



Denman Island Local Trust Committee

Regular Meeting Agenda

Date: October 3, 2017
Time: 9:30 am
Location: Denman Activity Centre
1111 Northwest Rd, Denman Island, BC

	Pages
1. CALL TO ORDER	9:30 AM - 9:35 AM
<i>"Please note, the order of agenda items may be modified during the meeting. Times are provided for convenience only and are subject to change."</i>	
2. APPROVAL OF AGENDA	
3. TOWN HALL AND QUESTIONS	9:35 AM - 9:45 AM
4. COMMUNITY INFORMATION MEETING - none	
5. PUBLIC HEARING - none	
6. MINUTES	9:45 AM - 9:50 AM
6.1 Local Trust Committee Minutes dated August 1, 2017	4 - 12
6.2 Section 26 Resolutions-Without-Meeting Report dated September 26, 2017	13 - 13
6.3 Advisory Planning Commission Minutes dated July 25, 2017 for receipt	14 - 16
6.4 Advisory Planning Commission Minutes dated August 10, 2017 for receipt	17 - 20
7. BUSINESS ARISING FROM MINUTES	9:50 AM - 10:00 AM
7.1 Follow-up Action List dated September 26, 2017	21 - 23
8. DELEGATIONS	10:00 AM - 10:10 AM
8.1 Denman Community Land Trust Association (DCLTA)	
9. CORRESPONDENCE	10:10 AM - 10:15 AM
(Correspondence received concerning current applications or projects is posted to the LTC webpage)	
9.1 Email dated September 18, 2017 from E. Johnston regarding Shellfish Practices	24 - 25
9.2 Email dated September 20, 2017 from G. Brazier regarding Harmful Shellfish Practices	26 - 26

10.	CLOSED MEETING	10:15 AM - 10:45 AM	
10.1	Motion to Close the Meeting		
	<i>That the meeting be closed to the public in accordance with the Community Charter, Part 4, Division 3, s.90(1)(c)(d) and (i) for the purpose of considering: Labour Relations; Adoption of In-Camera Meeting Minutes dated May 2, 2017 and August 1, 2017; and Receipt of Legal Advice and that the recorder and staff attend the meeting.</i>		
10.2	Recall to Order		
10.3	Rise and Report		
11.	APPLICATIONS AND REFERRALS	10:45 AM - 11:05 AM	
11.1	DE-DP-2017.1 (Ellis) - Staff Report		27 - 81
12.	LOCAL TRUST COMMITTEE PROJECTS AND BYLAWS	11:05 AM - 11:50 AM	
12.1	Denman Downtown Village Design Charette - for discussion		
12.2	Marine Issues - (Bylaw No. 225) - Staff Report		82 - 93
	Prohibiting Vehicle and Ground-based Machinery Use in the W1, W3 and W4 Zones.		
12.3	Bylaw No. 170 (Development Approval Information Bylaw) - Memorandum		94 - 94
12.4	Bylaw No. 227 - (Electronic Meetings) - Staff Report		95 - 103
	BREAK 11:50 AM TO 12:00 PM		
13.	REPORTS	12:00 PM - 12:20 PM	
13.1	Work Program Reports		
13.1.1	Top Priorities Report dated September 26, 2017		104 - 104
13.1.2	Projects List Report dated September 26, 2017		105 - 106
13.2	Applications Report dated September 26, 2017		107 - 110
13.3	Trustee and Local Expense Report dated August, 2017		111 - 111
13.4	Adopted Policies and Standing Resolutions - none		
13.5	Local Trust Committee Webpage		
13.6	Chair's Report		
13.7	Trustee Reports		
13.8	Electoral Area Director's Report		
13.9	Trust Fund Board Report - none		

- | | | |
|------------|---|----------------------------|
| 14. | NEW BUSINESS | 12:20 PM - 12:25 PM |
| 14.1 | The Role of an Advisory Planning Commission (APC) - for discussion | |
| 15. | UPCOMING MEETINGS | |
| 15.1 | Next Regular Meeting Scheduled for Tuesday, November 14, 2017 at 9:30 am
at the Denman Activity Centre, 1111 Northwest Road, Denman Island, BC | |
| 16. | TOWN HALL | 12:25 PM - 12:40 PM |
| 17. | ADJOURNMENT | 12:40 PM - 12:40 PM |



Denman Island Local Trust Committee Minutes of Regular Meeting

Date: August 1, 2017
Location: Denman Activity Centre
 1111 Northwest Rd, Denman Island, BC

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

Staff Present Ann Kjerulf, Regional Planning Manager
 Fiona MacRaid, Senior Intergovernmental Policy Advisor
 Ian Cox, Co-op Student Planner (via telephone)
 Vicky Bockman, Recorder

Others Present: Approximately four (4) members of the public

1. CALL TO ORDER

Chair Morrison called the meeting to order at 9:30 am. She welcomed the public, acknowledged that the meeting was being held in territory of the Coast Salish First Nations, and introduced Trustees, staff and recorder.

2. APPROVAL OF AGENDA

The following additions and changes to the agenda were presented for consideration:

- Addition of Staff Report to item 11.1
- Move item 11.1 to follow 7.2.

By general consent the agenda was adopted as amended.

3. TOWN HALL AND QUESTIONS

- A member of the public expressed concern that while the Fisheries and Oceans Canada (DFO) Beach Clean-up initiative, noted as agenda item 13.1, is a worthwhile idea, it will not solve the problem of escaped aquaculture equipment. The individual suggested that the addition of an educational component for operators would be helpful.
- A member of the public expressed concern that the Islands Trust mandate to preserve and protect could be diminished if municipal incorporation occurs on Salt Spring Island. The individual asked how the decision for the Islands Trust to remain neutral was made.
 - Trustees noted that the issue was discussed at Trust Council and with staff at the Ministry level. They commented that while individual Trustees may take positions, the Trust Policy Statement 5.8.3 supports the ability of island communities within the Trust Area to determine the most effective local

government structure to support their local autonomy and specific community needs.

- A member of the Association for Denman Island Marine Stewards (ADIMS) spoke on behalf of the group and provided her comments for the record. She addressed agenda item 13.1, DFO's Beach Clean-up initiative. She stated that ADIMS does not support any plan that relies on vehicles driving on the beach as the means of collecting debris and suggested that placing a dumpster at Buckley Bay would be a preferable location.
- A member of the public remarked that when possible, recycling equipment collected in beach clean-up efforts back to operators is preferable to dumping.

4. COMMUNITY INFORMATION MEETING - none

5. PUBLIC HEARING - none

6. MINUTES

6.1 Local Trust Committee Minutes dated June 6, 2017 - for adoption

The following amendment was presented for consideration:

- Page 3, Discussion on resolution DE-2017-041, second bullet: delete "was supported".

By general consent the minutes were adopted as amended.

6.2 Local Trust Committee Public Hearing Record dated June 6, 2016 - for receipt

Received.

6.3 Section 26 Resolutions-Without-Meeting - none

6.4 Advisory Planning Commission Minutes - none

7. BUSINESS ARISING FROM MINUTES

7.1 Follow-up Action List dated July 24, 2017

Regional Planning Manager Kjerulf presented the Follow-up Action List and provided updates. Discussion included the following key points:

- Trustees suggested that grant opportunities and other funding sources for purchase of First Nations reading list books might be researched and provided as information in the correspondence to libraries; and
- Staff was requested to solicit a response from Forests, Lands and Natural Resource Operations (FLNRO) regarding the request for notification of tenure applications.

DE-2017-055

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to ask the Islands Trust Grant Administrator about the availability of grant monies for the purchase of books by libraries on the topic of indigenous culture and reconciliation.

CARRIED

7.2 Fees Bylaw Amendment regarding Affordable Housing - Staff Report

Trustees received the Staff Report that provides a draft amendment to the Fees Bylaw to reduce the fee where the application is for affordable housing.

DE-2017-056

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee Bylaw No. 226, cited as “Denman Island Local Trust Committee Fees Bylaw, 2007, Amendment No. 1, 2017”, be read a first time.

CARRIED

DE-2017-057

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee Bylaw No. 226, cited as “Denman Island Local Trust Committee Fees Bylaw, 2007, Amendment No. 1, 2017”, be read a second time.

CARRIED

DE-2017-058

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee Bylaw No. 226, cited as “Denman Island Local Trust Committee Fees Bylaw, 2007, Amendment No. 1, 2017”, be read a third time.

CARRIED

DE-2017-059

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee Bylaw No. 226, cited as “Denman Island Local Trust Committee Fees Bylaw, 2007, Amendment No. 1, 2017”, be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee.

CARRIED

11.1 First Nations Relationship Building – Staff Report

Senior Intergovernmental Policy Advisor MacRaid presented the Staff Report regarding *Shared Narrative of Place with First Nations: Next Steps*. She noted that the Staff Report provides recommendations for the Local Trust Committee's (LTC) consideration including draft text of a Deep History introduction section for the Official Community Plan (OCP) and development of a series of educational workshops.

Discussion followed and the following points were noted:

- Trustees proposed that they defer consideration of the draft text of the OCP introduction section in order to consider it further and provide input to staff;
- A presentation scheduled for September or October to include representatives of the K'omoks First Nation was suggested as an event that the community would appreciate; and
- Interest was expressed in the report on First Nations geoduck interests which the Executive Committee will be receiving.

DE-2017-060

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to receive feedback from Trustees about Official Community Plan amendments dealing with First Nations issues and bring back a brief written or verbal report to the next Local Trust Committee meeting.

CARRIED

DE-2017-061

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to organize a presentation by representatives of the K'omoks First Nation on First Nation traditional knowledge and stewardship practices.

CARRIED

8. DELEGATIONS - none

9. CORRESPONDENCE - none

10. APPLICATIONS AND REFERRALS

10.1 Agricultural Land Commission (ALC) Referral - Denman North Connector Trail - Memorandum

Trustees reviewed the referral and expressed support for the application for a statutory right-of-way for recreational trail use within the Agricultural Land Reserve on northern Denman Island.

DE-2017-062

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to convey to the Agricultural Land Commission the Local Trust Committee's support for this application.

CARRIED

By general consent the meeting was recessed at 11:03 am and reconvened at 11:08 am.

11. LOCAL TRUST COMMITTEE PROJECTS

11.2 Denman Downtown Village Design Charrette - for discussion

Co-op Student Planner Cox joined the meeting by telephone at 11:09 am.

Co-op Student Planner Cox presented an overview of the status of the Denman Community Design Charrette. He reported that the schedule is being developed and a draft will be provided as soon for review as it is available. He noted that student accommodation, meal coordination and plans for Trustee and public involvement are in progress.

He solicited input regarding a questionnaire for data collection and the following points were noted:

- Short, focused meetings or telephone conversations with businesses;
- To assist in the information gathering, Trustees offered to compile a list of downtown stakeholders; and
- Suggestions for locations for placement of information tables included the General Store, Farmers' Market and Fall Fair.

Co-op Student Planner Cox left the meeting by telephone at 11:17 am.

12. REPORTS

12.1 Work Program Reports

12.1.1 Top Priorities Report dated July 24, 2017

Regional Planning Manager Kjerulf presented the Top Priorities report and provided updates. Trustees reviewed the report and discussed amendments for LTC consideration.

DE-2017-063

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee amend the Top Priorities list by removing the activity under Relationship building with K'omoks First Nation "Plan for a Community to Community (C2C) Forum" as it has been completed; and by removing the OCP Housekeeping Amendments item.

CARRIED

DE-2017-064

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee refer Bylaw No. 223 considerations (agriculture, intensive agriculture, feedlot definitions) to the Advisory Planning Commission and Growers and Producers Alliance as part of its work on Farm Plan Implementation.

CARRIED

12.1.2 Projects List Report dated July 24, 2017

Received.

12.2 Applications Report dated July 24, 2017

Received.

12.3 Trustee and Local Expense Report dated May, 2017

Received.

12.4 Adopted Policies and Standing Resolutions - none

12.5 Local Trust Committee Webpage

Trustees requested that information on the Denman Downtown Village Design Charrette including the schedule be provided on the webpage when available.

Senior Intergovernmental Policy Advisor MacRaid left the meeting at 11:27 am.

12.6 Chair's Report

Chair Morrison reported on the following:

- Executive Committee (EC) has started working on the Project Charter for the *Islands Trust Act* amendment;
- Bowen Island has been removed from the Forestry Stewardship Plan for now;
- EC has been considering how to administer applications for grants and funding to assess, remove and dispose of derelict vessels;
- EC members will be attending the 2017 Union of BC Municipalities Convention and will seek to meet with Ministry officials;
- She attended a Trust Fund Board meeting; and
- She attended a Community Information Meeting on Keats Island regarding a proposed rezoning application and bylaw amendments, which was well attended.

12.7 Trustee Reports

Trustee Busheikin reported on the following

- She attended the Advisory Planning Commission meeting where work on the Farm Plan Implementation project is being considered;

- She assisted in the creation of a general information brochure on the Denman Community Design Charrette process and made them available for information and distribution;
- She participated in a successful meeting with members of the K'omoks First Nation on Denman Island and will be volunteering at the Tribal Journeys event; and
- Trustee Office Hours were held and she had many conversations with community members on topics including trailers, road maintenance, housing and trails.

Trustee Critchley reported on the following:

- He attended Trust Council on Lasqueti Island;
- This year's recipients of the Stewardship Awards included two from Denman Island: Denman Island Memorial Society and Denman and Hornby Community Health Care Society;
- He attended the Well Water Workshop presented by Islands Trust and he noted that it was very worthwhile;
- He held Trustee Office Hours;
- Trust Council will be held on Denman Island in September;
- He has become aware of concerns regarding the Bowser Sewer Project which falls within the Ballenas Winchelsea Local Trust Area; and
- He has been reading books on indigenous matters.

12.8 Electoral Area Director's Report - none

12.9 Trust Fund Board Report

Chair Morrison provided a brief Trust Fund Board Report. She reported that the Transfer Agreement for the Valens Brook Nature Reserve was presented at the last Trust Fund Board meeting and consideration was given to a proposal for a conservation area on Galiano Island relating to the Chrystal Mountain meditation retreat centre.

13. NEW BUSINESS

13.1 Fisheries and Oceans Canada (DFO) - Beach Clean-up - for discussion

Trustees acknowledged comments heard in Town Hall on this issue. They suggested a response be provided to the correspondence from DFO that includes the following points:

- Expressing appreciation to the DFO for offering to put resources and attention to aquaculture debris;
- Relating concerns regarding driving on the beach, referencing draft Bylaw No. 225;
- Noting that a suggestion from a community group was heard to locate the dumpsters at Buckley Bay and the LTC supports that proposition;
- Highlighting the environmental value of the foreshore; and
- Expressing the hope that this clean-up will be handled in as environmentally responsible a manner as possible and will be an ongoing process.

DE-2017-065

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee request staff to draft a letter for the signature of the Chair of the Local Trust Committee responding to the correspondence of June 21, 2017 from Fisheries and Oceans Canada including an expression of concern by the Local Trust Committee that driving on the beach be minimized.

CARRIED

14. UPCOMING MEETINGS

14.1 Next Regular Meeting Scheduled for Tuesday, October 3, 2017 at 9:30 am at the Denman Activity Centre, 1111 Northwest Road, Denman Island, BC

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

15. TOWN HALL

- A member of the public made the following comments:
 - Expressed concern that the text of the response to DFO regarding beach clean-up stating “that driving on the beach be minimized” should be expressed in stronger terms to discourage any driving on the beach for clean-up purposes.
 - Provided Trustees with photo evidence of stakes and nets placed in shallow water for aquaculture purposes that presents a danger to the public.
 - Indicated that DFO had been notified and their response was unsatisfactory and asked if the LTC could address this matter.
 - Trustee Busheikin offered to send this information to the Islands Trust Victoria Office for follow-up.
- A member of the public made the following comments:
 - The existing OCP Introduction History was written by local residents with interest in particular fields, not by Islands Trust staff.
 - Trustees appear to have varying opinions on the effect of a potential Salt Spring Island municipal incorporation on the Islands Trust mandate. He asked if Trustees thought the mandate would be diminished if this incorporation occurs.
 - Trustees responded that, should incorporation proceed, the intent is to ensure that Salt Spring Island would continue to be subject to the preserve and protect aspect of the mandate.

16. CLOSED MEETING

16.1 Motion to Close the Meeting

DE-2017-066

It was MOVED and SECONDED,
that the meeting be closed to the public in accordance with the *Community Charter*, Part 4, Division 3, s.90(1)(d) and (i) for the purpose of considering adoption of minutes dated May 2, 2017; and to receive Legal Advice that is subject to solicitor-client privilege and that the recorder and staff attend the meeting.

CARRIED

The meeting closed to the public at 11:55 am.

16.2 Recall to Order

By general consent the meeting was recalled to order at 12:04 pm.

16.3 Rise and Report - none

17. ADJOURNMENT

Susan Morrison, Chair

Certified Correct:

Vicky Bockman, Recorder



Islands Trust

Print Date: September 26, 2017

Resolutions Without Meeting

Denman Island

Resolution #	Action	Resolution Description	Resolution Date
2017-06	In Favour	"THAT the Denman Island Local Trust Committee instruct staff to enter into a Cost Recovery Agreement allowing Islands Trust legal counsel to draft, review and register a Section 514 Covenant for Subdivision application DE-SUB-2015.1 (DE VILLIERS & FRASER)."	25-Aug-2017
2017-07	In Favour	"THAT the Denman Island Local Trust Committee Bylaw No. 226, cited as "Denman Island Local Trust Committee Fees Bylaw, 2007, Amendment No. 1, 2017", be adopted".	14-Sep-2017



Minutes of the Denman Island Advisory Planning Commission

Date of Meeting: Tuesday, July 25, 2017

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

APC Members Present: Steven Carballeira, Chair
Rosa Telegus, Deputy Chair
David Graham, Secretary
Margie Gang
Edi Johnston
Alan Stoddart
Jack Forsyth
Tom Zawila

Regrets: Howard Stewart, APC Member

Staff Present: Katherine Vogt, Recorder

Staff Present by Speakerphone: Sonja Zupanec, Island Planner

Others Present: Laura Busheikin, Island Trustee

1. CALL TO ORDER

Island Planner Zupanec called the meeting to order at 7:04 pm.

2. APPROVAL OF AGENDA

There was no formal agenda to approve and no Chair, Deputy Chair, or Secretary yet selected by the 2017 Denman Island Advisory Planning Commission.

3. MINUTES

There were no previous minutes to adopt.

4. WELCOME, OVERVIEW AND INTRODUCTION

Each member of the Denman Island Advisory Planning Commission introduced themselves to the group. Trustee Laura Busheikin offered that she had come to the meeting to listen to the group discussion. Island Planner Zupanec provided context and guidance to the group.

5. NEW BUSINESS**5.1 Selection of Chair, Deputy Chair, and Secretary for the 2017 Denman Island Advisory Planning Commission**

By general consent, Steve Carballeira was elected as Chair; Rosa Telegus was elected as Deputy Chair and David Graham was elected as Secretary to the 2017 Denman Island Advisory Planning Commission.

5.2 Discussion of Memorandum dated July 10, 2017 from Regional Planning Manager Ann Kjerulf, File No.6930-20 (Agriculture Area Plan), regarding the Denman Island Farm Plan Implementation Project Referral, about which the Denman Island Local Trust Committee was seeking input from the 2017 Denman Island Advisory Planning Commission

By general consent, it was decided to not seek motions and resolutions to the points raised in the memorandum, but rather to have a broad discussion on each of the points in turn and to record the level of consensus within the group regarding each of the points.

The memorandum suggested 13 Official Community Plan (OCP) amendments; nine Land Use Bylaw (LUB) amendments; and one Development Approval Information bylaw amendment. Discussion focused on the first six Official Community Plan amendment suggestions:

1. Add an OCP policy to support agritourism accommodation on land in the Agricultural Land Reserve (ALR)

There was no general consensus that this was supportable. Concerns were raised about the too many unserviced campsites allowed under ALR rules, setbacks to neighbouring properties and possible fire hazards with makeshift cooking facilities. Porta-potties were suggested as a good temporary sewage solution for such accommodations. There seemed to be too many issues to regulate.

2. Add an OCP policy concerning farm help accommodation on land in the ALR

There was a general consensus that this type of accommodation was worth supporting, with concerns raised around bylaw non-compliance and B.C. Building Code non-compliance, as well as farmers' finding the compliance process too expensive.

3. Designate Temporary Use Permit (TUP) areas for agritourism accommodation on land in the ALR

This ties into No. 1. There was no general consensus to support an amendment. Island Planner Zupanec noted that TUP conditions could be tailored to the specific proposal and that the TUP process already does include neighbour complaint and input provisions.

4. Designate TUP areas for processing uses and facilities on non-ALR land

There was broad consensus to support a future amendment. It was noted that many home-based farm processing uses and facilities were already allowable under existing bylaws, but for facilities larger than that normally used by a home-based business, there were no provisions in the OCP.

Island Planner Zupanec noted that the OCP could be used to allow large processing or storage facilities in specific zones or on specific parcel sizes or be allowed on any parcel of land.

Concern was raised around the betrayed expectations of property owners who had already bought land in a specific zone.

5. Add an OCP policy regarding LTC consideration of subdivision proposals within the ALR

It was decided to defer consideration of this proposal until Island Planner Zupanec could obtain more information regarding its rationale. Presently, ALR subdivision proposals and outcomes are not shared with Local Trust Committees.

6. Add an OCP policy to support “occasional markets, fairs and festivals” in the W2 zone

There was broad support to allow such events, though some concerns were raised around traffic congestion and control.

6. NEXT MEETING

To be held on August 10, 2017 at 4:00 pm at the Seniors Activity Centre.

7 ADJOURNEMENT

By general consent, the meeting was adjourned at 8:50 pm

Steven Carballeira, Chair

Certified Correct:

Katherine Vogt, Recorder



Minutes of the Denman Island Advisory Planning Commission

Date of Meeting: Thursday, August 10, 2017

Location: Denman Island Community Hall
1196, Northwest Road, Denman Island, BC

APC Members Present: Steve Carballeira, Chair
Rosa Telegus, Deputy Chair
David Graham, Secretary
Margie Gang
Edi Johnston
Jack Forsyth
Tom Zawila
Howard Stewart

Regrets Alan Stoddart, APC Member

Staff Present: Ann Kjerulf, Regional Planning Manager
Katherine Vogt, Recorder

Others Present: None

1. CALL TO ORDER

Chair Carballeira called the meeting to order at 4:01 pm.

Chair Carballeira introduced Regional Planning Manager Ann Kjerulf to the Advisory Planning Commission (APC) members.

Chair Carballeira suggested that the APC members use a show of hands to vote for or against each of the Official Community Plan (OCP) and Land Use Bylaw (LUB) amendment proposals discussed, to gain a more precise picture of the level of consensus within the group. It was also suggested that abstentions not be considered.

2. APPROVAL OF AGENDA

Chair Carballeira suggested the meeting close at 5:30 pm rather than 6:00 pm.

By general consent, the agenda was approved as amended.

3. MINUTES

3.1 Denman Island Advisory Planning Commission Draft Minutes dated July 25, 2017

It was suggested to amend item 5.2 number 5 in which the word “broad” should be changed to “general.”

By general consent, the minutes were adopted as amended.

4. Working Group

4.1 Review of OCP/LUB Recommended Amendments

OCP Bullet 5: *Add an OCP policy regarding LTC consideration of subdivision proposals within the ALR*

By show of hands, 7 out of 8 APC members present supported this proposal

Regional Planning Manager Kjerulf clarified that the Agricultural Land Reserve (ALR) subdivision process did not exclude Local Trust Committees (LTCs) from perusing subdivision applications: rather, that notifications to LTCs were delayed due to the new ALR direct online portal through which ALR subdivision applications were now processed. Regional Planning Manager Kjerulf suggested that the OCP could be updated to provide criterion for when an ALR subdivision proposal is officially referred.

OCP Bullet 7: *Add an OCP policy that reinforces agriculture as the priority use for ALR and other agricultural lands*

By show of hands, 8 out of 8 APC members present supported this proposal.

OCP Bullet 8: *Add an OCP policy to discourage panhandle lots*

By show of hands, 8 out of 8 APC members present supported this proposal.

OCP Bullet 9: *Add an OCP policy to support subdivision to consolidate farm parcels in the ALR*

By show of hands, 8 out of 8 APC members present supported this proposal.

OCP Bullet 10: *Add an OCP policy to support a requirement for landscape screening/buffering of trails*

By show of hands, 7 out of 8 APC members present were against this proposal.

A main objection was that the expense of screening requirements would prohibit future trail building.

OCP Bullet 11: *Add an OCP policy regarding “no net loss” of ALR land*

By show of hands, 7 out of 8 APC members present were against this proposal.

It was noted that there was a very high amount of ALR land on the island and that it was easier to put land into the ALR than to pull it out.

It was noted that exciting new agricultural products such as fir tips for beverages could require large tracts of ALR land.

OCP Bullet 12: *Add an OCP policy to support ALC applications to benefit farming or the greater community*

By show of hands, 4 APC members out of 8 present supported this proposal.

One objection to the proposal was that it was, in effect, a two part proposal, and thus too cumbersome to support.

Another objection was that landowners could attempt to rezone and reutilize any large building structures they had previously justified for farming or the greater community.

Regional Planning Manager Kjerulf noted that the rationale behind this OCP policy could be to support non-farm uses such as affordable housing or an educational facility on ALR land to benefit either farming or the greater community that would normally not be permitted under existing ALR regulations.

OCP Bullet 13: Amend the OCP to include a policy to support alternative land tenure agreements

By show of hands, 5 out of 8 APC members present supported this proposal.

It was noted that the wording of this proposal should be “Add an OCP policy...” rather than “Amend the OCP...”

An objection to this proposal was that it would invite legal complications, given that the greater legal system did not presently adequately accommodate alternative land tenures.

A support point for this proposal was that new farmers needed land and if they could not afford to buy it then they could possibly long-term lease it.

LUB Bullet 1: Add farm processing and storage as principal uses in the Light Industrial (L) zone (subject to conditions)

By show of hands, 8 out of 8 APC members present supported this proposal

LUB Bullet 2: Add farm help accommodation accessory to a principal farm use in the ALR (subject to conditions)

By show of hands, 6 out of 8 APC members present were against this proposal.

A main point against the proposal was that it could be taken advantage of to get around existing density regulations.

It was noted that farm help accommodation could be covenanted to be removed after the farm help was gone.

It was noted that wwoofers were common on the island and that their presence may or may not involve bylaw illegality, depending upon whether their length of stay complied with existing temporary accommodations bylaws.

It was suggested to create a new high-density farm help accommodation zone, to house all farm helpers in one particular area.

LUB Bullet 3: Add a height exemption for silos and grain bins

By show of hands, 7 out of 8 APC members present supported this proposal.

There was some concern raised around blocking neighbors' views.

There was some concern expressed that this was an unnecessary bylaw that would waste Islands Trust Planners' time.

LUB Bullet 4: *Add farm home plate provisions (to cluster residential uses and avoid sterilization of farm land)*

By show of hands, 6 out of 8 APC members present supported this proposal.

One APC member expressed skepticism around the idea that small country roads and driveways constituted a significant sterilization or dead/unproductive zone on farm property. If such were the case, it would be unnecessary to force people that prefer greater privacy into clusters.

OCP Bullet 6: *Add an OCP policy to support "occasional markets, fairs and festivals" in the W2 zone*

Discussion of this item, carried over from the last meeting, was cut short due to time constraints.

5. NEXT MEETING

To be held on August 23, 2017 at 4:00 pm at the Seniors Activity Center.

6. ADJOURNMENT

By general consent, the meeting was adjourned at 5:34 pm.

Steve Carballeira, Chair

Certified Correct:

Katherine Vogt, Recorder

Follow Up Action Report

Denman Island

19-Apr-2016

Activity	Responsibility	Target Date	Status
Monitor Regional District of Nanaimo Electoral Area H Official Community Plan Review and report to LTC about pertinent issues and opportunities to participate. Update Mar. 7th: Expecting referrals in June 2017.	Marnie Eggen		On Going
Organize CIM with presentations on eelgrass, forage fish habitat and aquaculture practices and future plans; invite participation from BC Shellfish Growers Association and Komoks; staff to engage a facilitator for CIM if required	Marnie Eggen David Critchley Laura Busheikin		On Going

02-May-2017

Activity	Responsibility	Target Date	Status
Public presentation by Islands Trust Senior Intergovernmental Policy Advisor on First nations engagement and follow up presentations by Komoks members and representatives. Public presentation held June 4, 2017.	Fiona MacRaid	11-Jul-2017	On Going
Where possible and appropriate, influence the content of signage to include First Nations place names and context of indigenous use of places.	Fiona MacRaid		On Going

06-Jun-2017

Activity	Responsibility	Target Date	Status
Staff to provide a report considering options for prioritizing affordable housing rezoning applications.	Marnie Eggen	03-Oct-2017	On Going



Follow Up Action Report

Amend the Shared Narrative of Place Charter V.2 in-scope items to read identification of signage opportunities in the Denman Island where indigenous history can be acknowledged (Fiona MacRaid).	Fiona MacRaid	On Going
Staff to request FLNRO provide notification to Denman Island Local Trust Committee when decisions are made regarding applications for tenures within the Local Trust Area. Update Aug. 1: LTC requested receipt notification from FLNRO Update Aug. 11: staff requested receipt notification from FLNRO	Ann Kjerulf	13-Jun-2017 Done

01-Aug-2017

Activity	Responsibility	Target Date	Status
Bylaw No. 226 be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee.	Becky McErlean Ann Kjerulf	11-Aug-2017	Done
Staff to receive feedback from trustees regarding OCP amendments dealing with First Nations issues and bring back a brief written or verbal report to the next meeting.	Fiona MacRaid	19-Sep-2017	On Going
Staff to organize a presentation by representatives of the Komoks Nation about First Nations traditional knowledge and stewardship practices.	Fiona MacRaid	01-Nov-2017	On Going
Staff to convey to the ALC the LTC support for the CVRD application to the ALC for a recreational trail within the ALR.	Marnie Eggen	11-Aug-2017	Done
Amend Top Priorities list by: removing the activity "Plan C2C Forum" for the Shared Narrative of Place project; and remove OCP Housekeeping Amendments	Ann Kjerulf		Done
That Bylaw 223 (proposed amendments for agriculture, intensive agriculture, limited agriculture, etc.) be referred to the APC and Growers and Producers Alliance as part of the Farm Plan Implementation project. GPA to provide feedback after October 19, 2017 meeting.	Ann Kjerulf		Done

Follow Up Action Report

Staff to draft a letter for the signature of the chair responding to the correspondence from DFO including: conveying the concerns of local marine stewards, emphasizing the importance of the foreshore; that driving on the beach be minimized; recycling be encouraged and landfill materials be minimized; and that this will be a ongoing process.

Ann Kjerulf

Done

September 18, 2017

Denman Island Local Trust Committee

Chair Susan Morrison
smorrison@islandstrust.bc.ca

Trustee Busheikin
lbushiekin@islandstrust.bc.ca

Trustee Critchley
dcritchley@islandstrust.bc.ca

Dear Denman Island Local Trust Committee- Re. **escalating harmful unauthorized modifications** made to the inter-tidal areas which negatively impact other fisheries, prohibit recreational use of our shores and pose serious threats to humans and wildlife.

Inter-tidal oyster growing used to be low impact, safe, simple and unobtrusive allowing those wishing to use the area for recreational purposes, unencumbered access. Tiny oysters would be put in pouches lying on the substrate, strung on a rope passing through a stainless steel ring anchored in the substrate. When large enough, the pouches were emptied and the oysters were spread on the beach. The pouches were reused year after year.

Now it has become much more complicated with clearing of rocks (which takes away spawning opportunities of plainfin midshipman fish and other species wanting to deposit eggs in depressions under rocks) and the use of rebar spikes to which plastic fencing is eventually attached to make corrals.

When it was realized that the fences didn't keep the crabs away, nets were then put over the top which then ended up trapping bottom fish. Now it appears that the crabs are still getting in the corrals so crab traps are being used to trap the crabs trying to leave with the tide. These traps have one way entrances which mean that once in, there is no way out so the crabs are forced to eat each other. It is obvious that these traps are meant to kill the crabs as there is no access door to remove them. Even if there was, there are times where the tenure workers don't return for weeks at a time so the crabs are doomed.

These harmful practices (along with others) is a violation of shellfish Conditions of License and the Fisheries Act. DFO has been made aware but to date, no action has been taken on this or the illegal fishing net supposedly being used to "stop crabs from eating oysters." which is actually catching fish.

The only other major shellfish predator were starfish but they have all but disappeared and its no wonder when a neurotoxic pesticide (Imidacloprid) was sprayed on nearby Washington beaches. This was done to eradicate the native ghost shrimp to make oyster growing easier.

As the local government, I'm hoping you will use any tools in your toolbox to protect what's left of our marine ecosystem or at least advocate for the indigenous species that now find their very existence being threatened.

Thank you for your time and consideration,

Edi Johnston

Denman Island retired shellfish grower

From: Graham Brazier [REDACTED]
Sent: Wednesday, September 20, 2017 9:11 AM
To: Susan Morrison; Laura Busheikin; David Critchley
Cc: Ann Kjerulf; ADIMS Board; Edina Johnston
Subject: Re: escalating harmful shellfish practices

To Denman Island Local Trust Committee

I agree that the evidence of the degradation of our shorelines that Edi continues to document continues to be alarming and continues to warrant action on the part of the level of government closest to the scene of the crimes.

Her final sentence is worth repeating: ***As the local government, I'm hoping you will use any tools in your toolbox to protect what's left of our marine ecosystem or at least advocate for the indigenous species that now find their very existence being threatened.***

It seems to me that, as the Trust is a creation of the province and that there is a new cabinet minister representing a new outlook that a meeting with Selina Robinson, **Minister of Municipal Affairs and Housing** would be a high priority for the Executive Committee. Perhaps it has already happened?

Graham



DATE OF MEETING: October 3, 2017

TO: Denman Island Local Trust Committee

FROM: Marnie Eggen, Island Planner
Northern Team

COPY: Ann Kjerulf, Northern Regional Planning Manager
Miles Drew, Bylaw Enforcement Manager

SUBJECT: Development Permit Application Lot B, Section 23, Denman Island, Nanaimo District
Plan VIP74719
Applicant: F. Dean Ellis
Location: 2626 Swan Road, Denman Island

RECOMMENDATION

1. **That the Denman Island Local Trust Committee approve the issuance of the development permit DE-DP-2017.1 (Ellis) that amends development permit DE-DP-03-99 to remove the reference to Development Permit Area No. 7: Forest Cover and clause 1(c).**

REPORT SUMMARY

The purpose of this report is to provide information regarding the application for an amendment to development permit DE-DP-03-99. The applicant has:

1. Requested to remove clause 1(c) of DE-DP-03-99:
1.(c) Christmas trees are to be planted in accordance with B.C. Regulation 411/95 of the B.C. Assessment Act.
2. Requested to remove any references to the Forest Cover Bylaw 7 from DE-DP-03-99.

Staff are recommending support for the amendment to development permit DE-DP-03-99 to remove clause 1(c) because that condition was imposed pursuant to the repealed Development Permit Area No. 7: Forest Cover. As well, staff are recommending support to remove the reference to the Development Permit Area No. 7: Forest Cover as it is repealed.

The applicant has indicated that he is not seeking a development permit or an amendment to DE-DP-03-99 to undertake any land alterations to his property located at 2626 Swan Road, Denman Island. There is therefore no application for a development permit or an amendment to DE-DP-03-99 to undertake land alterations to the subject property to consider. Staff note that even if there was such an application, it would be incomplete. The applicant indicates he is harvesting hay crops and has interest in constructing steps, planting fruit and nut trees, and running livestock on the subject property, but has not provided the required information, even after repeated requests.

The applicant seeks to raise matters that have been considered and dismissed by the courts including the validity of the Komasa Bluff Development Permit Area (DPA) and DE-DP-03-99.

BACKGROUND

Development Permits

In 2000, a development permit, DE-DP-03-99, was issued to a previous owner with respect to the subject property and the adjacent property located at 2600 Swan Road, Denman Island. The development permit authorized the clearing of land beyond 50 metres of the crest of the Komasa Bluff, on the condition that no clearing or alteration of land is permitted within 50 metres of the edge of the Komasa Bluff (see Attachments for existing permit).

In 2002, after the applicant purchased the subject property and the adjacent property, the applicant was issued a development permit, DEN-DP-2002.1, to adjust the boundary between the lots by subdivision. The adjacent property was sold by the applicant in 2004.

Notice of the development permits are registered on title to the properties.

Court Orders

The subject property is also the subject of a number of court orders including the following made in *Denman Island Local Trust Committee v. Ellis et al.* 2005 BCSC 1238 (see Attachments for court order):

1. *The Defendant Ellis unlawfully contravened s. 920(1)(d) of the Local Government Act by altering lands legally described as Lot A Section 23 Denman Island Nanaimo District Plan VIP74719 ("Lot A") and Lot B Section 23 Denman Island Nanaimo District Plan VIP74719 ("Lot B") (together the "Lands") within Development Permit Area No. 1; Komasa Bluff, without a development permit authorizing such alteration;*
2. *A permanent injunction restraining the Defendant Ellis from cutting trees on, clearing, developing, excavating or otherwise altering those portions of the Lands that are within fifty metres of the top edge of the Komasa Bluff or on the face of the Komasa Bluff (the "Buffer"), or causing any of those activities to be carried out, on, or in the Buffer, without first obtaining a development permit authorizing such activities, or in accordance with further order of this Court;...*

2017 Development Permit Amendment Application

In April 2017, Mr. Ellis submitted an application for amendments to DE-DP-03-99 (see Attachments for application).

With respect to clause 1(c) of DE-DP-03-99, the applicant has been advised by staff and legal counsel that the Local Trust Committee will not be enforcing this requirement, but should he wish to formally remove clause 1(c) of DE-DP-03-99, he may make an application for a development permit amendment to do so. (See Attachments for letters to the applicant.)

To the extent that the applicant indicates that he is harvesting hay crops or wishes to construct steps within 50 m of the top edge of the Komasa Bluff or on the face of the Komasa Bluff, the court decisions are clear that a development permit or a development permit amendment is required to authorize such activities. The applicant has been advised that if he wishes to proceed with an application for such purposes, additional information is required in accordance with Denman Island Local Trust Committee bylaws and the court decisions.

In *Ellis v. Denman Island Local Trust Committee*, 2015 BCSC 1753, which related to a judicial review of the applicant's 2004, 2005 and 2013 development permit applications, the court found that his 2013 development permit application was incomplete. In its reasons for judgment dated September 29, 2015, the court provided the following directions to the applicant (in addition to the material submitted with his 2013 application) if he wished to proceed with another development permit application for hay farming to 15 m of the bluff or construct stairs/steps down the bluff (see Attachments for letter to Mr. Ellis, dated July 26, 2017 with attached reasons for judgement):

1. Re-submit an application on the appropriate form completed.
2. Provide with a written outline which clearly describes the nature of each of the proposed activities.
3. Prove proof of the remediation to the slope;
4. Provide a detailed site plan prepared by a B.C. land surveyor showing the location and dimension of existing and dimension of existing and proposed buildings and structures including the proposed stairs/steps and their measured or proposed setback from lot lines, crest of the bluff and surveyed natural boundary. The plan should also show the location of any proposed land alterations including demonstrating that the proposed stairs/steps is landward of the natural boundary and on the property.
5. Provide an updated geotechnical report from EBA indicating that they are aware of the guidelines of the Komasa Bluff DPA and have addressed them in the report and indicating whether their opinion from 2009 has changed.
6. Provide a full geotechnical report on the impact of the proposed stairs/steps. The report should be commissioned after the plan has been created so the construction plan can be assessed by EBA. EBA should specifically consider the stairs/steps in relation to the current condition of the property and should address the applicable guidelines of the Komasa Bluff DPA.
7. Do not address any other issues in the application which might detract from the application for a development permit. Do not use this development permit application process as a vehicle to air complaints about past litigation or personal opinions on the validity of the bylaw or its interpretation.

The above-noted information has not been provided by the applicant.

To the extent that the applicant indicates interest in other specific activities such as planting fruit and nut trees or running livestock within the Komasa Bluff DPA on the subject property, the court decisions are clear that any land alterations within the Komasa Bluff DPA on the property not authorized by DE-DP-03-99 including any land alterations within 50 m of the top edge of the bluff require a development permit or a development permit amendment. The applicant has been invited to provide details about the specific activity or to apply for a development permit or an amendment to DE-DP-03-99 including clause 1(a) for a specific activity so that staff can provide direction as to what additional information will be required. The applicant has not done so.

The applicant has responded indicating that he is not seeking a development permit or an amendment to DE-DP-03-99 to undertake any land alterations to his property.

ANALYSIS

Policy/Regulatory

A portion of the property is located within Development Permit #1: Komasa Bluff as designated within the Denman Official Community Plan Bylaw No. 185, for the protection of development from hazardous conditions pursuant to section 488(1)(b) (previously s. 919.1(1)(b)) of the *Local Government Act*.

Section 489 (previously s. 920) of the LGA provides that if an official community plan designates areas under s. 488(1)(b), the construction of a building or other structure must not be started and land within the area must not be altered, without the owner first obtaining a development permit.

Since the applicant has indicated that he is not seeking a development permit or an amendment to DE-DP-03-99 to undertake any land alterations to his property, there is no review of the Development Permit Guidelines as per the Denman Land Use Bylaw No. 186 or the other applicable Local Trust Committee bylaws.

Issues and Opportunities

Requested Amendment to Remove Clause 1(c) and Reference to Forest Cover Bylaw 7

Clause 1(c) of DE-DP-03-99 requires the planting of Christmas trees on the cleared portions of the property more than 50 metres from the bluff crest. That condition was imposed pursuant to the repealed Development Permit Area No. 7: Forest Cover. Staff considers that in the absence of the Forest Cover DPA, clause 1(c) of DE-DP-03-99 and the reference to Development Permit Area No. 7: Forest Cover should be removed. This requested amendment to the DE-DP-03-99 is supported.

Other Requested Amendments

Given that the applicant has indicated that he is not seeking a development permit or an amendment to DE-DP-03-99 to undertake any land alterations to his property, there is no application for a development permit or an amendment to DE-DP-03-99 to undertake land alterations to the subject property to consider. Staff note that even if there was such an application, it would be incomplete. Staff reviewed the application and provided the applicant with information in regard to submitting an application for a development permit or an amendment to DE-DP-03-99 including clause 1(a) to undertake the indicated land alterations to his property (see Attachments for letters to applicant and responses). Despite numerous correspondences between staff and the applicant, the requested information was not received.

The applicant seeks unnecessary amendments to DE-DP-03-99 and to raise matters that have been considered and dismissed by the courts including the validity of the Komasa Bluff DPA and DE-DP-03-99.

Section 489 of the *Local Government Act* (previously s. 920) requires a permit for any land alterations within the Komasa Bluff DPA. DE-DP-03-99 does not need to state this.

Furthermore, the development permits registered on title to the property refer to the owner and legal description of the property at the time they were registered. It is the development permits, and not the notices of the permit, that determine the obligations of the property owner, that run with the land, and that continue to be binding. Any authorized amendment would reference the current owner and legal description of the property.

Consultation

No consultation is required or recommended for this application.

Rationale for Recommendation

Staff considers that in the absence of the Forest Cover DPA, clause 1(c) of DE-DP-03-99 and the reference to Development Permit Area No. 7: Forest Cover should be removed. This aspect of the application is supported.

NEXT STEPS

Should the LTC approve the issuance of the development permit amendment DE-DP-2017.1, staff will issue the amendment.

Submitted By:	Marnie Eggen, MCIP RPP Island Planner	September 26, 2017
Concurrence:	Ann Kjerulf, MCIP RPP Regional Planning Manager	September 26, 2017

ATTACHMENTS

1. Proposed Development Permit, DE-DP-2017.1
2. Development Permit Application
3. Letter to applicant, dated May 27, 2016
4. Letter to applicant, dated March 7, 2017
5. Letter to applicant, dated July 12, 2017 and response
6. Letter to applicant, dated July 26, 2017 and response
7. Development Permit DE-DP-03-99
8. Court Order in *Denman Island Local Trust Committee v. Ellis* dated August 31, 2005



**DENMAN ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT NO. DE-DP-2017.1
(AMENDMENT NO. 2 TO DE-DP-03-99)**

TO: Francis D. Ellis

1. This Development Permit (the "Permit") applies to land described below and all buildings and structures and other developments therein:

PID: 025-563-254

Lot B, Section 23, Denman Island, Nanaimo District Plan VIP74719

2. This development permit varies and supplements Development Permit DE-DP-1999.3 as follows:

2.1 Remove the words "all of the subject property lies within Development Permit Area No. 7: Forest Cover, and" from the second paragraph and

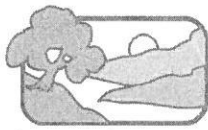
2.2 Remove Clause 1(c) as follows:

1. (c) Christmas trees are to be planted in accordance with B.C. Regulation 411/95 of the B.C. Assessment Act.

AUTHORIZING RESOLUTION PASSED BY THE DENMAN ISLAND LOCAL TRUST COMMITTEE THIS _____ DAY OF OCTOBER 2017.

Deputy Secretary, Islands Trust

Date Issued



Islands Trust

Preserving Island communities, culture and environment

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200 - 1627 Fort Street
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Fax: 250.405.5155
information@islandstrust.bc.ca
North Pender, South Pender, Galiano,
Mayne, Saturna, Executive

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1 - 500 Lower Ganges Road
Salt Spring Island, BC V8K 2N8
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Fax: 250.537.9116
ssiinfo@islandstrust.bc.ca
Salt Spring

Northern Office
700 North Road
Gabriola Island, BC V0R 1X3
Telephone: 250.247.2063
Fax: 250.247.7514
northinfo@islandstrust.bc.ca
Denman, Gabriola, Gambier,
Hornby, Lasqueti, Thetis

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

Development Permit Application Form

Office Use Only

Fee Paid: _____ Receipt No.: _____ File No.: _____

Please choose one of the following: ☐ Development Permit ☒ Development Permit Amendment

SECTION 1: DESCRIPTION OF PROPERTY

(AS INDICATED ON STATE OF TITLE CERTIFICATE)

Lot/Parcel Lot B Plan VIP 74719 Block Denman Island District Lot/Section Section 23 Naniamo
Range Denman Island Other Description title # EV2774 from ET 17894, ET 17895
Street Address or General Location 2626 Swan Road, Denman Island
Jurisdiction and Folio Number 771-07424-025 (From Property Assessment/Tax Notice)
Parcel Identifier (PID) 025-563-254 (From State of Title Certificate)

SECTION 2: OWNER INFORMATION

(ADD ADDITIONAL PAGE IF MORE THAN TWO OWNERS)

First Owner Information

Francis Dean Ellis
Name _____
3830 Salal Drive
Street Address _____
City Hornby Island Region BC
Postal/Zip Code V0R 1Z0
Telephone (250) 335-2669
Fax _____
E-mail _____

Second Owner Information

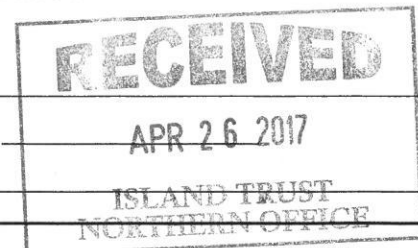
Name _____

Street Address _____
City _____ Region _____
Postal/Zip Code _____
Telephone _____
Fax _____
E-mail _____

SECTION 3: APPLICANT INFORMATION

(IF DIFFERENT FROM OWNER)

Name _____ Street Address _____
City _____ Region _____ Postal/Zip Code _____
Telephone _____ Fax _____ E-mail _____



Freedom of Information and Protection of Privacy

Personal information contained on this form is collected under the *Local Government Act* for the purpose of responding to this application, or for purposes directly connected with this application. Information on your application form may be available to the public upon request under freedom of information legislation. Please contact a Deputy Secretary at one of the above noted offices if you have any questions

The processing of your application will be delayed if it is incomplete. Please read the guide before you complete the application form. Keep the guide for your reference during the application process. Contact a staff person for assistance.

Mail or deliver the completed application form, fee, plans and supporting material to the Islands Trust Office. The fee is payable to the Islands Trust. Contact Islands Trust staff for the current fee prior to submitting your application as fees may change annually.

SECTION 4: Provide one full-scale, and three (3) reduced (11 x 17) copies of a detailed site plan and other drawings that must include information in or more of the following lists (If you are unsure which type of development permit area applies to your application, contact planning staff at one of the offices listed on the first page of the application form).

If you are applying for a "Form and Character" development permit, include the following on your site plan (includes development permit areas established to guide the form and character of multi-family, commercial, industrial or intensive residential developments).

- ☐ existing and proposed uses on parcel
- ☐ uses of existing and proposed buildings
- ☐ dimensions and/or floor areas (each floor) of all existing and any proposed buildings on the property
- ☐ height of existing and proposed buildings/additions
- ☐ setbacks for all existing and proposed buildings to property lines, natural boundary of sea, watercourses and cliffs
- ☐ setbacks of all existing and proposed septic tanks and field and wells on the property, from natural boundaries of the sea, wetlands and watercourses
- ☐ parking areas including numbered parking stalls, aisle widths, stall dimensions (where applicable)
- ☐ locations and dimensions of all legal easements, covenant areas, and utility corridors on the property
- ☐ location of all wetlands, drainage areas, ponds and topography on the property
- ☐ landscaping showing existing and proposed landscaping. Also, include an estimate of the cost of landscaping, provided by a Landscape Architect or qualified professional. This estimate will be used to determine the amount of any security required for the development. (Alternatively, the above can be included in the site plan).
- ☐ elevation plan
- ☐ proposed building materials, colour scheme and other architectural details
- ☐ existing and proposed signs, including locations, dimensions, proposed construction materials and colour scheme

If you are applying for a "Protection Area" development permit, provide the following on your site plan (includes development permit established for the protection of the natural environment and protection of development from hazardous conditions):

- ☒ existing and proposed uses on parcel
- ☐ height of existing and proposed building or building additions *NA*
- ☐ setbacks for all existing and proposed buildings to property lines, natural boundary of sea, watercourses and cliffs *NA 18.20*
- ☐ setbacks of all existing and proposed septic tanks and field and wells on the property, from natural boundaries of the sea, wetlands and watercourses and any well that are on or within 50 metres of the property
- ☒ locations and dimensions of all legal easements, covenant areas, and utility corridors on the property

SECTION 5: Describe the current use(s) of the land and building(s) on the property.

farming hay, barn for storage of hay and machinery, machinery shed/workshop

SECTION 6: Describe the proposed development.

amendment of Development Permit DE-DP-03-99

SECTION 7: If you are requesting a variance, provide reasons for varying bylaw requirement(s). On a site plan prepared by a B.C. Land Surveyor, show the existing bylaw requirement and your proposed variance with accurate dimensions.

SECTION 8: APPLICATION COMPLETION CHECKLIST

- ☒ I have completed all sections of this application form
- ☒ I have included detailed site plans and elevation drawings as required in Section 4 of this application form *PR 18-21*
- ☒ I have included recent State of Title Certificate (not more than 30 days old) *PR 14*
- ☒ I have included copies of all covenants registered against this title *PR 16 17*
- ☒ All owners listed on the title have signed the application
- ☒ I have included the correct fee (Contact Islands Trust staff for current fees)

IMPORTANT: Your application will not be considered complete unless it contains all of the information above.

A Note about Obtaining State of Title Certificate and Covenants: State of Title Certificate and covenants may be obtained from the Land Title Office or through your local government agent office for a fee.

SECTION 9: OWNER'S CONSENT AND AUTHORIZATION

(Signature of all registered owners is required. For additional owners, including Strata Corporations, attach a separate sheet)

In order to assist Islands Trust Planners in the review and evaluation of my application, by signing below, I authorize the Planners assigned to this application to enter onto the land at reasonable times, after making reasonable efforts to arrange to schedule a convenient time for such a visit, to inspect the land. I acknowledge a right, if a convenient time can be scheduled, to accompany the Planner on the site visit.

By signing below, I authorize the Applicant named in Section 3 of this application to represent this application:

First Consent and Authorization

Second Consent and Authorization



Consent and Authorization Signature

April 24 / 2017

Date

Consent and Authorization Signature

Date

Contaminated Sites Regulation

Please note that pursuant to Section 4(4) of the Contaminated Sites Regulation, B.C.Reg. 375/96, site profile is not required and will not be accepted by the Islands Trust. If you have any questions, please contact the Islands Trust office.

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Overview Reasons for Amendment

As a result of a JR and Appeal decision of my 2013 Development Permit application, the courts have directed me to make another Development Permit Application. Since I cannot afford a 6th round of geotechnical reports, my plans are now to sell the property or just harvest existing planted hay crop (in the areas already planted before the Groberman decision). Since I am not doing any land alterations that would activate the permit process under the Groberman Order. I only need DE-DP-03-99 amended.

- I shall abandon my previous concerns with the overhanging tree hazards to my farm as this is now the responsibility of the Trust. EBA geotechnical engineer identified the hazards presented and the Trust refused to allow action. *Some of these trees will fall and take substantial areas of the bluff with them* EBA April 24, 2009, 2626 Swan Road, Denman Island, BC, Removal of "Hazardous Trees"
- I shall also abandon my application for steps to the foreshore as I will use ropes or I shall exactly copy the steps of adjacent residences of Radcliffe, Critchley and Day as their steps have survived the complaint process in [REDACTED] and were not required to be removed.

The impediment to farming, mortgaging or selling my land is the Komas Bluff DE-DP-03-99. Therefore I am asking for a Development permit Amendment.

- DE-DP-03-99 restricts all the Ellis lands including 60 acres outside of the Komas Bluff DPA. 1 (a) prohibits development/farming in an area 50m from the bluff, 1 (c) requires Christmas Trees be planted on all the 73 acres and there is no provision in the permit to attain a permit. The permit land descriptions do not reconcile with the legal land description and Notice of Permit and cloud the title. The permit needs to be amended to become in compliance with the Bauman and Groberman Order. The permit needs to be amended to be in compliance with the OCP, ALR act and LGA. This permit binds any future buyers.
- Concerning incorrect filings. On March 7, 2017 Ms. Marzari stated *it is the development permits and not the Notice of Permits that determine the obligations of the property owner*. Recent discussions with Lands contradict this view. Under LGA 503 only land described in the notice is subject to the permit. Ms Marzari stated I may wish to make a development permit amendment.

Notice of permit on land title

503 (1) If a local government issues any of the following, it must file in the land title office a notice that the land described in the notice is subject to the permit: a development permit

(2) Land must be developed strictly in accordance with the permit or permits issued.

(3) A permit is binding on the local government as well as on the holder of the permit.

(4) If a notice is filed under subsection (1) or (3), the terms of the permit or any amendment to it are binding on all persons who acquire an interest in the land affected by the permit.

The Amendments are:

- a) 1(a) amend ***No land alteration of land is permitted within 50m of the bluff.***
- b) 1 (a) amend the permit to have ***development is allowed with a permit***
- c) 1(c) amend the requirement to plant Christmas Trees and remove any references to the Forest Cover Bylaw 7 re Justice Bauman and Justice Weatherill
- d) Amend/correct the permit description of the Komasa Bluff Development Permit DE-DP-03-99 so the restrictions only include lands within the Komasa Bluff DP area
- e) Define what lands that require a permit to farm. Define what farming operations are land alterations and require permits. The Groberman Order only requires a permit for uncleared areas within the 50m area
 - a. specific direction for harvesting of existing hay crops
 - b. specific direction for planting fruit and nut trees in the already cleared areas
 - c. define what is needed (if anything) to run livestock on the already cleared and planted areas.
- f) Amend the errors on the permit that are contrary to the Notice of Permit EP 76912 and State of Title Certificate
- g) Amend the errors in the permit description that does not legally describe the lands.
- h) Amend the permit to be in compliance with the OCP.
- i) Specify the 1980 Ministry of Environment documents used in the OCP justification and the reports used to determine DE-DP-03-99. (Leaky 50m area) so any future permit applications can determine the specific land conditions/ hazards that require to be addressed.
- j) Provide the landowner with any amendments to DE-DP-03-99 as required under s.928(3)

EXPLANATION OF AMENDMENTS

A. 1(a) amend No land alteration of land is permitted within 50m of the bluff.

- *1(a) No harvesting of trees and/or clearing or alteration of land is permitted within 50 metres of the top edge of the bluff situated on the eastern side of the subject property.”*
- Justice Groberman Order allowed land alterations within the 50m area with a permit.

“A permanent Injunction restraining the Defendant Ellis from cutting trees on, clearing, developing, excavating or otherwise altering those portions of the Lands that are within fifty meters of the top edge of the Komas Bluff or on the face of the Komas Bluff (the “Buffer”), or causing any of these activities to be carried out, on, or in the Buffer, without first obtaining a development permit authorizing such activities, or in accordance with a further order of this Court” Justice Groberman Order

B. 1 (a) amend the permit to state development is allowed with a permit

- As Staff Report states this permit would have to be *amended or replaced* to apply for a permit. DE-DP-03-99 presently does not allow for a permit application.

This application would require an amendment or replacement of that permit to the extent that it seeks land alterations within 50 metres of the crest of the bluff and on the face and toe of the bluff. Staff Report 2013

- continuing a prohibition of any alteration/farming within the Komas Bluff DPA would be contrary to the LGA and ALC act (besides there is no Geotechnical data to substantiate this restriction)

C. 1(c) amend the requirement to plant Christmas Trees and remove any references to Forest Cover Bylaw 7 which was overthrown by the 2000 Justice Bauman decision.

“Whereas all of the subject property lies within Development Permit Area No. 7 Forest Cover”

1(c) Christmas Trees are to be planted in accordance with B.C. Regulation 411/95 of the B.C. Assessment act.

Invalid Forest Cover

- The Justice Bauman decision removed forest cover bylaw 7, DE-DP-03-99 permit description still includes land outside of the Komas Bluff DPA and within the cancelled Forest Cover DPA.

- 27. Conditions 1(a) and (b) of the First Development Permit relate entirely to the requirements of the Komas Bluff Permit Area. Condition 1 (c) related to requirements in the now invalid Forest Cover Development Permit Area with respect to clearing for Agricultural purposes. Affidavit #3 of David Marlor para 5, Vol II
- Clause 1(c) of DE-DP-03-99 also required the planting of Christmas trees on the cleared portions of the property more than 50 metres from the bluff crest. That condition was imposed pursuant to the repealed Development Permit Area No. 7: Forest Cover, which was found to be invalid by the courts David Marlor affidavit

Christmas Tree Restriction

- The Trust has repeatedly stated the 1 (c) will not be enforced re: Justice Weatherill and Justice Bruce decisions. The Bylaw officer states the requirement is still in place but he will not enforce it. This statement/amendment requires a resolution by DILTC.

"As the Bylaw Enforcement Manager for the Islands Trust, I write to confirm the information provided by our legal counsel to the court on May 12, 2016. Specifically, the Islands Trust and the Denman Island Local Trust Committee will not be enforcing condition 1(c) of the development permit DE-DP-03-99, and specifically the requirement that the entire property be planted with Christmas trees in accordance with BC Regulations 411-95 of the BC Assessment Act." file DE-DB-2010.10

Mr Drews claim the condition will not be enforced is contrary to Trust Bylaws and the Community Charter

- Section 11 of the Islands Trust Act and section 122 (4) of the Community Charter applies to Executive Committee. To be valid all bylaws and proceedings of Executive Committee must be exercised by bylaw or resolution. CC Div 2 122(1) (4) **(4) An act or proceeding of a council is not valid unless it is authorized or adopted by bylaw or resolution at a council meeting***
- This bylaw officer statement is contrary to the Community Charter 122 (1) A council may only exercise its authority by resolution or bylaw.*

- Amend/correct the permit description of the Komas Bluff Development Permit DE-DP-03-99 so the restrictions only include lands within the Komas Bluff DP area.** DE-DP-03-99 is a function of the Komas Bluff DPA it can only regulate lands within the Komas Bluff DPA area. Presently the permit description defines approx 60 acres outside of the DPA .

- E. Define what lands that require a permit to farm as a result of the Groberman Order The Groberman Order only defined certain activities needing a permit.

"A permanent Injunction restraining the Defendant Ellis from cutting trees on, clearing, developing, excavating or otherwise altering those portions of the Lands that are within fifty meters of the top edge of the Komas Bluff or on the face of the Komas Bluff (the "Buffer"), or causing any of these activities to be carried out, on, or in the Buffer, without first obtaining a development permit authorizing such activities, or in accordance with a further order of this Court"

Define what farming activities are land alterations.

- a. Specific to harvesting of existing hay crops already planted in the areas recommended by the 2004 Madrone Report. Is harvesting hay considered a land alteration?
- b. Specific to planting fruit and nut trees in the already cleared areas. Is planting fruit and nut trees considered land alteration?
- c. Define what is needed (if anything) to run livestock on the already cleared and planted areas. Does DILTC consider running livestock land alteration?
- d. Define the areas that require a permit. DILTC planners give conflicting restrictions to the permit and courts

- David Marlor stated

The development permit already in force on your property allows farming activities within the development permit area up to a 50m setback from the top of the bluff. 2005 June 6 David Marlor to Dan Stoneman

- Courtenay Campbell states it is the 180m setback.

You are required to apply for a development permit for land alteration within Development Permit Area No. 1 as we have previously explained. This requirement can be found in the Development Permit Guidelines in the Denman Island Local Trust Committee Bylaw No. 186, the Land Use Bylaw. Courtenay Campbell to D Stoneman August 23, 2010

- Justice Groberman Order required a permit for land alteration within the 50 m area only on land not already cleared and planted. Cleared areas had been documented by F. Marzari in a letter of January 13, 2004 *There are few areas where the buffer of trees is more than 15meters and a substantial portions where there is no vegetation.* Planting of these areas was documented by the Madrone and EBA reports. Islands Trust map confirms these areas.

- F. Amend the errors on the land area descriptions in the permit, the Notice of Permit and State of Title Certificate concerning DE-DP-03-99. These errors cloud the title.

Notice of permit on land title

503 (1) If a local government issues any of the following, it must file in the land title office a notice that the land described in the notice is subject to the permit:

(a) a development permit;

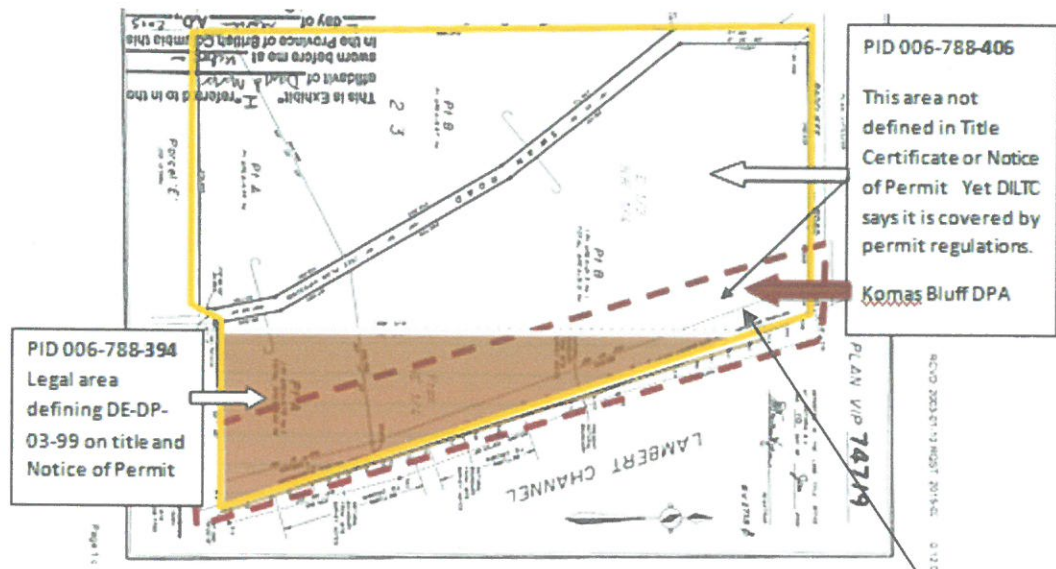
- a. The Notice of Permit only defines DE-DP-03-99 on approximately half of the land described in the permit.

Notice of Permit EP 076912

PID 006-788-394 The Fractional Northeast ¼ of Section 23, except part in Plan 8118

Permit DE-DP-03-99

This permit applies to the East ½ of North West ¼ of section 23, plus the fractional North East ¼ of Section 23, except part in Plan 8118



- b. Of the 2 Parent State of Title Certificates that make up the property. DE-DP-03-99 is only registered on 1. PID 006-788-394
- c. The Notice of Permit and Certificate of Title only define the Komas Bluff DE-DP-03-99 on a portion of the area covered by the bylaw, not including the northern portion.

- G. Amend the errors in the permit description to legally describe the lands and to only include areas within the Komas Bluff DPA. The permit is not the legal land description it omits except in VIP 53298 Plan 45148. The permit restriction presently regulate a road easement.

Permit DE-DP-03-99

This permit reads East ½ of North West ¼ of section 23, plus the fractional North East ¼ of Section 23, except part in Plan 8118. The full legal description of the lands Plan 45148 include **except in VIP 53298** (the road easement removed before DE-DP-03-99).

H. Bring the permit 1 (c) into compliance with the OCP/ALC act.

- a. **OCP Policy 2** *All farm uses defined in the ALC act for land in the ALR should be permitted*
- b. **Policy 8** *The Local Trust Committee should promote local food production as a significant step to reducing food transportation costs and greenhouse gas emissions.*

c. Directive Policies

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

- d. The OCP presently allows food to be grown on agricultural lands.

3.0 Mandate and Responsibilities

3.1 The Commission, pursuant to the Agricultural Land Commission Act, is an independent Provincial agency dedicated to protecting the scarce supply of agricultural land that is important to the current and future needs of British Columbia. In pursuance of this objective it encourages the establishment and maintenance of farms to provide a basis for a sustainable economy and a secure source of food, becomes involved in land use planning that supports this objective and provides advisory services to governments, the public and the farming community

- e. The OCP requires permits to be in compliance with the ALC act. specifically *Section 2(2) of the **Agricultural Land Reserve Use, Subdivision And Procedure Regulation**, the ALC act was changed in 2015*

(b) in subsection (2) by striking out “and may be regulated but must not be prohibited by any local government bylaw except a bylaw under section 917 of the Local Government Act or...

2.(1.1) The activities designated under this section as farm uses for the purpose of the Act must not be prohibited.

DE-DP-03-99 as unamended is contrary to Local Government Act

- f. **LGA 920 a development permit may include only conditions in accordance with stated OCP guidelines** There are no guidelines that prohibit land alteration or guidelines that require planting of Christmas Trees.

Other OCP problems

- a. The OCP references the Ministry of Mines and resources FYLES study that does not define the area described in the permit area as hazardous.
- b. The OCP references the land being in the ALC, the ALC map determines the land being stable Bowser soils not erosive soils as are reported just to the north of the property.
- c. Please define the 2015 ALC removal of “regulate” in relation to the development permit regulations..
- I. **Specify the 1980 Ministry of Environment documents used in the OCP justification and the reports used to determine the Leaky 50m area so any future permit applications on this land can specifically determine the land conditions/ hazards that require to be addressed.**
- The Leaky Staff Report determined no geotechnical report (guideline 3) was required because of the existence of reports that defined a 50m buffer area. These reports that allowed DILTC to ignore guideline requirements may have never existed see Leaky Staff Report.

In Doman Industries Ltd. v. North Cowichan (District) 1980 BCSC 297

[34] An owner of land is entitles to know what the qualifications he must comply with in order to obtain a development permit.....They cannot reside in the various likes and dislikes of individual council members...

In Westfair Foods Ltd. V. Saanich (District of) 1997 BCCA 3686

It is incumbent upon a municipality to ensure that its bylaws contain all the information necessary for a citizen to engage in legal debate concerning its meaning.

In Harrison v. Richmond (City), BCSC 1046

This objective is frustrated if persons interested in a proposed bylaw do not have access to materials which are relied upon by council in reaching its decision.

- J. **Provide the landowner with any amendments to DE-DP-03-99 as required under s.928(3)**
- Areas defined in the permit have been amended on the adjacent property.
- 928(3) of the Municipal Act provides that if a permit is amended or cancelled the local government must file a notice of amendment or cancellation.*

Quotes from Justice Groberman, Justice Weatherill and Justice Bruce concerning DE-DP-03-99

Justice Groberman

[33] Before turning to the main issue before me – whether or not the portions of Bylaw No. 60 that establish the Komas Bluff DPA are valid and enforceable – I will deal with the plaintiff's argument that quite apart from the bylaw, the defendant can be found liable for breach of the conditions contained in the 2000 development permit.(DE-DP-03-99) That permit allowed portions of the lots to be cleared, but prohibited all clearing and harvesting within 50 metres of the bluff.

[34] The provisions of the development permit limiting alteration of the land are authorized, if at all, by s. 920(7.1)(a) of the Local Government Act. ... Accordingly, I have concluded that the restrictions set out in the existing development permit do not advance the plaintiff's case. Justice Groberman DILTC v. Ellis et al. 2005 BCSC 1238

Justice Bruce

16, THE COURTS: It seems to me that it would be obsolete now for Mr. Ellis to be required to plant Christmas Trees on his property Pg 44 transcript

24, THE COURTS: It's the language of this particular development permit because it's reflected in a .. because it's a permit to cut down trees and plant Christmas trees. So perhaps if this development permit registration did not exist, then Islands Trust would have to start from square one with Mr Ellis, and look at his property. Look at what he wants to do to be consistent with the already existing and valid permit which has protective measures for the block.

37 Mr Howieson I agree with that Pg 45 transcript

Justice Weatherill

THE COURT 9 Can you state today, on behalf of your client, that there isthat no Christmas Tree restriction will be enforced or indeed , is enforceable against the land.

14 Ms. Marzari: Yes page 69 on transcript

31: THE COURT: You have been complaining all afternoon that because you want to farm your land and you can't do it because you're limited to having to plant Christmas Trees.

35: MR ELLIS: I've just applied for a permit.

36 THE COURT: You have just heard there is no such limitation and, to the extent there is, it is not going to be enforced.

Pg 70

6 THE COURT: And given the....given the recent change in the ALR act it is likely not enforceable anyway.



Preserving island communities, culture and environment

Victoria Office
200 - 1627 Fort Street
Victoria, BC V8R 1H8
Telephone: 250.405.5151
Fax: 250.405.5155
info@islandstrust.bc.ca
North Pender, South Pender, Galiano,
Mayne, Saturna, Executive

www.islandstrust.bc.ca

Salt Spring Office
1 - 500 Lower Ganges Road
Salt Spring Island, BC V8K 2N8
Telephone: 250.537.9144
Fax: 250.537.9116
ssinfo@islandstrust.bc.ca
Salt Spring

Northern Office
700 North Road
Gabriola Island, BC V0R 1X3
Telephone: 250.247.2063
Fax: 250.247.7514
northinfo@islandstrust.bc.ca
Denman, Gabriola, Gambier,
Hornby, Lasqueti, Thetis

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

Development Permit Application Form

Office Use Only

Fee Paid: _____ Receipt No.: _____ File No.: _____

Please choose one of the following: ☐ Development Permit ☒ Development Permit Amendment

SECTION 1: DESCRIPTION OF PROPERTY (AS INDICATED ON STATE OF TITLE CERTIFICATE)

Lot/Parcel Lot B Plan VIP 74719 Block Denman Island District Lot/Section Section 23 Naniamo
Range Denman Island Other Description title # EV2774 from ET 17894, ET 17895
Street Address or General Location 2626 Swan Road, Denman Island
Jurisdiction and Folio Number 771-07424-025 (From Property Assessment/Tax Notice)
Parcel Identifier (PID) 025-563-254 (From State of Title Certificate)

SECTION 2: OWNER INFORMATION (ADD ADDITIONAL PAGE IF MORE THAN TWO OWNERS)

First Owner Information

Francis Dean Ellis
Name
3830 Salal Drive
Street Address
City Hornby Island Region BC
Postal/Zip Code V0R 1Z0
Telephone (250) 335-2669
Fax
E-mail dean@deanellis.ca

Second Owner Information

Name
Street Address
City _____ Region _____
Postal/Zip Code _____
Telephone _____
Fax _____
E-mail _____

SECTION 3: APPLICANT INFORMATION (IF DIFFERENT FROM OWNER)

Name _____ Street Address _____
City _____ Region _____ Postal/Zip Code _____
Telephone _____ Fax _____ E-mail _____

Freedom of Information and Protection of Privacy

Personal information contained on this form is collected under the *Local Government Act* for the purpose of responding to this application, or for purposes directly connected with this application. Information on your application form may be available to the public upon request under freedom of information legislation. Please contact a Deputy Secretary at one of the above noted offices if you have any questions

The processing of your application will be delayed if it is incomplete. Please read the guide before you complete the application form. Keep the guide for your reference during the application process. Contact a staff person for assistance.

Mail or deliver the completed application form, fee, plans and supporting material to the Islands Trust Office. The fee is payable to the Islands Trust. Contact Islands Trust staff for the current fee prior to submitting your application as fees may change annually.

SECTION 4: Provide one full-scale, and three (3) reduced (11 x 17) copies of a detailed site plan and other drawings that must include information in or more of the following lists (If you are unsure which type of development permit area applies to your application, contact planning staff at one of the offices listed on the first page of the application form).

If you are applying for a "Form and Character" development permit, include the following on your site plan (includes development permit areas established to guide the form and character or multi-family, commercial, industrial or intensive residential developments).

- ☐ existing and proposed uses on parcel
- ☐ uses of existing and proposed buildings
- ☐ dimensions and/or floor areas (each floor) of all existing and any proposed buildings on the property
- ☐ height of existing and proposed buildings/additions
- ☐ setbacks for all existing and proposed buildings to property lines, natural boundary of sea, watercourses and cliffs
- ☐ setbacks of all existing and proposed septic tanks and field and wells on the property, from natural boundaries of the sea, wetlands and watercourses
- ☐ parking areas including numbered parking stalls, aisle widths, stall dimensions (where applicable)
- ☐ locations and dimensions of all legal easements, covenant areas, and utility corridors on the property
- ☐ location of all wetlands, drainage areas, ponds and topography on the property
- ☐ landscaping showing existing and proposed landscaping. Also, include an estimate of the cost of landscaping, provided by a Landscape Architect or qualified professional. This estimate will be used to determine the amount of any security required for the development. (Alternatively, the above can be included in the site plan).
- ☐ elevation plan
- ☐ proposed building materials, colour scheme and other architectural details
- ☐ existing and proposed signs, including locations, dimensions, proposed construction materials and colour scheme

If you are applying for a "Protection Area" development permit, provide the following on your site plan (includes development permit established for the protection of the natural environment and protection of development from hazardous conditions):

- ☒ existing and proposed uses on parcel
- ☐ height of existing and proposed building or building additions NA
- ☐ setbacks for all existing and proposed buildings to property lines, natural boundary of sea, watercourses and cliffs NA
- ☐ setbacks of all existing and proposed septic tanks and field and wells on the property, from natural boundaries of the sea, wetlands and watercourses and any well that are on or within 50 metres of the property
- ☒ locations and dimensions of all legal easements, covenant areas, and utility corridors on the property

SECTION 5: Describe the current use(s) of the land and building(s) on the property.

farming hay, barn for storage of hay and machinery, machinery shed/workshop

SECTION 6: Describe the proposed development.

amendment of Development Permit DE-DP-03-99

SECTION 7: If
Land Surveyor, s

SECTION 8: APPLICATION COMPLETION CHECKLIST

- ☒ I have completed all sections of this application form
- ☒ I have included detailed site plans and elevation drawings as required in Section 4 of this application form
- ☒ I have included recent State of Title Certificate (not more than 30 days old)
- ☒ I have included copies of all covenants registered against this title
- ☒ All owners listed on the title have signed the application
- ☒ I have included the correct fee (Contact Islands Trust staff for current fees)

IMPORTANT: Your application will not be considered complete unless it contains all of the information above.

A Note about Obtaining State of Title Certificate and Covenants: State of Title Certificate and covenants may be obtained from the Land Title Office or through your local government agent office for a fee.

SECTION 9: OWNER'S CONSENT AND AUTHORIZATION

(Signature of all registered owners is required. For additional owners, including Strata Corporations, attach a separate sheet)

In order to assist Islands Trust Planners in the review and evaluation of my application, by signing below, I authorize the Planners assigned to this application to enter onto the land at reasonable times, after making reasonable efforts to arrange to schedule a convenient time for such a visit, to inspect the land. I acknowledge a right, if a convenient time can be scheduled, to accompany the Planner on the site visit.

By signing below, I authorize the Applicant named in Section 3 of this application to represent this application:

[Redacted Signature]

April 24 / 2017
Date

Second Consent and Authorization

Consent and Authorization Signature

Date

Contaminated Sites Regulation

Please note that pursuant to Section 4(4) of the Contaminated Sites Regulation, B.C. Reg. 375/96, site profile is not required and will not be accepted by the Islands Trust. If you have any questions, please contact the Islands Trust office.

TITLE SEARCH PRINT

File Reference: 2-618

2017-04-11, 14:17:48

Requestor: Jenn Benson

****CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN****

Title Issued Under	SECTION 98 LAND TITLE ACT
Land Title District	VICTORIA
Land Title Office	VICTORIA
Title Number	EV2774
From Title Number	ET17894
	ET17895
Application Received	2003-01-10
Application Entered	2003-01-14
Registered Owner in Fee Simple	
Registered Owner/Mailing Address:	FRANCIS DEAN ELLIS, BUSINESSPERSON 75 CENTRAL ROAD, HORNBY ISLAND, BC V0R 1Z0
Taxation Authority	COURTENAY ASSESSMENT AREA
Description of Land	
Parcel Identifier:	025-563-254
Legal Description:	LOT B SECTION 23 DENMAN ISLAND NANAIMO DISTRICT PLAN VIP74719

Legal Notations

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

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

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

Title Number: EV2774

TITLE SEARCH PRINT

Page 1 of 2

TITLE SEARCH PRINT

File Reference: 2-618

2017-04-11, 14:17:48

Requestor: Jenn Benson

Charges, Liens and Interests

Nature: *NA* UNDERSURFACE RIGHTS
Registration Number: M76301
Registered Owner: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA
Remarks: A.F.B. 3B.106.D32048;
INTER ALIA SECTION 172(3)

Nature: *NA* UNDERSURFACE RIGHTS
Registration Number: FB337930
Registration Date and Time: 2010-03-25 12:50
Remarks: PURSUANT TO MINERAL LAND TAX ACT, MINERALS HEREIN,
FORFEITED AND VESTED IN THE CROWN

Nature: JUDGMENT
Registration Number: CA4939483
Registration Date and Time: 2016-01-20 13:39
Registered Owner: DENMAN ISLAND LOCAL TRUST COMMITTEE
Remarks: INTER ALIA

Nature: JUDGMENT
Registration Number: CA4972050
Registration Date and Time: 2016-02-04 14:47
Registered Owner: DENMAN ISLAND LOCAL TRUST COMMITTEE
Remarks: INTER ALIA

Nature: JUDGMENT
Registration Number: CA5697704
Registration Date and Time: 2016-12-06 15:44
Registered Owner: DENMAN ISLAND LOCAL TRUST COMMITTEE
Remarks: INTER ALIA

Nature: JUDGMENT
Registration Number: CA5836588
Registration Date and Time: 2017-02-24 09:50
Registered Owner: DENMAN ISLAND LOCAL TRUST COMMITTEE
Remarks: INTER ALIA

Duplicate Indefeasible Title NONE OUTSTANDING

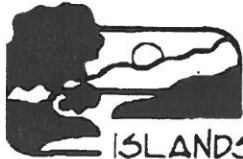
Transfers NONE

Pending Applications NONE

Title Number: EV2774

TITLE SEARCH PRINT

Page 2 of 2



ISLANDS TRUST

00 SEP 14 12 02

BP016912

RECEIVED VICTORIA
LAND TITLE OFFICE

200 - 1827 Fort Street, Victoria, B.C. V8R 1H8
 Telephone: (250) 405-5151 Facsimile: (250) 405-5155
 Internet: <http://www.islandstrust.bc.ca>
 For toll free access, request a transfer via Enquiry BC:
 In Vancouver 660-2421; elsewhere in B.C. 1-800-663-7867

File: DE-DP-03-99

MUNICIPAL ACT
 (Part 26)

NOTICE OF PERMIT

TO: Registrar of Title
 Land Title Office
 Ministry of Attorney-General
 850 Burrard Street
 Victoria, B.C.
 V8V-1X4

01 00/09/14 12:02:37 01 VI 263014
 DOC FILE 920.00

TAKE NOTICE that the land described below is subject to a Permit issued by
 Denman Island Local Trust Committee, Islands Trust.

PARTICULARS OF PERMIT**Permit Description**

- (a) Type of Permit Development Permit
- (b) Statutory Authority Section Section 920 of the Municipal Act

Legal Description of Land Affected:

PARCEL IDENTIFIER: 006-786-394 THE FRACTIONAL NORTH
 EAST 1/4 OF SECTION 23, DENMAN ISLAND, NANAIMO
 DISTRICT, EXCEPT PART IN PLAN 8118

Issue Date: January 11 2000

Dated: Sept. 13, 2000 ISLANDS TRUST

by Kathy Jan
 Deputy Secretary

Document 3

EN DENMAN HORNBY GABRIOLA Galiano GAMBER LASQUETI MAYNE N. PENDER SALT SPRING SATURNA S. PENDER THE IS

SEP. 2. 2004 3:30PM

LIDSTONE YOUNG ANDERSON

NO. 0198 P. 2

DENMAN ISLAND LOCAL TRUST COMMITTEE

DEVELOPMENT PERMIT DE-DP-03-99

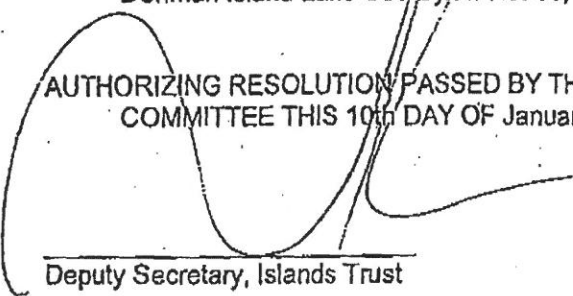
To: A. W. Leakey Logging Ltd., (Inc. No. 45,916)

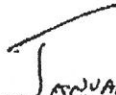
This permit applies to the East ½ of the North West ¼ of Section 23, plus the fractional North East ¼ of Section 23, Denman Island, Nanaimo District, except part in Plan 8118.

Whereas all of the subject property lies within Development Permit Area No. 7: Forest Cover, and part of the subject property lies within Development Permit Area No. 1: Komas Bluff, Denman Island Land Use Bylaw No. 65, 1992 is varied and supplemented as follows:

1. This Development Permit is to allow for the harvesting of trees and/or clearing of land, and the farming of Christmas trees on the subject property, subject to the following conditions:
 -  (a) No harvesting of trees and/or clearing or alteration of land is permitted within 50 metres of the top edge of the bluff situated on the eastern side of the subject property.
 - (b) Harvesting of trees and/or clearing or alteration of land lying 50 metres or more from the top edge of the bluff described in item 1., above, is permitted only if the 50-metre setback line mentioned above has first been located and clearly identified on site by the applicant, to the satisfaction of the Denman Island Local Trust Committee.
 - (c) Christmas trees are to be planted in accordance with B.C. Regulation 411/95 of the B.C. Assessment Act.
2. This permit does not relieve the applicant from complying with the provisions of Denman Island Land Use Bylaw No. 65, 1992 unless varied by this permit.

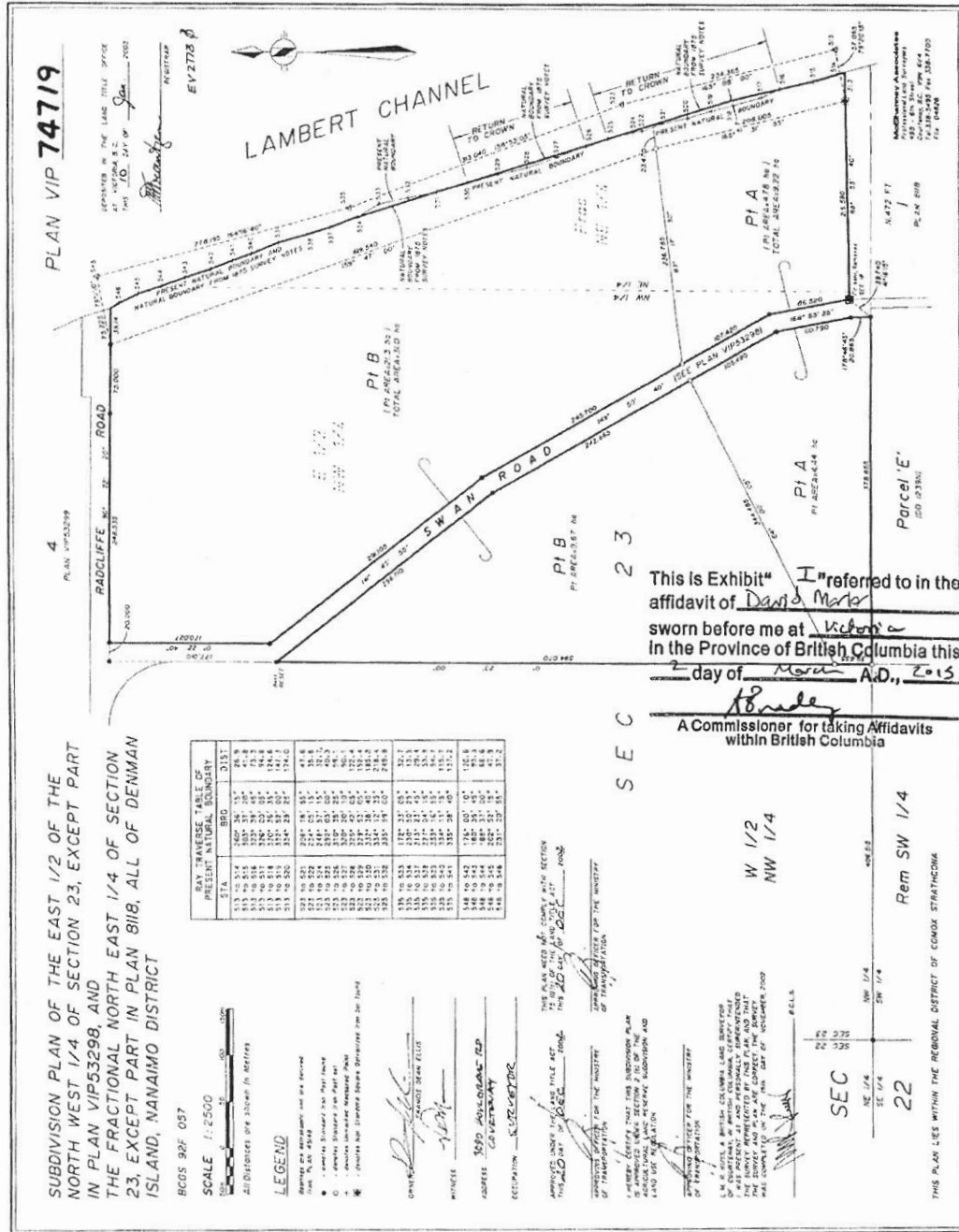
AUTHORIZING RESOLUTION PASSED BY THE DENMAN ISLAND LOCAL TRUST COMMITTEE THIS 10th DAY OF January, 2000.


Deputy Secretary, Islands Trust


JANUARY 11, 2000
Date Issued

IF THE DEVELOPMENT HEREIN IS NOT COMMENCED BY THE 10th DAY OF January 2002, THIS PERMIT AUTOMATICALLY LAPSES.

F:\DATA\COMMON\TO DENMAN\APPLICATIONS\DE-DP-03-99\PER(2).doc





Property ID: 025-563-254

Description

Address: 2626 SWAN RD
Juro: 77107424025
Zoning: Agriculture
Description: LOT B SECTION 23 DENMAN ISLAND
NANAIMO DISTRICT PLAN VIP74719

Details

Property Id
025-563-254

Description
LOT B SECTION 23 DENMAN ISLAND
NANAIMO DISTRICT PLAN VIP74719

Local Area
Islands Trust

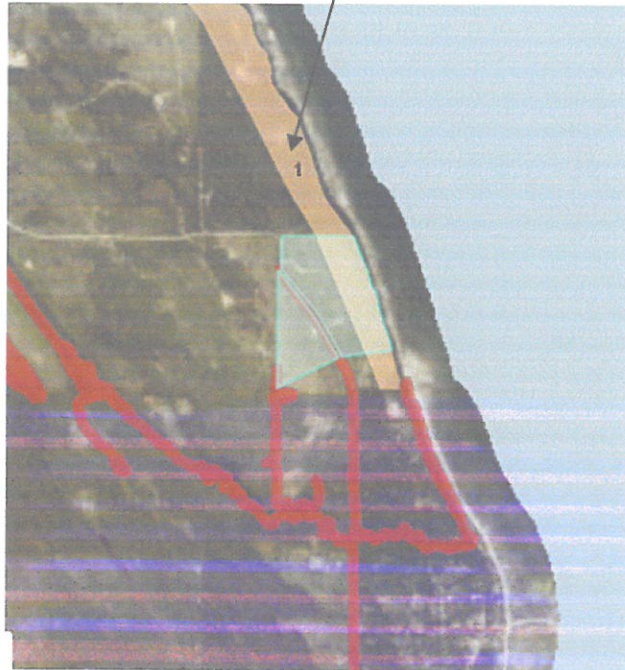
Folio Id
77107424025

Lot
B

Land District
NANAIMO

From Island Trust iMap

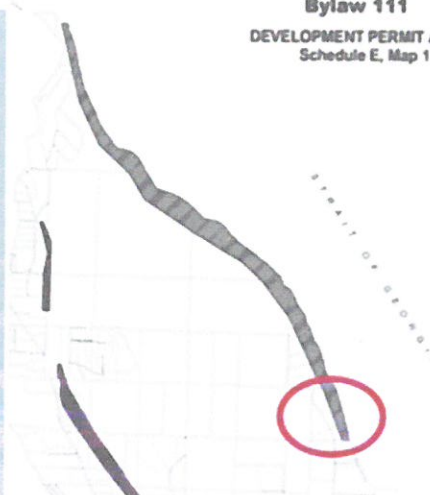
Komas Bluff DPA

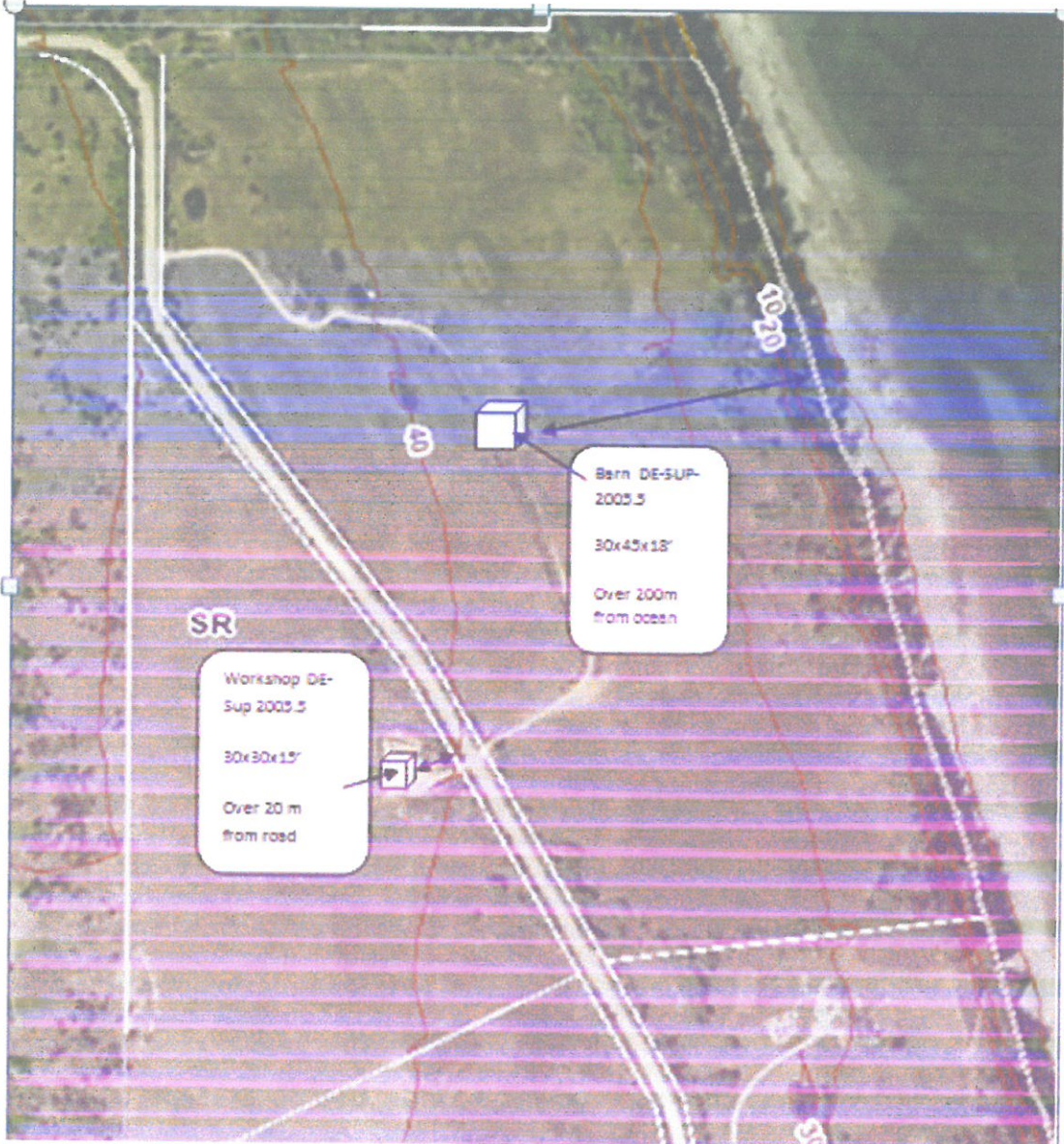


Denman Island Official Community Plan

Bylaw 111

DEVELOPMENT PERMIT AREAS
Schedule E, Map 1





NO. L042564
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

DENMAN ISLAND LOCAL TRUST COMMITTEE

PLAINTIFF

AND:

FRANCIS DEAN ELLIS, DANIEL JOHN STONEMAN
& DEBRA MONICA STONEMAN

DEFENDANTS

ORDER

BEFORE)
) THE HONOURABLE MR. JUSTICE) WEDNESDAY, THE 31ST
) GROBERMAN) DAY OF AUGUST 2005

THE APPLICATION of the Plaintiff, Denman Island Local Trust Committee coming on for hearing at Vancouver, British Columbia, on October 20, 2005 and on hearing Francesca Marzari, counsel for the Plaintiff, Brent Lokash, counsel for the Defendant, and Daniel John Stoneman, representing himself and Debra Monica Stoneman:

THIS COURT DECLARES THAT:

1. The Defendant Ellis unlawfully contravened section 920(1)(d) of the *Local Government Act* by altering lands legally described as Lot A Section 23 Denman Island Nanaimo District Plan VIP74719 ("Lot A") and Lot B Section 23 Denman Island Nanaimo District Plan VIP74719 ("Lot B") (together the "Lands") within Development Permit Area No. 1: Komah Bluff without a development permit authorizing such alteration; and

THIS COURT ORDERS:

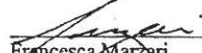
2. A permanent injunction restraining the Defendant Ellis from cutting trees on, clearing, developing, excavating or otherwise altering those portions of the Lands that are within fifty metres of the top edge of the Komias Bluff or on the face of the Komias Bluff (the "Buffer"), or causing any of those activities to be carried out, on, or in the Buffer, without first obtaining a development permit authorizing such activities, or in accordance with a further order of this Court;

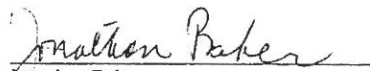
3. A mandatory injunction requiring the Defendant Ellis to undertake rehabilitative measures on the Lands to restore the Komah Bluffs on the Lands to a level of stability sufficient to protect existing and future development on and around the Lands from accelerated slope failure, erosion or other hazardous conditions related to the Defendant Ellis' breach of s. 920(1)(d) of the *Local Government Act*, such measures to be specified by further order of this Court, either upon application of the Parties, or as consented to by the Parties;
4. The Defendants Daniel and Debra Stoneman shall allow the Defendant Ellis access to Lot A in order to investigate and undertake rehabilitative measures on Lot A, pursuant to paragraph 3; and
5. The Parties may make further application to the court with respect to the terms of the mandatory injunction and the issue of costs.

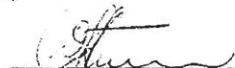
BY THE COURT

REGISTERAR

Approved as to form:


 Francesca Marzari
 Counsel for Denman Island Local Trust Committee


 Jonathan Baker
 Counsel for Francis Dean Ellis

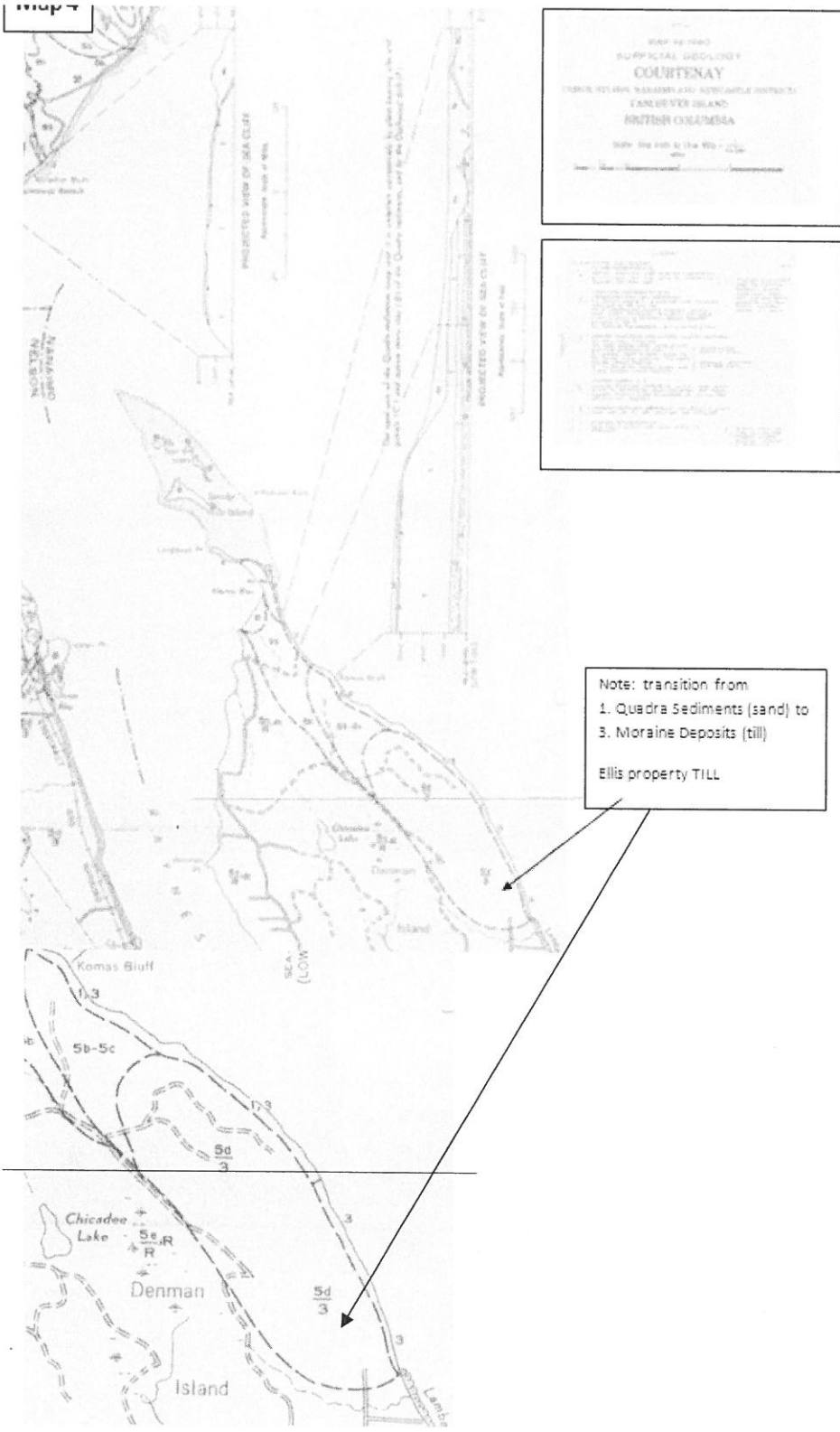

 Daniel Stoneman
 On his own behalf and for Debra Stoneman

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 VANCOUVER REGISTRY
 VOL 543 Z. FOL 63

Affidavit of David Marlor re terms of remediation Order

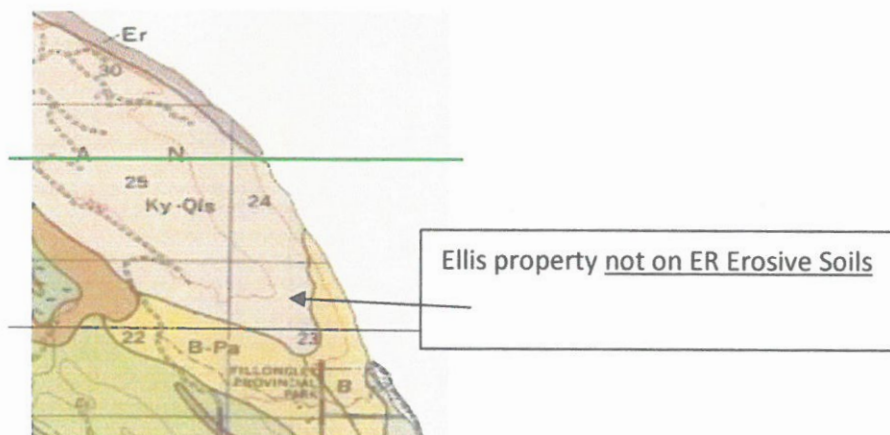
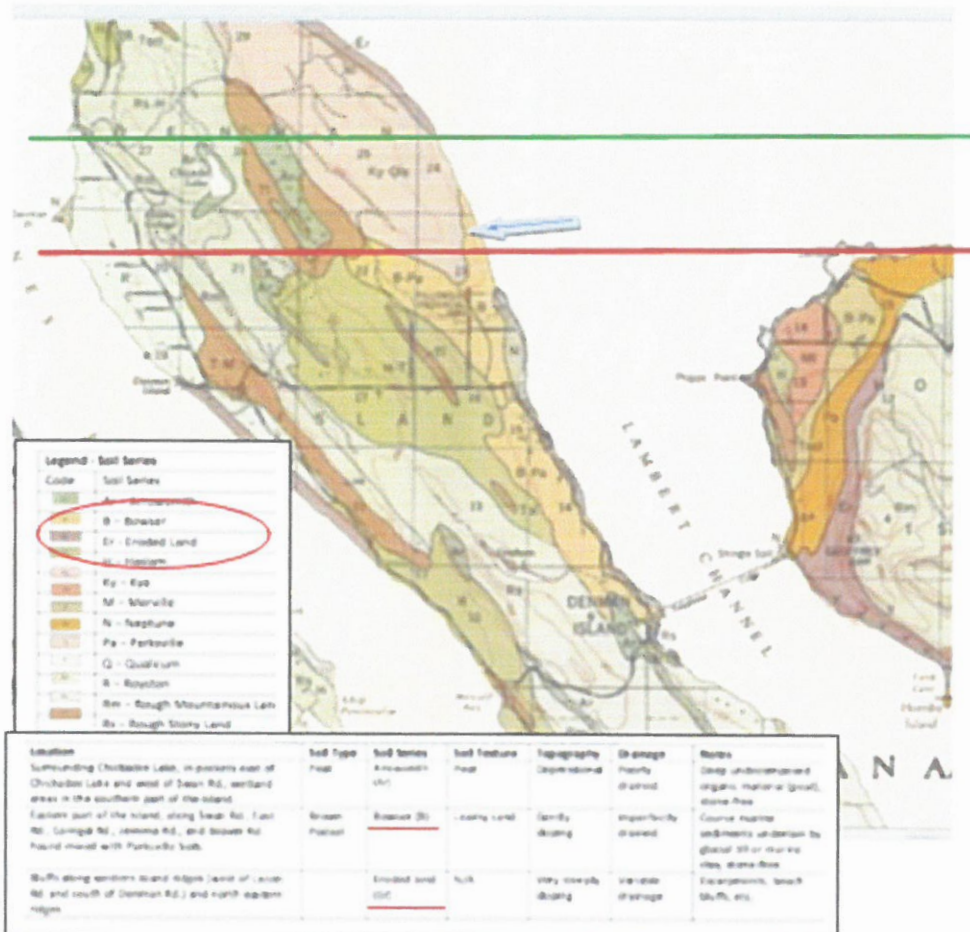
"After judgment was rendered in August 31, 2005, the Local Trust Committee considered that, if possible, and as contemplated in the Judgment, it would prefer to settle the terms of the remediation order without the expense of further litigation. The Local Trust Committee was advised that traditional geotechnical slope stabilization measures could be undertaken for Lot A, but they would likely be invasive and very costly due to the extensive nature of the slumps on that property. In addition, following the preparation of the March 2004 Thurber Report, the highways drainage ditches were blocked by the Ministry of Transportation and Highways to prevent water on Swan Road from entering the drainage ditches Mr. Ellis had dug and discharging over the Bluff on Lots A and B. As a result, the Local Trust Committee considered that focussing remediation works on the other major excavation on Lot B was reasonable. The Consent Order with respect to remediation reflects this compromise position"

map 7



Agricultural Land Commission map Day et al 1959, Denman Farm Plan

This is the soils mapping determining ALR farming inclusions. Soil types ER erosive soils in area of Holden DP, on Ellis lands it is Bowser soils. The green line is the limit of eroded land (Quadra Sands). The red line is southern boundary of Schedule E Komax Bluff DP area. The blue arrow is the Ellis lands





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May 27, 2016

File: DE-BE-2010.10

Dean Ellis
3830 Salal Drive
Hornby Island BC V0R 1Z0

Dear Dean Ellis:

**Re: 2626 Swan Road, Denman Island
Lot B Section 23 Denman Island Nanaimo District Plan VIP74719
PID 025-563-254 (the Property)**

As the Bylaw Enforcement Manager for the Islands Trust, I write to confirm the information provided by our legal counsel to the court on May 12, 2016. Specifically, the Islands Trust and the Denman Island Local Trust Committee will not be enforcing condition 1(c) of development permit DE-DP-03-99, and specifically the requirement that the entire property be planted with Christmas trees in accordance with BC Regulation 411-95 of the *BC Assessment Act*.

In this regard, we note that the Denman Island Local Trust Committee did not rely on or seek to enforce this condition in 2003 when it brought proceedings against you for breach of the *Local Government Act*, nor has the Local Trust Committee ever resolved to bring additional proceedings to enforce this condition.

Sincerely,

Miles Drew
Bylaw Enforcement Manager
mdrew@islandstrust.bc.ca

cc: Francesca Marzari, counsel for the Denman Island Local Trust Committee
Ann Kjerulf, Regional Planning Manager, Islands Trust

REPLY TO: VANCOUVER OFFICE

VIA EMAIL: deanonrain@gmail.com

March 7, 2017

Dean Ellis
3830 Salal Drive
Hornby Island, BC V0R 1Z0

Dear Mr. Ellis:

**Re: Francis Dean Ellis v. Denman Island Local Trust Committee,
SCC File No. 37457
Our File No. 00002-0773**

We have been forwarded your letter to the Denman Island Local Trust Committee dated March 3, 2017 regarding the 2000 and 2002 development permits issued with respect to your property on Denman Island.

It would appear that the purpose of this letter is to challenge the validity of both DE-DP-03-99 and DE-DP-2002. Your specific challenges to these permits have already been considered and dismissed by the BC Supreme Court in 2015. That dismissal was upheld by the BC Court of Appeal in November, 2016. The validity of those permits continues to be the subject of your leave application to the Supreme Court of Canada.

The Local Trust Committee and its staff will therefore not be responding to your inquiries with respect to these permits. In any event, it is the development permits, and not the notices of permit, that determine the obligations of the property owner, run with the land, and that continue to be binding.

With respect to the requirement to plant Christmas trees under clause 1(c) of DE-DP-03-99 on Lot B, as you are aware, the Local Trust Committee has not enforced that requirement, and will not be enforcing. Nevertheless, should you wish to formally remove clause 1(c) of DE-DP-03-99, you may make an application for a development permit amendment to do so.

Yours sincerely,

YOUNG ANDERSON


Francesca Marzari
marzari@younganderson.ca
FM/jb

WWW.YOUNGANDERSON.CA



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July 12, 2017

File Number: DE-DP-03-99

Francis Dean Ellis
3830 Salal Drive
Hornby Island, BC
V0R 1Z0

Dear Mr. Ellis,

We have conducted a preliminary review of your application for an amendment to Development Permit DE-DP-03-99 that applies to your property located at 2626 Swan Road, Denman Island.

It is not clear from your application whether you are seeking a development permit or a development permit amendment to undertake alterations within the Komasa Bluff Development Permit Area.

To the extent that you simply wish to amend DE-DP-03-99 to remove clause 1(c) and the reference to Development Permit Area No. 7: Forest Cover as it applies to your property, we are prepared to submit this part of your application for consideration by the Local Trust Committee unless we hear otherwise from you by July 28, 2017.

To the extent that you indicate in your application you wish to farm hay or construct steps within 50 m of the top edge of the Komasa Bluff or on the face of the Komasa Bluff, as you've been advised on numerous occasions, a development permit or a development permit amendment is required authorizing such activities pursuant to the Order of Mr. Justice Groberman and s. 489 of the *Local Government Act*. If you wish to proceed with your application for a development permit or a development permit amendment for such purposes, we will require the following additional information for your application to be considered a "complete" application ready for consideration by the Local Trust Committee in accordance with the Local Trust Committee bylaws and the Reasons for Judgment of Madam Justice Young dated September 29, 2015 (in particular paragraph 132):

- Provide a written outline which clearly describes the nature of each proposed activity.
- Provide a detailed site plan prepared by a B.C. land surveyor showing the location and dimension of existing and proposed buildings and structures including any proposed stairway/steps and their measured or proposed setback from lot lines, crest of the bluff and surveyed natural boundary. The plan should also show the location of any proposed land alterations including demonstrating that the proposed stairway/steps is landward of the natural boundary and on the property.

July 12, 2017

Page 2

- Provide proof of the remediation to the slope.
- Provide an updated geotechnical report from EBA Engineering Consultants regarding the use of the property for hay farming indicating: 1) that they are aware of the guidelines of the Komasa Bluff DPA and have addressed them in the report, 2) whether their opinion from March 18, 2009 has changed, and 3) whether the planting suggested in the Madrone Environmental Services October 2003 Report has been carried out or maintained as recommended in EBA's March 2009 report.
- Provide a full geotechnical report regarding the impact of the proposed stairway/steps. The report should be commissioned after the site plan has been prepared by a B.C. land surveyor so the location and effect of the proposed stairway/steps can be assessed by the geotechnical engineer. The report should specifically consider the stairway/steps in relation to the current condition of the property and address the applicable guidelines of the Komasa Bluff DPA.

Should you wish to undertake any other specific land alterations within the Komasa Bluff DPA, please advise so that we can provide you direction as to what additional information will be required for your application to be considered by the Local Trust Committee.

In your application you have brought up matters that have been considered and dismissed by the courts on a number of occasions including the validity of the Komasa Bluff DPA and DE-DP-03-99. We will therefore not be responding to requested amendments to the DE-DP-03-99 that involve these matters. We would note, however, that as previously advised, it is the development permit, and not the notice of a permit on title, that determines the obligations of the property owner. Furthermore, any authorized amendment would reference the current legal description of your property.

Sincerely,



Marnie Eggen, MCIP RPP
Island Planner
Local Planning Services

pc: Ann Kjerulf, Northern Regional Planning Manager
Miles Drew, Bylaw Enforcement Manager

Dean Ellis 3830 Salal Drive, Hornby Island, BC, V0R 1Z0

Dear Marnie Eggan DILTC Planner via email

July 13, 2017

Thank-you for responding to my April 27, 2017 application for an Amendment to DE-DP-03-99 a and c.

I AM NOT ASKING FOR A PERMIT TO ALTER LAND.

1. 1 c was overturned by Justice Bauman in 2000. Thank-you for accepting the fact that any references to the Forest Cover Bylaw must be removed under Rule 12.
2. 1a needs to be amended as a result of the Justice Groberman's decision and Order in 2005. 1a does not allow any land alteration within the 50m area. The Groberman decision allows land alteration with a permit. DE-DP-03-99 1a needs to be amended to allow land alteration with a permit as per the Groberman Order otherwise the land is sterilized. Staff noted this in 2013.
3. The descriptions of DE-DP-03-99 are inconsistent. The defined registered area does not correspond to the land described within the permit or the land described by the Bylaw. The description within the 2000 permit is incorrect and does not correspond to the legal description of the land in 2000. (It uses a 1990 description of the property.) There are also no reasons/reports to define the different random areas.

CLARIFICATION REQUIRED

Justice Groberman's 2005 Order only required a permit for ***cutting trees on, clearing, developing, excavating or otherwise altering those portions of the Lands that are within fifty meters of the top edge of the Komas Bluff.*** Prior to the Groberman decision ½ the 50m zone had been planted in long root fescue grasses, this was recommended and documented in the 2004 Madrone Report site maps (and confirmed by EBA 2004 and ariel photos since 2004). These fescue grasses within the 50m have been fertilized, cut and baled since before the Groberman decision. Mr Groberman did not require a permit to continue to farm these grasses. Recently the Appeal Court allowed me to continue to farm this area. Recently the Golder Report also stated *a full cover of deep rooted grasses and legumes be maintained* within the 50m area. If I am not allowed to continue this practice please confirm and it will be the subject of a separate application or I will abandon this farmland.

I am also awaiting a clarification on definitions of land alteration with no drainage within the DP area..

- Is cutting existing grass and baling it land alteration?
- Is planting fruit trees land alteration?
- Is having livestock on my grasslands land alteration?

To summarize

I am asking for an amendment to DE-DP-03-99 as per court decisions.

I am also asking for clarification for existing haying activities since 2004 within the 50m area.

I am also asking for your clarification on farm activities *land alterations* that would not violate the OCP Komasa Bluff DPA requirements. ALC and Ministry of Agriculture are also awaiting this clarification. Will the DILTC be changing the 180m Komasa Bluff DPA boundary area to comply with the Groberman directive of 50m.

Thank-you

Dean Ellis

Ms Eggen in your 4th paragraph you continue many falsehoods where Mr Milne and Ms Bradley made a farce of the courts. May I suggest you visit the land. These matters are for your clarification and are not a part of my amendment application.

Item 2 You seem to repeat that my land is similar to the Stonemans. My bluffs have 2 valleys where presently I walk down on a more gentle slopes to the foreshore with the help of a rope in some places. I only walk on my slope, your idea of ***steps outside of my natural boundary*** is physically impossible. I will continue to traverse my slope with the aid of a rope (and not use steps similar to those dug in by Trustee Critchley). Please confirm this method of accessing my foreshore does not need a permit.

Item 4 You seem to think Bob Patrick EBA did not produce a updated geotechnical report that considered hay farming and the guidelines. This report was submitted in Sept 2014. Your legal staff falsely stated this report did not exist.

I think you fail to realize the court ordered a geotechnical report and all parties agreed the land was stable by Consent.

Thurber Engineering Ltd. (TEL) is pleased to submit this report on appropriate remediation work on the Properties, defined by Lots A and B, Plan VIP74719, Section 23, Denman Island, Nanaimo District. The purpose of the remediation

work is to restore the Komass Bluffs to a level of stability that will protect existing and future development on and around the Properties from accelerated slope failure, erosion or other hazardous conditions related to Mr. Ellis's land alteration within the 50 m buffer zone.

I rely on the facts found by Mr. Justice Groberman in his Reasons for Judgement dated August 31, 2005 and the fact that the Be Ministry of Transportation blocked the flow of water from Swan Road into the drainage ditches on the Properties.

You seem to infer remediation was not signed off. I enclose the 3rd Polster Report where he calls the Thurber remediation complete. Additional remedial work on this slope is not needed. Page 4 2009 Polster report

Also David Marlor confirmed this in his court affidavit.

"After judgment was rendered in August 31, 2005, the Local Trust Committee considered that, if possible, and as contemplated in the Judgment, it would prefer to settle the terms of the remediation order without the expense of further litigation. The Local Trust Committee was advised that traditional geotechnical slope stabilization measures could be undertaken for Lot A, but they would likely be invasive and very costly due to the extensive nature of the slumps on that property. In addition, following the preparation of the March 2004 Thurber Report, the highways drainage ditches were blocked by the Ministry of Transportation and Highways to prevent water on Swan Road from entering the drainage ditches Mr. Ellis had dug and discharging over the Bluff on Lots A and B. As a result, the Local Trust Committee considered that focussing remediation works on the other major excavation on Lot B was reasonable. The Consent Order with respect to remediation reflects this compromise position"

You repeat the notion the Madrone report is a necessary part of a permit requirement. Your legal staff convinced Justice Young that the Madrone Report was not a geotechnical report. May I suggest you not repeat this lie. We all know the credentials of Madrone's Gordon Butt.

[55] His first application in 2004 was accompanied by a geotechnical report from Madrone Environmental Services ("Madrone Report") but was rejected because it was not prepared by a geotechnical engineer. Mr. Ellis says it was supervised by a geotechnical engineer (but on closer scrutiny it was supervised by a geologist).

Madame Justice Young Judicial Review 08941 Ellis v. DILTC

Ms. Eggen Since you are new to this file I shall leave you with Justice Groberman version of this bylaw in the hopes we can accurately work together.

*[82] Third, an order for the restoration of the lands would not be in keeping with the expressed purpose of the bylaw that established Komass Bluff PDA. The purpose of the bylaw was not preserve land in an unaltered state, nor even to protect the bluff. The bylaw was passed under the authority of s. 919.1(1)(b) of the **Local Government Act**, not s. 919.1(1)(a). Its purpose was not to protect the designated land itself, but rather to protect development from potentially hazardous conditions. Mr. Justice Groberman*

"A mandatory injunction requiring the Defendant Ellis to undertake rehabilitative measures on the Lands to restore the Komass Bluffs on the Lands to a level of stability sufficient to protect existing and future development on and around the Lands from accelerated slope failure, erosion or other hazardous conditions related to the Defendant Ellis' breach of s. 920(1)(d) of the Local Government Act, such measures to be specified by further order of this Court, either upon application of the Parties, or as consented to by the Parties;" Mr. Justice Groberman

Accelerated slope failure was identified as the water entering the lands from the Highways drainage by Thurber Engineering 2005, EBA Engineering 2004, 2014 and Golder Engineering 2014. For your reference a site visit will show where the Highways ditches were blocked there has been no slope failure as outlined in the 2005 Thurber Remediation Report.



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July 26, 2017

File Number: DE-DP-03-99

Francis Dean Ellis
3830 Salal Drive
Hornby Island, BC
V0R 1Z0

Dear Mr. Ellis,

We write in response to your e-mail of July 13, 2017.

That part of your application to amend DE-DP-03-99 to remove clause 1(c) as it applies to your property located at 2626 Swan Road, Denman Island will be considered by the Local Trust Committee at their regular meeting of October 3, 2017.

We confirm, as previously advised, that a development permit or development permit amendment is required to farm hay, which includes "fescue grasses", within 50 m of the top edge of the Komass Bluff or on the face of the Komass Bluff pursuant to the Order of Mr. Justice Groberman and s. 489 of the Local Government Act. In Reasons for Judgment dated September 29, 2015, Madam Justice Young noted that your 2013 development permit application for hay farming was almost complete and set out in paragraph 132 (attached) what additional information is required should you wish to submit an application for a development permit or an amendment to DE-DP-03-99 including clause 1(a) for this purpose.

In answer to your questions regarding what activities require a development permit, s. 489 of the Local Government Act requires that any land alterations within the Komass Bluff Development Permit Area require a permit. In addition to farming hay, you have been previously advised that planting fruit trees and grazing livestock have the potential to be alterations to land depending on how they are conducted. If you are uncertain as to whether or not a specific activity requires a development permit, we invite you to give details about the specific activity, or to apply for a development permit in relation to the specific activity.

July 26, 2017

Page 2

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Eggen".

Marnie Eggen, MCIP, RPP
Island Planner
Local Planning Services

Attachment:

1. Reasons for Judgement dated September 29, 2015, paragraph 132

pc: Denman Local Trust Committee
Ann Kjerulf, Northern Regional Planning Manager
Miles Drew, Bylaw Enforcement Manager

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Ellis v. Denman Island Local Trust
Committee*,
2015 BCSC 1753

Date: 20150929
Docket: S08941
Registry: Courtenay

In the Matter of the *Judicial Review Procedure Act*
R.S.B.C. 1996, c.241

Between:

Francis Dean Ellis

Petitioner

And

Denman Island Local Trust Committee

Respondent

Before: The Honourable Madam Justice Young

Reasons for Judgment

Petitioner - Self-Represented

F.D. Ellis

Counsel for Respondent:

A. Bradley

Place and Date of Hearing:

Courtenay, B.C.
July 21-24, 2015

Place and Date of Judgment:

Courtenay, B.C.
September 29, 2015

[126] Mr. Ellis responded with further questions. He did provide a clearer description of the activity and location for the stairway but did not agree to provide a site plan. I believe that the site plan is a mandatory requirement and his development permit application will not proceed without one.

[127] He did not agree to hire an arborist to identify hazard trees and in fact offered to drop the tree removal from the application. If he wishes to proceed with the application for a permit to remove hazard trees this report from a qualified arborist is required.

[128] He asked for a clearer explanation of why his geotechnical reports were not adequate. I do not find Mr. Milne's email of August 7, 2013 very helpful or responsive as it relates to the geotechnical reports. The only comment he made is that they were old.

[129] The DILTC's position is that Mr. Ellis has never received a development permit because he has never submitted a complete application for one so his application did not progress past the staff level. The DILTC did not consider his 2013 application. They submit that there is nothing for *mandamus* to attach to because there is no complete application.

[130] I agree with this submission. *Mandamus* is only available when decision makers have exercised their discretion. This application is incomplete and therefore has not been put before the decision makers. Until it is complete, staff have no obligation to refer it to the DILTC.

[131] I dismiss the application for *mandamus*, but I will provide some directions because I believe that the application is close to complete.

[132] I give the following direction to Mr. Ellis. If he wishes to proceed with his application for a development permit for the three purposes he must:

1. Re-submit an application on the appropriate form completed.

2. Attach a State of Title Certificate and copies of all covenants registered against title
3. Provide with a written outline which clearly describes the nature of each of the three proposed activities (see 3.1 A. of the Denman Island Development Procedure Bylaw No. 71);
4. Prove proof of the remediation to the slope (attaching the signed March 2009 Polster report and the March 18, 2009 EBA report);
5. Provide a detailed site plan prepared by a B.C. land surveyor showing the location and dimension of existing and proposed buildings and structures including the proposed stairways and their measured or proposed setback from lot lines, crest of the bluff and surveyed natural boundary. The plan should also show the location of any proposed land alterations such as excavations, paths, drainage works and trees or vegetation removed or intended to be removed. Demonstrate that the proposed stairways are landward of the natural boundary and on the Property. (see August 1 2013 letter from Rob Milne to Dean Ellis exhibit "K" to his affidavit #1);
6. Provide a hazard tree assessment performed by a qualified arborist that identifies any hazard trees on the Property and the measures necessary to address any hazards. (see s. 11-16 of the Impact Assessment Bylaw and s. 4.1 of Land Use Bylaw Guideline 6);
7. Provide an updated geotechnical report from EBA regarding the agriculture and tree removal indicating that they are aware of the guidelines of the Komias Bluff DPA and have addressed them in the report and indicating whether their opinion from 2009 has changed.
8. Provide a full report on the impact of the stair construction. It should be commissioned after the plan has been created so the construction plan can be assessed by EBA. EBA should specifically consider the stairway alteration in relation to the current condition of the Property and should address the

applicable guidelines of the Komasa Bluff DPA. (see s. 920(11) of the *Local Government Act*, s. 3.2 of the Development Procedure Bylaw and s. 4.1 of Land Use Bylaw Guideline 2); and

9. Do not address any other issues in your application which might detract from the application for a development permit. Do not use this development permit application process as a vehicle to air your complaints about past litigation or your personal opinion on the validity of the bylaw or its interpretation.

[133] Once Mr. Ellis has done all of this then the application should be put before the DILTC so that it can exercise its discretion. The granting of a development permit is not automatic. It is a discretionary decision. Of course the DILTC will have to exercise its discretion fairly and only consider relevant factors.

COSTS

[134] The DILTC has applied for special costs against Mr. Ellis for the four day hearing on the issues of *res judicata* and the judicial review. I find that the DILTC is entitled to its costs throughout on a party and party basis at a bare minimum. In order to attract special costs the DILTC would have to show that Mr. Ellis' conduct was reprehensible.

[135] In *Gichuru v. Smith*, 2014 BCCA 414, the B.C. Court of Appeal reviewed the law of special costs and cited the following test:

[78] The test for special costs was set out in *Garcia v. Crestbrook Forest Industries Ltd. No. 2* (1994), 9 B.C.L.R. (3d) 242 (C.A.) at para. 17, where Lambert J.A., speaking for the Court, after an extensive review of the authorities, concluded:

... it is my opinion that the single standard for the awarding of special costs is that the conduct in question properly be categorized as "reprehensible". As Chief Justice Esson said in *Leung v. Leung*, the word reprehensible is a word of wide meaning. It encompasses scandalous or outrageous conduct but it also encompasses milder forms of misconduct deserving of reproof or rebuke. Accordingly, the standard represented by the word reprehensible, taken in that sense, must represent a general and all encompassing expression of the applicable standard for the award of special costs.

Dean Ellis 3830 Salal Drive, Hornby Island

Ms Eggen, DILTC

Response to July 27, 2017 correspondence

My request for an amendment of existing DE-DP-03-99 is for both 1a and 1c. Your reference to 132 of Justice Young decision only applies to the 4 development permit applications I did not complete, it does not apply to an amendment of the existing DE-DP-03-99.

I am unaware of any decision by Justice Young concerning DE-DP-03-99 beyond that it had already been decided by Justice Groberman.

[26] I agree with the submission of the DILTC that it is not open to Mr. Ellis to again raise these arguments in the judicial review petition as they are res judicata. In addition, Groberman J. granted an injunction, ordering that Mr. Ellis is not to alter the 50 metre buffer without a development permit; so any attempt to undermine the 2000 permit is a collateral attack on Groberman J.'s order, which is valid, which has withstood challenge on appeal and which will not be undermined by me.

Justice Young agreed with the Groberman decision that alteration farming within the 50m could be achieved with a permit. **1c does not allow any alteration whatsoever.** The 2000 permit needs to be amended to agree with the decision of Justice Groberman and Justice Young stating the land can be developed with a permit. At present DE-DP-03-99 is only a reflection of an outdated tree cutting agreement with Leaky logging who *agreed not to alter the lands in any way*. The court has instructed me to have this changed. Presently it clogs my title with a restriction beyond valid bylaw 111.

Justice Young also agreed with the Appeal Court that the 2000 permit validity had not been determined by Justice Groberman.

[48] He found that the bylaw was valid, and that the appellant had violated the bylaw and s. 920(1)(d) of the Act by altering the land without obtaining a development permit. The validity of the 2000 Development Permit had no bearing on either the validity of the bylaw or on the appellant's violation of the bylaw. The same applies here.

[49] It is not necessary to consider this issue further. The trial judge did not determine whether the conditions on the 2000 Development Permit were authorized by s. 920(7.1), and the validity of the conditions has no bearing on the material issue of whether the bylaw is valid. Appeal Ellis 2006

Please note I am asking for an amendment only on areas legally described on DE-DP-03-99 that are registered on title as described by Mr Marlor.

If the planning department will not put this amendment of 1c forward in my amendment I shall ask for a decision by the Trustees. Please advise of that process. Also have you issued a reference number for this amendment.

Thank-you

Dean Ellis

*In 1999, a previous owner of the Lands, A.W Leaky Logging Ltd. Applied for a development permit under the OCP to harvest trees and clear the Lands. The Lands they sought to clear were within the Komass Bluff Development Permit Areas and a Forest Cover Development Permit designation that is no longer in force. Rather than provide a full geotechnical report on the effects of clearing some or all of the lands within the Komass Bluff Development Permit Area, A.W. Leaky Logging Ltd. Agreed to survey and flag an area 50meters in width from the crest of the bluff, **and agreed not to alter the lands in any way** from the natural boundary of the Lands (on the slope of the bluff) to the 50 meter mark inland from the crest of the bluff, thus creating the 50m Meter Buffer Zone. On that basis, the Local Trust Committee issued A.W. Leaky Logging Ltd. A development permit to clear the lands in the Komass Bluff Development Permit Area up to the 50 Metre Buffer Zone (the "First Development Permit"). The First Development Permit was issued on January 11, 2000 and registered in the Land Title Office.*

Affidavit #1 of David Marlor, para. 12 and 13, Exhibit "H"

Affidavit of Larry Olafson, Exhibit "B" (Title Document)

DENMAN ISLAND LOCAL TRUST COMMITTEE

DEVELOPMENT PERMIT DE-DP-03-99

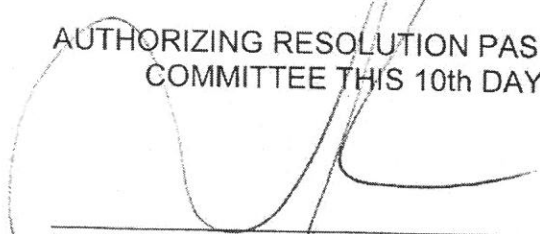
To: A. W. Leakey Logging Ltd., (Inc. No. 45,916)

This permit applies to the East ½ of the North West ¼ of Section 23, plus the fractional North East ¼ of Section 23, Denman Island, Nanaimo District, except part in Plan 8118.

Whereas all of the subject property lies within Development Permit Area No. 7: Forest Cover, and part of the subject property lies within Development Permit Area No. 1: Komas Bluff, Denman Island Land Use Bylaw No. 65, 1992 is varied and supplemented as follows:

1. This Development Permit is to allow for the harvesting of trees and/or clearing of land, and the farming of Christmas trees on the subject property, subject to the following conditions:
 - (a) No harvesting of trees and/or clearing or alteration of land is permitted within 50 metres of the top edge of the bluff situated on the eastern side of the subject property.
 - (b) Harvesting of trees and/or clearing or alteration of land lying 50 metres or more from the top edge of the bluff described in item 1., above, is permitted only if the 50-metre setback line mentioned above has first been located and clearly identified on site by the applicant, to the satisfaction of the Denman Island Local Trust Committee.
 - (c) Christmas trees are to be planted in accordance with B.C. Regulation 411/95 of the B.C. Assessment Act.
2. This permit does not relieve the applicant from complying with the provisions of Denman Island Land Use Bylaw No. 65, 1992 unless varied by this permit.

AUTHORIZING RESOLUTION PASSED BY THE DENMAN ISLAND LOCAL TRUST COMMITTEE THIS 10th DAY OF January, 2000.


Deputy Secretary, Islands Trust


JANUARY 11, 2000
Date Issued

IF THE DEVELOPMENT HEREIN IS NOT COMMENCED BY THE 10th DAY OF January 2002, THIS PERMIT AUTOMATICALLY LAPSES.

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

BETWEEN:

IN THE SUPREME COURT OF BRITISH COLUMBIA

DENMAN ISLAND LOCAL TRUST COMMITTEE

NO. L042564

VANCOUVER REGISTRY

PLAINTIFF

AND:

FRANCIS DEAN ELLIS, DANIEL JOHN STONEMAN
& DEBRA MONICA STONEMAN

DEFENDANTS

ORDER

BEFORE

)
) THE HONOURABLE MR. JUSTICE
) GROBERMAN

) WEDNESDAY, THE 31ST
) DAY OF AUGUST 2005

THE APPLICATION of the Plaintiff, Denman Island Local Trust Committee coming on for hearing at Vancouver, British Columbia, on October 20, 2005 and on hearing Francesca Marzari, counsel for the Plaintiff, Brent Lokash, counsel for the Defendant, and Daniel John Stoneman, representing himself and Debra Monica Stoneman:

THIS COURT DECLARES THAT:

1. The Defendant Ellis unlawfully contravened section 920(1)(d) of the *Local Government Act* by altering lands legally described as Lot A Section 23 Denman Island Nanaimo District Plan VIP74719 ("Lot A") and Lot B Section 23 Denman Island Nanaimo District Plan VIP74719 ("Lot B") (together the "Lands") within Development Permit Area No. 1: Komas Bluff without a development permit authorizing such alteration; and

THIS COURT ORDERS:

2. A permanent injunction restraining the Defendant Ellis from cutting trees on, clearing, developing, excavating or otherwise altering those portions of the Lands that are within fifty metres of the top edge of the Komas Bluff or on the face of the Komas Bluff (the "Buffer"), or causing any of those activities to be carried out, on, or in the Buffer, without first obtaining a development permit authorizing such activities, or in accordance with a further order of this Court;

3. A mandatory injunction requiring the Defendant Ellis to undertake rehabilitative measures on the Lands to restore the Komus Bluffs on the Lands to a level of stability sufficient to protect existing and future development on and around the Lands from accelerated slope failure, erosion or other hazardous conditions related to the Defendant Ellis' breach of s. 920(1)(d) of the *Local Government Act*, such measures to be specified by further order of this Court, either upon application of the Parties, or as consented to by the Parties;
4. The Defendants Daniel and Debra Stoneman shall allow the Defendant Ellis access to Lot A in order to investigate and undertake rehabilitative measures on Lot A, pursuant to paragraph 3; and
5. The Parties may make further application to the court with respect to the terms of the mandatory injunction and the issue of costs.

BY THE COURT

REGISTRAR

Approved as to form:

Francesca Marzari
Counsel for Denman Island Local Trust Committee

Jonathan Baker
Counsel for Francis Dean Ellis

Daniel Stoneman
On his own behalf and for Debra Stoneman

ENTERED
JAN - 4 2007
VANCOUVER REGISTRY
VOL 5437 FOL 63

NO. S39125
NANAIMO REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DENMAN ISLAND LOCAL TRUST COMMITTEE

PLAINTIFF

AND:

FRANCIS DEAN ELLIS, DANIEL JOHN STONEMAN
& DEBRA MONICA STONEMAN

DEFENDANTS

ORDER

Francesca Marzari
LIDSTONE YOUNG ANDERSON
Barristers and Solicitors
1616 - 808 Nelson Street
Box 12147, Nelson Square
Vancouver, B.C. V6Z 2H2
Telephone: (604) 689-7400

Our File No. 2-506



DATE OF MEETING: October 3, 2017

TO: Denman Island Local Trust Committee

FROM: Ann Kjerulf, Regional Planning Manager
Northern Team

SUBJECT: Proposed Bylaw No. 225 (Prohibiting the use of vehicles and ground-based machinery on the foreshore)

RECOMMENDATION

1. That the Denman Island Local Trust Committee request that staff refer Proposed Bylaw No. 225 to all aquaculture tenure holders in the Denman Island Local Trust Area, and that the referral be accompanied by a covering letter to clarify the intent and limitations of the bylaw and invite feedback.

REPORT SUMMARY

This report provides a summary of responses received in relation to the referral of Proposed Bylaw No. 225, and recommends that the Denman Island Local Trust Committee (LTC) undertake additional consultation with aquaculture tenure holders prior to considering further bylaw readings.

BACKGROUND

Proposed Bylaw No. 225 would amend the Denman Island Land Use Bylaw (LUB) to add a general prohibition against the use of vehicles and ground-based machinery in the W1, W3 and W4 zones. Recognizing the overlapping government jurisdiction over foreshore areas, Proposed Bylaw No. 225 contains an information note referencing the federal authority over licensed aquaculture practices.

At the June 6, 2016 meeting, the LTC passed resolutions to confirm the consistency of Proposed Bylaw No.225 with the Islands Trust Policy Statement Directive Policies and give first reading to the bylaw. The LTC also passed a resolution to refer the proposed bylaw to the following agencies and First Nations for comment:

- BC Shellfish Growers Association
- Association of Denman Island Marine Stewards
- Pacific Salmon Foundation
- Ministry of Transportation and Infrastructure
- Ministry of Forests, Lands and Natural Resource Operations (Crown Lands)
- Fisheries and Oceans Canada (Regional Aquaculture Management Office)
- Fisheries and Oceans Canada (Pacific Region Species at Risk Program)
- Islands Trust Fund
- Comox Valley Regional District
- Islands Trust Bylaw Enforcement
- Hornby Island Local Trust Committee
- K'omoks First Nation,
- Cowichan Tribes
- Lake Cowichan First Nation
- Lyackson First Nation
- Penelakut Tribe
- Halalt First Nation
- Stz'uminus First Nation
- Qualicum First Nation
- Snaw'Naw'As First Nation
- Nanwakolas First Nation
- We Wai Kai Nation
- Wei Wai Kum First Nation
- Homalco First Nation
- Tla'amin First Nation

**ANALYSIS****Consultation**

Proposed Bylaw No. 225 was referred to agencies, First Nations and other stakeholders on June 20, 2017. At the time of report preparation, the following responses had been received:

Referral	Comments
BC Shellfish Growers Association	Approval not recommended for reasons (see Attachment 1)
Association of Denman Island Marine Stewards	Approval recommended for reasons (see Attachment 2)
Pacific Salmon Foundation	Indicated support
Ministry of Transportation and Infrastructure	No objections
Ministry of Forests, Lands, Natural Resource Operations and Rural Development (Crown Lands)	This bylaw will impact existing aquaculture tenure holders along the foreshore of Denman Island, some of whom may regularly use the beach to access their tenures. In reviewing the documents available on the Islands Trust website it's not clear if those tenure holders have been consulted and whether the impacts of this bylaw to the tenure holders have been defined, measured and weighed. My recommendation would be to ensure those impacts are fully understood prior to finalizing and approving the bylaw.
Fisheries and Oceans Canada (Regional Aquaculture Management Office)	Environmental: Overall, we don't have any environmental comments/recommendations in support or objection to the proposed by-law. Operational: An operational concern we have is that the proposed by-law would be seen to restrict the ability of our enforcement officers to carry out their duties, which sometimes involve using ATV's. We consider accessing beach and/or intertidal sites, including those outside of the W3 zone, by ATV a normal part of our duties, done so according to best environmental practices. The ability for DFO enforcement officers and inspectors/guardians to carry out work shouldn't be obstructed or hindered, as per the <i>Fisheries Act</i>. General: There may be DFO licenced shellfish aquaculture operators with tenures outside of the W3 zoning. It is recommended Islands Trust consult with all aquaculture operators in the area. They may have issues with being able to access their tenures with vehicles, which is currently permitted under their licence and related regulations if they do not cause serious harm to fish or fish habitat. We can provide best practices to shellfish aquaculturists on operating machinery and vehicles in intertidal/beach areas.

Fisheries and Oceans Canada (Pacific Region Species at Risk Program)	The role of the DFO's Fisheries Protection Program (FPP) is to protect and conserve fish and fish habitat in support of Canada's coastal and inland fisheries resources, and to make regulatory decisions under the fisheries protection provisions of the Fisheries Act. The FPP is specifically responsible for reviewing projects for which a s.35(2) <i>Fisheries Act</i> Authorization is required. DFO does not have a regulatory role related to the Denman Bylaw No. 225 dated June 26, 2017 because it does not directly propose works, undertakings or activities that may result in serious harm to fish.
Hornby Island Local Trust Committee	Interests unaffected
Comox Valley Regional District	No comments
K'omoks First Nation,	No comments or concerns
Cowichan Tribes	At this time, Cowichan Tribes defers to other First Nations in the area of Denman Island.
Wei Wai Kum First Nation	Approval Recommended
Tla'amin First Nation	Approval Recommended for Reasons: The Tla'amin Nation is in Agreement with the proposed bylaw – to amend the Denman Island Land Use Bylaw No. 186 – to prohibit the use of vehicles and ground based machinery on the marine foreshore. We appreciate the efforts to protect the marine environment.

At the time of report preparation, responses had not been received from the Islands Trust Fund, Islands Trust Bylaw Enforcement, Lake Cowichan First Nation, Lyackson First Nation, Penelakut Tribe, Halalt First Nation, Stz'uminus First Nation, Qualicum First Nation, Snaw'Naw'As First Nation, Nanwakolas First Nation, We Wai Kai Nation, or Homalco First Nation.

Issues and Opportunities

Proposed Bylaw No. 225 has been prepared in consultation with Islands Trust legal counsel. The Denman Island LTC has confirmed that its land use authority does not apply to activities undertaken in accordance with the terms of a federal fisheries license. Still, the BC Shellfish Growers Association (BCSGA), Fisheries and Oceans Canada (DFO) and the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) have expressed concerns that aquaculture stakeholders in the Denman Local Trust Area have not been adequately informed or consulted.

Despite that the proposed bylaw is not intended to regulate or interfere with licensed aquaculture operations, industry stakeholders and tenure holders may share a different opinion. In order to ensure that the intent of the bylaw is clearly understood, staff are recommending that the proposed bylaw be referred to aquaculture tenure holders to clarify the intent and limitations of the proposed bylaw, and to invite feedback.

Statutory Requirements

A public hearing is required to be held after first reading and prior to third reading of a bylaw to amend the LUB, unless the LTC chooses to waive the holding of a public hearing and provides notice (pursuant to s. 464(2) and s. 467 of the *Local Government Act*). A public hearing may be waived when an Official Community Plan (OCP) is in effect for the area that is affected by the proposed bylaw and the bylaw is consistent with the OCP.

Rationale for Recommendation

Staff recommend referring Proposed Bylaw No. 225 to aquaculture tenure holders in order to ensure that the intent and limitations of the bylaw are understood. The staff recommendation is noted on Page 1 of the report.

ALTERNATIVES

1. Consider Second Reading

The LTC has the option to proceed to second reading without undertaking further consultation. Second reading may occur prior to or following a public hearing or notice in lieu of a hearing. The resolution would read as follows:

That Denman Island Local Trust Committee Bylaw No. 225 cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2017”, be read a second time.

2. Proceed to Public Hearing or Notice

The LTC has the option to proceed to public hearing or post a notice in lieu of a public hearing. The resolution would read as follows:

That the Denman Island Local Trust Committee request staff to schedule a Public Hearing for Proposed Bylaw No. 225 cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2017”.

OR

That the Denman Island Local Trust Committee has determined Proposed Bylaw No. 225, cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2017”, is consistent with the Denman Island Official Community Plan, which is in effect for the area affected by the proposed bylaw, and hereby waives the statutory public hearing and requests staff to provide notice in accordance with section 467 of the Local Government Act.

3. Proceed no further

The LTC may choose to proceed no further. The resolution would read as follows:

That the Denman Island Local Trust Committee proceed no further with proposed Bylaw No. 225 cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2017”.

Submitted By:	Ann Kjerulf, MCIP, RPP Regional Planning Manager	September 21, 2017
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ATTACHMENTS

1. Referral Response from the BC Shellfish Growers Association
2. Referral from the Association of Denman Island Marine Stewards

From: Darlene Winterburn [<mailto:darlene@bcsga.ca>]
Sent: Tuesday, July 11, 2017 1:55 PM
To: northinfo
Subject: Completed Bylaw (225) Referral Form

Please find attached a copy of the requested form. We recommend that approval not be recommended, due to the reasons outlined on the form.

Thank you,

Darlene Winterburn
Executive Director



Unit F, 2002 Comox Avenue
Comox, BC V9M 3M6
Phone: [250-890-7561](tel:250-890-7561)

www.bcsqa.ca



Islands Trust

BYLAW REFERRAL FORM

Island: Denman Island Local Trust Area Bylaw Nos.: 225 Date: June 20, 2017

You are requested to comment on the attached Bylaws for potential effect on your agency's/organization's interests. We would appreciate your response by August 25, 2017. If no response is received by that date, it will be assumed that your agency's/organization's interests are unaffected.

APPLICANTS NAME / ADDRESS:

DENMAN ISLAND LOCAL TRUST COMMITTEE

PURPOSE OF BYLAWS:

The intent of this bylaw, if adopted, would be to amend the Denman Island Land Use Bylaw No. 186, 2008 by adding a general prohibition against the use of vehicles and ground-based machinery in the W1, W3 and W4 zones, applicable to the majority of the Denman Island marine foreshore. **Note, the bylaw would not apply to the W3 zone where aquaculture is a permitted use, nor would it apply to the use of vehicles and ground-based machinery operating in accordance with the terms of a license issued by Fisheries and Oceans Canada.**

GENERAL LOCATION:

Denman Island, BC

OTHER INFORMATION:

N/A

Please direct any communications regarding this referral to Becky McErlean, Legislative Clerk, at (250) 247-2206 or by email to bmcerlean@islandstrust.bc.ca.

Please fill out the *Response Summary* attached to this form. If your agency's interests are "Unaffected", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.

Ann Kjerulf

(Signature)

Ann Kjerulf

Name:

Regional Planning Manager

Title:

This referral has been sent to the following agencies:

Federal Agencies

Fisheries and Oceans Canada (Regional Aquaculture Management Office)
Fisheries and Oceans Canada (Pacific Region Species at Risk Program)

Provincial Agencies

Ministry of Transportation and Infrastructure
Ministry of Forests, Lands and Natural Resource Operations (Crown Lands)
Islands Trust Fund

Non-Agency Referrals

BC Shellfish Growers Association
Association of Denman Island Marine Stewards
Pacific Salmon Foundation
Islands Trust Bylaw Enforcement

Regional Agencies

Comox Valley Regional District

Adjacent Local Trust Committees and Municipalities

N/A

First Nations

K'ómoks First Nation
Cowichan Tribes
Lake Cowichan First Nation
Lyackson First Nation
Penelakut Tribe
Halalt First Nation
Stz'uminus First Nation
Qualicum First Nation
Snaw'Naw'As First Nation
Nanwakolas First Nation
We Wai Kai Nation
Wei Wai Kurn First Nation
Homalco First Nation
Tla'amin First Nation

PLEASE TURN OVER →

BYLAW REFERRAL FORM RESPONSE SUMMARY

☐

Approval Recommended for Reasons Outlined Below

☐

Approval Recommended Subject to Conditions Outlined Below

☐

Interests Unaffected by Bylaw

☒

Approval Not Recommended Due to Reason Outlined Below

- ① See no evidence that a comprehensive assessment of impact to aquaculture tenure holders (current &/or future) has been conducted.
- ② Concerned by the information note that reads 'may be entitled to operate' ...
- tenure holders require access to their tenures
 - consequences of not being able to access the tenures could be significant in terms of financial consequences (especially for small farmers) and personal safety to those who work the tenure, particularly in bad weather (need alternate routes from/to tenure)
- ③ Those who farm on Denman are not necessarily members of the BCSGA and I do not see any of them involved in the referral process.
- ④ The combination of lack of access/reduced access by land, the safety concerns associated with that is financial impact could result in arbitration under Right to Farm legislation

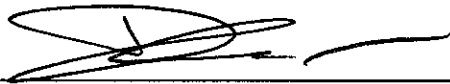
Denman Island Local Trust Area -

Denman Island

(Island)

Bylaw No. 225 (LUB Amendment)

(Bylaw Number)



(Signature)

Executive Director

(Title)

July 11/17

(Date)

BC Shellfish Growers Assn

(Agency)

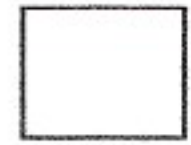
- ⑤ Have never seen validated evidence of significant environmental impact resulting from industry vehicles who have driven on the beach for decades.

BYLAW REFERRAL FORM RESPONSE SUMMARY

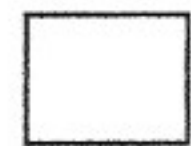


Approval Recommended for Reasons Outlined Below

See Attached Letter



Approval Recommended Subject to Conditions Outlined Below



Interests Unaffected by Bylaw



Approval Not Recommended Due to Reason Outlined Below

*Confused By Reference to W2 Reference in
'Purpose of Bylaw' - Should Read W3 ??*

*See Attached 'Reasons' to support Bylaw
Attachments to be included in mailed copy document.
along with signed copy of letter by Chairs of ADIMS*

Denman Island Local Trust Area –
Denman Island

(Island)

Elizabeth Johnston
(Signature)

July 20, 2017
(Date)

Bylaw No. 225 (LUB Amendment)

(Bylaw Number)

ADIMS Secretary/Treasurer
(Title)

*Association for Denman Island
Marine Stewards
(ADIMS)*
(Agency)

Association for Denman Island Marine Stewards (ADIMS)
Box 7, Denman Island, B.C. V0R 1T0
adimsinfo@gmail.com

Referral Response Letter Re Bylaw Amendment # 225

To: Island's Trust Attention: Becky McErlean Legislative Clerk
Northern Office, Islands Trust, 700 North Road, Gabriola, B.C. V0R 1X3
Email: northinfo@islandstrust.bc.ca , [250-247-2206](tel:250-247-2206)

Re Referral Request: The intent of Bylaw No. 225, if adopted, would be to amend the Denman Island Land Use Bylaw No. 186, 2008 by adding a general prohibition against the use of vehicles and ground-based machinery in the W1, W3 and W4 zones, applicable to the majority of the Denman Island marine foreshore.

The Association for Denman Island Marine Stewards (ADIMS) fully supports Bylaw Amendment #225 to regulate vehicular driving and ground-based machinery operating on the foreshore in the W1, W3 and W4 zones.

Currently ADIMS represents over 200 Denman Island Resident members. The ADIMS Constitution clearly identifies its main objective is “**to preserve and protect the marine environment**” which includes the upper portion of Denman Island beaches, which are habitat for shore birds, forage fish and marine vegetation. Currently the west shores of Denman Island have been severely eroded by vehicle traffic along the W1 (Marine Conservation Areas) upper beach area. . Although it is understood that Island Trust may not have jurisdiction within W3 (Aquaculture zoned tenures) DILT should enact this bylaw amendment to protect and preserve the conservation protected marine zoning areas (W1 and W4).

Reasons for support for this ByLaw include the following rationale:

- 1. Baynes Sound is internationally recognized as an Ecologically and Biologically Significant Area (EBSA) and degradation of such an area should not be permitted.**
 - a) Activities and Potential Environmental Effects Associated with Shellfish Aquaculture in Baynes Sound prepared by Brian Emmett, Archipelago Marine Research Ltd. (attachment #1)
 - b) The Convenor's Report for the Management of Sensitive Marine Ecosystems: Lessons from Case Studies to identify solutions for Baynes Sound, Simon Fraser University, Invitational Workshop, April 3-4/2014. Website: <http://www.sfu.ca/coastal/research-fisheries/listing/BaynesSoundSolutions.html>

- 2. Baynes Sound is recognized as being an Important Bird Area (IBA), an international designation of globally important habitat for conservation of bird populations.**

References;

- a) Fisheries and Oceans Science, Canadian Science Advisory Secretariat Research Document – Review of the Environmental Impacts of Intertidal Shellfish Aquaculture in Baynes Sound (attachment #2)

- 3. Forage Fish Habitat has been identified along Denman Shores specifically in the upper beach area where vehicles drive. References**

- a) Islands Trust Forage Fish Habitat maps for Denman Island
- b) Fisheries and Oceans Canada (DFO) Section 142 Baynes Sound Herring Spawn Records. Map on website at: <http://www.pac.dfo-mpo.gc.ca/science/species-especes/pelagic-pelagique/herring-hareng/herspawn/142fig-eng.html>
- c) Paper prepared for the Islands Trust and Island Trust Fund by Ramona C. de Graaf, BSc, MSc, Marine Biologist, Forage Fish Specialist (attachment #3)

- 4. Salt Marshes below the public access on Piercy Road and south of the Hinton Road access have been damaged by vehicular traffic.** Salt marshes sequester carbon dioxide at 10-50 times the rate of terrestrial rain forests. The Islands Trust Council endorsed the BC Climate Action Charter in September 2007. The protection of salt marshes on Trust islands is extremely beneficial to fulfill the Trust's commitment to mitigate climate change in its jurisdiction.

- a) DFO -Saltmarshes – Marine protected areas & climate change (attachment #4)
- b) Estuaries – Denman Island's salmon-bearing Valens Brook estuary, as well as other streams along Denman Shores are being driven through on a regular basis and estuaries are critical fish habitats that should be protected and preserved.

- 5. Island Trust Policy supports this Bylaw Amendment.** Prohibition is consistent with the Trust Policy Statement and the Denman Official Community Plan (OCP) as noted in the Staff Report of May 27, 2013. It is also highly consistent with the 'Preserve and Protect' mandate of the Islands Trust Act. Given what we know about the importance of forage fish habitat in particular, it is important that the LTC do what it can to preserve and protect that habitat as well as the habitat for many other species whose significance is perhaps, as yet, unknown."

- a) Islands Trust Policy Statement support this bylaw (attachment # 5)

6. **Denman Island OCP Provisions that support this bylaw.**
 - a) Non-motorised use of conservation areas is referred to in the Denman Island OCP L3 section under Conservation/Recreation (page 61) which states that beach rights of way are “identified as candidates for future parks and conservation areas”.
 - b) Policy 11 states “Beach rights of way identified on Schedule F should be retained for non-motorised public use”.
7. **Islands Trust Council Bylaw No. 17, Coastal and Marine Shorelands policy 4.5.2:** “It is the position of Trust Council that development activity, buildings or structures should not result in a loss of significant marine or coastal habitat, or interfere with natural coastal processes.”
8. **Greenshores Jurisdiction Issue Sheet:** “Local governments (municipalities 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.”
9. **Letter from Islands Trust Denman Island LTC Chair Peter Luckham on behalf of the Denman Island LTC to support Denman Island Residents Association’s initiative to limit driving on the beaches of Denman Island** (attachment #6)
10. **A report to the Denman Island LTC prepared by Golder Associates in 2013 identified driving on the beach as an activity that could be regulated by a Land Use Bylaw under the *Local Government Act*.** The Golder Report recommends consideration of a Development Permit Area under S.919.1 of the *Local Government Act* for “protection of the natural environment, its ecosystems, and biological diversity” (8.0 Recommendations) and added that “a well-crafted set of guidelines could steer clear of any conflict with the federal Fisheries Act and existing shellfish aquaculture license provisions.”
11. **Comox Valley Regional District Bylaws CVRD Bylaw103 states under “Vehicle control 17.(1)(a): “No person shall operate a vehicle or cycle below the natural boundary or high tide mark in a park, off the designated road ways, or in such a manner as to disturb the natural features of a park.” The definition of “Park” includes beach access and the “Jurisdiction” includes Electoral Areas A, B &C.**
 - a) *The Local Government Act*. S. 903 states: “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.”

12. There is a strong support from ADIMS membership as well as Denman Island community for the protection of beaches and foreshore habitat from vehicle traffic.

- a) Denman Island Resident’s Association (DIRA Guardians of Denman Shores Committee Community Survey 2015 showed strong support for prohibition of vehicles on beaches. (attachment #7)
- b) Association of Denman Island Marine Stewards has given on-going support to initiatives to prohibit Denman Island foreshore.
- c) DIRA’s Parks Committee supports limiting vehicular beach access on Denman Island as confirmed in a letter dated October, 2014. (attachment # 8)

In closing, ADIMS fully supports this amendment bylaw, and appreciate that the Island Trust has included this organization in the referral process re Bylaw Amendment # 225

Sincerely,

ADIMS Co-Chairs: Barb Mills and Dorrie Woodward

Association for Denman Island Marine Stewards (ADIMS)

Box 7, Denman Island, B.C. V0R 1T0 Email: adimsinfo@gmail.com



MEMORANDUM

File No.: 4990-20
Development Approvals
Information Bylaw

DATE OF MEETING: October 3, 2017
TO: Denman Island Local Trust Committee
FROM: Marnie Eggen, Island Planner
Northern Team
COPY: Ann Kjerulf, Regional Planning Manager
SUBJECT: Development Approval Information Bylaw

PURPOSE

The purpose of this memorandum is to update the Denman Island Local Trust Committee (LTC) on the status and next steps to advance updates to the Development Approval Information (DAI) Bylaw.

BACKGROUND

The review and update of the Denman Island Local Trust Committee Impact Assessment Bylaw No. 57 was identified as a part of the Project Charter to Review Development Permit Area No. 4: Streams, Lakes and Wetlands. After staff completed the work on DAI bylaw, the LTC passed the following resolution regarding draft DAI Bylaw No. 149, at the January 22, 2013 LTC meeting:

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

Records indicate that this bylaw was not advanced to the Executive Committee and was not considered at the March 2013 Trust Council meeting. As this bylaw remains outdated, staff will be moving forward to complete this review.

NEXT STEPS

Staff will provide a staff report at an upcoming LTC meeting in order to advance the project.

Submitted By:	Marnie Eggen, MCIP, RPP Island Planner	September 26, 2017
Concurrence:	Ann Kjerulf, MCIP, RPP Northern Regional Planning Manager	September 26, 2017

File No.: 3040-20-01
LTC Open Meetings - General

DATE OF MEETING: October 3, 2017
TO: Denman Island Local Trust Committee
FROM: Ann Kjerulf, Regional Planning Manager
Northern Team
SUBJECT: Denman Bylaw No. 227 - Electronic Meetings

RECOMMENDATION

1. That the Denman Island Local Trust Committee Bylaw No. 227, cited as "Denman Island Local Trust Committee Meeting Procedure Bylaw No. 163, 2004, Amendment No. 2, 2017", be read a first time.
2. That the Denman Island Local Trust Committee Bylaw No. 227, cited as "Denman Island Local Trust Committee Meeting Procedure Bylaw No. 163, 2004, Amendment No. 2, 2017", be read a second time.
3. That the Denman Island Local Trust Committee Bylaw No. 227, cited as "Denman Island Local Trust Committee Meeting Procedure Bylaw No. 163, 2004, Amendment No. 2, 2017", be read a third time.
4. That the Denman Island Local Trust Committee Bylaw No. 227, cited as "Denman Island Local Trust Committee Meeting Procedure Bylaw No. 163, 2004, Amendment No. 2, 2017", be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee.

REPORT SUMMARY

The Denman Island Local Trust Committee (LTC) is asked to consider giving readings to Bylaw No. 227, cited as "Denman Island Local Trust Committee Meeting Procedure Bylaw No. 163, 2004, Amendment No. 2, 2017", and subsequently to forward the bylaw to the Executive Committee for approval, prior to consideration of adoption.

BACKGROUND

Draft Bylaw No. 227 is included as Attachment 1, and for comparison, current Meeting Procedure Bylaw No. 163 is included as Attachment 2.

ANALYSIS

Policy/Regulatory

Islands Trust Electronic Meetings Regulation

The Regulation confirms that:

- a "trust body" includes a local trust committee;
- a special meeting of a local trust committee may be conducted entirely by means of electronic or other communication facilities, or

- a member of a local trust committee who is unable to attend at a meeting of the local trust committee may participate in the meeting by means of electronic or other communication facilities;
- members of a local trust committee who are participating in a meeting conducted in accordance with the regulation are deemed to be present at the meeting; and
- an amendment of the LTC procedures bylaw is required to authorize electronic meetings or electronic participation in meetings.

Local Government Act

Sections 225 (1) and (2) establish general requirements for what must be included in procedures bylaws and states that at least 5 days' notice in advance of a meeting must be given to trustees where a procedures bylaw amendment is being introduced.

Community Charter

Section 127(2) sets out how notice of special meeting must be given and applies to notice of special electronic meetings as well. Sections 6 and 7 of Bylaw No. 227 provide details on how such notice must be given.

Issues and Opportunities

Adoption of the meeting procedure bylaw amendment would allow trustees to attend meetings via electronic means in accordance with the provisions or terms of the bylaw, such as:

- The ability of all LTC members to participate electronically at a special meeting (s. 16);
- The ability of not more than one member of the LTC to participate electronically at a regular meeting; note that this member could be the chair (s. 18);
- An individual member of the LTC cannot participate by electronic means in two consecutive regular LTC meetings (s. 19);
- The restrictions regarding 1) the number of LTC members that may participate electronically at a regular meeting, and 2) participation in two consecutive regular meetings may be waived by unanimous resolution of the LTC (s. 20);
- Where any LTC member is participating in an open meeting through electronic communication facilities, the facilities must enable all meeting participants and the public to hear, or watch and hear, all meeting participants and must provide notice when participants join or leave the meeting (s. 23 and 24);
- During an electronic meeting that is open to the public, a designated staff member must physically attend at the meeting location specified in the notice of meeting (s. 25);
- Notice of a special electronic meeting must include notice of the way in which the meeting is to be conducted and the place where the public may attend to hear, or watch and hear the proceedings. The draft bylaw also clarifies who can chair a meeting, including an electronic meeting. The current procedure bylaw lacks this clarity.

Statutory Requirements

LTC administrative bylaws are required to be approved by the Executive Committee prior to adoption. No public hearing is required.

Rationale for Recommendation

Staff is of the opinion that Bylaw No. 227 will provide the LTC with flexibility to conduct business electronically when necessary. The staff recommendation is outlined on page 1 of the report.

NEXT STEPS

Assuming concurrence with the recommended resolutions, Bylaw No. 227 would be forwarded to the Executive Committee for consideration. Once approved by the Executive Committee, Bylaw No. 227 could then be adopted at the following Local Trust Committee Meeting.

Submitted By:	Ann Kjerulf, MCIP, RPP Regional Planning Manager	September 25, 2017
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ATTACHMENTS

1. Draft Bylaw No. 227
2. (Current) Meeting Procedure Bylaw No. 163

DENMAN ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 227

A Bylaw to Amend the Denman Island Local Trust Committee Meeting Procedure Bylaw

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

1. Denman Island Local Trust Committee Meeting Procedure Bylaw No. 163, 2004, is amended as follows:

1.1 By deleting section 3. In its entirety and replacing it with the following:

"3. At the first regular meeting of the first year and the last meeting of each of the subsequent calendar years, following a general election, or by Resolution Without Meeting, the Local Trust Committee shall establish a schedule of the date, time and place of regular Local Trust Committee meetings for the following calendar year, of which there shall be at least two, and the schedule shall be posted on a notice board on island that is accessible to the public and in the Northern Office of the Islands Trust."

1.2 By deleting section 10 in its entirety and replacing it with the following:

"10. In the event that neither the Chairperson nor the alternate member of the Local Trust Committee appointed by the Chair of the Trust Council is present within one half hour of the scheduled time of a regular or special meeting, the Director of Local Planning Services, or his or her designate, shall call the meeting to order and the remaining trustees shall determine which of them shall act as Chairperson."

1.3 In Section 6., second line of the paragraph, delete the word "day" and insert the word "date".

1.4 By adding the following new sections after section 15, and by renumbering section 16 and section 17 to become section 28 and section 29 respectively:

"ELECTRONIC MEETINGS

16. A special meeting of the Local Trust Committee to deal with urgent new business may be conducted entirely by means of audio or audio-visual electronic communication facilities if a majority of the members of the Local Trust Committee have agreed by resolution that the meeting may be conducted in this way and provided the Deputy Secretary has received sufficient notice and can make the necessary arrangements.
17. An individual Local Trust Committee member who is not at the physical location of a special Local Trust Committee meeting or a regular Local Trust Committee meeting may choose to participate by means of audio or audio-visual electronic communication facilities, provided the Deputy Secretary has received sufficient notice and can make the necessary arrangements.
18. At a regular Local Trust Committee meeting, not more than one Local Trust Committee member may participate by means of electronic communication facilities.
19. An individual member of the Local Trust Committee may not participate by means of electronic communication facilities in two consecutive regular meetings of the Local Trust Committee.
20. The Local Trust Committee may waive the restrictions in sections 18 and 19 by unanimous resolution, provided the waiver does not conflict with provincial legislation and regulation that enables electronic meetings.

DRAFT

21. Local Trust Committee members who use electronic communication facilities to participate in a meeting conducted in accordance with this bylaw are deemed present at the meeting.
22. A member of the Local Trust Committee may begin participation in a meeting by electronic communication facilities after the meeting has been called to order.
23. Where a member of the Local Trust Committee is participating in a meeting through electronic communication facilities, the facilities must enable all meeting participants to hear, or watch and hear, each other and must provide notice when participants join or leave the meeting.
24. Where a member of the Local Trust Committee is participating in a meeting through electronic communication facilities, the facilities must enable the public to hear, or watch and hear, all meeting participants at a place specified in the meeting notice, unless the meeting has been properly closed to the public.
25. For the duration of an electronic meeting that is open to the public, the Director of Local Planning Services, or his or her designate, must attend at the place specified in the meeting notice.
26. If communication is lost to one or more electronic participants during a meeting:
 - 26.1 the affected participants will attempt to reestablish the link and, in the interim, will be deemed to have left the meeting, and this will be recorded in the minutes;
 - 26.2 if there is not a quorum, the Local Trust Committee Chair or person presiding will call a recess until the link is reestablished; and
 - 26.3 if, after 15 minutes, a link cannot be reestablished and there is not a quorum of Local Trust Committee members, the meeting will be deemed adjourned and the item under discussion at the time of loss of communication will be added to the next Local Trust Committee meeting agenda.
27. The costs of electronic participation in a Local Trust Committee meeting will be borne by the Gabriola Island Local Trust Committee if the Local Trust Committee member is participating from a location within Canada or has otherwise received the approval of the majority of Local Trust Committee members."

2. This bylaw may be cited as "Denman Island Local Trust Committee Meeting Procedure Bylaw No. 163, 2004, Amendment No. 2, 2017".

READ A FIRST TIME THIS	TH	DAY OF	, 2017
READ A SECOND TIME THIS	TH	DAY OF	, 2017
READ A THIRD TIME THIS	TH	DAY OF	, 2017
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	TH	DAY OF	, 2017
ADOPTED THIS	TH	DAY OF	, 2017

CHAIRPERSON

SECRETARY

DENMAN ISLAND

MEETING PROCEDURES

BYLAW NO. 163

AS AMENDED BY DENMAN ISLAND LOCAL TRUST COMMITTEE BYLAW
NO. 176

NOTE: This Bylaw is consolidated for convenience only and is not to be
construed as a legal document.

Certified copies of the Official Community Plan are available from the
Islands Trust Office, #200 - 1627 Fort Street, Victoria, B.C. V8R 1H8

Consolidated: MAY, 2006

BYLAW AMENDMENTS

This copy is consolidated for convenience only and includes the following **text** amendments:

<u>Bylaw Number</u>	<u>Amendment Number</u>	<u>Adoption Date</u>
Bylaw No. 167	Amendment No. 1, 2006	May 17, 2006

**DENMAN ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 163, 2004**

A bylaw to establish procedures for meetings of the Local Trust Committee

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

SHORT TITLE

1. This bylaw may be cited as "Denman Island Local Trust Committee Meeting Procedure Bylaw No. 163, 2004".

MEETINGS AND NOTICE OF MEETINGS

2. The first regular meeting of the Local Trust Committee shall be held on a date to be determined by the Local Trust Committee by Resolution Without Meeting following a general local election.
3. At the first regular meeting of the first year and at the last regular meeting of the first and second year following a general election, or by Resolution Without Meeting, the Local Trust Committee shall establish a schedule of the date, time and place of regular Local Trust Committee meetings for the following calendar year, of which there shall be at least two, and the schedule shall be posted on a notice board on island that is accessible to the public and in the Victoria Office of the Islands Trust.
4. Public notice of the availability of the regular meeting schedule at the place specified in Section 3 shall be given at least once a year by publication in a newspaper circulating in the local trust area.
5. Each local trustee shall provide to the Secretary of the Islands Trust a telephone number and mailing address for the purpose of receiving notices of Local Trust Committee meetings, and notice shall be deemed to have been sufficiently given to the local trustee if the notice is delivered to the trustee's mailing address or given to the trustee in person.
6. Any two members of the Local Trust Committee may call a special meeting by giving notice of the day, time, place and purpose of the meeting to the third member of the Committee by telephone or written notice delivered to the trustee at least 48 hours before the time of the meeting, and by posting the notice at the place specified in Section 3, except that notice to Local Trust Committee members may be waived by unanimous vote.
7. If the Chairperson is not one of the members calling the special meeting, the members calling the special meeting shall, prior to doing so, advise the Chairperson of the calling of the meeting and consider the Chairperson's representations, if any, regarding the calling of the meeting.
8. Regular and special meetings of the Local Trust Committee shall be open to the public, except where the Committee has stated by resolution in open meeting that the meeting or portion of the meeting is to be closed to the public, and has stated the statutory basis on which it is to be closed.
9. A quorum of the Local Trust Committee is two members.
10. In the event that the Chairperson is not present within one half hour of the scheduled time of a regular or special meeting, the Director of Local Planning Services or his or her

BL176
May 2006

11. The Director of Local Planning Services or his or her designate shall legibly record the minutes of the meetings of the Local Trust Committee, and shall record any resolutions without meeting. After the minutes of a meeting have been adopted, the Director or his or her designate shall certify the minutes as correct and the Chairperson or other trustee who presided at the meeting shall sign the minutes.
12. The minutes shall record every resolution of the Committee including every resolution closing a meeting to the public, the reading and adoption of every bylaw, and every declaration made in relation to a conflict of interest.
13. The minutes shall record every instance when a voting member votes against a motion, or when a voting member is absent from the meeting at the time of voting on a motion.

14. Any question of meeting procedure that is not provided for in this Bylaw, the *Islands Trust Act*, the *Local Government Act*, the *Community Charter*, or regulations under either of those statutes, shall be resolved in accordance with the most current edition of *Robert's Rules of Order*.
15. Bylaws shall be in writing, may be read by title only, provided that each member of the Local Trust Committee is in possession of a complete copy of the proposed bylaw at the meeting, and may be adopted on a motion to that effect at a regular or special meeting. Bylaws may be read a first time, and may be adopted, by resolution without meeting.
16. The Chairperson of the Local Trust Committee or other trustee who presided at the meeting at which it was adopted, and the Secretary of the Islands Trust shall sign every bylaw adopted by the Local Trust Committee, and the Secretary shall keep a certified copy of the bylaw at the principal office of the Islands Trust.

17. The Chairperson and one other member of the Local Trust Committee may execute any document on behalf of the Local Trust Committee once the Committee has authorized the execution of the document.

READ A FIRST TIME THIS	18TH	DAY OF	FEBRUARY	, 2004.
READ A SECOND TIME THIS	18TH	DAY OF	FEBRUARY	, 2004.
READ A THIRD TIME THIS	18TH	DAY OF	FEBRUARY	, 2004.
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS				
23RD		DAY OF	MARCH	, 2004
ADOPTED THIS	24TH	DAY OF	MARCH	, 2004.

Linda Prowse
SECRETARY

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

No.	Description	Activity	R/Initiated	Responsibility	Target Date
1	Marine Issues	June 6, 2017: Bylaw 225 (to prohibit vehicles and ground-based machinery on the foreshore) given 1st reading and referred to First Nations and agencies for comment	03-Mar-2015	Ann Kjerulf	
1	Relationship building with Komoks First Nation	Shared Narrative of Place Project will integrate First Nations history and place names in the OCP and explore opportunities for First Nations to participate in the work of the Local Trust Committee more meaningfully.		Marnie Eggen Fiona MacRaid	
1	Denman Island Farm Plan Implementation	Incorporate Bylaw 223 considerations (agriculture, intensive agriculture, feedlot definitions)			
1	Denman Village Community Design Charrette	Intensive study of Downtown Denman Village and community consultation process by VIU Master of Community Planning students September 6-9, 2017		Ann Kjerulf Ian Cox	

**Projects****Denman Island**

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



Projects

Denman Island

Description	Activity	R/Initiated
Travel trailers	LUB amendments and enforcement policies regarding the use of travel trailers	07-Mar-2017
Occasional use of accessory buildings	Amend LUB definition of the term occasional in relation to the use of an accessory building to clarify that it refers to a cumulative use of not more than 45 days per year regardless of who is staying there	07-Mar-2017



Development Permit

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

Planner: Teresa Rittemann

Planning Status

Status Date: 18-Sep-2017

No change in status.

Status Date: 18-Apr-2017

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

Status Date: 29-Jul-2013

File passed on to Bylaw enforcement

File Number	Applicant Name	Date Received	Purpose
DE-DP-2017.1	Ellis, Dean	26-Apr-2017	PID: 025-563-254 Amendments Civic: 3830 Salal Drive, Hornby Island, BC

Planner: Marnie Eggen

Planning Status

Status Date:

Development Variance Permit

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

Planner: Teresa Rittemann

Planning Status

Status Date: 18-Sep-2017

No change in status.

Status Date: 18-Apr-2017

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

Applications

Status Date: 29-Jul-2013

no change; file passed on to bylaw enforcement

Rezoning

File Number	Applicant Name	Date Received	Purpose
DE-RZ-2017.1	Denman Community Land Trust Association Planner: Marnie Eggen	12-Sep-2017	PID: 009-708-537 Create two lots for affordable housing for seniors. Civic address: 3730 Denman Road, Denman Island, BC
Planning Status			
<u>Status Date:</u>			

Siting and use Permit

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2009.14	Day, Jean Ella	02-Nov-2009	2900 SWAN RD One 26 foot high barn.
Planner: Teresa Ritemann			
Planning Status			
<u>Status Date:</u> 18-Sep-2017			
No change in status.			
<u>Status Date:</u> 30-Jun-2011			
On hold until outcome of DP and DVP.			
<u>Status Date:</u> 03-Mar-2011			
New info submitted by applicant indicates bld sited on lot line; options provided to applicant			

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

Applications

Planning Status

Status Date: 03-Nov-2014

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

Subdivision

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

Planning Status

Status Date: 18-Sep-2017

Legal Service Request completed and Cost Recovery process started. Waiting on confirmation from Finance dept that applicant has entered into Cost Recovery with Islands Trust.

Status Date: 16-Aug-2017

PLA received. Applicant to address conditions.

Status Date: 16-Aug-2017

PLA received. Applicant to address conditions.

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

Planning Status

Status Date: 14-Sep-2017

Applicant considering a revised plan and he will discuss with MOTI.

Status Date: 19-Jul-2017

No change in status.

Status Date: 21-Jun-2017

Revised referral report sent to MOTI

File Number	Applicant Name	Date Received	Purpose
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Islands Trust

Print Date: September 26, 2017

Applications

DE-SUB-2017.1 McElhanney 09-Jan-2017 PID: 005-850-011 Subdivide property into two lots for residential purposes.
Associates & Land 5465 Lacon Road, Denman Island.
Surveying
Planner: Linda Prowse

Planning Status

Status Date:

File Number	Applicant Name	Date Received	Purpose
DE-SUB-2017.3	Peter Mason	27-Jul-2017	PID: 005-849-977 Two lot subdivision Lacon Road, Denman Island
	Geomatics		
	Planner: Linda Prowse		

Planning Status

Status Date:

Islands Trust
LTC EXP SUMMARY REPORT F2018
Invoices posted to Month ending August 2017

615 Denman	Invoices posted to Month ending August 2017	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-615	LTC "Trustee Expenses"	750.00	164.61	585.39
LTC Local				
65200-615	LTC - Local Exp - LTC Meeting Expenses	4,500.00	1,136.07	3,363.93
65210-615	LTC - Local Exp - APC Meeting Expenses	600.00	540.57	59.43
65220-615	LTC - Local Exp - Communications	500.00	125.00	375.00
65230-615	LTC - Local Exp - Special Projects	500.00	1,610.33	-1,110.33
TOTAL LTC Local Expense		<u>6,100.00</u>	<u>3,411.97</u>	<u>2,688.03</u>
Projects				
73001-615-2017	Denman OCP/LUB	1,500.00	378.10	1,121.90
73001-615-4011	Denman Agriculture Plan	3,500.00	0.00	3,500.00
73001-615-4062	Denman First Nations Relations	1,000.00	604.51	395.49
TOTAL Project Expenses		<u>6,000.00</u>	<u>982.61</u>	<u>5,017.39</u>