



A NOTICE OF A BUSINESS MEETING OF **THE DENMAN ISLAND LOCAL TRUST COMMITTEE**
to be held at 10:30 AM on Tuesday, April 2, 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 February 26, 2013 – <i>for adoption</i>	1-12	
5.2	Section 26 Resolutions Without Meeting - <i>none</i>		
5.3	Denman Island Advisory Planning Commission Minutes - <i>none</i>		
5.5	Denman Island Marine Advisory Planning Commission Draft Minutes - <i>none</i>		
6.	BUSINESS ARISING FROM MINUTES		10:50 am
6.1	Follow-up Action List dated March 21, 2013 - <i>attached</i>	13-16	
6.2	Proposed Advisory Planning Commission Referral regarding Comox Valley Regional District Cross Island Trail - <i>attached</i>	17-18	
6.3	Advisory Planning Commission and Agricultural Advisory Planning Commission appointments / call for members – <i>for discussion</i>		
7.	APPLICATIONS AND PERMITS		11:30am
7.1	DE-RZ-2011.1 (Denman Community Land Trust Association – 2016 Northwest Road)		
	7.1.1 Staff Report dated March 14, 2013 – <i>attached</i>	19-24	
7.2	DE-ALR-2013.1 (Jones – 8441 McFarlane Road)	25-33	
	7.2.1 Staff report dated March 18, 2013 - <i>attached</i>		
8.	DELEGATIONS		
9.	TOWN HALL DISCUSSION		11:45am
10.	CORRESPONDENCE		12:00pm
	<i>Correspondence specific to an active development application and/or project will be received by the Denman Island Local Trust Committee when that application and/or project is on the agenda for consideration.</i>		

10.1	Email dated March 1, 2013 from John Snyder and Louise Bell regarding the proposed Raven Coal Mine - <i>attached</i>	35-49	
10.2	Email dated March 3, 2013 from Frank Frketich regarding Comox Valley Regional District Cross Island Trail - <i>attached</i>	50	
11.	REPORTS		12:10pm
11.1	Work Program		
	11.1.1 Top Priorities Report and Projects Report dated March 21, 2013 - <i>attached</i>	51-52	
11.2	Applications Log		
	11.2.1 Report dated March 21, 2013 - <i>attached</i>	53-56	
11.3	Trustee and Local Expenses		
	11.3.1 Expenses posted to February 28, 2013 - <i>attached</i>	57	
11.4	Policies and Standing Resolutions	59	
	11.4.1 Report dated March 21, 2013 – <i>attached for information</i>		12:20pm
12.	LOCAL TRUST COMMITTEE PROJECTS		
12.1	Review of Policies and Regulations regarding Impacts of Shellfish Farming on Marine Environment – <i>memo and discussion</i>	61	
13.	NEW BUSINESS		
14.	BYLAWS		12:40pm
14.1	Draft Bylaw No. 204, cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2012” <i>for consideration of first reading</i>	63-66	
14.2	Draft Bylaw No. 205 cited as “Denman Island Housing Agreement Bylaw No. 205, 2012” <i>for consideration of first reading</i>	67-78	
14.3	Draft Bylaw No. 206 cited as “Denman Island Official Community Plan Bylaw, 2009, Amendment No. 1, 2013” <i>for consideration of first reading</i>	79-82	
15.	ISLANDS TRUST WEBSITE		1:00pm
15.1	Denman Page - <i>attached</i>	83-84	
16.	NEXT MEETING DATE		
	Wednesday, May 8, 2013 at 10:30 am at The Denman Seniors Centre, 1111 Northwest Road, Denman Island, BC		
17.	TOWN HALL DISCUSSION – <i>time permitting</i>		1:05pm
18.	ADJOURNMENT		1:15pm

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

DRAFT

**MINUTES OF THE DENMAN ISLAND LOCAL TRUST COMMITTEE
BUSINESS MEETING
HELD AT 10:30 AM ON TUESDAY, FEBRUARY 26, 2013
AT THE DENMAN SENIORS HALL, 1111 NORTHWEST ROAD,
DENMAN ISLAND, BC**

Members Present:	Peter Luckham Laura Busheikin David Graham	Chair Local Trustee Local Trustee
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Staff Present:	Aleksandra Brzozowski Vicky Bockman	Island Planner Recorder
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Media and Others Present: Approximately 14 members of the public – a.m.
Approximately 7 members of the public - p.m.
James van Hemert, Senior Planner, Golder Associates Ltd.

1. CALL TO ORDER

Chair Luckham called the meeting to order at 10:32 am. He welcomed the public and introduced himself, the local trustees, staff, recorder and James van Hemert of Golder Associates who will present the report on the Shellfish Farming Regulation Review and be available for questions on that topic.

2. APPROVAL OF AGENDA

The agenda was adopted by consensus with the following amendments:

- Add item 10.8: Email from Bill Engleson dated January 28, 2013 regarding Request for Denman LTC to Consider a Compression of APCs
- Add item 10.9: Email from Margie Gang dated February 18, 2013 regarding Denman Island OCP Bylaw #186 Revision
- Add item 10.10: Email from Susan-Marie Yoshihara dated February 14, 2013 regarding Farm Plan Draft
- Add item 10.11: Email from Jennifer Balke regarding Denman Island Farm Plan
- Add item 13.4: Adopted Policies and Standing Resolutions

3. CHAIR'S REPORT

Chair Luckham reported that preparations are underway for the Trust Council to be held on Thetis Island in early March and noted that items to be considered will include possible adoption of the 2013/2014 budget and discussion regarding working with the Islands Trust Fund. He acknowledged recently announced additions to BC Parks on Denman Island.

Chair Luckham reported that the Executive Committee acting as a Local Trust Committee met and discussed seaweed harvesting in the Executive Area Islands (Ballenas-Winchelsea). As a result of this consideration, the Executive Committee

was requested to review options for advocacy available to address seaweed harvesting and staff was asked to request that the Minister of Agriculture refer seaweed harvesting permit applications to the Local Trust Committee to provide an opportunity to review and comment on the proposed permits. Staff was also requested to draft Official Community Plan and Land Use Bylaw policies addressing seaweed harvesting policy for that area. Chair Luckham suggested that these events might be relevant to Denman Island, where a similar issue is causing concern.

4. TRUSTEES' REPORT

Trustee Graham commented that in addition to participating in Trust Committees and preparing for the upcoming quarterly Trust Council meeting on Thetis Island, he held two sessions of Trustee Office Hours on Denman and met with the Marcus Isbister Old School Committee. He reported that he attended a Ministry of Agriculture Advisory Commission in Nanaimo as an opportunity to learn more about the operation of this type of commission. He noted that although the topics considered there involved large farm agribusiness, not relevant to farming issues on Denman, he found the discussion interesting. In particular he observed that the Agricultural Land Commission is discouraging subdivision of agriculture land. Trustee Graham encouraged attendance at the Greening Our Shores – Integrated Shoreline and Watershed Maps Workshop being held tonight, assuring that it would be of interest.

Trustee Busheikin reported that she attended a Comox Valley Regional District open house for public input on the new edition of their Official Community Plan section on Aquaculture and Agriculture. She advised that this review is dealing primarily with upland objectives and policies rather than the foreshore. She commented that at this meeting she had an opportunity to have a conversation with Bruce Jolliffe, Area A Director, regarding aquaculture matters and advised that he stressed the importance of building relationships with First Nations to effectively address aquaculture issues.

Trustee Busheikin attended a Trust Programs Committee meeting by telephone and the topic of advocating on ferry issues was discussed. She commented that the consensus was to continue to strongly advocate and that recommendations will be presented at the upcoming Trust Council meeting. She noted that it is time to be thinking of nominations for the Community Stewardship Awards; nomination forms for individuals or groups can be found on the Islands Trust website and the deadline for submissions is the last week in April.

Trustee Busheikin reported that she occasionally hears from community members expressing interest in infrastructure, such as septic or wastewater management, in the Denman “downtown” or village area. She advised that she spoke to Bruce Jolliffe to learn how this might develop at some point in the future with a partnership of the Comox Valley Regional District, Islands Trust, and possibly the Ministry of Transportation and Infrastructure. She invited everyone to come to the Greenshores workshop being held this evening for what is expected to be an interesting and educational event.

5. MINUTES

5.1 Local Trust Committee Meeting Minutes dated January 22, 2013

The minutes were adopted by consensus.

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 February 18, 2013

Planner Brzozowski reviewed the follow-up action list dated February 18, 2013 and provided verbal updates. She advised that the first two items under the November 6, 2012 heading are on hold pending the outcome of discussions regarding shellfish aquaculture and the shellfish farming regulation review report.

There was concern expressed with delaying the request for referral of seaweed harvesting applications from the Ministry of Agriculture and staff was requested to continue to pursue this activity. It was also recommended that the letter might include the same language that the Executive Committee use in its correspondence to the Ministry of Agriculture on the same subject.

It was suggested that the letter referenced in the second item under the November 6, 2012 heading could be initiated regardless of future discussions. The agenda for the next meeting of the Association of Vancouver Island Coastal Communities will be forwarded to the Local Trust Committee from Regional Planning Manager Simpson when available and this will provide additional information to advance the activity further.

6.2 Endorsement of Denman Island Farm Plan

Planner Brzozowski advised that the Denman Island Farm Plan has not yet been endorsed by resolution and the item was placed on the agenda for clarification of the status and to allow consideration of input received since the last meeting. There was discussion to determine any possible further amendments to be made to the Plan.

The following points were considered:

- Planner Brzozowski explained the option to endorse, versus to adopt or receive the Plan;
- the photo credit on page six was inadvertently omitted and staff was requested to insert the information into copies which have not yet been distributed and to correct future copies of the Plan;

- comments and public input have been considered and while not all viewpoints have been represented, the Plan represents a valuable tool created by an effort led by community volunteers. It was suggested that implementation of the recommendations presented in the Plan will provide additional opportunity for consideration of input received.

DE-007-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee amend the Denman Island Farm Plan as presented to add a photo credit on page six.

CARRIED

DE-008-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee endorse the amended Denman Island Farm Plan.

CARRIED

7. APPLICATIONS AND PERMITS – None.

8. DELEGATIONS

8.1 *Harlene Holm for Denman Community Land Trust Association*

Harlene Holm, speaking on behalf of Denman Community Land Trust Association, provided a timeline of the bylaw amendment process that has been ongoing for nearly three years. She noted that the draft housing agreement is still in the legal review stage although she had hoped that it would be on the Local Trust Committee agenda for today's meeting. She acknowledged the significant time the Local Trust Committee and staff have dedicated to this project and expressed hope that future affordable housing projects might proceed more expeditiously.

Trustees thanked the Denman Community Land Trust Association for their patience and explained that staff attention to this project has been responsive while ensuring that the process is addressed thoroughly. Trustee Graham stated his aversion to housing agreements in general, expressing his concern that they lengthen the process significantly while mitigating the small chance of a negative occurrence; however, he indicated that the Local Trust Committee had taken the alternate viewpoint and considered the housing agreement to be a necessity. Trustees Busheikin acknowledged the complexity of the pilot project and suggested that it may be possible to initiate a set of guidelines for any future housing agreements.

8.2 *Louise Bell*

Louise Bell summarized the Islands Trust holdings on Denman Island and affirmed the responsibility of the Local Trust Committee to take care of these holdings. She provided history and rationale for holding the Local Trust Committee meetings in the Marcus Isbister Old School Centre and questioned the fiscal responsibility of renting meeting space at an alternate location. She advised that the Islands Trust display board is currently in need

of repair and requested that the display board either be repaired or donated to the Denman Island Recreation Commission Society.

She expressed concerns relating to serving constituents. She noted that two key Local Trust Committee binders holding the Official Community Plan and Land Use Bylaw with maps of land use designations and zoning are missing from the Dora Drinkwater Library. She asserted that even in these times of electronic communications, there are those who do not have access to information provided in this manner. She requested the Local Trust Committee monitor the Islands Trust material in the library to ensure that they are all present and are up-to-date.

She stated that she had recently reviewed the November 28, 2012 version of the Denman Island Farm Plan and expressed concern that page 55 does not address an important comment she made as a trustee regarding “redesignation of ALR land into a new park...”. Her comment had clarified that more land – and land of higher agricultural value – was put into the Agricultural Land Reserve in return for the land that was removed. She objected to the criticism of the Agricultural Land Commission in the Plan, observed that the Farm Plan appears to be ignoring public input, and she requested that the new Farm Plan reflect the view of islanders.

Trustee Graham clarified that the Local Trust Committee meeting location had been changed to provide handicapped access which was not available at the Marcus Isbister Old School. Trustee Busheikin volunteered to follow-up on the library materials and will ensure that they are current. Trustees advised that the topic of the Free Standing Poster Board is scheduled for discussion later in agenda item 13.1.

9. TOWN HALL DISCUSSION

Shelley McKeachie spoke on behalf of the Association of Denman Island Marine Stewards regarding the report presented to the Local Trust Committee from Golder Associates. She requested that Association of Denman Island Marine Stewards be allowed time to give a response as a delegation at the next Local Trust Committee meeting and that any decisions be delayed until having considered the response; the Trustees invite public comment on the report; and that the Trustees engage a legal expert to advise on creating land use bylaws to ban predator netting, driving on the beach, and beach modification.

David Critchley encouraged the Local Trust Committee to clarify its area of jurisdiction and to reclaim the area to the high water mark on the Vancouver Island side in agency referral correspondence.

Morley McKeachie commented on his understanding that the Comox Valley Regional District had agreed some years ago to take responsibility for jurisdiction to the high water mark on the Vancouver Island side; however he expressed his belief that the Islands Trust has jurisdiction and a responsibility for that area and he urged the Local Trust Committee to protect that jurisdiction.

Edina Johnston expressed her encouragement that steps are being taken on the local marine issues. She spoke against the permitting of predator netting, driving on beaches and harmful beach modification. She urged the Local Trust Committee to enact bylaws necessary to stop these practices and to take action with the consequences should they arise.

Keith Porteous objected to the proposed Comox Valley Regional District Cross Island Trail, outlining several concerns including safety, maintenance of rural character, and effect on heritage and Agricultural Land Reserve properties. He clarified for the record that he had not previously corresponded with Karin Albert of the Comox Valley Regional District. He requested that the Local Trust Committee consider referring the plan to the Advisory Planning Commission or appointing a Transportation Advisory Committee to conduct an assessment prior to adopting a design.

John Johnston observed that much of the report presented to the Local Trust Committee from Golder Associates is based on the BC Shellfish Growers Association's code of practice which consists of industry-developed suggestions and is not a legal set of rules. He requested that the Local Trust Committee clarify the existing regulations and seek legal advice regarding jurisdiction questions in order to find an acceptable compromise strategy.

Pat McLaughlin commented that the report presented to the Local Trust Committee from Golder Associates offers little information not already included in the March 2012 Staff Report. She urged the Local Trust Committee to engage legal expertise to prepare changes necessary to address removal of predator netting, driving on the beach and beach modification. She objected that the report does not include mention of scientific studies which indicate that there is no significant benefit to the industry in the use of predator netting and observed that years of advocacy have not resulted in changes in the shellfish industry.

Jennifer Balke spoke on behalf of Denman Conservancy Association. She wondered if the public process for the Denman Island Farm Plan was up to standard noting that comments for the draft have not been presented in a more public way. She argued that the Denman Conservancy Association does not support endorsement of the Denman Island Farm Plan in its current form as Denman Conservancy Association does not accept policies that do not include the recognition of the value of preservation of farmland or support a blending of agriculture with the necessary protection of the environment. She objected to inclusion of the Denman Conservancy Association's name in this document without consultation with their board members and accurate use of their mandate. She encouraged the Local Trust Committee to reconsider implementation of the Plan and to revise the Plan due to its inclusion of unacceptable and unrealistic content.

Morley McKeachie noted that the report presented to the Local Trust Committee from Golder Associates defers to specific, specialized legal advice and he supported the consideration to seek legal advice in order to receive the clarity to enact bylaws. He observed that advocacy efforts to address concerns with the shellfish industry have not been effective and the rules are not being enforced. He offered to refer a constitutional law expert to the Islands Trust as there are some who could be useful in this undertaking.

Harlene Holm expressed her objection to the Denman Island Farm Plan being presented as the “voice of the community”. She commented that many issues emphasized by islanders do not appear in the Plan, with much of the content created by consultants. She noted that the community has had limited ability to review the Plan.

By consensus the meeting was recessed at 12:20 pm and reconvened at 12:33 pm.

By consensus agenda item 12: Local Trust Committee Projects was moved to follow item 9: Town Hall Discussion and agenda items 14: Closed Meeting and 15: Recall to Order were moved to follow item 19: Town Hall Discussion.

12. LOCAL TRUST COMMITTEE PROJECTS

12.1 Shellfish Farming Regulation Review *Report dated February 18, 2013 from Golder Associates Ltd.*

James van Hemert, Senior Planner for Golder Associates Ltd. summarized the report and responded to some comments made earlier in the Town Hall Discussion. He indicated that in producing the report efforts were made to understand the local as well as the industry contexts. He noted that in this regard he made a site visit to Denman Island and met with representatives of the Association for Denman Island Marine Stewards and the Deep Bay Marine Field Station. He confirmed that he did not meet with representatives from the BC Shellfish Growers Association in the process. The recommendations in the report suggested that the most effective means to address the concerns might be a collaborative approach involving various parties, consideration of a Development Permit Area for marine shorelines and the engagement of a legal expert to address the driving on the beach and beach modification issues.

There was discussion on the findings of the report and possible next steps were considered. The following key points were noted:

- the value of bringing the issues to the attention of the agency that writes industry management policies and regulations was underscored as an important element, while acknowledging that previous advocacy endeavors have not been successful;
- creation of a new Marine Development Permit Area was not considered to be an effective tool to control problematic shellfish industry practices;
- legal review of relevant issues, budget information and potential legal expenses were considered.

James van Hemert and Acting Regional Planning Manager Simpson left the meeting at 1:28 pm.

DE-009-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee request staff to draft amendments to Bylaw No. 186 which would

restrict all structures in the W3 Zone and to add amendments which ban vehicular driving on the foreshore in the W3 Zone.

CARRIED

Prior to the vote, the bylaw amendment process was explained.

10. CORRESPONDENCE

- 10.1 *Compilation of Emails dated January 29, 2013 to February 5, 2013 from Keith Porteous regarding Comox Valley Regional District's Parks and Greenways Masterplan – Cross Island Trail*

Received.

- 10.2 *Email dated February 6, 2013 to Comox Valley Regional District from Keith Porteous regarding Opposition to the Ferry to Ferry Connector on Denman*

Received.

- 10.3 *Email dated February 15, 2013 from Karin Albert of the Comox Valley Regional District regarding Cross Island Trail*

Received. Planner Brzozowski advised that she sent a brief reply to the email expressing appreciation for the correspondence.

Consideration was given to referring the emails regarding the Cross Island Trail to the Advisory Policy Commission after identifying the scope, purpose and objectives of such a referral.

- 10.4 *Letter dated January 17, 2013 to Comox Valley Regional District from Pat McLaughlin of Association for Denman Island Marine Stewards regarding Agriculture and Aquaculture Policy Review*

Received.

- 10.5 *Email dated February 10, 2013 from Harlene Holm regarding Denman Island Farm Plan*

Received.

- 10.6 *Email dated February 8, 2013 from Anne Page regarding National Marine Conservation Area Reserve*

Received.

- 10.7 *Email dated February 15, 2013 from Des Kennedy regarding Komasa Bluffs*

Received.

- 10.8 *Email dated January 28, 2013 from Bill Engleson regarding Request for Denman LTC to Consider a Compression of APCs*

Received.

- 10.9 *Email dated February 18, 2013 from Margie Gang regarding Denman Island OCP Bylaw #186 Revision*

Received.

- 10.10 *Email dated February 14, 2013 from Susan-Marie Yoshihara regarding Denman Island Farm Plan Draft Concerns*

Received.

- 10.11 *Email dated February 22, 2013 from Jennifer Balke regarding Denman Island Farm Plan*

Received.

11. REPORTS

- 11.1 *Work Program Reports
Top Priorities and Projects List Report dated February 18, 2013*

The Top Priorities and Projects List dated February 18, 2013 was reviewed.

- 11.2 *Applications Log*

- 11.2.1 *Report dated February 18, 2013*

The Applications Log dated February 18, 2013 was reviewed.

- 11.3 *Trustee and Local Expenses*

- 11.3.1 *Expenses posted to January 31, 2013*

The expenses posted to January 31, 2013 were reviewed.

13. NEW BUSINESS

- 13.1 *Denman Local Trust Committee and the Free Standing Poster Board in the Back Hall*

DE-010-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee allocate up to \$100 for the reconditioning of the freestanding poster board by Orla Haagerup.

CARRIED

- 13.2 *Email dated January 29, 2013 from Michelle Patterson of University of Victoria, Institute for Coastal Research regarding State of the (Baynes) Sound 2013 Conference*

The opportunity to participate in the two-day State of the Sound Conference at the Deep Bay Marine Field Station in May 2013 was discussed and there was interest in taking a role in the Planning Committee. Dates such as those of the Local Trust Committee meetings, Trust Council meetings and the May 11-12, 2013 Islands Study Conference were identified as conflicts and it was suggested that this be communicated to the organizers.

DE-011-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee request staff to offer conference Planning Committee membership support for the upcoming State of the Baynes Sound 2013 Conference.

CARRIED

It was suggested that a possible forum might include the Islands Trust and BC Shellfish Industry, and that the Association for Denman Island Marine Stewards might participate in the conference should there be a call for papers and presenters. Trustee Busheikin indicated her desire to be involved in this conference.

- 13.3 *Advisory Commissions – Expressions of Interest
Memorandum dated February 18, 2013*

Planner Brzozowski summarized the Memorandum dated February 18, 2013 regarding the planning commissions.

- 13.4 *Adopted Policies and Standing Resolutions*

The Denman Island Local Trust Committee Policies and Standing Resolutions was received for information.

16. **BYLAWS** – None.

17. **ISLANDS TRUST WEBSITE**

- 17.1 *Denman Page*

The following changes were requested to the Denman page of the Islands Trust website:

- add the Denman Island Farm Plan to the website
- add the Shellfish Farming Regulation Review report by Golder Associates to the latest news

18. **NEXT BUSINESS MEETING DATE**

The next meeting of the Denman Island Local Trust Committee will take place on Tuesday, April 2, 2013 at 10:30 am at the Denman Seniors Centre, 1111 Northwest Road, Denman Island, BC.

19. TOWN HALL DISCUSSION

Shelley McKeachie indicated that the report presented to the Local Trust Committee from Golder Associates omits Dr. Leah Bendell's participation in the conference call with ADIMS that is referenced in the report. She requested the report be corrected to include this information.

Planner Brzozowski responded that she will forward this request to Golder Associates.

Keith Porteous thanked the Local Trust Committee for their consideration of the Cross Island Trail issues and offered to participate in a planning commission if needed.

Edina Johnston advised that she received information that BC Shellfish Growers Association has hired someone to clean the shoreline of industry debris. She noted that the report presented to the Local Trust Committee from Golder Associates notes that DFO regulates the aquaculture industry including marine finfish, shellfish and freshwater operations, but not marine plants and pointed out that in the Marine section of the Denman Island Official Community Plan, the Right to Farm Act is still honored.

14. CLOSED MEETING

DE-012-2013 It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee closes the next part of the February 26, 2013 business meeting to discuss matters pursuant to Section 90(1) (a) of the *Community Charter* to consider appointments to the Advisory Planning Commission, Agricultural Advisory Commission and the Marine Advisory Planning Commission and that Staff be invited to attend this meeting.

CARRIED

Chair Luckham closed the meeting at 2:26 pm to hold an *in-camera* meeting.

By general consent the Committee reconvened in open meeting at 2:32 pm.

15. RECALL TO ORDER

Rise and Report from Closed Meeting

Chair Luckham reported that appointments to the Advisory Planning Commission and the Marine Advisory Planning Commission were made in the *in camera* session as follows: Daryl McLoughlin and Ralph McCuaig were appointed to the Advisory Planning Commission for two-year terms; and Shelley McKeachie and Pat

McLaughlin were appointed to the Marine Advisory Planning Commission for two-year terms. He advised that the Local Trust Committee will continue to be open to consideration of expressions of interest for other commission appointments.

20. ADJOURNMENT

By general consent the meeting was adjourned at 2:33 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

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.	Aleksandra Brzozowski	Jul-17-2012	On Going

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

1	Add "Discussion of Bylaw Enforcement" to the Denman Island Local Trust Committee business meeting in 18 months time (December, 2013) possibly to coincide with a discussion on affordable housing.	Aleksandra Brzozowski	Dec-01-2013	On Going
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Oct-02-2012

No.	Activity	Responsibility	Target Date	Status
1	In the definition 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

Update Jan 22, 2013: Pending DE-RZ-2011.1 Housing agreement.

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|---|---|------------------|-------------|----------|
| 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 |
|---|---|------------------|-------------|----------|

Update Jan 22, 2013: Pending DE-RZ-2011.1 Housing agreement.

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|---|---|-----------------------|-------------|----------|
| 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 |
|---|---|-----------------------|-------------|----------|

Update Jan 22, 2013: Pending DE-RZ-2011.1 Housing agreement.

Nov-06-2012

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

Dec-11-2012

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

Feb-26-2013

No.	Activity	Responsibility	Target Date	Status
1	Amend Farm Plan to include photo credit on page 6.	Aleksandra Brzozowski	Apr-02-2013	Done

1	Follow up on status of legal review re: Housing Agreement for DCLTA affordable housing project.	Aleksandra Brzozowski	Apr-02-2013	Done
1	Draft amendments to Land Use Bylaw that serve to restrict structures in W3 and vehicular traffic on shorelines.	Aleksandra Brzozowski	May-08-2013	On Going
1	Assist with planning the 'State of the (Baynes) Sound' conference hosted by Vancouver Island University.	Aleksandra Brzozowski	May-08-2013	On Going

Denman Local Trust Committee Referral

Advisory Planning Commission (APC) Terms of Reference

Materials supplied to the committee by Keith Porteous regarding Comox Valley Regional District's (CVRD) Parks and Greenways Linear Park – Cross-Island Trail were reviewed by Staff and Trustees.

A referral to the APC should be limited to a review of **Transportation Objectives** and **Policies** found in section **D2 Transportation and Utilities** of the Denman Island Official Community Plan (OCP) with respect to trail construction and its impact on protecting and preserving the Rural Character of the island by minimizing removal of the vegetative portion of the road right of way.

As trail design and construction details are unavailable as of the writing of this referral, I suggest that Karin Albert, Parks Planner for the CVRD, be invited to meet with APC members and review with them the details as known at this point. (should the DLTC agree to engage the APC on this topic.)

Topics of “how we got to where we are at the moment” ie process, route selection, financing, safety and other peripherally related topics are not suggested as areas for consideration for this referral. This is a CVRD initiated project, administered locally by the Trails Committee under the supervision of the Denman Island Residents Association.

CVRD actions as of March 20, 2013 include confirmation by Electoral A Services Committee's endorsement of Phase 1 and Phase 2 of the Cross-Island Trail Plan which includes the following actions:

- CVRD to construct the village section of the Denman cross-island trail this spring or fall.
- At their February 26, 2013 meeting, the board approved \$180,000 of the Community Works Fund for the construction of a second phase starting in 2014. Based on the comments received, the CVRD will use these funds to construct the section between the Denman Road big hill and Central Park or, if the Ministry of Transportation and Infrastructure (MOTI) is able to complete prior necessary road repairs along one of the two hills by 2014, to construct a hill section. CVRD staff met with MOTI staff earlier this year to review required upgrades to the two hills that would allow the CVRD to add a trail along those sections.
- After construction of the village and big hill to Central Park sections, the CVRD will engage Denman residents in further consultations to review the project to that point and discuss route options, funding and community support for continuing the trail from Central Park.

Though it may have been tempting to reference an existing 1992 Letter of Agreement between the Ministry of Transportation and Highways (as it was then called) and the Islands Trust, which provided that during road upgrading, paved bicycle paths would be constructed on routes that have been designated by the Islands Trust in collaboration with Local Trust Areas within an official cycling route plan. The work of route designation was not done for Denman.

At present, no such cycling route plan exists for Denman Island other than routes considered in the CVRD Greenways Parks Plan, and as the current Priority and Work Plan list of the DLTC does not contain this activity, and wouldn't without direction from the DLTC to amend their work plan, it seems prudent to defer to the CVRD planning process.

Other documents submitted for consideration provide excellent design criteria and should be evaluated by the DIRA Trails Committee.



STAFF REPORT

Date: March 14, 2013

File No.: DE-RZ-2011.1 (Denman
Community Land Trust Association)

To: Denman Island Local Trust Committee

For meeting of April 2, 2013

From: Courtney Simpson, Regional Planning Manager

Re: “Keystone Project” Affordable Housing Application

Owner: Ilsa Pamela Brons

Applicant: David Critchley, Denman Community Land Trust Association (DCLTA)

Location: Lot 1, SW ¼ of section 21, Plan 32301, Denman Island, Nanaimo District
2016 Northwest Road

1. THE PROPOSAL

The Denman Community Land Trust Association (DCLTA) proposes to increase the density on the subject property by one and rezone a 1.0 ha (2.47 ac) portion of the 11.37 ha (28.09 ac) lot to a new zone for affordable housing. This project is called their “Keystone” project as it the first for DCLTA. Based on conditions of the donation, the affordable housing will be on a separate lot with one dwelling limited in square footage, and for a period of 99 years. The donor has removed the initial condition to limit occupancy of the dwelling to one person.

This is the fifth staff report on this application. Previous staff reports are as follows:

- *September 12, 2011 meeting:* review of the proposal’s conformity with the Islands Trust Policy Statement and the Official Community Plan policies and Land Use Bylaw regulations.
- *October 25, 2011 meeting:* summary of issues raised at the community information meeting on October 4, 2011; advice on how the application could proceed.
- *January 24, 2012 meeting:* description of elements of a housing agreement and adoption procedures; draft land use bylaw amendment.
- *October 2, 2012 meeting:* presentation of draft housing agreement and amended draft land use bylaw amendment.

The draft housing agreement has been through extensive review by the Islands Trust legal counsel and is now at a point where it is acceptable to both Islands Trust staff and the applicant.

The purpose of this staff report is present a housing agreement bylaw, land use bylaw and official community plan amendments for first reading.

2. CURRENT PLANNING STATUS OF SUBJECT LANDS

Refer to earlier staff reports for this information.

3. SITE CONTEXT

There is one dwelling currently on the property, close to Northwest Road. The majority of the property is forested, aside from a cleared area around the existing dwelling. The proposed lease area is at the opposite end of the property, on the eastern side, and would be accessed from Chickadee Road.

4. RESULTS OF CIRCULATION/COMMUNITY INFORMATION MEETINGS

The DCLTA held a public meeting on Tuesday, July 19, 2011.

The LTC hosted a community information meeting (CIM) on Tuesday, October 4, 2011.

The proposal was referred to the APC whose minutes of their October 5, 2011 meeting record support for the application and include a number of comments on details of the application.

5. ISSUES SUMMARY

- a) Approval of Agricultural Land Reserve inclusion application
- b) Housing Agreement
- c) Definition of Affordable Housing
- d) Community Information Meeting
- e) Bylaw Referrals

6. STAFF COMMENTS

a) Approval of Agricultural Land Reserve inclusion application

The application for inclusion of a portion of the property into the Agricultural Land Reserve has been approved by the Agricultural Land Commission. Pursuant to the LTC's resolution on January 24, 2012, DCLTA applied for inclusion into the ALR of the portion of land between the ALR boundary and the boundary of the proposed new lot.

An OCP amendment will be needed to ensure the land use designation matches the new boundary of the ALR, and has been prepared for first reading.

b) Housing Agreement

Attached is the housing agreement that has been through thorough review by Islands Trust legal counsel. Staff met with the DCLTA in person, and by teleconference with legal counsel, to work with the applicant to arrive at a document that is acceptable to both parties.

The procedures for a housing agreement are described in the staff report at the January 24, 2012 meeting. Briefly, a housing agreement is adopted and amended by bylaw. Statute does not require that adoption of a housing agreement bylaw be subject to a public hearing, but when in connection with a rezoning, common law requires that it is. As such, staff recommends that the housing agreement bylaw and bylaw to amend the LUB are brought through this process together.

c) Definition of Affordable Housing

A definition of affordable housing will be added to the Land Use Bylaw through amending bylaw No. 204. Drafts of this definition have been through numerous versions and again at the October 2, 2012 meeting the LTC passed the following resolution:

*It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee direct staff to explore variations on the definition of dwelling units, affordable housing as it pertains to DE-RZ-2011.1*

CARRIED

At the October 2, 2012 meeting the following definition was presented the Local Trust Committee:

“dwelling unit, affordable housing means a deed restricted and/or rent controlled dwelling unit that is secured by a housing agreement, is available to persons with a low income as defined by housing agreement for the dwelling unit, and where the maximum monthly rental rate or purchase price does not exceed 30% of tenant’s or purchaser’s income;”

The minutes record a two main points that the LTC asked staff to consider in relation to this definition:

- Concern that the definition is too specific, particularly with the reference to 30% of income.
- Concern that the definition need not be suitable for all future affordable housing projects at the expense of this single rezoning application, but if possible without causing delay to this application it should.

Staff presents the following revised definition that may resolve these concerns. In general, staff advice is to attempt to have a definition of affordable housing that may be applicable to future projects, but that this work should not cause delay to this application. The definition of affordable housing should be relatively general in the LUB, and it is the housing agreement, also adopted by bylaw, that will speak to the specifics of the property.

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

d) Community Information Meeting

In earlier staff reports staff recommended a further CIM once bylaws have been given first reading. However, the cost of holding this CIM would have to be borne by the applicant as the application fee only covers one CIM hosted by the LTC and that was on October 5, 2011. The LTC should consider whether or not a further CIM is really

necessary. As there was general support for seeing this first project of DCLTA go ahead at the October 5, 2011 CIM, and the proposal is not particularly complex, staff does not see a strong need for a second CIM. If a brief CIM is held immediately prior to the public hearing, as is often the practice, there would be no cost to the applicant, and this may be a suitable compromise.

d) Bylaw Referrals

Pursuant to the LTC's resolution at their January 24, 2012 meeting, staff sent an early referral of this rezoning application to the First Nations listed below. Responses were received from Xwemalhkwa (Homalko) and K'omoks First Nations and the Laich-kwil-tach Treaty Society, with no concerns. No other responses have been received. All of these First Nations will also receive a formal referral after first reading of the bylaws.

The list below includes all First Nations and other agencies including adjacent local governments, that staff recommends a formal referral is sent to once the bylaws are given first reading.

- Laich kwil tach Treaty Society
- We Wai Kai Nation
- We Wai Kum First Nation
- K'omoks First Nation
- Hul'qumi'num Treaty Group
- Cowichan Tribes
- Lake Cowichan First Nation
- Halalt First Nation
- Lyackson First Nation
- Qualicum First Nation
- Penelakut Tribe
- Snaw'Naw'As Nation
- Stz'uminus First Nation
- Nanwakolis First Nations Referral Office
- Te'Mexw Treaty Association
- Xwemalhkwa (Homalko) First Nation
- Agricultural Land Commission
- Ministry of Agriculture
- Vancouver Island Health Authority
- Comox Valley Regional District
- Hornby Island Local Trust Committee
- Islands Trust Bylaw Enforcement

7. SUMMARY OF OPTIONS

The LTC can give first reading all three bylaws No. 204, 205 and 206 at this time and direct staff to refer the bylaws to agencies and First Nations. This is the staff recommendation.

Alternatively, the LTC can ask for amendment to the bylaws before first reading, or can ask for further information.

RECOMMENDATIONS

Based on the above considerations, staff recommends THAT the Denman Island Local Trust Committee:

1. give first reading to bylaw No. 204, cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2012”;
2. give first reading bylaw No. 205 cited as “Denman Island Housing Agreement Bylaw No. 205, 2012”;
3. give first reading to bylaw No. 206 cited as “Denman Island Official Community Plan Bylaw, 2008, Amendment No. 1, 2013”; and
4. refer proposed bylaws No. 204, 205 and 206 to the following agencies and First Nations:
 - Laich kwil tach Treaty Society
 - We Wai Kai Nation
 - We Wai Kum First Nation
 - K’omoks First Nation
 - Hul’qumi’num Treaty Group
 - Cowichan Tribes
 - Lake Cowichan First Nation
 - Halalt First Nation
 - Lyackson First Nation
 - Qualicum First Nation
 - Penelakut Tribe
 - Snaw’Naw’As Nation
 - Stz’uminus First Nation
 - Nanwakolis First Nations Referral Office
 - Te’Mexw Treaty Association
 - Xwemalhkwa (Homalko) First Nation
 - Agricultural Land Commission
 - Ministry of Agriculture
 - Vancouver Island Health Authority
 - Comox Valley Regional District
 - Hornby Island Local Trust Committee
 - Islands Trust Bylaw Enforcement

Respectfully submitted by:

Courtney Simpson

Courtney Simpson MCIP
Regional Planning Manager

March 19, 2013

Date of signature



STAFF REPORT

Date: March 18, 2013

File No.: DE-ALR-2013.1

To: Denman Island Local Trust Committee
(for meeting being held on April 2, 2013)

From: Linda Prowse, Planner 2

CC: Courtney Simpson, Regional Planning Manager
Aleksandra Brzozowski, Island Planner

Re: Application for Inclusion of Land within the Agricultural Land Reserve for Lot 1, Section 6, Denman Island, Nanaimo District, Plan 24836

Owner: Robert and Patricia Jones

Applicant: Same as above

Location: 8441 McFarlane Road, Denman Island, BC

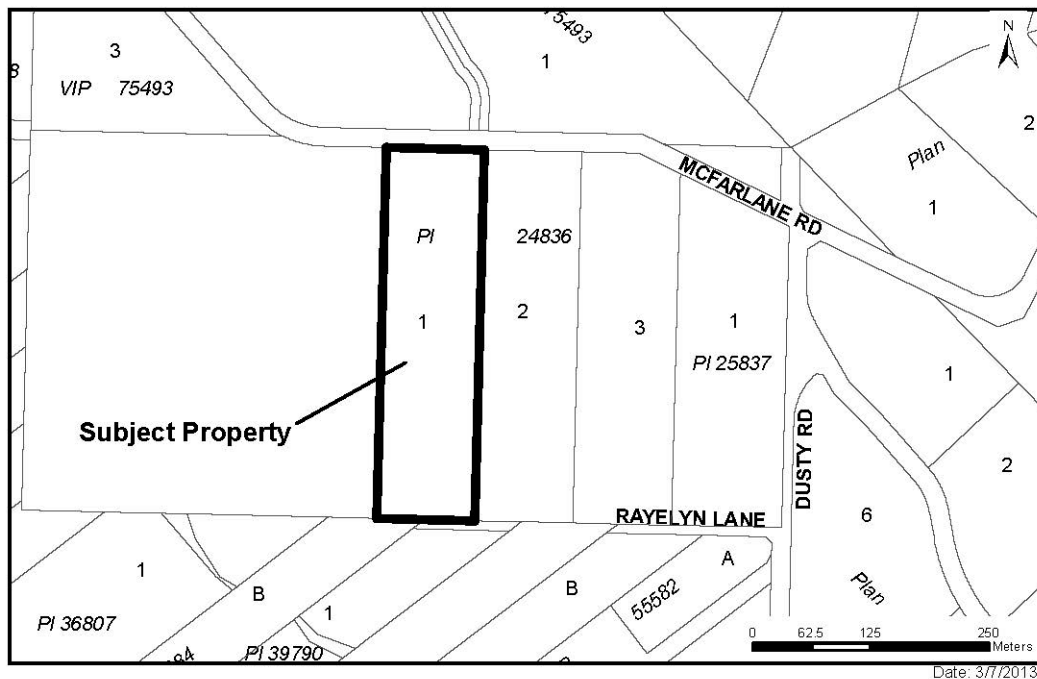
THE PROPOSAL:

The owners of the subject property are applying to include their land within the Agricultural Land Reserve (ALR). The *Agricultural Land Commission Act* states that the local government must receive the application on behalf of the Agricultural Land Commission (ALC) and that the application may not proceed to the Commission unless authorized by resolution of the Local Trust Committee.

The owners have stated that they wish to include their property in the ALR to invoke ALC Policy No. 3 (Activities Designated as Farm Use: Wineries and Cideries in the ALR). The property is currently used as a residence and a winery with a tasting room and a shop. The owners would also like expand their current operation to have a picnic area to be able to hold educational seminars and special events such as celebrations of life; birthdays, anniversaries, weddings, etc.

SITE CONTEXT:

The parcel is located at 8441 McFarlane Road, and is approximately 4 hectares (10 acres) in size. The owners are operating a winery on the property, and the majority of the property is cleared. To the north of the property is an acreage, part of which holds a large marsh (approx. 745m long and 75m wide, and spread over many properties). To the east of the subject property is another 4 hectare (10 acre) residential property that is partially cleared. To the south of the property are treed residential lots between 2 hectares (5 acres) and 4 hectares (10 acres) in size. To the west of the subject property is a 65 hectares (160 acre) property of Crown Land that is designated as conservation.



CURRENT PLANNING STATUS OF THE LANDS:

Policy Statement

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

4.1 – Agricultural Land

4.1.4 Local trust committees shall, in their official community plans and regulatory bylaws, address the identification and preservation of agricultural land for current and future use.

4.1.5 Local trust committees shall, in their community plans and regulatory bylaws, address the preservation, protection and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses.

4.1.8 Local trust committees have, in their official community plans and regulatory bylaws, address land uses and activities that support the economic viability of farms without compromising the agriculture capability of agricultural land.

5.7 – Economic Opportunities

5.7.1 (Trust Council Commitment) The Trust Council holds that economic opportunities should be compatible with the conservation of resources and protection of community character.

5.7.2 Local Trust Committees shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.

Official Community Plan (OCP) Bylaw No. 185:

The Denman Island OCP designates the property as R – Rural. The following OCP objectives and policies are considered applicable to this application:

Economic Activities – Objectives

Objective 1 To encourage a variety of economic activities to support a diverse community and to provide an environment that supports creation and manufacture of local products and opportunities for self-employment and self-reliance

Objective 2 To minimize the negative impact of economic activities on the neighbourhood

Objective 3 To encourage employment by permitting small-scale enterprises with more than one employee

Objective 5 To promote and support types of tourism that are low impact, environmentally sensitive and educational and that provide local employment

Economic Activities – Policies

Policy 1 Economic undertakings permitted by zoning regulations should be sensitive to the ground water availability and sewage disposal capability of the location.

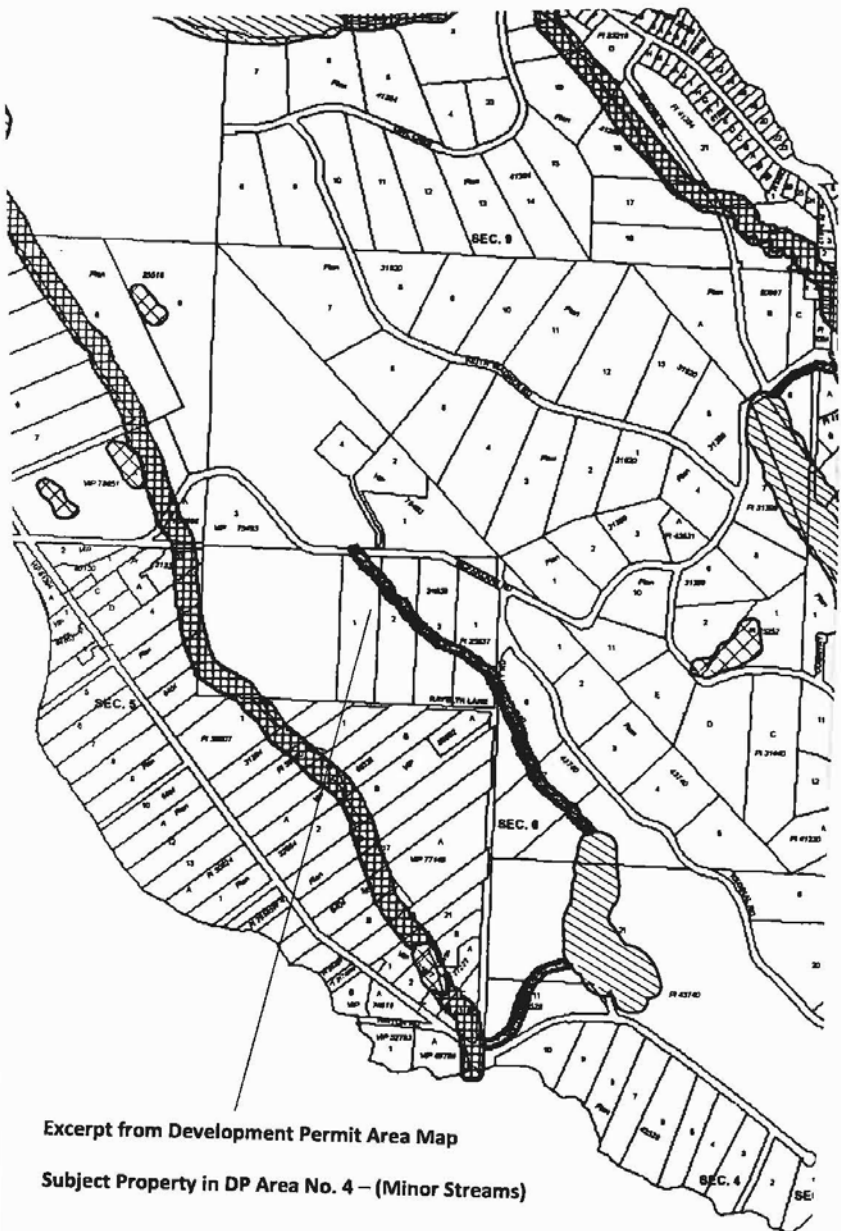
Policy 2 Economic undertakings should be small-scale and designed to meet the needs of residents and visitors, but may include off-island export of goods produced on Denman Island.

Policy 3 The Local Trust Committee should consider the negative impacts of traffic, noise and artificial light on the neighbourhood, when developing regulations regarding economic activities

Policy 15 The Local Trust Committee should encourage educational tourism, agritours, cultural tours, fairs, festivals, craft markets, garden or studio tours, hiking, biking, kayaking, walking, and low impact nature observation.

Development Permit Area No. 4 – Streams, Lakes and Wetlands

The North-east corner of the property is in DP Area No. 4 (Minor Streams). A development permit is required for this property if any alteration of land or construction of buildings and structures is to take place within the Development Permit area as noted below:



Excerpt from Development Permit Area Map

Subject Property in DP Area No. 4 – (Minor Streams)

Land Use/Zoning Bylaw No. 186:

This property is zoned R2 – Rural Residential. The zone specific regulations include this property being used for residential use, as well as horticulture and agriculture accessory to a principle use. Moreover, home occupation uses listed in Section 2.4 accessory to a principal use apply to this property, and relevant home occupation uses include “the sale of agricultural good produced on the property”, “artist and artisan studios including the sale of products produced on site” and “food processing”. Relevant parking regulations include provisions that parking areas are to be landscaped and screened from adjacent residential properties to minimize impacts to the neighbours. Further, all off-road parking spaces must be located on the owners’ lot, and where parking areas are located in the front yard, they shall not exceed 40 percent of the area of the front yard.

Other

The Denman Farm Plan

The Denman Farm Plan, endorsed by the Denman Island Local Trust Committee on February 26, 2013 includes a recommendation to “consider agritourism initiatives”. The Farm Plan recognizes benefits of agritourism as well as concerns of community members, and recommends that agritourism initiatives of scale and nature appropriate to Denman Island are further investigated with the community.

Agricultural Land Commission Policy #3 – Activities Designated as Farm Use: Wineries and Cideries in the Agricultural Land Reserve.

ALC Policy #3 is attached to this report, and is supportive of wineries and “ancillary uses” meaning processing, storage and retail sales; tours; and a food and beverage service lounge if the area does not exceed 125 square metres indoors and 125 square metres outdoors. The policy also supports winery tours and picnicking areas.

STAFF COMMENTS:

The subject property is currently used for residential purposes and is also an operating winery. The winery currently has a wine tasting room within a building to sell the products produced on the property. The owners are requesting to be permitted to have a picnic area to be able to hold educational seminars and special events such as celebrations of life, birthdays, anniversaries and weddings. The Denman Island Land Use Bylaw does not permit this use.

The applicants’ property is zoned R2 and home occupations and agriculture uses are permitted in this zone. The definition of “agriculture” includes “storage, processing or direct marketing by a farmer of farm products”, which allows the farmer to sell farm products produced on the property.

The home occupations section allows the sale of agricultural products produced on-site, which again, 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. 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 heightening parking, noise, possibly signage, etc. and commercial use is not permitted in the R2 zone.

The owners were advised of the above and we suggested that one option they could pursue it to apply to the ALC to have their land included in the ALR. The reasoning was if their land was within the ALR, then “Agricultural Land Commission Policy #3 – Activities Designated as Farm Use: Wineries and Cideries in the ALR” would apply. This policy 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 had a “picnicking endorsement” in its liquor license.

The Denman Official Community Plan is supportive of tourism and economic activities in general terms provided they are small scale and that negative impacts such as traffic, noise and artificial light are considered. The LTC and community has not yet had the opportunity to implement Farm Plan recommendations to further explore agritourism opportunities appropriate to the Denman community

Under ALC Policy #3, the LTC could not prohibit uses allowed in this policy, but can regulate those uses. For example, Policy #3 allows a maximum of 130 people where there are both indoors and outdoors seating are providing under a picnicking endorsement. The LTC could consider regulating the floor area (both indoors and outdoors) for a picnicking endorsement area to minimize noise impact on the neighbourhood. As another example, the Denman Island Land Use Bylaw parking regulations would apply, and currently, parking areas must be landscaped and screened from adjacent residential properties to minimize impacts to the neighbours. Further, all off-road parking spaces must be located on the owners’ lot, and where parking areas are located in the front yard, they shall not exceed 40 percent of the area of the front yard. However, the parking provisions do not currently have a regulation for number of parking spots for a winery hosting special events and/or tours, and this could be regulated by the LUB.

Pursuant to 30(4) of the *Agricultural Land Commission Act*, this application cannot proceed to the ALC unless there is a resolution by the LTC to forward it. Here are the options:

1. Forwarding the application to the ALC with no comment from the LTC;
2. Forwarding the application to the ALC with the comment that the LTC supports the inclusion of the owners’ property in the ALR.
3. Forwarding the application to the ALC with the comment that the LTC supports the inclusion of the owners’ property in the ALR in principal, however, the the LTC requests time to review the Land Use Bylaw for possible amendments such as parking and screening provisions, to negate any negative impacts on the neighbourhood prior to the land being included in the ALR.
4. Denying the application.

RECOMMENDATION:

That the application DE-ALR-2013.1 (Robert and Patricia Jones) to include Lot 1, Section 6, Denman Island, Nanaimo District, Plan 24836 (8441 McFarlane Road, Denman Island) in the Agricultural Land Reserve be forwarded to the Agricultural Land Commission with the comment that the Local Trust Committee supports the inclusion in principal, however the LTC requests time to review the Land Use Bylaw for possible amendments such as parking and screening provisions to negate any negative impacts on the neighbourhood, prior to the land being included in the ALR.

*Attachment 1 – Agricultural Land Commission Policy #3 – Activities Designated as Farm Use:
Wineries and Cideries in the Agricultural Land Reserve*

Prepared and Submitted by:

Linda Prowse

Planner 2

March 19, 2013

Date

Concurred in by:

Courtney Simpson

Courtney Simpson, RPP, MCIP,
Acting Regional Planning Manager

March 19, 2013

Date

|

Agricultural Land Commission Policy #3 – Activities Designated as Farm Use: Wineries and Cideries in the Agricultural Land Reserve

ALC Policy #3/2003

Page 1 of 2

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 Agricultural Land Commission Act	Policy #3 March 2003 ACTIVITIES DESIGNATED AS FARM USE: WINERIES AND CIDERIES IN THE ALR
<i>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.</i>	

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 m² 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:

- (a) 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.

http://www.alc.gov.bc.ca/legislation/policies/Pol3-03_Wineries.htm

09/01/2013

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 Memorandum Islands Trust Page 6 of 7

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: John Snyder [scalaska@shaw.ca]
Sent: March 1, 2013 11:44 AM
To: Louise Bell
Cc: Mike Morrell; David Graham; Laura Busheikin; Peter Luckham
Subject: Islands Trust actions regarding the proposed Raven coal mined

Louise: Thanks for sending me the recap of the resolutions/letters from the Denman LTC and Islands Trust Council regarding the Raven Coal Mine issue. I'll be sure and forward them to Torrance Coste with the Wilderness Committee. With respect to recognizing the efforts of Denman LTC and Islands Trust Council on this important Raven Mine issue, I'll make a concerted effort to do a better job in the future as part of my public communications. I've been thinking about your comments, and generally speaking, wonder if there's an underestimation in the Comox Valley, of the important role the Islands Trust Council plays in our community? I wonder if people were asked to name the local governments in the Comox Valley region, would the Islands Trust Council even get mentioned? This might present an opportunity for an op-ed to explain the important role the Islands Trust Council has played thus far.

Speaking for Coalwatch, we've long recognized the leadership role the Denman LTC and Islands Trust Council has exhibited on the Raven Coal Mine issue. I also recognize there's always room for improvement in getting our collective messaging out, and I pledge to do better job in the future. Thanks for your support and I look forward to working with you and others in preventing the Raven Coal Mine from becoming a reality.

Cheers,

John Snyder
 CoalWatch Comox Valley Society

Begin forwarded message:

From: "Louise Bell" <louise.bell@telus.net>
Date: February 28, 2013 3:33:13 PM PST
To: <scalaska@shaw.ca>
Cc: "Mike Morrell" <mmorrell@uniserve.com>, "David Graham" <dgraham@islandstrust.bc.ca>, "Laura Busheikin" <lbushaikin@islandstrust.bc.ca>, "Peter Luckham" <pluckham@islandstrust.bc.ca>
Subject: Islands Trust actions regarding the proposed Raven coal mined

Hi John,

I was dismayed to see that the Wilderness Committee failed to mention the islands Trust, when commenting recently o the Cumberland City Council's resolution regarding the proposed Raven coal mine. It was odd too, because it came just a day or two after you and I talked on the phone, when you enquired about the Trust's position, so you could pass the information on to the fellow in Parksville.

I know I outlined the actions that both the Denman Island Local Trust Committee and the Islands Trust Council had taken, but I wanted you to have documentation and so I contacted the office and got the reply below. It's probably more than you want, but you can sift through it and select what suits your purpose best.

Coalwatch seems to be the group watching the review process and the press most closely, thanks to the tremendous amount of time you're giving the issue. Would you be good enough to send the appropriate document in future if you see something like the Wilderness Committee press release? In fact, I'd be delighted if you'd contact them with whichever of these documents you think most

appropriate. As you can see, the two Denman LTC letters were sent in late 2009, long before other local governments took a stand, which is why it's disappointing that they are not being acknowledged.

Thanks for your hard work, John. We're all grateful!

Louise

From: Clare Frater [<mailto:cfrater@islandstrust.bc.ca>]
Sent: February-28-13 3:15 PM
To: louise.bell@telus.net
Cc: Denman Island Local Trust Committee; Lisa Gordon
Subject: RE: Raven Coal Mine - links please

Hello Louise,

I hope you are keeping well. I've included below all Trust Council resolutions regarding the Raven Underground Coal Mine and have also included Islands Trust Chair correspondence, 2009 Denman LTC Chair letters (and one response) and one 2009 staff letter. Where links are not available I have attached the correspondence. As far as I can tell from the Comox, Cumberland and Courtenay websites, they did not issue news releases regarding their councils' positions. If this is in fact the case, I expect the positions were noted by media attending the council meetings.

I hope this information is helpful,

Clare

Islands Trust Council resolutions

TC 109 March 2010

That the Islands Trust Council request the Chair to write to the Premier of British Columbia and the Minister of State for Climate Action, and the Minister of Energy, Mines and Petroleum Resources expressing opposition to the proposed Raven Underground Coal Project, noting that the Islands Trust and the Province of British Columbia are both signatories to the British Columbia Climate Action Charter which states that reducing greenhouse gas emissions is a common goal of the parties to the Charter and noting concerns about potential impacts upon the environment of the Trust Area.

TC June 2010

That the Islands Trust Council write to regional district boards and municipal/town councils on Vancouver Island potentially affected by the proposed Raven Coal Mine project, enclosing the Spring 2010 letter from Islands Trust Council to selected cabinet ministers and suggesting that they write similar letters.

TC June 2011

That the Islands Trust Council write to the Environmental Assessment Office and to the Canadian Environmental Assessment Agency expressing concern about the proposed Raven Underground Coal Mine on Vancouver Island regarding the need for the environmental assessment process to include a full

review by a panel of independent experts; the potential impact on marine water within the Islands Trust Area, in particular on Baynes Sound; and the greenhouse gas emissions that would result from the project.

2012

October 19, 2012 Chair letter to Rob Hajdu, Project Manager, Canadian Environmental Assessment Agency (CEAA) and Shelley Murphy, BC Environmental Assessment Office (BCEAO) re Raven Underground Coal Mine - potential impacts in the Islands Trust Area <http://www.islandstrust.bc.ca/news/pdf/tcltroct192012ravencoal.pdf>

- October 23, 2012 Response from John Tapics, President and CEO, Compliance Coal Corporation - <http://www.islandstrust.bc.ca/news/pdf/tcltroct232012compliancecoal.pdf>
- November 15, 2012 Response from Canadian Environmental Assessment Agency and BC Environmental Assessment Office -<http://www.islandstrust.bc.ca/news/pdf/tcltroct192012ravencoal-response.pdf>
- November 20, 2012 - Rob Hajdu, Project Manager, CEAA and Shelley Murphy, BCEOA re Compliance Coal letter re Denman LTC boundaries- <http://www.islandstrust.bc.ca/news/pdf/tcltrnov202012ravencoal.pdf>

2011

June 24, 2011 Chair letter to Andrew Rollo, Canadian Environmental Assessment Agency and Rachel Shaw, Environmental Assessment Office re Raven Coal Mine- <http://www.islandstrust.bc.ca/news/pdf/tcltrjun242011ravencoalmine.pdf>

2010

July 19, 2010 –letter to regional district boards and municipal/town councils on Vancouver Island potentially affected by the proposed Raven Coal Mine project (attached)

March 30, 2010 Chair letter to Honourable Gordon Campbell, Premier of BC ; Honourable John Yap, Minister of State for Climate Action; and Honourable Blair Lekstrom, Minister of Energy, Mines and Petroleum Resources re Proposed Raven Underground Coal Mine (Compliance Coal Corp) - <http://www.islandstrust.bc.ca/news/pdf/tcltrmar302010campbell-yap-lekstrom.pdf>

- April 26, 2010 Response from Environmental Assessment Office

2009

Dec 22, 2009 Staff letter to Compliance Coal re consultation request - Raven Underground Coal Project (attached)

Dec 21, 2009 Denman LTC letters to Premier Campbell and Minister Penner - Raven Underground Coal Project (attached)



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December 21, 2009

The Honourable Gordon Campbell
Premier of British Columbia
PO Box 9041 Stn Prov Govt
Victoria, BC V8W 9E1

Dear Premier Campbell:

I am writing this letter as Chair of the Denman Island Local Trust Committee in the hopes that your government, in concert with the Ministry of the Environment, will evaluate the global impact of allowing Compliance Coal Corporation to extract 44 million tonnes of coal over twenty years, as unacceptable.

This proposed mine is located in the Comox Valley Regional District, a few miles west of Baynes Sound, which separates Denman Island from Vancouver Island.

Denman Island is the northern most island within the jurisdiction of the Islands Trust. The mandate of the Trust, to preserve and protect the environment for the people of British Columbia would be seriously compromised if such a mine was approved. The document, Raven Underground Project – Project Description, prepared for Compliance Coal Corporation (August 2009) identifies a number of potential impacts including air quality, noise/vibration, water related impacts, selenium mobilization and toxicity, acid rock drainage, human health and terrestrial impacts.

It is inconceivable that our Provincial Government, which just recently charged local governments to incorporate GHG reduction targets and the means to those reductions within their respective Official Community Plans, would, at the same time, consider allowing another coal deposit to be removed, processed and shipped across the Pacific to be used in the production of steel.

At present the concentration of CO₂ in the atmosphere is about 385 ppm (parts per million). Before industrialization it was about 280 ppm. Analyses of air contained in ice from the Antarctic ice cap show that there is far more CO₂ in the air today than at any time in the last 650,000 years.

The Intergovernmental Panel on Climate Change's most recent assessment report concludes that the average temperature will continue to rise, but that the extent and the duration of this rise, and the severity of its consequences, depend on how quickly and how effectively emissions of greenhouse gases can be restricted and, over time, reduced.

Burning of fossil fuels, primarily coal, oil and gas, increases the amount of CO₂ and other gases and particles in the air. These gases and particles affect the Earth's energy balance, changing both the amount of sunlight absorbed by the planet and the emission of heat (long wave or

Honourable Gordon Campbell
December 21, 2009
Page 2

thermal radiation) to space. The net effect is a global warming that has become substantial during the past three decades.

Global warming from continued burning of more and more fossil fuels poses clear dangers for the planet and for the planet's present and future inhabitants. Coal is the largest contributor to the human-made increase of CO2 in the air.

In 2007, global steel production stood at 1.34 billion tonnes; producing one tonne of steel can release up to one tonne of carbon dioxide.

Industrialized nations are under pressure to cut back even more on emissions of carbon dioxide and other global-warming gases, while major developing countries such as China and India are being pressed to rein in their emissions growth. Environmentalists and poorer nations say richer countries should reduce their greenhouse gas emissions by 40 percent or more by 2020, compared with 1990 levels, to avoid serious climate damage.

As I write this letter, the Copenhagen Climate talks have come to an end. Industrialized nations are being asked to take leadership roles in reducing carbon emissions. The world looks to Canada for signs of this leadership.

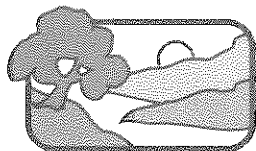
The benefit of creating a few jobs pales when compared to the environmental costs. The green economy is poised to create far more sustainable jobs in the near future. Please let us not continue to do "business as usual".

Sincerely,

A handwritten signature in black ink, appearing to read "P. Luckham". The signature is fluid and cursive, with a long horizontal stroke at the end.

Peter Luckham,
Chair, Denman Island Local Trust Committee.

pc: John A. Tapics, President and CEO of Compliance Energy Corporation
via email: john@complianceenergy.com



Islands Trust

200-1627 Fort Street Victoria BC V8R 1H8
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Web www.islandstrust.bc.ca

December 22, 2009

File Number: GF/C-5

Candy-Lea Chickite
The Raven Underground Coal Project
Project Information Office
Via e-mail: info@theravenproject.ca

Dear Ms. Chickite:

Re: Future consultation on the Raven Underground Coal Project

The Islands Trust is a unique federation of local governments with a provincial mandate from the *Islands Trust Act* to make land use decisions that will "preserve and protect" British Columbia's southern coastal islands. The Trust Area covers the islands and waters between the mainland and southern Vancouver Island, including Howe Sound and as far north as Comox. The map below illustrates the main islands in the Islands Trust Area, with Denman Island in the farthest northwest reach of our jurisdiction.



Please add the Islands Trust to your list of interested stakeholders for future consultation opportunities. We have local government interests in the marine traffic travelling through our area.

I will be our staff contact for this project

Yours truly,

Lisa Dunn,
Director of Trust Area Services
ldunn@islandstrust.bc.ca
direct line: 250-405-5174

pc: Patricia Willis pcdsres@telus.net

pc: Executive Committee

pc: Denman Local Trust Committee

G:\TAS\Advocacy\Staff correspondence\Letter re Raven Underground Coal.doc

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Bowen Denman Gabriola Galiano Gambier Hornby Lasqueti 40 Mayne North Pender Salt Spring Saturna South Pender Thetis



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July 19, 2010

File Number:

TAS/Coal-1

Mayor Greg Phelps and Council
City of Courtenay
830 Cliffe Avenue
Courtenay BC V9N 2J7

Dear Mayor Phelps and Council:

Re: Proposed Raven Underground Coal Mine (Compliance Coal Corp)

I am writing on behalf of the Islands Trust Council and concerned residents of the Denman Island and Hornby Island Local Trust Areas to encourage you to join us in our opposition to the proposed Raven Underground Coal Project in the Comox Valley.

The Islands Trust Council has a provincially legislated mandate to protect the environment of the Islands Trust Area in co-operation with all other levels of government – local, regional, provincial and national. The Islands Trust is a federation of thirteen independent island governments which plans land use and regulates development in the trust area. The Islands Trust's mandate is to preserve and protect the area and its environment for the benefit of residents and the province.

The Islands Trust Policy Statement, which received ministerial approval, includes a policy encouraging government agencies to prevent the pollution of air. The proposed mine borders the northwest corner of our area of responsibility. The proponent's own air quality studies clearly show Denman and Hornby Islands are within range of the coal dust and other particulates that could be emitted by this project.

On March 24th, 2010 Trust Council unanimously approved the following motion:

"That the Islands Trust Council request the Chair to write to the Premier of British Columbia and the Minister of State for Climate Action, and the Minister of Energy, Mines and Petroleum Resources expressing opposition to the proposed Raven Underground Coal Project, noting that the Islands Trust and the Province of British Columbia are both signatories to the British Columbia Climate Action Charter which states that reducing greenhouse gas emissions is a common goal of the parties to the Charter and noting concerns about potential impacts upon the environment of the Trust Area."

We have sent the attached letter to Premier Gordon Campbell and key ministers and encourage you to do the same.

Yours sincerely,

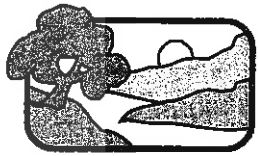
Sheila Malcolmson
Chair, Islands Trust Council

Attach: March 2010 letter to Premier Campbell

cc: Gulf Islands Alliance
Denman Island Concerned Citizens

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July 19, 2010

File Number:

TAS/Coal-1

Chief Patricia Cassidy and Council
Qualicum First Nation
5850 River Road
Qualicum Beach BC V9K 1Z5

Dear Chief Cassidy and Council:

Re: Proposed Raven Underground Coal Mine (Compliance Coal Corp)

I am writing on behalf of the Islands Trust Council and concerned residents of the Denman Island and Hornby Island Local Trust Areas to encourage you to join us in our opposition to the proposed Raven Underground Coal Project in the Comox Valley.

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We have sent the attached letter to Premier Gordon Campbell and key ministers and encourage you to do the same.

Yours sincerely,

Sheila Malcolmson
Chair, Islands Trust Council

Attach: March 2010 letter to Premier Campbell

cc: Gulf Islands Alliance
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July 19, 2010

File Number:

TAS/Coal-1

Chief Clint Williams and Council
Sliammon First Nation
RR#2 Sliammon Road
Powell River BC V9A 4Z3

Dear Chief Williams and Council:

Re: Proposed Raven Underground Coal Mine (Compliance Coal Corp)

I am writing on behalf of the Islands Trust Council and concerned residents of the Denman Island and Hornby Island Local Trust Areas to encourage you to join us in our opposition to the proposed Raven Underground Coal Project in the Comox Valley.

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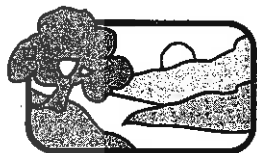
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Yours sincerely,

Sheila Malcolmson
Chair, Islands Trust Council

Attach: March 2010 letter to Premier Campbell

cc: Gulf Islands Alliance
Denman Island Concerned Citizens



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July 19, 2010

File Number:

TAS/Coal-1

Chief Ernie Hardy and Council
K'omoks First Nation
3320 Comox Road
Courtenay BC V9N 3P8

Dear Chief Hardy and Council:

Re: Proposed Raven Underground Coal Mine (Compliance Coal Corp)

I am writing on behalf of the Islands Trust Council and concerned residents of the Denman Island and Hornby Island Local Trust Areas to encourage you to join us in our opposition to the proposed Raven Underground Coal Project in the Comox Valley.

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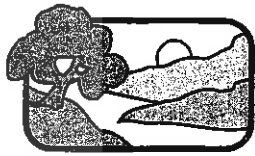
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Chair, Islands Trust Council

Attach: March 2010 letter to Premier Campbell

cc: Gulf Islands Alliance
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July 19, 2010

File Number:

TAS/Coal-1

Mayor Teunis Westbroek and Council
Town of Qualicum Beach
Box 130
Qualicum Beach BC V9K 1S7

Dear Mayor Westbroek and Council:

Re: Proposed Raven Underground Coal Mine (Compliance Coal Corp)

I am writing on behalf of the Islands Trust Council and concerned residents of the Denman Island and Hornby Island Local Trust Areas to encourage you to join us in our opposition to the proposed Raven Underground Coal Project in the Comox Valley.

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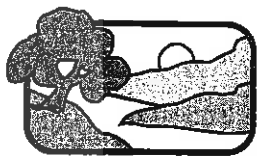
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July 19, 2010

File Number:

TAS/Coal-1

Bruce Jolliffe
Electoral Area Director
Comox-Strathcona Regional District
600 Comox Road
Courtenay BC V9N 3P6

Dear Bruce Jolliffe:

Re: Proposed Raven Underground Coal Mine (Compliance Coal Corp)

I am writing on behalf of the Islands Trust Council and concerned residents of the Denman Island and Hornby Island Local Trust Areas to encourage you to join us in our opposition to the proposed Raven Underground Coal Project in the Comox Valley.

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Yours sincerely,

Sheila Malcolmson
Chair, Islands Trust Council

Attach: March 2010 letter to Premier Campbell

cc: Gulf Islands Alliance
Denman Island Concerned Citizens

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July 19, 2010

File Number:

TAS/Coal-1

Mayor Fred Bates and Council
Village of Cumberland
Box 340
Cumberland BC V0R 1S0

Dear Mayor Bates and Council:

Re: Proposed Raven Underground Coal Mine (Compliance Coal Corp)

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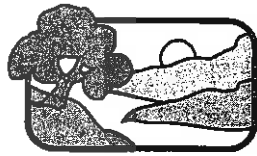
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July 19, 2010

File Number: TAS/Coal-1

Comox Valley Regional District
600 Comox Road
Courtenay BC V9N 3P6

Dear Board Members:

Re: Proposed Raven Underground Coal Mine (Compliance Coal Corp)

I am writing on behalf of the Islands Trust Council and concerned residents of the Denman Island and Hornby Island Local Trust Areas to encourage you to join us in our opposition to the proposed Raven Underground Coal Project in the Comox Valley.

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Yours sincerely,

Sheila Malcolmson
Chair, Islands Trust Council

Attach: March 2010 letter to Premier Campbell

cc: Gulf Islands Alliance
Denman Island Concerned Citizens

Preserving Island communities, culture and environment

Bowen Denman Hornby Gabriola Galiano Gambier Lasqueti Mayne North Pender Salt Spring Saturna South Pender Thetis

From: Laura Busheikin
Sent: March-04-13 12:41 PM
To: David Graham; deborah frketich
Cc: Peter Luckham; Keith Poiteous; Aleksandra Brzozowski
Subject: RE: Cross Island Trail Discussion

Hi,

Just to chime in here -- as I remember it, we did not quite make that referral to the APC but rather left it that Trustee Graham would come back next month with a terms of reference for this referral for us to consider. Since we don't yet have the minutes, there's no way to check on this. In any case, as David points out, we have already clarified that the trail route and design does not contravene our OCP and LUB, so I would imagine that any possible further discussion would be on whether or not the LTC wants to give further input to the DIRA Trails Committee and/or the CVRD on design choices, and what that input might be.

Laura

Laura Busheikin
Denman Island Local Trustee
Islands Trust
phone (250) 218-3216
www.islandstrust.bc.ca

Preserving island communities, culture and environment

Please consider the environment before printing this email.

From: DAVID GRAHAM [dgraham@islandstrust.bc.ca]
Sent: March 3, 2013 7:28 PM
To: deborah frketich
Cc: Laura Busheikin; Peter Luckham; Keith Poiteous
Subject: Re: Cross Island Trail Discussion

Hi Frank,

The Denman Local Trust Committee (DLTC) did receive allot of information from one community member who was concerned with this CVRD trail. The action that the DLTC decided, at our last business meeting, was to refer this information to our Advisory Planning Commission and to ask them to evaluate it with respect to whether it should be shared with the DIRA Trails Committee. Previous advice the DLTC received from Trust Staff is that the trail route and design does not, in any way, contravene our OCP or LUB Bylaws, but in the spirit of acknowledging this person's concerns, it seemed prudent to follow the course I have described.

Cheers,

DAVID GRAHAM
Denman Island Islands Trustee
dgraham@islandstrust.bc.ca

On 3-Mar-13, at 6:56 PM, deborah frketich wrote:

Hello Trustees,

I am very concerned as I have heard that the Cross Island Trail came up for discussion at the most recent Local Trust meeting. I am curious about the context of the discussion as I am hoping that someone is not trying to use a reference to the Islands Trust as a means of delaying or possibly cancelling the trail construction. Can you clarify for me what action, if any, the Islands Trust plans to take on this matter.

I am sure you are aware of this, but I would like to remind you that the CVRD Parks and Greenway Plan document was taken before the Local Trust Committee for comment before it was approved as a working document. I understand that it was given support at that time. The top priority identified in that document by Denman islanders was a cross island trail. I also understand that there is a positive reference to the desirability of having a cross island trail in the Denman Island OCP. So, again I wonder what the context of the current discussion is?

Thank you for your time and attention in this matter.

Frank Frketich
President, DIRA



Islands Trust

Top Priorities

Denman Island

No.	Description	Activity	Received/Initiated	Responsibility	Target Date	Status
1	Review of OCP section C3 with a view to addressing the impacts of shellfish farming on the natural marine environment and residential properties, and review of associated LUB regulations.	Specifically to address: 1. Removal of predator netting from beach 2. Banning driving on the foreshore 3. Banning beach modification.	Oct-25-2011	Aleksandra Brzozowski	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



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-2013.1	Robert & Patricia Selwyn & Jones Planner: Linda Prowse	Feb-05-2013	

Planning Status

Development Permit

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

Planning Status

Status Date: Apr-04-2011

No change: waiting for info from applicant.

Status Date: Feb-04-2010

No change

Status Date: May-01-2009

No change

File Number	Applicant Name	Date Received	Purpose
DE-DP-2011.1	Denman Community Land Trust Association (Brons)	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 Planner: Marnie Eggen	Mar-21-2011	For barn sited within DP #1: Komas Bluff

Planning Status

Status Date: Nov-01-2011

Awaiting info from applicant

Status Date: Jun-15-2011

On hold until DVP out come.

Status Date: May-27-2011

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

Development Variance Permit

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

Planning Status

Status Date: Nov-09-2012

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

Status Date: Oct-05-2012

Letter sent to applicant requesting further information otherwise issue will be 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	Aug-10-2011	Density transfer from density bank or density increase for one unit of affordable housing.

Planner: Courtney Simpson

Planning Status

Status Date: Mar-12-2013

Legal review of housing agreement complete

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

Subdivision

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

Planning Status

Status Date: Mar-21-2013

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

Status Date: Nov-24-2011

Preliminary Layout Approval received

Status Date: May-05-2011

Referral Response sent to MOTI, LTC and applicant

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

Planner: Courtney Simpson

Planning Status

Siting and use Permit

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

Planner: Courtney Simpson

Planning Status

Status Date: Jan-08-2009

On hold pending outcome of court case

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

Planner: Marnie Eggen

Planning Status

Status Date: Jun-30-2011

On hold until outcome of DP and DVP.

Status Date: Mar-03-2011

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

Status Date: Jan-20-2011

Applicant submitted partial application

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

Planner: Courtney Simpson

Planning Status

Status Date: May-26-2011

On hold until outcome of rezoning application is known.

Status Date: Mar-21-2011

Planner Reviewing File

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2013.2	Paul & Eulalia Marmion	Feb-28-2013	3025 Lacon Road PID 004-886-453 (Marmion) alteration of new entry and new master bedroom

Planner: Kim Farris

Planning Status

Status Date: Mar-13-2013

SUP Checklist completed

From: Nicole Ranger

Sent: February-27-13 9:18 AM

To: Aleksandra Brzozowski; Courtney Simpson; David Graham; Laura Busheikin; Peter Luckham; Becky McErlean

Cc: Nancy Rogers

Subject: Denman Expense Report Feb/13

Islands Trust LTC EXP SUMMARY REPORT F2012 Invoices posted to February 28, 2013				
615 Denman	Invoices posted to February 28, 2013	Budget	Spent	Balance
65000 615	LTC "Trustee Expenses"	250.00	408.01	(158.01)
65200 615	LTC Local Exp LTC Meeting Expenses	2,500.00	2,302.77	197.23
65210 615	LTC Local Exp APC Meeting Expenses	500.00	231.18	268.82
65220 615	LTC Local Exp Communications	300.00	-	300.00
65230 615	LTC Local Exp Special Projects	300.00	72.36	227.64
65240 615	LTC Local Exp Miscellaneous	550.00	-	550.00
TOTAL LTC Local Expense		4,150.00	2,606.31	1,543.69
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

Preserving *Island* communities, culture and environment



Please consider the environment before printing this email

Denman Island Local Trust Committee

POLICIES AND STANDING RESOLUTIONS

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



Memorandum

Date March 21, 2013 File Number DE 5020-20

To Denman Island Local Trust Committee

From Aleksandra Brzozowski
Island Planner
Northern Office

Re Review of Policies and Regulations regarding the Impacts of Shellfish Farming

Please note that the State of the Baynes Sound conference is postponed until October 2013.

This event, originally scheduled for May 2013, was to serve as an immediate opportunity to engage stakeholders as part of the Local Trust Committee's work on addressing the impacts of shellfish farming.

At the February 26, 2013 LTC meeting, staff was requested to offer to serve as a member of the planning committee for the State of the Baynes Sound Conference. The LTC is asked to indicate if they would still like to request staff be involved in the planning for the October 2013 conference, or if they would like to withdraw the request in light of the new date.

pc

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 204

A BYLAW TO AMEND DENMAN ISLAND LAND USE BYLAW, 2008

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PUBLIC HEARING HELD THIS _____ DAY OF _____, 201_

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

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

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

ADOPTED THIS _____ DAY OF _____, 201_

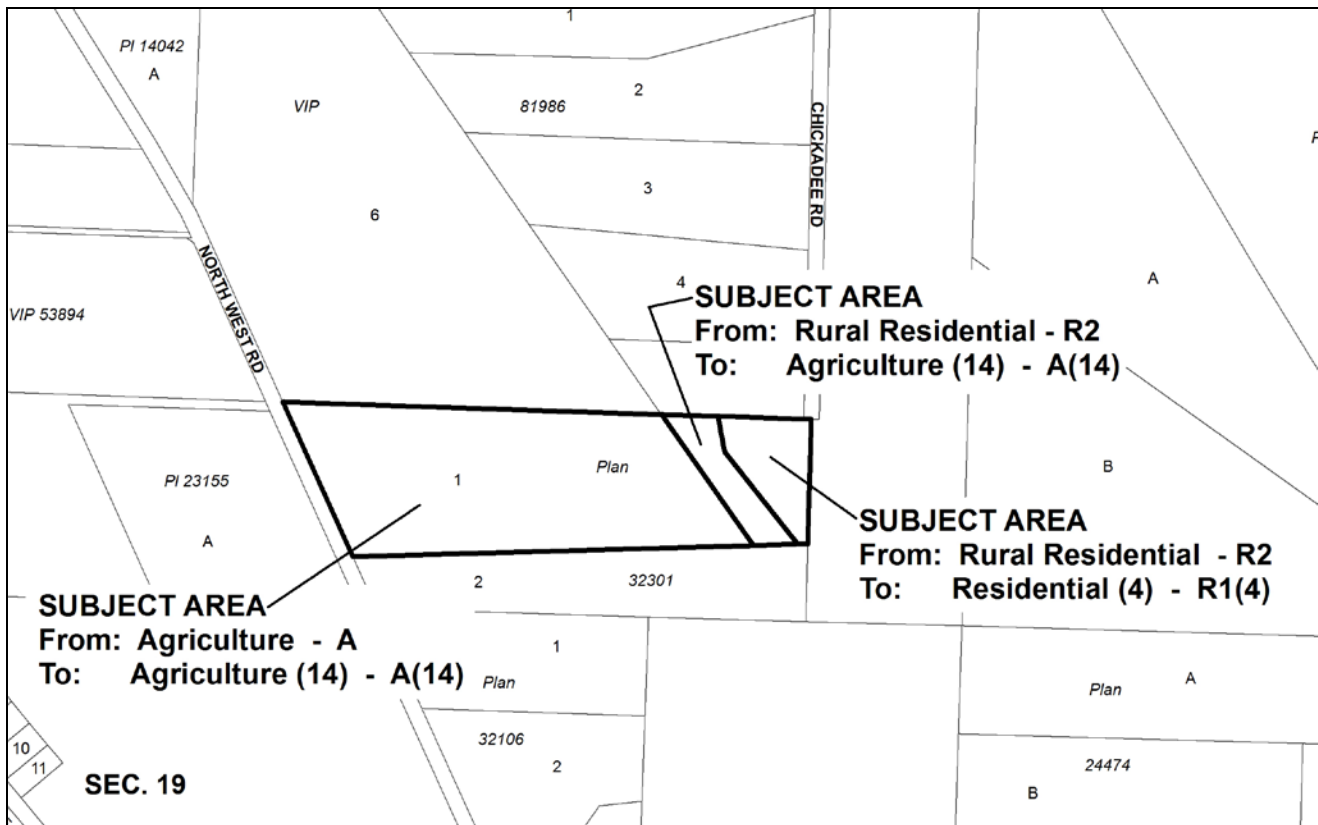
SECRETARY

CHAIRPERSON

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 204

Plan No. 1



Housing Agreement and Section 219 Covenant

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

BETWEEN:

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

(the “Society”)

AND:

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

(the “Trust Committee”)

WHEREAS:

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

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

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

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

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

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

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

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

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

(i) is reasonably adequate in size and composition for the number of occupants;

(ii) is free of conditions that pose a threat to human health; and

(iii) has a total floor space that does not exceed 1,000 square feet,

and accessory buildings as permitted by bylaw;

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

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

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

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

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

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

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

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

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

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

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

SCHEDULE "A" TO THE HOUSING AGREEMENT

Denman Community Land Trust Association (DCLTA)

Tenant Selection Procedure

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

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

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

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

SCHEDULE "B"

OWNER STATUTORY DECLARATION

CANADA

PROVINCE OF BRITISH COLUMBIA

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

declare that:

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

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

A Commissioner for taking Affidavits
in British Columbia

Signature of person making declaration

Names of Occupants

Monthly Payment amount

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 206

A BYLAW TO AMEND DENMAN ISLAND OFFICIAL COMMUNITY PLAN, 2008

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

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

READ A FIRST TIME THIS ___ DAY OF ___, 201__

PUBLIC HEARING HELD THIS ___ DAY OF ___, 201__

READ A SECOND TIME THIS ___ DAY OF ___, 201__

READ A THIRD TIME THIS ___ DAY OF ___, 201__

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
 ___ DAY OF ___, 201__

APPROVED BY THE MINISTER OF COMMUNITY AND RURAL DEVELOPMENT THIS
 ___ DAY OF ___, 201__

ADOPTED THIS ___ DAY OF ___, 201__

 SECRETARY

 CHAIRPERSON

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 206

Schedule A

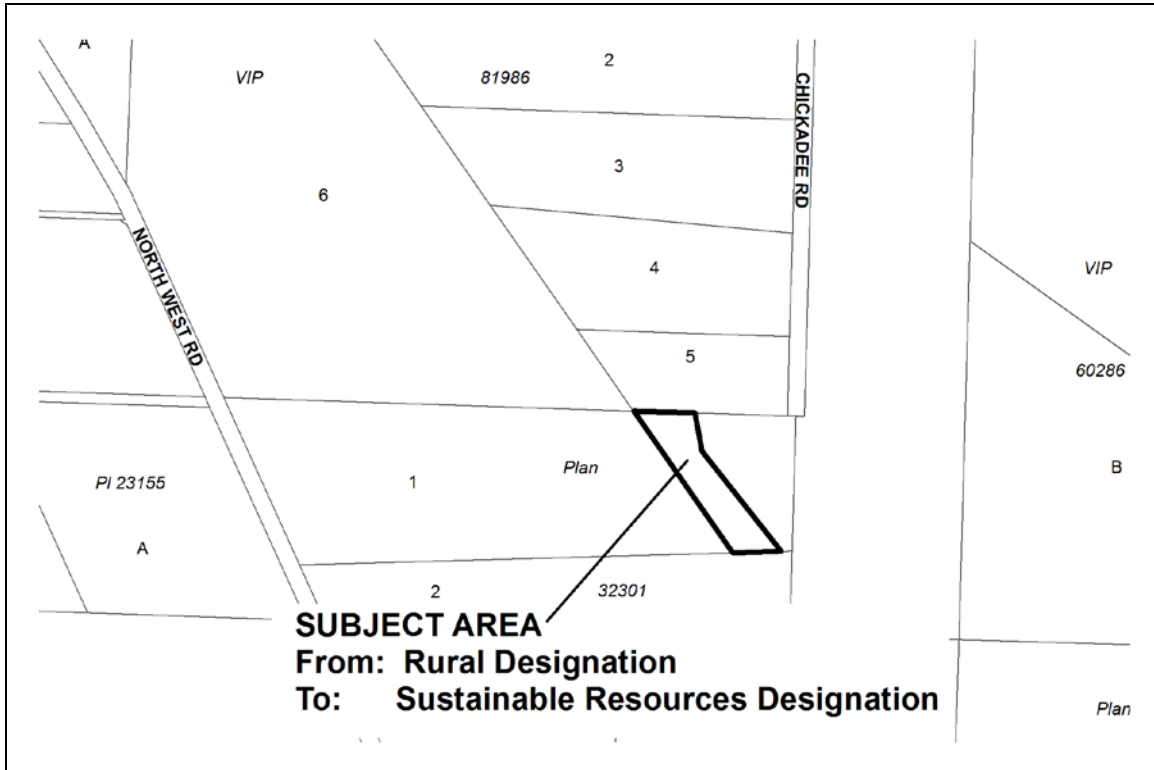
Denman Island Local Trust Committee Bylaw No. 185, cited as “Denman Island Official Community Plan, 2008” is amended as follows:

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

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 206

Plan No. 1





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.

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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.

February 2013

- [Greening our Shores Workshop Program](#)
- [Greening our Shores Workshop – February 26, 2013 information flyer \(updated info\)](#)
- [Greening our Shores Workshop – Integrated Shoreline & Watershed Maps](#)

November 2012

- [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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Planner Office Hours on Denman Island

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](#)

Committee Links

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[Land Use Application Forms](#)

- [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

- [Map of Natural Drainage Areas \(Watersheds\)](#)
- [Riparian Areas Regulation Implementation on Denman Island - Fact Sheet January 2012](#)
- [RAR Stream Identification of the Morrison Marsh System](#)

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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