

**Submission by the Trincomali Improvement District
regarding
Review of the Islands Trust Council DRAFT Bylaw No. 183
October 20, 2021**

The Trincomali Improvement District (TID) was formed in August 1983. The objects of the TID are “the maintenance, and operation of works for waterworks purposes and all matters incidental thereto” for the Trincomali Community, located on the extreme southwest end of North Pender Island.

The TID Board consists of five trustees who are elected by the 104 property owners within the Trincomali Community. Pursuant to Section 697 of the **Local Government Act**, an improvement district is a corporation and has all powers necessary or useful in carrying out its objects.

The Board members of the TID individually reviewed the Draft Bylaw No. (183) (Draft Bylaw) updated July 15, 2021. The Board met on October 7, 2021 to discuss the Draft Bylaw and to prepare comments for submission to the Trust Council. Mr. Jeff Green, a resident of the Trincomali Community assisted the Board in preparing this submission. It should be noted that while the residents of the Trincomali Community and the Trustees of the TID in their personal capacities may have more expansive concerns and issues with the Draft Bylaw, the TID makes this submission within and pursuant to the restrictive confines of its objects.

General Overview of the Draft Bylaw

The Draft Bylaw contains a number of worthwhile and positive changes, including revised clauses and new clauses, which help clarify the authority and mandate of the Trust Council and the Local Trust Committees. In principle, the TID supports many of the changes to the Draft Bylaw regarding reconciliation with indigenous people, climate change and addressing sustainable and affordable housing.

In response to the referral for submissions on the Draft Bylaw the TID has the following general and specific comments and recommendations:

General Comments and Recommendations

1. **Professional Editing of the Document:** The document is in our view, wordy and in many instances, repetitive. A thorough edit would greatly improve the readability of the document and clarify the specific meaning and intent of specific clauses. This would help greatly to reduce confusion during the debate of the Draft Bylaw by the Trust Council and the upcoming public engagement process.
2. **Definition of Terms:** While some terms are defined at the start of some sections many terms are not defined. Accurate definition of key terms in the Commitments of the Trust Council, Directive Policies and Coordination Policies is critical so that (a) the intent of the Trust Council is clearly expressed and (b) there is a common understanding and acceptance of the intention and use of specific clauses by Local Trust Committees, indigenous groups, property owners, residents, communities, local improvement districts and trust municipalities. Clear terminology is particularly important if there is a legal challenge to the document or disagreement on a development application.

3. **Need for a Glossary:** While we appreciate this is a general policy statement, we feel it would help immensely if all key terms described in the Draft Bylaw were placed in a single glossary rather than in the text of the Draft Bylaw. Doing so allows for easy access to definitions, and will help reduce the length and complexity of the written core text. The Glossary for the Island Trust Act, including the definitions contained within the Act, could be used as a start to facilitate consistency between the Act and the Draft Bylaw.
4. **Policy Statement or Development Bylaw:** We understand that the intent is to develop an up-to-date policy statement which provides a roadmap or overriding framework within which specific bylaws can be drafted and interpretations made.

The Draft Bylaw states:

*“The purpose of the Policy Statement is to establish a **general** statement of policies of Trust Council to carry out the Islands Trust Object to preserve and protect the unique amenities and environment of the Trust Area. The Policy Statement aims to establish a **vision for the future** of the Trust Area that reflects the values and interests of the environment, residents, First Nations, and British Columbians, for this generation and for generations to come.”* (bolding added for emphasis).

However, we note that in many instances the policy statement drills down to specific issues and areas which should be the subject of specific bylaws. Their inclusion in a general policy statement is, in our view, inappropriate.

Specific Comments and Recommendations

1. **Potential Impacts to Water Management and Operations of the TID:** The TID paid special attention to Section 4.2, as it has a direct influence on the objects of the TID. The TID supports measures to protect and conserve watershed ecosystems, freshwater networks, and groundwater recharge areas. Our specific comments are as follows:
 - 4.2.10 includes a reference to local improvement districts but there is no mention of local improvement districts in 4.2.12. Its exclusion would lead one to believe this was intentional.
 - In 4.2.4, the definition of self-sustaining is important to understanding the policy statement’s intent. The TID has been self-sufficient in providing water to our community for close to 40 years. In 2012, due to a reservoir damage issue, it was contemplated that trucking of water from Vancouver Island would be required to maintain a water supply for our residents. Would self-sufficient, as used in this clause, allow the TID to continue to have trucking or other means of water supply as an option?
 - In 4.2.5, desalination plants are not permitted. While the TID has been successful in meeting water use in our community through careful groundwater management, conservation by our residents, and other measures by our residents (e.g., rain water harvesting, cisterns, etc.), we want to maintain the option of alternate water sources such as desalination. Desalination may also serve to provide an alternative source of water for firefighting purposes to a community such as ours, with limited water storage. Firstly, we are the view that the specific subject of desalination should not be dealt with in the context of a general policy statement. Secondly, we ask that desalination, once dealt with in the appropriate context, be allowed through permitting where energy use and environmental impacts are assessed and considered to be acceptable. As a note, the justification for the outright prohibition

on desalinization plants is not, to our knowledge, scientifically supported as the science and the methodology are evolving.

- 2. Consistency and Inclusivity of Residents in the Draft Bylaw:** The Islands Trust Act objects clearly state that actions of the Trust are “..... for the benefit of residents of the Trust Area and of British Columbia generally” (underlining added for emphasis). It also lists government and agencies with which the Trust may collaborate. However, in multiple places throughout the Draft Bylaw, residents are placed last or near last in the list of parties. Similarly, in Part 2 in the discussion of roles, residents are again listed last and are lumped in with other miscellaneous groups. There also are many instances where the Trust Council or the Local Trust Committees are directed to engage and work with other parties, with no mention of residents. Other than the reference to residents on Page 6, the mention of residents is often made in the context of a mere reference to public engagement.

As residents can and do participate in all aspects of the Trust activities, as well as active involvement in planning and physical initiatives by the Trust, residents should have a stronger and more prominent role in the Draft Bylaw. In this context we suggest that the draft Bylaws define residents to mean “property-owners, long-term and seasonal inhabitants, Trust communities, Trust municipalities and local improvement districts”. The latter three could be referred to as residential organizations. The term visitors and public are distinct and should not be lumped with residents.

- 3. Extending the Core Mandate of the Trust:** The Draft Bylaw includes revised and new sections that expand the existing core mandate with respect to indigenous reconciliation and engagement, climate change, housing and housing affordability, and coastal and marine. While the TID is supportive of addressing these four issues, the degree to which each topic is considered must be realistic and reflective of the current ability and jurisdiction of the Trust to manage these issues through tools such as zoning, bylaws, development permits, conservation or protected areas, etc. The Trust should not be intruding into the regulatory jurisdiction of provincial and federal agencies, other local governments, or indigenous groups who have the mandate, necessary staff, skills, experience and budget. In short, the Trust should not be abrogating the legal maxim that it cannot do indirectly what it is not constituted to do directly. Additionally, residents in the Trust Area already pay a substantial amount to fund the Trust through their annual taxes. Continued increases in the tax for the Trust to meet the proposed expanded mandate are not supported.
- 4. Rationale for New or Highly Revised Clauses:** Justification for some of the new or substantially revised sections and clauses are provided at the start of a new section of the Draft Bylaw (e.g., Part 3 or Part 4). However, in some specific Parts and clauses within Parts, changes are either not justified or explained or explained with simplistic and unsubstantiated statements (see for example our comments on desalinization plants).

Closure

The TID is generally supportive of the goals and intent of the Draft Bylaw but has some general and specific issues which are of concern.

In summary the TID submits that the Draft Policy requires:

- Substantial editing;
- Insertion of definitions;
- Inclusion of a glossary;
- Exclusion of specific issues (desalination, etc.);
- Clarification of intent (self sufficient water supply, residents' role as paramount and distinct from visitors, etc.);
- Limitations on the Trust's role and capacity commensurate with constitutional realities;
- Inclusion of the rationale for new items not historically included in the previous policy statement.

In closing the TID greatly appreciates the opportunity to submit its referral comments of the Draft Bylaw as set forth herein. Please contact me at either +1.604.418.0891 or mshane0522@gmail.com if you have questions or comments.

Michael Shane,
Chair, Trincomali Improvement District