



Islands Trust Conservancy

Regular Meeting Agenda

Date: Tuesday, October 4, 2022
Time: 10:00 am
Location: Islands Trust Victoria Boardroom
200-1627 Fort Street, Victoria, BC

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1. CALL TO ORDER	
2. APPROVAL OF AGENDA	
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5.4.8.	Trust Council Update (verbal)	
5.4.9.	Trustee Roundtable (time permitting)	

6. PUBLIC COMMENTS AND DELGATIONS

7. NEW BUSINESS

8. NEXT MEETING

November 22, 2022 at 10:00 a.m

9. CLOSED MEETING

9.1. Motion to Close the Meeting

That the meeting be closed to the public in accordance with the Community Charter, Part 4 Division 3, section: 90 (1) (e) the acquisition, disposition or expropriation of land or improvements, if the board considers that disclosure could reasonably be expected to harm the interests of the Islands Trust Conservancy board; (k) negotiations and related discussions respecting the proposed provision of a service that are at their preliminary stages and that, in the view of the Board, could reasonably be expected to harm the interests of the Islands Trust Conservancy if they were held in public; and that staff be invited to remain in the meeting.

10. ADJOURNMENT



Islands Trust Conservancy

Minutes of Regular Meeting

Date: Wednesday, July 13, 2022
Time: 10:00 a.m.
Location: Islands Trust Victoria Boardroom
200-1627 Fort Street, Victoria, BC

Board Members Present: Kate-Louise Stamford, Chair (attended in-person)
Sue Ellen Fast, Vice-Chair (attended electronically)
Doug Fenton, Board Member (attended in-person)
Linda Adams, Board Member (attended in-person, joined the meeting at 10:27 a.m.)

Board Member Regrets: Risa Smith

Staff Present: Aislyn King, Conservation & GIS Technician Co-op Student
Carmen Smith, Acting Communications Specialist
Corlynn St. John, Administrative Assistant/Recorder
Kate Emming, Islands Trust Conservancy Manager
Kathryn Marten, Ecosystem Protection Specialist
Nuala Murphy, Property Management Specialist
Wendy Tyrrell, Species at Risk Coordinator

1. CALL TO ORDER

Chair Stamford called the meeting to order at 10:05 a.m. and acknowledged that the meeting was being held in Coast Salish First Nations territory.

2. APPROVAL OF AGENDA

The following addition to the agenda was presented for consideration:

- Item 5.1.5 Livingstone Forest NAPTEP Covenant, Hopwood-Ferris (Lasqueti) – Request for Decision

By general consent, the agenda was approved as amended.

3. RISE AND REPORT FROM PREVIOUS CLOSED MEETING

Rise and Report Decisions from the May 24, 2022 Island Trust Conservancy Closed Meeting:

- Islands Trust Conservancy approved an Opportunity Fund Grant of up to \$5,000 to the Raincoast Conservation Foundation and Pender Islands Conservancy Association for a matching campaign for 18 ha of land known as KELÁ_EKE Kingfisher Forest, North Pender.
- Islands Trust Conservancy approved an Opportunity Fund Grant of \$6,000 to the Gabriola Land and Trails Trust for the Gabriola Landholder Contact Program.

- Islands Trust Conservancy approved an Opportunity Fund Grant of \$4,950 to the Galiano Conservancy Association.
- Islands Trust Conservancy approved a Morrison Waxler Biodiversity Protection Legacy Fund Grant of \$3,000 to expand the existing Nighthawk Hill NAPTEP covenant, North Pender.

4. MINUTES/COORDINATION

4.1 Minutes of Meetings/Resolutions without Meetings

4.1.1 Approval of the May 24, 2022 Meeting Minutes

The following amendment to the minutes were presented for consideration:

- Item 5.1.5 ITC/EC Liaison meeting RFD, page 4 - change Islands Trust to Islands Trust Conservancy at the end of the first bullet

By general consent, the minutes were adopted as amended.

4.2 Follow-up Action List

Received for information.

5. BUSINESS

5.1 Items for Approval

5.1.1 2023/24 Budget Submission - Request for Decision

The ITC Manager presented the request for decision to Board members.

Discussion ensued on:

- Appropriate budget for First Nations engagement and Indigenous knowledge holder services
- Staff investigation of CiviCRM software as an option
- Clarity on budget increase requests with a breakdown of where budget items come from including Islands Trust budget versus the Species at Risk budget
- Increasing the travel budget by \$2,000 due to rise in water taxi costs

ITC-2022-034

It was MOVED and SECONDED,

that the ITC Board direct staff to prepare an ITC Budget request, including the following items, and to return to the ITC Board for review in October:

- Increases to the ITC budget to reflect the species at risk grant commitments, totaling \$220,000;
- An increase to the property management budget of \$4,650 to reflect new nature reserves;
- An increase to the travel budget of approximately \$2,000 to accommodate additional increases to water taxi fees required to monitor and manage islands not serviced by ferries;

- An increase to the ITC legal budget of \$7,000 to reflect anticipated costs of legal review and to return the budget to amounts consistent with previous years' budgets;
- Consideration of further increases to the property management budget to accommodate management planning needs for new nature reserves;
- Development of a business case for First Nations engagement associated with development of the ITC Five-Year Plan.
- Development of a business case in collaboration with Information Systems Management for property management software to replace the Islands Trust TAPIS system; and,
- Development of a business case in collaboration with Trust Area Services and Information Services for Contact Relationship Management (CRM) software and possible Content Management System (CMS) software to address inefficiencies in public communications management.

CARRIED

5.1.2 Lisa Baile Nature Reserve (North Pender) Management Plan - Request for Decision

The ITC Property Management Specialist presented the request for decision to Board members.

Board members questioned if a First Nations name had been chosen for the property. The ITC Property Management Specialist advised additional consultation with First Nations is required.

ITC-2022-035

It was MOVED and SECONDED,

that the Islands Trust Conservancy Board approve the Lisa Baile Nature Reserve Management Plan, dated March 25, 2022.

CARRIED

5.1.3 Capilano University Biodiversity & Species at Risk Research, Long Bay Wetland (Gambier) - Request for Decision

The ITC Species at Risk Coordinator presented the request for decision to Board members.

Board members expressed support for the project. Discussion ensued on promotion, collaboration, and the importance of the Howe Sound biosphere.

ITC-2022-036

It was MOVED and SECONDED,

that the Islands Trust Conservancy Board approve biodiversity and species at risk research at the Long Bay Wetland Nature Reserve (Gambier Island) by Capilano University up to December 31, 2023 and allocate up to \$5,000 from the ITC budget to support the work.

CARRIED

5.1.4 Referral, Proposed Bylaw 530 – Housing Action Program (Salt Spring) – Request for Decision

The ITC Manager presented the request for decision to Board members noting this bylaw impacts many properties on Salt Spring Island that are adjacent to ITC nature reserves and covenants.

Discussion ensued on the consideration of climate change, impacts of building, sustainability, opportunity for using expertise on the bigger picture, and that ITC focus is on covenants and nature reserve properties.

ITC-2022-037

It was MOVED and SECONDED,

that the Islands Trust Conservancy (ITC) Board indicate to the Salt Spring Island Local Trust Committee that ITC interests unaffected by Bylaw 530.

CARRIED

5.1.5 Hopwood-Ferris (Lasqueti) – Request for Decision (Late Item)

The ITC Manager presented the request for decision to Board members noting a response from Agricultural Land Commission was received late yesterday.

ITC-2022-038

It was MOVED and SECONDED,

that the Islands Trust Conservancy Board authorizes the Chair to sign a covenant with Douglas Hopwood and Christine Ferris, over the Land described as PID 000-009-474, the West ½ of the South East ¼ of Section 21, Lasqueti Island, Nanaimo District, Except Parts in Plans 17116 and 30313, as approved at its November 23, 2021 meeting (Resolution # ITC-IC-2021-042), with the following amendments, as requested by the Agricultural Land Commission:

1. The addition of language to reference ALC Resolution #116/2022, indicating that the ALC be notified of any covenant amendments; and,
2. Clarification that the trail noted in clause 4.3 (a) is for the use of the landowner and is not intended to be public.

CARRIED

5.2 Items for Discussion/Direction

5.2.1 ITC Communications Strategy Development - Briefing

The ITC Communications Specialist provided a briefing to Board members noting the last ITC Communications Strategy was completed in 2010 and the need for clarification on communication moving forward in current times.

Discussion ensued on use of social media to promote ITC, modernization of communications, and appropriate timing to engage current Board members with current staff prior to the election.

ITC-2022-039

It was MOVED and SECONDED,

that the ITC Board direct staff to coordinate a special meeting of the board, preferably in person, for discussion of the ITC Communications Strategy.

CARRIED

5.2.2 ITC-EC Liaison Meeting Agenda

The ITC Manager advised the agenda had been sent to Executive Committee for review and there were requested item additions including discussion on the Policy Statement Update, Biologist Support for Regional Planning Committee, and ITC information for Ministry staff.

Discussion ensued on:

- Ensuring the ITC Board is comfortable with conversation around the policy and governance reviews and inclusion of ITC in the reviews
- request from Trust Council to the Province for a review of the *Islands Trust Act*, and potential impacts on ITC
- process for the Governance Committee to request ITC participation on the Governance Committee

5.3 Correspondence

5.3.1 Mayne Local Trust Committee Fallow Deer Letter, dated 2022-06-02

Received for information.

5.3.2 Trust Council Fallow Deer Advocacy Letter, dated 2022-06-15

Received for information.

5.4 Updates for Information

5.4.1 Public Acquisitions Report

Received for information.

5.4.2 Public Covenants Report

Received for information.

5.4.3 Budget Report

Received for information.

5.4.4 Executive Committee Update

Trustee Fast advised that the Board would receive updates as part of the ITC/Executive Committee liaison meeting in the afternoon.

5.4.5 Financial Planning Committee Update

Chair Stamford noted Islands Trust and Islands Trust Conservancy audit statements were completed and approved.

5.4.6 Trust Council Update

Trustee Fast provided an update noting the following:

- Community stewardship award recipients were announced
- Trust Council established a new standing Governance Committee including seven elected members
- Trust Council directed the Islands Trust Chair to request a Provincial review of the *Islands Trust Act*
- An amended draft Trust Policy Statement may come to the September Trust Council meeting for review
- Trust Council will submit a resolution to the Union of BC Municipalities advocating for legislation to protect biological diversity and ecosystem health
- Draft Islands Trust Annual Report was approved

The Islands Trust Council Highlights document for June 21-23, 2022 is posted on the Islands Trust events page.

5.4.7 Trustee Roundtable

Chair Stamford advised Trustee Smith had submitted comments regarding item 4.3.7. ITC Biologist Support to Regional Planning Committee. This was shared with ITC Board members via email.

Trustee Fenton advised a rollout of Nature Stewards Program funding and attended the Thetis Island Nature Conservancy's 10th anniversary celebration on Saturday, July 9.

Trustee Adams highlighted a new initiative to create 75-acre park near Mt. Maxwell. A fundraising campaign is underway. CRD and Salt Spring Solutions are involved.

Chair Stamford noted a Gambier research conservation project is underway for Whispering Creek.

Trustee Fast advised there is another park in the works on Bowen. Metro Vancouver Regional Parks has added Cape Roger Curtis lands onto their acquisition lists and are asking for Official Community Plan information. There is controversy and concern regarding Mount Gardner, Crown Land on Bowen, as the Province is considering allowing motorized vehicle use. Bowen Island Municipal Council is not in support.

6. PUBLIC COMMENTS AND DELGATIONS

There were no public attendees.

7. NEW BUSINESS

There was no new business.

8. NEXT MEETING

The next meeting will take place on October 4, 2022 at 10:00 a.m.

9. ADJOURNMENT

By general consent, the meeting adjourned at 12:05 p.m.

Kate-Louise Stamford, Chair

Certified Correct:

Corlynn Strachan, Administrative Assistant/Recorder

DRAFT



Islands Trust Conservancy - Executive Committee Liaison Meeting Minutes of Regular Meeting



Date: Wednesday, July 13, 2022
Time: 1:00 p.m.
Location: Islands Trust Victoria Boardroom
 200-1627 Fort Street, Victoria, BC

ITC Board Members Present Doug Fenton (attended in-person)
 Kate-Louise Stamford, Chair (in-person)
 Linda Adams (attended in-person)
 Sue Ellen Fast, Vice Chair (attended electronically)

EC Members Present Dan Rogers, Vice-Chair (attended electronically)
 Laura Patrick, Vice-Chair (attended in-person)
 Peter Luckham, Chair (attended in-person)
 Sue Ellen Fast, Vice Chair (attended electronically)

Regrets Risa Smith, ITC Board Member

Staff Present Aislyn King, Conservation & GIS Technician Co-op Student
 Carmen Smith, Acting Communications Specialist
 Corlynn Strachan, Administrative Assistant/Recorder
 Heather Kauer, Regional Planning Manager, joined the meeting at 2:15 p.m.
 Kate Emmings, ITC Manager
 Kathryn Martell, Ecosystems Protection Specialist
 Nuala Murphy, Property Management Specialist
 David Marlor, Director, Local Planning Services
 Russ Hotsenpiller, Chief Administrative Officer
 Wendy Tyrrell, Species at Risk Coordinator

1. CALL TO ORDER

The meeting was called to order at 1:00 p.m. Chair Stamford acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations.

1.1 Introductions and Context for Annual Meeting

Chair Stamford welcomed the guests and initiated introductions.

2. APPROVAL OF AGENDA

By **general consent** the agenda was approved.

3. MINUTES

3.1 July 13, 2021 ITC-EC Liaison Meeting Minutes (Approved October 2021)

Received for information.

4. BUSINESS

4.1 Items for Information

4.1.1 ITC 2021/22 Year in Review (presentation)

Islands Trust Conservancy staff provided a presentation on the following topics:

- Regional Conservation Plan
- Property Management
- Reconciliation with First Nations
- Species at Risk Program
- Climate Change Project
- Communications and Engagement
- Fund Development
- Looking Ahead to 2022/23

Executive Committee members thanked staff for a professional and informative presentation. Discussion ensued on:

- invasive species management, including Japanese knotweed
- First Nations consideration of islands as family, marine protected area clusters around small islets, biodiversity protection priorities, and potential partnerships with other agencies for acquisition
- fallow deer management on Mayne Island and deer management in the Islands Trust area
- whether climate zones are moving north by 20 km per year

4.1.2 2021/22 Executive Committee Updates

Governance Report Follow Up

Trustee Luckham advised Trust Council (TC) created a standing governance committee consisting of seven elected members, including CAO Hotsenpiller.

CAO Hotsenpiller advised the first meeting is scheduled for July 29th where the committee will review current policy framework, develop questions and analysis, and consider funding. Islands Trust Conservancy (ITC) was not a part of the scope of the governance report. CAO Hotsenpiller recommends ITC track and provide input that informs the process due to potential impacts on ITC. There will be room for discussion and reflection on the nature of how IT governs.

Trustee Luckham noted TC has not yet discussed or debated the governance report and due to election timing, the committee will develop terms of reference to pass on to a future TC.

Trustee Luckham acknowledged it is not a good time globally/socially for TC to approach the Province for additional funding for ITC.

Trust Council Update

No update provided.

Policy Statement Update

Trustee Rogers advised that, after June Trust Council, there was a Special Meeting of the Trust Programs Committee to address issues raised through community consultation and First Nations engagement regarding the draft Islands Trust Policy Statement. Recommendations were put forward to staff on structure and policies contained within the draft policy statement. Another meeting of Trust Programs Committee is scheduled for August, but it is unlikely that there will be a revised draft policy statement and associated bylaw ready for first reading at the September Trust Council meeting.

4.2 Roundtable: Focus on Collaboration

4.3 Items for Collaboration

4.3.1 ITC Plan (2023-2025) – Briefing

The ITC Manager presented the briefing to Board and Executive members and provided background.

Discussion ensued on:

- bundling requests to First Nations together to make one approach, not overburdening nations
- support for the three-year plan
- using protocol agreements and letters of understanding and challenges associated with upholding agreements
- role of Crown Lands in the islands, First Nations interests and the use of “Crown Lands” colonial language
- using the Heron Newsletter as an information tool for ITC updates versus formal reports
- sharing social media updates with trustees to share ITC information
- ITC staff presentations at local trust committee meetings annually (as a delegation), in-person or over Zoom, using videos and or visual presentations to tell ITC stories
- adding the role of ITC Board members to elections communications

4.3.2 Communications with Trustees/LTCs

Discussed during item 4.3.1

4.3.3 Governance Review Opportunities

Chair Stamford advised she has been elected as a trustee on the standing Governance Committee and recommended ITC be included in the committee.

The ITC Manager suggested a formalized request through the committee for ITC participation, noting, due to limited staff resources, a formalized request would help determine how ITC staff time would be allocated for participation. Trustee

Stamford will make the request to the Governance Committee to clarify ITC involvement.

4.3.4 Working with Crown Agencies to Protect Forests

The ITC Manager noted Executive Committee had met with the Ministry of Forests, Lands and Natural Resource Operations discussing topics on how to protect Coastal Douglas-fir Forests, tree protection bylaws, and Crown Land securement, which is currently not an active program for ITC due to limited resources for First Nations engagement.

Discussion ensued on use of “Crown Land” terminology and suggestion of use “Provincially Managed Lands”,

Trustee Patrick advised Salt Spring is building relationships with the Private Forest Landowners Association (PFLA) with biologists on staff.

4.3.5 Species at Risk Program Update – Briefing

The ITC Species at Risk Program Coordinator provided an update and overview of the Species at Risk Program.

Discussion ensued on cultural species, the abundance of camas fields this year, and adaptation of SAR to climate change.

4.3.6 Working with First Nations

Trustee Stamford is encouraged to note that First Nation engagement actions and opportunities and goals have been discussed throughout these agenda items and it is no longer a stand alone section. Trustee Stamford also noted that in the Howe Sound area, with respect to the Squamish Nation, there seems to be an intent by their staff to see initiatives through the framework of the Átl'ka7tsem / Howe Sound Regional Biosphere and data compatible with the Marine Stewardship Initiative (formally the Marine Reference Guide).

4.3.7 Biologist Support for Regional Planning Committee – Briefing

The ITC Manager welcomed Heather Kauer, Regional Planning Manager, and provided a background on available biologist support for planners over the last fifteen to twenty years.

Discussion ensued on strategic planning, creating management practices, better integration of land use planning with biodiversity goals, and the idea of having an expert panel of professionals to channel projects through.

Trustee Rogers commented this needs to be funded through Islands Trust, this is not an Islands Trust Conservancy issue, and that Trust Council should pick this up.

4.3.8 ITC Information for Ministry Staff

The ITC Manager advised this item came from the Executive Committee as an addition to the agenda and is related to moving funding requests forward as discussed earlier.

Trustee Patrick highlighted interest from Minister Cullen's office for Islands Trust to provide materials including Islands Trust area photos and publications, such as the ITC Impact Report. There is opportunity for Islands Trust to have a presence in ministry offices.

5. NEXT MEETING

To be determined in late 2022.

6. ADJOURNMENT

By general consent, the meeting adjourned at 3:06 p.m.

Kate-Louise Stamford, Chair

Certified Correct:

Corlynn Strachan, Administrative Assistant/Recorder



Follow Up Action Report

Trust Conservancy Board

24-Sep-2010

Activity	Responsibility	Dates	Status
1 Staff to work with landowners to clarify wording of Cunningham Covenant (Salt Spring) regarding vegetation removal, while maintaining conservation as a priority.	Jemma Green Kate Emmings	Target: 31-Dec-2022	In Progress

26-Nov-2019

Activity	Responsibility	Dates	Status
1 Staff to: a) develop a modification agreement to allow for maintenance of the septic field in the Woodwinds NAPTEP Covenant (North Pender); and, b) allow for maintenance of the septic field in the Woodwinds NAPTEP Covenant; and, c) provide resources about alternatives to traditional septic fields to land owners contemplating septic field maintenance or replacement, and new covenants.	Jemma Green Kathryn Martell	Target: 31-Mar-2023	In Progress

26-May-2020

Activity	Responsibility	Dates	Status
1 Determine and develop access for Fairyslipper Forest Nature Reserve (Thetis Island). *See IC minutes of May 26, 2020 meeting.	Kathryn Martell Nuala Murphy	Target: 31-Mar-2023	In Progress



Follow Up Action Report

Trust Conservancy Board

06-Oct-2020

Activity	Responsibility	Dates	Status
1 Staff to complete an ITC Reconciliation Action Plan that incorporates actions in Goal 2 of the Regional Conservation Plan.	Kate Emmings	Target: 31-Jan-2023	In Progress

26-Jan-2021

Activity	Responsibility	Dates	Status
1 Staff to proceed with the approved actions regarding the Morrison Waxler Biodiversity Protection Legacy Fund. *See IC minutes January 26, 2021	Carla Funk	Target: 31-Mar-2023	In Progress

25-May-2021

Activity	Responsibility	Dates	Status
1 Staff to move forward with the Crystal Mountain Society proposal to register a Statutory Right of Way across Lot A on the upper ridge, in favour of Islands Trust Conservancy, to provide legal access to the eastern part of Lot A via the legal easement across neighbouring Lots B and C.	Kathryn Martell	Target: 31-Mar-2023	In Progress

24-Aug-2021

Activity	Responsibility	Dates	Status
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Follow Up Action Report

Trust Conservancy Board

24-Aug-2021

Activity	Responsibility	Dates	Status
1 Staff to work with the Steering Committee of the Sidney Island Ecological Restoration Project to develop appropriate waivers to the Sidney Island conservation covenants for the Sallas Forest Strata once an operations plan is developed to implement the Sidney Island Ecological Restoration, and to return to the Board for approval of proposed waivers	Jemma Green	Target: 31-Mar-2023	In Progress

15-Mar-2022

Activity	Responsibility	Dates	Status
1 Chair Stamford to communicate with Gabriola Trustees regarding the feedback letter from Ken Gurr for the IT 2022-23 Budget and copy the ITC Board.	Kate-Louise Stamford	Target: 29-Apr-2022	In Progress

24-May-2022

Activity	Responsibility	Dates	Status
1 Staff to refer the draft ITC Three-Year Plan to local trust committees, the Bowen Island Municipality, Trust Council and First Nations and to bring a final draft to the Board for approval at its November 2022 meeting.	Kate Emmings	Target: 22-Nov-2022	In Progress
2 Staff to prepare a Project Charter for the next ITC Five-Year Plan (2026-2030) with an emphasis on First Nations engagement.	Kate Emmings	Target: 30-Nov-2022	In Progress



Follow Up Action Report

Trust Conservancy Board

24-May-2022

Activity	Responsibility	Dates	Status
<p>3 Staff to draft and sign an amended contribution agreement with Environment and Climate Change Canada (ECCC), extending the existing Species at Risk Program funding until March 31, 2026, including a budget increase for the 2022/23 fiscal year of \$25,000 and the addition of \$220,000/year in funding for the next three fiscal years (2023/24 through 2025/26).</p>	<p>Kate Emmings Wendy Tyrrell</p>	<p>Target: 31-Oct-2022</p>	<p>In Progress</p>
<p>4 Staff to encourage Trust Council to strongly advocate to the Province for the implementation of sustained, evidence based solutions to invasive Fallow Deer populations on Mayne Island, as requested by the Mayne Island Conservancy Society, to prevent Fallow Deer invasions to other islands.</p>	<p>Kate Emmings</p>	<p>Target: 31-Aug-2022</p>	<p>In Progress</p>
<p>5 The ITC Manager advised Denman Conservancy Association would like ITC to consider taking on Crown Land on Denman. The ITC Manager to respond to the Denman Conservancy Association based on information in current work programs and Regional Conservation Plan goals and objectives.</p>	<p>Kate Emmings</p>	<p>Target: 30-Jun-2022</p>	<p>Completed</p>

13-Jul-2022

Activity	Responsibility	Dates	Status
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Follow Up Action Report

Trust Conservancy Board

13-Jul-2022

Activity	Responsibility	Dates	Status
<p>1 Staff to prepare an ITC Budget request for review in October, including business cases for:</p> <ul style="list-style-type: none"> - First Nations engagement associated with development of the ITC Five-Year Plan; - property management software to replace the Islands Trust TAPIS system, in collaboration with Information Systems Management; and, - Contact Relationship Management (CRM) software and possible Content Management System (CMS) software to address inefficiencies in public communications management, in collaboration with Trust Area Services and Information Services. 	Kate Emmings	Target: 30-Sep-2022	Completed
<p>2 Staff to proceed with approval of the Lisa Baile Nature Reserve Management Plan, dated March 25, 2022.</p>	Nuala Murphy	Target: 04-Oct-2022	Completed
<p>3 Staff to proceed with biodiversity and species at risk research at the Long Bay Wetland Nature Reserve (Gambier Island) by Capilano University up to December 31, 2023 and allocate up to \$5,000 from the ITC budget to support the work.</p>	Wendy Tyrrell	Target: 31-Aug-2022	Completed
<p>4 Staff to advise the Salt Spring Island Local Trust Committee that ITC interests are unaffected by Bylaw 530.</p>	Kate Emmings	Target: 29-Jul-2022	Completed



Follow Up Action Report

Trust Conservancy Board

13-Jul-2022

Activity	Responsibility	Dates	Status
<p>5 Staff to proceed with arranging the Chair to sign a covenant with Douglas Hopwood and Christine Ferris, over the Land described as PID 000-009-474, the West ½ of the South East ¼ of Section 21, Lasqueti Island, Nanaimo District, Except Parts in Plans 17116 and 30313, as approved at its November 23, 2021 meeting (Resolution # ITC-IC-2021-042), with the following amendments, as requested by the Agricultural Land Commission:</p> <ol style="list-style-type: none"> 1. The addition of language to reference ALC Resolution #116/2022, indicating that the ALC be notified of any covenant amendments; and, 2. Clarification that the trail noted in clause 4.3 (a) is for the use of the landowner and is not intended to be public. 	<p>Kate Emmings Kate-Louise Stamford</p>	<p>Target: 29-Jul-2022</p>	<p>Completed</p>
<p>6 Staff to coordinate a workshop with the board, preferably in person, for discussion of the ITC Communications Strategy.</p>	<p>Carmen Smith</p>	<p>Target: 31-Aug-2022</p>	<p>Completed</p>



REQUEST FOR DECISION

To: Islands Trust Conservancy Board **For the Meeting of:** October 4, 2022
From: Kathryn Martell, Ecosystem Protection Specialist **Date Prepared:** August 26, 2022

SUBJECT: Hoak-pus/Sandy Beach Nature Reserve, Keats Island, Conservation Covenant Approval

RECOMMENDATION: That the Islands Trust Conservancy Board directs the Chair to sign the Conservation Covenant agreement among TLC The Land Conservancy of British Columbia, the Sunshine Coast Conservation Association, and the Islands Trust Conservancy, over the land identified as Lot 1 District Lot 696 Group 1 New Westminster District Plan EPP89532 (PID: 031-259-731) and known as Sandy Beach Nature Reserve.

1 PURPOSE:

To register a covenant to further protect the mature forests, old trees, coastal bluffs, and undeveloped shoreline of Hoak-pus/Sandy Beach Nature Reserve on Keats Island (Gambier Island Local Trust Area).

2 BACKGROUND:

Islands Trust Conservancy (ITC) Board acquired Sandy Beach Nature Reserve in December, 2020 through a rezoning and subdivision application process with the Convention of Baptist Churches of British Columbia. One of the terms of Transfer Agreement committed ITC to register a conservation covenant on the property:

10. Covenant: ITC will execute and deliver to the Convention for registration prior to the first anniversary of the Closing Date, a covenant pursuant to section 219 of the Land Title Act and a statutory right of way pursuant to section 218 of the Land Title Act in favour of the Sunshine Coast Conservation Association and TLC The Land Conservancy of British Columbia with respect to the use of the Property, in a form substantially the same as that attached as Schedule "C".

Sandy Beach Nature Reserve (SBNR) protects 3.55 hectares (8.77 acres) on the southwestern portion of Keats Island and spans 353 metres (1,394 feet) of marine shoreline along its northwestern boundary. Four provincially at-risk ecological communities occur within SBNR. SBNR is an important cultural site located within the core traditional territory of the Skw̓ xwú7mesh (Squamish) people. In a recent communication, the Skw̓ xwú7mesh First Nation informed staff that the general name for the area by Sandy Beach Nature Reserve is "Hoak-pus" which is the most southerly tip of Keats Island.

A baseline report had been prepared by a contractor hired by the previous owner before transfer. ITC hired a biologist to update the baseline report to reflect new property boundaries. A Management Plan for SBNR was prepared at the same time as the baseline report updates, and finalized in May 2022. This Management Plan was reviewed and approved by the proposed co-covenant holders, the Sunshine Coast Conservation Association (SCCA) and TLC The Land Conservancy of BC (TLC). At its May 24th, 2022 meeting, the ITC Board passed the following resolution:

ITC 2022-028

that the Islands Trust Conservancy Board approve the Sandy Beach Nature Reserve Management

Plan as amended.

Covenant Overview

The covenant is consistent with the ITC standard conservation covenant for a Nature Reserve, with the additions and changes noted below:

- Wording adapted to reflect that an active Management Plan is already in place;
- As an exception to the restrictions on use of the land, in accordance with the Management Plan, the covenant permits ITC to “4.3 (c) allow for traditional uses of the Land by Aboriginal Peoples who include the Land as their traditional territory, which traditional uses may include, among other things, collection of plants.”
- No priority agreement over BC Hydro Rights of Way (see below)

3 IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL: The covenant is consistent with the ITC standard conservation covenant template except as noted above.

FINANCIAL: ITC will be paying covenant registration fees. Staff anticipate that these will cost under \$1,500.

POLICY: Consistent with policy.

IMPLEMENTATION/COMMUNICATIONS: The covenant will be signed following ITC approval and ITC staff will arrange for covenant registration. Staff will update the ITC website.

FIRST NATIONS: ITC began engagement with the Siwxwú7mesh Úxwumixw (Squamish Nation) during the acquisition and management planning processes. ITC has recently received feedback on the Sandy Beach Management Plan and will work with First Nations to ensure that management of the Nature Reserve and the covenant are reflective of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), and will also develop a Management Plan for Areas of Cultural Heritage and Sacred Significance.

CLIMATE CHANGE: Climate change is likely to have a significant impact on the forests and shoreline of SBNR. Ongoing monitoring will determine climate change impacts to the ecosystems in SBNR, and management activities may be adapted, according to the management planning process in the covenant agreement.

OTHER:

There are two BC Hydro Statutory Rights of Way for power lines and associated works in SBNR. These charges are old (1960s) and very permissive and allow for the removal of vegetation and the creation of roads to access the lines. They are not compatible with land management in a nature reserve. Staff has been in contact with BC Hydro and they indicated a willingness to modify the charges, however, staff has been unable to continue progress with this negotiation in recent months. Staff recommend registering the conservation covenant with the existing charges but continuing to negotiate with BC Hydro to revise the Statutory Rights of Way to mitigate future risks to the nature reserve. Costs will include a \$1,200 fee to BC Hydro and the cost of surveying the lines (approximately \$5,000), and the new revised SRW would to be registered with priority over the covenant.

4 **RELEVANT POLICY(S):** [ITC 2.3 - Acquisition and Management of Land](#)

5 **ATTACHMENT(S):** Sandy Beach Nature Reserve Conservation Covenant Agreement

RESPONSE OPTIONS

Recommendation: That the Islands Trust Conservancy Board directs the Chair to sign the Conservation Covenant agreement among TLC The Land Conservancy of British Columbia, the Sunshine Coast Conservation Association, and the Islands Trust Conservancy, over the land identified as Lot 1 District Lot 696 Group 1 New Westminster District Plan EPP89532 (PID: 031-259-731) and known as Hoak-pus/Sandy Beach Nature Reserve.

Alternative: That the Islands Trust Conservancy Board directs the Chair to sign the Conservation Covenant agreement among TLC The Land Conservancy of British Columbia, the Sunshine Coast Conservation Association, and the Islands Trust Conservancy, over the land identified as Lot 1 District Lot 696 Group 1 New Westminster District Plan EPP89532 (PID: 031-259-731) and known as Hoak-pus/Sandy Beach Nature Reserve, subject to final coordination of the changes to the BC Hydro Statutory Rights of Way.

Prepared By: Kathryn Martell, Ecosystem Protection Specialist

Reviewed By/Date: Kate Emmings, ITC Manager / September 21, 2022

TERMS OF INSTRUMENT – PART 2

**Section 219 Conservation Covenant and
Section 218 Statutory Right of Way**

This Agreement dated for reference _____ is

AMONG:

ISLANDS TRUST CONSERVANCY, a corporation under the *Islands Trust Act* (British Columbia) with its office at 200-1627 Fort Street, Victoria, B.C. V8R 1H8

("Owner")

AND:

SUNSHINE COAST CONSERVATION ASSOCIATION, a society registered in British Columbia (Registration No. S-0037722) with a mailing address at P.O Box 1969, Sechelt, B.C. V0N 3A0

("SCCA")

AND:

TLC THE LAND CONSERVANCY OF BRITISH COLUMBIA, a society registered in British Columbia (Registration No. S-0036826) with a mailing address at 5150 Cordova Bay Road, Victoria, B.C., V8Y 2K6

("TLC")

(collectively, the "parties")

WHEREAS:

- A. The Owner is the registered owner in fee simple of the Land;
- B. The Land contains significant natural area values and amenities including flora, fauna and natural features of great importance to the Owner, the Covenant Holders and the public;
- C. The Owner wishes and has agreed to grant to the Covenant Holders a covenant pursuant to section 219 of the *Land Title Act*, to restrict the use and subdivision of the Land, and a statutory right of way pursuant to section 218 of the *Land Title Act*;
- D. A statutory right of way in favour of each Covenant Holder is necessary for the operation and maintenance of the undertakings of each Covenant Holder;
- E. SCCA has been designated by the minister under section 219(3)(c) of the *Land Title Act* as a person authorized to accept covenants and under section 218(1)(d) of the *Land Title Act* as a person authorized to accept statutory rights of way; and

- F. TLC has been designated by the minister under section 219(3)(c) of the *Land Title Act* as a person authorized to accept covenants and under section 218(1)(d) of the *Land Title Act* as a person authorized to accept statutory rights of way.

In consideration of the payment of \$2.00 now paid by each of the Covenant Holders to the Owner, the receipt and sufficiency of which is acknowledged by the Owner, and in consideration of the promises exchanged below, the parties covenant and agree as follows, in accordance with sections 218 and 219 of the *Land Title Act*:

1. INTERPRETATION

- 1.1 In this Agreement, in addition to the words defined above:
- (a) “Amenities” includes those natural, scientific, environmental, wildlife, plant and cultural values relating to the Land as identified in the Report;
 - (b) “Business Day” means any day other than Saturday, Sunday or British Columbia statutory holidays;
 - (c) “Certificate” means a certificate issued by the Covenant Holders under section 13.2;
 - (d) “Covenant Holders” means, unless the context otherwise requires, the SCCA and the, together, and “Covenant Holder” means either of them, as the context may require;
 - (e) “Land” means the parcel of Land legally described as Parcel Identifier 031-259-731 , Lot 1 District Lot 696 Group 1 New Westminster District Plan EPP89532;
 - (f) “Management Plan” means the management plan for the Land, approved by the Owner and the Covenant Holders in accordance with Article 5, a copy of which is on file with each of the parties;
 - (g) “Notice of Breach” means a notice of breach given under section 11.1; and
 - (h) “Report” means the baseline documentation report that describes the Land and the Amenities in the form of text, maps, and other records of the Land for the purpose of this Agreement, a copy of which is on file with each of the parties at the addresses set out in Article 14, and a copy of which is attached as Schedule A.
- 1.2 Where this Agreement provides that something is in the “sole discretion” of a party, that thing is within the sole, absolute and unfettered discretion of that party.
- 1.3 This Agreement must be interpreted in accordance with the laws of British Columbia and the laws of Canada applicable in British Columbia, and the parties agree that the courts of British Columbia have exclusive jurisdiction over any proceeding concerning this Agreement and to attorn to the jurisdiction of such courts.

1.4 This Agreement is comprised of the recitation of the parties, the recitals to this Agreement, the Schedule to this Agreement, Part 1 of the *Land Title Act* Form C to which this Agreement is attached, and these Terms of Instrument.

1.5 In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context otherwise requires;
- (b) where a word or expression is defined in this Agreement, other grammatical forms of the same word or expression have corresponding meanings;
- (c) reference to a particular numbered Article or section, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered Article, section or Schedule of this Agreement, except where otherwise provided;
- (d) Article headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (e) the word “enactment” has the meaning given to it in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (g) reference to an enactment is to an enactment of the province of British Columbia except where otherwise provided;
- (h) reference to a “party” or the “parties” is a reference to a party or the parties to this Agreement and their respective successors, assigns, trustees, administrators and receivers; and
- (i) reference to a “day”, “month” or “year” is a reference to a calendar day, calendar month or calendar year, as the case may be, unless otherwise expressly provided.

2. REPRESENTATIONS AND WARRANTIES

2.1 The Owner represents and warrants to the Covenant Holders that the facts set out in Recitals A and C are true as of the date of this Agreement.

2.2 SCCA represents and warrants to the Owner that the facts set out in Recitals D and E are true as of the date of this Agreement.

2.3 TLC represents and warrants to the Owner that the facts set out in Recitals D and F are true as of the date of this Agreement.

2.4 Each party represents and warrants to each other party that the facts set out in Recital B are true as of the date of this Agreement.

3. INTENT OF AGREEMENT

3.1 The parties agree that the intent of this Agreement is:

- (a) to protect, preserve, conserve, maintain, enhance and, if applicable from time to time restore, the natural state of the Land and the Amenities as described in the Report, and
- (b) to prevent any occupation or use of the Land that will impair or interfere with the natural state of the Land and the Amenities as described in the Report,

and the parties agree that this Agreement is to be interpreted, performed and applied in that context.

3.2 This Agreement shall be perpetual to reflect the public interest in the protection, preservation, conservation, maintenance and enhancement of the Land and the Amenities.

4. RESTRICTIONS ON USE AND SUBDIVISION OF THE LAND

4.1 Except as expressly permitted in this Agreement, the Owner must not do anything, omit to do anything, allow anything to be done or allow the omission of anything, that does or could reasonably be expected to destroy, impair, diminish, negatively affect or alter the Land or the Amenities from the condition described in the Report.

4.2 Without restricting the generality of section 4.1, the Owner must not, except in accordance with the Management Plan, or with the prior written approval of both Covenant Holders, in the sole discretion of each of them:

- (a) use or permit the use of the Land for an activity or use which:
 - (i) causes or allows silts, leachates, fills or other deleterious substances to be released into any watercourse on the Land;
 - (ii) causes the erosion of the Land to occur;
 - (iii) causes or facilitates the loss of soil on the Land;
 - (iv) alters or interferes with the hydrology of the Land, including by the diversion of natural drainage or flow of water in, on or through the Land;
 - (v) causes or allows fill, rubbish, ashes, garbage, waste or other material foreign to the Land to be deposited in, on or under the Land;
 - (vi) causes or allows any component of the Land, including soil, gravel or rock, to be disturbed, explored for, moved, removed from or deposited in or on the Land;

- (vii) causes or allows pesticides, including but not limited to herbicides, insecticides or fungicides, to be applied to or introduced onto the Land; or
- (viii) causes or allows any indigenous flora on the Land to be cut down, removed, defoliated or in any way tampered with;
- (b) use or permit the use of the Land for hunting, fishing, gathering, or the grazing of domestic animals;
- (c) construct, build, affix or place on the Land any buildings, structures, fixtures or improvements of any kind;
- (d) lay out or construct any new roads on the Land;
- (e) use or permit the use of motorized or non-motorized vehicles on the Land other than emergency vehicle use;
- (f) subdivide the Land by any means;
- (g) permit any fires or camping in or on the Land; and
- (h) lease or license the Land or any part thereof unless the lease or license is expressly made subject to the provisions of this Agreement and expressly entitles the Owner to terminate the lease or license if the tenant or licensee breaches any of the provisions of this Agreement.

4.3 As an exception to section 4.1, the Owner may, in accordance with the Management Plan:

- (a) install, maintain or replace a reasonable number of signs for the purposes of public safety or informing the public about the Land and the Amenities;
- (b) maintain, replace or restore the trails existing within the Land at the time of registration of this Agreement (the location of which are identified in the Report), so long as the location of each trail remains the same and the size is the same or smaller; and
- (c) allow for traditional uses of the Land by Aboriginal Peoples who include the Land as their traditional territory, which traditional uses may include, among other things, collection of plants.

5. MANAGEMENT PLAN

5.1 The management of the Land shall be governed by the Management Plan. The Management Plan includes provisions to address management of any public use of the Land and the protection of the Amenities.

- 5.2 The Owner must review and revise the Management Plan at least every 10 years. The Owner must submit the Management Plan, and any proposed revisions to the Management Plan, to each Covenant Holder for approval. Each Covenant Holder must, within 60 business days of receipt of the proposed Management Plan, notify the Owner in writing whether or not that Covenant Holder, acting reasonably, approves the proposed Management Plan.
- 5.3 If a Covenant Holder does not approve the proposed Management Plan, the Covenant Holder will, in its notification to the Owner, provide written reasons for not approving the Management Plan and a description of changes to the Management Plan that are necessary for the Covenant Holder to approve the Management Plan.
- 5.4 The Owner must, within 25 Business Days of receipt of a Covenant Holder's requested changes to the Management Plan, notify the Covenant Holders in writing whether or not it accepts the requested changes. If the Owner does not accept the requested changes, the Owner and the Covenant Holders must, within 30 Business Days of receipt of the notice, meet and attempt to resolve the outstanding issues, acting reasonably and in good faith.
- 5.5 If the parties are unable to resolve all outstanding issues under section 5.4, the parties may agree to mediate the outstanding issues. If the parties agree to participate in mediation, they will appoint a mediator acceptable to all parties within 20 Business Days. If the parties are not able to agree on a mediator within 20 Business Days, the parties will use a mediator recommended by the Mediate BC Society or its successor.
- 5.6 The parties must share equally the cost of the mediator and the mediation facilities, and act reasonably and in good faith and cooperate with the mediator and with each other in an attempt to resolve the matter within 30 Business Days after the mediator is appointed.
- 5.7 The role of the mediator will be to assist the parties to find language for the Management Plan that is acceptable to all parties.
- 5.8 If the Parties are unable to resolve all outstanding issues with the assistance of the mediator or otherwise, the Owner may notify the Covenant Holders that it elects to withdraw the Management Plan submission.
- 5.9 In the event that the parties are unable to agree on a Management Plan, the management of the Land shall be governed by the most recently approved Management Plan, in a manner consistent with this Agreement.

6. BASELINE DOCUMENTATION REPORT

- 6.1 The parties each agree that the Land and the Amenities are described in the Report and that the Report provides an accurate description of the Land and its Amenities as of the date of this Agreement.
- 6.2 The parties agree that the Report is intended to serve as an objective information baseline for monitoring compliance with the terms of this Agreement.

- 6.3 The Covenant Holders will provide a copy of the full Report to the Owner upon request from the Owner from time to time.
- 6.4 The parties each acknowledge that the flora and fauna on the Land will evolve through natural succession over time and, unless otherwise expressly stated, references to the Report are intended to take into account the natural succession of the flora and fauna over time, without human intervention other than as expressly permitted by this Agreement.

7. DISPUTE RESOLUTION

- 7.1 If a breach of this Agreement occurs or is threatened, or if there is disagreement as to the meaning of this Agreement, either Covenant Holder or the Owner may give notice to the other parties requiring a meeting of all parties within 10 Business Days of receipt of the notice.
- 7.2 Upon receipt of a notice under section 7.1, all parties must immediately cease any activity giving rise to a breach or threatened breach of this Agreement, and any activity giving rise to a disagreement as to the meaning of this Agreement.
- 7.3 The parties must attempt to resolve the matter, acting reasonably and in good faith, within 20 Business Days of receipt of the notice under section 7.1.
- 7.4 If the parties are not able to resolve the matter within the time set out in section 7.3, the parties may agree to mediate the matter. If the parties agree to participate in mediation, they will appoint a mediator acceptable to all parties within 20 Business Days. If the parties are not able to agree on a mediator within 20 Business Days, the parties will use a mediator recommended by the Mediate BC Society or its successor.
- 7.5 The parties must share equally the cost of the mediator and the mediation facilities, and act reasonably and in good faith and cooperate with the mediator and with each other in an attempt to resolve the matter within 30 days after the mediator is appointed.
- 7.6 This Article does not affect the right of a Covenant Holder to pursue any other legal or equitable remedy in relation to a breach or a threatened breach of this Agreement, including without limitation under Article 11, and a Covenant Holder may pursue other remedies concurrently with any dispute resolution under this Article.

8. OWNER'S RESERVED RIGHTS

- 8.1 Subject to Article 4, the Owner reserves all of its rights as owner of the Land, including the right to use, occupy and maintain the Land in any way that is not expressly restricted or prohibited by this Agreement, so long as the use, occupation or maintenance is consistent with the intent of this Agreement.
- 8.2 Without limiting the generality of section 8.1 the following rights are, subject to Article 4, expressly reserved to the Owner:

- (a) to maintain, replace or restore the trails existing on the Land at the time of registration of this Agreement and identified in the Report, so long as the location of the trail remains the same and the size is the same or smaller;
- (b) to place survey pins or other markers on the Land;
- (c) to increase the visibility of existing survey pins by clearing understory vegetation within 0.5m of the pin or marking; and
- (d) to install, maintain or replace a reasonable number of signs for the purposes of public safety or informing the public about the Land and the Amenities, so long as each sign is not larger than 1 metre by 1 metre in size.

8.3 Subject to section 8.4, nothing in this Agreement restricts or affects the right of the Owner to do anything reasonably necessary to:

- (a) prevent potential injury or death to any individual; or
- (b) prevent, abate or mitigate any damage or loss to any real or personal property.

8.4 If the Owner intends to do, or permit to be done, anything described in section 8.3, the Owner must give at least 30 days' prior written notice to each Covenant Holder, describing in reasonable detail the intended action, the reason for it and its likely effect on the Land and the Amenities. Where the Owner gives notice under this section, the Owner must permit each Covenant Holder to enter upon the Land and inspect the Land. The Covenant Holders may within that 30 day period comment on the proposed action and the Owner must take those comments into consideration before taking or permitting the proposed action to be taken under section 8.3.

8.5 Notwithstanding section 8.4, in the case of an emergency situation where the Owner must take immediate action under section 8.3, the Owner may take such necessary action without first notifying the Covenant Holders. As soon as possible after the action is taken, the Owner must notify each Covenant Holder of the circumstances of the action taken, including the actual or likely effect of the action on the Land and the Amenities. Where such emergency action is taken, the Owner must permit each Covenant Holder to enter upon the Land and inspect the Land.

9. OWNER'S OBLIGATIONS

9.1 The Owner

- (a) retains all responsibilities and bears all costs and liabilities related to the ownership, use, occupation and maintenance of the Land; and
- (b) acknowledges and agrees that the Covenant Holders shall not be liable for any such costs and liabilities except where specifically provided in the Agreement.

9.2 The Owner is liable for any and all breaches of this Agreement, but the Owner is not liable for:

- (a) breaches of this Agreement which occurred prior to the Owner becoming the registered owner of any interest in the Land, provided the Owner has received a Certificate jointly issued by the Covenant Holders immediately before or at the time of the transfer of the Land or of any interest in the Land, certifying that there were no violations of this Agreement as of the date of issuance of the Certificate;
- (b) injury or alteration to the Land and the Amenities resulting from natural causes, or causes beyond the Owner's reasonable control, including accidental fire, flood, storm, vandalism, trespass and earth movement, but excluding injury or alteration resulting from actions of the Owner or any other person with the actual or constructive knowledge of the Owner;
- (c) any prudent action taken by the Owner under emergency conditions to prevent, abate, or mitigate significant injury to the Land (including improvements) or the Amenities, resulting from natural causes, including accidental fire, flood, storm and earth movement; or
- (d) injury or alteration to the Land caused by the Covenant Holders exercising their rights under this Agreement.

9.3 Where, as provided in paragraph 9.2(b), the Owner is not responsible for injury or alteration to the Land due to trespass or vandalism, the Owner will take all reasonable steps to identify the person responsible and seek financial restitution for the injury or alteration to the Land either by agreement or through a prosecution.

9.4 Where the Owner receives financial compensation for injury or alteration to the Land under section 9.3, the Owner agrees, after consulting with the Covenant Holders, to apply such moneys (net of all costs incurred by the Owner in seeking the compensation) to the restoration of the Land, or where the Owner determines that restoration is not practicable, towards the general management and conservation of the Land.

10. STATUTORY RIGHT OF WAY

10.1 The Owner grants to each Covenant Holder a licence, and a statutory right of way pursuant to section 218 of the *Land Title Act*, permitting each Covenant Holder to do the following:

- (a) enter upon the Land to access and inspect the Land at all reasonable times upon prior notice by a Covenant Holder to the Owner of at least 24 hours, unless, in the opinion of a Covenant Holder, there is an emergency or other circumstance which makes giving such notice impractical;
- (b) as part of inspection of the Land under subsection (a), take soil, water or other samples, photographs, and video and sound recordings as may be necessary to monitor compliance with and enforce the terms of this Agreement;
- (c) enter upon and protect, preserve, conserve, maintain, enhance, rehabilitate or restore, in the Covenant Holder's sole discretion and at the Covenant Holder's

expense, the Land or the Amenities to as near the condition described in the Report as the Covenant Holder considers is practicable or desirable, if an act of nature or of any person other than as described in subsection (d) destroys, impairs, diminishes or negatively affects or alters the Land or the Amenities from the condition described in the Report;

- (d) in accordance with Article 11, enter upon and protect, preserve, conserve, maintain, enhance, rehabilitate or restore, in the Covenant Holder's sole discretion and at the Owner's expense, the Land or the Amenities to as near the condition described in the Report as in the Covenant Holder's sole discretion is practicable or desirable, if an action of the Owner or any other person acting with the actual or constructive knowledge of the Owner contravenes any term of this Agreement;
- (e) carry out or evaluate any program agreed upon by the parties for the protection, preservation, conservation, maintenance, restoration or enhancement of all or any portion of the Land or the Amenities;
- (f) place survey pegs or other markings on the Land to clearly identify the Land or access to the Land, or to increase the visibility of existing survey pegs or other markings; and
- (g) erect a plaque or other sign on the Land, in a tasteful manner and at the expense of the Covenant Holder, indicating that the Covenant Holder (or the Covenant Holders) holds a covenant on the Land, provided that the size, style and location of the plaque or sign must be approved by the Owner prior to its placement, such approval not to be unreasonably withheld.

10.2 The Covenant Holders may bring workers, contractors and employees, and vehicles, equipment and other personal property, onto the Land when exercising their rights under this Article.

11. ENFORCEMENT REMEDIES OF THE COVENANT HOLDERS

11.1 If either Covenant Holder, in its sole discretion, believes that the Owner has failed to perform any of its obligations under this Agreement, or is otherwise in breach of any term of this Agreement, that Covenant Holder may give a Notice of Breach to the Owner and the other Covenant Holder setting out particulars of the breach, including the Covenant Holder's estimated maximum costs of remedying the breach.

11.2 On receipt of a Notice of Breach, the Owner must

- (a) immediately cease all activities giving rise to the breach; and
- (b) within 60 days remedy the breach or make arrangements satisfactory to the Covenant Holder to remedy the breach, including with respect to the time within which the breach must be remedied.

- 11.3 For clarity, the requirement in subsection 11.2(b) to remedy a breach requires the Owner to undertake such rehabilitation or restoration necessary to remedy any damage done to the Land contrary to this Agreement, at the Owner's sole expense.
- 11.4 If the Owner does not comply with the requirements of section 11.2 within the time required or agreed upon, either Covenant Holder may enter upon the Land and take any required actions to cease any activities giving rise to the breach, and to remedy the breach or carry out the arrangements referred to in section 11.2. The Owner must reimburse that Covenant Holder for any expenses incurred in taking any action under this section, up to the estimated maximum costs of remedying the breach as set out in the Notice of Breach.
- 11.5 Expenses incurred by the Covenant Holder under this Article, until paid, are a debt owed by the Owner to the Covenant Holder payable within 30 days of demand by a Covenant Holder.
- 11.6 By this section, each Covenant Holder appoints the other its agent for the purpose of recovering any debt owed by the Owner to the Covenant Holder who incurred expenses under this Article, including through legal proceedings, and the Covenant Holder who recovers the debt holds it, less reasonable legal fees and disbursements and other reasonable expenses of recovery, as agent for the Covenant Holder that incurred the expenses.

12. ASSIGNMENT OF AGREEMENT OR DISSOLUTION OF THE COVENANT HOLDERS

- 12.1 This Agreement is assignable by a Covenant Holder, but a Covenant Holder may only assign its rights and obligations under this Agreement to a person or entity authorized to hold statutory rights of way under section 218 of the *Land Title Act* and covenants under section 219 of the *Land Title Act*.
- 12.2 Each Covenant Holder agrees that before it assigns this Agreement under this Article, it must notify the Owner and the other Covenant Holder with respect to the proposed assignee.
- 12.3 In the event of a pending winding-up or dissolution of a Covenant Holder, that Covenant Holder must use its best efforts to assign and transfer all of its interest under this Agreement to a person or entity authorized to accept statutory rights of way under section 218 of the *Land Title Act* and covenants under section 219 of the *Land Title Act*. If no such person or entity is found, the Covenant Holder shall assign its rights to the other Covenant Holder or, if the other Covenant Holder refuses the assignment, to Her Majesty the Queen in Right of British Columbia.

13. NOTICE OF CHANGE IN OWNERSHIP BY OWNER

- 13.1 The Owner must notify the Covenant Holders of any change of ownership prior to the registration of any such change in the land title office.

- 13.2 The Owner may request that the Covenant Holders visit the Land and jointly issue a Certificate indicating whether or not there are any violations of this Agreement as of the date of the Certificate.
- 13.3 Failure by the Owner to comply with section 13.1 does not affect the enforceability of this Agreement against the Owner or its successors in title to the Land.

14. NOTICE

- 14.1 Any notice or other communication (collectively a “notice”) required or permitted under this Agreement must be in writing and must be:
- (a) delivered in person;
 - (b) delivered by courier;
 - (c) sent by facsimile to the parties at their respective facsimile numbers set out in section 14.4;
 - (d) sent by electronic means to the parties at their respective addresses for electronic communications, if the parties have provided such an address; or
 - (e) sent by pre-paid registered mail addressed to the parties at their respective addresses set out in section 14.4.
- 14.2 A notice given by facsimile or electronic means under subsection 14.1(c) or (d), respectively, must be followed by a copy sent by ordinary mail, except that a notice given under subsection 10.1(a) may be given by electronic means without the requirement to send a copy by ordinary mail.
- 14.3 Unless otherwise provided, a notice
- (a) delivered in person or courier is deemed received on delivery;
 - (b) sent by facsimile or electronic means:
 - (i) if the notice is transmitted before 3:00 pm on a Business Day, the document is deemed to be received on the day of transmission;
 - (ii) if the notice is transmitted after 3:00 pm on a Business Day or is transmitted on a day that is not a Business Day, the notice is deemed to be received on the next day that is a Business Day; and
 - (c) sent by pre-paid registered mail is deemed received on the fourth Business Day following the day on which the notice was sent.
- 14.4 The addresses of the parties for notices under this Article are as follows:
- (a) The Owner:

Islands Trust Conservancy
200-1627 Fort Street
Victoria, BC V8R 1H8
Fax: 250-405-5155
Email: itcmail@islandstrust.bc.ca

- (b) Sunshine Coast Conservation Association:
PO Box 1969
Sechelt, B.C. V0N 3A0
Email: office@thescca.ca
- (c) TLC The Land Conservancy of British Columbia:
5150 Cordova Bay Road
Victoria, B.C. V8Y 2K6
Email: covenant@conservancy.bc.ca

14.5 Each party agrees to give written notice immediately to the other parties of any change in its address or facsimile number from those set out in section 14.4, and to keep the other parties apprised of any changes to the party's address for electronic communications if one is provided,

15. NOTICE OF COVENANT

15.1 The Owner and the Covenant Holders agree that each may publicize the existence of this Agreement in a tasteful manner.

16. NO LIABILITY IN TORT

16.1 The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this Agreement as a covenant under seal. Without limitation, the parties agree that no tort or fiduciary obligations or liabilities of any kind are created or exist between the parties in respect of this Agreement, and nothing in this Agreement creates any duty of care or other duty on any of the parties to anyone else. For clarity, the intent of this section is to, among other things, exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and the law pertaining to covenants under seal.

17. WAIVER

17.1 An alleged waiver of any breach of this Agreement is effective only if it is an express written waiver signed by each of the Covenant Holders, and is only effective to the extent of that express waiver and does not operate as a waiver of any other breach.

17.2 The failure for any reason of either or both Covenant Holders to require performance by the Owner at any time of any obligation under this Agreement does not affect either Covenant Holder's right to subsequently enforce that obligation.

18. JOINT AND SEVERAL OBLIGATIONS

18.1 Where at any time there is more than one Owner in this Agreement, the obligations of those Owners are joint and several.

19. REMEDIES NOT EXHAUSTIVE

19.1 Exercise or enforcement by a party of any remedy or right under or in respect of this Agreement does not limit or affect any other remedy or right that party may have against the other parties in respect of or under this Agreement or its performance or breach.

20. COVENANT RUNS WITH THE LAND

20.1 Every obligation and covenant of the Owner in this Agreement constitutes both a personal covenant and a covenant granted under section 219 of the *Land Title Act* in respect of the Land, and the provisions of Article 10 constitute a statutory right of way granted under section 218 of the *Land Title Act*. This Agreement burdens the Land and runs with it and binds the successors in title to the Land and each and every part into which the Land may be subdivided by any means and any parcel with which the Land or any part of it is consolidated.

21. REGISTRATION

21.1 The Owner agrees to do everything necessary, at the Owner's expense, to ensure that this Agreement, and the interests it creates, are registered against title to the Land, with priority over all financial charges, liens and encumbrances, including options to purchase, rights to purchase and rights of first refusal, registered or pending registration in the applicable provincial land title office at the time of application for registration of this Agreement.

22. SEVERANCE

22.1 If any part of this Agreement is held by a court to be invalid, illegal or unenforceable, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement is to remain in force unaffected by that holding or by the severance of that part as if the part was never part of this Agreement.

23. NO OTHER AGREEMENTS

23.1 This Agreement is the entire agreement between the parties and it terminates and supersedes all other agreements and arrangements regarding its subject.

24. AMENDMENTS

24.1 This Agreement is intended to be perpetual and may only be changed by a written instrument signed by all the parties.

25. DEED AND CONTRACT

25.1 By executing and delivering this Agreement, each of the parties intends to create both a contract and a deed and covenant executed and delivered under seal.

26. RIGHTS OF COVENANT HOLDERS

26.1 A Covenant Holder may exercise its rights under this Agreement through its directors, officers, employees, agents or contractors.

As evidence of their agreement to be bound by the above terms, the parties each have executed this Agreement under seal by signing Part 1 of the *Land Title Act* Form C to which this agreement is attached.

The schedules referred to throughout this document are attached after this page.

SCHEDULE A

BASELINE REPORT

Attached to and forming part of the Covenant Agreement between the Owner and the Covenant Holders, dated for reference the 24th day of April, 2022.

Baseline Assessment of Sandy Beach Nature Reserve, Keats Island



PREPARED BY:
Claudia Schaefer, M.Sc., R. P. Bio. #1001

PREPARED FOR: Islands Trust Conservancy

Final Report Date: 24 April, 2022



VERSION NOTE

Sandy Beach Nature Reserve was surveyed by several different biologists in 2014, 2017, and 2018, to build a baseline assessment prior to land transfer to Islands Trust Conservancy. In 2021, ITC hired Claudia Schaefer to update these assessments to reflect final property boundaries, provide more detailed identification of key features (e.g., wildlife trees) and ecological communities, and thoroughly document anthropogenic features.

This document consolidates information from Claudia Schaefer's Baseline Assessment (2022) and the report submitted by Sartori Environmental Services (2018). The earlier wildlife and vegetation assessment by Bianchini Biological Services (2014) is included as Appendix 2 of this Baseline Assessment Report and forms an integral part of the report attached to and forming part of the Covenant Agreement between the Owner and the Covenant Holders.

Introduction

A Baseline Assessment Report for the Sandy Beach Nature Reserve (SBNR) was provided in 2019 by Sartori Environmental Services. It included a detailed wildlife survey and assessment by Bianchini Biological Surveys (Bianchini, C., letter to Sartori Environmental Services, dated June 19, 2014). The survey for the property was in draft form at the time of the Baseline Assessment, and the public trail to access the beach was not yet built.

The 2021/22 update provided:

- Correction of ecological community mapping and description
- Current trail mapping for public beach access and residents access trails
- Veteran tree and wildlife tree mapping
- Invasive species survey and mapping
- A comprehensive assessment of anthropological features in SBNR
- Review of the borders of the property
- Photo documentation

Relevant information from the Sartori report (2018) has been consolidated into the comprehensive update to create this Baseline Assessment Report.

1. Acknowledgements

Table 1. Persons and credentials of those responsible for creation of this Report.

Name	Position/Affiliation	Professional Accreditation or subject expertise	Contribution
Claudia Schaefer, M.Sc., R.P.Bio.	Vegetation Ecologist	R.P. Bio.	Report Author, Data Collection, Map Creation
Kathryn Martell	Ecosystem Protection Specialist, Islands Trust Conservancy	M.Sc., R.P. Bio.	Consolidation of baseline assessment work to create final report
Sartori Environmental Services	#106 – 185 Forester Street, North Vancouver, BC, V7H 0A6, 604-987-5588	QEP's conducting biological assessments	Original baseline inventory assessment, 2018
Claudio Bianchini	Owner, Bianchini Biological Services, 11879 83 Ave., Delta, BC, V4C 2H6, 604-219-9699	RP Bio., Wildlife Assessment	Data collection, report preparation for wildlife and vegetation assessment in 2014

2. Property Location and Description

Sandy Beach Nature Reserve (SBNR) is located on the southwestern portion of Keats Island, approximately 750 m Southwest of the Keats Landing dock, serviced by B.C. Ferries via a foot passenger only ferry from Langdale. Legal access to the nature reserve is on foot via Salmon Rock Trail, which begins near Keats Landing.

SBNR is 3.55 ha (8.77 ac) in size, including about 0.4 ha of coastal bluff and 3.1 ha of closed canopy conifer forest. It has approximately 353 m of waterfront.

The legal description of SBNR is Lot 1 of Subdivision Plan EPP89532, Keats Island, BC. The PID number is 031-259-731. There is no civic address associated with SBNR. A land survey sketch is found in Figure 2.

Keats Island is within lands and waters of the Sk̓wx̓wú7mesh Úxwumixw (Squamish Nation) and is the homeland and gathering place of many Coast Salish Peoples. Keats Island is a place of cultural significance and is the location of village sites, archaeological areas, and occupation since time immemorial.

SBNR is roughly rectangular in shape, with its northern boundary fronting Shoal Channel near the mouth of Howe Sound. The landscape context of SBNR is rated very highly, as surrounding the reserve are intact second growth, mature forests. There is no development currently south of SBNR. The southwestern tip of Keats Island is held as Private Conservation (see Figure 1). The lands adjacent to the

southern and eastern boundaries of SBNR are held by the Convention of Baptist Churches of BC, who provided the land now known as SBNR as part of an application for subdivision and rezoning on their other holdings. Adjacent to the northeast corner of SBNR are private cottages with some tree cover.

While SBNR is buffered from disturbance from surrounding areas of natural cover, if development occurs nearby on neighbouring lots, it could pose a threat to the integrity of the nature reserve.

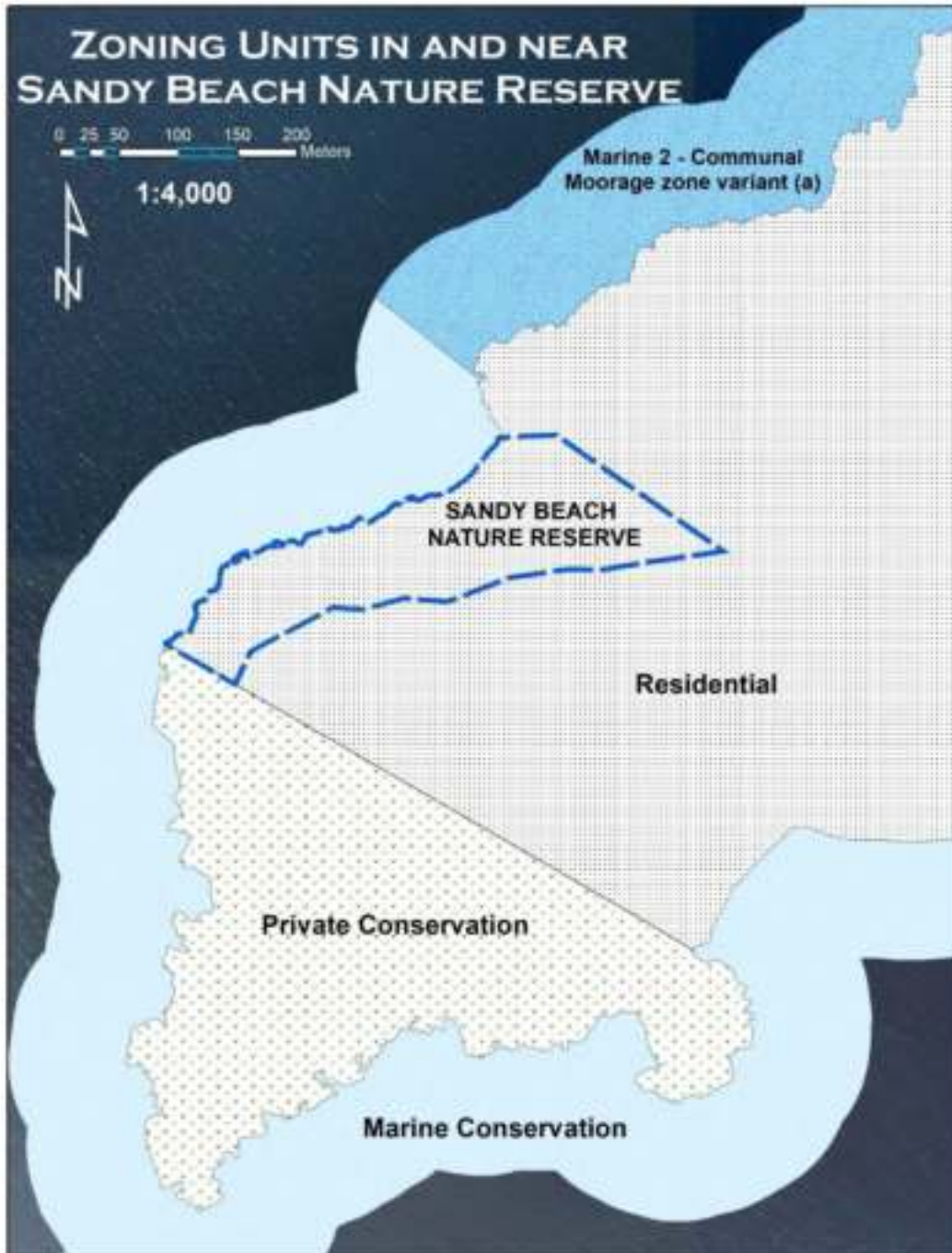


Figure 1. Map of zoning in the vicinity of SBNR. SBNR falls within the Comprehensive Development 2 category of Residential Zoning. Map created January 2022.

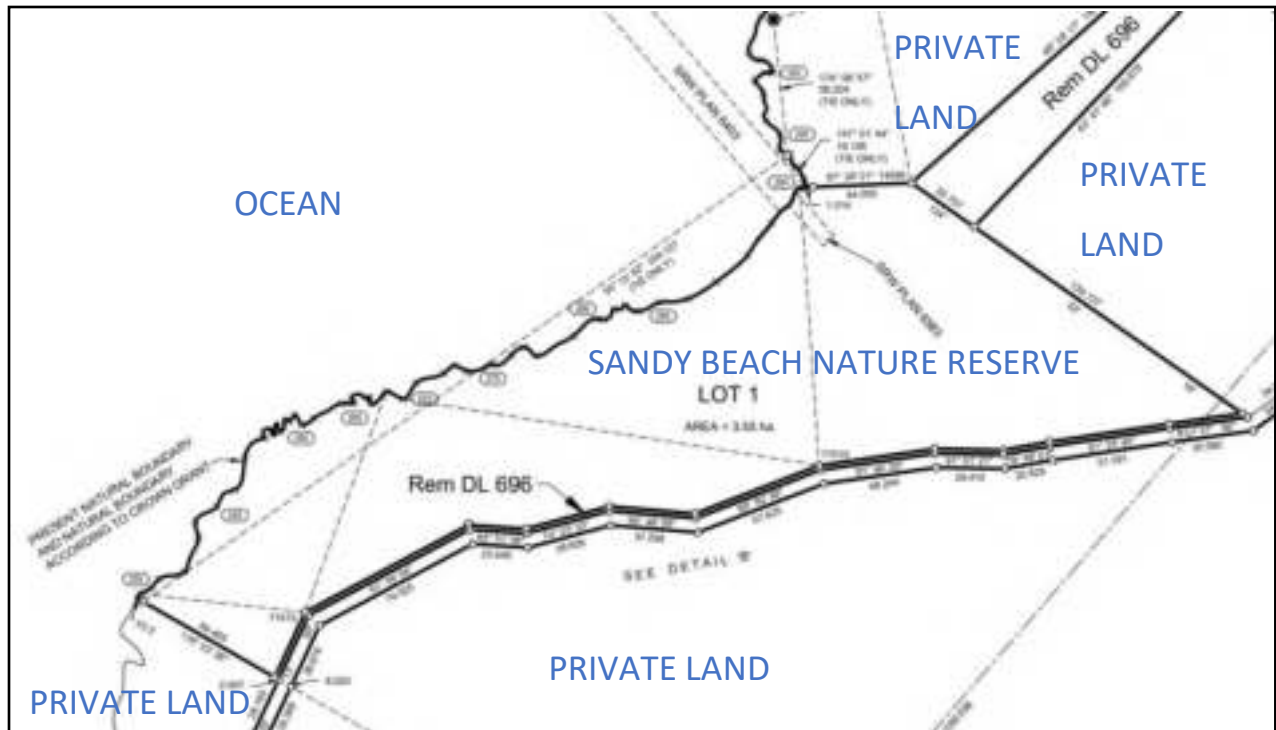


Figure 2. Land survey sketch of SBNR, designated as Lot 1.

Notations, Charges, Liens and Interests

The title of the SBNR land is encumbered by two Statutory Rights of Way, Plan 6403 and 6583 (Fig. 3). They are held by BC Hydro and were placed upon the title in 1961, for the transmission and distribution of electric energy and communication purposes from the Sunshine Coast to Keats Island.

The current charges allow BC Hydro to construct, erect, string, operate, maintain, remove and replace tower and poles with anchors, guy wires, brackets, cross-arms, insulators, transformers and one or more lines of wires. Similar rights are allowed for underground conduits and cables. The SRW also allows BC Hydro to use such portion of the land alongside the right of way as may be reasonable for works needed, to clear the ROW of trees and other vegetation, and to trim or cut down trees outside the ROW that are deemed by BC Hydro to be, or potentially be, dangerous to their structures or works. The SRW documents also allow BC Hydro to access the ROW across neighbouring land, including the right to construct, maintain and use on the land any road or roads reasonably required.

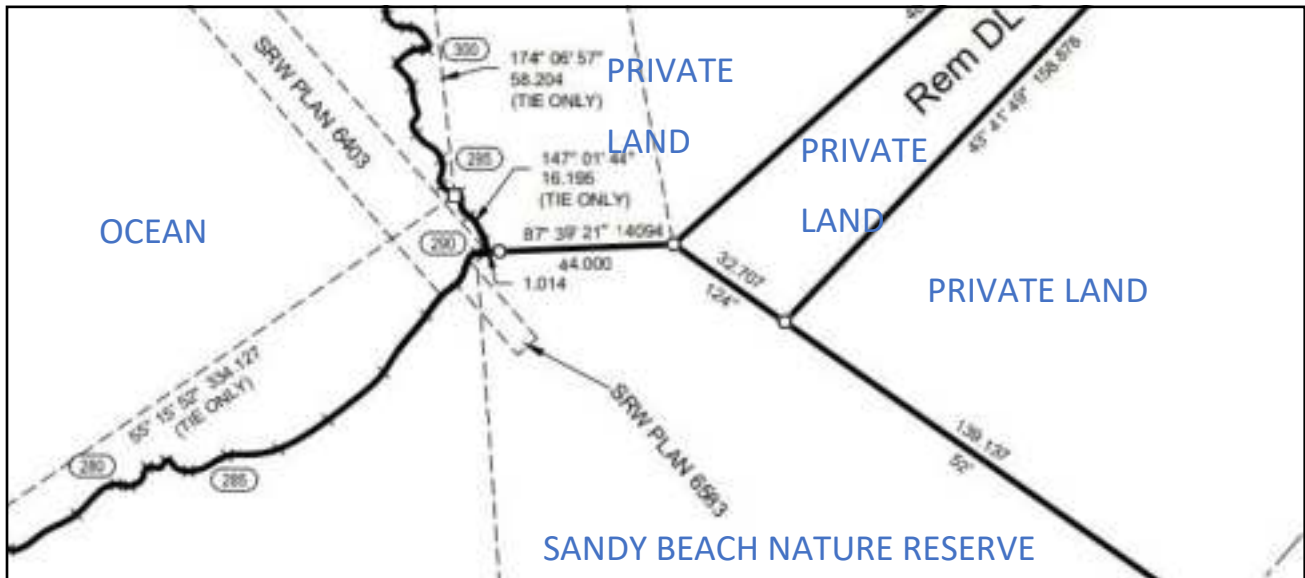


Figure 3. Detailed view of the northern end of SBNR, showing the two SRWs on title, Plans 6403 and 6583.

3.0 Site History

Lands and waters including Keats Island were occupied and used by First Nations for settlements, resource gathering, and as spiritual and ritual places. Villages, hunting camps, cedar bark gathering areas, rock quarries, clam and fish processing camps, pictographs and cemeteries are examples of the many ways that First Nations have used and depended on the coast and lands for time immemorial.

Keats Island was colonized in 1887. Original old-growth forests on the island were almost completely logged early in the 1900s, and a small sawmill operated on the island. Cat roads from the historical logging remain today and are used as recreation trails which bisect the property. The sawmill was located outside of the nature reserve.

SBNR was formerly part of Keats Camps which is a Baptist summer camp operated by the Baptist Convention of British Columbia. The camp was founded in 1926 on the site of a former orchard.

4. Significance of the Land and Natural Amenities

SBNR is predominantly a north-facing, forested hillside with a mix of gentle, moderate and extremely steep slopes. It fronts the ocean for approximately 353 metres and has a beach with sand substrate for almost half its length. Undisturbed land that protects the interface between terrestrial and marine habitats is extremely important ecologically. The natural cover of the terrestrial portion promotes the health of the intertidal and deeper marine zones offshore. Sand deposits are also uncommon in the region. ITC has mapped (Fig. 4) suitable forage fish spawning habitat along the Sandy Beach for Surf Smelt (*Hypomesus pretiosus*) and Pacific Sand Lance (*Ammodytes hexapterus*). Patches of offshore eel-

grass have also been mapped (Fig. 4). Common eel-grass (*Zostera marina*) is the native eel-grass species found on the BC coast.



Figure 4. Suitable forage fish spawning habitat (both for Surf Smelt and Pacific Sand Lance) occurs along Sandy Beach (red and orange line). Dots offshore represent the presence of eel-grass (MapIT, accessed January 2022).

A thin band of coastal bluff vegetation occurs just above the high tide line along a portion of the waterfront. Large slabs of exposed bedrock are colonized by characteristic mosses and lichens of coastal bluffs, and shore pine (*Pinus contorta* var. *contorta*) is present. Coastal bluffs are comprised of Sensitive Ecosystems (e.g. Coastal Herbaceous, Woodland) which are highly vulnerable to disturbances such as trampling and weedy species infestations. The coastal bluff habitat in SBNR is relatively small but has good ecological integrity as it is largely inaccessible to human foot traffic due to its steepness and has remained high in native species. A map of the ecological communities is found in Figure 5.

Rare species confirmed during the field assessment (see Section 7 and Appendix 2) include:

Blue Listed

Double-crested Cormorant (*Phalacrocorax auritus*)

Great Blue Heron, *fannini* subspecies (*Ardea herodias fannini*) (COSEWIC and SARA Species of Concern)

Four (4) provincially **at risk ecological communities** occur in SBNR (Table 2). Three are red-listed forest communities and one is a blue-listed coastal bluff community.

Table 2. Provincially at risk ecological communities in SBNR.

Ecological Community Name		Site Series	Status		
English	Scientific		Provincial	BC List	Global
Western hemlock – Douglas-fir / Oregon beaked-moss	<i>Tsuga heterophylla</i> – <i>Pseudotsuga menziesii</i> / <i>Eurhynchium oregonum</i>	CWHxm1/01	S2 (2013)	Red	G3G4
Western redcedar / sword fern	<i>Thuja plicata</i> / <i>Polystichum munitum</i>	CWHxm1/05	S1S2 (2021)	Red	GNR
Wallace’s selaginella / reindeer lichens	<i>Selaginella wallacei</i> / <i>Cladina</i> spp.	CWHxm1/00	S3 (2012)	Blue	GNR
Douglas-fir – western hemlock / salal Dry Maritime	<i>Pseudotsuga menziesii</i> – <i>Tsuga heterophylla</i> / <i>Gaultheria shallon</i> Dry Maritime	CWHxm1/03	S2 (2019)	Red	G3G4

Appendix 2 contains a list of other species of flora and fauna with potential to occur on SBNR, and designated as either red- or blue-listed by the BC Conservation Data Centre.



Figure 5. Ecological communities present in SBNR. Structural Stage (ST) 6 represents mature forest; ST2 represents herbaceous vegetation with less than 10% tree cover. Map created January 2022.

The forests are high-quality, mature second growth, with a high number of old-growth trees (Fig. 6). These veteran trees pre-date Euro-Canadian colonization and escaped the ensuing lumber resource extraction on the South Coast of BC.



Photos 1-3. An old standing snag of bigleaf maple (left) with peeling bark provides foraging opportunities for wildlife, particularly woodpeckers; a large Douglas-fir vet with fire scars (middle); a Douglas-fir old growth tree with evidence of woodpecker activity (right).



Figure 6. Veteran trees and Wildlife Trees (or snags) observed in SBNR. Map created January 2022.

5. Conditions at time of Data Collection

Table 3. Dates and persons collecting data for this Report.

Date	Activity	Conditions	Data Collector
September 24, 2021	Ecosystem data collection and mapping	14°, sunny	Claudia Schaefer
January 27, 2022	Ecosystem data collection and plant inventory	6°, sunny	Claudia Schaefer
May 28, 2018	Vegetation assessment	-	Sartori Environmental
May 20, 2014	Wildlife and vegetation inventory	-	Claudio Bianchini

6. Anthropogenic Features

Anthropogenic features of a non-indigenous nature are described in Table 4 and mapped in Figure 7.

Table 4. Non-Indigenous anthropogenic features of SBNR.

Anthropogenic Feature	Description	Condition	Photo point Location
Trails	Walking trail to access beach & connector trail for cottage residents	0.5-1m wide, surface material is bare earth	See Fig. 7 for location; 14, 23, 24, 25, 27
Hydro pole & lines	Tall, 30 cm diameter pole for electricity wires connecting Keats to Langdale	In good condition, relatively new	7, 11
Signpost	On Salmon Rock Trail, indicating the start of Sandy Beach Trail	Two signposts, weathered, not prominent nor easy to read	27
Signs	Small signs erected by Keats Camp, one on hydro pole at beach and one on tree at beach indicating no fires or camping	Sign on hydro pole is in good condition; sign on tree overhanging beach is in poor condition	11, 20
Property pins	Marking boundaries	Relatively new white, wooden stakes	15, 16, 17, 24
Water line/hose	Black rubber hose line	Purpose and condition unknown	26

Trails

There is an existing trail in SBNR, known as Sandy Beach Trail, beginning at Salmon Rock Trail (which follows the southern boundary of SBNR) and ending at the beach. Signs are erected at the junction of Salmon Rock Trail and Sandy Beach Trail (see section on Signage below). Sandy Beach Trail is an old Cat trail that bisects the eastern half of SBNR and is currently a lightly used recreation trail with an average width of 0.5-1.0m. The substrate is bare earth and should remain so, with no addition of materials to the trail surface. Salal is overgrowing the trail in short sections, which can be rectified with minimal pruning. No trees or standing snags along the trail, or anywhere in SBNR, should be removed unless they are proven to be dangerous to the public.

Until recently, access to the beach utilized a trail that crossed the adjacent private property to the north. A new section of trail, completely within SBNR, was built in 2019 by the donor to provide public beach access. It is a path approximately 15-20m long, leading off the prior existing trail. It is partially overgrown and will need to be pruned to make access easier. It has short sections of terrain that need to be altered to allow better accessibility. The entrance to the beach, from the hydro pole to the logs at the high tide line, needs steps to become visitor-friendly. If the large driftwood logs are immovable and stable, steps could be carved out, which would be preferable to hardening of the shore line with concrete steps. Approximately 5-7m inland from the hydro pole, the trail has a steep section of loose earth. Steps could be terraced with wooden tie holders. See photos for this portion of trail in Section 11.

The former beach access trail section, that leads into adjacent private land, is now called the Resident Access Trail. This trail will require signage to ensure that users know they are leaving the protected area and entering private property. This trail will not be closed off, as the adjacent neighbours wish to continue to use it, however it will need to be monitored closely.

Boundaries

The northeast and southern boundaries were assessed and there were no infractions to SBNR observed in these areas. No garbage or recently cut trees were seen. The beach portion of SBNR was undisturbed. The overall condition of the land was similar to that reported in the Baseline Assessment.

Signage

There is currently one signpost and two signs erected at SBNR, in addition to the signage on the BC Hydro poles. The signpost at the trailhead of Sandy Beach Trail, where it leaves Salmon Rock Trail, has deteriorated and needs updating. It should indicate the reserve status and list the main prohibited activities such as no fires (even below high tide line), no camping, no bicycle or other vehicle use. Contact information should be included, and visitors should be encouraged to report infractions of the reserve policies.

Two small signs are posted at the beach by Keats Camp indicating that fires and camping are not allowed. These can be removed. An interpretive sign should be erected where the public trail enters the beach, describing the sensitivity of the habitat and the activities that are not permitted.

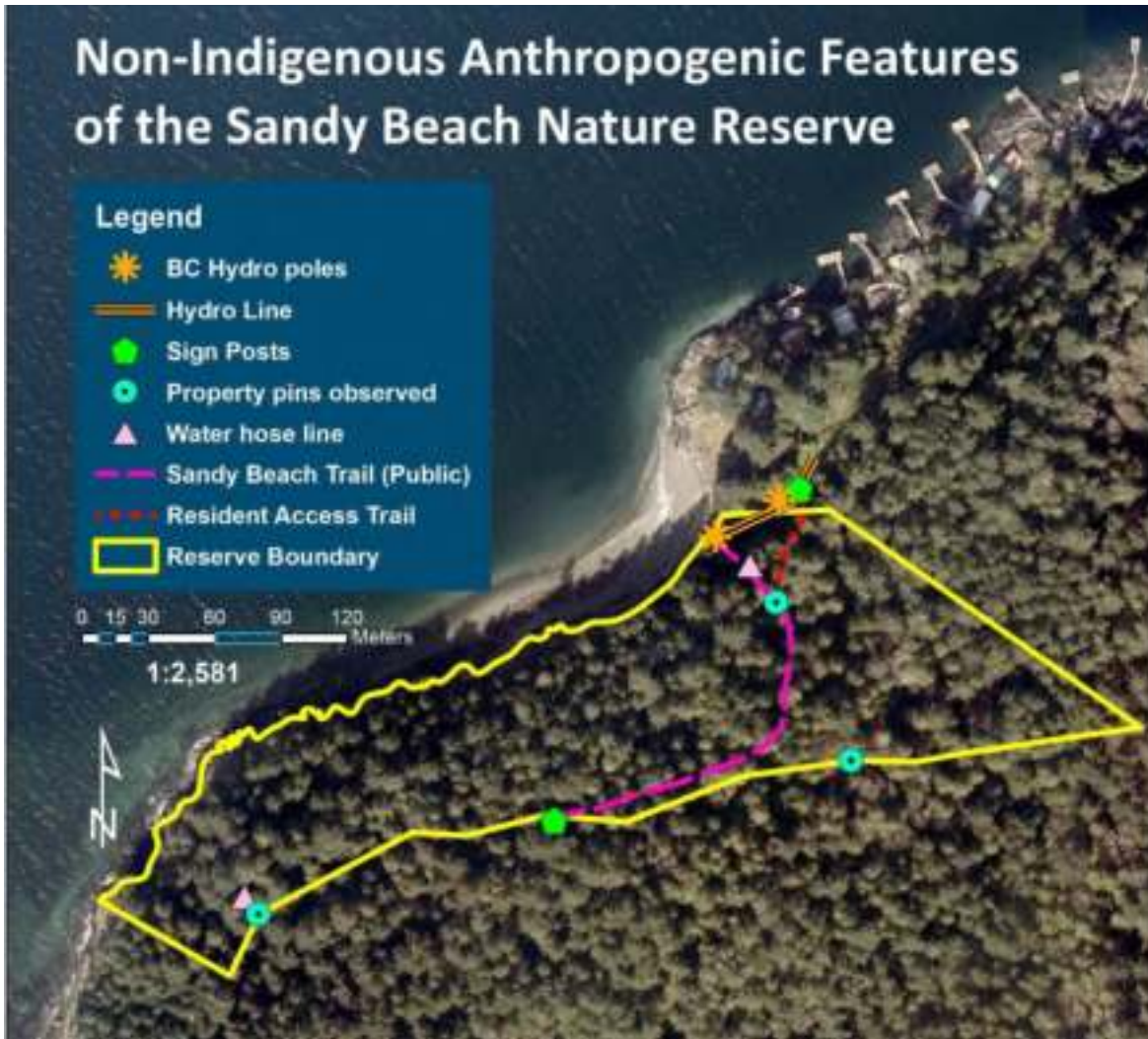


Figure 7. Non-Indigenous anthropogenic features of SBNR. Map created in October 2021 by C. Schaefer.



Photos 4 and 5. Sign (left photo) for Sandy Beach on the north side of Salmon Rock Trail (photo point 27), and sign (right photo) on the south side of Salmon Rock Trail (photo point 27).

7. Inventory by Ecological Community¹

Keats Island and SBNR occur within the eastern variant of the Very Dry Maritime Coastal Western Hemlock biogeoclimatic subzone (CWHxm1). This subzone is the second mildest in Canada, with warm, dry summers and mild, wet winters. Vegetation communities are differentiated by available soil moisture, depth, and nutrient status (Green and Klinka 1994). Climatic factors, in conjunction with existing soil conditions, result in a nutrient poor forest with a long growing season, although water deficits may occur on zonal sites. Ecosystems of CWHxm1 experience infrequent stand-initiating events (e.g. they are not fire-dependent).

In addition to the data collected for the original baseline report for SBNR, ecological data was collected during site visits on September 24, 2021, and January 27, 2022. Note that this was not the optimum time of year to observe all flora on site, so species lists were supplemented with original baseline data. Species lists should be considered partial only; this is particularly true of the dry coastal bluff communities where numerous plant species are only evident during the spring season.

Tables of representative species observed, community descriptions and other features of the ecological communities mapped in SBNR are found below. Site series were identified using *A Field Guide for Site Identification and Interpretation for the Vancouver Forest Region* (Green and Klinka 1994). Structural stage was accorded based on definitions in *Standards for Terrestrial Ecosystems Mapping in British Columbia* (RIC 1998).

Ecological Community: Western redcedar / sword fern Very Dry Maritime

Table 5. Mature Western redcedar / sword fern Very Dry Maritime ecological community overview.

Ecological Community	Western red-cedar / sword fern Very Dry Maritime <i>Thuja plicata</i> / <i>Polystichum munitum</i> Very Dry Maritime
Classification	CWHxm1/05
Structural Stage	6 (mature)
Status (BC List)	Red
Photo point	1
Ecological Community Description	Characterized by soils with a richer than average soil nutrient regime. Some areas were also moister than average. Indicator moss species and a high cover of sword fern are associated with rich, moist soils. Numerous veteran trees.
Disturbance Notes	Past selective logging; small population locations of invasive species; water line; walking trail
Anticipated Change/Succession	Barring significant disturbance (natural or anthropogenic), the forest community is expected to continue to mature to a climax state. Douglas-fir will likely be succeeded by an increase in western hemlock.
Wildlife Observations	None observed on January 27, 2022

¹ Ecological communities are used by the B.C. Conservation Data Centre and NatureServe to describe both forested and non-forested natural areas. More information about ecological communities, including descriptions of ecological communities in the Islands Trust Area, can be found on the B.C. Conservation Data Centre website.



Photo 6. Representative photo of the ecological community Western redcedar / sword fern Very Dry Maritime (Photo Point 1, App. D).

Table 6. Mature Western redcedar / sword fern Very Dry Maritime vegetation composition.

VEGETATION SPECIES	PERCENT COVER (%)						NOTES
	Main Canopy*	Secondary Canopy+	Shrub Layer**	Herb Layer++	Moss, Lichen Layer*+	Non-natives ^	
<i>Pseudotsuga menziesii</i> (Douglas-fir)	20						
<i>Thuja plicata</i> (western redcedar)	40	5					
<i>Tsuga heterophylla</i>		1	T				
<i>Gaultheria shallon</i> (salal)			10				
<i>Berberis nervosa</i> (dull Oregon-grape)			0.1				
<i>Rubus parviflora</i> (red huckleberry)			0.1				
<i>Polystichum munitum</i> (sword fern)				80			
<i>Dryopteris expansa</i> (spiny wood fern)				0.1			
<i>Blechnum spicant</i> (deer fern)				T			
<i>Eurhynchium oreganum</i> (Oregon beaked-moss)					2		
<i>Hylocomnium splendens</i> (step moss)					10		
<i>Pleurozium schreberi</i> (red-stemmed feathermoss)					20		
<i>Plagiomnium insigne</i> (coastal leafy moss)					0.1		
<i>Eurhynchium praelongum</i> (slender beaked-moss)					0.1		
<i>Hedera helix</i> (English ivy)						T	

<i>Ilex aquilifolium</i> (English holly)						T	
<i>Daphne</i> sp.						T	
Cover by Layer (%)	60	6	10	80	32	T	Total Canopy Cover: 60%

*Codominant trees, main layer of tree cover.

+Trees greater than 10m that do not reach the main canopy.

**All woody plants less than 10m tall.

++All herbaceous species, regardless of height and some low woody plants less than 15cm tall when fully grown.

*+ All bryophytes, terrestrial lichens and liverworts.

T stands for Trace or less than 1%

Ecological Community: Western hemlock – Douglas-fir / Oregon beaked-moss

Table 7. Mature Western hemlock – Douglas-fir / Oregon beaked-moss Ecological Community Overview.

Ecological Community	Western hemlock – Douglas-fir / Oregon beaked-moss <i>Tsuga heterophylla</i> – <i>Pseudotsuga menziesii</i> / <i>Eurhynchium oregonum</i>
Classification	CWHxm1/01
Structural Stage	6 (mature)
Status (BC List)	Red
Photo point	2
Ecological Community Description	The zonal forest type given the climate of the subzone and typical soils (average moisture and nutrient regimes). Usually found on level or gently sloping terrain. Found in SBNR on undulating terrain and some gentle to moderate north-facing slopes. Understorey is patchy and relatively sparse. Dominated by salal with few herbaceous species. Numerous veteran trees.
Disturbance Notes	Past selective logging; small population locations of invasive species; water line; walking trail
Anticipated Change/Succession	Barring significant disturbance (natural or anthropogenic), the forest community is expected to continue to mature to a climax state.
Wildlife Observations	None observed on January 27, 2022



Photo 7. Representative photo of the ecological community Western hemlock – Douglas-fir / Oregon beaked-moss (Photo Point 2, App. D).

Table 8. Mature Western hemlock – Douglas-fir / Oregon beaked-moss Vegetation Composition.

VEGETATION SPECIES	PERCENT COVER (%)						NOTES
	Main Canopy*	Secondary Canopy+	Shrub Layer**	Herb Layer++	Moss, Lichen Layer*+	Non-natives ^	
<i>Pseudotsuga menziesii</i> (Douglas-fir)	25						
<i>Thuja plicata</i> (western redcedar)	25	25	9				
<i>Tsuga heterophylla</i>		1	T				
<i>Gaultheria shallon</i> (salal)			40				
<i>Berberis nervosa</i> (dull Oregon-grape)			3				
<i>Rubus parvifolium</i> (red huckleberry)			0.1				
<i>Rubus ursinus</i> (trailing blackberry)			T				
<i>Polystichum munitum</i> (sword fern)				3			
<i>Geranium robertianum</i> (Robert's geranium)						T	
<i>Eurhynchium oregonum</i> (Oregon beaked-moss)					5		
<i>Eurhynchium praelongum</i> (slender beaked-moss)					0.1		
<i>Hedera helix</i> (English ivy)						T	
<i>Ilex aquilifolium</i> (English holly)						T	
<i>Rubus discolor</i> (Himalayan blackberry)						T	
Cover by Layer (%)	50	26	50	3	5		Total Canopy Cover: 65%

*Codominant trees, main layer of tree cover.

+Trees greater than 10m that do not reach the main canopy.

**All woody plants less than 10m tall.

++All herbaceous species, regardless of height and some low woody plants less than 15cm tall when fully grown.

*+ All bryophytes, terrestrial lichens and liverworts.

T stands for Trace or less than 1%

Ecological Community: Wallace’s selaginella / reindeer lichens

Table 9. Wallace’s selaginella / reindeer lichens Ecological Community Overview.

Ecological Community	Wallace’s selaginella / reindeer lichens <i>Selaginella wallacei</i> / <i>Cladina</i> spp.
Classification	CWHxm1/00
Structural Stage	2 (herbaceous)
Status (BC List)	Blue
Photo point	3
Ecological Community Description	Occurs in SBNR as a thin band above the high tide line for a portion of the beach zone. Scattered trees of Douglas-fir and shore pine. Little or no surface soil. Classified as herbaceous but predominantly vegetated by mosses and lichens.
Disturbance Notes	Past selective logging; small population locations of invasive species; water line; walking trail
Anticipated Change/Succession	Barring significant disturbance (natural or anthropogenic), the forest community is expected to continue to mature to a climax state.
Wildlife Observations	None observed on January 27, 2022



Photo 8. Representative photo of the ecological community Wallace's selaginella / reindeer lichens along a narrow band above the beach (Photo Point 3).

Table 10. Wallace’s selaginella / reindeer lichens Vegetation Composition, modified from the original ecological inventory (Sartori 2018).

VEGETATION SPECIES	PERCENT COVER (%)						NOTES
	Main Canopy*	Secondary Canopy+	Shrub Layer**	Herb Layer++	Moss, Lichen Layer*+*	Non-natives ^	
<i>Thuja plicata</i> (western redcedar)	2						
<i>Pseudotsuga menziesii</i> (Douglas-fir)	2						
<i>Tsuga heterophylla</i> (western hemlock)	2						
<i>Arbutus menziesii</i> (arbutus)		1					
<i>Pinus contorta</i> var. <i>contorta</i> (shore pine)		1					
<i>Arctostaphylos columbiana</i> (hairy manzanita)			1				
<i>Rubus ursinus</i> (trailing blackberry)				1			
<i>Holodiscus discolor</i> (oceanspray)			2				
<i>Rubus parvifolium</i> (red huckleberry)			5				
<i>Gaultheria shallon</i> (salal)			15				
<i>Rubus spectabilis</i> (salmonberry)			5				
<i>Rosa nutkana</i> (Nootka rose)			2				
<i>Fragaria virginiana</i> (wild strawberry)				1			
<i>Cladina portentosa</i> (coastal reindeer lichen)					2		Cover of non-vascular species is high, diversity not captured
Cover by Layer (%)	6	2	30	2	n/a	0	Total Canopy Cover: 7%

*Codominant trees, main layer of tree cover

+Trees greater than 10m that do not reach the main canopy

**All woody plants less than 10m tall

++All herbaceous species, regardless of height and some low woody plants less than 15cm tall

*+ All bryophytes, terrestrial lichens and liverworts

T stands for Trace or less than 1%

Ecological Community: Douglas-fir – western hemlock / salal Dry Maritime

This forested ecological community is found on the very steep slopes along the water’s edge on the west side of SBNR. The steep slopes and shallow soils result in rapidly drained, nutrient poor conditions. The community was observed and mapped in January 2022, however the steepness of the slopes made it inaccessible for inventory. The canopy is dominated by mature Douglas-fir and salal is common in the understory.

Table 11. Douglas-fir – western hemlock / salal Dry Maritime Ecological Community Overview.

Ecological Community	Douglas-fir – western hemlock / salal Dry Maritime <i>Pseudotsuga menziesii</i> – <i>Tsuga herterophylla</i> / <i>Gaultheria shallon</i> Dry Maritime
Classification	CWHxm1/03
Structural Stage (ST)	6 (mature)
Status (BC List)	Red-listed
Photo point	4
Ecological Community Description	Forest community found on dry and typically nutrient-poor sites. Occurs on the west side of SBNR on the very steep slopes along the water.
Disturbance Notes	Past logging
Anticipated Change/Succession	If undisturbed, this community will continue to mature. The canopy is likely to remain relatively unchanged, dominated by Douglas-fir and western hemlock.
Wildlife Observations	n/a

*Codominant trees, main layer of tree cover.

+Trees greater than 10m that do not reach the main canopy.

**All woody plants less than 10m tall.

++All herbaceous species, regardless of height and some low woody plants less than 15cm tall when fully grown.

*+ All bryophytes, terrestrial lichens and liverworts.

T stands for Trace or less than 1%



Photo 9. Representative photo of the ecological community Douglas-fir – western hemlock / salal Dry Maritime (Photo Point 4).

Expected Change over Time

The forests of SBNR are expected to further mature over time. The tree species composition may change, as summer drought conditions are exacerbated by climate change. Western redcedar has been shown to be highly vulnerable to periods of drought on the south coast over the past several years. Cedar trees on sites with the minimal acceptable moisture availability for this species' survival will decline in vigor and ultimately die off as moisture availability in the growing season is further decreased due to climate change. Douglas-fir is likely to occupy the canopy space that becomes available on these sites, as Douglas-fir is significantly more drought tolerant than the other main canopy species of SBNR.

SBNR encompasses mostly northwest facing slopes of moderate to steep grade (Fig. 8). Along the shoreline are rock outcrops which support coastal bluff ecosystems. The interface with ocean is a gradually sloping sand beach, which is largely underwater during high tides but prominent during low tides.

8. Potential Risks to Sandy Beach Nature Reserve

Invasive Species

There are sporadic occurrences of several invasive, non-native species in SBNR (Figure 9).



Figure 9. Invasive plant species observed in SBNR.

Sporadic occurrence of English holly (*Ilex aquifolium*) and English Ivy (*Hedera helix*), largely along the trails and near the property boundaries. Scotch broom (*Cytisus scoparius*) was identified within the rock outcrop area northeast of SBNR. Invasive species removal should be a management priority in the future to maintain habitat values.

Himalayan blackberry (*Rubus armeniacus*) was found within the BC Hydro powerline ROW near the northeastern boundary. This species out-competes low growing native vegetation through shading and build-up of leaf litter and dead stems and can prevent the establishment of shade intolerant trees. Himalayan blackberry is primarily dispersed by root and stem fragments; however, birds and omnivorous

mammals that consume its berries may also disperse their seeds. This species is an unregulated invasive plant species of concern in British Columbia.

Recreational Use

SBNR has the potential to interface with a number of recreational uses including: boating along the beach area, recreational trail access on the Land, and recreational use of the historical cat roads adjacent to the south boundary of the property. Motorized boat use in the area has the potential to impact offshore eelgrass and surf smelt spawning. Existing trail systems have the potential to encourage recreational use of the Land by the public.

BC Hydro Right of Way

There is a BC Hydro powerline right-of-way (ROW) and hydro infrastructure (poles) at the northeastern property boundary (see Figure 2). Powerline ROWs require periodic maintenance and vegetation clearing to facilitate ongoing operations. There is potential for the clearing activity to result in disturbed surfaces that promote the establishment of invasive vegetation species, and also potential for disturbance from hydro maintenance activities.

Coarse Woody Debris

The moderate accumulation of coarse woody debris (CWD) on SBNR provides some habitat features and complexity within the area for wildlife. There is potential disturbance and habitat destruction by the public harvesting firewood, either for beach fires or for use off-site.

Forest Fire

Keats Island is at high risk for wildland interface fires. Wildland interface fire risk is increased during periods of abnormally hot, dry weather and excessive fuel loading which result in increased vulnerability to lightning strikes and human carelessness. The SBNR is bordered by human settlement to the east. Keats Island has limited fire response capabilities, large fuel load, limited fire protection and limited water supply which, assigns a rating of interface fire risk as very high.

Boundaries

There are private cabins along the northern boundary of the Nature Reserve, and a new trail has been built for residents to provide access to the Sandy Beach trails and up to the Salmon Rock trail that forms the southern boundary of SBNR. These boundaries should be carefully monitored to prevent encroachment, and use impact.

Canada Geese

Canada Geese are documented on Keats Island near SBNR; however, were not identified on the property during any of the site assessment field visits. High density populations of Canada Geese have the potential to damage vegetation and compress or erode and goose droppings can foul footpaths and beaches, which may contribute to contamination of nearby water with parasites and coliform bacteria. Risk to the environmental features of SBNR from Canada Geese populations was determined to be low but should be reassessed periodically.

8. Additional Maps

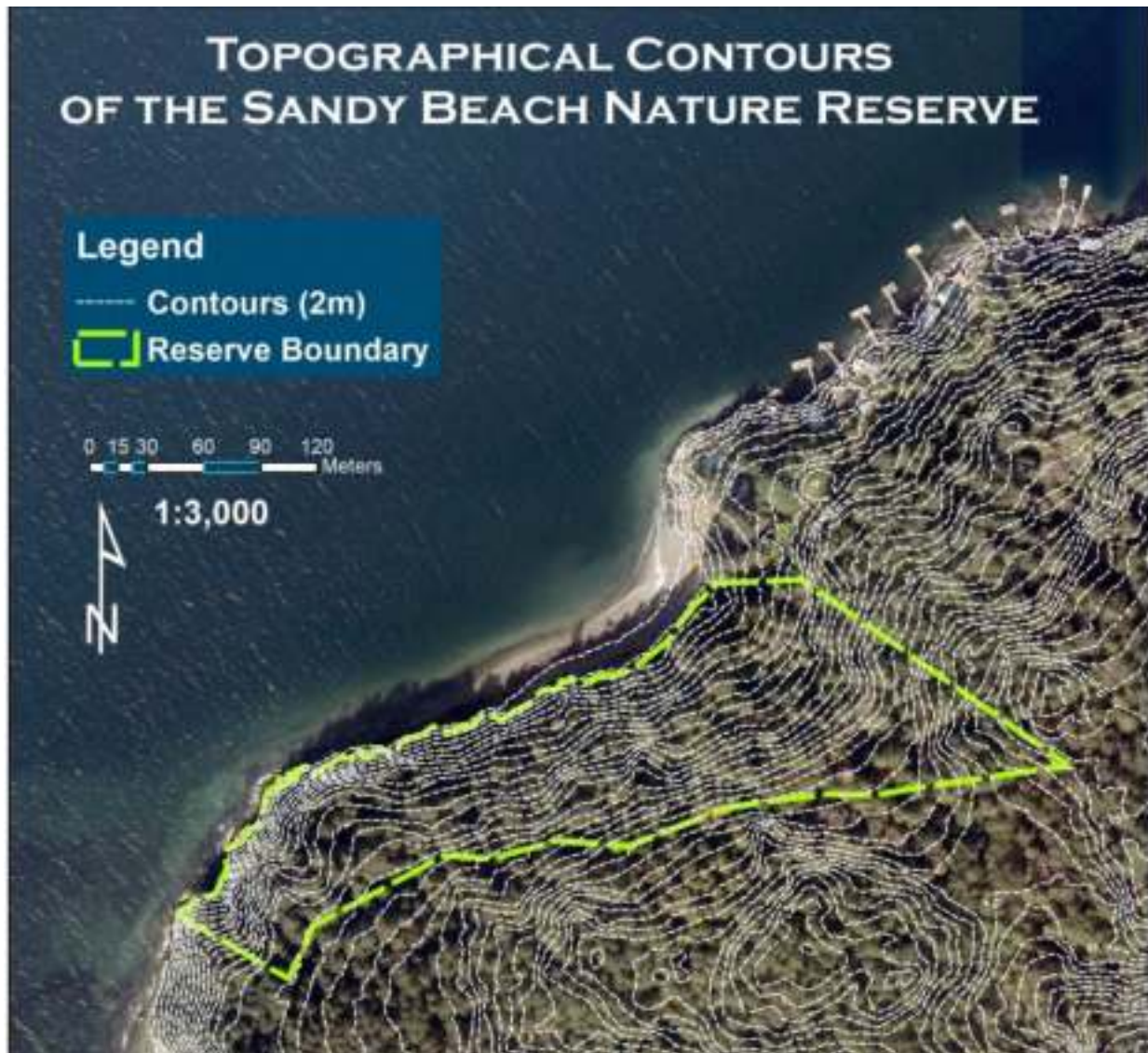


Figure 8. Terrain and physiology of SBNR and the surrounding area, showing 2 m interval contours. Map illustrates the relatively steep NNW-facing slopes of SBNR. Map created in October, 2021.



Figure 10. Photo point locations for SBNR.

Table 12. List of reference photos taken in or near the Sandy Beach Nature Reserve during fieldwork (September 24, 2021 and January 27, 2022).

PHOTO POINT	LOCATION (UTM)	DIRECTION where relevant (degrees)	PHOTOGRAPHER	DATE YYYY-MM-DD	DESCRIPTION
1	464347N 5470835E	110	CS*	2022-01-27	CWHxm1/05 habitat
2	464234N 5470784E	345	CS	2022-01-27	CWHxm1/01 habitat
3	464251N 5470832	170	CS	2022-01-27	Coastal bluff habitat
4	464107N 5470752E	10	CS	2022-01-27	CWHxm1/03 habitat
5	464300N 5470875E	25	CS	2022-01-27	East end of Sandy Beach
6	464308N 5470883E	115	CS	2022-01-27	Driftwood on Sandy Beach
7	464334N 5470886E	135	CS	2022-01-27	BC Hydro pole and sign
8	464334N	310	CS	2022-01-27	South side of hydro pole
10	464334N		CS	2022-01-27	Detail of ground at hydro pole
11	464339N 5470888E	345	CS	2022-01-27	Overgrown access to beach
12	464334N		CS	2022-01-27	Upper view of hydro pole
13	5470886E	110	CS	2022-01-27	Driftwood pile at trail entrance
14	464344N 5470885E		CS	2022-01-27	Steep portion of trail access to beach
15	464394N 5470783E		CS	2022-01-27	Property pin
16	464360N 5470855E		CS	2022-01-27	Property pin
17	464124N 5470715E		CS	2022-01-27	Property pin

18	464338N 5470904E		CS	2022-01-27	Property pin
19	464334N 5470886E		CS	2022-01-27	Keats Camp sign
20	464289N 5470864E	35	CS	2022-01-27	Keats Camp sign
21	464134N 5470720E	350	CS	2022-01-27	Loose brush
22	464134N 5470720E	340	CS	2022-01-27	Loose brush
23	464282N 5470769E	75	CS	2022-01-27	Cut logs beside trail
24	464367N 5470877E	300	CS	2022-01-27	Trail junction
25	464371N 5470888E	40	CS	2022-01-27	Residents trail connector
26	464355N 5470871E		CS	2022-01-27	Water hose line
27	464259N 5470758		CS	2022-01-27	Start of Sandy Beach Trail from Salmon Rock Trail

* CS = Claudia Schaefer

Appendix 1: Photos.

Taken during fieldwork on September 24, 2021 and January 27, 2022.



Photo Point 5.
East end of Sandy Beach. Boat
is on private property.
Photo: C. Schaefer.



Photo Point 6.
Looking west along Sandy
Beach. Photo: C. Schaefer.



Photo Point 7.

BC Hydro pole and sign at Sandy Beach. Photo: C. Schaefer.



Photo Point 8.

South side of BC Hydro pole. Photo: C. Schaefer.



Photo Point 10.

Aboveground metal fixings beside hydro pole. Photo: C. Schaefer.



Photos Points 11-14. Access to beach needs clearing (top left); upper view of hydro pole (top right); driftwood at high tide line makes access to/from the trail difficult (bottom left); and steep portion of beach access (bottom right). Photos: C. Schaefer.



Photos Points 15-18. Property stakes: photo point 15 (top left); photo point 16 (top right); photo point 17 (bottom left); and photo point 18 (bottom right). Photos: C. Schaefer.



Photo Points 19 (left) & 20 (right). Signs posted on hydro pole and tree overhanging the beach by Keats Camp, prohibiting fires and camping. Photos: C. Schaefer.



Photo Point 21.

Loose cut brush piled up that could be removed. Photo: C. Schaefer.



Photo Point 22.

Additional photo of loose brush that could be removed. Photo: C. Schaefer.



Photo Point 23.

Cut logs along Sandy Beach Trail. Photo: C. Schaefer.

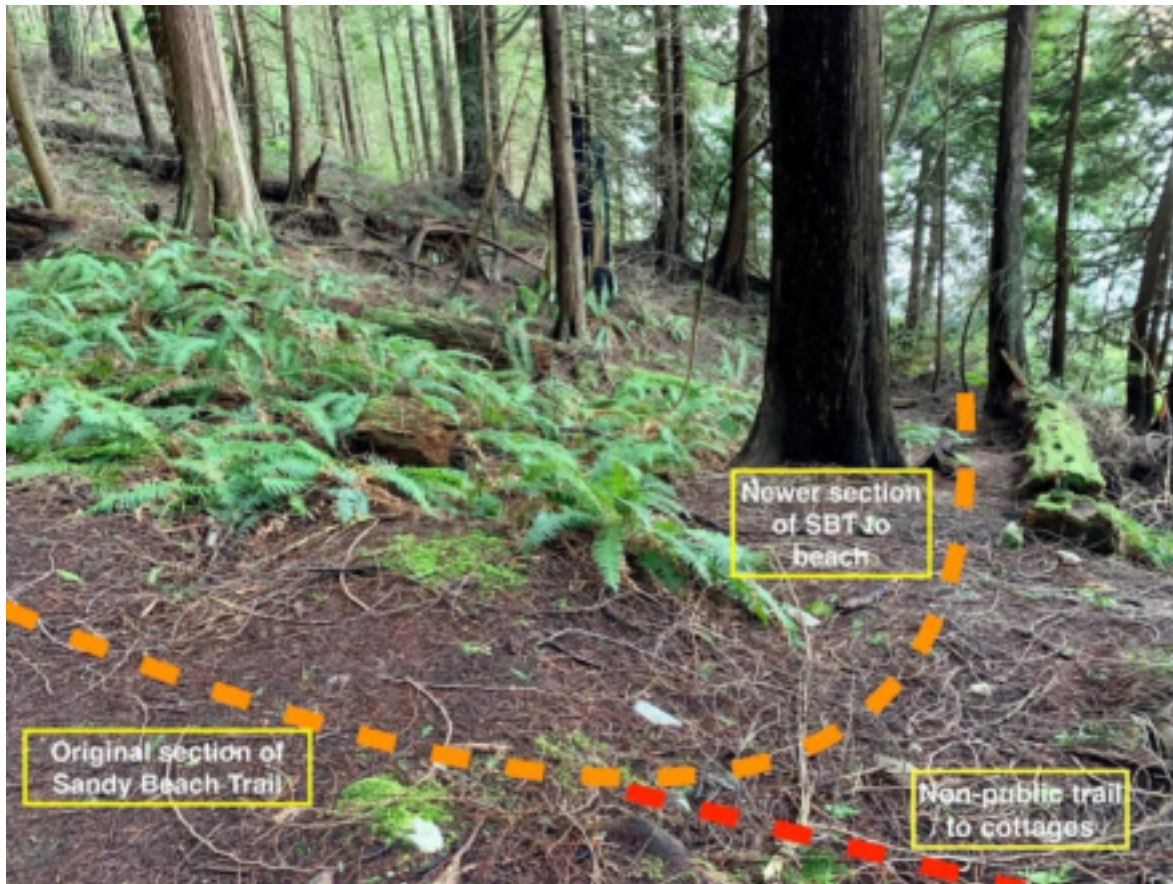


Photo Point 24. Graphic depiction of trail connection to public beach access. Photo: C. Schaefer.



Photo Point 25 (left) & 26 (right). Residents Only Trail to private cottages (left) and water hose line visible above ground (right). Photos: C. Schaefer.

Appendix 2: Wildlife & Vegetation Assessment Report 2014

Report by Bianchini Biological Services for Sartori Environmental Services, 28 pp.



Bianchini Biological Services

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June 19, 2014

**Re: Wildlife and Vegetation Assessment for the Convention of Baptist Churches of BC,
Keats Camps, Keats Island Land Donation – Sandy Beach**

1.0 BACKGROUND

Bianchini Biological Services (BBS) was retained by Sartori Environmental Services Limited (SESL) to conduct a terrestrial environmental assessment of an approximately 3.32 hectare (ha) site situated near the northwest portion of Keats Island, BC (Attachments 1 and 2). The study area is operated as Keats Camps by the Convention of Baptist Churches of BC.

The Convention of Baptist Churches of BC is purposing to donate a portion of these lands to the Islands Nature Trust as a Nature Reserve. The purpose of the land donation of the Nature Reserve is to provide protection of the ecosystems of the shoreline and the uplands for future generations of Keats Islanders and others who visit the Island every year.

BBS undertook the field work for this assessment on May 20, 2014. The site was assessed for occurrences of species listed under the Federal *Species at Risk Act* (SARA), Provincially Red and Blue-listed species and for general wildlife and vegetation species as well as raptor/heron nests and current wildlife use.

2.0 STUDY AREA

The study encompassed a 3.32 ha portion of the northwest corner of District Lot 696, Keats Island as well as a right-of way to provide public foot access from Keats Landing Road.

The study area fell within the Georgia Depression Ecoprovince, Lower Mainland Ecoregion, Georgia Lowland Ecosection. The study area was situated in the Eastern Very Dry Maritime Coastal Western Hemlock Biogeoclimatic subzone (CWHxm1).

On the mainland the CWHxm1 extends up the south side of the Fraser River as far as Chilliwack, and along the Sunshine Coast as far as Desolation Sound. Elevational limits range from sea level to approximately 700 m. Near the wetter parts of its distribution, the upper limit is lower (e.g., 150 m on Gambier and Bowen islands, and in the Fraser Valley).

The CWHxm has warm, dry summers and moist, mild winters with relatively little snowfall. Growing seasons are long, and feature water deficits on zonal sites.

Forests on zonal sites are dominated by Douglas-fir (*Pseudotsuga menziesii*), accompanied by western hemlock (*Tsuga heterophylla*) and minor amounts of western redcedar (*Thuja plicata*). Major understorey species include salal (*Gaultheria shallon*), dull Oregon-grape (*Mahonia nervosa*), red huckleberry (*Vaccinium parvifolium*), step moss (*Hylocomium splendens*), and Oregon beaked-moss (*Kindbergia oregano*). Less common species include vanilla-leaf (*Achlys triphylla*), sword fern (*Polystichum munitum*), twinflower (*Linnaea borealis*), and bracken (*Pteridium aquilinum*) (Green and Klinka 1994).

3.0 METHODS

Prior to the field assessment, a literature search was conducted covering the western Keats Island area, including British Columbia Conservation Data Centre (BCCDC) searches, BC Geographic Warehouse online iMap, South Coast Conservation Program (SCCP) and local knowledge. The BCCDC website was searched for all species listed under the SARA, Committee on the Status of Endangered Wildlife in Canada (COSEWIC), Provincial Identified Wildlife and the Provincial Wildlife Act that are suspected to occur within habitats identified within 2.0 km of the study area. In addition, species listed as Red and Blue-listed by the BCCDC but not specifically covered under legislation were also included.

Random transects were surveyed through all habitats identified during the site assessment. Vegetation species within each site were identified and recorded. In addition, the presence of coarse woody debris (CWD), wildlife trees, dens, burrows and other habitat features were also recorded.

All wildlife trees were classified according to methodologies identified by Backhouse (1993) and Fenger et al. (2006). Potential raptor/heron nest trees were scanned visually with binoculars. All wildlife and wildlife sign encountered was recorded.

4.0 FEDERALLY AND PROVINCIALLY LISTED SPECIES OF CONCERN

Nine Federally and/or Provincially listed species whose geographic range overlap the subject property and preferred habitats may occur within the Keats Island study area. These species are listed in Table 1.

Table 1: Federally and/or Provincially listed species that occur or may occur in the study area based on BCCDC records and local knowledge (SARA 2014 and BCCDC 2014). Likelihood of occurrence within the study area based on the field assessment results is also indicated.

Species	Federal/Provincial Status		Legislation			Site Occurrence
	Common/Scientific Name	COSEWIC/SARA Status*	BCCDC Status**	SARA*	Provincial Identified Wildlife	Provincial Wildlife Act
Vertebrates: Birds						
Great Blue Heron, <i>fannini</i> subspecies (<i>Ardea herodias fannini</i>)	SC (Mar 2008)	Blue	SC (Feb 2010)	Yes (May 2004)	X	Suitable – Mature trees within the study area provided potential nesting sites. Observed feeding along foreshore.
Double-crested Cormorant (<i>Phalacrocorax auritus</i>)	NAR (May 1978)	Blue			X	Potential – Suitable roosting sites within the study area and suitable foraging sites offshore.
Northern Goshawk, <i>laingi</i> subspecies (<i>Accipiter gentilis laingi</i>)	T (Apr 2013)	Red	T (Jun 2003)	Yes (May 2004)	X	Potential - Mature trees within the study area provided limited potential nesting sites.
Band-tailed Pigeon (<i>Patagioenas fasciata</i>)	SC (Nov 2008)	Blue	SC (Feb 2011)		X	Suitable - Breeding habitat may occur within the conifer-dominated stand within the study area and adjacent forests.
Western Screech-Owl, <i>kennicottii</i> subspecies (<i>Megascops kennicottii kennicottii</i>)	T (May 2012)	Blue	SC (Jan 2005)		X	Potential - Breeding habitat may occur within the conifer-dominated stand within the study area and adjacent forests.

Table 1 (continued): Federally and/or Provincially listed species that occur or may occur in the study area based on BCCDC records and local knowledge (SARA 2014 and BCCDC 2014). Likelihood of occurrence within the study area based on the field assessment results is also indicated.

Species Common/Scientific Name	Federal/Provincial Status		Legislation			Site Occurrence
	COSEWIC/SARA Status*	BCCDC Status**	SARA*	Provincial Identified Wildlife	Provincial Wildlife Act	Expected Onsite Habitat Use
Vertebrates: Birds (concluded)						
Common Nighthawk (<i>Chordeiles minor</i>)	T (Apr 2007)	Yellow	T (Feb 2010)		X	Suitable – Reported as a potential breeder on Keats Island. Nesting occurs on the ground on a bare site in an open area including sand dunes, beaches, logged areas, forest clearings, rocky outcrops and flat gravel roofs of buildings. Limited breeding habitat identified within the study area.
Olive-sided Flycatcher (<i>Contopus cooperi</i>)	T (Nov 2007)	Blue	T (Feb 2010)		X	Suitable – Have been recorded on Keats Island. Potential breeding habitat may occur along habitat edges.
Vertebrates: Mammals						
Little Brown Myotis (<i>Myotis lucifugus</i>)	E (Nov 2013)	Yellow			X	Suitable - Have been recorded on Keats Island. Potential roosting habitat may occur within the mature trees of the study area.
Invertebrates: Butterflies						
Silver-spotted Skipper (<i>Epargyreus clarus californicus</i>) subspecies		Red				Potential – historical records for this species (attributed to migrants) do occur for islands within Howe Sound.

*SC=Special Concern

**Red= Extirpated, Endangered or Threatened

T=Threatened

Blue= Special Concern

E=Endangered

Yellow=Not at Risk

NAR=Not at Risk

In addition to the nine species assessed in Table 1, thirteen additional provincially listed and/or SARA listed species were also evaluated but no suitable habitat for these species was observed within the study area. A table listing all 22 species evaluated and potential for occurrence within the study area can be found in Attachment 3.

5.0 RESULTS

5.1 Vegetation Overview

Two vegetation types were identified within the study area:

1. Conifer Forest Vegetation Type
2. Coastal Bluff Vegetation Type

The location of each of these vegetation types is shown on the aerial photograph in Attachment 2. Representative photographs of each of the vegetation types are in Attachment 4. A list of observed vegetation within the vegetation types is included in Attachment 5. The two vegetation types located within the subject area are described below.

5.1.1 Conifer Forest Vegetation Type

The Conifer Forest Vegetation Type (CFVT) was the dominant vegetation type observed within the study area. This upland forest was dominated by mature second-growth Douglas-fir and western redcedar and western hemlock with lesser components of bigleaf maple (*Acer macrophyllum*) and red alder (*Alnus rubra*) (Attachment 2; Attachment 4; Photograph 1). The dense tree canopy (>50%) in most areas resulted in sparse shrub cover (<5%) with salmonberry (*Rubus spectabilis*) and red huckleberry (*Vaccinium parvifolium*). The understory in these areas was dominated by sword fern (Attachment 4; Photograph 2). The edges and openings within this vegetation type were very shrubby and included species such as salal, thimbleberry (*Rubus parviflorus*) and dull Oregon-grape (Attachment 4; Photograph 3). Limited CWD or wildlife trees were observed within this vegetation type.

5.1.2 Coastal Bluff Vegetation Type

The Coastal Bluff Vegetation Type (CBVT) occurred along the northern edge of the study area. This vegetated rocky shoreline was dominated by a sand-gravel beach with abundant driftwood below the high water mark and rock bluffs with ocean spray influenced vegetation occurring above the high water mark (Attachment 4; Photographs 4 and 5).

5.2 Wildlife Trees

A wildlife tree is any standing dead or living tree with special features that provides present or future critical habitats for the maintenance or enhancement of wildlife. There are nine classifications of coniferous and six classes of deciduous wildlife trees in various successions from live and healthy with no decay, to stumps and debris (Fenger et al. 2006). All of these wildlife tree stages provide important habitat, and are known to support more than 90 animal species in British Columbia, including cavity nesting birds and mammals (Backhouse 1993). Some of the uses

include nesting, feeding, territoriality (i.e. bear mark trees, bird singing sites, etc.), roosting, shelter, and overwintering (Backhouse 1993).

Most of the trees observed in the study area were identified as Class 1 wildlife trees. Class 1 wildlife trees are described as live healthy trees with no decay. Decayed deciduous trees were also observed and were identified as Class 3, 4 and 5 wildlife trees. Class 3 wildlife trees are dead trees with hard heartwood; needles and twigs present and stable roots. Class 4 wildlife trees are dead trees with hard heartwood; no needles/twigs; 50% of branches lost; loose bark; top usually broken and stable roots. Class 5 wildlife trees show considerable height loss; branches mostly gone.

No active nests were observed within the study area during the field program. No recent nest cavities were detected within any of the wildlife trees observed. Woodpecker foraging sign and old, potential nest cavities were observed in the wildlife trees detected including old cavities in a Class 5 wildlife tree (Attachment 4; Photograph 6). These trees also provided habitat for many bird and mammal species including songbirds, squirrels and bats.

5.3 Coarse Woody Debris

CWD is typically described as woody debris greater than 0.3 m in diameter. CWD provides critical foraging, nesting, and cover components in the forested ecosystem for small mammals (Anonymous 1991). Many insectivorous small mammals, birds, and black bears feed on insects found in decomposing woody material. CWD provides a safe, moist environment in which species such as salamanders and shrews can forage and seek shelter.

Limited CWD cover was recorded within the CFVT and abundant CWD, in the form of driftwood, was observed within the CBVT.

5.4 Potential Vegetation Species and Ecological Communities with Special Federal/Provincial Status that May Occur in the Study Area

5.4.1 Vegetation Species

A comprehensive search of the BCCDC database for Red-listed, Blue-listed or SARA-listed vegetation species was conducted. No BCCDC or SARA listed vegetation species are known to occur within the study area.

5.4.2 Ecological Communities

The BCCDC currently defines ecological communities as those that are the most common in B.C. based on the Vegetation Classification component of the Ministry of Forests and Range Biogeoclimatic Ecosystem Classification (BEC), which focuses on the terrestrial plant associations of B.C.'s native plants. Additional ecological communities are documented from inventory projects, theses, and other reports. Future work will incorporate levels of aquatic and marine ecological communities as well as various other levels of ecosystems. These sites are generally ecosystems that have some chance of perpetuating (J. Stacey pers. comm.). These ecosystems are often the remnants of the natural ecosystems that once occupied a much larger area.

Typically, mature and old growth upland ecological communities are of concern to the BCCDC. In addition, all listed riparian, wetland and estuarine communities at any growth stage are also of concern to the BCCDC (J. Stacey pers. comm.). The listed ecological communities are classified using methodologies and nomenclature developed by Green and Klinka (1994).

The forested portions within the study area were second growth stands. Of the 15 forested ecological communities identified within the CWHxm1, 14 have been identified as either Red or Blue-listed by the BCCDC. Most of the study area was classified as the Red-listed Douglas-fir / Sword fern (Site series 04) ecological community.

5.4.3 Sensitive Ecosystem Inventory (SEI) Mapping

Keats Island was mapped as part of the Bowen/Gambier Trust Areas SEI Project. One polygon (H1872A) encompassed the study area and was mapped as Second-growth:mixed (SG:mx) (Attachment 6).

5.4.4 General Wildlife Observations

Wildlife sign and activity was recorded throughout the study area during the field assessment. Songbirds were observed flying and feeding and individuals were detected singing in vegetation throughout the site. Mammal species such as Raccoon (*Procyon lotor pacificus*) and River Otter (*Lontra canadensis*) were observed utilizing the foreshore habitat. Two SARA and Provincially listed species were detected during the field program. All wildlife species detected are listed in Attachment 7.

5.5 Wildlife Habitat Assessment

Habitats were assessed for the nine wildlife species listed in Table 1. The following are the results of the habitat assessment for each of the nine species.

5.5.1 Great Blue Heron

In addition to being listed on Schedule 1 (Special Concern) of SARA the Great Blue Heron *fannini* subspecies is also listed on the Provincial Blue List (BCCDC 2014). In British Columbia Great Blue Heron populations have been decreasing, resulting in the listing of this species (MELP 1998). Population decreases are believed to be the result of human disturbance (EC 2013¹). Great Blue Herons nest in a wide variety of tree species. Foraging habitat does not appear to be a limiting factor for this subspecies as not all available habitat is used by herons each year (Campbell et al. 1990). Critical nesting habitat includes both an established colony and a suite of alternative sites to retreat to should disturbance occur.

One Great Blue Heron was observed foraging along the foreshore during the field survey. Although breeding has not been reported on Keats Island, the mature forested stands of the study area provided potential breeding habitat.

5.5.2 Double-crested Cormorant

Double-crested Cormorants are the most widespread cormorant in North America, and the one most frequently seen in freshwater. In British Columbia, this species has been Blue-listed due to

population declines related to nesting success. They breed on the coast as well as on large inland lakes. They form colonies of stick nests built high in trees on islands or in patches of flooded timber (Zevit 2010).

No Double-crested Cormorant nest or roosting sites were observed within the study area. One Double Crested Cormorant was observed foraging offshore of the CBVT.

5.5.3 Band-tailed Pigeon

The SARA and provincially Blue-listed Band-tailed Pigeon occurs throughout the Fraser Valley. It frequents both natural and man-made habitats such as edges, openings in mature coniferous, mixed, and deciduous forests, city yards, parks, wooded groves, open bushland, and golf courses (Campbell et al. 1990). It is usually associated with conifer dominated stands with diverse structure and ages (Keppie and Braun 2000).

No Band-tailed Pigeons were detected during the field program. The varied canopy structure of the stands within the study area provided potential breeding habitat for this species.

5.5.4 Northern Goshawk

The *laingi* subspecies of the Northern Goshawk occurs along the coast of British Columbia and their range overlaps the study area and has been Red-listed by the BCCDC and listed as Threatened under the SARA. Northern Goshawks will nest in old-growth forests and can occur widely and irregularly during the non-breeding season.

Northern Goshawks were not observed during the site assessment. The second-growth stands of the study area provided limited breeding habitat for this species. Goshawks may occasionally occur within the study area during the breeding, migratory or wintering seasons.

5.5.5 Western Screech-Owl

The range of the *kennicottii* subspecies of the Western Screech-owl includes the study area and have been reported on Vancouver Island, the Gulf Islands, the Sunshine Coast as well as along the mainland coast. This subspecies has been recently up-listed from Special Concern to Threatened (2012) by COSEWIC and is Blue-listed by the BCCDC. Along the coast, the Western Screech-owl seems to be mostly found in either coniferous or mixed (deciduous or coniferous) forests, particularly near riparian areas below 600 m elevation. This owl prefers open forest for foraging and requires cavities in old, large trees for nesting and roosting. During the daytime it roosts in either coniferous or deciduous trees (COSEWIC 2002).

No Western Screech-owls have been detected during the field assessment. Although Western Screech-owl have not been reported on Keats Island, the mature forest of the study area provided potential breeding and roosting habitat for this owl species.

5.5.6 Common Nighthawk

The Common Nighthawk is listed as Threatened under the SARA. This species nests in a wide range of open, vegetation-free habitats, including dunes, beaches, recently harvested forests, burnt-

over areas, logged areas, rocky outcrops, rocky barrens, grasslands, pastures, peat bogs, marshes, lakeshores, and riverbanks. This species also inhabits mixed and coniferous forests. The appearance of gravel roofs contributed to the expansion of the Common Nighthawk's habitat in North America (EC 2014²).

No Common Nighthawks were detected during the site assessment. This species is suspected to breed on Keats Island (Beard 2012). Limited breeding habitat was identified within the study area.

5.5.7 Olive-sided Flycatcher

The Olive-sided Flycatcher is listed as Threatened (2010) under the SARA and is Blue-listed by the BCCDC. This flycatcher is most often associated with open areas containing tall live trees or snags for perching. These vantage points are required for foraging. This species generally forages from a high, prominent perch from which it sallies forth to intercept flying insects and then returns to the same perch. Open areas may be forest clearings, forest edges located near natural openings (such as rivers or swamps) or human-made openings (such as logged areas), burned forest or openings within old-growth forest stands; these forests are characterized by mature trees and large numbers of dead trees. There is evidence that the breeding success of birds nesting in harvested habitats is lower than the breeding success of birds nesting in natural openings. Generally, forest habitat is either coniferous or mixed wood. In the boreal forest, suitable habitat is more likely to be in or near wetland areas. Although the amount of old-growth forest obviously decreased during the 20th century, the amount of habitat attractive to Olive-sided Flycatchers may have remained more or less constant, since logging operations continue to create openings favoured by these birds. However, recent studies indicate that these sites are less suitable for breeding.

Although not detected during the site assessment, Olive-sided Flycatcher have been reported on Keats Island (Beard 2012). No breeding records for this species occur within the islands in Howe Sound. The Olive-sided Flycatcher is an edge-associated species and potential nesting habitat would occur along the edges of the study area.

5.5.8 Little Brown Myotis

The Little Brown Myotis is listed as Endangered (2012) COSEWIC and is Yellow-listed by the BCCDC. This medium-sized bat species is widespread and inhabits most of North America as far north as the tree line. In British Columbia it is found throughout the entire mainland and on several islands, including Vancouver Island and the Queen Charlotte Islands. This bat exploits a wide range of habitats, from arid grassland and Ponderosa Pine forest to humid coastal forest and northern boreal forest.

The Little Brown Myotis hibernates in caves and abandoned mines; it does not appear to hibernate in buildings. Hibernation records in British Columbia are limited to several old mines in the interior, each containing a few individuals. The whereabouts of most of the British Columbian populations in winter is unknown. Banding studies indicate that this bat will migrate 50 to 200 kilometres between hibernacula and summer roosts and if undisturbed, it occupies the same sites year after year.

Summer roosts are in buildings and other man-made structures, tree cavities, rock crevices, caves and under the bark of trees. In summer the sexes live separately. Females congregate in nursery colonies that may contain hundreds or even thousands of individuals. Nursery colonies are in sites with hot (30-55°C), stable temperatures. Nursing females seem to prefer attics, but they will roost in almost any natural site that offers the environmental conditions that will promote the rapid growth of young.

Males rarely occupy nursery colonies. In summer they can be found roosting alone or in small colonies usually in sites that are cooler than the nurseries (Nagorsen and Brigham 1993).

This bat species has been reported on Keats Island (Beard 2012). The mature trees of the study area provide potential roosting habitat for this species.

5.5.9 Silver-spotted Skipper

The *californicus* subspecies of the Silver-spotted Skipper has been Red-listed by the BCCDC. The *californicus* subspecies has been recorded from the Gulf Islands, the Lower Mainland, and the southern Kootenays. The Gulf Island and Lower Mainland records are historical and this species may be extirpated from these areas (Guppy and Shepard 2001; BCCDC 2014). The larval food plant of this skipper subspecies are woody plants of the pea family (Fabaceae).

Although this species is unlikely to occur within the study area, potential habitat may occur on other areas of Keats Island.

5.6 Wildlife Corridors

Wildlife corridors were observed along foot trails, old roads and shoreline within the study area.

6.0 CONCLUSIONS AND DISCUSSION

6.1 Vegetation, Ecological Communities and SEI Mapping

No SARA listed vegetation species were detected during the field program. Most of the study areas was classified as the Red-listed Douglas-fir / Sword fern (Site series 04) ecological community. The study area was also identified as a sensitive ecosystem under the Bowen/Gambier SEI Project which classified the site as mainly mixed second-growth habitat.

6.2 Wildlife Trees

Most wildlife trees in the study area were identified as Class 1 wildlife trees. A well-used Class 5 wildlife tree was observed within the CFVT of the study area. No recent wildlife activity was observed on any of the wildlife trees. Old woodpecker foraging sign was noted and old, potential nest cavities were also observed. Wildlife trees provide important habitat for cavity nesting birds and roosting bats. Currently, no Best Management Practices (BMP) exists for wildlife trees.

6.3 Coarse Woody Debris

Limited CWD cover was recorded within the CFVT and abundant CWD, in the form of driftwood, was observed along the beach of the CBVT. CWD is critical for many small mammals, amphibians,

reptiles and invertebrates. Currently, no BMPs exist for wildlife CWD. The addition of CWD at strategic sites should be considered.

6.4 Wildlife

Potential breeding habitat for the SARA and provincially listed Band-tailed Pigeon was identified within the study area. In addition, the mature trees may provide breeding habitat for Great Blue Heron and Western Screech-owl as well as roosting sites for Double-crested Cormorants. Edge habitats and open areas may provide breeding habitat for Olive-sided Flycatcher and Common Nighthawk.

Sign of passerines were also detected within the study area. The study area provided potential breeding/roosting habitat for passerines, woodpeckers and a number of bat species including Little Brown Myotis.

6.5 Wildlife Corridors

Wildlife corridors were observed along foot trails, old roads and shoreline within the study area during the field survey. These corridors provided mammals access to foraging sites and secure areas from potential predators and human disturbance.

6.6 Legislation

Under the provincial *Wildlife Act* all native wildlife species listed in the Act are protected. Under the SARA all listed wildlife and plants are protected. In addition, defined critical habitats on federal lands are also protected. Although the SARA does not protect habitats on private lands *The Canada-BC Agreement on Species at Risk* (2005) gives the province and local governments, the first opportunity to prevent the up-listing of any species listed in the Act. If local governments do not prevent the up-listing of a species then the Minister of Environment may order that the provisions of Sections 32 and 33 of SARA apply to the species of concern. To date no critical habitats have been defined for the above mentioned species and as such management options are suggested in the most recent BMPs available for each species.

7.0 RECOMMENDATIONS

The following recommendations should be implemented by a Qualified Environmental Professional (QEP).

7.1 Vegetation and Ecological Communities

The following recommendations should be implemented to protect habitat for sensitive vegetation species and ecosystems:

- Prevent the spread of invasive species through public education and consider removing, where possible, all invasive plant species such as English holly and other ornamental plant species. If replanting of vegetation is required then use only native plant species.

7.2 Terrestrial Wildlife

The following recommendations should be implemented to protect and improve habitat for the above mentioned species as well as all other terrestrial wildlife species:

- Add CWD to improve habitat for many wildlife species.
- Post signage to describe the environmental values of the proposed Nature Reserve area.

7.3 Birds and Bats

Within the subject area the following recommendations should be implemented to protect and improve habitat for the above mentioned species as well as other bird species:

- Consider installing bird and bat boxes, where necessary, to improve habitat for cavity nesting birds and roosting bats.

I trust that this wildlife and vegetation assessment is sufficient for your purposes at this time. If you have any questions or concerns, please contact Claudio Bianchini at (604) 219-9699.

Sincerely,



Claudio Bianchini, R.P. Bio.

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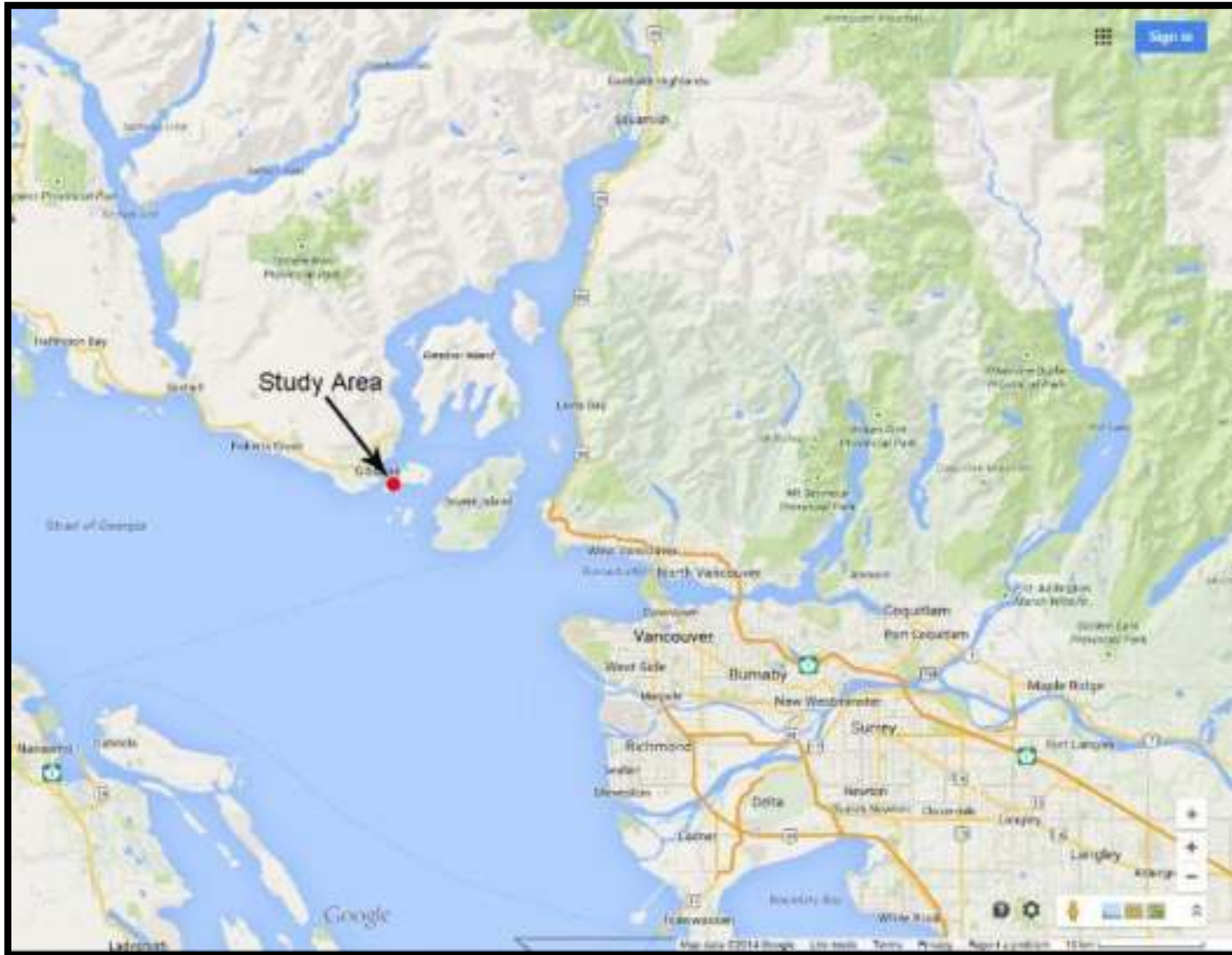
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ATTACHMENTS

Attachment 1: General Location



General location of the study area in relation to the Lower Mainland and Sunshine Coast (Google Maps 2014).

Attachment 2: Vegetation Types



Modified graphic showing Vegetation Types (VT) within the study area (Google Earth 2014).

Attachment 3: Potential Occurrence of Listed Species within the Study Area

Common/Scientific Name	Federal/Provincial Status		Legislation			Site Occurrence
	COSEWIC/SARA Status*	BCCDC Status**	SARA*	Provincial Identified Wildlife	Provincial Wildlife Act	Expected Onsite Habitat Use
Vertebrates: Birds						
Great Blue Heron, <i>fannini</i> subspecies (<i>Ardea herodias fannini</i>)	SC (Mar 2008)	Blue	SC (Feb 2010)	Yes (May 2004)		Suitable – Reported as a potential breeder on Keats Island. Nesting occurs on the ground on a bare site in an open area including sand dunes, beaches, logged areas, forest clearings, rocky outcrops and flat gravel roofs of buildings.
Double-crested Cormorant (<i>Phalacrocorax auritus</i>)	NAR (May 1978)	Blue				Potential – Suitable roosting sites within the study area and suitable foraging sites offshore.
Northern Goshawk, <i>laingi</i> subspecies (<i>Accipiter gentilis laingi</i>)	T (Apr 2013)	Red	T (Jun 2003)	Yes (May 2004)		Potential - Mature trees within the study area provided limited potential nesting sites.
Marbled Murrelet (<i>Brachyramphus marmoratus</i>)	T (May 2012)	Blue	T (Jun 2003)	Yes (May 2004)		Unlikely – No trees with suitable preferred nest branch structure observed within the study area.
Band-tailed Pigeon (<i>Patagioenas fasciata</i>)	SC (Nov 2008)	Blue	SC (Feb 2011)			Suitable - Breeding habitat may occur within the conifer-dominated stand within the study area and adjacent forests.
Western Screech-Owl, <i>kennicottii</i> subspecies (<i>Megascops kennicottii kennicottii</i>)	T (May 2012)	Blue	SC (Jan 2005)			Potential - Breeding habitat may occur within the conifer-dominated stand within the study area and adjacent forests.
Common Nighthawk (<i>Chordeiles minor</i>)	T (Apr 2007)	Yellow	T (Feb 2010)			Suitable – Reported as a potential breeder on Keats Island. Nesting occurs on the ground on a bare site in an open area including sand dunes, beaches, logged areas, forest clearings, rocky outcrops and flat gravel roofs of buildings.
Peregrine Falcon, <i>anatum</i> subspecies (<i>Falco peregrinus anatum</i>)	SC (Apr 2007)	Red	SC (Jun 2012)			Unlikely – no suitable preferred nest sites (cliffs/isolated rock bluffs) observed within the study area.
Olive-sided Flycatcher (<i>Contopus cooperi</i>)	T (Nov 2007)	Blue	T (Feb 2010)			Suitable – Has been recorded on Keats Island. Potential breeding habitat may occur along habitat edges.

Attachment 3 (continued)

Potential Occurrence of Listed Species within the Study Area.

Common/Scientific Name	Federal/Provincial Status		Legislation			Site Occurrence
	COSEWIC/SARA Status*	BCCDC Status**	SARA *	Provincial Identified Wildlife	Provincial Wildlife Act	Expected Onsite Habitat Use
Vertebrates: Birds						
Barn Swallow (<i>Hirundo rustica</i>)	T (May 2011)	Blue				Unlikely – Does not occur in forested habitats.
Purple Martin (<i>Progne subis</i>)		Blue				Unlikely – Does not occur in forested habitats.
Vertebrates: Mammals						
Townsend's Big-eared Bat (<i>Corynorhinus townsendii</i>)		Blue				Unlikely – No suitable hibernacula. Limited roosting habitat in mature conifers.
Keen's Myotis (<i>Myotis keenii</i>)	DD (Nov 2003)	Blue		Yes (May 2004)		Unlikely – No suitable hibernacula. Limited roosting habitat in mature conifers
Little Brown Myotis (<i>Myotis lucifugus</i>)	E (Nov 2013)	Yellow				Suitable - Have been recorded on Keats Island. Potential roosting habitat may occur within the mature trees of the study area.
Invertebrates: Dragonflies/Damselflies						
Western Pondhawk (<i>Erythemis collocata</i>)		Blue				Unlikely – No suitable habitat (ponds/wetlands) occur within the study area.
Blue Dasher (<i>Pachydiplax longipennis</i>)		Blue				Unlikely – No suitable habitat (ponds/wetlands) occur within the study area.
Autumn Meadowhawk (<i>Sympetrum vicinum</i>)		Blue				Unlikely – No suitable habitat (ponds/wetlands) occur within the study area.
Invertebrates: Butterflies						
Silver-spotted Skipper (<i>Epargyreus clarus californicus</i>) subspecies		Red				Potential – Historical records for this species (attributed to migrants) do occur for islands within how sound.
Invertebrates: Terrestrial Mollusks						
Threaded Vertigo (<i>Nearctula</i>)sp. 1	SC (Apr 2010)	Red	SC (Jul 2012)			Unlikely – Not recorded on the Gulf Islands or islands of Howe Sound.
Pacific Sideband (<i>Monadenia fidelis</i>)		Blue				Unlikely – Although potential habitat occurs not reported on any on the islands of Howe Sound or along the Sunshine Coast.

Attachment 3 (concluded)

Potential Occurrence of Listed Species within the Study Area.

Species	Federal/Provincial Status		Legislation			Site Occurrence
Common/Scientific Name	COSEWIC/SARA Status*	BCCDC Status**	SARA *	Provincial Identified Wildlife	Provincial Wildlife Act	Expected Onsite Habitat Use
Plants						
Field Dodder (<i>Cuscuta campestris</i>)	SC (Mar 2008)	Blue	SC (Feb 2010)	Yes (May 2004)		Unlikely – Parasitic plant on legumes. Not recorded on the Gulf Islands or islands of Howe Sound.

*SC=Special Concern T=Threatened E=Endangered DD=Data Deficient

NAR=Not at Risk

**Red= Extirpated, Endangered or Threatened **Blue= Special Concern

Attachment 4: Photographs



Photograph 1. CFVT within the study area (May 20, 2014).



Photograph 2. Typical understorey of the CFVT within the study area (May 20, 2014).

Attachment 4 (continued)



Photograph 3. Shrub dominated vegetation of edges and openings within the CFVT (May 20, 2014).



Photograph 4. Typical habitat composition below the high water mark of the SFVT within the study area (May 20, 2014).

Attachment 4 (concluded)



Photograph 5. Typical vegetation composition of the CBVT above the high water mark (May 20, 2014).



Photograph 6. A Class 5 deciduous wildlife tree with old foraging and nest cavities observed within the CFVT (May 20, 2014).

Attachment 5: Vegetation Species Detected

Vegetation species detected within the study area during the spring field assessment (May 20, 2014).

Species	Scientific Name*	Conifer Forest	Coastal Bluff
Tree Layer¹:			
Arbutus	<i>Arbutus menziesii</i>		X
Bigleaf Maple	<i>Acer macrophyllum</i>	X	
Douglas-fir	<i>Pseudotsuga menziesii</i>	X	X
Pin Cherry	<i>Prunus</i> spp.	X	
Red Alder	<i>Alnus rubra</i>	X	
Western Hemlock	<i>Tsuga heterophylla</i>	X	X
Western Redcedar	<i>Thuja plicata</i>	X	X
Dull Oregon-grape	<i>Mahonia nervosa</i>	X	
Shrub Layer²:			
English Holly**	<i>Ilex aquifolium</i>	X	
Hairy Manzanita	<i>Arctostaphylos columbiana</i>		X
Shore Pine	<i>Pinus contorta</i>		X
Nootka Rose	<i>Rosa nutkana</i>	X	
Oceanspray	<i>Holodiscus discolor</i>	X	X
Orange Honeysuckle	<i>Lonicera ciliosa</i>		X
Red Alder	<i>Alnus rubra</i>	X	
Red Huckleberry	<i>Vaccinium parvifolium</i>	X	X
Salal	<i>Gaultheria shallon</i>	X	X
Salmonberry	<i>Rubus spectabilis</i>	X	X
Saskatoon	<i>Amelanchier alnifolia</i>	X	
Thimbleberry	<i>Rubus parviflorus</i>	X	
Trailing Blackberry	<i>Rubus ursinus</i>	X	
Western Redcedar	<i>Thuja plicata</i>	X	X

Attachment 5 (concluded)

Vegetation species detected within the study area (May 20, 2014).

Species	Scientific Name*	Conifer Forest	Coastal Bluff
Herb Layer:			
Bracken	<i>Pteridium aquilinum</i>	X	
Creeping Buttercup	<i>Ranunculus repens</i>	X	
Common Dandelion	<i>Taraxacum officinale</i>	X	
Common Foxglove	<i>Digitalis purpurea</i>	X	
Grasses	<i>Gramnoids spp.</i>	X	
Lady Fern	<i>Athyrium filix-femina</i>	X	
Mountain Sweet-cicely	<i>Osmorhiza berteroi</i>	X	
Northern Bedstraw	<i>Galium boreale</i>	X	
Sword Fern	<i>Polystichum munitum</i>	X	
Timothy	<i>Phleum pratense</i>	X	
Wall Lettuce	<i>Mycelis muralis</i>	X	
Western Starflower	<i>Trientalis latifolia</i>	X	

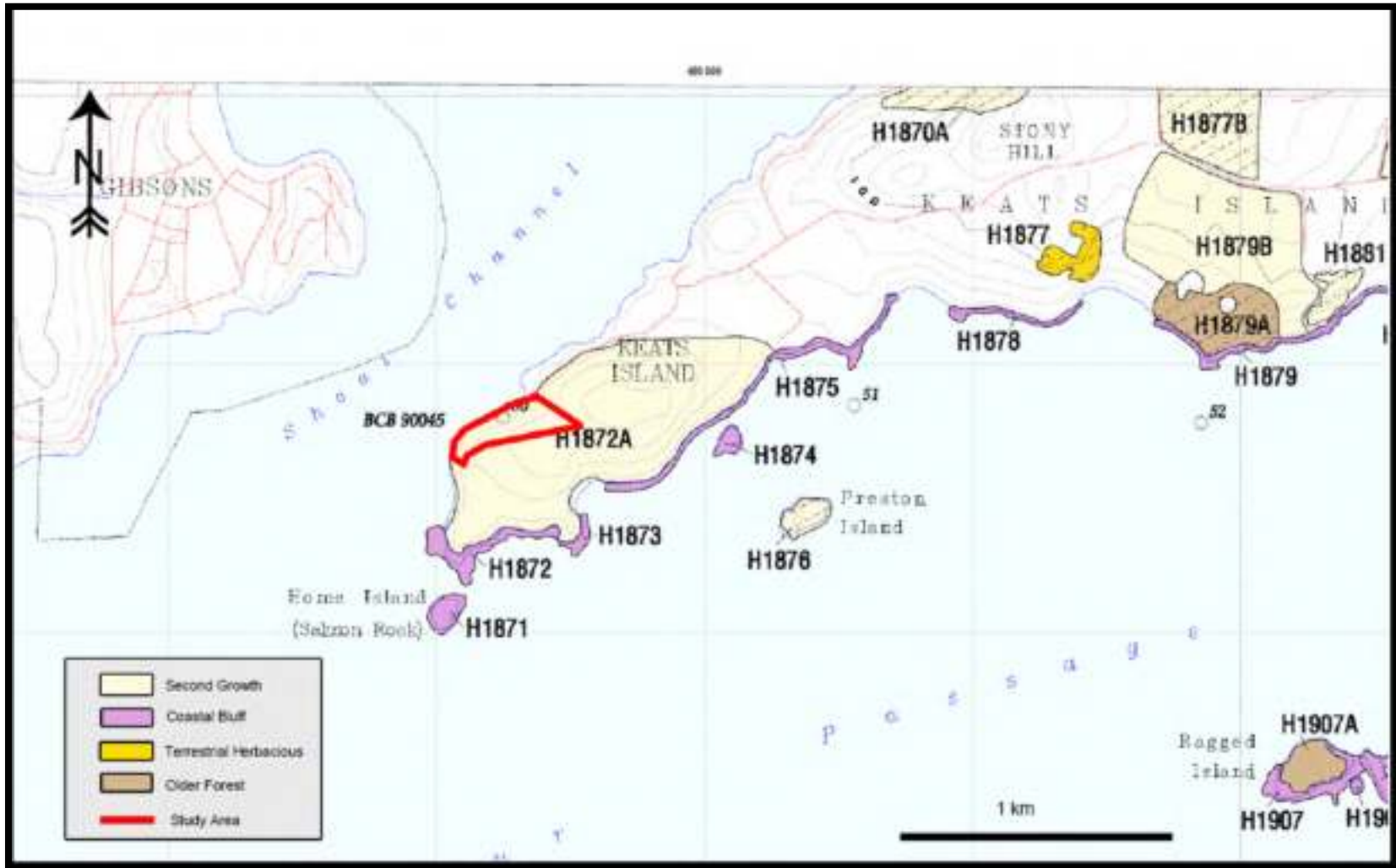
¹ Tree Layer: Woody plants >2m in height

² Shrub Layer: Woody plants 0-2m in height

* Scientific and common names from Klinkenberg 2006 (E-Flora BC)

** Introduced Species

Attachment 6: SEI Mapping



SEI Mapping for the Bowen/Gambier Trust Areas (BCCDC 1999).

Attachment 7: Wildlife Species Detected

Wildlife species detected within the study area (May 20, 2014).

Species	Scientific Name	Conifer Forest	Coastal Bluff
Birds:			
American Robin ^{1,2}	<i>Turdus migratorius</i>	X	
Bald Eagle ^{1,2,3}	<i>Haliaeetus leucocephalus</i>		X
Brown Creeper ²	<i>Certhia Americana</i>	X	
Canada Goose ^{1,2}	<i>Branta canadensis</i>		X
Common Merganser ¹	<i>Mergus merganser</i>		X
Common Raven ^{1,2}	<i>Corvus corax</i>	X	
Dark-eyed Junco ²	<i>Junco hyemalis</i>	X	
Double-crested Cormorant	<i>Phalacrocorax auritus</i>		X
Glaucous-winged Gull ^{1,3}	<i>Larus glaucescens</i>		X
Golden-crowned Kinglet ²	<i>Regulus satrapa</i>	X	
Great Blue Heron ¹	<i>Ardea Herodias</i>		X
Northwestern Crow ^{1,2}	<i>Corvus caurinus</i>	X	X
Orange-crowned Warbler ²	<i>Vernivora celata</i>	X	
Pacific Wren ²	<i>Troglodytes pacifica</i>	X	
Pacific-slope Flycatcher ²	<i>Empidonax difficilis</i>	X	
Pileated Woodpecker ^{1,2,4}	<i>Dryocopus pileatus</i>	X	
Red-breasted Sapsucker ⁴	<i>Sphyrapicus ruber</i>	X	
Rufous Hummingbird ^{1,2}	<i>Selasphorus rufus</i>	X	
Song Sparrow ^{1,2}	<i>Melospiza melodia</i>	X	
Spotted Towhee ^{1,2}	<i>Pipilo maculatus</i>	X	
Steller's Jay ²	<i>Cyanocitta stelleri</i>	X	
Townsend's Warbler ²	<i>Dendroica Townsendi</i>	X	
Turkey Vulture ^{1,3}	<i>Cathartes aura</i>		X
Warbling Vireo ²	<i>Vireo gilvus</i>	X	
Western Tanager ²	<i>Piranga ludoviciana</i>	X	
White-crowned Sparrow ^{1,2}	<i>Zonotrichia leucophrys</i>	X	
Wilson's Warbler ²	<i>Wilsonia pusilla</i>	X	
Yellow-rumped Warbler ²	<i>Dendroica coronata</i>	X	

Attachment 7 (concluded)

Wildlife species detected within the study area (May 20, 2014).

Species	Scientific Name	Conifer Forest	Coastal Bluff
Mammals:			
Coastal Black-tailed Deer ⁴	<i>Odocoileus hemionus columbianus</i>	X	
Douglas' Squirrel ²	<i>Tamiasciurus douglasii</i>	X	
Raccoon ⁵	<i>Procyon lotor pacificus</i>		X
River Otter ^{1,6}	<i>Lontra canadensis</i>		X

¹Heard

²Seen

³Overflight

⁴ Foraging Sign

⁵ Tracks

⁶ Scats/Pellets

END OF DOCUMENT



REQUEST FOR DECISION

To: ITC Board **For the Meeting of:** October 4, 2022
From: Staff **Date Prepared:** September 22, 2022
SUBJECT: Tree planting proposal for Enchanted Forest Covenant, South Pender Island

RECOMMENDATION(S): That the ITC Board approve the request for tree planting by the Pender Islands Parks and Recreation Commission in Enchanted Forest Covenant, EG75146, PID 003-483-037, South Pender Island, by issuing a temporary waiver.

1 PURPOSE: To respond to the request by the Pender Islands Parks and Recreation Commission to plant trees within the Enchanted Forest Covenant.

2 BACKGROUND:

Enchanted Forest is a three-hectare local park on South Pender Island that protects a wet forest ecosystem enjoyed by the community by way of a public walking path and interpretive signs. The park is managed by Pender Islands Parks and Recreation Commission (PIPRC) through an arrangement with the owner on title, Capital Regional District (CRD).

The PIPRC has agreed to plant a considerable number of native trees in its parks over the next few years, and Enchanted Forest Park has been identified as one of two areas in which they hope to plant trees this year. The PIPRC's proposal for Enchanted Forest is to plant approximately 100 trees to support regeneration in areas where significant blow-down has occurred and tree cover is currently minimal. The trees planted would be native species, mostly Douglas-fir and Western redcedar, sourced locally. Trees will be protected from deer browse by individual wire cages with metal supports. The planting would be completed by volunteers from Green Angels, Pender Islands Conservancy Association, and possibly older students from the local school, under the guidance of the PIPRC's long-time site manager. Planting would take place in November, following the return of cool, wet weather, to allow trees to establish under optimal conditions.

While this proposal is consistent with the implicit intent of the covenant agreement, there are no owner's reserved rights that allow for tree planting, and the activity would be in violation of term 1.(a), which restricts soil disturbance. The head of the PIPRC tree-planting sub-committee has assured ITC staff that they will be avoiding disturbing native plants, and will be avoiding work in wet or rocky areas. Soil disturbance is expected to be minimal, as the trees planted will be small, requiring a 1x1-2 ft hole, and work will be completed manually without the use of machinery. The PIPRC is also exploring the possibility of First Nations advisors providing guidance to volunteers on what to look out for when soil is disturbed, and how to respond in the event of chance finds. It is the PIPRC's "intention to achieve the maximum while disturbing the minimum."

3 IMPLICATIONS OF RECOMMENDATION:

ORGANIZATIONAL: Staff will monitor for impacts from tree planting activities during the 2023 monitoring visit, and will request a concurrent tour of planted sites from the PIPRC's site manager.

FINANCIAL: None.

POLICY: None.

IMPLEMENTATION/COMMUNICATIONS: ITC will inform PIPRC and the CRD of the ITC Board's decision. If a waiver is approved, ITC's waiver letter will include a request for a brief report from PIPRC confirming the number and species of trees planted and coordinates of primary planting sites once the work is complete, as well as a requirement for removal of tree cages once the trees are no longer vulnerable to damage by deer.

FIRST NATIONS: Staff have reviewed the RAAD database and no identified confirmed or potential archeological sites overlap the Enchanted Forest Covenant area. Staff will provide PIPRC with the *Islands Trust Cultural Protocol for Chance Finds and Ancestral Remains* and require that they follow this protocol while working in the covenant area.

CLIMATE CHANGE: The planted trees will contribute to carbon sequestration and help to offset the carbon released as the blow-down trees decompose.

OTHER: None.

4 RELEVANT POLICY(S):

[ITC Policy 2.4 Conservation Covenants](#)

5 ATTACHMENT(S): Tree Planting Proposal, Emails September 21, 2022

RESPONSE OPTIONS

Recommendation(s): That the ITC Board approve the request for tree planting by the Pender Islands Parks and Recreation Commission in Enchanted Forest Covenant, EG75146, PID 003-483-037, South Pender Island, by issuing a temporary waiver.

Alternatives: None recommended.

Prepared By: Jemma Green, Covenant Management & Outreach Specialist

Reviewed By / Date: Kate Emmings, ITC Manager / September 23, 2022

From: Barry Clare Mathias <mathiascb@shaw.ca>
Sent: Wednesday, September 21, 2022 7:05 PM
To: Jemma Green
Subject: Re: Tree planting at the Enchanted Forest part 2

Hi Jemma,

I realize I forgot to mention that our deer fencing will be wire and metal supports, as in the Disk Golf Park.

Thanks,

Barry

> On Sep 21, 2022, at 6:31 PM, Barry Clare Mathias <mathiascb@shaw.ca> wrote:

>

> Hi Jemma,

> Thank you for enlightening me on the necessary information required.

> Pender Island Parks and Recreation Commission has agreed to plant a considerable number of native trees in its parks over the next few years, starting this November (when hopefully the rain has begun).

> We have formed a tree planting sub-committee which includes Ben Symons (our parks' contractor) who has a detailed knowledge of the Enchanted Forest, which is one of the two areas in which we hope to plant trees this year.

>

> In the Enchanted Forest we are focusing on those areas where 'blow-down' has occurred and where the tree cover is minimal. We will be avoiding disturbing native plants, and wet or rocky areas. We hope to plant approximately 100 trees; mostly Douglas fir and Western Red Cedar.

>

> We will not be using any machinery. We will be planting small trees, as in the Disc Golf Park, approximately one foot square in area, and one foot/two feet in depth.

>

> Our volunteer force will, in the first instance, be members of Green Angels who helped plant trees in the Disc Golf Park earlier this year, and PICA supporters. I am investigating funding from Wildlife Habitat Conservation to involve older students from the local school...the Principal is enthusiastic, and we are exploring the possibility of First Nations officers giving guidance as to what these volunteers should be looking for when soil is disturbed, and how to proceed. In this first year, the students will be helping at Thieves Bay.

>

> It is our intention to achieve the maximum while disturbing the minimum.

>

> We will be buying trees from Island View Nursery, and through PICA contacts.

>

> Unfortunately, I will be off-Island tomorrow, so if you need to contact someone, I suggest Ben Symons or George Leroux.

>

> Thank you again for your encouraging attitude,

> Barry

>



REQUEST FOR DECISION

To: ITC Board **For the Meeting of:** October 4, 2022
From: Staff **Date Prepared:** September 23, 2022
SUBJECT: ITC 2023/24 Budget Submission

RECOMMENDATION: That the Board approve the draft 2023/24 ITC Budget as presented and direct staff to provide it to the Director of Administrative Services and the Director of Trust Area Services for inclusion in the Islands Trust draft 2023/24 budget.

1 PURPOSE: To provide the Islands Trust Conservancy (ITC) Board with a proposed 2023/24 budget to assist in making a budget request to Trust Council.

2 BACKGROUND:

ITC Policy 1.6 requires that the ITC Manager prepare a proposed ITC budget for ITC Board approval. The ITC Board discussed budget options at its July 13, 2022 meeting and passed the following resolution:

ITC-2022-034

It was MOVED and SECONDED,

that the ITC Board direct staff to prepare an ITC Budget request, including the following items, and to return to the ITC Board for review in October:

- Increases to the ITC budget to reflect the species at risk grant commitments, totaling \$220,000;
- An increase to the property management budget of \$4,650 to reflect new nature reserves;
- An increase to the travel budget of approximately \$2,000 to accommodate additional increases to water taxi fees required to monitor and manage islands not serviced by ferries;
- An increase to the ITC legal budget of \$7,000 to reflect anticipated costs of legal review and to return the budget to amounts consistent with previous years' budgets;
- Consideration of further increases to the property management budget to accommodate management planning needs for new nature reserves;
- Development of a business case for First Nations engagement associated with development of the ITC Five-Year Plan;
- Development of a business case in collaboration with Information Systems Management for property management software to replace the Islands Trust TAPIS system; and,
- Development of a business case in collaboration with Trust Area Services and Information Services for Contact Relationship Management (CRM) software and possible Content Management System (CMS) software to address inefficiencies in public communications management.

The ITC Manager has prepared a budget (Table 1) and has incorporated Board requests.

- The request for a business case for property management software will be submitted as part of the Information Systems regular software budget.
- The business case for Contact Relationship Management (CRM) software and Content Management System (CMS) software will be submitted to Executive Committee for consideration as it is intended to provide service for the Islands Trust as a whole. Should the CRM software not receive support, ITC Board will need to consider further budget requests as the current CRM software that ITC uses will be discontinued in 2024.

Additional changes to the budget request, not noted in the ITC Board resolution are as follows:

- Addition of \$2,500 for contract services to assist with property monitoring administration;
- Reduction of subscription amounts to reflect the Island Trust Conservancy subscriptions more accurately;
- Addition of a memberships line to reflect memberships in WillPower and the Land Trust Alliance of BC;
- Increase to Board Honoraria to reflect likelihood of a full, six-person board; and,
- Increase to costs of mobile devices and travel for training to reflect increased market costs.

Table 1. Proposed Islands Trust Conservancy 2023/24 budget request.

Description	2022/23	2023/24			Increase/Decrease from 2022/23	
	Approved Budget	Islands Trust contribution (tax requisition)	SAR grant contribution	TOTAL BUDGET	\$ Change	% Change
Salaries and Benefits *	620,899	577,635	110,661	688,296	67,397	10.9%
Communications	14,780	11,700	6,300	18,000	3,220	21.8%
Contract Services	0	2,500	0	2,500	2,500	100.0%
Subscriptions	1,000	400	0	400	-600	-60.0%
Memberships	0	1800	0	1,800	1,800	100.0%
Board Honoraria	6,600	7,000	0	7,000	400	6.1%
Board Meeting Expense	1,425	1,425	0	1,425	0	0.0%
Board Training and Conferences	1,600	1,600	0	1,600	0	0.0%
Property Management	137,780	102,430	57,500	159,930	22,150	16.1%
Conservation Planning and Land Securement	26,550	9,550	17,000	26,550	0	0.0%
Ecosystem Mapping	18,000	13,800	4,200	18,000	0	0.0%
Legal	13,000	20,000	0	20,000	7,000	53.8%
Mobile Devices	1,350	3,210	0	3,210	1,860	137.8%
Training and Conferences	4,200	4,200	0	4,200	0	0.0%
Travel for Training	2,200	2,500	0	2,500	300	13.6%
Travel	17,880	15,000	5,000	20,000	2,120	11.9%
Project: ITC Plan First Nations Engagement	0	10,000	0	10,000	10,000	100.0%
Summer Co-op Student	17,690	0	19,339	19,339	1,649	9.3%
TOTAL Direct ITC Costs	884,954	784,750	220,000	1,004,750	119,796	13.5%
Admin Allocation **	252,173	262,780	0	262,780	10,607	4.2%
TOTAL	1,137,127	1,047,530	220,000	1,267,530	130,403	11.5%
Funded by SAR monies ***	-205,000					
Total for Tax Requisition	932,127					

* Estimate of ITC salaries and benefits for draft budget 2023-24, assumes maximum wage increases under the BCGEU tentative agreement.

** Estimate of Admin Allocation based on previous year's budget.

*** Budget amount listed for prior year is as per the approved budget. SAR funding for 2022/23 was increased to \$238,500.

3 IMPLICATIONS OF RECOMMENDATION:

ORGANIZATIONAL: If the budget is approved by Trust Council it will form the basis for the ITC work program in 2023/24. The influx of funding from Environment and Climate Change Canada (ECCC) will support staff positions, contractors and related expenses for the SAR Program.

FINANCIAL: The budget request above will result in an approximate \$130,400 increase in the Islands Trust Conservancy budget from Islands Trust Council with an approximate \$115,400 allocated as an increase to the tax requisition and \$15,000 allocated to grant funds from ECCC for the SAR Program.

ITC and ECCC are negotiating an agreement to provide \$220,000/year in ECCC funds to March 31, 2026. The agreement can be terminated by ECCC with 60 days' notice. Currently, ECCC contributes approximately \$50,000 to regular, core (non-SAR project) ITC staff positions in addition to fully funding the SAR Program Coordinator and the ITC Co-op Student position. The proposed budget reflects a reduction on ECCC grant funds of approximately \$15,000 in 2023/24 for regular, core ITC staff positions. This portion of the ECCC grant funding would be redistributed to Species at Risk surveys, habitat restoration, First Nations engagement and Species at Risk outreach and education.

To avoid potential circumstance where the grant is cancelled and the Islands Trust is left needing to bump its tax requisition by \$50,000 to sustain core staff positions the Conservancy can begin gradually reducing the reliance on ECCC funding for core expenses over the next few years to buffer risk of funding loss. This reduction is a discretionary decision. Postponing this shift to a future year, or reducing the proposed amount would reduce the budget request to Trust Council.

POLICY: None.

IMPLEMENTATION/COMMUNICATIONS: The ITC Manager will provide the ITC budget request to the Director of Trust Area Service and the Director of Administrative Services with explanatory notes for the requested changes. The Director of Administrative Services will prepare the budget for review by the Financial Planning Committee and approval by Trust Council. The ITC Chair may make representations to the Financial Planning Committee regarding the ITC Board's budget request. If Financial Planning Committee requests changes, staff will convey this request at a future Board meeting.

FIRST NATIONS: The budget includes funds for archaeological assessments and funds to engage First Nations knowledge holders, particularly to assist staff in assessing conservation proposals and in land management. It also includes funds for engagement of First Nations for the 2026-2030 ITC Plan (see related business case in this meeting agenda).

CLIMATE CHANGE: The budget increases anticipate an increase in travel which will increase the carbon emissions of the ITC work. It is hoped that these emissions will be balanced by an increase in habitat conservation which will result in ensured carbon storage and sequestration. At this time, staff are not able to predict these tradeoffs in a meaningful way. Islands Trust uses Modo Car Share for most of its travel needs and where possible, staff book lower emissions vehicles.

OTHER: None.

4 RELEVANT POLICY(S): [6.3.1 Budget Process](#)

5 ATTACHMENT(S): None

RESPONSE OPTIONS

Recommendation: That the Board approve the draft 2023/24 ITC Budget as presented and direct staff to provide it to the Director of Administrative Services and the Director of Trust Area Services for inclusion in the Islands Trust draft 2023/24 budget.

Alternative:

That the Board approve the 2023/24 ITC Budget as presented with the following amendments:

- *[insert amendments]*

and direct staff to provide it to the Director of Administrative Services and the Director of Trust Area Services for inclusion in the Islands Trust draft 2023/24 budget.

Prepared By: Kate Emmings, ITC Manager

Reviewed By/Date: Clare Frater, Director of Trust Area Services / September 25, 2022



REQUEST FOR DECISION

To: ITC Board **For the Meeting of:** October 4, 2022
From: Staff **Date Prepared:** September 27, 2022
SUBJECT: Business Case for First Nations Engagement Capacity Funding, ITC Plan

RECOMMENDATION: That the Islands Trust Conservancy Board submit its Short-Form Business Case, *Islands Trust Conservancy (ITC) Plan: First Nations Engagement - \$10,000*, to Financial Planning Committee for inclusion in the draft 2023/24 Islands Trust Budget.

1 PURPOSE: To solicit review and approval of the Business Case, *Islands Trust Conservancy (ITC) Plan: First Nations Engagement - \$10,000*, prior to submitting it to the Islands Trust Financial Planning Committee for inclusion in the draft 2023/24 Islands Trust Budget.

2 BACKGROUND: See attached Business Case.

3 IMPLICATIONS OF RECOMMENDATION:

ORGANIZATIONAL: Staff will forward the ITC Business Case, *Islands Trust Conservancy (ITC) Plan: First Nations Engagement - \$10,000*, to Financial Planning Committee as part of the ITC Budget submission.

FINANCIAL: See attached Business Case.

POLICY: None.

IMPLEMENTATION/COMMUNICATIONS: The ITC Manager will provide the ITC budget request to the Director of Trust Area Service and the Director of Administrative Services. The Director of Administrative Services will prepare the budget for review by the Financial Planning Committee and approval by Trust Council. The ITC Chair may make representations to the Financial Planning Committee regarding the ITC Board's budget request. If Financial Planning Committee requests changes, staff will convey this request at a future Board meeting. In September, Trust Council passed the following motion:

That Trust Council request staff, in cooperation with Executive Committee, provide a list of needed resources in priority order to advance the Trust's reconciliation activity with First Nations in British Columbia that Council may debate and endorse for advocacy to British Columbia.

Staff will include this request in the list provided to Trust Council.

FIRST NATIONS: The request for capacity funding for First Nations to support early and meaningful engagement in development of the 2026-2030 ITC Plan is consistent with the intent of the ITC Reconciliation Declaration and Goal 2 of the Regional Conservation Plan. See attached business case for further details.

CLIMATE CHANGE: None.

OTHER: None.

4 RELEVANT POLICY(S): [6.3.1 Budget Process](#)

5 ATTACHMENT(S): Islands Trust Budget Funding Request, Business Case: *Islands Trust Conservancy (ITC) Plan: First Nations Engagement - \$10,000*

RESPONSE OPTIONS

Recommendation:

That the Islands Trust Conservancy Board submit its Business Case, *Islands Trust Conservancy (ITC) Plan: First Nations Engagement - \$10,000*, to Financial Planning Committee for inclusion in the draft 2023/24 Islands Trust Budget.

Alternative: That the Islands Trust Conservancy Board reduce the funding requested in its Business Case, *Islands Trust Conservancy (ITC) Plan: First Nations Engagement*, to \$X,XXX and submit it to Financial Planning Committee for inclusion in the draft 2023/24 Islands Trust Budget.

Prepared By: Kate Emmings, ITC Manager

Reviewed By / Date: Clare Frater, Director, Trust Area Services / September 28, 2022



**Budget Funding Request
Short-Form Business Case**

Completion of this form initiates a request to the management team, FPC, and ultimately Trust Council for allocation funding in the next fiscal year budget. The form is to be completed and submitted at the start of the decision making process. The business case forms part of the Annual Budget Process (refer to Islands Trust Council Budget Process Policy 6.3.i).

TO BE COMPLETED BY INITIATOR

<p>Initiated by (name, title): Islands Trust Conservancy Board</p>	<p>Budget Source (select all that apply):</p> <p><input type="checkbox"/> Specific Project Funding (select all that apply)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Third Party Contractors <input type="checkbox"/> Staff Travel Expense <input type="checkbox"/> Staff Overtime Expense <input type="checkbox"/> New Staff Member – Temporary for project <input type="checkbox"/> Computer Hardware/Software <p><input type="checkbox"/> Furniture & Equipment</p> <p><input type="checkbox"/> Computer Hardware/Software/Supplies</p> <p><input type="checkbox"/> New Staff Resources (see Staff Costing Tool)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Permanent <input type="checkbox"/> Temporary <p style="margin-left: 40px;">Temp Duration: _____</p> <p><input checked="" type="checkbox"/> Other – please describe: <u>Capacity Funding: First Nations review and engagement, ITC Plan</u></p>
<p>Business Area: Islands Trust Conservancy</p>	
<p>Name of Request: Islands Trust Conservancy (ITC) Plan: First Nations Engagement - \$10,000</p>	
<p>Date of Funding Request Submission: October 4, 2022</p>	<p>Funding Required for (date range): April 1, 2023 – March 31, 2024</p>

ISSUE/OPPORTUNITY:

Islands Trust Conservancy (ITC) will begin development of the 2026-2030 ITC Plan in 2024 and the ITC Board is seeking capacity funding to support First Nations engagement in the early development of the ITC Plan. The ITC Plan is a requirement of the *Islands Trust Act* and must be developed at least every five years for approval by the Minister of Municipal Affairs. It must include policies on land acquisition and disposal, and management of financial assets. First Nations need the opportunity to provide input on how the plan impacts Section 35 rights.

Many First Nations in the Islands Trust Area have expressed frustration with being brought into Islands Trust engagement processes late in the development of an initiative. First Nations have also communicated the challenges inherent in the fast turnarounds required in engagement processes. Providing capacity funding to assist First Nations with early and meaningful engagement in development of the ITC Plan will put the ITC Reconciliation Declaration into practice.

ITC Reconciliation Declaration

The Islands Trust Conservancy acknowledges that the islands and waters that encompass the Salish Sea have been home to Indigenous Peoples since time immemorial. We recognize that we are all intertwined in the ecosystems that are the lands, waters, culture, and ecology that embody this place.

The Islands Trust Conservancy will strive to create opportunities for knowledge-sharing, understanding and collaboration as people come together to preserve and protect the special nature of the islands within the Salish Sea.

The Islands Trust Conservancy is committed to the protection and preservation of this place through processes that respect and honour reconciliation and mutually respectful relationships with Coast Salish Indigenous Peoples. We express our recognition for the past, present, and future stewardship and knowledge that has been shared by Indigenous Peoples and are humbled and grateful.

June 16, 2019, on Ləkʷəŋən, METULIYE/Victoria, B.C.

Early and meaningful engagement of First Nations in development of the ITC Plan will address the following goals and objectives in the [Regional Conservation Plan](#):

Goal 2: Strengthen relationships with First Nations to identify and collaborate on shared conservation goals.

Objectives:

2.1 Amend or redraft policies, procedures, plans, document templates and reports to include acknowledgement and consideration of First Nations

2.4 In consultation with the Islands Trust, source funds and determine mechanisms to support First Nations collaboration (financial and capacity)

PROJECTED RESULTS/DELIVERABLES:

ITC Board anticipates that providing a long project timeline and capacity funding will encourage more First Nations to participate in development of the ITC Plan in a meaningful way. Added results may include:

- 1) An ITC Plan that incorporates First Nations input and meaningfully advances the ITC Reconciliation Declaration;
- 2) More robust relationships with First Nations, including establishment and growth of staff to staff and Board to Council relationships; and,
- 3) Improved understanding of First Nations wishes with respect to ITC policies and practices pertaining to land acquisition, disposal and management.

RISK ASSESSMENT:

Risk Factor	Mitigation
Low First Nations participation in ITC Plan engagement	ITC will extend the engagement period into 2024/25 and will request that any unspent funds carry forward into the next budget year, via resolution of the ITC Board, to continue First Nations engagement. In the event that there is low uptake from First Nations, ITC will include a description of engagement efforts in the briefing to the Minister and will do an evaluation of its work to engage First Nations to inform future efforts.
High First Nations participation in ITC Plan engagement	ITC will extend the engagement period into 2024/25 and will request additional capacity funding into 2024/25 as needed.
Staff vacancy: Islands Trust, Senior Intergovernmental Policy Advisor	Islands Trust currently has a vacancy for the position of Senior Intergovernmental Policy Advisor (SIPA). The SIPA acts as an important liaison for working with First Nations. Given that this position is currently unavailable for support, ITC Board anticipates needing to allocate additional ITC Manager time to support First Nations engagement.

Limited/no support from Provincial ministries (Municipal Affairs and Indigenous Relations and Reconciliation)	ITC may delay initiation of engagement if the relevant Provincial ministries are not available to provide guidance. Given that the ITC Plan requires approval from the Minister of Municipal Affairs (MAH), ITC anticipates that MAH will agree to work with the ITC on First Nations engagement. ITC will engage MAH early in the process to determine a reasonable timeline for MAH staff.
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ALTERNATIVES CONSIDERED:

Option 1 Fully Funded First Nations Engagement (\$10,000)

Option 1 provides the desired funding level and is recommended. This option shows significant commitment towards engagement of First Nations and supports the ITC Regional Conservation Plan goals and objectives as well as the ITC Reconciliation Declaration.

Option 2: Reduced Funding for First Nations Engagement with top up as needed from regular ITC budget areas (\$5,000)

ITC could proceed with early engagement of First Nations in the development of the ITC Plan with limited capacity funding. If there is significant uptake from First Nations, ITC could consider diverting funding from other program areas to support the initiative or could request additional funding from other units via a request to the Executive Committee. This option may result in decreased funding in other program areas or, if additional funding is unavailable, it may result in extended project timelines or reduced participation in the engagement process from First Nations.

Option 3: Status Quo

ITC proceeds with development of the 2026-2030 ITC Plan with early engagement of First Nations without capacity funding. This option is not preferred as it is anticipated that First Nations will have limited ability to participate and this may damage relationships and delay/jeopardize approval of a new Plan.

CRITICAL SUCCESS FACTORS:

The following factors are important to success. The most critical of these is factor 4, availability of ITC Manager time. In the event that the ITC Manager time is unexpectedly diverted to other needs, the project will need to be delayed. Other factors can be mitigated as described above in the risk assessment.

- 1) Support from Islands Trust Senior Intergovernmental Policy Advisor;
- 2) Engagement of Ministry of Municipal Affairs in development of First Nations communications;
- 3) Guidance from Ministry of Indigenous Relations and Reconciliation with respect to appropriate contacts with First Nations and engagement language; and,
- 4) Availability of ITC Manager time to manage the project.

RECOMMENDED OPTION:

Option 1 is recommended because it:

- 1) Shows meaningful commitment to the ITC Reconciliation Declaration; and,
- 2) Meets the second goal of the ITC Regional Conservation Plan, including satisfying objectives to amend policies, procedures and plans to include consideration of First Nations and to collaborate with Islands Trust to source funds and finance added capacity for First Nations collaboration

COST/BENEFIT ANALYSIS:

Quantitative Analysis:

The recommended option will require a \$10,000 budget commitment for 2023/24.

Qualitative Analysis:

The recommended option will yield qualitative benefits in the development of relationships with First Nations in the Islands Trust area. ITC hopes that this will lead to progress in Reconciliation, including improved policies on land acquisition/disposal and land management.

PURCHASING PROCEDURE:

ITC will offer a set amount for each First Nation for capacity funding (e.g. \$1,500). This amount will be directly awarded to First Nations who are able to participate in engagement.

PROPOSED IMPLEMENTATION STRATEGY:

ITC will:

- 1) Develop an outreach strategy with support from Ministry of Municipal Affairs and Ministry of Indigenous Relations and Reconciliation;
- 2) Send out invitations to First Nations to participate in engagement;
- 3) Coordinate meetings with First Nations staff and/or councils to share information about ITC and to learn about First Nations interests;
- 4) Synthesize First Nations input in a report for the ITC Board to assist in the development of the ITC Plan.

STAFF RESOURCING:

This initiative will be accomplished with existing staff resources. If the engagement is successful, it is anticipated that it will require approximately seventy hours of the ITC Manager time over the course of the 2023/24 fiscal year for project management and twenty hours each for the Trust Area Services Director, ITC Ecosystem Protection Specialist, Property Management Specialist, Covenant Management and Outreach Specialist and Species at Risk Program Coordinator. ITC Administrative Assistant support will also be required to manage correspondence and filing; this is anticipated at under ten hours over the course of the project. ITC would also benefit from support from the Islands Trust Senior Intergovernmental Policy Advisor (SIPA) should that position be filled and on-boarded prior to initiation of this project. ITC Manager will work with the Directory of TAS to determine appropriate time allocation of the SIPA. Improving First Nations engagement and working with First Nations in areas of mutual interest is currently an anticipated part of ITC work programs and is a goal of the Regional Conservation Plan.

CHANGE MANAGEMENT/COMMUNICATIONS/COLLABORATION:

This engagement will be the first time ITC has communicated with First Nations so early in the development of the ITC Plan. ITC intends to collaborate with Islands Trust staff, Ministry of Municipal Affairs and Ministry of Indigenous Relations and Reconciliation to seek their expertise.

Kate Emmings, Manager, Islands Trust Conservancy
Initiator Name, Title

September 27, 2022
Date

Clare Frater, Director, Trust Area Services
Reviewed by Department Lead: Name, Title

September 28, 2022
Date

REVIEWED BY ISLANDS TRUST CONSERVANCY (ITC) BOARD:

Date received: October 4, 2022	Accepted by ITC Board: <input type="checkbox"/> YES <input type="checkbox"/> NO
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Next steps:

- If accepted by ITC Board:
 - the business case will be forwarded to FPC for review in October of each year.
 - the funding for the request will be included in Draft 1, Version 1 of the budget which is reviewed by FPC in October of each year, and the business case forwarded to FPC.



REQUEST FOR DECISION

To: ITC Board **For the Meeting of:** October 4, 2022
From: Kathryn Martell, EPS **Date Prepared:** September 27, 2022
SUBJECT: Nighthawk Hill NAPTEP Covenant Amendment Approval, North Pender

RECOMMENDATION(S):

1. That the Islands Trust Conservancy Board approves the revised Nighthawk Hill NAPTEP Covenant (NIHN) and authorizes the Chair to sign the NIHN with Andreas Nowak and Mary Reher, over a portion of the land described as Lot 38, Section 7, Pender Island, Cowichan District, Plan 32261, Except Part in Plan 35333, PID 001-081-110, subject to receiving an updated Baseline Documentation Report that is acceptable to the Islands Trust Conservancy Manager, and directs staff to register the covenant.
 2. That the Islands Trust Conservancy Board authorizes the Chair to sign a discharge for covenant CA2826689 and directs staff to register the discharge subject to registration of a covenant over the expanded protected area.
-

1 PURPOSE: To register a covenant to protect 1.879 ha of wetland, riparian area, and dry Douglas-fir forest on North Pender Island. To discharge an existing covenant that protects a 0.91 ha area of the property in favour of an improved covenant that expands the protection to include an adjacent 0.969 ha, for a total protected area of 1.879 ha on the property.

2 BACKGROUND:

The landowners have a Natural Area Protection Tax Exemption Program (NAPTEP) covenant, registered in 2012, on a 0.91 ha area of this property, to protect Douglas-fir / Arbutus woodland and in particular, an undeveloped, steep ridge with moss- and lichen-covered rocky outcrops, and a known Common Nighthawk (SARA Schedule 1 Threatened, BC Yellow) nesting location. This covenant is co-held by Pender Islands Conservancy Association (PICA).

At its 23 November 2021 meeting, the Islands Trust Conservancy Board passed the following resolution:

ITC-2021-050

that the Islands Trust Conservancy Board approve the conservation proposal submitted by Andreas Nowak and Mary Reher to add approximately 1 ha to the existing NAPTEP conservation covenant over a portion of the land described as Lot 38, Section 7, Pender Island, Cowichan District, Plan 32261, Except Part in Plan 35333, PID 001-081-110, to protect small seasonal wetlands and connectivity to the already-protected mature dry Douglas-fir forests.

PICA has agreed to co-hold the revised covenant including the expanded conservation area.

At its December 2, 2021 meeting the Islands Trust Council passed the following resolutions:

TC-2021-119

That the Islands Trust Council approves the amendment of the NAPTEP Certificate for the covenanted portion of the property described as PID 001-081-110, Lot 38, Section 7, Pender Island,

Cowichan District, Plan 32261, Except Part in Plan 35333, to extend the Certificate to cover the increased protection area, and to reference the registration number of the new conservation covenant and survey plan that will be registered.

TC-2021-120

That the Islands Trust Council requests the Secretary to issue a new NAPTEP Certificate for the covenanted portion of the property described as PID 001-081-110, Lot 38, Section 7, Pender Island, Cowichan District, Plan 32261, Except Part in Plan 35333, to reflect the approved amendment, subject to registration of a conservation covenant and completion of a baseline inventory report consistent with the standards developed for NAPTEP.

ITC staff received legal advice that the preferred approach is to register a new covenant covering the combined protected areas, followed by discharging the existing covenant. This approach provides greater clarity for monitoring and management than registering an amendment agreement to the existing covenant.

All documents, including the exemption certificate, must be registered with the Land Title Office by the end of October, 2021 to receive a property tax exemption in the 2022 tax year. The updated Baseline Report has not yet been finalized but is expected imminently.

Covenant Overview

The covenant is consistent with the ITC standard NAPTEP conservation covenant, with the additions and changes noted below. All revisions have been reviewed by ITC legal counsel.

- The protected area is described in two separate surveys, attached as Schedules A and B;
- The covenant includes a definition 1.1(i) “Driveway Corridor” that consists of the driveway and adjacent ditching or drainage. The rights provided in 7.2(a), to maintain, replace or restore the Driveway Corridor, include maintaining the ditches. 7.2(a) was also amended to include an Owner’s Reserved Right to “move fallen trees or limbs that block the driveway or that pose a safety hazard to passage”;
- 7.2(b) provides a right to create and maintain a pullout along the driveway, to permit vehicles to pass.

Discharge of existing covenant:

Discharge of covenants is covered under the ITC Policy 2.7, which requires that the Board be provided with the following information prior to making a decision to discharge:

- 1) the purpose of the proposed disposition: The purpose of the disposition is to expand the conservation area
- 2) any impediments to the disposition: none anticipated. The covenant and proposed process has been reviewed by legal counsel.
- 3) the land’s ecological significance: The land’s ecological significance is described in staff reports and in the baseline inventory report in Schedule C of the covenant (attached).
- 4) Requirement for Ministerial approval: Because the covenant interest of the ITC is not being extinguished, but rather replaced by an agreement that expands the area conserved, Ministerial approval is not required.
- 5) Ecological Gift status: the land was not the subject of an Ecological Gift.

Staff recommend that the discharge of the existing covenant is consistent with ITC policy.

3 IMPLICATIONS OF RECOMMENDATION:

ORGANIZATIONAL: Staff time will be required to review the updates to the baseline report and to coordinate covenant registration and discharge.

FINANCIAL: There will be legal costs and fees of approximately \$750 associated with discharge of the existing covenant and tax exemption certificate and registration of the new tax exemption certificate. Annual monitoring will be done by the Covenant Management and Outreach Specialist. Because the existing covenant is already monitored annually, registration of this covenant will not result in any increase to the ITC Property Management budget. There may be signage costs of approximately \$50-\$100 and there may be enforcement costs over time. The landowners have been granted \$3,000 in assistance from the Morrison-Waxler Biodiversity Conservation Fund.

POLICY: This covenant is consistent with ITC policy and the Natural Area Exemption Certificate will be issued according to Islands Trust policy.

IMPLEMENTATION/COMMUNICATIONS: The covenant will be signed following receipt of a satisfactory baseline report and forwarded to the landholder's legal counsel to coordinate co-holder signature and registration. Once the covenant is registered, ITC staff will issue the Natural Area Exemption Certificate as approved by Trust Council. The existing covenant and Natural Area Exemption Certificate will be discharged once staff confirms registration of the new documents. Staff will notify the North Pender Island Local Trust Committee, Trust Council, and other relevant agencies regarding the covenant and issuance of the Exemption Certificate, and planning staff. Staff will also update the ITC website and to determine an appropriate means of celebrating the successful registration of the covenant (as per the ITC Securement Strategy).

FIRST NATIONS: ITC will ensure that monitoring and management of the covenant are reflective of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Truth and Reconciliation (TRC) Calls to Action, and the *Heritage Conservation Act*.

CLIMATE CHANGE: The young forest and wetlands on this property contribute towards climate change mitigation by protecting carbon uptake and storage sources. Additionally, protecting the transition zone from seasonally flooded up to dry ridgetop provides a range of habitats and may assist with species persistence and/or migration in response to future climate instability and change.

OTHER: On September 18, 2012, the owners received permission from the ITC Board and from PICA to trim vegetation along one of the trails in the covenant area, in order to widen it (Resolution TFB 12/1322). This was one-time permission and registration of a new covenant does not require issuing a new letter of permission for this use.

4 RELEVANT POLICY(S):

[2.4 Conservation Covenants Policy](#)

[2.5 Natural Area Protection Tax Exemption Covenants Policy](#)

[2.6 Islands Trust Policy 2.1.10 Administration of Natural Area Protection Tax Exemption Program](#)

5 ATTACHMENT(S):

- Nighthawk Hill Covenant

RESPONSE OPTIONS

Recommendation(s):

1. That the Islands Trust Conservancy Board approves the revised Nighthawk Hill NAPTEP Covenant (NIHN) and authorizes the Chair to sign the NIHN with Andreas Nowak and Mary Reher, over a portion of the land described as Lot 38, Section 7, Pender Island, Cowichan District, Plan 32261, Except Part in Plan 35333, PID 001-081-110, subject to receiving an updated Baseline Documentation Report that is acceptable to the Islands Trust Conservancy Manager, and directs staff to register the covenant.
2. That the Islands Trust Conservancy Board authorizes the Chair to sign a discharge for covenant CA2826689 and directs staff to register the discharge subject to registration of a covenant over the expanded protected area.

Alternatives: None recommended.

Prepared By: Kathryn Martell, Ecosystem Protection Specialist

Reviewed By / Date: Kate Emmings, Manager, Islands Trust Conservancy / September 29, 2022

TERMS OF INSTRUMENT – PART 2

**Section 219 Conservation Covenant and
Section 218 Statutory Right of Way**

This Agreement dated for reference **October 4th, 2022** is

AMONG:

Andreas Kerr Nowak and Mary Regina Reher
5900 Pirates Road
Pender Island BC V0N 2M2

(together, the “Owner”)

AND:

Islands Trust Conservancy, a corporation under the *Islands Trust Act*
(British Columbia) with its office at 200-1627 Fort Street, Victoria,
B.C. V8R 1H8

(the “ITC”)

AND:

Pender Islands Conservancy Association, a society registered in
British Columbia (Inc No. S-29992) with a mailing address at PO Box
52, Pender Island, BC V0N 2M0

(the “Co-covenant Holder”)

(collectively, the “parties”)

WHEREAS:

- A. The Owner is the registered owner in fee simple of the Land;
- B. The Covenant Area contains significant natural area values and amenities including flora, fauna, and natural features of great importance to the Owner, the Covenant Holders and the public;
- C. The Covenant Area contains heritage values of importance to the Owner, the Covenant Holders, indigenous peoples and the public;
- D. The Owner wishes and has agreed to grant to the Covenant Holders a covenant pursuant to section 219 of the *Land Title Act*, to restrict the use of the Covenant Area, and a statutory right of way pursuant to section 218 of the *Land Title Act*;
- E. A statutory right of way in favour of each Covenant Holder is necessary for the operation and maintenance of the undertakings of each Covenant Holder;
- F. The Co-covenant Holder has been designated under section 219(3)(c) of the *Land Title Act* as a person authorized to accept covenants and under section 218(1)(d) of the *Land Title Act* as a person authorized to accept statutory rights of way;

- G. The ITC is a Crown agent and is authorized to accept covenants and statutory rights of way under sections 219 and 218 of the *Land Title Act*, respectively; and

In consideration of the payment of \$2.00 now paid by each of the Covenant Holders to the Owner, the receipt and sufficiency of which is acknowledged by the Owner, and in consideration of the promises exchanged below, the parties covenant and agree as follows, in accordance with sections 218 and 219 of the *Land Title Act*:

1. INTERPRETATION

1.1 In this Agreement, in addition to the words defined above:

- (a) "Administration Fee" means a fee of \$150.00 adjusted in each year as provided in section 12.2, charged by the Covenant Holders in accordance with section 12.1;
- (b) "Amenities" includes those natural, scientific, environmental, wildlife, plant, heritage, and cultural values relating to the Covenant Area as identified in the Report, including any natural area values and amenities of the Covenant Area as prescribed by regulation for the purposes of Part 7.1 of the *Islands Trust Act*;
- (c) "Archaeological Site" means an area
 - i. identified in the Report as an archaeological site, or
 - ii. protected under the provisions of the *Heritage Conservation Act* as an archaeological site;
- (d) "Business Day" means any day other than Saturday, Sunday or British Columbia statutory holidays;
- (e) "Certificate" means a certificate issued by the Covenant Holders under section 14.12;
- (f) "Covenant Area" means that portion of the Land shown outlined in heavy black line and identified as "Area Required" on the Plans;
- (g) "Covenant Holders" means, unless the context otherwise requires, the ITC and the Co-covenant Holder, collectively and "Covenant Holder" means either of them, as the context may require;
- (h) "CPI" means the All-Items Consumer Price Index published by Statistics Canada, or its successor in function, for Vancouver, BC, where 2021 equals 100;
- (i) "Driveway Corridor" means the portion of Land shown [outlined in heavy black line] and identified as "Driveway" in the Report, including adjacent ditching or drainage;
- (j) "Land" means the parcel of Land legally described as Parcel Identifier 001-081-110, Lot 38, Section 7, Pender Island, Cowichan District, Plan 32261, Except Part in Plan 35333;
- (k) "Market Value" means the market value of any flora or fauna, soil, rock, gravel or minerals that is the subject of a breach identified in section 11.4, as determined by an appraiser who has been trained in the valuation of property that is the subject of an ecological gift;

- (l) "Notice of Enforcement of Rent Charge" means a Notice of Enforcement of Rent Charge given under section 11.6;
 - (m) "Notice of Breach" means a notice of breach given under section 10.1;
 - (n) "Plans" means:
 - i. the Reference Plan over part of the Land certified correct by Lloyd R. P. Eakins, B.C.L.S., dated April 17, 2012, and deposited in the Land Title Office under number EPP18776; and
 - ii. the Reference Plan over part of the Land certified correct by Brent W. Mayenburg, B.C.L.S., dated August 16, 2022 and deposited in the Land Title Office under number EPP123310

reduced copies of which are attached as Schedules A and B to this Agreement;
 - (o) "Rent Charge" means the rent charge granted by the Owner under section 11.1;
 - (p) "Rent Charge Amount" means the amount determined in accordance with Article 11, the payment of which is secured by the Rent Charge; and
 - (q) "Report" means the baseline documentation report that describes the Covenant Area and the Amenities in the form of text, maps, and other records of the Covenant Area for the purposes of this Agreement, a copy of which is on file with each of the parties, and a copy of which is attached as Schedule C.
- 1.2 Where this Agreement provides that something is in the "sole discretion" of a party, that thing is within the sole, absolute and unfettered discretion of that party.
- 1.3 This Agreement must be interpreted in accordance with the laws of British Columbia and the laws of Canada applicable in British Columbia, and the parties agree that the courts of British Columbia have exclusive jurisdiction over any proceeding concerning this Agreement and to attorn to the jurisdiction of such courts.
- 1.4 This Agreement is comprised of the recitation of the parties, the recitals to this Agreement, the Schedules to this Agreement, Part 1 of the Land Title Act Form C to which this Agreement is attached, and these Terms of Instrument.
- 1.5 In this Agreement:
- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context otherwise requires;
 - (b) where a word or expression is defined in this Agreement, other grammatical forms of the same word or expression have corresponding meanings;
 - (c) reference to a particular numbered Article or section, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered Article, section or Schedule of this Agreement, except where otherwise provided;
 - (d) Article headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - (e) the word "enactment" has the meaning given to it in the *Interpretation Act* on the reference date of this Agreement;

- (f) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (g) reference to an enactment is to an enactment of the province of British Columbia except where otherwise provided;
- (h) reference to a “party” or the “parties” is a reference to a party or the parties to this Agreement and their respective successors, assigns, trustees, administrators and receivers; and
- (i) reference to a “day”, “month” or “year” is a reference to a calendar day, calendar month or calendar year, as the case may be, unless otherwise expressly provided.

2. REPRESENTATIONS AND WARRANTIES

- 2.1 The Owner represents and warrants to the Covenant Holders that the facts set out in Recitals A, and C are true as of the date of this Agreement.
- 2.2 The Co-covenant Holder represents and warrants to the ITC and the Owner that the facts set out in Recitals D and E are true as of the date of this Agreement.
- 2.3 The ITC represents and warrants to the Co-covenant Holder and the Owner that the facts set out in Recitals D and F are true as of the date of this Agreement.
- 2.4 Each party represents and warrants to each other party that the facts set out in Recital B are true as of the date of this Agreement.

3. INTENT OF AGREEMENT

- 3.1 The parties agree that the intent of this Agreement is:

- (a) to protect, preserve, conserve, maintain, enhance and, if applicable from time to time restore, the natural state of the Covenant Area and the Amenities as described in the Report, and
- (b) to prevent any occupation or use of the Covenant Area that will impair or interfere with the natural state of the Covenant Area or the Amenities as described in the Report,

and the parties agree that this Agreement is to be interpreted, performed and applied in that context.

- 3.2 This Agreement shall be perpetual to reflect the public interest in the protection, preservation, conservation, maintenance and enhancement of the Covenant Area and the Amenities.

4. RESTRICTIONS ON USE OF THE COVENANT AREA

- 4.1 Except as expressly permitted in this Agreement, the Owner must not do anything, omit to do anything, allow anything to be done or allow the omission of anything, that does or could reasonably be expected to destroy, impair, diminish, negatively affect or alter the Covenant Area or the Amenities from the condition described in the Report.

4.2 Without restricting the generality of section 4.1, the Owner must not, except with the prior written approval of both Covenant Holders, which approval may be granted or withheld in the sole discretion of each of them:

- (a) use or permit the use of the Covenant Area for an activity or use which:
 - i. causes or allows silts, leachates, fills or other deleterious substances to be released into any watercourse on the Covenant Area;
 - ii. causes the erosion of the Covenant Area to occur;
 - iii. causes or facilitates the loss of soil on the Covenant Area;
 - iv. alters or interferes with the hydrology of the Covenant Area, including by the diversion of natural drainage or flow of water in, on or through the Covenant Area;
 - v. causes or allows fill, rubbish, ashes, garbage, waste or other material foreign to the Covenant Area to be deposited in, on or under the Covenant Area;
 - vi. causes or allows any component of the Covenant Area, including soil, gravel or rock, to be disturbed, explored for, moved, removed from or deposited in or on the Covenant Area;
 - vii. causes or allows pesticides, including but not limited to herbicides, insecticides or fungicides, to be applied to or introduced onto the Covenant Area; or
 - viii. causes or allows any indigenous flora on the Covenant Area to be cut down, removed, defoliated or in any way tampered with;
- (b) use or permit the use of the Covenant Area for hunting, fishing, or gathering, or for the grazing of domestic animals;
- (c) construct, build, affix or place on the Covenant Area any buildings, structures, fixtures or improvements of any kind;
- (d) lay out or construct any new roads or paths on the Covenant Area; and
- (e) lease or license the Covenant Area or any part thereof unless the lease or license is expressly made subject to the provisions of this Agreement and expressly entitles the Owner to terminate the lease or license if the tenant or licensee breaches any of the provisions of this Agreement.

4.3 Without limiting sections 4.1 and 4.2, the Owner:

- (a) must not disturb or alter, or permit the disturbance or alteration, of an Archaeological Site, except with the prior written approval of both Covenant Holders, in the sole discretion of each of them.
- (b) despite section 4.2(b), may enter into agreements with First Nations, for whom the Land is within their traditional territory, to enable those First Nations to access the Land to exercise those traditional activities which they may have engaged in on the Land, only so long as:
 - i. those activities are in keeping with the intent of this Agreement;

- ii. the Covenant Holders provide their prior written approval of such agreements, in the sole discretion of each Covenant Holder.

5. BASELINE DOCUMENTATION REPORT

- 5.1 The parties each agree that the Covenant Area and the Amenities are described in the Report and that the Report provides an accurate description of the Covenant Area and its Amenities as of the date of registration of this Agreement.
- 5.2 The parties agree that the Report is intended to serve as an objective information baseline for monitoring compliance with the terms of this Agreement.
- 5.3 The Covenant Holders will provide a copy of the full Report to the Owner upon request from the Owner from time to time.
- 5.4 The parties each acknowledge that the flora and fauna on the Covenant Area will evolve through natural succession over time and, unless otherwise expressly stated, references to the Report in this Agreement are intended to take into account the natural succession of the flora and fauna over time, without human intervention other than as expressly permitted by this Agreement.

6. DISPUTE RESOLUTION

- 6.1 If a breach of this Agreement occurs or is threatened, or if there is disagreement as to the meaning of this Agreement, either Covenant Holder or the Owner may give notice to the other parties requiring a meeting of all parties within 10 Business Days of receipt of the notice.
- 6.2 Upon receipt of a notice under section 6.1, all parties must immediately cease any activity giving rise to a breach or threatened breach of this Agreement, and any activity giving rise to a disagreement as to the meaning of this Agreement.
- 6.3 The parties must attempt to resolve the matter, acting reasonably and in good faith, within 20 Business Days of receipt of the notice under section 6.1.
- 6.4 If the parties are not able to resolve the matter within the time set out in section 6.3, the parties may, by agreement, appoint a mutually acceptable person to mediate the matter, and the parties must act reasonably and in good faith and cooperate with the mediator and with each other in an attempt to resolve the matter within 30 days after the mediator is appointed.
- 6.5 The costs of the mediator and of the mediation facilities will be shared equally by the parties.
- 6.6 This Article does not affect the right of a Covenant Holder to pursue any other legal or equitable remedy in relation to a breach or a threatened breach of this Agreement, including without limitation under Articles 10 and 11, and a Covenant Holder may pursue other remedies concurrently with any dispute resolution under this Article.

7. OWNER'S RESERVED RIGHTS

- 7.1 Subject to Article 4, the Owner reserves all of its rights as owner of the Land, including the right to use, occupy and maintain the Covenant Area in any way that is not expressly restricted or prohibited by this Agreement, so long as the use, occupation or maintenance is consistent with the intent of this Agreement.

7.2 Without limiting the generality of section 7.1 the following rights are, subject to Article 4, expressly reserved to the Owner:

- (a) to maintain, replace or restore the Driveway Corridor existing within the Covenant Area at the time of registration of this Agreement (the location of which is indicated in the Report), provided the location and size remains the same or smaller, and that the material remains the same or, if a different material is used, such material does not negatively impact the Natural State of the Covenant Area or the Amenities more than the material it is intended to replace. For clarity, despite section 4.2, the Owner may move fallen trees or limbs that block the driveway or that pose a safety hazard to passage along the corridor, but the cut wood and vegetation may not be removed from the Covenant Area;
- (b) to create, and subsequently to maintain, replace, or restore a pullout of no more than 20m² at a single point along the Driveway Corridor, to allow vehicles to pass, the location and nature of which is subject to collaboration and agreement with the Covenant Holders, such agreement not to be unreasonably withheld;
- (c) to maintain, replace or restore the trails existing within the Covenant Area at the time of registration of this Agreement (the location of which are identified in the Report), so long as the location of each trail remains the same, the size is the same or smaller with trail width never to exceed 1 metre, and no surfacing materials are used. For clarity, despite section 4.2, the Owner may move fallen trees or limbs that block the trail or that pose a safety concern, but the cut wood and vegetation may not be removed from the Covenant Area; and
- (d) to install, maintain or replace a reasonable number of signs for the purposes of public safety or informing the public about the Covenant Area and the Amenities, so long as each sign is not larger than 1 metre by 1 metre in size.

7.3 Subject to section 7.4, nothing in this Agreement restricts or affects the right of the Owner to do anything reasonably necessary to:

- (a) prevent potential injury or death to any individual; or
- (b) prevent, abate or mitigate any damage or loss to any real or personal property.

7.4 If the Owner intends to do, or permit to be done, anything described in section 7.3, the Owner must give at least 30 days' prior written notice to each Covenant Holder, describing in reasonable detail the intended action, the reason for it and its likely effect on the Covenant Area and the Amenities. Where the Owner gives notice under this section, the Owner must permit each Covenant Holder to enter upon the Land and inspect the Covenant Area. The Covenant Holders may comment on the proposed action and the Owner must take those comments into consideration before taking or permitting the proposed action to be taken under section 7.3.

7.5 Notwithstanding section 7.4, in the case of an emergency situation where the Owner must take immediate action under section 7.3, the Owner may take such necessary action without first notifying the Covenant Holders. As soon as possible after the action is taken, the Owner must notify each Covenant Holder of the circumstances of the action taken, including the actual or likely effect of the action on the Covenant Area and the Amenities. Where such emergency action is taken,

the Owner must permit each Covenant Holder to enter upon the Land and inspect the Covenant Area.

8. OWNER'S OBLIGATIONS

- 8.1 The Owner retains all responsibilities and bears all costs and liabilities related to the ownership, use, occupation and maintenance of the Land.
- 8.2 The Owner must indemnify the Covenant Holders, their directors, officers, employees, agents and contractors, from and against any and all liabilities, damages, losses, personal injury or death, causes of action, actions, claims, and demands made, suffered or incurred by or on behalf of any person, arising out of any act or omission, negligent or otherwise, in the use, occupation and maintenance of the Land or its Amenities by the Owner or its officers, employees, contractors, invitees, licensees or agents.
- 8.3 The Owner is liable for any and all breaches of this Agreement, but the Owner is not liable for:
- (a) breaches of this Agreement which occurred prior to the Owner becoming the registered owner of any interest in the Land, provided the previous owner has received a Certificate issued by the Covenant Holder under section 14.2 immediately before or at the time of the transfer of the Land to the Owner, or the Owner received a Certificate issued by the Covenant Holders under section 14.2 immediately after or at the time of the transfer of the Land to the Owner, certifying that there were no violations of this Agreement as of the date of issuance of the Certificate;
 - (b) injury or alteration to the Covenant Area or the Amenities resulting from natural causes, or causes beyond the Owner's reasonable control, other than as referenced in subsection (c), including accidental fire, flood, storm and earth movement, but excluding injury or alteration resulting from actions of the Owner or any other person with the actual or constructive knowledge of the Owner;
 - (c) injury or alteration to the Covenant Area or the Amenities resulting from the actions of any person without the actual or constructive consent or knowledge of the Owner, including from trespass, vandalism, nuisance or negligence, provided the Owner acts in accordance with sections 8.5 and 8.6;
 - (d) any prudent action taken by the Owner under emergency conditions to prevent, abate, or mitigate significant injury to the Covenant Area (including improvements) or the Amenities, resulting from natural causes, including accidental fire, flood, storm and earth movement; or
 - (e) injury or alteration to the Covenant Area caused by the Covenant Holders exercising their rights under this Agreement.
- 8.4 Without limiting the generality of sections 8.1, 8.2 and 8.3, the Owner:
- (a) is solely responsible and liable for any loss or damage, or liability of any kind (whether civil, criminal or regulatory), in any way connected with the existence in, on, from, to or under the Land (whether through spill, emission, migration, deposit, storage or otherwise) of any pollutant, contaminant, waste, hazardous waste, or any matter that harms the environment; and

- (b) must indemnify each Covenant Holder from and against any loss, fine, penalty, damage, liability, cause of action, action, proceeding, regulatory action, order, directive, notice or requirement, including those of any government agency, incurred, suffered or brought against the Covenant Holders, or either of them, in any way associated with anything described in subsection (a).
- 8.5 Where, as provided in subsection 8.3(b), injury or alteration is caused to the Covenant Area or the Amenities by a person without the actual or constructive consent or knowledge of the Owner, the Owner will not be responsible for the resulting breach of this Agreement provided the Owner takes all reasonable steps to identify the person responsible and
- (a) pursues and obtains compensation from that person for damage caused to the Lands and the Amenities in an amount that reasonably reflects the amount of compensation the Owner is likely to receive if the Owner pursued a civil action under paragraph (b) or a prosecution and restitution under paragraph (c);
 - (b) pursues a civil action against that person for damage caused to the Covenant Area and the Amenities; or
 - (c) seeks a prosecution of that person under the *Trespass Act*, R.S.B.C. 1996, c. 462, including a claim for restitution for damage caused to the Covenant Area and the Amenities.
- 8.6 If the Owner does not obtain compensation under section 8.5 (a), and chooses to not take action under section 8.5(b) or (c), or if the Owner is unsuccessful in seeking a prosecution under section 8.5(c), the Owner will not be responsible for the resulting breach of this Agreement provided the Owner, at the Covenant Holders' option and with the Covenant Holders' approval
- (a) irrevocably and in writing assigns to the Covenant Holders the Owner's right to bring a civil action against that person and the right to any damages awarded should the action be successful; or
 - (b) commences a civil action against that person and irrevocably and in writing assigns the action, or the conduct of the action in the Owner's name, to the Covenant Holders, and the right to any damages awarded should the action be successful.
- 8.7 Where the Owner makes an assignment under section 8.6, the Owner must execute such agreements, and provide such documents and information, as requested by the Covenant Holders from time to time to give effect to the assignment.
- 8.8 Where the Owner, under section 8.5, receives compensation for damage caused to the Covenant Area or the Amenities, the Owner agrees to use that compensation to restore or rehabilitate the Covenant Area and the Amenities to as near the condition described in the Report as is possible, in a manner consistent with this Agreement and in consultation with the Covenant Holders.
- 8.9 Where the Covenant Holders, under section 8.6, receives compensation for damage caused to the Covenant Area or the Amenities, the Covenant Holders agree to use that compensation to restore or rehabilitate the Covenant Area and the Amenities to as near the condition described in the Report as is possible, in a manner consistent with this Agreement and in consultation with the Owner.

- 8.10 The Owner must pay when due all taxes, assessments, levies, fees and charges of whatever description which may be levied on or assessed against the Land and must pay any arrears, penalties and interest in respect of any such amounts which are unpaid.
- 8.11 The Owner must indemnify each Covenant Holder from and against any fee, tax or other charge which may be assessed or levied against the Owner or a Covenant Holder pursuant to any enactment, including the *Income Tax Act* (Canada), with respect to the Land or this Agreement, including any fee, tax or other charge which may be assessed or levied against the Owner or Covenant Holder as a result of the amendment or termination of this Agreement.
- 8.12 Any debts or other amounts due from the Owner to the Covenant Holders under this Agreement, if not paid within 30 days after notice, will bear interest at the annual interest rate that is 1 per cent greater than the prime rate of interest. For the purposes of this section, the "prime rate of interest" is the annual rate of interest charged from time to time by the Bank of Montreal, at its main branch in Vancouver, BC, for demand Canadian dollar commercial loans and designated from time to time by the Bank of Montreal as its prime rate.
- 8.13 The indemnities granted by the Owner to the Covenant Holders under this Article are indemnities granted as an integral part of the section 219 *Land Title Act* covenant created by this Agreement and, to the extent necessary to give effect to any obligations created prior to the termination of this agreement, survive the termination of this Agreement.

9. STATUTORY RIGHT OF WAY

- 9.1 The Owner grants to each Covenant Holder a licence, and a statutory right of way pursuant to section 218 of the *Land Title Act*, permitting each Covenant Holder to do the following:
- (a) enter upon the Land to access and inspect the Covenant Area for the purposes of monitoring compliance with this Agreement, on prior written notice by a Covenant Holder to the Owner of at least 24 hours;
 - (b) for purposes other than monitoring under subsection (a), enter upon the Land to access and inspect the Covenant Area at all reasonable times upon prior written notice by a Covenant Holder to the Owner of at least 24 hours, unless, in the opinion of a Covenant Holder, there is an emergency or other circumstance which makes giving such notice impractical;
 - (c) as part of inspection of the Covenant Area under subsection (a) or (b), take soil, water or other samples, photographs, and video and sound recordings as may be necessary to monitor compliance with and enforce the terms of this Agreement;
 - (d) enter upon and protect, preserve, conserve, maintain, enhance, rehabilitate or restore, in the Covenant Holder's sole discretion and at the Covenant Holder's expense, the Covenant Area or the Amenities to as near the condition described in the Report as the Covenant Holder considers is practicable or desirable, if an act of nature or of any person other than as described in subsection (e) destroys, impairs, diminishes or negatively affects or alters the Covenant Area or the Amenities from the condition described in the Report;

- (e) in accordance with Article 10, enter upon and protect, preserve, conserve, maintain, enhance, rehabilitate or restore, in the Covenant Holder's sole discretion and at the Owner's expense, the Covenant Area or the Amenities to as near the condition described in the Report as in the Covenant Holder's sole discretion is practicable or desirable, if an action of the Owner or any other person acting with the actual or constructive knowledge of the Owner contravenes any term of this Agreement;
- (f) carry out or evaluate any program agreed upon by the parties for the protection, preservation, conservation, maintenance, restoration or enhancement of all or any portion of the Covenant Area or the Amenities;
- (g) place survey pegs or other markings on the Land to clearly identify the Covenant Area or access to the Covenant Area, or to increase the visibility of existing survey pegs or other markings; and
- (h) erect a plaque or other sign on the Land, in a tasteful manner and at the expense of the Covenant Holder, indicating that the Covenant Holder (or the Covenant Holders) holds a covenant on the Covenant Area, provided that the size, style and location of the plaque or sign must be approved by the Owner prior to its placement, such approval not to be unreasonably withheld.

9.2 The Covenant Holders may bring workers, contractors and employees, and vehicles, equipment and other personal property, onto the Land when exercising their rights under this Article.

10. ENFORCEMENT REMEDIES OF THE COVENANT HOLDERS

- 10.1 If either Covenant Holder, in its sole discretion, believes that the Owner has failed to perform any of its obligations under this Agreement, or is otherwise in breach of any term of this Agreement, that Covenant Holder may give a Notice of Breach to the Owner and the other Covenant Holder setting out particulars of the breach, including the Covenant Holder's estimated maximum costs of remedying the breach.
- 10.2 On receipt of a Notice of Breach, the Owner must
 - (a) immediately cease all activities giving rise to the breach; and
 - (b) within 60 days remedy the breach or make arrangements satisfactory to the Covenant Holder to remedy the breach, including with respect to the time within which the breach must be remedied.
- 10.3 For clarity, the requirement in subsection 10.2(b) to remedy a breach requires the Owner to undertake such rehabilitation or restoration necessary to remedy any damage done to the Covenant Area contrary to this Agreement, at the Owner's sole expense.
- 10.4 If the Owner does not comply with the requirements of section 10.2 within the time required or agreed upon, either Covenant Holder may enter upon the Land and take any required actions to cease any activities giving rise to the breach, and to remedy the breach or carry out the arrangements referred to in section 10.2. The Owner must reimburse that Covenant Holder for any expenses incurred in taking any action under this section, up to the estimated maximum costs of remedying the breach as set out in the Notice of Breach.

- 10.5 Expenses incurred by the Covenant Holder under this Article, until paid, are a debt owed by the Owner to the Covenant Holder and the Owner agrees to indemnify the Covenant Holder for such expenses, which indemnity forms an integral part of the covenant under section 219 of the *Land Title Act* created by this Agreement.
- 10.6 By this section, each Covenant Holder appoints the other its agent for the purpose of recovering any debt owed by the Owner to the Covenant Holder who incurred expenses under this Article, including through legal proceedings, and the Covenant Holder who recovers the debt holds it, less reasonable legal fees and disbursements and other reasonable expenses of recovery, as agent for the Covenant Holder that incurred the expenses.

11. RENT CHARGE AND ITS ENFORCEMENT

- 11.1 As security for the performance of the Owner's obligations under this Agreement, the Owner grants to the Covenant Holders a perpetual rent charge against the Land. The Rent Charge is granted both under section 219 of the *Land Title Act* as an integral part of the statutory covenant created by this Agreement and as a fee simple rent charge at common law.
- 11.2 The Rent Charge secures payment to the Covenant Holders by the Owner of the sum of \$6790 per year, subject to adjustment under section 11.3.
- 11.3 The Rent Charge Amount will be adjusted on January 1 of each year by increasing or decreasing, as the case may be, the Rent Charge Amount by the amount determined by multiplying the Rent Charge Amount on December 31 immediately preceding by the percentage increase or decrease, as the case may be, in the CPI between the previous January 1 and that December 31, and adding the amount so determined to the Rent Charge Amount as it stands on that December 31. If Statistics Canada, or its successor in function, ceases to publish a CPI or comparable indicator as determined by the Covenant Holder in its sole discretion, the parties agree that the factor to be used in determining the annual increase in the Rent Charge Amount for each year is 3%.
- 11.4 For each breach of this Agreement, the Rent Charge Amount will be increased by a sum equal to 110% of the Market Value at the date of the breach of any flora or fauna, soil, rock, gravel or minerals which have been altered, damaged, destroyed, moved, harvested or removed in connection with the breach.
- 11.5 The Rent Charge is suspended unless and until the Owner is in breach of any provision of this Agreement.
- 11.6 A Covenant Holder that wishes to enforce the Rent Charge in a given year must give a Notice of Enforcement of Rent Charge to the Owner and the other Covenant Holder, stating the intention to enforce the Rent Charge and demanding immediate payment of the Rent Charge Amount for the year in question. The Notice of Enforcement of Rent Charge may be given at any time after a Notice of Breach is given under section 10.1.
- 11.7 The Owner must, within 10 days of receipt of the Notice of Enforcement of Rent Charge, pay the full Rent Charge Amount for the year in which the Notice is issued to the Covenant Holder who delivered that notice.
- 11.8 The Covenant Holders may enforce the Rent Charge by any of the following:
- (a) an action against the Owner for the Rent Charge Amount;

- (b) distraint against the Land to the extent of the Rent Charge Amount;
 - (c) an action for appointment of a receiver in respect of the Land; or
 - (d) an order for sale of the Land.
- 11.9 The Covenant Holders are entitled to recover from the Owner all reasonable expenses incurred as a result of enforcement of the Rent Charge.
- 11.10 The Rent Charge will continue to be billed to and collected from the Owner in subsequent years until the breach identified in the Notice of Breach has been satisfactorily remedied.
- 11.11 The Covenant Holder receiving the Notice of Enforcement of Rent Charge has 30 days from receiving it to send notice to the notifying Covenant Holder that it wishes to enforce the Rent Charge jointly and, if it does not do so, it is deemed to have elected not to enforce the Rent Charge.
- 11.12 If the Rent Charge is enforced jointly:
- (a) reasonable expenses incurred as a result of the enforcement of the Rent Charge must be shared equally between the Covenant Holders, and
 - (b) the net proceeds obtained as a result of the enforcement of the Rent Charge must be shared equally between the Covenant Holders,
- unless otherwise agreed in writing between the Covenant Holders.
- 11.13 If the Covenant Holder receiving the Notice of Enforcement of Rent Charge does not wish to enforce the Rent Charge jointly, that Covenant Holder is not entitled to the Rent Charge unless otherwise agreed in writing between the Covenant Holders.
- 11.14 A Covenant Holder who declines to enforce the Rent Charge jointly must execute all documents which may be necessary for the enforcement and collection of the Rent Charge by the notifying Covenant Holder.

12. ADMINISTRATION FEE

- 12.1 The Owner agrees that the Covenant Holders may charge the Owner an Administration Fee in each and any case where the Covenant Holders are requested to provide an approval or Certificate, or to take any other action, or where a Covenant Holder visits the Covenant Area under sections 7.4 and 7.5. This Administration Fee applies whether or not the Covenant Holders grant the approval requested.
- 12.2 The Administration Fee will be adjusted on January 1 of each year by increasing or decreasing, as the case may be, the Administration Fee by the amount determined by multiplying the Administration Fee on December 31 immediately preceding by the percentage increase or decrease, as the case may be, in the CPI between the previous January 1 and that December 31, and adjusting accordingly the Administration Fee as it stands on that December 31. If Statistics Canada, or its successor in function, ceases to publish a CPI or comparable indicator as determined by the Covenant Holder in its sole discretion, the parties agree that the factor to be used in determining the annual increase in the Administration Fee for each year is 3%.

13. ASSIGNMENT OF AGREEMENT OR DISSOLUTION OF THE COVENANT HOLDERS

- 13.1 This Agreement is assignable by a Covenant Holder, but a Covenant Holder may only assign its rights and obligations under this Agreement to a person or entity authorized to hold statutory rights of way under section 218 of the *Land Title Act* and covenants under section 219 of the *Land Title Act*.
- 13.2 Each Covenant Holder agrees that before it assigns this Agreement under this Article, it must notify the Owner and the other Covenant Holder with respect to the proposed assignee.
- 13.3 In the event of a pending winding-up or dissolution of a Covenant Holder, that Covenant Holder must use its best efforts to assign and transfer all of its interest under this Agreement to a person or entity authorized to accept statutory rights of way under section 218 of the *Land Title Act* and covenants under section 219 of the *Land Title Act*.

14. NOTICE OF CHANGE IN OWNERSHIP BY OWNER

- 14.1 The Owner must notify the Covenant Holders of any change of ownership prior to the registration of any such change in the land title office.
- 14.2 The Owner may request that the Covenant Holders visit the Land and jointly issue a Certificate indicating whether or not there are any violations of this Agreement as of the date of the Certificate.
- 14.3 Failure by the Owner to comply with section 14.1 does not affect the enforceability of this Agreement against the Owner or its successors in title to the Land.

15. NOTICE

- 15.1 A notice or other communication (collectively a “notice”) required or permitted under this Agreement must be in writing and must be:
 - (a) delivered in person;
 - (b) sent by e-mail to the parties at their respective e-mail addresses, if the parties have provided an e-mail address; or
 - (c) sent by pre-paid registered mail addressed to the parties at their respective addresses set out in section 15.4.
- 15.2 A notice given by email under subsection 15.1(b) must be followed by a copy sent by ordinary mail, except that a notice given under subsection 9.1(a) may be given by email without the requirement to send a copy by ordinary mail.
- 15.3 Unless otherwise provided, a notice
 - (a) delivered in person is deemed received on delivery;
 - (b) sent by e-mail:
 - i. if the notice is transmitted before 3:00 pm on a Business Day, the document is deemed to be received on the day of transmission;

- ii. if the notice is transmitted after 3:00 pm on a Business Day or is transmitted on a day that is not a Business Day, the notice is deemed to be received on the next day that is a Business Day; and
- (c) sent by pre-paid registered mail is deemed received on the fourth Business Day following the day on which the notice was sent.

15.4 The addresses of the parties for notices under this Article are as follows:

- (a) The Owner:
Andreas Kerr Nowak
5900 Pirates Road
Pender Island, BC
V0N 2M2
Email: blackrabbitfarm@shaw.ca

AND

Mary Regina Reher
5900 Pirates Road
Pender Island, BC
V0N 2M2
Email: blackrabbitfarm@shaw.ca

- (b) The ITC:
Islands Trust Conservancy
200-1627 Fort Street
Victoria, BC V8R 1H8
Fax: 250-405-5155
Email: itcmail@islandstrust.bc.ca
- (c) Co-covenant Holder:
Pender Islands Conservancy Association
PO Box 52
Pender Island, BC V0N 2M0
Email: info@penderconservancy.org

15.5 Each party agrees to give written notice immediately to the other parties of any change in its address from those set out in section 15.4, and to keep the other parties apprised of any changes to the party's e-mail address if one is provided.

16. ACCESS

16.1 Except if expressly provided in this Agreement, no right of access by the general public to any portion of the Land is conveyed by this Agreement.

17. NOTICE OF COVENANT

17.1 The Owner agrees that the Covenant Holders may publicize the existence of this Agreement in a tasteful manner.

18. NO LIABILITY IN TORT

18.1 The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this Agreement as a covenant under seal. Without limitation, the parties agree that no tort or fiduciary obligations or liabilities of any kind are created or exist between the parties in respect of this Agreement,

and nothing in this Agreement creates any duty of care or other duty on any of the parties to anyone else. For clarity, the intent of this section is to, among other things, exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and the law pertaining to covenants under seal.

19. WAIVER

- 19.1 An alleged waiver of any breach of this Agreement is effective only if it is an express written waiver signed by each of the Covenant Holders, and is only effective to the extent of that express waiver and does not operate as a waiver of any other breach.
- 19.2 The failure for any reason of either or both Covenant Holders to require performance by the Owner at any time of any obligation under this Agreement does not affect either Covenant Holder's right to subsequently enforce that obligation.

20. JOINT AND SEVERAL OBLIGATIONS

- 20.1 Where at any time there is more than one Owner in this Agreement, the obligations of those Owners are joint and several.

21. REMEDIES NOT EXHAUSTIVE

- 21.1 Exercise or enforcement by a party of any remedy or right under or in respect of this Agreement does not limit or affect any other remedy or right that party may have against the other parties in respect of or under this Agreement or its performance or breach.

22. COVENANT RUNS WITH THE LAND

- 22.1 Every obligation and covenant of the Owner in this Agreement constitutes both a personal covenant and a covenant granted under section 219 of the *Land Title Act* in respect of the Land, and the provisions of Article 9 constitute a statutory right of way granted under section 218 of the *Land Title Act*. This Agreement burdens the Land and runs with it and binds the successors in title to the Land and each and every part into which the Land may be subdivided by any means and any parcel with which the Land or any part of it is consolidated.

23. REGISTRATION

- 23.1 The Owner agrees to do everything necessary, at the Owner's expense, to ensure that this Agreement, and the interests it creates, are registered against title to the Land, with priority over all financial charges, liens and encumbrances, including options to purchase, rights to purchase and rights of first refusal, registered or pending registration in the applicable provincial land title office at the time of application for registration of this Agreement.

24. SEVERANCE

- 24.1 If any part of this Agreement is held by a court to be invalid, illegal or unenforceable, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement is to remain in force unaffected by that holding or by the severance of that part as if the part was never part of this Agreement.

25. NO OTHER AGREEMENTS

25.1 This Agreement is the entire agreement between the parties and it terminates and supersedes all other agreements and arrangements regarding its subject.

26. INDEPENDENT ADVICE

26.1 The Owner acknowledges and agrees that the Owner has had an opportunity to seek and obtain, to the Owner's satisfaction, independent advice from an accountant or other tax expert with respect to the income tax and other tax implications of this Agreement and acknowledges that it does not rely and has not relied on either Covenant Holder for advice in this regard and that the Covenant Holders have given no representation or warranty in that regard.

26.2 The Owner acknowledges and agrees that the Owner has been advised by the Covenant Holders that the Owner should seek independent legal advice as to the meaning and effect of this Agreement, and the Owner further acknowledges and agrees that no legal advisor of either of the Covenant Holders has advised the Owner on the meaning or effect of this Agreement or in connection with this Agreement.

27. AMENDMENTS

27.1 This Agreement is intended to be perpetual and may only be changed by a written instrument signed by all the parties.

28. DEED AND CONTRACT

28.1 By executing and delivering this Agreement, each of the parties intends to create both a contract and a deed and covenant executed and delivered under seal.

29. RIGHTS OF COVENANT HOLDERS

29.1 A Covenant Holder may exercise its rights under this Agreement through its directors, officers, employees, agents or contractors.

As evidence of their agreement to be bound by the above terms, the parties each have executed this Agreement under seal by signing Part 1 of the *Land Title Act* Form C to which this agreement is attached.

The schedules referred to throughout this document are attached after this page.

Schedule A
REFERENCE PLAN



SCHEDULE C

BASELINE REPORT

Attached to and forming part of the Covenant Agreement between the Owner and the Covenant Holders dated for reference **September X**, 2022.

To:	Trust Council	For the Meeting of:	August 3, 2022
From:	CAO	Date Prepared:	July 28, 2022
SUBJECT:	2022-2026 Trust Council Orientation Overview		

PURPOSE: To review key deliverables associated with the delivery of an orientation for trustees for the 2022-2026 term.

BACKGROUND: Staff are in the process of developing and refining the orientation process for the incoming Trust Council at the direction of Executive Committee (EC).

This report was provided to EC, who have redirected it to Trust Council for their information. Over the last number of months trustees as a whole and Executive and Governance Committee members have been asked for their feedback and suggestions for the upcoming orientation program for fall 2022. That work is ongoing.

To that end, we have reviewed the materials from the previous orientation process as well as the schedule of training that was implemented in 2018/19. Trustee education and orientation is a governance responsibility of the Executive Committee (EC). This report is an overview of the suggested approach. It will be supplemented over the next weeks into final form for EC concurrence. This allows other trustees, who have not commented yet, a chance to participate and also gives the Governance Committee an opportunity for suggestion as well.

1. Orientation in 2018: What was delivered to trustees?

- Inaugural meeting in December 2018
 - 12 sessions of approximately 1 hour each.
 - "The Big Picture
 - Trust Area Services review
 - Islands Trust Conservancy
 - Council Roundtable: What is important?
 - Administrative Services
 - Human Resources
 - Closed Sessions
 - Staying out of Trouble: Conflict, Bias, Freedom of Information (FOI)
 - Making Fair Decisions
 - Local Planning Session
 - Executive Committee (EC) candidate presentations and questions
 - Elections for EC and Islands Trust Conservancy Board
 - Associated staff/directors presented on their subject area, with the Chief Administrative Officer (CAO) delivering a general information session.
- Supplemental training (8 sessions) at the January 2019 meeting.
 - Local Trust Committee (LTC) planning and meetings
 - Trust Area Services
 - Islands Trust Conservancy
 - Budget 2019-2020
 - First Nations engagement and Reconciliation

- Strategic Planning
- Budget amendments
- Standards of Conduct
- EC training was held subsequent to the January meeting with an external consultant.
- 3 separate local planning sessions were held on a regional office basis that focused upon LTC meeting procedures.
- Development of a Starter Kit for each trustee that summarized all training and provided a reference guide for governance. This Starter Kit was installed on each trustee's new computer for ease of access over the term, or made available over WebDAV.

2. What worked?

- Comprehensive: the material was appropriate and comprehensive, covering the broad areas of responsibility for trustees and staff.
- Preparation for budgeting was effective given the narrow timeline prior to March budget.
- Feedback was generally positive from trustees on presentations and quality of information.
- The Starter Kit was initially a success.

3. What didn't work?

- Trustees indicated that it was too much information at once, hard to digest all of the material and difficult to sit in session for extended periods. There was not enough time to get to know other trustees.
- A number of trustees did not implement some of the orientation materials in conducting their work over the term calling into question the effectiveness of orientation training.
- Not enough information on the role of Executive Committee.
- The Governance Report of 2022 claimed that most trustees do not remember getting orientation or training for their roles, so as a consequence, the training was not effective.

4. New and key elements of upcoming Orientation

Given the previous orientation and lessons learned, as well as comments from current trustees, it is proposed that the approach for the upcoming term will include the following:

- Incorporate suggestions from Executive Committee, trustees and Governance Committee and recommendations associated with the Governance Review if applicable, in orientation.
- **Update the Starter Kits:** Reimagine the starter kits to refresh and excite trustees, include acronyms that are used at the Trust, discussion of strategic planning and integration with work planning, e.g. What is a project charter and how to use effectively, First Nations update, and dealing with the public. Final copies will be provided electronically and in binder form.
- To lighten the number of sessions and 'time at the table' for the initial meeting, we will **develop a series of webinar sessions on specific topics**, focused upon land use planning and local trust committee meeting management. Trustees will attend these sessions outside the Trust Council meetings in November and December.
- Develop more **time for discussion** and issue identification at the two initial Trust Council meetings.
- The use of more examples in training.
- Development of a **"Rookie Class"** to introduce common/basic concepts to new trustees exclusively. To be delivered electronically.
- A more limited, but more in depth, group of live sessions at the Trust Council meetings to focus on:

A. Governance: Process and structures to effectively make decisions and lead the organization.

- *Role of elected officials and staff*
 - *Policy development*
 - *Attendance and preparation for Trust Council and Local Trust Committees*
 - *Participation on one of the Trust's Standing Committees*
 - *A minimum number of LTC Meetings*
 - *A minimum number of "office/public hours" for constituents*
 - *Dealing with correspondence*
 - *How to get the most out of a meeting?*
- B. Governance/staff relations:**
- *Who does what?*
 - *How to work with staff*
 - *How to deal with staff in public?*
 - *What if things go wrong?*
- C. First Nations and Reconciliation:** Review of Islands Trust Reconciliation Declaration, discussion on how to adapt work to better include First Nation interests, protocol agreements and protocols. This session to be delivered by external contractor, Elder or knowledge holder with staff support.
- D. Local Trust Committee preparedness**
- E. Council Committee System, Trust Area Services**
- F. Decision making, voting and meeting best practices**
- G. Conflict of interest, Freedom of Information, Confidentiality**
- H. Inclusion and Diversity**
- I. Budget and Finance**

Schedule

There are two Trust Council meetings (scheduled in November and December) to provide trustee orientation. It is proposed that the first meeting is necessarily about big picture processes, collegiality, the protocol of office, taking of the oath and elections. The second session in December will have a more detailed approach and of course a focus upon the budget process and outcomes for March 2023.

ATTACHMENT(S):

1. **2018-2019 Schedule of Orientation**

FOLLOW-UP: Update at next Executive Committee meeting.

Prepared By: R Hotsenpiller


Reviewed By/Date: Aug 30, 2022

Islands Trust Council Meeting Schedule

November 6 – 8, 2018

Attachment 1. 2018 Orientation Schedule

Location: Parkside Hotel and Spa, 810 Humboldt Street, Victoria BC

TUESDAY, NOVEMBER 6		WEDNESDAY, NOVEMBER 7		THURSDAY NOVEMBER 8	
	7:30	7:30	7:30	8:30	8:30
	BREAKFAST Location: City Club Lounge 8 th Floor Tower B	BREAKFAST Location: City Club Lounge 8 th Floor Tower B	BREAKFAST Location: City Club Lounge 8 th Floor Tower B	Budgeting The Urban Ball Room - Main Floor	Budgeting The Urban Ball Room - Main Floor
	8:30	8:30	8:30	9:00	9:00
	Chair's Welcome Remarks and Introductions Location: The Urban Ball Room - Main Floor	Chair's Welcome Remarks and Introductions Location: The Urban Ball Room - Main Floor	The Big Picture: An Overview of the Islands Trust	Local Planning Services Session Meeting procedures review, policy statement brief	Local Planning Services Session Meeting procedures review, policy statement brief
1:00	10:00	10:00	10:00	10:00	10:00
VICTORIA OFFICE OPEN HOUSE Location: Suite 200 1627 Fort Street (2 nd floor)	BREAK	BREAK	BREAK	BREAK	BREAK
Trustees pick up personalized computer and attend orientation session ½ hour drop in sessions (9 person capacity):	10:15	10:15	10:15	10:15	10:15
<ul style="list-style-type: none"> • 1:30 – 2:00 • 2:30 – 3:00 • 3:30 – 4:00 	Notice of Elections & Intent For Executive Committee & Islands Trust Conservancy	Notice of Elections & Intent For Executive Committee & Islands Trust Conservancy	Elections Executive Committee and Islands Trust Conservancy	Elections Executive Committee and Islands Trust Conservancy	Elections Executive Committee and Islands Trust Conservancy
5:00	10:45	10:45	12:00	11:00	11:00
SONGHEES NATION ADDRESS Location: Urban Ball Room – Main Floor Parkside Hotel & Spa, 810 Humboldt Street	Governance and Getting Things Done	Governance and Getting Things Done	LUNCH Location: City Club Lounge 8 th Floor Tower B	Business Decision Items	Business Decision Items
5:30	3:15	3:15	3:15	1:00	1:00
SWEARING IN CEREMONY FOR TRUSTEES Location: Urban Ball Room – Main Floor	Trustee Questions & Answers	Trustee Questions & Answers	Council Roundtable – What's Important	Town Hall Location: Urban Ball Room – Main Floor	Town Hall Location: Urban Ball Room – Main Floor
6:00	4:00	4:00	5:00	1:30	1:30
Reception and Photos Location: Urban Ball Room – Main Floor Trust Council group photo and individual photos for website - Refreshments and appetizers	Candidate Presentations and Questions from Trustees For Executive Committee and Islands Trust Conservancy	Candidate Presentations and Questions from Trustees For Executive Committee and Islands Trust Conservancy	ADJOURNMENT	ADJOURNMENT	ADJOURNMENT
	5:00	5:00	5:00	1:45	1:45
	ADJOURNMENT	ADJOURNMENT	ADJOURNMENT	Executive Committee Meeting Location: Executive Boardroom Mezzanine Tower A	Executive Committee Meeting Location: Executive Boardroom Mezzanine Tower A



Islands Trust

**Islands Trust Council Meeting Schedule Attachment 1. 2019 Orientation Schedule
January 15 – 16, 2019**

**Location: Bastion Coast Hotel – Ballroom Lobby Level
11 Bastion Street, Nanaimo**

Tuesday, January 15		Wednesday, January 16	
7:30	Breakfast	7:30	Breakfast
8:30	Executive Committee Meeting		
9:00	Chair's Welcome	8:30	Strategic Planning Session
9:15	Local Planning Services Session		
10:15	Break	10:00	Break
10:30	Trust Area Services Session	10:15	continued
11:30	Islands Trust Conservancy Session	11:00	Budget Amendments
		11:55	Staff Awards
12:30	Lunch	12:00	Lunch
1:30	Budget 2019-2020 Session	1:00	Business Decision Items and Town Hall
		2:00	Closed Meeting
3:00	Break	3:00	Break
3:15	Standards of Conduct / Conflict of Interest / Freedom of Information Session	3:15	Local Trust Committee Review Session
4:00	First Nations Session		
5:30	Adjournment	5:00	Adjournment



BRIEFING

To: Islands Trust Conservancy Board **For the Meeting of:** October 4, 2022
From: Nuala Murphy, Property Management Specialist **Date Prepared:** September 22, 2022
SUBJECT: Sandy Beach Nature Reserve Management Plan, Keats Island

PURPOSE: To provide an update on communication with the Siwxwú7mesh (Squamish) people regarding the Sandy Beach Nature Reserve Management Plan.

BACKGROUND: The Sandy Beach Nature Reserve Management Plan that was recently approved by the ITC Board and covenant partners Sunshine Coast Conservation Association (SCCA) and TLC The Land Conservancy of BC (TLC) was referred to the Siwxwú7mesh through their new Squamish Connect Portal in August. We have recently received a response as follows:

Thank you for submitting this referral. The SN would like to make a few recommendations and ask some preliminary questions:

The mentioned name for "Keats Island" in the project location is incorrect, and is the place name of the area at Andy's Bay.

The general name for the area by Sandy Beach Nature Reserve is "Hoak-pus" which is the most southerly tip.

-Please update section 5.2 (p. 36) regarding engagement and communication with the SN.

-Does the SBNR have any ability to include the nearby marine/shoreline environment in its work? For example, is there any possibility that the eelgrass just offshore from the SBNR could be incorporated into any of this document and planning?

-Where and when can the SN expect to have the opportunity be engaged in the Management Plan for Areas of Cultural Heritage and Sacred Significance?

Thank you,

Julie

Julie Aeyelts, September 12, 2022

Taking into consideration this feedback ITC staff will suggest:

- Removing the use of Lhei'tínes totally from the document as it is not a name to be used when referencing Keats Island. Hoak-pus will be used to describe the area including Sandy Beach Nature Reserve, ex: Hoak-pus/Sandy Beach Nature Reserve.
- Replace section 5.2 of the [Sandy Beach Nature Reserve Management Plan](#) with:
"A letter was emailed to the Siwxwú7mesh, Úxwumixw (Squamish Nation) on November 16, 2021 (Appendix G). The letter contained information about Sandy Beach Nature Reserve, an invitation to a public seminar on Zoom, and the questionnaire (see Appendix I). On August 17, 2022, using the new Squamish Connect Portal, ITC submitted the management plan to Siwxwú7mesh, Úxwumixw and received feedback including the knowledge that the general name to be used for the area by Sandy Beach Nature Reserve is "Hoak-pus" which is the most southerly tip and that Lhei'tínes should not be used as the equivalent of "Keats Island". Siwxwú7mesh, Úxwumixw also expressed that consideration of the marine and shoreline environments in any management activities is a priority. ITC will be using the mapping available for forage fish spawning habitat

and offshore eelgrass to inform any management decisions and will ensure that nature reserve management does not negatively affect shoreline ecosystems. Siwxwú7mesh_Úxwumixw expressed interest in working on the Management Plan for Areas of Cultural Heritage and Sacred Significance. The Management Plan for Areas of Cultural Heritage and Sacred Significance is a proposed action for 2023-2024.”

FOLLOW-UP: ITC staff will respond with the changes to be made to ensure we understood these changes correctly and to take the next steps to initiate the Management Plan for Areas of Cultural Heritage and Sacred Significance.

Prepared By: Nuala Murphy, Property Management Specialist

Reviewed By/Date: Kate Emmings, ITC Manager / September 26, 2022



August 19, 2022

Denman Conservancy Association
PO Box 60
Denman Island, BC V0R 1T0

Sent by email to: John Millen, Director, Denman Conservancy Association, millenj@telus.net

Re: Letter from Denman Conservancy Assn. Board regarding Denman Crown Lands Conservation

Dear Denman Conservancy Board members,

The Islands Trust Conservancy (ITC) Board received your correspondence of March 17 at its May 24, 2022 meeting. The ITC Board is supportive of the Denman Conservancy Association (DCA)'s desire to increase preserved land on Denman but is unable to pursue conservation on Crown lands at this time.

The ITC Board receives many land conservation inquiries and proceeds with opportunities that best address goals under its Regional Conservation Plan. Because of our limited resources, we are currently focussing on development of a Reconciliation Action Plan, climate change work, our Species at Risk Program, and completion of existing conservation projects, including land transfers and covenants.

While there are many Crown lands worthy of conservation, there are many steps required to complete the transfer of these lands, including express support from First Nations and the Minister of Municipal Affairs. At this time, we do not have the capacity to undertake the volume of work required to properly complete this work without compromising other priorities.

ITC Board remains aware of the priorities for conservation in the Islands Trust Area, including those related to Crown Lands. If and when we have appropriate resources to undertake conservation work on Crown Lands, the ITC Board may elect to pursue further conservation of the four parcels that remain un-protected on Denman Island. If we are able to undertake this work, we will be in touch. We value the work and support of the Denman Conservancy Association and hope to continue to work with you many years into the future to steward natural areas on Denman Island.

Sincerely,

Kate-Louise Stamford
Chair, Islands Trust Conservancy
kstamford@islandstrust.bc.ca

ec. Islands Trust Executive Committee



October 3, 2022

Mayne Island Local Trust Committee

Via Email: Dan Rogers, Chair, drogers@islandstrust.bc.ca; MayneIslandLocalTrustCommittee@islandstrust.bc.ca

Dear Chair Rogers and Mayne Island trustees,

Re: Fallow Deer Issue – Request form Mayne Island LTC

Thank you for your letter, dated June 9, 2022, which was received by the Islands Trust Conservancy (ITC) Board at its July 13, 2022 meeting. ITC has long been aware of the threat posed by Fallow Deer to the ecology of Mayne Island and is supportive of the Mayne Island LTC's and the Executive Committee's efforts to advocate for Fallow Deer management.

As you know, management of invasive animal species is a complex issue that requires the support of many organizations and individuals. ITC believes that the most important collaborators for managing Fallow Deer on Mayne Island remain the Mayne Island community, the Provincial Government (particularly the Ministry of Agriculture and Food and the Ministry of Land, Water and Resource Stewardship) and First Nations. ITC is well poised to work alongside these collaborators as a resource agency with knowledge of the island's ecosystems.

We understand that the Executive Committee has written to the Minister of Agriculture and Food requesting provincial action to control invasive Fallow Deer and are hopeful that the Minister will respond. We would also like to share with you that, on July 6, 2022, the ITC Manager participated in a meeting co-ordinated by the Mayne Island Fallow Deer Committee. The discussion included staff from the Ministry of Agriculture and Food, the Ministry of Land, Water and Resource Stewardship and Parks Canada, as well as political representatives from the office of Adam Olson, MLA, and the alternate for the CRD Director. The ITC Manager is able to continue participation in further meetings with Mayne Island representatives and Provincial staff as a resource if required.

We look forward to continuing to work alongside you to move towards a solution to the Fallow Deer issue on Mayne Island.

Yours truly,

Kate-Louise Stamford
Chair

Ec Executive Committee
Mayne Island Conservancy Society, info@mayneconservancy.ca



Public Acquisitions Update October 4, 2022

Property Name and Island	Date (yyyy/mm/dd)	Notes
PUBLICLY CONSIDERED PRIVATE LAND ACQUISITIONS		
Crystal Mountain (Galiano) 18.3 ha.	2017/11/21	ITC previously considered a conservation covenant proposal and land transfer proposal for this property.
	2017/11/21	<p>TFB-2017-031: It was MOVED and SECONDED, that the Trust Fund Board accept the updated Conservation Proposal from the Crystal Mountain Society, agreeing to accept transfer of approximately 18.3 hectares of Lot 9, District Lot 90, Galiano Island, Cowichan District, Plan 31200, (PID 000-851-035) and part of Lot A, District Lots 88 and 89, Galiano Island, Cowichan District, Plan VIP68079, (PID 024-351-041), subject to:</p> <ol style="list-style-type: none"> 1. The release of the rent charge and related easements on the title of Lot A and any other charges determined, through legal review, to be problematic for the Trust Fund Board; 2. Establishing legal access for the Trust Fund Board to the most eastern part of Lot A; 3. Receipt of \$30,000 upon transfer of the land, with at least \$15,000 to be held in a pooled Nature Reserve Management Fund, and \$10,000 to \$15,000 to be put towards the development of a management plan and management activities for the nature reserve; 4. Staff reaching mutual agreement with the water license holders to limit the impact of accessing and maintaining the permitted water works; 5. Agreement with the Society that the portion of the proposed Emergency Access over the nature reserve would be used only in the case of emergency; 6. Written agreement with the Society about the use and maintenance of the pagoda; 7. Installation of boundary and corner pin markers at the time of survey at the expense of the applicant (locations to be determined in consultation with ITF staff); and 8. Final approval of the Trust Fund Board of the final survey plan, transfer agreement and all other associated agreements.
	2019/07/24	Received subdivision proposal plan from the planning department.
	2020/09/08	Applicant provided a revised proposal to the Galiano Island Local Trust Committee.
	2020/12/10	File transferred to TAS Director Frater due to declared conflict of interest by ITC Manager, Kate Emmings.
	2021/01/28	ITC Staff met with applicant. An application update is anticipated for the May ITC Meeting.
	2021/05/25	Update provided to ITC Board.



Public Acquisitions Update October 4, 2022

	2021/05/25	<p>ITC-2021-019: It was MOVED and SECONDED, that the Islands Trust Conservancy Board accept the updated approximate lot configuration proposed by the Crystal Mountain Society, subject to staff assessment that adjusted lot boundaries meet ITC conservation goals and policies, based upon a site visit and review of any necessary additional ecological information from the applicant.</p> <p>ITC-2021-020: It was MOVED and SECONDED, that the Islands Trust Conservancy Board accept the Crystal Mountain Society proposal to register a Statutory Right of Way across Lot A on the upper ridge, in favour of Islands Trust Conservancy, to provide legal access to the eastern part of Lot A via the legal easement across neighbouring Lots B and C.</p> <p>ITC-2021-021: It was MOVED and SECONDED, that the Islands Trust Conservancy Board express support for the Crystal Mountain Society proposal to alter the lot boundaries of Lot 9 and Lot 10, prior to land transfer to Islands Trust Conservancy, to remove the pagoda from the proposed nature reserve, subject to staff assessment that adjusted lot boundaries meet ITC conservation goals and policies, based upon a site visit and review of any necessary additional ecological information from the applicant</p> <p>ITC-2021-022: It was MOVED and SECONDED, that the Islands Trust Conservancy Board request that the Crystal Mountain Society update the Ecological Inventory report and other relevant documents to reflect the proposed boundary changes, prior to transfer of the land.</p> <p>ITC-2021-023: It was MOVED and SECONDED, that the Islands Trust Conservancy Board accept the Crystal Mountain Society proposal to register a Statutory Right of Way for emergency access on Lot A in favour of the Capital Regional District prior to subdivision, subject to Crystal Mountain Society's working with ITC staff to develop an appropriate agreement.</p>
	2021/07/07	Staff site visit scheduled.
	2021/07/21	Follow-up staff visit to discuss lot boundary options.
	2022/02/09	Applicant and staff discuss coordinating a visit from a Cultural Knowledge Holder.
	2022/08/16	Meeting with applicant to discuss their meeting with Penelakut Elders and leadership.
Current Total ITC Acquisitions:		34



PUBLIC COVENANTS UPDATE
October 4, 2022

NAPTEP COVENANTS		
<i>27 NAPTEP Covenants on title, 4 NAPTEP covenants in progress, 0 new application</i>		
Property	Date	Notes
Larmour NAPTEP Covenant Salt Spring Island (2.45 ha)	2021/10/15	Application received.
	2022/01/24	ITC-2022-003: It was MOVED and SECONDED , that the Islands Trust Conservancy Board approves the conservation proposal submitted by Rodney Polden, on behalf of Skye Larmour, to donate a 2.45 ha NAPTEP covenant on Salt Spring Island, over a portion of Lot 1, Section 87, South Salt Spring Island, Cowichan District, Plan VIP 27894, PID: 000-138-452, to protect mature forests, wetlands, and connectivity to other protected areas, and advise the applicant that ITC will defer this securement project until late 2022/early 2023 due to staff capacity constraints.
	2022/02/04	Staff informed applicant of Board decision.
Nighthawk Hill NAPTEP Covenant expansion North Pender Island (~1ha)	2021/03/30	Application received.
	2021/11/23	ITC-2021-050: It was MOVED and SECONDED , that the Islands Trust Conservancy Board approve the conservation proposal submitted by Andreas Nowak and Mary Reher to add approximately 1 ha to the existing NAPTEP conservation covenant over a portion of the land described as Lot 38, Section 7, Pender Island, Cowichan District, Plan 32261, Except Part in Plan 35333, PID 001-081-110, to protect small seasonal wetlands and connectivity to the already-protected mature dry Douglas-fir forests.
	2021/12/01	TC-2021-119: It was MOVED by Trustee Stamford and SECONDED by Trustee Morrison , that the Islands Trust Council approves the amendment of the NAPTEP Certificate for the covenanted portion of the property described as PID 001-081-110, Lot 38, Section 7, Pender Island, Cowichan District, Plan 32261, Except Part in Plan 35333, to extend the Certificate to cover the increased protection area, and to reference the registration number of the new conservation covenant and survey plan that will be registered.
	2021/12/04	Referred for information to North Pender LTC. No comments received.
	2021/12/15	Phase II next steps correspondence sent to landholder.
	2022/02/10	Phase II application fee received.
	2022/07/20	Landowner has hired surveyor.
	2022/09/06	Final survey received.
	2022/09/12	Draft covenant amendment and letter of permission sent for ITC legal review.



PUBLIC COVENANTS UPDATE
October 4, 2022

R. Leader Covenant Salt Spring Island (3.54 ha)	2020/06/16	Application received.
	2020/11/24	ITC-IC-2020-039: It was MOVED and SECONDED , that the Islands Trust Conservancy Board approve the conservation proposal submitted by Robert Leader to place a NAPTEP covenant on approximately 5 ha on Salt Spring Island, PID: 000-395-081, LOT 2, SECTION 72, SOUTH SALT SPRING ISLAND, COWICHAN DISTRICT, PLAN 36292 Except Plan 40974
	2020/12/02	TC-2020-112: It was MOVED and SECONDED , that the Islands Trust Council request the Secretary issue a Natural Area Protection Tax Exemption Certificate for the covenanted portion of the property described as 'Lot 2, Section 72, South Salt Spring Island, Cowichan District, Plan 36292 Except Plan 40974, Parcel Identifier 000-395-081' subject to registration of a conservation covenant and completion of a baseline inventory report consistent with the standards developed for NAPTEP.
	2020/12/15	Referred for information to the Salt Spring Island Local Trust Committee. No comments received.
	2021/04/08	Phase II application fee received
	2021/04/12	ITC staff discussion with TLC about discharging existing covenant on the property. Ongoing.
	2021/04/26	ITC staff approves contractor to conduct baseline inventory. Work underway.
	2021/05/04	ITC staff discussion with SSIC about discharging existing covenant on the property. Ongoing.
	2021/05/11	First covenant draft sent to landowner for review.
	2021/05/14	Draft covenant sent to TLC and SSIC for their Board to review as part of their discussions about discharging the existing covenant these organizations co-hold on the property. ITC staff to participate in upcoming Board meetings of these organizations to provide information about NAPTEP and this proposed covenant.
	2021/05/14	Request for legal advice about impact of clause in existing covenant, restricting ability to place additional easements on the property.
	2021/05/22	Staff participate in TLC Board meeting to provide background information about NAPTEP program and discuss details of this application for a NAPTEP covenant to replace or be placed in addition to existing TLC / SSIC covenant.
	2021/05/28	Received legal counsel that the existing covenant contains no restrictions on ability to place NAPTEP covenant on the property.
	2021/06/16	Discussion with landowner about rights and restrictions in the draft covenant. Ongoing.
2021/07/05	SSIC and TLC agree to discharge existing covenant subject to registration of NAPTEP covenant. SSIC has requested becoming co-covenant holder for NAPTEP covenant.	



PUBLIC COVENANTS UPDATE
October 4, 2022

R. Leader (cont.)	2021/07/29	Landowner begins discussions with mortgage provider about granting priority to the Covenant and Rent Charge. Ongoing.
	2021/09/09	ITC received and accepted final baseline inventory report.
	2022/01/21	Staff called to discuss need to get mortgage provided to grant priority to the Covenant. Followed up with email to credit union representative.
Livingstone Forest NAPTEP Covenant Lasqueti Island (11.35 ha)	2021/10/20	Application received.
	2021/12/01	TC-2021-121: It was MOVED by Trustee Stamford and SECONDED by Trustee Fenton that the Islands Trust Council request the Secretary issue a Natural Area Protection Tax Exemption Certificate for the covenanted portion of the property described as PID 000-009-474, the west 1/2 of the south east 1/4 of section 21, Lasqueti Island, Nanaimo District, Except parts in Plans 17116 and 30313, subject to registration of a conservation covenant and completion of a baseline inventory report consistent with the standards developed for NAPTEP.
	2021/12/14	NAPTEP next steps letter sent to applicant.
	2022/01/25	ITC Board Rise and Report notes that the Board has finalized a covenant agreement with the applicant. Awaiting final approval from ALR before proceeding further.
	2022/03/31	ALC "Reasons for Decision" correspondence received.
	2022/04/04	Met with the applicant to discuss next steps. Applicant wishes to proceed with covenant and is proceeding with an Ecological Gifts application.
	2022/05/13	Requested next steps from the ALC as the applicant is ready to register the covenant.
	2022/05/19	Provided requested items to ALC
	2022/06/20	ALC response received, requesting further actions.
	2022/06/21	Responded to ALC request.
	2022/07/11	Ecological Gift appraisal completed. Covenant valued at \$315,000.
	2022/07/13	Applicant submits application to Environment and Climate Change Canada (ECCC) for review of appraisal for Ecological Gifts Program.
	2022/07/18	ITC submits revised covenant to ALC for approval.
	2022/07/22	ALC approval received to register covenant.
	2022/07/27	Covenant registered on the land title. (ITC notified August 31, 2022)
2022/08/23	Appraisal approved by ECCC for Ecological Gift. Gift number BC241.	



PUBLIC COVENANTS UPDATE
October 4, 2022

REGULAR COVENANTS		
<i>52 regular covenants on title, 1 regular public covenant in progress, 2 in-camera covenants in progress.</i>		
Property	Date	Notes
Brooks Point Covenant South Pender Island (6.02 ha)	2014/03/23	It was MOVED and SECONDED , that the Trust Fund Board agrees to hold a covenant on the 2010 addition to Brooks Point Regional Park, South Pender Island, subject to agreement on the terms of the covenant and a satisfactory baseline report, and directs staff to continue working with CRD Parks and partners to determine the best way to covenant the three protected areas at Gowlland and Brooks Points.
	2014/04/08	Staff provide CRD staff with a template covenant for review.
	2014/04/15	Staff met with partners to discuss combining covenants for the Brooks Point and Gowlland Point properties.
	2014/05/22	Covenant Draft 1 sent to PICA, Friends of Brooks Point, HAT and CRD.
	2014/08/01	CRD response to Covenant Draft 1 received.
	2014/08/19	ITC/HAT/PICA express concerns to CRD with respect to Management Plan approval and other selected clauses.
	2014/08/20	Baseline Report completed.
	2014/08/22	CRD respond to ITC/HAT/PICA concerns.
	2014/09/17	ITF/HAT/PICA response re draft covenant sent to CRD.
	2014/10/08	Kate Emmings appointed to the Brooks Point Management Plan advisory group by the CRD.
	2014/10/16	ITF staff attended CRD Parks Open House for public review of the Brooks Point Management Plan update.
	2014/12/03	CRD submit revised covenant draft to ITC and HAT.
	2014/12/10	CRD Board approves revised Management Plan.
	2014/12/12	Covenant sent to legal counsel for review.
	2014/12/18	Covenant revisions and comments sent to CRD.
	2015/07/29	Met with the CRD to discuss the covenant. There are several unresolved clauses.
	2015/08/28	Met with PICA and HAT. Agreed that we were at an impasse and required more direction from PICA.
2015/09/02	CRD returned a covenant draft for review, staff are concerned with several clauses, including the strength of restrictions and the enforcement mechanisms.	
2015/09/09	Staff provided a briefing to PICA requesting info about the type of covenant contemplated. Staff updated the CRD that a response to the covenant draft would be post-poned until further information is available from PICA.	



PUBLIC COVENANTS UPDATE
October 4, 2022

Brooks Point Covenant (cont.)	2015/09/24	Staff met with HAT, Friends of Brooks Point (Paul Petrie) and the CRD to discuss covenant concerns. CRD staff agreed to revise covenant and circulate.
	2015/10/28	Staff met with HAT and CRD staff to review revised covenant draft and CRD will do further revision and circulate.
	2015/12/18	CRD Staff provided revised covenant.
	2016/01/25	ITF/HAT responded to CRD revisions.
	2016/07/15	CRD Staff provide a revised version of the covenant for further review.
	2016/08/16	HAT/ITF/CRD staff meet to discuss CRD edits. HAT/ITC agree to add definition regarding the permitted activities and will forward legal edits. CRD to re-approach NCC and TLC regarding process for discharge of prior covenants.
	2016/11/28	ITF/HAT forwarded the draft list of restricted and permitted uses for CRD review.
	2016/01/11	CRD response received, ITF/HAT to forward revised covenant draft for CRD review. Conversations ongoing regarding details.
	2017/09/07	Brooks Point covenant revised and reviewed by ITF legal and HAT.
	2017/09/21	Revised Brooks Point covenant sent to CRD Parks for review
	2018/06/14	Revised covenant received from the CRD, currently under review.
	2018/07/06	Legal review of covenant identifies ongoing concerns.
	2018/07/31	CRD notified of ITC covenant concerns and meeting of all parties with legal representatives requested.
	2019/05/01	ITC provided reviewed covenant to CRD with a request to meet with all parties and legal counsel.
	2020/12/23	Revised draft covenant received from CRD for review.
	2021/02/08	HAT, PICA and ITC meet to discuss covenant revisions. HAT to follow up with CRD regarding ongoing concerns and PICA input.
	2022/01/17	Letter received from CRD with a request to approve the covenant.
	2022/01/31	HAT, PICA and ITC meet to discuss covenant revisions. HAT and ITC staff agree to forward covenant to respective boards subject to agreement from PICA that it meets their requirements.
	2022/02/04	Joint letter sent to CRD from HAT and ITC noting HAT and ITC staff agree to forward covenant to respective boards subject to agreement from PICA that it meets their requirements.
	2022/02/06	PICA provides a letter to the CRD outlining requested changes to the covenant.
2022/02/17	CRD responds to PICA letter with amended covenant.	



PUBLIC COVENANTS UPDATE
October 4, 2022

Brooks Point Covenant (cont.)	2022/02/24	PICA provided a letter to the CRD indicating that the covenant edits are acceptable.
	2022/03/15	<p>ITC-2022-017: It was MOVED and SECONDED, that the Islands Trust Conservancy (ITC) Board authorizes the Chair to sign the covenant, dated February 17, 2022, with the Capital Regional District and Habitat Acquisition Trust, over the lands described as:</p> <ul style="list-style-type: none"> i) Parcel Identifier 005-873-860, Lot 16, Section 1, Pender Island, Cowichan District, Plan 6670; ii) Parcel Identifier 005-873-894, Lot 17, Section 1, Pender Island, Cowichan District, Plan 6670; iii) Parcel Identifier 005-873-924, Lot 18, Section 1, Pender Island, Cowichan District, Plan 6670; iv) Parcel Identifier 005-873-975, Lot 19, Section 1, Pender Island, Cowichan District, Plan 6670; and, v) Parcel Identifier 003-977-188, Lot C, Section 1, Pender Island, Cowichan District, Plan 16049; <p>and, directs staff to register the covenant subject to receiving an update to the Baseline Documentation Report that is acceptable to the ITC Manager.</p> <p>ITC-2022-018: It was MOVED and SECONDED, that the Islands Trust Conservancy Board authorizes the Chair to sign a discharge for covenant EP3182, subject to receiving approval from the Nature Conservancy of Canada to also discharge the covenant, and directs staff to register the discharge subject to registration of a covenant over the whole of Brooks Point Regional Park in favour of Islands Trust Conservancy and Habitat Acquisition Trust.</p>
	2022/04/14	ITC/HAT board decisions conveyed to the CRD, with a copy to TLC and NCC.
	2022/04/29	CRD correspondence sent to NCC and TLC requesting agreement to release existing covenants.
	2022/07/14	ITC staff send correspondence to CRD regarding Interrim Strategic Plan as the designation of Brooks Point Regional Park is inconsistent with the negotiated covenant.
ITC NATURE RESERVES WITH COVENANTS OUTSTANDING		
<i>9 ITC Nature Reserves are without covenants, 2 ITC Nature Reserve covenants in progress.</i>		
Property	Date	Notes
Sandy Beach Nature Reserve Keats Island (3.3 ha)	2015/03/02	Consultant has indicated that the landowners would like a covenant registered on the land at the time of transfer. ITC has approached Gambier Island Conservancy (GIC) and Sunshine Coast Conservation Association (SCCA). GIC has declined, but SCCA is potentially interested.
	2015/05/07	SCCA agrees to hold covenant; suggests TLC as a co-holder as they have worked together before.
	2015/08/18	Draft conservation covenant provided to ITC staff for review.



PUBLIC COVENANTS UPDATE
October 4, 2022

Sandy Beach Nature Reserve (cont.)	2015/08/26	Edits to covenant provided to applicant and covenant holders for review.
	2015/12/15	Comments on covenant draft received from TLC.
	2015/01/12	Covenant revised with TLC edits and returned to TLC and SCCA for comment. TLC is happy with the draft. SCCA has sent the covenant for legal review, still awaiting SCCA comments.
	2016/02/10	SCCA comments received.
	2016/03/04	ITF responded to SCCA edits. SCCA reviewing with lawyer.
	2016/04/11	Requested that landowner contract development of baseline report for covenant.
	2016/06/05	SCCA comments received for covenant.
	2016/10/05	Draft 3 covenant sent to covenant holders for review. TLC and SCCA have agreed to the draft.
	2017/03/02	Covenant sent for legal review.
	2017/04/13	Revised covenant draft sent to TLC and SCCA. Comments received from both agencies.
	2017/08/31	Edits made to covenant and reviewed by legal. Draft 5 sent to TLC and SCCA for review. TLC has no further comment; awaiting SCCA comment. Both TLC and SCCA have requested a site visit.
	2017/09/07	Draft baseline report received from the applicant.
	2017/10/24	Feedback on baseline report submitted to applicant and revisions requested.
	2018/05/28	Site visit with ITC staff, trustees & SCCA
	2018/07/19	Next draft of baseline received and provided to covenant holders for feedback.
	2018/08/28	Baseline report feedback provided to applicant and biologist for review and revision.
	2019/01/04	Applicant's biologist revised draft baseline report. Forwarded baseline to covenant holder for review.
	2019/11/18	Received survey from the Applicant. Also notified that a new trail has been developed to access the beach within the proposed Sandy Beach Nature Reserve.
	2019/12/19	Met on site with applicant to review the location of the newly developed beach access trail.
	2020/04/23	ITC Staff begin a conversation with BC Hydro regarding removal of BC Hydro Statutory Rights of Way.
2020/06/24	BC Hydro staff respond with information about mechanisms for discharge of existing Statutory Rights of Way and reregistration of a revised Statutory Right of Way.	
2020/07/06	Staff respond to BC Hydro process regarding Statutory Rights of Way and request further information from the landowners regarding cost recovery for required surveys and fees.	



**PUBLIC COVENANTS UPDATE
October 4, 2022**

Sandy Beach Nature Reserve (cont.)	2020/12/18	Land transfer complete. Covenant still to be finalized as per Transfer Agreement by Dec. 18, 2021.
	2021/02/01	ITC Staff renew covenant discussions with TLC and SCCA.
	2021/11/01	ITC staff is including completion of baseline inventory in contract for Management Planning. Contract work is underway. Draft baseline inventory due November 15 th , and draft Management Plan due January 17 th .
	2021/11/09	Draft baseline report received and reviewed. Contractor will be conducting an additional site visit in mid- to late January to gather more data for updated baseline.
	2021/12/08	Management Plan Open House.
	2022/03/29	Final draft of Management Plan received from contractor. Reviewed and approved with amendments at May 24, 2022 Board meeting. Final Management Plan sent to proposed covenant holders for agreement.
	2022/04/29	Final baseline report and covenant sent to covenant co-holders for review and agreement.
	2022/06/16	Staff sent final covenant for legal review.
	2022/10/04	Final covenant reviewed and approved by covenant co-holders. RFD for ITC Board in this package.
Fairyslipper Forest Nature Reserve Thetis Island (16.6 ha)	2018/03/20	ThINC Board approves resolution to hold a covenant on Fairyslipper Forest.
	2018/03/21	CCLT Board approves resolution to hold a covenant on Fairyslipper Forest.
	2018/04/03	TFB approves negotiation of conservation covenant in favour of ThINC and CCLT.
	2018/04/06	First draft of ITC template covenant sent to partners. Trail relocation is needed before finalizing baseline report.
	2018/10/13	Hosted Management Plan Open House on Thetis Island.
	2019/02/22	Draft management plan and baseline report sent to ThINC and CCLT staff for review.
	2019/03/11	Contractor and ITC complete ThINC and CCLT's requested revisions to management plan and baseline report. The baseline report will be finalized once the trail is relocated.
	2019/03/19	ITC consults with Islands Trust's Senior Intergovernmental Policy Advisor on opportunities to introduce First Nations content throughout management plan.
	2019/03/20	Further revisions completed by ITC and contractor to address additional edits from ThINC.
	2019/05/08	ITC completes addition of First Nations content throughout management plan and content is reviewed by Islands Trust's Senior Intergovernmental Policy Advisor.
	2019/05/12	Contractor approves First Nations content added to management plan by ITC.
	2019/05/21	ITC Board approves management plan with minor revisions.
2019/06/12	ThINC Board approves revised management plan.	



**PUBLIC COVENANTS UPDATE
October 4, 2022**

Fairyslipper Forest Nature Reserve (cont.)	2019/09/26	CCLT Board approves revised management plan. Staff posted Management Plan to the website.
	2020/02/03	Trail reclamation completed by contracted trail builder, Penelakut youth and volunteer labour. A Statutory Right of Way is required from the adjacent property where the trailhead and parking area are planned.
	2020/03/19	ThINC is working with the Thetis Island Residents and Ratepayers Association to obtain a trail license over adjacent private lands for access and parking for the Fairyslipper Forest Nature Reserve.
	2020/07/14	Adjacent landowner signs Trail Licence Agreement with TIRRA (Thetis Island Residents and Ratepayers Association). Staff continues to work with owner to develop permanent legal access.
	2022/04/25	Adjacent landowner extends Trail Licence Agreement with TIRRA. Adjacent landowner has not expressed a willingness to enter into a more formal arrangement with ITC. ITC to continue covenant negotiations.
	2022/06/06	Staff discussed proposed conservation covenant with ThINC, agreement to defer. Staff will reengage with adjacent landowner to discuss more formal access arrangement.
	2022/07/27	Adjacent landowner indicates intent to continue with informal access agreement. See RFD in this package.
Total	79 covenants registered	

Islands Trust Conservancy Expenditure Tracking 2022-2023									
GL	Description	Approved Budget	Islands Trust Contribution	SAR Grant	Total Available	Spent	Remaining	% Remaining	Committed Funds
75100-210/									
75110-210	Salaries and Benefits	\$ 656,368	\$ 513,168	\$ 143,200	\$ 656,368	\$ 228,782	\$ 427,586	65%	\$ 445,053
50700-210	Admin. Support	\$ 262,780	\$ 262,130	\$ 650	\$ 262,780	\$ 75,142	\$ 187,638	71%	\$ 187,638
54500-210	Communications	\$14,780	\$11,630	\$8,150	\$ 19,780	\$4,279	\$ 15,501	78%	\$ 689
79500-210	Subscriptions	\$1,000	\$1,000		\$ 1,000	\$55	\$ 945	95%	
67500-210	Memberships	\$0			\$ -	\$282	\$ (282)	0%	
61100-210	Board Honoraria	\$ 6,600	\$ 6,600		\$ 6,600	\$1,550	\$ 5,050	77%	\$ 3,850
61200-210	Board Meeting Expense	\$ 1,425	\$ 1,425		\$ 1,425	\$1,120	\$ 305	21%	
61210-210	Board Training & Conferences	\$ 1,600	\$ 1,600		\$ 1,600	\$130	\$ 1,470	92%	\$ 574
61300-210	Property Management	\$137,780	\$97,780	\$60,000	\$ 157,780	\$19,957	\$ 137,824	87%	\$ 54,949
61500-210	Cons Planning / Land Securement	\$26,550	\$13,050	\$ 13,500	\$ 26,550	\$7,688	\$ 18,862	71%	
63000-210	Legal	\$ 13,000	\$ 10,000	\$ 3,000	\$ 13,000	\$4,809	\$ 8,191	63%	
61600-210	Ecosystem Mapping	\$ 18,000	\$ 13,000	\$ 5,000	\$ 18,000		\$ 18,000	100%	\$ -
80300-210	Mobile Devices	\$ 1,350	\$ 1,350		\$ 1,350	\$1,321	\$ 29	2%	\$ 1,761
81300-210	Training & Conferences	\$ 4,200	\$ 4,200		\$ 4,200	\$717	\$ 3,483	83%	\$ 1,415
81305-210	Travel for Training	\$ 2,200	\$ 2,200		\$ 2,200	\$120	\$ 2,080	95%	\$ 1,150
82300-210	Travel	\$ 17,880	\$ 12,880	\$ 5,000	\$ 17,880	\$15,017	\$ 2,863	16%	\$ 1,225
		\$ 1,165,513	\$ 952,013	\$ 238,500	\$ 1,190,513	\$ 360,969	\$ 829,544	70%	\$ 698,304
									Committed Funds
Restricted Funds			Opening Balance	Revenue	Total Available	Spent	Remaining		
Alton Maintenance Account			\$ 103,636	\$ 5,729	\$ 109,365	\$ 7,918	\$ 101,447	\$ 4,750	
Ruby Alton Endowment Fund			\$ 144,609	\$ (12,532)	\$ 132,077		\$ 132,077		
Opportunity Fund			\$ 114,151	\$ 1,174	\$ 115,325		\$ 115,325	\$ 15,950	
Covenant Mgmt and Defence Fund			\$ 115,667	\$ 316	\$ 115,983		\$ 115,983		
Property Management Fund			\$ 10,648	\$ 29	\$ 10,677		\$ 10,677		
Lasqueti Island Acq Fund			\$ 27,541	\$ 70	\$ 27,611		\$ 27,611		
Link Island Fund			\$ -	\$ 36,708	\$ 36,708		\$ 36,708		
Gambier Island Acq Fund			\$ 125,398	\$ (1,623)	\$ 123,775		\$ 123,775		
Morrison Waxler Legacy Fund			\$ 14,809	\$ 11	\$ 14,820		\$ 14,820	\$ 3,000	
Thetis Island Acq Fund			\$ 1,301	\$ 3	\$ 1,304		\$ 1,304		
McFadden Creek			\$ 23,162	\$ 66	\$ 23,228	\$ 1,795	\$ 21,434	\$ 833	

Updated: 27-Sep-22

N.B. if budget goes over by more than \$20,000, EC referral is required.

Caring for your Conservation Covenant

A newsletter for Islands Trust Conservancy Covenant Landholders



Fall 2022

Reflections from the 2022 monitoring season

This spring and summer the islands in the Salish Sea saw a welcome, if temporary, reprieve in the public health crises, extreme weather events, and wildfires that have challenged our communities in recent years.

The cool, wet spring was a boon for plant life, helping trees and shrubs recover from last year's drought and heat dome. The high water levels we've seen should also make for a successful breeding season for native amphibians—several of you reported a “deafening” spring chorus in and around your ponds from abundant Pacific Treefrogs.

Yet this same weather has likely resulted in poor survival of insects that birds and bats depend on, and delays to the blooming and fruiting period for most native plants. Andy on Denman noted fewer butterflies; Tom on Hornby has observed fewer bats, birds, and insects; and Erin O'Brien of Pender Islands Conservancy Association reported reduced eagle nest success. While climate change continues to impact the islands, conservation covenants and people like you who care for the land offer hope.

We continue to see people across the islands coming together to care for and restore the land.

Owners on Saturna worked together to fence off common land to feral goats in hopes of forest recovery. Michael on North Pender is counting the different species of birds visiting his feeder, and is mindful not to let his dog loose during deer fawning season.

On Salt Spring, Rodney is tackling English holly removal from the forest; Sabina removed massive amounts of Scotch broom; Briony is witnessing a dramatic recovery of native wildflowers just one season after installing a creative enclosure made from recycled rope netting; and Bob and Samantha are clearing patches of exotic water violet from their pond to improve habitat diversity for frogs. And the owners of covenants on Sidney Island are involved in too many initiatives to list here! This is just a sampling of the efforts we've witnessed this past year.

The network of protected areas, including conservation covenants, allows nature to adapt to a changing climate. Stewards like you help this process through ecological restoration, habitat enhancement, or anecdotal observations and data collection. Together we are making a real difference.

We hope these stewardship actions by your fellow covenant owners inspire you as much as they inspire us, and this newsletter encourages you to engage with the land in new ways.

Thank you for all you do for nature,

Jemma Green
Covenant Management & Outreach Specialist



iNaturalist - Harness your natural wonder to benefit biodiversity

Have you ever gazed at a fuzzy fallen log and marvelled at how many mosses must be growing on it? Or wondered if that's a weed you should be worried about in your garden? Or heard a spectacular birdsong and wished you knew who was making it? This curiosity and wonder we all experience when we are outside enjoying nature is now being harnessed by the scientific community through citizen science applications that are building our personal and collective understanding of biodiversity.

Privately held conservation covenants are full of natural wonders, but many go unobserved and still more go undocumented.

Citizen science apps provide a way for stewards to learn about and connect with the land in new ways while documenting valuable biodiversity data to inform conservation scientists. Citizen scientists have helped to discover new species, track invasive species, and protect land for species at risk.

Many of these apps are free and accessible to anyone with a smartphone (or a digital camera and computer) with access to the internet. One app that has been field tested by ITC staff that seems to cover it all - aquatic/terrestrial plants and animals, fungi, feces and tracks - is iNaturalist.



'iNaturalist is an online social network of people sharing biodiversity information to help each other learn about nature'

iNaturalist is a free citizen science platform that can be accessed through a website or smartphone app hosted by the California Academy of Sciences and the National Geographic Society. You can use it to record your own observations of plants and wildlife and get help identifying the biodiversity around you. You can also search the millions of observations and data collected by iNaturalist users around the world and connect with species experts and nature enthusiasts who can help you learn more about nature while contributing to our understanding of biodiversity.



How does it work?

Once you upload pictures of your observations through your account on the iNaturalist smartphone app or website, image recognition software will suggest a shortlist of the most likely organisms/species based on physical features captured in your photo(s) and the coordinates attached to your digital photo (with each submission you can choose to obscure or make public the precise location of your observation). You can choose from these species suggestions, search for a name of what you think you saw, or leave it blank. Once you submit your observation it is then posted to an interactive, global community where experts and experienced users can verify or correct identifications for your observation. All verified and research-grade sightings go into global databases to inform scientific research.

Guides and video tutorials are available on the [iNaturalist website - www.inaturalist.org](http://www.inaturalist.org).





Join the Islands Trust Conservancy iNaturalist project for covenants!

While we do our best during annual monitoring, we know that we cannot observe all the incredible species on the land through this seasonal 'snapshot' in the same way that you can year-round. To improve our understanding of biodiversity, Islands Trust Conservancy is rolling out an iNaturalist project specifically for conservation covenants, and we encourage you to get involved! The project will collect all observations made within covenant boundaries by participants. By joining the project, you can:

- create an interactive record of your nature explorations,
- learn more about the species around you,
- browse observations from other covenant landholders and engage with them,
- help identify other observations made in your area,
- contribute to our understanding of the biodiversity found in your conservation covenant - including rare, at-risk, and invasive species.

Look out for an email invitation with instructions to join the project later this fall!



Camas species.



Banana slug on an Amanita mushroom

Tips for good observations

- Get close without touching or disturbing the organism. If this isn't possible, use your camera's zoom and crop the image later.
- Take photos from different angles and of different features of the subject/organism.
- Include a familiar object, such as a lens cap, pencil or hand, for scale (if possible).
- Try to get the image clear and focused; if the image has a busy background, try putting a hand or a solid-coloured object behind the subject.
- Upload sound recordings as observations.

Remember: If you are in a park or nature reserve, do not go off trail unless authorized.

*[iNaturalist](#) is a free, independent app that is simple to download and easy to use. It is not owned by or affiliated with Islands Trust Conservancy. By engaging in the app, you agree to iNaturalist's [terms and conditions](#) and [privacy policy](#). Please ensure you read and agree to these policies when downloading the app.

iNaturalist makes every walk an adventure

Lisa Baile is a covenant landholder and resident of North Pender Island. She is also a self-proclaimed iNaturalist enthusiast and has been using the app since 2020. Since joining the iNaturalist community she has made nearly 1,400 observations of over 480 species.

"Every time you go out, it's exciting because you never know what you're going to find. You find something and want to learn more about it. If you don't know, you can go online and find out." Lisa continues to find new species on her walks around Pender and beyond.

For Lisa, iNaturalist builds familiarity with the nature around her and feeds her curiosity about the timing of natural phenomena, such as when flowers bloom or mushrooms emerge. "The neat thing is it makes a point in your brain about where an observation was. So the next year or season when I go out and it's there, it's like seeing a friend again."

In addition to being a fun and exciting learning adventure, there is the reward in the knowledge that she is contributing to science. "It is very important with climate change to have a baseline. How do things change? Are species moving? Are they still here or have they gone extinct?"

With a rapidly growing global community of users, iNaturalist has also been an opportunity for Lisa to connect with other nature enthusiasts and researchers around the world, thanks to the ability to comment on the observations of other iNaturalist users. When an observation catches her attention, Lisa will sometimes send the observer a little note to ask them about what they're doing. "You can meet people and find experts if you are interested in a particular species."



Rough-skinned Newt - L. Baile

“*Every walk is an adventure!*”



Top: Lisa with Peter Pare walking their covenant boundary. Right: Fairy-slipper orchid - L. Baile

Lisa sees the unique potential of iNaturalist as an accessible citizen science tool. "Everyone can contribute observations and identifications—no exclusions, no degrees required. If you have somebody who lives there, knows the area, and is out every day making observations, they will be in a much better position to provide data. Getting to know your area is so important. It allows us to note inconsistencies or things that are changing for good or for bad." In this way, iNaturalist also benefits users by strengthening a connection to place.

Lisa's tips for iNaturalist

Get outside and explore. It doesn't matter if you don't know what it is because iNaturalist will help you. You never know, you could be the first to identify a species in a particular region.

Make observations of even the most familiar species. This information helps contribute to our knowledge of a species range.

Observe invasive as well as native species. It's important to know where they are. This way you can note their spread and distribution and remove them.

Mind the bees. With habitat loss and pesticide use, pollinators are in danger, so it's good to try and observe them. There are projects you can join on iNaturalist specific to pollinators.

Managing Daphne

Spurge-laurel (*Daphne laureola*), more commonly known as Daphne, is an evergreen shrub native to Eurasia and Africa that is extremely invasive in southwestern British Columbia. It was first introduced to North America as a garden ornamental and continues to be sold in nurseries. This species thrives in heavily shaded areas, so our coastal forest ecosystems provide the perfect conditions for invasion. Daphne's ability to quickly colonize an area allows it to displace native plants, resulting in reduced biodiversity, altered native plant communities, and changed soil chemistry (in some cases). While Daphne management is encouraged to protect ecosystem health, it is important to exercise caution when working with this highly toxic plant.



Surge-laurel (Daphne) - invasive - K. Mayes

Identification

Daphne has thin, flexible stems and thick, glossy dark green leaves that are oblong-shaped and alternate along the stem. Daphne's fragrant clusters of small greenish-yellow flowers bloom in February-April and its round black berries ripen in early summer (pictured below). Daphne can grow to a height of 0.5-1.5m tall.

The only native species resembling Daphne is the Pacific rhododendron, which can be differentiated by its larger overall size (1-8 m), leathery leaves, and large pink or purple flowers.



Surge-laurel (Daphne) with berries - @ryan_durand - iNaturalist

Removal & Disposal

⚠ Caution: All parts of this plant contain poisonous compounds and may cause harm to people.

Severe skin irritation and blistering may result if Daphne's toxic sap comes in contact with the skin, and airborne sap droplets may cause eye or throat irritation. **Ensure you are wearing proper protective clothing before beginning removal;** this should include waterproof gloves, a long-sleeved shirt, pants, a face mask (or respirator), and goggles.

Daphne cannot re-sprout from the roots, so cutting can be highly effective.

- Cut the plant below the root collar, or below the uppermost lateral root using secateurs or loppers. Alternatively, if the Daphne plant is small and the soil is loose and moist, it may also be pulled from the ground (roots and all).
- If the plant has berries, it should be bagged or tarped to minimize seed dispersal.
- Plants without berries can be piled on an area of bare soil and left to decompose securely covered with a tarp to avoid harm to any people or animals that may encounter them.
- Do not incorporate it into your garden compost. Daphne must be taken to a disposal facility that accepts toxic plants (call ahead to confirm).
- If you are moving Daphne ensure you are not transporting it in an enclosed vehicle to avoid inhaling airborne sap droplets.
- Once removal efforts are complete, monitor the area for the next three years to remove any young plants that could sprout from the seed bank.

Report invasive species

Please report Daphne occurrences to the Provincial Report Invasive Species program via the Report Invasives smart phone app available online from www.gov.bc.ca/invasive-species

What to grow instead of Daphne

There are native and non-invasive evergreen plants with a similar size or aesthetic that can be planted in place of Daphne, including:



Sword fern



Pacific rhododendron



Salal



Evergreen huckleberry



Oregon-grape

Photo credit Top left - right: - docdez - iNaturalist; - jimsox - iNaturalist. Bottom Left - Right: C. Smith; gabe_schp - iNaturalist; C. Funk

Seeking new Board Member

Islands Trust Conservancy is currently seeking an individual to join its Board. We are currently looking for experience in the following:



First Nations relations and engagement



Fundraising and donor development



Biology/ecology of coastal British Columbia, with a focus on Traditional Ecological Knowledge

The vacancy is for a member to represent the public and the position will be appointed by the Minister of Municipal Affairs. To apply visit

www.islandstrust.bc.ca/whats-happening/expressions-of-interest.

Expressions of interest will be accepted until Oct. 7th

Contribute to ITC's Opportunity Fund

Supporters of the Opportunity Fund have helped create a \$47 million conservation legacy on the islands of the Salish Sea. Help us continue to support land conservation by people like you, who want to continue to preserve and protect special places on these islands for generations to come.



Help us support local conservancies and individuals to preserve and protect land

To donate to the Opportunity Fund visit -

www.islandstrust.bc.ca/donate-to-conservancy/



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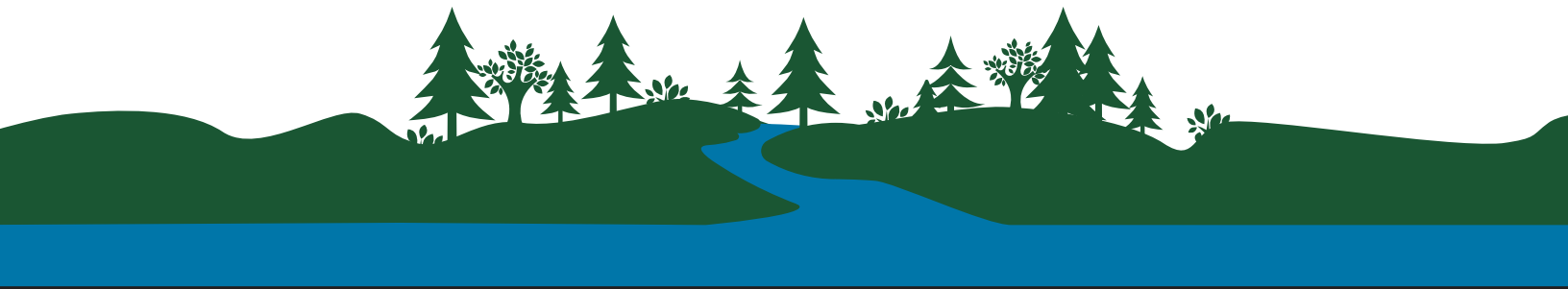


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FOREVER PROTECTED?



The Potential for Sector-wide Approaches to
Stewardship and Legal Defence of
Private Conservation Lands



Centre for Land Conservation
Centre pour la conservation des terres

Accelerating Private Land Conservation is a Report Series published by the Centre for Land Conservation. The Series is devoted to the advancement of land conservation policy, science and management issues of national interest in Canada. The objective of the Series is to make Canadians more aware of the value and importance of private land conservation and to promote improved conservation policy and practice to achieve more, better and faster conservation outcomes in Canada to meet the twin challenges of biodiversity loss and a changing climate.

Forever Protected?

The Potential for Sector-wide approaches to Stewardship and Legal Protection of Private Conservation Lands

Prepared by Sarah Winterton and Robert McLean

September 2022

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The Centre for Land Conservation (CLC) gratefully acknowledges the contributions of all those organizations and individuals that helped to make this report possible.

Environment and Climate Change Canada provided information, advice and financial support.

CLC is particularly grateful to the private land conservation organizations that shared their perspectives on the stewardship and legal protection of their conservation properties and conservation agreements.¹ Their enthusiasm to tackle important issues sets the stage to generate increased support and stability for private land conservation. Without their input, this report would not have been possible.

Conservation funders and government representatives provided invaluable knowledge and ideas for increasing support for stewardship and legal protection of private conservation lands.

About the Centre for Land Conservation (CLC)

The CLC is a not-for-profit, registered charity established in 2019 that seeks to support the conservation of private lands in Canada. Our vision is for conservation lands in Canada to contribute significantly to biodiversity targets through strong and leading-edge practices. Our approach reflects a commitment to reconciliation with Indigenous peoples and collaboration with conservation partners. As custodian of the *Canadian Land Trust Standards and Practices*, the CLC works with the land conservation community as an independent voice to enhance public trust and confidence in private land conservation.

¹ Throughout the report, “conservation agreement” refers to a conservation easement, covenant or servitude.



ABOUT THIS REPORT

Through a contract with Environment and Climate Change Canada, the Centre for Land Conservation (CLC) conducted a situational analysis focused on the stewardship and legal protection of private conservation lands and agreements to ensure that the conservation benefits of these properties are sustained over the long term.

In order to gather information and prepare this report, the following definitions were used:

- *Stewardship* includes activities undertaken to maintain the biological and ecological values of conservation lands held by an organization or under agreement with a landowner (including the monitoring of lands/agreements).
- *Legal protection* includes any legal challenges and issues associated with conservation agreements and fee simple lands and/or legal risks to organizations that hold lands (including any enforcement actions).

The following report comprises information collected through direct consultations and written submissions from a total of 44 individuals from 24 private land conservation organizations and external experts representing organizations from British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Canada-wide organizations and U.S. organizations during February and March 2022. Participating organizations ranged from community based, with few or no staff, to regional and national in scope. The consultations build on previous consultations conducted by CLC as well as outcomes from “A National Conversation on Performance Assurance Approaches for Land Trusts in Canada” forum held in February 2020.

The report results reflect active, ongoing and spirited conversations within the sector. The conversations are summarized with key themes highlighted in Part 2 Stewardship and Part 3 Legal Protection. Unless otherwise credited, quotations throughout the report are from participants in these conversations. The private land conservation community is highly aware of the context in which they are working, along with the emerging trends, opportunities, challenges and threats they are navigating to achieve long-term success. Private land conservation organizations welcome the attention to these issues and have a strong willingness to participate in strategies that will leverage their strengths, diminish vulnerabilities, activate opportunities and ensure they can fulfill their mandate for lasting stewardship of Canada’s conservation lands and agreements.



EXECUTIVE SUMMARY

Stewardship and legal protection of conservation lands in Canada's southern landscapes is critically important to achieving national biodiversity targets and supporting climate change mitigation and adaptation efforts. As most lands within these landscapes are privately owned, non-governmental land conservation organizations have a key role to play if these objectives are to be met. This report focuses on the need for these organizations to have the capacity to operate sustainably to provide long-term, durable stewardship and legal protection of their conservation lands and agreements.

The benefits of ensuring a healthy and thriving private land conservation community extend beyond protected area targets and biodiversity conservation to include maintenance of irreplaceable natural infrastructure and ecosystem services that help to mitigate and adapt to the effects of climate change, regulate water quality and quantity and mitigate the effects of extreme weather events that can lead to flooding and drought. Importantly, these lands also provide recreational opportunities and places for outdoor activities, contributing to human health and well-being, a particularly important benefit in the context of the ongoing global pandemic.

Canada now has more than 150 non-governmental organizations working on the ground from coast to coast to protect ecologically important lands and conserve biological diversity. They manage a significant conservation estate and work hard to sustainably manage and protect their lands and agreements. Nevertheless, these organizations continue to voice concerns related to the long-term stewardship and legal protection of their conservation properties and agreements.

Reconciliation with Indigenous Peoples

Canadians and their governments are working to advance reconciliation and renew the relationship with Indigenous peoples, based on recognition of rights, respect, cooperation and partnership. The conservation and protection of land, water and biodiversity are important for advancing reconciliation in Canada.

The conservation and sustainable use of biodiversity are central to the culture, spiritual well-being and traditional activities and way of life of Indigenous peoples. For millennia, Indigenous peoples have cared for and stewarded lands, water and wildlife. Their histories, experiences and traditional ecological knowledge are helping to shape the way land conservation and protection are understood, valued and approached throughout Canada, including lands of conservation importance in southern Canada.

For their part, private land conservation organizations are already engaging with Indigenous communities to establish long-term relationships. Ensuring capacity for and establishing consistency of practice by private land conservation organizations in engaging with Indigenous peoples on key aspects of protection, access and integration of Indigenous perspectives, knowledge and practices will contribute to ‘conservation through reconciliation’ objectives. Such engagement, collaboration and partnership are an important aspect of the stewardship of private conserved lands.

Protected Forever?

In light of the importance of private conservation lands to achieving Canada’s biodiversity goals—and to accelerate the trajectory towards these goals—governments continue to support the work of the private land conservation community. With the anticipated adoption of a Global Biodiversity Framework under the Convention on Biological Diversity in December 2022 and the likely establishment of even more challenging goals, and ongoing concerns voiced by private land conservation organizations, it is an optimal time to examine in more depth the stewardship and legal protection challenges faced by them and identify opportunities to address these challenges in the best possible way.

Through a contract with Environment and Climate Change Canada, the Centre Land Conservation (CLC) conducted a situational analysis focused on the stewardship and legal protection of private conservation lands and agreements to ensure that the conservation benefits of these properties are sustained over the long term. The analysis comprises information provided by private land conservation organizations and external experts, and builds on previous consultations conducted by the CLC. Participating organizations ranged from community based, with few or no staff, to regional and national in scope.

The report reflects active, ongoing and spirited conversations within the private land conservation sector. More details on the results of the consultations and information gathering are found in the Stewardship and Legal Protection parts of the report. As models to prompt discussion and development of ideas and suggestions, the Stewardship section includes information on the Canada Cultural Investment Fund and the Legal Protection section describes an insurance program developed specifically for U.S. land trusts known as Terrafirma. Key learnings and a summary of the recommendations follows.

Key Learnings

- I. The work of the private land conservation community provides multiple benefits to Canada on matters that are a priority for Canadians and can make a contribution to Reconciliation with Indigenous peoples.
- II. Achieving the objectives of Canada’s Nature Legacy and Nature Smart Climate Solutions initiatives in the southern landscapes of Canada will depend on contributions from the private land conservation community.
- III. The private land conservation community is responsible for a significant conservation land estate that is critical to achieving conservation objectives in the southern ecosystems of Canada where additional conservation actions are urgently needed.

- IV. Canada's Nature Legacy call to increase private land acquisition through the Natural Heritage Conservation Program acknowledges the role that the private land conservation community has in contributing to protected areas targets in landscapes where much of the land is privately held.
- V. The people engaged in the private land conservation community are highly knowledgeable and committed to the conservation of nature, healthy ecosystems and species at risk through sound land stewardship and legal protection of their conservation lands and agreements.
- VI. As compared to other Canadian charitable sectors, the private land conservation community faces unique challenges to sustain the benefits and effectively steward their conservation lands over the long term as the effort to respond to biodiversity and climate emergencies intensifies. In addition, the community has few insurance instruments to backstop legal protection of their conservation lands and agreements.
- VII. The majority of private land conservation organizations function with capacity challenges, such as few or no paid staff, not aligned with the importance of the natural assets they protect and steward. Generally, they are managing through a variety of strategies, including support from highly dedicated and motivated staff and volunteers, that enable them to fulfill their core stewardship responsibilities for their conservation lands and agreements, and build effective relationships with landowners to avoid potential legal issues.
- VIII. Federal and provincial grant and contribution programs prioritize the securement of conservation lands and agreements. These programs also play key roles in providing financial support for stewardship activities that would not otherwise be implemented.
- IX. To augment their stewardship activities beyond core responsibilities, private land conservation organizations pursue grants and contributions, an effort that takes staff and volunteer time away from other organizational activities and may not lead to the securement of additional funds resulting in needed stewardship activities going unactioned.
- X. Private land conservation organizations are primed to benefit from increased investment. Most private land conservation organizations are endeavouring to generate revenue streams and/or create restricted or endowment funds to provide greater financial security and predictable cash flow for long-term stewardship of their natural assets and other infrastructure.
- XI. Most private land conservation organizations identify the need to increase their restricted funds or have access to legal defence support as a priority. While many have not faced legal challenges yet, they anticipate dealing with an increase in compliance issues, particularly when the ownership of conservation agreement lands changes hands in the future.
- XII. A legal claim that goes against a private land conservation organization could have negative repercussions for the entire sector. An increase in investment in restricted funds for legal protection would help protect a conservation estate valued at over \$2.3 billion and growing.
- XIII. Similar to securing funds for stewardship, raising funds for legal protection is challenging for the private land conservation community and competes with their efforts to raise funds for core operations and stewardship.

- XIV. Support for establishing and growing restricted or endowment funds for stewardship and legal defence could be provided through various means. For example, grant and contribution programs:
- a. could accept investment in these funds as an eligible expense
 - b. support the development and implementation of a program specifically focused on establishing and growing endowment funds
 - c. support the development and implementation of an insurance program to serve the private land conservation community with legal support and protection

Recommendations

This situational analysis confirms the need for additional investment in the private land conservation community.

Given the multiple benefits of private land conservation and linkages to priorities of Canadians and governments, the potential contribution of private land conservation to reconciliation with Indigenous peoples, and the unique challenges faced by the private land conservation sector with respect to the long-term stewardship and legal defence of conservation lands and agreements, ***the CLC recommends that an in-depth two-part feasibility study be undertaken on:***

- 1. How best to increase financial support for stewardship and the ongoing operations of private land conservation organizations including examination of:**
 - how a program similar to the Canada Cultural Investment Fund could be modeled and adapted to support capacity building for the private land conservation community
 - the utility of a stewardship endowment initiative to other organizations such as Indigenous communities working to establish Indigenous Protected and Conserved Areas
- 2. Assessment of the level of legal risks of private land conservation organizations, and of effective and efficient ways to provide legal protection for the fee simple lands and conservation agreements they hold, including examination of:**
 - what model of an insurance reciprocal program could meet their needs
 - how an initiative similar to the Terrafirma program in the United States could support the private land conservation community in Canada



PART ONE: INTRODUCTION

Context

The loss of biodiversity and ecosystem integrity and the accelerating rate of this loss is now well documented both globally² and in Canada. Internationally, the 2010 Aichi Biodiversity Targets³ were adopted to protect and conserve biodiversity during the United Nations Decade on Biodiversity 2011-2020. Work is ongoing to develop a post-2020 global biodiversity framework as a stepping-stone towards the Convention on Biological Diversity's 2050 Vision of "Living in harmony with nature."⁴ It is anticipated that this framework will be adopted at the next meeting of the Conference of the Parties to the Convention on Biological Diversity to be held in December 2022.

In response to the Aichi Biodiversity Targets, Canada's federal, provincial and territorial governments released the 2020 Biodiversity Goals and Targets for Canada "to be achieved through the collective efforts of a diversity of players both public and private whose actions and decisions have an impact on biodiversity" and noted that "governments need to do their part but cannot act alone."⁵

While private lands make up only 11% of Canada, such lands are disproportionately important to the conservation of Canada's biodiversity and are at higher risk of harm or loss. Although species at risk are now found throughout the country, higher densities of these species are found in the southern landscapes of Canada where most Canadians live and where much of the land is privately held. Success in achieving biodiversity targets, such as for protected and conserved areas, and in protecting, conserving and recovering species at risk in these landscapes, will depend on privately protected and conserved lands. In this regard, non-governmental land conservation organizations have a key role to play.

To support the ongoing contribution that private land conservation organizations can make toward Canada's biodiversity goals—and accelerate the growth of this contribution—these organizations must be able to not only acquire conservation lands or interests in them but also have the wherewithal to ensure they can operate sustainably to provide long-term, durable stewardship and legal protection of their properties and agreements. The benefits of doing so in Canada's southern, most developed and densely populated ecosystems extend beyond protected area targets and biodiversity conservation to include the maintenance of irreplaceable natural infrastructure and ecosystem services that help to mitigate and adapt to the effects of climate change. By conserving wetlands, rivers and riparian areas for example, private conservation lands help regulate water quality and quantity and mitigate the effects of

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- 2 IPBES (2019), Global assessment report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, Brondízio, E. S., Settele, J., Díaz, S., Ngo, H. T. (eds). IPBES secretariat, Bonn, Germany. 1148 pages. ISBN: 978-3-947851-20-1
 - 3 Convention on Biological Diversity (2010), [Aichi Biodiversity Targets](#)
 - 4 Conference of the Parties to the Convention on Biological Diversity, [Fourteenth Meeting](#), CBD/COP/DEC/14/34, 2018
 - 5 Environment and Climate Change Canada (2020), [2020 Biodiversity Goals and Targets for Canada](#)

extreme weather events that can lead to flooding and drought. Importantly, these lands provide recreational opportunities and places for outdoor activities, contributing to human health and well-being, a particularly important benefit in the context of the ongoing global pandemic.

The conservation and sustainable use of biodiversity are central to the culture, spiritual well-being and traditional activities and way of life of Indigenous peoples. For millennia, Indigenous peoples have cared for and stewarded lands, water and wildlife. Throughout Canada's history, Indigenous communities have worked to ensure recognition of the importance of biodiversity and healthy ecosystems and today hold direct management responsibility for species and lands under their authority as well as play key roles in efforts to conserve and protect lands, water and species across broader landscapes. Their histories, experiences and traditional ecological knowledge are helping to shape the way land conservation and protection are understood, valued and approached throughout Canada, including lands of conservation importance in southern Canada. This work is reflected in the Indigenous Circle of Experts' 2018 report entitled: *We Rise Together: Achieving Pathway to Canada Target 1 through the creation of Indigenous Protected and Conserved Areas in the spirit and practice of reconciliation*.⁶

The last half century, in particular the past 25 years, have witnessed an increasing reliance on the part of governments to have non-governmental organizations lead efforts to conserve and protect private lands through the creation by governments of various land conservation and stewardship programs, and by the establishment of federal and provincial enabling legislation and policies. Canada now has more than 150 land conservation organizations and other non-governmental organizations working on the ground from coast to coast to protect ecologically important lands and conserve biological diversity.

To accelerate Canada's trajectory towards achieving its biodiversity conservation goals, including protected and conserved areas referred to as *Target 1*⁷ and more recent and ambitious *30x30* protection objectives,⁸ the federal government and provincial and territorial governments have and continue to support the work of the private land conservation community. This support is provided through multiple channels, including, but not limited to:

- provincial legislation that enables conservation easements, covenants and servitudes
- policy and incentive tools such as Canada's Ecological Gifts Program
- funding streams both federally and provincially.

Definitions

The International Union for Conservation of Nature (IUCN) defines a **protected area** as "a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values."

The IUCN further recognizes **privately protected areas** as "any land that meets the 'protected area' criteria and is held in private ownership, including individuals, corporations, not-for-profit, religious and research entities."

Source: International Union for the Conservation of Nature (2018), Guidelines for Privately Protected Areas

6 The Indigenous Circle of Experts' Report and Recommendations (2018), [We Rise Together: Achieving Pathway to Canada Target 1 through the creation of Indigenous Protected and Conserved Areas in the spirit and practice of reconciliation](#)

7 Canada's Target 1 stems from Aichi Target 11 committing countries to expand and improve their protected area system

8 30x30 references Canada's commitment to protecting 30% of its lands and waters by 2030

While government and other funders continue to support the efforts of organizations to secure and protect private conservation lands, these organizations continue to voice concerns related to the long-term stewardship and legal protection of their conservation properties and agreements. At a national forum held in February 2020, “A National Conversation on Performance Assurance Approaches for Land Trusts in Canada”, organizations identified a number of challenges and opportunities related to the stewardship of their conservation lands and agreements and, among risk management concerns, identified “long-term liabilities (legal defence and stewardship) associated with holding land in perpetuity.”⁹

While the private land conservation community shares many needs and challenges with other charitable sectors, it has characteristics that make it unique. The ownership of land or rights in land creates ongoing obligations for the management or monitoring of conservation lands if the natural capital assets of these lands are to be protected not just for now, but for future generations. Private land conservation organizations are, by definition, long-term enterprises with significant capital assets that require ongoing operations if the benefits of those assets are to be sustained. In addition, they face potential legal issues and challenges unique to these organizations.

Many charities operate their programs on a year-to-year basis focused on the provision of services that enable them to generate revenue to sustain their operations annually. While other charitable sectors have large capital assets that also require long-term stewardship and maintenance, what differentiates the private land conservation organizations is the absence of tools that enable them to more readily generate sufficient revenue, in particular unrestricted revenue, for ongoing stewardship and legal protection of their properties and agreements. Cultural, educational and health not-for-profit charitable organizations all benefit from funding, including government funding, that provides key financial support for the management of capital assets and ongoing operations. In addition, some charitable sectors, such as the arts and culture sector, which is able to charge admission fees, self-generate additional revenue to sustain their operations over the long-term. Conversely, private land conservation organizations are not fully compensated for the many benefits they provide on an ongoing basis. Arguably, private land conservation organizations are not compensated at all for sustaining the benefits provided to society over the long-term.

The need to increase stable funding for private land conservation organizations is real and urgent. More than \$2.3 billion in conservation estate is held by private land conservation organizations either in fee simple ownership (ownership of title to the land) or as conservation agreements.¹⁰ Additionally, annually tens of millions of dollars are raised for conservation and millions more in tax receipts are issued for ecological gifts. It is important to ensure that this conservation estate and the funds contributed to this work, as well as future funding contributions and conservation land donations, are sufficiently supported to sustainably manage and protect all conservation lands and agreements over the long term.

Funders of private land conservation have an increasingly important role to support private land conservation organizations in ensuring a durable standard of care and, thus, protect the contributions of individual Canadians, donors and funders, both private and public, to achieve and sustain the long-term conservation outcomes envisioned by these contributors. It is inevitable that, with the continued

⁹ Centre for Land Conservation (2020), [A National Conversation on Performance Assurance Approaches for Land Trusts in Canada](#)

¹⁰ According to 2018 data available from the Canada Revenue Agency

growth and investment in the private land conservation sector, it will become more difficult to deal with sustainability, legal and compliance issues, and that funders—both private and public—will seek assurances of conservation in perpetuity and organizational long-term viability. For these reasons, it is the optimal time to examine in more depth the stewardship and legal protection challenges faced by private land conservation organizations and identify opportunities to move forward to address these challenges in the best possible way.

Changing Context: Opportunities and Challenges

The private land conservation community is operating within a context in which expectations for the sector are rapidly changing in response to the priorities of Canadians. The mission of private land conservation organizations to safeguard ecologically significant lands in perpetuity has been galvanized by increasing trends of biodiversity loss, the climate emergency and other imperatives. As governments respond to these priorities, opportunities may be created for increased support to the community for stewardship and legal protection of private conservation lands and agreements. These priorities include:

- conservation through reconciliation
- counting toward Target 1
- protection and recovery of species at risk
- climate change mitigation and adaptation
- the health and well-being of Canadians

Reconciliation with Indigenous Peoples

Canadians and their governments are working to advance reconciliation and renew the relationship with Indigenous peoples, based on recognition of rights, respect, cooperation and partnership. The conservation and protection of land, water and biodiversity are important for advancing reconciliation in Canada. An important initiative in this regard is the Conservation Through Reconciliation Partnership which “aims to critically investigate the state of conservation practice in Canada and support efforts to advance Indigenous-led conservation”. Its work “seeks to meet emerging research needs and build capacity to support the establishment of Indigenous Protected and Conserved Areas and the transformation of existing protected areas to better align with Indigenous governance, knowledge and law.”¹¹

The Value of Nature

According to the World Economic Forum, half of the world’s Gross Domestic Product is moderately or highly dependent on nature and the services it provides, and the global food-, land-, and ocean-use system provides up to 40% of the world’s jobs. Habitat loss and degradation and climate change are two of the top five global risks threatening our planet, economy and way of life. The benefits of protecting healthy ecosystems outweigh the costs by a factor of at least 5:1.

Source: Canadian Parks and Wilderness Society (2020), [The Economic Value of Investing in Nature: An Evidence Backgrounder](#)

11 Conservation through Reconciliation Partnership

Through substantial investment by the federal government in Indigenous Protected and Conserved Areas (IPCAs), opportunities are created for partnership with private land conservation organizations—particularly in relation to IPCAs in complex landscapes that include private ownership of land. To advance reconciliation and enable the partnerships needed for the establishment of IPCAs, it is important to ensure that Indigenous communities and private land conservation organizations have meaningful engagement and collaboration. Such engagement, collaboration and partnership are important aspects of the stewardship of private conserved lands.

Private land conservation organizations are already engaging with Indigenous communities to develop long-term relationships that include developing and implementing best practices. Ensuring capacity for and establishing consistency of practice by private land conservation organizations in engaging with Indigenous peoples on key aspects of protection, access and integration of Indigenous perspectives, knowledge and practices would contribute to ‘conservation through reconciliation’ objectives.

Counting Towards Target 1

The recognition of the contribution of private land securement and stewardship to the goals of Canada’s Nature Legacy to protect 30% of lands and waters by 2030 positions the activities of private land conservation organizations within an urgent global call to action framed by the Aichi Biodiversity Targets.

A key program to protect private conservation lands was launched well before the adoption of the Aichi Biodiversity Targets. Canada’s Ecological Gifts Program provides a way for Canadians with ecologically sensitive land to protect nature by offering significant tax benefits to landowners who donate land or a partial interest in land to a qualified recipient. Recipients, mainly private land conservation organizations, ensure that the land’s biodiversity and environmental heritage are conserved in perpetuity.¹²

Building on the success of programs like the Ecological Gifts Program and the previous Natural Areas Conservation Program, under the Nature Legacy Initiative, the Government of Canada launched the Natural Heritage Conservation Program (NHCP) in 2019 with an investment of \$100 million over four years in the private land conservation community.¹³ The goal is to increase the area of privately protected land for species at risk by 200,000 hectares (494,210 acres) as a measurable contribution to Target 1 of Canada’s 2020 Biodiversity Goals and Targets.

The Miistakis Institute created the *Assessing Privately Conserved Areas for Alignment with Pathway to Canada Target 1 Alignment Guide*¹⁴ to help private land conservation organizations achieve the ‘protected area’ or ‘other effective area-based conservation measures’ (OECM) status for their privately held lands and be counted under Canada’s Target 1 goal. The Guide reinforces the importance of ensuring that private land conservation organizations have sufficient resources for stewardship of their conservation lands and easements. For example, these properties are more likely to be included in Target 1 reporting if policies and management plans (with clear management goals and relevant baseline data), and robust on-going monitoring are in place.

¹² Environment and Climate Change Canada, *Ecological Gifts Program*

¹³ Environment and Climate Change Canada, *Natural Heritage Conservation Program*

¹⁴ Miistakis Institute (2017), *Assessing Privately Conserved Areas for Alignment with Pathway to Canada Target 1 Alignment Guide*

While private land conservation organizations are well placed to have their conservation properties ‘count’, it is important to ensure that resources for stewardship and legal protection are in place. Having their properties included in Target 1 has value for private land conservation organizations, confirming that specific conservation outcomes are being met, which may then be leveraged to incent further investment in effective stewardship practices and legal protection. Sufficient investment in the stewardship of these properties in perpetuity would provide a significant contribution to Canada’s strategy to protect nature for future generations and help to address biodiversity loss.

Protecting and Recovering Species at Risk

Federal, provincial and territorial governments have agreed to the implementation of the Pan-Canadian Approach to Transforming Species at Risk Conservation in Canada.¹⁵ The approach shifts conservation from single-species to one that focuses on multiple species and ecosystems. It concentrates on priority places, species, sectors and threats across Canada and challenges partners to work together to achieve better outcomes for species at risk. Of the 11 priority places identified by Environment and Climate Change Canada, 10 are in southern, more highly disturbed ecosystems. In addition, one of the priority species (Greater Sage-Grouse), all three sectors (agriculture, forestry and urban development) and the threat of invasive alien species are all relevant to species at risk protection and recovery in these southern ecosystems where key conservation lands are often privately held.

Private conservation lands in southern Canada have been and continue to be those with the highest biodiversity conservation values, including key and critical habitats for species at risk. Ensuring that the private land conservation community is empowered to steward and protect these habitats over the long term—whether this be activities such as conserving and restoring habitats or managing invasive species or ensuring the obligations of a conservation agreement are respected—is critical to protecting and recovering species at risk in these regions. More than 230 of Canada’s terrestrial species at risk are found on lands stewarded by private land conservation organizations.¹⁶

Climate Change Mitigation and Adaptation

The contribution of land degradation to climate change is well documented. Avoiding the conversion of natural habitats to other land uses prevents carbon emissions that occur through such disturbance and enables further sequestration of carbon through appropriate land management activities.¹⁷ While the quantum of carbon on private conservation lands may not be large in the context of all lands in Canada, it is clear that all actions, whether large or small, that contribute to achieving global targets related to climate change count given the magnitude of the challenge. Moreover, private conservation lands will play an increasingly important role in mitigating and adapting to the effects of climate change. Ensuring that private land conservation organizations can effectively steward their conservation lands and agreements over the long term will ensure that these lands are continuing to contribute to addressing the global climate crisis.

¹⁵ Environment and Climate Change Canada, *Pan-Canadian Approach to Transforming Species at Risk Conservation in Canada*

¹⁶ Nature Conservancy of Canada, *Our Impact*

¹⁷ Intergovernmental Panel on Climate Change (2020), *Special Report on Climate Change and Land, Chapter 4: Land Degradation*

Human Health and Well-being

In conducting the interviews for the preparation of this report, land conservation organizations frequently noted higher numbers of visitors to properties with public access. This observation reinforces their role in protecting and conserving natural areas for the physical and mental health and well-being of Canadians. These higher visitation rates highlight the need to increase capacity of private land conservation organizations to maintain the ecological integrity of these areas and manage the natural and built assets from a visitor experience perspective, such as providing parking, trail access and as a good neighbour of adjacent landowners. This has emerged as an area of activity needing specialized attention by staff or volunteers with a specific skillset.

Multiple Benefits from Private Land Conservation

In summary, it is clear that the work of the private land conservation community provides multiple benefits to Canada on matters that are a high priority for Canadians. However, the rapidly changing context and increasing demands and expectations on this community create challenges to stewardship, legal protection and services provided by these organizations if the benefits of private land conservation are to be sustained over the long term.



PART TWO: STEWARDSHIP

Status of Stewardship

The private land conservation organizations that offered their perspectives on key questions related to stewardship capacity and funding, including endowment funds, represented a range of organizations from volunteer-run to high-capacity charities with conservation agreements and fee simple lands worth hundreds of millions of dollars. Most private land conservation organizations manage a mix of fee simple and easement, covenant or servitude lands. Some have opted to focus on fee simple lands while others focus only or mainly on conservation agreements. There was a high level of consistency in the feedback received from private land conservation organizations that provided input either in writing or during interviews.

On fee simple lands, as the land manager, private land conservation organizations necessarily take an active and direct role in the stewardship of the lands. Core stewardship activities focus on such activities as:

- protecting, maintaining and restoring existing habitat
- controlling invasive species
- monitoring for trespassing and boundary issues
- conducting community outreach and maintaining friendly relations with neighbouring landowners
- tracking any potential land-use changes on adjacent lands
- dealing with human impact on trails and any built infrastructure on publicly accessible property

For organizations that hold title to private conservation lands, the consultations highlighted that private land conservation organizations of every size go beyond acquisition and stewardship with programs that support a variety of activities such as public education, community and volunteer outreach, scientific research, native plant propagation, trail and facility maintenance and Indigenous engagement. While these broader activities serve a valuable purpose, the private land conservation organization may be

Funding Challenges

“Ongoing stewardship isn’t valued in the same way as acquisition.”

“Funders are inconsistent from year to year or move on to different areas of interest, while private land conservation organizations are committed to their core mission in perpetuity.”

“Keeping up with conservation challenges of stewardship and climate change like pulling invasive species is getting increasingly expensive and doesn’t solve the problem; investing in solutions is needed.”

“An increase in hectares protected means an increase in liability and the property management budget.”

challenged to expand operations to include fundraising for these broader activities while still ensuring sufficient funding to effectively manage its conservation lands. Private land organizations are challenged on an annual basis to acquire and steward conservation lands while supporting these other activities. Many organizations noted that funding for acquisition of conservation lands and agreements is more readily available while exclusive funding for stewardship is difficult to generate.

For conservation agreements, core stewardship activities are conducted to ensure that the terms of the agreement are being met by both parties. These activities focus mainly on:

- managing and deepening the relationship with the landowner through direct contact
- ensuring landowner compliance through regular monitoring and reporting
- conducting checks through site visits, flyovers or other means

To ensure conservation outcomes on lands for which they hold conservation agreements, private land conservation organizations rely primarily on the landowner to uphold and even improve the natural heritage value of the property according to the terms of the conservation agreement. A key challenge cited by organizations relates to when ownership of a property changes. In general, they report higher levels of confidence in the original owner to meet the obligations of the conservation agreement because of trust developed through the agreement development and negotiation process. When land changes ownership, private land conservation organizations anticipate higher than usual landowner

“They don’t have enough time, money, staff and resources to do everything that they need to do to achieve the protection levels and stewardships required.”

contact will be needed to ensure the new owner fully understands the intentions and obligations of the conservation agreement. Such engagement assists the new landowner in developing a management philosophy for the lands that is consistent with the requirements of the conservation agreement.

With 59% of private land conservation organizations operating with no full-time positions and 24% supporting one to six positions, nearly 85% of private land conservation organizations function with limited or no paid human resource capacity.¹⁸ Common capacity challenges shared through the consultation process include:

- monitoring, collecting and tracking details about the properties
- reporting and meeting with landowners regularly (ranges from annual to triannual)
- tracking land sales and changes to land title
- providing best management practice tools or training for landowners
- maintaining contact with landowners is time consuming
- completing long-term management plans for every property
- supporting internal policies and financial management related to stewardship activities and investments
- building connections with Indigenous communities
- maintaining good relations with neighbours of conservation lands

¹⁸ According to 2018 data available from the Canada Revenue Agency

- engaging professional expertise when needed
- fundraising and grant responsibilities require a significant time commitment—multiple funders are usually needed to meet budget needs

In general, private land conservation organizations support their operations through a combination of common revenue generating strategies, such as membership dues, monthly and one-time donations, grant writing, corporate sponsorships, legacy gifts, investment income and merchandise sales, as well as volunteer support. Gaps in staff capacity are handled mainly through externally funded short-term contracts, government funding programs, such as the Canada Summer Jobs initiative, partnerships and volunteers. Members of Boards of Directors may also play key roles in the activities of private land conservation organizations including fundraising, property management, landowner outreach, community engagement, investment oversight and legal defence. This is especially true for organizations with limited or no staff. Without this highly dedicated and motivated group of volunteers playing an active role in the life of the private land conservation organization, the impact and sustainability of the private land conservation community would be significantly diminished.

“Land trusts depend on many sources of funding—the loss of any revenue sources has big implications for budgets and the level of work they can undertake. It can take years to recover from a decrease in funding.”

All organizations reported that stewardship activities are being undertaken for both conservation lands and agreements. However, all reported budgets for stewardship are insufficient and result in lost opportunities for enhancing the benefits of private conservation lands. Available budget is prioritized for essential obligations and ‘core’ stewardship work which one organization defined as activities required to maintain organizational image and reputation. For this organization, maintaining a positive public perception meant keeping ‘the lights on’, the ‘basics’ of property ownership, for example, paying taxes and insurance, inspecting properties, delivering on commitments to the public, donors and supporters, managing assets related to the visitor experience such as access, trails and parking facilities and other basic needs and requirements. Funding for these necessary activities is provided through their revenue streams including annual fundraising efforts and/or through the establishment within budget of reserve or endowment funds. Nevertheless, while core needs appear to be met, other stewardship needs, such as maintaining or restoring habitats or removing invasive species, are met only to varying degrees and, in some years, may not be undertaken at all.

Endowment or Restricted Funds

A few organizations have created sizable endowments over many years; however, this is the exception rather than the norm. Private land conservation organizations, by direction of the Board of Directors, may hold internally restricted, externally restricted and/or endowment funds. The purpose of internally restricted funds is determined by the Board and supported by a Board resolution, while for externally restricted or endowment funds, the purpose is established by an external donor or funder.

Government Funding

The following initiatives were mentioned in annual reports or during consultations as providing funds that assist in the stewardship of private conservation lands

Federal

- 2 Billion Trees Program
- Canada Nature Fund
- Climate Change Challenge Fund
- Habitat Stewardship Program for Species at Risk
- Nature Smart Climate Solutions Fund
- North American Waterfowl Management Plan

Provincial

- Alberta Land Trust Grant Program
- Community Gaming Grants – BC
- Conservation Trust – MB
- Greenlands Conservation Partnership Program – ON
- Habitat Conservation Trust Foundation – Conservation Economic Stimulus Initiative – BC
- Manitoba Fish and Wildlife Enhancement Fund
- Natural Area Protection Tax Exemption Program – BC
- New Brunswick Environmental Trust Fund
- New Brunswick Wildlife Trust Fund
- Nova Scotia Crown Share Land Legacy Trust
- Ontario Conservation Land Tax Incentive Program
- Ontario Managed Forest Tax Incentive Program
- Ontario Species at Risk Stewardship Program
- Ontario Trillium Foundation
- Prince Edward Island Wildlife Conservation Fund
- Project de partenariat pour les milieux naturels – QC
- Saskatchewan Fish and Wildlife Development Fund
- Stewardship Association of Municipalities – Newfoundland and Labrador

These reserve or endowment funds have been set up to generate more stable, predictable ongoing investment returns to the private land conservation organization so that it can meet its obligations to steward its lands and agreements not only through challenging financial times, but in perpetuity. The establishment of such reserve or endowment funds is in line with the Canadian Land Trust Standards and Practices¹⁹ whose practice elements set out that private land conservation organizations should:

- build and maintain sufficient operating reserves to sustain operations
- adopt and implement a plan to build and maintain dedicated or restricted funds sufficient to cover the long-term costs of stewarding and defending the land trust's land and conservation agreements

19 Centre for Land Conservation, *Canadian Land Trust Standards and Practices*, Standard 6: Financial Oversight, Practice A: Fiscal Health

Some strategies private land conservation organizations are currently using to grow these funds include:

- by policy, establishing a target for investment into a stewardship endowment, often based on a percentage of the value of a conservation property
- negotiating a donation from the landowner that meets a minimum stewardship investment target, such as 15-25% of the land value, when the land is accepted
- raising the percentage goal of the property value through targeted donor outreach and direct funding campaigns
- annually allocating to reserve funds a portion of the amount secured through fundraising efforts
- creating targeted appeals for contributions from key demographics, e.g., legacy donors

Nevertheless, further financial support is needed to enable private land conservation organizations to more predictably provide for enhanced and some core stewardship activities and for society to more fully benefit from these conservation lands and agreements. Currently, going beyond core stewardship activities to deliver 'enhanced' stewardship programming is usually contingent on special fundraising efforts and such programming is the first to be dropped if funding targets are not met. Consequently, activities such as creating property management plans, implementing restoration activities and conducting scientific research may not happen if there is a budget shortfall.

The range of fundraising capacity within the private land conservation sector is broad and further research is needed to focus on the specific issues and needs that smaller volunteer-led organizations have compared to larger well-staffed operations. A selective review of private land conservation organization annual reports reveals an extensive list of donors, partners and volunteers supporting the activities of these organizations. With funds coming from numerous donor categories, such as individuals, corporations, foundations and all levels of government, it is evident that private land conservation organizations dedicate significant amounts of time to annual fundraising to achieve a certain level of financial stability for ongoing operations and activities.

Where private land conservation organizations are able to undertake enhanced stewardship activities, they reported on the critical importance of government funding programs that enable them to increase capacity for such activities. While these government funding programs are demanding with respect to application and reporting requirements, such funding enables organizations to undertake and enhance their stewardship activities. One private land conservation organization mentioned that the Nature Smart Climate Solutions Fund, for example, is contributing to the development of a carbon-focused land management plan.

"For a smaller private land conservation organization, the benefits of a sustainability fund are a long way off. It will take a lot of fundraising to meet that goal, so it is difficult to make that activity a priority."

While private land conservation organizations rely, in particular, on government funding programs to support them to steward their lands effectively, these programs are competitive and success in obtaining funding is unpredictable. These organizations also spend considerable time pursuing funding from a wide variety of other sources. They have little to no certainty that their grant proposals or fundraising efforts will be successful despite stewarding significant natural heritage for the common good. Those few

private land conservation organizations that receive predictable, reliable funds can consistently support higher levels of stewardship, such as organizations that receive funds from municipalities through provincially mandated requirements.

Private land conservation organizations are working in a challenging environment with competing expectations and a growing sense of urgency to protect the best of what is left as quickly as possible. They demonstrate considerable experience and expertise whether operating through a volunteer base or with paid staff. The benefits of healthy reserve or endowment funds are a long way off for the private land conservation organization community generally, no matter their size.

Indigenous Protected and Conserved Areas

While the time frame for the completion of this report did not permit extensive engagement beyond the private land conservation community, officials of one Indigenous government actively developing Indigenous Protected and Conserved Areas (IPCAs) initiatives shared that the concepts around land ownership and associated protection within an IPCA are still evolving. Who owns land within IPCAs, how such land is managed and how it is legally protected were cited as matters of importance and under consideration within the context of an IPCA. In this regard, the Canadian Land Trust Standards and Practices, performance assurance, stewardship and legal defence were all of interest and considered as potentially relevant to Indigenous organizations and communities that are advancing IPCAs within their areas. The officials of the Indigenous government recommended that further consideration and discussion of these matters occur at the national level within the IPCA network.

Establishing Endowment Funds – A Case Study: Canada Cultural Investment Fund

Endowment funds are “often referred to as the future lifeblood of any charity...providing for the long-term financial success of the organization, they are also a buffer in times of financial and/or fundraising reversals.”²⁰

While the value of healthy reserve or endowment funds was acknowledged by private land conservation organizations, the consultations highlighted questions and challenges on the path to achieving long-term financial security, such as:

- donors preferring to give to private land conservation organization activities such as acquisition rather than a restricted fund
- some organizations preferring to manage a general restricted fund for fee simple lands and conservation agreements to maintain slightly greater flexibility in the use of funds

²⁰ Charity Village (2007), *Endowment Funds: An Overview*

- where an endowment fund is specific to one property, if the return on investment generates more funds than needed for stewardship of the property, the use of such funds on higher priority stewardship needs on other properties would be prevented
- stewardship funds may serve a dual role as legal defence funds creating competing priorities—establishing separate funds requires significant effort
- increasing land values increase the challenge of achieving endowment fund goals
- the terms of endowment funds can be too restrictive, extremely difficult to amend and don't account for the changing context that private land conservation organizations are working within
- growing reserve funds to anticipate potential risks could mean locking up too much funding unnecessarily when it is needed for more immediate stewardship or other activities

While financial support from funders, including governments, to assist non-governmental organizations in establishing and growing endowment funds is not common, there are examples of both one-time and ongoing programs that allow such organizations to do so. One example is the Endowment Incentives component of the Canada Cultural Investment Fund that enables arts and heritage organizations to grow their endowment funds. It is the only matching endowment program offered by the federal government.

The private land conservation community proposed a few options that could help strengthen the capacity of their sector to raise stewardship funds. An example at the provincial level is the Alberta Land Trust Grant Program that accepts as an eligible expense investment in a “Stewardship Endowment to ensure the continued protection and maintenance of the property.”²¹ This option should be considered by other provinces and levels of government. Funding programs focused on securing conservation lands to achieve protected and conserved area targets, for example, could permit investment in stewardship endowments as an eligible expense under their granted projects. Even if these funds need to be matched by another source, it provides the private land conservation organization with a mechanism to raise dollars explicitly for stewardship endowments. The creation of municipal/regional tax-based conservation funds could also focus on providing a 1:1 match for the acquisition and stewardship of privately held land with high ecological value. In the southern Canadian landscape, these parcels play an increasingly critical role in habitat protection and climate resilience now and will continue to do so in the future.

“Are our stewardship funds and annual stewardship activities appropriate for the scale and liabilities associated with our work?”

“I feel that the continued use of the Ecological Gifts program is valuable and essential, but that the program has ignored the issue of supporting stewardship funding throughout its history.”

²¹ Government of Alberta, *Alberta Land Trust Grant Program*

As noted in the report introduction, the private land conservation sector is not alone in terms of stewardship of significant capital assets and having the responsibility to steward these assets over the long term. In the time available for the preparation of this report, it was not possible to thoroughly research the nature and extent of support provided to various charitable sectors to enable the establishment of endowment funds sufficient to provide for the long-term stewardship of the capital assets of those sectors. It is clear, though, that support is provided in other sectors such as health care and education for the stewardship of assets, often through direct investment in capital infrastructure. With respect to the establishment of endowment funds as a means to provide for long-term stewardship of capital assets, there was opportunity to examine the Canada Cultural Investment Fund, which was designed to help arts and heritage organizations to establish and grow endowment funds to support core operations, achieve financial stability and sustain the stewardship of assets.

The arts and culture sector represents 9.4%, or 8,084 organizations, of Canada's total number of charities, in comparison to 2% represented by environmental charities. Overall, 7% of charitable giving by Canadians goes to the arts and culture sector and 5% to environment. Based on 2015 data, the average revenue from all levels of government to the arts and culture sector was 51% of its total average revenue, while total average revenue from government to environmental charities was 31% of total average revenue.²²

The arts and culture sector was provided a significant opportunity in 2001 when the Government of Canada launched the Tomorrow Starts Today program that committed \$560 million to arts, cultural and heritage programs over three years²³ through three new programs:

- Canada Arts Presentation Fund
- Canada Cultural Spaces Fund
- Canada Cultural Investment Fund

While the programs delivered through this funding, including the Canada Arts Training Fund that preceded the Tomorrow Starts Today investment, have evolved since then, they continue to provide stability and sustainability as well as bringing a focus on equity, diversity and inclusion to the sector today.

Canada Cultural Investment Fund

The Canada Cultural Investment Fund (CCIF) offers a unique model in terms of incentivizing investments in endowment funds. A review of the program was conducted through internet research and consultation with Canadian Heritage officials responsible for the Endowment Incentives component of CCIF.

Overview

CCIF sits within the federal department of Canadian Heritage, whose mandate focuses on fostering and promoting "Canadian identity and values, cultural development and heritage."²⁴

²² See Appendix III

²³ The Globe and Mail (2004), *Arts funding program renewed for 2005-2006*

²⁴ Government of Canada, *Raison d'être, mandate and role – Canadian Heritage*

Since 2001-02, CCIF has been encouraging “private sector investment, partnership and sound business practices to help arts and heritage organizations be better rooted and recognized in their communities.”²⁵

CCIF includes three components, two of which are relevant to this report:

- i. Endowment Incentives—provides grants to match private sector funds raised on behalf of professional not-for-profit arts organizations to grow endowment funds
- ii. Strategic Initiatives—launched in 2010-11, this component provides financial assistance for collaborative projects involving multiple arts and heritage organizations that improve their business practices and diversify their revenues
- iii. Limited support to Endangered Arts organizations—supports professional arts organizations to avoid potential closure and regain financial health

Endowment Incentives Component

Professional not-for-profit arts organizations can apply for funding from the Endowment Incentives component to match private sector contributions to create or increase endowment funds. The funding match provided by the government is up to one dollar for every dollar contributed from a private donor.

Beginning with an annual budget of \$3.1 million in 2001-02, the Endowment Incentives component grew to \$18.9 million by 2010-11. This ramp up has since stabilized, with figures reported in 2017-18 at the same level. Canadian Heritage officials confirmed that the overall budget for this component remains at approximately this level.

Funding is allocated to all eligible applications based on the annual Endowment Incentives budget to request ratio which is calculated by dividing the annual budget by the total amount requested from all organizations.²⁶ In other words, all eligible and qualifying applications receive funding from the program each year. The amount received by each applicant is proportionate to the applicant’s request within the overall amount requested by all eligible applicants.

Who Can Apply?

The arts organization seeks funding partners with an associated charitable foundation. Both the organization and the foundation must meet eligibility criteria to apply. Larger arts organizations, such as the Stratford Festival or Toronto Symphony Orchestra, have their own dedicated foundations. In other cases, community foundations are relied upon. The foundation receives and invests the funds, the arts organization benefits from the investment income.

²⁵ Government of Canada, [Canada Cultural Incentive Fund](#)

²⁶ Government of Canada (2019), *Grouped Arts Evaluation: Canada Arts Presentation Fund, Canada Cultural Spaces Fund, and Canada Cultural Investment Fund 2013-14 to 2017-18*

To be eligible for funding²⁷:

Arts Organization	Incorporated under relevant federal, provincial or territorial legislation as a not-for-profit arts organization, governed by a board of directors, with appropriate oversight of financial operations and annual financial statements Core mission is to create, produce or present professional works, or train professional artists Within the last five fiscal years has received funds from Canada Council for the Arts, or Department of Canadian Heritage, i.e., the Canada Arts Presentation Fund, the Canada Arts Training Fund or the Fathers of Confederation Buildings Trust If not a grantee of any of these funds within the last five fiscal years, the organization must demonstrate its capacity to operate at a professional level
Associated Foundation	A publicly registered charitable foundation, as described in subsection 149.1(1) of the <i>Income Tax Act</i> , with a mandate to accumulate, administer and invest capital assets for the purpose of providing part or all the annual income to the beneficiary arts organization

Two key additional criteria for the arts organization include:

- a minimum of three years in operation prior to the application with audited financial statements
- a specific level of financial stability, including a commitment to its long-term viability

The financial stability of the organization is determined based on the calculation of its net assets ratio. The total of unrestricted net assets is divided by the total operating revenues, provided by the financial statements for the fiscal year to calculate the net assets ratio.

A negative net assets ratio greater than 15% makes the organization ineligible to apply.

Government Funding Limits

There is no limit to the amount of matching funds an arts organization can receive from the Endowment Incentives component over time. Previously, a lifetime maximum of \$15 million per organization was in place, but this cap was removed in 2018.

The annual funding limit is fixed; therefore, the amount available as matching funds will vary depending on the number of applications and amount of funding requested.

Current maximum limits on funds requested in each fiscal is the lesser of:

- \$2,000,000 or
- 50% of the average total operating revenues of the organization's past three completed fiscal years

²⁷ Canadian Heritage, Government of Canada, *Application Guidelines – Endowment Incentives Component*

As a means to ensure that funding is distributed more equitably among organizations, this formula changes once an organization has received a total of \$10,000,000 in matching funds to the lesser of:

- \$1,000,000 or
- 50% of the average total operating revenues of the organization’s past three completed fiscal years²⁸

Funding Conditions

The arts organization and foundation must agree to specific conditions in accepting matching funds:²⁹

- The funds from the Endowment Incentive component along with the private donor match are capitalized in perpetuity and held as restricted assets by the foundation, as outlined in the funding agreement.
- Arts organizations have access to the investment income only that is generated by the fund, which can be used for operations or special projects.
- If the Endowment Incentive component funding does not fully match the donations from private donors, the funding agreement does not apply to the extra amount raised from them.
- Only standard administrative and investment charges can be applied to the matching grant at no greater than 2% of the total grant amount received from the Endowment Incentives component.
- The arts organization bears the cost of the fundraising activities out of its operations budget.

The funding agreement can also include additional conditions.

Impact

From 2013-14 to 2017-18, CCIF distributed \$110.7 million in funding through its three components. The Endowment Incentives component was by far the most active funding stream, with 85% of the total funds delivered through its matching grants to a total of \$93.7 million. Over this five-year period the arts community therefore locked in \$187.4 million to support its long-term financial health by starting and/or growing endowment funds.

The impact of the Endowment Incentives matching grants were numerous during this five-year period, and include:

- On average, the target of 70% of recipients creating an endowment was met
- The amount of endowment income increased, as did the amount of donations by private donors to the endowment
- Overall, the matching funding enabled as much as 25% growth in arts organizations’ endowment funds

Table 1: Endowment Incentives Applications and Funding Approved, 2013-14 to 2017-18³⁰

Indicator	Endowment Incentives
Total Applications (#)	543
Total Requested (\$)	\$110 million
Total Applications Approved (#)	525
Total Applications Approved (%)	97%

²⁸ Canadian Heritage, Government of Canada, *Application Guidelines – Endowment Incentives Component*

²⁹ Canadian Heritage, Government of Canada, *Application Guidelines – Endowment Incentives Component*

³⁰ PCH’s Grants and Contributions Information Management System (GCIMS). Adapted from *Grouped Arts Evaluation: Canada Arts Presentation Fund, Canada Cultural Spaces Fund, and Canada Cultural Investment Fund 2013-14 to 2017-18*, Canadian Heritage, Government of Canada, August 2019

- The private sector donations represented a diversification of funding to arts organizations, with donations from individuals (49%), non-governmental organizations (25%), other organizations (14%) and corporations (8%)
- The average annual income of \$22.5 million earned on endowments investments and disbursed by foundations to arts organizations was more than double the annual target of \$10 million
- Helping arts organizations to stabilize their financial health with a significant percentage of their income (78%) coming from non-governmental sources

In a joint written submission to the Standing Committee on Finance (2020), a group of arts organizations put forward the recommendation to increase the Endowment Incentives component from \$19 million to \$25.5 million, based on the significant financial security and stability the fund has helped organizations to achieve.³¹

Results shared through the consultation with Canadian Heritage staff highlighted that since 2001, 290 organizations have been funded. Applications for 2022 are the highest ever with 165 requests totalling \$36 million. The increase in new applicants suggests that arts organizations are increasing their capacity to raise matching funds and suggests that the Endowment Incentive does exactly that—incent others to invest in endowment funds. It also is incenting arts organizations themselves to be creative, for example, one added a small endowment surcharge on ticket sales to help raise matching funds.

Strategic Initiatives Component

While less funding is available on an annual basis for the Strategic Initiatives component, this component contributes to organizational health and operations by providing financial assistance for projects involving multiple partners that help arts and heritage organizations improve their business practices and diversify their revenues.

As noted by Canadian Heritage, “by supporting collaborative projects, Strategic Initiatives encourages knowledge and resource sharing and the strategic use of technologies that will strengthen the business operations of arts and heritage organizations, helping them make stronger contributions to Canadian society and the economy.”³²

Canada Cultural Spaces Fund

A complementary program to CCIF is the Canada Cultural Spaces Fund (CCSF). The objective of CCSF is to “contribute to improved physical conditions for arts and heritage related creation, presentation, preservation and exhibition as well as increased and improved access for Canadians to performing arts, visual arts, media arts and to museum collections and heritage displays. This is achieved through the improvement, renovation, and creation of arts and heritage facilities, and through support for the acquisition of specialized equipment and conduct of feasibility studies for cultural projects.”³³

³¹ A Joint Submission by various arts organizations, Parliament of Canada, House of Commons, Standing Committee on Finance, *Enhancing economic growth and donor engagement through Canadian Heritage’s Canada Cultural Investment Fund – Endowment Incentives Component*

³² Canadian Heritage, Government of Canada, *Strategic Initiatives – Canada Cultural Investment Fund*

³³ Canadian Heritage, Government of Canada, *Canada Cultural Spaces Fund*

The program funds three types of activities:

- The construction and/or renovation of arts and/or heritage facilities
- The acquisition of specialized equipment
- The development of feasibility studies for the construction or renovation of arts and/or heritage facilities

Grouped Arts Evaluation

The Grouped Arts Evaluation published in August 2019 by the Evaluation Services Directorate, Canadian Heritage found that CCIF aligns with and supports the mandate of Canadian Heritage and its priorities of supporting cultural industries and infrastructure.³⁴

The Endowment Incentives component enabled arts organizations to raise capital and create endowments through private sector donations. It resulted in income disbursed by foundations to professional arts organizations at twice the program target and helped arts organization recipients achieve financial stability with a high percentage (78%) of funding sources that were non-governmental.

The Strategic Initiatives component contributed to arts and heritage organizations demonstrating sound organizational, administrative and financial health. It helped arts and heritage organizations to improve business practices and built new and strengthened existing partnerships related to best practices, marketing and technology.

CCSF contributed to arts and heritage organizations better creating, presenting, preserving and exhibiting arts and heritage experiences since a high percentage of projects maintained or enhanced infrastructure and spaces. Most users were satisfied with these improvements. It enabled these organizations to have resources to build/improve facilities and infrastructure by funding a high number of construction/renovation projects and specialized equipment purchases, and in helping projects to secure over 70% in external funding primarily from provincial, territorial, municipal and private sources.

Challenges And Needs

The Grouped Arts Evaluation found a continued need for improved access and mitigation of barriers to program funding for small organizations and underserved groups. Indigenous, racialized and other underserved groups had lower access to funds due to a lack of awareness of the opportunity. Some organizations lack the capacity to find matching donations from private donors, while larger organizations need support to achieve the level of endowment required to be self-sustaining. Efforts are being made to improve the support and access to the programs, particularly for small organizations and underserved communities.

The evaluation identified issues regarding processes for performance data collection, monitoring and reporting. The definitions and interpretation of indicators and outcomes, as well as approaches to data collection, were not always clear and could be subject to interpretation. A need was identified to improve performance measurement indicators and data collection tools, including methodologies and systems, to ensure that data collected is meaningful, accurate and useful. Work is underway on tools and practices to ensure integrity of data and consistency of methodologies.

³⁴ Government of Canada (2019), *Grouped Arts Evaluation: Canada Arts Presentation Fund, Canada Cultural Spaces Fund, and Canada Cultural Investment Fund 2013-14 to 2017-18*



PART THREE: LEGAL PROTECTION

Status of Legal Protection

The real estate under the protection of the private land conservation community, either as fee simple lands or conservation agreements, is found primarily across Canada’s southern landscape, a region that reflects a high degree of fragmentation due to settlement and industrialization patterns over the last few hundred years. These lands play a significant role in helping to protect biodiversity and ecosystem services as they have been secured by the land conservation organization due to their high conservation value. From an ecological perspective, these lands are irreplaceable.

Legal defence was mentioned as a priority by every private land conservation organization consulted, but their capacity to protect their properties effectively reflects a wide range of experiences. The urgency felt to address organizational challenges related to legal defence varied, with some feeling the pressure of specific issues, such as the growth of residential land development, more acutely than others.

Further, advice from the Environmental Law Centre and Miistakis Institute reinforces the unique context for legal protection of a conservation agreement. “Knowing that conservation easements are perpetual and likely to face a challenge at some point, conservation easements should be drafted with the expectation that they will have to be defended at some point in the future.”³⁵

The main areas of discussion during the consultations focused on protecting conservation agreements and covered:

- the importance of deterrence—all private land conservation organizations need to be backed by strong legal defence support
- the vulnerability of conservation agreements—the impact of change of ownership and the organizational expertise needed to foster positive landowner relationships
- the key elements of best management practices to ensure prevention of legal issues
- the impact on the organization of the settlement or claims process
- the need for knowledgeable legal professionals and a legal defence fund
- the benefits and challenges of a collective insurance program to support all private land conservation organizations

³⁵ Environmental Law Centre and Miistakis Institute, [Creating Robust Conservation Easements](#)

A number of private land conservation organizations reported that they had yet to deal with any significant legal issues, because their conservation agreements are still with the original grantor of the agreement. Legal costs for their regular operations relate to title transfer and due diligence for fee simple lands, as well as reviews of conservation agreements. They anticipate issues arising in the future when their properties start to change hands, and most have identified the need to increase their legal defence resources. This ranges from increasing their restricted funds to adding staff trained in landowner outreach and compliance monitoring to having access to legal expertise with a solid knowledge of regional issues and how land conservation organizations operate. One organization, for example, described taking a proactive approach when one of their easement properties went on the market. They provided the local realtors with information about the meaning of the conservation agreement, so prospective buyers could be well informed before making an offer.

“There aren’t a lot of underwriters out there who know land conservation.”

“The issue really is deterrence. Some landowners have deep pockets, and they look at the agreement holder and assume there is little ability to defend.”

The private land conservation sector is exposed to unique legal risks that do not lend themselves to coverage in the general insurance sector. The insurance instruments available to them include commercial general liability insurance that protects “against claims for bodily or personal injuries, advertising liability, as well as property damage to third parties arising from your operations or products or occurring on your business premises”³⁶ and title insurance that covers issues that may affect, for example, clear title to the property, existing liens, encroachment on an adjoining property, title fraud and mistakes in the public record or land survey.³⁷

Larger or older private land conservation organizations have dealt with issues with conservation agreements and fee simple lands, such as:

- enforcing agreements
- damage from activities on adjacent lands, such as drainage alteration from residential construction
- dealing with formal challenges, such as expropriation for road or pipeline construction
- trespass
- encroachment activities by neighbouring landowners, such as tree cutting
- general property damage
- property management liabilities that impact neighbours
- assessed value of property with conservation agreement
- enforcement of provincial or federal rules at the municipal level

³⁶ Intact Insurance, [Liability Insurance](#)

³⁷ Financial Services Commission of Ontario (2008), [Understanding Title Insurance](#)

Another area of risk identified related to the misalignment of policies and/or programs between different levels and departments of government. While beyond the scope of this report, additional research is needed, for example, to clarify the significance that mismatches between high-level conservation goals and provincial planning law or municipal plans have at the site level and on private land conservation organizations. These mismatches can have implications for legal defence of conservation lands. Similarly, how does a conservation agreement impact the assessed value of a property and does this hinder or support long term protection?

The capacity of every private land conservation organization to defend its agreements and properties is the litmus test for the entire sector. The goal is to settle issues through mediation and avoid litigation. A poor outcome for an organization in court can set a legal precedent that could impact every private land conservation organization in Canada.

“Our way of doing things is to create a bond of trust with private owners. It can take time, but the important thing is that it is the owner who is the bearer of the project.”

The focus on building a strong relationship with the landowner for a conservation agreement is central to every organization’s legal protection strategy. Nonetheless, challenges in maintaining this practice at the level needed persist and leave the organization feeling vulnerable.

Private land conservation organizations recognize the need to maintain an internally restricted fund for legal defence. Raising funds for this purpose is a challenge as most donors prefer to fund activities rather than give to a restricted fund. As outlined in the Status of Stewardship section of this report, private land conservation organizations spend significant time raising annual funds to cover their core operations, special projects, stewardship activities and their investment targets for long term stewardship. However, these funds are mainly applied to stewardship activities rather than set aside in a restricted fund for a legal defence action that may not occur for many years. Consequently, organizations feel that their legal defence fund is too low. It is common practice to use one restricted fund to cover both stewardship and legal defence, although some organizations keep separate funds.

“We have noticed a real discrepancy between aspirations of the federal government and the capacity to actually protect land parcel by parcel. This goes beyond finances, but rather the goals and approaches of the planning community, including municipalities [...] and their various private consultants. These are the regulators that most closely affect the work of a land trust and impact the environment at the local scale.”

“We do not specifically separate our stewardship and legal defence costs and investments. We manage our stewardship funds for the dual purpose of providing annual income to cover annual stewardship costs as well as a significant principal amount that could be accessed for legal defence or enforcement if needed. This requires proper diversification of stewardship investments to meet multiple needs over the short and long term.”

In the case of a dispute or non-compliance with a conservation agreement, direct costs related to the settlement process include legal as well as other professionals needed to evaluate damages and provide estimates and plans for restitution. Private land conservation organizations reported a range of costs related to settlements between \$3,000-\$90,000. For cases elevated to the courts, the costs were much higher.

“By policy, (we) set aside \$5,000 in a segregated stewardship fund for each conservation agreement held. We recognize that this is a very small sum and would be insufficient for any serious legal challenge.”

A couple of examples that were shared in the consultations with private land conservation organizations highlight the range of issues that organizations can face. In the first example, a landowner with a conservation agreement was impacted by actions of a neighbour that constituted a boundary infraction and resulted in significant damage to the property. The onus was on the landowner to pursue the neighbour for damages, and the private land conservation organization supported the landowner in the settlement process by paying costs for reports and legal fees. Another case involved the drainage of wetlands covered under a conservation agreement that resulted in serious long-term damage to the property. The case was resolved through a ‘judicially assisted dispute resolution’ process and included the removal of the easement from the damaged lands to other healthy wetlands with additional habitat included as part of the settlement.

The impact on an organization goes beyond direct costs, however, as staff time is diverted from their regular role to support the legal process. For organizations with a small staff component, this has the potential to impact other areas of organizational activity significantly over a long period of time. One private land conservation organization reported, for example, that the settlement process related to compliance issues with a conservation agreement had taken over 18 months to resolve, and another has been engaged in court for a few years over boundary issues connected with their fee simple lands. While a successful settlement will cover direct costs incurred by the private land conservation organization, it was pointed out that costs associated with staff time usually are not unless a specific contractor was hired to support the process. The potential for legal issues arising also increases as the organization’s portfolio of properties grows. It is not surprising that an organization with numerous properties could always have a few legal issues in play.

The value of experience in dealing with legal defence issues was summed up well in one discussion during the consultations as “prevention is better than a cure.” Resources that outline best practices for private land conservation organizations to minimize the potential for legal issues are available on-line through the Land Trust Alliance BC³⁸, the Environmental Law Centre and Miistakis Institute³⁹ in Alberta, the Ontario Land Trust Alliance⁴⁰ and les Réseaux de Milieux Naturels Protégés⁴¹ in Quebec, to name a few.

The intent of these best practices is to support the passion that inspires a private land conservation organization with rigorous systems that will safeguard special natural areas in perpetuity. They are designed to anticipate future problems and ensure that a private land conservation organization is challenge ready. Best practices address a suite of needs including:

- due diligence in designing the terms of a conservation agreement and/or land donation as an exercise in risk management and prevention—to clarify the limitations of the landowner’s wishes, achieve maximum conservation value and minimize superfluous restrictions that could become contentious
- professional and accurate recordkeeping to meet standards of evidence
- establishing and maintaining a regular frequency of compliance monitoring
- separating the roles of ecological monitoring from compliance monitoring at the staff level
- engaging in a process of mediation first as a follow-up to compliance issues
- sufficient contact with new landowners assuming title of property with a conservation agreement

“Having a national legal defence fund of significant size would provide a shield to protect land trusts.”

All private land conservation organizations consulted for this report recognized that a collaborative approach is needed and welcomed the idea of a collective fund or shared mechanisms to backstop their potential legal defence needs and create the best possible conditions for private land conservation organizations to fulfil their mandate of protecting their lands in perpetuity.

The potential benefits include:

- giving equitable access to significant levels of legal support that will deter legal action against all organizations
- addressing organizational capacity issues through training in best management and legal defence practices
- building a portfolio of experts at the regional level to support organizational resource needs (e.g., access to lawyers familiar with land conservation)
- backing legal claims with sufficient funds
- coordinating research to better understand the potential liabilities that organizations may face in different situations or regions

38 Land Trust Alliance of BC, [Legal Education](#)

39 Environmental Law Centre and Miistakis Institute, [Conservation Easements in Alberta](#)

40 Ontario Land Trust Alliance, [Resources](#)

41 Réseau de milieu naturels protégés, [Formations](#)

The mindset of legal defence is not, however, the motivating purpose behind a private land conservation organization. Relationship building around a shared set of values related to conserving the natural world is what drives a private land conservation organization forward. Consequently, a collective fund or shared mechanism would take the pressure off private land conservation organizations to grow and manage their own restricted funds for legal defence, thereby keeping their fundraising efforts focused on raising money for operations, special projects, acquisition and implementing best practices associated with prevention and stewardship.

Insurance Reciprocal – A Case Study: Terrafirma

Private land conservation organizations are currently on their own when it comes to protecting their properties in perpetuity. The standard benefits offered through title and general liability insurance don't protect against the variety of legal issues an organization can face. This precarity of protection doesn't measure up to the benefits that these safeguarded lands offer with respect to Indigenous reconciliation, species at risk, climate mitigation and resilience and human well-being.

Given the range of organizational capacity within the private land conservation community, the idea of an insurance reciprocal program, as a national protection fund or mechanism stands out as a viable option. The establishment of Terrafirma, an insurance reciprocal program for private land conservation organizations in the United States, serves as a successful model to consider for the Canadian context. A review was conducted through internet research and a consultation with administrators of the Terrafirma program.

Terrafirma

Created by the U.S. Land Trust Alliance to address the need to ensure conservation permanence, Terrafirma was licensed as a captive insurance risk retention group by the State of Vermont on July 11, 2012. It was designed by and for land trusts, being member-owned and managed, in consultation with insurance specialists and attorneys, and supported by US\$5 million in foundation funding.

The need for this service is in response to the challenges facing land trusts across the United States due to rising population and development pressures that are increasing the value of conservation properties. All land trusts must have the capacity to protect themselves from litigation and safeguard the land, plus the billions of dollars that have been invested in them through taxes, tax incentives and credits as well as public and private donations. The value of the service is in minimizing risk and uncertainty for land trusts and offering expert legal support through a national team of experts when the day comes that they face litigation. As part of a national strategy to ensure that land trusts have the capacity to protect their properties in perpetuity, Terrafirma also provides a suite of training opportunities that focus on risk management, negotiation and conflict resolution, best practices and more. Membership in Terrafirma sends the message that the land trust can defend its conservation lands and easements, but it doesn't replace the need for the land trust to build sufficient financial reserves and develop sound business practices.

“Land trusts could think of Terrafirma as standing behind them to protect their resources from catastrophic legal expenses and to help them avoid unnecessary litigation through solid practices, early dispute resolution and smart risk management.”

Source: [Terrafirma](#)

Group captives insurance programs “insure the risks of a heterogeneous or homogeneous group of unrelated insureds, providing them with benefits such as:

- Combined purchasing power
- Share in underwriting profits and related investment income
- Flexibility with respect to coverage forms and claims handling
- Incentive for risk management and loss control
- Access to reinsurance markets⁴²

A risk retention group (RRG), or insurance reciprocal, is a subset of a group captives program and is an “entity owned by their insureds and authorized to underwrite the liability insurance risks of their owners. RRG owners must be from a homogenous industry group and based on a single state license are able to operate in all 50 states and the District of Columbia.”⁴³

Terraforma’s 2020 Audited Financial Statements states that “Terraforma has no employees and is managed by Alliance Risk Management Services LLC (ARMS or the Manager), a wholly-owned subsidiary of Land Trust Alliance. ARMS has authority to take all actions on behalf of the Company that the Manager deems necessary or appropriate for the continuation and conduct of Terraforma, and responsibilities include claims handling and policy issuance. Terraforma is solely responsible for meeting its obligations to its members and others. Land Trust Alliance, ARMS, or any member are not liable for the claims, debts or other liabilities of the Company.”⁴⁴

Governance and Membership

Terraforma established a Members Committee to represent member land trusts and oversee management by ARMS. The Members Committee has eight members representing eight regions across the United States plus one member appointed from Vermont. The Committee members are elected for staggered three-year terms and are also responsible for approving policies and strategic direction. The diversity of land trusts is reflected through the members Committee from national, regional (state) and local land trusts, both accredited and non-accredited.⁴⁵

Table 2: Growth in Terraforma over 8 years

	2013	2021
# of land trusts	420	541
# of states	46 + DoC*	48 + DoC*
# of properties	20,568	34,788
# of acres	6,354,434	9,803,397

* District of Columbia

In 2021, conservation easements comprised the most insured rights at 86% of total number of properties. The total market value of all Terraforma assets increased from US\$8,864,692 in 2019 to US\$10,094,158 in December 2020, with its total equity reaching over US\$7.2 million.⁴⁶

42 Risk Services, [Group Captives](#)

43 Risk Services, [Learn About Risk Retention Groups](#)

44 Johnson Lambert LLP (2020), [Terraforma Risk Retention Group LLP Audited Financial Statements Years ended December 31, 2020 and 2019](#)

45 Ibid.

46 Johnson Lambert LLP (2020), [Terraforma Risk Retention Group LLP Audited Financial Statements Years ended December 31, 2020 and 2019](#)

Eligibility Requirements

A land trust must answer yes to the following questions to participate in Terrafirma:⁴⁷

1. Is the land trust legally organized and in good standing in the state in which it is incorporated or organized?
2. Is the land trust tax exempt under IRC §501(c)(3)⁴⁸ or listed on Publication 78 (or a successor listing) with the IRS?
3. Does the land trust have a complete baseline documentation report for every conservation easement or deed restriction?
4. If the land trust is insuring its fee properties, does the land trust have a complete inventory for every parcel of fee-owned land?
5. Does the land trust implement a program of annual monitoring of its conservation easements or deed restrictions?
6. If the land trust is insuring its fee properties, does the land trust regularly monitor its fee-owned land?
7. Is the land trust a member in good standing of the Land Trust Alliance?
8. Is the land trust free of any final judgment against it for fraud, misrepresentation, criminal charges, bad faith, misleading business practices or any other similar charges?
9. Is the land trust free from any ongoing governmental investigation or inquiry, such as an attorney general investigation, legislative hearing and the like, the subject of which is land trust complicity in misleading business practices, fraud, gross negligence or criminal misconduct?
10. Is the land trust operating at breakeven (where income and expenses are equivalent) or does it have a plan to reach breakeven that may, among other actions, include use of reserves?
11. Does the land trust have general liability insurance? (no D&O requirement)
12. Does the land trust have and implement a written records policy and secure recordkeeping system that preserves irreplaceable documents essential to defense and enforcement?
13. Is the land trust actively building its legal defense and general stewardship reserves or other reserves that can be allocated for legal defense and stewardship, unless prohibited by state statute or regulation?

Application Process and Fees

Terrafirma opens an annual enrollment window for new applicants from December 1st to February 1st. Applicants choose the categories that apply to their properties, and all properties within that category must be insured at the same time. This is to ensure that the risk pool is large enough to sustain coverage. The categories include:

- Conservation easements
- Owned land
- Trail easements
- Access easements
- Deed restrictions

⁴⁷ Terrafirma, [Eligibility Requirements](#)

⁴⁸ Organizations described in IRC section 501(c)(3) are commonly referred to as charitable organizations

Applicants do not need to submit copies of baseline documentation reports and organizational documents. Terrafirma evaluates organizations based on the eligibility criteria and other information contained in the application. It doesn't underwrite individual properties or easements.

Registration fees follow a sliding scale according to the number of parcels enrolled.

Annual Premium & Discounts

The annual premium is US\$63 per insured parcel, including conservation easements, fee properties, trail easements and access easements.

Accredited land trusts, through the Land Trust Alliance's accreditation program, receive a higher discount per parcel. Non-accredited land trusts receive a discount for following Best Practices. Both receive an equal discount for risk management training and bulk properties.⁴⁹

Table 3: Registration fee schedule

Parcels	Fee (US\$)
1 to 10	\$375
1 to 24	\$600
25 to 49	\$900
50 to 99	\$1,400
100 to 299	\$1,900
300 to 499	\$2,400
500 to 999	\$2,900
1000 to 1999	\$3,400
2000 and up	\$4,000

Table 4: Discounts for Terrafirma members

Accredited	Discount	Non-Accredited	Discount (US\$)
Accreditation	\$11 per parcel	Best Practices	\$4 per parcel
Risk Management	\$1 per parcel	Risk Management	\$1 per parcel
Bulk Properties (250+)	\$3 per parcel	Bulk Properties (250+)	\$3 per parcel
Total Possible	\$15 per parcel	Total Possible	\$8 per parcel

The Land Trust Alliance offers a suite of free webinars in risk management. Terrafirma also offers a free online course: A Guide to Risk Management for Land Trusts, which will qualify a land trust for the discount.

Accredited land trusts must successfully meet the 12 standards detailed in the Land Trust Standards and Practices, established by the Land Trust Alliance in 1989. Membership in the Land Trust Alliance requires a commitment to the Land Trust Standards and Practices. Accreditation is granted through the Land Trust Accreditation Commission, which is an independent program of the Land Trust Alliance formed in 2006.⁵⁰

⁴⁹ Terrafirma, [Costs and Discounts](#)

⁵⁰ Land Trust Accreditation Commission, [About the Land Trust Accreditation Commission](#)

Land trusts must meet all the following conditions to qualify for Terrafirma's Best Practices discount:

- Every transaction is reviewed and approved by a qualified attorney prior to closing.
- A written policy on violation resolution is in place and followed.
- A written conflict of interest policy is in place and followed.
- Written criteria exist for selecting land and easement projects consistent with the land trust's mission.
- Each project is evaluated for its performance of the land trust's perpetual stewardship responsibilities.

Terrafirma membership benefits include:

- Affiliate Membership in the Non-profit Risk Management Center
- seven issues per year of Terrabytes, a newsletter covering various subjects related to best practice, legal issues, etc.
- use of the Defense Reserves Calculator to assess the level of risk associated with insured parcels

Coverage

Terrafirma covers legal costs for both the enforcement and defence of fee owned land and conservation easements, including costs for lawsuits and mediation. This coverage applies if the land trust launches or is named in a lawsuit.

Terrafirma does not cover property damage, which should be covered by property insurance.

The Terrafirma policy has 37 exclusions. It also has specific conditions related to land trust mergers, the division of fee land or conservation easements and co-holder coverage.⁵¹

Claims

The Claims Committee oversees claims management in collaboration with the insured land trusts. It includes attorneys appointed by the Members Committee with a range of experience in conservation and insurance. Their responsibilities include:

- ensuring that Terrafirma is well managed
- evaluating, monitoring, approving and managing all member claims
- legal strategy for Terrafirma
- assigning outside counsel to represent land trusts (in consultation with the land trust)

Terrafirma encourages land trusts to file a placeholder claim at the first indication of any looming problem and offers 22 general indicators to consider. Early filing is meant to initiate conversations and prevent problems from becoming worse.⁵²

Each submitted claim carries a US\$5,000 deductible.⁵³

⁵¹ Terrafirma, [Coverage](#)

⁵² Terrafirma, [Potential Indicators of When to File a Claim](#)

⁵³ Terrafirma, [Claims](#)

Claims History

Since 2013, Terrafirma has handled 1,156 claims, of which 698 were resolved successfully. This included favourable court decisions in 26 cases and unfavourable in two cases.

Based on feasibility projections from 2010, the frequency of covered claims is slightly higher, but their severity has been less than anticipated, and include:

- preserve and conservation easement trespass
- vegetation removal
- topography changes
- minor unpermitted structures
- unpermitted land divisions
- technical legal challenges such as partition proceedings and bankruptcy⁵⁴

⁵⁴ Terrafirma, [Annual report to Land Trust Members March 1, 2020 to March 1, 2021](#)



KEY LEARNINGS

- I. The work of the private land conservation community provides multiple benefits to Canada on matters that are a priority for Canadians and can make a contribution to Reconciliation with Indigenous peoples.
- II. Achieving the objectives of Canada's Nature Legacy and Nature Smart Climate Solutions initiatives in the southern landscapes of Canada will depend on contributions from the private land conservation community.
- III. The private land conservation community is responsible for a significant land conservation estate that is critical to achieving conservation objectives in the southern ecosystems of Canada where additional conservation actions are urgently needed.
- IV. Canada's Nature Legacy call to increase private land acquisition through the Natural Heritage Conservation Program acknowledges the role that the private land conservation community has in contributing to protected areas targets in landscapes where much of the land is privately held.
- V. The people engaged in the private land conservation community are highly knowledgeable and committed to the conservation of nature, healthy ecosystems and species at risk through sound land stewardship and legal protection of their conservation lands and agreements.
- VI. As compared to other Canadian charitable sectors, the private land conservation community faces unique challenges to sustain the benefits and effectively steward their conservation lands over the long-term as the effort to respond to biodiversity and climate emergencies intensifies. In addition, the community has few insurance instruments to backstop legal protection of their conservation lands and agreements.
- VII. The majority of private land conservation organizations function with capacity challenges, such as few or no paid staff, not aligned with the importance of the natural assets they protect and steward. Generally, they are managing through a variety of strategies, including support from highly dedicated and motivated staff and volunteers, that enable them to fulfill their core stewardship responsibilities for their conservation lands and agreements, and build effective relationships with landowners to avoid potential legal issues.
- VIII. Federal and provincial grant and contribution programs prioritize the securement of conservation lands and agreements. These programs also play key roles in providing financial support for stewardship activities that would not otherwise be implemented.
- IX. To augment their stewardship activities beyond core responsibilities, private land conservation organizations pursue grants and contributions, an effort that takes staff and volunteer time away from other organizational activities and may not lead to the securement of additional funds resulting in needed stewardship activities going unactioned.

- X. Private land conservation organizations are primed to benefit from increased investment. Most private land conservation organizations are endeavouring to generate revenue streams and/or create restricted or endowment funds to provide greater financial security and predictable cash flow for long-term stewardship of their natural assets and other infrastructure.
- XI. Most private land conservation organizations identify the need to increase their restricted funds or have access to legal defence support as a priority. While many have not faced legal challenges yet, they anticipate dealing with an increase in compliance issues, particularly when the ownership of conservation agreement lands changes hands in the future.
- XII. A legal claim that goes against a private land conservation organization could have negative repercussions for the entire sector. An increase in investment in restricted funds for legal protection would help protect a conservation estate valued at over \$2.3 billion, and growing.
- XIII. Similar to securing funds for stewardship, raising funds for legal protection is challenging for the private land conservation community and competes with their efforts to raise funds for core operations and stewardship.
- XIV. Support for establishing and growing restricted or endowment funds for stewardship and legal defence could be provided through various means. For example, grant and contribution programs:
 - a. could accept investment in these funds as an eligible expense
 - b. support the development and implementation of a program specifically focused on establishing and growing endowment funds
 - c. support the development and implementation of an insurance reciprocal to serve the whole private land conservation community with legal support and protection



RECOMMENDATIONS

This situational analysis confirms a high need for additional investment in the private land conservation community to ensure:

- effective management of their conservation agreements and stewardship of their lands so that the conservation benefits of these properties flourish in perpetuity
- access to sufficient and effective legal resources to protect their lands and conservation agreements, emphasizing the imperative of treating the private land conservation sector as a whole with respect to their vulnerability to legal challenge

Given the multiple benefits of private land conservation and linkages to priorities of Canadians and governments, the potential contribution of private land conservation to reconciliation with Indigenous peoples, and the unique challenges faced by the private land conservation sector with respect to the long-term stewardship and legal defence of conservation lands and agreements, ***the CLC recommends that an in-depth two-part feasibility study be undertaken on how best to:***

1 Increase financial support for stewardship and the ongoing operations of private land conservation organizations for durable conservation outcomes, including assessment of such options as:

- Adjusting current funding programs to provide endowment funding match as part of each funded project
 - Enhancing or establishing annual funding programs for “core” stewardship activities for which it is difficult to raise funds, for example, property management plans, conservation agreement monitoring, core stewardship staff
 - Creating a separate program focused on matching endowment contributions to provide stability to the sector as a whole
- 1.1 In relation to the matching endowment option, as the Canada Cultural Investment Fund provides an interesting and proven model for supporting and sustaining the operations of not-for-profit charitable organizations, ***the Centre for Land Conservation recommends that the feasibility study include examination of how a program similar to the Canada Cultural Investment Fund could be modeled and adapted to support capacity building for the private land conservation community.*** Additional considerations in relation to the Canada Cultural Investment Fund are found in Appendix 1.

- 1.2 With respect to the nature and key elements of a feasibility study related to stewardship, **the Centre for Land Conservation recommends:**
- I. Engaging key constituencies and experts including private land conservation organizations and other stakeholders, legal, investment and tax professionals, community foundations, Indigenous leaders, government and donors through surveys, interviews and in-person workshops
 - II. Researching investment of endowment funding, particularly the potential role and involvement of foundations, such as community foundations
 - III. Addressing policy considerations such as match funding requirements/ratios, distribution of contributions from funders, priority areas for investment based on external factors such as urgency for nature protection at the regional level, eligibility of organizations including due diligence and risk management considerations
 - IV. Addressing design and governance considerations related to a stewardship endowment initiative
 - V. Developing the means to measure impact by identifying key metrics to track progress and report on impact over time
- 1.3 The time frame for the completion of this report did not permit extensive consultations with Indigenous organizations and communities. In this regard, **the Centre for Land Conservation recommends that the utility of a stewardship endowment initiative to other organizations be examined including engagement with Indigenous communities working to establish Indigenous Protected and Conserved Areas.**

2 Assess the level of risk now and in the future that private land conservation organizations may face, to scope effective and efficient ways to provide legal protection for the fee simple lands and conservation agreements they hold, and to explore in particular what the model of an insurance reciprocal program offers to meet their needs.

- 2.1 As the Terrafirma program in the United States provides an effective and proven insurance reciprocal model for providing sector-wide legal defence support, **the Centre for Land Conservation recommends that the feasibility study include examination of how a program similar to Terrafirma could be modeled and adapted to support the private land conservation community.** Additional considerations in relation to Terrafirma are found in Appendix II.

- 2.2 With respect to the nature and key elements of a feasibility study related to legal protection, **the Centre for Land Conservation recommends:**
- Conducting a personalized study of the risks the sector could be facing over the next few decades and the potential size of protection fund needed
 - Engaging key constituencies and experts, including private land conservation organizations and government stakeholders, legal, investment and insurance professionals, foundations, Indigenous leaders and donors through surveys, interviews and workshops
 - Comparing the type and scale of program and minimal thresholds needed to deliver value to the whole sector, including start up funding needs and potential funders, plus ongoing costs and how they will be sustained
 - Outlining a process of integrating standards and practices to establish a pathway for continuous improvement within the sector
 - Linking with conservation outcomes and Indigenous reconciliation practices at the regional to national level
- 2.3 Additional research and consultation is needed related to the scope of potential risks of the private land conservation sector such as:
- the potential misalignment of government policies/programs that may create legal issues or obstacles for organizations
 - the impact of planning laws on the assessed value of a conservation agreement
 - how designated land uses undermine the goals of permanent protection



APPENDIX I:

CONSIDERATIONS TO BE ADDRESSED IN A FEASIBILITY STUDY RELATED TO THE CANADA CULTURAL INVESTMENT FUND

The Canada Cultural Investment Fund (CCIF), through its Endowment Incentives program, has enabled arts and heritage organizations to start and grow endowment funds, incentivized private donors to contribute to the endowment funds of these organizations and increased the level of financial stability among recipient organizations by helping to diversify revenue streams. The Strategic Initiatives component of the CCIF built new and strengthened existing partnerships related to best practices, marketing, and technology among arts and heritage organizations, improving business practices, and helped these organizations to achieve and demonstrate sound organizational, administrative, and financial health.

Given the success of CCIF, it is a useful model to be considered in terms of support for endowment funding for the private land conservation community. It would be important to consider similarities and differences between the two sectors in the design of any initiative to grow the endowment funds of private land conservation organizations. Some considerations in this regard are:

- i. The Endowment Incentive component of CCIF has been funding arts organizations for 20 years. Is there an imperative to establish appropriate levels of endowment investment more quickly? What would be required to meet a shorter timeline for private land conservation organizations to establish endowments of sufficient size to generate investment income able to reasonably support stewardship activities annually and over the long-term?
- ii. Private land conservation organizations depend on many sources of funding to meet their budget needs. Diverting too much funding into an endowment fund that may otherwise have gone into annual operations could jeopardize the organization's ability to manage their easements and steward their properties to high standards in the short term. Could the program be structured so that organizations have the option to provide match over a longer time frame?
- iii. The 1:1 match may be too low to be effective for many private land conservation organizations and therefore have low perceived value. Could the eligibility criteria be structured to allow a higher contribution, like 2:1, from funders to private land conservation organizations that have lower fundraising capacity or fewer funds comparatively already in reserve accounts?
 - The success of the Endowment Incentives component of CCIF has shown the government's match has decreased over time. In 2022, for example, it came in at roughly 60% match for every match dollar raised by the arts or heritage organization. Could the federal government and/or other funders make the initial investment to build momentum for a private land conservation program, based on the trajectory of growth of investment from private donors as demonstrated through the CCIF program?

- iv. Information on the nature and extent of the needs of private land conservation organizations with respect to financial stability and their capacity to sustainably steward their conservation lands and agreements is not well known. As the scale and extent of liabilities associated with the work of private land conservation organizations across Canada is unknown, it may be useful to conduct a needs analysis, ensuring consistency and comparability of such information.
- v. Donors prefer to give to activities rather than investment funds. The Endowment Incentives component of CCIF has shown that donors to the arts community responded positively to the potential for doubling their donation impact through the program. In this regard, it may be useful to consider:
 - Market research to determine the response from private land conservation donors to a matching endowment opportunity
 - Research should also determine what features of the program allowed it to attract new, incremental funding rather than re-allocation by donors of their current level of funding
 - The nature of any support useful to private land conservation organizations such as training, and communications and marketing expertise to create an effective endowment campaign
- vi. What would be the eligibility requirements and how would private land organizations best demonstrate due diligence and effective risk management as an incentive to governments and other funders to invest in endowments. The experience of the Terrafirma program in the United States demonstrates that a commitment to accreditation by the land trust translates into increased capacity in all aspects of its operations.⁵⁵

55 Peter Szabo, Bloomingdale Management Advisors (2018), [An Impact Evaluation of the Land Trust Accreditation Program's First Ten Years](#)



APPENDIX II:

CONSIDERATIONS TO BE ADDRESSED IN A FEASIBILITY STUDY RELATED TO THE TERRAFIRMA PROGRAM

1. The private land conservation community operates primarily in the southern region of Canada on a landscape fragmented by competing uses, such as industrialization and continued settlement. Within this context, the importance of the land conservation community in the role of protecting species at risk, mitigating climate change, increasing climate resilience and supporting healthy ecosystem services is heightened. It will be important to understand:
 - the risks the sector faces now and over the next few decades
 - the model and scale of fund that will effectively serve the legal needs of the sector—does the community have the capacity to support an insurance reciprocal like Terrafirma?
 - the pros and cons of various models, including the investment needed to implement, and ongoing costs—how does the model become self-sustaining?
 - the level of buy-in needed by the sector to meet an operating threshold for an efficient program

A personalized study would examine key fundamentals within the private land conservation sector to inform the design of the program. Based on the preliminary study conducted by Terrafirma, a study of the Canadian context would cover:

- understanding the risk
 - understanding the numbers
 - refining coverage
 - defining initial capital
 - defining start-up costs
 - defining limits
 - defining coverage
2. Private land conservation organizations depend on many sources of funding to meet their annual budget needs. The lack of an adequate defence fund puts their operations at risk, but it is difficult to address this funding gap without impacting their core operations. What impact would an insurance reciprocal program have on their core budget, and would additional funding sources be needed to help organizations benefit from the program?

3. Terrafirma's program that serves the private land conservation community in the United States has proven to be an effective model in building capacity for the sector and protecting the natural assets that its members steward. The fundamental metrics of the program show significant growth, such as a nearly 30% increase in membership and a 53% increase in protected land from 2013 to 2021.

The private land conservation community in Canada operates with significant gaps in legal protection that an insurance reciprocal could fill. To what degree can the Terrafirma model be adapted for the Canadian context?

- What would be the eligibility requirements and how would private land organizations best demonstrate due diligence and effective risk management as an incentive to governments and other funders to invest in establishing an insurance reciprocal? Does the experience in the United States demonstrate that a commitment to accreditation by land trusts translate into increased capacity and ability to legally defend conservation lands?
- Terrafirma grants membership to organizations that have met accreditation guidelines and those that haven't, but that are meeting best management practices in their operations. Accredited organizations receive higher discounts in the premiums they pay. How could a national insurance program connect with the Canadian Land Trust Standards and Practices and build a framework that supports a pathway of continuous improvement? Can thresholds be integrated into the standards and practices so they aren't overwhelming for small land organizations? Can discounts be given to organizations that meet criteria for improvement and thereby reduce risk factors?
- What is the value for funders in a national insurance program? Conduct additional research regarding their level of recognition of the value of standards and practices.



APPENDIX III: PRIVATE LAND CONSERVATION WITHIN THE CHARITABLE SECTOR

Data compiled by Environment and Climate Change Canada shows the private land conservation sector in Canada includes 147 charitable organizations, based on a review of reports to the Canada Revenue Agency in 2018. In total, the sector holds \$2.3 billion in assets, generates \$396 million in revenue, and issues \$87 million in tax receipts. The sector employs 1,463 full-time and 1,164 part-time or seasonal employees.⁵⁶

The majority of private land conservation organizations operate in Quebec (32%), Ontario (27%) and British Columbia (19%), with the remaining 20% distributed across Alberta (7.5%), Saskatchewan (2%), Manitoba (1.3%), New Brunswick (3.4%), Nova Scotia (3.4%) and Prince Edward Island (2.7%). Two national private land conservation organizations represent roughly 1.3% of the total number of organizations.

A minority of private land conservation organizations employ staff, with 41% of these organizations offering full-time permanent positions and 59% operating without staff. Around 24% support one to six full time jobs, 13% support 7-26 positions and 4% over 50 full time jobs.

With respect to total annual revenue, 37% of private land conservation organizations have less than \$100,000, 32% have \$100,000-\$600,000, 8% have 600,000 to \$1.1 million, 16% have \$1.1-\$5 million and 6% over \$5 million.

Around 7% of private land conservation organizations hold over \$25 million in total assets, while 46% hold less than \$1 million. The remaining 47% hold total assets ranging from \$1 million-\$23 million.

Within the broader charitable sector, there are 86,000 charities operating in Canada, of which environmental charities make up 2%, or roughly 1,720 organizations. The private land conservation organization community represents around 8.5% of environmental charities, and less than one percent of Canadian charities in total.

⁵⁶ According to 2018 data available from the Canada Revenue Agency

Table 5: Private Land Conservation Organizations with the Canadian Charitable Sector⁵⁷

	Canadian charities	Private land conservation orgs	%
# of organizations	86,000	147	.17
Assets	\$519 billion	\$2.3 billion	.44
Revenue	\$169 billion	\$396 million	.23
Jobs	1.5 million	2,627 (full- & part-time)	.18

Table 6: Charitable sectors by percentage of charities⁵⁸

Percentage	Charitable Sector
7.50%	Religious
22.40%	Social Services
9.5%	Public Benefit
9.4%	Arts & Culture
7.6%	Health
7.4%	Education
2.0%	Environment
1.6%	International
0.8%	Animals
0.3%	Indigenous Peoples

Table 7: Percentage of giving by Canadians per charitable sector⁵⁹

Percentage	Charitable Sector
41%	Social Services
31%	Religious
26%	Health
19%	Education
16%	Public Benefit
12%	International
7%	Arts & Culture
6%	Animals
5%	Environment
1%	Indigenous Peoples

Table 8: Percentage of average government funding (all) as part of average revenue by charitable sector⁶⁰

Sector	Av Revenue	Av Rev from Gov't	% Rev
Health	16,352,316	13,357,255	82%
Education	9,175,125	6,077,054	66%
Social Services	1,504,381	931,498	62%
Indigenous Peoples	2,427,199	1,394,112	57%
Arts & Culture	974,026	501,384	51%
Public Benefit	1,929,349	657,313	34%
Animals	1,596,081	510,589	32%
Environment	719,056	223,317	31%
International	2,573,128	522,263	20%
Religious	421,116	49,469	12%

57 Mark Blumberg, Canadian Charity Law (2021), *Which Canadian charities had the largest assets in 2019?*

58 Canada Helps, *The Giving Report, Meet the Sector* (some charities focus on more than one issue area, so are counted more than once)

59 Canada Helps, *The Giving Report, Giving Facts*

60 Canada Helps (2017), *The Giving Report 2017*



APPENDIX IV: ORGANIZATIONS CONSULTED

The consultation process for the development of this report included a broad-reaching e-mail to the private land conservation community. The request from CLC encouraged interested organizations to provide written responses to supplied questions on stewardship and legal protection or to set up a conference call with CLC to discuss the topics of stewardship and legal protection (using the supplied questions as a guide). CLC connected with 24 organizations, including one Indigenous organization and other relevant stakeholders, i.e., funders and representatives from the case studies.

CLC is grateful to the organizations and individuals who shared their experiences and opinions which helped shaped this report. However, the learnings and recommendations are the opinions and reflections of CLC alone. Any errors or omissions are those of CLC. Please note that in order to assure anonymity, the name of the Indigenous organization does not appear on this list.

Organizations Consulted between February 2022 and March 2022	
Canada Cultural Investment Fund	Manitoba Habitat Heritage Corporation
Canadian Wildlife Service	Meewasin Valley Authority
Central Lake Ontario Conservation Authority	Nanaimo & Area Land Trust
Denman Conservancy Association	Nature Conservancy of Canada
Ducks Unlimited Canada	rare Charitable Research Reserve
Escarpment Biosphere Conservancy	Saskatchewan Stock Growers Association
Fondation SÉTHY	Southern Alberta Land Trust Society
Gabriola Land & Trails Trust	Terrafirma
Islands Trust Conservancy	The Land Conservancy of British Columbia
Kawartha Land Trust	Western Sky Land Trust Society
Legacy Land Trust Society	Weston Family Foundation
Long Point Basin Land Trust	

