

From: MICHAEL SKETCH [REDACTED]
Sent: Sunday, December 12, 2021 9:22 PM
To: Sue Ellen Fast; Michael Kaile; Scott Colbourne; Kees Langereis; Tahirih Rockafella; Jane Wolverton; Kate-Louise Stamford; Alex Allen; Grant Scott; Peter Johnston; Timothy Peterson; Jeanine Dodds; David Maude; Benjamin McConchie; Deb Morrison; Laura Patrick; Peter Grove; Paul Brent; Lee Middleton; Cameron Thorn; Doug Fenton; Peter Luckham; David Critchley; Dan Rogers; Steve Wright; Laura Busheikin
Cc: Islands2050; Russ Hotsenpiller; Carmen Thiel
Subject: Federal governance oral delegation submission from M Sketch to Council for 01Dec2021
Attachments: M Sketch oral delegation submission to trust council for 01Dec2021.pdf

Councillors - My 'federal governance' oral delegation submission to Council for 01Dec2021, read in person at the Victoria Coast Hotel, is attached. The text and appendix argument is more clear than in the written delegation version printed in the quarterly meeting agenda package.

In my delegation submissions to Council for Sep2021 and now Dec2021, I argue that failure of the Trust to effectively implement policies of Trust Council to carry out the Object of the Trust (Trust Policy Statement rewrite, Sep2021) is in part due to failure of the Trust to implement the two level, hierarchical federal governance established in the Islands Trust Act (Dec2021). I have recommended remedy for each failure. The force and effect of each remedy relies on appropriate Council direction to the (staff) employees of Council.

Michael Sketch
North Pender Island
ph: [REDACTED]

**Delegation submission to Council from Michael Sketch
for an electronic quarterly meeting,
1:00 P.M. session on Wednesday, 1 December, 2021
at the Coast Victoria hotel, 146 Kingston St.**

**Constructive criticism of the current implementation of
Islands Trust governance, with remedy for compliance
with the federation structure established in the Act**

Councilors – Last Council meeting, I asked that my rewrite of the trust policy statement – or a functional equivalent – replace current draft bylaw 183.

Today, I ask that direction be given to staff to implement the federal governance established in the Act.

Until recently a defining sentence similar to: ‘The Islands Trust is a federation of special purpose local governments’ was prominently published.

The provincial government website concurs; introducing the Islands Trust as: “The Islands Trust is a federated body ...”

But on today’s trust website, the word “federation” has been omitted and the Islands Trust is described as a special purpose government. Some say the simpler language is in the public interest, lest the public be confused.

But why would the public be confused? An Islands Trust communications specialist could devote an explanatory paragraph to federal governance. Then explanation as to trust implementation.

Before answering (see post script), an introduction to federal governance.

The overview is that Islands Trust governance takes its statutory lead from both i) Canadian national and ii) provincial regional district, federal governance models.

A federal governance is two level and hierarchical.

Loosely put; for Canada, Ottawa and the provinces.

For British Columbia, regional district boards and the municipalities.

For the Islands Trust, trust council and the local trust areas.

That’s the statute. Now for Islands Trust implementation.

I argue that for decades the trust hasn't embraced federal governance at all. I'll call it a 'reverse federal governance'. Governance is upside down.

We say no to provinces who assert independence from the Canadian federation. We say no to municipalities who would dictate terms to the regional district board respecting a regional growth plan.

But for the trust, the local planning service has come to take precedence over both trust council and the trust area services administration.

Witness the local planning service accounts for 75% of the trust budget. Witness the pattern of local planning service initiatives agreed by Council without serious deliberation. Witness that the staff person responsible for Council's policy statement bylaw 17 is the director of local planning services, not the director of trust area services.

The consequence of 'reverse federal governance' is that the checks and balances attributed to hierarchical federal governance are lost. The extremes of conflicting interests in local planning services won't be softened by trust area services. Absent effective trust area oversight, the potential for delivery of in house, arms length, expert advice from trust area staff to the local planning service is lost.

How has the trust got federal governance so wrong?

I think history was definitive. In the trust beginnings, land use planning was done by the regional district, then the trust, then the minister and finally back to the trust. Once securely in house, the local planning service grew ever more influential, while a trust area service remained in the wings.

It was 1989 before the trust policy statement was legislated. The trust object and policy statement were and are the instruments of federation. It should have been time for the trust to shoulder its federal governance responsibility.

But in that historical context, land use planning administration was the focus; not implementation of federal governance.

Failure of the current and proposed trust policy statement to effectively implement trust area policies in day to day local area trust business, is exacerbated by the lack of trust area service oversight; the lack of federal governance. (See Appendix 1).

While staff advice and local trust area decisions may rely on trust area policies, they need not do so. A profound failure of current trust governance.

Councilors; yours should be a watershed term. There is a palpable resolve to correct the path of the trust; to encourage the potential of the Act.

Although neither were invited by the Islands Trust Act, there are two elephants at the trust area policy table:

i) the need to rewrite draft policy statement bylaw 183, in order that the bylaw directly informs the day to day business of trust bodies with trust area policies (see Appendix 2) and

ii) the need to implement a two level, hierarchical federal governance, with oversight of local area land use planning by expert staff in disciplines which guide rural environmental land use planning on islands, as opposed to planning for mainland urban growth.

Cooperating, the elephant trunks have been far too effective at vacuuming trust area policies before they could do their job of preserving and protecting.

In anticipation, thank you for deliberating and addressing these matters so important to effective trust area governance.

Michael Sketch
North Pender Island
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Postscript

As I began studying trust governance, I was puzzled by the local planning service emphasis on autonomy for local trust areas. Trust area policies and therefore the trust object – the instruments of federation - were too often an afterthought in land use changes. From the public perspective, the trust leaned more to confederation than to a federation. That is, the trust appeared to be a union of independent local trust areas, a confederation unfettered by trust area policy and the trust object.

Therefore in submissions to Council, I incorrectly described trust governance as a combination of federation and confederation. I don't think I've been alone in my confusion.

Herein corrected.

Appendix 1 – Federal governance policies 1.1.2 and 1.1.3 from the draft policy statement bylaw, version 3.5, 09Sep2021, submitted as an appendix to the oral delegation submission from M. Sketch to Council on 21Sep2021.

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.

Appendix 2 – Excerpts of the Act and consequence for day to day actions of local trust committees.

4(1) The trust council ... local trust committees ... are continued for the purpose of carrying out the object of the trust.

15(1) The trust council must, by bylaw, adopt a trust policy statement that applies to the trust area.

15(2) and 15(2)(a) The trust policy statement must be a general statement of the policies of the trust council to carry out the object of the trust

Taken together, these excerpts from the Act require continuing local trust committees to act in accordance with policies of the trust policy statement and to do so in the day to day business of the local trust area.

End of appendices and this oral delegation submission
from Michael Sketch to Council for 1 December, 2021.