

**Delegation submission to the Islands Trust Council from Michael Sketch
for an electronic quarterly meeting at 7 P.M., Tuesday, 21 September, 2021**

a rewritten trust policy statement bylaw V. 3.4 01Sep2021

Councilors – I speak to key deficiencies in your current draft trust policy statement council bylaw which is given by staff as version 2, updated 15 July, 2021. There is remedy in the appendix with a fresh rewrite which corrects the structure and improves the preserve and protect content. I'll refer to council's trust policy statement bylaw as a TPS bylaw.

The rewrite TPS follows directly from S.15 of the Act and does not presume flexibility of policy implementation, for there is no such flexibility given or implied in the Act. But current and staff draft TPS bylaws delegate implementation from federal to local trust governance levels. They both rely on a flexible implementation policy 1.3.1 which has been in effect for decades. Worse, policy 1.3.1 wasn't disclosed in the bylaw now being amended and hasn't been subject to ministerial review. Today, the staff draft TPS not only discloses implementation policy 1.3.1 but acknowledges that 1.3.1 isn't subject to ministerial review. But that doesn't correct the fault of not including implementation within the bylaw.

Canada is also a federation. Is there policy to enable the provinces to pick and choose compliance with select federal law? Of course not.

In the rewrite TPS, policy implementation is entirely within the TPS bylaw. Section 1 policies are binding for the entire trust area. A local trust area can petition council to be excused from one or more section 2 policies.

If council adopts the rewrite, trust area policies would be effectively implemented in the day to day business of each local trust area and TPS implementation policy 1.3.1 would be redundant.

The rewrite TPS gives policy instruction to implement a hierarchical two level federal governance structure as per the Act, so as to give effective trust area services oversight for local area staff services. The check and balance benefit of federal governance would be realized at last.

The schedule gives implementation detail, which in part specify a trust area regulatory bylaw for select policies as determined by council. The need for trust area regulation may be more clear once the current trust area services federal governance level is enhanced to give science based oversight for the local area staff services.

Duties of care and to consult are stipulated. Trust body meeting minutes are published and are to be consistent with Roberts Rules of Order. Meeting minutes shouldn't be barebones and edited. They should be a record of what was said as well as what was done. The public deserves to know.

You may ask why these elements aren't in the structure and content of the staff draft TPS bylaw.

In part, I think the answer is that when amendment to your policy statement was mooted, no one asked the foundation question: does the current TPS bylaw follow directly from S.15 of the Act? In and of itself, does the current TPS bylaw carry out – that is implement – the object of the trust? Had council deliberated, a quorum should have directed a TPS rewrite.

As has happened, the staff TPS draft is an amendment to content of the current bylaw, not a rewrite. Some say the current TPS has stood the test of decades without significant question. But at the least, implementation of trust area policies should have been questioned, should have been corrected. There have been too many examples where the public has seen development recommended, or a bylaw adopted, despite contrary trust area policy. Coupled with TPS implementation policy 1.3.1, the policy statement checklist doesn't survive scrutiny.

Policy statement structure hasn't changed for decades. There is obvious rationale for a rewrite.

Equally, there is rationale to rewrite the content. The staff draft TPS is rich with history, trust goals, good intentions and opportunity for advocacy. The 18 months and more of staff investment deserves a home. Particularly in the face of public reservations about content and the perception of an unwarranted rush to first reading, staff and the council chair have recommended the TPS "cover to cover". The advice is appropriate for an ongoing "Trust Area Workbook", published and maintained on the trust website. The public could follow preserve and protect initiatives as they evolve. The next TPS amendment would be forecast.

But a "Trust Area Workbook" shouldn't be conflated with the council TPS bylaw.

This rewrite content begins with new section 1 policies which, taken together, give credibility to the trust area intention to preserve and protect. In particular, there is policy clarity for the word "environment".

The climate crisis is manifest and trust policies should look forward to the time when elements of the natural environment must be given rights to continue without anthropogenic harm. A cornerstone of preserve and protect for future residents of the trust area.

Witness a Canadian first this year, where a Québec river now has rights as a person would have to respond to an existential threat.

Section 2 policies in this TPS rewrite are grouped by topic, as have been directive policies in the current bylaw. Note that although TPS amendment was to have addressed the climate change crisis, there are no directive policies in the staff draft TPS. There are in the rewrite section 2 policies.

Section 3 lists the unique amenities to be preserved and protected that have been identified to date by council in inter agency agreements, council resolution, or other.

Please, councilors, consider this draft TPS carefully. It differs significantly from both the current TPS bylaw and staff draft version 2. The difference will enable council to realize the potential of the Act. The trust area environment will be grateful and Canada's protected areas will benefit from your example.

Thank you for considering my submission.

Michael Sketch

North Pender Island
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Appendix – A draft trust policy statement council bylaw which corrects the structure of both current and staff draft bylaws and improves the preserve and protect content.

The Islands Trust Act establishes a federal governance wherein trust council presides over a union of local area land use jurisdictions, each with authority over land use conferred by the local government act.

Council's trust policy statement bylaw is required at Section 15 of the act and is a general statement of council's policies to carry out the object of the trust.

Council may establish different policies for different parts of the trust area.

The trust policy statement is a regional plan for the trust area.

For this trust policy statement bylaw; each of trust council, trust executive and local trust committee are known as a trust body. Trust council is known as council and is a trust body. The islands trust act is known as the act.

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Schedule: implementation policies for policies of this trust policy statement bylaw and trust area regulation

1. Policies for the entire trust area

For the entire trust area, council holds and recommends to the conservancy board that:

1.1 General policies to carry out the object of the trust, subject to implementation policy in the schedule for this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

1.1.1 All policies and procedures to implement trust area policies in the trust area are contained in this trust policy statement bylaw.

1.1.2 Federal governance to be implemented. Council shall ensure that the trust staff administrative structure implements a two level hierarchical federal governance intended by the Act. The trust area services federal administrative level shall include sufficient assessment expertise that all proposals for changes in land use can be effectively evaluated and monitored in the entire staff process from receipt of applications for changes in land use to bylaw adoption and that relevant guidance and instruction be given to the local planning service for local trust areas in order to carry out the object of the trust.

1.1.3 Adherence to trust area policies is first in council's federal oversight responsibilities for local trust areas. Council shall ensure that island municipalities have regard for the trust object and trust policy statement in respect of all actions of the municipality.

1.1.4 The persons and entities whose interests may be affected by changes in land use in the trust area are:

- (a) the natural environment
- (b) unique amenities of the trust area
- (c) the predominantly rural built environment
- (d) first nations
- (e) residents
- (f) future residents
- (g) the people of British Columbia generally.

1.1.5 Role of trustees in a local trust committee. The chair of the local trust committee corporation shall represent the federal governance level and the locally elected trustees the interests of the local trust area. In considering an application, deliberating or deciding either changes in trust area land use, or land use policy or regulatory bylaws, the trustees of a local trust committee corporation shall be cognizant of the effect of such changes or bylaws on the persons whose interests are affected. Carrying out the object of the trust as implemented in this council bylaw shall be the greater rationale for trustee actions.

1.1.6 Duty of care to persons. Trust bodies and the employees of trust council shall exercise a duty of care to persons whose interests are affected by land use changes which may impinge on preservation and protection of the unique amenities or environment of the trust area.

1.1.7 Duty of care to entities. Acknowledging the first nations way of knowing, trust bodies and the employees of trust council shall exercise a duty of care to entities whose interests are affected by land use changes in the trust area; in particular but not limited to the interests of the natural environment, which can not speak for themselves. Trust bodies shall favour presumed rights of natural entities to continue without anthropogenic harm, anticipating decisions in the courts to give such rights in law.

1.1.8 Duty to consult. When considering changes in land use, trust bodies shall first deliberate whether or not consultation is needed and where indicated, shall meaningfully consult with those whose interests are affected. Consultation shall be early and ongoing. Where the interests of the natural environment are deemed affected, consultation shall begin with full disclosure to those who can speak on behalf of the natural environment.

1.1.9 Trust area environment. For purposes of this bylaw, the trust area environment is the sum of its parts and is subdivided for policy clarification as follows:

trust area environment

1a) built

1b) natural

2(a) first nations structures

2b) mainly rural

2c) more dense urban

2d) anthropogenically modified

2e) unmodified

1.1.10 Climate change. In that evidence of climate change is manifest in the science and measurements relied on by the provincial ministry of the environment, the trust object and indigenous ways of knowing confer an obligation on trust bodies to acquire local knowledge based on observation of critical changes in the natural environment and to use that local knowledge in their deliberations and decisions on land use which are expected to protect against adverse consequences of climate change. In those deliberations and decisions, trust bodies shall favour presumed rights of natural entities to continue without anthropogenic harm, anticipating decisions in the courts to give such rights in law.

1.1.11 Trustees to speak for persons or entities that can not speak for themselves. In carrying out the object of the trust and mindful of indigenous ways of knowing, trustees of the Islands Trust shall speak for persons or entities whose interests are affected by changes in land use but can not speak for themselves; in particular but not limited to the natural environment.

1.1.12 Assessment of potential harmful effects of changes in land use. In order to carry out the object of the trust, trustees of the Islands Trust shall be mindful of indigenous ways of knowing and diligent in assessing potential for harmful effects of changes in land use, in order that the persons and entities whose interests are affected by changes in land use will not be adversely affected. Assessment shall be guided by, but not limited to, science based assessment,

1.1.13 Carrying capacity. Carrying capacity for a part of, or for the entire of, a trust area island, or within a municipality, is the upper limit of built environment density, beyond which sustained evidence of damage to the natural environment, or to the anthropogenically modified natural environment, is manifest. Evidence of damage includes but is not limited to salt water intrusion in potable water wells, reduced water levels in drilled or surface wells, large tracts of deforested land with consequent erosion or reduced groundwater recharge, and reduced capability of soil and land for agriculture.

1.1.14 Rural built environment to predominate. Where there is built environment, a small scale, rural, built environment shall predominate in the trust area; despite a more dense, urban, built environment in nearby areas.

1.1.15 Priority to preserve and protect. When considering changes in trust area land use which would augment the built environment at the expense of the natural environment, trust bodies shall give priority to the preservation and protection of the natural environment, in particular but not limited to the maintenance of biodiversity and the protection and restoration of rare species and species at risk.

1.1.16 Community need. Trust bodies shall not support changes in land use justified by community need, where the community need rationale is seen to take precedence over preservation and protection of elements of the natural environment and ecosystems.

1.1.17 Precaution. Where there is perception but not necessarily certainty, that the built environment will prejudice the ability of the natural environment to sustain development, then precaution shall inform limitation of growth of the built environment.

1.1.18 Adherence to trust policy in day to day actions. In order that this regional plan for the trust area be effective in carrying out the object of the trust and given that trust bodies are continued for the purpose of carrying out the object of the trust, policies of the trust policy statement shall be adhered to in the day to day actions of trust bodies and their employees. For certainty, policies of this trust policy statement shall be adhered to by land use planning staff in staff report and other advice to decision makers in the entire development and deliberation of draft bylaws pertaining to applications for changes in land use.

1.1.19 Paramountcy. Where there is conflict between policies of the trust policy statement and policy or regulation of a local trust area, trust policy statement policies shall prevail and local trust area policy or regulation, or both, shall be inoperative to the extent that they conflict with policies of the trust policy statement.

1.1.20 Meeting minutes. To further accountability and transparency in the day to day actions of trust bodies and their employees, the written meeting minutes for all trust bodies shall be published and be consistent with Roberts Rules of Order for meeting minutes which are to be published. For certainty, meeting minutes shall be a comprehensive written record of what was said, in addition to a strict record of what was done.

1.1.21 Trust bodies to cooperate. Trust bodies and their employees shall be diligent in respecting and cooperating with first nations and with shared jurisdiction authorities, including but not limited to regional districts, the agricultural land commission and the ministry of forests, lands, natural resource operations and rural development. In deliberating bylaws, trust bodies shall be mindful of the legislated requirement that a regional district board must not adopt a bylaw respecting the trust area, issue a permit respecting the trust area, or undertake work respecting the trust area if the bylaw, permit or work is contrary to or at variance with a bylaw of a local trust committee.

1.1.22 Service given by a regional district. Where, by referendum, the electorate in a local trust area or a part thereof, agrees to provision of a service, which might otherwise be given by the regional district by means of transfer of property tax revenue to a local trust area community service group, then the relevant local trust area policy and regulatory bylaws shall provide direction for provision of said service.

1.1.23 Regional context statement. The official community plan, or, if none, other policy bylaw for each local trust area jurisdiction or sub jurisdiction; shall include a regional context statement, which acknowledges both i) first nations traditional use of trust area land and ii) council's trust policy statement bylaw as a regional plan for the trust area.

1.1.24 Conflicting interests for trustees of a trust committee. Further to the obligations of S.100 of the community charter respecting the reasons for an elected official to recuse themselves from a matter before the local trust committee, conflicting interests for a trustee in their legislated obligation to carry out the object of the trust as implemented in this council bylaw, shall be a necessary and valid reason for a trustee to recuse. Whatever the reason for recusal, should more than one trustee recuse themselves from a matter before the committee such that there is not a quorum of the local trust committee present, then the matter may be referred to the executive committee of council for any or all of consideration, deliberation, and decision.

1.1.25 Amendment to this council trust policy statement bylaw shall be instituted by resolution of council. On proposal for each amendment, council will assign responsibility for day to day oversight of the amendment process to a committee of councillors whose first responsibility is to represent the broad council interest in carrying out the object of the trust.

2. Policies for the trust area, save where council excuses one or more local trust areas from compliance

For the entire trust area, save where council excuses specific local trust areas or an island municipality from compliance upon application to council; council holds and recommends to the conservancy board that:

2.1 Environmental Integrity Policies

2.1.0 Environmental stewardship policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.1.1 In collaboration with the islands trust conservancy board, local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, identify, preserve, protect, and support the restoration of the following elements, utilizing the best available quantitative and qualitative data, inclusive of indigenous ways of knowing and community input:

- (a) networks of protected areas of sufficient size and distribution to preserve the environmental integrity of ecosystems
- (b) sensitive ecosystems, including but not limited to cliff, freshwater, herbaceous, old and mature forest, riparian, wetland, and woodland ecosystems
- (c) contiguous, unfragmented forests and associated ecosystems
- (d) freshwater networks and groundwater recharge areas
- (e) eelgrass meadows, kelp forests, and forage fish spawning areas
- (f) species and ecosystems at risk
- (g) indigenous cultivation and harvesting areas such as clam gardens, camas meadows

2.1.2 Land use and development shall be regulated in order to minimize i) green house gas and other harmful gaseous emissions and ii) limit disposal of organic or inorganic waste materials, which may be harmful to air, land or water.

2.2 Freshwater Stewardship Policies of the Trust Policy Statement

2.2.0 Freshwater stewardship policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.2.1 Excepting Piers Island in the Capital Regional District, trust area islands shall be self-sufficient in their supply of freshwater.

2.2.2 Anticipating both i) sea level rise and ii) prolonged summer drought as a consequence of climate change; council policy shall be precautionary and will anticipate the cumulative adverse effects on groundwater quality and quantity. Adverse effects include but are not limited to iii) an inward migration from the coast of the freshwater – saltwater transition for trust area island aquifers and iv) saltwater intrusion for groundwater wells.

2.2.3 Cognizant of adverse effects of i) the built environment and of ii) anticipated increase of the built environment, on both quantity and quality of freshwater, including but not limited to disposal of human and livestock organic and inorganic waste; means to prevent further loss or degradation of iii) watershed ecosystems, iv) freshwater networks, v) groundwater recharge areas, and vi) forest ecosystems which sustain watersheds and groundwater recharge and vii) freshwater aquatic species in the trust area; shall be identified and implemented in precautionary local trust area policy and any or all of zoning, restrictive covenant, development permit and regulation.

2.2.4 Groundwater recharge areas shall be identified, ground truthed, mapped and published for islands of the trust area. Groundwater recharge areas shall be given priority for preservation and protection of the natural or modified natural environment parts therein, with restoration to a modified natural environment where indicated. Preservation and protection of groundwater recharge areas is best served by i) restrictive covenant and ii) ownership of part of, or parts of, or the whole of a groundwater recharge area, by iii) council as a community benefit land trust or by iv) the islands trust conservancy as conserved land.

2.2.5 Given the certainty of climate change and the adverse consequence for groundwater recharge, groundwater observation wells shall be established on trust area islands in addition to those as may have been established by the Ministry of the Environment, in sufficient number and appropriate location that the quality and quantity of island groundwater can be monitored and trends identified. The monitored data shall be published. For certainty, observation wells are to enable meaningful assessment of groundwater quality and quantity for both areas i) of current built environment and ii) anticipated for a future built environment. As a condition of approval for new subdivision, iii) one or more observation wells must be established and iv) groundwater quality and quantity data collected and published.

2.2.6 Where there is evidence that freshwater consumption on a trust area island, or a part thereof, exceeds the rate of rainwater recharge, the consumption of freshwater in the built environment of that part of the trust area island shall be subject to precautionary local trust area regulation. Evidence of consumption exceeding recharge includes, but is not limited to, reduced year to year average levels in local observation wells and saltwater intrusion in wells.

2.2.7 As a consequence of climate change or other, where council determines there is evidence that consumption exceeds recharge in the greater part of the trust area, council may, by council bylaw, regulate freshwater consumption for the entire of the trust area. Evidence of consumption exceeding recharge includes, but is not limited to, reduced year to year average levels in local observation wells and saltwater intrusion in wells.

2.2.8 Cognizant of both i) current seasonal variation and ii) anticipated, water supply and demand; in precautionary trust body deliberations and land use decisions which directly affect, or may indirectly affect, the quantity or quality of groundwater from current drilled or dug wells, neither the density nor intensity of land use shall be increased in areas where the quantity or quality of groundwater is likely to be compromised, inadequate or unsustainable with increased groundwater extraction.

2.2.9 Cognizant of both i) current seasonal variation and ii) anticipated, water supply and demand; in precautionary trust body deliberations and land use decisions which directly affect, or may indirectly affect, the quantity or quality of surface water; neither the density nor intensity of land use shall be increased in areas where the quantity or quality of surface water which may be used as potable water is likely to be compromised, inadequate or unsustainable with increased surface water extraction.

2.2.10 A regulated groundwater management area for a buffer zone contiguous with the natural boundary of trust area islands shall be considered by trust bodies. Regulation will include provision to:

- (a) meter the rate and total of groundwater extraction and publish said data
- (b) limit the density of drilled wells and where indicated by i) evidence of salt water intrusion or ii) other indicators that groundwater consumption exceeds recharge; preclude new drilled wells
- (c) require a local trust area register of drilled wells in the groundwater management area adjacent the natural boundary
- (d) require the report of a registered professional hydrogeologist for new wells, wherein the pump down test record of water quantity shall include a record of extracted water salinity and be done during the time of summer drought and at a low tide. For certainty, pump down tests to demonstrate water quantity shall not be done at a time of rising tide such that the rising tide has the effect of augmenting an apparent well recharge capability.

2.2.11 A regulated groundwater management area for the interior of trust area islands, contiguous with the natural boundary buffer zone of policy 2.2.10, may be considered by trust bodies. Regulation will include provision to:

- (a) meter the rate and total of groundwater extraction and publish said data
- (b) limit the density of drilled wells and where indicated by i) evidence of salt water intrusion or ii) other indicators that groundwater consumption exceeds recharge; preclude new drilled wells
- (c) require a local trust area register of drilled wells in the groundwater management area
- (d) require the report of a registered professional hydrogeologist for new wells, wherein the pump down test record of water quantity shall include a record of extracted water salinity and be done during the time of summer drought.

2.2.12 The transition between the natural boundary buffer groundwater management area of policy 2.2.10 and the island interior groundwater management area of policy 2.2.11 will be determined by a transition from a positive correlation between daily sea tide levels and the static water level in drilled wells, in the natural boundary buffer groundwater management area and a lack of such correlation for the contiguous island interior groundwater management area. Where a positive correlation persists for wells in the interior of the island, then the entire island shall be part of the natural boundary buffer groundwater management area of policy 2.2.10.

2.2.13 Applications for increased density should not be supported where the source of potable water is a drilled well and i) the subsurface must be artificially fractured in order that adequate quality and quantity be proven, or ii) where a pump down test cannot be done due to probable adverse effect on the quality and quantity of potable water in nearby wells.

2.2.14 Before an application for increased density proceeds, where the source of potable water is a drilled well and the subsurface has already been artificially fractured in order to prove sufficient water quality and quantity, the onus shall be on the applicant to demonstrate no adverse effect of artificial fracturing on the quality and quantity of potable water in nearby wells for each of i) a duration and ii) the proximity to nearby wells; which is established by regulation.

2.2.15 In applications for changes in land use where the source of potable water is or has been, in part or entirely, a drilled well or wells, registering the well or wells with the ministry of the environment and fixing a well identification plate to the subject well or wells should be a condition of approval for said change in land use.

2.2.16 Policy and regulation of freshwater use in the trust area shall minimize potential for adverse effects to i) the quality of water in ponds, lakes, streams and wetlands and to ii) in-stream uses including, but not limited to, fish and fish habitat uses, indigenous cultural and spiritual use and to iii) aesthetic and recreational uses.

2.2.17 Trust body deliberation and decisions respecting both i) ocean source and ii) land source brackish water desalination plants, shall give priority to alternative land based sources of potable water. If a water desalination plants is deemed necessary, priority shall be given to environmentally responsible disposal of the effluent concentrate, in particular but not limited to, adverse effects on the ecosystems of the water or land receiving the effluent concentrate. The design and implementation of desalination plants and associated infrastructure shall be regulated.

2.3 Forest Stewardship Policies of the Trust Policy Statement

2.3.0 Forest stewardship policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.3.1 Council is encouraged to develop a forest management plan for the trust area which will enable sustainable small scale extraction while giving priority to the long term health of forest ecosystems; in part by protecting unfragmented forest ecosystems, on a scale of forest stands and landscapes, from adverse consequences of the built environment.

2.3.2 Large land holdings and parcel sizes shall be retained to enable sustainable forest harvesting practices. The location of roads and utility corridors shall be directed so as to minimize the fragmentation of forests.

2.3.3 Guided by the provincial ministry of the environment's assessment of ecosystem health and species at risk, protected forest ecosystem reserves may be designated where extraction will be limited in order that the preservation of native biodiversity and corridors not be compromised.

2.4 Agricultural Land Stewardship Policies of the Trust Policy Statement

2.4.0 Agriculture policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.4.1 Landowners engaged in best practices agriculture are valued for their contributions to food security and as stewards of trust area land.

2.4.2 Given the certainty of a climate emergency and the potential for uncertainties of transportation and distant sources of food, the 13% of trust area lands which are in the provincial agricultural land reserve shall be protected in the long term as a reserve and not treated as a resource for development.

2.4.3 Food sovereignty. Acknowledging first nations cultural heritage and ways of knowing, council affirms the right of residents of the trust area to healthy and culturally appropriate food produced through ecologically sound and sustainable methods and the right to define their own food and agriculture systems.

2.4.4 Agricultural capability shall be encouraged in the trust area where farming operations are small scale and give priority to local area food security, including but not limited to encouragement for vegetable gardens on land zoned for residential use.

2.4.5 Productive agricultural soils shall be protected, particularly but not limited to protection through bylaws relating to soil removal and deposit.

2.4.6 Regenerative agriculture. Farming based on of i) building soil health and fertility, ii) improved water percolation and retention, iii) increased biodiversity and ecosystem health and iv) reduced green house gas emissions; is encouraged for the trust area.

2.4.7 Road systems and servicing corridors shall be designed and constructed so as to minimize the fragmentation of agricultural lands.

2.4.8 Agricultural land shall be identified and preserved for current and future use, including but not limited to, preservation by support for inclusion in the agricultural land reserve.

2.4.9 The permitted land uses on adjacent properties shall minimize any adverse affects on agricultural land.

2.4.10 Applications to trust bodies or referrals by trust bodies for other use than agriculture shall not be supported on trust area land in the agricultural land reserve which is shown in mapping relied on by the agricultural land commission to include prime improved agricultural capability class 1 - 3 soils.

2.4.11 Applications to trust bodies or by trust bodies for exclusion from the agricultural land reserve shall not be supported where the subject land which is shown in mapping relied on by the agricultural land commission to include prime improved agricultural capability class 1 - 3 soils.

2.4.12 Land uses and activities that support the economic viability of farms, without compromising the agriculture capability of agricultural land, are encouraged for land in the agricultural land reserve which does not include prime improved agricultural capability class 1 - 3 soils shown in mapping relied on by the agricultural land commission.

2.5 Soil Stewardship Policies of the Trust Policy Statement

2.5.0 Soil stewardship policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.5.1 Productive soils in the trust area shall be preserved, protected and restored where necessary to restore productive capability.

2.5.2 In part, productive soils in the trust area shall be preserved and protected by regulatory bylaws related to soil removal and deposit.

2.5.3 Removal or excavation of soil or fill from middens or foreshore areas that have been identified as culturally significant areas, shall be prohibited.

2.6 Coastal and Marine Stewardship Policies of the Trust Policy Statement

2.6.0 Coastal and marine ecosystem preservation and protection policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.6.1 Appropriate locations for marine dependent land uses and means to prevent further loss or degradation of coastal and marine ecosystems; shall be identified.

2.6.2 Local trust area policies shall be given that preserve, protect, and support the restoration of eelgrass meadows, kelp forests, forage fish spawning areas, tidal salt marshes, mud flats, and coastal wetlands, acknowledging their multifaceted roles in supporting carbon capture and storage, soft shoreline protection, and the provision of habitats and spawning areas for coastal and marine aquatic species.

2.6.3 The location of buildings and structures in the trust area shall be directed such that they do not:

- (a) adversely impact sensitive coastal and marine ecosystems, naturally occurring stocks of shellfish, eelgrass meadows, kelp forests, forage fish spawning areas, tidal salt marshes, mud flats, coastal wetlands, middens, or archaeological sites
- (b) interfere with natural coastal processes
- (c) restrict first nations' access to traditional coastal and marine harvesting sites
- (d) restrict public access to, from, or along the marine shoreline

2.6.4 Establishment of commercial aquaculture tenures shall be dissuaded. The location and operation of commercial aquaculture tenures shall be directed so as to be away from areas:

- (a) of cultural, spiritual, archaeological, or recreational significance;
- (b) where an aquaculture operation would conflict with established or designated upland land uses, anchorages or moorages.

2.6.5 Opportunities shall be identified for the sharing of facilities such as docks, wharves, floats, jetties, boathouses, boardwalks and causeways.

2.6.6 Applications for new private docks shall be subject to demonstration by the applicant that dock construction and maintenance won't disadvantage marine environment ecosystems or public access to crown land below the natural boundary. Applications for new private docks should not be supported where a shared dock facility is available with road access to the upland parcel for the subject private dock application and where the island is served by B.C. Ferries. Applications for new private docks shall not be supported where restrictive ministerial order of forest lands, natural resource operations and rural development M329, effective 24 August, 2021 to 23 August 2023, or a successor restrictive order, has force and effect.

2.6.7 Applications for seawall and other hard shoreline armoring in the trust area shall be assessed to determine whether i) soft or ii) hard, shoreline structures or measures are appropriate to give erosion protection while minimizing adverse environmental effects. Soft shoreline protection is preferable in the Trust Area and the onus shall be on the applicant to demonstrate that hard shoreline protection is necessary.

2.7 Climate Change Policies

2.7.0 Directive climate change policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw.

2.7.1 Land use planners and trust area decision makers will accept and include in their advice and deliberations; the science and measurements relied on by the provincial ministry of the environment for the cumulative effects of i) geology and other in the long term and ii) climate change in the short term which indicate that the current rate of increase of iii) annual average and iv) peak seasonal ocean levels in the trust area is expected to rise more rapidly in the scale of a human lifetime.

2.7.2 Anticipating i) increased development pressure and drawdown of groundwater and both ii) sea level rise and iii) prolonged summer drought as a consequence of climate change; precautionary council policy will anticipate the cumulative adverse effects on groundwater quality and quantity. Adverse effects include but are not limited to iv) an inward migration from the coast of the freshwater – saltwater transition for trust area island aquifers and v) saltwater intrusion for groundwater wells.

2.7.3 Anticipating more intense winter rainfall and summer drought, storage of surface water is encouraged.

(a) Where water storage is a pond or lake which may be used as a source of potable water, there shall be a setback buffer free of built environment.

(b) Where new subdivided lots will be adjacent water storage under subsection (a) the buffer land contiguous with the water storage and the subdivided lots shall be owned by the regional district and shall be both i) protected by restrictive covenant and ii) regulated, so as to preclude public access.

(c) Where agricultural land use is contiguous with water storage under subsection (a), the buffer land shall not be fertilized and shall be fenced to prevent livestock access to the potable water.

2.7.4 Anticipating more intense winter rainfall, applications for changes in land use will be assessed for adverse effects, including but not limited to potential for flooding and land erosion. Where adverse effects would be exacerbated by tree and vegetation removal, precautionary protective measures such as restrictive covenant and regulation shall be considered by advice givers and by decision makers.

2.7.5 Anticipating ocean level rise as a consequence of climate change, a buffer is required between the natural boundary and the built environment, which will minimize risk to the built environment within reasonable estimates of the duration of functional usefulness for structures. The buffer will have sufficient horizontal extent to accommodate storm surges and landward migration of the natural boundary.

2.7.6 Means shall be identified to reduce the climate vulnerability of communities, including nature-based solutions and actions that prioritize:

- (a) protection of the carbon capture and storage capacity of natural areas
- (b) low-carbon housing, buildings, transportation and agriculture
- (c) preservation, protection, and restoration of biodiversity
- (d) freshwater sustainability
- (e) wildfire risk mitigation

2.8 Heritage Preservation and Protection Policies

2.8.0 Heritage preservation and protection policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.8.1 Natural heritage sites shall be identified, preserved, protected and the restoration thereof supported.

2.8.2 In cooperation with first nations and other government agencies, indigenous cultural heritage shall be identified, preserved, protected and the restoration thereof supported.

2.8.3 Local community heritage shall be identified, preserved, protected and the restoration thereof supported.

2.9 Rural Island Planning Policies

2.9.0 Rural island planning policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.9.1 Land use planning techniques appropriate to urban design, particularly for those lands subject to a regional district growth plan, are not necessarily appropriate to trust area island land use planning.

2.9.2 New development shall not be encouraged which is based on a compact, complete and connected urban fringe development model, or a conservation subdivision model, or similar model which concentrates the built environment for other than special needs housing. Each model establishes a contiguous area free of built environment at the time of development, protected from further development by means of a restrictive covenant. Typically, the covenant signatories are landowner and local trust committee; each with potential future cause to reduce or eliminate the covenant restrictions. Each model has the effect of concentrating groundwater access and sewage disposal, so increasing potential for reduced groundwater access and sewage disposal in adjacent lands. Decision makers must recognize the unspoken advantage of concentrating the built environment - namely preservation and protection of development potential - and carry out the trust object instead.

2.9.3 Given that the built environment on many trust area islands already includes areas of more dense and less dense residential development with a density ratio of tenfold or more, new development shall not concentrate dense development so as to minimize the sociodiversity implicit in a wide range of residential densities now available on most islands.

2.9.5 Appropriate density limits shall be established for sustainable use of the land base which will safeguard protected ecosystem areas, freshwater sustainability, a healthy marine environment and indigenous cultural heritage in the trust area.

2.9.6 Areas hazardous to development shall be identified, including areas subject to flooding, erosion or slope instability and strategies given to direct development away from such hazards.

2.9.7 Appropriate local trust area locations shall be identified with safe public access to:

- (a) educational, institutional, health-related, community and recreational facilities and services
- (b) bicycle, pedestrian, and equestrian trail systems
- (c) community marinas, boat launches, docks, and anchorages that are small scale, sustainable, and that do not compromise the integrity of protected areas, terrestrial and aquatic ecosystems, indigenous cultural heritage, or indigenous access to coastal and marine harvesting areas.

2.9.8 Destination gaming facilities such as casinos and commercial bingo halls shall be prohibited in the trust area.

2.10 Policies for Land Zoned Residential and Housing Policies

2.10.0 Policies for land zoned residential and housing policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.10.1 Where land is zoned residential and the residence is unbuilt, the necessary environmental impact of a residence may be avoided for a willing landowner by giving the landowner a reasonable use of land for structures on a part of the unbuilt land with requirement for screening of structures if indicated.

2.10.2 Where land is zoned for both residential and agriculture principal uses and neither principal use is implemented, the environmental impacts of a residence and agriculture may be avoided for a willing landowner by giving the landowner a reasonable use of land for structures on a part of the land which would have been used for a residence and agriculture, with requirement for screening of structures if indicated.

2.10.3 Decision makers shall address land use for special needs housing by identifying appropriate locations where density increases consistent with the local government act could support special needs housing, while safeguarding predominantly rural character, protected area networks, freshwater sustainability, a healthy marine environment, and indigenous cultural heritage.

2.10.4 Commercial use of trust area land zoned for residential use shall be regulated in order that the effectiveness of the principal residential use for housing long term local residents not be compromised. If short-term rental for residential use of a part of, or the entire of; a residence where i) the owner is not resident on the parcel or ii) the parcel does not include the owner's principal residence, or both i) and ii); said rental shall be dissuaded by effective regulation and enforcement of regulation.

2.10.5 The effects of trust area residence floor area on consequent greenhouse gas emissions, sociodiversity and biodiversity, climate vulnerability, indigenous cultural heritage and the cumulative effects thereof shall be assessed and where indicated, regulation shall limit floor area to carry out the object of the trust.

2.10.6 Trust area businesses shall be encouraged to acquire and use existing residences to house employees of said businesses, subject to:

(a) Where the need for employees would require an extent of land zoned for residential use, which may disadvantage the residential zone land use expectations of adjacent property owners, then the subject business owners shall be encouraged to provide employee housing within the land area zoned for the business.

(b) Where business use of land is anticipated by application, decision makers shall consider the application more favourably where employee housing will be provided within the land area to be zoned for the business.

(c) Where there is an application for business use of land and the number of employees disclosed in the business plan are such that the criteria of subsection (a) are anticipated, then the owner shall be required to provide employee housing within the land area zoned to be for the business.

2.11 Transportation Policies

2.11.0 Transportation policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.11.1 Community groups shall be encouraged to prepare a transportation plan for land use in each local trust area which connects inter-island ocean transport including but not limited to that given by B.C. Ferries, with island road and trail networks.

2.11.2 Community groups shall be encouraged to prepare a transportation plan for land use in each local trust area which will recommend trail routes both adjacent to roads and off road for the primary purpose of transportation and secondary purpose of recreation. Said plan will give preferred design criteria for the trails, including trail width and permeable surfacing material appropriate for lower speeds than on island roads and intended primarily for trail sharing by pedestrian, horse and non motorized vehicles. Where appropriate and safe for other pedestrian, horse and non motorized vehicles; trail design for electric motor powered two and three wheeled vehicles may be accommodated. Said plan will also address shared vehicle use on roads so as to encourage reduction of the number of island private vehicles. Said plan will encourage the transition of vehicles from fossil fuel power to electric power, by means such as land zoned for charging stations and other amenities favourable to both shared vehicle and electric vehicle use.

2.11.3 For deliberation on applications to change land use, decision makers in local trust areas shall be cognizant that road location, construction and maintenance, including maintenance of utilities as may accompany roads, do not adversely impact the integrity of protected ecosystems, contiguous forests, watershed ecosystems, freshwater networks, groundwater recharge areas, agricultural lands, coastal and marine areas, or indigenous cultural heritage in the trust area.

2.11.4 A classification system of rural roadways, including scenic or heritage road designations shall be developed.

2.11.5 Appropriate locations for the landing of emergency helicopters shall be identified.

2.12 Utilities Policies

2.12.0 Utilities policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

2.12.1 In applications for changes in land use which would require provision of utilities which are usually placed overhead on poles, burying the same utility below ground may be considered as a condition of approval for said change in land use; for the purpose of minimizing both initial construction disturbance and ongoing maintenance disturbance to trees and vegetation, as well as minimizing the adverse aesthetic consequence of utility provision.

2.13 Discarded Materials Policies

2.13.0 Discarded materials policies of the trust policy statement are subject to the implementation policies of the schedule attached to this trust policy statement bylaw and where policies are named directive, subject to trust area regulation.

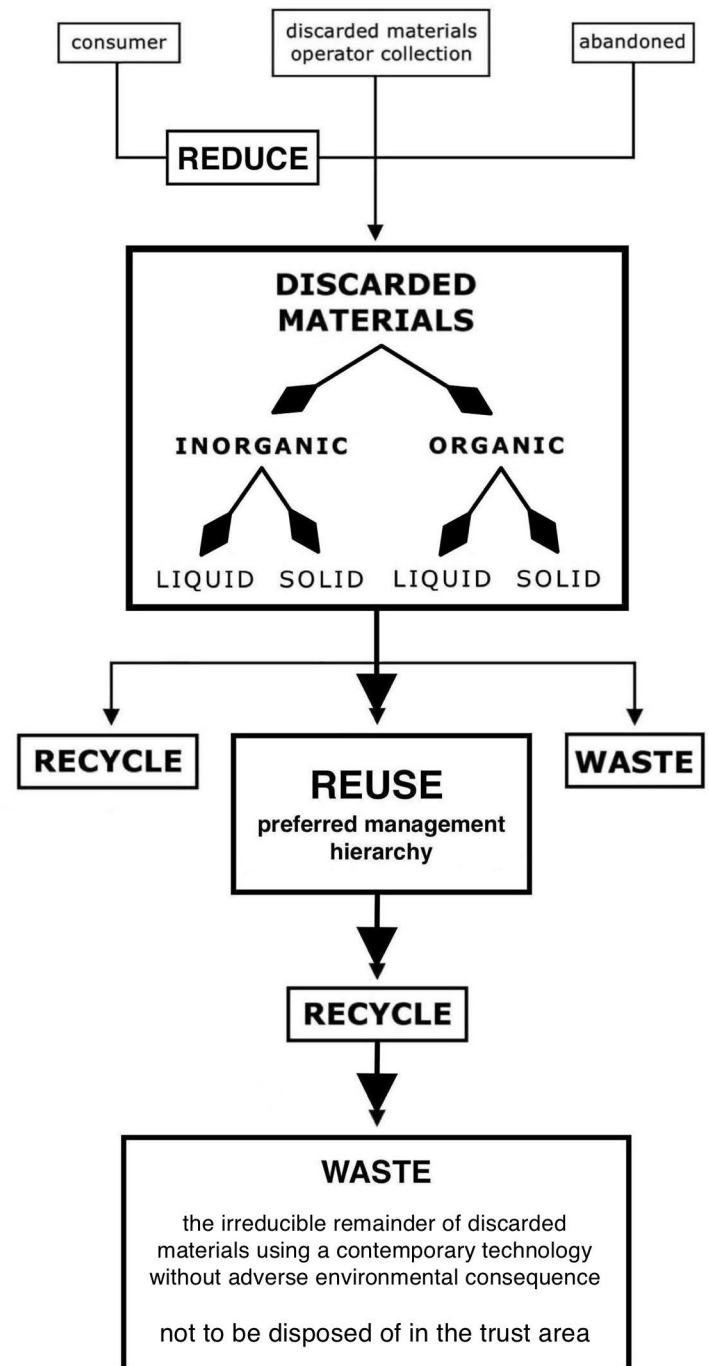
2.13.1 Solid and liquid discarded materials, be they organic or inorganic, shall be regarded as a resource to be managed in appropriately zoned land for the purpose in each local trust area.

Discarded materials shall not be assumed to be waste simply because they have been discarded.

See Figure 2.13 – 1.

Before the Islands Trust, discarded goods were usually regarded as "waste" and disposed of in personal or municipal landfills.

Today, the societal and provincial imperative is for the consumer to reduce consumption, to enable reuse of goods where practical and if not, to recycle the goods or their parts. The irreducible remainder using contemporary technology is "waste".



2.13.2 The source of discarded materials on a trust area island may be any of, but not limited to: abandoned materials, residential, commercial, institutional or excavated roadworks spoils.

2.13.3 Discarded materials may be managed by the use of land, buildings and structures to receive, sort, store, process, compact and transfer said discarded materials.

2.13.4 Discarded materials should be hierarchically managed with reuse the first consideration and recycling the second. See Figure 2.13 – 1.

2.13.5 Where discarded materials are suitable for reuse or recycling, there should be provision for the retail sale of reusable or recycled discarded materials in those local trust area industrial zones designated for the management of discarded materials.

2.13.6 Where discarded materials have been managed and designated as waste, said waste shall not be disposed of in the trust area and local trust area land shall not be zoned for the purpose.

2.13.7 Where discarded materials have not been managed to maximize the reuse and recycling components but are nevertheless considered de facto waste, said materials shall not be disposed of in the trust area.

2.13.8 Local trust area land considered for a discarded materials management use shall not be viable farmland and for certainty, shall not be in the agricultural land reserve and shown in mapping relied on by the agricultural land commission to include prime improved agricultural capability class 1 - 3 soils.

2.13.9 Local trust area land considered for a discarded materials management use shall not be in a groundwater recharge area where the soil has a relatively high permeability for water flow.

2.13.10 Local trust area land considered for a discarded materials management use shall be regulated to ensure discarded liquid material does not leach to the soil.

3. Unique amenities of the trust area

3.0 Unique amenities are identified in inter agency agreements, council resolution, or other. The unique amenities of the trust area identified in this trust policy statement bylaw will be used to interpret the trust object.

3.1 The small scale of built environment in predominantly rural communities, which does not detract from the scenic attributes of the trust area, is one of the unique amenities of the trust area to be preserved and protected.

3.2 Indigenous cultural heritage is one of the unique amenities of the trust area.

3.3 Consistent with the object of the trust and recitals of the 1996 protocol agreement on agricultural land reserve lands in the trust area, the agricultural land reserve is one of the unique amenities of the trust area.

Schedule for the Trust Policy Statement bylaw

Implementation Policies for policies of the Trust Policy Statement

- i) Policies of Section 1 of this bylaw are to be implemented in the entire trust area by trust bodies and by the employees of council in the day to day business of the trust, including but not limited to staff advice to decision makers and the deliberations and decisions of decision makers.
- ii) Policies of Section 2 of this bylaw are to be implemented by trust bodies and by the employees of council in the day to day business of the trust, including but not limited to staff advice to decision makers and the deliberations and decisions of decision makers; save and except where a local trust area has petitioned council to absolve, given a 2/3 majority council vote, the local area jurisdiction from responsibility to implement the subject policy, or a part thereof, for the entire of the petitioning local trust area, or a part thereof.
- iii) Policies of both Section 1 and Section 2 of this bylaw which are indicated as directive policies are subject to a council regulatory bylaw corresponding to this trust policy statement bylaw.
- iv) Where this trust policy statement bylaw, or an amendment thereto, contains directive policies, council shall adopt a regulatory bylaw corresponding to this trust policy statement bylaw within two years of council's adoption of this trust policy statement bylaw, or the amendment thereto.
- v) All staff reports which advise decision makers respecting a change in land use or a policy change, shall detail relevant trust area policies and where applicable, the corresponding address in official community plan and regulatory bylaws of the local trust committee or island municipality jurisdiction.
- vi) Where a trust area policy requires an action not within the local trust committee or island municipality jurisdiction, implementation for that policy shall consist of advocacy in official community plan policy which quotes the subject policy and details the necessary statutory changes or inter-agency agreements for the subject policy to be implemented.
- vii) Where a local trust committee or island municipality refuses instruction from trust council to implement one or more policies, then trust council reserves the right to withhold sums from the budget allotment to the local area jurisdiction and to the responsible land use planning authority, until such time as the instruction is carried out.