



Subject: *After-Hours Ocean Floor Tour Request*
To: Parks, Recreation and Culture Committee
Date Prepared: June 27, 2025
Related Motions: C25(207)
Prepared by: Alana Tapper, Director, Parks, Recreation and Culture
Approved by: Kim Ramsay, CAO

Summary

From the June 25, 2025 Council meeting, staff were asked to bring back a report based on the request by Shoregirl Adventures to provide after-hours ocean floor tours at Burntcoat Head Park (BHP). Council provided direction to staff through motion 25(207) to prepare a report on the after-hours tour request, as well as to consult with the local fire service and the business owner and provide options for consideration. Discussion around the topic specifically referenced risk mitigation, safety plans, environmental impacts, alignment with current operations of the park, municipal staffing and consultation with the local fire department.

Financial Impact Statement

There are no financial impacts associated with this report.

Recommendation

There are no recommendations as a result of this report.

Recommended Motion

Move that the Parks, Recreation and Culture Committee recommend that Council...

Option 1: Not move forward with permitting after-hours tours by a for-profit business at Burntcoat Head Park and to maintain the current level of service at tourism sites in East Hants.

Option 2: Direct staff to enter into negotiations with Shoregirl Adventures to permit after-hours tours at Burntcoat Head Park provided the following criteria are met:

- **\$5 million liability insurance listing Municipality of East Hants as an additional insured;**
- **Safety plan;**
- **Defined tour parameters;**
- **municipal staff person is onsite during the tours on a cost recovery basis with the tour operator, and:**
- **the local fire department is aware and in alignment with non-municipal tours running between the hours of 5pm up until 2 hours before dusk.**

Option 3: Direct staff to include expenses related to expanded hours at the municipal tourism sites as part of 2026/2027 budget discussions.

Background

In June, Council received a request by Shoregirl Adventures to conduct after-hours tours at Burntcoat Head Park. At the meeting, staff did not recommend moving forward with permitting after-hours tours based on concerns around risk and liability, lack of onsite staff, lack of onsite facilities after municipal employees leave for the day, lighting and terrain and reputational risk. From the discussion, a staff report was requested so that Council members could fully understand the concerns, as well as the various plans and insurances that Shoregirl Adventures has in place.

Discussion

MUNICIPAL OCEAN FLOOR TOURS

Ocean floor tours are offered at BHP by municipal seasonal interpretive guides. Guided tours begin at the lighthouse and continue to the ocean floor where information on marine life and ecology, flora, fauna and geological formations is shared with tour participants. The total length of each tour is approximately 90 minutes and tours are held daily throughout the season when tide times permit. From opening date in May until mid-October 2024, interpretive guides ran 107 tours. For 2025, there are currently 100 scheduled and, where possible, additional tours are added when spaces fill up and staffing can be arranged.

Booking for the ocean floor tours is done online through the PerfectMind software and guests are required to fill out and sign a waiver prior to taking part. The waiver covers:

- Acknowledging awareness of the risks associated with visiting Burntcoat Head Park, including, but not limited to injuries from high tides and falling, which may result in injury or death.
- The assumption of all risks and the possibility of personal injury, death, property damage or loss, resulting therefrom.
- Agreement to waive claims against the Municipality of East Hants, its employees, representatives and agents.
- To release from any liability for any loss, damage, injury or expense or that of any family members may suffer as a result of my visiting Burntcoat Head Park due to any cause whatsoever.

Cost of municipal ocean floor tours is \$18 for adults, \$15 for seniors and children under 18 and there is no charge for children under the age of 5. Tours in 2024 were projected to generate \$8500, but resulted in approximately \$18,000 of revenue and the anticipated revenue for tours for the 2025 season is estimated to be \$12,000.

MUNICIPAL PARK HOURS & OPERATIONS

All parks in East Hants are open from dawn to dusk and signage throughout those locations reflects that time period. After-hours at the tourism sites reflects the time where municipal staff are not present, sites are staffed from 9am to 5pm daily. Staff are scheduled at BHP for 8am in order to conduct washroom cleaning and site inspection to ensure the park is in an acceptable state for visitors, but the washroom facilities and lighthouse are not opened until 9am each day from mid-May to mid-October. Cautionary signage throughout the park provides information on safety.

There is a gate at BHP that is closed during the winter months, but is kept open from early spring until sometime in November when icy conditions are present. The rationale for keeping the gate open is to enable local residents to visit the site as they did when it was owned by the not-for-profit association. In previous years, the gate was locked which resulted in a truck driving through it to access the parking lot causing substantial damage. Locking the gate during the shoulder season also caused issues on Burntcoat Lane as vehicles would block the adjacent property owner during the off season when fair weather resulted in increased visitors.

Outside of the tourism season and after-hours (during the tourism season when municipal staff are not present) the municipality does not actively patrol park locations. Parks staff continue to inspect all locations from mid-October to mid-May on a reduced inspection schedule.

OTHER BUSINESS OPPORTUNITIES AT BHP

This request differs from other licensed uses of the park as those uses are not similar to services provided by municipal staff and they are done when the park is open or the park is compensated for remaining open to accommodate the activity. It is also important to note that for-profit businesses that do visit the park as part of their business pay fees depending on the service provision.

Dining on the Ocean Floor is a culinary experience offered by a food vendor at BHP. This was established prior to municipal ownership by a separate vendor who then sold the rights to the current provider. In advance of each season, municipal staff work with the vendor to establish appropriate dates for the dining experience and a contract is established outlining dates, hours and fees. The group pays a storage fee, landing fee, as well as an individual ocean floor tour fee per guest. Throughout the visit to the park, the guests learn about native plants, local history and the ocean floor all paired with unique food and drink selections.

Ambassatours Gray Line is a sightseeing and tour operator based in Halifax. The company offers a range of land and water experiences across Atlantic Canada. The Ocean Floor Shore Excursion offered by Ambassatours is a one-of-a-kind Bay of Fundy experience and often booked directly through cruise-shore excursion desks. It involves a site visit at BHP, where guests can walk the ocean floor at low tide and learn about the world's highest tides. The group also enjoys a lunch courtesy of a local food provider before going to the Fundy Tidal Interpretive Centre where they can view the tidal bore. Flat rate fees are charged per bus and a contract establishes the dates that tours will be at the site during May to October. Group tours are not provided by interpretive guides, but a welcoming address and information on safety precautions are provided to the guests.

For both of these for-profit businesses, municipal staff are present and fees charged. It is also noted on the BHP website, that commercial operators are required to contact staff to discuss rates and advance bookings. This ensures staff are aware of commercial providers and can ensure there is an appropriate number of staff scheduled on those days to accommodate cleaning, staffing of the gift shop and staff throughout the park and ocean floor.

SHOREGIRL ADVENTURES

Company & Tour Description

Shoregirl Adventures is a guided tour business based out of Maitland offering ocean, nature and historical walking tours. Ocean floor tours explore tidal flats, marine life and geology, are currently offered at Anthony Park (Provincial), are 1.5-2 hours in length and cost \$25 per person. There is a Provincial process that allows applications for businesses to operate out of Provincial parks. For this year, applications were due February 14, 2025 and the provider's operations plan listed a Provincial Park access agreement. Currently the provider has 27 ocean floor tours listed at Anthony Park in July and 26 ocean floor tours in August.

Nature tours/walks are guided walks through local trails and outline native plants, trees and folklore, are 1.5 hours in length and cost \$25 per person. Historical walking tours discuss heritage sites, local legends and architecture, are 1-1.5 hours in length and cost \$20 per person. Combination tours are offered, as well as group, family and educational discounts.

The tour provider is looking to operate from May to October, 2-4 hours per day during peak tourism season and will be owner led with the potential for additional seasonal guides.

Risk & Insurance Coverage

The tour provider has indicated in their business plan they maintain commercial general liability insurance and coverage for guides. It is noted the CGL insurance is for \$2 million; staff would need to investigate the nature of this coverage and any exclusions such coverage may have.

Typically, insurers will not direct an owner/operator to a coverage amount as "industry standard" as noted in the business plan. The amount of coverage the municipality requires is down to the potential risk of the activities (minor injuries up to death) and the likelihood they are going to happen (increased numbers of visitors to BHP have led to a higher number of incidents each year). From internal staff review, the municipality would want to transfer the defense of any claims to the tour operator's insurer with a minimum of \$5 million per incident and \$5 million aggregate.

Safety Plan

Within the General Safety Plan provided by Shoregirl Adventures, high level information was listed including:

- tide awareness and timing
- emergency protocols (i.e. carrying a first aid kit and phone)
- emergency response plan (i.e. evacuation routes and meeting points)
- participant safety briefing
- footwear and clothing guidelines
- waivers and insurance
- training and certification
- local emergency services coordination

It should be noted that if Council wanted to further explore a license or agreement, that detailed plans should be provided to ensure they meet the expected provisions.

Environmental Impacts

It is expected that there should be minimal impact to the environment. The General Safety Measures provided by the tour operator include listing they would leave no trace, avoid disturbing marine life and sensitive habitats and would teach respectful interaction with the environment. They also have indicated that they would keep a safe distance from marine animals and not allow participants to handle live creatures without guidance.

AFTER-HOURS TOUR CONSIDERATIONS

NOEL & DISTRICT VOLUNTEER FIRE DEPARTMENT

In consultation with the Noel & District Fire Department, concerns were brought forward around the number of staff that would be accompanying each tour (one person versus multiple people per tour). The fire department also had concerns that having additional tours could put a strain on the department and that the fire department can't guarantee service.

The fire department did acknowledge that if Council were considering entering into an agreement for the tours to operate outside of municipal staff hours, that all tours should be complete **at minimum 2 hours before dusk** to ensure all emergency situations could be addressed within daylight hours.

At times when medical emergencies occur at the site depending on the information communicated to the 911 dispatcher, fire may not be dispatched based on the level of service in the Medical First Responder Program. Ensuring the correct details and severity and need for fire support is essential during a 911 call in order to have the local fire dispatched.

The Fire Chief reminded staff that Noel & District Volunteer Fire Department does not receive a specific tax levy or contribution in lieu of taxes for servicing the municipal park site.

Occupiers' Liability

Granting permission to run tours after-hours introduces occupiers' liability risks for the municipality. As the property owner, the municipality could be held liable for injuries sustained onsite, even if we are not directly involved in the activity. If a private provider lacks adequate insurance, the municipality could be held responsible for covering damages. If Council chooses to consider entering into an agreement, there should be clear indemnification clauses and a minimum of \$5 million Commercial General Liability (CGL) liability insurance.

A guided tour provider should do a comprehensive review with their respective insurance broker to ensure they have all of the coverages related to the perils of their particular business, regardless of what the municipality may require. It would be important the such policy does not have an "injury to participants" exclusion.

Essentially this means that the participants will have some injury coverage afforded by the company's CGL coverage. Waivers, if properly drafted and signed, can help mitigate any personal injury claim of participants.

It would also be recommended that if Council wanted to enter into any license or agreement, there should be no exclusion for participant injury. This portion of an agreement would have to be developed by internal staff and have both our legal team and our insurer review. The license would require an indemnification that covers both the company's operations and, if the tour provider does not have WCB coverage, workplace injury. The indemnification would not prevent the municipality from being named in a lawsuit, but, if drafted correctly, would require the tour provider to defend should there be a claim from an employee or a participant.

Lack of Onsite Staff

After-hours use of the park occurs at users' own risk. Permitting sanctioned activity outside regular hours introduces expectations of oversight and emergency response. There would be no municipal staff on-site to enforce safety protocols, assist in emergencies or to provide access to first aid. There are multiple staff trained in first aid at the site during operating hours to ensure the safety of all visitors and to ensure a comprehensive emergency response should anything occur.

Access to First Aid Supplies

First aid kits and emergency equipment are stored in the lighthouse, which is locked outside regular operating hours. In the event of an injury, delay in response could result in worsened outcomes.

Limited Washroom Facilities

After-hours, the lighthouse washrooms are locked and a single portable washroom remains available during evening hours. There is significant cost to having a portable washroom at BHP and routinely maintained by a service provider due to the rural location.

Lighting & Terrain Hazards

Poor visibility, slippery or unstable terrain and rapidly changing tidal conditions significantly increase the risk of accidents during evening hours. Permitting an increased number of visitors to the site by way of third-party tours could increase accidents or incidents.

Potential Vandalism

Increased number of visitors after hours could lead to increased vandalism with the lack of oversight of onsite municipal staff.

Tide Timing

Tidal conditions at BHP can change quickly and without accurate, real-time monitoring and an understanding of local tide schedules, there is an increased risk of visitors becoming stranded or injured. Multiple trained staff are onsite throughout operating hours to ensure appropriate coverage throughout the park and on the ocean floor.

Oversight Requirements

Monitoring third-party compliance with safety, environmental or operational standards would either go unmonitored or require additional staff time. If after-hours demand exists, the municipality may wish to consider extending service directly through the hiring of additional seasonal tourism staff, rather than licensing a third party to conduct tours.

If Council wishes to explore an agreement, or license, there would have to be direction on what level of oversight would be required as well. Are municipal staff checking certifications like first aid and verifying processes? Having municipal staff on site covers our property exposures, but there may be tasks as part of managing the contract that would require additional resources, like ensuring all tour participants have filled out a waiver.

Reputational Risk

Visitors may not differentiate between a third-party tour and a municipal offering, potentially damaging the BHP's/municipality's reputation if quality of service or safety is compromised.

OPTIONS FOR CONSIDERATION

Based on the information provided, Council could consider the following options:

Option 1: To not move forward with permitting after hours tours by a for-profit business at Burntcoat Head Park and to maintain the current level of service at tourism sites in East Hants.

Option 2: Direct staff to enter into negotiations with Shoregirl Adventures to permit afterhours tours at Burntcoat Head Park provided the following criteria are met:

- establishment of a formal agreement or contract with indemnity provisions and insurance requirements;
 - \$5 million liability insurance listing Municipality of East Hants as additional insured;
- defined tour parameters;
- safety plan;
- environmental impact/protection plan;
- municipal staff person is onsite during the tours on a cost recovery basis with the tour operator, and;
- the local fire department is aware and in alignment with non-municipal tours running between the hours of 5pm up until 2 hours before dusk.

Option 3: If Council determines that having tours into the evening hours is a priority, it would be less risky to run the tours using municipal staff and extending the hours municipal staff are at the park. With that, Council could direct staff to include expenses related to expanded hours at the municipal tourism sites as part of 2026/2027 budget discussions.

STRATEGIC ALIGNMENT

This contributes to the East Hants 2021-2024 Strategic Plan by promoting safe, sustainable communities, encouraging responsible stewardship and ensuring that residents have access to safe recreational opportunities.

FINANCIAL CONSIDERATIONS

This report does not have any financial impacts.