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**To:** Russ Hotsenpiller <[rhotsenpiller@islandstrust.bc.ca](mailto:rhotsenpiller@islandstrust.bc.ca)>; Carmen Thiel <[cthiel@islandstrust.bc.ca](mailto:cthiel@islandstrust.bc.ca)>; Executive Admin <[execadmin@islandstrust.bc.ca](mailto:execadmin@islandstrust.bc.ca)>

**Subject:** Letter to Hotsenpiller, Thiel and Executive Committee and attached review to Great Northern Consultants

October 28. 2021

R. Hotsenpiller, Chief Administrator,  
Carmen Thiel, Legislative Service Mgr,  
Islands Trust

Many of the Islands ecosystems have long been under pressure and are failing. Water is in short and ever diminishing supply, biodiversity is compromised and in decline, forest habitat is fragmented under continuing pressure, and the rural character is rapidly being lost. This is all contrary to the intension of the Trust Act. Our trustees, over the years have failed to keep to their charge. They have by and large not been up to the job.

The increasing population, build outs to urban levels and overstretched infrastructures provide us with abundant observable evidence that further development on many of the islands is **no longer sustainable**.

Sustainability improves the quality of our lives, protects our ecosystem and preserves natural resources for future generations. Sustainability means you can maintain without the depletion of natural resources. **No longer sustainable** means that we no can longer continue developing and following the same land-use practices as we have been doing because the islands have finite resources. On many of the islands **each density increase with accompanying water and waste demands chip away at the rural nature, environmental health and the fragile ecosystems of the islands.**

It's high time that our **Trustees acknowledge that they have not managed to care for the island's health;** either out of ignorance, incompetence, or because their priorities are not aligned with their responsibilities and charge. The Trust Act has not been well served by them. If there is to be a hopeful future, we need to change course, mitigate the negligence of the past and stop further destruction.

The Islands Trust Act, sections 8 & 9 (in relations to Trust Council), section 21 (in relation to the Executive), and section 24 (in relation to Local Trust Committees), compels their powers are to be exercised “for the purposes of carrying out the object of the Trust. They are also provided with the authority and the powers through a number of specific provisions of the Local Government Act (LGA) and Community Charter that are adopted with modification for application to the Islands Trust Act. Those provisions include land use planning and regulation, elections, enforcement of bylaws, heritage conservation, and specific subdivision regulation, among others. For example, the LGA, gives the Islands Trust the authority to carry out it’s mandate through zoning, *but the Trust Act gives the Executive Council and LTCs, the direction and purpose for them to exercise their powers and specifies that those powers be used in fulfilling the object of the Trust Act. Both, authority to fulfill and constrain are contained within the powers bestowed by the Act. Beyond those specified in the object of the Trust Act the community needs are not addressed.*

The Act clearly infers that the **object of the Trust is the preservation and protection of the environment** (Including, provisions of the Environmental Management Act; s34.1 of Trust Act) **above all other matters**, in applications for: zoning, siting and use permits, development variance permits, variances, or when adopting a bylaw, this must be considered by the Executive, Council and LTC’s first.

A large portion of the Island’s Trust residents have lost faith with the Trust and are questioning the validity of its very existence because the Trust itself has not been adhering to its own mandate and policies. The Trust Policy Statement (TPS) has become too long and convoluted. There are few things that the Trust has jurisdiction over and these easily and concisely could be organized into the TPS. Instead, over the years everything but the “kitchen sink “ has been included within an extremely confusing TPS. **Advocacy work of any sort should not be in the Policy Statement.**

The Islands Trust is directed to work ”in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of BC.” That instruction does not mean that the Islands Trust has the authority to become involved, outside of advocacy, in other jurisdictions or any community social and cultural needs for which other agencies or levels of government have the responsibility.

Combining Advocacy work in the Trust policy statement is confusing for the Trust Area residents and the people of BC. The current proposed draft document V.2.0 appears to confer powers upon the Trust that they do not have. So when the Trust is unable to deliver results, disappointment and distrust in their decisions and management results. If **Advocacy work** were contained in a separate living document called a "**Workbook**" a clearer picture of the Trust powers would emerge.

To this email I have attached an analysis that was sent to Charles Kelly of the Great Northern Review Consultants, regarding governance and management issues of the Trust. In this "Review" I explained that the wording in the policies is too vague and misleading. For example, "unique amenities", as included in the object of the Islands Trust, has never been spelled out explicitly. When interviewed each Trustee had a different interpretation or definition regarding this phrase. Studying the Trust Policy Statement, historical references and court judgments, the meaning of "**unique amenities**" becomes clear. What is inferred by "unique amenities" is not "healthy communities", "culture" or "development" as the current popular and vociferous groups, would want us believe, but **preservation and protection of the Islands special and fragile ecosystems**. If one takes the words "unique amenities" in the Act at face value, it is clear that the intent of those words was to **describe aspects of the Trust Area's natural environment and its rural character**.

Additionally, there are more **undefined terms in the Trust Policy Statements** that need addressing as they are too ambiguous or ill defined to be useful as directives: sustainable, environment (built or natural?), carrying capacity (without measurement or caps?), ecological integrity, compatible economic development (compatible to what?), and so on.

For further, information and analysis, please refer to the attached "Review" sent to Charles Kelly. There are many changes necessary to adjust the Trust ratings from a fail to a pass. Currently, I am working on suggestions for a reformulated Trust Policy Statement and a living document workbook to guide current and future Trustees. If you are interested I would be happy to send the work to you when completed.

I hope that you will find this helpful. Thankyou for your time,

Respectfully yours,  
Alix Hodson Deggan, M.Ed.

Letter to Great Northern Management Consultants  
Charles Kelly, Project Manager  
RE: Governance and Management Review of the Islands Trust  
From: Alexandra Hodson-Deggan, M.Ed.

## Governance and Management Review of the Islands Trust:

***“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 cooperation with...(Islands Trust Act, 1974)***

Since the inception of the Islands Trust Act in 1974 there has been inner turmoil and conflict between day-to-day governing, its outcomes and the Trust’s original mandate. The Trust Act was established for a specific purpose, and any review of their work should include an evaluation of how well they have fulfilled their objective.

Current rating of the above would most certainly be very low as the Trust Council has not been following their mandate as established by law: and, this is regrettable, was preventable and still could be corrected.

The problems that are plaguing the Trust arise from a culture of poor governance.

Good governance is based on the sound principles: accountability, transparency, performance, fairness, legitimacy, voice and clear direction. These precepts are critical and together form a solid platform to carry out the Trust Object.

## Carrying out the Trust Object:

It is widely understood that a Trustee’s job is to ensure that the Trust’s mandate is acted upon in the spirit in which it was created and that the objective of the mandate is upheld. This is what a Trustee has been elected, sworn in and entrusted to do. Their task does not include changing, ignoring or amending the directives as it suits their purpose.

The Object, as stated in the Trust Act, is unclear and not specific. Current, interpretation of the Trust Policy by Trustees and staff indicates that the Object is open to wide interpretation. There is a high level of confusion amongst members of the Trust when utilizing common terms, such as, unique amenities, environment, carrying capacity, ecological integrity, sustainability, compatible economic development, and so on. For example, when Trustees were interviewed each one had their own individual version as to what “unique amenities” are. In the

Discussion Paper Islands 2050 (Future of the Trust Area Council; prepared for the March 2021, Trust Council Meeting, page 2,) it clearly states that unique amenities and environment are derived from special areas and significant landscapes featuring:

*grasslands;; wild flower areas; stands of Garry Oak, Arbutus or Douglas Fir; intertidal and sub-tidal zones, especially rich in a variety of marine life of National or Provincial importance; sandy beaches; major bays... may warrant special zoning or regulation to avoid loss or disturbance.*

Not once, throughout the 2050 paper, does it define unique amenities as being: continuous build outs, developments, housing, community centers, etc. The correct wording is, “**maintaining the amenities and environment that attracted residents to the islands**”.

If the 2050 Discussion Paper is our reference point for defining “unique amenities”, then it is very obvious that what unique amenities are referring to is the natural environment and historical sites. If this is indeed the definition and for all intent and purposes it is, it clearly means that the Trustees and the Council are **incorrect** when they pass a motion that states: *community is part of unique amenities*.

The vague nature of the Trust Object has empowered the Council and the LTCs to adopt any zoning regardless of its impact on the true meaning of the Trust mandate. The effects of arbitrary policies can be seen in the complete destruction of ecosystems and contamination of groundwater recharge areas in favor of urbanized developments. When the Object is left open to capricious interpretations it lessens the effectiveness of the Trust and other Provincial agencies in achieving the Provincial policy of sound management. (1986 Islands Trust Review and Interpretation of its Object).

The Trust Act is there to preserve and protect the natural environment. But in 45 pages of content (amended policy V.2.0) there is no policy clarity for the word “environment”. Given that the Act was written as response to the threat of a built environment overwhelming the natural environment, then “built” and “natural” are necessary components of policies to preserve and protect the natural environment and must be clearly differentiated.

In and of themselves, the policies are there to implement preservation and protection. If the word “environment” means the natural environment and the words “unique amenities” extends to the entire built environment; then, it follows that the built environment is a threat to the natural environment and that they are in direct conflict with one another.

It is important to note here, that most of the changes in amendments made to the Trust Policy Statement form V.1.0 to V.2.0 do not flow from the initial Islands Trust Act and do not fulfill the Object of the Trust.

The Trust Policy Statement (TPS) and Implementation Policies are joined at the hip; they must be read together. Yet, draft V.1.0 and V.2.0 rely upon five pages of Council's 1994 Implementation Policy, located in the trust policy manual quite separate from the TPS. To further complicate things by rendering the policies nugatory, is the ruling that separate "Implementation" policies are not subject to ministerial oversight.

In part, Implementation Policy 1.3.1 allows the local jurisdiction to excuse itself from trust policies in local areas. The notion that a local jurisdiction can pick and choose trust area policies to suit and set aside "with reason" negates the federal governance model and renders the whole concept of a Trust impotent.

Implementation, as previously mentioned, must be read together with policies to protect the environment and its natural resources. Yet, it appears to be common practice to ignore the directives and chose not to follow important policies.

Moreover, directive policies must be limited to matters that have universal importance throughout the Trust Area and would include: protecting the marine and terrestrial environment from the adverse impacts resulting from human activities and development; maintaining the balance of fragile island ecosystems; preserving rural and natural character of the islands; and, protecting Indigenous and cultural heritage areas as determined by First Nations Leadership. These policies should be mandatory for all the LTCs and their OCPs and must be scrupulously adhered to without an option to opt-out (i.e. Implementation Policy 1.3.1).

All policies relating to community needs must be expunged from the Trust Policy Statements V.2.0. Community concerns and matters should be determined as the Local Government Act dictates. The Policy Statement is intended to serve the Trust Act not the Local Government Act. Directive policies must be limited to those for which the Trust has actual jurisdiction. Trust staff is asked by trustees to spend a lot of time asking other levels of government to change their policies or procedures to protect the islands and this advocacy work is not part of the Trust mandate. Policies pertaining to housing, forestry, anchorages, transportation, etc. should be taken out and placed in a separate document called "**Advocacy**". Advocacy work must be restricted to issues that pertain to the Trusts immediate mandate "to protect and preserve the natural environment" of the Trust area. Combining advocacy issues with Trust policies only serves to create the general impression that

the Trust has power in areas where in truth they have little influence and no authority at all.

*Accountability and Fairness:*

In Public or Town Hall meetings when the public does not support rezoning and for good reasons, the Trust frequently appears to ignore any concerns that would undermine the application. Well-researched correspondence containing scientific facts is treated with the same consideration as robo-letters. The uninformed correspondence is given the same weight as the informed: promoting the impression, that decisions are being made on the basis of what amounts to a popularity contest.

Islanders whose questions and comments provide a concerned voice for the distressed ecosystems are clearly not being given the respect they deserve and are not being heard. Even more disturbing, stakeholders with renowned local knowledge are simply ignored and considered not credible. We have witnessed disrespectful Trustees and Executives on Council making comments like, "You can leave the island if you don't like the Trust's decisions", "People don't understand Trust Policies so they don't need to be consulted", "Older people don't understand these amendment policies". These failures of the democratic process and rude remarks have no place in good governance and only add to the impression that the Trust is unapproachable, inaccessible and beyond accountability.

Trustees are not politicians and there appears to be some wide spread confusion about this; even though, Trustees are elected they are not politicians. A Trustee is required to follow the mandate established by the Trust Act and nothing else. They are not beholden to constituents, electorate or special interest group of any nature. It is not their job to interpret, manipulate, ignore or alter the mandate as convenient.

There are no meaningful controls on the behavior of Executive Committee members serving as chairs of the islands LTC. The general expectation is that the Chair will act in a neutral manner, not try to steer the local trustees to a particular position, but merely hold the meeting to good order, point out when the trustees are in error of the Trust policy or procedures.

Yet, in spite of this, there have been numerous complaints that a particular Executive Committee member has come to the LTCs with a strong preference for a certain type of zoning and has commandeered the meetings to push his own personal agenda; that incidentally is not a part of the Trust mandate. He then proceeds to grandstand, gaslight and employ "what about isms" when confronted with opposing views and opinions from the community.

Currently, the only way to correct an “apprehension of bias” is to ask for another Chair. However, this is rarely done because the trustees who are likely to be new to the position are unsure of themselves and would not want to offend a member of the Executive Committee, who has the power to reject future bylaws and make it uncomfortable for them to be at Trust Council meetings. To provide remedy and to encourage a healthier more productive, fair environment and to address problems there must be an administrative mechanism, a third party, for the public to have input and a voice to report grievances regarding the actions of either Trustees or Trust Council.

*Legitimacy and Voice:*

The LTC's for years have not been adhering to the implementation policies; choosing and picking what is convenient and ignoring and circumventing important environmental policies. Due to this practice many of the islands currently are suffering from unchecked development, overpopulation, destruction of fragile ecosystems and groundwater recharge areas. Unfortunately, irreversible decisions have been and are being made by staff and Trustees, few of whom possess the knowledge or skills to make them.

For years Islanders have been complaining that when it serves their purpose the Trust has been rushing through important rezoning decisions without extensive community consultation. In virtual contempt and disregard for transparency, local knowledge, the precautionary principle, natural environmental policies and ecosystem health.

So much so, that one could get the impression that the Trust is simply a “density broker” and that its sole purpose were to expedite the approval of development. Accusations of “apprehension of bias” by chair during the approval processes and the impression that decisions are a foregone conclusion right from the outset have led to a growing concern that the approval process is a sham and just for show. These complaints bare scrutiny, as decisions have been and are being made that disregard, ignore or circumvent procedure and the Islands Trust's mandate.

Planners in the Trust are depending upon the Professional Reliance system throughout the approval process. The Environmental Law Centre (2) points out that: “PR is not always appropriate, nor reliable, when it comes to environmental protection or when scientific uncertainty or communication of issues, parties and relationships render the issue at hand rife with irresolvable conflicts of interest.”

The Professional Reliance system is a developer centric, biased and broken system. Throughout the application process the PR never disagrees with or opposes the applicant. PR consultants want to please their clients so that they will get more client referrals. Applicants for rezoning (developers) can obtain reports from several consultants until they get the one they like. A similar approach was used by the Tobacco industry commissioning reports on the harmless pleasures of smoking.

Consultants do not have the access to the full range of considerations to assess the cumulative effects of new developments. For example, an evaluation of sufficient water relies on a well test. The consultant does not see what other developments will be allowed by the existing zoning or even how previously approved developments in the vicinity, could impact groundwater availability at the site being evaluated. The current standard for well-testing does not include evaluating effects on nearby wells. These factors are of great importance on the Gulf Islands that are by nature water stressed, yet, subject to heavy growth and development pressures.

The Trust federal level must have its own “arms-length” experts to evaluate water quantity and quality and all the other environmental impacts of proposed development. Property owners asking for changes in zoning should be expected to pay the cost of the Trust federal level “expert” services (see: Federal Level, Trust Area Services, later in this document) as they do now in the PR system.

*Lack of a Hierarchical Structure and the need for Trust Area Services (federal level Trust):*

In 1989 the Islands Trust Act evolved from Regional District planning and didn't develop into a hierarchical planning structure and this has skewed the implementation of the Trust Act for over 30 years. The “Trust Act” itself implies the establishment of two levels, hierarchical, federal governance: wherein Council presides over the local area jurisdiction. There are checks and balances, one level monitoring the other in the public interest. That is the strength of federalism. The Act directs that Council adopt a policy statement to carry out the object of the trust.

Instead of a two level federal hierarchical system we currently have only one. The lower level of the Trust hierarchical system: the Local Planning Services have all the power and the upper level the Trust Area Services has none. The staff person responsible for the trust policy statements is not the director of the “Trust Area Services” at the federal Trust level, which is as it should be, but the director of Local Planning Service and this is not as the Act intended.

Currently, Planning Services controls the direction of the Islands Trust and as a result the intended role of stewardship has devolved to that of “land-use administrator” as one Executive of Trust Council so pointedly admitted

## Direction:

The Trust’s urban centric planners, if left unchecked, will continue to carve up the rural nature of the islands. The Trust has not only failed their original mandate, but it has done so spectacularly. For proof of this fact, we need to look no farther than Gabriola, Mayne, and Hornby, three islands that by the Trusts own research and admission, are over the “tipping point of environmental health with other islands to follow (Trust Survey, State-of-the Island report WAS , released in February 2020).

Unfortunately, the destructive decisions that have already been made by Trust Councils cannot be undone. Once the land has been developed and is in private hands, buildings can’t be removed and they can’t restore the ecosystem or replace the groundwater recharge areas. The Trust’s proposed nature based solutions to protect the ecosystems do nothing to reduce the number of densities and the island populations.

*Although there is no way to turn back the clock or for the Trust to right past wrongs, from this point on, the only course of action available is to preserve and protect the islands that are in peril is by placing a moratorium on the development, that is clearly, no longer sustainable.*

If truly the purpose of the Trust is to follow its Object and protect the Islands then the entire province, needs a much larger say in governance of the trust area. If the islands are to be protected from over-development the Trust area should be governed by the federal Level of the Trust Area Services(TAS).

The Federal level :

1. a hierarchical structure and chain of command for approving development applications to increase densities or to rezone anywhere on the islands.
2. a top down approach from federal level to the local planning services.
3. a new office “Deputy Chief’s Administrative” office (DCAO) operating at “arms length” from the Trust body to guide the Trust’s management and planners from which the planning services and LTC would take all direction
4. a team of environmental scientists: ecologist, forest protection officer, hydrologist and climate-change analyst under the supervision of a Deputy Chief

All land-use applications would be reviewed and approved by the (DCAO) to make certain they align with Trust mandate, policies and this team would ensure that implementation of Trust policies would be certain. When inconsistencies are discovered the applications would be sent back to local planning services and LTC's to be revised or not approved at all, depending on the situation. In this office it would be desirable for the Chief to hold a PHD in rural planning and have an in-depth understanding of environmental issues. Together the staff of DCAO would manage all the planning services in the Islands Trust.

## Conclusion:

We ask the review committee to please examine the Trusts resistance to the implementation and unequivocal support of its original environmental mandate and make recommendations to stop any further urbanization and destruction of the fragile and unique eco-systems of the gulf islands: and at the same time to realign the Trusts practice "to preserve and protect the natural environment", as most certainly, this is the only reason they exist.

To provide a clear direction for the Trust to follow, recommendations for reorientation, restructuring and refocusing the hierarchical structure, policy, implementation and governance must be made by the committee. The Trust by its lack of efficiency, muddying the competency "waters" and offhanded public arrogance has in this time of climate crisis engendered voices from its electorate that are questioning the validity of its existence. The original Trust Act (1974) has become a matter of critical urgency and must be the focus for the Trust of 2021 to follow. The constant additions to an already confusing and complex TPS ((V.2.0.) are a waste of time, resources, and money.

Thankyou,

Alix Hodson-Deggan, M.Ed.

Footnotes:

1 -Although, apparently unquestioned, overlooked, or both; this is a consequence of the current Islands Trust staff administrative structure. 75% of the budget is devoted to local planning services, which is the dominant administrative part of local area governance. The federal level of Islands Trust governance is afforded neither budget nor staff seniority to be effective in presiding over the local area administration. The advantages of federalism intended in the Act are lost. 1989 the province required that Council secure the preserve and protect mandate with a trust policy statement by-law. -It is true that in the mid 1980s the province stepped away from regional plans such as the policy statement, in favor of enhanced local government controls. But it wasn't long before the advantages of checks and balances in a more effective two level federal governance model were manifest. In 1989 the province required that Council secure the preserve and protect mandate with a trust policy statement bylaw

2 - Professional Reliance and Environmental Regulation in BC; Environmental Law Center, 2015:pg.85, decision making professional reliance is not appropriate in the following situations: 1,2, 3, 5 6, 7, 8