



File No.: DE-RZ-2023.1
(Komas Ranch Ltd.)

DATE OF MEETING: June 4, 2024
TO: Denman Island Local Trust Committee
FROM: Margot Thomaidis, Planner 2
Northern Team
COPY: Renée Jamurat, Regional Planning Manager
SUBJECT: Application to amend the OCP and LUB – Komas Ranch Land Use Contract Termination
Applicant: Komas Ranch Ltd.
Location: 7161 and 7676 Komas Rd, Denman Island, BC, V0R 1T0
(PIDs 000-211-338, 000-211-320, and 023-096-438)

RECOMMENDATIONS

1. That the Denman Island Local Trust Committee request staff to prepare a draft bylaw to amend the Denman Island Official Community Plan, 2008 (OCP), to proceed with application DE-RZ-2023.1 (Komas Ranch Ltd.).
2. That the Denman Island Local Trust Committee request staff to prepare a draft bylaw to amend the Denman Island Land Use Bylaw, 2008 (LUB), to proceed with application DE-RZ-2023.1 (Komas Ranch Ltd.).
3. That the Denman Island Local Trust Committee confirm that the draft bylaw includes designation of part of the Northern parcel and part of the Eastern parcel (PIDs 000-211-338 and 023-096-438) as 'Conservation/Recreation' in the OCP and 'Conservation (CN)' in the LUB.
4. That the Denman Island Local Trust Committee confirm that the draft bylaw includes designation of Site Specific Rural Residential zones in the LUB to permit the existing residential density on each of the subject properties.
5. That the Denman Island Local Trust Committee request the applicant for DE-RZ-2023.1 (Komas Ranch Ltd.) to submit the following information to the Local Trust Committee regarding sewerage waste disposal on the Northern and Western parcels (PIDs 000-211-338 and 000-211-320):
 - a) Sewage disposal filings for each sewage disposal system on the subject properties; and
 - b) A comprehensive sewage disposal plan for each dwelling/building site on each of the subject properties.
6. That the Denman Island Local Trust Committee request the applicant for DE-RZ-2023.1 (Komas Ranch Ltd.) to submit the following information to the Local Trust Committee regarding the existing water quality and quantity on the Northern and Western parcels (PIDs 000-211-338 and 000-211-320):
 - a) Source of potable water for each building site;
 - b) Distribution of potable water to each building site;

- c) Any historic or current water quality tests for existing potable water sources supplying the building sites;
- d) Any additional sources of water for irrigation (non-potable); AND

That this information be forwarded to the Islands Trust Freshwater Specialist for comment.

7. That the Denman Island Local Trust Committee request staff to report back on the options and implications of establishing a shoreline protection Development Permit Area for the subject properties.
8. That the Denman Island Local Trust Committee request the applicant of DE-RZ-2023.1 (Komas Ranch Ltd.) to confirm whether or not they will pursue a Natural Area Protection Tax Exemption Program (NAPTEP) covenant to protect an environmentally sensitive portion of the Northern parcel.
9. That the Denman Island Local Trust Committee request staff to engage with K'ómoks First Nation regarding their interest in formalizing access to Longbeak Point through a pedestrian trail on the Western and Northern parcels.
10. That the Denman Island Local Trust Committee request staff to report back on the options to formally protect the cultural heritage of the subject properties using all available local government tools, in addition to the *Heritage Conservation Act*.
11. That the Denman Island Local Trust Committee request the applicant of DE-RZ-2023.1 (Komas Ranch Ltd.) submit a post-impact Preliminary Field Reconnaissance prepared by a qualified professional, in consultation with K'ómoks First Nation.
12. That the Denman Island Local Trust Committee direct staff to send an early referral of the preliminary staff report and application DE-RZ-2023.1 (Komas Ranch Ltd.) to the following groups for comment:

K'ómoks First Nation; Qualicum First Nation; Tla'amin Nation; Homalco First Nation (Xwemalhkwu); Wei Wai Kum Nation; We Wai Kai Nation; Nanwakolas Council; Te'Mexw Treaty Association; Snaw'Naw'As Nation; Snuneymuxw First Nation; Halalt First Nation; Stz'uminus First Nation; Tsu'uubaa-asatx First Nation; Lyackson First Nation; Penelakut Tribe; Cowichan Tribes; Comox Valley Regional District; BC Archaeology Branch; the Denman Island Advisory Planning Commission; Islands Trust Conservancy; and the Islands Trust Senior Intergovernmental Policy Advisor.

REPORT SUMMARY

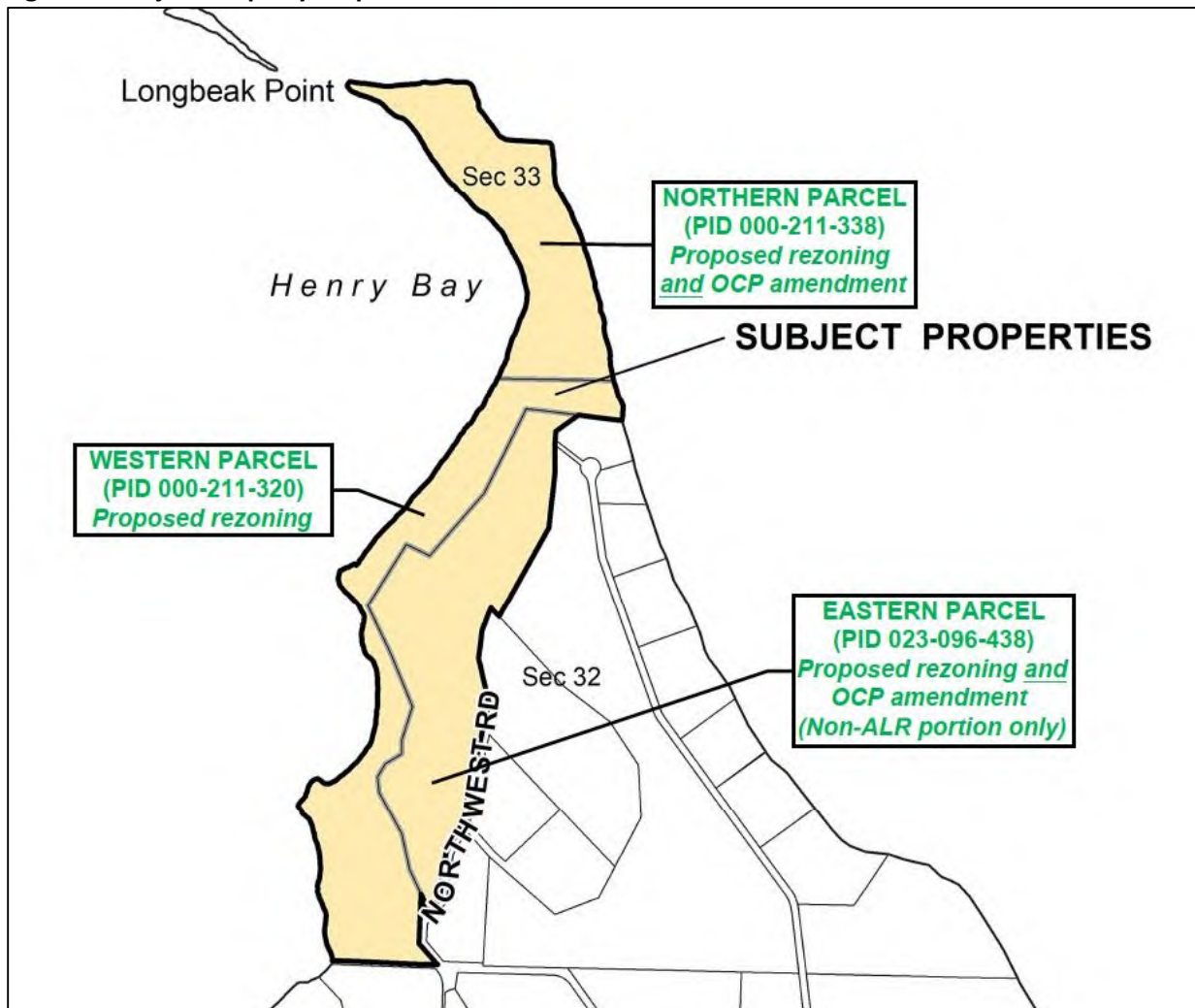
This preliminary staff report provides the Denman Island Local Trust Committee (LTC) with an overview of the proposal; identifies land use planning issues associated with the application; and seeks direction from the LTC on next steps.

This application proposes amendments to the Denman Island Official Community Plan (OCP) and Land Use Bylaw (LUB) to permit the existing use and density on three lots as permitted through a Land Use Contract (LUC) from 1977. This application proposes to increase the number of single family dwellings (SFDs) permitted on PID 000-211-320 from six to 17 units, and permit each of the 17 SFDs to have one accessory guest dwelling no larger than 400 square feet. It also proposes to decrease the number of SFDs permitted on a portion of PID 000-211-338 from five to three units, and permit each of the three SFD units to have one accessory guest dwelling no larger than 400 square feet. In addition, the application proposes to re-designate and re-zone a portion of each of PIDs 000-211-338 and 023-096-438 from 'Rural' to 'Conservation/Recreation' OCP land use designation and Conservation (CN) zoning.

Staff recommends the LTC request the information specified by the ITPS and OCP policies identified in Attachments 2 and 3 of this report and requests that draft bylaw amendments to the OCP and LUB be prepared for LTC consideration. Staff also recommends that early engagement with the K'ómoks First Nation continue and that early referral is sent to other First Nations, agencies, the APC, and relevant groups.

BACKGROUND

Figure 1. Subject Property Map – Komasa Ranch



All relevant background information is contained in a comprehensive site context analysis in Attachment 1 and also posted to the current applications webpage.

Land Use Contracts (LUCs) were used for a short period in BC's history (1971-1978). They are contractual arrangements between local governments and landowners that allowed for more flexibility than traditional zoning. The LUC No. 267 that applies to Komasa Ranch was agreed to by the Comox Valley Regional District, the Owners, and Komasa Ranch Ltd. (Company) in 1977. The province repealed the LUC legislation in 1978 and no new LUCs could be created, however, existing contracts remained in place. In 2014, the Provincial government enacted legislation that will terminate all LUCs in the province as of June 30, 2024. Along with this announcement the province also required local governments, such as Islands Trust, to adopt zoning for any property where a LUC was in effect.

A copy of LUC No. 267 is found in Attachment 4. Komasa Ranch is divided into 20 shares amongst 20 or more Owners on property title. The LUC permits a total of 20 SFD units and one accessory guest dwelling for each SFD with a maximum gross floor area of 400 square feet. The LUC applies to three parcels as outlined in Figure 1 above. Once the LUC is terminated on June 30, 2024, the underlying zoning for the parcels will apply. Currently, the three parcels covered by the existing LUC are zoned Rural Residential (R2) and Agriculture (A). The Western parcel which has the highest existing density of 17 SFD units is only permitted to have six SFD units in the underlying zoning. After June 30, 2024 any buildings and structures that were lawfully used under the LUC and are not permitted by the current zoning may continue to be used as a non-conforming use under *Part 14 Division 14* of the *Local Government Act*.

Table 1 includes a summary of the subject property details outlining the existing density as permitted by the LUC versus the maximum permitted density in the underlying zoning.

Table 1. Subject Property Details

Property	Parcel Area	Existing OCP Designation	Existing LUB Zoning	Existing Density (# dwellings)	Maximum Permitted Density (LUB) (# dwellings)
Northern Parcel PID 000-211-338	20.6 ha	Rural (R) (change required)	R2 (change required)	3 SFDs + 3 accessory guest dwellings max. 400ft ²	5 SFDs + one <i>secondary suite</i> within each SFD (limited in floor area)
Western Parcel PID 000-211-320	27.13 ha	Rural (R) (no change required)	R2 (change required)	17 SFDs + 17 accessory guest dwellings max. 400ft ²	6 SFDs + one <i>secondary suite</i> within each SFD (limited in floor area)
Eastern Parcel PID 023-096-438	A: 18.0 ha R: 11.4 ha	Agriculture (A) (in ALR) + Rural (R) (change required to 'R' designation)	A/R2 (change required to R2 zone)	ALR area: 1 SFD R2 area: None	ALR area: 1 SFD + one <i>secondary suite</i> located within the SFD (per ALR regulations) + one <i>secondary dwelling</i> (per ALR regulations) R2 area: 2 SFDs + one <i>secondary suite</i> within each SFD (limited in floor area)
Total	77.07 ha (190.44 ac)	-	-	21 SFDs + 20 accessory guest dwellings	14 SFDs + 14 <i>secondary suites</i> (located within SFD) + one <i>secondary dwelling</i> per ALR regs
<p><i>*LUC will terminate on June 30, 2024. Any development on the land that does not meet the requirements of the LUB zoning that applies upon termination becomes non-conforming under Part 14 Division 14 - Non-conforming Use and Other Continuances of the Local Government Act.</i></p>					

Rationale

The LTC may consider the termination of a LUC as an opportunity to update what might be considered outdated zoning, especially if the underlying zoning does not reflect the existing uses and density.

The underlying zoning has been in place since at least 2008, well before the Provincial government amended the *Local Government Act* in 2014 to terminate all LUCs by June 30, 2024. This application is an opportunity for the

LTC to re-examine whether the underlying OCP land use designations and LUB use and density provisions should continue as is, or whether they should be updated to reflect the existing use and density.

This is also an opportunity for the LTC to identify and implement additional planning tools to better protect the existing sensitive environments and cultural heritage sites on the parcels.

Applicant Rationale

Through discussions with the Owners and staff, it is staff's understanding that the Owners would like to be able to continue the residential use and density on each of the parcels, as permitted by the LUC from 1977. Each Owner bought their share of the property under the assumption that up to 20 residential densities as well as 20 guest dwelling units are permitted (one for each Owner share) across the parcels. See Attachment 5 for a Key Plan of all 20 buildings sites.

If the Owners do nothing and the LUC expires, the next time an Owner intends to construct a new building or add to an existing building on the Western parcel, a re-zoning amendment will be required first. If the amendment is not approved by the Local Trust Committee at that time for that level of residential density, the Owners will not be permitted to construct new buildings or make additions.

Another reason the OCP and re-zoning is requested is because if a non-conforming building or structure burns down or is damaged or destroyed to the extent of 75% or more of its value above its foundations, as determined by a building inspector; the Owners will not be permitted to rebuild without an approved re-zoning. This may have impacts on property values and insurance, since the permitted density is being reduced according to the underlying zoning.

The Owners are proactively applying for a re-zoning and beginning to address the discrepancies between the LUC and the LUB *before* the LUC is terminated, and is a favourable approach viewed by staff.

ANALYSIS

Policy/Regulatory

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

Islands Trust Policy Statement:

Staff note that an ITPS Checklist (Directives Only) will be completed at the time that draft bylaw amendments are presented to the LTC. A comprehensive analysis of Islands Trust Policy Statement policies relevant to this proposal are provided in Attachment 2. Applicable ITPS policies include those for ecosystem preservation and protection; forest, agricultural, coastal, and freshwater resource stewardship, and sustainable communities. A number of ITPS policies support this proposal in principle, while other policies require further consideration and have informed staff recommendations.

Official Community Plan:

Attachment 3 of this report provides a comprehensive overview of relevant OCP policies related to this application, for LTC review. There are multiple policies in the OCP that are applicable to the application, including those that address protection of sensitive ecosystems and freshwater, shoreline protection, climate change, transportation, water management, waste management, archaeological, historic and natural sites protection, housing, and

conservation/recreation designation. A number of OCP policies support this proposal in principle, while other policies require further consideration and have informed staff recommendations.

The subject properties are designated 'Rural' and 'Agriculture' in the OCP. The proposed application appears to be inconsistent with the 'Rural' land use designation and would therefore justify an amendment to the OCP, to include portions of the Northern and Eastern subject properties in the 'Conservation/Recreation' designation rather than the 'Rural' designation. These areas are currently undeveloped (apart from limited recreational use on the Eastern parcel) and they do not contain residential development, therefore the application proposes to retain them as conserved, undeveloped land. The Western parcel does not require an OCP amendment.

There are three existing development permit areas (DPAs) in effect for the subject properties, detailed in Attachment 1. Should the LTC concur with the staff recommendations to prepare draft bylaws, staff recommend that the LTC request staff to report back on the options and implications of establishing an additional shoreline protection DPA. None of the existing DPAs require removal as part of this application.

Land Use Bylaw:

The Western and Northern parcels (PIDs 000-211-338 and 000-211-320) are zoned Rural Residential (R2) and require re-zoning with suggested site specific residential regulations to address use, density, siting, size and subdivision potential. The Eastern parcel (PID 023-096-438) is split zoned Agriculture (A) and Rural Residential (R2), and only the R2 portion of the lot requires re-zoning to the Conservation (CN) zone to protect undeveloped land. The 'A' zoned portion of the lot is in the ALR and the existing use and density is permitted.

Issues and Opportunities

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

- Cultural Heritage Protection;
- Groundwater Management;
- Sewage Disposal;
- Nature Conservation;
- Public Access to Longbeak Point; and
- Marine Shoreline Development Permit Area.

Cultural Heritage Protection

The OCP and re-zoning application processes provide an opportunity for K'ómoks First Nation (K'ómoks) consideration. Early consultation is already underway; Islands Trust staff, the Applicant, and K'ómoks staff members held a site visit to the property in March of 2024 and K'ómoks identified their strong interest in this application. A post-impact Preliminary Field Reconnaissance is recommended pending further consultation with K'ómoks to determine the extent of cultural heritage on the subject properties.

Given the LTC's broad jurisdiction over private lands and the many legal tools available through the *Local Government Act*, the *Community Charter*, and the *Land Title Act*, the LTC's authority and land use decisions will be important in protecting cultural heritage areas on private lands, beyond the protections provided through the *Heritage Conservation Act* and the BC Archaeology Branch. The tools available to the LTC for First Nations cultural heritage protection on private land are detailed on Page 8 of **Attachment 2 – ITPS Policies** and include:

- Heritage Conservation Areas (Part 15 of the *Local Government Act*);
- Section 219 Covenant (*Land Title Act s. 219*); and
- Section 218 Statutory Right of Way (SROW) (*Land Title Act s. 218*).

It is at the re-zoning stage that the LTC has the greatest discretion to require protections through all of these tools, and the LTC is asked to direct staff to provide more information before deciding which options to pursue, before preparing draft bylaws for consideration.

- **For LTC decision: LTC to consider requesting staff to report back on the options to formally protect the cultural heritage of the subject properties using all available local government tools, in addition to the *Heritage Conservation Act*.**
- **For LTC decision: LTC to consider requesting that the applicant submit a post-impact Preliminary Field Reconnaissance prepared by a qualified professional, in consultation with K'ómoks First Nation.**

Groundwater Management

There is limited information provided in the application package to address the quality and quantity of the supply of freshwater. Each individual building site has to supply their own freshwater, either through groundwater wells or surface water. The LUC from 1977 contains the following provision concerning water supply:

"6.d) The Owners or the Company shall provide proof that potable water in a minimum amount of three hundred gallons per day per dwelling unit is available to each unit"

It is unclear how the building sites are collecting and treating their potable water, how they are distributing water amongst dwellings, the quality of the potable water, and whether there are separate sources for non-potable uses. Staff recommends obtaining this information prior to bylaw drafting, and forwarding it to the Islands Trust Freshwater Specialist for comment.

- **For LTC decision: The LTC to consider requesting the applicant provide the following information regarding the existing water quality and quantity on the Northern and Western parcels:**
 - **Source of potable water for each building site;**
 - **Distribution of potable water to each building site;**
 - **Any historic or current water quality tests for existing potable water sources supplying the building sites; and**
 - **Any additional sources of water for irrigation (non-potable).**

Sewage Disposal

Of the 20 building sites, 11 appear to have sewerage systems including septic tanks and a septic field. Five building sites appear to have a septic tank or tanks but no septic field. There are 10 outhouses in total on the Western parcel, each corresponding to a different residential building site. Four building sites appear to have no sewerage disposal system in place, other than an outhouse. Further information about the existing sewerage disposal systems is required before proceeding. There is insufficient information to determine whether wastewater is being cleaned before entering the sea, wetlands, lakes, and other watercourses.

- **For LTC decision: The LTC to consider requesting that the applicant to provide sewage disposal filings for each sewage disposal system on the subject properties, as well as a comprehensive sewage disposal plan for each dwelling/building site on each of the subject properties.**

Nature Conservation

There is a significant area of Old Forest Ecosystem mapped on the Northern parcel (PID 000-211-338), also located partly within DPA No. 1: Komas Bluff. The Land Use Contract (LUC) from 1977 prohibits development in most of this area, indicating that the Owners and the Company (Komas Ranch Ltd.) shall retain the treed section of Longbeak Point in a natural state as indicated in green in Schedule “A” of the LUC. In addition to amending the OCP and LUB to align with the land use contract, the LTC may consider requiring a Section 219 restrictive covenant for further environmental protection of this area of the lot, prior to bylaw adoption.

The LTC may also encourage the applicant to apply for the Natural Area Protection Tax Exemption Program (NAPTEP) for this part of the lot, to further incentivise environmental protection. The applicant would be encouraged to contact the Islands Trust Conservancy’s Ecosystem Protection Specialist to determine whether the area qualifies for a NAPTEP covenant.

If the applicant does not pursue a NAPTEP covenant, the LTC may alternatively request the applicant enter into a cost recovery agreement with the Islands Trust for the purposes of drafting a Section 219 *Land Title Act* restrictive covenant regarding the protection of environmentally sensitive old forest ecosystem on part of the Northern parcel, instead.

- **For LTC decision: The LTC to consider requesting that the applicant confirm whether or not they will pursue a NAPTEP covenant for an environmentally sensitive portion of the Northern parcel.**

Public Access to Longbeak Point

An informal private pedestrian trail to Longbeak Point exists on the Western and Northern parcels. This application presents an opportunity to consider formalizing public trail access to Longbeak Point, which is otherwise only accessible by walking along the western shoreline of the Western and Northern parcels during lower tides. During the site visit, staff were made aware that access to the subject properties is a top priority for K’ómoks First Nation, alongside cultural heritage protection. Further engagement with K’ómoks is required before proceeding to formalize the access trail.

- **For LTC decision: LTC to consider requesting staff to engage with K’ómoks First Nation regarding their interest in formalizing access to Longbeak Point through a pedestrian trail on the Western and Northern parcels.**

Marine Shoreline Development Permit Area

The Northern and Western parcels comprise a large coastal marine region of the Island, with certain areas more prone to erosion, flooding, and instability than others due to differences in wave exposure, shoreline values and type, sediment movement, elevation, and vulnerability. Many marine areas adjacent to these properties are environmentally sensitive and contain eelgrass and forage fish habitat. The LTC may direct staff to explore the options and implications of adopting policies and regulations for a shoreline protection DPA prior to application approval.

- **For LTC decision: The LTC consider requesting staff to report back on the options and implications of establishing a shoreline protection Development Permit Area for the subject properties.**

Consultation

Statutory Requirements:

As the application involves OCP amendments, the LTC is required by the *Local Government Act* to consider opportunities for consultation with First Nations and persons, organizations and authorities it considers will be affected. The statutory process for bylaw amendments is prescribed by the *Local Government Act* and *Islands Trust Act*.

First Nations

While no resolution is required as part of the application processes, the LTC may consider continuing early engagement with K'ómoks First Nation (e.g. before the bylaws have been drafted), considering their strong interest in this application and in cultural heritage protection for the subject properties. The LTC may also support early referral of the application to other First Nations, prior to bylaw drafting.

Advisory Planning Commission (APC)

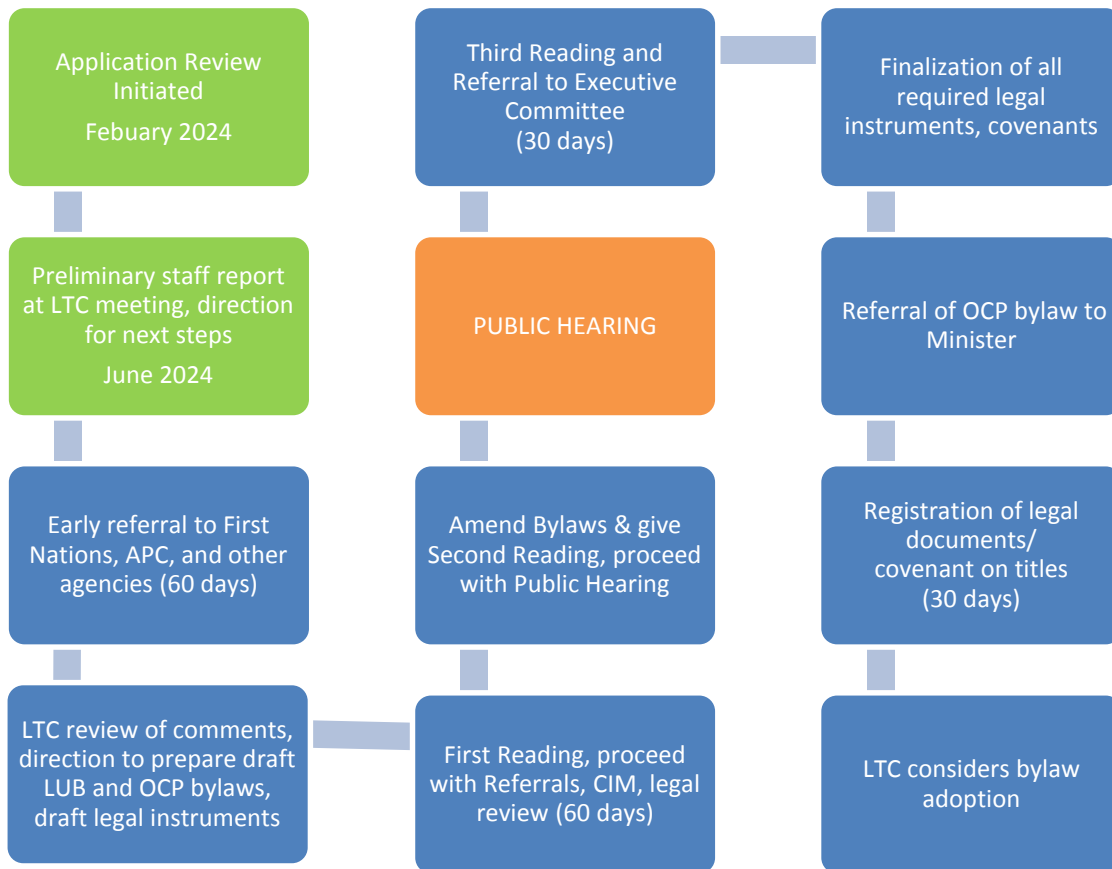
It is recommended that a referral of the application and this preliminary report is sent to the APC before the bylaws have been drafted. In addition to this early referral, the LTC could consider a second referral to the APC after the bylaws have been drafted. The LTC should determine at which stage(s) the APC may be involved.

Protocols

Protocols and agreements exist and are relevant to the consultation process for this file with the [Comox Valley Regional District and adjacent LTC](#) (Hornby Island). These delineate how the LTC and Regional District Board can cooperate, communicate, and effectively consult during OCP bylaw and LUB reviews.

Application Process Steps and Timing

The following process steps and approximate timelines may assist in managing applicant and community expectations in how a LUB and OCP amendment application such as this, can be processed. Staff note that the nature of these applications and LUC expiry may add a level of complexity to the proposed amendments, timeline and considerations:



The LTC should specify the format and frequency of community consultation during the draft bylaw review stage. The timeline above identifies a community information meeting prior to a public hearing being held. The LTC should specify any additional consultation requirements it wishes to be reflected in the timeline as it may impact the date of application completion.

Rationale for Recommendation

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

ALTERNATIVES

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 that the applicant submit to the Islands Trust an Assessment Report, completed by a Qualified Professional, which identifies the potential impacts of the proposed development on...

2. Hold the application in abeyance

The LTC may choose to hold the application in abeyance pending completion of a significant archaeological assessment/study (post-impact Preliminary Field Reconnaissance), or Denman Island Housing Review Project (Stage 2 Phase 2) process steps such as the Housing Action Plan/Bylaw Drafting, etc.

3. Receive for information

The LTC may receive the report for information.

NEXT STEPS

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

Submitted By:	Margot Thomaidis, Planner 2	May 27, 2024
Concurrence:	Renée Jamurat, RPP MCIP, Regional Planning Manager	May 27, 2024

ATTACHMENTS

1. Site Context
2. ITPS Policies
3. OCP Policies
4. Komasa Ranch Land Use Contract #267
5. Key Plan Survey of Komasa Ranch Building Sites (prepared by P. Mason, BCLS)

ATTACHMENT 1 – SITE CONTEXT – DE-RZ-2023.1 (KOMAS RANCH LTD.)

LOCATION

Legal Descriptions	1. SECTION 33 DENMAN ISLAND NANAIMO DISTRICT 2. SECTION 32 DENMAN ISLAND NANAIMO DISTRICT EXCEPT THOSE PARTS OUTLINED IN RED ON PLANS 1656R AND 26016 3. LOT A SECTION 32 DENMAN ISLAND NANAIMO DISTRICT PLAN VIP61295
PIDs	Northern parcel: 000-211-338; Eastern parcel: 023-096-438; and Western parcel: 000-211-320.
Lot Size	Northern parcel: 20.59 hectares (50.89 acres) Eastern parcel: 29.35 hectares (72.53 acres) Western parcel: 27.13 hectares (67.05 acres) Total: 77.07 hectares (190.44 acres)

LAND USE

Current Land Use	Northern parcel: Residential (3 building sites) and conservation/older forest Eastern parcel: Residential (1 building site) and Recreational use Western parcel: Residential (17 building sites)
Surrounding Land Use	<i>North:</i> Marine protection and park - Longbeak Point (community park), Sandy Island Marine Park (Provincial park). <i>West:</i> Marine aquaculture (Henry Bay). <i>South:</i> Rural residential, Provincial protected area, and conservation covenant (Grade Marsh). <i>East:</i> Rural residential and site specific agriculture use.

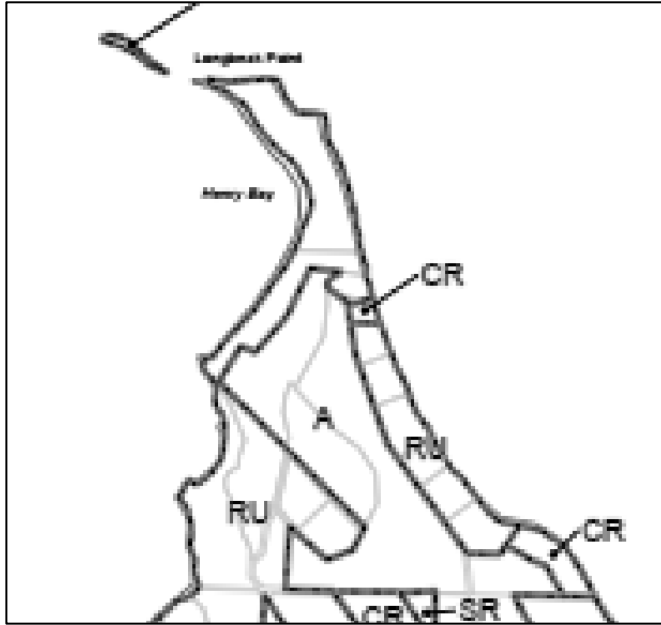
HISTORICAL ACTIVITY

File No.	Purpose
UN-SUP-1984.16	Site #1: Single Family Dwelling – 8067 Komas Rd.
UN-SUP-1991.26	Site #11: 400 square foot cottage/guest dwelling and utility shed. Septic tank/servicing also installed.
UN-SUP-1992.3	Site #11: Woodshed, 8ft in height.
UN-SUP-1992.4	File not retrieved.
DE-SUP-1993.18	Site #1: 2-storey addition to an existing cottage with connecting hallway to a living room and two bedrooms. 8067 Komas Rd. Xref. UN-SUP-1984.16.
DE-SUP-1994.9	Unknown site: 400 square foot dwelling. 7397 Komas Rd.
DE-SUP-1995.10	Unknown site: Addition to existing dwelling.
DE-SUP-1997.17	Unknown site: Addition to existing dwelling.
DE-SUP-1997.34	Unknown site. Dwelling.
DE-SUP-1997.35	Site #13: Dwelling, guest cabin, and two accessory buildings.

DE-SUP-1998.9	Site # 20: Cabin dwelling.
DE-SUP-2002.8	Unknown site. Residence/house – 7101 Komas Rd.
DE-SUP-2003.1	Site #20: Residence and carport.
DE-SUP-2004.15	Site #19: Residence + garage/combination workshop. 1 – 3 bedroom Residential Dwelling, Maximum Height 22’ 1 – Garage, Combination Hobby Shop, Maximum Height 19.68’ (6 m)
DE-SUP-2005.11	Site #12: 1 - Garage (Height 12'); and 1 - Residential Dwelling (Height 20') <i>Not issued – did not provide all owner signatures.</i>
DE-SUP-2008.11	Work shed - to store equipment (tools, etc.) and outdoor furniture when not in use. 3.1 metres x 3.7 metres (10' x 12'); ceiling height - 8', peak of gable - 12'. <i>Not issued – did not provide all owner signatures.</i>
DE-DVP-2010.2	Site #12: Existing residence exceeded the Land Use Bylaw by 13 inches in height. Approved. X-ref: DE-SUP-2010.2.
DE-SUP-2010.2	Site #12: Double Garage and Two Storey Residence. X-ref: DE-DVP-2010.2.
DE-SUP-2010.6	Site #15: Residence with deck + wood shed
DE-SUP-2010.7	Woodshed, Garden Shed, Boat Shed
DE-SUP-2010.8	File not retrieved.
DE-SUP-2010.10	Site #8: One Accessory Building – Storage Shed (3.4m high) One Dwelling – (3.9m high)
DE-SUP-2011.9	Site #17: Residence – permit for works completed (existing house)
DE-SUP-2011.21	Site #4: Addition to existing residence for attached storage, deck, and one-bedroom suite (including kitchenette and bathroom).
DE-SUP-2013.1	Site #20: To add an approx. 450 square foot addition connected to existing residence by a 13 foot covered walkway.
DE-SUP-2014.6	Site #7: Extension/addition to existing residence with covered porch.
DE-SUP-2015.10	Site #12: Proposed construction of new accessory building (600 square foot studio)
DE-SUP-2016.4	Site #5: Three bedroom and one bathroom addition to existing residence
DE-SUP-2017.6	Site #20: Shed/workshop
DE-SUP-2018.20	Site #5: Garage
DE-SUP-2021.13	Site #20: Boatshed (5m x 7m)
DE-SUP-2021.14	Site #3: One Single Family Dwelling (15m x 40m “Proposed House”); and One Accessory Building (6m x 12m “Tractor Storage Shed”)




POLICY/REGULATORY

Denman Island Official Community	Land Use Designations: <ul style="list-style-type: none"> • Rural (RU) • Agriculture (A)
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Applicable OCP Policies are included in Attachment 2.

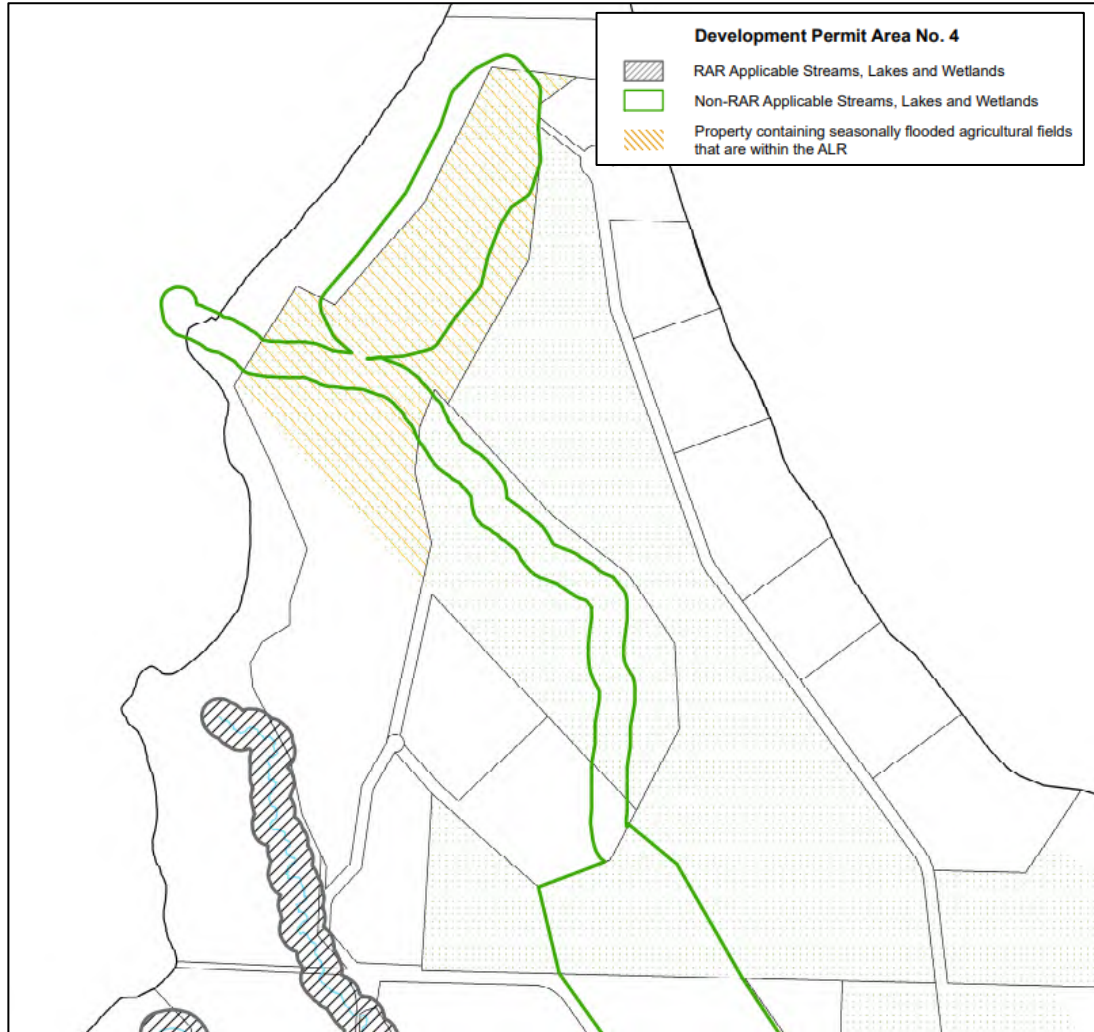
Development Permit Areas:

-  Komas Bluff
-  RAR Applicable Water Features
-  Non RAR Applicable Water Features



Development Permit Area No. 4: Streams, Lakes and Wetlands

- RAR Applicable Streams, Lakes and Wetlands
- Non-RAR Applicable Streams, Lakes and Wetlands.
- Property containing seasonally flooded agricultural fields that are within the ALR



[Denman Island Land Use Bylaw No. 186](#)

Land Use Contract #267 (LUC)

This contract applies to all three properties and will terminate on June 30, 2024, at which time only the underlying zoning will apply.

See excerpt from Schedule "A" map of the LUC below indicating 20 building sites each permitting one single family dwelling and one guest dwelling (maximum gross floor area of 400 square feet). The construction of customary accessory structures including but not restricting the generality of the foregoing: garage, workshop, greenhouse, boathouse, storage sheds, and common recreation facilities is also permitted.

A public beach right-of-way access along Runkle Rd. is indicated south of the Western parcel, in blue/red.

According to the LUC, a tree section of Longbeak Point north of proposed building site 1 as shown in green on Schedule "A" below shall be retained in a natural state.

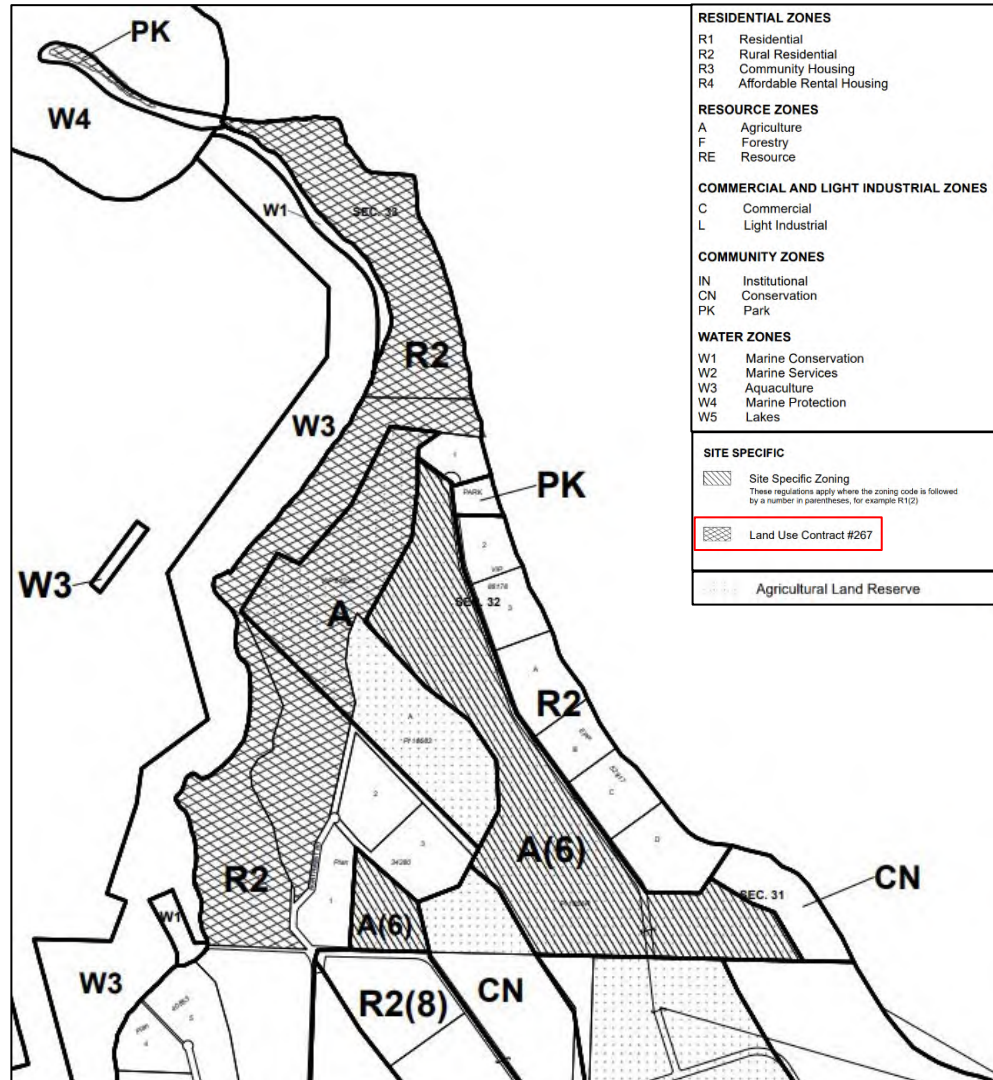


Underlying zoning (see below):

Northern parcel: Rural Residential (R2)

Eastern parcel: Split Zoned Agriculture (A) and Rural Residential (R2)

Western parcel: Rural Residential (R2)



Other Regulations and Notes

Property Access:
 VIP3488OS – BC Ministry of Highways, Highway Notices Regulation – Public Highway Designation (Foot Path for Runkle Road). See OCP Schedule F Beach Rights-of-Way Map.


Utilities:
 PID 023-096-438: F11256 – Right of Way – BC Hydro and Power Authority
 PID 000-211-320: F9269 – Right of Way – BC Hydro and Power Authority
 PID 000-211-338: F9269 – Right of Way – BC Hydro and Power Authority

Heritage Conservation Act:
 There are known archaeological sites mapped on the properties. Proposed development or ground disturbance must meet The *Heritage Conservation Act*.

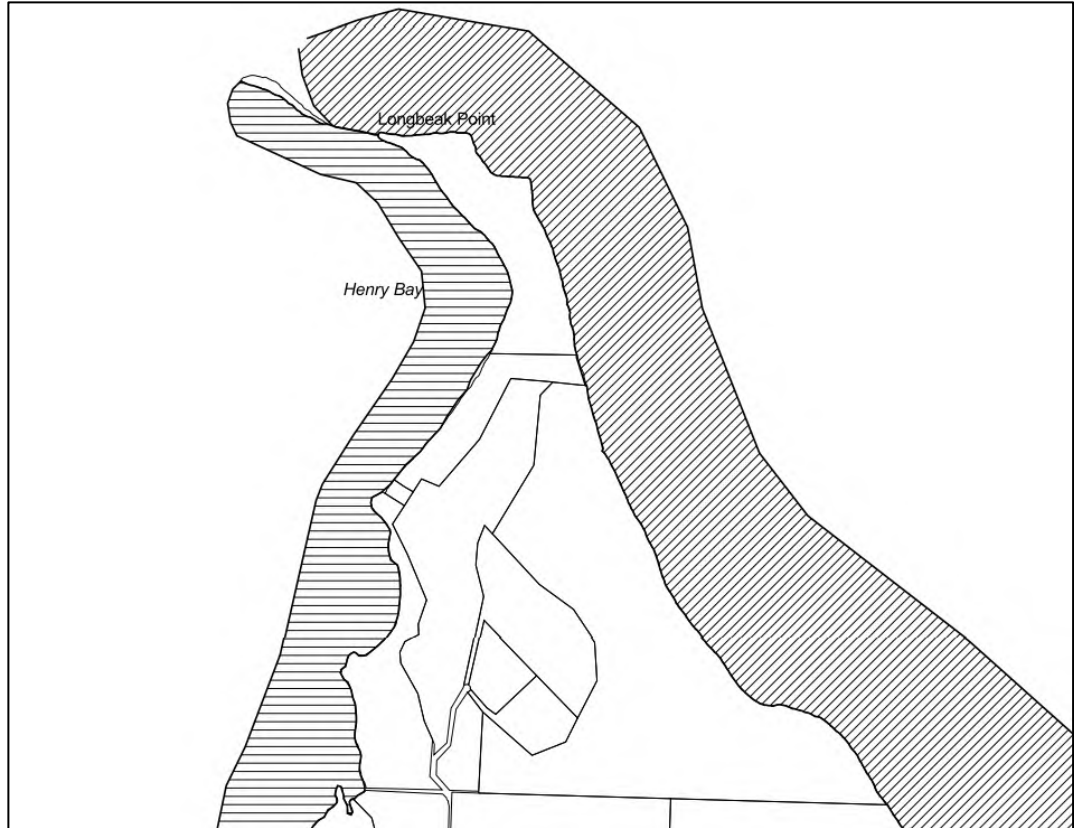
ALR:
 The eastern parcel (PID 023-096-438) is partly in the Agricultural Land Reserve and must adhere to the *Agricultural Land Commission Act* and the *Agricultural Land Reserve Use Regulation*.

Covenants and other legal agreements	<p>There are no Section 219 <i>Land Title Act</i> covenants with the Denman LTC registered on title.</p> <p>All parcels have a Right of Way from BC Hydro and Power Authority registered on title.</p> <p>All parcels have the following legal agreements registered on title: G8685 – Land Use Contract with Corporation of the Regional District of Comox-Strathcona EX99010 – Right of First Refusal – Komax Ranch Limited</p>
Bylaw Enforcement	None.

SITE INFLUENCES

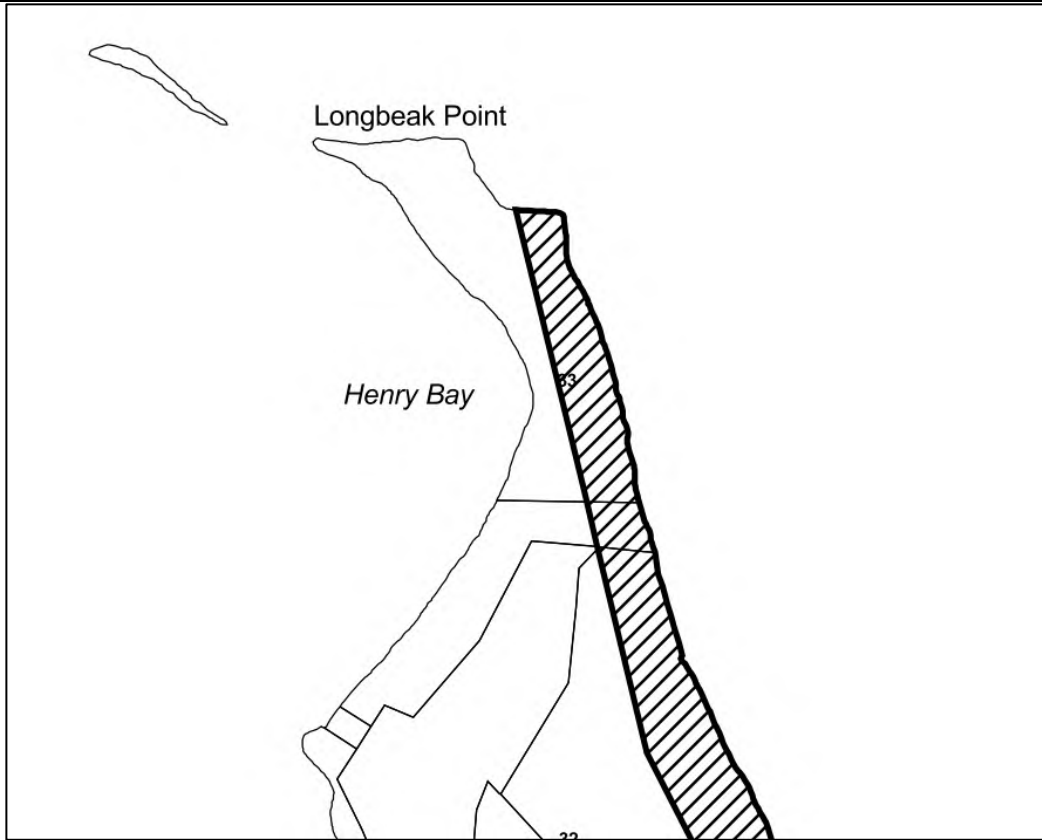
Islands Trust Conservancy (ITC)	<p>The proposal does not directly affect an Islands Trust Conservancy Board (ITC) – owned property or conservation covenant, nor directly affects a property directly adjacent to an ITC-owned property or conservation covenant. However, there is significant opportunity for the LTC to work with the Owners to register a conservation covenant on title to protect existing Older Forest Ecosystem on the Northern parcel. Referral to ITC staff for further review is recommended.</p>
ITC Regional Conservation Plan (2018-2027)	<p>Appendix II of the Regional Conservation Plan 2018-2027 estimated importance of habitat composition is MEDIUM-HIGH on the subject properties.</p> <p>This application does not appear to be inconsistent or contrary to the goals and objectives set out in the ITC Regional Conservation Plan.</p>
Species at Risk	None mapped.
Sensitive Ecosystems and Areas	<p>There is Older Forest Ecosystem mapped on the Northern and part of the Western and Eastern parcels. Sensitive Cliff Ecosystem making up part of Komax Bluff is mapped on part of the Western parcel. A small area of Herbaceous Ecosystem is mapped on the northernmost part of the Northern parcel leading to Longbeak Point.</p> 

There is important oyster growing area in the water to the west of the properties, and important herring spawning area to the north and east of the properties. See OCP Schedule D: Sensitive Areas.



Hazard Areas

A steep slope area part of the Komasa Bluffs is mapped on parts of both the Northern and Western parcels. See excerpt of the DPA No. 1: Komasa Bluff map below.




A seasonally flooded agricultural field is mapped on part of the Eastern parcel in the ALR.

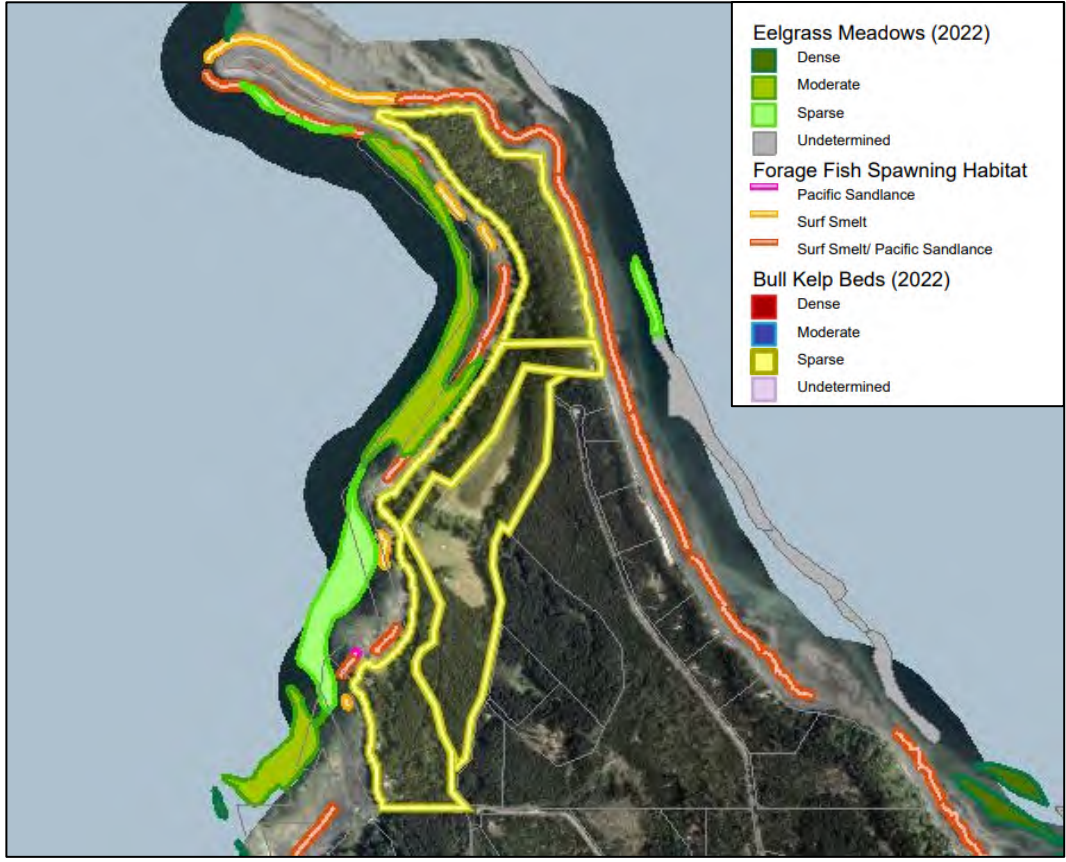


Cultural Heritage Sites

Remote Access to Archaeological Data (RAAD) indicates cultural heritage sites and areas of high archaeological potential on or within 100 metres of the subject properties and proposed application areas.

	<p>Any proposed ground disturbance and development in and around a known cultural heritage site is subject to the K'ómoks First Nation Cultural Heritage Policy as well as the Heritage Conservation Act and may require a K'ómoks First Nation Cultural Heritage Investigation Permit, a Heritage Inspection/Investigation Permit, and/or a Site Alteration Permit.</p> <p>The LTC has the option of requesting that the applicants provide additional information, in the form of a post-impact Preliminary Field Reconnaissance prepared by a qualified professional consulting archaeologist, to review each of the lots. This information could be used to inform legal agreements prior to the OCP bylaw and zoning amendment approval and the development of other planning tools and permit requirements for protecting First Nations cultural heritage sites in the future.</p>
<p>Climate Change Adaptation and Mitigation</p>	<p>No increased density or development is proposed as part of this bylaw amendment application, therefore further GHG emissions or further possible climate change induced hazards are not expected from approval.</p> <p>Shoreline erosion and modifications to sensitive shoreline areas are an ongoing concern for some parts of the western and northern parcels, and this rezoning application could be an opportunity to reconsider shoreline protection and development by implementing a DPA for sensitive shoreline areas.</p>
<p>Shoreline Classification</p>	<p>RED = Boulder/Cobble Beach ORANGE = Pebble/Sand Beach</p>  <p>The image is an aerial photograph of a coastal area with a shoreline classification overlay. A red line follows the outer edge of the beach, indicating 'Boulder/Cobble Beach' (RED). An orange line follows the inner edge of the beach, indicating 'Pebble/Sand Beach' (ORANGE). The land behind the beach is divided into several parcels by thin white lines. The water is dark blue, and the sky is light blue.</p>

Shoreline Data and Mapping




- Moderate-Sparse Eelgrass Meadows
- Surf Smelt/Pacific Sandlance habitat


See [Denman Island Shoreline Mapping](#) document for details and sources.

ISLANDS TRUST POLICY STATEMENT

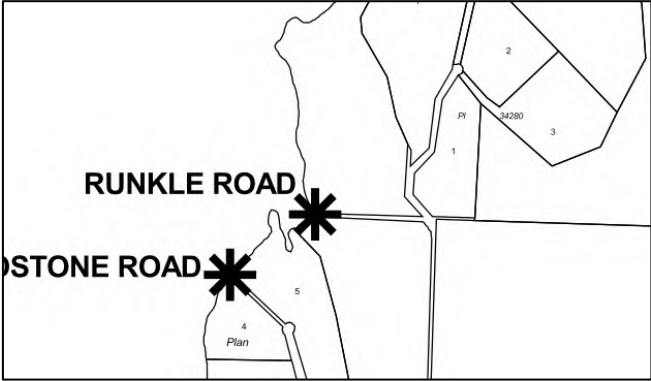
ITPS Policy	Complies	Planner Comments
<p>3.1.3 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and protection of the environmentally sensitive areas and significant natural sites, features and landforms in their planning area.</p>	<p>YES</p>	<p>There is a significant area of Old Forest Ecosystem mapped on the Northern parcel (PID 000-211-338), also located partly within DPA No. 1: Komasa Bluff. The Land Use Contract (LUC) from 1977 prohibits development in most of this area, indicating that the Owners and the Company (Komasa Ranch Ltd.) 'shall retain in a natural state the treed section of Longbeak Point' as indicated in green in Schedule "A" of the LUC.</p> <p>The Land Use Designation is Rural and the underlying zoning (which applies as of July 1, 2024) is Rural Residential (R2). This application proposes to align the underlying LUB with the LUC and therefore seeks to rezone and re-designate this part of the lot to Conservation (CN) zone and Conservation/Recreation Land Use Designation. See excerpt from LUC Schedule "A" with planner comments added in green, below:</p>
<p>3.1.4 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning, establishment, and maintenance of a network of protected areas that preserve the representative ecosystems of their planning area and maintain their ecological integrity.</p>	<p>YES</p>	<div data-bbox="651 911 1382 1444" data-label="Image"> </div> <p>Recommendation: LTC to confirm that draft bylaw language should include designation of this part of the Northern parcel as 'Conservation/Recreation' in the OCP and 'Conservation (CN)' in the LUB.</p>
<p>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</p>	<p>Pending receipt of additional information from the applicant</p>	<p>Of the 20 building sites, 11 appear to have sewerage systems including septic tanks and a septic field. Five building sites appear to have a septic tank or tanks but no septic field. There are 10 outhouses in total on the Western parcel, each corresponding to a different residential building site. Four building sites appear to have no sewerage disposal system in place, other than an outhouse. Further information about the existing sewerage disposal systems is required before proceeding.</p>

ITPS Policy	Complies	Planner Comments
development to restrict emissions to land, air and water to levels not harmful to humans or other species.		<p>Recommendations:</p> <ul style="list-style-type: none"> • The LTC request the applicant to provide sewage disposal filings for each sewage disposal system on the subject properties. • The LTC request the applicant to provide a comprehensive sewage disposal plan for each dwelling/building site on each of the subject properties.
3.2.2 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of unfragmented forest ecosystems within their local planning areas from potentially adverse impacts of growth, development, and land-use.	YES	This application proposes to align the underlying bylaws with the Land Use Contract and therefore seeks to rezone and re-designate any unfragmented forested area of the parcels from Rural Residential (R2) to Conservation (CN) zone and from Rural to Conservation/Recreation Land Use Designation.
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.	YES	<p>DPA No. 4: Streams, Lakes and Wetlands addresses the means to prevent further loss and degradation of freshwater bodies or watercourses, wetlands and riparian zones and to protect aquatic wildlife.</p> <p>The Western and Eastern parcels are part of Development Permit Area No. 4: Streams, Lakes and Wetlands, including the following sensitive ecosystems:</p> <ul style="list-style-type: none"> • RAR Applicable Streams, Lakes and Wetlands • Non-RAR Applicable Streams, Lakes and Wetlands. • Property containing seasonally flooded agricultural fields that are within the ALR <p>See below for a map of the subject properties in yellow, including building sites and DPA No. 4 areas:</p>

ITPS Policy	Complies	Planner Comments
		<p> Building Footprints RAR Applicable Water Features Non RAR Applicable Water Features </p>  <p>The map displays a coastal area with several parcels. A yellow outline indicates building footprints. A dark red area represents RAR applicable water features, and a blue area represents non-RAR applicable water features. The coastline is irregular, with several inlets and points. Labels on the map include 'THE POINT RD.' and 'WATERWAY'.</p>
<p>3.4.4 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.</p>	<p>Pending further application review</p>	<p>Structures in the marine shoreline area along each of the properties are subject to a 15.0 metre setback requirement according to 'Section 2.3.3 - Setbacks and Elevations from the Sea' in the LUB.</p> <p>The Northern and Western parcels comprise a large coastal marine region of the Island, with certain areas more prone to erosion, flooding, and instability than others due to differences in wave exposure, shoreline values and type, sediment movement, elevation, and vulnerability. Many marine areas adjacent to these properties are environmentally sensitive and contain eelgrass and forage fish habitat. More information is available in the Denman Island Shoreline Mapping document.</p>
<p>3.4.5 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.</p>		<p>Recommendation: The LTC request staff to report back on the options and implications of establishing a shoreline protection Development Permit Area for the subject properties.</p>

ITPS Policy	Complies	Planner Comments
4.1.4 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and preservation of agricultural land for current and future use.	YES	<p>Part of the Eastern parcel has recently become 'Agriculture (A)' land use designation, as part of the Denman Farming Regulation Review. This same area is also part of the Agricultural Land Reserve (approximately 18 hectares). There is one dwelling within the ALR portion, permitted by the existing zoning.</p> <p>No changes to the Agriculture (A) land use designation or Agriculture (A) zoning on this lot are proposed as part of this application. See ALR land below in green:</p>
4.1.5 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation, protection, and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses.	YES	
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.	YES	<p>The LTC should consider the Ministry of Agriculture buffer and edge planning requirements when drafting bylaw amendments for the adjacent residential property.</p>
4.2.6 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the need to protect the ecological integrity on a scale of forest stands and landscapes.	YES	<p>See planner comments and recommendations regarding ITPS Policies 3.1.3 and 3.1.4 above.</p> <p>In addition to amending the OCP and LUB to align with the provisions in the LUC, the LTC may consider requiring a Section 219 restrictive covenant for further environmental protection of this area of the lot, prior to bylaw adoption.</p> <p>The LTC may also encourage the applicant to apply for the Natural Area Protection Tax Exemption Program for this part of the lot, to further incentivise environmental protection. The applicant would be encouraged to contact the Islands Trust Conservancy's Ecosystem</p>
4.2.8 Local Trust Committees and Island	YES	

ITPS Policy	Complies	Planner Comments
Municipalities shall, in their official community plans and regulatory bylaws, address the designation of forest ecosystem reserves where no extraction will take place to ensure the preservation of native biological diversity.		<p>Protection Specialist to determine whether the area qualifies for a NAPTEP covenant.</p> <p>Recommendation: The LTC request the applicant to confirm whether or not they will pursue a NAPTEP covenant for an environmentally sensitive portion of the Northern parcel.</p> <p>If the applicant does not pursue a NAPTEP covenant, the LTC may alternatively request the applicant enter into a cost recovery agreement with the Islands Trust for the purposes of drafting a Section 219 <i>Land Title Act</i> restrictive covenant regarding the protection of environmentally sensitive old forest ecosystem on part of the Northern parcel, instead.</p>
<p>4.4.2 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure:</p> <ul style="list-style-type: none"> • 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	<p>There is limited information provided in the application package to address the quality and quantity of the supply of freshwater. Each individual building site has to supply their own freshwater, either through groundwater wells or surface water.</p> <p>The historic Land Use Contract from 1977 contains the following provision concerning water supply: <i>“6.d) The Owners or the Company shall provide proof that potable water in a minimum amount of three hundred gallons per day per dwelling unit is available to each unit”</i></p> <p>Recommendation: The LTC request the applicant provide the following information regarding the existing water quality and quantity on the Northern and Western parcels:</p> <ul style="list-style-type: none"> • Source of potable water for each building site; • Distribution of potable water to each building site; • Any historic or current water quality tests for existing potable water sources supplying the building sites; • Any additional sources of water for irrigation (non-potable); AND <p>That this information be forwarded to the Islands Trust Freshwater Specialist for comment.</p>
<p>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.</p>	Pending receipt of additional information from the applicant	
<p>4.5.10 Local Trust Committees and Island</p>	YES and Pending	<p>See planner comments regarding ITPS Policies 3.4.4 and 3.4.5 above.</p>


ITPS Policy	Complies	Planner Comments
<p>Municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.</p>	<p>further application review</p>	<p>Recommendation: The LTC request staff to report back on the options and implications of establishing a shoreline protection Development Permit Area for the subject properties.</p> <p>An approximately 320 metre long Ministry of Transportation and Infrastructure Right-of-Way pedestrian trail exists between Northwest Rd and the beach, along Runkle Rd and the southern property line of the Western parcel (PID 000-211-320). This beach access is indicated in OCP Schedule F – Beach Rights-of-Way.</p>  <p>An informal private pedestrian trail to Longbeak Point exists on the Western and Northern parcels. This zoning amendment presents an opportunity to consider formalizing public access to Longbeak Point. During the site visit, staff were made aware that access to the subject properties is a top priority for K’ómoks First Nation, alongside cultural heritage protection. Further engagement with K’ómoks is required before proceeding to formalize the access trail.</p> <p>Recommendation: The LTC request staff to engage with K’ómoks regarding their interest in formalizing access to Longbeak Point through a pedestrian trail on the Western and Northern parcels.</p>
<p>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.</p>	<p>YES and Pending further application review</p>	<p>Application seeks to maintain the existing residential density as well as conserve areas of undeveloped land on the parcels, as addressed by LUC provisions since 1977.</p> <p>The underlying LUB zones and OCP land use designations do not accurately reflect the reality of developed and conserved areas of the subject properties.</p> <p>Site specific zoning, amendments to land use designations, and new DPA’s and/or HCA’s would ensure efficient use of the land, conservation of undeveloped areas, and address the aesthetic, social, and environmental impacts of the existing residential development.</p>
<p>5.2.5 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws,</p>	<p>YES and Pending further application review</p>	

ITPS Policy	Complies	Planner Comments
address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.		
5.2.6 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.	YES and Pending further application review	<p>Existing strategies for directing development away from areas that are hazardous to development on the subject properties include:</p> <ul style="list-style-type: none"> • DPA No. 1 – Komass Bluff; • DPA No. 4 – Streams, Lakes, and Wetlands; • LUB Section 2.3.1 – General Setback Regulations – ‘Setbacks from Cliffs’; and • LUB Sections 2.3.2, 2.3.3, 2.3.4, and 2.3.5 – General Setback Regulations – ‘Setbacks and Elevations from the Sea’. <p>Recommendation: The LTC request staff to report back on the options and implications of establishing a shoreline protection Development Permit Area for the subject properties.</p>
5.5.5 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of sites providing safe public access to beaches, the identification and designation of areas of recreational significance, and the designation of locations for community and public boat launches, docks and anchorages.	YES and Pending further application review	<p>See planner comments regarding ITPS Policies 4.2.8 and 4.5.10 above.</p> <p>Recommendation: The LTC request staff to engage with K’ómoks regarding their interest in formalizing access to Longbeak Point through a pedestrian trail on the Western and Northern parcels.</p> <p>Recommendation: The LTC request the applicant to confirm whether or not they will pursue a NAPTEP covenant for an environmentally sensitive portion of the Northern parcel.</p>
5.6.2 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification,	Pending further application review and receipt of additional information	<p>The subject properties are a significant cultural heritage site in coastal BC and for the K’ómoks First Nation.</p> <p>The proposed application provides an opportunity for the LTC and K’ómoks First Nation consideration. An Archaeological Overview Assessment and/or a Preliminary Field Reconnaissance is recommended pending further consultation with K’ómoks to</p>

ITPS Policy	Complies	Planner Comments
protection, preservation and enhancement of local heritage.	from the applicant	determine the extent of cultural heritage sites on the subject properties.
5.6.3 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation and protection of the heritage value and character of historic coastal settlement patterns and remains.		<p>Given the LTC’s broad jurisdiction over private lands and the many legal tools available through the <i>Local Government Act</i>, the <i>Community Charter</i>, and the <i>Land Title Act</i>, the LTC’s authority and land use decisions will be important in protecting cultural heritage areas on private lands, beyond the protections provided through the <i>Heritage Conservation Act</i> and the BC Archaeology Branch.</p> <p>The tools available to the LTC for First Nations cultural heritage protection on private land include:</p> <p>Heritage Conservation Areas: Part 15 of the <i>Local Government Act</i> allows governments to identify and designate areas and buildings for heritage conservation purposes in their Official Community Plans (OCP); it then protects those areas by restricting alterations that can be made without a permit, providing guidelines for permit approval. Part 15 also includes specific remedies for enforcement in the event of unauthorized actions in relation to protected heritage property. This local planning tool would give the LTC the ability to impose additional or different requirements than the provincial <i>Heritage Conservation Act</i> scheme for development on known archaeological sites. It would take time for the LTC to properly develop and implement this alongside the rezoning. It also has the potential for conflict/overlap with the provincial scheme, if the local requirements are similar to the <i>Act</i>.</p> <p>Section 219 Covenant: <i>Land Title Act</i> s. 219 authorizes legal agreements between the private owner(s) and the LTC for the benefit of the LTC. The agreement could have both a negative (restrictive) or positive nature respecting the use of land or buildings, including provisions that land is not to be built upon or disturbed. These agreements run with the land, not the individual owner, and would be enforced by the Islands Trust/LTC. A Section 219 covenant has been successfully applied to land at the time of rezoning in the past, to limit development/disturbance to known cultural heritage sites on Salt Spring Island.</p> <p>Section 218 Statutory Right of Way (SROW): <i>Land Title Act</i> S. 218 recognizes that persons delegated by the Minister, including an Islands Trust Local Trust Committee or perhaps a First Nation, can register an enforceable statutory right-of-way over land. In some circumstances a Nation may be able to obtain a statutory right-of-way or common law easement to freely access cultural heritage areas on private land.</p> <p>It is at the rezoning stage that the LTC has the greatest discretion to require amenities/protections through all of these tools, and the LTC is asked to direct staff to provide more information before deciding which options to pursue.</p>

ITPS Policy	Complies	Planner Comments
		<p>Recommendation: The LTC request staff to report back on the options to formally protect the cultural heritage of the subject properties using all available local government tools, in addition to the <i>Heritage Conservation Act</i>.</p> <p>Recommendation: The LTC to request applicant submit an Archaeological Overview Assessment and/or a Preliminary Field Reconnaissance prepared by a qualified professional, in consultation with K'ómoks.</p>

DENMAN ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 185, 2008

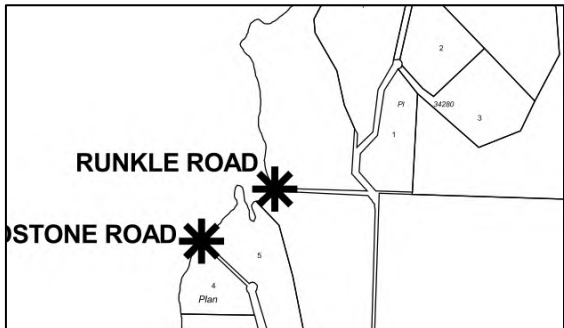
OCP Objective/Policy	Planner Comments and Recommendations as of May 2024
PART C – The Natural Environment	
C.1 – Lands and Forest	
<p>C.1 – Lands and Forest Policy 2 Stewardship is encouraged, and zoning regulations and amendments to zoning regulations should be designed to protect sensitive ecosystems and other features identified on Schedule D, and the steep slopes, bluffs, streams, lakes and wetlands, identified as development permit areas on Schedule E.</p>	<p>Proposed application would not increase the existing density of development in proximity to sensitive ecosystems.</p> <p>Existing strategies for directing development away from areas that are hazardous to development on the subject properties include:</p> <ul style="list-style-type: none"> • DPA No. 1 – Komasa Bluff; • DPA No. 4 – Streams, Lakes, and Wetlands; • LUB Section 2.3.1 – General Setback Regulations – ‘Setbacks from Cliffs’; and • LUB Sections 2.3.2, 2.3.3, 2.3.4, and 2.3.5 – General Setback Regulations – ‘Setbacks and Elevations from the Sea’.
<p>C.1 – Lands and Forest Policy 3 The Local Trust Committee should consider the negative impacts of any proposed zoning amendment that would allow development in proximity to sensitive ecosystems and other features identified on Schedule D, or to the bluffs, streams, lakes and wetlands identified as development permit areas on Schedule E.</p>	<div data-bbox="764 961 1133 1066"> <ul style="list-style-type: none"> ■ Building Footprints ■ Komasa Bluff ■ RAR Applicable Water Features ■ Non RAR Applicable Water Features </div> 
<p>C.1 – Lands and Forest Policy 7 The Local Trust Committee should be guided by the Principles of Sustainable Forest Land Use in Part G of this Plan when considering any</p>	<p>The 14 ‘Principles of Sustainable Forest Land Use’ outlined in Part G of the OCP apply to maintaining the ecological integrity of the older forest ecosystems on the subject properties, in particular the Northern parcel.</p>


<p>request for amendments to the land use bylaw, when establishing development permit areas, or when developing guidelines for development permit areas.</p>	<p>These Principles will also need to be considered if the LTC decides to pursue a DPA for shoreline protection along the ecologically biodiverse shoreline/foreshore areas of the subject properties.</p> <p>Recommendation: The LTC request staff to report back on the options and implications of establishing a shoreline protection Development Permit Area for the subject properties.</p>
<p>C.1 – Lands and Forest Policy 9 Landowners are encouraged to protect forested lands, bluffs, meadows and grasslands through the establishment of conservation covenants or other protective measures. The Local Trust Committee should assist landowners wishing to establish conservation covenants on their land.</p>	<p>Recommendation: The LTC request the applicant to confirm whether or not they will pursue a Natural Area Protection Tax Exemption Program covenant for an environmentally sensitive forested portion of the Northern parcel.</p>
<p>C.2 – Freshwater</p>	
<p>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.</p>	<p>Proposed bylaw amendments may specify setback, siting, and height provisions for rainwater collection cisterns.</p>
<p>C.3 The Marine Environment</p>	
<p>C.3 The Marine Environment Policy 4 The LTC should, through the use of zoning, the use of setbacks and, where there is supporting mapping, the use of development permit areas:</p> <ul style="list-style-type: none"> • Protect the remaining integrity of the foreshore, shoreline, and natural coastal and intertidal processes; • Discourage uses that disrupt natural features and processes; • Allow for natural erosion and accretion processes, without endangering structures; • Encourage owners of shoreline properties to retain, whenever possible, natural vegetation and natural features on areas adjacent to the foreshore; and • Discourage filling, deposit, excavation, or removal of foreshore and seabed materials, except for maintenance of navigational channels and existing facilities. 	<p>Existing LUB setbacks for directing development away from the foreshore marine areas on the subject properties include:</p> <ul style="list-style-type: none"> • LUB Sections 2.3.2, 2.3.3, 2.3.4, and 2.3.5 – General Setback Regulations – ‘Setbacks and Elevations from the Sea’. This includes a 15-metre setback requirement from the natural boundary of the sea for buildings and structures, with exceptions for fences and access stairs. <p>The Northern and Western parcels comprise a large coastal marine region of the Island, with certain areas more prone to erosion, flooding, and instability than others due to differences in wave exposure, shoreline values and type, sediment movement, elevation, and vulnerability. Many marine areas adjacent to these properties are environmentally sensitive and contain eelgrass and forage fish habitat. More information is available in the Denman Island Shoreline Mapping document.</p> <p>Recommendation: The LTC request staff to report back on the options and implications of establishing a shoreline protection Development Permit Area for the subject properties.</p>
<p>C.4 – Climate Change Adaptation and Mitigation</p>	

<p>C.4 Climate Change The Local Trust Committee should work with the Islands Trust Conservancy Board and other conservation organisations to promote land conservation as a cost effective and important climate change mitigation strategy.</p>	<p>See planner comments regarding E.3 – Conservation/ Recreation Policies 2-8 below.</p> <p>Recommendation: The LTC request the applicant to confirm whether or not they will pursue a NAPTEP covenant for an environmentally sensitive portion of the Northern parcel.</p> <p>Recommendation: The LTC request that staff refer the application to the Islands Trust Conservancy.</p>
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PART D – The Social Fabric

D.2 – Transportation and Utilities

<p>D.2 Transportation and Utilities Policy 16 Landowners are encouraged to preserve existing trails on their property through covenants or by opening these private trails to the general public by placing signage in appropriate locations.</p>	<p>An approximately 320 metre long Ministry of Transportation and Infrastructure Right-of-Way pedestrian trail exists between Northwest Rd and the beach, along Runkle Rd and the southern property line of the Western parcel (PID 000-211-320). This beach access is indicated in OCP Schedule F – Beach Rights-of-Way.</p>  <p>An informal private pedestrian trail to Longbeak Point exists on the Northern and Western parcels. This zoning amendment presents an opportunity to consider formalizing public access to Longbeak Point via legal covenant. During the site visit, staff were made aware that access to the subject properties is a top priority for K’ómoks First Nation, alongside cultural heritage protection. Further engagement with K’ómoks is required before proceeding to formalize the trail.</p>
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	 <p>Recommendation: the LTC request staff to engage with K'ómoks regarding their interest in formalizing access to Longbeak Point through a pedestrian trail on the Western and Northern parcels.</p>
<p>D.2 Transportation and Utilities Policy 17 The Local Trust Committee should support cooperation among local groups, landowners, Comox Valley Regional District and the Ministry of Transportation and Infrastructure to establish trail policies to be considered as an amendment to this Plan. Such policies should consider:</p> <ul style="list-style-type: none"> • multiple uses such as walking and bicycling; • linkages between residential areas, commercial areas, parks, schools, beaches and ferry terminals; • access to destinations not serviced by roads; and • negative impacts on land owners and level of usage. 	<p>See D.2 Transportation and Utilities Policy 16 planner comments and recommendation above.</p> <p>LTC may consider supporting the development of trail policies to guide the use of all trails on the Island, including the two above-mentioned trails.</p>
<p>D.2 Transportation and Utilities Policy 18 The use of undeveloped road rights-of-way (including beach rights-of-way) as trails should be supported and their use for private driveways, service corridors or motorized beach access should be discouraged.</p>	<p>Use of the existing beach right-of-way access along Runkle Rd. as a formalized pedestrian trail to be considered by the LTC.</p>
<p>D.3 – Water Management</p>	
<p>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</p>	<p>There is limited information provided in the application package to address the quality and quantity of the supply of freshwater. Each individual building site has to supply their own freshwater, either through groundwater wells or surface water.</p>


<p>water and protect the ground water resource.</p>	<p>The historic Land Use Contract from 1977 contains the following provision concerning water supply: <i>“6.d) The Owners or the Company shall provide proof that potable water in a minimum amount of three hundred gallons per day per dwelling unit is available to each unit”</i></p> <p>Recommendation: LTC request the applicant provide the following information regarding the existing water quality and quantity on the Northern and Western parcels:</p> <ul style="list-style-type: none"> • Source of potable water for each building site; • Distribution of potable water to each building site; • Any historic or current water quality tests for existing potable water sources supplying the building sites; • Any additional sources of water for irrigation (non-potable); AND <p>That this information be forwarded to the Islands Trust Freshwater Specialist for comment.</p>
<p>D.4 – Waste Management</p>	
<p>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.</p>	<p>Of the 20 building sites, 11 appear to have sewerage systems including septic tanks and a septic field. Five building sites appear to have a septic tank or tanks but no septic field. There are 10 outhouses in total on the Western parcel, each corresponding to a different residential building site. Four building sites appear to have no sewerage disposal system in place, other than an outhouse. Further information about the existing sewerage disposal systems is required before proceeding.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> • LTC request the applicant to provide sewage disposal filings for each sewage disposal system on the subject properties. • LTC request the applicant to provide a comprehensive sewage disposal plan for each dwelling/building site on each of the subject properties.
<p>D.6 – Archaeological, Historic and Natural Sites</p>	
<p>D.6 – Archaeological, Historic and Natural Sites Policy 1 The Local Trust Committee should encourage the preservation and protection of known heritage features and develop regulations as necessary to protect historic buildings, archaeological features and natural heritage features.</p>	<p>The proposed application provides an opportunity for the LTC and K’ómoks First Nation consideration. An Archaeological Overview Assessment and/or a Preliminary Field Reconnaissance is recommended pending further consultation with K’ómoks to determine the extent of cultural heritage on the subject properties.</p>
<p>D.6 – Archaeological, Historic and Natural Sites Policy 2 The Local Trust Committee should consider the negative impacts of a zoning amendment</p>	<p>Given the LTC’s broad jurisdiction over private lands and the many legal tools available through the <i>Local Government Act</i>, the <i>Community Charter</i>, and the <i>Land Title Act</i>, the LTC’s authority and land use decisions will be important in protecting cultural heritage areas on private lands, beyond</p>

<p>application that would allow inappropriate development close to identified heritage features.</p>	<p>the protections provided through the <i>Heritage Conservation Act</i> and the BC Archaeology Branch.</p>
<p>D.6 – Archaeological, Historic and Natural Sites Policy 3 A Community Heritage Registry should be established, and Island heritage buildings or features that the community identifies as worth conserving should be included.</p>	<p>Potential LTC tools for the protection of cultural heritage on private lands are listed under staff comments for ITPS Policies 5.6.2 and 5.6.3 in Attachment 2.</p> <p>Recommendation: LTC request staff to report back on the options to formally protect the cultural heritage of the subject properties using all available local government tools, in addition to the <i>Heritage Conservation Act</i>.</p> <p>Recommendation: LTC to request applicant submit an Archaeological Overview Assessment and/or a Preliminary Field Reconnaissance prepared by a qualified professional, in consultation with K’ómoks.</p>
<p>D.6 – Archaeological, Historic and Natural Sites Policy 4 The Local Trust Committee should consider variances to setbacks, heights or parking requirements in the zoning regulations to promote the restoration, enhancement or preservation of a heritage building or feature.</p>	<p>The LTC may consider site specific zoning regulations to help address cultural heritage protection by limiting the placement of development to specific areas of the subject properties.</p>
<p>D.6 – Archaeological, Historic and Natural Sites Policy 5 The Local Trust Committee should consult with the First Nations before considering bylaw amendments or the issuance of a permit in areas that may have archaeological significance.</p>	<p>Early consultation with K’ómoks First Nation is already underway. Islands Trust staff, the Applicant, and K’ómoks First Nation staff members held a site visit to the property in March of 2024.</p> <p>Recommendation: the LTC direct staff to continue to engage with the K’ómoks First Nation to consider planning tools and options to address their priorities and concerns for the site.</p>
<p>PART E – Families and Individuals</p>	
<p>E.1 – Housing</p>	
<p>E.1 Housing Policy 11 - 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.</p>	<p>Existing residential density is permitted by the Land Use Contract from 1977, which terminates on June 30, 2024. Proposed application seeks to bring the existing development, as permitted by the LUC, into conformity with the LUB and OCP.</p> <p>See D.3 Water Management comments and recommendation that the LTC request additional information about freshwater supply for the building sites.</p> <p>The LUC permits a total residential density as follows, which has been built out and already exists on the property:</p>
<p>E.1 Housing Policy 12 - 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</p>	<ul style="list-style-type: none"> • Three single family dwelling units on the Northern parcel; • 17 single family dwelling units on the Western parcel;

<p>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 site-specific zoning amendment applications under Policy 29 of this Section.</p> <p>Notwithstanding the foregoing, secondary suites contained within the footprint of conforming dwelling units are not deemed to contribute to density calculations for the purposes of this policy.</p>	<ul style="list-style-type: none"> • For each single family dwelling unit, construction of one guest dwelling with a maximum gross floor area of 400 hundred square feet; and • Construction of customary accessory structures including but not restricting the generality of the foregoing, garage, workshop, greenhouse, boathouse, storage shed and common recreation facilities. <p>Once terminated, the underlying zoning applies to the land.</p> <p>The underlying zoning permits a total residential density as follows:</p> <ul style="list-style-type: none"> • Five single family dwelling units on the Northern parcel; • Six single family dwellings on the Western parcel; • Three single family dwellings and one accessory secondary dwelling (per ALR regulations) on the Eastern parcel; • Secondary suites located within SFDs. • Buildings and structures accessory to a single family dwelling unit; and <p>Detached secondary dwellings are <u>not</u> permitted by zoning and only allowed to be constructed if approved through Temporary Use Permit.</p> <p>The existing development is inconsistent with the underlying zoning. Any development on the land that does not meet the requirements of the zoning that applies on LUC termination becomes non-conforming.</p> <p>Recommendation: The LTC confirm that the draft bylaw language will include designation of Site Specific Rural Residential zones in the LUB to permit the existing residential density on each of the subject properties.</p>
<p>E.1 Housing Policy 17 - Landowners are encouraged to cluster houses and buildings accessory to a residential use to leave areas of undeveloped space.</p>	<p>The proposed application seeks to maintain existing residential density and siting, which is consistent with this policy.</p> <p>An area of the Northern parcel (approx. 14.1 hectares) is proposed to be retained through Conservation (CN) zoning and potentially a NAPTET covenant. See E.3 – Conservation/Recreation Policy 2 planner comments and map below.</p> <p>The southern half of the Eastern parcel (approx. 11.4 hectares) is mostly undeveloped land, currently used for recreation by the Owners of Komas Ranch. It is proposed to be retained by amending the bylaws from Rural Residential (R2) to Conservation (CN) zoning and Conservation/ Recreation land use designation.</p>

	<p>Recommendation: LTC to confirm that draft bylaw language should include designation of parts of the Northern and Eastern parcels as ‘Conservation/Recreation’ in the OCP and ‘Conservation (CN)’ in the LUB.</p>
<p>E.1 Housing Policy 22 – Zoning regulations should establish setbacks for buildings and other structures from lot lines, and should establish sufficient setbacks to protect watercourses on Denman Island and to protect development from flooding or other such hazards. In the case of fish-bearing or potential fish-bearing streams setbacks should be adequate to protect the riparian habitat consistent with the Riparian Area Regulation under the Fish Protection Act.</p>	<p>Proposed application does not propose changes to setback and siting regulations or the existing Development Permit Area guidelines for streams, lakes, and wetlands.</p>
<p>E.1 Housing Policy 23 – Zoning regulations should establish sufficient setbacks to protect the foreshore and coastal marine environment and to protect development from foreshore erosion.</p>	<p>See planner comments regarding C.3 The Marine Environment Policy 4 above.</p> <p>Recommendation: The LTC request staff to report back on the options and implications of establishing a shoreline protection Development Permit Area for the subject properties.</p>
<p>E.1 Housing Policy 24 - Zoning regulations should establish sufficient setbacks for septic disposal systems:</p> <ul style="list-style-type: none"> • 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. 	<p>See D.4 Waste Management staff comments above for background information on sewage disposal for the subject properties. There is insufficient information to determine whether wastewater is being cleaned before entering the sea, wetlands, lakes, and other watercourses.</p> <p>LUB Sections 2.3.2 and 2.3.3 provide that the minimum setback from the natural boundary of the sea, or of a stream, lake or wetland for a sewage disposal field or alternate sewerage system is 30.0 metres.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> • LTC request the applicant to provide sewage disposal filings for each sewage disposal system on the subject properties. • LTC request the applicant to provide a comprehensive sewage disposal plan for each dwelling/building site on each of the subject properties.
<p>E.1 Housing Policy 27</p> <p>Applicants applying for a zoning amendment prior to 2032 for new single family or multi-family dwellings should be required to meet or exceed BC Energy Step Code Level 2 standards for new construction, either by way of a site specific amenity zone or by way of a restrictive covenant registered on title.</p>	<p>LTC may consider requiring, through site specific zoning or restrictive covenant registered on title, that any redevelopment of dwellings on the lot must meet or exceed BC Energy Step Code Level 2 standards for new construction.</p>
<p>E.1 Housing Policy 30</p>	<p>See E.1 Housing Policy 11 and 12 staff comments above.</p>

<p>The Local Trust Committee should consider zoning amendment applications:</p> <ul style="list-style-type: none"> • to bring into conformity dwelling units that were in existence but did not comply with the policies in this Plan at the time of its adoption on May 15, 2009, provided that the applicant provides written evidence, to the satisfaction of the Denman Island Local Trust Committee, that the dwelling units were constructed prior to the date of adoption of this Plan in accordance with the land use bylaw in effect at the time of construction; • to bring into conformity dwelling units that were constructed to replace existing dwelling units that did not comply with the policies in this Plan at the time of its adoption on May 15, 2009, provided that the applicant provides written evidence, to the satisfaction of the Denman Island Local Trust Committee, that the replaced dwelling units were constructed prior to the date of adoption of this Plan in accordance with the land use bylaw in effect at the time of construction 	<p>This rezoning application seeks to bring the existing development, as permitted by the LUC, into conformity with the LUB and OCP.</p>
<p>E.1 Housing DAI Policy 32 - 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 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.</p> <p>Development approval information may be required to help the Local Trust Committee to determine appropriate uses, density and</p>	<p>See above staff comments and recommendations concerning D.3 – Water Management and D.4 Waste Management. More Development Approval Information is required for the existing residential development on the subject properties.</p>

<p>siting of development in the Residential and Rural designations.</p>	
<p>E.3 – Conservation/Recreation</p>	
<p>E.3 – Conservation/Recreation Policy 2 In the Conservation/Recreation designation:</p> <ul style="list-style-type: none"> • there should be no subdivision of land; • the uses and densities should be restricted to conservation or outdoor recreation and educational programs; • the only camping permitted should be in Fillongley Park; • Zoning regulations should establish that the principal use on land within the conservation/recreation designation is passive recreation. • zoning regulations should establish setbacks from lot lines for any allowed buildings and structures; • zoning regulations should establish sufficient setbacks to protect any watercourses and in the case of fish-bearing streams, setbacks should be adequate to protect the riparian habitat; • zoning regulations should establish sufficient setbacks to protect the foreshore and coastal marine environment; and • zoning amendments should be undertaken to ensure land is retained for conservation and recreation uses. 	<p>There is a significant area of Old Forest Ecosystem mapped on the Northern parcel (PID 000-211-338), also located partly within DPA No. 1: Komasa Bluff. The Land Use Contract (LUC) from 1977 prohibits development in most of this area, indicating that the Owners and the Company (Komasa Ranch Ltd.) shall retain in a natural state the treed section of Longbeak Point as indicated in green in Schedule “A” of the LUC.</p> <p>The Land Use Designation is Rural and the underlying zoning (which applies as of July 1, 2024) is Rural Residential (R2).</p> <p>This application proposes to align the underlying LUB with the LUC and therefore seeks to rezone and re-designate this part of the lot to Conservation (CN) zone and Conservation/Recreation Land Use Designation. See excerpt from LUC Schedule “A” with planner comments added in green, below:</p>  <p>Recommendation: LTC to confirm that draft bylaw language should include designation of this part of the Northern parcel as ‘Conservation/Recreation’ in the OCP and ‘Conservation (CN)’ in the LUB.</p>
<p>E.3 – Conservation/Recreation Policy 3 The Local Trust Committee should encourage the use of land for conservation purposes. The provision for density transfer in Appendix C of this Plan may apply to the donation or sale of land for the creation of a nature reserve or nature sanctuary.</p>	<p>LTC may consider encouraging the Owners to create a nature protection covenant and undertake a density transfer for the forested part of the Northern parcel, if warranted. Further review is required.</p>
<p>E.3 – Conservation/Recreation Policy 4 All land presently in a park that is in a natural state should be retained in that state.</p>	<p>See staff comments and recommendations above for E.3 – Conservation/Recreation Policy 2 and Policy 3 regarding retaining part of the Northern parcel as a conservation area.</p>

<p>E.3 – Conservation/Recreation Policy 5 The Local Trust Committee should communicate with the Comox Valley Regional District and the Ministry of Environment to identify potential land for park purposes.</p>	
<p>E.3 – Conservation/Recreation Policy 6 All land designated for future park use on Denman Island should be retained in a natural state as much as possible.</p>	<p>The LTC may also consider encouraging the applicant to apply for the Natural Area Protection Tax Exemption Program for this part of the lot, to further incentivise environmental protection. The applicant would be encouraged to contact the Islands Trust Conservancy’s Ecosystem Protection Specialist to determine whether the area qualifies for a NAPTEP covenant.</p>
<p>E.3 – Conservation/Recreation Policy 7 The following areas are identified as candidates for future parks and conservation areas, some of which are further identified on Schedule G:</p> <ul style="list-style-type: none"> • Chrome Island; • trails connecting residential areas, commercial areas, schools, parks, beaches and ferry terminals; • large parcels of undeveloped lands with environmental or cultural values; and • beach rights-of-way. 	<p>Recommendation: The LTC request the applicant to confirm whether or not they will pursue a NAPTEP covenant for an environmentally sensitive portion of the Northern parcel.</p> <p>If the applicant does not pursue a NAPTEP covenant, the LTC may alternatively request the applicant enter into a cost recovery agreement with the Islands Trust for the purposes of drafting a Section 219 <i>Land Title Act</i> restrictive covenant regarding the protection of environmentally sensitive old forest ecosystem on part of the Northern parcel, instead.</p>
<p>E.3 – Conservation/Recreation Policy 8 The Local Trust Committee should attempt to secure parks in the areas identified in Policy 7 under this section through a zoning amendment, subdivision, or voluntary donation. The donation or sale of a parcel of land for park may be considered a community amenity and the provisions for density transfer in Appendix C may apply.</p>	<p>This area of the Northern parcel and the beach right-of-way along Runkle Rd. may also be considered for potential future park purposes. Further review and consideration with the Comox Valley Regional District, Ministry of Environment, and the K’ómoks First Nation is required.</p>

Schedule "1"

G 8685

THIS LAND USE CONTRACT made in triplicate the 2nd day of December, 1977,

BETWEEN:

THE CORPORATION OF THE REGIONAL DISTRICT OF COMOX-STRATHCONA, a body constituted under the laws of the Province of British Columbia, having an address at 4795 Headquarters Road, Courtenay, British Columbia,

(hereinafter called the "Regional District")

OF THE FIRST PART

AND:

JOHN DANIEL RUNKLE, PETER RUNKLE, PAMELA MARY DONALD; PRISCILLA WINSLOW STATT and PENELOPE ANNE BURD

(hereinafter collectively called "the Owners")

OF THE SECOND PART

AND:

1072 909080 -D3

KOMAS RANCH LIMITED, a body corporate under the laws of the Province of British Columbia, having its Registered Office at 170 Craig Street, Duncan, British Columbia,

(hereinafter called "the Company")

OF THE THIRD PART

WHEREAS by By-Law No. 267 of the Regional District, adopted 27th August 1977 the area of land described in Schedule "B" attached hereto was designated as a development area within the meaning of Section 702A of the "Municipal Act" and pursuant to the provisions of the said Act;

AND WHEREAS the Owners are the registered owners of those lands and premises described in Schedule "B" attached hereto and hereinafter referred to as "the said lands";

AND WHEREAS the Company, which is wholly owned and controlled by the Owners, will be granted a Management Contract with respect to the said lands;

AND WHEREAS the Regional District, pursuant to Sections 798A and 702A of the "Municipal Act", may, notwithstanding any By-Law of the Regional District passed pursuant to Section 712 or Section 713 of the "Municipal Act", upon the application of an owner of land or his agent within a development area designated as such by a By-Law of the Regional District enter into a Land

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Form "G" Land Registry Act
REGISTERED IN THE REGISTER OF
LANDS ON THE 10th day of the month
of January 1978
on application received at the time
written application on the application
of the
H. T. KENNEDY, Registrar of the
British Columbia Land Registry District

14:14
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Use Contract containing such terms and conditions for the use and development of the land as may be mutually agreed upon and thereafter the use and development of that land shall be in accordance with such Land Use Contract;

AND WHEREAS the "Municipal Act" requires that the Regional Board in exercising the powers given by Section 702A shall have due regard to the considerations set out in Section 702(2) and Section 702A(1) in arriving at the use and development permitted by any Land Use Contract and terms, conditions and considerations thereof;

AND WHEREAS the Owners have presented to the Regional District its scheme of use and development of the within described lands and premises and have made application to the Regional District to enter into this Land Use Contract under the terms and conditions and for the consideration hereinafter set forth;

AND WHEREAS the Regional Board having given due regard to the considerations set forth in Sections 702(2) and 702A(1) of the "Municipal Act" have agreed to the terms, conditions and considerations herein contained as amended;

AND WHEREAS the Owners acknowledge that they are fully aware of the provisions and limitations of Sections 798A and 702A of the "Municipal Act", and the Regional District and the Owners mutually acknowledge and agree that the Regional Board cannot enter into this Agreement until the Regional Board has held a Public Hearing hereon in the manner prescribed by law, has duly considered the representations made and the opinions expressed at such Hearing, and unless two-thirds of all the Directors of the Regional Board vote in favour of the Regional District entering into this contract;

AND WHEREAS the proposed development is set out in the Plan attached hereto and marked Schedule "A";

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the conditions and covenants hereinafter set forth the Regional District and the Owners covenant and agree as follows:

1. INTERPRETATION

Excepting those words defined herein, all definitions of words and phrases contained in the By-Laws of the Regional

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District shall apply to this Land Use Contract, and to the Schedules attached hereto. The headings to the paragraphs of this Agreement are for convenience only and shall not constitute a part of this Agreement. Whenever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic where the contract or the parties so require.

2. OWNERS

The Owners are the registered owners of an estate in fee simple in all and singular that certain parcel or tract of land and premises herein referred to as the said lands, and more particularly described in Schedule "B" attached hereto.

3. ROADS

The Company undertakes to construct private roads as necessary, with the location of such roads to be subject to the approval of the Regional District.

4. PARKLAND

- a) The Owners undertake to dedicate to public use one acre of the said lands as outlined in red on the plan attached and forming Schedule "A" hereto, for the sole purpose of providing public access to the beach.
- b) The untreed area of Longbeak Point, as shown in red on the plan attached and forming Schedule "A" hereto, shall remain unoccupied and the Owners and the Company undertake to hold and maintain the said untreed area of Longbeak Point solely for the use, benefit and enjoyment of the public, subject to the following conditions:
 - (i) No fires shall be permitted in the area at any time.
 - (ii) No overnight camping will be permitted.
 - (iii) No man-made or artificial facilities will be installed or erected in the area.
- c) The Owners or the Company may from time to time make regulations subject to the approval of the Regional

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District for the maintenance, protection and enhancement of the said untreed area of Longbeak Point.

- d) Representatives of the Owners or the Company may enforce the restrictions set out in sub-paragraphs 4(b)(i) through 4(b)(iii) hereof, and any regulations promulgated under sub-paragraph 4(c) hereof. Such enforcement shall include, but not be limited to, authority to erect signs and post notices in the said untreed area of Longbeak Point.
- e) The Owners and the Company shall retain in a natural state the treed section of Longbeak Point north of proposed building site 1 as shown in green on the plan attached and forming Schedule "A" hereto.

5. PERMITTED USES

The Owners and the Company may occupy the said lands for the following purposes:

- a) The construction of private roads as necessary, with the location of such roads to be subject to the approval of the Regional District.
- b) Construction of single family dwelling units to a maximum number of twenty.
- c) For each single family dwelling unit, construction of one guest dwelling with a maximum gross floor area of four hundred square feet.
- d) Construction of customary accessory structures, including but not restricting the generality of the foregoing, garage, workshop, greenhouse, boathouse, storage sheds and common recreation facilities.

6. RESTRICTIONS

- a) All buildings shall be sited as indicated on the Plan attached and forming Schedule "A" hereto.
- b) The siting of all buildings, including guest dwellings, shall be subject to the approval of the Planning Department of the Regional District.

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- c) The siting and number of dwellings shall in all cases be subject to the approval of the Local Medical Health Officer, and any variation in such siting as required by statute shall not be deemed to require an amendment to this contract.
- d) The Owners or the Company shall provide proof that potable water in a minimum amount of three hundred gallons per day per dwelling unit is available to each unit.

7. PROHIBITIONS

No subdivision except that solely for the public use or purposes shall be permitted within the area covered by the Land Use Contract.

8. COMPLIANCE WITH BY-LAWS

The Owners and the Company shall comply with the terms and conditions of the By-Laws and Regulations of the Regional District and any amendments thereto.

9. INSPECTION

The employees of the Regional District from time to time, and at all reasonable times, may enter upon the lands to carry out all necessary inspections to ensure that the land is used and developed in accordance with the provisions of this Agreement.

10. REGISTRATION

This Agreement shall be construed as running with the land, and shall be registered in the Land Registry Office by the Regional District pursuant to the provisions of Section 798A and Section 702A(4) of the "Municipal Act".

11. CONSENT

The Regional District will permit the Owners and the Company to develop the said lands upon the terms and conditions herein contained.

12. BINDING AGREEMENT

THIS AGREEMENT shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors and assigns.

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IN WITNESS WHEREOF the parties hereto have executed.

THE CORPORATE SEAL OF THE)
CORPORATION OF THE REGIONAL)
DISTRICT OF COMOX-STRATHCONA)
was hereunto affixed in the)
presence of:)

M. Lyson CHAIRMAN)

J. Smith SECRETARY)

SIGNED, SEALED AND DELIVERED)
by JOHN DANIEL RUNKLE in the)
presence of:)

M. Gathway)
Articled Student)
170 Craig Street)

Duncan, B.C.)

J. D. Runkle
JOHN DANIEL RUNKLE ✓

SIGNED, SEALED AND DELIVERED)
by PETER RUNKLE in the)
presence of:)

Alf Ernest Andersen)
ALF ERNEST ANDERSEN)
4260 EAST HASTINGS ST.)
BURNABY 2, B.C.)
Notary Public)

Notary Public)

Peter Runkle PR ✓
PETER RUNKLE

SIGNED, SEALED AND DELIVERED)
by PAMELA MARY DONALD in the)
presence of:)

Joseph J. Barry, Jr.)
Notary Public for)
Government of British Columbia)
JOSEPH J. BARRY, JR.)
147 COMMISSION EXPIRES)
FEBRUARY 25, 1977)

Pamela Mary Donald ✓
PAMELA MARY DONALD

SIGNED, SEALED AND DELIVERED)
by PRISCILLA WINSLOW STATT in)
the presence of:)

J. Barry)

Bank Administration)
6289 HOCHMAN ST.)
BBy B.C. V5B 2Y6.)

Priscilla Winslow Statt ✓
PRISCILLA WINSLOW STATT

- 7 -

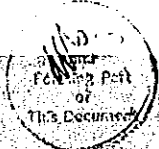
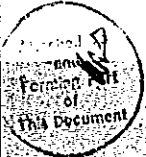
SIGNED, SEALED AND DELIVERED)
by PENELOPE ANNE BURD in the)
presence of:)

William Francis Johnson)
Denman Island B.C.)
_____)

Penelope Anne Burd
PENELOPE ANNE BURD

THE CORPORATE SEAL OF KOMAS)
RANCH LIMITED, was hereunto)
affixed in the presence of:)

H. R. R. R.)
2323 Greenlands)
Victoria B.C.)



LAND REGISTRY ACT
FORM O (SECTION 57 (b))

For Maker of a Deed

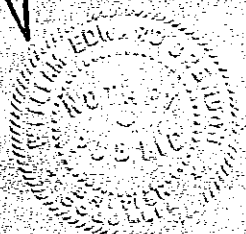
I HEREBY CERTIFY that, on the 3rd day of January, 1978
at the City of Vancouver, in the Province of British Columbia
PRISCILLA WINSLOW STATT (whose identity has been proved by the evidence on

oath of _____
(State full name, address, and occupation.)

who is personally known to me, appeared before me and acknowledged to me that she is
the person mentioned in the annexed instrument as the maker thereof, and whose name is
subscribed thereto as party, that she knows the contents thereof, and that she executed
the same voluntarily, and is of the full age of twenty-one years.

IN TESTIMONY whereof I have hereunto set my hand and Seal of Office at
Vancouver in the Province of British Columbia, this 3rd day of
January, in the year of our Lord one thousand nine hundred
and seventy-eight

William F. Johnson
A Notary Public in and for the
Province of British Columbia



NOTE.—Where the person making the acknowledgment is personally known to the officer, strike out the words in brackets.
★ 581-564-6399 (2)

- 7 -

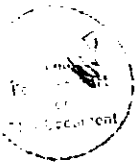
SIGNED, SEALED AND DELIVERED)
by PENELOPE ANNE BURD in the)
presence of:)

William Francis Johnson)
Denman Island B.C.)
_____)

Penelope Anne Burd)
PENELOPE ANNE BURD)

THE CORPORATE SEAL OF KOMAS)
RANCH LIMITED, was hereunto)
affixed in the presence of:)

H. Burns)
2323 Greenlands)
Victoria B.C.)



LAND REGISTRY ACT
FORM O (SECTION 57 (b))

For Maker of a Deed

I HEREBY CERTIFY that, on the 3rd day of January, 1978
at the City of Vancouver, in the Province of British Columbia
PRISCILLA WINSLOW STATT ¹³ whose identity has been proved by the evidence on

oath of
(State full name, address, and occupation.)

who is] personally known to me, appeared before me and acknowledged to me that she is
the person mentioned in the annexed instrument as the maker thereof, and whose name is
subscribed thereto as party, that she knows the contents thereof, and that she executed
the same voluntarily, and is of the full age of twenty-one years.

IN TESTIMONY whereof I have hereunto set my hand and Seal of Office at
Vancouver in the Province of British Columbia, this 3rd day of
January in the year of our Lord one thousand nine hundred
and seventy-eight

William Burns
A Notary Public in and for the
Province of British Columbia

Note.—Where the person making the acknowledgment is personally known to the officer making the same, strike out the words in brackets.



SCHEDULE "B"

Lot One (1), Section Thirty-two (32),
Denman Island, Nanaimo District,
Plan 26016,

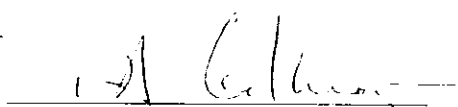
and

Sections Thirty-two (32) and Thirty-three
(33), EXCEPT Plans 1656R and 26016,
Nanaimo District.

Acknowledgment of Maker

I HEREBY CERTIFY that, on the 14th day of December, 1977, at
Victoria, in the Province of British Columbia
John Terence Fowle (whose identity has been proved by the evidence on
oath of _____), who is personally known to me, appeared
before me and acknowledged to me that he is the person mentioned in the annexed instrument as the
maker thereof, and whose name is subscribed thereto as party that he knows the contents
thereof, and that he executed the same voluntarily, and is of the full age of nineteen years.

IN TESTIMONY whereof I have hereunto set my Hand and Seal of Office,
at Victoria in the Province of
British Columbia, this 14th day of December, 1977.



A Notary Public in and for the Province of British Columbia
A Commissioner for taking Affidavits for British Columbia

NOTE: Where the person making the acknowledgement is personally known to the officer taking the same, strike out the words in brackets.

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Acknowledgment of Officer of a Corporation

I HEREBY CERTIFY that, on the 2nd day of December, 19 77,
 at COURTENAY, in the Province of British Columbia,
Norman Charles Lysac (whose identity has been proved by the evidence on
 oath of _____, who is) personally known to me,
 appeared before me and acknowledged to me that he is the Chairman of
Regional District of Comox-Strathcona, and that he is the person
 who subscribed his name to the annexed instrument as Chairman of the said
Regional District of Comox-Strathcona and affixed the seal of the
 to the said Instrument, that he was first duly authorized to subscribe his name as aforesaid, and affix the said seal
 to the said Instrument, and that such corporation is legally entitled to hold and dispose of land in the Province of
 British Columbia.

IN TESTIMONY whereof I have hereunto set my Hand and Seal of Office,
 at Courtenay in the Province of
 British Columbia, this 2nd day of December
 one thousand nine hundred and seventy seven

Blair Wagon
 A Notary Public in and for the Province of British Columbia
 A Commissioner for taking Affidavits for British Columbia.

Substitute for form <u>"C"</u>	
Date <u>10.1.78</u>	Nature of Interest <u>LAND USE CONTRACT</u>
Declared value <u>N/A</u>	Disposition of C/T <u>N/A</u>
Please merge <u>N/A</u>	Applicant as Solicitor/Agent <u>X</u>
Telephone No. <u>477-9645</u>	Address: <u>2323 GREENLAND RD</u> <u>VICTORIA BC V8N1T7</u>

LAND REGISTRY ACT
FORM R. (SECTION 57 (a))

10

2195
0215

AFFIDAVIT OF WITNESS

To Wit:

I, William Francis Johnson, of the _____
of Denman Island, B.C., in the Province of British Columbia, make oath and say:—

1. I was personally present and did see the within instrument duly signed and executed by _____
Penelope Anne Burd
the party thereto, for the purposes named therein.

2. The said instrument was executed at Denman Island, B.C.

3. I know the said party _____, and that she is _____ of the full age of twenty-one years.

4. I am the subscribing witness to the said instrument and am of the full age of sixteen years.

Sworn before me at Courtenay
in the Province of British Columbia, this 28th
day of December, 1977

William Francis Johnson

COMMISSIONER FOR TAKING AFFIDAVITS
WITHIN BRITISH COLUMBIA

11

8685

LAND REGISTRY ACT
FORM O (SECTION 57 (b))

For Maker of a Deed

I HEREBY CERTIFY that, on the 27th day of December, 19 77
at Pittsfield, in the State of MASSACHUSETTS.

[whose identity has been proved by the evidence on
oath of Pamela Mary Donald, Richmond, Mass. USA.
(State full name, address, and occupation.)

who is] personally known to me, appeared before me and acknowledged to me that she is
the person mentioned in the annexed instrument as the maker thereof, and whose name she
subscribed thereto as part, that she knows the contents thereof, and that she executed
the same voluntarily, and is of the full age of twenty-one years.

IN TESTIMONY whereof I have hereunto set my hand and Seal of Office at
Pittsfield, Mass. USA., this 27th day of
December, in the year of our Lord one thousand nine hundred

JOSEPH J. BARRY, JR.
MY COMMISSION EXPIRES
JANUARY 26, 1979

and subscribed

Joseph J. Barry, Jr. ✓

NOTE.—Where the person making the acknowledgment is personally known to the officer making the same, strike out the words in brackets.

Notary Public

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LAND REGISTRY ACT
FORM O (SECTION 57 (b))

TALE ERNE
A Commissioner
for B.C.

8685

For Maker of a Deed

I HEREBY CERTIFY that, on the 3rd day of Jan, 1978
at Burnaby, in the 3rd of Jan
PETER RUNKLE [whose identity has been proved by the evidence on
oath of PETER RUNKLE
(State full name, address, and occupation.)
who is] personally known to me, appeared before me and acknowledged to me that He
the person s mentioned in the annexed instrument as the maker thereof, and whose name He
subscribed thereto as part y, that He knows the contents thereof, and that He executed
the same voluntarily, and is of the full age of twenty-one years.

IN TESTIMONY whereof I have hereunto set my hand and Seal of Office at
Burnaby, this 3rd day of
Jan, in the year of our Lord one thousand nine hundred
and 78

[Signature]

NOTE.—Where the person making the acknowledgment is personally known to the officer taking the same, strike out the words in brackets.

★ 5M-564 6399 (2)

A Notary Public in and for the
Province of British Columbia

✓

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To: L.R.O. in support of 100-8-1120

REGIONAL DISTRICT OF COMOX-STRATHCONA

BY-LAW NO. 267

A By-law to authorize the entering into of a Land Use Contract.

Whereas pursuant to the provisions of subsection 1 of 798A of the Municipal Act, and the provisions of section 702A of the Municipal Act, the Regional Board may, by By-law, enter into a Land Use Contract containing such terms and conditions for the use and development of the land as may be mutually agreed upon:

And whereas a Public Hearing as required pursuant to section 702A has been held;

And whereas this By-law has been approved by the Lieutenant-Governor in Council;

Now therefore the Regional Board of the Regional District of Comox-Strathcona, in open meeting assembled, enacts as follows:-

1. The Regional District of Comox-Strathcona is hereby authorized and empowered to enter into a Land Use Contract with John Daniel Runkle, Peter Runkle, Pamela Mary Donald, Priscilla Winslow Statt, Penelope Anne Burd, and Komax Ranch Limited in accordance with the form of contract designated as Schedule "1" attached hereto and forming part of this by-law;
2. The Chairman and Secretary of the Regional District of Comox-Strathcona are hereby authorized and empowered to execute the said Land Use Contract with John Daniel Runkle, Peter Runkle, Pamela Mary Donald, Priscilla Winslow Statt, Penelope Anne Burd, and Komax Ranch Limited to register the said Land Use Contract at the Land Registry Office, and to do all things necessary in relation thereto;
3. This By-law may be cited as "Land Use Contract authorization By-law No. 1, 1977".

READ A FIRST TIME THIS 28th DAY OF March 1977

READ A SECOND TIME THIS 23th DAY OF March 1977

PUBLIC HEARING HELD THIS 15th DAY OF April 1977

READ A THIRD TIME THIS 25th DAY OF April 1977

APPROVED by the Lieutenant-Governor in Council this 25th day of August 1977

RECONSIDERED AND ADOPTED THIS 27th DAY OF August 1977

"N. C. Lysnc"
Chairman

"J. E. Hiebert"
Secretary

G 8685

REGIONAL DISTRICT OF COMOX-STRATHCONA

BY-LAW NO. 243

8685
in support of
Land Use Ord.

A By-law to amend the "Denman Island Zoning By-law, 1972".

The Board of Directors of the Regional District of Comox-Strathcona in open meeting assembled enacts as follows:

PART A

The area described as: Sections 32 and 33, Nanaimo District, Denman Island, except Plan 1656 R, AND Lot 1, Section 32, Nanaimo District, Plan 26016, is hereby designated as a development area subject to the provisions of Section 702 A of the Municipal Act.

PART B

This By-law may be cited as the "Denman Island Zoning By-law, 1972, Amendment By-law No. 2".

READ A FIRST TIME this 22nd day of November, 1976.
READ A SECOND TIME this 22nd day of November, 1976.
READ A THIRD TIME this 22nd day of November, 1976.
APPROVED by the Lieutenant-Governor in Council this 24th day of February, 1977.
RECONSIDERED AND ADOPTED this 28th day of March, 1977.

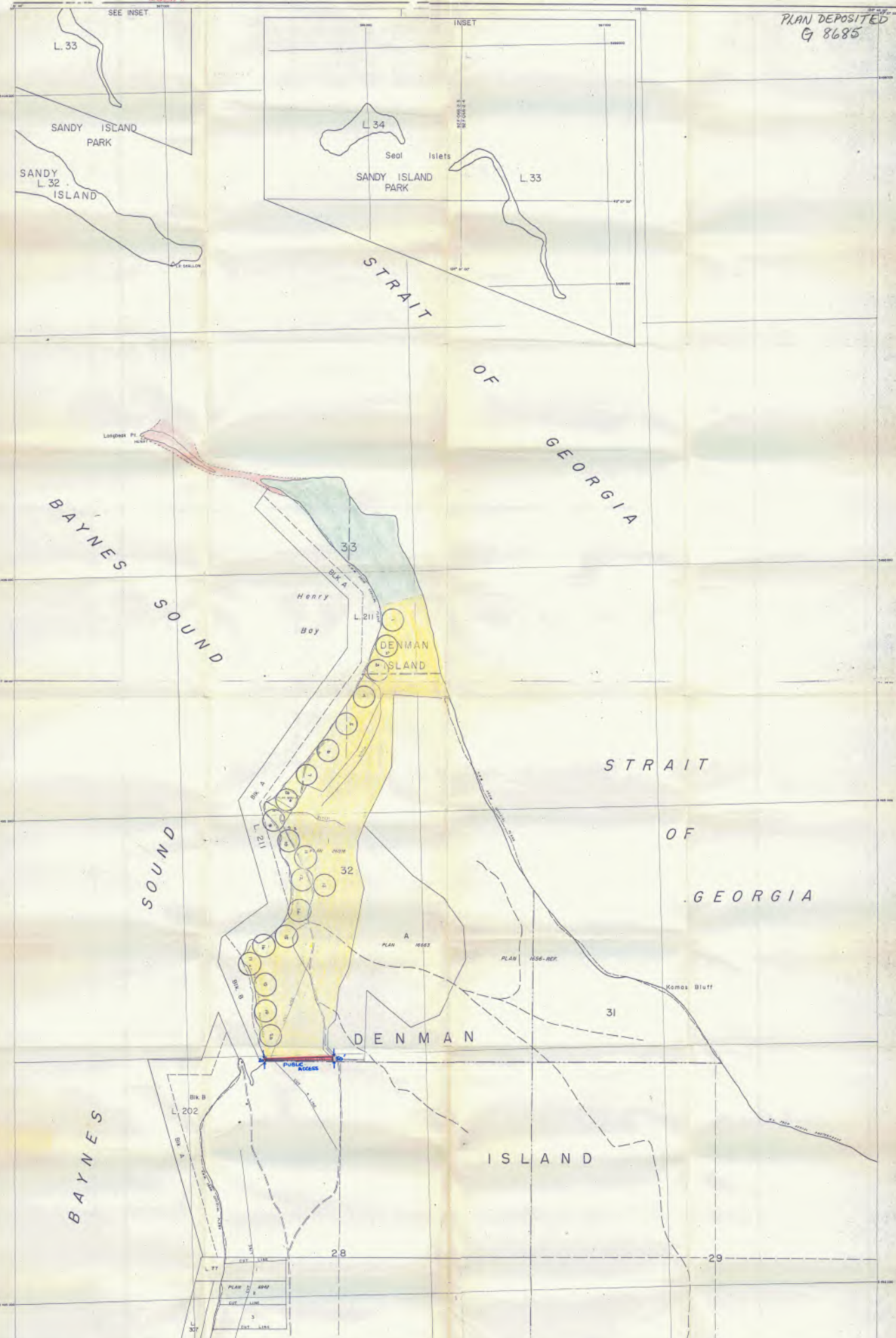
"N. C. Lysne"

Chairman

"J. E. Hiebert"

Secretary

PLAN DEPOSITED
G 8685



SURVEYS AND MAPPING BRANCH
B.C. LANDS SERVICE, VICTORIA B.C.
DEPARTMENT OF ENVIRONMENT

DATE: 1978-01-10
LATEST PLAN: G 8685
VISION DATE: 1978-01-10
SEE INDEX FOR ADDITIONAL INFORMATION

HANNOY LAND DISTRICT
VICTORIA LAND REGISTRATION DISTRICT

SCALE = 1:5000
CADASTRAL
92F-056-4-4

