

ISLANDS TRUST COUNCIL

BYLAW NO. 161

A bylaw to establish procedures and policies for requiring development approval information for
the Hornby Island Local Trust Area

WHEREAS the Hornby Island Local Trust Committee, pursuant to s.920.01 of the *Local Government Act*, has specified in an official community plan areas and circumstances for which development approval information may be required;

The Islands Trust Council, pursuant to s.920.1 of the *Local Government Act* and s.29(3.1) of the *Islands Trust Act*, enacts as follows:

PART I TITLE

1. This Bylaw may be cited for all purposes as "Hornby Island Local Trust Committee Development Approval Information Bylaw No. 161, 2015".

PART II PURPOSE

2. The purpose of this bylaw is to allow the Local Trust Committee to obtain information on the anticipated impact of proposed activities or development on the community, and to provide a degree of certainty and consistency in the nature and content of reports required from applicants.

Information Note- For the purposes of this bylaw only that information which is considered relevant to a particular application or the impacts of a proposed activity will be required, as determined through Part VI, "Terms of Reference" of this bylaw.

PART III APPLICATION OF BYLAW

3. The requirements of this Bylaw apply to:
 - (a) applicants for amendments to a bylaw of the Hornby Island Local Trust Committee enacted under s.903 of the *Local Government Act*,
 - (b) applicants for a development permit; and
 - (c) applicants for a temporary use permit,

if the activity or development that is the subject of the application is in an area specified for the provision of development approval information in Hornby Island Official Community Plan Bylaw No. 149 or is an activity or development for which development approval information is otherwise required by that Bylaw.

Information Note- Notwithstanding the provisions of this bylaw, for those applications and activities which are subject to the requirements of the Riparian Areas Regulation, application information requirements will be as identified in the provisions of Development Permit Area (DPA) No. 6 - "Riparian Areas" of the Hornby Island Official Community Plan and Land Use Bylaws.

4. The requirements of this Bylaw do not apply to any application for an activity or development that is a reviewable project under the *Environmental Assessment Act*.
5. Where development approval information is to be provided, the information shall be provided by the applicant, at the applicant's cost, in the form of a report prepared by the appropriate professional as set out in this bylaw.
6. The official assigned from time to time to provide staff services to the Hornby Island Local Trust Committee is the official for the purposes of this Bylaw.
7. Within 30 days of receipt of an application, an official shall determine whether and to what extent development approval information will be required in accordance with this bylaw and shall communicate the requirement to the applicant in writing.
8. An official may determine that all or part of the required development approval information must be provided for each application pursuant to Part III.
9. An applicant may request reconsideration by the Local Trust Committee of a decision of an official under this Bylaw within 30 days of the date on which the decision is mailed, faxed or emailed to them.
10. A request for reconsideration must be delivered in writing to the Legislative Clerk and must set out the grounds on which the applicant considers the requirement is inappropriate and what, if any, requirement the applicant considers the Local Trust Committee ought to substitute.
11. The Legislative Clerk must place each request for reconsideration on the agenda of the next meeting of the Local Trust Committee following the date on which the request for reconsideration was delivered, provided the request is received at least 10 days prior to that meeting.
12. The Legislative Clerk must notify the applicant and any other person who the Legislative Clerk reasonably considers may be affected by the reconsideration, of the date of the meeting at which the reconsideration will occur.
13. At the meeting, the Local Trust Committee may either confirm the requirement or decision of the official or substitute its own requirement or decision.

PART V S. 920 (DEVELOPMENT PERMIT) APPLICATION REQUIREMENTS

14. For Development Permit applications specified in sections 15 and 16 of this bylaw, the applicant shall provide, as part of the development permit application, a report in the specified form.
15. For an application for a permit in respect of a development permit area designated under s. 919.1 (1)(a) and (i) of the *Local Government Act* for protection of the natural environment, its ecosystems and the promotion of water conservation the report shall contain the following information:
 - (a) A site plan professionally prepared at an appropriate scale, based on a legal survey, delineating the proposed development and associated features, the development permit area boundary, existing buildings and structures, and significant natural features identified in the site inventory and conservation evaluation. Site profiles and cross sections demonstrating terrain conditions prior to disturbance and intended conditions post development, where development

would occur on slopes exceeding 20% grade.

- (b) A site inventory, providing information on existing, pre-development plant communities, marine, aquatic and terrestrial habitats, sensitive ecosystems, nesting trees, the presence of rare species and rare plant communities, current on-site and adjacent land uses, slope stability, erosional processes, hydrology and flood potential.
 - (c) A site background analysis that includes the following known information on the site:
 - A check for observed species and ecosystems at risk;
 - A description of the context of the site including the use of adjacent lands and proximity to protected areas;
 - A check for the presence of raptor and heron nests;
 - A check for the presence of fish-bearing water courses.
 - (d) A conservation evaluation to identify environmentally valuable features on or near the proposed development based on current best practices, such as the Resources Information Standards Committee Standards for Describing Terrestrial Ecosystems in the Field.
 - (e) A description of the proposed development detailing construction, cut and fill, blasting, road or driveway construction, vegetation clearing or trimming, alteration to hydrological systems, alterations affecting the marine foreshore, septic field installation, landscaping, or other land alteration during or after the development phase. The report should also identify alternative development options.
 - (f) An assessment of the nature and extent of the impact of the proposed development on the site, in particular anticipated impacts on identified environmentally valuable features, including but not limited to sensitive ecosystems, rare plant communities, rare species habitat, and site hydrology. The assessment should identify impacts stemming from the construction phase, the intended long-term use of the site, and any cumulative impacts of development in the area.
 - (g) Recommended measures to limit, mitigate and manage the impacts of the proposed development on environmentally valuable features. The report should describe mitigation measures and their anticipated effectiveness in maintaining the health, form and function of environmentally valuable features, including any recommended monitoring requirements.
 - (h) Recommended actions to restore or enhance ecosystem functions or habitat that have been degraded prior to development or that would be impacted by the proposed development.
16. For an application for a permit within a development permit area designated under s. 919.1 (1)(b) of the *Local Government Act* for protection of development from **hazardous conditions**, the report shall contain the following information:
- (a) A site survey including topographic features showing natural slope contours in 1 to 5 metre contour intervals, significant natural features, current and proposed buildings and structures, roads and driveways, proposed site grading and post development contours.
 - (b) An assessment of potential geotechnical hazards that may affect the subject site and neighbouring properties. This should include a summary of the method of hazard analysis and the level of field work.

- (c) A description of the proposed development.
 - (d) An assessment of whether the proposed development would result in an accepted probability of a geotechnical hazard, accompanied by supporting rationale.
 - (e) Where an unacceptable level of hazard is identified, recommendations for measures to reduce hazards on the subject site and neighbouring properties.
17. Development Approval Information required in sections 15 and 16 must be prepared by a professional, with qualifications specified in the table below, except that the official may approve the involvement of a person having different qualifications if demonstrated, relevant, experience and qualifications are in the official's opinion suitable for the preparation of the information being provided in relation to a particular development permit application

TYPE OF INFORMATION	CONSULTING PROFESSIONAL
Sensitive Ecosystem	Registered Professional Biologist (R.P. Bio.)
Geological Hazard	Geotechnical Engineer (P. Eng.) or Professional Geoscientist (P. Geo.)

18. If the official is not satisfied that the impact information provided by the applicant is sufficient to comply with the requirements of the bylaw, either in scope, level of detail, accuracy or in any other respect, or does not address any particular information requirements that are identified in or arise from any applicable guidelines in an official community plan, the official may require the applicant to provide, at the applicant's expense, further information reasonably required to comply with the bylaw, but a requirement for further information may be imposed once only.

PART VI TERMS OF REFERENCE

19. Upon the request of an official and within the time specified in the request, an applicant for an activity or development described in Part III must provide to the official written Terms of Reference for the preparation of information on the impact of the activity or development that is the subject of the application.
20. To the extent that the proposed activity or development can reasonably be expected to have an appreciable impact on any of the following matters, the Terms of Reference must include those matters in the scope of the information that is to be prepared:
- (a) the natural environment of the area affected including adjacent marine areas, surface drainage and groundwater, ecosystems and biological diversity, with particular emphasis on areas of unusual environmental sensitivity and any rare plant or animal species;
 - (b) local highways, ferry facilities including off-island parking areas, water supply and sewage disposal systems including wells and ground sewage absorption systems, fire protection systems, municipal solid waste disposal and recycling facilities, utilities, local parking facilities and any other affected public infrastructure;

- (c) local and off-island school facilities; local, regional and provincial parks; hospitals and other health care services; local transportation services including public transit and water taxis;
 - (d) local and off-island commercial services and employment opportunities, but the question of market demand for the activity or development need not be dealt with when the application is for a development permit;
 - (e) agricultural and forestry lands, and agricultural and forestry uses in the vicinity of the development;
 - (f) cultural heritage resources including resources of historical, archaeological, paleontological or architectural significance whether on land or underwater; and
 - (g) aesthetic values including the appearance of the development from off the island and the effect of any artificial lighting proposed.
21. In addition to any matter listed in s.15 above, the applicant may include in the Terms of Reference any matter on which the applicant considers information ought to be provided to the Local Trust Committee to permit a full understanding of the impact of the proposed activity or development on the island community affected.
22. In the case of an application for a development permit or temporary use permit, the Terms of Reference must address any particular information requirements that are identified in or arise from any applicable guidelines in an official community plan, and in all cases must address any particular information requirements specified for such an application in any development application procedures bylaw of the Local Trust Committee.
23. In addition to any other requirements the Terms of Reference may require the person preparing the impact information to provide information on the relationship between the proposed activity or development and
- (a) the object of the Islands Trust set out in the *Islands Trust Act*;
 - (b) the Islands Trust Policy Statement; and
 - (c) in the case of a proposed zoning amendment, the official community plan of the Local Trust Committee.
24. The Terms of Reference may specify that the impact information will be prepared by a person having professional expertise in the matters included in the Terms of Reference, and may include information specifying the identity, qualifications and experience of the person who the applicant proposes to engage to prepare the information.
25. The Terms of Reference must specify the date by which and the form and the number of copies in which the impact information will be provided.
26. Within 10 business days of receipt of the Terms of Reference the official must indicate in writing to the applicant that:
- (a) the Terms of Reference submitted by the applicant are acceptable;
 - (b) the Terms of Reference submitted by the applicant are acceptable if additional matters specified by the official and within the scope of s.15 of this Bylaw are included;
 - (c) the Terms of Reference submitted by the applicant are acceptable if a person other than one who has been proposed by the applicant in the Terms of Reference,

whose selection has been approved in writing by the official, prepares the impact information; or

- (d) the Terms of Reference are unacceptable and must be replaced by the applicant.
27. For the purposes of s.26(b), when accepting Terms of Reference the official may advise the applicant of other projects proposed or under development in the area that may be affected by the applicant's proposed activity or development.
 28. If the official does not provide advice pursuant to s.26 by the end of the tenth business day the official is deemed to have accepted the proposed Terms of Reference.

PART VII PREPARATION OF DEVELOPMENT APPROVAL INFORMATION

29. Upon receipt of notice accepting the Terms of Reference or where the Terms of Reference have been deemed to be accepted, the applicant must prepare the impact information in accordance with the accepted Terms of Reference and within the time specified in the Terms of Reference must provide it to the Local Trust Committee, at the applicant's expense.
30. For every matter within the scope of s.20 that is included in the Terms of Reference, the applicant must
 - (a) identify relevant baseline information and document the nature of the resource or other matter on which the proposed activity or development may have an impact;
 - (b) identify and describe the potential and likely impacts of the activity or development including any cumulative effects when combined with other projects proposed or under development;
 - (c) evaluate the impacts in terms of their significance and the extent to which and how they might be mitigated; and
 - (d) make recommendations as to conditions of approval that may be appropriate to ensure that undesirable impacts are minimized or avoided,all in accordance with generally accepted impact assessment methodology.
31. If Terms of Reference approved under s.26 specify professional expertise in the preparation of impact information, prior to authorizing the preparation of the information by any person the applicant must deliver to the official information specifying the identity, qualifications and experience of the person who the applicant proposes to engage to prepare the information, unless that information was included in the approved Terms of Reference.
32. Within 10 business days of receipt of the information, the official must advise the applicant whether the proposed person is acceptable, and if the person is not acceptable the official must advise the applicant in writing of the reason and may propose one or more alternative acceptable persons. If such advice is not provided by the end of the tenth business day, the official is deemed to have accepted the proposed person.
33. If the official is not satisfied that the impact information provided by the applicant is sufficient to comply with the Terms of Reference, either in scope, level of detail, accuracy

or in any other respect, the official may require the applicant to provide, at the applicant's expense, further information reasonably required to comply with the Terms of Reference, but a requirement for further information may be imposed once only.

PART VIII INDEPENDENT REVIEW

- 34. If the official considers that the impact information provided by the applicant, or any portion of it, requires an independent review prior to being considered by the Local Trust Committee, the official may require the applicant to provide such a review of the information including the methodology used in its preparation.
- 35. The official may specify that the independent review be conducted by a member of the faculty of a university or college, a member of the Planning Institute of B.C., a member of the Architectural Institute of B.C., a member of the Association of Professional Engineers and Geoscientists of B.C., a Qualified Environmental Professional (QEP) or a Registered Professional Forester, and may specify terms of reference for the review.
- 36. The applicant must arrange for the independent review to be conducted and submitted in writing to the local trust committee, at the applicant's expense and within the time specified by the official.

PART IX PROPRIETARY RIGHTS IN INFORMATION

- 37. The information that is provided to the Local Trust Committee pursuant to this Bylaw is required by the Local Trust Committee in the exercise of its powers under the *Local Government Act* and the *Islands Trust Act*. Every report or other document provided to the Local Trust Committee pursuant to this Bylaw must accordingly contain an express grant of permission to the Local Trust Committee to use and reproduce the information contained in the report or other document for non-commercial purposes.

READ A FIRST TIME THIS	16 TH	DAY OF	SEPTEMBER,	2015.
READ A SECOND TIME	16 TH	DAY OF	SEPTEMBER,	2015.
READ A THIRD TIME	16 TH	DAY OF	SEPTEMBER,	2015.
ADOPTED	8 TH	DAY OF	OCTOBER	2015.

SECRETARY

CHAIR