

ISLANDS TRUST GOVERNANCE REVIEW

REPORT

This Report has been prepared by Neilson-Welch Consulting Inc. (NWCi) for the Governance Task Force of the Islands Trust. The Report is presented for discussion with the Governance Task Force and Trust Council. No representations of any kind are made by NWCi to any party with whom NWCi does not have a contract.

NEILSON-WELCH

CONSULTANTS TO GOVERNMENT

Neilson-Welch Consulting Inc.
458 Okaview Road
Kelowna, BC, V1W 4L3
nwc@nwc.ca

2007-APRIL-17

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INTRODUCTION

Governance Review

In April, 2006 the Islands Trust Council established a Governance Task Force to examine a number of issues related primarily to the make-up of the Trust's key bodies, including the Council itself and the Local Trust Committees (LTCs). The Task Force has met several times since its inception, and has identified certain governance changes that it believes will address the key concerns of the Trustees.

Some of the Task Force's proposals call for amendments to the *Islands Trust Act*, the key piece of provincial legislation that governs the Trust. Proceeding with such changes requires not only the support of Trust Council, but, more significantly, the full endorsement of the Ministry of Community Services. The Ministry is not, in principle, opposed to changing the *Act* (although Ministry officials have cautioned that there is little appetite for major amendment). The Ministry will not entertain any proposals, however, that have not been evaluated through a proper policy analysis exercise that critically examines the perceived need for change, and that considers a range of options, both legislative and non-legislative.

To meet the need for a proper analysis of governance options, the Islands Trust, with financial assistance from the Ministry, initiated a Governance Review. Neilson-Welch Consulting Inc. (NWCI) was commissioned by the Trust in mid-January, 2007 to conduct the Review.

Focus of Review

The Governance Review is focused on three specific issues:

- size of the LTCs, in particular the LTC for the

Salt Spring Island Local Trust Area (SSILTA)

- representation of local areas at Trust Council
- coordination of the land-use planning and regulatory activities of the SSILTA LTC, with the local service activities of Capital Regional District (CRD) in the SSILTA

NWCI was asked to examine the concerns related to these three issues, and identify and assess options for addressing the concerns.

Report Format

This *Report* presents the results of the Governance Review. The *Report* begins by charting and commenting on the evolution of the *Islands Trust Act*. The *Act* is reviewed to identify and understand some of the key concepts on which the current structure is based, as well as the fundamental roles of Trust Council and the LTCs within the structure. A clear understanding of the concepts and roles is important to establish before considering options that propose changes to the structure.

After reviewing the legislation, the *Report* examines the concerns, raised primarily by Trustees, related to the three issues under study. Specific options to address the concerns are then presented and assessed against evaluation criteria. The *Report* ends with a set of conclusions.

Public Involvement

The Islands Trust and the Ministry recognize that changes to the Islands Trust governance structure cannot be fully determined until the residents of the Trust Area have been given the opportunity to

examine the ideas being put forward, and to provide input to the process.

In mid-April, after NWCi has submitted its final report to the Task Force, the Islands Trust will be initiating a public process to review the report with, and gather input from, Trust Area residents.

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THE LEGISLATION

Islands Trust Act

The *Islands Trust Act* is the provincial statute that established the Islands Trust in 1974. The *Act* sets out the purpose of the Trust, the roles of the Trust's various components, and the governance structure for the organization. The *Act* also provides the authority and responsibility for the Trust to undertake its various activities. Finally, the *Act* imposes key limitations and restrictions on the Trust and its individual parts.

Understanding the legislation is an important first step in any exercise that examines, with the intent of changing, the Trust's governance structure. The Trust, it must be emphasized, is a body that was created by the Province for a specific provincial purpose. The legislation speaks to that purpose, and sets out a specific governance structure that is designed to support the purpose. The structure reflects certain concepts, and assigns distinct roles to the Trust's component bodies. By reviewing the legislation, it is possible to highlight these concepts and roles. By reviewing how the legislation has changed over the years — and, significantly, how it has *not* changed — it is possible to identify which specific concepts, and which specific elements of the different roles, are especially important. This knowledge provides a framework for developing and assessing options aimed at changing the governance structure.

This chapter documents the evolution of the *Islands Trust Act*. Three important periods in the evolution — 1974, 1978 and 1990 — are examined in the text. Observations on the legislation are provided at the end of the chapter.

1974: Legislation Introduced

The *Islands Trust Act* was enacted in 1974. The

Act created the Trust as a provincial body with a specific provincial object to preserve and protect a unique area of British Columbia. The Trust was created expressly as a provincial "trust" — that is, a body created by the Province, to keep watch for people of the Province, over an asset of provincial significance. The nature of the Trust as a "trust" set it apart from local governments in the province whose mandates focused on the provision of local services to people. The Trust's mandate, from the outset, was concerned primarily with the protection of the Trust Area. Put differently, the Trust's mandate put "place" before "people".

The governance structure that was outlined in the original 1974 legislation featured two key components: the General Trust Committee, and the Local Trust Committees. The General Trust Committee was established as the primary governing body of the Trust, responsible for:

- developing general policy for the Trust Area
- running the organization
- setting the Trust's annual budget
- promoting the Trust and its mandate to provincial agencies, local governments and residents within the Trust Area
- working to influence and coordinate the policies and activities of provincial agencies and local governments within the Trust Area, towards the promotion of the Trust's preserve and protect mandate

The General Trust Committee was comprised of three General Trustees appointed by the Minister of Municipal Affairs. The Minister also approved the Trust's annual budget.

Thirteen local trust areas were established in the 1974 legislation; each of them was assigned a Local Trust Committee. The role of each LTC was to review the land-use planning and regulatory efforts of the regional district within the specific local trust area. The LTCs were not given authority in the 1974 legislation over land-use planning and regulation — such authority remained with the regional districts. The LTCs were, however, given the authority to veto regional district community plans, land-use bylaws and subdivision plans.

Each LTC consisted of five members: two Local Trustees elected by voters within the local trust area, and the three General Trustees appointed by the Minister. To facilitate communication between the LTC and the specific regional district, the legislation placed the Electoral Area Director for the local trust area on the LTC in an ex-officio capacity.

The Trust's operations, at the time of its establishment, were funded entirely by the Province out of general revenues.

1978: Legislation Amended

Amendments to the legislation in 1978 affirmed the provincial "preserve and protect" mandate of the Trust, but made a number of significant changes to other features. To begin with, the *Act* transferred jurisdiction over land-use planning and regulation within the Trust Area from the regional districts to the LTCs. The *Act* was specific, it should be noted, in transferring only land-use planning and regulation; authority for all other local services remained with regional districts and other local service providers.

With this change, the 13 LTCs became special-purpose authorities in charge of land-use planning and development within their respective local areas. The *Act* gave corporate status to the LTCs so that they could make planning bylaws for their local trust areas (and thus fulfill their role), sue to defend their bylaws, and be sued over the bylaws. The corporate status was specifically limited, however, to these bylaw-related matters. LTCs were not given authority to levy taxes, make budgets, decide how to spend resources, hire staff, or acquire property.

The size of the LTCs did not change as a result of the 1978 amendments: each remained a body comprised of two elected Local Trustees, and three General Trustees. The ex-officio involvement of the EA Directors, however, was cancelled.

The status of the General Trustees did change in 1978. Beginning that year, all three General Trustees were elected from among, and by, the Local Trustees; the General Trustees were no longer appointed by the Minister. The General Trust Committee remained the chief governing body of the Trust, with all of the powers it had held previously.

The role of the Minister of Municipal Affairs changed in 1978. As mentioned, responsibility for appointing the General Trustees was removed from the Minister. The Minister did assume responsibility, however, for approving all community plans created by the LTCs.

One final amendment dealt with the issue of cost recovery. In 1978, the Province began to tax properties within the Trust Area to pay a portion of the cost of the Trust's operations. This move coincided with the decision, noted earlier, to transfer land-use planning and regulatory authority from the regional districts to the LTCs.

What was particularly significant about the taxation provision was the stipulation that one, single tax rate be imposed throughout the Trust Area. This stipulation emphasized the importance of treating the whole Trust Area as one unit — one whole. In plain terms, it meant that all taxpayers were required to pay the same tax rate, irrespective of where they lived within the Trust Area. Under the legislation, therefore, taxpayers were not identified as Salt Spring taxpayers, or North Pender taxpayers, or Gabriola taxpayers, or Gambier taxpayers. Rather, they were identified simply as Trust Area taxpayers. That they happened to live on different islands within the Trust Area was not important. They constituted one community.

1990: Further Amendments

In the late 1980s, the Province undertook a broad review of the Islands Trust, including its purpose and structure. The review affirmed the value of

the Trust, and the importance of the provincial object at the centre of the Trust's mandate. The review also, however, identified a number of ways to strengthen Trust governance. Legislative changes to implement the results of the broad review were adopted in 1990.

➤ **Trust Council**

Undoubtedly, the most important structural change was the formal establishment of Trust Council as the Trust's governing and legislative body. Trust Council had existed prior to 1990, but only in an informal sense. An Islands Trust information brochure from 1985, for example, describes Council not as an actual entity, but instead as "an informal quarterly two day meeting at which all 26 Trustees meet to consider a wide range of subjects of more than local importance." By 1988, Trust Council had taken shape as a distinct body, but continued to have an informal mandate. Islands Trust literature from that year notes that "the Trust Council consists of all 26 trustees and meets informally quarterly for two day meetings to consider a wide range of subjects of more than local importance."

During these years, prior to 1990, the General Trust Committee remained the key body at the Trust. General Trustees discussed matters with all Trustees at the quarterly Trust Council events, but did not answer to Trust Council, and was not a Committee of Trust Council. All decision- and policy-making authority for the broader Trust Area remained with the General Trust Committee.

Effective 1990, Trust Council formally assumed responsibility from the General Trust Committee for general governance and decision-making. Trust Council's full role, as set out in the legislation, included responsibility for:

- developing (and amending as necessary) the Islands Trust Policy Statement, which itself was introduced in the 1990 legislation as an essential set of policies, directions and recommendations intended to guide the land-use planning and regulation efforts of the LTCs, and the decisions and activities of various governmental and non-governmental stakeholders within the Trust Area
- adopting the annual budget for the Islands

Trust, including a budget for the operations of the LTCs

- overseeing the Trust's financial management
- hiring corporate officers for the Trust, and making other corporate decisions (particularly those requiring bylaws) necessary to run the organization
- reporting annually to the Minister of Municipal Affairs on the Trust's financial particulars, and the operations of its various components
- serving as an appeal body for LTC land-use bylaws that are rejected by the Trust's Executive Committee (see below)
- serving as an appeal body for island municipality (see below) OCP bylaws that are rejected by the Executive Committee
- influencing and coordinating local and provincial government policies and activities for the preservation and protection of the Trust Area and its unique amenities and environment

➤ **Council's Executive Committee**

In addition to formally establishing Trust Council, the Province created a three-person Executive Committee of Council (the number was later increased by regulation to four). This Committee was placed in charge of the Trust's day-to-day operations, and was designated as the approving authority for the LTCs' land-use bylaws. The Executive Committee members were elected from among, and by, the Trust's Local Trustees.

➤ **Local Trust Committees**

The number of LTCs and the role assigned to them did not change as a result of the 1990 amendments — 13 LTCs remained in effect, each one serving as a special-purpose local authority responsible for the planning and regulation of land-use within its local trust area. What did change was the LTCs' structure: the membership of each LTC was reduced from five (two Local Trustees and three General Trustees) to three (two Local Trustees and one Executive Committee member).

➤ **Island Municipalities**

Another change in 1990 allowed for the incorporation of island municipalities. Where established, Island Municipalities were to assume the responsibility over land-use planning and regulation that had previously been held by the LTC. Significantly, island municipalities were not removed from the Trust. Island municipalities' Official Community Plans (OCPs) were required to conform to the Trust's Policy Statement, and each island municipal council was required to appoint two of its members to Trust Council. Moreover, each island municipality remained part of the Trust Area assessment area for the purpose of funding the operations of Trust Council and its Executive Committee (see next point).

➤ **Taxation**

The single Trust Area-wide tax rate, first introduced in 1978, was modified in 1990, in large part to reflect the new provision for island municipalities. The 1990 amendments specified that the cost of operations for Trust Council and its Executive Committee were to be shared by the Province, the local trust areas (combined) and the island municipalities. The non-provincial part of the contribution was to be shared between the local trust areas (combined) and the island municipalities on the basis of converted assessment. The cost of operations for the LTCs were to be paid entirely by the local trust areas (together as one unit): neither island municipalities nor the Province would be expected (or, indeed, allowed) to contribute towards the LTC costs.

It is important to note that while Trust Council became responsible for setting the overall Trust budget (including for the operation of the LTCs), the Province retained taxing authority for all non-municipal parts of the Trust Area. It is also important to note that the legislation continued to treat all non-municipal parts as one unit for the purposes of taxation: the requirement to impose a single property tax rate across all local trust areas remained. Finally, it should be noted that the 1990 amendments introduced one extra tax measure, namely a provision to enable the Province to make a special requisition within an individual local trust area to fund additional operations of the local area's LTC.

➤ **Minster's Role**

The 1990 amendments affirmed — indeed, strengthened — the superintendent role played by the Minister of Municipal Affairs. The 1990 legislation made the Minister responsible for:

- approving the Policy Statement developed by Trust Council
- approving the Trust's annual budget, as presented by Trust Council
- levying the property tax in the non-municipal part of Trust Area
- approving any borrowing by the Trust, as well as decisions to incur liabilities
- receiving an Annual Report from Trust Council, which was to address items identified by the Minister
- approving all OCPs (and OCP amendments) proposed by the LTCs
- serving as an appeal body for island municipalities whose OCPs were rejected by Trust Council

Observations on Legislation

A number of important observations can be made from the review of the legislation and its evolution.

➤ **Unique Body**

Clearly, the Islands Trust is a unique body. On the one hand, it has certain characteristics of a local government. For example, it:

- relies on property tax revenues to fund a large portion of its operations (indeed, all of its local planning operations)
- is governed by a Council of elected officials
- exercises, through its LTCs, the planning powers of the *Local Government Act*
- exercises its decision-making powers through resolutions and bylaws

In many key respects, however, the Trust differs quite significantly from local governments. For example, the Trust:

- was created, and continues to exist, as a provincial "trust" with a legislated provincial mandate to preserve and protect, on behalf of the people of the province, an area of provincial significance
- has no direct authority of its own to impose property (or other) taxes¹
- is concerned primarily with protecting place (i.e., the amenities and environment of Trust Area) as opposed to providing services to people
- is governed chiefly by its own provincial legislation, and only secondarily by the *Local Government Act* and the *Community Charter*²
- is very much a creature of the Province, guided by a strong provincial interest, and subjected to a greater level of provincial involvement and oversight than are municipalities and regional districts

In all, while the Trust was given certain characteristics of a local government, it was not created to be a local government. This point has important implications for discussions on structure.

➤ **Trust Council is Paramount**

The legislative amendments enacted in 1990 made Trust Council the paramount body at the Trust. Trust Council was given — and continues to hold — a significant amount of responsibility to ensure the preservation and protection of the broader Trust Area. Responsibility for the Policy Statement speaks strongly to the importance of Trust

¹ Trust Council prepares the annual budget for the Trust, but relies on the Province to determine and levy the necessary property tax.

² The specific sections of the *Local Government Act* and *Community Charter* that apply to the Trust are identified in the *Islands Trust Act*, and in the *Islands Trust Regulation 469 (2003)*. The important sections of the *LGA* and *CC* that recognize regional districts and municipalities as autonomous, accountable orders of government do not apply to the Islands Trust.

Council, as does Council's sole authority over budgetary and spending decisions. The designation of Council as the body with authority to lobby provincial government, provincial agencies and local governments on issues of importance to the Trust further highlights Council's significance.

Trust Council's paramount position is evident in its relationship to the LTCs:

- LTCs are required to incorporate into their land-use bylaws the key policies and goals identified by Council in its Policy Statement
- resources for the local land-use planning services provided by the LTCs to fulfill the provincial mandate are determined by Trust Council
- all staff, including the planners who deliver the local planning services, are staff of Council and are accountable to Council, not the LTCs
- authority for LTCs to spend monies must be delegated by Trust Council, as must authority to undertake activities beyond local planning and regulation
- the Chair of Trust Council appoints a member of Council's Executive Committee to chair each LTC; this measure is intended to help ensure that Council's policies and goals related to preservation and protection of the Trust Area are promoted in LTC discussions, and reflected in LTC decisions
- Council's Executive Committee approves all LTC bylaws

➤ **Equal Representation Places Focus on Trust Area**

Trust Council, as a formal body beginning 1990, and as an informal gathering before that time, has always included the two Local Trustees from each of the 13 different local trust areas (12 LTCs plus Bowen Island Municipality today). This structure is one of the more unique features of the Islands Trust, and reflects an important concept, namely that all local areas and island municipalities within the Trust should be equally represented on the Trust's governing body.

The decision to provide for equal representation was taken very deliberately. It reflects the desire to have Trust Council focus on the broader Trust Area. Equal numbers from the local areas creates a balance and a dynamic that together allow the collective to focus its energies on the welfare of the whole. Unequal representation would risk changing this dynamic, and switching the focus from the whole to the parts.

➤ **Approach to Taxation Emphasizes Importance of the Whole**

Property owners in every local trust area pay one uniform rate of property tax. This feature was introduced in 1978 and has not been varied since. It supports the view that Trust Area, and not individual local trust areas, is the primary unit. Monies are collected from property owners throughout the broader Area and are spent how (e.g., on local planning services, on advocacy efforts, etc.) and where Trust Council decides they are most needed to fulfill the Trust's mandate. Individual local trust areas and their LTCs do not have their own assessment bases, and do not determine how monies collected by the Province for the Trust should be spent.

➤ **Local Trustees Given Dual Role**

Since 1990, the legislation has required all Local Trustees to serve simultaneously on an LTC and Trust Council. Before Trust Council was formally established (i.e., before 1990), all Local Trustees served on an LTC and participated in the informal Trust Council gatherings.

When serving in their LTC capacity, Local Trustees benefit from having a clear understanding of the "bigger picture" items that are handled at Trust Council. Similarly, while sitting at Trust Council, Local Trustees benefit from the local planning issues they deal with on the LTCs.

This dual role is clearly important. The 1990 changes dealing with the incorporation of island municipalities, however, suggest, in the view of the Province at least, that the dual role is not critical to the fulfillment of the Trust's legislated mandate. The provisions dealing with island municipalities stipulate that each island municipal council must appoint only two of its members to

Trust Council. In the case of Bowen Island Municipality, this stipulation means that five of the seven Bowen Island Municipal Council members do not sit at Trust Council, and thus do not perform the dual local planning/Trust Council role.

If the dual role were considered critical to the fulfillment of the Trust's mandate, the legislation presumably would have been written to require all island municipal council members to simultaneously sit at Trust Council. This requirement was not introduced because it would have undermined the more critical measure, namely that of equal representation. It is the feature of equal representation, in other words, that emerges in the legislation as more important than the dual role.

➤ **LTCs Designed as Special-Purpose Authorities**

The 1978 amendments transferred responsibility for local land-use planning and regulation from the regional districts to the LTCs. The Province was quite deliberate in transferring only land-use planning and regulation to the LTCs — responsibility for all other local services remained with other local service providers. The Province's decision effectively set up the LTCs as special-purpose local authorities, focused on the specific local government service that, more than any other, most affects the Trust's ability to fulfill its legislated preserve and protect mandate.

The LTCs, as special-purpose planning authorities, do constitute an important part of the local governance system in each of the local trust areas. The LTCs are not, however, the local governments for their areas. Further, while it is true that the LTCs enjoy corporate status for the purpose of making and defending land-use bylaws, they are not independent of Trust Council, nor do they exist as co-equals to Trust Council. As was explained earlier, Trust Council is the paramount body of the Trust. The LTCs are subordinate to Council.

2

CONCERNS WITH STRUCTURE

Key Concerns Identified

In conducting the Governance Review, NWCI interviewed the members of the Governance Task Force, two Electoral Area Directors from the Capital Regional District, the CAOs of the Islands Trust and the CRD, legal counsel for the Islands Trust, and representatives of the Ministry of Community Services. NWCI also reviewed the considerable amount of work completed to date by the Task Force, as well as the governance studies undertaken by or for the Trust in past years. Finally, NWCI received feedback from Task Force members, the CRD's Salt Spring Island EA Director and the Islands Trust CAO on a draft of this *Report*.

The interviews, research and feedback brought to the fore a number of concerns with the current governance structure. These concerns are related specifically to the three issues under study:

- the size of LTCs, and in particular, the LTC for the Salt Spring Island Local Trust Area
- representation of local trust areas at Council
- coordination of the land-use planning and regulatory activities of the SSILTA LTC, with the local service activities of the CRD

This chapter presents and comments on the key concerns identified for each of the issues.

Size of LTCs

Each of the LTCs in the Islands Trust, including that for the SSILTA, has three members. Two of the three are Local Trustees, elected by voters within the local trust area. The third is a member of Executive Committee appointed to the LTC by

the Chair of Trust Council. Key concerns have been raised about the small size of LTCs, specifically in the case of the SSILTA LTC.

► Heavy Core Workload

LTCs are the special-purpose authorities responsible for land-use planning and regulation in their local trust areas. To fulfill their responsibilities, LTCs undertake a variety of core activities. In general terms, the LTCs:

- work with their communities to develop OCPs and related items such as development permit area guidelines
- create and amend important regulatory bylaws to address zoning, subdivision, soil removal and other planning-related regulatory needs
- review various types of development applications

The volume of core work varies by local trust area, and, within local trust areas, over time. In the SSILTA, the volume of core work has been considerable and, because of strong development pressure, is expected to remain considerable in the foreseeable future.

The core workload in the SSILTA, it may be argued, is too heavy for two Local Trustees to handle, even with the aid of a third off-island member. To be done properly, long-term planning initiatives require a considerable investment of time and energy, as do regulatory initiatives and development reviews. The highly-sensitive nature of land-use issues only adds to the weight of the burden that must be shouldered, primarily, by the two Local Trustees. A larger LTC would allow Local Trustees to share certain responsibilities and the overall burden.

The core workload concern in the SSILTA is legitimate. It must be noted, however, that the pressure may be exacerbated by organizational issues that exist within the Trust's Local Planning Service Department, and the Salt Spring Island office in particular. Trust Council and Trust staff have recognized the need to undertake a review of the planning service in order to address concerns related to planning processes, workplace organization, priority setting, resourcing levels and other matters. In early 2007, the Trust commissioned an outside consulting firm to begin a Planning Services Review. The results of that review may help to alleviate some of the core workload pressures being experienced by the SSILTA LTC.

➤ **Forum for Making Laws**

LTCs are law-making authorities within their areas of jurisdiction. Local planning bylaws impose requirements on citizens, and for that reason must be passed only after a thorough discussion of the issues by locally-elected and -accountable decision makers. Thorough discussion that brings to the table a broad range of perspectives and positions is difficult to achieve in a forum that includes only two such persons.

➤ **Representation of Diversity**

With only two locally-elected officials, it is difficult for LTCs to be representative of the diversity that exists within their communities. This concern is particularly relevant in the case of the Salt Spring LTC because of the size of population. Local Trustees are expected to represent when making local planning decisions.

This concern is related to the previously-noted point on the bylaw-making role of LTCs: ideally, a community's diversity should be reflected in the body that is passing the local laws that impose requirements on the community. Points of natural justice aside, the desire to be representative of community diversity is also important because of the nature of local planning matters. Local land-use matters are inherently sensitive and value-laden. The decisions that are made by LTCs to address the matters have very real impacts on the future shape of the community, and on the use of private property within the community. Such decisions are most legitimate when they are made

by bodies that are large enough to represent the community's diversity, or to at least provide the opportunity for different elements of the community to be represented.

➤ **Quasi-Tribunal Function**

Public hearings constitute an important part of the job of LTCs. At such hearings, LTCs act as quasi-tribunals, there to hear and consider all perspectives presented by affected persons.

A three-member body is generally considered to be too small for this important function. Three-member panels do exist — for example, boards of variance, regional Agricultural Land Commission panels, and assessment appeal panels. These bodies, however, have very limited scopes of jurisdiction, and deal with very specific questions. Elected local planning authorities, by contrast, sit as quasi-tribunals to consider appeals that, if successful, would change the fundamental local planning bylaws that were specifically designed to reflect the local community's values and vision.

➤ **Reliance on Executive Committee Member**

The Chair of Trust Council is required to appoint one member of Council's Executive Committee to each LTC. The appointed member is a Local Trustee, but is not one of the Trustees elected by residents within the local trust area served by the LTC. When the two locally-elected LTC members vote differently on a matter before them, the appointed member is required, in essence, to break the tie. The appointed member is accountable to Council, not local residents. Thus, relying on this member to effectively decide the issue is problematic.

The potential for the appointed member to break ties would exist with a larger LTC, so long as the requirement for the Chair to appoint a member remained in place. With a larger LTC, however, reliance on the appointee would be reduced.

➤ **Quorum**

The quorum for an LTC of three members is two. Under existing legislation, this size of quorum precludes the two Local Trustees from meeting informally to discuss or exchange ideas about

matters that are before the LTC. Any such meeting or exchange of ideas, however informal, may be perceived under law to be an improperly convened meeting of the LTC.

This concern was validated in discussions with Islands Trust legal counsel. Its effect is to place excessive restrictions on Local Trustees. Larger LTCs would increase the quorum, and would enable two Local Trustees to informally discuss matters and exchange ideas without putting themselves or the LTC at legal risk.

➤ **Conflict of Interest**

As suggested earlier, land-use matters that come before local planning authorities often have the potential to impact private properties and their use. Decision-makers who have a distinct interest (pecuniary or otherwise) in a parcel of property that is the subject of a decision are required to declare a conflict of interest, and remove themselves from all discussions related to the property.

In most local governments, the removal of a decision-maker is not terribly problematic — even with the removal, there typically remains a sufficient number of decision-makers present to properly consider the matter and make a decision. In the case of the three-member LTCs, however, the same cannot be said. The loss of one LTC member means that only two members (one of whom may not be locally-elected) are required to make the decision. Three is already a small size for local planning decisions; two is insufficient.

➤ **Heavy Non-Core Workload**

In some local trust areas, particularly the SSILTA, Local Trustees are active and involved, as Local Trustees, in a broad range of community initiatives and causes. Many of these initiatives arguably fall outside of the LTCs' tight scope of responsibility.

The involvement of the Local Trustees in non-core activities appears to be driven, in part, by the Trustees' strong commitment to the Trust's preserve and protect mandate, and a belief that action on many local fronts is required to fulfill the mandate. The involvement also appears to be driven by community expectations, real or perceived, with respect to the role of Local Trustees

and the LTC. Trustees note that the public looks to the LTC as the community's local government, and expects Local Trustees to go beyond core planning and regulatory issues to tackle other needs. In order to properly respond to these expectations, it is felt that additional Local Trustees are needed.

In the review of the legislation presented earlier, it was observed that the LTCs were designed quite expressly as special-purpose authorities, and are not the local governments for their local trust areas. Outside of their specific land-use planning and regulation responsibilities, they have very limited authority to act. Local services other than planning are the jurisdiction of other authorities. Advocacy initiatives are primarily the jurisdiction of Trust Council, unless explicitly delegated by Council to an LTC.

It should be made clear that this *Report* does not presume to question the value or importance to the community of the Local Trustees' non-core activities. The *Report* simply makes the point that such activities fall outside of the specific, narrow focus assigned to LTCs in the Trust.

➤ **Participation in Trust Council Activities**

It was noted earlier that Local Trustees are intended to have a dual role. As members of their LTCs, they are expected to contribute to the making of local land-use decisions. As members of Trust Council, they are expected to contribute to the formulation of important Trust Area-wide policy, the corporate governance of the Trust, and the advocacy work undertaken by Council on behalf of the Trust and its mandate.

When Local Trustees are required to deal with a heavy local workload, as is the case for the SSILTA Trustees, they are less able to participate in the activities of Trust Council. To the extent that the local workload is related to the LTC's mandated land-use planning activities (and not other non-core activities), the Trustees' inability to fully participate at Trust Council is compromised.

➤ **Population Per Trustee**

In the Task Force's materials, considerable mention is made of the fact that the SSILTA Local

Trustees on the LTC represent many more people than do Trustees on LTCs in other local areas. In the SSILTA, for example, the ratio of population to Local Trustee is close to 4,900:1. In five other local trust areas, the ratio is below 200:1.

It is worth noting that the relative population differences between local trust areas have been considerable since the creation of the Trust in 1974. The differences in population per Trustee have, therefore, been considerable as well. It is also worth noting that considerable differences in population per elected official exist between municipalities and, to a lesser extent, between electoral areas. In and of themselves, the differences are generally not viewed as problematic for local governance.

Population per elected official, however, remains a concern in some communities. As well, in a municipal context, the *Community Charter* does recognize that communities with higher populations should have slightly larger local governing bodies to make local decisions. The concern, in short, is not without substance.

Size of LTCs Closing Comment

The following ten concerns have been examined in relation to the size of LTCs:

- heavy core workload
- forum for making laws
- representation of diversity
- quasi-tribunal function
- reliance on appointed member to break ties
- quorum
- conflict of interest
- heavy non-core workload
- participation in Trust Council activities
- population per Trustee

The concern related to heavy non-core workload can be dismissed; the remaining nine concerns, however, stand out as valid.

Throughout the discussion, emphasis has been placed on the LTC for the SSILTA. In discussions with Trustees, and in the work completed to date by the Task Force, the SSILTA's LTC has been identified as the one LTC on which to focus

efforts, at least initially. The size of the SSILTA population has been the primary reason for choosing this focus.

But should community size be the determining factor when considering how big to make an LTC? The examination of the nine valid concerns suggests that community size does indeed matter in some respects. For example:

- large communities typically generate higher volumes of core planning work for LTCs (this statement is particularly true when large communities are also under considerable development pressure, as is the case in the SSILTA)
- the greater volume of core planning work (as opposed to non-core activities) that is generated in large communities may prevent Local Trustees from fully participating in Trust Council activities
- a larger population typically contains a broader diversity of perspectives and positions to represent than does a smaller one
- a larger community results in a larger population per trustee figure which may be important for local governance

In many respects, though, community size does not matter, and should not be viewed as the determining factor for LTCs. The concerns related to the LTCs' law-making role, quasi-tribunal function, reliance on the Executive Committee member to break ties, quorum, and conflict of interest apply to all LTCs in all local trust areas, irrespective of the size of local area populations (irrespective, too, of the volume of planning work). A strong argument can be made that, to deal with these valid concerns, the size of all LTCs should be increased to include additional Local Trustees.

Representation at Trust Council

All local trust areas are equally represented on Trust Council by two Local Trustees. Bowen Island Municipality is also represented on Trust Council by two Municipal Trustees. Any future island municipality that may be formed would be represented on Council by two Municipal Trustees

as well. Concerns have been raised with respect to the Trust Council structure, specifically this feature of equal representation.

➤ **Equality is not Equitable**

Several Trustees feel that Trust Council's existing structure is simply not equitable. The SSILTA is singled-out as the local area thought to be most unfairly treated under the current structure. Opponents of equal representation note that:

- the SSILTA accounts for close to 39% of the total Trust Area population
- the SSILTA has the largest proportion of Trust Area assessment; and as a result, local property owners contribute 39% of the non-provincial portion of the Trust's revenue (i.e., the portion raised through property taxes)

For these reasons — particularly the first one that deals with population — the Task Force has taken the position that the Council structure should be changed to provide, in the immediate term, greater representation for the SSILTA, as well as greater representation in future years for local trust areas that reach a specific population size. The Task Force believes that, because of the local area's population, the SSILTA (and possibly other local areas in future years) is entitled to a greater say in Trust Council decisions.

The difficulty with this position is that representation by population, even at a partial level, would risk changing Council's focus. This focus, as noted earlier, is the entire Trust Area. In its role as governing body, Council is responsible for setting the priorities, and making the policy, budgetary, resourcing and advocacy decisions required to preserve and protect this entire Area. The needs of the larger local jurisdictions may demand more of Council's resources and attention from time to time, or even at most times. Council is expected to respond at such times, not because the particular local area has the most people or largest portion of the Trust's assessment base, but because the local area is part of the broader Trust Area for which all Trustees share a collective responsibility. The same expectation applies when a need arises within a small local area. Trust Council is expected to address the need, in spite of the fact that the local area may have few people

and low overall assessment.

Council's structure, based on equal representation, supports its focus and role. Having the same number of Trustees from every local jurisdiction helps to ensure that the issues and needs of all parts of the Trust Area are equally represented and considered in Council's decision-making. Equal representation creates an important dynamic that keeps Trustees at Council focused on the needs of the whole. Unequal representation would risk changing this dynamic to one in which the needs of smaller islands were considered less important than those of larger places, simply because the smaller islands were home to fewer people and/or a smaller portion of the Trust's assessment base.

There is a natural tendency for elected representatives to worry about, and to promote, the specific needs and interests of their local areas. At regional district board tables this tendency is very evident. In most cases, it results in the definition of a "regional interest" that reflects and favours the specific needs and interests of the larger local jurisdictions that, by virtue of their size, are more heavily represented at the table. This outcome is legitimate in the regional district context. It is not legitimate, however, in the context of the Islands Trust. Trust Council's (legislated) interest is the preservation and protection of the whole Trust Area. To serve this interest, and to ensure that it remains constant, Council must be structured in a way that gives no one local jurisdiction a greater presence than the others. Hence the feature of equal representation.

It is worth remembering that population, area and assessment differences have never been considered relevant to the structure of Trust Council. Trust Council, as a formal body beginning 1990, and as an informal gathering before that time, has always featured equal representation from each of the 13 different local jurisdictions. Population and assessment differences have remained considerable throughout.

➤ **Structure Outdated**

Several members of the Task Force suggest that the existing structure based on equal representation no longer reflects certain realities at the Trust. It is suggested, for example, that:

- while relative population differences between local trust areas may have remained constant over the years, it is the SSILTA's absolute size that is important today
- the LTCs have become more autonomous relative to Trust Council and the Province
- the notion that the Trust should put "place" before "people" does not hold today, particularly since islanders have come to consider their LTCs to be their local governments, and have developed expectations accordingly
- local taxpayers now fund the lion's share of the Trust's operations, including all of the local planning costs

These points are put forward to support the argument that the Trust has evolved beyond a provincially-mandated "trust" to become a federation of independent local governments (LTCs). The feature of equal representation at Council, it is suggested, may have been valid at one time, but is not useful today. A structure that is designed by Local Trustees, and that takes into account the differences in local area size, is what is needed now.

What should be made of these points? To begin with, the absolute size of the SSILTA, while not in question, speaks to the need for a larger LTC, not to greater local area representation at Council. The need to reflect the diversity of the large, local population is relevant in the local land-use planning context where decisions affecting the immediate community are taken. At Trust Council, where efforts are aimed at protecting and preserving the broader Trust Area, the absolute population of one local jurisdiction is not terribly important. What is more important is ensuring that the collective remain focused on the entire area — the whole. Equal representation from all parts of the whole allows the collective to maintain this focus.

The notion that LTCs have become more autonomous from Trust Council and the Province does not find support in the legislation. As explained previously, the LTCs remain subordinate to Trust Council, dependent on Council for funding and the authority to act beyond their

narrow scope of responsibility. The LTCs continue, as well, to be subjected to Council's policy directives and oversight. The relationship of the Trust (including its LTCs) to the Province has not changed fundamentally since the Trust's inception. To be sure, the Minister no longer appoints General Trustees; the General Trustees, however, were replaced by the Policy Statement which must:

- reflect the provincial mandate for the Trust
- be followed by LTCs in their activities
- be approved by the Minister

The Minister also continues to approve the Trust's annual budget, as well as the OCPs created by the individual LTCs.

Some islanders may very well consider their LTC to be a local government. The LTCs do not, however, enjoy this status. The Trust remains a "trust". Its components, including LTCs, are in place to serve a legislated provincial interest. That interest continues to put place before people.

It is true that Trust Area taxpayers pay the lion's share of the funds used by the Trust and its various bodies. It is also true that the contribution expected of Trust Area taxpayers has increased since 1978, the year in which the requirement for a contribution was first introduced. The suggestion, however, that increased funding from Trust Area taxpayers should result in the transfer of authority over the Trust and its structure from the Province to Local Trustees betrays a misunderstanding of the nature of the Trust. The Trust, as noted, is an agency established by the Province to serve a specific and legislated provincial interest. The Trust, it must be remembered, is not an autonomous government. It is not modelled after a regional district or a municipality — its relationship to the Province is much different than the relationship between the Province and these other bodies.

It is useful to note, as well, that the major increase in Trust Area taxpayer contribution (relative to the provincial contribution) occurred beginning 1990, the year in which Trust Council replaced the General Trust Committee as the governing body for the Trust. In making Trust Council the key decision-making body, the Province acknowledged that Local Trustees, as a collective, should have

the authority to determine how and where monies, contributed primarily by Trust Area taxpayers, should be spent to fulfill the Trust's legislated mandate. Council's structure, with its feature of equal representation, ensures that the entire Trust Area remains the focus of Council's spending decisions.

➤ SSILTA's Exceptional Situation

The SSILTA's relative and absolute population have been noted already, as has the local area's contribution to the non-provincial portion of Trust revenues. Other characteristics of the SSILTA include its:

- land base, which at 19,700 ha constitutes 25% of all land in the broader Trust Area
- number of named islands, which at 26 is the third highest of all local areas
- number of property assessment folios, which at 6,917 (2006) represents 29% of the total number of folios in the Trust

These factors, combined with SSILTA's population and contribution to revenues, have been put forward to make the argument that SSILTA is an exceptional case in the Trust, and as such, should have greater representation at Trust Council. The argument states, as well, that the SSILTA's exceptional situation should have been addressed at the inception of the Trust, that not having done so was an oversight, and that recognizing it now should be viewed as a useful corrective measure.

It is true that the SSILTA is a unique area, based on many of the factors noted. Trust Council's structure, however, was never intended to reflect differences among local trust areas in terms of population size, area, number of folios or any other measure. Since the inception of the Trust, the structure of the governing body (General Trust Committee until 1990; Trust Council thereafter) has deliberately been set to ignore such differences. The structure was deliberately designed to give each local area in the Trust the same status and authority. Council's focus, again, is the whole. Trustees sitting at Council are collectively responsible for ensuring that efforts and resources are used to preserve and protect the whole. Specific parts of the whole are not to be

given a stronger voice than other parts, irrespective of differences. Giving certain local areas a stronger voice at Council would change the entire basis on which the governing body is formed, and would risk undermining the group's broad focus.

Population size (and, to a lesser extent, some of the other factors noted) are important in determining the structure of, and voting rules for, a regional district board's of directors. But regional districts are fundamentally different from the Islands Trust in terms of purpose and relationship to the Province. A regional district is a federation of independent local governments. Its board of directors exists to oversee the provision of inter-jurisdictional services to member governments. The directors on the board are accountable to the local governments that put them there. The Islands Trust, by contrast, is a provincially-created trust, in place to serve a provincial interest. Its Council exists to preserve and protect the Trust Area, not to provide inter-jurisdictional services to the local areas. When sitting at Council, Trustees are accountable first and foremost to the Province for fulfilling the Trust's legislated, provincial mandate.

The cases of the South Pender Local Trust Area (SPLTA) and the "executive islands" are cited by some to support the call to recognize SSILTA's exceptional status through structural change. More specifically, they are cited as examples of existing exceptions to the concept of equal representation at Trust Council — precedents, as it were, for further change. The SPLTA is the smallest of all local trust areas in terms of population, and is connected to the much larger North Pender Local Trust Area (NPLTA) by bridge. The suggestion is made that "the Penders" should be viewed as a single *de facto* local trust area that is represented by four Local Trustees at Council (two from the SPLTA and two from the NPLTA). The executive islands are the unpopulated islands north of Nanaimo. They do not belong to any specific local trust area, but instead are overseen by the Executive Committee. No locally-elected Trustees, consequently, represent the islands at Council.

The cases of the Penders and the executive islands do not, in fact, represent exceptions to the equal representation rule at Council. Since the inception of the Trust, the SPLTA and NPLTA have been considered distinct from one another, despite their shared bridge. If today the two are deemed to

constitute one *de facto* jurisdiction, the preferred course of action (in order to be consistent with Council's structure) would be to amalgamate their LTCs and send two Trustees from the combined area to Council. The executive islands are unique not because of their lack of people — there are many small islands throughout the broader Trust Area that are unpopulated— but because of their remote location and lack of access. Were it not for these factors, the islands would be assigned to an identified local trust area, just as many other unsettled and undeveloped islands are.

► **SSILTA's Status in Islands Trust**

Some Trustees believe that a change to provide increased presence for the SSILTA at Council would have significant symbolic value for residents of the local area. The change, it is felt, would re-assure the SSILTA that it is, indeed, a key part of the Trust, and that its concerns related to representation have not gone unheard. It is feared, conversely, that a failure to change would result in widespread frustration which could ultimately lead to the incorporation of Salt Spring. Incorporation, it is suggested by many Task Force members, would have dire consequences for the Trust and its ability to properly fulfill its mandate.

The symbolic value of a change to provide an increased presence for Salt Spring at Council is questionable. Persons who feel that the existing structure treats the SSILTA unfairly would not likely be satisfied by two more representatives (for a total of four) on a body of 28. To give the SSILTA Trustees a level of influence commensurate with the local area's population, a regional district-style structure, with weighted voting on budgetary issues, would be required. Such a structure — which, it should be emphasized, is not being advocated by any party — would be quite inconsistent with the Province's purpose for the Trust.

The fear that failure to change could result in the incorporation of Salt Spring needs to be addressed, despite its sensitivity, if only because it has been cited repeatedly as a rationale for increasing Salt Spring's representation at Council. This *Report* does not advocate a position with respect to incorporation — the decision to incorporate belongs solely to residents of the local community. The point does need to be made, however, that a

future decision by Salt Spring residents (or residents of any other island community) to incorporate need not lead to dire consequences for the Trust and its mandate. Using its existing authority over the Policy Statement, and its authority to direct resources to Trust Area-wide services, Trust Council has the ability to ensure that measures to preserve and protect the entire Trust Area are firmly entrenched in all local jurisdictions, including island municipalities.

► **Trustees' Dual Role**

In the event that the size of the SSILTA LTC (or an LTC from another local area) were increased, a refusal to move from the concept of equal representation at Trust Council would result in a loss of the dual role for some Local Trustees. If, for example, four Local Trustees were elected, only two would be able to sit on both their LTC and Council. The remaining two would be able to sit only on their LTC.

The concern is twofold. First, the distinction between Trust Council members and non-members could create two separate classes, or tiers, of Local Trustee, which could create a difficult dynamic at the LTC. Second, the Local Trustees who were left off of Trust Council could have less of an understanding of the broader, Trust Area-wide goals and perspectives. In dealing with local planning matters, Local Trustees benefit from this understanding.

These concerns are valid. It is not possible, however, to provide for a dual role for all Local Trustees (where there are more than two) and at the same time uphold the concept of equal representation at Trust Council. So, which is more essential to the functioning of the Trust, and its ability to fulfill its provincial mandate: the dual role for all Trustees, or equal representation of all local areas at Trust Council? The example of Bowen Island Municipality, which is allowed to send only two of its elected officials to Trust Council (as Municipal Trustees), suggests that, for the Province at least, equal representation is more important.

Coordination of SSILTA LTC and CRD

Within the SSILTA, the LTC is the local authority

responsible for all land-use planning and regulation. The CRD is the authority responsible for a considerable variety of other local services provided to local area residents, including:

- bylaw enforcement (except for land-use bylaws)
- animal control
- building inspection
- regional parks
- community parks and recreation
- solid waste management (including recycling)
- certain water systems
- Ganges sewer system
- emergency preparedness

Local Trustees — including the SSILTA Trustees — the CRD Electoral Area Director for Salt Spring Island, and other persons interviewed for the Governance Review identified a number of points related to the coordination of activities.

➤ **Benefit to Sharing Information**

Most, if not all, of the service activities undertaken by the CRD overlap in some way the local planning efforts of the LTC. The CRD's infrastructure services, for example, have implications for the long-range planning efforts of the LTC, and vice versa. The rules and regulations outlined by the LTC in its zoning bylaw have important implications for the CRD's building inspection function. And the LTC's subdivision policies with respect to requiring park land, or cash-in-lieu of land, have implications for the CRD's community parks and recreation service.

The *Islands Trust Act* recognizes that it is important for LTCs to share information with other local authorities, and to coordinate activities to a certain degree. The *Act* facilitates such sharing and coordination by giving LTCs the authority to enter into coordination agreements. LTCs may enter into such agreements on their own, or through Trust Council. At the present time, the SSILTA LTC has a formal agreement with the Salt Spring Parks and Recreation Commission concerning parkland dedication. The SSILTA is also covered by a more general information sharing protocol agreement between Trust Council and the CRD covering a range of services. Specific action under the general agreement is to be outlined in separate service-specific letters of

understanding. One such letter, concerning building inspection, has been entered into.

➤ **Benefit to Reducing Duplication and Filling Gaps**

Trust staff and CRD staff may be able to combine certain tasks in an effort to reduce duplication, and also to ensure that important items are not missed. Consider bylaw enforcement. One bylaw enforcement unit, serving both authorities, may be able to enforce both groups' bylaws in the local trust area. Office administration is another area in which opportunities for cooperation may exist. One administrative group may be able to handle certain tasks (e.g., reception) common to both authorities.

➤ **Separation Confusing to Residents**

Local governance in the SSILTA consists of a variety of authorities, including:

- the CRD
- the Local Trust Committee
- the Provincial Government, which is responsible for local policing, local roads and subdivision approval
- the Salt Spring Island Fire District
- eight separate water improvement districts

Trustees and staff note that local residents are not always (or often) certain as to which authority they should be dealing with on different matters. Efforts to better coordinate the LTC and CRD (two of the more prominent local authorities) may help to relieve some of the confusion in the community.

➤ **Stronger Together**

There is a sense that a higher degree of coordination between the LTC and the CRD would result in a stronger local government for Salt Spring. The stronger body would be better able to understand and give voice to the community's various aspirations. Working together, the local parties would wield considerable clout in dealing with provincial ministries, crown corporations and private companies as an advocate and champion of community issues. And, by combining resources, the two authorities could better respond to local service and other needs.

A desire for a higher level of coordination may be problematic if the desire is driven primarily by an interest in creating a stronger local government body for Salt Spring. The LTC and the CRD have different roles in the local governance system. The LTC exists specifically to promote the Trust's preserve and protect mandate through the local planning function. The CRD exists to provide a suite of basic local government services, in response to the expressed needs of local residents. A certain degree of coordination is useful and, indeed, encouraged by the legislation. Integrating the separate authorities, however, would be difficult, and would violate the explicit separation of responsibilities put forward in the legislation by the Province.

It is also worth noting that both the LTC and the Electoral Area Director for Salt Spring are limited in terms of the range of activities or causes they may take on. Both parties rely on higher governing bodies (Trust Council and the CRD Board of Directors respectively) for their resources. Neither party controls a general revenue fund to pay for new initiatives or activities. Neither party has broad servicing powers — each is dependent on its governing body (and in the case of the Electoral Area Director, local voters) for authority to take-on new activities. As individual, separate entities, the LTC and Electoral Area Director are constrained by these limitations. As an integrated local body, they would remain constrained by them.

3

OPTIONS TO CONSIDER

Two Groups of Options

This chapter of the *Report* sets out various options to address the issues under study. The options are divided into two groups. The first group of options addresses the concerns related to both the LTC size and representation at Trust Council. The second group deals with the desire to better coordinate the activities of the SSILTA LTC and the CRD.

The issues related to LTC size and representation at Trust Council are addressed together because they are naturally inter-connected. Any change in the number of Local Trustees on local trust area LTCs has direct implications for the representation of local areas at Council. Ultimately, options to address the two issues need to be combined into one group for the purpose of analysis. Starting with one group makes the most sense.

Note that the various options are simply identified and described in this chapter. Evaluation of the options occurs in subsequent chapters.

LTC Size & Representation at Council

Six options are put forward for consideration:

- the Task Force's original, proposed course of action (referred to as Task Force 1)
- a second option put forward by the Task Force at its April 10 meeting (Task Force 2)
- status quo
- larger LTCs with double-direct elections to Trust Council
- locally-determined LTC size with double-direct elections to Trust Council
- a change in number of local trust areas

➤ Task Force 1

Following its own review of the existing governance structure, the Task Force endorsed the position that the size of LTCs should be based on local trust area population. The Task Force does not appear to have formally recommended a specific course of action. One option, however, has been put forward for further consideration. The details of this option are as follows:

- voters in each local trust area would elect at least two Local Trustees, regardless of the number of people living in the local area
- voters in local trust areas with populations between 7,501 and 15,000 would elect an additional two Local Trustees; voters in local trust areas with populations above 15,000 would elect an additional four Local Trustees
- local trust areas with populations of up to 7,500 would be served by a three-member LTC, comprised of two Local Trustees, and one appointed Executive Committee member
- local trust areas with populations between 7,501 and 15,000 would be served by a five-member LTC, comprised of four Local Trustees and one appointed Executive Committee member
- all Local Trustees would sit on Trust Council; thus, larger local trust areas (with populations between 7,501 and 15,000) would be represented at Council by four Local Trustees

This proposed course of action would require a change to section 6(1) of the *Islands Trust Act*. In practice, the proposed option would, for the foreseeable future, affect only the SSILTA, since this local trust area is the only one with a

population over 7,501. For the foreseeable future, therefore, Trust Council would increase from 26 members to 28. The option is designed to apply to other large local trust areas over time as their populations increase to the 7,500 mark (the second largest local trust area after the SSILTA is the Gabriola Island Local Trust Area, with a 2006 population of 4,050). The formula for increased representation does not appear to apply to island municipalities. Thus, under the option, an island municipality with a population over 7,500 would continue to send only two Municipal Trustees to Trust Council.

➤ Task Force 2

On April 10, the Task Force met to provide feedback to NWCi on a draft version of this *Report*. At that meeting, a new option was introduced for consideration. NWCi agreed to include the option in the final *Report*. The details are as follows:

- voters in each local trust area other than SSILTA would continue to elect two Local Trustees, regardless of the number of people living in the local area
- voters in the SSILTA would elect four Local Trustees
- local trust areas other than SSILTA would continue to be served by a three-member LTC, comprised of two Local Trustees and one appointed Executive Committee member
- the SSILTA would be served by a five-member LTC, comprised of the four Local Trustees and one appointed Executive Committee member
- all Local Trustees would sit on Trust Council; thus, SSILTA would be represented at Council by four Local Trustees
- the council of each island municipality would continue to appoint two members to Trust Council as Municipal Trustees; if Salt Spring Island incorporated at some future point, its representation at Council would revert to two

This option differs from Task Force 1 by treating the SSILTA as an exceptional case within the

Trust, and by proposing a "one-off" change to address Salt Spring's desire for a stronger voice at Trust Council. The option speaks to the view, cited in the previous chapter, that Salt Spring is an exceptional case — a change in structure to accommodate Salt Spring would not, therefore, be extended to other local areas.

Section 6(1) of the *Act* would need to be changed to specify an increase in Local Trustees for the SSILTA. No other legislative changes would be required. The total size of Trust Council would increase from 26 to 28 Trustees.

➤ Status Quo (with Organizational Changes)

This option, as its name suggests, would leave the current governance structure and the legislation untouched. Thus:

- voters in each local trust area, irrespective of the local area's population size or any other characteristic, would elect two Local Trustees, as per the existing section 6(1) of the *Act*
- every local trust area would be served by a three-member LTC, comprised of the two Local Trustees and one appointed Executive Committee member
- all Local Trustees would sit on Trust Council
- the council of each island municipality would continue to appoint two of its members to Trust Council as Municipal Trustees, irrespective of population size or any other characteristic, as per section 7(1) of the *Act*

The option would involve certain non-legislative changes designed to address some of the concerns expressed about the size of the LTC for the SSILTA. For example, organizational and resourcing issues in the Trust's Local Planning Service — and the Salt Spring office in particular — would be dealt with in order to allow staff and the SSILTA Local Trustees to better manage planning workload. Such changes would, it is hoped, reduce the level of stress on Local Trustees, thereby allowing them to participate more fully in Trust Council.

Another non-legislative change would relate to the non-core workload for Local Trustees in the

SSILTA. As noted earlier, Local Trustees are involved in a number of local activities and causes that, arguably, fall outside of the narrow scope of LTC activity, and may be better dealt with by others in the community, or by Trust Council. Allowing others and/or Council to take charge of these other activities may allow Trustees to become more fully involved at Council.

➤ **Larger LTCs with Double-Direct Elections to Trust Council**

A fourth option would see voters in each local trust area elect four Local Trustees, but identify, using a double-direct ballot, which two of the four to send to Council. The details are as follows:

- section 6(1) of the *Islands Trust Act* would be changed to require four Local Trustees to be elected in each local area, regardless of the local area's population size or any other factor
- every local trust area would be served by a five-member LTC, comprised of the four Local Trustees and one appointed Executive Committee member
- section 5(a) of the *Act* would be changed to have two of the four Local Trustees from each local area sit on Council, in addition to serving on the LTC; the two would be selected using a double-direct ballot, similar to the approach that is taken today for electing Municipal Trustees in Bowen Island Municipality
- the council of each island municipality would continue to appoint two of its members to Trust Council as Municipal Trustees, irrespective of population size or any other characteristic, as per section 7(1) of the *Act*

Trust Council would remain a body of 26. (Having four Trustees from each jurisdiction sit on Council would increase the size of Council to 54 members. A Council of 54, as a decision-making body, would be unwieldy and difficult to manage.)

➤ **Locally-Determined LTCs with Double-Direct Elections to Trust Council**

This option would enable electors in the various local trust areas to determine the number of Local Trustees for their LTCs. Specifically:

- in the 2008 local elections, voters in every local area would be asked, in a referendum, whether or not they support the addition of two Local Trustees (for a total of four)
- in the same election, voters would be asked to identify which two candidates they would like to represent the local area on Trust Council, in the event that the number of Local Trustees is increased to four
- local areas that chose to elect four Local Trustees would be served by a five-member LTC comprised of the four Local Trustees and one appointed Executive Committee member
- local areas that chose to elect only two Local Trustees would be served by a three-member LTC comprised of the two Local Trustees and one appointed Executive Committee member
- island municipalities would continue to appoint or elect two Municipal Trustees
- each local trust area, and each island municipality, would continue to be represented at Trust Council by two Trustees; the total size of Trust Council would remain at 26 members

This option would require a change to section 6(1) to specify that in local trust areas that are listed in a specific (new) schedule to the legislation, there would be four Local Trustees elected. Further changes in section 6 would be required to deal with the double-direct provision in local areas that chose to elect four Trustees. Section 5(a) would need to be amended to specify that Trust Council is comprised of two Local Trustees from each local trust area (as well as the Municipal Trustees). The changes to the size of individual LTCs could be made by Cabinet order.

➤ **Change in Number of Local Trust Areas**

The sixth and final option would be to have Cabinet change, by regulation, the number of local trust areas. The details are as follows:

- under section 53(2)(a) of the *Islands Trust Act*, Cabinet would change the total number of local trust areas from twelve to four; Bowen Island Municipality would remain its own local jurisdiction within the Trust, as would

any future island municipalities

- the existing SSILTA would remain its own local trust area
- other existing local trust areas would be amalgamated into one of three new local areas; the exact composition of the new areas would need to be determined by Trustees, residents and the Ministry
- each of the new local trust areas would elect four Local Trustees; provisions would be put in place to ensure that every existing local trust area received at least one representative
- each of the new local trust areas would be served by a five-member LTC comprised of the four Local Trustees and one Executive Committee member
- Bowen Island Municipality (and any future island municipalities) would appoint or elect four Municipal Trustees
- all Local Trustees and all Municipal Trustees would sit on Trust Council; Council would consist of a total of 20 members

This option would require amendments to section 6(1) and section 7(1). Schedule B of the *Act* would be changed by Cabinet order.

Coordination of Local Activities

Five options are presented here:

- status quo
- formal sharing of office resources
- LTC-CRD joint committee
- advisory commission
- customized commission

► Status Quo

Today in the SSILTA, Local Trustees and the Electoral Area Director meet regularly on an informal basis to share information of importance to both parties. Islands Trust and CRD staff also informally exchange information on specific matters, such as development application files and bylaw enforcement activities.

In addition to these efforts — and, as noted earlier — there are certain formal protocol agreements in place. One such agreement calls on the LTC and the CRD's Parks and Recreation Commission to consult one another on the preparation of land-use and park master plans. The protocol is intended to help the two parties coordinate parkland dedication (LTC) and parkland development (PRC) efforts. The agreement does not appear to have been updated since it was introduced in the mid-1990s.

A more general protocol agreement between the CRD and Trust Council provides a framework for coordinating local activities in a variety of service areas. Letters of understanding are to be created to deal with each particular area as the need arises. Only building inspection has been addressed to date; but the opportunity to deal with other coordination needs is available.

► Formal Sharing of Office Resources

This option would attempt to increase the existing level of coordination by physically bringing together the Trust's Salt Spring Island Office, and the CRD's Salt Spring Office. The two organizations, under this option, would share office space and equipment, as well as specific administrative services, such as reception. Certain technical services, such as bylaw enforcement and mapping, could also be shared. Being in the same physical location, and sharing key support services, would, it is expected, increase both the informal and formal opportunities for interaction and coordination of activities.

It is worth noting that the Islands Trust Northern Office on Gabriola shares office space with the Regional District of Nanaimo.

► Joint Committee

Under this option, the SSILTA LTC and the Electoral Area Director for the area would form a joint committee. The committee would meet regularly and provide a forum in which participants could brief one another on servicing issues of importance to both parties. Membership on the committee would be limited to the elected officials; however, staff from Islands Trust and the CRD could be asked to attend to assist in the briefings and participate in discussions.

The joint committee would have a formal structure. It would, for example:

- have terms of reference
- meet regularly, in accordance with a schedule
- have a designated, rotating chair
- make use of meeting agendas and minutes

The joint committee would not, however, be formally established by CRD or Trust bylaw.

The joint committee, it should be emphasized, would be a discussion body only. It would not have authority to make decisions over LTC planning services, or CRD local services. It would also not be an advisory body to recommend decisions to the LTC, Trust Council or the CRD Board of Directors.

➤ **Advisory Commission**

Under this option, the CRD would establish, using its authority under the *Local Government Act*, a Salt Spring Island Advisory Commission. Through the establishing bylaw, the CRD would appoint the local Electoral Area Director as Chair, and the Local Trustees as members. Additional members could be appointed from key improvement districts and the Ministry of Transportation.

The Commission would be an advisory body, formed to discuss servicing issues of common importance, and to make recommendations to the constituent bodies. The Commission would have no authority to make decisions over the various authorities' services.

➤ **Customized Commission**

This option has been outlined for consideration by the CRD's Electoral Area Director for Salt Spring Island. The details are as follows:

- the number of Local Trustees for the SSILTA would be increased to four; the LTC would be comprised of the four Local Trustees, plus one appointed Executive Committee member
- one of the four Trustees would be elected through a double-direct system to serve as both Local Trustee and CRD EA Director

- the four Local Trustees would form a customized commission of the CRD, with delegated authority (from the CRD Board) over the full range of local services provided by the CRD
- authority over land-use planning and regulation would remain with the LTC, which would meet separately and would include the Executive Committee member appointed by the Chair

The primary intent of this option is to extend the LTC's preserve and protect ethos beyond land-use planning, into other areas of service. If responsibility for CRD services were given to the Local Trustees (sitting as a commission), all servicing decisions, it is suggested, would be guided by the Trustees' preserve and protect mandate.

It should be noted that the commission's decision-making authority over CRD local services would be limited to the operation and administration of the services. Budgetary decisions and other decisions requiring bylaws would remain the responsibility of the CRD Board.

It should also be noted that the commission's authority would be restricted to the CRD services. Neither the LTC nor the Trust Council would be able to delegate bylaw-making authority for local land-use planning and regulation to the commission. Land-use decisions would continue to be made by Local Trustees and the Executive Committee member sitting as the LTC.

4

EVALUATING THE OPTIONS (I)

LTC Size & Representation at Trust Council

This chapter focuses on the evaluation of the options that deal with the size of LTCs, and representation of local trust areas at Trust Council (the evaluation of the options to deal with the issue of local service coordination are the focus of the next chapter). Six criteria are used in the evaluation:

- consistency with the concept of equal representation
- effectiveness at addressing concerns related to the size of the LTCs
- practicability
- acceptability
- applicability
- durability

➤ Consistency with Key Concept

The review of the legislation, and the review of the concerns regarding the current structure, pointed to a key concept that underlies the Islands Trust and its structure: the equal representation of local jurisdictions (local trust areas and island municipalities) at Trust Council.

➤ Effectiveness at Addressing Concerns Related to Size of LTCs

The review of the concerns regarding the current structure highlighted a number of valid concerns with the size of LTCs, in particular the LTC for the SSILTA. The individual concerns can be divided into two groups: those that specifically affect the SSILTA LTC on account of the SSILTA's large population; and those that affect all LTCs, regardless of community size. The concerns in the former group include:

- heavy core workload
- participation in Trust Council activities
- representation of community diversity
- population per trustee

The concerns in the latter group include:

- LTCs' function as a law-making body
- LTCs' quasi-tribunal function
- reliance on appointed member to break ties
- quorum
- impact of conflict of interest declarations

The effectiveness of the various options in addressing these valid concerns needs to be measured.

➤ Practicability

Practicability measures the ability to implement the option, but also the option's ability, once implemented, to work in practice.

➤ Acceptability

Options that are acceptable to the Trustees, the Ministry of Community Services and residents of the Trust Area are preferred.

Two important points need to be made here. First, the comments made in this *Report* about acceptability are based solely on NWCI's judgement of how the different parties will likely react to the options. This judgement is based on the background research and interviews conducted for the Governance Review.

Second, the acceptability of the options to Trust Area residents, while clearly important, is not measured here. NWCI did not interview or speak with residents groups in the SSILTA or in other local trust areas, and does not presume to under-

stand the governance-related concerns or sentiments of islanders. The comments in this *Report* focus on the likely reaction to the options by the Trustees and the Ministry.

➤ **Applicability**

Can an option be applied in all local trust areas? Options that can be applied throughout the Trust are generally more desirable than options that are tailor-made for one area only.

➤ **Durability**

Which option(s) will best stand the test of time? Since 1990, the Islands Trust and the Province have discussed issues related to governance on a number of occasions. The specific issue related to the size of LTCs, for example, was raised and studied in 1994, 2000 and 2003.

In general, options that have staying power, and that enable the parties to resolve or at least put aside governance-related concerns for the foreseeable future, are desirable.

Evaluating the Options

The options to deal with both the size of LTCs, and the representation of local trust areas at Trust Council, were outlined in the previous chapter. They include:

- Task Force 1
- Task Force 2
- status quo
- larger LTCs with double-direct elections to Trust Council
- locally-determined LTC size with double-direct elections to Trust Council
- change in number of local trust areas

The table in *Appendix I* considers each of the options against the evaluation criteria. The text below expands on the key points in the table.

➤ **Task Force 1**

The table in *Appendix I* indicates that this option is not consistent with the key concept that calls for equal representation of local trust areas at Trust

Council. This lack of consistency is the biggest challenge facing this option.

The option is effective at addressing the concerns specifically related to the size of the SSILTA's LTC. This effectiveness is not surprising given that the option was designed, in part at least, to address these concerns. The option is less effective at addressing the concerns that apply to all LTCs, irrespective of community size. These concerns would be addressed only in local trust areas whose populations increased beyond 7,500.

The option's practicability is uncertain, in part because to implement it would require a legislative change that the Province would almost surely consider to be major. The option's uncertainty also extends to the impact it could have, if implemented, on the dynamic at Trust Council. As noted earlier, the dynamic created by equal representation is intentionally designed to keep the collective focus on the preservation and protection of Trust Area as a whole. The potential for this option to distort the current dynamic casts doubt on the option's ability to work in practice. (It should be recognized that the Task Force does not believe that unequal representation would have any negative impact on Council's dynamic.)

The option is, presumably, acceptable to the majority of Trustees — at its June, 2006 meeting, Trust Council unanimously passed a resolution to request the Governance Task Force to focus on legislative change that would increase the number of Local Trustees in the most populous local trust areas, while retaining at least two Trustees from each local trust area and island municipality. The option is likely unacceptable, however, to the Ministry of Community Services. For the Ministry, the concept of equal representation at Trust Council will likely be paramount. The Ministry views the current Trust Council structure, with equal numbers of Trustees from every local area, as key to promoting the Province's interest (i.e., the preservation and protection of the entire Trust Area).

The final two criteria consider the option's applicability beyond one local area, and the option's durability, or ability to stand the test of time. The option, if it could be implemented, would apply to all local trust areas (every area would increase the size of its LTC and

representation at Trust Council in accordance with the same, population-based formula). The option's durability, however, is less certain. If the option were implemented, and if the dynamic at (and focus of) Trust Council did change, the purpose of the Trust would be compromised, and further (corrective) measures would be required.

➤ **Task Force 2**

The second Task Force option, introduced at the April 10 meeting, proposes to increase the number of Local Trustees solely in the SSILTA from two to four, and proposes that all four SSILTA Trustees sit at Trust Council. The rationale put forward in support of the option focuses on the perceived exceptional nature of the SSILTA, in particular its large size (determined by a number of measures) relative to that of the other local areas.

The option does not support the concept of equal representation at Trust Council, which has been identified here as an important evaluation criterion. Task Force members will make the point that this option, like the previous one, purposely departs from the concept of equal representation, and, further, that the departure from the concept is justified based on the uniqueness of Salt Spring. This *Report* has put forward counter-arguments (see Chapter 2) and promotes the need to respect the concept of equal representation at Council.

The option is effective at addressing the concerns specifically related to the size of the SSILTA's LTC. The option is not effective at addressing the concerns that apply to all LTCs, irrespective of community size. No other local trust area could increase the size of its LTC under this option.

The option's practicability is uncertain, in part because to implement it would require a legislative change that the Province would likely consider to be major. The option's uncertainty also extends to the impact it could have, if implemented, on the dynamic at Trust Council. (As noted earlier, the Task Force does not believe that unequal representation would have any negative impact on Council's dynamic.)

The option is likely acceptable to the majority of Trustees. The option's acceptability to the Ministry, however, is less certain. Because the option is inconsistent with the concept of equal representa-

tion, it is quite likely (certainly as a starting position) that the Province will not support the change being proposed. The option's "one-off" nature, however, may prompt the Province to take a second look. The Province may be willing to consider the option further, simply because the option proposes a "one-off" change rather than a complete new basis (local area population size) for structuring Trust Council. In other words, the Ministry may be more willing to consider an exception to the rule than a change to the rule itself.

The option is designed as a response specifically to Salt Spring's concerns; as such, it would not be applicable to other local trust areas. The option's durability, however, depends on the actual impact on the dynamic at Council that would result from unequal representation. If the dynamic did change, the purpose of the Trust would be compromised, and corrective measures would be required.

➤ **Status Quo**

The status quo option is consistent with the concept of equal representation at Council. The option does little, however, to address the valid concerns related to the size of the SSILTA LTC specifically, or to those related to the size of all LTCs more generally. The only possible improvements are noted under heavy core workload, and the ability of the two SSILTA Local Trustees to participate more fully in Trust Council activities. The ongoing Planning Review, it is suggested, could result in new organizational and resourcing measures that could provide some workload relief for the Trustees, and free them up to participate more fully at Trust Council.

Implementation is not an issue simply because no legislative change would be required. The option's continued ability to work in practice, however, is uncertain, specifically within the SSILTA. There are valid reasons for increasing the size of the SSILTA LTC; this option does not address them.

The option is not likely acceptable to the majority of Trustees, but is likely acceptable to the Ministry (since the option does not step outside of the existing legislative and governance framework). Applicability is not an issue for this option, but durability is. Because the option does not address the valid concerns related to the size of the

SSILTA LTC (or the concerns about the size of all LTCs) the option may not stand the test of time.

➤ **Larger LTCs with Double-Direct Elections to Trust Council**

This option calls for changes to the size of all LTCs to include four Local Trustees. The option also calls for every local trust area to send two of its four Local Trustees to Trust Council (and for every island municipality to continue to appoint or elect two Municipal Trustees to Trust Council).

The option is consistent with the concept of equal representation at Trust Council. The option is also effective at addressing most of the concerns related to the size of the LTCs. The only exception is the ability of Local Trustees to participate in Trust Council activities. The ability for two of the Local Trustees from each local area could improve, since there would be more Local Trustees to share core LTC work. The two Trustees from each local area who are not selected to attend Trust Council, however, would have no ability to participate in Trust Council, at least in the capacity of a Local Trustee.³

With respect to practicability, this option would require two principal changes to the legislation: sections 6(1) and 5(a). These changes, it is anticipated, would be considered minor and would likely be accepted in order for implementation to proceed. The larger concern, for some, relates to the perception of two classes of Local Trustee that could develop under this option. Two of the Trustees from each local area would have two hats to wear; the other two Trustees would have only one. Ideally, it would be preferable for all four Local Trustees to have both hats — it is beneficial for all Trustees to have first-hand knowledge of the "bigger picture", and direct involvement in the formulation of the Policy Statement and annual budget. The Council of 54 needed to provide this benefit, however, would be unmanageable.

Another point regarding practicability is the concern that in some of the smaller local trust areas, it may be a challenge to fill four Local

³ Efforts could be made to involve all Trustees in Trust Council's business. For example, the four Trustees could alternate attendance at Council. Alternatively, Trustees not elected to Council could be appointed to Council advisory task forces.

Trustee positions.

Consider the acceptability criterion. The option is likely unacceptable to many Trustees, albeit for different reasons. Some Trustees are likely to have difficulty with the requirement for all local trust areas to elect four Local Trustees. Several of these Trustees hold the view that, notwithstanding the arguments in favour of increased LTCs everywhere, larger LTCs are simply not needed in some local areas. Other Trustees will have difficulty with the inability under this option for all Trustees to sit at Trust Council. The Ministry is likely to find the option acceptable because it protects equal representation at Trust Council, while speaking to the merits of having larger LTCs in all local areas.

Finally, because of the possibility that smaller (or in some cases, larger) local trust areas will be unable to fill four Local Trustee positions, the option may not be applicable to all local areas, and may not be terribly durable.

➤ **Locally-Determined LTCs with Double-Direct Elections to Trust Council**

This option allows local voters to determine the number of Local Trustees, and thus the size of their LTC. Only two Trustees from each local area would sit on Council, thus ensuring consistency with the concept of equal representation.

For local areas that chose to elect four Trustees, this option would be effective in addressing the bulk of the concerns related to LTC size. The only exception, as with the previous option, relates to the ability of Local Trustees to participate in Trust Council activities. For two of the Local Trustees from each local area, the ability would improve, since there would be more Local Trustees to share core LTC work. The remaining two Trustees from each local area who are not selected to attend Trust Council, however, would have no ability to participate in Council, at least in the capacity of a Local Trustee.⁴

In terms of practicability, this option has many of the same advantages and challenges as the previous one. The key difference is that small local trust areas that traditionally have low numbers of candidates running for office, and/or that

⁴ See previous footnote.

do not feel the need for a larger LTC, can choose to remain with only two Local Trustees. For this reason, the option may be more acceptable than the previous one to a greater number of Trustees. The option is also likely to be acceptable to the Ministry, which has a long-standing policy of allowing local residents to decide questions of local governance.

Applicability and durability are not considered issues for this option.

► **Change to Five Local Jurisdictions**

The final option proposes changes to the number of local jurisdictions within the Trust, the election of four Trustees from each new area, and the inclusion of all Trustees at Trust Council.

This option is consistent with the concept of equal representation at Trust Council. The option's effectiveness at addressing the concerns related to the size of LTCs, however, is mixed. The core workload concern would be improved for SSILTA Trustees; but for Trustees in other local areas, core workload would likely increase thanks to the expanded size of the local areas (both in terms of population and area), and to the requirement for more inter-island travel. The ability to participate in Trust Council activities would improve for SSILTA Trustees, but would likely decrease for others because of their heavier core workload. Representation of diversity, too, would be improved for the SSILTA but reduced for others (in some of the restructured local areas, the number of Local Trustees would decrease from eight under the present situation to four).

Having every LTC comprised of five members would deal with concerns, applicable to all local trust areas, related to the LTCs' law-making function, its quasi-tribunal function, its reliance on an appointed member to break ties, the quorum issue and the issue related to declarations of conflict of interest.

The option does not fare well in terms of practicability. It would require few changes to the *Islands Trust Act* itself, but several changes to bylaws of Trust Council and LTCs. Determining which existing areas to amalgamate would be a significant challenge, quite possibly an insurmountable one. And, if the option could be

implemented, a number of practical challenges related to inter-island travel and local sensitivities would need to be addressed.

Both the Trustees and the Ministry are likely to find the option unacceptable. Trustees are likely to object to the option's perceived disregard for local sensitivities. The Ministry is likely to view the option as a significant, rather than incremental, proposal for change.

5

EVALUATING THE OPTIONS (II)

Coordination of SSILTA LTC & CRD

This chapter focuses on the evaluation of the options to deal with the coordination of the SSILTA LTC local land-use planning, and the CRD local services on Salt Spring Island. Five criteria are used in the evaluation:

- effectiveness at achieving coordination
- practicability
- acceptability
- transferability
- durability

The first criterion dealing with effectiveness is self-explanatory. Practicability, as noted in the previous chapter, measures the ability to implement the option, but also the ability, once the option is implemented, for it to work in practice.

Acceptability considers the likely responses of the SSILTA Local Trustees, the Ministry of Community Services, the CRD's EA Director for Salt Spring Island, and the CRD Corporation. The two caveats noted earlier apply here as well, namely that:

- comments dealing with acceptability are based solely on NWCI's judgement of how the different parties will likely react to the options
- the acceptability of the options to Trust Area residents, while clearly important, is not measured

Transferability, similar to applicability in the previous chapter, considers whether an option can be used in all local trust areas. Options that can be applied in all areas are generally more desirable than options that are tailor-made for one area only. Finally, durability comments on an option's ability to stand the test of time.

Evaluating the Options

The options to deal with the coordination of the SSILTA LTC and CRD service activities were outlined in Chapter 3. They include:

- status quo
- formal sharing of office resources
- LTC-CRD joint committee
- advisory commission
- customized commission

The table in *Appendix 2* considers each of the options against the evaluation criteria. The text below expands on the key points identified in the table.

► Status Quo

The status quo option reflects existing efforts to coordinate service activities. These efforts consist of informal information meetings between elected officials, and between staff. Also included are two formal information sharing protocol agreements.

The table in *Appendix 2* suggests that the status quo measures for coordinating activities are considered insufficient. In general, informal exchanges of information between elected officials and between staff are dependent on the individuals in place at any given time, and specifically on their ability and desire to cooperate with one another. Today, the individuals in place desire coordination and get along well; at other times, individuals have apparently not interacted as well. Informal exchanges also tend to be forgotten when workload pressures mount and the people who need to make sure the exchanges happen get busy.

The success of the formal protocol agreements in place is unclear. Given, however, that they do not appear to have been updated or fully implemented,

it can be inferred that they have not been embraced by the organizations. These types of agreements, it should be noted, require regular monitoring and review in order to be most effective. With so many competing priorities, the time and energy needed for regular monitoring and review cannot always be made available.

The notion of continuing to rely on the status quo measures is considered, for the SSILTA Trustees and the CRD EA Director, to be likely unacceptable. Both parties have expressed a desire for a higher and more formal degree of coordination.

The status quo measures are fully transferable — information exchanges can occur between authorities in any local trust area; and formal protocol agreements can (and have been) developed for other places. The ability of the measures to stand the test of time, however, is uncertain, given their overall insufficiency.

➤ **Formal Sharing of Office Resources**

Having the SSILTA Trustees, the Islands Trust Salt Spring staff, the CRD EA Director and the CRD Salt Spring staff together in the same office facility would provide significant opportunity for regular informal and formal information exchanges, as well as for the relationship building that is so important to the successful coordination of activities. Sharing support and technical services, where possible, would promote even greater interaction. For these reasons, this option is considered an improvement over the status quo.

Implementation would require the development of certain cost-sharing agreements and new office procedures. Physical changes to existing office spaces or new joint space would also likely be needed. Such needs, however, could be met without too much difficulty. Once implemented, the arrangement could easily work in practice. Many successful examples of shared facilities and resources (including one within the Islands Trust) exist today.

The option is likely acceptable to all of the key players, and is likely durable. The option has limited transferability within the Trust, however, simply because the organization does not maintain offices in most local trust areas (the only other

office outside of Victoria — the Northern Office on Gabriola — already shares space and resources with the local regional district).

➤ **LTC-CRD Joint Committee**

This option, which could be combined with the previous one, would involve the establishment of a joint committee that would meet regularly to air and discuss service issues of importance to both parties. The joint committee would not be formally established by bylaw, but would meet in accordance with a set schedule. It would also make use of agendas and minutes, and would have a rotating chair. The joint committee would, in short, provide a structure for the exchange of information necessary for the coordination of activities. For that reason, it is viewed as an improvement over the status quo.

The option is considered practicable, both in terms of implementation and its ability to work in practice. The option is also considered to be acceptable to the various parties. In theory, it could be transferred to other local trust areas, since each local trust area falls within a regional district electoral area, and therefore has an EA Director who could participate in a joint committee. In some parts of the Trust, however, several local areas fall within a single electoral area. If the option were taken-up by all LTCs in these places, the single EA Director would be expected to participate in each joint committee, which would be challenging in practice.

The option is generally considered durable, but does still rely, to some extent, on the interest and willingness to participate of the individuals involved.

➤ **Advisory Commission**

This option is a more formal version of the joint committee. Like a joint committee, an advisory commission consisting of Local Trustees and the EA Director would provide a structure for regular information exchanges, and for that reason is viewed as an improvement over the status quo.

Implementation of an advisory commission would be more difficult than a (less formal) joint committee, primarily because an advisory

commission would need to be established by CRD bylaw. Once established, however, the commission would not be difficult to maintain and make work.

It is suggested in the *Appendix 2* table that an advisory commission would likely be acceptable to all of the key parties. The CRD Corporation would likely find it acceptable because of the commission's advisory (as opposed to decision-making) status.

As with the less formal joint committee, the advisory commission structure could be transferred, parties willing, to other local trust areas. Finally, there is no reason to suggest that the commission would not be durable.

► Customized Commission

As a formal body that would bring together the Local Trustees and the CRD EA Director, and that would have decision-making authority over local CRD services, the customized commission would clearly be more effective than the status quo at coordinating local service activities. The concerns with the option relate more to its practicability, and the possible unwillingness of certain key parties to endorse the approach.

Concerns under practicability relate both to implementation and the option's ability to work in practice. Implementation would require:

- two CRD bylaws, one to create the commission and one to delegate decision-making power to it
- changes to provincial legislation to provide for one person to be elected as EA Director and Local Trustee⁵

The ability to work in practice would be complicated by a number of factors, including:

- the inability for the commission to hire its own staff, and thus the need for decisions made by the commission to be implemented using CRD

⁵ At present, one person could run separately for both positions and could hold both positions simultaneously. The two positions could not, however, be combined and voted for as one. The distinction is subtle, but significant.

staff⁶

- the potential for confusion surrounding the commission's dual role as a decision-making body (for CRD services) and an advisory body (for LTC local planning)

Acceptance of the option would vary by player. The option would likely be acceptable to the current SSILTA Local Trustees and the current EA Director for Salt Spring Island. The option would likely be unacceptable, however, to the Ministry. The Ministry would likely find the double-direct election for EA Director and Local Trustee problematic, given that the two positions are designed at present to play such different roles.⁷ The Ministry would also likely suggest that incorporation is a better option (and one that is provided for within the current legislation) if the goal is to integrate (as opposed to coordinate) local services, and to elect the EA Director and Local Trustees to the same body.

The CRD Corporation would likely have trouble accepting the option. It calls on the CRD Board to delegate decision-making authority to a body comprised of Local Trustees, elected to a different authority (the Islands Trust) that exists to fulfill a legislated mandate that does not belong to the CRD. At the very least, the CRD Board would likely expect that the commission be delegated authority not only for CRD services, but for the LTC's local planning as well (authority which includes the making of bylaws, and therefore which could not be delegated).

The CRD Corporation would probably also reject the Commission's membership structure, which would allow Local Trustees to outvote the EA Director on CRD service issues. The addition of representatives from other local service providers (e.g., improvement districts) could provide greater balance.

⁶ The commission would not be independent of the CRD, and would not, therefore, have the power to hire its own staff. The CRD could *assign* staff to work with the Commission, and to take direction of specific operational matters. The staff would ultimately, however, be employees of, and accountable to, the CRD.

⁷ The option could be modified by removing the feature of double-direct election, and simply having the EA Director sit with the Local Trustees on the Commission.

6

CONCLUSIONS

Public Involvement

The Governance Task Force will ultimately be reporting to Council on the specific governance changes that the Task Force believes should be implemented at the Trust. The Task Force's recommendations to Council will be based on the group's consideration of three different sources of information:

- the Task Force's own work to date
- this *Report*
- input provided by Trust Area residents

Residents have not yet had the opportunity to provide their views to the Task Force. A process to engage residents throughout the Trust Area has been planned, however, and is expected to begin later in April. This *Report*, it is understood, will be included in some form in the materials that are to be presented to, and reviewed with, residents.

It is hoped that the perspectives and arguments put forward in this *Report* will improve the public's understanding of the Trust and its governance, and will provide residents with some new points to consider on the topic of structure. It is also hoped that the *Report* will not be perceived by the public as a *fait accompli*, or the final word on governance. The *Report* is intended to encourage thinking and discussion, not to pre-empt them.

In an effort to avoid any perception that the report is a *fait accompli*, this final section presents conclusions, rather than recommendations, on how the Task Force (and ultimately Trust Council) may wish to proceed. The conclusions do, of course, reflect the views of NWCI; but by presenting them as conclusions instead of recommendations it is hoped that they will be received as the perspectives of an independent body hired to assess the

situation, rather than as the verdict of an arbiter assigned to render judgement.

Conclusions

➤ LTC Size & Representation at Trust Council

This *Report* places considerable emphasis on the importance of equal representation of local trust areas at Trust Council. The *Report* takes the view that Trust Council's structure was never intended to reflect differences among local trust areas in terms of population size, assessment, area, or any other measure. Since the inception of the Trust, the structure of the governing body has deliberately been set to ignore such differences. The structure has explicitly been designed to give each identified local area throughout the Trust the same status and authority. Giving certain local areas a stronger voice at Council would change the entire basis on which the governing body is formed, and would risk undermining its intended focus — namely, the whole of Trust Area.

It is acknowledged that not all parties will agree with the importance placed on equal representation in this *Report*. Some will feel that the symbolic value of adding two Trustees from the SSILTA outweighs any concerns related to the potential for a change in dynamic or focus. Some will suggest that the addition of two Trustees from one area on a body of 28 would have no impact on dynamic to worry about. Others may assert that Salt Spring is an exceptional case whose uniqueness must be recognized through greater representation at the Council table. Notwithstanding these perspectives, the importance accorded the concept of equal representation in this *Report* automatically means that options which propose unequal representation are not favoured in the *Report's* analysis.

The *Report* takes the view that the size of the SSILTA is too small to allow the body to properly fulfill its assigned role as a special-purpose authority responsible for local land-use planning and regulation. The *Report* also concludes, however, that there are compelling reasons to increase the size of the LTC in every local trust area. Options that allow for the possibility to increase the size of all LTCs, therefore, are treated favourably in the analysis.

Finally, the *Report* suggests that there are certain merits associated with options that propose changes to the number of local trust areas. Such options, however, would require considerable effort to fully develop and implement, and would represent a radical approach to addressing the concerns raised by Trustees. For these reasons, support for such options would be limited at best. They are, consequently, not favoured here.

► **Coordination of SSILTA LTC & CRD**

It was observed earlier in the *Report* that most, if not all, of the service activities undertaken by the CRD in the SSILTA overlap in some way the local planning efforts of the LTC. For this reason, efforts by the two bodies to coordinate activities make sense.

Existing efforts at coordination are not, it would seem, entirely ineffective. The problem, it would appear, is that they rely too heavily on individuals in the different groups to continually make sure they happen. The *Report* takes the view that it would be useful to provide some structure for information exchanges and other forms of coordination. Options that involve the establishment of some type of structure (e.g., a joint committee; an advisory commission; shared office facilities) are, therefore, favoured in this *Report*.

The transfer or sharing of decision-making authority is considered problematic at this time for a number of reasons, including implementation and the anticipated lack of support from the CRD Corporation. Ultimately, such an approach may be desired by the key players. For the foreseeable future, however, more modest structures (e.g., a joint committee; an advisory commission; shared office facilities) are suggested.

APPENDICES

Appendix 1
Evaluation of Options to Address Size of LTCs
and Representation at Trust Council

OPTIONS						
EVALUATION CRITERIA	Task Force 1 LTC Set by Pop All at TC	Task Force 2 4 SSILTA Trustees All at TC	Status Quo	All LTCs 4+1 2 at TC	Locally-Set LTCs 2 at TC	5 Local Jurisdiction All LTCs 4+1 All at TC
Consistency With Equal Representation Concept	– not consistent; larger local trust areas have greater representation	– not consistent; SSILTA has greater representation	– consistent	– consistent	– consistent	– consistent
Effectiveness at Addressing Concerns About LTC Size						
➤ Heavy core workload	– improved, to extent that workload function of community size	– improved for SSILTA	– some improvement in SSILTA possible through Planning Review	– improved for all	– improved in areas where LTCs larger	– improved in SSILTA; increased for Trustees in other areas
➤ Ability to participate in TC activities	– improved to extent that inability to participate caused by core workload	– improved for SSILTA to extent that inability to participate caused by core workload	– some improvement in SSILTA possible if Planning Review lessens core load	– improved for 2 who sit on TC; but 2 not on TC	– improved for 2 who sit on TC; but 2 not on TC in some local areas	– improved for SSILTA; could be reduced for others
➤ Representation of diversity	– improved	– improved for SSILTA	– no improvement	– improved for all	– improved in areas where LTCs larger	– improved for SSI; reduced for others
➤ Population per trustee	– improved	– improved for SSILTA	– no improvement	– improved for all	– improved in areas where LTCs larger	– improved for SSI; variable for others
➤ Law-making function	– improved for some	– improved for SSILTA	– no improvement	– improved for all	– improved for some	– improved for all
➤ Quasi-tribunal function	– improved for some	– improved for SSILTA	– no improvement	– improved for all	– improved for some	– improved for all
➤ Reliance on EC member	– improved for some	– improved for SSILTA	– no improvement	– improved for all	– improved for some	– improved for all

Appendix 1
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and Representation at Trust Council

OPTIONS						
EVALUATION CRITERIA	Task Force 1 LTC Set by Pop All at TC	Task Force 2 4 SSILTA Trustees All at TC	Status Quo	All LTCs 4+1 2 at TC	Locally-Set LTCs 2 at TC	5 Local Jurisdiction All LTCs 4+1 All at TC
<ul style="list-style-type: none"> ➤ Quorum ➤ Conflict of interest 	<ul style="list-style-type: none"> - improved for some - improved for some 	<ul style="list-style-type: none"> - improved for SSILTA - improved for SSILTA 	<ul style="list-style-type: none"> - no improvement - no improvement 	<ul style="list-style-type: none"> - improved for all - improved for all 	<ul style="list-style-type: none"> - improved for some - improved for some 	<ul style="list-style-type: none"> - improved for all - improved for all
<p>Practicability</p> <ul style="list-style-type: none"> ➤ Implementation ➤ Ability to work in practice 	<ul style="list-style-type: none"> - requirement for major legislative change problematic - uncertain about impact on TC dynamic 	<ul style="list-style-type: none"> - requirement for major legislative change problematic - uncertain about impact on TC dynamic 	<ul style="list-style-type: none"> - implementation not an issue - ability to work for SSILTA questionable 	<ul style="list-style-type: none"> - minor legislative change - having two classes of Trustees would require adjustment to elect four in some local areas 	<ul style="list-style-type: none"> - minor legislative change - having two classes of Trustees would require adjustment 	<ul style="list-style-type: none"> - implementation difficult - practical challenges related to increased inter-island travel and local sensitivities
<p>Acceptability</p> <ul style="list-style-type: none"> ➤ Trustees ➤ Ministry of CS 	<ul style="list-style-type: none"> - likely acceptable to majority - likely unacceptable 	<ul style="list-style-type: none"> - likely acceptable to majority - uncertain 	<ul style="list-style-type: none"> - likely unacceptable - n/a 	<ul style="list-style-type: none"> - likely unacceptable - likely acceptable 	<ul style="list-style-type: none"> - may be acceptable - likely acceptable 	<ul style="list-style-type: none"> - likely unacceptable - likely unacceptable
<p>Applicability</p>	<ul style="list-style-type: none"> - applicable to all 	<ul style="list-style-type: none"> - not applicable beyond SSILTA 	<ul style="list-style-type: none"> - applicable to all 	<ul style="list-style-type: none"> - may have trouble in small areas 	<ul style="list-style-type: none"> - applicable to all 	<ul style="list-style-type: none"> - applicable to all
<p>Durability</p>	<ul style="list-style-type: none"> - uncertain 	<ul style="list-style-type: none"> - uncertain 	<ul style="list-style-type: none"> - uncertain 	<ul style="list-style-type: none"> - uncertain 	<ul style="list-style-type: none"> - likely durable 	<ul style="list-style-type: none"> - likely durable

Appendix 2
Evaluation of Options to Address Coordination of
SSILTA LTC & CRD Service Activities

		OPTIONS				
EVALUATION CRITERIA		Status Quo	Formal Sharing of Office Resources	LTC-CRD Joint Committee	Advisory Commission	Customized Commission
Effectiveness at Achieving Coordination		<ul style="list-style-type: none"> - considered insufficient 	<ul style="list-style-type: none"> - improvement over status quo 	<ul style="list-style-type: none"> - improvement over status quo 	<ul style="list-style-type: none"> - improvement over status quo 	<ul style="list-style-type: none"> - improvement over status quo
Practicability		<ul style="list-style-type: none"> - considerable time to set up and develop protocols - dependent on personalities; can get forgotten 	<ul style="list-style-type: none"> - agreements needed, office changes required, but not difficult - not a concern 	<ul style="list-style-type: none"> - framework to be developed, but not difficult - not a concern 	<ul style="list-style-type: none"> - implementation more difficult; rely on CRD for bylaw - not a concern 	<ul style="list-style-type: none"> - implementation difficult - challenges related to structure and role of EA Director
Acceptability		<ul style="list-style-type: none"> - likely unacceptable - likely acceptable - likely unacceptable - likely acceptable 	<ul style="list-style-type: none"> - likely acceptable - likely acceptable - likely acceptable - likely acceptable 	<ul style="list-style-type: none"> - likely acceptable - likely acceptable - likely acceptable - likely acceptable 	<ul style="list-style-type: none"> - likely acceptable - likely acceptable - likely acceptable - likely acceptable 	<ul style="list-style-type: none"> - likely acceptable - likely unacceptable - likely acceptable - likely unacceptable
Transferability		<ul style="list-style-type: none"> - fully transferable 	<ul style="list-style-type: none"> - limited transferability 	<ul style="list-style-type: none"> - possibly transferable 	<ul style="list-style-type: none"> - possibly transferable 	<ul style="list-style-type: none"> - limited transferability
Durability		<ul style="list-style-type: none"> - durability uncertain 	<ul style="list-style-type: none"> - likely durable 	<ul style="list-style-type: none"> - likely durable 	<ul style="list-style-type: none"> - likely durable 	<ul style="list-style-type: none"> - durability uncertain