

Islands Trust Council Statement on the Scope and Meaning of Section 3 of the Islands Trust Act (Object Clause)

Approved by Islands Trust Council, September 26, 2023

The Islands Trust Act [RSBC 1996] CHAPTER 239, Section 3:

The object of the trust is to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, First Nations, other persons and organizations and the government of British Columbia.

BACKGROUND: The 2022 Governance Review emphasized that there was a deep division amongst both Trustees and constituents on the meaning and implementation of our “preserve and protect” mandate. Such division was described as a fundamental existential challenge. The current Governance Committee, appointed in December, 2022, decided that it was a priority to review the mandate and report back to Trust Council on that review. Today’s presentation summarized and clarified all previous legal opinions with the intention to assist the current Trust Council to find consensus on which to build our strategic direction. Our strategic planning policy initiatives, project priorities, and efficiency of operations and accountability and performance measures, will follow.

Frequently a mandate is created by an organization but since the Islands Trust was created by Provincial legislation, therefore the mandate is an enacted law: it may be interpreted and such interpretation may be challenged, but it can only be changed by the Legislative Assembly.

Over the years, as various issues have arisen, Islands Trust has asked for and received several legal opinions about how our mandate relates to specific situations. Islands Trust staff have collated those opinions, the Governance Committee has studied and discussed them, and today there has been a presentation and discussion by Trust Council. The legal opinions referred to were in response to specific questions and therefore were and are subject to solicitor-client privilege and as such needed to be discussed in closed meetings.

This report is to make public the results of our discussions and share with our constituents how the current Trust Council intends to interpret our mandate, which in turn will help inform our strategic planning.

The process of creating a strategic plan was another recommendation of the 2022 Governance Review and is another priority of the Governance Committee. That effort has been championed by a sub-committee of the Financial Planning Committee which has been endorsed and encouraged by the Governance Committee, and will be subject to separate and future discussions.

CONSENSUS:

The object of the Islands Trust is to preserve and protect three specific elements:

- a) the trust area;*
- b) its unique amenities; and*
- c) [its unique] environment,*

for the benefit of the residents of

- i) the trust area, and*
- ii) of British Columbia generally,*

in cooperation with municipalities, regional districts, improvement districts, First Nations, other persons and organizations and the government of British Columbia.

Trust Council's determination is that every decision must include a reasoned recognition of all the elements specified in the mandate. While one element may gain priority, reasons for that decision must be clear and have considered the other elements.

There has been some debate in the past about the meaning of unique amenities. Trust Council's view is that unique amenities are broad-ranging and may include issues such as, but not limited to, housing, livelihoods, infrastructure and tourism. However, land use planning in the Trust Area must always include a focus on preserving and protecting the environment and communities of both local trust areas and the Trust Area generally and in a manner consistent with Reconciliation.

In any given decision-making situation, there must be recognition of the importance of each of the essential elements and where there is competition between those elements there must be a careful and reasoned balancing of the importance of preserving and protecting the Trust Area, and its unique amenities and environment.