in the report or other document for non-commercial purposes.

PART X TRANSITION

37. Islands Trust Council Bylaw No. 57, 1998 cited as the "Denman Island Local Trust Committee Impact Assessment Bylaw No. 57, 1998" is repealed.

READ A FIRST TIME this	day of	, 2013.
READ A SECOND TIME this	day of	, 2013.
READ A THIRD TIME this	day of	, 2013.
ADOPTED this	day of	, 2013.

____________________________ ____________________________

Chair Secretary

2.1.viii Procedure

Development Approvals Information Bylaws

Trust Council: September 18, 1998

A: PURPOSE:

To describe a process for Islands Trust Council to consider bylaws proposed by local trust committees for requiring Development Approvals Information in their local areas.

B: REFERENCES:

B.1. Sections 879.1 and 920.1 *Municipal Act*

B.2. Section 29(3.1) *Islands Trust Act*

B.3. Council Policy 2.2.i and 2.2.iii

C: BACKGROUND:

Under the provisions of the legislation, it is Islands Trust Council that must adopt a bylaw pertaining to a local area before a local trust committee can require development approval information. Each bylaw will vary depending on local circumstances and needs. This policy specifies the procedure for a local trust committee seeking Trust Council approval of a bylaw.

D: POLICY:

D.1. Legislative Requirements

D.1.1. Prior to enactment of a local bylaw establishing development approvals information areas or circumstances, a local trust committee must have a bylaw establishing policies and procedures for development approvals information applicable to the local area adopted by Trust Council.

D.1.2. A local trust committee cannot enact development approvals information requirements in the absence of a Trust Council bylaw.

D.2. Criteria for Approval

D.2.1. **Financial** Islands Trust Council will consider the impact of the proposed bylaw on:

- proven ability to accommodate the implementation of the bylaw in the regional planning team work program;
- existing administrative capacity; and
- anticipation of future budgetary needs.

D.2.2. **Procedural Certainty** Trust Council will review the bylaw in terms of administrative processes. A proforma bylaw has been prepared to assist local trust committees.

D.2.3. **Policy** Trust Council will ensure the proposed bylaw is consistent with:

- the local Official Community Plan; and
- the Policy Statement.

E: PROCEDURE:

E.1. Requirements

E.1.1. Local trust committees are responsible for the creation of development approvals information bylaws appropriate to their areas or circumstance for Islands Trust Council consideration.

E.1.2. The purpose for requiring the development approvals information must be clearly stated in the proposed bylaw.

E.1.3. The bylaw must be in the general form of the proforma attached to this policy.

E.1.4. Omission of any conditions specified in the proforma must be identified and the reason for them not being applicable defined.

E.1.5. The local area planner will prepare the substance of the bylaw and the appropriate planning secretary will assign the bylaw # and establish a Trust Council bylaw folder according to procedures established for trust council bylaws by the Secretary.

E.2 Notice

E.2.1. Notice must be given to Trust Council by a resolution of the local trust committee that it intends to prepare a development approvals information bylaw for Trust Council's consideration at the next regularly scheduled meeting.

E.2.2. The Executive Committee may waive the requirement for notice in E.2.1. where the bylaw does not have broad application and there is some urgency to its passage.

E.2.3. Notice shall include the intent of the proposed regulation, the application of the bylaw in terms of area and/ or number of properties, and an assessment of its affect on the local trust committee and regional planning teams' work program.

E.3 Request for Decision

E.3.1. Application to Trust Council for approval of a local development approvals information bylaw will be made on the "request for decision" form in accordance with Policy 2.2.i Requests for Decision.

E.3.2. Any proposed development approvals information bylaw with the required background reports must be submitted to the Executive Committee for inclusion in the Trust Council binder package no later than 4 weeks prior to the date of the Trust Council quarterly meeting.

E.3.3. The Executive Committee will ensure all materials specified in this policy are included and may return the request for further information.

E.3.4. Trust Council will consider the bylaw in its regular quarterly business meeting.

E.3.5. The local trust committee submitting the application may address Trust Council for a period not to exceed 5 minutes in support of the application.

E.3.6. Bylaws not approved will be returned to the local trust committee with an explanation of the reasons for the decision.

E.3.7. A local trust committee may resubmit a request at a subsequent Trust Council meeting if it addresses the concerns that caused the application to be returned.

E.3.8. Amendments proposed for returned bylaws, if they address the concerns raised by Trust Council, may be considered by Resolution Without Meeting of Trust Council if the Executive Committee deems it necessary to proceed before the next regularly scheduled quarterly meeting.

E.4. Background Materials

E.4.1. A report identifying the number of properties and / or size of the area to be affected by this bylaw must be prepared by the local trust committee to be presented with the bylaw to Trust Council.

E.4.2. An assessment of administrative workload, cost recovery and enforcement implications must be prepared by the local trust committee for the consideration of Trust Council using the following elements:

- **Volume -** the scope of applicability for potential applications.
- **Administrative Staff –** extraordinary requirements for clerical processing.
- **Planning Staff –** extraordinary requirements for staff to review development approval information report and/or for reconsideration at the applicant's request.
- **Management –** extraordinary requirements for management to assess and prepare cost recovery arrangements for development approvals information requirements.
- **Cost Recovery –** extraordinary requirements can be (enabling fees bylaw in place) and would be covered under lost recovery arrangements.

F: ATTACHMENTS:

F.1. Proforma development approvals information bylaws.

ISLANDS TRUST
REQUEST FOR DECISION

Date: January 22, 2013

To: Islands Trust Council **Target Decision Date:** March 7, 2013

SUBJECT: **ISLANDS TRUST COUNCIL BYLAW NO. 149 - DENMAN ISLAND LOCAL TRUST AREA DEVELOPMENT APPROVAL INFORMATION BYLAW**

RECOMMENDATIONS:

1. **That Islands Trust Council Bylaw No. 149, cited as "Denman Island Local Trust Committee Development Approval Information Bylaw No. 149, 2013" be read a first time.**
2. **That Islands Trust Council Bylaw No. 149, cited as "Denman Island Local Trust Committee Development Approval Information Bylaw No. 149, 2013" be read a second time.**
3. **That Islands Trust Council Bylaw No. 149, cited as "Denman Island Local Trust Committee Development Approval Information Bylaw No. 149, 2013" be read a third time.**

CHIEF ADMINISTRATIVE OFFICER COMMENTS*:* Provincial legislation enables local governments to specify, by bylaw, the type of impact assessment information they require when property owners apply for certain types of land use changes. When local trust committees wish to have a bylaw for this purpose (known as a Development Approval Information Bylaw), the *Islands Trust Act* indicates that Trust Council is to adopt the bylaw. This procedure enables Trust Council to ensure that it has sufficient resources to support administration of the new process. The Denman Island Local Trust Committee requests Trust Council to update its existing Impact Assessment Bylaw (No. 57) to clarify the information applicants must provide when applying for bylaw amendments, development permits and temporary use permits.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL: The adoption of a new Development Approval Information Bylaw for the Denman Island Local Trust Area will provide greater certainty for development permit applicants and the LTC with respect to impact information requirements. Staff would be authorized under the bylaw to exercise a degree of discretion in establishing the level of impact information required for each application and the adequacy of submitted professional reports.

FINANCIAL: costs of providing information would be borne by applicants. Staff currently review reports as a routine part of application processing.

POLICY: Trust Council Policy 2.1viii establishes procedures and a template for development approval information bylaws.

IMPLEMENTATION/COMMUNICATIONS: It is anticipated that fourth reading and adoption will be done by a Resolution Without Meeting procedure. Staff anticipate establishing criteria and guidelines for the exercise of discretion with respect to the reports required for each application, and the review and assessment of submitted reports. It is expected that communications will be undertaken to inform professionals of the requirements associated with the bylaw.

BACKGROUND

The Denman Island Local Trust Committee (LTC) has identified amendment of its Development Approval Information (DAI) Bylaw as a Top Priority item on its Work Program as part of its review of Development Permit Area No. 4.

A DAI bylaw is the statutory mechanism allowing local governments to require applicants to provide information on the anticipated impact of a proposed activity or development. Traditional mechanisms for obtaining information from applicants – requirements written into DPA guidelines or ad hoc requests – are not consistent with the legislation; the correct and sole means for an LTC to obtain an impact assessment report is through authorization in a DAI bylaw.

The DAI bylaw would serve to provide a degree of certainty and consistency in the content and nature of the reports being provided by applicants. This would benefit staff and the LTC in assessing applications, while also reducing uncertainty for applicants, and reducing the likelihood that an application will be delayed through on-going requests for more information.

Section 920.01 of the Local Government Act permits, within an OCP, the specification of areas or circumstances within which development approval information can be required. The Denman Island OCP includes these specification requirements for development permit areas, temporary use permit designations and certain rezoning applications. Section 920.1 requires the enactment of a bylaw to establish the procedures and policies of the local government as to what impact information is to be provided (a DAI bylaw) and specifies that information may only be required for a zoning amendment, a development permit application, or a temporary use permit application. Trust Council adopted Bylaw No. 57 in 1998 to establish a DAI Bylaw for Denman, this proposed bylaw would replace Bylaw No. 57 with an updated version that includes current and relevant information requirements for each development permit area currently designated in the OCP.

Section 29(3.1) of the Islands Trust Act establishes that despite the granting of other Part 26 powers to local trust committees, Trust Council must adopt any DAI Bylaw for a Local Trust Area. This means that while any one DAI bylaw is developed for an LTC and would only apply within that Local Trust Area, it must be read and adopted by Trust Council.

The adoption of a new DAI bylaw for Denman is being recommended principally as a means to effectively implement development permit areas (DPAs) for protection of the natural environment and hazardous lands in compliance with the Riparian Areas Regulation (RAR) of the provincial Fish Protection Act. Staff provided a report to the LTC in December of 2012, outlining the issues associated with a DAI bylaw, the unique procedural mechanisms required for adopting or amending such bylaws under the Islands Trust Act, and staff options and recommendations with respect to the specific content of a new DAI bylaw for Denman. The following resolution was adopted by the LTC at the meeting of December 11, 2012:

DE-086-2012 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee give notice to Trust Council that it intends to forward a Development Approval Information Bylaw for Trust Council's consideration at the regularly scheduled March 2013 Trust Council meeting for the purpose of allowing the Denman Island Local Trust Committee to obtain information on the anticipated impacts of development permit, temporary use permit and zoning amendment applications.

CARRIED

KEY ISSUE(S)/CONCEPT(S):

In addition to the required content established through the *Local Government Act*, the draft DAI bylaw establishes two approaches for the provision of development approval information:

1. For development permit applications, the draft DAI bylaw establishes the report content. The bylaw lays out the content requirements of the reports for each type of development permit area (riparian area, steep slopes, etc.) and the requirements may be reduced by staff (or the LTC upon appeal by the applicant) based on the specifics of the application. This is the approach taken in the North Pender and Galiano DAI bylaws and has proved effective in ensuring provision of professional reports assessing the impacts of proposed developments in a timely, consistent and complete manner.

2. For more complex discretionary rezoning applications, the draft bylaw uses a 'terms of reference' procedure through which staff would provide a written 'terms of reference' for the provision of specified development approval information to the applicant. This is contrasted with the current approach in the *Denman Island Local Trust Committee Impact Assessment Bylaw No. 57, 1998*, which requires applicants to provide a 'terms of reference' for the preparation of development approval information. Having staff prepare the 'terms of reference' is the approach currently taken on North Pender and Galiano through their respective DAI bylaws and is the approach recommended by staff.

RELEVANT POLICY:

Trust Council adopted Policy 2.1.viii in 1998 which describes the process for Trust Council to consider DAI bylaws proposed by local trust committees (copy of the policy attached). A sample bylaw was also prepared at that time. The substantive elements of the Trust Council policy include the following:

- Each DAI bylaw may vary according to LTC needs;
- The criteria for Trust Council approval include financial, procedural and policy considerations;
- The LTC is responsible for initiating the creation of the bylaw;
- The purpose for the bylaw must be stated in the bylaw;
- The bylaw must be in the general form of the model bylaw;
- The assigned planner will prepare the substance of the bylaw;
- The LTC must give notice to Trust Council that it intends to forward a bylaw to it for adoption;
- Application for approval will be in the form of an RFD;

- Consideration by Trust Council will be at a regular quarterly meeting;
- The LTC may address Trust Council for a period not exceeding 5 minutes;
- If the bylaw is not approved it will be returned to the LTC with reasons;

Specifically, Section E.4 of the policy establishes that the RFD include background information addressing the following:

E.4.1: The number of properties and/or the size of the area to be affected by this bylaw:

The DAI bylaw would, upon adoption, apply to any property within the area subject to the Denman Island Official Community Plan upon submission of the relevant application.

E.4.2: An Assessment of Administrative Workload, cost recovery and enforcement implications using the following elements:

- Volume: the DAI bylaw would establish standards for reports to be received concurrently with a relevant application; it would not be expected to affect the volume of applications.
- Administrative Staff: none
- Planning Staff: assigned planner would determine whether a report is required, the information required in the report, and then assess the consistency of the report with the DAI Bylaw requirements. This is not substantively different from the ad hoc process currently undertaken by planning staff.
- Management: costs of reports would be borne by the applicant; management is no more or less likely to become involved in an application than in the absence of a DAI Bylaw.
- Cost Recovery: costs of reports are borne by applicants; extraordinary costs may subject to cost recovery as with any other application.

Staff consider that the draft bylaw and the LTC's procedures are consistent with this policy.

DESIRED OUTCOME:
That Trust Council give three readings to draft bylaw No. 149 and, as there must be at least one day between the third reading and the adoption of a bylaw, the proposed bylaw be brought back to Trust Council for reconsideration and final adoption. As a Trust Council bylaw, no approval by Executive Committee is required. However, the policy specifies that a proposed DAI bylaw must be submitted to the Executive Committee for inclusion in the Trust Council binder package no later than 4 weeks prior to the date of the Trust Council quarterly meeting, and that Executive Committee ensure that all materials specified in this policy are included and may return the request for further information.

RESPONSE OPTIONS

Recommended: That Islands Trust Council Bylaw No. 149, cited as "Denman Island Local Trust Area Development Approval Information Bylaw No. 149, 2013" be given First, Second and Third Readings.

Alternative: That Islands Trust Council Bylaw No. 149, "Denman Island Local Trust Area Development Approval Information Bylaw No. 149, 2013" be returned to the Denman Island Local Trust Committee for changes, with reasons for the changes cited.

PREPARED BY:	Aleksandra Brzozowski, Island Planner	**REVIEWED BY EXECUTIVE COMMITTEE:**	
SUBMITTED BY:	Denman Island Local Trust Committee		
REVIEWED BY:	**(Chief Administrative Officer)**	**OTHER REVIEW:**	

Islands Trust

Memorandum

Date January 8, 2013 File Number DE 3030-01-2013

To Denman Island Local Trust Committee

From Aleksandra Brzozowski
Island Planner
Northern Office

Re Planner Office Hours on Denman

On-Island planner office hours are an optional service that staff provide to the Denman Island community.

In 2012, planner office hours on Denman Island were held on the same day as LTC meetings with a second planner holding office hours while the Island Planner attended the LTC meeting. This new approach was a successful one and is how staff wish to schedule office hours for 2013.

As such, Planner Office Hours have been scheduled for 10:30am – 2:00pm on the following dates:

Tuesday, February 26, 2013
Wednesday, May 8, 2013
Tuesday, July 16, 2013
Tuesday, November 26, 2013

Planner office hours will be advertised in the Grapevine and posted at the Denman Island General Store.

pc Courtney Simpson, Acting Regional Planning Manager
Marnie Eggen, A/Planner 2
Linda Prowse, Planner 2

Islands Trust

Preserving island communities, culture and environment.

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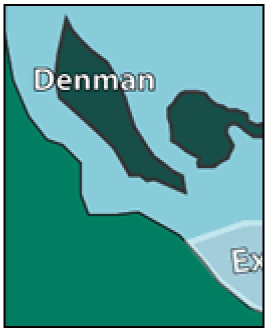

Population (2011):
Approximately 1,022

Size:
5,108 hectares (12,622 acres)

Location:
22 kilometres south-east of Courtenay on Vancouver Island.

Land Use Planning
Related Planning Services
Related Resources
Trust Area Mapping
Related Links

Denman Island Local Trust Committee

Latest News

In this section you will find current news items that are relevant to your Local Trust Area and your community. Subscribe to the Denman Island Latest News updates and receive the latest information on official community plan reviews, staff reports, notifications and other documents published in the latest news section.

November2012

- After nearly three years of hard work, the Denman Island Farm Plan is complete! Hard copies will be available on Denman Island shortly.
- Islands Trust 2011-2012 Annual Report is now published. Page 32 of the report provides a summary of the work of the Denman Island Local Trust Committee

November 2011

- Denman Island Community Heritage Register has been adopted, commemorating the Denman Island Community Hall and the Marcus Isbister Old School Centre

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Denman Island Local Trust Committee Standing Resolutions

- Home Based Guest Accommodations - May 1, 2012

Denman Island Farm Plan

- Draft Denman Island Farm Plan for public comment and cover letter for comments - Copies also available at Abraxas Books
- Visit the Farm Plan Blog for updated information, next meeting date, and opportunities to post comments
- Denman Island Farm Plan Public Consultation Brief - November 30th, 2011
- Food and Farming on Denman Island: Consumer and Producer Perspectives - Report
- Terms of Reference for Agriculture Plan Steering Committee
- Agriculture Plan Steering Committee Minutes
- Denman Island Agriculture Strategy | Land Use Inventory Map | Crop Map | Pasture/Forage and Livestock Map |Soils Map
- Islands Trust Report: Exploring Food Security In the Islands Trust Area

Rezoning Application for Affordable Housing from Denman Community Land Trust Association (DE-RZ-2011.1)

- Staff Report for meeting of January 24, 2012
- Staff Report for meeting of October 13, 2011
- Staff Report for meeting of September 12, 2011
- DCLTA Tenant Selection Criteria
- Application form and package
- Mapping and Preliminary Biological Description of DCLTA Keystone Project Property

Watercourse Mapping

- Riparian Areas Regulation Implementation on Denman Island - Fact Sheet January 2012
- RAR Stream Identification of the Morrison Marsh System

Committee Links

Committee Home
Trustee Membership
Contact Trustees
Contact Planning Staff
Planning Bylaws
Administrative Bylaws
Meetings Schedule
Meeting Agendas
Meeting Minutes
Resolutions-Without-Meeting
Associated Islands
Land Use Application Forms

Ecosystem Mapping

- Denman Island Local Trust Area ecosystem maps and feedback form

Land Use and Development Information

- Denman Island Development Permit Brochure
- Regulation of Land Use on Denman Island
- Denman Island Siting and Use Permit Brochure

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Denman Island Density Potential Mapping

- Density Potential Map - October 2010

Relevant Research and Reports

- Housing Needs Assessment on Hornby and Denman Island - Final Report

Map of New Ministry of Environment Protected Area showing the North Denman Lands

- Denman Island Protected Area Acquisitions 2010

Shoreline Management Resources

- Coastal Shores Stewardship
- Caring for our Shores
- Greenshores

Denman Island Community Profile

Denman Island Community Heritage Register

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