

**ISLANDS TRUST COUNCIL
BYLAW NO. 163**

A bylaw to establish procedures and policies for requiring development approval information for the **EXECUTIVE COMMITTEE ACTING AS A LOCAL TRUST COMMITTEE (Ballenas – Winchelsea Islands)**
Executive Committee Local Trust Area **(Ballenas – Winchelsea Islands)**

WHEREAS the Executive Committee Acting as a Local Trust Committee **(Ballenas – Winchelsea Islands)**, pursuant to s.485 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.486 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 "Executive Committee Acting as a Local Trust Committee **(Ballenas – Winchelsea Islands)** Development Approval Information Bylaw No. 163, 2016".

PART II PURPOSE

2. The purpose of this bylaw is to allow the Executive Committee Acting as a Local Trust Committee **(Ballenas – Winchelsea Islands)** to obtain information on the anticipated impact of proposed activities or development on the local trust area.

PART III APPLICATION OF BYLAW

3. The requirements of this Bylaw apply to:
 - a. applicants for amendments to a bylaw of the Executive Committee Acting as a Local Trust Committee **(Ballenas – Winchelsea Islands)** enacted under s.479 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 Ballenas – Winchelsea Islands Official Community Plan Bylaw No. 27, or is an activity or development for which development approval information is otherwise required by the Bylaw.

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 expense 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 Executive Committee Acting as a Local Trust Committee (**Ballenas – Winchelsea Islands**) 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 Section 15 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 15.
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. 489 (DEVELOPMENT PERMIT) APPLICATION REQUIREMENTS

14. For a Development Permit application specified in Section 15 of this bylaw, the applicant shall provide, as part of the development permit application, all or part of a report in the specified form as determined by the official.
15. For an application for a permit in respect of a development permit area designated under s. 488(1)(a) of the *Local Government Act* for protection of **Shoreline areas**, 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, natural boundary of the sea, the landward development permit area boundary, existing buildings and structures, floats, ramps, docks, topographic features, and significant features identified in the site inventory. Site profiles and cross sections

- demonstrating terrain conditions prior to disturbance and intended conditions post development shall be included.
- b. A site inventory, providing information on existing plant communities, marine and terrestrial habitats, current on-site and adjacent land uses, slope stability, erosional processes, hydrology, topography and marine sediment transport. This baseline assessment may require the involvement of several suitably qualified professionals.
 - c. For land based developments, 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; and
 - A check for the presence of raptor and heron nests.
 - d. A description of the proposed development detailing construction (e.g. buildings, dock, ramp or trails, etc), cut and fill, blasting, vegetation clearing, 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.
 - e. An assessment of the nature and extent of the impact of the proposed development, in particular anticipated impacts on identified site conditions, including but not limited to marine and terrestrial habitat, site hydrology, marine sediment transport, and public access to and along the foreshore. 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. The assessment should also include identification of potential impacts on adjacent sites and proximate sensitive areas.
 - f. Recommended measures to limit, mitigate and manage the impacts of the proposed development on terrestrial and marine habitats, as well as geomorphic, hydrological and coastal processes. The report should describe mitigation measures and their anticipated effectiveness in maintaining the health, form and function of environmentally valuable features.
 - g. Any recommended monitoring requirements, 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.
 - 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. Development Approval Information required in Section 15 must be prepared by a professional or professionals, with qualifications specified in the table below, and in good standing with his/her professional organization within British Columbia, acting within his/her area of expertise, and with demonstrated and pertinent experience and/or training; 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
Shoreline	Geotechnical/hydrological and marine considerations: <ul style="list-style-type: none"> • Geotechnical Engineer (P. Eng.) or Professional Geoscientist (P. Geo.) Biological / environmental considerations: <ul style="list-style-type: none"> • Registered Professional Biologist (R.P. Bio.)
Tree & Natural Vegetation Protection	Registered Professional Biologist (R.P. Bio.) or Registered Professional Forester (RPF)

17. 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.

PART VI TERMS OF REFERENCE

18. Within 30 days of the receipt of an application for the following:

- a. amendments to a bylaw of the Local Trust Committee enacted under s.479 of the *Local Government Act*,
- b. a temporary use permit,

the official shall provide to the applicant written Terms of Reference for the preparation of information on the impact of the activity or development that is the subject of the application.

19. 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 sensitive ecosystems and the habitat of rare or threatened species, including surrounding habitats impacted by the development activity;
- b. hazards, including but not limited to geological, sea level rise, 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 and special needs 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.
20. In addition to any matter listed in s.19, the official may include in the Terms of Reference any other matter on which the official 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.
21. 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.
22. 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.
23. 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.
24. 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.

PART VII PREPARATION OF DEVELOPMENT APPROVAL INFORMATION

25. 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.
26. For every matter within the scope of s.19 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.

- 27. If the Terms of Reference 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.
- 28. 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.
- 29. 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. If the additional information is found to be deficient by the official, the application will be declined.

PART VIII INDEPENDENT REVIEW

- 30. 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.
- 31. 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.
- 32. 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

33. 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	23 RD	DAY OF	MARCH	, 2016.
READ A SECOND TIME THIS	23 RD	DAY OF	MARCH	, 2016.
READ A THIRD TIME THIS	23 RD	DAY OF	MARCH	, 2016.
ADOPTED THIS	20 TH	DAY OF	APRIL	, 2016.

Chair

Secretary