



September 29, 2008

File 0280-30
Ref. 162007

David Marlor, MCIP
Regional Planning Manager
Islands Trust
700 North Road
Gabriola BC V0R 1X3

Re: New Denman Island Official Community plan (Proposed Bylaw 185) and Land Use Bylaw (Proposed Bylaw 186).

Dear David Marlor:

Thank you for the invitation to comment on the proposed new Official Community Plan (proposed Bylaw 185) and Land Use Bylaw (proposed Bylaw 186) for Denman Island including the surface of the sea surrounding Denman Island.

I would also like to thank you for the opportunity to comment on earlier versions of the proposed new OCP, and for incorporating many of the suggested changes. I appreciate your response and provision of detailed background and information on the points which were raised and look forward to further dialogue with the community on matters pertaining to shellfish aquaculture in this area.

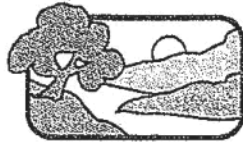
Based on the Bylaw Referral Form submitted, the review of the proposed bylaws by this office has resulted in approval recommended.

I have noted the community concerns which were raised during the iterations of the Official Community Plan and look forward to working to address these through the Ministry of Agriculture and Lands Community Engagement Program.

Yours sincerely

Fiona Cubitt, Ph.D.
Aquaculture and Communities Specialist





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March 04, 2009

File Number: DE/Bylaws 185 & 186

Roger Cheetham
Agricultural Land Commission
Room133, 4940 Canada Way
Burnaby, BC V5G 4K6
and
Bert vanDalsen
Ministry of Agriculture
3109-1767 Angus Campbell Road
Abbotsford, BC V3G 2M3

RECEIVED
MINISTRY OF AGRICULTURE
AND LANDS

MAR 18 2009

RESOURCE MANAGEMENT
BRANCH

Dear Sirs:

Re: Agricultural Land Commission and Ministry of Agriculture and Lands Concerns in Regard to Denman Bylaws 185 and 186

Thank you for taking the time to meet with us February 16, 2009 in Courtenay to discuss your concerns regarding development permit areas and Proposed Bylaws 185 and 186 on Denman Island. Please accept this letter as confirmation of the actions that Islands Trust Staff will undertake to move toward resolution of the outstanding issues.

As discussed, the Denman Island Local Trust Committee split the review of the Denman Island Official Community Plan and Land Use Bylaw into two "phases". Phase one was intended to be a technical review and update of specific areas of concerns, including affordable housing, marine zoning and revision of density transfer policies. Other amendments were also made to the documents to address some site specific issues.

The Denman Island Local Trust Committee delayed work on revision of the development permit areas (DPAs) based on Staff advice (other than some outstanding site specific realignments and removal of seasonally flooded agricultural land from the DPA designation), due to the lack of available mapping for Denman Island at that time. Newer, higher detailed Terrain Resource Information Management mapping (TRIM) and Sensitive Ecosystem Mapping (SEM) will be available later this year. In addition, a project to map riparian areas (for compliance with the Provincial Riparian Area Regulation (RAR)) and hazard areas is being extended to Denman in the 2009/10 fiscal year.

The TRIM, SEM and the RAR mapping will provide better, more accurate stream, lakes and wetlands DPA maps for Denman. Also, this work will allow staff to develop better and more accurate steep slope and hazard area mapping for Denman Island.

The anticipated timeline for basic mapping products are as follows:

- Acquisition of 2 metre contour TRIM dataset for Denman is completed;
- Sensitive Ecosystem Mapping – planner assessment and community consultation planned for late summer with final mapping ready by the autumn;

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Bowen Denman Hornby Gabriola Galiano Gambier Lasqueti Mayne North Pender Salt Spring Saturna South Pender Thetis

- Riparian Area Mapping – initial assessment expected by May of this year, community consultation and ground truthing by late summer with final product expected by the autumn;
- Hazard Area Mapping is a component of the second phase of the OCP/LUB review. Work has begun with an expected completion by late summer/early autumn of 2009.

The above four mapping products are essential before re-establishing DPA boundaries. Given the above, we expect to begin work on DPA bylaw amendments in the autumn of 2009, community and agency consultation in the winter of 2009/10 and completion by Spring 2010.

Islands Trust Staff intends to work with the Ministry of Agriculture and Lands, and the Agricultural Land Commission to resolve outstanding issues. Staff cannot open discussion with the Denman Island Local Trust Committee on these issues until after the Committee considers adoption of the bylaws.

The Denman Island Local Trust Committee is a local government and subject to Provincial law, case law and administrative fairness. The public hearing process is over for these bylaws. As such, the Trust Committee is not able to legally consider these outstanding issues and commit to a follow process without putting the bylaws at risk and triggering the need to return proposed bylaws 185 and 186 to a third Public Hearing. Such a delay will likely require four to six months, presuming the Trust Committee would be favourable to the additional information and choose to move forward.

Further delays with these bylaws are detrimental to several site specific and policy related issues brought forward in phase one of the review. These include: carrying costs and potential failure of a community housing project; establishment of the islands medical clinic; correcting weaknesses in community bylaws that could result in unintended, but serious challenges and at least one major rezoning application that is dependent on the new density transfer provisions in the new OCP, which is also of significance to another Provincial Ministry. Because the Denman Island Local Trust Committee deliberately separated the review of DPAs for the reasons outlined above, Staff would prefer to complete bylaws 185 and 186, as proposed, and then work towards solutions with the outstanding issues in the second phase.

The draft Islands Trust budget for 2009/10 fiscal year includes funding to allow Denman Island Local Trust Committee to undertake the second phase of their OCP Review. This budget is still subject to ratification by Trust Council in March, but Staff is confident that the funding for this project will remain in place.

After the Denman Island Local Trust Committee has considered final adoption of proposed bylaws 185 and 186, Staff commits to bringing the concerns of the Ministry of Agriculture and Lands, and the concerns of the Agricultural Land Commission to the attention of the Denman Island Local Trust Committee at the first opportunity. The Denman Island Local Trust Committee currently has the OCP and LUB phase two process as their top priority on the work program. They can not move forward with phase two until phase one is complete.

Staff commits to bring forward the letters from the Regional Agrologist, the Ministry of Agriculture and Lands and the Agricultural Land Commission and use them to develop recommendations to address these issues; this includes consideration of amendments to the definitions to address the concerns raised by the Regional Agrologist.

Staff commits to recommending to the Denman Island Local Trust Committee to review and rewrite the guidelines for the DPAs to bring them into compliance with RAR regulations and to address concerns raised by the Ministry of Agriculture and Lands and the Agricultural Land Commission.

Staff also commits, at the Staff level, to improve communication between the Islands Trust Staff and Staff at the Ministry of Agriculture and Lands and the Agricultural Land Commission with regard to bylaw development affecting these agencies. To this end, we suggest that the Ministry of Agriculture and Lands staff, Agricultural Land Commission Staff and Islands Trust planning staff establish a regular meeting schedule (by phone or in person) for at least the duration of the review of DPAs on Denman Island. The purpose of the meetings is to keep each agency up to date on issues, to allow respective staff to report back to their elected officials and executive, to allow Islands Trust staff to utilize ministry expert advice on agricultural issues and to ensure the interests of all parties are represented during the DPA review. If you are agreeable to this, we will arrange a preliminary meeting schedule.

A detailed timeline and scope for this project will be developed for Denman Island Local Trust Committee consideration as phase one nears completion. Islands Trust Staff will share this with the Ministry of Agriculture and Lands and Agricultural Land Commission staff as soon as possible. The project will include provisions for community and agency consultation and must follow the prescribed process provisions for bylaw amendments pursuant to Part 26 of the *Local Government Act*. During the process, in the event that conflicting interest arises between agencies or interest groups, Staff will consult with the agencies and make recommendations to the Denman Island Local Trust Committee on a means to resolve those issues.

We understand that, in exchange for Islands Trust planning Staff commitments listed above, the Agricultural Land Commission Staff and the Ministry of Agriculture and Lands Staff will advise their respective elected officials and executive to remove objections to bylaw 185 and advise Bill Hout at the Ministry of Community Development to forward proposed bylaw 185 to the Minister of Community Development for consideration of approval as soon as possible.



Chris Jackson, M.C.I.P.
Acting Regional Planning Manager
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Fax: (250) 247-7514
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Preserving Island communities, culture and environment

Cc: Mac Fraser, Director Planning Services
David Marlbor, Action Regional Planning Manager



April 9, 2009

File: 55510-45/ISLT

Chris Jackson, M.C.I.P.
Acting Regional Planning Manager
Northern Planning Team
Islands Trust
700 North Road
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V0R 1X3

Dear Mr. Jackson:

Denman Island – Official Community Plan Bylaw No. 185 and Land Use Bylaw no, 186

Further to your letter of March 4, 2009, we are pleased, for the most part, with approach to be taken by Island Trust staff. It demonstrates a willingness to work together with our Ministry and the Agricultural Land Commission towards amendments to the OCP and the Land Use Bylaw (LUB) that will be supportive of agriculture.

The reservation we have is the timing of improvements to LUB definitions in order to strengthen agriculture. I mentioned these improvements in my letter to you of December 12, 2009:

- ♦ Add a definition of "Seasonally-flooded Agricultural Fields;
- ♦ Acknowledge that if part of a farmer's field is unexpectedly inundated as a result of beaver dam or unnatural activities, the farm size should not be reduced.

Such clarification of definitions need not await the completion of the four mapping products and clarification of Development Permit Area boundaries and criteria. Instead Ministry and ALC staff could work with you to clarify definitions which Islands Trust staff could then bring forward to the Local Trust Committee the next time the LUB is amended in any other way.



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If Island Trust staff commits to this early presentation of such definitions, the Ministry of Agriculture and Lands will advise the Ministry of Community Development that the Ministry's concerns about OCP Bylaw No. 185 are being addressed.

Yours sincerely,

A handwritten signature in cursive script, reading "Bert van Dalpsen".

Bert van Dalpsen, Manager
Strengthening Farming Program

cc. Jill Hatfield, Regional Agrologist, BCMAL
Roger Cheetham, Regional Planner, Agricultural Land Commission



December 12, 2008

File: 55510-45/ISLT

Chris Jackson
Acting Regional Planning Manager
Northern Planning Team
Islands Trust
700 North Road
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By fax to: 250-247-7514 and to: 250-405-5155

Dear Mr. Jackson:

Denman Island - Review of Official Community Plan Bylaw No.185 and Land Use Bylaw No.186

OCP Bylaw No. 185 is being reviewed by Ministry of Community Development after being given third reading by the Denman Island Trust Committee (DITC) and the Islands Trust Council. Land Use Bylaw No. 186 (LUB) builds on objectives and policies in the OCP. The B.C. Ministry of Agriculture and Lands (BCMAL) has several concerns that the two bylaws will affect agriculture on Denman Island. Most of the BCMAL concerns are in the "implementation" document, the LUB. But, the LUB concepts and text are founded on objectives, principles, and policies in the OCP. Thus, some changes to the OCP bylaw are proposed, with consequent amendments in the LUB.

Foundation of LUB Issues in the OCP Bylaw

The BCMAL concerns focus primarily on environmental aspects that may limit the extent of farming, particularly Development Permit Area No. 4: Streams, Lakes and Wetlands. Our concern is that DPA guidelines could be unnecessarily cumbersome and expensive for farm producers. Even though an exemption to needing a Development Permit for clearing for farm operation appears to be given in LUB Sec. 4.4 Guideline 3, the applicability of Guidelines 7 to 10 still may hinder farm operation.



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The OCP, in Part G, has a line of reasoning that forest ecosystems are paramount, even though large areas are within the Agricultural Land Reserve and most of that land has been logged in recent years.

This ecosystem focus underlies:

- the Freshwater policies (page 21), wherein setbacks may limit the extent of farming;
- the Housing Use and Density policies (page 48 & 49), which may limit subdivision to create smaller farms;
- the Resource policies (pages 59 & 60), while acknowledging the Agricultural Land Reserve and *Agricultural Land Commission Act*, designate Sustainable Resource areas as Development Approval Information areas, which may create undue report-preparation simply to start, operate, and/or expand a farm;
- most importantly, Development Permit Area No. 4: Streams, Lakes and Wetlands (pages 68 & 69) provides the justification and objectives for the Land Use Bylaw guidelines that give rise to our Ministry concerns about the potential limitations on farming.

BCMAL Concern #1

Definition: "Natural Boundary": The definition is sufficiently broad to include low-lying agricultural operations and create some limitations. BCMAL would recommend that DITC:

1. Add a definition: "Seasonally-flooded Agricultural Fields" [although the phrase has been removed from the LUB] which acknowledges that periodic inundation, peat soils or natural sedge grasses often occur in productive farming areas.
2. Reinstate a previous section 4 relating to beaver and man-made manipulation of the stream, that was left off the final version. This omission would imply that flooding caused by beavers or human activity, affecting an adjacent property becomes a "wetland" as long as the obstruction is in place. This situation can negatively affect agricultural productivity if the water table is raised or the duration of flooding is prolonged.
 - a. The OCP and LUB should recognize this possible scenario, which has occurred before on the Island, by re-inserting section 4 or something very similar.

Original sec. 4 language:

4. *but in interpreting (a), (b), or (c) of this definition, if the wetland or lake is the result of a beaver dam or the result of unnatural activities, the natural boundary shall be deemed to be the course over which the stream traditionally flowed;*

BCMAL Concern #2

Development Permit No. 4: Guideline 3 Clearing for Farm Operation: This provision was approved conditionally in Bylaw 112 to address a specific circumstance which to our knowledge has largely been resolved. The conditions to which the ALC and MAL agreed were that the application process would be minimal, not onerous, time consuming or expensive for the landowner. The applications that our Ministry has been involved in have not lived up to these expectations. The situations have been varied and the Trust seems not to have the agricultural expertise to determine the validity of the farming information provided, often necessitating Ministry involvement.

BCMAL Concern #3

To understand better the implications for various agricultural parcels, BCMAL requested that Islands Trust provide the GIS mapping data that was used to create various maps in both bylaws. We understand that, in the future, Islands Trust and/or other government agencies may re-evaluate habitat and geotechnical data. In the meantime, the existing mapping would not only help Ministry staff understand the bylaws, but it would assist Ministry staff in its discussions with existing and prospective farmers.

Letter of Understanding

We appreciate that the Denman Island Trust Committee (DITC) may not wish to hold a further public hearing immediately and, further, we understand the DITC is considering preparing a Farm Plan which may address our concerns. Therefore, we propose that the Ministry and Denman Island Trust Committee sign a letter of understanding, as attached. BCMAL will advise the Ministry of Community Development, which is reviewing OCP Bylaw No. 185 and has received notice of BCMAL's concerns, that our agencies have entered this Letter of Understanding and our concerns will be addressed.

We look forward to a cooperative process to strengthen farming on Denman Island.

Yours sincerely,



Bert van Dalen
Manager
Strengthening Farming Program

cc. Jill Hatfield, BCMAL Regional Agrologist
Roger Cheetham, Regional Planner, Agricultural Land Commission



Islands Trust

Preserving island communities, culture and environment.

Letter of Understanding

between B.C. Ministry of Agriculture and Lands (Ministry) and Islands Trust

Regarding

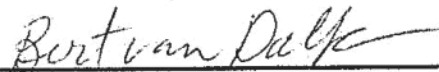
Denman Island Official Community Plan Bylaw No.185 and Land Use Bylaw No.186

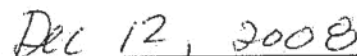
This letter establishes a cooperative process to recognize the role of agriculture in the culture, economy, and environment of Denman Island and how the above-mentioned bylaws can best support that role.

1. The Island Trust and Ministry staff will work together on wording of the Official Community Plan and Land Use Bylaws to address Ministry concerns with the above-mentioned bylaws, as worded on October 15, 2008. Any bylaw change would be brought forward for consideration at the next opportunity another matter requires a bylaw amendment and a public hearing.
2. The Ministry will work with Islands Trust in the preparation of a Denman Island Farm Plan during 2009 and/or 2010. That planning process will address in detail the Ministry's concerns about the impact of the definitions, policies, and development permit area criteria on farming. While the Farm Plan is being prepared:
 - a. Islands Trust would use the riparian setbacks for agricultural structures being developed by the Partnership Committee on Agriculture and the Environment, available from Ministry staff.
 - b. For clearing of land areas less than 10 hectares within the ALR for farming, the development approval information requested of a farmer would be limited to the proposed types of agriculture and their locations on various parts of the farm.
 - c. Ministry staff would work with farmers to prevent clearing for agriculture in riparian areas and other sensitive areas until the Farm Plan and/or other studies being done by the Ministry or other agencies are completed. Those studies may demonstrate that some farm operations are acceptable in the environmentally sensitive areas.
3. The Islands Trust will provide to the Ministry the following GIS map layers:
 - ◆ OCP Bylaw No. 185: Schedule C: land use designations
Schedule E, maps 1 & 2: development permit areas (DPA)
 - ◆ Land Use Bylaw No. 186: Schedule B, both north and south – zoning
 - ◆ As background for the DPAs, the Ecosystem Map (north and south) layers.

For B.C. Ministry of Agriculture and Lands

For Islands Trust


Bert van Dalfsen, Manager, Strengthening Farming,
Sustainable Agriculture Management Branch



Date

Date



October 26, 2009

File:

Chris Jackson M.C.I.P.
Acting Regional Planning Manager
Northern Planning Team
Islands Trust
700 North Road
Gabriola Island, B.C.

Dear Mr. Jackson:

RE: Follow-up to Conference call October 6, 2009

Thank you for participating in the conference call on October 6th with BC Ministry of Agriculture and Lands and the Agricultural Land Commission staff. I believe we made progress in resolving some of the outstanding issues raised during the Denman Island OCP and LUB review.

Most notably we are pleased to hear that Islands trust is prepared to take the inclusion of the definition for seasonally flooded agricultural fields and the change to account for periodic water inundation due to beaver or manmade activity to public hearing with the greenhouse gas amendments scheduled for March 2010. We look forward to further discussions on these points.

We appreciate the challenges with respect to mapping and will work with the Agricultural Land Commission to add the TRIM mapping and sensitive ecosystem mapping to our GIS information on Denman Island. This information often forms the basis of Agriculture Area Plans which the Local Trust Committee has expressed an interest.

The main remaining concerns relate to the Development Permit boundaries, content and process. The hazard mapping proposed by Islands Trust to better define the boundaries on the steep slopes should be completed as soon as possible. The 2011 completion date is unfortunate given current concerns related to the existing mapping used to justify the Development Permit setback distances for steep slopes. It may be advisable to prioritize areas such as Komasa Bluffs in order to refine the DPA setbacks on the areas that are not part of the Quadra Sands formation.

The Ministry of Agriculture and Lands would like an opportunity to review the DPA criteria on steep slopes as applied to farm land. The current provision that a qualified professional must ensure that there will be no soil movement is not realistic or attainable for agriculture. We would be willing to assist you with language that provides protection for the environmental feature but also allows for certain low risk agricultural activities.

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The process with respect to the DPA is also a concern. In some cases the DPA area is 100 to 170 metres from the top of bank. This can include half or more of some ALR parcels. It is our understanding that the DPA requirements beyond the 50 metre mark are currently waived. However this does not appear to be the case with Lot A, Section 23. Therefore we would like more clarity as to when the DPA provisions are waived and when they may not be.

We look forward to on-going discussions with Island trust staff and are pleased with the progress made to date.

Sincerely,



Bert van Dalftsen, PEng
Manager, Strengthening Farming Program
Sustainable Agriculture Management Branch

Cc Roger Cheetham, Agricultural Land Commission
Jill Hatfield, BC Ministry of Agriculture and Lands, Courtenay