



ISLANDS TRUST FUND

TRUST FUND BOARD POLICY

Policy number: 2.7

Title: Disposition of Land Policy

Approved By: Trust Fund Board Date: March 24, 2003 Resolution #: TFB 03/555

Revised Date: August 9, 2006 Resolution #: TFB 06/859

Revised Date: November 24, 2011 Resolution #: TFB 11/1269

PURPOSE

This policy establishes how the Trust Fund Board will dispose of land and interests in lands that it owns or holds.

Under this Policy, disposition includes

- the transfer of land or interests in land owned or held by the Board by any means, including by sale or donation,
- the granting of interests in land respecting land owned by the Board, including by way of lease, license, easement, statutory right of way or covenant, and
- any transfer or release of an interest in land held by the Board over land owned by a third party, including under a lease, license, covenant, easement or statutory right of way.

Related Legislation

The *Islands Trust Act* allows the Trust Fund Board to dispose of land as follows:

- 41 (2) (c) For the purpose of carrying out the object of the Trust, the Trust Fund Board may...subject to section 44(2), acquire, hold and dispose of land and other property.
- 41 (3) For the purposes of acquiring, holding and disposing of land and other property under (2) (c) above, the Trust Fund Board may use the money, land and other property of the Trust Fund.
- 44 (1) The Trust Fund Board must prepare and submit to the Minister, at least once every 5 years, a plan for the Trust Fund respecting

- a) policies on acquisition, management and disposal of property of the trust fund,
 - b) policies on investment of money of the Trust Fund,
 - c) goals for major acquisitions of property by the Trust Fund, and
 - d) other matters as required by the Minister.
- 44 (2) The Trust Fund Board must not, without the prior approval of the Minister, acquire, hold or dispose of land except in accordance with a Trust Fund plan under subsection (1) that has been approved by the Minister.

Policy

1. The Trust Fund Board will consider disposition of land or an interest in land based on a proposal from another government agency, conservation agency or from Islands Trust Fund staff. The proposal to the Board will be accompanied by a preliminary staff report stating:
 - a) the purpose of the proposed disposition and the intended use of the land if transferred or sold;
 - b) any legal or other significant impediments to the disposition as proposed, including any conditions contained in the original donation, bequest or endowment of the land or interest in land;
 - c) the land's ecological significance, including characteristics and values identified in the Regional Conservation Plan;
 - d) whether the disposition requires Ministerial approval, or is authorized under the current five-year Trust Fund Plan referenced in Section 44 of the Islands Trust Act; and,
 - e) whether the land was obtained as an Ecological Gift and therefore the disposition would require authorization of the Environment Canada.
2. If the land or interest in land is not an ecologically significant area as defined in the Regional Conservation Plan, and no other barriers to disposition exist, the Trust Fund Board may, by resolution, approve the disposition. Any proceeds arising from a disposition will be placed in an acquisition fund of the Trust Fund Board and are not fixed to a particular budget year.
3. Where the Trust Fund Board determines that the land or the interest in land is ecologically significant but that a transfer or sale is possible and worthy of consideration, the Trust Fund Board will direct staff to conduct and present a thorough analysis before deciding on the disposition.

Disposition of Fee Simple Title to Ecologically Significant Land

4. Where the Trust Fund Board owns the fee simple title to the land and the proposal is to transfer the fee simple title, the analysis will include an assessment of:

- a) The original intention of the donation, including consultation with original donor if possible.
 - b) The level of expertise needed to manage the land and a comparison of the Islands Trust Fund's access to the required expertise to the potential transferee's access to the required expertise.
 - c) The Board's investments in the land to date, the investments needed after the transfer, and the financial ability of the Board and the proposed transferee to meet the required investments.
 - d) An estimate of the annual costs and level of resources required for adequate management, as well as the ability of the proposed transferee to provide adequate management.
 - e) Any alternatives to a fee simple transfer that would achieve the goal of the proposed transfer and the relative costs, benefits and other implications of each alternative.
 - f) The effect of the potential transfer on any existing conservation covenant registered on the property, and the covenant holders.
 - g) The effect of the potential transfer on any existing agreement with a management group.
5. The Trust Fund Board will only dispose of the fee simple title to ecologically significant land if it can be determined that the recipient agency has the expertise and long-term financial resources to manage the property as well as, or better than, the Board.
6. The Board will consider the following tools to ensure that the land and its values will be protected in perpetuity for the residents of the Trust Area and the people of British Columbia:
- a) The Trust Fund Board may transfer the land on condition that it be used for conservation purposes, or transfer the land as determinable fee simple providing that the land will revert to the Trust Fund Board if the land is no longer being used for the specified purposes.
 - b) The Trust Fund Board may register a conservation covenant on title to the land before the transfer, to ensure the protection of the land's ecological values, provided an appropriate agency can be found to hold the covenant, and the recipient agency has the legal authority to accept the encumbrance.
7. For a proposed disposition of the fee simple title to ecologically significant land, the Trust Fund Board will:
- a) If a conservation covenant is already registered on title to the land, advise the covenant holder that it is considering transferring title to the land, and consider any comments provided by the covenant holder in respect of the possible transfer.
 - b) If the property was acquired through public support or a partnership with a local conservancy, direct staff to complete public consultation on the island to gauge local public opinion on the proposed transfer. The Trust Fund Board will consider the results of the public consultation but is not bound to decide in favour of public opinion.

- c) If the land was acquired as an Ecological Gift, direct staff to seek prior written authorization from Environment Canada before proceeding.

Disposition of Interests in Ecologically Significant Land

8. Where the Trust Fund Board owns the fee simple title to land and the proposal is to dispose of an interest in that land, the analysis will include an assessment of:
 - a) The original intention of the donation, including consultation with original donor if possible.
 - b) The impact of the proposed disposition on the characteristics and values of the land and the on-going protection of the land.
 - c) Whether the proposed disposition is consistent with any conservation covenant registered on title to the land, and with all other charges registered on title to the land.
 - d) The effects of the proposed transfer on any existing agreement with a management group.
 - e) Consideration of any steps that can be taken to minimize any impacts of the proposed disposition on the land.

9. Where the Trust Fund Board holds an interest in ecologically significant land that is owned by a third party and the proposal is to transfer or release that interest in land, the analysis will include an assessment of:
 - a) The original reason for the acquisition of the interest in land, and the existing need for Board to hold the interest in land.
 - b) The impact of the proposed disposition on the characteristics and values of the land and the on-going protection of the land.
 - c) If the proposal is to transfer a conservation covenant and statutory right of way held by the Board to a third party, the ability of the proposed transferee to fulfill the obligations of the covenant holder under the covenant in perpetuity.
 - d) If the proposal is for the Board to release an interest in land from title to land, the reasons for the proposed release.
 - e) The effects of the proposed disposition on any existing agreement with a management group.
 - f) Consideration of any steps that can be taken to minimize any impacts of the proposed disposition on the land.

10. For a proposed disposition of an interest in ecologically significant land that was acquired as an Ecological Gift, the Trust Fund Board will direct staff to seek prior written authorization from Environment Canada before proceeding.

References

Islands Trust Act

Environment Canada's Disposition or Change in Use of Ecological Gifts: *What Recipients Need to Know* factsheet