



Policy:	1.3.1
Approved By:	Trust Council
Approval Date:	June 11, 1994
Amendment Date(s):	March 11, 1995; December 8, 2000; June 16, 2005; and March 23, 2016
Policy Holder:	Director of Trust Area Services

POLICY STATEMENT IMPLEMENTATION

Purpose

To establish policy and procedures for statutory bylaw referrals and other implementation strategies in connection with the Islands Trust Policy Statement Bylaw No. 17.

A. Interpretation

1. The Islands Trust Policy Statement Bylaw includes three types of policies:
 - 1.1 Commitments of Trust Council state the position or philosophy of Trust Council on various matters. For this category of policy, several introductory phrases are used; for example, “Trust Council holds that”; “It is the position of Trust Council that”; and “It is Trust Council’s policy that”.
 - 1.2 Directive Policies direct local trust committees and island municipalities to address certain matters in their official community plans and regulatory bylaws under Part 14 of the *Local Government Act*. Where a policy requires a local trust committee or island municipality to address a particular matter, the official community plans must contain policies that implement the policy stated by Trust Council, unless the plan sets out explicitly the reasons and justifications for local policies that do not implement that policy. Directive policies commence with the phrase “Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address”.
 - 1.3 Recommendations of Trust Council serve as Trust Council’s encouragement to government agencies, non-government organizations, property owners, residents, and visitors to support the Policy Statement and the Islands Trust object, and specify principles of guidance for protocol agreements between the Trust and other agencies. These policies begin with the phrase “Trust Council encourages”.
2. The implementation of the Policy Statement Directive Policies is addressed under Section B.1 of this Policy.
3. The Commitments and Recommendations of Trust Council relate to other types of implementation strategies that are non-directive in that they merely provide suggestions and recommendations that may be related to land use bylaws or to other decisions and

activities of the Islands Trust or other agencies. The implementation of these non-directive policies is addressed under Section B .2.

4. As interpreted by the courts, "contrary to or at variance with," means that there is an absolute and direct collision between the local trust committee or island municipality bylaw and the Policy Statement.

B. Policy and Procedures

1. Statutory Bylaw Referrals

Background

1.1 Local trust committees and island municipalities are required to submit bylaws to the Executive Committee for approval as follows:

1.1.1 Under Section 27 (1) of the *Islands Trust Act*, a local trust committee must submit its bylaws to the Executive Committee for approval before adoption.

1.1.2 Under Section 38(1) of the *Islands Trust Act*, all island municipality bylaws adopting official community plans that apply to land in the Trust Area and all bylaws under Part 14 of the *Local Government Act* that apply to land in the Trust Area to which no official community plan applies, must be submitted to the Executive Committee for approval before adoption.

1.2 Local trust committees and island municipality bylaws have no effect until they are approved as follows:

1.2.1 Under Section 27(2) of the *Islands Trust Act*, a bylaw of a local trust committee has no effect

1.2.1.1 in all cases, until it is approved by the Executive Committee or, if a request is made under subsection 27(3), by the Trust Council, and

1.2.1.2 in the case of a bylaw adopting or amending an official community plan, until it is approved by the Minister.

1.2.2 Under Section 38(2) of the *Islands Trust Act*, an island municipality bylaw referred to under Section 38(1), has no effect until it is approved

1.2.2.1 by the Executive Committee,

1.2.2.2 on request under subsection 38(3), by the Trust Council, or

1.2.2.3 on request under subsection 38(4), by the Minister.

1.3 Under Section 15(4) of the *Islands Trust Act*, a bylaw submitted to the Executive Committee by a local trust committee under Section 27(1), or an island municipality under Section 38(1), must not be approved by the Executive Committee, or Trust Council, if it is contrary to or at variance with the Islands Trust Policy Statement.

- 1.4 The Islands Trust Policy Statement requires local trust committees in their official community plans and regulatory bylaws, and island municipalities under Section 38(1) of the *Islands Trust Act*, to address certain matters from the Policy Statement, or give explicit reasons and justifications for not doing so. A bylaw will not be contrary to or at variance with the Policy Statement if it fails to include a particular policy or regulation, so long as the bylaw contains sufficient reason or justification for not doing so.
- 1.5 Where a proposed bylaw does not include a particular policy or regulation required by the Policy Statement and the bylaw sets out reasons for that, the Executive Committee and Trust Council will assess the sufficiency of those reasons using such criteria as:
 - 1.5.1 whether the reasons are explicitly set out such that it is clear that the local trust committee directed its attention to the matter in question and made a considered decision not to include the policy or regulation.
 - 1.5.2 whether the reasons have to do with particular local circumstances that may not have been contemplated in the drafting of the Policy Statement.
 - 1.5.3 whether the reasons arise from the necessity of balancing two or more components of the Policy Statement that cannot be achieved simultaneously.
 - 1.5.4 whether existing planning studies or reports relied on by the local trust committee indicate that the Policy Statement is inapplicable in the circumstances.

Policy Statement Directives Checklist

- 1.6 The primary responsibility for demonstrating that an official community plan or regulatory bylaw is not contrary to or at variance with the Islands Trust Policy Statement rests with each local trust committee, or island municipality.
- 1.7 The Policy Statement Directives Checklist identifies the directives policies for each component of the Policy Statement that local trust committees and island municipalities are required to address in their bylaws (Attachment 1).
- 1.8 Staff will reference relevant sections of the Policy Statement in staff reports to the local trust committees and island municipalities. Staff may use the Directives Checklist to assess whether bylaw amendment applications in process and bylaws prior to first reading comply with the Policy Statement.
- 1.9 Planning staff will provide the local trust committees and island municipalities with a staff report that includes the proposed bylaw and the Directives Checklist to

assess that a bylaw complies with the Policy Statement before submitting it to the Executive Committee.

- 1.10 Planning staff assigned to work with local trust committees, or island municipalities, will refer to the Policy Statement and Directives Checklist while developing official community plans and regulatory bylaws to ensure that the bylaws address the required matters. Staff will also make recommendations that address the Policy Statement during the consideration of alternative policy and regulatory responses to particular issues in a local trust area.

Approval and Appeals

- 1.11 The Executive Committee will notify the local trust committee or island municipality staff of its decision as to whether to approve a bylaw within one month of receiving a submission including a completed Directives Checklist. Staff will then update the bylaw to show Executive Committee approval and submit it to the local trust committee or island municipality for adoption consideration. Where the decision is not to approve, the Executive Committee will advise the local trust committee, or island municipality, of its reasons and of the nature of the changes that would be required to enable the Executive Committee to approve the bylaw.
- 1.12 On referral of a bylaw to Trust Council under Section 27(3) or 38(3) of the *Islands Trust Act*, the local trust committee, or island municipality, will provide to Trust Council the Directives Checklist, the advice of the Executive Committee that accompanied its refusal to approve the bylaw, and the local trust committee or island municipality reasons why the bylaw cannot be changed in the manner the Executive Committee indicated.
- 1.13 Trust Council will notify the local trust committee or island municipality staff of its decision as to whether or not Trust Council has approved a bylaw and will deliver a decision as soon as practicable after giving such notice. Where the decision is not to approve, Trust Council will advise the local trust committee, or island municipality, of its reasons and of the nature of the changes that would be required to enable Trust Council to approve the bylaw.

2. Ensuring Decision and Activities are Consistent with the Policy Statement

Background

- 2.1 The goals of the Policy Statement will form the basis of Trust Council's strategic plan.
- 2.2 To ensure consistency between the Policy Statement and the activities of the Islands Trust bodies, staff will reference the Policy Statement and relevant policy sections in meetings, staff reports, work programs, inter-agency agreements

(including protocols, letters of understanding and memoranda of understanding) and agency referral responses.

2.3 Islands Trust staff preparing recommendations or information for an Islands Trust body will reference relevant sections of the Policy Statement.

2.4 All inter-agency agreements and external communications will be consistent with the Policy Statement.

3. Monitoring Activities

3.1 The Islands Trust Council will monitor and report on the implementation of the Policy Statement in the Islands Trust Annual Report.

C. Legislated References

1. *The Islands Trust Act:*

1.1 Part 2 – Trust Council, Section 15 (4) Trust Policy Statement and Section 16 Approval of Bylaws;

1.2 Part 3 – Executive Committee, Section 22 Approval of Bylaws; and

1.3 Part 4 – Local Trust Committees, Section 27 Approval requirement for bylaws of local trust committees.

2. The Islands Trust Council Bylaw No. 17, a Bylaw to Adopt a Policy Statement for the Trust Area, cited as “The Islands Trust Policy Statement Bylaw, 1993”.

3. The Islands Trust Policy and Procedures Manual:

3.1 Policy Statement Amendment (1.2.1)

3.2 Executive Committee Legislative Role (2.4.4)

3.3 Bylaw Checklist (5.7.1)

3.4 Annual Report (6.10.1)

D. Attachments

Attachment 1 - Directives Checklist - May 17, 2005



Islands Trust

POLICY STATEMENT DIRECTIVES ONLY CHECK LIST

Bylaw and File No:

PURPOSE

To provide staff with the Directives Only Checklist to highlight issues addressed in staff reports and as a means to ensure Local Trust Committee address certain matters in their official community plans and regulatory bylaws and Island Municipalities address certain matters in their official community plans and to reference any relevant sections of the Policy Statement.

POLICY STATEMENT

The Policy Statement is comprised of several parts. Parts I and II outline the purpose, the Islands Trust object, and Council's guiding principles. Parts III, IV and V contain the goals and policies relevant to ecosystem preservation and protection, stewardship of resources and sustainable communities.

There are three different kinds of policies within the Policy Statement as follows:

- Commitments of Trust Council which are statements about Council's position or philosophy on various matters;
- Recommendations of Council to other government agencies, non-government organizations, property owners, residents and visitors; and
- Directive Policies which direct Local Trust Committees and Island Municipalities to address certain matters.

DIRECTIVES ONLY CHECK LIST

The Policy Statement Directives Only Checklist is based on the directive policies from the Policy Statement (Consolidated April 2003) which require Local Trust Committees to address certain matters in their official community plans and regulatory bylaws and Island Municipalities to address certain a matters in their official community plans in a way that implements the policy of Trust Council.

Staff will use the Policy Statement Checklist (Directives Only) to review Local Trust Committee and Island Municipality bylaw amendment applications and proposals to ensure consistency with the Policy Statement. Staff will add the appropriate symbol to the table as follows:

- ✓ if the bylaw is **consistent** with the policy from the Policy Statement, or
- ✘ if the bylaw is **inconsistent (contrary or at variance)** with a policy from the Policy Statement, or
- N/A** if the policy is not applicable.

Part III Policies for Ecosystem Preservation and Protection

CONSISTENT	NO.	DIRECTIVE POLICY
	3.1	Ecosystems
	3.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and protection of the environmentally sensitive areas and significant natural sites, features and landforms in their planning area.
	3.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning, establishment, and maintenance of a network of protected areas that preserve the representative ecosystems of their planning area and maintain their ecological integrity.
	3.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the regulation of land use and development to restrict emissions to land, air and water to levels not harmful to humans or other species.
	3.2	Forest Ecosystems
	3.2.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of unfragmented forest ecosystems within their local planning areas from potentially adverse impacts of growth, development, and land-use.
	3.3	Freshwater and Wetland Ecosystems and Riparian Zones
	3.3.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means to prevent further loss or degradation of freshwater bodies or watercourses, wetlands and riparian zones and to protect aquatic wildlife.
	3.4	Coastal and Marine Ecosystems
	3.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.
	3.4.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.

PART IV: Policies for the Stewardship of Resources

CONSISTENT	NO.	DIRECTIVE POLICY
	4.1	Agricultural Land
	4.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and preservation of agricultural land for current and future use.
	4.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation, protection, and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses.
	4.1.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of adjacent properties to minimize any adverse affects on agricultural land.

CONSISTENT	NO.	DIRECTIVE POLICY
	4.1.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the design of road systems and servicing corridors to avoid agricultural lands unless the need for roads outweighs agricultural considerations, in which case appropriate mitigation measures shall be required to derive a net benefit to agriculture
	4.1.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address land uses and activities that support the economic viability of farms without compromising the agriculture capability of agricultural land.
	4.1.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of Crown lands for agricultural leases.
	4.2	Forests
	4.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the need to protect the ecological integrity on a scale of forest stands and landscapes.
	4.2.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the retention of large land holdings and parcel sizes for sustainable forestry use, and the location and construction of roads, and utility and communication corridors to minimize the fragmentation of forests.
	4.2.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of forest ecosystem reserves where no extraction will take place to ensure the preservation of native biological diversity.
	4.3	Wildlife and Vegetation
	4.4	Freshwater Resources
	4.4.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, water quality is maintained, and existing, anticipated and seasonal demands for water are considered and allowed for.
	4.4.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure water use is not to the detriment of in-stream uses
	4.5	Coastal Areas and Marine Shorelands
	4.5.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the needs and locations for marine dependent land uses.
	4.5.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the compatibility of the location, size and nature of marinas with the ecosystems and character of their local planning areas.
	4.5.10	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.
	4.5.11	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address opportunities for the sharing of facilities such as docks, wharves, floats, jetties, boat houses, board walks and causeways.

	4.6	Soils and Other Resources
	4.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of productive soils.

PART V: Policies for Sustainable Communities

CONSISTENT	NO.	DIRECTIVE POLICY
	5.1	Aesthetic Qualities
	5.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
	5.2	Growth and Development
	5.2.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.
	5.2.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.
	5.2.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.
	5.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.
	5.3	Transportation and Utilities
	5.3.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of a classification system of rural roadways, including scenic or heritage road designations, in recognition of the object of the Islands Trust.
	5.3.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the impacts of road location, design, construction and systems.
	5.3.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of areas for the landing of emergency helicopters.
	5.3.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of land use patterns that encourage establishment of bicycle paths and other local and inter-community transportation systems that reduce dependency on private automobile use.
	5.4	Disposal of Waste
	5.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of acceptable locations for the disposal of solid waste.

CONSISTENT	NO.	DIRECTIVE POLICY
	5.5	Recreation
	5.5.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the prohibition of destination gaming facilities such as casinos and commercial bingo halls.
	5.5.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location and type of recreational facilities so as not to degrade environmentally sensitive areas, and the designation of locations for marinas, boat launches, docks and anchorages so as not to degrade sensitive marine or coastal areas.
	5.5.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of sites providing safe public access to beaches, the identification and designation of areas of recreational significance, and the designation of locations for community and public boat launches, docks and anchorages.
	5.5.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and designation of areas for low impact recreational activities and discourage facilities and opportunities for high impact recreational activities.
	5.5.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for bicycle, pedestrian and equestrian trail systems.
	5.6	Cultural and Natural Heritage
	5.6.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification, protection, preservation and enhancement of local heritage.
	5.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation and protection of the heritage value and character of historic coastal settlement patterns and remains.
	5.7	Economic Opportunities
	5.7.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.
	5.8	Health and Well-being
	5.8.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address their community's current and projected housing requirements and the long-term needs for educational, institutional, community and health-related facilities and services, as well as the cultural and recreational facilities and services.

POLICY STATEMENT COMPLIANCE	
	COMPLIANCE WITH TRUST POLICY
	NOT IN COMPLIANCE WITH TRUST POLICY for the following reasons: