



*Islands Trust*

**BALLENAS-WINCHELSEA ISLANDS  
OFFICIAL COMMUNITY PLAN  
BYLAW No. 27, 2013**

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**ISLANDS TRUST EXECUTIVE COMMITTEE ACTING AS A LOCAL TRUST COMMITTEE (Ballenas – Winchelsea Islands)  
BYLAW NO. 27**

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**A BYLAW TO ADOPT AN OFFICIAL COMMUNITY PLAN FOR THE BALLENAS-WINCHELSEA ISLANDS**

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WHEREAS Section 29 of the *Islands Trust Act* gives the Islands Trust Executive Committee acting as a Local Trust Committee (**Ballenas – Winchelsea Islands**) the same power and authority of a Regional District under Part 26 except sections 932 to 937 and 939 of the *Local Government Act*;

AND WHEREAS the Islands Trust Executive Committee acting as a Local Trust Committee (**Ballenas – Winchelsea Islands**) wishes to adopt an Official Community Plan;

AND WHEREAS the Islands Trust Executive Committee acting as a Local Trust Committee (**Ballenas – Winchelsea Islands**) has held a Public Hearing;

NOW THEREFORE the Islands Trust Executive Committee acting as a Local Trust Committee (**Ballenas – Winchelsea Islands**) enacts as follows:

1. TITLE

Bylaw 27 may be cited for all purposes as the "Ballenas-Winchelsea Islands Official Community Plan Bylaw, 2013".

2. APPLICATION

The Plan applies to the land, the water on the land, the bed of the sea, the water column, and surface of the sea adjacent to the land in the Ballenas-Winchelsea Islands as shown on Schedule "B" of this Bylaw.

3. SCHEDULES

The following schedules attached to and forming part of this Bylaw, are adopted as "Ballenas-Winchelsea Islands Official Community Plan Bylaw 2013":

SCHEDULE "A" – Official Community Plan Policy Document  
SCHEDULE "B" – Bylaw Area Map  
SCHEDULE "C" – Land Use Designations

READ A FIRST TIME this	3rd	day of	May	, 2013
READ A SECOND TIME this	6th	day of	March	, 2014
PUBLIC HEARING HELD this	14th	day of	April	, 2014
READ A THIRD TIME this	7th	day of	August	, 2015
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST this	14th	day of	August	, 2015
APPROVED BY THE MINISTER OF COMMUNITY, SPORT AND CULTURAL DEVELOPMENT this	14th	day of	January	, 2016
ADOPTED this	16th	day of	February	, 2016

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**SECRETARY**

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**CHAIRPERSON**

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SCHEDULE A – Policy Document

1. BACKGROUND

1.1 THE OBJECT OF THE ISLANDS TRUST

The Islands Trust has responsibility for conservation through land use planning and regulation and for leadership in stewardship – that is, voluntary, cooperative actions that nurture and take responsibility for the long-term integrity of the environment and amenities of the Trust Area. The Islands Trust seeks to integrate ecosystem preservation and protection, sustainable communities and stewardship of resources.

The *Islands Trust Act* provides the following definition of the purpose of the Islands Trust, which is referred to in legislation as its “object”:

**“The object of the Trust is to preserve and protect the Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the Government of British Columbia.”**



1.2 THE BALLENAS-WINCHELSEA ISLANDS PLANNING AREA

The Ballenas-Winchelsea Islands encompass over 19 islands and numerous other islets and rocks that make up the Ballenas-Winchelsea archipelago located in the waters of the Salish Sea adjacent to the Nanoose Peninsula on Vancouver Island. This unique area was first settled by the Coast Salish people. Several islands in the Plan Area are nationally recognized for significant biological diversity, important habitat and rare plant species. All of the islands

are jurisdictionally part of the Executive Committee Local Trust Area of the Islands Trust. Additionally, all of the islands fall within Electoral Area E of the Regional District of Nanaimo.

The majority of the islands in Ballenas-Winchelsea Group are owned by the Crown. The northern group of the Winchelsea Islands is Crown land leased to the Department of National Defence, which also owns and manages East Ballenas Island. The northern tip of West Ballenas is owned by the Federal Government for the operation of the Ballenas Island light station. In addition, Gerald Island is a Provincial Park, and south Winchelsea Island has been acquired by The Land Conservancy.

The area covered by the Plan is shown on "Schedule B - Bylaw Area Map", and includes the following land and water areas:

- Ada Islands (East)
- Ada Islands (North)
- Ada Islands (West)
- Amelia Island
- Ballenas Island (West)
- Ballenas Island (South)
- Douglas Island
- Gerald Island
- Maude Island
- Mistaken Island
- Ruth Island
- Southey Island
- Wallis Island
- Winchelsea Island
- Winchelsea Islands A,B,C and D
- Yeo Island (West)
- Yeo Island (East)

These islands and surrounding waters are within the First Nations traditional territories of the Nanoose, Cowichan, Halalt, Lake Cowichan, Lyackson, Penelakut, Qualicum, Chemainus, We Wai Kai and K'omoks.

Much of the land in the planning area is held by the federal or provincial Crown. The use and development of this land will generally not be subject to the land use designations and policies in this Plan, unless the Crown licenses, leases or transfers the land to private individuals or organizations.

Where the terms "Ballenas-Winchelsea Group", "Ballenas-Winchelsea Planning Area", "planning area", or "Plan area" are used in this Plan, these terms shall be interpreted to mean the area covered by this Plan. Where a specific geographical reference is made (e.g. Gerald Island), that reference shall be interpreted to mean the specific geographic area.

### 1.3 OFFICIAL COMMUNITY PLAN

The purpose of the Ballenas-Winchelsea Islands Official Community Plan (hereafter referred to as the “Plan”) is to provide direction for decisions of government, non-profit organizations and individuals, regarding management of the Ballenas-Winchelsea Islands. The Plan is a statement of objectives and policies to guide decisions on planning and land use management and should provide direction for development and consideration within the island communities.

The Plan is a document prepared and adopted, in accordance with the *Local Government Act* and the *Islands Trust Act*, by the Executive Committee acting as a Local Trust Committee (**Ballenas – Winchelsea Islands**) (LTC) being the land use authority for the Ballenas-Winchelsea Islands.

Once the Plan has been adopted, all bylaws enacted or works undertaken by the LTC must be consistent with it. The Plan can be amended on the initiative of the LTC or on application by an outside party subject to LTC approval. All amendments require consultation with persons, organizations and authorities that the LTC considers will be affected.

The Plan must include statements and map designations related to the following topics:

- The location, type and density of residential development;
- Restrictions on the use of land that is subject to hazardous conditions or that is environmentally sensitive to development;
- Agricultural, recreational, commercial, industrial, institutional, and public utility uses;
- Affordable, special needs and rental housing;
- The location and phasing of roads, sewer and water systems;
- Targets for the reduction of greenhouse gas emissions and policies and actions of the local government proposed with respect to achieving those targets;
- The location of public facilities, including schools, parks and waste treatment sites; and
- Sand and gravel deposits suitable for extraction.

The Plan may include policies related to social needs, social well-being and social development, the maintenance and enhancement of farming and the regulation of the preservation, protection, restoration and enhancement of the natural environment, its ecosystems and biological diversity.



#### 1.4 NATURAL FEATURES

The islands are part of the coastal Douglas-fir biogeoclimatic or ecological zone, which results from a rainshadow effect of the Vancouver Island and Olympic mountains. This zone is characterized by coniferous forests and open meadows and woodlands that are adapted to conditions that are drier than most other coastal regions of British Columbia. The climate of this area is considered temperate with mild wet winters and relatively cool but dry summers.

Douglas-fir is common throughout the region with the red-listed Garry Oak-Arbutus community also well represented. An undisturbed ecosystem type known as the Shore Pine – Cladina – Kinnikinnick plant community also exists here, and the very rare Water-plantain buttercup has been identified on East Ballenas Island. Rocky outcrops and coastal bluff habitat are also predominant on the islands in this region.

The islands of the Ballenas-Winchelsea Archipelago are known to have high biodiversity value. This is demonstrated through the area's significant role as a nursery for marine life and as a breeding and nesting ground for many species of birds. As well, the islands support several occurrences of endangered species and ecosystems. Human presence is generally minimal, even though the area is of significance for sport and recreational fishing. The islands are part of the Nanaimo Lowland physiographic region, which is bounded by the Georgia Depression to the east and the Vancouver Island Mountains to the west. Soils tend to be gravelly and sandy and are very shallow with significant amounts of exposed bedrock.

## 1.5 ACCESS AND SERVICES

The islands, with the exception of Mistaken Island, are not served by power, water or telephone land-lines. There are no stores in the area, and no garbage pickup or publicly-funded fire protection services on these islands.

Landowners are required to provide water and sewage disposal on-site. To date, the use of the islands has been largely seasonal and recreational. There are no ferries, no paved roads, and limited year-round moorage. Access to the islands is by private boat, water taxi or float plane.

## 1.6 POPULATION AND SETTLEMENT PATTERNS

Few if any of the islands have permanent residents. Census population data from Statistics Canada are not adequate to determine the permanent populations as data have been aggregated with data from other locations. Only three of the islands are under private ownership, with the remainder being held either by the provincial or federal Crown, and this has a curtailing effect on the overall population of the area.

## 1.7 DEVELOPMENT POTENTIAL

The previous subdivision regulations established a minimum lot size of 4 hectares (10 acres) on most islands. As of 2011, none of the islands had been subdivided, with the exception of West Ballenas which contains a federal Crown lot for the lighthouse on the northern end in addition to the privately held southern portion. The number of lots in the Ballenas-Winchelsea Islands Area therefore nearly corresponds with the number of islands and islets. Apart from structures associated with the Department of National Defence, residential buildings exist on inhabited Mistaken Island, and there is a cabin on South Winchelsea, owned by the Land Conservancy of British Columbia.

2. PLAN GOALS

- 2.1 To preserve and protect the ecosystems, habitat, and natural resources of the Ballenas-Winchelsea Islands Planning Area.
- 2.2 To ensure that human activities and the scale, rate and type of development contribute to the preservation of the ecological attributes and character of the Ballenas-Winchelsea Islands Planning Area.
- 2.3 To work cooperatively with other local governments, the federal and provincial governments and their agencies and First Nations to advance the mandate of the Islands Trust and the Goals and Objectives of this Plan.

### 3. OBJECTIVES AND POLICIES

#### 3.1 LAND USE OBJECTIVES

- 3.1.1 To limit growth and development in order to protect sensitive ecosystems, encourage sustainability, and minimize the potential effects of climate change.
- 3.1.2 To accommodate a limited number of residents and visitors in order to preserve ecosystem integrity and the unique scenic character of the area.
- 3.1.3 To manage any development in a manner that minimizes hazards and avoids impacts to the environment.
- 3.1.4 To guide and regulate growth and development in a manner that puts protection of the natural environment first and that builds on existing physical and social infrastructure where possible.

#### 3.2 RESIDENTIAL LAND USE POLICIES

- 3.2.1 The traditional land use in the plan area has been minimal and the LTC bylaw provisions should preserve the character of the area.
- 3.2.2 The LTC should continue to permit single family residential uses as the principal use on privately held lands.
- 3.2.3 The LTC may consider implementing siting and use permits for all new construction or use on privately held lands.
- 3.2.4 LTC bylaw provisions should ensure that uses customarily considered accessory to residential uses are permitted and regulated.
- 3.2.5 Commercial vacation rentals should not be permitted.
- 3.2.6 Density should be limited to one dwelling per 4 hectares (10 acres).
- 3.2.7 Subdivision regulations should not permit subdivision without rezoning.
- 3.2.8 The LTC should support applications to rezone to permit subdivision where the proposal would result in:
  - 3.2.8.1 Clustered development that minimizes the ecological and visual impacts of development; and
  - 3.2.8.2 Total floor area of dwellings is minimized; and
  - 3.2.8.3 Development being directed away from hazardous areas and sensitive ecosystems.
- 3.2.9 The LTC should establish zoning regulations that limit the number, size and height of accessory buildings on residential properties.

3.2.10 Affordable and special needs housing is considered inappropriate for this area due to the remote nature of the islands.

3.2.11 Rental housing other than single family housing is considered inappropriate for this area due to the remote nature of the islands.

#### Advocacy Policies

3.2.12 The Regional District of Nanaimo and Island Health are encouraged to implement sustainable building standard initiatives as appropriate for the low density rural nature of development in the Plan area.

### 3.3 COMMERCIAL AND INDUSTRIAL LAND USE POLICIES

3.3.1 There are currently no locations in which commercial and industrial uses are a permitted principal use. Given the remoteness, small size and pristine nature of the islands, and the mandate of Islands Trust to preserve and protect the unique amenities and environment of the area, commercial and industrial uses are not considered appropriate in the Plan area.

3.3.2 Home occupations should be permitted as a use accessory to residential uses and should be regulated to minimize impacts.

### 3.4 AGRICULTURAL POLICIES

3.4.1 There is currently no land identified as having agricultural potential on the islands.

### 3.5 FOREST LAND USE POLICIES

3.5.1 The LTC should identify significant unfragmented forest ecosystems within the planning area and consider establishing zoning to limit inappropriate development in these areas and to cluster development elsewhere.

#### Advocacy Policies

3.5.2 The LTC encourages other agencies and levels of government to designate, acquire, or establish forest ecosystem reserves where no extraction will take place to ensure the preservation of native biological diversity.

3.5.3 The LTC encourages landowners to protect sensitive forest ecosystems through donation, conservation covenants, the use of incentives such as the Natural Area Protection Tax Exemption Program (NAPTEP), or careful management.



### 3.6 COMMUNITY AND PUBLIC SERVICE USE POLICIES

- 3.6.1 The LTC may establish zoning within this designation, or within the residential designation, to permit and regulate local community services such as meeting halls, infrastructure, and emergency service facilities.
- 3.6.2 Zoning should recognize existing public uses, such as light stations.
- 3.6.3 Given the limited development on the islands in the Plan area, there is no demand for school facilities. A need to designate land for future school use is not anticipated.

#### Advocacy Policies

- 3.6.4 Residents in the Plan area are encouraged to be self-sufficient with regard to disposal of waste.
- 3.6.5 The RCMP, Canadian Coast Guard, fire protection, regional districts, search and rescue organizations, and the Emergency Management BC are requested to be responsive to the planning area needs and to assist residents in setting up adequate safety, protection and communication mechanisms.



### 3.7 POLICIES FOR PARKS, RECREATION, AND CONSERVATION AREAS

- 3.7.1 The LTC should support the preservation of ecologically sensitive areas through land use regulation, conservation covenants, park land dedication, or voluntary conveyance to conservation agencies.
- 3.7.2 The LTC is encouraged to require dedication of land, rather than cash-in-lieu, where parkland dedication is required at the time of subdivision, as authorized by the *Local Government Act*.
- 3.7.3 The LTC may undertake or support initiatives to identify locations that are a priority for the creation of safe public access to beaches, areas of recreational significance, linear parks and trails, and public anchorages, in cooperation with other agencies and groups.
- 3.7.4 The LTC should, in cooperation with conservation groups and other agencies, undertake planning for the establishment and maintenance of a network of protected areas.
- 3.7.5 The LTC should permit through zoning, the use of one cabin for short term accommodation or custodial residential uses on South Winchelsea Island.
- 3.7.6 Most Crown islands and islets are included in this land use designation and should be zoned for Nature Protection.
- 3.7.7 Rezoning of any Crown islands that are transferred to private ownership for residential uses may be considered through application.

Advocacy Policies

- 3.7.8 The LTC should strongly encourage the Federal and Provincial Crown to only consider disposition of land for ecological conservation purposes, and to consult with the LTC to ensure that any dispositions are in accordance with this Plan.
- 3.7.9 The LTC should strongly encourage the Regional District, the Islands Trust Fund and other conservation organizations to investigate the acquisition, purchase and secured protection of any future lands disposed of by the Crown or privately sold.
- 3.7.10 The LTC should encourage the regional district and provincial and federal governments to identify and designate areas for low impact recreational activities that reflect the undisturbed nature of the area and discourage facilities and opportunities for high impact recreational activities in the planning area.



**3.8 POLICIES FOR MARINE AND SHORELINE USES**

- 3.8.1 The LTC should identify and consider protecting ecologically sensitive marine areas.
- 3.8.2 Zoning should permit shellfish aquaculture within existing tenures.
- 3.8.3 The LTC may consider rezoning applications for new leases for aquaculture, other than finfish farms.

- 3.8.4 The LTC should recognize and support the marine dependent nature of land uses in the Ballenas-Winchelsea Islands Area.
- 3.8.5 The LTC should permit one (1) dock adjacent to each private island in order to limit the need for multiple private dock development along the shoreline.
- 3.8.6 The LTC should only consider individual private docks accessory to residential uses where necessary for access. These docks should be regulated by zoning.
- 3.8.7 The LTC should not permit commercial marinas.
- 3.8.8 The LTC should use bylaw provisions to protect public access to, from and along the marine shoreline.
- 3.8.9 The LTC should use bylaw provisions to limit structures within the setback from the sea to those related to permitted marine uses and those necessary for access to the foreshore.
- 3.8.10 The LTC should, through zoning, the use of setbacks, and the use of development permit areas:
  - (a) protect the integrity of the foreshore, shoreline, and natural coastal and intertidal processes;
  - (b) discourage uses that disrupt natural features and processes;
  - (c) allow for natural erosion and accretion processes;
  - (d) encourage owners of shoreline properties to retain natural vegetation and natural features on areas adjacent to the foreshore; and
  - (e) discourage filling, deposit, excavation, or removal of foreshore and seabed materials.
- 3.8.11 The LTC should not permit the hardening of the shoreline.
- 3.8.12 The LTC should not support ocean disposal applications within the Plan area.
- 3.8.13 The LTC should not support the creation of artificial reefs within the Plan area.

Advocacy Policies

- 3.8.14 The LTC should support the protection of the planning area as part of any provincial or federal marine protection/ conservation initiative.
- 3.8.15 The LTC should support and encourage new and existing Rockfish Conservation areas in the Plan area.
- 3.8.16 The LTC should encourage the responsible government agencies to refer applications for commercial seaweed harvesting within the plan area to the LTC.

### 3.9 TRANSPORTATION POLICIES

- 3.9.1 Zoning may provide for facilities for emergency helicopter access in appropriate locations.

#### Advocacy Policies

- 3.9.2 The LTC should support efforts by residents, local governments and agencies to ensure that reasonable access including safe passage and moorage is provided to the plan area from adjacent regional districts and municipalities.

### 3.10 CULTURE AND HERITAGE POLICIES

- 3.10.1 The LTC recognizes First Nations past and current interests relating to land and resources in the Ballenas-Winchelsea Islands.
- 3.10.2 The LTC recognizes that portions of the planning area may be subject to aboriginal or treaty rights that are protected under section 35 of the *Constitution Act, 1982*.
- 3.10.3 The LTC will work to establish government-to-government relationships with First Nations that have an interest in the Ballenas-Winchelsea Islands Area, in order to identify and assist in protecting significant archaeological or cultural sites in the planning area.
- 3.10.4 The LTC should support initiatives to identify lands and structures of natural, historic, archaeological, cultural, aesthetic, educational or scientific heritage value or character.
- 3.10.5 The LTC may amend this plan to designate any real property as a designated heritage site or heritage conservation area under Part 27 of *Local Government Act*.
- 3.10.6 All development applications received by Islands Trust will be reviewed by planning staff for the presence of known and recorded archaeological sites. Applicants will be notified if the site includes a known, protected archaeological site. Notification may include direction to engage a professional consulting archaeologist to determine if an archaeological impact assessment is necessary to manage development related impacts. In cases where no application is required for development, the landowner is responsible for ensuring that archaeological sites are not disturbed.
- 3.10.7 Applicants should modify or revise proposed development plans to avoid archaeological site impacts as the best means of preserving archaeological resources. Alteration of a protected archaeological site requires a Provincial Heritage Alteration Permit prior to land altering activities. Landowners are encouraged to contact and work with First Nations to protect archaeological and cultural sites.

Advocacy Policies

- 3.10.8 The LTC may advocate for the designation and protection of eligible heritage sites under the *Heritage Conservation Act*.

Information Note: Archaeological sites (both known and unknown) are protected under the Heritage Conservation Act and must not be altered or damaged without a permit from the Archaeology Branch. Given the islands have significant potential to contain unknown archaeological sites, the Archaeology Branch recommends that a qualified (able to hold heritage inspection permits through the Archaeology Branch) consulting archaeologist should be engaged prior to any land-altering activities to determine if development activities are likely to impact any archaeological sites.



**3.11 SENSITIVE ECOSYSTEM POLICIES**

- 3.11.1 The LTC should support and undertake initiatives to identify environmentally sensitive areas and significant natural sites, features and landforms in the planning area.
- 3.11.2 The LTC should support and undertake initiatives to plan, establish, and maintain a network of protected areas that preserves the representative ecosystems of the area and maintains its ecological integrity.
- 3.11.3 The LTC should protect environmentally sensitive areas, significant natural sites, features, views, scenic areas and landforms in the planning area through:

- (a) zoning regulations that encourage the siting and clustering of new development away from sensitive areas for the islands with development potential;
- (b) the implementation of development permit areas ;
- (c) acquisition of land by the Islands Trust Fund, other conservancies, regional districts, and government agencies;
- (d) park dedication at the time of subdivision; and
- (e) encouragement of voluntary stewardship including the use of tools such as conservation covenants and the use of incentives such as the Natural Area Protection Tax Exemption Program.

3.11.4 The LTC should, in its bylaw provisions and applications, consider the cumulative effects of any proposed development on sensitive ecosystems and groundwater supplies.

#### Advocacy Policies

3.11.5 Despite there being no identified Riparian Areas Regulation (RAR) watersheds in the Plan Area, the LTC should support the protection of freshwater and riparian habitat.

### 3.12 GROUNDWATER POLICIES

3.12.1 Land use designations, zoning, subdivision regulations and other planning tools should be used to ensure that neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater.

3.12.2 The LTC, in its bylaw provisions and in considering applications, should ensure that water quality is maintained, that existing, anticipated and seasonal demands for water are considered and addressed, and that new uses do not affect water availability to the detriment of existing uses.

3.12.3 The precautionary principle should be applied with respect to the planning, utilization and protection of potable water supplies, so that property owners, developers and government agencies act with a conservative approach regarding the impacts of land use on island water supplies.

### 3.13 SOILS AND AGGREGATES POLICIES

3.13.1 The LTC should use zoning and other applicable planning tools to protect identified areas of productive soil.

3.13.2 There are no known deposits of aggregates suitable for extraction in the Plan area. Mineral extraction is regulated under provincial acts and statutes and is not affected by policies contained within the OCP.

### 3.14 NATURAL HAZARDS POLICIES

- 3.14.1 The LTC should undertake initiatives to identify areas that are hazardous to development, including areas subject to flooding, erosion or slope instability.
- 3.14.2 The LTC should use appropriate tools, including setbacks and development permit area designations, to restrict and manage development in areas known to be subject to hazardous conditions.

### 3.15 SERVICES AND INFRASTRUCTURE POLICIES

- 3.15.1 No water line or power connections to the mainland should be permitted other than those in place and in use at the time of adoption of this Plan.
- 3.15.2 The construction of new power lines should be discouraged.
- 3.15.3 As islands in the plan area are mostly self sufficient with respect to power, water and septic disposal, the LTC should recognize the challenges associated with providing services on the islands, and LTC bylaw provisions should support the provision of power through renewable small-scale, passive means such as solar collectors and wind generation
- 3.15.4 LTC bylaw provisions should permit small-scale, geo-exchange heating for individual dwellings.
- 3.15.5 The use of alternative technology to the traditional septic field, and the safe recycling of grey water, is supported by the LTC if methods can provide effective non-polluting and energy efficient means to treat and dispose of effluent and are in compliance with all other government regulations.

#### Advocacy Policies

- 3.15.6 Landowners undertaking new construction are encouraged to install rainwater catchment systems.

## 4. CLIMATE CHANGE ADAPTATION AND MITIGATION

### Background:

Climate change is the result of increasing concentration of heat-trapping greenhouse gases (GHGs) in the atmosphere as the result of human activities; primarily the burning of fossil fuels and large-scale deforestation made possible through advances in technology and industrialization. The amount of GHGs in the atmosphere has increased in the last 200 years, and has caused a rise in average temperature of air and ocean water. Around the world, people interested in reducing GHG emissions are finding ways to reduce their carbon footprint and decrease or reverse the rate of temperature rise.

The Province of British Columbia, in response to public interest in reducing GHG emissions, adopted Bill 27, the *Local Government (Green Communities) Statutes Amendment Act*. The intent of the Act is to reduce GHGs, conserve energy, and create more sustainable communities. Most significantly, Bill 27 amended the *Local Government Act*, requiring that all local governments include GHG emission reduction targets, and policies and actions to achieve those targets, in their Official Community Plans.

The Ballenas-Winchelsea Islands Area is unique in that, given the challenges found in living and recreating on the Islands, residents and seasonal visitors typically attempt to live lightly on the landscape. Homeowners may already use solar or other alternative energy sources, and seasonal occupancy of most homes and cottages means no emissions are produced for significant portions of the year. Reducing GHG emissions in this Plan Area takes on a different meaning when the fact that emissions are considerably lower than would be found in highly developed communities with readily accessible services is taken into consideration.

The following target, objectives, policies and actions are the first step to ensuring that the reduction of GHG emissions specifically and the impact of climate change in general become part of the evaluation process for land use planning in the Ballenas-Winchelsea Islands Plan Area.

### 4.1 TARGET

- 4.1.1 This plan commits to achieve by 2020 and 2050 resident per capita emission levels of 50% or less than the Canadian per capita average for 2020 and 2050, respectively. Within the planning area, this reduction will be achieved by actions resulting from individual and community initiatives, the actions of other levels of government, technological changes, and changes to land use policies and regulations.

### 4.2 OBJECTIVES

- 4.2.1 To consider the impacts of climate change as a central factor in land use decision-making.
- 4.2.2 To support actions to minimize greenhouse gas emissions.
- 4.2.3 To recognize the importance of forested lands and unfragmented natural ecosystems in removing carbon dioxide from the atmosphere.

### 4.3 POLICIES

- 4.3.1 The LTC should, in its bylaw provisions and review of development applications, consider the potential impacts on global climate change and GHG reduction targets.
- 4.3.2 The LTC should investigate new methods of measuring GHG emissions that are relevant to the plan area.
- 4.3.3 The LTC should work with other government agencies, stakeholders and the residents of the Ballenas-Winchelsea Islands to achieve energy conservation and emissions reduction goals.
- 4.3.4 The LTC should identify significant unfragmented forest and non-forest ecosystems within the planning area and ensure that these areas are noted on mapping for both their environmental and carbon sequestration value.
- 4.3.5 When considering transportation options by air, water or land, both residents and agencies with jurisdiction over services and infrastructure are encouraged to:
  - (a) Reduce fuel requirements;
  - (b) Reduce the extent of infrastructure (for example, through the development of common docks or road/trail construction that minimizes the right of way); and
  - (c) Limit the impact on the natural environment.

### 4.4 ACTIONS

- 4.4.1 The LTC should work with the Islands Trust Fund and other conservation organizations to promote the conservation of forested land as a cost effective and important climate change mitigation strategy.
- 4.4.2 Residents are encouraged to:
  - (a) Incorporate high energy efficiency into building design and construction and use carbon-efficient materials in new construction;
  - (b) Limit the use of fossil-fuel burning engines or generators and use alternative energy sources where possible; and
  - (c) Limit the burning of refuse.
- 4.4.3 Government agencies, when considering establishment of new infrastructure or changes to existing infrastructure on the Islands , are strongly encouraged to mitigate impacts on the natural environment for any proposals for park, trail, road, ferry, dock, or infrastructure development.

- 4.4.4 The importation of bulk water adds to GHG emissions through the transportation of water by boat or barge. The LTC encourages alternative methods of increasing water self-sufficiency on the Islands.

5. DEVELOPMENT PERMIT AREAS, TEMPORARY USE PERMITS AND DEVELOPMENT APPROVAL INFORMATION

5.1 DEVELOPMENT PERMIT AREAS

Background

Pursuant to Section 919.1 of the *Local Government Act* a community plan may designate development permit areas for one or more of the following:

- a. protection of the natural environment, its ecosystems and biological diversity;
- b. protection of development from hazardous conditions;
- c. protection of farming;
- d. revitalization of an area in which a commercial use is permitted;
- e. establishment of objectives for the form and character of intensive residential development;
- f. establishment of objectives and the provision of guidelines for the form and character of commercial, industrial or multi-family residential development;
- g. in relation to an area in a resort region, establishment of objectives for the form and character of development in the resort region.
- h. establishment of objectives to promote energy conservation;
- i. establishment of objectives to promote water conservation; and
- j. establishment of objectives to promote the reduction of greenhouse gas emissions.

### 5.1.1 SHORELINE DEVELOPMENT PERMIT AREA

#### Designation:

The Shoreline Development Permit Area includes all land 30 m upland of the natural boundary of the sea.

#### Authority:

The Shoreline Development Permit Area is designated a development permit area pursuant to Section 919.1(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biological diversity, and Section 919.1(1)(b) for the protection of development from hazardous conditions.

#### Special Conditions and Objectives That Justify the Designation:

It is the Object of the Islands Trust to "Preserve and protect the Trust Area and its unique amenities and environment of the Trust Area for the benefit of the residents of the Trust Area, and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia."

It is Provincial legislation in Section 877(1)(d) of the *Local Government Act* that an official community plan must include statements and map designations for the area covered by the Plan respecting restrictions on the use of land that is subject to hazardous conditions, or that is environmentally sensitive to development.

It is policy of the Islands Trust Council that protection must be given to the natural processes, habitats and species of the Trust Area, including those of open coastal grasslands, the vegetation of dry rocky areas, estuaries, tidal flats, salt water marshes, drift sectors, lagoons, kelp and eel grass beds and that development, activity, buildings or structures should not result in a loss of significant marine or coastal habitat, or interfere with natural coastal processes.

It is also policy of the Islands Trust Council that local trust committees shall in their Official Community Plans and regulatory bylaws, address:

- the protection of sensitive coastal areas;
- the planning for and regulation of development in coastal regions to protect natural coastal processes;

Shorelines within the Ballenas-Winchelsea Islands Area have high ecological values. Due to their physical and biological characteristics and relatively undeveloped state, they need to be carefully managed to avoid potential negative impacts of development. Development and associated shoreline improvements or protection measures can threaten the ecological and physical integrity of the foreshore and upland. In addition, sea level rise, storm surges, increased storm intensity and other anticipated effects of climate change as well as steep slope hazard areas may exert negative effects on potential development.

The Objectives of the development permit area are:

1. To plan and regulate new development in a manner that preserves and protects the long-term physical integrity and ecological values of shorelines and associated foreshore and upland areas.
2. To balance development opportunities with the ecological conservation of the shoreline environment.
3. To minimize the disruption of natural features and processes and to retain, wherever possible, natural vegetation and natural features.
4. To adapt to the anticipated effects of climate change.
5. To protect development from hazardous conditions.

Development Approval Information:

The area is also designated an area for which development approval information (DAI) may be required according to Section 920.01(1)(c) of the *Local Government Act*. The designation of these areas as DAI is based on the special conditions or objectives supporting the designation of the DPA. Development approval information means information on the anticipated impacts of the proposed activity or development.

Applicability:

This Development Permit Area applies to all construction and land alteration proposed within the Shoreline DPA. A development permit is required for construction of, addition to, alteration of a building or structure, and land alteration, including vegetation removal except where such activities are specifically exempt.

Exemptions:

The following activities are exempt from any requirement for a development permit:

1. For certainty, construction occurring outside of the Development Permit Area.
2. The placement of impermanent structures such as benches, tables and garden ornaments.
3. Development on land where a conservation covenant under section 219 of the Land Title Act registered against title is granted to the Local Trust Committee or a recognized conservancy and includes provisions which protect shoreline ecosystems in a manner consistent with the applicable DPA guidelines.
4. Repair, maintenance, alteration or reconstruction of existing legal buildings, structures or utilities, including those that are legal non-conforming.
5. The removal of invasive non-native plants.

6. Farm operations as defined in the *Farm Practices Protection (Right to Farm) Act* and farm uses as defined in Section 2(2), (3), (4) and (5) of the Agricultural Land Reserve Use, Subdivision, and Procedure Regulation.
7. Construction of a fence so long as no native trees are removed and the disturbance of native vegetation is restricted to 0.5 metres on either side of the fence.
8. Gardening and yard maintenance activities within an existing landscaped area, such as lawn mowing, tree and shrub pruning, vegetation planting and minor soil disturbance that do not alter the general contours of the land.
9. The pruning or limbing of trees provided it cannot reasonably be expected to result in the death or removal of the tree.
10. The removal of trees that have been examined by an International Society of Arboriculture (ISA) certified arborist and certified to pose an immediate threat to life or property.
11. The construction of a small accessory building such as a pump house, gazebo, garden shed or play house if all the following apply;
  - The building is located a minimum of 15 metres from the natural boundary of sea
  - No native trees are removed; and
  - The total area of the accessory building is less than 10 m<sup>2</sup>.
12. Emergency actions required to prevent, control or reduce an immediate threat to human life, the natural environment or public or private property including:
  - Forest fire, flood and erosion protection works;
  - Protection, repair or replacement of public facilities;
  - Clearing of an obstruction from a bridge, culvert, dock wharf or stream; or
  - Bridge repairs.

Guidelines:

General Guidelines:

1. In general, development of the shoreline area should be limited and minimize impacts on the ecological health of the immediate area.
2. New upland shoreline structures, additions or land alteration should be located and designed to avoid the need for shore protection works.
3. Sea level rise, storm surges, increased storm intensity and other anticipated effects of climate change should be addressed in all applications.

4. The LTC may consider variances to subdivision or building and structure siting or size regulations to meet the objectives of the development permit area.
5. New development on steep slopes or bluffs shall be set back sufficiently from the top of the bluff to ensure that shore protection measures will not be necessary during the life of the structure, as demonstrated by a geotechnical analysis for the site.
6. Alteration of natural drainage systems that disrupt the natural hydrological cycle shall not be permitted.
7. Soil removal and deposit, as well as areas cleared and disturbed for development should be minimized.
8. Shore protection measures that will cause erosion or other physical damage to adjacent or down-current areas shall not be supported.
9. Shore protection measures should not be allowed for the purpose of providing a sufficient setback to meet zoning requirements.
10. New septic systems should not be located in the development permit area. If such a location cannot be avoided, the encroachment into the development permit area must be minimized, and the design and construction of the septic system be supervised by a qualified professional to ensure that the objectives and guidelines of the development permit area are met as conditions of the permit.
11. Where this development permit area includes native plant species or plant communities dependent on a marine shoreline habitat that are identified locally, provincially, or federally as sensitive, rare, threatened or endangered, or have been identified by a qualified professional as worthy of particular protection, their habitat areas should be left undisturbed. If disturbance cannot be entirely avoided, development and mitigation / compensation measures shall be undertaken only under the supervision of a qualified professional with advice from applicable senior environmental agencies.
12. Shore protection measures should not be allowed for the purpose of providing space for additions to existing structures or new outbuildings.

Guidelines for Specific Shoreline Types:

13. New development on steep slopes or bluffs shall be set back sufficiently from the top of the bank to ensure that the effects of wind shear are minimized.
14. Removal of trees or other vegetation from steep slopes or bluffs should only be allowed where necessary and where replacement vegetation / erosion control measures are established. If possible, stumps should be left in place to provide some soil stabilizing influence until replacement vegetation is

established. Plans delineating extent of vegetation / tree removal (location, species and diameter of trees) and location of proposed construction, excavation and / or blasting, may be required.

#### Guidelines for Construction Practices:

##### Erosion Control

15. All development within this development permit area should be undertaken and completed in such a manner as to prevent the release of sediment to the shore or to any watercourse that flows to the marine shore. An erosion and sediment control plan, including actions to be taken prior to land clearing and site preparation and the proposed timing of development activities to reduce the risk of erosion, may be required as part of the development permit application.

##### Monitoring

16. A development permit may require monitoring of the implementation of required environmental mitigation, restoration or enhancement planting or measures approved under a development permit by a qualified professional until all such measures have been completed and the professional has provided a report confirming completion to a standard acceptable to the Local Trust Committee.

#### Guidelines for Vegetation Management, Restoration and Enhancement:

17. Existing, native vegetation should be retained wherever possible to minimize disruption to habitat and to protect against erosion and slope failure.
18. Existing trees and shrubs to be retained should be clearly marked prior to development, and temporary fencing installed at the drip line to protect them during clearing, grading and other development activities.
19. If the area has been previously cleared of native vegetation, or is cleared during the process of development, replanting should be required in accordance with these guidelines or requirements specified in the development permit. Areas of undisturbed bedrock exposed to the surface of natural sparsely vegetated areas should not require planting.
20. Vegetation species used in replanting, restoration or enhancement should be selected to suit the soil, light and groundwater conditions of the site, should preferably be native to the area, and be selected for erosion control and/or fish and wildlife habitat values as needed. Suitably adapted, non-invasive, non-native vegetation may also be considered acceptable.
21. All replanting should be maintained by the property owner for a minimum of 3 years from the date of completion of the planting. This may require removal of invasive, non-native weeds (e.g., Himalayan blackberry, Scotch

broom, English ivy) and irrigation. Unhealthy, dying or dead stock should be replaced at the owner's expense within that time in the next regular planting season.

Guidelines for the Construction and Replacement of Boat Launch Facilities:

22. Boat launch ramps are the least desirable of all water access structures and will be considered only if they can be located on stable, non-erosional banks where a minimum amount of substrate disturbance or stabilization is necessary. Ramps should be kept flush with the slope of the foreshore to minimize interruption of natural geo-hydraulic processes.
23. Construction of a private ramp on an individual residential lot or parcel is discouraged. Owners are urged to seek alternatives.

Guidelines for the Installation of Ocean-loop Geoexchange Systems

24. Ocean-loop geoexchange systems will only be considered if they are closed-loop systems using only water as the circulating heat transfer fluid; if they meet or exceed the Canadian CSA design standards CAN/CSA-448-02; and if they are designed and installed by a Registered System Designer.

## 5.2 TEMPORARY USE PERMITS

An Official Community Plan may designate areas where temporary uses may be allowed. A temporary use permit may, notwithstanding a zoning bylaw, allow a use, permit the construction or use of buildings or structures to accommodate persons who work at the temporary enterprise for which the permit is issued and specify conditions under which a temporary use may be carried on. A permit may be issued for a period of up to three years and may be renewed only once. The issuance of a temporary use permit should be conditional on compliance with the following guidelines:

- 5.2.1 Temporary Use Permits may be issued for any area covered by this plan, except for areas designated Parks, Recreation or Conservation on Schedule "C".
- 5.2.2 Temporary Use Permits should only be issued for activities that are of short and fixed duration.
- 5.2.3 An application for a Temporary Use Permit should only be considered if the proposal can be demonstrated to have minimal negative impact on the environment of the Ballenas-Winchelsea Islands Area.
- 5.2.4 In issuing a Temporary Use Permit, the LTC should specify conditions under which the use may be carried on that would mitigate any impacts of the use, including restoration of land upon completion of the permit.
- 5.2.5 In issuing a Temporary Use Permit, the LTC may consider requiring a security deposit for works required to mitigate any impacts of the use, including restoration of land upon completion of the permit.

5.3 DEVELOPMENT APPROVAL INFORMATION

5.3.1 The area subject to this bylaw is designated as an area under which development approval information may be required for the purpose of obtaining consistent and comprehensive information on the impacts of proposed development.

5.3.2 Trust Council may consider adoption of a development approval information bylaw pursuant to s. 920.1 of the *Local Government Act*.

## 6. ADMINISTRATION AND INTERPRETATION

### 6.1 PURPOSE

The purpose of this official community plan bylaw is to further the object of the Islands Trust Act through long-range land use policy for the Ballenas-Winchelsea Islands. This bylaw provides a statement of local government goals, objectives and policies. It is intended to provide policy guidance for the Executive Committee acting as a Local Trust Committee, government agencies, organizations and the public regarding the existing and proposed land use and development in the Ballenas-Winchelsea Islands Area.

### 6.2 ISLANDS TRUST AUTHORITY

The *Islands Trust Act* gives the Islands Trust, through its Local Trust Committees, the same land use planning authority as a regional district board under the *Local Government Act*. Bylaws must be approved by the Islands Trust Executive Committee and, in the case of Official Community Plans, also by the Minister of Community, Sport and Cultural Development before adoption by the Local Trust Committee.

The Executive Committee acting as a Local Trust Committee has the responsibility for land use planning and regulations within the Ballenas-Winchelsea Islands Area. This committee has four members who are elected in other Local Trust Areas and who have been elected by Trust Council as chairperson and vice chairpersons of the Islands Trust Council.

The purpose of the Trust Council, Executive Committee, and Local Trust Committees is to carry out the object of the Islands Trust, which is:

To preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of the Province generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of the province.

The legislated object defines the purpose of providing authority to the Islands Trust for land use regulation. Local trust committees employ the available planning powers of the *Local Government Act* to preserve, protect, and effectively maintain the rural nature, health, natural environment and vitality of the Trust Area.

### 6.3 AREA OF JURISDICTION

The provisions of this Bylaw apply to the Ballenas-Winchelsea Islands Planning Area as shown on Schedule "B", which forms part of this bylaw.

### 6.4 ADVOCACY POLICIES

Community goals and objectives included in this bylaw that address matters that are outside the jurisdiction of the Executive Committee acting as a Local Trust Committee are considered "advocacy policies". These advocacy policies encourage others to take actions that the local trust committee believes would contribute to the goals and objectives of the plan. This bylaw cannot and does not represent a commitment from other agencies or persons to act according to community goals, objectives or policies.

## 6.5 PUBLIC FACILITIES

Any designation or policy for proposed public facilities on private lands shall be deemed to be a broad community goal of this bylaw and is not a commitment of the LTC and does not have a regulatory effect on private properties. These facilities may include, but are not limited to, roads, parks, trails, and public and community facilities that are not available for acquisition through dedication, grants, or as an amenity through a zoning regulation, and which are not subject to committed funds either through a capital expenditure plan or other budgeting process of the public agency responsible for the proposed facility.

## 6.6 IMPLEMENTATION

Section 884 of the *Local Government Act* specifies that:

"An official community plan does not commit or authorize a municipality, regional district (includes a local trust committee pursuant to Section 27 of the *Islands Trust Act*) or improvement district to proceed with any project that is specified in the plan."

and

"All bylaws enacted or works undertaken by a council, board or greater board (includes a local trust committee pursuant to Section 27 of the *Islands Trust Act*), or by the trustees of an improvement district, after the adoption of an official community plan must be consistent with the relevant plan."

## 6.7 INTERPRETATION

- 6.7.1 In the system used for referencing provisions, the single digit number indicates parts, the two digit number sections, the three digit numbers policies and the lower case letters articles:

Part:	1
Section:	1.1
Policy:	1.1.1
Subsection:	(a)

- 6.7.2 The final interpretation as to the precise location of boundaries on any map schedule shall be defined by:
- (a) Where boundaries coincide with lot lines, the boundaries are the lot lines.
  - (b) Where a boundary is shown as following any highway, right of way or stream, the centre line of such highway, right of way, or stream the centreline of that feature is the boundary
  - (c) Where land based and water based boundaries coincide, the common boundary shall be the surveyed lot line as shown on a plan registered in the Land Title Office, and where there is no such plan the natural boundary is the common boundary.
  - (d) Where a boundary does not follow a legally defined line and no dimensions are shown by which the boundary could otherwise be

located, the location of the boundary must be determined by scaling from the map schedule and in that case the boundary is the midpoint of the line delineating the boundary on the schedule.

6.7.3 In interpreting the objectives and policies of the Plan, the term "shall" or "will" denotes that the indicated measure must be taken or applied. The term "should" or "may" indicates that the suggestion is intended as a guideline.

6.7.4 Throughout this Plan, the words listed below shall be defined as follows:

Conservation – actions, legislation or institutional arrangements that lead to the protection or preservation of a given species, group of species, habitat, natural area, or property or area of human heritage value or character.

Ecosystem – a complete system of living organisms interacting with the soil, land, water, and nutrients that make up their environment. An ecosystem is the home of living things, including humans. An ecosystem can be any size—a log, pond, field, forest, or the earth’s biosphere—but it always functions as a whole unit. Ecosystems are commonly described according to the major type of vegetation—for example, old-growth forest or grassland ecosystem.

Environmentally Sensitive Area - places that have special environmental attributes worthy of retention or special care. These areas are critical to the maintenance of productive and diverse plant and wildlife populations. Examples include rare ecosystems, habitats for species at risk and areas that are easily disturbed by human activities. Some of these environmentally sensitive areas are home to species which are nationally or provincially significant, others are important in a more local context. They range in size from small patches to extensive landscape features, and can include rare and common habitats, plants and animals.

Foreshore - the area between the high and low water mark of tidal water.

Local Trust Committee (LTC) - The Executive Committee acting as a Local Trust Committee.

Natural Boundary - means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the body of water a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself;

Official Community Plan (OCP) - A community plan adopted pursuant to Part 26, Division (2), Section 876 of the *Local Government Act*.

Park - Park land acquired through dedication of land at time of subdivision, donation or by purchase through a community parks function of a regional district unless otherwise specified in this Bylaw.

Plan - An Official Community Plan adopted by the Executive Committee acting as a Local Trust Committee.

Precautionary Principle – the recognition that when an activity raises threats of harm to the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically.

Preserve – to maintain a given condition. Preservation often requires maintaining the processes that generate the desired condition.

Protect – to maintain over the long-term by managing, or if necessary limiting, the type and intensity of development or activity to ensure that valued attributes are not compromised or destroyed.

Sensitive Ecosystem – ecosystems which are fragile and/or rare, or those ecosystems which are ecologically important because of the diversity of species they support.

Stewardship – voluntary, cooperative actions that nurture and take responsibility for the long-term integrity of the environment and amenities of the Trust Area.

Sustainable – capable of meeting the environmental, economic and social needs of current generations without compromising the ability of future generations to meet their needs.

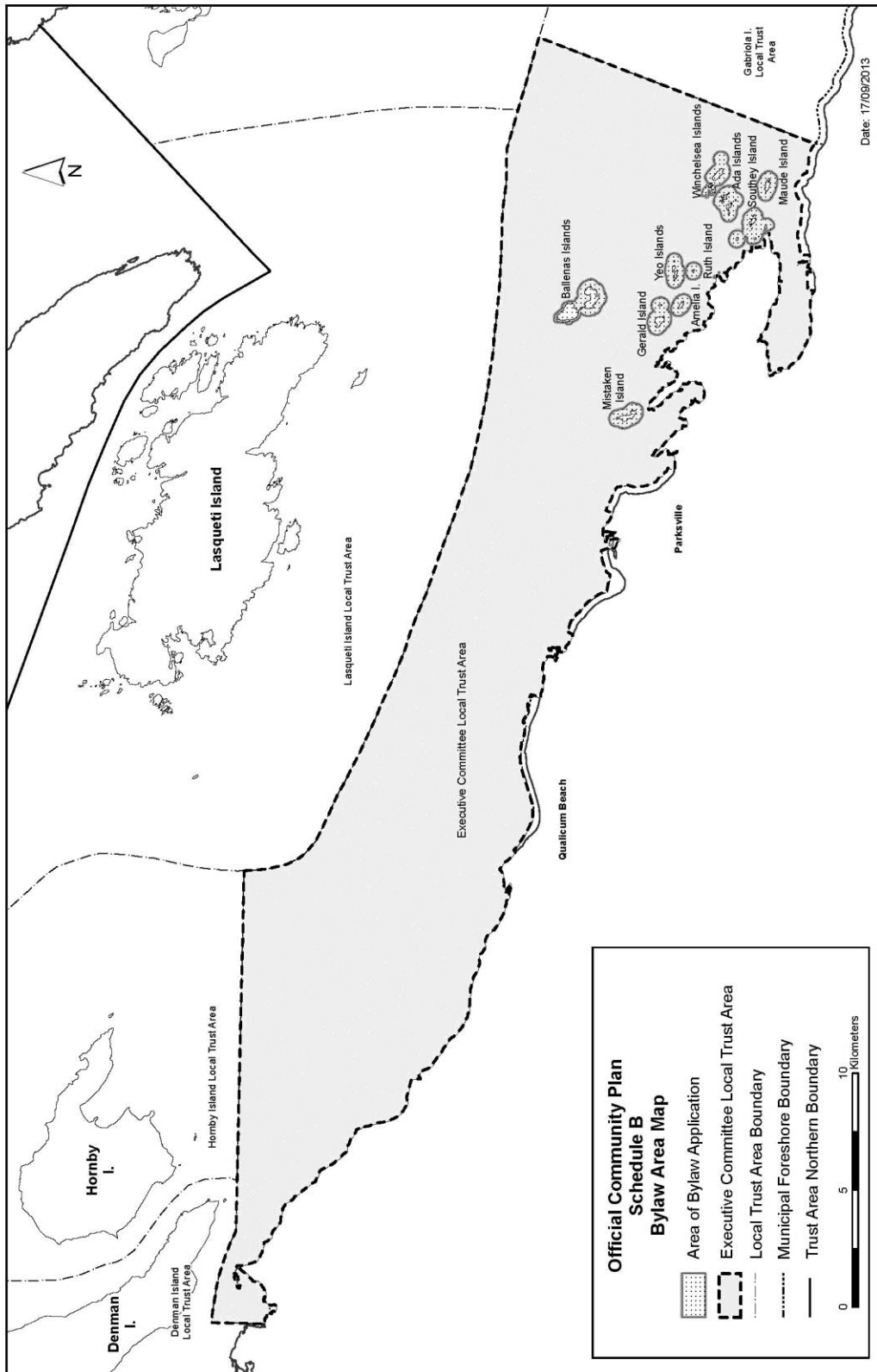
## 6.8 AMENDMENT PROCEDURE

This Bylaw may be amended by the Executive Committee acting as a Local Trust Committee, at its initiative or in response to an application. Individuals seeking amendment shall submit applications in the form provided for in the bylaws of the Local Trust Committee that address fees and procedures.

## 6.9 SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

SCHEDULE B – Bylaw Area Map



SCHEDULE C – Land Use Designations

