



Islands Trust Fund

POLICY MANUAL

Code: TFB 01008 Policy Procedure Guideline

Title: ASSESSING VOLUNTARY CONSERVATION COVENANT AND LAND DONATION
PROPOSALS FOR THE PROTECTION OF LAND OF ECOLOGICAL SIGNIFICANCE

Approved By: Trust Fund Board

Date: March 15, 2001 Resolution #: TFB 01/384
Revised: November 4, 2005 Resolution #: TFB 05/800

Chair Signature:

Further References:

A. PURPOSE:

The purpose of this policy is to clarify the process that the Trust Fund Board will use to assess voluntary proposals for conservation covenants and land donations that support the protection of lands of ecological significance in the Islands Trust Area.

This policy does not apply to proposals:

1. that promote the protection of cultural features (see Policy 02010);
2. that are connected with a development application (see Policy 01009);
3. where the purpose is to sell the land and use the proceeds to advance the Trust Fund Board's mandate (see Policy 03001);
4. where the applicant wishes to covenant the land under the Natural Area Protection Tax Exemption Program (see Policy 02008); and/or,
5. where the purpose is to form a fundraising partnership to acquire land (see Policy 01003).

B. REFERENCES:

1. *Islands Trust Act*
2. *Land Title Act*
3. Islands Trust Fund Policy and Procedures Manual:
 - TFB X0001 - Procedures for Voluntary Conservation Covenants and Land Donations
 - TFB 01006 and 01007 - Communicating Information Regarding Covenant and Acquisition Projects (modify)
 - TFB 01005 - Policy on Conservation Covenants
4. Islands Trust Fund Plan
5. ITF Conservation Proposal Form (2002) (modify)
6. ITF Staff Report Template (2005)
7. Islands Trust Fund's Regional Conservation Plan (2005)

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C. BACKGROUND:

The *Islands Trust Act* establishes a Trust Fund to acquire, hold and manage land and receive donations for the purpose of carrying out the object of the Islands Trust. Typically the Islands Trust Fund uses statutory covenants and land donations to accomplish the “preserve and protect” mandate.

Statutory covenants are registered against the title of the property in the British Columbia Land Title Office under section 219 of the *Land Title Act*.

“Conservation” covenants are designed specifically for conservation purposes. Although the term “conservation covenant” is not used in the *Land Title Act*, it is a term that is identified by the public as having a specific meaning and intent. In particular, it is expected that a conservation covenant will:

- protect the particular values identified in the covenant (be they ecological, cultural or heritage);
- be enforceable; and
- “run with the land,” binding future owners in perpetuity.

These understandings create long term expectations and obligations for both the property owner and the covenant holder, such as monitoring and removal of invasive species.

Case law regarding covenants reinforces the need for organizations that hold covenants to be aware that in undertaking a conservation covenant that they are taking on a long term obligation which if breached could have significant legal costs.

Land donations are another means by which the Island Trust Fund carries out the object of the Islands Trust. Land donations have ongoing costs including insurance, signage, fencing, and other measures recommended within customized management plans. In addition to these costs the Board is committed to placing conservation covenants on lands it acquires.

According to the *Islands Trust Act* Section 43, “*property acquired by the trust fund board is the property of the government*”. Donors in the past have been concerned by this clause and find comfort in the Board’s commitment to place third party covenants on its own lands.

D. POLICY

1. The Board will only consider a voluntary proposal that is accompanied by a completed Voluntary Conservation Proposal Form and Staff Report.
2. For proposals that are land donations to the Trust Fund Board, the Board will normally consider only lands that can meet the definition of “Trust Fund Board Nature Reserve¹”.

¹ A Trust Fund Board Nature Reserve is an area that has been set aside because it has regionally significant natural ecosystems (landscape units with little or no human development) and may contain nationally and provincially identified ecosystems and species that are considered endangered, threatened or of special concern.

The primary purpose of a Nature Reserve is the preservation and protection of the natural ecosystem. The size of a Nature Reserve should be sufficient to ensure that these ecosystems remain viable over the long term.

Activities permitted on a nature reserve will have minimal impact on the land and in general will only include hiking and only in areas that are considered not sensitive to this activity. The location and extent of hiking trails will be determined through the management plan process.

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3. The Trust Fund Board will give priority to those proposals that meet one or more of the goals or objectives of the Regional Conservation Plan.
4. If the Trust Fund Board accepts a proposal that does not meet one of the goals or objectives of the Regional Conservation Plan, the Board will provide clear reasons in the meeting minutes as to why the Board has accepted the proposal.
5. The Trust Fund Board will not normally accept land that is for proposed for ecological protection that needs substantial management or that has significant liabilities such as buildings or structures.²
6. If the Trust Fund Board does not accept a proposal, the Board will offer to assist the applicant to find an agency willing to consider it.
7. Unless the applicant waives confidentiality in writing, all proposals will be considered confidential and will be considered at in camera meetings until the covenant is registered on title or the land is transferred to the Board.
8. The applicant is normally responsible for all costs to complete and register the covenant or land donation including any property taxes for which the Trust Fund Board cannot receive a statutory exemption. In cases of financial hardship, the Board may consider requests from the applicant for relief from such costs, except for the cost of legal or tax advice to the applicant.
9. The Trust Fund Board will not normally undertake land transactions unless it has funding available for the professional services needed to complete the transaction properly and to protect the property for the foreseeable future. If funds are not secured at or before the completion of the transaction, a plan must be in place to secure these funds and a resolution made committing the funds to this purpose.
10. The Trust Fund Board may require an endowment to cover management of the property.
11. The Trust Fund Board may impose a time-limited moratorium on accepting proposals if it concludes that it has inadequate resources to support further proposals.
12. Acceptance or rejection of a proposal will be indicated by resolution, a copy of which will be sent to the applicant.

² Need to clarify or link to cultural policy (e.g. TFB 02010) as it develops