



To: Trust Council

For the Meeting of: March 14-16, 2017

From: Executive Committee

Date: March 1, 2017

SUBJECT: MARINE PROTECTION TOOLS

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**RECOMMENDATION:**

1. That Trust Council request that the Executive Committee develop an inventory of available local government marine protection tools and develop general categories as to the level of protection these tools can provide (i.e. low, medium, high levels of protection).
2. That Trust Council request that the Executive Committee compile an inventory of the marine protection tools each local trust committee/island municipality utilizes so each LTC can compare and contrast the tools they use with other LTCs in the Trust Area.
3. That Trust Council, in recognition of its commitment to proving sincere desire for reconciliation with Trust Area First Nations, remove Strategic Plan Strategy 8.2 [Explore opportunities and benefits of working with UNESCO, TFB and others to seek nomination of the Trust Area as a UN Biosphere Reserve]
4. That Trust Council in recognition of its commitment to proving sincere desire for reconciliation with Trust Area First Nations, remove from its Follow-up Action List the request for the Chair to send a letter of support for Particularly Sensitive Sea Area Designation for the Salish Sea to the federal Minister of Transport until such time as there is a clear statement of support from Trust Area First Nations for this transboundary marine shipping safety initiative.

**CHIEF ADMINISTRATIVE OFFICER COMMENTS:**

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**IMPLICATIONS OF RECOMMENDATION**

**ORGANIZATIONAL:** With regard to the first two recommendations, the Director of Local Planning Services will be overseeing the work required with assistance from the Regional Planning Managers and the Senior Intergovernmental Policy Advisor.

With regard to the last two recommendations, staff resources would be assigned from Trust Area Services to undertake the work as directed by the Executive Committee.

**FINANCIAL:** None

**POLICY:** None

**IMPLEMENTATION/COMMUNICATIONS:** Staff would forward the request to the Executive Committee. Follow-up with Trust Council would occur on completion of the project. Timing of completion may be affected by limited staff resources.

As LTCs and island municipalities consider amending their local and available tools, much like the example of Lasqueti LTC provided below, these will be communicated to Trust Council through briefings.

**OTHER:** N/A

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## **BACKGROUND**

In December 2016, Trust Council passed resolution TC-2016-112:

*that the Executive Committee be requested to review the briefing on marine protection tools and to make recommendations to Council with respect to possible amendments to the Strategic Plan and other follow up actions.*

In March 2016, Trust Council passed resolution TC-2016-027:

*that Trust Council support the Salish Sea Particularly Sensitive Sea Area nomination process by co-sponsoring an Associated Protective Measures workshop in Vancouver in June 2016 and by directing the Chair to send a letter of support to the federal Minister of Transport.*

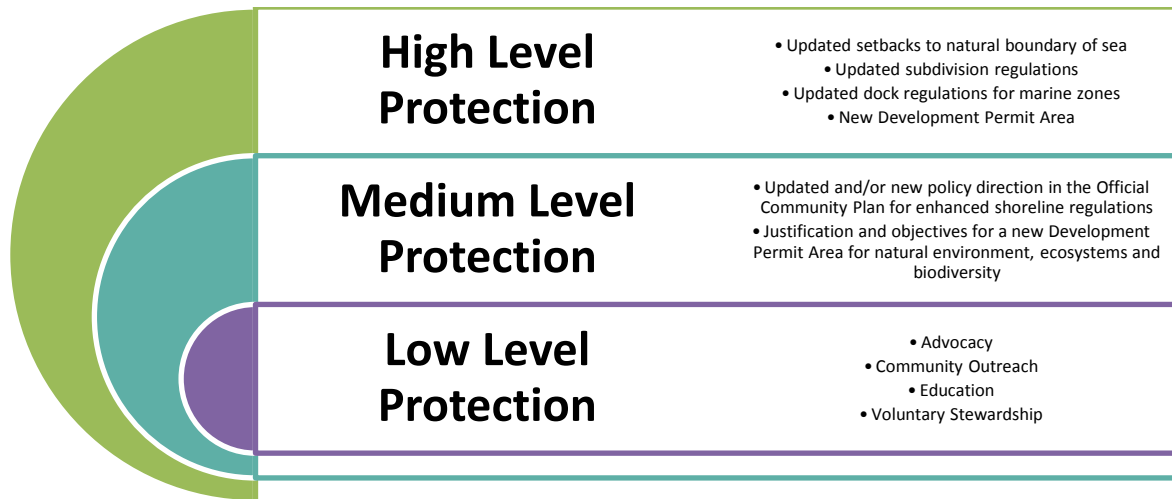
In December 2016, Trust Council passed resolution TC-2016-114:

*that staff provide an update on any emerging discussions with First Nations with regard to areas of shared marine protection priorities at the March 2017 Trust Council meeting.*

### *Available Local Marine/Shoreline Protection Tools*

In respect of resolution TC-2016-112, the briefing on marine protection tools provided an overview of marine protection mechanisms that theoretically could pertain to the Trust Area (see Attachment A: Excerpt from TC Briefing Dec6 16 Local Planning Tools). In considering the recommendations provided to Trust Council, the Executive Committee considered the most effective actions that could further the mandate of the Islands Trust in relation to protection of the marine foreshore, and availability of resources.

As an example of the consideration of available and effective foreshore protective measures, planning staff took a report to the Lasqueti Local Trust Committee on marine protection tools specifically related to Lasqueti's Official Community Plan and Land Use Bylaw on Feb. 20, 2017 and was passed unanimously by the LTC. This work could form the basis and format of a similar report to Trust Council for all local trust areas and is based on the following categorization of available tools:



### *The Challenges of UNESCO Designations*

The Strategic Plan currently contains Strategy 8.2 [Explore opportunities and benefits of working with UNESCO, TFB and others to seek nomination of the Trust Area as a UN Biosphere Reserve].

One of the weaknesses of UNESCO designations is demonstrated through the example of Mount Arrowsmith MAB and the Biosphere Reserve’s UNESCO review (on Vancouver Island) where their MAB designation was very close to being withdrawn several years ago by due to a lack of involvement from local Indigenous communities and a too-strong focus on conservation values without the balanced approach of considering sustainable development values as well. The federal committee that receives the applications now requires full endorsement by local Indigenous communities before supporting the designation. Securing endorsement for a UNESCO designation would be challenging with 37 First Nations with asserted interests in the Trust Area.

As the same issues and prerequisite for local Indigenous community endorsement applies to UNESCO’s World Heritage Site designations, the Trust Area may want to first wait until each of the 37 local First Nations have indicated their explicit support before Islands Trust provides support of either UNESCO World Heritage Site or Man and the Biosphere designation applications.

### *Being “In Step” with the Trust’s First Nations*

Since 2016, when Trust Council passed resolution TC-2016-027 in relation to a letter of support of Particularly Sensitive Sea Area designations, staff has become aware that, while the BC Assembly of First Nations supported the proposed nomination, the Coast Salish Gathering Steering Committee declined to support the proposed nomination. Their lack of support included, among other topics, substantial concerns about the lack of indigenous representation in the IMO, the body making decisions about the extent of the designation and any proposed associated protective measures. Therefore, staff recommends that Trust Council rescind its resolution regarding voicing support for the nomination process until further discussions with First Nations have been completed.

### *Articulating Shared Marine Protection Priorities*

With regard to resolution TC-2016-114, the Senior Intergovernmental Policy Advisor has completed the first phase of environmental scan of previously stated (and publically available) marine priorities by the Trust’s First Nations (See Attachment B: Trust Area FN Marine Priorities). There are extraordinarily common themes that run throughout First Nations marine use plans and we can safely assume that

those First Nations who hold their marine priorities confidential may also hold these issues as priorities: increased harvesting opportunities for their communities, cultural/language identification of marine and shoreline resources and recognition of Aboriginal/non-Aboriginal sharing of marine resources as a key principle going forward.

Being familiar with what First Nations have previously stated on marine priorities not only reflects a genuine respect, it lends insight to the fact that the same underlying factors that need to be mitigated to achieve both Indigenous and non-Indigenous marine priorities in the Trust Area:

- Increased pollution
- Increased vessel traffic
- Proliferation of docks and shoreline infrastructure and human use
- Shoreline ecosystem degradation due to upland development

The next phase of this work is to look at the practical, available and effective tools that Local Trust Committees can employ to help mitigate these factors. With this in hand, LTCs can approach local First Nations to share with them their intention and ask for their help, advice and partnership in protecting the shoreline. The Trust Fund staff has shared the recent eelgrass and forage fish mapping products and other mapping tools with all 37 First Nations on Feb. 17, 2017 and this more local follow-up approach would complement that.

The ultimate goal might be to work with local First Nations to partner in shoreline protection for specifically-identified shoreline environments with shared significant value to First Nations, island residents and the shoreline ecosystem.

**ATTACHMENTS:**

- A. Excerpt from TC Briefing “Marine Protection Options” from December 6, 2016
- B. Trust Area First Nations Marine Priorities

**KEY ISSUE(S)/CONCEPT(S):**

- Update Strategic Plan
- Development of options for marine protection
- Consideration of First Nations interests and shared marine protection objectives

**RELEVANT POLICY:**

- Islands Trust Council Policy 6.1.i First Nations Engagement Principles

**DESIRED OUTCOME:**

- Understanding of tools available to protect marine areas
- Collaboration with First Nations on marine protection

**RESPONSE OPTIONS**

**Recommended:**

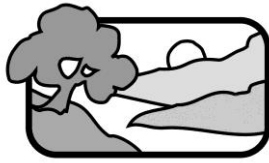
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4. That Trust Council, in recognition of its commitment to proving sincere desire for reconciliation with Trust Area First Nations, rescind resolution # TC-2016-027 in which Trust Council directed the Chair to send a letter of support of Particularly Sensitive Sea Area Designation for the Salish Sea to the federal Minister of Transport.

**Alternative:**

- 1) Not undertake changes as recommended
- 2) That Trust Council request that the Executive Committee first develop a report on opportunities and/or a strategic direction for Trust Council and local trust committees/Bowen Island Municipality to work with First Nations on joint marine protection priorities.
  - a. N.B. Implications of this alternative include redundancy of efforts articulated in the TC approved First Nations and Public Engagement Project Charter (December 6, 2016) and progress may be limited by staff resources

**Prepared By:** Fiona MacRaid, Senior Intergovernmental Policy Advisor

**Reviewed By/Date:** Russ Hotsenpiller, CAO, Feb 21, 2017  
David Marlor, DLPS, Feb 20, 2017  
Clare Frater, DTAS, Feb.21, 2017



**Islands Trust**  
Lasqueti Island Local Trust  
Committee

## Table of Land Use Planning Tools Available to the LTC for Shoreline Protection on Lasqueti Island

February 2017

#	LTC Authority	Planning Staff Comments
<b>LOW IMPACT PROTECTION TOOLS</b> <b>Advocacy – Community Outreach and Education</b>		
1	Distribute shoreline protection resources on website/hardcopies to residents and property owners	<ul style="list-style-type: none"> <li>• Greenshores for homes resources</li> <li>• Marine Protection guide</li> <li>• Promote the sensitive ecosystem and critical habitat mapping data for Lasqueti</li> <li>• Distribute through posting on web and mail out to residents/ property owners and realtors.</li> </ul>
2	Coordinate Shoreline Protection Community Events	Host one or a series of community events spring/summer 2017 highlighting: <ul style="list-style-type: none"> <li>• First Nations cultural uses and knowledge of Lasqueti’s marine areas and shorelines;</li> <li>• Islands Trust Fund conservation data and protection strategies for shoreline ecosystems, eelgrass and forage fish habitats and voluntary conservation options;</li> <li>• Updates on LTC shoreline protection project status and objectives;</li> <li>• LI Nature Conservancy local area knowledge of marine and shoreline natural history and culture.</li> </ul>
3	Voluntary property ‘upgrade’ to Subdivision District ‘B’ or ‘C’	Promote and process requests from property owners to voluntarily upgrade their property into a lower density subdivision district. LTC can batch requests by way of an amendment to Schedule C of the Land Use Bylaw during bylaw review.
<b>LOW TO MEDIUM IMPACT PROTECTION TOOLS</b> <b>Policies – Lasqueti Official Community Plan</b>		
4	<b>OCP Part 3.1</b> Residential Land Use Policies	Consider new policy language that discourages: <ul style="list-style-type: none"> <li>• increased residential density on waterfront parcels through rezoning or strata title subdivision;</li> <li>• increased parcelization of foreshore buffer areas;</li> <li>• subdivisions that result in further fragmentation of critical habitat areas;</li> <li>• siting of new buildings or structures within a 30 m buffer of the natural boundary of the sea or crest of foreshore cliff;</li> <li>• approval of new ‘waterfront access only’ lots through subdivision.</li> </ul>

5	<b>OCP Part 3.2</b> Enterprise and Resource: Commercial, Industrial, Agricultural and Forestry Land Use Policies	Consider new policy language that discourages: <ul style="list-style-type: none"> <li>siting of new commercial and industrial buildings, structures within a 30 m buffer of the natural boundary of the sea or crest of cliff;</li> <li>storage of derelict vehicles or gravel extraction within a 100 m buffer of the natural boundary of the sea,</li> </ul>
6	<b>OCP Part 3.3</b> Heritage, Archaeologic and Historic Matters Policies	Consider: <ul style="list-style-type: none"> <li>Renaming this section of the OCP to reflect the focus on First Nations.</li> <li>Updating all OCP references to First Nations to recognize the historic, cultural and existing significance of all relevant First Nations in this Trust Area (not just Tla'amin), and recognizing the uncertainty of aboriginal rights and title in this area.</li> <li>Including new policies that recognize the importance of protecting First Nations' interests in marine resources within the Trust Area as well as protecting archaeological and cultural sites, shoreline function, integrity and ecological values.</li> <li>Updating advocacy policies that reflect Trust Wide suggested language towards mutually respectable relationship building and earning the right and trust to hear First Nations meaningful input on marine protection issues.</li> </ul>
7	<b>OCP Part 3.4</b> Community Stewardship Policies	Consider strengthening existing policies regarding public access dedications at the time of subdivision and discouraging new subdivisions that result in water access only lots.
8	<b>OCP Part 3.7</b> Boats and Maritime Vessels Policies	<ul style="list-style-type: none"> <li>Consider reviewing and updating private dock policies in the Marine General (M-2) zone in light of new provincial private moorage application process</li> <li>Consider updating breakwater policy to reflect protection of sensitive ecosystems and First Nations interests.</li> </ul>
9	<b>OCP Part 3.8</b> Crown Lands General Policies	<ul style="list-style-type: none"> <li>Consider updating policy language to reflect First Nations land claims and applications for boat, barge and ramps.</li> </ul>

**HIGH IMPACT PROTECTION TOOLS**  
Regulatory – Lasqueti Land Use Bylaw Provisions

10	<b>LUB Section 1.1</b> Definitions	Consider reviewing and updating all marine and foreshore related definitions incorporating best practices.
11	<b>LUB Section 3.5</b> Minimum Setback for Buildings and Structures from the Natural Boundary of the Sea	Consider increasing the allowable setbacks for buildings and structures to the natural boundary of the sea.
12	<b>LUB Section 3.11</b> Subdivision Regulations	Consider new regulations which would prohibit further parcelization of the foreshore without reducing subdivision potential of the 214 waterfront properties on Lasqueti Island.
13	<b>LUB Section 4.2</b> Land Based Zone Regulations	Consider reviewing slipway regulations.
14	<b>LUB Section 4.13</b> Marine Based Uses General Regulations	Consider reviewing and updating dock regulations.
15	<b>LUB Section 4.14 – 4.22</b> Marine Zone Regulations	Consider reviewing marine zone regulations pertaining to number of permitted docks, slipways, ramps permitted per upland lot.

16	<b>NEW OCP and LUB section</b> Development Permit Area for the Protection of the Natural Environment, Ecosystems and Biodiversity	Consider establishing objectives in OCP and guidelines in LUB for a new development permit area that would be triggered at the time of subdivision for either waterfront properties or island wide. Guidelines would promote conservation based subdivision planning and could include regulations for siting, setback, screening, registration of a restrictive covenant and/or prohibiting new lot lines that fragment the natural boundary of the sea, critical habitats or sensitive ecosystems.
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## Roles and Responsibilities of Islands Trust bodies regarding marine protection

December 2016

Responsibility	Role	Current Capacity	Comments
Trust Council / EC	After First Nations and Public Engagement, develop and adopt Policy Statement policies in support of marine protection	LOW	Council could amend Policy Statement to include new marine-related prohibitions/directive policies.
	Selecting which projects to fund	HIGH	Council could say it prioritizes marine-related LTC and TAS projects
	Develop toolkits/model bylaws re marine	MED	Already on LPC work program
	Funding mapping to enhance the effectiveness of regulatory tools and education initiatives	MED	More funding would increase capacity
	Funding of enforcement action against local land-use bylaw violations that threaten marine health (e.g. seawall, foreshore structures).	LOW	More funding and changes to staff resources/functions would increase capacity
	Directly conserve heritage properties that support healthy marine processes and cultural/archaeological resources	LOW	Trust Council already owns one property (Denman school). Strategic Plan changes, more funding and changes to staff resources/ functions would increase capacity
	Funding of Trust Fund Board for conserving terrestrial areas that support healthy marine processes and cultural/archaeological resources	MED	More funding would increase capacity
	Educating landowners, island residents and development professionals about actions they can take to protect the marine environment.	LOW	Strategic Plan changes, more funding and changes to staff resources/functions would increase capacity
	Advocating to other levels of government and businesses to place priority on the side of protection for Trust Area ecosystems. (e.g. re shipping)	HIGH	Already within EC scope and achievable if made high priority
	Cooperatively working with other levels of government and businesses to develop initiatives that reduce threats to the marine environment (e.g.	LOW	Changes to staff resources/functions would increase capacity

	derelict vessels, aquaculture)		
LTC/ Island Municipality	Adopting of OCPs and bylaws in support of marine protection	HIGH	More funding and changes to staff resources/functions would increase capacity. Local trust committees and island municipalities could make marine topics a higher priority
	Set work programs priorities that focus on marine issues	HIGH	Already within LTC scope if they choose to prioritize
	Cooperatively working with other levels of government and businesses to develop initiatives that reduce threats to the marine environment. (e.g. Participation in local processes Howe Sound Community forum, Saanich Inlet Roundtable, Baynes Sound)	MED	Deeper levels of engagement would require more funding and changes to staff resources/functions
Trust Fund Board	Assist all staff to use ecosystem mapping to enhance the effectiveness of regulatory tools and education initiatives	HIGH	Current emphasis is on orienting new staff as they arrive
	Conserving terrestrial areas that support healthy marine processes	MED	Regional Conservation Plan sets priorities for acquisitions and covenants. More funding would enable more focus on protection for marine processes
	Educating landowners, island residents and development professionals about actions they can take to protect the marine environment (e.g. workshops and targeted landowner contact)	LOW	Strategic Plan changes, more funding and changes to staff resources/functions would increase capacity
Staff	Service delivery on all of the above	MED	More staff resources, more funding and/or fewer Council priorities would increase capacity for addressing marine issues that require cooperative actions developed through trusting relationships.

	Staff training and orientation on best practice for addressing marine issues	MED	Training and orientation on topics such as processing foreshore-related applications, promoting Green Shores concepts, cooperating with others, has not been a priority. Changes to staff resources/functions would increase capacity.
	Staff procedures	MED	Has not been a priority. Changes to staff resources/functions would increase capacity.

February 16, 2017

## Update on First Nations Marine Priorities in the Trust Area

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### *Stage 1: An Analysis of Previously Stated FN Priorities*

#### **Executive Summary:**

Each of the 37 First Nations that have asserted Aboriginal rights and title in the Trust Area have extremely strong ties to the marine environment and have been the marine stewards for this region for millennia. Since occupation by non-Aboriginal in the 19<sup>th</sup> century and throughout a century of sustained government policies to eliminate and minimize their connection to this territory, these First Nations have not lost their traditional knowledge on marine stewardship.

As Islands Trust moves into a new respectful relationship with First Nations in the Trust Area, we need to first consider what marine protection priorities these First Nations have already articulated publically. Although many Nations hold their marine use plans confidential, others have generously shared their marine priorities on the internet to help other Canadians understand their Indigenous perspectives on the marine environment.

There are extraordinarily common themes that run throughout First Nations marine use plans and we can safely assume that those First Nations who hold their marine priorities confidential may also hold these issues as priority:

- Traditional use of marine resources is not only a top priority but it is seen as a resurgence of a culture long-oppressed, and a healing activity for members
- Language and place names associated with the marine environment are more than just geographic identifiers; the Indigenous names of places and marine resources are seen as connecting First Nations members to their ancestors and their personal identity in the marine environment
- Although they are governed by Indigenous law principles of marine protection such as sharing, balance, mutual aid and reciprocity, they want to address the injustice of not having the marine resources shared with them from the current users (residents, visitors, industry, etc.)

#### **Tsawout Marine Use Study 2015**

*“This study provides a snapshot, however incomplete, of Tsawout members’ use of the Salish Sea for the purposes of fishing, gathering, hunting, and other harvesting, travelling, and exercise of their Douglas Treaty rights – especially in areas that may be affected by the Project. It identifies specific areas that are intensively used, and preferred locations for harvesting and exercising Treaty rights. For the purposes of the study the term “subsistence” is understood to capture the networks, relationships, and values involved in the harvest, process, distribution, and consumption of resources as well as their meaning or evaluation within Tsawout’s cultural order.”*

## **K'omoks Marine use Plan 2012 –**

*“The sooner we understand and practice the fundamental values and teachings of our ancestors the sooner the marine environment will once again sustain our people. The values and teaching that have been passed down and are important in our marine plan include:*

- *Honouring the Creator...*
- *Protocol...*
- *Respect...*
- *Balance...*
- *Working together...*
- *Sharing...*
- *Stewardship...”*

## **Nanwakalas Council and the North Vancouver Island Marine 2015**

*“The purpose of the North Vancouver Island (NVI) Marine Plan (the Plan) is to provide spatial and nonspatial recommendations for achieving ecosystem-based marine management that maintains social and cultural wellbeing and economic development based on healthy ecosystems within the Plan Area over the long term. The Plan includes recommendations for developing and maintaining resilient marine ecosystems and sustainable economies for NVI communities. It focuses on providing direction for managing marine areas, uses and activities within provincial government jurisdiction. “*

## **Howe Sound: Squamish Nation**

From the November 2016 Squamish Nation Newsletter:

*“Woodfibre LNG will provide funding to SN to develop a SN Marine Use Plan to analyze the cumulative impacts of Industrial projects in the Howe Sound.”*

## **In the Footsteps of Our Ancestors: Interim Strategic Land Plan for the Hul'qumi'num Core Traditional Territory, 2005**

*“Inter-tidal and marine resources are highly important to Hul'qumi'num people. Beach and foreshore foods such as cockles, clams, mussels, oysters, and crabs are used for food, social, ceremonial, and trade purposes. Today, the use of (and benefit from) these marine resources are challenged by issues related to contamination and access.*

*Most beaches in HTG territory are polluted and closed to harvesting of most or all foreshore resources by the federal Department of Fisheries and Oceans. These closures are a result of contamination by a wide array of sources including: leaky septic systems, farm and urban runoff, sewage outfall, and Pulp and paper mill effluent. There are currently five areas of shellfish harvesting closures in HTG territory, two areas are closed to all shellfish and three are closed only to particular shellfish. Contamination also diminishes the potential of economic benefit from foreshore resources. The process of cleaning*

*contaminated shellfish products raises costs and creates marginal returns for all but the most high volume producers.”*

### **Malahat Community Notice: April 2014**

*“Phase I of the Marine Use Plan is now available to review. Please contact Robert Sagmeister at [robert.sagmeister@malahatnation.com](mailto:robert.sagmeister@malahatnation.com) or come into the Administration office to talk with him and review the Plan.”*