

Regular Meeting Revised Agenda

Date: January 19, 2021
Time: 10:00 am
Location: Electronic Meeting

Pages

1. CALL TO ORDER 10:00 AM - 10:05 AM

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

2. APPROVAL OF AGENDA

2.1. Resolution to Continue Holding Electronic Meetings

That in order to meet the principles of openness, transparency, and accessibility, meetings of the Denman Island Local Trust Committee will be held electronically until Ministerial Orders under the *Emergency Program Act* and requirements or recommendations under the *Public Health Act* change regarding public attendance at trust body meetings; and that such meetings be live streamed, and the public invited to participate in meetings by connecting to the link or the phone number provided in the meeting notice, in order to observe proceedings and speak when invited by the Chair.

3. RISE AND REPORT - IN CAMERA MEETING NOVEMBER 3, 2020 10:05 AM - 10:10 AM

The In Camera minutes of July 7, 2020 and August 17, 2020 were adopted.

4. REPORTS 10:10 AM - 10:20 AM

4.1. Trustee Reports

4.2. Chair's Report

4.3. Electoral Area Director's Report

5. TOWN HALL 10:20 AM - 10:30 AM

6. DELEGATIONS

7. MINUTES 10:30 AM - 10:35 AM

7.1. Local Trust Committee Minutes dated November 3, 2020 - for adoption

7.2.	Section 26 Resolutions-Without-Meeting - none	
7.3.	Advisory Planning Commission Minutes - none	
8.	BUSINESS ARISING FROM MINUTES	10:35 AM - 10:45 AM
8.1.	Follow-up Action List dated January 11, 2021	13 - 17
9.	APPLICATIONS AND REFERRALS	10:45 AM - 11:45 AM
9.1.	<i>DE-RZ-2017.1 (Denman Community Land Trust Association (DCLTA)) - Staff Report - for decision</i>	<i>18 - 80</i>
10.	LOCAL TRUST COMMITTEE PROJECTS - none	
11.	CORRESPONDENCE	11:45 AM - 11:50 AM
	(Correspondence received concerning current applications or projects is posted to the LTC webpage)	
11.1.	Letter dated December 14, 2020 to Trustee Critchley from Association for Denman Island Marine Stewards (ADIMS) regarding Aquaculture File 1400036	81 - 94
11.2.	<i>Letter of Support for Association for Denman Island Marine Stewards (ADMINS)</i>	
12.	NEW BUSINESS	11:50 AM - 12:30 PM
12.1.	Forest Conservation Outreach Briefing - for information	95 - 102
12.2.	K'omoks Community to Community Meetings and Planning Process - for discussion	
12.3.	Denman Community Land Trust Association (DCLTA) Housing Agreement - 3900 Lacon Road - Schedule B - Memorandum	103 - 104
	----- BREAK 12:30 PM TO 1:00 PM -----	
13.	REPORTS	1:00 PM - 1:20 PM
13.1.	Trust Conservancy Report dated November 24, 2020	105 - 107
13.2.	Applications Report dated January 11, 2021	108 - 112
13.3.	Trustee and Local Expense Report dated October, 2020	113 - 113
13.4.	Adopted Policies and Standing Resolutions	114 - 117
13.5.	Local Trust Committee Webpage	
14.	WORK PROGRAM	1:20 PM - 1:40 PM

14.1.	Top Priorities Report dated January 11, 2021	118 - 118
14.2.	Projects List Report dated January 11, 2021	119 - 121
15.	INFORMATION ITEMS	1:40 PM - 1:45 PM
15.1.	Trust Council Decision Highlights - December 1-3, 2020	122 - 123
15.2.	Letter dated November 30, 2020 from Chair Luckham to Premier and Ministers regarding Development of BC Coastal Strategy and Law	124 - 125
15.3.	Letter dated November 30, 2020 from Chair Luckham to The Honourable Josie Osborne, Minister of Municipal Affairs regarding request to Enhance Islands Trust's Jurisdiction Over Tree Cutting	126 - 127
16.	UPCOMING MEETINGS	
16.1.	Next Regular Meeting Scheduled for Tuesday, March 16, 2021 at 10:00 am at - Location to be determined	
17.	CLOSED MEETING	1:45 PM - 1:55 PM
17.1.	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) (d) and (f) for the purpose of considering adoption of In-Camera Meeting Minutes dated November 3, 2020 and Bylaw Enforcement and that the recorder and staff attend the meeting.</i>	
17.2.	Recall to Order	
17.3.	Rise and Report	
18.	ADJOURNMENT	1:55 PM - 1:55 PM



Denman Island Local Trust Committee Minutes of Regular Meeting

Date: November 3, 2020
Location: Electronic Meeting

Members Present: Sue Ellen Fast, Chair
David Critchley, Local Trustee
Laura Busheikin, Local Trustee

Staff Present: Heather Kauer, Regional Planning Manager
Marnie Eggen, Island Planner
Vicky Bockman, Recorder

Others Present: Approximately six (6) members of the public

1. CALL TO ORDER

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

Chair Fast called the meeting to order at 12:31 pm. She welcomed the public, introduced Trustees and staff, and acknowledged that the meeting was being held electronically in traditional territory of the K'ómoks First Nation.

2. APPROVAL OF AGENDA

2.1 Electronic Meetings Resolution

DE-2020-057

It was MOVED and SECONDED,

that in accordance with *Ministerial Order M192 - Local Government Meetings & Bylaw Process* and *Province of BC Bill 19 - 2020*, Denman Island Local Trust Committee cannot conduct public in-person meetings at this time because the meeting venues traditionally used have limited access or do not meet the legislated requirements for the protection of the community, trustees and staff; and

Therefore in order to meet the principles of openness, transparency and accessibility, this meeting of the Denman Island Local Trust Committee will be held electronically on November 3, 2020, will be live streamed and the public invited to participate in meetings by connecting to the link or the phone number provided in the meeting notice, in order to observe proceedings and speak when invited by the Chair.

CARRIED

The following amendments to the agenda were presented for consideration:

- Delete item 8.2 at the applicant's request;
- Move items 15 and 16 to follow 13.2.

By general consent the agenda was approved as amended.

3. REPORTS

3.1 Trustee Reports

Trustee Busheikin reported on the following:

- Discussions with constituents on a variety of topics;
- Comox Valley Regional District (CVRD) liaison meeting;
- Regional Planning Committee, conducting a review of fees;
- Financial Planning Committee, working on the budget for the coming year.

Trustee Critchley reported on the following:

- Trust Programs Committee meetings reviewing the Islands Trust Policy Statement and a sub-group considering affordable housing;
- Trust Council;
- CVRD Liaison meeting;
- Baynes Sound Forum working group;
- Emails and calls from constituents.

3.2 Chair's Report

Chair Fast reported on the following:

- Trust Council; the next electronic Trust Council meeting on December 1 will schedule Delegations and Town Hall in evenings to make these sessions more accessible to the public;
- Union of BC Municipalities;
- Islands Trust Conservancy meeting;
- Financial Planning Committee meeting;
- Bowen Island Municipal Council meetings;
- Hornby Island Local Trust Committee (LTC) meeting;
- Gambier Island LTC meeting.

3.3 Electoral Area Director's Report - none

4. TOWN HALL

Trustee Busheikin declared a potential conflict of interest as she lives next to the site of the proposed Denman Green project, and left the meeting at 12:56 pm.

Simon Palmer provided an update on the Denman Green project, advising that meetings have been held with Island Health staff and written support has been received for the source water. He reported that information has been provided as to Island Health's requirements for sufficiency of water and that Denman Housing Association is working to resolve issues relating to those requirements. He requested that, in consideration of this information and the financing deadlines, the LTC expedite advancement of the rezoning application and schedule community consultation prior to the next LTC meeting.

Trustees acknowledged the concerns and expressed a willingness to conduct a special meeting if appropriate once the Island Health water source approval has been submitted for their review.

Trustee Busheikin returned to the meeting at 1:01 pm.

5. DELEGATIONS - none

6. MINUTES

6.1 Local Trust Committee Minutes dated September 8, 2020 - for adoption

By general consent the LTC minutes dated September 8, 2020 were adopted.

6.2 Section 26 Resolutions-Without-Meeting Report dated October 26, 2020

Received.

6.3 Advisory Planning Commission Minutes - none

7. BUSINESS ARISING FROM MINUTES

7.1 Follow-up Action List dated October 26, 2020

Trustees discussed the Follow-up Action list and the following was noted:

- Consideration might be given to bringing the July 4, 2019 activity forward;
- Trustee Critchley provided an update on the January 21, 2020 activity and advised that the task outlined in the list has been concluded and the activity may now be removed.

By general consent item 10 was moved to follow agenda item 7.1.

10. CORRESPONDENCE

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

10.1 Letter dated August 10, 2020 from Association for Denman Island Marine Stewards (ADIMS)

Trustees confirmed that ADIMS has expressed interest in the BC Farm Industry Review Board presentation and question & answer session conducted at the September 8, 2020 LTC meeting and has access to review that presentation.

In related information, a Trustee reported on the following:

- The Shellfish Aquaculture Management Advisory Committee, a subset of Fisheries and Oceans Canada (DFO), is currently reviewing terms of license for aquaculture with an interest in strengthening the terms as a management tool;
- The Federal Government is considering a new *Aquaculture Act* and is soliciting public consultation on this topic until January 15, 2021. Information on how to participate may be found on the DFO website.

10.2 Notification for Information from the Comox Valley Regional District Electoral Area Services Committee, dated August 6, 2020 of Development Permits for Shoreline Protection at Coal Hills, Vancouver Island

Received.

10.3 Email dated September 15, 2020 from L. Larkin regarding Request for New Regulations to Protect Our Forests

Trustees discussed the limitations of the Islands Trust's ability to regulate tree removal and the following comments were noted:

- A Development Permit Area is currently the only tool that could be used to identify sensitive ecosystems that need protection and could regulate tree cutting;
- This issue might be included in requested changes to the *Islands Trust Act* that the Islands Trust has been pursuing;
- Executive Committee and the Regional Planning Committee might be consulted on this topic as they are guiding the work with the Province;
- An upcoming Trust Council agenda may include information on increased forest and ecosystem protection in the Island Trust's Strategic Plan.

DE-2020-058**It was MOVED and SECONDED,**

that the Denman Island Local Trust Committee forward the email dated September 15, 2020 from Lisa Larkin regarding Request for New Regulations to Protect Our Forests to the Executive Committee and Regional Planning Committee for information.

CARRIED**8. APPLICATIONS AND REFERRALS****8.1 DE-RZ-2017.1 (Denman Community Land Trust Association (DCLTA)) –Staff Report**

Planner Eggen outlined the Staff Report that presents amended proposed Bylaw Nos. 233 and 234 and proposed Bylaw No. 239 for the Housing Agreement, and asks the LTC to consider first reading of these Bylaws. She advised that staff recommends that a Community Information Meeting be scheduled once the LTC has considered the final draft restrictive covenant.

A Trustee requested information regarding the approximate percentage of lot coverage as per the site plan in order to inform a decision on this aspect of the rezoning. Planner Eggen responded that she will research and provide this information to the Trustee.

Chair Fast invited the applicant, Harlene Holm, to speak to the application and the following was noted:

- Concern was expressed regarding recent communication with planning staff regarding the direction of clause C of the restrictive covenant and the possibility of Islands Trust staff requiring access to the well with no benefit from that data to match DCLTA's weekly conducting of baseline monitoring of the well;
- DCLTA has requested that the covenant require that DCLTA monitor well water level and electro-conductivity on a weekly basis once the well is in use and share this data with the Islands Trust;
- The LTC was urged to consider ways to solve all the needs without a draft covenant as DCLTA will incur costs of any changes;
- She reported that the Ministry of Transportation and Infrastructure referral request deadline has passed and a response has not yet been provided.

Trustees confirmed their understanding that clause C of the proposed covenant would require the installation of a data logger and that information would be available for the Islands Trust; and their general understanding that requiring staff access to the well had not been considered and details of the covenant have not yet been drafted.

DE-2020-059

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee Bylaw No. 239, cited as “Denman Island Housing Agreement Bylaw No. 239, 2020” be read a first time.

CARRIED

DE-2020-060

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee amend Bylaw No. 233, cited as “Denman Island Official Community Plan, 2008, Amendment No. 1, 2019” as follows:

- a. Item 1.4 is amended by adding the text “subject to Agricultural Land Commission approval.” to the end of Policy 4.
- b. Schedule “2” 1 is amended by removing the text “Parcel M (DD 6601N) of Section 18, Denman Island, Nanaimo District, Except that Part in Plan 24807 (PID 009-708-537)” and replacing it with “Lot A Section 18, Denman Island, Nanaimo District Plan EPP 68031 (PID 031-102-026)”.

CARRIED

DE-2020-061

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee Bylaw No. 233, cited as “Denman Island Official Community Plan, 2008, Amendment No. 1, 2019” be read a first time, as amended.

CARRIED

DE-2020-062

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 233, cited as “Denman Island Official Community Plan, 2008, Amendment No. 1, 2019” is not contrary to or at variance with the Islands Trust Policy Statement.

CARRIED

DE-2020-063

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee amend Bylaw No. 234, cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2019” as follows:

- a. Adding the word “Rental” between the words “Affordable” and “Housing” in items 1.3, 1.4, 1.10, and 1.12.
- b. Item 1.3 is amended by removing the word “ADMINISTRATION” and replacing it with “GENERAL REGULATIONS”.
- c. Adding new item 1.5 that amends PART 2 GENERAL REGULATIONS, Section 2.4 Home Occupation Regulations, Permitted Home Occupation Uses by adding new regulations 3 and 4 that limit home occupation uses in the R4 zone to general business offices, professional offices, excluding health services, artist or artisan studios, and prohibits in the R4 zone on-site purchase of any products or services, on-site attendance of clientele or customers, and the creation of noise which disturbs persons.

- d. Adding new item 1.6 that amends 1.6 PART 2 GENERAL REGULATIONS, Section 2.4 Home Occupation Regulations, Number of Employees, by adding a new regulation 17 that prohibits non-resident employees in the R4 zone.
- e. Item 1.18 that amends PART 3 ZONE REGULATIONS, Section 3.3 “Residential Zoning Tables” Table 6 – Floor Area, line 6 is amended by removing “100 m²” from the R4 column and leaving blank.
- f. Item 1.20 that amends PART 3 ZONE REGULATIONS, Section 3.3 “Residential Zoning Tables”, Table 8 – Site Specific Regulations, by adding Site Specific Zoning Code R4(2) is amended by adding a new line 1 that prohibits the keeping of chickens or other livestock, and the sale of agricultural and horticultural products, including their storage, processing and direct marketing.
- g. Item 2.3 is amended by removing the text “Parcel M (DD 6601N) of Section 18, Denman Island, Nanaimo District, Except that Part in Plan 24807 (PID 009-708-537)” and replacing it with “Lot A Section 18, Denman Island, Nanaimo District Plan EPP68031 (PID 031-102-026).”

CARRIED**DE-2020-064****It was MOVED and SECONDED,**

that the Denman Island Local Trust Committee Bylaw No. 234, cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2019” be read a first time, as amended.

CARRIED**DE-2020-065****It was MOVED and SECONDED,**

that the Denman Island Local Trust Committee request staff to schedule Community Information Meeting early in the New Year, subject to:

- a. Staff’s receipt of the signed cost recovery agreement for a restrictive covenant in accordance with the Local Trust Committee resolution DE-2020-025, passed May 19, 2020 for application DE-RZ-2017.1 (DCLTA); and
- b. Consideration of the final draft restrictive covenant by the Local Trust Committee.

CARRIED**9. LOCAL TRUST COMMITTEE PROJECTS****9.1 Projects Review Presentation - for information**

Planning Manager Kauer conducted a presentation that identified some of the impacts to the Northern Office, LTC projects and staff resources as the Islands Trust moves forward in implementation of a Regional planning group.

Discussion of the presentation included the following points:

- The graphic representation of bylaw amendment timelines was considered useful information to display on the website for public reference;
- Staff recommends resumption of the Farm Plan Project or grouping Land Use Bylaw amendments into a minor or medium scale project for local Planner attention;
- The question of the opportunity to hire short term support to assist advancing projects was raised, with budget requests and policies being necessary considerations for that possibility.

11. NEW BUSINESS

11.1 2021 Local Trust Committee Meeting Schedule - Memorandum for decision

DE-2020-066

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee schedule its regular business meetings on the following dates in 2021: January 19, March 16, May 4, July 6, September 7, and November 2.

Trustee Busheikin commented on her concern that the number of LTC meetings per year is continually fewer than in the past while complexity of regulations and local government workload has increased. Other Trustees commented that the reduced number of meetings might be an indication of increased efficiency in the organisation and that holding meetings electronically may be contributing to that efficiency.

CARRIED

12. REPORTS

12.1 Trust Conservancy Report dated July 14, 2020 and October 6, 2020

Chair Fast presented highlights from the two reports. She reported that a map of Denman Island high quality forests and a brochure on The Natural Area Protection Tax Exemption Program (NAPTEP) was sent to relevant landowners to encourage conservation. Trustees asked that this information be added to the Denman Island webpage "Resources" section.

12.2 Applications Report dated October 26, 2020

Application File Number DE-RZ-2018.1 status was asked to be updated with information that the LTC is awaiting proof of source water approval by Island Health.

12.3 Trustee and Local Expense Report dated September, 2020

Trustees observed that Trust Area Services is currently working on an Islands Trust-wide project to update signage, and suggested that the Projects budget of \$1,000 for the Denman Ferry Signage might be reallocated to another project. No action was taken at this time.

12.4 Adopted Policies and Standing Resolutions

Received.

12.5 Local Trust Committee Webpage

During discussion the LTC requested the following:

- The bylaw timeline from the agenda item 9.1 presentation was asked to be added to the Denman Island website in an appropriate location;
- The new Denman Island mapping associated with the Islands Trust Conservancy 2020 Forest Outreach Campaign was asked to be placed on the Denman Island "Resources" page.

13. WORK PROGRAM

13.1 Top Priorities Report dated October 26, 2020**DE-2020-067**

It was MOVED and SECONDED,

that the item "Signage at Ferry Terminal" be removed from the Denman Island Local Trust Committee Top Priorities Report.

A Trustee noted that Trust Area Services is currently working on an Islands Trust-wide signage project; and asked that a request be made that, if possible, options to have the signage reflect some local aesthetic be considered for inclusion in the Denman Island ferry terminal signage.

CARRIED

Trustees proposed adding a review of the Official Community Plan/Land Use Bylaw Review to the Top Priorities Report to support the prioritization of this project.

DE-2020-068

It was MOVED and SECONDED,

that the item "Official Community Plan/Land Use Bylaw Review" be added to the Top Priorities Report.

CARRIED

DE-2020-069

It was MOVED and SECONDED,

that the Denman Island Local Trust Committee remove the activity dealing with ferry terminal signage from the Follow-up Action List.

CARRIED

13.2 Projects List Report dated October 26, 2020

Received.

15. UPCOMING MEETINGS**15.1 Next Regular Meeting Scheduled in (2021) – January 19, 2021**

Trustees confirmed the next regular LTC meeting date with start time and location to be determined.

16. ADJOURNMENT

By general consent the meeting was adjourned at 3:06 pm.

14. CLOSED MEETING

14.1 Motion to Close the Meeting

That the meeting be closed to the public in accordance with the Community Charter, Part 4, Division 3, s.90(1) (m) for the purpose of considering Adoption of In-Camera Meeting Minutes dated July 7, 2020 and August 17, 2020 and that the recorder and staff attend the meeting.

14.2 Recall to Order - none

14.3 Rise and Report - none

Sue Ellen Fast, Chair

Certified Correct:

Vicky Bockman, Recorder

Follow Up Action Report

Denman Island

07-Feb-2019

Activity	Responsibility	Dates	Status
1 Amend Bylaw No. 228 (OCP) by replacing item 1.15 Policy 3 (as per Feb. 7, 2019 staff report).	Becky McErlean Sonja Zupanec		In Progress

Follow Up Action Report

Denman Island

07-Feb-2019

Activity	Responsibility	Dates	Status
2 Amend Bylaw No. 229 (LUB) for LTC consideration: a. Include TUP and rainwater harvesting collection system requirements for temporary secondary dwellings for immediate family; b. Amend the agri-tourism accommodation TUP guidelines to remove the option for seasonal cabins, and continue to permit seasonal campsites and a maximum of three sleeping units, which includes home-based guest accommodation rooms; c. Reduce the lot line setback for feedlots from 50 m to 30 m. - d Remove the term feedlot e. Add a new defined term, confined livestock area. f. remove agriculture as an accessory use in the R1 zone, while retaining horticulture as an accessory use in this zone; - g remove the term intensive agriculture; h. amend the definition of horticulture to continue to allow the sale of products produced on the lot, and to ensure that the use is accessory to a principal residential use and not tied specifically to a landowner; i. permit the keeping of animals for personal use as an accessory use in the R1, R2, R3 zones. j. Remove horticulture as a permitted use in the A, F, and RE zones, while retaining agriculture as a principal permitted use in these zones.	Becky McErlean Sonja Zupanec		In Progress

Follow Up Action Report

Denman Island

07-Feb-2019

Activity	Responsibility	Dates	Status
3 LTC endorsed revised Farm Plan Implementation Project Charter as amended (adding Cannabis Land Use Regulations as an Out of Scope activity).	Sonja Zupanec		In Progress

04-Jul-2019

Activity	Responsibility	Dates	Status
1 David Marlor to bring forward draft procedures for cell tower application consultation for LTC consideration.	David Marlor		In Progress

03-Oct-2019

Activity	Responsibility	Dates	Status
1 Staff to follow up with the Farm Industry Review Board (FIRB) to arrange a meeting and a tour as per their letter dated September 25, 2019 and include invitation to the Hornby LTC. <i>2020-09-08 update: presentation held at Denman LTC meeting</i> <i>2020-09-08. FIRB availability for Tour - summer 2021.</i>	Becky McErlean Penny Hawley Sonja Zupanec Wil Cottingham		In Progress

21-Jan-2020

Activity	Responsibility	Dates	Status
----------	----------------	-------	--------

Follow Up Action Report

Denman Island

21-Jan-2020

Activity	Responsibility	Dates	Status
1 Staff to prepare a draft Water Sustainability Project Charter.	William Shulba		In Progress

07-Jul-2020

Activity	Responsibility	Dates	Status
1 Staff to forward the LTC request for a Denman Island OCP and LUB review to be prioritized by LPS to the LPS Director, Executive Committee and Local Planning Services. Trustee Busheikin to provide background.	Sonja Zupanec		In Progress

08-Sep-2020

Activity	Responsibility	Dates	Status
1 Staff to prepare a plain language guide/FAQ for proposed bylaw Nos 233 and 234 (DE-RZ-2017.1) to be considered by the LTC prior to a Community Information Meeting and distributed as an insert in the Islands Grapevine ahead of a Community Information Meeting.	Sonja Zupanec		Completed
2 Staff to bring back a staff report for LTC consideration regarding DE-SUP-2020.3 and the landowner's request to build in the covenanted area identified in Archaeological Covenant CA7485176.	Jaime Dubyna		In Progress



Follow Up Action Report

Denman Island

03-Nov-2020

Activity	Responsibility	Dates	Status
1 Staff to forward letter from L Larkin dated September 15 to Executive Committee and Regional Planning Committee for their information.	Marnie Eggen		Completed
2 LTC gave 1st reading to Bylaw No. 239 (Housing Agreement) for DE-RZ-2017.1. Staff to update bylaw.	Becky McErlean Marnie Eggen		Completed
3 LTC gave 1st reading as amended to Bylaw Nos. 233 and 234. Staff to update bylaws.	Becky McErlean Marnie Eggen		Completed
4 Staff to schedule a community information meeting early in 2021 for application DE-RZ-2017.1, once a cost recovery agreement is signed by the applicant/agent and the LTC has considered a final draft of the restrictive covenant as per resolution DE-2020-025.	Becky McErlean Sonja Zupanec Wil Cottingham		In Progress
5 Staff to post the Project Review Presentation to the Denman LTC webpage.	Heather Kauer		Completed
6 The LTC endorsed its regular business meetings on the following dates in 2021: January 19, March 16, May 4, July 6, September 7, and November 2.	Becky McErlean Marnie Eggen Wil Cottingham		Completed
7 Staff to remove "Signage at Ferry Terminal" from the Top Priorities, and remove related FUAL item. Add Denman Official Community Plan/Land Use Bylaw Review to Top Priorities.	Marnie Eggen		Completed



File No.: DE-RZ-2017.1
(Denman Community Land
Trust Association)

DATE OF MEETING: January 19, 2021

TO: Denman Island Local Trust Committee

FROM: Sonja Zupanec, Island Planner
Northern Team

COPY: Heather Kauer, Regional Planning Manager

SUBJECT: Rezoning Application for Seniors Affordable Housing Development
Owner/Applicant: Bev Severn (Owner) and Doug Olstead (Agent/Applicant)
Location: 3730 Denman Road, Denman Island (PID 009-708-537)

RECOMMENDATION

1. That the Denman Island Local Trust Committee amend Bylaw No. 234 (LUB) cited as “Denman Island Land Use Bylaw, 2008, Amendment No.1, 2019” as follows:
 - a. 1.20 PART 3 ZONE REGULATIONS, Section 3.3 “Residential Zoning Tables”, Table 8 – Site Specific Regulations, R4(2)10 is amended by reducing the minimum lot size from 0.8 hectares to 0.7 hectares.
2. That the Denman Island Local Trust Committee Bylaw No. 234 (LUB) cited as “Denman Island Land Use Bylaw, 2008, Amendment No.1, 2019” be read a first time, as amended.
3. That the Denman Island Local Trust Committee amend Bylaw No. 239 cited as “Denman Island Housing Agreement Bylaw No. 239, 2020” as follows:
 - a. Section C. Affordable rental housing eligibility - subsection iii. be amended by increasing the annual household income percentage from 120% to 160%.
4. That the Denman Island Local Trust Committee Bylaw No. 239 cited as “Denman Island Housing Agreement Bylaw No. 239, 2020” be given second reading.
5. That the Denman Island Local Trust Committee authorize the release of up to \$100 from the communications budget to insert the “Question and Answer” document as presented, into one edition of the “Islands Grapevine” community paper prior to the scheduled community information meeting.
6. That the Denman Island Local Trust Committee request staff to schedule a Public Hearing during the March 16 2021 regularly scheduled business meeting for Proposed Bylaw Nos. 233 (OCP) and 234 (LUB).

REPORT SUMMARY

This staff report identifies a minor change for proposed Bylaw No. 234 (LUB) and recommends that the bylaw receive first reading, as amended. A minor change for proposed Bylaw No. 239 for the Housing Agreement is also

recommended, and that the bylaw be given second reading. The LTC is asked to consider endorsing a draft public 'Question and Answer' document and draft restrictive covenant. Additionally, staff is recommending that the Community Information Meeting be scheduled in February and a Public Hearing in March, 2021, to advance next steps for processing this application.

BACKGROUND

At their September 8, 2020 business meeting, the LTC passed the following resolution:

DE-2020-053 It was MOVED and SECONDED,

that Denman Island Local Trust Committee request staff to prepare a plain language guide/Frequently Asked Questions for proposed Bylaw Nos. 233 and 234 and rezoning application DE-RZ-2017.1 to be considered by the Local Trust Committee before a Community Information Meeting and distributed as an insert in the Islands Grapevine ahead and in support of a Community Information Meeting. **CARRIED**

Staff have prepared a question and answer document (see analysis section below) for the LTC's endorsement for insertion into the "Islands Grapevine" community newspaper.

Staff reports and associated information for rezoning application DE-RZ-2017.1 (DCLTA) are available on the Islands Trust website under Denman Island, [Current Applications](#).

ANALYSIS

Staff have identified the following issues and opportunities for LTC consideration:

- Proposed Bylaw No. 234 (LUB) amendment to minimum lot size
- Proposed Bylaw No. 239 (Housing Agreement) amendment to % of household income
- Draft 'Question and Answer' document
- Strata Subdivision Referral
- Timing of Community Information Meeting and Public Hearing
- Draft Restrictive Covenant

Issues and Opportunities

Proposed Bylaw No. 234 (LUB) amendment to minimum lot size

Staff have identified a necessary amendment to the stated minimum lot size in Table 8 – Site Specific Regulations, R4(2)10 of Proposed Bylaw No. 234 (Attachment 1):

"10 Despite Table 7 of this Section, the minimum lot area permitted by subdivision is 0.8 hectares"

The most recent proposed plan of subdivision for this file shows a lot size of 0.7 hectares for the affordable housing parcel. In order for the subdivision to be approved after a successful rezoning, the minimum lot size must comply with the zoning. Adjustments to the plan of subdivision cannot be made due to the necessary exclusion of the common property access driveway from the total parcel size. The only option to ensure compliance with the minimum lot size is to amend the stated minimum lot size in the proposed bylaw to match what is being proposed in the plan of subdivision. No other changes to Proposed Bylaw No. 234 are anticipated at this time. The staff

recommendation on page 1 of this report identifies the necessary wording required for the LTC to enact the decrease to the minimum lot size and give first reading as amended.

Proposed Bylaw No. 239 (Housing Agreement) amendment

A trustee has requested a minor amendment to the proposed housing agreement (Attachment 2) to increase the maximum percentage of annual household income for Low Income Cut-offs, from 120% to 160%, as stated in this section (emphasis added):

*“c. **Affordable rental housing eligibility** – The Owner covenants and agrees that Affordable Dwelling Units will only be occupied in accordance with the following criteria:*

*iii. the Affordable Dwelling Units will only be occupied by Qualified Occupants whose Annual Household Income has not, in any of the previous three years, **exceeded 120%** of the most recently published before tax Low Income Cut-offs, for rural areas and with a family size that corresponds with the number of Qualified Occupants residing in an Affordable Dwelling Unit, as determined and published from time to time by Statistics Canada or its successor in function.”*

The applicant/agent concurs with this amendment. The staff recommendation on page 1 of this report identifies the necessary wording required for the LTC to enact the amendment and give second reading to the bylaw.

Draft ‘Question and Answer’ document

The draft ‘Q+A’ document (Attachment 3) was prepared by staff and reviewed by the applicant/agent. It is intended to be distributed to property owners and residents of the island through the community newspaper and via posting to the application webpage and/or local social media outlets. The intent of the document is to provide a plain language summary of the application, in advance of a Community Information Meeting and Public Hearing.

The staff recommendation on page 1 of this report contains the necessary wording for the LTC to endorse the document as presented and release funds from the communications budget to cover the costs of insertion into one edition of the “Islands Grapevine”.

Strata Subdivision Referral

Staff received a subdivision referral application from the Ministry of Transportation and Infrastructure for the anticipated two lot strata subdivision on the subject property and prepared a referral response in November 2020. The proposed subdivision would create two strata lots and one common property, being the laneway access for both lots. One of the strata lots is intended to be for the Seniors Affordable Housing Project and the other strata lot is intended to remain as a lot in the Agricultural Land Reserve.

Staff recommend that there should be reasonable confidence that the subdivision as presented is acceptable to the Ministry, and to present this information at a Community Information Meeting. It is preferable that the confirmation is received as a Preliminary Layout Approval (PLA) from the Ministry. A Preliminary Layout Approval is a written conditional approval provided by the Ministry during the subdivision process that confirms that the layout is acceptable with conditions, including those identified by Islands Trust, and that all conditions must be met before final approval is given. At the time of report writing, PLA had not been granted.

Timing of CIM and PH

Staff recommend a Community Information Meeting (CIM) be scheduled for mid-February during an evening electronic meeting. A detailed presentation by planning staff and the applicant/agent will cover all relevant aspects of the proposed bylaws, restrictive covenant and housing agreement, including conditions of the PLA from the Ministry of Transportation and Infrastructure (pending receipt). A public hearing can be scheduled during the March 16, 2021 regular business meeting or the LTC can indicate its preference for an alternate date/time.

Draft Restrictive Covenant

The LTC endorsed the requirement of the restrictive covenant by passing resolution DE-2020-025 at their May 19, 2020 business meeting. A section 219 covenant under the *Land Title Act* is an agreement between the land owner and the Local Trust Committee that specifies restriction of activities or land use that is applied to all or a portion of a subject property. For this particular application, the covenant is intended to apply only to the 0.7 ha parcel intended for affordable housing. It should be registered on the subject property at the same time as the housing agreement, which is at the time of subdivision to create the strata lot intended for the Seniors' Affordable Housing Project.

A draft restrictive covenant has been prepared by legal counsel and revised by the applicant/agent and planning staff. At the time of report writing, a final version of the covenant was not yet ready for inclusion in the agenda package. The covenant is drafted to require: maintenance of a vegetated buffer along the ALR boundary; minimum energy efficient construction standards for all new dwellings and groundwater monitoring and reporting. Staff will be recommending the LTC endorse the covenant as presented and assign a signatory for registration.

Rationale for Recommendation

Staff are recommending minor amendments to Proposed Bylaws 234 and 239 prior to a CIM and public hearing being scheduled. All necessary documents supporting this application will be available and the application can advance to a CIM and a public hearing. Staff recommendations are found on Page 1 of the staff report.

NEXT STEPS

Should the LTC concur with the staff recommendation, notification of a CIM and publishing of the 'Q+A' document will be coordinated. The applicant/agent is advised to continue to work with the Ministry of Transportation and Infrastructure on addressing servicing issues or other matters related to their application for subdivision, so that relevant updates can be provided to the public and LTC at the CIM.

Submitted By:	Sonja Zupanec, RPP, MCIP Island Planner	January 11, 2021
Concurrence:	Heather Kauer, RPP, MCIP, AICP Regional Planning Manager	January 11, 2021

ATTACHMENTS

1. Proposed Bylaw No. 234 (LUB),
2. Proposed Bylaw No. 239 (Housing Agreement)
3. Draft 'Question and Answer' handout
4. Draft Restrictive Covenant – *to be distributed*

PROPOSED

DENMAN ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 234

A BYLAW TO AMEND DENMAN ISLAND LAND USE BYLAW, 2008

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

1. Citation

This bylaw may be cited for all purposes as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2019”.

2. Denman Island Local Trust Committee Bylaw No. 186, cited as “Denman Island Land Use Bylaw, 2008,” is amended as per Schedule 1 attached to and forming part of this bylaw.

READ A FIRST TIME THIS 3RD DAY OF NOVEMBER , 2020

PUBLIC HEARING HELD THIS _____ DAY OF _____ , 2020

READ A SECOND TIME THIS _____ DAY OF _____ , 2020

READ A THIRD TIME THIS _____ DAY OF _____ , 2020

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS

_____ DAY OF _____ , 2020

ADOPTED THIS _____ DAY OF _____ , 2020

Chair

Secretary

**DENMAN ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 234**

1. Schedule "A" of Denman Island Land Use Bylaw, 2008 is amended as follows:
 - 1.1 PART 1 ADMINISTRATION, Section 1.1 Definitions is amended by replacing the definition of "lot coverage" with the following:

"lot coverage means the percentage of the total area of the lot covered by buildings and structures including roof overhangs but excluding cisterns connected to a building for the purposes of rainwater harvesting and collection."
 - 1.2 PART 1 ADMINISTRATION, Section 1.1 Definitions is amended by adding the following definitions in alphabetical order:

"dwelling, multi-family means a building containing two or more dwelling units, each having their own entrance, which may include an entrance from a common interior corridor or an exterior entrance;

dwelling unit, seniors affordable housing means a deed restricted and/or rent controlled dwelling unit that is secured by a housing agreement, and is available to seniors on an affordable basis as defined by a housing agreement.

dwelling unit, single family means a building containing one dwelling unit;

residential rental tenure means the granting of a right to occupy a dwelling unit as living accommodation where the minimum occupancy period is thirty consecutive days, and where the dwelling unit is not owned by a dwelling unit occupant, but where regular payments are made to the owner for the use of the dwelling unit;"
 - 1.3 PART 2 GENERAL REGULATIONS, Section 2.1 **Accessory Buildings and Structures**, 10 is amended by adding the words "and the use is not permitted on a parcel in the 'Affordable Rental Housing (R4) Zone'." after the word "Bylaw".
 - 1.4 PART 2 GENERAL REGULATIONS, Section 2.1 **Travel Trailers**, 11 is amended by adding the words "except on a parcel zoned 'Affordable Rental Housing (R4)'" after the word "accommodation".
 - 1.5 PART 2 GENERAL REGULATIONS, Section 2.4 **Home Occupation Regulations, Permitted Home Occupation Uses** is amended by adding the following new regulations 3 and 4 after regulation 2 and by making such consequential numbering alterations to effect this change:

"3 Despite regulation 2 of this section, the following uses, and no others are permitted as home occupations in the R4 zone:

 - general business offices
 - professional offices, excluding health services
 - artist or artisan studios"

4 Notwithstanding 2.4 regulation 3 of this section, the following is prohibited in the R4 zone:

- on site purchase of any products or services
- on site attendance of clientele or customers
- creation of noise which disturbs persons"

- 1.6 PART 2 GENERAL REGULATIONS, Section 2.4 **Home Occupation Regulations, Number of Employees** is amended by adding the following new regulation 17 after regulation 16 and by making such consequential numbering alterations to effect this change:

"Despite regulation 16 of this section, no non-resident employees are permitted in the R4 zone."

- 1.7 PART 2 GENERAL REGULATIONS, Section 2.5 Parking Regulations, Number of Parking Spaces Required, 16, **residential** is amended by removing:

- "one per one single family residential use"

And replacing it with:

- "one per one single family residential dwelling unit"

- 1.8 PART 2 GENERAL REGULATIONS, Section 2.5 Parking Regulations, Number of Parking Spaces Required, 16, **residential** is amended by adding another bullet:

- "two per dwelling unit in a multi-family dwelling"

- 1.9 PART 2 GENERAL REGULATIONS, Section 2.5, Parking Regulations, Number of Parking Spaces Required, 17, Minimum number of bicycle parking spaces is amended by adding another bullet:

- "one per dwelling unit in a multi-family dwelling"

- 1.10 PART 2 GENERAL REGULATIONS, Section 2.6 Signs Regulations, Permitted signs, 1 is amended by adding "Affordable Rental Housing (R4)" after "(R3)".

- 1.11 PART 2 GENERAL REGULATIONS, Section 2.7 Screening Regulations, Landscape Screens, 8 is amended by removing "R3 zone" and replacing with "R3 and R4 zones".

- 1.12 PART 3 ZONE REGULATIONS, Section 3.1 Creation of Zones, 1, Zone Classification, Zoning Code, **Residential Zones** is amended by adding "Affordable Rental Housing R4".

- 1.13 PART 3 ZONE REGULATIONS, Section 3.3 "Residential Zoning Tables", Table 1 – Permitted Uses is deleted in its entirety and replaced with:

Table 1 - Permitted Uses		R1	R2	R3	R4
Principal Uses					
1	Residential	✓	✓	✓	
2	Residential Rental Tenure subject to registration of housing agreement				✓
3	Parks	✓	✓	✓	✓
4	Utilities	✓	✓	✓	✓

Accessory Uses

5	Home occupation uses listed in Section 2.4 accessory to a principal residential use	✓	✓	✓	
6	Forest fungi production accessory to a residential use, on lots 2.0 ha or larger	✓	✓	✓	✓
7	Horticulture and agriculture, other than intensive agriculture, accessory to a principal residential use	✓	✓	✓	✓
8	Occasional wood working and wood processing using wood obtained from the lot and accessory to a principal residential use	✓	✓	✓	
9	Generation of electricity from non-polluting renewable sources and accessory to a principal residential use	✓	✓	✓	✓
10	Secondary suites and secondary dwelling units		✓		

*Secondary dwelling units must be approved through a Temporary Use Permit

1.14 PART 3 ZONE REGULATIONS, Section 3.3 “Residential Zoning Tables”, Table 2 – Permitted Buildings and Structures is deleted in its entirety and replaced with:

Table 2 - Permitted Buildings and Structures		R1	R2	R3	R4
1	Single family dwelling units	✓	✓	✓	
2	Multi-family dwelling units				✓
3	Buildings and structures accessory to a constructed single family dwelling unit	✓	✓	✓	
4	Buildings and structures accessory to a constructed multi-family dwelling unit				✓
5	Buildings and structures to accommodate horticulture, agriculture and sale of horticultural and agricultural products	✓	✓	✓	✓
6	Buildings and structures for parks and utilities	✓	✓	✓	✓
7	Pit privies	✓	✓	✓	
8	Fences	✓	✓	✓	✓
9	Signs, subject to Section 2.6	✓	✓	✓	✓
10	Portable sawmill accessory to a residential use, to accommodate occasional wood working and wood processing	✓	✓	✓	
11	Buildings and structures for the generation of electricity from non-polluting renewable sources	✓	✓	✓	✓
12	Common house			✓	✓

1.15 PART 3 ZONE REGULATIONS, Section 3.3 “Residential Zoning Tables”, Table 3 – Density of Uses, Buildings and Structures is deleted in its entirety and replaced with:

Table 3 - Density of Uses, Buildings and Structures		R1	R2	R3	R4
--	--	-----------	-----------	-----------	-----------

1	Minimum lot area per principal single family dwelling unit	1.0 ha	4.0 ha	n/a	n/a
2	Despite line 1 of this table, maximum number of single family dwelling units on lots less than the minimum area shown in line 1 of this table	1	1	n/a	n/a
3	Subject to line 1 of this table, maximum number of dwelling units per lot	5	n/a	15	
4	Maximum combined lot coverage of buildings and structures	25%	25%	n/a	10%
5	Maximum number of buildings or structures for the generation of electricity from non-polluting sources	1	1	1	3

1.16 PART 3 ZONE REGULATIONS, Section 3.3 “Residential Zoning Tables”, Table 4 – Height is deleted in its entirety and replaced with:

Table 4 – Height		R1	R2	R3	R4
1	Maximum height of principal buildings and structures				
	located less than 100.0 metres from the natural boundary of the sea	7.0 m	7.0 m	7.0 m	7.0 m
	located 100.0 metres or more from the natural boundary of the sea	9.0 m	9.0 m	9.0 m	9.0 m
2	Maximum height of buildings and structures				
	accessory to a residential use	6.0 m	6.0 m	6.0 m	6.0 m
	used exclusively for agriculture	15.0 m	15.0 m	15.0 m	15.0 m
3	Maximum height of a fence, excluding deer netting	2.0 m	2.0 m	2.0 m	2.0 m
4	Maximum height of a pump/utility house located within a setback area	2.5 m	2.5 m	2.5 m	2.5 m
5	Maximum height of a boathouse	4.5 m	4.5 m	4.5 m	4.5 m

1.17 PART 3 ZONE REGULATIONS, Section 3.3 “Residential Zoning Tables”, Table 5 – Setbacks is deleted in its entirety and replaced with:

Table 5 - Setbacks		R1	R2	R3	R4
In addition to regulations 1 to 5 in Section 2.3, the following setbacks apply					
1	Minimum setback of buildings or structures, except for a fence, pump/utility house or pit privy				
	from the front lot line	7.5 m	7.5 m	30.0 m	10.0 m
	from the rear or side lot line	3.0 m	3.0 m	30.0 m	10.0 m
	from the exterior side lot line	4.5 m	4.5 m	30.0 m	10.0 m
2	Minimum setback from all lot lines for pit privies, feeding troughs, manure piles and buildings and structures for housing animals for agriculture, except domestic chicken coops	8.0 m	8.0 m	30.0 m	30.0 m
3	Minimum setback from all lot lines for domestic chicken coops	3.0 m	3.0 m	30.0 m	10.0 m

1.18 PART 3 ZONE REGULATIONS, Section 3.3 “Residential Zoning Tables”, Table 6 – Floor Area is deleted in its entirety and replaced with:

Table 6 - Floor Area		R1	R2	R3	R4
1	Maximum gross floor area of a pump/utility house located within a setback area	6.0 m ²	6.0 m ²	6.0 m ²	10.0 m ²
2	Maximum gross floor area of a boathouse located within 15.0 metres of the natural boundary of the sea	30.0 m ²	30.0 m ²	n/a	n/a
3	Maximum gross floor area of a single family dwelling unit	n/a	n/a	139.4 m ²	n/a
4	Maximum gross floor area of a dwelling unit in a multi-family dwelling	n/a	n/a	n/a	
5	Maximum gross floor area of a common house	n/a	n/a	279 m ²	n/a
6	Maximum combined gross floor area of all accessory buildings and structures	n/a	n/a	1275 m ²	

1.19 PART 3 ZONE REGULATIONS, Section 3.3 “Residential Zoning Tables”, Table 7 – Subdivision is deleted in its entirety and replaced with:

Table 7 - Subdivision		R1	R2	R3	R4
1	Maximum density permitted by subdivision is an average of one lot per	1.0 ha	4.0 ha	35.0 ha	
2	Minimum lot area permitted by subdivision, subject to the regulations in 2.8	1.0 ha	2.0 ha	35.0 ha	

1.20 PART 3 ZONE REGULATIONS, Section 3.3 “Residential Zoning Tables”, Table 8 – Site Specific Regulations is amended by adding a new R4(2) Site Specific Zoning Code:

Table 8 - Site Specific Regulations

The regulations listed in tables 1 through 7 of this section apply to the land identified on Schedule B (the Zoning Map) by the site specific zoning code listed below on the left, except as varied by the relevant site specific regulation listed in this Table (Table 8)

Site Specific Zoning Code	Site Specific Regulations
R4(2)	- Despite line 7 of Table 1 of this Section, the following is not permitted: - the keeping of chickens or other livestock; - the sale of agricultural and horticultural products, including their storage, processing and direct marketing; - Despite line 2 of Table 2 of this Section, multi-family dwelling units are limited to each building containing a maximum of two seniors affordable housing dwelling units, each having their own entrance, which may include an entrance from a common interior corridor or an exterior entrance. - Despite line 12 of Table 2 of this Section, a Common House is not permitted. - Despite line 3 in Table 3 of this Section, the maximum number of seniors affordable dwelling units per lot is 8. - Despite line 4 in Table 3 of this Section, the maximum combined lot coverage of buildings and structures is 25%.

- 6 Despite line 1 in Table 5 of this Section, the minimum setback of buildings or structures, except for a fence or pump/utility house
 - from the front lot line is 7.5 m
 - from the rear or side lot line is 3 m
 - from the exterior side lot line is 3 m
- 7 Despite line 2 in Table 5 of this Section, the minimum setback from all lot lines for feeding troughs, manure piles and buildings and structures for housing animals for agriculture, except for domestic chicken coops is 8.0 m.
- 8 Despite line 3 in Table 5 of this Section, the minimum setback from all lot lines for domestic chicken coops is 3 m.
- 9 Despite line 4 in Table 6 of this Section, the maximum gross floor area of a seniors affordable dwelling unit is 60 m².
- 10 Despite Table 7 of this Section, the minimum lot area permitted by subdivision is 0.8 hectares.
- 11 Despite regulations 16 and 17 of Section 2.5, the minimum number of automobile parking spaces required is 1.5 per seniors affordable housing unit, and the minimum number of bicycle parking spaces required is 0.5 per seniors affordable housing unit.
- 12 Despite regulations 9, 12, and 15 in Section 2.8, the applicant must provide proof of a water license that permits the withdrawal of the licensed amount of groundwater.

1.21 PART 3 – ZONE REGULATIONS, Section 3.4 – “Resource Zoning Tables”, Table 8 – Site Specific Regulations is amended by adding a new A(15) Site Specific Zoning Code:

Table 8 - Site Specific Regulations

The regulations listed in tables 1 through 7 of this section apply to the land identified on Schedule B (the Zoning Map) by the site specific zoning code listed below on the left, except as varied by the relevant site specific regulation listed in this Table (Table 8)

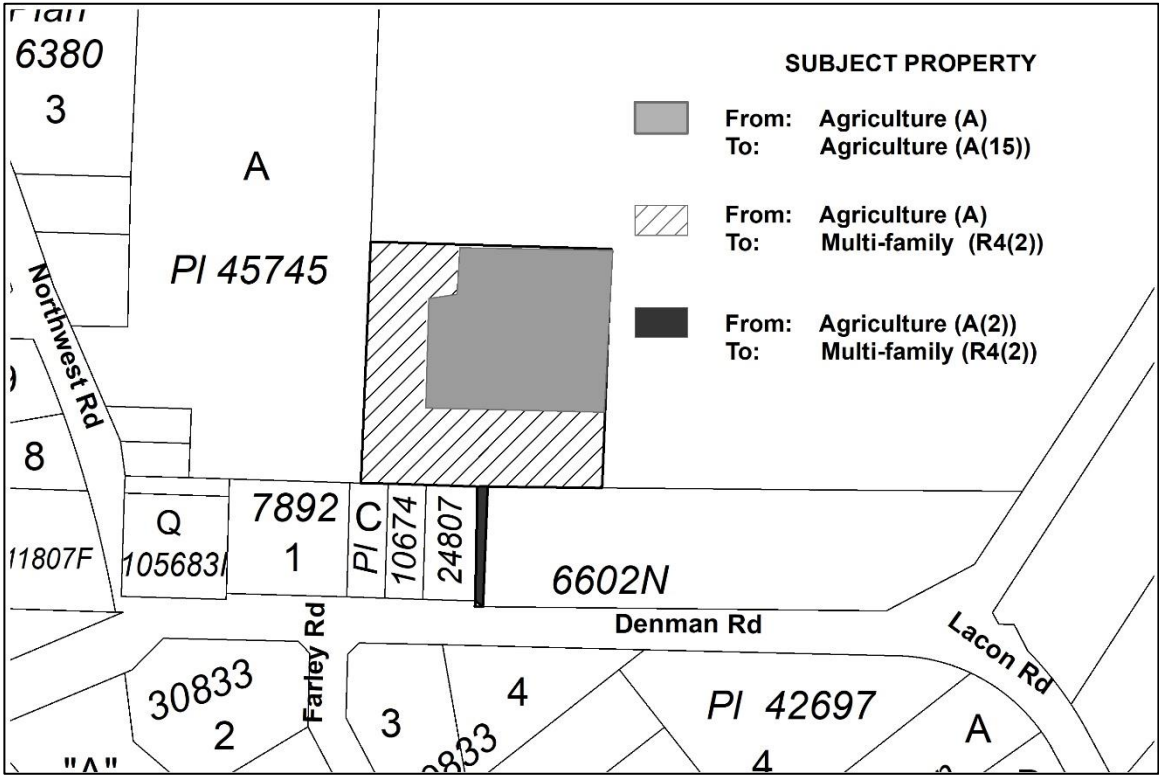
Site Specific Zoning Code	Site Specific Regulations
A(15)	1 Despite Table 7 of this Section, the minimum lot area is 0.8 hectares.

2. Schedule “B” of Denman Island Land Use Bylaw, 2008 is amended as follows:

- 2.1. Schedule “B” – North Sheet is amended by changing the name “North Sheet” to “North Map”.
- 2.2. Schedule “B” – South Sheet is amended by changing the name “South Sheet” to “South Map”.
- 2.3. Schedule “B” – North Map, is amended by changing the zoning classification of Lot A Section 18 Denman Island Nanaimo District Plan EPP68031 (PID 031-102-026) as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “B” of Bylaw No. 186 as are required to effect this change.

Plan No. 1 – CONCEPTUAL PLAN ONLY

Final plan to be inserted prior to bylaw adoption, subject to receipt of Preliminary Layout Approval of future 2 - 3 lot subdivision



PROPOSED

DENMAN ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 239

A BYLAW TO AUTHORIZE A HOUSING AGREEMENT

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*;

AND WHEREAS Section 483 of the *Local Government Act* and Section 29 of the *Islands Trust Act* permit the Local Trust Committee to enter into a housing agreement;

AND WHEREAS the Denman Island Local Trust Committee wishes to enter into a Housing Agreement;

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

1. Citation

This bylaw may be cited for all purposes as “Denman Island Housing Agreement Bylaw No. 239, 2020”.

2. Any two Trustees of the Denman Island Local Trust Committee are authorized to execute an agreement in the form attached to this Bylaw with Denman Community Land Trust Association.

READ A FIRST TIME THIS 3RD DAY OF NOVEMBER , 2020

READ A SECOND TIME THIS _____ DAY OF _____ , 20XX

READ A THIRD TIME THIS _____ DAY OF _____ , 20XX

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS

_____ DAY OF _____ , 20XX

ADOPTED THIS _____ DAY OF _____ , 20XX

Chair

Secretary

Housing Agreement and Section 219 Covenant

THIS AGREEMENT DATED FOR REFERENCE THE ____ DAY OF ____, 20__ is BETWEEN:

Denman Community Land Trust Association a society incorporated under the laws of the province of British Columbia and having its office at 3900 Lacon Road, Denman Island, B.C. V0R 1T0

(the "Owner");

AND:

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

(the "Trust Committee")

WHEREAS:

A. The Owner is the registered owner of the lands situated at _____ Denman Road on Denman Island British Columbia and legally described as:

[Insert Legal Description of Lands]

(the "Lands");

B. The Lands have been rezoned by the Denman Island Local Trust Committee by means of Denman Island Land Use Bylaw 2008 Amendment No. 1, 2019 and Denman Island Official Community Plan, 2008, Amendment No. 1, 2019 has been put in place to permit the development of a seniors' affordable housing project;

C. The Owner intends to rent the units in the housing project, by way of a Tenancy Agreement, at an affordable rate to Qualified Occupants;

D. The Trust Committee may, pursuant to Section 29 of the *Islands Trust Act* and Section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure and availability to specified classes of persons of Dwelling Units located on those lands;

E. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the Trust Committee in respect of the use of land or construction on land;

- F. The Owner and the Trust Committee wish to enter into this Agreement to provide affordable housing on the Lands on the terms and conditions of this Agreement; and
- G. The Trust Committee has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement.

THIS AGREEMENT is evidence that in consideration of \$1.00 paid by the Trust Committee to the Owner (the receipt of which is acknowledged by the owner), and in consideration of the promises exchanged below, the Trust Committee and the Owner agree, as covenants granted by the Owner to the Trust Committee under Section 219 of the Land Title Act, and as a housing agreement between the Owner and the Trust Committee under Section 483 of the Local Government Act, as follows:

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

“Affordable Dwelling Unit” means a deed restricted or rent controlled Dwelling Unit that is designated as an Affordable Dwelling Unit by this Agreement and is available to Seniors on an affordable basis as set out in this agreement;

“Annual Household Income” means the gross income, as shown on line 150 of their preceding year’s T1 General Income Tax and Benefit returns or an equivalent document produced by the Canada Revenue Agency, of all Qualified Occupants of an Affordable Dwelling Unit combined;

“Dwelling Unit” means one or more rooms in a building, containing a single set of cooking facilities, and used or intended to be used, as a residence by an individual or a group of individuals living together in common occupancy;

“Family Member” means a person under the age of 65 years old who lives with and is related to the Tenant through blood or marriage including a person with whom the Tenant is living in a marriage-like relationship;

“Qualified Occupant” means a Senior or Family Member who meets the eligibility criteria for occupancy as set out in Schedule B;

“Residential Tenancy Act” means the most recent version of the British Columbia Residential Tenancy Act;

“Senior” means a person 65 years of age or older;

“Schedule B” means that Schedule B annexed hereto or any variation thereof made by the Owner that does not contradict any of the terms in the balance of this Agreement;

“Tenant” means a Senior who has entered into a Tenancy Agreement;

“Tenancy Agreement” means an agreement between a landlord and a tenant respecting possession of an Affordable Dwelling Unit, use of common areas and services and facilities, and includes a licence to occupy an Affordable Dwelling Unit.

- b. **Agreement over the Lands** – Pursuant to section 219 of the Land Title Act and section 483 of the Local Government Act, the Owner covenants and agrees that:
- i. the Lands must not be used and no building or structure may be constructed on the Lands except in accordance with any permit issued for the Lands by the Local Trust Committee and this Agreement;
 - ii. it will design and construct not less than eight Dwelling Units on the Lands provided that construction may, at the sole discretion of the Owner, proceed in stages;
 - iii. all Dwelling Units located on the Lands will be used only as Affordable Dwelling Units pursuant to the terms of this Agreement;
 - iv. it will maintain the Affordable Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands; and
 - v. the Affordable Dwelling Units will only be used and occupied by Qualified Occupants as a permanent, principal, and sole residence pursuant to a Tenancy Agreement.
- c. **Affordable rental housing eligibility** – The Owner covenants and agrees that Affordable Dwelling Units will only be occupied in accordance with the following criteria:
- i. the Owner will only select Tenants in accordance with the Tenant Selection Procedure set out in Schedule B;
 - ii. prior to entering into a Tenancy Agreement, the Owner will ensure that each Qualified Occupant who will reside in an Affordable Dwelling Unit meets the applicable criteria set out in Schedule B;
 - iii. the Affordable Dwelling Units will only be occupied by Qualified Occupants whose Annual Household Income has not, in any of the previous three years, exceeded 120% of the most recently published before tax Low Income Cut-offs, for rural areas and with a family size that corresponds with the number of Qualified Occupants residing in an Affordable Dwelling Unit, as determined and published from time to time by Statistics Canada or its successor in function. If Statistics Canada discontinues the publication of the Low Income Cutoff, the Owner may substitute a similar monetary amount based upon available statistical information (adjusted to economic circumstances on Denman Island) which estimates the minimum income required to meet basic living needs and which, for example, may include reference to the CMHC Core Needs Income Threshold.;
 - iv. an Affordable Dwelling Unit will not have more than two total occupants, and if the Affordable Dwelling Unit has two occupants, the composition of the occupants shall be:
 - 1) two Seniors related through blood or marriage or that have a marriage-like relationship; or
 - 2) one Senior and one Family Member.

v. only Seniors shall be parties to an Affordable Dwelling Unit's Tenancy Agreement, that is, a Family Member shall not be a Tenant; and

vi. a Tenancy Agreement for an Affordable Dwelling Unit will identify each Qualified Occupant who will be residing in an Affordable Dwelling Unit.

d. **Tenancy** – The Owner covenants and agrees to:

i. include in every Tenancy Agreement for an Affordable Dwelling Unit a term:

- 1) requiring the Tenant and each permitted occupant of the Affordable Dwelling Unit to comply with this Agreement;
- 2) entitling the Owner to terminate the Tenancy Agreement if the Tenant or a permitted occupant of the Affordable Dwelling Unit fail to comply with this Agreement;
- 3) entitling the Owner to terminate the Tenancy Agreement if the Affordable Dwelling Unit is made available as a short-term vacation rental; and
- 4) entitling the Owner to terminate the Tenancy Agreement if the Affordable Dwelling Unit is occupied by a person or persons other than the Qualified Occupants identified in the Tenancy Agreement;

ii. not consent to the subletting of an Affordable Dwelling Unit or an assignment of a Tenancy Agreement governing an Affordable Dwelling Unit;

iii. deliver to the Trust Committee a true copy of every Tenancy Agreement entered into in respect of any Affordable Dwelling Unit within 10 days of any request to do so; and

iv. specify in every Tenancy Agreement the existence of this Agreement and the occupancy restrictions applicable to the Unit, and provide to each Tenant, upon their request, a copy of this Agreement.

e. **Rental rates** - The Owner covenants and agrees that it will:

i. not charge any Tenant a rent for an Affordable Dwelling Unit, exclusive of utilities, that on an annual basis is greater than 30% of the Annual Household Income of all Qualified Occupants of the Affordable Dwelling Unit; and

ii. not require a Tenant under a Tenancy Agreement to pay any extra charges or fees for use of septic services or property taxes. For clarity, this limitation does not apply to cablevision, telecommunications, laundry, or gas or electricity utility fees or charges. For metered water, each Affordable Dwelling Unit located on the Lands will be allocated a share of the usage permitted under a water licence issued by the Ministry of Forests, Lands, Natural Resource Operations, and Rural

Development. A Tenant will be required to pay a penalty if their consumption exceeds their allocation.

- f. **Order to Comply** - If the Owner is in default of the performance or observance of this Agreement, the Trust Committee may give the Owner a notice of default requiring the Owner to comply with this Agreement within the time stated in the notice. The Owner agrees that any breach or default in the performance of this Agreement on its part must be corrected, to the satisfaction of the Trust Committee, within the time stated on the notice of default provided to the owner by the Trust Committee.
- g. **Statutory Declaration from Owner** – The Owner shall deliver to the Trust Committee by the end of June of each year, a completed statutory declaration, substantially in the form attached as Schedule A sworn by the Owner, in relation to the Units. The Owner irrevocably authorizes the Trust Committee to make inquiries it considers necessary and reasonable in order to confirm compliance with this Agreement.
- h. **Management** – The Owner covenants and agrees to furnish good and efficient management of the Lands. If and when the Trust Committee has reasonable grounds to believe that a continuing breach of this Agreement exists, the Trust Committee may authorize its representatives to inspect the Lands at any reasonable time, subject to the notice provisions of the Residential Tenancy Act and subject to the concurrent delivery of such a notice to the Society.
- i. **No Transfer** – The Owner must not transfer the Lands, other than to another non-profit organization or society incorporated under the Society Act, having as its objective the management of affordable housing. The Local Trust Committee must approve any transfer prior to its finalization.
- j. **Society Standing** – The Owner must maintain its standing as a society under the Society Act, and must not amend its Constitution in any manner that would prevent, or adversely affect, the ability of the Owner to perform its obligations under this Agreement.
- k. **Specific Performance of Agreement** – The Owner agrees that the Trust Committee is entitled to obtain an order for specific performance of this Agreement and a prohibitory or mandatory injunction in respect of any breach by the owner of this Agreement, in view of the public interest in restricting the occupancy of the Unit. The Owner further acknowledges that a breach of this Agreement may constitute a breach of the Trust Committee’s Land Use Bylaw, as amended from time to time.
- l. **Assignment** – The Owner acknowledges that the Trust Committee may delegate or assign the administration and management of this Agreement to a third party, and, in that event, any reference in this Agreement to the Trust Committee shall be interpreted as a reference to that party provided that the Trust Committee has so advised the Owner.
- m. **Indemnity** – The Owner shall indemnify and save harmless the Trust Committee and each of its elected officials, officers, directors, employees, and agents from and against all claims, demands, actions, loss, damage, costs, and liabilities for which any of them may be liable by reason of any act or omission of the Owner or its officers, directors, employees, agents or contractors or any other person for whom the Owner is at law responsible, including breaches of this Agreement.

- n. **Release** – The Owner releases and forever discharges the Trust Committee and each of its elected officials, officers, directors, employees, and agents and each of their heirs, executors, administrators, personal representatives, successors and assigns from all claims, demands, damages, actions, or causes of action arising out of the performance by the Owner of its obligations under this Agreement, or the enforcement of this Agreement.
- o. **Trust Committee Powers Unaffected** – This Agreement does not limit the discretion, rights, duties or powers of the Trust Committee under any enactment or the common law, impose on the Trust Committee any duty or obligation, affect or limit any enactment relating to the use or subdivision of the Lands, or relieve the Owner from complying with any enactment.
- p. **No Public Law Duty** – Wherever in this Agreement an act, determination, consent, approval or agreement of the Trust Committee is provided for, such act, determination, consent, approval or agreement may be done or made in accordance with the terms of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice shall have any application.
- q. **No Waiver** – No condoning, excusing or overlooking by the Trust Committee of any default under this Agreement, nor any consent, approval, or agreement whether written or otherwise shall be taken to operate as a waiver by the Trust Committee of any subsequent default or of the necessity for further consent, approval or agreement in respect of a subsequent matter requiring it under this Agreement, or in any way to defeat or affect the rights or remedies of the Trust Committee.
- r. **Arbitration** – Any matter in dispute between the parties under this Agreement, including any disputes as to whether a particular individual is eligible to occupy a Unit, must be referred to a single arbitrator if the parties can agree on one, and otherwise to three arbitrators, one to be appointed by each of the parties and the third by those two so appointed, and the matter must be resolved in accordance with the provisions of the Commercial Arbitration Act of British Columbia.
- s. **Notice on Title** – The Owner acknowledges and agrees that this Agreement constitutes both a covenant under Section 219 of the Land Title Act and a housing agreement under Section 483 of the Local Government Act, and agrees that the Owner will register a notice of this housing agreement against title to the Lands.
- t. **Covenant Runs with the Land** – Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the Trust Committee in accordance with section 219 of the Land Title Act in respect of the Lands and this Agreement burdens the Lands and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including, by subdivision or by strata plan.
- u. **Limitation on Owner's Obligations** – The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands.

- v. **Amendment and Termination** – This Agreement may not be modified or amended except by bylaw of the Trust Committee, upon an agreement in writing between the Trust Committee and the Owner.
- w. **Notices** – Any notice required to be given pursuant to this Agreement shall be in writing and shall be given to the Owner or the Trust Committee, as the case may be, at the address first above written, or to any other address of which either the Owner or the Trust Committee may advise the others in writing in accordance with this paragraph. Notice to the Trust Committee must be addressed to the Secretary of the Islands Trust. If given in person or by facsimile transmission, such notice will be deemed to be received when delivered and, if mailed, such notice will be deemed to be received only when actually received by the party to whom it is addressed.
- x. **Enurement** – This Agreement is binding upon and enures to the benefit of the parties and their respective successors and permitted assigns.
- y. **Remedies Cumulative** – The remedies of the Trust Committee specified in this Agreement are cumulative and are in addition to any remedies of the Trust Committee at law or in equity. No remedy shall be deemed to be exclusive, and the Trust Committee may from time to time have recourse to one or more or all of the available remedies specified herein or at law or in equity.
- z. **Severability** – Each covenant and agreement contained in this Agreement is, and shall be construed to be, a separate and independent covenant or agreement and the breach of any such covenant or agreement by the Owner shall not discharge or relieve the Owner from its obligations to perform. If any term or provision of this Agreement, or its application to any person or circumstance shall to any extent be found to be invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.
- aa. **Joint and Several** – In the case of more than one owner, the grants, covenants, conditions, provisions, agreements, rights, powers, privileges and liabilities of the Owner shall be construed and held to be several as well as joint.
- bb. **Included Words** – Wherever the singular or the masculine is used in this Agreement, it shall be deemed to include the plural or the feminine, or the body politic or corporate, where the context or the parties so require.
- cc. **Governing Law** – This Agreement shall be governed by and construed in accordance with the laws of the province of British Columbia.
- dd. **Joint Venture** – Nothing in this Agreement shall constitute the Owner as an agent, joint venture or partner of the Trust Committee or give the Owner any authority or power to bind the Trust Committee in any way.
- ee. **Time of Essence** – Time is of the essence in this Agreement.

ff. **Further Assurances** – The parties shall execute and do all such further deeds, acts, things and assurances as they reasonably require to carry out the intent of this Agreement.

gg. **Priority** – The Owner agrees to do everything necessary at the Owner's expense to ensure that this Agreement is registered against title to the Lands with priority over all financial charges, liens and encumbrances registered or pending at the time of application for registration of this Agreement.

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

ii. **Interpretation** – In this Agreement:

i. the word "enactment" has the meaning given in the Interpretation Act on the reference date of this Agreement;

ii. reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;

iii. reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

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

.

SCHEDULE "A"

OWNER'S STATUTORY DECLARATION

CANADA, PROVINCE OF BRITISH COLUMBIA

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

I, _____, _____, Denman Island, BC, declare that:

1. I am the _____ [director, officer, employee] of the Denman Community Land Trust Association, the Owner of the land known as Pepper Lane, Denman Road, Denman Island, legally described as: *[Insert Legal Description of Lands]* (the "Lands").
2. The terms in this declaration have the same meaning as those defined in the Housing Agreement.
3. I make this declaration to the best of my personal knowledge.
4. This declaration is made pursuant to the Housing Agreement registered against the Lands.
5. For the period from _____ to _____, the Affordable Dwelling Units were used only by Qualified Occupants meeting all eligibility requirements of the Housing Agreement, including, without limitation, the restrictions on Annual Household Income.
6. At no time during the last year were any of the Affordable Dwelling Units used as a short-term vacation rental or sublet.
7. The rental amounts charged for the Affordable Dwelling Units were in compliance with the Housing Agreement.
8. I acknowledge and agree to comply with all of the Owner's obligations under the Housing Agreement, and other charges registered against the Lands and confirm that the Owner has complied with all of its obligations under these Agreements.
9. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the Canada Evidence Act.

DECLARED BEFORE ME at _____, British Columbia, this _____ day of _____, 20____.

A Commissioner for taking Affidavits
Columbia

Signature of person making declaration in British

SCHEDULE B

DENMAN COMMUNITY LAND TRUST ASSOCIATION TENANT SELECTION PROCEDURE FOR PEPPER LANE

1. A vacancy for an Affordable Dwelling Unit at Pepper Lane shall be advertised by Denman Community Land Trust Association (“the Owner”) in at least two editions of one or more publications circulated on Denman Island.
2. Only Seniors, that is, persons 65 years of age and over (to a maximum of 2 such persons) may apply for an Affordable Dwelling Unit and become “Tenants” by entering into a tenancy agreement.
3. Where the applicant consists of only 1 Senior, 1 additional person who is under 65 years of age and related to the Senior (a “Family Member”) may occupy an Affordable Dwelling Unit, but a Family Member may not enter into a tenancy agreement for, or become a tenant of, an Affordable Dwelling Unit. However, where a tenancy agreement comes to an end due to the Tenant’s death or voluntary surrender of that agreement, any Family Member who then meets all the age, income, asset and other requirements herein will be offered the opportunity to enter into a new lease for that Affordable Dwelling unit on similar terms
4. Quiet, friendly pets weighing less than 30 pounds may be allowed at Pepper Lane if specifically approved in writing by a tenant selection committee which in exercising its discretion shall take into account, among other things, the number and kind of pets already in residence.
5. Smoking is prohibited inside all Affordable Housing Units. Tenants may smoke outside at Pepper Lane provided the smell cannot be detected in or nearby any of the other Affordable Housing Units.
6. Applicants must meet the following financial requirements:
 - i) the combined gross annual income of the applicant(s) and any Family Member for the previous three years must not exceed 120% of the Before Tax Low Income Cutoff for Rural Areas for 1 or 2 persons, as applicable, as determined by Statistics Canada* or its successor agency;
 - ii) the aggregate household assets of the applicant(s) must not exceed \$60,000. Similarly, the aggregate household assets of the Family Member must not exceed \$60,000 (These limits shall be adjusted annually beginning in 2021 based on the Consumer Price Index rate of inflation for Victoria as calculated by Statistics Canada). Assets included for valuation are: cash, funds on deposit, stocks, bonds, term deposits, annuities, mutual funds, equity in a business or real estate, RRSPs and RRIIFs. Assets excluded for valuation are: personal jewelry, furniture, a vehicle for personal use, bursaries and scholarships, and trade tools for employment.
7. Applicants shall obtain from the Owner such application form as it may prescribe from time to time and in returning the completed form to the Owner shall include verification of the financial information above required, including:

- i) copies of the 3 most recent years' Notice of Assessment from Canada Revenue Agency;
- ii) a statement of assets included for valuation as detailed in section 6 ii) above.

8. Applicants who meet these financial qualifications shall be referred to a tenant selection committee which shall be composed of not less than five people appointed by the directors of the society. The committee members need not be affiliated with the Owner but must be residents of Denman Island who have been such for not less than three years. Where possible, the committee will include two members nominated by two other charitable societies on Denman Island (one nominee per society) and a retired or practicing physician. Committee members must not be related to, or close friends with, any of the people who are then applying for a tenancy.

9. The committee shall screen applicant(s) and any Family Member to determine those who meet the following mandatory requirements:

- i) the applicant(s) and any Family Member must be capable of independent living with little or no assistance with the activities of daily living and must not require provision of on-site medical or nursing care;
- ii) the applicant(s) must have been primarily resident on Denman Island for at least the two years preceding the consideration of the application;
- iii) the applicant(s) must have provided satisfactory references to establish that they would be responsible Tenant(s), i.e. would pay rent promptly, cause no damage, and create no nuisance; and
- iv) any Family Member must provide satisfactory references to establish that they would be a responsible occupant i.e. would cause no damage and create no nuisance.

10. From the qualified applicants, the committee will select the Tenant(s) after due consideration of the following criteria:

- i) the length of the applicant's and any Family Member's connection to Denman Island;
- ii) the contribution of the applicant and any Family Member to Denman Island through paid or volunteer work;
- iii) the degree of unsuitability of the applicant's present housing;
- iv) the degree of suitability of the personal characteristics of the applicant and any Family Member to the type of accommodation and living arrangement offered at Pepper Lane; and
- v) all things being equal between competing applicants, to meet the needs of as many as possible, preference shall be given to a couple over a single applicant.

11. Upon selecting Tenant(s), the committee shall:

i) promptly advise all qualified applicants of their decision;

ii) maintain a waiting list of those qualified applicants still seeking residence at Pepper Lane.

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

Q & A

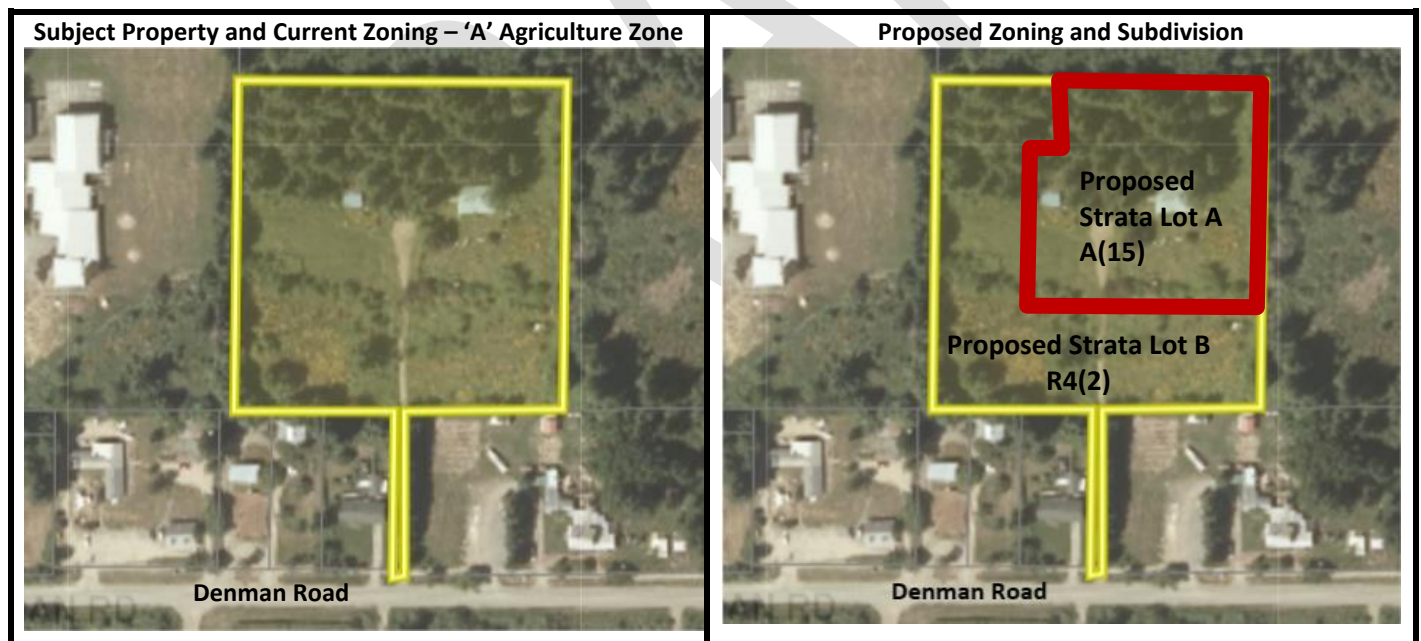
QUESTIONS AND ANSWERS

regarding rezoning application DE-RZ-2017.1(DCLTA)
'Denman Seniors' Affordable Housing Project'

This Q & A document, prepared by Islands Trust planning staff, includes questions and answers about rezoning application DE-RZ-2017.1, commonly referred to as the "Denman Seniors' Affordable Housing Project". The purpose of this document is to provide the public with clear and accurate information about this application. Further questions and comments can be sent to the Islands Trust Northern Office at northinfo@islandstrust.bc.ca.

Q: In the simplest possible terms, what is the agent (Denman Community Land Trust Association) requesting to do?

A: The DCLTA is requesting to rezone a 1.62 hectare (4.01 acre) property near the Denman village for a seniors' affordable housing project. The land is currently zoned Agriculture (A) which does not allow any further subdivision nor does it allow more than one dwelling. The rezoning would allow the property to be subdivided into two lots (approx. 0.7 ha each) with a shared access to Denman Road. The application proposes to develop one lot into eight units of seniors' affordable housing while the other lot would maintain the existing single dwelling residential use in the Agricultural Land Reserve (ALR). In order to allow this type of use on ALR land, the applicant obtained approval for exclusion from the ALR, from the Agricultural Land Commission for the portion of land to be developed into seniors' affordable housing.



Q: How will affordable housing be secured and maintained?

A: Affordable housing will be secured in two ways: with residential rental tenure zoning and with a Housing Agreement. Residential rental tenure zoning is a relatively new zoning option given to local governments and provides the ability to zone a parcel of land or building(s) exclusively for rental housing. For this rezoning, the lot intended for the seniors' affordable housing project is to be given a new site specific 'Affordable Rental Housing' R4(2) zone that only allows for rental housing. A Housing Agreement is a legal tool used by Local Governments to encourage and enforce affordable housing developments. While terms and conditions of housing

agreements vary between properties, the housing agreement for this proposal will limit rental rates and clarify terms of the agreement such as administrative requirements, property management, and monitoring to ensure compliance. Notice of the Housing Agreement will be filed at the Land Title Office and its terms will be binding on the parcel in perpetuity, or until the local government and owner agree to have it discharged.

Q: If this application gets approved, what's stopping other land-owners from switching to the new affordable housing 'R4' zone too?

A: The proposed new 'Affordable Rental Housing' (R4) zone is intended to be a broad zone category in the Land Use Bylaw, for affordable rental housing developments. Each subsequent application for affordable rental housing would likely have a site specific 'R4#' zone under this category. Currently there are two rezoning applications being considered by the Denman LTC, where site specific 'R4' zones could apply, if the proposals are approved.

Any property owner is entitled to make an application to redesignate or rezone their property. This applies to all properties on Denman Island. A rezoning application can take anywhere from 1-3+ years of review and consideration by the Local Trust Committee. To support any proposed redevelopment an applicant must demonstrate sufficient groundwater resources, areas for sewage disposal, protection of the natural environment and archaeological resources as well as adequate density reserves from the Denman Official Community Plan.

Q: How can we be sure that the proposed increase in density in the village area won't threaten groundwater supplies for neighbours?

A: The agent/applicant has obtained a provincial water license for the intended use of the groundwater. The license includes conditions such as maximum daily volume, water quantity and quality monitoring requirements. Compliance with the license conditions will ensure protection of the quality and quantity of groundwater for all existing users in the area. The applicants will be required to install two cisterns that are trickle fed for 24 hours, to avoid peak water demand issues.

The water supply would also be required to meet the parameters of the *Guidelines for Canadian Drinking Water Quality* published by Health Canada, including minimum microbiological, chemical and aesthetic parameters.

Q: What is the "restrictive covenant" that is proposed to be registered on the property intended for the Seniors Affordable Housing?

A: The LTC has required that as a condition of moving forward with considering Proposed Bylaws 233 (OCP) and 234 (LUB), that a restrictive covenant be drafted for LTC consideration. A section 219 covenant under the *Land Title Act* is an agreement between the land owner and the Local Trust Committee that usually specifies some restriction of activities or land use that is applied to all or a portion of a subject property. For this particular application, a draft restrictive covenant has been prepared and is intended to require maintenance of a vegetated buffer along the ALR boundary; minimum energy efficient construction standards and groundwater monitoring requirements. A copy of the draft covenant being considered will be available on our website.

Q: What do other regulatory agencies or groups have to say about this proposal?

A: The application has been referred for comment to First Nations, Comox Valley Regional District, Denman Island Fire and Rescue, Agricultural Land Commission, Ministry of Agriculture and other agencies. The LTC has considered referral responses received to date. A complete summary of referral responses, as well as public correspondence to the LTC about this application, can be viewed on our website <http://www.islandstrust.bc.ca/islands/local-trust-areas/denman/current-applications/>.

Q: What is the difference between a 'Community Information Meeting' and a 'Public Hearing' and how do I provide input to the LTC on this application?

A: A CIM is an opportunity for the public to learn about the details of the proposal and ask specific questions of the LTC, applicant or planning staff in order to make an informed decision about whether their interests are affected by the proposed bylaws and what type of input they wish to provide as part of the public hearing process. **A community information meeting (CIM) regarding this application will be held as early as the beginning of 2021.**

A Public Hearing is a formal opportunity for affected individuals to speak directly to the local trust committee on the proposed bylaws 233 (OCP) and 234 (LUB). Written submissions may be sent until the close of the public hearing. **The public hearing for proposed bylaws 233 and 234 will be held no sooner than a month after the CIM.** The local trust committee is not allowed to accept any new information relating to the proposed bylaws after the adjournment of the public hearing.

The public is encouraged to provide input to the Denman Island Local Trust Committee on this application any time prior to the close of the public hearing via email to DenmanIslandLocalTrustCommittee@islandstrust.bc.ca or mail to Islands Trust Northern Office, 700 North Road, Gabriola Island BC, V0R 1X3.

Q: What are the next steps in the application process?

A: Following a community information meeting and public hearing, the LTC can make a decision to either:

- a) give second and third reading to the bylaws as presented at the public hearing
- b) determine whether further amendments are required prior to giving readings to the bylaws; or
- c) not proceed with the application and bylaws.

If the LTC decides to proceed with the bylaws, the next step would be to finalize the covenant which is to be registered on the title of the property intended for the seniors' affordable housing. The bylaws would then be forwarded to the Islands Trust Executive Committee for consideration of approval. If approved, the bylaws, would be forwarded to the Ministry of Municipal Affairs and Housing for the approval by the Minister. Once that approval has been received, the LTC would be able to give final readings to adopt the bylaws.

Q: Where can I access staff reports and other information about this application?

A: Information about this application including staff reports, technical studies and public correspondence is available at: <http://www.islandstrust.bc.ca/islands/local-trust-areas/denman/current-applications/current-application-documents/>.

Meeting agendas and minutes are also available on the website at: <http://www.islandstrust.bc.ca/islands/local-trust-areas/denman/meeting-calendar-agendas-minutes/>

Please note, all correspondence provided to the Local Trust Committee will be included in the public record and may also be posted on the Islands Trust website. Islands Trust will not consider correspondence from anonymous sources and or publish written statements that are subject to the Freedom of Information and Protection of Privacy Act, or statements that are potentially defamatory, profane or otherwise inappropriate for general circulation.

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT – DEVELOPMENT

THIS AGREEMENT dated for reference the __ day of _____, 2021 is

BETWEEN:

DENMAN COMMUNITY LAND TRUST ASSOCIATION

3900 Lacon Road

Denman Island, B.C. V0R 1T0

(the “Grantor”)

AND:

DENMAN ISLAND LOCAL TRUST COMMITTEE

a corporation under the *Islands Trust Act*

having an office at 2 Floor, 1627 Fort Street, Victoria, B.C.

V8R 1H8

(the “Trust Committee”)

WHEREAS:

- A. The Grantor is the registered owner in fee simple of land located on Denman Island, British Columbia and more particularly described as:

PID: xxx

LOT x

(the “Land”);

- B. The Grantor has submitted a rezoning application (under reference number DE-RZ-2017.1) to allow it to develop and construct eight dwelling units for use as seniors affordable housing, and as part of its rezoning application, the Grantor wishes to enter into a covenant with the Trust Committee under which it agrees to fulfil certain development requirements;
- C. Section 219 of the *Land Title Act* of British Columbia permits the registration of a covenant of a negative or positive nature in favour of a municipality in respect of the use of land and buildings on land; and
- D. The Grantor wishes to grant and the Trust Committee wishes to accept these covenants over the Land restricting the use of the Land and building thereon in the manner herein provided.

NOW THEREFORE THIS AGREEMENT WITNESSES that pursuant to Section 219 of the *Land Title Act*, and in consideration of the premises and the mutual covenants and agreements contained

herein and the sum of One Dollar (\$1.00) now paid to the Grantor by the Trust Committee (the receipt and sufficiency of which is hereby acknowledged), the parties hereto covenant and agree each with the other as follows:

1. **Definitions** – In this Agreement, the following terms have the following meanings:
 - (a) **“ALC Resolutions”** means, collectively, Agricultural Land Commission Resolutions #359/2018 and #448/2019, which are attached hereto as Schedules “A” and “B”, respectively.
 - (b) **“Datalogger”** means a device that can record data from a water piezometric pressure transducer, temperature detector and conductivity sensor, at intervals of once per hour (24 times per day).
 - (c) **“Dwelling Unit”** means one or more rooms in a building, containing a single set of cooking facilities, and used or intended to be used, as a residence by an individual or a group of individuals living together in common occupancy.
 - (d) **“Energy Step Code”** means Article 10.2.3 of Division B of the *British Columbia Building Code*, and a reference to a numbered step in the Energy Step Code is a reference to a step established in the Energy Step Code.
 - (e) **“Vegetative Buffer and Fencing Plan”** means the vegetative buffer and fencing plan outlined by Harlene Holm in her letter to Ron Wallace of the Agricultural Land Commission dated January 20, 2019, and attached hereto as Schedule “C”.
2. **No Build** – The Grantor will not develop or build on the Land until:
 - (a) it constructs the vegetation buffer and fencing (the “Vegetative Buffer and Fencing”) in accordance with the Vegetative Buffer and Fencing Plan and the requirements for the same contained in the ALC Resolutions; and
 - (b) it provides to the Trust Committee confirmation from the Agricultural Land Commission that the conditions in the ALC Resolutions related to the Vegetative Buffer and Fencing have been met.
3. **Concurrent Construction Requirements** – Concurrently with its construction of any dwelling unit on the Land, the Grantor will install a down-well continuous datalogger (the “Datalogger”) with a water level pressure transducer, temperature sensor, and electric conductivity sensor, that will allow the Grantor to meet the monitoring requirements imposed on it in section 6, and that is on a direct read smart cable that allows for downloading at the well head or will be installed with telemetry to upload to a desktop application remotely.

4. **Energy Step Code Requirements** – The Grantor shall construct all buildings on the Land containing at least one Dwelling Unit, to meet or exceed the applicable requirements of Step 2 of the Energy Step Code in effect as at the reference date of this Agreement.
5. **No Occupancy** – The Grantor covenants and agrees with the Trust Committee that the Grantor shall not occupy nor allow any one to occupy any building that may be constructed on the Land unless the Grantor has:
 - (a) provided written certification from an appropriately qualified engineer that the Datalogger has been installed in accordance with the terms of this Agreement; and
 - (b) provided written certification from an appropriately qualified professional architect or engineer that all buildings on the Land containing at least one Dwelling Unit meet or exceed the applicable requirements of Step 2 of the Energy Step Code in effect as at the reference date of this Agreement.
6. **Monitoring and Reporting Requirements** – After the Datalogger is installed and the Trust Committee has received confirmation of the same in accordance with the terms of this Agreement, the Grantor will, while this Agreement is in place:
 - (a) Be responsible to ensure the datalogger provides continuous groundwater monitoring at a rate of no less than 24 times per day;
 - (b) as part of the aforementioned monitoring, the Grantor will record the groundwater:
 - (i) levels, adjusted for barometric pressure,
 - (ii) temperature, and
 - (iii) electric conductivity;
 - (c) annually, by the date that is no later than 15 days after the anniversary of the date this Agreement is registered in the Land Title Office, provide the Trust Committee with:
 - (i) all raw data recorded pursuant to subsections 6(a) and (b) and a hydrograph showing continuous groundwater levels, temperature, electric conductivity and monthly periodic water volume totals; and
 - (ii) a fully completed “Water Champion Covenant Annual Report” in the form attached hereto as Schedule “D”.
7. **Indemnity** – As an integral part of this Agreement, pursuant to section 219(6)(a) of the *Land Title Act*, the Grantor hereby indemnifies the Trust Committee from and against any

and all liability, actions, causes of action, claims, suits, proceedings, judgements, damages, expenses, demands and losses at any time suffered or incurred by, or brought against, the Trust Committee, or any of its elected or appointed officials, officers, employees or agents, arising from or in connection with the granting or existence of this Agreement, the performance of any of the Grantor's obligations under this Agreement, any breach of any provision under this Agreement or the enforcement by the Trust Committee of this Agreement.

8. **Specific Relief** – The Grantor agrees that the public interest in ensuring that all of the provisions of this Agreement are complied with strongly favours the award of a prohibitory or mandatory injunction, or an order for specific performance or other specific relief, by the Supreme Court of British Columbia at the instance of the Trust Committee, in the event of an actual or threatened breach of this Agreement.
9. **No Effect on Powers** – Nothing in this Agreement shall:
 - (a) affect or limit the discretion, rights or powers of the Trust Committee under any enactment or at common law, including in relation to the use, development or subdivision of the Land;
 - (b) affect or limit any enactment relating to the use, development or subdivision of the Land; or
 - (c) relieve the Grantor from complying with any enactment, including in relation to the use, development or subdivision of the Land.
10. **Trust Committee Discretion** – Where the Trust Committee or a representative of the Trust Committee is required or permitted under this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent:
 - (a) the relevant provision shall not be considered fulfilled unless the approval, opinion, determination, consent or expression of satisfaction is in writing signed by the Trust Committee or the representative, as the case may be;
 - (b) the approval, opinion, determination, consent or satisfaction is in the sole discretion of the Trust Committee or the representative, as the case may be; and
 - (c) the Trust Committee or the representative, as the case may be, is under no public law duty of fairness or natural justice in that regard and the Trust Committee or the representative may do any of those things in the same manner as if it were a private person and not a public body or employee or officer thereof.
11. **No Obligation to Enforce** – The rights given to the Trust Committee under this Agreement are permissive only and nothing in this Agreement shall give rise to any legal duty of any kind on the Trust Committee to anyone or obligate the Trust Committee to enforce this Agreement or to perform any act or incur any expense.

12. **Agreement Runs with Land** – This Agreement shall burden and run with, and bind the successors in title to, the Land and each and every part into which the Land may be subdivided by any means (including by deposit of a strata plan of any kind under the *Strata Property Act* (British Columbia)).
13. **Waiver** – No waiver by the Trust Committee of any requirement or breach of this Agreement shall be effective unless it is an express waiver in writing that specifically references the requirement or breach and no such waiver shall operate as a waiver of any other requirement or breach or any continuing breach of this Agreement.
14. **Remedies** - No reference to or exercise of any specific right or remedy by the Trust Committee shall prejudice or preclude the Trust Committee from exercising any other right or remedy, whether allowed at law or in equity or expressly provided for in this Agreement, and no such right or remedy is exclusive or dependent upon any other such remedy and the Trust Committee may from time to time exercise any one or more of such remedies independently or in combination.
15. **Priority** – The Grantor shall cause this Agreement to be registered in the applicable land title office against title to the Land with priority over all financial liens, charges and encumbrances, and any leases and options to purchase, registered or pending registration at the time of application for registration of this Agreement, including by causing the holder of each such lien, charge, encumbrance, lease or option to purchase to execute an instrument in a form required by the Trust Committee under which such holder postpones all of the holder's rights to those of the Trust Committee under this Agreement in the same manner and to the same extent as if such lien, charge, encumbrance, lease or option to purchase had been registered immediately after the registration of this Agreement.
16. **Modification** – This Agreement may not be modified except by an agreement or instrument in writing signed by the Grantor or its successor in title and the Trust Committee or a successor or assignee.
17. **Further Assurances** – The Grantor shall do and cause to be done all things, including by executing further documents, as may be necessary to give effect to the intent of this Agreement.
18. **Grantor's Expense** – The Grantor shall perform its obligations under this Agreement at its own expense and without compensation from the Trust Committee.
19. **Severance** – If any part of this Agreement is for any reason held to be invalid by a decision of a court with the jurisdiction to do so, the invalid portion is to be considered severed from the rest of this Agreement and the decision that it is invalid shall not affect the validity or enforceability of the remainder of this Agreement.
20. **Interpretation** - In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this agreement;
 - (c) the term “enactment” has the meaning given to it under the *Interpretation Act* (British Columbia) on the reference date of this Agreement;
 - (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
 - (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced from time to time, unless otherwise expressly provided;
 - (f) reference to a particular numbered section, or to a particular lettered schedule, is, unless otherwise expressly provided, a reference to the correspondingly numbered section or lettered schedule of this Agreement;
 - (g) all Schedules to this Agreement form an integral part of this Agreement;
 - (h) time is of the essence; and
 - (i) where the word "including" is followed by a list, the contents of the list are not intended to limit or otherwise affect the generality of the expression preceding the word "including".
21. **Governing Law** – This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia, which shall be deemed to be the proper law hereof.
22. **Enurement** – This Agreement hereof shall enure to the benefit of the parties and their respective successors and assigns, as the case may be.
23. **Entire Agreement** – This Agreement is the entire agreement between the parties regarding its subject.
24. **Execution in Counterparts & Electronic Delivery** - This Agreement may be executed in any number of counterparts and delivered by e-mail, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, provided that any party delivering this Agreement by e-mail shall also deliver to the other party an originally executed copy of this Agreement.

As evidence of their agreement to be bound by this Agreement, the parties have executed the General Instrument – Part 1 (*Land Title Act* Form C) attached to and forming part of this Agreement.

DRAFT

Schedule A

ALC Resolution #359/2018

DRAFT



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

November 14, 2018

ALC File: 54694

Denman Community Land Trust Association
DELIVERED ELECTRONICALLY

Attention: Harlene Holm,

Re: Reconsideration of Application 54694 to exclude land from the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Island Panel for the above noted application (Resolution #359/2018). As agent, it is your responsibility to notify the applicant accordingly.

Review of Decisions by the Chair

Under section 33.1 of the *Agricultural Land Commission Act* (ALCA), the Chair of the Agricultural Land Commission (the Commission) has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to ALC.Island@gov.bc.ca.

Yours truly,

Ron Wallace, Land Use Planner

Enclosures: Reasons for Decision (Resolution #359/2018)
Schedule A: Decision Map (Resolution #359/2018)
Reasons for Original Decision (Resolution #389/2016)

cc: Islands Trust – Northern Office (File: DE-ALR-2015.1)



AGRICULTURAL LAND COMMISSION FILE 54694

RECONSIDERATION OF PANEL DECISION

REASONS FOR DECISION OF THE ISLAND PANEL

Exclusion application submitted under s. 30(1) of the *Agricultural Land Commission Act*

Request for Reconsideration submitted pursuant to s. 33 of the *Agricultural Land Commission Act*

Applicant: Beverly Severn

Agent: Harlene Holm

Property: Parcel Identifier: 009-708-537
Legal Description: Parcel M (DD 6601N) of Section 18, Denman Island, Nanaimo District, except that part in Plan 24807
Civic: 3730 Denman Road, Denman Island, BC
Area: 1.6 ha

Panel: Clarke Gourlay
Honey Forbes

OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA). The Property is located within Zone 1 as defined in s. 4.2 of the ALCA.
- [2] Pursuant to s. 30(1) of the ALCA, the Applicant, in conjunction with the Denman Community Land Trust Association (the “DCLTA”) applied to the Agricultural Land Commission (the “Commission”) to exclude land for the establishment of eight units of affordable seniors housing for Denman Island residents (the “Proposal”).
- [3] By Resolution #389/2016, dated November 15, 2016, the Panel approved the exclusion of 1.6 ha for the establishment of affordable seniors housing for Denman Island residents (the “Original Decision”). The approval included the following conditions:
- The Commission receive and approve a vegetative buffer and fencing plan between the Property and adjacent agricultural lands, and that the buffer be on the non-ALR side;
 - Photographic evidence of the fencing and vegetative buffer;
 - Re-zoning of the Property to allow for affordable seniors housing;
 - The Commission receive and approve a housing agreement to be registered on Title ensuring that the land use, tenancy selection and occupancy support the continuing use of the land for affordable seniors housing; and
 - The conditions be completed within three years from the date of release of the decision.
- [4] On February 23, 2018, the Commission received the Applicant’s Request for Reconsideration of Resolution #389/2016. Request for Reconsideration of Resolution #389/2016 submits that the Island Panel was in error when it considered that the Proposal is for exclusion of the entire 1.6 ha Property for the establishment of eight units of affordable seniors housing for Denman Island residents. The proponents state that the Application is not strictly to exclude the whole Property for senior housing but instead to exclude the whole Property for both affordable housing and for the landowner (i.e.

Beverly Severn) to continue living on her home property. The portion of the Property proposed for affordable housing is an L-shaped area along the west and south border comprising approximately 0.8 ha; the remainder will continue to be used as a homesite. Further, the DCLTA would be given the 'right of first refusal' to purchase the remainder of the Property from the landowner (i.e. Beverly Severn, should she wish to sell) as a site for potential additional affordable housing.

- [5] As per Commission Resolution #029N/2014, all requests for reconsideration are directed to the Executive Committee of the Commission to determine if the submission contains evidence that was not available at the time of the Original Decision, and/or the Original Decision was based on information that was in error or false, and the information would have been germane to the review of the Application by the Panel.
- [6] In this case, the Executive Committee found that the Request for Reconsideration of Resolution #389/2016 was based on information that may be in error or false, and the information would have been germane to the review of the Application by the Panel.
- [7] The Executive Committee did not consider that there were any persons affected by the reconsideration.
- [8] In accordance with s. 11.1(3) of the *ALCA*, the Chair of the Commission referred the Request for Reconsideration of the Original Decision to the Panel.
- [9] The Panel considered the request to exclude the Property from the ALR for both the development of affordable housing and for the landowner to continue living on her home property in the context of the purposes of the Commission set out in s. 6 of the *ALCA*. These purposes are:
- (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
 - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

EVIDENTIARY RECORD

[10] The Panel considered the following evidence:

1. The Application evidence from the Original Decision;
2. The Site Visit Report;
3. The Original Decision;
4. The Request for Reconsideration documentation received by the Commission from the Agent.

EVIDENCE AND FINDINGS

[11] Upon reconsideration, the Panel reviewed the evidentiary record and noted that the Proposal is to exclude the entire 1.6 ha Property for both the establishment of eight units of affordable senior housing for Denman Island residents and for the landowner to continue living on her home property. The Panel understands from the submission that the portion of the Property proposed for affordable housing is a 0.8 ha L-shaped area along the west and south border and that the remainder 0.8 ha of the Property is proposed for a homesite for the landowner.

[12] Based on the findings outlined in the Original Decision, the Panel supports the exclusion of the Property from the ALR for the purpose of providing affordable seniors housing for Denman Island residents. The Panel reiterates the findings of the Original Decision in which it expressed that it “would have no objection to increasing the number of dwelling units, if a higher density would mitigate further applications to the ALC.”

[13] The Panel does not support the exclusion of any portion of the Property for the purpose of establishing a homesite for the landowner. Regardless of the proposed provision to grant the DCLTA with the ‘right of first refusal’ to purchase the remainder of the Property from the landowner as a site for potential additional affordable housing, there is no assurance that it will eventually be developed for this purpose. The Panel finds that exclusion of land for a single residential lot is not consistent with the purposes of the Commission, as set out in s. 6 of the ALCA.



[14] For these reasons, the Panel is amenable to excluding either the entire 1.6 ha Property for affordable seniors housing or only the 0.8 ha portion of the Property for affordable seniors housing.

DECISION

[15] The Panel therefore refuses the Proposal to exclude the 1.6 ha Property for both affordable housing and to create a homesite for the landowner (i.e. Beverly Severn).

[16] The Panel approves, as in the Original Decision, the exclusion of the 1.6 ha Property for the establishment of affordable seniors housing for Denman Island residents. The decision is subject to conditions outlined by Resolution #389/2016.

[17] Alternatively, the Panel approves the exclusion of the ± 0.8 ha portion of the Property proposed for the establishment of affordable seniors housing for Denman Island residents. This approval is subject to the following conditions:

- a. the submission of a survey plan delineating the area to be excluded;
- b. the Commission receive and approve a vegetative buffer and fencing plan between the area of the Property approved for exclusion and adjacent agricultural lands, and that the buffer be on the non-ALR side;
- c. photographic evidence of the fencing and vegetative buffer;
- d. re-zoning of the non-ALR portion of the Property to allow for affordable seniors housing;
- e. the Commission receive and approve a housing agreement to be registered on Title ensuring that the land use, tenancy selection and occupancy support the continuing use of the land for affordable seniors housing; and
- f. the conditions be completed within three (3) years from the date of release of this decision.

[18] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.



[19] These are the unanimous reasons of the Panel.

[20] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

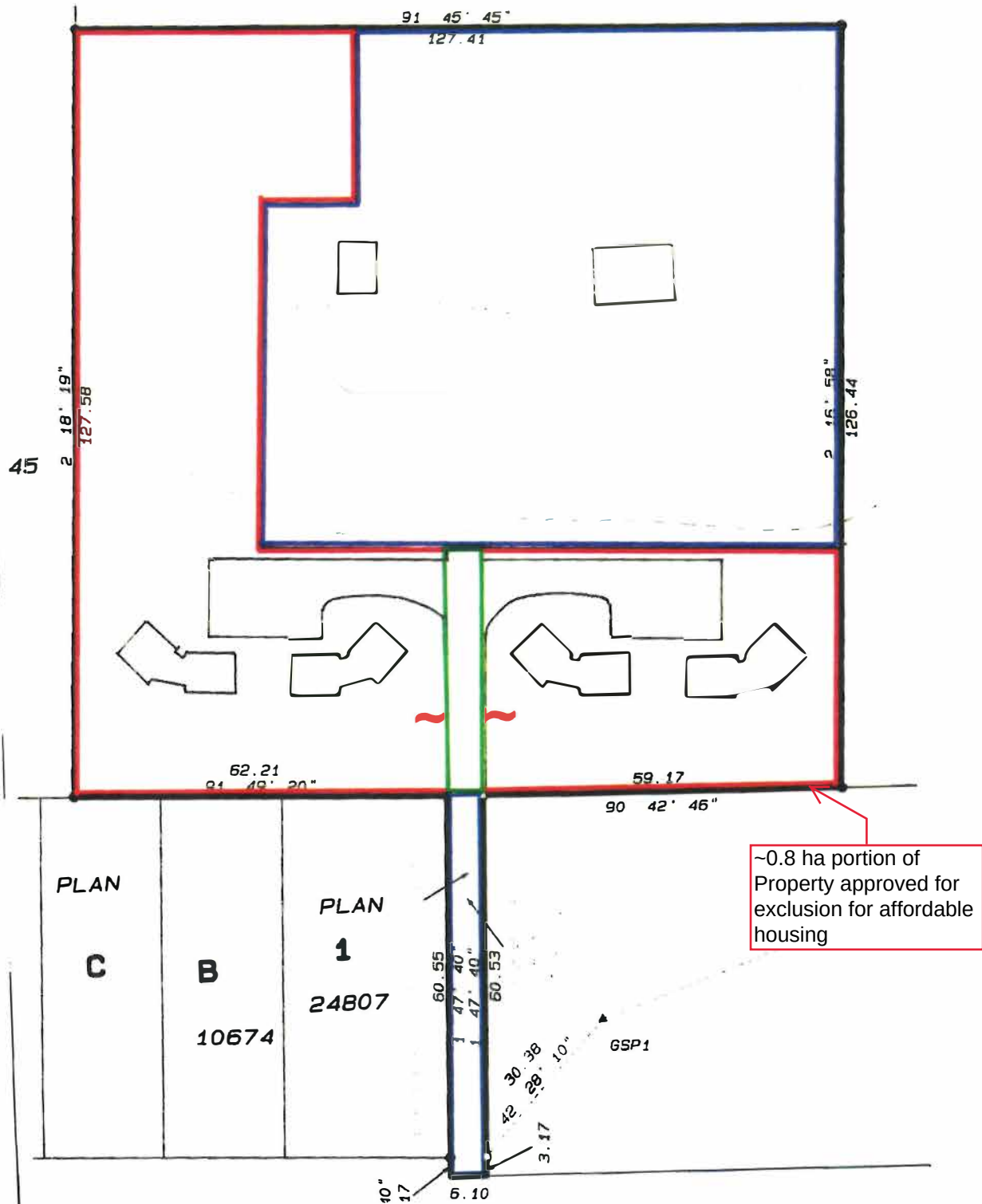
[21] Resolution #359/2018

Released on November 14, 2018

A handwritten signature in black ink, appearing to read 'Clarke Gourlay', is positioned above the printed name.

Clarke Gourlay, Panel Chair

On behalf of the Island Panel



Schedule A
 ALC Application #54694 (Severn)
 ALC Resolution #359/2018
 Conditionally Approved Exclusion of 0.8 ha
 of the Property for affordable seniors housing

BS *[Signature]*

Schedule B

ALC Resolution #448/2019

DRAFT



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

November 28, 2019

ALC File: 54694

Harlene Holm
Denman Community Land Trust Association
DELIVERED ELECTRONICALLY

Dear Harlene Holm:

Re: Application 54694 to Exclude Land from the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Chief Executive Officer for the above noted application (Resolution #448/2019). As agent, it is your responsibility to notify the applicant accordingly.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to Aimee McGowan at ALC.Island@gov.bc.ca.

Yours truly,

Aimee McGowan, Land Use Planner

Enclosures: Reasons for Decision (Resolution #448/2019)
Schedule A: ALC Decision Map

cc: Islands Trust – Northern Office (File: DE-ALR-2015.1)

54694d3



AGRICULTURAL LAND COMMISSION FILE 54694

REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER

Exclusion Application Submitted Under s. 30(1) of the *Agricultural Land Commission Act*

Applicant: Beverly Severn

Agent: Harlene Holm

Property: Parcel Identifier: 009-708-537
Legal Description: Parcel M (DD 6601N) of Section
18, Denman Island, Nanaimo District, except that
part in Plan 24807
Area: 1.6 ha

Chief Executive Officer: Kim Grout
(the “CEO”)

OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA).
- [2] In 2016, the Applicant, in conjunction with the Denman Community Land Trust Association (the "DCLTA"), applied to the Agricultural Land Commission (the "Commission") to exclude the 1.6 ha Property from the ALR for the establishment of eight units of affordable seniors' housing for Denman Island residents (the "Proposal").
- [3] By Agricultural Land Commission (ALC) Resolution #389/2016, dated November 15, 2016, the Island Panel (the "Panel") conditionally approved the Proposal; however, the Panel approved the decision based on the understanding that the entire Property was going to be developed as seniors' affordable housing (the "Original Decision"). The Agent subsequently clarified that only half of the Property was intended for that use, and the Applicant (i.e. Beverly Severn) was to remain living on the other half of the excluded portion.
- [4] In 2018, the Agent submitted a Request for Reconsideration to the Commission to rectify the discrepancy in the decision. Upon consideration of the Request for Reconsideration of ALC Resolution #389/2016, the ALC Executive Committee determined that the Original Decision was based on information that may be in error or false and that the information would have been germane to the review of the Application by the Panel.
- [5] In accordance with s. 11.1(3) of the *ALCA*, the Chair of the Commission referred the Request for Reconsideration of the Original Decision to the Panel.
- [6] By ALC Resolution #359/2018, dated November 14, 2018, the Panel refused the revised proposal to exclude the 1.6 ha Property for both affordable housing and to create a homesite for the landowner. The Panel upheld the Original Decision (ALC Resolution #389/2016), to exclude the 1.6 ha Property for the establishment of affordable seniors' housing. Alternatively, the Panel approved the exclusion of a ± 0.8 ha portion of the Property for the establishment of affordable seniors' housing, subject to conditions, including:
- a. the submission of a survey plan delineating the area to be excluded.

- [7] On November 13, 2019, the Agent submitted a letter requesting an amendment to condition 'a' of ALC Resolution #359/2018 as it relates to delineating the area to be excluded from the ALR.
- [8] In the request, the Agent explained that the access lane to the Applicant's ALR portion of the Property, outlined in green in the decision map of ALC Resolution #359/2018, creates an ALR access that bisects the non-ALR area approved for development as affordable seniors housing. The access lane was intended to be common property held by the strata subdivision partners, DCLTA, and the Applicant (and any future owner of her strata parcel), and not to be used solely to access the Applicant's ALR portion of the Property.
- [9] The Agent explained that the Property has access to Denman Road via an easement granted through an adjacent property in 1978. DCLTA, as part of its Land Purchase Agreement with the Applicant, purchased the easement from the adjacent property and is concluding work with the BC Land Title & Survey Authority to make the lane part of the Property. The proposed strata subdivision plan for the Property would designate the entire access lane as "common area – road access." As a "common area," the lane would be common property held by both strata partners and maintained by DCLTA. Further, it would provide unimpeded access to Denman Road for both the portion of the Property to remain in the ALR and the ± 0.8 ha portion approved for exclusion.
- [10] For the above reasons, the Agent is requesting that the Commission grant an amendment to condition 'a' of ALC Resolution #359/2018 to add the access lane to the ± 0.8 ha approved for exclusion, as access to the portion of the Property that is to remain in the ALR will be granted by way of a common property access road (the "Revised Proposal").
- [11] Under Section 27 of the ALCA the ALC, by resolution, may establish criteria under which the CEO may approve applications for exclusion, subdivision, non-farm use, non-adhering residential use, and soil or fill use applications. By resolution, the Commission has specified that the following applications may be decided by the CEO:

8. Requests for variations or removal of conditions of approval imposed by the Commission by resolution in exclusion, subdivision, and non-farm use applications that are consistent with the intent of the Commission's original decision.

DECISION

[12] After reviewing the Application, I am satisfied that the Revised Proposal is consistent with Criterion #8 and approve an amended survey plan delineating the area to be excluded to incorporate the lane outlined in green in the decision map of ALC Resolution #359/2018 to the ± 0.8 ha portion approved for exclusion.

[13] The Proposal is approved subject to the following conditions:

- a. the submission of a survey plan delineating the area to be excluded, in substantial compliance with the amended design (Schedule A);
- b. the Commission receive and approve confirmation that unimpeded access, by way of a common area road, has been provided to the portion of the Property that is to remain in the ALR in perpetuity;
- c. the Commission receive and approve a vegetative buffer and fencing plan between the area of the Property approved for exclusion and adjacent agricultural lands, and that the buffer be on the non-ALR side;
- d. photographic evidence of the fencing and vegetative buffer;
- e. re-zoning of the non-ALR portion of the Property to allow for affordable seniors' housing;
- f. the Commission receive and approve a housing agreement to be registered on Title ensuring that the land use, tenancy selection and occupancy support the continuing use of the land for affordable seniors housing; and
- g. the conditions be completed within three (3) years of the date of release of this decision.



[14] When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the exclusion.

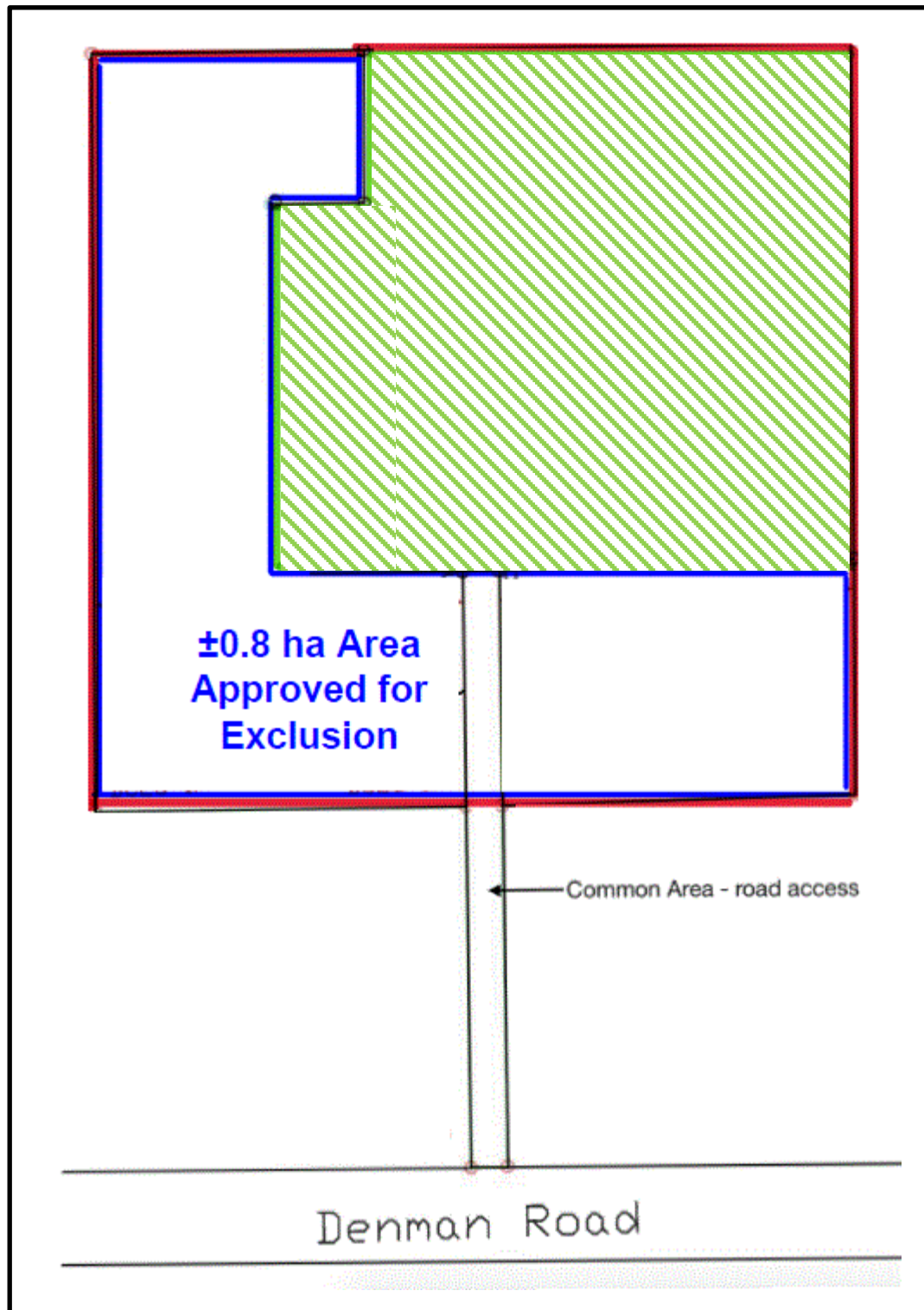
[15] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[16] A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.

[17] Resolution #448/2019
Released on November 28, 2019

A handwritten signature in black ink, appearing to read "Kim Grout", is positioned above the printed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kim Grout, Chief Executive Officer



Conditionally Approved Exclusion (±0.8 ha)



The Property



Portion of the Property to Remain in the ALR

Schedule C

Vegetative Buffer and Fencing Plan

DRAFT

January 20, 2019

Ron Wallace, Planner
Provincial Agricultural Land Commission
201 – 4940 Canada Way, Burnaby, BC V5G 4K6

Dear Ron Wallace:

Re: ALC File 54694) – Vegetative Buffer and Fencing Plan (draft for comment)

ALC exclusion condition 25.a. reads, “the Commission receive and approve a vegetative buffer and fencing plan between the Property and adjacent agricultural lands, and that the buffer be on the non-ALR side.”

As the agent working on behalf of the Lot M landowner and a board member of Denman Community Land Trust Association (DCLTA), I am developing the materials needed to satisfy this condition. I will not be providing a formal buffer design plan, because much of the vegetative buffer, as described in Landscaped Buffer Specifications A.6 “Existing Vegetation Retention,” is already in place. In addition, a portion of the proposed buffer configuration follows an existing ditch which drains farmland to the east of Lot M and provides a deterrent to trespass, as outlined in Schedule A.5. “Water Feature and Fence.” (See attachment #1 with the project site plan, aerial photos of the proposed location of the buffer, the existing vegetation for Lot M and the 12 photos of this buffer and ditch.)

I propose that the fencing be placed on the inside of the 3 metre setback buffer area and follow the project’s eastern property line to the project’s northern property line and that the fencing then continue westward the full length of Lot M to the project’s western property line, roughly paralleling the drainage ditch. Thus located, the vegetative buffer and fencing proposal will meet four goals:

- 1) fulfill the ALC conditions of preventing trespass onto ALR land while also addressing the layout and safety concerns of the Seniors’ Affordable Housing Project;
- 2) recognize buffer area features in Lot M’s existing landscape that would discourage trespass by the project’s tenants and provide a visual buffer between the project residential use and the nearby agricultural land;
- 3) acknowledge community concerns regarding perceived hazards associated with use of barb wire and the environmental degradation resulting from the use of pressure treated posts; and
- 4) recognize that, in the experience of local farmers, including myself, it is far more likely that, over time, fencing that is visible will be maintained and repaired as needed and will remain accessible for such ongoing upkeep.

The following offers greater detail regarding points 1 - 4:

1. The portion of the project north of the drainage ditch will not have a residential use. Instead, this area will accommodate the dug well water storage, the wastewater treatment system and the drain field – all respecting the 3 metre setback required in the Denman Island Land Use Bylaw. Once these works are installed, activity will be minimal and restricted to system maintenance and grass cutting to prevent intrusion by invasive plants. I estimate that over 95% of the infrastructure will be underground. Given this proposed use, the vegetative buffer and fencing in the west part of the project property is best located along the drainage ditch, rather than along the property line.

Further, the owner of Lot M, and of the subsequent remnant ALR parcel, has expressed a clear preference for retaining her existing viewscape, which could be impaired or eliminated by a vegetative buffer separating her parcel from the project's non-tenanted area north of the drainage ditch. Also, she has a written agreement with DCLTA for her continued use of an existing path crossing the project parcel to the north of the ditch to allow her easy access the village area.

Additionally, a fenced, 'no-trespass' barrier running east-to-west would address the concern of the Denman Community Land Trust Association (DCLTA) that access to the drainage ditch might otherwise pose a safety concern for project tenants and their visitors.

2. The existing vegetation of grand fir, maple, predominant black hawthorn with its spikes, alder and wild rose in the area proposed as buffer, plus the drainage ditch, appear to fit with ALC Landscaped Buffer Specifications, Schedule A 5 and 6.

Photo # 2 shows that the eastern setback area buffer is a bit thin; this is where DCLTA will plant 3 *Cupressocyparis leylandii* (Leyland cypress). These trees are amenable to pruning, which would prevent unwanted shading of possible ALR farm use or of the project's construction area. In my experience, this tree tolerates a wide range of local soil conditions from wet to dry and requires no deer proofing beyond an initial sleeve to prevent bucks from using the stem to remove velvet from their horns.

The vegetation buffer plan includes sword ferns planted within the buffer area and several evergreen trees and shrubs planted along the setback fence west of the ditch, specifically, 3 Loquat trees and 2 Feijoa shrubs, as recommended by a local nursery specializing in edible landscapes, and 3 *Ceanothus L.* (California Lilac) for the benefit of pollinators. The Denman Island Land Use Bylaw requires a setback of 3 metres from lot lines and 15 metres for buildings and structures located near the ditch, excluding fencing; this facilitates establishing evergreen plants on the project side of the fencing (see photos of areas 5, 6, 9 and 10), which is advantageous, given that these plants will require protection from deer and removal of snow loads that could damage the plants.

3. Fencing in the draft buffer plan combines the requirement in Schedule D 5 but uses no-climb fencing rather than stock fencing and, if required, high-tensile top wire, as described in D 7. The draft plan proposes corner posts, brace posts and gate posts made of cement, using a template and expertise provided by local, second generation farmers John Isbister and John Mather. The draft plan includes two gates: one with a width of approximately 12 feet to access the remainder residence and one with a width of approximately 14 feet to access the project's wastewater and back-up water systems. The plan proposes 6-bar galvanized gates with wired-on faceplate of no-climb fencing.

As noted, the draft plan includes no-climb fencing (which uses wire 'knots' rather than welds). Combined with T-bar supports every 10 feet, the fence should make trespass unlikely by tenants, their visitors or dogs. While no-climb fencing is more expensive, it does not stretch and/or sag, trap wildlife or deteriorate the way stock fencing does.

Regarding barb wire, this community is particularly concerned about the damage that barb wire inflicts on deer and other wildlife. Unfortunately, remnants of barb wire are plentiful on the island as a result of the many farms here years ago. A member of the Denman Island Residents Association's Wild Life Committee spent countless hours removing an estimated 300 metres of derelict barb wire from Lot M, snipping it to unusable lengths and recycling it. Given community misgivings, the buffer design does not use barb wire.

Regarding pressure treated posts, this community has a strong commitment to protection of the environment from potentially damaging chemicals. In another community project, for example, pressure treated posts installed in 2015 to protect a sensitive area were removed and replaced a year later, following expressed community concern.

Although the requirements of the ALC regarding fence anchoring posts could be met by old growth cedar, these posts are a rare find and few islanders (including myself) are willing to split and share this precious resource. Concrete anchoring posts, as proposed in this plan, have been used successfully on this island for more than two decades and provide a satisfactory alternative.

4. I am a farmer with three decades of experience. I have used my experience installing and maintaining no climb fencing to draft details of the buffer plan. I also consulted with two second generation Denman Island farmers and added their views, and I used DCLTA's experience when removing derelict fencing on Lot M.

I would be grateful if you would review this draft plan and give me your comments and suggestions regarding any changes.

Thank you,
Harlene

[Note: this email text is also attached as a pdf]

From: "Wallace, Ron ALC:EX" <Ron.Wallace@gov.bc.ca>
Subject: RE: May 9.19 Fwd: Apr.23.19 DCLTA's vegetative/buffer plan re
file 54694
Date: May 13, 2019 at 9:34:24 AM PDT
To: HHolm <ananke@telus.net>
Cc: Guy Marion <gmarion7@telus.net>, Nancy Hoyano
<nhoyano@telus.net>

Hi Harlene,

The Island Panel of Commissioners has reviewed your Vegetative Buffer and Fencing Plan dated January 20, 2019. The Island Panel finds the proposed vegetative buffer and fencing plan to be satisfactory and consistent with its decision by Resolution #359/2018.

Thank you,

Ron Wallace, Planner
Provincial Agricultural Land Commission
201 – 4940 Canada Way, Burnaby, BC V5G 4K6P: 604 660-7029 IF: 604
660-7033

Attachment 1



Aerial Photo – buffer photo locations



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6

Attachment 1



Photo 7



Photo 8



Photo 9



Photo 10



Photo 11



Photo 12

Schedule “D”

Water Champion Covenant Annual Report Template

DRAFT



Islands Trust

WATER CHAMPION COVENANT ANNUAL REPORT

Submit to:
northinfo@islandstrust.bc.ca
700 North Road, Gabriola Island
BC V0R 1X3

Purpose

The purpose of this annual report is to provide Islands Trust with essential information and data with respect to an evidence-based approach using continuous monitoring to (a) ensure sufficient environmental protection from water quantity issues relating to the housing operations, (b) ensure water sustainability in a changing climate; (c) ensure sufficient water conservation strategies to satisfy deviation from water requirements in the Denman Island Land Use Bylaw and water licence 500469; and (d) mitigate risk potential of salt water intrusion on the source well and/or receiving environment.

Background

A Conditional Water Licence 500469 was issued for the requested maximum daily demand for any day of the year with a date of water right precedence of March 5, 2018 to a maximum of 3.68 cubic meters (3680 litres) of groundwater per day. Several conditions are specified in licence including but not limited to installation of a flow-metering device. Covenant No. _____ requires additional requirements including a down-well continuous datalogger with a water level pressure transducer, temperature sensor, and electric conductivity sensor.

In Scope

The holder of this covenant is required to:

- *Undertake continuous groundwater monitoring at a rate of no less than 24 times per day*
- *A pressure transducer must be permanently installed in the source groundwater well on a direct read cable*
- *Groundwater levels, temperature, and electric conductivity is to be recorded*
- *Groundwater levels must be compensated for barometric pressure*
- *Provide raw data to Islands Trust*
- *Provide a hydrograph that includes continuous groundwater levels, temperature, and electric conductivity in addition to no less than monthly periodic water volume totals.*

Project Data

Project Name	
Project Operator	
Project Location	

Report Summary

Report Submitted by		Reporting Year	
Professional Designation		Submission Date	
Reporter Phone Number			
Reporter Email			

Well Summary

Well Tag Number		Well License Number	
Well Identification Plate #		Water Use Type	

Well Owner Name		Licensed Annual	
Well Class		Aquifer Number	
Well Activity			
Well Operator Name		Driller Name	
Operating Start Date		Date of Well	
Well Status		Drilling Method	
Well Location			
Latitude		UTM Easting	
Longitude		UTM Northing	
Coordinate Datum		UTM Zone	
Ground Elevation (m asl)			
Well Completion Data			
Total Drilled Depth (m bgl)		Estimated Well Yield	
Casing Stick Up (m)		Yield Estimation	
Pump Depth (m btoc)		Yield Estimation Date	
Well Monitoring Data			
Transducer Make/Model		Static Water Level (m btoc)	
Date of Data Download		Static Measurement Date	
Transducer Depth (mbtoc)		Measurement Method	
Transducer Status		Total Volume of Water	
Well Monitoring Analysis			
Did the well experience water levels less than 70% of available hydraulic head?			
Did the well experience risk of salt-water intrusion?			
Was the total water used less than licensed amount?			
Other:			
Professional Comments and Recommendations			



PO Box 7
Denman Island, BC
Canada V0R 1T0

14th December 2020

David Critchley
Denman Island Trustee
Islands Trust
Northern Office
700 North Road
Gabriola Island, BC V0R 1X3
Email: dcritchley@islandstrust.bc.ca

Re: File No. DE-3030-02
Complaint - DFO Aquaculture Licence Number 119203, BC Landfile Number 1400036,
Denman Point, Denman Island, Baynes Sound

Dear David

In our 6th November letter to the Denman Island Local Trust Committee regarding the above-mentioned aquaculture tenure, we expressed our thanks for Island Trust's support, and mentioned our new concerns with the expansion and trespass of the tenure to 43 rafts, well outside their lease into W1 waters.

We followed up our concerns on the 7th November with Chris Marrie, Senior Biologist, Shellfish, DFO and Jordan Wagner, Senior Land Officer, Aquaculture, FLNRO.

On her 30th November correspondence, Ms Wagner, advised us she had made an in-person visit to the site in summer which, given her workload, we greatly appreciate. As with previous responses to our concerns on this tenure, she responded that although there is a problem, as it does not pose an immediate public or environmental risk, the issue remains low on the provinces list of priorities. Though we can understand this, to our community and residents this is an issue of immediate concern.

We were concerned with Ms Wagner's text below and responded by email to her.

*"As for the trespass issue, I sent a reminder to the tenure holder today. Moving forward there are (a) number of options that may be considered. **One potential outcome is that the tenure holder applies for the area that he is currently using.** The tenure holder, the province, and the other involved agencies will have to work this out, but it will require a dedicated review process. We also have ticketing procedures for trespass in the event the tenure holder is not cooperative."*

You may have followed my 10th November email and subsequent responses from Ms Wagner, Chris Marrie, and Lawrence Kuan, Navigation Protection Officer, Navigation Protection Program. Ms Wagner confirmed the tenure holder in question had not been offered the option of tenure expansion to date and that "Any application is subject to a full review, concentrating the attention of multiple government agencies (including local government), First Nations, and the public, allowing all parties to formally express their views."

.../2

Page 2
David Critchley
14th December 2020

All three agencies, along with the severe restrictions imposed by the Covid pandemic, are dealing with insufficient compliance and enforcement staffing and we certainly deeply sympathize with their workloads in serving our communities. We are continuing to advocate for higher staffing levels for compliance and enforcement within the aquaculture industry.

However, we would be remiss if we did not continue to follow up on our concerns for this tenure particularly, and its continued trespass into W1 Conservation waters and continued disregard of any warnings. We would recommend Islands Trust follow up to obtain a current and accurate mapping of this tenure and the degree of trespass into the W1 conservation waters to better inform any future dialogue.

It is our sincere hope that rather than a retroactive rezoning process, the tenure holder be held to account for continuing to breach their Conditions of Licence.

While individual circumstances might vary, generally we also wish to officially note our deep concern for any process which allows the expansion of a W3 marine industry zoning into W1 marine conservation zoning, especially one precipitated by the tenure holder's continuing trespass of the W1 zone. We do understand a full mandated review is required, but we hope the option will be carefully noted by Islands Trust for the possible precedent setting implications it brings to marine conservation in an area of intensive aquaculture and ecological significance.

ADIMS will be requesting a delegation presentation slot at the 19th January 2021 LTC meeting so that we might further be able to present and address any questions or concerns.

All the best

Beth Janz
For ADIMS

Attachments: Denman Island Marine Zoning
Denman Point Shellfish Tenure 1400036 Rafts 28.11.19
November/December 2020 email correspondence

Cc Sue Ellen Fast, Denman Island Trust Chair
Laura Busheikin, Denman Island Trustee
Wil Cottingham, Islands Trust
Sonja Zupanec, Island Planner
Clare Frater, Islands Trust
Jordan Wagner, Senior Land Officer, Aquaculture, FLNRO
Lesley Fettes, District Manager, FLNRO
Chris Marie, Senior Biologist, Shellfish, Aquaculture Management Division, DFO
Lawrence Kuan, Navigable Waters Protection Program, Transport Canada



PO Box 7
Denman Island, BC
Canada V0R 1T0

6th November 2020

Sue Ellen Fast, Chair
Denman Island Local trust Committee
700 North Road
Gabriola Island, BC. V0R 1K3

Re: File No. DE-3030-02
Complaint - DFO Aquaculture Licence Number 119203, BC Landfile Number 1400036,
DenmanPoint, Denman Island, Baynes Sound

Dear Sue Ellen

Please accept my apologies for this very late written response to your letter to the Fisheries and Oceans Canada Compliance officer on ADIMS' behalf on the above stated issue.

On reviewing the letter of response from Brittany Myhal. Aquaculture Management Coordinator, Fisheries Management Branch - Pacific Region, we were quite nonplussed to see her statement: "While the current work associated with Facility 1004 isn't currently located within its own tenure boundary, it doesn't pose an immediate navigation safety concern."

It is my understanding this issue and official response has been discussed further in the Baynes Sound Lambert Channel Ecosystem Forum in the past months, but I wanted to formally offer our thanks to you, and those involved in addressing our concern, for your continued support for ADIMS in this particular complaint, and more broadly as we advocate for the aquaculture industry to adhere to good neighbour and environmentally respectful practices.

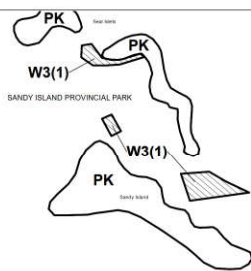
Interestingly, this same lease continues to once again be a concern to local residents with a total of 43 rafts now in place, extending even further beyond the lease into W1 (Conservation) Waters within Islands Trust jurisdiction and navigational waters. We will be following up with the provincial FLNRO office to express our ongoing concerns for this lease continuing to disregard regulations.

With kind regards

Beth Janz
For ADIMS

cc: Marnie Egan, Island Planner
Laura Busheikin, Denman Island Trustee
David Critchley, Denman Island Trustee

SEE INSET C BELOW
FOR AREA TO THE NORTH



DENMAN ISLAND LAND USE BYLAW

Bylaw #186
SCHEDULE B - NORTH SHEET

RESIDENTIAL ZONES

- R1 Residential
- R2 Rural Residential
- R3 Community Housing

RESOURCE ZONES

- A Agriculture
- F Forestry
- RE Resource

COMMERCIAL AND LIGHT INDUSTRIAL ZONES

- C Commercial
- L Light Industrial

COMMUNITY ZONES

- IN Institutional
- CN Conservation
- PK Park

WATER ZONES

- W1 Marine Conservation
- W2 Marine Services
- W3 Aquaculture
- W4 Marine Protection
- W5 Lakes

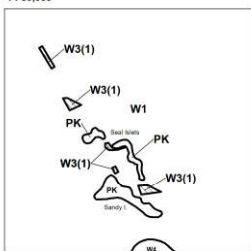
Agricultural Land Reserve

SITE SPECIFIC

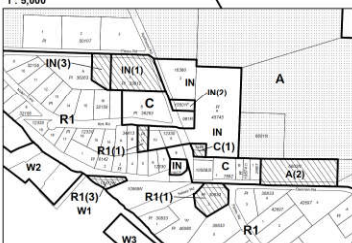
Site Specific Zoning
These regulations apply where the zoning code is followed by a number in parentheses, for example R1(2)

Land Use Contract #267

INSET C
1 : 30,000



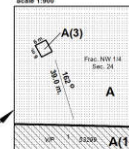
INSET A - DENMAN VILLAGE
1 : 5,000



BYLAW AMENDMENTS

Bylaw 186 April 2010
Bylaw 187 May 2010
Bylaw 188 Aug 2010
Bylaw 189 Aug 2010
Bylaw 200 Aug 2011
Bylaw 204 April 2013

INSET B
Scale 1:800



Scale 1 : 10,000



DENMAN ISLAND

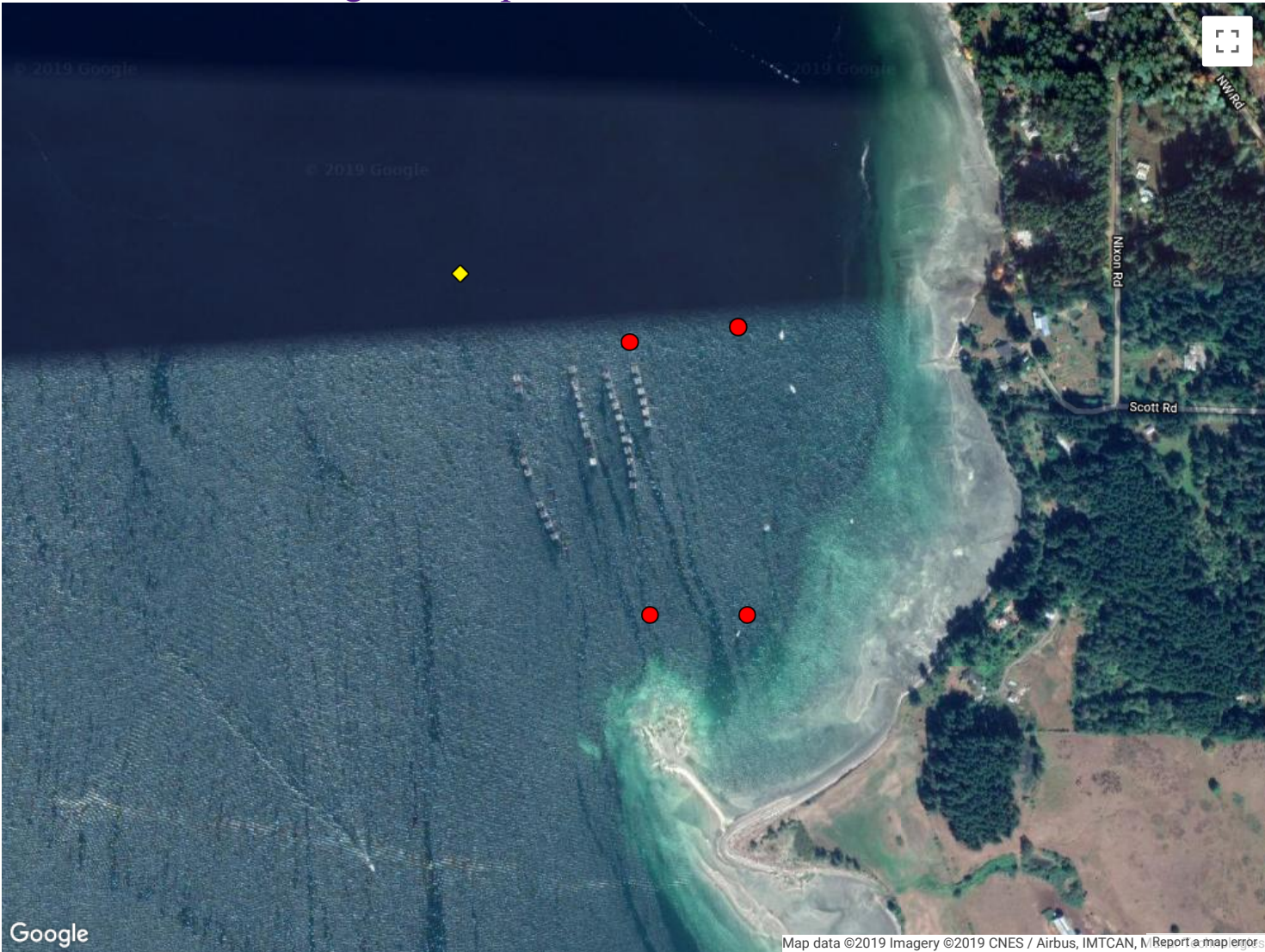
DENMAN ISLAND
LOCAL TRUST COMMITTEE

SHEET 1 OF 2
LAND USE BYLAW

[<<< Change the map!](#)



CopyPasteMap.com



Legend	
	BC Aquaculture Tenure 1400036 Area 14-15
	Yellow diamond is approx location of buoy seemingly connected into raft system

November/December 2020 Correspondence on FILE 1400036 Aquaculture Tenure Complaint

From: ADIMS info <diconcerns@gmail.com>

Sent: November 7, 2020 8:57 AM

To: Wagner, Jordan FLNR:EX <Jordan.Wagner@gov.bc.ca>

Cc: Marrie, Christopher <Christopher.Marrie@dfo-mpo.gc.ca>; wcottingham@islandstrust.bc.ca; Marnie Eggen <meggen@islandstrust.bc.ca>; Johnston Liz <lizji@telus.net>

Subject: Re: FW: FILE 1400036 Aquaculture Tenure Complaint - Facility Number: 1004

Dear Jordan

I would like to follow up on this complaint - we have had residents voice further concerns regarding this tenure.

There are currently some 43 rafts attached to this tenure and they extend further into navigational waters since our last communication. The intensification of the rafts in this area with continued construction, together with the apparent lack of concern for any regulations, raises the same issues as previously - safety of navigation, secure equipment storage on the rafts, secure placement of the rafts - with the added issue of noise and marine traffic in this immediate area for residents.

We would be most grateful if you could follow up with the leaseholder at your earliest convenience to ensure the leaseholder remains within their lease remit.

Many thanks.

Kind regards

Beth Janz
for the Association for Denman Island Marine Stewards (ADIMS)

30 Nov 2020, 15:55 (9 days ago)

Wagner, Jordan FLNR:EX via bcgov.onmicrosoft.com

to ADIMS, Christopher, wcottingham@islandstrust.bc.ca, Marnie, Lawrence, AQSF, Johnston

Hi Beth,

I am only able to address the concerns mentioned that are within provincial jurisdiction, however, I have cc'd both Transport Canada and Fisheries and Oceans Canada on this response.

This summer I did a visual inspection of this site and the beach immediately upland. I did not find any evidence of debris washed up on shore or anything outwardly amiss.

As for the trespass issue, I sent a reminder to the tenure holder today. Moving forward there are number of options that may be considered. One potential outcome is that the tenure holder applies for the area that he is currently using. The tenure holder, the province, and the other involved agencies will have to work this out, but it will require a dedicated review process. We also have ticketing procedures for trespass in the event the tenure holder is not cooperative.

Without evidence suggesting that there is an immediate risk to the public, or a significant environmental concern, this file has not made the province's list of priorities. That said, we are very much aware that there are issues, the correspondence has been documented on file, and the tenure holder's response will be noted. These factors are considered on future decisions relating to the file.

Thank you again for bringing this file to my attention and providing an update. I hope you are staying well during this time.

Jordan Wagner
A/Senior Land Officer, Aquaculture
Ministry of Forests, Lands, Natural Resource
Operations, and Rural Development
142-2080 Labieux Road | Nanaimo, BC V9T 6J9
Tel: 250-739-8191 | Fax: 250-751-7224

10th December 2020

Dear Jordan

Thank you so much for your response. We do very much appreciate your tremendous workload and the assistance and time you have given our concerns with regard to this particular tenure. Our thanks also for taking the time to make a visual inspection of the tenure this past summer. We are not entirely surprised that your visit did not turn up any visible debris. The greatest quantities of debris follow on from seasonal winter and spring storms and residents have become quite adept, when walking this popular beach, at picking up debris and taking it to a collection point.

Our thanks also for sending the tenure holder another reminder of trespass, although at this time we do not expect that will elicit any change. As a voice for our Denman community we vigorously oppose the *“tenure holder applies for the area that he is currently using”* solution you have noted. The current tenure is designated as W3 and the waters immediately surrounding the tenure are W1 designated, a conservation area designation. As such, as you note, changing the W1 area to allow retroactive change of the tenure’s trespass into W1 waters, would indeed require multiple agencies, and a full and complete rezoning process, including Islands Trust and the community, to accomplish this.

A major concern, outside of our extreme concern at changing the marine conservation area zoning pertinent to this lease, is the precedent this sets in allowing tenure holders to expand without penalty, knowing they will not bear any consequence, and in fact be rewarded in form of a rezoning to accommodate any growth outside their lease.

It is our sincere hope that rather than a retroactive rezoning, the leaseholder be held to account for continuing to breach lease conditions.

We will be directing a separate letter to Islands Trust and to DFO reiterating our concerns listed above. While it does seem there is no disagreement that the tenure is not within its lease, we will recommend Islands Trust follow up to obtain a current and accurate mapping of this W3 tenure and the degree of trespass into the W1 conservation waters.

We do understand that on the list of priorities the province faces, the problems this tenure raises are not in the sky-high region. However, the issues are important to the every-day life of the residents they impact, and of immense concern to us should the precedent-setting option be carried through. Our thanks once again in your help with these issues which are so important to our community.

All the best

Beth Janz

For ADIMS

10th Dec 2020

Hi Beth,

Just a quick note to say that submitting an application is not an option that has been provided to the tenure holder for 1400036 at this time. As I mentioned, there is much to do before any decisions are made regarding future actions. However, an application is an established mechanism to pursue compliant operations. Any application is subject to a full review, concentrating the attention of multiple government agencies (including local government), First Nations, and the public, allowing all parties to formally express their views. Tenure holders may be charged occupational rent for the prior years spent in trespass, as well as the costs associated with an application, so it is not a free pass.

Jordan Wagner

A/Senior Land Officer, Aquaculture

Ministry of Forests, Lands, Natural Resource Operations, and Rural Development

142-2080 Labieux Road | Nanaimo, BC V9T 6J9

Tel: 250-739-8191 | Fax: 250-751-7224

10th December 2020

Hi Beth. I understand your frustration. Both our agencies are quite understaffed at the moment, both on office and field enforcement staff. I too agree that it's not ideal where we have a licence holder apparently expand their operations without authority and then be able to ask for forgiveness after the fact and get permitted for that. I take note of your issues with the conservation concern with the area around the current tenure and I'm sure that would be considered by DFO if this licenced area was ever subject an expansion application. Hopefully both BC and DFO get more staffed up at some point here and COVID allows us to go out and do some area inspections and compliance work, as I know this isn't the only site of concern in the Sound.

Sincerely,

Chris

Chris Marrie

Senior Biologist

Aquaculture Management Division | Gestion de l'aquaculture

10th December 2020

Hi Sonja and Beth,

I recognize Transport Canada has been pretty silent on this matter over the past few months. While it's been made clear by yourselves and the other agencies on this email chain that the works are no longer within their tenure, at the moment it doesn't pose a navigational hazard given the width of the channel; though it is slowly moving further into the channel.

While Transport Canada can issue a removal order for the work for being non-compliant, as recognized, a removal order doesn't serve much of a purpose in this situation as if the proponent had those means, they would hopefully be bringing their site back into their tenure first.

We're hoping that our three agencies, when better staffed and various health restrictions are loosened, that we'll be able to do a large sweep of compliance promotion and potentially enforcement through Baynes Sound.

From Transport Canada's end, we're also going through the process of developing service fees for applications; this should hopefully ensure that proponents apply with current and accurate drawings showing compliance for reapprovals before those fees come into play.

Lawrence Kuan

Navigation Protection Officer, Navigation Protection Program

Transport Canada | Government of Canada

Suite 600 – 800 Burrard St.

Vancouver, B.C., V6Z 2J8

From: ADIMS info <diconcerns@gmail.com>
Sent: Thursday, December 10, 2020 8:53 AM
To: Wagner, Jordan FLNR:EX
Cc: Marrie, Christopher; Wil Cottingham; Marnie Eggen; Johnston Liz; Kuan, Lawrence; AQSF / AQSF (DFO/MPO); David Critchley
Subject: Re: FW: FILE 1400036 Aquaculture Tenure Complaint - Facility Number: 1004,

Dear Jordan

Thank you so much for your response. We do very much appreciate your tremendous workload and the assistance and time you have given our concerns with regard to this particular tenure. Our thanks also for taking the time to make a visual inspection of the tenure this past summer. We are not entirely surprised that your visit did not turn up any visible debris. The greatest quantities of debris follow on from seasonal winter and spring storms and residents have become quite adept, when walking this popular beach, at picking up debris and taking it to a collection point.

Our thanks also for sending the tenure holder another reminder of trespass, although at this time we do not expect that will elicit any change. As a voice for our Denman community we vigorously oppose the “ *tenure holder applies for the area that he is currently using*” solution you have noted. The current tenure is designated as W3 and the waters immediately surrounding the tenure are W1 designated, a conservation area designation. As such, as you note, changing the W1 area to allow retroactive change of the tenure’s trespass into W1 waters, would indeed require multiple agencies, and a full and complete rezoning process, including Islands Trust and the community, to accomplish this.

A major concern, outside of our extreme concern at changing the marine conservation area zoning pertinent to this lease, is the precedent this sets in allowing tenure holders to expand without penalty, knowing they will not bear any consequence, and in fact be rewarded in form of a rezoning to accommodate any growth outside their lease.

It is our sincere hope that rather than a retroactive rezoning, the leaseholder be held to account for continuing to breach lease conditions.

We will be directing a separate letter to Islands Trust and to DFO reiterating our concerns listed above. While it does seem there is no disagreement that the tenure is not within its lease, we will recommend Islands Trust follow up to obtain a current and accurate mapping of this W3 tenure and the degree of trespass into the W1 conservation waters.

We do understand that on the list of priorities the province faces, the problems this tenure raises are not in the sky-high region. However, the issues are important to the every-day life of the residents they impact, and of immense concern to us should the precedent-setting option be carried through. Our thanks once again in your help with these issues which are so important to our community.

All the best

Beth Janz
For ADIMS

On Mon, 30 Nov 2020 at 15:55, Wagner, Jordan FLNR:EX <Jordan.Wagner@gov.bc.ca> wrote:

Hi Beth,

I am only able to address the concerns mentioned that are within provincial jurisdiction, however, I have cc'd both Transport Canada and Fisheries and Oceans Canada on this response.

This summer I did a visual inspection of this site and the beach immediately upland. I did not find any evidence of debris washed up on shore or anything outwardly amiss.

As for the trespass issue, I sent a reminder to the tenure holder today. Moving forward there are number of options that may be considered. One potential outcome is that the tenure holder applies for the area that he is currently using. The tenure holder, the province, and the other involved agencies will have to work this out, but it will require a dedicated review process. We also have ticketing procedures for trespass in the event the tenure holder is not cooperative.

Without evidence suggesting that there is an immediate risk to the public, or a significant environmental concern, this file has not made the province's list of priorities. That said, we are very much aware that there are issues, the correspondence has been documented on file, and the tenure holder's response will be noted. These factors are considered on future decisions relating to the file.

Thank you again for bringing this file to my attention and providing an update. I hope you are staying well during this time.



Jordan Wagner

A/Senior Land Officer, Aquaculture

**Ministry of Forests, Lands, Natural Resource
Operations, and Rural Development**

142-2080 Labieux Road | Nanaimo, BC V9T
6J9

Tel: 250-739-8191 | Fax: 250-751-7224

From: ADIMS info <diconcerns@gmail.com>

Sent: November 7, 2020 8:57 AM

To: Wagner, Jordan FLNR:EX <Jordan.Wagner@gov.bc.ca>

Cc: Marrie, Christopher <Christopher.Marrie@dfp-mpo.gc.ca>;
wcottingham@islandstrust.bc.ca; Marnie Eggen <meggen@islandstrust.bc.ca>; Johnston Liz
<lizjj@telus.net>

Subject: Re: FW: FILE 1400036 Aquaculture Tenure Complaint - Facility Number: 1004,

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Jordan

I would like to follow up on this complaint - we have had residents voice further concerns regarding this tenure.

There are currently some 43 rafts attached to this tenure and they extend further into navigational waters since our last communication. The intensification of the rafts in this area with continued construction, together with the apparent lack of concern for any regulations, raises the same issues as previously - safety of navigation, secure equipment storage on the rafts, secure placement of the rafts - with the added issue of noise and marine traffic in this immediate area for residents.

We would be most grateful if you could follow up with the leaseholder at your earliest convenience to ensure the leaseholder remains within their lease remit.

Many thanks.

Kind regards

Beth Janz

for the Association for Denman Island Marine Stewards (ADIMS)

On Wed, 22 Jan 2020 at 11:24, Wagner, Jordan FLNR:EX <Jordan.Wagner@gov.bc.ca> wrote:

Beth and Lisa,

I have asked the tenure holder to ensure gear is on tenure and properly secured (safe weather conditions permitting).

Thank you,



Jordan Wagner

Land Officer, Aquaculture

**Ministry of Forests, Lands, Natural Resource
Operations, and Rural Development**
142-2080 Labieux Road | Nanaimo, BC V9T
6J9

Tel: 250-751-7274 | Fax: 250-751-7224

From: West Coast Land Referrals FLNR:EX <WestCoast.LandReferrals@gov.bc.ca>

Sent: January 22, 2020 10:41 AM

To: Wagner, Jordan FLNR:EX <Jordan.Wagner@gov.bc.ca>

Subject: FILE 1400036 Aquaculture Tenure Complaint - Facility Number: 1004,

This email and document have been e-filed.

From: FrontCounter BC FLNR:EX <FrontCounterBC@gov.bc.ca>

Sent: January 22, 2020 9:00 AM

To: West Coast Land Referrals FLNR:EX <WestCoast.LandReferrals@gov.bc.ca>

Subject: FW: Aquaculture Tenure Complaint - Facility Number: 1004, BC Landfile Number: 1400036

Good Morning,

Please see below and attached, client has also been provided with how to submit a Natural Resource Violation report.

Thank-you,



Alicia Bates | Natural Resource Specialist Contact Centre,

Certified Service Professional (CSP)

FrontCounter BC Provincial Team

Ministry of Forests, Lands, Natural Resource Operations and Rural Development

Toll Free Phone: 1-877-855-3222 | [Freedom of Information Disclaimer](#)

[FrontCounter BC Website](#)

Tell us about your experience with FrontCounter BC:

[Complete an Online Comment Card.](#)



From: ADIMS info <diconcerns@gmail.com>

Sent: January 21, 2020 2:54 PM

To: FrontCounter BC FLNR:EX <FrontCounterBC@gov.bc.ca>

Cc: Lisa Pierce <downtoearth27@gmail.com>

Subject: Aquaculture Tenure Complaint - Facility Number: 1004, BC Landfile Number: 1400036

Re: Aquaculture Tenure Facility Number: 1004, BC Landfile Number: 1400036 - PFMA: 14-15

On behalf of the community we would like to officially register a complaint concerning the above mentioned tenure. The Shellfish Management Plan is attached for your reference.

- The tenure rafts now extend beyond the tenure site into busy marine traffic lanes, encroaching into Public Crown Land Waters.
- Equipment stored on the rafts is poorly secured.
- In storms earlier this month, rafts were torn free and drifted within a kilometer of the Baynes Sound connector ferry. These were recovered and loosely retied, with raft structures and ropes expanding even further outside of their tenure and into Public Crown Land Waters than pre-storm. The rafts and are reportedly drifting again.

We are most appreciative of your efforts in resolving the issues currently associated with this tenure.

Sincerely

Beth Janz and Lisa Pierce

on behalf of the

Association for Denman Island Marine Stewards (ADIMS)



BRIEFING

To: Local Trust Committees and Bowen Island Municipality **For the Meeting of:** January 19, 2021

From: Islands Trust Conservancy **Date Prepared:** November 12, 2020

SUBJECT: 2020 Forest Conservation Outreach Campaign Completion

PURPOSE: To inform the Local Trust Committees and Bowen Island Municipality of the completion of Islands Trust Conservancy's 2020 forest conservation outreach campaign.

BACKGROUND: In January 2020 Islands Trust Conservancy staff initiated an outreach campaign to encourage voluntary forest conservation and stewardship on private lands in the Islands Trust Area. This campaign was a response to part of Trust Council Resolution 2019-24, which directed staff to:

- create a strong communications program that will support Islands Trust Conservancy conservation initiatives for Coastal Douglas-fir protection as well as support the land use planning process, with a special focus on communicating the role of Development Permit Areas as a tool for Coastal Douglas-fir protection that permits development; and
- bring recommendations for how the Natural Areas Property Tax Exemption Program (NAPTEP) can be tailored to highlight and prioritize contiguous tracks of the Coastal Douglas-fir zone in the outreach, communications, and approval of NAPTEP covenants by the Islands Trust Conservancy.

The campaign also helps to address objective 1.5 of the Islands Trust Conservancy Regional Conservation Plan, which is to seek opportunities to provide information to landholders to support voluntary conservation initiatives.

Forest conservation outreach packages were developed by ITC staff in consultation with Islands Trust Directors of Trust Area Services and Local Planning Services, and included the following:

1. Personalized cover letter from the Covenant Management & Outreach Specialist
2. Customized forest ecosystem information sheets: Coastal Douglas-fir forest information and mapping for Gulf Islands LTAs, and Coastal Western Hemlock forest information and mapping for Gambier LTA and Bowen Island Municipality
3. Forest Conservation Checklist
4. NAPTEP rack card

The 2020 forest conservation outreach campaign focused on landholders with over five hectares of old-growth or mature forest on their property. Mapping identified 348 properties as meeting this criteria, with over 400 associated landholders (households). The following is a breakdown of packages mailed, by local trust area/municipality:

Local Trust Area/ Municipality	Outreach Package Recipients
Ballenas-Winchelsea	0
Bowen	29
Denman	23

Gabriola	19
Galiano	11
Gambier	49
Hornby	5
Lasqueti	171
Mayne	11
North Pender	10
Salt Spring	44
Saturna	14
South Pender	4
Thetis	13
Total	403

Outreach packages were mailed to these landholders on August 13th and 18th. Copies of the forest ecosystem information sheets are also available for download by staff, trustees, and the general public through the Islands Trust website at www.islandstrust.bc.ca/islands/island-ecosystems/.

The immediate response from outreach package recipients has been positive, and to date has included two NAPTEP covenant inquiries and two forest stewardship discussions.

ATTACHMENT(S):

1. Cover letter template
2. Sample Coastal Douglas-fir Forests information sheet
3. Sample Coastal Western Hemlock Forests information sheet
4. Forest Conservation Checklist

FOLLOW-UP: A small number of paper copies of the forest ecosystem information sheets will be distributed to each island in late November, either to the Islands Trust Office/Municipal Office, LTC office, where available, or to the local conservancy, as appropriate.

The Covenant Management & Outreach Specialist will track responses to the forest conservation outreach letter in Islands Trust Conservancy's contact management database, connect respondents with other ITC specialists as needed, and assess the overall response to the campaign to inform future outreach activities.

Prepared By: Jemma Green, Covenant Management & Outreach Specialist

Reviewed By/Date: Kate Emmings, A/Manager / November 23, 2020

August 12, 2020

[first name] [last name]

[address]

[address]

Dear [first name],

I invite you to take action to care for rare and endangered forests on your land.

Did you know that the forest that characterizes our region, the same forest that grows in **your backyard**, is a globally rare and endangered Coastal Douglas-fir ecosystem? In Canada, Coastal Douglas-fir ecosystems are found only on the southwest coast of BC, where mature and old-growth forests are most at risk. Despite the global significance and community benefits of Coastal Douglas-fir ecosystems, **only 10% are protected**. Most of what remains is found on private land, including yours.

Much stands to be lost if remaining mature and old-growth forests disappear. These forests support high biodiversity, including the **highest number of species-at-risk** in BC. Trees like Douglas-fir, cedar and arbutus dominate the canopy, sheltering unique shrubs, ferns, mosses and other plants that provide habitat for wildlife—such as owls, songbirds, reptiles, and amphibians—and act as a protective buffer for streams that support fish. Coastal Douglas-fir forests also provide a number of services that our communities depend on: water purification, removal of greenhouse gasses from the air, slope stabilization, and flood prevention.

In 2019, the Islands Trust and the Islands Trust Conservancy committed to protecting the health of Coastal Douglas-fir forests. I am writing to you and more than 350 other island landowners with significant Coastal Douglas-fir forests to let you know the importance of the forests on your land, and to offer support to help you protect Coastal Douglas-fir forests where you live. You can start by taking **simple measures to care for your land**, such as leaving standing dead trees for wildlife, removing invasive species, or gardening with native plants. The enclosed checklist can help you take meaningful actions to protect your forest.

Forest protection has never been more important. By caring for your forest, you can provide vital habitat to species under stress and support ecosystem services, some of which could **ease the impacts of a changing climate** on your community. For 30 years, the Islands Trust Conservancy has helped islanders protect their land and has been a trusted source of information about caring for nature. If you are interested in learning about how you can care for and protect your forests, or about land conservation in general, contact me at jgreen@islandstrust.bc.ca or by phone at 250-405-5182. If you would like to receive e-mail notices from the Islands Trust Conservancy you can subscribe at www.islandstrustconservancy.ca/subscription.

Sincerely,



Jemma Green
Covenant Management & Outreach Specialist

Encl.

Coastal Douglas-fir Forests

What are Coastal Douglas-fir Ecosystems?

The Coastal Douglas-fir (CDF) zone describes a unique set of ecosystems found only on southeast Vancouver Island, the Gulf Islands, and the southwest coast of BC. CDF ecosystems are rare and highly endangered. These ecosystems include Douglas-fir forests, as well as Garry oak woodlands, wetlands, estuaries, and other unique communities of plant, animal, and fungi found nowhere else in the world.

Why are CDF Ecosystems Important?

CDF ecosystems have:

- The highest diversity of plant species in BC
- The highest diversity of overwintering bird species in Canada
- The highest density of species at risk in BC, including 24 globally imperiled species

Yet 98% of the 45 ecological communities in the CDF zone are at risk of being lost.

In addition to supporting biodiversity, CDF forests benefit our communities by:

- Mitigating climate change by capturing and storing carbon from the atmosphere
- Supporting cultural and spiritual values of First Nations that have lived in the region since time immemorial
- Reducing pollution by removing dust, pollen, and smoke from the air
- Controlling and filtering stormwater runoff into lakes and streams, which protects drinking water and reduces flood risk
- Supporting resilient food systems by providing habitat for native pollinators
- Increasing property values
- Providing recreational opportunities and spaces for relaxation

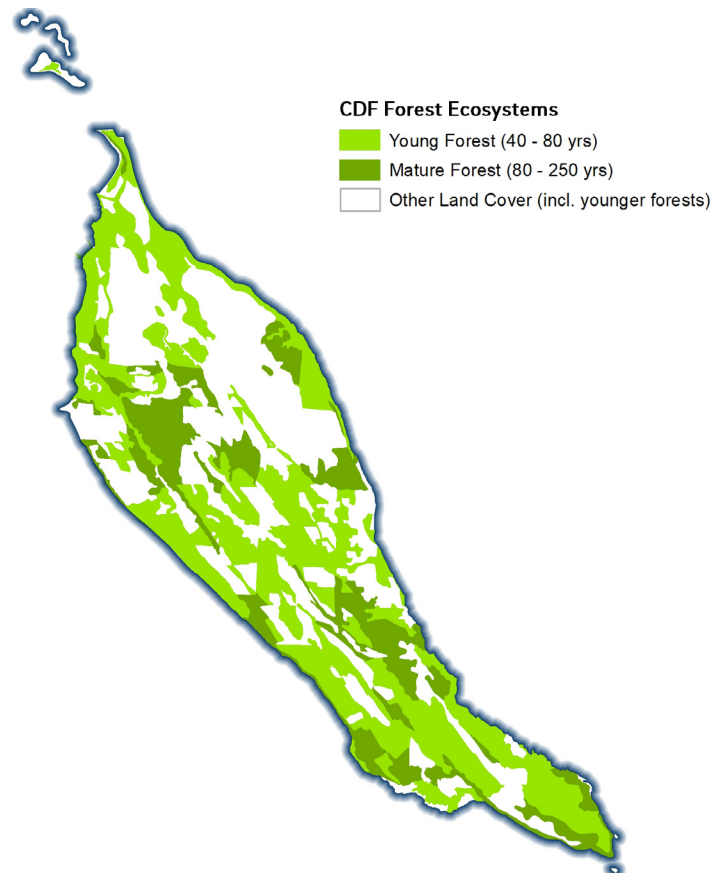
This resource was developed by:



Photos by Kristine Mayes except lichen photo by Ken Lertzman, header and footer photos by Alex Harris for Raincoast. Map produced by Islands Trust.



LICHEN, PILEATED WOODPECKER



Why are CDF Forests at Risk?

Since European settlement, almost half of the historically forested land in the CDF zone has been lost due to land uses such as forestry and development. Most old-growth forests have been replaced by second-growth forests that are not as biodiverse or resilient. Remaining CDF forests are in a hotspot of urban and rural development, and under increasing pressure from a growing population.

Climate change will have significant impacts on CDF forests as intensifying summer droughts stress trees. Islander observations indicate that climate change has already impacted western redcedar and other species. It is likely that drought is the primary cause of increased stress, but work needs to be done to understand these changes and adapt conservation of CDF habitats.

CDF forests and associated ecosystems are among the most endangered in Canada, yet only 11% of land in this zone is protected. Eighty percent of the land in the CDF zone is privately owned, highlighting the importance of voluntary conservation actions by individuals to protect what's left.



DOUGLAS-FIR CONES

Only 11% of land in the CDF zone is under some form of protection

What You Can Do

Become a land steward:

- ☐ Protect living trees
- ☐ Leave large patches of natural forest intact
- ☐ Leave standing dead trees (snags) and fallen trees to decay in place to provide shelter and food for wildlife
- ☐ Restrict vehicle and livestock access into forests
- ☐ Control invasive species, like ivy, holly, daphne, and broom
- ☐ Keep cats indoors as much as possible
- ☐ Garden with native species
- ☐ Keep forest health in mind while managing fire risk. Focus on fire-proofing your home and planting a buffer of fire-resistant native plants like salal and Oregon-grape. Help protect your community by protecting older forests: their high moisture-holding capacity makes them a natural fire break.
- ☐ Become a citizen scientist — add your observations to a growing global database using the iNaturalist app, or keep a nature journal

Consider how your community can protect forests through Environmental Development Permit Areas and conservation guidelines in your Official Community Plan and Land Use Bylaw.

Permanently protect your land with conservation covenant.

A covenant is a voluntary, legal agreement between you and a conservancy that protects your land from development — not just while you own and live on the land, but even after your property is sold or transferred to new owners. Covenants registered through the Islands Trust's **Natural Areas Protection Tax Exemption Program (NAPTEP)** are eligible for a 65% reduction in property taxes on the portion of land protected.

Create a nature reserve through a donation of land to a conservancy or parks agency. If you donate land with significant ecological value, you may be eligible for additional tax benefits through the federal [Ecological Gifts Program](#).

Opportunity Fund grants can help cover costs associated with protecting land. Contact Islands Trust Conservancy to learn more at 250-405-5186 or itcmail@islandstrust.bc.ca

Resources

For information on conservation covenants, land donations, and stewardship programs, contact:

Islands Trust Conservancy: visit islandstrustconservancy.ca, email itcmail@islandstrust.bc.ca, or phone 250-405-5186

Denman Conservancy Association: visit denman-conservancy.org or email info@denmanconservancy.org

For information on CDF ecosystems at risk, contact:

Coastal Douglas-fir Conservation Partnership: visit cdfcp.ca or email info@cdfcp.ca

For information about Raincoast Conservation Foundation's Gulf Islands Forest Project, visit: raincoast.org/gulf-islands

Coastal Western Hemlock Forests

What are Coastal Western Hemlock Ecosystems?

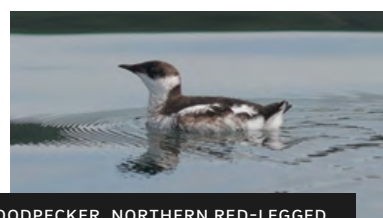
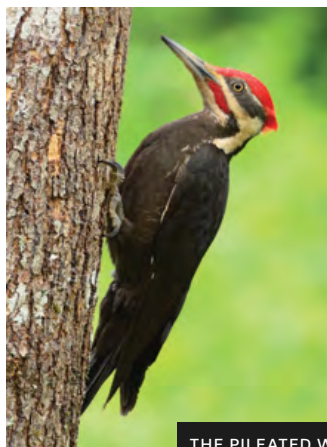
The Coastal Western Hemlock (CWH) zone describes a unique set of ecosystems that stretch along the north Pacific coast of North America, encompassing most of coastal BC. The wet, temperate rainforests that characterize the CWH zone are still widespread in BC; however, a number of rare CWH ecosystems adapted to the dry, Mediterranean conditions found in and around the Salish Sea are under threat and under-protected.

Why are CWH Forests Important?

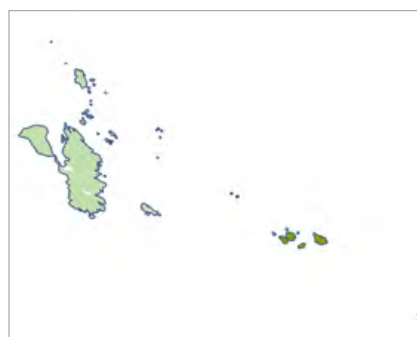
Extending from sea level to 1000 metres, the CWH zone may support the greatest diversity and abundance of wildlife habitat in BC. Large, old-growth trees provide critical habitat for species-at-risk like the Marbled Murrelet and Northern Goshawk. Snags provide nesting and foraging habitat for birds and small mammals. Fallen trees support amphibians, fungi and mosses, and act as nurse logs for seedlings. Root systems control and filter rainwater runoff into streams, protecting salmon habitat.

In addition to supporting biodiversity, CWH forests benefit our communities by:

- Providing cultural and spiritual places for First Nations that have lived in the region since time immemorial
- Mitigating climate change by capturing and storing carbon from the atmosphere
- Capturing rainwater and controlling and filtering runoff into lakes and streams, protecting drinking water and mitigating risk of flooding and drought
- Reducing pollution by removing dust, pollen, and smoke from the air
- Increasing property values
- Providing recreational opportunities and spaces for relaxation



THE PILEATED WOODPECKER, NORTHERN RED-LEGGED FROG, AND MARBLED MURRELET ARE AMONG THE MANY SPECIES THAT DEPEND ON CWH FORESTS



Western islands



Eastern islands

CWH Forest Ecosystems

- Young forest (40–80 yrs)
- Mature forest (80–250 yrs)
- Old forest (over 250 yrs)
- Other land cover
- Coastal Douglas-fir forests

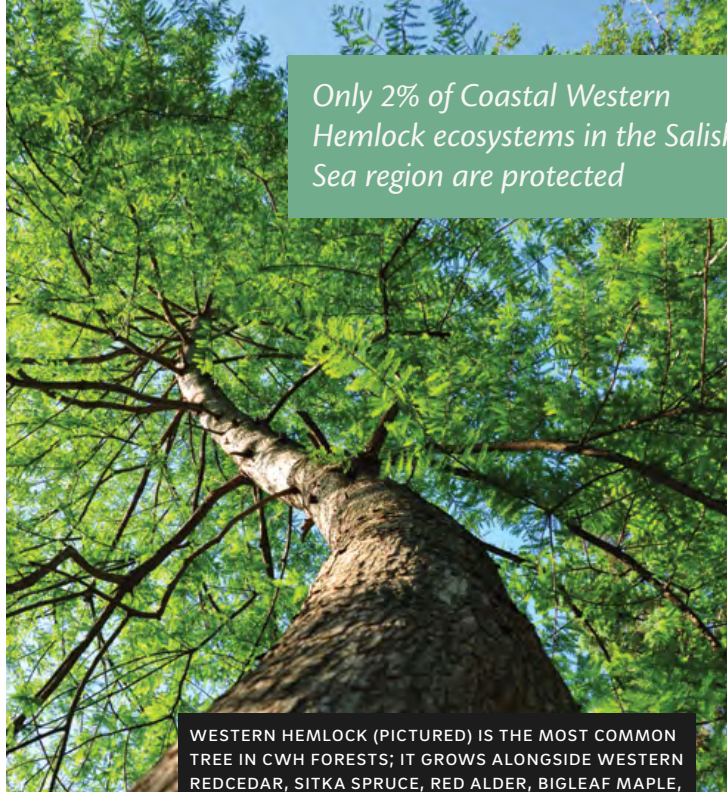


Why are CWH Forests at Risk?

As a result of past logging and development, 13 unique CWH ecosystems are at risk. While unsustainable logging remains one of the greatest threats to forests, the rarest CWH ecosystems occur in the Lower Mainland, Sunshine Coast, Howe Sound islands, and eastern Vancouver Island, where they also face widespread urban and rural development and other pressures from a growing human population. Climate change is expected to add to impacts on CWH forests. Intensifying summer drought will stress trees (as already seen in western redcedar die-offs), which will have cascading effects throughout the forest ecosystem.

The CWH ecosystems of the Salish Sea are among the rarest and most threatened in BC. Two thirds of historic forests in this region have been logged in the last 120 years while another 25% have been permanently converted to other land uses. Only 2% of CWH ecosystems in the Salish Sea region are protected, highlighting the urgent need to conserve remaining mature and old-growth forests.

Only 2% of Coastal Western Hemlock ecosystems in the Salish Sea region are protected



WESTERN HEMLOCK (PICTURED) IS THE MOST COMMON TREE IN CWH FORESTS; IT GROWS ALONGSIDE WESTERN REDCEDAR, SITKA SPRUCE, RED ALDER, BIGLEAF MAPLE, GRAND FIR, SHORE PINE, DOUGLAS-FIR, AND ARBUTUS

What You Can Do

Become a forest steward:

- ☐ Protect living trees and large patches of natural forest
- ☐ Leave standing dead trees (snags) and fallen trees to decay in place to provide shelter and food for wildlife
- ☐ Restrict vehicle and livestock access into forests
- ☐ Control invasive species, like ivy, holly, daphne, and broom
- ☐ Keep cats indoors as much as possible
- ☐ Garden with native species
- ☐ Keep forest health in mind while managing fire risk. Focus on fire-proofing your home and planting a buffer of fire-resistant native plants like salal and Oregon grape. Help protect your community by protecting older forests: their high moisture-holding capacity makes them a natural fire break.
- ☐ Become a citizen scientist—add your observations to a growing global database using the iNaturalist app, or keep a nature journal

Consider how your community can protect forests through Environmental Development Permit Areas and conservation guidelines in your Official Community Plan and Land Use Bylaw.

Permanently protect land with conservation covenant.

A covenant is a voluntary, legal agreement between you and a conservancy that protects land from development—not just while you live on the land, but also for future caretakers of the land. Covenants registered through the Islands Trust's **Natural Areas Protection Tax Exemption Program (NAPTEP)** are eligible for a 65% reduction in property taxes on the portion of land protected.

Create a nature reserve through a donation of land to a conservancy or parks agency. If you donate land with significant ecological value, you may be eligible for additional tax benefits through the federal Ecological Gifts Program.

Opportunity Fund grants can help cover costs associated with protecting land. Contact Islands Trust Conservancy to learn more at 250-405-5186 or itcmail@islandstrust.bc.ca.

For information on conservation covenants, land donations, and stewardship programs, contact:

Islands Trust Conservancy

islandstrustconservancy.ca
itcmail@islandstrust.bc.ca
250-405-5186

Gambier Island Conservancy

gambierc.ca (New website coming soon: gambierislandconservancy.ca)
gambierconservancy@gmail.com

This resource is adapted from material developed by Islands Trust Conservancy in collaboration with the Coastal Douglas-fir and Associated Ecosystems Conservation Partnership and Raincoast Conservation Foundation.

Forest Conservation Checklist

Level of commitment	Impact	Action
Low  High	Moderate to high, immediate	Become a land steward: ☐ Protect living trees ☐ Leave standing dead trees (snags) and fallen trees to decay in place to provide shelter and food for wildlife ☐ Become a citizen scientist—add your observations to a growing global database using the iNaturalist app, or keep a nature journal ☐ Garden with native species ☐ Keep cats indoors as much as possible ☐ Control invasive species, like ivy, holly, daphne and broom ☐ Restrict vehicle and livestock access into forests ☐ Remember that fire is a natural and important part of forest ecosystems. Protect your home from fire through FireSmart home maintenance and by creating a 10-metre protective buffer of fire-resistant native plants. Help protect your community from fire by protecting old-growth forests: their high moisture-holding capacity makes them a natural fire break. ☐ Leave large patches of natural forests intact
Moderate	Potentially high, medium-term	Consider how your community can protect forests through inclusion of Environmental Development Permit Areas and conservation guidelines in your Official Community Plan.
High	High, long-term	Permanently protect your land with conservation covenant. A covenant is a voluntary, legal agreement between you and a Conservancy that protects your land from development not just while you own and live on the land, but even after your property is sold or transferred to new owners. Covenants registered through the Natural Area Protection Tax Exemption Program (NAPTEP) are eligible for a 65% reduction in property taxes on the portion of land protected.
High	High, long-term	Donate land to the Islands Trust Conservancy or another conservation agency. The land will be permanently cared for and protected to achieve your conservation vision. If you donate land with significant ecological value, you may be eligible for additional capital gains tax exemptions through the federal Ecological Gifts Program.

MEMORANDUM

File No.: 3040-60 Housing Agreements

DATE OF MEETING: January 19, 2021
 TO: Denman Island Local Trust Committee
 FROM: Becky McErlean, Legislative Clerk
 SUBJECT: Denman Community Land Trust Association Housing Agreement

PURPOSE

To inform the Denman Island Local Trust Committee that the 2020 Schedule B – Owner Statutory Declaration has been received from the Denman Community Land Trust Association in regards to their Housing Agreement at 3900 Lacon Road, Denman Island. The property is in compliance with the Housing Agreement.

The declaration is included in each Housing Agreement as a method for the Islands Trust to monitor the property on an annual basis.

It should be recognized that the Denman Community Land Trust Association has been proactive in sending in this schedule each year and has shown commitment to the subjects and criteria laid out in the housing agreement.

Submitted By:	Becky McErlean, Legislative Clerk	January 6, 2021
Concurrence:	Heather Kauer, AICP Regional Planning Manager	January 6, 2021

SCHEDULE "B"

OWNER STATUTORY DECLARATION

CANADA

IN THE MATTER OF A HOUSING AGREEMENT

PROVINCE OF BRITISH COLUMBIA

WITH THE DENMAN ISLAND LOCAL TRUST

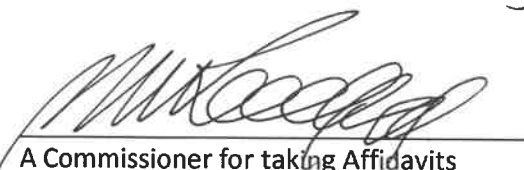
COMMITTEE ("Housing Agreement")

*I, HARRIENE HELEN HOLM, 3900 Iacon Road, Denman Island,
Province of British Columbia,*

declare that:

1. I am the Director [director, officer, employee] of the Denman Community Land Trust Association, the owner of the land known as 2345 Chickadee Road (the "Lands") Lot A EPP 29609, Section 20, Nanaimo Land District, Denman Island & Section 21 (PID 029 262 461)
2. I make this declaration to the best of my personal knowledge.
3. This declaration is made pursuant to the Housing Agreement registered against the Lands.
4. For the period from June 30, 2019 to June 30, 2020, the Affordable Housing Unit was used only by Qualified Occupants (as defined in the Housing Agreement).
5. At no time during the last year was the Affordable Housing Unit used as a short term vacation rental.
6. The lease payments charged for the Affordable Housing Unit were in compliance with the Housing Agreement and are listed in the attached.
7. No subletting of the Lands has been permitted.
8. I acknowledge and agree to comply with all of the Society's obligations under the Housing Agreement, and other charges registered against the Lands and confirm that the Society has complied with all of its obligations under these Agreements.
9. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

DECLARED BEFORE ME at Courtenay, British Columbia, this 9 day of Dec. 9, 2020


A Commissioner for taking Affidavits
in British Columbia


Signature of person making declaration

MARGO R. RUTHERFORD
981 FITZGERALD AVENUE
COURTENAY BC V9N 2R6
NOTARY PUBLIC



Islands Trust Conservancy Report to Local Trust Committees and Bowen Island Municipality November 24, 2020

Islands Trust Conservancy Board News

Due to the COVID-19 pandemic, the Islands Trust Conservancy (ITC) Board resolved to hold meetings electronically due to Ministerial Orders under the Emergency Program Act and requirements or recommendations under the Public Health Act. Meetings will be live streamed, and the public can participate by connecting to the link or the phone number provided in the meeting notice. The Board also directed staff to investigate the use of electronic meetings as a primary meeting format. Electronic meetings have resulted in cost savings to ITC as well as reductions in travel time and greenhouse gas emissions for Board members.

A Board meeting schedule for 2021 was approved and will be posted to www.islandstrustconservancy.ca/about-us/meetings/.

ITC reviewed options for sustainable investing as guided by policies and guidelines in its 5-year plan. ITC staff will work with administrative staff to move investments into funds that are in alignment with the [United Nations Sustainable Development Goals](#).

The 2021/22 budget was reduced by \$3,600 to reflect anticipated cost savings in areas of Board training, staff training, and associated training travel. ITC travel budgets were not greatly reduced as they are required for property management and are not meeting related.

Regional Conservation Plan Updates

The science-based and community-informed Regional Conservation Plan guides the work of ITC. The ITC continues to work towards 4 long-term goals and 25 objectives that further conservation in the entire Trust Area. For more information, visit www.islandstrustconservancy.ca/media/84821/itc_2018-11_rcp-2018-2027-web_final.pdf.

Goal 1 – Science-based Conservation Planning

ITC has signed a Contribution Agreement with Environment and Climate Change Canada for a new, three-year Species at Risk Program. Staff are working to launch the program and plan to develop a project charter for Board consideration.

Goal 2 – Strong relationships with First Nations

In October, ITC Board directed staff to create an ITC Reconciliation Action Plan that reflects prior directions in Goal 2 of the Regional Conservation Plan. Staff continue to work towards this plan and are also currently incorporating information from indigenous knowledge holders into land securement (acquisitions and covenants) and land management.

Goal 3 – Protection of core conservation areas

Two Natural Area Protection Tax Exemption Program (NAPTEP) proposals on Salt Spring Island were approved (See details below).

The ITC Board concluded its 2020 property monitoring program and reviewed and approved the 2020 Nature Reserve Monitoring Report and the 2020 NAPTEP Covenant Monitoring Report. Staff were directed to undertake actions identified in the reports.

The Covenant Management and Outreach Specialist outlined plans for outreach with NAPTEP landowners in 2021.

Goal 4 – A strong voice for nature conservation

The [Opportunity Fund](#), which is a funding program for island-based land conservation, has been very popular this year and is down to \$10,000. Through small grants (~\$5,000), the Fund supports hard to fundraise costs for island-based land conservation. ITC has done an appeal for fund donations through the Heron Newsletter mail-out, and via E-news. A Holiday Appeal letter from Chair Stamford will follow in December. Donations are tax receiptable and are greatly appreciated.

Visit www.islandstrustconservancy.ca/donate/ to donate.

The Board reviewed annual training opportunities and indicated a preference for training on the following topics:

- Fund Development and Speaking with Donors
- Cultural Sites and Property Management
- Species at Risk in the ITC Area

The Board received a briefing on completion of the 2020 forest outreach campaign, where over 400 letters and NAPTEP brochures were mailed to landowners to encourage conservation. Staff are following up with several landowners who have expressed an interest in formal land conservation. Conservation proposals have been received from landowners included in the outreach.

The recently released [Fall Heron Newsletter](#) reflects changes for greater readability and a more donor-centric approach.

Please feel free to contact the Islands Trust Conservancy for more details.

Kate-Louise Stamford, Chair kstamford@islandstrust.bc.ca

Islands Trust Conservancy itcmail@islandstrust.bc.ca

Activities by Local Trust Area/Island Municipality

Bowen – Staff are working with the Bowen Island Conservancy on an invasive species management strategy for a conservation covenant, and monitoring of three ITC nature reserves and to complete the Opportunity Fund grant for the Bowen Island Conservancy.

Gabriola – Invasive species management and ecological restoration work has been completed for the year in one conservation covenant, and in Elder Cedar Nature Reserve. Staff are working on new signage for the Elder Cedar Nature Reserve.

Galiano – Forest restoration activities with Habitat Acquisition Trust at Trincomali Nature Sanctuary including removing invasive species and monitoring areas of past plantings, including maintaining fencing. Cormorant nest monitoring and reporting also took place.

Gambier/Keats – The transfer of the Sandy Beach Nature Reserve, Keats Island, is pending.

Lasqueti – Staff reported that Visual Quality Objectives (VQO) for Lasqueti Island were being revised by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development, and the area adjacent to the ITC Mount Trematon Nature Reserve was proposed for removal from the VQO. Staff responded requesting that the area remain as part of the VQO.

Restoration activities were conducted at the pond in Salish View Nature Reserve to improve habitat for Species at Risk. With funding from Environment and Climate Change Canada, restoration activities included fence installation and planting of 841 native species. Work was completed with assistance of volunteers on Lasqueti and conservation covenant partners Lasqueti Island Nature Conservancy and Nanaimo & Area Land Trust. Provincial CoViD-19 safety guidelines were followed.

North Pender/Sidney Island – Staff are participating in the Steering Committee and working groups of a Parks Canada-led initiative to restore forest ecosystems on Sidney Island, where ITC holds eight conservation covenants. Staff have encouraged covenant landholders on North and South Pender to participate in The Pender Islands Big Tree Registry initiative.

Salt Spring – The ITC Board approved negotiation of two NAPTEP covenants: 45 ha near Burgoyne Bay Provincial Park and 5 ha of forest, bluff and wetland near Stowel Lake.

Invasive species management and ecological restoration has been completed for the year in two nature reserves and is under way in two NAPTEP covenants.

Planning has begun for species-at-risk habitat conservation and enhancement projects across a network of conservation covenants and nature reserves.

Staff participated in the annual meeting of the Special Management Area Resource Team for Mount Tuam Special Management Area, which includes an ITC conservation covenant and nature reserve.

Please feel free to contact the Islands Trust Conservancy for more details.

Kate-Louise Stamford, Chair kstamford@islandstrust.bc.ca

Islands Trust Conservancy itcmail@islandstrust.bc.ca

**Agricultural Land Reserve**

File Number	Applicant Name	Date Received	Purpose
DE-ALR-2018.1	Kirk, JARRAH	05-Nov-2018	PID: 027-381-447 Cider production from other sources. Civic address: 1100 Lacon Road, Denman Island, BC

Planner: Jaime Dubyna**Planning Status****Status Date:** 30-Jun-2020

Planner completed review of Water License referral from FLNRORD.

Status Date: 28-Jan-2020

No change in status. Planner awaiting submission of requested information, pursuant to LTC resolution 2019-025.

Status Date: 30-Aug-2019

No change in status.

Rezoning

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

Planner: Sonja Zupanec**Planning Status****Status Date:** 11-Jan-2021

Draft Q+A document; minor amendments to BL 234 and 239 and draft restrictive covenant to be considered by LTC Jan 19. 2021

Status Date: 08-Dec-2020

File reassigned.

Status Date: 03-Nov-2020

Bylaw Nos. 233, 234 are given 1st reading as amended. Bylaw No. 239 (Housing Agreement) given 1st reading.



Applications

Rezoning

File Number	Applicant Name	Date Received	Purpose
DE-RZ-2018.1	Denman Housing Association (Snyder & Terry) Planner: Sonja Zupanec	01-Oct-2018	PIDs: 009-704-523 (Snyder) and 006-657-290 (Terry) Rezoning to change number of allowed dwellings
Planning Status			
Status Date: 20-Oct-2020 LT C resolution requesting applicant provide Island Health source water approval prior to further consideration of the application.			
Status Date: 25-Aug-2020 CIM held (electronically). APC meeting held August 2020. Report to LTC for September 2020 LTC meeting.			
Status Date: 05-Jun-2020 Executive Committee to meet July 2020 to review the applicant's proposed water supply for consistency with the EC resolution from Jan 2020.			

Siting and use Permit

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2020.16	Baker, Dorian Planner: Bronwyn Sawyer	30-Sep-2020	PID: 028-819-209 Building various accessory buildings. Civic address: 3980 Park Road, Denman Island, BC.
Planning Status			
Status Date: 09-Nov-2020 Waiting for additional information from applicant			
Status Date: 09-Oct-2020 File opened and assigned.			



Siting and use Permit

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2020.21	1165860 BC Ltd. - Dianna Bridge	03-Nov-2020	PID: 024-068-560 Building greenhouse. Civic address: 6345 Hinton Road, Denman Island, BC

Planner: Bronwyn Sawyer

Planning Status

Status Date: 10-Dec-2020

Request for further information

Status Date: 25-Nov-2020

Under planner review

Status Date: 17-Nov-2020

File opened & assigned. Will advise how to pay by EFT.

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2020.22	1165860 BC Ltd. - Dianna Bridge	12-Nov-2020	PID: 017-449-995 Building a pool. Civic address: 6351 Hinton Road, Denman Island, BC.

Planner: Bronwyn Sawyer

Planning Status

Status Date: 10-Dec-2020

Waiting for additional information from applicant

Status Date: 25-Nov-2020

Under planner review

Status Date: 17-Nov-2020

File opened & assigned. Will advise of EFT for payment.



Applications

Siting and use Permit

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2020.24	Ellen Frisch & Associates	18-Nov-2020	PID: 024-355-992 To update existing SUP. Civic address: 9000 Rayelyn Lane, Danman Island, BC.

Planner: Ian Cox

Planning Status

Status Date: 27-Nov-2020

File opened & assigned. Awaiting Etransfer.

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2020.3	Etienne Design - Jessica Booth	16-Mar-2020	PID: 030-773-890 New SFD, workshop with guest accommodation, garage & boat house. Civic address 5465 Lacon Road, Denman Island, BC

Planner: Jaime Dubyna

Planning Status

Status Date: 16-Nov-2020

Copy of modified covenant CA7481577 received.

Status Date: 08-Sep-2020

LTC approved request to modify 2(b) in Covenant CA7481577. LTC requested supporting documentation from applicant to build within covenant area of CA7485176; staff to bring back staff report for LTC consideration.

Status Date: 26-Aug-2020

Applicant submitted request to LTC regarding covenant CA7485176 requirements. Applicant correspondence to be added to Sept. 8 DE LTC meeting agenda.



Applications

Subdivision

File Number	Applicant Name	Date Received	Purpose
DE-SUB-2020.2	Denman Community Land Trust Association (Harlene Holm) Planner: Sonja Zupanec	30-Sep-2020	PID: 031-102-026 2 lot subdivision. Civic address:3730 Denman Road, Denman Island, BC.
Planning Status			
Status Date: 08-Dec-2020 File reassigned.			
Status Date: 09-Nov-2020 Referral report sent to MOTI.			
Status Date: 02-Oct-2020 Application received. Planner reviewing.			

Islands Trust
LTC EXP SUMMARY REPORT F2021
Invoices posted to Month ending October 2020

615 Denman	Invoices posted to Month ending October 2020	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-615	LTC "Trustee Expenses"	289.00	180.58	108.42
LTC Local				
65200-615	LTC - Local Exp - LTC Meeting Expenses	3,906.00	1,521.81	2,384.19
65210-615	LTC - Local Exp - APC Meeting Expenses	405.00	283.05	121.95
65220-615	LTC - Local Exp - Communications	250.00	360.00	-110.00
65230-615	LTC - Local Exp - Special Projects	294.00	0.00	294.00
TOTAL LTC Local Expense		<u>4,855.00</u>	<u>2,164.86</u>	<u>2,690.14</u>
Projects				
73001-615-4112	Denman Ferry Signage	1,000.00	0.00	1,000.00
TOTAL Project Expenses		<u>1,000.00</u>	<u>0.00</u>	<u>1,000.00</u>

Denman Island Local Trust Committee Policies & Standing Resolutions

No	Meeting Date	Resolution No.	Issue	Policy/Standing Resolution
1.	June 26, 2018	DE-2018-056	Proactive enforcement of Short-term Vacation Rentals	It was MOVED and SECONDED, that the Denman Island Local Trust Committee adopt the following standing resolution: "That Bylaw Enforcement staff undertake proactive enforcement of Short-term Vacation Rentals on Denman Island".
2.	June 26, 2018	DE-2018-066	Processing of non-medical cannabis retail license applications	It was MOVED and SECONDED, that the Denman Island Local Trust Committee adopt the following standing resolution with respect to the processing of non-medical cannabis retail license applications: • Proposed or amended licenses for non-medical cannabis retail establishments require an application to the Local Trust Committee. • The application process shall comprise a public consultation component, which includes at least one notification to neighbours, one public meeting, posting of public notices and one advertisement in a local periodical. • The public consultation process shall be determined by the Local Trust Committee after initial review of the proposal. • However, as a minimum, the Local Trust Committee will mail or otherwise deliver a notice to all owners and residents of properties within a 500 metre radius of the subject property where the establishment is proposed at least 10 days before adoption of a resolution providing comment on the application. The required notice shall include the following information: - o Name of the applicant and a description of the proposal in general terms; - o The location of the proposed establishment and the subject site; - o The place where, and date and time when, both a public meeting will be held and a resolution of the Local Trust Committee considered; - o The name and contact information of the Islands Trust planning staff member who can provide copies of the proposed or amended license application; and - o How public comments may be submitted to the Local Trust Committee.
3.	October 9, 2018	DE-2018-096	Application processing	It was MOVED and SECONDED, that the Denman Local Trust Committee direct staff to give priority to processing applications for affordable housing projects until further direction by the Denman Island Local Trust Committee.
4.	November 20, 2018	DE-2018-100	Bylaw enforcement on	It was MOVED and SECONDED,

			unlawful STVRs	that the Denman Island Local Trust Committee adopt the following standing resolution: that the Denman Island Local Trust Committee direct Bylaw Enforcement to use the following priority in dealing with unlawful short-term vacation rentals (STVRs): 1. Unlawful STVRs that have been the subject of substantiated complaints; 2. Unlawful STVRs that are operated by persons who normally do not reside on Denman Island; 3. Unlawful STVRs operated by persons who do not reside on the same property as the STVR; 4. Unlawful STVRs operated by persons who reside on the same property as the STVR.
5.	November 20, 2018	DE-2018-104	Cannabis License applications	It was MOVED and SECONDED, that the Denman Island Local Trust Committee adopt the following standing resolution: that the Denman Island Local Trust Committee requests that Notices of Intention to Apply for a Cannabis License be forwarded to the Local Trust Committee upon receipt by the Islands Trust, and included in the next Local Trust Committee regular meeting agenda package.
6.	February 7, 2019	DE-2019-012	First Nations Reconciliation	It was MOVED and SECONDED, that the Denman Island Local Trust Committee adopt the following standing resolution with respect to First Nations in the Local Trust Area: Whereas the Local Trust Committee seeks to engage in Reconciliation with local First Nations, governments and the island community by honouring the Truth and Reconciliation Commission Calls to Action, United Nations Declaration on the Rights of Indigenous Peoples, Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples, and Islands Trust First Nations Engagement Principles, the Local Trust Committee endeavours to: a) Annually, write a letter to First Nations, (re)introducing Trustees and staff and provide a schedule of known Local Trust Committee meetings for the upcoming year, as well as, provide an update of current projects and advocacy activities; b) For various Local Trust Committee meetings, invite elders from local First Nations to attend and provide a traditional welcome to the territory; c) Work with First Nation governments on cooperative initiatives, including

				and not limited to, language, place names, territorial acknowledgements, and community education on Coast Salish and local First Nations' cultural heritage and history; d) Work with First Nations governments on engagement principles for inclusive land use, marine use and climate change planning; advocacy, protection and stewardship; and knowledge and information sharing protocols; e) Establish and maintain government to government dialogue with First Nations, now and into the future, based on respect and recognition of Aboriginal rights and title, treaty rights and First Nations' traditional territories within the Islands Trust Area.
7.	June 6, 2019	DE-2019-056	Bylaw enforcement against unlawful dwellings	It was MOVED and SECONDED, that the Denman Island Local Trust Committee adopt the following standing resolution: "The Denman Island Local Trust Committee directs Bylaw Compliance and Enforcement staff to pursue enforcement against unlawful dwellings upon receipt of a written complaint, if any of the following conditions apply: a) The complaint is received from at least two sources, one being the owner, occupant or title holder of a neighbouring property; b) It appears that there is more than one unlawful dwelling on a lot; c) An unlawful dwelling appears to be larger than 90 square meters; or d) An unlawful dwelling appears to be located within a Development Permit Area. and nothing in this enforcement policy should be interpreted as giving permission to violate the Denman Island Land Use Bylaw and the Local Trust Committee may change this policy or give direction to expand enforcement activities at any time."
8.	May 19, 2020	DE-2020-022	Residential densities See Staff Report dated May 19 th for background	It was MOVED and SECONDED, that the Denman Island Local Trust Committee adopt the following standing resolution with respect to the available residential densities resulting from Section E.1, policy 11 and Appendix D, 'Residential Density Bank' of the Denman Island Official Community Plan:

				Whereas the Local Trust Committee sets out the current available residential densities in this density register and that the register be updated from time to time to show additions and withdrawals as they occur: a. The Denman Official Community Plan ‘Residential Density Bank’ in Appendix D has last added or transferred to the bank on <u>January 31, 2017</u> and has a cumulative total of residential densities of <u>14</u>; b. The Denman Official Community Plan Housing Policy 11 in Section E.1 allows for a residential density increase of approximately <u>5 percent</u> beyond that permitted by existing zoning at the time of adoption of the Official Community Plan on May 15, 2009 to accommodate zoning amendments for special needs and affordable housing, secondary dwelling units approved by the Denman Island Local Trust Committee under Temporary Use Permit and site specific zoning amendment applications under Policy 29 of Section E.1. The baseline density that was permitted by zoning at the time of adoption of the Official Community Plan was 994 densities based on the Subdivision Potential Map 2010; 1026 total densities less 32 from Parks, Institutional and Conservation designations where residential use is not permitted. Five percent of 994 is <u>49 densities</u>. Since adoption of the Official Community Plan on May 15, 2009 the following densities have been utilized: <table><tr><th>Authorizing Bylaw/Temporary Use Permit</th><th>Date Utilized</th><th>Number of Residential Densities Utilized</th><th>Cumulative Total of Residential Densities Remaining</th></tr><tr><td colspan="3">Baseline Density at time of adoption of the Denman OCP on May, 2009</td><td>49</td></tr><tr><td>BL 199 (Official Community Plan)</td><td>August 15, 2011</td><td>14</td><td>35</td></tr><tr><td>BL 200 (Land Use Bylaw)</td><td></td><td></td><td></td></tr><tr><td>BL 204 (Land Use Bylaw)</td><td>September 24, 2013</td><td>1</td><td>34</td></tr><tr><td>DE-TUP-2016.2</td><td>March 31, 2017</td><td>1</td><td>33</td></tr></table>	Authorizing Bylaw/Temporary Use Permit	Date Utilized	Number of Residential Densities Utilized	Cumulative Total of Residential Densities Remaining	Baseline Density at time of adoption of the Denman OCP on May, 2009			49	BL 199 (Official Community Plan)	August 15, 2011	14	35	BL 200 (Land Use Bylaw)				BL 204 (Land Use Bylaw)	September 24, 2013	1	34	DE-TUP-2016.2	March 31, 2017	1	33
Authorizing Bylaw/Temporary Use Permit	Date Utilized	Number of Residential Densities Utilized	Cumulative Total of Residential Densities Remaining																									
Baseline Density at time of adoption of the Denman OCP on May, 2009			49																									
BL 199 (Official Community Plan)	August 15, 2011	14	35																									
BL 200 (Land Use Bylaw)																												
BL 204 (Land Use Bylaw)	September 24, 2013	1	34																									
DE-TUP-2016.2	March 31, 2017	1	33																									

Top Priorities Report

Denman Island

1. *Denman Island Farm Plan Implementation*

Responsible

Dates

Incorporate Bylaw 223 considerations (agriculture, intensive agriculture, feedlot definitions)

Sonja Zupanec

2. *Denman OCP/LUB Review*

Responsible

Dates

Rec'd: 03-Nov-2020

3. *Cannabis Land Use Regulation*

Responsible

Dates

Review of land use regulations with respect to cannabis production and retail sales.

Heather Kauer

Rec'd: 20-Nov-2018



Projects Report

Denman Island

1. *Protected Area Network*

Responsible

Date Received

Undertake planning for a Protected Area Network on Denman Island

15-Mar-2011

2. *Alternative Energy*

Responsible

Date Received

Consider regulations governing wind towers and Ocean Loop Geo-Exchange Systems.
Monitor recommendation from Trust Council.

15-Aug-2011

3. *Dwelling Floor Area Regulation*

Responsible

Date Received

Consider regulations to limit the gross floor area of a dwelling

25-Oct-2011

4. *Climate Change*

Responsible

Date Received

Consider climate change adaptation and mitigation measures

25-Oct-2011

5. *Development Procedures Review*

Responsible

Date Received

Review and update Development Procedure Bylaw No. 71

11-Dec-2012

6. *Alternative Dispute Resolution*

Responsible

Date Received

To be considered as part of the enforcement tool kit, possibly in cooperation with the
Hornby Island Local Trust Committee

26-May-2015



Projects Report

Denman Island

7. *Denman Village Plan*

Responsible

Date Received

Undertake a Denman Downtown Village Neighbourhood Plan; the plan might include reduction in greenhouse gas emissions; encouragement of a healthy, sustainable economy; addressing of water and septic concerns; and consideration of Denman Community Design Charrette Final Report Jan 2018 recommendations.

26-May-2015

8. *Travel trailers*

Responsible

Date Received

LUB amendments and enforcement policies regarding the use of travel trailers

07-Mar-2017

9. *Occasional use of accessory buildings*

Responsible

Date Received

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

10. *Greenshores Workshop*

Responsible

Date Received

01-May-2018

11. *Incorporate the Regional Conservation Plan into land use planning.*

Responsible

Date Received

To foster preservation and protection of the Denman Island Ecosystems (based on the Islands Trust Conservancy Report, dated July 17, 2018)

07-Aug-2018

Projects Report

Denman Island

12. *Facilitating affordable, attainable and seniors housing.*

Responsible

Date Received

Secondary suites review and consideration of further opportunities to support housing options. Consideration of DCLTA and Northern Housing Needs Assessment report recommendations.

20-Nov-2018

13. *Coastal Douglas-fir protection*

Responsible

Date Received

Implementation of the report, Protection of the Coastal Douglas-fir and Associated Ecosystems: An Island Trust Tool Kit (2018).

07-Feb-2019

14. *naming and recognition/traditional place name for Denman Island on Local Trust Committee meeting agendas*

Responsible

Date Received

Reference Staff Report dated November 7, 2019

07-Nov-2019

15. *Temporary Use Permits*

Responsible

Date Received

To support the development of Temporary Use Permits for short-term vacation rentals and other uses.

09-Oct-2018



Islands Trust Council Highlights December 1-3, 2020

The following is a list of highlights of Trust Council's activities and decisions during its December 1-3, 2020 meeting held electronically. These highlights are not the official minutes of the Trust Council meeting; Trust Council will adopt those at its March 2021 electronic meeting.

Governance and Management Review

Trust Council approved an external review of the Islands Trust's governance, management and operations.

Policy Statement Amendment Project (PSAP)

A full day of discussion around the PSAP project has been allocated to the March 2021 Trust Council.

A motion to define the words "unique amenities" was postponed for consideration to the March Trust Council meeting.

Trust Council requested Trust Programs Committee (TPC) prepare questions for trustees regarding themes that have been emerging during discussion of the PSAP, and the responses be provided to TPC by the end of January 2021.

The Community Benefit Land Trust briefing was referred to TPC for consideration in the context of the Trust Policy Statement Project.

Natural Area Property Tax Exemption Program (NAPTEP) Certificates Issued

Two NAPTEP certificates were issued for Salt Spring Island protecting 48.5 ha of island ecosystems through the tax exemption program.

Strategic Plan Amended

Trust Council approved the development of heritage preservation overlay mapping for the Trust Area and the development of model heritage regulatory bylaws for protection of potential heritage and cultural sites.

Active Transportation Planning Grant

Trust Council supported the Gabriola Island Local Trust Committee's application for a Transportation Planning Grant.

Accelerating Planner Staffing Shifts to Support Strategic Plan Goals

It was requested that an analysis of this request will be brought back to the March Trust Council for consideration.

Freighter Anchorages Advocacy

Trust Council reaffirmed its position to further advocate for the removal of 33 freighter anchorages in the Salish Sea.

Staff will obtain a legal opinion on the ability of Islands Trust to prohibit or regulate non-emergency anchoring of vessels in the waters of the Trust Area and consider drafting model bylaws for this purpose.

Federal Aquaculture Act Consultation

Trust Council will prepare a submission to the consultation regarding development of Canada's first-ever Aquaculture Act.

New Staffing Considerations

Trust Council approved a business case be forwarded to the March budget session to consider funding a Communications Specialist position for bylaw infraction prevention.

Trust Council 2021 Meeting Schedule

Trust Council adopted the following meeting dates and locations for 2021: March 9-11/electronic, June 8-10/electronic, September 21-23/in-person Nanaimo and November 30 to December 2/in-person Victoria.

Annual Staff Awards

- *The Innovation Award* to Mark van Bakel and David Beeston for outstanding and ongoing efforts to pivot Islands Trust to a remote workforce.
- *The Champion Award* to William Shulba for upholding the Islands Trusts' mandate and policy in action and through projects.
- *The Legacy Award* to Sonja Zupanec to celebrate and acknowledge the creation of lasting change within the Islands Trust that improves and enriches who we are, how we work, and what we represent.



200-1627 Fort Street, Victoria BC V8R 1H8
Telephone **(250) 405-5151** Fax (250) 405-5155

Toll Free via Enquiry BC in Vancouver 604.660.2421. Elsewhere in BC
1.800.663.7867

Email information@islandstrust.bc.ca

Web www.islandstrust.bc.ca

November 30, 2020

File No.: 5020-30

Via Email: Premier@gov.bc.ca
FLNR.minister@gov.bc.ca
ENV.minister@gov.bc.ca
Minister.Transportation@gov.bc.ca
MAH.minister@gov.bc.ca

The Honourable
John Horgan
Premier of British
Columbia
PO BOX 9041,
STN PROV GOVT
Victoria BC
V8W9E1

The Honourable
Katrine Conroy
Minister of Forests,
Lands, Natural
Resource Operations
and Rural
Development
PO BOX 9049
STN PROV GOVT
Victoria BC
V8W9E2

The Honourable
George Heyman
Minister of
Environment and
Climate Change
Strategy
PO BOX 9047,
STN PROV GOVT
V8W9E2

The Honourable
Rob Fleming
Minister of
Transportation and
Infrastructure
PO BOX 9055,
STN PROV GOVT
Victoria BC
V8W9E2

The Honourable
Josie Osborne
Minister of
Municipal Affairs
PO BOX 9056,
STN PROV GOVT
Victoria BC
V8W9E2

Dear Premier and Ministers:

Re: Development of BC Coastal Strategy and Law

Congratulations on your recent election success and the appointment of the Executive Council. The Islands Trust Council is looking forward to working with you over the next four years to advance protection of the Islands Trust Area. I am writing to advise you that during its September 15-16, 2020 meeting, following a joint presentation by Canadian Parks and Wilderness Society and West Coast Environmental Law, the Islands Trust Council passed the following motion:

THAT Trust Council direct the Chair to write to the Premier and all relevant Ministers of the BC government on behalf of Trust Council to request that the BC Government develop and enact a Coastal Strategy and law to leverage and coordinate the work of provincial ministries, First Nations, local communities, and stakeholder groups to preserve coastal and ocean health, halt coastal habitat loss, accelerate the completion of a network of marine protected areas to benefit fisheries, biodiversity and the economy, set marine environmental quality objectives from upland activities, and help communities adopt ecosystem-based approaches to manage risks from flooding due to extreme weather events, sea level rise, climate change, and ocean acidification.

As we make efforts to mitigate and adapt to the current climate emergency, this form of coordinated and strategic approach will be critical to the preservation of lands and waters in the region and to our long-term climate resilience.

.../2

Thank you for considering this request.

Yours sincerely,



Peter Luckham
Chair, Islands Trust Council
pluckham@islandstrust.bc.ca

cc:

Parliamentary Secretary for Environment	S̱ÁUTW (Tsawout) First Nation
The Minister of State for Lands, Natural	Stz'uminus First Nation
Resource Operations	SXIMEŁŁ (Esquimalt) Nation
BOŶÉCEN (Pauquachin) First Nation	Tla'amin (Sliammon) Nation
Cowichan Tribes	Tsawwassen First Nation
Halalt First Nation	Tsleil-Waututh Nation
Homalco First Nation	T'Sou-ke Nation
Klahoose First Nation	Wei Wai Kum (Campbell River) First Nation
K'ómoks First Nation	We Wai Kai (Cape Mudge) First Nation
Lake Cowichan First Nation	WJOŁŁP (Tsartlip) First Nation
Lekwungen (Songhees) Nation	W̱SIŶEM (Tseycum) First Nation
Lyackson First Nation	x̱m̱əθḵəŷəm Musqueam
MÁLEXEŁ (Malahat) Nation	First Nations Leadership Council
Penelakut Tribe	Hul'qumi'num Treaty Group
Qualicum First Nation	Laich-kwil-tach Treaty Society
Scia'new (Beecher Bay) First Nation	Nanwakolas Council
SEMYOME (Semiahmoo) First Nation	Naut'sa mawt Tribal Council
shíshálh First Nation	Te'mexw Treaty Association
Snuneymuxw First Nation	Bowen Island Municipal Council
S̱wxwú 7mesh (Squamish) Nation	Islands Trust Council
Snaw-naw-as (Nanoose) First Nation	Islands Trust website



200-1627 Fort Street, Victoria BC V8R 1H8
Telephone **(250) 405-5151** Fax (250) 405-5155
Toll Free via Enquiry BC in Vancouver 604.660.2421. Elsewhere in BC
1.800.663.7867
Email information@islandstrust.bc.ca
Web www.islandstrust.bc.ca

November 30, 2020

File No.: 11-4960-30

Via email: MAH.minister@gov.bc.ca

The Honourable Josie Osborne
Minister of Municipal Affairs
PO BOX 9056, STN PROV GOVT
Victoria BC V8W9E2

Dear Minister:

RE: Enhance Islands Trust's Jurisdiction Over Tree Cutting

Congratulations on your recent election success and appointment as Minister of Municipal Affairs. The Islands Trust Council is looking forward to working with you over the next four years to advance protection of the Islands Trust Area. I am writing to advise you that during its September 15-16, 2020 meeting, the Islands Trust Council passed the following motion:

That Islands Trust request the Province enhance the Trust's jurisdiction over tree cutting bylaws to make its jurisdiction equal to that of municipalities under section 8 of the Community Charter.

The protection of sensitive forest ecosystems is a top priority for Islands Trust and a cornerstone of our 2018-2022 Strategic Plan. In addition to this request for additional local trust committee powers, we want you to know that we are still requesting that the Province change legislation so that local trust committees could regulate, but not prohibit, forest activities on Private Managed Forest Lands within the Islands Trust Area.

In March 2019, Islands Trust Council joined First Nations and governments around the world in declaring a Climate Emergency, calling for an urgent response to the threats and costs posed by climate change. Proper management and protection of forest ecosystems and green carbon sinks in the Trust Area will be critical to the Trust's climate mitigation and adaptation efforts.

Thank you for considering this request.

Sincerely,

Peter Luckham
Chair, Islands Trust Council
pluckham@islandstrust.bc.ca

.../2

cc:

BÓÉĆEN (Pauquachin) First Nation	SṪÁUTW (Tsawout) First Nation
Cowichan Tribes	Stz'uminus First Nation
Halalt First Nation	SXIMEŁŁ (Esquimalt) Nation
Homalco First Nation	Tla'amin (Sliammon) Nation
Klahoose First Nation	Tsawwassen First Nation
K'ómoks First Nation	Tsleil-Waututh Nation
Lake Cowichan First Nation	T'Sou-ke Nation
Lekwungen (Songhees) Nation	Wei Wai Kum (Campbell River) First Nation
Lyackson First Nation	We Wai Kai (Cape Mudge) First Nation
MÁLEXEŁ (Malahat) Nation	WJOŁŁP (Tsartlip) First Nation
Penelakut Tribe	W̱SIKEM (Tseycum) First Nation
Qualicum First Nation	xʷməθkʷəy̓əm Musqueam
Scia'new (Beecher Bay) First Nation	First Nations Leadership Council
SEMYOME (Semiahmoo) First Nation	Hul'qumi'num Treaty Group
shíshálh First Nation	Laich-kwil-tach Treaty Society
Snuneymuxw First Nation	Nanwakolas Council
Sḵwxwú 7mesh (Squamish) Nation	Naut'sa mawt Tribal Council
Snaw-naw-as (Nanoose) First Nation	Te'mexw Treaty Association
	Bowen Island Municipal Council
	Islands Trust Council
	Islands Trust website