

ISLANDS TRUST COUNCIL

BYLAW NO. 134

A Bylaw to Establish Procedures and Policies for Requiring Development Approval Information for the North Pender Island Local Trust Area

WHEREAS the North Pender 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 "North Pender Island Local Trust Area Development Approval Information Bylaw No. 134, 2009".

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.

PART III APPLICATION OF BYLAW

3. The requirements of this Bylaw apply to
 - (a) applicants for amendments to a bylaw of the North Pender 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 a circumstance or in an area specified for the provision of development approval information in North Pender Island Official Community Plan Bylaw No. 171 or North Pender Associated Islands Official Community Plan Bylaw No. 147 or is an activity or development for which development approval information is otherwise required by those 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.

PART IV PROCEDURE

6. The official assigned from time to time to provide planning services to the North Pender 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, either in a report described in sections 15 through 18 in the case of development permit applications described in those sections, or pursuant to terms of reference that establish the scope of the required impact information for applications described in section 21.
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 communicated to them.
10. A request for reconsideration must be delivered in writing to the Planning 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 Planning 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 Planning Clerk must notify the applicant and any other person who the Planning 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 through 18 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) of the *Local Government Act* for protection of **sensitive ecosystems** or **shorelines**, 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 in respect of a development permit area designated under s. 919.1(1)(a) of the *Local Government Act* for protection of **raptor nests**, 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 the nest tree. 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) An evaluation of the site and of the current status of the nest tree following the provincial “Best Management Practices for Raptor Conservation during Urban and Rural Land Development in British Columbia.”
 - (c) A description of the proposed development detailing construction, cut and fill, blasting, road or driveway construction, vegetation clearing or trimming, alteration to hydrological systems, alteration 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.

- (d) An assessment of the nature and extent of the impact of the proposed development on the nesting site. 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.
- (e) Recommended measures to limit, mitigate and manage the impacts of the proposed development on the nesting site. The report should describe all feasible mitigation measures and their anticipated effectiveness in maintaining the healthy functioning of the nesting site.
- (f) Recommended measures to restore or enhance the health of the nesting site.

17. For an application for a permit in respect of a development permit area designated under s. 919.1(1)(a) of the *Local Government Act* for protection of **riparian areas**, the report shall contain the following information:

- (a) A description of the fisheries resource values in the watercourse, including species of fish that frequent the waterbody and fish habitat present.
- (b) The results of the riparian assessment, using a detailed or simple assessment as indicated in the Riparian Areas Regulation, and establishing the Streamside Protection and Enhancement Area (SPEA) width for the subject parcel.
- (c) A professionally prepared site plan showing topographic features, at an appropriate size and scale to show the locations of the top of bank, high water mark, SPEA widths, the width of any zones of sensitivity and measures to maintain the integrity of the SPEAs. The site plan must show all buildings, structures and all supporting infrastructure.
- (d) A description of all measures that will be taken to maintain and protect the SPEA from development, including where appropriate: assessment and treatment of danger trees, windthrow, slope stability, tree protection during construction, encroachment and sediment and erosion control.
- (e) Monitoring, identifying actions that will be taken to ensure all proposed activities are completed as described, including a monitoring schedule and process for resolving any non-compliance.
- (f) Professional certification by a Qualified Environmental Professional preparing the report that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides his or her professional opinion that
 - i. If the development is implemented as proposed there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area, or
 - ii. If the streamside protection and enhancement areas identified in the report are protected from the development and the measures identified in the report as necessary to protect the integrity of those areas from the effects of the development are implemented by the developer, there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area.

18. 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.
19. Development Approval Information required in sections 14 through 18 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.) |
| Raptor Nest | Registered Professional Biologist (R.P. Bio.) |
| Riparian Areas | Qualified Environmental Professional |
| Geological Hazard | Geotechnical Engineer (P. Eng.) or Professional Geoscientist (P. Geo.) |

20. 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

21. Upon the request of an official an applicant for the following:

- (a) amendments to a bylaw of the North Pender Island Local Trust Committee enacted under s.903 of the *Local Government Act*,
- (b) a temporary industrial or commercial use permit,

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.

22. 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 impact information that is to be prepared:
- (a) the natural environment of the area affected, including sensitive ecosystems and the habitat of rare or threatened species, including surrounding habitats impacted by the development activity;
 - (b) hazards, including geological, flood, stormwater, and wildfire hazards;
 - (c) greenhouse gas emissions, anticipated energy usage, and carbon emissions;
 - (d) groundwater resources;
 - (e) local infrastructure, including highways, ferry, water supply and sewage systems, fire protection systems, solid waste disposal and recycling facilities, utilities, local parking facilities and any other affected public infrastructure;
 - (f) local and off-island public or community facilities;
 - (g) local and off-island commercial services and employment opportunities;
 - (h) affordable and seniors housing needs;
 - (i) agricultural reserve lands and agricultural and forestry uses in the vicinity of the development;
 - (j) cultural heritage resources including resources of historical, cultural, archaeological, paleontological or architectural significance whether on land or underwater; and
 - (k) aesthetic values including the visual appearance of the development from adjacent properties, public lands, or the sea, and the effect of any artificial lighting proposed.
23. In addition to any matter listed in s.22, 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 community affected.
24. 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.
25. 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;
 - (c) the Islands Trust Fund Plan; and

- (d) in the case of a proposed zoning amendment, the official community plan of the Local Trust Committee.
26. The Terms of Reference shall specify that the impact information will be prepared by a person having professional expertise and relevant experience in the matters included in the Terms of Reference, and include information specifying the identity, qualifications and experience of the person who the applicant proposes to engage to prepare the information.
 27. 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.
 28. 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.22 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.
 29. For the purposes of s.28(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.
 30. If the official does not provide advice pursuant to s.28 by the end of the tenth business day the official is deemed to have accepted the proposed Terms of Reference.
 31. 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.
 32. For every matter within the scope of s.22 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,

- (e) make recommendations as to measures that may restore or enhance natural functions or features that have been damaged or degraded prior to development or that would be impacted by the proposed development

all in accordance with generally accepted impact assessment methodology.

- 33. If Terms of Reference approved under s.28 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.
- 34. 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.
- 35. 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 VII INDEPENDENT REVIEW

- 36. If the official considers that the impact information provided by an applicant, pursuant to Parts V or VI, 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.
- 37. The official may specify that the independent review be conducted by a member of the relevant professional association and may specify terms of reference for the review.
- 38. 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 VIII PROPRIETARY RIGHTS IN INFORMATION

- 39. 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 9TH DAY OF DECEMBER , 2009.
READ A SECOND TIME this 9TH DAYOF DECEMBER , 2009.
READ A THIRD TIME THIS 9TH DAY OF DECEMBER , 2009.
ADOPTED THIS 21ST DAY OF DECEMBER , 2009

SECRETARY

CHAIRPERSON