

Denman Island Local Trust Committee

Regular Meeting Agenda

Date: January 31, 2017
Time: 9:30 am
Location: Denman Activity Centre
1111 Northwest Rd, Denman Island, BC

Pages

1. CALL TO ORDER

"Please note, the order of agenda items may be modified during the meeting. Times are provided for convenience only and are subject to change."

2. APPROVAL OF AGENDA

3. TOWN HALL AND QUESTIONS

4. COMMUNITY INFORMATION MEETING - none

5. PUBLIC HEARING - none

6. MINUTES

- | | | |
|-----|--|---------|
| 6.1 | Local Trust Committee Minutes dated November 15, 2016 | 4 - 12 |
| 6.2 | Section 26 Resolutions-Without-Meeting Report dated January 23, 2017 | 13 - 13 |
| 6.3 | Advisory Planning Commission Minutes - none | |
| 6.4 | Marine Advisory Planning Commission Minutes - none | |

7. BUSINESS ARISING FROM MINUTES

- | | | |
|-----|--|---------|
| 7.1 | Follow-up Action List dated January 23, 2017 | 14 - 15 |
|-----|--|---------|

8. DELEGATIONS

9. CORRESPONDENCE

(Correspondence received concerning current applications or projects is posted to the LTC webpage)

10. APPLICATIONS AND REFERRALS

- | | | |
|------|---|---------|
| 10.1 | Bylaw No. 219 | 16 - 19 |
| | That the Denman Island Local Trust Committee Bylaw No. 219 cited as "Denman Island Official Community Plan, 2008, Amendment No. 2, 2015, be adopted." | |
| 10.2 | Bylaw No. 220 | 20 - 23 |
| | That the Denman Island Local Trust Committee Bylaw No. 220 cited as "Denman Island Land Use Bylaw, 2008, Amendment No. 3, 2015", be adopted. | |

11. LOCAL TRUST COMMITTEE PROJECTS

- | | | |
|--------|---|---------|
| 11.1 | Bylaw Nos. 222 and 223 Housekeeping - Staff Report | 24 - 29 |
| 11.2 | Marine Issues | |
| 11.2.1 | Staff Report | 30 - 42 |
| 11.2.2 | Shoreline Protection Resource Material - Memorandum | 43 - 43 |

12. REPORTS

- | | | |
|--------|---|---------|
| 12.1 | Work Program Reports | |
| 12.1.1 | Top Priorities Report dated January 23, 2017 | 44 - 44 |
| 12.1.2 | Projects List Report dated January 23, 2017 | 45 - 46 |
| 12.2 | Applications Report dated January 23, 2017 | 47 - 51 |
| 12.3 | Trustee and Local Expense Report dated November, 2016 | 52 - 52 |
| 12.4 | Adopted Policies and Standing Resolutions - none | |
| 12.5 | Local Trust Committee Webpage | |
| 12.6 | Chair's Report | |
| 12.7 | Trustee Reports | |
| 12.8 | Electoral Area Director's Report | |
| 12.9 | Trust Fund Board Report - none | |

13. NEW BUSINESS

- | | | |
|------|---|---------|
| 13.1 | Advisory Planning Commission - Memorandum | 53 - 61 |
|------|---|---------|

14. UPCOMING MEETINGS

- | | |
|------|---|
| 14.1 | Next Regular Meeting Scheduled for Tuesday, March 7, 2017 at 10:30 am at the Denman Activity Centre, 1111 Northwest Road, Denman Island, BC |
|------|---|

15. TOWN HALL

16. CLOSED MEETING

16.1 Motion to Close the Meeting

That the meeting be closed to the public in accordance with the Community Charter, Part 4, Division 3, s.90(1)(d) and (f) for the purpose of considering Adoption of In-Camera Meeting Minutes dated October 18, 2016 and November 15, 2016; and Bylaw Enforcement and that the recorder and staff attend the meeting.

16.2 Recall to Order

16.3 Rise and Report

17. ADJOURNMENT



Denman Island Local Trust Committee Minutes of Regular Meeting

Date: November 15, 2016

Location: Denman Activity Centre
1111 Northwest Rd, Denman Island, BC

Members Present: Susan Morrison, Chair
David Critchley, Local Trustee
Laura Busheikin, Local Trustee

Staff Present: Ann Kjerulf, Regional Planning Manager
Vicky Bockman, Recorder

Others Present: Approximately two (2) members of the public

1. CALL TO ORDER

Chair Morrison called the meeting to order at 10:30 am. She acknowledged that the meeting was being held in territory of the Coast Salish First Nations, in particular the K'omoks First Nation.

2. APPROVAL OF AGENDA

The following additions to the agenda were presented for consideration:

- 17.0 Closed Meeting
- 17.1 Motion to Close Meeting
- 17.2 Recall to Order
- 17.3 Rise and Report

By general consent the agenda was adopted as amended.

3. TOWN HALL AND QUESTIONS - none

4. COMMUNITY INFORMATION MEETING - none

5. PUBLIC HEARING - none

6. MINUTES

6.1 Local Trust Committee Minutes dated October 18, 2016

The following amendments to the minutes were presented for consideration:

- Page 3, item 7.3, DE-2016-064, first line: change to read: "that the Denman Island Local Trust Committee confirmed that it reviewed the Directives Only Policy";

- Page 5, item 12.7, first paragraph, third bullet: change “attended” to “will attend”; and
- Page 5, item 12.6, last bullet, first line: change “a LTC” to “a Local Trust Committee”.

By general consent the minutes were adopted as amended.

6.2 Section 26 Resolutions-Without-Meeting - none

6.3 Advisory Planning Commission Minutes - none

6.4 Marine Advisory Planning Commission Minutes - none

7. BUSINESS ARISING FROM MINUTES

7.1 Follow-up Action List dated November 3, 2016

Regional Planning Manager Kjerulf presented the report and provided updates. She reported on progress with K’omoks First Nation relationship building efforts, suggesting that the Local Trust Committee (LTC) might consider attending a K’omoks Band Council meeting as a delegation to discuss the potential Community to Community event and solicit the Band’s commitment to participate. She noted that staff would assist in preparation for that presentation should the LTC wish to move forward with this approach.

DE-2016-072

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request that staff organize attendance of the Local Trust Committee with staff at a K’omoks First Nation Council meeting.

CARRIED

8. DELEGATIONS – none

9. CORRESPONDENCE – none

10. APPLICATIONS AND REFERRALS

10.1 Bylaw No. 221 - Fees Bylaw Amendment - Staff Report

DE-2016-073

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee Bylaw No. 221 cited as “Denman Island Local Trust Committee Fees Bylaw, 2007, Amendment No. 1, 2016”, be adopted.

CARRIED

10.2 Bylaw Housekeeping - Staff Report

Regional Planning Manager Kjerulf presented the Bylaw Housekeeping Staff Report that provides “housekeeping” items for LTC consideration. These items include the definition of “intensive agriculture” and correction of two inaccuracies and omissions in the original Development Permit Area 4 mapping schedule.

Trustees discussed the proposed “housekeeping” amendments and the following was noted:

- A Trustee suggested that formatting of the Land Use Bylaw (LUB) definition of “agriculture” might be improved for clarity at this time. The matter was discussed and Trustees determined that consideration might be deferred until after first reading in order to adequately consider options for addressing this issue;
- Regarding the proposed amendment to amend the definition of “intensive agriculture” by removing the words “and excluding feedlots”, Trustees requested additional background and an analysis of whether regulations regarding feedlots are adequate.

DE-2016-074

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 222 cited as “Denman Island Official Community Plan, 2008, Amendment No. 1, 2016” is not contrary to or at variance with the Islands Trust Policy Statement.

CARRIED

DE-2016-075

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 223 cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2016” is not contrary to or at variance with the Islands Trust Policy Statement.

CARRIED

DE-2016-076

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee Bylaw No. 222 cited as “Denman Island Official Community Plan, 2008, Amendment No. 1, 2016” be read a first time.

CARRIED

DE-2016-077

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee Bylaw No. 223 cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2016” be read a first time.

CARRIED

DE-2016-078

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to schedule a Public Hearing for Bylaw No. 222 cited as “Denman Island Official Community Plan, 2008, Amendment No. 1, 2016”.

CARRIED

DE-2016-079

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to schedule a Public Hearing for Bylaw No. 223 cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2016”.

CARRIED

DE-2016-080

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to bring forward draft bylaw amendments to the Denman Island Land Use Bylaw definition of “agriculture” to correct formatting errors.

CARRIED

DE-2016-081

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to report to the Local Trust Committee on current restrictions for “intensive agriculture” and how this could potentially apply to feedlots, and present draft bylaw amendments for consideration.

CARRIED

DE-2016-082

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to refer the draft Bylaw Nos. 222 and 223 to the following agencies and First Nations for comment:

- Ministry of Community, Sport and Cultural Development;
- Ministry of Forests, Lands and Natural Resource Operations (Ecosystems Branch);
- Agricultural Land Commission;
- School District No. 71; and
- K’omoks First Nation.

CARRIED

11. LOCAL TRUST COMMITTEE PROJECTS

11.1 Farm Plan Implementation - Staff Report

Regional Planning Manager Kjerulf presented the Staff Report, outlining potential Official Community Plan (OCP) and LUB amendments to implement the Denman Island Farm Plan and providing revisions to the project charter for LTC consideration.

Trustees discussed the potential amendments and the following key points were noted:

- An OCP amendment to support occasional markets, fairs and festivals in the W2 zone was not supported, as parking and traffic issues in the W2 zone were considered to be problematic;
- Adding an OCP policy to support a requirement for landscape screening/buffering of trails from adjoining agricultural areas was not considered to be a necessary action as this does not appear to be a concern in the community;
- Adding an OCP policy regarding no net loss of Agricultural Land Reserve (ALR) land was not considered to be a necessary amendment given the amount of ALR land on Denman Island and the ALC's process which considers recommendations from LTCs; and
- OCP or LUB amendments concerning minimum lot sizes may need to be considered, and removal from the Out of Scope category in the Project Charter was suggested.

Other key points were noted as follows:

- An LUB amendment to allow farm processing and storage as principal uses in the Light Industrial zone with the use of Temporary Use Permits was questioned as there is a single, site-specific property in that zone;
- Trustees considered that a review of Development Permit Areas to amend where necessary may be too complicated and out of scope for this initiative; however, a discussion of this might be useful and lead to a separate project;
- The total of the project costs as listed in the Project Charter had been calculated incorrectly and was in need of correction; and
- Trustees supported referral of the Farm Plan Implementation project to the Advisory Planning Commission (APC) for their comments.

DE-2016-083

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee adopt the revised Project Charter for the Denman Island Farm Plan Implementation with the exception that within the section "Out of Scope" the words "OCP or LUB amendments concerning minimum lot sizes or removal of agriculture as a permitted use on small lots" be deleted and change the budget to \$3,500.

CARRIED

DE-2016-084**It was MOVED and SECONDED,**

that the Denman Island Local Trust Committee refer the list of proposed Official Community Plan and Land Use Bylaw amendments to the Advisory Planning Commission for comment, such referral to include the comments made by the Local Trust Committee at the November 15, 2016 meeting.

CARRIED

Trustees discussed the proposed community survey, suggesting that staff might draft a survey for the LTC to review. They suggested that a Community Information Meeting conducted on the proposed amendments might be organized as a forum to elicit the most useful feedback.

A motion was moved that the Denman Island Local Trust Committee request staff to prepare a draft form of survey that might be circulated to Denman Island residents with response to the implementation of the Farm Plan.

Discussion followed with the following points noted:

- Trustees discussed other methods of consultation and considered sending an early referral to the Denman Growers & Producers Alliance;
- Trustees suggested that consideration might be given to conducting a community survey after referral comments have been received; and
- Trustees proposed that the referrals not include the Table to ensure that the scope of the project is not broadened by the many options presented.

The motion was withdrawn.

DE-2016-085**It was MOVED and SECONDED,**

that the Denman Island Local Trust Committee refer the Farm Plan Implementation Staff Report including updates based on the November 15, 2016 Local Trust Committee meeting discussion to the Denman Growers & Producers Alliance for its comments.

CARRIED**12. BREAK – none.****13. REPORTS****13.1 Work Program Reports****13.1.1 Top Priorities Report dated November 3, 2016**

Trustees considered the three Top Priorities on the list and discussed additional items to add. They noted that the “Housekeeping Project” might be advanced to the Top Priority list at this time as it is currently being addressed. LTC members supported deferring discussion of additional priorities until the next meeting.

DE-2016-086

It was MOVED and SECONDED,
that the Denman Island Local Trust Committee add “Housekeeping
Project” to its Top Priorities List.

CARRIED

13.1.2 Projects List Report dated November 3, 2016

Received.

13.2 Applications Report dated November 3, 2016

Received.

13.3 Trustee and Local Expense Report dated September, 2016

Received.

13.4 Adopted Policies and Standing Resolutions - none

13.5 Local Trust Committee Webpage

There were no changes requested.

13.6 Chair's Report

Chair Morrison reported on the following meetings:

- Financial Planning Committee;
- Relocation Committee;
- Gambier Island LTC ;
- Lasqueti LTC ;
- Trust Fund Board;
- Thetis Island LTC; and
- Trust Council.

13.7 Trustee Reports

Trustee Critchley reported on the following meetings:

- Old School Committee;
- Trustee Office Hours;
- Trust Programs Committee; and
- Follow-up regarding transportation issues.

Trustee Busheikin reported on the following meetings:

- Ferry Advisory Committee and
- Denman Island Residents Association.

13.8 Electoral Area Director's Report – none

13.9 Trust Fund Board Report – none

By general consent agenda item 14.1 was moved to follow 17.3.

15. UPCOMING MEETINGS

15.1 Next Regular Meeting Scheduled for Tuesday, January 31, 2017 at 10:30 am at the Denman Seniors Centre, 1111 Northwest Road, Denman Island, BC

Trustees confirmed the next regular scheduled meeting date, time and location.

16. TOWN HALL

Edi Johnston asked about procedures for including correspondence on specific issues on the website and inquired where supporting documents on Bylaw No. 207 can be found.

Regional Planning Manager Kjerulf explained the process and responded that steps are being taken to include more information on the website.

Edi Johnston stated that she had not been able to locate any information on the most recent meeting of Comox Valley Regional District (CVRD) and Local Trust Committee members and requested a verbal account of issues discussed at that meeting.

Trustees responded that items for discussion included the Baynes Sound Initiative, policing activities, the CVRD Special Events Bylaw, Cross-Island Trail, concerns regarding the Ferry Hill, South Sewer Project and housing.

17. CLOSED MEETING

17.1 Motion to Close the Meeting

DE-2016-087

It was MOVED and SECONDED,

that the meeting be closed to the public in accordance with the Community Charter, Part 4, Division 3, s.90 (1)(i) for the purpose of considering receipt of advice that is subject to solicitor-client privilege and that the recorder and staff attend the meeting.

CARRIED

The meeting was closed to the public at 12:38 pm.

17.2 Recall to Order

The meeting was recalled to order at 12:44 pm.

17.3 Rise and Report - none

14. NEW BUSINESS

14.1 Ferry Hill Pedestrian Concerns – for discussion

Trustees suggested that they might follow-up individually on the concerns addressed in the correspondence and requested that this item be placed on the agenda for discussion at the next meeting.

18. ADJOURNMENT

By general consent the meeting was adjourned at 12:45 pm.

Susan Morrison, Chair

Certified Correct:

Vicky Bockman, Recorder



Islands Trust

Print Date: January 23, 2017

Resolutions Without Meeting

Denman Island

Resolution #	Action	Resolution Description	Resolution Date
2016-10	In Favour	"That the Denman Island Local Trust Committee authorize the expenditure of up to \$65 from their Communications Local Expense Budget for the purpose of placing an ad in the local newspaper wishing islanders happy holidays, and sending personalized letters, along with copies of the "Islands in Trust" DVD from the Gulf Islands Alliance, to key groups and businesses."	21-Dec-2016
2017-01	In Favour	"That the Denman Island Local Trust Committee January 31, 2017 meeting be rescheduled to commence at 9:30 AM."	06-Jan-2017

Follow Up Action Report

Denman Island

19-Apr-2016

Activity	Responsibility	Target Date	Status
Monitor Regional District of Nanaimo Electoral Area H Official Community Plan Review and report to LTC about pertinent issues and opportunities to participate	Marnie Eggen		On Going
1. To organize a CIM with presentations on eelgrass beds and forage fish habitat and if possible a presentation from the BC Shellfish Growers Association and the Komoks First Nation on aquaculture practices and future plans.	Marnie Eggen David Critchley Laura Busheikin	05-Jul-2016	On Going
2. Staff to contact Komoks FN in regard to participation in CIM			
3. Staff to engage a facilitator for aquaculture CIM if required			

05-Jul-2016

Activity	Responsibility	Target Date	Status
Application RZ-DE-2015.1 (Pandesign) Bylaw Nos. 219 & 220 received third readings; Executive Committee approved bylaws on July 27. Bylaw 219 approved by Minister Dec 8 2016. Forward to LTC for consideration of adoption January 2017	Becky McErlean Ann Kjerulf		On Going
Staff to inquire into the processing of Schedule B submissions for affordable housing projects pursuant to housing agreements.	Marnie Eggen		On Going

20-Sep-2016

Activity	Responsibility	Target Date	Status
DE-DVP-2016.1 (Lundberg) approved with conditions.	Becky McErlean Marnie Eggen Penny Hawley	31-Jan-2017	On Going

**Follow Up Action Report**

DE-TUP-2016.1 (Williams) approved with conditions.

Becky McErlean
Penny Hawley
Teresa Rittemann

31-Jan-2017

Done

18-Oct-2016

Activity	Responsibility	Target Date	Status
Request the Financial Planning Committee (FPC) investigate initiating automatic application fee increases based on the Consumer Price Index or a similar measure on a Trust-wide basis. (Staff report on Jan. 17th FPC Meeting Agenda)	Teresa Rittemann Ann Kjerulf	15-Nov-2016	Done

15-Nov-2016

Activity	Responsibility	Target Date	Status
Staff to coordinate teleconference regarding attendance at a Komoks First Nation Council Meeting. Staff/Trustee teleconference held Dec. 20th.	Ann Kjerulf	20-Dec-2016	Done
Proposed (Housekeeping) Bylaws 222 (OCP) and 223 (LUB): Incorporate revised agriculture definition in Bylaw 223; Report to LTC on potential restrictions on feed lots	Teresa Rittemann Ann Kjerulf	31-Jan-2017	On Going
Denman Island Local Trust Committee Fees Bylaw, 2007 adopted. Update and upload Adopted Bylaw to website and consolidation to be done for April 2017.	Becky McErlean Penny Hawley Teresa Rittemann	30-Nov-2016	Done
Refer proposed Bylaws 222 and 223 to agencies (MCSCD, FLNRO Ecosystems, ALC, SD 71, Komoks FN	Becky McErlean Teresa Rittemann	31-Jan-2017	Done
Farm Plan Implementation: refer staff report with potential OCP/LUB amendments to APC/Denman Island Growers and Producers Association (with the exception of detailed table and noting changes requested by LTC Nov. 15th)	Becky McErlean Penny Hawley Ann Kjerulf	31-Jan-2017	Done

PROPOSED

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 219

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. 2, 2015”.

READ A FIRST TIME THIS 26TH DAY OF MAY , 2015

READ A SECOND TIME THIS 21ST DAY OF JULY , 2015

PUBLIC HEARING HELD THIS 25TH DAY OF JUNE , 2016

READ A THIRD TIME THIS 5TH DAY OF JULY , 2016

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
27TH DAY OF JULY , 2016

APPROVED BY THE MINISTER OF COMMUNITY, SPORT AND CULTURAL DEVELOPMENT
THIS 8TH DAY OF DECEMBER , 2016

ADOPTED THIS _____ DAY OF _____ , 201X

SECRETARY

CHAIRPERSON

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 219

Schedule A

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

1. That the Residential Density Bank table of Appendix D, “Density Banking” be amended by the addition of a new entry, in sequential order, which reads as follows:

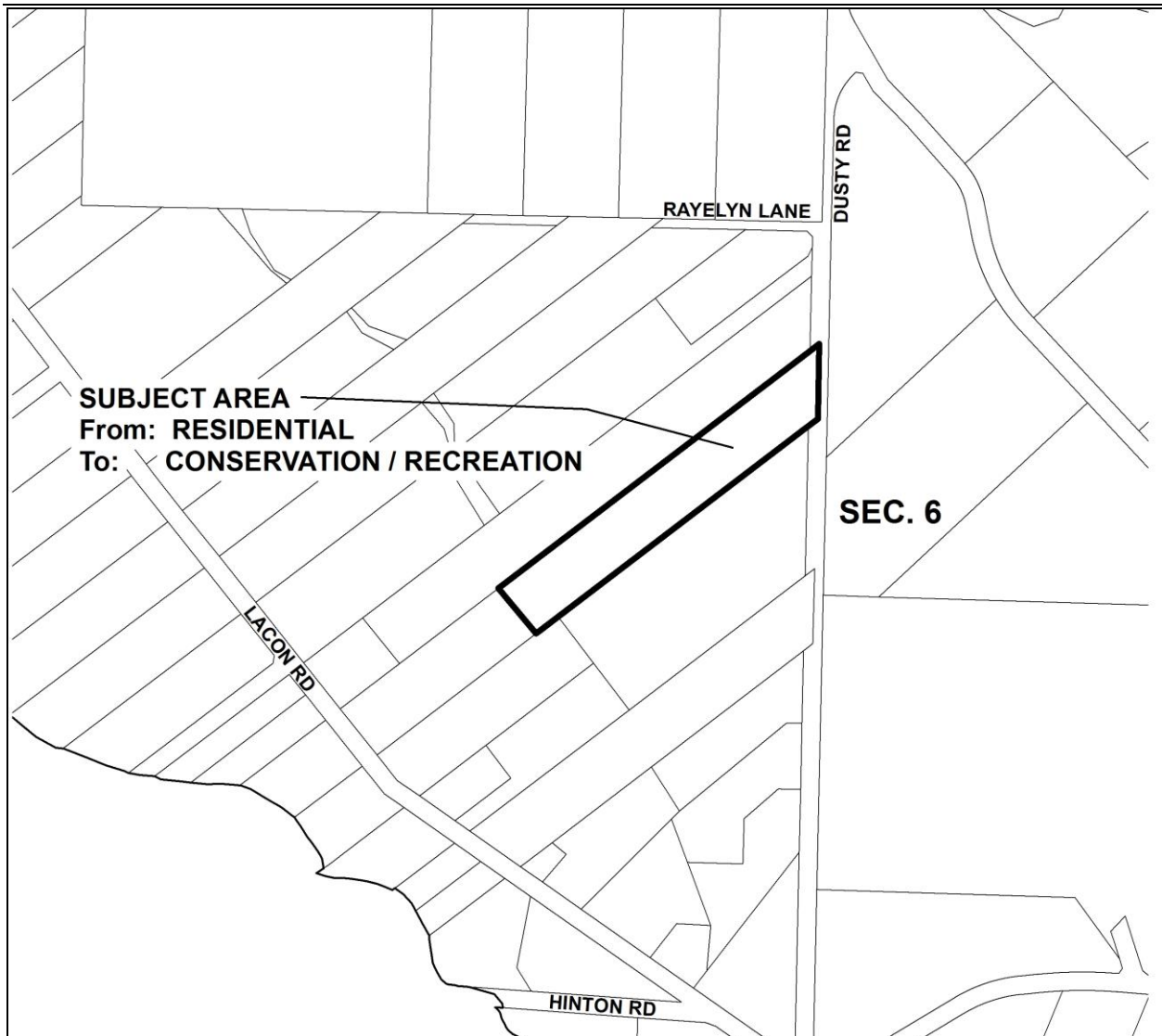
Authorizing Bylaw	Date Added to or transferred from the Bank	Legal Description	Number of residential dwelling units added or deleted	Cumulative Total of residential dwelling units in the bank
219	[date of adoption]	Lot 17, Section 6, Denman Island, Nanaimo District, Plan 6404 (6080 Lacon Road)	+1	14

2. Schedule C [Land Use Designations] is amended by changing the land use designations as follows:
 - a) On portions of land legally described as LOT 17, SECTION 6, DENMAN ISLAND, NANAIMO DISTRICT, PLAN 6404 the land use designation is changed:
from “Residential” to “Conservation/Recreation”;
as shown on Appendix No. 1 attached to and forming part of this bylaw.
 - b) On portions of land legally described as LOT A, SECTION 12, DENMAN ISLAND, NANAIMO DISTRICT, PLAN VIP88949 the land use designation is changed:
from a split “Sustainable Resources” and “Rural” designation to “Rural”;
as shown on Appendix No. 2 attached to and forming part of this bylaw.

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 219

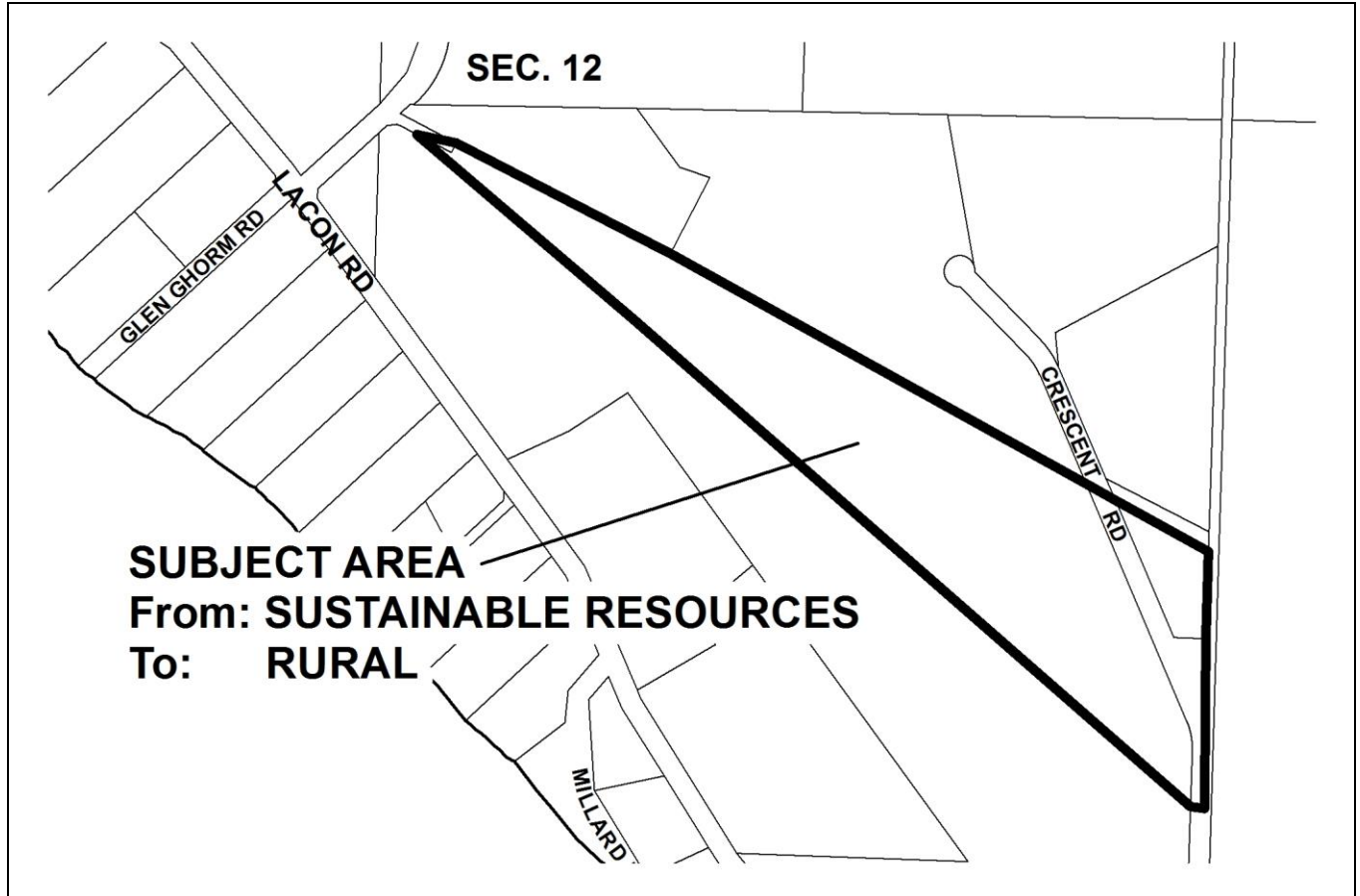
Appendix No. 1



DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 219

Appendix No. 2



PROPOSED

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 220

A BYLAW TO AMEND DENMAN ISLAND LAND USE BYLAW, 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. 186 cited as "Denman Island Land Use Bylaw, 2008" is altered as shown on Schedule "A" of this amending bylaw.
2. This Bylaw may be cited as "Denman Island Land Use Bylaw, 2008, Amendment No. 3, 2015".

READ A FIRST TIME THIS 26TH DAY OF MAY , 2015

READ A SECOND TIME THIS 21ST DAY OF JULY , 2015

PUBLIC HEARING HELD THIS 25TH DAY OF JUNE , 2016

READ A THIRD TIME THIS 5TH DAY OF JULY , 2016

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
27TH DAY OF JULY , 2016

ADOPTED THIS DAY OF , 201x

SECRETARY

CHAIRPERSON

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 220

Schedule A

Denman Island Local Trust Committee Bylaw No. 186, cited as “Denman Island Land Use Bylaw, 2008” is amended as follows:

1. That Table 8 – “Site Specific Regulations” of Part 3.3, “Residential Zoning Tables” be amended by the addition of a new entry in sequential order which reads as follows:

Site Specific Zoning Code	Site Specific Regulations
“R2(6)”	1 Despite line 1 in Table 7 of this Section, the maximum density permitted by subdivision is an average of one lot per 5.56ha.”

2. Schedule “B” [zoning map] is amended by changing the zoning classifications as follows:

- a) On portions of land legally described as LOT 17, SECTION 6, DENMAN ISLAND, NANAIMO DISTRICT, PLAN 6404 the zoning classification is changed:

from Residential (R-1) to Conservation (CN);

as shown on Appendix No. 1 attached to and forming part of this bylaw.

- b) On portions of land legally described as LOT A, SECTION 12, DENMAN ISLAND, NANAIMO DISTRICT, PLAN VIP88949 the zoning classification is changed:

from a split zoning of Rural Residential (R2) and Forestry (F) to Rural Residential 2(6), (R2(6));

as shown on Appendix No. 2 attached to and forming part of this bylaw.

- c) On portions of land legally described as SOUTH EAST 1/4 OF SECTION 12, DENMAN ISLAND, NANAIMO DISTRICT, EXCEPT PART IN PLANS 15079, 19060, VIP60280, VIP79163 AND VIP88949 the zoning classification is changed from:

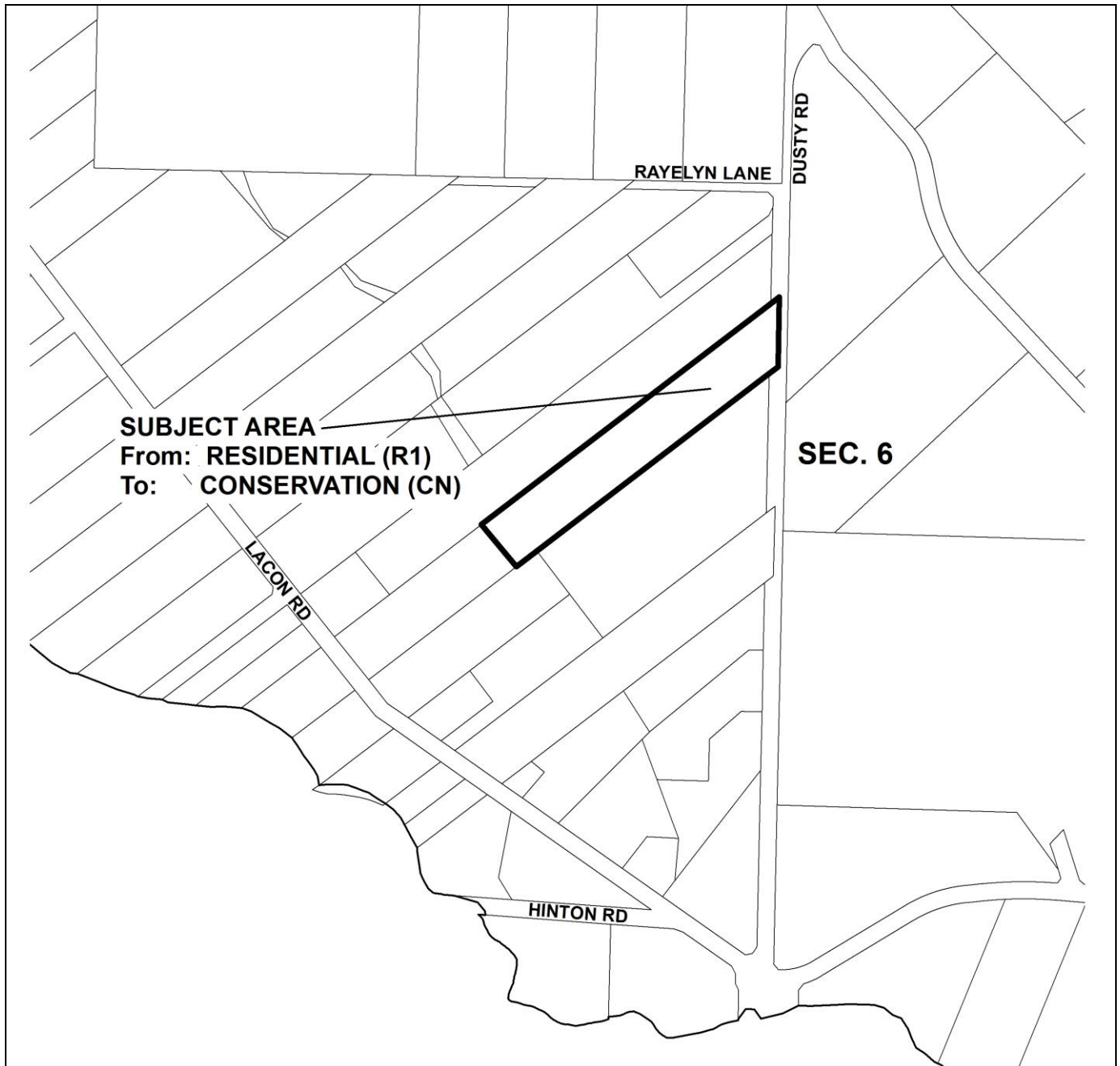
Forestry (F) to Agriculture (A)

as shown on Appendix No. 2 attached to and forming part of this bylaw.

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 220

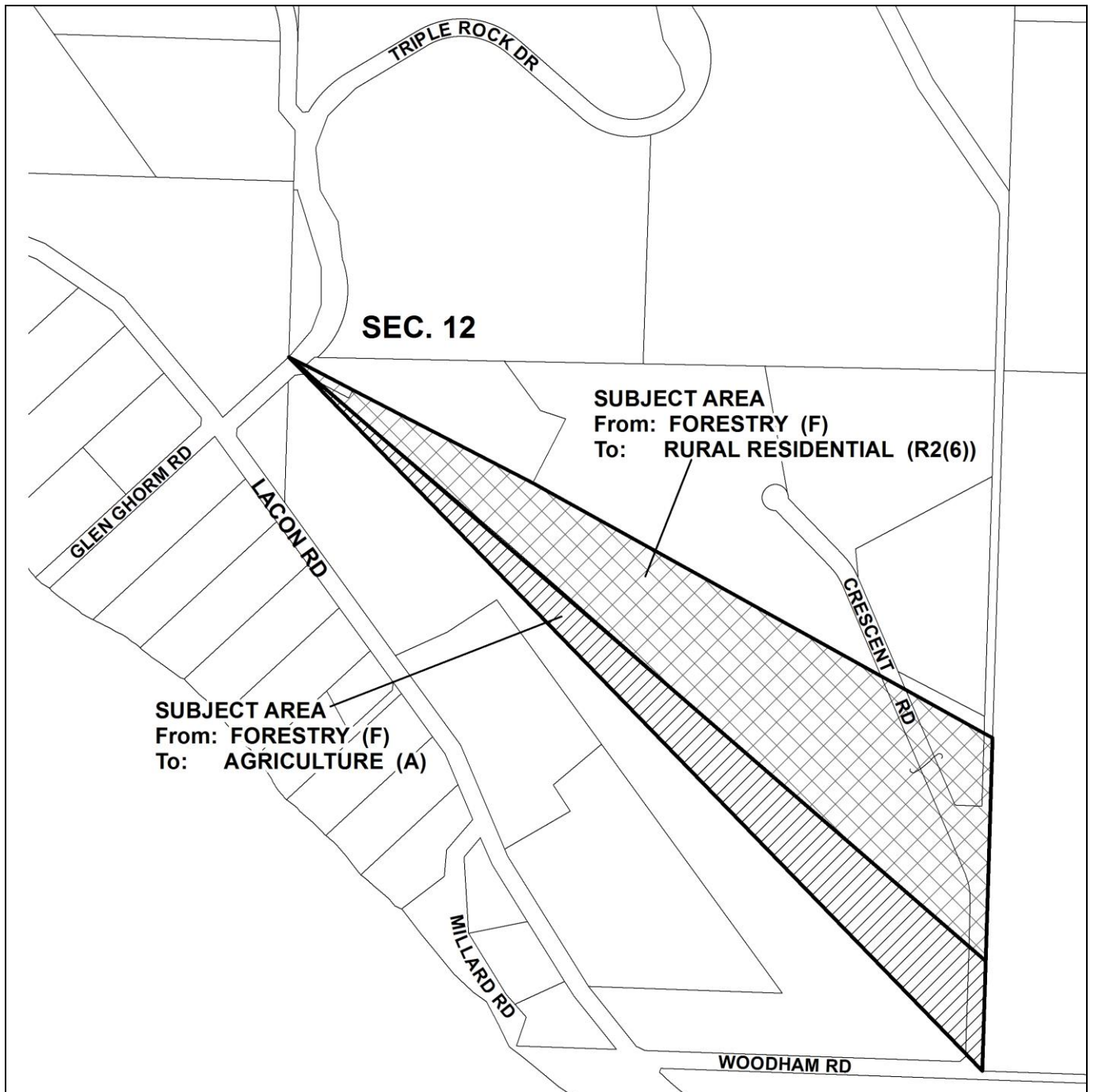
Appendix No. 1



DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 220

Appendix No. 2





DATE OF MEETING: January 31, 2017
TO: Denman Island Local Trust Committee
FROM: Teresa Rittemann, Planner 2
Northern Office
SUBJECT: Interim Staff Report –
Denman Island OCP and LUB Housekeeping Amendments (Bylaws No. 222 & 223)

RECOMMENDATION

1. That Denman Island Local Trust Committee Bylaw No. 222 cited as “Denman Island Official Community Plan, 2008, Amendment No. 1, 2016,” be read a second time;
2. That Denman Island Local Trust Committee Bylaw No. 223 cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2016”, be amended as follows:
 - a) Part 1 ADMINISTRATION, Section 1.1 Definitions, “*agriculture*”, “*intensive agriculture*” and “*feedlot*” are deleted entirely and replaced with:

“*agriculture* means the use of land, buildings or structures for a farm operation as defined by the *Farm Practices Protection (Right to Farm) Act*.”

“*intensive agriculture* means the confinement of poultry, livestock or fur bearing animals, or the growing of mushrooms.”

“*feedlot* means a fenced area where livestock, poultry, or farmed game are confined solely for the purpose of growing or finishing, and are sustained by means other than grazing.”;
 - b) Part 2 GENERAL REGULATIONS, Section 2.1 Uses, Buildings and Structures, be amended to include a new subsection 17 as follows:

“Feedlots

17 Feedlots are prohibited on lands outside the Agriculture Land Reserve.”
 - c) Part 2 GENERAL REGULATIONS, Section 2.3 General Setback Regulations, be amended to include a new subsection 7 as follows:

“Agricultural Setbacks

7 For feedlots, the minimum setback from the natural boundary of a stream, lake, wetland or the sea, and from all lot lines, is 30.0 metres.
3. That Denman Island Local Trust Committee Bylaw No. 223 cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2016,” be read a second time as amended.

REPORT SUMMARY

The purpose of this report is to address the Denman Island Local Trust Committee's (LTC) two requests of staff during its regular business meeting on November 15, 2016, and recommend resolutions for next steps.

BACKGROUND

At the regular LTC business meeting on November 15, 2016, the LTC considered Bylaw No. 222 cited as "Denman Island Official Community Plan, 2008, Amendment No. 1, 2016" and Bylaw No. 223 cited as "Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2016". These bylaws are intended to address "housekeeping" items including the definition of "intensive agriculture", and scope and application of Development Permit Area (DPA) 4 for streams, lakes and wetlands.

Upon consideration, LTC passed a number of resolutions including confirming that neither Bylaw 222 nor 223 were contrary to or at variance with the Islands Trust Policy Statement, and giving first reading to both bylaws. The LTC also discussed that the definition of "agriculture" in the Land Use Bylaw might be improved for clarity and corrected for formatting. Regarding the proposed amendment to amend the definition of "intensive agriculture" by removing the words "and excluding feedlots", Trustees requested additional background information and an analysis of whether regulations regarding feedlots are adequate. The LTC passed the following resolutions (draft):

DE-2016-080

"that the Denman Island Local Trust Committee request staff to bring forward draft bylaw amendments to the Denman Island Land Use Bylaw definition of "agriculture" to correct formatting errors."

DE-2016-081

"that the Denman Island Local Trust Committee request staff to report to the Local Trust Committee on current restrictions for "intensive agriculture" and how this could potentially apply to feedlots, and present draft bylaw amendments for consideration."

The LTC also passed a resolution to refer the bylaws to the: Ministry of Community, Sport and Cultural Development; Ministry of Forests, Lands and Natural Resource Operations (Ecosystems Branch); Agricultural Land Commission; School District No. 71; and K'ómoks First Nation.

ANALYSIS

Policy/Regulatory:

Farm Practices Protection (Right to Farm) Act

The guiding principle of the *Farm Practices Protection (Right to Farm) Act* (FPPA) is that farmers have a right to farm in BC's important farming areas, particularly in the Agricultural Land Reserve (ALR), so long as they use "normal farm practices" as defined in the FPPA and comply with other legislation listed in that Act.

Where a farm operation is conducted with normal farm practices in the ALR, on land zoned for farm use, or in a licensed aquaculture area, a farmer is not liable in nuisance to any person and cannot be prevented by an injunction or court order from conducting the farm operation for any odour, noise, dust, or other disturbance from the farm operation. Additionally, where a farm operation is in the ALR or in a licensed aquaculture area, is using normal farm practices, and is in compliance with other legislation indicated in the Act, the farm operation is protected from unwarranted nuisance complaints.

Definition of “Agriculture” in the Denman Island Land Use Bylaw:

The current definition of “agriculture” in the Denman Island Land Use Bylaw (LUB) is as follows:

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

- *growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals;*
 - *clearing, draining, irrigating or cultivating land;*
 - *using farm machinery, equipment, devices, materials and structures;*
 - *applying fertilisers, compost, manure and other growing agents;*
 - *intensively cultivating, in plantations, speciality wood crops or speciality fibre crops prescribed by the Minister of Agriculture, Food and Fisheries;*
 - *turf production;*
 - *aquaculture;*
 - *raising or keeping of game, within the meaning of the Game Farm Act, by a person licensed to do so under the Act;*
 - *raising or keeping fur bearing animals, within the meaning of the Fur Farm Act, by a person licensed to do so under the Act;*
 - *storage, processing or direct marketing by a farmer of farm products;*
- but does not include any of the following activities:*
- *a forest practice defined in the Forest Practices Code of British Columbia Act*
 - *the sale of processed wood products;*
 - *breeding pets;*
 - *operating a kennel or equestrian stable;*
 - *growing, producing, raising or keeping of exotic animals as defined by the Minister of Agriculture, Food and Fisheries;“*

The above definition appears to have been based on the definition of “farm operation” that is used in the provincial *Farm Practices Protection (Right to Farm) Act (FPPA)*:

“farm operation” means any of the following activities involved in carrying on a farm business:

- (a) growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals;*
- (b) clearing, draining, irrigating or cultivating land;*
- (c) using farm machinery, equipment, devices, materials and structures;*
- (d) applying fertilizers, manure, pesticides and biological control agents, including by ground and aerial spraying;*
- (e) conducting any other agricultural activity on, in or over agricultural land;*
and includes
- (f) intensively cultivating in plantations, any*
(i) specialty wood crops, or
(ii) specialty fibre crops
prescribed by the minister;
- (g) conducting turf production*
(i) outside of an agricultural land reserve, or
(ii) in an agricultural land reserve with the approval under the Agricultural Land Commission Act of the Provincial Agricultural Land Commission;
- (h) aquaculture as defined in the Fisheries Act if carried on by a person licensed, under Part 3 of that Act, to carry on the business of aquaculture;*
- (i) raising or keeping fur bearing animals or game, within the meaning of a regulation made under the Animal Health Act, by a person licensed or permitted to do so under that Act;*
- (j) [Repealed 2014-16-107.]*
- (k) processing or direct marketing by a farmer of one or both of*
(i) the products of a farm owned or operated by the farmer, and
(ii) within limits prescribed by the minister, products not of that farm,
to the extent that the processing or marketing of those products is conducted on the farmer's farm;
but does not include
- (l) an activity, other than grazing or hay cutting, if the activity constitutes a forest practice as defined in the Forest and Range Practices Act;*
- (m) breeding pets or operating a kennel;*
- (n) growing, producing, raising or keeping exotic animals, except types of exotic animals prescribed by the minister;*

In order to simplify and to correct any formatting errors in the definition of “agriculture” in the Denman Island Land Use Bylaw (LUB), the LTC may wish to consider a revised version of “agriculture” that refers directly to the definition used in the FPPA:

“agriculture means the use of land, buildings or structures for a farm operation as defined by the Farm Practices Protection (Right to Farm) Act.”

This would remove the need to amend the definition in the future, in the event that the FPPA definition is changed. The Ministry of Agriculture “Guide for Bylaw Development in Farming Areas”¹ also recommends this approach, as *“the definitions have been developed for incorporation into bylaws where appropriate but may also be used for reference purposes. The use of terminology in bylaws as prescribed in the definitions encourages greater consistency throughout the province.”*

Definitions of “Intensive Agriculture” and “Feedlot”

Regarding the proposed change to the LUB definition of “intensive agriculture” by removing the words “and excluding feedlots”, LTC requested additional background and an analysis of whether regulations regarding feedlots are adequate.

The Denman Island LUB currently defines “Intensive Agriculture” and “Feedlots” respectively as:

*“intensive agriculture means the use of land, buildings and structures by a commercial enterprise or an institution for the confinement of poultry, livestock or fur bearing animals, or the growing of mushrooms, **except for forest fungi, and excludes feedlots.**”*

“feedlot means commercial operation containing a fenced area where livestock, poultry or farmed game is confined solely for the purpose of growing or finishing and is sustained by means other than grazing, but excludes confinement of animals for domestic purposes;”

Furthermore, the current LUB permits “Intensive Agriculture” in Resource zones, with required setbacks of 30.0 m from all lot lines. “Feedlot” is not referenced in the LUB outside the definitions section.

Division 17 (Section 555) of the *Local Government Act (LGA)* includes a definition and provisions regarding intensive agriculture.

Intensive agriculture

555 (1) *In this section, “intensive agriculture” means the use of land, buildings and other structures by a commercial enterprise or an institution for*

- (a) the confinement of poultry, livestock or fur bearing animals, or*
- (b) the growing of mushrooms.*

(2) Despite a zoning bylaw, if land is located in an agricultural land reserve under the Agricultural Land Commission Act and that land is not subject to section 23 (1) [exception for small farms established before 1973] of that Act, intensive agriculture is permitted as a use.

(3) Subsections (1) and (2) cease to have effect in an area after a zoning bylaw for that area is approved under section 481 (2) [zoning requires agriculture minister's approval].

Intensive agriculture is permitted within the ALR despite local zoning bylaw provisions, unless the Minister of Agriculture has approved the zoning bylaw through the bylaw review process.

Feedlots may be considered a form of intensive agriculture. The “Guide for Bylaw Development in Farming Areas” defines “feedlot” as:

“Feedlot means a fenced area where livestock, poultry, or farmed game are confined solely for the purpose of growing or finishing, and are sustained by means other than grazing.”

¹ See http://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/agriculture-and-seafood/agricultural-land-and-environment/strengthening-farming/local-government-bylaw-standards/840000-1_guide_for_bylaw_development_in_farming_areas.pdf

Issues and Opportunities:

The definition of “intensive agriculture” could be aligned with the LGA by removing the words “except for forest fungi, and excludes feedlots” to read:

“intensive agriculture means the confinement of poultry, livestock or fur bearing animals, or the growing of mushrooms.”

The definition of feedlot could be revised to be consistent with the provincial guide noted above. Still, feedlots would continue to be defined in the LUB yet not referenced outside the LUB Definitions. It may be interpreted that feedlots are a form of intensive agriculture due to the similarity of the definitions. However, in order to ensure the intent of the LUB is clear in its reference to feedlots, staff recommend that feedlots be more explicitly regulated in the LUB. This could occur through a general prohibition on lands outside the ALR and through specific setback regulations on lands within the ALR.

Staff recommend inserting provisions for feedlots in the LUB, under Section 2.1 Uses, Buildings and Structures:

“Feedlots

17 Feedlots are prohibited on lands outside the Agriculture Land Reserve.”

Staff further recommend inserting a new general provision in the LUB under Section 2.3 General Setback Regulations, as follows:

“Agricultural Setbacks

7 For feedlots, the minimum setback from the natural boundary of a stream, lake, wetland or the sea, and from all lots lines, is 30.0 metres.”

This 30.0 m regulation would be consistent with the provincial “Guide for Bylaw Development in Farming Areas”, which indicates a setback range of 15.0 m – 30.0 m for confined livestock areas, including feedlots (a type of intensive agriculture). The Guide states:

“Appropriate setback distances can help prevent nuisance conflicts, protect natural resources, and safeguard human health. On the other hand, excessive setbacks can present serious challenges to farming operations. The standards in this section seek to strike a balance by recommending setbacks that are large enough to reduce conflict between uses while still being reasonable and economical for farm operations.”

Furthermore, it is the opinion of staff that the existing 30.0 metre setback regulations for intensive agriculture in the Denman LUB need not be amended.

Staff has no concerns with removing “forest fungi” from the intensive agriculture definition since it is defined and regulated separately from intensive agriculture in the LUB.

Consultation:

At the regular business meeting on November 15, 2016, the LTC passed the following resolutions (draft):

DE-2016-078

“That the Denman Island Local Trust Committee request staff to schedule a Public Hearing for Bylaw No. 222 cited as “Denman Island Official Community Plan, 2008, Amendment No. 1, 2016”. ”

DE-2016-082

“That the Denman Island Local Trust Committee request staff to refer the draft Bylaw Nos. 222 and 223 to the following agencies and First Nations for comment: Ministry of Community, Sport and Cultural Development; Ministry of Forests, Lands and Natural Resource Operations (Ecosystems Branch); Agricultural Land Commission; School District No. 71; and K’ómoks First Nation.”

In response to the above resolutions, staff will schedule the Public Hearing after referral responses have been received for the above agencies and First Nations. At this time, LTC may also wish to consider second reading of the bylaws (second reading may occur either prior to or following a public hearing).

As of the time of writing this report, staff have received a response from the Ministry of Forests, Lands and Natural Resource Operations indicating that their interests are unaffected. Staff will inform the LTC of any other responses received between the date of this report and the date of the next LTC meeting (January 31, 2017).

Rationale for Recommendation:

It is the view of staff that the definitions of agriculture, intensive agriculture, and feedlot in the Denman Island LUB should be amended to align with the provincial “Guide for Bylaw Development in Farming Areas”, which is intended to assist local governments in ensuring that local bylaws are consistent with relevant provincial legislation applicable to farming. The recommended resolutions to enact this change are found on page 1.

ALTERNATIVES

1. Request further information

The LTC may request further information be provided or that staff investigate alternative bylaw amendments prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request.

2. Defer consideration of changes to the agriculture and intensive agriculture definitions to the Farm Plan Implementation Project

The LTC has initiated a project to implement recommendations of the Denman Island Farm Plan. LTC may wish to defer consideration of the revised definitions of “agriculture”, “intensive agriculture”, and “feedlot” for consideration as part of this project.

NEXT STEPS

Staff will continue to solicit input through the bylaw referral process and proceed with scheduling a Public Hearing, unless otherwise directed by the LTC.

Submitted By:	Teresa Ritemann Planner 2, Northern Office	January 11, 2017
Concurrence:	Ann Kjerulf, RPP, MCIP Regional Planning Manager, Northern Office	January 18, 2017

File No.: DE 6500-20
(Bylaw No. 207)

DATE OF MEETING: January 31, 2017
TO: Denman Island Local Trust Committee
FROM: Ann Kjerulf, Regional Planning Manager
Northern Team
SUBJECT: Draft Bylaw No. 207

RECOMMENDATION

1. That the Denman Island Local Trust Committee not proceed with draft Bylaw No. 207 cited as "Denman Island Land Use Bylaw, 2002, Amendment No. 1, 2013".
2. That the Denman Island Local Trust Committee request staff to prepare a report identifying viable options for marine foreshore protection, which are within the legislative authority of the Local Trust Committee.

REPORT SUMMARY

Staff request that the Denman Island Local Trust Committee (LTC) pass a resolution to not proceed with draft Bylaw No. 207. The Islands Trust solicitor has advised that the bylaw, if adopted, would likely have no force or effect on aquaculture operators' use of foreshore to access tenure areas. Staff are of the opinion that the LTC should consider marine foreshore protection measures that are within their legislative authority.

BACKGROUND

Protecting the ecological integrity of the marine foreshore has been a longstanding concern on Denman Island, with the LTC considering shellfish aquaculture impacts on the marine environment and possible land use bylaw restrictions in 2012. The following provides a general chronology of LTC discussion and direction since that time:

In February 2013, the LTC directed staff to prepare an amendment bylaw to address "driving on the foreshore":

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.

In November 2013, the LTC decided not to proceed with this bylaw:

DE-077-2013

It was **MOVED** and **SECONDED**,

That the Denman Island Local Trust Committee proceed no further with Draft Bylaw No. 207 due to questions regarding legislative authority.

On July 21, 2015, the LTC again considered a draft bylaw to restrict “driving on the beach”:

DE-2015-056

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee forward the driving on the foreshore draft bylaw amendment to staff and to the Marine Advisory Planning Commission, inviting their comments on it.

At their meeting held August 28, 2015, the Marine Advisory Planning Commission (MAPC) considered draft regulations including: prohibiting the use of vehicles and ground based machinery on the foreshore in the W1 and W4 zones; and prohibiting the use of vehicles and ground based machinery on the foreshore in the W3 zone. Following consideration,

It was MOVED and SECONDED,

That the Marine Advisory Planning Commission fully supports the draft Land Use Bylaw No. 186 amendment that adds a new Table 5 – Prohibited Uses to Part 3.7.

At the September 8, 2015 LTC meeting, staff presented a report and draft bylaw and the LTC subsequently passed the following resolution:

DE-2015-059

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee amend draft bylaw No. 207 by deleting the previous content and substituting the part shown as Schedule ‘A’ in the staff report dated August 18, 2015.

The LTC also considered next steps in the process and supported holding an informal, round-table public meeting to voice concerns, discuss the implication and impacts of the draft bylaw:

DE-2015-060

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee direct staff to arrange a public meeting specifically inviting the Shellfish Growers Association, Fisheries and Oceans Canada, independent shellfish growers having tenures on Denman Island, K’omoks First Nation, the Aboriginal Aquaculture Association, Ministry of Forests, Lands & Natural Resource Operations, and a representative from the Association for Denman Island Marine Stewards to discuss the content of proposed amended Bylaw No. 207.

A special meeting of the LTC was held November 3, 2015, with representatives of various agencies including: Fisheries and Oceans Canada (DFO), Ministry of Forests, Lands and Natural Resource Operations (FLNRO), Ministry of Transportation and Infrastructure (MOTI), Association for Denman Island Marine Stewards (ADIMS), Comox Valley Regional District (CVRD), two independent growers, and three members of the public.

At this meeting, both the DFO and FLNRO representatives noted that with the tenure and license for aquaculture there is an assumption of access and there is a concern that Bylaw No. 207 would make an aquaculture operation unviable. However, DFO representative, Shelley Jepps, noted:

“DFO has jurisdiction to control the license conditions only on the tenure. She stated that the goal is environmental and economic sustainability, and observed that while some impacts are inherent, it is the scale and scope of those impacts that are important. She remarked that viewing relevant mapping would be helpful in determining access points and the types of substrates that might be more resilient to the impacts. She suggested that the impacts of using alternative access points should also be investigated. She supported balancing protection of the forage fish and the environment with economic sustainability, however, noted the difficulty of the monitoring and enforcement component of the draft bylaw.”

Michael Dickson, an independent grower, commented:

“getting to his lease requires driving on some area that is not on the lease area. He explained that generally it is in the best interest of operators to take the route on the substrates with the lowest impact. He suggested that existing accesses and routes be reviewed with discussion of possible changes that might be made to lessen the impact.”

At the December 1, 2015 LTC meeting, the LTC adopted the November 3, 2015 special meeting minutes, a verbal update on Bylaw No. 207 was presented by staff, and the LTC discussed opportunities to further engage with growers or other groups who had not attended the meeting, engaging with the MPC and collaborating with DFO. The LTC passed the following resolutions (with the second resolution clarifying the intent of the first):

DE-2015-086

It was MOVED and SECONDED,

That the Denman Island Local Trust Committee direct the Marine Advisory Planning Commission to investigate and report on the possibilities for improving existing beach accesses to reduce the impact of Bylaw No. 207 on shellfish growers.

DE-2015-094

It was MOVED and SECONDED,

That the Denman Island Local Trust Committee direct the Marine Advisory Planning Commission to investigate and report on the possibilities for improving existing beach accesses to reduce the impact of Bylaw No. 207 on shellfish growers such to include: 1) the identification of growers who use vehicles on the beach and 2) the physical suitability of existing access points to provide access to those growers.

MAPC considered the request from the LTC regarding beach accesses on January 5, 2016. The scope and purpose of the referral and possible resources for assessing beach accesses were discussed. No resolution was passed.

At the January 12, 2016 LTC meeting, minutes of the January 5, 2016 MAPC meeting were received by the LTC.

At the March 15, 2016 LTC meeting, members of the MAPC provided a report (dated February 11, 2016) summarizing an assessment of beach accesses and survey of shellfish tenure holders.

At the April 19, 2016 LTC meeting, trustees discussed conducting a second community information meeting regarding Bylaw No. 207 to “solicit views, share scientific information and the report produced by the MAPC with the community and stakeholders”, in addition to a separate meeting with the K’omoks First Nation.

DE-2016-029

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to arrange a Community Information Meeting with regard to Bylaw No. 207, such meeting to include information including scientific information and to include persons who can speak to the need for a regulation of driving on the beach and to specifically invite the Shellfish Growers Association and the shellfish growers who are known to currently use vehicles on the beach and encourage them to bring any documentation that might be useful and to invite the K’omoks First Nation.

DE-2016-030

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to set up a meeting with representatives of K’omoks First Nation and the Local Trust Committee to discuss proposed Bylaw No. 207.

Since the April 2016 LTC meeting, there have been considerable efforts to engage with the K'omoks First Nation, noting that the K'omoks have significant interests in all land use activities occurring within their traditional territory. The LTC has also received input from its MAPC, local interest groups, individual citizens and shellfish growers, with varying degrees of support for draft Bylaw No. 207.

Further to the deliberation of Bylaw No. 207 at the LTC level, staff have continued to have concerns about the enforceability of a bylaw to restrict the operation of vehicles and ground based machinery in foreshore areas. This relates both the lack of on-island bylaw enforcement staff and also a concern with local regulations directed toward shellfish aquaculture practices, as aquaculture falls within federal jurisdiction. To allay concerns, staff sought legal advice from the Islands Trust solicitor in the fall of 2016. The result was advice to the Denman Island Local Trust Committee to not proceed with Bylaw No. 207 (Attachment 1). A summary of the legal opinion provided by the solicitor was authorized for release by the Islands Trust Executive Committee in November 2016 (Attachment 2).

ANALYSIS

Guiding Policy

Islands Trust Policy Statement:

The Islands Trust Policy Statement (ITPS) includes a number of directive policies concerning the protection of the marine environment and ecosystems. There is also directive policy concerning addressing economic opportunities that are compatible with conservation of resources and protection of community character (Attachment 3). For bylaws, the ITPS directive policies checklist is used to confirm compliance with the ITPS. Bylaw No. 207 was not previously reviewed for compliance with the ITPS although a cursory review of the policies indicates that the bylaw is not at variance with the ITPS.

Official Community Plan:

The Denman Island Official Community Plan (OCP) contains numerous statements, including objectives, policies and advocacy policies, concerning the protection of foreshore. Key statements have been noted in Attachment 3.

The OCP marine objectives speak strongly both to protection of the marine environment and foreshore areas (from both upland and marine side uses) and they also place high value on the importance of the aquaculture industry. Furthermore, the OCP statements provide a policy framework to support regulatory measures including zoning regulations, establishment of development permit areas, and requirements for development approval information in conjunction with applications, and non-regulatory measures focused toward advocacy.

Land Use Authority:

The Denman Island Land Use Bylaw is enabled under section 479 of the *Local Government Act*. In general terms, this includes the authority to, by bylaw, create zones and regulate land use, density of use, and siting of buildings, structures and uses within a zone. The authority to regulate land use, however, does not extend to regulation of fisheries, which is within federal jurisdiction. The Islands Trust solicitor has advised that draft Bylaw No. 207 appears to be directed at the aquaculture industry, which is beyond LTC jurisdiction.

Issues and Opportunities

The Islands Trust solicitor has advised that the LTC not proceed with draft Bylaw No. 207. The LTC may wish to consider alternative measures to protect marine foreshores that are within their legislative authority. Statements made by government representatives and the independent grower at the special LTC meeting held November 3, 2015 point to a collective willingness to sustain the economic health of the aquaculture industry and to protect the environment, and several ideas were generated at the stakeholder meeting which could be further explored.

Public input regarding marine foreshore protection has included greater controls over beach accesses, which would require coordination with the Comox Valley Regional District (as this is beyond the authority of the LTC), establishment of development permit areas for foreshore protection, and education and advocacy measures (which have policy support in the Denman Island OCP).

The Islands Trust Council has marine issues as a priority and at Trust Council in December 2016, Trust Area Services staff presented a briefing on marine protection options, which may further inform LTC discussion concerning viable options for marine foreshore protection. The Trust Council briefing on Marine Protection Options has been posted to the LTC Marine Issues project web page:

<http://www.islandstrust.bc.ca/islands/local-trust-areas/denman/projects-initiatives/marine-issues.aspx>

Should the LTC elect to move forward with consideration of alternative approaches to marine foreshore protection, staff would need to undertake further research to confirm viable approaches. This should occur within the framework of an approved project charter, with allocated budget funding. Given that there is ongoing discussion at Trust Area Services, the LTC may also elect to wait for the outcome of this work.

Consultation

Draft Bylaw No. 207 was referred to and considered by the MAPC, with a formal referral response received September 8, 2015. A stakeholders meeting was held in November 2015, as highlighted in the background section of this report.

The LTC has also requested previously that staff organize a community information meeting and consultation with K'omoks First Nation regarding draft Bylaw No. 207. Understanding of First Nations interests is critical.

Protocols

The Islands Trust Council has various protocol agreements with senior governments including the 1996 "Letter of Understanding between the Department of Fisheries and Oceans (DFO) and the Islands Trust Council concerning the Protection of Environmentally Sensitive Areas through the Integration of Mapped Information and Policy Development and Land Use Planning." Though arguably dated, the letter of understanding presents an opportunity for proactive dialogue between Islands Trust and DFO (now Fisheries and Oceans Canada).

Rationale for Recommendation

Staff are recommending that the LTC not proceed with draft Bylaw No. 207 based on the advice of the Islands Trust solicitor that the bylaw, as drafted, would exceed the LTC's jurisdiction. Further to this, it appears that there are alternative approaches to marine foreshore protection; albeit staff would need to research these more thoroughly prior to recommending any specific course of action for the LTC.

The staff recommendation is found on page 1 of the report.

ALTERNATIVES

1. Receive for information

The LTC is not required to formally resolve to not proceed with a bylaw. However, avoiding a resolution to this effect may lead to uncertainty regarding the disposition of the bylaw going forward.

NEXT STEPS

Should the LTC wish to proceed with the resolutions noted on page 1 of the staff report, staff would undertake a review of marine foreshore protection alternatives and provide a report and recommendations, along with a project charter and budget proposal, to the LTC at a future meeting.

Submitted By:	Ann Kjerulf, MCIP, RPP Regional Planning Manager	January 23, 2017
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ATTACHMENTS

1. Draft Bylaw No. 207
2. Summary of Legal Opinion from Islands Trust Solicitor
3. Marine Foreshore Protection Policy Framework

**DENMAN ISLAND LOCAL TRUST COMMITTEE
BYLAW NO.207**

Schedule 'A'

-
1. Part 3.7, "Water Zoning Tables" is amended by the addition of a new "Table 5 – Prohibited Uses" as shown below:

Table 5 – Prohibited Uses

The regulations listed in this table are intended to be applied in conjunction with the provisions of Table 1, "Permitted Uses" in order to provide additional guidance and clarity on acceptable implementation actions and practices associated with the permitted uses

Zoning code	Regulations
W1, W4	Despite Table 1 of this Section the use of vehicles and ground based machinery on the foreshore is prohibited
W3	Despite Table 1 of this Section the use of vehicles and ground based machinery on the foreshore is prohibited except where specifically authorized by an aquaculture license issued by the Department of Fisheries and Oceans

REPLY TO: VANCOUVER OFFICE

VIA EMAIL: akjerulf@islandstrust.bc.ca

January 17, 2017

Ann Kjerulf
Regional Planning Manager
Islands Trust - Northern Office
700 North Road
Gabriola Island, BC V0R 1X3

Dear Ms. Kjerulf:

Re: Regulation of Vehicle and Machinery Operation on the Foreshore
Our File No. 00002-0179

You requested our opinion on the jurisdiction of the Denman Island Local Trust Committee to amend the Denman Island Land Use Bylaw to regulate the operation, on the foreshore of the Strait of Georgia, of vehicles and other machinery (by means of proposed Bylaw No. 207). The proposed regulations prohibit "the use of vehicles and ground based machinery on the foreshore" in the W1 and W4 zoned, and in the W3 zone prohibit "the use of vehicles and ground based machinery on the foreshore ... except where specifically authorized by an aquaculture license issued by the Department of Fisheries and Oceans". The term "ground based machinery" is defined in the land use bylaw to mean "powered vehicles that move by means of wheels or tracks in contact with the ground, including trucks, skidders, loaders, excavators, backhoes and tractors".

Fisheries and Oceans Canada's template shellfish aquaculture license authorizes the use of vehicles and ground based machinery very generally, by way of the definition of "aquaculture activities", though a particular license could set out additional, site specific conditions dealing with the operation of machinery. Such conditions would generally be expected to restrict such operations, since they are authorized in quite broad terms in the template language.

The federal Parliament has exclusive legislative jurisdiction over "Sea Coast and Inland Fisheries". This includes jurisdiction over aquaculture in the Strait of Georgia. The management of land use, meanwhile, is a matter that is within exclusive provincial jurisdiction, and is delegated to the local trust committees. It is probable that Bylaw No. 207, being particularly directed at the aquaculture industry, would be regarded in law as a bylaw dealing with fisheries rather than land use management, and therefore outside the local trust committee's jurisdiction. If the proposed regulations were not directed at the use of vehicles and ground

based machinery by aquaculture licensees, but were directed more broadly at vehicle and machinery operations by all users, it might be possible to draft the regulations so that they acknowledge federal jurisdiction over aquaculture as it is actually being exercised in the wording of the DFO template license (that is, with only a general authorization for the use of vehicles and equipment).

Sincerely,

YOUNG ANDERSON



Bill Buholzer

buholzer@younganderson.ca

BB/dg

copy to: Ms. Jas Chonk, Islands Trust

ATTACHMENT # 3 – MARINE FORESHORE PROTECTION POLICY FRAMEWORK

ISLANDS TRUST POLICY STATEMENT

Coastal and Marine Ecosystems

Directive Policies

- 3.4.4 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.
- 3.4.5 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.

Coastal Areas and Marine Shorelands

Directive Policies

- 4.5.8 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the needs and locations for marine dependent land uses.
- 4.5.9 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the compatibility of the location, size and nature of marinas with the ecosystems and character of their local planning areas.
- 4.5.10 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.

Economic Opportunities

Directive Policy

- 5.7.2 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.

DENMAN ISLAND OFFICIAL COMMUNITY PLAN

OCP Guiding Statements

- Guiding Principle 4: To recognize that the foreshores, parks and other Crown lands of the islands are part of a commonwealth; and to strive to retain public ownership of these areas and to preserve and protect their natural environment.
- Guiding Objective (the Natural Environment): To identify, preserve and protect the integrity of the natural ecosystems on Denman Island and the adjacent islets including the foreshore and intertidal areas. This objective should be understood to be the highest priority in land use planning.
- Guiding Objective (the Marine Environment): To protect the foreshore, coastal waters and native marine life and to retain sufficient natural habitat to ensure the preservation of native species.

Marine Environment Objectives:

- Objective 1: To ensure maximum protection of foreshore areas, estuaries, surrounding waters, and native life forms, including bird and animal life, against loss or damage caused by human intrusion.
- Objective 2: To minimise pollution from human use of the foreshore, estuaries, surrounding waters and adjacent upland, and to maintain the purity of coastal waters.
- Objective 3: To protect undisturbed areas on the foreshore and the surrounding waters, to preserve areas where the herring spawn annually, and to protect, and where necessary restore, important sea duck foraging areas (for example, eelgrass beds).
- Objective 6: To minimise any negative impacts either of marine uses on adjacent upland or of upland uses on the marine area.
- Objective 8: To recognise that aquaculture is a valuable activity in the Trust Area if compatible with maintenance of ecosystems and community character, to support shellfish aquaculture when practiced in a low-impact, environmentally sound manner and to encourage the employment of Island residents in the industry.

The Marine Environment – Policies

GENERAL

- Policy 1 Foreshore and water areas surrounding Denman Island that have significant scenic and environmental values should be protected.
- Policy 2 Fin-fish aquaculture should not be allowed in the Water designation.
- Policy 3 In the Water designation, zoning regulations should...
 - protect environmentally sensitive marine sites from development;
 - promote conservation, with the exception of areas used for shellfish aquaculture or transportation as of the date of adoption of this Plan and any areas rezoned for shellfish aquaculture purposes under Policies 14 and 15 of this section; and
 - protect all foreshore fronting provincial and regional parks and all foreshore southward from McFarlane Road to, and including, the caves along East Road.
- Policy 3 In the Water designation, zoning regulations should: ...
 - protect environmentally sensitive marine sites from development;
 - promote conservation, with the exception of areas used for shellfish aquaculture or transportation as of the date of adoption of this Plan and any areas rezoned for shellfish aquaculture purposes under Policies 14 and 15 of this section; and
 - protect all foreshore fronting provincial and regional parks and all foreshore southward from McFarlane Road to, and including, the caves along East Road.
- Policy 4 The LTC should, through the use of zoning, the use of setbacks and, where there is supporting mapping, the use of development permit areas:
 - Protect the remaining integrity of the foreshore, shoreline, and natural coastal and intertidal processes;
 - Discourage uses that disrupt natural features and processes...
- Policy 7 The Local Trust Committee should secure funding for a study that would work towards identifying and establishing one or more marine protected areas that may be included as a subsequent amendment to this Plan.

ZONING AMENDMENTS

- Policy 15 As part of any zoning amendment application, in the Water designation, the Local Trust Committee may require an environmental impact assessment, in the event that no other agency has required an environmental assessment.

DEVELOPMENT APPROVAL INFORMATION

- Policy 17 Applicants for a zoning amendment in the Water designation may be required to provide development approval information.
- Policy 18 The areas designated Water in this Plan are designated to protect the natural environment and sensitive ecosystems, while allowing for recreational and transportation activities that support the Denman community.

The Marine Environment- Advocacy Policies

- Advocacy Policy 2 Fisheries and Oceans Canada is encouraged:
 - to monitor aquaculture practices to ensure compliance with regulations intended to protect the marine environment;
 - to protect herring spawning areas; ...
- Advocacy Policy 3 The Ministry of Agriculture and Lands is encouraged...
 - to develop, in cooperation with the Denman Island community and the shellfish industry, provincial standards for the guidance of local government for shellfish aquaculture through the *Farm Practices Protection (Right to Farm) Act* that encompass aquaculture structures, motor vehicles, noise, lighting, beach litter, and toilet facilities for workers; ... and
 - to increase dialogue on aquaculture practices and community interests with the Local Trust Committee through a community engagement program.
- Advocacy Policy 4 The British Columbia Shellfish Growers Association is encouraged to develop an educational brochure to inform the public and residents about the shellfish aquaculture industry and the vulnerability of coastal water to pollution.



Memorandum

700 North Road Gabriola Island BC V0R 1X3

Telephone **250. 247-2063** FAX: 250. 247-7514

Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC **1.800.663.7867**

northinfo@islandstrust.bc.ca www.islandstrust.bc.ca

Date December 18, 2016 File Number 3030-01
General

To Denman Island Local Trust Committee
Gabriola Island Local Trust Committee
Hornby Island Local Trust Committee
Lasqueti Island Local Trust Committee

From Aleksandra Brzozowski
Island Planner
Northern Office

Re New Resource Material regarding shoreline protection information for property owners

This memorandum provides information to Northern Region Local Trust Committee (LTCs) on a recently produced shoreline protection information guide.

Your Marine Waterfront Guide

Islands Trust Staff and the Green Shores for Homes – BC Pilot Project (GSH-BC) Advisory Group have coordinated an additional written resource for waterfront properties in BC. *Your Marine Waterfront: a guide to protecting your property while promoting healthy shorelines (Canadian Edition)* is a modified version of a Washington Department of Fish and Wildlife (WDFW) guide, aimed to provide waterfront property owners with detailed information on how to assess a site's waterfront features and vulnerabilities, as well as provide information about design techniques to soften shorelines.

The original version of this guide was possible due to a grant from the United States Environmental Protection Agency and was budgeted at \$50,000; the opportunity to modify this resource for the BC context at no further cost is very much appreciated by the Green Shores for Homes - BC Pilot Project. Furthermore, staff at the WDFW modified the changes pro bono, a commitment for which the GSH-BC Advisory Group is particularly grateful.

The 48-page guide is available on the Islands Trust website at <http://www.islandstrust.bc.ca/media/341720/your-marine-waterfront-canadian-edition-final-web-version.pdf> (large file - 12MB). Please advise staff should you wish to post a link to this resource on your LTC website.

If the LTC wishes to arrange for hard copy printing of the guide, please advise staff of how many copies would be needed. The Thetis and Gambier LTCs as well as the Local Planning Committee have committed funds to hard copy printing; slight economies of scale are possible with a grouped print run. Printing estimates cost the guide at approximately \$10/guide.

**Top Priorities****Denman Island**

No.	Description	Activity	R/Initiated	Responsibility	Target Date
1	Relationship building with Komoks First Nation	Plan for a Community to Community (C2C) Forum		Marnie Eggen Mike Richards Ann Kjerulf	
2	Denman Island Farm Plan Implementation	Include consideration of limiting commercial agriculture and horticulture in high density small lot neighbourhoods. Refer to Advisory Planning Commission and Growers & Producers Alliance		Ann Kjerulf	
3	Marine Issues	April 19, 2016: LTC to continue stakeholder consultation to discuss beach/driving access to aquaculture facilities	03-Mar-2015	Laura Busheikin David Critchley Ann Kjerulf	
4	OCP and LUB Housekeeping Amendments	Corrections to DP4 and intensive agriculture definition;	15-Nov-2016	Teresa Ritemann	07-Mar-2017

**Projects****Denman Island**

Description	Activity	R/Initiated
Protected Area Network	Undertake planning for a Protected Area Network on Denman Island	15-Mar-2011
Alternative Energy	Consider regulations governing wind towers and Ocean Loop Geo-Exchange Systems. Monitor recommendation from Trust Council.	15-Aug-2011
Dwelling Floor Area Regulation	Consider regulations to limit the gross floor area of a dwelling	25-Oct-2011
GHG Reduction	Consider regulations to promote greenhouse gas emissions reduction.	25-Oct-2011
Development Procedures Review	Review and update Development Procedure Bylaw No. 71	11-Dec-2012
Rural Affordable Housing	Consider DCLTA Rural Affordable Housing Project Final Report (June 20, 2013) recommendations	22-Oct-2013
Medical Marihuana	Review of LUB in consideration of the new Federal Marihuana for Medical Purposes Regulation (Staff Report dated April 28, 2014)	15-Jul-2014
Alternative Dispute Resolution	To be considered as part of the enforcement tool kit, possibly in cooperation with the Hornby Island Local Trust Committee	26-May-2015
Denman Village Plan	Undertake a Denman Downtown Village Neighbourhood Plan; the plan might include reduction in greenhouse gas emissions; encouragement of a healthy, sustainable economy; and addressing of water and septic concerns.	26-May-2015
Secondary Suites Review	Review policies and regulations with respect to secondary suites and cottages	12-Jan-2016
Affordable, attainable and seniors housing	Review regulatory mechanisms for supporting affordable, attainable and seniors housing	19-Apr-2016



Projects

Denman Island

Description	Activity	R/Initiated
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Islands Trust

Print Date: January 23, 2017

Applications

Agricultural Land Reserve

File Number	Applicant Name	Date Received	Purpose
DE-ALR-2015.1	Denman Community Land Trust Association Planner: Rob Milne	17-Dec-2015	PID: 009-708-537 Severn - 3730 Denman Road Exclusion of 1.6ha in the ALR
Planning Status			
Status Date: 24-Jul-2016 Pending decision from ALC.			

Development Permit

File Number	Applicant Name	Date Received	Purpose
DE-DP-2011.2	Day, Ella Planner: Teresa Rittemann	21-Mar-2011	For barn sited within DP #1: Komas Bluff
Planning Status			
Status Date: 17-Jan-2017 Waiting for applicant to take next steps working with Bylaw Enforcement team.			
Status Date: 29-Jul-2013 File passed on to Bylaw enforcement			
Status Date: 05-Oct-2012 Letter sent to applicant re: further info required			

Development Variance Permit

File Number	Applicant Name	Date Received	Purpose
DE-DVP-2011.1	Day, Ella Planner: Teresa Rittemann	13-May-2011	Barn on property line
Planning Status			

Applications

Status Date: 17-Jan-2017

Waiting for applicant to take next steps working with Bylaw Enforcement team.

Status Date: 29-Jul-2013

no change; file passed on to bylaw enforcement

Status Date: 09-Nov-2012

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

File Number	Applicant Name	Date Received	Purpose
DE-DVP-2016.1	Citizen Design Build Inc.	21-Mar-2016	variance to setbacks from Streams, Lakes and Wetlands 40m from Graham Lake to buildings and structures and sewage disposal field 15m from stream to sewage disposal field
Planner: Marnie Eggen			
Planning Status			
Status Date: 04-May-2016			
Planner reviewing			

Rezoning

File Number	Applicant Name	Date Received	Purpose
DE-RZ-2015.1	Neilsen, Henning	12-Jan-1900	To change Land Use Designation of a portion of the subject property from Residential to Conservation/recreation and that portion to be transferred to Islands Trust Fund - remainder to be used for residential
Planner: Rob Milne			
Planning Status			
Status Date: 08-Sep-2016			
Amending OCP Bylaw referred to MCSCD for review and approval.			
Status Date: 21-Apr-2015			
LTC consideration of staff report. Resolution for staff to prepare draft bylaws for May 26, 2015 LTC meeting.			

Siting and use Permit

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

Applications

Planner: Teresa Ritemann

Planning Status

Status Date: 17-Jan-2017

No change in status.

Status Date: 30-Jun-2011

On hold until outcome of DP and DVP.

Status Date: 03-Mar-2011

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

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2014.10	Stoneman, Daniel & Debra	29-Sep-2014	Residence, Garage, Chicken House, Beach Stairs, Woodshed

Planner: Rob Milne

Planning Status

Status Date: 03-Nov-2014

On hold pending confirmation of compliance with condntions of approval for DE-DP-2014.2

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2016.3	Citizen Design Build Inc.	21-Mar-2016	1 proposed Single Family Dwelling to replace existing 1 Home office 1 Workshop to replace existing shed 1 Temporary Use Secondary Dwelling (Guest House)

Planner: Marnie Eggen

Planning Status

Status Date: 04-May-2016

On hold until LTC consideration of DVP and TUP applications

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2017.1	TIFFANY-BROWN, SUSAN	03-Jan-2017	PID: 028-711-769 Civic: 6148 Lacon Road, Denman Island. Addition to existing structure for seasonal home.

Planner: Linda Prowse

Planning Status

Applications

Status Date:

Subdivision

File Number	Applicant Name	Date Received	Purpose
DE-SUB-2015.1	De Villiers & Fraser, Etienne & Louise	24-Dec-2014	2201 Tristone Road\nS.946 (2 lot subdivision)

Planner: Teresa Rittemann

Planning Status

Status Date: 17-Jan-2017

No change in status

Status Date: 15-Mar-2016

Associated DP application was approved at the regular LTC meeting. Planner waiting for updated site plan from applicant before revising referral report to MOTI

Status Date: 06-Jan-2016

Applicant has submitted a DP application. Staff conducted site visit on 5-Jan. Staff Report to be written and aim to appear on 15-Mar LTC agenda.

File Number	Applicant Name	Date Received	Purpose
DE-SUB-2016.1	MCKEACHIE, MORLEY	01-Feb-2016	PID: 005-850-771 Proposed four lot Subdivision application

Planner: Rob Milne

Planning Status

Status Date:

File Number	Applicant Name	Date Received	Purpose
DE-SUB-2016.2	Mason, Peter	28-Nov-2016	PIDs: 025-692-712 and 025-692-704. McFarlane Road, Denman Island. Lot line adjustment.

Planner: Linda Prowse

Planning Status

Applications

Status Date:

File Number	Applicant Name	Date Received	Purpose
DE-SUB-2017.1	McElhanney Associates & Land Surveying Planner: Linda Prowse	09-Jan-2017	PID: 005-850-011 Subdivide property into two lots for residential purposes. 5465 Lacon Road, Denman Island.
Planning Status			
<u>Status Date:</u>			

Temporary and Industrial Use Permit

File Number	Applicant Name	Date Received	Purpose
DE-TUP-2016.2	WILLIAMS, CRAIG	01-Jun-2016	PID: 000-876-283 Constructing a one bedroom & den cabin. Civic address: 8900 Owl Crescent.
Planner: Teresa Ritemann			
Planning Status			
<u>Status Date:</u> 17-Jan-2017			
No change in status.			
<u>Status Date:</u> 01-Nov-2016			
LTC approved TUP at 20-Sept meeting. Planner awaiting confirmation from applicant regarding sewage. Then can issue the TUP. Applicant will also be applying for an SUP for the dwelling.			
<u>Status Date:</u> 01-Sep-2016			
Planner completed staff report. To appear on agenda for LTC consideration 20-Sept-2016			

Islands Trust
LTC EXP SUMMARY REPORT F2017
Invoices posted to Month ending November 2016

615 Denman	Invoices posted to Month ending November 2016	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-615	LTC "Trustee Expenses"	750.00	667.32	82.68
LTC Local				
65200-615	LTC - Local Exp - LTC Meeting Expenses	4,500.00	2,361.89	2,138.11
65210-615	LTC - Local Exp - APC Meeting Expenses	600.00	535.64	64.36
65220-615	LTC - Local Exp - Communications	500.00	7.27	492.73
65230-615	LTC - Local Exp - Special Projects	500.00	0.00	500.00
TOTAL LTC Local Expense		<u>6,100.00</u>	<u>2,904.80</u>	<u>3,195.20</u>
Projects				
73001-615-4011	Denman Agriculture Plan	6,500.00	0.00	6,500.00
73001-615-4062	Denman First Nations Relations	1,500.00	0.00	1,500.00
TOTAL Project Expenses		<u>8,000.00</u>	<u>0.00</u>	<u>8,000.00</u>



DATE OF MEETING: January 31, 2017
TO: Denman Island Local Trust Committee
FROM: Ann Kjerulf, Regional Planning Manager
Northern Team
SUBJECT: Advisory Planning Commissions

RECOMMENDATION

1. That the Denman Island Local Trust Committee request that staff advertise for expressions of interest for the Denman Island Advisory Planning Commission.
2. That the Denman Island Local Trust Committee request that staff send letters to members of the Advisory Planning Commission and Marine Advisory Planning Commission whose terms expired in 2016 or will expire in 2017, inviting their expressions of interest for reappointment to the Advisory Planning Commission.
3. That the Denman Island Local Trust Committee request that staff prepare a draft bylaw to replace Bylaw No. 203 cited as "Denman Island Local Trust Committee Advisory Planning Commission Bylaw, 2012", which includes revised terms of reference for Denman Island advisory planning commissions [include desired].

REPORT SUMMARY

The Denman Island Local Trust Committee (LTC) is asked to consider terms of reference and recruitment for its advisory planning commissions. The Advisory Planning Commission (APC) currently has three members with terms expiring in April 2017 and the Marine Advisory Planning Commission (MAPC) currently has one member whose term will expire in March 2017. Both commissions are permitted up to six members. Retention and recruitment of volunteers for advisory planning commissions on islands can be challenging; however, formal citizen representation on advisory planning commissions adds value and transparency to planning processes.

BACKGROUND

The LTC has established five types of advisory commissions including the Advisory Planning Commission, Transportation Advisory Planning Commission, and Marine Advisory Planning Commission, Special Projects Advisory Planning Commissions, and an Agricultural Advisory Planning Commission.

Each commission, with the exception of the Special Projects Advisory Planning Commission whose composition may vary, is permitted up to six members with three members serving two-year terms in even numbered years and three members serving two-year terms in odd-numbered years. Three APC appointments expired in February 2016 and three more will expire in April 2017. Three MAPC appointments expired in April 2016 and the one remaining appointment will expire in March 2017. The other commissions currently have no members.

LTC attempted in 2016 to establish a Special Projects Advisory Planning Commission for the purpose of providing guidance to the Denman Island Farm Plan Implementation Project. However, there was an insufficient number of responses when the commission vacancies were advertised.

Staff were recently asked to refer the Farm Plan Implementation Project to the APC and to the Denman Growers and Producers Alliance (GPA).

ANALYSIS

Policy/Regulatory

Islands Trust Policy Statement:

A guiding principle of the Islands Trust Policy Statement is that *“open, consultative public participation is vital to effective decision making for the Trust Area.”* Moreover, Commitments of Trust Council include:

- *5.8.1 Trust Council holds that public participation should be part of the decision-making processes of all levels of government.*
- *5.8.2 It is the position of Trust Council that local trust committees and island municipalities should, in establishing their official community plans and regulatory bylaws, provide opportunities for public input.*
- *5.8.3 Trust Council holds that island communities within the Trust Area are themselves best able to determine the most effective local government structure to support their local autonomy and specific community needs within the object of the Islands Trust.*

LTCs have a responsibility to ensure that members of the public can participate in planning processes, yet they have the freedom to determine the framework best suited to a particular Local Trust Area.

Denman Island Official Community Plan

The Denman Island Official Community Plan recognizes the value of public input through Guiding Principle 6: *“To acknowledge that this community finds its strength in the varied gifts and experiences of its members; and, within the framework of a limitation on population, to support and encourage a diverse and self-reliant community.”*

LTC Bylaw No. 203

The authority to establish advisory planning commissions is granted to LTCs through the *Islands Trust Act* and section 461(2) of the *Local Government Act*.

Advisory planning commission

461 (2) A board may, by bylaw, establish an advisory planning commission for one or more electoral areas or portions of an electoral area to advise the board, or a regional district director representing the electoral area, on all matters referred to the commission by the board or by that director respecting land use, the preparation and adoption of an official community plan or a proposed bylaw or permit that may be enacted or issued under this Part.

Notably, such advisory planning commissions are intended to advise LTCs specifically on land use matters including Official Community Plans, and proposed bylaws or permits that may be issued under Part 14 (e.g. zoning bylaw or development permit).

Section 461 also includes rules for the administration of advisory planning commissions:

- (3) The bylaw establishing an advisory planning commission must provide for
 - (a) the composition of and the manner of appointing members to the commission,
 - (b) the procedures governing the conduct of the commission, and
 - (c) the referral of matters to the commission.
- (4) At least 2/3 of the members of an advisory planning commission must be residents of the municipality or the electoral area.
- (5) The following are not eligible to be a member of an advisory planning commission, but may attend a meeting of the commission in a resource capacity:
 - (a) a council member;
 - (b) a regional district director;
 - (c) an employee or officer of the local government;
 - (d) an approving officer.
- (6) The members of an advisory planning commission must serve without remuneration, but may be paid reasonable and necessary expenses that arise directly out of the performance of their duties.
- (7) If an advisory planning commission is established, minutes of all of its meetings must be kept and, on request, made available to the public.
- (8) If an advisory planning commission is considering
 - (a) an amendment to an official community plan or a bylaw, or
 - (b) the issue of a permit,
 the applicant for the amendment or permit is entitled to attend meetings of the commission and be heard.

Pursuant to section 461, the Denman Island LTC has adopted Bylaw No. 203 cited as “Denman Island Local Trust Committee Advisory Planning Commission Bylaw, 2012”, which identifies the various planning commissions, member composition, terms and roles, and rules for arranging, advertising and conducting commission meetings (Attachment 1).

Issues and Opportunities

Denman Island LTC has provided for several very specialized types of advisory planning commissions. However, recruiting and retaining members for these commissions can be challenging. Administration of multiple commissions can also be cumbersome as this requires regular advertising for members and there are also significant costs to holding meetings, which are open to the public and must be advertised as such. Another significant challenge with highly specialized committees is that, while the members may bring tremendous expertise to the table, the advice given to LTCs as a result may not be implemented because the LTC simply does not have the jurisdiction to follow through.

The LTC has an immediate challenge in that it has referred Farm Plan Implementation to the APC which currently only has three members whose terms will expire in April. It also has an MAPC which currently only has one member despite that the LTC has identified marine issues as a top priority.

The LTC has an immediate need to recruit for advisory planning commission members. Thinking longer term, the LTC could consider reducing the number of and consolidating committees, and reviewing other terms of reference for advisory planning commissions. Staff recommends that the LTC update its APC Bylaw to address these issues and key parameters as follows:

- Provide for the establishment of an Advisory Planning Commission, to advise the LTC on matters respecting land use, the preparation and adoption of an official community plan or a proposed bylaw or permit that may be enacted under Part 14 of the *Local Government Act*;
- Revise the terms of appointment to six members who each serve a concurrent two-year term, with the option for reappointment for a subsequent two-year term (in order to reduce administration of APC terms and advertising costs); and

- Provide for a Special Projects Advisory Planning Commission to advise the LTC on special land use projects, should such a commission be required to address a specific issue on which the APC would not be able to sufficiently advise the LTC (for instance, a project to review home occupation policies if all APC members have home occupations);

It is the opinion of staff that consolidation of advisory planning commissions on Denman Island will reduce the amount of administrative effort that goes into managing appointments and also reduce advertising costs. Furthermore, complex land use planning issues cannot be considered in isolation. For instance, we know that transportation impacts land use and vice versa and that land use may impact the marine environment, and so on. Consolidation of committees may also lead to a greater diversity of viewpoints within an advisory planning commission and healthy, fruitful debate on complex issues. Community members may also appreciate being able to consider a variety of issues as opposed to those limited to a specific genre.

Consultation

APC membership should be advertised in the local paper, on the LTC website, and through trustee networks. LTC would consider expressions of interest at their March 7, 2017 business meeting.

Rationale for Recommendation

Advisory planning commissions play an important role in advising local trust committees on applications and projects. It is important to ensure that these commissions provide broad representation of the community and have sufficient numbers to engage in fruitful discussion and represent diverse points of view. Streamlining Denman's advisory planning commission framework would be more efficient from an administrative standpoint and allow for the APC to engage in variety of land use planning topics. The staff recommendation is outlined on page 1 of the report.

ALTERNATIVES

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

1. Request further information

The LTC may request further information prior to making a decision. Staff advise that this may delay consideration of the Denman Island Farm Plan Implementation referral and other referrals to APC.

2. Proceed with advertising for APC membership without amending Bylaw 203

The LTC may choose to advertise for new APC members yet retain the existing APC bylaw.

NEXT STEPS

Should the LTC pass all recommended resolutions (page 1), staff will proceed with advertising and bring forward expressions of interest and a draft APC bylaw to the March 7, 2017 LTC business meeting.

Submitted By:	Ann Kjerulf, MCIP, RPP Regional Planning Manager	January 20, 2017
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ATTACHMENTS

1. Bylaw No. 203

DENMAN ISLAND TRUST COMMITTEE
BYLAW NO. 203

**A BYLAW TO ESTABLISH ADVISORY PLANNING COMMISSIONS FOR THE DENMAN
ISLAND LOCAL TRUST AREA PURSUANT TO THE *LOCAL GOVERNMENT ACT* AND THE
*ISLANDS TRUST ACT***

The Denman Island Trust Committee, being the Local Trust Committee having jurisdiction on and in respect of the Denman Island Local Trust Area in the Province of British Columbia, pursuant to the *Islands Trust Act*, enacts as follows:

1. Continuation and Establishment

- a) The Denman Island Advisory Planning Commission, an advisory planning commission established to advise the Local Trust Committee on all matters respecting land use, community planning, or proposed bylaws and permits that are referred to it by the Local Trust Committee, is continued.
- b) The Denman Island Local Trust Committee establishes:
 - i) a “Denman Island Transportation Advisory Planning Commission” to advise the Local Trust Committee on all matters respecting transportation that are referred to it by the Local Trust Committee;
 - ii) a “Denman Island Marine Advisory Planning Commission” to advise the Local Trust Committee on all matters respecting marine areas that are referred to it by the Local Trust Committee; and
 - iii) “Denman Island Special Projects Advisory Planning Commissions” to advise the Local Trust Committee on all matters respecting special projects referred to it by the Local Trust Committee.
 - iv) “Denman Island Agriculture Advisory Planning Commission” to advise the Local Trust Committee on all matters respecting agriculture referred to it by the Local Trust Committee.
- c) The provisions of parts 2 through 7 of this Bylaw apply to each of the advisory planning commissions continued and established by this Bylaw.

2. Appointment of Members

- a) Advisory Planning Commission
 - i) The Advisory Planning Commission consists of up to six members.
 - ii) The Local Trust Committee may, by resolution, appoint up to three members in even numbered years to serve a two-year term and up to three members in odd numbered years to serve a two-year term.
 - iii) If no appointments are made in a calendar year, up to six appointments may be made in a subsequent calendar year provided that no more than three members are appointed for a two-year term and the remainder of appointments are for a one-year term.

- b) Transportation Advisory Planning Commission
 - i) The Transportation Advisory Planning Commission consists of up to six members.
 - ii) The Local Trust Committee may, by resolution, appoint up to three members in even numbered years to serve a two-year term and up to three members in odd numbered years to serve a two-year term.
 - iii) If no appointments are made in a calendar year, up to six appointments may be made in a subsequent calendar year provided that no more than three members are appointed for a two-year term and the remainder of appointments are for a one-year term.
- c) Marine Advisory Planning Commission
 - i) The Marine Advisory Planning Commission consists of up to six members.
 - ii) The Local Trust Committee may, by resolution, appoint up to three members in even numbered years to serve a two-year term and up to three members in odd numbered years to serve a two-year term.
 - iii) If no appointments are made in a calendar year, up to six appointments may be made in a subsequent calendar year provided that no more than three members are appointed for a two-year term and the remainder of appointments are for a one-year term.
- d) Agriculture Advisory Planning Commission
 - i) The Agriculture Advisory Planning Commission consists of up to six members.
 - ii) The Local Trust Committee may, by resolution, appoint up to three members in even numbered years to serve a two-year term and up to three members in odd numbered years to serve a two-year term.
 - iii) If no appointments are made in a calendar year, up to six appointments may be made in a subsequent calendar year provided that no more than three members are appointed for a two-year term and the remainder of appointments are for a one-year term.
- e) Special Projects Advisory Planning Commissions
 - i) The Local Trust Committee may, from time to time, establish advisory planning commissions to provide advice to the Local Trust Committee on specific topics or for special projects.
 - ii) Special Projects Advisory Planning Commissions will be appointed based on a terms of reference endorsed by the Local Trust Committee which will outline the number of members, the terms of the appointment and the scope and role of that Special Projects Advisory Planning Commission.
- f) The Local Trust Committee may, by resolution, remove a member of an advisory planning commission at any time.
- g) Where a member resigns or an appointment is otherwise terminated, the Local Trust Committee may appoint a member to serve the balance of the term of the appointment.
- h) The members must, during the first meeting of a term, from among the members elect a Chairperson, a Deputy Chairperson, and a Secretary.
- i) The Deputy Chairperson shall, in the absence of the Chairperson, serve as described in Section 3(b).
- j) In the event that the Chairperson resigns from the position of Chairperson but remains on the advisory planning commission, the advisory planning commission shall write the Local Trust

Committee to advise them and the Local Trust Committee shall appoint an interim Chairperson who shall serve until a Chairperson is elected in accordance with Section 2(g).

- k) An individual may serve concurrently on the Advisory Planning Commission, Transportation Advisory Planning Commission, Marine Advisory Planning Commission, Agriculture Advisory Planning Commission, a Special Projects Advisory Planning Commission, or any number of them.

3. Roles

a) Secretary

i) The Secretary is to:

1. assist the Chairperson, as required, in arranging meetings;
2. ensure that proper notification of meetings is given in compliance with this bylaw;
3. keep legible minutes of all meetings; and
4. provide copies of all minutes and recommendations to the Secretary of the Islands Trust.

b) Chairperson

i) The Chairperson is to:

1. receive referrals from the Local Trust Committee and, in response, decide when and where meetings shall be held;
2. ensure proper conduct of all meetings in accordance with the requirements of this Bylaw and the principles of procedural fairness; and
3. sign the minutes certifying that they are true and correct after the members have approved them.

4. Referrals

a) The Local Trust Committee may by resolution:

- i) refer an application for an amendment to a bylaw, or a permit, pursuant to the *Local Government Act*, or may refer a proposed bylaw or permit to an advisory planning commission with a request for a recommendation; or
- ii) refer a project in support of the Local Trust Committee's work program, an agency referral or other item of Local Trust Committee business to an advisory planning commission with a request for a recommendation; or
- iii) refer a plan or bylaw amendment or permit that has been partially processed and seen at the application stage by a advisory planning commission for additional recommendations if it feels changes to the application warrant the review, and in these cases an advisory planning commission may be asked to respond in a briefer than normal time period.

b) An advisory planning commission must meet when there is a need to consider a referral, at a duly constituted meeting as defined under this Bylaw and as called by the Chairperson.

c) The Chairperson shall select a regular monthly meeting day to consider referrals at its first meeting.

d) In the event that no referral is received by the Chairperson at least 7 calendar days prior to the date of the next regular meeting, then no meeting need be held.

- e) A meeting on any particular referral must be held not more than 30 days after the date of receipt of that referral unless the Local Trust Committee has requested a response by an earlier specified date.
- f) The Chairperson may call an extraordinary meeting after consultation with the Secretary and all other members to deal with any matter for which a quick response is requested from the Local Trust Committee.
- g) Although the recommendations must be received by the Local Trust Committee, the Local Trust Committee is not bound by the recommendations.

5. Notice of Meeting

- a) The Secretary must send a notice of meeting including a description of all referrals to be discussed to each member at least 3 calendar days prior to the meeting.
- b) The Secretary must confirm by telephone, email or note, the date and time of any extraordinary meetings with each member.
- c) The Secretary must ensure an applicant is notified of the date, time and place of the meeting at which his or her application or proposal will be discussed at least five calendar days prior to the meeting.
- d) The Secretary must ensure the Local Trustees and the Secretary of the Islands Trust are notified of each meeting at least five days prior to the day of the meeting.

6. Conduct of Meeting

- a) All deliberations must take place in a meeting, and all meetings must be open to the public.
- b) A quorum is the lesser of three members, or 50 per cent of those appointed.
- c) The Chairperson is to convene the meeting and may adjourn it from time to time.
- d) An applicant must be afforded opportunity to present his or her proposal and to answer any questions asked by members.
- e) If the applicant or agent fails to appear and was duly notified as required by this Bylaw, deliberations and recommendations may be made in the applicant's absence.
- f) At the request of any member, the Chairperson must invite any elected official, staff or resource person present at the meeting to comment on the matters before the Commission.
- g) Development proposals and other applications must not be received directly from applicants.
- h) An advisory planning commission must not consult directly with other government agencies.

7. Notice of Recommendation

- a) If the Local Trustees did not attend a meeting, they may require a verbal report from the Chairperson.
- b) The Secretary must ensure minutes of each meeting are recorded and approved by the members at a subsequent meeting.
- c) The Secretary must ensure that a copy of the draft minutes is submitted to the Secretary of the Islands Trust office within seven calendar days of the meeting.
- d) A recommendation may be in the form of recorded commentary, in the form of minutes or in the form of a resolution, provided that all dissenting opinions are also recorded.

8. Transition

- a) "Denman Island Local Trust Committee Advisory Planning Commission Bylaw, 2002", is repealed.

9. Citation

- a) This Bylaw may be cited as the "Denman Island Local Trust Committee Advisory Planning Commission Bylaw, 2012".

READ A FIRST TIME THIS 28th DAY OF February, 2012

READ A SECOND TIME THIS 28th DAY OF February, 2012

READ A THIRD TIME THIS 28th DAY OF February, 2012

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
29th DAY OF March, 2012

ADOPTED THIS 3rd DAY OF April, 2012

SECRETARY

CHAIRPERSON