

From: Jeffrey Green [REDACTED]
Sent: Thursday, October 21, 2021 1:21 PM
To: Islands2050
Cc: Benjamin McConchie; Deb Morrison
Subject: Submission on the Draft Policy Bylaw No. 183
Attachments: Submission by JGreen_Draft_20211021.pdf; ATT00001.htm

Please accept the attached submission by me as part of the public engagement record for the Draft Policy Bylaw No. 183.

I have been asked by a number of people on the Pender Islands and several other islands for copies of my submission and my summary.

An electronic petition, that I started as a means to gain support with the Trincomali Community on North Pender Island, has been circulated by a number of individuals to residents on other Islands within the Trust Area. I was asked to expand the petition to include residents and property owners on all islands within the Trust Area. I will submit this petition within the next several weeks to the Islands Trust.

Please feel free to contact me if you would like to discuss.

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Comments on the Island Trust Council DRAFT Bylaw No. 183

Submitted by J.E. Green, North Pender Island
October 12, 2021

Summary

The Draft Policy Bylaw No. 183 (dated July 15, 2021) contains many positive and worthwhile changes. Measures to address reconciliation and greater participation with Indigenous people are supported. The inclusion of housing affordability is also a strong and necessary change.

However, there are modifications and additions that are of concern that require further revisions to the proposed DRAFT Bylaw; specifically:

1. **Expanded Mandate:** The proposed expansion of the geographic scope and regulatory authority of the Trust, notably over marine areas, fish and wildlife management, forestry management, and cultural heritage. The Trust can currently only exercise its authority through land planning, land management and conservation, the development approval process, and development permitting. Some of the proposed changes and additions in the Bylaws go beyond the existing powers of the Trust.
2. **Increases in Tax Levies:** Given this expansion, there is a high potential for the Islands Trust to increase the tax levies on property owners of the Trust Area, given the likely need for additional staff and resources, expertise and budgets to meet their expanded mandate. Potential increases in tax levies for the Island Trust, as a result of the Draft Bylaws, must be meaningfully considered during future debates by the Trust and public discussions. New revenue sources, other than tax levies, should also be considered.
3. **Duplication of Regulatory Authority:** In many cases, these expanded areas duplicate regulatory and management roles already carried out by federal, provincial and regional governments, as well as Indigenous governments and organizations; roles we already pay for through local, provincial and federal taxes. The Draft Bylaws should address how duplication in regulatory authority and tax levies will be avoided.
4. **Recognition of Residents:** Residents are not recognized in many of the proposed clauses, even though the Islands Trust Act states that the intent of the Trust is for the benefit of residents of the Trust Area. Instead. Many clauses in the Draft Policy Bylaw give governments and non-governmental organizations priority over Indigenous organizations and residents/property owners. Participation by and engagement with Indigenous organizations and residents should be strongly addressed in the Draft Bylaws. Such involvement should take priority over collaboration with governments and non-government organizations.
5. **Lack of Justification:** Lack of justification or rationale for many of the proposed restrictions, prohibitions or bans on certain activities — many of which are controversial (e.g., private docks, seawalls, desalinization plants, forestry management, tree cutting, agriculture, harvest management, housing density, housing size). With sound justification, accurate and consistent wording, and specified allowances for variances in the Draft Bylaws, many of these clauses could be made more workable.
6. **Lack of Specific Actions:** Use of broad and general recommendations for important issues such as climate change and resiliency, and housing density and affordability instead of realistic actions or specific examples of measures that are within the Islands Trust powers to implement and enforce. Without such actions or examples, it is hard to imagine how the Trust will successfully drive real and meaningful change within the Trust Area.
7. **Forest Fire Risk:** Very limited mention of forest fire risk and means to manage future risk. This is a critical concern on the Gulf Islands, particularly given the prolonged dry forest conditions this past summer. Forest fires in the Trust area could easily compromise biodiversity, environmental sustainability, freshwater and groundwater resources, Indigenous cultural sites, island infrastructure, and the unique characteristics of the Trust Area.
8. **Lack of a Glossary and use of Undefined Terms.** As a result, clauses and their intent could easily be interpreted differently by the Trust Council, Local Trustees, residents and others. A policy document, that will bound and direct land planning, management and development permitting within the Trust Area, cannot not be vague.

1.0 Overview

As a property owners on North Pender Island, I support the revision of the Islands Trust Policy Statement Bylaw, 2021 (Draft Bylaw No. 183)(Draft Bylaw). The current policy statement bylaw (2003) needs to be updated to reflect the current context, conditions and key issues within the Trust Area (see definition of the Trust Area in Section 3.1), as well as the current mandates and regulatory authority of other governments (including First Nation governments). The following submission addresses:

- Strengths of the Draft Bylaw;
- Items of Concern; and
- General Comments

Together, these comments are intended to stimulate discussions among residents and property owners in the Trust Area and the Islands Trust and, ultimately, to help revise and improve the Draft Bylaw.

As the Policy Statement Bylaw will direct and strongly guide the activities and functions of the Islands Trust, the Local Trust Committees, the Island Trust Conservancy and Trust staff over the next several years or more, it is imperative that the Commitments of the Trust Council (Commitments), the Directive Policies for Local Trust Committees and Island Municipalities (Directives) and the Coordination Policies for Trust Council (Coordination Policies) be accurately articulated and justified, with clear definition or quantification of terms. This will:

- Assist the Islands Trust in discussions on the Draft Bylaw and future operations of the Trust with Indigenous governments and organizations whose treaty and territorial rights include the Trust Area
- Aid residents of the Trust Area¹ and the public of British Columbia in better understanding the intentions of the Islands Trust in the Draft Bylaw and, through planned engagement processes, reaching agreement on final wording.
- Help promote future collaboration between the Island Trust, regional, provincial and federal governments, Indigenous governments and organizations, and nongovernmental organizations.

A strong and well written Draft Policy also will aid the Trust Council and Local Trustee Committees in executing the bylaws for land planning, land management and conservation, as well as executing the development review and permitting process in a fair, unbiased, consistent and transparent manner.

2.0 Strengths of the Draft Bylaw

There are a number of worthwhile and positive revisions and additions in the Draft Bylaw; these changes help clarify the authority and mandate of the Trust Council, the Local Trust Committees and the Islands Trust Conservancy, as well as the role and responsibilities of the residents of the Trust Area, Indigenous groups², other governments, non-government organizations and others (e.g., the general public, visitors).

In general, I support the proposed revisions and additions to the Draft Bylaw in regard to:

- reconciliation and greater participation of Indigenous people (as determined and agreed to with Indigenous groups through consultation);

¹ The Islands Trust Act states that “The object of the Trust is to preserve and protect the Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area and of British Columbia generally in cooperations with municipalities,” For brevity, I will use the term “residents” to include Indigenous residents and property owners, non-Indigenous property owners, other occupants (e.g., renters, cooperative members), commercial entities, communities and municipalities within the Trust Area.

² The term Indigenous groups is used to include Indigenous governments, organizations, and communities.

- climate change and resiliency;
- protection of biodiversity and conservation/protection of important land, freshwater and shoreline³ environments;
- sustainable land use and development;
- protection of Indigenous, community and natural heritage; and
- housing diversity and affordable housing.

While refinement and modification of specific wording and intent are required, the current Draft Bylaw provides a solid framework for discussion during upcoming engagement meetings.

It is important to recognize that the Islands Trust exerts its authority primarily through land use planning (e.g., bylaws, zoning), review of development applications and issuance of permits (and in some cases, conditions), and tools for environmental and heritage conservation (e.g., restrictive covenants)⁴. The Islands Trust Council can also advocate to various government bodies on issues outside their regulatory authority. The Trust does not construct, upgrade or maintain community or transportation infrastructure (e.g., utilities, roads and trails, community buildings, parks); provide support services to Trust residents (e.g., schools, recreation facilities, health services); or enforce land use bylaws (e.g., building code concerns, animal control and nuisance noise; <https://islandstrust.bc.ca/island-planning/general-resources/bylaw-compliance-and-enforcement/>).

As a result, in finalizing the expanded or new aspects listed above, the Island Trust should focus on realistic and implementable changes that are within the regulatory authority of the Island Trust as specified within the Islands Trust Act⁵. Where specific issues or matters are regulated by regional, provincial, federal and/or Indigenous governments, the Islands Trust should advocate to these governments to promote positive changes in regulations, management actions, enforcement and engagement.

3.0 Items of Concern

There are a number of aspects of the Draft Bylaw where modification and refinement of specific clauses or sections would greatly improve the document, while also reducing or avoiding misunderstanding and conflicts among residents of the Trust Area and other governments; these include:

- Proposed Expansion of the Jurisdiction of the Islands Trust
- Effective Delivery of the Island Trust Mandate and Budgetary Control
- The Importance and Role of Residents in the Trust Mandate
- Justifying Proposed Policy Changes and Using Examples for Proposed Actions
- Priority and Relevance of Knowledge Sources
- Topics Needing Greater Attention or Better Integration

3.1 Proposed Expansion of the Jurisdiction of the Islands Trust

The Draft Bylaw includes additions to the existing policy bylaw, as well as addition of new clauses which are outside the jurisdiction of the Islands Trust, as defined in the Islands Trust Act. These include expansion into geographic areas which are not the jurisdiction of the Islands Trust (e.g., offshore areas and sea bed), as well as some environmental and climate management actions and monitoring which are

³ Shoreline is defined as the area between the high and low watermarks.

⁴ MacRaild, ., D. Marlor, and C. Frater. 2016. Marine Protection Options. Briefing to the Trust Council dated November 16, 2016. 7 pages.

⁵ Islands Trust Act [RSBC 1996] Chapter 239. Current to June 16, 2021.

outside the regulatory authority and expertise of the Island Trust and their staff (e.g., forestry management, management of wildlife and fish populations and habitat, prohibitions on certain marine activities). Existing regional, provincial and federal agencies and/or Indigenous organizations are already entrusted with these responsibilities and have the regulatory authority, expertise, experience and budgets to undertake these responsibilities.

I do not support the Islands Trust over-reaching their mandate and unnecessarily intruding into the existing regulatory and management jurisdictions of provincial and federal government agencies. The Islands Trust, without substantial increases in budgets, programs, staffing and training, are not capable of undertaking expanded regulatory responsibility and enforcement. As noted below, residents of the Trust Area already pay provincial and federal taxes which includes funding of these government regulatory agencies.

Coastal and Marine Stewardship

The Trust has regulatory authority to direct land use, development and conservation in the “Trust Area. The glossary in the Islands Trust Act states the ‘trust area means the land located within the boundaries described in Schedule A”. Schedule A states that the Trust Area includes “All the land, except land situated within a reserve defined in the Indian Act (Canada), on all islands situated in the Strait of Georgia, Howe Sound and Haro Strait”. The definition states “land” and “on islands”. Nowhere in the Act does it say that the Trust Area includes marine or ocean areas

Further, the Islands Trust Act defines “local trust area” to mean:

- (a) an island designated in Schedule B, or
- (b) an island or group of islands in the trust area that is designated as a local trust area by regulation and includes those islands, if any, within boundaries surrounding an island or group of islands referred to in paragraphs (a) and (b) that may be specified by regulation, but does not include land in a municipality, all of part of which is in the trust area“

Schedule B is a simple list of the major islands and groups of islands within the Trust Area. In contrast, the map included on page 7 of the Draft Bylaw shows each of these islands or groups of islands island with a boundary line extending across the open waters as far as the shoreline of Vancouver Island and the mainland, as well as all of the waters between the designated islands that fall within the Trust Area. The map in the Draft Bylaw is misleading and incorrectly suggests the Trust has regulatory authority over the entire marine area on the map, including areas directly adjacent to Vancouver Island, the Saanich Peninsula. parts of the mainland and major shipping routes (out to the international boundary) from the Strait of Juan de Fuca through to Vancouver.

My interpretation is supported by a memo written by Trust staff to the Trust Council dated November 16, 2016 entitled “Marine Protection Options” (referenced on page 1 of this submission). The gist of the briefing document is that in addition to advocacy, the Local Trust Committees can use a number of land planning, permitting and conservation tools (e.g., zoning, development permits, etc. — see page 4 of the document) to manage land and thereby benefit adjacent shoreline areas. Other local governments in the region typically use these same land zoning and development permit tools to protect and control development on foreshores (e.g., the Town of Sidney). For example, in the Marine Task Force report for North Saanich (Figure 2-3, page 12; <https://northsaanich.ca/wp-content/uploads/Marine-Task-Force-Report.pdf>; see also North Saanich Marine Task Force⁶), they show seven marine zones, each of which extends several hundred metres out from land, with a focus on managing land uses such as marinas, floating structures (e.g., boat houses) and private docks. The Town of Sidney typically considers

⁶ Marine Task Force Final Report – Recommendations on Implementation. <https://northsaanich.ca/wp-content/uploads/2008-08-23-staff-report-Marine-Task-Force-Recommendation.pdf>

foreshore areas to fall within 300 metres of the shore and regulates development and human use in the foreshore through land use bylaws, development permitting and designation as environmentally-significant areas. Both of these examples are much more restrictive than that proposed by the Islands Trust. Furthermore, Indigenous groups have taken on increasingly greater responsibilities and authority in managing and overseeing shoreline and coastal areas (e.g., the Collaborative First Nations Marine Use Planning program) and I suspect this will continue to expand. How will the Trust reconcile conflicts between what they claim they will manage (as per the Draft Bylaws, map on page 7) and what other local governments and Indigenous governments and organizations are already doing?

I strongly support marine and coastal protection and management initiatives by the federal and provincial governments, as well as opportunities for local governments (e.g., Islands Trust, the Town of Sidney, North Saanich) to participate. My main concern regarding the Trust expanding their scope into this area is that the policy goes beyond foreshore areas and the reach of land management tools. As an example, the draft policy directs Local Trust Committees to consider eelgrass meadows, kelp forests, forage fish spawning areas, tidal salt marshes, mud flats and coastal wetlands in their Official Community Plans and bylaws. While the last three habitats are within the foreshore, the others are typically outside or well away from intertidal area of an island. In addition, in 4.6.7 (Commitments of Trust Council), several of the bulleted items are well outside the foreshore area (e.g., restrictions or bans on fin fish farms, artificial reefs, ocean dumping, freighter anchorage sites, transits by oil tankers) and the regulatory authority the Trust. These items are indeed important and can still be included in the policy, but should be identified under Coordination Policies (where the Trust can advocate), not Commitments or Directives.

Programs for marine conservation and protection, management and monitoring in Georgia Strait, Harrow Strait and Howe Sound are already complex with responsibilities falling to the Province, Transport Canada, the Canadian Coastguard, Department of Fisheries and Oceans, Environment Canada, and agencies such as the Port of Nanaimo. Indigenous organizations are also frequently involved. These government agencies and organizations have clear mandates, scientific and regulatory expertise, substantial experience, and budgets to address different areas of marine and coastal management. The expansion of the Trust into these areas will only make successful conservation, protection and managing more complex. Further, the Trust lacks the expertise, staff and budget to undertake and enforce marine initiatives beyond the regulation and management of land and land development that may influence marine shorelines.

I think many of the beneficial aspects of the policy (i.e., managing land and foreshore development to protect shoreline areas) could be kept if the policy includes a definition of the area in which the Trust has authority (land and the immediately adjacent foreshore). For example, instead of using the term marine and coastal in the Draft Bylaws (which is much broader than foreshore), the Policy could define the term shoreline (e.g., the area between the high and low tide or watermark). Of note, the existing Islands Trust website uses the term “marine shorelines” (<https://islandstrust.bc.ca/programs/marine-shorelines/>) — not marine and coastal as proposed in the Draft Policy Bylaw. Management of land use and protection of conservancy areas to reduce or avoid impacts to marine shorelines are within the decision-making authority of the Trust Committees (as per the November 2016 memo). I do support the Islands Trust exerting authority through their land planning and management powers and development permitting process to protect shoreline environments such as marine riparian, the intertidal zone, tidal salt marshes, mud flats and coastal wetlands.

Forest Stewardship

In 4.3.9, the Islands Trust wants to be granted additional jurisdictional authority to preserve and protect forest ecosystems. Provincial and federal agencies (e.g., the BC Environment and Climate Change Strategy; BC Forests, Lands, Natural Resource Operations and Rural Development; Canadian Wildlife Service, Environment and Climate Change Canada) are already mandated to manage forests, wildlife and fish populations and/or habitat and to undertake research and monitoring to support their mandate. These agencies have the scientific and regulatory expertise and experience, staff and budgets to

undertake this work, as well as to enforce specific legislation and regulations. The Trust does not have similar capabilities. The Islands Trust should work with these agencies to promote conservation and protection of forest ecosystems through their existing land planning and development permit authorities.

Heritage Preservation and Protection

In 4.5.4 and 4.5.6, the Trust proposes new clauses to protect culturally significant areas (e.g., middens). Part 5 addresses Heritage Preservation, including Indigenous, cultural heritage and community heritage. I support protecting heritage sites and artefacts; however, the Heritage Conservation Act in British Columbia already regulates the protection of Indigenous and historical heritage, artefacts and associated sites. The Ministry of Forests, Lands, Natural Resource Operations and Rural Development have the staff, expertise, skills, resources and budget to enforce the Act and monitor activities. Indigenous governments and organizations are also taking a much stronger role in the identification and protection of Indigenous cultural sites and are developing or have developed adequate staff, expertise, skills, resources and budget to do so. The Islands Trust does not have the regulatory authority or capacity to identify and protect heritage sites and artefacts. The Islands Trust should work with these agencies to promote conservation and protection of heritage sites and artefacts through their existing land planning and development permit authorities.

Collaboration not Authority

Expansion into additional areas such coastal and marine, regulation of forestry and protection of heritage resources is not justified (particularly since provincial and federal governments already have regulatory authority for these areas), nor does the Trust have the regulatory clout, resources (staff, equipment); experience and skills or budget to take on these responsibilities and do them well. Given that “many of the challenges that the Islands Trust Area was facing in 1974 remain pressing today” (Draft Policy page 3), the Island Trust has had and continues to have difficulty fulfilling their core mandate. With the need to reconcile and engage Indigenous governments and organizations, as well as address housing affordability, the Trust will be even further challenged to still fulfill their core responsibilities. The Islands Trust needs to focus on their core mandate, as described in the Islands Trust Act, and do it well before attempting to add more to their already full plate.

I do support the Trust, as well as Indigenous groups and residents of the Trust Area, participating in the local implementation of regional conservation, management and monitoring programs. These same groups can be advocates to encourage the federal and provincial government to undertake and fund forest, wildlife, freshwater fish and marine initiatives. The Trust can also be effective in reducing land impacts on foreshore areas and in managing forest and freshwater habitats through their existing powers.

Suggested Resolutions

1. Define costal shorelines (i.e., the area between the high and low watermark)
2. For coastal shorelines, identify the specific powers and tools that are available to the Trust for land planning, land management and conservation, development approvals, and issuance of development permits that can be used to influence, restrict or prohibit land use adjacent to coastal shorelines areas to better protect and restore these areas. Capture these in the Commitments and Directive sections.
3. For coastal shorelines, identify specific collaborative relationships that exist or that can be established to work with provincial, federal and Indigenous governments, as well a non-governmental, organizations to conserve, protect and restore coastal and marine areas (i.e., outside of the mandate of the Trust). Capture these in the Coordination Policies.
4. For Forestry Stewardship and Heritage Resources, identify the specific powers and tools of the Trust that can be used to protect and conserve forest areas and heritage resources. Develop specific clauses that reflect these powers and tools. Capture these in the Commitments and Directive sections.
5. For Forestry Stewardship and Heritage Resources, identify collaborative relationships that exist or that can be established to work with provincial and Indigenous governments to manage forests and

protect/preserve heritage resources and sites within the Trust Area. Capture these in the Coordination Policies.

3.2 Effective Delivery of the Island Trust Mandate and Budgetary Control

As described in the Islands Trust Act and the existing policy bylaw (2003), the Islands Trust already has a demanding set of responsibilities to manage land use and development applications for the Trust Area, as well as the protection and management of conservancy areas by the Islands Trust Conservancy.

In 2021, the total budget of the Islands Trust was \$9.1 million⁷. Of this, 74% was spent on local planning services, 14% on Trust Council Programs and Services, and 12% on the Island Trust Conservancy. The vast majority of the \$9.1 million budget was paid for by property tax levies (85%) with an additional 6% from grants, 1% from application fees, 7% from surplus funds and 1% from investment income.

As discussed in Section 3.1 of this submission, the proposed expansion or addition to the Islands Trust mandate (see bulleted list in Section 2.0) will require the Islands Trust to reconsider its current allocation of effort and time by Trustees and staff, as well as the allocation of its annual budget and tax levies. Based on my property taxes over the past 25 years, the tax levy for the Islands Trust has increased by almost 30% since then; in 2021, the tax levy increased by 3.5% in a single year. The last increase came at a time when the residents of the Trust Area are dealing with the impacts of COVID on their employment and income, as well as the highest inflation rate in more than 18 years. Other factors, such as the recent increase in costs for the RCMP, which will be paid for by residents of the Trust Area, will add to the existing tax burden. With inflation predicted to remain high over the next several years, any increases in tax levies for the Islands Trust to take on these additional duties will add to the strain on seniors, low to moderate income residents, and commercial entities within the Trust Area. High taxation costs also will directly and indirectly further exacerbate issues around housing affordability and housing diversity.

Suggested Resolutions

As part of the Draft Bylaw advancement, the Islands Trust needs to:

1. Estimate the likely costs of their expanded and new mandates as per the Draft Bylaw. For example, in 4.1.5, who will conduct these assessments and who will pay for them? Other examples include 4.1.4 (cumulative effects identification), 4.3.9 (additional jurisdictional authority), 4.4.6 (support to small-scale farmers), 4.6.2 (management of aquaculture), 5.1.6 (analysis of archaeological data and Indigenous knowledge), 6.1.4 (identify and monitor impacts of climate change), 6.1.5 (planning of active pathways and transportation networks), and 6.2.5 (assessment the impacts of short-term rentals). The Islands Trust Trustees need to consider the full financial implications of their decisions before they approve the Draft Bylaws and bring them into force.
2. Determine how the existing budget and expenditures can be modified to reduce existing costs to accommodate new costs for proposed expanded and new mandates. For example, could the number of Trustees be reduced to one per island? Are all existing staff positions needed, or can they be better met by a contractor or short-term retainer of experts? Does the Trust really require three physical offices? All reasonable measures to reduce existing costs should be examined.
3. Identify if new revenue sources can be sourced. Can portions of the tax levies for Provincial Rural Services or the Capital Regional District be used to cover some of the increased costs?
4. Based on the above, provide residents with a realistic estimate of projected increases in tax levies in the next 5-10 years.

⁷ Flyer entitled "Islands trust" included with the 2021 property tax notices.

This information should be made available to the Trustees and the residents of the Trust Area as part of the revision of the Draft Bylaw for use in debates by the Trustees and upcoming discussions with residents and the public.

3.3 Relevance of Residents in the Trust Mandate

The Islands Trust Act Objects clearly states that actions of the Trust are “..... for the benefit of residents of the Trust Area and of British Columbia generally” (underlining added for emphasis). The Object also lists governments and agencies with which the Trust may collaborate.

In multiple clauses throughout the Draft Bylaws, “residents and property owners” are consistently considered or mentioned last after government agencies and non-government organizations (both of which are designated as collaborators, not residents of the Trust Area). For example, in clauses 4.1.14, 4.2.13, and 5.1.8 (and many more), residents are listed last or near last in the list of parties. In two clauses, residents are not even mentioned except under the term “the public” (3.1.14, 4.4.1). Similarly, in Part 2 (page 10) in the discussion of roles, residents are listed last and are lumped in with other miscellaneous groups (the general public, visitors). In 3.1.8, consultative public participation should specifically address how residents should be engaged and participate, as well as how the general public, visitors, governments and non-governmental organizations are engaged. Lastly, 3.1.8, 3.1.9 and 3.1.20 (all aimed at residents) should be moved ahead of existing 3.1.7 (government organizations and non-governmental organizations).

Indigenous groups who have treaty and title rights in the Trust Area and Indigenous and non-indigenous groups who are residents of the Trust Area should be a priority in engagement and participation in initiatives of the Islands Trust; they should not be listed after government agencies and especially non-government organizations, the general public and visitors. I also suggest they be listed before “residents” of the Trust Area.

As residents can and do participate in all aspects of the Trust activities, including active involvement in planning and physical initiatives by the Trust or other parties (e.g., stream restoration), residents must have a stronger and more prominent role in the Draft Bylaws. In the lists where multiple organizations and residents are listed, I suggest that the standard order be: Trust bodies (if relevant); Indigenous government and organizations; residents and residential organizations (e.g., communities, municipalities); the general public; local, regional, provincial and federal governments (as appropriate); non-governmental organizations; and others (e.g., visitors). Where a specific body is not applicable to a clause, they would not be included. I would also eliminate specific terms such as absentee land owners (not germane to the Draft Bylaws).

Suggested Resolutions

1. Reword all clauses involving resident engagement and collaboration government/non-governmental organizations, as appropriate, to reflect the order suggested above.
2. Move specific clauses pertaining to residents (e.g., in 2.2; 3.1.8 to 3.1.10) before groups that are defined as collaborators.

3.4 Justifying Proposed Policy Changes and Use of Examples for Actions

Justification for some of the substantially revised and newly added sections and clauses in the Draft Bylaws are provided at the start of some sections (e.g., Part 3 or Part 4). However, in many cases, changes are either:

- ***not justified or explained:***

- 4.2.5: self-sufficient in their supply of water needs to be defined and, based on the definition, justified.
 - 4.4.1 and 4.4.2: agricultural land management and proposed restrictions to small scale farmers (note: small scale is not defined).
 - 4.6.2: coastal and marine harvesting activities should be small-sale (not defined), regenerative (not defined), supportive of local climate action (not explained) and food security (not explained).
 - 4.6.7: restrictive activities in coastal and marine environments — explain why these are singled out and other issues are not (see comment below on 4.6.18).
 - 4.6.9: several of these different resources and habitats are outside the scope of the Trust; no explanation as to why they were included and why the Trust wants to manage these.
 - 4.6.14: why a prohibition on private docks? what is the science behind this decision?
 - 4.6.16: prohibition on sea walls (not defined or explained); what is the scientific evidence that all sea wall designs are ecologically not sustainable? Why doesn't the clause allow for proposed designs accompanied by an impact assessment or restriction of designs to certain environmentally-sustainable approaches?
 - 4.6.18: selective inclusion of only offshore dumping, ship anchorages and oil tankers is not justified. There are many more marine issues that could similarly be identified (e.g., close transits of large commercial ships to the shore of some Trust islands; speeds of commercial vessel in shipping lanes and risks to marine mammals; underwater noise and impacts on marine mammals; risk of spills from commercial ships, tugs and fuel barges (e.g., bunker fuel supply on freighters and cargo ships; barge shipments of gasoline and diesel); inappropriate behaviour of recreational vessels in proximity to marine mammals; stricter regulations and enforcement for whale watching vessels; enforcement of the killer whale protection zones; effects of private helicopter use on colonial nesting sea birds, etc.).
 - Part 6 (page 29): unquantified statements on housing availability, affordability, commuting by workers and challenges to seniors to age in place are described generically. While these each have some degree of truth, lack of quantification does not provide justification for the associated clauses for these issues.
- **are explained with simplistic and unproven/unsubstantiated statements:**
- 4.1.3 regarding protected areas and unfragmented connectivity (there is substantial science regarding what is required to maintain and conserve habitat connectivity); while this clause is laudable, it is not realistic for the Trust Area unless substantial amounts of development were removed and various habitats were restored.
 - 4.2.5 and 4.2.9: desalination plants not permitted due to “high energy demands and adverse impacts” — this is a selective and misleading statement and does not reflect innovative technology and use of renewable energy⁸
 - 4.3.5: “multiple adverse impacts” of logging not explained or documented; why wouldn't the agencies who are currently-responsible for forestry regulate logging? The Trust is not equipped to regulate and enforce this.

While many of these clauses have merit, the lack of justification makes it difficult to assess whether the proposed changes are (a) within the existing jurisdiction of the Islands Trust: (b) truly required and/or (c) that allocation of the limited resources and funding of the Trust to this clause or need is a priority. Without appropriate and valid justification, opposition to these revisions and additions is likely.

Use of Examples

In clauses such as 4.2.12 (innovative technologies for water management) and 4.3.11 (last several bullets regarding forest ecosystem retention and management), examples of specific actions that might be permitted and encouraged are provided. These examples provide strong relevance to the proposed or

⁸ For example, see: Ihsanullah Ihsanullah, Muataz A. Atieh, Muhammad Sajid, and Mazen K. Nazal. 2021. Desalination and environment: A critical analysis of impacts, mitigation strategies, and greener desalination technologies. Science of The Total Environment, Volume 780

existing clauses. Examples of permissible or preferred actions should be provided in more of the Commitments and Directive Policies to clarify the intent of the Islands Trust and to provide some direction to Local Trust. Committees in their Official Community Plans.

Clauses that could benefit from the use of examples, include:

- 4.4.5 (encouragement of sustainable farming)
- 4.5.5 (preservation, protection and restoration of productive soils)
- 5.1.3 (preserve, protect and support restoration of natural heritage sites)
- 5.1.4 (identify, preserve, protect and support restoration of Indigenous cultural heritage)
- 6.3.1 (community sustainability and resilience supported by public and active transportation networks)
- 6.3.4 (foster establishment of public and active transportation networks)
- 6.4.1 (hazardous waste management). Of note, waste management within the Trust Area should be restricted to handling and disposal of non-hazardous waste and examples of same provided. Hazardous waste should be clearly defined and examples provided so that individuals do not attempt to illegally dispose of or treat hazardous waste within the Trust Area.

Suggested Resolution

As suggested above, review the identified clauses and others similar clauses and add appropriate regulatory or scientific justification to support the changes or additions. Where appropriate add examples to clarify the intent of the clause (as an example, 4.2.12 is excellent!).

3.5 Priority and Relevance of Knowledge Sources

Throughout the Draft Bylaw, there are multiple references to knowledge sources to be used to develop and evolve different initiatives. The phrase “best available area-based mapping, science, social science, local knowledge, and Indigenous ways of knowing” is used repeatedly, often creating awkward and complex sentences.

While reputable knowledge sources should be referenced in a consistent fashion to support different existing or proposed clauses, these knowledge sources reference should include terms that are comparable and equal, as well as listing the terms in a specific order.

Indigenous knowledge, western science and local knowledge are each major knowledge sources. In contrast, “best available area-based mapping” is a specific scientific methodology, as are other worthwhile methods such as statistical analyses, environmental modelling, field surveys, toxicological analyses, remote sensing, etc. Similarly, use of the term “social science” is too specific relative to Indigenous knowledge, western science and local knowledge. For example, within Indigenous knowledge there are social, cultural, spiritual, biological, and physical elements. Science similarly can include social, cultural, archaeological, biological and physical elements.

Suggested Resolution

In respect of Indigenous knowledge and in recognition of how Indigenous knowledge is now required to be used in environmental impact assessment (e.g., the Federal Impact assessment Act and the BC Environmental Assessment Act), I suggest that the following three main knowledge sources be listed in the specific order: “Indigenous knowledge, western science and local knowledge” and that more detailed terms such as area-based mapping and social science not be included. In addition, the adjective “best-available” is problematic (i.e., who decides it is the best available knowledge?) unless it is defined; if it is defined, the term should apply to the three major knowledge sources.

3.6 Topics Needing Greater Attention or Better Integration

While the Draft Bylaw provides substantial detail on most major topics (i.e., regional governance, ecosystem preservation and protection, heritage preservation and protection, and some aspects of sustainable and resilient communities), several topics require greater attention in the Draft Bylaws; these include:

- **Climate Change and Resiliency:** While climate change is discussed in several sections of the Draft Bylaw, other than the discussion of forest stewardship and carbon capture, there is limited discussion on specific tools for land use planning and development permitting to effectively and realistically address the climate emergency. Statements such as 4.1.5 (climate vulnerability assessments), 4.1.8 (reduce emissions to air, land and water) and 4.1.9 (reduce climate vulnerability and support climate adaptation measures) are generic and not helpful in defining the intent of the Trust or providing examples that help the reader understand how the Islands Trust intends to proactively address climate change and resiliency. The Draft Bylaws would benefit if measures to address Climate Change and Resiliency were included in each of the major parts of the Draft Bylaw. For example, the Trust might consider adding measures such as:

- Not permitting wood burning fireplaces in new construction. 6.1.22 says the Trust will advocate to reduce the burning of wood and fossil fuels but not prohibit. Contrast this with the language for private docks or use of desalinization plants.
- Specific restrictions on fossil-fuel heating, as well as minimum energy efficiency requirements for heating in new construction.
- Development or taxation incentives to replace wood-burning and fossil-fuel appliances/equipment in existing residences and businesses with low- or zero-emission appliances/equipment.
- Development or taxation incentives to encourage renewable energy generation for residences and businesses (e.g., solar electric generation or solar heating)
- Restricting or not permitting outdoor burning of garden and household waste, and providing alternatives for dealing with this non-hazardous waste (e.g., community composting).
- Specific mechanisms, programs and incentives for existing and new residential and commercial developments to promote active transportation networks (e.g., walking, equestrian and bicycle pathways, bicycle lanes) into the existing or new transportation networks within the Trust Area. While 6.3.1 and 6.3.4 encompass this, the clauses are general statements and do not provide insight or examples on how to achieve lower or zero carbon transportation alternatives.

The lack of detail and firm direction in the clauses relating to climate change and carbon retention/reduction contrast sharply with the prohibitions, detail and examples in the clauses for Freshwater Stewardship Policies (4.2), Forest Stewardship Policies (4.3), and Coastal and Marine Stewardship (4.6). The Trust needs to include much more specific measures to address the climate emergency in the Draft Bylaws.

Suggested Resolution

Review Part 2 through Part 6 of the Draft Bylaw to identify opportunities to clearly detail actions and measures, appropriate for that section, that will realistically and meaningfully address climate change. As an example, additional tools are described in the Salt Spring Climate Action Plan 2.0⁹.

- **Forest Management and Fire:** The only mention of forest fires is a single bullet in 6.1.18 (“wildfire risk mitigation”). As witnessed in the past decade, forest fires associated with climate change and human use are resulting in devastating losses of forest ecosystems, biodiversity and infrastructure. Forest fire on the Gulf Islands could result in substantial adverse impacts to forest ecosystems, biodiversity, freshwater systems, groundwater recharge and more, as well as loss of human infrastructure,

⁹ <https://transitionsaltspring.com/responding-to-climate-change/?fbclid=IwAR3-8OTMF92O52ENbWkQ-pKrRwTcM3FhaCPMCKEDx6bqe0na0MMACH6oC24>

detrimental effects on Indigenous use and cultural heritage, community heritage, and the residential character of the Trust Area. The draft Bylaw needs to speak to how forest fire management and response is integrated with Forest Stewardship policies, land use policies, and housing. For example, what is the minimum setback of structures from the forest edge (i.e., relationship between the size of a structure and the cleared building area)? Should new buildings or major renovations in the Trust Area be required to use fire resistant materials? How are water supplies maintained within the Trust Area to respond to forest fires?

Suggested Resolution

The Trust should work with provincial government agencies (e.g., BC Wildfire Service) to assess and identify forest fire risk and appropriate risk management measures (which are compatible with ecosystem conservation, Part 4 of the Draft Bylaw). Collaborate with programs such as FireSmart BC to identify measures that residents and commercial entities can use to reduce forest fire risk. The Draft Bylaws might also consider establishing setbacks and vegetation management requirements to reduce forest fire risk.

There is also a need for the Draft Bylaw to resolve conflicts between different parts of the Draft Bylaw. For example, how do you reconcile:

- policies in 4.1 and 4.3 for the protection and maintenance of forest ecosystems versus measures to create active transportation networks (6.1.14 and 6.3.9); reduction of wildfire risk (6.1.18), housing density and affordability (6.2), or disposal of non-hazardous waste in the Trust Area (6.4.1)? All of these activities may require additional forest cover to be cleared or modified.
- restrictions on agriculture and food production (4.4) versus housing affordability and food security (6.2)?
- reduction of air emissions (4.1.8) and, in particular, carbon emissions versus a voluntary approach to the reduction of burning of wood and fossil fuels (6.1.23)?

Suggested Resolution

Review Draft Bylaw and identify both potential strengths and conflicts between the major initiatives (e.g., Parts 3 to 6). An interactive matrix might be a useful tool to do this.

The Draft Bylaw would also benefit from identifying how specific clauses in the Draft Bylaw might link to and support key provincial and federal legislation and regulations (e.g., provincial foreshore leases and screening by the Trust; shellfish reserves in the Trust Area (4.1.12) and regulations under the Fisheries Act)¹⁰. Linkages between Indigenous management or co-management regimes and initiatives by the Island Trust should also be addressed.

¹⁰ See discussion of Pertinent Legislation and bylaws in Section 6 of the Marine Task Force Report that includes references to federal, provincial and District of North Saanich Bylaws and Policies (<https://northsaanich.ca/wp-content/uploads/Marine-Task-Force-Report.pdf>)

Suggested Resolution

Using the Collaborative Policies in each Part of the Draft Bylaw, identify existing and potential opportunities for collaboration, information sharing, cost sharing, etc. with different federal and provincial agencies, as well as Indigenous governments and organizations. An interaction matrix may be a useful tool to do this.

4.0 Suggested General Improvements

The Draft Bylaw document could be improved substantially through:

- Improvements in Writing Quality and Editing
- Use of Consistent Terminology and a Glossary

4.1 Improvements in Writing Quality and Editing

The document is wordy and, in many instances, repetitive. (e.g., long phrases and multiple sentences are repeated verbatim in multiple clauses; long pre-rambles are included for some parts of the Draft Bylaw and include superfluous information to the specific topic; inconsistent logic flow). For example:

- Review the pre-ambles to each part of the Draft Policy Bylaw (i.e., Parts 2 to 6). Focus on specific justification for revisions and additions. Avoid distracting discussions such Precautionary Principle, definition of terms on page 15 or lengthy definitions for heritage on page 27. These can be defined briefly in a Glossary (see 4.2 below).
- Multiple terms are used for First Nations and Indigenous (governments, groups, people) and are used repeatedly in phrases within the Draft Bylaw. First Nations is generally understood to refer to most groups of Indigenous peoples in Canada, excluding Inuit and Metis. Indigenous is a more inclusive term. I suggest several terms be defined, including: Indigenous governments, Indigenous organizations, and Indigenous people These terms should then be used consistently throughout the Draft Bylaw. Indigenous should be capitalized as a form of respect.
- Replace the phrase “best available area-based mapping, science, social science, local knowledge, and Indigenous ways of knowing” with “Indigenous knowledge, western science and local knowledge”.
- Define “Heritage” as an over-arching term for Indigenous cultural heritage, community heritage and natural heritage (with definitions for each of these), then use “Heritage” in Section 5 instead of repeating the multiple types of heritage in many clauses. Only refer to specific cultural heritage terms if required.
- Define residents of the Trust Area (e.g., Indigenous and non-indigenous property owners, occupants, commercial enterprises, communities and municipalities within the Trust Area), then use the term” resident” consistently throughout the Draft Bylaw rather than repeating all of the specific entities.

In addition, a thorough professional edit would greatly improve the readability and logic flow of the document and clarify the meaning and intent of specific clauses. This would help to reduce confusion during the debate of the Draft Bylaw by the Trust Council and discussions during the upcoming resident and public engagement process.

4.2 Use of Consistent Terminology and a Glossary

Accurate definition of key terms in the Commitments of the Trust Council, the Directive Policies and the Coordination Policies in each part of the Draft Policy Bylaw critical so that (a) the intent of the Trust Council is clearly expressed and (b) there is a common understanding and acceptance of the intention and use of specific clauses by Local Trust Committees, Indigenous groups, residents, other governments, the general public and non-governmental organizations. Clear terminology is particularly important if there is a legal challenge to the document or on a development application.

Some terms in the Draft Bylaw are defined at the start of some sections (e.g., pg. 15). However, many terms are not defined (e.g., resident, local knowledge, freshwater networks, self-sufficient, groundwater regions, foreshore, shoreline, small-scale, compact, energy efficient). In some cases, several different terms are used to refer to the same specific issue or intent. For example, in Part 5, several terms (Indigenous cultural heritage, community heritage, natural heritage) are defined on page 27, but the definition for heritage preservation speaks to historical, cultural, aesthetic, educational and scientific significance (none of these terms are defined). There are also references to community character (e.g., 6.1.11; term not defined). Community heritage and local community heritage are also used in different clauses to mean the same thing. In others cases, identical or similar terms are used to express quite different issues or intent (e.g., connectivity, connectedness, connection in relation to habitat connectivity and connection of people to the natural environment).

All key terms used in the Draft Bylaw should be placed in a single glossary rather than in the text of the Draft Bylaws. The Glossary for the Island Trust Act should be used as a foundation to facilitate consistency between the Act and the Draft Bylaws. Creation and use of a glossary will allow for easy access to definitions, while reducing the length and complexity of the written core text (see also 4.1 in this submission).