

**ISLANDS TRUST COUNCIL
BYLAW NO. 57**

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

WHEREAS the Denman Island Local Trust Committee, pursuant to s.879.1 of the *Municipal 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 *Municipal 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 "Denman Island Local Trust Committee Impact Assessment Bylaw No. 57, 1998".

PART II APPLICATION OF BYLAW

2. The requirements of this Bylaw apply to
 - (a) applicants for amendments to a bylaw of the Denman Island Local Trust Committee enacted under s.903 of the *Municipal Act*,
 - (b) applicants for a development permit; and
 - (c) applicants for a temporary industrial or commercial 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 Denman Island Official Community Plan Bylaw No. 60 or is an activity or development for which development approval information is otherwise required by that Bylaw.
3. 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.

PART III PROCEDURE

4. The official assigned from time to time to provide staff services to the Denman Island Local Trust Committee is the official for the purposes of this Bylaw.
5. 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 or faxed to them.
6. A request for reconsideration must be delivered in writing to the Secretary 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.

7. The Secretary must place each request for reconsideration on the agenda of a meeting of the Local Trust Committee to be held not earlier than 2 weeks from the date on which the request for reconsideration was delivered.
8. The Secretary must notify the applicant and any other person who the Secretary reasonably considers may be affected by the reconsideration, of the date of the meeting at which the reconsideration will occur.
9. If the meeting at which the reconsideration will occur is a meeting held by teleconference, the Secretary must so advise the applicant and other persons notified under s.8, and the notification must specify that any representations the applicant or other person wishes to make must be in writing and received by the Secretary not less than one clear business day prior to the day on which the meeting is to be held.
10. 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 IV TERMS OF REFERENCE

11. Upon the request of an official and within the time specified in the request, an applicant described in s.2 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.
12. 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 forest reserve 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.
- 13. In addition to any matter listed in s.12, 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.
- 14. 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.
- 15. 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.
- 16. 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.
- 17. 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.
- 18. 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.12 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.

19. For the purposes of s.22(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.
20. If the official does not provide advice pursuant to s.18 by the end of the tenth business day the official is deemed to have accepted the proposed Terms of Reference.

PART V PREPARATION OF DEVELOPMENT APPROVAL INFORMATION

21. 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.
22. For every matter within the scope of s.12 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.
23. If Terms of Reference approved under s.18 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.
24. 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.
25. 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 VI INDEPENDENT REVIEW

- 26. 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.
- 27. 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., or a Registered Professional Forester, and may specify terms of reference for the review.
- 28. 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 VI PROPRIETARY RIGHTS IN INFORMATION

- 29. 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 *Municipal 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 18th day of September, 1998.

READ A SECOND TIME this 18th day of September, 1998.

READ A THIRD TIME this 18th day of September, 1998.

ADOPTED this 16th day of October, 1998.

Chair

Secretary