



A NOTICE OF A BUSINESS MEETING OF **THE DENMAN ISLAND LOCAL TRUST COMMITTEE**
to be held at 10:30 AM on Tuesday, February 26, 2013 at the Denman Seniors Hall,
1111 Northwest Road, Denman Island, BC

AGENDA

		Page No.	*Approx. Time*
1.	CALL TO ORDER		10:30 am
2.	APPROVAL OF AGENDA		
3.	CHAIR'S REPORT		
4.	TRUSTEES' REPORT		
5.	MINUTES		10:45 am
5.1	Local Trust Committee Meeting Minutes of January 22, 2013 – <i>for adoption</i>	1-10	
5.2	Section 26 Resolutions Without Meeting - <i>none</i>		
5.3	Denman Island Advisory Planning Commission Minutes - <i>none</i>		
5.5	Denman Island Marine Advisory Planning Commission Draft Minutes - <i>none</i>		
6.	BUSINESS ARISING FROM MINUTES		10:50 am
6.1	Follow-up Action List dated February 18, 2013 - <i>attached</i>	11-13	
6.2	Endorsement of Denman Island Farm Plan		
7.	APPLICATIONS AND PERMITS		
8.	DELEGATIONS		
8.1	Harlene Holm for Denman Community Land Trust Association		
8.2	Louise Bell		
9.	TOWN HALL DISCUSSION		11:30 am
10.	CORRESPONDENCE		
	<i>Correspondence specific to an active development application and/or project will be received by the Denman Island Local Trust Committee when that application and/or project is on the agenda for consideration.</i>		
10.1	Compilation of Emails dated January 29, 2013 to February 5, 2013 from Ken Porteous regarding Comox Regional District's Parks and Greenways Masterplan – Cross Island Trail - <i>attached</i>	14-32	

10.2	Email dated February 6, 2013 to Comox Valley Regional District from Keith Porteous regarding Opposition to the Ferry to Ferry Connector on Denman - <i>attached</i>	33	
10.3	Email dated February 15, 2013 from Karin Albert of the Comox Valley Regional District regarding Cross Island Trail - <i>attached</i>	34	
10.4	Letter dated January 17, 2013 to Comox Valley Regional District from Pat McLaughlin of Association for Denman Island Marine Stewards regarding Agriculture and Aquaculture Policy Review - <i>attached</i>	35-36	
10.5	Email dated February 10, 2013 from Harlene Holm regarding Denman Island Farm Plan - <i>attached</i>	37-39	
10.6	Email dated February 8, 2013 from Anne Page regarding National Marine Conservation Area Reserve - <i>attached</i>	40-41	
10.7	Email dated February 15, 2013 from Des Kennedy regarding Komas Bluffs - <i>attached</i>	42	
11.	REPORTS		11:45 am
11.1	Work Program		
	11.1.1 Top Priorities Report and Projects Report dated February 18, 2013 - <i>attached</i>	43-44	
11.2	Applications Log		
	11.2.1 Report dated February 18, 2013 - <i>attached</i>	45-48	
11.3	Trustee and Local Expenses		
	11.3.1 Expenses posted to January 31, 2013- <i>attached</i>	49	
12.	LOCAL TRUST COMMITTEE PROJECTS		12:00 pm
12.1	Shellfish Farming Regulation Review Report dated February 18, 2013 from Golder Associates Ltd - <i>attached</i>	50-67	
13.	NEW BUSINESS		12:20 pm
13.1	Denman Local Trust Committee and the Free Standing Poster Board in the Back Hall – <i>discussion</i>		
13.2	Email dated January 29, 2013 from Michelle Patterson of University of Victoria, Institute for Coastal Research regarding State of the (Baynes) Sound 2013 Conference - <i>attached</i>	68-70	
13.3	Advisory Commissions - Expressions of Interest Memorandum dated February 18, 2013 - <i>attached</i>	71	
14.	CLOSED MEETING:		12:30 pm
14.1	The Denman Island Local Trust Committee closes the next part of the February 26, 2013 business meeting to discuss matters pursuant to <i>Section 90(1)(a) and 90(1)(i) of the Community Charter</i> to consider appointments to the Advisory Planning Commission, Agricultural Advisory Commission and the Marine Advisory Planning Commission and receipt of advice that is subject to solicitor-client privilege, including communications necessary for the purpose and that Staff be invited to attend this meeting		
15.	RECALL TO ORDER		
15.1	Rise and Report from Closed Meeting		
16.	BYLAWS		
17.	ISLANDS TRUST WEBSITE		
17.1	Denman Page - <i>attached</i>	72-73	

18. NEXT MEETING DATE

Tuesday, April 2, 2013 at 10:30 am at The Denman Seniors Centre,
1111 Northwest Road, Denman Island, BC

19. TOWN HALL DISCUSSION – *time permitting*

20. ADJOURNMENT

1:30 pm

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

DRAFT

**MINUTES OF THE DENMAN ISLAND LOCAL TRUST COMMITTEE
BUSINESS MEETING
HELD AT 10:30 AM ON TUESDAY, JANUARY 22, 2013
AT THE DENMAN SENIORS HALL, 1111 NORTHWEST ROAD
DENMAN ISLAND, BC**

<u>PRESENT:</u>	Peter Luckham	Chair
	Laura Busheikin	Local Trustee
	David Graham	Local Trustee
	Courtenay Simpson	Acting Regional Planning Manager
	Aleksandra Brzozowski	Island Planner
	Katherine Vogt	Recorder

There were eight (8) members of the public in attendance.

1. CALL TO ORDER

Chair Luckham called the meeting to order at 10:38 am. He welcomed the public and introduced himself, the local trustees, staff and recorder. He acknowledged that the meeting was being held in the Traditional Territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

The agenda was adopted by consensus with the following amendments:

- Add item 10.5: Email correspondence by Ralda Leroux dated January 4, 2013
- Add item 10.6: Email correspondence by Keith Porteous dated January 20, 2013
- Add item 6.4: Trustee Busheikin participation in upcoming Island Studies Conference
- Discussion

3. CHAIR'S REPORT

Chair Luckham reported that he was preparing for the upcoming March Trust Council and continuing with advocacy work in regards to BC Ferries issues.

4. TRUSTEES' REPORT

Trustee Graham noted that he had recently spoken by phone with South Pender Trustee Liz Montague about the three-year development of the recently completed Denman Island Farm Plan, in regards to a possible future combined Farm Plan for South Pender and North Pender Islands. Trustee Graham also shared that he had recently sat with two members of the Denman Community Land Trust Association to hear their concerns about the possible political ramifications of some of the association's Housing Agreement submissions.

Trustee Busheikin commented that she had recently attended a Denman Island Residents Association meeting in which lively discussion had developed around the definitions of dwelling units and cooking facilities, and that she believed there was still room for clarification of these concepts before upcoming discussions on secondary dwellings. Trustee Busheikin also noted that her participation as an observer at a recent meeting between the Denman Community Land Trust Association and Islands Trust's Planners was helpful in terms of highlighting the processes around housing agreements. Trustee Busheikin also shared her experience at a recent Comox Valley Regional District Open House on their plans for a Denman Island ferry-to-ferry Cross Island Trail. She appreciated that the event was conducted as an open house/meeting combination in two sittings which provided greater opportunity for public participation. She related that there were concerns raised at the meeting about an initial lack of public consultation by the Comox Valley Regional District in their launching of a Parks and Greenways Plan, and also that the proposed six-foot width of many of the pathways might prove excessive.

5. MINUTES

5.1 Local Trust Committee Meeting Minutes dated December 11, 2012

The minutes were approved by consensus with the following amendments:

- Page 5, item 10.3, last sentence, remove the phrase "*and Committee members will agree to it by consent* " so that the last sentence ends after the word "*signature*."

5.2 Section 26 Resolutions Without Meeting Log - None

5.3 Denman Island Advisory Planning Commission Minutes - None

5.5 Denman Island Marine Advisory Planning Commission Draft Minutes - None

6. BUSINESS ARISING FROM MINUTES

6.1 Follow-up Action List dated January 10, 2013 - attached

The Follow-up Action List dated January 10, 2013 was reviewed by Planner Brzozowski who noted that Bylaw Enforcement Manager Miles Drew was on a leave of absence until April 2013; that the Denman Island Natural Drainage Area Map linked on the Denman webpage was completed; and that copies of the Denman Farm Plan had been sent out to Steering Committee Members and other relevant organizations.

There was some discussion about tidying up the Follow-Up Action List and coming up with ideas on how best to manage the list by next month's meeting. Concern was raised about the lack of standard protocol in the ways that various Local Trust Committees handle their Follow-Up Action Lists.

6.2 *Integrated Shoreline Mapping Workshop Discussion*

Planner Brzozowski noted that the request at last month's meeting by the Denman Island Local Trust Committee to invite SeaChange as an additional presentation on eelgrass mapping for the Integrated Shoreline Mapping Project Workshop would not be possible due to insufficient time, but that this presentation had been approved and scheduled for Hornby Island on February 26, 2013, 1:30 - 4:30 pm, in Hornby Island Community Hall.

6.3 *Bylaw Interpretation Review regarding DE-SUP-2011.5 (Corlan Winery, 8441 McFarlane Road) Review Bylaw Interpretation that an operating winery at 8441 McFarlane Road cannot hold Special Public Events. Memorandum dated January 9, 2013-attached.*

Planner Brzozowski noted that the memorandum of January 9, 2013 by Planner 2 Linda Prowse explains that holding Special Public Events outdoors on the property in question is not permitted under the existing Denman Island Land Use Bylaw. The property in question is zoned Rural Residential (R2) which allows for the storage, production, and sale of agricultural products from the property; however, Special Public Events outdoors would be considered a commercial use of the property and commercial activities are presently not permitted in R2 zones.

Planner Brzozowski referred to that portion of the memorandum that suggests three possibilities for the applicants to consider in their efforts to hold Special Events on their property, in particular the third possibility that the applicants could apply for an Official Community Plan and Land Use Bylaw Amendment to rezone the property for commercial use. Planner Brzozowski suggested that implementing the agriculture tourism components of the Denman Island Farm Plan could result in changes to the Land Use Bylaw; however, implementation of the Farm Plan has not yet been placed as an item on the Work Program.

Trustee Busheikin commented that the Memorandum was helpful in clarifying the issues surrounding the Corlan Winery application, confirmed that the applicants had received a copy of the Memorandum, then referred for clarification to the first possibility suggested in the Memorandum that offers for the applicants to have their property put in the Agricultural Land Reserve (ALR) as the ALR allows for Special Event uses on ALR property as per Agricultural Land Commission Policy #3 - Activities Designated as Farm Use.

Planner Brzozowski clarified that the Agricultural Land Commission regulations in question referred to permitted outdoor uses on wineries and cideries and the applicants would have to apply to the commission for the proper license.

Trustee Busheikin commented in reference to Schedule 2 - Home Occupation Regulations from the Denman Land Use Bylaw No.86, that the permitted home occupation uses category did not acknowledge educational uses such as yoga classes or farm and gardening workshops conducted from a home.

There was some discussion that educational workshops and classes could be conducted for profit or non-profit and that there was a fine line as to whether they could be considered as commercial or non-commercial activities.

Trustee Graham asked if a temporary use permit was considered as an alternative in regards to accommodating the Corlan Winery application and that such a permit could have allowed the community a 3-year trial period in which to assess the Special Event activities being proposed by the winery.

Planner Brzozowski replied that temporary use permits were very restrictive on Denman Island. Acting Regional Planning Manager Simpson elaborated that the Local Government Act allows for local governments to decide for what activities a temporary use permit can be issued, and that on Denman Island the only activity presently utilized for special use permits is barge loading and unloading. Amendments would have to be made to allow for other uses.

6.4 *Trustee Busheikin participation in upcoming Island Studies Conference - Discussion*

There was some discussion about whether it was possible and appropriate for funds to be made available for Trustee Busheikin to attend the Island Studies Conference on Gabriola Island in May, 2013. It was suggested that partial funding of the trip could be provided on the basis of Trustee Busheikin obtaining valuable educational experience as a trustee.

DE-001-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee pay \$150.00 in registration fees and travel costs for Trustee Busheikin to attend the upcoming Islands Studies Conference in May, 2013.

CARRIED

7. APPLICATIONS AND PERMITS - None.

8. DELEGATIONS

8.1 *Graham Brazier for Denman Opposes Coal*

Graham Brazier read out and then submitted a letter titled "Islands Trust Response to Raven Coal Mine Project," from Denman Opposes Coal, dated January 22, 2013, to the Denman Island Local Trust Committee.

The letter sought for the Denman Island Local Trust Committee (LTC) to give attention and priority to this issue.

Chair Luckham commented that tackling this issue would involve extensive time and resources that would displace other work projects, and that the Islands Trust Council was still waiting for a response from Compliance Energy to Trust Chair

Sheila Malcomson's letter dated November 20, 2012, which asserts that the Denman LTC has jurisdiction over the waters and sea floor of Baynes Sound.

Trustee Busheikin commented that although the Denman LTC had confirmed jurisdiction over these waters, that they did not have jurisdiction over the land that Compliance Coal would be operating on, nor did the Denman LTC have any zoning bylaws in place over the opposite shoreline, a process which could take years involving extensive dialogue with Fanny Bay and other residents. Advocacy might be a more useful avenue for the Denman LTC.

Trustee Graham commented in reference to the previous request by Denman Opposes Coal for the Denman LTC to initiate a Benthic study of Baynes Sound, that the aquaculture industry and other agencies also had a strong motivation to collect the sort of data that might help to prove acid mine drainage risks brought about through coal mining, and that the possible collecting of such data by the Denman LTC needed to be reviewed once the Environmental Impact Statements submitted by Compliance Coal to various agencies were made available.

9. TOWN HALL DISCUSSION

Edina Johnston - presented an update on the commercial harvesting of seaweed in the Trust area and submitted a written page titled "Edi's Notes for the LTC meeting of January 22, 2013" to the Denman LTC.

The letter expressed alarm over current testing of a seaweed extraction machine by one of the license holders and the possibility of future harvesting of seaweed from the seabed. It also questioned why the Comox Valley Regional District (CVRD) is in the process of amending its Official Community Plan that includes Baynes Sound Waters when Baynes Sound is in the jurisdiction of the Islands Trust.

There was some discussion that there had been no consultation with the DILTC prior to the granting of seaweed licenses by the CVRD and that there was presently no process in place for the CVRD to consider a referral in regards to applications to such licenses. The CVRD would only receive a referral if the issue regarded zoning. The CVRD was aware that Denman LTC had jurisdiction over Baynes Sound.

Bill Engelson suggested that the Denman Island LTC take advantage of the Senior's Center racquet-ball court to stage a symbolic photo-op to publicize that the ball was now in the their court in regards to jurisdiction over the waters of Baynes Sound.

Ralph McCuaig - announced that the Hornby - Denman Tourist Services Society would be available with resources and support to local islanders needing to negotiate Bylaw No. 186 which deals with housing and cooking facilities.

On another topic, he questioned if the Denman LTC had any influence with the Highways Department on the condition of the Big Hill on Denman Road which was unsafe and not up to present Highways standards, but had not been upgraded due to the high costs of such a project. This present condition of the Big Hill would affect that portion of the Cross Island Trail that is proposed to run alongside it.

Chair Luckham noted that Road Safety Assessments had been conducted on other Gulf Islands and then submitted to their Highways Departments for review. He also noted that on many other islands, a transportation committee existed as part of the local Ratepayers Association.

Trustee Graham commented that restructuring the Big Hill could involve environmental destruction to trees and the natural environment and that previous Denman LTCs had set up a Transportation Advisory Committee.

Trustee Busheikin noted that there was a conflict between wanting to maintain the rural quality of roads versus safety concerns. She stated a concern with road safety issues but a reluctance to take on road issues at the present time, given the already full Denman LTC agenda.

Keith Porteous commented on the absence of a transportation committee on Denman Island and on the lack of safety assessments for local roads.

Bill Engelson spoke to the possibility of amalgamating local committees so that a more cohesive approach to local issues could be achieved. Transportation issues could be added to one of the existing trust committees.

DE-002-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee amend the present agenda to add seaweed harvesting to the agenda as Item 13.3.

CARRIED

10. CORRESPONDENCE

10.1 Email dated November 27, 2012 from Dean Ellis regarding Denman Island Local Trust Committee - attached

Received.

10.2 Emails dated November 27, 2012, December 18 and 21, 2012 from Dean Ellis and Responses regarding Ditch on Radcliffe Road - attached

Received.

10.3 Email dated December 8, 2012 from Dean Ellis regarding Denman Farm Plan Maps Erosive Soils - attached

Received.

10.4 Email dated January 5, 2013 from Edina Johnston of Denman Island Forage Fish Group regarding Negative Impacts of the Removal of Large Amounts of Seaweed with Summary Document - attached

The email dated January 5, 2013 from Edina Johnston of Denman Island Forage Fish Group regarding Negative Impacts of the Removal of Large Amounts of Seaweed with Summary Document was received.

10.5 Email dated January 4, 2013 by Ralda Leroux regarding an update on the agriculture and aquaculture policy review project - attached

The email dated January 4, 2013 by Ralda Leroux regarding an update on the agriculture and aquaculture policy review project was received.

There was some discussion on the short notice given for attending the January 24, 2013 Open House put on by the Comox Valley Regional District (CVRD) to provide for public input on their agriculture and aquaculture policy review. Trustee Busheikin commented that she appreciated that the CVRD was acknowledging DILTC's jurisdiction over Bayne's Sound as well as actively soliciting input from the DILTC. She was hoping to be able to attend one of the remaining open houses.

DE-003-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee direct staff to reply to the Comox Valley Regional District email correspondence regarding their agriculture and aquaculture policy review and provide relevant sections of our Official Community Plan as well as Islands Trust Policy Statement.

CARRIED

10.6 Email dated January 20, 2013 by Keith Porteous regarding the Comox Valley Regional District proposal for a six foot wide gravel path alongside Denman and East Roads - attached

The email dated January 20, 2013 by Keith Porteous regarding the Comox Valley Regional District proposal for a six foot wide gravel path alongside Denman and East Roads was received.

Planner Brzozowski noted that she had found no conflicts between the existing Official Community Plan and the Cross Island Trail being proposed for Denman Island. The CVRD Concept Plan for their Parks and Greenways Plan had been added to the Official Community Plan as Schedule G in August of 2011.

The CVRD was now processing input on their entire proposed plan for Denman Island which had been broken into ten one-kilometer sections that could be tackled as funding became available. The first scheduled section to be done as a pilot project would be the Denman Village section. There was still time for the public to comment on the plan through the CVRD website.

Chair Luckham invited Keith Porteous to present his opinions on the Cross Island Trail.

Keith Porteous commented that the Cross Island trail would be a major impact on the transportation corridors of Denman Island and that there had been too little discussion on transportation safety issues; there were conflicts between the

Cross Island Trail Plan and the Official Community Plan; other options had not been considered; the priority of the CVRD was for a ferry-to-ferry trail; there was insufficient public process and input for the trails plan; the Local Trails Committee had too much influence over the final plan; people who gave their approval to the plan didn't have sufficient data on the overall plan to make a sound judgment of it; and that a step back needed to be taken before this irreversible infrastructure was built.

He noted that he was in support of some aspects of the plan and he appreciated the efforts already put into the plan.

Local Trustees thanked Keith Porteous for his passionate and detailed presentation.

The meeting was recessed at 12:25 pm and reconvened at 12:35 pm.

11. REPORTS

11.1 *Work Program - Top priorities Report and Projects Report dated January 10, 2013*

The Top Priorities Report and Projects Report was reviewed

11.2 *Applications Log - Report dated January 10, 2013*

The Applications Log dated January 10, 2013 was reviewed.

Trustee Graham expressed regret that the Holden/Aronson rezoning application to the Agricultural Land Committee had been denied. He commented that the Agricultural Land Committee seemed to be applying inappropriate urban policy considerations to a small rural Gulf Island property.

11.3 *Trustee and Local Expenses - Expenses posted to December 31, 2012*

The expenses posted to December 31, 2012 were reviewed.

12. LOCAL TRUST COMMITTEE PROJECTS

12.1 *Review of Development Permit Area No. 4: Streams, Lakes and Wetlands - Staff Report dated January 9, 2013*

Planner Brzozowski presented the Staff Report dated January 9, 2013 regarding Review of Development Permit Area No. 4: Streams, Lakes and Wetlands - Development Approval Information Bylaw.

The report addresses staff revisions made to the draft Development Approval Information bylaw so that development applications regarding the proposed new

Development Permit Area Regulations for Riparian Areas will be more user-friendly for applicants and administratively consistent for planning staff.

Chair Luckham thanked Planner Brzozowski for an excellent first report.

Trustee Graham commented that there needed to be a clearer definition of steep slopes. He also noted that this new revised Development Approval Information bylaw was considerably more complex than previous versions which could increase expenses for local landowners if they had to spend too much money on hired professionals to comply with environment impact statement requirements. There was some concern that if the process for landowners was too onerous, that they may reject the permit process. He noted that there seemed to be flexibility within this new draft bylaw and permit process to address minor and major environmental impact issues.

Trustee Busheikin commented that it was important to keep the development permit process affordable, flexible, and manageable.

Trustee Graham commented that the development permit process was dependant on high quality maps which were presently not available on Denman Island. There could be conflicts and unneeded expenses arising from confusion over the boundaries of specific sites. This reality needed to be taken into consideration when processing development permits.

Acting Regional Planning Manager Simpson noted that it was very important that the Trust Council budget maintain funds for Riparian Area Regulation mapping.

DE-004-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee approve the submitted revisions to the draft Development Approval Information bylaw and submit the draft Development Approval Information bylaw cited as "Denman Island Local Trust Committee Development Approval Information Bylaw No. 149, 2013" with the accompanying Request for Decision to Executive Committee for consideration at the Trust Council March 2013 quarterly meeting.

CARRIED

13. NEW BUSINESS

13.1 *Islands Trust Planner - On Island Office Hours - Memorandum dated January 8, 2013*

The Islands Trust Planner - On Island Office Hours Memorandum dated January 8, 2013 was received.

13.2 *Rescheduling of September 2013 meeting - verbal report*

- DE-005-2013** It was **MOVED** and **SECONDED** to amend the Denman Island Local Trust Committee 2013 meeting schedule by rescheduling the September 17, 2013 meeting to September 24, 2013.
- CARRIED**

13.3 Seaweed Harvesting

- DE-006-2013** It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee forward all of Edina Johnston's correspondence to date regarding seaweed harvesting to the Executive Committee as a local Trust Committee.
- CARRIED**

14. BYLAWS - None

15. ISLANDS TRUST WEBSITE

15.1 Denman Page

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

16. NEXT MEETING DATE

The next meeting of the Denman Island Local Trust Committee will take place on Tuesday, February 26, 2013 at 10:30 am at the Denman Seniors Centre, 1111 Northwest Road, Denman Island, BC.

17. TOWN HALL DISCUSSION

Chair Luckham invited Edina Johnston to address the Local Trust Committee again if she wished.

Edina Johnston thanked the Local Trust Committee for their time and consideration.

18. ADJOURNMENT

Chair Luckham adjourned the meeting at 12:49 pm.

Recorder

Chair



Islands Trust

Follow Up Action Report w/ Target Date

Denman Island Sep-12-2011

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

May-02-2012

No.	Activity	Responsibility	Target Date	Status
1	Staff to provide report on bylaw enforcement mechanisms to: a) remove predator netting; b) ban driving on the foreshore; and c) ban beach modification. Update: Preliminary report to be prepared by HB Lanarc, to be presented Feb 2013.	Courtney Simpson	Jul-17-2012	On Going

Jun-05-2012

No.	Activity	Responsibility	Target Date	Status
1	Invite BC Shellfish Growers Association to the to-be-scheduled meeting with DFO and ILMB on aquaculture. Oct 2, 2012 update: wait until staff has attended first working group meeting to provide more info to LTC.	Aleksandra Brzozowski	Jul-17-2012	On Going
1	Add "Discussion of Bylaw Enforcement" to the Denman Island Local Trust Committee business meeting in 18 months time (December, 2013) possibly to coincide with a discussion on affordable housing.	Aleksandra Brzozowski	Dec-01-2013	On Going

Oct-02-2012

No.	Activity	Responsibility	Target Date	Status
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1	In the definition of "dwelling unit, affordable housing" in draft bylaw 204, clarify that "purchase price" refers to a monthly financed price and is called an "installment" or "payment". Also consider adding Imperial measurements in brackets (need to check for consistency with base bylaw).	Aleksandra Brzozowski	Nov-06-2012	On Going
1	Explore variations on the definition of dwelling unit, affordable housing as it pertains to DE-RZ-2011.1 with a view to making it more general.	Courtney Simpson	Nov-21-2012	On Going
1	For draft bylaw 204, clarify meaning of "including sale of products produced on site". And, under 1 (c), insert comma after "2.8". And, in schedule revise boundary of new zone to match that of recent survey.	Aleksandra Brzozowski	Nov-21-2012	On Going

Nov-06-2012

No.	Activity	Responsibility	Target Date	Status
1	Staff to request Ministry of Agriculture to include the Denman Island Local Trust Committee in any application referrals for seaweed harvesting licenses in the Denman Local Trust Area. (cc Ballenas-Winchelsea LTC)	Aleksandra Brzozowski	Dec-11-2012	On Going
1	Staff to write a letter or email to agencies that deal with shellfish aquaculture requesting that when engaging with planning and consultation they invite the Association of Denman Island Marine Stewards to participate.	Aleksandra Brzozowski	Dec-11-2012	On Going
1	It was MOVED and SECONDED that the Denman Island Local Trust Committee renew the Standing Resolution No. DE-041-2012 to be extended until December 31, 2013.	Miles Drew	Dec-11-2012	On Going

Dec-11-2012

No.	Activity	Responsibility	Target Date	Status
1	Give notice to Trust Council that it intends to forward a Development Approval Information Bylaw for Trust Council's consideration at the regularly scheduled March 2013 Trust Council meeting.	Aleksandra Brzozowski	Jan-22-2013	Done

1	Prepare report and amended draft bylaw addressing APC comments for draft DPA 4 guidelines. Recommend to LTC that revised DPA 4 and draft DAI are referred to the APC together.	Aleksandra Brzozowski	Jan-22-2013	On Going
1	Advertise for membership in APC, Marine APC and Agriculture APC.	Aleksandra Brzozowski	Feb-26-2013	Done

Jan-22-2013

No.	Activity	Responsibility	Target Date	Status
1	Forward email correspondence from Edina Johnston re: seaweed harvesting to the EC as an LTC notifying them of the issues in the Baleinas-Winchela LTA.	Aleksandra Brzozowski	Feb-26-2013	Done
1	Reply to CVRD re: comments on draft agri- and aqua-culture policy review with relevant OCP sections, Island Trust statement, and confirmation that a full referral response will come after 1st reading.	Aleksandra Brzozowski	Feb-26-2013	Done
1	Add 2013 Planner On-Island hours to the Denman webpage.	Aleksandra Brzozowski	Feb-26-2013	Done

Compilation of Emails

dated January 29, 2013 to February 3, 2013

from/to Keith Porteous

regarding Comox Valley Regional District's Denman Island
Parks and Greenways Masterplan – Cross Island Trail

From: Keith [<mailto:otterpointstudio@gmail.com>]
Sent: January-29-13 9:16 AM
To: Aleksandra Brzozowski
Subject: Denman Island - Islands Trust Highways Agreement

Dear Aleksandra,

I am submitting this document in regard to Denman Island planning process and bicycle transportation on our rural roads. While our OCP contemplates an off-road "multi modal" trail, the assessment and public process, specifications and classifications are all spelled out in this document. It was amended in 1996.

We have had no APC assessment of safety, heritage, or bicycle route planning undertaken on Denman for the entire period these agreements have been in effect. Our OCP is specific in regard to rural road "character", the removal of vegetation for transport modes, and planning for "peak use" along these corridors.

<http://www.islandstrust.bc.ca/tc/pdf/orgagrdec081992pro.pdf>

With respect,

Keith Porteous
Denman Island

From: Keith [otterpointstudio@gmail.com]

Sent: January 29, 2013 12:12 PM

To: David Graham; Laura Busheikin

Cc: Courtney Simpson; Aleksandra Brzozowski;
executiveweb@islandstrust.ca; bjolliffe@comoxvalleyrd.ca

Subject: Denman Island Parks and Greenways Masterplan Islands Trust
Memo Oct. 12, 2010

<https://docs.google.com/viewer?a=v&q=cache:TBPJBKoJBq8J:www.islandst>

ust.bc.ca/ltc/de/pdf/deagendaoct262010pkgpart3.pdf+&hl=en&gl=ca&pid=

Dear Trustees,

This memorandum says that if there is no final CVRD Parks and Greenways Masterplan adopted by approximately February of 2011, then a separate process to amend the Denman OCP is necessary. To my knowledge, neither of these steps has been completed. Will there be an amendment process to our OCP brought forward?

And if so, will there be an APC appointed to study safety, heritage designations, bike paths, and multi-modal transportation on Denman Island?

Sincerely,

Keith Porteous
Denman Island

Memo re Parks Map July 28 2011_with.pdf>
10 Denman LTC Minutes August 15, 2011.pdf>

On 2013-01-29, at 12:36 PM, David Graham <dgraham@islandstrust.bc.ca> wrote:

<http://www.islandstrust.bc.ca/ltc/de/pdf/deshcocpg.pdf>

Hi Keith,

Here is Schedule "G" from our OCP which effectively, as far as I know, adopts this plan.

I also reviewed the minutes of the past Transportation APC meeting where this CVRD Plan was reviewed. Perhaps due to OCP and LUB compliance the TAPC members were not that engaged with the details of the CVRD initiated Plan. We were experiencing snow on the Big Hill and members were more engaged with safety issues and the up coming EMCON maintenance program which was reviewed by committee members.

-----Original Message-----

From: Keith [<mailto:otterpointstudio@gmail.com>]

Sent: Tuesday, January 29, 2013 1:33 PM

To: Laura Busheikin; Courtney Simpson; Aleksandra Brzozowski

Cc: bjolliffe@comoxvalleyrd.ca

Subject: Fwd: Denman Island Parks and Greenways Masterplan Islands Trust Memo Oct. 12, 2010

Thanks David. I am familiar with this noted as "conceptual" mapping of Denman in the OCP. The memo from Islands Trust planners that I forwarded says that if the "final" CVRD plan is not submitted by Feb. 2011, then an amendment to the OCP is necessary. As far as I can see, there is no final CVRD plan to date, so there would need to be an amendment to the OCP. No?

Humbly, I should think that an LTC Advisory Planning Committee would be appointed to examine all these issues. At the recent meeting, your question regarding safety and transport studies of Denman having been completed on Denman was answered in the negative. As well, in relation to the MOTI agreement with the IT, none of the process or options in the specifications for road design, classification and specifications, including bike paths, heritage, and routing have been undertaken. It really seems like this CVRD plan needs a sober second look.

It's not a small thing. It's a big thing. BC Ferries and MOTI have a responsibility to create safe connections for cars, bikes and people on our hills and terminals. To activate these obligations, we will need baseline data to support our requests for improvements. We have no local MOTI consultation process currently, which is called for under Islands Trust policy. The CVRD plan has jurisdiction in the context of recreation, not transportation, and it needs both MOTI and LTC approval to move forward. I will continue to push for more due diligence by Islands Trust in these matters regarding transport, safety, public process, cycling paths, and multi-modal trails.

Best regards,

Keith

On 2013-01-31, at 4:50 PM, Aleksandra Brzozowski <abrzozowski@islandstrust.bc.ca> wrote:

Hi everyone,

Just going to chime in here with updated information about memos regarding the Concept Plan, so we can all be up to date.

In July of 2011, a revised Parks and Greenways Concept Plan was given to Islands Trust following feedback. At the August 15, 2011 meeting, the LTC passed a resolution to replace the older map with the new map, and the revised map was adopted into the OCP.

I've attached the staff memo and the August 15, 2011 LTC meeting minutes.

Regards,
Aleksandra.

From: Keith <otterpointstudio@gmail.com>
Date: 1 February, 2013 8:07:43 AM PST
To: Aleksandra Brzozowski <abrzozowski@islandstrust.bc.ca>
Cc: Laura Busheikin <lbusheikin@islandstrust.bc.ca>, David Graham <dgraham@islandstrust.bc.ca>
Subject: Re: Denman Island Parks and Greenways Masterplan Islands Trust Memo Oct. 12, 2010

Hi again,

Just looking for some clarity here. If a "revised" Parks and Greenways Plan was given to the Islands Trust, do you mean the Local Trust Committee? And if it was "following feedback", who was the feedback from? In the 2010 memo from planner Simpson, it seems as though there needed to be a "final" plan submitted by Feb. 2011, or there would have to be a new bylaw brought forward to amend our OCP. Apparently, there was no final plan by Feb. 2011. And since the CVRD currently has a "proposed plan" and is seeking feedback from the public, when is a plan considered final?

Adding to the confusion, this note is attached to the "revised" map. :

" Note: This map should be reviewed in the context of the (CVRD) Denman Island Parks and Greenways Master Plan, August 2011.

Envisioned greenways and trails are conceptual. Exact alignment will be determined at the time of trail planning. No trails will be built without landowner consent. Where trails cross land in the Agricultural Land Reserve, approval of the Agricultural Land Commission is required. Wherever possible, trails will be aligned to avoid agricultural land."

And given that much of the proposed route passes through heritage Agricultural Land Reserve, and no local Trust sponsored process has been undertaken to identify safety, heritage, bike paths, and ALR concerns, does this process not seem out of step with agreed upon IT processes to deal with these issues? Isn't the Islands Trust - MOTI agreement the appropriate document to consider before adopting the CVRD plan, and after hearing from MOTI, the ALC, the Denman Transportation APC, and the residents of Denman through an LTC sponsored public consultation process? And wouldn't the result of that process be more appropriate to adopt as an amendment to our OCP?

Thanks, kp

-----Original Message-----

From: Keith [<mailto:otterpointstudio@gmail.com>]
Sent: February-01-13 8:08 AM
To: Aleksandra Brzozowski
Cc: Laura Busheikin; David Graham
Subject: Re: Denman Island Parks and Greenways Masterplan Islands Trust Memo Oct. 12, 2010

Hi again,

Just looking for some clarity here. If a "revised" Parks and Greenways Plan was given to the Islands Trust, do you mean the Local Trust Committee? And if it was "following feedback", who was the feedback from? In the 2010 memo from planner Simpson, it seems as though there needed to be a "final" plan submitted by Feb. 2011, or there would have to be a new bylaw brought forward to amend our OCP. Apparently, there was no final plan by Feb. 2011. And since the CVRD currently has a "proposed plan" and is seeking feedback from the public, when is a plan considered final?

Thanks, kp

From: Keith [<mailto:otterpointstudio@gmail.com>]

Sent: February-01-13 8:56 AM

To: Aleksandra Brzozowski

Cc: Laura Busheikin; David Graham

Subject: Re: Denman Island Parks and Greenways Masterplan Islands Trust Memo Oct. 12, 2010

Adding to the confusion, this note is attached to the "revised" map. :

" Note:

This map should be reviewed in the context of the (CVRD) Denman Island Parks and Greenways Master Plan, August 2011.

Envisioned greenways and trails are conceptual. Exact alignment will be determined at the time of trail planning. No trails will be built without landowner consent. Where trails cross land in the Agricultural Land Reserve, approval of the Agricultural Land Commission is required. Wherever possible, trails will be aligned to avoid agricultural land."

And given that much of the proposed route passes through heritage Agricultural Land Reserve, and no local Trust sponsored process has been undertaken to identify safety, heritage, bike paths, and ALR concerns, does this process not seem out of step with agreed upon IT processes to deal with these issues? Isn't the Islands Trust - MOTI agreement the appropriate document to consider before adopting the CVRD plan, and after hearing from MOTI, the ALC, the Denman Transportation APC, and the residents of Denman through an LTC sponsored public consultation process? And wouldn't the result of that process be more appropriate to adopt as an amendment to our OCP?

Keith

From: Keith [<mailto:otterpointstudio@gmail.com>]

Sent: February-01-13 2:44 PM

To: Courtney Simpson

Subject: Fwd: Denman Island Parks and Greenways Masterplan Islands Trust Memo Oct. 12, 2010

Hi Courtney,

I'm not sure whether you were on copy to this note from Aleksandra, (below) and my reply. Aleksandra has supplied maps and meeting minutes showing the LTC adopting a CVRD Parks and Greenways Masterplan in August of 2011. I'm not sure whether your earlier memo stating that an amendment to the Denman Island OCP may be necessary if there was no "final" plan submitted to the LTC before that time, is relevant here, or not.

The CVRD plan that was adopted into the Denman OCP states that trail routes would be determined at the time of trail planning. Trail planning by whom?

The "revised" map notes itself as being "conceptual" and "envisioned", and that every effort should be given to avoiding the creation of "Greenways" when they pass through or encroach on agricultural lands. Most of this proposal for the CVRD ferry to ferry connector passes through ALR lands according to the map provided by the CVRD and included in the Denman OCP. And parts of this route should be considered heritage as there are 115 year old buildings and working farms with ALR designation. While I respect the CVRD's efforts in moving the recreation agenda forward on Denman, there are other shared values that are being completely ignored. And there seems to be an absence of a credible LTC hosted review process. It's confusing.

Our current OCP transportation policy clearly does not support the removal of vegetation along this transportation right of way for this purpose. And yet, the CVRD plan proposes 10 km of gravel pathway, 6 ft. (+) wide along the entire length of their ferry to ferry proposal (save for the Corrigan-Mallard trail connector). This totals 5 acres of vegetation removed, on the most visible rural road corridor on Denman Island. On a 60 km/hr ferry to ferry connector, the Islands Trust - MOTI agreement is very specific in regard to classification and design of the road, cycle path, and multi-modal shoulder. It is also specific in regard to heritage and ALR issues, the preservation of vegetation along the right of way, and the LTC public process appropriate in developing a transportation plan. There are indeed some values that are expressed in the CVRD plan that are insufficient and contrary to our jurisdiction's expressed desire.

Keith

From: Courtney Simpson
Sent: February-04-13 11:59 AM
To: Keith
Cc: Aleksandra Brzozowski
Subject: RE: Denman Island Parks and Greenways Masterplan Islands Trust Memo Oct. 12, 2010

Hi Keith,

The earlier memo you are referring to is no longer relevant as the LTC had the opportunity to adopt the CVRD Parks and Greenways Masterplan map in August 2011.

Thank you for your other comments. I've copied Aleksandra Brzozowski as she is in touch with the CVRD Parks planners to find out more information about their process such as consultation with the ALC and Ministry of Transportation. At this point we are gathering more information from the points you have raised in order to better advise the Local Trust Committee at their next meeting.

Regards,

Courtney Simpson, MCIP, RPP
Acting Regional Planning Manager
Islands Trust Northern Office
700 North Road
Gabriola Island, BC V0R 1X3
Tel: (250) 247-2209
Or toll free through Enquiry BC 1-800 663-7867

On 2013-02-04, at 1:29 PM, Aleksandra Brzozowski <abrzozowski@islandstrust.bc.ca> wrote:
Hi Keith,

Sorry if my earlier reply was unclear.

If a "revised" Parks and Greenways Plan was given to the Islands Trust, do you mean the Local Trust Committee?

Yes, I do. Apologies, that was my terminology error.

And if it was "following feedback", who was the feedback from?

The feedback was from the Local Trust Committee and the other agencies to which the CVRD sent referrals.

So please allow me to try again!

After the CVRD received feedback on the Denman Island Parks and Greenways Master Plan through their referral and consultation processes, they revised the Plan. In July 2011, they sent the final version of the Denman Island Parks and Greenways Master Plan to the Denman Island Local Trust Committee. In August 2011, the Priorities map from that Plan (the Denman Island Parks and Greenways Priorities - Conceptual Plan map) was adopted as Schedule G of the Denman OCP. That map was the final map included as part of the final Denman Island Parks and Greenways Master Plan. The words Conceptual and Envisioned address the fact that the "exact alignment will be determined at the time of trail planning", not that the map itself isn't final.

And since the CVRD currently has a "proposed plan" and is seeking feedback from the public, when is a plan considered final?

What the CVRD is currently seeking feedback on is not the Denman Island Parks and Greenways Master Plan, but the route and design for the Denman Island Cross-Island Trail. The Cross-Island Trail is a project that serves to implement the Parks and Greenways Master Plan, which was finalized in 2011 and whose Conceptual Plan Map was adopted into the Denman Island OCP in 2011.

Any more technical questions, please feel free to send them my way and I will answer them as soon as I can. (FYI, I have received the questions you sent to Courtney earlier today and I will answer those shortly.)

Regards,
Aleksandra.

Aleksandra Brzozowski
Island Planner
Northern Office, Islands Trust
700 North Road
Gabriola, BC V0R 1X3
250-247-2207

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From: Keith [<mailto:otterpointstudio@gmail.com>]
Sent: February-04-13 2:31 PM
To: Aleksandra Brzozowski
Cc: Courtney Simpson; David Graham; Laura Busheikin
Subject: Denman Island Parks and Greenways Masterplan-Islands Trust

Thank you Aleksandra,

I am trying to challenge my own assumptions. The map describes itself as "conceptual", and makes 2 added notations in this regard. One is in regard to the final decisions on their alignment being made at some future time. But by whom? The jurisdiction of this right of way is held by MOTI and has a legal agreement with Islands Trust which prescribes a completely different process in design and public consultation. There is clearly some tension between a recreation plan, and what is a transportation plan, and preserve and protect mandate from Islands Trust. And that is held as the highest objective and guiding principle of the Denman Island Official Community Plan.

It is my belief that the legitimate Islands Trust jurisdictional process in dealing with the primary transportation corridor on Denman Island will lead to a safer and better design, and especially in regard to the shared principles that Denman Islanders have democratically agreed to. These include, rural character, design using local materials and local effort, and a design process that is inclusive of a wide variety and diverse group of residents and others. We need to assess safety, cycling habits, and transportation feasibility before confusing needs for parts of a major public right of way, with the recreational desires of the CVRD.

(P.S.) I love trails! I volunteer to build and maintain trails on our Conservancy and elsewhere.

Sincerely,

Keith Porteous
Denman Island

On 2013-02-05, at 10:24 AM, Aleksandra Brzozowski <abrzozowski@islandstrust.bc.ca> wrote:

Hi Keith,

More answers. Note that I am answering your two latest emails at once in this reply.

The CVRD plan that was adopted into the Denman OCP states that trail routes would be determined at the time of trail planning. Trail planning by whom?

Trail planning by the CVRD.

Most of this proposal for the CVRD ferry to ferry connector passes through ALR lands according to the map provided by the CVRD and included in the Denman OCP.

It is expected that if the trail is to go through ALR land, the CVRD will make the appropriate referrals and/or applications to the Agricultural Land Commission.

And parts of this route should be considered heritage as there are 115 year old buildings and working farms with ALR designation.

Yes, one part of the proposed route is along a road designated in the OCP as Scenic/Heritage – East Road from Owl Crescent down to the Lindsay-Dickson property. As per Advocacy Policy 2 in D.2 of the OCP, the Ministry of Transportation is encouraged to honour this designation.

In the Letter of Agreement between Islands Trust and MOTI (sic), it states: “Planned work on roads designated as Scenic/Heritage will trigger a consultative process between Islands Trust and the MOTI prior to the initiation of upgrading.” But until the CVRD takes that roadwork proposal to MOTI, there is no planned work for East Road on MOTI’s end so we have not been contacted about it.

Our current OCP transportation policy clearly does not support the removal of vegetation along this transportation right of way for this purpose.

This is where I lose you. Policy 15 of the OCP’s transportation section is: “The development of trails along new and existing roads in the road right-of-way should be supported as a means of providing safe non-vehicular access on Denman Island. A trail system should be constructed that is safe and inviting, that parallels existing and new roads and that does not alter the rural character of the road.”

So the OCP **does** support the removal of vegetation along the transportation right of way for this purpose, as the development of a non-vehicular access trail would necessitate removing some vegetation.

I suppose one could argue against the CVRD’s plans based on the interpretation of “rural character” or quote Policy 13, which states: “All new trails should be constructed in such a way that negative impacts on the land are minimised, and environmentally sensitive areas and agricultural land is minimised.” But then again, the Cross-Island Trail designs include a vegetated buffer between the road and the trail, and (at the second presentation on Jan 16th) the CVRD committed to exploring lower-impact options for the environmentally sensitive (marsh) areas, so those arguments would likely not go very far.

The jurisdiction of this right of way is held by MOTI and has a legal agreement with Islands Trust which prescribes a completely different process in design and public consultation.

Yes, the MOTI does have jurisdiction for the ROW. And once CVRD presents MOTI with proposed work, MOTI will discuss with Islands Trust as needed. But the process outlined in the agreement speaks to routine exchange of information and consultation between the two agencies when road upgrades are to happen to heritage/scenic routes, not public consultation.

And there seems to be an absence of a credible LTC hosted review process. It's confusing.

By "LTC hosted review process", do you mean the LTC reviewing and providing comment to the CVRD on the trail design, or do you mean the LTC hosting a public review process? The former is expected to happen at a later date once the proposed route is to be taken to the MOTI. The latter is a process the LTC do not have the authority to undertake and one that would be redundant to the consultation process being done by the CVRD.

We need to assess safety, cycling habits, and transportation feasibility before confusing needs for parts of a major public right of way, with the recreational desires of the CVRD.

This comment I will take to the Local Trust Committee as correspondence and follow up on as directed by the Trustees.

I completely appreciate that you are not anti-trail, just as I hope that you understand that I don't mean to be obstructive with my answers! But as far as concerns the Local Trust Committee to this point, the Cross-Island Trail meets our requirements of it.

Lastly, a communication note: my schedule for the rest of the week is already committed to work relating to Thetis Island, so I won't be able to answer any further emails on this until mid-next week at the latest.

Enjoy the new long weekend!
Aleksandra.

From: Keith [<mailto:otterpointstudio@gmail.com>]

Sent: February-05-13 12:00 PM

To: Aleksandra Brzozowski

Cc: Courtney Simpson; David Graham; Laura Busheikin

Subject: Re: Denman Island Parks and Greenways Masterplan Islands Trust Memo Oct. 12, 2010

Thanks Alexsandra,

This is helpful for clarity purposes. I am aware of the language in the OCP that suggests an off road trail, but there are also several contradictory statements in the OCP in regard the removal of vegetation along road right of ways. This kind of preserve and protect language is also included in the IT-MOTI agreement. The IT-MOTI agreement also calls for LTC public consultation processes and APC assessments before moving forward on road right of way alterations. As well, while I have seen the scenic/heritage designation for the "Lindsey Dickson" section of the road, I am advocating that our LTC and APC look again at potential other scenic/heritage sections. The 115 year old Orkney Farm section is one example. The entire eastern half of the CVRD proposed route is very different from the western half, in density, travel destinations, and modes of travel and congestion, while their plan calls for a one size fits all for the entire length. The CVRD proposal would have bikes, pedestrians, horses, and other transport modes on a single gravel trail, in both directions, on steep and curving hills, creating safety issues it is intended to mitigate. This is why I am pushing for safety and traffic assessments before the LTC approves a final plan. It is somewhat disconcerting that the CVRD and DIRA Trails claim this is their preferred route in part because they believe that "most heavy commercial traffic" diverts along Lacon and McFarlane. This is just absurd to anyone who lives here. Further, on the conceptual map "G" in our OCP, it specifically states that the ferry to ferry connector will avoid running through ALR lands "where possible". Their proposed route runs through ALR lands for almost the entirety of its length.

Best,

Kp

From: Keith [<mailto:otterpointstudio@gmail.com>]
Sent: February-05-13 2:23 PM
To: Laura Busheikin; David Graham
Cc: Courtney Simpson; Aleksandra Brzozowski
Subject: Denman Cycling and Pedestrian planning (best practices)

<http://www.vtpi.org/nmtguide.doc>

I found this document from the Victoria Transportation Policy Institute to be useful reading in regard to multi-modal paths and planning cycling routes. It seems to advise against many aspects of CVRD Greenway proposal. I hope it is helpful in your considerations.

Sincerely,

Keith Porteous
Denman Island

Sent from my iPad

From: Keith [mailto:otterpointstudio@gmail.com]
Sent: February-13-13 4:35 PM
To: Courtney Simpson; Aleksandra Brzozowski
Subject: Denman Island Bicycle and Pedestrian Safety / Ferry to Ferry Connector

Dear Laura and David,

I found this Bicycle Facilities Design Course Manual, presented by BC Parks and Recreation, and the Ministry of Transportation and Infrastructure, to be useful when contemplating the design of a ferry to ferry connector along Denman and East Roads. It seems that there is a major difference between substantive safety and perceived safety.

http://www.cite7.org/resources/documents/BFCD_ConsolidatedManual.pdf

"Specifically, facility provision and design can improve cyclist safety. In a recent review that looked at the evidence of the link between transportation infrastructure and cyclists' substantive safety,¹⁰ there were a number of key findings to guide safe infrastructure design:

- bicycle lanes and paths have the lowest risk of crashes and injuries. The risk is lower than cycling on-road with motor vehicle traffic, or off-road with pedestrians, e.g. on sidewalks or multi-use paths.

- Minor roads have lower injury risks than major roads.
- Sidewalks and unpaved off-road trails have the highest risks.
- At intersections, multi-lane roundabouts are more hazardous to cyclists than other types of intersections, unless separated cycle tracks are provided.
- Street lighting, paved surfaces, and low-sloped grades are additional factors that improve cyclist safety "

Clearly, there is the HIGHEST danger to cyclists and pedestrians and others on a shared 6ft. wide gravel path even while there may be a perception of increased safety on the proposed CVRD multi-use path. Note that the grades affect safety as well, as with our steep hills and blind curves. It also notes that creating more intersections (path crosses road) is an increased danger as well. This is on top of the lack of a maintenance and safety education plan by the CVRD. Winter and night are considered to be the worst conditions for multi-use paths.

I urge the Denman LTC to consider this and other submissions I have made in regard to the need for a Transportation Advisory Planning Committee to look at the CVRD proposal AND other options respective of creating safe cycling routes, and improving safety for pedestrians and others on Denman Island.

Sincerely,

Keith Porteous
Denman Island
Transportation Enthusiast

Sent from my iPad

From: Keith [mailto:otterpointstudio@gmail.com]

Sent: February-14-13 12:17 PM

To: David Graham; Laura Busheikin

Cc: bjolliffe@comoxvalleyrd.ca; Courtney Simpson; Aleksandra Brzozowski

Subject: Denman Island Pedestrian and Cycle path/Comox Valley Cycling Coalition

I have now heard from the Comox Valley Cycling Coalition technical committee in regard to the proposed CVRD ferry to ferry connector. Their members are also part of the Comox Valley Cycling Task Force. They oppose the CVRD plan in respect to issues related to the lack of safety for pedestrians and cyclists and horses and others sharing a gravel path along this right of way.

I will submit their comments or have them contact you directly should you find that useful in your deliberations.

Sincerely,

Keith Porteous

Sent from my iPad

From: Keith [<mailto:otterpointstudio@gmail.com>]
Sent: February-06-13 1:27 PM
To: David Graham; Laura Busheikin
Cc: Courtney Simpson; Aleksandra Brzozowski
Subject: Fwd: Opposition to the ferry to ferry connector on Denman

Dear Mr. Jolliffe,

To date I have had many people contact me in opposition to the CVRD ferry to ferry connector and i have yet to actively canvas residents, which I intend to do. They range from cyclists to trail users and pedestrians who do not like this proposal, its unsafe design for cyclists sharing a gravel path with pedestrians on big hills and curves, and those who do not like its impact on the rural character of our roads which is a principle in our OCP. As well, many people do not like the "one size fits all" design along the entire route, much of it through ALR lands, even while the map provided notes that every effort would be made to avoid ALR, some of it of heritage quality. Removing 5 acres of vegetation (10 km x 2m) along our shared right of way is the wrong plan, and is more suited to suburban and tourist locations.

The agreement between Islands Trust and the Ministry of Transportation calls for a different design, and a different public process. It seems a recreation plan has become conflated with a transportation and safety issue along our main corridor. Your "survey" produced inconclusive results regarding the ferry to ferry connector. As well, some claims made in regard to supporting the CVRD plan are false. The CVRD claim that most "heavy commercial traffic" uses the Lacon Rd. - McFarlane Rd. route is a good example of this. A more thorough examination of Denman residents feedback is needed, with options presented that represent "best practices" involving safety and traffic studies, cycling, design, and public consultation.

I am providing some literature here for your consideration. I hope it is helpful in rethinking this plan and creating a better design and process for building public consensus.

<http://www.vtpi.org/nmtguide.doc>

<http://www.islandstrust.bc.ca/lrc/gb/pdf/gbrptcyclerroutes.pdf>

Sincerely,

Keith Porteous
 Denman Island
 Trail volunteer for Denman Conservancy

Sent from my iPad

From: Karin Albert [<mailto:kalbert@comoxvalleyrd.ca>]
Sent: February-15-13 12:50 PM
To: Aleksandra Brzozowski
Subject: Denman cross-island trail update

Hello Aleksandra,

I am writing to provide you with a quick update on the Denman cross-island trail project.

The Comox Valley Regional District is in the process of compiling all the comments received on the Denman cross-island trail from residents who attended the January 16 community open house at the Denman Hall.

A few comment forms are still coming in but to date, nearly everyone who has submitted their comments supports a trail from the Denman ferry, through the village and up to Central Park. As a result, that stretch will likely be the CVRD's focus for the next few years. After that, we will hold further community meetings to review the project and get residents' input on where to go from there.

The compiled comments will be posted on the CVRD website at <http://www.comoxvalleyrd.ca/crossislandtrail> toward the end of next week.

The CVRD has received emails from one resident calling for the CVRD to widen the road to add paved shoulders for cyclists instead of constructing a multi-use trail separate from the road. For clarity, it's not within the CVRD's jurisdiction or mandate to widen roads and pave road shoulders. That is a Ministry of Transportation and Infrastructure responsibility. From recent discussions with the Ministry, the CVRD has learned that they have a very limited capital budget. The Denman ferry hill is on the list (i.e. in the line-up) of desired capital projects. From the comments received most Denman residents seem to agree that repairs to the ferry hill are important.

In the meanwhile, the CVRD is trying to capture the biggest possible range of users with the cross-island trail and we will do our best to provide a surface that works for pedestrians, horses and recreational cyclists. Sport/road cyclists may continue to prefer the paved road surface.

I will be in contact with further updates. If you or the Islands Trust have any questions or concerns, please do not hesitate to contact me.

Have a great weekend.

Karin Albert
 Parks Planner
 Comox Valley Regional District
 600 Comox Road, Courtenay, BC V9N 3P6
 Tel: 250-334-6067 (direct) or 1-800-331-6007

Association for Denman Island Marine Stewards

7161 Komas Road

Denman Island, B.C., V0R 1T0

e-mail: patmclaughn@gmail.com

January 17, 2013

TO – Comox Valley Regional District

RE - Agriculture and Aquaculture Policy Review

The following are comments about the Policy Review that reflect the concerns of the members of the Association of Denman Island Marine Stewards (ADIMS) regarding the references to aquaculture in the Rural Comox Valley Official Community Plan.

Our organization formed in 1998 after seeing the industry expand, with the accompanying degradation of the foreshore, the increased mechanization and industrialization of the aquaculture industry, all of which resulted in limiting public access and enjoyment of the beach and surrounding waters, as well as destruction of the natural marine environment that is essential for the well-being of the marine life that inhabits those waters. We are not opposed to the industry if “it is conducted on a scale and according to a code of practice and conduct that conserves the diverse values of the marine environment” (ADIMS mission statement) and providing a complete, independent environmental study, including carrying capacity study, flushing rate, impact on migrant and resident marine life and bird species is done.

We participated in the 2001 Baynes Sound Coastal Plan meetings along with various other stakeholder groups. At that time, although we supported the existing industry we made it very clear we did not support further expansion. The same ADIMS policy is in place today, if the above qualifications are met.

Over 90% of the coastline of the west shore of Denman Island is already under shellfish tenure, and has expanded into the sub-tidal area using raft culture. It appears a large percentage of the coastline on the Vancouver Island side of Baynes Sound is already committed to the industry as well. This means further expansion of the industry would need to be mainly in the sub-tidal area, encroaching further and further into Baynes Sound. In our view other important values of the Sound must be considered, e.g. – it is a transportation corridor for other commercial

activities such as the forestry industry moving log booms, the herring industry fishing for their 'product', recreational boating, i.e kayaking, tourism, (negative visual impact on the natural marine environment), etc.

We have also, for eight consecutive years, organized an annual beach clean-up in which the residents of Denman Island voluntarily picked up debris on the beach, over 90% of which originates with the shellfish industry. The amount gathered has remained the same in spite of the industry being made aware that the large amount of debris collected belongs to the industry.

Although we have expressed our criticism and concerns based on our experience over a long period of time, ADIMS, (formerly DIMSC) does not have the power to make the necessary changes. Much of that rests with the Islands Trust in the form of by-laws. Support, promotion and expansion of the industry by the Comox Regional District must take that into account.

The attached is our response to the CVRD Policy Review. We trust our comments will receive your due consideration.

Thank you

Pat McLaughlin, Chair
Association for Denman Island Marine Stewards

c.c Laura Busheikin
David Graham
Sheila Malcolmson
Aleksandra Brzozowski
Hon. Don McRae
Hon. Dr. Terry Lake
Bruce Jolliffe

From: Harlene Holm [<mailto:ananke@uniserve.com>]
Sent: February-10-13 7:34 PM
To: David Graham; Laura Busheikin; Peter Luckham
Cc: Aleksandra Brzozowski; John/Donna Millen
Subject: Consideration at the Feb 26/13 LTC of the Nov 2012 Denman Island Farm Plan

Hi folks,

Please consider the attached document in your February 26, 2013 meeting. I resigned from the Steering Committee when (to me) it became obvious that the farm plan process no longer reflected my community.

Harlene Holm

Denman Island Farm Plan

The November 2012 version of the Denman Island Farm Plan is no longer labeled "draft", but I am not sure of its final status in terms of the Agricultural Plan Steering Committee or the Denman Island Local Trust Committee (LTC).

I have labored through its 90 plus pages and can see little difference between it and the initial draft - aside from an improved layout. The content remains essentially the same with very specific directives to the Local Trust Committee to bring the Denman Official Community plan and Denman Land Use Bylaws in line to Ministry of Agriculture guidelines and regulations.

There is no indication that community responses to the Draft Farm Plan expressed serious questions. All seems a happy marriage of community, consultants, Islands Trust and Ministry. At this point, the LTC has only to adopt the Farm Plan to achieve perfect bliss.

May I suggest that this is not the case.

What concerns me is that, if the LTC adopts the Farm Plan, changes could be initiated which would not necessarily reflect the best interests of the community or the environment or food producers.

Consider what is at stake.

The language on pages 56 - 58 urges consideration of highly specific OCP/bylaw changes which would primarily align Denman's OCP and Land Use Bylaw policies/regulations with those of the Ministry of Agriculture. This "consideration" requires an "Implementation Body" complete with a list of groups to be represented (p 59). Should changes to Denman Island's Official Community Plan and Land Use Bylaws be shaped outside of a broad community process?

While there is no longer a Draft Denman Island Farm Plan statement prohibiting land use for parks/conservation, numerous Farm Plan "considerations" leave little to doubt: a) the LTC will develop a checklist to use when reviewing ALR and farm worker housing applications in collaboration with key players in the Ministry of Agriculture and ALC (p 46) ; b) Points 7 and 8 on page 56 appear to give the LTC extraordinary control beyond the Land Use Bylaw; c) Points 1, 6, 7, 8, and 10 on page 57 would significantly alter the OCP and d) the three disembodied bullets at the top of page 58 seem to give extraordinary rights to "farmland".

Also, after page 18 of the Farm Plan, the definition of farming as developed by the Steering Committee vanishes - POOF!. Issues emphasized by islanders - water, high cost of farm land, senior government regulations, sustainability, climate change and the vision statement also vanish - POOF!

The post-page 18 farmers seem to be looking for an Agriculture Economic Support

Officer, a Seasonal Agritourism Marketing Plan, an Implementation Body and an Agricultural Advisory Planning Commission. References and summaries are offered so these farmers can better understand Provincial and Federal regulations; however, most folks who produce food are more than aware of the bureaucratic limits and expense of these regulations. Island scale solutions might be a preferable consideration.

Pre-page 18 has this statement: "In order for a farm plan to be effective it should have strong community support and reflect the needs and desires of the community". May I suggest a further quote from Thomas King's *The Inconvenient Indian*, "Democracy has to be more than two wolves and a sheep voting on what to have for dinner."

What next? The Local Trust Committee could "receive" the Denman Island Farm Plan but not "adopt" the Plan. The result would be freer and broader considerations involving the community, island scale, sustainability...

Harlene

From: Anne Page [annepage@telus.net]

Sent: February 8, 2013 4:10 PM

To: David Graham; Laura Busheikin

Subject: Fw: Islands Trust Council Chair writes to Environment Ministers of BC and Canada re Southern Strait of Georgia NMCA Reserve

Hello Laura & David,

I noticed that Sheila Malcolmson, Chair of the Islands Trust Council, has written a letter to the Environment Ministers of BC and Canada regarding the establishment of the Southern Strait of Georgia National Marine Conservation Area Reserve.

My question is: Why is it that Denman, Hornby, Texada and other islands from here to the northern tip of Gabriola Island not included in this proposed Conservation Area Reserve?

I am looking forward to your reply.

Anne Page

4021 East Road

Denman Island, BC

V0R 1T0

annepage@telus.net

----- Original Message -----

From: information@islandstrust.bc.ca

To: annepage@telus.net

Sent: Friday, February 08, 2013 12:26 PM

Subject: Islands Trust Council Chair writes to Environment Ministers of BC and Canada re Southern Strait of Georgia NMCA Reserve

Hello Anne Page

The Chair of the Islands Trust Council has written to the Environment Ministers of BC and Canada to convey Trust Council's support for the establishment of the Southern Strait of Georgia National Marine Conservation Area Reserve. The letter is linked below. For more background, please visit our webpage: <http://www.islandstrust.bc.ca/poi/marine-nmca.cfm>

<http://www.islandstrust.bc.ca/news/pdf/tcltrfeb082013kent-lake.pdf>

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<http://www.islandstrust.bc.ca/subscribe/>

Islands Trust

From: Des and Sandy Kennedy [desandsandydi@gmail.com]
Sent: February 15, 2013 10:30 AM
To: David Graham; Laura Busheikin
Subject: Komas

Dear David & Laura,

Congratulations on the Supreme Court decision upholding the development permit bylaw for Komas Bluffs. I appreciate the LTC's steadfastness on this issue and hope that this latest development will encourage all landowners to respect the bylaw in the future. To that end I think it would be beneficial to have the Islands Trust news release submitted to the Flagstone and/or Grapevine.

Thanks for your good work on this issue,

Des Kennedy



Islands Trust

Top Priorities

Denman Island

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



Projects

Denman Island

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



Applications w/ Status - Denman Island Status: Open

Applications

Agricultural Land Reserve

File Number	Applicant Name	Date Received	Purpose
DE-ALR-2013.1	Robert & Patricia Selwyn & Jones Planner: Linda Prowse	Feb-05-2013	

Planning Status

Development Permit

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

Planning Status

Status Date: Apr-04-2011

No change: waiting for info from applicant.

Status Date: Feb-04-2010

No change

Status Date: May-01-2009

No change

File Number	Applicant Name	Date Received	Purpose
DE-DP-2011.1	Denman Community Land Trust Association (Brons)	Mar-15-2011	2016 Northwest Road, Construction of affordable housing dwelling and associated land alteration in DP 2 Steep Slopes. Joint with SUP application DE-SUP-2011.10.

Planner: Courtney Simpson

Planning Status

Status Date: May-26-2011

On hold until outcome of forthcoming rezoning application is known.

Status Date: Apr-04-2011

Planner Reviewing

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

Planning Status

Status Date: Nov-01-2011

Awaiting info from applicant

Status Date: Jun-15-2011

On hold until DVP out come.

Status Date: May-27-2011

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

Development Variance Permit

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

Planning Status

Status Date: Nov-09-2012

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

Status Date: Oct-05-2012

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

Status Date: Jun-05-2012

Met with applicant to clarify application requirements

Rezoning

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

Planner: Courtney Simpson

Planning Status

Status Date: Nov-29-2012

Reviewing results of legal review of housing agreement

Status Date: Nov-06-2012

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

Status Date: Jul-17-2012

Applicant request to waive cost of legal review of housing agreement

Subdivision

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

Planning Status

Status Date: Nov-24-2011

Preliminary Layout Approval received

Status Date: May-05-2011

Referral Response sent to MOTI, LTC and applicant

Siting and use Permit

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

Planning Status

Status Date: Jan-08-2009

On hold pending outcome of court case

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

Planner: Marnie Eggen

Planning Status

Status Date: Jun-30-2011

On hold until outcome of DP and DVP.

Status Date: Mar-03-2011

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

Status Date: Jan-20-2011

Applicant submitted partial application

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

Planning Status

Status Date: May-26-2011

On hold until outcome of rezoning application is known.

Status Date: Mar-21-2011

Planner Reviewing File

From: Nicole Ranger

Sent: January-29-13 12:20 PM

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

Cc: Nancy Roggers

Subject: Denman Expense Report January/13

Islands Trust LTC EXP SUMMARY REPORT F2012 Invoices posted to January 31, 2013				
615 Denman	Invoices posted to January 31, 2013	Budget	Spent	Balance
65000 615	LTC "Trustee Expenses"	250.00	333.05	(83.05)
65200 615	LTC Local Exp LTC Meeting Expenses	2,500.00	1,863.17	636.83
65210 615	LTC Local Exp APC Meeting Expenses	500.00	-	500.00
65220 615	LTC Local Exp Communications	300.00	-	300.00
65230 615	LTC Local Exp Special Projects	300.00	-	300.00
65240 615	LTC Local Exp Miscellaneous	550.00	-	550.00
TOTAL LTC Local Expense		4,150.00	1,863.17	2,286.83
73001 615 3001	Denman RAR	4,000.00	135.29	3,864.71
TOTAL Project Expense		4,000.00	135.29	3,864.71

Nicole Ranger

Finance Clerk

Islands Trust

200-1627 Fort Street

Victoria, BC V8R 1H8

Phone: (250) 405-5152

Fax: (250) 405-5155

Preserving *Island* communities, culture and environment



Please consider the environment before printing this email



February 18, 2013

12.1

REPORT TO THE DENMAN ISLAND LOCAL TRUST COMMITTEE

Review of Land Use Bylaw Options to Address Specific Aquaculture Related Activities

Submitted to:

Courtney Simpson, MCIP, RPP
Acting Regional Planning Manager
Islands Trust Northern Office
700 North Road
Gabriola Island, BC V0R 1X3

REPORT



Report Number: 1214420001-001-R-Rev0

Distribution:

1 Copy - Islands Trust
2 Copies - Golder Associates Ltd.





Executive Summary

This report to the Denman Island Local Trust Committee is prepared in accordance with the terms of reference in the Service Contract No. 2012-0065. The purpose of the report is to research land use bylaw options to address citizen concerns with predator netting, driving of motorized vehicles on the foreshore, and physical beach modification to accommodate shellfish aquaculture. In undertaking this analysis, it became apparent that there are nuanced areas of constitutional and other law that would benefit from further analysis by a legal professional. Golder specifically notes that our analysis is focused on mechanisms by which local government might be able to effect the changes it seeks to bring about; however, we wish to be clear that we are not offering, nor was it in our scope of work to offer, legal analyses or opinions.

Summary of Findings:

- 1) Enacting *Denman Island Land Use Bylaw* regulations to address shellfish aquaculture **predator netting** may be an intrusion into areas of sole federal jurisdiction. If that is the case, such bylaws, if challenged could be stricken down as unconstitutional.
- 2) There may be jurisdiction under the *Islands Trust Act* and *Local Government Act* **to ban or restrict access to driving on the foreshore** through the *Land Use Bylaw* provided such regulation is clearly designed to address those areas within local government jurisdiction. Banning operation of motor vehicles lawfully associated with shellfish aquaculture operations, for reasons that seek to regulate areas of federal jurisdiction, may be unenforceable.
- 3) The spatial extent of motor vehicle use and access for the purpose of aquaculture operations should be reviewed in the context of the spatial bounds of the permits and approvals under which that operation is subject. This evaluation should identify if vehicle use is occurring outside the “four corners” of approval documents.
- 4) Beach modification activities such as the construction of seawalls are prohibited within the zoning setback area for all zones (Section 2.3(3) of the *Denman Island Land Use Bylaw*) and presumably other forms of modification could be restricted in accordance with s. 903 of the *Local Government Act*, where the footprint of such walls is on land under provincial jurisdiction, as the management of lands (with the exception of federally-owned lands) is within the constitutional jurisdiction of the Provinces.
- 5) There is the possibility that the review process under which licenses were granted may have fallen short of the necessary scope of review, particularly as many aquaculture operations were originally licensed provincially, prior to the Morton Decision. There are examples where permits have been rescinded because of lack of adherence to process. It was beyond our scope to evaluate whether this was the case at Denman Island and whether such opportunity might exist would be a matter for a legal professional to ascertain.



IMPORTANT INFORMATION AND LIMITATIONS OF THIS REPORT

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Golder specifically advises that our analysis does not offer nor is it intended to offer in a manner that is express or implied any legal analysis or opinion.



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1.0 INTRODUCTION AND SCOPE

1.1 Local Trust Committee Resolution

On May 1, 2012 the Denman Island Local Trust Committee resolved the following:

It was MOVED and SECONDED that the Local Trust Committee request staff to provide a report on bylaw enforcement mechanisms to:

- a) Remove predator netting;
- b) Ban driving on foreshore;
- c) Ban beach modification.

Islands Trust staff clarified this resolution to mean “how those three things could be regulated in the Land Use Bylaw and how enforceable such regulations would be.”¹ Golder Associates Ltd. (Golder) was retained to assist the Denman Island Local Trust Committee with this resolution. This report provides perspectives with respect to controls for predator netting, driving on the foreshore and beach modification. In undertaking this analysis, it became apparent that there are nuanced areas of constitutional and other law that would benefit from further analysis by a legal professional. Golder specifically notes that our analysis is focused on mechanisms by which local government might be able to effect the changes it seeks to bring about; however, we wish to be clear that we are not offering, nor was it in our scope of work to offer, legal analysis or opinion. The authors are not qualified to do so.

2.0 CONTEXT

2.1 Shellfish Aquaculture Activity and Denman Island

Shellfish aquaculture activity in the Denman Island Local Trust Area occurs in Baynes Sound, between Vancouver Island and Denman Island, extending between Comox Harbour to the north and Deep Bay in the south. A staff report to the Denman Island Local Trust Committee, dated March 13, 2012, identifies Baynes Sound as one of the most significant commercial shellfish farming areas in the province as well as an ecologically diverse and important area.

Golder Associates staff, James van Hemert, visited the area on December 10, 2012 in order to familiarize himself with the nature and extent of shellfish aquaculture activity in Baynes sound. The visit involved walking the beaches, observing evidence of beach driving, shellfish farming debris, and farming infrastructure such as rafts and the location of farming leases. A PowerPoint slide presentation provided to Golder by the Association for Denman Island Marine Steward's (ADIMS) provided additional information on the extent of farming, images of the use of predator netting (not observable during the site visit), their environmental concerns related to beach modification, impacts to wildlife, the extent of farming debris and their concerns related to the industrialization of the shellfish farming and its impacts on the Sound's ecological functions.

Golder also visited the Deep Bay Marine Field Station which is concerned with the area's marine ecology and provides information on the practices and interests of the shellfish industry.

¹ E-mail from Courtney Simpson, Acting Regional Planning Manager, Islands Trust Northern Office, dated February 5, 2013.



2.2 Local Trust Committee Existing Policy & Land Use Bylaw Summary

The Islands Trust Policy Statement provides policy direction in two relevant areas: Ecosystem Preservation and Protection (Part III) and Stewardship of Resources (Part IV). Subsections 3.4.2 through 3.4.5 of the former speak to the importance of protecting marine areas and adopting coastal zone management principles in consultation with all relevant agencies, governments, property owners and occupiers. Official community plans and regulatory bylaws are used to support and implement this policy direction and to address development and municipal operations such that they are carried out in a way that minimizes the impact on sensitive coastal areas. Subsections 4.5.1 through 4.5.7 of the bylaw, Stewardship of Resources, recognizes aquaculture is a valuable activity, provided that it is compatible with maintenance of ecosystems and community character. It is also evident to Golder that the conservation of ecological values is one aspect of “community character” of Denman Island. The policies provide direction with respect to aquaculture activities, provided they do not interfere with natural coastal processes, restrict public access, are directed away from areas of recreational significance, conflict with established or designated upland uses, and do not result in site alteration. A staff report, to the Local Trust Committee, dated March 13, 2012, provides further detail.

Consistent with the Islands Trust Policy Statement, Section C.3 of the Official Community Plan for Denman Island identifies objectives and policies related to the marine environment. Objective 8 recognizes that aquaculture is a valuable activity in the Trust area if compatible with maintenance of ecosystems and community character, practiced in a low impact, environmentally sound manner and encourages the employment of island residents in the industry. Policies 4 & 5 were added in 2010 to address shoreline management including the potential future adoption of a Marine Shorelines Development Permit Area. The policies envision the use of zoning and the use of setbacks and, where there is supporting mapping, the use of development permit areas to:

- Protect the integrity of the foreshore, shoreline, and natural coastal and intertidal processes;
- To discourage filling, deposition, excavation, or removal of foreshore and seabed materials;
- To discourage uses that disrupt natural features and processes;
- To allow for natural erosion and accretion processes, without endangering structures;
- Encourage owners of shoreline properties to retain, whenever possible, natural vegetation and natural features on areas adjacent to the foreshore; and
- To discourage filling, deposition, excavation, or removal of foreshore and seabed materials, except for maintenance of navigational channels and existing facilities.

Advocacy Policy 2, encourages Fisheries and Oceans Canada (DFO) to monitor aquaculture practices to ensure compliance with regulations intended to protect the marine environment, protect hearing spawning areas; and to prevent the discharge of sewage from private and commercial vessels traveling in Baynes sound or Lambert Channel.

Advocacy Policy 3 encourages the Ministry of Agriculture and Lands to give prior notification to the local trust committee and adjacent upland owners when existing aquaculture tenures come up for renewal, and to increase dialogue on agriculture practices and community interests with the Local Trust Committee through a community engagement program.



The Denman Island Land Use Bylaw (LUB) establishes the Water 3 Zone to cover areas of aquaculture leases current at the date of adoption of the bylaw. The intent of this zoning is to require that any new or expanded aquaculture operations apply for rezoning.

Staff noted in its review of policies and regulations regarding the impacts of shellfish farming on the marine environment (report of March 13, 2012), that they did not believe that the shellfish aquaculture industry, Integrated Land Management Bureau (ILMB) of the Province, or DFO would support any land use regulations requiring the removal of predator netting from the beach, restricting driving on the foreshore, or banning beach modification. Staff recommended that, as an alternative to pursuing a specific aquaculture-related land use bylaw to address the concerns of ADIMS, the LTC could instead focus a project on marine shorelands planning pursuant to OCP policies 4 & 5 in section C.3 (the Marine Environment). The project would be supported by strategy 2.3.2 of the 2008 – 2011 Islands Trust Council Strategic Plan: “develop and implement new planning tools for shoreline and Marine protection.” In the words of staff, “such a project would involve reviewing the new shoreline classification mapping for Denman, organizing public education and consultation events on the importance of protecting shoreline area, and potentially adopting a development permit area for marine shorelines.”²

2.3 Stakeholder interests

2.3.1 Association for Denman Island Marine Steward's

The Association for Denman Island Marine Steward's (ADIMS) is a citizen's group that seeks to protect and preserve the Denman Island Shores. It has been active in beach cleanup and advocacy and has made presentations of its concerns to the local trust committee. The group has expressed concern about the industrialization of the shellfish industry in Baynes sound, and is concerned about the extent to which the industry is impacting the environment and local residents. In a presentation made to Golder staff on December 10, 2012, representatives of ADIMS discussed their views on the extent and cumulative effects of the industry, environmental degradation and beach alterations, pollution with respect to noise, smell, and visual elements, hazards, and industry debris.

2.3.2 Aquaculture Shellfish Industry

The BC Shellfish Grower's Association (BCSGA) is seen as the voice of the shellfish industry and represents 70% of shellfish growers in BC as well as suppliers and service providers to the industry. Their stated mission is:

“To advance the sustainable growth and prosperity of the BC shellfish industry in a global economy by providing leadership, communication and advocacy to members, government, the public and other stakeholders while maintaining and improving the integrity of the marine environment.”

² Staff Report to the Denman Island Local Trust Committee, “Review policies and regulations regarding impacts of shellfish farming on the marine environment,” March 13, 2012



REPORT TO THE DENMAN ISLAND LTC ON LAND USE BYLAW REGULATIONS AND AQUACULTURE

The BCSGA website states that shellfish aquaculture provides over 1,000 full-time jobs in rural and coastal communities and is an economic driver accounting for over \$33 million in farm gate sales yearly.³

The BCSGA has drafted the Code of Practice for Shellfish Farming with the stated intent to:

*“...serve as a guideline to shellfish aquaculture companies to ensure their operations are conducted in a manner that works in concert with the marine environment. The COP [Code of Practice] will provide guidance for addressing and minimizing negative environmental impacts and maximizing positive impacts related to normal farm practices on shellfish aquaculture tenures.”*⁴

The Code recognizes the operational practices of beach modification, predator netting, and vehicle use in the foreshore area as being consistent with relevant regulations:

- 1) **Beach modification** may be necessary to optimize intertidal shellfish production. While modifications vary according to the site, species and culture methods, the following are typical examples of intertidal site preparation: gravelling of substrate, building of berms or raking of debris to optimize production.
- 2) There are a variety of pests and predators that can destroy shellfish crops. Shellfish farmers must ensure that their operational practices are conducted in a manner that minimizes impacts to both terrestrial and aquatic wildlife. **Exclusion is the primary and preferred strategy to minimize damage by predators.** However, improperly secured or damaged netting can prove to be harmful to birds or other marine life.
- 3) Marine vessels and equipment are an integral part of a shellfish operation. Marine vessels are necessary for the safe transport of employees as well as for handling and transporting of product. **Depending on the site, vehicles may also be necessary for the transport of employees, equipment and product over intertidal areas.**⁵

Based on the Code of Practice, the activities which are the subject of this report are integral aspects to the normal operation of a shellfish growing facility and to the extent that bylaws would seek to interfere with these, they could be viewed as being unconstitutional.

2.3.3 Fisheries and Oceans Canada

Under the *Fisheries Act* and in accordance with the *Constitution Act (1867)* the federal government (as represented by DFO) has ultimate jurisdiction over all fisheries, including aquaculture shellfish farming. Shellfish farming has been determined by the courts to be a fishery (Morton Decision). DFO regulates the aquaculture industry in British Columbia, including marine finfish, shellfish and freshwater operations, but not marine plants.

A DFO Conservation and Protection (C&P) unit has been created under the BC Aquaculture Regulatory Program (BCARP), with the primary role of enforcing compliance with the *Fisheries Act* and the new *Pacific Aquaculture Regulations* for aquaculture operations.

³ BCSGA website. Retrieved February 12, 2013 at <http://bcsga.ca/>

⁴ Code of Practice for Shellfish Farming, 2002, p. 2.

⁵ Ibid; pp. 3, 4, & 13.



2.3.4 Province of BC

The Province of BC has interests in the strategic development of the aquaculture industry, managing the aquaculture sector and in interacting with the federal government on licensing and tenure matters. Additional details on responsibilities are provided in the following sections.

2.4 Overview of Government Roles and Regulatory Authority

Jurisdiction over coastal areas in BC is split among federal, provincial and local governments, with some variation depending on the location along the coast and the relationship to the shore. All of BC's coast is subject to aboriginal claims based on traditional use by First Nations.⁶ At a high level, the federal government is responsible for seacoast and inland fisheries, while the provinces are responsible for the management of lands. One area of underlying ecological overlap is that a component of fish habitat (e.g., riparian vegetation) grows on land. The riparian vegetation is part of fish habitat and DFO can have a say over the vegetation, so long as their intervention does not transgress into the constitutional domain of the provinces (land management). This situation has been approached through collaborative efforts at stewardship and local governments have been playing a "front line" role in conserving the ecological uses of riparian zones through development processes, environmentally sensitive areas and various other mechanisms. Overall, the outcome of such collaboration has been beneficial to environmental stewardship as well as to community sustainability and even property values.

The following descriptions of government roles are adapted from the Green Shores publication series⁷.

2.4.1 The Provincial Government

According to provincial publications, the Province of BC owns most of the foreshore (the area between the low water level and the natural boundary)⁸ as well as the beds of inland seas such as the Strait of Georgia, Juan de Fuca Strait and Johnstone Strait. These are Provincial Crown⁹ lands. The Integrated Land Management Bureau administers these aquatic lands and issues permits, licences or leases for a wide range of uses – private and public moorage, wharves, marinas, and log storage to name a few. The Province also establishes regional coastal zone plans where these are needed.¹⁰ Following the 2009 BC Supreme Court decision on fisheries jurisdiction, the province no longer issues licenses for aquaculture farming. Additional detail is provided in the section on "Removal of Predator Netting from the Beach."

Prior to the BC Supreme Court ruling of February 2009, which affirmed all jurisdiction for fisheries in the hands of the federal government and asserted that aquaculture is a fishery, BC's Right to Farm act covered **shellfish aquaculture** activities. The Act still applies to **plant aquaculture**¹¹. The Right to Farm Act expressly states that farmers are not liable for nuisance due to normal farming practices such as odour, noise, dust, and disturbance.¹² It does not exempt them from compliance with other legislation such as the *Fisheries Act*.

⁶ Province of BC, Coastal Shore Stewardship: A Guide for Planners, Builders, and Developers on Canada's Pacific Coast, p. 36.

⁷ Ibid.

⁸ The common definition of natural boundary is "the visible high water mark of any lake, stream, or other body of water where the presence and action of the water are so common and usual and so long continued in all ordinary years as to mark upon the soil of the bed of the lake, river stream, or other body of water a character distinct from that of the banks, both in vegetation and in the nature of the soil itself" (BC Land Act). In marine systems, the natural boundary is generally determined as the lower elevation of terrestrial vegetation or the upper boundary of distinctive aquatic vegetation.

⁹ Crown land is a general term for all lands or lands covered by water that are not privately owned and remain in public ownership with either the federal or provincial government. In BC, the vast majority of Crown land (94% of all land in the Province) lies with the Province. When an individual or organization wishes to use these lands, the Province may agree to enter into a tenure agreement to lease the land for a certain purpose over a set period of time.

¹⁰ Green Shores Series, Province of BC, Issues sheet, 2009.

¹¹ <http://www.al.gov.bc.ca/fisheries/>

¹² Farm Practices Protection (Right to Farm) Act RSBC (1996) CHAPTER 131. Retrieved on February 13, 2013 at http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96131_01



Golder notes that matters respecting ownership of the seabed are complex and there is considerable variation from location to location. For instance, there are portions of the Burrard Inlet seabed that are under private ownership. Additional complexity is added to this issue where ownership of waterlots is concerned. In the event that it becomes important to identify specific ownership at a given site, title should be established at that time.

2.4.2 The Federal Government

The federal government has jurisdiction over the seacoast and inland fisheries— from seaward of the low water mark. The DFO is responsible for managing and protecting fish populations and fish habitat under the *Fisheries Act*, including shoreline riparian habitats (but not the land), as well as for maintaining maritime safety through the Coast Guard. Transport Canada is responsible for preserving the public right of navigation under the *Navigable Waters Protection Act*¹³. The DFO has final jurisdiction and oversight of all fisheries in accordance with the *Constitution Act (1867)*.

2.4.2.1 Shellfish Aquaculture License Conditions

DFO's Shellfish Aquaculture License Conditions define "Aquaculture activities" to include the seeding, culturing and harvesting of fish (the term "fish" has a broad definition under federal law; it is not limited to finfish), the operation of machinery including vehicles and vessels, the installation of structures and anchors and the maintenance of machinery, structures and equipment.¹⁴

Aquaculture license condition 9.4 anticipates ***predator exclusion devices (netting)***, stating that "The licence holder shall confine predator exclusion devices (netting) to the licensed area."

It further provides for the appropriate use of exclusion devices and the prohibition against dredging, infilling, or redistribution of native beach materials.

9.5 The license holder shall ensure that when predator exclusion devices are approved in a shellfish site management plan:

(a) Predator exclusion devices are constructed of an acceptable material and of acceptable size to minimize entrapment and potential injury to fish species or wildlife; and

(b) Predator exclusion devices are maintained, inspected and repaired on a regular basis.

10.1 Dredging, infilling or redistribution of native beach materials is prohibited by this license, unless expressly approved in the DFO-approved site management plan.

2.4.3 Local Governments

Local governments (municipalities, Islands Trust local trust committees, and regional districts) hold the authority to plan and regulate land use within their respective boundaries, which may extend over foreshore and nearshore areas. They do this through official community plans, zoning, development permits, subdivision authority, building permits, and a variety of regulatory bylaws that affect land development.¹⁵

¹³ Green Shores Series, Province of BC, Issues sheet, 2009.

¹⁴ Shellfish Aquaculture License Under the Pacific Aquaculture Regulations 2012

¹⁵ Stewardship Series



Their powers are defined under BC's *Local Government Act* and as of December 2003, under the *Community Charter for Municipalities*. As such, local governments can have significant influence on land based activities that affect coastal shores and nearshore areas. These planning and regulatory powers also extend to areas covered by water. The *Local Government Act* defines land to include "the surface of water," and states that municipal boundaries can include "the whole or part of adjoining foreshore and any area below low water mark." This implies that the power to plan, zone and permit land uses covers freshwater bodies and marine foreshore and nearshore areas. Many local governments extend zoning into nearshore areas.¹⁶ Water zoning usually addresses such matters as whether and to what dimensions docks may be constructed to serve abutting upland properties, whether vessels moored or docked in the zone may be used as residential accommodation, and so forth.¹⁷ Lessees of the federal crown are not bound by local zoning bylaws, but those of the provincial crown are¹⁸.

3.0 REMOVAL OF PREDATOR NETTING FROM THE BEACH

3.1 Regulatory Authority

Predator netting within the foreshore (referenced by the Local Trust Committee as "the beach") is part of the operational management of a shellfish aquaculture operation. The practices of shellfish aquaculture are overseen and administered by DFO. Aquaculture is deemed a fishery and a matter of exclusive federal jurisdiction. In February 2009, the BC Supreme Court ruled that marine finfish aquaculture on the coast of BC is a fishery and a matter of exclusive federal jurisdiction under the *Constitution Act [1867]*.^{19 20} This ruling is known as the "Morton decision." The Court ordered that the existing regulatory framework stay in place for 12 months after which sections of the *BC Fisheries Act* (power to make regulations for aquaculture), the *Farm Practices Protection (Right to Farm) Act*, and the *Aquaculture Regulation* in its entirety will only have effect as they apply to the cultivation of marine plants.²¹ In December 2010, the federal government assumed regulation of the finfish and shellfish aquaculture industries in BC. However, the provincial government continues to license marine plant cultivation and issue tenures where operations take place on Crown land, and maintains the mandate to protect the provincial public interest in sustainable aquaculture development.²²

In December 2010 the Canada-British Columbia Agreement on Aquaculture Management was signed. This agreement replaced the 1988 Memorandum of Understanding on Aquaculture Development and takes into account the changed jurisdictional picture arising from the Morton Decision. The 2010 Agreement's preamble notes that Canada and BC share the common goal of having an economically, socially and environmentally sustainable aquaculture sector in British Columbia, and that the parties recognize the need to develop collaborative regulatory and management arrangements designed specifically for the province.²³

¹⁶ Stewardship Series

¹⁷ William Buholzer, *British Columbia Planning Law and Practice*, Section 7.6 "The Use of the Surface of Water," LexisNexis, Markham, Ontario.

¹⁸ Ibid.

¹⁹ Department of Oceans and Fisheries Canada (2013). Retrieved February 7, 2013 from <http://www.dfo-mpo.gc.ca/aquaculture/aquDec-20091030-eng.htm>.

²⁰ *Morton v. British Columbia* (Agriculture and Lands), 2009 BCSC 136.

²¹ BC Ministry of Agriculture, Provincial Aquaculture and Commercial Fisheries website, retrieved by Islands Trust staff in 2009.

²² BC Ministry of Agriculture, provincial aquaculture and commercial fisheries website, accessed February 7, 2013, <http://www.al.gov.bc.ca/fisheries/>.

²³ Policy and Practice Report: Aquaculture Regulation in British Columbia, Item 39, pp. 24 & 25, July 28, 2011; forming a portion of the "Cohen Commission" report.



REPORT TO THE DENMAN ISLAND LTC ON LAND USE BYLAW REGULATIONS AND AQUACULTURE

The agreement identifies respective responsibilities, management activities and implementation. It applies to the management of aquaculture in the Province of BC. Specific federal responsibilities include:

- The conservation and protection of fish and fish habitat, proper management and control of fisheries, including aquaculture, and pollution prohibition measures (s. 5.2.1);
- Ensuring that a regulatory regime for the fisheries aspects of aquaculture is in place in British Columbia (s. 5.2.2); and
- Management of federal crown lands and may issue tenures and operating licenses with respect to proposed or existing aquaculture facilities that are located on federal lands (s.5.2.3)

Specific Provincial responsibilities include:

- 5.3.1 The British Columbia Ministry of Agriculture is the lead provincial agency for the strategic **development of the aquaculture industry** in British Columbia and for interacting with Canada on Aquaculture matters;
- 5.3.2 The British Columbia Ministry of Natural Resource Operations is the lead provincial agency for the **management of the aquaculture sector and for interacting with Canada on aquaculture licensing and tenure matters**;

With respect to management activities:

- 6.1 Canada may issue aquaculture licenses under the *Fisheries Act* for all aquaculture activities to be undertaken in the Province of British Columbia;
- 6.2 British Columbia may issue land tenures under the *Land Act* for aquaculture purposes; and
- 6.3 The Parties will make best efforts to harmonize their decision making criteria;²⁴

The passing of bylaws that would be seen to interfere with the normal operation of a shellfish farm may be in conflict with Section 91(12) of the *Constitution Act (1867)* which gives Canada jurisdiction over the seacoast and inland fisheries. On the presumption that an aquaculture operator would view predator nets as a necessary component of their operation (in our view, this is a reasonable inference to draw and is part of the Code of Practice for such operations), it would be in their commercial interests to challenge any bylaws that fetter their operation and it would seem that such bylaws would infringe on areas of federal responsibility (per S.91 [12] of the *Constitution Act [1867]*).

²⁴ BC Aquaculture Regulatory Program, archived materials retrieved from <http://www.dfo-mpo.gc.ca/media/infocus-alaune/2010/04/agreement-entente-eng.htm>, accessed February 13, 2013.



To the extent that the predator nets are causing an issue of public access or other nuisance, a possibility that could be explored is whether or not a sufficient environmental assessment was carried out at the time of the granting of permits (use of the term “permits” here is intended to broadly imply various forms of permits such as permits, licenses, approvals, authorizations, etc.) and whether the scope of the assessment adequately considered the impacts of the operation on others. Review of such details is beyond the scope of Golder’s present assignment and would require access to and detailed review of files and correspondence as well as specialized legal advice. Such files may be accessible through an *Access to Information Act* request. There are examples of permits/authorizations being revoked because of an environmental assessment that did not adequately adhere to the required process; however, there is also the possibility that after expending considerable effort in this regard, it may be determined that the process withstands scrutiny. The details of such an evaluation would require the services of a qualified legal professional.

4.0 BANNING DRIVING ON THE FORESHORE

Driving activity within the foreshore could possibly be regulated through the Land Use Bylaw as a land-use activity in accordance with s. 903 of the *Local Government Act*. While the use of land use bylaws (*i.e.*, zoning) to regulate beach driving is common in the USA, we are not aware of local governments in BC that have exercised their land use regulatory powers to regulate vehicle driving. However, a search was not part of the scope of work carried out here.

Given that shellfish aquaculture license conditions may include the operation of vehicles in the definition of “aquaculture activities”,²⁵ a prohibition against beach driving may be viewed as an extension into matters that are under federal jurisdiction (seacoast and inland fisheries). It would be necessary to regulate in a fashion that discriminates between driving that is necessary for shellfish farming and driving for other purposes. Potentially, it may be necessary to consider alternative means by which a shellfish grower could carry on their operation without driving vehicles on the beach to assist in differentiating necessity for the operation of a shellfish growing facility.

Local government may also control public access points to the beach and thereby discourage driving on the beach for community and land use reasons. The use of gates and other structures that restrict vehicular access while enabling public access (on foot) is commonly used in many areas and such a system could potentially be set up. Legal advice should be sought if this approach is pursued but control of access for reasons of controlling nuisance to residents would seem to be an appropriate basis for enactment of bylaws by local governments and within their reasonable authority.

The use of cooperative, multiparty approaches may result in greater progress with respect to citizen concerns. Depending on site-specific considerations, driving certain types of vehicles on a beach to an extent that results in substrate compression or other modification could result in negative environmental disturbance to the affected area. However, we understand that because aquaculture is deemed to be a fishery, such damage would be incidental to the operation of the fishery, in a manner similar to that of a bottom trawl fishery, where disturbance of the seabed is an inevitable outcome of such a fishery. It is difficult to reconcile the habitat protection function of DFO with a permitting function enabling such an activity in an ongoing basis and we do not attempt to do so here. As noted elsewhere in this report, multiparty approaches can be credited with positive conservation outcomes.

²⁵ Shellfish Aquaculture Licence under the Pacific Aquaculture Regulations 2012, Department of Fisheries and Oceans.



5.0 BANNING BEACH MODIFICATION

Beach modification activities such as the construction of seawalls are prohibited within the zoning setback area for all zones (Section 2.3(3) of the *Denman Island Land Use Bylaw* and presumably similar forms of modification could be restricted in accordance with s. 903 of the *Local Government Act*, provided they do not interfere with any approved aquaculture licenses.

S. 903(1) of Part 26 of the Local Government Act states that a local government may, by bylaw, (c) regulate within a zone the (i) the use of land, buildings and other structures (S.903 (1) (c) (i).

6.0 NON-REGULATORY MECHANISMS

The Stewardship Series publication on Coastal Shores Stewardship jointly published by the Province of BC and the Government of Canada identifies a number of important non-regulatory mechanisms to enhance environmental stewardship.²⁶ Some of the considerations are described briefly below:

Stakeholder Involvement in Community Planning and Regional Growth Strategies

A stakeholder review is useful, either as a part of the primary Official Community Plan process or as a separate, special planning process. It identifies issues that affect planning and management of coastal areas in the community or region. A list of coastal stakeholders may include coastal landowner groups, aquaculture industries, recreational users and conservation organizations as well as regulatory agencies. Institutional stakeholders may include port corporations, harbour authorities, universities and research centres, and regional offices of Fisheries and Oceans Canada and Provincial ministries. The special place and role of First Nations, particularly where natural resources are concerned, must also be recognized.

Planning efforts can focus on strategic actionable items to promote coastal stewardship such as:

- Developing tactics to protect, restore and enhance natural coastal systems
- Providing opportunities for public recreational use and enjoyment of coastal areas.
- Planning for marine oriented industrial and commercial development.
- Planning an integrated coastal strategy with other levels of government.

²⁶ Coastal Shores Stewardship, a component of the Stewardship Series, published jointly by the Province of BC and the Government of Canada, p. 44.



Partnership Policies

Local governments can use intergovernmental agreements and partnerships with nongovernmental organizations to help achieve community goals for coastal areas. For example, these could be used to:

- Coordinate inventory and shore mapping with the provincial Coastal Management and Planning Office, the Conservation Data Centre, and others;
- Develop awareness of best management practices, and run workshops for agencies, developers, waterfront landowners, NGOs and staff; and
- Establish a Coastal Zone Technical Committee.

Partnerships can lead to collaboration in developing Environmental Management Programs such as the Little Qualicum River Estuary Regional Conservation Area 2010-2019 or such as collaboration between the Regional District of Nanaimo, Department of Fisheries and Oceans, BC Ministry of the Environment, and Ducks Unlimited²⁷. Such programs enable a broader range of issues to form the basis of decision making and provide a forum to identify areas where research of alternatives may be necessary or desired.

7.0 FINDINGS

- 1) Enacting Denman Island Land Use Bylaw regulations to address shellfish aquaculture predator netting may be an intrusion into areas of federal jurisdiction. If that is the case, such bylaws, if challenged could be determined to be unconstitutional. Legal advice in this regard is necessary.
- 2) There may be jurisdiction under the *Islands Trust Act* and *Local Government Act* to ban or restrict driving on the foreshore through the *Land Use Bylaw* provided such regulation is clearly designed to address those areas within local government jurisdiction. This may preclude operation of motor vehicles lawfully associated with shellfish aquaculture operations.
- 3) The spatial extent of motor vehicle use and access for the purpose of aquaculture operations should be reviewed in the context of the spatial bounds of the permits and approvals under which that operation is subject. This evaluation should identify if vehicle use is occurring outside the “four corners” of approval documents.
- 4) Beach modification activities such as the construction of seawalls are prohibited within the zoning setback area for all zones (Section 2.3(3) of the *Denman Island Land Use Bylaw*) and presumably other forms of modification could be restricted in accordance with s. 903 of the *Local Government Act*, where the footprint of such walls is on land under provincial jurisdiction, as the management of lands (with the exception of federally-owned lands) is within the constitutional jurisdiction of the Provinces.
- 5) There is the possibility that the review process under which licenses were granted may have fallen short of the necessary scope of review, particularly as many aquaculture operations were originally licensed provincially, prior to the Morton Decision. There are examples where permits have been rescinded because of lack of diligence in process. It was beyond our scope to evaluate whether this was the case at Denman Island and whether such opportunity might exist would be a matter for a legal professional.

²⁷ Little Qualicum River Estuary Regional Conservation Area 2010-2019, Regional District of Nanaimo, retrieved February 13, 2012 at [PDF] LQRERCA Management Plan - Regional District of Nanaimo www.rdn.bc.ca/cms/wpattachments/wpID2040atID3337.pdf



8.0 RECOMMENDATIONS

- 1) We recommend multi-party engagement to address social, environmental, enforcement and farming issues. These may possibly be conducted in cooperation with the Association of Vancouver Island Coastal Communities, or other suitable parties/mechanisms. It is anticipated that Fisheries and Oceans Canada will need to participate in a multi-party strategy as they hold the legal authority that would be needed to bring about changes to the three main areas of concern addressed in this document.
- 2) We recommend consideration of a Development Permit Area for marine shorelines under S. 919.1 of the *Local Government Act* for “protection of the natural environment, its ecosystems, and biological diversity.” A well-crafted set of guidelines could steer clear of any conflict with the federal *Fisheries Act* and existing shellfish aquaculture license provisions. As staff have pointed out in their report of March 13, 2012 to the Denman Island Local Trust Committee, such guidelines for new development “would provide an opportunity to organize public education and consultation events on the importance of protecting the shoreline area.”²⁸
- 3) We recommend that the Local Trust Committee engage a legal expert to review, evaluate the propriety of and prepare changes to the *Land Use Bylaw* to address driving on the beach and beach modification in a manner that does not interfere with the constitutional jurisdiction of Canada in managing the shellfish aquaculture licenses.

²⁸ Staff Report to the Denman Island Local Trust Committee, “Review policies and regulations regarding impacts of shellfish farming on the marine environment,” March 13, 2012.



9.0 CLOSURE

We trust that the information contained in this report meets your present requirements. Please contact us if you have any questions or concerns regarding the above.

GOLDER ASSOCIATES LTD.

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Senior Planner

ORIGINAL SIGNED

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Principal, Environmental Planning and Design Practice Leader

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From: Michele Patterson [<mailto:Michele.Patterson@viu.ca>]

Sent: January-29-13 1:53 PM

To: Courtney Simpson

Cc: Lisa Gordon

Subject: Islands Trust partnership opportunity - "State of the (Baynes) Sound" 2013 Conference

Hello Courtenay and hello Lisa,

The Vancouver Island University Institute for Coastal Research will be hosting a two-day "State of the (Baynes) Sound" Conference at our Deep Bay Marine Field Station in May 2013.

We are seeking sponsors and/or planning committee members for this conference that will bring together experts and stakeholders to examine and discuss ecological, social, cultural and economic factors both within the Sound and from its associated upstream influences. The goals of the conference include:

- Creation of a shared understanding of the range of issues and perspectives on sustainable use and conservation in the sound,
- Identification of the potential for a science-based, broadly supported Baynes Sound coastal planning process,
- Exploration of potential collaborative opportunities and relationships between and amongst Baynes Sound stakeholders.

Conference Outputs:

- A 2013 "State of the Sound" Backgrounder Report for public dissemination
- Partnerships established towards development of a future Baynes Sound Coastal Plan

Please find attached an initial two-page description of the event. We are now looking for financial sponsors and/or planning committee members for this event amongst the many organizations and agencies who have an interest in the future of Baynes Sound.

We believe that the Islands Trust may be very interested in a role in planning or sponsorship for this event. We would be very happy to provide more information or have a conversation about how you may best contribute to this conference; and we will follow up with you in the next few weeks if we have not heard back from you.

Best regards,

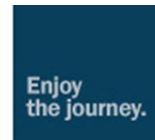
Michele

Michele Patterson, M.A. / Program Lead, Aquatic Foods Initiative / ICR Program Manager
 Institute for Coastal Research / Vancouver Island University
 -Adjunct Faculty, VIU Geography Department-
 -PhD Student, Geography, University of Victoria-
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**Vancouver Island University
Institute for Coastal Research**
“STATE OF THE (BAYNES) SOUND 2013 CONFERENCE”
Deep Bay Marine Field Station (Bowser, BC)
May 2013

Executive Summary

The Vancouver Island University Institute for Coastal Research is seeking co-sponsors for a 2013 “State of the (Baynes) Sound” conference that will bring together experts and stakeholders to examine and discuss ecological, social, cultural and economic factors both within the Sound and from its associated upstream influences. The goals of the conference include:

- Creation of a shared understanding of the range of issues and perspectives on sustainable use and conservation in the sound,
- Identification of the potential for a science-based, broadly supported Baynes Sound coastal planning process,
- Exploration of possible collaborative opportunities and relationships between and amongst Baynes Sound stakeholders

Conference Outputs:

- A 2013 “State of the Sound” Backgrounder Report for public dissemination
- Partnerships established towards development of a future Baynes Sound Coastal Plan

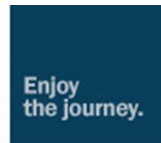
This conference will take place in May 2013 at the VIU Deep Bay Marine Field Station. Due to capacity limits, attendance will be limited to 100 people. The registration fee will be \$100 per person and will include lunches for both days. The conference will be professionally facilitated and the format of the event will be:

Day 1 – Presentations on the present state of Baynes Sound from ecological, social, cultural and economic perspectives, with questions and discussion throughout

Day 2 – Updates and a panel discussion on various initiatives and community perspectives about the desired future of Baynes Sound, concluding with some agreed-on recommendations about next steps

Background

Baynes Sound occupies about 5500 hectares of marine waterway between east-central Vancouver Island and Denman Island. It provides a broad range of critical ecosystem services which is reflected in the diversity and productivity of this area. Increasingly, there are unsettled land and coastal use issues



around the Sound including: growing urbanization, expansion of the shellfish aquaculture industry, preservation of viewsapes and property values, wildlife protection, derelict vessels, recreational use, land based pollution, and most recently, concerns over the impacts of a proposed underground coal mine just upland of the sound.

In 2002 the BC Government developed a coastal plan for Baynes Sound, however it only addressed shellfish aquaculture, excluding other uses, and with no connection to either upland values or impacts from development, including cumulative impacts. That plan, intended for five years, has lapsed. A review is timely, and given the burgeoning regional demands, an increase in scope is appropriate and necessary. A broad community dialogue about the future of Baynes Sound could ensure both community wellbeing, including from an important economic contributor like the shellfish aquaculture industry, and through conservation of ecosystem services, including water quality.

In order to address multiple objective and interests for Baynes Sound, including protection of critical ecosystem services and values while maintaining a working land base (coastal base) for sustainable agriculture (aquaculture) and other uses; discussions regarding the development of a science-based, broadly supported plan for the Baynes Sound region is necessary. Understanding the current state of Baynes Sound from biophysical, ecological, social, cultural and economic perspectives through this “State of the Sound” event; and understanding the range of community perspectives on the future of Baynes Sound is the first step.

Planning and Timelines

Detailed conference planning is now underway. We are looking for financial sponsors and other conference planning committee members for this event from amongst the many organizations and agencies with an interest in the future of Baynes Sound.

Conference planning involvement can range from strategic advice to participation in detailed planning. Financial sponsorship can include either cash or in-kind support. We will also be using pooled funds to leverage conference funding support from NSERC or SSHRC, so sponsor letters of support are also helpful.

Please contact Michele Patterson, below, by email or by phone to discuss involvement in planning or as a sponsor for this important upcoming event.

Michele Patterson, Program Lead, Aquatic Foods Initiative, Institute for Coastal Research / Vancouver Island University / Nanaimo, BC / michele.patterson@viu.ca / 250-740-6296



Memorandum

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Date February 18, 2013 File Number DE/02

To Denman Island Local Trust Committee

From Aleksandra Brzozowski
Island Planner
Northern Office

Re Advisory Planning Commission, Marine Advisory Planning Commission, and Agricultural Advisory Planning Commission appointments

In accordance with Denman Island Local Trust Committee Bylaw No. 203, the Advisory Planning Commission (APC) Bylaw, the Local Trust Committee (LTC) should appoint:

- Up to three members to the APC for a two-year term to commence on March 1, 2013.
- Up to three members of the Marine Advisory Planning Commission for a two-year term to commence on March 1, 2013.
- Up to three members of the Agricultural Advisory Planning Commission for a two-year term to commence on March 1, 2013; and up to three additional members of the Agricultural Advisory Planning Commission for a one-year term to commence on March 1, 2013.

Two advertisements soliciting expressions of interest for the APC, Marine APC, and Agricultural APC were published in the Grapevine. The deadline noted for all Expressions of Interest is February 24, 2013.

At the time of writing this memorandum, the following expressions of interest have been received by staff:

Advisory Planning Commission:

Margie Gang
Ralph McQuaig

Marine Advisory Planning Commission:

Shelley McKeachie (current member)

The Local Trust Committee should pass a resolution to appoint up to three members to the APC, for their two-year term to begin on March 1, 2013.

For the Marine Advisory Planning Commission, the LTC can appoint up to three members, for their two-year terms to begin on March 1, 2013.

For the Agricultural Advisory Planning Commission, the LTC can appoint up to six members, 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. All terms would begin on March 1, 2013.



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Population (2011):
Approximately 1,022

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

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

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Denman Island Local Trust Committee

Latest News

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

February

- On Island Planner Office Hours – Tuesday Feb 26, 2013 (10:30am – 2:00pm) at Seniors Hall
- [Greening our Shores Workshop – February 26, 2013 information flyer](#)

November 2012

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

November 2011

- [Denman Island Community Heritage Register has been adopted, commemorating the Denman Island Community Hall and the Marcus Isbister Old School Centre](#)

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Planner Office Hours on Denman Island

Denman Island Local Trust Committee Standing Resolutions

- [Home Based Guest Accommodations - May 1, 2012](#)

Denman Island Farm Plan

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

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

- [Staff Report for meeting of January 24, 2012](#)
- [Staff Report for meeting of October 13, 2011](#)
- [Staff Report for meeting of September 12, 2011](#)
- [DCLTA Tenant Selection Criteria](#)

Committee Links

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- [Application form and package](#)
- [Mapping and Preliminary Biological Description of DCLTA Keystone Project Property](#)

Watercourse Mapping

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

Ecosystem Mapping

- [Denman Island Local Trust Area ecosystem maps and feedback form](#)

Land Use and Development Information

- [Denman Island Development Permit Brochure](#)
- [Regulation of Land Use on Denman Island](#)
- [Denman Island Siting and Use Permit Brochure](#)

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Denman Island Density Potential Mapping

- [Density Potential Map - October 2010](#)

Relevant Research and Reports

- [Housing Needs Assessment on Hornby and Denman Island - Final Report](#)

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

- [Denman Island Protected Area Acquisitions 2010](#)

Shoreline Management Resources

- [Coastal Shores Stewardship](#)
- [Caring for our Shores](#)
- [Greenshores](#)

Denman Island Community Profile

Denman Island Community Heritage Register

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