

**Written Town Hall submission to the Islands Trust Council
from Michael Sketch at 1 p.m. on 4 December, 2019 at the
Coast Victoria Hotel, 146 Kingston St., Victoria, British Columbia**
Oral version; excerpts from Pgs. 3&4 as 2 minutes allowed by the Chair

Implementation of Trust Policy Statement directive policies

Currently, each directive policy has i) directive and ii) policy components.

Although the Act contemplates direct implementation of each policy in the trust area, the Trust Policy Statement uses the directive component to delegate implementation to each island jurisdiction.

*Implementation is once removed from Trust Council
and from the potential for trust area regulation.*

Preamble: The Islands Trust is . . . and Trust policy

The Act establishes a federation¹ political entity in the trust area wherein Trust Council federal governance presides over the union of partially self-governing Local Trust Committees (LTCs)², each with jurisdiction over land use in their local trust area – and for islands associated with a local trust area where applicable.

Under the Act, trust bodies are continued for the purpose of carrying out the trust object, therefore measures taken to establish a balance between Trust Council governance and the degree of LTC autonomy must be shown to further the object.

Trust Council is required to adopt a trust policy statement (the Act, S.15) applicable to the trust area, with the caveat that policies may differ (the Act, S.15(2)(b)) for different parts of the trust area.

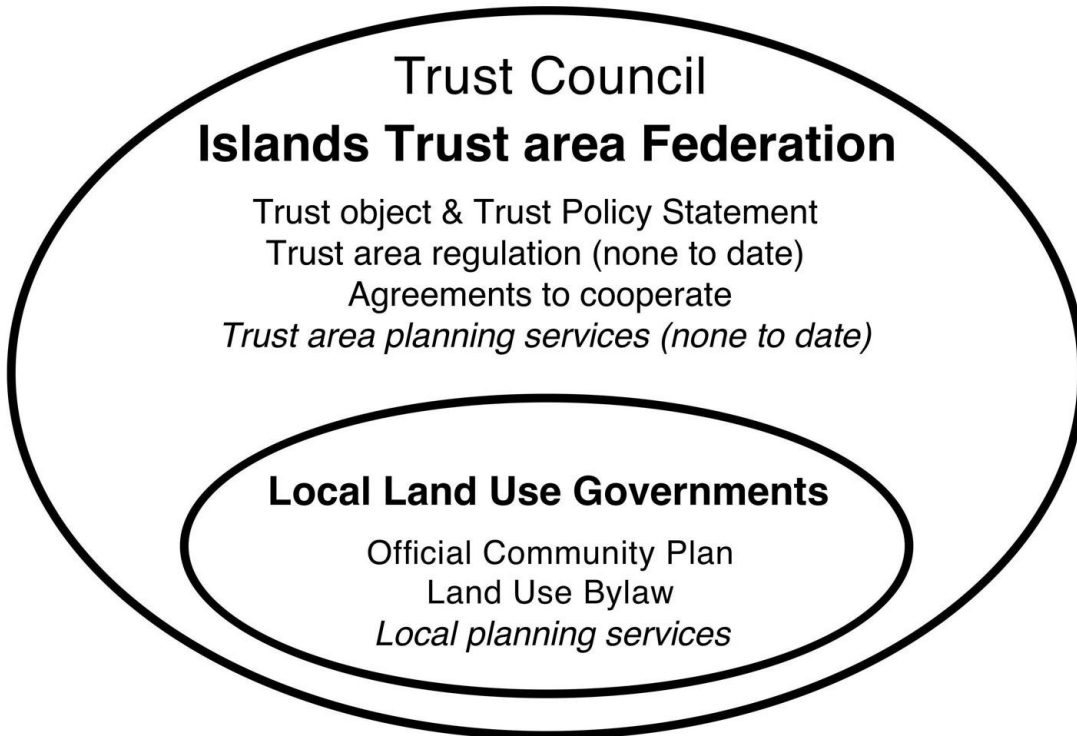
These general policies adopted by Trust Council are to carry out the object of the trust (the Act, S.15(2)) and it follows that it is a responsibility of Trust Council to ensure the effectiveness of measures to implement the force and effect of trust policy in each local trust area.

The current Trust Policy Statement utilizes “directive” policies which have the effect of delegating implementation of core trust policy to each LTC to address in their local bylaws. While the technique does allow for different trust policies to be addressed by each local trust area (the Act, S.15(2)(b)), the act of delegation by Trust Council to individual LTCs respecting directive policy can and has resulted in less effective adherence to the individual policies. In which cases, the perceived benefits of LTC autonomy are offset by more frequent transgressions of trust policy than would be the case were the same directive policies implemented and regulated within the entire of the trust area, subject to direct Trust Council oversight.

¹ See the Wikipedia page for Federation

² The Executive Committee of Trust Council functions as an LTC for the Associated Islands area

The Islands Trust Act establishes a federation wherein Trust Council federal governance presides over the union of partially self-governing Local Trust Committees, each with jurisdiction over land use in their local trust area



The Act intends that the Trust object and Trust area policy be binding upon the actions of Local Trust Committees and upon draft bylaws

Draft bylaws must be submitted to a committee of Trust Council which ensures bylaws don't offend Trust area policy

End of preamble

Trust Council, Staff and members of the public – In submissions to Trust Council last term and this, I gave examples where applications to change land use and planning staff process on five trust area islands resulted in offence to one or more of environment, provincial legislation, or trust area policy.

But the trust object requires protection of environment and amenities and requires cooperation with the province. Further, the Act requires that Trust Council adopt a policy statement to ensure protection and cooperation within the trust area.

Then how were environment and law offended during processing of land use applications on five islands?

In part, the answer lies in how the flagship ‘directive policies’ of the Trust Policy Statement are implemented. Each directive policy has two components; a common directive and the individual policy.

Directive policy is usually presumed an imperative in trust actions to preserve and protect and Council is charged with the responsibility of implementation. But in fact the directive component simply instructs each LTC to address the policy component in local bylaws. The directive component delegates policy implementation to each island jurisdiction. Trust councillors, please check your own OCP and LUB. Are all Trust directive policies addressed? If not, trust directive policy may be the moral imperative, *but there will be no bylaw enforcement.*

With each draft LTC bylaw, staff prepare a directive policy checklist; at face value intended to demonstrate adherence – or not – to trust policy. But look at the staff understanding of the checklist purpose: “ to highlight issues addressed in staff reports and as a means to ensure LTCs address certain matters in their OCPs and regulatory bylaws”.

Is this the intent of the Act? Is the trust object furthered? I think not.

More to the point, offences to trust directive policy during local bylaw deliberations might be swept under the carpet.

Finally, when last did you see implementation of trust policy in your OCP and LUB as a direct result of directive policy checklist scrutiny?

There is remedy at hand. Trust Council has directed review of the Trust Policy Statement. Please consider removing the directive component from each directive policy and insert a new Trust policy at the beginning of the directive policy section, as follows:

New trust policy – Each directive policy shall be implemented in the policy and regulatory bylaws of each LTC or Trust Executive jurisdiction, save where Trust Council concurs by a 2/3 majority that a policy in question not be implemented for that jurisdiction. For certainty, the intent and letter of each directive policy are to be implemented in the actions of all trust bodies in the jurisdictions agreed by Trust Council and directive policy shall be implemented in the entire local planning process; from application review to bylaw adoption.

Now, the door is open to implement directive trust policy in the entire trust area, with enforcement enabled both locally and by new trust area regulation. A trust area land use bylaw. And of course trust area land use planning. As I think the Act intends.

We would be closer to the heart of a better balance between Trust Council's trust area governance and autonomy for each island jurisdiction.

Please take charge, trust councillors, as the pendulum swings.

Thank you for considering my submission.

Michael Sketch
North Pender Island

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