

**LETTER OF UNDERSTANDING
ON
CROWN LAND ADMINISTRATION
WITHIN
THE ISLANDS TRUST AREA**

BETWEEN

**MINISTRY OF ENVIRONMENT, LANDS AND PARKS
LANDS REGIONAL OPERATIONS DEPARTMENT**

AND

ISLANDS TRUST

JUNE 28, 1994

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1.0 PURPOSE

- 1.1 The purpose of this agreement is to foster an ongoing consultative process between Islands Trust and BC Lands to coordinate their respective roles within the Trust Area relative to Crown lands in accordance with the Protocol Agreement on Crown lands in the Trust Area between the Ministry of Environments, Lands and, Parks and the Islands Trust as endorsed by the Minister of Municipal* Affairs.

2.0 PRINCIPLE

- 2.1 This agreement acknowledges mutual respect for each agency's policies and areas of jurisdiction.
- 2.2 This agreement is consistent with the mandate of each agency, and conforms with and is subject to the *Islands Trust Act, Municipal Act, Ministry of Lands, Parks and Housing Act, Land Act* and *Greenbelt Act*.

3.0 MANDATE AND ADMINISTRATIVE RESPONSIBILITIES

- 3.1 BC Lands is responsible for managing and allocating provincial Crown land, including aquatic land, in the interest of the public for conservation, recreation, commercial, settlement and industrial uses. Entrusted with the authority to make decisions on the use of Crown land, BC Lands considers the broad range of interests when allocating Crown lands for the best possible use of the land.
- 3.2 The Islands Trust through the following corporate entities is responsible for:

Trust Council - making recommendations to the Lieutenant Governor in Council respecting the acquisition., use and disposition by the Crown in right of the province of land situated within the trust area, establishing general policies to carry out the object of the Trust, ensuring proposed local planning activities comply with the Trust object and policy statement;

Trust Fund Board - acquiring and holding land in perpetuity to protect significant environmental sites and features; and

Local Trust Committees - providing local land use planning and regulation and responding to the concerns of island resident and property owners.

4.0 OBJECTIVES

Specific objectives of this agreement are to:

- 4.1 Provide an efficient decision making process that is perceived by all interested parties as reasonable and fair.
- 4.2 Coordinate the inter-agency processes by which information is communicated and decisions are made.
- 4.3 Standardize the process for communications and decision making within each agency.
- 4.4 Endorse a process for resolving disagreements on decisions.

5.0 DECISION MAKING

The following guidelines are endorsed for routine consultation between BC Lands and Islands Trust on matters of mutual concern:

- 5.1 An annual meeting between senior officials shall be held at the beginning of the fiscal year to discuss initiatives, agency directions and items of mutual concern.
- 5.2 When planning activities are intended, early consultation will be initiated and terms of reference shall be exchanged. The agencies may enter into joint planning studies for the foreshore or untenured Crown land.
- 5.3 Prior to any status change of an Islands Trust reserve, notice shall be given to the Islands Trust Planner.
- 5.4 Where proposed changes to the Islands Trust Policy Statement affect Crown lands, a letter of intent with a description of the change will be referred to BC Lands.
- 5.5 Input on Crown Land Referrals shall be communicated from a local trust committee through Islands Trust planning staff to BC Lands' staff.

6.0 COORDINATION OF AGENCY PROCESSES

6.1 Maior Review of Community Plan

- a. Terms of reference and boundary proposal for the Official Community Plan (OCP) are referred to the BC Lands Regional Director at least 20 working days before the scheduled public meeting to launch the OCP program.
- b. BC Lands Regional Director or designate returns comments within 20 working days, regarding concerns, information, or research conducted by BC Lands that would assist the OCP process.
- c. Should there be mutual agreement that a major community concern has developed over an issue involving Crown land in a community planning process, a BC Lands designate will work with the Trust to address such issues whenever possible.
- d. First draft plan, with maps; and subsequently the final draft plan, maps, special projects, and appendices will be sent to BC Lands for comments pertaining to the mandate of BC Lands. At each stage, comments are due within 20 working days.

- e. Ten days prior to advertising a Public Hearing, the OCP bylaw together with a brief description of changes to the final draft will be sent to BC Lands for comment. Comments should be received within the ten days prior to advertising the Public Hearing. Where there are outstanding concerns not satisfactorily addressed by the final OCP, BC Lands will request a meeting as provided for in Section 8.0 of this agreement to be held within 20 days.
- f. A certified copy of the adopted bylaw will be sent to the BC Lands Regional Director.

6.2 Amendments to Regulating Bylaws

- a. After first reading and at least 20 working days prior to advertising for public hearing, bylaws affecting Crown lands are referred to the BC Lands Regional Director for comment.
- b. When BC Lands has a major concern over a proposed bylaw amendment, at least 10 days prior to advertising for Public Hearing, staff will consult directly to determine how concerns may be addressed.
- c. Comments received from BC Lands related to its mandate will be read out at Public Hearing.
- d. A certified copy of the adopted bylaw will be sent to the BC Lands Regional Director.

6.3 Crown Land Applications

This category includes Crown land referrals for new applications as well as any applications to change the use of existing tenures.

- a. A copy of the application for tenure, including a sketch of the proposed use, dimensions of the tenure and any structures and proposed working plans, and a listing of the referral agencies for the application will be sent to the Trust Planner for comments. The Planner will forward this package to the Local Islands Trust Committee members.
- b. Islands Trust Planner will send, within 30 working days unless otherwise agreed upon, to the designated BC Lands' staff, comments regarding zoning, land use and compliance with existing bylaws relating to the mandate of the Islands Trust.
- c. Agency and public comments will be available for the review of the Islands Trust upon request.
- d. Prior to issuing a decision letter to the applicant, BC Lands will notify Islands Trust of its decision. Islands Trust may request a meeting with BC Lands, as provided for in Section 8 of this agreement, to discuss outstanding areas of disagreement. .
- e. When projects are subject to rezoning the applicant will be directed to the Trust office for the proper application process.
- f. When an offer for private sale of Crown land is made and when BC Lands is consulted by an agency on an intended transfer, BC Lands shall advise the Islands Trust.
- 9- Upon cancellation of a map reserve in favour of another Provincial agency, BC Lands will notify the Islands Trust.

6.4 Replacement Tenures

- a. BC Lands will identify for the Trust at the annual consultation meeting referred to in Clause 5.0, all *Land Act* tenures (including commencement date and term) existing within the Trust Area.
- b. One year prior to the expiry of any tenure, the Trust may notify BC Lands of specific concerns which it may have with respect to the replacement of any tenure.
- c. Should the Trust require additional information in order to adequately consider the replacement of a tenure, BC Lands will assist the Trust in obtaining that information.
- d. BC Lands will notify the Trust of the issuance of any new tenures or the termination of any tenures as they occur.

6.5 Trespass Concerns

- a. Trespass will be investigated by BC Lands upon receipt of a written report from the Islands Trust expressing specific concerns.
- b. BC Lands will determine, in consultation with Islands Trust, whether to accept an application for the trespass, require removal, or apply other options.
- c. Islands Trust may request a meeting pursuant to Section 8.0 when there is disagreement as to the course of action.

7.0 STANDARDIZATION OF SEPARATE AGENCY PROCESSES

7.1 Administrative Processes

Administrative processes of both agencies are attached in the Appendix for the Trust's OCP (Section 6.1) and Bylaw Referral Processes (Section 6.2), and BC Lands Crown Land Application (Section 6.3) Referral Process.

8.0 RESOLUTION OF DISAGREEMENTS

- 8.1 Either BC Lands or Islands Trust may request a meeting to discuss outstanding concerns not satisfactorily addressed by a decision.
- 8.2 Any meeting mutually agreed upon will address the reasons and rationale for the decision and will be concluded within ten working days or other time period as may be mutually agreed to by the parties.
- 8.3 The meeting will be arranged with the planning staff where possible, or with BC Lands management and Islands Trust Trustees and staff if necessary.
- 8.4 Where the above process is not successful and both BC Lands and Islands Trust have demonstrated that all efforts have been made to resolve the issue, a further period of 20 working days shall be allotted prior to publication of, or public action on, the decision. This period will afford both parties the option of initiating ministerial discussion of the issue.

9.0 TERMS OF AGREEMENT

- 9.1 From time to time the Executive Director of the Islands Trust and the Executive Director of Lands Regional Operations Department may amend this agreement upon mutual agreement.
- 9.2 This agreement will be reviewed by both parties every three years from the effective date, or upon 30 days written notice by either Islands Trust or BC Lands.
- 9.3 It is recognized that both parties will provide reasonable effort within the limits of their resources to implement this agreement on the basis that:
- upon proper notification and follow-up, either agency may assume a non-response as an indication that the other agency does not have an objection to the proposed matter; and
 - neither party may assign responsibilities to the other.