

**From:** MICHAEL SKETCH [REDACTED]  
**Sent:** Sunday, February 12, 2023 8:25 PM  
**To:** Judith Gedye; Sue Ellen Fast; David Graham; Sam Borthwick; Susan Yates; Tobi Elliott; Ben Maberley; Lisa Gauvreau; Joe Bernardo; Kate-Louise Stamford; Alex Allen; Grant Scott; Mikaila Lironi; Timothy Peterson; Jeanine Dodds; David Maude; Aaron Campbell; Laura Patrick; Mairead Boland; Lee Middleton; Dag Falck; Kristina Evans; Ken Hunter; Peter Luckham; Deb Morrison; Jamie Harris  
**Cc:** Russ Hotsenpiller; Stefan Cermak; Clare Frater; Dilani Hippola; Islands2050  
**Subject:** M Sketch delegation submission for 06Dec2022 and draft 2.16 of TPS rewrite  
**Attachments:** TPS draft V.3.16 mgms 03Feb2023.pdf; M Sketch delegation for Council edit 31Jan2023 for 06Dec2022.pdf

**From:** Michael Sketch, North Pender Island

**To:** Councilors and senior staff at the Islands Trust Fort St., Victoria office

**Date:** 12 February, 2023

**Comment:** This material is sent today, in order that the arguments be available to Councilors when considering the staff recommendation [REDACTED] for the March 2023 Council meeting to continue with Council's TPS amendment project without a TPS rewrite. Without a TPS [REDACTED] rewrite, Council would continue delegating their responsibility for the implementation of Trust Area policies to the Local Area [REDACTED] jurisdictions, where policies may be implemented, or reason given not to implement. With the TPS structure corrected, current [REDACTED] TPS implementation policy 1.3.1 would be redundant.

**Subject:** i) Full text of delegation submission to Council for 6 December, 2022; which was shortened for the oral presentation and ii) submission of my draft TPS rewrite for Council's consideration. The draft TPS rewrite does not delegate Council's responsibility to directly implement the Object in its TPS bylaw.

Councilors - Two Council terms ago, I gave delegation submissions with examples from Trust Area Islands where the Object hadn't been carried out. The consequence was failure to preserve and protect, or offence to Provincial law, or both.

In the last Council term, I gave remedy for the failures:

1) correct the structure of the Trust Policy Statement (TPS) by rewriting the TPS such that Council's TPS bylaw doesn't delegate "directive" policies to local Trust Area jurisdictions for implementation - or not. I've submitted rewrite drafts.

and 2) implement the two level, hierarchical governance established in the Act, with its advantages of check and balance. Trust Area Services has no oversight over Local Planning Services.

The obvious question for Councilors is: How was TPS structure introduced and why?

My delegation submission for 6 December, 2022 is attached, from which a necessarily shorter oral version was given:

"On the history of structure for Council's Trust Policy Statement (TPS) bylaw with policy implementation delegated to Local Trust Areas, which can be ineffective in the legislated requirement to carry out the Trust Object"

In order that the Islands Trust be credible in its commitment to the Object, there must be a change in the status quo.

Borrowing from the attached submission:

### **A note on change**

In closing the argument against current TPS directive policies which delegate Council's responsibility to implement Trust Area policies, a note on change:

In last term's governance review, the consultant reported that to a person, Councilors believed in the Object.

For Council to cooperate in rewriting the TPS would be a renaissance for the Object. For change to come, Council must be that change.

Of course there is resistance to change in the status quo, but Islands Trust politics are changing. Witness Council's new governance committee.

Yes, there's been thirty years to start afresh on the TPS, but remember that democracy came to the French Republic decades after the guillotine.

Michael Sketch  
North Pender Island

**On the history of structure for Council's Trust Policy Statement (TPS) bylaw  
with policy implementation delegated to Local Trust Areas, which can be  
ineffective in the legislated requirement to carry out the Trust Object**

Councilors – I'll call Council's Trust Policy Statement bylaw 17 the TPS and will speak to the rationale and history of TPS structure. The consequence of TPS structure is that the TPS is not as effective as it could and should be in carrying out the Object. A rewrite of the TPS is indicated and my own draft is attached.

The structure<sup>1</sup> for the current TPS – and for the current draft amendment - dates from 1994 (Exhibit 1), in response to a 1989 amendment to the Act. It became the Council corporation's responsibility to carry out the Object by adopting a TPS bylaw and giving oversight for effective Trust Area policies. The Object and TPS are instruments of the Islands Trust federation, which is two level and hierarchical. Trust Council and Trust Area Services would preside over the Local Trust Areas and Local Planning Service.

In 1994, notwithstanding the provincial intention given in the Act that the Islands Trust is a federation, Council chose to use "directive" policies in the TPS, which delegate policy implementation to Local Trust Areas. Even though the policy component of directive policies was to be the heart of preserve and protect, Council gave local area jurisdictions the option of acting consistent with the directive policies, or giving reason not to do so.

Trust Area residents whose interests are affected by changes in land use and who rely on the face value of the Act's preserve and protect intention, might conclude:

*In delegating implementation to the local jurisdictions, a certainty intended in the Act that Council's TPS policies will have force and effect in the entire Trust Area, has been inappropriately translated to a requirement that there be certainty whether or not the local jurisdiction chooses to implement a TPS policy.*

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**1 Regional Growth Strategy model not appropriate for a Trust Policy Statement.** There is another important perspective here.

A regional district may – but is not obliged to and not within the Trust Area – require an overarching growth management plan for municipalities. A subset respecting protection of environmentally sensitive areas, of "Purpose of regional growth strategy" (RGS) in the Local Government Act; S.248(1) and S.248(2)(d) could be worded (Appendix 1): *The purpose of a RGS is to promote human settlement and without limiting that purpose, to the extent that a RGS deals with the matter, a RGS should work toward the protection of environmentally sensitive areas.*

Implementation of a RGS is intended to be flexible.

While 1994 Islands Trust staff experienced in municipal governance may have chosen to base TPS structure on the example of flexible implementation in a RGS, there is no such flexibility in the Act.

Using the RGS model to justify a flexible TPS implementation of the Object shouldn't be taken as a reasonable interpretation of the Act. The Trust 1992 -1994 record doesn't show use of an RGS rationale in the design of the drafts for a TPS bylaw and implementation policies, but the unwarranted flexibility for implementation of the Object is reminiscent of RGS flexibility.

See the RGS as an inappropriate reference for the TPS on page 4 of this delegation submission.

## **On directive policies**

Given the extent of policy types in the TPS, the exclusive significance of “directive policies” in the current TPS is stated in “Role of the Executive Committee”, respecting approval of local area draft bylaws: “The Committee cannot approve ... a bylaw if it is contrary to or at variance with a directive policy”

Again in “Role of Local Trust Committees” of the current TPS: “Local trust committees are not required to comply with any policy in the Policy Statement not stated as a directive policy.”

Each directive policy reads: ‘LTCs and Island Municipalities shall, in their OCPs and regulatory bylaws, address’; followed by the preserve and protect policy matter.

Again - Even though the policy content of directive policies was to be the heart of preservation and protection, Council gave local areas the option of acting consistent with the directive policies, or giving reason not to do so.

At best, the delegation of Trust Area policy implementation was a variation of the intent of the Act. The consequence is that the TPS bylaw is less effective at carrying out the Object than it could and should have been. A preferred TPS structure will not delegate Council’s obligations.

Therefore I submit that Council’s 1994 and 2022 choice of TPS structure satisfies the test of reasonableness. The TPS should be rewritten.

## **The historical and rationale contexts for the TPS bylaw**

The 1989 and current Act requires that Council adopt a TPS bylaw, but the Act doesn’t specify how Trust Area policies were to carry out - to implement - the preserve and protect Object.

The most direct application of federation governance would have had Council adopt policies which in and of themselves implement the Object for the Trust Area.

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But when Council deliberated the final draft for their new TPS bylaw in 1993 (Exhibit 3) in the light of public consultation, it appears was a compromise.

Some residents had lobbied for local autonomy and that Trust Area policies not be unduly prescriptive, from the local area perspective.

Although not guided by the Act, on the day, a perception of local autonomy was seen to motivate staff advice and then Council’s choice of TPS “directive policies”.

The consequence was that Council could have no certainty that local address of TPS policies would result in effective implementation of Trust Area policies.

Not in 1994 and not in 2022.

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Although in principle planning staff advice and LTC decisions are consistent with local bylaws, they need not be. Witness that an application for changes in land use can include an application to amend the OCP, the LUB, or both.

Worse still, Council’s lack of certainty that Trust Area policies will be implemented locally, is by design.

In the ‘Role of the Islands Trust Council’ section of the 1994 TPS bylaw (Exhibit 1), directive policies were enabled as follows:

*The OCP “must contain policies that tend to implement the policy” stated by Council unless the LTC “sets out explicitly in the plan the reasons and justifications for local policies that do not do so.”*

The same potential for TPS policy avoidance is repeated in today’s TPS and in the Trust Policy Manual; both 1994 and 2022. But there is no such ‘escape clause’ in the Act.

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Staff did recognize the potential for Trust Body and staff actions not being consistent with TPS policy, when policy implementation is delegated and reasons could be given by the local area for non-compliance.

The 1994 TPS Implementation Policy (Exhibit 2) required that:

*“all decisions and activities” of Trust Bodies “that have the potential for either furthering the implementation” of the TPS “or for not doing so, will be subject to a Compliance Audit”.*

It was to be Islands Trust staff who prepared the compliance audit.

Was this not the fox policing the henhouse?

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**A Regional Growth Strategy given in the Local Government Act for Regional Districts is not an appropriate model on which to base the TPS design.**

The flexibility which Trust staff recommended in 1993 - and recommend today - for implementation of the Trust Object in TPS structure is astonishing, given the certainty of the Act.

Council and the LTCs are established and are continued for the purpose of carrying out the Object and Council shall adopt a statement of general policies to carry out the Object. That's unambiguous Islands Trust law, effective in 1989 and today.

Then how did staff come to recommend a TPS design to Council which was intrinsically flexible? Local Trust Areas could choose to implement Trust Area policies, or give reason not to do so. Was the rationale simply that some residents insisted on local autonomy and less prescriptive Trust Area policies?

There may be another rationale, however inappropriate.

The TPS was first legislated in 1989 and Islands Trust planning staff would prepare a draft for Council's consideration. Without no more specific direction than that the TPS bylaw policies were to carry out the Object, staff trained in municipal urban planning (see Exhibit 3 for planning staff named in 1992-1993 development of TPS policies) may have referenced the Regional Growth Strategy (RGS; see Appendix 1) legislation given under the Local Government Act. The reference should have been notional, but may have influenced staff thinking.

Notional, because the legislative context for RGS and TPS are very different.

A regional district may – but is not obliged to and not within the Trust Area – require an overarching growth management plan for municipalities. A subset respecting protection of environmentally sensitive areas, “Purpose of regional growth strategy” (RGS) in the Local Government Act; S.248(1) and S.248(2)(d) could be worded (Appendix 1):

*The purpose of a RGS is to promote human settlement and without limiting that purpose, to the extent that a RGS deals with the matter, a RGS should work toward the protection of environmentally sensitive areas.*

Use of the word “promoted” with no further clarification may result in human settlement being promoted. But implementation of such collateral factors as are provided for in the Local Government Act – such as protection of environmentally sensitive areas – is very flexible.

The Local Government Act gives a very flexible implementation allowance for a RGS as may be required by the Regional District for its constituent municipalities.

In contrast, the Island Trust Act requires Council to adopt a TPS. Trust Bodies were established (1989 Act) and are continued (current Act) in order to carry out the Object. TPS policies are to carry out the Object. Taken together, those two requirements should require that the Council and LTC Trust bodies are to implement Trust Area policies.

No implementation flexibility there, or rather, there shouldn't be.

Using the RGS model to justify a flexible TPS implementation of the Object shouldn't be taken as a reasonable interpretation of the Act. The Trust 1992 -1994 record doesn't show use of an RGS rationale in the design of the drafts for a TPS bylaw and implementation policies, but the unwarranted flexibility for implementation of the Object is reminiscent of RGS flexibility.

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There is another important argument against Local Trust Areas being given discretionary power of implementation of directive Trust Area policies; that:

**Bylaw policies of the upper level in a hierarchical federation mustn't be subverted by lower level bylaw policies**

In a two level, hierarchical federation governance – as the Islands Trust administration should be - where the upper level gives policy bylaw direction for the benefit of the federation, it is one matter for the lower level to adopt bylaws which are more prescriptive. But it quite another matter for the lower level to adopt bylaws which excuse the lower level from compliance with one or more upper level policies.

In that the Canadian Constitution is to Canadian law as the TPS is to Islands Trust bylaws, there is a relevant example in Canadian federal governance. The newly incumbent premier of Alberta proposes a Sovereignty Act which would challenge the Constitution in favour of provincial autonomy, by excusing Alberta from constitutional restraints. But representatives of Alberta law schools say any such challenge risks defeat in the courts.

Although the administrative process differs, the consequence for each of Alberta in relation to Canada and Islands Trust local areas in relation to Council and Trust Area Services, would be for lower federation level policy implementation to take precedence over the legislated intent of higher level federation policy.

## **In summary:**

Success or failure in a test of reasonableness for Council's choice of TPS structure lies with the effectiveness of Council's TPS bylaw in carrying out the Object.

Where there is certainty that Trust Area policies will be adhered to in the day to day actions of all Trust Bodies and in the staff advice given to Trust decision makers, the TPS structure which informs that certainty would be consistent with a reasonable interpretation of the Act.

In 1994, a direct application of federation governance would have had Council adopt a TPS bylaw with policies which in and of themselves implement the Object. Council didn't do so in 1994, but should do so in 2023.

## **Failure to implement the Trust Object in an effective TPS confounds federal governance**

However, use of the directive policies in TPS structure confounds the provincial intention for federation governance and so limits the potential effectiveness of TPS policies in the Trust Area.

In the limit, if TPS policy implementation is sufficiently ambiguous that the Object loses its force and effect, then the instruments of federation are confounded and Islands Trust governance presents as a confederation<sup>2</sup> of relatively autonomous Local Trust Areas, rather than as a federation.

## **A note on change**

In closing the argument against current TPS directive policies which delegate Council's responsibility to implement Trust Area policies, a note on change:

In last term's governance review, the consultant reported that to a person, Councilors believed in the Object.

For Council to cooperate in rewriting the TPS would be a renaissance for the Object. For change to come, Council must be that change.

Of course there is resistance to change in the status quo, but Islands Trust politics are changing. Witness Council's new governance committee.

Yes, there's been thirty years to start afresh on the TPS, but remember that democracy came to the French Republic decades after the guillotine.

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<sup>2</sup> British Columbia's Islands Trust on the local government continuum: Administrative Agency or Local Self-Government? D.K. Jones B.A., LL.B. Master of Arts thesis submitted to the Dpt. of Political Science, Simon Fraser University, September, 1994. Jones reported the fact of directive policies in the 1993 Council TPS bylaw final draft and observed (page 219 ) that "the final policy statement suggests a confederation with relatively independent local Trust committees with the common policy guide of the Trust policy statement". The directive policy structure remains in the current 2022 Council TPS bylaw.

## **My draft TPS, which does not delegate implementation of Trust Area policies to local areas**

I have submitted successive drafts of a rewritten TPS bylaw to Council which is consistent with the 1973 report of the provincial Standing Committee on Municipal Affairs (Exhibit 4)<sup>3</sup> and with the consequent Islands Trust Act.

The current draft is version 2.16, 03Feb2023 (see Appendix 2), submitted by email to Council and staff with this delegation submission.

The interpretation of the word “environment” given in Section 1 policies of the draft TPS, is consistent with the 1973 provincial intention to preserve and protect the Trust Area (Exhibit 4).

Consistent with Section 15(2)(b) of the Act which provides that the TPS may establish different policies for different parts of the Trust Area; policies are given in this draft TPS in two sections. Section 1 policies are to have force and effect in the entire Trust Area and Section 2 policies are those where a local area may petition Council to absolve the local area, or a part thereof, from responsibility to implement a policy or policies. See Appendix 2.

Consistent with Section 15(4) of the Act, the entire of TPS policies of this draft are designed such that local area bylaws submitted to Council’s Executive Committee for approval must not be contrary to or at variance with the TPS bylaw.

Councilors, I ask that you formally receive my draft TPS, then cooperative in deliberating the structure and policy content at your own Council table. A renaissance for the Object.

Michael Sketch

North Pender Island

Appendices 1 and 2 and four exhibits follow and are part of this delegation submission to Council for 06Dec2022.

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<sup>3</sup> In part, the provincial legislature committee (Hansard for 25 September, 1973) which recommended establishing the Islands Trust (Exhibit 4 , Recommendation 2 and 3) advised:

“While recognizing the rights of the islanders, the Committee suggests that this section of British Columbia is dramatically affected by private and public activity which does not have the same impact in other parts of the Province. The Committee again refers to the fragile nature of these coastal units.” and

“until the” Islands Trust “is established, no subdivisions be permitted” ... “on any of the Gulf Islands in the Strait of Georgia and any adjacent waters.”

**Appendix 1 – Excerpts from the “Purpose of regional growth strategy” S.428(2)(a) to S.428(2)(n) of the Local Government Act.**

A regional district may – but is not required to under the Local Government Act - require that municipalities adhere to a regional growth strategy.

The wording:

*The purpose of a regional growth strategy (RGS) is to promote human settlement and without limiting that purpose, to the extent that a RGS deals with such matters, an RGS should work towards the protection of environmentally sensitive areas.*

follows as a subset from “Purpose of regional growth strategy” S.428(1) and S.428(2) of the Local Government Act. In other words, municipalities have considerable latitude in the implementation of a regional growth strategy.

**Local Government Act**

**[RSBC 2015] CHAPTER 1 Deposited with Clerk of the Legislative Assembly on December 16, 2015**

**Part 13 – Regional Growth Strategies**

**Division 2 – Application and Content of Regional Growth Strategy**

**Purpose of regional growth strategy (Excerpts from 428(2)(a) to 428(2)(n))**

428 (1) The purpose of a regional growth strategy is to promote human settlement that is socially, economically and environmentally healthy and that makes efficient use of public facilities and services, land and other resources.

(2) Without limiting subsection (1), to the extent that a regional growth strategy deals with these matters, it should work towards but not be limited to the following:

- (d) protecting environmentally sensitive areas;
- (i) adequate inventories of suitable land and resources for future settlement;
- (j) protecting the quality and quantity of ground water and surface water;

**end of Appendix 1**

**Appendix 2** – Excerpt from the Schedule which is part of my draft Council TPS bylaw, version 2.16, 3 February, 2023; submitted herein to Council for consideration, amendment and adoption; respecting implementation of i) Section 1 TPS policies which have force and effect in the entire Trust Area and ii) Section 2 policies which a local area may petition Council to absolve, given a 2/3 majority Council vote, the local area or a part thereof, from responsibility to implement said policy or policies.

## **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) Having successfully petitioned Council to absolve a local area jurisdiction from responsibility to implement a policy of Section 2, or a part thereof, for the entire of the petitioning Local Trust Area, or a part thereof; at a later date the same Local Trust Area may give notice to Council that the subject policy of Section 2 is reinstated for the entire of the Local Trust Area giving notice, or a part thereof. Said notice shall be acknowledged by resolution of Council.

**end of Appendix 2**

## **Exhibits**

**Exhibit 1** – Excerpts from Council TPS bylaw 17, adopted 11 June, 1994 respecting those TPS policies which are directive policies.

**Exhibit 2** – Excerpts from the Islands Trust Policy Manual “Policy Statement Implementation” policy dated 27 May, 1994 respecting those TPS policies which are directive policies and a “Policy Statement Compliance Audit”.

**Exhibit 3** - Council and staff attendees at the 25 September, 1993 session of the Council meeting to deliberate the third draft of Council’s TPS bylaw 17. Note that Linda Adams was the attending senior planner, later to be Director of Trust Area Services, then the CAO.

**Exhibit 4** – The Standing Committee on Municipal Affairs report to the British Columbia Legislative Assembly for the afternoon sitting, 25 September, 1973 beginning on page 205 of the daily Hansard. The report recommends (Hansard page 257) establishment of the Islands Trust, with supporting observations.

**End of list of exhibits**

**Exhibit 1 – Excerpts from Council TPS bylaw 17, adopted 11 June, 1994  
respecting those TPS policies which are directive policies.**

ISLANDS TRUST COUNCIL

BYLAW NO. 17

.....  
A BYLAW TO ADOPT A POLICY STATEMENT FOR THE TRUST AREA  
.....

The Islands Trust Council, having jurisdiction in respect of the Trust Area in the Province of British Columbia pursuant to the *Islands Trust Act* S.B.C. 1989 c.68, enacts as follows:

**TITLE**

1. This Bylaw may be cited for all purposes as "The Islands Trust Policy Statement Bylaw, 1993".

**READINGS**

READ A FIRST TIME THIS	31ST	DAY OF	OCTOBER	, 1993
READ A SECOND TIME THIS	31ST	DAY OF	OCTOBER	, 1993
READ A THIRD TIME THIS	31ST	DAY OF	OCTOBER	, 1993
APPROVED BY THE MINISTER OF MUNICIPAL AFFAIRS PURSUANT TO SECTION 13(2)(c) OF THE <i>ISLANDS TRUST ACT</i> THIS	9TH	DAY OF	JUNE	, 1994
RECONSIDERED AND FINALLY ADOPTED THIS	11TH	DAY OF	JUNE	, 1994

## ***Excerpt***

### **Role of the Islands Trust Council**

The *Islands Trust Act* assigns the Islands Trust Council responsibility for the development and adoption of the Policy Statement. Recognizing the varying roles and responsibilities of the various stakeholders and its own jurisdiction, Trust Council has included three types of policies in the bylaw:

- a) Directives to Local Trust Committees and Municipalities

These policies provide direction to local trust committees on matters which must be addressed in official community plans and regulatory bylaws, and to municipalities regarding matters to be addressed in official community plans. The official community plan must contain policies that tend to implement the policy stated by Trust Council unless the local trust committee and, where applicable, the municipality sets out explicitly in the plan the reasons and justifications for local policies that do not do so. Policies of this type commence with the phrase "Local trust committees and, where applicable, municipalities shall, in their official community plans and regulatory bylaws, address . . .".

## ***Excerpt***

### **Role of Local Trust Committees**

As set out in the *Islands Trust Act*, local trust committee bylaws can not be "contrary to or at variance with" those policies in the Islands Policy statement which direct these committees. The policy directives identify matters which must be addressed in official community plans and bylaws, but do not stipulate the specific policies and regulations to be included because the social and environmental characteristics of the islands vary. The official community plan must, however, contain policies that tend to implement the policy stated by Trust Council, unless the local trust committee sets out explicitly in the plan the reasons and justifications for local policies that do not do so. Each local trust committee will work with its island community to develop policies and regulations to suit local needs, while still supporting the Islands Trust object and the Policy Statement. Local trust committees are not required to comply with any policy in the Policy Statement which is not stated as a directive to them.

**Exhibit 2** – Excerpts from the Islands Trust Policy Manual “Policy Statement Implementation” policy dated 27 May, 1994 respecting those TPS policies which are directive policies and a “Policy Statement Compliance Audit”.

**Islands Trust  
POLICY MANUAL**

May 27, 1994

Code: \_\_\_\_\_

Bylaw \_\_ Policy X  
Procedure \_\_ Guideline \_\_

Title: POLICY STATEMENT IMPLEMENTATION

Approved By: Trust Council Date: \_\_\_\_\_

Further References: Islands Trust Act, S. 13, 14, 20, 25; Policy Statement Bylaw No. 17, 1993; LTC Bylaw Approval Policy; Executive Committee Legislative Role Policy

**PURPOSES:**

- A. to establish responsibilities and procedures for statutory bylaw referrals and other implementation strategies in connection with the Islands Trust Policy Statement Bylaw No. 17; and

## ***Excerpt***

### **1. Statutory Bylaw Referrals**

#### **a. Background**

- iii. The Islands Trust Policy Statement requires local trust committees to include in each OCP and regulatory bylaw either policies or regulations respectively addressing certain matters stated in the Policy Statement, or explicit reasons and justifications for not doing so. A bylaw will not be contrary to or at variance with the Policy Statement if it fails to include a particular policy or regulation, so long as the bylaw contains sufficient reason or justification for not doing so.

## ***Excerpt***

### **Other Implementation Strategies**

#### **2. b. Policy Statement Compliance Audit**

- i. To ensure consistency between the Policy Statement and the activities of the Islands Trust, Trust Council, the Executive Committee, Trust Fund Board, Local Trust Committees and Islands Trust Staff, all decisions and activities of each of these entities that have the potential for either furthering the implementation of the Policy Statement, or for not doing so, will be subjected to a Compliance Audit based on the use of the Policy Statement Reference List (Att. B).
- iv. Islands Trust staff preparing recommendations or information for the Islands Trust entity concerned with the decision or activity in question will be responsible for preparing the Compliance Audit and drafting the required report and/or notifying implications on the Request for Decision in type format.

**Exhibit 2 continued** – Excerpts from the Islands Trust Manual “Policy Statement Implementation” policy dated 27 May, 1994 with a directive policy checklist for bylaw referrals.

**Islands Trust  
POLICY MANUAL**

May 27, 1994

Code: \_\_\_\_\_

Bylaw \_\_ Policy X  
Procedure \_\_ Guideline \_\_

Title: POLICY STATEMENT IMPLEMENTATION

Approved By: Trust Council

Date: \_\_\_\_\_

Further References: Islands Trust Act, S. 13, 14, 20, 25; Policy Statement Bylaw No. 17, 1993; LTC Bylaw Approval Policy; Executive Committee Legislative Role Policy

## ***Excerpt***

### **1. Statutory Bylaw Referrals**

#### **a. Background**

- iii. The Islands Trust Policy Statement requires local trust committees to include in each OCP and regulatory bylaw either policies or regulations respectively addressing certain matters stated in the Policy Statement, or explicit reasons and justifications for not doing so. A bylaw will not be contrary to or at variance with the Policy Statement if it fails to include a particular policy or regulation, so long as the bylaw contains sufficient reason or justification for not doing so.

## ***Excerpt***

### POLICY STATEMENT REFERENCE LIST

#### **1. RE: DIRECTIVE POLICIES**

May 27, 1994

With regard to proposed Bylaw No. \_\_\_\_\_, the \_\_\_\_\_ Trust Committee has, through policies contained in the Official Community Plan \_\_\_\_\_, regulatory bylaw \_\_\_\_\_, addressed:

1. Identification and protection of the environmentally sensitive areas and significant natural sites, features and landforms in its planning area. (3.1.9)
2. Planning, establishment, and maintenance of a network of protected areas which preserve the representative ecosystems of its planning area, and maintain their ecological integrity. (3.1.10)
3. Regulation of land use and development so as to restrict emissions to land, air and water to levels not harmful to humans or other species. (3.1.11)
4. Protection of unfragmented forest ecosystems in its planning area from potentially adverse impacts of growth, development and land-use. (3.2.3)

**Exhibit 3** - Council and staff attendees at the 25 September, 1993 session of the Council meeting to deliberate the third draft of Council's TPS bylaw 17. Note that Linda Adams was the attending senior planner, later to be Director of Trust Area Services, then the CAO.

**ISLANDS TRUST COUNCIL**

**DAY 3: SATURDAY, SEPTEMBER 25, 1993**

**BEAVER POINT HALL, FULFORD HARBOUR, SALT SPRING ISLAND, B.C.**

**PRESENT:**

**Executive Committee:**

Carol Martin, Chairperson  
Diane Cragg, Vice-Chairperson  
Graeme Dinsdale, Vice-Chairperson

**Local Trustees:**

Claus Spiekermann, Bowen  
Rolf Ludvigsen, Denman  
Roxanna Aitken, Denman  
Joan Best, Gabriola  
Jack Sickavish, Gabriola  
Margaret Griffiths, Galiano  
Catherine Howard, Hornby  
Janice McMillan, Lasqueti  
Chris Ferris, Lasqueti  
Louis Vallee, Mayne  
Bob Allison, North Pender  
Phil Clark, North Pender  
John Stepaniuk, Salt Spring  
Bob Andrew, Salt Spring  
John Money, Saturna  
Harvey Janszen, Saturna  
Jane Perch, South Pender  
Elaine Jacobson, South Pender  
John Dunfield, Thetis  
David Essig, Thetis

**Staff:**

Gordon McIntosh, Executive Director  
Doug Levell, Operations Manager  
Sharon Donnelly, Research Officer  
Linda Adams, Senior Planner  
Pamela Cowtan, Trust Fund Board Coordinator  
Bonnie Allen, Recorder  
Tanya Howes

**Media:**

Mr. Graeme Thompson from the *Driftwood*  
Mr. Patrick Brown of the *Island Tides*.

**REGRETS:**

Larry Holbrook, Mayne  
Gord Steele, Gambier  
Leiani Anthony, Gambier

**Exhibit 4** – The Standing Committee on Municipal Affairs report to the British Columbia Legislative Assembly for the afternoon sitting, 25 September, 1973, beginning on page 205 of the daily Hansard. The report recommends (Hansard page 257) establishment of the Islands Trust, with supporting observations.

**1973 Legislative Session: 3rd Session, 30th Parliament  
HANSARD**

## **Official Report of**

### **DEBATES OF THE LEGISLATIVE ASSEMBLY**

**(Hansard)**

**TUESDAY, SEPTEMBER 25, 1973**

**Afternoon Sitting**

[ [Page 255](#) ]

APPENDIX

*The following report is referred to on page 205 of the daily Hansard:*

MR. SPEAKER:

Your Select Standing Committee on Municipal Matters beg leave to report as follows:

The Select Standing Committee on Municipal Matters examined the matters affecting islands in the Strait of Georgia and the adjacent waters. It visited and viewed the following islands: May 2, 3, 4, North Pender, South Pender, Saltspring, Galiano, Mayne, Saturna; July 23-27, Bowen, Gambier, Keats, Denman, Hornby, Lasqueti, Gabriola, Kuper, Thetis.

On July 23 the Committee experienced a most meaningful day at the UBC Resource Science Centre under the direction of Dr. Crawford Holling, who presented a computer simulation that demonstrated the relationships between speculation thrust, people's satisfaction, land prices, land values, environmental quality, etc. In its context, environmental quality was related to ease of transportation, water availability, nearness to a lake or ocean, slope of land, type of land, i.e., agriculture vs. rock, and the amount of open land and finally the diversity of tree cover.

Public meetings were held on the islands, and the Committee was pleased and impressed with the interest and turnout by the local people, who expressed a vital concern about the future of the islands.

It is apparent to the Committee that the islands are of extreme importance to the Province of British Columbia; they are fragile; their location is crucial, being between the two largest cities in the Province; it is felt that people are entitled to use them and enjoy them to the capacity which they are able to serve.

For the purpose of this report the Gulf Islands shall mean all islands in the Strait of Georgia and adjacent waters.

## *Observations*

1. These islands are different from each other and from the Mainland. However, some Mainland areas, especially the Sunshine Coast, because of difficult access, probably have some similar problems.

2. Apart from their natural insularity, isolation and uniqueness, the islands have the problem of these "special interests":

(a) Local residents, many of whom are retired, and others who have to make their living locally;

(b) Large numbers of summer residents and (or) visitors;

(c) Large landowners, usually absentee, often corporate and foreign;

(d) A larger or "provincial" interest of the general public;

(e) Land developers and speculators;

(f) Tree-farm licence holders (TFL).

3. Existing boundaries of regional districts and means of representation and communication to land from some regional districts are causing considerable frustration. (Seven regional districts each have a portion of the islands within their boundaries).

4. A complete lack of jurisdiction by Provincial, regional or municipal bodies over Indian lands because of exclusive Federal jurisdiction may cause increasing difficulty.

5. There are some existing subdivisions which appear attractive and rural in character but this is only due to the fact that many are as little as 15 per cent developed. Of all the problems, the Committee identifies large subdivisions and over-development as the priority concern.

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6. Requirements such as a 10-acre freeze or limiting subdivisions to larger parcels of similar size will not be sufficient in the long term, nor will such rules be as effective as other more sophisticated and imaginative planning techniques such as clusters, green belts, etc.

7. There is a need for an increase of supervised public space, beach access, hiking trails, picnic and (or) campgrounds, etc., on virtually every island. Most land adjoining the best beaches is privately owned. It is unfortunate that many of the Howe Sound islands' most attractive bays and coves are spoiled for recreational use by log storage and booming grounds.

8. Water transportation to the islands is a key to the entire situation and needs careful control and co-ordination (but this is not within regional district jurisdiction). It is also evident that no one island or regional district can control the frequency, cost and type of transportation. Transportation on the islands is also an important related factor. Emphasis should be placed on pedestrian transit rather than vehicle transit, and the use of the islands should thus be planned accordingly.

9. One of the major problems encountered by the Committee in its tours, hearings and public meetings is the fact that there has been, and remains, a very serious lack of co-ordination and communication. In many respects, the islands have fallen victim to ad hoc or "band-aid" activity. There is a need for a co-ordinated jurisdiction to be responsible for planning, zoning, control of land use, transportation and related matters for all the islands, and this jurisdiction would require sufficient funding over and above the current revenue source from local taxation.

10. Although regional districts are not geared to carry out all the responsibilities expected of them relative to the future of the Coastal islands of British Columbia, they can well serve the islands for many administrative purposes including hospitals, schools, local improvements, special projects, health, building inspection, etc. Boundaries of regional districts need to be reviewed for possible transfer of some islands, based on natural lines of communication. Further, the means of representation and communication between some islands and its regional district needs to be studied.

11. Recognizing the need to ensure continued employment opportunities for some residents of the islands, strictly controlled limited commercial development, light industry, and agricultural activity compatible with the life style of the islands can continue, nonetheless, emphasis for the future development of the islands should be placed on recreation, moderate residential use, and preservation of a rural atmosphere. The Committee was impressed with some instances of desirable land use (by residences, summer camps, a few parks, endowments) but was alarmed at the possession or hoarding of land by resident and absentee owners for high capital gains purposes. It was also distressed by the evidence of considerable subdivision activity in the past, which was undertaken without full determination of its impact on the future of each island. Our belief is that the islands are too important to the people of Canada to be left open to exploitation by real-estate developers and speculators.

12. Virtually without exception, shortage or potential shortage of potable water is of major concern to practically all islands and to this Committee.

13. Waste and garbage disposal is another serious matter of major concern to this Committee.

14. A potential exists for conserving many archaeological sites on the islands.

## *Recommendations*

1. The Committee recommends that the regional district boundaries be reviewed and adjusted to assure that the respective islands are in the most appropriate regional district.
2. The Committee also recommends that the Provincial Government establish an "Islands Trust" (or commission), as the most appropriate body to be responsible for and to co-ordinate the future of each island within our terms of reference. It must be emphasized most strongly that the trust is to assume the primary responsibility for all Gulf Islands' affairs within Government jurisdiction, including land use, future growth patterns, control of development, industrial, recreational and commercial activity, as well as parks and open space designations. It is essential that the trust be fully representative of all interests, not only on the islands, but throughout the Province as a whole. While recognizing the rights of the islanders, the Committee suggests that this section of British Columbia is dramatically affected by private and public activity which does not have the same impact in other parts of the Province. The Committee again refers to the fragile nature of these coastal units. Because it is recognized that a variety of Government departments and agencies: Highways, Health, Ferries, Lands and Forests, Parks, etc, as well as regional districts and citizen groups on the islands, all have an important role to play in this respect, we emphasize that the proposed trust or commission must not be a separate and (or) remote agency, but rather a fully representative co-coordinating body, whose task it is to bring together each group, agency or department of Government and to act in the best interests of the islands and their residents with due regard for the broader and Province-wide interest.
3. The Committee also recommends that until the trust or commission is established, no subdivisions be permitted on any islands south of and including Denman, Hornby, and Lasqueti Islands, i.e., on any of the Gulf Islands in the Strait of Georgia and any adjacent waters.
4. The Committee recommends the 10-acre freeze be continued on the northern Gulf Islands that have not yet been studied by the Committee.

## *Conclusion*

The Committee appreciates that many months of hard work have gone into the planning process on some of the islands, and the Committee hopes that if the Government accepts these recommendations, that the trust be established and operative as soon as possible, so as not to prolong unduly the wait on these islands.

A. A. NUNWEILER, *Chairman*

# **Islands Trust Council’s Trust Policy Statement Bylaw**

Version 3.16 draft mgms, 3 February, 2023

## **Introduction: References to the Islands Trust Act**

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.

The Object of the Trust and Trust Policy Statement are the instruments of federation.

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; the Trust Executive Committee and Local Trust Committee decision makers are known as a Trust Bodies. Trust Council is known as Council and is a Trust Body. The Islands Trust Act is known as the Act.

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## **Object of the Trust consistent with First Nations ways of knowing**

At Section 3 of the Act (note 1), the Object of the Trust is 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, in cooperation with municipalities, Regional Districts, improvement districts, First Nations, other persons and organizations and the government of British Columbia.

The Trust Area is within the traditional territory of the Coast Salish First Nations.

The Object of the Trust is consistent with the First Nations intrinsic understanding that anthropogenic changes in the relationship with land are sustainable only where natural environment entities are not thereby compromised.

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1. Amendment to the Act in effect 1 December, 2021, pursuant to Municipal Affairs Statutes Amendment Act (No. 2) 2021 (Bill 26); in part that “First Nations” will amend the Object of the Trust (Section 3 of the Islands Trust Act) following “improvement districts” in the list of those to be cooperated with.

**Day to day actions of trust bodies are to be consistent with Trust Area policies**

Taken together, a part of Section 4 of the Act, that:

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

and parts of Section 15 of the Act, that:

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.

establish a first responsibility for each of the continued Trust Bodies, that their day to day actions must follow from and be consistent with policies of Council's policy statement bylaw. The day to day actions include, but are not limited to, consideration of applications for change in land use and the entire staff advice process to deliberation of draft bylaws.

and for certainty:

15(4) A bylaw submitted to the executive committee ... or referred to trust council ... must not be approved ... if it is contrary to or at variance with the trust policy statement.

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## **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) Having successfully petitioned Council to absolve a local area jurisdiction from responsibility to implement a policy of Section 2, or a part thereof, for the entire of the petitioning Local Trust Area, or a part thereof; at a later date the same Local Trust Area may give notice to Council that the subject policy of Section 2 is reinstated for the entire of the Local Trust Area giving notice, or a part thereof. Said notice shall be acknowledged by resolution of Council.
- iv) Council shall publish a continuing record of Trust Area policies which have no force and effect and the Local Trust Area in which the policy has no force and effect, together with the relevant dates and Council resolutions.
- v) 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.
- vi) Where this Trust Policy Statement bylaw, or an amendment thereto, contains one or more 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. Council's regulatory bylaw will be known as Trust Policy Regulation. Each regulation of the Trust Policy Regulation bylaw shall follow directly from one or more policies of this Trust Policy Statement bylaw.
- vii) 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.
- viii) 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.
- ix) Where a Local Trust Committee or island municipality refuses instruction from Council to implement one or more Trust Area policies, then 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.

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Section 3. Unique amenities of the Trust Area

**Council relies on the cooperation of all Trust Bodies to implement the policies of this bylaw and holds that:**

- a) This Trust Policy Statement bylaw, as may be amended and which includes an implementation schedule, establishes and continues policies which are both necessary and sufficient to carry out the Object of the Trust.
- b) In order to carry out the Object of the Trust, the deliberations and actions of all Trust Bodies must be effectively informed by certainty that an unfettered anthropogenic built environment on Trust Area islands will limit the ability of the islands's natural environment entities to sustain the built environment.
- c) While recognizing the rights of current Trust Area residents and their aspirations to local autonomy, the Act establishes federation governance and therefore a positive obligation for Council and the Trust Area Services administration to maintain oversight over the Local Trust Area jurisdictions and local planning service administration, in order to preserve and protect the environment and unique amenities of the Trust Area for the benefit of First Nations, future residents and the people of British Columbia generally.

Therefore Council holds and recommends to the Conservancy Board that:

**Section 1. Policies for the entire Trust Area**

1.1 Section 1 are general policies to carry out the Object of the Trust in the entire Trust Area, subject to implementation policy in the schedule for this Trust Policy Statement bylaw. Where policies are named directive, they are subject to Trust Area regulation as Council may recommend under Section 8(2)(e) of the Act.

1.2 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:  
i) respects the force and effect of Council's Trust Policy Statement bylaw as a regional plan for the Trust Area and ii) acknowledges First Nations traditional use of Trust Area land.

1.3 Federal governance to be implemented. Council shall ensure that the Islands Trust staff administrative structure implements a two level hierarchical federal governance intended by the Act. The Trust Area Services upper administrative level shall include sufficient assessment expertise that all proposals for changes in land use and changes in land use policy 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.

1.4 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 Object of the Trust and the Trust Policy Statement in respect of all actions of the municipality.

1.5 In order that this Trust Policy Statement bylaw 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 this bylaw shall be adhered to in the day to day actions of Trust Bodies and employees of Council. For certainty, policies of this bylaw shall be adhered to by land use planning staff in staff report and other advice to decision makers in the entire deliberation and draft bylaw adoption process pertaining to i) applications for changes in land use ii) changes in land use policy and regulation.

1.6 Delegation of decision making authority. Trust Bodies shall not delegate decision making to employees of Council for decisions which are to, or can reasonably be understood to, carry out the Object of the Trust. For certainty, Council shall not authorize changes in the Act or in Islands Trust Regulation which authorize delegation of Local Trust Committee decision making to employees of Council for decisions which are to, or can reasonably be understood to, carry out the Object of the Trust. Council shall not authorize changes in Islands Trust Regulation which aren't so directed in the Act.

1.7 Role of Local Trust Committee Trustees. The Chair of the Local Trust Committee corporation shall represent the Council and Trust Area Services upper governance level of the Islands Trust federation and the locally elected, or acclaimed, Trustees and the local planning services shall represent the interests of the Local Trust Areas. In considering changes in i) land use, ii) land use policy or iii) land use regulation, the Trustees of a Local Trust Committee corporation shall be cognizant of the effect of such changes on the persons and entities whose interests are directly affected. Carrying out the Object of the Trust as implemented in this Council bylaw shall be the greater rationale for Trustee actions.

1.8 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.

1.9 Duty of care to persons. Trust Bodies and the employees of Trust Council shall exercise a duty of care to persons whose interests are directly affected by land use changes which would foreseeably compromise preservation and protection of the unique amenities or environment of the Trust Area.

1.10 Duty of care to entities. Acknowledging the First Nations way of knowing that the built environment depends on natural environment entities, Trust Bodies and the employees of Trust Council shall exercise a duty of care to entities whose interests are directly 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.

1.11 Duty to consult. When considering changes in land use, or changes in land use policy, 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.

1.12 Trust Area environment. For purposes of this bylaw, the Trust Area environment is the sum of its natural environment and built environment parts and is subdivided for policy clarification as follows:

Trust Area environment

- |                                |                |                               |                  |                      |
|--------------------------------|----------------|-------------------------------|------------------|----------------------|
| 1a) natural                    |                | 1b) built                     |                  |                      |
| 2a) anthropogenically modified | 2b) unmodified | 2(a) first nations structures | 2b) mainly rural | 2c) more dense urban |

Where there is opportunity, advice givers and decision makers for changes in land use shall work towards a beneficial symbiotic relationship between built and natural parts of the environment and for certainty, not a built environment which unnecessarily disadvantages the natural environment.

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

1.14 Priority to preserve and protect. When considering changes in Trust Area i) land use policies or ii) 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.

1.15 Assessment of potential harmful effects of changes in land use. In carrying out the Object of the Trust, Trustees of the Islands Trust shall be mindful of First Nations ways of knowing the dependence of the built environment on natural environment entities and shall be 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.

1.16 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 not in the Trust Area.

1.17 Residential Density. (a) Parcel density is a metric which can be used to assess the potential for anthropogenic harm to the natural or modified natural environment in a zone of similar parcels, as a consequence of residential and commercial residential land use.

1.17 (b) The normalized measures of density for residential and commercial residential land use for a parcel, include but are not limited to: i) number of residential buildings per parcel and ii) floor area of residential buildings divided by parcel area.

1.17 (c) The dimensionless parameters for density of residential and commercial residential land use for a parcel include but are not limited to: i) the ratio of floor area of a residential building to 1,000 square feet and ii) the number of people expected to reside in 1,000 square feet of residential floor area, divided by two people and iii) ratio of months of residential occupancy of a building to the 12 month year.

1.18 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 the intent of preservation and protection policies of this Council bylaw.

1.19 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 seawater intrusion in drilled potable water wells, reduced water levels in drilled wells or surface wells, large tracts of deforested land with consequent erosion or reduced groundwater recharge, and reduced capability of soil and land for agriculture.

1.20 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 First Nations ways of knowing the dependence of the built environment on natural environment entities; 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.

1.21 Trustees to speak for persons or entities that can not speak for themselves. In carrying out the Object of the Trust and mindful of First Nations ways of knowing the dependence of the built environment on natural environment entities, 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.

1.22 Paramountcy. Where there is conflict between policies of the Trust Policy Statement bylaw and policy or regulatory bylaws of a Local Trust Area, Trust Policy Statement bylaw 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 bylaw.

1.23 Meeting minutes. To further accountability and transparency in the day to day actions of Trust Bodies and employees of Council, 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.

1.24 Trust Bodies to cooperate. Trust Bodies and employees of Council shall be diligent in respecting and cooperating with First Nations and with shared land 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.

1.25 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.

1.26 Conflicting interests for Local Trust Committee Trustees. Further to the obligations of Chapter 26, Part 4, Division 6 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, is a 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.

1.27 Amendment to this Trust Policy Statement bylaw shall be directed 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.

and Council holds and recommends to the Conservancy Board that:

**Section 2. Policies for the Trust Area, save where Council excuses one or more Local Trust Areas, or a part of a Trust Area, from compliance**

2.0 Section 2 policies are policies to carry out the Object of the Trust in the entire Trust Area, save where, upon application to Council, Council excuses specific Local Trust Areas, or a part thereof, or an island municipality, from compliance, Said policies are subject to implementation policy in the schedule for this Trust Policy Statement bylaw. Where policies are named directive, they are subject to Trust Area regulation as Council may recommend under Section 8(2)(e) of the Act.

2.1 First Nations interest Policies of the Trust Policy Statement

2.1.0 First Nations interest 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, are subject to Trust Area regulation.

2.1.1 In day to day Trust business and in the advice given to Trust decision makers and consequent deliberations, First Nations treaty and territorial areas shall be recognized and stewardship in the First Nations relationship with land shall be respected.

2.1.2 In advice to decision makers and in deliberating changes in coastal land use, First Nations access to marine ecosystems below the natural boundary shall be respected. Where decisions are considered which would have the effect of either granting or restricting First Nations access to marine ecosystems below the natural boundary, or which may adversely affect the quantity or quality of harvesting; data shall be made available to First Nations whose interests may be affected and there shall be meaningful consultation, early and ongoing.

2.1.3 To protect fish, shell fish and marine ecosystems from fecal contamination consistent with the intent of the federal Fisheries Act, a setback shall be established by Local Trust Area regulation between the natural boundary and upland sewage absorption fields which is greater than or equal to the provincial Ministry of Health regulation of setback distance for a sewage absorption field from a drilled well source of potable water.

2.2 Environmental Integrity Policies of the Trust Policy Statement

2.2.0 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, are subject to Trust Area regulation.

2.2.1 The following elements of the natural environment shall be identified, preserved, protected, and restoration thereof supported; utilizing the best available quantitative and qualitative data, inclusive of First Nations 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 forests which are not fragmented 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) First Nations cultivation and harvesting areas such as camas meadows, seaweed farms and clam gardens.

2.2.2 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 discarded materials which are deemed waste and which may be harmful to air, land or water.

## 2.3 Freshwater Stewardship Policies of the Trust Policy Statement

2.3.0 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, are subject to Trust Area regulation.

2.3.1 Excepting Piers Island in the Capital Regional District, Trust Area islands shall be self-sufficient in their supply of freshwater.

2.3.2 For land reliant on groundwater extraction; cognizant of: i) seasonal variation and ii) the effects of climate change and iii) anticipated water supply and demand; 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.

2.3.3 For land reliant on surface water extraction; cognizant of: i) seasonal variation and ii) the effects of climate change and iii) anticipated water supply and demand; 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.

2.3.4 A drilled well shall not be operated in a manner that causes, or is likely to cause, the intrusion of saline groundwater, seawater or contaminated water into the aquifer from which the well diverts water, and causes, or is likely to cause, a significant adverse impact i) on the quality of water in the aquifer from which a well diverts water or ii) on the existing uses made of the water diverted from said well.

2.3.5 To minimize potential for further intrusion, a drilled well with seawater intrusion shall not be used as an intake for a desalination or reverse osmosis system.

2.3.6 In a part of the Trust Area area known for shortage of groundwater or where a drilled well is the source of potable water and is near the natural boundary, decision makers shall not permit zoning such that the density or intensity of land use would, or can be anticipated would, result in seawater intrusion for said well. Where circumstance such as the consequence of climate change can reasonably be anticipated to limit the quantity or quality, or both, of available potable water from either groundwater or surface water sources, or both, it may be necessary to amend zoning so as to limit the density or intensity, or both, of land use.

2.3.7 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) seawater intrusion for groundwater wells.

2.3.8 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.

2.3.9 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.

2.3.10 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.

2.3.11 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 seawater intrusion in wells.

2.3.12 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 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 seawater intrusion in wells.

2.3.13 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 seawater 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 and recharge test record of water quantity and quality shall include a record of extracted water salinity and be done at the end of 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.

2.3.14 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 seawater 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 and recharge test record of water quantity and quality shall include a record of extracted water salinity and be done at the end of the time of summer drought.

2.3.14 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.

2.3.15 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.

2.3.16 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.

2.3.17 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.

2.3.18 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, First Nations cultural and spiritual use and to iii) aesthetic and recreational uses.

2.3.19 Trust Body deliberation and decisions respecting sea source desalination or reverse osmosis systems, shall give priority to alternative land based sources of potable water. If a sea source desalination or reverse osmosis system is deemed necessary, priority shall be given to environmentally responsible disposal of the effluent concentrate, in particular but not limited to, minimizing adverse effects on the ecosystems of the water or land receiving the effluent concentrate. The design and implementation of desalination or reverse osmosis systems and associated infrastructure shall be regulated.

2.3.20 A setback shall be established by Local Trust Area regulation between a drilled well source of potable water and the natural boundary to minimize the potential for seawater intrusion.

2.3.21 A setback shall be established by Local Trust Area regulation between a i) drilled well or ii) surface water source of potable water and a sewage absorption field, to minimize the potential for fecal contamination.

## 2.4 Forest Stewardship Policies of the Trust Policy Statement

2.4.0 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, are subject to Trust Area regulation.

2.4.1 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.

2.4.2 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.

2.4.3 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.

## 2.5 Agricultural Land Stewardship Policies of the Trust Policy Statement

2.5.0 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, are subject to Trust Area regulation.

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

2.5.2 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.

2.5.3 Food sovereignty. Acknowledging First Nations cultural heritage and ways of knowing the dependence of the built environment on natural environment entities, Council affirms residents' right of access to healthy and culturally appropriate food produced with ecologically sound and sustainable methods and the right to define their own food and agriculture systems.

2.5.4 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.

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

2.5.6 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.

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

2.5.8 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.

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

2.5.10 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.

2.5.11 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.

2.5.12 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.

2.5.13 Consistency with S.46 (Conflict with bylaws) of ALC Act - Where land use changes in the Agricultural Land Reserve within the Trust Area are given in an Order of the Agricultural Land Commission; the Order is to have neither force nor effect in Local Trust Area bylaws unless and until all conditions of the Order are acknowledged as being met by the Agricultural Land Commission.

## 2.6 Soil Stewardship Policies of the Trust Policy Statement

2.6.0 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, are subject to Trust Area regulation.

2.6.1 Productive soils in the Trust Area shall be preserved, protected and restored where necessary to restore productive capability.

2.6.2 In part, productive soils in the Trust Area shall be preserved and protected by means of regulatory bylaws related to soil removal and deposit.

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

## 2.7 Coastal and Marine Stewardship Policies of the Trust Policy Statement

2.7.0 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.

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

2.7.2 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.

2.7.3 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

2.7.4 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.

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

2.7.6 Applications for new private docks shall be subject to demonstration by the applicant that dock construction and maintenance won't disadvantage marine environment ecosystems by restricting natural daylight or impeding underwater passage, or disadvantage 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.

2.7.7 Applications for seawall and other hard shoreline armouring 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 will not disadvantage marine ecosystems.

## 2.8 Climate Change Policies of the Trust Policy Statement

2.8.0 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 and where policies are named directive, are subject to Trust Area regulation.

2.8.1 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.

2.8.2 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 – seawater transition for Trust Area island aquifers and v) seawater intrusion for groundwater wells.

2.8.3 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.

2.8.4 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.

2.8.5 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.

2.8.6 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

## 2.9 Heritage Preservation and Protection Policies of the Trust Policy Statement

2.9.0 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, are subject to Trust Area regulation.

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

2.9.2 In cooperation with First Nations and other government agencies, indigenous cultural heritage and local community heritage shall be identified, preserved, protected and the restoration thereof supported.

## 2.10 Rural Island Planning Policies of the Trust Policy Statement

2.10.0 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. are named directive, are subject to trust area regulation.

2.10.1 Land use planning techniques appropriate to urban design, particularly for those lands subject to a regional district growth plan, are not appropriate to Trust Area island land use planning.

2.10.2 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 an unspoken rationale for concentrating the built environment - namely preservation and protection of development potential - and carry out the Object of the Trust consistent with this Council bylaw instead.

2.10.3 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.

2.10.4 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.

2.10.5 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.

2.10.6 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.

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

## 2.11 Policies for Land Zoned Residential and Housing Policies of the Trust Policy Statement

2.11.0 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, are subject to Trust Area regulation.

2.11.1 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.

2.11.2 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.

2.11.3 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.

2.11.4 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.

2.11.5 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.

2.11.6 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 area of land 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.

## 2.12 Transportation Policies of the Trust Policy Statement

2.12.0 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, are subject to Trust Area regulation.

2.12.1 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.

2.12.2 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.

2.12.3 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.

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

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

## 2.13 Utilities Policies of the Trust Policy Statement

2.13.0 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, are subject to Trust Area regulation.

2.13.1 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.

## 2.14 Discarded Materials Policies of the Trust Policy Statement

2.14.0 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, are subject to Trust Area regulation.

2.14.1 Solid and liquid discarded materials, be they organic or inorganic, shall be regarded as a resource to be managed on 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.

2.14.2 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.

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

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

2.14.5 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.

2.14.6 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.

2.14.7 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.

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".

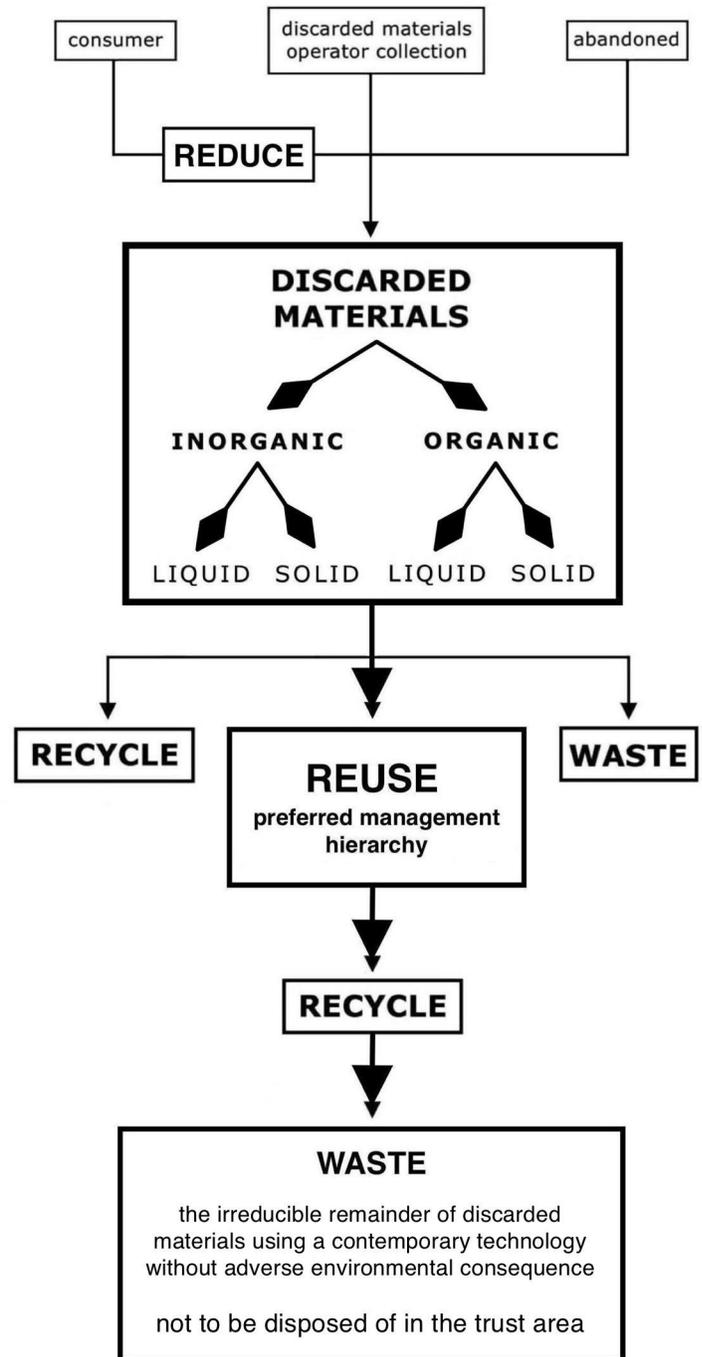


Figure 2.13-1 Management of discarded materials in the Trust Area

2.14.8 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.

2.14.9 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.

2.14.10 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.

2.4.11 When locating sewage absorption fields on Local Trust Area land, the same setback distance will be used to protect both i) sources of potable water and ii) shellfish and marine ecosystems; from fecal contamination.

2.14.12 To minimize the potential for fecal contamination of sources of potable water, a setback shall be established by Local Trust Area regulation between a sewage absorption field and a i) drilled well or ii) surface water source of potable water; which is greater than or equal to the provincial Ministry of Health regulation of setback distance from a sewage absorption field to a drilled well source of potable water.

2.14.13 To minimize the potential for fecal contamination of shellfish and marine ecosystems, a setback shall be established by Local Trust Area regulation between a sewage absorption field and the natural boundary; which is greater than or equal to the provincial Ministry of Health regulation of setback distance from a sewage absorption field to a drilled well source of potable water.

### **Section 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.