



Lyackson First Nation

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Russ Hotsenpiller, Chief Administrative Officer
Islands Trust
200-1627 Fort Street
Victoria BC V8R 1H8

May 9, 2024

via email: reconciliation@islandstrust.bc.ca

Dear Russ Hotsenpiller:

RE: Phase 3 Early Engagement – Draft 2 Islands Trust Policy Statement Bylaw

I was pleased to respond to your invitation dated January 23, 2023, to participate in Phase 3 early engagement on draft 2 of the Islands Trust Policy Statement Bylaw No. 183 (the “Policy Statement”). Subsequent to your letter there was a delay of many months, due, we understand, to staffing capacity constraints within Islands Trust and Phase 3 was re-initiated in August, 2023. At about the same time, Islands Trusts representatives sought Lyackson First Nation’s advice on how to improve engagement with local Indigenous communities. I am writing at the request of Lyackson First Nation Chief and Council to share our experience and additional feedback with you.

Immediately last August, Lyackson First Nation staff again signalled that the proposed timelines were inadequate. Indeed, we expressed our hope that Islands Trust would have been working through the resolutions and Phase 2 comments *with* First Nations, in collaboration with our communities and from a rights-recognition perspective.

We also reminded Islands Trust that the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) – brought into force in BC through the *Declaration on the Rights of Indigenous Peoples Act* – affirms nations’ right to participate in decision-making matters and requires obtaining our nations’ free, prior and informed consent on decisions that impact our territory and our people. We further noted that this consent cannot be obtained when unilateral decisions made by local governments create timelines that do not work for the nations - that do not allow for infringements on our rights to be properly considered or for our communities to be fully engaged. Meaningful consultation and obtaining consent for the work at every point in the process can only occur where timelines are co-developed with nations and with respect to the nations’ needs.

As you must be aware, the Policy Statement gets into the core of UNDRIP and our Lyackson First Nation leadership being able to exercise its decision-making rights in its territory. We reminded you that throughout the entire process, the inherent right of Indigenous nations to be self-governing decision-makers within our respective territories needs to be at the forefront. Thus, the *process* needed to be co-designed, at every step, with participating Indigenous nations, with the full recognition of our authority and jurisdiction within our territories. Further, as Islands Trust claims jurisdiction over much of the Quw’utsun Nation’s territory and in consequence your decision-making impacts our aboriginal rights and title, recognition of our inherent right as decision-makers in our territory and meaningful engagement with our Nation by Islands Trust is of great importance.

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To remind you, Lyackson First Nation has been actively involved in the Policy Statement work since at least 2021. More recently, staff, along with technical representation from other Quw'utsun Nation communities, engaged in good faith in the review and provision of feedback on draft 2 of the Islands Trust Policy Statement. While there are improvements over the 1994 Policy Statement, there is still much work to be done.

We note that many of the detailed comments provided in Phase 2 were not incorporated into Phase 3 and no rationale was given as to why they were not addressed. This lack of engagement is disrespectful to the work our teams put into the work, is harmful to our relationship with Islands Trust and is contrary to achieving our communities' free, prior and informed consent on decisions made in our territory. In many instances our feedback was misunderstood or misinterpreted, necessitating lengthy explanation and discussion. For clarity, we fully endorse Cowichan Tribes' April 10, 2024, written comments, along with our own verbal and written feedback, which we hope finds its way into the staff reports. I am sure you can appreciate Lyackson First Nation's reluctance to endorse a policy that does not recognize our inherent rights or that is not deeply rooted in relationship with Indigenous communities.

In closing, I would like to remind you that if Islands Trust is truly committed to achieving reconciliation with Lyackson First Nation, it must recognize the importance of co-developing processes, including timelines, to work collaboratively with our Quw'utsun Nation member communities to co-draft the Islands Trust Policy Statement over the next five years. It is with this commitment that Lyackson First Nation could accept the current draft 2 as an interim policy, one to be adopted pending further collaboration with our communities. In this way, Islands Trust acknowledges the current iteration does not go far enough, but also that it could be a first step toward true partnership with our communities to do this work in a purposeful and fully resourced manner.

Huy ch q'u



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