



DATE OF MEETING: May 1, 2018
TO: Denman Island Local Trust Committee
FROM: Sonja Zupanec, Island Planner
Marnie Eggen, Island Planner
Northern Team
SUBJECT: Denman Island Farm Plan Implementation Project

RECOMMENDATION

1. That the Denman Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 228, cited as “Denman Island Official Community Plan Bylaw, 2008, Amendment No. 1, 2018”, is not contrary to or at variance with the Islands Trust Policy Statement.
2. That Denman Island Local Trust Committee Bylaw No. 228, cited as “Denman Island Official Community Plan Bylaw, 2008, Amendment No. 1, 2018”, be read a first time.
3. That the Denman Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 229, cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2018”, is not contrary to or at variance with the Islands Trust Policy Statement.
4. That Denman Island Local Trust Committee Bylaw No. 229, cited as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2018”, be read a first time.
5. That the Denman Island Local Trust Committee request staff to refer Bylaw No. 228 and Bylaw No. 229 to the following agencies and First Nations for comment:
 - Halalt First Nation
 - K'omoks First Nation
 - Lake Cowichan First Nation
 - Nanwakolas First Nations
 - Qualicum First Nation
 - Stz'uminus First Nation
 - Tla'amin Nation
 - Cowichan Tribes
 - Homalco First Nation (Xwemalhkwu)
 - Laich-kwil-tach Treaty Society
 - Lyackson First Nation
 - Penelakut Tribe
 - Wei Wai Kum First Nation
 - Snaw'Naw'As Nation
 - Te'Mexw Treaty Association
 - We Wai Kai Nation
 - Denman Growers and Producers Alliance
 - Comox Valley Regional District
 - School District #71 (Comox Valley)
 - Ministry of Agriculture
 - Agricultural Land Commission
 - Ministry of Municipal Affairs and Housing
 - Hornby Island Local Trust Committee
 - Ballenas-Winchelsea Islands Local Trust Committee (Executive Committee)
6. That the Denman Island Local Trust Committee request staff to refer Bylaw No. 228 and Bylaw No. 229 to the Denman Island Advisory Planning Commission for comments, and that staff and one Trustee attend the meeting(s).
7. That the Denman Island Local Trust Committee request staff to schedule a Community Information Meeting in accordance with the Denman Farm Plan Implementation Project Charter v. 4.2.

REPORT SUMMARY

The purpose of this report is to:

- Introduce draft Bylaw Nos. 228 and 229 for consideration of first reading;
- Request Local Trust Committee (LTC) consideration of draft Bylaw Nos. 228 and 229 for consistency with the Islands Trust Policy Statement (ITPS);
- Request LTC consideration of referrals to First Nations and Agencies; and
- Request the LTC to schedule a community information meeting.

BACKGROUND

The LTC passed the following resolutions on March 6, 2018:

DE-2018-028

It was *MOVED and SECONDED,*

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".

CARRIED

DE-2018-029

It was *MOVED and SECONDED,*

that the Denman Island Local Trust Committee endorse the revised draft Project Charter v 4.2, dated March 6, 2018.

CARRIED

DE-2018-030

It was *MOVED and SECONDED,*

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.

CARRIED

The endorsed Farm Plan Implementation Project Charter is attached and is posted to the Project [webpage](#). All background materials regarding this project, including previous staff reports, are also available online.

ANALYSIS

Policy/Regulatory

Islands Trust Policy Statement:

An ITPS Directives Only Checklist has been prepared for each of the bylaws (see Attachments). In staff's opinion, Bylaw Nos. 228 and 229 are not contrary to or at variance with the ITPS.

Bylaw No. 228 and Bylaw No. 229:

Following direction from the LTC at their March 6, 2018 regular business meeting, Bylaw No. 228 and Bylaw No. 229 are bylaws to amend the Denman Island Official Community Plan (OCP) and Denman Island Land Use Bylaw (LUB), respectively. A draft of each bylaw can be found in Attachments, along with a Table that summarizes the LTC endorsed amendments, corresponding draft bylaw section, and staff comments.

Consultation

Referrals:

As the project would involve proposed OCP amendments, the LTC is required by the *Local Government Act* to consider opportunities for consultation with persons, organizations and authorities it considers will be affected. The LTC should consider if it wishes to undertake additional consultation with agencies or First Nations or than identified below and direct staff accordingly. Following first reading, staff recommends Bylaw Nos. 228 and 229 be referred to the following First Nations and agencies:

- Halalt First Nation
- K'omoks First Nation
- Lake Cowichan First Nation
- Nanwakolas First Nations
- Qualicum First Nation
- Stz'uminus First Nation
- Tla'amin Nation
- Cowichan Tribes
- Homalco First Nation (Xwemalhkwu)
- Laich-kwil-tach Treaty Society
- Lyackson First Nation
- Penelakut Tribe
- Wei Wai Kum First Nation
- Snaw'Naw'As Nation
- Te'Mexw Treaty Association
- We Wai Kai Nation
- Denman Growers and Producers Alliance
- Denman Advisory Planning Commission
- Comox Valley Regional District
- School District #71 (Comox Valley)
- Ministry of Agriculture
- Agricultural Land Commission
- Ministry of Municipal Affairs and Housing
- Hornby Local Trust Committee
- Ballenas-Winchelsea Islands Local Trust Committee (Executive Committee)

Community Information Meeting

Staff suggest that the LTC hold a Community Information Meeting (CIM) subsequent to first reading and after receipt of referral responses, in order to provide a public forum for dialogue on the bylaws and 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 if 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 that Bylaw Nos. 228 and 229 be given first reading as per the recommendation on Page 1 of the staff report.

ALTERNATIVES

A. Make minor amendments to the draft bylaws and then proceed to first reading.

If the LTC wishes to make minor amendments to the draft bylaws, this can occur prior to consideration of first reading via the following resolution:

"That the Denman Island Local Trust Committee amend Bylaw No. (insert bylaw #), cited as "Denman Island (insert OCP or LUB), 2008, Amendment No. 1, 2018", by (insert specific changes here)."

The LTC could then proceed with the resolutions noted on page 1 of the staff report.

B. Request staff prepare revised draft bylaws for consideration of first reading at a subsequent meeting

If significant changes to the bylaw are desired by the LTC, the LTC should request that staff prepare revised draft bylaws for LTC consideration at a subsequent meeting, via the following resolution:

“That the Denman Island Local Trust Committee request that staff revise draft Bylaw No. 228 and 229, prior to Local Trust Committee consideration of first reading, as follows: (insert requested changes).”

Staff would provide the LTC with revised draft bylaws at a subsequent LTC meeting.

C. Request staff to include additional bylaw referral recipients.

The LTC can request additional bylaw referral recipients to those recommended by staff. The LTC should specify the additional recipients as a part of the recommended referral resolution on page 1 of the staff report.

NEXT STEPS

Subject to LTC concurrence with the staff recommendation, referrals to First Nations and agencies would be sent and a CIM would be scheduled.

Submitted By:	Marnie Eggen, MCIP, RPP Island Planner	Sonja Zupanec, MCIP, RPP Island Planner	April 24, 2018
Concurred by:	Ann Kjerulf, MCIP, RPP Regional Planning Manager		April 25, 2018

ATTACHMENTS

1. Table of draft OCP amendments
2. Table of draft LUB amendments
3. Draft Bylaw No. 228 (OCP)
4. Draft Bylaw No. 229 (LUB)
5. Project Charter v.4.2, endorsed
6. Islands Trust Policy Statement Directives Only Checklist – Bylaw No. 228
7. Islands Trust Policy Statement Directives Only Checklist – Bylaw No. 229

ATTACHMENT #1 – SUMMARY OF PROPOSED DRAFT OCP BYLAW AMENDMENTS

MAY 2018

DENMAN OFFICIAL COMMUNITY PLAN – FARM PLAN IMPLEMENTATION PROJECT	
LTC ENDORSED AMENDMENTS	DRAFT BYLAW 228 SECTION REFERENCE AND STAFF COMMENTS
<p>1. Add “Agriculture” as a separate OCP designation to be applied to land in the ALR.</p>	<p>Section 1.1, 1.5, 1.10; Schedule 2 - new OCP map</p> <p>Staff Comments: Currently all land in the ALR is designated in the OCP as ‘Sustainable Resources’ shared with forestry, resource extraction and institution designations. All parcels in the ALR previously designed ‘SR’ proposed to be re-designated to ‘Agriculture’ designation.</p>
<p>2. Add an OCP policy that reinforces agriculture as the priority use for ALR and other agricultural lands.</p>	<p>Section 1.15 Policy 1: “The Agriculture designation should apply to all lands in the Agricultural Land Reserve and the principal use of land within this designation should be agriculture.”</p> <p>Staff Comments: This supports the purposes of the ALC, as per the <i>ALC Act</i>:</p> <p><i>“6 The following are the purposes of the commission:</i> <i>(a) to preserve agricultural land;</i> <i>(b) to encourage farming on agricultural land in collaboration with other communities of interest;</i> <i>(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.”</i></p>
<p>3. Add an OCP policy to support the consolidation of farm parcels in the ALR.</p>	<p>Section 1.15 Policy 2: “The Local Trust Committee Supports the consolidation of parcels in the Agricultural Land Reserve.”</p> <p>Staff Comments: 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 <i>Land Title Act</i> and does not require ALC approval.</p>
<p>4. Add an OCP policy to discourage panhandle lots.</p>	<p>Section 1.15 Policy 3: “Subdivision regulations for parcels in the Agricultural Land Reserve should prohibit the creation of panhandle lots.”</p> <p>Staff Comments: Adequate road frontage and access is critical to farming and reduces neighbour to neighbour conflict over dust, noise, parking and other issues associated with panhandle driveways. Such a policy enables a subdivision regulation in the Land Use Bylaw.</p>

DENMAN OFFICIAL COMMUNITY PLAN – FARM PLAN IMPLEMENTATION PROJECT

LTC ENDORSED AMENDMENTS	DRAFT BYLAW 228 SECTION REFERENCE AND STAFF COMMENTS
<p>5. 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).</p>	<p>Section 1.15 Policy 4: “The Local Trust Committee supports the provision of farm help accommodation on land in the Agricultural Land Reserve, in association with a bona fide farm use, and subject to approval by the Agricultural Land Commission.”</p> <p>Staff Comments: In addition to being permitted one principal residence, one secondary suite (within the principal residence) and a dwelling for immediate family, a bona fide farm in the ALR could also demonstrate a need for full time farm help accommodation.</p>
<p>6. Add a policy to support agri-tourism.</p>	<p>Section 1.15 Policy 5: “Zoning Regulations should permit agri-tourism use on land in the Agricultural Land Reserve and on lots where agriculture or horticulture are a permitted use.”</p> <p>Staff Comments: As per the ALC regulation “agri-tourism, other than accommodation” is a farm use and must not be prohibited by local government in the ALR.</p>
<p>7. Add a policy to support agri-tourism accommodation, subject to temporary use permit (to address site-specific issues).</p>	<p>Section 1.15 Policy 6: “Agri-tourism accommodation in association with a bona fide farm use should be regulated by Temporary Use Permit.”</p> <p>Staff Comments: In the ALR, accommodation for agri-tourism is permitted <u>subject to local government zoning</u> if:</p> <ul style="list-style-type: none"> (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.
<p>8. Add an OCP policy to support agricultural processing uses and facilities on non-ALR land, subject to rezoning.</p>	<p>Section 1.15 Policy 7: “The Local Trust Committee should support agricultural processing uses and facilities on non-Agricultural Land Reserve land, subject to rezoning.”</p> <p>Staff Comments: Staff is seeking LTC clarification on what types of and scale of processing are anticipated being supported by this policy. Home occupation regulations currently permit a broad range of options for agricultural processing; therefore this proposed policy may not be necessary.</p>
<p>9. Update all Ministry of Agriculture references throughout OCP.</p>	<p>Section 1.3 and 1.4</p>

DENMAN OFFICIAL COMMUNITY PLAN – FARM PLAN IMPLEMENTATION PROJECT

LTC ENDORSED AMENDMENTS	DRAFT BYLAW 228 SECTION REFERENCE AND STAFF COMMENTS
10. Add “Guiding Objective” in Section E.4 (pg 63) to address the protection of ALR land for farming.	Section 1.2 “To preserve agricultural land and encourage farming on land in the Agricultural Land Reserve”
11. Update Local Government Act citation for TUPs (pg 83)	Section 1.17
12. Add policy supporting ALR exclusion applications that have benefits for the greater community.	Section 1.15 Policy 8: “The Local Trust Committee should only support applications for exclusion of land from the Agricultural Land Reserve where there is a significant benefit for the greater community of Denman Island.”

ATTACHMENT #2 – SUMMARY OF POTENTIAL DRAFT LUB AMENDMENTS

MAY 2018

DENMAN LAND USE BYLAW – FARM PLAN IMPLEMENTATION PROJECT	
LTC ENDORSED AMENDMENTS	DRAFT BYLAW 229 SECTION REFERENCE AND STAFF COMMENTS
1. Replace the definition of agriculture.	<p>Section 1.1: “agriculture means the farm uses of land, buildings or structures for a farm operation as defined by the <i>Farm Practices Protection (Right to Farm) Act.</i>”</p> <p>Staff Comments: The proposed definition is consistent with direction from the Ministry of Agriculture.</p> <p>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 Growers and Producers Alliance.</p>
2. Replace the definition of ‘intensive agriculture’.	<p>Section 1.1: “intensive agriculture means the use of land, buildings, and other structures for the confinement of poultry, livestock, fur bearing animals, the growing of mushrooms (except for forest fungi), or cannabis production, except to the extent the use is carried out solely for domestic purposes and does not involve the production of any items for sale, trade or commerce.”</p> <p>Staff Comments: The intent is to define this as a commercial activity while not restricting domestic agriculture in residential zones. LTC can consider setting limits for R1, R2, R3 zones for maximum number of animals or square footage related to the use if there are concerns.</p>
3. Replace the definition of feedlot in the Land use Bylaw as per recommended Bylaw 223 definition.	<p>Section 1.1: “feedlot means a fenced area where livestock, poultry or farmed game are confined solely for the purpose of growing or finishing, and are sustained by means other than grazing, but excludes confinement of animals for domestic purposes.”</p> <p>Staff Comments: This is based on the definition in the Ministry of Agriculture Minister’s Bylaw Standards and defined in order to establish setbacks.</p>
4. Add a definition of confined livestock area.	<p>Staff Comments: The term is not currently used in the LUB, a definition is not required unless the LTC intends to regulate and differentiate from a feedlot.</p>
5. Cross reference residential zoning provisions for agriculture and horticulture with home occupation regulations permitting “sale of agricultural products produced on-site”.	<p>Staff Comments: No changes required at this time.</p>

DENMAN LAND USE BYLAW – FARM PLAN IMPLEMENTATION PROJECT

LTC ENDORSED AMENDMENTS	DRAFT BYLAW 229 SECTION REFERENCE AND STAFF COMMENTS
<p>6. Add a height exemption for silos, grain bins, deer fencing, netting supports, trellises in the 'Agriculture' Zone.</p>	<p>Section 1.4: deer fencing, netting supports and trellises would be exempt from height restrictions in any zone.</p> <p>Section 1.14: buildings and structures used solely as silos and grain bins in the ALR would be exempt from 'A' zone height restrictions.</p>
<p>7. Add a minimum setback to streams, lakes, wetlands and the natural boundary of the sea for confined livestock.</p>	<p>Staff Comments: see item 8 (below).</p>
<p>8. Add a 30 m setback requirement (to the natural boundary of a stream, lake, wetland or the sea) for buildings and structures associated with intensive agriculture, feedlots or used to accommodate domesticated animals other than household pets.</p>	<p>Sections 1.5 and 1.6</p> <p>Staff Comments: Proposed language would require fencing associated with feedlots or used to accommodate domesticated animals other than household pets to be subject to a 30 m setback. All other fencing would be excluded from setback provisions.</p>
<p>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.</p>	<p>Section 1.7</p> <p>Staff Comments: general setback exemptions would allow for a structure up to 10m² in floor area used solely for the purpose of displaying and offering for sale items produced on the same parcel. Staff do not recommend a reference to a MOTI permit being required – we avoid “subject to approvals” language - either the structure is or isn't allowed. An information note can be considered instead.</p>
<p>10. Amend the 'A' zone permitted uses, buildings and structures so they are consistent with Ministry Bylaw standards.</p>	<p>Sections 1.11; 1.12, 1.13, 1.14, 1.15</p> <p>Staff Comments: On a lot in the ALR the draft regulations would permit:</p> <ul style="list-style-type: none"> a) One principal residence with a secondary suite; and b) One “temporary secondary dwelling” for immediate family (no TUP required); and c) With farm status: maximum 3 agri-tourism units (TUP required if units not in principal residence); and d) With farm status: “secondary dwelling” for farmworkers only (subject to ALC/Ministry approval and TUP).

DENMAN LAND USE BYLAW – FARM PLAN IMPLEMENTATION PROJECT

LTC ENDORSED AMENDMENTS	DRAFT BYLAW 229 SECTION REFERENCE AND STAFF COMMENTS
<p>11. Add a general regulation to prohibit feedlots outside the Agriculture Land Reserve.</p>	<p>Staff Comments: feedlot is a permitted use under the definition of ‘intensive agriculture’ and currently permitted in zones (A), (F), (RE). The LTC may determine that intensive agriculture is not appropriate in the (F) or (RE) zones through community consultation and amend the draft regulations accordingly. Ministry of Agriculture staff have noted that feedlots outside the ALR are unlikely. LTC can legally prohibit outside of ALR.</p>
<p>12. Add a 30 m setback to lot lines where feedlots are permitted.</p>	<p>Section 1.15</p> <p>Staff Comments: LTC requested a 50 m setback be included for consultation.</p>
<p>13. Amend the Land Use Bylaw to include subdivision regulations to prohibit creation of panhandle lots. Review/amend definition of ‘panhandle’.</p>	<p>Section 1.16 “Land in the Agricultural Land Reserve shall not be subdivided into panhandle lots.”</p> <p>Staff Comments: new definition of “panhandle lot” proposed – “...a lot, the configuration of which results in a front lot line that is less than 50% of the average lot width”</p>
<p>14. Add Subdivision regulation that prohibits further subdivision of ALR land.</p>	<p>Staff Comments: no change proposed to current 15 ha minimum lot size.</p>
<p>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.</p>	<p>Section 1.17</p> <p>Staff Comments: New guideline 6 for a secondary dwelling for farm use, on land in the ALR.</p>
<p>16. Add TUP Areas and Guidelines for “Occasional markets, fairs and festivals”.</p>	<p>Staff Comments: not recommended. With the provision of agri-tourism use in zones where agriculture is a permitted use, there are very few zones left where this use cannot be accommodated. LTC can clarify where this TUP should apply.</p>
<p>17. Designate TUP areas and guidelines for agritourism accommodation on land in the ALR and for land outside the ALR with farm status.</p>	<p>Section 1.19: new agri-tourism accommodation TUP</p> <p>Staff Comments: Up to a maximum of three units on a lot with farm status (within or outside ALR). Units in the principal dwelling do not require TUP. Seasonal campsites, cabins require TUP. 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.</p>

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	Project Manager	Budget Source: Denman LTC Projects		
Ann Kjerulf, Regional Planning Manager	Project Sponsor	Fiscal	Item	Cost
Sonja Zupanec, Island Planner	Project Support	2017-2018	Community information meeting; advertising	\$1,000
RPM Approval: Ann Kjerulf Date: February 23, 2018	LTC Endorsement (amended): Resolution #: DE-2018-029 Date: March 6, 2018	2018-2019	Public hearing	\$1,000
			Total	\$2,000⁵⁹