

Date: October 13, 2009

File No: EX/04

To: Executive Committee Acting as a Local Trust Committee
For the meeting of October 27, 2009

From: David Marlor, MCIP

CC:

Re: Official Community Plan and Land Use Bylaw

THE PROPOSAL:

The area of the Islands Trust administered by the Executive Committee Acting as a Local Trust Committee under Section 23(5) of the *Islands Trust Act* currently has no official community plan or land use regulations in place. The purpose of this report is to recommend a process, timeline and budget for the development and adoption of an official community plan and land use bylaw for this area.

SITE CONTEXT:

The area of the Islands Trust not within a local trust area is administered by the Executive Committee and as such the islands with this area are known as the "Executive Islands"; the area extends from the western boundary of the Gabriola Island Local Trust Area, east of Nanoose Bay on Vancouver Island, west to the southern boundary of the Denman and Hornby Island local trust areas in the vicinity of Deep Bay on Vancouver Island. The area is approximately 56 km in the east to west direction, an average of 8 km north to south and covers an area of approximately 420 square kilometres. Of this, 415 square kilometers (98 per cent of the area) is covered by the waters of the Strait of Georgia.

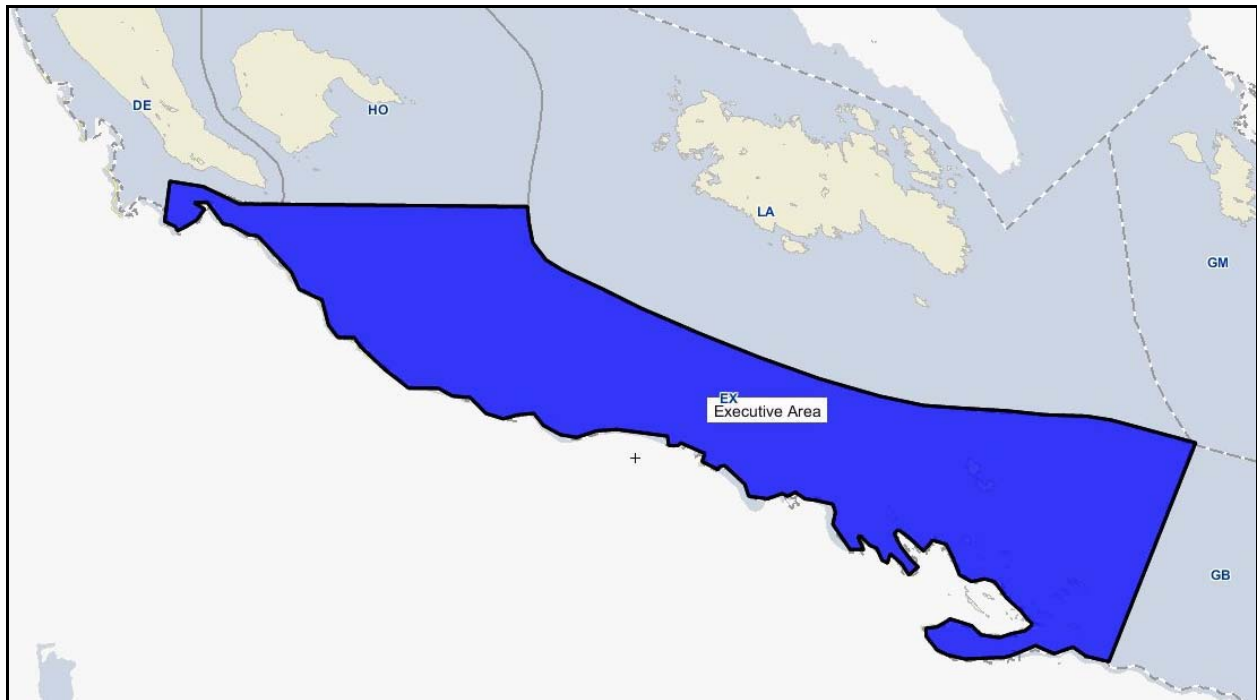


Figure 1: Executive Islands Area Context

A portion of the area is within the Canadian Forces Maritime Experimental Test Range, marked on nautical charts as “Whiskey Golf”. The range extends from just north of Nanoose Point at Gerald Island and extends eastward for 24 kilometres and north for 8 kilometres. The missile test range avoids the privately held Ballenas, Gerald and Winchelsea islands. The test range extends into the Gabriola, Gambier and Lasqueti local trust areas, but does not include any islands within those areas. All of the islands in the Executive area within “Whiskey Golf” are owned by the Crown.

There are 48 islands within the Executive Area covering a total of 4.67 square kilometers; of these, four are privately owned and the rest of the islands are under Crown jurisdiction. The islands are as follows:

Island	Area (ha)	Ownership
Ada Islands (east)	3.21	Crown
Un-named Ada 1 (north of Ada (east))	1.00	Crown
Un-named Ada 2 (north of Ada (east))	0.90	Crown
Un-named Ada 3 (south of Ada (east))	1.10	Crown
Ada Islands (north)	0.87	Crown
Ada Islands (West)	3.76	Crown
Un-named Ada 4 (west of Ada (south))	0.65	Crown
Un-named Ada 5 (east of Ada (south))	0.38	Crown

Un-named Ada 6 (south-east of Ada (south))	0.25	Crown
Amelia Island	3.78	Crown
Ballenas Island (West)	40.76	Private
Ballenas Island (West) – light station area	2.90	Crown
Ballenas Island (South)	34.25	Crown
Un-named Ballenas 1 (between south and north Ballenas)	0.70	Crown
Douglas Island	0.80	Crown
Gerald Island	11.96	Private
Maude Island	7.32	Crown
Un-named Maude 1 (west of Maude)	0.12	Crown
Un-named Maude 2 (north of Maude)	0.04	Crown
Un-named Maude 3 (east of Maude)	0.02	Crown
Un-named Maude 4 (east of Maude)	0.07	Crown
Mistaken Island	14.35	Private
UN 69 (north of Mistaken Island)	0.50	Crown
Ruth Island	0.62	Crown
Southey Island	4.62	Crown
Un-named Southey 1	0.06	Crown
Un-named Southey 2	0.05	Crown
Un-named Southey 3	0.02	Crown
Un-named Southey 4	0.06	Crown
Un-named Southey 5	0.04	Crown
Un-named Southey 6	0.17	Crown
Un-named Southey 7	0.02	Crown
Un-named Southey 8	0.03	Crown
Winchelsea Island (DL-61G)	11.36	Private
Un-named Winchelsea 1 (east of Winchelsea)	0.08	Crown
Winchelsea Island – A	6.73	Crown
Winchelsea Island – B	1.52	Crown
Winchelsea Island – C	2.50	Crown
Winchelsea Island – D	1.75	Crown
Yeo Island (west)	3.48	Crown

Un-named Yeo 1 (west of Yeo (west))	0.20	Crown
Yeo Island (east)	2.44	Crown
Un-named Yeo 2 (east of Yeo (east))	0.27	Crown
Un-named A (122,11,55.5w; 49,18,29n,)	0.20	Crown
Un-named B (124,6,49w; 49,16,56.8n)	0.93	Crown
Un-named C (off Wallis Point, 124,6,34.5w; 49,16,18.8n)	2.67	Crown
Un-named D (off Wallis Point, 24,6,43w; 49,16,25.1n; 1)	0.14	Crown
Un-named E (off Wallis Point, 124,6,48.1w; 49,16,28.6n)	0.60	Crown
Un-named F (off Wallis Point, 124,6,54.3w; 49,16,31.5n)	0.04	Crown
Total	466.52	

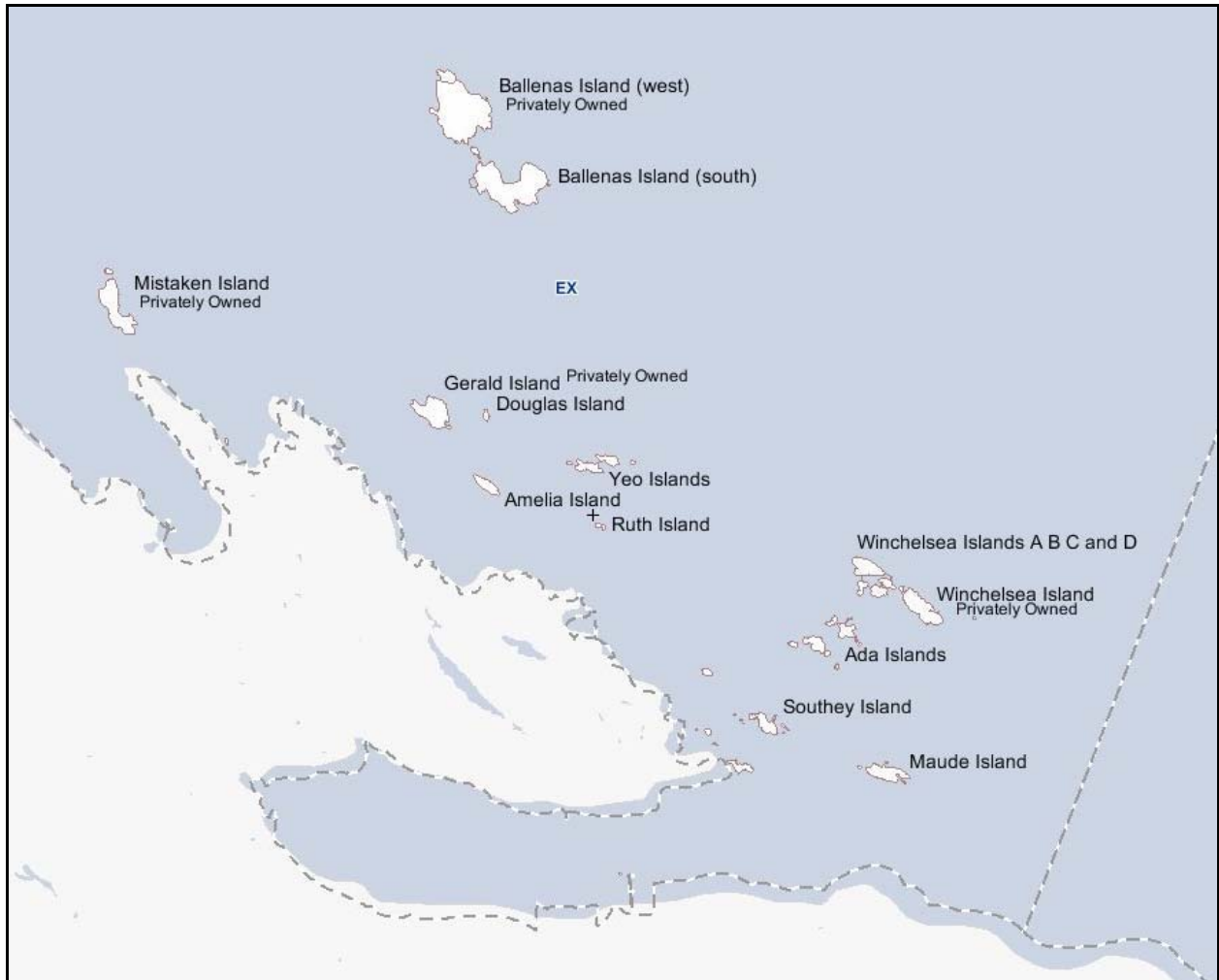


Figure 2: The Executive Islands

CURRENT PLANNING STATUS OF SUBJECT LANDS:

Trust Policy Statement:

Islands Trust Policy Statement applies to the Executive Islands area.

Official Community Plan

There is no existing Official Community Plan for the Executive Islands area.

Land Use Bylaw

There is no existing land use bylaw for the Executive Islands area. BC Reg. 119/90 [Islands Trust Regulation] under the *Islands Trust Act* controls development on the Executive Islands. Pursuant to Section 4 of BC Reg. 119/90, each parcel of land is permitted to have one single family dwelling unit, one recreational cottage not exceeding 400 square feet and any structures accessory to a dwelling unit or recreational cottage.

Buildings and structures not listed in Section 4 of BC Reg. 119/90 are permitted subject to approval of the Executive Committee Acting as a Local Trust Committee pursuant to Section 32 of the *Islands Trust Act* and Section 5 of BC Reg. 119/90.

Subdivision is controlled by BC Reg. 268/94 [Community Planning Area Number 24: Gulf Islands Subdivision Regulation] under the *Local Services Act*, which establishes a 4.047 hectares minimum lot size on the islands in the area.

Islands Trust Fund:

The Islands Trust Fund has a conservation covenant on Winchelsea Island.

Sensitive Ecosystems and Hazard Areas:

The Islands Trust Ecosystem Mapping (ITEM) is not available for the Executive islands. The 2004 Sensitive Ecosystem Inventory is available for the Executive Islands. CDF Terrestrial ecosystem Mapping (TEM) is available for Mistaken, Gerald, Douglas, Amelia, Ruth and Southey islands, and on the islands identified in this reports as “Un-named B” (north-west of Southey Island) and “Un-named C” (south of Southey Island). Garry Oak Ecosystem Present Day Extent mapping shows Garry Oak ecosystems on Winchelsea and Southey islands and on the island identified in this report as “Un-named C” (south of Southey Island).

Islands Trust mapping shows a Heron nesting site is shown west of the coast of Mistaken Island; it’s location and identify would need to be confirmed given that no land mass is shown in the vicinity of the nesting site.

Islands Trust mapping of “endangered species and ecosystems, sensitive occurrences” shows Peregrine Falcons on Bellenas Island (south).

Islands Trust mapping of “endangered species and ecosystems, non-sensitive occurrences” shows:

- Water-plantain Buttercups, Geyer’s Onion, Coastal Wood Fern and Dune Bentgrass on Ballenas Island (south);
- Coastal Wood Fern on Mistaken Island;
- Gerald Island and Amelia Island;
- Geyer’s Onion on Winchelsea Island;
- Graceful Arrow-grass on Winchelsea A Island; and
- Steller Sea Lions on the Ada islands.

Islands Trust mapping does not identify any streams, lakes or wetlands on any of the islands.

At present, 20 metres contour mapping is available for the Executive Islands. No air photos are available for the Executive Islands in the Islands Trust Property Information System (TAPIS).

According to available data, no hazardous areas are identified on the islands.

Archaeological Sites:

The Provincial Remote Access to Archeological Data (RAAD) indicates that there are six archeological sites identified on Ballenas Island (south) and one on the Island identified in this report as “Un-named C”. Both are Crown jurisdiction.

Covenants:

The Trust Fund Board holds covenants on Winchelsea Island. These covenants will be reviewed for relevance to policy and planning and incorporated in future reports as necessary.

COMMUNITY INFORMATION MEETING(S):

Section 879 of the *Local Government Act* requires that the Executive Committee Acting as a Local Trust Committee “provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected”. This consultation is in addition to the Public Hearing requirement.

RESULTS OF CIRCULATION:

Prior to consideration of adoption of a new Official Community Plan and Land Use Bylaw, a Public Hearing must be held. The *Local Government Act* requires that notice of the Public Hearing be mailed to landowners and distributed to residents within a distance established by bylaw and published in two consecutive newspapers circulating

in the area. The requirement to mail notice and hand deliver to residents is waived if 10 or more parcels owned by 10 or more landowners are affected by the proposed bylaws. Given the small number of landowners, distribution of the Public Hearing notice may be required.

STAFF COMMENTS:

Jurisdiction:

Most of the land area and a large portion of the water area are under the control of the Federal Department of National Defense and as such, local land use policies and regulations will have no effect. There are four small islands on which policies and land use regulations will have effect; in addition, establishment of policies and regulations for land currently under Federal jurisdiction would provide a safety net in the event the land is sold or otherwise transferred into private ownership.

Process:

Given the small number of landowners, lack of any communities on the islands and the small number of islands, the process for development and implementation of policies and regulations should be fairly straight forward.

The process will involve:

1. developing maps that identify the various islands, sensitive ecosystems, land hazard areas (if they exist), land use designations and zoning classifications;
2. writing to landowners, adjacent jurisdictions, First Nations, Islands Trust Fund and Provincial and Federal agencies indicating the intent to develop an Official Community Plan and Land Use Bylaw for these islands and outlining the process and options for input into the draft bylaws;
3. assessing the current situation on the islands and drafting recommended Official Community Plan policies consistent with Provincial legislation and regulations (including Riparian Area Regulation and Greenhouse Gas Emission reduction requirements);
4. drafting land use bylaw regulations for private and Crown parcels;
5. undertaking public and agency consultation (given the small number of landowners, it may be more appropriate to send out the draft documents to each owner with a request for comment, rather than hold a community meeting);
6. developing final bylaws for consideration of 1st reading; and
7. sending copies of final bylaws to landowners, agencies and posting on the Islands Trust website.

Budget:

Staff has submitted a budget request for the 2010/11 fiscal year to support the development and implementation of an OCP and LUB for this area. Staff estimates that the required budget will be as follows:

1. Initial contact with landowners, mail out and advertising to initiate the project and solicit feedback at \$2,000
2. A community information meeting or alternatively, a mail out and feedback request on the draft bylaws, advertising for public hearing and holding of public hearing \$2,000

The total budget request for 2010/11 fiscal year to support this project is \$4,000. Mapping is expected to be undertaken in-house using available data. While limited mapping is available (such as ecosystem and contours), need for additional mapping would be identified during the process and may be included in the official community plan as a future amendment; therefore, no additional funding would be needed in the 2010/11 fiscal year to support the mapping component of this project.

Timeline:

Assuming that Trust Council approves the funding request for the 2010/11 fiscal year, work can begin on this project in April 2010. The following timeline is recommended:

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|--------------|---|
| April 2010 | Initial letter to landowners advising of the project, including contact information, process and timeline information; development of mapping and collection of data on the existing situation. |
| May 2010 | Initial staff report with recommended draft Official Community Plan policies and Land Use Bylaw regulations for consideration of the Executive Committee Acting as a Local Trust Committee. |
| July 2010 | Referral to landowners, adjacent jurisdictions, First Nations, Provincial and Federal agencies and Trust Fund Board for comment. Allow 60-90 days for feedback and potential discussion of issues. |
| Oct 2010 | Draft final OCP and LUB for consideration of the Executive Committee Acting as a Local Trust Committee; consideration of 1 st Reading by the Executive Committee Acting as a Local Trust Committee. Schedule a Public Hearing. |
| Nov/Dec 2010 | Public Hearing and forward to the Executive Committee and to the Minister (OCP only) for approval. |
| Early 2011 | Consideration of adoption. |

Administrative Amendments

The Executive Area has the following administrative bylaws:

Bylaw	Date	Title/Purpose
Bylaw 2	April 19, 1978	<p>To establish a Board of Variance for the Executive Islands</p> <p>A Board of Variance is a requirement under S. 899 of the <i>Local Government Act</i> where a zoning bylaw has been adopted. The legislation covering Boards of Variance has changed since 1978.</p> <p>Staff recommends that a new Board of Variance bylaw be drafted and that the Executive Committee Acting as a Local Trust Committee share a Board of Variance with an adjacent local trust committee.</p>
Bylaw 3	February 6, 1980	<p>Accident Insurance Policy</p> <p>This bylaw covers members of the local trust committee in the event of accidents.</p> <p>The bylaw predates the amendments to the Islands Trust Act that created the local trust areas and may be superseded or repealed by later Trust Council bylaws.</p>
Bylaw 4	July 17, 1981	<p>To provide for notice of hearings on rezonings</p> <p>Bylaw provides notice and mail out requirements for bylaw amendments.</p> <p>Legislation has since changed and these requirements are now contained within the <i>Local Government Act</i> under s. 892.</p> <p>Staff recommend that this bylaw be repealed</p>
Bylaw 8	November 17, 1982	<p>Access to records</p> <p>This bylaw, an early freedom of information bylaw, appears to be still in force (it was not repealed), although it has been superseded in date by Bylaw 19</p>
Bylaw 9	Aug 4, 1993	<p>Adoption of Policy of Islands Trust</p> <p>A bylaw that adopts the policy of the Islands Trust. The bylaw predates the amendments to the <i>Islands Trust Act</i> that created the local trust areas and as such is probably a bylaw that applies to all of the Islands Trust Area. While the bylaw is dated, it has no negative effect on the operation of the Executive Committee Acting as a Local Trust Committee.</p>

Bylaw 11	June 7, 1986	<p>Development Application Procedures Bylaw</p> <p>S.2(1), 4(1) and 4(5) were repealed by Bylaw 17; the remainder of the bylaw appears to still be in force.</p> <p>Staff recommends that a new development application procedures bylaw be adopted.</p>
Bylaw 15	April 1, 1990	<p>Inspection Bylaw</p> <p>Authorisation for the bylaw enforcement officer to enter property to ascertain compliance with bylaws.</p> <p>Inspection clauses are now contained in the land use bylaw. Staff recommends that the inspection bylaw be repealed on adoption of the land use bylaw.</p>
Bylaw 17	October 8, 1993	<p>Development Application Procedures Bylaw</p> <p>Establishes procedures for making an application for amendments to the Nanoose Official Community Plan Bylaw No. 70803 and the Regional District of Nanaimo Zoning Bylaw No. 500, a development permit, development variance permit, temporary commercial and industrial use permit, amendments to land use contracts and applications for strata conversion.</p> <p>Staff is not clear on why the RDN bylaws were referenced in this bylaw because the RDN bylaws were adopted after the creation of the Islands Trust and as such have no force or effect in the Trust Area.</p> <p>Staff recommends that the development application procedures bylaw be amended to remove reference to the regional district bylaws and to include all possible application types in the Executive Area.</p>
Bylaw 19	August 24, 1994	<p>Freedom of Information and Protection of Privacy Bylaw</p> <p>Designates the head for FOIPP purposes and establishes fees for FOIPP requests.</p> <p>Staff recommends that this bylaw be reviewed and updated if necessary.</p>
Bylaw 24	October 23, 2007	<p>Meeting Procedures Bylaw</p> <p>Establishes procedures for meetings of the Executive Committee Acting as a Local Trust Committee.</p> <p>No changes recommended.</p>

Bylaw 25	Oct 23, 2007	<p>Fee Bylaw</p> <p>Establishes fees for subdivision referral, strata conversion and liquor control and licensing.</p> <p>With the adoption of an official community plan and land use bylaw, other applications may be possible, such as development variance permits and rezonings.</p> <p>Staff recommends that the fee bylaw be amended to include all possible applications in the Executive Area once an official community plan and land use bylaw have been adopted.</p>
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RECOMMENDATIONS:

Staff recommends that the Executive Committee Acting as a Local Trust Committee:

1. supports the funding request for \$4,000 for the 2010/11 fiscal year;
2. instructs Staff to begin work on the Executive Islands Official Community Plan and Land Use Bylaw in April 2010, subject to approval of funding by Trust Council:
 - a. by sending a letter outlining the process, timeline and contacts to landowners, adjacent jurisdictions, First Nations with interest in the area, Islands Trust Fund, Ministry of Transportation and Infrastructure, Ministry of Environment, Nanaimo Regional District, Transport Canada, Fisheries and Oceans Canada and the Department of National Defense;
 - b. by developing a staff report with recommended Official Community Plan policies and Land Use Bylaw regulations for consideration of the Executive Committee in May 2010;
3. establishes a meeting in May 2010 to consider the draft official community plan and land use bylaw amendments and provide further direction to Staff;
4. establishes a meeting in October 2010 to consider 1st reading for the draft bylaws and sending them to Public Hearing; and
5. instructs Staff to amend and update the administrative bylaw to reflect current legislation and the new official community plan and land use bylaw.

Prepared and Submitted by:

David Marlor, MCIP

October 13, 2009

Regional Planning Manger

Date

