

From: Islands2050
Sent: Tuesday, June 29, 2021 4:05 PM
To: Islands2050
Subject: FW: request for a re-set of the consultation process on the Islands Trust Policy Statement amendments

From: Jane Morley [REDACTED]
Subject: request for a re-set of the consultation process on the Islands Trust Policy Statement amendments

Date: June 27, 2021 at 9:50:25 PM PDT

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Dear Trustees:

I urge you on July 8 to vote against First Reading of the amended Islands Trust Policy Statement, and instead seize the opportunity for a reset - a totally revamped and fulsome consultation process, that leaves residents and Indigenous peoples feeling heard.

My circumstances

I have owned a water-front home on Pender Island since 1977, and it has been my only residence since 2008. Despite careful water use and considerable storage for excess winter water, my well runs dry in the summer months, and my stored water is insufficient for my needs. After several years of importing water from Vancouver Island, my late husband and I decided to install a small desalination plan. It is powered by electricity.

My connection to this process

I do not follow the Islands Trust website and was unaware of the amended Islands Trust Policy Statement until very recently when a neighbour told me about it because he knew I had a desalinator. I have now read the materials provided – both the criticisms from concerned Gulf Island residents and the Islands Trust staff's responses. I am left with questions that I believe should be answered before a policy decision of this potential impact is made.

My desalination plant, will become a non-conforming use under the policy, so my interests are not directly challenged. Still, with climate change, my issue with water supply may increasingly become a problem for other island residents. The Policy Statement covers more than desalination plants, but that provision is an example in that demonstrates a serious problem with the process, and quite possibly with the governance set-up of the Islands Trust. So I write as a concerned citizen.

Reconciliation and Indigenous consultation

I congratulate the staff for starting the process of engaging with First Nations as partners in stewardship of the Islands of the Salish Sea and surrounding waters and ecosystems. The staff's memo on their Indigenous consultation is a useful document that captures important principles. Still I am very concerned that conversations with some representatives from some First Nations about general principles is being used here in a way that will polarize rather than reconcile. Staff communications imply that opposing the Policy Statement is opposing the wishes of our Indigenous neighbours. But to what extent can the staff's First Nations consultation process allow us to assume that First Nations support the detailed policy provisions in the Statement? In particular, in relation to desalination plants:

- Were First Nations consulted about whether they should be prohibited?
- If so, when were the consultations and what was said?
- Was the degree of harm done by desalination plans discussed? If so, what was said?

It is not clear to me why the consultation with First Nations has to be mediated through and interpreted by the Islands Trust staff. Why not have a consultation process that is in person, widely publicized and involves First Nations and Settler residents?

An example of why the detail matters

Before reading it, I had assumed that an Islands Trust Policy Statement would be a general statement of guiding principles, and as I read the amended Statement, I found myself agreeing with the general principles articulated there:

- promoting reconciliation with Indigenous peoples
- taking an evidence-based approach that includes Indigenous ways of knowing
- responding to the climate emergency
- conserving natural areas, and
- providing affordable housing on Pender and the other Gulf Islands.

I read them in the context of the overall statutory object of the Islands Trust to “preserve and protect the trust area and its unique amenities and environment **for the benefit of the residents of the trust area** and of British Columbia generally” and recognized that articulating guiding principles still requires balancing those principles with the interests of residents when applying them to specific policy decisions.

Had the Statement of Policy stayed at the level of guiding principles, I would have been content, but I was surprised to read that the document had implanted within it some very detailed policy provisions that bind the local trust committees. For example: “4.2.9 *Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, prohibit desalination plants in the Trust Area.*” [Emphasis added by me.] I don’t see how else to read this than as a very significant centralizing of decision-making, taking away the discretion of the local islands to balance the guiding principles in the context of their particular island and in consultation with local residents. I saw in a Q and A that bylaws will still need to be introduced locally, but does that mean anything if the Policy Statement is so prescriptive?

I also read, with approval, the assertion that decisions should be made on the basis of evidence, including scientific evidence and Indigenous ways of knowing. But this led me to the question, what scientific evidence or Indigenous ways of knowing support the prohibition of de-salination plants?

The only justification for this provision that I could find in the materials was the following:

4.2.5: It is Trust Council’s policy that desalination plants should not be permitted in the Trust Area due to their high energy demands and adverse impacts to coastal and marine ecosystems.”

The first part of this explanation is highlighted in the document in green, which I believe means it relates to the ‘climate emergency’ guiding principle; and the second part in blue relating it to the ‘conserving natural areas’ guiding principle.

I am left puzzled. Yes, the desalination pump I have uses electricity, but electricity is the cleanest energy alternative, and is not significantly adding to carbon emissions. If I had to continue to truck water to Pender, I would be having a more negative impact on the environment than with my desalinator. Or is the Islands Trust trying to regulate the use of electricity? If so, with what authority and why pick on desalination plants?

The answer must be in the second part of the explanation - that taking water for personal use from the sea, and extracting salt from it, somehow impacts on the coastal and marine ecosystem. I am not a scientist, and perhaps there is evidence of this. If so, I would like to see it. Or if there is some Indigenous knowledge about the effects of desalination processes I would welcome being told about? If the desalination plant is having an adverse impact, then how big an impact does it have? How is that balanced with the need of residents for fresh water? If these questions have been asked, I would like to see the answers. If they haven’t, they should be, and into the mix should be brought the principle of the benefit of the residents who may now, or in the future, face water shortages.

A flawed consultation process and a way forward

I accept that from the point of view of the Islands Trust staff, they have have worked long and hard at a consultation process. But does that mean it has been a success, leaving people feeling heard? I don't think so. I have spoken to many people on Pender who are surprised and concerned about the extent to which the prescriptive provisions of the Policy will tie their hands as land owners.

Staff point out that it is not unusual for residents to pay more attention when the details are given. There is a reason for that. It is in the details that the Devil lies. If the consultation process has been only about the general principles and leaves out how those principles will be applied, it is not a sufficient consultation process. Were the staff's earlier consultations about general principles or specific provisions?

I know that the kind of fulsome consultation process I envision will have to wait until the COVID restrictions are lifted and will take time and will not be easy. But what is the hurry? Rather than rushing through First Reading, would it not be better to ask why so many residents feel unheard, and learn from the experience, welcoming a completely different approach to consultation that takes into account the lessons learned from the failures of this process to date?

The staff point out that it is only First Reading and changes can be made afterwards. But approving First Reading is a statement of support by the Council, and changes that are made after First Reading are historically minor.

I understand that the Trust is looking at reviewing its governance policies. Governance includes meaningful consultation. Perhaps exploration of the issues of Island Trust governance can and should be rolled into a process that builds on the heightened interest among residents and truly engages citizens about the fundamental issues facing the Islands Trust.

Sincerely,

Jane Morley QC (she/her)
Access to Justice BC

Website: www.accesstojusticebc.ca

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I acknowledge with gratitude my location on the unceded traditional territory of the WSÁNEĆ peoples