

# First Nations Engagement Phase 2 Summary Report

## Islands 2050 - Policy Statement Amendment Project

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### Early & Meaningful Engagement Phase 2

In July 2021, Trust Council directed staff to initiate a second phase of early and meaningful engagement with First Nations on the Islands Trust Policy Statement. This second phase of engagement (September 2021 – June 2022) invited First Nations governments, treaty alliances, tribal councils, and leadership councils across the Trust Area to review and comment on [Draft Policy Statement Bylaw No. 183](#). It also gave those who had participated in [Phase 1 of early and meaningful engagement](#) an opportunity to see how their earlier feedback had been incorporated into the draft amendments. Formal referrals of the draft bylaw will occur after first reading.

It is worthwhile underscoring that this is the first time in the history of Islands Trust that First Nations have been meaningfully engaged on the Policy Statement to ensure that their interests are reflected in the document. Working collaboratively on Policy Statement amendments is critical to building trusting relationships with First Nations in the Trust Area, addressing past wrongs, supporting informed land use decision making, and fulfilling Trust Council's commitments to reconciliation.

In September 2021, offers of capacity funding support were sent out to 30 First Nations, six Treaty Alliances and Tribal Councils, and two First Nations Leadership Councils, to review and provide comment on the draft new Policy Statement. In February 2022, capacity funding support was also offered to the Coast Salish People of Galiano Society. The capacity funding was accepted by seven First Nations/councils. Except where noted below, staff at these First Nations/councils have provided detailed comments for Trust Council's consideration prior to further amendments to the draft bylaw.

- Cowichan Tribes
- K'ómoks First Nation
- Lyackson First Nation
- MÁLEXEŁ (Malahat) Nation
- Snuneymuxw First Nation
- Tla'amin First Nation
- W̱SÁNEĆ Leadership Council (preliminary letter received, detailed comments expected this summer)

During Phase 2, staff also began to engage with Indigenous community members living on the islands to build dialogue and understanding. Many Indigenous people living on the islands have connections to First Nations communities in the Trust Area - connections that may have been lost or weakened by the *Indian Act*, [enfranchisement](#), marriage to non-Indigenous settlers, etc. Although Islands Trust has no statutory obligation to engage with individual Indigenous people, understanding the interests of Indigenous community members living in the Trust Area is important to the work of reconciliation.

**Comments received from Phase 2 capacity funding recipients have been posted in full to the [Islands 2050 webpage](#), under the "First Nations Engagement Phase 2" project library folder, and summaries of the comments received follow below. Please note that these summaries have not been reviewed for accuracy by the contributing First Nations/council; trustees are strongly encouraged to read the full submissions. Staff will provide additional comments forthcoming from W̱SÁNEĆ Leadership Council to Trust Council and/or its committees, when they are received.**

It should be noted that staff at each of these Nations/councils have consented to having their comments released publicly to inform Trust Council's decision-making. However, some noted that they generally prefer to keep their comments at the internal staff-to-staff level, so as to guard against targeted criticism from those who may hold different perspectives. It is thus hoped that these comments will be treated with great care, humility, and respect, in the spirit of reconciliation.

### **Feedback from Cowichan Tribes Staff**

Cowichan Tribes staff provided detailed comments on various sections of the draft new Policy Statement. The comments included, but were not limited to, the following:

- **Language:**
  - differentiate between Cowichan Tribes (First Nation) and Quw'utsun Nation (comprised of Cowichan Tribes, Halalt First Nation, Lyackson First Nation, Penelakut Tribe, Stz'uminus First Nation)
  - reword "seven generations" principle to reflect all generations
  - concerns around descriptor "traditional" vis-à-vis harvesting – not just something of the past
- **Governance, Rights & Responsibilities:**
  - provide context on Indigenous Rights and Title under Section 35 of the *Constitution Act*
  - highlight lack of consultation with First Nations during establishment of Islands Trust
  - underscore the need to build more trusting relationships with First Nations now and into future
  - note that the *Declaration on the Rights of Indigenous Peoples Act* (DRIPA) requires not just cooperative decision-making, but also consent from Indigenous groups
  - provide context on present-day relationships between First Nations and the islands: treaty status, reserve lands, ongoing negotiations, etc.
- **Protecting Ecosystems for Cultural/Spiritual Uses:**
  - importance of preserving, protecting, and providing access to harvesting areas, culturally significant species, forests, and freshwater networks for First Nations members who wish to occupy and harvest from lands and waters in their territories
  - note impacts of climate change on domestically available surface and groundwater
  - desire to explore possibilities around collaborative "landback" mechanisms that could make use of Islands Trust funding to set aside lands for Indigenous practices and use
- **Coastal/Marine Protection:**
  - supportive of prohibition of new private docks (Policy 4.5.14)
  - prohibit moorage and anchorage sites in identified Indigenous shoreline harvesting areas
  - prevent development of any stretches of foreshore that don't already have existing foreshore infrastructure, since these areas will be acceptable for Indigenous harvesting
  - coordinate with First Nations on oil spill prevention, preparedness, and response plans
- **Indigenous Cultural Heritage Protection:**
  - need for policies to protect both known and unknown archaeological sites
  - need to engage First Nations experts in investigations around chance finds
  - need to respect the intellectual property and confidentiality interests of First Nations
- **Housing for Indigenous Peoples:**
  - policies should work to facilitate Indigenous peoples' return to the homelands they were dispossessed of – e.g. working with housing developers to dedicate units of affordable housing for Indigenous peoples

### Feedback from K'ómoks First Nation Staff

K'ómoks First Nation staff provided detailed comments on various sections of the draft new Policy Statement. The comments included, but were not limited to, the following suggestions:

- **Language:**
  - Islands Trust Object statement should list Indigenous Peoples first in list of beneficiaries (current language: “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...*”)
  - reword “seven generations” principle to reflect all generations
- **Governance, Rights & Responsibilities:**
  - Role of First Nations section: acknowledge First Nations play an important role in contributing to the preservation and protection of the unique amenities and environment of the Trust Area, and have long history and knowledge of their traditional lands.
  - clarify that lands are unceded (unless some Nations in Trust Area signed a treaty)
- **Protecting Ecosystems for Cultural/Spiritual Uses:**
  - protect First Nations’ exclusive access/harvesting rights to culturally significant lands (shell middens, culturally modified trees, culturally sensitive plants, resources, places) with no development; this is critical to core principles of reconciliation, DRIPA, etc.
  - protect ceremonial resources such as ochre, and medicinal and culturally significant plants
  - list First Nations as coordination partners for freshwater stewardship
  - work to propagate critical species and traditional plants
  - highlight medicinal plant harvesting as cultural and spiritual use

### Feedback from Lyackson First Nation Staff

Lyackson First Nation staff provided detailed comments on various sections of the draft new Policy Statement, building on earlier comments provided by Cowichan Tribes (both are Nations within the Quw'utsun Nation). The comments included, but were not limited to, the following:

- **Language:**
  - feels like Indigenous was just “tacked on” throughout document, does not feel like Indigenous concepts were at the forefront
  - “the aesthetic value of forest land should be protected” (4.3.2) is very Euro-centric statement
  - define rural island/community character - should include Indigenous people
  - define Indigenous cultural heritage
- **Governance, Rights, and Responsibilities:**
  - need to align with UNDRIP/DRIPA; how will the Policy Statement be updated to recognize the need for “free, prior, and informed consent”
  - important to state Indigenous people were not consulted in conception and development of Policy Statement; there needs to be a commitment going forward to involve Indigenous perspectives and voices at all stages (problem identification, design, concept phases, through to decision-making)
  - list First Nations/Indigenous communities as key partners in carrying out mandate
  - define what is meant by meaningful engagement and cooperation with First Nations; funding must be provided to support such engagement
  - address governance and stewardship desires of Nations: co-governance, co-leadership
  - all directive policies should start with “subject to consultation and meaningful engagement with local Indigenous Nations” / “local trust committees and island municipalities shall, consistent with UNDRIP, work with Indigenous peoples to...”

- use traditional knowledge and traditional practices to inform “western scientific” approaches; elaborate on seeking guidance from elders and traditional knowledge; this work must be funded
- policies should not interfere with traditional practices
- development should not impact the Aboriginal rights of an Indigenous person
- local autonomy must be exercised within an Indigenous construct; should not prioritize enjoyment of residents and visitors above local Indigenous communities;
- **Protecting Ecosystems for Cultural/Spiritual/Economic Uses:**
  - baselines: in situations where there has been significant degradation, work to regenerate and restore to previous levels (wildlife, fish/fish habitat, lands, cultural spaces, etc.)
  - some local Indigenous communities want to decide how they develop their land (e.g. economic development opportunities) - not simply about preserving and protecting, also about economic reconciliation
  - interest in exploring “landback” mechanisms that could possibly allocate Islands Trust funding to First Nations to set aside lands for Indigenous practices and use
  - concerns about Policy 4.3.2 possibly fettering Indigenous logging (economic development) and infringing on exercise of Aboriginal cultural practices (e.g. culturally modified trees)
  - concerns about deterioration of Indigenous harvesting areas by settler use (e.g. Winter Cove on Saturna Island)
- **Coastal/Marine Protection:**
  - supportive of prohibition of new private docks (Policy 4.5.14) but prefers no private docks; disagrees with any new private docks until there is a Cumulative Effects Impact Assessment (consistent with Blueberry River B.C. Supreme Court decision); careful consideration should be given to approving development on properties that are boat-access only, approving only on a very limited basis
  - aquaculture related development, activity, buildings, or structures should not result in disturbance to culturally sensitive areas
  - reef ball placement should require consultation with First Nations
  - amend freighter anchorages advocacy policy to include container ships
  - include advocacy regarding disposal at sea sites
- **Indigenous Cultural Heritage Protection:**
  - reflect the Indigenous concept of caring for ancestors (especially in context of culturally rich and archaeologically sensitive spaces and resting places of ancestors)
  - note that it is not always appropriate to identify Indigenous spaces used for harvest/cultural or ceremonial purposes
  - note ceremonial uses
  - work with Indigenous cultural monitors
  - specify that Indigenous cultural and significant spaces include, but are not limited to, shell midden, burial caves and cairns, archaeological features, culturally modified trees, etc.
- **Supporting Indigenous Community Members**
  - need for co-governance mechanisms, Indigenous leadership, and Indigenous lenses on all policies, including those in Part 6 (Sustainable and Resilient Communities policies)
  - be wary of pan Indigeneity – “Indigenous” refers to local Indigenous populations with Title
  - support economic opportunities and prioritization of services for Indigenous people
- **Housing for Indigenous Peoples:**
  - Trust Council should prioritize finding solutions for Indigenous housing needs

## Feedback from Malahat Nation Staff

Malahat Nation staff provided detailed comments on various sections of the draft new Policy Statement. The comments included, but were not limited to, the following suggestions:

- **Language:**
  - concerns with term “heritage” for all Indigenous culture: too history-focused, culture is ongoing and relevant; need to respect modern traditions, cultural and knowledge
  - concerns with “Indigenous ways of knowing”: not appropriate/offensive; could possibly be changed to “Indigenous knowledge, culture, and history that is reflective of Indigenous community needs and desires”
  - questioned meaning of “local knowledge”: local knowledge is Indigenous knowledge
  - questioned accuracy of statement “homeland of more than 28,000 Coast Salish Peoples”
  - reword “seven generations” principle to reflect all generations
  - reword “settler-centric” to “colonial”
- **Governance, Rights & Responsibilities:**
  - Role of First Nations: acknowledge traditional laws and practices, historic inequalities
  - provide historical context: forced removal and genocide cut off Indigenous people's connection to their lands and traditions, and they continue to suffer from this - including through alienation from their homes (i.e. through Residential School), and displacement to reserves, usually far from their homelands and with insufficient, scarce resources
  - many policies should be undertaken in coordination and cooperation with Nations - work together to align with Nations’ interests and concerns, as well as DRIPA
  - capacity funding needed for engagement (given historic inequality and DRIPA)
  - acknowledge Douglas Treaty Rights
- **Protecting Ecosystems for Cultural/Spiritual Uses:**
  - state that that freshwater use in the Trust Area will not (vs should not) impede the inherent rights of First Nations to access freshwater streams for cultural and spiritual purposes (Policy 4.2.3)
  - language in agricultural directive policy is too weak (Policy 4.4.3)
- **Coastal/Marine Protection:**
  - work “in coordination and cooperation with First Nations” to preserve, protect, and support the restoration of eelgrass meadows, kelp forests, forage fish spawning areas, tidal salt marshes, mud flats, and coastal wetlands (Policy 4.6.9)
  - aquaculture and other development, activity, buildings, or structures should not result in disturbance to culturally sensitive areas (Policy 4.6.5 & 4.6.10)
- **Indigenous Cultural Heritage Protection:**
  - Part 5 needs revision to reflect modern culture, history, and practices; acknowledge the need for revitalization, not just heritage protection
  - Policies 4.5.4 and 4.5.6 should state “no disturbance” to middens or foreshore areas identified as culturally significant
- **Housing for Indigenous Peoples:**
  - Coordination Policy 6.2.8 should be reworded: to foster safe, secure, and affordable housing for Indigenous Peoples “that respects Indigenous culture, traditions, and knowledge...”

### Feedback from Snuneymuxw First Nation

Snuneymuxw First Nation provided a high level letter, outlining its support for the draft new Policy Statement. The comments included, but were not limited to, the following statements:

- **Governance, Rights & Responsibilities:**
  - Snuneymuxw First Nation has reviewed the draft new Policy Statement and supports the draft language contained therein
  - supports the acknowledgment of the treaty rights of Snuneymuxw First Nation with respect to the Trust Area
  - supports the alignment with the *Declaration on the Rights of Indigenous Peoples Act*
  - supports the recognition of Snuneymuxw rights and authority in Snuneymuxw Territory, which is consistent with the government-to-government relationship Snuneymuxw First Nation has with British Columbia, and the Nation-to-Nation relationship it has with the Government of Canada
  - appreciates that reconciliation is woven throughout the document, but also notes that the true test will come through action
  - welcomes the opportunity to work alongside Islands Trust to promote and preserve Snuneymuxw's lands and waters in the Islands Trust Area.
  - wishes to develop a joint protocol for decision-making, going forward, that respects Snuneymuxw's Treaty of 1854 and way of life, and where necessary, enter into constructive arrangements or agreements that address impacts or infringements to Snuneymuxw rights.

### Feedback from Tla'amin First Nation Staff

Tla'amin First Nation staff provided detailed comments on various sections of the draft new Policy Statement. The comments included, but were not limited to, the following suggestions:

- **Language/Context :**
  - replace "Indigenous ways of knowing" with the term "Traditional Ecological Knowledge" or "Indigenous Ecological Knowledge" as these are more common in the literature
  - Tla'amin uses the term "Traditional Territory"
  - reword "seven generations" principle to reflect all generations
  - bear in mind order of importance when being inclusive of Indigenous communities (avoid listing First Nations/Indigenous issues as last consideration in long list of considerations)
  - define "marine dependent land use"
  - preferred definitions for the Precautionary Principle:  
"where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation." - Principle 15 of the Rio Declaration  
"When there is substantial, credible evidence of danger to human or environmental health, protective action should be taken despite continuing scientific uncertainty." - Joe Schwarcz
- **Governance, Rights & Responsibilities:**
  - include map with Statement of Intent (SOI) and Treaty Consultation Areas
  - Role of First Nations: refine "collaboration is required language"; reframe language to state that Islands Trust is striving to work with First Nations to allow Indigenous Nations to play an integral role in governance and cooperative decision making; e.g. a role on Trust Council.
  - specify what responsibilities visitors and land owners have to be stewards or to make sure they are conforming with Islands Trust policy?
  - Regional Governance Part 3 goal statement should include: align with local Indigenous government structures, thereby supporting DRIPA; collaboration is required

- supports Policy 3.1.2 placing priority on preserving and protecting the integrity of the environment and Indigenous cultural heritage in all decision-making.
- **Protecting Ecosystems for Cultural/Spiritual Uses:**
  - include cedar (roots, bark, etc.) in list of Indigenous harvesting areas (Policy 4.1.7)
- **Coastal/Marine Protection:**
  - in addition to harvesting areas, note need to protect “cultural practice areas”
  - direct aquaculture away from all spawning grounds (herring, salmonoids, etc.), First Nations traditional harvesting areas, cultural practice areas, and archaeological resources
  - supports Trust Council commitment on restrictions necessary to preserve and protect the sensitive coastal and marine waters, and Indigenous cultural heritage sites (Policy 4.6.7);
  - supports prohibition of new private docks (Policy 4.5.14)
  - supports policy regarding sea level rise and shoreline buffers/setbacks (Policy 4.6.15)
  - clarity needed in Policy 4.6.17 around introduction of new species; Tla’amin does not support introduction of foreign species
- **Indigenous Cultural Heritage Protection:**
  - note requirements set out in *Heritage Conservation Act*; e.g. it is illegal to take fill from a midden regardless of whether it is identified as culturally significant or whether the site is a registered or unregistered archeological site
  - in description of Indigenous Cultural Heritage, include “legend/story sites”
- **Housing for Indigenous Peoples:**
  - clarify in Section 6.2 – protection of cultural heritage sites
  - clarify Trust’s role in advocating for housing for Indigenous community members

### Feedback from WSÁNEĆ Leadership Council Staff

WSÁNEĆ Leadership Council (WLC) will be providing detailed comments on various sections of the draft new Policy Statement in the coming months. In advance of the June Trust Council meeting, WLC staff have provided a high-level letter outlining their key interests. The letter included, but was not limited to, the following:

- **Context :**
  - from WSÁNEĆ perspective, Southern Gulf Islands were never sold, and are their TELETÁCES (“Relatives of the Deep”). These islands were once WSÁNEĆ people, and they were thrown to their current locations by XÁLS (the creator). Once they had settled, XÁLS turned to the remaining WSÁNEĆ people and gifted them responsibilities and obligations for their care
  - throughout late-1800s and early-1900s, WSÁNEĆ people were removed from Gulf Islands; while colonialism has pushed the community toward the villages on the Saanich Peninsula, the Southern Gulf Islands remain vitally important to WSÁNEĆ people
- **Governance, Rights & Responsibilities:**
  - while the Province has recognized UNDRIP and made progress toward reconciliation, municipalities, regional districts, and Islands Trust have not followed suit
  - WSÁNEĆ people have rights and responsibilities protected by the Constitution; these rights are impacted by decision-makers at all levels
- **Protecting Ecosystems for Cultural/Spiritual Uses:**
  - to exercise WSÁNEĆ rights, WSÁNEĆ people require a healthy environment and have obligations to care for the environment
  - preservation and protection of the Trust Area must include WSÁNEĆ input and traditional knowledge and must preserve forested areas, wetlands, and foreshores

- **Coastal/Marine Protection:**
  - docks and other foreshore structures have environmental and policy-based impacts on W̱SÁNEĆ harvesting
  - agricultural run-off (along with other pollutants) has detrimental impacts on W̱SÁNEĆ marine harvesting
  - consideration of impacts, along with remediation plans and involvement of W̱SÁNEĆ monitors should be considered in any amendments to Policy Statement
- **Indigenous Cultural Heritage Protection:**
  - W̱SÁNEĆ people lived, and live, all throughout the Gulf Islands; records of W̱SÁNEĆ ancestors are preserved in burial places, middens, and other archaeological sites
  - Provincial policies have not adequately protected or mapped these places; therefore increased Islands Trust scrutiny in sensitive cultural heritage areas is needed
  - interested in reintroducing W̱SÁNEĆ culture and W̱SÁNEĆ presence to the Gulf Islands through public education events, public art, and the renaming of significant features
- **Housing for Indigenous Peoples:**
  - additional housing for W̱SÁNEĆ people is imperative and should be considered in any amendments to the Policy Statement