



File No.: 6500-20
(Denman TUP Review)

DATE OF MEETING: March 18, 2025

TO: Denman Island Local Trust Committee

FROM: Marlis McCargar, Island Planner
Northern Team

SUBJECT: Denman Island TUP Review Project – Bylaw Nos. 248 (OCP) and No. 249 (LUB)
– Post Public Hearing

RECOMMENDATION

1. **That the Denman Island Local Trust Committee Bylaw No. 249, cited as the “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2024” be amended by inserting new sections 1.3 and 1.4 and re-numbering the following sections accordingly as follows:**
 - 1.3 **Part 2 – GENERAL REGULATIONS, Section 2.1 – Uses, Buildings and Structures, Subsection 6 b) is amended by deleting the words “unless otherwise approved by the Local Trust Committee as a condition of the permit” after residence.**
 - 1.4 **Part 2 – GENERAL REGULATIONS, Section 2.1 – Uses, Buildings and Structures, Subsection 6 d) is amended by deleting the words “unless otherwise approved by the Local Trust Committee as a condition of the permit” after gallons.**
2. **That the Denman Island Local Trust Committee Bylaw No. 248, cited as 'Denman Island Official Community Plan, 2008, Amendment No. 1, 2024', be read a second time.**
3. **That the Denman Island Local Trust Committee Bylaw No. 248, cited as 'Denman Island Official Community Plan, 2008, Amendment No. 1, 2024', be read a third time.**
4. **That the Denman Island Local Trust Committee Bylaw No. 249, cited as ‘Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2024’, be read a second time as amended.**
5. **That the Denman Island Local Trust Committee Bylaw No. 249, cited as ‘Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2024’, be read a third time.**

REPORT SUMMARY

This is a post Public Hearing report supporting next steps for proposed Bylaws No. 248 (OCP amendment) and Bylaw No.249 (LUB Amendment). These bylaws seek to:

- remove the requirement for a Temporary Use Permit (TUP) for secondary dwellings in R2 (Rural Residential), F (Forestry), and RE (Resource) zone; and
- remove the density bank.

Staff are recommending the LTC amend Proposed Bylaw No. 249 to remove two references to a temporary use permit in the regulations.

The recommendations above are supported because:

- All statutory requirements have been completed including the required notification and holding of a Public Hearing consistent with the *Local Government Act*;
- Public, government agency or First Nation concerns raised with the proposed bylaws have been considered by the LTC; and
- All Islands Trust bylaw amendments require the approval of the Executive Committee of the Islands Trust prior to the consideration of adoption.

BACKGROUND

The Denman Island Local Trust Committee (LTC) is considering Bylaw Nos. 248 and 249 that would amend the Official Community Plan (OCP) and Land Use Bylaw (LUB).

Bylaw 248 (OCP Amendment) - amending the OCP to remove the density bank.

Bylaw 249 (Land Use Bylaw Amendment) – amending the LUB to allow secondary dwellings in the Rural Residential, Forestry and Resource zones with a Temporary Use Permit.

Bylaw Nos. 248 (OCP) and 249 (LUB) were given First Reading in August 2024. Bylaw No. 249 was given First Reading again in January 2025, as amended, to clarify that secondary dwelling units should be permitted on a per-lot basis, rather than per primary dwelling. Referrals were sent to agencies and First Nations in August 2024, with a deadline for feedback set for October 2024.

A Public Hearing was originally scheduled for December 2024 but was postponed due to the Canada Post strike. It has since been rescheduled for March 18, 2025. A Public Hearing is a quasi-judicial process, and specific procedures must be followed during and after the hearing.

Following the hearing, the LTC may choose to give further readings to a bylaw, defeat a bylaw, or alter a bylaw within certain parameters. The procedural steps following the close of the hearing are as follows:

1. Consider Second Reading (which may include amendments to the bylaw).
2. Consider Third Reading.
3. Forward the bylaws to Executive Committee for approval.
4. Forward the OCP amendment to the Ministry of Municipal Affairs for approval.
5. Provide final LTC consideration and adoption.

Following the close of the Public Hearing, the LTC may not hear further submissions without holding a new hearing. If new information is considered by the LTC, all interested parties must be given the opportunity to review and comment on this new material. However, the courts have clarified that this does not mean endless Public Hearings; a local government body can legitimately decide that after a hearing it wishes to hear further from staff on issues raised at the hearing.

A bylaw may be altered after the hearing, based on information received or heard by the LTC at any point prior to the close of the hearing, provided that the amendments do not alter use or increase density, or decrease density without a landowner's consent.

REFERRAL FROM K'OMOKS FIRST NATION

As of the time of writing, staff have been informed that K'omoks First Nation will be submitting a referral response regarding Proposed Bylaws Nos. 248 and 249. It is anticipated that K'omoks First Nation will request additional time to review the bylaws, incorporating their consideration of the Suitable Land Analysis data and a comprehensive review by their newly established environmental referrals team. Additionally, they may request that the LTC defer consideration of the proposed bylaws until their referral response is reviewed.

As the K'omoks First Nation referral response is likely to be received after the Public Hearing has closed, staff will review the response and inform the LTC if it contains relevant information that should be considered prior to bylaw adoption. This may result in the need for a second public hearing. If the referral response is deemed not to impact the bylaws, staff will recommend proceeding without the LTC considering the referral response. It is also possible that the K'omoks First Nation referral response could be incorporated into the next phase of the Housing Review Project.

SUGGESTED AMENDMENTS TO BYLAW NO. 249 (LUB)

Staff are proposing a minor edit to correct an error in referencing the temporary use permits in the regulations for Secondary Suites and Dwelling Units.

ALTERNATIVES

1. Amend the Bylaw(s)

That the Denman Island Local Trust Committee proposed Bylaw No. 248, cited as "Denman Island Official Community Plan, 2008, Amendment No. 1, 2024" be amended as follows:...

That the Denman Island Local Trust Committee proposed Bylaw No. 249, cited as "Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2024" be amended as follows:....

2. Forward Bylaw(s) to Executive Committee and the Minister of Municipal Affairs and Housing for approval

The Denman Island Local Trust Committee may choose to forward the bylaws without a referral response from K'omoks First Nation. If the LTC selects this option, K'omoks First Nation's referral response could be incorporated into the next phase of the Housing Review Project.

That the Denman Island Local Trust Committee proposed Bylaw No. 248, cited as "Denman Island Official Community Plan, 2008, Amendment No. 1, 2024" and proposed Bylaw No. 249 cited as "Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2024", be forwarded to the Secretary of the Islands Trust for Executive Committee approval.

That the Denman Island Local Trust Committee proposed Bylaw No. 248, cited as 'Denman Island Official Community Plan, 2008, Amendment No. 1, 2024' be forwarded to the Minister of Municipal Affairs and Housing for approval.

3. Defer Third Reading to a future LTC Meeting

The Denman Island Local Trust Committee may choose to defer consideration of Third Reading to a future LTC meeting. If the LTC chooses this option, no resolution is needed and Bylaw Nos. 248 and 249 will be brought forward at a subsequent meeting.

4. Proceed no further

That the Denman Island Local Trust Committee proceed no further with Bylaw Nos. 248 and 249.

NEXT STEPS

If the recommendations are supported:

- Bylaw Nos. 248 and 249 will be given Second and Third Readings;
- Once the K'omoks First Nation referral response is received, Bylaw Nos. 248 and 249 will be returned to the LTC with a recommendation to forward them to the Islands Trust Executive Committee and the Minister of Municipal Affairs and Housing for approval; and
- Bylaw Nos. 248 and 249 will be returned to the LTC for final adoption.

ATTACHMENTS

1. Bylaw 249 (LUB) – track changes copy

Submitted By:	Marlis McCargar, Island Planner	March 4, 2025
Concurrence:	Robert Kojima, Regional Planning Manager	March 5, 2025

PROPOSED

DENMAN ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 249

A BYLAW TO AMEND DENMAN ISLAND LAND USE BYLAW, 2008

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

1. Citation

This bylaw may be cited for all purposes as “Denman Island Land Use Bylaw, 2008, Amendment No. 1, 2024”.

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

READ A FIRST TIME THIS 21ST DAY OF JANUARY , 2025

READ A SECOND TIME THIS _____ DAY OF _____ , 202X

PUBLIC HEARING HELD THIS _____ DAY OF _____ , 202X

READ A THIRD TIME THIS _____ DAY OF _____ , 202X

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS

_____ DAY OF _____ , 202X

ADOPTED THIS _____ DAY OF _____ , 202X

Chair

Secretary

**DENMAN ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 249**

Schedule 1

1. Schedule "A" of Denman Island Land Use Bylaw, 2008, is amended as follows:

1.1 Part 2 – GENERAL REGULATIONS, Section 2.1 – Uses, Buildings and Structures, Subsection 4 is amended by deleting the paragraph in its entirety and replacing with:

Secondary dwelling units are permitted on lands zoned as "R2" (Rural Residential), "A" (Agriculture), "F" (Forestry) and "RE" (Resource), and on properties in the Agricultural Land Reserve.

Secondary suites are generally permitted within a principal dwelling within these zoning designations.

1.2 Part 2 – GENERAL REGULATIONS, Section 2.1 – Uses, Buildings and Structures, Subsection 6 is amended by deleting "by a Temporary Use Permit".

1.3 Part 2 – GENERAL REGULATIONS, Section 2.1 – Uses, Buildings and Structures, Subsection 6 b) is amended by deleting the words "unless otherwise approved by the Local Trust Committee as a condition of the permit" after residence.

1.21.4 Part 2 – GENERAL REGULATIONS, Section 2.1 – Uses, Buildings and Structures, Subsection 6 d) is amended by deleting the words "unless otherwise approved by the Local Trust Committee as a condition of the permit" after gallons.

1.31.5 Part 3 – ZONE REGULATIONS, Section 3.3 Residential Zoning Tables – Table 1 – Permitted Uses – Accessory Uses is amended by deleting the following asterisk in number 10: "Secondary dwelling units must be approved through a Temporary Use Permit".

1.41.6 Part 3 – ZONE REGULATIONS, Section 3.4 Resource Zoning Tables – Table 1 – Permitted Uses – is amended by deleting the following words in item 14 "(requires approval by a Temporary Use Permit)".

1.51.7 Part 3 – ZONE REGULATIONS, Section 3.3 Residential Zoning Tables – Table 3 – Density of Uses, Buildings and Structures is amended by adding the following after line 3 "maximum number of secondary dwelling units per lot", placing the number "1" in the R2 column, placing "n/a" in all other columns, and renumbering accordingly.

1.61.8 Part 3 – ZONE REGULATIONS, Section 3.4 Resource Zoning Tables – Table 3 – Density of Uses, Buildings and Structures is amended by adding the following after line 3 "maximum number of secondary dwelling units per lot", placing the number "1" in the A, F and RE columns, and renumbering accordingly.

1.71.9 Part 5 – TEMPORARY USE PERMITS, "Area 2", is deleted in its entirety and is renumbered accordingly.