

5.9.ii. Policy**PLANNING, REGULATION AND ADVOCACY INITIATIVES:
OUTER BOUNDARY OF ISLANDS TRUST AREA**

Trust Council: September 10, 2014

A: PURPOSE

1. To provide for a consistent approach to potential Islands Trust Council advocacy initiatives along the outer boundary of the Islands Trust Area.
2. To provide for a consistent approach to potential local trust committee initiatives for land use planning, regulation and advocacy along the outer boundary of the Islands Trust Area.
3. To manage the financial resources that the Islands Trust Council devotes to local trust committee initiatives for land use planning, regulation, and advocacy initiatives along the outer boundary of the Islands Trust Area in a manner that is fair and equitable to all local trust committees.
4. To identify those areas that the Islands Trust Council considers the priority geographical areas within each local trust area for the land use planning and regulatory functions of local trust committees.

B: BACKGROUND**1. BOUNDARY OF THE ISLANDS TRUST AREA**

- 1.1 Schedule A to the *Islands Trust Act* defines the boundary of the Islands Trust Area through a ‘metes and bounds’ description. Generally, it includes all of the islands and waters that lie between the BC Mainland and Vancouver Island, starting at the Canada-USA boundary in the south and extending to a line that runs north of Denman, Hornby and Lasqueti Islands. The precise metes and bounds description, and other legislative references are provided in Attachment A.
- 1.2 The metes and bounds description of the Islands Trust Area indicates that the boundary begins and ends at the high water mark on Vancouver Island, and follows the international boundary where it exists. While the description does not specify where the boundary begins and ends on the British Columbia mainland, the Islands Trust Area map attached as Schedule A to the *Islands Trust Regulation* has insets that suggest the boundary may begin and end at the high water mark.
- 1.3 The metes and bounds description of the Islands Trust Area specifically excludes land within reserves defined in the federal *Indian Act* and land within the boundaries of the municipalities of Vancouver, Nanaimo, Delta and Richmond. It does not specifically exclude other adjacent municipalities whose boundaries include part of the foreshore.

2. BOUNDARY OF LOCAL TRUST AREAS

- 2.1 Boundaries of local trust areas are defined by a map included as Schedule A to the *Islands Trust Regulation* (BC Reg 119/90).
- 2.2 The definition of a local trust area in the *Islands Trust Act* refers to ‘island’, which the *Islands Trust Act* defines as ‘all of the land that makes up an island, and includes surrounding land attached to and extending from an island, whether or not water flows over or under it.
- 2.3 Local trust areas exclude any land that is in a municipality, all or part of which is in the Islands Trust Area.

- 2.4 Within a local trust area, the *Islands Trust Act* provides a local trust committee with most of the powers and authorities of a regional district for the purposes of land use planning and regulation as are provided by the *Local Government Act*. A local trust committee does not have jurisdiction over matters that fall within federal or provincial jurisdiction, such as resource extraction, navigation or water quality.
- 2.5 Section 32 of the *Islands Trust Act* indicates that a person must not begin construction on land in a local trust area that is not covered by a zoning bylaw unless the construction is approved by the local trust committee. Section 4 of the *Islands Trust Regulation (BC Reg 119/90)* indicates that Section 32 of the *Islands Trust Act* does not apply, on a parcel of land within a local trust area, to the construction of: a dwelling unit, (unless a dwelling unit already exists on the parcel), a recreational cottage not exceeding 400 square feet in floor area, unless a recreational cottage already exists on the parcel, and to any structure accessory to a dwelling unit or recreational cottage.
- 2.6 Local trust areas with boundaries adjacent to Vancouver Island or the British Columbia Lower Mainland are: Executive Committee (Ballenas-Winchelsea), Denman, Gabriola, Gambier, North Pender, Salt Spring and Thetis.
- 2.7 Legislative references related to the boundaries of local trust area are provided in Attachment B and the Islands Trust Area map is included in Attachment C.

3. BOUNDARIES OF REGIONAL DISTRICTS

- 3.1 The boundaries of regional districts that are situated within the Islands Trust Area are illustrated in Attachment D.

4. ELECTED REPRESENTATION

- 4.1 Pursuant to s. 23 of the *Islands Trust Act*, a local trust committee is comprised of the two local trustees for the local trust area and a member of the Executive Committee appointed by the Islands Trust Chair.
- 4.2 Pursuant to s. 6 of the *Islands Trust Act*, two local trustees are elected to represent the electors of each local trust area.
- 4.3 Electors of a local trust area consist of residents and non-resident property owners, who are otherwise eligible as electors under the *Local Government Act*. Property owners and residents living adjacent to the high water mark on Vancouver Island and the BC Mainland (or on reserves defined in the *Indian Act*) elect representatives to Regional Districts and are not eligible to vote in Islands Trust elections, unless they also own property within the Islands Trust Area.

5. RECOVERY OF COSTS FOR ISLANDS TRUST OPERATIONS

- 5.1 Pursuant to section 47 of the *Islands Trust Act*, the majority of the costs of the operations of the Islands Trust are recovered by the requisition of taxes from within the Islands Trust Area.
- 5.2 Pursuant to sections 14(3)(c)(ii) and 47(2)(a)(ii) of the *Islands Trust Act*, the Islands Trust Council must identify expenditures relating to the ‘general’ operations of all local trust committees in its annual budget and may recover such costs through the requisition of taxes from within the entire Islands Trust Area, with the exception of island municipalities.
- 5.3 Pursuant to section 14(3)(c)(iii) of the *Islands Trust Act*, the Islands Trust Council’s annual budget may also identify expenditures related to ‘additional’ operations of one or more of the local trust committees. If the annual budget identifies expenditures related to ‘additional’ operations of a local trust committee, section 47(5) of the *Islands Trust Act* allows for a special requisition to be made from the relevant local trust area to recover the costs. The Islands Trust Council has adopted *Islands*

Trust Council Policy 6.3.ii – Special Property Tax Requisition to guide the use of special property tax requisitions.

6. MAPPING AND INFORMATION RESOURCES

- 6.1 The Islands Trust Council routinely funds the collection of planning information and map data relevant to the islands within the Islands Trust Area, but does not routinely fund the collection of such information in regards to the outer boundary of the Islands Trust Area.

C: REFERENCES

1. LEGISLATION

Islands Trust Act
Islands Trust Regulation (BC Reg. 119/90)

2. ISLANDS TRUST POLICY

Islands Trust Policy Statement
Islands Trust Council Policy 2.4.iv – Executive Committee Legislative Role
Islands Trust Council Policy 5.5.i – Bylaw Enforcement
Islands Trust Council Policy 5.9.i – Best Management Practices for Delivery of Local Planning Services to Local Trust Committees
Islands Trust Council Policy 6.3.ii – Special Property Tax Requisition
Islands Trust Council Policy 6.9.ii -- Advocacy

D: DEFINITIONS

‘advocacy’ is the act of influencing and/or seeking cooperation with other agencies and decision-makers about laws, regulations, policies, programs, budgets, priorities, and other decisions relevant to the Islands Trust mandate.

‘Islands Trust Area’ has the same meaning as is given in the *Islands Trust Act*.

‘Local Trust Area’ has the same meaning as is given in the *Islands Trust Regulation*.

‘Outer boundary of the Islands Trust Area’ means the boundary of the Islands Trust Area that is adjacent to Vancouver Island and the British Columbia Mainland.

‘new land use planning and regulatory initiatives of local trust committees’ means initiatives that begin after the adoption date of this policy.

E: POLICY

1. PRIORITY AREAS FOR LOCAL TRUST COMMITTEE LAND USE PLANNING AND REGULATORY INITIATIVES

- 1.1 The Islands Trust Council identifies the following areas as its priority areas for funding new land use planning and regulatory initiatives of local trust committees:

- a) the land and freshwater areas on the individual islands within each local trust area
- b) the tidal waters that extend from individual islands, provided they are:
 - a. within 300 m of the high water mark of an island within the local trust area and
 - b. no further from an island within the local trust area than the mid-point between that island and the nearest point on either Vancouver Island, the British Columbia mainland or a municipal boundary, or

- c. already zoned by a local trust committee on the date of adoption of this policy.

The Islands Trust Council could consider the expenditures related to such initiatives for funding in its annual budget as ‘general’ operations of a local trust committee pursuant to s. 14(3)(c)(ii) of the *Islands Trust Act*.

- 1.2 For clarity, a sample zoning map that illustrates the definition provided in E.1.1 is provided in Attachment E.
- 1.3 Unless it considers that the interests of the Islands Trust Area are significantly affected, the Islands Trust Council will normally consider that new land use planning and regulatory initiatives of local trust committees outside the area identified in E.1.1. are ‘additional’ operations of a local trust committee. The Islands Trust Council could consider recovering the costs of expenditures related to such initiatives through a special property tax requisition within the relevant local trust area, upon request of the local trust committee and in accordance with the process described in *Islands Trust Council Policy 6.3.ii – Special Property Tax Requisition*. Where a local trust committee has requested funding for such expenditures, the Islands Trust Council will consider legal advice regarding the local trust committee’s authority in the area of the proposed initiative before making a decision regarding the request.
- 1.4 Where the Islands Trust Council’s annual budget provides for a local trust committee’s land use planning and regulatory initiatives within the area identified in E.1.1, the local trust committee may not use the funds for initiatives outside that area.

2. RESOLUTIONS PURSUANT TO S. 32 OF THE ISLANDS TRUST ACT

- 2.1 Should a local trust committee become aware of or receive an application pursuant to s. 32 of the *Islands Trust Act* (unzoned areas) that is not within the area identified in E.1.1, the Islands Trust Council encourages local trust committees to provide advocacy comments only through the approval processes of other agencies. Such advocacy comments should be based on the Islands Trust object, the *Islands Trust Policy Statement* and any relevant Official Community Plan.
- 2.2 Should Islands Trust planning staff receive enquiries about proposed construction pursuant to s. 32 of the *Islands Trust Act* (unzoned areas) that is not within the area identified in E.1.1, they should advise that the local trust committee may wish to comment on the proposal in accordance with the Islands Trust object, the *Islands Trust Policy Statement* and any relevant Official Community Plan.

3. PRIORITY AREAS FOR LOCAL TRUST COMMITTEE BYLAW ENFORCEMENT INITIATIVES

- 3.1 The Islands Trust Executive, acting in its capacity under *Islands Trust Council Policy 5.5.i – Bylaw Enforcement*, will not approve the funding of legal action related to bylaw enforcement initiatives of a local trust committee outside the area described in E.1.1.
- 3.2 A local trust committee that wishes to undertake bylaw enforcement outside the area described in E.1.1 may request support from the Islands Trust Council for funding of any related costs.
- 3.3 The Islands Trust Council should not normally support legal action related to bylaw enforcement outside the area described in E.1.1 unless the matter is considered of significance to the entire Islands Trust Area and it has considered legal advice. The Islands Trust Council may recover the costs of such enforcement through a special requisition within the relevant local trust area.

4. LOCAL TRUST COMMITTEE RESPONSES TO REFERRALS

- 4.1 Should a local trust committee or Islands Trust planning staff receive a referral from another agency that is relevant to an area outside that described in E.1.1, they are encouraged to provide or recommend advocacy comments, in accordance with the Islands Trust object, the *Islands Trust*

Policy Statement and any relevant Official Community Plan. Proposed uses that would conflict with existing zoning should be identified. Related staff reports should make reference to this policy.

5. COMMUNICATIONS

- 5.1 Should the Islands Trust Council, a local trust committee or Islands Trust planning staff receive enquiries or requests for land use planning and regulatory initiatives or bylaw enforcement relevant to an area outside that described in E.1.1, reference to this policy should be included in the response.

6. ADVOCACY INITIATIVES

- 6.1 Should an Islands Trust body propose an advocacy or other initiative that is relevant to an area outside that described in E.1.1, it is encouraged to base its initiative primarily on the Islands Trust object or the *Islands Trust Policy Statement*, or advocacy policies in an Official Community Plan as appropriate, rather than on the potential exercise of land use planning or regulatory authority.

F. IMPLEMENTATION

1. CHIEF ADMINISTRATIVE OFFICER

- 1.1 The Chief Administrative Officer will ensure that reference to this policy is included in materials provided to trustees during their orientation at the beginning of each term.
- 1.2 The Chief Administrative Officer will ensure that reference to this policy is included in the materials provided to all members of the management team during their orientation at the beginning of their employment.

2. DIRECTOR OF LOCAL PLANNING SERVICES

- 2.1 The Director of Local Planning Services will ensure that reference to this policy is included in the materials provided to all staff in the Local Planning Services Unit during their orientation at the beginning of their employment.
- 2.2 The Director of Local Planning Services will take steps to ensure that this policy is reflected in staff reports and advice to local trust committees (e.g. by amendment to planning report templates, bylaw enforcement report templates or other items to ensure they reflect this policy).

3. REGIONAL PLANNING MANAGERS

- 3.1 Regional Planning Managers will ensure that staff reports and budget requests related to local trust committee work on the outer boundary of the Islands Trust Area make reference to this policy.

4. DIRECTOR OF TRUST AREA SERVICES

- 4.1 The Director of Trust Area Services will ensure that reference to this policy is included in the materials provided to all staff in the Trust Area Services Unit during their orientation at the beginning of their employment.
- 4.2 The Director of Trust Area Services will take steps to ensure that this policy is considered in any communications or advocacy initiatives relevant to the outer boundary of the Islands Trust Area.

ATTACHMENT A ISLANDS TRUST AREA BOUNDARY LEGISLATIVE REFERENCES

Islands Trust Act Section 1: ‘trust area’ means the land located within the boundaries described in Schedule A.

Islands Trust Act Schedule A:

“All the land, except land situated within a reserve as defined in the *Indian Act* (Canada), on all the islands situated in the Strait of Georgia, Howe Sound and Haro Strait lying to the South of a line commencing at the most easterly corner of Lot 140, Comox District, being a point on the high water mark on the easterly shore of Vancouver Island; thence South 70° East in a straight line to the point of intersection with the middle line of Sabine Channel; then in a general south-easterly direction along the middle line and passing to the northeast of Jervis, Paul and Jediah Islands and continuing south-easterly along the south-easterly prolongation of the middle line of Sabine Channel to the point of intersection with a straight line drawn from the most southerly extremity of Young Point (Lasqueti Island) to the most southerly southwest corner of Lot 6274, Group 1, New Westminster District; then north-easterly along the line to the most southerly southwest corner of Lot 6274 and North of a line commencing at the northwest corner of Section 74A, Lake District, being a point on the high water mark on the easterly shore of the Saanich Peninsula; then East to the point of intersection with the easterly boundary of the Province of British Columbia, excepting from the above described area those islands lying within the boundaries of the City of Vancouver, the City of Nanaimo and the District Municipalities of Delta and Richmond.”

Community Charter (Schedule – Definitions and Rules of Interpretation)

"land"

- (a) for the purposes of assessment and taxation, means land as defined in the Assessment Act, and
- (b) for other purposes, includes the surface of water, but does not include
 - (i) improvements,
 - (ii) mines or minerals belonging to the Crown, or
 - (iii) mines or minerals for which title in fee simple has been registered in the land title office;

Local Government Act

5.1 Unless a term is otherwise defined in this Act or a contrary intention appears in this Act, the definitions in the *Community Charter* apply to this Act.

Interpretation Act

40 (1) So far as the terms defined can be applied, the definitions established by or applicable under

- (a) the schedule to the *Community Charter*, and
- (b) section 5 of the *Local Government Act*

extend to all enactments relating to municipal and regional district matters.

ATTACHMENT B LOCAL TRUST AREA BOUNDARIES LEGISLATIVE REFERENCES

Islands Trust Act Section 1:

‘island’ means all of the land that makes up an island, and includes surrounding land attached to and extending from an island, whether or not water flows over or under it;

‘local trust area’ means

(a) an island designated in Schedule B, or

(b) an island or group of islands in the trust area that is designated as a local trust area by regulation,

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

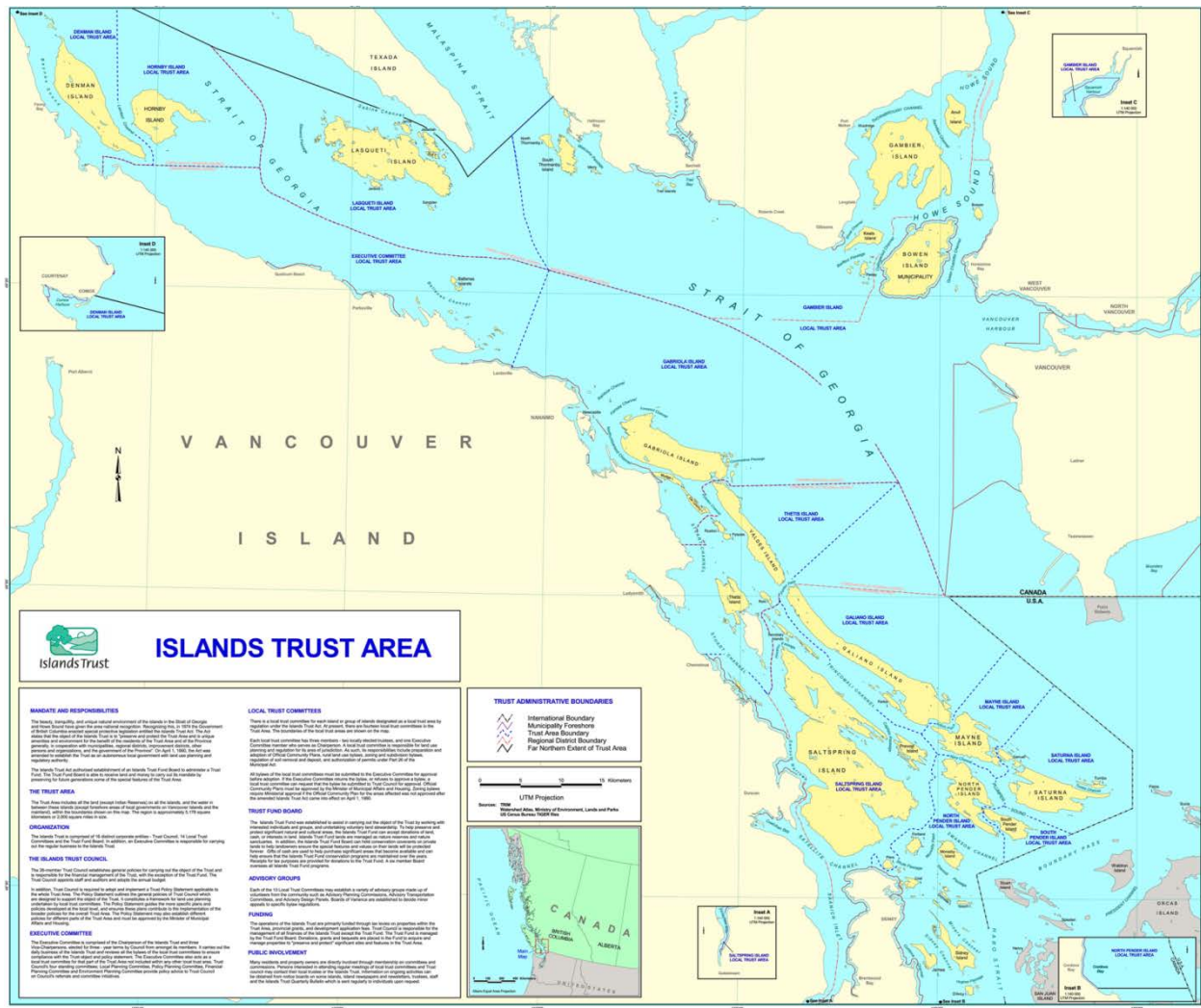
Islands Trust Act Schedule B:

Names the following islands in reference to Section 1(a) of the *Islands Trust Act*: Denman, Gabriola, Galiano, Gambier, Hornby, Lasqueti, Mayne, North Pender, Saltspring, Saturna, South Pender and Thetis

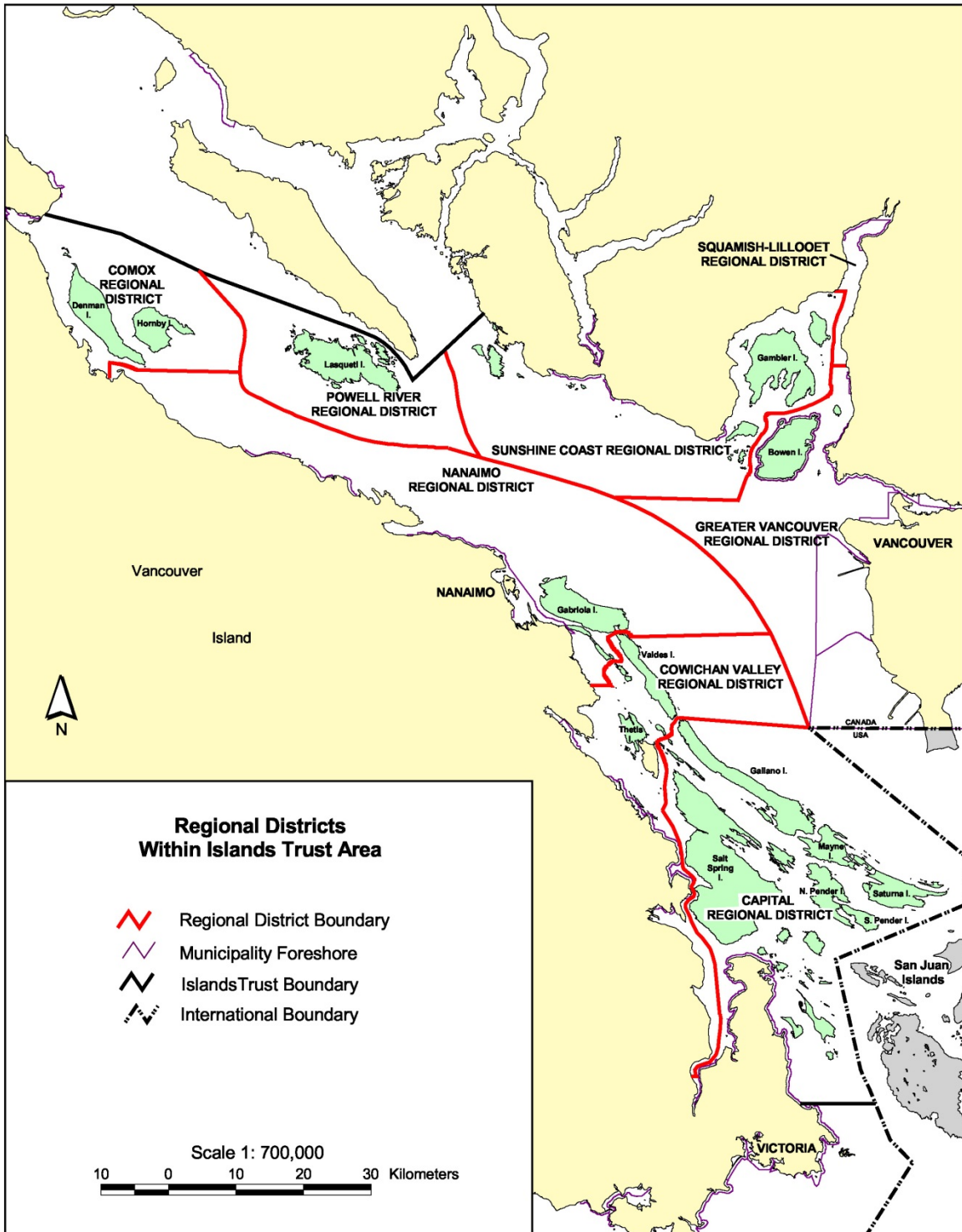
Islands Trust Regulation (BC Reg 119/90) Section 3:

For the purposes of the Act, the boundaries of each local trust area are show on the map in Schedule A to the *Islands Trust Regulation*.

ATTACHMENT C ISLANDS TRUST AREA



ATTACHMENT D REGIONAL DISTRICTS WITHIN THE ISLANDS TRUST AREA



ATTACHMENT E
SAMPLE MAP ILLUSTRATING THE ISLANDS TRUST COUNCIL'S
PRIORITY AREAS FOR FUNDING LOCAL TRUST COMMITTEE
LAND USE PLANNING AND REGULATORY INITIATIVES
(SAMPLE PRIORITY AREAS REFERRED TO IN SECTION E.1.1 ARE INSIDE BLUE LINES)

