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Sent: Friday, August 14, 2026 5:00 PM
To: Islands2050
Subject: Submission for Islands 2050
Attachments: submission to TC Aug. 14, 2026.docx; June 16 presentation to Trust Council.docx

Please add my two attached submissions to the Islands 2050 correspondence file.

Thank you.

Paul Petrie
South Pender

August 14, 2026, submission to Trust Council re: policy 1.3.1

Submission to Trust Council regarding policy 1.3.1 "Policy Statement Implementation".

August 14, 2026

Trustees,

On June 5, 2026, I was provided the opportunity by Trust Executive Committee to make a delegation presentation on three issues: (1) deficiencies in the 2025 draft Trust Policy Statement amendment, (2) deficiencies in the 2025-26 budget, and (3) revision of administrative policy 1.3.1 to bring it into full compliance with section 15(4) of the *Islands Trust Act* and section 478 of the *Local Government Act*.

On June 16th I provided an oral presentation to Trust Council on the first two issues and my speaking notes for those issues are attached at the end of this submission. I agreed with the Trust Executive Coordinator to make my submission on policy 1.3.1 in writing to provide the necessary analysis to document the deficiencies in this policy and to recommend corrective measures for Trust Council's consideration.

Trust administrative policy 1.3.1 "Policy Statement Implementation" provides the procedures for the Trust Executive Committee to approve bylaw referrals. This submission identifies several key deficiencies in policy 1.3.1.

- It provides an incomplete legal interpretation of the "contrary to or at variance with" test in Section 15(4) of the *Islands Trust Act* without reference to the "at variance with" part of that test,
- It relies on a simple checklist of directive policies from the Trust Policy Statement to review a bylaw referral without including the applicable Official Community Plan provisions that have been approved by the Minister of Municipal Affairs.
- It allows Trust Executive Committee to circumvent the requirement in section 478 of the *Local Government Act* to ensure that all bylaws are consistent with the Local Trust Area's Official Community Plan provisions.

This submission calls for reform of Trust administrative policy 1.3.1 by:

- revising the "absolute and direct collision" interpretation for the application of the "contrary to or at variance with" test in section 15(4) of the *Islands Trust Act* to address the "at variance with" part of that test,

- including the relevant Official Community Plan provisions that implement applicable directive policies directly into the review process for review of land use bylaws to ensure compliance with section 478 of the *Local Government Act*.
- incorporating the needed revisions to policy 1.3.1 into the Trust Policy Statement so the public can comment on the proposed changes, and the finalized changes can be reviewed and approved by the Minister of Municipal Affairs.

The ecological mandate of the Trust

Islands Trust Council is responsible for carrying out its legal duty to preserve and protect the unique amenities and environment of the Trust Area for the benefit of the residents of the Trust Area and of British Columbia generally. In his April 28, 2025, letter to Trust Council, former Minister of Municipal Affairs, the Honourable Ravi Kahlon reminded Trust Council that their core priority is to carry out this “ecological mandate of the Trust.” Minister Kahlon added:

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.

The Trust Policy Statement is the main tool used by Trust Council to carry out its statutory duty to uphold the ecological mandate of the Trust. The purpose of the Policy Statement is to articulate the specific priorities and policies to preserve and protect the unique amenities and environment of the Trust Area. As Minister Kahlon pointed out, managing growth and development within the ecological mandate of the Trust Area is the primary responsibility of Trust Council along with preserving its “unspoiled natural amenities.”

The current Trust Council has attempted to redefine the concept of “unique amenities” to dilute the current priority on protecting the unique environment and the unspoiled natural amenities of the Trust Area and to place a higher priority on development focused issues. Council has persisted in attempting to insert “housing, infrastructure, tourism and livelihoods” into the meaning of unique amenities and rewriting the Trust Policy Statement to place more emphasis on development issues and less on the ecological mandate of the Trust.

Former trustee David Greer’s February 1, 2026, letter to Trust Council provides a detailed history of the preserve and protect mandate of the Trust, and Trust Council’s misguided

attempt to redefine unique amenities focusing on development issues rather than the preserve and protect object of the Islands Trust Act. In his February 17, 2026, letter to Trust Council, municipal law expert Don Lidstone has called into question Council's misinterpretation of "unique amenities" and the failure of the draft Policy Statement to prioritize the ecological mandate of the Trust. Both the Greer and Lidstone documents offer special insights in understanding how the current Trust Council has lost its focus on the ecological mandate of the Trust.

Official Community Plans apply Trust Policy at the local level.

To understand the application of policy 1.3.1, it is necessary to examine the role Official Community Plans play in the process. Section 15(2)(b) of the *Act* authorizes the Trust to establish different policy applications for different parts of the Trust Area. The Trust Policy Statement includes directive policies that identify general policy objectives and requires each Local Trust Committee to address each directive policy objective in its Official Community Plan (OCP). This flexibility allows each Local Trust Area to apply the directive policy objective in an OCP provision that is responsive to the unique conditions of the Island(s) in that Local Trust Area.

The Trust Executive Committee will approve that OCP provision if it is not contrary to or at variance with Trust Policy and the ecological mandate of the Trust. Once the Executive Committee approves the OCP provision, it is referred to the Minister for final approval. With the Minister's approval, the OCP provision implementing the general directive policy becomes the applicable Trust policy for that Local Trust Area.

Land use bylaws must be consistent with the OCP.

Section 478 of the *Local Government Act* establishes that all bylaws enacted by a Local Trust Committee must be consistent with the OCP that was approved by the Minister. This means that every bylaw that is enacted by the LTC must be consistent with the applicable OCP provision.

As an example, Trust directive policy 5.2.4 states:

Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.

South Pender Local Trust Committee implements this general policy directive with the following OCP requirements which were approved by the Minister of Municipal Affairs.

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The South Pender OCP requires trustees:

2.2.2 To protect the natural features and biological diversity of the island and its immediate surroundings,

2.2.4 To ensure land use, development, and associated servicing are compatible with the rural island character and that their growth is gradual and sustainable;

South Pender OCP provision 2.2.2 and 2.2.4 become the applicable policy implementation for Trust policy directive 5.2.4. Any subsequent land use bylaw enacted by the South Pender LTC must be consistent with these OCP provisions as provided by the *Local Government Act*.

Policy 1.3.1: Policy Statement implementation.

As noted above, Policy 1.3.1 provides administrative guidance for trustees and staff to review and approve Local Trust Area bylaws enacted under the Trust Policy Statement.

Section 15(4) of the Islands Trust Act states that:

A bylaw submitted to the executive committee...must not be approved by the executive committee or the trust council... if it is contrary to **or at variance with the trust policy statement.** (emphasis added)

Section A.4 of policy 1.3.1 which was initially approved in 1994 states:

As interpreted by the courts, "contrary to or at variance with," means that there is an absolute and direct collision between the local trust committee or island municipality bylaw and the Policy Statement.

It is my respectful submission that administrative policy 1.3.1 fails to give full effect to section 15(4) of the Islands Trust Act by not fully considering the "at variance with" portion of the statutory test.

Policy 1.3.1 relies on a check list of all general directive policies but fails to include specific reference to the applicable OCP provisions that have been approved by the Minister and which implement the directive policies for application in that Local Trust Area.

Based on recent court judgements (Vavilov and Auer), the above policy interpretation of "absolute and direct collision" is correct with respect to the "contrary to" part of the test.

However, the absolute and direct collision application does not address the "or at variance with" part of the test. Words in a statute must be given their normal meaning. The "at variance with" part of the test does not bear the same meaning as "contrary to". Contrary to means "the opposite of", while at variance with means "inconsistent with." The fact that "contrary to" is joined to "at variance with" by the article "or" emphasizes that the two parts of the test have a different but related meaning.

As prescribed by the *Local Government Act*, any bylaw enacted by trustees must be consistent with applicable OCP provisions. Policy 1.3.1 relies on a check list of general directive policies without reference to the specific OCP provisions that implement applicable directive policies. This omission leaves a gap in the analysis and allows the Executive Committee to "skip over" the applicable OCP policy requirement and only reference the general Trust wide policy objective contained in the directive policy framework when approving a bylaw.

The requirement in section 478 of the *Local Government Act* that bylaws be "consistent with" the OCP provision reflects the not "at variance with" part of the section 15(4) test that bears a parallel meaning to the "consistent with" requirement. The "absolute and direct collision" interpretation in policy 1.3.1 does not give meaning to the not "at variance with" part of the test and therefore fails to apply a relevant provision in section 15(4) of the *Islands Trust Act*.

The example of Bylaw 129.

The South Pender LTC recently passed Bylaw 129 which increases house size allowance depending on lot size and reduces side lot setbacks. The current average house size on South Pender is approximately 1,850 ft², based on assessment data records which is one of the indicators of the rural character of South Pender. Bylaw 129 will increase house size allowance to between 3,000 ft² on smaller lots under an acre and up to 4,500 ft² on larger lots. The predictable result of this bylaw over time is that the smaller rural style homes will be replaced by much larger houses impacting the rural character of South Pender. Bylaw 129 will accelerate growth and development and impact the rural community character of South Pender, one of the unique amenities requiring preservation and protection under the ecological mandate of the Trust.

Because residential development occurs predominantly along the coastal zone on South Pender, increased growth and development will impact the unspoiled natural amenities and the biological diversity of the sensitive ecosystems in that zone. We have seen the results of overdevelopment in the Muskoka region that has fundamentally changed the environmental and economic values of that region. The Islands Trust Act guards against

a similar scope of development for the Trust Area and its communities.

In approving Bylaw 129, referred to by some as “build bigger houses closer together”, the Trust Executive Committee relied on the “contrary to” part of the statutory test in section 15(4) of the Act and found that the increased house size allowances in Bylaw 129 were not in absolute and direct collision with the general directive policies in the Trust Policy Statement.

The Executive Committee did not address whether the Bylaw 129 was at variance with: (a) *“protection of the natural features and biological diversity”* of the island’s Coastal zone (required by OCP 2.4.2), or (b) *whether the increased development is compatible with the rural island character and that the resulting growth will be gradual and sustainable* (OCP 2.4.4). The Executive Committee failed to address whether Bylaw 129 was at variance with these OCP provisions that had been approved by the Minister.

Nor did the Executive Committee address whether Bylaw 129 was consistent with these OCP provisions as required by the Local Government Act.

However, the decision of the Executive Committee to adopt Bylaw 129 is a decision of the Trust and is now part of the South Pender Land Use Bylaw. The issue is not what to do about Bylaw 129. The only way to challenge that decision is by judicial review, an expensive proposition. The issue, rather, is what to do with the flawed policy 1.3.1 that allowed Bylaw 129 to slip through the statutory protections that, in my view, should have prevented its adoption.

The Islands Trust is a fiduciary trust

It is not unusual for bureaucracies to adopt policies that may seem convoluted by some community members and may leave open loopholes that can allow decisions that appear inconsistent with the object of the legislation. However, the Islands Trust is more than a bureaucracy. It is a fiduciary trust, and trustees have a legal duty to uphold the ecological mandate of the Trust for residents of the Trust Area and British Columbians generally.

It is my submission that the outdated administrative policy 1.3.1 fails to give full effect to the “contrary to or at variance with” test in section 15(4) of the Islands Trust Act and it fails to apply the Local Government Act requirement that all bylaws must be consistent with the OCP. In my view the time is long overdue to review and revise the 1994 policy 1.3.1 to bring it into full compliance with applicable legislation.

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Perhaps more importantly, the policy for reviewing and approving bylaws is pivotal for implementing Trust policy and should be incorporated into the Trust Policy Statement. That would allow for public comment on the policy before it is finalized and require approval by the Minister of Municipal Affairs before its adoption.

Based on the foregoing, I recommend:

1. That Trust Council initiate a review of administrative policy 1.3.1 to amend the "absolute and direct collision" interpretation which now only addresses the "contrary to" portion of the test in section 15(4) of the *Islands Trust Act* and include provision to also address the "at variance with" portion of the test.
2. That Trust Council revised policy 1.3.1 to include the relevant Official Community Plan provisions for the Local Trust Area that apply to the bylaw under review to address the consistency requirement in section 478 of the *Local Government Act*.
3. That the revised policy 1.3.1 incorporate the needed revisions to policy 1.3.1 into the Trust Policy Statement so the public can comment on the proposed changes, and the finalized changes can be reviewed and approved by the Minister of Municipal Affairs.

Thank you for considering my views.

Paul Petrie
South Pender Island

The Object of the Trust

The Islands Trust was established in 1974 to control the surge of development and the carving up of sensitive ecosystems for real estate parcels. The purpose of the Trust then, and remains today, to limit growth and development to avoid degradation of the unique amenities and environment that these special islands are blessed with.

Minister Kahlon's April 2025 letter to Trust Council affirmed that the "ecological mandate" of the *Act* is still the core priority of the Trust and that Trust Council must "manage expectations of growth, development and local economies without exceeding the carrying capacity of local ecosystems and preserving unspoiled natural amenities." Despite this, following its May 6, 2025, Trust Council meeting to review its 2023 interpretation of the object of the Trust, Trust Council reaffirmed its position that "unique amenities" also includes housing, livelihoods, infrastructure and tourism which must be "balanced" with preserving and protecting the environment.

The February 17, 2026, detailed letter to Trust Council from local government legal expert, Don Lidstone, clearly shows how that redefinition of "unique amenities" is at variance with the object of the *Act*. The current Trust Policy Statement "places priority on preserving and protecting the integrity of the environment and amenities in the Trust Area." It is my submission that Trust Council's redefinition of unique amenities weakens that priority with the inclusion of development leaning issues of housing, livelihoods, infrastructure and tourism.

Trust Policy Statement Review

Over the last two terms Trust Council has devoted considerable staff resources and budget allocation to reviewing and re-reviewing the Trust Policy Statement, the purpose of which, under section 15 of the *Act* is to direct how Trust Council will carry out the object of the Trust.

The current Trust Policy accurately reflects the object of the Trust, stating that "planning must account for the cumulative effects of existing and proposed development so as to avoid detrimental effects on watersheds, groundwater supplies and Trust Area species and habitats." Exceeding carrying capacity destroys the very natural beauty and rural character that draws islanders to these ecologically fragile islands in the first place and risks future ecological collapse.

Trust Council's latest draft to the Trust Policy Statement dilutes that ecological priority by redefining "unique amenities", and by implication failing to follow the guidance

provided by the Minister responsible for the Islands Trust.

The 2025 draft Trust Policy Statement has increased the focus on preserving and protecting development issues rather than strengthening the priority on the ecological mandate and preserving and protecting the unspoiled natural amenities in the Trust Area in several ways including:

- it shifts away from limiting growth to managing it,
- it deletes the current Trust Policy Statement text that warns against the impact of increasing pressure from population growth and tourism,
- it omits the current Trust Policy Statement text that calls for respecting existing density limits to preserve rural community character,
- it directs LTCs to identify suitable locations where density could be increased.

The April 29, 2026, report to Trust Council from the “Be the Change” consultants summarized the results of the public consultation as follows:

Across both the survey response and public correspondence, there is broad support for the overall goal of preserving and protecting the Islands Trust Area, including in relation to ecosystems, water, and land protection.

Given the strong support for maintaining the priority on the ecological mandate of the Trust and significant public opposition to the draft Trust Policy, it would seem prudent to leave the draft as is and allow a newly elected Trust Council to take a fresh look at the public response to the draft Trust Policy Statement feedback and determine whether the draft Trust Policy Statement accurately reflects the ecological mandate of the Act and to what extent the current Trust Policy Statement requires further amendment particularly in the areas of First Nations consultation, the impacts of climate change and “sustainable affordable housing”.

Taxpayer subsidies and cuts to Environmental Protection

In the last decade the Trust Area has experience a population boom with a growth rate more than three times the provincial rate. This accelerated growth has intensified the pressure for development throughout the Trust Area. This pressure has increased the demand for housing and has led to an increase in development applications throughout the Trust Area.

Particularly concerning is the fact that the cost of processing these development applications far exceeds the fees collected to process them. Trust data shows that development application fees cover less than 15% of the processing costs for these applications.

This means that local island taxpayers are subsidizing development applications by approximately 85% to the tune of over a million dollars annually. Yet Trust Policy 5.6.1 expresses the intent “to recover from applicants’ 100 percent of the average cost of processing the applications.” It appears that the current Trust Council has pushed this issue forward to be dealt with by the new Trust Council in 2027.

In the recent budget debate Council voted to completely remove funding for the proposed permanent professional biologist position that was intended to provide consistent, scientifically backed environmental review of development applications. A small portion of the “unclaimed” development fees could easily have funded this critical position that would have provided expert guidance to ensure that development applications do not result in environmental degradation or compromise the carrying capacity of affected ecosystems.

As an established land trust, the Islands Trust has a moral and fiduciary responsibility to support Canada’s binding international commitment to protect 30% of its lands by 2030 to reverse biodiversity loss and fight climate change. As of 2019 the Trust had protected 18% of the 7,000 ha. in the Trust Area. Over the last seven years the Trust has protected only 2% more of the Trust Area leaving a full 10% to be protected in the next four years to meet the Canadian and Provincial goal of protecting 30% by 2030. The recent reduction in the Conservancy’s budget during the budget review has most certainly compromised the Conservancy’s capacity to meet this important target.

To conclude, I urge Trust Council:

- to take positive and immediate steps to increase development application fees to more fully cover the cost to the Trust for processing these applications and end the subsidies to development applications by island taxpayers,
- identify additional savings in the budget to fund the permanent professional biologist position in the upcoming term,
- and identify the steps necessary to meet Canada’s international commitment to protect 30% of land in the Trust Area by 2030.

Thank you for considering my views.

Paul Petrie
South Pender Island