



Policy:	2.1.8
Approved By:	Trust Council
Approval Date:	September 18, 1998
Amendment Date(s):	
Policy Holder:	Director of Local Planning Services

DEVELOPMENT APPROVALS INFORMATION BYLAWS

Purpose

To describe a process for Islands Trust Council to consider bylaws proposed by local trust committees for requiring Development Approvals Information in their local areas.

Background

Under the provisions of the legislation, it is Islands Trust Council that must adopt a bylaw pertaining to a local area before a local trust committee can require development approval information. Each bylaw will vary depending on local circumstances and needs. This policy specifies the procedure for a local trust committee seeking Trust Council approval of a bylaw.

A. Definitions

n/a

B. Policy

1. Legislative Requirements

- 1.1 Prior to enactment of a local bylaw establishing development approvals information areas or circumstances, a local trust committee must have a bylaw establishing policies and procedures for development approvals information applicable to the local area adopted by Trust Council.
- 1.2 A local trust committee cannot enact development approvals information requirements in the absence of a Trust Council bylaw.

2. Criteria for Approval

- 2.1 Financial - Islands Trust Council will consider the impact of the proposed bylaw on:
 - 2.1.1 proven ability to accommodate the implementation of the bylaw in the regional planning team work program;
 - 2.1.2 existing administrative capacity; and
 - 2.1.3 anticipation of future budgetary needs.
- 2.2 Procedural Certainty - Trust Council will review the bylaw in terms of administrative processes. A proforma bylaw has been prepared to assist local trust committees.
- 2.3 Policy - Trust Council will ensure the proposed bylaw is consistent with:
 - 2.3.1 the local Official Community Plan; and

C. Procedure

1. Requirements

- 1.1 Local trust committees are responsible for the creation of development approvals information bylaws appropriate to their areas or circumstance for Islands Trust Council consideration.
- 1.2 The purpose for requiring the development approvals information must be clearly stated in the proposed bylaw.
- 1.3 The bylaw must be in the general form of the proforma attached to this policy.
- 1.4 Omission of any conditions specified in the proforma must be identified and the reason for them not being applicable defined.
- 1.5 The local area planner will prepare the substance of the bylaw and the appropriate legislative clerk will assign the bylaw number and establish a Trust Council bylaw folder, according to procedures established for Trust Council bylaws by the corporate secretary.

2. Notice

- 2.1 Notice must be given to Trust Council by a resolution of the local trust committee that it intends to prepare a development approvals information bylaw for Trust Council's consideration at the next regularly scheduled meeting.
- 2.2 The Executive Committee may waive the requirement for notice in C.2.1 where the bylaw does not have broad application and there is some urgency to its passage.
- 2.3 Notice shall include the intent of the proposed regulation, the application of the bylaw in terms of area and/or number of properties, and an assessment of its effect on the local trust committee and regional planning teams' work program.

3. Request for Decision

- 3.1 Application to Trust Council for approval of a local development approvals information bylaw will be made on the "Request for Decision" form in accordance with Policy 2.2.1, Requests for Decisions (RFD)/Reports.
- 3.2 Any proposed development approvals information bylaw, with the required background reports, must be submitted to the Executive Committee for inclusion in the Trust Council binder package no later than 4 weeks prior to the date of the Trust Council quarterly meeting.
- 3.3 The Executive Committee will ensure all materials specified in this policy are included and may return the request for further information.
- 3.4 Trust Council will consider the bylaw in its regular quarterly business meeting.

- 3.5 The local trust committee submitting the application may address Trust Council for a period not to exceed 5 minutes in support of the application.
- 3.6 Bylaws not approved will be returned to the local trust committee with an explanation of the reasons for the decision.
- 3.7 A local trust committee may resubmit a request at a subsequent Trust Council meeting if it addresses the concerns that caused the application to be returned.
- 3.8 Amendments proposed for returned bylaws, if they address the concerns raised by Trust Council, may be considered by Resolution-Without-Meeting of Trust Council if the Executive Committee deems it necessary to proceed before the next regularly scheduled quarterly meeting.

4. Background Materials

- 4.1 A report identifying the number of properties and/or size of the area to be affected by this bylaw must be prepared by the local trust committee to be presented with the bylaw to Trust Council.
- 4.2 An assessment of administrative workload, cost recovery and enforcement implications must be prepared by the local trust committee for the consideration of Trust Council using the following elements:
 - 4.2.1 Volume - the scope of applicability for potential applications;
 - 4.2.2 Administrative Staff – extraordinary requirements for clerical processing;
 - 4.2.3 Planning Staff – extraordinary requirements for staff to review a development approval information report and/or for reconsideration at the applicant’s request;
 - 4.2.4 Management – extraordinary requirements for management to assess and prepare cost recovery arrangements for development approvals information requirements;
 - 4.2.5 Cost Recovery – extraordinary requirements can be (enabling fees bylaw in place) and would be covered under lost recovery arrangements.

D. Legislated References

Sections 484 through 487 of the *Local Government Act*

Section 29(3.1) *Islands Trust Act*

Trust Council Policy 2.2.1, Requests for Decisions/RFD Reports, and 2.2.3, Trust Council Resolutions-Without-Meeting

E. Links to Supporting Forms, Documents, Websites, Related Policies and Procedures

Proforma Development Approvals Information Bylaws.

**ISLANDS TRUST COUNCIL
BYLAW NO. _____**

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

WHEREAS the Sample Island Local Trust Committee, pursuant to s.879.1 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 "Sample Island Local Trust Committee Impact Assessment Bylaw No. _____, 1998".

PART II APPLICATION OF BYLAW

2. The requirements of this Bylaw apply to
 - (a) applicants for amendments to a bylaw of the Sample 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 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 Sample Island Official Community Plan Bylaw No. _____ 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 Sample 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 the applicant.
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 specified in s.8 is a meeting under s.26 of the *Islands Trust Act*, the Secretary will provide notice specifying 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, 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 vantage points and 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 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 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 PROPRIETARY RIGHTS IN INFORMATION

26. 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 _____ day of _____, 1998.

READ A SECOND TIME this _____ day of _____, 1998.

READ A THIRD TIME this _____ day of _____, 1998.

ADOPTED this _____ day of _____, 1998.

Chair

Secretary