

DATE: August 6, 2021**FILE:** 1310-01**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** James Warren
Deputy Chief Administrative OfficerSupported by James Warren Deputy
Chief Administrative OfficerJ. Warren**RE: Denman and Hornby Islands High-Speed Internet - Assent Vote**

Purpose

To introduce the bylaws and agreement associated with the proposed Denman and Hornby Islands High-Speed Internet Contribution Service and logistics associated with the related required assent voting (referendum).

Recommendations from the Chief Administrative Officer:

1. THAT pursuant to sections 269 and 407 of the *Local Government Act*, participating area approval in respect of the following proposed bylaws be obtained via assent voting:
 - Denman and Hornby Islands High-Speed Internet Contribution Service Establishment Bylaw No. 672, 2021; and
 - Denman and Hornby Islands High-Speed Internet Loan Authorization Bylaw No. 673, 2021; and
 - Denman and Hornby Islands High-Speed Internet Capital Contribution Agreement Authorization Bylaw No. 678;

AND FURTHER THAT these bylaws be introduced and read three times with Bylaw No. 672 and 673 then being forwarded to the Inspector of Municipalities for approval.

2. THAT the question to be placed on the ballot for assent voting in respect of proposed Bylaws No. 672, 673 and 678 be as follows:

“Are you in favour of the CVRD adopting Denman and Hornby Islands High-Speed Internet Contribution Service Establishment Bylaw No. 672, 2021, Denman and Hornby Islands High-Speed Internet Loan Authorization Bylaw No. 673, 2021, and Denman and Hornby Islands High-Speed Internet Capital Contribution Agreement Authorization Bylaw No. 678 to authorize the following:

- establish and operate a service for providing capital financing for high-speed internet infrastructure;
- borrow \$767,677 to be repaid over a maximum 10 year period to finance the development of the high-speed internet infrastructure; and
- enter into a 20 year agreement with City West Cable and Telephone Corp. to provide up to \$760,000 capital financing for the development of the high-speed internet service infrastructure.?

Yes No”

3. THAT pursuant to section 176(4) of the *Local Government Act*, the Notice of Assent Voting contain the following synopsis of proposed Bylaws No. 672, 673 and 678:

The general intent of Denman and Hornby Islands High-Speed Internet Contribution Service Establishment Bylaw No. 672, 2021, Denman and Hornby Islands High-Speed Internet Loan Authorization Bylaw No. 673, 2021; and Denman and Hornby Islands High-Speed Internet Capital Contribution Agreement Authorization Bylaw No. 678 is to:

- Bylaw No. 672 establishes a service of providing a capital contribution for high-speed internet infrastructure and provide grants and other forms of assistance that benefit residents and community organizations within the service area; and
- Bylaw No. 673 authorizes borrowing up to \$767,677 to be repaid over a maximum 10 year period to finance development of high-speed internet infrastructure; and
- Bylaw No. 678 authorizes an agreement with City West Cable & Telephone Corporation under which the CVRD may provide capital financing of up to \$760,000 for the development of high-speed internet service infrastructure.

The area that is subject to the proposed bylaws is Hornby Island and Denman Island. A full copy of the proposed bylaws are available for public viewing on the CVRD website at www.comoxvalleyrd.ca or at the CVRD office located at 770 Harmston Avenue, Courtenay, B.C.

Note: this synopsis is not an interpretation of the bylaws.”

4. THAT pursuant to section 58(1) of the *Local Government Act*, Jake Martens is appointed as Chief Election Officer and Lisa Dennis as Deputy Chief Election Officer for conducting the assent voting, with power to appoint other election officials as required for the administration and conduct of the assent vote for proposed Bylaws No. 672, 673 and 678.
5. THAT the Comox Valley Regional District Board commit \$6,500 from the Denman Island Feasibility Study Service (function 154) and \$9,500 from the Hornby Island Feasibility Study Service (function 155) for a total of \$16,000 for the assent vote and other costs associated with the proposed Denman and Hornby Islands High-Speed Internet Contribution Service project.

Executive Summary

In July 2021, the Comox Valley Regional District (CVRD) Board gave direction to staff to pursue the development of a service and necessary financial instruments to provide a capital contribution towards the development of high-speed internet service on Denman and Hornby Islands. The key aspects of this initiative include:

- establishing an eligible service to raise appropriate funds;
- enter into a capital contribution agreement with CityWest Cable & Telephone Inc. (a City of Prince Rupert owned telecommunications corporation);
- borrowing up to 10 per cent of the community contribution amount for the high-speed internet infrastructure.

While not a traditional service, an opportunity exists whereby senior government grant funding of up to 90 per cent may be available to cover the costs to provide high speed internet to residences on

Denman and Hornby Islands. With the total project costs estimated at \$7.6 million, the CVRD's contribution is projected to be up to \$760,000, including the 1% Municipal Finance Authority debt issue expense this provides a total borrowing of \$767,677.

A referendum has been directed for obtaining the required elector approval for the three associated bylaws. As this initiative can only proceed with all three aspects approved a single question for the ballot is proposed. As with all referendums, elector assent is obtained if a majority of the votes (50 per cent, plus 1 vote) are in favour.

This report details the specific financial impacts, public engagement plan and the timing and required legislative resolutions for an assent vote in November.

Concurrence:

Jake Martens
General Manager of
Corporate Services

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

HICEEC	✓
Denman Works!	✓
Strathcona Regional District CAO	✓
CityWest	✓

Background/Current Situation

The CVRD approved proceeding with the required public engagement and approval process for a broadband connectivity service on Denman and Hornby Islands in July 2021. This report presents the required legislative instruments, resolutions and logistics associated with such a service and conducting an assent vote (referendum) in fall 2021. If elector approval is obtained in fall 2021, the high-speed internet service will be included in the 2022-26 financial plan and funding from Denman and Hornby Islands can be provided to CityWest for “last-mile” fibre infrastructure construction in summer 2022.

A tentative timeline is provided to outline the key dates and actions associated with the assent voting process.

Schedule/Date	Action
August 9, 2021	Electoral Areas Services Committee considers required resolutions and other direction for assent vote
August 24, 2021	CVRD Board gives initial readings to Bylaws No. 672 and 673
August 25, 2021	Bylaws submitted to Inspector of Municipalities for approval
September 21, 2021	CVRD Board gives initial readings to Bylaw No. 678 – agreement authorization
Early October 2021	Open houses on Denman and Hornby Islands to provide information about the proposed service and referendum (dates to be confirmed)
October 13 & 20, 2021	Publish notice of scrutineer opportunity
November 1 – 10, 2021	Scrutineer application period

November 3 & 10, 2021	Publish notice of assent voting (including advance and special voting)
November 15, 2021	Appointment of voting scrutineers
November 17, 2021	Advance voting opportunity at CVRD Office
November 24, 2021	Special Voting opportunity on Hornby and Denman Islands
November 27, 2021	General voting day, deadline for receipt of mail ballots
December 7, 2021	If elector assent received, Board consider adoption of bylaws

A project page is available at www.comoxvalleyrd.ca/islandsinternet for more information, previous reports and a set of common questions and answers.

Policy Analysis

Provincial legislation, including the *Community Charter* and the *Local Government Act* require elector approval before a regional district may proceed with certain decisions or initiatives. While there are exceptions and alternative approaches available, approval of the electors is generally required for the establishment of new services, the undertaking of long-term borrowing (i.e. loans with a term of more than five years) and the entering into of agreements of over five years where the liability is of a capital nature or a loan guarantee. The proposed Denman and Hornby Islands High-Speed Internet Project contains each of these three elements and as such an assent vote (referendum) is proposed for obtaining the required elector approval.

In addition to elector approval, the service establishment bylaw and loan authorization bylaw cannot be adopted without the bylaws being approved by the Inspector of Municipalities after the bylaws are given three readings by the regional district. These and other legislative considerations are outlined in the timeline provided in the Background/Current Situation section of this report.

Options

This staff report recommends a referendum to be held on Saturday, November 27, 2021 and much of the commentary supports this option. Alternatively, the Electoral Areas Service Committee could provide direction to hold a referendum on a different date, pursue elector approval by way of an alternative approval process or petition, or to not support the high-speed internet initiative.

High-speed internet on Denman and Hornby Islands is identified as a key initiative in the [2021 Corporate Plan](#).

Financial Factors

The capital contribution, which will be funded by the establishment of the high speed internet service and related borrowing, will be to a maximum of \$760,000. The term of this borrowing could be between 5 and 20 years, to align with the estimated service life of the asset or service agreement, which is being provided by CityWest for twenty years. To balance the affordability to Hornby and Denman Island residents as subscribers will also have to pay for the monthly subscription fee with CityWest for the service, staff are recommending a 10 year borrowing term that provides for a moderate annual payment while ensuring the borrowing is paid off in a timely manner. A table below summarizes the possible debt terms considered with impact to the ratepayers, with the recommended term of 10 years highlighted. This includes the 1% Municipal Finance Authority debt issue expense of 1%, providing \$767,677 of borrowing to be paid over the terms below.

10 per cent funding for Hornby and Denman contribution - \$767,677

	Interest Rate	Annual Payments	Estimated Tax Rate (per \$1,000)	Estimated Taxation Impact per Avg House (\$500,000)
5 year	1%	\$154,457	\$0.13280	\$66.40
10 year	3%	\$92,342	\$0.07940	\$39.70
15 year	3%	\$66,626	\$0.05729	\$28.64
20 year	3%	\$53,846	\$0.04630	\$23.15

*Current MFA rates are 0.93% short-term, and 2.19% long-term.

The recommended service establishing bylaw requisition limit for this service for a debt term of 10 years is \$115,000 or \$0.1000 per \$1,000. This limit over and above the estimated tax rate provides some flexibility for interest rate variability or emerging costs or opportunities in establishing this service.

CityWest has indicated they intend to redistribute a portion of the subscription net profits back to the ratepayers up to 20 per cent, to provide return on their investment for the capital contribution. The service bylaw includes the ability to provide grants or other forms of assistance that benefit residents and community organizations. If the 20 per cent net profits were over and above the annual debt payments or following the 10 year debt term, a granting program could be established for Denman and Hornby to fund key community initiatives or services. The bylaw wording has been written at a high level providing future flexibility for this potential return on investment to ratepayers.

Legal Factors

The *Local Government Act* provides a number of stipulations in regards to the legislative instruments under consideration in the proposed high-speed internet project with CityWest, all of which require elector approval.

Service Establishment Bylaw (Appendix A)

- Purpose: provide a capital contribution for high-speed internet infrastructure and to provide grants and other forms of assistance that benefit residents and community organizations.
(Note: the provision of grants is provided in anticipation of the eventual revenue generated through the proposed profit sharing arrangements with CityWest.)
- Boundaries: Denman and Hornby Islands
- Participants: Electoral Area A
- Methods of Cost Recovery: (standard options of property value taxes; parcel taxes; fees and charges; revenues raised by other means; and revenues received by way of agreement, enterprises, gift, grant or otherwise.
- Maximum Requisition: the greater of \$115,000 or \$0.1000 per \$1,000 applied to the net taxable value of land and improvements for regional hospital purposes.

Loan Authorization Bylaw (Appendix B)

- Amount: \$767,677
- Term: maximum of 10 years

Capital Contribution Agreement (Appendix C)

Under the provincial legislation, regional districts may assist a business by providing capital financing for high-speed internet service in an area without access to high-speed internet service. The Capital Contribution Authorization Bylaw is the legal instrument to provide such a contribution.

Assent Voting

- Voting day – Saturday, November 27, 2021, 8:00 am to 8:00 pm located on Denman and Hornby Islands (polling stations to be determined)
- Advance voting opportunity
 - o Wednesday, November 17, 2021 8:00 am to 8:00 pm located at CVRD office
- Special voting opportunities
 - o Wednesday, November 24, 2021 – three hours each located on Denman and Hornby Islands (polling stations to be determined)
- Mail ballot voting – available throughout assent voting process for electors not otherwise able to participate in in-person voting opportunities
- Chief election officer: Jake Martens, General Manager of Corporate Services
- Question for voting: Given that the service bylaw, loan authorization bylaw and capital contribution agreement all require elector approval, and given that the Denman and Hornby high-speed internet contribution service can only proceed with all three aspects approved, a single voting question is proposed and outlined in the recommendation of this report.

Citizen/Public Relations

Communication for this project will be completed through face to face open houses and one or more addressed letter(s) providing information about the proposed service and referendum. A website project page with supporting graphics will be developed to help explain process and next steps. The focus will be on informing residents on the proposed high speed project, referendum and key dates.

In support of the referendum, advertisements will be required for scrutineer and referendum voting opportunities including mail ballot voting. All advertising will be supporting the legislative requirements.

Attachments: Appendix A – Denman and Hornby Islands High-Speed Internet Contribution Service Establishment Bylaw No. 672, 2021
Appendix B – Denman and Hornby Islands High-Speed Internet Loan Authorization Bylaw No. 673, 2021
Appendix C – Denman and Hornby Islands High-Speed Internet Capital Contribution Agreement Authorization Bylaw No. 678, 2021