

ISLANDS TRUST COUNCIL

BYLAW NO. 64

A bylaw to adopt a Protocol with the Lyackson First Nation

WHEREAS pursuant to Section 9(1) of the *Islands Trust Act* the Trust Council may, for the purpose of carrying out the object of the Trust, on behalf of one or more local trust committees, enter into agreements with First Nations, respecting the coordination of activities within the Trust Area;

NOW THEREFORE the Islands Trust Council, in open meeting assembled, enacts as follows:

Citation

- 1. This bylaw may be cited for all purposes as "Islands Trust Council/The Lyackson First Nation Protocol Bylaw No. 64, 1999."

Protocol

- 2. The protocol agreement attached as Schedule "A" and entitled "Protocol For Cooperation in the Thetis Island Local Trust Area and Lyackson Traditional Territory" is approved pursuant to Section 9(1) of the *Islands Trust Act*.

Severability

- 3. If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by a decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of the bylaw.

READ A FIRST TIME THIS 17TH DAY OF JUNE , 2000

READ A SECOND TIME THIS 17TH DAY OF JUNE , 2000

READ A THIRD TIME THIS 17TH DAY OF JUNE , 2000

APPROVED BY THE MINISTER OF MUNICIPAL AFFAIRS THIS 14TH DAY OF SEPTEMBER , 2000

ADOPTED THIS 8TH DAY OF DECEMBER , 2000

SECRETARY

CHAIR

SCHEDULE A

PROTOCOL FOR COOPERATION

In the Thetis Island Local Trust Area and Lyackson Traditional Territory

BETWEEN:

THE ISLANDS TRUST COUNCIL

(on behalf of the Thetis Island Local Trust Committee)

AND:

THE LYACKSON FIRST NATION

(referred to as the "Parties")

WHEREAS the Islands Trust Council:

- Is authorized to enter into interagency agreements on behalf of the Thetis Island Local Trust Committee respecting the coordination of activities within the Thetis Island Local Trust Area;
- On behalf of the Thetis Island Local Trust Committee is the local government responsible for land use planning and regulation for lands under its jurisdiction with the Thetis Island Local Trust Area; and
- Is responsible for achieving the legislation of *the Islands Trust Act* "to preserve the Trust Area and its unique amenities and environment for the benefit of the residents of the trust area and of the Province generally, in cooperation with the municipalities, regional districts, improvement districts, other persons and organizations, and the government of British Columbia."

WHEREAS the Lyackson First Nation:

- Is responsible for the coordination of activities for lands under its jurisdiction with the Lyackson First Nation's traditional territory that coincide with the Thetis Island local Trust Area; and
- Is attempting to resolve outstanding land issues in the Thetis Island Local Trust Area through the Federal and Provincial governments which acknowledge that this area has been part of the Lyackson First Nation's traditional territory.

Now, therefore, the Islands Trust Council, on behalf of the Thetis Island Local Trust Committee and the Lyackson First Nation wish to recognize mutual interests and their spirit of cooperation by entering into a Protocol for Cooperation within the Protocol Area which includes the Lyackson traditional territory and the Thetis Island Local Trust Area, with the following consideration on behalf of the citizens of each:

1.0 PRINCIPLES

The parties agree to the following principles of inter agency relations:

- 1.1 To pursue a renewed and lasting relationship based on trust and cooperation;
- 1.2 To respect the jurisdictional authority and interests asserted by each other; and
- 1.3 To seek areas of mutual interest for the sharing of information and possible collaboration.

2.0 SHARED VALUES

Both parties share the following values:

- 2.1 The protection of significant terrestrial and marine environmental features and ecosystems;
- 2.2 The celebration and protection of cultural and traditional values;
- 2.3 The encouragement of sustainable island communities which harmonize economic, social and environmental needs; and
- 2.4 The enhancement of the quality of life for all citizens.

3.0 AREAS FOR COOPERATION

The parties wish to pursue the following areas for cooperation:

- 3.1 Sharing of information which affects either party's jurisdiction and areas of mutual interest;
- 3.2 Promoting good relations with other levels of government to effectively deal with issues and coordinate activities;
- 3.3 Creating enhanced awareness and appreciation of the area's cultural heritage and the different needs of its communities;
- 3.4 Developing consultative processes to ensure effective communication in areas of overlapping jurisdiction;
- 3.5 Ensuring opportunities for dialogue to encourage understanding, cooperation and problem solving; and
- 3.6 Identifying areas of mutual interest for the interagency coordination of activities and/or resources among citizens and organizations.

4.0 SCOPE OF ACTIVITES

- 4.1 Notice of **land use planning processes** with opportunities for the involvement of the other party;
- 4.2 Referral of **land use planning or land use change documents or contents** with opportunities for discussion of concerns before consideration by the respective party provided that this is not considered formal consultation;
- 4.3 Notice in writing of initiatives to establish agreements or projects with **other levels of government** to determine the interests and/or potential involvement of the other party;
- 4.4 Arrange **meetings as required** between the parties to discuss matters of concern as they arise; and
- 4.5 Notice of initiatives related to the **acquisition of Crown lands** for the use and benefit of either party's community.

5.0 COMMUNICATION EFFORTS

- 5.1 This protocol may be further defined by way of further agency agreements on specific areas for cooperation;
- 5.2 The purpose of notices is to provide parties with timely and sufficient information to facilitate meaningful opportunities for cooperation;
- 5.3 The purpose of referrals is to provide parties with timely and sufficient information for meaningful consultative dialogue prior to either of the Parties make a decision which may impact the other Party; and
- 5.4 The Executive Director of the Islands Trust is responsible to schedule an annual meeting to review the terms of the Protocol, discuss areas of interest and determine areas for cooperation.

6.0 CONDITIONS

- 6.1 Administration of this agreement will involve
 - a. The officials responsible for the notices and referrals referred to in this agreement:
 - Regional Planning Coordinator responsible for the Thetis Island Local Trust Area and
 - Chief of the Lyackson First Nation

b. The officials responsible for organizing meetings and facilitating cooperative efforts:

- Executive Director, Islands Trust; and
- Chief of the Lyackson First Nation

6.2 Notices and referrals referred to in the Agreement shall be delivered to:

Thetis Island Local Trust Committee
c/o Islands Trust Council

200 – 1627 Fort Street
Victoria, BC V8R 1H8
Email: gmcintosh@islandstrust.bc.ca
Telephone: (250) 405-5151
Facsimile: (250) 405-5155

Lyackson First Nation

RR #1
9137 Chemainus Road
Chemainus BC V0R 1K0
Telephone: (250) 246-5019
Facsimile: (250) 246-5049

6.3 Either party may terminate this agreement with thirty (30) days notice to the other party;

6.4 Nothing in this Protocol shall be construed as to fetter the legislative discretion of either of the Parties within their respective jurisdiction or to oblige either party to pursue an action, the application of any laws, statutory or otherwise; and/or

6.5 It is acknowledged that the spirit of this Protocol will be reflected in each of the Party's best efforts rather than any enforceable obligations to implement its terms and conditions.

As evidence of their agreement to the above terms, the Islands Trust Council, on behalf of the Thetis Island Local Trust Committee and the Lyackson First Nation have executed this Agreement as set out below:

1. ASSENTED TO THIS _____ DAY OF _____ 2000 BY:

David Essig, Chair
Island Trust Council

Chief Richard Thomas
Lyackson First Nation