Delegation submission from Michael Sketch to Trust Council for the evening session 7 P.M. - 9 P.M., Tuesday, 21 September, 2022
of the electronic quarterly meeting

Is the Trust effectively preserving and protecting freshwater? If not, the corollary is overdevelopment.

Councilors – I address preservation and protection of groundwater in the Trust Area and argue that Trust Area policies are ineffective for the purpose. Limited groundwater encourages or even requires importation of potable water, particularly for tourist accommodation in dry summers. Significant importation of potable water is almost certain evidence that the island is short of groundwater in zones where it is most needed.

For instance the City of Nanimo responded to an FoI request that the "Summer Rain" water haulage company, one of several delivering water to Gabriola Island, received 1.1 million imperial gallons in the dry summer months of 2121. Anecdotally, in the same period, 3100 gallons per day were delivered daily from Victoria to North Pender for one or more tourist accommodation zones. For less dry four month summers, 3100 gallons per week are delivered to Pender which is 244 thousand gallons.

A consequence of ineffective Trust Area policies respecting groundwater is frequent failure in both staff advice and LTC decisions to give priority to the effective determination of drilled well potable water quality and quantity before - and I stress before - consideration of zoned density.

For the important category of zoning for tourist accommodation units, density is the number of accommodation units per hectare. For instance on North Pender, density in the C2 Zone is the number of 600 sq ft cottages per hectare.

Once zoning is given, it is difficult to undo. Not under the Local Government Act, but because downzoning is politically unpopular.

C2 density and the number of C2 Zones on an island are important metrics for gauging 'seasonal overdevelopment'. Island populations swell dramatically in the dry summer months when the parabola of freshwater under each island is being depleted, but not recharged.

The consequence of overdevelopment can be a failed well and potential for sea water intrusion, even for inland wells. Despite disadvantage for neighbourhood wells, challenged wells are too often hydrofractured.

It seems the Trust Area is more aware of the global freshwater shortage than we are locally. Internationally, rivers which should have the right to run are running dry. Access to freshwater is a driver for enduring conflict; a driver for conflicting interests.

It's been nearly five decades since the provincial legislature heard rationale for preserving and protecting the Gulf Islands based on a realistic threat of overdevelopment. But evidence of overdevelopment is manifest, particularly for Trust islands closest to cities.

Why should there be overdevelopment? The province gave legislation to control development, distinct from regional growth strategies in municipalities.

The Trust Area preserve and protect legislation is unique. Legislation which points the way to rights in law for elements of the natural environment. Which points the way to a duty of care owed by advice givers, decision makers and purveyors of the built environment to the very elements of the natural environment necessary to sustain anthropogenic development. For now, that duty of care should be implicit in all we do in the Trust Area.

The Islands Trust Act answered the threat of overdevelopment with a preserve and protect Object which is to be implemented in Trust Area policies of Council's Trust Policy Statement bylaw. I'll call it the TPS.

TPS policies must be effective in preserving groundwater; a foundation element of the natural environment. Groundwater is limited by rainfall and recharge capacity. It follows that the built environment must be limited**.**

Aquifers from which drilled wells divert freshwater are a valuable resource. It is argued that the atmosphere is increasingly contaminated with micron and sub-micron particulates, some toxic. Rain is not pristine and will become less so. Allowing rain to be filtered and probably improved in its passage to the aquifer is more likely to yield better potable water than direct collection from rooftops in above-ground plastic cisterns, with their own contribution to contamination.

Does TPS policy preserve and protect freshwater in the Trust Area?
If not, the corollary is overdevelopment.

At face value, TPS policies should protect. An islander who reads the TPS for evidence of protection of freshwater sees policies 4.41 and 4.4.2:

4.4.1 It is Trust Council's policy that islands in the Trust Area should be self - sufficient in their supply of freshwater.

But there are two caveats:

1) "should be self-sufficient" doesn't give the protection of "shall be self-sufficient" and

2) TPS policy 4.4.1 is a "Commitment of Trust Council", but in the "role of local trust committees" section of the TPS, we read that: "Local trust committees are not required to comply with any policy in the Policy Statement that is not a directive policy".

In other words, advice givers and decision makers in Local Trust Areas may ensure self-sufficiency of freshwater, but they don't have to.

4.4.2 – the 'policy component' reads: "neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater".

Although 4.4.2 is a promising directive policy, again there are two caveats:

1) The 'policy component' has a preamble, roughly that LTCs shall, in their policy and regulatory bylaws, address measures that ensure ... ('policy component'4.4.2). Compliance is delegated to the Local Trust Area for implementation.

2) Policy 1.3.1 of the Trust Policy Manual gives instruction regarding directive policies of the TPS; that they should be addressed in OCP and regulatory bylaws unless reason is given by the Local Trust Area for not doing so.

In other words the Local Trust Area may adhere to TPS policy 4.4.2 but doesn't have to.

The caveats are devastating.

In my delegation submissions, I have given Trust Council reason to rewrite the structure and content of the TPS to give meaningful effect to Trust Area policies in individual Local Trust Areas.

Effective freshwater preservation and protection is needed in order that the Trust Area itself is preserved and protected.

At this final Council meeting for the trustee term, please move that the draft TPS rewrite I have submitted, or a functional equivalent, be accepted by Council for scrutiny and improvement in the next trustee term.

Michael Sketch North Pender Island
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