

**Delegation submission to Council from Michael Sketch
for the Islands Trust quarterly meeting in Nanimo, B.C.;**
7:00 to 9:00 P.M. session on Tuesday, 8 March, 2022

**The second iteration of Trust governance.
Correct trust area policy and implement federalism,
each consistent with the Act**

Councilors – A second iteration of trust area governance is overdue. Please give authority to your own Trust Programs Committee to i) rewrite the Trust Policy Statement bylaw ii) wherein the two level, hierarchical, federal governance established in the Act is implemented. Both corrections are needed to ensure that trust bodies and their staff are effective in carrying out the Object of the Trust.

Trust area policy

Council's bylaw 17 (the Trust Policy Statement, "TPS") dates from 1994 and while content has been amended several times, a structure remains in which trust area policies are delegated to the local trust areas for implementation.

It is incumbent on Council to correct deficiencies in both TPS content and structure, particularly where deficiencies can be seen to impair the direction of the Act. The Act requires that TPS policies carry out – that is implement – the preserve and protect Object of the Trust.

There is evidence that the delegation of trust area policies to each local trust area throws a spanner in the intention of the Act; that those policies are effective on local trust area ground in every action of advice givers and decision makers. On North Pender I asked the LTC chair to implement missing trust area policies in a current land use bylaw review. Senior staff replied that the local bylaws are correct, because they have been approved by Trust Executive. At Trust Council, I asked the Chair as to responsibility for implementation of trust area policies. The Chair replied that responsibility lies with the Local Trust Committee. Both statements, taken in isolation, are correct. Council will understand the potential for sidestepping trust area policies. Trust area policies can be relied on in staff advice, but need not be.

Further, the TPS and Council's corresponding implementation policy 1.3.1 leaves the public with the impression that the relevance of trust area policies is that local area bylaws not be contrary to or at variance with trust area policies. But that is only part of Section 15 of the Act. The more important part of Section 15, coupled with Section 4 of the Act, makes clear that in the Council, Executive Committee and each LTC are continued for the purpose of implementing trust area policies – and thereby the Object of the Trust. That is, in all day to day actions of staff and LTC.

It's easy to lose sight of i) statute and ii) preserve and protect tenets in the forest of current weight of TPS history, advocacy and good intentions, none of which are indicated in Section 15 of the Act. Current draft TPS bylaw 183 needs a rewrite.

But how will the rewrite be done? Current draft TPS bylaw 183 was mooted in the last trustee term. At the Council meeting on Saturna early this term, Council agreed that an expanded Trust Programs Committee would take charge. The public assumed the committee of councilors would critique last term's mandate to amend the introductory sections of bylaw 17 alone. That the very capable committee members would refer to the Act first and decide on TPS revision.

From the public perspective, staff took charge early and eighteen months later the committee and the public saw draft bylaw 183. Not only is this a draft TPS with structural deficiency and superfluous content, but where are "Climate Change" and "First Nations Reconciliation" policies, said to be a rationale for TPS amendment?

But will Council meaningful deliberate a rewrite at all? A second public consultation process is to commence soon, apparently based on draft Council's draft TPS bylaw 183 alone. It is said that consultation will inform the public of draft TPS bylaw 183, then seek public response. Apparently, town hall sessions will be dissuaded.

From the public perspective, correction of TPS structure and content faces a logjam.

The Act is unambiguous. Effective trust area policies are Council's responsibility.

Where has Council gone wrong? History can help.

The requirement for a Council TPS bylaw was introduced in 1989 legislation. The Act had established the Islands Trust as a federation and in the late 1970s and 1980s, Council recognized the need for trust area 'federal' policies.

A former trustee recalls that the early trust area policy was developed by deliberation at the Council table.

There's the difference: *trust area policy was developed by deliberation at the Council table.*

Why doesn't the Trust Programmes Committee advance a rewrite TPS bylaw? When published, I think the minutes of the 11Feb2022 meeting will give insight as to why they haven't. Council must ask their own committee to draft a rewrite.

Correcting the structure of TPS bylaw 17 begins with the wording of “directive” policies.

The policy component of each directive policies of the current (Council bylaw 17) and draft (proposed bylaw 183) TPS bylaws is preceded by a procedural component. As follows:

"Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address (the policy component)".

In other words, implementation of the policy instruction of Council’s directive policies are delegated to the local trust area by the procedural preamble of each directive policy.

Deleting the procedural component leaves the policy component alone. As a trust area policy statement should read.

I have submitted a draft policy statement bylaw to Council which is consistent with the Act.

Federal Governance

The failure of the trust to implement a two level, hierarchical federal governance has set aside the check and balance oversight of the local planning service. Too often, governance failure is manifest in failure of trust area policies to preserve and protect. In one case, the loss of agricultural capability for prime agricultural soil; in another a red listed species and its habitat were lost. Neither loss was necessary and neither should be forgiven.

Council must give direction to properly implement a federal governance administration; ideally in conjunction with the Trust Program Committee’s TPS rewrite.

Immediately, on 10Mar2022, Council will be asked to approve work of the Regional Planning Committee - a revised policy for the Local Planning Service (LPS), as prepared by the director of the LPS. But policy for the operation of the LPS should be given at arms length by the federal oversight administration of Trust Area Services.

Should a fox write the rules for access, or not, to hen houses in fox territory? Of course not. The farmer will set rules to preserve and protect the hens.

Thank you for considering my submission to Council.

Michael Sketch
North Pender Island