

# STAFF REPORT

File No.: 6930-20 (Farm Plan)

DATE OF MEETING: March 6, 2018

TO: Denman Island Local Trust Committee

FROM: Marnie Eggen, Island Planner

Sonja Zupanec, Island Planner

Northern Team

Copy: Ann Kjerulf, Regional Planning Manager

SUBJECT: Denman Island Farm Plan Implementation Project

#### **RECOMMENDATION**

- 1. That the Denman Island Local Trust Committee proceed no further with Denman Island Local Trust Committee Bylaw No. 223, cited as "Denman Island Land Use Bylaw No. 186, 2008, Amendment No. 1, 2016."
- 2. That the Denman Island Local Trust Committee endorse the revised draft Project Charter v 4.2, dated March 6, 2018.
- 3. That the Denman Island Local Trust Committee request staff to prepare draft bylaws to amend the Official Community Plan and Land Use Bylaw in accordance with the Denman Island Farm Plan Project Charter, and Local Trust Committee direction on each of the potential amendments outlined in Attachments 1 and 2 of the Staff Report dated March 6, 2018.

#### **REPORT SUMMARY**

Purpose of this report is to:

- provide an update to questions from the Denman Island Local Trust Committee (LTC) regarding potential bylaw amendments as presented in the November 14, 2017 staff report; and
- provide an overview of additional recommended amendments and request the LTC provide direction on potential Official Community Plan (OCP) and Land Use Bylaw (LUB) amendments as outlined in Attachments 1 and 2. Clear direction on each of the potential amendments is needed in order for staff to draft bylaws.

#### **BACKGROUND**

The LTC passed the following resolutions on November 14, 2017:

#### DE-2017-086

#### It was MOVED and SECONDED

that the Denman Island Local Trust Committee direct staff to investigate and report on the following matters:

- 1. Alternative definitions for intensive agriculture and/or a definition of intensive horticulture.
- 2. Possible amendments to permitted residential uses that could limit intensive horticultural uses.
- 3. Information about setbacks from streams, lakes and wetlands and the natural boundaries of the sea in relation to fences allowed up to their margins such that livestock may encroach upon these sensitive areas.
- 4. Information on alternative land tenure agreements.
- 5. A rationale for proposed policy 8 regarding panhandle lots. **CARRIED**

Staff will report back on each of the five issues in the Analysis section of this report.

#### DE-2017-087

#### It was MOVED and SECONDED

that the Denman Island Local Trust Committee confirms the following regarding staff recommendations for Farm Plan Implementation:

- 1. That Temporary Use Permit areas for agri-tourism accommodation also be considered for bona fide farms outside of the Agriculture Land Reserve.
- 2. That Temporary Use Permit guidelines regarding clustering of dwellings (proposed regulation 17.1) include the word "encourage" rather than "require" clustering. **CARRIED**

Both provisions have been captured in the summary of potential draft bylaw amendments found in Attachments 1 and 2.

#### DE-2017-088

#### It was MOVED and SECONDED

that the Denman Island Local Trust Committee direct staff to amend the Denman Island Farm Plan Charter by adding to the Deliverable/Milestone section (where it says Preparation of community information materials): "including a plain language guide to the draft amendments." **CARRIED** 

The Farm Plan Implementation Project Charter has been updated (see Attachments) and will be posted to the Project webpage. Background materials including previous staff reports are also available online.

#### **ANALYSIS**

#### Response to LTC Request for Additional Information:

The LTC requested staff to report back on five topics for further discussion. The following information is in consultation with planning and agrology staff at the Ministry of Agriculture. Additional verbal updates may be available at the March 6, 2018 regular business meeting.

#### 1. Alternative definitions for intensive agriculture and/or a definition of intensive horticulture

At the November 2017 meeting the LTC requested alternative definitions to address possible industrial agriculture activities on residentially zoned properties outside the Agricultural Land Reserve (ALR).

Proposed Bylaw 223 originally presented the following revised definition of "intensive agriculture" consistent with the *Local Government Act*:

"intensive agriculture means the use of land, buildings and other structures by a commercial enterprise or an institution for the confinement of poultry, livestock or fur bearing animals, or the growing of mushrooms (except forest fungi)."

Intensive agriculture is currently not permitted on parcels zoned R1, R2 or R3. However horticulture is still a permitted accessory use and includes the growing of flowers, fruits, vegetables and other plants (including cannabis) as well as the sale of such products when grown by the landowners on their lot. Horticulture activities can take place using soil or non-soil based practices (e.g. hydroponics) in traditional field conditions or indoors (e.g. greenhouse, barn etc.). The new provincial cannabis regulations for 2018 are expected to restrict personal use growers to a maximum of four cannabis plants at any given time; however federally approved growers would have their limits set through the federal permit process.

At the time of report writing, staff were still in consultation with Ministry of Agriculture staff to determine if the definition of "intensive agriculture" as it applies to land in the R1, R2 and R3 zones could also include cannabis

production. This would redirect "intensive agriculture" farmers to operate only on land zoned for 'Agriculture (A)', 'Forestry (F)' or 'Resource (RE)'. Staff anticipate additional information being available for the March 6, 2018 regular LTC business meeting.

In addition to the definition of "intensive agriculture" the Denman Island home occupation regulations that apply in all residential zones also support commercial agriculture by the "sale of agricultural products produced on-site" as a home occupation. Staff has flagged this in Attachment 2 to ensure draft bylaw amendments are consistent between home occupation regulations and the R1, R2 and R3 zone provisions.

#### 2. Possible amendments to permitted residential uses that could limit intensive horticultural uses

Please see discussion above.

# 3. Information about setbacks from streams, lakes and wetlands and the natural boundaries of the sea in relation to fences allowed up to their margins such that livestock may encroach upon these sensitive areas

The *Riparian Areas Regulation* does not apply to farm practices as defined in the *Farm Practices Protection Act* (for parcels in or out of the ALR), including the siting of agricultural fencing. Currently, the LUB allows fences to be constructed within setback areas. While the Ministry of Agriculture does not provide any specific guidance as to what an appropriate setback would be between a fence and a sensitive environmental feature, Section 527 of the *Local Government Act* states that a local government may require, set standards for, and regulate the provision of screening for "preserving, protecting, restoring and enhancing the natural environment". Staff recommends that the LTC regulate the siting of fencing for confined livestock from streams, lakes, wetlands and the natural boundary of the sea using the minimum possible setback that could be supported environmentally so that impacts on agriculture can also be minimized. This would be consistent with the current OCP policy: "Zoning regulations should establish sufficient setbacks to ensure that livestock waste does not enter lakes, streams, wetlands or the sea." Staff have included this as a potential LUB amendment (Attachment 2) and can identify options for LTC consideration when draft bylaws are prepared.

#### 4. Information on alternative land tenure agreements

The LTC received a staff recommendation in November 2017 (Attachment 3 Synthesis of Referral Responses, item 13.1) supporting the inclusion of an OCP policy addressing LTC support for alternative land tenure agreements. Recent amendments to the *ALR Use, Subdivision and Procedure Regulation* allow farm use in the ALR by a person other than the owner of the farm, under a lease. The leased land is to be used only for one or more farm uses for multiple year leases. Upon further analysis, staff does not recommend an advocacy policy be included in the OCP encouraging one form of tenure over any other on ALR land. Farmers and property owners may determine what is the most appropriate farm business model and political advocacy on this matter is not necessary. Alternatively, staff recommends the OCP can more clearly designate land in the ALR for 'Agriculture' and include strong policy language supporting the use of ALR land for agriculture as the principal use (Attachment 1).

### 5. A rationale for prohibiting panhandle lots at the time of subdivision

Recommendation set 14 of the Denman Island Farm Plan (Amend the Official Community Plan), includes Action 4. "Include a policy that discourages the creation of panhandle lots within the ALR because of the withdrawal of land from farm production for a driveway area." (see page 69 of the Denman Island Farm Plan). For parcels with subdivision potential outside or partially outside the ALR, which are zoned to permit agriculture or horticulture as a permitted use, staff recommends that panhandle subdivisions not be permitted. Ministry of Agriculture staff confirmed that their data shows that larger parcels sizes and shapes support a greater diversity of agricultural uses and are more likely to be farmed over time. Having adequate road frontage and road access to a parcel is critical to encourage farming. Having adequate road frontage is also considered better for farms

that direct market their product; reduces the neighbour to neighbour conflict over dust, noise, parking and other issues associated with panhandle driveways; and may encourage farming where permitted by zoning. Panhandles are not ideal due to their maximization of narrow road frontages and access routes and are often only expedient for the proponent in efforts to maximize subdivision potential. Panhandles are also not consistent with lot configuration in the <u>Guide to Bylaw Development in Farming Areas</u> and therefore not recommended for any parcels where agriculture and horticulture are a permitted use.

Should the LUB be amended to prohibit panhandle lots, future subdivision applicants with a proposal for a panhandle lot could apply to the LTC for a Development Variance Permit for permission to vary the regulation prohibiting panhandles. At the time of application, the merits of each proposal could be evaluated on a case by case basis in order to better address potential adverse effects on agricultural viability (present or future). Staff have included this as a potential LUB amendment (Attachment 2).

If the LUB was amended to prohibit panhandle lots, staff also recommends the definition of panhandle be amended. The current LUB definition is:

"panhandle means that portion of a lot that is 20.0 metres wide or less and is used for access purposes"

A proposed subdivision layout with a panhandle measuring twenty-one metres wide or slightly larger could be approved, yet would still be inconsistent with the original rationale of preventing panhandles and their undesired effects on the settlement patterns. Attachment 2 has flagged this proposed amendment.

The minimum lot area permitted by subdivision in the 'A' zone is 15 hectares. The Agricultural Land Commission (ALC) is unlikely to approve subdivision of land in the ALR, particularly if the subdivision results in a panhandle layout. The Ministry of Agriculture strongly encourages local governments to include policies in their OCP that do not support further subdivision of ALR land. Staff have included this as a potential OCP policy amendment (Attachment 1) for LTC consideration as well as regulation in the LUB (Attachment 2) prohibiting further fragmentation of parcels in the ALR.

#### **Additional OCP Amendments:**

Staff have identified additional amendments to the OCP for LTC consideration that are outlined in Attachment 1 and detailed below.

#### 1. New 'Agriculture' Land Use Designation and Policies

Currently the Denman OCP addresses agriculture under section E.4 'Resource' of the OCP and designates land in the ALR as 'Sustainable Resource'. Principal uses in this designation are silvaculture and agriculture. The principal intended use within the ALR should be agriculture, with no exceptions. To categorize agriculture with policies pertaining to sand and gravel deposits or silvaculture obscures the importance of the ALR on Denman Island. Staff recommends a singular 'Agriculture' OCP designation for all land in the ALR with corresponding clear objectives and policies supported by the Advisory Planning Commission (APC) and Growers and Producers Alliance (GPA). The designation could apply to all 130 parcels of land in the ALR, (48% of the land base of Denman Island) and elevate the policy recommendations in the Farm Plan to enhance and preserve farming on the island. Staff has included this this item in the list of potential OCP amendments.

#### 2. Updating references to the Ministry of Agriculture

While updating the OCP staff suggests that the OCP references to the "Ministry of Agriculture and Lands" be updated to "Ministry responsible for agriculture" to avoid the need for future changes when Ministry names inevitably change.

#### **Additional LUB Amendments:**

Staff have identified a number of additional amendments to the LUB for LTC consideration that are outlined in Attachment 2 and detailed below.

#### 1. Agriculture (A) Zoning

Several elements of the 'Agriculture (A)' zone do not appear to be consistent with the <u>Guide to Bylaw Development in Farming Areas</u>. Although the singular zone (and 14 sub-'A'-zones) for the majority of the parcels within the ALR are clear, the permitted uses in section 3.4 of the LUB allows in the 'A' zone forestry as a principal use; secondary dwellings by Temporary Use Permit and buildings and structures accessory to other uses which do not include agriculture or residential. The zoning regulations in this section should clearly stipulate the need for ALC approval on ALR land for non-farm use. The zoning regulations can more clearly address subdivision in the ALR also requiring ALC approval (or being prohibited). Height exemptions for trellises, netting supports, fencing in the ALR can also be included in the 'A' zone. By updating the regulations for the 'A' zone to be consistent with the provincial guide, the LUB can implement the new OCP policies being recommended.

### 2. Temporary Use Permits (TUP) for secondary dwelling units

The LTC has asked staff to flag Section 5 of the LUB for updates to include agritourism accommodation and occasional markets/fairs/festivals. This is captured in Attachment 2. Staff also recommend Section 5 Area 2 regarding a TUP for a secondary dwelling be updated to clearly stipulate the requirement for ALC approval prior to LTC consideration. The LTC can also consider including guidelines that secondary dwellings in the ALR will only be approved if they are for farmworker accommodation and temporary (moveable dwellings) so that if farm use/status ceases, the secondary dwelling can be removed. This is consistent with the *ALC Act* and provincial bylaw standards.

#### Consultation

Staff suggest to hold a Community Information Meeting (CIM) subsequent to first reading and after receipt of referral responses, so that the responses can be incorporated into and considered at the CIM. Any changes considered at that time can be addressed and included in the proposed bylaws considered for second reading.

#### **Rationale for Recommendation**

The intent of the Denman Island Farm Plan is to enhance and preserve farming in the region and work towards increased farm production that is both sustainable and resilient. Amendments to the OCP and LUB are required to help formally protect Denman Island's land base for agriculture. Staff recommend draft bylaws be prepared and presented to the LTC for consideration of next steps as per the staff recommendations on Page 1 of the report.

#### **ALTERNATIVES**

#### A. 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 staff to prepare a supplemental report addressing (insert here) prior to LTC consideration of draft bylaws for the Farm Plan Implementation Project"

#### B. Request staff to prepare additional draft bylaw amendments.

The LTC can request additional amendments to those proposed in Attachments 1 and 2. The LTC should specify the amendments being requested. Recommended wording for the resolution is as follows:

"That the Denman Island Local Trust Committee request staff to include the following provisions in the draft amending bylaws (insert here) for the Farm Plan Implementation Project."

#### **NEXT STEPS**

Based on LTC direction, draft amending bylaws for the OCP and LUB can be prepared and returned to the LTC for consideration.

Submitted By:	Marnie Eggen, MCIP, RPP Island Planner	Sonja Zupanec, MCIP, RPP Island Planner	February 22, 2018
Concurred by:	Ann Kjerulf, MCIP, RPP Regional Planning Manager		February 23, 2018

#### **ATTACHMENTS**

- 1. Potential OCP Amendments
- 2. Potential LUB Amendments
- 3. Updated Project Charter v.4.2

# ATTACHMENT 1 – POTENTIAL OCP POLICY AMENDMENTS (MARCH 2018)

DENMAN OFFICIAL COMMUNITY PLAN – FARM PLAN IMPLEMENTATION PROJECT			
RECOMMENDED AMENDMENTS	LTC DIRECTION FOR BYLAW PREPARATION		
	(SUPPORT, NON-SUPPORT OR COMMENTS)		
<ol> <li>Add "Agriculture" as a separate OCP designation to be applied to land in the ALR. Currently all land in the ALR is 'Sustainable Resources' shared with forestry and resource extraction and institution. Move all pertinent agriculture policies and objectives into 'Agriculture' designation.</li> </ol>			
<ol> <li>Add an OCP policy that reinforces agriculture as the priority use for ALR and other agricultural lands. This supports the purposes of the ALC, as per the ALC Act:</li> </ol>			
<ul><li>"6 The following are the purposes of the commission:</li><li>(a) to preserve agricultural land;</li><li>(b) to encourage farming on agricultural land in collaboration with other communities of interest;</li></ul>			
(c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies."			
<ol><li>Add an OCP policy to support the consolidation of farm parcels in the ALR.</li></ol>			
Larger farm parcels provide greater opportunities for productive agriculture. The effect of this policy may be to encourage consolidation. Consolidation of farm parcels is not considered a "subdivision" under the Land Title Act and does not require ALC approval.			
4. Add an OCP policy to discourage panhandle lots.			
Apply to all lands where agriculture/horticulture are a permitted use.			
Staff note that this is likely to be a contentious policy consideration due to the potential to limit subdivision potential.			
<ol> <li>Add an OCP policy to support the provision of farm help accommodation on ALR land in association with a bonafide farm use (as per the BC Assessment Act).</li> </ol>			

COMMENDED AMENDMENTS	LTC DIRECTION FOR BYLAW PREPARATION (SUPPORT, NON-SUPPORT OR COMMENTS)		
6. Add a policy to support agritourism.			
As per the ALC regulation "agritourism, other than accommodation" is a farm use and must not be prohibited by local government.			
7. Add a policy to support agritourism accommodation, subject to rezoning or temporary use permit (to address site-specific issues).			
In the ALR, accommodation for agritourism is permitted subject to local government zoning if (i) all or part of the parcel on which the accommodation is located is classified as a farm under the Assessment Act, (ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast			
bedrooms under paragraph (d), and (iii) the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel.			
8. Add an OCP policy to support agricultural processing uses and facilities on non-ALR land, subject to rezoning.			
The ALC regulation permits processing in the ALR when at least 50% of the product processed is produced on the farm.			
9. Update all Ministry of Agriculture references throughout OCP.			
10. Add "Guiding Objective" in Section E.4 (pg 63) to address the protection of ALR land for farming.			
11. Update Local Government Act citation for TUPs (pg 83)			

# ATTACHMENT 2 - POTENTIAL LUB AMENDMENTS

# **MARCH 2018**

AMENDMENTS RECOMMENDED		LTC DIRECTION FOR BYLAW PREPARATION	
		(SUPPORT, NON-SUPPORT OR COMMENTS)	
1.	Replace the definition of agriculture as per the recommended Bylaw 223 definition.		
•	The proposed definition is consistent with direction from the Ministry of Agriculture.  Note, the <i>Right to Farm Act</i> does refer to activities involved in carrying on a "farm business" and does not refer to subsistence farming (growing crops or raising livestock not for commercial purposes) as noted by the GPA.		
2.	Replace the definition of 'intensive agriculture' as per recommended Bylaw 223 definition.		
•	This is consistent with the definition in the <i>Local Government Act</i> .		
•	Staff recommend including the words "except for forest fungi" following discussion with Ministry of Agriculture staff.		
3.	Replace the definition of feedlot in the Land use Bylaw as per recommended Bylaw 223 definition.		
	This is consistent with the Minister's Bylaw Standards.		
4.	Add a definition of confined livestock area to the Land Use Bylaw as per recommended Bylaw 223 definition.		
•	This is consistent with the Minister's Bylaw Standards.		
•	Staff recommend adding the words "but excludes confinement of animals for domestic purposes" for clarity.		
5.	Cross reference residential zoning provisions for agriculture and horticulture with home occupation regulations permitting "sale of agricultural products produced on-site"		
6.	Add a height exemption for silos, grain bins, deer fencing, netting supports, trellises in the 'Agriculture' Zone.		

AMENDMENTS RECOMMENDED		LTC DIRECTION FOR BYLAW PREPARATION	
		(SUPPORT, NON-SUPPORT OR COMMENTS)	
7.	Add a minimum setback to streams, lakes, wetlands and the natural boundary of the sea for confined livestock.		
8.	Add a 30 m setback requirement (to the natural boundary of a stream, lake, wetland or the sea) for buildings and structures (not including fencing) associated with intensive agriculture, feedlots or used to accommodate domesticated animals other than household pets.		
9.	Amend the Land Use Bylaw to permit road side farm stands in setback areas subject to obtaining a Ministry of Transportation and Infrastructure permit.		
10.	Amend the 'A' zone permitted uses, buildings and structures so they are consistent with Ministry Bylaw standards.		
11.	Add a general regulation to prohibit feedlots outside the Agriculture Land Reserve.		
-	of Agriculture staff have noted that feedlots outside are unlikely. LTC can legally prohibit outside of ALR.		
12.	Add a 30 m setback to lot lines where feedlots are permitted.		
13.	Amend the Land Use Bylaw to include subdivision regulations to prohibit creation of panhandle lots. Review/amend definition of 'panhandle'.		
14.	Add Subdivision regulation that prohibits further subdivision of ALR land.		
15.	Add Temporary Use Permit guidelines in the Land Use Bylaw for secondary dwellings in the A zone on ALR land clarifying that a dwelling is subject to ALC approval, must be for farm use, clustered with principle dwellings in order to avoid sterilization or fragmentation of farm land. On land outside the ALR, clustering is encouraged.		
16.	Add TUP Areas and Guidelines for "Occasional markets, fairs and festivals".		

DENMAN LAND USE BYLAW – FARM PLAN IMPLEMENTATION PROJECT		
AMENDMENTS RECOMMENDED	LTC DIRECTION FOR BYLAW PREPARATION (SUPPORT, NON-SUPPORT OR COMMENTS)	
17. Designate TUP areas and guidelines for agritourism accommodation on land in the ALR and for land outside the ALR with farm status.		
Despite the lack of consensus amongst APC members, this was a recommendation of the multi-year farm plan process; designation of TUP areas provides an opportunity for the LTC to consider applications; approval is completely discretionary and if there is lack of support for a TUP in a particular instance, the LTC is not compelled to issue a TUP.		

## **Denman Island Farm Plan Implementation - Charter v.4.2**

Date: March 6, 2018

**Purpose** The purpose of this project is to implement actions under recommendations 11, 13 and 14 of the Denman Island Farm Plan to inform the development of bylaws to amend the Denman Island Official Community Plan and Land Use Bylaw.

**Background** The process of developing the Denman Island Farm Plan began in of 2009 and the Plan was endorsed by the Denman Island Local Trust Committee in June 2012. In January 2016, Farm Plan Implementation was added to the LTC Top Priorities List. In June 2016, consideration of new agriculture-related definitions and regulations was added to the Farm Plan Implementation project.

## **Objectives**

- To prepare bylaws to amend the Denman Island Official Community Plan and Land Use Bylaw, which implement Farm Plan Recommendations 11, 13, 14 and which align with the ALC Act and Regulation.
- To amend the LUB definitions of agriculture, intensive agriculture, feedlot and establish appropriate LUB setbacks for intensive agriculture and feedlots.
- To engage community members, the Advisory Planning Commission (APC), Grower and Producers Alliance (GPA), and other stakeholders in the development of policies and regulations to implement the Farm Plan.

### In Scope

- Referral to Denman GPA and APC
- Community information meeting prior to second reading or public hearing of bylaws
- Project webpage maintenance

### **Out of Scope**

- Farm Plan recommendations not related to LTC authority
- Creation of an Agricultural Enterprise Zone
- Review or amendment of existing DPAs
- Designation of new DPAs
- Consideration of landscape or screening requirements
- Water issues management

Workplan Overview		
Deliverable/Milestone	Date	
Adoption of Project charter	November 15, 2016	
Referral of proposed OCP/LUB amendments to APC and GPA	December 2016 — October 2017	
LTC consideration of APC/GPA input and staff analysis/recommendations	November 2017	
Development of draft OCP/LUB bylaws	November 2017—May 2018	
LTC consideration of draft OCP/LUB bylaws / 1st reading; Referral of proposed bylaws to APC and GPA; Preparation of community information materials (including a plain language guide to the draft amendments); Community information meeting	May— July 2018	
LTC consideration of revisions/further readings of proposed OCP/LUB bylaws	July—August 2018	
Statutory bylaw amendment process (readings, referrals, public hearing)	May— September 2018	

Project Team			Budget		
Marnie Eggen, Island Planner Pro		Project Manager	Budget Source: Denman LTC Projects		
Ann Kjerulf, Regional Planning Manager		Project Sponsor	Fiscal Item Co		Cost
Sonja Zupanec, Island Planner		Project Support	2017 2010	Community information	
RPM Approval:	LTC Endorsement (amended):		2017-2018	Community information meeting; advertising	\$1,000
Ann Kjerulf	Resolution #:		2018-2019	Public hearing	\$1,000
Date: February 23, 2018	Date:			Total	\$2,00058