

**From:** MICHAEL SKETCH [REDACTED]  
**Sent:** Monday, June 20, 2022 3:33 PM  
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**Cc:** Islands2050; Russ Hotsenpiller; Clare Frater; David Marlor; Robert Kojima; Heather Kauer; Dilani Hippola; Jason Youmans  
**Subject:** Letter to Council and V.3.12 17Jun2022 of rewrite for Trust Policy Statement  
**Attachments:** TPS draft V.3.12 mgms 17Jun2022.pdf

**Letter (email) to Council 20Jun2022 with version 3.12 of a Trust Policy Statement (TPS) bylaw for Council's consideration.**

Councilors – Tomorrow evening, Tuesday 21Jun2022, I will read my delegation submission to you which first addresses failures in Council's TPS bylaw, then addresses failure to implement Islands Trust federation governance.

These two failures are elephants at the Council table. Yes, they were invited in your 1994 TPS bylaw, but never acknowledged and usually unseen. If seen, not recognized as trouble makers.

This trustee term, Council has taken bold steps, commissioning and now implementing a governance review, together with TPS revision. My submission to you is germane.

I submit the attached version 3.12 of a draft TPS bylaw in the hope that the Council corporation will formally receive the document, then deliberate and implement. The policy content can be amended, but please retain the structure.

Your Council TPS bylaw is required to give policies which carry out; that is implement, the preserve and protect Object of the Trust. It is Council's responsibility to implement those Trust Area policies directly. But since 1994 that responsibility has been passed on for implementation in Local Trust Area bylaws, with far too much wriggle room.

Version 3.12 addresses setbacks in Trust Area land use planning.

The current TPS bylaw is silent on setbacks from sewage absorption fields to the natural boundary. So are the North and South Pender bylaws. Fouling of the foreshore from sewage disposal that is simply too close to the natural boundary

impacts the health of fish, shellfish and marine ecosystems. There is potential for infraction under the federal Fisheries Act but a setback is obvious common sense, a requisite in the Trust's common law duty of care to residents and in particular to the First Nations interest.

So too are adequate setbacks for sources of potable water from sewage absorption fields.

Galiano Island regulation requires the same setback between i) sewage absorption fields and a potable water source; as between ii) sewage absorption fields and the natural boundary. Again, common sense which should be guided by Trust Area policy.

Necessary Local Trust Area regulation for desalination or reverse osmosis systems are also addressed in TPS Version 3.12 policy. To reduce further intrusion, a drilled well which has failed by seawater intrusion mustn't be used as an intake for desalination or reverse osmosis systems.

Following are relevant policies from TPS V.3.12:

## 2.1 First Nations interest Policies of the

2.1.3 To protect fish, shell fish and marine life, the intent of the federal Fisheries Act, a settlement between the natural boundary and upland areas, the provincial Ministry of Health regulates the drilled well source of potable water.

## 2.3 Freshwater Stewardship Policies of

2.3.17 Trust Body deliberation and decision-making systems, shall give priority to alternative desalination or reverse osmosis systems, environmentally responsible disposal of brine, and minimizing adverse effects on the ecosystem. The design and implementation of desalination infrastructure shall be regulated.

2.3.18 To minimize potential for further degradation, used as an intake for a desalination or reverse osmosis system.

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# **Islands Trust Council’s Trust Policy Statement Bylaw**

Version 3.12 draft mgms, 17 June, 2022

## **Introduction: References to the Islands Trust Act**

The Islands Trust Act establishes a federal governance wherein Trust Council presides over a union of local area land use jurisdictions, each with authority over land use conferred by the Local Government Act.

The Object of the Trust and Trust Policy Statement are the instruments of federation.

Council’s Trust Policy Statement bylaw is required at Section 15 of the Act and is a general statement of Council’s policies to carry out the Object of the Trust. Council may establish different policies for different parts of the Trust Area.

The Trust Policy Statement is a regional plan for the Trust Area.

For this Trust Policy Statement bylaw; each of Trust Council, Trust Executive and Local Trust Committee are known as a Trust Body. Trust Council is known as Council and is a Trust Body. The Islands Trust Act is known as the Act.

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## **Object of the Trust consistent with First Nations ways of knowing**

At Section 3 of the Act (note 1), 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 municipalities, Regional Districts, improvement districts, First Nations, other persons and organizations and the government of British Columbia.

The Trust Area is within the traditional territory of the Coast Salish First Nations.

The Object of the Trust is consistent with an intrinsic First Nations cultural understanding that anthropogenic changes in the relationship with land may be sustained only where natural environment entities are not thereby compromised.

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1. Amendment to the Act in effect 1 December, 2021, pursuant to Municipal Affairs Statutes Amendment Act (No. 2) 2021 (Bill 26); in part that “First Nations” will amend the Object of the Trust (Section 3 of the Islands Trust Act) following “improvement districts” in the list of those to be cooperated with.

**Day to day actions of trust bodies are to be consistent with Trust Area policies**

Taken together, a part of of Section 4 of the Act, that:

4(1) The trust council, executive committee and local trust committees ... are continued for the purpose of carrying out the object of the trust.

and parts of Section 15 of the Act, that:

15(1) The trust council must, by bylaw, adopt a trust policy statement that applies to the trust area.

15(2) and 15(2)(a) The trust policy statement must be a general statement of the policies of the trust council to carry out the object of the trust.

establish a first responsibility for each of the continued Trust Council, Council's Executive Committee and Local Trust Committees, that their day to day actions must follow from and be consistent with policies of Council's policy statement bylaw. The day to day actions include, but are not limited to, consideration of applications for change in land use and the entire staff advice process to deliberation of draft bylaws.

and for certainty:

15(4) A bylaw submitted to the executive committee ... or referred to trust council ... must not be approved ... if it is contrary to or at variance with the trust policy statement.

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**In order to carry out the Object of the Trust**, that is to implement the Object of the Trust, the deliberations and actions of all Trust Bodies must be effectively informed by certainty that unfettered anthropogenic built environment on Trust Area islands will limit the ability of an islands's natural environment entities to sustain the built environment.

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## **Schedule for the Trust Policy Statement bylaw**

### **Implementation Policies for policies of the Trust Policy Statement**

- i) Policies of Section 1 of this bylaw are to be implemented in the entire Trust Area by Trust Bodies and by the employees of Council in the day to day business of the Trust, including but not limited to staff advice to decision makers and the deliberations and decisions of decision makers.
- ii) Policies of Section 2 of this bylaw are to be implemented by Trust Bodies and by the employees of Council in the day to day business of the Trust, including but not limited to staff advice to decision makers and the deliberations and decisions of decision makers; save and except where a Local Trust Area has petitioned Council to absolve, given a 2/3 majority Council vote, the local area jurisdiction from responsibility to implement the subject policy, or a part thereof, for the entire of the petitioning Local Trust Area, or a part thereof.
- iii) Having successfully petitioned Council to absolve a local area jurisdiction from responsibility to implement a policy of Section 2, or a part thereof, for the entire of the petitioning Local Trust Area, or a part thereof; at a later date the same Local Trust Area may give notice to Council that the subject policy of Section 2 is reinstated for the entire of the Local Trust Area giving notice, or a part thereof. Said notice shall be acknowledged by resolution of Council.
- iv) Council shall publish a continuing record of Trust Area policies which have no force and effect and the Local Trust Area in which the policy has no force and effect, together with the relevant dates and Council resolutions.
- v) Policies of both Section 1 and Section 2 of this bylaw which are indicated as directive policies are subject to a Council regulatory bylaw corresponding to this Trust Policy Statement bylaw.
- vi) Where this Trust Policy Statement bylaw, or an amendment thereto, contains one or more directive policies, Council shall adopt a regulatory bylaw corresponding to this Trust Policy Statement bylaw within two years of Council's adoption of this Trust Policy Statement bylaw, or the amendment thereto.
- vii) All staff reports which advise decision makers respecting a change in land use or a policy change, shall detail relevant Trust Area policies and where applicable, the corresponding address in Official Community Plan and regulatory bylaws of the Local Trust Committee or island municipality jurisdiction.
- viii) Where a Trust Area policy requires an action not within the Local Trust Committee or island municipality jurisdiction, implementation for that policy shall consist of advocacy in Official Community Plan policy which quotes the subject policy and details the necessary statutory changes or inter-agency agreements for the subject policy to be implemented.
- ix) Where a Local Trust Committee or island municipality refuses instruction from Council to implement one or more policies, then Council reserves the right to withhold sums from the budget allotment to the local area jurisdiction and to the responsible land use planning authority, until such time as the instruction is carried out.

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## 3. Unique amenities of the Trust Area

## 1. Policies for the entire Trust Area

For the entire Trust Area, Council holds and recommends to the Conservancy Board that:

1.1 Section 1 are general policies to carry out the Object of the Trust, subject to implementation policy in the schedule for this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

1.1.1 All policies, and procedures to implement Trust Area policies in the Trust Area, are contained in this Trust Policy Statement bylaw, which includes an implementation schedule.

1.1.2 Federal governance to be implemented. Council shall ensure that the Islands Trust staff administrative structure implements a two level hierarchical federal governance intended by the Act. The Trust Area Services federal administrative level shall include sufficient assessment expertise that all proposals for changes in land use and changes in land use policy can be effectively evaluated and monitored in the entire staff process from receipt of applications for changes in land use to bylaw adoption and that relevant guidance and instruction be given to the Local Planning Service for Local Trust Areas in order to carry out the Object of the Trust.

1.1.3 Adherence to Trust Area policies is first in Council's federal oversight responsibilities for Local Trust Areas. Council shall ensure that island municipalities have regard for the Object of the Trust and Trust Policy Statement in respect of all actions of the municipality.

1.1.4 The persons and entities whose interests may be affected by changes in land use in the Trust Area are:

- (a) the natural environment
- (b) unique amenities of the Trust Area
- (c) the predominantly rural built environment
- (d) First Nations
- (e) residents
- (f) future residents
- (g) the people of British Columbia generally.

1.1.5 Role of Local Trust Committee Trustees. The Chair of the Local Trust Committee corporation shall represent the federal governance level and the locally elected Trustees the interests of the Local Trust Area. In considering changes in i) land use, ii) land use policy or iii) land use regulation, the Trustees of a Local Trust Committee corporation shall be cognizant of the effect of such changes on the persons and entities whose interests are directly affected. Carrying out the Object of the Trust as implemented in this Council bylaw shall be the greater rationale for Trustee actions.

1.1.6 Duty of care to persons. Trust Bodies and the employees of Trust Council shall exercise a duty of care to persons whose interests are directly affected by land use changes which would foreseeably compromise preservation and protection of the unique amenities or environment of the Trust Area.

1.1.7 Duty of care to entities. Acknowledging the First Nations way of knowing that the built environment depends on natural environment entities, Trust Bodies and the employees of Trust Council shall exercise a duty of care to entities whose interests are directly affected by land use changes in the Trust Area; in particular but not limited to the interests of the natural environment, which can not speak for themselves. Trust Bodies shall favour presumed rights of natural entities to continue without anthropogenic harm, anticipating decisions in the courts to give such rights in law.

1.1.8 Duty to consult. When considering changes in land use, or changes in land use policy, Trust Bodies shall first deliberate whether or not consultation is needed and where indicated, shall meaningfully consult with those whose interests are affected. Consultation shall be early and ongoing. Where the interests of the natural environment are deemed affected, consultation shall begin with full disclosure to those who can speak on behalf of the natural environment.

1.1.9 Trust Area environment. For purposes of this bylaw, the Trust Area environment is the sum of its parts and is subdivided for policy clarification as follows:

### Trust Area environment

#### 1a) built

#### 1b) natural

2(a) first nations structures

2b) mainly rural

2c) more dense urban

2d) anthropogenically modified

2e) unmodified

Where there is opportunity, advice givers and decision makers for changes in land use shall work towards a beneficial symbiotic relationship between built and natural parts of the environment and for certainty, not a built environment which unnecessarily disadvantages the natural environment.

1.1.10 Climate change. In that evidence of climate change is manifest in the science and measurements relied on by the provincial Ministry of the Environment, the Trust Object and First Nations ways of knowing the dependence of the built environment on natural environment entities; confer an obligation on Trust Bodies to acquire local knowledge based on observation of critical changes in the natural environment and to use that local knowledge in their deliberations and decisions on land use which are expected to protect against adverse consequences of climate change. In those deliberations and decisions, Trust Bodies shall favour presumed rights of natural entities to continue without anthropogenic harm, anticipating decisions in the courts to give such rights in law.

1.1.11 Trustees to speak for persons or entities that can not speak for themselves. In carrying out the Object of the Trust and mindful of First Nations ways of knowing the dependence of the built environment on natural environment entities, Trustees of the Islands Trust shall speak for persons or entities whose interests are affected by changes in land use but can not speak for themselves; in particular but not limited to the natural environment.

1.1.12 Assessment of potential harmful effects of changes in land use. In order to carry out the Object of the Trust, Trustees of the Islands Trust shall be mindful of First Nations ways of knowing the dependence of the built environment on natural environment entities and diligent in assessing potential for harmful effects of changes in land use, in order that the persons and entities whose interests are affected by changes in land use will not be adversely affected. Assessment shall be guided by, but not limited to, science based assessment.

1.1.13 Residential Density. (a) Parcel density is a metric which can be used to assess the potential for anthropogenic harm to the natural or modified natural environment in a zone of similar parcels, as a consequence of residential and commercial residential land use.

1.1.13 (b) The normalized measures of density for residential and commercial residential land use for a parcel, include but are not limited to: i) number of residential buildings per parcel and ii) floor area of residential buildings divided by parcel area.

1.1.13 (c) The dimensionless parameters for density of residential and commercial residential land use for a parcel include but are not limited to: i) the ratio of floor area of a residential building to 1,000 square feet and ii) the number of people expected to reside in 1,000 square feet of residential floor area, divided by two people and iii) ratio of months of residential occupancy of a building to the 12 month year.

1.1.14 Carrying capacity. Carrying capacity for a part of, or for the entire of, a Trust Area island, or within a municipality, is the upper limit of built environment density, beyond which sustained evidence of damage to the natural environment, or to the anthropogenically modified natural environment, is manifest. Evidence of damage includes but is not limited to seawater intrusion in potable drilled water wells, reduced water levels in drilled wells or surface wells, large tracts of deforested land with consequent erosion or reduced groundwater recharge, and reduced capability of soil and land for agriculture.

1.1.15 Rural built environment to predominate. Where there is built environment, a small scale, rural, built environment shall predominate in the Trust Area; despite a more dense, urban, built environment in nearby areas not in the Trust Area.

1.1.16 Priority to preserve and protect. When considering changes in Trust Area i) land use policies or ii) land use, which would augment the built environment at the expense of the natural environment, Trust Bodies shall give priority to the preservation and protection of the natural environment, in particular but not limited to the maintenance of biodiversity and the protection and restoration of rare species and species at risk.

1.1.17 Community need. Trust Bodies shall not support changes in land use justified by community need, where the community need rationale is seen to take precedence over preservation and protection of elements of the natural environment and ecosystems.

1.1.18 Precaution. Where there is perception but not necessarily certainty, that the degree of built environment will prejudice the ability of the natural environment to sustain development, then precaution shall inform limitation of growth of the built environment.

1.1.19 Adherence to trust policy in day to day actions. In order that this regional plan for the Trust Area be effective in carrying out the Object of the Trust and given that Trust Bodies are continued for the purpose of carrying out the Object of the Trust, policies of the Trust Policy Statement shall be adhered to in the day to day actions of Trust Bodies and their employees. For certainty, policies of this Trust Policy Statement shall be adhered to by land use planning staff in staff report and other advice to decision makers in the entire development and deliberation of draft bylaws pertaining to i) changes in land use policy and ii) applications for changes in land use.

1.1.20 Paramountcy. Where there is conflict between policies of the Trust Policy Statement bylaw and policy or regulatory bylaws of a Local Trust Area, Trust Policy Statement bylaw policies shall prevail and Local Trust Area policy or regulation, or both, shall be inoperative to the extent that they conflict with policies of the Trust Policy Statement bylaw.

1.1.21 Meeting minutes. To further accountability and transparency in the day to day actions of Trust Bodies and their employees, the written meeting minutes for all Trust Bodies shall be published and be consistent with Roberts Rules of Order for meeting minutes which are to be published. For certainty, meeting minutes shall be a comprehensive written record of what was said, in addition to a strict record of what was done.

1.1.22 Trust Bodies to cooperate. Trust Bodies and their employees shall be diligent in respecting and cooperating with First Nations and with shared land jurisdiction authorities, including but not limited to Regional Districts, the Agricultural Land Commission and the Ministry of Forests, Lands, Natural Resource Operations and Rural Development. In deliberating bylaws, Trust Bodies shall be mindful of the legislated requirement that a Regional District board must not adopt a bylaw respecting the Trust Area, issue a permit respecting the Trust Area, or undertake work respecting the Trust Area if the bylaw, permit or work is contrary to or at variance with a bylaw of a Local Trust Committee.

1.1.23 Service given by a Regional District. Where, by referendum, the electorate in a Local Trust Area or a part thereof, agrees to provision of a service, which might otherwise be given by the Regional District by means of transfer of property tax revenue to a Local Trust Area community service group, then the relevant Local Trust Area policy and regulatory bylaws shall provide direction for provision of said service.

1.1.24 Regional context statement. The Official Community Plan, or, if none, other policy bylaw for each Local Trust Area jurisdiction or sub jurisdiction; shall include a regional context statement, which acknowledges both i) First Nations traditional use of Trust Area land and ii) Council's Trust Policy Statement bylaw as a regional plan for the Trust Area.

1.1.25 Conflicting interests for Local Trust Committee Trustees. Further to the obligations of Chapter 26, Part 4, Division 6 of the Community Charter respecting the reasons for an elected official to recuse themselves from a matter before the Local Trust Committee, conflicting interests for a Trustee in their legislated obligation to carry out the Object of the Trust as implemented in this Council bylaw, is a valid reason for a Trustee to recuse. Whatever the reason for recusal, should more than one Trustee recuse themselves from a matter before the committee such that there is not a quorum of the Local Trust Committee present, then the matter may be referred to the Executive Committee of Council for any or all of consideration, deliberation and decision.

1.1.26 Amendment to this Council Trust Policy Statement bylaw shall be instituted by resolution of Council. On proposal for each amendment, Council will assign responsibility for day to day oversight of the amendment process to a committee of councillors whose first responsibility is to represent the broad Council interest in carrying out the Object of the Trust.

## **2. Policies for the Trust Area, save where Council excuses one or more Local Trust Areas from compliance**

For the entire Trust Area, save where Council excuses specific Local Trust Areas or an island municipality from compliance upon application to council; Council holds and recommends to the Conservancy Board that:

### **2.1 First Nations interest Policies of the Trust Policy Statement**

2.1.0 First Nations interest policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.1.1 In day to day Trust business and in the advice given to Trust decision makers and consequent deliberations, First Nations treaty and territorial areas shall be recognized and stewardship in the First Nations relationship with land shall be respected.

2.1.2 In advice to decision makers and in deliberating changes in coastal land use, First Nations access to marine ecosystems below the natural boundary shall be respected. Where decisions are considered which would have the effect of either granting or restricting First Nations access to marine ecosystems below the natural boundary, or which may adversely affect the quantity or quality of harvesting; data shall be made available to First Nations whose interests may be affected and there shall be meaningful consultation, early and ongoing.

2.1.3 To protect fish, shell fish and marine ecosystems from fecal contamination consistent with the intent of the federal Fisheries Act, a setback shall be established by Local Trust Area regulation between the natural boundary and upland sewage absorption fields which is greater than or equal to the provincial Ministry of Health regulation of setback distance for a sewage absorption field from a drilled well source of potable water.

### **2.2 Environmental Integrity Policies of the Trust Policy Statement**

2.2.0 Environmental stewardship policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.2.1 The following elements of the natural environment shall be identified, preserved, protected, and restoration thereof supported; utilizing the best available quantitative and qualitative data, inclusive of First Nations ways of knowing and community input:

- (a) networks of protected areas of sufficient size and distribution to preserve the environmental integrity of ecosystems
- (b) sensitive ecosystems, including but not limited to cliff, freshwater, herbaceous, old and mature forest, riparian, wetland, and woodland ecosystems
- (c) contiguous forests which are not fragmented and associated ecosystems
- (d) freshwater networks and groundwater recharge areas
- (e) eelgrass meadows, kelp forests, and forage fish spawning areas
- (f) species and ecosystems at risk
- (g) First Nations cultivation and harvesting areas such as camas meadows, seaweed farms and clam gardens.

2.2.2 Land use and development shall be regulated in order to minimize i) green house gas and other harmful gaseous emissions and ii) limit disposal of organic or inorganic discarded materials which are deemed waste and which may be harmful to air, land or water.

## 2.3 Freshwater Stewardship Policies of the Trust Policy Statement

2.3.0 Freshwater stewardship policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.3.1 Excepting Piers Island in the Capital Regional District, Trust Area islands shall be self-sufficient in their supply of freshwater.

2.3.2 Anticipating both i) sea level rise and ii) prolonged summer drought as a consequence of climate change; council policy shall be precautionary and will anticipate the cumulative adverse effects on groundwater quality and quantity. Adverse effects include but are not limited to iii) an inward migration from the coast of the freshwater - saltwater transition for trust area island aquifers and iv) saltwater intrusion for groundwater wells.

2.3.3 Cognizant of adverse effects of i) the built environment and of ii) anticipated increase of the built environment, on both quantity and quality of freshwater, including but not limited to disposal of human and livestock organic and inorganic waste; means to prevent further loss or degradation of iii) watershed ecosystems, iv) freshwater networks, v) groundwater recharge areas, and vi) forest ecosystems which sustain watersheds and groundwater recharge and vii) freshwater aquatic species in the Trust Area; shall be identified and implemented in precautionary local trust area policy and any or all of zoning, restrictive covenant, development permit and regulation.

2.3.4 Groundwater recharge areas shall be identified, ground truthed, mapped and published for islands of the Trust Area. Groundwater recharge areas shall be given priority for preservation and protection of the natural or modified natural environment parts therein, with restoration to a modified natural environment where indicated. Preservation and protection of groundwater recharge areas is best served by i) restrictive covenant and ii) ownership of part of, or parts of, or the whole of a groundwater recharge area, by iii) council as a community benefit land trust or by iv) the islands trust conservancy as conserved land.

2.3.5 Given the certainty of climate change and the adverse consequence for groundwater recharge, groundwater observation wells shall be established on Trust Area islands in addition to those as may have been established by the Ministry of the Environment, in sufficient number and appropriate location that the quality and quantity of island groundwater can be monitored and trends identified. The monitored data shall be published. For certainty, observation wells are to enable meaningful assessment of groundwater quality and quantity for both areas i) of current built environment and ii) anticipated for a future built environment. As a condition of approval for new subdivision, iii) one or more observation wells must be established and iv) groundwater quality and quantity data collected and published.

2.3.6 Where there is evidence that freshwater consumption on a Trust Area island, or a part thereof, exceeds the rate of rainwater recharge, the consumption of freshwater in the built environment of that part of the Trust Area island shall be subject to precautionary Local Trust Area regulation. Evidence of consumption exceeding recharge includes, but is not limited to, reduced year to year average levels in local observation wells and seawater intrusion in wells.

2.3.7 As a consequence of climate change or other, where Council determines there is evidence that consumption exceeds recharge in the greater part of the trust area, Council may, by bylaw, regulate freshwater consumption for the entire of the Trust Area. Evidence of consumption exceeding recharge includes, but is not limited to, reduced year to year average levels in local observation wells and seawater intrusion in wells.

2.3.8 Cognizant of both i) seasonal variation and ii) anticipated, water supply and demand; neither the density nor intensity of land use shall be increased in areas where the quantity or quality of groundwater is likely to be compromised, inadequate or unsustainable with increased groundwater extraction.

2.3.9 Cognizant of both i) seasonal variation and ii) anticipated, water supply and demand ; neither the density nor intensity of land use shall be increased in areas where the quantity or quality of surface water which may be used as potable water is likely to be compromised, inadequate or unsustainable with increased surface water extraction.

2.3.10 A regulated groundwater management area for a buffer zone contiguous with the natural boundary of Trust Area islands shall be considered by Trust Bodies. Regulation will include provision to:

- (a) meter the rate and total of groundwater extraction and publish said data
- (b) limit the density of drilled wells and where indicated by i) evidence of seawater intrusion or ii) other indicators that groundwater consumption exceeds recharge; preclude new drilled wells
- (c) require a Local Trust Area register of drilled wells in the groundwater management area adjacent the natural boundary
- (d) require the report of a registered professional hydrogeologist for new wells, wherein the pump down test record of water quantity shall include a record of extracted water salinity and be done during the time of summer drought and at a low tide. For certainty, pump down tests to demonstrate water quantity shall not be done at a time of rising tide such that the rising tide has the effect of augmenting an apparent well recharge capability.

2.3.11 A regulated groundwater management area for the interior of Trust Area islands, contiguous with the natural boundary buffer zone of policy 2.2.10, may be considered by Trust Bodies. Regulation will include provision to:

- (a) meter the rate and total of groundwater extraction and publish said data
- (b) limit the density of drilled wells and where indicated by i) evidence of seawater intrusion or ii) other indicators that groundwater consumption exceeds recharge; preclude new drilled wells
- (c) require a local trust area register of drilled wells in the groundwater management area
- (d) require the report of a registered professional hydrogeologist for new wells, wherein the pump down test record of water quantity shall include a record of extracted water salinity and be done during the time of summer drought.

2.3.12 The transition between the natural boundary buffer groundwater management area of policy 2.2.10 and the island interior groundwater management area of policy 2.2.11 will be determined by a transition from a positive correlation between daily sea tide levels and the static water level in drilled wells, in the natural boundary buffer groundwater management area and a lack of such correlation for the contiguous island interior groundwater management area. Where a positive correlation persists for wells in the interior of the island, then the entire island shall be part of the natural boundary buffer groundwater management area of policy 2.2.10.

2.3.13 Applications for increased density should not be supported where the source of potable water is a drilled well and i) the subsurface must be artificially fractured in order that adequate quality and quantity be proven, or ii) where a pump down test cannot be done due to probable adverse effect on the quality and quantity of potable water in nearby wells.

2.3.14 Before an application for increased density proceeds, where the source of potable water is a drilled well and the subsurface has already been artificially fractured in order to prove sufficient water quality and quantity, the onus shall be on the applicant to demonstrate no adverse effect of artificial fracturing on the quality and quantity of potable water in nearby wells for each of i) a duration and ii) the proximity to nearby wells; which is established by regulation.

2.3.15 In applications for changes in land use where the source of potable water is or has been, in part or entirely, a drilled well or wells, registering the well or wells with the Ministry of the Environment and fixing a well identification plate to the subject well or wells should be a condition of approval for said change in land use.



2.3.16 Policy and regulation of freshwater use in the Trust Area shall minimize potential for adverse effects to i) the quality of water in ponds, lakes, streams and wetlands and to ii) in-stream uses including, but not limited to, fish and fish habitat uses, First Nations cultural and spiritual use and to iii) aesthetic and recreational uses.

2.3.17 Trust Body deliberation and decisions respecting sea source desalination or reverse osmosis systems, shall give priority to alternative land based sources of potable water. If a sea source desalination or reverse osmosis system is deemed necessary, priority shall be given to environmentally responsible disposal of the effluent concentrate, in particular but not limited to, minimizing adverse effects on the ecosystems of the water or land receiving the effluent concentrate. The design and implementation of desalination or reverse osmosis systems and associated infrastructure shall be regulated.

2.3.18 To minimize potential for further intrusion, a drilled well with seawater intrusion shall not be used as an intake for a desalination or reverse osmosis system.

2.3.19 A setback shall be established by Local Trust Area regulation between a drilled well source of potable water and the natural boundary to minimize the potential for seawater intrusion.

2.3.20 A setback shall be established by Local Trust Area regulation between a i) drilled well or ii) surface water source of potable water and a sewage absorption field, to minimize the potential for fecal contamination.

## 2.4 Forest Stewardship Policies of the Trust Policy Statement

2.4.0 Forest stewardship policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.4.1 Council is encouraged to develop a forest management plan for the Trust Area which will enable sustainable small scale extraction while giving priority to the long term health of forest ecosystems; in part by protecting unfragmented forest ecosystems, on a scale of forest stands and landscapes, from adverse consequences of the built environment.

2.4.2 Large land holdings and parcel sizes shall be retained to enable sustainable forest harvesting practices. The location of roads and utility corridors shall be directed so as to minimize the fragmentation of forests.

2.4.3 Guided by the provincial ministry of the environment's assessment of ecosystem health and species at risk, protected forest ecosystem reserves may be designated where extraction will be limited in order that the preservation of native biodiversity and corridors not be compromised.

## 2.5 Agricultural Land Stewardship Policies of the Trust Policy Statement

2.5.0 Agriculture policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.5.1 Landowners engaged in best practices agriculture are valued for their contributions to food security and as stewards of trust area land.

2.5.2 Given the certainty of a climate emergency and the potential for uncertainties of transportation and distant sources of food, the 13% of Trust Area lands which are in the provincial Agricultural Land Reserve shall be protected in the long term as a reserve and not treated as a resource for development.

2.5.3 Food sovereignty. Acknowledging First Nations cultural heritage and ways of knowing the dependence of the built environment on natural environment entities, Council affirms residents' right of access to healthy and culturally appropriate food produced with ecologically sound and sustainable methods and the right to define their own food and agriculture systems.

2.5.4 Agricultural capability shall be encouraged in the Trust Area where farming operations are small scale and give priority to local area food security, including but not limited to encouragement for vegetable gardens on land zoned for residential use.

2.5.5 Productive agricultural soils shall be protected, particularly but not limited to protection through bylaws relating to soil removal and deposit.

2.5.6 Regenerative agriculture. Farming based on of i) building soil health and fertility, ii) improved water percolation and retention, iii) increased biodiversity and ecosystem health and iv) reduced green house gas emissions; is encouraged for the Trust Area.

2.5.7 Road systems and servicing corridors shall be designed and constructed so as to minimize the fragmentation of agricultural lands.

2.5.8 Agricultural land shall be identified and preserved for current and future use, including but not limited to, preservation by support for inclusion in the Agricultural Land Reserve.

2.5.9 The permitted land uses on adjacent properties shall minimize any adverse affects on agricultural land.

2.5.10 Applications to trust bodies or referrals by trust bodies for other use than agriculture shall not be supported on Trust Area land in the Agricultural Land Reserve which is shown in mapping relied on by the Agricultural Land Commission to include prime improved agricultural capability class 1 - 3 soils.

2.5.11 Applications to trust bodies or by trust bodies for exclusion from the agricultural land reserve shall not be supported where the subject land which is shown in mapping relied on by the Agricultural Land Commission to include prime improved agricultural capability class 1 - 3 soils.

2.5.12 Land uses and activities that support the economic viability of farms, without compromising the agriculture capability of agricultural land, are encouraged for land in the Agricultural Land Reserve which does not include prime improved agricultural capability class 1 - 3 soils shown in mapping relied on by the Agricultural Land Commission.

2.5.13 Consistency with S.46 (Conflict with bylaws) of ALC Act - Where land use changes in the Agricultural Land Reserve within the Trust Area are given in an Order of the Agricultural Land Commission; the Order is to have neither force nor effect in Local Trust Area bylaws unless and until all conditions of the Order are acknowledged as being met by the Agricultural Land Commission.

## 2.6 Soil Stewardship Policies of the Trust Policy Statement

2.6.0 Soil stewardship policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.6.1 Productive soils in the Trust Area shall be preserved, protected and restored where necessary to restore productive capability.

2.6.2 In part, productive soils in the Trust Area shall be preserved and protected by means of regulatory bylaws related to soil removal and deposit.

2.6.3 Removal or excavation of soil or fill from middens or foreshore areas that have been identified as culturally significant areas, shall be prohibited.

## 2.7 Coastal and Marine Stewardship Policies of the Trust Policy Statement

2.7.0 Coastal and marine ecosystem preservation and protection policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, subject to Trust Area regulation.

2.7.1 Appropriate locations for marine dependent land uses and means to prevent further loss or degradation of coastal and marine ecosystems; shall be identified.

2.7.2 Local trust area policies shall be given that preserve, protect, and support the restoration of eelgrass meadows, kelp forests, forage fish spawning areas, tidal salt marshes, mud flats, and coastal wetlands, acknowledging their multifaceted roles in supporting carbon capture and storage, soft shoreline protection, and the provision of habitats and spawning areas for coastal and marine aquatic species.

2.7.3 The location of buildings and structures in the Trust Area shall be directed such that they do not:

- (a) adversely impact sensitive coastal and marine ecosystems, naturally occurring stocks of shellfish, eelgrass meadows, kelp forests, forage fish spawning areas, tidal salt marshes, mud flats, coastal wetlands, middens, or archaeological sites
- (b) interfere with natural coastal processes
- (c) restrict First Nations' access to traditional coastal and marine harvesting sites
- (d) restrict public access to, from, or along the marine shoreline

2.7.4 Establishment of commercial aquaculture tenures shall be dissuaded. The location and operation of commercial aquaculture tenures shall be directed so as to be away from areas:

- (a) of cultural, spiritual, archaeological, or recreational significance;
- (b) where an aquaculture operation would conflict with established or designated upland land uses, anchorages or moorages.

2.7.5 Opportunities shall be identified for the sharing of facilities such as docks, wharves, floats, jetties, boathouses, boardwalks and causeways.

2.7.6 Applications for new private docks shall be subject to demonstration by the applicant that dock construction and maintenance won't disadvantage marine environment ecosystems by restricting natural daylight or impeding underwater passage, or disadvantage public access to crown land below the natural boundary. Applications for new private docks should not be supported where a shared dock facility is available with road access to the upland parcel for the subject private dock application and where the island is served by B.C. Ferries. Applications for new private docks shall not be supported where restrictive ministerial order of forest lands, natural resource operations and rural development M329, effective 24 August, 2021 to 23 August 2023, or a successor restrictive order, has force and effect.

2.7.7 Applications for seawall and other hard shoreline armoring in the trust area shall be assessed to determine whether i) soft or ii) hard, shoreline structures or measures are appropriate to give erosion protection while minimizing adverse environmental effects. Soft shoreline protection is preferable in the Trust Area and the onus shall be on the applicant to demonstrate that hard shoreline protection will not disadvantage marine ecosystems.

## 2.8 Climate Change Policies of the Trust Policy Statement

2.8.0 Directive climate change policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.8.1 Land use planners and trust area decision makers will accept and include in their advice and deliberations; the science and measurements relied on by the provincial ministry of the environment for the cumulative effects of i) geology and other in the long term and ii) climate change in the short term which indicate that the current rate of increase of iii) annual average and iv) peak seasonal ocean levels in the Trust Area is expected to rise more rapidly in the scale of a human lifetime.

2.8.2 Anticipating i) increased development pressure and drawdown of groundwater and both ii) sea level rise and iii) prolonged summer drought as a consequence of climate change; precautionary council policy will anticipate the cumulative adverse effects on groundwater quality and quantity. Adverse effects include but are not limited to iv) an inward migration from the coast of the freshwater – seawater transition for Trust Area island aquifers and v) seawater intrusion for groundwater wells.

2.8.3 Anticipating more intense winter rainfall and summer drought, storage of surface water is encouraged.

- (a) Where water storage is a pond or lake which may be used as a source of potable water, there shall be a setback buffer free of built environment.
- (b) Where new subdivided lots will be adjacent water storage under subsection (a) the buffer land contiguous with the water storage and the subdivided lots shall be owned by the regional district and shall be both i) protected by restrictive covenant and ii) regulated, so as to preclude public access.
- (c) Where agricultural land use is contiguous with water storage under subsection (a), the buffer land shall not be fertilized and shall be fenced to prevent livestock access to the potable water.

2.8.4 Anticipating more intense winter rainfall, applications for changes in land use will be assessed for adverse effects, including but not limited to potential for flooding and land erosion. Where adverse effects would be exacerbated by tree and vegetation removal, precautionary protective measures such as restrictive covenant and regulation shall be considered by advice givers and by decision makers.

2.8.5 Anticipating ocean level rise as a consequence of climate change, a buffer is required between the natural boundary and the built environment, which will minimize risk to the built environment within reasonable estimates of the duration of functional usefulness for structures. The buffer will have sufficient horizontal extent to accommodate storm surges and landward migration of the natural boundary.

2.8.6 Means shall be identified to reduce the climate vulnerability of communities, including nature-based solutions and actions that prioritize:

- (a) protection of the carbon capture and storage capacity of natural areas
- (b) low-carbon housing, buildings, transportation and agriculture
- (c) preservation, protection, and restoration of biodiversity
- (d) freshwater sustainability
- (e) wildfire risk mitigation

## 2.9 Heritage Preservation and Protection Policies of the Trust Policy Statement

2.9.0 Heritage preservation and protection policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.9.1 Natural heritage sites shall be identified, preserved, protected and the restoration thereof supported.

2.9.2 In cooperation with First Nations and other government agencies, indigenous cultural heritage and local community heritage shall be identified, preserved, protected and the restoration thereof supported.

## 2.10 Rural Island Planning Policies of the Trust Policy Statement

2.10.0 Rural island planning policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, subject to Trust Area regulation. are named directive, are subject to trust area regulation.

2.10.1 Land use planning techniques appropriate to urban design, particularly for those lands subject to a regional district growth plan, are not necessarily appropriate to trust area island land use planning.

2.10.2 New development shall not be encouraged which is based on a compact, complete and connected urban fringe development model, or a conservation subdivision model, or similar model which concentrates the built environment for other than special needs housing. Each model establishes a contiguous area free of built environment at the time of development, protected from further development by means of a restrictive covenant. Typically, the covenant signatories are landowner and local trust committee; each with potential future cause to reduce or eliminate the covenant restrictions. Each model has the effect of concentrating groundwater access and sewage disposal, so increasing potential for reduced groundwater access and sewage disposal in adjacent lands. Decision makers must recognize an unspoken rationale for concentrating the built environment - namely preservation and protection of development potential - and carry out the Object of the Trust consistent with this Council bylaw instead.

2.10.3 Given that the built environment on many trust area islands already includes areas of more dense and less dense residential development with a density ratio of tenfold or more, new development shall not concentrate dense development so as to minimize the sociodiversity implicit in a wide range of residential densities now available on most islands.

2.10.5 Appropriate density limits shall be established for sustainable use of the land base which will safeguard protected ecosystem areas, freshwater sustainability, a healthy marine environment and indigenous cultural heritage in the trust area.

2.10.6 Areas hazardous to development shall be identified, including areas subject to flooding, erosion or slope instability and strategies given to direct development away from such hazards.

2.10.7 Appropriate Local Trust Area locations shall be identified with safe public access to:

- (a) educational, institutional, health-related, community and recreational facilities and services
- (b) bicycle, pedestrian, and equestrian trail systems
- (c) community marinas, boat launches, docks, and anchorages that are small scale, sustainable, and that do not compromise the integrity of protected areas, terrestrial and aquatic ecosystems, indigenous cultural heritage, or indigenous access to coastal and marine harvesting areas.

2.10.8 Destination gaming facilities such as casinos and commercial bingo halls shall be prohibited in the trust area.

## 2.11 Policies for Land Zoned Residential and Housing Policies of the Trust Policy Statement

2.11.0 Policies for land zoned residential and housing policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.11.1 Where land is zoned residential and the residence is unbuilt, the necessary environmental impact of a residence may be avoided for a willing landowner by giving the landowner a reasonable use of land for structures on a part of the unbuilt land with requirement for screening of structures if indicated.

2.11.2 Where land is zoned for both residential and agriculture principal uses and neither principal use is implemented, the environmental impacts of a residence and agriculture may be avoided for a willing landowner by giving the landowner a reasonable use of land for structures on a part of the land which would have been used for a residence and agriculture, with requirement for screening of structures if indicated.

2.11.3 Decision makers shall address land use for special needs housing by identifying appropriate locations where density increases consistent with the Local Government Act could support special needs housing, while safeguarding predominantly rural character, protected area networks, freshwater sustainability, a healthy marine environment, and indigenous cultural heritage.

2.11.4 Commercial use of trust area land zoned for residential use shall be regulated in order that the effectiveness of the principal residential use for housing long term local residents not be compromised. If short-term rental for residential use of a part of, or the entire of; a residence where i) the owner is not resident on the parcel or ii) the parcel does not include the owner's principal residence, or both i) and ii); said rental shall be dissuaded by effective regulation and enforcement of regulation.

2.11.5 The effects of trust area residence floor area on consequent greenhouse gas emissions, sociodiversity and biodiversity, climate vulnerability, indigenous cultural heritage and the cumulative effects thereof shall be assessed and where indicated, regulation shall limit floor area to carry out the object of the trust.

2.11.6 Trust area businesses shall be encouraged to acquire and use existing residences to house employees of said businesses, subject to:

(a) Where the need for employees would require an extent of land zoned for residential use, which may disadvantage the residential zone land use expectations of adjacent property owners, then the subject business owners shall be encouraged to provide employee housing within the land area zoned for the business.

(b) Where business use of land is anticipated by application, decision makers shall consider the application more favourably where employee housing will be provided within the land area to be zoned for the business.

(c) Where there is an application for business use of land and the number of employees disclosed in the business plan are such that the criteria of subsection (a) are anticipated, then the owner shall be required to provide employee housing within the land area zoned to be for the business.

## 2.12 Transportation Policies of the Trust Policy Statement

2.12.0 Transportation policies of the t Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.12.1 Community groups shall be encouraged to prepare a transportation plan for land use in each local trust area which connects inter-island ocean transport including but not limited to that given by B.C. Ferries with island road and trail networks.

2.12.2 Community groups shall be encouraged to prepare a transportation plan for land use in each local trust area which will recommend trail routes both adjacent to roads and off road for the primary purpose of transportation and secondary purpose of recreation. Said plan will give preferred design criteria for the trails, including trail width and permeable surfacing material appropriate for lower speeds than on island roads and intended primarily for trail sharing by pedestrian, horse and non motorized vehicles. Where appropriate and safe for other pedestrian, horse and non motorized vehicles; trail design for electric motor powered two and three wheeled vehicles may be accommodated. Said plan will also address shared vehicle use on roads so as to encourage reduction of the number of island private vehicles. Said plan will encourage the transition of vehicles from fossil fuel power to electric power, by means such as land zoned for charging stations and other amenities favourable to both shared vehicle and electric vehicle use.

2.12.3 For deliberation on applications to change land use, decision makers in local trust areas shall be cognizant that road location, construction and maintenance, including maintenance of utilities as may accompany roads, do not adversely impact the integrity of protected ecosystems, contiguous forests, watershed ecosystems, freshwater networks, groundwater recharge areas, agricultural lands, coastal and marine areas, or indigenous cultural heritage in the trust area.

2.12.4 A classification system of rural roadways, including scenic or heritage road designations shall be developed.

2.12.5 Appropriate locations for the landing of emergency helicopters shall be identified.

## 2.13 Utilities Policies of the Trust Policy Statement

2.13.0 Utilities policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.13.1 In applications for changes in land use which would require provision of utilities which are usually placed overhead on poles, burying the same utility below ground may be considered as a condition of approval for said change in land use; for the purpose of minimizing both initial construction disturbance and ongoing maintenance disturbance to trees and vegetation, as well as minimizing the adverse aesthetic consequence of utility provision.

## 2.14 Discarded Materials Policies of the Trust Policy Statement

2.14.0 Discarded materials policies of the Trust Policy Statement are subject to the implementation policies of the schedule attached to this Trust Policy Statement bylaw and where policies are named directive, are subject to Trust Area regulation.

2.14.1 Solid and liquid discarded materials, be they organic or inorganic, shall be regarded as a resource to be managed on appropriately zoned land for the purpose in each Local Trust Area. Discarded materials shall not be assumed to be waste simply because they have been discarded. See Figure 2.13 – 1.

Before the Islands Trust, discarded goods were usually regarded as "waste" and disposed of in personal or municipal landfills.

Today, the societal and provincial imperative is for the consumer to reduce consumption, to enable reuse of goods where practical and if not, to recycle the goods or their parts. The irreducible remainder using contemporary technology is "waste".

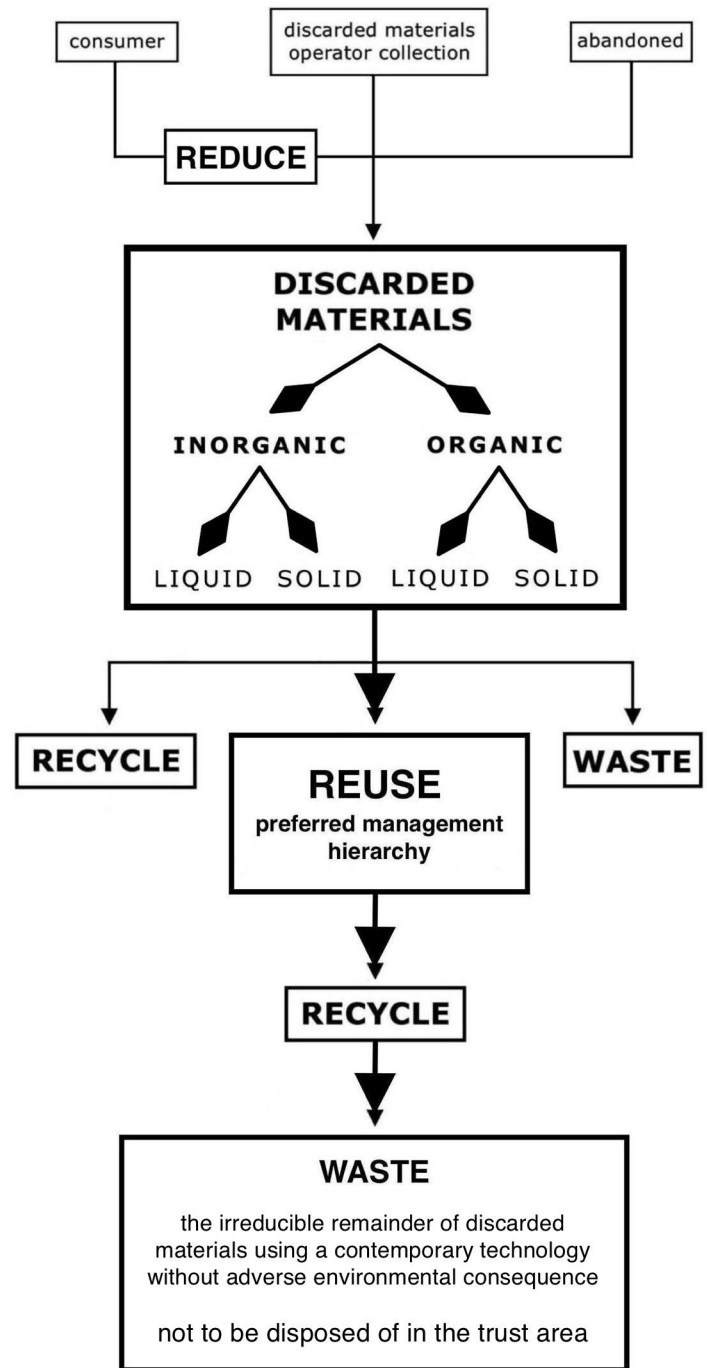


Figure 2.13-1 Management of discarded materials in the Trust Area



2.14.2 The source of discarded materials on a trust area island may be any of, but not limited to: abandoned materials, residential, commercial, institutional or excavated roadworks spoils.

2.14.3 Discarded materials may be managed by the use of land, buildings and structures to receive, sort, store, process, compact and transfer said discarded materials.

2.14.4 Discarded materials should be hierarchically managed with reuse the first consideration and recycling the second. See Figure 2.13 – 1.

2.14.5 Where discarded materials are suitable for reuse or recycling, there should be provision for the retail sale of reusable or recycled discarded materials in those local trust area industrial zones designated for the management of discarded materials.

2.14.6 Where discarded materials have been managed and designated as waste, said waste shall not be disposed of in the trust area and local trust area land shall not be zoned for the purpose.

2.14.7 Where discarded materials have not been managed to maximize the reuse and recycling components but are nevertheless considered de facto waste, said materials shall not be disposed of in the trust area.

2.14.8 Local Trust Area land considered for a discarded materials management use shall not be viable farmland and for certainty, shall not be in the agricultural land reserve and shown in mapping relied on by the agricultural land commission to include prime improved agricultural capability class 1 - 3 soils.

2.14.9 Local Trust Area land considered for a discarded materials management use shall not be in a groundwater recharge area where the soil has a relatively high permeability for water flow.

2.14.10 Local Trust Area land considered for a discarded materials management use shall be regulated to ensure discarded liquid material does not leach to the soil.

2.4.11 When locating sewage absorption fields on Local Trust Area land, the same setback distance will be used to protect both i) sources of potable water and ii) shellfish and marine ecosystems; from fecal contamination.

2.14.12 To minimize the potential for fecal contamination of sources of potable water, a setback shall be established by Local Trust Area regulation between a sewage absorption field and a i) drilled well or ii) surface water source of potable water; which is greater than or equal to the provincial Ministry of Health regulation of setback distance from a sewage absorption field to a drilled well source of potable water.

2.14.13 To minimize the potential for fecal contamination of shellfish and marine ecosystems, a setback shall be established by Local Trust Area regulation between a sewage absorption field and the natural boundary; which is greater than or equal to the provincial Ministry of Health regulation of setback distance from a sewage absorption field to a drilled well source of potable water.

### **3. Unique amenities of the trust area**

3.0 Unique amenities are identified in inter agency agreements, council resolution, or other. The unique amenities of the Trust Area identified in this Trust Policy Statement bylaw will be used to interpret the Trust Object.

3.1 The small scale of built environment in predominantly rural communities, which does not detract from the scenic attributes of the trust area, is one of the unique amenities of the Trust Area to be preserved and protected.

3.2 Indigenous cultural heritage is one of the unique amenities of the Trust Area.

3.3 Consistent with the Object of the Trust and recitals of the 1996 protocol agreement on Agricultural Land Reserve lands in the Trust Area, the Agricultural Land Reserve is one of the unique amenities of the Trust Area.