Denman Island Local Trust Committee

Regular Meeting Revised Agenda

Date: July 6, 2021
Time: 10:00 am
Location: Electronic Meeting

Pages

1. CALL TO ORDER 10:00 AM - 10:35 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

3. RISE AND REPORT - IN CAMERA MEETING MAY 4, 2021

4. REPORTS 10:05 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 May 04, 2021 - for adoption 4 - 10

7.2. Section 26 Resolutions-Without-Meeting Report dated June 28, 2021 11 - 11

7.3. Advisory Planning Commission Minutes - none

8. BUSINESS ARISING FROM MINUTES 10:35 AM - 10:50 AM

8.1. Follow-up Action List dated June 28, 2021 12 - 17

8.2. Letter dated May 15, 2021 from S. Stanford, Assistant Deputy Minister, Ministry of Citizens' Services to Chair Fast regarding letter of support for Connected Coast Network 18 - 20

9.	**APPLICATIONS AND REFERRALS**	10:50 AM - 11:00 AM	
9.1.	DE-DVP-2021.1 (Gamble - 5621 Lacon Road, Denman Island) - Staff Report for decision		21 - 40
9.2.	DE-DVP-2021.2 (Pandesign Inc. - 1151 Kirk Road, Denman Island) - Staff Report for decision		41 - 52
9.3.	DE-RZ-2017.1 (Denman Community Land Trust Association - DCLTA) - Staff Report		53 - 103
9.4.	*DE-RZ-2021.1 (Denman Housing Association (DHA)) - Staff Report - attached*		*104 - 172*
10.	**LOCAL TRUST COMMITTEE PROJECTS**		
10.1.	Business Case for Housing Project - Staff Report	11:00 AM - 11:20 AM	173 - 189
11.	**CORRESPONDENCE**		
	(Correspondence received concerning current applications or projects is posted to the LTC webpage)		
12.	**NEW BUSINESS**	11:20 AM - 11:25 AM	
12.1.	Denman Community Land Trust Association (DCLTA) Housing Agreement - 2345 Chickadee Road - Schedule B - Memorandum		190 - 190
13.	**REPORTS**	11:25 AM - 11:45 AM	
13.1.	Trust Conservancy Report dated May 25, 2021		191 - 192
13.2.	Applications Report dated June 28, 2021		193 - 199
13.3.	*Trustee and Local Expense Report - none*		*200 - 200*
13.4.	Adopted Policies and Standing Resolutions		201 - 205
13.5.	Local Trust Committee Webpage		
	------- ***BREAK 11:45 AM TO 12:15 PM*** -------		
14.	**WORK PROGRAM**	12:15 PM - 12:45 PM	
14.1.	Top Priorities Report dated June 28, 2021		206 - 206
14.2.	Projects List Report dated June 28, 2021		207 - 209
15.	**UPCOMING MEETINGS**		
15.1.	Next Regular Meeting Scheduled for Tuesday, September 7, 2021 at 10:30 am, Location - to be determined		

16. INFORMATION ITEMS

16.1.	News Release regarding upcoming Trust Council Meeting July 7-8	210 - 211
16.2.	*Highlights of June, 2021 Trust Council meeting*	*212 - 212*
16.3.	News Release regarding Surge of Development	213 - 214

17. CLOSED MEETING

17.1. 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) (a), (d) (f) and (m) for the purpose of considering (a) appointments to the Advisory Planning Commission and (d) adoption of In-Camera Meeting minutes dated May 4, 2021, (f) Bylaw Enforcement, if council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment and (m) under another enactment, is such that the public may be excluded from the meeting and that the recorder and staff attend the meeting.

18. ADJOURNMENT 12:45 PM - 12:45 PM

Denman Island Local Trust Committee
Minutes of Regular Meeting

Date: May 4, 2021
Location: Electronic Meeting

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

Staff Present: Sonja Zupanec, Island Planner
Heather Kauer, Regional Planning Manager
Wil Cottingham, Administrative Assistant
Vicky Bockman, Recorder

Others Present: Approximately one (1) member 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 10:00 am. She welcomed the public, introduced Trustees, staff and recorder, and acknowledged that the meeting was being held electronically in traditional territory of the K'ómoks and Qualicum First Nations.

2. APPROVAL OF AGENDA

The following addition to the agenda was presented for consideration:

14.1.1 Denman Island LUB/OCP Review Backgrounder and Discussion Paper

By general consent the agenda was adopted as amended.

3. RISE AND REPORT - IN CAMERA MEETING MARCH 16, 2021

At the March 16, 2021 *In Camera* meeting, the LTC adopted the *In Camera* minutes dated January 19, 2021 and passed the following Standing Resolution:

> that the Denman Island Local Trust Committee confirm that the following Enforcement Policy has been and continues in effect:
>
> > While there is a public health emergency declared for COVID-19, Enforcement activities have been deferred for all unlawful dwellings; there will be no evictions, except where there are concerns regarding health and safety, lack of septic services and possible contamination of wells and drinking water supplies;
> >
> > And that site inspections for the purpose of gathering information and communication with property owners will continue;

And that the Denman Island Local Trust Committee may change this policy at any time and may give direction to resume enforcement activities.

4. REPORTS

4.1 Trustee Reports

Trustee Critchley provided a summary of activities and meetings attended:

- Trust Council Select Committee - Governance and Management Review;
- Baynes Sound/Lambert Channel Marine Ecosystem Forum Steering Committee;
- Trust Programs Committee.

Trustee Busheikin provided a summary of activities and meetings attended:

- Regional Planning Committee;
- Indigenous Awareness training webinar;
- Comox Valley Coalition to end Homelessness;
- Denman Island group coordinating and sharing information regarding COVID;
- Calls and meetings with constituents;
- Islands Trust Freshwater Strategy Round Table Steering Committee;
- Drafting of letters of support included in this agenda;
- Telephone conversation with MLA Josie Osborne.

4.2 Chair's Report

Chair Fast provided a summary of activities and meetings:

- Trust Programs Committee attended as a member of Executive Committee;
- Bowen Island Municipal Council;
- Ballenas-Winchelsea LTC;
- Executive Committee.

4.3 Electoral Area Director's Report

Trustee Busheikin announced on behalf of the Director that the Comox Valley Regional District (CVRD) is offering a free Green Shores information session on May 13th from 7 - 8 pm for property owners to learn more about Green Shores as a nature-based solution to shoreline management which helps to restore a natural shoreline as well as addresses challenges including sea level rise, storm surge and coastal erosion.

5. TOWN HALL - none

6. DELEGATIONS - none

7. MINUTES

7.1 Local Trust Committee Special Meeting Minutes dated March 15, 2021 - for adoption

By general consent the Special Meeting Minutes dated March 15, 2021 were adopted.

7.2 Local Trust Committee Public Hearing Record dated March 15, 2021 - for receipt

By general consent the Public Hearing Record dated March 15, 2021 was received.

7.3 Local Trust Committee Minutes dated March 16, 2021- for adoption

By general consent the Local Trust Committee minutes dated March 16, 2021 were adopted.

7.4 Section 26 Resolutions-Without-Meeting Report dated April 27, 2021

Received.

7.5 Advisory Planning Commission Minutes - none

8. BUSINESS ARISING FROM MINUTES

8.1 Follow-up Action List dated April 27, 2021

Received.

8.2 Letter dated March 31, 2021 - Local Trust Committee Letter of Support for Connected Coast

Received.

8.3 Letter dated March 23, 2021- Local Trust Committee to Executive Committee regarding Support for Fee Sponsorship for Application DE-RZ-2021.1 - Denman Housing Association (DHA)

Received.

8.4 Denman Island Local Trust Committee - Letter to Editor - Response to Petition about Housing

Received.

9. APPLICATIONS AND REFERRALS

9.1 DE-RZ-2021.1 Denman Housing Association (DHA)

9.1.1 Letter dated April 13, 2021 from Denman Housing Association (DHA)

Committee members reviewed and discussed the above noted letter which requests the LTC to move the DHA application forward as expeditiously as possible including advancing through Third Reading and Ministry review conditional upon receipt of a water license.

Staff advised that a staff report is anticipated to be brought to the next LTC meeting including progress to date on preliminary items; and suggested that direction to staff relating to next steps might be considered at that time.

A Trustee noted that early review of information regarding quality and quantity of water available for the project would help inform a decision as to whether or not to give readings prior to receipt of the water license.

Chair Fast invited the applicant to speak.

Simon Palmer summarized water and wastewater reports currently being finalized; and advised that these are indicating that the property is capable of sustaining the needs of the project with no conflict, and will be forwarded to Planning staff upon completion.

10. LOCAL TRUST COMMITTEE PROJECTS - none

11. CORRESPONDENCE

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

11.1 Email dated February 13, 2021 from L. Gillett regarding Housing Suggestions

Received.

11.2 Email dated March 3, 2021 from S. Donaldson regarding Affordable Housing

Received.

11.3 Email dated March 19, 2021 from P. Stockdill, The Council of BC Yacht Clubs regarding Expansion of Shellfish Aquaculture Tenure, Henry Bay, Baynes Sound

Received.

11.4 Email dated March 22, 2021 from C. McLaughlin regarding Pentlatch Seafood Ltd. expansion of aquaculture tenure

Received.

11.5 Letter dated April 12, 2021 from D. Hunt-Scott regarding Reconciliation Engagement Request

Trustees confirmed that the letter linking internet connection on remote island communities to First Nations reconciliation was received by email. Trustee Busheikin advised that she has forwarded the correspondence to various Islands Trust personnel for information.

11.6 Email dated April 30, 2021 from P. Stockdill regarding Oyster Pouches in Baynes Sound

Trustee Critchley advised that he will thank and advise Mr. Stockdill that he will be forwarding these informative comments on to the Baynes Sound/Lambert Channel Marine Ecosystem Forum where a subcommittee is working on innovation in aquaculture gear.

12. NEW BUSINESS

12.1 Denman Island Advisory Planning Commission Appointments - Staff Report

Planner Zupanec summarized the Staff Report addressing Advisory Planning Commission appointments for LTC consideration.

DE-2021-038
It was MOVED and SECONDED,
that the Denman Island Local Trust Committee request that staff send letters to members of the Advisory Planning Commission whose terms expired on May 1, 2021, inviting their expressions of interest for reappointment to the Advisory Planning Commission and thanking them for their participation.

CARRIED

DE-2021-039
It was MOVED and SECONDED,
that the Denman Island Local Trust Committee request staff to conduct advertising to fill the vacancies on the Advisory Planning Commission.

CARRIED

13. REPORTS

13.1 Trust Conservancy Report – none

Trustees suggested that the comprehensive and informative newsletter from the Islands Trust Conservancy, *The Heron*, might be included in LTC meeting agenda packages instead of the current report format.

13.2 Applications Report dated April 27, 2021

Planner Zupanec responded to Trustee questions that arose.

13.3 Trustee and Local Expense Report dated February, 2021

Received.

13.4 Adopted Policies and Standing Resolutions

Received.

13.5 Local Trust Committee Webpage

Chair Fast reported that the Islands Trust website is currently being updated and advised that comments about the new site can be provided on the Feedback tab at Islandstrust.bc.ca.

14. WORK PROGRAM

14.1 Top Priorities Report dated April 27, 2021

Received.

14.1.1 Denman Island LUB/OCP Review Backgrounder and Discussion Paper

Trustee Busheikin summarized the Discussion Paper on possible approaches to advance the Top Priority of Denman Island LUB Review of Housing.

Committee members' discussion included the following:

- A targeted review limited to housing was preferred in consideration of the pressing need, processing time, and new policies in the Trust Policy Statement that might have an effect on regulations;
- Strategies for finding resources and budgetary considerations were identified;
- A Trust-wide initiative to address best approaches to address housing and affordable housing might be an efficient option to investigate;
- A business case for the project detailing scope of staff/consultant and estimated cost might be presented to the Financial Planning Committee by September and prior to Trust Council for budget consideration;

- A discussion paper analyzing the collective experience of Island Planners on what is perceived to work to create affordable housing would be helpful;
- A professional facilitator for community consultation might be most effective.

By general consent the meeting was recessed at 12:10 pm and reconvened at 12:43 pm.

DE-2021-040
It was MOVED and SECONDED,
that the Denman Island Local Trust Committee request staff to prepare a draft business case for a review of the Denman Island Land Use Bylaw and Official Community Plan, focusing on housing, with the goal of increasing options for affordable and attainable housing while also minimizing impacts of housing generally to better protect the environment while supporting equity, diversity and inclusion, and that this business case include the use of a consultant for all or part of the work.

In discussing the motion, a Trustee considered that a discussion paper created in parallel would be helpful. Trustee Busheikin offered to provide staff with a list of resources and previous analysis on affordable housing that has been completed.

CARRIED

DE-2021-041
It was MOVED and SECONDED,
that the Denman Island Local Trust Committee request staff to prepare a discussion paper to list and analyze options available to the Local Trust Committee to facilitate more affordable housing including what strategies have proved successful in the Trust area and elsewhere.

In discussing the motion, the receipt of the requested information from staff was considered to be an important step for meeting budgetary timelines. Staff will attempt to provide the reports for the next LTC business meeting. A Trustee suggested that the Regional Planning Committee might provide support.

CARRIED

In response to questions regarding the status of Top Priority no. 1: Denman Island Farm Plan Implementation, Planner Zupanec reported the following:

- A grant application to advance the project has been submitted to the Agricultural Foundation for review;
- Staff will be kept informed of the Agricultural Land Commission's initiative to allow secondary dwellings on Agricultural Land Reserve lots, with changes expected to be released later this year.

14.2 Projects List Report dated April 27, 2021

Committee members requested the following be removed from the report:

- No. 10 Green Shores Workshop (being offered through CVRD);
- No. 12 Facilitating affordable, attainable and seniors housing (now on the Top Priority List).

15. UPCOMING MEETINGS

15.1 Next Regular Meeting Scheduled for Tuesday, July 6, 2021 at 10:00 AM at - to be determined

Committee members confirmed the next regular meeting date and time with location to be determined.

16. INFORMATION ITEMS

16.1 Truth Precedes Reconciliation

Received.

16.2 Reconciliation Report 2019-2021

Received.

16.3 Islands Trust Conservancy Newsletter - The Heron - Spring 2021

Received.

17. CLOSED MEETING

17.1 Motion to Close the Meeting

DE-2021-042
It was MOVED and SECONDED,
that the meeting be closed to the public in accordance with the *Community Charter*, Part 4, Division 3, s.90(1) (d), (f) and (i) for the purpose of considering adoption of *In-Camera* Meeting minutes dated March 16, 2021, Bylaw Enforcement and advice that is subject to solicitor-client privilege and that the recorder and staff attend the meeting.

CARRIED

The meeting was closed to the public at 1:10 pm.

18. ADJOURNMENT

Chair Fast informed the public of the option to sign up for the online subscription service at Islandstrust.bc.ca to receive notification of future meeting agendas, meeting minutes, news releases and other topics.

By general consent the meeting was adjourned at 1:10 pm.

_____
Sue Ellen Fast, Chair

Certified Correct:

_____
Vicky Bockman, Recorder

Print Date: June 28, 2021

Resolutions Without Meetings Log

Denman Island

Resolution Number	Action	Date
2021-005	**Carried**	**04-Jun-2021**
"That the Denman Island Local Trust Committee respond to the referral of Hornby Island Local Trust Committee Proposed Bylaw Nos. 166 and 167 that it's interests are unaffected."		
2021-004	**Carried**	**28-May-2021**
'THAT the Denman Island Local Trust Committee endorse the following text for inclusion in the 2020-2021 Annual Report for approval by the Islands Trust Council and submission to the Minister of Municipal Affairs & Housing: The Denman Island Local Trust Committee held six regular business meetings in the 2020/21 fiscal year, three community information meetings, and one public hearing. The Denman Island Local Trust Committee considered numerous reports in conjunction with two major rezoning applications for affordable housing on the island. The Denman Island Local Trust Committee asked staff to prioritize these rezoning applications ahead of working on the local trust committee's top priority projects. The committee also reviewed two development variance permits and one development permit. Staff reviewed three subdivisions, twenty-six siting and use permits, and three crown land referrals related to proposed development in the Denman Local Trust Area. Another initiative of the Denman Island Local Trust Committee for this period was relationship building with the K'ómoks First Nation.'		

Islands Trust

Print Date: June 28, 2021

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

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. *2020-09-08 update: presentation held at Denman LTC meeting 2020-09-08. FIRB availability for Tour - summer 2021.*	Becky McErlean Penny Hawley Sonja Zupanec Wil Cottingham		In Progress

21-Jan-2020

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

08-Sep-2020

Activity	Responsibility	Dates	Status

Follow Up Action Report

Denman Island

08-Sep-2020

Activity	Responsibility	Dates	Status
1 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

19-Jan-2021

Activity	Responsibility	Dates	Status
1 LTC request that staff bring back a memo explaining the difference between a bed and breakfast and secondary suite, as per the Denman Land Use Bylaw.	Warren Dingman		In Progress

16-Mar-2021

Activity	Responsibility	Dates	Status
1 LTC requests staff to bring back a revised draft public participation guidelines document based on the LTC discussion (see minutes March 16 for details).	Becky McErlean		In Progress

Follow Up Action Report

Denman Island

16-Mar-2021

	Activity	Responsibility	Dates	Status
2	DE-RZ-2017.1 (DCLTA- Pepper Lane) - Proposed Bylaw 233 given second and third reading. Forward to EC for consideration of approval and then Minister. Proposed Bylaw 234 amended (see minutes). Given second and third reading. Forward to EC for consideration of approval. Restrictive covenant: amended as per minutes. staff to work with applicant to ensure clauses c) and d) address neighbour's concerns regarding fencing, screening and noise. return draft language to LTC for consideration. Staff to provide alternatives to clause 6 c) to reduce or eliminate burden of expense on applicant. Housing Agreement: amended as per minutes. staff to return draft language to ensure qualified occupants includes indigenous people; tenant selection criteria address concerns around palliative care.	Becky McErlean Sonja Zupanec		Completed

04-May-2021

	Activity	Responsibility	Dates	Status
1	Send letters to APC thanking for participation and inviting them to submit expressions of interest to be reappointed. Advertise for new expressions of interest.	Penny Hawley		In Progress

Follow Up Action Report

Denman Island

04-May-2021

Activity	Responsibility	Dates	Status
2 Affordable Housing: 1) request staff to prepare a discussion paper to list and analyze options to facilitate affordable housing and include strategies proved successful in the Trust Area and elsewhere. 2) request staff to prepare a draft business case for a review of the Denman Island Land Use Bylaw and Official Community Plan, focusing on housing, with the goal of increasing options for affordable and attainable housing while also minimizing impacts of housing generally to better protect the environment while supporting equity, diversity and inclusion, and that this business case include the use of a consultant for all or part of the work.	Heather Kauer		In Progress

May 5, 2021 Ref:114903 & 13328

Sue Ellen Fast
Chair, Denman Island Local Trust Committee & Hornby Island Local Trust Committee
700 North Road, Gabriola
Island, BC V0R 1X3
Email: northinfo@islandstrust.bc.ca

Dear Sue Ellen Fast:

Thank you for your letters received on March 31, 2021 regarding your support for the Connected Coast applications for Hornby and Denman Islands. Addressing coastal and remote Indigenous community connectivity gaps is a priority for the Provincial Government, and as the Assistant Deputy Minister for the Connectivity Division in the Ministry of Citizens' Services, I am pleased to respond.

The Connected Coast Network will result in the installation of subsea fibre-optic cable serving communities between Prince Rupert and Vancouver, on Haida Gwaii and Vancouver Island. Investment in last-mile infrastructure will help communities along the route take full advantage of the benefits this will bring when completed.

The Province supports the expansion of connectivity through the Connecting British Columbia program which is administered by the Northern Development Initiative Trust (NDIT). Through the Economic Recovery Intake, the program was expanded in September 2020 by $90 million in funding to accelerate the expansion of broadband connectivity to more communities throughout the province.

We understand that through the Economic Recovery Intake, NDIT has received funding applications from CityWest to support last mile connectivity to Hornby and Denman Island residents. As part of the applications, written community support is a requirement for all projects to verify service providers are providing a solution that meets the community needs so thank you for your letters. Once a decision by NDIT has been made regarding the applications and CityWest has been notified, we will ensure that someone from our ministry reaches out to you.

If you would like to discuss this further or receive additional information on the Province's activities to expand high-speed internet connectivity, please contact Howard Randell, Executive Director, Network BC at 250 415-6867.

Connectivity Division
Ministry of Citizens' Services

Mailing Address:
Box 9440 Stn Prov Govt
Victoria BC V8W 9V3

Telephone: 250-580-7459
Email: Susan.Stanford@gov.bc.ca

Thank you for taking the time to write about these important projects.

Sincerely,



Susan Stanford
Assistant Deputy Minister

Attachment/s:

pc: Honourable Josie Osborne
Minister of Municipal Affairs & MLA, Mid Island-Pacific Rim
josie.osborne.MLA@leg.bc.ca

David Leitch, Chief Administrative Officer
Strathcona Regional District
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Connected Communities
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STAFF REPORT

File No.: DE-DVP-2021.1 (Gamble)

DATE OF MEETING:	July 6, 2021
TO:	Denman Island Local Trust Committee
FROM:	Ian Cox, Planner 2 Local Planning Services
SUBJECT:	Development Variance Permit Application Applicant: Eugene and Shirley Gamble Address: 5621 Lacon Road | PID: 005-299-161

RECOMMENDATION

1. **That the Denman Island Local Trust Committee approve issuance of DE-DVP-2021.1 (GAMBLE) as drafted.**

SUMMARY

The Denman Island Local Trust Committee (LTC) is asked to consider Development Variance Permit (DVP) application DE-DVP-2021.1 that seeks to vary Section 2.3 of the Denman Island Land Use Bylaw No. 186, 2008 (LUB) to allow a 2.4m X 2.8m (8'x20') kitchen addition to the existing house on the subject property (shown in **Figure 1 and 2** below) to be sited within the setback to the natural boundary of the sea. The requested variance appears to be minor enough in scale considering a number of factors, and as such, staff is recommending issuance of the Draft DVP as presented in **Attachment 1** to this report.

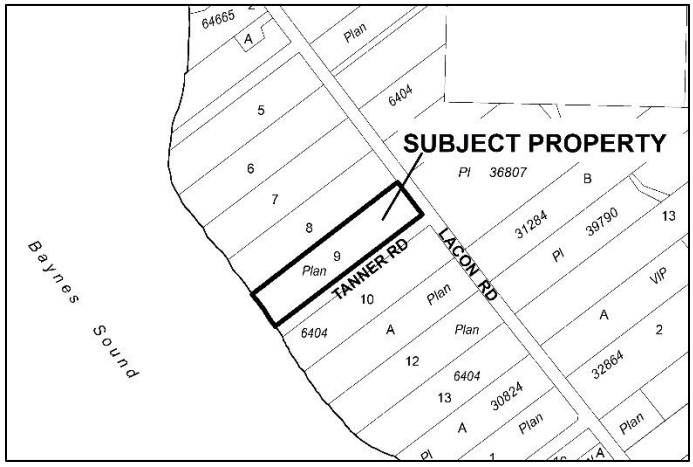


***Figure 1** – subject property location*



***Figure 2** - Subject Property Air Photo*

BACKGROUND

This variance application has come forward through staff review and analysis of the owner's application for a Siting and Use Permit (SUP) for the proposed addition. The existing house and sewerage system were constructed in accordance with two Islands Trust issued permits: DE-DVP-2003.1 and DE-DVP-2015.2 (See **Attachment 2**).

The DVPs were issued to permit the reconstruction of the former single family dwelling that was almost entirely destroyed by fire. It was damaged past the 75% threshold after which the Local Government Act (LGA) no longer considers structures to be lawfully non-conforming. The LTC could have chosen to require it's reconstruction in compliance with the LUB setbacks at that time; i.e., 15 metres or farther from the natural boundary. However, the DVPs were issued for the house and the associated septic system, and thus the current house is lawfully sited by the permits rather than carrying the lawfully non-conforming status which would generally prohibit further contravention by alteration or extension.

The applicant wishes to construct a relatively small kitchen and den addition to the existing house on the face of the building farthest away from the foreshore. See **Attachment 3** – Applicant Rationale for further information on the reason for the application, history of the purchase of the property, and the proposed addition.

ANALYSIS

Policy/Regulatory

An analysis of relevant OCP policies and LUB and regulations is included as **Attachment 4** – Site Context and Policies. The following is a summary:

Official Community Plan:

The subject property is designated Residential (R) in the Denman Island Official Community Plan and is not located within any Development Permit Areas currently enacted for Denman Island. The property is located outside the Lacon Road Coast DPA 3. The proposal does not conflict with the OCP objectives and policies for Residential land use.

Land Use Bylaw:

The property is zoned Residential 1 – R1 under the current LUB.

PART 2 GENERAL REGULATIONS, Subsection 2.3.3 Setbacks and Elevations from the Sea states:

> *The minimum setback from the natural boundary of the sea for buildings and structures, except for a boathouse, fence, or access stairway is:*
>
> - *30.0 metres for a sewage disposal field or alternate sewerage system;*
> - *30.0 metres for buildings and structures associated with intensive agriculture or used to accommodate domesticated animal other than household pets;*
> - *5.0 metres for a boathouse; and*
> - ***15.0 metres for all other buildings and structures. [emphasis added]***

"Structure" is defined in the bylaw thusly:

> ***structure*** *means anything constructed or erected that is fixed to, supported by or sunk into land or water, whether underwater or otherwise, but excludes vehicles, floating vessels, ground-level*

paving for driveways and vehicle parking, ground-level sidewalks, detached ground-level patios and decks, detached access stairways and boardwalks, power-poles and telecommunication poles;

The LUB regulations provide only one setback exemption that is for the siting of tanks for the storage of rainwater structures. It is therefore necessary to vary LUB Section 2.3.3 in order to accommodate the proposed addition within the required 15 metre natural boundary setback. The location of the addition is at 13.09 metres and the permit is drafted in accordance with this ask (See site plan in **Attachment 1**).

Issues and Opportunities

Applicant stated rationale

See **Attachment 3**.

Intent of Setback Regulations

Setback regulations serve a number of purposes: to provide a buffer to reduce potential conflicts between adjacent land owners, mitigate foreshore ecosystem impacts, and protect physical development from the effects of climate change such as sea level rise. It is advisable to enforce natural boundary setbacks in most cases for the reasons above, and particularly for marine and foreshore ecosystem protection. However, the existing house and sewerage system was constructed in accordance with two Islands Trust issued permits: DE-DVP-2003.1 and DE-DVP-2015.2 (See **Attachment 2**). Staff feels that the relatively small addition would have little impact on the foreshore area since it has already been cleared for the existing house. The LTC can consider future applications on their own merit and staff would advise at that time whether a proposed project was in line with the Islands Trust and Denman OCP foreshore protection and impact mitigation policies.

Impact on Adjacent Properties

The proposed addition is sited on the upland side of the building that faces away from the foreshore area and as such can be expected to have little visual impact on neighbouring properties.

Alternatives to DVP Remedy for Encroachment

The only other solution save not constructing the addition, would be to move the house outside of the 15 metre natural boundary setback to permanently avoid encroachment issues. This would, of course, have its own potential for foreshore, ecosystem, and cultural heritage disturbance implications.

Consultation

First Nations | Archaeology

The Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. After review by staff, the DVP application was referred to K'omoks First Nation on March 29, 2021 to determine the possible need for the applicant to go through the K'omoks Cultural Heritage Inspection Permit process for the proposal. No reply was received from K'omoks First Nation at the time of writing this report on June 25, 2021.

The applicant has contacted the provincial Archaeology Branch and begun the process of applying for a HCA permit for the proposed work. The Branch has indicated that likely no archaeologist will be required to be on site for the reasons mentioned in **Attachment 3**. The applicant has been made aware of their responsibility under the HCA. Staff provides the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on

cultural heritage directly to applicants for information on their responsibility under the Heritage Conservation Act.

See also **Attachment 3** - Applicant Rationale.

Statutory Requirements

Statutory Notice was distributed to neighbouring property owners on June 23, 2021 and published in The Grapevine newspaper in accordance with *Local Government Act* requirements **(See Attachment 5).**

At the time of preparing this report, the Islands Trust has received no public correspondence related to the application in response to the notification. Comments may be received from the public before or during the LTC meeting on July 6, 2021. All correspondence received on or before the LTC meeting will form part of the public record and will be considered by the LTC. Correspondence may be sent to DenmanIslandLocalTrustCommittee@islandstrust.bc.ca.

Rationale for Recommendation

Staff finds that the DVP application seeks to relax the LUB setback regulations to a modest degree on the upland side of the building that faces away from the foreshore area and as such is unlikely to have a negative impact on neighbouring properties or the natural environment since as mentioned, the area for the location of the addition has been previously cleared for the existing house. Further, Archaeological permitting under the HCA is in progress and the work cannot proceed without this authorization. The property owner immediately made application for the DVP upon learning of the issue and is seeking compliance with the LUB by way of this application. Staff is recommending issuance of the DVP as presented in **Attachment 1** and described in the Recommendations section on page 1 of this report. The DVP remains at the discretion of the LTC and staff would likely not recommend any further expansion of the building in the future.

ALTERNATIVES

1. **Request further information**

   Particularly related to the alternate remedies outlined in the "Issues and Opportunities" section of this report, the LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

   That the Denman Island Local Trust Committee request that the applicant for DE-DVP-2021.1 submit to the Islands Trust [describe information requested].

2. **Defer consideration of the permit pending K'omoks First Nation input**

   The LTC may consider deferring its decision on the permit pending input or direction from K'omoks First Nation. Recommended wording for the resolution is as follows:

   That the Denman Island Local Trust Committee defer consideration of application DE-DVP-2021.1 until such time as K'omoks First Nation has provided input and direction on the proposed works.

3. **Amend the permit**

   The LTC may choose to amend the permit. If this option is chosen, the LTC should first pass a resolution to amend the permit accordingly and then render a decision on issuance.

4. Deny the application

The LTC may deny the application. If this alternative is selected, the LTC should state the reasons for denial. Recommended wording for the resolution is as follows:

That the Denman Island Local Trust Committee deny application DE-DVP-2021.1 for the following reasons [insert reasons].

Submitted By:	Ian Cox - Planner 2, MCP Northern Team	June 25, 2021
Concurrence:	Heather Kauer, MPA, RPP, MCIP, AICP Regional Planning Manager	June 25, 2021

ATTACHMENTS

1. Draft Development Variance Permit
2. Issued DE-DVP-2003.1 and DE-DVP-2015.2
3. Applicant Rationale
4. Site Context and Policies
5. Statutory Notice

Attachment 1 - Draft Permit

DRAFT

Islands Trust	**DENMAN ISLAND LOCAL TRUST COMMITTEE** **DEVELOPMENT VARIANCE PERMIT NO. DE-DVP-2021.1**

TO: Eugene & Shirley Gamble

1. This Development Variance Permit applies only to the land described below:

PID: 005-299-161

THAT PART OF LOT 9, SECTIONS 5 AND 6, DENMAN ISLAND, NANAIMO DISTRICT, PLAN 6404, LYING TO THE SOUTH WEST OF LACON ROAD AS SAID ROAD IS SHOWN ON SAID PLAN

2. Pursuant to Section 498 of the *Local Government Act*, the *Denman Island Land Use Bylaw No. 186, 2008* is varied as follows:

1. PART 2 GENERAL REGULATIONS, Section 2.3 General Setback Regulations, Subsection 3 - Setbacks and Elevations from the Sea, "The minimum setback from the natural boundary of the sea for buildings and structures, except for a boathouse, fence, or access stairway is: 15.0 metres for all other buildings and structures" is varied:

To permit a 2.4 metre X 2.8 metre kitchen/den addition to the existing single family dwelling within 13.09 metres of the natural boundary of the sea as shown on Schedule "A" – Site Plan, Schedule "B" – Addition Floor Plan, and Schedule "C" – Surveyor's Lot Plan to this permit.

3. This permit is not a Building Permit or a Siting and Use Permit, and does not remove any obligation on the part of the permittee to comply with all other requirements of the Denman Island Land Use Bylaw No. 186, 2008 including use and density, and to obtain other appropriate approvals necessary for completion of the proposed development.

AUTHORIZING RESOLUTION PASSED BY THE DENMAN ISLAND LOCAL TRUST COMMITTEE THIS _____ DAY OF _____, 2021.

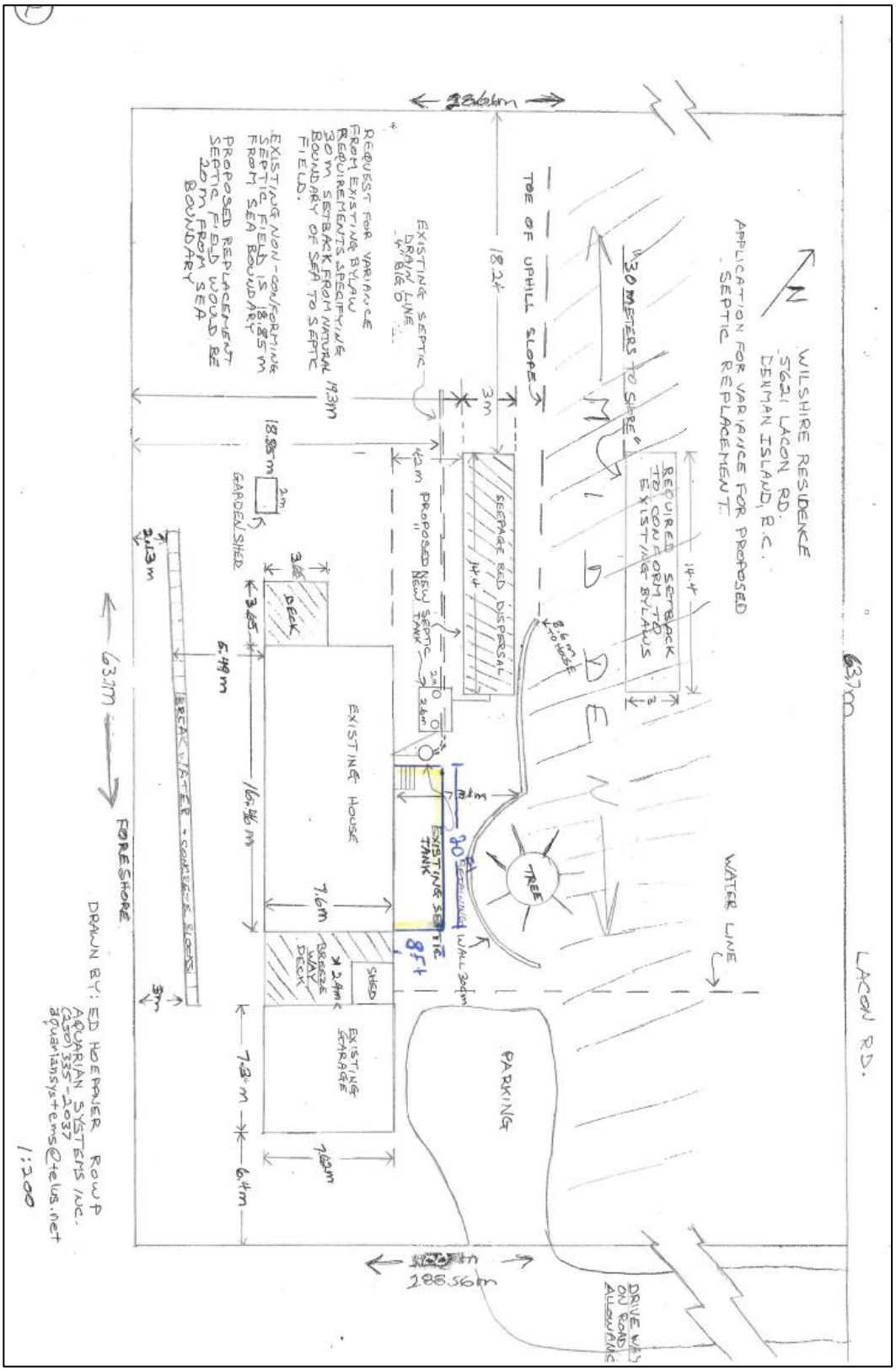
_____ _____

Deputy Secretary, Islands Trust **Date of Issuance**

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE _____ DAY OF _____, 2023, THIS PERMIT AUTOMATICALLY LAPSES.

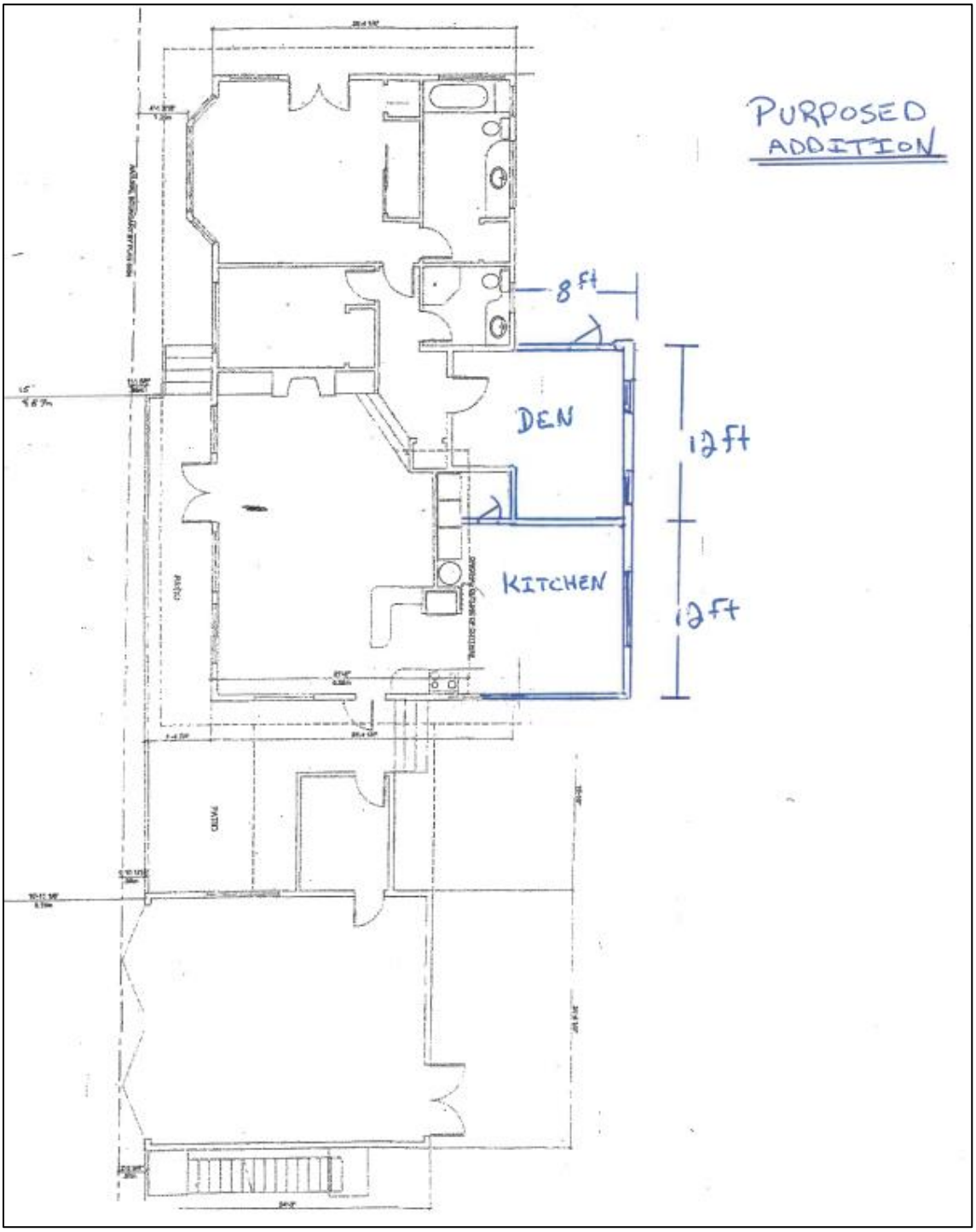
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DENMAN ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT VARIANCE PERMIT
DE-DVP-2021.1
Schedule "A" Site Plan



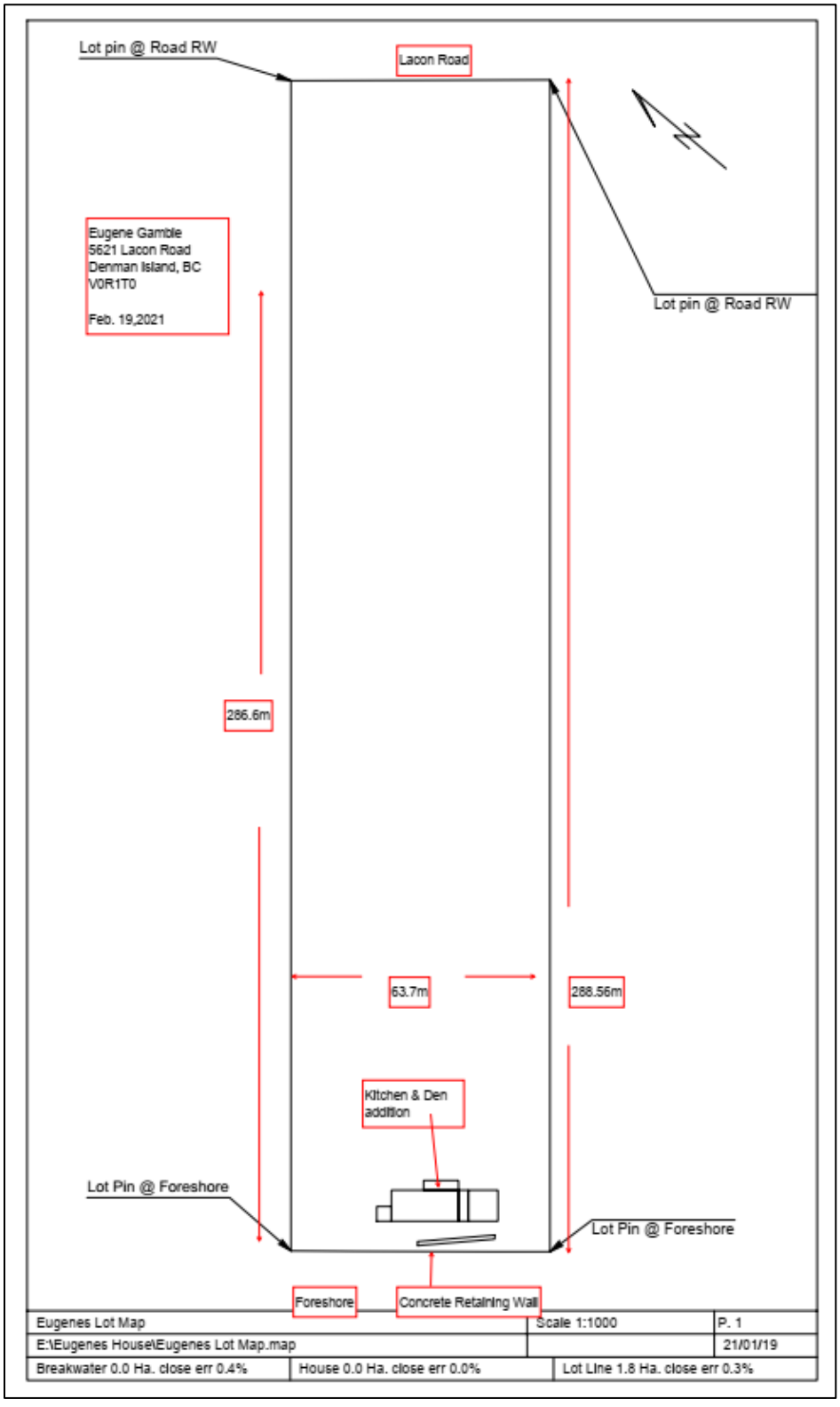
DRAFT

DENMAN ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT VARIANCE PERMIT
DE-DVP-2021.1
Schedule "B" Addition Floor Plan



DRAFT

DENMAN ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT VARIANCE PERMIT
DE-DVP-2021.1
Schedule "C" Surveyor's Lot Plan



Attachment 2 - Previous DVPs

Status: Filed Doc #: EV72886 RCVD: 2003-07-07 RQST: 2019-04-10 11.16.43

-7 JUL 2003 09 03 EV072886

ISLANDS TRUST

200 - 1627 Fort Street, Victoria, B.C. V8R 1H8
Telephone: (250) 405-5151 Facsimile: (250) 405-5155
Internet: http://www.islandstrust.bc.ca
For toll free access, request a transfer via Enquiry BC:
In Vancouver 660-2421; elsewhere in B.C. 1-800-663-7867

File: DE-DVP-2003.1

LOCAL GOVERNMENT ACT
(Part 26)
NOTICE OF PERMIT

TO: Registrar of Title
Land Title Office
Ministry of Sustainable Resource Management
850 Burdett Avenue
Victoria BC V8V 1X4

01 03/07/07 09:04:11 VI 199194
DOC FILE $20.00

TAKE NOTICE THAT THE LAND DESCRIBED BELOW IS SUBJECT TO A Permit issued by Denman Island Local Trust Committee, Islands Trust.

PARTICULARS OF PERMIT

Permit Description

(a) **Type of Permit** Development Variance Permit

(b) **Statutory Authority Section** Section 922 of the Local Government Act

Legal Description of Land Affected
PID: 005-299-161, that part of Lot 9, Sections 5 and 6, Denman Island, Nanaimo District, Plan 6404, lying to the South West of Lacon Road as said road is shown on said plan.

Issue Date: June 5, 2003

Dated: July 11, 2003 **ISLANDS TRUST**

by Kathy Jones
Deputy Secretary

DENMAN ISLAND LOCAL TRUST COMMITTEE

DEVELOPMENT VARIANCE PERMIT

DE-DVP-2003.1

TO: Gillian Wilshire

1. This Development Variance Permit applies to the land described below:

   that Part of Lot 9, Sections 5 and 6, Denman Island, Nanaimo District, Plan 6404, Lying to the South West of Lacon Road as Said Road is shown on Said Plan

2. Schedule A, Subsection 2.3.3, and 2.3.4 of *Denman Island Local Trust Committee Bylaw No. 148*, cited as the "Denman Island Land Use Bylaw, 2002", is varied such that:

   - the setback to the house from the natural boundary of the sea is as close as 4.57 metres;
   - the setback to the house from the rear lot line is as close as 0.35 metres; and
   - the minimum difference in elevation between the underside of the lowest floor and the elevation of the natural boundary of the sea is 1.35 metres;

   substantially in accordance with the attached sketch maps forming Schedules "A-1" and "A-2" of this permit.

3. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of the "Denman Island Land Use Bylaw, 2002" and to obtain other approvals necessary for the lawful completion of the proposed development.

AUTHORIZING RESOLUTION PASSED BY THE DENMAN ISLAND LOCAL TRUST COMMITTEE THIS 5th day of June, 2003.

Deputy Secretary, Islands Trust

June 5/03

Date of Issuance

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY the 5th day of June, 2005, THIS PERMIT AUTOMATICALLY LAPSES.

DENMAN ISLAND LOCAL TRUST COMMITTEE
DE-DVP-2003.1
SCHEDULE "A-1"

I hereby certify this to be Schedule "A-1" which is attached to and forms part of Development Variance Permit No. DE-DVP-2003.1.

Deputy Secretary, Islands Trust

June 5, 2003
Date of Issuance

DENMAN ISLAND LOCAL TRUST COMMITTEE
DE-DVP-2003.1
SCHEDULE "A-2"

attached to and forms part of Development Variance Permit No. DE-DVP-2003.1.

Deputy Secretary, Islands Trust

June 5, 2003
Date of Issuance

Islands Trust

DENMAN ISLAND LOCAL TRUST COMMITTEE

DEVELOPMENT VARIANCE PERMIT

DE-DVP-2015.2

TO: **Gillian Wiltshire**

1. This Development Variance Permit applies to the land described below:

   PID: 005-299-161
   That Part of Lot 9, Sections 5 and 6, Denman Island, Nanaimo District, Plan 6404, Lying to the South West of Lacon Road as Said Road is Shown on Said Plan

2. Pursuant to Section 922 of the *Local Government Act*, the first bullet of Section 2.3, "General Setback Regulations", Subsection 2.3(3), "Setbacks and Elevations from the Sea" of Bylaw No. 186 being the Denman Island Land Use Bylaw is varied to reduce the minimum setback of a sewage disposal field or alternate sewerage system to the natural boundary of the sea from 30.0 metres to 19.3 metres and to read as follows:

   - *19.3 metres for a sewage disposal field or alternate sewerage system*

3. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of Denman Island Land Use Bylaw No. 186, 2008 and to obtain other appropriate approvals necessary for completion of the proposed development.

AUTHORIZING RESOLUTION PASSED BY THE DENMAN ISLAND LOCAL TRUST COMMITTEE THIS 1ST DAY OF DECEMBER, 2015.

Deputy Secretary, Islands Trust

December 9, 2015
Date of Issuance

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE 9TH DAY OF DECEMBER, 2017 THIS PERMIT AUTOMATICALLY LAPSES.

Attachment 3 - Applicant Rationale

Application for: Development Variance Permit

Applicant: Eugene Gamble
Address: 5621 Lacon Rd, Denman Island, BC, V0R 1T0
Phone: 250-335-0222

Applying for:

A single story addition to the existing house to facilitate a kitchen and den.

Size of the addition:

8 feet out from the existing exterior wall, running 20 ft along the existing exterior wall (see attached drawing). The peak of the new roof would be at the same elevation as the existing, single story part of the house it would attach to.

Reason for the application:

When we bought our property in April of 2019 we were fully aware that the kitchen was entirely too small for our needs; especially when we have our children and grandchildren staying with us and that we'd also like to add a small den. When we asked about the possibility of putting an addition on we were told it would be no problem at all and that we wouldn't even need to get permits as there were no inspectors. Obviously that was not correct. I take responsibility for the fact that I took their word on this and did not confirm the truth with the local governing bodies. There was certainly no mention of Variances or archaeological considerations.

We recently became ready to start our project and quickly learned that we did in fact need permits. It was at that point that I started digging through historical data and found that this property has had 2 previous successful applications for DVP's (both relating to setbacks). One in 2003 to rebuild the house after a fire (a copy of the permit is included: DE-DVP-2003.1) and one in 2015 when the new septic system was installed (permit: DE-DVP-2015.2). My next step was to contact Ian Cox at Islands Trust to see if I needed a DVP as the addition would be moving even further from the setbacks. I was informed that we would indeed need to acquire a DVP

Archaeological Considerations:

In my first consultation with Islands Trust I was told that we should make contact with the Archaeology Branch to see if they had any restriction and to see if we required a permit from them as well.

I contacted Ben Vickers-Redhead at the Archaeology Branch and told him what we were purposing to do. He suggested that because, in this case, there would be no added or purpose disturbance to the soil that we would be applying for an Alteration Permit (for S12.4) and that we should not require and Archaeologist to get involved.

In the previous archaeology report there were no human remains or artifacts found. All that was found was shells, fish, small animal and bird bones. I was also told that the application for a DVP and the Alteration Permit could run concurrently. He suggested that I let Islands Trust know that the application process was underway with the Archaeology Branch and that they would be given the permit number when it was available.

Significant notes:

I have included copies of previous Variance Permits in the hope that they may add some value.

Because of the size and layout of the purposed addition, the structure could be built on-grade and would not require that we disturb any soil.

The purposed addition would not interfere with the existing septic system, water system or electrical system.

The purpose addition would be moving further from the setbacks than the existing home and septic systems that were previously permitted.

Attachment 4 - Site Context and Policies

LOCATION

Legal Description	THAT PART OF LOT 9, SECTIONS 5 AND 6, DENMAN ISLAND, NANAIMO DISTRICT, PLAN 6404, LYING TO THE SOUTH WEST OF LACON ROAD AS SAID ROAD IS SHOWN ON SAID PLAN
PID	005-299-161
Civic Address	5621 Lacon Road, Denman Island

LAND USE

Current Land Use	Residential
Surrounding Land Use	Residential immediately adjacent, natural boundary of the sea southwest.

HISTORICAL ACTIVITY

File No.	Purpose
DE-DVP-2003.1	House
DE-DVP-2015.2	Septic
DE-SUP-2003.18	House
DE-SUP-2021.4	Pending DE-DVP-202.1

POLICY/REGULATORY

OCP Designations	Residential Land Use Designation Not within currently enacted DPAs Complies with Residential policies and objectives
Land Use Bylaw	Zoning: R1- Residential 1
Regulations	

Table 5 - Setbacks

		R1	R2	R3
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
	• from the rear or side lot line	3.0 m	3.0 m	30.0 m
	• from the exterior side lot line	4.5 m	4.5 m	30.0 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
3	Minimum setback from all lot lines for domestic chicken coops	3.0 m	3.0 m	30.0 m

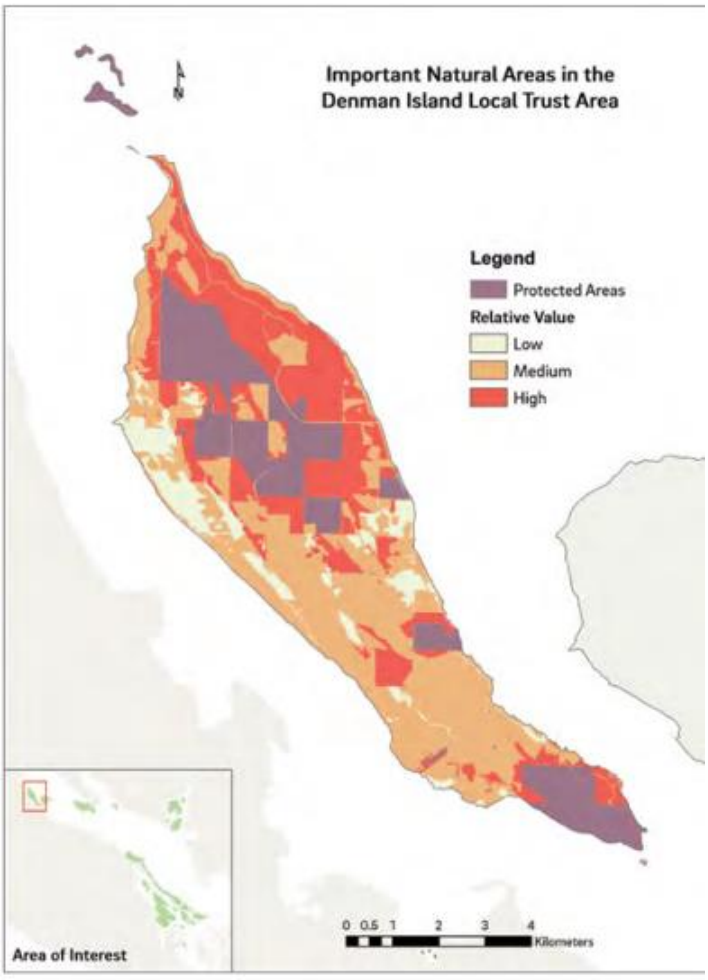
Setback Exemptions

6 Despite setback regulations 1 through 5 in Section 2.3 and setback regulations in Part 3 of this Bylaw, the following may be located in setback areas:

- tanks for the storage of rainwater, provided they do not project more than 1.0 metre

	into the required setback.
Covenants	UNDERSURFACE RIGHTS only
Bylaw Enforcement	Nothing on current TAPIS file
Islands Trust Conservancy	The proposal does not directly affect an Islands Trust Conservancy Board (ITC) owned property or conservation covenant, nor a property adjacent to an ITC-owned property or conservation covenant area. Referral to ITC for comment is not required.

SITE INFLUENCES

Regional Conservation Plan	This area of Denman Island is identified in the Regional Conservation Plan 2018-2027 as having medium priority relative conservation value in the Trust area commensurate with its classification as a Natural Area of medium importance in terms of biodiversity when compared with the rest of Denman island itself and the Trust area. 
Species at Risk	Secure/masked
Sensitive Ecosystems	Portion of upland within CDF, Mature Forest mapped area (house not within area) Not SEI. ITEM: Mature Forest, Rural, Young Forest

Hazard Areas	None currently mapped
Archaeological Sites	See staff report First Nations section.
Climate Change Adaptation and Mitigation	This DVP application seeks to lawfully site proposed residential structures on the property and as such does not propose any additional intensity of use or development beyond what is currently permitted by zoning. GHG emissions can be expected to be commensurate with normal levels associated with Single Family Residential development patterns and use, including the use of personal vehicles for transport on and off island.
Shoreline Classification	Sediment Shoreline - Boulder/Cobble
Marine	Eelgrass, Forage Fish mapped along foreshore approx. 10 metres from natural boundary.

Attachment 5 - Notice

NOTICE
DE-DVP-2021.1 (Gamble)
ISLAND LOCAL TRUST COMMITTEE

NOTICE is hereby given that the Denman Island Local Trust Committee will be considering a resolution allowing for the issuance of a Development Variance Permit, pursuant to Section 498 of the *Local Government Act*, varying subsections of the Denman Island Land Use Bylaw No. 186, 2008, as follows:

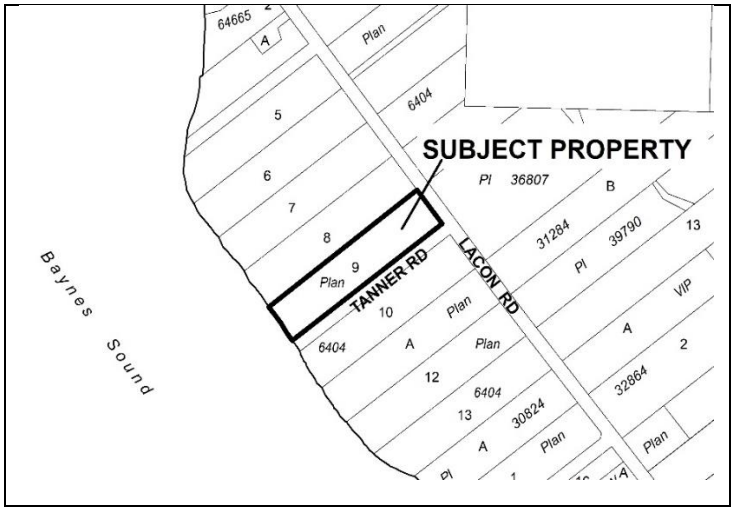
1. PART 2 GENERAL REGULATIONS, Section 2.3 General Setback Regulations, Subsection 3 - Setbacks and Elevations from the Sea, "The minimum setback from the natural boundary of the sea for buildings and structures, except for a boathouse, fence, or access stairway is 15.0 metres for all other buildings and structures" is varied:

- To permit a 2.4 metre X 2.8 metre kitchen/den addition to the existing single family dwelling within 13.09 metres of the natural boundary of the sea as shown on Schedule "A" – Site Plan, Schedule "B" – Addition Floor Plan, and Schedule "C" – Surveyor's Lot Plan to the permit.

The subject property is legally described as:

PID: 005-299-161, THAT PART OF LOT 9, SECTIONS 5 AND 6, DENMAN ISLAND, NANAIMO DISTRICT, PLAN 6404, LYING TO THE SOUTH WEST OF LACON ROAD AS SAID ROAD IS SHOWN ON SAID PLAN

The general location of the subject property is shown in the following sketch:



If you have any questions or comments regarding the proposed Permit, please contact Ian Cox, Planner 2, at 250-247-2204; for Toll Free Access, request a transfer via Enquiry BC: in Vancouver 604-660-2421 and elsewhere in BC at 1-800-663-7867.

Written submissions should be sent to:
Mail: Islands Trust, 700 North Road, Gabriola, BC V0R 1X3;
Email: northinfo@islandstrust.bc.ca
Fax: **250-247-7514**

A copy of the proposed Permit is available to view at the Islands Trust Office, 700 North Road, Gabriola, BC and on the Islands Trust website https://islandstrust.bc.ca/island-planning/denman/current-applications/ commencing **Jun 23, 2021** and continuing up to and including **July 5, 2021**.

Following the end of the notice period, the Denman Island Local Trust Committee may consider issuance of the proposed Permit at its **Electronic Business Meeting** to be held at **10:00 am, Tuesday, July 6, 2021.**

To listen and/ or view the meeting or participate in the Town Hall portion of the Denman Island Trust Committee meeting, on July 6, 2021 starting at 10:00 a.m., the public may join the meeting by:

- **Calling: 855.703.8985 (Toll Free)**
- **Logging into: https://islandstrust.zoom.us/s/62391235347**
- **The Webinar ID number is: 623 9123 5347**

All applications are available for review by the public. Written comments made in response to this notice will also be available for public review.

Becky McErlean, Deputy Secretary

STAFF REPORT

File No.: **DE—DVP-2021.2 (Pandesign Inc.)**

DATE OF MEETING:	July 6, 2021
TO:	Denman Island Local Trust Committee
FROM:	Sonja Zupanec, Island Planner Northern Team
SUBJECT:	**Development Variance Permit DE-DVP-2021.2** Applicant: Henning Nielsen – Pandesign Inc. Location: 1151 Kirk Road, Denman Island (PID 000-393-941)

RECOMMENDATION

1. **That the Denman Island Local Trust Committee approve issuance of Development Variance Permit DE-DVP-2021.2 (Pandesign Inc.).**

REPORT SUMMARY

The purpose of this staff report is to introduce Development Variance Permit application DE-DVP-2021.2 for consideration by the Denman Island Local Trust Committee (LTC). The application proposes to vary the minimum lot size for the currently split-zoned R1 portion (0.28 ha) of the 1151 Kirk Road property, in order to permit a subdivision (DE-SUB-2021.1) along the existing zone boundary as shown in Figure 1 and 2. This DVP application is the first step of a multi-phased project proposal (variance, subdivision, rezoning) to create up to 20-units of affordable rental housing on Denman Island. Staff are recommending approval of this variance request.

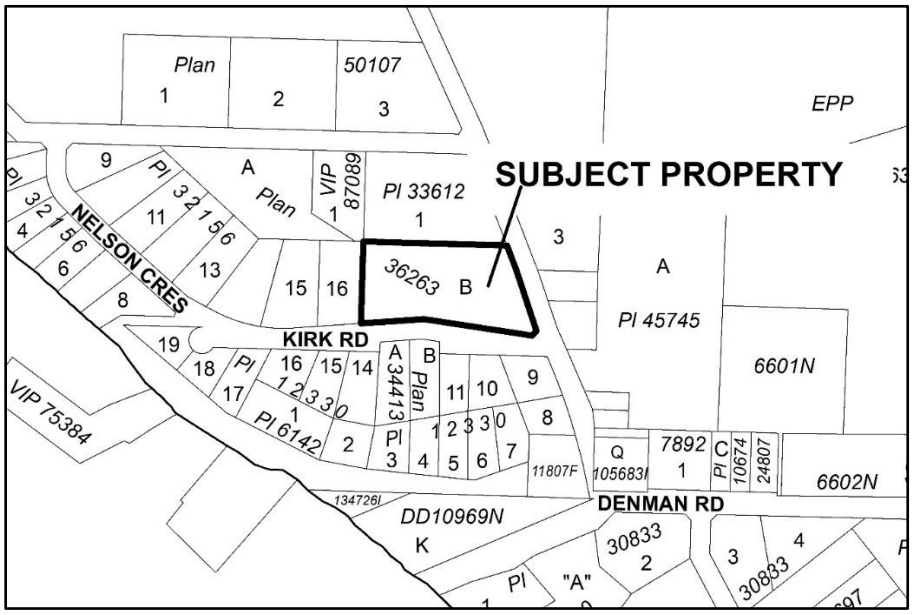


Figure 1 – Subject Property Map

BACKGROUND

As shown in Figure 2 below (and noted in Attachment 1), the subject property is currently split-zoned.

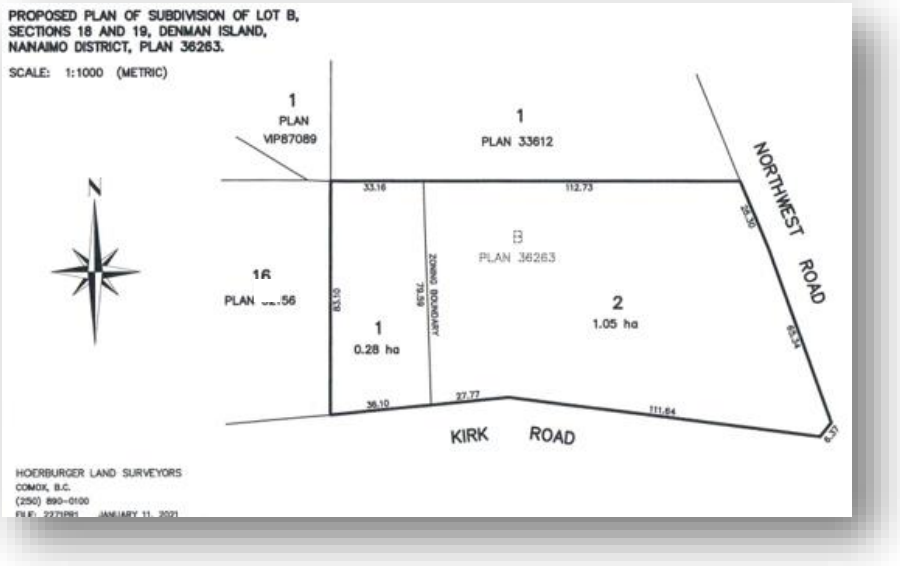


Figure 2 –Proposed Plan of Subdivision along Zone Boundary

The purpose of this variance request is to reduce the required minimum lot size (1.0 ha) for the R1-portion (0.28ha) of the subject property to permit subdivision along existing zone boundary of split zoned lot. The Commercial portion of the lot meets the 1.0 ha minimum lot size for subdivision.

The applicant applied to the Ministry of Transportation and Infrastructure to subdivide the subject property and the staff referral response (April 22, 2021) noted that a DVP was required to vary the minimum lot size. This DVP is the first step of a multi-phased development proposal, whereby step 2 would be subdivision along the zone boundary (to allow the applicant to sell the R1-zoned portion to recoup initial capital investment), while working to complete step 3, which would be to rezone to permit the affordable housing project in agreement with the Denman Housing Association (DHA).

The draft DVP is included as Attachment 2, and the Notice that was circulated to neighbouring property owners is included as Attachment 3.

ANALYSIS

Policy/Regulatory

A comprehensive site context analysis is provided in Attachment 1. The policies and regulations that pertain to this application are summarized below.

Denman Island Land Use Bylaw No. 186:

As shown in Figure 2 above, under the current LUB, the subject property is split-zoned, with most of the lot (1.06ha) zoned Commercial (C), and the remainder of the lot (0.28ha) zoned Residential (R1).

As noted in Attachment 2, Subsection 3.3 (Residential Zoning Tables) Table 7, lines 1 and 2 of the LUB are to be varied to permit the variance requested by this application:

1) Maximum density permitted by subdivision is an average of one lot per 1.0 ha in the R1 zone; and
2) Minimum lot area permitted by subdivision is 1.0ha, subject to the regulations in 2.8

Further, although the subject property is within Development Permit Area 5 (Commercial/Village), no land alteration is currently being proposed by this application, so a Development Permit application is not required at this time.

Issues and Opportunities

Density

Staff note that this is not a density variance request, as no change in density will result from this requested variance. The increase in density to the Commercial zoned portion of the lot is pending review and approval of concurrent application DE-RZ-2021.1 (DHA). The Denman LUB assigns a density to each portion of a lot that is split zoned and one dwelling is already permitted on each split zone portion of the lot. Section 1.5 of the Land Use Bylaw states:

> ***"1.5 Determination of Density – Lots in Two or More Zones***
>
> ***1. If a lot is in two or more zones, for the purposes only of the regulations in Part 3 of this Bylaw regarding units per hectare, lot coverage and minimum lot areas, the portions of the lot that have different zoning classifications must be considered as if they were separate lots."***

Consultation

Notification of this DVP application (Attachment 3) was distributed to neighbouring property owners and tenants within 100 metres in accordance with statutory requirements. No correspondence had been received prior to distribution of the notification; any submissions received following the preparation of this staff report will be presented to the LTC for their consideration during their regular business meeting on July 6, 2021.

First Nations

An early referral of this application and the companion rezoning application was sent to K'omoks First Nation on April 30, 2021. No comments from the Nation had been received prior to completion of the staff report. As noted in the site context in Attachment 1, according to provincial information, all coastal areas including the Denman Island Local Trust Area are identified as having the potential to contain recorded or unrecorded areas of archeological and cultural significance. Notwithstanding the foregoing, and by copy of this report, the owners and applicant should be aware that there is still a chance that the lot may contain previously unrecorded archaeological material that is protected under the *Heritage Conservation Act*. If such material is encountered during development, all work should cease and the BC Archaeology Branch should be contacted immediately as a *Heritage Conservation Act* permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work.

The Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. As reviewed, the DVP application is consistent with respect to LTC Standing Resolutions on reconciliation. Notwithstanding, to provide applicants with awareness regarding

unknown archaeological areas, staff forwarded the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on Heritage Act directly to the applicants with the initial application.

Rationale for Recommendation

As there will be no change in density, and that this application (and the other applications in this multi-phased affordable housing project proposal) does not appear to be contrary to the ITPS, OCP, or LUB, staff are recommending approval of this variance request, as noted on page 1 of this report.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation on page 1 of this report:

1. **Request further information**

   The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

   That the Denman Island Local Trust Committee request further information prior to making a decision on application DE-DVP-2021.2 [specify information requested].

2. **Deny the application**

   The LTC may deny the application. If this alternative is selected, the LTC must state the reasons for denial. Recommended wording for the resolution is as follows:

   That the Denman Island Local Trust Committee deny application DE-DVP-2021.2 for the following reasons [specify reasons].

3. **Hold the application in abeyance**

   The LTC may choose to hold the application in abeyance pending review of companion report for DE-RZ-2021.1 (DHA). If this alternative is selected, the LTC should specify the reasons for holding the application in abeyance. Recommended wording for the resolution is as follows:

   That the Denman Island Local Trust Committee hold application DE-DVP-2021.2 in abeyance for the following reasons [specify reasons].

NEXT STEPS

Should the LTC concur with staff's recommendations on page 1 of this report, staff will issue the Development Variance Permit as drafted in Attachment 2 and advise the Provincial Approving Officer that this condition of the subdivision referral response has been met.

Submitted By:	Sonja Zupanec, RPP, MCIP, Island Planner	June 9, 2021
Concurrence:	Heather Kauer, MPA, RPP, MCIP, AICP Regional Planning Manager	June 10, 2021

ATTACHMENTS

1. Site Context
2. Draft Development Variance Permit (DVP)
3. DVP Notice

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	Lot B, Sections 18 and 19, Denman Island, Nanaimo District, Plan 36263
PID	000-393-941
Civic Address	1151 Kirk Road, Denman Island
Lot Size	R1-zoned portion = 0.28 ha C-zoned portion = 1.06 ha

LAND USE

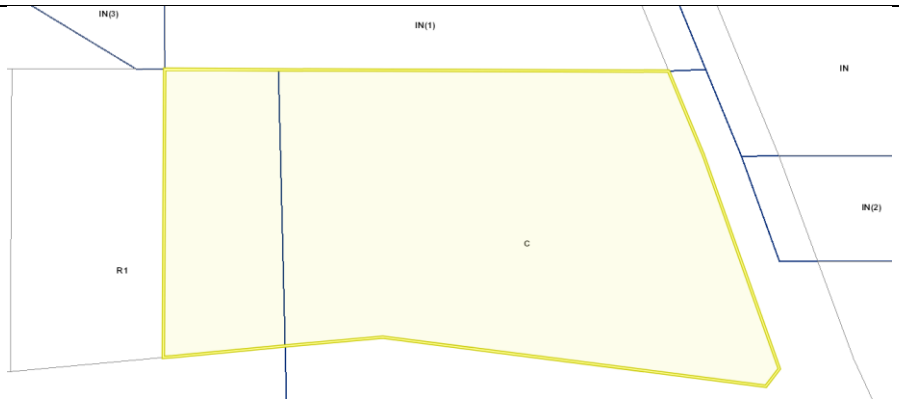
Current Land Use	There are no current uses on the R1-zoned portion. The C-zoned portion of the lot is currently vacant.
Surrounding Land Use	North: Institutional Use East: Institutional and Commercial use South: Institutional and Residential use West: Residential use

HISTORICAL ACTIVITY

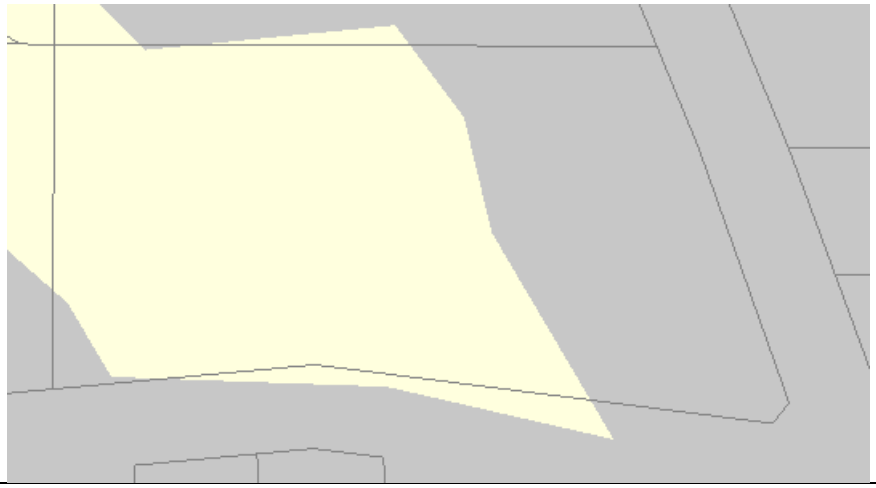
File No.	**Purpose**
UN-DP-1990.31	File not retrieved
DE-RZ-1990.11	File not retrieved
UN-DP-1991.2	File not retrieved
DE-DP-1994.1	File not retrieved
DE-DP-2006.1	DP issued for dry storage addition to existing store building, plus a cabin; includes parking requirements, finishing materials, landscaping etc.
DE-SUP-2007.6	SUP issued to add a small cabin and an addition to existing store building.
***DE-SUB-2021.1**	OPEN/Concurrent with this application. TBD: • Assuming this variance is issued (DE-DVP-2021.2), the applicant intends to then subdivide the Kirk Rd property along the zone boundary, thereby resulting in one R1-zoned portion (0.28 ha) and one C-zoned portion (1.06 ha). Intent is to have 'C' portion be rezoned to permit up to 20 units of affordable rental housing and transferred to the Denman Housing Association upon successful rezoning of other donor/receiver lands also part of the application. • Will likely require a covenant to be on 'C' portion that the land cannot be sold until DE-RZ-2021.1 is completed
***DE-RZ-2021.1**	OPEN/Concurrent with this application. TBD: • Rezone 'C' portion of Kirk Rd property to allow up to 20 units of rental affordable housing; • Rezone non-ALR portion of another property at Woodham Rd to reduce density from 7 to 4; and • Rezone (proposed) Lots 4 and 5 of a third property (on Danes Rd) to permit subdivision and increase density from 2 to 5.

POLICY/REGULATORY

Denman Island Official Community Plan (OCP) No. 185	OCP Schedule C indicates that the subject property is currently split-designated: • Most of the lot is designated: Village • Remainder of the lot is designated: Residential OCP Schedule D: The subject property is not within a "Sensitive Area". OCP Schedule E indicates that the subject property is within Development Permit Area No. 5 – Commercial/Village This is a form and character DPA, including for multi-family housing proposals, and it is also within a Development Approval Information (DAI) area. The Justification and Objective of DPA 5 is outlined as follows in the OCP, though the DPA Guidelines themselves are found in the Land Use Bylaw (see section below): "Justification: Commercial development on the Island is needed to service a growing permanent population, although a full range is not necessary due to the proximity of the Island to the Courtenay retail service area. To ensure the quiet rural lifestyle of the Island is maintained, the form and character of development should fit with the rural character of the Island. Objective: The objectives of this development permit area are as follows: 1. To ensure that commercial development is small scale in keeping with the rural character of Denman Island." OCP Schedule F: The subject property is not a Beach Right-of-Way. OCP Schedule G: The subject property is within an area that the Comox Valley Regional District envisions for a "Cross island ferry-to-ferry multi-use trail/greenway" and fronts on Northwest Road, which is envisioned for a "North-South multi-use trail/greenway".
Denman Island Land Use Bylaw (LUB) No. 186	The subject property is currently split-zoned: • Most of the lot is zoned Commercial (C) • Remainder of the lot is zoned Residential (R1)

	 Variance requested is to vary the minimum lot size for the R1 portion in order to permit subdivision along the existing zone boundary of this split-zoned property. As this application is part of a larger development proposal, including a Subdivision and Rezoning application, staff note that this is not a density variance request, as no change in density will result from this proposal. Subsection 3.3 (Residential Zoning Tables) Table 7, lines 1 and 2 are to be varied for the subject property: 1) Maximum density permitted by subdivision is an average of one lot per 1.0 ha in the R1 zone 2) Minimum lot area permitted by subdivision is 1.0ha, subject to the regulations in 2.8 Although the subject property is within DPA5, as no land alteration is currently being proposed by this application, a Development Permit application is not required.
Covenants/Interests Registered on Title	• A Title Search found no Covenants registered on title. • Undersurface Rights and a BC Hydro ROW are registered interests. • Title notes that the land is affected by a previous permit(s) as noted in the "Historical File Activity" section above.
Bylaw Enforcement	DE-BE-2007.3 – Development Permit required. CLOSED. DE-BE-2020.1 – Land Use violation. CLOSED.

SITE INFLUENCES

Islands Trust Conservancy (ITC)	n/a – This application does not directly affect an ITC-owned property or conservation covenant; nor does it directly affect a property adjacent to an ITC-owned property or conservation covenant. It also does not pertain to terrestrial or intertidal Crown Land located within 100m of an ITC-owned property or conservation covenant.
ITC Regional Conservation Plan (2018 – 2027)	n/a – This application does not appear to be inconsistent or contrary to the goals and objectives set out in the ITC Regional Conservation Plan.
Species at Risk	No Species at Risk data identified.
Sensitive Ecosystems	No Protected Areas data identified. Islands Trust Ecosystem Mapping (ITEM) identifies the majority of the subject property as "young forest" and the remainder as "developed". 
Hazard Areas	None identified.
Archaeological Sites	According to provincial information, all coastal areas including the Denman Island Local Trust Area are identified as having the potential to contain recorded or unrecorded areas of archeological and cultural significance. Notwithstanding the foregoing, and by copy of this report, the owners and applicant should be aware that there is still a chance that the lot may contain previously unrecorded archaeological material that is protected under the *Heritage Conservation Act*. If such material is encountered during development, all work should cease and the BC Archaeology Branch should be contacted immediately as a *Heritage Conservation Act* permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work.
Climate Change Adaptation and Mitigation	No anticipated climate-change induced hazards on the proposed development.
Shoreline Classification	Not Applicable
Shoreline Data in TAPIS	Not Applicable

DRAFT

Islands Trust	**DENMAN ISLAND LOCAL TRUST COMMITTEE** **DEVELOPMENT VARIANCE PERMIT NO. DE-DVP-2021.2**

TO: Pandesign Inc.(Henning Nielsen)

1. This Development Variance Permit applies only to the land described below:

PID: 000-393-941, 1151 Kirk Road, Denman Island, BC

Lot B, Sections 18 and 19, Denman Island, Nanaimo District, Plan 36263

2. Pursuant to Section 498 of the *Local Government Act*, the *Denman Island Land Use Bylaw No. 186, 2008* is varied as follows:

1. PART 3 ZONE REGULATIONS, Section 3.3 RESIDENTIAL ZONING TABLES, Table 7 – Subdivision, Line 1, the "maximum density permitted by subdivision is an average of one lot per 1.0ha for the R1 zone", is varied:

   - **To permit an average of one lot per 0.28 ha, only for the R1-zoned portion of the land described above in order to permit subdivision of the subject property as shown in Schedule 'A' attached;** and

2. PART 3 ZONE REGULATIONS, Section 3.3 RESIDENTIAL ZONING TABLES, Table 7 – Subdivision, Line 2, the "minimum lot area permitted by subdivision, subject to the regulations in 2.8 is 1.0 ha for the R1 zone", is varied:

   - **To permit a minimum lot area of 0.28 ha, only for the R1-zoned portion of the land described above in order to permit subdivision of the subject property as shown in Schedule 'A' attached;.**

3. This permit is not a Building Permit or a Siting and Use Permit, and does not remove any obligation on the part of the permittee to comply with all other requirements of the Denman Island Land Use Bylaw No. 186, 2008 including use and density, and to obtain other appropriate approvals necessary for completion of the proposed development.

AUTHORIZING RESOLUTION PASSED BY THE DENMAN ISLAND LOCAL TRUST COMMITTEE THIS _____ DAY OF _____, 2021.

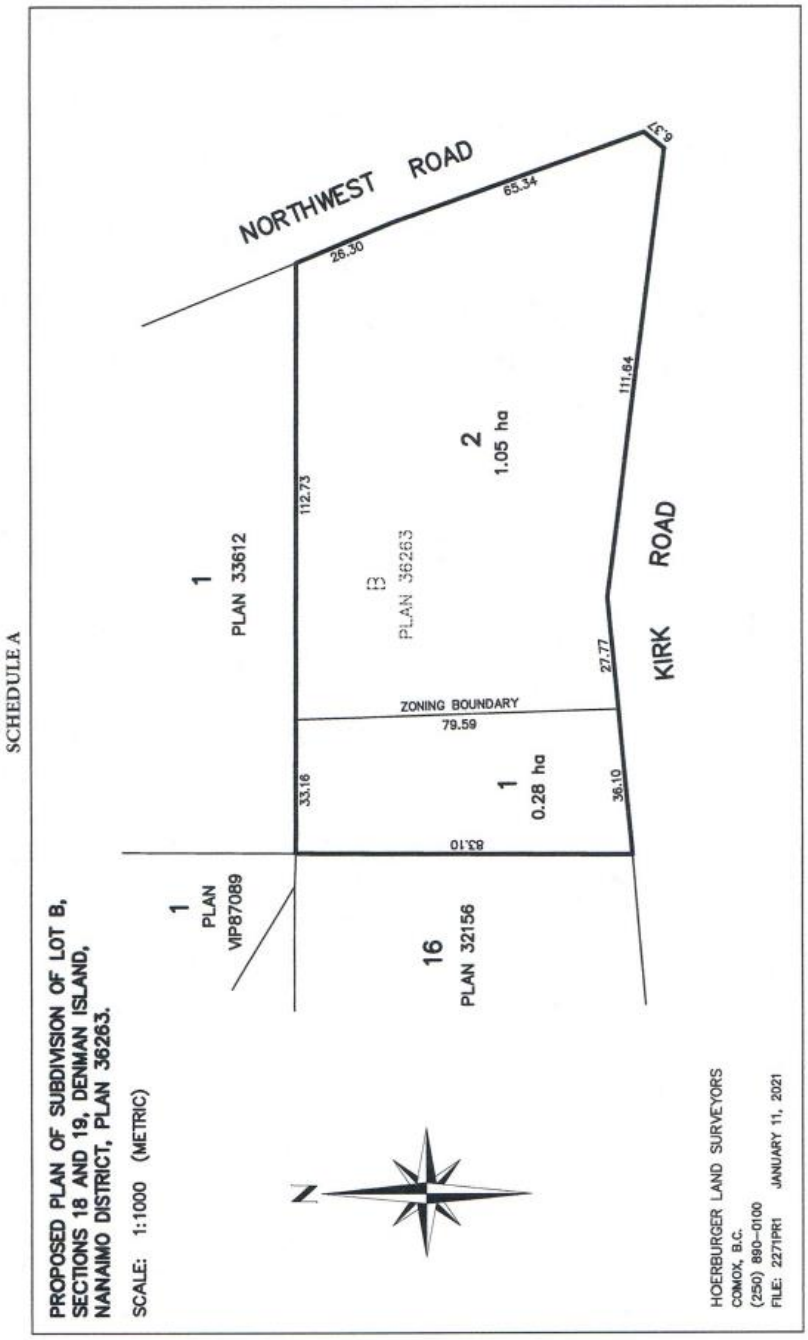
_____ _____

Deputy Secretary, Islands Trust **Date of Issuance**

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE _____ DAY OF _____, 2023, THIS PERMIT AUTOMATICALLY LAPSES.

DRAFT

DE-DVP-2021.2 SCHEDULE 'A' PROPOSED PLAN OF SUBDIVISION



NOTICE
DE-DVP-2021.2 (Pandesign Inc.)
DENMAN ISLAND LOCAL TRUST COMMITTEE

NOTICE is hereby given that the Denman Island Local Trust Committee will be considering a resolution allowing for the issuance of a Development Variance Permit, pursuant to Section 498 of the *Local Government Act*, varying subsections of the Denman Island Land Use Bylaw No. 186, 2008, as follows:

1. PART 3 ZONE REGULATIONS, Section 3.3 RESIDENTIAL ZONING TABLES, Table 7 – Subdivision, Line 1, the "maximum density permitted by subdivision is an average of one lot per 1.0ha for the R1 zone", is varied:

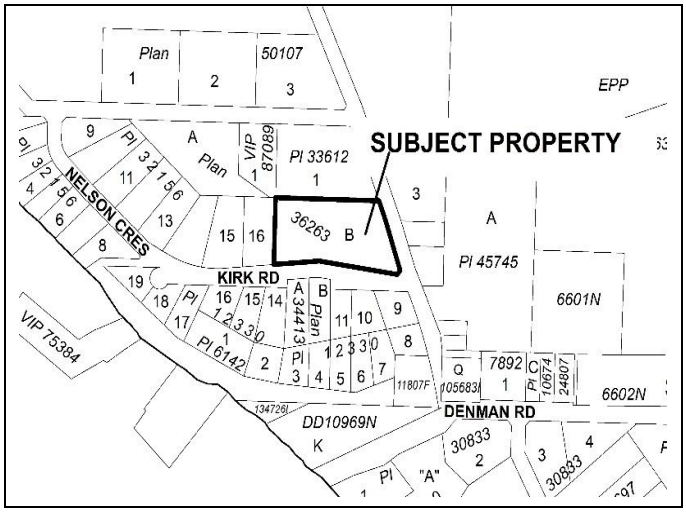
   - To permit an average of one lot per 0.28 ha for the R1-zoned portion of the land described as PID: 000-393-941, Lot B, Sections 18 and 19, Denman Island, Nanaimo District, Plan 36263; and

2. PART 3 ZONE REGULATIONS, Section 3.3 RESIDENTIAL ZONING TABLES, Table 7 – Subdivision, Line 2, the "minimum lot area permitted by subdivision, subject to the regulations in 2.8 is 1.0 ha for the R1 zone", is varied:

   - To permit a minimum lot area of 0.28 ha for the R1-zoned portion of the land described as PID: 000-393-941, Lot B, Sections 18 and 19, Denman Island, Nanaimo District, Plan 36263.

The subject property is legally described as:
PID: 000-393-941, Lot B, Sections 18 and 19, Denman Island, Nanaimo District, Plan 36263.

The general location of the subject property is shown in the following sketch:



If you have any questions or comments regarding the proposed Permit, please contact Sonja Zupanec, Island Planner, at 250-247-2211; for Toll Free Access, request a transfer via Enquiry BC: in Vancouver 604-660-2421 and elsewhere in BC at 1-800-663-7867.

Written submissions should be sent to:
Mail: Islands Trust, 700 North Road,
Gabriola, BC V0R 1X3;
Email: northinfo@islandstrust.bc.ca
Fax: **250-247-7514**

A copy of the proposed Permit is available on the Islands Trust website https://islandstrust.bc.ca/island-planning/denman/current-applications/ commencing **Jun 23, 2021** and continuing up to and including **July 5, 2021**.

Following the end of the notice period, the Denman Island Local Trust Committee may consider issuance of the proposed Permit at its **Electronic Business Meeting** to be held at **10:00 am, Tuesday, July 6, 2021.**

To listen and/ or view the meeting or participate in the Town Hall portion of the Denman Island Trust Committee meeting, on July 6, 2021 starting at 10:00 a.m., the public may join the meeting by:

- **Calling: 855.703.8985 (Toll Free)**
- **Logging into: https://islandstrust.zoom.us/s/62391235347**
- The **Webinar ID number is: 623 9123 5347**

All applications are available for review by the public. Written comments made in response to this notice will also be available for public review.

Becky McErlean, Deputy Secretary

STAFF REPORT

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

DATE OF MEETING:	July 6, 2021
TO:	Denman Island Local Trust Committee
FROM:	Sonja Zupanec, Island Planner Northern Team
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 Denman Island Local Trust Committee Bylaw No. 239 cited as "Denman Island Housing Agreement Bylaw No. 239, 2020", Schedule B is amended as follows:**

    a. **Replace section 2. with the following text: "2. Only Seniors, that is, persons who are at least 65 years of age (to a maximum of two such persons) may apply for an Affordable Dwelling Unit. Seniors of all ethnicities and races including but not limited to all on-reserve and off-reserve, status an non-status, and self-identifying indigenous, Inuit and Metis people may become "Tenants" upon entering into a tenancy agreement.";**

    b. **Section E. Rental rates, subsection i., be amended by adding the following to the end of the clause: "provided 'rent' does not include any sums received by way of institutional rent subsidy or rent assistance available from time to time."**

    c. **Remove section 9(i) and renumber 9 ii), iii) and iv); and**

    d. **Add a new section after 11. "12. Tenants at Pepper Lane will be entitled to age in place provided they arrange for any medical or other personal assistance they require."**

2. **That Denman Island Local Trust Committee Bylaw No. 239, cited as "Denman Island Housing Agreement Bylaw No. 239, 2020", be read a second time as amended.**

3. **That Denman Island Local Trust Committee Bylaw No. 239, cited as "Denman Island Housing Agreement Bylaw No. 239, 2020", be read a third time.**

4. **That Denman Island Local Trust Committee Bylaw No. 239, cited as "Denman Island Housing Agreement Bylaw No. 239, 2020", be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee.**

5. **That the Denman Island Local Trust Committee request staff to amend the Restrictive Covenant as follows:**

a. **Section 2 No Build – (a) add the text "or amendment thereto approved by the ALC" to the end of the sentence.**

b. **Section 2 No Build – (c) delete text and replace with "Before construction of any buildings, it erects (and thereafter maintains) a solid wood fence suitable to enhance visual privacy and mitigate dust along its entire shared boundary (including driveway) with its three neighbouring properties as 3716, 3690 and 3676 Denman Road."**

c. **Section 2 No build – (d) delete text and replace with "In the course of construction of any buildings, it installs a berm along its shared southerly boundary (excluding driveway) with its neighbour at 3806 Denman Road, said berm to be a minimum height of 1.5 metres."**

d. **Section 6 Monitoring and Reporting Requirements – (c) i. remove the text "and a hydrograph showing continuous groundwater levels, temperature, electric conductivity and monthly periodic water volume totals";**

e. **Schedule "D" Water Champion Covenant Annual Report Template, In Scope – remove the sixth bullet and remove the "Well Monitoring Analysis" section entirely.**

REPORT SUMMARY

The Denman Community Land Trust Association (DCLTA) has requested the above noted changes to the Housing Agreement (Proposed Bylaw No. 239 – Attachment 1) and the draft restrictive covenant (Attachment 2) for application DE-RZ-2017.1. Although the application's bylaw nos. 233 (OCP) and 234 (LUB) are now post public hearing, the Local Trust Committee (LTC) can consider this supplemental information as it is not considered 'new information' and does not change the use, density or content of either proposed bylaw to amend the Official Community Plan (OCP) or Land Use Bylaw (LUB).

BACKGROUND

At their January 2021 business meeting, the LTC passed the following resolutions:

> **DE-2021-030 It was MOVED and SECONDED,**
> that the Denman Island Local Trust Committee request staff to work with the applicant and address concerns with adjacent property owners with concerns to clauses (c) and (d) and return alternative language with respect to the Restrictive Covenant for Local Trust Committee consideration. **CARRIED**

The applicant has suggested alternate wording to address concerns with adjacent property owners. They note that one adjacent property would prefer a concrete sound barrier, which the DCLTA is not agreeing to. Staff recommend the revised wording as presented in the recommendations on page 1 of this report.

> **DE-2021-031 It was MOVED and SECONDED,**
> that the Denman Island Local Trust Committee request staff to review clause 6 (c)(Water Champion Covenant Annual Report) of the draft Restrictive Covenant and to provide alternative suggestions to reduce or eliminate the burden of expense on the applicant. **CARRIED**

The applicant has suggested the removal of the requirements for a hydrograph and well monitoring analysis from the annual report. This is consistent with the LTC resolution. Staff recommend the revised wording as presented in the recommendations above.

DE-2021-032 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", Section E. Rental rates, subsection i., be amended by adding the following to the end of the clause: "provided 'rent' does not include any sums received by way of institutional rent subsidy or rent assistance available from time to time." **CARRIED**

This amendment required second reading as amended, to be enacted, which was not done in January 2021. 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 as amended to the bylaw.

DE-2021-033 It was MOVED and SECONDED,
that the Denman Island Local Trust request staff bring back a draft amendment to the Housing Agreement to specify that the qualified occupant definition be expanded so that it includes but is not limited to on-reserve and off-reserve status and non-status and/or self-identified Indigenous, Inuit, or Native people. **CARRIED**

DE-2021-034 It was MOVED and SECONDED,
that the Denman Island Local Trust Committee request staff to work with the applicant to add a phrase regarding the ability to adapt the tenant selection procedure. **CARRIED**

The applicant has submitted suggested wording, supported by staff recommendations above.

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.

Rationale for Recommendation

The DCLTA are requesting amendments to Proposed Bylaw No. 239 (Housing Agreement) and to the draft restrictive covenant to be registered on title should the rezoning application be approved. These amendments are consistent with LTC direction. Staff recommendations are found on Page 1 of the staff report.

NEXT STEPS

Should the LTC concur with the staff recommendation, staff will update both documents with the approved changes and post to the web. Once Proposed Bylaw No. 233 (OCP) is approved by the Minister of Municipal Affairs, it, and Proposed Bylaw 234 (LUB) and 239 (Housing Agreement) can be considered for adoption by the LTC.

Submitted By:	Sonja Zupanec, RPP, MCIP Island Planner	June 15, 2021
Concurrence:	Heather Kauer, RPP, MCIP, AICP Regional Planning Manager	June 18, 2021

ATTACHMENTS

1. Proposed Bylaw No. 239 (Housing Agreement)
2. Draft Restrictive Covenant

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	19TH	DAY OF	JANUARY	, 2021
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**

LAND TITLE ACT

TERMS OF INSTRUMENT – PART 2

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 160% 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.

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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 160% 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 RRIFs. 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 asdetailed 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.

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.

   (c) it constructs a solid fence suitable to mitigate noise and dust along the driveway of the subject property and the neighbouring property at 3716 Denman Road.

   (d) it establishes an area for the regeneration of the natural vegetation to create a buffer along the northern border of the neighbouring property at 3716 Denman Road.

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

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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 dwellings on the Land, 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

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(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.

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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.

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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.

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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.

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Schedule A

ALC Resolution #359/2018

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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@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.

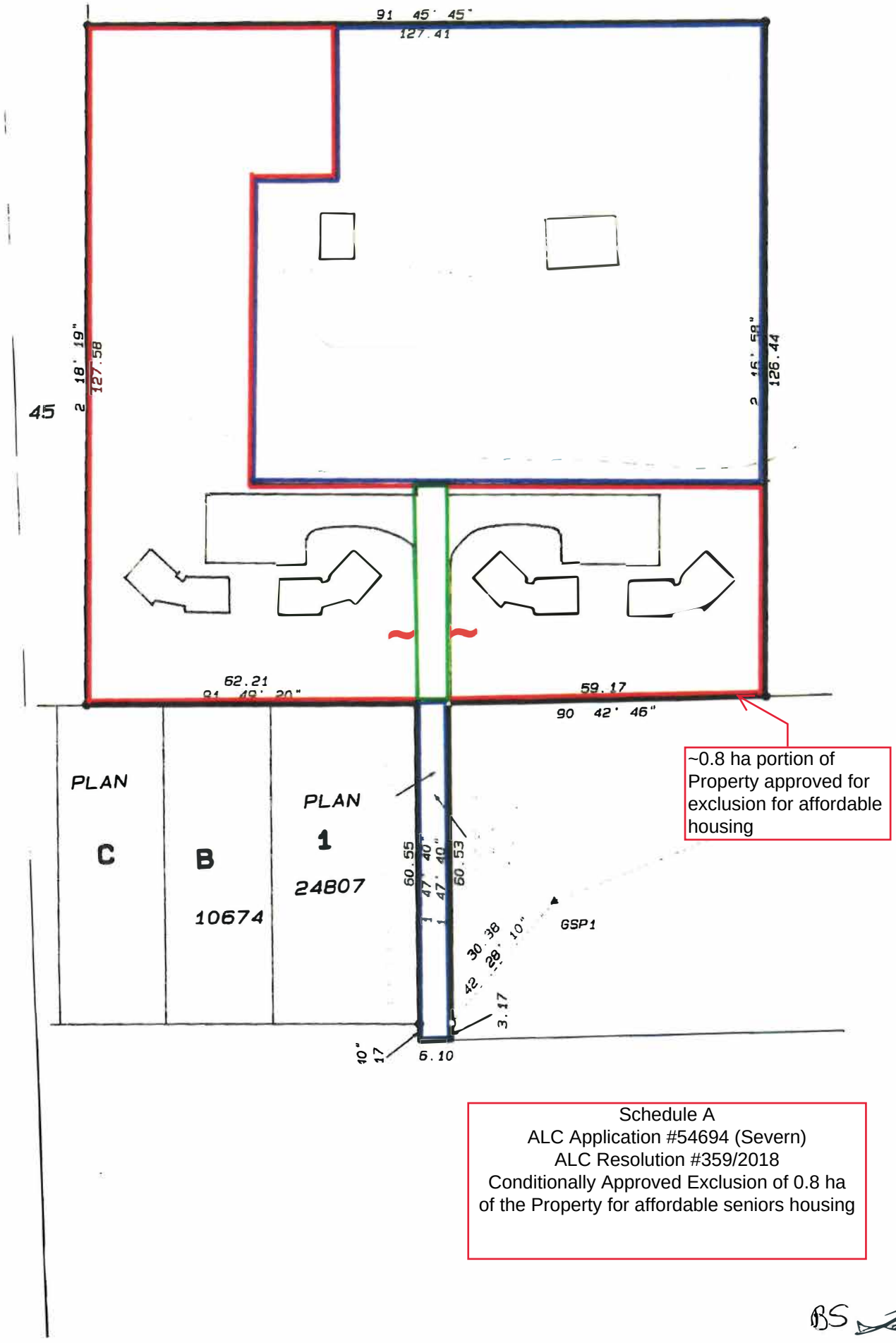
[21] Resolution #359/2018

Released on November 14, 2018



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

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

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.

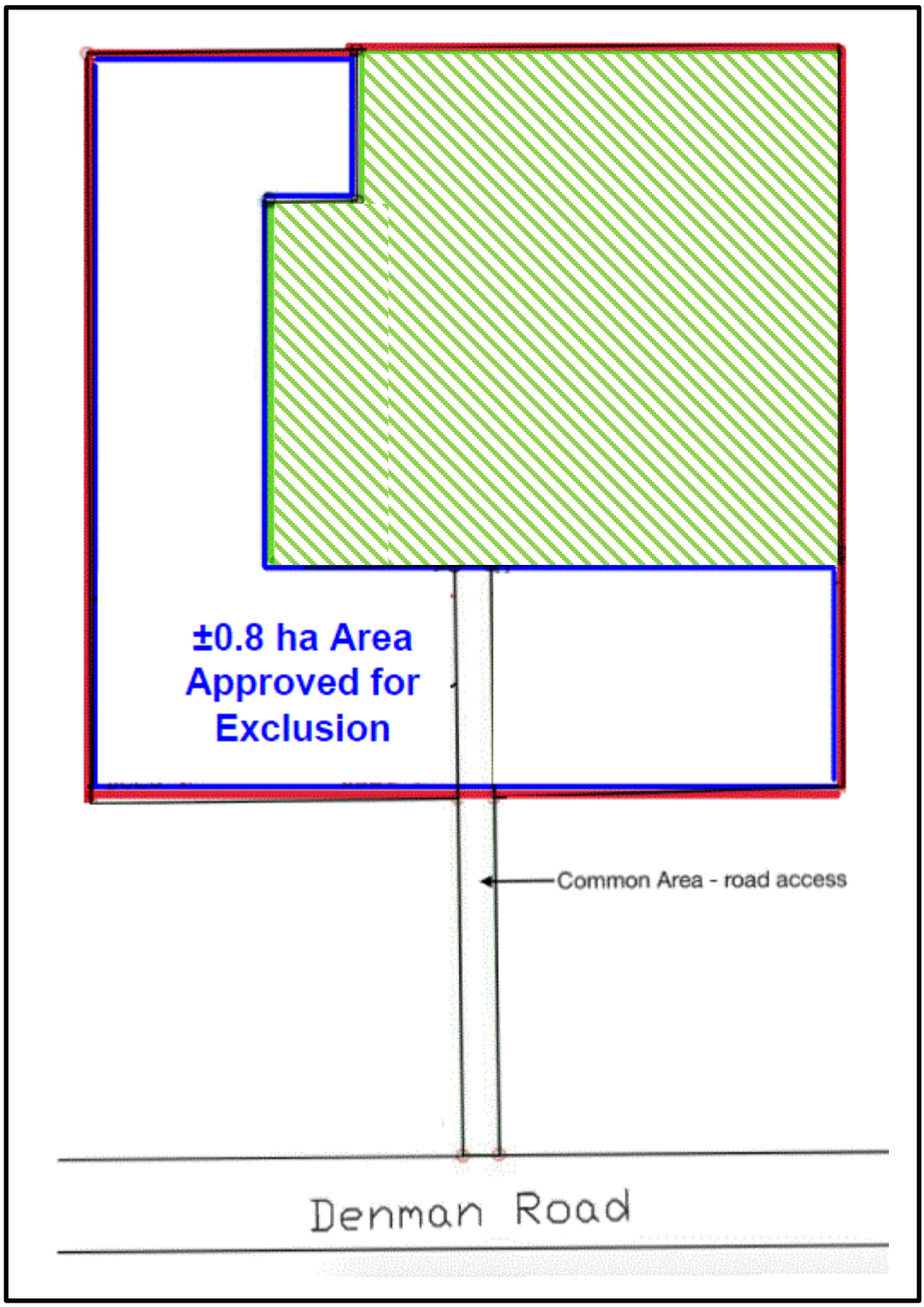
[16] A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the *ALCA*.

[17] Resolution #448/2019

Released on November 28, 2019



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 *Ceonothus 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]


Lot "M"
Buffer in pink. Gates as ( )
Dennard Road

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 lF: 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

WATER CHAMPION COVENANT ANNUAL REPORT

Islands Trust

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 water licence 500469; and (d) mitigate risk potential of salt water intrusion on the source well and/orreceiving 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			

STAFF REPORT

File No.: DE-RZ-2021.1 (Denman Housing Association/ Pandesign)

DATE OF MEETING:	July 6, 2021
TO:	Denman Island Local Trust Committee
FROM:	Sonja Zupanec, RPP, MCIP Northern Team
SUBJECT:	Application to amend the OCP and LUB to allow for a density transfer and 20 units of Affordable Housing – "Denman Green" Project Applicant: Simon Palmer on behalf of the Denman Housing Association and Henning Nielsen Location: PID 009-704-523, PID 000-393-941 AND PID 006-660-495 Denman Island

RECOMMENDATION

1. **That the Denman Island Local Trust Committee request staff to prepare a draft bylaw to amend the Denman Island Official Community Plan, 2008, to enable application DE-RZ-2021.1 (Denman Housing Association).**

2. **That the Denman Island Local Trust Committee request staff to prepare a draft bylaw to amend Denman Island Land Use Bylaw, 2008, to enable application DE-RZ-2021.1 (Denman Housing Association).**

3. **That the Denman Island Local Trust Committee request the applicant for DE-RZ-2021.1 (Denman Housing Association) to submit the following to the Local Trust Committee prior to a public hearing being considered/scheduled:**

    a. **Confirmation from a qualified professional that the receiver parcels PID 000-393-941 AND PID 006-660-495, have adequate conditions to support community sewage treatment or other approved systems, compliant with the BC Sewerage System Regulation under the *Health Act* for the proposed increase in density;**

    b. **a copy of the provincial water license intended to supply water to the 20 units of affordable rental housing;**

    c. **a water management plan based on an approved provincial water license and expanding on the findings of the May 2021 hydrogeological assessment for 1151 Kirk Road, to address:**

        i. **peak and expected water demand calculations;**

        ii. **water conservation commitments to exceed BC Building Code requirements;**

        iii. **minimum onsite storage capacity for potable, non-potable, rainwater and fire suppression and types of storage being considered;**

iv. **emergency considerations should temporary demand be greater than designed storage or well capacity;**

v. **proposed plan for irrigation and grey-water re-use;**

vi. **proposed groundwater monitoring and reporting; and**

vii. **proposed stormwater management.**

4. **That the Denman Island Local Trust Committee request the applicant for DE-RZ-2021.1 (Denman Housing Association) enter into a cost recovery agreement with the Islands Trust for the purposes of drafting:**

    a. **a housing agreement for 20 units of affordable rental housing (Denman Green); and**

    b. **a restrictive covenant for compliance with BC Energy Step Code, water conservation and groundwater monitoring.**

5. **That the Denman Island Local Trust Committee request staff to advise the applicant for DE-SUB-2021.1 (Pandesign Inc.) that a covenant or other legal instrument be registered on the "Commercial" zoned portion of lot PID 000-393-941, 1151 Kirk Road, to prevent the sale or transfer of the subdivided parcel until such a time that application DE-RZ-2021.1 (Denman Housing Association) is completed, and that confirmation that this has been completed is submitted to the Islands Trust as soon as the subdivision of the subject property is registered on title.**

6. **That the Denman Island Local Trust Committee request staff to report back on engagement with the Archaeological Branch and K'omoks First Nation on whether an Archaeological Overview Assessment for the commercial zoned portion of PID 000-393-941 (1151 Kirk Road) should be requested as a condition of the Local Trust Committee's consideration of an increase in density on the subject property through application DE-RZ-2021.1 (Denman Housing Association).**

7. **That the Denman Island Local Trust Committee request staff to send an early referral of DE-RZ-2021.1 (Denman Housing Association) to the Denman Island Fire Department, the Islands Trust Conservancy and Islands Trust Freshwater Specialist for comment.**

REPORT SUMMARY

This application proposes amendments to the Denman Island Official Community Plan (OCP) and Land Use Bylaw (LUB) to transfer density between three parcels on the island and draw upon the Denman Island density bank. The intent of the density transfer is to enable the future development of 20 units of rent-controlled, affordable housing in the Denman Village. The units would be owned and managed by the Denman Housing Association (DHA – the applicant), who have signed an agreement of intent with a property owner to acquire 1 hectare of land in the Village for the purposes of developing up to 20 affordable rental units, the transfer of title being contingent on completion of an OCP and LUB amendment application detailed in this staff report.

This preliminary staff report recommends the Local Trust Committee (LTC) request additional information and that draft bylaws be prepared for future consideration.

BACKGROUND

All relevant professional reports and background information are posted to the Islands Trust applications page. The Islands Trust Executive Committee (EC) approved sponsorship of this bylaw amendment application on April 14, 2021.

Project Rationale

The DHA was incorporated in 2012 with the purpose of addressing the need for affordable housing on Denman Island. The DHA commissioned a housing needs study in 2013 and concluded that over 120 people on Denman Island were living in sub-standard and/or unaffordable rental housing. The proposed 'Denman Green' affordable housing project is the second attempt by the association to formally rezone a parcel of land in order to address a housing need on Denman Island that has been documented in both the DHA commissioned study and the 2018 Islands Trust Housing Needs Assessment report.

The applicant held an independently facilitated community meeting on May 12, 2021 on Denman Island with 23 members of the public attending to learn more about the proposal. The project is proposed to be financed by BC Housing in the form of grants and a secured mortgage and the applicant has indicated DHA intends to submit an application to BC Housing in June 2022. Figure 1 shows the location of the three subject properties involved in this application and concurrent subdivision and development variance permit applications.



Receiver Parcel (Danes) – increase from two permitted dwellings to a new layout permitting five lots/dwellings *(Proposed Lots 4,5 x ref DE-SUB-2019.2)*

Receiver Parcel (Kirk) – increase from one permitted dwelling to 20

(x ref DE-SUB-2021.1 and DE-DVP-2021.1)

Donor Parcel (Woodham) – reduce from seven permitted dwellings to four

Figure 1. Location of Subject Properties

The following table provides relevant details of the subject properties, and existing and proposed OCP designations, zoning and density.

Table 1. Subject Property Details

Property	Parcel Area	Existing OCP Designation	Existing LUB Zoning	Current Maximum Density (# dwellings)	Proposed Maximum Density (# dwellings)
Donor Parcel PID 009-704-523 6080 Woodham Road	Non ALR portion 28.6ha/70 ac	Rural (R) (no change required)	R2 (change required)	7	4
Receiver Parcel PID 000-393-941 1151 Kirk Road	1.0 ha/2.4 ac	Village (V)	Commercial (change required)	1	20*
Receiver Parcel PID 009-704-523 Proposed Lots 4 and 5 Danes Road	14.2 ha/35 ac	Rural (R) (no change required)	R2 (change required)	2	5**
Total	-	-	-	10	29

**denotes that all 20 dwellings are proposed to be restricted in use in perpetuity as affordable rental units in the Denman Green Project using 19 density from the Denman Island Density Bank.*
*** 3 density to be transferred from donor parcel 009-704-523 and not limited to affordable housing*

Denman Green Site and Concept Plan

Figure 2 illustrates the proposed concept site plan for the Denman Green Project. The applicant is proposing the following features as part of the project:

- 20 units of affordable rental housing built to BC Energy Step Code 4 standards;
- Rainwater harvesting, collection and use/treatment to supplement the potable supply;
- Adequate groundwater supplies treated to meet potable standards;
- Certified sewage disposal;
- Housing to accommodate tenants meeting the BC Housing and Denman Housing Association qualifying criteria.

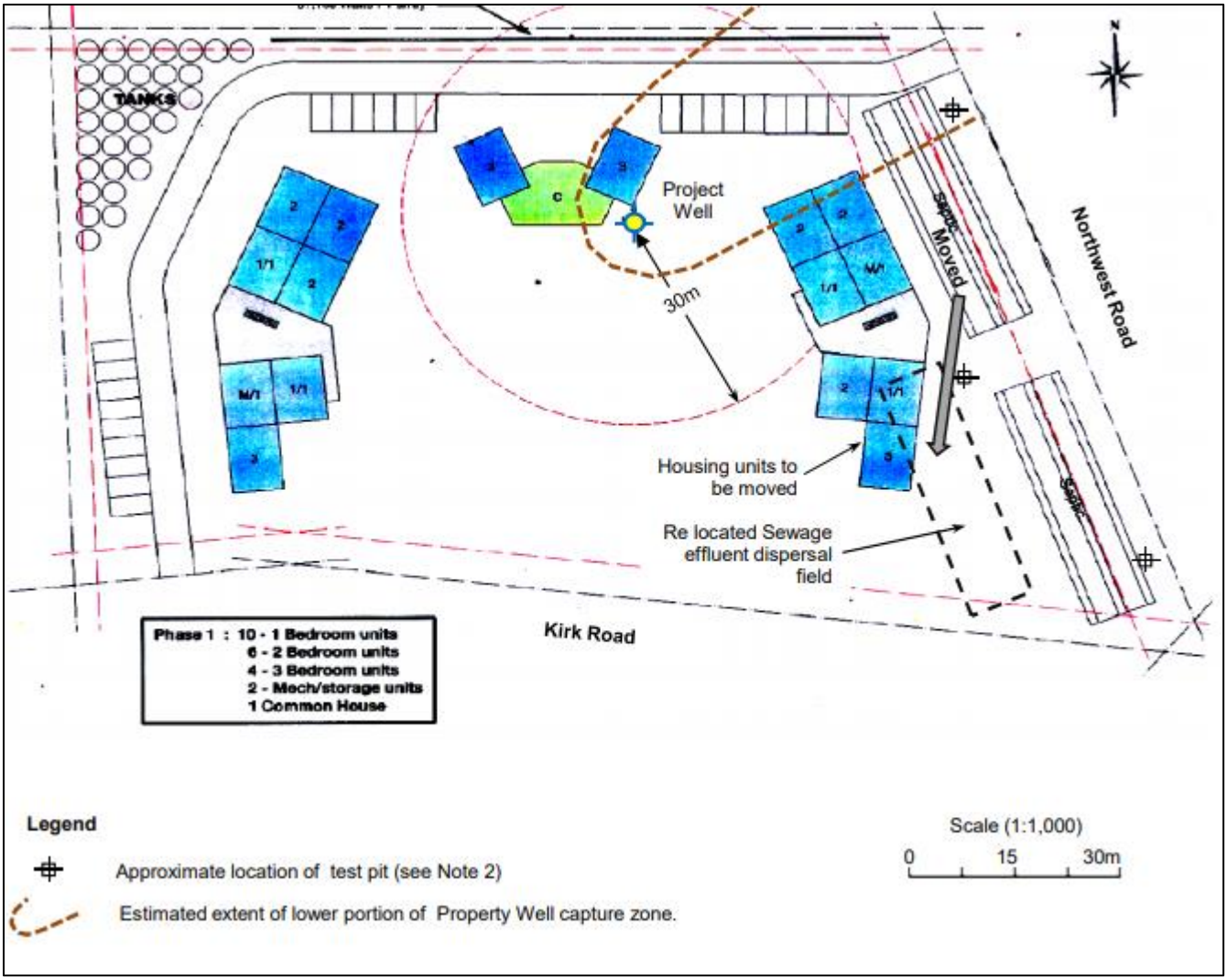


Figure 2. Proposed Concept Site Plan for 20 units of affordable rental housing on Kirk Road.

Proposal Summary:

There are three concurrent applications necessary to achieve the intended result of permitting affordable rental housing in the Denman village:

1. **Development Variance Permit Application DE-DVP-2021.2** – The lot on Kirk Road intended for affordable rental housing is currently a split zoned R1/Commercial zoned lot. The owner proposes to subdivide along the zone boundary in order to transfer the 1.0 ha commercial zoned portion to DHA. In order to subdivide, the owner must first vary the minimum lot size of the R1 zoned portion to permit subdivision along the R1/Commercial zone boundary.

2. **Subdivision Referral Application DE-SUB-2021.1** – This application is necessary to permit subdivision of the Kirk Road parcel along the R1/C zone boundary so that the commercial portion can eventually be transferred to DHA upon successful zoning of donor and receiver parcels.

3. **Bylaw Amendment Application (rezoning and OCP) DE-RZ-2021.1**

    a. Rezone 'C' portion of Kirk Rd property to 'R4(1) to allow up to 20 units of rental affordable housing.

b. Rezone non ALR portion of Woodham Rd property from R2 to R2(#) to reduce density from 7 to 4.

c. Rezone (proposed) Lots 4 and 5 on Danes Rd from R2 to R2(#) to permit further subdivision and increase density from 2 to 5 (Figure 3).

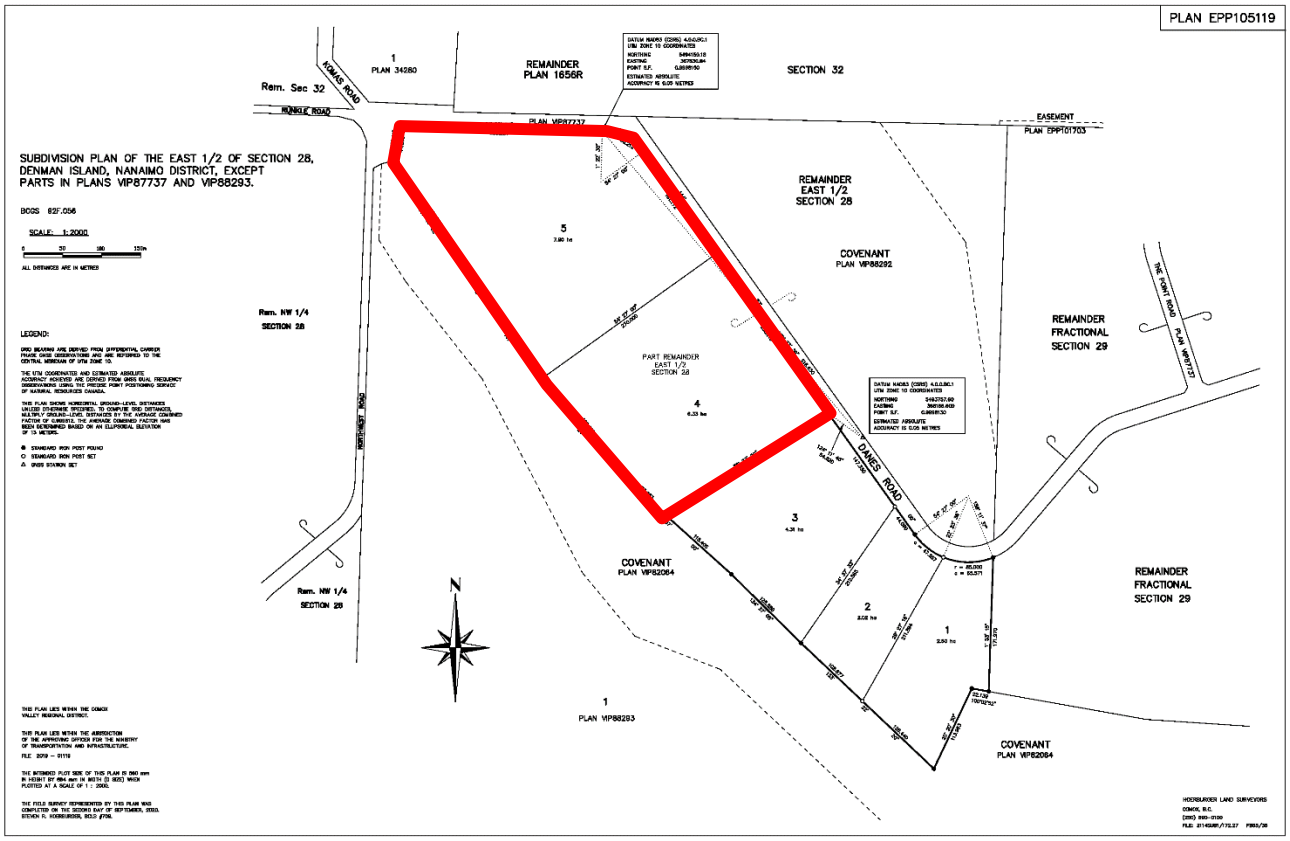


Figure 3. Proposed Lots 4 and 5, Danes Road – increase in density from 2 to 5 dwellings.

ANALYSIS

Policy/Regulatory

A comprehensive site context analysis is provided for both the receiver parcels in Attachments 1-2. There are a number of Islands Trust policies, OCP policies and LUB regulations that are pertinent to the consideration of this proposal, detailed in Attachment 3 and summarized as follows.

Official Community Plan:

The subject donor parcel on Woodham Rd is designated "Rural" in the OCP and does not require an OCP amendment. The subject receiver parcel on Kirk Road is designated "Village" and would require an OCP amendment as the OCP guiding objective for the Village is:

> ***"To retain the Village area as the commercial and cultural heart of the Island, and make this area safe, convenient and friendly by including such amenities as pathways, a village square and open spaces."***

The applicant has a letter of support from Denman WORKS! for the removal of the subject property from the commercial designation in the village core.

The subject receiver parcel on Danes Road is designated "Rural" and would not require an OCP amendment. There are over twenty OCP policies relevant to the proposed use and density on the receiver parcels listed in a table along with staff comments which may require amendments to the OCP (see Attachment 3).

There are several policies in the OCP that are applicable to the application, including addressing freshwater protection, climate change, transportation, water management, waste management and housing needs. A number of OCP policies support this proposal in principle.

Land Use Bylaw:

The subject properties require re-zoning with site specific regulations to address use, density, siting, size and subdivision potential.

Timeline

As the project would involve an OCP amendment, the LTC is required by the *Local Government Act* to consider opportunities for consultation with persons, organizations and authorities it considers will be affected. The LTC will be asked to consider if it wishes to undertake additional consultation than what will be identified by staff, when draft bylaws are considered for first reading. The applicant has been advised that they can enter into a cost recovery agreement for planner consulting services to expedite the processing of the application, pending the outcome of the LTC's consideration of the preliminary staff report on July 6, 2021.

Protocols

Protocols and agreements exist and are relevant to the consultation/engagement process for this file with the Islands Trust Conservancy, K'omoks First Nation, Comox Valley Regional District and adjacent (Hornby Island) LTC.

Issues and Opportunities

All professional reports submitted by the applicant have been posted to the application page. Staff have identified the following preliminary issues and opportunities, discussed in more detail below and in Attachment 3 (Relevant OCP policies):

- Density Considerations
- Water Management Planning
- Wastewater Treatment
- First Nations
- Development Permit Area

Density Considerations

The applicant is proposing to transfer 3 units of density from the donor parcel on Woodham Road to the Danes Road receiver parcels for market housing. Proposed Lot 4 (6.3 ha) and 5 (7.9 ha) are zoned R2. The application proposes a site specific R2 zone for these two parcels with an average lot size of 2.8 ha (6.3 + 7.9 = 14.2/5) and a minimum lot size of 2.0 ha. The R2 zone currently requires a 4.0 ha average and 2.0 ha minimum lot size.

This transfer of market density would enable DHA to obtain ownership of and develop the 1.0 ha Kirk Road parcel. This parcel, once subdivided off of the 0.2 ha R1 zoned portion, would require an increase in density from 1 to 20

units and be rezoned to the R4 Affordable Housing zone currently being contemplated for the seniors affordable housing project (Proposed Bylaw Nos. 233, 234, 239). The increase in density would be derived from a combination of the Appendix D – Density Bank and Housing – Policies, Use and Density Policy 11.

Policy 11 allows an increase in density on Denman Island of five percent to accommodate affordable housing from the existing residential density beyond that permitted by existing zoning on the date of the OCP. No OCP amendment would be required.

Appendix D – Density Banking – The use of the density bank is reserved for affordable housing and currently there are 14 units in the bank (minus 8 if DE-RZ-2017.1 DCLTA is approved). This is insufficient to cover the 19 proposed additional units so a combination of Policy 11 and Density Bank will be required to support this application as presented. **A housing agreement is required to ensure the affordability of the rental units is protected in perpetuity.**

The donor parcel would need to be down-zoned to a site specific R2 zone to reduce the density from seven to four.

Water Management Planning

Both receiver parcels are classified as having moderate and high aquifer intrinsic vulnerability according to Islands Trust mapping. Domestic water for the 0.28 ha "R1" zoned portion of the Kirk Road property is intended to be adequately supplied by the Kir-Nel Water District Society.

The 1.0 ha "C" zoned portion intended for affordable rental housing is to be supplied by an existing well as shown on the site plan in Figure 2. A hydrogeological assessment has been provided indicating sufficient groundwater supply in a well that is **"…very shallow"** and the applicant has indicated that a water license application has been submitted to the province to supply water to up to 20 units of housing. Water chemistry analysis shows the quality of the water does not meet the Guidelines for Canadian Drinking Water Quality standards for manganese. The proposal is to supplement the groundwater with treated rainwater, in conjunction with Island Health criteria for maximum daily demand for a potable water system.

The hydrogeological assessment reports that the water pumped from this well **has a high risk of being Groundwater at risk of Containing Pathogens (GARP**) and that the siting of the sewage disposal field had to be moved to accommodate this risk (Figure 2). The wastewater assessment report (see below) does not mention the increase in density on the subject property or provide a design specifications for the proposed system(s). This level of detail is important at the draft bylaw stage to ensure that site specific siting regulations represent the intended build out for the property.

In order to address the freshwater sustainability planning that is currently underway across the northern Islands Trust region, s**taff recommend a water management plan be submitted to address:**

i. **peak and expected water demand calculations;**

ii. **water conservation commitments to exceed BC Building Code requirements;**

iii. **minimum onsite storage capacity for potable, non-potable, rainwater and fire suppression and types of storage being considered;**

iv. **emergency considerations should temporary demand be greater than designed storage or well capacity;**

v. **proposed plan for irrigation and grey-water re-use;**

vi. **proposed groundwater monitoring and reporting; and**

vii. **proposed stormwater management.**

Staff also recommend a draft restrictive covenant be prepared to ensure ongoing monitoring and maintenance and that a copy of the water license and any applicable Island Health quality and quantity criteria be provided by the applicant to the LTC prior to a public hearing being held for this application. Early referral to the Islands Trust freshwater specialist, to review the draft water management plan, when submitted, can assist the LTC in technical interpretation of the water management plan.

Proposed Lots 4 and 5 on Danes Rd. were recently part of a five lot subdivision application. Analysis of water quality and quantity to support one dwelling per lot indicated that water in the amounts required by the Land Use Bylaw is potentially available on Lot 4; that the water for Lot 4 meets the Guidelines for Canadian Drinking Water Quality standards and the supply standards required by the Land Use Bylaw.

The Report indicated that ground water in the amounts required by the Land Use Bylaw is potentially available on Lot 5; but that the water for Lot 5 does not meet the Guidelines for Canadian Drinking Water Quality standards for manganese, nor the Guidelines for Canadian Drinking Water Quality standards or the Drinking Water Protection Regulation (*Drinking Water Protection Act*) standards for Total coliform bacteria and *Escherichia coli* (*E. coli*); and that the water would meet or exceed these standards if properly treated.

The Approving Officer and the Local Trust Committee required, as a condition of subdivision, that the Owner grant to the Local Trust Committee a covenant under s. 219 of the *Land Title Act* (British Columbia) to regulate the use of the Land in the interests of confirming that groundwater management and treatment methods will be implemented by the Owner and all future owners, tenants, and other occupiers of Lot 5 in the manner specified in the Report. This covenant would continue to be in effect should the property be rezoned for an increase in density.

Staff have not reviewed the water report to determine if **water quantity data** for Lots 4 and 5 support an increase in density to support five lots/dwellings. Staff can provide further analysis at a later date.

Wastewater Treatment

The applicant has provided a report prepared by a qualified professional regarding an assessment of the soils and ground water conditions to support **subdivision** of the Kirk Road property along the zone boundary. It is not clear if this assessment addresses the increase in density to potentially 49 occupants on 1.0 ha of land. There is no wastewater assessment of the parcels on Danes Road to demonstrate the two parcels can support an increase in density from 2 to 5 dwellings. **Staff recommend confirmation by a qualified professional that the proposed receiver parcels have adequate conditions to support community sewage treatment or other approved systems, compliant with the BC Sewerage System Regulation under the *Health Act,* for the proposed increase in density.**

First Nations

Early notification of this application was sent to K'omoks First Nation on March 30, 2021. The receiver parcel on Kirk Rd intended to be developed for affordable rental housing appears to be sited within an area of high archaeological potential. The applicant has been advised to contact the Archaeological Branch to determine whether this project will require a KFN Cultural Heritage Investigation prior to development. The K'omoks First Nation Cultural Heritage Policy requirements (Attachment 4) include Archaeological Overview Assessments (AOAs), and KFN have indicated that they will not accept an AOA that recommends no further investigation without some form of in-field assessment by a qualified archaeologist. **Staff recommend further engagement with the**

K'omoks First Nation and the Archaeology Branch on whether an Archaeological Overview Assessment for the commercial zoned portion of PID 000-393-941 (1151 Kirk Road) should be requested as a condition of the Local Trust Committee's consideration of an increase in density on the subject property

Development Permit Areas

Housing Policies – Zoning Amendments, OCP policies 27 and 28 suggest that the LTC should consider designating a development permit area (DPA) for such proposals to guide form and character. Designating a DPA for form and character as well as water conservation is appropriate and could form part of draft bylaw amendments being considered by the LTC. Currently the Kirk Rd property is within the Commercial DPA as shown in Figure 4 below. Draft bylaws can remove the R1 zoned portion of the subject property from the DPA entirely, and add new more comprehensive DPA guidelines in the Commercial DPA to address multi-family dwelling form and character and water conservation objectives.

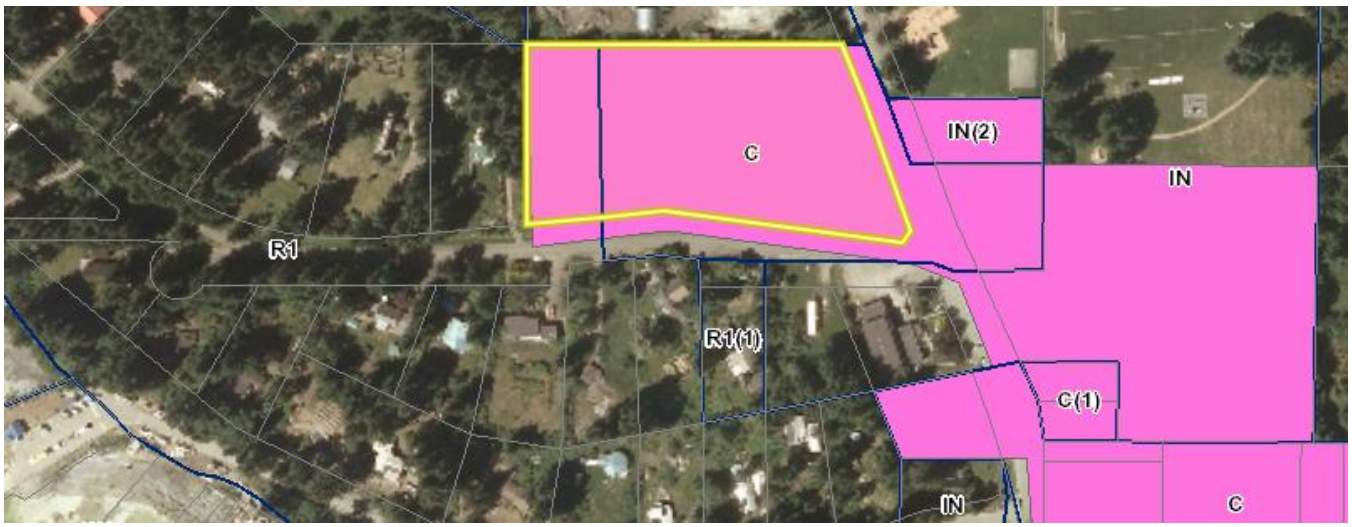


Figure 4. Extent of Commercial Development Permit Area in relation to the subject property.

Protection of Sensitive Ecosystems and Environmental Features

Policy 28 of Section E.1 Housing indicates that the LTC should be requiring that an application for affordable housing identify environmentally sensitive areas and use conservation covenants to protect significant features and habitats. A biological inventory assessment is not being recommended as both receiver areas have been cleared/disturbed and the Sensitive Ecosystem Inventory (SEI) mapping indicates no sensitive or mature forest ecosystems. However a "small swamp" is referenced on the 1151 Kirk Road parcel in the Hydrogeological Assessment report and is not shown on the Site Plan in Figure 2. **The LTC may wish to request that more information be provided about this freshwater feature or that it be included in site planning as it may inform stormwater management, hydrogeological, landscape planning or general site planning considerations**.

Rationale for Recommendations

Staff is recommending a number of key information pieces to support advancement of the application and significantly inform the development and timing of draft bylaws.

ALTERNATIVE

1. **Receive for information**

   The LTC may receive the report for information.

2. Request water and sewerage information prior to bylaw adoption

The LTC may wish to request that the applicant provide any or all of the pieces of information listed in recommendation 3 of this report prior to adoption of the bylaws instead of prior to the public hearing. If the LTC chooses this option, the motion in recommendation 3 should be amended to replace the words "…a public hearing being considered/scheduled" with "final adoption of the bylaws."

NEXT STEPS

Should the LTC move forward with staff recommendations, staff will advise the applicant of necessary next steps and prepare draft bylaws for LTC consideration.

Submitted By:	Sonja Zupanec, RPP, MCIP, Island Planner	June 30, 2021
Concurrence:	Heather Kauer, MPA, RPP, MCIP, AICP Regional Planning Manager	July 2, 2021

ATTACHMENTS

1. Site Context – Receiver Parcel Kirk Road (20 units Affordable Rental Housing)
2. Site Context – Receiver Parcel Danes Road (5 Fee Simple Lots)
3. Relevant OCP Policies
4. K'omoks First Nation Cultural Heritage Policy

ATTACHMENT 1 – SITE CONTEXT DE-RZ-2021.1 (DHA)

LOCATION

Legal Description	Lot B, Sections 18 and 19, Denman Island, Nanaimo District, Plan 36263
PID	000-393-941
Civic Address	1151 Kirk Road, Denman Island
Lot Size	R1-zoned portion = 0.28 ha C-zoned portion = 1.06 ha

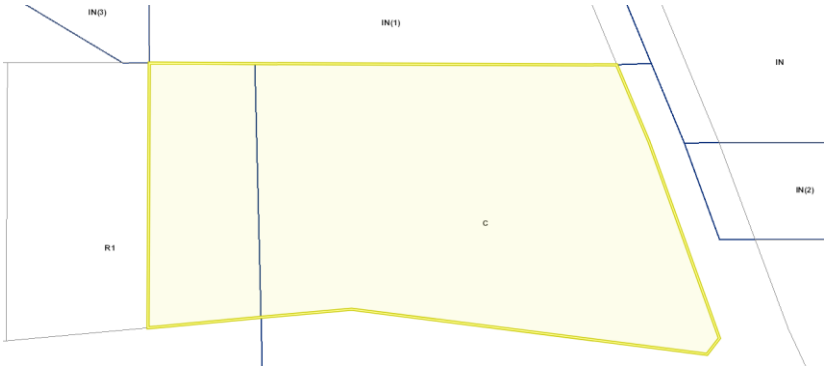
LAND USE

Current Land Use	There are no current uses on the R1-zoned portion. The C-zoned portion of the lot is currently vacant.
Surrounding Land Use	North: Institutional Use East: Institutional and Commercial use South: Institutional and Residential use West: Residential use

HISTORICAL ACTIVITY

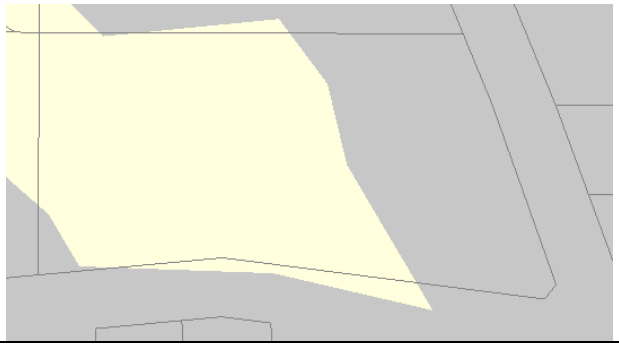
File No.	Purpose
UN-DP-1990.31	File not retrieved
DE-RZ-1990.11	File not retrieved
UN-DP-1991.2	File not retrieved
DE-DP-1994.1	File not retrieved
DE-DP-2006.1	DP issued for dry storage addition to existing store building, plus a cabin; includes parking requirements, finishing materials, landscaping etc.
DE-SUP-2007.6	SUP issued to add a small cabin and an addition to existing store building.
***DE-SUB-2021.1**	OPEN/Concurrent with this application. TBD: • Assuming the requested variance is issued (DE-DVP-2021.2), the applicant intends to then subdivide the Kirk Rd property along the zone boundary, thereby resulting in one R1-zoned portion (0.28 ha) and one C-zoned portion (1.06 ha). Intent is to have 'C' portion be rezoned to permit up to 20 units of affordable rental housing and transferred to the Denman Housing Association upon successful rezoning of other donor/receiver lands also part of the application. • Will likely require a covenant to be on 'C' portion that the land cannot be sold until DE-RZ-2021.1 is completed
***DE-DVP-2021.2**	OPEN/Concurrent with this application. TBD: • Vary the minimum lot size of the R zoned portion of the lot to permit subdivision along the zone boundary.

POLICY/REGULATORY

Denman Island Official Community Plan (OCP) No. 185	OCP Schedule C indicates that the subject property is currently split-designated: • Most of the lot is designated: Village • Remainder of the lot is designated: Residential OCP Schedule D: The subject property is not within a "Sensitive Area". OCP Schedule E indicates that the subject property is within Development Permit Area No. 5 – Commercial/Village This is a form and character DPA, including for multi-family housing proposals, and it is also within a Development Approval Information (DAI) area. The Justification and Objective of DPA 5 is outlined as follows in the OCP, though the DPA Guidelines themselves are found in the Land Use Bylaw (see section below): "Justification: Commercial development on the Island is needed to service a growing permanent population, although a full range is not necessary due to the proximity of the Island to the Courtenay retail service area. To ensure the quiet rural lifestyle of the Island is maintained, the form and character of development should fit with the rural character of the Island. Objective: The objectives of this development permit area are as follows: 1. To ensure that commercial development is small scale in keeping with the rural character of Denman Island." OCP Schedule F: The subject property is not a Beach Right-of-Way. OCP Schedule G: The subject property is within an area that the Comox Valley Regional District envisions for a "Cross island ferry-to-ferry multi-use trail/greenway" and fronts on Northwest Road, which is envisioned for a "North-South multi-use trail/greenway".
Denman Island Land Use Bylaw (LUB) No. 186	The subject property is currently split-zoned: • Most of the lot is zoned Commercial (C) • Remainder of the lot is zoned Residential (R1) 

	Variance requested is to vary the minimum lot size for the R1 portion in order to permit subdivision along the existing zone boundary of this split-zoned property. As this application is part of a larger development proposal, including a Subdivision and DVP application, staff note that this is not a density variance request, as no change in density will result from this proposal. Subsection 3.3 (Residential Zoning Tables) Table 7, lines 1 and 2 are to be varied for the subject property: 1) Maximum density permitted by subdivision is an average of one lot per 1.0 ha in the R1 zone 2) Minimum lot area permitted by subdivision is 1.0ha, subject to the regulations in 2.8 Although the subject property is within DPA5, as no land alteration is currently being proposed by this application, a Development Permit application is not required.
Covenants/Interests Registered on Title	• A Title Search found no Covenants registered on title. • Undersurface Rights and a BC Hydro ROW are registered interests. • Title notes that the land is affected by a previous permit(s) as noted in the "Historical File Activity" section above.
Bylaw Enforcement	DE-BE-2007.3 – Development Permit required. CLOSED. DE-BE-2020.1 – Land Use violation. CLOSED.

SITE INFLUENCES

Islands Trust Conservancy (ITC)	n/a – This application does not directly affect an ITC-owned property or conservation covenant; nor does it directly affect a property adjacent to an ITC-owned property or conservation covenant. It also does not pertain to terrestrial or intertidal Crown Land located within 100m of an ITC-owned property or conservation covenant.
ITC Regional Conservation Plan (2018 – 2027)	n/a – This application does not appear to be inconsistent or contrary to the goals and objectives set out in the ITC Regional Conservation Plan.
Species at Risk	No Species at Risk data identified.
Sensitive Ecosystems	No Protected Areas data identified. Islands Trust Ecosystem Mapping (ITEM) identifies the majority of the subject property as "young forest" and the remainder as "developed". 
Hazard Areas	None identified.
Archaeological Sites	According to provincial information, this parcel has high archaeological potential. All coastal areas including the Denman Island Local Trust Area are identified as having the potential to contain recorded or unrecorded areas of archeological and cultural significance. Notwithstanding the foregoing, and by copy of this report, the owners and applicant should be aware that there is still a chance that the lot may contain previously unrecorded archaeological material that is protected under the *Heritage Conservation Act*. If such material is encountered during development, all work should cease and the BC Archaeology Branch should be contacted immediately as a *Heritage Conservation Act* permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work.
Climate Change Adaptation and Mitigation	No anticipated climate-change induced hazards on the proposed development.
Shoreline Classification	Not Applicable
Shoreline Data in TAPIS	Not Applicable

ATTACHMENT 2 – SITE CONTEXT OF RECEIVER LAND

LOCATION

Legal Description	THE EAST ½ OF SECTION 28, DENMAN ISLAND, NANAIMO DISTRICT, EXCEPT PARTS IN PLANS VIP87737 AND VIP88293
PID	006-660-495
Civic Address	**Proposed Lots 4 and 5, Danes Road, Denman Island**
Lot Size	Lot 4 = 6.3 ha Lot 5 = 7.8 ha

LAND USE

Current Land Use	Vacant land. Logged late 1990's early 2000's
Surrounding Land Use	Residential and Conservation

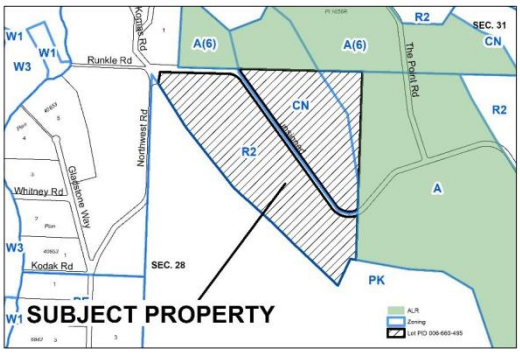
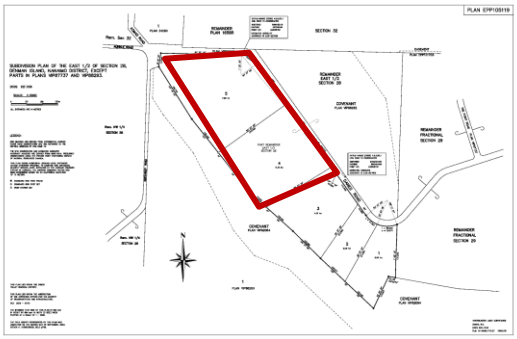
HISTORICAL ACTIVITY

File No.	Purpose
Planning Applications	

IT File No.	LTC Initiated	Planner	Status	Purpose
DE-ALR-2009.3	No	Courtney Campbell	Closed	Inclusion of 88
DE-ALR-2011.1	No		Closed	To create 13 fa
DE-DP-2020.1	No	Jaime Dubyna	Closed	PID: 006-660-4
DE-RZ-2007.3	No	David Marlor	Closed	Conservation an
DE-RZ-2009.2	No	Courtney Campbell	Closed	Transfer of 31
DE-RZ-2021.1	No	Sonja Zupanec	Open	PIDs: 009-704-5
DE-SUB-2019.2	No	Jaime Dubyna	Closed	PID: 006-660-4

***DE-SUB-2021.1**	OPEN/Concurrent with this application. TBD: • Assuming the requested variance is issued (DE-DVP-2021.2), the applicant intends to then subdivide the Kirk Rd property along the zone boundary, thereby resulting in one R1-zoned portion (0.28 ha) and one C-zoned portion (1.06 ha). Intent is to have 'C' portion be rezoned to permit up to 20 units of affordable rental housing and transferred to the Denman Housing Association upon successful rezoning of other donor/receiver lands also part of the application.
***DE-DVP-2021.2**	OPEN/Concurrent with this application. TBD: • Vary the minimum lot size of the R zoned portion of the lot to permit subdivision along the zone boundary.

POLICY/REGULATORY

Denman Island Official Community Plan (OCP) No. 185	Rural – R Conservation/Recreation – CR Sustainable Resources – SR
Denman Island Land Use Bylaw (LUB) No. 186	Proposed Lot 4 and 5 fall within R2 – Rural Residential zone Minimum Average Lot Area R2 zone = 4.0 ha Minimum Lot Area = 2.0 ha  
Covenants/Interests Registered on Title	Covenant **FA132364** (Denman Conservancy Association) – covenant to restrict use of covenant area. *(see comments below) Rent Charge FA132365 (Denman Conservancy Association) Statutory ROW FA132366 (Denman Conservancy Association) Covenant **FB371166** (Denman Conservancy Association) – covenant to restrict use of Covenant Area. Section 8.2 of covenant notes that, *"the Owner shall have the right to subdivide the Land in accordance with applicable statutes, regulations, plans and by-laws;"* Rent Charge FB371167 (Denman Conservancy Association) Statutory ROW FB371168 (Denman Conservancy Association) Undersurface Rights CA4212114 (Compliance Holdings Ltd.) Undersurface Rights FB489638 (Province) Undersurface Rights FB228636 (Compliance Coal Corp.)
Bylaw Enforcement	none

SITE INFLUENCES

Islands Trust Conservancy (ITC)	This application does affect a property adjacent to an ITC-owned property or conservation covenant.
ITC Regional Conservation Plan (2018 – 2027)	n/a – This application does not appear to be inconsistent or contrary to the goals and objectives set out in the ITC Regional Conservation Plan.
Species at Risk	No Species at Risk data identified.
Sensitive Ecosystems	No Protected Areas data identified. Islands Trust Ecosystem Mapping (ITEM) identifies the majority of the subject property as "young forest".
Hazard Areas	None identified.
Archaeological Sites	All coastal areas including the Denman Island Local Trust Area are identified as having the potential to contain recorded or unrecorded areas of archeological and cultural significance. Notwithstanding the foregoing, and by copy of this report, the owners and applicant should be aware that there is still a chance that the lot may contain previously unrecorded archaeological material that is protected under the *Heritage Conservation Act*. If such material is encountered during development, all work should cease and the BC Archaeology Branch should be contacted immediately as a *Heritage Conservation Act* permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work.
Climate Change Adaptation and Mitigation	The well intended to support the 49 residents of affordable rental housing is considered shallow and may be at risk of extreme drought conditions. A water management plan is recommended to address emergency considerations for storage, back up, demand etc).
Shoreline Classification	Not Applicable
Shoreline Data in TAPIS	Not Applicable

ATTACHMENT 3 – ITPS AND OCP POLICIES DE-RZ-2021.1 (DENMAN HOUSING ASSOCIATION)

ISLANDS TRUST POLICY STATEMENT

ITPS Policy	Complies	Planner Comments
3.1.5 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the regulation of land use and development to restrict emissions to land, air and water to levels not harmful to humans or other species.	**Pending receipt of additional information from the applicant**	Staff recommend: 1) confirmation that receiver parcels have sufficient area and conditions for wastewater treatment based on proposed increase in density; 2) water management plan for affordable rental housing development and approved groundwater license volume; and 3) confirmation that receiver parcel (Lot 4 and 5) have sufficient groundwater resources for additional density.
3.3.2 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address means to prevent further loss or degradation of freshwater bodies or watercourses, wetlands and riparian zones and to protect aquatic wildlife.	**Pending receipt of additional information from the applicant**	Rezoning should trigger requirement for a comprehensive water management plan for the affordable rental housing development proposal. Small 'swamp' indicated in hydrogeological assessment on Kirk Road property not shown on site plan.
4.1.6 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the use of adjacent properties to minimize any adverse affects on agricultural land.	**Pending further application review**	Proposed Lot 4 and 5 are adjacent to ALR land. To be addressed in bylaw amendments and can incorporate ALC buffer requirements.
4.4.2 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure: • neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, • water quality is maintained, and • existing, anticipated and seasonal demands for water are considered and allowed for.	**Pending receipt of additional information from the applicant**	Both receiver parcels are classified by Islands Trust mapping as having portions within Moderate and High aquifer intrinsic vulnerability. Staff recommend: 1) confirmation that receiver parcels have sufficient area and conditions for wastewater treatment based on proposed increase in density; 2) water management plan for affordable rental housing development and approved groundwater license volume; and 3) confirmation that receiver parcel (Lot 4 and 5) have sufficient groundwater resources for additional density.
4.4.3 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure water use is not to the detriment of in-stream uses.	**Pending receipt of additional information from the applicant**	Staff recommend: 1) confirmation that receiver parcels have sufficient area and conditions for wastewater treatment based on proposed increase in density; 2) water management plan for affordable rental housing development and approved groundwater license volume; and 3) confirmation that receiver parcel (Lot 4 and 5)

ITPS Policy	Complies	Planner Comments
		have sufficient groundwater resources for additional density.
5.2.3 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.	**YES**	Application addresses positive social impacts of development through provision of affordable rental housing. DPA guidelines can be drafted to further address form and character of housing and water conservation.
5.2.5 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.	**YES**	Application will utilize density bank and OCP policy provisions. New policies may be required for density transfer provisions.
5.3.7 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of land use patterns that encourage establishment of bicycle paths and other local and inter-community transportation systems that reduce dependency on private automobile use.	**YES**	Location of affordable rental housing development in proximity to village and ferry terminal.
5.6.2 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification, protection, preservation and enhancement of local heritage.	**Pending further application review**	Proposed development provides an opportunity for LTC and K'omoks First Nation consideration. Archaeological Overview Assessment may be recommended pending further consultation with K'omoks.
5.8.6 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address their community's current and projected housing requirements and the long-term needs for educational, institutional, community and health-related facilities and services, as well as the cultural and recreational facilities and services.	**YES**	Proposal seeks to address community's current and projected housing requirements for affordable housing.

DENMAN ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 185, 2008

OCP Objective/Policy	Complies	Planner Comments
C.2 Freshwater Policy 9 - Zoning regulations should encourage rainwater collection to reduce consumption of groundwater resources; however, adequate controls should be in place to ensure above ground storage tanks are not unsightly.	**Yes** and **pending further application review**	Applicant is proposing extensive rainwater harvesting, collection, storage, treatment and use to supplement groundwater resources. A comprehensive groundwater management plan is recommended to clarify how water will be stored, used and monitored in this development.
C.4 Climate Change Policy 2 - The Local Trust Committee should consider energy efficiency attributes, the reduction of greenhouse gas	**Yes** and **pending further**	Applicant is proposing to meet BC Energy Step Code standards of construction for energy efficiency in affordable housing units. Rezoning

emissions, and climate change adaptation and impacts mitigation in all rezoning applications that propose an increase in density or change of use.	**application review**	process can identify options to ensure this a requirement of new construction.
C.4 Climate Change Policy 4 - The Local Trust Committee should support zoning amendment applications for affordable housing that incorporate climate change adaptation and mitigation measures, such as energy efficiency and shared facilities.	**Yes**	See above.
D.2 Transportation and Utilities Policy 8 - When considering zoning changes, the Local Trust Committee should ensure that the proposed zoning change supports non-automotive transportation.	**Pending further application review**	Rezoning process can identify options to ensure non automotive transportation is adequately incorporated into the proposal (i.e. requirements for bicycle parking)
D.3 Water Management Policy 6 -When considering a zoning amendment application in an area of scarce ground water supply, the Local Trust Committee should consider requiring mitigating measures to conserve water and protect the ground water resource.	**Pending receipt of additional information from the applicant**	LTC can consider options once adequate data has been provided from the applicant in the form of an approved water management plan.
D.4 Waste Management Policy 5 - Community sewage treatment should be required for any zoning amendment where the sewage disposal capability of a lot is inadequate for the proposed use.	**Yes** and **pending further application review**	Applicant has provided a wastewater assessment report for 1151 Kirk Road, however the report does not reference the increase in density anticipated as a result of subdivision and rezoning. Staff recommend similar confirmation for Danes Road parcels.
E.1 Housing Policy 6 - When developing subdivision regulations for lots adjacent to or encompassing a watercourse, the Local Trust Committee should consider potential negative impact on the watercourse.	**Pending receipt of additional information from the applicant**	Danes Road Receiver parcels are adjacent to watercourses. Staff recommend confirmation of adequate wastewater treatment conditions to support an increase in density in this location.
E.1 Housing Policy 10 - In the Rural designation zoning regulations should generally permit one dwelling unit per lot, including a secondary suite, provided that the land owner provides the Local Trust Committee with proof of adequate water supply for each dwelling unit without endangering the water supply of adjacent land owners. A secondary dwelling unit may be permitted on a lot if approved by a Temporary Use Permit.	**Pending further application review**	Applicant to confirm if Donor and Danes Rd Receiver parcels were intended to accommodate secondary suites.
E.1 Housing Policy 11 - The overall residential density on Denman Island should generally not increase beyond that permitted by existing zoning on the date this Plan was adopted except that an increase of approximately 5 percent may be permitted to accommodate zoning amendments for special needs and affordable housing, secondary dwelling units approved by the Denman Island Local Trust Committee under a Temporary Use Permit and	**YES**	Density increase is consistent with this policy.

site-specific zoning amendment applications under Policy 29 of this Section.		
E.1 Housing Policy 16 - Landowners are encouraged to cluster houses and buildings accessory to a residential use to leave areas of undeveloped space.	**Yes**	Applicant's site plan for Denman Green attempts to cluster housing and accessory buildings.
E.1 Housing Policy 17 - The Local Trust Committee should encourage the establishment and work of non-profit land trusts for affordable housing.	**Yes**	LTC and Executive Committee have supported the financial sponsorship of the bylaw amendment fees for the application.
E.1 Housing Policy 23 - Zoning regulations should establish sufficient setbacks for septic disposal systems: • to ensure that the waste water has been cleaned before entering the sea, wetlands, lakes and other watercourses; and • to protect adjacent properties from effluent or odours.	**Pending further application review**	Confirmation of sewage disposal capability and location on both receiver parcels will inform draft bylaw amendments pertaining to adequate setbacks for sewage disposal systems.
E.1 Housing Policy 26 - The Local Trust Committee encourages applicants applying for zoning amendments to permit new construction to meet or exceed the Canadian Green Building Council certification, or to provide details on green technology alternatives if meeting the certification requirements is not possible.	**YES**	Applicant has indicated commitment to BC Energy Step Code building standards. Development Permit guidelines for form and character/water conservation/energy efficiency can be drafted.
E.1 Housing Policy 28 - The Local Trust Committee should consider zoning amendment applications for affordable housing projects provided: • that the proposal is not located in a connectivity area identified on Schedule D; • that the proposal does not impact negatively on adjacent properties; • that the proposal is small-scale; • that the proposal is clustered and the siting and height are sensitive to surrounding land uses; • that the proposal proves an adequate supply of potable water and an adequate sewage disposal system; • that any environmentally sensitive areas on the lot are identified and the applicant undertakes a conservation covenant to protect such areas; • that the proposed development will not place a strain on existing public services and infrastructure.	**Yes** and **pending further application review**	Adequate volume and quality of water for 1151 Kirk Road has been confirmed but staff recommend the details for storage, use and monitoring are insufficient and should be supplied in the form of a water management plan and monitoring covenant.
E.1 Housing DAI Policy 31 - The areas designated Residential and Rural in this Plan are designated to encourage housing that accommodates the needs of a variety of families and individuals while protecting the natural environment, the social fabric and the	**Yes** and **pending further application review**	Adequate volume and quality of water for 1151 Kirk Road has been confirmed but staff recommend the details for storage, use and monitoring are insufficient and should be supplied in the form of a water management plan and monitoring covenant.

rural character of the community. The objectives of the designation of this area as an area within which development approval information may be required, include ensuring that housing options are sensitive to ground water availability and sewage disposal capability; guarding against contamination of ground water; preserving the rural nature of the Island; ensuring that housing options preserve human diversity in our community; supporting the establishment of affordable housing, rental opportunities and special needs housing; and providing the opportunity for Island seniors to remain in the community, especially in their own or their families' homes. Development approval information may be required to help the Local Trust Committee to determine appropriate uses, density and siting of development in the Residential and Rural designations.		

K'ómoks First Nation
Cultural Heritage Policy

October 2nd, 2020

Approved by Chief and Council on October 2nd**, 2020**

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1. Vision Statement

We, the K'ómoks First Nation (KFN) are descendants of the K'ómoks and Pentlatch tribes. We inherited our territory (*ʔəms naʔ giʔɛ*) from our First Ancestors at the beginning of time. Our K'ómoks and Pentlatch First Ancestors – Ciā'tlk·am, Tē'sitla, SE'ntlaē, Aiē'len, Kōaī'min and Hē'k·'ten – were gifted these territories by the Creator. Since the time the First Ancestors of our K'ómoks and Pentlatch tribes, our people lived and flourished on the lands and waters of our territory. Our territories are marked by the places used by our *hɛhɛw'* (ancestors) – their settlements, harvesting places, spiritual places, and burial places. These cultural heritage sites are an important record of our history, and a link to our ancestors.

As descendants of the K'ómoks and Pentlatch tribes, we have inherited rights and title to all our territory. With our inheritance comes the responsibility to care for the lands and waters of our territory, including our cultural heritage sites and artifacts. The teachings of our ancestors (or *ʔəms taʔaw*) define our responsibilities to past, present, and future generations of K'ómoks and Pentlatch people. The guidance provided by *ʔəms taʔaw* includes protecting the cultural heritage sites created by our ancestors, the burial places of our ancestors, seeking the return of KFN cultural objects or artifacts that have been taken from KFN territory without permission, and learning from our cultural heritage to provide guidance for future generations of our people.

Since the arrival of the newcomers in our territory, our cultural heritage sites have been damaged and destroyed through development, and our ancestral burial places and artifacts have been looted, and sold. It is our goal that in enacting this KFN Cultural Heritage Policy, we can work with the newcomers to our territory, to educate them in the ways of our *ʔəms taʔaw* (teachings of our ancestors), and to respect and learn from our cultural heritage.

In the spirit of reconciliation, we the KFN enact the KFN Cultural Heritage Policy and commit to working with the newcomers in the appropriate management of our cultural heritage. By enacting the KFN Cultural Heritage Policy, we are reconciling our Aboriginal rights and title to our territory, with the newcomers' desire to live in and modify our territory.

2. Authority and Jurisdiction

KFN's authority over KFN's cultural heritage arises from KFN's unique relationship with our territory as inherited from the First People to inhabit these lands, our direct *hɛhɛw'* (ancestors). Our K'ómoks and Pentlatch *hɛhɛw'* – Ciā'tlk·am, Tē'sitla, SE'ntlaē, Aiē'len, Kōaī'min, and Hē'k·'ten – were the First People of these territories, and were gifted these lands and waters by the Creator. As the Indigenous people of and traditional title holders of our territory, KFN's authority over KFN cultural heritage and artifacts is derived from multiple levels of legal authority:

1) Indigenous law,
2) United Nations Declarations of the Rights of Indigenous People (UNDRIP) Article 31 and Article 32,
3) Bill 41, British Columbia)
4) Section 35 of the Canadian *Constitution Act*, 1982, and,
5) K'ómoks First Nation Land Code (2016).

Our Indigenous law, based on K'ómoks and Pentlatch *taʔaw* (teachings), define KFN title over our K'ómoks and Pentlatch territories as a gift from the Creator, and our ancestral birthright from the First People of these lands. Decision making authority over KFN cultural heritage stems from our unextinguished Indigenous title to our territory. The lands, waters and resources of these territories is something that we hold in trust from our *hɛhɛw'* (ancestors) and for future generations. Our Indigenous law also specifies our stewardship responsibility to the lands, waters and resources of our environment. Protection of our cultural heritage in respect of our *hɛhɛw'* and for the benefit of future generations is required by our Indigenous law.

Second, KFN's authority over KFN cultural heritage is founded in international law. The United Nations Declarations of the Rights of Indigenous People (UNDRIP) specifies that Indigenous people have the right to protect and manage their cultural heritage (Article 31) and need to be consulted with regarding the development of their territories (Article 32). The government of Canada has endorsed the UNDRIP (2016) and has committed to implementing it in accordance with the Canadian Constitution. Further, the government of British Columbia (2019) has committed to legally implementing UNDRIP by enacting Bill 41.

As set out in the UNDRIP, Article 31 unambiguously recognizes the right of Indigenous people to protect and manage their cultural heritage:

> 1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games, and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

The KFN Cultural Heritage Policy identifies KFN's protective measures for all KFN cultural heritage. All impacts to KFN cultural heritage will require KFN consent. As per Article 32.2 of UNDRIP (now part of Bill 41- 2019: Declaration on the Rights of Indigenous Peoples Act), "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."

Application for a KFN Cultural Heritage Investigation Permit is one mechanism of obtaining KFN consent for a project. Initiating consultation with KFN as early as possible is always advisable. To KFN, "free, prior and informed consent" means that the proponent has:

1. provided KFN with all relevant available information regarding the project,
2. provided KFN with the appropriate time and means to review the project information and identify potential concerns,
3. provided KFN opportunity to discuss aspects of the project with the proponent,
4. addressed all and any potential concerns identified by KFN regarding the project,
5. obtained confirmation from KFN in writing, or in the form of the KFN Cultural Heritage Investigation Permit, that any potential KFN concerns with the project have will be mitigated to the satisfaction of KFN.

Third, KFN's authority over KFN cultural heritage is founded in the Canadian Constitution. The Canadian *Constitution Act* (1982) recognizes Aboriginal rights, including the right to Aboriginal title. The nature of Aboriginal title was further clarified in the Williams (2014) decision, specifying that the consent of the Aboriginal title holders must be obtained for developments affecting their lands and resources. KFN asserts unextinguished Aboriginal rights, including Aboriginal title over the entirety of KFN territory, and stemming from that title, KFN asserts that our consent must be obtained for all projects affecting the lands and resources of our territory, including KFN cultural heritage.

Finally, KFN's authority over KFN cultural heritage is defined in the *K'ómoks First Nation Land Code* (2016). The KFN *Land Code* enables KFN to develop laws governing activities on KFN lands (reserve lands, treaty settlement lands, and fee-simple lands). The KFN *Land Code* specifies that KFN may develop laws regarding:

"12 (k) setting aside, protection and regulation of heritage sites, cultural sites, traditional sites, spiritual sites and wildlife areas;"

And

"12 (s) archaeological assessment and protection of archaeological and cultural resources;"

The KFN Cultural Heritage Policy has been enacted as law within the KFN *Land Code* and enables KFN the ability to enforce the KFN Cultural Heritage Policy as the KFN Cultural Heritage Law on KFN lands.

The KFN Cultural Heritage Policy applies to all of KFN territory as described by the KFN Statement of Intent (***Figure 1***). This includes all private lands, crown lands, KFN lands, intertidal areas and submerged lands. As described above, KFN has inherited this territory, and the stewardship responsibility to it, from our First Ancestors who were gifted these lands by the Creator. If situations arise wherein multiple First Nations express overlapping interest in KFN cultural heritage, KFN will consult directly with those First Nations to resolve issues of overlapping interest.

3. Purpose

The purpose of the KFN Cultural Heritage Policy is to guide the appropriate protection, management, and study of our cultural heritage in accordance with our ancestral teachings or *ʔəms taʔaw* as handed down to us from our ancestors. Our inheritance of our ancestral territory comes with the responsibility to care for the lands and waters of our territory, including our cultural heritage sites and artifacts, and especially the resting places of our ancestors.

Two of the core principles underlying our ancestral teachings or *ʔəms taʔaw* regarding cultural heritage include:

- Our ancestors or *ʔəms hɛhɛw'* have to be cared for, including maintaining the integrity of their burial places, and the remains of their past actions.

- The ancestors will look out for you or *hɛ səm t kʷə ms hɛhɛw'kənɛsɛ*; this includes ensuring the personal health of individuals, and enhancing our knowledge of how our ancestors or *ʔəms hɛhɛw'* took care of the lands and waters of our territory.

These two core principles – taking care of the ancestors and the ancestors looking out for you – guide KFN's management of cultural heritage. Hundreds of generations of our ancestors have lived and died across our territory. The traces of their past lives are all around us, and their spirits are still among us. The artifacts and other material remains left by our ancestors provide unique teachings (or *ʔəms hɛhɛw'*) about their past lives, and guide us in our modern cultural journey.

We, as K'ómoks and Pentlatch people, know that we must take care of our ancestors (*ʔəms hɛhɛw'*) and that in doing so our ancestors will look out for us (*hɛ səm t kʷə ms hɛhɛw'kənɛsɛ*). By applying these teachings (*taʔaw)* to our cultural heritage, we can work with the newcomers to ensure that cultural heritage sites and objects are treated respectfully, that investigation of KFN cultural heritage advances the knowledge of our history, and that advance of knowledge supports revival of KFN culture.

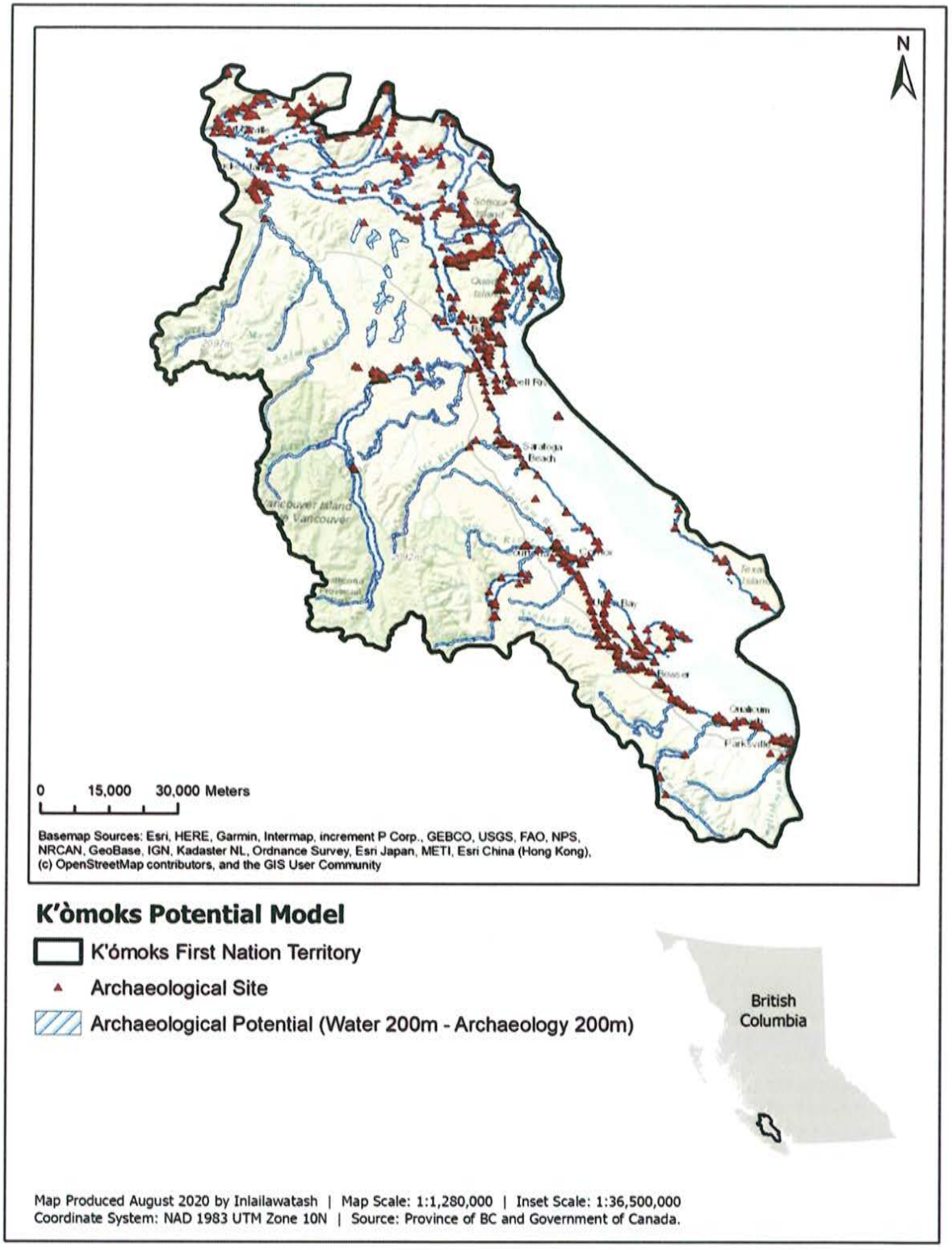


Figure 1. K'ómoks territory and archaeological potential model.

4. Definition of the archaeology / cultural heritage sites and artifacts / cultural heritage objects covered by KFN Cultural Heritage Policy.

The following types of archaeological / cultural heritage sites and artifacts / cultural heritage objects are recognized and automatically protected under the KFN Cultural Heritage Policy. All KFN cultural remains pre-dating AD 1900 are automatically protected. All KFN ancestral remains dating to all periods of time are automatically protected.

Shell Midden

A shell midden is an anthropogenic deposit of the remains of shellfish, fire-cracked rock (FCR), and other remains, including fauna and artifacts. They were slowly built up over time as a result of people repeatedly occupying a given area, and processing shellfish there. Shell middens often contain burials and other features related to domestic activities (e.g., house depressions, post holes, hearths). Small shell middens are the remains of small temporary camps and large shell middens are the remains of large semi-permanent settlements. Because of the alkaline nature of shell middens, bones from food remains, and human remains are often preserved within them. For all these reasons, shell midden sites contain an important record of ancestral KFN lifeways.

House Site

House sites consist of a number of features, almost always in shell middens, that represent the remains of past plank houses that were excavated into the underlying sediments, or built up around the house out of shell midden. A house depression is typically a rectangular area excavated into the soil or shell midden below. House mounds consist of two types: a rectangular mound or platform consisting of shell midden to raise the level of a past house, or a rectangular or U-shaped shell midden berm built up around the margins of a past house. House sites are the manifestation of past KFN extended families or numayma, and contain an important record of ancestral KFN social relations.

Fire-Cracked Rock Midden

A fire-cracked rock midden is an anthropogenic deposit of large quantities of fire-cracked rock (FCR), charcoal stained sediments, and other remains such as artifacts and less commonly, fauna. Fire-cracked rock middens often contain other features associated with domestic or food processing activities such as post holes, hearths, or earth ovens. Fire-cracked rock middens are the remains of intensive food processing areas or semi-permanent settlements where shellfish was not commonly processed. These sites or features provide insight into the history and practice of ancestral KFN plant use.

Burial Sites / Cemeteries

Burial sites are the locations where ancestral remains are recovered including: caves, rock shelters, shell middens, and less often, FCR middens. Ancestral remains are often recovered in mixed or disturbed deposits within shell middens; such remains are also considered burials. Cairns, consisting of one or more piles or mounds of rocks, usually on top of a burial are a special type of petroform. Cemeteries are discrete areas that were used repeatedly in the past as burial locations. Cemeteries are defined as discrete locations wherein three or more burials are identified within 10 m of one another. Cemeteries may also include areas that were historically known as places for interring ancestral remains, such tree burial areas, but presently do not contain material evidence of ancestral remains.

Examples of cemetery sites include but are not limited to:

- the KFN cemetery on Bayside Drive, IR No.1 (within DkSf 19),
- the Comox Bay west site, near 155 Willow Way (DkSf 10),
- the Comox Bay east site, Mack Laing property, (DkSf 4),
- IR No.3 at Goose Spit (no recorded site),
- the Comox Hill Fort site (DkSf 6),
- The stand of spruce trees behind left bank of the Courtenay River near the CVRD pump station (no Borden number),
- Dyke Road site (DkSf 24), near Scott Road
- an area near DkSf 29 at Point Holmes,
- the pump station area in the shell midden at Millard Creek (DkSf 2),
- the Sandwick Midden site (DkSg 12), near Maple Pool campground, Courtenay,
- Chrome Island (DiSe 9),
- Komas Ranch on Denman Island (DjSf 1),
- part of the two sites spanning Hart Creek at Union Bay (DkSf 25 and DkSf 26),
- a part of the shell midden at Buckley Bay (DjSf 13) (southeast of ferry terminal and parking lot),
- a part of the shell midden immediately south of the Tsable River bridge (DjSf 14), located on both sides of Highway 19a,
- Qualicum Golf Course site (DiSc 26) adjacent to the golf course clubhouse,
- DhSb 3, (near 310 Dogwood Street) in Parksville,
- the Craig Bay site (DhSb 8) (the entire site, especially Seawall Drive) in Parksville,
- a part of the shell midden near the government dock at Deep Bay (DiSe 7),
- the Willow Point site (DlSh 8), just west of Highway 19a,
- Cape Mudge (Yuculta IR No.10), near pier (EaSh 3),
- the Orchard Site (EbSh 13) in Kanish Bay,
- the cemetery at Graveyard Point, Kelsey Bay (EcSl 31, EcSl 32),
- Knox Bay, West Thurlow Island,
- EaSh 17 burial caves (just north of Gowlland Harbour),
- Burial islands at entrance to Topaz Harbour, immediately west of EcSk 11,

- EcSl 22 burial cave on Helmken Island,
- EcSg 12 burial cave at Little Gillard Island,
- EcSl 11 burial cave on Helmken Island,
- EcSl 12 burial cave on Helmken Island,
- EaSh 31 burial cave at Gowland Harbour.

New cemeteries areas will continue to be identified when multiple, closely spaced burials are identified in the course of archaeological investigations. Additionally, KFN continues to develop new cemetery sites for reburial of ancient KFN ancestral remains that were excavated from nearby areas. Any projects with the potential to impact a cemetery site will require deep consultation with KFN and extraordinary justification.

Individual burial sites and cemetery sites are exceedingly spiritually important as they link the living KFN community to the spirits of their ancestors.

Lithic Sites

Lithic sites are composed of stone tools (i.e., artifacts), the debris associated with the production of stone tools (i.e., debitage), or the locations where lithic raw material was extracted or collected (i.e., quarries). Lithic sites may represent a wide range of past activities that included many actions beyond stone tool production, but other materials are much less likely to have been preserved than the lithics. Lithic sites are important because they provide information about ancestral KFN land use, trade, cultural traditions, and activities.

Rock Art

Rock art sites are locations where people have decorated or marked rock surfaces and consist of two types: petroglyphs and pictographs. Petroglyph sites are places where images, patterns, symbols etc. have been placed on rock surfaces through pecking or engraving the rock surface. Pictographs sites are places where images have been painted onto rock surfaces, almost always using red ochre as pigment with a lipid-based binding agent. Rock art sites are generally viewed as profoundly spiritual places, places that were selected to commemorate a significant group or individual encounter with the supernatural. Rock art sites are important because they identify the spiritually significant places of KFN ancestors.

Fortifications

Fortifications are a particular type of archaeological site that include constructed features such as trenches, embankments or rock walls that were built to increase the defensibility of a location. Such sites are often called trench embankments, but may have also included wooden palisades. Other fortifications are places lacking obvious remains of constructed features, but are located on

relatively inaccessible landforms surrounded by steep cliffs etc. Such sites are often referred to as refuges. In addition to the attributes described above, fortifications usually also include thin shell midden deposits. Fortification sites are important because they document the historic efforts of KFN ancestors to repel outsiders from their ancestral territories.

Fish Traps

Fish traps are intertidal or riverine features that were constructed to impede or impound fish and consist of two main types: wooden fish traps, and rock walled fish traps. Wooden fish traps consist of upright wooden stakes driven into the substrate of intertidal or riverine areas (i.e., fish weirs) to which panels or other fence-like materials were attached to impede and entrap fish. Rock walled fish traps consist of linear or curvilinear rock berms constructed in intertidal areas to entrap fish. In some cases a fish trap may consist of wooden and rock features. Fish trap sites are important because they document the sustainable fish harvests obtained by KFN ancestors for millennia.

Clam Gardens

Clam gardens are archaeological sites consisting of rock berms located relatively deep in the intertidal area (typically near the 0' tide line) which act to retain upslope sediments and decrease the slope angle of the beach. These attributes function to increase butter clam habitat and clam productivity. Clam garden sites are important because the document KFN ancestors purposeful resource management and long-term investment and tenure in the landscape.

Earth Ovens

Earth ovens are an archaeological feature consisting of black, charcoal-stained sediments and abundant fire-cracked rock. These features may be relatively discrete semi-circular basins, or larger more amorphous deposits. These sites are interpreted to have been used for the cooking of large quantities of plant foods, such as camas or bracken fern root. The larger more amorphous deposits of charcoal-stained sediments and fire-cracked rock likely represent areas that were intensively used as earth ovens for long periods of time. Earth oven sites are important because they provide a historical record of ancestral KFN plant harvesting and management.

Culturally Modified Trees

Culturally modified trees are living trees, fallen trees, or stumps that display evidence of being impacted by past Aboriginal harvesting activities, such as bark stripping, plank harvesting, or canoe production, or past Aboriginal communication or signalling such as trail markers, boundary markers, or arborglyphs (carved or decorated surfaces on a tree). The vast majority of

culturally modified trees in KFN territory occur on western red cedar trees, but can also occur on other species. CMT sites are important because they document the history and extent of ancestral KFN forestry practices. To ensure protection of CMT sites, KFN insists that a 50 m cutting buffer is used around each CMT site.

Wet Sites

Wet sites are archaeological sites consisting of culturally modified organic materials (mainly wood, bark or fibre) or artifacts constructed of organic materials such as baskets, nets, mats, hats located underwater or in intertidal areas. Such organic materials and artifacts are only preserved because of their deposition in anaerobic conditions under water. Wet sites are usually located at the mouths of rivers or streams. Wooden fish traps can also be considered as a special type of wet site, but here are described separately due to their distinct function. Wet sites are uniquely significant because they provide detailed examples of ancestral KFN technology.

Cultural Depression

A cultural depression is a feature, other than a house, that has been excavated into underlying sediments. Cultural depressions can include storage pits, pit fall traps, cooking features, and features of unknown function.

Canoe Runs

A canoe run is a path or lane in the intertidal area running perpendicular to the shore that has been cleared of boulders so that a canoe could be pulled on shore. Canoe runs are then a particular type of petroform, consisting parallel linear boulder arrangements in the intertidal area. Canoe runs are most often associated with large shell midden sites.

Trails

A trail is linear wherein the ground surface has been worn through the surface vegetation, and perhaps into the soil as the result of past travel. Pre-contact aboriginal trails can be distinguished from game trails through their association with other archaeological site types, such as rock shelters and lithic sites.

Rock Shelters

Rock shelters are locations along cliffs or very large boulders that are somewhat protected from the elements by overhanging rock faces. The areas within these rock shelter locations were used by past people as temporary camp sites, and may contain small hearths and lithics.

Petroforms

Petroform sites consist of arrangements of rocks (usually boulders and cobbles) resulting from intentional past human activity. Petroform types include canoe runs, cairns, and rock walled fish traps. Other petroforms with less obvious functions are simply classified as petroforms.

Artifacts / Cultural Heritage Objects

Artifacts or cultural heritage objects are all items of material culture (i.e., objects that have been modified by human action) that have been modified by KFN ancestors prior to AD 1900. Such artifacts / cultural heritage objects include: tools, implements, containers, clothing, objects of personal adornment, decorative objects, objects associated with travel and transport, objects that are components of domestic architecture, and symbolic / ritual objects. In some cases, cultural heritage objects may belong to specific KFN tribal families rather than to KFN more broadly.

Table 1. Cultural Heritage Site Types and Required Mitigation Measures.

Site Type	KFN Required Mitigation Measures
Shell Middens	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
House Site	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Fire-Cracked-Rock middens	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Cemeteries / Burials	No impacts; if cannot be avoided, impacts will require KFN consent and will maximize data recovery
Lithic Sites	Maximize data recovery
Rock Art	No impacts
Fortifications	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Fish Traps	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Clam Gardens	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Earth Ovens	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Culturally Modified Trees (CMTs)	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology, 50 m cutting buffer around sites
Wet Sites	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Cultural Depression	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Canoe Runs	Avoid; if cannot be avoided, maximize data recovery
Trails	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Rock Shelters	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Petroforms	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology

5. Protection of KFN Cultural Heritage

All KFN cultural heritage (as described above) belongs to KFN, and where applicable, specific KFN tribal families. The only exceptions to the above statements include KFN cultural heritage that was made for or commissioned by an individual, or heritage objects in peoples' possession that were obtained by legal means prior to introduction of the KFN Cultural Heritage Policy.

No party or individual is to damage, disturb, collect or otherwise impact KFN cultural heritage in any form without explicit permission from KFN as defined in a KFN Cultural Heritage Permit. This includes all developments and all investigations within KFN territory.

KFN ancestral remains are not to be removed from their place of discovery without written permission from KFN.

KFN cultural heritage and heritage objects cannot be bought, sold, traded, or bartered by any party.

KFN cultural heritage is not to be removed from KFN territory without explicit permission from KFN.

KFN will pursue the repatriation of all KFN cultural heritage held outside of KFN territory.

KFN will develop site specific management plans for significant archaeological sites that are continuously threated by development (see *Site Specific Management Plans*).

6. Cultural Heritage Investigations

Many projects or developments within an area considered to have high archaeological potential (***Figure 2***) will require a KFN Cultural Heritage Investigation prior to development or harvesting. The goal of the KFN Cultural Heritage Investigation is to avoid unnecessary impacts to KFN cultural heritage by proceeding cautiously with development in areas with high archaeological potential. KFN will not accept Archaeological Overview Assessments (AOAs) of such areas recommending no further investigation, without some form of in-field assessment by a qualified archaeologist.

Developments or projects in areas considered by KFN to have high archaeological potential that involve subsurface construction/landscaping in excess of 10 m^2 will require a KFN Cultural Heritage Investigation consisting of preliminary field reconnaissance (PFR) by an archaeologist and a KFN Guardian Watchman, KFN Archaeological Monitor or other individual designated by KFN. The goal of the PFR is to assess whether or not further investigation, in the form of an

Archaeological Impact Assessment (AIA), is required prior to the proposed development / project.

In certain situations wherein a PFR has not identified surficial archaeological remains, but the landform has high archaeological potential for buried cultural heritage, KFN may still request subsurface testing in the form of an AIA to determine the presence or absence of buried cultural heritage.

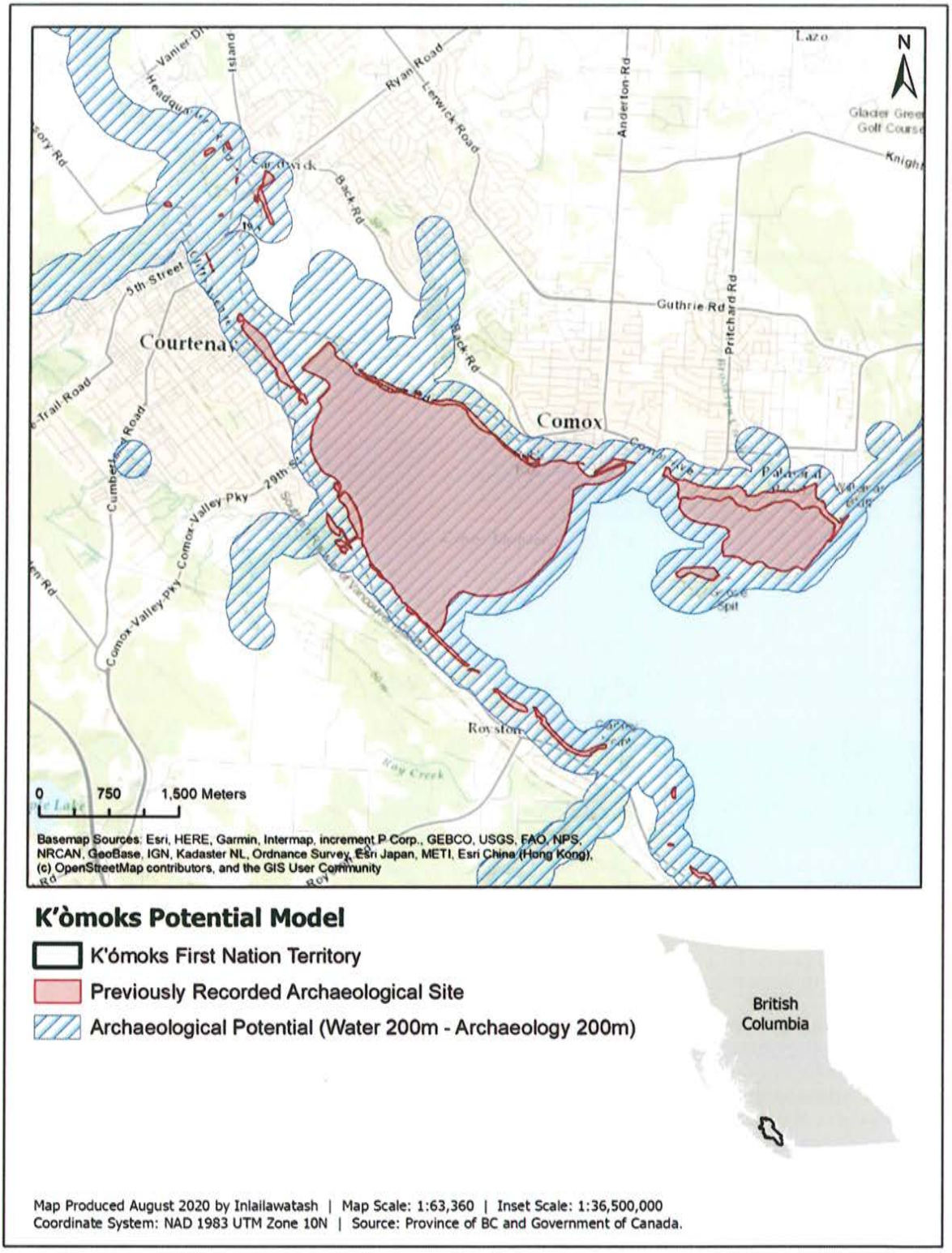


Figure 2. KFN archaeological potential model, Comox Valley area.

7. KFN Cultural Heritage Investigation Permit

A KFN Cultural Heritage Investigation Permit (CHIP) is required for all projects and developments with an area determined to have high archaeological potential (***Figure 2***). This area of high archaeological potential includes all projects within recorded archaeological sites, within 200 m of the boundaries of registered archaeological sites, areas within 200 m of the ocean, river or lake shore, and in areas considered by KFN to have high archaeological potential based on the distribution of known archaeological sites, major landforms, and other KFN ethnohistoric information. This area of high archaeological potential is a living document, and is modified and updated in light of new information. The guiding purpose of the KFN Cultural Heritage Investigation Permit is to ensure that all developments proceed in accordance with KFN's preferred mitigation measures (see *Table 1: Cultural Heritage Sites and Required Mitigation Measures* above).

The types of projects requiring a KFN Cultural Heritage Investigation Permit include civil, residential, agricultural, commercial and industrial developments involving subsurface work in areas of high archaeological potential, forestry projects involving the construction of roads, bridges, and sorting areas, timber harvesting on old growth areas, and archaeological research of KFN cultural heritage sites involving excavation or testing.

The fee for a KFN Cultural Heritage Investigation Permit is $400 (+ GST) for a small project, and $600 (+ GST) for a large project[1]. A small project is defined as less than a hectare in size or 100 meters in maximum dimension. A large project is defined as larger than a hectare in size or 100 meters in maximum dimension. Large and / or complex projects may require an additional project management fee. Project management fees cover the costs of meetings and liaising with KFN staff and Chief and Council.

It is assumed that archaeologists contracted by project proponents will apply for the KFN Cultural Heritage Investigation Permit. KFN maintains a list of preferred archaeologists with considerable experience in KFN territory; please contact the KFN Band Administrator, Jenny Millar (250 339 4545 ext 105).

The KFN Cultural Heritage Investigation Permit application will request details regarding the proposed development or project and the proposed mitigations for any potential impact to KFN cultural heritage. KFN Cultural Heritage Investigation Permit applications for developments or projects that do not propose mitigations in accordance with KFN's required mitigation strategies (see *Table 1: Cultural Heritage Sites and Required Mitigation Measures* above) will not be issued. Such applications will be rejected until they are modified in accordance with KFN's required mitigation strategies.

Many of the preferred mitigation measures for cultural heritage / archaeological sites require maximization of data recovery where impacts cannot be avoided (see *Table 1: Cultural Heritage Sites and Required Mitigation Measures* above). Generally speaking, such data recovery

[1] KFN will not charge KFN members a fee for a Cultural Heritage Investigation Permit for on-reserve or off reserve developments of residential properties.

methods will require far more effort than is typically prescribed under provincial Heritage Conservation Act permits. Applications for KFN Cultural Heritage Investigation Permits should:

- Plan for systematic data recovery of about 50% of intact cultural sediments (i.e., parts of archaeological sites that have not been moved, modified or disturbed through historic or recent land use activities);
- Plan for some level of inspection (such as raking) of 100% of disturbed cultural sediments;
- Plan for appropriate collection and analysis of faunal remains from every site where they are present. This includes column sampling from all stratified shell midden deposits;
- Plan for appropriate collection and analysis of lithic artifacts from every site where they are present. Where appropriate, this includes geochemical characterization;
- Allocate funds for radiocarbon dating for every project that impacts intact cultural sediments or wet sites.

The terms and conditions of the KFN Cultural Heritage Investigation Permit are to be followed by all permit holders and employees or contractors of the permit holder.

KFN Cultural Heritage Investigation Permit applications can be obtained from KFN Band Administrator, Jenny Millar (250 339 4545 ext 105).

8. Specific Requirements regarding Ancestral Remains

When ancestral remains are encountered:

- All work within 10 m will cease, and KFN will be contacted immediately. Appropriate KFN contacts for this situation are provided below.
- KFN will make a determination if the remains are to be excavated or remain in place. KFN ancestral remains cannot be moved without written permission from KFN. If the remains are to be excavated, they will be temporarily stored in a cedar or cardboard box with cedar boughs and a red wool blanket. KFN will determine the temporary storage of the remains and whether they will be reburied on site or relocated to the KFN mortuary house.
- When archaeologists are working with ancestral remains or in cemeteries, all work is expected to be completed by 2 pm, unless mitigating factors prevent this.
- KFN will determine the level of analysis of the ancestral remains (see below – Analyses of Ancestral Remains).
- KFN will determine the cultural work associated with the excavation and relocation of the ancestral remains.
- The proponent of the project will cover all costs associated with the excavation, storage, analyses, reburial of the ancestral remains and appropriate ceremony or work as defined by KFN.
-

Analyses of Ancestral Remains

- When ancestral remains are encountered and excavated, KFN requires that comprehensive osteological analyses are undertaken by a qualified individual to maximize the knowledge gained about the individual's life history.
- These osteological analyses include: non-destructive analyses by a qualified physical anthropologist / biological anthropologist to determine, sex, age, pathologies and other life-history indicators.
- At the discretion of KFN, additional isotopic analyses of ancestral remains may be required.
- These isotopic analyses include radiocarbon dating and stable isotope analysis.

Contacts:

KFN Band Administrator, Jenny Millar (250 339 4545 ext 105),

KFN Reception (250 339 4545)

9. Site Specific Management Plans

Several significant cultural heritage / archaeological sites in KFN territory are located in areas that have undergone and continue to undergo considerable development. Impacts to these sites have been particularly severe, and responsible stewardship of the remaining portions of these sites requires consideration of specific local conditions. For this reason, KFN will develop several site specific management plans that will describe the parameters by which local development can proceed. Such sites include but are not limited to:

- Qualicum Beach, DiSc 26
- Deep Bay, DiSe 7
- Comox Bay, DkSf 4
- Comox Bay, DkSf 10
- Comox IR No.1, DkSf 19
- Courtenay River, DkSf 1
- Campbell River, EaSh 1
- Heriot Bay, EaSh 4
- Hotel Block CMTs

Any proposed impacts to KFN cultural heritage within these sites will require direct consultation with KFN Chief and Council.

10. Glossary of Terms

Archaeological Terms

Archaeological Impact Assessment (AIA)

An Archaeological Impact Assessment (AIA) is a field-based study of a known archaeological site or of an area where archaeological sites are anticipated, that involves mapping and some form of sub-surface testing or excavation to identify the extent and significance of archaeological materials. The purpose of the AIA is to inform management decisions regarding planned impacts to that site or area.

Archaeological Overview Assessment (AOA)

An Archaeological Overview Assessment (AOA) is a desktop based study that typically involves a review of local archaeological and ethnohistoric information regarding an area considered to have high potential to contain unknown archaeological sites. An AOA may also include a limited amount of field work, similar to a preliminary field reconnaissance (PFR), to assess the archaeological potential of the local landforms, and to inspect the surface for signs of archaeological materials. The purpose of the AOA is to inform the need for future, more detailed archaeological investigations of an area prior to development.

Archaeological Potential

The term archaeological potential refers to the suitability of a given area or landform to contain unrecorded archaeological sites. The archaeological potential of a given area is assessed through consideration of landform attributes, such as proximity to the shoreline, proximity to fresh water, slope, exposure, etc. that would have made the landform attractive for past settlement or use, and conducive for the preservation of archaeological materials. Consideration of archaeological potential is important for assessing the need for further archaeological investigation of an area prior to development.

Artifacts

Artifacts are objects or materials that have been modified by past human activities. Local examples of artifacts include flaked or ground stone tools (i.e., lithics), worked bone tools, or wooden / fibre objects such as fish trap stakes.

Culturally Modified Trees

Culturally modified trees are living trees, fallen trees, or stumps that display evidence of being impacted by past Aboriginal harvesting activities, such as bark stripping, plank harvesting, or canoe production, or past Aboriginal communication or signalling such as trail markers, boundary markers, or arborglyphs (carved or decorated surfaces on a tree). The vast majority of culturally modified trees in KFN territory occur on western red cedar trees, but can also occur on other species.

Disturbed

In archaeology, disturbed archaeological materials or deposits refers to archaeological materials that have been substantially moved, dug through or otherwise modified through modern development so that materials are no longer in a stratified (or layered) sequence. Compare to intact archaeological deposits described below. While disturbed archaeological materials have lost some of their scientific value, often contain ancestral remains and are still considered significant by KFN.

Faunal Remains

Faunal remains, fauna, or zooarchaeological remains, are the remains (almost always bones) of animals, birds, fish, shellfish etc. that are recovered from excavation of archaeological sites. In almost all cases, such faunal remains are the preserved parts of animals that were harvested by the past inhabitants of archaeological sites. Faunal remains are typically well-preserved in shell middens, and rarely occur in other contexts. A faunal assemblage consists of all the faunal remains recovered from a particular archaeological site.

Feature

Archaeological features represent the remains of past human activity and are not portable. Examples of archaeological features include hearths, storage pits, post holes, cairns, and ditches.

Fire-Cracked Rock

Fire-cracked rock (FCR) or fire-modified rock (FMR) are angular or discoloured rocks that have been fractured or undergone color change (usually shifting to shades of red and black) as the result of being heated in a fire. Archaeological FCR was produced through cooking / boiling activities and is typically very concentrated in shell middens, FCR middens, and earth ovens. Natural fire-cracked rock can also be created in forest fires.

Fire-Cracked Rock Midden

A fire-cracked rock midden is a large accumulation of fire-cracked rock (FCR) with black, charcoal rich sediment. An FCR midden likely represents the repeated use of an area for plant cooking activities. An FCR midden differs from a shell midden in that there are no shellfish remains in an FCR midden.

Geochemical Characterization

Geochemical characterization refers to the use of one or more analytical techniques used to determine the type of rock that a stone tool was made of, and, where possible, to use that information to match the stone tool to a known source or outcrop. Analytical techniques used for geochemical characterization include x-ray fluorescence (XRF), x-ray diffraction (XRD), near-infrared spectrometry (NIR), and electron microprobe analysis on a scanning electron microscope (SEM). Most of these methods collect readings of the major element chemistry of sample rocks to identify what type of rock they belong to, and rare element chemistry of particular rocks to attempt to match such a rock to a known source. Obsidian is the most common archaeological toolstone that is submitted for geochemical analysis and sourcing, but other materials such as dacite and nephrite can also be sourced.

Intact

In archaeology, an intact archaeological deposit refers to materials that have not been modified or disturbed by modern processes such as landscaping. Compare to disturbed archaeological deposits as described above.

Lithics

Lithics are stone tools (i.e., objects flaked or ground from stone by past people) and their waste debris or debitage. Flaked stone tools are objects that have been struck in a controlled way to remove sharp flakes and to shape the tool. Ground stone tools are objects that have been abraded or ground into specific shapes. A lithic assemblage consists of all the stone tools and debitage from a particular archaeological site.

Preliminary Field Reconnaissance (PFR)

A preliminary field reconnaissance (PFR) is a basic survey of a project area by a qualified archaeologist to determine the archaeological potential of a given project area and to inspect the surface of that area for archaeological remains. A PFR does not include any excavation or

subsurface testing. A PFR is typically undertaken in conjunction with a desk-top review of available archaeological or ethnohistoric information of a particular area.

Radiocarbon Dating

Radiocarbon dating (or C14 dating) is an analytical technique used by archaeologists to determine age of artifacts or archaeological sites, and is based on the known rate of radioactive decay of an isotope of carbon. This technique can be used to date organic materials such as charcoal, wood, bone, antler or shell. Samples for radiocarbon dating are sent to a specialized lab where they are analyzed in a mass spectrometer.

Shell Midden

A shell midden is an accumulation of the discarded remains of shellfish, fire-cracked rock, stone tools and faunal remains resulting from the past occupation of an area. Shell middens accumulate through many years of repeated use of an area. While the term midden refers to a refuse dump, shell middens are not only dumps, but contain the remains of houses, features and burials. Large shell middens are typically interpreted as the remains of past villages or settlements, while small shell middens are typically interpreted as the remains of temporary camps.

Stable Isotope Analysis

Stable isotope analysis is a type of chemical analysis of human or animal bone that identifies particular ratios of stable radioactive isotopes of specific elements to infer past diets. This analysis involves analysis of isotopes of carbon (C) and nitrogen (N) to determine the relative contribution of certain plants in past diets or the ratio of marine to terrestrial protein in past diets. Stable isotope analysis involves analyzing a small sample of bone in a mass spectrometer.

Systematic Data Recovery

In archaeology, systematic data recovery refers to the controlled excavation of archaeological materials by hand (trowel) involving the screening of all excavated materials and collection of all artifacts and fauna. Systematic data recovery is employed to gain the maximum amount of information from an intact archaeological deposit.

Toolstone

In archaeology, toolstone refers to a suite of rocks that are suitable for making flaked and ground stone tools. For flaked stone tools, desirable toolstones should fracture chonchoidally, should hold a sharp edge, and should be free of internal fracturing planes. Examples of toolstones for

making flaked stone tools include obsidian, basalt, dacite, chert, and chalcedony. For ground stone tools, desirable toolstones should not fracture chonchoidally, have either no internal fracturing planes or have clear unidirectional fracturing planes, and should be tough enough to hold a cutting edge. Examples of toolstones for making ground stone tools include slate and nephrite (jade).

Cultural Terms

ʔəms naʔ giǰɛ : "our territory" ('umps na gijaye')

ʔəms hɛhɛw': "ancestors ('umps hey-hew')

ʔəms taʔaw: "teachings from our ancestors" ('umps tao')

hɛ səm t kʷə ms hɛhɛw'kənɛsɛ: "the ancestors will look out for you" ('he som koms hey-hew konese')

11. Appendix 1 – KFN CHIP Application and Permit



K'ómoks First Nation

K'ómoks First Nation
3330 Comox Rd, Courtenay, BC V9N 3P8

Cultural Heritage Investigation
Permit (CHIP) Application

1. Applicant Information

Applicant: _____ *Date:* _____

Affiliation: _____

Address: _____
Street Address

_____
City Province Postal Code

Phone: _____ *Email* _____

2. Project Background

Project name: _____

Project type: _____

Project proponent: _____

3. Project Area

General description: _____

Legal description: _____

PID: _____ *PIN:* _____

Borden Number(s) of registered archaeological site(s): _____

Classification / description of registered archaeological site(s): _____

Attach map of general project area ☐

4. Archaeological Project Investigations

Type of investigation (select all that apply):

- ☐ Preliminary field reconnaissance
- ☐ Archaeological inventory or survey
- ☐ Archaeological Impact Assessment
- ☐ Mitigative excavation
- ☐ Construction monitoring
- ☐ Site alteration
- ☐ Academic research (including survey, testing and excavation)

Does this project also require a permit under the Heritage Conservation Act (HCA)? YES ☐ NO ☐

If yes, please attach the HCA permit or permit application.

If no, provide an explanation as to why it does not:

_____

_____

Description of project and anticipated impacts to KFN cultural heritage:

_____

_____

_____

_____

Proposed measures to mitigate KFN cultural heritage impacts (include archaeological methodology for data recovery): *(see KFN Required Mitigation Table for recommended mitigations*)

_____

_____

Proposed project schedule: _____

Please note: if ancestral remains are recovered, the proponent will be responsible for reburial costs by KFN.

Proposed repository** for any KFN cultural heritage objects or artifacts.

_____

** Please note that KFN's preferred repositories are:

- The *Courtenay District Museum and Archives* for cultural heritage and artifacts from the Comox Valley area
- The *Campbell River Museum and Archives* for cultural heritage and artifacts from the Campbell River area.
- The *Royal BC Museum (RBCM)* in Victoria for sites where excavated collections are already located at the RBCM (additional collections should join existing collections)

Does this project have a reasonable probability of encountering ancestral remains?

NONE	LOW	MED	HIGH	N/A
☐	☐	☐	☐	☐

5. Permitting Fees

Select type of investigation and corresponding fee:

☐ $400 CDN Small Cultural Heritage Investigation as defined under the KFN Cultural Heritage Policy
(the investigation area is less than 100 meters in maximum dimension or less than one hectare in area)

☐ $600 CDN Large Cultural Heritage Investigation as defined under the KFN Cultural Heritage Policy
(the investigation area is greater than 100 meters in maximum dimension or more than one hectare in area)

Please note: large or complex cultural heritage investigations may require additional project management fees. These fees will be negotiated with KFN at time of permitting.

6. Signature

I certify that the information captured in this Cultural Heritage Investigation Permit (CHIP) application is true and complete to the best of my knowledge. I also certify that I have read the CHIP terms and conditions below.

Signature:_____ *Date:* _____



K'ómoks First Nation
3330 Comox Rd, Courtenay, BC V9N 3P8

Cultural Heritage Investigation
PERMIT (CHIP)

1. Administrative Information

KFN CHIP Number: _____

Permit Holder Name: _____
Permit Holder Affiliation: _____

Address: _____
Street Address

_____
City Province Postal Code

Phone: _____ *Email* _____

2. CHIP Details

Site location: _____
Borden Number(s) of registered archaeological site(s): _____

Activities covered under this KFN CHIP:

_____

_____

_____

_____

Repository for any KFN cultural heritage objects or artifacts.

Issuance date: _____

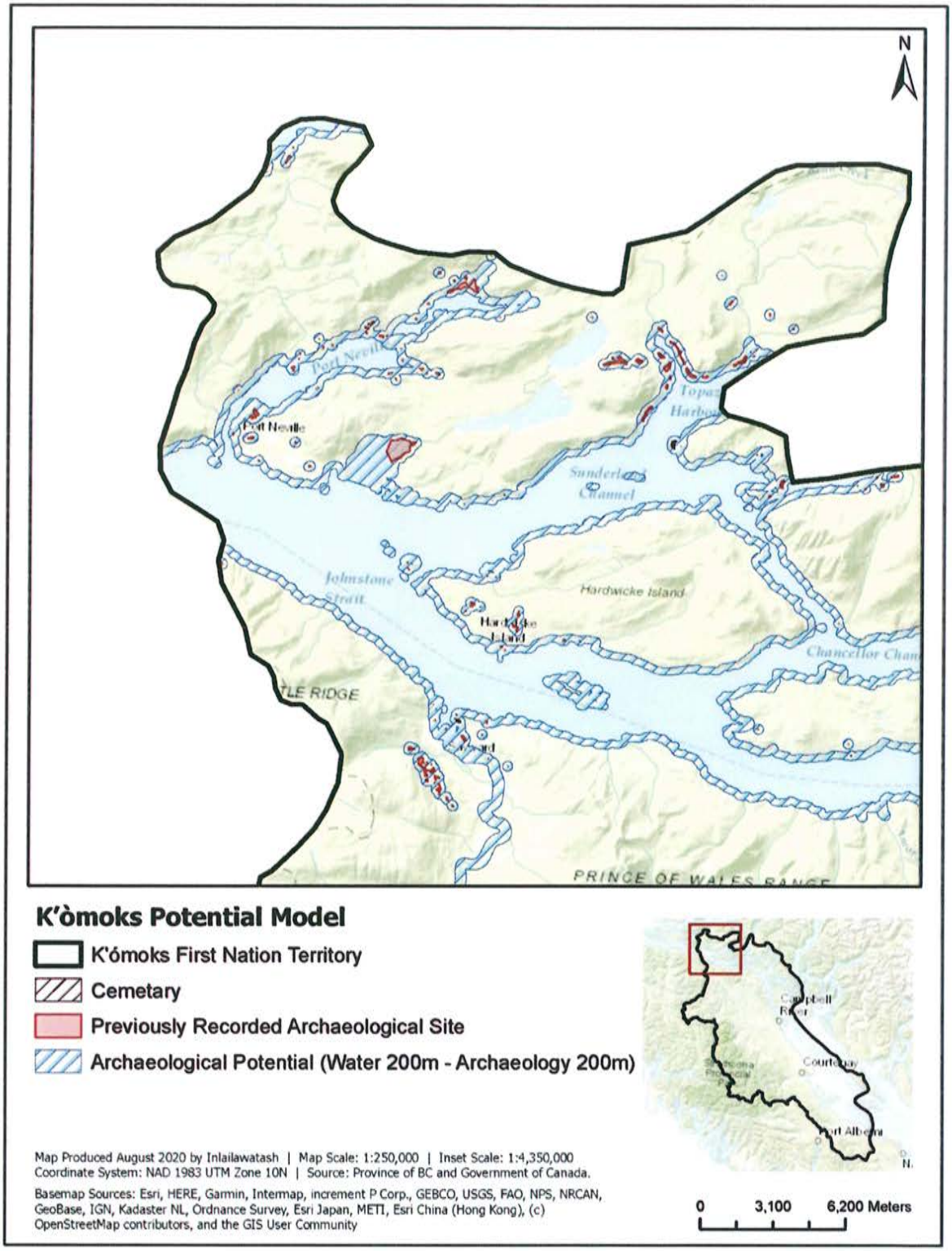
Expiry date: _____

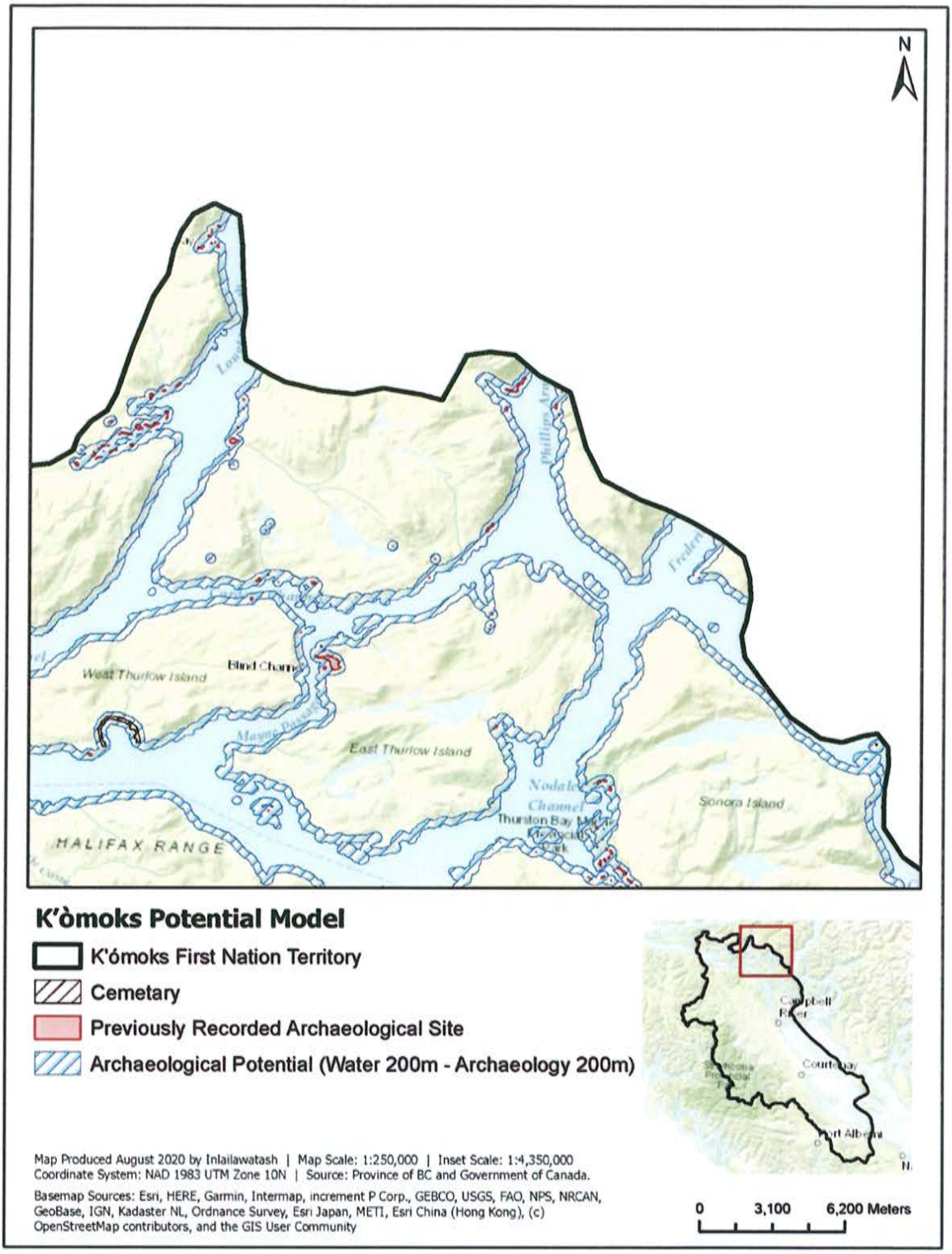
Signatory, Elected Chief

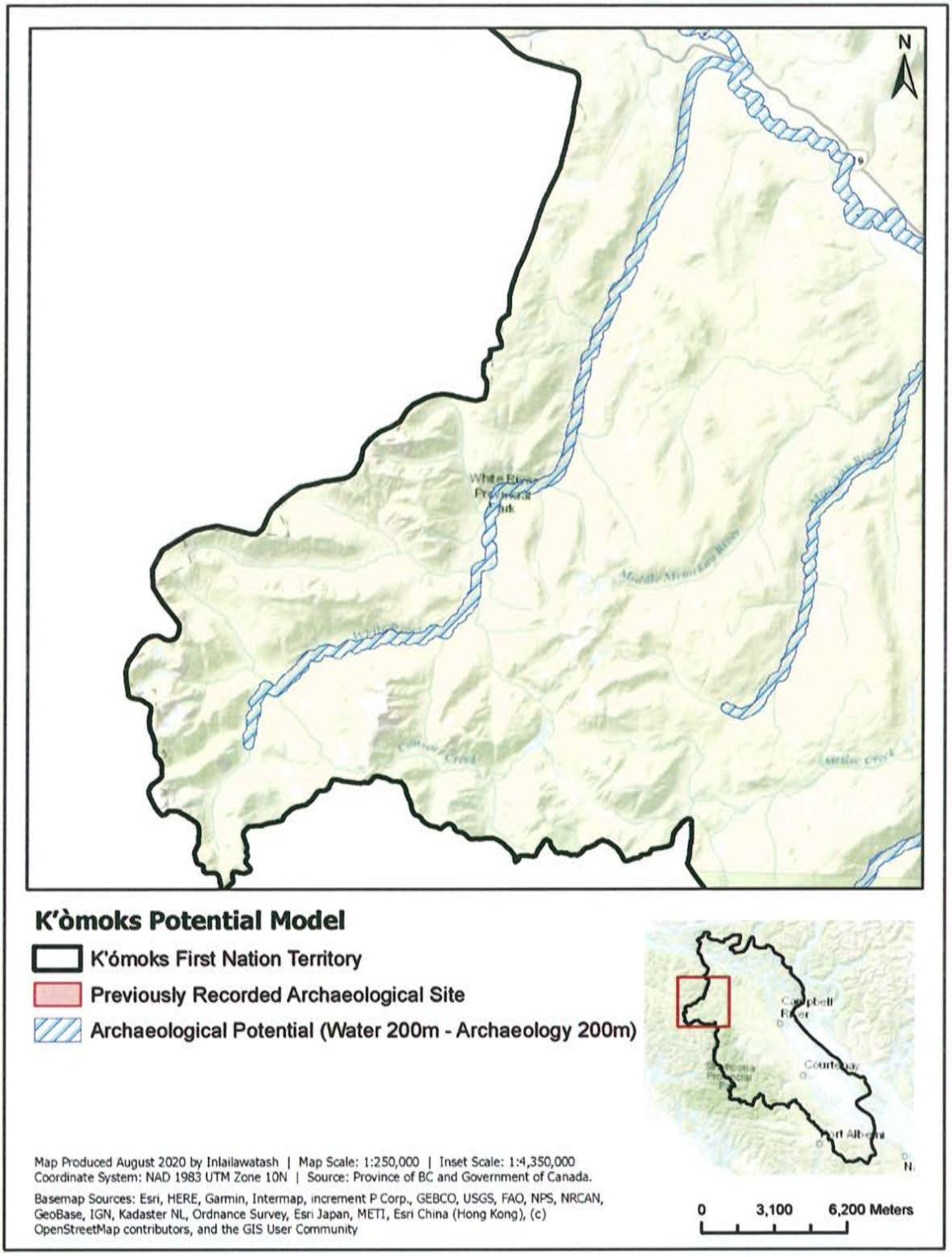
K'ómoks First Nation Cultural Heritage Investigation Permit (KFN CHIP) terms and conditions

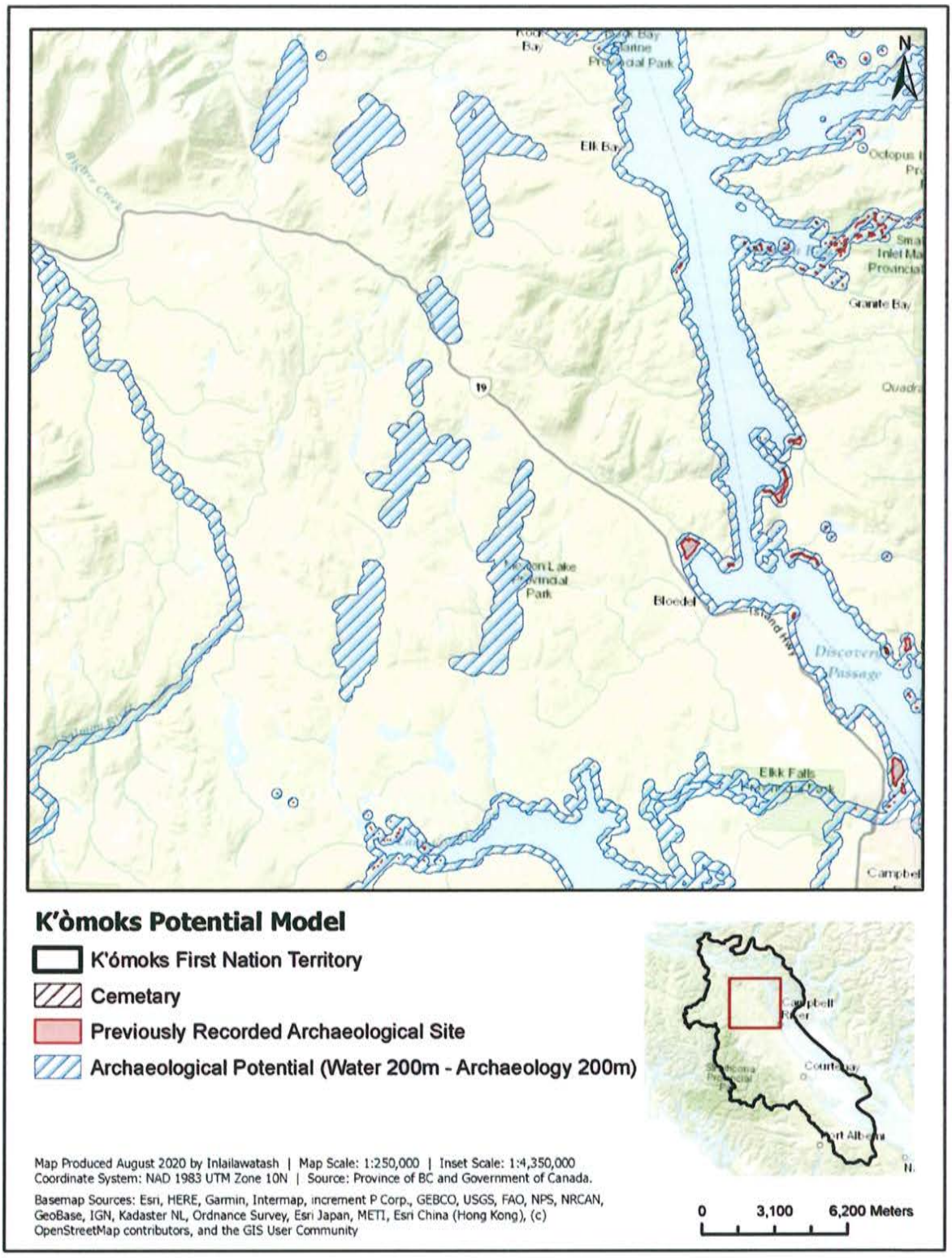
- The KFN Cultural Heritage Investigation Permit is valid for two years from the time of issuance. If the project is not complete within two years, an additional KFN Cultural Heritage Investigation Permit will need to be applied for.
- All fieldwork undertaken under this permit will include a KFN Guardian Watchman or KFN Archaeological Monitor for the duration of the fieldwork.
- Projects may require an additional project management fee, in addition to the permit fee, to be paid by the proponent.
- **If human remains are identified as a result of project related activities, the permit holder will immediately cease work, contact KFN**, and follow KFN's specific requirements regarding human remains as detailed in the KFN Cultural Heritage Policy.
- If human remains are removed as a result of project related activities, the proponent will bear the costs associated with reburial.
- Upon completion of fieldwork, the permit holder will make reasonable efforts to restore the physical appearance of the site.
- KFN will have a chance to review and comment upon the penultimate draft of the permit report.
- Upon completion of the project, KFN will be provided one digital and one paper copy of the final report.
- KFN retains the right to terminate this permit if evidence indicates that the permit holder is not acting under the terms and conditions of the permit.

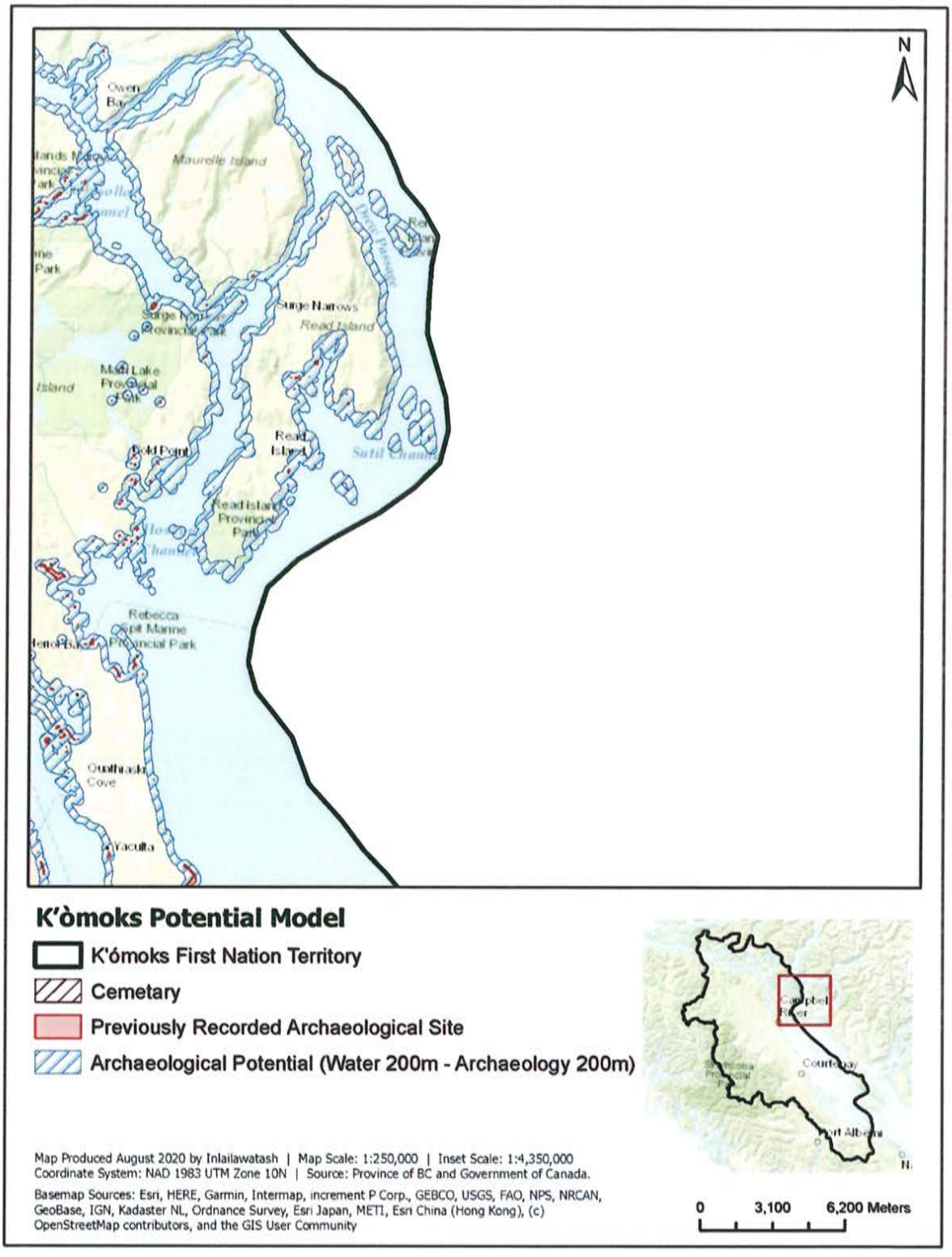
12. Appendix 2 – Map Atlas of KFN Territory, Archaeological Sites, and Areas of High Archaeological Potential

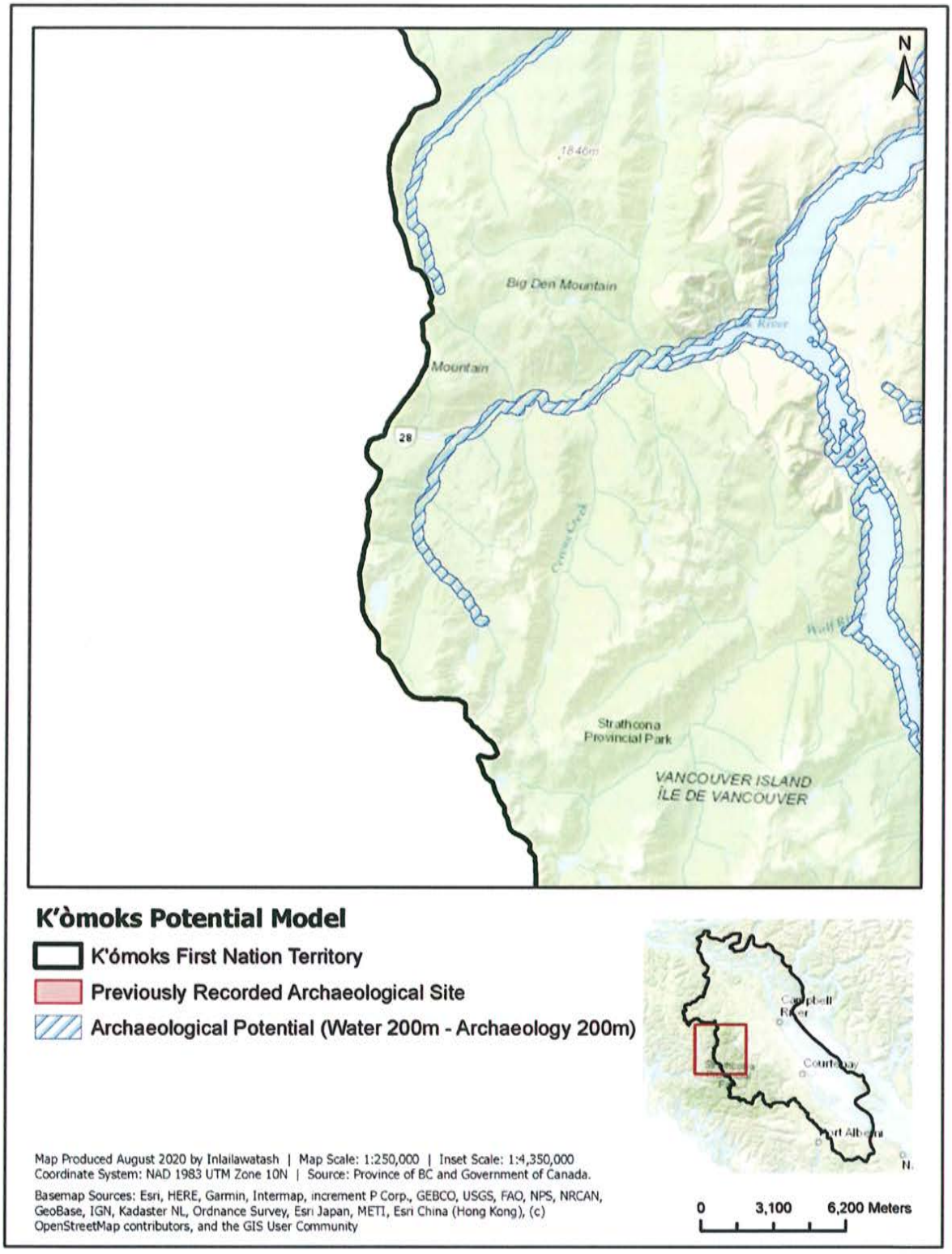


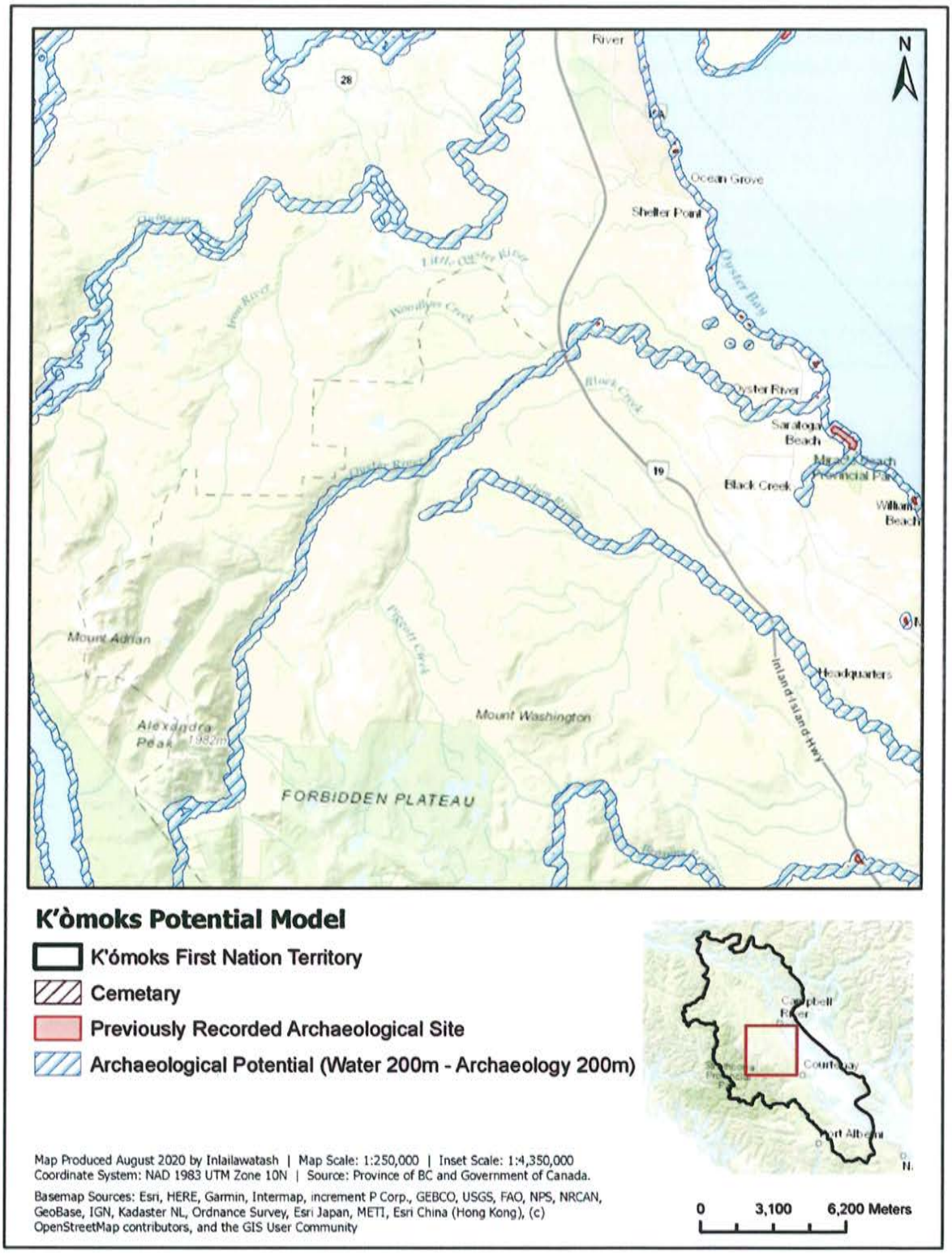

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Sonora Island
HALIFAX RANGE
K'òmoks Potential Model
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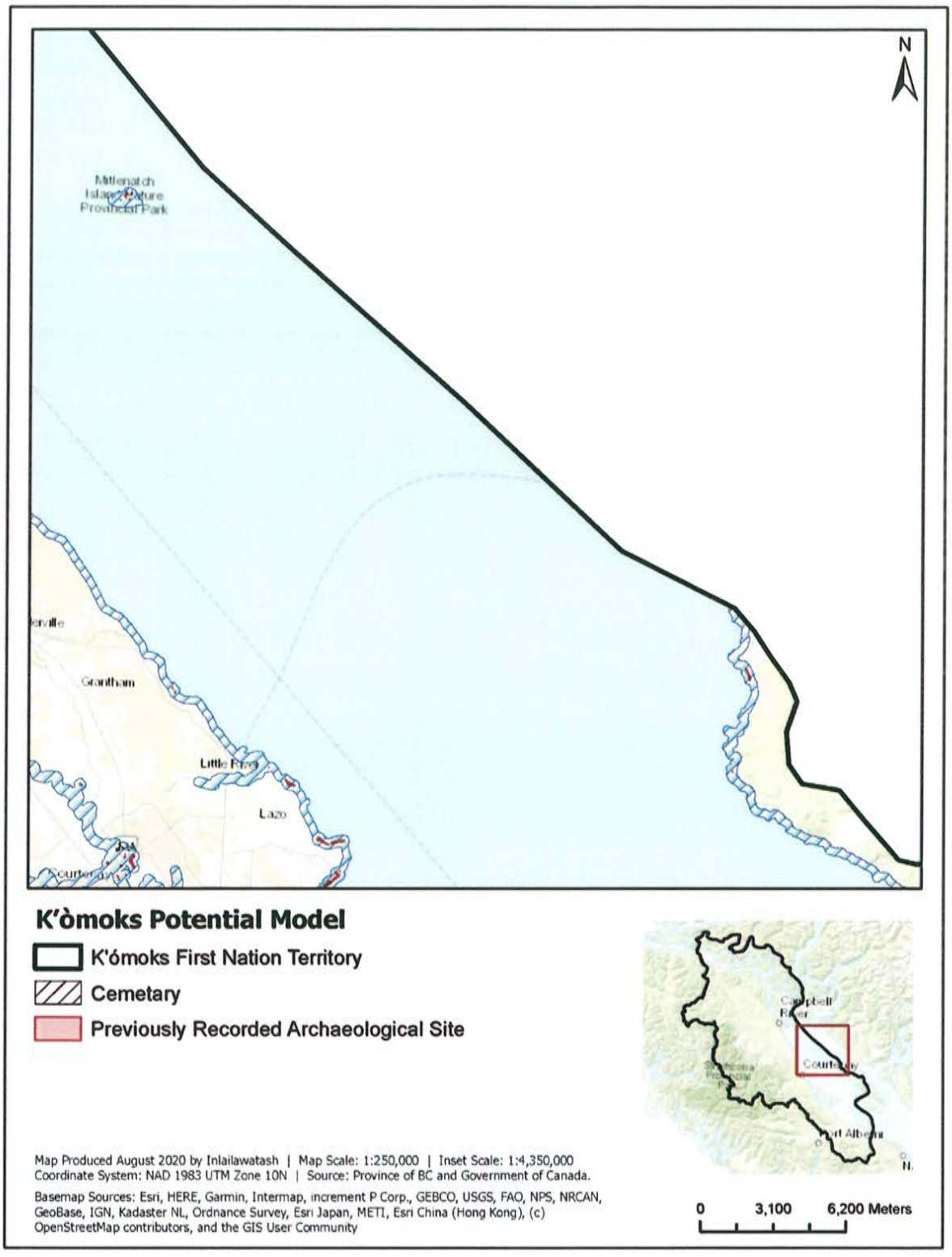

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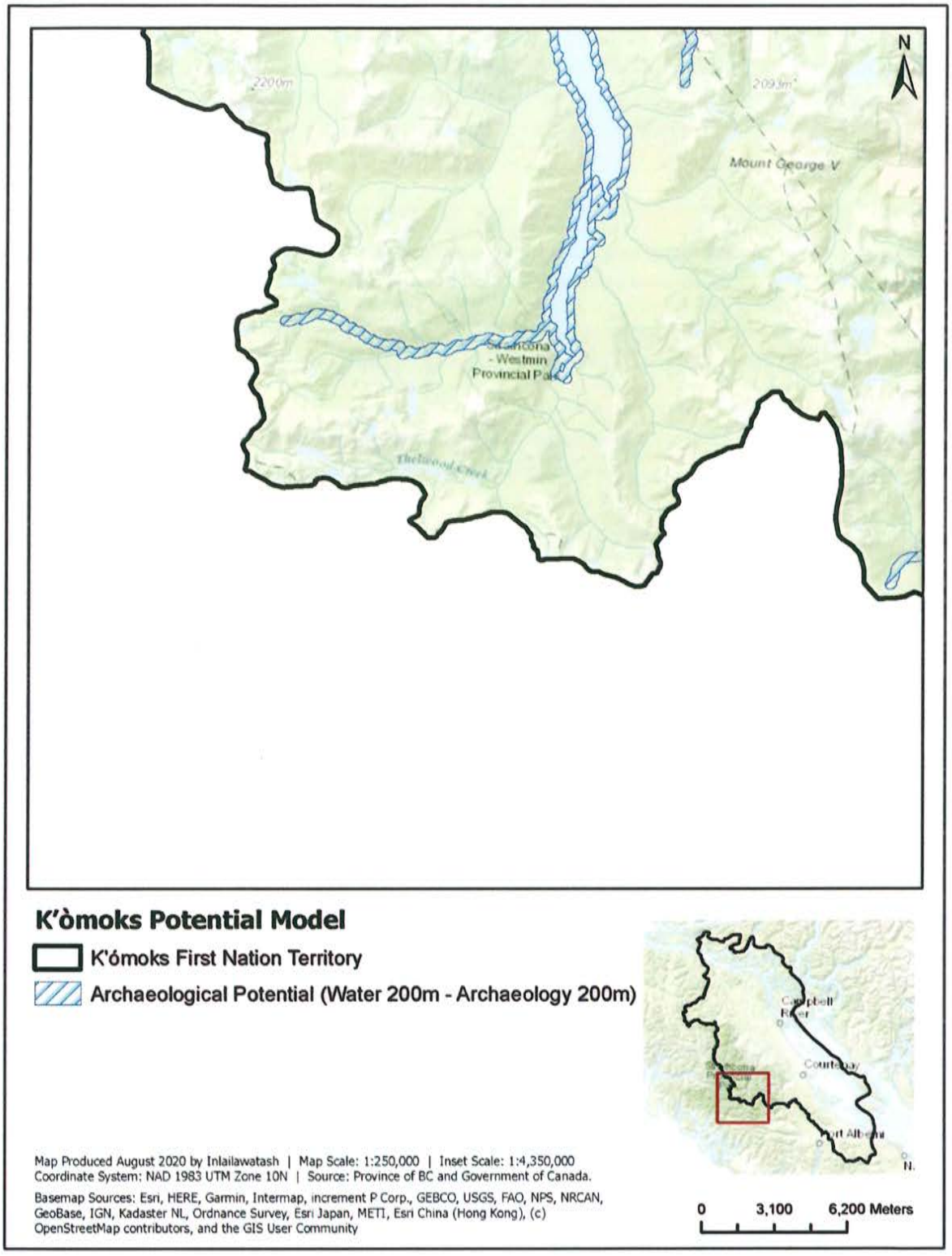

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Elk Bay
Granite Bay
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Bloedel
Island Hwy
Discovery Passage
Elk Falls
Campbell River
Courtenay
K'òmoks Potential Model
K'ómoks First Nation Territory
Cemetary
Previously Recorded Archaeological Site
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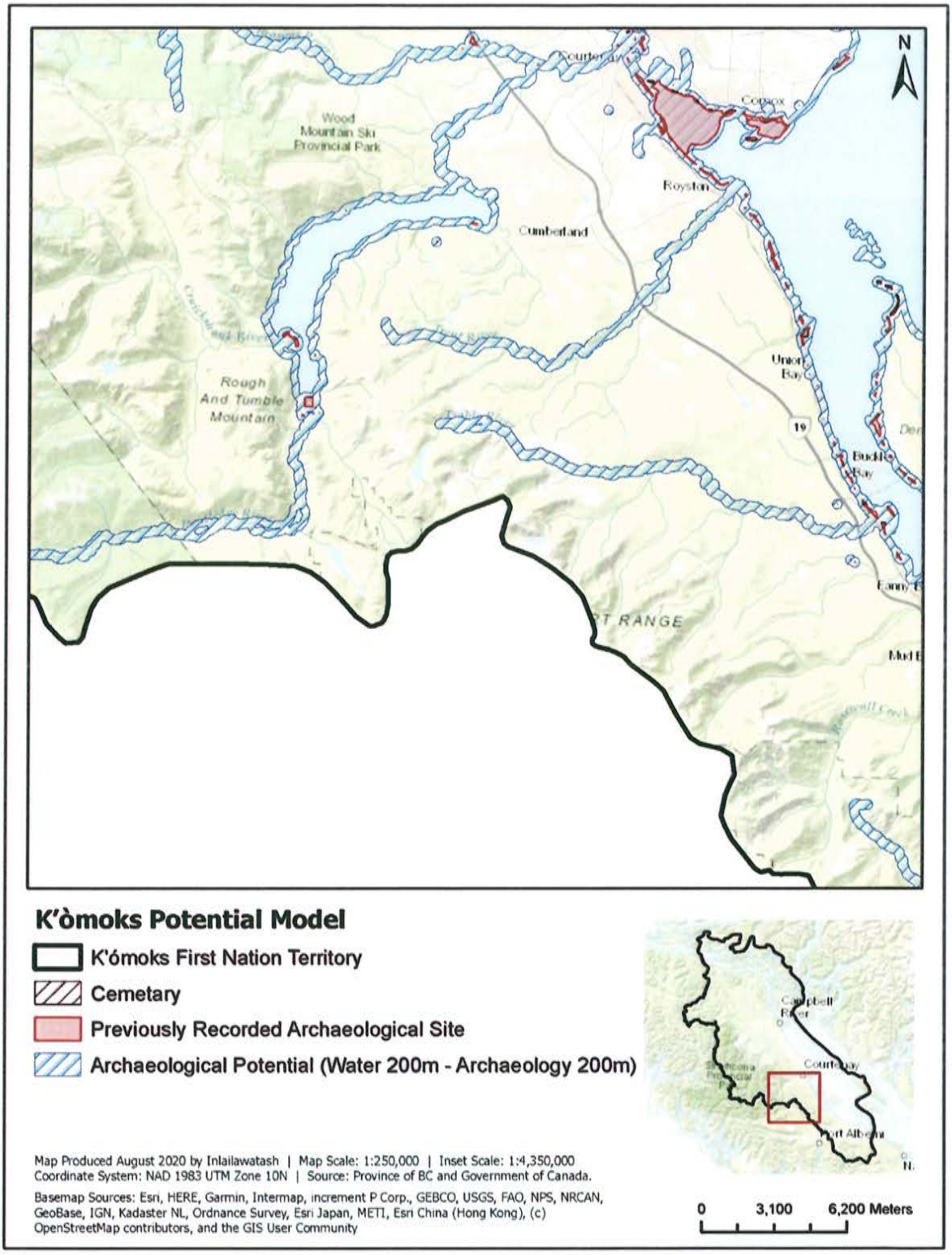

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Maurelle Island
Stuart Island
Read Island
Rebecca Spit Marine Provincial Park
Quathiaski Cove
Yaculta
K'òmoks Potential Model
K'ómoks First Nation Territory
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Archaeological Potential (Water 200m - Archaeology 200m)
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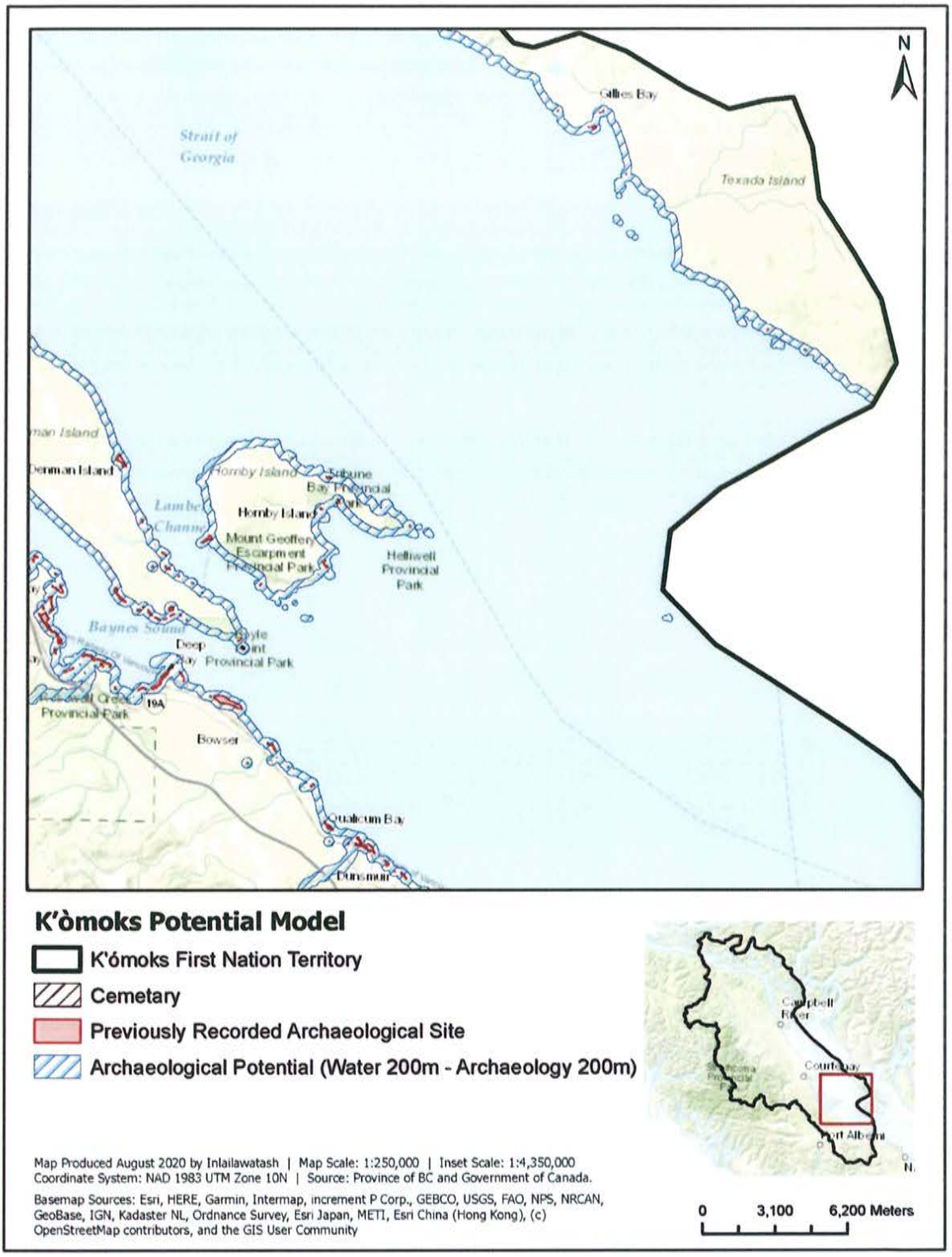

N
1846m
Big Den Mountain
Mountain
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Strathcona
Provincial Park
VANCOUVER ISLAND
ÎLE DE VANCOUVER
K'òmoks Potential Model
K'ómoks First Nation Territory
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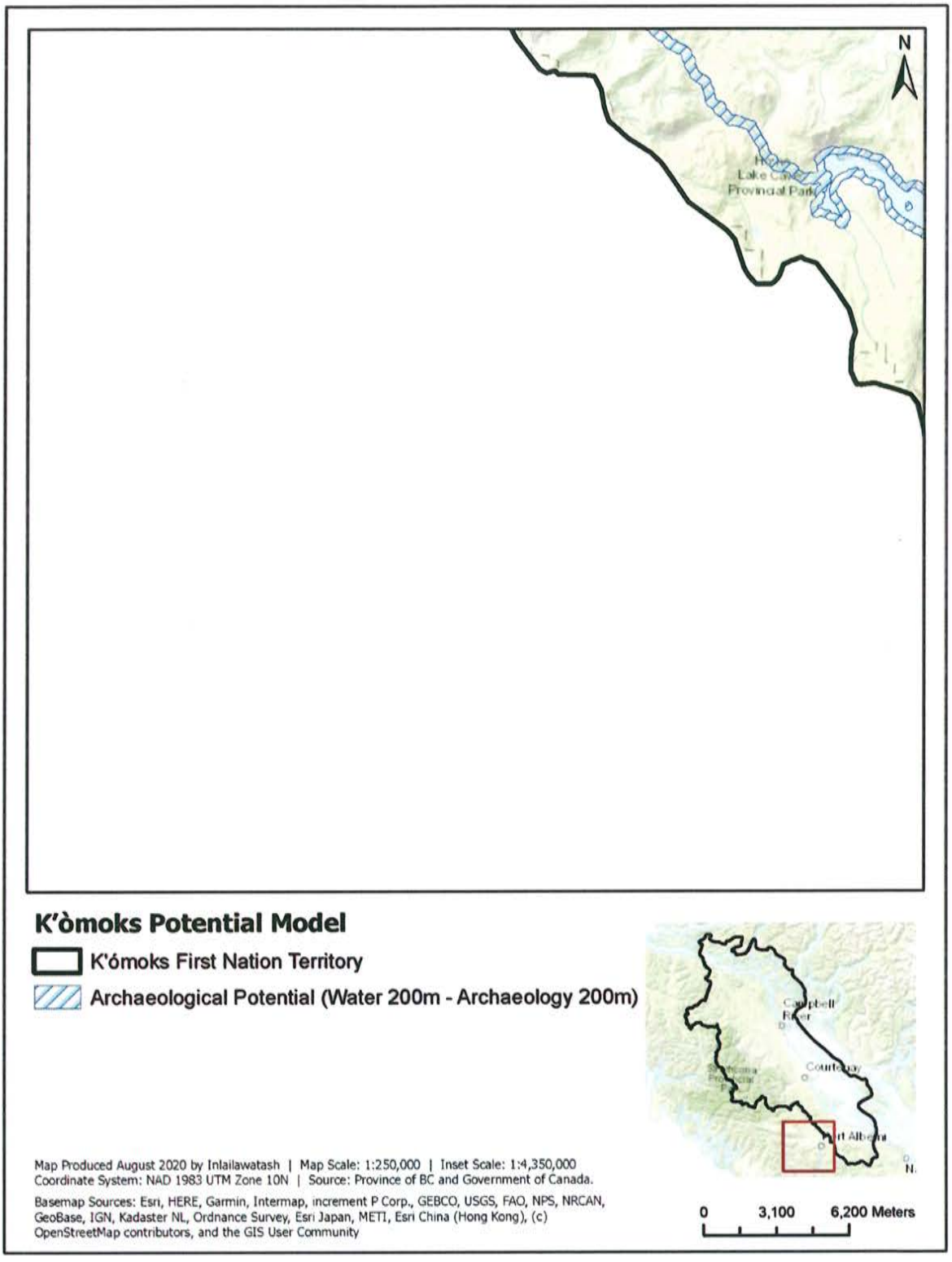

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River
28
Ocean Grove
Shelter Point
Oyster Bay
Oyster River
Saratoga Beach
19
Black Creek
Mount Adrian
Mount Washington
Alexandra Peak
FORBIDDEN PLATEAU
Inland Island Hwy
Headquarters
K'òmoks Potential Model
K'ómoks First Nation Territory
Cemetary
Previously Recorded Archaeological Site
Archaeological Potential (Water 200m - Archaeology 200m)
Courtenay
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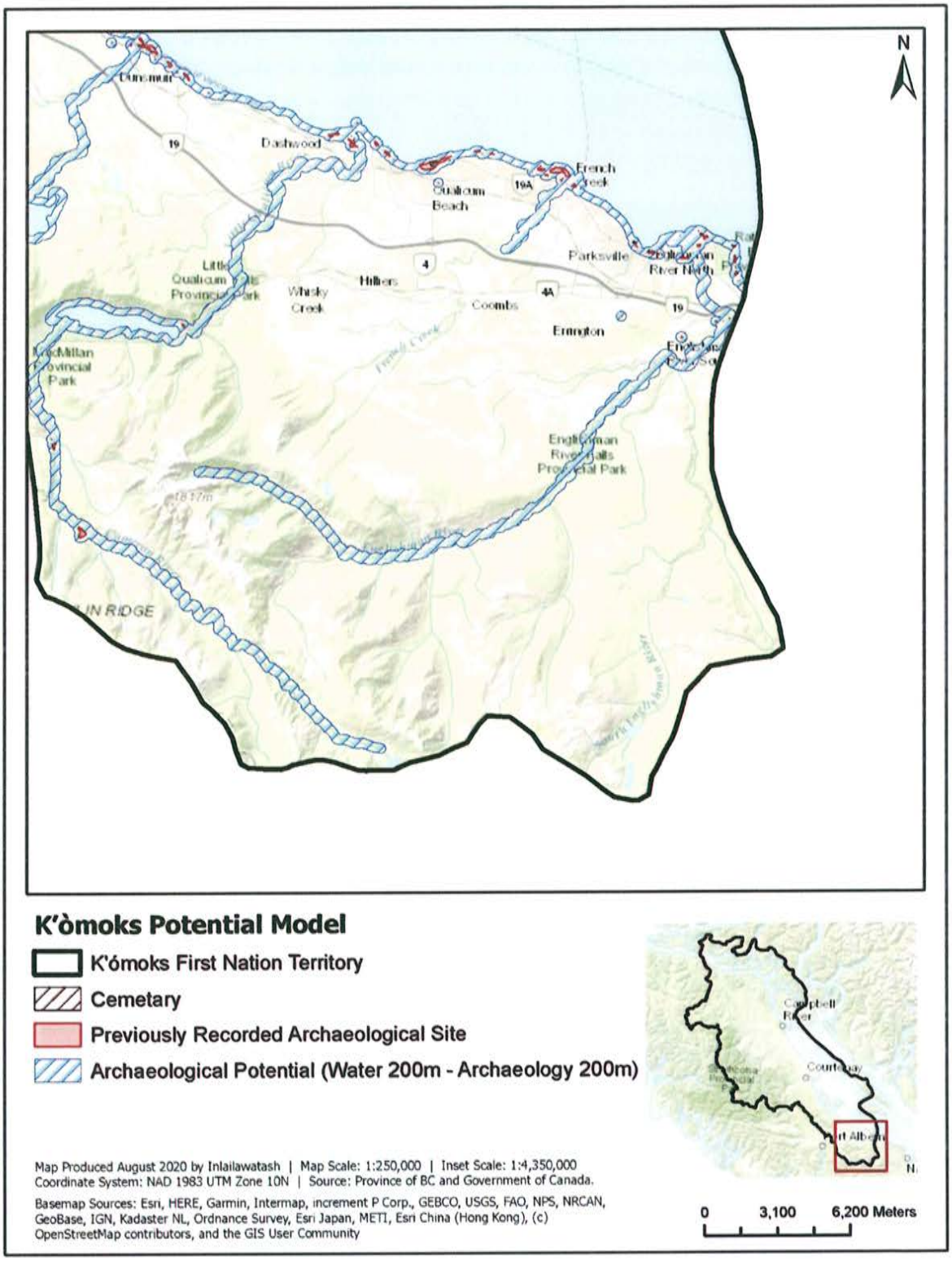

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Miller Creek Provincial Park
Courtenay
Little River
Lazo
K'òmoks Potential Model
K'ómoks First Nation Territory
Cemetary
Previously Recorded Archaeological Site
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Wood
Mountain Ski
Provincial Park
Royston
Cumberland
Rough
And Tumble
Mountain
Union
Bay
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Buckl
Bay
RT RANGE
Mud
Campbell
River
Courtenay
Port Alberni
K'òmoks Potential Model
K'ómoks First Nation Territory
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Strait of Georgia
Gillies Bay
Texada Island
Hornby Island
Denman Island
Lambert Channel
Mount Geoffrey Escarpment Provincial Park
Helliwell Provincial Park
Baynes Sound
Deep Bay Provincial Park
Provincial Park
19A
Bowser
Qualicum Bay
Dunsmuir
K'òmoks Potential Model
K'ómoks First Nation Territory
Cemetary
Previously Recorded Archaeological Site
Archaeological Potential (Water 200m - Archaeology 200m)
Campbell River
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N
Dashwood
French Creek
Qualicum Beach
Parksville
Little Qualicum Falls Provincial Park
Whiskey Creek
Hilliers
Coombs
Errington
MacMillan Provincial Park
Englishman River Falls Provincial Park
IN RIDGE
K'òmoks Potential Model
K'ómoks First Nation Territory
Cemetary
Previously Recorded Archaeological Site
Archaeological Potential (Water 200m - Archaeology 200m)
Campbell River
Courtenay
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Signed on the 2nd **day of** OCTOBER 2nd**, 2020 by the following:**



Chief Nicole Rempel



Councillor Richard Hardy

Barb Mitchell

Councillor Barb Mitchell

Councillor Katherine Frank

STAFF REPORT

File No.: DE-6500-02
(Affordable Housing)

DATE OF MEETING:	July 6, 2021
TO:	Denman Island Local Trust Committee
FROM:	Heather Kauer, Regional Planning Manager Northern Team
SUBJECT:	Affordable Housing Project

RECOMMENDATION

1. **That the Denman Island Local Trust Committee amend the title of the second Top Priority Project to be "Denman OCP and LUB Housing and Short Term Rentals Review"; and**

2. **That the Denman Island Local Trust Committee amend the description of the second Top Priority Project by adding bullets that read:**

    a. **Implementation of recommendations listed in the Islands Trust Northern Region Housing Needs Assessment, 2018;**

    b. **Consideration of Section 473 of the Local Government Act regarding housing policies.**

3. **That the Denman Island Local Trust Committee endorse the Business Case for the Denman Affordable Housing project; and**

4. **That the Denman Island Local Trust Committee request staff forward the Denman Affordable Housing project Business Case to the Islands Trust Financial Planning Committee for consideration of inclusion in the 2022/23 Islands Trust budget.**

REPORT SUMMARY

The purpose of this report is to respond to the Denman Island Local Trust Committee's request that staff prepare a discussion paper regarding affordable housing on Denman Island and a business case to accompany a request for project dollars in the 2022/23 fiscal year.

Background

At the regular business meeting on January 19, 2021, the Denman Island Local Trust Committee passed the following resolution:

> **DE-2021-016**
>
> that the Denman Island Top Priority list read as follows:
>
> 1) Farm Plan Implementation

2) Land Use Bylaw Review

Housing

- review of secondary suites regulations
- further opportunities to support housing options
- limit on gross floor area of a dwelling (and/or use of floor area ratio to measure density)
- amend Land Use Bylaw definition of "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/year regardless of who is staying there
- review of travel trailer regulations

Home occupations

- Temporary Use Permits for Short Term Vacation Rentals in limited circumstances
- Temporary Use Permits for home occupations (to be considered: retreats, camps and courses; seasonal mobile food and beverage operations; others)
- Clarify visitor accommodation regulations regarding kitchen facilities and 45-day limit

3) Water sustainability Project.

CARRIED

At their May 4, 2021 meeting, the LTC passed the following resolutions:

DE-2021-040
that the Denman Island Local Trust Committee request staff to prepare a draft business case for a review of the Denman Island Land Use Bylaw and Official Community Plan, focusing on housing, with the goal of increasing options for affordable and attainable housing while also minimizing impacts of housing generally to better protect the environment while supporting equity, diversity and inclusion, and that this business case include the use of a consultant for all or part of the work.

CARRIED

DE-2021-041

that the Denman Island Local Trust Committee request staff to prepare a discussion paper to list and analyze options available to the Local Trust Committee to facilitate more affordable housing including what strategies have proved successful in the Trust area and elsewhere.

CARRIED

ANALYSIS

Top Priority Project

Currently, the LTC's second Top Priority Project identifies changes to the Denman Island Land Use Bylaw regarding housing as a top priority. The business case requested in resolution DE-2021-040 refers to both the Land Use Bylaw and Official Community as subjects of housing review. Staff are recommending that Top Priority Project #2 be amended to be in alignment with this request.

As previously indicated, staffing resources in the northern Islands Trust office are currently at maximum capacity for LTC projects. Capacity for one minor Denman LTC project is anticipated to be available in the fall of 2021. As of the writing of this staff report, staff have submitted a grant application to the Investment Agricultural Foundation aimed at completing the Denman Island Farm Plan Implementation Project. Staff anticipate that if this grant application is successful, the one minor Denman project that would be implemented by northern office staff starting in the Fall of 2021 would be this project. The grant application anticipates some consultant work, but in addition to contract management, staff time anticipated for this project would still be substantial enough to limit it to just this project for Denman.

If the grant application is not successful, the LTC could decide to request that staff work on Top Priority #2 - housing instead. For the current fiscal year 2021/22, the LTC has a few options on what could be accomplished with regards to housing starting in the fall. These options include:

- Implementation of bylaw amendments related to short term vacation rentals recommended through legal advice; or

- Staff development of a discussion paper analysing the opportunities for and barriers to affordable housing currently existing in the Denman OCP and LUB; and / or

- A Community Information Meeting in which staff present on the current housing regulatory framework and answer community questions.

Staff recommend that if the LTC is contemplating any of these alternatives that they decide next steps at their September LTC meeting after the results of the Farm Plan Implementation grant are known.

Business Case

A review and update of the Denman Island Official Community Plan and / or Land Use Bylaw looking at the broad category of "housing" would be considered a "Major" project and would therefore be assigned to the Regional Planning Team. The LTC has indicated that they believe there would need to be a public engagement effort larger in scope than could be accommodated by existing staffing resources and should therefore be led by consultants. Consultant involvement puts the scope of the project into an operational category that staff have been classifying as "extraordinary." This assumes that a Regional Planning Team member would be the project manager and manage the consultant contract.

As the overall budget of the project is anticipated to be more than $20,000, staff have recommended that a business case be made to the Financial Planning Committee (FPC) to be reviewed at their October, 2021 meeting. The FPC would then decide whether to recommend the business case to Trust Council during their December budget review. If the Trust Council chooses not to fund the project in next years' budget, the LTC has the option of reducing the scope of the project or considering a tax requisition process. If the project is budgeted, a consultant would be selected in spring of 2022.

In addition to the LTCs priority of addressing affordable housing on Denman, staff recommend that part of the rationale used for the business case include bringing the OCP into compliance with Sections 473 (1), (2), and (2.1) of the Local Government Act which state:

> (1) An official community plan must include statements and map designations for the area covered by the plan respecting the following:

(a) the approximate location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least 5 years…

(2)An official community plan must include housing policies of the local government respecting affordable housing, rental housing and special needs housing.

(2.1)… the local government must consider the most recent housing needs report the local government received under section 585.31 *[when and how housing needs report must be received]*, and the housing information on which the report is based,

(a) when developing an official community plan,

(b) when amending an official community plan in relation to statements and map designations under subsection (1) (a) of this section, or

(c) when amending an official community plan in relation to housing policies under subsection (2) of this section

Staff has drafted the business case with the assumption that the Housing project would not start until the start of fiscal year 2022/23. If the LTC wanted to start working on housing within the current fiscal year, staff believe there are up to $4,000 LTC project dollars that could be devoted to some effort put toward housing issues. The alternatives listed above under "Top Priority Project" are projects that could be accomplished within the current fiscal budget.

Discussion Paper

Staff anticipate that a fulsome discussion paper on housing would be part of a Top Priority project that has an LTC endorsed Project Charter and approved budget. With regards to preliminary discussion, the 2010 Islands Trust Housing Toolkit is still relevant regarding options that Trustees have to promote affordable housing in the Trust Area. The three major areas of influence for the LTC include providing public information, advocating to Provincial agencies, and amending LTC regulations. Regulatory barriers to affordable housing currently exist in the Denman Land Use Bylaw that could be eased.

Strategies that have been successful in the Trust Area

At present there is little data on which affordable housing strategies employed by LTCs have been successful in the Trust Area. The public policy trend for local governments in North America seems to be one that aims to remove regulatory barriers that make housing more expensive. In the U.S., inclusionary zoning has been widely adopted by many municipalities. This is a zoning provision that requires developers to devote a certain percentage of their housing units to be affordable to lower income families. Local governments in British Columbia don't currently

have the authority to impose inclusionary zoning.[1] However, this tool, when used, is only minimally successful in meeting the demand for affordable housing.

As Shauna Mackinnon, associate professor and chair of urban and inner-city studies at the University of Winnipeg notes, "…public housing is the most effective way to provide deeply affordable housing to as many people as possible."[2] To that end, removing regulatory and financial barriers to societies that build affordable housing could be an effective first step.

More detailed information regarding Trust-wide efforts regarding affordable housing can be found in the documents listed in Attachment 2 of this report.

RATIONALE FOR RECOMMENDATION

Staff is recommending that the LTC expand the definition of their Top Priority Project #2 to include housing policies in the Denman Island Official Community Plan as that seems to be the intent of the business case requested by the LTC. Staff is further recommending that the scope of the project include explicit consideration of the Islands Trust Northern Region Housing Needs Assessment and the Local Government Act in part to make the OCP and LUB consistent, but also to help justify the project budget requested through the business case.

ALTERNATIVES

1. **Request more information**

   The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

   That the Denman Island Local Trust Committee request that staff provide the following [LTC to specify requested information].

2. **Propose a staff-only implemented project**

   Eliminating consultant involvement in the project would significantly reduce the anticipated budget and potentially eliminate the need to make a business case for the project. Staff anticipate that substantive public engagement related to the project could still be done through the Regional Planning Team but would be smaller in scope than an effort completed by a consultant. If the LTC chooses this option, staff recommends that the LTC not move recommendations 3 or 4 on page 1 of this report. Staff recommends further that the LTC consider the following motion:

   That the Denman Island Local Trust Committee request that the Director of Local Planning Services assign the Denman OCP and LUB Housing and Short Term Rentals Review project to the Regional Planning Team.

3. **Propose that the Regional Planning Committee develop model OCP policies and LUB regulations regarding affordable housing**

   As affordable housing issues have been identified Trust-wide, model OCP policies and LUB regulations could be developed by the Regional Planning Team on behalf of the Regional Planning Committee to be

[1] http://inclusionaryhousing.ca/category/legislation-british-columbia/

[2] https://www.policyalternatives.ca/publications/monitor/our-opportunity-end-housing-poverty

considered by all LTCs in the Trust, eliminating the need for the Denman LTC to use LTC project dollars for this project. This is the most efficient way for the Trust to use project dollars to benefit multiple Local Trust Areas struggling with similar concerns.

NEXT STEPS

Upon LTC endorsement of the Business Case, staff will forward it to the Financial Planning Committee for their consideration.

Submitted By:	Heather Kauer, MPA, RPP, MCIP, AICP Regional Planning Manager	June 22, 2021

ATTACHMENTS

1. Denman Island Affordable Housing Project Business Case
2. List of Islands Trust studies and other documents on affordable housing, prepared by Trustee Busheikin, dated June, 2021

Budget Funding Request
Short-Form Business Case

Completion of this form initiates a request to the management team for allocation of budget funds. The form is to be completed and submitted at the start of the decision making process. The business case forms part of the Annual Budget Process (refer to Islands Trust Council Budget Process Policy 6.3.i).

TO BE COMPLETED BY INITIATOR

Initiated by:
Heather Kauer
On behalf of the DE LTC

Business Area:
Denman Island Local Trust Committee – LTC projects

Name of Request:

DE LTC – Denman OCP and LUB Housing and Short Term Rentals Review

2022/23 - $13,500
2023/24 - $8,000

Budget Source (select all that apply):

- [■] **Specific Project Funding**
  - [■] Third Party Contractors
  - [ ] Staff Travel Expense
  - [ ] Staff Overtime Expense
  - [ ] New Staff Member
  - [ ] Computer Hardware/Software
- [ ] **Furniture & Equipment**
- [ ] **Computer Hardware/Software**
- [ ] **New Staff Resources** (see Staff Costing Tool)
  - [ ] **Permanent**
  - [ ] **Temporary**
    Temp Duration: _____
- [■] **Other – please describe:**

Honoraria for speakers/First Nations' for on-going meetings and participation, minute taking, technology support, mapping, facility rental, open-house meetings and material, , legal review, development and printing of educational info, brochures, posting of meeting, ads, and legal notifications.

Date initiated: June, 2021

Date required: April, 2022 -March 31, 2023

BACKGROUND:
Low diversity of housing types and low rental vacancy are the prominent housing challenges on Denman island. As of June, 2021, the preschool, General Store, and at least one farm are having trouble finding staff, mainly due to lack of housing on the island. With high land values also comes the desire to revitalize and monetize properties, which often negatively impact the environment and neighbourhoods as well as the island's housing market options for most average income households on the island.

PROBLEM STATEMENT/OBJECTIVES:

Amendments to the OCP and LUB would tackle a range of issues that impact the affordability of housing and the types of housing as they relate to the locations, sizes, and designs of housing development. Furthermore, the existing policies within the OCP are outdated and no longer reflect the current housing conditions, as well as infrastructure servicing, transportation system, environmental conditions and other elements that impact the availability, affordability and diverse housing types on the island. The current OCP policies and LUB regulations related to housing also need to be updated to implement the recommendations of the *Islands Trust Northern Region Housing Needs Assessment, 2018* and Section 473 of the Local Government Act requiring that OCPs include housing policies that address housing needs.

Active and meaningful engagement with First Nations based on the standard of Free, Prior and Informed Consent (FPIC), on-going collaboration with external agencies and local organization, as well as the public at-large will also be part of this planning process. It is important to note that, the traditional practice is to provide a capacity funding to support First Nations' participation, which amounts to approximately $200 per person, per meeting. For the nations to review any draft documents, it will be around $2000 per nation per review.

The creation of a project of this scale will rely on a successful public engagement process which requires a skilled facilitator to deal with a diverse group of stakeholders and the numerous issues affecting their community.

PROJECTED RESULTS/DELIVERABLES:

Funding request for Stage 1 (FY22/23)	**Target Duration**	**Cost**
First Nation Consultation early and ongoing Coordination with First Nations' staff Collaborations with First Nations in their preferred methods	One half day	$2,500
Consultant Contract – Public Engagement	Over the course of 2022	$10,000
Technology (mapping, data analysis, etc.) and administrative support for public engagement program, meetings with stakeholder groups and agencies	Over the course of 2022	$ 1,000
Finding Request for Stage 2 (FY23/24)		
Draft amendment to OCP/LUB – Regional Planning Team	Over 5 months in late 2023	$
Legal review	Focus on review of draft bylaws	$ 6,000
Development of communication and educational info / Community Information Meeting(s) Public Hearing	Over the course of 2023 - 2024	$ 2,000

Progress update and public meetings	Multiple - TBA	$

ALTERNATIVES CONSIDERED:

Option 1:
Keep the same project charter but consider one or all of the following options:

- Plan public engagement activities that could be accomplished entirely by Regional Planning Team members;
- Extend the proposed project duration;

Option 2:
Request that the Regional Planning Committee develop model OCP policies and LUB regulations that promote affordable housing Trust-wide.

This alternative would maximize Trust budget dollars by creating models that can be considered by all LTCs in the Trust area and not just benefit one LTC. However, the Denman LTC considers housing to be an urgent enough matter in the Denman LTA that a housing project should be prioritized sooner than a Trust-wide process might allow.

Option 3:
Keep the same project charter and budget but fund the project via a Special Tax Requisition (this would require reconsideration for next 2022/23 fiscal budget).

The project will apply Trust Council's declarations and implement Trust Councils Strategic Plan. The impact of funding this project via special tax requisition is to minimize the impact to the overall proposed Trust Council budget whereas the special tax requisition would have a more dramatic impact on local Denman Island taxpayers.

CRITICAL SUCCESS FACTORS (List):

- Regional Planning Team capacity to manage the project in 2022/23;
- Continued prioritization of the project by Denman Trustees after the 2022 election.

CHANGE MANAGEMENT/COMMUNICATIONS/COLLABORATION:
Enhanced engagement with First Nations and stakeholders, APC referral, and online tools are proposed with consultant facilitation.

COST/BENEFIT ANALYSIS:

Quantitative Analysis:

- $13,500 for Stage 1 as per project breakdowns above
- $8,000 for Stage 2

Qualitative Analysis:

If no action taken, housing crisis will elevate to a critical level. Without updating the OCP to strengthen the various policies and objectives that impact the conditions of housing (and its associated environmental, social, economic and cultural conditions), Denman Island will no longer be able to provide healthy social, economic, environmental and cultural conditions for its residents. Furthermore, the island will no longer be able to maintain its character. Most importantly, if no action is taken, we will fail to implement the Trust Council's mandate of preserving and protecting Denman Island.

RECOMMENDED DECISION:

The DE LTC will be seeking approval from the Director of LPS of $5,000 for fiscal 2021/22 to initiate the overall project. The present funding request is for $13,500 for fiscal 2022/23 to allow a consultant to conduct public engagement related to housing on Denman Island. An additional $8,000 is anticipated to be needed in fiscal 2023/2024 to develop bylaw amendments and initiate legal review to complete the project.

PURCHASING PROCEDURE:

Denman Island Local Trust Committee

Initiator: _____ Date _____

Director/CAO _____ Date _____

REVIEWED BY MANAGEMENT TEAM:	
Date received:	**Approved:** **X** ☐ **YES** ☐ **NO**

Next steps:

- If approved by management:
  - the business case will be forwarded to FPC for review in October of each year.
  - the funding for the request will be included in Draft 1, Version 1 of the budget which is reviewed by FPC in October of each year, and the business case forwarded to FPC.
- If not approved by management:
  - the business case wil be forwarded to FPC for information in October of each year.

Documents on Affordable Housing

for the Denman Island Local Trust Committee, 2021

Prepared by Denman Island Trustee and Regional Planning Committee Chair Laura Busheikin, June 2021

Reports published by the Islands Trust (newest to oldest)

Baseline Report: Affordable Housing Policies in the Trust Area, 2019

Provides an overview of housing policy and regulations, including definitions and key content of each LTC's OCP and LUB.
https://islandstrust.bc.ca/wp-content/uploads/2020/12/baseline-affordable-housing-policies-updated-2019.pdf

Islands Trust Northern Region Housing Needs Assessment, 2018

Extensive data, analysis and recommendations about housing needs.
https://islandstrust.bc.ca/wp-content/uploads/2020/05/lpc_2018-06-21_northern_hna.pdf

Community Housing in the Trust Area**,** 2016

Presents the results of Community Housing Forum, June 2016
https://islandstrust.bc.ca/wp-content/uploads/2020/12/final-report-trust-community-housing.pdf

Islands Trust Community Housing ToolKit, 2010

Outlines 45 strategies; Appendix A includes a literature review of reports on housing done throughout the Trust
http://saltspringrealestateagent.com/wp-content/uploads/2014/09/sscommhoustoolkit.pdf

Islands Trust Affordable Housing Seniors Strategy, 2010

Islands Trust Policy Statement Review Discussion Paper section on housing, 2021, pages 31 – 34

Reports and Toolkits from other sources (newest to oldest)

Regulating Short-term Rentals: A Toolkit for Canadian Local Governments, 2020, Part 2: Impacts of STR on Housing Availability and Affordability, Pages 22 – 28, and Part 3: Regulatory Roadmap, Pages 23 – 65.
https://www.gensqueeze.ca/regulating_short_term_rentals
or for a short summary: https://www.gensqueeze.ca/scoop-on-str

Affordable Housing Toolkit Update, published by Young Anderson, 2018
https://www.younganderson.ca/assets/seminar_papers/2018/Affordable-Housing-Toolkit-Update.pdf

Managing the Market: The Affordable Housing Toolkit, published by Young Anderson, 2016
https://www.younganderson.ca/assets/seminar_papers/2016/Managing-the-Market-The-Affordable-Housing-Toolkit.pdf

***Creating Market and Non-Market Affordable Housing*,** 2018, by Smart Growth BC
https://planh.ca/resources/publications/creating-market-and-non-market-affordable-housing-smart-growth-toolkit-bc

***Building Knowledge and Capacity for Affordable Housing in Small Communities, A Scan of Leading Practices in Affordable Housing*,** and other reports sponsored by BC Housing (various dates)
https://www.bchousing.org/research-centre/library/housing-affordability

Learning from what other LTCs are doing

Salt Spring Housing Action Committee report (include Project Charter for comprehensive LTC project)
https://islandstrust.bc.ca/wp-content/uploads/2021/05/SS-HAPTF_2021-05-20_AGD_PKG.pdf

Mayne Island housing review (goal: to provide more flexibility and incentives for increasing flexibility for affordable housing while considering the potential environmental footprint and impacts of these alternatives).
https://islandstrust.bc.ca/island-planning/mayne/projects/

Past Denman LTC projects aimed at increasing options for affordable and attainable housing

2001: A comprehensive OCP and LUB review included a housing committee and resulted in new policies supporting rezoning for affordable, special needs and seniors housing

2002-2003: Accessory Dwelling Advisory Committee formed to study this issue. Carried out extensive research and analysis which was presented in a final report. Committee was divided on whether or not to recommend changing regulations. No action taken by LTC in response.

2010: Density bank created.

2008 – 2011 term: A targeted OCP review included consideration of allowing increased residential density in an area around and included the downtown village; community was not overall supportive and this did not proceed

2011 – 2014 term: LTC Project, Cooking Up Housing, included a community forum to identify and prioritize options for regulatory change, and concluded with legalization of secondary suites and creation of a TUP option for secondary cottages in all residential zones except R1.

Denman Island LUB/OCP review backgrounder and discussion paper

Housing

Why review housing regulations?
The LTC carried out a review of housing options in the 2011 – 2014 term, which amended the Land Use Bylaw to allow secondary suites in all residential zones except R1, and secondary cottages/cabins subject to a temporary use permit, also in all residential zones except R1. At the time of adoption, the LTC resolved to review this amendment in five years.

In 2018 the Islands Trust completed the Northern Region Housing Needs Assessment, which stated that Denman Island, at that time, needed up to 80 affordable housing units, and would need potentially 165 units over the next 25 years. The Report recommended that "each island review their OCP to ensure that there are supportive policies for the development of safe, secure, appropriate, and affordable rental housing." The report also identified a need for affordable home ownership. This document verified and expanded upon what numerous other studies have shown.

In the current term, there have been multiple indications of community interest and need for a review of housing regulations—media coverage, Town Hall comments, a demonstration outside a meeting, letters to editors, and a petition. As well, the urgency of the housing situation across the Trust Area was demonstrated in the Islands Trust Policy Statement public consultation results.

The Islands Trust's Role in Housing
The Islands Trust is not a provider of housing.

Affordable and attainable housing can be provided by:

- Non-profit community groups
- For-profit developers
- Individual property owners
- Partnerships between people in need of housing and individual property owners

The Islands Trust's role is:

- Providing data through creating and regularly updating a housing needs assessment
- Ensuring land use regulations support a variety of housing options that are environmentally sustainable (this includes consideration of impact on carbon emissions and climate change adaptation, groundwater, forest and other ecosystems, species at risk and more), appropriate for the community in scale and scope, and consistent with reconciliation goals and values.
- Use land use planning tools to ensure all housing intended as "affordable, attainable, seniors, and/or special needs" is actually used for that purpose in the short and long term
- Advocacy to other levels of government

Goals of a regulatory review

1) Amend regulations to provide more opportunities for a variety of housing options across the affordability spectrum, in a way that respects the Trust mandate, is informed by UNDRIP and DRIPA, and will remain effective over the long-term

2) Amend regulations to minimize the overall environmental impacts of all housing on the island in recognition that limits must be placed on all types of housing, not just affordable housing, and that this should be done in a way that supports equity.

3) Engage the community in a way that will increase understanding of the benefits of providing housing for a spectrum of people, and encourage individuals and community groups to get involved in providing housing.

Possible In Scope Topics

1. Secondary suites and dwellings

- Review effectiveness of the amendments from 2014
    - Should secondary dwellings and suites be allowed on more lots, ie R1 lots?
    - If so, should there be a minimum lot size?
    - Should TUPS still be required for secondary dwellings? In all cases, or only in some?
    - Do the current regulations on size, distance from main dwelling, and required rainwater catchment for secondary dwellings need adjustment?
    - If TUPs will still be required, how to remove barriers or perceived barriers to their use? (Education such as an info-session, simplify permitting processes, other?)
- Consider other approaches
    - Can rental housing zone be used to allow secondary dwellings, such that they must be used for rental housing? Is this beneficial?
    - Can housing agreements be used for privately-owned housing to ensure use as affordable housing?
    - Should portable homes (RVs, tiny homes on wheels) be treated differently than permanent buildings?
- Are there areas where greater density would be supported (ie in and/or around the village/downtown area) and if so how should this be done?

2. New approaches to housing flexibility (possibilities for multi-household or extended household situations)

- Consider the distributed square footage model, currently being implemented on Mayne Island
- Consider a floor area ratio approach to density (currently being studied by Regional Planning Committee)
- Consider the use of building stratas to support land sharing without subdividing (will be studied by RPC)
- Consider allowing “houseplexes” with multiple suites

3. Minimize impacts of all housing on the island to better protect the environment while promoting equity

- Maximum square footage for all dwellings (consider South Pender example), dependant on lot size
- Decrease lot coverage on larger lots and/or lots in sensitive ecosystems
- Require water catchment for all dwellings where data provides evidence of potential water shortages

4. Create more opportunities and/or greater regulatory clarity for multi-household affordable housing projects

- Increase percentage allowance for going beyond build-out (OCP Policy E1 11) to align with housing needs as identified in Denman Island Housing Needs Assessment
- Support use of water catchment as viable alternative to groundwater for multi-unit developments
- Review OCP and LUB provisions for multi-household projects to ensure they are transparent, do not place unnecessary barriers, reflect community priorities, and reflect current knowledge of climate and reconciliation issues.

5. Review regulations on use of travel trailers and RVs as dwellings
   - Are current screening requirements necessary and/or just?
   - Should this remain a permissible use in all zones and on all lot sizes?

6. Depending on timing, consider new ITPS policies on housing.

7. Technical/housekeeping amendments to correct confusion or inaccuracies
   - Amend Land Use Bylaw definition of "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/year regardless of who is staying there
   - Other technical/housekeeping amendment needs may become evident

Ensure all work is informed by our reconciliation goals
- Begin with First Nation consultation
- Provide honoraria for First Nations to enable participation
- Include policies and regulations for cultural heritage protection
- Ensure all community affordable housing projects include First Nations people with relationships to Denman Island as potential tenants

Out of scope
- Forums, conferences, etc
- Public education about tenancy laws, etc
- Advocacy
- Amendments that would increase density in ways that could lead to future subdivision, or construction of STVRs or guest cottages rather than long-term affordable housing

Home occupations

Goals
- Provide more options for viable home occupations while being sensitive to community and environmental considerations
- Provide greater clarity on ambiguous regulations

In scope
- Temporary Use Permits for Short Term Vacation Rentals
- Examine models and lessons learned from other islands
- Consider potential impact on use of secondary units for rental housing, elder housing, and other community housing needs

- Limit consideration to situations where there is a full time resident in the main dwelling
- If this proceeds, consider maximum size of unit, distance from main dwelling, minimum lot size and/or which zones are appropriate, proof that aquifer will not be negatively impacted, sewage disposal, max # of bedrooms and/or max number of occupants, minimum or maximum stay, and year round vs seasonal use

Technical/housekeeping amendments

- Clarify when a vacation accommodation unit which is part of the main dwelling, with a set of cooking facilities, could also be a secondary dwelling unit (and thus would no longer be legally available for vacation rental); review these regulations to ensure community goals are being met
- Review visitor accommodation regulations to clarify that legal B&Bs can operate more than 45 days/year
- Other technical/housekeeping amendment needs may become evident

Temporary Use Permits for home occupations

- Consider: occasional retreats, camps and courses; seasonal mobile food and beverage operations; festivals and events
- Consider location; impact on aquifer; sewage; noise and traffic impacts; possible impacts of increased activity on human neighbourhoods and on wildlife; impact on economic resilience of the downtown/village core
- Consider examples and lessons learned from other islands or jurisdictions

Getting this Done

Decisions

- Split into two projects, do as one targeted OCP/LUB review, or narrow it down into one smaller project that could get done more easily and quickly
- Include anything else?
- Cannabis production, shoreline protection, Coastal Douglas Fir forest protection…?
- Timing:
    - wait till after Denman Green housing application is done to minimize confusion about LTC housing activities?
    - Wait till Farm Plan Implementation Review is done?
    - Wait till ITPS review is done?
- Best tactic(s) for securing resources (see below)?
- How much and what type of community consultation?
    - Create a special APC? One for each main topic? Or engage regular APC?
    - Housing discussion may be polarizing and may involve reviewing historically valued policies around density—should the LTC create options for a thorough community conversation about this, and if so how? Or will this slow things down with no positive result?
    - Would contracting a public engagement specialist help with this?

Budget

May need to include

- Planner time for project planning, reports, regulation analysis, bylaw drafting
- Planner time for Indigenous consultation and public consultation

- Articles, posters, inserts
- Meeting costs (advertising, hall rental, minutes, facilitation)
- APC costs
- Legal review

Finding Resources

Who will do this?

- Hire consultant or contract planner to implement the whole project, or
- Hire consultant to plan and implement public consultation; staff planner (Northern team) does planning work, or
- Staff planner (Northern team) manages and implements the whole project, or
- Regional Planning Team manages and implements the whole project

How to finance?

- budget request for this fiscal year submitted to Regional Planning Director this summer, for project beginning in fall, or
- budget request for 2022/2023 fiscal year, to begin Spring 2022, or
- special tax requisition for 2022/2023 fiscal year, to begin Spring 2022
- Ask Mike Richards to look for grants

SCHEDULE "B"

OWNER STATUTORY DECLARATION

CANADA

PROVINCE OF BRITISH COLUMBIA

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

I, Doug Olstead, retired, of 3780 Lake Rd., Denman Island, BC

declare that:

1. I am the director [director, officer, employee] of the Denman Community Land Trust Association, the owner of the land ~~known as~~ ~~Denman Island~~, legally described as: Lot A, Sections 20+21, Seaman Dist., Nan. Dist., Pl EPP29609 ~~(the "Lands")~~ and having a civic address of 2345 Chickadee Road, Denman Island ("the Lands")
2. I make this declaration to the best of my personal knowledge.
3. This declaration is made pursuant to the Housing Agreement registered against the Lands.
4. For the period from June 25/20 to June 25/21, 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 Comox, British Columbia, this 25 day of June 2021.

A Commissioner for taking Affidavits in British Columbia

DENNIS A. SCHAFFRICK
Barrister, Solicitor, Notary Public
9-2225 Guthrie Road
Comox, BC V9M 4G1
Phone 250-339-3363

Signature of person making declaration

ISLANDS TRUST CONSERVANCY REPORT TO LOCAL TRUST COMMITTEES AND BOWEN ISLAND MUNICIPALITY, CC TO EXECUTIVE May 25, 2021

HIGHLIGHTS OF ISLANDS TRUST CONSERVANCY BOARD MEETING (OPEN PORTION)

Islands Trust Conservancy has made changes to the format of this report to make its production and delivery more efficient. For more detail on Conservancy meetings, including meeting minutes, please visit https://islandstrust.bc.ca/whats-happening/meetings-and-events/

1. ORGANIZATION UPDATES/TEAM

- Islands Trust Conservancy Manager Kate Emmings introduced the board to Islands Trust Conservancy's newest staff member: Conservation Technician Co-op Student Devin Hentschel. The Conservation Technician role will assist Islands Trust Conservancy Covenant and Outreach Specialist Jemma Green and Property Management Specialist Nuala Murphy with covenant and property monitoring this summer. Devin Hentschel is a fourth-year student at the University of Victoria, majoring in Biology and minoring in Anthropology, has a passion for environmental and wildlife conservation, and is interested in citizen science projects that aim to involve, support, and collaborate with First Nations.

2. STRATEGIC PLANNING/ADMINISTRATION

- Islands Trust Senior Policy Advisor Dilani Hippola presented information on the Islands Trust Policy Statement Amendment Project, confirming that the board would be able to provide a written response after first reading by Trust Council, and emphasizing that it is a living document that will continue to change and evolve over time, with more frequent (e.g., annual) reviews. The board suggested that the project and document re-write focus more on the importance of *island* biodiversity and ecology (as opposed to biodiversity, in general). It was noted that Ecosystem Protection Specialist Kathryn Martell contributed substantively to the current draft, as did Islands Trust Conservancy Manager Kate Emmings. It was also noted that Islands Trust Conservancy is not subject to the Policy Statement as it operates under a separate Five-year Plan. While there are some references to the Conservancy in the current draft, it is not included in the policy directives.

3. COVENANT AND PROPERTY ACQUISITIONS

- Islands Trust Conservancy approved a Morrison-Waxler Biodiversity Protection Legacy Fund Grant of $5,500 for survey and baseline report costs for a NAPTEP covenant on lands owned by Lisa Baile and Peter Paré, of North Pender Island. The Morrison-Waxler Biodiversity Protection Legacy Fund Grant Program is only available on North and South Pender and is available to landholders who wish to place conservation covenants on their lands.

4. COVENANT AND PROPERTY MANAGEMENT

- The Islands Trust Conservancy Board reviewed a number of updates to the Crystal Mountain Society proposal to create a new nature reserve on Galiano Island as part of a rezoning process with the Galiano Island Local Trust Committee. The board passed several resolutions and forwarded them to the applicant.[1]
- The Islands Trust Conservancy Manager and Covenant and Outreach Specialist outlined the Sidney Island Ecological Restoration Plan to the board, who noted that the plan was compatible with the Islands Trust mandate and actions around First Nations reconciliation and climate change. They also noted their appreciation towards the plan's emphasis on ecosystem restoration and animal welfare.

5. COMMUNICATIONS AND OUTREACH

- Acting Islands Trust Conservancy Fundraising Specialist Carla Funk gave a presentation to board members on how to cultivate a culture of philanthropy, explaining why people give and describing how to inspire others through storytelling.
- The Islands Trust Conservancy Board approved a draft for the 2020/2021 Annual Report after calling for a number of slight rewording amendments, and also asked that the contents of the Annual Report be repurposed or otherwise made available to a wider audience – to which staff replied that a donor-oriented "Impact Report" version of this material was planned for publication in the near term.

6. FUNDRAISING AND CONSERVANCY SUPPORT

- Islands Trust Conservancy approved two Opportunity Fund Grants: one of $4,000 to be awarded to the Denman Conservancy Association, and one of $2,500 to be awarded to the Salt Spring Island Water Preservation Society.

[1] Islands Trust Conservancy Manager Kate Emmings left the meeting for the Crystal Mountain Society application due to a previously declared conflict of interest.

Applications

Development Variance Permit

File Number	Applicant Name	Date Received	Purpose
DE-DVP-2021.1	Gamble, Eugene & Shirley	09-Feb-2021	PID: 005-299-161 Addition to SFD. Civic address: 5621 Lacon Road, Denman Island, BC.

Planner: Ian Cox

Planning Status

Status Date: 21-Jun-2021

July 6 LTC agenda item for decision.

Status Date: 29-Mar-2021

Notice to KFN sent.

Status Date: 15-Mar-2021

Internal SIPA review.

File Number	Applicant Name	Date Received	Purpose
DE-DVP-2021.2	Pandesign Inc. (Nielsen)	15-Mar-2021	PID: 000-393-941 Minimum lot size variance required. Civic: 1151 Kirk Road, Denman Island, BC.

Planner: Sonja Zupanec

Planning Status

Status Date: 17-Mar-2021

File opened & assigned. Waiting for etransfer.

Applications

Rezoning

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

Planning Status

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.

File Number	Applicant Name	Date Received	Purpose
DE-RZ-2021.1	Denman Housing Association (Denman Green) **Planner:** Sonja Zupanec	11-Mar-2021	PIDs: 009-704-523, 000-393-941, 006-660-495. Affordable housing units. Civic address: 1151 Kirk Road, Denman Island, BC.

Planning Status

Status Date: 12-Mar-2021

File opened & assigned.

Applications

Siting and use Permit

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2020.16	Baker, Dorian	30-Sep-2020	PID: 028-819-209 Building various accessory buildings. Civic address: 3980 Park Road, Denman Island, BC.

Planner: Stephen Baugh

Planning Status

Status Date: 04-Feb-2021
File reassigned.

Status Date: 09-Nov-2020
Waiting for additional information from applicant

Status Date: 09-Oct-2020
File opened and assigned.

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: Stephen Baugh

Planning Status

Status Date: 04-Feb-2021
File reassigned.

Status Date: 10-Dec-2020
Request for further information

Status Date: 25-Nov-2020
Under planner review

Applications

Siting and use Permit

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: Stephen Baugh

Planning Status

Status Date: 04-Feb-2021
File reassigned.

Status Date: 10-Dec-2020
Waiting for additional information from applicant

Status Date: 25-Nov-2020
Under planner review

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: 12-Apr-2021
Notice to K'ómoks First Nation sent.

Status Date: 02-Feb-2021
No change in status.

Status Date: 16-Nov-2020
Copy of modified covenant CA7481577 received.

Applications

Siting and use Permit

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2021.10	Formstate Design Inc.	18-Jun-2021	PID: 003-064-646 New SFD. Civic address: 3751 East Road, Denman Island, BC.

Planner: Jaime Dubyna

Planning Status

Status Date: 24-Jun-2021

Information received. File opened & assigned.

Status Date: 09-Jun-2021

Application received - further information required.

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2021.4	Eugene & Shirley Gamble	17-Feb-2021	PID: 005-299-161 Adding kitchen & den to house. Civic address: 5621 Lacon Road, Denman Island, BC.

Planner: Ian Cox

Planning Status

Status Date: 21-Jun-2021

No change in status. Issuance pending DVP decision.

Status Date: 29-Mar-2021

Notice to KFN sent.

Status Date: 26-Feb-2021

In review. DVP approval required before SUP issuance.

Applications

Siting and use Permit

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2021.7	Etienne Design	11-May-2021	PID: 004-360-460 Renos to house, demolition & rebuild of auxiliary buildings. Civic: 9501 Reginald Drive, Denman Island, BC.

Planner: Jaime Dubyna

Planning Status

Status Date: 23-Jun-2021
Information letter sent to KFN.

Status Date: 26-May-2021
Planner reviewing file.

Status Date: 12-May-2021
File opened & assigned. Waiting for Etransfer.

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2021.8	Farrell, John & Penny	21-May-2021	PID: 028-826-809 Building barn, picnic shelter & studio. Civic address: 1500 Schmidt Road, Denman Island, BC.

Planner: Bronwyn Sawyer

Planning Status

Status Date: 21-May-2021
File opened & assigned.

File Number	Applicant Name	Date Received	Purpose
DE-SUP-2021.9	C. Grant Construction	03-Jun-2021	PID: 000-409-642 New SFD Civic: 2021 Gladstone Way, Denman Island, BC.

Planner: Bronwyn Sawyer

Planning Status

Status Date: 04-Jun-2021
File opened & assigned. Waiting for etransfer.

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.

File Number	Applicant Name	Date Received	Purpose
DE-SUB-2021.1	Pandesign Inc. (Nielsen) **Planner:** Sonja Zupanec	15-Mar-2021	PID: 000-393-941 2 lot subdivision. Civic: 1151 Kirk Road, Denman Island, BC.

Planning Status

Status Date: 17-Mar-2021
File opened & assigned. Waiting for Etransfer.

Islands Trust

LTC EXP SUMMARY REPORT F2022

Invoices posted to Month ending May 2021

615 Denman	Invoices posted to Month ending May 2021	Budget	Spent	Balance
65000-615	LTC "Trustee Expenses"	185.00	0.00	185.00
LTC Local				
65200-615	LTC - Local Exp - LTC Meeting Expenses	3,904.00	233.70	3,670.30
65210-615	LTC - Local Exp - APC Meeting Expenses	444.00	0.00	444.00
65220-615	LTC - Local Exp - Communications	250.00	220.00	30.00
65230-615	LTC - Local Exp - Special Projects	294.00	0.00	294.00
TOTAL LTC Local Expense		4,892.00	453.70	4,438.30
Projects				
73001-615-4011	Denman Farm Plan	3,500.00	0.00	3,500.00
TOTAL Project Expenses		3,500.00	0.00	3,500.00

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 *Amended January 19, 2021	DE-2019-056 DE-2021-015	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 temporarily withhold enforcement against unlawful dwellings upon receipt of a written complaint, unless 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.' This Standing Resolution will be reviewed in one year's time. *Amended by DE-2021-015

<table>
<tr>
<td>8.</td>
<td>May 19, 2020</td>
<td>DE-2020-022</td>
<td>Residential densities
See Staff Report dated May 19th for background</td>
<td>
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 January 31, 2017 and has a cumulative total of residential densities of 14;
b. The Denman Official Community Plan Housing Policy 11 in Section E.1 allows for a residential density increase of approximately 5 percent 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 49 densities. 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)
BL 200
(Land Use Bylaw)</td><td>August 15, 2011</td><td>14</td><td>35</td></tr>
</table>
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</table>

				BL 204 (Land Use Bylaw)	September 24, 2013	1	34
				DE-TUP-2016.2	March 31, 2017	1	**33**
9.	March 16, 2021	DE-IC-2021.002	Bylaw Enforcement	**It was MOVED and SECONDED,** that the Denman Island Local Trust Committee enact the following Standing Resolution: that the Denman Island Local Trust Committee confirm that the following Enforcement Policy has been and continues in effect: While there is a public health emergency declared for COVID-19, Enforcement activities have been deferred for all unlawful dwellings; there will be no evictions, or demands for eviction; And that site inspections for the purpose of gathering information and communication with property owners will continue; And that the Denman Island Local Trust Committee may change this policy at any time and may give direction to resume enforcement activities.			

Islands Trust

Print Date: June 28, 2021

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 LUB Review*	Responsible	Dates
Housing - review of secondary suites regulations - further opportunities to support housing options - limit on gross floor area of a dwelling (and/or use of floor area ratio to measure density) - amend Land Use Bylaw definition of "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/year regardless of who is staying there - review of travel trailer regulations Home occupations - Temporary Use Permits for Short Term Vacation Rentals in limited circumstances - Temporary Use Permits for home occupations (to be considered: retreats, camps and courses; seasonal mobile food and beverage operations; others) - Clarify visitor accommodation regulations regarding kitchen facilities and 45-day limit		Rec'd: 19-Jan-2021

Islands Trust

Print Date: June 28, 2021

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. *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

11. *Coastal Douglas-fir protection*	Responsible	Date Received

Projects Report

Denman Island

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

07-Feb-2019

12. *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

13. *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

News Release

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June 18, 2021 – for immediate release 2021-12-IT

July 7-8, 2021, Special Trust Council Meeting to Consider First Reading of the Draft of the New Policy Statement

Lək̓ ʷəŋən, METULIYE/Victoria, B.C. – Islands Trust Council invites the public to participate in a special meeting being held electronically July 7-8, 2021, to consider first reading of the draft of the new Islands Trust Policy Statement. The public can view the electronic meeting live stream in real-time on a computer or smartphone via the Islands Trust website, listen and participate by telephone, or join the meeting by Zoom.

The special meeting will begin at 7:00 p.m. on Wednesday, July 7, with a town hall session until 9:00 p.m. that evening. Without giving any advance notice, members of the public can speak to trustees for up to two minutes. The meeting Chair will make every effort to hear all members of the public, but reserves the right to limit the number of speakers and speaking time. On the second day of the meeting, July 8, Trust Council will consider first reading of the draft of the new Policy Statement.

The Islands Trust Policy Statement expresses how Islands Trust Council plans to carry out its unique preserve and protect mandate and shapes land and marine use planning in the Islands Trust Area. The last version of the Policy Statement was written in 1994. This revision is a historic amendment that addresses the guiding principles of reconciliation and aligns the new Islands Trust Policy Statement with the *Declaration on the Rights of Indigenous Peoples Act*. The Islands Trust Council is also updating the Policy Statement to address Trust Council's response to the climate emergency and affordable housing challenges. The Policy Statement helps shape the 20 official community plans—documents providing direction for the community—and associated bylaws, policies, and regulations.

"We are thankful for all the engagement and input from members of the public over the last 18 months and for the meaningful and collaborative relationships with First Nations as we worked towards developing a new draft of the Policy Statement. First reading will signal that Trust Council wants to advance the draft of the new Policy Statement for public and agency comment, and further First Nations engagement," said Peter Luckham, Chair, Islands Trust Council. "This is typically the stage where people get more deeply interested and comment on specific proposed policies. We invite everyone to read the document cover to cover to get a complete understanding about what is being proposed, the rationale, and the commitment to reconciliation. There will be at least three months available to provide feedback by email or letter, and there will also be a survey open for several weeks. Information about the draft bylaw will be provided on the Islands Trust website and at online open houses. All feedback will be considered as we work towards a revised version for second reading."

Following first reading, while public engagement is going on, over 100 provincial and federal agencies, organizations, First Nations, and other governments will be invited to review and provide feedback on the proposed new Policy Statement bylaw.

Keep up-to-date with the Islands 2050 engagement process about the Policy Statement Amendment Project, by registering online to receive updates at: islandstrust.bc.ca/subscribe/. You can also view the Islands Trust website for more information islandstrust.bc.ca/programs/islands-2050/

Featured Sessions

Town Hall - Wednesday, July 7, 7:00 – 9:00 p.m.
Members of the public are invited to speak at the Town Hall portion of the meeting on matters impacting the Trust Area. Speakers have two minutes to speak; however, time allotments are subject to change.

Get meeting details and information on how to listen, watch or attend at:
https://islandstrust.bc.ca/event/trust-council-special-meeting-1/

Trust Council Special Meeting - Thursday, July 8 – 9:00 a.m. to 2:00 p.m.
Get meeting details and learn how to listen or watch at:
https://islandstrust.bc.ca/event/trust-council-special-meeting-2/

Until further notice, to protect the health and safety of trustees, Islands Trust employees, and the public during the COVID-19 pandemic, Trust Council meetings will be held electronically and broadcast using Zoom. The Islands Trust appreciates the public's understanding and assistance during this time.

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The Islands Trust is a federation of special-purpose local government bodies representing 26,000 people living within the Islands Trust area and another 10,000 non-resident property owners. The Islands Trust area is located within Coast Salish territory and is the homeland to over 28,000 Coast Salish Peoples who have called this place home since time immemorial. The Islands Trust is responsible for preserving and protecting the Islands Trust Area's unique environment and amenities by planning and regulating land use, development management, education, cooperation with other agencies, and land conservation. The area covers the islands and waters between the British Columbia mainland and southern Vancouver Island. It includes 13 major islands and more than 450 smaller islands covering 5,200 square kilometres.

Contact: Peter Luckham, Chair, Islands Trust Council 250-210-2553
Russ Hotsenpiller, Chief Administrative Officer, via
Clare Frater, Director of Trust Area Services 250-405-5192

Islands Trust Council Highlights
June 8th and 9th , 2021

The following is a list of highlights of Trust Council's activities and decisions during its June 8-9, 2021, meeting held electronically. These highlights are not the official minutes of the Trust Council meeting; Trust Council will adopt those at its Special Electronic meeting scheduled July 7th and 8th, 2021.

Land Acknowledgement / Call to Order

Trust Council members and staff stood for 215 seconds of silence to acknowledge the residential school survivors and their loved ones profound grief and loss over the May 27th discovery of 215 lost children found at the Kamloops residential school.

Amendments to Trust Council Policies

Trust Council amended the following policies: 2.3.1, Council Committee System; 7.4.1, Incoming Local Trust Committee Correspondence; 2.1.6 Legal Advice; 6.9.2 Legal Services Access and Management and repealed 6.9.1 Legal Services Management.

Application Processing Services Policy and Model Fees Bylaw

Trust Council adopted new policy 5.6.1, Application Processing Services, and requested each local trust committee consider adoption of this new policy.

Natural Area Property Tax Exemption Program (NAPTEP) Certificate Issued

Sections of a property located at 3209 Armadale Road and 3210 Clam Bay Road on North Pender Island were issued a NAPTEP certificate subject to registration of the covenanted portion.

Annual Report

Trust Council approved the draft report as presented which will be submitted to the Minister of Municipal Affairs for consideration.

Correspondence

Trust Council received over 40 pieces of correspondence regarding the Policy Statement Review which were referred to the Trust Programs Committee for consideration and inclusion in the review process.

Islands Trust

News Release

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May 3, 2021 – for immediate release 2021-07-IT

A surge of development applications slows processing time at Islands Trust

Lək̓ ʷəŋən, METULIYE/Victoria, B.C. – Fitting with the province-wide trend of people looking to develop their properties, buy new properties, and tackle home improvement during the pandemic, Islands Trust is experiencing an increase of development applications. This increase is resulting in longer processing times.

Compared to the Islands Trust five-year average, in the first quarter of this year, development applications more than doubled on Salt Spring Island to 105%. In the rest of the southern islands, applications went up 90%, and they also increased by 56% in the northern islands.

Members of the public considering development applications are advised of long wait times and asked for understanding and patience.

"Staff is working to maximum capacity," shared Peter Luckham. "Unfortunately, due to budget restrictions, we cannot hire additional staff, so we are asking applicants for their understanding and patience. Applications are up substantially, and people should expect processing time delays. We remind everyone that moving ahead on development without authorization can cause serious additional delays, disrupt fragile ecosystems, and destroy cultural heritage sites. Islands Trust bylaws implement our preserve and protect mandate, and they will be enforced when work is started without appropriate permits. The Islands Trust preserve and protect mandate requires deliberate, informed, and thoughtful work. This important work cannot be rushed or bypassed. We thank all applicants for their patience during this time. "

The Islands Trust Conservancy is also processing an increased number of proposals for conservation covenants and land donations. Island property owners are encouraged to explore opportunities to protect ecological features and to benefit from income tax and property tax incentives. Learn more at https://islandstrust.bc.ca/conservancy/protect-nature/

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Contact:

Peter Luckham, Chair, Islands Trust Council 250.210.2553
Russ Hotsenpiller, Chief Administrative Officer, Islands Trust, Vicki Swan, Communications Specialist 250.405.5178