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October 31, 2023

To: Islands Trust Council and Islands Trust Staff

Friends of the Gulf Islands Society is a growing group of BC residents concerned about the distressing direction in which the Islands Trust has been moving over the past several years. The shift towards community needs has now superseded the protection of the natural environment and is continuing in spite of opposition by a number of trustees and several concerned organizations. Additional development and other community objectives are being brought forward for approval without adequate environmental scrutiny that should be central to decisions made by the Islands Trust Council and Local Trust Committees (LTCs). In doing so, we believe the Islands Trust has strayed from its central mission: to achieve the object of the Trust Act, Sec 3. "...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.....".

As noted by Great Northern Management in their 2022 Governance Review of the Trust:

"Islands Trust lacks both a comprehensive analysis of the Trust Area's capacity to sustain current population and activity, and its ability to accommodate more growth and development, especially in light of climate change and other considerations. These include adequacy of water supply, rising sea levels, wildfire risks, threats to ecosystems, stringent environmental protection regulations, the increasing cost of public services." <sup>1</sup>

According to the Trust's own report, State of the Islands (June 2019), the amount of land converted for human use is past the point needed for ecosystem health on Mayne Island, is reaching that point on Gabriola Island and is approaching that point on several other islands. In complete disregard for State of the Islands report, trustees continue to ignore the precautionary principle<sup>2</sup> when considering development applications or evaluating the cumulative impacts of increasing densities on the health of the ecosystems or from climate change. In failing to observe the findings of their own organization, Trustees stand in contradiction to the Trust Council's Declaration of a Climate Emergency, making a mockery of the Trust's founding mandate.

Below are some examples of recent actions, by the Trust Council and Local Trust Committees (LTCs), that are potentially destructive to the environment. We fear that if this trend is allowed to

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<sup>1</sup> Great Northern Management Consultants, Islands Trust Governance Review, February 2022 Pg 26-27

<sup>2</sup> "precautionary principle" is defined as "When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause-and-effect relationships are not fully established scientifically." Galiano Island Official Community Plan Pg 3

continue, the Gulf Islands and surrounding waters will be lost as a special habitat as the Provincial legislature intended to preserve in 1974, and their unique marine and terrestrial ecosystems and rural character, will be lost forever.

### Recent Actions by Trust Council

During the Islands 2050 public consultation for the Policy Statement review process, the majority of the general public indicated that the environment should be the primary consideration when amending the current Policy Statement. Yet, in March 2021, Council passed a motion that incorporated matters under the authority of the Local Government Act (LGA) into the object of the trust, specifically the protection of healthy and inclusive communities, housing and transportation. Council subsequently voted down a trustee's motion that would have affirmed the protection and preservation of the natural environment as the paramount object of the Islands Trust Act.

During the Policy Statement review process, Islands Trust staff proposed policies such as banning desalination plants and the installation of new private docks and addressed the need for enhanced forest protection, based upon scientific studies warning of potential cumulative damaging impacts. But when confronted with objections from some property owners, Trust Council removed these policies. Trust Council also decided to not include any reference to the precautionary principle in the Policy Statement despite the fact that seven islands' official community plans (OCP) reference it.

At the March 2023 Trust Council Meeting, Council voted against negotiating with the province for more authority over tree cutting to enable Local Trust Committees to enhance their ability to protect the endangered Coastal Douglas Fir ecosystem (CDF).

### Recent Actions by Local Trust Committees on Various Islands

Salt Spring Island Local Trust Committee gave first and second reading to version of Draft Bylaw 530 that would have rezoned most residential properties to have a second residence (either a suite or cottage), even in areas with known water shortages, and despite an objection from the Tsawout First Nation that stated in part: "the island does not have the capacity to increase living conditions without threatening the environmental stability of our traditional territory."<sup>3</sup> Currently, the bylaw is being rewritten.

The Vortex oceanfront resort development was approved despite community concerns that the site is of paramount ecological importance and subject to sea level rise and objections from the Lyackson First Nation who asked that the LTC not give any further consideration to the Development Permit Area (DPA) permit until completion of an archeological report.<sup>4</sup>

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<sup>3</sup> Tsawout First nation, letter sent to Salt Spring Island Local Trust Committee, August 18, 2023

<sup>4</sup> Lyackson First Nation, sent to Salt Spring Island Local Trust Committee, June 10, 2022 ".....that the Salt Spring Island LTC does not further consider the Development Permit Application until the completion of final AIA report for HCA 2018-285 for the Vortex Development, and allow our Coast Salish First Nations sufficient time to review and

### Galiano Island

In 2022, the LTC and Trust Executive approved a rezoning in the Community Forest, a groundwater recharge area, for a high-density multi-family development. This rezoning is contrary to the Galiano OCP Land Use Bylaw 215 that identifies: "the importance of forest cover and the retention of unfragmented forest ecosystems." As well, the LTC and Executive failed to find this rezoning inconsistent with Trust Policy Statement 4.4.2 which bars increased development in areas with groundwater supply problems.

In August 2019, the Capital Regional District notified nearby residents of a Level 3 Water Conservation Notice, that read: "The Sticks Allison water system source water resources are reaching critical levels due to historically low aquifer levels". The only flow test conducted on the project's well was during an extreme precipitation event in December 2018. The Regional Hydrologist's report stated that this winter test "...may not reflect well and aquifer response during the summer/dry season."<sup>5</sup> and that "The aquifer productivity is considered low..."<sup>6</sup>

Further, contrary to Galiano's OCP's Wildlife Protection Objectives that identifies the requirement to: "protect wildlife resources and to preserve habitat for wildlife", the LTC, Trust staff and Executive accepted an Ecological Assessment Report with the following limitations: "The Ecological Assessment Report did not include any targeted species-at-risk surveys of the site and the scope of the report did not include any targeted wildlife surveys of the site."<sup>7</sup>

### Gabriola Island

In 2018, the LTC approved a rezoning and subdivision creating 27 residential lots in a major aquifer area that supplies water for over 500 wells and is described by a Regional District of Nanaimo report to be in decline<sup>8</sup>. The water report for this subdivision was based primarily on insufficient historical well data of nearby wells as there was only one existing well in the subdivision. The development included the subdivision of 80 acres of forestry zoned land.

A rezoning for a 24-unit multi-family development on 5 acres was approved in 2022 despite a November 2020 report from the Ministry of Forests, Lands, Natural Resource Operations and Rural Development indicating a potential decline in groundwater due to

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comment on the scope and methodology of the fieldwork, its described results and analysis, and evaluate potential archaeological impacts by the Vortex Development."

<sup>5</sup> Memorandum: Ministry of Forests, Lands, Natural Resource Operations and Rural Development, Water Protection, Nanaimo re: File: 58000-38-12/20013441 Galiano AQ320, Sylvia Barroso, MSc PGeo, Regional Hydrogeologist, February 22, 2021 Pg 4

<sup>6</sup> Ibid, Pg 2

<sup>7</sup> Ecological Assessment Report for Proposed Affordable Housing Property in the Galiano Community Forest, January 18, 2021 Pg 5

<sup>8</sup> State of our Aquifers: Regional District of Nanaimo Aquifer 709; Prepared for: Regional District of Nanaimo Prepared by: GW Solutions Inc. August 2017

climate change and increased water demand in the area.<sup>9</sup> Also, residents within a 1 km radius reported declining well water. Despite the multi-family development proponent having stated 50% of the lot would remain untouched, the LTC refused to consider motions to include provisions in the newly created housing zone that would limit development to 50% of the lot's area and require rainwater catchment.

The current Trust Policy Statement states islands should be self-sufficient in meeting their own water needs; yet residential development on Gabriola has grown such that the City of Nanaimo and water delivery companies reported to us that over 9 million liters of water were hauled by truck to the island in 2021.

In addition, both Gabriola developments held uninterrupted forest canopy that extended to adjacent lots.

In the above Local Trust Committee examples, staff, LTCs and Executive Committee did not consider the precautionary principle with respect to climate change or the future impacts that increased development would have on groundwater supplies. The focus was instead, on meeting community housing and developers' needs, not the protection of the ecosystem or natural resources as required by the Trust object.

### Additional Considerations

The Gulf Islands are experiencing significant residential growth. The 2021 census<sup>10</sup> showed a growth rate of 26.81% from 2016 on the thirteen major islands compared to growth of 3.38% from 2006 to 2016. Building trends are also changing from smaller homes intended for seasonal recreational use to larger homes. Since more than 65% of land within the Trust Area is privately owned, these statistics indicate that there is an increasing potential for risk to biodiversity. From the Trust's State of the Islands report (2019), as of July 2016:

"Only 22% of the high biodiversity areas of the Islands Trust Area have been protected. For this reason, it is important to support continued land protection efforts and for islanders to carefully maintain habitat on their lands so that we can keep our best ecosystems intact and help sustain the plants and animals that share these beautiful islands."<sup>11</sup>

On a finite land base with finite resources, it is not feasible to indefinitely increase density. Without strong policies, regulation and limits, the impact on our limited fresh water supplies and on the native natural ecosystems will be significant.

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<sup>9</sup> Memorandum: from the Ministry of Ministry of Forests, Lands, Natural Resource Operations and Rural Development, Water Protection, Nanaimo re: File: 58000-38-21/20013567 Gabriola Housing Society, Sylvia Barroso, MSc PGeo, Regional Hydrogeologist, November 30, 2020, Pg 5

<sup>10</sup> Statistics Canadian (2021) <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/search-recherche/lst/results-resultats.cfm?Lang=E&GEOCODE=59>

<sup>11</sup> Islands Trust, "State of the Islands Indicator Project: Final Report", December 2019, Pg 18

### How an Entity Describes Itself has Consequences

Trust Council has over the years, described itself as a *local government* or a *special purpose local government* rather than a *trust*. The wording of some Trust Policy Statement provisions also lends credence to that perspective. All of this has contributed to confusion by the public and many trustees, about the distinction between a trust and a local government. As a result, public pressure is increasing on Council to provide more housing and community services despite these responsibilities belonging to Regional Districts. We maintain that any provisions within the Local Government Act are secondary to the Trust object when making land use decisions.

During the recent review of the Trust Policy Statement, the decision of Trust Council not to prioritize the environment or make it a paramount factor in its decision making is the last of a long list of compromises which has cast doubt upon the identity and purpose of the Islands Trust as a trust. Current Trust actions render the Trust Area no different from any other area under a local government where land use planning encourages development. The vision of the Trust Act was not to develop these islands in the image of surrounding urban areas; it was to provide a respite from those urban areas for all residents of British Columbia by ensuring development takes place only if natural ecosystems are protected. Long-term planning, using scientific data, and employing the precautionary principle with strong policies and enforceable regulations, are needed to provide the protection that is required by the Trust Act.

### Conclusion

The environment, its finite resources and ecosystems, and the character of these islands will continue to be degraded by inappropriate decisions that put unsustainable desires of the community over and above the protection of ecosystems. Building ourselves out of our current social predicaments or relying on technology to overcome the limitations of our natural resources, is not possible. We are asking that the carrying capacity of each island in the Trust Area be determined by scientific studies rather than by the unchecked demand for continual growth at the expense of the environment.

This may prove to be a watershed moment for the Trust. We urge staff and Trust Council to re-think where they are going and change course now. The Trust Policy Statement must be revised both in its form and implementation as it applies to how Local Trust Committee bylaws are assessed for compliance with the Trust object.

We all face the unprecedented challenges of climate change and development pressures. Trustees and residents will need to respect and appreciate First Nations' heritage and culture so we can all benefit from their knowledge gained from countless generations of protecting and preserving the environment upon which all life on and around these islands ultimately depend.

BC Supreme Court Justice Southin in his decision, *MacMillan Bloedel v. Galiano*, stated the mandate is “no mere piety”.<sup>12</sup> We ask Trust Council to heed these words and stop treating the mandate as a mere piety.

Sincerely,

Jennifer Margison, President, Galiano Island

Friends of the Gulf Islands Society

Directors:     Maria del Carmen de Menyhart, Galiano Island  
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<sup>12</sup> *MacMillan Bloedel Ltd. v. Galiano Island Local Trust Committee*, 1995 Can LII 154 (BC CA)