



STAFF REPORT

Date: November 7, 2013

File No.: DE 6500-02

To: Denman Island Local Trust Committee
For meeting of November 26, 2013

From: Rob Milne
Island Planner

CC: Courtney Simpson, Regional Planning Manager

Re: Review of Early Referral Comments regarding Bylaw No. 207

Owner: Local Trust Committee initiated project

Problem/Issue:

The first priority on the Denman Island Local Trust Committee (LTC) work program continues to be a review of policies and regulations regarding impacts of shellfish farming on the marine environment. The LTC's ongoing review and discussions regarding this issue, and the associated community concerns, have determined the following three actions to be the most likely to be effective in addressing concerns related to aquaculture industry activities:

- Removal of predator netting from the beach
- Banning driving on the foreshore
- Banning beach modification

A preliminary report at the April 3, 2012 LTC meeting provided background information. A second report at the February 26, 2013 meeting presented further information on the extent of the LTC's authority to regulate activities that negatively impact the marine environment in Baynes Sound.

At its regular business meeting of February 26, 2013, the LTC passed the following resolution:

DE-009-2013

It was **MOVED** and **SECONDED** that the Denman Island Local Trust Committee request staff to draft amendments to Bylaw No. 186 which would restrict all structures in the W3 Zone and to add amendments which ban vehicular driving on the foreshore in the W3 Zone.

At its regular business meeting of July 16, 2013 the LTC passed the following subsequent resolution:

DE-046-2013 *It was **MOVED** and **SECONDED**, that the Denman Island Local Trust Committee request staff to proceed with early referrals of the Draft Bylaw regarding bylaw amendments to the W3 Zone, and to bring the amending bylaw back to the Local Trust Committee for further consideration.*

The purpose of this staff report is to update the LTC on the comments received on the early referral of the proposed Bylaw No. 207 whose intent and purpose is intended to be the regulation of the use of predator netting, driving on the foreshore and beach modification.

Results of Circulation

Draft Bylaw No. 207 was referred out to one federal agency, five provincial agencies, one regional district, one adjacent Local Trust Area and 17 First Nations on September 19, 2013 (see attached Attachment '1'). Table 1 below summarizes the responses received to date. Full copies of all responses may be found in attached Attachment '2'.

Agency/Organization	Comments	Synthesis
Comox Valley Regional District	See attached response for full text	Interests unaffected
Hornby Island LTC	LTC resolution	Interests unaffected
Forests Lands and Natural Resource Operations	Approval recommended for reasons outlined' Thank you for sending us this referral. Protection of shoreline structure and natural processes is important for maintaining robust populations of fish and wildlife as a means of coping with sea level rise. The Local Trust Committee are to be congratulated for taking this step.	Approval recommended
DFO - Ecosystem Management Branch	See attached response for full text	Interests unaffected
BC Ferries	Interests unaffected	Interests unaffected
BC Shellfish Growers Association (not sent a referral by Islands Trust)	See attached response for full text	Approval not recommended
Homalco First Nation	See attached response for full text	No objections at this time
Lyackson First Nation	See attached response for full text	Concerned about un-moderated beach modification that affects archaeological sites and if restriction affects rights by beach modification prohibition.

Sliammon First Nation	The SFN have completed a review of above noted files and are satisfied that we have not been able to identify any concerns associated with this referral application and are in a position to provide your office with our CONDITIONAL APPROVAL to proceed with your determination on this particular referral application. (See attached response for full text.)	Conditional approval
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Staff Comments:

As directed by the LTC at their July 16, 2013 meeting staff sent out an early referral for Bylaw No. 207 which went to 25 various stakeholder groups and organizations. At the time this report was written eight responses had been received including one from the BC Shellfish Growers Association. A review of those referral responses shows that only the BC Shellfish Growers Association who question the need for a bylaw which ,”would restrict their ability to farm and dictate their husbandry methods” has recommended against the adoption of the draft bylaw. The remainder of the responses spanned the spectrum for outright support for approval to a determination that their organizations were unaffected. Aside from those of the BC Shellfish Growers Association no other significant issues or objections have been identified.

During the staff review of the referral responses it was noted that although a response was received from FLNRO it did not originate with the tenuring branch. Staff has made contact with FLNRO staff responsible for the tenuring process and are waiting for their comments which have not been received at the time of the writing of this report. Given the foregoing and in consideration of legal counsel that the LTC has received on this matter staff see three basic options that the Local Trust Committee could choose to pursue:

1. Choose not to proceed at this time due to questions related to legislated authority;
2. Defer further consideration of draft bylaw 207 until referral comments has been received from FLNRO tenures branch;
3. Choose to proceed to first reading and formally refer the draft bylaw for stakeholder comments.

Recommendations:

It is the recommendation of staff:

THAT the Local Trust Committee give consideration to the staff report and attached draft bylaw and provide direction to staff on how they wish to proceed.

Prepared and Submitted by:

Rob Milne

November 14, 2013

RPP, MCIP
Island Planner

Date

Concurred in by:

Courtney Simpson

November 14, 2013

RPP, MCIP
Regional Planning Manager

Date