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**Subject:** Trust Policy Statement and the Object of the Trust

## **An Unsettling New Direction for the Islands Trust: Trust Council's Curious Rewrite of the Trust Policy Statement**

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### **Summary**

Section 15 of the *Islands Trust Act* directs Trust Council to develop a trust policy statement to implement the object of the trust. Section 3 describes the trust object as being “to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area of British Columbia generally....”

A prerequisite for carrying out the object of the trust is a clear understanding of what the object means, including the term “unique amenities”. In 1986, Trust Council published a position paper clarifying the meaning of the object clause of the *Islands Trust Act*. Noting that the Act had been passed because “insufficient direction of development was resulting in cumulative damage to the very amenities that make the area so valuable”, the position paper emphasized that Trust Council’s duty to preserve and protect the trust area related primarily to ecological and scenic features and the rural character that had inspired the Act in the first place. Subsequent trust policy statements, including the one currently in effect (since 2003), contained comprehensive introductions that explained, with reference to the historical context, not only why the protection of ecological integrity and rural character remained the primary purpose of the Act but also that the rapidly increasing population of the islands heightened the importance of that focus.

A decision by Trust Council in 2019 to update the current trust policy statement resulted in a 2021 draft that included a similar explanation of the meaning of the object of the trust. Objections from some members of the community about the perceived anti-development thrust of the draft trust policy statement resulted in deferral of first reading. Regulation of development then became a contentious issue in the 2022 Islands Trust elections. In 2023, a new Trust Council decided to redefine the object of the trust, issuing a consensus statement that “unique amenities are broad-ranging and may include issues such as, but not limited to, housing, livelihoods, infrastructure and tourism”. Although Trust Council maintained that protecting the environment would still be an important consideration in all decisions, the wording of its statement suggested that that was no longer the priority.

Responding to heated criticism that its broadened definition contradicted the original purpose of the Act, Trust Council made public the opinion from its legal counsel on which it had relied. Responding to the specific question of whether Trust Council could define unique amenities to include affordable housing, counsel suggested that a court would be likely to consider such a broadening of the definition to be reasonable. It’s worth noting that Trust Council appears to have gone a considerable step beyond what its counsel suggested might be reasonable, namely that affordable housing might be considered a unique amenity. It seems questionable that a court that uses reasonableness as a deciding criterion would be likely to consider such generic values as “housing, livelihoods, infrastructure and tourism” as unique amenities.

As the controversy continued, Trust Council in 2024 asked the Minister of Municipal Affairs to request a provincial review of the trust's mandate, noting the confusion caused by competing interpretations of "unique amenities". The minister declined to do so and reminded Trust Council of the ecological mandate of the trust.

Notwithstanding the minister's response, Trust Council did not, at least in public, appear to revisit its broadened definition of "unique amenities". Instead, a committee appointed by Trust Council then rewrote the 2021 trust policy statement draft. In doing so, it deleted the introductory section defining the object clause, citing the need for simplicity. Trust Council gave the new draft first reading in 2025 and indicated its intent to finalize the revised trust policy statement before the 2026 election.

The net result is a trust policy statement poised for approval that, for the first time, fails to define the object of the trust that the trust policy statement is, by law, tasked to carry out. Worse, this is taking place at the very time when clarity about the meaning of the object of the trust is most needed, given Trust Council's self-acknowledged uncertainty and given current development pressures on the islands.

At a minimum, the draft trust policy statement should be amended to clearly and comprehensively define the meaning of the object of the Islands Trust, consistent with the guidance provided by the Minister of Municipal Affairs, whose approval, not incidentally, is required for the trust policy statement to take effect. Failing that, completion of the trust policy statement should be deferred until after the fall 2026 Islands Trust election to enable Trust Council to embrace and express a clear definition consistent with the intent of the Legislative Assembly at the time it created the Act.

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The Salish Sea is one of the most biodiverse inland seas on the planet. The several hundred islands north of the international border, in the rain shadow of Vancouver Island, are remarkable both for their natural beauty and for their ecological diversity, nurtured by a mild and relatively dry Mediterranean climate that enables species to flourish that are found nowhere else in the country. These islands (on both sides of the border before there was a border) and the connecting sea were the ancestral home of the "saltwater people", the *WSÁNEĆ*, before they were obliged to relocate elsewhere to make way for the expanding colony later to be known as British Columbia.

European settlement of the islands was slow at first but gradually increased throughout the 20<sup>th</sup> century, as did tourist visits to a landscape that offered a variety of land and sea recreational opportunities unique to the province. With the rapid growth of coastal cities around the perimeter of the Salish Sea, more and more people began to seek out the pastoral surroundings of the Gulf Islands as a place to put down roots or build seasonal retreats. By the early 1970s, the Gulf Islands in B.C. waters had been gaining increasing popularity as a quiet and easily accessible refuge from the busier world. They also offered an abundance of cheap land, an asset that was soon to draw the attention of developers.

A subdivision creating hundreds of small lots on North Pender Island in 1974 became the tipping point that led the provincial government of the time to consider a legal mechanism for protecting the pastoral character of the islands, their scenic beauty and unspoiled ecosystems. All four parties in the legislature at the time

agreed on the need for legislative protection of these values, though they differed on the administrative arrangements, and the *Islands Trust Act* became law in 1974.

### **Understanding the Meaning of the Object of the Islands Trust Act**

To ensure that the purpose of the Act is effectively carried out, section 15 requires Trust Council to develop a trust policy statement to implement the object of the trust throughout the trust area and on each of its 13 major islands. The object of the trust is defined by section 3: “to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area of British Columbia generally....” How “unique amenities” is interpreted becomes key to understanding the object of the trust and, in turn, ensuring effective implementation of the *Islands Trust Act* as its authors intended.

In 1986, Trust Council published a [position paper](#) clarifying the meaning of the object clause of the *Islands Trust Act*. Noting that the Act had been passed because “insufficient direction of development was resulting in cumulative damage to the very amenities that make the area so valuable”, the position paper emphasized that Trust Council’s duty to preserve and protect the trust area related primarily to the ecological, scenic and climatic features that inspired the Act in the first place. The trust area’s unique amenities and environment, Trust Council stated, “derive from the combination of: a mild climate; approximately 500 islands and the extensive coastline and sheltered waters they provide; diverse and unusual natural features, vegetation and wildlife; almost a continuous tree cover and large undeveloped areas; numerous areas of heritage or archaeological significance; abundant and varied recreational opportunities accessible to adjacent major urban centres; solitude, scenic beauty and a clean environment; compact, marine-oriented settlements; tranquil rural areas; a range of lifestyles; a unique water supply situation (small watersheds, shallow soils and heavy reliance on groundwater sources); and the self-sufficiency yet interdependence that island living entails”.

During the first half century of the Islands Trust, trust policy statements defined the object of the trust in similar terms to those suggested by the 1986 position paper, emphasizing the preservation and protection of the trust area’s ecological diversity, the scenic and recreational attributes of its natural features, its gentle climate, and its cultural history. The [current trust policy statement](#), consolidated in 2003 to update its 1994 predecessor, continues this emphasis in its clear and comprehensive historical overview describing the context for the trust policy statement’s approach. It recalls how the *Islands Trust Act* was triggered by concern about the impacts of “unrestrained residential development” on the environment, and notes that the challenge of constraining development has become even greater in the 21<sup>st</sup> century now that the population of the trust area is one of the fastest-growing populations in the country, with the impacts of that development threatening “the trust’s environment, amenities and fragile ecosystems”.

The Trust Council elected in 2018, having undertaken to revise and update the 2003 trust policy statement, followed a similar approach in its description of the object of the trust, and by 2021 had completed a draft ready for first reading. The 2021 draft emphasized that “to achieve the Trust Object, the rate and scale of growth and development in the Trust Area must be carefully managed and requires limitation (3.1.3). It also contained clear policy statements that placed “priority on preserving and protecting the integrity of the environment and indigenous cultural heritage in all decision-making” (3.1.2).

Events then took a somewhat dramatic turn with repercussions still evident today. First reading of the [2021 draft](#) of the trust policy statement was deferred after a contingent of trust area residents objected that their views had not been adequately addressed following public consultation. Their primary concern was that the trust policy statement’s emphasis on ecological issues unfairly interfered with the rights of property owners to develop their land to their best advantage. The upshot was that the 2021 draft was shelved and

restrictions on development became a prominent issue in the 2022 Islands Trust election. The *Islands Trust Act* was described by some as a relic from a bygone era that needed to be either revamped or repealed.

In 2023, a new Trust Council decided to rewrite the draft trust policy statement. The result was a [2025 draft](#) that largely discarded the content of its predecessor and expunged the introductory section explaining the meaning of the trust object. The reason provided by Trust Council for removal of the explanation of the trust object was that doing so created a simpler and cleaner document

The problem with this rationale is that the sole purpose of the trust policy statement is to carry out the object of the trust, and in order for that to happen, the meaning of the object needs to be clearly understood and expressed. Adding to the importance of defining the object of the trust in the policy statement is the fact that uncertainty now exists about that meaning as never before, and the reason that so much uncertainty exists is that Trust Council has chosen to reinterpret the meaning of “unique amenities” in a very different way than the authors of the Act understood it to mean.

### **Reinterpreting the Meaning of “Unique Amenities”**

Based on the dictionary definition of “amenity” as “a pleasant feature”, a prominent example of a unique amenity in the trust area is South Pender Island’s striking headland, Gowlland Point, with its prominent line of ancient firs, their craggy crowns offering vantage points over Boundary Pass as well as nesting sites for bald eagles above grassy meadows from which each spring emerge one of the most prolific concentrations of chocolate lilies on the islands, their predictable abundance due in part to the cultivation practices of the original human inhabitants of SDÁ, YES, as the island was known to the WSÁNEĆ people, who generation after generation would disperse the bulbs to increase the bounty of future harvests.

Gowlland Point is an amenity unique to the islands, and the accompanying reference in section 3 of the Act to “environment” logically refers to the natural ecological, geological and climatic setting in which Gowlland Point is situated. The local environment is not unique, any more than is any ecosystem; rather, it is simply the necessary foundation for the headland and its plant and animal communities that depend on a stable, unspoiled environment in order to continue to flourish. Distinctive natural features on other islands are equally unique and similarly valued.

In September 2023, following an in-camera (closed to public) meeting to receive legal advice, Trust Council issued a [Statement on the Scope and meaning of Section 3 of the Islands Trust Act \(Object Clause\)](#) that departed from its predecessors’ interpretation of the object clause of the Act.

The consensus statement began by quoting section 3 as follows: “The object of the Islands Trust is to preserve and protect three specific elements: a) the trust area; b) its unique amenities; and c) [its unique] environment, ...” In doing so, Trust Council appeared to alter the wording of the Act with the addition of “[its unique]”. The addition is puzzling, to say the least, as it puts words in the minds of the legislators that they apparently did not intend, and in doing so appears to alter the meaning of the law. It’s a standard legal principle that courts interpret statutes according to their commonsense, ordinary meaning. The commonsense, ordinary meaning of the wording of the object clause of the *Islands Trust Act* is that the legislators wished to protect the unique amenities of the trust area, which at the time they characterized as the natural features of the landscape, and which depended for their continuation on maintaining a stable environment that provided the foundation for those features (as described in the discussion above about Gowlland Point).

It is reasonable to presume that the legislators did not preface the word “environment” with “unique” because that would have conveyed a different meaning than they intended. What Trust Council intended to convey in its 2023 alteration to the language of the statute is not clear, as there appears to be no published record of their discussion on that point. Perhaps the most logical explanation is that they intended to draw a parallel between “unique amenities” and “unique environment” to suggest that unique amenities mean something quite different from environmental values, which the Hansard record of debates on the Islands Trust bill suggests is demonstrably not the case.

The statement then announced Trust Council’s consensus decision that “unique amenities are broad-ranging and may include issues such as, but not limited to, housing, livelihoods, infrastructure and tourism”. Although the statement added that an environmental focus was also important, the implication was clear that protecting the environment of the trust area was no longer the top priority. Previous interpretations of “unique amenities” had assumed that they referred primarily to natural features related to the trust area environment, but that connection was abandoned in the 2023 statement.

At a December 5, 2025 “community information meeting”, a trustee explained that the definition of unique amenities “is purposefully vague so they can be interpreted by the trustees of the day”. This may also explain why the most recent trust policy statement draft fails to include a definition of “unique amenities”. Doing so might constrain Trust Council—or possibly even local trustees—from constantly revising the meaning of “unique amenities” and thereby, in effect, redefining the purpose of the *Islands Trust Act* according to fluctuating local demands.

Questioned about its redefinition of “unique amenities”, Trust Council explained that it had received a legal opinion supporting its authority to make the change. In the face of growing criticism, Trust Council made the opinion publicly available on the Islands Trust website. In the 2020 [letter expressing the opinion](#), the law firm Young Anderson stated that Trust Council might interpret section 3 by “applying its particular insight” and that a reviewing court would defer to Trust Council’s interpretation unless it could be shown to be unreasonable, even if not legally correct. The opinion concluded (page 4) that a Trust Council interpretation of the term “unique amenities” as including a supply of affordable housing would likely pass the reasonableness test. The opinion referenced affordable housing rather than housing in general because Trust Council had specifically asked whether the trust object could be interpreted to include a mandate to preserve and protect affordable housing.

Curiously, in the same letter, responding to a different question on the scope of section 3 (on page 2), Young Anderson commented on the meaning of “unique amenities” by referring to the dictionary definition of “amenity” as “pleasant feature” and concluding with regard to the meaning of “unique”: “We don’t interpret the adjective ‘unique’ as meaningfully limiting the term ‘amenities’; rather, we think that the term ‘unique’ simply acknowledges the juxtaposition of the trust area’s landforms, plant and animal communities and so forth with the geographic position of the islands on which they are found, which is by definition unique”.

The latter interpretation, seemingly at odds with the law firm’s advice later in the same letter on flexibility in defining “unique amenities”, appears to be consistent with the thinking of the legislators who created the *Islands Trust Act*, as recorded by Hansard during their debate of the bill in 1974. The view that Trust Council might reasonably interpret “unique amenities” to include “housing, livelihoods, infrastructure and tourism” is difficult to reconcile either with the intent of the creators of the legislation or with the commonsense and ordinary meaning of “unique amenities”. There is nothing demonstrably unique about housing or infrastructure; and it would

seem a stretch to characterize it as the “pleasant feature” suggested as the definition of “amenity” earlier in the legal opinion. Quite apart from the fact that the new definition appears to signal a radical departure from the meaning intended by the Legislative Assembly when the Act was created, it seems questionable that a court would be likely to consider affordable housing something unique or an amenity in the commonsense and ordinary meaning of both words.

This is not to suggest that housing, and especially affordable housing, is not vitally important in the trust area. It is—especially so given the rapid increase in property values and limited supply of rental housing on the islands—though the issue driving opposition to Islands Trust regulation in recent years appears to have been related more to regulation of house size and footprint in circumstances unrelated to the desire for affordable housing. The 2020 legal opinion by Young Anderson responded specifically to the question of whether affordable housing could be considered a unique amenity, and affordable housing was a focus of the 2021 draft trust policy statement. However, growth and development on the islands in the last decade has been at the high end of new housing, often left unoccupied for part of the year. The affordable housing deficit is due in large part to the increased housing needs of the construction and service workers needed to support the “surplus” of new unaffordable housing.

It is absolutely reasonable for housing and infrastructure and tourism to be considered in policies geared towards the preservation and protection of the trust area. The problem with artificially bundling defining such concepts within the framework of “unique amenities” is not only that they are neither unique nor amenities, in the ordinary meaning of the words, but also that so designating them suggests that the attributes that inspired the creation of the *Islands Trust Act* in the first place—ecological values, natural features and cultural heritage—are no longer the main priorities.

It seems reasonable that Trust Council can take into account issues such as housing, livelihoods, infrastructure and tourism in conjunction with preserving and protecting the trust area, but in order to do so, it needs to unpack those issues from “unique amenities”, respect the original intent of the legislation, and acknowledge not only that unique amenities refer to natural features but also that the importance of protecting those amenities and the environment that supports them has greatly increased rather than decreased in the half century since the *Islands Trust Act* came into force.

Obviously the relative importance of various social issues changes over time and those changes need to be taken into account in any governmental decision-making process. That said, there are limits to the flexibility with which laws may be interpreted. In its 2023 statement on the object clause in the *Islands Trust Act*, Trust Council noted the following: “Frequently a mandate is created by an organization, but since the Islands Trust was created by provincial legislation, therefore the mandate is an enacted law: it may be interpreted and such interpretation may be challenged, but it can only be changed by the Legislative Assembly.”

Exactly so. The problem Trust Council appears to be facing at the moment is that it is caught between its acknowledgement of the sanctity of statute and its irresistible urge to reinterpret the meaning of the words of the statute in a manner that defies common sense and departs from the intent of the legislators who enacted the statute. If Trust Council’s interpretation were to be challenged at court, the court would be likely to pay close attention to the intent of the Legislative Assembly when it approved the law. As 1974 Hansard demonstrates, the Legislative Assembly’s intent was to preserve and protect those features that made the Gulf Islands so valued at the time not only by the islanders themselves but also by British Columbians as a whole (s. 3: “for the benefit of the residents of the trust area and of British Columbians generally”): the natural beauty of the islands, their mild climate, their cultural heritage. The court might consider as well that pressures such as continuing rapid population growth, ever-growing demand for finite freshwater supplies, the spread of invasive species, and accelerating climate change collectively challenge the ability of the

legislation to achieve its original purpose as articulated in section 3, hence necessitating a narrower rather than broader interpretation of the object clause and especially of the meaning of “unique amenities”.

The upshot may be that, by forcing a definition on “unique amenities” that doesn’t reasonably fit its meaning, instead of exploring alternative ways of addressing a pressing issue—such as creating opportunities for affordable housing as opposed to lifting restrictions on house size—Trust Council has chosen a solution that may ultimately defeat its own stated objectives when seeking ministerial approval for the most recently drafted trust policy statement.

It is noteworthy that the 2025 draft of the trust policy statement includes a glossary of definitions but neglects to include the one definition most important to making clear the legislated purpose of the trust policy statement—the definition of “unique amenities”.

### **Trust Council’s Request for Ministerial Direction on the Meaning of “Unique Amenities”**

In October 2024, wrestling with how to reconcile competing views in the community and among trustees about how to interpret and carry out the role of the Islands Trust in land use governance, Trust Council [wrote to](#) the Minister of Municipal Affairs to request a provincial review of the Islands Trust’s mandate, governance and structure. The letter from the chair of Trust Council made particular note of the headache that the term “unique amenities and environment” was creating for Trust Council given an increasingly polarized community:

Section 3 of the Islands Trust Act mandates preservation and protection of the Trust Area and its ‘unique amenities’ and environment. The undefined term ‘unique amenities’ has led to competing interpretations of the meaning and scope of the Islands Trust’s jurisdiction and has generated division among trustees and the public in this and previous terms. As a consequence, Trust Council deliberations are persistently troubled by inconclusive debates about the relative importance and prioritization of environmental protection versus the facilitation of flourishing human communities. In order to function effectively, Trust Council needs the Province to provide a clearer definition of the Islands Trust object.

[Declining the request](#) on April 28, 2025, minister Ravi Kahlon reminded Trust Council of the original intent of the Islands Trust Act and the need to carefully manage growth:

Land use planning to preserve and protect the Trust area and its unique amenities and environment is the core responsibility of the Islands Trust. This reflects the ecological mandate of the Trust, the toolkit deliberately supplied by government, and that island communities have a role to play in local environmental stewardship. It is my expectation that the Trust Council recognizes that this requires careful deliberation and consideration of perspectives to manage expectations of growth, development and local economies without exceeding the carrying capacity of local ecosystems and preserving unspoiled natural amenities.

Almost a year later, as Trust Council hastens to complete and approve a revised policy statement prior to Trust Council elections in the fall of 2026, Trust Council’s consensus definition of “unique amenities” as including “issues such as, but not limited to, housing, livelihoods, infrastructure and tourism” presumably still stands, despite the minister’s emphasis on the trust’s ecological mandate.

### **A Policy Statement without a Clear Purpose**

The legislated purpose of the trust policy statement is to carry out the object of the trust. As it stands, this will be the first trust policy statement that does not explain what that object means, at

the very time when such an explanation is most needed, in light of Trust Council's lack of certainty about that meaning.

As we enter 2026, Trust Council seems intent on completing and implementing a new trust policy statement before the fall Islands Trust elections. Absent a clear understanding of the purpose of the trust policy statement, this appears to be a classic case of putting the cart before the horse. A self-acknowledged muddled understanding of the legislated purpose of the trust policy statement may not be an optimal position from which to start when revising a document so essential to the workings of the Islands Trust.

The minister has given his opinion that the trust mandate is first and foremost one of ensuring protection of ecological values, as intended by the Legislative Assembly in drafting the *Islands Trust Act*. Trust Council has made clear that it considers protection of ecological values not to be its top priority, but rather secondary to issues such as housing, livelihoods, infrastructure and tourism. Notwithstanding the minister's clearly expressed response, Trust Council appears not to have reconsidered its very different definition in the past two years, even though ministerial approval is required for the proposed trust policy statement to take effect, and nowhere does the 2025 draft define "unique amenities".

The difference is not simply one of semantics, in which different people agree that the environment is important but simply choose to express it in different ways. We are living in a place where the population of the islands has been growing at one of the fastest rates in the country. The inland sea in which our islands are situated provides the avenue for the busiest shipping lane in the country, bound to become ever busier with the expansion of Pacific trade, with inevitably increasing levels of noise and pollution impacting ocean life. We live at a time of considerable pushback against regulations restricting land use, including vocal demands for the abolition of the Islands Trust. The notion that human-caused climate change, with its concomitant impacts on biodiversity and coastal landforms, is just a hoax or at least not worth worrying about is not a view evident only south of the border. The process of reconciliation with First Nations, the "saltwater people" whose existence barely registered at the time the *Islands Trust Act* was enacted, includes learning from their traditional knowledge of ecological relationships such as those at the meeting of land and sea, where fragile eelgrass beds provide the essential foundation for a wealth of marine species from juvenile herring all the way up to the critically endangered orcas, the iconic apex predators of the Salish Sea.

Society rarely makes laws that give priority to the needs of nature. The 1974 *Islands Trust Act* was a foresighted and innovative exception to that truism. The legislators who created it could hardly have known that half a century later the islands they elected to preserve and protect would seem even more special and even more vulnerable to threats to their ecological relationships and rural character—or that there would emerge such a determined effort to redirect the focus of their creation to human rather than environmental concerns.

The trust policy statement is the essential tool dictating how each island achieves an appropriate balance between human use of land and the protection of environmental values and rural character. Every significant governmental policy includes the definitions needed to guide and constrain its content to ensure its conformity with its enabling legislation. The trust policy statement should be no different.

At a minimum, the draft trust policy statement would benefit by clearly and comprehensively defining the meaning of the object of the Islands Trust, consistent with the guidance provided by

the Minister of Municipal Affairs in his letter of April 28, 2025, to Trust Council. Failing that, perhaps completion of the trust policy statement should be deferred until after the fall 2026 Islands Trust election to enable Trust Council to obtain and embrace a clear definition of the object of the trust, with provincial government guidance as necessary, thereby providing the certainty required for implementation of a trust policy statement that fulfils its legislated purpose to carry out the object of the trust.