Aniko Nelson

From: FrontCounterBC@gov.bc.ca
Sent: May 17, 2022 9:41 AM
To: John Neill; Aniko Nelson
Subject: Referral Request - Aquaculture Use Application

NOTICE: This email is from an external source.

Strathcona Regional District - Planning District
Aniko Nelson, John Neill

Aquaculture
Referral Number: 146111524 - 005
Reference Number: Forests, Lands and Natural Resource Operations / 1401594
Request Sent: May 17, 2022
Response Due: June 16, 2022

You are invited to comment on the following application package. A response is optional. If no response is received by the deadline, the application and adjudication process for the Crown land tenure application will move forward. Please be advised that as the federal and provincial agencies have developed a harmonized approach to aquaculture management, your response may be shared with Fisheries and Oceans Canada and Transport Canada.

File Number: 1401594

Proponent: Island Sea Farms Inc.

CROWN LAND TENURE SPECIFICS

Tenure Type: Licence of Occupation

Intended Land Use/background context: This application is to amend and replace existing shellfish farm, to increase the number of rafts by 64 and add associated improvements (anchors and lines). Tenure replacement is a licence of occupation for a term of 30 years.

BCGS Mapsheet/Location: 92K.025

Legal Description: District Lot 1656, Sayward District, together with unsurveyed Crown Foreshore or land covered by water being part of the bed of Evans Bay, Sayward District

Size (Area) ha (approx): 7.21

Schedule/Term Of Proposal: 30 years

This is a provincial Crown land, federal fisheries license and navigable waters approval application for

aquaculture purposes.

The use and occupation of Crown Land for aquaculture purposes (general suitability of the site location) falls within the provincial jurisdiction and topics such as proposed species, production rates, rearing methods, fish health and marine habitat concerns fall under federal jurisdiction

As the Ministry of Forests, Lands, Natural Resource Operations and Rural Developments? review of the Federal/Provincial harmonized Aquaculture Application is focused on the provincial jurisdiction, please limit your comments to the use and occupation of Crown land.

Please Click Here to respond to this referral. You must be logged in using your BCeID account to view associated information. Forwarding or otherwise distributing this email will provide access to the associated information only if the receiver has a corresponding account.

Note that it can take an extended period of time to connect from the BCeID login to the E-Referrals website, this is normal. Avoid re-clicking the "Next" button or you could extend this connection time.

Please DO NOT reply to this email.

For "how-to" instructions on how to respond to this request, visit https://portal.nrs.gov.bc.ca/web/client/-/e-referrals for instructional videos. To obtain a BCeID, visit https://www.bceid.ca/

For technical assistance with E-Referrals, contact FrontCounter BC at 1-877-855-3222.

For more information regarding this referral, use the email link at the bottom of this message or use the "Email Coordinator" link located within the referral to contact the Referral Coordinator.

Carlos Burgo

FrontCounter BC

() -
Carlos.Burgo@gov.bc.ca

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RECEIVED
DEC 19 2019
Ministry of Forests, Lands, Natural Resource Operations & Rural Development

~~Rec'd as Replacement & Assignment 2021-11-18 KM~~
Canada
Rec'd as Replacement, Assignment & Amendment 2022-02-02

FOR INTERNAL USE

File Number: 1401594	Project Number: 557357 614451
Disposition Number:	Client Number:

PACIFIC SHELLFISH AQUACULTURE AMENDMENT APPLICATION

MINISTRY OF FORESTS, LANDS,NATURAL RESOURCE OPERATIONS AND RURAL DEVELOPMENT
FISHERIES AND OCEANS CANADA
TRANSPORT CANADA

Prior to completing this application refer to approved Federal Aquaculture Licence and Provincial Site Management plans for details on currently approved activities at the site. If you require a copy, please contact WestCoast.LandReferrals@gov.bc.ca

PART I – GENERAL INFORMATION

Any time you see this symbol, hold mouse pointer over top and additional information will appear.

For each question, select only one check box or circle unless otherwise directed.

PART I - SECTION A1: SUMMARY

Provide a general overview of the proposed amendment:

** This application is for a replacement of the existing (expired) tenure, along with an amendment (addition) of infrastructure and a change of business name (assignment).

Island Sea Farms Inc. founded in 1996, is a mussel farming company with a hatchery on Saltspring Island, grow-out operations on Cortes and Read Islands and processing operations in Campbell River. The company employs 45 people and exports live mussels to the US and Asia.
In recent years as production volumes have grown the company has acquired more tenure space primarily in the Gorge Harbour on Cortes Island. However, as the operation has grown and production during the summer months has become increasingly important, there has been some noise complaints from upland owners despite the company employing expensive sound dampening technology. In addition, a large amount of pleasure boats arrive in the summer increasing number of stakeholders.
In 2018 the company purchased the assets of Evan's Bay Oyster Company which includes a shellfish tenure in Evan's Bay (Land File # 1401594). Island Sea Farms through its wholly owned subsidiary, Evan's Bay Oyster Co, requests an amendment to allow for the management plan to better accommodate mussel culture. Specifically, the amendment application address re-orientating rafts to East to West rather than North to South, running the width of the lease rather than the length of the tenure.
We therefore are also applying to increase the number of rafts (+64) in the original management plan, along with associated anchors and rock pins, as well as vertical predator netting. We are not applying for an increase in tenure size or additional aquaculture species. These changes to our management plan would facilitate moving production out of the Gorge Harbour during the summer when it is busy with recreation boating and cottagers.

Additional Pages or Supporting Material Attached: ○Yes ○No

PART I - SECTION A2: AMENDMENT TYPE (CHECK ALL THAT APPLY)

☐ **Tenure Area Change**	
☐ Expansion	Complete the following: PART I PART II PART III: Section B PART IV PART V
☐ Reduction	Complete: PART I PART IV PART V
☑ **Infrastructure**	
☑ Addition or Expansion of Infrastructure ☑ Change meets conditions of "Incidental Aquaculture Use" (IAU) ?	Complete the following: PART I: Sections A. B, C, E (maps 3 & 4), F & G PART II: unless Incidental Aquaculture Use PART III: Section B PART IV PART V
☐ Removal or Reduction of Infrastructure	Complete the following: PART I: Sections A, B, C, E (map 3), F & G PART V
Culture Type and/or Culture Area	
Addition of new Culture Type or Change to Culture Area	Complete the following: PART I: Sections A, B, C, E (maps 3 & 4), F & G PART III: Section B PART V
☐ Removal of Culture Type	Complete the following: PART I: Sections A, B, C, E (map 3) F & G PART V
☐ **Species and/or Production**	
☐ Addition of Species OR Increase in Production greater than approved in shellfish fish management plan	Complete the following: PART I: Sections A, B, C, E PART III: Section A PART V
☐ Removal of Species	PART I: Sections A, B, C, List Species To Be Removed: PART V
☐ **Substrate Modification**	Complete the following: PART I: Sections A, B, C, E (map 3), F, & G PART III: Section B PART V

PART I - SECTION B: APPLICANT INFORMATION

1. Licence Information

Licensee Name(s): Island Sea Farms Inc.

Mailing Address:	**Telephone:** (250) 538-8591
PO Box 3166 Courtenay BC V9N 5N4	**Cell:** (250) 537-6997
	Fax:
	Email: paul.simpson@islandseafarms.com

BC Inc. #, BC Registration # or BC Society #: 898794896 ☐ Not Applicable

Physical Business Address: ☐ Same as Mailing Address

576 Walker Hook Rd
Saltspring Island
V8K1N6

2. Primary Contact Information: ☐ Same as Licensee

Name: Paul Simpson	**Telephone:** (250) 537-6997
Title: President	**Cell:** (250) 537-6997
Email: paul.simpson@islandseafarms.com	**Fax:**

3. Agent/Representative Information: ☐ Not Applicable

Name:	**Telephone:**
Email:	**Cell:**
Letter of Authorization Enclosed ○Yes ○No	**Fax:**

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PART I - SECTION C: SITE GENERAL INFORMATION

1. **DFO Facility Reference Number:** AQSF 114270
2. **Land File Number:** 1401594
3. **Navigation Protection Program Number:**
4. **Site Common Name:** Evan's Bay

PART I - SECTION D: LICENSED AREA CHANGE

1. **Land Ownership and/or Tenure Type:**

☑ Provincial Crown Land Tenure (if Crown land: ○ Lease ✓ Licence of Occupation ○ Investigative Use Licence)

☐ Private Land ☐ Federal Land ☐ Harbour Authority ☐ First Nation Reserve

☐ Other (describe):

2. **GPS coordinates for the center of the application area / tenure (Report in Degree Decimal Minutes):**	**Latitude (DD DD.ddddd):**	50 degrees 12.328 N
	Longitude (DD DD.ddddd):	125 degrees 4.5454W

3. **Estimated Application Area**	**CURRENTLY LICENSED (hectares)**	**PROPOSED CHANGE +/- (hectares)**	**PROPOSED CUMULATIVE TOTAL (hectares)**
Total Area of Site	7.20	0	7.2

PART I - SECTION E: MAPS, DIAGRAMS AND ADDITIONAL REQUIRED DOCUMENTS

Check each box to confirm attached	Attach the following maps, diagrams and documents. All documents must be titled, and maps must have a scale. Please refer to the Mapping Descriptions and Sample Mapping in the Guide to Pacific Shellfish Aquaculture Application.
☑	1. **General Location Map:** A map at a scale of 1:50,000 to 1:100,000 indicating the general location of the area under application, noting the location of significant geographic features, such as a lake, mountain, road, community, etc.
☑	2. **Application Area Map (submit one of the following):** a) **Shape file:** attach a shapefile or .kmz geo-referenced to BC Albers Project (NAD 83), and including a reference map with a Point of Commencement **OR** b) **Metes & Bounds:** A map showing a UTM/latitude and longitude of a point of commencement (POC) and a corresponding text description on a separate piece of paper that describes the metes and bounds of the proposed shape.
☑	3. **Top View Operational Diagram:** A **CHS Marine** chart at the largest scale available for the project location that clearly shows the location of all planned infrastructure in relation to the bathymetry at the site (include more than 1 diagram if necessary).
☑	4. **Side View Operational Diagram, based on the culture type:** A scaled schematic diagram(s) showing a side view of the proposed operation, which includes all infrastructure.

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PART I - SECTION F: FIRST NATIONS CONSIDERATION

Canada and the Province of British Columbia are legally obligated to consult and, where appropriate, accommodate First Nations on decisions that could impact treaty rights or aboriginal rights and title ("Aboriginal Interests"). Federal and Provincial decision-makers are responsible for ensuring adequate and appropriate consultation and accommodations.

For more information please review the information available on the Ministry of Forests, Lands, Natural Resource Operations and Rural Development website: 'Consulting with First Nations'; specifically proponents are advised to review: "Guide to Involving Proponents When Consulting First Nations" (http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations).

Proponents are encouraged to engage with First Nations as early as possible in the planning stages to build relationships and for information sharing purposes. You may use the Province's Consultative Areas Database to identify which First Nations to engage: http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations.

Is a summary of information sharing attached? ○ Yes ○ No

PART I - SECTION G: CULTURE AND INFRASTRUCTURE INFORMATION

1. Culture Type /Area Change:

CULTURE TYPE	EXISTING AREA (hectares)	PROPOSED CHANGE (+/-) (hectares)	PROPOSED CUMULATIVE TOTAL (hectares)
☐ Intertidal Beach Culture			
☑ Deepwater Suspended Culture	7.20	0.00	7.20
☐ Subtidal On/In Bottom Culture			

For Subtidal also complete:	a) What is the maximum subtidal culture depth within the proposed application area (m)?
	b) How much of the application area has depths greater than 30 m (hectares)?

Shellfish aquaculture conditions of licence prohibit the introduction of refuse into the marine environment. Do you have a plan in place to manage your infrastructure, gear and equipment to minimize the generation of debris and ensure any debris generated does not enter the marine environment? ● Yes ○ No

PART I - SECTION G: CULTURE AND INFRASTRUCTURE INFORMATION CONTINUED:

2. **Infrastructure:** Complete the table below for all licensed and requested infrastructure. Refer to the approved Shellfish Site Management for details on currently approved structures at the site. Where applicable, note the quantity and dimensions of each structure.

STRUCTURE	CULTURE TYPE	CURRENTLY LICENSED AREA (m^2)	PROPOSED CHANGE	DIMENSIONS OF EACH NEW STRUCTURE	PROPOSED TOTAL AREA OF STRUCTURE(S) (m^2)
e.g. Culture Rafts	☑ *Deepwater*	*1000*	*+ 10 rafts*	*5 m x 5 m*	*1250*
Living Accommodation	Deepwater				
Work Float with Toilet	Deepwater				
Work Float(s)	Deepwater				
Culture Rafts	Deepwater	642	+64	7.3m X 7.3m	4,043
Longlines	☐ Intertidal				
	☐ Deepwater				
	☐ Subtidal				
Predator Netting	☐ Intertidal				
	☑ Deepwater	1,669	+12	91.7x9.1	11,683
	☐ Subtidal				
Predator Protection Tubes	☐ Intertidal				
	☐ Subtidal				
Rack and Bag	☐ Intertidal				
	☐ Subtidal				
Vexar Fencing	☐ Intertidal				
	☐ Subtidal				
Floating Upweller System (FLUPSY)	Deepwater				
Other (Explain):	☐ Intertidal				
	☐ Deepwater				
	☐ Subtidal				

PART I - SECTION G: CULTURE AND INFRASTRUCTURE INFORMATION CONTINUED:

3. Proposed Changes to Ancillary and Navigational Structures:

STRUCTURE	DESCRIPTION OF CHANGE
Site Markings	*Replacing 6 red concrete blocks with staked signage*
Remote Setting Equipment	
Site Marking	No new site marking as the tenure boundaries are well marked with large yellow bouys
Navigational Markers	
Anchor blocks	24 concrete anchor blocks to be added
Other Structures	12 rock pins to be added for shoreward anchors

4. Proposed Substrate Modification:

Describe:

No substrate modifications to be done.

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PART II – INFORMATION FOR THE BC MINISTRY OF FORESTS, LANDS, NATURAL RESOURCE OPERATIONS AND RURAL DEVELOPMENT

The following information, along with Part I and Part V is required for the review of the Provincial Crown Land Tenure application to an existing tenure pursuant to the BC *Land Act*.

PART II - SECTION A: SITING CONSIDERATIONS

Applicants must respond to each consideration and may be required to provide additional information in some situations

1. Does your proposal infringe on the riparian rights of an upland owner?	○ Yes ● No
Letter of upland owner consent enclosed:	○ Yes ○ No ○ N/A
2. Is the intended use consistent with approved local government bylaws for land use planning and zoning?	● Yes ● No
Provide the name of the local government(s) for the area under application: Strathcona Regional District	
Describe any applicable bylaws or zoning for the proposed area: Area is zoned AQ2 for shellfish farming	
If No, have you contacted the local government?	○ Yes ● No
Summary of interactions with local government attached:	○ Yes ● No ○ N/A

PART II - SECTION B: ADDITIONAL CROWN LANDS INFORMATION

1. Are all applicants Canadian Citizens or Permanent Residents; or if a corporation, registered partnership, cooperative or non-profit society, is it registered in BC?	● Yes ○ No
2. Is/Are applicant(s) 19 years of age or older?	● Yes ○ No
3. For applications made by more than one individual:	● N/A ○ Joint Tenants OR ○ Tenants in Common
4. Is the applicant a spouse of a provincial empoyee?	○ Yes ● No
5. Does the applicant have any other tenures? ○ Yes ● No **If yes, please list land file number(s):**	1401596 1404053 1403059 1405081

PART II - SECTION C: WATER USE

1. Will fresh water be diverted or used at the site for the operation of the facility, living accommodations or other purposes?	○ Yes (Complete Question 2 & 3) ● No planned water usage (continue to Part III)
2. Fresh water source: (check all that apply)	☐ Ground Water ☐ Surface Water Water Source Name:
3. Do you have any existing water licences and/or have you submitted any water licence applications?	○ Yes Application Tracking Number: Licence #: ○ No

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PART III – INFORMATION FOR FISHERIES AND OCEANS CANADA (DFO)

The following information along with Part I and Part V is required for the review of the federal Aquaculture Licence application pursuant to the federal *Fisheries Act, Pacific Aquaculture Regulations.*

PART III - SECTION A: PROPOSED SPECIES

TABLE A: SPECIES NAME	CULTURE TYPE	FIRST YEAR OF PRODUCTION	PRODUCTION ESTIMATE (t)	SOURCE OF STOCK		
				Hatchery	Natural Set	Other (complete Table B)
Gallo Mussel (M. galloprovincialis	☐ Intertidal ☑ Deepwater ☐ Subtidal	2020	22.00	☑	☐	☐
Eastern Blue Mussel (M. edulis)	☐ Intertidal ☑ Deepwater ☐ Subtidal	2020	10.00	☑	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐

TABLE B: PROVIDE A SHORT DESCRIPTION OF "OTHER" SEED SOURCE STOCK BY SPECIES AS APPLICABLE:

PART III - SECTION B: FISHERIES PROTECTION

Fisheries and Oceans Canada – Aquaculture Management Division (DFO - AMD) is responsible for the sustainable management of aquaculture in British Columbia. Like other types of industrial development taking place in and around water, aquaculture projects have the potential to affect fish and fish habitat.

NOTE: Aquaculture activities must not result in harm to a Species at Risk Act (SARA) listed species, their residence, or their critical habitat, as defined in the associated Recovery Strategy, or Action Plan.

1. Intertidal Culture Operations

☑ Not Applicable

a) Are you proposing to use any temporary or permanent aquaculture structures or equipment (ie. install geoduck tubes or rack and bag structures, etc) in any of the following habitats?

i.	intertidal stream channels	○ Yes ○ No
ii.	eelgrass beds (*Zostera* sp.)	○ Yes ○ No
iii.	fish spawning areas	○ Yes ○ No
iv.	SARA listed species, critical habitat, and/or residence	○ Yes ○ No

If Yes, describe the structures, habitat and method for installation.Please refer to the Shellfish Guide to ensure all information is provided.

b) Will you use a Mechanical Clam Harvesting Machine or 'stinger' harvest gear in the intertidal? ○ Yes ○ No

c) How will you be accessing the proposed area?

NOTE: Please note aquaculture activities may not occur in salt marsh habitat.

2. Deep Water/Suspended Culture Operations ☐ Not Applicable

a) Are you proposing to install any aquaculture structures or conduct aquaculture activities (including anchor system placement) in waters shallower than the 10m bathymetric contour? ○ Yes ● No

b) Are you proposing to install any aquaculture structures or conduct aquaculture activities (including anchor system placement) in waters deeper than 10m (measured from chart datum) and over any of the following habitats?

- i. rocky reefs ○ Yes ● No
- ii. kelp beds ○ Yes ● No
- iii. eelgrass beds (*Zostera* sp.) ○ Yes ● No
- iv. fish spawning areas ○ Yes ● No
- v. glass sponge complexes (*Hexactinellidae*) and/or coral complexes ○ Yes ● No
- vi. SARA listed species, critical habitat, and/or residence ○ Yes ● No

If Yes, describe the structures, habitat and method for installation.Please refer to the Shellfish Guide to ensure all information is provided.

c) What is the minimum depth (m) below structures at zero tide (as measured from the deepest hanging trays, lines, etc. to the sea floor): 10.0

3. Subtidal On / In-Bottom Culture Operations ☐ Not Applicable

a) Are you proposing to install any temporary or permanent in- or on-bottom aquaculture structures (e.g. bags on bottom, cages, nursery structures, geoduck tubes, predator netting, etc.) other than site boundary markers in any of the following important or sensitive habitats?

- i) rocky reefs ○ Yes ● No
- ii) kelp beds ○ Yes ● No
- iii) eelgrass beds (*Zostera* sp.) ○ Yes ● No
- iv) fish spawning areas ○ Yes ● No
- v) glass sponge complexes (*Hexactinellidae*) and/or coral complexes ○ Yes ● No
- vi) SARA listed species, critical habitat, and/or residence ○ Yes ● No

If Yes, describe the structures, habitat and method for installation.Please refer to the Shellfish Guide to ensure all information is provided.

PART IV – INFORMATION FOR TRANSPORT CANADA (TC)

The following information, along with Part I and Part V is required for the review of the federal *Navigation Protection Act* (NPA) approval.

PART IV - SECTION A: SITING CONSIDERATIONS

Applicants may be required to provide additional information in some situations.

PART IV - SECTION B: ADDITIONAL TRANSPORT CANADA INFORMATION

1. Waterway Name:	Evan's Bay, Read Island		
Width (m):	800.00	**Depth Range (m):**	10m-150m
2. Nearest Community:	Herriot Bay, Quadra Island		
3. Is this Work:	☐ New ☐ Existing ☑ Modification of Existing Work		
4. To help with the review process, please include the following if available. Check each box to confirm is attached.			
☐ Photographs at the site of the proposed/existing work and surrounding area			
☐ Environmental Assessment documents (if any)			

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PART V – INFORMATION FOR ALL AGENCIES

Incomplete applications will be returned to applicant.

PROVINCIAL FEES:

Application fees for Crown land tenures are due upon submission. Fees for new applications and amendments to existing tenures are established in the Crown Land Fee regulation – see link http://www.bclaws.ca/civix/document/id/lc/statreg/177_2003. Note that the fee structure does not include that taxes that apply.

Forms of payment:

- **Cheques or Money orders must be in Canadian Funds to Minister of Finance.**
  FrontCounter BC will not accept personal cheques drawn on US banks, regardless of what currency.
- **Debit Card (in-person only).**
- **Visa, AMEX and MasterCard payments are accepted in-person or over the telephone. To locate a FrontCounter BC office, visit the website at http://www.frontcounterbc.gov.bc.ca/contact/ or call the toll free number 1-877-855-3222.**

FEDERAL FEES: http://www.pac.dfo-mpo.gc.ca/aquaculture/licence-permis/index-eng.html. Federal fees will be invoiced prior to licensing and are only payable online using the National Online Licensing System.

DISCLOSURE:

The information you provide may be subject to the following legislation: British Columbia Freedom of Information and Protection of Privacy Act (FOIPPA); the federal Access to Information Act; and the federal Privacy Act. Personal information is collected by FrontCounter BC under the legal authority of section 26 (a), (c) and (e) and 27(1) (a) (i) of the FOIPPA. The collection, use, and disclosure of personal information is subject to the provisions of the FOIPPA.

The Province of British Columbia and the federal Fisheries and Oceans Canada and Transport Canada do not consider the information submitted in this form to be confidential unless it is subject to the privacy protection of the Act or the federal Access to Information Act.

Personal information may be disclosed by FrontCounter BC to local, provincial and federal governments; First Nations; and the public on an as needed basis for the purposes of reviewing and processing your inquiry or application(s) under the BC Land Act, BC Fish and Seafood Act, federal Fisheries Act and the federal Navigation Protection Act. The information, with the exception of date of birth, may be posted on a public webpage and may be accessed outside of Canada. Contact information may be accessed and used by FrontCounter BC for survey purposes.

For more information regarding the collection, uses, and/or disclosure of your personal information, please contact: FrontCounter BC at 1-877-855-3222 or at FrontCounter BC Program Director, Provincial Operation, 441 Columbia Street, Kamloops, BC V2C 2T3; or the Director, Access to Information and Privacy Secretariat at the Department of Fisheries and Oceans Canada and Transport Canada.

IMPORTANT: Federal regulations require that applications submitted on behalf of a company be signed by a company director. Please email aquaculture.licensing@dfo-mpo.gc.ca for direction regarding supporting documentation.*

I understand that the information supplied will be used and disclosed as described above,

Signature(s) of applicant(s)	Printed name(s) of Applicant(s) or authorized representative*	Date (yyyy/mm/dd)
	Paul Simpson	2019/12/19

**If signature is by an authorized representative please supply a letter granting authorization to act on behalf of the applicant.*

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Submit completed application, and additional supporting information (if applicable) to:

BY EMAIL:

Email Subject line:	**Proponent Name, Application Type**
Attachments:	The application and attachments to be submitted as one "unprotected" PDF document. If not, name as following: **Proponent_Application Type_1of2** **Proponent_Description of Supporting documents_2of2**
Email to:	WestCoast.LandReferrals@gov.bc.ca
Fees:	Upon review of your application, you will be notified by FrontCounter BC of the applicable provincial application fee.

IN PERSON:

Any FrontCounter BC office.

Visit http://www.frontcounterbc.gov.bc.ca for the location nearest you.

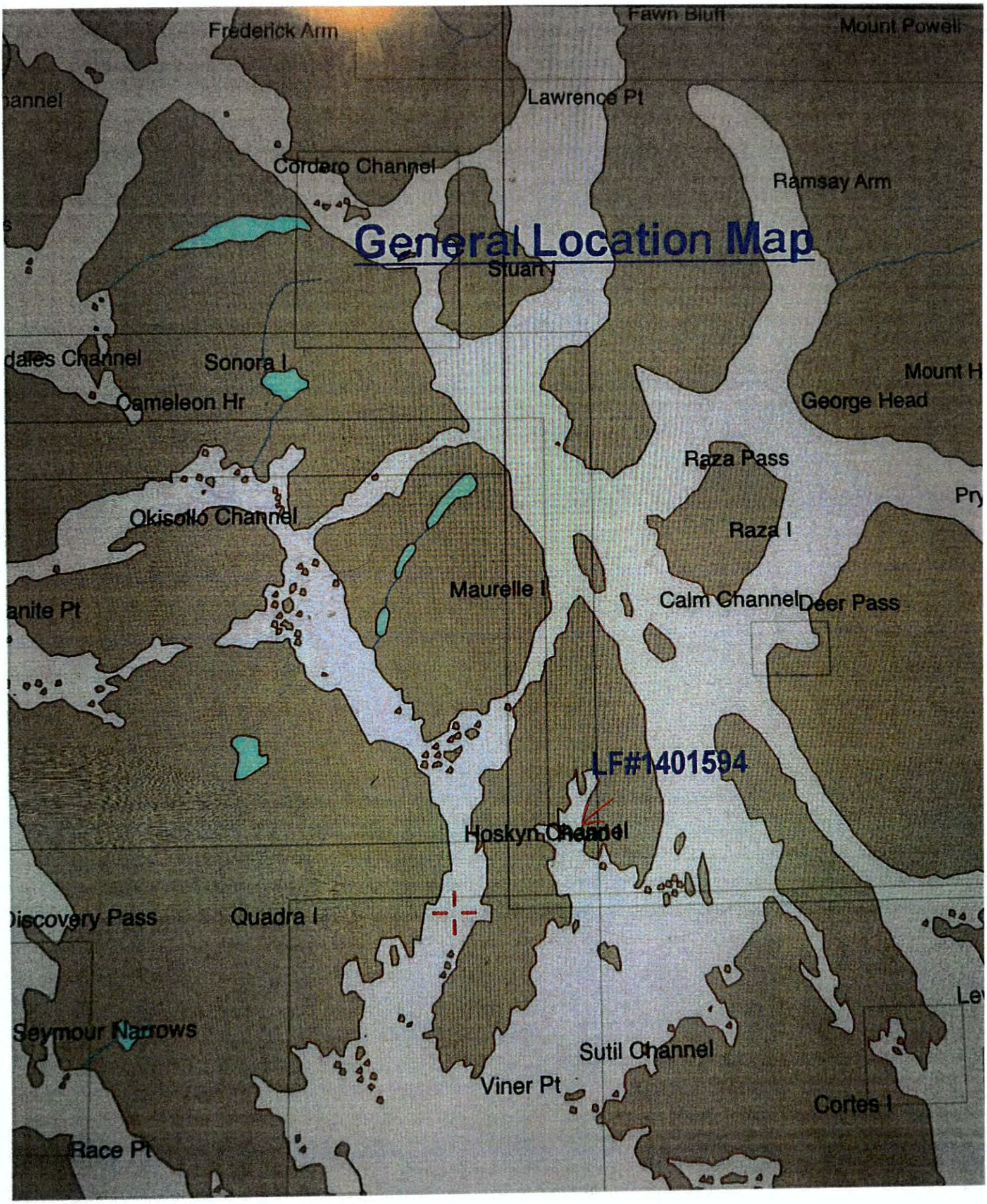
BY MAIL:

FrontCounter BC, 142-2080 Labieux Road, Nanaimo, BC V9T 6J9

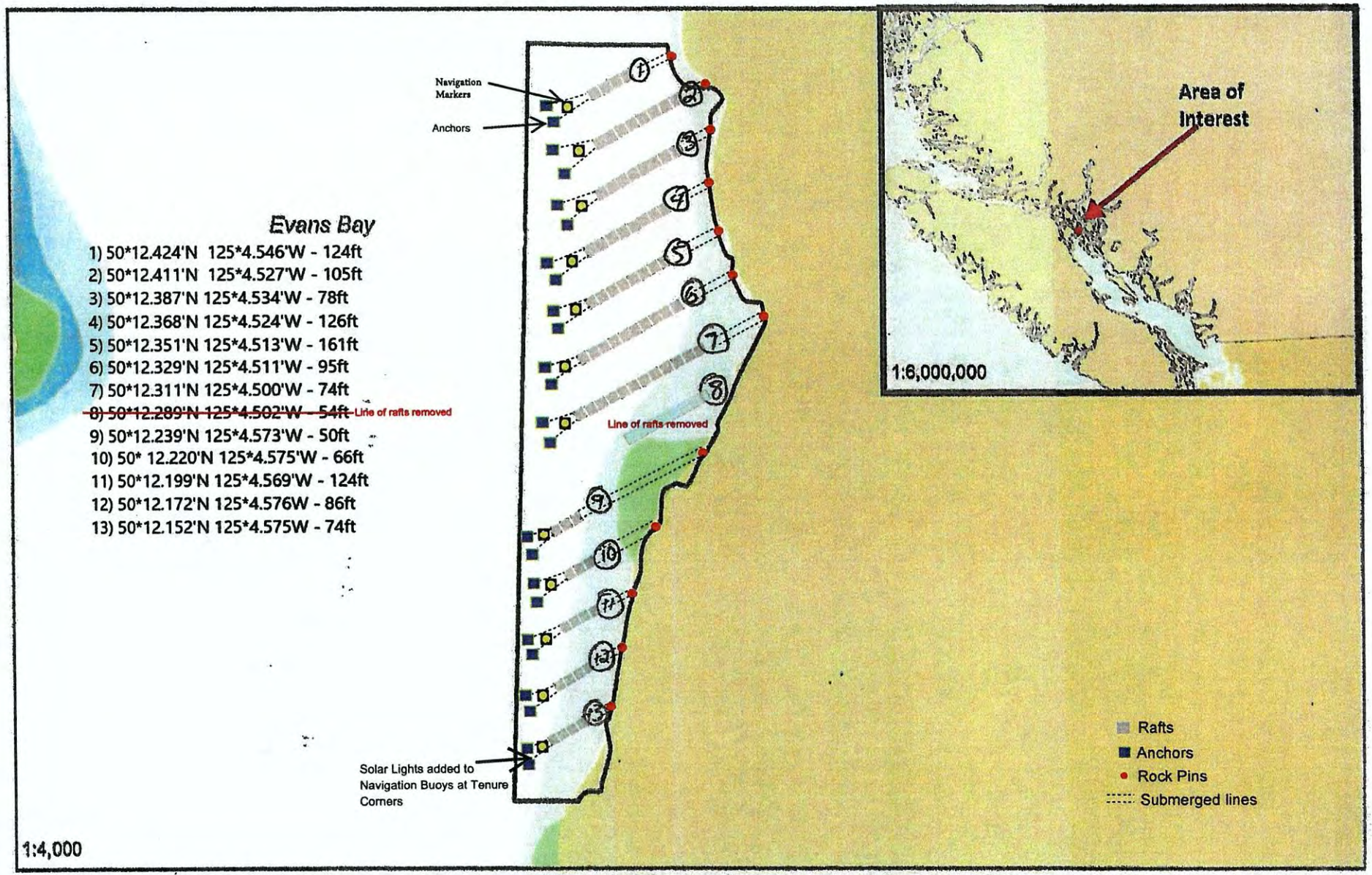
PLEASE RETAIN A COPY OF THIS APPLICATION FOR YOUR RECORDS

APPLICATIONS ARE NOT TRANSFERABLE

THE SUBMISSION OF THIS FORM DOES NOT IN ANY MANNER CONVEY ANY RIGHTS TO USE OR OCCUPY CROWN LAND AND/OR CONDUCT REQUESTED ACTIVITIES


General Location Map
Frederick Arm
Fawn Bluff
Mount Powell
Lawrence Pt
Cordero Channel
Ramsay Arm
Stuart I
Sonora I
Cameleon Hr
George Head
Raza Pass
Okisollo Channel
Raza I
Maurelle I
Calm Channel
Deer Pass
LF#1401594
Hoskyn Channel
Quadra I
Seymour Narrows
Sutil Channel
Viner Pt
Cortes I
Race Pt

Shellfish Aquaculture - Evans Bay Oyster Company Ltd., Read Island



AQSF 197 (LF 1401694)

Bathymetry (m)

Intertidal	5 - 9.9
0 - 1.7	10 - 18
1.8 - 4.9	>18

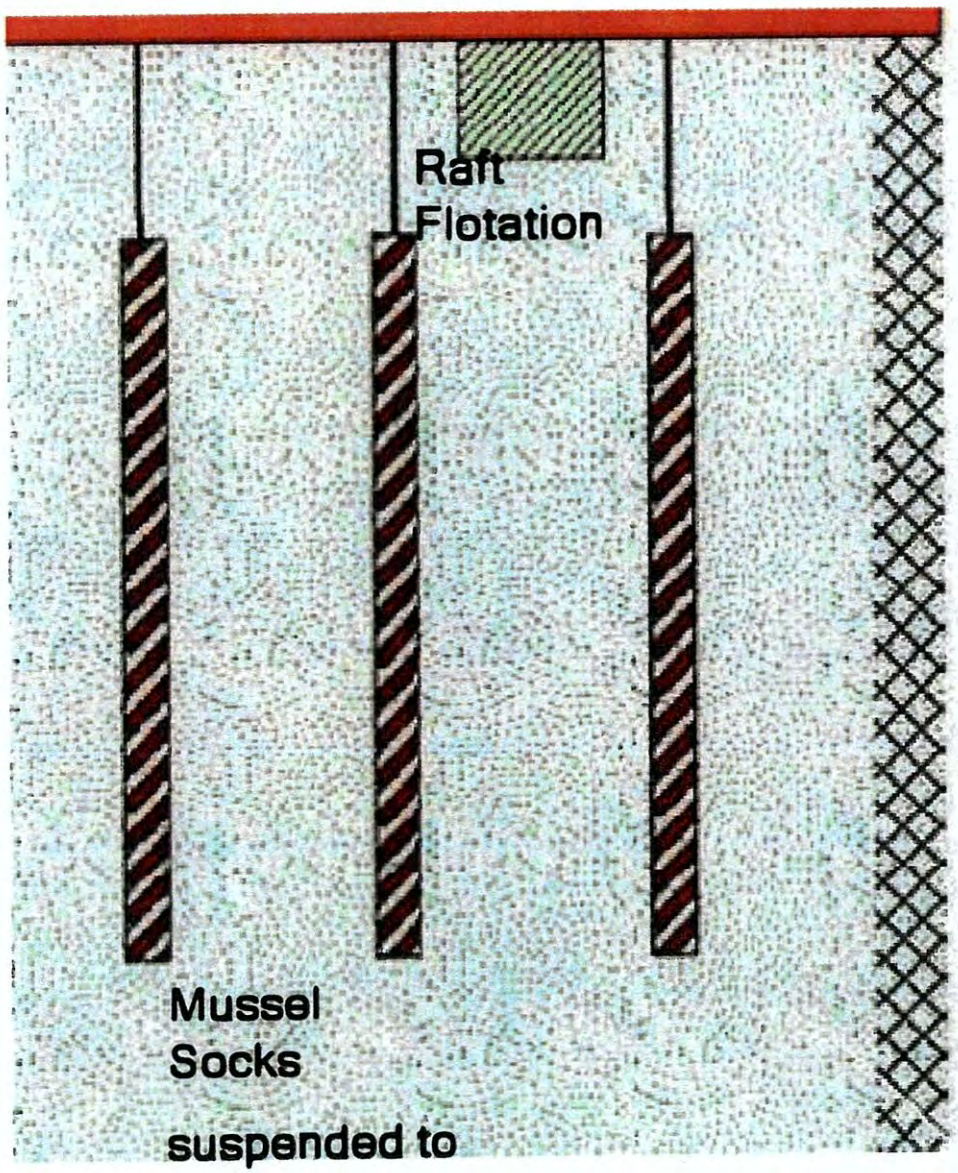
Fisheries and Oceans - Aquaculture Resource Management

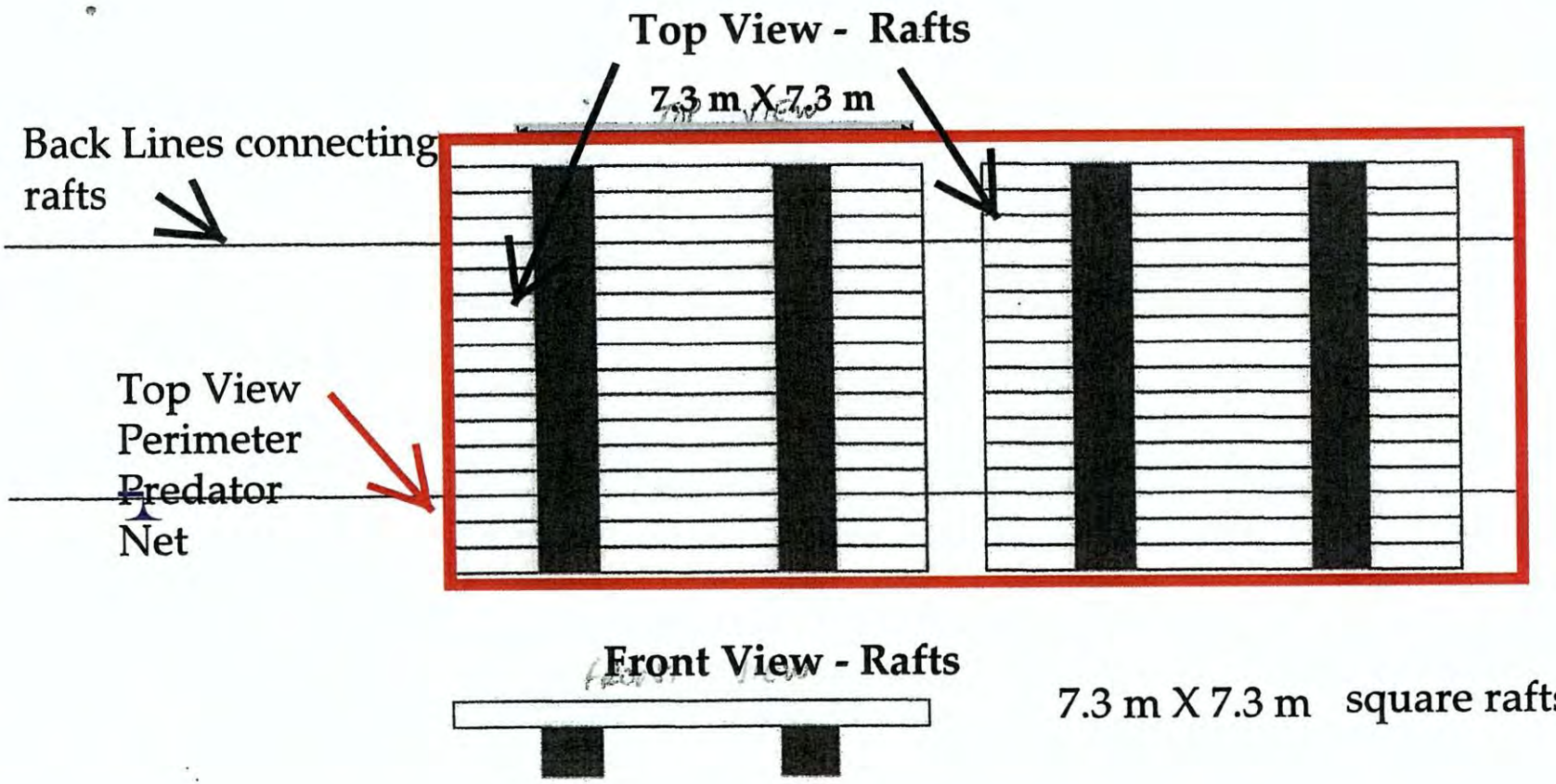
Map Projection: CSRS UTM Zone 10
Datum: NAD 1983
Date Produced: 9 January 2019

Source Data: CHS Hydrographic Charts
BC Tantalis

N

Raft Side View




Top View - Rafts
7.3 m X 7.3 m
Back Lines connecting rafts
Top View Perimeter Predator Net
Front View - Rafts
7.3 m X 7.3 m square rafts
Side View of Rafts
with mussel socks suspended beneath to depth of 7 m
Perimeter Predator Net
Shore -Pin
Se Bed
4 X 4,000kg Concrete block anchors

Island Sea Farms Debris Management Plan for Evan's Bay Site

Section 1 – Gear, Equipment &/or Infrastructure

Types of gear & volumes;

- Wooden Rafts – 24' x 24' – 12 rafts presently licensed, 64 additional proposed
- Polyethylene re-usable grow out ropes – 4692ft / raft
- Polyethylene twine for attaching grow out ropes to rafts – Approx. 400 ft / raft
- 18" x 20mm Steel Rebar for weighting grow out rope – 102 pcs / raft
- Vexar Socking for securing mussels to grow out rope – 4692 ft / raft
- Polyethylene Predator Netting – 2 predator panels presently licensed, 10 additional panels proposed-11,683 m2
- Rigid HDPE (8mm thickness) encased foam flotation billets (to be installed to plan) 24'x30'x24" each raft has 2 billets.

Expected life span and probability of each becoming debris

- Rafts: 10-15 years. When properly secured in the anchoring system, the probability of the rafts becoming debris is very low. If the raft does start to break apart, the pieces of wood float and is easily collected.
- HDPE encased flotation-30 years expected lifespan (reported by manufacturer- Eco-Billet)
- Ropes: 20-25 years. Low probability of becoming debris. Once the ropes are harvested, they are loaded into large cargo bags for storage. The bags are very heavy and not easily lost into the water. If the rope does fall into the water, it is buoyant and will float until collected.
- PE Twine: 2-3 years. Medium probability of becoming debris. When grow out ropes are harvested, the PE twine is removed from the rope and placed in the garbage as it has become sun damaged. In the event the twine is lost, it will float on the surface and can be collected. Given the bright colors, it is easy to see from a distance.
- Rebar: 5-10 years. Medium probability of becoming debris. These pieces are attached to the bottom of the grow out rope when the rope is seeded and remain on the rope until it is harvested. The rebar is collected at harvest and loaded into large plastic bins. It is very rare a piece is lost, but when a piece is lost, it sinks to the sea floor.
- Vexar socking: 1-2 years. Medium probability of becoming debris. Socking is deployed around the mussels to help secure them to the rope while they grow. This vexar is removed during harvest in large pieces and placed in the trash. If the vexar is lost overboard, it will float and is easily collected
- Predator Netting: 5-10 years. Low probability of becoming debris. This netting is deployed in the fall to protect the crop from predators and removed in the spring at which time they are loaded into cargo bags and sent off site for cleaning and repairs.

Section 2 Debris Management Protocols

When the above materials are handled throughout the course of the growth cycle, the crews are instructed to keep these materials in large cargo bags both before and after use. These cargo bags are tied or strapped to rafts at all times to minimize the chance of being blown off the rafts in strong winds and debris ending up in the sea. After materials or gear final use, (materials or gear no longer in useful

condition) the large cargo bags are sent off site to recycling facility on Quadra Island or Landfill in Campbell River to prevent debris from entering the ocean again by some other user. All nets are marked with ISF tags.

Island Sea Farms' site maintenance department inspects all sites on a weekly or near weekly basis to check on the structures and any materials to ensure they are not being released into the environment.

There is a dive team on site that dives under our tenures at 6-month intervals to check for any gear or debris that may have sank to the sea floor.

The crew participates in the annual beach clean up organized with the community to check the beaches surrounding the areas to make sure any debris that did wash ashore is collected. Apart from the annual beach clean-up ISF staff do periodic shore patrols to spot and remove aquaculture debris. Typically, both annual clean-up and periodic checks results in debris which is of unknown origin and did not originate at ISF farms.

Section 3 Implementation Plan

Though not previously called a Debris Management Plan, our employee handbook, which is reviewed during hiring and whenever an amendment is introduced, clearly lays out the responsibilities of the company and each crew member to maintain an environment that is clear of garbage or debris. The HR department holds monthly meetings with the crew members to review the farm operations. During these meetings, there is a lot of discussion around preventing debris and contaminants escaping the site. The minutes of these meetings, along with who attended, are stored in an online folder accessible by any crew member for review.

Section 4 Contact Information

Island Sea Farms operates 10 vessels and 3 trucks to service our tenures, all of which are clearly displaying the company name and phone number. There is also a contact list on one of our tenures which acts as our base of operations.

File Number: 1401594

Proponent: Island Sea Farms Inc.

CROWN LAND TENURE SPECIFICS

Tenure Type: Licence of Occupation

Intended Land Use/background context: This application is to amend and replace existing shellfish farm, to increase the number of rafts by 64 and add associated improvements (anchors and lines). Tenure replacement is a licence of occupation for a term of 30 years.

BCGS Mapsheet/Location: 92K.025

Legal Description: District Lot 1656, Sayward District, together with unsurveyed Crown Foreshore or land covered by water being part of the bed of Evans Bay, Sayward District

Size (Area) ha (approx): 7.21

Schedule/Term Of Proposal: 30 years

This is a provincial Crown land, federal fisheries license and navigable waters approval application for aquaculture purposes.

The use and occupation of Crown Land for aquaculture purposes (general suitability of the site location) falls within the provincial jurisdiction and topics such as proposed species, production rates, rearing methods, fish health and marine habitat concerns fall under federal jurisdiction

As the Ministry of Forests, Lands, Natural Resource Operations and Rural Developments' review of the Federal/Provincial harmonized Aquaculture Application is focused on the provincial jurisdiction, please limit your comments to the use and occupation of Crown land.

Referral Documents

	Description	File Name
View	KMZ	2022-03-05 KMZ Map 1401594.kmz
View	Referral Package	2022-03-19 Ref Pkg 1401594.pdf

Referral Response

Referral Type:	Aquaculture	Referral Number:	146111524
		Recipient Number:	005
Reference Number:	Forests, Lands and Natural Resource Operations / 1401594	Response Due Date:	Jun 16, 2022
Request Sent Date:	May 17, 2022	Referral Coordinator:	Emma Lavery
Status:	Closed	Contact:	Email Coordinator
Completion Date:	mmm dd, yyyy	Name:	Strathcona Regional District - Planning District
		Recipient List:	Aniko Nelson, John Neill

Respondent Name: John Neill

This Referral has been closed. Thank you for your interest.

You are invited to comment on the following application package. A response is optional. If no response is received by the deadline, the application and adjudication process for the Crown land tenure application will move forward. Please be advised that as the federal and provincial agencies have developed a harmonized approach to aquaculture management, your response may be shared with Fisheries and Oceans Canada and Transport Canada.

Questions

Please answer the following questions. Where indicated or required, please explain your answer in the Response Text box provided.

If it would help to explain your answer, please upload any relevant documents below, and indicate indicate "Document Attached" in the Response Text box.

◉ Yes	○ No	○ N/A	Does this application impact your agency's legislated responsibilities? If yes, how will the proposal impact your legislated responsibility and please identify the relevant legislation (section) and what mitigative measures will be required to address these impacts in the response text box at the bottom of the page.
◉ Yes	○ No	○ N/A	If the proposal proceeds, will the proponent require approval or a permit from your agency? If yes, please explain in response text box at the bottom of the page.
○ Yes	◉ No	○ N/A	Will on-going compliance monitoring be required by your agency as a result of your legislated responsibilities? If yes, please explain what will be required in the response text box at the bottom of the page.
○ Yes	◉ No	○ N/A	Will this application affect public use of this area? If yes, please explain in the response text box at the bottom of the page.
○ Yes	◉ No	○ N/A	For Municipal/Regional Government Use Only: Is the application area zoned for the proposed purpose? If no, please provide the current zoning. In the event the applicant wishes to apply for re-zoning, please also provide the estimated time required for this decision. Your comments can be entered in the response text box at the bottom of the page.

Recommendations

Please check one. Where indicated or required, please explain your answer in the box provided.

If it would help to explain your answer, please upload any relevant documents below, and indicate "Document Attached" in the Response Text box.

- ☐ Interests unaffected
- ☐ No objection to approval of project.
- ☑ No objection to approval of project subject to the conditions outlined below
- ☐ Recommend refusal of project due to reasons outlined below.
- ☐ N/A

Response
Text:

Applicants to successfully rezone the tenure area to Aquaculture Two (AQ-2) to bring the existing shellfish farm into compliance with the zoning bylaw.

Documents

Description	File Name

b

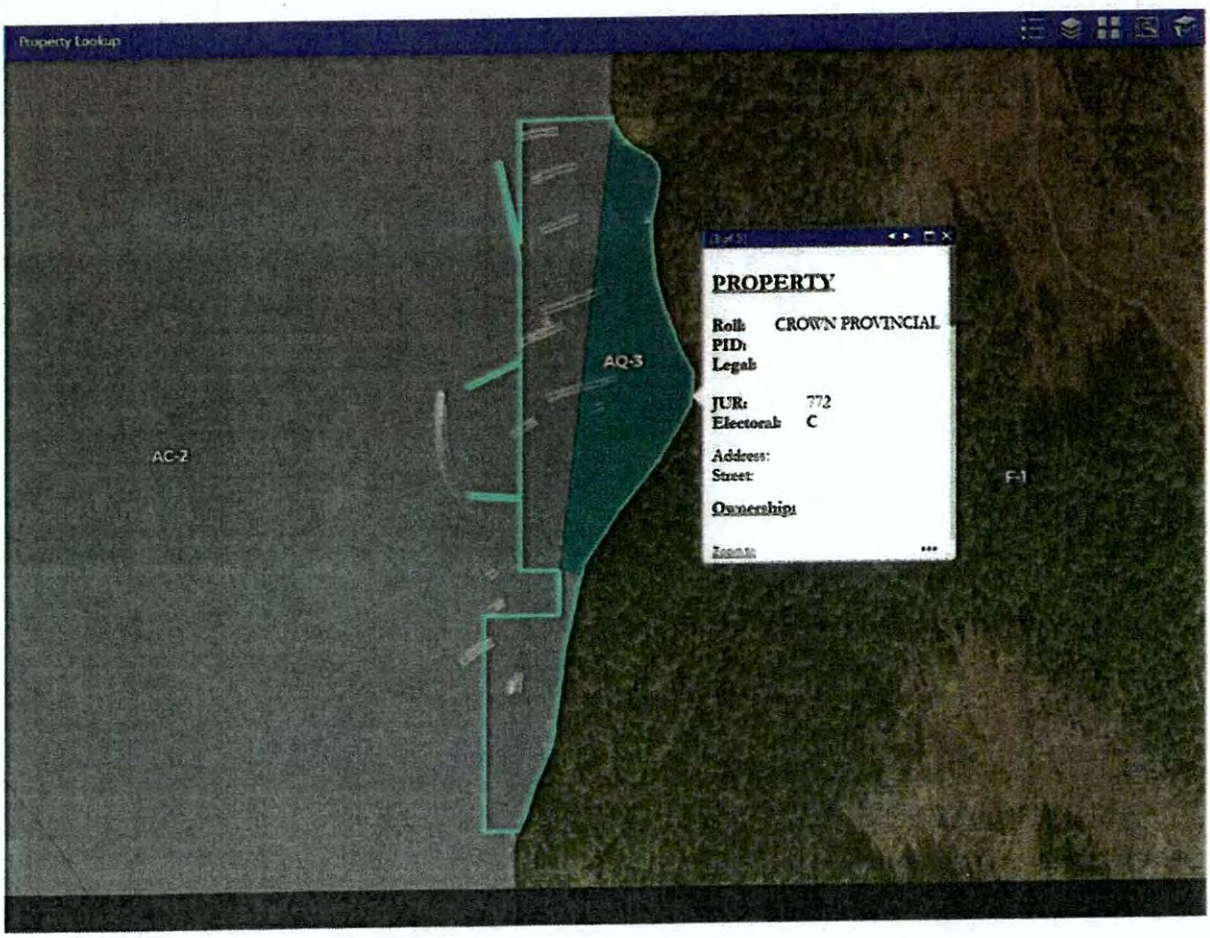
Meredith Starkey

From: Meredith Starkey
Sent: November 22, 2022 3:18 PM
To: 'Kuan, Lawrence (TC/TC)'
Cc: John Neill
Subject: RE: Crown Land File # 1401594
Attachments: AQ-3.pdf; AC-2.pdf

Hi Lawrence,

Thank you for reaching out! The SRD's role would depend on what is being proposed, or the nature of a complaint. In this case, their application to renew their license of occupation was referred to the SRD for comment. We advised that a rezoning would be required but haven't received a rezoning application to date.

For reference, this water access area is zoned Access Two (AC-2) and Aquaculture 3 (AQ-3) in the 'Electoral Area 'J' – Desolation Sound Rural Land Use Bylaw, 1993' (see excerpts attached). The full bylaw is available here: https://srd.ca/wp-content/uploads/2018/09/Bylaw-No.-165-Amendment-No.-10-to-Bylaw-1460-April-10-2013.pdf, and the zoning for this license area is shown below:



As stated in the bylaw, a Temporary Industrial Use Permit (TIUP) is required to permit aquaculture activities in the AC-2 zone, or a rezoning application is required if the use is intended to continue after the TIUP expires.

The rezoning process is explained within the application, available here on the SRD's website: https://srd.ca/wp-content/uploads/2018/09/OCP-and-Zoning-Bylaw-Amendments-Application-Package.pdf

Hope that helps, but please let me know if you have additional questions. Happy to discuss further.

Thanks!
Meredith

Meredith Starkey
Manager, Planning and Parks
990 Cedar Street, Campbell River, BC V9W 7Z8
e. mstarkey@srd.ca | t. 778.346.9143 | m. 250.203.1828

The Strathcona Regional District is located in the Coast Salish, Kwakwaka'wakw and Nuu-chah-nulth traditional territories.

Please consider the environment before printing this email

From: Kuan, Lawrence (TC/TC) <lawrence.kuan@tc.gc.ca>
Sent: November 21, 2022 4:21 PM
To: Meredith Starkey <mstarkey@srd.ca>
Subject: Crown Land File # 1401594

NOTICE: This email is from an external source.

Hi Meredith,

I'm just reaching out from Transport Canada's Navigation Protection Program regarding an aquaculture facility at Read Island. I'm just trying to understand SRD's role here. Has the SRD received an application for rezoning? What's the process for that look like?

Thanks,

Lawrence Kuan
Navigation Protection Officer, Navigation Protection Program
Transport Canada | Government of Canada
Suite 600 – 800 Burrard St.
Vancouver, B.C., V6Z 2J8

Tel: (604) 349-4322 TTY: 1-888-675-6863
Website: http://www.tc.gc.ca/eng/programs-621.html
Applications: https://npp-submissions-demandes-ppn.tc.canada.ca/
Common Project Search: https://common-project-search.canada.ca/
Email: NPPPAC-PPNPAC@tc.gc.ca

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Aniko Nelson

From: John Neill
Sent: November 30, 2022 9:31 AM
To: Lannie Keller
Cc: Meredith Starkey
Subject: RE: Aquaculture application 1401594 - rezoning process

Hi Lannie – yes, once an application for rezoning has been received from the SRD, it will be processed in the usual way which *will* involve a public hearing prior to any zoning change being implemented.

Best regards,

John

From: Lannie Keller <coastmtn@island.net>
Sent: Tuesday, November 29, 2022 19:25
To: John Neill <JNeill@srd.ca>
Subject: Aquaculture application 1401594 - rezoning process

NOTICE: This email is from an external source.

Hi John,

I'm sorry if this is bothersome, but community is looking for definite assurance about this application process and the info from Province and SRD is still a little confusing.

You said that there are some circumstances where applications are approved by the Province, even in contravention of local zoning. Carlos Burgo (MoF authorizations specialist Aquaculture) has been helpful with information and says this application approval is dependent on zoning compliance, which requires rezoning application and a "potential" public hearing. The wording of his statement about the Province having "*indicated*" [to the licensee] "that a tenure would not be offered if the area cannot be brought into compliance with off bottom shellfish aquaculture" is somehow not totally reassuring. However, he also says that "we will defer completely to the SRD on zoning requirements. For confirmation that a public hearing is required please contact the SRD." (You can read his email, below.)

So this is to once again, ask that of you. And also to ask if there is any possible situation in which SRD would employ or allow a zoning change mechanism that sidesteps the regular tenure application process? I hope you can also confirm that the next (absolutely-required!) step is simply for the SRD to receive the application from the tenure holder, and that the community can rest-easy except to be ready for attending a public hearing sometime in the Spring?

Thanks very much.
Lannie Keller

From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: November 29, 2022 11:50 AM
To: Lannie Keller <coastmtn@island.net>
Subject: RE: Carlos Burgo Email contact

Hello Lannie,

Thank you for reaching out for further clarification. As we discussed in our last conversation, each agency is currently reviewing this application. The Province cannot make a comment on the status or timeline of other agencies review. I can say that I am at the early stages of review and no decision is imminent from the Province. Only once all agencies reviews are complete, will a final harmonized decision on this application be put forward.

I wanted to clarify the role of Strathcona Regional District in this application, the SRD is not part of our harmonized team consisting of Transport Canada, Oceans and Fisheries Canada, and the Province of B.C. While conducting our review we have been made aware of non-compliance zoning when referring this application to the SRD. The applicant has been made aware of this and we have indicated that a tenure would not be offered if the area cannot be brought into compliance with off bottom shellfish aquaculture. The zoning of the site falls under SRD jurisdiction, however they will not be reviewing the shellfish aquaculture application.

The rezoning and potential public hearing is not a process that the Province will be involved in directly. We may attend public hearings as an observer or be in contact with the SRD on the timeline of rezoning, however we will defer completely to the SRD on zoning requirements. For confirmation that a public hearing is required please contact the SRD.

In the spirit of efficient and timely decision making, the Province will not pause our review and will continue to evaluate this application based on the Province's jurisdiction. If we do reach a decision before rezoning is complete, we will not be able to make a final recommendation until the rezoning process undertaken by SRD is complete.

Please let me know if you have any further questions.

Thank you,

Carlos Burgo|
Authorizations Specialist, Aquaculture
Ministry of Forests, West Coast Region
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

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From: Lannie Keller <coastmtn@island.net>
Sent: November 24, 2022 5:34 PM
To: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Subject: RE: Carlos Burgo Email contact

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hello Carlos,

Thank you for speaking with me again yesterday. I'm gathering information for the Surge Narrows/Outer Discovery Islands' monthly newsletter. The community is interested in the progress of this application and requesting information about the rezoning, and certainty about the opportunity for public hearing.

John Neill, Planner at SRD said that Regional District is aware of this application, and SRD is waiting for direction. Because the zoning is non-compliant, he said the normal next step is SRD rezoning, a process that is triggered by a request from the applicant. The applicant however, only makes that request after being told by the Province that rezoning is required. John Neill also said there are some circumstances where applications are approved by the Province, even in contravention of local zoning. You have said there are four agencies that need to approve the application (prov BC, DFO, TC and SRD) and provided verbal assurance that a rezoning application will be required.

The reviews being conducted by DFO, TC, and (by you, for) the Province are currently underway, and we understand this will take several months. Is the rezoning requirement (including public hearing) based on approval of the three agencies? We are confused why (if as you say) zoning is the most likely to disapprove, then why isn't that the zoning OK confirmed first of all? We're mostly curious about the process, but we would appreciate your written assurance that a rezoning application and public hearing WILL BE REQUIRED for this tenure change.

Thanks very much,
Lannie Keller
Surge Narrows

From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: October 4, 2022 3:10 PM
To: Lannie Keller <coastmtn@island.net>
Subject: RE: Carlos Burgo Email contact

Hello Lannie,

The contact at SRD for public inquiries regarding rezoning is John Neill. His email is JNeill@srd.ca.

Cheers,

Carlos Burgo

From: Lannie Keller <coastmtn@island.net>
Sent: October 3, 2022 7:04 PM
To: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Subject: RE: Carlos Burgo Email contact

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Thanks, Carlos.
You have the correct email address and I'll look forward to (hopefully) a contact at SRD.
Cheers,
Lannie

From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: October 3, 2022 2:36 PM
To: coastmtn@island.net
Subject: Carlos Burgo Email contact

Hello,

Sorry I was just taking another call when you called.

Please feel free to reach out to me if you have any more questions. I will get back to you regarding the Regional District referral.

Thank you,

Carlos Burgo|
Authorizations Specialist, Aquaculture
Ministry of Forests, West Coast Region
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

Aniko Nelson

From: John Neill
Sent: August 30, 2023 11:41 AM
To: Meredith Starkey; Aniko Nelson
Subject: FW: Aquaculture Zoning Compliance Issue
Attachments: 2023 August - Background Information - Island Sea Farms License #1401594.docx

The latest from Lannie.

From: Lannie Keller <coastmtn@island.net>
Sent: Wednesday, August 30, 2023 11:32
To: Robyn Mawhinney <rmawhinney@srd.ca>; John Neill <JNeill@srd.ca>; John Rice <jrice@srd.ca>; Mark Vonesch <mvonesch@srd.ca>; Gerald Whalley <gwhalley@srd.ca>; David Leitch <DLeitch@srd.ca>; Mark Baker <mbaker@srd.ca>; Tom Yates <TYates@srd.ca>
Subject: Aquaculture Zoning Compliance Issue

NOTICE: This email is from an external source.

August 29, 2023
Re: Aquaculture License #1401594 Evans Bay, Read Island

Dear SRD Board and Staff:

The Province has recently issued an aquaculture license amendment/renewal that is *subject to zoning compliance*. SRD has informed Island Sea Farms (the Licensee) about the compliance requirement, but SRD also claims to have no authority or capacity to require or enforce zoning, and no ability to police this remote site.

The Licensee proposes a mussel farm, as opposed to more passive oyster culture. This includes a large increase in infrastructure, and activity/noise that Island Sea Farms wants to move from Gorge Harbour (Cortes Island) to Evans Bay.

The Province, DFO, and Transport Canada all reviewed the application. The three agencies produced separate studies and recommendations that provided basis for the Dedicated Decisionmaker's renewal offer. The back story is longer, because there is misinformation in the License application, including the zoning map.

When the application was filed, there was no effort to notify the community. Someone saw the inconspicuous paper notice on a raft at the farm and several local community members wrote to express concerns. Others are waiting for the public hearing that is required for rezoning.

Community notified the Province about the zoning conflict, and it seems wrong (or at least inefficient) that the Province, DFO and TC all proceeded with investigations and reports (and decision) ahead of rezoning. We are curious about why the license was issued ahead of the public process – and no one has been able to tell us what happens if rezoning is eventually denied.

SRD says they have no ability (or mandate) to "police" a provincial license in a remote location. The Province (Ministry of Forests Aquaculture Authorizations Specialist) says they also have no boat and no budget or mandate to patrol remote sites – and that DFO would be the oversight agency. We have not been able to locate anyone at DFO who visited the site or who wrote their recommendation. We have not been able to view any of the agency reports. WHO IS WATCHING?

This site was originally a very small finfish farm in the early 1980's. It has changed hands several times, and the use changed from finfish to deepwater oyster culture. Although the use changed, and the size almost doubled, there has never been a rezoning application or any public notification/process. Therefore, even before this application was filed, the License was operating in contravention of its zoning. Community had no idea we needed to look, but how did the three government agencies not know or notice when examining the new application? (And IF there was a DFO on-site inspection, how could they not notice management plan irregularities and why didn't they at least enforce the ban on *exposed raw styrofoam*?!)

I'm troubled by the disconnect between the SRD and the Province (and DFO and TC) on this application. It feels unjust that this has been allowed to proceed including the many inconsistencies and violations that have been noted, and apparently ignored.

It is important that decisions also reflect the best interests of the community. Ahead of any new AQ2 activity at this site (which is only zoned for AQ3 and AC1) please ensure that:

- The zoning is compliant with the rule and the moral intention of SRD ByLaw 1460.
- Previous and current violations are addressed and corrected.
- There is meaningful community input on all aspects of this application via the required public hearing.

Sincerely,
Lannie Keller
Evans Bay resident

NOTE: The attached document includes additional information and a map.

BACKGROUND INFORMATION
Island Sea Farms Evans Bay License / Amendment Application (Lands File # 1401594)

How this relates to Bylaw 1460: Rural Land Use Bylaw 1460, implemented 1993, designated most activities for their then-current use. The area in question was (and still is) zoned AQ3, finfish. Deepwater/raft culture of shellfish is AQ2; therefore, even before License # 1401594 expired, it was not zoned for what it was being used for. Circa 1996, the License area was enlarged (4 ha to 7.2 ha) and at that time it was *relabelled* AQ2. This change is undocumented at SRD, where they have no record of a receiving a referral notice, and there was no rezoning application. That process should have required a public hearing. The zoning on the map in the application is inaccurate and the operation is technically illegal. The SRD should be able to enforce compliance with the Local Bylaw.

Who is monitoring these government licensed sites?
This License that was already operating non-compliant with its zoning, is now (again) being offered for renewal by the Province. The Province says that it is the Licensee's responsibility to apply for rezoning, and that it is not their mandate to enforce that. SRD recently reminded the licensee of the requirement, but say they have no ability to enforce the province's requirement. Additionally, neither agency has budget or boats *or intention* to monitor what happens on the site. The Province suggested that DFO would be the onsite monitor – but DFO says the Licensee self-reports. So, who, if anyone, is watching? [Public complaints about exposed raw styrofoam flotation have not resulted in its removal, and there are statements in the license application that do not reflect on-site reality and activities.]

Is this Temporary Use? SRD's recent "reminder" to the Licensee included option for a 5-year Temporary Industrial Use Permit, which also includes a 5-year renewal option. SRD Bylaw 1460 originally described the TIUP as a 3- year permit (not 5yr + renewable) and it was a *temporary-use category* for heli-logging operations that needed to drop and boom logs from remote sites. Using this for Aquaculture might be legal, but its not the original spirit or intention of the Bylaw. The Licensee is considering the TIUP option. This also requires a public hearing – *but SRD cannot require the Licensee to apply*.

Provincial Disregard The Province received letters of concern and did not communicate or consult with any of the citizens who provided information about the situation. The Province "corrected" misinformation in the Licensee's application. Without referral or public process, the Province issued a license that is noncompliant with local zoning. Current zoning makes the current use illegal: the licensee has been and continues to operate in contravention of RD Bylaw. The Province should not issue/validate the license renewal until it is compliant with SRD (re)zoning, which includes a public hearing. The community has outstanding questions and new concerns regarding the provincial process and the politics of licensing public resources. And what happens if local rezoning is not approved?

Additional Concerns

- Community notification is a recurring request.
- The application is a stated plan to move industrial noise and activity from where it was unwanted at Gorge Harbour on Cortes to a more remote site where there is less opposition.
- Proposed increase from 12 to 72 rafts presumes to occupy heretofore unused area that is not zoned for aquaculture.
- Scale of the proposed operation (600% increase) will dramatically change the ambience of Evans Bay and directly affect residents, boaters, and other visitors who value the quiet and safety of this deep bay.

- Noise and activity will negatively impact the island's largest employer, a kayak lodge and tour company in operation for 35 years.
- Proposed rafts will extend into the path used by other marine traffic.
- The plan includes 13 night lights and introduces massive quantities of plastic, ropes, and predator netting into the marine ecosystem.
- The application contains factual errors, and the waste management plan includes untruths about past activities as well as unlikely promises. This Licensee/applicant has a record of messy operations, plastics pollution, and has been dismissive of community concerns. At this site in 2019 ISF replaced hard-shell floats with poly-wrapped styrofoam, and to this day there are many *partially unwrapped/exposed styrofoam floats in active use.*

Map: The dark blue area (4 ha, 1985) was zoned for finfish aquaculture in 1993 Rural Land Use Bylaw. The Provincially licensed area changed hands four times and increased (7.21 ha) but never rezoned for aquaculture. The larger hatched area proposed is currently not zoned for use.



BACKGROUND INFORMATION
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- Scale of the proposed operation (600% increase) will dramatically change the ambience of Evans Bay and directly affect residents, boaters, and other visitors who value the quiet and safety of this deep bay.

- Noise and activity will negatively impact the island's largest employer, a kayak lodge and tour company in operation for 35 years.
- Proposed rafts will extend into the path used by other marine traffic.
- The plan includes 13 night lights and introduces massive quantities of plastic, ropes, and predator netting into the marine ecosystem.
- The application contains factual errors, and the waste management plan includes untruths about past activities as well as unlikely promises. This Licensee/applicant has a record of messy operations, plastics pollution, and has been dismissive of community concerns. At this site in 2019 ISF replaced hard-shell floats with poly-wrapped styrofoam, and to this day there are many *partially unwrapped/exposed styrofoam floats in active use.*

Map: The dark blue area (4 ha, 1985) was zoned for finfish aquaculture in 1993 Rural Land Use Bylaw. The Provincially licensed area changed hands four times and increased (7.21 ha) but never rezoned for aquaculture. The larger hatched area proposed is currently not zoned for use.



Aniko Nelson

From: Aniko Nelson
Sent: August 30, 2023 1:30 PM
To: John Neill; Meredith Starkey
Cc: Annie Girdler
Subject: Re: Aquaculture Zoning Compliance Issue

Great, thanks!

A.

Get Outlook for iOS

From: John Neill <JNeill@srd.ca>
Sent: Wednesday, August 30, 2023 1:24:27 PM
To: Aniko Nelson <ANelson@srd.ca>; Meredith Starkey <mstarkey@srd.ca>
Cc: Annie Girdler <annie.girdler@gmail.com>
Subject: RE: Aquaculture Zoning Compliance Issue

Yes, will do.

From: Aniko Nelson <ANelson@srd.ca>
Sent: Wednesday, August 30, 2023 13:12
To: John Neill <JNeill@srd.ca>; Meredith Starkey <mstarkey@srd.ca>
Cc: Annie Girdler <annie.girdler@gmail.com>
Subject: Re: Aquaculture Zoning Compliance Issue

Hi John,

Can you pull the convenience files on this for discussion next week please and thanks!

A.

Get Outlook for iOS

From: John Neill <JNeill@srd.ca>
Sent: Wednesday, August 30, 2023 11:41:08 AM
To: Meredith Starkey <mstarkey@srd.ca>; Aniko Nelson <ANelson@srd.ca>
Subject: FW: Aquaculture Zoning Compliance Issue

The latest from Lannie.

From: Lannie Keller <coastmtn@island.net>
Sent: Wednesday, August 30, 2023 11:32
To: Robyn Mawhinney <rmawhinney@srd.ca>; John Neill <JNeill@srd.ca>; John Rice <jrice@srd.ca>; Mark Vonesch <mvonesch@srd.ca>; Gerald Whalley <gwhalley@srd.ca>; David Leitch <DLeitch@srd.ca>; Mark Baker <mbaker@srd.ca>; Tom Yates <TYates@srd.ca>
Subject: Aquaculture Zoning Compliance Issue

NOTICE: This email is from an external source.

August 29, 2023
Re: Aquaculture License #1401594 Evans Bay, Read Island

Dear SRD Board and Staff:

The Province has recently issued an aquaculture license amendment/renewal that is *subject to zoning compliance*. SRD has informed Island Sea Farms (the Licensee) about the compliance requirement, but SRD also claims to have no authority or capacity to require or enforce zoning, and no ability to police this remote site.

The Licensee proposes a mussel farm, as opposed to more passive oyster culture. This includes a large increase in infrastructure, and activity/noise that Island Sea Farms wants to move from Gorge Harbour (Cortes Island) to Evans Bay.

The Province, DFO, and Transport Canada all reviewed the application. The three agencies produced separate studies and recommendations that provided basis for the Dedicated Decisionmaker's renewal offer. The back story is longer, because there is misinformation in the License application, including the zoning map.

When the application was filed, there was no effort to notify the community. Someone saw the inconspicuous paper notice on a raft at the farm and several local community members wrote to express concerns. Others are waiting for the public hearing that is required for rezoning.

Community notified the Province about the zoning conflict, and it seems wrong (or at least inefficient) that the Province, DFO and TC all proceeded with investigations and reports (and decision) ahead of rezoning. We are curious about why the license was issued ahead of the public process – and no one has been able to tell us what happens if rezoning is eventually denied.

SRD says they have no ability (or mandate) to "police" a provincial license in a remote location. The Province (Ministry of Forests Aquaculture Authorizations Specialist) says they also have no boat and no budget or mandate to patrol remote sites – and that DFO would be the oversight agency. We have not been able to locate anyone at DFO who visited the site or who wrote their recommendation. We have not been able to view any of the agency reports. WHO IS WATCHING?

This site was originally a very small finfish farm in the early 1980's. It has changed hands several times, and the use changed from finfish to deepwater oyster culture. Although the use changed, and the size almost doubled, there has never been a rezoning application or any public notification/process. Therefore, even before this application was filed, the License was operating in contravention of its zoning. Community had no idea we needed to look, but how did the three government agencies not know or notice when examining the new application? (And IF there was a DFO on-site inspection, how could they not notice management plan irregularities and why didn't they at least enforce the ban on *exposed raw styrofoam*?!)

I'm troubled by the disconnect between the SRD and the Province (and DFO and TC) on this application. It feels unjust that this has been allowed to proceed including the many inconsistencies and violations that have been noted, and apparently ignored.

It is important that decisions also reflect the best interests of the community. Ahead of any new AQ2 activity at this site (which is only zoned for AQ3 and AC1) please ensure that:

- The zoning is compliant with the rule and the moral intention of SRD ByLaw 1460.
- Previous and current violations are addressed and corrected.
- There is meaningful community input on all aspects of this application via the required public hearing.

Sincerely,
Lannie Keller
Evans Bay resident

NOTE: The attached document includes additional information and a map.

Aniko Nelson

From: John Neill
Sent: September 5, 2023 2:24 PM
To: Meredith Starkey; Aniko Nelson
Cc: Annie Girdler
Subject: RE: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

Thanks, Meredith! I expect this will be very useful information. Another complaint was received after this one.

Best regards,

John

-----Original Message-----
From: Meredith Starkey <mstarkey@srd.ca>
Sent: Tuesday, September 5, 2023 13:41
To: John Neill <JNeill@srd.ca>; Aniko Nelson <ANelson@srd.ca>
Subject: RE: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

Thanks, John. I stumbled on this legal decision regarding Island Sea Farms operation on Cortes. I mention it because the complaints were the same (noise, zoning, OCP) and the court upheld Island Sea Farms right to farm. The SRD is implicated in the case as failing to enforce the zoning bylaw; however, the SRD had mediated a resolution with them that the court considered evidence of compliance. In any case, it's an interesting read.

https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/organizational-structure/boards-commissions-tribunals/bc-farm-industry-review-board/farm-practices/complaint-decisions/noise/19_may_1_-_hayden__kemp_v_island_sea_farms_-_decision.pdf

Thanks!
Meredith

-----Original Message-----
From: John Neill <JNeill@srd.ca>
Sent: Tuesday, September 5, 2023 9:46 AM
To: Aniko Nelson <ANelson@srd.ca>; Meredith Starkey <mstarkey@srd.ca>
Subject: FW: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

More on Island Seafarms 1401594

-----Original Message-----
From: [redacted]
Sent: Monday, September 4, 2023 13:37
To: Robyn Mawhinney <rmawhinney@srd.ca>; John Neill <JNeill@srd.ca>; Mark Vonesch <mvonesch@srd.ca>; Gerald Whalley <gwhalley@srd.ca>; David Leitch <DLeitch@srd.ca>; Mark Baker <mbaker@srd.ca>; Tom Yates <TYates@srd.ca>
Subject: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

** NOTICE: This email is from an external source.**

Hi,

I am writing to you as a resident of Campbell River; friend of residents of Read Island, and occasional tourist on Read Island on behalf of Council of Canadians, Campbell River Chapter to ask that as Strathcona Regional District Directors, you enforce zoning and demand that the Province rescind its recent approval - without local input into this decision - of Island Sea Farms to operate a large mussel farm in Evans Bay on Read Island.

This operation would create a lot of industrial noise negatively effecting the residents and habitat of Evans Bay. Also, given Island Sea Farms past records of pollution and violation of zoning bylaws in its Gorge Harbor oyster farm operations, there is great potential for their operations in Evans Bay to create more pollution for Evans Bay and the surrounding waters and lands. Also, neither Gorge Harbor nor Evans Bay were or are zoned for aquaculture and was/is non compliant with local zoning bylaws and Provincial licensing requirements.

Therefore, I am requesting that Strathcona Regional Directors as required by law enforce and monitor your zoning bylaws and demand that the Province take back the license they illegally granted Island Sea Farms to operate the mussel farm in Evans Bay on Read Island.

[redacted]

Council of Canadians, Campbell River Chapter

c/o [redacted]

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This email has been checked for viruses by Avast antivirus software.
http://www.avast.com/

Tom Yates

From: Lannie Keller <coastmtn@island.net>
Sent: August 30, 2023 11:32 AM
To: Robyn Mawhinney; John Neill; John Rice; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Subject: Aquaculture Zoning Compliance Issue
Attachments: 2023 August - Background Information - Island Sea Farms License #1401594.docx

NOTICE: This email is from an external source.

August 29, 2023
Re: Aquaculture License #1401594 Evans Bay, Read Island

Dear SRD Board and Staff:

The Province has recently issued an aquaculture license amendment/renewal that is *subject to zoning compliance*. SRD has informed Island Sea Farms (the Licensee) about the compliance requirement, but SRD also claims to have no authority or capacity to require or enforce zoning, and no ability to police this remote site.

The Licensee proposes a mussel farm, as opposed to more passive oyster culture. This includes a large increase in infrastructure, and activity/noise that Island Sea Farms wants to move from Gorge Harbour (Cortes Island) to Evans Bay.

The Province, DFO, and Transport Canada all reviewed the application. The three agencies produced separate studies and recommendations that provided basis for the Dedicated Decisionmaker's renewal offer. The back story is longer, because there is misinformation in the License application, including the zoning map.

When the application was filed, there was no effort to notify the community. Someone saw the inconspicuous paper notice on a raft at the farm and several local community members wrote to express concerns. Others are waiting for the public hearing that is required for rezoning.

Community notified the Province about the zoning conflict, and it seems wrong (or at least inefficient) that the Province, DFO and TC all proceeded with investigations and reports (and decision) ahead of rezoning. We are curious about why the license was issued ahead of the public process – and no one has been able to tell us what happens if rezoning is eventually denied.

SRD says they have no ability (or mandate) to "police" a provincial license in a remote location. The Province (Ministry of Forests Aquaculture Authorizations Specialist) says they also have no boat and no budget or mandate to patrol remote sites – and that DFO would be the oversight agency. We have not been able to locate anyone at DFO who visited the site or who wrote their recommendation. We have not been able to view any of the agency reports. WHO IS WATCHING?

This site was originally a very small finfish farm in the early 1980's. It has changed hands several times, and the use changed from finfish to deepwater oyster culture. Although the use changed, and the size almost doubled, there has

never been a rezoning application or any public notification/process. Therefore, even before this application was filed, the License was operating in contravention of its zoning. Community had no idea we needed to look, but how did the three government agencies not know or notice when examining the new application? (And IF there was a DFO on-site inspection, how could they not notice management plan irregularities and why didn't they at least enforce the ban on *exposed raw styrofoam*?!)

I'm troubled by the disconnect between the SRD and the Province (and DFO and TC) on this application. It feels unjust that this has been allowed to proceed including the many inconsistencies and violations that have been noted, and apparently ignored.

It is important that decisions also reflect the best interests of the community. Ahead of any new AQ2 activity at this site (which is only zoned for AQ3 and AC1) please ensure that:

- The zoning is compliant with the rule and the moral intention of SRD ByLaw 1460.
- Previous and current violations are addressed and corrected.
- There is meaningful community input on all aspects of this application via the required public hearing.

Sincerely,
Lannie Keller
Evans Bay resident

NOTE: The attached document includes additional information and a map.

BACKGROUND INFORMATION
Island Sea Farms Evans Bay License / Amendment Application (Lands File # 1401594)

How this relates to Bylaw 1460: Rural Land Use Bylaw 1460, implemented 1993, designated most activities for their then-current use. The area in question was (and still is) zoned AQ3, finfish. Deepwater/raft culture of shellfish is AQ2; therefore, even before License # 1401594 expired, it was not zoned for what it was being used for. Circa 1996, the License area was enlarged (4 ha to 7.2 ha) and at that time it was *relabelled* AQ2. This change is undocumented at SRD, where they have no record of a receiving a referral notice, and there was no rezoning application. That process should have required a public hearing. The zoning on the map in the application is inaccurate and the operation is technically illegal. The SRD should be able to enforce compliance with the Local Bylaw.

Who is monitoring these government licensed sites?
This License that was already operating non-compliant with its zoning, is now (again) being offered for renewal by the Province. The Province says that it is the Licensee's responsibility to apply for rezoning, and that it is not their mandate to enforce that. SRD recently reminded the licensee of the requirement, but say they have no ability to enforce the province's requirement. Additionally, neither agency has budget or boats *or intention* to monitor what happens on the site. The Province suggested that DFO would be the onsite monitor – but DFO says the Licensee self-reports. So, who, if anyone, is watching? [Public complaints about exposed raw styrofoam flotation have not resulted in its removal, and there are statements in the license application that do not reflect on-site reality and activities.]

Is this Temporary Use? SRD's recent "reminder" to the Licensee included option for a 5-year Temporary Industrial Use Permit, which also includes a 5-year renewal option. SRD Bylaw 1460 originally described the TIUP as a 3- year permit (not 5yr + renewable) and it was a *temporary-use category* for heli-logging operations that needed to drop and boom logs from remote sites. Using this for Aquaculture might be legal, but its not the original spirit or intention of the Bylaw. The Licensee is considering the TIUP option. This also requires a public hearing – *but SRD cannot require the Licensee to apply*.

Provincial Disregard The Province received letters of concern and did not communicate or consult with any of the citizens who provided information about the situation. The Province "corrected" misinformation in the Licensee's application. Without referral or public process, the Province issued a license that is noncompliant with local zoning. Current zoning makes the current use illegal: the licensee has been and continues to operate in contravention of RD Bylaw. The Province should not issue/validate the license renewal until it is compliant with SRD (re)zoning, which includes a public hearing. The community has outstanding questions and new concerns regarding the provincial process and the politics of licensing public resources. And what happens if local rezoning is not approved?

Additional Concerns

- Community notification is a recurring request.
- The application is a stated plan to move industrial noise and activity from where it was unwanted at Gorge Harbour on Cortes to a more remote site where there is less opposition.
- Proposed increase from 12 to 72 rafts presumes to occupy heretofore unused area that is not zoned for aquaculture.
- Scale of the proposed operation (600% increase) will dramatically change the ambience of Evans Bay and directly affect residents, boaters, and other visitors who value the quiet and safety of this deep bay.

- Noise and activity will negatively impact the island's largest employer, a kayak lodge and tour company in operation for 35 years.
- Proposed rafts will extend into the path used by other marine traffic.
- The plan includes 13 night lights and introduces massive quantities of plastic, ropes, and predator netting into the marine ecosystem.
- The application contains factual errors, and the waste management plan includes untruths about past activities as well as unlikely promises. This Licensee/applicant has a record of messy operations, plastics pollution, and has been dismissive of community concerns. At this site in 2019 ISF replaced hard-shell floats with poly-wrapped styrofoam, and to this day there are many *partially unwrapped/exposed styrofoam floats in active use.*

Map: The dark blue area (4 ha, 1985) was zoned for finfish aquaculture in 1993 Rural Land Use Bylaw. The Provincially licensed area changed hands four times and increased (7.21 ha) but never rezoned for aquaculture. The larger hatched area proposed is currently not zoned for use.



Tom Yates

From: Teresa Kinver <kinvert26@gmail.com>
Sent: September 1, 2023 11:36 AM
To: Robyn Mawhinney; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Subject: Re: Lease 1401594 - Island Sea Farms - Evans Bay READ ISLAND

NOTICE: This email is from an external source.

TO WHOM IT MAY CONCERN

With reference to the above lease and new approval of an extra 60 rafts to the current 12 we wish to voice our opposition to this approval.

We are currently living directly opposite this farm - +- 750 m from the boundary. We believe it is Island Sea Farms intention to add another 60 rafts to have a compliment of 72. This will no doubt bring a substantial amount of noise and frustration due to 13 night lights also being mounted on the rafts. One of the reasons we live in Evans Bay is because it is extremely quiet. Any noise created on the farm echos across the farm from the steep rock cliffs adjacent to the farm and is amplified.

We understand Island Sea Farms are bringing their operation from Gorge Harbour due to numerous complaints on Cortez about the noise as well as old polystyrene floats that are not covered in the regulated black PVC.

If there is anyway we can assist we will be pleased to help

Thanking you
Peter & Teresa Kinver

Tom Yates

Subject: FW: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

From: Richard <surfdust@telus.net>
Sent: Monday, September 4, 2023 1:37 PM
To: Robyn Mawhinney <rmawhinney@srd.ca>; John Neill <JNeill@srd.ca>; Mark Vonesch <mvonesch@srd.ca>; Gerald Whalley <gwhalley@srd.ca>; David Leitch <DLeitch@srd.ca>; Mark Baker <mbaker@srd.ca>; Tom Yates <TYates@srd.ca>
Subject: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

** NOTICE: This email is from an external source.**

Hi,

I am writing to you as a resident of Campbell River; friend of residents of Read Island, and occasional tourist on Read Island on behalf of Council of Canadians, Campbell River Chapter to ask that as Strathcona Regional District Directors, you enforce zoning and demand that the Province rescind its recent approval - without local input into this decision - of Island Sea Farms to operate a large mussel farm in Evans Bay on Read Island.

This operation would create a lot of industrial noise negatively effecting the residents and habitat of Evans Bay. Also, given Island Sea Farms past records of pollution and violation of zoning bylaws in its Gorge Harbor oyster farm operations, there is great potential for their operations in Evans Bay to create more pollution for Evans Bay and the surrounding waters and lands. Also, neither Gorge Harbor nor Evans Bay were or are zoned for aquaculture and was/is non compliant with local zoning bylaws and Provincial licensing requirements.

Therefore, I am requesting that Strathcona Regional Directors as required by law enforce and monitor your zoning bylaws and demand that the Province take back the license they illegally granted Island Sea Farms to operate the mussel farm in Evans Bay on Read Island.

Richard Hagensen

Council of Canadians, Campbell River Chapter

c/o 1856 Treelane Road, Campbell River, BC V9W 4E8

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This email has been checked for viruses by Avast antivirus software.
http://www.avast.com/

Tom Yates

From: rosie@executiveworks.org
Sent: September 5, 2023 12:43 PM
To: Robyn Mawhinney; John Neill; John Rice; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Cc: Lannie Keller
Subject: Request for a public hearing and zoning compliance enforcement regarding aquaculture license

NOTICE: This email is from an external source.

Hi,

I am writing regarding the proposed aquaculture license amendment/renewal by Island Sea Farms in Evans Bay, Read Island. I have two specific requests.

Firstly, I sincerely hope that a public hearing will be held regarding this issue and that the community's viewpoints will be heard and taken into account prior to granting any form of permission for the license amendment/renewal. I am aware that many community members expressed very strong concerns to the Province about Island Farms proposed operation. The Province reviewed these comments and appears to have totally disregarded them. I trust SRD won't do likewise in holding a public hearing.

Secondly, I am shocked and appalled that despite the fact the license is non-compliant regarding the current zoning, such a fact appears to have been ignored by the Province. It is my understanding that SRD feels powerless to enforce the current zoning regarding this aquaculture license. This makes no sense. What is the point of any zoning if it is ignored and not enforced? I would ask that SRD take all measures possible to ensure Island Sea Farms are fully compliant to all zoning, now and in the future.

Thank you,

Rosie Steeves
Read Island resident

ELECTORAL AREAS SERVICES COMMITTEE

Printer Version

Minutes of the regular meeting of the Electoral Areas Services Committee held on Wednesday, September 13, 2023 at the Strathcona Regional District office located at 990 Cedar Street, Campbell River, B.C.

A quorum having been confirmed, the Chair called the meeting to order at 9:32 a.m. with the following directors in attendance:

Chair:	G. Whalley	Electoral Area A (Kyuquot/Nootka-Sayward)
Directors:	R. Mawhinney	Electoral Area C (Discovery Islands-Mainland Inlets)
	J. Rice	Electoral Area D (Oyster Bay-Buttle Lake)
	M. Vonesch	Electoral Area B (Cortes Island)

FIRST NATIONS TERRITORIAL ACKNOWLEDGEMENT

The Chair acknowledged that we are located on the traditional territory of the Laichwiltach people.

ADOPTION OF PUBLIC AGENDA

Vonesch/Mawhinney: EASC 233/23

THAT the agenda for the September 13, 2023 regular meeting of the Electoral Areas Services Committee be adopted as presented.

Director Vonesch requested that the agenda be varied by addressing Bylaw No. 510 - Quadra Island Bulk Water Regulation before Bylaw No. 509 - Cortes Island Bulk Water Regulation.

Director Mawhinney requested an item of New Business entitled "Housing Action Plan" be added to the agenda.

CHAIR'S REPORT

Delegation of Authority

The Chair advised that local governments were set up by the Province to ensure no one person has absolute authority as this decision making power is delegated to a board or council. The Chair noted that this too applies to electoral areas, where the decision making power is delegated to all the electoral area directors who vote according to their conscience and according to what is best for the electorate.

ADOPTION OF PREVIOUS MEETING MINUTES

Mawhinney/Vonesch: EASC 234/23

THAT the minutes of the regular meeting of the Electoral Areas Services Committee held on August 16, 2023 be adopted. [Item]

CARRIED

CHAIR'S REPORT (con't)

Mawhinney/Vonesch: EASC 235/23

THAT the Chair's report be received.

CARRIED

STAFF REPORTS

Overview: OCP and Zoning Bylaw Review Process

Mawhinney/Vonesch: EASC 236/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Mawhinney: EASC 237/23

THAT staff provide a report regarding an update on Cortes Island zoning bylaw review.

CARRIED

Surge Narrows Marine Revitalization Project Financial Update

Mawhinney/Vonesch: EASC 238/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Rice: EASC 239/23

THAT the Committee recommend that up to $400,000 be allocated from the Electoral Area Gas Tax Reserve Fund to assist with completion of the Surge Narrows Marine Revitalization Project.

CARRIED

Mawhinney/Vonesch: EASC 240/23

THAT staff plan a community meeting at Surge Narrows to discuss the Surge Narrows Revitalization Project.

CARRIED

Mawhinney/Vonesch: EASC 241/23

THAT staff create a sub-committee of Outer Discovery Islanders with nominations from the community to facilitate communication between staff and the Read Island community.

CARRIED

Transport Canada Divested Wharves - Options

Mawhinney/Vonesch: EASC 242/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Vonesch: EASC 243/23

THAT staff begin working towards moving Surge Narrows, Port Neville, and Owen Bay wharves into the Area C parks service.

CARRIED

Mawhinney/Vonesch: EASC 244/23

THAT staff begin investigating divestiture of Port Neville with any interested parties and

THAT a report of the results be returned to the Electoral Areas Services Committee for consideration before the commencement of any work.

CARRIED

Request for Financial Assistance - Quadra Cat Rescue

Mawhinney/Rice: EASC 245/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Rice: EASC 246/23

THAT the Committee recommend that a grant in aid for the Quadra Cat Rescue in the amount of $1,500 to assist with costs associated with controlling the unwanted cat population on Quadra Island be paid from the Electoral Area C grant in aid budget.

CARRIED

Request for Financial Assistance - Friday Flicks

Mawhinney/Rice: EASC 247/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Rice: EASC 248/23

THAT the Committee recommend that a grant in aid for the Quadra Island Recreation Society in the amount of $400 be approved to assist with expenses for Friday Flicks to be paid from the Electoral Area C grant in aid budget.

CARRIED

BYLAWS

Bylaw No. 503 and 504 - Electoral Area D OCP and Rezoning (CP 1D 23/RZ 1D 23 - Couverdon Real Estate)

Rice/Mawhinney: EASC 249/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Bylaw No. 510 - Quadra Island Bulk Water Regulation

Mawhinney/Vonesch: EASC 250/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Rice: EASC 251/23

THAT Bylaw No. 510 be deferred to the next meeting with the bylaw returned showing tracked changes.

CARRIED

Bylaw No. 509 - Cortes Island Bulk Water Regulation

Vonesch/Rice: EASC 252/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Rice: EASC 253/23

THAT Bylaw No. 509 be deferred to the next meeting with the bylaw returned showing tracked changes.

CARRIED

Bylaws No. 525 and 526 - OCP Amendment and Rezoning Application to Facilitate Subdivision (Honig)

Rice/Mawhinney: EASC 254/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Director Rice requested that the septic analysis and letters of support referred to in the report be added to the minutes. [Item]

A vote was held on the pending motion and it was…

CARRIED

Rice/Vonesch: EASC 255/23

THAT the Committee recommend that Bylaws No. 525 and 526 (Honig) be forwarded to the Board for first and second readings.

CARRIED

Rice/Mawhinney: EASC 256/23

THAT the Committee recommend that the Board authorize a public hearing to consider Bylaws No. 525 and 526 (Honig), and

THAT the public hearing be held at a date and time to be determined.

CARRIED

CORRESPONDENCE

Request for Financial Assistance - Cortes Island Community Foundation

Vonesch/Mawhinney: EASC 257/23

THAT the August 20, 2023 correspondence from the Cortes Island Community Foundation regarding a grant in aid request be received. [Item]

CARRIED

Vonesch/Mawhinney: EASC 258/23

THAT the Committee recommend Cortes Island Community Foundation grant in aid application for $5,000 be approved to assist with the production of a Vital Signs-like report on the state of the island community to be paid from the Electoral Area B grant in aid budget.

With approval from the seconder, Director Vonesch requested that the motion be adjusted to add that a staff report be included to this financial assistance request.

A vote was held on the amended motion and it was…

CARRIED

Evans Bay Aquaculture License

Mawhinney/Rice: EASC 259/23

THAT the following items of correspondence regarding the Evans Bay aquaculture license be received:

- August 29, 2023 correspondence from Lannie Keller. [Item]

- September 1, 2023 correspondence from Peter and Teresa Kinver. [Item]

- September 4, 2023 correspondence from Richard Hagensen. [Item]

- September 5, 2023 correspondence from Rosie Steeves. [Item]

CARRIED

Mawhinney/Rice: EASC 260/23

THAT staff prepare a report outlining the situation to date regarding the Evans Bay aquaculture lease and,

THAT staff supply the responses to the questions posed in the above noted pieces of correspondence.

CARRIED

DIRECTORS' REPORTS

Linnaea Farm Society - Financial Assistance Request

Director Vonesch provided a verbal report regarding a financial assistance request from the Linnaea Farm Society on Cortes Island.

Vonesch/Rice: EASC 261/23

THAT the verbal report be received.

CARRIED

Vonesch/Mawhinney: EASC 262/23

THAT staff prepare a report to revisit whether Linnaea Farms request to access Community Works Funds to purchase and install a heat pump is eligible per UBCM criteria.

CARRIED

NEW BUSINESS

Housing Action Plan

Mawhinney/Vonesch: EASC 263/23

THAT staff prepare a report on the Housing Action Plan which includes Details of the plan; Cost estimates of the actions presented in the verbal report, along with any additional elements which are part of the Action Plan; budget analysis including how Regional elements such as the Climate Adaptability Plan would be fiscally managed; rationale for the elements included; and alternate options which could be considered in a draft Housing Action Plan designed for rural electoral areas.

CARRIED

TERMINATION

Vonesch/Mawhinney: EASC 264/23

THAT the September 13, 2023 regular meeting of the Electoral Areas Services Committee be terminated.

CARRIED

Time: 11:07 a.m.

Certified Correct:

_____

Chair

Corporate Officer

Strathcona
REGIONAL DISTRICT

STAFF REPORT

DATE: September 19, 2023 **FILE**: 0550-04 Board

TO: Chair and Directors,
Regional Board

FROM: Dave Leitch
Chief Administrative Officer

RE: EVANS BAY AQUACULTURE LICENSE

PURPOSE/PROBLEM

To consider a recommendation from the Electoral Areas Services Committee that a report be prepared to clarify issues related to an aquaculture license recently approved by the Province in the Evans Bay area of Electoral Area C.

EXECUTIVE SUMMARY

At its September 13, 2023 meeting the Electoral Areas Services Committee received the attached correspondence and passed the following resolution:

> Mawhinney/Rice: EASC 260/23
>
> THAT staff prepare a report outlining the situation to date regarding the Evans Bay aquaculture lease and,
>
> THAT staff supply the responses to the questions posed in the above noted pieces of correspondence.

The actions outlined below are offered in support of the Committee's recommendation.

RECOMMENDATIONS

1. THAT the report from the Chief Administrative Officer be received.

2. THAT a report be prepared outlining the current situation in respect of the aquaculture license held by Island Sea Farms in the Evans Bay area, and

   THAT the report provide responses to questions posed in the correspondence attached to the September 19, 2023 report from the Chief Administrative Officer.

Respectfully:

Dave Leitch
Chief Administrative Officer

Prepared by: *T. Yates, Corporate Services Manager*

Attachment: September 13, 2023 EASC agenda correspondence re Evans Bay license

Tom Yates

From: Lannie Keller <coastmtn@island.net>
Sent: August 30, 2023 11:32 AM
To: Robyn Mawhinney; John Neill; John Rice; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Subject: Aquaculture Zoning Compliance Issue
Attachments: 2023 August - Background Information - Island Sea Farms License #1401594.docx

NOTICE: This email is from an external source.

August 29, 2023
Re: Aquaculture License #1401594 Evans Bay, Read Island

Dear SRD Board and Staff:

The Province has recently issued an aquaculture license amendment/renewal that is *subject to zoning compliance*. SRD has informed Island Sea Farms (the Licensee) about the compliance requirement, but SRD also claims to have no authority or capacity to require or enforce zoning, and no ability to police this remote site.

The Licensee proposes a mussel farm, as opposed to more passive oyster culture. This includes a large increase in infrastructure, and activity/noise that Island Sea Farms wants to move from Gorge Harbour (Cortes Island) to Evans Bay.

The Province, DFO, and Transport Canada all reviewed the application. The three agencies produced separate studies and recommendations that provided basis for the Dedicated Decisionmaker's renewal offer. The back story is longer, because there is misinformation in the License application, including the zoning map.

When the application was filed, there was no effort to notify the community. Someone saw the inconspicuous paper notice on a raft at the farm and several local community members wrote to express concerns. Others are waiting for the public hearing that is required for rezoning.

Community notified the Province about the zoning conflict, and it seems wrong (or at least inefficient) that the Province, DFO and TC all proceeded with investigations and reports (and decision) ahead of rezoning. We are curious about why the license was issued ahead of the public process – and no one has been able to tell us what happens if rezoning is eventually denied.

SRD says they have no ability (or mandate) to "police" a provincial license in a remote location. The Province (Ministry of Forests Aquaculture Authorizations Specialist) says they also have no boat and no budget or mandate to patrol remote sites – and that DFO would be the oversight agency. We have not been able to locate anyone at DFO who visited the site or who wrote their recommendation. We have not been able to view any of the agency reports. WHO IS WATCHING?

This site was originally a very small finfish farm in the early 1980's. It has changed hands several times, and the use changed from finfish to deepwater oyster culture. Although the use changed, and the size almost doubled, there has

never been a rezoning application or any public notification/process. Therefore, even before this application was filed, the License was operating in contravention of its zoning. Community had no idea we needed to look, but how did the three government agencies not know or notice when examining the new application? (And IF there was a DFO on-site inspection, how could they not notice management plan irregularities and why didn't they at least enforce the ban on *exposed raw styrofoam*?!)

I'm troubled by the disconnect between the SRD and the Province (and DFO and TC) on this application. It feels unjust that this has been allowed to proceed including the many inconsistencies and violations that have been noted, and apparently ignored.

It is important that decisions also reflect the best interests of the community. Ahead of any new AQ2 activity at this site (which is only zoned for AQ3 and AC1) please ensure that:

- The zoning is compliant with the rule and the moral intention of SRD ByLaw 1460.
- Previous and current violations are addressed and corrected.
- There is meaningful community input on all aspects of this application via the required public hearing.

Sincerely,
Lannie Keller
Evans Bay resident

NOTE: The attached document includes additional information and a map.

BACKGROUND INFORMATION
Island Sea Farms Evans Bay License / Amendment Application (Lands File # 1401594)

How this relates to Bylaw 1460: Rural Land Use Bylaw 1460, implemented 1993, designated most activities for their then-current use. The area in question was (and still is) zoned AQ3, finfish. Deepwater/raft culture of shellfish is AQ2; therefore, even before License # 1401594 expired, it was not zoned for what it was being used for. Circa 1996, the License area was enlarged (4 ha to 7.2 ha) and at that time it was *relabelled* AQ2. This change is undocumented at SRD, where they have no record of a receiving a referral notice, and there was no rezoning application. That process should have required a public hearing. The zoning on the map in the application is inaccurate and the operation is technically illegal. The SRD should be able to enforce compliance with the Local Bylaw.

Who is monitoring these government licensed sites?
This License that was already operating non-compliant with its zoning, is now (again) being offered for renewal by the Province. The Province says that it is the Licensee's responsibility to apply for rezoning, and that it is not their mandate to enforce that. SRD recently reminded the licensee of the requirement, but say they have no ability to enforce the province's requirement. Additionally, neither agency has budget or boats *or intention* to monitor what happens on the site. The Province suggested that DFO would be the onsite monitor – but DFO says the Licensee self-reports. So, who, if anyone, is watching? [Public complaints about exposed raw styrofoam flotation have not resulted in its removal, and there are statements in the license application that do not reflect on-site reality and activities.]

Is this Temporary Use? SRD's recent "reminder" to the Licensee included option for a 5-year Temporary Industrial Use Permit, which also includes a 5-year renewal option. SRD Bylaw 1460 originally described the TIUP as a 3- year permit (not 5yr + renewable) and it was a *temporary-use category* for heli-logging operations that needed to drop and boom logs from remote sites. Using this for Aquaculture might be legal, but its not the original spirit or intention of the Bylaw. The Licensee is considering the TIUP option. This also requires a public hearing – *but SRD cannot require the Licensee to apply.*

Provincial Disregard The Province received letters of concern and did not communicate or consult with any of the citizens who provided information about the situation. The Province "corrected" misinformation in the Licensee's application. Without referral or public process, the Province issued a license that is noncompliant with local zoning. Current zoning makes the current use illegal: the licensee has been and continues to operate in contravention of RD Bylaw. The Province should not issue/validate the license renewal until it is compliant with SRD (re)zoning, which includes a public hearing. The community has outstanding questions and new concerns regarding the provincial process and the politics of licensing public resources. And what happens if local rezoning is not approved?

Additional Concerns

- Community notification is a recurring request.
- The application is a stated plan to move industrial noise and activity from where it was unwanted at Gorge Harbour on Cortes to a more remote site where there is less opposition.
- Proposed increase from 12 to 72 rafts presumes to occupy heretofore unused area that is not zoned for aquaculture.
- Scale of the proposed operation (600% increase) will dramatically change the ambience of Evans Bay and directly affect residents, boaters, and other visitors who value the quiet and safety of this deep bay.

- Noise and activity will negatively impact the island's largest employer, a kayak lodge and tour company in operation for 35 years.
- Proposed rafts will extend into the path used by other marine traffic.
- The plan includes 13 night lights and introduces massive quantities of plastic, ropes, and predator netting into the marine ecosystem.
- The application contains factual errors, and the waste management plan includes untruths about past activities as well as unlikely promises. This Licensee/applicant has a record of messy operations, plastics pollution, and has been dismissive of community concerns. At this site in 2019 ISF replaced hard-shell floats with poly-wrapped styrofoam, and to this day there are many *partially unwrapped/exposed styrofoam floats in active use.*

Map: The dark blue area (4 ha, 1985) was zoned for finfish aquaculture in 1993 Rural Land Use Bylaw. The Provincially licensed area changed hands four times and increased (7.21 ha) but never rezoned for aquaculture. The larger hatched area proposed is currently not zoned for use.



Tom Yates

From: Teresa Kinver <kinvert26@gmail.com>
Sent: September 1, 2023 11:36 AM
To: Robyn Mawhinney; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Subject: Re: Lease 1401594 - Island Sea Farms - Evans Bay READ ISLAND

NOTICE: This email is from an external source.

TO WHOM IT MAY CONCERN

With reference to the above lease and new approval of an extra 60 rafts to the current 12 we wish to voice our opposition to this approval.

We are currently living directly opposite this farm - +- 750 m from the boundary. We believe it is Island Sea Farms intention to add another 60 rafts to have a compliment of 72. This will no doubt bring a substantial amount of noise and frustration due to 13 night lights also being mounted on the rafts. One of the reasons we live in Evans Bay is because it is extremely quiet. Any noise created on the farm echos across the farm from the steep rock cliffs adjacent to the farm and is amplified.

We understand Island Sea Farms are bringing their operation from Gorge Harbour due to numerous complaints on Cortez about the noise as well as old polystyrene floats that are not covered in the regulated black PVC.

If there is anyway we can assist we will be pleased to help

Thanking you
Peter & Teresa Kinver

Tom Yates

Subject: FW: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

From: Richard <surfdust@telus.net>
Sent: Monday, September 4, 2023 1:37 PM
To: Robyn Mawhinney <rmawhinney@srd.ca>; John Neill <JNeill@srd.ca>; Mark Vonesch <mvonesch@srd.ca>; Gerald Whalley <gwhalley@srd.ca>; David Leitch <DLeitch@srd.ca>; Mark Baker <mbaker@srd.ca>; Tom Yates <TYates@srd.ca>
Subject: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

** NOTICE: This email is from an external source.**

Hi,

I am writing to you as a resident of Campbell River; friend of residents of Read Island, and occasional tourist on Read Island on behalf of Council of Canadians, Campbell River Chapter to ask that as Strathcona Regional District Directors, you enforce zoning and demand that the Province rescind its recent approval - without local input into this decision - of Island Sea Farms to operate a large mussel farm in Evans Bay on Read Island.

This operation would create a lot of industrial noise negatively effecting the residents and habitat of Evans Bay. Also, given Island Sea Farms past records of pollution and violation of zoning bylaws in its Gorge Harbor oyster farm operations, there is great potential for their operations in Evans Bay to create more pollution for Evans Bay and the surrounding waters and lands. Also, neither Gorge Harbor nor Evans Bay were or are zoned for aquaculture and was/is non compliant with local zoning bylaws and Provincial licensing requirements.

Therefore, I am requesting that Strathcona Regional Directors as required by law enforce and monitor your zoning bylaws and demand that the Province take back the license they illegally granted Island Sea Farms to operate the mussel farm in Evans Bay on Read Island.

Richard Hagensen

Council of Canadians, Campbell River Chapter

c/o 1856 Treelane Road, Campbell River, BC V9W 4E8

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This email has been checked for viruses by Avast antivirus software.
http://www.avast.com/

Tom Yates

From: rosie@executiveworks.org
Sent: September 5, 2023 12:43 PM
To: Robyn Mawhinney; John Neill; John Rice; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Cc: Lannie Keller
Subject: Request for a public hearing and zoning compliance enforcement regarding aquaculture license

NOTICE: This email is from an external source.

Hi,

I am writing regarding the proposed aquaculture license amendment/renewal by Island Sea Farms in Evans Bay, Read Island. I have two specific requests.

Firstly, I sincerely hope that a public hearing will be held regarding this issue and that the community's viewpoints will be heard and taken into account prior to granting any form of permission for the license amendment/renewal. I am aware that many community members expressed very strong concerns to the Province about Island Farms proposed operation. The Province reviewed these comments and appears to have totally disregarded them. I trust SRD won't do likewise in holding a public hearing.

Secondly, I am shocked and appalled that despite the fact the license is non-compliant regarding the current zoning, such a fact appears to have been ignored by the Province. It is my understanding that SRD feels powerless to enforce the current zoning regarding this aquaculture license. This makes no sense. What is the point of any zoning if it is ignored and not enforced? I would ask that SRD take all measures possible to ensure Island Sea Farms are fully compliant to all zoning, now and in the future.

Thank you,

Rosie Steeves
Read Island resident

Strathcona REGIONAL DISTRICT

REGIONAL DISTRICT BOARD

Printer Version

Minutes of the regular meeting of the Board of Directors of the Strathcona Regional District held on Wednesday, October 11, 2023 at the Ka:'yu:'k't'h'/Che:k:tles7et'h' First Nation Band Office located in Kyuquot, B.C.

A quorum having been confirmed, the Chair called the meeting to order at 10:42 a.m. with the following members in attendance:

Chair:	M. Baker	Village of Sayward
Directors:	D. Chapman	City of Campbell River
	J. Colborne	Village of Zeballos
	M. Davis	Village of Tahsis
	R. Mawhinney	Discovery Islands-Mainland Inlets (Electoral Area C)
	J. Rice	Oyster Bay-Buttle Lake (Electoral Area D)
	M. Vonesch	Cortes Island (Electoral Area B)
	G. Whalley	Kyuquot/Nootka-Sayward (Electoral Area A)

FIRST NATIONS TERRITORIAL ACKNOWLEDGEMENT

The Chair acknowledged that we are meeting on the treaty lands of the Ka:'yu:'k't'h/ Che:k'tles7et'h' First Nations.

ADOPTION OF PUBLIC AGENDA

Colborne/Whalley: SRD 832/23

THAT the agenda for October 11, 2023 regular meeting of the Board be adopted as presented.

Director Vonesch requested that an item of New Business entititled "Quadra and Cortes Transit" be added to the agenda.

A vote was held on the amended motion and it was...

CARRIED

ADOPTION OF MINUTES

Colborne/Whalley: SRD 833/23

THAT the following regular minutes of the Regional Board be adopted:

- August 16, 2023 as amended [Item]

- September 13, 2023. [Item]

CARRIED

COMMITTEE CHAIR REPORTS

Electoral Areas Services Committee

Whalley/Colborne: SRD 834/23

THAT the draft minutes of the regular meeting of the Electoral Areas Services Committee held on September 13, 2023 be received. [Item]

CARRIED

Strathcona Accessibility and Inclusion Advisory Committee

Colborne/Whalley: SRD 835/23

THAT the draft minutes of the inaugural meeting of the Strathcona Accessibility and Inclusion Advisory Committee held on October 5, 2023 be received. [Item]

CARRIED

STAFF REPORTS

Cortes Island Zoning Bylaw Review Process

Vonesch/Rice: SRD 836/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Mawhinney: SRD 837/23

THAT a report be prepared to update the Board on the process and status of the Cortes Island zoning bylaw review.

CARRIED

Housing Action Plan

Mawhinney/Davis: SRD 838/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Colborne: SRD 839/23

THAT a report be prepared on the Housing Action Plan which includes:
-details of the plan;
-cost estimates of the actions presented in the verbal report, along with any additional elements which are part of the Action Plan;
-budget analysis including how regional elements such as the Climate Adaptability Plan would be fiscally managed;
-rationale for the elements included; and
-alternate options which could be considered in a draft Housing Action Plan designed for rural electoral areas.

Director Jack arrived in the meeting chambers.

A vote was held on the motion and it was...

CARRIED

Transport Canada Divested Wharves- Options

Mawhinney/Davis: SRD 840/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Chapman/Whalley: SRD 841/23

THAT the Regional District begin the process of moving the responsibility for the Surge Narrows, Port Neville and Owen Bay wharves into the Electoral Area C parks service.

CARRIED

Mawhinney/Whalley: SRD 842/23

THAT the Regional District investigate the divestiture of the Port Neville wharf with potential interested parties, and

THAT a report on the results of the investigation be returned to the Electoral Areas Services Committee for consideration.

CARRIED

Evans Bay Aquaculture License

Whalley/Chapman: SRD 843/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Chapman/Whalley: SRD 844/23

THAT a report be prepared outlining the current situation in respect of the aquaculture license held by Island Sea Farms in the Evans Bay area, and

THAT the report provide responses to questions posed in the correspondence attached to the September 19, 2023 report from the Chief Administrative Officer.

CARRIED

Electoral Area C Advisory Planning Commission - Applications for Membership

Mawhinney/Colborne: SRD 845/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Whalley: SRD 846/23

THAT the following persons be appointed to the Electoral Area C (Discovery Islands-Mainland Inlets) Advisory Planning Commission:

1. Paul Nimmon
2. Pamela Gojiberg
3. Sheldon Etheridge
4. Sheila Hollanders
5. Tina Oswald
6. Nick Robinson
7. Sonya McLaren
8. Heather Jansen
9. Carol Ann Terreberry

CARRIED

Surge Narrows Marine Revitalization Project

Mawhinney/Chapman: SRD 847/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Chapman: SRD 848/23

THAT up to $400,000 be allocated from the Electoral Area C Gas Tax Reserve

Fund to assist with completion of the Surge Narrows Marine Revitalization Project.

CARRIED

Mawhinney/Chapman: SRD 849/23

THAT the Regional District plan a community meeting at Surge Narrows to discuss the Surge Narrows Revitalization Project.

CARRIED

Mawhinney/Colborne: SRD 850/23

THAT a committee of Outer Discovery Islanders be created with nominations from the community to facilitate communication between the Regional District and the Read Island community.

CARRIED

Grant Application: Active Transportation Network Planning Program

Mawhinney/Colborne: SRD 851/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Chapman/Mawhinney: SRD 852/23

THAT an application for funding be submitted to the 2023 Active Transportation Network Planning program to develop an Active Transportation Network Plan for Electoral Area C, and

THAT the Regional District commit to overall management of the grant if the application is successful, and

THAT if the application is successful, that 50% of the project funding be approved from the Electoral Area C Community Works Fund to a maximum of $50,000.

CARRIED

School District 72 Liaison Committee

Mawhinney/Colborne: SRD 853/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Rice/Whalley: SRD 854/23

THAT a further report be prepared to investigate possible changes to the Terms of Reference for the School District 72 Liaison Committee which would establish a broader forum for discussing matters of mutual interest.

CARRIED

Linnaea Farm Society - Financial Assistance Request

Vonesch/Colborne: SRD 855/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Colborne/Whalley: SRD 856/23

THAT a report be prepared in consultation with Linnea Farms regarding the eligibility under UBCM criteria for the Linnaea Farm Society to access Community Works Funds to purchase and install a heat pump.

CARRIED

Financial Assistance Request - Cortes Island Community Foundation

Vonesch/Colborne: SRD 857/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Colborne: SRD 858/23

THAT a grant in aid in the amount of $5,000 be awarded to the Cortes Island Community Foundation to assist with the production costs of a Vital Signs-like report on the state of the island community to be paid from the Electoral Area B grant in aid budget.

CARRIED

Requests for Financial Assistance - Electoral Area C

Mawhinney/Chapman: SRD 859/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Colborne: SRD 860/23

THAT the Board approve grants in aid to be paid from the Electoral Area C grant in aid budget as follows:

i) $1,500 to the Quadra Cat Rescue to assist with costs associated with controlling the unwanted cat population on Quadra Island; and

ii) $400 to the Quadra Island Recreation Society to assist with expenses for Friday Flicks.

CARRIED

BYLAWS

Bylaws No. 497 & 498 - OCP Amendment and Rezoning - Electoral Area C (April Point Developments)

Mawhinney/Colborne: SRD 861/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Colborne: SRD 862/23

THAT the report on the public hearing for Bylaws No. 497 and 498 and all related records be received. [Item]

CARRIED

Whalley/Colborne: SRD 863/23

THAT Bylaw No. 497 be given third reading.

CARRIED

Whalley/Rice: SRD 864/23

THAT Bylaw No. 497, being Quadra Island Official Community Plan Bylaw 2007, Amendment No. 18, be reconsidered, finally passed and adopted.

CARRIED

Mawhinney/Whalley: SRD 865/23

THAT Bylaw No. 498 be given third reading.

CARRIED

Mawhinney/Whalley: SRD 866/23

THAT Bylaw No. 498, being Quadra Island Zoning Bylaw 1990, Amendment No. 142, be reconsidered, finally passed and adopted.

CARRIED

Mawhinney/Vonesch: SRD 867/23

THAT all ten homeowners involved in this application receive a copy of the permitted uses of the residential zone they are moving into and a copy of the Board staff report dated September 13, 2023 regarding short-term vacation rentals in Electoral Area C.

CARRIED

Bylaws No. 503 and 504 - Electoral Area D OCP and Rezoning (Couverdon)

Rice/Vonesch: SRD 868/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Rice/Mawhinney: SRD 869/23

THAT Bylaw No. 503 be given third reading.

CARRIED *Director Whalley opposed.*

Rice/Mawhinney: SRD 870/23

THAT Bylaw No. 503, being Oyster Bay-Buttle Lake Official Community Plan Bylaw 1996, Amendment No. 23, be now reconsidered, finally passed and adopted.

CARRIED *Director Whalley opposed.*

Rice/Vonesch: SRD 871/23

THAT Bylaw No. 504 be given third reading.

CARRIED *Director Whalley opposed.*

Rice/Mawhinney: SRD 872/23

THAT Bylaw No. 504, being Campbell River Area Zoning Bylaw 1991, Amendment No. 63, be now reconsidered, finally passed and adopted.

CARRIED *Director Whalley opposed.*

Bylaw No. 519 - Rezoning Applications - Electoral Area D (Zaschke, Sprout, et al)

Whalley/Mawhinney: SRD 873/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Whalley/Rice: SRD 874/23

THAT the report on the public hearing for Bylaw No. 519 and all related records be received. [Item]

CARRIED

Rice/Vonesch: SRD 875/23

THAT Bylaw No. 519 be given third reading.

DEFEATED *Directors Mawhinney and Whalley opposed.*

Bylaw No. 520 - Rezoning Application - Electoral Area D (Miller)

Whalley/Mawhinney: SRD 876/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Whalley/Mawhinney: SRD 877/23

THAT the report on the public hearing for Bylaw No. 520 and all related records be received. [Item]

CARRIED

Rice/Whalley: SRD 878/23

THAT Bylaw No. 520 be given third reading.

CARRIED

Rice/Whalley: SRD 879/23

THAT Bylaw No. 520, being Campbell River Area Zoning Bylaw 1991, Amendment No. 66, be reconsidered, finally passed and adopted.

CARRIED

Bylaw No. 524 - 2023 to 2027 Financial Plan Amendment

Colborne/Whalley: SRD 880/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Chapman/Vonesch: SRD 881/23

THAT Bylaw No. 524, being a bylaw to amend the 2023 to 2027 financial plan and capital expenditure program, be now introduced and read a first time.

CARRIED

Chapman/Whalley: SRD 882/23

THAT the rules be suspended and Bylaw No. 524 be given second and third readings.

CARRIED

Colborne/Mawhinney: SRD 883/23

THAT Bylaw No. 524, being 2023 to 2027 Financial Plan and Capital Expenditure Program Bylaw, Amendment No.1, be now reconsidered, finally passed and adopted.

CARRIED

Bylaws No. 525 and 526 - OCP and Rezoning - Electoral Area D (Honig)

Rice/Colborne: SRD 884/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Rice/Mawhinney: SRD 885/23

THAT Bylaw No. 525, being a bylaw to amend the Oyster Bay-Buttle Lake Official Community Plan, be now introduced and read a first time.

CARRIED

Rice/Vonesch: SRD 886/23

THAT Bylaw No. 525 be given second reading.

CARRIED

Whalley/Mawhinney: SRD 887/23

THAT Bylaw No. 526, being a bylaw to amend the zoning regulations applicable to Electoral Area D (Oyster Bay-Buttle Lake), be now introduced and read a first time.

CARRIED

Rice/Vonesch: SRD 888/23

THAT Bylaw No. 526 be given second reading.

CARRIED

Vonesch/Rice: SRD 889/23

THAT an in-person public hearing to consider Bylaws No. 525 and 526 be scheduled for 6:30 p.m. on Thursday, November 2, 2023 at the Oyster Bay Resorts, Banquet Hall located at 4357 Island Hwy. S., Campbell River, BC and

THAT the holding of the public hearing be delegated to the Electoral Area D director.

CARRIED

Bylaw No. 527 - Sayward Valley Heritage Hall - Request for Funding

Whalley/Vonesch: SRD 890/23

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Whalley/Colborne: SRD 891/23

THAT Bylaw No. 527, being a bylaw to authorize entering into an agreement respecting the use of Community Works Funds, be now introduced and read a first time.

CARRIED

Whalley/Colborne: SRD 892/23

THAT the rules be suspended and Bylaw No. 527 be given second and third readings.

CARRIED

Whalley/Mawhinney: SRD 893/23

THAT Bylaw No. 527 be returned for consideration of adoption following receipt of written consent from the director for Electoral Area A.

CARRIED

CORRESPONDENCE

Colborne/Vonesch: SRD 894/23

THAT the following items be received:

Youth Parliament of British Columbia

- September 14, 2023 correspondence from the Youth Parliament of British Columbia regarding their 95th Parliamentary Session in Victoria. [Item]

Vancouver Island Regional Library Budget

- September 19, 2023 correspondence from the Vancouver Island Regional Library regarding its 2024 budget. [Item]

BC Ferry Authority 2022-23 Annual Report

- September 19, 2023 correspondence from the BC Ferry Authority regarding its 2022-23 Annual Report. [Item]

Foster Family Month

- September 26, 2023 correspondence from the Minister of Children and Family Development regarding Foster Family Month. [Item]

Cortes Island Septage Study

- September 27, 2023 correspondence from the Minister of Municipal Affairs regarding an infrastructure planning grant for the Cortes Island Septage Management feasibility study. [Item]

Salmon Species at Risk

- October 6, 2023 correspondence from Fisheries and Oceans Canada regarding Sakinaw Sockeye salmon. [Item]

- October 6, 2023 correspondence from Fisheries and Oceans Canada regarding Okanagan Chinook salmon. [Item]

CARRIED

AVICC Committee on Solid Waste

Mawhinney/Colborne: SRD 895/23

THAT the August 21, 2023 correspondence from the AVICC Committee on Solid Waste regarding its proposal to include 'circular economy' in its Terms of Reference be received. [Item]

CARRIED

Vonesch/Colborne: SRD 896/23

THAT the AVICC Committee on Solid Waste Terms of Reference be accepted as presented; and

THAT Director Mawhinney be appointed to participate on the Committee.

CARRIED

Vancouver Island and Coastal Communities (VICC) Climate Leadership Steering Committee

Mawhinney/Colborne: SRD 897/23

THAT the September 15, 2023 correspondence from the VICC Climate Leadership Steering Committee regarding a financial assistance request be received. [Item]

CARRIED

Mawhinney/Vonesch: SRD 898/23

THAT the Regional Board provide $8,400 to the VICC Climate Leadership Steering Committee to be paid from the regional grant in aid budget.

Chapman/Rice: SRD 899/23

THAT staff prepare a report outlining composition of the VICC Climate Leadership Steering Committee and other similar committees in the province.

CARRIED

KCFN Water Safety Program

Mawhinney/Colborne: SRD 900/23

THAT the correspondence from the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations requesting support for its Water Safety Program be received. [Item]

CARRIED

Mawhinney/Jack: SRD 901/23

THAT the SRD provide a letter of support to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nation regarding their application to the Telus Indigenous Communities grant for water safety training.

CARRIED

Strathcona Gardens Service

Whalley/Mawhinney: SRD 902/23

THAT the following items of correspondence be received:

- September 29, 2023 correspondence from Lisa Le Signe regarding the Strathcona Gardens service. [Item]

- October 2, 2023 correspondence from Bill West-Sells regarding the Strathcona Gardens Service. [Item]

- October 3, 2023 correspondence from Myfanwy and Jason Varalta regarding the Strathcona Gardens service. [Item]

NEW BUSINESS

Quadra and Cortes Transit

Vonesch/Mawhinney: SRD 903/23

THAT staff prepare a report on subregional transportation services between Quadra Island, Discovery Islands, and Cortes Island with a tax requisition of $5.00 or under per average property to leverage ride sharing and other initiatives.

DEFEATED

Directors Baker, Colborne, Davis, Rice, and Whalley opposed.

TERMINATION

Whalley/Colborne: SRD 904/23

THAT the October 11, 2023 regular meeting of the Regional Board be terminated.

CARRIED

Time: 11:55 a.m.

Certified Correct:

_____

Chair

_____

Corporate Officer

Aniko Nelson

From: Meredith Starkey
Sent: March 26, 2024 9:51 AM
To: Aniko Nelson
Subject: FW: Request for SRD Report/Update RE: Island Sea Farms at Evans Bay Read Island
Attachments: 2023 August - Background Information - Island Sea Farms License #1401594.docx; 2023-08-29 Letter to SRD.docx

FYI... no, we have not provided this report yet. Can flag for April, though realistically may need to wait until May... I believe several of the questions/concerns would require some research.

Thanks!
Meredith

From: John Neill <JNeill@srd.ca>
Sent: Tuesday, March 26, 2024 9:24 AM
To: Meredith Starkey <mstarkey@srd.ca>
Subject: FW: Request for SRD Report/Update RE: Island Sea Farms at Evans Bay Read Island

Hi Meredith – this came in this morning. I'm not sure that a report on this matter has been prepared at this time.

Best regards,

John

From: Lannie Keller <coastmtn@island.net>
Sent: Tuesday, March 26, 2024 08:13
To: John Neill <JNeill@srd.ca>; Email - planning@srd.ca <planning@srd.ca>
Cc: Robyn Mawhinney <rmawhinney@srd.ca>; Surge Narrows Community Association <surgenarrows@gmail.com>
Subject: Request for SRD Report/Update RE: Island Sea Farms at Evans Bay Read Island

NOTICE: This email is from an external source.

Hello,

This is a request for information to provide an update for Surge Narrows Community regarding Island Sea Farms License expansion application for License #1401594.

SRD has been in process of preparing a report about this license that is operating without proper permitting:

> October 11, 2023
> **Board - Regular Meeting**
> SRD 844/23 THAT a report be prepared outlining the current situation in respect of the aquaculture license held

by Island Sea Farms in the Evans Bay area, and THAT the report provide responses to questions posed in the correspondence attached to the September 19, 2023 report from the Chief Administrative Officer.

Thank you very much for any update you can provide and/or timeline regarding next steps and public hearing.

Sincerely,
Lannie Keller

BACKGROUND INFORMATION
Island Sea Farms Evans Bay License / Amendment Application (Lands File # 1401594)

How this relates to Bylaw 1460: Rural Land Use Bylaw 1460, implemented 1993, designated most activities for their then-current use. The area in question was (and still is) zoned AQ3, finfish. Deepwater/raft culture of shellfish is AQ2; therefore, even before License # 1401594 expired, it was not zoned for what it was being used for. Circa 1996, the License area was enlarged (4 ha to 7.2 ha) and at that time it was *relabelled* AQ2. This change is undocumented at SRD, where they have no record of a receiving a referral notice, and there was no rezoning application. That process should have required a public hearing. The zoning on the map in the application is inaccurate and the operation is technically illegal. The SRD should be able to enforce compliance with the Local Bylaw.

Who is monitoring these government licensed sites?
This License that was already operating non-compliant with its zoning, is now (again) being offered for renewal by the Province. The Province says that it is the Licensee's responsibility to apply for rezoning, and that it is not their mandate to enforce that. SRD recently reminded the licensee of the requirement, but say they have no ability to enforce the province's requirement. Additionally, neither agency has budget or boats *or intention* to monitor what happens on the site. The Province suggested that DFO would be the onsite monitor – but DFO says the Licensee self-reports. So, who, if anyone, is watching? [Public complaints about exposed raw styrofoam flotation have not resulted in its removal, and there are statements in the license application that do not reflect on-site reality and activities.]

Is this Temporary Use? SRD's recent "reminder" to the Licensee included option for a 5-year Temporary Industrial Use Permit, which also includes a 5-year renewal option. SRD Bylaw 1460 originally described the TIUP as a 3- year permit (not 5yr + renewable) and it was a *temporary-use category* for heli-logging operations that needed to drop and boom logs from remote sites. Using this for Aquaculture might be legal, but its not the original spirit or intention of the Bylaw. The Licensee is considering the TIUP option. This also requires a public hearing – *but SRD cannot require the Licensee to apply.*

Provincial Disregard The Province received letters of concern and did not communicate or consult with any of the citizens who provided information about the situation. The Province "corrected" misinformation in the Licensee's application. Without referral or public process, the Province issued a license that is noncompliant with local zoning. Current zoning makes the current use illegal: the licensee has been and continues to operate in contravention of RD Bylaw. The Province should not issue/validate the license renewal until it is compliant with SRD (re)zoning, which includes a public hearing. The community has outstanding questions and new concerns regarding the provincial process and the politics of licensing public resources. And what happens if local rezoning is not approved?

Additional Concerns

- Community notification is a recurring request.
- The application is a stated plan to move industrial noise and activity from where it was unwanted at Gorge Harbour on Cortes to a more remote site where there is less opposition.
- Proposed increase from 12 to 72 rafts presumes to occupy heretofore unused area that is not zoned for aquaculture.
- Scale of the proposed operation (600% increase) will dramatically change the ambience of Evans Bay and directly affect residents, boaters, and other visitors who value the quiet and safety of this deep bay.

- Noise and activity will negatively impact the island's largest employer, a kayak lodge and tour company in operation for 35 years.
- Proposed rafts will extend into the path used by other marine traffic.
- The plan includes 13 night lights and introduces massive quantities of plastic, ropes, and predator netting into the marine ecosystem.
- The application contains factual errors, and the waste management plan includes untruths about past activities as well as unlikely promises. This Licensee/applicant has a record of messy operations, plastics pollution, and has been dismissive of community concerns. At this site in 2019 ISF replaced hard-shell floats with poly-wrapped styrofoam, and to this day there are many *partially unwrapped/exposed styrofoam floats in active use.*

Map: The dark blue area (4 ha, 1985) was zoned for finfish aquaculture in 1993 Rural Land Use Bylaw. The Provincially licensed area changed hands four times and increased (7.21 ha) but never rezoned for aquaculture. The larger hatched area proposed is currently not zoned for use.



August 29, 2023
Re: Aquaculture License #1401594 Evans Bay, Read Island

Dear SRD Board and Staff:

The Province has recently issued an aquaculture license amendment/renewal that is *subject to zoning compliance*. SRD has informed Island Sea Farms (the Licensee) about the compliance requirement, but SRD also claims to have no authority or capacity to require or enforce zoning, and no ability to police this remote site.

The Licensee proposes a mussel farm, as opposed to more passive oyster culture. This includes a large increase in infrastructure, and activity/noise that Island Sea Farms wants to move from Gorge Harbour (Cortes Island) to Evans Bay.

The Province, DFO, and Transport Canada all reviewed the application. The three agencies produced separate studies and recommendations that provided basis for the Dedicated Decisionmaker's renewal offer. The back story is longer, because there is misinformation in the License application, including the zoning map.

When the application was filed, there was no effort to notify the community. Someone saw the inconspicuous paper notice on a raft at the farm and several local community members wrote to express concerns. Others are waiting for the public hearing that is required for rezoning.

Community notified the Province about the zoning conflict, and it seems wrong (or at least inefficient) that the Province, DFO and TC all proceeded with investigations and reports (and decision) ahead of rezoning. We are curious about why the license was issued ahead of the public process – and no one has been able to tell us what happens if rezoning is eventually denied.

SRD says they have no ability (or mandate) to "police" a provincial license in a remote location. The Province (Ministry of Forests Aquaculture Authorizations Specialist) says they also have no boat and no budget or mandate to patrol remote sites – and that DFO would be the oversight agency. We have not been able to locate anyone at DFO who visited the site or who wrote their recommendation. We have not been able to view any of the agency reports. WHO IS WATCHING?

This site was originally a very small finfish farm in the early 1980's. It has changed hands several times, and the use changed from finfish to deepwater oyster culture. Although the use changed, and the size almost doubled, there has never been a rezoning application or any public notification/process. Therefore, even before this application was filed, the License was operating in contravention of its zoning. Community had no idea we needed to look, but how did the three government agencies not know or notice when examining the new application? (And IF there was a DFO on-site inspection, how

could they not notice management plan irregularities and why didn't they at least enforce the ban on *exposed raw styrofoam*?!)

I'm troubled by the disconnect between the SRD and the Province (and DFO and TC) on this application. It feels unjust that this has been allowed to proceed including the many inconsistencies and violations that have been noted, and apparently ignored.

It is important that decisions also reflect the best interests of the community. Ahead of any new AQ2 activity at this site (which is only zoned for AQ3 and AC1) please ensure that:

- The zoning is compliant with the rule and the moral intention of SRD ByLaw 1460.
- Previous and current violations are addressed and corrected.
- There is meaningful community input on all aspects of this application via the required public hearing.

Sincerely,
Lannie Keller
Evans Bay resident

NOTE: The attached document includes additional background information and a map.

Strathcona REGIONAL DISTRICT

STAFF REPORT

DATE: June 27, 2024 **FILE:** 0550-04 Board

TO: Chair and Directors,
Electoral Areas Services Committee

FROM: Dave Leitch
Chief Administrative Officer

RE: AQUACULTURE REGULATION BY LOCAL GOVERNMENT

PURPOSE/PROBLEM
To consider limitations on the ability of local government to regulate aquaculture operations.

EXECUTIVE SUMMARY
The attached report was considered at the June 26, 2024 meeting of the Regional Board at which time the following resolution was passed:

> Mawhinney/Whalley: SRD 492/24
>
> THAT the matter be referred to the Electoral Areas Services Committee for discussion.

Accordingly, the matter of aquaculture regulation is presented at this time for further consideration by the Committee. To further assist the Committee with understanding the limitations of local government regulatory authority in respect of aquaculture operations, a copy of the Island Sea Farms litigation file that was released to the public in 2017 is attached for information.

RECOMMENDATION

THAT the report from the Chief Administrative Officer be received.

Respectfully:

Dave Leitch
Chief Administrative Officer

for

Prepared by: *T. Yates, Corporate Services Manager*

Attachments: Copy of May 17, 2024 report to the Board

Strathcona
REGIONAL DISTRICT

STAFF REPORT

DATE: May 17, 2024

FILE: 0540-04 Board

TO: Chair and Directors
Regional Board

FROM: Dave Leitch
Chief Administrative Officer

RE: **AQUACULTURE REGULATION BY LOCAL GOVERNMENT**

PURPOSE

To report on correspondence received by the Board in October 2023 concerning aquaculture regulation and Regional District's ability to enforce its bylaws..

POLICY ANALYSIS

Section 479 of the *Local Government Act* extends to regional districts the authority to divide electoral areas into zones and regulate land uses within those zones.

EXECUTIVE SUMMARY

At its meeting on October 11, 2023, the Board received correspondence requesting clarification on the SRD's role in regulating and enforcing aquaculture activities in Area C and passed the following motion:

> Chapman/Whalley: SRD 844/23
> THAT a report be prepared outlining the current situation in respect of the aquaculture license held by Island Sea Farms in the Evans Bay area; and
>
> THAT the report provide responses to questions posed in the correspondence attached to the September 19, 2023 report from the Chief Administrative Officer.

The first part of this resolution is seeking clarification on the current status of active aquaculture license #1401594, held by Island Sea Farms to operate a mussel farm in Evans Bay near Read Island. In May 2022, a renewal for this tenure was referred to the SRD for comment. The SRD commented that support for this renewal was contingent upon a successful application to rezone the tenure area to Aquaculture Two (AQ-2) to bring the existing shellfish farm into compliance with Bylaw No. 1490, being the Electoral Area 'J' — Desolation Sound Rural Land Use Bylaw, 1993. Although an application to rezone this site has not been received, the Province renewed this license on June 10, 2023 for a period of ten (10) years.

The second part of this motion seeks clarification on the SRD's authority to enforce zoning regulations over water parcels and aquaculture activities, including if, when, and how the public must be notified and/or consulted on tenure applications. Staff will address these questions in the following section.

Question #1: Who has jurisdiction over aquaculture sites?

As clarified in the attached SRD poster titled *Aquaculture Jurisdictions* (2017), jurisdiction over aquaculture sites is divided between the federal and provincial governments, while local governments have limited authority through local land use planning. Specifically:

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Fisheries and Oceans Canada (DFO)

- Issues aquaculture licences for marine finfish, shellfish and freshwater (land-based) operations.
- Regulates aquaculture operations through the *Fisheries Act*, *Health of Animals Act*, *Food and Drugs Act*, and *Species at Risk Act*.

Province of BC

- Issues aquaculture licenses for the commercial harvest of marine plants.
- Issues business licenses for aquaculture under the *Fisheries Act*.
- Protects aquaculture operations through the *Farm Practices Protection (Right to Farm) Act.*
- Aquaculture operations that required a provincial lease or tenure before 2010, when the province was responsible for regulating aquaculture in BC, continue to need one to comply with provincial law.
- Responsible for managing the use and occupation of provincial Crown Land, including Crown Land covered by water. This responsibility includes the issuance and management of Crown Land tenures.

SRD

- Provides a vision, goals and guidelines for aquaculture through Official Community Plans.
- Zones the surface of the water and regulates permitted uses (e.g. sorting, grading, harvesting and processing), height of buildings and structures on rafts, lot areas and setbacks (distance from land zoned residential).

First Nations Governments

- First Nations have a constitutionally protected right to harvest resources within their traditional territories.

Question #2: Who has the authority and responsibility to enforce compliance?

Just as jurisdiction over aquaculture sites is shared by multiple agencies, so is enforcement. Enforcement of tenure conditions and terms is the responsibility of the province, in cooperation with the Federal Department of Fisheries and Oceans. This does not include enforcement of local zoning bylaws.

While the SRD is responsible for enforcement of local zoning, it does not have the authority to enforce parts of the zoning bylaw that are outside its jurisdiction. There is some question as to whether local governments have the authority to regulate land uses below the surface of the water, which limits the SRD's authority to zone and enforce zoning of the water column, seabed, and subsurface. A recently obtained legal opinion states unequivocally that, "The SRD does not have the jurisdiction to zone aquaculture cultivation below the surface of the water" based on case law asserting that the regulation of aquaculture within the waters off BC fall within federal jurisdiction, except for marine/aquatic plants, which are regulated by the province as part of provincial authority over agriculture. As such, aquacultural activities occurring below the surface of the water are outside the SRD's jurisdiction and thusly are not subject to enforcement by the SRD.

Additionally, previous legal opinions have confirmed that aquaculture is recognized as farming and is therefore protected under the *Right to Farm Act*. This restricts the SRD from regulating 'normal farm practices', such as the use of machinery, noise, odours and other disturbances which result from farming operations.

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In the case of the Island Sea Farms license in question, the SRD commented that, given the existing language within the zoning bylaw, the proposed use would be non-compliant. This site is zoned Aquaculture Three (AQ-3), which permits active aquaculture (fin fish) but not the more passive mussel cultivation and harvesting activities proposed at this site. If this were to be taken at face value, a rezoning would be required to be compliant with the zoning bylaw; however, given the limitations of our authority to zone below the surface of the water, it is unlikely that the SRD has the authority to regulate the type or species of aquaculture being harvested or any activities that occur below the surface of the water. In this case, the SRD's zoning bylaw is more restrictive than it has the authority to be.

Question #3: What are the public notification and consultation requirements for aquaculture licensing?

As noted in the *BC Land Use Operational Policy: Aquaculture (2011)*, applicants for crown tenure over a water parcel for the purpose of aquaculture are only required to post notice of their tenure proposal at the tenure site. Depending on the nature of the proposal, the province may impose consultation requirements, which may include a requirement for an open house or similar but does not include a formal public hearing. As an agency that is referred tenure applications, the SRD is granted 30 days to review and provide comments. The province will consider this input but is not encumbered by it. The SRD is merely a referral agency and plays no role in the notification process.

Statements: Ahead of any new AQ2 activity at this site (which is only zoned for AQ3 and AC1) please ensure that: The zoning is compliant with the rule and the moral intention of SRD Bylaw 1460; previous and current violations are addressed and corrected; there is meaningful community input on all aspects of this application via the required public hearing.

As stated in the SRD's most recent legal opinion, "The SRD's zoning authority is limited to the surface of the water only and only in a manner that is not effectively prohibited under the terms and conditions of: an aquaculture license issued under the Federal *Pacific Aquaculture Regulations*; an aquatic plant culture license issued under the Provincial *Fish and Seafood Licensing Regulation*; and, applicable aquaculture tenure or license of occupation over the are in question."

RECOMMENDATION

THAT the report from the Chief Administrative Officer be received.

Respectfully:

Dave Leitch
Chief Administrative Officer

BACKGROUND/HISTORY

An aquaculture licence has been in place over this area since 1985, although the licence holder, type of aquaculture licence (i.e. species) and tenure area have changed over time. The SRD received a referral for a renewal of the licence in May 2022 and the province issued the licence on June 10, 2023.

FINANCIAL IMPLICATIONS
There are no financial implications associated with this report. Should the Board choose to proceed with any enforcement action, costs could be born.

LEGAL IMPLICATIONS
The information contained in this report is supported by a recent legal opinion. At this time, there are no legal implications associated with this report. Should the Board choose to seek further compliance, legal assistance would be required.

INTERGOVERNMENTAL/REGIONAL IMPLICATIONS
Aquaculture can be regulated through multiple levels of government, including Federal, provincial and local governments.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS
Citizen/public relations implications are unknown.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS
Interdepartmental involvement is limited to the planning and bylaw enforcement departments.

Submitted by:

A. Nelson

Aniko Nelson
Senior Manager, Community Services

Prepared by: *M. Starkey, Manager Planning and Parks and A. Nelson, Senior Manager, Community Services*

Attachments: BC Land Use Operational Policy: Aquaculture (2011)
SRD Poster: Aquaculture Jurisdictions (2017)
Copy of October 11, 2023 report to the Board

COPY

BRITISH COLUMBIA

Land Use Operational Policy
Aquaculture

NAME OF POLICY:	Aquaculture
APPLICATION:	Applies to the siting and improvements of tenures required for the cultivation of finfish, shellfish and marine plants on Crown land. Does not apply to ocean ranching of finfish or the wild commercial or recreational harvesting of finfish, marine plants, wild oysters or herring spawn on kelp.
ISSUANCE:	Assistant Deputy Minister, Tenures, Competitiveness and Innovation
IMPLEMENTATION:	Ministry of Forests, Lands and Natural Resource Operations
REFERENCES:	*Land Act* (Ch. 245, R.S.B.C., 1996) Federal *Fisheries Act* (R.S. 1985, c.F-14) Federal *Canadian Environmental Assessment Act* (R.S. 1992, c.37 [c-15.2]) Federal *Navigable Waters Protection Act* (R.S. 1985, c.N-22)
RELATIONSHIP TO PREVIOUS POLICY:	This policy replaces the previous Aquaculture policy dated August 16, 2004
POLICY AMENDMENT:	Any formal request for an amendment to this policy is to be directed in writing to the Director, Land Tenures Branch, Ministry of Forests, Lands and Natural Resource Operations

Dave Peterson, ADM
Tenures, Competitiveness and Innovation
Ministry of Forests, Lands and Natural Resource Operations

MAY 26 2011

Date:

EFFECTIVE DATE: June 1, 2011 **FILE**: 12075-00
AMENDMENT:

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APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
June 1, 2011	BN 175892	Policy and Procedure update to reflect reorganization of resource ministries April 2011
April 1, 2012	BN 182973	Update to land values.
January 9, 2013	Email approval W. Trotter	Revision to language in s. 7.4.1
April 1, 2013	BN 195386	Update to land values.
April 1, 2014	BN 204476	Update to land values.
December 30, 2014	BN 211170	Updates provincial and federal roles in aquaculture (s.1.1 policy application and s.8.1.1B management plan), updates maximum term for a Licence and a Lease, (s. 6.2, 6.3), introduces Incidental Aquaculture Use (s.8.1.1B), and clarifies security bonds (s.9.2)
April 1, 2015	BN 212627	Update to land values.
September 22, 2015	BN 217947	Land Act Reform Phase 1 changes
July 31/September 30· 2015	Information Bulletin 2015AGRI0050-001218/ Information Bulletin 2015AGRI0062-001629	Direction on how salmon aquaculture tenure and amendment applications are to be considered (Appendix 2).
April 1, 2016	BN 220250	Update to land values.
April 1, 2017	BN 227623	Update to land values.
April 1, 2018	BN 236356	Update to land values
April 1, 2019	BN 246346	Update to land values
August 14, 2019	Joint Ministry DN Cliff #NRS 410	Implementation of June 20, 2018 strategic policy directive for finfish (salmon) aquaculture (News Release 17461) by updating guidance provided in Appendix 2.
April 1, 2020	BN 254084	Update to land values
April 1, 2021	BN 261226	Update to land values

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
April 1, 2022	BN 269471	Update to land values
April 1, 2023	BN 273536	Update to land values
October 16, 2023	TB (FIP) Decision 503592	Update to increase the minimum rent to $850 per year, phased in over two (2) years at $675 in year one and to $850 in year two.
April 1, 2024	BN 277674	Update to land values

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1. POLICY APPLICATION

1.1 Shared Government Roles and Responsibility

The Province of British Columbia is responsible for managing the use and occupation of provincial Crown land, including Crown land covered by water. The Ministry of Forests, Lands and Natural Resource Operations is responsible for the issuance and management of Crown land tenures, including tenures for aquaculture improvements.

Fisheries and Oceans Canada (DFO) is responsible for regulating, monitoring and licensing all aquaculture operations in the province (with the exception of those sites culturing only marine plants). DFO's responsibility includes most aspects of the industry including but not limited to species, production practices and volumes, fish containment, fish health, sea lice levels, waste control and fish habitat and protection measures.

Transport Canada is responsible for reviewing and approving applications for the placement of aquaculture containment and/or structures within navigable waters.

The Ministry of Agriculture is responsible for the BC *Fisheries Act* and is the lead provincial agency for strategic policy and aquaculture industry development.

Provincial and federal agencies work in a collaborative manner to review and respond to aquaculture applications but the parties make independent decisions based upon legislation, policies, and best management practices of those agencies.

1.2 Application of the Aquaculture Land Use Policy

The Aquaculture Land Use Policy applies to the siting and improvements of tenures required for the cultivation of finfish, shellfish and marine plants on aquatic Crown land or foreshore. This policy does not apply to ocean ranching of finfish or the wild commercial or recreational harvesting of finfish, marine plants, wild oysters or herring spawn on kelp or tenuring of lake areas for commercial recreation fisheries.

This policy applies to bottom culture and floating or permanent structures required for stock grow-out, feed and equipment storage sheds, environment monitoring stations, processing facilities and other such uses that are within the tenure area and essential to the tenure holder's aquaculture operation.

This policy does not apply to any aquaculture upland use (such as hatcheries) or to applications/tenure solely for processing facilities on aquatic Crown land (these uses can be considered under the General Commercial or Industrial Programs).

The italicized text in this document represents information summarized from standard Crown land management policies and procedures. This material has been inserted where it provides necessary direction or context. As well, website links offer access to the full text of the relevant land management policies and procedures. Text in standard script is applicable to this policy only.

2. PRINCIPLES AND GOALS

Provincial employees act in accordance with applicable legal requirements when making decisions. The Guiding Principles are a summary of key administrative and contract law principles which guide provincial employees.

This policy is part of a series of policies that have been developed to help provincial staff use business and legal principles to achieve the government's goals with respect to the management of Crown land in a manner that is provincially consistent, fair and transparent. To that end, this policy also serves as a communication tool to help the public understand how the Province of BC makes decisions respecting Crown land.

The Provincial Government supports the sustainable development of the aquaculture industry and acknowledges aquaculture as a legitimate use of the coastal resource that makes decisions based on sound science and ensuring business practices are conducted in an environmentally, socially and economically sustainable manner.

3. DEFINITIONS

Application package means the Crown land application form, management plan and other supporting materials form the information package required to evaluate an aquaculture proposal and issue tenure under the *Land Act.*

Aquaculture means the growing and cultivation of aquatic plants, finfish, shellfish or other invertebrates for commercial purposes in any water environment or in human made containers of water, in or under the foreshore or in water.

Aquaculturalist means the holder of an aquaculture tenure issued pursuant to the provincial *Land Act.*

Aquatic Crown land means that land below the visible high water mark of a body of water, extending offshore to the recognized limit of provincial jurisdiction, including the foreshore.

Authorizing Agency means the Aquaculture Operations Branch (the Provincial ministry responsible for the specific land use authorization).

Beach tenure means an aquatic Crown land tenure situated on the foreshore between the low and high water marks.

Diligent use means compliance with a management plan, and satisfactory production as determined from time to time in consultation with the appropriate administering agency (see section 9.5.3).

Extensive area means the area of Crown land used for anchoring structures outside of intensive areas that do not impede navigation or access to lands beyond.

Finfish means freshwater fish and marine finfish species including salmon and non-salmonid species, such as trout and sablefish.

First Nation is a term that refers to the Indian peoples in Canada, both Status and non-Status. Although the term First Nation is widely used, no legal definition of it

exists. Some Indian peoples in British Columbia have adopted the term "First Nation" to replace the word "band" in the name of their community.

Incidental Aquaculture Use (IAU) means the movement or alteration of improvements (including anchors) within the approved tenure area in a manner that does not change the approved use for that tenure. IAU activities must be consistent with the definition and conditions set out in s. 8.1.1B and generally do not require a tenure modification agreement.

Improvements means any additions or alterations to Crown land tenure or physical structures that will temporarily or permanently occupy space on the tenure site required for the cultivation of a culture species. Improvements may include, but are not limited to, longlines, anchor lines, rafts, floats, barges, net pens, net cage arrays, vexar cover or fencing, docks, storage sheds or other buildings.

Intensive area means the area of Crown land used for activities and related improvements directly associated with the production of finfish, shellfish or marine plants. The intensive area will include net cages, netting, float camps, net storage, docks and mort sheds as well as a 30-meter buffer around these structures. The 30-meter buffer is mandatory and is intended to cover the area where anchor lines are likely to pose a restriction to navigation due to the scope and angle of lines closest to the structures. Outside of the 30-meter buffer the lines are generally at a suitable depth to allow safe passage of a boat; however, any anchor lines beyond the 30-meter buffer that restrict access or hamper navigation will also be included as part of the intensive area.

Management plan means the document that details the specific requirements for an aquaculture tenure, including the nature and siting of the improvements. .

Multiculture techniques means aquaculture within the same tenure involving more than one technique to culture the same organism (e.g. shellfish bottom and off-bottom culture).

Phased Development means development of a number of sites in a sequential manner.

Project Review Team (PRT) means a team chaired by the Authorizing Agency and comprised of recognized agencies and groups which meets to review and comment on specific *Land Act* applications.

Shellfish means aquatic plants, shellfish or other aquatic invertebrates.

4. ABBREVIATIONS

AOB – Aquaculture Operations Branch

BCA - BC Assessment

DFO - Fisheries and Oceans Canada

ha. - Hectare

MA - Ministry of Agriculture

MOE - Ministry of Environment

MOU - Memorandum of Understanding

MFLNR – Ministry of Forests, Lands and Natural Resource Operations

PRT - Project Review Team

TC - Transport Canada

5. APPLICANT ELIGIBILITY

Applicants for new tenures, tenure assignment, or tenure replacement must be:

- *Canadian citizens or permanent residents 19 years of age or older; or,*
- *Corporations which are incorporated or registered in British Columbia; or,*
- *Registered partnerships, cooperatives, and non-profit societies which are formed under the relevant provincial statutes; or,*
- *First Nations can apply through band corporations or Indian Band and Tribal Councils. Band or Tribal Councils require a Band Council Resolution a) authorizing the council to enter into the tenure arrangement, and b) giving the signatories of the tenure document the ability to sign on behalf of the Band. For tenures which are to be registered in the Land Title Office, First Nations must apply through either a band corporation or trustees. Band members can elect 1 or more trustees to hold a tenure on behalf of the Band. Verification of election must be by way of a letter signed by the Chief and councilors of the Band giving the full names of the trustees and stating that they were elected at a properly convened meeting of the Band. A Band Council Resolution is not required.*
- *In the case of aquatic land, non-Canadians can apply if they own the adjacent upland (companies must still be incorporated or registered in B.C.).*

For more detailed standard policy information see Eligibility and Restrictions.

The Authorizing Agency has the discretion to limit the number of active applications from any one individual or company being processed at any one time.

6. FORM OF LAND ALLOCATION

Refer to Appendix 1 for a summary table of the types and terms of Crown tenure available for aquaculture operations.

For more detailed standard policy information see Form of Crown Land Allocation.

6.1 Temporary Licence

The tenure holder must permit public access to the area without interference, and must recognize that overlapping and layering of tenures may be authorized by government.

The maximum term for a temporary licence is up to 2 years.

Temporary licences are not usually issued for aquaculture. At the discretion of the Authorizing Agency Director, where the particulars of the situation warrant it a temporary licence may be issued to allow for the investigation of project feasibility or the placement of monitoring equipment. A temporary licence holder may not conduct commercial activity during an investigative period. Under limited circumstances, authorization can be provided for "proof of concept" and/or pilot-scale sales. Product sales can recover

some or all of the operational costs but full commercial production is not allowed under the temporary licence.

The Authorizing Agency will not accept competing aquaculture applications over the site during the term of the temporary licence. Only the temporary licence holder may apply for long-term tenure during the term of the temporary licence. A temporary licence does not guarantee any future tenure.

6.2 Licence of Occupation

A licence of occupation is the most common form of Crown land tenure for aquaculture.

The term for a licence of occupation for aquaculture purposes is up to 30 years. The Authorizing Agency may deem that a shorter term for either the initial or replacement license is appropriate (e.g. to support a staged approach to development). Replacement option is available anytime after mid-term of the current tenure (e.g., 15 years).

A licence of occupation may be issued where minimal improvements are proposed, where short-term tenure is required, and in remote areas where survey costs are prohibitive. It may also be used to allow development to proceed while awaiting completion of survey requirements for a lease or right of way.

A licence of occupation conveys fewer rights than a lease. It conveys non-exclusive use for the purpose described, is not a registerable interest that can be mortgaged, and does not require a survey.

A licence of occupation does not allow the tenure holder to curtail public access over the licence area except where it would impact the licensees' right to use the land as per the licence document. Government may authorize overlapping and layering of tenures.

6.3 Lease

The term for a lease for aquaculture purposes is up to 30 years. The Authorizing Agency may deem that a shorter term for either the initial or replacement lease where appropriate (e.g. to support a staged approach to development). Replacement option is available anytime after mid-term of the current tenure (e.g., 15 years).

A lease should be issued where long term tenure is required, where substantial improvements are proposed, and/or where definite boundaries are required in order to avoid conflicts.

The tenure holder has the right to modify the land and/or construct improvements as specified in the tenure contract. The tenure holder is granted quiet enjoyment of the area (exclusive use).

A legal survey will generally be required at the applicant's expense to define the tenured area.

A lease can be issued in a form that is registerable in the Land Title Registry (whereas, a Licence of Occupation is not.) Registered leases for a term of 30 years or more may be

considered a fully taxable transfer of interest in property and may be subject to Property Transfer Tax in accordance the Property Transfer Tax Act.

Where a lease is not registered in the Land Title Registry, Property Transfer Tax does not apply.

In most cases, a tenure holder may apply for a replacement tenure at any time following the mid-term of the lease. Replacement of tenures is at the Authorizing Agency's discretion.

Where a replacement lease is for the same land, will result in a total duration of more than 30 years, and the replacement lease is registered in the Land Title Registry, the leases may be viewed as a single transaction and may be subject to Property Transfer Tax.

Where the term of a registered lease is less than 30 years or the total duration of all leases does not exceed 30 years, Property Transfer Tax exemption is available.

A lease can be a registerable interest in the land that is mortgageable.

6.4 Sale

Not available under this program. Sale of upland sites may be available through the General Commercial or Industrial programs, dependent on local government zoning.

6.5 Reserves

Federal and provincial agencies may apply for the establishment of an aquaculture reserve to withdraw from disposition high value aquaculture sites required for public purposes, including research and education, and to address First Nations' interests.

7. PRICING POLICY

7.1 Administrative Fees

Application fees for tenures, and other administrative fees, are payable to the Province of BC. These fees are set out in the fee schedules contained in the Land Act Fees Regulation.

Application fees and other common administrative fees are listed in Appendix 1.

7.2 Application Fee

The application fee for new finfish aquaculture tenures is $4925 + GST = $5171.25.

The application fee for new shellfish aquaculture tenures is $1,200 + GST = $1260.

To provide some upfront cost relief for shellfish aquaculture applicants, only $500 of the application fee is to be paid when the application is submitted. The remainder of the fee is to be paid once a decision has been made on the application. The net amount of the remaining "back-end" portion of the fee will be determined by factoring in any refund that is due to the client (see the Pricing Policy - Fee Refunds). Multiple shellfish beach sites may be included in a single application if the individual sites would not be economically

viable as standalone tenures and the individual sites are approximately within a 500m radius of each other.

7.3 Finfish Annual Rent

7.3.1 Finfish Land Value

The land value for finfish aquaculture sites is set at $11,969/ha as of April 1, 2024. The Finfish Land Value will be adjusted annually to account for CPI changes.

7.3.2 Temporary Licence

$250 for terms up to one year, or $500 prepaid for 2 years

7.3.3 Licence of Occupation

Intensive areas – annual rent is calculated as 7.5% of the Finfish Land Value

Extensive areas – annual rent is 7.5% of one half the Finfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

The pricing for freshwater finfish aquaculture will be equivalent to the Finfish Land Values for marine finfish aquaculture.

7.3.4 Lease

Intensive areas – annual rent is calculated as 8% of the Finfish Land Value.

Extensive areas – annual rent is 8% of one half the Finfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

7.4 Shellfish Annual Rent

7.4.1 Shellfish Land Value

The land value for shellfish aquaculture is set at $7,839/ha as of April 1, 2024. The Shellfish Land Value will be adjusted annually to account for CPI changes.

Phase-in: the current land values for existing shellfish sites are to be doubled each year until the above Shellfish Land Value is attained.

Development Discount
Any new shellfish tenure will be eligible for reduced pricing during the first 5 years. A developmental discount rate of 50% of the Shellfish Land Value is to be used.

The discount does not apply to new tenures that overlap or partially overlap sites previously approved for shellfish aquaculture or, to expanded areas of approved shellfish tenure agreements added as an amendment to the original tenure area.

The minimum rent of $675+GST/year will apply.

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7.4.2 Temporary Licence

Temporary Licence $250 for terms up to one year, or $500 prepaid for 2 years.

7.4.3 Licence of Occupation

Intensive areas annual rent is calculated as 4% of the Shellfish Land Value.

Extensive areas – annual rent is 4% of one half the Shellfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

7.4.4 Lease

Intensive areas – annual rent is calculated as 5% of the Shellfish Land Value.

Extensive areas – annual rent is 5% of one half the Shellfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

7.5 Ancillary Residential Use

Upland residential sites required to support aquaculture operations may be considered under the Residential land use policy. Fees and rents will be assessed in accordance with that program.

Floating facilities for residential use can be included as part of the general aquaculture tenure (licence or lease). At the time the original application is submitted there will be no additional application or processing fee if floating facilities for ancillary residential use are included within an aquaculture tenure. The addition of residential facilities after the granting of the original tenure will require a new application and processing fee. An additional rent will be charged for residential use, with a minimum additional rent of $500/year.

8. ALLOCATION PROCESSES

Areas of Crown land which have the capability and suitability to support aquaculture may be identified through an integrated resource planning process or aquaculture specific coastal plans (e.g., Aquaculture Opportunity Studies; Shellfish Aquaculture Action Plans). These planning processes involve significant local community and sector input for marine activities in the area. The resulting maps and reports can help direct clients to apply for aquaculture tenures in areas with a higher likelihood of approval and avoid locations with significant environmental issues or social conflicts.

The Authorizing Agency will take into consideration input from these resource planning and advisory processes, where they exist, as well as other sources contacted as part of the referral process when making planned tenure dispositions or evaluating individual applications. The Authorizing Agency will also take into consideration the Provincial Government's sustainability principles in its decision-making.

Where an Economic Measures MOU is in place with First Nations and where community criteria for tenure selection has been established for shellfish aquaculture, new applications will be accepted for suitable sites where they do not conflict with sites identified in the MOU.

In the absence of a formal Economic Measures MOU or MOU sites selection agreement with First Nations, the Authorizing Agency will accept shellfish tenure applications. These will be subject to consideration of First Nations interests and rights, any completed coastal resource plans, standard referral processes and community input as part of the public consultation process.

Where a coastal resource planning process or an Economic Measures negotiation is actively in progress, the Authorizing Agency Director may designate specific areas of the coast where aquaculture applications will be accepted but will be parked until the associated planning process or negotiations are concluded in a timely manner.

8.1 Applications

New and replacement tenures are normally offered in response to individual applications.

8.1.1 Application Package

Applications must be complete before they can be accepted for processing. A complete application package will include all the material defined in the Application Checklist.

In terms of applications for salmon aquaculture, refer to Appendix 2.

A. Parcel and Siting Considerations

Siting Criteria for Aquaculture Tenure

Specific guidelines regarding separation distances and other siting considerations have been developed. These must be reflected in site plans and management plans. Siting considerations include:

- riparian rights and requirements for navigation;
- First Nations potential aboriginal interests and rights; and
- environmental concerns.

The Authorizing Agency Director, at the request of the PRT and in consultation with relevant regulatory agencies, has the discretion to modify general siting criteria or establish additional density and separation requirements where appropriate.

Where separation guidelines are not met, applicants must include a detailed explanation and justification for proceeding with the application.

Parcels for Tenure Expansions

A parcel must not be capable of being a stand-alone site to be considered for expansion. In general, the add-on parcel must be of reasonable size (e.g. shellfish tenure may be expanded by up to 20% of their original tenure size or 2.5 ha. for inter-tidal sites and 10

ha. for deep water sites, whichever is greater). A site is not considered stand-alone if it is not economically viable due to the following factors:

- high utilization cost if the site is located too great a distance from the market;
- expected low return on the effort spent if site has poor biophysical conditions;
- low potential production;
- restricted operation time if the site is subject to closures due to pollution;
- restricted production methods or production intensity as defined in the management plan due to tenure size; or
- utilization is not feasible due to access restrictions (e.g. the site is only accessible through an existing tenure).

The characteristics that make a site "standalone" will depend on the species cultured as economic factors and biophysical requirements vary among species. The determination of a site's ability to be "standalone" will rest with the Authorizing Agency Director. An expansion parcel must not impede riparian access to upland properties or reasonable access to other established tenures. Deepwater expansions cannot impede the movement of boats and equipment required for the operation of existing tenure.

This policy does not guarantee that applications for tenure expansion will receive a favourable land-use decision.

B. Management Plan

All aquaculture tenure applications require a tenure Management Plan. The approved tenure Management Plan is referenced in the tenure document and forms part of the tenure agreement.

The tenure Management Plan for *Land Act* tenure agreements for shellfish, finfish and freshwater / land-based aquaculture activities is made of Parts I, II and V of the harmonized aquaculture application. Once approved by MFLNR, Parts I, II and V becomes the tenure Management Plan (with a cover page that is dated and signed) and is retained as evidence of the approved tenure boundaries and purpose of occupation granted under the *Land Act* tenure agreement.

An application for a tenure modification to amend the approved tenure Management Plan is required:

- to change the authorized use of the approved tenure;
- to expand or reduce the size of an approved tenure boundary; or
- upon request from the Director of Authorization.

An application to modify the tenure agreement, complete with fees and an updated Management Plan, is required where substantial alterations of site improvements are being proposed.

Incidental Aquaculture Use

Some changes to improvements (i.e. fishing gear and accommodations) within an aquaculture tenure area, that are not considered to be substantial alterations, do not

require a tenure amendment. These changes to improvements must be consistent with the definition and conditions for "Incidental Aquaculture Use" as follows:

Incidental Aquaculture Use (IAU) is defined as the movement, alteration or addition of improvements (fishing gear and/or accommodation) within the approved tenure area in a manner that does not result in a substantive alteration to improvements and does not change the approved use. These IAU changes may include:

- relocation or realignment of existing improvements within the tenure area. For example: net cages, long lines; storage sheds, work floats and temporary worker/caretaker accommodation;
- a change of 30% or less of the Intensive Area within the tenure boundary; or
- a change of 30%[1] or less in the footprint of improvements within the tenure boundary; or
- Modifications to improvements required to support best management practices, husbandry and to respond to stock availability in a manner that is consistent with all federal authorizations.

Examples of IAU for shellfish aquaculture may include:

- changing or adding different types of culture infrastructure used (e.g. strings, trays, nets);
- increasing the number of rafts;
- changing the type of flotation systems or buoys; or
- installing a "pouch" system on the inter tidal muddy areas to prevent oysters from sinking into substrate.

Examples of IAU for finfish aquaculture may include:

- changing the design or configuration of net cages; or
- changing the type of flotation systems and buoys used.

IAU conditions: Changes that meet the definition of IAU will not require a tenure modification under this policy if **all** of the following conditions are met; specifically, a tenure holder must:

- be authorized by the federal government to conduct aquaculture and obtain all necessary federal approvals before placing or changing improvements on the tenure;
- hold a form of tenure that is a licence of occupation or lease in good standing;
- ensure all improvements (fishing gear and accommodation) are within the approved tenure area;
- not substantively change the height or size of an accommodation for workers or a caretaker;
- where appropriate, update the tenure security bond to reflect any proposed changes in improvements; and

[1] The 30% figure is cumulative and represents the total change since the last approved management plan.

- notify FCBC in writing (e.g., email) of the proposed change within a minimum of 21 days prior to initiating the IAU change. In the case of urgent safety issues with improvements, the notification period is waived and notification could occur afterwards.

Trigger for submission of a tenure amendment application:

The tenure-holder must apply for a tenure modification when:

- proposed changes result in the extension of improvements beyond the tenure boundary;
- the proposed change increases the Intensive Area within the tenure boundary by more than 30%;
- the proposed change increases the footprint of the improvements within the tenure boundary by more than 30%;
- requested by the Director of Authorization when the proposed changes to improvements do not meet the spirit and intent of the definition or conditions for an IAU; or
- request for premature tenure replacement (e.g. to increase the tenure term).

IAU does not apply to federal authorizations and the proposed change may trigger the need to apply for an amendment to the federal government. FCBC will forward the notification to the appropriate agencies.

C. Tenure Expansions

The completed application package for tenure expansion is the same as for a new tenure. It would include a new management plan and supporting materials to cover both the original tenure and the expansion area(s). Where a tenure expansion is being proposed, a new management plan must fully explain how the expansion parcel will improve the overall operation. The new plan must state proposed production levels. See Section 8.1.7 for additional notification requirements for shellfish tenure expansions.

8.1.2 Application Acceptance

New applications will be reviewed for acceptance based on application package completeness, compliance with policy and program criteria, preliminary statusing, and other information which may be available to provincial staff. The acceptance review is to be completed within 7 calendar days. Applications that are not accepted will be returned to the applicant.

Once an application is accepted the following actions will be taken:

- ensure that all accepted applications are noted on regional status maps;
- park the application pending Aquaculture PRT screening; and
- Authorizing Agency will notify the PRT and make arrangements for inter-agency screening of the application as per Section 8.1.6.

The province will accept, but not proceed to decisions on applications in those areas where:

- aquaculture specific resource planning processes are in progress; or
- significant negotiations are in progress to establish Economic Measures MOUs with First Nations or develop associated community consultation criteria.

8.1.3 Queuing/Competing Applications

In general, competing aquaculture applications (e.g. applying for aquatic lands already the subject of a previously accepted aquaculture application) will be dealt with through a queuing process (see Section 8.2 for exceptions where a competitive process may be used).

For finfish, competing applications will be defined as an application for an area that is:

- within one km of a site with a prior accepted application from the same company; or
- within three km of a site with a prior accepted application from a competing company.

For shellfish, a competing application is an application that is applying for part or all of a site that has an accepted application.

If it is confirmed that an aquaculture application is competing with a previously accepted application, provincial staff will notify the proponent that their application is for an area already applied for, inform them of the policy to proceed to decision on the first application accepted and offer them a choice between the following options:

- secure a place in a queue which will ensure the application is processed once any prior accepted application(s) for the specific area have been formally disallowed; or
- have the application and administration fee payment returned.

If the first option is chosen the proponent is informed that this now authorizes the province to cash the application fee.

If the prior application is disallowed the next application in the queue will then be processed. The first application in the queue for the applicable area is then forwarded to the PRT for screening.

If an earlier applicant accepts a tenure offer, all applicants in the queue will be notified of the decision and the queue is cleared. The province will retain $500 from each application held in the queue, the remainder of any application fees will be returned to the applicants. There will not be any refund provided to shellfish aquaculture applicants who have only submitted the $500 "up front" portion of their application fee (see section 7.2 for more details).

8.1.4 Clearance/Statusing

After acceptance, provincial staff undertake a detailed land status of the specific area under application to ensure all areas are available for disposition under the Land Act and to identify potential issues.

8.1.5 Referrals

Referrals are a formal mechanism to solicit written comments on an application from recognized agencies and groups. Referrals are initiated as per legislated responsibilities and formal agreements developed with other provincial and federal government agencies. Referrals may also be used to address the interests of local governments and First Nations. Referral agencies, organizations and identified special interest groups provide their responses to the Authorizing Agency within 30 days (45 days for First Nations).

Where tenure applications meet established siting criteria and other specific requirements as set out in formal agreements with other provincial and federal government agencies, and where the topic has been formally included in the terms of the agreement, referrals will not be conducted, although First Nations consultation requirements will continue to be applicable.

The Authorizing Agency will ensure that all aquaculture applications for both new and replacement tenure, as well as major amendments to existing approved management plans, are referred for review and comment to agencies. Finfish and shellfish referral checklists will be maintained by the Authorizing Agency.

Fisheries and Oceans Canada may respond by informing applicants and the province that a review under *Canadian Environmental Assessment Act* or *Navigable Waters Protection Act* is underway. The Authorizing Agency Director may choose to park the application until the federal environmental review is completed.

The Authorizing Agency will ensure referral responses are tracked and interpreted and that referral responses are provided to DFO as per current agreements.

Referrals to First Nations will be carried out as per the provincial consultation guidelines and, wherever possible, harmonized with DFO. It is recognized that provincial consultations with First Nations are not meant to replace or satisfy federal aboriginal consultation requirements.

8.1.6 Project Review Team (PRT)

A Project Review Team (PRT) is an advanced referral method which may be used for complex applications. It is a team chaired by the Authorizing Agency and comprised of recognized agencies and groups which meets to review and comment on specific Land Act applications.

The aquaculture PRT is responsible for reviewing application packages, determining if information requirements are complete and reporting findings to the Authorizing Agency. The inter-agency Project Review Team membership will normally include the following representation:

- MFLNR (2)

- TC – Coast Guard (1)
- DFO – Major Projects Review Unit (1)
- MOE (1)

Specific agency representatives may also change depending if the PRT is screening shellfish or finfish applications.

For all finfish and shellfish applications received and accepted by the province, the PRT will have 30 days from the date of notification by the Authorizing Agency to undertake an initial screening to:

- ensure proponents have provided adequate technical information for government agencies to effectively review the application package; and
- review and compare applications against approved siting criteria and evaluate whether all the required siting buffer information has been provided.

If there are any information omissions, the Authorizing Agency will ask the proponent to supply the missing information within a specific timeframe that does not exceed 60 days. The proponent will provide the additional information to the Authorizing Agency which will then disseminate the information to the PRT review agencies. If the applicant does not provide the requested missing information within the timeframe stipulated, the applicant is informed by letter that the application has been disallowed and any further continuation of the proposal will require another application and fee.

Once the PRT has completed its screening and if the application is not disallowed the Authorizing Agency will:

- ensure that the client is informed of the timeframe for adjudication of the application;
- un-park the application to complete the adjudication process;
- ensure the application is posted on the relevant web site and the status of the application on the web is updated when adjudication is complete; and
- refer the management plan and supporting materials to review agencies, local governments and other interests (as outlined above under referrals).

The PRT, as a whole, may invite presentations and submissions from the applicant. Where required, staff from agencies participating on the PRT may also contact the proponent directly (for example, with questions about data provided or additional information required). When this occurs, those officials will be expected to indicate to the PRT Chair the nature of the contact (i.e. topic, results of discussion, any correspondence, etc.).

Additional federal or provincial agency staff may attend meetings on request or by invitation, but may only address agenda items or introduce additional items at the discretion of the Chair and official PRT members. Individual PRT agencies may choose to have additional staff attend for information purposes, but approval from the Chair and official PRT members is required for other staff to participate in discussions.

The PRT may, at times, be expected to respond to the Authorizing Agency's request for additional advice such as evaluating and weighting criteria to assist the agency in dealing with competing applications (refer to Section 8.2 on Competitive Processes).

8.1.7 Advertising/Notification

At the time of application acceptance, provincial staff will notify applicants if advertising is required and provide the necessary instructions.

Staking is required for aquaculture applications. A person intending to apply for Crown tenure is required to post a notice indicating his or her intention to do so at the intended location. This notice must contain the applicant's name and address, the site being applied for by local name, the area of application, a metes and bounds description (including latitude and longitude) and the purpose of the application.

At the discretion of the Authorizing Agency Director applicants may also be required to seek public input through open houses, local advisory committees, including stakeholders on Project Review Teams, etc.

All new finfish applications will require public consultation which will most often be conducted via an open house session in a local community near the area under application. Where possible, the Authorizing Agency will coordinate the holding of such an open house with DFO.

Applications for investigative permits or tenure replacements do not require public consultation or open houses.

The Authorizing Agency may need to coordinate advertising with other organizations that also have this requirement, in particular DFO.

The availability of tenure sites by public competition (see Section 8.2) or other proactive offerings (other than direct application) will be advertised by the province.

After PRT review and acceptance by the Authorizing Agency, all applications and their status will be posted on the relevant website.

A. Additional Notification Requirements for Shellfish Tenure

Where an application for a shellfish tenure (new or expansion) covers an area which may affect an existing shellfish tenure's ability to expand, then the applicant will notify neighbouring tenure holders of the application by a registered letter. The purpose of the notice is to alert the neighbouring tenure holders of the application and provide an opportunity for these tenure holders to identify issues or concerns with the proposal.

The applicant must confirm that the notification has taken place no later than 30 days from the acceptance date of the application. If the regional office does not receive the necessary confirmation within this timeframe, the application may be disallowed. Notification of neighbouring tenure holders can also be done prior to making application, in which case the confirmation can be submitted along with the application. This latter approach is encouraged to avoid delays and reduce the need for application amendments (concerns can be worked out amongst tenure holders ahead of time).

For expansions that are proposed for areas adjacent to or between other existing tenures that would likely limit the other tenure holders ability to expand in the future (as per Parcels for Tenure Expansions under Section 8.1.1) the following applies:

- if within 30 days of the notification date all neighbouring tenure holders confirm that the proposal will not conflict with their plans for expansion the application will proceed; or
- if within 30 days of the notification date a neighbouring tenure holder(s) express an interest in expanding their tenure (written confirmation) and the applicant's proposal will conflict with such expansion, the applicant's proposed area may need to be reduced to ensure that the area adjacent to and between the existing tenure can be divided equitably between those existing tenure holders who wish to expand. If an expression of interest is submitted by a neighbouring tenure holder(s) the applicant's initial application will be parked until such time as an application(s) is received by the Authorizing Agency from the other tenure holder(s) - this must be done no later than 60 days from the receipt of the expression of interest. The adjacent area will only need to accommodate multiple expansion parcels (be divided between the applicants) for those tenure holders that submit an application within the 60-day period.

The Authorizing Agency Director may, at his or her discretion, reduce or revise the area under application in consultation with the proponent and the neighbouring tenure holder.

B. Upland Owner Consent

Owners of waterfront property have certain "riparian rights" which include the right of access to and from the upland (see Riparian Rights and Public Foreshore Use in the Administration of Aquatic Crown Land). Provincial staff will advise applicants if there is a need to obtain a letter indicating the upland owner's consent to their application.

C. Adjacent Owner Notification

New applications to tenure foreshore adjacent to privately owned property, including Indian Reserves, are brought to the adjacent property owner's attention through referrals or direct contact. In certain circumstances, provincial staff may advise applicants that there is a need to obtain a letter indicating adjacent owner's consent to their application.

8.1.8 Aboriginal Interests Consideration

The Authorizing Agency is responsible for ensuring the Province's obligations to First Nations are met in the disposition of Crown land. Provincial staff carry out consultations in accordance with the consultation guidelines of the Province to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur.

It is recognized that DFO has a separate process for First Nations consultation in order to meet federal fiduciary obligations and, where possible, provincial and federal agencies should try to harmonize First Nations referrals on the same application.

8.1.9 Field Inspections

Field inspection means the on-site evaluation of a parcel of Crown land by provincial staff. The need to conduct a field inspection will vary and the decision to make an inspection ultimately lies with the Authorizing Agency.

The Authorizing Agency will coordinate and share information on field inspections and may invite other relevant federal and provincial agencies to participate in inspections. Site data collected by other federal and provincial agencies may be used by the Authorizing Agency.

8.1.10 Decision/Report

The applicant will be notified in writing of the government's decision. Reasons for Decision are posted on the relevant website.

8.1.11 Issuing Documents

If the application is approved, tenure documents are offered to the applicant. All preconditions must be satisfied prior to the Authorizing Agency signing the documents. It is the applicant's responsibility to obtain all necessary approvals before placing improvements or commencing operations on the tenure.

Wherever possible, the provincial tenure and federal licence documents should be issued at the same time. Management plans and supporting materials will not be attached to the tenure document, but will be referenced in the document as being held on file by the Authorizing Agency.

8.2 Competitive Process

The Authorizing Agency may initiate one of a number of different competitive processes (e.g. public auction, request for proposals) where permitted by program policy and when deemed appropriate by provincial staff.

Occurrences where the province will have to initiate a competitive process should be minimized by the fact that an early process for screening and queuing applications has been established. The cases where a competitive process may be required are as follows:

- competing applications are initially received on the same day;
- the province invites competing expressions of interests for an area or region-specific opening or call for applications;
- tenures previously used and considered suitable for aquaculture have expired without replacement, been cancelled or been abandoned; or
- a *Land Act* reserve, not specific to a First Nations Economic Measures MOU, which is considered best suited for aquaculture has been cancelled.

In these cases, the Authorizing Agency will apply criteria developed in consultation with the PRT. The details of these evaluation criteria will be customized to the particular application situation, but should strive to reflect the range of factors listed below:

- potential employment/job benefits;

- implications for industry development;
- education and training opportunities;
- partnerships with First Nations or local government;
- consideration of land-use and environmental factors;
- revenue benefits for the Crown;
- the use of environmental technologies;
- compatibility with the provincial government's Sustainability Principles; and
- any additional community criteria that may have been established as part of a negotiated Economic Measures MOU with First Nations.

Potential applicants will be advised of these criteria prior to submitting their application packages. The PRT will evaluate the applicability and weighting of evaluation criteria and may be asked to provide advice to the Authorizing Agency.

In the case where competing aquaculture applications are determined by the above process to be of relatively equal merit, the Authorizing Agency Director may direct that the applicants be invited to make bonus-bid offers for the site in question. The applicant who does not have his or her bid accepted will then be offered the option of being first in queue after the accepted application as per Section 8.1.2.

If competing applications over the same parcel are for different uses (e.g. aquaculture and log handling), disposition will be on the basis of best use of the land as determined by the Authorizing Agency Director in consultation with other appropriate agencies.

Depending on the circumstances, a process of First Nations consultation may be required.

8.2.1 Bonus Bid Process

The Authorizing Agency Director may decide to utilize a closed bonus-bid process in cases where aquaculture tenures have reverted to the Crown or where two or more competing applications are deemed tied after evaluation against the criteria as outlined above.

The following special procedures apply for holding a bonus-bid competitive process or auction:

- a site previously used for a particular aquaculture purpose will normally first be auctioned for the same purpose unless the Authorizing Agency Director, determines that another form of aquaculture constitutes better use;
- a closed-bid auction will be held within 12 months of the parcel(s) becoming vacant to ensure that production is not interrupted for overly long periods;
- the Authorizing Agency Director will ensure that procedures for disposition of sites by public competition are consistent from the aspect of administrative fairness. The same requirements as those expected of an applicant making direct application would apply to the public disposition process including advertising, local zoning and availability of upland owner's consent;

- the Authorizing Agency Director will consult with DFO prior to advertising the parcel(s) for public auction regarding site suitability and production capability. Local governments, other government agencies and interest groups may be consulted as appropriate;
- where several areas are proposed for marketing, the Authorizing Agency Director may advertise the areas at a single auction;
- in developing the minimum requirements for bids, the Authorizing Agency Director may utilize some or all of the criteria identified in Section 8.2. The Authorizing Agency will communicate these added requirements to all potential applicants; and
- the successful applicant(s) will be required to submit a management plan which will be reviewed by the Authorizing Agency and, as appropriate, local governments, First Nations, government agencies and interest groups.

8.3 Planned Tenure Dispositions

Planned tenure dispositions involve the province actively investigating and developing opportunities for Crown land tenures, followed by announced openings within specific geographic areas. Under a planned disposition project or study, Crown lands will be allocated by the Authorizing Agency in accordance with standard application procedures or by competitive process.

9. TENURE ADMINISTRATION

9.1 Insurance

A tenure holder is generally required to purchase, and is responsible for maintaining during the term of the tenure, a minimum level of public liability insurance specified in the tenure document. The province may make changes to the insurance requirements and request copies of insurance policies at any time during the term of the tenure.

9.2 Security/Performance Guarantee

A security deposit or bond may be required to be posted by the tenure holder where any improvements on, or changes to, the land are proposed. The security deposit is collected to insure compliance and completion by the tenure holder of all the obligations and requirements specified in the tenure. Some examples where such security may be used are for any type of clean-up or reclamation of an area, and/or to ensure compliance with development requirements.

The Authorizing Agency may determine the amount of the security deposit or bond. The amount is generally based on the use and the number, size and scale of Improvements. The Tenure Administration Procedures provides minimum bond amounts for aquaculture.

9.2.1 Finfish Bond

All operators are required to submit a performance bond per finfish tenure held or appropriate blanket bonds where multiple tenures are held.

A blanket performance bond is held by the BC Salmon Farmers Association on behalf of its members.

9.2.2 Shellfish Bond

All operators are required to submit a performance bond per shellfish tenure held or appropriate blanket bonds where multiple tenures are held.

A blanket bond is administered by the British Columbia Shellfish Growers Association for its members.

9.3 Assignment and Sub-Tenuring

Assignment is the transfer of the tenure holder's interest in the land to a third party by sale, conveyance or otherwise. Sub-tenuring means an interest in the Crown land granted by a tenant of that Crown land rather than the owner (the Province).

Assignment or sub-tenuring requires the prior written consent of the Authorizing Agency. The assignee or sub-tenure holder must meet eligibility requirements. The Authorizing Agency may refuse the assignment of existing tenures if the details of the assignment or sub-tenure are not acceptable to the province.

Investigative and temporary permits cannot be sub-tenured or assigned.

The Authorizing Agency will notify relevant federal and provincial agencies (e.g. MOE, DFO) of completed assignments and sub-tenures so that other licences and permits may be updated. Circumstances that would require full referral of the application for assignment or sub-tenure are detailed below.

As a condition of consent for assignment or sub-tenure, the Authorizing Agency will require verifiable financial information (e.g. a statutory declaration or a financial statement from a financial institution or accountant) specifying the total value of the transaction, the component of value that is associated with the land tenure and the component that is associated with the value of improvements on the tenure.

9.3.1 Assignment

A management plan (existing or new) is required prior to assignment:

- where a plan is in place, the proposed assignee must either accept the existing plan (by initialing and dating a copy of the approved plan) or submit an amended or new management plan; or
- where no plan exists, the proposed assignee must submit a complete new management plan along with supporting materials.

In the case where a new or amended management plan is submitted, the authorizing agency will refer the plan and its supporting materials to all appropriate referral agencies for review and approval prior to assignment (e.g. there will be no amendment of management plan or supporting material during the assignment process.)

It is preferable that an application for tenure assignment be submitted with an existing management plan accepted by the proposed assignee. Once an assignment is made

the assignee may then apply to amend the management plan and the Authorizing Agency will refer the application for review as per Section 8.1.5.

A lease or licence of occupation must be brought to a satisfactory level of development/production prior to assignment. Assignment of new tenure will not generally be allowed until after the third year of development. The following procedures apply:

- confirmation of diligent use based on Annual Aquaculture Statistical Reports (AASR) of annual production figures for the site.
- if AASR data is not available for the site the tenure holder requesting assignment will do one of the following:
  - submit AASR data for the most recent two years of production;
  - submit proof of purchase (either in the form of receipts or as reported in site inspection reports) of finfish smolts or two years' worth of shellfish stocking; or
  - submit a copy of the agreement of sale of the site.

The Authorizing Agency Director may waive the requirement of satisfactory development and production of the site if the following applies:

- the request for assignment is a result of internal corporate restructuring (.e.g. an individual requests his tenure be assigned to a company in which he is a principal partner);
- there is no change to the management plan; and
- the client requesting the assignment holds numerous tenures and another company or person is acquiring all the holding.

9.3.2 Sub-Tenuring

The Authorizing Agency Director will consider requests for sub-tenuring on a case by case basis.

Sub-tenure documentation must either commit the sub-tenant to the aquaculture management plan of the primary tenure-holder or be based on a new management plan acceptable to the province. The Authorizing Agency and other referral agencies or organizations as appropriate will review all new management plans.

Rental rates for sub-leases and licences are not to be less than rates established under this policy. A revenue-sharing agreement will be negotiated with the Authorizing Agency reflecting appropriate consideration for sub-tenured uses.

9.4 Tenure Replacement

Replacement tenure means a subsequent tenure document issued to the tenure holder for the same purpose and area.

In most cases, tenure holders may apply for a tenure replacement at any time following the mid-term of the tenure. Replacement of tenures is at the Authorizing Agency's

discretion. The province may decline to replace a tenure, or may alter the terms and conditions of a replacement tenure. For tenure terms and conditions see Section 6.

Investigative permits are not generally replaced. A further two year term may be provided, at the Authorizing Agency's discretion, when there are legitimate requirements for a longer investigative period.

9.5 Monitoring and Enforcement

Tenure terms and conditions, including requirements contained in approved management/development plans' act as the basis for monitoring and enforcing specific performance requirements over the life of the tenure.

9.5.1 Compliance and Enforcement

Compliance inspections, monitoring and enforcement actions will take place as per the service agreement on compliance and enforcement coordination between MFLNR, MOE and in cooperation with DFO.

9.5.2 Site Decommission/Clean-up Procedures

Upon decommissioning of a site the client will report to the Authorizing Agency that the tenure has been left in a clean, sanitary and safe manner this will include all anchors, cables, lines and shore ties, unless otherwise directed. The client must supply the following:

- a Statutory Declaration signed in the presence of a Commissioner for taking Affidavits for British Columbia or a Notary Public in and for the Province of British Columbia swearing the site is clean, safe and sanitary; and
- a representative remotely operated vehicle (ROV) or video transect(s) of the ocean floor within and adjacent to the tenure boundary demonstrating that the site is clean, safe and sanitary.

Copies of both the Statutory Declaration and the videotape/CD will be forwarded to DFO and MOE for their review.

MFLNR will conduct audits on a representative sample of these sites to ensure the terms of the Statutory Declarations are met.

The province holds performance guarantees on all tenures. A performance guarantee will not be released until the Authorizing Agency Director is satisfied that the work has been completed to the satisfaction of the provincial and federal agencies.

Where clean up failed to occur at past abandoned sites and if the company or an affiliate exists, they will be contacted and requested to address any cleanup issues. If the previous company is no longer operative, the province will work with the BC Salmon Farmers Association or the British Columbia Shellfish Growers Association to address outstanding clean up of such sites.

9.5.3 Diligent Use

All aquaculturalists who have acquired a new tenure must demonstrate that work has started on the site within 12 months of being in receipt of all required licences and permits (unless the Authorizing Agency Director recognizes extenuating circumstances).

To be considered as diligent use the site is to be in compliance with the management plan within five years of issuance of the initial tenure (unless the Authorizing Agency Director recognizes extenuating circumstances). The objectives of diligent use are to:

- ensure that aquaculture tenure is used diligently;
- ensure that aquaculturalists know the basis for which a tenure can be cancelled;
- ensure that aquaculturalists performance is evaluated in an objective and fair manner;
- ensure that leases or licenses of occupation are only provided for commercial and other approved purposes; and
- justify alienation of the Crown resource from the general public.

MFLNR may assess diligent use at any time. The onus is on the aquaculturalist to produce verifiable evidence, satisfactory to the province, that diligent use is being maintained. Verification of diligent use will be by way of:

- confirmation of diligent use, based on DFO's Annual Aquaculture Statistical Reports (AASRs) of annual production figures for the site; or
- conducting site inspections to verify diligent use.

Any aquaculturalist not making diligent use of their tenure will be sent a registered letter explaining the requirement and requesting that an explanation be provided within 30 days. If a reasonable explanation is not forthcoming, a second registered letter will be sent to the aquaculturalist indicating that unless a reasonable explanation is received within 30 days of the date of the letter the tenure may be cancelled. The Authorizing Agency Director will consider the response.

If a satisfactory explanation is not received within the time frame prescribed above, Authorizing Agency will begin tenure cancellation proceedings.

The cancellation of tenure will be carried out according to Section 43 of the *Land Act*. In general, this process will require the Authorizing Agency to provide notice by registered mail requesting the tenure holder to comply with the covenant, stipulation or term within 60 days after the notice is mailed.

If the default continues after the 60-day period, the disposition may be cancelled. The Authorizing Agency will advise other affected parties (e.g. MOE, DFO, BCA, local government, etc.) of cancellation proceedings.

10. VARIANCE

Variances to this policy must be completed in accordance with the Policy Variance Procedure.

APPENDIX 1. AQUACULTURE POLICY SUMMARY

Table 1. Summary of *Land Act* Aquaculture Tenures, Terms, Fees[2] & Rents

Tenure Type	Term of Tenure (Maximum)	Annual Rent Payments	Administrative Fees
Investigative Permit	• 2-year term • Replacement can be allowed at end of term.	$250+GST/year, or $675+GST prepaid for the entire term	• Application fee - $500+GST
Licence of Occupation	**Shellfish:** • 30-year licence • Replacement option anytime after mid-term (e.g., 15 years) **Finfish:** • 30-year licence • Replacement option anytime after mid-term (e.g.,15 years)	**Shellfish** • Intensive - 4% of Shellfish Land Value with a $675+GST minimum • Extensive - 4% of half the Shellfish Land Value with a $675+GST minimum • Development period – for the first 5 years, 50% of the Shellfish Land Value with a $675+GST minimum • Replacements: o Intensive - 4% of double land value on file until the Shellfish Land Value is achieved o Extensive- 4% of double land value on file until the Shellfish Land Value is achieved o $675+GST minimum **Finfish** • Intensive - 7.5% of Finfish Land Value with a $675+GST minimum • Extensive - 7.5% of half the Finfish Land Value with a $675+GST minimum	**Shellfish** • Application fee - $1200+GST • Tenure Replacements - $600+GST • Tenure Conversions - $600+GST • Tenure Expansions - $600+GST • Amendments: minor - $100+GST other - $500+GST **Finfish** • Application fee - $4925+GST • Tenure Replacements - $2462.50+GST • Tenure Conversions - $2462.50+GST • Tenure Expansions - $2462.50+GST • Amendments: minor - $100+GST other - $500+GST
Lease	**Shellfish:** • 30 years • Replacement option after mid-term (e.g., 15 years)	**Shellfish** • New tenures - 5% of Shellfish Land Value with a $675+GST minimum	Same as for Initial Licence of Occupation fees (above)

[2] Includes fees that are listed in the *Land Act* Fees Regulation. If there is a discrepancy between this table and the regulation, the regulation takes precedence.

Tenure Type	Term of Tenure (Maximum)	Annual Rent Payments	Administrative Fees
	Finfish: • 30 years • Replacement option after mid-term (e.g., 15 years)	• Replacements - 5% of double the land value that is on file until the Shellfish Land Value is achieved ($675+GSTminimum) **Finfish** • Intensive - 8% of Finfish Land Value with a $675+GST minimum • Extensive - 8% of half the Finfish Land Value with a $675+GST minimum	
Ancillary Residential Use	Upland – as per Residential Program Floating – as per aquaculture tenure	Upland - rents will be assessed as per Residential Program Floating - additional rent will be charged with a minimum additional rent of $675+GST year	Upland – application and processing fees as per Residential Program Floating - no additional application or processing fees

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APPENDIX 2: SALMON AQUACULTURE CONSIDERATIONS

This Directive provides interim direction to regional *Land Act* decision-makers regarding the consideration of finfish (salmon) aquaculture tenure applications and implements the following strategic policy direction from the Ministry of Agriculture in the June 20, 2018 Information Bulletin AGRI0046-001248:

> *Effective June 2022, the Province will grant Land Act tenures only to fish farm operators who have satisfied Fisheries and Oceans Canada (DFO) that their operations will not adversely impact wild salmon stocks, and who have negotiated agreements with the First Nation(s) in whose territory they propose to operate. Operations with expired provincial tenures, or tenures that expire before June 2022, may operate with month-to-month tenures.*

This Directive replaces previous Ministry of Agriculture direction provided in the July 31, 2015 AGRI0050-001218 Information Bulletin/ September 30, Information Bulletin 2015AGRI0062-001629.

For clarity, this directive does not affect the 2008 moratorium north of Klemtu (established by OIC #174) or the 2013 restrictions in place in the Discovery Islands (see news release #AGRI0018-000570).

Additional operational policy direction for finfish (salmon) aquaculture is, as follows:

1. Effective immediately, applications for tenures for new sites, replacement of existing tenures, tenure expansions, or tenure assignments that apply to any period after June 30, 2022 should be approved only where the applicant demonstrates that both of the following two conditions have been met:
   (a) the applicant has satisfied DFO that operations will not adversely impact wild salmon stocks; and
   (b) the applicant has entered into an agreement with the First Nation(s) in whose territory the proposed tenure is located.
2. The decision maker may consider that possession by the applicant of a valid federal aquaculture licence is adequate to meet the condition under 1(a).
3. The agreements described in 1b are expected to be negotiated directly between the applicants and First Nations and do not include the Province. The provincial decision maker may consider that provision by the applicants of a letter or email of support, non- objection, deferral or abstention from the First Nation(s) in whose territory they propose to operate is sufficient evidence that the condition under 1(b) has been met.
4. Tenures that have an expiry date of June 30, 2022 or earlier and which fail to meet the conditions described in 1(a) and 1(b) by June 30, 2022 should be provided notice to vacate and decommission the site, consistent with tenure terms and conditions.

5. Applications for the replacement of Crown land tenures may, at the discretion of the decision-maker, be approved in the absence of an agreement described in 1(b) provided that any such authorization does not apply to any period after June 30, 2022. Approvals and month-to-month tenancy to occupy Crown land for the period up to June 30th 2022 are intended to allow the tenure-holder the opportunity to meet the conditions under 1(a) and 1(b).

6. Applications to update the tenure management plan that do not include an application to increase the size of the tenure area, as well as changes to improvements considered to be Incidental Aquaculture Use, will not be required to meet 1(a) and 1(b).

7. Nothing in this policy limits the Province's legal obligations to consult with First Nations.

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Strathcona
REGIONAL DISTRICT

AQUACULTURE JURISDICTIONS

Fisheries and Oceans Canada (DFO)

- Issues aquaculture licences for marine finfish, shellfish and freshwater (land-based) operations.
- Regulates aquaculture operations through the *Fisheries Act, Health of Animals Act, Food and Drugs Act*, and *Species at Risk Act*.

Province of BC

- Issues aquaculture licenses for the commercial harvest of marine plants.
- Issues business licenses for aquaculture under the *Fisheries Act*.
- Protects aquaculture operations through the *Right to Farm Act*.
- Aquaculture operations that required a provincial lease or tenure before 2010, when the province was responsible for regulating aquaculture in BC, continue to need one to comply with provincial law.



First Nations

- Have the constitutionally protected right to harvest resources within their traditional territories.

Strathcona Regional District

What the SRD can do:

- Provide a vision, goals and guidelines for aquaculture through the Official Community Plan.
- Zone the water for aquaculture and regulate permitted uses (e.g. sorting, grading, harvesting and processing), height of buildings and structures on rafts, lot areas and setbacks (distance from land zoned residential).
- Adopt a noise bylaw to regulate noise within designated areas of Cortes.

What the SRD cannot do:

- Restrict the use of machinery used to carry out the permitted uses in a zone such as sorting, grading and storage facilities.
- Restrict noise that results from normal aquaculture farming practices. Normal farm practices are protected under the provincial *Right to Farm Act*.
- Since those are not considered a structure, restrict the height of equipment and machinery.
- Prohibit an existing use permitted under the zoning bylaw. Any changes to the zoning bylaw will apply to future uses only.
- Regulate vessels. Vessels are regulated by Transportation Canada.

Key Definitions in the Zoning Bylaw

Active Aquaculture

An aquaculture activity on the sea or foreshore where any or all of the following are used:

- Active feeding including the introduction of natural or man-made feeds;
- The administration and introduction of toxicants, hormones, antibiotics, or pigments;
- The use of generators;
- The use of pens, net cages, or floats for net cages.

Passive Aquaculture

The controlled rearing, cultivation and harvesting of molluscs, crustaceans or marine plants in a specific location on the sea or foreshore where there is no administration of feed or chemical products.

Note: Passive aquaculture does not preclude the use of powered machinery or mechanized equipment to carry out the permitted uses in a zone.

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301-990 Cedar Street, Campbell River, BC V9W 7Z8
Tel: 250-830-6700 Fax: 250-830-6710

Strathcona
REGIONAL DISTRICT

STAFF REPORT

DATE: September 19, 2023 **FILE:** 0550-04 Board

TO: Chair and Directors,
Regional Board

FROM: Dave Leitch
Chief Administrative Officer

RE: EVANS BAY AQUACULTURE LICENSE

PURPOSE/PROBLEM

To consider a recommendation from the Electoral Areas Services Committee that a report be prepared to clarify issues related to an aquaculture license recently approved by the Province in the Evans Bay area of Electoral Area C.

EXECUTIVE SUMMARY

At its September 13, 2023 meeting the Electoral Areas Services Committee received the attached correspondence and passed the following resolution:

> Mawhinney/Rice: EASC 260/23
>
> THAT staff prepare a report outlining the situation to date regarding the Evans Bay aquaculture lease and,
>
> THAT staff supply the responses to the questions posed in the above noted pieces of correspondence.

The actions outlined below are offered in support of the Committee's recommendation.

RECOMMENDATIONS

1. THAT the report from the Chief Administrative Officer be received.

2. THAT a report be prepared outlining the current situation in respect of the aquaculture license held by Island Sea Farms in the Evans Bay area, and

   THAT the report provide responses to questions posed in the correspondence attached to the September 19, 2023 report from the Chief Administrative Officer.

Respectfully:

Dave Leitch
Chief Administrative Officer

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Prepared by: *T. Yates, Corporate Services Manager*

Attachment: September 13, 2023 EASC agenda correspondence re Evans Bay license

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Tom Yates

From: Lannie Keller <coastmtn@island.net>
Sent: August 30, 2023 11:32 AM
To: Robyn Mawhinney; John Neill; John Rice; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Subject: Aquaculture Zoning Compliance Issue
Attachments: 2023 August - Background Information - Island Sea Farms License #1401594.docx

NOTICE: This email is from an external source.

August 29, 2023
Re: Aquaculture License #1401594 Evans Bay, Read Island

Dear SRD Board and Staff:

The Province has recently issued an aquaculture license amendment/renewal that is *subject to zoning compliance*. SRD has informed Island Sea Farms (the Licensee) about the compliance requirement, but SRD also claims to have no authority or capacity to require or enforce zoning, and no ability to police this remote site.

The Licensee proposes a mussel farm, as opposed to more passive oyster culture. This includes a large increase in infrastructure, and activity/noise that Island Sea Farms wants to move from Gorge Harbour (Cortes Island) to Evans Bay.

The Province, DFO, and Transport Canada all reviewed the application. The three agencies produced separate studies and recommendations that provided basis for the Dedicated Decisionmaker's renewal offer. The back story is longer, because there is misinformation in the License application, including the zoning map.

When the application was filed, there was no effort to notify the community. Someone saw the inconspicuous paper notice on a raft at the farm and several local community members wrote to express concerns. Others are waiting for the public hearing that is required for rezoning.

Community notified the Province about the zoning conflict, and it seems wrong (or at least inefficient) that the Province, DFO and TC all proceeded with investigations and reports (and decision) ahead of rezoning. We are curious about why the license was issued ahead of the public process – and no one has been able to tell us what happens if rezoning is eventually denied.

SRD says they have no ability (or mandate) to "police" a provincial license in a remote location. The Province (Ministry of Forests Aquaculture Authorizations Specialist) says they also have no boat and no budget or mandate to patrol remote sites – and that DFO would be the oversight agency. We have not been able to locate anyone at DFO who visited the site or who wrote their recommendation. We have not been able to view any of the agency reports. WHO IS WATCHING?

This site was originally a very small finfish farm in the early 1980's. It has changed hands several times, and the use changed from finfish to deepwater oyster culture. Although the use changed, and the size almost doubled, there has

never been a rezoning application or any public notification/process. Therefore, even before this application was filed, the License was operating in contravention of its zoning. Community had no idea we needed to look, but how did the three government agencies not know or notice when examining the new application? (And IF there was a DFO on-site inspection, how could they not notice management plan irregularities and why didn't they at least enforce the ban on *exposed raw styrofoam*?!)

I'm troubled by the disconnect between the SRD and the Province (and DFO and TC) on this application. It feels unjust that this has been allowed to proceed including the many inconsistencies and violations that have been noted, and apparently ignored.

It is important that decisions also reflect the best interests of the community. Ahead of any new AQ2 activity at this site (which is only zoned for AQ3 and AC1) please ensure that:

- The zoning is compliant with the rule and the moral intention of SRD ByLaw 1460.
- Previous and current violations are addressed and corrected.
- There is meaningful community input on all aspects of this application via the required public hearing.

Sincerely,
Lannie Keller
Evans Bay resident

NOTE: The attached document includes additional information and a map.

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BACKGROUND INFORMATION
Island Sea Farms Evans Bay License / Amendment Application (Lands File # 1401594)

How this relates to Bylaw 1460: Rural Land Use Bylaw 1460, implemented 1993, designated most activities for their then-current use. The area in question was (and still is) zoned AQ3, finfish. Deepwater/raft culture of shellfish is AQ2; therefore, even before License # 1401594 expired, it was not zoned for what it was being used for. Circa 1996, the License area was enlarged (4 ha to 7.2 ha) and at that time it was *relabelled* AQ2. This change is undocumented at SRD, where they have no record of a receiving a referral notice, and there was no rezoning application. That process should have required a public hearing. The zoning on the map in the application is inaccurate and the operation is technically illegal. The SRD should be able to enforce compliance with the Local Bylaw.

Who is monitoring these government licensed sites?
This License that was already operating non-compliant with its zoning, is now (again) being offered for renewal by the Province. The Province says that it is the Licensee's responsibility to apply for rezoning, and that it is not their mandate to enforce that. SRD recently reminded the licensee of the requirement, but say they have no ability to enforce the province's requirement. Additionally, neither agency has budget or boats *or intention* to monitor what happens on the site. The Province suggested that DFO would be the onsite monitor – but DFO says the Licensee self-reports. So, who, if anyone, is watching? [Public complaints about exposed raw styrofoam flotation have not resulted in its removal, and there are statements in the license application that do not reflect on-site reality and activities.]

Is this Temporary Use? SRD's recent "reminder" to the Licensee included option for a 5-year Temporary Industrial Use Permit, which also includes a 5-year renewal option. SRD Bylaw 1460 originally described the TIUP as a 3- year permit (not 5yr + renewable) and it was a *temporary-use category* for heli-logging operations that needed to drop and boom logs from remote sites. Using this for Aquaculture might be legal, but its not the original spirit or intention of the Bylaw. The Licensee is considering the TIUP option. This also requires a public hearing – *but SRD cannot require the Licensee to apply*.

Provincial Disregard The Province received letters of concern and did not communicate or consult with any of the citizens who provided information about the situation. The Province "corrected" misinformation in the Licensee's application. Without referral or public process, the Province issued a license that is noncompliant with local zoning. Current zoning makes the current use illegal: the licensee has been and continues to operate in contravention of RD Bylaw. The Province should not issue/validate the license renewal until it is compliant with SRD (re)zoning, which includes a public hearing. The community has outstanding questions and new concerns regarding the provincial process and the politics of licensing public resources. And what happens if local rezoning is not approved?

Additional Concerns

- Community notification is a recurring request.
- The application is a stated plan to move industrial noise and activity from where it was unwanted at Gorge Harbour on Cortes to a more remote site where there is less opposition.
- Proposed increase from 12 to 72 rafts presumes to occupy heretofore unused area that is not zoned for aquaculture.
- Scale of the proposed operation (600% increase) will dramatically change the ambience of Evans Bay and directly affect residents, boaters, and other visitors who value the quiet and safety of this deep bay.

- Noise and activity will negatively impact the island's largest employer, a kayak lodge and tour company in operation for 35 years.
- Proposed rafts will extend into the path used by other marine traffic.
- The plan includes 13 night lights and introduces massive quantities of plastic, ropes, and predator netting into the marine ecosystem.
- The application contains factual errors, and the waste management plan includes untruths about past activities as well as unlikely promises. This Licensee/applicant has a record of messy operations, plastics pollution, and has been dismissive of community concerns. At this site in 2019 ISF replaced hard-shell floats with poly-wrapped styrofoam, and to this day there are many *partially unwrapped/exposed styrofoam floats in active use.*

Map: The dark blue area (4 ha, 1985) was zoned for finfish aquaculture in 1993 Rural Land Use Bylaw. The Provincially licensed area changed hands four times and increased (7.21 ha) but never rezoned for aquaculture. The larger hatched area proposed is currently not zoned for use.



Tom Yates

From: Teresa Kinver <kinvert26@gmail.com>
Sent: September 1, 2023 11:36 AM
To: Robyn Mawhinney; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Subject: Re: Lease 1401594 - Island Sea Farms - Evans Bay READ ISLAND

NOTICE: This email is from an external source.

TO WHOM IT MAY CONCERN

With reference to the above lease and new approval of an extra 60 rafts to the current 12 we wish to voice our opposition to this approval.

We are currently living directly opposite this farm - +- 750 m from the boundary. We believe it is Island Sea Farms intention to add another 60 rafts to have a compliment of 72. This will no doubt bring a substantial amount of noise and frustration due to 13 night lights also being mounted on the rafts. One of the reasons we live in Evans Bay is because it is extremely quiet. Any noise created on the farm echos across the farm from the steep rock cliffs adjacent to the farm and is amplified.

We understand Island Sea Farms are bringing their operation from Gorge Harbour due to numerous complaints on Cortez about the noise as well as old polystyrene floats that are not covered in the regulated black PVC.

If there is anyway we can assist we will be pleased to help

Thanking you
Peter & Teresa Kinver

COPY

Tom Yates

Subject: FW: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

From: Richard <surfdust@telus.net>
Sent: Monday, September 4, 2023 1:37 PM
To: Robyn Mawhinney <rmawhinney@srd.ca>; John Neill <JNeill@srd.ca>; Mark Vonesch <mvonesch@srd.ca>; Gerald Whalley <gwhalley@srd.ca>; David Leitch <DLeitch@srd.ca>; Mark Baker <mbaker@srd.ca>; Tom Yates <TYates@srd.ca>
Subject: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

** NOTICE: This email is from an external source.**

Hi,

I am writing to you as a resident of Campbell River; friend of residents of Read Island, and occasional tourist on Read Island on behalf of Council of Canadians, Campbell River Chapter to ask that as Strathcona Regional District Directors, you enforce zoning and demand that the Province rescind its recent approval - without local input into this decision - of Island Sea Farms to operate a large mussel farm in Evans Bay on Read Island.

This operation would create a lot of industrial noise negatively effecting the residents and habitat of Evans Bay. Also, given Island Sea Farms past records of pollution and violation of zoning bylaws in its Gorge Harbor oyster farm operations, there is great potential for their operations in Evans Bay to create more pollution for Evans Bay and the surrounding waters and lands. Also, neither Gorge Harbor nor Evans Bay were or are zoned for aquaculture and was/is non compliant with local zoning bylaws and Provincial licensing requirements.

Therefore, I am requesting that Strathcona Regional Directors as required by law enforce and monitor your zoning bylaws and demand that the Province take back the license they illegally granted Island Sea Farms to operate the mussel farm in Evans Bay on Read Island.

Richard Hagensen

Council of Canadians, Campbell River Chapter

c/o 1856 Treelane Road, Campbell River, BC V9W 4E8

--
This email has been checked for viruses by Avast antivirus software.
http://www.avast.com/

COPY

Tom Yates

From: rosie@executiveworks.org
Sent: September 5, 2023 12:43 PM
To: Robyn Mawhinney; John Neill; John Rice; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Cc: Lannie Keller
Subject: Request for a public hearing and zoning compliance enforcement regarding aquaculture license

NOTICE: This email is from an external source.

Hi,

I am writing regarding the proposed aquaculture license amendment/renewal by Island Sea Farms in Evans Bay, Read Island. I have two specific requests.

Firstly, I sincerely hope that a public hearing will be held regarding this issue and that the community's viewpoints will be heard and taken into account prior to granting any form of permission for the license amendment/renewal. I am aware that many community members expressed very strong concerns to the Province about Island Farms proposed operation. The Province reviewed these comments and appears to have totally disregarded them. I trust SRD won't do likewise in holding a public hearing.

Secondly, I am shocked and appalled that despite the fact the license is non-compliant regarding the current zoning, such a fact appears to have been ignored by the Province. It is my understanding that SRD feels powerless to enforce the current zoning regarding this aquaculture license. This makes no sense. What is the point of any zoning if it is ignored and not enforced? I would ask that SRD take all measures possible to ensure Island Sea Farms are fully compliant to all zoning, now and in the future.

Thank you,

Rosie Steeves
Read Island resident

COPY

Strathcona REGIONAL DISTRICT

ELECTORAL AREAS SERVICES COMMITTEE

Printer Version

Minutes of the regular meeting of the Electoral Areas Services Committee held on Wednesday, July 10, 2024 at the Strathcona Regional District office located at 990 Cedar Street, Campbell River, B.C.

A quorum having been confirmed, the Chair called the meeting to order at 10:00 a.m. with the following directors physically in attendance or participating electronically:

Chair:	G. Whalley	Electoral Area A (Kyuquot/Nootka-Sayward)
Directors:	R. Mawhinney	Electoral Area C (Discovery Islands-Mainland Inlets)
	J. Rice	Electoral Area D (Oyster Bay-Buttle Lake)
	M. Vonesch	Electoral Area B (Cortes Island)

FIRST NATIONS TERRITORIAL ACKNOWLEDGEMENT

The Chair acknowledged that we are located on the traditional territory of the Laichwiltach people.

ADOPTION OF PUBLIC AGENDA

Director Mawhinney requested that an item of New Business entitled "WildSafeBC" be added to the agenda.

Mawhinney/Rice: EASC 220/24

THAT the agenda for the July 10, 2024 regular meeting of the Electoral Areas Services Committee be adopted as amended.

The Chair advised that the order of business will be amended to consider the staff report entitled "Aquaculture Regulation by Local Government" after all other staff reports have been addressed.

A vote was held on the motion and it was...

CARRIED

ADOPTION OF PREVIOUS MEETING MINUTES

Vonesch/Rice: EASC 221/24

THAT the minutes of the regular meeting of the Electoral Areas Services Committee held on June 12, 2024 be adopted. [Item]

Outer Discovery Islands Solid Waste Management Study

Director Mawhinney identified that a portion Res. EASC 211/24 was not recorded in the minutes and requested that the following text be added to the end of the resolution: "THAT a solid waste dumpster at Hoskyn Landing be explored for use by Outer Discovery Islanders with the cost being shared by resident participants."

Mawhinney/Rice: EASC 222/24

THAT the minutes of the regular meeting of the Electoral Areas Services Committee held on June 12, 2024 be adopted as amended.

CARRIED

BUSINESS ARISING FROM THE MINUTES

Bylaw No. 564 (Area C Short Term Rentals)

Director Mawhinney inquired whether an amendment to the Desolation Sound Rural Land Use Bylaw is required to reflect changes made by Bill 35, being the Short-Term Rental Accommodations Act.

The Senior Manager of Community Services advised that an update can be done, but it is not required.

Mawhinney/Vonesch: EASC 223/24

THAT a report be prepared regarding short-term rentals on the rural outer islands.

CARRIED

STAFF REPORTS

Cortes Island Wildfire Brigade

Vonesch/Mawhinney: EASC 224/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Mawhinney: EASC 225/24

THAT the Committee recommend that the Regional District work with the CIFFA to obtain additional details, such as better defining the scope of the proposed service, and report back to the Electoral Area Services Committee.

CARRIED

Cortes Island Open Burning Restrictions

Vonesch/Mawhinney: EASC 226/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Mawhinney: EASC 227/24

THAT Section No. 5 "Authority to Extinguish Open Fire" and Section No. 6 "Inspection of Property Authorized" be deleted from the proposed Area B Open Burning Regulatory Bylaw and returned to the Committee for review.

CARRIED *Director Rice opposed*

Quadra Island Zoning Bylaw Revisions

Mawhinney/Vonesch: EASC 228/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Rice: EASC 229/24

THAT the Committee recommend that the Regional District bring forward a revision bylaw to correct the error introduced by Bylaw No. 317.

CARRIED

Quathiaski Cove Sewer System Rate Increases

Mawhinney/Vonesch: EASC 230/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Rice: EASC 231/24

THAT the Committee recommend that a bylaw be prepared to amend the rates by 3.5% for the Quathiaski Cove sewer system to generate the revenue requirements identified in the 2024-2028 Financial Plan.

CARRIED

Proposed Grant in Aid Service

Mawhinney/Vonesch: EASC 232/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Mawhinney: EASC 233/24

THAT the matter be deferred to the next Electoral Areas Services Committee meeting.

CARRIED

Bill 46, Housing Statutes (Development Financing) Amendment Act, 2023

Rice/Vonesch: EASC 234/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Rice: EASC 235/24

THAT a report be prepared on a bylaw addressing Amenity Cost Charges and Development Cost Charges for Electoral Area D; and

THAT a report be prepared on a policy addressing Amenity Cost Charges for Electoral Areas B and C.

CARRIED

Ministerial Meetings at UBCM Convention

Mawhinney/Rice: EASC 236/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Transport Canada Divested Wharves - Funding Extension

Mawhinney/Vonesch: EASC 237/24

THAT the report from the Chief Administrative Officer be received. [Item]

Director Rice left the meeting chambers.

A vote was held on the motion and it was...

CARRIED

Mawhinney/Vonesch: EASC 238/24

THAT the Committee recommend that the Chair and Corporate Officer be authorized to execute the amendment Agreement with Transport Canada.

CARRIED

Surge Narrows Marine Revitalization Project

Mawhinney/Vonesch: EASC 239/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Director Rice returned to the meeting chambers.

Mawhinney/Vonesch: EASC 240/24

THAT the Committee recommend that the Regional District submit an application for Crown Land tenure over District Lot 312, Sayward District, and surrounding area, to accommodate the Surge Narrows Marine Revitalization Project infrastructure.

CARRIED

Aquaculture Regulation by Local Government

Rice/Mawhinney: EASC 241/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

BYLAWS

Bylaw No. 509 - Cortes Island Bulk Water Regulation

Vonesch/Mawhinney: EASC 242/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Mawhinney: EASC 243/24

THAT prohibited uses number i) and ii) under Part 303 (c) of Bylaw No. 509 be deleted.

CARRIED

Vonesch/Mawhinney: EASC 244/24

THAT the Committee recommend that Bylaw No. 509 as amended be given first 2 readings, and

THAT the public hearing for Bylaw No. 509 be waived.

CARRIED

Bylaw No. 510 - Quadra Island Bulk Water Regulation

Mawhinney/Rice: EASC 245/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Rice: EASC 246/24

THAT the Committee recommend that Bylaw No. 510 be given second reading, and

THAT the public hearing for Bylaw No. 510 be held at a date and time to be determined.

CARRIED

CORRESPONDENCE

City of Campbell River Animal Control Services

Rice/Mawhinney: EASC 247/24

THAT the June 28, 2024 correspondence from the City of Campbell River regarding the provision of animal control services be received. [Item]

CARRIED

Rice/Vonesch: EASC 248/24

THAT staff prepare a report on the City of Campbell River's animal control services and options available to Electoral Area D.

CARRIED

NEW BUSINESS

WildSafeBC

Director Mawhinney made a verbal report regarding the District of Tofino's recent designation as a Bear Smart Community by the British Columbia Conservation Officer Service through collaboration with WildSafeBC.

Mawhinney/Rice: EASC 249/24

THAT the verbal report be received.

CARRIED

Mawhinney/Rice: EASC 250/24

THAT a report be prepared on WildSafeBC education programs and Regional District support be returned to the Committee for discussion.

CARRIED

CLOSED SESSION

Rice/Vonesch: EASC 251/24

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Rice: EASC 252/24

THAT the meeting be closed to the public to consider matters deemed to fall within the parameters of subsections 90(1)(f), (g), (i), (n), and (o) of the Community Charter.

CARRIED

RECONVENE

The meeting reconvened in public at 12:32 p.m.

TERMINATION

Mawhinney/Rice: EASC 259/24

THAT the July 10, 2024 regular meeting of the Electoral Areas Services Committee be terminated.

CARRIED

Time: 12:32 p.m.

Certified Correct:

_____

Chair

_____

Corporate Officer

Aniko Nelson

From: Aniko Nelson
Sent: July 11, 2024 11:43 AM
To: Meredith Starkey; John Neill; Annie Girdler; Keltie Chamberlain
Subject: RE: Tenure 1401594 Document

Thanks John!

A.

From: Meredith Starkey <mstarkey@srd.ca>
Sent: Thursday, July 11, 2024 10:10 AM
To: John Neill <JNeill@srd.ca>; Aniko Nelson <ANelson@srd.ca>; Annie Girdler <agirdler@srd.ca>; Keltie Chamberlain <kchamberlain@srd.ca>
Subject: RE: Tenure 1401594 Document

Thanks for checking, John! Good to know.

-Meredith

From: John Neill <JNeill@srd.ca>
Sent: Thursday, July 11, 2024 10:08 AM
To: Aniko Nelson <ANelson@srd.ca>; Meredith Starkey <mstarkey@srd.ca>; Annie Girdler <agirdler@srd.ca>; Keltie Chamberlain <kchamberlain@srd.ca>
Subject: FW: Tenure 1401594 Document

Sounds encouraging!

From: Campbell River District Office, Forests FOR:EX <Forests.CampbellRiverDistrictOffice@gov.bc.ca>
Sent: Thursday, July 11, 2024 10:03 AM
To: John Neill <JNeill@srd.ca>
Cc: Jackson, Shelley D WLRS:EX <Shelley.Jackson@gov.bc.ca>
Subject: FW: Tenure 1401594 Document

NOTICE: This email is from an external source.

Hi John,

The public can make a request, if the document is considered releasable, we would provide it to them.

I've cc'd Shelley Jackson who is our Senior Portfolio Administrator on this. She is out of the office today but should be able to help you with any other specific questions.

Karli

From: John Neill <JNeill@srd.ca>
Sent: Thursday, July 11, 2024 9:41 AM

To: Campbell River District Office, Forests FOR:EX <Forests.CampbellRiverDistrictOffice@gov.bc.ca>
Subject: RE: Tenure 1401594 Document

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi again Karli – is the public allowed to request a tenure document directly from FCBC?

Many thanks,

John

From: Campbell River District Office, Forests FOR:EX <Forests.CampbellRiverDistrictOffice@gov.bc.ca>
Sent: Wednesday, July 10, 2024 4:42 PM
To: John Neill <JNeill@srd.ca>
Subject: FW: Tenure 1401594 Document

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Hi John,

No, nothing in this licence, including Article 4 is considered confidential. It can be shared with any member of the public.

Best,
Karli

From: John Neill <JNeill@srd.ca>
Sent: Wednesday, July 10, 2024 1:05 PM
To: Campbell River District Office, Forests FOR:EX <Forests.CampbellRiverDistrictOffice@gov.bc.ca>
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Hi Karli – can you tell me if the Article 4 conditions within this document should be considered confidential?

Thanks and regards,

John

John W. Neill, MCIP MRTPI
Planner

Strathcona Regional District

Strathcona Regional District
990 Cedar St. Campbell River, BC V9W 7Z8

T: 250-830-6706
E: jneill@srd.ca

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From: Campbell River District Office, Forests FOR:EX <Forests.CampbellRiverDistrictOffice@gov.bc.ca>
Sent: Wednesday, June 26, 2024 3:56 PM
To: John Neill <JNeill@srd.ca>
Subject: Tenure 1401594 Document

NOTICE: This email is from an external source.

Afternoon John,

See attached for the tenure document for Crown Land 1401594.

Take care,

Karli

FrontCounter BC
370 S Dogwood Street | Campbell River, BC V9W 6Y7
Tel: 250-914-9176 | Fax: 250-286-9490
Contact Us: FrontCounter BC
Tell us about your experience with FrontCounter BC. We welcome feedback!
Freedom of Information Disclaimer

I gratefully and respectfully acknowledge that I live and work within the territories of the Kwakwaka'wakw, Nuu-chah-nulth and Coast Salish Peoples and I humbly honour their enduring connection to these lands.

Aniko Nelson

From: Aniko Nelson
Sent: July 11, 2024 11:43 AM
To: Meredith Starkey; John Neill; Annie Girdler; Keltie Chamberlain
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Thanks John!

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BRITISH COLUMBIA

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Aniko Nelson

From: Robyn Mawhinney
Sent: July 16, 2024 12:04 PM
To: David Leitch; Aniko Nelson
Subject: Evans Bay // Island Sea Farms
Attachments: ISF Original Application 2022-03-19 Ref Pkg 1401594.pdf; Province of BC Reasons for Decision re ISF -1401594 - 2023-05-05.pdf

Hello,
I've received an email with a bundle of attachments regarding the Evans Bay aquaculture lease. These were previously shared with the community, and they wanted to get me 'up to speed' as I'm headed there tomorrow for a community meeting: they want to discuss this lease and the recent aquaculture report.

I'm mentioning this because there was a question at EASC around if the completed license was able to be shared publicly: it appears this is public information.

I'm attaching two of the files I received as I believe they may be of particular interest. One file, the Province's Reasons for Decision, states "A condition of the tenure is such that the tenure holder operate their tenure in accordance with all local zoning bylaws and all applicable laws, bylaws orders, directions ordinates and regulations of any government authority".

I imagine you may need to confirm with the Province that these are the most recent files and their ability to be shared, but perhaps they provide a good starting place.

Thanks,

Robyn Mawhinney

Regional Director for Discovery Islands and Mainland Inlets (Area C)
Strathcona Regional District

call/text: 250.203.2468

Discovery Islands-Mainland Inlets, Electoral Area C, is located within the traditional unceded territories of the We Wai Kai, Wei Wai Kum, Klahoose, Homalco, Kwiakah, Tlowitsis, & K'omoks First Nations. I'm grateful to be living and working on these lands.

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RECEIVED
DEC 19 2019
Ministry of Forests, Lands, Natural Resource Operations & Rural Development

~~Rec'd as Replacement & Assignment 2021-11-18 KM~~
Canada
Rec'd as Replacement, Assignment & Amendment 2022-02-02

FOR INTERNAL USE

File Number: 1401594	Project Number: 557357 614451
Disposition Number:	Client Number:

PACIFIC SHELLFISH AQUACULTURE AMENDMENT APPLICATION

MINISTRY OF FORESTS, LANDS,NATURAL RESOURCE OPERATIONS AND RURAL DEVELOPMENT
FISHERIES AND OCEANS CANADA
TRANSPORT CANADA

Prior to completing this application refer to approved Federal Aquaculture Licence and Provincial Site Management plans for details on currently approved activities at the site. If you require a copy, please contact WestCoast.LandReferrals@gov.bc.ca

PART I – GENERAL INFORMATION

Any time you see this symbol, hold mouse pointer over top and additional information will appear.

For each question, select only one check box or circle unless otherwise directed.

PART I - SECTION A1: SUMMARY

Provide a general overview of the proposed amendment:

** This application is for a replacement of the existing (expired) tenure, along with an amendment (addition) of infrastructure and a change of business name (assignment).

Island Sea Farms Inc. founded in 1996, is a mussel farming company with a hatchery on Saltspring Island, grow-out operations on Cortes and Read Islands and processing operations in Campbell River. The company employs 45 people and exports live mussels to the US and Asia.
In recent years as production volumes have grown the company has acquired more tenure space primarily in the Gorge Harbour on Cortes Island. However, as the operation has grown and production during the summer months has become increasingly important, there has been some noise complaints from upland owners despite the company employing expensive sound dampening technology. In addition, a large amount of pleasure boats arrive in the summer increasing number of stakeholders.
In 2018 the company purchased the assets of Evan's Bay Oyster Company which includes a shellfish tenure in Evan's Bay (Land File # 1401594). Island Sea Farms through its wholly owned subsidiary, Evan's Bay Oyster Co, requests an amendment to allow for the management plan to better accommodate mussel culture. Specifically, the amendment application address re-orientating rafts to East to West rather than North to South, running the width of the lease rather than the length of the tenure.
We therefore are also applying to increase the number of rafts (+64) in the original management plan, along with associated anchors and rock pins, as well as vertical predator netting. We are not applying for an increase in tenure size or additional aquaculture species. These changes to our management plan would facilitate moving production out of the Gorge Harbour during the summer when it is busy with recreation boating and cottagers.

Additional Pages or Supporting Material Attached: ○Yes ○No

PART I - SECTION A2: AMENDMENT TYPE (CHECK ALL THAT APPLY)

☐ **Tenure Area Change**	
☐ Expansion	Complete the following: PART I PART II PART III: Section B PART IV PART V
☐ Reduction	Complete: PART I PART IV PART V
☑ **Infrastructure**	
☑ Addition or Expansion of Infrastructure ☑ Change meets conditions of "Incidental Aquaculture Use" (IAU) ?	Complete the following: PART I: Sections A. B, C, E (maps 3 & 4), F & G PART II: unless Incidental Aquaculture Use PART III: Section B PART IV PART V
☐ Removal or Reduction of Infrastructure	Complete the following: PART I: Sections A, B, C, E (map 3), F & G PART V
Culture Type and/or Culture Area	
Addition of new Culture Type or Change to Culture Area	Complete the following: PART I: Sections A, B, C, E (maps 3 & 4), F & G PART III: Section B PART V
☐ Removal of Culture Type	Complete the following: PART I: Sections A, B, C, E (map 3) F & G PART V
☐ **Species and/or Production**	
☐ Addition of Species OR Increase in Production greater than approved in shellfish fish management plan	Complete the following: PART I: Sections A, B, C, E PART III: Section A PART V
☐ Removal of Species	PART I: Sections A, B, C, List Species To Be Removed: PART V
☐ **Substrate Modification**	Complete the following: PART I: Sections A, B, C, E (map 3), F, & G PART III: Section B PART V

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PART I - SECTION B: APPLICANT INFORMATION

1. Licence Information

Licensee Name(s): Island Sea Farms Inc.

Mailing Address:	Telephone: (250) 538-8591
PO Box 3166 Courtenay BC V9N 5N4	Cell: (250) 537-6997
	Fax:
	Email: paul.simpson@islandseafarms.com

BC Inc. #, BC Registration # or BC Society #: 898794896 ☐ Not Applicable

Physical Business Address: ☐ Same as Mailing Address

576 Walker Hook Rd
Saltspring Island
V8K1N6

2. Primary Contact Information: ☐ Same as Licensee

Name: Paul Simpson	Telephone: (250) 537-6997
Title: President	Cell: (250) 537-6997
Email: paul.simpson@islandseafarms.com	Fax:

3. Agent/Representative Information: ☐ Not Applicable

Name:	Telephone:
Email:	Cell:
Letter of Authorization Enclosed ○Yes ○No	Fax:

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PART I - SECTION C: SITE GENERAL INFORMATION

1. DFO Facility Reference Number:	AQSF 114270
2. Land File Number:	1401594
3. Navigation Protection Program Number:	
4. Site Common Name:	Evan's Bay

PART I - SECTION D: LICENSED AREA CHANGE

1. Land Ownership and/or Tenure Type:

☑ Provincial Crown Land Tenure (if Crown land: ○ Lease ☑ Licence of Occupation ○ Investigative Use Licence)

☐ Private Land ☐ Federal Land ☐ Harbour Authority ☐ First Nation Reserve

☐ Other (describe):

2. GPS coordinates for the center of the application area / tenure (Report in Degree Decimal Minutes):	Latitude (DD DD.ddddd):	50 degrees 12.328 N
	Longitude (DD DD.ddddd):	125 degrees 4.5454W

3. Estimated Application Area	CURRENTLY LICENSED (hectares)	PROPOSED CHANGE +/- (hectares)	PROPOSED CUMULATIVE TOTAL (hectares)
Total Area of Site	7.20	0	7.2

PART I - SECTION E: MAPS, DIAGRAMS AND ADDITIONAL REQUIRED DOCUMENTS

Check each box to confirm attached	Attach the following maps, diagrams and documents. All documents must be titled, and maps must have a scale. Please refer to the Mapping Descriptions and Sample Mapping in the Guide to Pacific Shellfish Aquaculture Application.
☑	1. **General Location Map:** A map at a scale of 1:50,000 to 1:100,000 indicating the general location of the area under application, noting the location of significant geographic features, such as a lake, mountain, road, community, etc.
☑	2. **Application Area Map (submit one of the following):** a) **Shape file:** attach a shapefile or .kmz geo-referenced to BC Albers Project (NAD 83), and including a reference map with a Point of Commencement **OR** b) **Metes & Bounds:** A map showing a UTM/latitude and longitude of a point of commencement (POC) and a corresponding text description on a separate piece of paper that describes the metes and bounds of the proposed shape.
☑	3. **Top View Operational Diagram:** A CHS Marine chart at the largest scale available for the project location that clearly shows the location of all planned infrastructure in relation to the bathymetry at the site (include more than 1 diagram if necessary).
☑	4. **Side View Operational Diagram, based on the culture type:** A scaled schematic diagram(s) showing a side view of the proposed operation, which includes all infrastructure.

PART I - SECTION F: FIRST NATIONS CONSIDERATION

Canada and the Province of British Columbia are legally obligated to consult and, where appropriate, accommodate First Nations on decisions that could impact treaty rights or aboriginal rights and title ("Aboriginal Interests"). Federal and Provincial decision-makers are responsible for ensuring adequate and appropriate consultation and accommodations.

For more information please review the information available on the Ministry of Forests, Lands, Natural Resource Operations and Rural Development website: 'Consulting with First Nations'; specifically proponents are advised to review: "Guide to Involving Proponents When Consulting First Nations" (http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations).

Proponents are encouraged to engage with First Nations as early as possible in the planning stages to build relationships and for information sharing purposes. You may use the Province's Consultative Areas Database to identify which First Nations to engage: http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations.

Is a summary of information sharing attached? ○ Yes ○ No

PART I - SECTION G: CULTURE AND INFRASTRUCTURE INFORMATION

1. Culture Type /Area Change:

CULTURE TYPE	EXISTING AREA (hectares)	PROPOSED CHANGE (+/-) (hectares)	PROPOSED CUMULATIVE TOTAL (hectares)
☐ Intertidal Beach Culture			
☑ Deepwater Suspended Culture	7.20	0.00	7.20
☐ Subtidal On/In Bottom Culture			

For Subtidal also complete:	a) What is the maximum subtidal culture depth within the proposed application area (m)?
	b) How much of the application area has depths greater than 30 m (hectares)?

Shellfish aquaculture conditions of licence prohibit the introduction of refuse into the marine environment. Do you have a plan in place to manage your infrastructure, gear and equipment to minimize the generation of debris and ensure any debris generated does not enter the marine environment? ● Yes ○ No

PART I - SECTION G: CULTURE AND INFRASTRUCTURE INFORMATION CONTINUED:

2. **Infrastructure:** Complete the table below for all licensed and requested infrastructure. Refer to the approved Shellfish Site Management for details on currently approved structures at the site. Where applicable, note the quantity and dimensions of each structure.

STRUCTURE	CULTURE TYPE	CURRENTLY LICENSED AREA (m²)	PROPOSED CHANGE	DIMENSIONS OF EACH NEW STRUCTURE	PROPOSED TOTAL AREA OF STRUCTURE(S) (m²)
e.g. Culture Rafts	☑ *Deepwater*	*1000*	*+ 10 rafts*	*5 m x 5 m*	*1250*
Living Accommodation	Deepwater				
Work Float with Toilet	Deepwater				
Work Float(s)	Deepwater				
Culture Rafts	Deepwater	642	+64	7.3m X 7.3m	4,043
Longlines	☐ Intertidal				
	☐ Deepwater				
	☐ Subtidal				
Predator Netting	☐ Intertidal				
	☑ Deepwater	1,669	+12	91.7x9.1	11,683
	☐ Subtidal				
Predator Protection Tubes	☐ Intertidal				
	☐ Subtidal				
Rack and Bag	☐ Intertidal				
	☐ Subtidal				
Vexar Fencing	☐ Intertidal				
	☐ Subtidal				
Floating Upweller System (FLUPSY)	Deepwater				
Other (Explain):	☐ Intertidal				
	☐ Deepwater				
	☐ Subtidal				

PART I - SECTION G: CULTURE AND INFRASTRUCTURE INFORMATION CONTINUED:

3. Proposed Changes to Ancillary and Navigational Structures:

STRUCTURE	DESCRIPTION OF CHANGE
Site Markings	*Replacing 6 red concrete blocks with staked signage*
Remote Setting Equipment	
Site Marking	No new site marking as the tenure boundaries are well marked with large yellow bouys
Navigational Markers	
Anchor blocks	24 concrete anchor blocks to be added
Other Structures	12 rock pins to be added for shoreward anchors

4. Proposed Substrate Modification:

Describe:

No substrate modifications to be done.

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PART II – INFORMATION FOR THE BC MINISTRY OF FORESTS, LANDS, NATURAL RESOURCE OPERATIONS AND RURAL DEVELOPMENT

The following information, along with Part I and Part V is required for the review of the Provincial Crown Land Tenure application to an existing tenure pursuant to the BC *Land Act*.

PART II - SECTION A: SITING CONSIDERATIONS

Applicants must respond to each consideration and may be required to provide additional information in some situations

1. Does your proposal infringe on the riparian rights of an upland owner?	○ Yes ● No
Letter of upland owner consent enclosed:	○ Yes ○ No ○ N/A
2. Is the intended use consistent with approved local government bylaws for land use planning and zoning?	● Yes ● No
Provide the name of the local government(s) for the area under application: Strathcona Regional District	
Describe any applicable bylaws or zoning for the proposed area: Area is zoned AQ2 for shellfish farming	
If No, have you contacted the local government?	○ Yes ● No
Summary of interactions with local government attached:	○ Yes ● No ○ N/A

PART II - SECTION B: ADDITIONAL CROWN LANDS INFORMATION

1. Are all applicants Canadian Citizens or Permanent Residents; or if a corporation, registered partnership, cooperative or non-profit society, is it registered in BC?		● Yes ○ No
2. Is/Are applicant(s) 19 years of age or older?		● Yes ○ No
3. For applications made by more than one individual:	● N/A ○ Joint Tenants **OR** ○ Tenants in Common	
4. Is the applicant a spouse of a provincial empoyee?	○ Yes ● No	
5. Does the applicant have any other tenures?	○ Yes ● No	**If yes, please list land file number(s):** 1401596 1404053 1403059 1405081

PART II - SECTION C: WATER USE

1. Will fresh water be diverted or used at the site for the operation of the facility, living accommodations or other purposes?	○ Yes (Complete Question 2 & 3)
	● No planned water usage (continue to Part III)
2. Fresh water source: (check all that apply)	☐ Ground Water ☐ Surface Water
	Water Source Name:
3. Do you have any existing water licences and/or have you submitted any water licence applications?	○ Yes — **Application Tracking Number:** / **Licence #:**
	○ No

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PART III – INFORMATION FOR FISHERIES AND OCEANS CANADA (DFO)

The following information along with Part I and Part V is required for the review of the federal Aquaculture Licence application pursuant to the federal *Fisheries Act, Pacific Aquaculture Regulations.*

PART III - SECTION A: PROPOSED SPECIES

TABLE A: SPECIES NAME	CULTURE TYPE	FIRST YEAR OF PRODUCTION (?)	PRODUCTION ESTIMATE (t) (?)	SOURCE OF STOCK		
				Hatchery	Natural Set	Other (complete Table B)
Gallo Mussel (M. galloprovincialis	☐ Intertidal ☑ Deepwater ☐ Subtidal	2020	22.00	☑	☐	☐
Eastern Blue Mussel (M. edulis)	☐ Intertidal ☑ Deepwater ☐ Subtidal	2020	10.00	☑	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐

TABLE B: PROVIDE A SHORT DESCRIPTION OF "OTHER" SEED SOURCE STOCK BY SPECIES AS APPLICABLE:

PART III - SECTION B: FISHERIES PROTECTION

Fisheries and Oceans Canada – Aquaculture Management Division (DFO - AMD) is responsible for the sustainable management of aquaculture in British Columbia. Like other types of industrial development taking place in and around water, aquaculture projects have the potential to affect fish and fish habitat.

NOTE: Aquaculture activities must not result in harm to a Species at Risk Act (SARA) listed species, their residence, or their critical habitat, as defined in the associated Recovery Strategy, or Action Plan.

1. Intertidal Culture Operations

☑ Not Applicable

a) Are you proposing to use any temporary or permanent aquaculture structures or equipment (ie. install geoduck tubes or rack and bag structures, etc) in any of the following habitats?

i.	intertidal stream channels	○ Yes ○ No
ii.	eelgrass beds (*Zostera* sp.)	○ Yes ○ No
iii.	fish spawning areas	○ Yes ○ No
iv.	SARA listed species, critical habitat, and/or residence	○ Yes ○ No

If Yes, describe the structures, habitat and method for installation.Please refer to the Shellfish Guide to ensure all information is provided.

b) Will you use a Mechanical Clam Harvesting Machine or 'stinger' harvest gear in the intertidal? ○ Yes ○ No

c) How will you be accessing the proposed area?

NOTE: Please note aquaculture activities may not occur in salt marsh habitat.

2. Deep Water/Suspended Culture Operations ☐ Not Applicable

a) Are you proposing to install any aquaculture structures or conduct aquaculture activities (including anchor system placement) in waters shallower than the 10m bathymetric contour? ○ Yes ● No

b) Are you proposing to install any aquaculture structures or conduct aquaculture activities (including anchor system placement) in waters deeper than 10m (measured from chart datum) and over any of the following habitats?

- i. rocky reefs ○ Yes ● No
- ii. kelp beds ○ Yes ● No
- iii. eelgrass beds (*Zostera* sp.) ○ Yes ● No
- iv. fish spawning areas ○ Yes ● No
- v. glass sponge complexes (*Hexactinellidae*) and/or coral complexes ○ Yes ● No
- vi. SARA listed species, critical habitat, and/or residence ○ Yes ● No

If Yes, describe the structures, habitat and method for installation.Please refer to the Shellfish Guide to ensure all information is provided.

c) What is the minimum depth (m) below structures at zero tide (as measured from the deepest hanging trays, lines, etc. to the sea floor): **10.0**

3. Subtidal On / In-Bottom Culture Operations ☐ Not Applicable

a) Are you proposing to install any temporary or permanent in- or on-bottom aquaculture structures (e.g. bags on bottom, cages, nursery structures, geoduck tubes, predator netting, etc.) other than site boundary markers in any of the following important or sensitive habitats?

- i) rocky reefs ○ Yes ● No
- ii) kelp beds ○ Yes ● No
- iii) eelgrass beds (*Zostera* sp.) ○ Yes ● No
- iv) fish spawning areas ○ Yes ● No
- v) glass sponge complexes (*Hexactinellidae*) and/or coral complexes ○ Yes ● No
- vi) SARA listed species, critical habitat, and/or residence ○ Yes ● No

If Yes, describe the structures, habitat and method for installation.Please refer to the Shellfish Guide to ensure all information is provided.

Canada

PART IV – INFORMATION FOR TRANSPORT CANADA (TC)

The following information, along with Part I and Part V is required for the review of the federal *Navigation Protection Act* (NPA) approval.

PART IV - SECTION A: SITING CONSIDERATIONS

Applicants may be required to provide additional information in some situations.

PART IV - SECTION B: ADDITIONAL TRANSPORT CANADA INFORMATION

1. Waterway Name:	Evan's Bay, Read Island		
Width (m):	800.00	**Depth Range (m):**	10m-150m
2. Nearest Community:	Herriot Bay, Quadra Island		
3. Is this Work:	☐ New ☐ Existing ☑ Modification of Existing Work		
4. To help with the review process, please include the following if available. Check each box to confirm is attached.			
☐ Photographs at the site of the proposed/existing work and surrounding area			
☐ Environmental Assessment documents (if any)			

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PART V – INFORMATION FOR ALL AGENCIES

Incomplete applications will be returned to applicant.

PROVINCIAL FEES:

Application fees for Crown land tenures are due upon submission. Fees for new applications and amendments to existing tenures are established in the Crown Land Fee regulation – see link http://www.bclaws.ca/civix/document/id/lc/statreg/177_2003. Note that the fee structure does not include that taxes that apply.

Forms of payment:

- **Cheques or Money orders must be in Canadian Funds to Minister of Finance.**
  FrontCounter BC will not accept personal cheques drawn on US banks, regardless of what currency.
- **Debit Card (in-person only).**
- **Visa, AMEX and MasterCard payments are accepted in-person or over the telephone. To locate a FrontCounter BC office, visit the website at http://www.frontcounterbc.gov.bc.ca/contact/ or call the toll free number 1-877-855-3222.**

FEDERAL FEES: http://www.pac.dfo-mpo.gc.ca/aquaculture/licence-permis/index-eng.html. Federal fees will be invoiced prior to licensing and are only payable online using the National Online Licensing System.

DISCLOSURE:

The information you provide may be subject to the following legislation: British Columbia Freedom of Information and Protection of Privacy Act (FOIPPA); the federal Access to Information Act; and the federal Privacy Act. Personal information is collected by FrontCounter BC under the legal authority of section 26 (a), (c) and (e) and 27(1) (a) (i) of the FOIPPA. The collection, use, and disclosure of personal information is subject to the provisions of the FOIPPA.

The Province of British Columbia and the federal Fisheries and Oceans Canada and Transport Canada do not consider the information submitted in this form to be confidential unless it is subject to the privacy protection of the Act or the federal Access to Information Act.

Personal information may be disclosed by FrontCounter BC to local, provincial and federal governments; First Nations; and the public on an as needed basis for the purposes of reviewing and processing your inquiry or application(s) under the BC Land Act, BC Fish and Seafood Act, federal Fisheries Act and the federal Navigation Protection Act. The information, with the exception of date of birth, may be posted on a public webpage and may be accessed outside of Canada. Contact information may be accessed and used by FrontCounter BC for survey purposes.

For more information regarding the collection, uses, and/or disclosure of your personal information, please contact: FrontCounter BC at 1-877-855-3222 or at FrontCounter BC Program Director, Provincial Operation, 441 Columbia Street, Kamloops, BC V2C 2T3; or the Director, Access to Information and Privacy Secretariat at the Department of Fisheries and Oceans Canada and Transport Canada.

IMPORTANT: Federal regulations require that applications submitted on behalf of a company be signed by a company director. Please email aquaculture.licensing@dfo-mpo.gc.ca for direction regarding supporting documentation.*

I understand that the information supplied will be used and disclosed as described above,

Signature(s) of applicant(s)	Printed name(s) of Applicant(s) or authorized representative*	Date (yyyy/mm/dd)
	Paul Simpson	2019/12/19

**If signature is by an authorized representative please supply a letter granting authorization to act on behalf of the applicant.*

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Submit completed application, and additional supporting information (if applicable) to:

BY EMAIL:

Email Subject line:	**Proponent Name, Application Type**
Attachments:	The application and attachments to be submitted as one "unprotected" PDF document. If not, name as following: **Proponent_Application Type_1of2** **Proponent_Description of Supporting documents_2of2**
Email to:	**WestCoast.LandReferrals@gov.bc.ca**
Fees:	Upon review of your application, you will be notified by FrontCounter BC of the applicable provincial application fee.

IN PERSON:

Any FrontCounter BC office.

Visit **http://www.frontcounterbc.gov.bc.ca** for the location nearest you.

BY MAIL:

FrontCounter BC, 142-2080 Labieux Road, Nanaimo, BC V9T 6J9

PLEASE RETAIN A COPY OF THIS APPLICATION FOR YOUR RECORDS

APPLICATIONS ARE NOT TRANSFERABLE

THE SUBMISSION OF THIS FORM DOES NOT IN ANY MANNER CONVEY ANY RIGHTS TO USE OR OCCUPY CROWN LAND AND/OR CONDUCT REQUESTED ACTIVITIES

BRITISH COLUMBIA

REASONS FOR DECISION

FILE NUMBER: 1401594

APPLICANT: Island Sea Farm Inc.

BACKGROUND: The 7.21 ha +/-application is for a major amendment and replacement of an existing deep-water **tenure located in Evan's Bay, Read Island.** The tenure is currently authorized for the 12 culture rafts stocked with oyster trays, lantern nets and oyster strings. The major amendment of this application proposes the addition of 64 culture rafts stocked with mussel socks and predator netting as well as changing the raft orientation from North/South to East/West.

DECISION: PROCESSED – TENURE ISSUED
Licence of Occupation, 10 Year term

REASONS FOR DECISION:

Considerations:

Land Use Report (LUR)

- The Land Use Report is complete.
- The applicant has provided the details for a Management Plan.
- The submitted Debris Management Plan meets the Provincial requirements which was preview by the Project Review Team.

Land Act Policy and Procedure

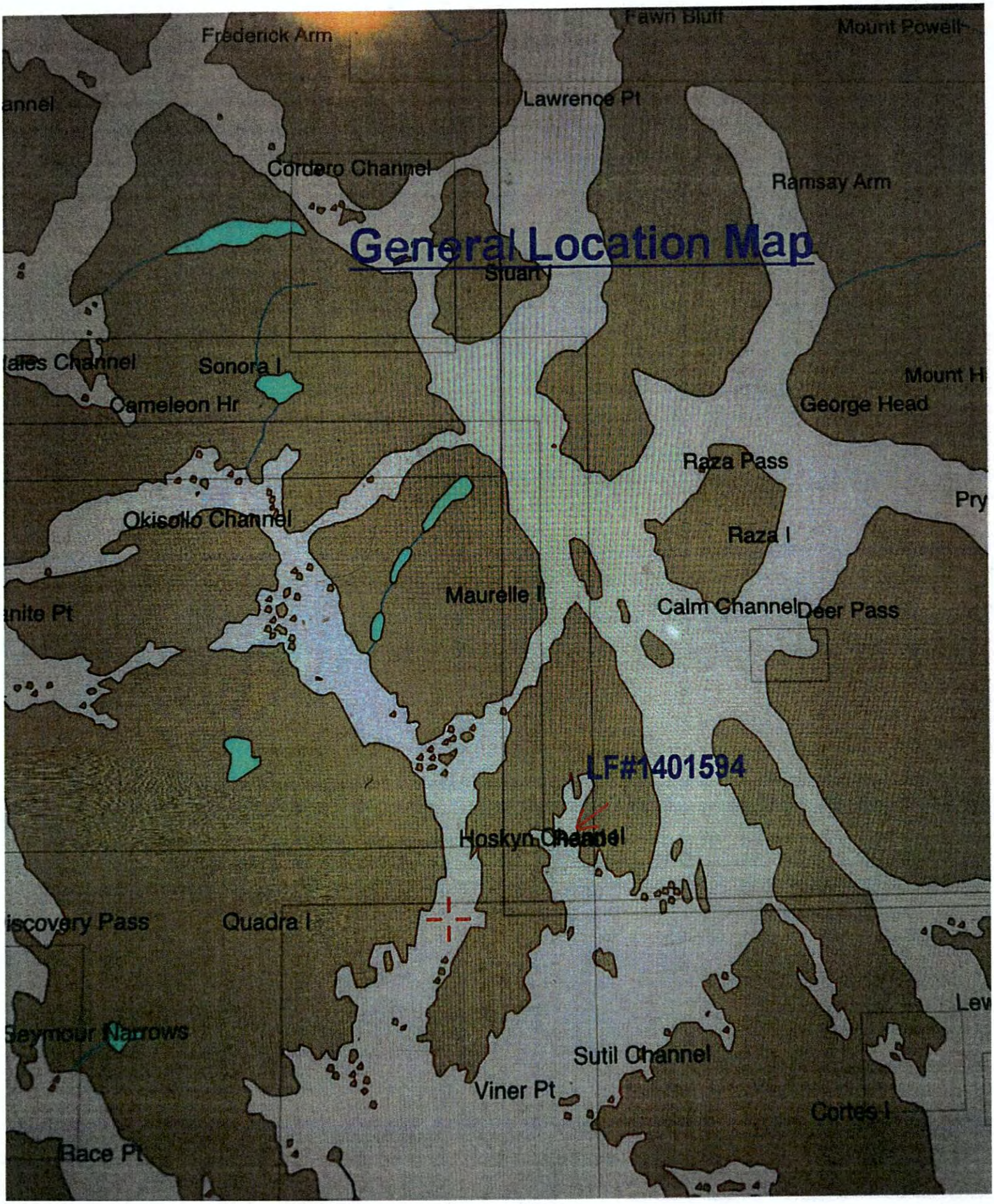
- The Land Use Operational policy for aquaculture was used for this review.
- The application has met all the Crown Land application requirements.
- Crown Land Allocation Principals were considered, and the decision was based on the best information available about the land and its resources in order to be timely, well considered and transparent.

Land Status Review

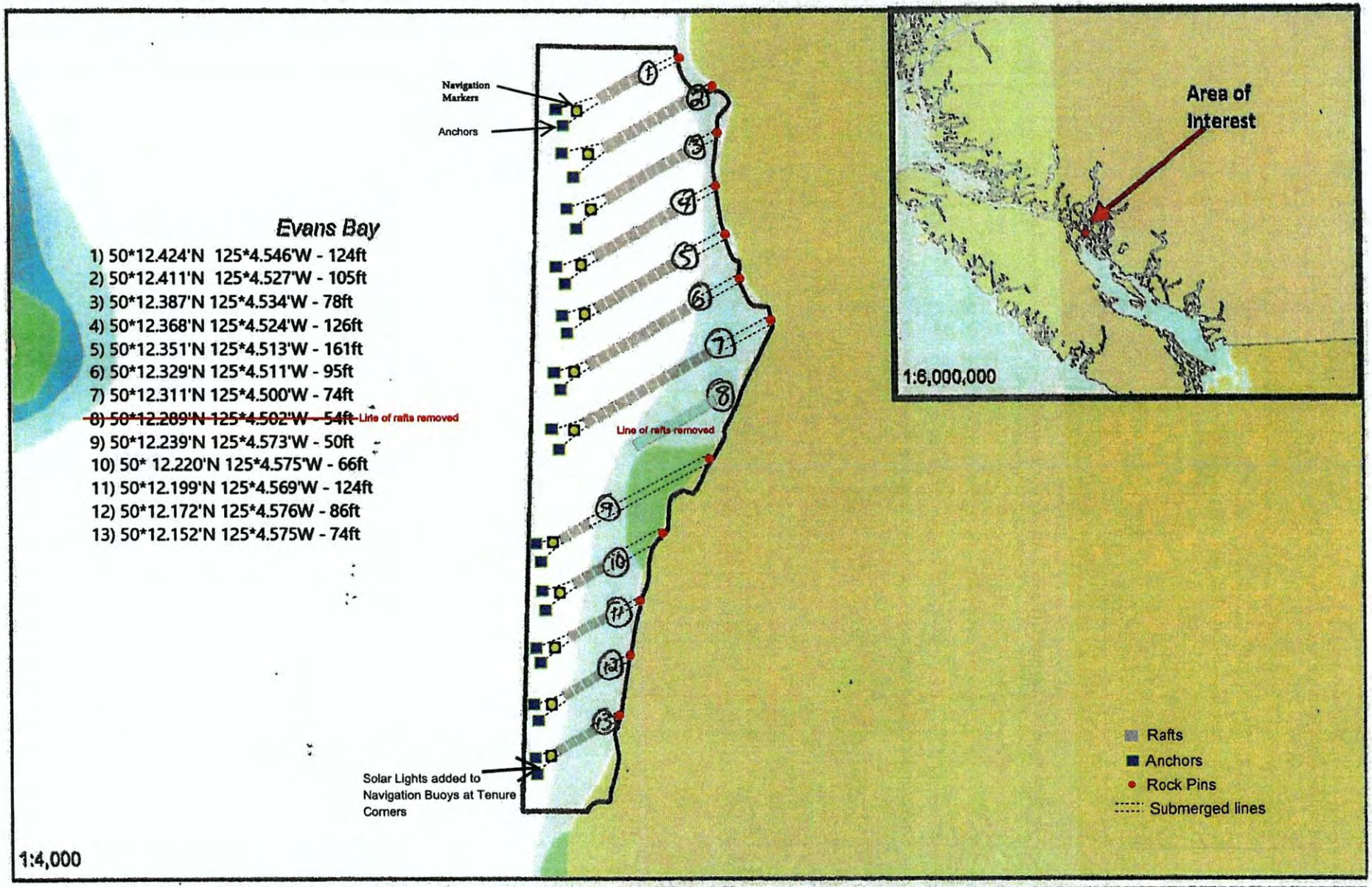
- Status report was complete and there are no outstanding conflicts.

Referral Responses

- Relevant agencies were sent referral request.
- A condition of the tenure is such that the tenure holder operate their tenure in accordance with all local zoning bylaws and all applicable laws, bylaws orders, directions ordinates and regulations of any government authority.
- No further constraints were identified during referrals.


General Location Map
Frederick Arm
Fawn Bluff
Mount Powell
Lawrence Pt
annel
Cordero Channel
Ramsay Arm
Stuart I
ales Channel
Sonora I
Cameleon Hr
Mount H
George Head
Raza Pass
Pry
Okisollo Channel
Raza I
Maurelle I
Calm Channel
Deer Pass
nite Pt
LF#1401594
Hoskyn Channel
iscovery Pass
Quadra I
Lew
Seymour Narrows
Sutil Channel
Viner Pt
Cortes I
Race Pt

Shellfish Aquaculture - Evans Bay Oyster Company Ltd., Read Island



AQSF 197 (LF 1401594)

Bathymetry (m)

Intertidal	5 - 9.9
0 - 1.7	10 - 18
1.8 - 4.9	>18

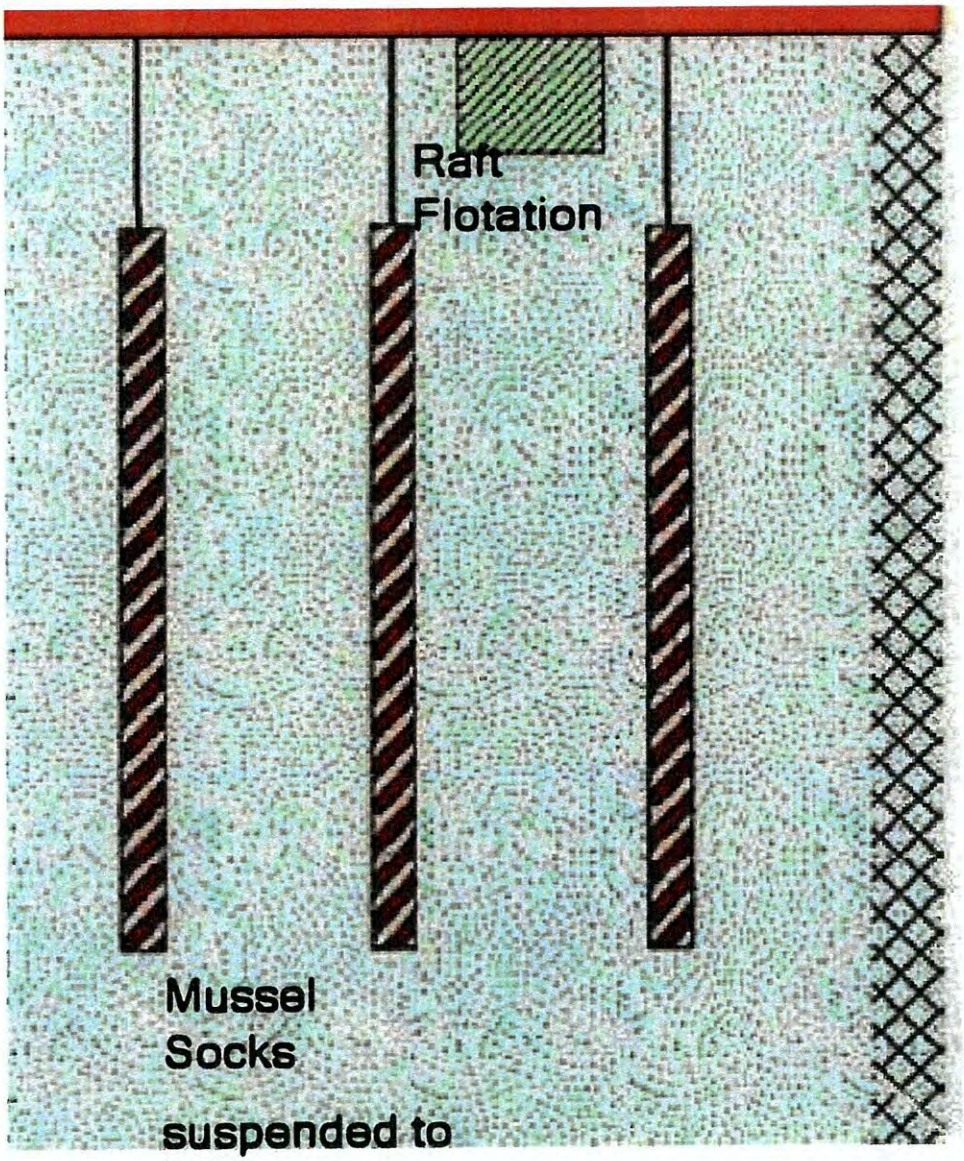
Fisheries and Oceans - Aquaculture Resource Management

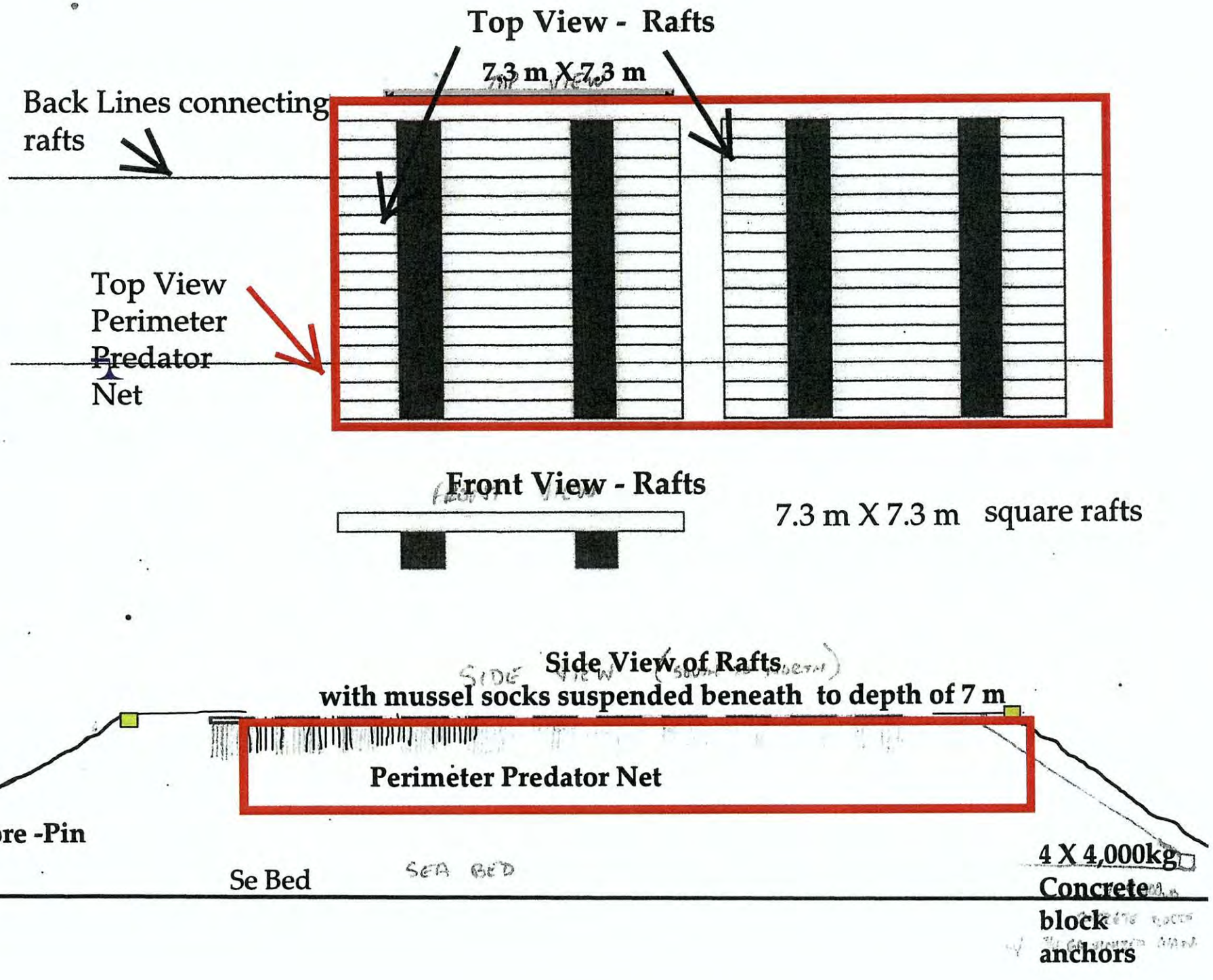
Map Projection: CSRS UTM Zone 10
Datum: NAD 1983
Date Produced: 9 January 2019

Source Data: CHS Hydrographic Charts
BC Tantalis

N

Raft Side View




Top View - Rafts
7.3 m X 7.3 m
Back Lines connecting rafts
Top View Perimeter Predator Net
Front View - Rafts
7.3 m X 7.3 m square rafts
Side View of Rafts
with mussel socks suspended beneath to depth of 7 m
Perimeter Predator Net
Shore -Pin
Se Bed
4 X 4,000kg Concrete block anchors

Island Sea Farms Debris Management Plan for Evan's Bay Site

Section 1 – Gear, Equipment &/or Infrastructure

Types of gear & volumes;

- Wooden Rafts – 24' x 24' – 12 rafts presently licensed, 64 additional proposed
- Polyethylene re-usable grow out ropes – 4692ft / raft
- Polyethylene twine for attaching grow out ropes to rafts – Approx. 400 ft / raft
- 18" x 20mm Steel Rebar for weighting grow out rope – 102 pcs / raft
- Vexar Socking for securing mussels to grow out rope – 4692 ft / raft
- Polyethylene Predator Netting – 2 predator panels presently licensed, 10 additional panels proposed-11,683 m2
- Rigid HDPE (8mm thickness) encased foam flotation billets (to be installed to plan) 24'x30'x24" each raft has 2 billets.

Expected life span and probability of each becoming debris

- Rafts: 10-15 years. When properly secured in the anchoring system, the probability of the rafts becoming debris is very low. If the raft does start to break apart, the pieces of wood float and is easily collected.
- HDPE encased flotation-30 years expected lifespan (reported by manufacturer- Eco-Billet)
- Ropes: 20-25 years. Low probability of becoming debris. Once the ropes are harvested, they are loaded into large cargo bags for storage. The bags are very heavy and not easily lost into the water. If the rope does fall into the water, it is buoyant and will float until collected.
- PE Twine: 2-3 years. Medium probability of becoming debris. When grow out ropes are harvested, the PE twine is removed from the rope and placed in the garbage as it has become sun damaged. In the event the twine is lost, it will float on the surface and can be collected. Given the bright colors, it is easy to see from a distance.
- Rebar: 5-10 years. Medium probability of becoming debris. These pieces are attached to the bottom of the grow out rope when the rope is seeded and remain on the rope until it is harvested. The rebar is collected at harvest and loaded into large plastic bins. It is very rare a piece is lost, but when a piece is lost, it sinks to the sea floor.
- Vexar socking: 1-2 years. Medium probability of becoming debris. Socking is deployed around the mussels to help secure them to the rope while they grow. This vexar is removed during harvest in large pieces and placed in the trash. If the vexar is lost overboard, it will float and is easily collected
- Predator Netting: 5-10 years. Low probability of becoming debris. This netting is deployed in the fall to protect the crop from predators and removed in the spring at which time they are loaded into cargo bags and sent off site for cleaning and repairs.

Section 2 Debris Management Protocols

When the above materials are handled throughout the course of the growth cycle, the crews are instructed to keep these materials in large cargo bags both before and after use. These cargo bags are tied or strapped to rafts at all times to minimize the chance of being blown off the rafts in strong winds and debris ending up in the sea. After materials or gear final use, (materials or gear no longer in useful

condition) the large cargo bags are sent off site to recycling facility on Quadra Island or Landfill in Campbell River to prevent debris from entering the ocean again by some other user. All nets are marked with ISF tags.

Island Sea Farms' site maintenance department inspects all sites on a weekly or near weekly basis to check on the structures and any materials to ensure they are not being released into the environment.

There is a dive team on site that dives under our tenures at 6-month intervals to check for any gear or debris that may have sank to the sea floor.

The crew participates in the annual beach clean up organized with the community to check the beaches surrounding the areas to make sure any debris that did wash ashore is collected. Apart from the annual beach clean-up ISF staff do periodic shore patrols to spot and remove aquaculture debris. Typically, both annual clean-up and periodic checks results in debris which is of unknown origin and did not originate at ISF farms.

Section 3 Implementation Plan

Though not previously called a Debris Management Plan, our employee handbook, which is reviewed during hiring and whenever an amendment is introduced, clearly lays out the responsibilities of the company and each crew member to maintain an environment that is clear of garbage or debris. The HR department holds monthly meetings with the crew members to review the farm operations. During these meetings, there is a lot of discussion around preventing debris and contaminants escaping the site. The minutes of these meetings, along with who attended, are stored in an online folder accessible by any crew member for review.

Section 4 Contact Information

Island Sea Farms operates 10 vessels and 3 trucks to service our tenures, all of which are clearly displaying the company name and phone number. There is also a contact list on one of our tenures which acts as our base of operations.

BRITISH COLUMBIA

REASONS FOR DECISION

Public Engagement

- Application was advertised in local newspapers and staked on site. Comments received from the public included concerns of noise, visual impacts, potential for debris and the impact application may have on a local business. All public comments were reviewed and considered in this decision.

First Nation Consultation

- First Nation consultation is considered complete.
- Applicant will be required to complete a Chance Find Procedure for archaeological material.

SUMMARY STATEMENT

This application is for the replacement and amendment of a 7.21-hectare shellfish tenure in Evans Bay. The deepwater infrastructure includes 76 culture rafts stocked with mussel socks and predator netting for the cultivation of mussels.

It has been noted that the visual impact of this application will increase with the additional infrastructure set to be visible above the water; however, the area has been developed and utilized for industrial and aquaculture purposes, since 1986/1987, limiting the cumulative impact of this application on the general area.

The North Vancouver Island Marine Plan lists off bottom shellfish aquaculture as a conditional acceptable use. The Vancouver Island Land Use Plans identifies South Read Island as an area of significant intensive shellfish farming to support food production activies. This application aligned with the objectives in both the North Vancouver Island Marine Plan and the Vancouver Island Land Use Plan.

This application is aligned with government and ministry objectives and priorities. Shellfish aquaculture provides a significant contribution to the provincial economy, including beneficial economic and social impacts in rural coastal economies.

All concerns and conflicts related to this application were addressed and/or suitably mitigated. The application satisfies the Crown Land Allocation Principles: Strategic Policy ((allocation_principles.pdf (gov.bc.ca)).

Based on a review of the considerations listed above this application has been accepted and a tenure issued.

DECISION MAKER:

Name: Jessica Outhwaite (Leitao)
Title: Section Head, Aquaculture
Delegated authority under *Land Act s.* 11

BRITISH COLUMBIA

REASONS FOR DECISION

For more information contact:
Name: Carlos Burgo
Title: Authorizations Specialist
Phone: 250-739-8441
Email: Carlos.Burgo@gov.bc.ca/ Aquaculture.Program@gov.bc.ca

Aniko Nelson

From: Annie Girdler
Sent: September 10, 2024 10:00 AM
To: Burgo, Carlos WLRS:EX
Cc: Meredith Starkey; Aniko Nelson
Subject: RE: Shellfish Aquaculture Tenure-B.C Landfile #1401594

Hi Carlos,

Would any of the following work for you?

Monday September 16th @ 2pm
Tuesday September 17th @ 2pm
Wednesday September 18th @ 9am
Thursday September 19th @ 10am
Friday September 27th @ 9 am or 2pm

Thanks!

Annie Girdler
Land Use Planner II

From: Burgo, Carlos WLRS:EX <Carlos.Burgo@gov.bc.ca>
Sent: September 10, 2024 9:45 AM
To: Annie Girdler <agirdler@srd.ca>
Cc: Meredith Starkey <mstarkey@srd.ca>; Aniko Nelson <ANelson@srd.ca>
Subject: RE: Shellfish Aquaculture Tenure-B.C Landfile #1401594

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Helle Annie,

Thank you for reaching out. I would be happy to meet and discuss the history of the file. Can you please provide me with a few time/days that work for you and your colleagues.

Thank you,

BRITISH COLUMBIA

Carlos Burgo|
Senior Authorizations Specialist, Aquaculture
Ministry of Water, Land and Resource Stewardship
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

From: Annie Girdler <agirdler@srd.ca>
Sent: Thursday, August 29, 2024 11:24 AM
To: Burgo, Carlos WLRS:EX <Carlos.Burgo@gov.bc.ca>
Cc: mstarkey <mstarkey@srd.ca>; ANelson <ANelson@srd.ca>
Subject: RE: Shellfish Aquaculture Tenure-B.C Landfile #1401594

You don't often get email from agirdler@srd.ca. Learn why this is important

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Carlos,

Hopefully, I am not repeating any further correspondence from Meredith.

To date we have still not received a rezoning application. Perhaps we could schedule a meeting with yourself and our department to discuss some of the background history on this file and what next steps might be?

Kind regards,

Annie Girdler
Land Use Planner II

Strathcona
REGIONAL DISTRICT

Strathcona Regional District
990 Cedar St. Campbell River, BC V9W 7Z8
T: 250-830-6707
E: agirdler@srd.ca

The Strathcona Regional District respectfully acknowledges that our corporate office and Strathcona Gardens Recreation Complex are located on the traditional unceded territory of the Liǥʷiłdaχʷ people. We also recognize that we operate within the traditional, treaty and unceded territories of the Ehattesaht / Chinehkint, Homalco, Ka:'yu:'k't'h' / Che: k'tles7et'h', Klahoose, K'ómoks, Kwiakah, Mowachaht / Muchalaht, Nuchatlaht, Tla'amin, Tlowitsis, We Wai Kai and Wei Wai Kum First Nations.

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From: John Neill <JNeill@srd.ca>
Sent: Thursday, August 29, 2024 11:17 AM
To: Annie Girdler <agirdler@srd.ca>
Subject: FW: Shellfish Aquaculture Tenure-B.C Landfile #1401594

From: Burgo, Carlos WLRS:EX <Carlos.Burgo@gov.bc.ca>
Sent: Friday, May 17, 2024 2:20 PM
To: Meredith Starkey <mstarkey@srd.ca>
Cc: John Neill <JNeill@srd.ca>
Subject: RE: Shellfish Aquaculture Tenure-B.C Landfile #1401594

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Hello Meredith,

Thank you for providing me with an update. At this time, the ministry has no immediate action. We defer zoning and any enforcement of zoning bylaws to the local government. If you are able to keep us informed, enduring non-compliance with zoning bylaws could involve follow up from the Ministry if we conclude tenure conditions are not being upheld.

Thank you,

BRITISH COLUMBIA

Carlos Burgo|
Senior Authorizations Specialist, Aquaculture
Ministry of Water, Land and Resource Stewardship
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

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From: Meredith Starkey <mstarkey@srd.ca>
Sent: Wednesday, May 15, 2024 9:03 AM
To: Burgo, Carlos WLRS:EX <Carlos.Burgo@gov.bc.ca>
Cc: John Neill <JNeill@srd.ca>
Subject: RE: Shellfish Aquaculture Tenure-B.C Landfile #1401594

You don't often get email from mstarkey@srd.ca. Learn why this is important

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Carlos,

Just following up to let you know that we still have not received an application to rezone this tenure area. We have been asked to provide an update on this file to our Board, so I'm hoping to confirm any next steps your office may take in these types of situations. Please advise.

Thank you!
Meredith

Meredith Starkey (she /her)
Manager, Planning and Parks

Strathcona REGIONAL DISTRICT

Strathcona Regional District
990 Cedar St. Campbell River, BC V9W 7Z8

T: 778-346-9143 | C: 250-203-1828
E: mstarkey@srd.ca

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From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: Tuesday, July 18, 2023 10:07 AM
To: John Neill <JNeill@srd.ca>
Subject: Shellfish Aquaculture Tenure-B.C Landfile #1401594

NOTICE: This email is from an external source.

Hello John,

The Province has recently approved the replacement and amendment application for B.C Landfile #1401594 located in Evan's Bay, Read Island. Your office should have received an email notifying the regional district of the decision.

I would like to ask if the tenure holder for this site has applied for rezoning of the tenure at this time. If you have not received an application, can I ask that you keep me looped in and provide an update when an application is received.

Thank you,

BRITISH COLUMBIA
Ministry of Forests

Carlos Burgo|
Authorizations Specialist, Aquaculture
Ministry of Forests, West Coast Region
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

Aniko Nelson

From: Meredith Starkey
Sent: September 18, 2024 9:05 AM
To: Burgo, Carlos WLRS:EX; Annie Girdler
Cc: Aniko Nelson
Subject: RE: DFO-Conditions of Licence

Thank you, Carlos! Much appreciated.

-Meredith

Meredith Starkey (she /her)
Manager, Planning and Parks

Strathcona
REGIONAL DISTRICT

Strathcona Regional District
990 Cedar St. Campbell River, BC V9W 7Z8
T: 778-346-9143 | C: 250-203-1828
E: mstarkey@srd.ca

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From: Burgo, Carlos WLRS:EX <Carlos.Burgo@gov.bc.ca>
Sent: September 18, 2024 8:30 AM
To: Annie Girdler <agirdler@srd.ca>
Cc: Meredith Starkey <mstarkey@srd.ca>; Aniko Nelson <ANelson@srd.ca>
Subject: DFO-Conditions of Licence

NOTICE: This email is from an external source.

Hello All,

It was great to meet and chat yesterday, as promised I have attached a link to where you can find the DFO conditions of licence.

Aquaculture licensing in British Columbia | Pacific Region | Fisheries and Oceans Canada (dfo-mpo.gc.ca)

Thank you,

Carlos Burgo|
Senior Authorizations Specialist, Aquaculture
Ministry of Water, Land and Resource Stewardship
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

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From: Annie Girdler <agirdler@srd.ca>
Sent: Thursday, August 29, 2024 11:24 AM
To: Burgo, Carlos WLRS:EX <Carlos.Burgo@gov.bc.ca>
Cc: mstarkey <mstarkey@srd.ca>; ANelson <ANelson@srd.ca>
Subject: RE: Shellfish Aquaculture Tenure-B.C Landfile #1401594

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Hi Carlos,

Hopefully, I am not repeating any further correspondence from Meredith.

To date we have still not received a rezoning application. Perhaps we could schedule a meeting with yourself and our department to discuss some of the background history on this file and what next steps might be?

Kind regards,

Annie Girdler
Land Use Planner II

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T: 250-830-6707
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To: Annie Girdler <agirdler@srd.ca>
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To: Meredith Starkey <mstarkey@srd.ca>
Cc: John Neill <JNeill@srd.ca>
Subject: RE: Shellfish Aquaculture Tenure-B.C Landfile #1401594

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Hello Meredith,

Thank you for providing me with an update. At this time, the ministry has no immediate action. We defer zoning and any enforcement of zoning bylaws to the local government. If you are able to keep us informed, enduring non-compliance with zoning bylaws could involve follow up from the Ministry if we conclude tenure conditions are not being upheld.

Thank you,

BRITISH COLUMBIA

Carlos Burgo|
Senior Authorizations Specialist, Aquaculture
Ministry of Water, Land and Resource Stewardship
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Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

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Sent: Wednesday, May 15, 2024 9:03 AM
To: Burgo, Carlos WLRS:EX <Carlos.Burgo@gov.bc.ca>
Cc: John Neill <JNeill@srd.ca>
Subject: RE: Shellfish Aquaculture Tenure-B.C Landfile #1401594

You don't often get email from mstarkey@srd.ca. Learn why this is important

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Hi Carlos,

Just following up to let you know that we still have not received an application to rezone this tenure area. We have been asked to provide an update on this file to our Board, so I'm hoping to confirm any next steps your office may take in these types of situations. Please advise.

Thank you!
Meredith

Meredith Starkey (she /her)
Manager, Planning and Parks

Strathcona Regional District
990 Cedar St. Campbell River, BC V9W 7Z8
T: 778-346-9143 | C: 250-203-1828
E: mstarkey@srd.ca

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From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: Tuesday, July 18, 2023 10:07 AM
To: John Neill <JNeill@srd.ca>
Subject: Shellfish Aquaculture Tenure-B.C Landfile #1401594

NOTICE: This email is from an external source.

Hello John,

The Province has recently approved the replacement and amendment application for B.C Landfile #1401594 located in Evan's Bay, Read Island. Your office should have received an email notifying the regional district of the decision.

I would like to ask if the tenure holder for this site has applied for rezoning of the tenure at this time. If you have not received an application, can I ask that you keep me looped in and provide an update when an application is received.

Thank you,

BRITISH COLUMBIA
Ministry of Forests

Carlos Burgo|
Authorizations Specialist, Aquaculture
Ministry of Forests, West Coast Region
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

Aniko Nelson

From: Lannie Keller <coastmtn@island.net>
Sent: November 29, 2024 3:00 PM
To: Aniko Nelson
Cc: Robyn Mawhinney
Subject: FW: Read Island Aquaculture (conditional) License #1401594

NOTICE: This email is from an external source.

Hello Aniko,
I forgot to cc our elected director Robyn Mawhinney.
Please include Robyn in your reply and future communications.
Thanks!
L

From: Lannie Keller <coastmtn@island.net>
Sent: November 29, 2024 2:34 PM
To: 'anelson@srd.ca' <anelson@srd.ca>
Cc: Surge Narrows Community Association <surgenarrows@gmail.com>
Subject: Read Island Aquaculture (conditional) License #1401594

To: Aniko Nelson, SRD Senior Manager Community Services anelson@srd.ca
RE: Read Island Aquaculture (conditional) License #1401594

Hello Aniko,

This is follow-up to my phone message earlier today. Which is follow-up to our exchange about this matter at the recent Surge Narrows OCP meeting, where we agreed it was not timely. However, you said SRD considers this is an unfinished situation that we should discuss later.

You are aware that the Province issued this license with conditions, including the requirement that it must "operate in accordance with all local zoning bylaws..." You are also aware that proposed site is non-compliant with existing zoning.

This is a community request for an information update on any SRD communications or actions regarding this license, the attached restrictions, and/or the required re-zoning.

Please reply at your earliest convenience.

We are also obtaining professional legal advice.

Sincerely,
Lannie Keller
250-850-9787
coastmtn@island.net

Aniko Nelson

From: Email - planning@srd.ca
Sent: January 8, 2025 10:12 AM
To: Aniko Nelson; Meredith Starkey
Subject: FW: [External/Externe]: Navigation concerns with proposed mussel operation, Evans Bay, Read Island (TC file 2011-500430 / LF 1401594)

FYI

Annie Girdler
Land Use Planner II

From: Harries, Elizabeth (TC/TC) <elizabeth.harries@tc.gc.ca>
Sent: January 8, 2025 9:52 AM
To: Email - planning@srd.ca <planning@srd.ca>
Cc: Kuan, Lawrence (TC/TC) <lawrence.kuan@tc.gc.ca>
Subject: FW: [External/Externe]: Navigation concerns with proposed mussel operation, Evans Bay, Read Island (TC file 2011-500430 / LF 1401594)

NOTICE: This email is from an external source.

UNCLASSIFIED / NON CLASSIFIÉ

Good Morning SRD Planning,

On behalf of Transport Canada's Navigation Protection Program, I wanted to loop you in on the below concerns we've received regarding an aquaculture site owned by Island Sea Farms Inc. [redacted]at 50°12'18.06"N, 125°04'33.25"W.

Our mandate here at NPP is to protect the public right of navigation under the *Canadian Navigable Waters Act*. As we've received complaints that reach outside of navigation, I wanted to loop in other levels of authority regarding this site. If your planning department isn't the appropriate oversight to this type of work, would you kindly forward it on to whomever is best to respond.

If you could kindly let me know the SRD's stance on the matter and keep me in the loop if you choose to respond directly to Ms.Steeves, that would be appreciated. I will also be looping in DFO and BC to see if they have anything to contribute.

Regards,

Elizabeth Harries

Navigation Protection Officer, Navigation Protection Program
Transport Canada / Government of Canada

Transport Canada has introduced new fees for services, under the *Canadian Navigable Waters Act,* as part of the Fee Modernization initiative. Find out more at: Canada Gazette, Part 2, Volume 158, Number 14: Canadian Navigable Waters Act Fees Regulations

Transports Canada introduit une nouvelle structure de redevances, en vertu de la *Loi sur les eaux navigables canadiennes,* dans le cadre de l'initiative de modernisation des frais. Plus d'informations ici: La Gazette du Canada, Partie 2, volume 158, numéro 14 : Règlement sur les droits relatifs à la Loi sur les eaux navigables canadiennes

---

From: Rosie Steeves <rosie@executiveworks.org>
Sent: Thursday, January 02, 2025 8:45 AM
To: Harries, Elizabeth (TC/TC) <elizabeth.harries@tc.gc.ca>
Cc: Lannie Keller <coastmtn@island.net>; Ralph Keller <coastmtn2@gmail.com>
Subject: [External/Externe]: Navigation concerns with proposed mussel operation, Evans Bay, Read Island

Hi Elizabeth,

Following up on our conversation regarding the proposed Island Sea Farms mussel operation in Evans Bay, Read Island I'd like to provide you with the following background information.

- Island Sea Farms currently operates in Gorge Harbour on Cortes Island but is proposing to move its operation to Read Island due to resident complaints concerning its noisy operation.
- A new license for the Read Island site was issued by the Province in July 2023. However, this license was issued "subject to compliance with local zoning."
- The proposed site is non-compliant with existing zoning. However, contrary to the requirements specified by the Province, Strathcona Regional District is refusing to enforce this zoning requirement. We have requested a public hearing on this issue, something that has been met by silence from Strathcona Regional District.
- The proposed operation will impact navigation in Evans Bay. However, we have heard nothing from Transport Canada and have not been given any opportunity to express our serious concerns regarding the navigational impacts of this proposed operation to anyone within this agency.

I can confidently state that all residents of Read Island are opposed to this operation. However, the process of seeking, hearing and respecting our viewpoints has been non-existent by all three levels of government. The Province placed responsibility on the Regional Government who has chosen to ignore the specified process regarding rezoning and public hearings. Transport Canada has been totally absent in this process.

I have attached the application from Island Sea Farms regarding this tenure. I have also copied Lannie and Ralph Keller on this note. Lannie and Ralph are Read Island residents who are spearheading community efforts to prevent this operation that is in conflict with the zoning regulations of our Rural Land Use Bylaw 1460. Lannie and Ralph have hired legal counsel to help fight this issue.

Elizabeth, what is happening is a travesty of justice and I sincerely hope you can alert the relevant players of our concern at every level of Transport Canada. Should you have any further questions please don't hesitate to contact myself, Lannie or Ralph.

Thank you,

Rosie

Aniko Nelson

From: Aniko Nelson
Sent: January 23, 2025 11:28 AM
To: Lannie Keller
Subject: RE: Further thought - and my request

Hi Lannie,

Thank you for your email.

I cannot recall off the top of my head if these reports were received; it is somewhat unlikely, but I will have staff have a look and get back to you.

Aniko Nelson
Senior Manager, Community Services

Strathcona Regional District
990 Cedar St. Campbell River, BC V9W 7Z8
T: 250-830-6708| C: 250-202-9990
E: anelson@srd.ca

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From: Lannie Keller <coastmtn@island.net>
Sent: January 23, 2025 8:37 AM
To: Aniko Nelson <ANelson@srd.ca>
Subject: Further thought - and my request

NOTICE: This email is from an external source.

Hello Aniko,

Thank you for your time and the insights you provided in yesterday's conversation.

I have remembered what I wanted to ask about: Has SRD been provided the three assessment reports (TC, DFO, and Prov BC) that were the basis of the dedicated decisionmaker's approval of this license? These will help us to analyze how application relates to the response.

If available, will you please share those three reports with us? Or, if necessary, can you, on behalf of SRD, request the reports from the Province?

Thanks,
Lannie

Aniko Nelson

From:	Lannie Keller <coastmtn@island.net>
Sent:	February 10, 2025 8:59 AM
To:	Mark Baker; Robyn Mawhinney; John Rice; Mark Vonesch; Gerald Whalley; David Leitch; Aniko Nelson
Cc:	Surge Narrows Community Association
Subject:	Request for SRD Action re Non-Compliant Aquaculture License #1401594
Attachments:	LETTER re Non-Compliant Aquaculture Lic #1401594.pdf; 1. Compiled Emails SRD & Prov BC (including highlights).docx.pdf; 2. SRD license zoning map - SRD GIS analyst Douglas Sauer.docx.pdf; 3. ISF License application - SEE annotations.pdf; 4. CL comment - example of a community letter.docx.pdf; 5. Example of a Significant Mapping Error.pdf; 6. Empty Reference - NO Agency Reports available.docx; 7. PROV BC- Reasons for Decision RFD - SEE annotations.pdf; 8. SRD Staff Report - SEE annotations.pdf

NOTICE: This email is from an external source.

To: SRD Board of Directors (attn: Mark Baker, Robyn Mawhinney, John Rice, Mark Vonesch, Gerald Whalley) and SRD Staff (attn: David Leitch and Aniko Nelson) Please forward as appropriate.

Dear SRD Directors and Staff,

The LETTER (document attached) is an explanation and a request for your attention and SRD action. This is a lingering situation that needs to be settled before it turns bad.

Outer island residents are concerned by both the permitted development and the Bylaw non-compliance. The letter is sent by members of the Keller family whose established business will be negatively impacted if the development proceeds. The situation is a little complicated, but also really simple. We hope the letter clearly presents our need for your action, and we request a reply.

Please feel free to contact Lannie Keller coastmtn@island.net, or Surge Narrows Community Association surgenarrows@gmail.com if you have questions or require further information.

Sincerely,
Lannie Keller

Read island
250-850-9787

10 February 2025

To: Strathcona Regional District Board
Attn: Mark Baker, Chair; EASC Directors Robyn Mawhinney, John Rice, Mark Vonesch, Gerald Whalley
Cc: David Leitch, CAO; Aniko Nelson, Community Services

Dear Board of Directors:

RE: File #1401594 -- Non-Compliant ISF Aquaculture License at Evans Bay, Read Island

Pursuant to an application under file number 1401594, an Aquaculture License (the "Licence") was conditionally approved by the province in June 2023, based on three Agency Reports (from Transport Canada, DFO, and ProvBC), in circumstances where the license area was and is not zoned by SRD for the use permitted by the License.

The Reasons for Decision in relation to that application state that: *A condition of the tenure is such that the tenure holder operate their tenure in accordance with all local zoning bylaws and all applicable laws, bylaws orders, directions ordinates and regulations of any government authority.*

In October and November 2022, communications with the Provincial Aquaculture Specialist (Carlos Burgo) and SRD planner (John Neill) verified this application's non-compliance with local zoning.[1] Both authorities also confirmed communication with the applicant re the need for rezoning. Mr. Burgo asserted that "a tenure would not be offered if the area cannot be brought into compliance with off bottom shellfish aquaculture" and that the province "will defer completely to the SRD on zoning requirements." He also said that "In the spirit of efficient and timely decision making" the province would continue their review process but "will not be able to make a final recommendation until the rezoning process undertaken by SRD is complete."

More recently, on August 28, 2024 Mr. Burgo wrote: "*In response to your question on zoning, as stated in previous correspondence the onus to inform the Province of non-compliance lies with the Regional District. We have yet to receive any notification that the tenure has been issued a notice of non-compliance with zoning bylaws. "*

While SRD stated that they have no authority to force the applicant to apply for rezoning, we understand SRD Planner John Neill communicated early-on with the licensee about the need for zoning, and recommended action. To us, he said that "when an application for rezoning is received, it will be processed in the usual way, which will involve a **public hearing** prior to any zoning change being implemented."

Although the Licensee has been made aware of the conditional requirement by both the Province and the SRD, there has been no rezoning application filed. It is now 18 months since the License was issued and there is also no new development at the site; however, there is real concern that the Licensee may choose to install infrastructure without proper zoning in place, at which point undoing this wrongful situation will become more difficult.

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[1] Compiled emails document. Certain text in this document and has been highlighted in red by the authors of this letter (the "authors").

We request that SRD take immediate action as follows:

- **re-inform the Licensee of noncompliance with zoning bylaws and the requirement for appropriate rezoning ahead of any activity on site;**
- **inform the Province of non-compliance by verifying that the tenure holder has been issued a notice of non-compliance with zoning bylaws;**
- **procure the reports submitted by DFO, Transport Canada, and the Province; and make the reports available for public examination and for consideration by the SRD in any zoning application;**
- **communicate with the Province to determine which agency is responsible for oversight and enforcement when a Licensee is operating out of compliance with their terms of their Licence;**
- **communicate with the Province to learn what, if any, regulations or guidelines operate for revoking a License that is non-compliant; and**
- **ensure a public hearing is held with respect to any future re-zoning application.**

The map below from SRD GIS analyst Douglas Sauer shows SRD zoning for the area.[2] The darker blue area (4 ha, 1985) was (and still is) zoned AQ3 for finfish aquaculture in the 1993 Rural Land Use Bylaw 1460. Thereafter, the Provincially licensed area changed hands four times. Circa 1996, the license area was enlarged (4 ha to 7.2 ha) and at that time *the document map was relabelled* AQ2. This change (re-zoning via re-labelling) is undocumented at SRD, where there is no record of receiving a referral notice, and there was no rezoning application.

Any rezoning at that time should have required a public hearing. This did not occur. In fact, the larger hatched area currently proposed is *not zoned* for any use except AC2 which is public access. *It is noteworthy that the larger un-zoned area has also never been developed or used.* For zoning compliance, the License requires AQ2 zoning over the entire license area.



Mr. Burgo specifically advised us to focus our comments on the need for rezoning. He said with certainty that local zoning compliance was essential to there being a valid Licence.

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[2] Douglas Sauer SRD GIS analyst – email containing maps.

As a community we believed that the required public hearing would offer real opportunity to present and explain the application's errors, omissions, safety, environmental, and other community concerns, and this would be where a strong case could be made to disallow the rezoning.

Mr. Burgo assured us the restrictive condition in the license guaranteed due process for the community and all involved parties, and therefore a fair outcome.

Non-compliant zoning is not the only problem with this proposed aquaculture facility. The License Application contains significant factual errors[3] that have not been addressed. The Province was alerted to many of these issues by concerned citizens[4] (46 comments received); however it appears the three agencies failed to identify factual errors and/or may have included misrepresentations in their analyses and reports. Mr. Burgo acknowledged there were mistakes in the application, but said the Province had corrected misinformation so that assessments could proceed.

While we don't know what was corrected, there are some glaring problems[5] with the information submitted. Additionally, we understand that there are reports[6] that apparently fail to properly consider navigation, safety, environment, other users, other economic activities, and community priorities identified in Bylaw 1460.

This has been a long and frustrating exercise for our community. It also seems to be a test of Bylaw 1460, and we hope SRD will help to resolve our current concerns through Bylaw enforcement.

<u>RE the License Application and Provincial approval process:</u>

The Application (attached item 3) cites the need to relocate noisy operations away from tenure space in Gorge Harbour (Cortes Island, Area B) where there have been many community complaints from upland owners and summer boaters. The Licensee's goal was to relocate at a more remote site where there is less opposition to the industrial activity.

Our community has experienced more than several instances of "wild-west" management of public resources, possibly because Read Island is semi-remote and oversight is more difficult. For this reason, the community is vigilant and we strongly assert that this is also a biologically diverse, valuable, and incredibly beautiful place that deserves extra care. We are especially not happy being identified as the Plan B backwater where nobody cares.

In addition to other (careless or perhaps intentional) omissions and errors in the License Application, the leading statement is misleading and inaccurate: it claims to be *"for a replacement of the existing (expired) tenure, along with an amendment (addition) of infrastructure and a change of business name (assignment)".*

It is critical to note that the "existing expired tenure" is and always has been noncompliant with local zoning: The only area that has ever been used for aquaculture is *improperly zoned* AQ3. The additional

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[3] See Application with annotations by the authors in red text.
[4] See example, CL letter.
[5] Example of a significant mapping error.
[6] These reports have been requested but never provided by the Province or the DFO or Transport Canada.

area identified in the application *has never been zoned for aquaculture,* and *it has also never been used.*

The application area, which the province has now approved and licensed for use as of June 2023, is much bigger and also fundamentally different than any previous use of this site. If the new License is activated, it will dramatically change the nature of the area, and there will be navigation safety and other negative impacts, local and beyond. **Moreover, it will be activated in the absence of proper zoning.**

In early summer 2023 the Province's dedicated decisionmaker, Jessica Outhwaite, approved the License, by Reasons for Decision that were based on the Application, 46 community comments describing inaccuracies and other concerns, and three reports provided by DFO, Transport Canada (TC) and the Province[7]. Given the remoteness of the location, and given that none of the agencies could provide any details, we are very concerned that there was no on-site inspection performed as a basis for any of the agency reports. It also appears that community comments were not considered in context by the 3 agencies and the decisionmaker.

In a transparent process, the various agency reports should be public documents. None of these reports were provided on request. These documents would clarify what the decisionmaker considered; determine whether the errors and omissions were considered or overlooked, and how (or if) the community concerns were addressed.

When he alerted us to issuance of the License, Mr. Burgo acknowledged that community would be disappointed, but assured us that local zoning would be our remedy because the License was issued *conditional* on compliance with local zoning: again, the Licence states that ***"A condition of the tenure is such that the tenure holder operate their tenure in accordance with all local zoning bylaws and all applicable laws, bylaws orders, directions ordinates and regulations of any government authority."***

We understand that SRD wished to confirm their own authority to enforce local zoning, and sought legal advice to clarify Federal and Provincial regulations that complicate jurisdiction. While there are some limitations, it was determined (bit.ly/AquacultureAuthority) that SRD's role and duties include the following:

- **Provides a vision, goals and guidelines for aquaculture** through Official Community Plans [or Rural Land Use Bylaw 1460.]
- **Zones the surface of the water** and regulates permitted uses (e.g. sorting, grading, harvesting and processing), height of buildings and structures on rafts, lot areas and setbacks (distance from land zoned residential).

To be compliant with local zoning, this application requires Aquaculture AQ2 designation over all of the water-surface area involved. SRD has confirmed their jurisdiction through the recent legal opinion described in Staff Report, May 2024[8]

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[7] ProvBC - Reasons for Decision – Annotations in red are the authors'.

[8] SRD Staff Report, May 2024 – Yellow highlighting and comments in blue text are the authors'.

We point out again that the Aquaculture Zoning required by Rural Land Use Bylaw 1460 does not contravene SRD's authority to regulate activities on the surface of the water; and that furthermore, SRD has a duty to require and enforce appropriate zoning.

Aside from all of the above, our immediate family personally stands to lose. Since 1988, we have operated Coast Mountain Expeditions, a kayak touring company based at our home in Evans Bay. We are the island's largest employer, offering nature-based activities dependent on wilderness ambience. The increase in size and new industrial activities of this License will significantly impact and jeopardize our operation.

We want to believe that local government is a community-driven effort to protect what sustains us and to balance human impacts with rules that moderate our activities. In this case, significant information was incomplete or inaccurate, and that information formed the basis for the granting of the Licence. Additionally:

- Ms. Outhwaite could not properly consider the cumulative impacts of the expanded use proposed, because the License Application did not accurately portray the minimal infrequent previous activity that was always only within the AQ3 zoned portion of the proposed tenure.

- The Reasons for Decision do not include awareness (or acknowledge the significance) of the non-compliant and non-existent SRD zoning for the proposed area.

We are willing to provide further information in writing, or as a delegation to the Board. We have retained counsel and our further action will be informed by SRD's response to this letter.

Sincerely,

Lannie, Ralph, and Albert Keller
Surge Narrows, BC
250-850-9787

REFERENCES (Files are attached to letter email; several include special notes)

1. Compiled emails SRD & Prov BC (including highlights)
2. SRD License zoning map SRD GIS analyst Douglas Sauer
3. ISF License Application - SEE annotations
4. CL comment - example of a community letter with many issues identified
5. Example of a significant mapping error
6. Empty reference: Reports have been requested but never provided by the Province or DFO or TC.
7. ProvBC - Reasons for Decision SEE annotations
8. SRD Staff Report – SEE annotations

Emails to & from Prov BC and SRD **2022 Oct 03** through **2024 Aug 28**

-chronological with earliest message at the bottom of the doc
- red text highlights

From: Burgo, Carlos WLRS:EX <Carlos.Burgo@gov.bc.ca>
Sent: August 28, 2024 8:50 AM
To: 'Lannie Keller' <coastmtn@island.net>**Cc:** Surge Narrows Community Association <surgenarrows@gmail.com>
Subject: RE: Evans Bay Aquaculture Expansion proposal

Hello Lannie,

I apologize that you never received a response from Jessica Outhwaite. During this time Jessica was dealing with a personal emergency that required her to take extended leave. Jessica has moved onto a new role and is not currently the Section Head for Aquaculture.

I have attached the Reason for Decision document to this email, which outlines the considerations in Jessica Outhwaite's decision on this application. The reasons for decision is posted online on the Application and Reason for Decision webpage. I also provided you this document via email on June 11th 2023. This document is the publicly available report outlining decisions under the *Land Act*.

I can confirm that all comments from the member of the public were reviewed and considered by the decision maker. We received a total of 46 comments from members of the public, due to personal information included in public comments I am unable to release the comments received by the Province.

In response to your question on zoning, as stated in previous correspondence the onus to inform the Province of non-compliance lies with the Regional District. We have yet to receive any notification that the tenure has been issued a notice of non-compliance with zoning bylaws.

Regarding your request for DFO and Transport Canada, please contact those agencies for questions relating to their agencies review of the application. Transport Canada can be reached at npppac-ppnpac@tc.gc.ca while Ocean and Fisheries Canada can be reached at DFO.AQSF-AQMC.MPO@dfo-mpo.gc.ca.
Thank you,

BRITISH COLUMBIA

Carlos Burgo|
Senior Authorizations Specialist, Aquaculture
Ministry of Water, Land and Resource Stewardship
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

From: Lannie Keller <coastmtn@island.net>
Sent: Monday, July 29, 2024 12:46 PM
To: Burgo, Carlos WLRS:EX <Carlos.Burgo@gov.bc.ca>
Cc: Surge Narrows Community Association <surgenarrows@gmail.com>
Subject: FW: Evans Bay Aquaculture Expansion proposal

Hello Carlos,

We're all sorry that this issue is not going away! In looking for reference info (Land File #1401594) I happened to open this email and it seems that we are still asking for the same information that was requested a year ago. Your response suggested that Ms Outhwaite would reply, but she did not ever connect or respond to any concerns raised by community members. This is disappointing, but we are still here and still asking the same questions. (Note that a year ago DFO was unable or unwilling to provide any site specific information, and I've been unable to find any record of any site visits.)

Also note that in the meantime, nothing has changed: The licensee has not filed any request for rezoning. There has been occasional minimal activity at the site, but no additional infrastructure. No marker buoys or any marking of the license area.

Please send copy of the three reports filed by Transport Canada, DFO and the Province that were used to inform the decision to grant this license. Please also send information that substantiates Jessica Outhwaite's consideration of the many issues and application errors that were identified by community members. [Mr. Burgo did not respond to this request.]

Thank you for forwarding this to whomever can help supply what we need.

Sincerely,
Lannie Keller

From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: August 8, 2023 1:52 PM
To: Lannie Keller <coastmtn@island.net>
Subject: RE: Evans Bay Aquaculture Expansion proposal
Hello Lannie,

I am sorry we have not been able to reach each other on the phone recently. Many of your questions involve internal information and request from other agencies. I have forwarded your questions to Jessica Outhwaite the decision maker for this file. She is currently out of the office, but will respond when she returns from her time off.

I would suggest reaching out to Ocean and Fisheries Canada at DFO.AQSF-AQMC.MPO@dfo-mpo.gc.ca in the meantime, they will be able to speak more directly to your questions related to their jurisdiction.

Thank you,

BRITISH COLUMBIA
Ministry of Forests

Carlos Burgo|
Authorizations Specialist, Aquaculture
Ministry of Forests, West Coast Region
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

From: Lannie Keller <coastmtn@island.net>
Sent: Thursday, August 3, 2023 2:12 PM
To: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Cc: Surge Narrows Community Association <surgenarrows@gmail.com>
Subject: Evans Bay Aquaculture Expansion proposal

Hello Carlos,

Thanks for your attempts to connect by phone. This is a difficult time of year for me to engage because it's high summer work season here. I just left you a phone message, including a few requests for information. I am copying the SNCA and I am still acting as community liaison regarding this application/license.

I am still trying to connect with John Neill at SRD re his outreach to the licensee reminding/advising Mr. Simpson that the recently granted license is subject to rezoning. Apparently it is now up to the Licensee to file a rezoning application – and John Neill says that SRD have no power to enforce that requirement, or to enforce the zoning.

For the community this feels like a Catch 22. We are still looking for a reasonable solution, and becoming increasingly frustrated with how this situation has played out.

My questions:

IF there is a rezoning application and it is not successful (i.e. denied) then what happens next?

You said that DFO would be the patrolling agency and that they had looked at the site recently. When exactly did DFO came out to inspect the site, and may we please see their report?

May we see the recommendations made to the Decisionmaker by TC and DFO, as well as the report you filed on behalf of the Province?

Did the Decisionmaker receive all of the community letters and how were they considered, mitigated or dismissed? (How many were there and where are they filed – can we see them?)

I'll be happy to speak with you by phone 250-850-9787 or receive your answers by email. I'm not easy to catch at the phone, so if you want to talk (I'd like that) perhaps we can plan a time? My day tomorrow is flexible if there is a time that's good for you.

Thanks,
Lannie Keller

From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: July 11, 2023 10:00 AM
To: Lannie Keller <coastmtn@island.net>
Cc: Outhwaite, Jessica FOR:EX <Jessica.Outhwaite@gov.bc.ca>
Subject: Reasons for Decision-Shellfish Aquaculture application, Land File # 1401594

Good Morning Lannie,
Please see attached the reasons for decision on the application for Land File #1401594. As we discussed earlier I am using you as a point of contact for the Surge Narrows Community Association. If you would like to provide an email for the Surge Narrows Community Association, I can also distribute this document directly.
Thank you,

BRITISH COLUMBIA
Ministry of Forests

Carlos Burgo|
Authorizations Specialist, Aquaculture
Ministry of Forests, West Coast Region
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

June 29
Hello Lannie,
The recommendation on the application is currently with the decision maker. We will be able to provide an update as soon as the decision maker has finalized their decision.

Thank you,

BRITISH COLUMBIA
Ministry of Forests

Carlos Burgo|
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[John Neill@SRD.ca 2023-06-28]:
I have not heard anything further on this, Lannie.
Regards,
John

From: Lannie Keller <coastmtn@island.net>
Sent: Wednesday, June 28, 2023 07:51
To: John Neill <JNeill@srd.ca>; 'Burgo, Carlos FOR:EX' <Carlos.Burgo@gov.bc.ca>
Subject: Query RE Aquaculture Application #1401594 (Evans Bay, Read Island)

Hello John and Carlos,
One more time... requesting an update for the Surge Narrows Community.
Are there any new activity or communications to report?
Has the Province completed its review?
Any thoughts on what's happening – or not happening?
Is this an indefinite process or does the application expire if it's inactive for some period of time?

Thanks,
Lannie
250-850-9787

[John Neill@SRD.ca 2023-04-04]:
Hi Lannie – no rezoning application has been received by the SRD as yet.
Regards,
John

From: Lannie Keller <coastmtn@island.net>
Sent: Tuesday, April 4, 2023 11:01
To: John Neill <JNeill@srd.ca>; 'Burgo, Carlos FOR:EX' <Carlos.Burgo@gov.bc.ca>
Subject: FW: Aquaculture Application #1401594 (Evans Bay, Read Island)

Hello John and Carlos,
This is another query on behalf of the Surge Narrows community with a request to please provide any new information regarding this application

Have there been any communications or other activities since January 24th?

Do you have any indication of what's happening, and/or timeline?

Can we ask that you inform us if there is action on the file – or is it better that we continue to ask?
Thank you,
Lannie Keller, 250-850-9787

From: Lannie Keller <coastmtn@island.net>
Sent: January 24, 2023 4:00 PM
To: 'John Neill' <JNeill@srd.ca>; 'Burgo, Carlos FOR:EX' <Carlos.Burgo@gov.bc.ca>
Subject: RE: Aquaculture Application #1401594 (Evans Bay, Read Island)

Thanks to both of you. We will just keep watching and asking!
Lannie

From: John Neill <JNeill@srd.ca>
Sent: January 24, 2023 2:42 PM
To: Lannie Keller <coastmtn@island.net>; 'Burgo, Carlos FOR:EX' <Carlos.Burgo@gov.bc.ca>
Subject: RE: Aquaculture Application #1401594 (Evans Bay, Read Island)

Not yet, Lannie.
Regards,
John

From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: January 24, 2023 3:16 PM
To: Lannie Keller <coastmtn@island.net>; 'John Neill' <JNeill@srd.ca>
Subject: RE: Aquaculture Application #1401594 (Evans Bay, Read Island)

Hello Lannie,

I can confirm that the applicant has been made aware of the zoning issue.

I do not have an update I can provide on this application, review is still currently ongoing.

Thank you,

Carlos Burgo |
Authorizations Specialist, Aquaculture
Ministry of Forests, West Coast Region
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

From: Lannie Keller <coastmtn@island.net>
Sent: January 24, 2023 12:57 PM
To: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>; 'John Neill' <JNeill@srd.ca>
Subject: Aquaculture Application #1401594 (Evans Bay, Read Island)

Hello John and Carlos,

It's time for me to submit another update for the Surge Narrows community newsletter. I'm not sure which of you may have definitive info, so am asking both of you for news.

John, has the SRD received a rezoning application?

Carlos, is the applicant informed that this is a requirement – and are there any other developments wrt this application?

Thanks to both of you for any other information you may be able to offer.
Best regards,
Lannie Keller
250-850-9787
From: John Neill <JNeill@srd.ca>
Sent: November 30, 2022 9:31 AM
To: Lannie Keller <coastmtn@island.net>
Cc: Meredith Starkey <mstarkey@srd.ca>
Subject: RE: Aquaculture application 1401594 - rezoning process

Hi Lannie – yes, once an application for rezoning has been received from the SRD, it will be processed in the usual way which *will* involve a public hearing prior to any zoning change being implemented.
Best regards,
John

From: Lannie Keller <coastmtn@island.net>
Sent: Tuesday, November 29, 2022 19:25
To: John Neill <JNeill@srd.ca>
Subject: Aquaculture application 1401594 - rezoning process

Hi John,

I'm sorry if this is bothersome, but community is looking for definite assurance about this application process and the info from Province and SRD is still a little confusing.

You said that there are some circumstances where applications are approved by the Province, even in contravention of local zoning. Carlos Burgo (MoF authorizations specialist Aquaculture) has been helpful with information and says this application approval is dependent on zoning compliance, which requires rezoning application and a "potential" public hearing. The wording of his statement about the Province having "*indicated*" [to the licensee] "that a tenure would not be offered if the area cannot be brought into compliance with off bottom shellfish aquaculture" is somehow not totally reassuring. However, he also says that "we [the Province] will defer completely to the SRD on zoning requirements. For confirmation that a public hearing is required please contact the SRD." (You can read his email, below.)

So this is to once again, ask that of you. And also to ask if there is any possible situation in which SRD would employ or allow a zoning change mechanism that sidesteps the regular tenure application process? I hope you can also confirm that the next (absolutely-required!) step is simply for the SRD to receive the application from the tenure holder, and that the community can rest-easy except to be ready for attending a public hearing sometime in the Spring?

Thanks very much.
Lannie Keller

From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: November 29, 2022 11:50 AM
To: Lannie Keller <coastmtn@island.net>
Subject: RE: Carlos Burgo Email contact

Hello Lannie,

Thank you for reaching out for further clarification. As we discussed in our last conversation, each agency is currently reviewing this application. The Province cannot make a comment on the status or timeline of other agencies review. I can say that I am at the early stages of review and no decision is imminent from the Province. Only once all agencies reviews are complete, will a final harmonized decision on this application be put forward.

I wanted to clarify the role of Strathcona Regional District in this application, the SRD is not part of our harmonized team consisting of Transport Canada, Oceans and Fisheries Canada, and the Province of B.C. While conducting our review we have been made aware of non-compliance zoning when referring this application to the SRD. The applicant has been made aware of this and we have indicated that a tenure would not be offered if the area cannot be brought into compliance with off bottom shellfish aquaculture. The zoning of the site falls under SRD jurisdiction, however they will not be reviewing the shellfish aquaculture application.

The rezoning and potential public hearing is not a process that the Province will be involved in directly. We may attend public hearings as an observer or be in contact with the SRD on the timeline of rezoning, however we [the province] will defer completely to the SRD on zoning requirements. For confirmation that a public hearing is required please contact the SRD.

In the spirit of efficient and timely decision making, the Province will not pause our review and will continue to evaluate this application based on the Province's jurisdiction. If we do reach a decision before rezoning is complete, we will not be able to make a final recommendation until the rezoning process undertaken by SRD is complete.

Please let me know if you have any further questions.

Thank you,



Carlos Burgo|
Authorizations Specialist, Aquaculture
Ministry of Forests, West Coast Region
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
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From: Lannie Keller <coastmtn@island.net>
Sent: November 24, 2022 5:34 PM
To: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Subject: RE: Carlos Burgo Email contact

Hello Carlos,

Thank you for speaking with me again yesterday. I'm gathering information for the Surge Narrows/Outer Discovery Islands' monthly newsletter. The community is interested in the progress of this application and requesting information about the rezoning, and certainty about the opportunity for public hearing.

John Neill, Planner at SRD said that Regional District is aware of this application, and SRD is waiting for direction. Because the zoning is non-compliant, he said the normal next step is SRD rezoning, a process that is triggered by a request from the applicant. **The applicant however, only makes that request after being told by the Province that rezoning is required.** John Neill also said there are some circumstances where applications are approved by the Province, even in contravention of local zoning. You have said there are four agencies that need to approve the application (prov BC, DFO, TC and SRD) and provided verbal assurance that a rezoning application will be required.

The reviews being conducted by DFO, TC, and (by you, for) the Province are currently underway, and we understand this will take several months. Is the rezoning requirement (including public hearing) based on approval of the three agencies? We are confused why (if as you say) zoning is the most likely to disapprove, then why isn't the zoning OK confirmed first of all? We're mostly curious about the process, but we would appreciate your written assurance that a rezoning application and public hearing WILL BE REQUIRED for this tenure change.

Thanks very much,
Lannie Keller
Surge Narrows

From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: October 4, 2022 3:10 PM
To: Lannie Keller <coastmtn@island.net>
Subject: RE: Carlos Burgo Email contact

Hello Lannie,

The contact at SRD for public inquiries regarding rezoning is John Neill. His email is JNeill@srd.ca.
Cheers,
Carlos Burgo

From: Lannie Keller <coastmtn@island.net>
Sent: October 3, 2022 7:04 PM
To: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Subject: RE: Carlos Burgo Email contact
Thanks, Carlos.
You have the correct email address and I'll look forward to (hopefully) a contact at SRD.
Cheers,
Lannie

From: Burgo, Carlos FOR:EX <Carlos.Burgo@gov.bc.ca>
Sent: October 3, 2022 2:36 PM
To: coastmtn@island.net
Subject: Carlos Burgo Email contact

Hello,
Sorry I was just taking another call when you called.
Please feel free to reach out to me if you have any more questions. I will get back to you regarding the Regional District referral.
Thank you,

Carlos Burgo|
Authorizations Specialist, Aquaculture
Ministry of Forests, West Coast Region
142 – 2080 Labieux Rd | Nanaimo BC V9T 6J9
Tel: 250-739-8441 | Fax: 250-751-7234
Toll Free Phone: 1-877-855-3222 Freedom of Information Disclaimer

SRD analysist Douglas Sauer provided maps to prove the smaller area-in-use is zoned AQ3 (finfish) and the additional [*heretofore unused*] application *area is indicated* on the map, but IT IS NOT (and never has been) ZONED for any kind of aquaculture. The application area outside the AQ3 (area-in-use) is zoned for Access AC2. To be compliant with local zoning, this application requires Aquaculture AQ2 designation over all of the water-surface area involved.

From: Douglas Sauer <dsauer@srd.ca>
Sent: Thursday, September 29, 2022 10:36 AM
Subject: Evan's Bay foreshore license

Here's some info from Evan's Bay re. zoning and provincial foreshore application areas.
DL1656 foreshore tenure area shown in hatched blue below:

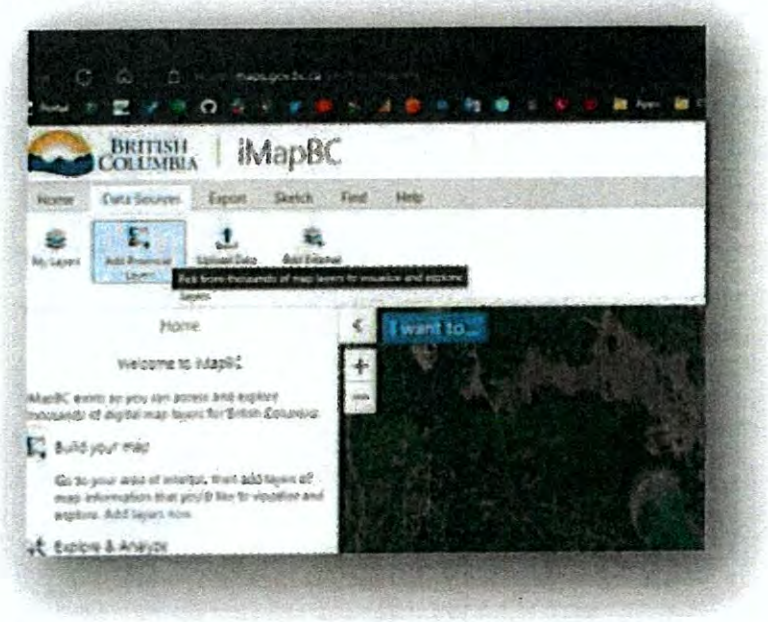


Here is SRD zoning for that same area:



You can access AQ-3 zone info via https://srdzones.s3.amazonaws.com/1460/AQ-3.pdf

The provincial map application that allows you to explore tenure areas is called iMapBC.
It is available online at https://maps.gov.bc.ca/ess/hm/imap4m/
You can search and add map layers via Data Sources ribbon > Add Provincial Layers:



Here, you can search for keywords or terms of interest to add to map then inquire further as to each individual piece of interest.

Hope this is useful info.
If you need any other mapping supports don't hesitate to get in touch.

Regards,

Strathcona Regional District

Douglas Sauer
GIS Analyst
990 Cedar St. Campbell River, BC V9W 7Z8
250.830.6721 | dsauer@srd.ca

The SRD is a proud partner in the CONNECTED COAST project, bringing fibre optic high-speed internet to rural & remote communities along the BC Coast & around Vancouver Island.

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RECEIVED
DEC 19 2019
Ministry of Forests, Lands, Natural Resource Operations & Rural Development

~~Rec'd as Replacement & Assignment~~
~~2021-11-18 KM~~
Canada
Rec'd as Replacement, Assignment & Amendment 2022-02-02

FOR INTERNAL USE	
File Number: 1401594	Project Number: 557357 614451
Disposition Number:	Client Number:

PACIFIC SHELLFISH AQUACULTURE AMENDMENT APPLICATION

MINISTRY OF FORESTS, LANDS, NATURAL RESOURCE OPERATIONS AND RURAL DEVELOPMENT
FISHERIES AND OCEANS CANADA
TRANSPORT CANADA

LK COMMENTS
SEE RED TEXT BELOW

Prior to completing this application refer to approved Federal Aquaculture Licence and Provincial Site Management plans for details on currently approved activities at the site. If you require a copy, please contact WestCoast.LandReferrals@gov.bc.ca

PART I – GENERAL INFORMATION

Any time you see this symbol, hold mouse pointer over top and additional information will appear.

For each question, select only one check box or circle unless otherwise directed.

PART I - SECTION A1: SUMMARY

Provide a general overview of the proposed amendment: This does not accurately describe the situation

**** This application is for a replacement of the existing (expired) tenure, along with an amendment (addition) of infrastructure and a change of business name (assignment).**

Island Sea Farms Inc. founded in 1996, is a mussel farming company with a hatchery on Saltspring Island, grow-out operations on Cortes and Read Islands and processing operations in Campbell River. The company employs 45 people and exports live mussels to the US and Asia.
In recent years as production volumes have grown the company has acquired more tenure space primarily in the Gorge Harbour on Cortes Island. However, as the operation has grown and production during the summer months has become increasingly important, there has been some noise complaints from upland owners despite the company employing expensive sound dampening technology. In addition, a large amount of pleasure boats arrive in the summer increasing number of stakeholders. (Please don't move your Cortes community problem to our front yard!!)
In 2018 the company purchased the assets of Evan's Bay Oyster Company which includes a shellfish tenure in Evan's Bay (Land File # 1401594). Island Sea Farms through its wholly owned subsidiary, Evan's Bay Oyster Co, requests an amendment to allow for the management plan to better accommodate mussel culture. Specifically, the amendment application address re-orientating rafts to East to West rather than North to South, running the width of the lease rather than the length of the tenure. This is a 600% increase in activity!
We therefore are also applying to increase the number of rafts (+64) in the original management plan, along with associated anchors and rock pins, as well as vertical predator netting. We are not applying for an increase in tenure size or additional aquaculture species. These changes to our management plan would facilitate moving production out of the Gorge Harbour during the summer when it is busy with recreation boating and cottagers.

Additional Pages or Supporting Material Attached: ○Yes ○No

PART I - SECTION A2: AMENDMENT TYPE (CHECK ALL THAT APPLY)

☐ **Tenure Area Change**	
☐ Expansion	Complete the following: PART I PART II PART III: Section B PART IV PART V
☐ Reduction	Complete: PART I PART IV PART V
☑ **Infrastructure**	
☑ Addition or Expansion of Infrastructure ☑ Change meets conditions of "Incidental Aquaculture Use" (IAU) ?	Complete the following: PART I: Sections A. B, C, E (maps 3 & 4), F & G PART II: unless Incidental Aquaculture Use PART III: Section B PART IV PART V
☐ Removal or Reduction of Infrastructure	Complete the following: PART I: Sections A, B, C, E (map 3), F & G PART V
Culture Type and/or Culture Area	
Addition of new Culture Type or Change to Culture Area	Complete the following: PART I: Sections A, B, C, E (maps 3 & 4), F & G PART III: Section B PART V
☐ Removal of Culture Type	Complete the following: PART I: Sections A, B, C, E (map 3) F & G PART V
☐ **Species and/or Production** Growing mussels is different than oysters. Is 600% increase allowed in previous plan??	
☐ Addition of Species OR Increase in Production greater than approved in shellfish fish management plan	Complete the following: PART I: Sections A, B, C, E PART III: Section A PART V
☐ Removal of Species	PART I: Sections A, B, C, List Species To Be Removed: PART V
☐ **Substrate Modification**	Complete the following: PART I: Sections A, B, C, E (map 3), F, & G PART III: Section B PART V

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PART I - SECTION B: APPLICANT INFORMATION

1. Licence Information

Licensee Name(s): Island Sea Farms Inc.

Mailing Address:	**Telephone:** (250) 538-8591
PO Box 3166 Courtenay BC V9N 5N4	**Cell:** (250) 537-6997
	Fax:
	Email: paul.simpson@islandseafarms.com

BC Inc. #, BC Registration # or BC Society #: 898794896 ☐ Not Applicable

Physical Business Address: ☐ Same as Mailing Address

576 Walker Hook Rd
Saltspring Island
V8K1N6

2. Primary Contact Information: ☐ Same as Licensee

Name: Paul Simpson	**Telephone:** (250) 537-6997
Title: President	**Cell:** (250) 537-6997
Email: paul.simpson@islandseafarms.com	**Fax:**

3. Agent/Representative Information: ☐ Not Applicable

Name:	**Telephone:**
Email:	**Cell:**
Letter of Authorization Enclosed ○Yes ○No	**Fax:**

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PART I - SECTION C: SITE GENERAL INFORMATION

1. **DFO Facility Reference Number:** AQSF 114270
2. **Land File Number:** 1401594
3. **Navigation Protection Program Number:**
4. **Site Common Name:** Evan's Bay

PART I - SECTION D: LICENSED AREA CHANGE

1. **Land Ownership and/or Tenure Type:**

☑ Provincial Crown Land Tenure (if Crown land: ○ Lease ✓ Licence of Occupation ○ Investigative Use Licence)

☐ Private Land ☐ Federal Land ☐ Harbour Authority ☐ First Nation Reserve

☐ Other (describe): The additional area has never been used and is not zoned for aquaculture. The previous only area that has EVER been used is less than half the size proposed, and is currently zoned wrong for the use. .

2. **GPS coordinates for the center of the application area / tenure (Report in Degree Decimal Minutes):**

Latitude (DD DD.ddddd): 50 degrees 12.328 N

Longitude (DD DD.ddddd): 125 degrees 4.5454W

3. Estimated Application Area	CURRENTLY LICENSED (hectares)	PROPOSED CHANGE +/- (hectares)	PROPOSED CUMULATIVE TOTAL (hectares)
Total Area of Site	7.20 <4h was ever "developed"	0 effectively adding 3 + ha, much heavier use	7.2

PART I - SECTION E: MAPS, DIAGRAMS AND ADDITIONAL REQUIRED DOCUMENTS

Check each box to confirm attached	Attach the following maps, diagrams and documents. All documents must be titled, and maps must have a scale. Please refer to the Mapping Descriptions and Sample Mapping in the Guide to Pacific Shellfish Aquaculture Application.
☑	1. **General Location Map:** A map at a scale of 1:50,000 to 1:100,000 indicating the general location of the area under application, noting the location of significant geographic features, such as a lake, mountain, road, community, etc.
☑	2. **Application Area Map (submit one of the following):** at least some of the application MAPS are significantly NOT ACCURATE a) **Shape file:** attach a shapefile or .kmz geo-referenced to BC Albers Project (NAD 83), and including a reference map with a Point of Commencement **OR** b) **Metes & Bounds:** A map showing a UTM/latitude and longitude of a point of commencement (POC) and a corresponding text description on a separate piece of paper that describes the metes and bounds of the proposed shape.
☑	3. **Top View Operational Diagram:** A CHS Marine chart at the largest scale available for the project location that clearly shows the location of all planned infrastructure in relation to the bathymetry at the site (include more than 1 diagram if necessary).
☑	4. **Side View Operational Diagram, based on the culture type:** A scaled schematic diagram(s) showing a side view of the proposed operation, which includes all infrastructure.

PART I - SECTION F: FIRST NATIONS CONSIDERATION

Canada and the Province of British Columbia are legally obligated to consult and, where appropriate, accommodate First Nations on decisions that could impact treaty rights or aboriginal rights and title ("Aboriginal Interests"). Federal and Provincial decision-makers are responsible for ensuring adequate and appropriate consultation and accommodations.

For more information please review the information available on the Ministry of Forests, Lands, Natural Resource Operations and Rural Development website: 'Consulting with First Nations'; specifically proponents are advised to review: "Guide to Involving Proponents When Consulting First Nations" (http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations).

Proponents are encouraged to engage with First Nations as early as possible in the planning stages to build relationships and for information sharing purposes. You may use the Province's Consultative Areas Database to identify which First Nations to engage: http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations.

Is a summary of information sharing attached? ○ Yes ○ No ???

PART I - SECTION G: CULTURE AND INFRASTRUCTURE INFORMATION

1. Culture Type /Area Change:

CULTURE TYPE	EXISTING AREA (hectares)	PROPOSED CHANGE (+/-) (hectares)	PROPOSED CUMULATIVE TOTAL (hectares)
☐ Intertidal Beach Culture			
☑ Deepwater Suspended Culture	7.20	0.00	7.20
☐ Subtidal On/In Bottom Culture	These measures misrepresents the actual situation.		

For Subtidal also complete:	a) What is the maximum subtidal culture depth within the proposed application area (m)?
	b) How much of the application area has depths greater than 30 m (hectares)?

Shellfish aquaculture conditions of licence prohibit the introduction of refuse into the marine environment. Do you have a plan in place to manage your infrastructure, gear and equipment to minimize the generation of debris and ensure any debris generated does not enter the marine environment? ● Yes ○ No

PART I - SECTION G: CULTURE AND INFRASTRUCTURE INFORMATION CONTINUED:

2. **Infrastructure:** Complete the table below for all licensed and requested infrastructure. Refer to the approved Shellfish Site Management for details on currently approved structures at the site. Where applicable, note the quantity and dimensions of each structure.

STRUCTURE	CULTURE TYPE	CURRENTLY LICENSED AREA (m^2)	PROPOSED CHANGE	DIMENSIONS OF EACH NEW STRUCTURE	PROPOSED TOTAL AREA OF STRUCTURE(S) (m^2)
e.g. Culture Rafts	☑ *Deepwater*	*1000*	*+ 10 rafts*	*5 m x 5 m*	*1250*
Living Accommodation	Deepwater				
Work Float with Toilet	Deepwater				
Work Float(s)	Deepwater				
Culture Rafts	Deepwater	642	+64	7.3m X 7.3m	4,043
Longlines	☐ Intertidal				
	☐ Deepwater				
	☐ Subtidal				
Predator Netting	☐ Intertidal				
	☑ Deepwater	1,669	+12	91.7x9.1	11,683
	☐ Subtidal				
Predator Protection Tubes	☐ Intertidal				
	☐ Subtidal				
Rack and Bag	☐ Intertidal				
	☐ Subtidal				
Vexar Fencing	☐ Intertidal				
	☐ Subtidal				
Floating Upweller System (FLUPSY)	Deepwater				
Other (Explain):	☐ Intertidal				
	☐ Deepwater				
	☐ Subtidal				

PART I - SECTION G: CULTURE AND INFRASTRUCTURE INFORMATION CONTINUED:

3. Proposed Changes to Ancillary and Navigational Structures:

STRUCTURE	DESCRIPTION OF CHANGE
Site Markings	*Replacing 6 red concrete blocks with staked signage*
Remote Setting Equipment	
Site Marking	No new site marking as the tenure boundaries are well marked with large yellow bouys THIS IS FLAT OUT A LIE. There are NO navigational markers.
Navigational Markers	
Anchor blocks	24 concrete anchor blocks to be added
Other Structures	12 rock pins to be added for shoreward anchors

4. Proposed Substrate Modification:

Describe:

No substrate modifications to be done.

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PART II – INFORMATION FOR THE BC MINISTRY OF FORESTS, LANDS, NATURAL RESOURCE OPERATIONS AND RURAL DEVELOPMENT

The following information, along with Part I and Part V is required for the review of the Provincial Crown Land Tenure application to an existing tenure pursuant to the BC *Land Act*.

PART II - SECTION A: SITING CONSIDERATIONS

Applicants must respond to each consideration and may be required to provide additional information in some situations

1. Does your proposal infringe on the riparian rights of an upland owner?	○ Yes ● No
Letter of upland owner consent enclosed:	○ Yes ○ No ○ N/A
2. Is the intended use consistent with approved local government bylaws for land use planning and zoning?	● Yes ● No Yes AND No??
Provide the name of the local government(s) for the area under application: Strathcona Regional District	
Describe any applicable bylaws or zoning for the proposed area: Area is zoned AQ2 for shellfish farming — This is not true: part of the area is zoned AQ3 (finfish) and part of the area is not zoned for any kind of aquaculture - it's a marine public access zone.	
If No, have you contacted the local government?	○ Yes ● No
Summary of interactions with local government attached:	○ Yes ● No ○ N/A

PART II - SECTION B: ADDITIONAL CROWN LANDS INFORMATION

1. Are all applicants Canadian Citizens or Permanent Residents; or if a corporation, registered partnership, cooperative or non-profit society, is it registered in BC?	● Yes ○ No
2. Is/Are applicant(s) 19 years of age or older?	● Yes ○ No
3. For applications made by more than one individual:	● N/A ○ Joint Tenants OR ○ Tenants in Common
4. Is the applicant a spouse of a provincial empoyee?	○ Yes ● No
5. Does the applicant have any other tenures? ○ Yes ● No	**If yes, please list land file number(s):** 1401586 1404053 1403059 1405061

PART II - SECTION C: WATER USE

1. Will fresh water be diverted or used at the site for the operation of the facility, living accommodations or other purposes?	○ Yes (Complete Question 2 & 3) ● No planned water usage (continue to Part III)
2. Fresh water source: (check all that apply)	☐ Ground Water ☐ Surface Water Water Source Name:
3. Do you have any existing water licences and/or have you submitted any water licence applications?	○ Yes — Application Tracking Number: Licence #: ○ No

Canada

PART III – INFORMATION FOR FISHERIES AND OCEANS CANADA (DFO)

The following information along with Part I and Part V is required for the review of the federal Aquaculture Licence application pursuant to the federal *Fisheries Act, Pacific Aquaculture Regulations.*

PART III - SECTION A: PROPOSED SPECIES

TABLE A: SPECIES NAME	CULTURE TYPE	FIRST YEAR OF PRODUCTION (?)	PRODUCTION ESTIMATE (t) (?)	SOURCE OF STOCK		
				Hatchery	Natural Set	Other (complete Table B)
Gallo Mussel (M. galloprovincialis	☐ Intertidal ☑ Deepwater ☐ Subtidal	2020	22.00	☑	☐	☐
Eastern Blue Mussel (M. edulis)	☐ Intertidal ☑ Deepwater ☐ Subtidal	2020	10.00	☑	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐
Select Species	☐ Intertidal ☐ Deepwater ☐ Subtidal			☐	☐	☐

TABLE B: PROVIDE A SHORT DESCRIPTION OF "OTHER " SEED SOURCE STOCK BY SPECIES AS APPLICABLE:

Canada

PART III - SECTION B: FISHERIES PROTECTION

Fisheries and Oceans Canada – Aquaculture Management Division (DFO - AMD) is responsible for the sustainable management of aquaculture in British Columbia. Like other types of industrial development taking place in and around water, aquaculture projects have the potential to affect fish and fish habitat.

NOTE: Aquaculture activities must not result in harm to a Species at Risk Act (SARA) listed species, their residence, or their critical habitat, as defined in the associated Recovery Strategy, or Action Plan.

1. Intertidal Culture Operations ☑ Not Applicable

a) Are you proposing to use any temporary or permanent aquaculture structures or equipment (ie. install geoduck tubes or rack and bag structures, etc) in any of the following habitats?

i.	intertidal stream channels	○ Yes ○ No
ii.	eelgrass beds (*Zostera* sp.)	○ Yes ○ No
iii.	fish spawning areas	○ Yes ○ No
iv.	SARA listed species, critical habitat, and/or residence	○ Yes ○ No

If Yes, describe the structures, habitat and method for installation.Please refer to the Shellfish Guide to ensure all information is provided.

b) Will you use a Mechanical Clam Harvesting Machine or 'stinger' harvest gear in the intertidal? ○ Yes ○ No

c) How will you be accessing the proposed area?

NOTE: Please note aquaculture activities may not occur in salt marsh habitat.

2. Deep Water/Suspended Culture Operations ☐ Not Applicable

a) Are you proposing to install any aquaculture structures or conduct aquaculture activities (including anchor system placement) in waters shallower than the 10m bathymetric contour? ○ Yes ● No

b) Are you proposing to install any aquaculture structures or conduct aquaculture activities (including anchor system placement) in waters deeper than 10m (measured from chart datum) and over any of the following habitats?

i.	rocky reefs	○ Yes ● No
ii.	kelp beds	○ Yes ● No
iii.	eelgrass beds (*Zostera* sp.)	○ Yes ● No
iv.	fish spawning areas	○ Yes ● No
v.	glass sponge complexes (*Hexactinellidae*) and/or coral complexes	○ Yes ● No
vi.	SARA listed species, critical habitat, and/or residence	○ Yes ● No

If Yes, describe the structures, habitat and method for installation.Please refer to the Shellfish Guide to ensure all information is provided. In the last decade, this area has become a habitat hotspot for humpback whales.

c) What is the minimum depth (m) below structures at zero tide (as measured from the deepest hanging trays, lines, etc. to the sea floor): **10.0**

3. Subtidal On / In-Bottom Culture Operations ☐ Not Applicable

a) Are you proposing to install any temporary or permanent in- or on-bottom aquaculture structures (e.g. bags on bottom, cages, nursery structures, geoduck tubes, predator netting, etc.) other than site boundary markers in any of the following important or sensitive habitats?

i)	rocky reefs	○ Yes ● No
ii)	kelp beds	○ Yes ● No
iii)	eelgrass beds (*Zostera* sp.)	○ Yes ● No
iv)	fish spawning areas	○ Yes ● No
v)	glass sponge complexes (*Hexactinellidae*) and/or coral complexes	○ Yes ● No
vi)	SARA listed species, critical habitat, and/or residence	○ Yes ● No

If Yes, describe the structures, habitat and method for installation.Please refer to the Shellfish Guide to ensure all information is provided.

Canada

PART IV – INFORMATION FOR TRANSPORT CANADA (TC)

The following information, along with Part I and Part V is required for the review of the federal *Navigation Protection Act* (NPA) approval.

PART IV - SECTION A: SITING CONSIDERATIONS

Applicants may be required to provide additional information in some situations.

800M width is not accurate: the opening to this popular and important sheltered anchorage is probably less than half that wide - compromising safety and multiple other economic activities (forestry, mini cruise ship tourism, local tourism, etc.)

PART IV - SECTION B: ADDITIONAL TRANSPORT CANADA INFORMATION

1. **Waterway Name:**	Evan's Bay, Read Island	
Width (m): 800.00	**Depth Range (m):**	10m-150m
2. **Nearest Community:**	Herriot Bay, Quadra Island	
3. **Is this Work:**	☐ New ☐ Existing ☑ Modification of Existing Work	There are no existing structures and no activity has ever occurred on the area proposed.
4. **To help with the review process, please include the following if available. Check each box to confirm is attached.**		
☐ Photographs at the site of the proposed/existing work and surrounding area		
☐ Environmental Assessment documents (if any)		

BRITISH COLUMBIA

Canada

PART V – INFORMATION FOR ALL AGENCIES

Incomplete applications will be returned to applicant.

PROVINCIAL FEES:

Application fees for Crown land tenures are due upon submission. Fees for new applications and amendments to existing tenures are established in the Crown Land Fee regulation – see link http://www.bclaws.ca/civix/document/id/lc/statreg/177_2003. Note that the fee structure does not include that taxes that apply.

Forms of payment:

- **Cheques or Money orders must be in Canadian Funds to Minister of Finance.**
  FrontCounter BC will not accept personal cheques drawn on US banks, regardless of what currency.
- **Debit Card (in-person only).**
- **Visa, AMEX and MasterCard payments are accepted in-person or over the telephone. To locate a FrontCounter BC office, visit the website at http://www.frontcounterbc.gov.bc.ca/contact/ or call the toll free number 1-877-855-3222.**

FEDERAL FEES: http://www.pac.dfo-mpo.gc.ca/aquaculture/licence-permis/index-eng.html. Federal fees will be invoiced prior to licensing and are only payable online using the National Online Licensing System.

DISCLOSURE:

The information you provide may be subject to the following legislation: British Columbia Freedom of Information and Protection of Privacy Act (FOIPPA); the federal Access to Information Act; and the federal Privacy Act. Personal information is collected by FrontCounter BC under the legal authority of section 26 (a), (c) and (e) and 27(1) (a) (i) of the FOIPPA. The collection, use, and disclosure of personal information is subject to the provisions of the FOIPPA.

The Province of British Columbia and the federal Fisheries and Oceans Canada and Transport Canada do not consider the information submitted in this form to be confidential unless it is subject to the privacy protection of the Act or the federal Access to Information Act.

Personal information may be disclosed by FrontCounter BC to local, provincial and federal governments; First Nations; and the public on an as needed basis for the purposes of reviewing and processing your inquiry or application(s) under the BC Land Act, BC Fish and Seafood Act, federal Fisheries Act and the federal Navigation Protection Act. The information, with the exception of date of birth, may be posted on a public webpage and may be accessed outside of Canada. Contact information may be accessed and used by FrontCounter BC for survey purposes.

For more information regarding the collection, uses, and/or disclosure of your personal information, please contact: FrontCounter BC at 1-877-855-3222 or at FrontCounter BC Program Director, Provincial Operation, 441 Columbia Street, Kamloops, BC V2C 2T3; or the Director, Access to Information and Privacy Secretariat at the Department of Fisheries and Oceans Canada and Transport Canada.

IMPORTANT: Federal regulations require that applications submitted on behalf of a company be signed by a company director. Please email aquaculture.licensing@dfo-mpo.gc.ca for direction regarding supporting documentation.*

I understand that the information supplied will be used and disclosed as described above,

Signature(s) of applicant(s)	Printed name(s) of Applicant(s) or authorized representative*	Date (yyyy/mm/dd)
	Paul Simpson	2019/12/19

**If signature is by an authorized representative please supply a letter granting authorization to act on behalf of the applicant.*

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Canada

Submit completed application, and additional supporting information (if applicable) to:

BY EMAIL:

Email Subject line:	**Proponent Name, Application Type**
Attachments:	The application and attachments to be submitted as one "unprotected" PDF document. If not, name as following: **Proponent_Application Type_1of2** **Proponent_Description of Supporting documents_2of2**
Email to:	WestCoast.LandReferrals@gov.bc.ca
Fees:	Upon review of your application, you will be notified by FrontCounter BC of the applicable provincial application fee.

IN PERSON:

Any FrontCounter BC office.

Visit http://www.frontcounterbc.gov.bc.ca for the location nearest you.

BY MAIL:

FrontCounter BC, 142-2080 Labieux Road, Nanaimo, BC V9T 6J9

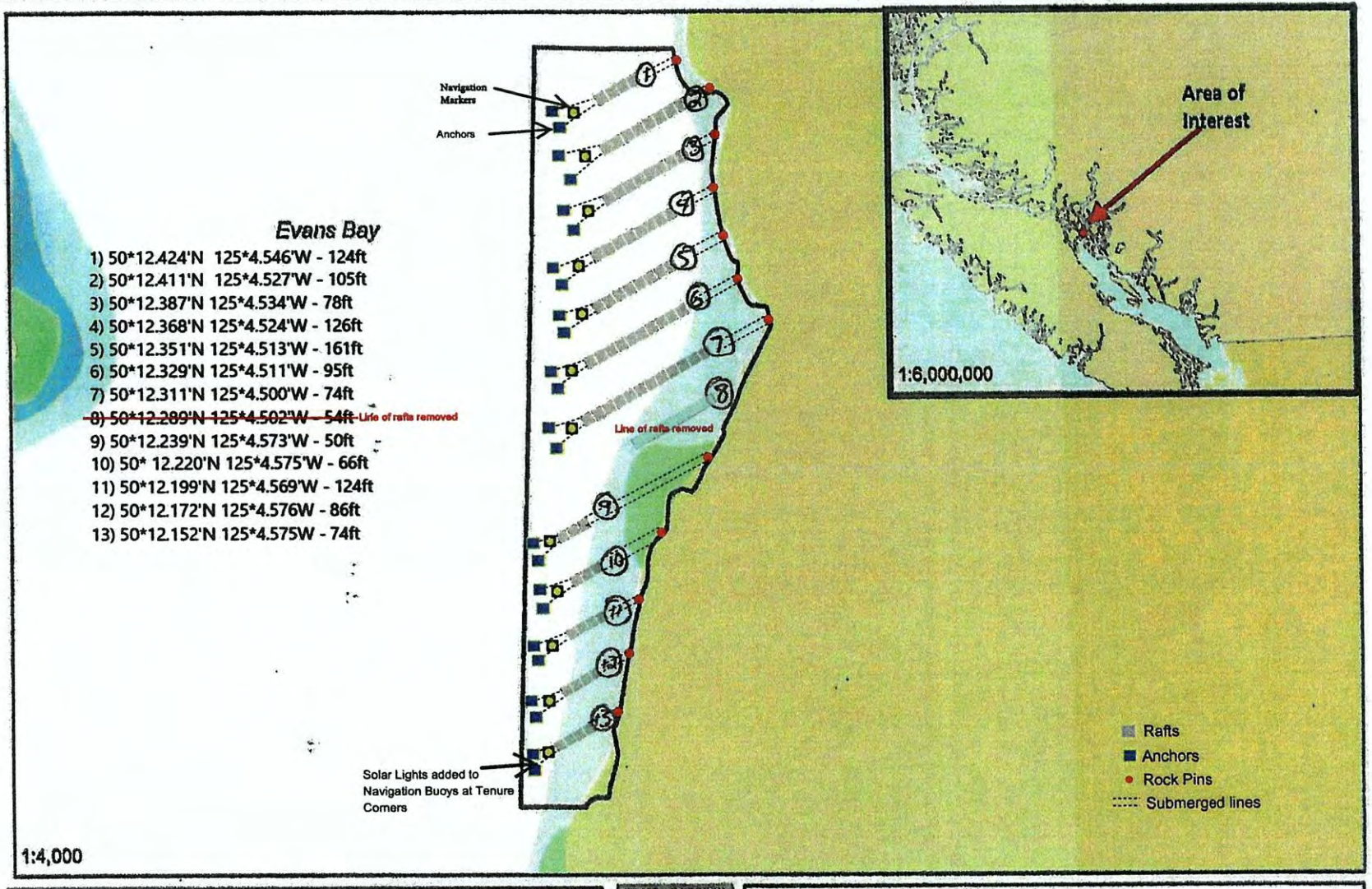
PLEASE RETAIN A COPY OF THIS APPLICATION FOR YOUR RECORDS

APPLICATIONS ARE NOT TRANSFERABLE

THE SUBMISSION OF THIS FORM DOES NOT IN ANY MANNER CONVEY ANY RIGHTS TO USE OR OCCUPY CROWN LAND AND/OR CONDUCT REQUESTED ACTIVITIES


General Location Map
Frederick Arm
Lawrence Pt
Mount Powell
Cordero Channel
Ramsay Arm
Stuart I
Sonora I
Cameleon Hr
George Head
Raza Pass
Okisollo Channel
Raza I
Maurelle I
Calm Channel
Deer Pass
LF#1401594
HERE IS ANOTHER LICENSE BELONGING TO THIS LICENSEE.
IT HAS BEEN IN REGULAR DISREPAIR OVER THE YEARS.
Hoskyn Channel
Quadra I
Seymour Narrows
Sutil Channel
Viner Pt
Cortes I
Race Pt

Shellfish Aquaculture - Evans Bay Oyster Company Ltd., Read Island



AQSF 197 (LF 1401594)

Bathymetry (m)

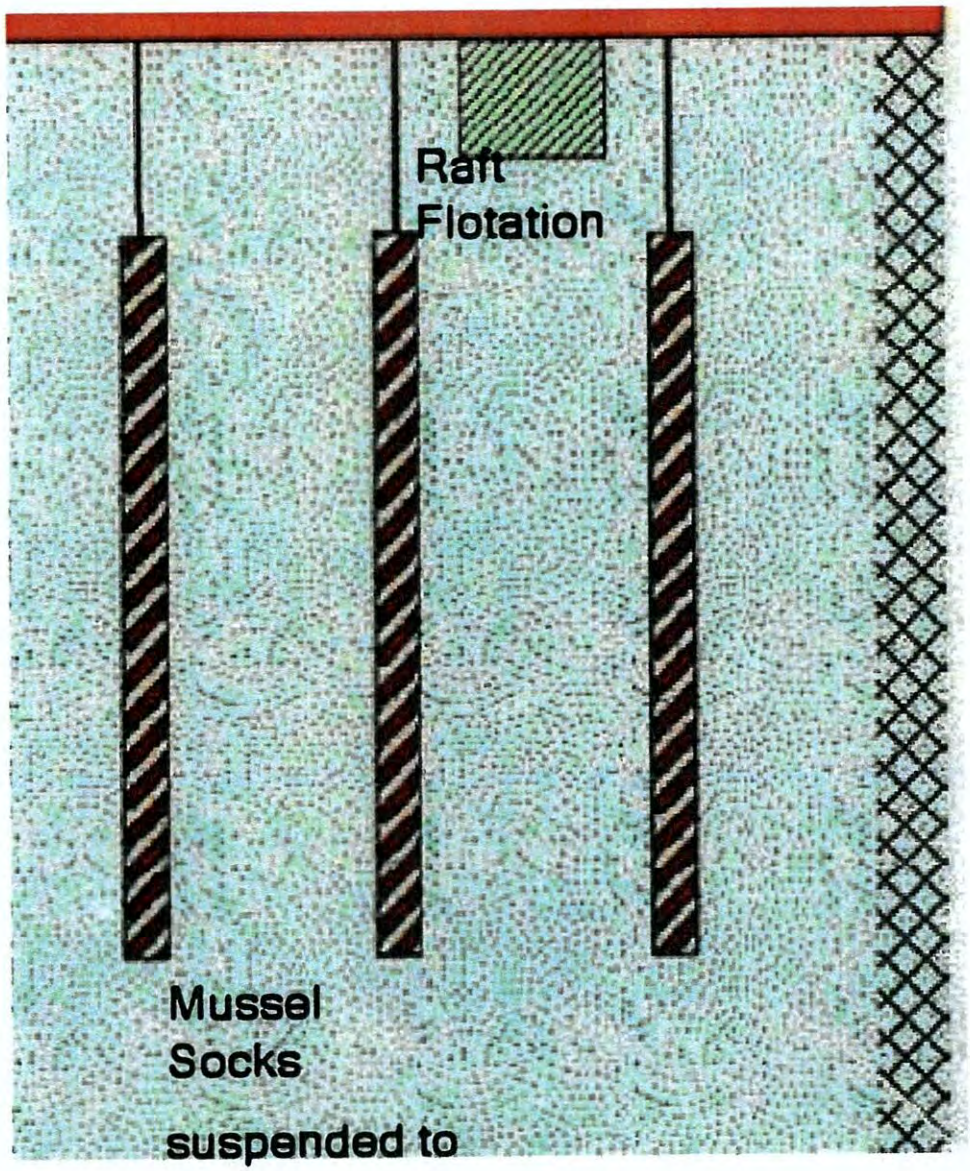
Intertidal	5 - 9.9
0 - 1.7	10 - 18
1.8 - 4.9	>18

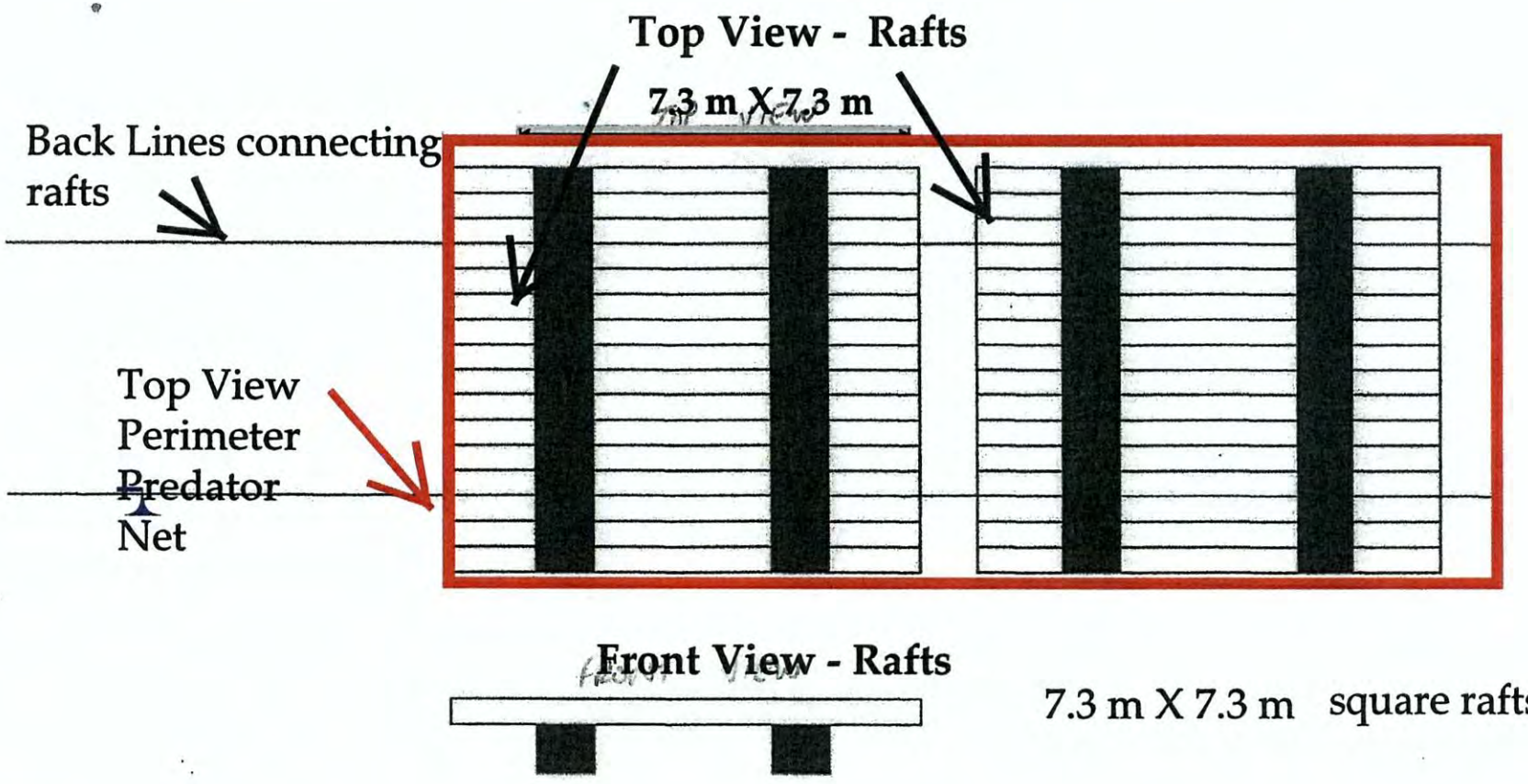
Fisheries and Oceans - Aquaculture Resource Management

Map Projection: CSRS UTM Zone 10
Datum: NAD 1983
Data Produced: 9 January 2019

Source Data: CHS Hydrographic Charts
BC Tantalis

Raft Side View




Top View - Rafts
7.3 m X 7.3 m
Back Lines connecting rafts
Top View Perimeter Predator Net
Front View - Rafts
7.3 m X 7.3 m square rafts
Side View of Rafts
with mussel socks suspended beneath to depth of 7 m
Perimeter Predator Net
Shore -Pin
Se Bed
4 X 4,000kg Concrete block anchors

Island Sea Farms Debris Management Plan for Evan's Bay Site

Section 1 – Gear, Equipment &/or Infrastructure

Types of gear & volumes;

- Wooden Rafts – 24' x 24' – 12 rafts presently licensed, 64 additional proposed
- Polyethylene re-usable grow out ropes – 4692ft / raft
- Polyethylene twine for attaching grow out ropes to rafts – Approx. 400 ft / raft
- 18" x 20mm Steel Rebar for weighting grow out rope – 102 pcs / raft
- Vexar Socking for securing mussels to grow out rope – 4692 ft / raft
- Polyethylene Predator Netting – 2 predator panels presently licensed, 10 additional panels proposed-11,683 m2
- Rigid HDPE (8mm thickness) encased foam flotation billets (to be installed to plan) 24'x30'x24" each raft has 2 billets.

Expected life span and probability of each becoming debris

- Rafts: 10-15 years. When properly secured in the anchoring system, the probability of the rafts becoming debris is very low. If the raft does start to break apart, the pieces of wood float and is easily collected.
- HDPE encased flotation-30 years expected lifespan (reported by manufacturer- Eco-Billet)
- Ropes: 20-25 years. Low probability of becoming debris. Once the ropes are harvested, they are loaded into large cargo bags for storage. The bags are very heavy and not easily lost into the water. If the rope does fall into the water, it is buoyant and will float until collected.
- PE Twine: 2-3 years. Medium probability of becoming debris. When grow out ropes are harvested, the PE twine is removed from the rope and placed in the garbage as it has become sun damaged. In the event the twine is lost, it will float on the surface and can be collected. Given the bright colors, it is easy to see from a distance.
- Rebar: 5-10 years. Medium probability of becoming debris. These pieces are attached to the bottom of the grow out rope when the rope is seeded and remain on the rope until it is harvested. The rebar is collected at harvest and loaded into large plastic bins. It is very rare a piece is lost, but when a piece is lost, it sinks to the sea floor.
- Vexar socking: 1-2 years. Medium probability of becoming debris. Socking is deployed around the mussels to help secure them to the rope while they grow. This vexar is removed during harvest in large pieces and placed in the trash. If the vexar is lost overboard, it will float and is easily collected
- Predator Netting: 5-10 years. Low probability of becoming debris. This netting is deployed in the fall to protect the crop from predators and removed in the spring at which time they are loaded into cargo bags and sent off site for cleaning and repairs.

Section 2 Debris Management Protocols

When the above materials are handled throughout the course of the growth cycle, the crews are instructed to keep these materials in large cargo bags both before and after use. These cargo bags are tied or strapped to rafts at all times to minimize the chance of being blown off the rafts in strong winds and debris ending up in the sea. After materials or gear final use, (materials or gear no longer in useful

condition) the large cargo bags are sent off site to recycling facility on Quadra Island or Landfill in Campbell River to prevent debris from entering the ocean again by some other user. All nets are marked with ISF tags.

Island Sea Farms' site maintenance department inspects all sites on a weekly or near weekly basis to check on the structures and any materials to ensure they are not being released into the environment.

There is a dive team on site that dives under our tenures at 6-month intervals to check for any gear or debris that may have sank to the sea floor.

The crew participates in the annual beach clean up organized with the community to check the beaches surrounding the areas to make sure any debris that did wash ashore is collected. Apart from the annual beach clean-up ISF staff do periodic shore patrols to spot and remove aquaculture debris. Typically, both annual clean-up and periodic checks results in debris which is of unknown origin and did not originate at ISF farms.

Section 3 Implementation Plan

Though not previously called a Debris Management Plan, our employee handbook, which is reviewed during hiring and whenever an amendment is introduced, clearly lays out the responsibilities of the company and each crew member to maintain an environment that is clear of garbage or debris. The HR department holds monthly meetings with the crew members to review the farm operations. During these meetings, there is a lot of discussion around preventing debris and contaminants escaping the site. The minutes of these meetings, along with who attended, are stored in an online folder accessible by any crew member for review.

Section 4 Contact Information

Island Sea Farms operates 10 vessels and 3 trucks to service our tenures, all of which are clearly displaying the company name and phone number. There is also a contact list on one of our tenures which acts as our base of operations.

Example of a Significant Application Error

One measurable issue [see comment in the #3 Application PDF] is that the application claims that Evans Bay is 800M wide; however, at the aquaculture site, this is not true. This was previously pointed out as an error but it appears to be not-considered – maybe because no agency actually visited the site?

Figure A

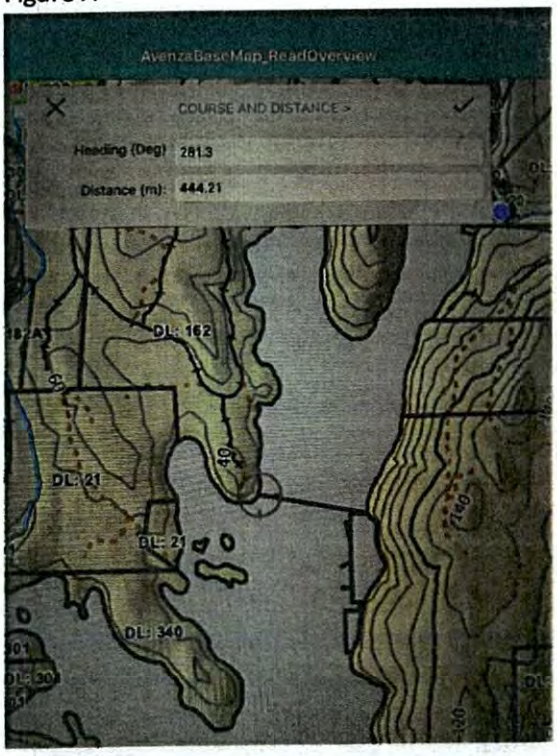


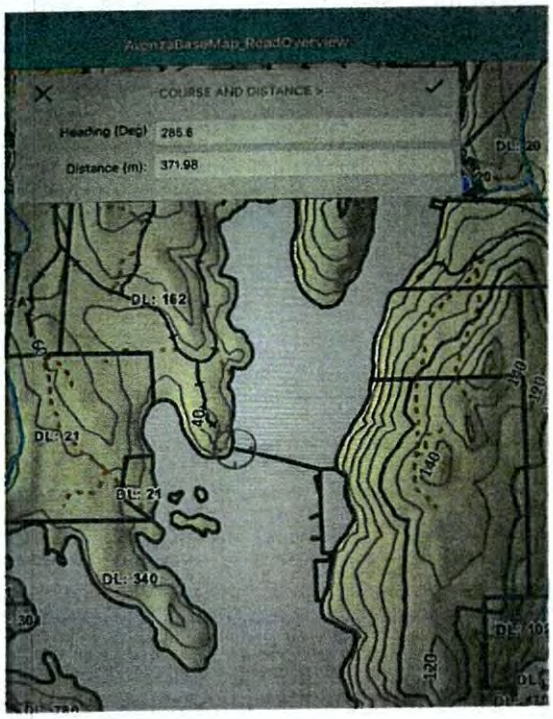
Figure A
The distance measured from shore to shore is 444M, just over half of what the application states.

Figure B
The measurement from edge of the License area to the opposite shore is 372M

This is tight navigation for a tug and tow (there is an active log dump inside this bay) and/or other regular marine traffic (fuel barge deliveries, mini cruise ships, pleasure boats and kayaks) that will have to navigate out-and-around any expansion of the used area:

The measurement stated in the application is either **careless or deliberate, but it's not allowing a real** critique of the application.

Figure B



And if Transport Canada (or any of the 3 Agencies) really examined this application, why didn't they notice this basic error/discrepancy?

Some other claims in the application and management plan are questionable, and some can be challenged:

The statement about large yellow marker buoys is another easily observable contradiction: There are no markers at all. This is probably illegal, and it has been reported, but complaints seem to fall on deaf ears.

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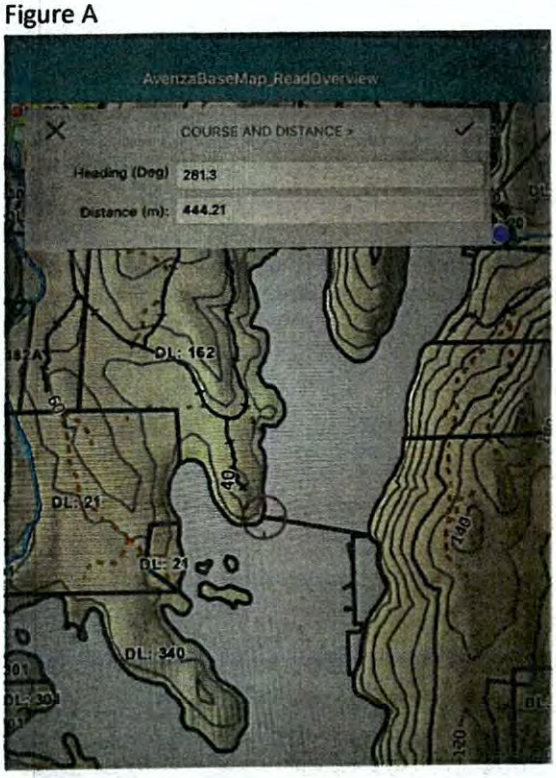


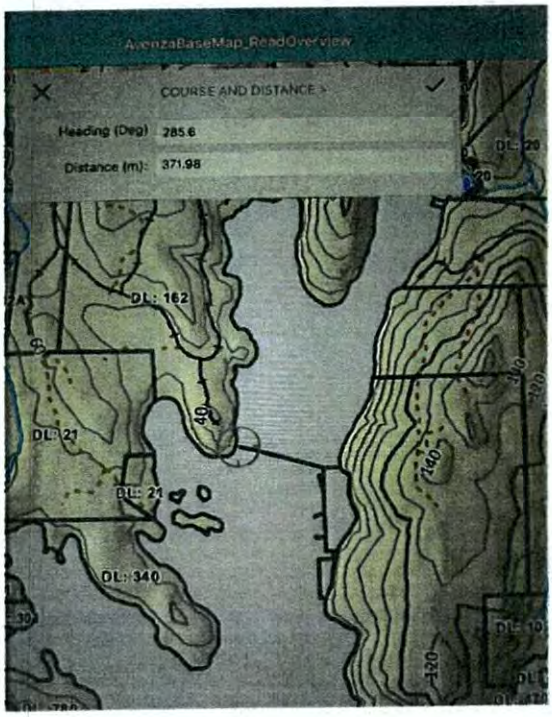
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Claudia Lake
P.O. Box 124
Heriot Bay B.C.
V0P 1H0

October 1, 2022

Ref: Land File Number 1401594

To Whom It May Concern,

I am a 30 year resident, property owner, and community member of Area C, Discovery Islands and Mainland Inlets, of the Strathcona Regional District.

I am writing today to voice my very strong objection to the application by Island Sea Farms Inc. of Salt Spring Island, B.C. for a proposed renewal and expansion of a license of occupation for raft shellfish aquaculture at Evans Bay on Read Island.

My reasons for objecting to this application are as follows:

- This Pacific Shellfish Aquaculture Amendment Application has an effective date of October 18, 2017 according to the footnotes on pages of the application on your website.

- The application is stamped "Received" and dated December 19, 2019 by MFLNRORD, yet I have never seen a published notice of intent in any of our local newspapers, i.e. the Discovery Islander or the Surge Current, both of which are the papers most often read by community members of the Discovery Islands.

- I and my fellow community members only heard about this application via the bush telegraph, five days before the public comment period deadline of October 3, 2022.

- I request firmly that the deadline for public commentary on this application be extended as most community members have not had sufficient notice to allow those most affected by the application to study the proposal properly in order to make meaningful comments on it.

- The original license of occupation was expired, according to the application. Therefore a new application for license of occupation should have been applied for to begin with, let alone additionally applying for an extension to that previously expired license of occupation.

- Neither the current use (though expired), nor the intended use, are allowed under the Strathcona Regional District's rural land use zoning by-law.

- According to the Discovery Islands Rural Land Use Bylaw (1993), AQ3 zoning does not allow for raft culture of shellfish; this alone should have been enough in the first place to trigger a re-zoning application with the Strathcona Regional District. The intended use is not consistent with current local government bylaws for planning and zoning.

- The proponent has ticked both the yes and no boxes on the application in answer to the question whether or not he has consulted with local government.

- Apparently he has not consulted with local government; if he had he would have known that the nearest community, as he states in another item in the application, is NOT "Herriot" Bay (his spelling) but is actually the Read Island community itself, also known as the Surge Narrows Community Association, whose membership is made up of residents of all the Discovery Islands.

- In any case the proposed license of occupation will have a direct and horrendous impact on an already existing, well established (for 35+ years), very successful, locally owned and operated, eco-tourism business that lies directly across the bay from the proposed industrial activity that would occur at this shellfish aquaculture site, should it actually be allowed to move forward.

- The proponent states clearly on the application that he wants to move his industrial shellfish operation to Evans Bay from an existing location in Gorge Harbour on Cortes Island, Area B, Strathcona Regional District in order to give visiting summer boaters and cottagers there a quiet and industrial activity-free space during the summer harvesting period.

- Does the proponent realize that this move would have a devastating impact on the residents and eco-tourism operators of Evans Bay and nearby Read Island (Area C) community members' permanent residences? Not to mention how it would negatively impact seasonal recreational boaters, sea kayakers and other users who frequent the area already. The proponent seems oblivious to the fact that these compatible uses already exist in Evans Bay, and that his operation as proposed would be in direct conflict with these.

- The proponent would like to increase the tenure operating size from 10 rafts to 64 rafts! This is a massive increase in physical capacity of the proposed operation, an alarming increase!

- In answer to whether the proponent has other tenures in the area, the No box was ticked, yet he then lists 4 additional land tenure license numbers in the application. I suggest that perhaps the proponent already has tenure on a site that would be more suitable for the sort of industrial activity he is proposing. There are plenty of other places in the area where he could operate his shellfish business where nobody lives and where there are not conflicts such as the one he is proposing.

- I question whether the proponent has sought approval or input from either First Nations or the federal Ministry of Transport, both of which I understand should be consulted as well during the applicaton process. The extension being applied for could well be a hazard to navigation, for example.

- The solar lights that the applicant proposes in his design will be detrimental to the nocturnal tranquility, ambiance and quality of life that exists in Evans Bay and that is essential for the quality experiences offered by the eco-tourism operator, Coast Mountain Expeditions. This could have serious negative impacts on this already well-established, high quality business operation. Additionally, night-lighting of the marine environment has negative impacts on sea

life, especially juveniles of various species, who are drawn to the light, and easily fall prey to larger species.

- Regarding the plan to manage marine debris, the proponent states that when the old materials need to be disposed of, they will be bagged up and transported to Quadra Island for recycling, or to Campbell River for disposal in the landfill site there.

- First of all, the recycle depot on Quadra Island is strictly for residential use only, not for commercial use at all. So, that plan is not possible.

- Secondly, I understand that the landfill site in Campbell River is currently at capacity, and materials for landfill disposal are currently being shipped to the landfill site at Cumberland, in a completely different Regional District. How could this possibly be acceptable?

- The applicant also mentions that floating debris that finds its way into the marine environment will be gathered up periodically by employees of the company. I would like to point out that last year another local business, received a $500,000 grant from a variety of government bodies, therefore on the taxpayers dime, to hire 35 people, and to purchase a couple of boats to spend about three months going around the entire Discovery Islands area seeking out and gathering up marine debris from the Area's shoreline. It was a massive job that also involved many volunteers who assisted in the collection, storage, sorting, transport and proper industrial recycling of many tonnes of marine waste, most of which was let loose in the first place by shellfish aquaculture operations.

- The applicant states that his operation's flotation blocks are all properly and securely wrapped; but this is not what locals have witnessed at some of the proponent's other sites. This is another marine debris issue that has significant, long term, negative impact on the marine ecology and environment.

These are just some of the points I would like to make in my opposition to this application for commercial license of occupation and expansion of this shellfish aquaculture operation.

In short: this is not the place for this operation, nor is it the time, as our Discovery Islands community grapples with the development of our ICSP, and the forthcoming development of an Official Community Plan.

At the very least, this application needs to go to a public hearing before anything else happens with it, unless it is soundly turned down by MFLNRORD immediately.

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BRITISH COLUMBIA

REASONS FOR DECISION

FILE NUMBER: 1401594

APPLICANT: Island Sea Farm Inc.

BACKGROUND: The 7.21 ha +/-application is for a major amendment and replacement of an existing deep-water tenure located in Evan's Bay, Read Island. The tenure is currently authorized for the 12 culture rafts stocked with oyster trays, lantern nets and oyster strings. The major amendment of this application proposes the addition of 64 culture rafts stocked with mussel socks and predator netting as well as changing the raft orientation from North/South to East/West.

The area is not (and actually never has been) zoned for the activity proposed. The major amendment represents a 600% increase in industrial activity in a quiet bay with other users and other economic activities that will be negatively impacted.

DECISION: PROCESSED – TENURE ISSUED
Licence of Occupation, 10 Year term

REASONS FOR DECISION:

Considerations:

Land Use Report (LUR)

- The Land Use Report is complete.
- The applicant has provided the details for a Management Plan.
- The submitted Debris Management Plan meets the Provincial requirements which was preview by the Project Review Team.

Both Management Plans do not reflect reality and are extremely unlikely (or impossible) to fulfill.

Land Act Policy and Procedure

- The Land Use Operational policy for aquaculture was used for this review.
- The application has met all the Crown Land application requirements.
- Crown Land Allocation Principals were considered, and the decision was based on the best information available about the land and its resources in order to be timely, well considered and transparent.

The three agency reports prepared as information for the decision have not been made available for public review. Maybe "best information available" but we strongly suspect that none of the three reporting agencies ever visited the site.

Land Status Review

- Status report was complete and there are no outstanding conflicts.

This aquaculture tenure was always non-compliant and remains non-compliant with local zoning bylaws. Who enforces the condition in the license?

Referral Responses

- Relevant agencies were sent referral request.
- A condition of the tenure is such that the tenure holder operate their tenure in accordance with all local zoning bylaws and all applicable laws, bylaws orders, directions ordinates and regulations of any government authority.
- No further constraints were identified during referrals.

Community comments and concerns were obviously dismissed without real consideration.

BRITISH COLUMBIA

REASONS FOR DECISION

Public Engagement

- Application was advertised in local newspapers and staked on site. Comments received from the public included concerns of noise, visual impacts, potential for debris and the impact application may have on a local business. All public comments were reviewed and considered in this decision.

Reviewed maybe but considered: NOT! We need a public hearing for examination of the true and complete facts related to this application.

First Nation Consultation

- First Nation consultation is considered complete.
- Applicant will be required to complete a Chance Find Procedure for archaeological material.

There is no existing zoned tenure of this size or description.

SUMMARY STATEMENT

This application is for the replacement and amendment of a 7.21-hectare shellfish tenure in Evans Bay. The deepwater infrastructure includes 76 culture rafts stocked with mussel socks and predator netting for the cultivation of mussels.

The additional area has NOT EVER been developed or used for anything. This is WRONG information.

It has been noted that the visual impact of this application will increase with the additional infrastructure set to be visible above the water; however, the area has been developed and utilized for industrial and aquaculture purposes, since 1986/1987, limiting the cumulative impact of this application on the general area.

Shellfish farming has left this area with a dreadful legacy of abandoned infrastructure and plastic debris. It is community volunteers who do the cleanup.

The North Vancouver Island Marine Plan lists off bottom shellfish aquaculture as a conditional acceptable use. The Vancouver Island Land Use Plans identifies South Read Island as an area of significant intensive shellfish farming to support food production activies. This application aligned with the objectives in both the North Vancouver Island Marine Plan and the Vancouver Island Land Use Plan.

This application is aligned with government and ministry objectives and priorities. Shellfish aquaculture provides a significant contribution to the provincial economy, including beneficial economic and social impacts in rural coastal economies.

THIS IS SADLY JUST-NOT-TRUE.

All concerns and conflicts related to this application were addressed and/or suitably mitigated. The application satisfies the Crown Land Allocation Principles: Strategic Policy ((allocation_principles.pdf (gov.bc.ca)).

Based on a review of the considerations listed above this application has been accepted and a tenure issued.

DECISION MAKER:
Name: Jessica Outhwaite (Leitao)
Title: Section Head, Aquaculture
Delegated authority under *Land Act s.* 11

BRITISH COLUMBIA

REASONS FOR DECISION

For more information contact:
Name: Carlos Burgo
Title: Authorizations Specialist
Phone: 250-739-8441
Email: Carlos.Burgo@gov.bc.ca/ Aquaculture.Program@gov.bc.ca

Strathcona
REGIONAL DISTRICT

STAFF REPORT

DATE: May 17, 2024

FILE: 0540-04 Board

TO: Chair and Directors
Regional Board

FROM: Dave Leitch
Chief Administrative Officer

RE: **AQUACULTURE REGULATION BY LOCAL GOVERNMENT**

PURPOSE

To report on correspondence received by the Board in October 2023 concerning aquaculture regulation and Regional District's ability to enforce its bylaws..

POLICY ANALYSIS

Section 479 of the *Local Government Act* extends to regional districts the authority to divide electoral areas into zones and regulate land uses within those zones.

EXECUTIVE SUMMARY

At its meeting on October 11, 2023, the Board received correspondence requesting clarification on the SRD's role in regulating and enforcing aquaculture activities in Area C and passed the following motion:

> **Chapman/Whalley: SRD 844/23**
> **THAT a report be prepared outlining the current situation in respect of the aquaculture license held by Island Sea Farms in the Evans Bay area; and**
>
> **THAT the report provide responses to questions posed in the correspondence attached to the September 19, 2023 report from the Chief Administrative Officer.**

The first part of this resolution is seeking clarification on the current status of active aquaculture license #1401594, held by Island Sea Farms to operate a mussel farm in Evans Bay near Read Island. In May 2022, a renewal for this tenure was referred to the SRD for comment. The SRD commented that support for this renewal was contingent upon a successful application to rezone the tenure area to Aquaculture Two (AQ-2) to bring the existing shellfish farm into compliance with Bylaw No. 1490, being the Electoral Area 'J' — Desolation Sound Rural Land Use Bylaw, 1993. Although an application to rezone this site has not been received, the Province renewed this license on June 10, 2023 for a period of ten (10) years.

The second part of this motion seeks clarification on the SRD's authority to enforce zoning regulations over water parcels and aquaculture activities, including if, when, and how the public must be notified and/or consulted on tenure applications. Staff will address these questions in the following section.

Question #1: Who has jurisdiction over aquaculture sites?

As clarified in the attached SRD poster titled *Aquaculture Jurisdictions* (2017), jurisdiction over aquaculture sites is divided between the federal and provincial governments, while local governments have limited authority through local land use planning. Specifically:

Fisheries and Oceans Canada (DFO)

- Issues aquaculture licences for marine finfish, shellfish and freshwater (land-based) operations.
- Regulates aquaculture operations through the *Fisheries Act*, *Health of Animals Act*, *Food and Drugs Act*, and *Species at Risk Act*.

Province of BC

- Issues aquaculture licenses for the commercial harvest of marine plants.
- Issues business licenses for aquaculture under the *Fisheries Act*.
- Protects aquaculture operations through the *Farm Practices Protection (Right to Farm) Act*.
- Aquaculture operations that required a provincial lease or tenure before 2010, when the province was responsible for regulating aquaculture in BC, continue to need one to comply with provincial law.
- Responsible for managing the use and occupation of provincial Crown Land, including Crown Land covered by water. This responsibility includes the issuance and management of Crown Land tenures.

SRD

- Provides a vision, goals and guidelines for aquaculture through Official Community Plans.
- Zones the surface of the water and regulates permitted uses (e.g. sorting, grading, harvesting and processing), height of buildings and structures on rafts, lot areas and setbacks (distance from land zoned residential).

First Nations Governments

- First Nations have a constitutionally protected right to harvest resources within their traditional territories.

Question #2: Who has the authority and responsibility to enforce compliance?

Just as jurisdiction over aquaculture sites is shared by multiple agencies, so is enforcement. Enforcement of tenure conditions and terms is the responsibility of the province, in cooperation with the Federal Department of Fisheries and Oceans. This does not include enforcement of local zoning bylaws.

While the SRD is responsible for enforcement of local zoning, it does not have the authority to enforce parts of the zoning bylaw that are outside its jurisdiction. There is some question as to whether local governments have the authority to regulate land uses below the surface of the water, which limits the SRD's authority to zone and enforce zoning of the water column, seabed, and subsurface. A recently obtained legal opinion states unequivocally that, "The SRD does not have the jurisdiction to zone aquaculture cultivation below the surface of the water" based on case law asserting that the regulation of aquaculture within the waters off BC fall within federal jurisdiction, except for marine/aquatic plants, which are regulated by the province as part of provincial authority over agriculture. As such, aquacultural activities occurring below the surface of the water are outside the SRD's jurisdiction and thusly are not subject to enforcement by the SRD.

Additionally, previous legal opinions have confirmed that aquaculture is recognized as farming and is therefore protected under the *Right to Farm Act*. This restricts the SRD from regulating 'normal farm practices', such as the use of machinery, noise, odours and other disturbances which result from farming operations.

In the case of the Island Sea Farms license in question, the SRD commented that, given the existing language within the zoning bylaw, the proposed use would be non-compliant. This site is zoned Aquaculture Three (AQ-3), which permits active aquaculture (fin fish) but not the more passive mussel cultivation and harvesting activities proposed at this site. If this were to be taken at face value, a rezoning would be required to be compliant with the zoning bylaw; however, given the limitations of our authority to zone below the surface of the water, it is unlikely that the SRD has the authority to regulate the type or species of aquaculture being harvested or any activities that occur below the surface of the water. In this case, the SRD's zoning bylaw is more restrictive than it has the authority to be.

Question #3: What are the public notification and consultation requirements for aquaculture licensing?

As noted in the *BC Land Use Operational Policy: Aquaculture (2011)*, applicants for crown tenure over a water parcel for the purpose of aquaculture are only required to post notice of their tenure proposal at the tenure site. Depending on the nature of the proposal, the province may impose consultation requirements, which may include a requirement for an open house or similar but does not include a formal public hearing. As an agency that is referred tenure applications, the SRD is granted 30 days to review and provide comments. The province will consider this input but is not encumbered by it. The SRD is merely a referral agency and plays no role in the notification process.

Statements: Ahead of any new AQ2 activity at this site (which is only zoned for AQ3 and AC1) please ensure that: The zoning is compliant with the rule and the moral intention of SRD Bylaw 1460; previous and current violations are addressed and corrected; there is meaningful community input on all aspects of this application via the required public hearing.

As stated in the SRD's most recent legal opinion, "The SRD's zoning authority is limited to the surface of the water only and only in a manner that is not effectively prohibited under the terms and conditions of: an aquaculture license issued under the Federal *Pacific Aquaculture Regulations*; an aquatic plant culture license issued under the Provincial *Fish and Seafood Licensing Regulation*; and, applicable aquaculture tenure or license of occupation over the are in question."

RECOMMENDATION

THAT the report from the Chief Administrative Officer be received.

The surface of the water is all that we need to zone and SRD has authority to do this. SRD also has responsibility to uphold and enforce the bylaw. SRD stated above: "given the existing language in the zoning bylaw, the proposed use would be non-compliant."

Respectfully:

Dave Leitch
Chief Administrative Officer

BACKGROUND/HISTORY

An aquaculture licence has been in place over this area since 1985, although the licence holder, type of aquaculture licence (i.e. species) and tenure area have changed over time. The SRD received a referral for a renewal of the licence in May 2022 and the province issued the licence on June 10, 2023.

FINANCIAL IMPLICATIONS
There are no financial implications associated with this report. Should the Board choose to proceed with any enforcement action, costs could be born.

LEGAL IMPLICATIONS
The information contained in this report is supported by a recent legal opinion. At this time, there are no legal implications associated with this report. Should the Board choose to seek further compliance, legal assistance would be required.

INTERGOVERNMENTAL/REGIONAL IMPLICATIONS
Aquaculture can be regulated through multiple levels of government, including Federal, provincial and local governments.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS
Citizen/public relations implications are unknown.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS
Interdepartmental involvement is limited to the planning and bylaw enforcement departments.

Submitted by:

A. Nelson

Aniko Nelson
Senior Manager, Community Services

Prepared by: *M. Starkey, Manager Planning and Parks and A. Nelson, Senior Manager, Community Services*

Attachments: BC Land Use Operational Policy: Aquaculture (2011)
SRD Poster: Aquaculture Jurisdictions (2017)
Copy of October 11, 2023 report to the Board

BRITISH COLUMBIA

Land Use Operational Policy
Aquaculture

NAME OF POLICY:	Aquaculture
APPLICATION:	Applies to the siting and improvements of tenures required for the cultivation of finfish, shellfish and marine plants on Crown land. Does not apply to ocean ranching of finfish or the wild commercial or recreational harvesting of finfish, marine plants, wild oysters or herring spawn on kelp.
ISSUANCE:	Assistant Deputy Minister, Tenures, Competitiveness and Innovation
IMPLEMENTATION:	Ministry of Forests, Lands and Natural Resource Operations
REFERENCES:	*Land Act* (Ch. 245, R.S.B.C., 1996) Federal *Fisheries Act* (R.S. 1985, c.F-14) Federal *Canadian Environmental Assessment Act* (R.S. 1992, c.37 [c-15.2]) Federal *Navigable Waters Protection Act* (R.S. 1985, c.N-22)
RELATIONSHIP TO PREVIOUS POLICY:	This policy replaces the previous Aquaculture policy dated August 16, 2004
POLICY AMENDMENT:	Any formal request for an amendment to this policy is to be directed in writing to the Director, Land Tenures Branch, Ministry of Forests, Lands and Natural Resource Operations

Dave Peterson, ADM
Tenures, Competitiveness and Innovation
Ministry of Forests, Lands and Natural
Resource Operations

MAY 26 2011

Date:

EFFECTIVE DATE: June 1, 2011 **FILE:** 12075-00
AMENDMENT:

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
June 1, 2011	BN 175892	Policy and Procedure update to reflect reorganization of resource ministries April 2011
April 1, 2012	BN 182973	Update to land values.
January 9, 2013	Email approval W. Trotter	Revision to language in s. 7.4.1
April 1, 2013	BN 195386	Update to land values.
April 1, 2014	BN 204476	Update to land values.
December 30, 2014	BN 211170	Updates provincial and federal roles in aquaculture (s.1.1 policy application and s.8.1.1B management plan), updates maximum term for a Licence and a Lease, (s. 6.2, 6.3), introduces Incidental Aquaculture Use (s.8.1.1B), and clarifies security bonds (s.9.2)
April 1, 2015	BN 212627	Update to land values.
September 22, 2015	BN 217947	Land Act Reform Phase 1 changes
July 31/September 30, 2015	Information Bulletin 2015AGRI0050-001218/ Information Bulletin 2015AGRI0062-001629	Direction on how salmon aquaculture tenure and amendment applications are to be considered (Appendix 2).
April 1, 2016	BN 220250	Update to land values.
April 1, 2017	BN 227623	Update to land values.
April 1, 2018	BN 236356	Update to land values
April 1, 2019	BN 246346	Update to land values
August 14, 2019	Joint Ministry DN Cliff #NRS 410	Implementation of June 20, 2018 strategic policy directive for finfish (salmon) aquaculture (News Release 17461) by updating guidance provided in Appendix 2.
April 1, 2020	BN 254084	Update to land values
April 1, 2021	BN 261226	Update to land values

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
April 1, 2022	BN 269471	Update to land values
April 1, 2023	BN 273536	Update to land values
October 16, 2023	TB (FIP) Decision 503592	Update to increase the minimum rent to $850 per year, phased in over two (2) years at $675 in year one and to $850 in year two.
April 1, 2024	BN 277674	Update to land values

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1. POLICY APPLICATION

1.1 Shared Government Roles and Responsibility

The Province of British Columbia is responsible for managing the use and occupation of provincial Crown land, including Crown land covered by water. The Ministry of Forests, Lands and Natural Resource Operations is responsible for the issuance and management of Crown land tenures, including tenures for aquaculture improvements.

Fisheries and Oceans Canada (DFO) is responsible for regulating, monitoring and licensing all aquaculture operations in the province (with the exception of those sites culturing only marine plants). DFO's responsibility includes most aspects of the industry including but not limited to species, production practices and volumes, fish containment, fish health, sea lice levels, waste control and fish habitat and protection measures.

Transport Canada is responsible for reviewing and approving applications for the placement of aquaculture containment and/or structures within navigable waters.

The Ministry of Agriculture is responsible for the BC *Fisheries Act* and is the lead provincial agency for strategic policy and aquaculture industry development.

Provincial and federal agencies work in a collaborative manner to review and respond to aquaculture applications but the parties make independent decisions based upon legislation, policies, and best management practices of those agencies.

1.2 Application of the Aquaculture Land Use Policy

The Aquaculture Land Use Policy applies to the siting and improvements of tenures required for the cultivation of finfish, shellfish and marine plants on aquatic Crown land or foreshore. This policy does not apply to ocean ranching of finfish or the wild commercial or recreational harvesting of finfish, marine plants, wild oysters or herring spawn on kelp or tenuring of lake areas for commercial recreation fisheries.

This policy applies to bottom culture and floating or permanent structures required for stock grow-out, feed and equipment storage sheds, environment monitoring stations, processing facilities and other such uses that are within the tenure area and essential to the tenure holder's aquaculture operation.

This policy does not apply to any aquaculture upland use (such as hatcheries) or to applications/tenure solely for processing facilities on aquatic Crown land (these uses can be considered under the General Commercial or Industrial Programs).

The italicized text in this document represents information summarized from standard Crown land management policies and procedures. This material has been inserted where it provides necessary direction or context. As well, website links offer access to the full text of the relevant land management policies and procedures. Text in standard script is applicable to this policy only.

2. PRINCIPLES AND GOALS

Provincial employees act in accordance with applicable legal requirements when making decisions. The Guiding Principles are a summary of key administrative and contract law principles which guide provincial employees.

This policy is part of a series of policies that have been developed to help provincial staff use business and legal principles to achieve the government's goals with respect to the management of Crown land in a manner that is provincially consistent, fair and transparent. To that end, this policy also serves as a communication tool to help the public understand how the Province of BC makes decisions respecting Crown land.

The Provincial Government supports the sustainable development of the aquaculture industry and acknowledges aquaculture as a legitimate use of the coastal resource that makes decisions based on sound science and ensuring business practices are conducted in an environmentally, socially and economically sustainable manner.

3. DEFINITIONS

Application package means the Crown land application form, management plan and other supporting materials form the information package required to evaluate an aquaculture proposal and issue tenure under the *Land Act*.

Aquaculture means the growing and cultivation of aquatic plants, finfish, shellfish or other invertebrates for commercial purposes in any water environment or in human made containers of water, in or under the foreshore or in water.

Aquaculturalist means the holder of an aquaculture tenure issued pursuant to the provincial *Land Act*.

Aquatic Crown land means that land below the visible high water mark of a body of water, extending offshore to the recognized limit of provincial jurisdiction, including the foreshore.

Authorizing Agency means the Aquaculture Operations Branch (the Provincial ministry responsible for the specific land use authorization).

Beach tenure means an aquatic Crown land tenure situated on the foreshore between the low and high water marks.

Diligent use means compliance with a management plan, and satisfactory production as determined from time to time in consultation with the appropriate administering agency (see section 9.5.3).

Extensive area means the area of Crown land used for anchoring structures outside of intensive areas that do not impede navigation or access to lands beyond.

Finfish means freshwater fish and marine finfish species including salmon and non-salmonid species, such as trout and sablefish.

First Nation is a term that refers to the Indian peoples in Canada, both Status and non-Status. Although the term First Nation is widely used, no legal definition of it

exists. Some Indian peoples in British Columbia have adopted the term "First Nation" to replace the word "band" in the name of their community.

Incidental Aquaculture Use (IAU) means the movement or alteration of improvements (including anchors) within the approved tenure area in a manner that does not change the approved use for that tenure. IAU activities must be consistent with the definition and conditions set out in s. 8.1.1B and generally do not require a tenure modification agreement.

Improvements means any additions or alterations to Crown land tenure or physical structures that will temporarily or permanently occupy space on the tenure site required for the cultivation of a culture species. Improvements may include, but are not limited to, longlines, anchor lines, rafts, floats, barges, net pens, net cage arrays, vexar cover or fencing, docks, storage sheds or other buildings.

Intensive area means the area of Crown land used for activities and related improvements directly associated with the production of finfish, shellfish or marine plants. The intensive area will include net cages, netting, float camps, net storage, docks and mort sheds as well as a 30-meter buffer around these structures. The 30-meter buffer is mandatory and is intended to cover the area where anchor lines are likely to pose a restriction to navigation due to the scope and angle of lines closest to the structures. Outside of the 30-meter buffer the lines are generally at a suitable depth to allow safe passage of a boat; however, any anchor lines beyond the 30-meter buffer that restrict access or hamper navigation will also be included as part of the intensive area.

Management plan means the document that details the specific requirements for an aquaculture tenure, including the nature and siting of the improvements. .

Multiculture techniques means aquaculture within the same tenure involving more than one technique to culture the same organism (e.g. shellfish bottom and off-bottom culture).

Phased Development means development of a number of sites in a sequential manner.

Project Review Team (PRT) means a team chaired by the Authorizing Agency and comprised of recognized agencies and groups which meets to review and comment on specific *Land Act* applications.

Shellfish means aquatic plants, shellfish or other aquatic invertebrates.

4. ABBREVIATIONS

AOB – Aquaculture Operations Branch

BCA - BC Assessment

DFO - Fisheries and Oceans Canada

ha. - Hectare

MA - Ministry of Agriculture

MOE - Ministry of Environment

MOU - Memorandum of Understanding

MFLNR – Ministry of Forests, Lands and Natural Resource Operations

PRT - Project Review Team

TC - Transport Canada

5. APPLICANT ELIGIBILITY

Applicants for new tenures, tenure assignment, or tenure replacement must be:

- *Canadian citizens or permanent residents 19 years of age or older; or,*
- *Corporations which are incorporated or registered in British Columbia; or,*
- *Registered partnerships, cooperatives, and non-profit societies which are formed under the relevant provincial statutes; or,*
- *First Nations can apply through band corporations or Indian Band and Tribal Councils. Band or Tribal Councils require a Band Council Resolution a) authorizing the council to enter into the tenure arrangement, and b) giving the signatories of the tenure document the ability to sign on behalf of the Band. For tenures which are to be registered in the Land Title Office, First Nations must apply through either a band corporation or trustees. Band members can elect 1 or more trustees to hold a tenure on behalf of the Band. Verification of election must be by way of a letter signed by the Chief and councilors of the Band giving the full names of the trustees and stating that they were elected at a properly convened meeting of the Band. A Band Council Resolution is not required.*
- *In the case of aquatic land, non-Canadians can apply if they own the adjacent upland (companies must still be incorporated or registered in B.C.).*

For more detailed standard policy information see Eligibility and Restrictions.

The Authorizing Agency has the discretion to limit the number of active applications from any one individual or company being processed at any one time.

6. FORM OF LAND ALLOCATION

Refer to Appendix 1 for a summary table of the types and terms of Crown tenure available for aquaculture operations.

For more detailed standard policy information see Form of Crown Land Allocation.

6.1 Temporary Licence

The tenure holder must permit public access to the area without interference, and must recognize that overlapping and layering of tenures may be authorized by government.

The maximum term for a temporary licence is up to 2 years.

Temporary licences are not usually issued for aquaculture. At the discretion of the Authorizing Agency Director, where the particulars of the situation warrant it a temporary licence may be issued to allow for the investigation of project feasibility or the placement of monitoring equipment. A temporary licence holder may not conduct commercial activity during an investigative period. Under limited circumstances, authorization can be provided for "proof of concept" and/or pilot-scale sales. Product sales can recover

some or all of the operational costs but full commercial production is not allowed under the temporary licence.

The Authorizing Agency will not accept competing aquaculture applications over the site during the term of the temporary licence. Only the temporary licence holder may apply for long-term tenure during the term of the temporary licence. A temporary licence does not guarantee any future tenure.

6.2 Licence of Occupation

A licence of occupation is the most common form of Crown land tenure for aquaculture.

The term for a licence of occupation for aquaculture purposes is up to 30 years. The Authorizing Agency may deem that a shorter term for either the initial or replacement license is appropriate (e.g. to support a staged approach to development). Replacement option is available anytime after mid-term of the current tenure (e.g., 15 years).

A licence of occupation may be issued where minimal improvements are proposed, where short-term tenure is required, and in remote areas where survey costs are prohibitive. It may also be used to allow development to proceed while awaiting completion of survey requirements for a lease or right of way.

A licence of occupation conveys fewer rights than a lease. It conveys non-exclusive use for the purpose described, is not a registerable interest that can be mortgaged, and does not require a survey.

A licence of occupation does not allow the tenure holder to curtail public access over the licence area except where it would impact the licensees' right to use the land as per the licence document. Government may authorize overlapping and layering of tenures.

6.3 Lease

The term for a lease for aquaculture purposes is up to 30 years. The Authorizing Agency may deem that a shorter term for either the initial or replacement lease where appropriate (e.g. to support a staged approach to development). Replacement option is available anytime after mid-term of the current tenure (e.g., 15 years).

A lease should be issued where long term tenure is required, where substantial improvements are proposed, and/or where definite boundaries are required in order to avoid conflicts.

The tenure holder has the right to modify the land and/or construct improvements as specified in the tenure contract. The tenure holder is granted quiet enjoyment of the area (exclusive use).

A legal survey will generally be required at the applicant's expense to define the tenured area.

A lease can be issued in a form that is registerable in the Land Title Registry (whereas, a Licence of Occupation is not.) Registered leases for a term of 30 years or more may be

considered a fully taxable transfer of interest in property and may be subject to Property Transfer Tax in accordance the Property Transfer Tax Act.

Where a lease is not registered in the Land Title Registry, Property Transfer Tax does not apply.

In most cases, a tenure holder may apply for a replacement tenure at any time following the mid-term of the lease. Replacement of tenures is at the Authorizing Agency's discretion.

Where a replacement lease is for the same land, will result in a total duration of more than 30 years, and the replacement lease is registered in the Land Title Registry, the leases may be viewed as a single transaction and may be subject to Property Transfer Tax.

Where the term of a registered lease is less than 30 years or the total duration of all leases does not exceed 30 years, Property Transfer Tax exemption is available.

A lease can be a registerable interest in the land that is mortgageable.

6.4 Sale

Not available under this program. Sale of upland sites may be available through the General Commercial or Industrial programs, dependent on local government zoning.

6.5 Reserves

Federal and provincial agencies may apply for the establishment of an aquaculture reserve to withdraw from disposition high value aquaculture sites required for public purposes, including research and education, and to address First Nations' interests.

7. PRICING POLICY

7.1 Administrative Fees

Application fees for tenures, and other administrative fees, are payable to the Province of BC. These fees are set out in the fee schedules contained in the Land Act Fees Regulation.

Application fees and other common administrative fees are listed in Appendix 1.

7.2 Application Fee

The application fee for new finfish aquaculture tenures is $4925 + GST = $5171.25.

The application fee for new shellfish aquaculture tenures is $1,200 + GST = $1260.

To provide some upfront cost relief for shellfish aquaculture applicants, only $500 of the application fee is to be paid when the application is submitted. The remainder of the fee is to be paid once a decision has been made on the application. The net amount of the remaining "back-end" portion of the fee will be determined by factoring in any refund that is due to the client (see the Pricing Policy - Fee Refunds). Multiple shellfish beach sites may be included in a single application if the individual sites would not be economically

viable as standalone tenures and the individual sites are approximately within a 500m radius of each other.

7.3 Finfish Annual Rent

7.3.1 Finfish Land Value

The land value for finfish aquaculture sites is set at $11,969/ha as of April 1, 2024. The Finfish Land Value will be adjusted annually to account for CPI changes.

7.3.2 Temporary Licence

$250 for terms up to one year, or $500 prepaid for 2 years

7.3.3 Licence of Occupation

Intensive areas – annual rent is calculated as 7.5% of the Finfish Land Value

Extensive areas – annual rent is 7.5% of one half the Finfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

The pricing for freshwater finfish aquaculture will be equivalent to the Finfish Land Values for marine finfish aquaculture.

7.3.4 Lease

Intensive areas – annual rent is calculated as 8% of the Finfish Land Value.

Extensive areas – annual rent is 8% of one half the Finfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

7.4 Shellfish Annual Rent

7.4.1 Shellfish Land Value

The land value for shellfish aquaculture is set at $7,839/ha as of April 1, 2024. The Shellfish Land Value will be adjusted annually to account for CPI changes.

Phase-in: the current land values for existing shellfish sites are to be doubled each year until the above Shellfish Land Value is attained.

Development Discount
Any new shellfish tenure will be eligible for reduced pricing during the first 5 years. A developmental discount rate of 50% of the Shellfish Land Value is to be used.

The discount does not apply to new tenures that overlap or partially overlap sites previously approved for shellfish aquaculture or, to expanded areas of approved shellfish tenure agreements added as an amendment to the original tenure area.

The minimum rent of $675+GST/year will apply.

7.4.2 Temporary Licence

Temporary Licence $250 for terms up to one year, or $500 prepaid for 2 years.

7.4.3 Licence of Occupation

Intensive areas annual rent is calculated as 4% of the Shellfish Land Value.

Extensive areas – annual rent is 4% of one half the Shellfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

7.4.4 Lease

Intensive areas – annual rent is calculated as 5% of the Shellfish Land Value.

Extensive areas – annual rent is 5% of one half the Shellfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

7.5 Ancillary Residential Use

Upland residential sites required to support aquaculture operations may be considered under the Residential land use policy. Fees and rents will be assessed in accordance with that program.

Floating facilities for residential use can be included as part of the general aquaculture tenure (licence or lease). At the time the original application is submitted there will be no additional application or processing fee if floating facilities for ancillary residential use are included within an aquaculture tenure. The addition of residential facilities after the granting of the original tenure will require a new application and processing fee. An additional rent will be charged for residential use, with a minimum additional rent of $500/year.

8. ALLOCATION PROCESSES

Areas of Crown land which have the capability and suitability to support aquaculture may be identified through an integrated resource planning process or aquaculture specific coastal plans (e.g., Aquaculture Opportunity Studies; Shellfish Aquaculture Action Plans). These planning processes involve significant local community and sector input for marine activities in the area. The resulting maps and reports can help direct clients to apply for aquaculture tenures in areas with a higher likelihood of approval and avoid locations with significant environmental issues or social conflicts.

The Authorizing Agency will take into consideration input from these resource planning and advisory processes, where they exist, as well as other sources contacted as part of the referral process when making planned tenure dispositions or evaluating individual applications. The Authorizing Agency will also take into consideration the Provincial Government's sustainability principles in its decision-making.

Where an Economic Measures MOU is in place with First Nations and where community criteria for tenure selection has been established for shellfish aquaculture, new applications will be accepted for suitable sites where they do not conflict with sites identified in the MOU.

In the absence of a formal Economic Measures MOU or MOU sites selection agreement with First Nations, the Authorizing Agency will accept shellfish tenure applications. These will be subject to consideration of First Nations interests and rights, any completed coastal resource plans, standard referral processes and community input as part of the public consultation process.

Where a coastal resource planning process or an Economic Measures negotiation is actively in progress, the Authorizing Agency Director may designate specific areas of the coast where aquaculture applications will be accepted but will be parked until the associated planning process or negotiations are concluded in a timely manner.

8.1 Applications

New and replacement tenures are normally offered in response to individual applications.

8.1.1 Application Package

Applications must be complete before they can be accepted for processing. A complete application package will include all the material defined in the Application Checklist.

In terms of applications for salmon aquaculture, refer to Appendix 2.

A. Parcel and Siting Considerations

Siting Criteria for Aquaculture Tenure

Specific guidelines regarding separation distances and other siting considerations have been developed. These must be reflected in site plans and management plans. Siting considerations include:

- riparian rights and requirements for navigation;
- First Nations potential aboriginal interests and rights; and
- environmental concerns.

The Authorizing Agency Director, at the request of the PRT and in consultation with relevant regulatory agencies, has the discretion to modify general siting criteria or establish additional density and separation requirements where appropriate.

Where separation guidelines are not met, applicants must include a detailed explanation and justification for proceeding with the application.

Parcels for Tenure Expansions

A parcel must not be capable of being a stand-alone site to be considered for expansion. In general, the add-on parcel must be of reasonable size (e.g. shellfish tenure may be expanded by up to 20% of their original tenure size or 2.5 ha. for inter-tidal sites and 10

ha. for deep water sites, whichever is greater). A site is not considered stand-alone if it is not economically viable due to the following factors:

- high utilization cost if the site is located too great a distance from the market;
- expected low return on the effort spent if site has poor biophysical conditions;
- low potential production;
- restricted operation time if the site is subject to closures due to pollution;
- restricted production methods or production intensity as defined in the management plan due to tenure size; or
- utilization is not feasible due to access restrictions (e.g. the site is only accessible through an existing tenure).

The characteristics that make a site "standalone" will depend on the species cultured as economic factors and biophysical requirements vary among species. The determination of a site's ability to be "standalone" will rest with the Authorizing Agency Director. An expansion parcel must not impede riparian access to upland properties or reasonable access to other established tenures. Deepwater expansions cannot impede the movement of boats and equipment required for the operation of existing tenure.

This policy does not guarantee that applications for tenure expansion will receive a favourable land-use decision.

B. Management Plan

All aquaculture tenure applications require a tenure Management Plan. The approved tenure Management Plan is referenced in the tenure document and forms part of the tenure agreement.

The tenure Management Plan for *Land Act* tenure agreements for shellfish, finfish and freshwater / land-based aquaculture activities is made of Parts I, II and V of the harmonized aquaculture application. Once approved by MFLNR, Parts I, II and V becomes the tenure Management Plan (with a cover page that is dated and signed) and is retained as evidence of the approved tenure boundaries and purpose of occupation granted under the *Land Act* tenure agreement.

An application for a tenure modification to amend the approved tenure Management Plan is required:

- to change the authorized use of the approved tenure;
- to expand or reduce the size of an approved tenure boundary; or
- upon request from the Director of Authorization.

An application to modify the tenure agreement, complete with fees and an updated Management Plan, is required where substantial alterations of site improvements are being proposed.

Incidental Aquaculture Use

Some changes to improvements (i.e. fishing gear and accommodations) within an aquaculture tenure area, that are <u>not</u> considered to be substantial alterations, do not

require a tenure amendment. These changes to improvements must be consistent with the definition and conditions for "Incidental Aquaculture Use" as follows:

Incidental Aquaculture Use (IAU) is defined as the movement, alteration or addition of improvements (fishing gear and/or accommodation) within the approved tenure area in a manner that does not result in a substantive alteration to improvements and does not change the approved use. These IAU changes may include:

- relocation or realignment of existing improvements within the tenure area. For example: net cages, long lines; storage sheds, work floats and temporary worker/caretaker accommodation;
- a change of 30% or less of the Intensive Area within the tenure boundary; or
- a change of 30%[1] or less in the footprint of improvements within the tenure boundary; or
- Modifications to improvements required to support best management practices, husbandry and to respond to stock availability in a manner that is consistent with all federal authorizations.

Examples of IAU for shellfish aquaculture may include:

- changing or adding different types of culture infrastructure used (e.g. strings, trays, nets);
- increasing the number of rafts;
- changing the type of flotation systems or buoys; or
- installing a "pouch" system on the inter tidal muddy areas to prevent oysters from sinking into substrate.

Examples of IAU for finfish aquaculture may include:

- changing the design or configuration of net cages; or
- changing the type of flotation systems and buoys used.

IAU conditions: Changes that meet the definition of IAU will not require a tenure modification under this policy if **all** of the following conditions are met; specifically, a tenure holder must:

- be authorized by the federal government to conduct aquaculture and obtain all necessary federal approvals before placing or changing improvements on the tenure;
- hold a form of tenure that is a licence of occupation or lease in good standing;
- ensure all improvements (fishing gear and accommodation) are within the approved tenure area;
- not substantively change the height or size of an accommodation for workers or a caretaker;
- where appropriate, update the tenure security bond to reflect any proposed changes in improvements; and

[1] The 30% figure is cumulative and represents the total change since the last approved management plan.

- notify FCBC in writing (e.g., email) of the proposed change within a minimum of 21 days prior to initiating the IAU change. In the case of urgent safety issues with improvements, the notification period is waived and notification could occur afterwards.

Trigger for submission of a tenure amendment application:

The tenure-holder must apply for a tenure modification when:

- proposed changes result in the extension of improvements beyond the tenure boundary;
- the proposed change increases the Intensive Area within the tenure boundary by more than 30%;
- the proposed change increases the footprint of the improvements within the tenure boundary by more than 30%;
- requested by the Director of Authorization when the proposed changes to improvements do not meet the spirit and intent of the definition or conditions for an IAU; or
- request for premature tenure replacement (e.g. to increase the tenure term).

IAU does not apply to federal authorizations and the proposed change may trigger the need to apply for an amendment to the federal government. FCBC will forward the notification to the appropriate agencies.

C. Tenure Expansions

The completed application package for tenure expansion is the same as for a new tenure. It would include a new management plan and supporting materials to cover both the original tenure and the expansion area(s). Where a tenure expansion is being proposed, a new management plan must fully explain how the expansion parcel will improve the overall operation. The new plan must state proposed production levels. See Section 8.1.7 for additional notification requirements for shellfish tenure expansions.

8.1.2 Application Acceptance

New applications will be reviewed for acceptance based on application package completeness, compliance with policy and program criteria, preliminary statusing, and other information which may be available to provincial staff. The acceptance review is to be completed within 7 calendar days. Applications that are not accepted will be returned to the applicant.

Once an application is accepted the following actions will be taken:

- ensure that all accepted applications are noted on regional status maps;
- park the application pending Aquaculture PRT screening; and
- Authorizing Agency will notify the PRT and make arrangements for inter-agency screening of the application as per Section 8.1.6.

The province will accept, but not proceed to decisions on applications in those areas where:

- aquaculture specific resource planning processes are in progress; or
- significant negotiations are in progress to establish Economic Measures MOUs with First Nations or develop associated community consultation criteria.

8.1.3 Queuing/Competing Applications

In general, competing aquaculture applications (e.g. applying for aquatic lands already the subject of a previously accepted aquaculture application) will be dealt with through a queuing process (see Section 8.2 for exceptions where a competitive process may be used).

For finfish, competing applications will be defined as an application for an area that is:

- within one km of a site with a prior accepted application from the same company; or
- within three km of a site with a prior accepted application from a competing company.

For shellfish, a competing application is an application that is applying for part or all of a site that has an accepted application.

If it is confirmed that an aquaculture application is competing with a previously accepted application, provincial staff will notify the proponent that their application is for an area already applied for, inform them of the policy to proceed to decision on the first application accepted and offer them a choice between the following options:

- secure a place in a queue which will ensure the application is processed once any prior accepted application(s) for the specific area have been formally disallowed; or
- have the application and administration fee payment returned.

If the first option is chosen the proponent is informed that this now authorizes the province to cash the application fee.

If the prior application is disallowed the next application in the queue will then be processed. The first application in the queue for the applicable area is then forwarded to the PRT for screening.

If an earlier applicant accepts a tenure offer, all applicants in the queue will be notified of the decision and the queue is cleared. The province will retain $500 from each application held in the queue, the remainder of any application fees will be returned to the applicants. There will not be any refund provided to shellfish aquaculture applicants who have only submitted the $500 "up front" portion of their application fee (see section 7.2 for more details).

8.1.4 Clearance/Statusing

After acceptance, provincial staff undertake a detailed land status of the specific area under application to ensure all areas are available for disposition under the Land Act and to identify potential issues.

8.1.5 Referrals

Referrals are a formal mechanism to solicit written comments on an application from recognized agencies and groups. Referrals are initiated as per legislated responsibilities and formal agreements developed with other provincial and federal government agencies. Referrals may also be used to address the interests of local governments and First Nations. Referral agencies, organizations and identified special interest groups provide their responses to the Authorizing Agency within 30 days (45 days for First Nations).

Where tenure applications meet established siting criteria and other specific requirements as set out in formal agreements with other provincial and federal government agencies, and where the topic has been formally included in the terms of the agreement, referrals will not be conducted, although First Nations consultation requirements will continue to be applicable.

The Authorizing Agency will ensure that all aquaculture applications for both new and replacement tenure, as well as major amendments to existing approved management plans, are referred for review and comment to agencies. Finfish and shellfish referral checklists will be maintained by the Authorizing Agency.

Fisheries and Oceans Canada may respond by informing applicants and the province that a review under *Canadian Environmental Assessment Act* or *Navigable Waters Protection Act* is underway. The Authorizing Agency Director may choose to park the application until the federal environmental review is completed.

The Authorizing Agency will ensure referral responses are tracked and interpreted and that referral responses are provided to DFO as per current agreements.

Referrals to First Nations will be carried out as per the provincial consultation guidelines and, wherever possible, harmonized with DFO. It is recognized that provincial consultations with First Nations are not meant to replace or satisfy federal aboriginal consultation requirements.

8.1.6 Project Review Team (PRT)

A Project Review Team (PRT) is an advanced referral method which may be used for complex applications. It is a team chaired by the Authorizing Agency and comprised of recognized agencies and groups which meets to review and comment on specific Land Act applications.

The aquaculture PRT is responsible for reviewing application packages, determining if information requirements are complete and reporting findings to the Authorizing Agency. The inter-agency Project Review Team membership will normally include the following representation:

- MFLNR (2)

- TC – Coast Guard (1)
- DFO – Major Projects Review Unit (1)
- MOE (1)

Specific agency representatives may also change depending if the PRT is screening shellfish or finfish applications.

For all finfish and shellfish applications received and accepted by the province, the PRT will have 30 days from the date of notification by the Authorizing Agency to undertake an initial screening to:

- ensure proponents have provided adequate technical information for government agencies to effectively review the application package; and
- review and compare applications against approved siting criteria and evaluate whether all the required siting buffer information has been provided.

If there are any information omissions, the Authorizing Agency will ask the proponent to supply the missing information within a specific timeframe that does not exceed 60 days. The proponent will provide the additional information to the Authorizing Agency which will then disseminate the information to the PRT review agencies. If the applicant does not provide the requested missing information within the timeframe stipulated, the applicant is informed by letter that the application has been disallowed and any further continuation of the proposal will require another application and fee.

Once the PRT has completed its screening and if the application is not disallowed the Authorizing Agency will:

- ensure that the client is informed of the timeframe for adjudication of the application;
- un-park the application to complete the adjudication process;
- ensure the application is posted on the relevant web site and the status of the application on the web is updated when adjudication is complete; and
- refer the management plan and supporting materials to review agencies, local governments and other interests (as outlined above under referrals).

The PRT, as a whole, may invite presentations and submissions from the applicant. Where required, staff from agencies participating on the PRT may also contact the proponent directly (for example, with questions about data provided or additional information required). When this occurs, those officials will be expected to indicate to the PRT Chair the nature of the contact (i.e. topic, results of discussion, any correspondence, etc.).

Additional federal or provincial agency staff may attend meetings on request or by invitation, but may only address agenda items or introduce additional items at the discretion of the Chair and official PRT members. Individual PRT agencies may choose to have additional staff attend for information purposes, but approval from the Chair and official PRT members is required for other staff to participate in discussions.

The PRT may, at times, be expected to respond to the Authorizing Agency's request for additional advice such as evaluating and weighting criteria to assist the agency in dealing with competing applications (refer to Section 8.2 on Competitive Processes).

8.1.7 Advertising/Notification

At the time of application acceptance, provincial staff will notify applicants if advertising is required and provide the necessary instructions.

Staking is required for aquaculture applications. A person intending to apply for Crown tenure is required to post a notice indicating his or her intention to do so at the intended location. This notice must contain the applicant's name and address, the site being applied for by local name, the area of application, a metes and bounds description (including latitude and longitude) and the purpose of the application.

At the discretion of the Authorizing Agency Director applicants may also be required to seek public input through open houses, local advisory committees, including stakeholders on Project Review Teams, etc.

All new finfish applications will require public consultation which will most often be conducted via an open house session in a local community near the area under application. Where possible, the Authorizing Agency will coordinate the holding of such an open house with DFO.

Applications for investigative permits or tenure replacements do not require public consultation or open houses.

The Authorizing Agency may need to coordinate advertising with other organizations that also have this requirement, in particular DFO.

The availability of tenure sites by public competition (see Section 8.2) or other proactive offerings (other than direct application) will be advertised by the province.

After PRT review and acceptance by the Authorizing Agency, all applications and their status will be posted on the relevant website.

A. Additional Notification Requirements for Shellfish Tenure

Where an application for a shellfish tenure (new or expansion) covers an area which may affect an existing shellfish tenure's ability to expand, then the applicant will notify neighbouring tenure holders of the application by a registered letter. The purpose of the notice is to alert the neighbouring tenure holders of the application and provide an opportunity for these tenure holders to identify issues or concerns with the proposal.

The applicant must confirm that the notification has taken place no later than 30 days from the acceptance date of the application. If the regional office does not receive the necessary confirmation within this timeframe, the application may be disallowed. Notification of neighbouring tenure holders can also be done prior to making application, in which case the confirmation can be submitted along with the application. This latter approach is encouraged to avoid delays and reduce the need for application amendments (concerns can be worked out amongst tenure holders ahead of time).

For expansions that are proposed for areas adjacent to or between other existing tenures that would likely limit the other tenure holders ability to expand in the future (as per Parcels for Tenure Expansions under Section 8.1.1) the following applies:

- if within 30 days of the notification date all neighbouring tenure holders confirm that the proposal will not conflict with their plans for expansion the application will proceed; or
- if within 30 days of the notification date a neighbouring tenure holder(s) express an interest in expanding their tenure (written confirmation) and the applicant's proposal will conflict with such expansion, the applicant's proposed area may need to be reduced to ensure that the area adjacent to and between the existing tenure can be divided equitably between those existing tenure holders who wish to expand. If an expression of interest is submitted by a neighbouring tenure holder(s) the applicant's initial application will be parked until such time as an application(s) is received by the Authorizing Agency from the other tenure holder(s) - this must be done no later than 60 days from the receipt of the expression of interest. The adjacent area will only need to accommodate multiple expansion parcels (be divided between the applicants) for those tenure holders that submit an application within the 60-day period.

The Authorizing Agency Director may, at his or her discretion, reduce or revise the area under application in consultation with the proponent and the neighbouring tenure holder.

B. Upland Owner Consent

Owners of waterfront property have certain "riparian rights" which include the right of access to and from the upland (see Riparian Rights and Public Foreshore Use in the Administration of Aquatic Crown Land). Provincial staff will advise applicants if there is a need to obtain a letter indicating the upland owner's consent to their application.

C. Adjacent Owner Notification

New applications to tenure foreshore adjacent to privately owned property, including Indian Reserves, are brought to the adjacent property owner's attention through referrals or direct contact. In certain circumstances, provincial staff may advise applicants that there is a need to obtain a letter indicating adjacent owner's consent to their application.

8.1.8 Aboriginal Interests Consideration

The Authorizing Agency is responsible for ensuring the Province's obligations to First Nations are met in the disposition of Crown land. Provincial staff carry out consultations in accordance with the consultation guidelines of the Province to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur.

It is recognized that DFO has a separate process for First Nations consultation in order to meet federal fiduciary obligations and, where possible, provincial and federal agencies should try to harmonize First Nations referrals on the same application.

8.1.9 Field Inspections

Field inspection means the on-site evaluation of a parcel of Crown land by provincial staff. The need to conduct a field inspection will vary and the decision to make an inspection ultimately lies with the Authorizing Agency.

The Authorizing Agency will coordinate and share information on field inspections and may invite other relevant federal and provincial agencies to participate in inspections. Site data collected by other federal and provincial agencies may be used by the Authorizing Agency.

8.1.10 Decision/Report

The applicant will be notified in writing of the government's decision. Reasons for Decision are posted on the relevant website.

8.1.11 Issuing Documents

If the application is approved, tenure documents are offered to the applicant. All preconditions must be satisfied prior to the Authorizing Agency signing the documents. It is the applicant's responsibility to obtain all necessary approvals before placing improvements or commencing operations on the tenure.

Wherever possible, the provincial tenure and federal licence documents should be issued at the same time. Management plans and supporting materials will not be attached to the tenure document, but will be referenced in the document as being held on file by the Authorizing Agency.

8.2 Competitive Process

The Authorizing Agency may initiate one of a number of different competitive processes (e.g. public auction, request for proposals) where permitted by program policy and when deemed appropriate by provincial staff.

Occurrences where the province will have to initiate a competitive process should be minimized by the fact that an early process for screening and queuing applications has been established. The cases where a competitive process may be required are as follows:

- competing applications are initially received on the same day;
- the province invites competing expressions of interests for an area or region-specific opening or call for applications;
- tenures previously used and considered suitable for aquaculture have expired without replacement, been cancelled or been abandoned; or
- a *Land Act* reserve, not specific to a First Nations Economic Measures MOU, which is considered best suited for aquaculture has been cancelled.

In these cases, the Authorizing Agency will apply criteria developed in consultation with the PRT. The details of these evaluation criteria will be customized to the particular application situation, but should strive to reflect the range of factors listed below:

- potential employment/job benefits;

- implications for industry development;
- education and training opportunities;
- partnerships with First Nations or local government;
- consideration of land-use and environmental factors;
- revenue benefits for the Crown;
- the use of environmental technologies;
- compatibility with the provincial government's Sustainability Principles; and
- any additional community criteria that may have been established as part of a negotiated Economic Measures MOU with First Nations.

Potential applicants will be advised of these criteria prior to submitting their application packages. The PRT will evaluate the applicability and weighting of evaluation criteria and may be asked to provide advice to the Authorizing Agency.

In the case where competing aquaculture applications are determined by the above process to be of relatively equal merit, the Authorizing Agency Director may direct that the applicants be invited to make bonus-bid offers for the site in question. The applicant who does not have his or her bid accepted will then be offered the option of being first in queue after the accepted application as per Section 8.1.2.

If competing applications over the same parcel are for different uses (e.g. aquaculture and log handling), disposition will be on the basis of best use of the land as determined by the Authorizing Agency Director in consultation with other appropriate agencies.

Depending on the circumstances, a process of First Nations consultation may be required.

8.2.1 Bonus Bid Process

The Authorizing Agency Director may decide to utilize a closed bonus-bid process in cases where aquaculture tenures have reverted to the Crown or where two or more competing applications are deemed tied after evaluation against the criteria as outlined above.

The following special procedures apply for holding a bonus-bid competitive process or auction:

- a site previously used for a particular aquaculture purpose will normally first be auctioned for the same purpose unless the Authorizing Agency Director, determines that another form of aquaculture constitutes better use;
- a closed-bid auction will be held within 12 months of the parcel(s) becoming vacant to ensure that production is not interrupted for overly long periods;
- the Authorizing Agency Director will ensure that procedures for disposition of sites by public competition are consistent from the aspect of administrative fairness. The same requirements as those expected of an applicant making direct application would apply to the public disposition process including advertising, local zoning and availability of upland owner's consent;

- the Authorizing Agency Director will consult with DFO prior to advertising the parcel(s) for public auction regarding site suitability and production capability. Local governments, other government agencies and interest groups may be consulted as appropriate;
- where several areas are proposed for marketing, the Authorizing Agency Director may advertise the areas at a single auction;
- in developing the minimum requirements for bids, the Authorizing Agency Director may utilize some or all of the criteria identified in Section 8.2. The Authorizing Agency will communicate these added requirements to all potential applicants; and
- the successful applicant(s) will be required to submit a management plan which will be reviewed by the Authorizing Agency and, as appropriate, local governments, First Nations, government agencies and interest groups.

8.3 Planned Tenure Dispositions

Planned tenure dispositions involve the province actively investigating and developing opportunities for Crown land tenures, followed by announced openings within specific geographic areas. Under a planned disposition project or study, Crown lands will be allocated by the Authorizing Agency in accordance with standard application procedures or by competitive process.

9. TENURE ADMINISTRATION

9.1 Insurance

A tenure holder is generally required to purchase, and is responsible for maintaining during the term of the tenure, a minimum level of public liability insurance specified in the tenure document. The province may make changes to the insurance requirements and request copies of insurance policies at any time during the term of the tenure.

9.2 Security/Performance Guarantee

A security deposit or bond may be required to be posted by the tenure holder where any improvements on, or changes to, the land are proposed. The security deposit is collected to insure compliance and completion by the tenure holder of all the obligations and requirements specified in the tenure. Some examples where such security may be used are for any type of clean-up or reclamation of an area, and/or to ensure compliance with development requirements.

The Authorizing Agency may determine the amount of the security deposit or bond. The amount is generally based on the use and the number, size and scale of Improvements. The Tenure Administration Procedures provides minimum bond amounts for aquaculture.

9.2.1 Finfish Bond

All operators are required to submit a performance bond per finfish tenure held or appropriate blanket bonds where multiple tenures are held.

A blanket performance bond is held by the BC Salmon Farmers Association on behalf of its members.

9.2.2 Shellfish Bond

All operators are required to submit a performance bond per shellfish tenure held or appropriate blanket bonds where multiple tenures are held.

A blanket bond is administered by the British Columbia Shellfish Growers Association for its members.

9.3 Assignment and Sub-Tenuring

Assignment is the transfer of the tenure holder's interest in the land to a third party by sale, conveyance or otherwise. Sub-tenuring means an interest in the Crown land granted by a tenant of that Crown land rather than the owner (the Province).

Assignment or sub-tenuring requires the prior written consent of the Authorizing Agency. The assignee or sub-tenure holder must meet eligibility requirements. The Authorizing Agency may refuse the assignment of existing tenures if the details of the assignment or sub-tenure are not acceptable to the province.

Investigative and temporary permits cannot be sub-tenured or assigned.

The Authorizing Agency will notify relevant federal and provincial agencies (e.g. MOE, DFO) of completed assignments and sub-tenures so that other licences and permits may be updated. Circumstances that would require full referral of the application for assignment or sub-tenure are detailed below.

As a condition of consent for assignment or sub-tenure, the Authorizing Agency will require verifiable financial information (e.g. a statutory declaration or a financial statement from a financial institution or accountant) specifying the total value of the transaction, the component of value that is associated with the land tenure and the component that is associated with the value of improvements on the tenure.

9.3.1 Assignment

A management plan (existing or new) is required prior to assignment:

- where a plan is in place, the proposed assignee must either accept the existing plan (by initialing and dating a copy of the approved plan) or submit an amended or new management plan; or
- where no plan exists, the proposed assignee must submit a complete new management plan along with supporting materials.

In the case where a new or amended management plan is submitted, the authorizing agency will refer the plan and its supporting materials to all appropriate referral agencies for review and approval prior to assignment (e.g. there will be no amendment of management plan or supporting material during the assignment process.)

It is preferable that an application for tenure assignment be submitted with an existing management plan accepted by the proposed assignee. Once an assignment is made

the assignee may then apply to amend the management plan and the Authorizing Agency will refer the application for review as per Section 8.1.5.

A lease or licence of occupation must be brought to a satisfactory level of development/production prior to assignment. Assignment of new tenure will not generally be allowed until after the third year of development. The following procedures apply:

- confirmation of diligent use based on Annual Aquaculture Statistical Reports (AASR) of annual production figures for the site.
- if AASR data is not available for the site the tenure holder requesting assignment will do one of the following:
  - submit AASR data for the most recent two years of production;
  - submit proof of purchase (either in the form of receipts or as reported in site inspection reports) of finfish smolts or two years' worth of shellfish stocking; or
  - submit a copy of the agreement of sale of the site.

The Authorizing Agency Director may waive the requirement of satisfactory development and production of the site if the following applies:

- the request for assignment is a result of internal corporate restructuring (.e.g. an individual requests his tenure be assigned to a company in which he is a principal partner);
- there is no change to the management plan; and
- the client requesting the assignment holds numerous tenures and another company or person is acquiring all the holding.

9.3.2 Sub-Tenuring

The Authorizing Agency Director will consider requests for sub-tenuring on a case by case basis.

Sub-tenure documentation must either commit the sub-tenant to the aquaculture management plan of the primary tenure-holder or be based on a new management plan acceptable to the province. The Authorizing Agency and other referral agencies or organizations as appropriate will review all new management plans.

Rental rates for sub-leases and licences are not to be less than rates established under this policy. A revenue-sharing agreement will be negotiated with the Authorizing Agency reflecting appropriate consideration for sub-tenured uses.

9.4 Tenure Replacement

Replacement tenure means a subsequent tenure document issued to the tenure holder for the same purpose and area.

In most cases, tenure holders may apply for a tenure replacement at any time following the mid-term of the tenure. Replacement of tenures is at the Authorizing Agency's

discretion. The province may decline to replace a tenure, or may alter the terms and conditions of a replacement tenure. For tenure terms and conditions see Section 6.

Investigative permits are not generally replaced. A further two year term may be provided, at the Authorizing Agency's discretion, when there are legitimate requirements for a longer investigative period.

9.5 Monitoring and Enforcement

Tenure terms and conditions, including requirements contained in approved management/development plans' act as the basis for monitoring and enforcing specific performance requirements over the life of the tenure.

9.5.1 Compliance and Enforcement

Compliance inspections, monitoring and enforcement actions will take place as per the service agreement on compliance and enforcement coordination between MFLNR, MOE and in cooperation with DFO.

9.5.2 Site Decommission/Clean-up Procedures

Upon decommissioning of a site the client will report to the Authorizing Agency that the tenure has been left in a clean, sanitary and safe manner this will include all anchors, cables, lines and shore ties, unless otherwise directed. The client must supply the following:

- a Statutory Declaration signed in the presence of a Commissioner for taking Affidavits for British Columbia or a Notary Public in and for the Province of British Columbia swearing the site is clean, safe and sanitary; and
- a representative remotely operated vehicle (ROV) or video transect(s) of the ocean floor within and adjacent to the tenure boundary demonstrating that the site is clean, safe and sanitary.

Copies of both the Statutory Declaration and the videotape/CD will be forwarded to DFO and MOE for their review.

MFLNR will conduct audits on a representative sample of these sites to ensure the terms of the Statutory Declarations are met.

The province holds performance guarantees on all tenures. A performance guarantee will not be released until the Authorizing Agency Director is satisfied that the work has been completed to the satisfaction of the provincial and federal agencies.

Where clean up failed to occur at past abandoned sites and if the company or an affiliate exists, they will be contacted and requested to address any cleanup issues. If the previous company is no longer operative, the province will work with the BC Salmon Farmers Association or the British Columbia Shellfish Growers Association to address outstanding clean up of such sites.

9.5.3 Diligent Use

All aquaculturalists who have acquired a new tenure must demonstrate that work has started on the site within 12 months of being in receipt of all required licences and permits (unless the Authorizing Agency Director recognizes extenuating circumstances).

To be considered as diligent use the site is to be in compliance with the management plan within five years of issuance of the initial tenure (unless the Authorizing Agency Director recognizes extenuating circumstances). The objectives of diligent use are to:

- ensure that aquaculture tenure is used diligently;
- ensure that aquaculturalists know the basis for which a tenure can be cancelled;
- ensure that aquaculturalists performance is evaluated in an objective and fair manner;
- ensure that leases or licenses of occupation are only provided for commercial and other approved purposes; and
- justify alienation of the Crown resource from the general public.

MFLNR may assess diligent use at any time. The onus is on the aquaculturalist to produce verifiable evidence, satisfactory to the province, that diligent use is being maintained. Verification of diligent use will be by way of:

- confirmation of diligent use, based on DFO's Annual Aquaculture Statistical Reports (AASRs) of annual production figures for the site; or
- conducting site inspections to verify diligent use.

Any aquaculturalist not making diligent use of their tenure will be sent a registered letter explaining the requirement and requesting that an explanation be provided within 30 days. If a reasonable explanation is not forthcoming, a second registered letter will be sent to the aquaculturalist indicating that unless a reasonable explanation is received within 30 days of the date of the letter the tenure may be cancelled. The Authorizing Agency Director will consider the response.

If a satisfactory explanation is not received within the time frame prescribed above, Authorizing Agency will begin tenure cancellation proceedings.

The cancellation of tenure will be carried out according to Section 43 of the *Land Act*. In general, this process will require the Authorizing Agency to provide notice by registered mail requesting the tenure holder to comply with the covenant, stipulation or term within 60 days after the notice is mailed.

If the default continues after the 60-day period, the disposition may be cancelled. The Authorizing Agency will advise other affected parties (e.g. MOE, DFO, BCA, local government, etc.) of cancellation proceedings.

10. VARIANCE

Variances to this policy must be completed in accordance with the Policy Variance Procedure.

APPENDIX 1. AQUACULTURE POLICY SUMMARY

Table 1. Summary of *Land Act* Aquaculture Tenures, Terms, Fees[2] & Rents

Tenure Type	Term of Tenure (Maximum)	Annual Rent Payments	Administrative Fees
Investigative Permit	• 2-year term • Replacement can be allowed at end of term.	$250+GST/year, or $675+GST prepaid for the entire term	• Application fee - $500+GST
Licence of Occupation	**Shellfish:** • 30-year licence • Replacement option anytime after mid-term (e.g., 15 years) **Finfish:** • 30-year licence • Replacement option anytime after mid-term (e.g.,15 years)	**Shellfish** • Intensive - 4% of Shellfish Land Value with a $675+GST minimum • Extensive - 4% of half the Shellfish Land Value with a $675+GST minimum • Development period – for the first 5 years, 50% of the Shellfish Land Value with a $675+GST minimum • Replacements: o Intensive - 4% of double land value on file until the Shellfish Land Value is achieved o Extensive- 4% of double land value on file until the Shellfish Land Value is achieved o $675+GST minimum **Finfish** • Intensive - 7.5% of Finfish Land Value with a $675+GST minimum • Extensive - 7.5% of half the Finfish Land Value with a $675+GST minimum	**Shellfish** • Application fee - $1200+GST • Tenure Replacements - $600+GST • Tenure Conversions - $600+GST • Tenure Expansions - $600+GST • Amendments: minor - $100+GST other - $500+GST **Finfish** • Application fee - $4925+GST • Tenure Replacements - $2462.50+GST • Tenure Conversions - $2462.50+GST • Tenure Expansions - $2462.50+GST • Amendments: minor - $100+GST other - $500+GST
Lease	**Shellfish:** • 30 years • Replacement option after mid-term (e.g., 15 years)	**Shellfish** • New tenures - 5% of Shellfish Land Value with a $675+GST minimum	Same as for Initial Licence of Occupation fees (above)

[2] Includes fees that are listed in the *Land Act* Fees Regulation. If there is a discrepancy between this table and the regulation, the regulation takes precedence.

Tenure Type	Term of Tenure (Maximum)	Annual Rent Payments	Administrative Fees
	Finfish: • 30 years • Replacement option after mid-term (e.g., 15 years)	• Replacements - 5% of double the land value that is on file until the Shellfish Land Value is achieved ($675+GSTminimum) **Finfish** • Intensive - 8% of Finfish Land Value with a $675+GST minimum • Extensive - 8% of half the Finfish Land Value with a $675+GST minimum	
Ancillary Residential Use	Upland – as per Residential Program Floating – as per aquaculture tenure	Upland - rents will be assessed as per Residential Program Floating - additional rent will be charged with a minimum additional rent of $675+GST year	Upland – application and processing fees as per Residential Program Floating - no additional application or processing fees

APPENDIX 2: SALMON AQUACULTURE CONSIDERATIONS

This Directive provides interim direction to regional *Land Act* decision-makers regarding the consideration of finfish (salmon) aquaculture tenure applications and implements the following strategic policy direction from the Ministry of Agriculture in the June 20, 2018 Information Bulletin AGRI0046-001248:

> *Effective June 2022, the Province will grant Land Act tenures only to fish farm operators who have satisfied Fisheries and Oceans Canada (DFO) that their operations will not adversely impact wild salmon stocks, and who have negotiated agreements with the First Nation(s) in whose territory they propose to operate. Operations with expired provincial tenures, or tenures that expire before June 2022, may operate with month-to-month tenures.*

This Directive replaces previous Ministry of Agriculture direction provided in the July 31, 2015 AGRI0050-001218 Information Bulletin/ September 30, Information Bulletin 2015AGRI0062-001629.

For clarity, this directive does not affect the 2008 moratorium north of Klemtu (established by OIC #174) or the 2013 restrictions in place in the Discovery Islands (see news release #AGRI0018-000570).

Additional operational policy direction for finfish (salmon) aquaculture is, as follows:

1. Effective immediately, applications for tenures for new sites, replacement of existing tenures, tenure expansions, or tenure assignments that apply to any period after June 30, 2022 should be approved only where the applicant demonstrates that both of the following two conditions have been met:
   (a) the applicant has satisfied DFO that operations will not adversely impact wild salmon stocks; and
   (b) the applicant has entered into an agreement with the First Nation(s) in whose territory the proposed tenure is located.
2. The decision maker may consider that possession by the applicant of a valid federal aquaculture licence is adequate to meet the condition under 1(a).
3. The agreements described in 1b are expected to be negotiated directly between the applicants and First Nations and do not include the Province. The provincial decision maker may consider that provision by the applicants of a letter or email of support, non- objection, deferral or abstention from the First Nation(s) in whose territory they propose to operate is sufficient evidence that the condition under 1(b) has been met.
4. Tenures that have an expiry date of June 30, 2022 or earlier and which fail to meet the conditions described in 1(a) and 1(b) by June 30, 2022 should be provided notice to vacate and decommission the site, consistent with tenure terms and conditions.

5. Applications for the replacement of Crown land tenures may, at the discretion of the decision-maker, be approved in the absence of an agreement described in 1(b) provided that any such authorization does not apply to any period after June 30, 2022. Approvals and month-to-month tenancy to occupy Crown land for the period up to June 30th 2022 are intended to allow the tenure-holder the opportunity to meet the conditions under 1(a) and 1(b).

6. Applications to update the tenure management plan that do not include an application to increase the size of the tenure area, as well as changes to improvements considered to be Incidental Aquaculture Use, will not be required to meet 1(a) and 1(b).

7. Nothing in this policy limits the Province's legal obligations to consult with First Nations.

Strathcona
REGIONAL DISTRICT

AQUACULTURE JURISDICTIONS

Fisheries and Oceans Canada (DFO)

- Issues aquaculture licences for marine finfish, shellfish and freshwater (land-based) operations.
- Regulates aquaculture operations through the *Fisheries Act, Health of Animals Act, Food and Drugs Act,* and *Species at Risk Act.*

Province of BC

- Issues aquaculture licenses for the commercial harvest of marine plants.
- Issues business licenses for aquaculture under the *Fisheries Act.*
- Protects aquaculture operations through the *Right to Farm Act.*
- Aquaculture operations that required a provincial lease or tenure before 2010, when the province was responsible for regulating aquaculture in BC, continue to need one to comply with provincial law.



First Nations

- Have the constitutionally protected right to harvest resources within their traditional territories.

Strathcona Regional District

What the SRD can do:

- Provide a vision, goals and guidelines for aquaculture through the Official Community Plan.
- Zone the water for aquaculture and regulate permitted uses (e.g. sorting, grading, harvesting and processing), height of buildings and structures on rafts, lot areas and setbacks (distance from land zoned residential).
- Adopt a noise bylaw to regulate noise within designated areas of Cortes.

What the SRD cannot do:

- Restrict the use of machinery used to carry out the permitted uses in a zone such as sorting, grading and storage facilities.
- Restrict noise that results from normal aquaculture farming practices. Normal farm practices are protected under the provincial *Right to Farm Act.*
- Since those are not considered a structure, restrict the height of equipment and machinery.
- Prohibit an existing use permitted under the zoning bylaw. Any changes to the zoning bylaw will apply to future uses only.
- Regulate vessels. Vessels are regulated by Transportation Canada.

Key Definitions in the Zoning Bylaw

Active Aquaculture

An aquaculture activity on the sea or foreshore where any or all of the following are used:

- Active feeding including the introduction of natural or man-made feeds;
- The administration and introduction of toxicants, hormones, antibiotics, or pigments;
- The use of generators;
- The use of pens, net cages, or floats for net cages.

Passive Aquaculture

The controlled rearing, cultivation and harvesting of molluscs, crustaceans or marine plants in a specific location on the sea or foreshore where there is no administration of feed or chemical products.

Note: Passive aquaculture does not preclude the use of powered machinery or mechanized equipment to carry out the permitted uses in a zone.

301-990 Cedar Street, Campbell River, BC V9W 7Z8
Tel: 250-830-6700 Fax: 250-830-6710

STAFF REPORT

DATE: May 17, 2024

FILE: 0540-04 Board

TO: Chair and Directors
Regional Board

FROM: Dave Leitch
Chief Administrative Officer

RE: **AQUACULTURE REGULATION BY LOCAL GOVERNMENT**

PURPOSE

To report on correspondence received by the Board in October 2023 concerning aquaculture regulation and Regional District's ability to enforce its bylaws..

POLICY ANALYSIS

Section 479 of the *Local Government Act* extends to regional districts the authority to divide electoral areas into zones and regulate land uses within those zones.

EXECUTIVE SUMMARY

At its meeting on October 11, 2023, the Board received correspondence requesting clarification on the SRD's role in regulating and enforcing aquaculture activities in Area C and passed the following motion:

> Chapman/Whalley: SRD 844/23
> THAT a report be prepared outlining the current situation in respect of the aquaculture license held by Island Sea Farms in the Evans Bay area; and
>
> THAT the report provide responses to questions posed in the correspondence attached to the September 19, 2023 report from the Chief Administrative Officer.

The first part of this resolution is seeking clarification on the current status of active aquaculture license #1401594, held by Island Sea Farms to operate a mussel farm in Evans Bay near Read Island. In May 2022, a renewal for this tenure was referred to the SRD for comment. The SRD commented that support for this renewal was contingent upon a successful application to rezone the tenure area to Aquaculture Two (AQ-2) to bring the existing shellfish farm into compliance with Bylaw No. 1490, being the Electoral Area 'J' — Desolation Sound Rural Land Use Bylaw, 1993. Although an application to rezone this site has not been received, the Province renewed this license on June 10, 2023 for a period of ten (10) years.

The second part of this motion seeks clarification on the SRD's authority to enforce zoning regulations over water parcels and aquaculture activities, including if, when, and how the public must be notified and/or consulted on tenure applications. Staff will address these questions in the following section.

Question #1: Who has jurisdiction over aquaculture sites?

As clarified in the attached SRD poster titled *Aquaculture Jurisdictions* (2017), jurisdiction over aquaculture sites is divided between the federal and provincial governments, while local governments have limited authority through local land use planning. Specifically:

Fisheries and Oceans Canada (DFO)

- Issues aquaculture licences for marine finfish, shellfish and freshwater (land-based) operations.
- Regulates aquaculture operations through the *Fisheries Act*, *Health of Animals Act*, *Food and Drugs Act*, and *Species at Risk Act*.

Province of BC

- Issues aquaculture licenses for the commercial harvest of marine plants.
- Issues business licenses for aquaculture under the *Fisheries Act*.
- Protects aquaculture operations through the *Farm Practices Protection (Right to Farm) Act.*
- Aquaculture operations that required a provincial lease or tenure before 2010, when the province was responsible for regulating aquaculture in BC, continue to need one to comply with provincial law.
- Responsible for managing the use and occupation of provincial Crown Land, including Crown Land covered by water. This responsibility includes the issuance and management of Crown Land tenures.

SRD

- Provides a vision, goals and guidelines for aquaculture through Official Community Plans.
- Zones the surface of the water and regulates permitted uses (e.g. sorting, grading, harvesting and processing), height of buildings and structures on rafts, lot areas and setbacks (distance from land zoned residential).

First Nations Governments

- First Nations have a constitutionally protected right to harvest resources within their traditional territories.

Question #2: Who has the authority and responsibility to enforce compliance?

Just as jurisdiction over aquaculture sites is shared by multiple agencies, so is enforcement. Enforcement of tenure conditions and terms is the responsibility of the province, in cooperation with the Federal Department of Fisheries and Oceans. This does not include enforcement of local zoning bylaws.

While the SRD is responsible for enforcement of local zoning, it does not have the authority to enforce parts of the zoning bylaw that are outside its jurisdiction. There is some question as to whether local governments have the authority to regulate land uses below the surface of the water, which limits the SRD's authority to zone and enforce zoning of the water column, seabed, and subsurface. A recently obtained legal opinion states unequivocally that, "The SRD does not have the jurisdiction to zone aquaculture cultivation below the surface of the water" based on case law asserting that the regulation of aquaculture within the waters off BC fall within federal jurisdiction, except for marine/aquatic plants, which are regulated by the province as part of provincial authority over agriculture. As such, aquacultural activities occurring below the surface of the water are outside the SRD's jurisdiction and thusly are not subject to enforcement by the SRD.

Additionally, previous legal opinions have confirmed that aquaculture is recognized as farming and is therefore protected under the *Right to Farm Act*. This restricts the SRD from regulating 'normal farm practices', such as the use of machinery, noise, odours and other disturbances which result from farming operations.

In the case of the Island Sea Farms license in question, the SRD commented that, given the existing language within the zoning bylaw, the proposed use would be non-compliant. This site is zoned Aquaculture Three (AQ-3), which permits active aquaculture (fin fish) but not the more passive mussel cultivation and harvesting activities proposed at this site. If this were to be taken at face value, a rezoning would be required to be compliant with the zoning bylaw; however, given the limitations of our authority to zone below the surface of the water, it is unlikely that the SRD has the authority to regulate the type or species of aquaculture being harvested or any activities that occur below the surface of the water. In this case, the SRD's zoning bylaw is more restrictive than it has the authority to be.

Question #3: What are the public notification and consultation requirements for aquaculture licensing?

As noted in the *BC Land Use Operational Policy: Aquaculture (2011)*, applicants for crown tenure over a water parcel for the purpose of aquaculture are only required to post notice of their tenure proposal at the tenure site. Depending on the nature of the proposal, the province may impose consultation requirements, which may include a requirement for an open house or similar but does not include a formal public hearing. As an agency that is referred tenure applications, the SRD is granted 30 days to review and provide comments. The province will consider this input but is not encumbered by it. The SRD is merely a referral agency and plays no role in the notification process.

Statements: Ahead of any new AQ2 activity at this site (which is only zoned for AQ3 and AC1) please ensure that: The zoning is compliant with the rule and the moral intention of SRD Bylaw 1460; previous and current violations are addressed and corrected; there is meaningful community input on all aspects of this application via the required public hearing.

As stated in the SRD's most recent legal opinion, "The SRD's zoning authority is limited to the surface of the water only and only in a manner that is not effectively prohibited under the terms and conditions of: an aquaculture license issued under the Federal *Pacific Aquaculture Regulations*; an aquatic plant culture license issued under the Provincial *Fish and Seafood Licensing Regulation*; and, applicable aquaculture tenure or license of occupation over the are in question."

RECOMMENDATION

THAT the report from the Chief Administrative Officer be received.

The surface of the water is all that we need to zone and SRD has authority to do this. SRD also has responsibility to uphold and enforce the bylaw. SRD stated above: "given the existing language in the zoning bylaw, the proposed use would be non-compliant."

Respectfully:

Dave Leitch
Chief Administrative Officer

BACKGROUND/HISTORY

An aquaculture licence has been in place over this area since 1985, although the licence holder, type of aquaculture licence (i.e. species) and tenure area have changed over time. The SRD received a referral for a renewal of the licence in May 2022 and the province issued the licence on June 10, 2023.

FINANCIAL IMPLICATIONS
There are no financial implications associated with this report. Should the Board choose to proceed with any enforcement action, costs could be born.

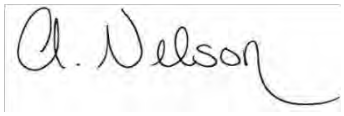
LEGAL IMPLICATIONS
The information contained in this report is supported by a recent legal opinion. At this time, there are no legal implications associated with this report. Should the Board choose to seek further compliance, legal assistance would be required.

INTERGOVERNMENTAL/REGIONAL IMPLICATIONS
Aquaculture can be regulated through multiple levels of government, including Federal, provincial and local governments.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS
Citizen/public relations implications are unknown.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS
Interdepartmental involvement is limited to the planning and bylaw enforcement departments.

Submitted by:



Aniko Nelson
Senior Manager, Community Services

Prepared by: *M. Starkey, Manager Planning and Parks and A. Nelson, Senior Manager, Community Services*

Attachments: BC Land Use Operational Policy: Aquaculture (2011)
SRD Poster: Aquaculture Jurisdictions (2017)
Copy of October 11, 2023 report to the Board

BRITISH COLUMBIA

Land Use Operational Policy
Aquaculture

NAME OF POLICY:	Aquaculture
APPLICATION:	Applies to the siting and improvements of tenures required for the cultivation of finfish, shellfish and marine plants on Crown land. Does not apply to ocean ranching of finfish or the wild commercial or recreational harvesting of finfish, marine plants, wild oysters or herring spawn on kelp.
ISSUANCE:	Assistant Deputy Minister, Tenures, Competitiveness and Innovation
IMPLEMENTATION:	Ministry of Forests, Lands and Natural Resource Operations
REFERENCES:	*Land Act* (Ch. 245, R.S.B.C., 1996) Federal *Fisheries Act* (R.S. 1985, c.F-14) Federal *Canadian Environmental Assessment Act* (R.S. 1992, c.37 [c-15.2]) Federal *Navigable Waters Protection Act* (R.S. 1985, c.N-22)
RELATIONSHIP TO PREVIOUS POLICY:	This policy replaces the previous Aquaculture policy dated August 16, 2004
POLICY AMENDMENT:	Any formal request for an amendment to this policy is to be directed in writing to the Director, Land Tenures Branch, Ministry of Forests, Lands and Natural Resource Operations

Dave Peterson, ADM
Tenures, Competitiveness and Innovation
Ministry of Forests, Lands and Natural
Resource Operations

MAY 26 2011

Date:

EFFECTIVE DATE: June 1, 2011 **FILE**: 12075-00
AMENDMENT:

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
June 1, 2011	BN 175892	Policy and Procedure update to reflect reorganization of resource ministries April 2011
April 1, 2012	BN 182973	Update to land values.
January 9, 2013	Email approval W. Trotter	Revision to language in s. 7.4.1
April 1, 2013	BN 195386	Update to land values.
April 1, 2014	BN 204476	Update to land values.
December 30, 2014	BN 211170	Updates provincial and federal roles in aquaculture (s.1.1 policy application and s.8.1.1B management plan), updates maximum term for a Licence and a Lease, (s. 6.2, 6.3), introduces Incidental Aquaculture Use (s.8.1.1B), and clarifies security bonds (s.9.2)
April 1, 2015	BN 212627	Update to land values.
September 22, 2015	BN 217947	Land Act Reform Phase 1 changes
July 31/September 30, 2015	Information Bulletin 2015AGRI0050-001218/ Information Bulletin 2015AGRI0062-001629	Direction on how salmon aquaculture tenure and amendment applications are to be considered (Appendix 2).
April 1, 2016	BN 220250	Update to land values.
April 1, 2017	BN 227623	Update to land values.
April 1, 2018	BN 236356	Update to land values
April 1, 2019	BN 246346	Update to land values
August 14, 2019	Joint Ministry DN Cliff #NRS 410	Implementation of June 20, 2018 strategic policy directive for finfish (salmon) aquaculture (News Release 17461) by updating guidance provided in Appendix 2.
April 1, 2020	BN 254084	Update to land values
April 1, 2021	BN 261226	Update to land values

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
April 1, 2022	BN 269471	Update to land values
April 1, 2023	BN 273536	Update to land values
October 16, 2023	TB (FIP) Decision 503592	Update to increase the minimum rent to $850 per year, phased in over two (2) years at $675 in year one and to $850 in year two.
April 1, 2024	BN 277674	Update to land values

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1. POLICY APPLICATION

1.1 Shared Government Roles and Responsibility

The Province of British Columbia is responsible for managing the use and occupation of provincial Crown land, including Crown land covered by water. The Ministry of Forests, Lands and Natural Resource Operations is responsible for the issuance and management of Crown land tenures, including tenures for aquaculture improvements.

Fisheries and Oceans Canada (DFO) is responsible for regulating, monitoring and licensing all aquaculture operations in the province (with the exception of those sites culturing only marine plants). DFO's responsibility includes most aspects of the industry including but not limited to species, production practices and volumes, fish containment, fish health, sea lice levels, waste control and fish habitat and protection measures.

Transport Canada is responsible for reviewing and approving applications for the placement of aquaculture containment and/or structures within navigable waters.

The Ministry of Agriculture is responsible for the BC *Fisheries Act* and is the lead provincial agency for strategic policy and aquaculture industry development.

Provincial and federal agencies work in a collaborative manner to review and respond to aquaculture applications but the parties make independent decisions based upon legislation, policies, and best management practices of those agencies.

1.2 Application of the Aquaculture Land Use Policy

The Aquaculture Land Use Policy applies to the siting and improvements of tenures required for the cultivation of finfish, shellfish and marine plants on aquatic Crown land or foreshore. This policy does not apply to ocean ranching of finfish or the wild commercial or recreational harvesting of finfish, marine plants, wild oysters or herring spawn on kelp or tenuring of lake areas for commercial recreation fisheries.

This policy applies to bottom culture and floating or permanent structures required for stock grow-out, feed and equipment storage sheds, environment monitoring stations, processing facilities and other such uses that are within the tenure area and essential to the tenure holder’s aquaculture operation.

This policy does not apply to any aquaculture upland use (such as hatcheries) or to applications/tenure solely for processing facilities on aquatic Crown land (these uses can be considered under the General Commercial or Industrial Programs).

The italicized text in this document represents information summarized from standard Crown land management policies and procedures. This material has been inserted where it provides necessary direction or context. As well, website links offer access to the full text of the relevant land management policies and procedures. Text in standard script is applicable to this policy only.

2. PRINCIPLES AND GOALS

Provincial employees act in accordance with applicable legal requirements when making decisions. The Guiding Principles are a summary of key administrative and contract law principles which guide provincial employees.

This policy is part of a series of policies that have been developed to help provincial staff use business and legal principles to achieve the government's goals with respect to the management of Crown land in a manner that is provincially consistent, fair and transparent. To that end, this policy also serves as a communication tool to help the public understand how the Province of BC makes decisions respecting Crown land.

The Provincial Government supports the sustainable development of the aquaculture industry and acknowledges aquaculture as a legitimate use of the coastal resource that makes decisions based on sound science and ensuring business practices are conducted in an environmentally, socially and economically sustainable manner.

3. DEFINITIONS

Application package means the Crown land application form, management plan and other supporting materials form the information package required to evaluate an aquaculture proposal and issue tenure under the *Land Act*.

Aquaculture means the growing and cultivation of aquatic plants, finfish, shellfish or other invertebrates for commercial purposes in any water environment or in human made containers of water, in or under the foreshore or in water.

Aquaculturalist means the holder of an aquaculture tenure issued pursuant to the provincial *Land Act.*

Aquatic Crown land means that land below the visible high water mark of a body of water, extending offshore to the recognized limit of provincial jurisdiction, including the foreshore.

Authorizing Agency means the Aquaculture Operations Branch (the Provincial ministry responsible for the specific land use authorization).

Beach tenure means an aquatic Crown land tenure situated on the foreshore between the low and high water marks.

Diligent use means compliance with a management plan, and satisfactory production as determined from time to time in consultation with the appropriate administering agency (see section 9.5.3).

Extensive area means the area of Crown land used for anchoring structures outside of intensive areas that do not impede navigation or access to lands beyond.

Finfish means freshwater fish and marine finfish species including salmon and non-salmonid species, such as trout and sablefish.

First Nation is a term that refers to the Indian peoples in Canada, both Status and non-Status. Although the term First Nation is widely used, no legal definition of it

exists. Some Indian peoples in British Columbia have adopted the term “First Nation” to replace the word “band” in the name of their community.

Incidental Aquaculture Use (IAU) means the movement or alteration of improvements (including anchors) within the approved tenure area in a manner that does not change the approved use for that tenure. IAU activities must be consistent with the definition and conditions set out in s. 8.1.1B and generally do not require a tenure modification agreement.

Improvements means any additions or alterations to Crown land tenure or physical structures that will temporarily or permanently occupy space on the tenure site required for the cultivation of a culture species. Improvements may include, but are not limited to, longlines, anchor lines, rafts, floats, barges, net pens, net cage arrays, vexar cover or fencing, docks, storage sheds or other buildings.

Intensive area means the area of Crown land used for activities and related improvements directly associated with the production of finfish, shellfish or marine plants. The intensive area will include net cages, netting, float camps, net storage, docks and mort sheds as well as a 30-meter buffer around these structures. The 30-meter buffer is mandatory and is intended to cover the area where anchor lines are likely to pose a restriction to navigation due to the scope and angle of lines closest to the structures. Outside of the 30-meter buffer the lines are generally at a suitable depth to allow safe passage of a boat; however, any anchor lines beyond the 30-meter buffer that restrict access or hamper navigation will also be included as part of the intensive area.

Management plan means the document that details the specific requirements for an aquaculture tenure, including the nature and siting of the improvements. .

Multiculture techniques means aquaculture within the same tenure involving more than one technique to culture the same organism (e.g. shellfish bottom and off-bottom culture).

Phased Development means development of a number of sites in a sequential manner.

Project Review Team (PRT) means a team chaired by the Authorizing Agency and comprised of recognized agencies and groups which meets to review and comment on specific *Land Act* applications.

Shellfish means aquatic plants, shellfish or other aquatic invertebrates.

4. ABBREVIATIONS

AOB – Aquaculture Operations Branch

BCA - BC Assessment

DFO - Fisheries and Oceans Canada

ha. - Hectare

MA - Ministry of Agriculture

MOE - Ministry of Environment

MOU - Memorandum of Understanding

MFLNR – Ministry of Forests, Lands and Natural Resource Operations

PRT - Project Review Team

TC - Transport Canada

5. APPLICANT ELIGIBILITY

Applicants for new tenures, tenure assignment, or tenure replacement must be:

- *Canadian citizens or permanent residents 19 years of age or older; or,*
- *Corporations which are incorporated or registered in British Columbia; or,*
- *Registered partnerships, cooperatives, and non-profit societies which are formed under the relevant provincial statutes; or,*
- *First Nations can apply through band corporations or Indian Band and Tribal Councils. Band or Tribal Councils require a Band Council Resolution a) authorizing the council to enter into the tenure arrangement, and b) giving the signatories of the tenure document the ability to sign on behalf of the Band. For tenures which are to be registered in the Land Title Office, First Nations must apply through either a band corporation or trustees. Band members can elect 1 or more trustees to hold a tenure on behalf of the Band. Verification of election must be by way of a letter signed by the Chief and councilors of the Band giving the full names of the trustees and stating that they were elected at a properly convened meeting of the Band. A Band Council Resolution is not required.*
- *In the case of aquatic land, non-Canadians can apply if they own the adjacent upland (companies must still be incorporated or registered in B.C.).*

For more detailed standard policy information see Eligibility and Restrictions.

The Authorizing Agency has the discretion to limit the number of active applications from any one individual or company being processed at any one time.

6. FORM OF LAND ALLOCATION

Refer to Appendix 1 for a summary table of the types and terms of Crown tenure available for aquaculture operations.

For more detailed standard policy information see Form of Crown Land Allocation.

6.1 Temporary Licence

The tenure holder must permit public access to the area without interference, and must recognize that overlapping and layering of tenures may be authorized by government.

The maximum term for a temporary licence is up to 2 years.

Temporary licences are not usually issued for aquaculture. At the discretion of the Authorizing Agency Director, where the particulars of the situation warrant it a temporary licence may be issued to allow for the investigation of project feasibility or the placement of monitoring equipment. A temporary licence holder may not conduct commercial activity during an investigative period. Under limited circumstances, authorization can be provided for “proof of concept” and/or pilot-scale sales. Product sales can recover

some or all of the operational costs but full commercial production is not allowed under the temporary licence.

The Authorizing Agency will not accept competing aquaculture applications over the site during the term of the temporary licence. Only the temporary licence holder may apply for long-term tenure during the term of the temporary licence. A temporary licence does not guarantee any future tenure.

6.2 Licence of Occupation

A licence of occupation is the most common form of Crown land tenure for aquaculture.

The term for a licence of occupation for aquaculture purposes is up to 30 years. The Authorizing Agency may deem that a shorter term for either the initial or replacement license is appropriate (e.g. to support a staged approach to development). Replacement option is available anytime after mid-term of the current tenure (e.g., 15 years).

A licence of occupation may be issued where minimal improvements are proposed, where short-term tenure is required, and in remote areas where survey costs are prohibitive. It may also be used to allow development to proceed while awaiting completion of survey requirements for a lease or right of way.

A licence of occupation conveys fewer rights than a lease. It conveys non-exclusive use for the purpose described, is not a registerable interest that can be mortgaged, and does not require a survey.

A licence of occupation does not allow the tenure holder to curtail public access over the licence area except where it would impact the licensees' right to use the land as per the licence document. Government may authorize overlapping and layering of tenures.

6.3 Lease

The term for a lease for aquaculture purposes is up to 30 years. The Authorizing Agency may deem that a shorter term for either the initial or replacement lease where appropriate (e.g. to support a staged approach to development). Replacement option is available anytime after mid-term of the current tenure (e.g., 15 years).

A lease should be issued where long term tenure is required, where substantial improvements are proposed, and/or where definite boundaries are required in order to avoid conflicts.

The tenure holder has the right to modify the land and/or construct improvements as specified in the tenure contract. The tenure holder is granted quiet enjoyment of the area (exclusive use).

A legal survey will generally be required at the applicant's expense to define the tenured area.

A lease can be issued in a form that is registerable in the Land Title Registry (whereas, a Licence of Occupation is not.) Registered leases for a term of 30 years or more may be

considered a fully taxable transfer of interest in property and may be subject to Property Transfer Tax in accordance the Property Transfer Tax Act.

Where a lease is not registered in the Land Title Registry, Property Transfer Tax does not apply.

In most cases, a tenure holder may apply for a replacement tenure at any time following the mid-term of the lease. Replacement of tenures is at the Authorizing Agency's discretion.

Where a replacement lease is for the same land, will result in a total duration of more than 30 years, and the replacement lease is registered in the Land Title Registry, the leases may be viewed as a single transaction and may be subject to Property Transfer Tax.

Where the term of a registered lease is less than 30 years or the total duration of all leases does not exceed 30 years, Property Transfer Tax exemption is available.

A lease can be a registerable interest in the land that is mortgageable.

6.4 Sale

Not available under this program. Sale of upland sites may be available through the General Commercial or Industrial programs, dependent on local government zoning.

6.5 Reserves

Federal and provincial agencies may apply for the establishment of an aquaculture reserve to withdraw from disposition high value aquaculture sites required for public purposes, including research and education, and to address First Nations' interests.

7. PRICING POLICY

7.1 Administrative Fees

Application fees for tenures, and other administrative fees, are payable to the Province of BC. These fees are set out in the fee schedules contained in the Land Act Fees Regulation.

Application fees and other common administrative fees are listed in Appendix 1.

7.2 Application Fee

The application fee for new finfish aquaculture tenures is $4925 + GST = $5171.25.

The application fee for new shellfish aquaculture tenures is $1,200 + GST = $1260.

To provide some upfront cost relief for shellfish aquaculture applicants, only $500 of the application fee is to be paid when the application is submitted. The remainder of the fee is to be paid once a decision has been made on the application. The net amount of the remaining "back-end" portion of the fee will be determined by factoring in any refund that is due to the client (see the Pricing Policy - Fee Refunds). Multiple shellfish beach sites may be included in a single application if the individual sites would not be economically

viable as standalone tenures and the individual sites are approximately within a 500m radius of each other.

7.3 Finfish Annual Rent

7.3.1 Finfish Land Value

The land value for finfish aquaculture sites is set at $11,969/ha as of April 1, 2024. The Finfish Land Value will be adjusted annually to account for CPI changes.

7.3.2 Temporary Licence

$250 for terms up to one year, or $500 prepaid for 2 years

7.3.3 Licence of Occupation

Intensive areas – annual rent is calculated as 7.5% of the Finfish Land Value

Extensive areas – annual rent is 7.5% of one half the Finfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

The pricing for freshwater finfish aquaculture will be equivalent to the Finfish Land Values for marine finfish aquaculture.

7.3.4 Lease

Intensive areas – annual rent is calculated as 8% of the Finfish Land Value.

Extensive areas – annual rent is 8% of one half the Finfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

7.4 Shellfish Annual Rent

7.4.1 Shellfish Land Value

The land value for shellfish aquaculture is set at $7,839/ha as of April 1, 2024. The Shellfish Land Value will be adjusted annually to account for CPI changes.

Phase-in: the current land values for existing shellfish sites are to be doubled each year until the above Shellfish Land Value is attained.

Development Discount
Any new shellfish tenure will be eligible for reduced pricing during the first 5 years. A developmental discount rate of 50% of the Shellfish Land Value is to be used.

The discount does not apply to new tenures that overlap or partially overlap sites previously approved for shellfish aquaculture or, to expanded areas of approved shellfish tenure agreements added as an amendment to the original tenure area.

The minimum rent of $675+GST/year will apply.

7.4.2 Temporary Licence

Temporary Licence $250 for terms up to one year, or $500 prepaid for 2 years.

7.4.3 Licence of Occupation

Intensive areas annual rent is calculated as 4% of the Shellfish Land Value.

Extensive areas – annual rent is 4% of one half the Shellfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

7.4.4 Lease

Intensive areas – annual rent is calculated as 5% of the Shellfish Land Value.

Extensive areas – annual rent is 5% of one half the Shellfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $675+GST.

7.5 Ancillary Residential Use

Upland residential sites required to support aquaculture operations may be considered under the Residential land use policy. Fees and rents will be assessed in accordance with that program.

Floating facilities for residential use can be included as part of the general aquaculture tenure (licence or lease). At the time the original application is submitted there will be no additional application or processing fee if floating facilities for ancillary residential use are included within an aquaculture tenure. The addition of residential facilities after the granting of the original tenure will require a new application and processing fee. An additional rent will be charged for residential use, with a minimum additional rent of $500/year.

8. ALLOCATION PROCESSES

Areas of Crown land which have the capability and suitability to support aquaculture may be identified through an integrated resource planning process or aquaculture specific coastal plans (e.g., Aquaculture Opportunity Studies; Shellfish Aquaculture Action Plans). These planning processes involve significant local community and sector input for marine activities in the area. The resulting maps and reports can help direct clients to apply for aquaculture tenures in areas with a higher likelihood of approval and avoid locations with significant environmental issues or social conflicts.

The Authorizing Agency will take into consideration input from these resource planning and advisory processes, where they exist, as well as other sources contacted as part of the referral process when making planned tenure dispositions or evaluating individual applications. The Authorizing Agency will also take into consideration the Provincial Government's sustainability principles in its decision-making.

Where an Economic Measures MOU is in place with First Nations and where community criteria for tenure selection has been established for shellfish aquaculture, new applications will be accepted for suitable sites where they do not conflict with sites identified in the MOU.

In the absence of a formal Economic Measures MOU or MOU sites selection agreement with First Nations, the Authorizing Agency will accept shellfish tenure applications. These will be subject to consideration of First Nations interests and rights, any completed coastal resource plans, standard referral processes and community input as part of the public consultation process.

Where a coastal resource planning process or an Economic Measures negotiation is actively in progress, the Authorizing Agency Director may designate specific areas of the coast where aquaculture applications will be accepted but will be parked until the associated planning process or negotiations are concluded in a timely manner.

8.1 Applications

New and replacement tenures are normally offered in response to individual applications.

8.1.1 Application Package

Applications must be complete before they can be accepted for processing. A complete application package will include all the material defined in the Application Checklist.

In terms of applications for salmon aquaculture, refer to Appendix 2.

A. Parcel and Siting Considerations

Siting Criteria for Aquaculture Tenure

Specific guidelines regarding separation distances and other siting considerations have been developed. These must be reflected in site plans and management plans. Siting considerations include:

- riparian rights and requirements for navigation;
- First Nations potential aboriginal interests and rights; and
- environmental concerns.

The Authorizing Agency Director, at the request of the PRT and in consultation with relevant regulatory agencies, has the discretion to modify general siting criteria or establish additional density and separation requirements where appropriate.

Where separation guidelines are not met, applicants must include a detailed explanation and justification for proceeding with the application.

Parcels for Tenure Expansions

A parcel must not be capable of being a stand-alone site to be considered for expansion. In general, the add-on parcel must be of reasonable size (e.g. shellfish tenure may be expanded by up to 20% of their original tenure size or 2.5 ha. for inter-tidal sites and 10

ha. for deep water sites, whichever is greater). A site is not considered stand-alone if it is not economically viable due to the following factors:

- high utilization cost if the site is located too great a distance from the market;
- expected low return on the effort spent if site has poor biophysical conditions;
- low potential production;
- restricted operation time if the site is subject to closures due to pollution;
- restricted production methods or production intensity as defined in the management plan due to tenure size; or
- utilization is not feasible due to access restrictions (e.g. the site is only accessible through an existing tenure).

The characteristics that make a site "standalone" will depend on the species cultured as economic factors and biophysical requirements vary among species. The determination of a site's ability to be "standalone" will rest with the Authorizing Agency Director. An expansion parcel must not impede riparian access to upland properties or reasonable access to other established tenures. Deepwater expansions cannot impede the movement of boats and equipment required for the operation of existing tenure.

This policy does not guarantee that applications for tenure expansion will receive a favourable land-use decision.

B. Management Plan

All aquaculture tenure applications require a tenure Management Plan. The approved tenure Management Plan is referenced in the tenure document and forms part of the tenure agreement.

The tenure Management Plan for *Land Act* tenure agreements for shellfish, finfish and freshwater / land-based aquaculture activities is made of Parts I, II and V of the harmonized aquaculture application. Once approved by MFLNR, Parts I, II and V becomes the tenure Management Plan (with a cover page that is dated and signed) and is retained as evidence of the approved tenure boundaries and purpose of occupation granted under the *Land Act* tenure agreement.

An application for a tenure modification to amend the approved tenure Management Plan is required:

- to change the authorized use of the approved tenure;
- to expand or reduce the size of an approved tenure boundary; or
- upon request from the Director of Authorization.

An application to modify the tenure agreement, complete with fees and an updated Management Plan, is required where substantial alterations of site improvements are being proposed.

Incidental Aquaculture Use

Some changes to improvements (i.e. fishing gear and accommodations) within an aquaculture tenure area, that are <u>not</u> considered to be substantial alterations, do not

require a tenure amendment. These changes to improvements must be consistent with the definition and conditions for “Incidental Aquaculture Use” as follows:

Incidental Aquaculture Use (IAU) is defined as the movement, alteration or addition of improvements (fishing gear and/or accommodation) within the approved tenure area in a manner that does not result in a substantive alteration to improvements and does not change the approved use. These IAU changes may include:

- relocation or realignment of existing improvements within the tenure area. For example: net cages, long lines; storage sheds, work floats and temporary worker/caretaker accommodation;
- a change of 30% or less of the Intensive Area within the tenure boundary; or
- a change of 30%[1] or less in the footprint of improvements within the tenure boundary; or
- Modifications to improvements required to support best management practices, husbandry and to respond to stock availability in a manner that is consistent with all federal authorizations.

Examples of IAU for shellfish aquaculture may include:

- changing or adding different types of culture infrastructure used (e.g. strings, trays, nets);
- increasing the number of rafts;
- changing the type of flotation systems or buoys; or
- installing a "pouch" system on the inter tidal muddy areas to prevent oysters from sinking into substrate.

Examples of IAU for finfish aquaculture may include:

- changing the design or configuration of net cages; or
- changing the type of flotation systems and buoys used.

IAU conditions: Changes that meet the definition of IAU will not require a tenure modification under this policy if **all** of the following conditions are met; specifically, a tenure holder must:

- be authorized by the federal government to conduct aquaculture and obtain all necessary federal approvals before placing or changing improvements on the tenure;
- hold a form of tenure that is a licence of occupation or lease in good standing;
- ensure all improvements (fishing gear and accommodation) are within the approved tenure area;
- not substantively change the height or size of an accommodation for workers or a caretaker;
- where appropriate, update the tenure security bond to reflect any proposed changes in improvements; and

[1] The 30% figure is cumulative and represents the total change since the last approved management plan.

- notify FCBC in writing (e.g., email) of the proposed change within a minimum of 21 days prior to initiating the IAU change. In the case of urgent safety issues with improvements, the notification period is waived and notification could occur afterwards.

Trigger for submission of a tenure amendment application:

The tenure-holder must apply for a tenure modification when:

- proposed changes result in the extension of improvements beyond the tenure boundary;
- the proposed change increases the Intensive Area within the tenure boundary by more than 30%;
- the proposed change increases the footprint of the improvements within the tenure boundary by more than 30%;
- requested by the Director of Authorization when the proposed changes to improvements do not meet the spirit and intent of the definition or conditions for an IAU; or
- request for premature tenure replacement (e.g. to increase the tenure term).

IAU does not apply to federal authorizations and the proposed change may trigger the need to apply for an amendment to the federal government. FCBC will forward the notification to the appropriate agencies.

C. Tenure Expansions

The completed application package for tenure expansion is the same as for a new tenure. It would include a new management plan and supporting materials to cover both the original tenure and the expansion area(s). Where a tenure expansion is being proposed, a new management plan must fully explain how the expansion parcel will improve the overall operation. The new plan must state proposed production levels. See Section 8.1.7 for additional notification requirements for shellfish tenure expansions.

8.1.2 Application Acceptance

New applications will be reviewed for acceptance based on application package completeness, compliance with policy and program criteria, preliminary statusing, and other information which may be available to provincial staff. The acceptance review is to be completed within 7 calendar days. Applications that are not accepted will be returned to the applicant.

Once an application is accepted the following actions will be taken:

- ensure that all accepted applications are noted on regional status maps;
- park the application pending Aquaculture PRT screening; and
- Authorizing Agency will notify the PRT and make arrangements for inter-agency screening of the application as per Section 8.1.6.

The province will accept, but not proceed to decisions on applications in those areas where:

- aquaculture specific resource planning processes are in progress; or
- significant negotiations are in progress to establish Economic Measures MOUs with First Nations or develop associated community consultation criteria.

8.1.3 Queuing/Competing Applications

In general, competing aquaculture applications (e.g. applying for aquatic lands already the subject of a previously accepted aquaculture application) will be dealt with through a queuing process (see Section 8.2 for exceptions where a competitive process may be used).

For finfish, competing applications will be defined as an application for an area that is:

- within one km of a site with a prior accepted application from the same company; or
- within three km of a site with a prior accepted application from a competing company.

For shellfish, a competing application is an application that is applying for part or all of a site that has an accepted application.

If it is confirmed that an aquaculture application is competing with a previously accepted application, provincial staff will notify the proponent that their application is for an area already applied for, inform them of the policy to proceed to decision on the first application accepted and offer them a choice between the following options:

- secure a place in a queue which will ensure the application is processed once any prior accepted application(s) for the specific area have been formally disallowed; or
- have the application and administration fee payment returned.

If the first option is chosen the proponent is informed that this now authorizes the province to cash the application fee.

If the prior application is disallowed the next application in the queue will then be processed. The first application in the queue for the applicable area is then forwarded to the PRT for screening.

If an earlier applicant accepts a tenure offer, all applicants in the queue will be notified of the decision and the queue is cleared. The province will retain $500 from each application held in the queue, the remainder of any application fees will be returned to the applicants. There will not be any refund provided to shellfish aquaculture applicants who have only submitted the $500 “up front” portion of their application fee (see section 7.2 for more details).

8.1.4 Clearance/Statusing

After acceptance, provincial staff undertake a detailed land status of the specific area under application to ensure all areas are available for disposition under the Land Act and to identify potential issues.

8.1.5 Referrals

Referrals are a formal mechanism to solicit written comments on an application from recognized agencies and groups. Referrals are initiated as per legislated responsibilities and formal agreements developed with other provincial and federal government agencies. Referrals may also be used to address the interests of local governments and First Nations. Referral agencies, organizations and identified special interest groups provide their responses to the Authorizing Agency within 30 days (45 days for First Nations).

Where tenure applications meet established siting criteria and other specific requirements as set out in formal agreements with other provincial and federal government agencies, and where the topic has been formally included in the terms of the agreement, referrals will not be conducted, although First Nations consultation requirements will continue to be applicable.

The Authorizing Agency will ensure that all aquaculture applications for both new and replacement tenure, as well as major amendments to existing approved management plans, are referred for review and comment to agencies. Finfish and shellfish referral checklists will be maintained by the Authorizing Agency.

Fisheries and Oceans Canada may respond by informing applicants and the province that a review under *Canadian Environmental Assessment Act* or *Navigable Waters Protection Act* is underway. The Authorizing Agency Director may choose to park the application until the federal environmental review is completed.

The Authorizing Agency will ensure referral responses are tracked and interpreted and that referral responses are provided to DFO as per current agreements.

Referrals to First Nations will be carried out as per the provincial consultation guidelines and, wherever possible, harmonized with DFO. It is recognized that provincial consultations with First Nations are not meant to replace or satisfy federal aboriginal consultation requirements.

8.1.6 Project Review Team (PRT)

A Project Review Team (PRT) is an advanced referral method which may be used for complex applications. It is a team chaired by the Authorizing Agency and comprised of recognized agencies and groups which meets to review and comment on specific Land Act applications.

The aquaculture PRT is responsible for reviewing application packages, determining if information requirements are complete and reporting findings to the Authorizing Agency. The inter-agency Project Review Team membership will normally include the following representation:

- MFLNR (2)

- TC – Coast Guard (1)
- DFO – Major Projects Review Unit (1)
- MOE (1)

Specific agency representatives may also change depending if the PRT is screening shellfish or finfish applications.

For all finfish and shellfish applications received and accepted by the province, the PRT will have 30 days from the date of notification by the Authorizing Agency to undertake an initial screening to:

- ensure proponents have provided adequate technical information for government agencies to effectively review the application package; and
- review and compare applications against approved siting criteria and evaluate whether all the required siting buffer information has been provided.

If there are any information omissions, the Authorizing Agency will ask the proponent to supply the missing information within a specific timeframe that does not exceed 60 days. The proponent will provide the additional information to the Authorizing Agency which will then disseminate the information to the PRT review agencies. If the applicant does not provide the requested missing information within the timeframe stipulated, the applicant is informed by letter that the application has been disallowed and any further continuation of the proposal will require another application and fee.

Once the PRT has completed its screening and if the application is not disallowed the Authorizing Agency will:

- ensure that the client is informed of the timeframe for adjudication of the application;
- un-park the application to complete the adjudication process;
- ensure the application is posted on the relevant web site and the status of the application on the web is updated when adjudication is complete; and
- refer the management plan and supporting materials to review agencies, local governments and other interests (as outlined above under referrals).

The PRT, as a whole, may invite presentations and submissions from the applicant. Where required, staff from agencies participating on the PRT may also contact the proponent directly (for example, with questions about data provided or additional information required). When this occurs, those officials will be expected to indicate to the PRT Chair the nature of the contact (i.e. topic, results of discussion, any correspondence, etc.).

Additional federal or provincial agency staff may attend meetings on request or by invitation, but may only address agenda items or introduce additional items at the discretion of the Chair and official PRT members. Individual PRT agencies may choose to have additional staff attend for information purposes, but approval from the Chair and official PRT members is required for other staff to participate in discussions.

The PRT may, at times, be expected to respond to the Authorizing Agency's request for additional advice such as evaluating and weighting criteria to assist the agency in dealing with competing applications (refer to Section 8.2 on Competitive Processes).

8.1.7 Advertising/Notification

At the time of application acceptance, provincial staff will notify applicants if advertising is required and provide the necessary instructions.

Staking is required for aquaculture applications. A person intending to apply for Crown tenure is required to post a notice indicating his or her intention to do so at the intended location. This notice must contain the applicant's name and address, the site being applied for by local name, the area of application, a metes and bounds description (including latitude and longitude) and the purpose of the application.

At the discretion of the Authorizing Agency Director applicants may also be required to seek public input through open houses, local advisory committees, including stakeholders on Project Review Teams, etc.

All new finfish applications will require public consultation which will most often be conducted via an open house session in a local community near the area under application. Where possible, the Authorizing Agency will coordinate the holding of such an open house with DFO.

Applications for investigative permits or tenure replacements do not require public consultation or open houses.

The Authorizing Agency may need to coordinate advertising with other organizations that also have this requirement, in particular DFO.

The availability of tenure sites by public competition (see Section 8.2) or other proactive offerings (other than direct application) will be advertised by the province.

After PRT review and acceptance by the Authorizing Agency, all applications and their status will be posted on the relevant website.

A. Additional Notification Requirements for Shellfish Tenure

Where an application for a shellfish tenure (new or expansion) covers an area which may affect an existing shellfish tenure's ability to expand, then the applicant will notify neighbouring tenure holders of the application by a registered letter. The purpose of the notice is to alert the neighbouring tenure holders of the application and provide an opportunity for these tenure holders to identify issues or concerns with the proposal.

The applicant must confirm that the notification has taken place no later than 30 days from the acceptance date of the application. If the regional office does not receive the necessary confirmation within this timeframe, the application may be disallowed. Notification of neighbouring tenure holders can also be done prior to making application, in which case the confirmation can be submitted along with the application. This latter approach is encouraged to avoid delays and reduce the need for application amendments (concerns can be worked out amongst tenure holders ahead of time).

For expansions that are proposed for areas adjacent to or between other existing tenures that would likely limit the other tenure holders ability to expand in the future (as per Parcels for Tenure Expansions under Section 8.1.1) the following applies:

- if within 30 days of the notification date all neighbouring tenure holders confirm that the proposal will not conflict with their plans for expansion the application will proceed; or
- if within 30 days of the notification date a neighbouring tenure holder(s) express an interest in expanding their tenure (written confirmation) and the applicant's proposal will conflict with such expansion, the applicant's proposed area may need to be reduced to ensure that the area adjacent to and between the existing tenure can be divided equitably between those existing tenure holders who wish to expand. If an expression of interest is submitted by a neighbouring tenure holder(s) the applicant's initial application will be parked until such time as an application(s) is received by the Authorizing Agency from the other tenure holder(s) - this must be done no later than 60 days from the receipt of the expression of interest. The adjacent area will only need to accommodate multiple expansion parcels (be divided between the applicants) for those tenure holders that submit an application within the 60-day period.

The Authorizing Agency Director may, at his or her discretion, reduce or revise the area under application in consultation with the proponent and the neighbouring tenure holder.

B. Upland Owner Consent

Owners of waterfront property have certain "riparian rights" which include the right of access to and from the upland (see Riparian Rights and Public Foreshore Use in the Administration of Aquatic Crown Land). Provincial staff will advise applicants if there is a need to obtain a letter indicating the upland owner's consent to their application.

C. Adjacent Owner Notification

New applications to tenure foreshore adjacent to privately owned property, including Indian Reserves, are brought to the adjacent property owner's attention through referrals or direct contact. In certain circumstances, provincial staff may advise applicants that there is a need to obtain a letter indicating adjacent owner's consent to their application.

8.1.8 Aboriginal Interests Consideration

The Authorizing Agency is responsible for ensuring the Province's obligations to First Nations are met in the disposition of Crown land. Provincial staff carry out consultations in accordance with the consultation guidelines of the Province to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur.

It is recognized that DFO has a separate process for First Nations consultation in order to meet federal fiduciary obligations and, where possible, provincial and federal agencies should try to harmonize First Nations referrals on the same application.

8.1.9 Field Inspections

Field inspection means the on-site evaluation of a parcel of Crown land by provincial staff. The need to conduct a field inspection will vary and the decision to make an inspection ultimately lies with the Authorizing Agency.

The Authorizing Agency will coordinate and share information on field inspections and may invite other relevant federal and provincial agencies to participate in inspections. Site data collected by other federal and provincial agencies may be used by the Authorizing Agency.

8.1.10 Decision/Report

The applicant will be notified in writing of the government's decision. Reasons for Decision are posted on the relevant website.

8.1.11 Issuing Documents

If the application is approved, tenure documents are offered to the applicant. All preconditions must be satisfied prior to the Authorizing Agency signing the documents. It is the applicant's responsibility to obtain all necessary approvals before placing improvements or commencing operations on the tenure.

Wherever possible, the provincial tenure and federal licence documents should be issued at the same time. Management plans and supporting materials will not be attached to the tenure document, but will be referenced in the document as being held on file by the Authorizing Agency.

8.2 Competitive Process

The Authorizing Agency may initiate one of a number of different competitive processes (e.g. public auction, request for proposals) where permitted by program policy and when deemed appropriate by provincial staff.

Occurrences where the province will have to initiate a competitive process should be minimized by the fact that an early process for screening and queuing applications has been established. The cases where a competitive process may be required are as follows:

- competing applications are initially received on the same day;
- the province invites competing expressions of interests for an area or region-specific opening or call for applications;
- tenures previously used and considered suitable for aquaculture have expired without replacement, been cancelled or been abandoned; or
- a *Land Act* reserve, not specific to a First Nations Economic Measures MOU, which is considered best suited for aquaculture has been cancelled.

In these cases, the Authorizing Agency will apply criteria developed in consultation with the PRT. The details of these evaluation criteria will be customized to the particular application situation, but should strive to reflect the range of factors listed below:

- potential employment/job benefits;

- implications for industry development;
- education and training opportunities;
- partnerships with First Nations or local government;
- consideration of land-use and environmental factors;
- revenue benefits for the Crown;
- the use of environmental technologies;
- compatibility with the provincial government's Sustainability Principles; and
- any additional community criteria that may have been established as part of a negotiated Economic Measures MOU with First Nations.

Potential applicants will be advised of these criteria prior to submitting their application packages. The PRT will evaluate the applicability and weighting of evaluation criteria and may be asked to provide advice to the Authorizing Agency.

In the case where competing aquaculture applications are determined by the above process to be of relatively equal merit, the Authorizing Agency Director may direct that the applicants be invited to make bonus-bid offers for the site in question. The applicant who does not have his or her bid accepted will then be offered the option of being first in queue after the accepted application as per Section 8.1.2.

If competing applications over the same parcel are for different uses (e.g. aquaculture and log handling), disposition will be on the basis of best use of the land as determined by the Authorizing Agency Director in consultation with other appropriate agencies.

Depending on the circumstances, a process of First Nations consultation may be required.

8.2.1 Bonus Bid Process

The Authorizing Agency Director may decide to utilize a closed bonus-bid process in cases where aquaculture tenures have reverted to the Crown or where two or more competing applications are deemed tied after evaluation against the criteria as outlined above.

The following special procedures apply for holding a bonus-bid competitive process or auction:

- a site previously used for a particular aquaculture purpose will normally first be auctioned for the same purpose unless the Authorizing Agency Director, determines that another form of aquaculture constitutes better use;
- a closed-bid auction will be held within 12 months of the parcel(s) becoming vacant to ensure that production is not interrupted for overly long periods;
- the Authorizing Agency Director will ensure that procedures for disposition of sites by public competition are consistent from the aspect of administrative fairness. The same requirements as those expected of an applicant making direct application would apply to the public disposition process including advertising, local zoning and availability of upland owner's consent;

- the Authorizing Agency Director will consult with DFO prior to advertising the parcel(s) for public auction regarding site suitability and production capability. Local governments, other government agencies and interest groups may be consulted as appropriate;
- where several areas are proposed for marketing, the Authorizing Agency Director may advertise the areas at a single auction;
- in developing the minimum requirements for bids, the Authorizing Agency Director may utilize some or all of the criteria identified in Section 8.2. The Authorizing Agency will communicate these added requirements to all potential applicants; and
- the successful applicant(s) will be required to submit a management plan which will be reviewed by the Authorizing Agency and, as appropriate, local governments, First Nations, government agencies and interest groups.

8.3 Planned Tenure Dispositions

Planned tenure dispositions involve the province actively investigating and developing opportunities for Crown land tenures, followed by announced openings within specific geographic areas. Under a planned disposition project or study, Crown lands will be allocated by the Authorizing Agency in accordance with standard application procedures or by competitive process.

9. TENURE ADMINISTRATION

9.1 Insurance

A tenure holder is generally required to purchase, and is responsible for maintaining during the term of the tenure, a minimum level of public liability insurance specified in the tenure document. The province may make changes to the insurance requirements and request copies of insurance policies at any time during the term of the tenure.

9.2 Security/Performance Guarantee

A security deposit or bond may be required to be posted by the tenure holder where any improvements on, or changes to, the land are proposed. The security deposit is collected to insure compliance and completion by the tenure holder of all the obligations and requirements specified in the tenure. Some examples where such security may be used are for any type of clean-up or reclamation of an area, and/or to ensure compliance with development requirements.

The Authorizing Agency may determine the amount of the security deposit or bond. The amount is generally based on the use and the number, size and scale of Improvements. The Tenure Administration Procedures provides minimum bond amounts for aquaculture.

9.2.1 Finfish Bond

All operators are required to submit a performance bond per finfish tenure held or appropriate blanket bonds where multiple tenures are held.

A blanket performance bond is held by the BC Salmon Farmers Association on behalf of its members.

9.2.2 Shellfish Bond

All operators are required to submit a performance bond per shellfish tenure held or appropriate blanket bonds where multiple tenures are held.

A blanket bond is administered by the British Columbia Shellfish Growers Association for its members.

9.3 Assignment and Sub-Tenuring

Assignment is the transfer of the tenure holder's interest in the land to a third party by sale, conveyance or otherwise. Sub-tenuring means an interest in the Crown land granted by a tenant of that Crown land rather than the owner (the Province).

Assignment or sub-tenuring requires the prior written consent of the Authorizing Agency. The assignee or sub-tenure holder must meet eligibility requirements. The Authorizing Agency may refuse the assignment of existing tenures if the details of the assignment or sub-tenure are not acceptable to the province.

Investigative and temporary permits cannot be sub-tenured or assigned.

The Authorizing Agency will notify relevant federal and provincial agencies (e.g. MOE, DFO) of completed assignments and sub-tenures so that other licences and permits may be updated. Circumstances that would require full referral of the application for assignment or sub-tenure are detailed below.

As a condition of consent for assignment or sub-tenure, the Authorizing Agency will require verifiable financial information (e.g. a statutory declaration or a financial statement from a financial institution or accountant) specifying the total value of the transaction, the component of value that is associated with the land tenure and the component that is associated with the value of improvements on the tenure.

9.3.1 Assignment

A management plan (existing or new) is required prior to assignment:

- where a plan is in place, the proposed assignee must either accept the existing plan (by initialing and dating a copy of the approved plan) or submit an amended or new management plan; or
- where no plan exists, the proposed assignee must submit a complete new management plan along with supporting materials.

In the case where a new or amended management plan is submitted, the authorizing agency will refer the plan and its supporting materials to all appropriate referral agencies for review and approval prior to assignment (e.g. there will be no amendment of management plan or supporting material during the assignment process.)

It is preferable that an application for tenure assignment be submitted with an existing management plan accepted by the proposed assignee. Once an assignment is made

the assignee may then apply to amend the management plan and the Authorizing Agency will refer the application for review as per Section 8.1.5.

A lease or licence of occupation must be brought to a satisfactory level of development/production prior to assignment. Assignment of new tenure will not generally be allowed until after the third year of development. The following procedures apply:

- confirmation of diligent use based on Annual Aquaculture Statistical Reports (AASR) of annual production figures for the site.
- if AASR data is not available for the site the tenure holder requesting assignment will do one of the following:
    - submit AASR data for the most recent two years of production;
    - submit proof of purchase (either in the form of receipts or as reported in site inspection reports) of finfish smolts or two years' worth of shellfish stocking; or
    - submit a copy of the agreement of sale of the site.

The Authorizing Agency Director may waive the requirement of satisfactory development and production of the site if the following applies:

- the request for assignment is a result of internal corporate restructuring (.e.g. an individual requests his tenure be assigned to a company in which he is a principal partner);
- there is no change to the management plan; and
- the client requesting the assignment holds numerous tenures and another company or person is acquiring all the holding.

9.3.2 Sub-Tenuring

The Authorizing Agency Director will consider requests for sub-tenuring on a case by case basis.

Sub-tenure documentation must either commit the sub-tenant to the aquaculture management plan of the primary tenure-holder or be based on a new management plan acceptable to the province. The Authorizing Agency and other referral agencies or organizations as appropriate will review all new management plans.

Rental rates for sub-leases and licences are not to be less than rates established under this policy. A revenue-sharing agreement will be negotiated with the Authorizing Agency reflecting appropriate consideration for sub-tenured uses.

9.4 Tenure Replacement

Replacement tenure means a subsequent tenure document issued to the tenure holder for the same purpose and area.

In most cases, tenure holders may apply for a tenure replacement at any time following the mid-term of the tenure. Replacement of tenures is at the Authorizing Agency's

discretion. The province may decline to replace a tenure, or may alter the terms and conditions of a replacement tenure. For tenure terms and conditions see Section 6.

Investigative permits are not generally replaced. A further two year term may be provided, at the Authorizing Agency's discretion, when there are legitimate requirements for a longer investigative period.

9.5 Monitoring and Enforcement

Tenure terms and conditions, including requirements contained in approved management/development plans' act as the basis for monitoring and enforcing specific performance requirements over the life of the tenure.

9.5.1 Compliance and Enforcement

Compliance inspections, monitoring and enforcement actions will take place as per the service agreement on compliance and enforcement coordination between MFLNR, MOE and in cooperation with DFO.

9.5.2 Site Decommission/Clean-up Procedures

Upon decommissioning of a site the client will report to the Authorizing Agency that the tenure has been left in a clean, sanitary and safe manner this will include all anchors, cables, lines and shore ties, unless otherwise directed. The client must supply the following:

- a Statutory Declaration signed in the presence of a Commissioner for taking Affidavits for British Columbia or a Notary Public in and for the Province of British Columbia swearing the site is clean, safe and sanitary; and
- a representative remotely operated vehicle (ROV) or video transect(s) of the ocean floor within and adjacent to the tenure boundary demonstrating that the site is clean, safe and sanitary.

Copies of both the Statutory Declaration and the videotape/CD will be forwarded to DFO and MOE for their review.

MFLNR will conduct audits on a representative sample of these sites to ensure the terms of the Statutory Declarations are met.

The province holds performance guarantees on all tenures. A performance guarantee will not be released until the Authorizing Agency Director is satisfied that the work has been completed to the satisfaction of the provincial and federal agencies.

Where clean up failed to occur at past abandoned sites and if the company or an affiliate exists, they will be contacted and requested to address any cleanup issues. If the previous company is no longer operative, the province will work with the BC Salmon Farmers Association or the British Columbia Shellfish Growers Association to address outstanding clean up of such sites.

9.5.3 Diligent Use

All aquaculturalists who have acquired a new tenure must demonstrate that work has started on the site within 12 months of being in receipt of all required licences and permits (unless the Authorizing Agency Director recognizes extenuating circumstances).

To be considered as diligent use the site is to be in compliance with the management plan within five years of issuance of the initial tenure (unless the Authorizing Agency Director recognizes extenuating circumstances). The objectives of diligent use are to:

- ensure that aquaculture tenure is used diligently;
- ensure that aquaculturalists know the basis for which a tenure can be cancelled;
- ensure that aquaculturalists performance is evaluated in an objective and fair manner;
- ensure that leases or licenses of occupation are only provided for commercial and other approved purposes; and
- justify alienation of the Crown resource from the general public.

MFLNR may assess diligent use at any time. The onus is on the aquaculturalist to produce verifiable evidence, satisfactory to the province, that diligent use is being maintained. Verification of diligent use will be by way of:

- confirmation of diligent use, based on DFO's Annual Aquaculture Statistical Reports (AASRs) of annual production figures for the site; or
- conducting site inspections to verify diligent use.

Any aquaculturalist not making diligent use of their tenure will be sent a registered letter explaining the requirement and requesting that an explanation be provided within 30 days. If a reasonable explanation is not forthcoming, a second registered letter will be sent to the aquaculturalist indicating that unless a reasonable explanation is received within 30 days of the date of the letter the tenure may be cancelled. The Authorizing Agency Director will consider the response.

If a satisfactory explanation is not received within the time frame prescribed above, Authorizing Agency will begin tenure cancellation proceedings.

The cancellation of tenure will be carried out according to Section 43 of the *Land Act*. In general, this process will require the Authorizing Agency to provide notice by registered mail requesting the tenure holder to comply with the covenant, stipulation or term within 60 days after the notice is mailed.

If the default continues after the 60-day period, the disposition may be cancelled. The Authorizing Agency will advise other affected parties (e.g. MOE, DFO, BCA, local government, etc.) of cancellation proceedings.

10. VARIANCE

Variances to this policy must be completed in accordance with the Policy Variance Procedure.

APPENDIX 1. AQUACULTURE POLICY SUMMARY

Table 1. Summary of *Land Act* Aquaculture Tenures, Terms, Fees[2] & Rents

Tenure Type	Term of Tenure (Maximum)	Annual Rent Payments	Administrative Fees
Investigative Permit	• 2-year term • Replacement can be allowed at end of term.	$250+GST/year, or $675+GST prepaid for the entire term	• Application fee - $500+GST
Licence of Occupation	**Shellfish:** • 30-year licence • Replacement option anytime after mid-term (e.g., 15 years) **Finfish:** • 30-year licence • Replacement option anytime after mid-term (e.g.,15 years)	**Shellfish** • Intensive - 4% of Shellfish Land Value with a $675+GST minimum • Extensive - 4% of half the Shellfish Land Value with a $675+GST minimum • Development period – for the first 5 years, 50% of the Shellfish Land Value with a $675+GST minimum • Replacements: o Intensive - 4% of double land value on file until the Shellfish Land Value is achieved o Extensive- 4% of double land value on file until the Shellfish Land Value is achieved o $675+GST minimum **Finfish** • Intensive - 7.5% of Finfish Land Value with a $675+GST minimum • Extensive - 7.5% of half the Finfish Land Value with a $675+GST minimum	**Shellfish** • Application fee - $1200+GST • Tenure Replacements - $600+GST • Tenure Conversions - $600+GST • Tenure Expansions - $600+GST • Amendments: minor - $100+GST other - $500+GST **Finfish** • Application fee - $4925+GST • Tenure Replacements - $2462.50+GST • Tenure Conversions - $2462.50+GST • Tenure Expansions - $2462.50+GST • Amendments: minor - $100+GST other - $500+GST
Lease	**Shellfish:** • 30 years • Replacement option after mid-term (e.g., 15 years)	**Shellfish** • New tenures - 5% of Shellfish Land Value with a $675+GST minimum	Same as for Initial Licence of Occupation fees (above)

[2] Includes fees that are listed in the *Land Act* Fees Regulation. If there is a discrepancy between this table and the regulation, the regulation takes precedence.

Tenure Type	Term of Tenure (Maximum)	Annual Rent Payments	Administrative Fees
	Finfish: • 30 years • Replacement option after mid-term (e.g., 15 years)	• Replacements - 5% of double the land value that is on file until the Shellfish Land Value is achieved ($675+GSTminimum) **Finfish** • Intensive - 8% of Finfish Land Value with a $675+GST minimum • Extensive - 8% of half the Finfish Land Value with a $675+GST minimum	
Ancillary Residential Use	Upland – as per Residential Program Floating – as per aquaculture tenure	Upland - rents will be assessed as per Residential Program Floating - additional rent will be charged with a minimum additional rent of $675+GST year	Upland – application and processing fees as per Residential Program Floating - no additional application or processing fees

APPENDIX 2: SALMON AQUACULTURE CONSIDERATIONS

This Directive provides interim direction to regional *Land Act* decision-makers regarding the consideration of finfish (salmon) aquaculture tenure applications and implements the following strategic policy direction from the Ministry of Agriculture in the June 20, 2018 Information Bulletin AGRI0046-001248:

> *Effective June 2022, the Province will grant Land Act tenures only to fish farm operators who have satisfied Fisheries and Oceans Canada (DFO) that their operations will not adversely impact wild salmon stocks, and who have negotiated agreements with the First Nation(s) in whose territory they propose to operate. Operations with expired provincial tenures, or tenures that expire before June 2022, may operate with month-to-month tenures.*

This Directive replaces previous Ministry of Agriculture direction provided in the July 31, 2015 AGRI0050-001218 Information Bulletin/ September 30, Information Bulletin 2015AGRI0062-001629.

For clarity, this directive does not affect the 2008 moratorium north of Klemtu (established by OIC #174) or the 2013 restrictions in place in the Discovery Islands (see news release #AGRI0018-000570).

Additional operational policy direction for finfish (salmon) aquaculture is, as follows:

1. Effective immediately, applications for tenures for new sites, replacement of existing tenures, tenure expansions, or tenure assignments that apply to any period after June 30, 2022 should be approved only where the applicant demonstrates that both of the following two conditions have been met:
   (a) the applicant has satisfied DFO that operations will not adversely impact wild salmon stocks; and
   (b) the applicant has entered into an agreement with the First Nation(s) in whose territory the proposed tenure is located.
2. The decision maker may consider that possession by the applicant of a valid federal aquaculture licence is adequate to meet the condition under 1(a).
3. The agreements described in 1b are expected to be negotiated directly between the applicants and First Nations and do not include the Province. The provincial decision maker may consider that provision by the applicants of a letter or email of support, non- objection, deferral or abstention from the First Nation(s) in whose territory they propose to operate is sufficient evidence that the condition under 1(b) has been met.
4. Tenures that have an expiry date of June 30, 2022 or earlier and which fail to meet the conditions described in 1(a) and 1(b) by June 30, 2022 should be provided notice to vacate and decommission the site, consistent with tenure terms and conditions.

5. Applications for the replacement of Crown land tenures may, at the discretion of the decision-maker, be approved in the absence of an agreement described in 1(b) provided that any such authorization does not apply to any period after June 30, 2022. Approvals and month-to-month tenancy to occupy Crown land for the period up to June 30th 2022 are intended to allow the tenure-holder the opportunity to meet the conditions under 1(a) and 1(b).

6. Applications to update the tenure management plan that do not include an application to increase the size of the tenure area, as well as changes to improvements considered to be Incidental Aquaculture Use, will not be required to meet 1(a) and 1(b).

7. Nothing in this policy limits the Province's legal obligations to consult with First Nations.

AQUACULTURE JURISDICTIONS

Fisheries and Oceans Canada (DFO)

- Issues aquaculture licences for marine finfish, shellfish and freshwater (land-based) operations.
- Regulates aquaculture operations through the *Fisheries Act, Health of Animals Act*, *Food and Drugs Act*, and *Species at Risk Act*.

Province of BC

- Issues aquaculture licenses for the commercial harvest of marine plants.
- Issues business licenses for aquaculture under the *Fisheries Act*.
- Protects aquaculture operations through the *Right to Farm Act.*
- Aquaculture operations that required a provincial lease or tenure before 2010, when the province was responsible for regulating aquaculture in BC, continue to need one to comply with provincial law.



First Nations

- Have the constitutionally protected right to harvest resources within their traditional territories.

Strathcona Regional District

What the SRD can do:

- Provide a vision, goals and guidelines for aquaculture through the Official Community Plan.
- Zone the water for aquaculture and regulate permitted uses (e.g. sorting, grading, harvesting and processing), height of buildings and structures on rafts, lot areas and setbacks (distance from land zoned residential).
- Adopt a noise bylaw to regulate noise within designated areas of Cortes.

What the SRD cannot do:

- Restrict the use of machinery used to carry out the permitted uses in a zone such as sorting, grading and storage facilities.
- Restrict noise that results from normal aquaculture farming practices. Normal farm practices are protected under the provincial *Right to Farm Act*.
- Since those are not considered a structure, restrict the height of equipment and machinery.
- Prohibit an existing use permitted under the zoning bylaw. Any changes to the zoning bylaw will apply to future uses only.
- Regulate vessels. Vessels are regulated by Transportation Canada.

Key Definitions in the Zoning Bylaw

Active Aquaculture

An aquaculture activity on the sea or foreshore where any or all of the following are used:

- Active feeding including the introduction of natural or man-made feeds;
- The administration and introduction of toxicants, hormones, antibiotics, or pigments;
- The use of generators;
- The use of pens, net cages, or floats for net cages.

Passive Aquaculture

The controlled rearing, cultivation and harvesting of molluscs, crustaceans or marine plants in a specific location on the sea or foreshore where there is no administration of feed or chemical products.

Note: Passive aquaculture does not preclude the use of powered machinery or mechanized equipment to carry out the permitted uses in a zone.

301-990 Cedar Street, Campbell River, BC V9W 7Z8
Tel: 250-830-6700 Fax: 250-830-6710

Strathcona REGIONAL DISTRICT

STAFF REPORT

DATE: September 19, 2023 **FILE**: 0550-04 Board

TO: Chair and Directors,
Regional Board

FROM: Dave Leitch
Chief Administrative Officer

RE: EVANS BAY AQUACULTURE LICENSE

PURPOSE/PROBLEM

To consider a recommendation from the Electoral Areas Services Committee that a report be prepared to clarify issues related to an aquaculture license recently approved by the Province in the Evans Bay area of Electoral Area C.

EXECUTIVE SUMMARY

At its September 13, 2023 meeting the Electoral Areas Services Committee received the attached correspondence and passed the following resolution:

> Mawhinney/Rice: EASC 260/23
>
> THAT staff prepare a report outlining the situation to date regarding the Evans Bay aquaculture lease and,
>
> THAT staff supply the responses to the questions posed in the above noted pieces of correspondence.

The actions outlined below are offered in support of the Committee's recommendation.

RECOMMENDATIONS

1. THAT the report from the Chief Administrative Officer be received.

2. THAT a report be prepared outlining the current situation in respect of the aquaculture license held by Island Sea Farms in the Evans Bay area, and

   THAT the report provide responses to questions posed in the correspondence attached to the September 19, 2023 report from the Chief Administrative Officer.

Respectfully:

Dave Leitch
Chief Administrative Officer

COPY

Prepared by: *T. Yates, Corporate Services Manager*

Attachment: September 13, 2023 EASC agenda correspondence re Evans Bay license

COPY

Tom Yates

From: Lannie Keller <coastmtn@island.net>
Sent: August 30, 2023 11:32 AM
To: Robyn Mawhinney; John Neill; John Rice; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Subject: Aquaculture Zoning Compliance Issue
Attachments: 2023 August - Background Information - Island Sea Farms License #1401594.docx

NOTICE: This email is from an external source.

August 29, 2023
Re: Aquaculture License #1401594 Evans Bay, Read Island

Dear SRD Board and Staff:

The Province has recently issued an aquaculture license amendment/renewal that is *subject to zoning compliance*. SRD has informed Island Sea Farms (the Licensee) about the compliance requirement, but SRD also claims to have no authority or capacity to require or enforce zoning, and no ability to police this remote site.

The Licensee proposes a mussel farm, as opposed to more passive oyster culture. This includes a large increase in infrastructure, and activity/noise that Island Sea Farms wants to move from Gorge Harbour (Cortes Island) to Evans Bay.

The Province, DFO, and Transport Canada all reviewed the application. The three agencies produced separate studies and recommendations that provided basis for the Dedicated Decisionmaker's renewal offer. The back story is longer, because there is misinformation in the License application, including the zoning map.

When the application was filed, there was no effort to notify the community. Someone saw the inconspicuous paper notice on a raft at the farm and several local community members wrote to express concerns. Others are waiting for the public hearing that is required for rezoning.

Community notified the Province about the zoning conflict, and it seems wrong (or at least inefficient) that the Province, DFO and TC all proceeded with investigations and reports (and decision) ahead of rezoning. We are curious about why the license was issued ahead of the public process – and no one has been able to tell us what happens if rezoning is eventually denied.

SRD says they have no ability (or mandate) to "police" a provincial license in a remote location. The Province (Ministry of Forests Aquaculture Authorizations Specialist) says they also have no boat and no budget or mandate to patrol remote sites – and that DFO would be the oversight agency. We have not been able to locate anyone at DFO who visited the site or who wrote their recommendation. We have not been able to view any of the agency reports. WHO IS WATCHING?

This site was originally a very small finfish farm in the early 1980's. It has changed hands several times, and the use changed from finfish to deepwater oyster culture. Although the use changed, and the size almost doubled, there has

never been a rezoning application or any public notification/process. Therefore, even before this application was filed, the License was operating in contravention of its zoning. Community had no idea we needed to look, but how did the three government agencies not know or notice when examining the new application? (And IF there was a DFO on-site inspection, how could they not notice management plan irregularities and why didn't they at least enforce the ban on *exposed raw styrofoam*?!)

I'm troubled by the disconnect between the SRD and the Province (and DFO and TC) on this application. It feels unjust that this has been allowed to proceed including the many inconsistencies and violations that have been noted, and apparently ignored.

It is important that decisions also reflect the best interests of the community. Ahead of any new AQ2 activity at this site (which is only zoned for AQ3 and AC1) please ensure that:

- The zoning is compliant with the rule and the moral intention of SRD ByLaw 1460.
- Previous and current violations are addressed and corrected.
- There is meaningful community input on all aspects of this application via the required public hearing.

Sincerely,
Lannie Keller
Evans Bay resident

NOTE: The attached document includes additional information and a map.

COPY

BACKGROUND INFORMATION
Island Sea Farms Evans Bay License / Amendment Application (Lands File # 1401594)

How this relates to Bylaw 1460: Rural Land Use Bylaw 1460, implemented 1993, designated most activities for their then-current use. The area in question was (and still is) zoned AQ3, finfish. Deepwater/raft culture of shellfish is AQ2; therefore, even before License # 1401594 expired, it was not zoned for what it was being used for. Circa 1996, the License area was enlarged (4 ha to 7.2 ha) and at that time it was *relabelled* AQ2. This change is undocumented at SRD, where they have no record of a receiving a referral notice, and there was no rezoning application. That process should have required a public hearing. The zoning on the map in the application is inaccurate and the operation is technically illegal. The SRD should be able to enforce compliance with the Local Bylaw.

Who is monitoring these government licensed sites?
This License that was already operating non-compliant with its zoning, is now (again) being offered for renewal by the Province. The Province says that it is the Licensee's responsibility to apply for rezoning, and that it is not their mandate to enforce that. SRD recently reminded the licensee of the requirement, but say they have no ability to enforce the province's requirement. Additionally, neither agency has budget or boats *or intention* to monitor what happens on the site. The Province suggested that DFO would be the onsite monitor – but DFO says the Licensee self-reports. So, who, if anyone, is watching? [Public complaints about exposed raw styrofoam flotation have not resulted in its removal, and there are statements in the license application that do not reflect on-site reality and activities.]

Is this Temporary Use? SRD's recent "reminder" to the Licensee included option for a 5-year Temporary Industrial Use Permit, which also includes a 5-year renewal option. SRD Bylaw 1460 originally described the TIUP as a 3- year permit (not 5yr + renewable) and it was a *temporary-use category* for heli-logging operations that needed to drop and boom logs from remote sites. Using this for Aquaculture might be legal, but its not the original spirit or intention of the Bylaw. The Licensee is considering the TIUP option. This also requires a public hearing – *but SRD cannot require the Licensee to apply*.

Provincial Disregard The Province received letters of concern and did not communicate or consult with any of the citizens who provided information about the situation. The Province "corrected" misinformation in the Licensee's application. Without referral or public process, the Province issued a license that is noncompliant with local zoning. Current zoning makes the current use illegal: the licensee has been and continues to operate in contravention of RD Bylaw. The Province should not issue/validate the license renewal until it is compliant with SRD (re)zoning, which includes a public hearing. The community has outstanding questions and new concerns regarding the provincial process and the politics of licensing public resources. And what happens if local rezoning is not approved?

Additional Concerns

- Community notification is a recurring request.
- The application is a stated plan to move industrial noise and activity from where it was unwanted at Gorge Harbour on Cortes to a more remote site where there is less opposition.
- Proposed increase from 12 to 72 rafts presumes to occupy heretofore unused area that is not zoned for aquaculture.
- Scale of the proposed operation (600% increase) will dramatically change the ambience of Evans Bay and directly affect residents, boaters, and other visitors who value the quiet and safety of this deep bay.

- Noise and activity will negatively impact the island's largest employer, a kayak lodge and tour company in operation for 35 years.
- Proposed rafts will extend into the path used by other marine traffic.
- The plan includes 13 night lights and introduces massive quantities of plastic, ropes, and predator netting into the marine ecosystem.
- The application contains factual errors, and the waste management plan includes untruths about past activities as well as unlikely promises. This Licensee/applicant has a record of messy operations, plastics pollution, and has been dismissive of community concerns. At this site in 2019 ISF replaced hard-shell floats with poly-wrapped styrofoam, and to this day there are many *partially unwrapped/exposed styrofoam floats in active use.*

Map: The dark blue area (4 ha, 1985) was zoned for finfish aquaculture in 1993 Rural Land Use Bylaw. The Provincially licensed area changed hands four times and increased (7.21 ha) but never rezoned for aquaculture. The larger hatched area proposed is currently not zoned for use.



Tom Yates

From: Teresa Kinver <kinvert26@gmail.com>
Sent: September 1, 2023 11:36 AM
To: Robyn Mawhinney; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Subject: Re: Lease 1401594 - Island Sea Farms - Evans Bay READ ISLAND

NOTICE: This email is from an external source.

TO WHOM IT MAY CONCERN

With reference to the above lease and new approval of an extra 60 rafts to the current 12 we wish to voice our opposition to this approval.

We are currently living directly opposite this farm - +- 750 m from the boundary. We believe it is Island Sea Farms intention to add another 60 rafts to have a compliment of 72. This will no doubt bring a substantial amount of noise and frustration due to 13 night lights also being mounted on the rafts. One of the reasons we live in Evans Bay is because it is extremely quiet. Any noise created on the farm echos across the farm from the steep rock cliffs adjacent to the farm and is amplified.

We understand Island Sea Farms are bringing their operation from Gorge Harbour due to numerous complaints on Cortez about the noise as well as old polystyrene floats that are not covered in the regulated black PVC.

If there is anyway we can assist we will be pleased to help

Thanking you
Peter & Teresa Kinver

COPY

Tom Yates

Subject: FW: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

From: Richard <surfdust@telus.net>
Sent: Monday, September 4, 2023 1:37 PM
To: Robyn Mawhinney <rmawhinney@srd.ca>; John Neill <JNeill@srd.ca>; Mark Vonesch <mvonesch@srd.ca>; Gerald Whalley <gwhalley@srd.ca>; David Leitch <DLeitch@srd.ca>; Mark Baker <mbaker@srd.ca>; Tom Yates <TYates@srd.ca>
Subject: Enforce Zoning/Oppose Province's Issue Of Evans Bay, Reid Island Mussel Farm

** NOTICE: This email is from an external source.**

Hi,

I am writing to you as a resident of Campbell River; friend of residents of Read Island, and occasional tourist on Read Island on behalf of Council of Canadians, Campbell River Chapter to ask that as Strathcona Regional District Directors, you enforce zoning and demand that the Province rescind its recent approval - without local input into this decision - of Island Sea Farms to operate a large mussel farm in Evans Bay on Read Island.

This operation would create a lot of industrial noise negatively effecting the residents and habitat of Evans Bay. Also, given Island Sea Farms past records of pollution and violation of zoning bylaws in its Gorge Harbor oyster farm operations, there is great potential for their operations in Evans Bay to create more pollution for Evans Bay and the surrounding waters and lands. Also, neither Gorge Harbor nor Evans Bay were or are zoned for aquaculture and was/is non compliant with local zoning bylaws and Provincial licensing requirements.

Therefore, I am requesting that Strathcona Regional Directors as required by law enforce and monitor your zoning bylaws and demand that the Province take back the license they illegally granted Island Sea Farms to operate the mussel farm in Evans Bay on Read Island.

Richard Hagensen

Council of Canadians, Campbell River Chapter

c/o 1856 Treelane Road, Campbell River, BC V9W 4E8

--
This email has been checked for viruses by Avast antivirus software.
http://www.avast.com/

COPY

Tom Yates

From: rosie@executiveworks.org
Sent: September 5, 2023 12:43 PM
To: Robyn Mawhinney; John Neill; John Rice; Mark Vonesch; Gerald Whalley; David Leitch; Mark Baker; Tom Yates
Cc: Lannie Keller
Subject: Request for a public hearing and zoning compliance enforcement regarding aquaculture license

NOTICE: This email is from an external source.

Hi,

I am writing regarding the proposed aquaculture license amendment/renewal by Island Sea Farms in Evans Bay, Read Island. I have two specific requests.

Firstly, I sincerely hope that a public hearing will be held regarding this issue and that the community's viewpoints will be heard and taken into account prior to granting any form of permission for the license amendment/renewal. I am aware that many community members expressed very strong concerns to the Province about Island Farms proposed operation. The Province reviewed these comments and appears to have totally disregarded them. I trust SRD won't do likewise in holding a public hearing.

Secondly, I am shocked and appalled that despite the fact the license is non-compliant regarding the current zoning, such a fact appears to have been ignored by the Province. It is my understanding that SRD feels powerless to enforce the current zoning regarding this aquaculture license. This makes no sense. What is the point of any zoning if it is ignored and not enforced? I would ask that SRD take all measures possible to ensure Island Sea Farms are fully compliant to all zoning, now and in the future.

Thank you,

Rosie Steeves
Read Island resident

COPY

From: Lannie Keller <coastmtn@island.net>
Date: Thursday, October 2, 2025 at 10:06 PM
To: Robyn Mawhinney <rmawhinney@srd.ca>
Subject: Evans Bay Aquaculture

NOTICE: This email is from an external source.

Hello Robyn,
I am requesting that you provide follow up information regarding my submission to EASC on March 11.

For your review, text of my submission is attached. Board and staff commentary following is relevant, located between 17:00 and 22:10 at https://www.youtube.com/watch?v=GrRmRF4yp6E.

At the conclusion, Director Vonesche's motion (passed) was that if the Licensee is noncompliant, then SRD would write to the Province confirming that.
Also that staff would be coming back with a report in closed session.

I would appreciate an update on what has transpired since March, including actions taken and information provided in the staff report.

Thanks,
Lannie Keller

250-850-9787

2025-03-11 Lannie Keller Delegation presentation at EASC
RE Evans Bay Non-compliant Aquaculture License #140594

I'm here to present local concerns and request SRD's help to avert a land use conflict and a Bylaw zoning violation at Read Island. To begin, I'm grateful to live in unceded traditional territory of the Homalco and Klahoose First Nations. And for the wild beauty of this place.

We moved to Read Island in 1980, and have made our living creating and running (what is now) Canada's longest operating kayak touring company from our home in Evans Bay. Coast Mountain Expeditions has become Read Island's largest employer. We offer activities based on wilderness ambience – all in this local area. Our business is threatened by Island Sea Farm's Aquaculture License #1401594, conditionally approved by the province in June 2023.

The License application received 46 comments - regarding, noise, traffic, lights, debris, and industrial activities that disregard residents, visitors, local employment -- and proper PROCESS. The Province issued the license knowing full-well that the application was NOT-compliant with SRD Zoning – so the license is conditional. We petition SRD to enforce the requirement for rezoning before any development occurs.

In 44 years, we've watched commercial aquaculture from its beginnings – some successes, but many derelict installations and mega-tons of garbage. Beautiful shorelines are damaged and residents lead cleanup efforts. We've also watched the evolution of Rural Land Use Bylaw 1460.
Zoning is meant to reduce land use conflict, and a primary reason for Bylaw 1460 was to control proliferation of fish farms. In 1993 there was major community support as SRD established zoning to protect the outer islands from unrestrained development.

Island Sea Farm's conditionally approved Aquaculture License **site** is the hatched area on the middle map. It has complicated history, including some mistakes:
In 1985 one of BC's first fish farms established there. (See the dark blue area, tucked along the shore.) Bylaw 1460 later zoned the site for what it was, AQ3 finfish. The Provincial license subsequently changed hands four times; and circa 1996, the size almost doubled, to 7.2 ha (note the map's larger hatched area.) At that same time, the license **map *zoning was changed*** from AC2 to AQ2 – from Access to Aquaculture, BUT **the *re-zoning via re-labelling* is undocumented at SRD, where there is no record of receiving a referral notice, and there was no rezoning application** or any further process. (This should have included public notification and a hearing.)

The same larger hatched (public access) area has now been conditionally **re-licensed** for increased **aquaculture** activity -- but it is and it always has been zoned AC2and it has ***never been marked with buoys or developed in any way.*** *The small blue area is the only part that has ever been used. For* several decades, the small tenure was just a few poorly maintained sometimes-sinking shellfish rafts. In 2010 it was bought by resident locals who made it productive; in 2017, they sold to ISF.

Island Sea Farm's first action was replacing good flotation with poorly wrapped Styrofoam – and ignoring community complaints. More recently they applied to increase infrastructure: from 12 to 96 rafts, adding anchors, ropes, predator netting and 13 night lights – for a plan that occupies the never-before-used area that has always has been, and still-is, zoned AC2 Public Access.

ISF's Application-Reason cites their need to relocate noisy summer operations away from Gorge Harbour because of community complaints. Transplanting this to Evans Bay is not community friendly, is contrary to local zoning, and represents a **dramatic** intensification over any previous use.

The NE arm of Evans Bay by our lodge is very protected safe-harbour for boats. Our kayaking customers and the yachts that anchor here every night of the summer are seeking beauty, peace and quiet. Island Sea Farm Expansion threatens all of this.

No one knows this better than local residents. We are SRD's eyes and ears on the ground here, where you don't have, and we can provide a level of oversight. This community is not anti-development, but there are rules, and we want to protect some things.

We are concerned about this application, starting with missing and misinformation – compounded because the advising agencies (TC, DFO and the Province) never visited the site – meaning the Provincial Decisionmaker lacked critical information for considering the actual extent and cumulative impacts of the expansion, or how and why the non-compliant and non-existent zonings came to be.

In early communications about the ISF application, Carlos Burgo the provincial aquaculture officer, wrote to me that "*a tenure would **not** be offered if the area cannot be brought into compliance with off bottom shellfish aquaculture.*" And, that the Province "***will defer completely** to the SRD on zoning requirements.*"
In another email he explained "*In the spirit of efficient and timely decision making*" the Province would continue their review process but "*will not be able to make a final recommendation until the rezoning process undertaken by SRD is complete.*" So, when the license was rather-suddenly approved, Mr. Burgo expressed surprise, but he still assured me that **the restrictive condition in the license guaranteed due process... and *that local zoning compliance was required.***

I also had a number of calls and emails with SRD planner John Neill, who was watching this file. He mentioned having communications with the Province about noncompliance. When the conditional license was issued John Neill was shocked, and said that SRD have no authority to force the applicant to apply for rezoning. He did speak with the Licensee and explained the rezoning requirement and the application process. But 20 months later, the Licensee has not applied.

In this interim, SRD obtained legal advice about their jurisdiction. This verified SRD authority to enforce local zoning, and confirmed SRD's role and duties to:
- **Provide vision, goals and guidelines for aquaculture** through Official Community Plans
- **Zone the surface of the water** and regulate permitted uses.

Fully 20 months after the License was issued, there has been no development at the site. Yet, we remain fearful that even without zoning, the applicant could easily install infrastructure. Precedent gives us reason for concern, because after expensive development has occurred, authorities are frequently disinclined (or unable) to undo wrongful situations.

If this happens, the industrial activity will impact and jeopardize our business. Residents and visitors will be upset and unhappy, and
it will also damage community's confidence in the effectiveness of local government and Bylaws.

Aug 28/2024, Carlos Burgo wrote that "the onus to inform the Province of non-compliance lies with the Regional District." And he said "We have yet to receive any notification that the tenure [Licensee] has been *issued a notice* of non-compliance with zoning bylaws."

It's a bit of a Catch 22. The Provincial officer didn't or couldn't say what's-next if a provincially-permitted license remains non-compliant with local zoning. He didn't have an answer for what happens if a licensee *develops* a provincially-approved site in contravention of local zoning. He wouldn't say how long an undeveloped License offer remains viable and what happens if the time is expired...

Currently there isn't new noncompliant infrastructure, but (for all concerned) we want to prevent that. We believe there is an opportunity to uphold Bylaw 1460, and we are appealing for SRD to use your authority.

WE REQUEST:

1. For SRD to inform the Province that the licensee has been "issued a notice of non-compliance with zoning bylaws," and that the Licensee has been fully informed, and has not taken action to comply with the re-zoning requirement.

2. For SRD to please confirm that local zoning compliance will be enforced, including rezoning (with public hearing) ahead of any on-site development. And that if any noncompliant infrastructure is installed, that it will be removed by the Licensee.

Thank you for hearing me and thank you for your consideration.

I would appreciate an update on what has transpired since March, including actions taken and information provided in the staff report.

Thanks,
Lannie Keller

250-850-9787

Aniko Nelson

From: Tom Yates
Sent: December 4, 2025 11:05 AM
To: Aniko Nelson
Subject: RE: Follow up RE: Evans Bay Aquaculture

Aniko, I don't believe there is any point in engaging the director on the question of an October resolution. If nothing is showing in the minutes from that meeting then I would suggest the opportunity to amend (correct) the minutes has long expired and staff continue to be directed by SRD Res. 395/25.

From: Aniko Nelson <ANelson@srd.ca>
Sent: December 4, 2025 10:48 AM
To: Tom Yates <TYates@srd.ca>
Subject: RE: Follow up RE: Evans Bay Aquaculture

Hi Tom,

I appreciate you coming to a similar conclusion and me, however, I would like Dave to be clear then that there was **NOT** a motion in October as referenced in the Director's email. Should corporate administrative staff review the recording? Or should this just be assumed then?

Many thanks!

A.

From: Tom Yates <TYates@srd.ca>
Sent: December 4, 2025 10:46 AM
To: Aniko Nelson <ANelson@srd.ca>
Subject: RE: Follow up RE: Evans Bay Aquaculture

Hi Aniko.

[redacted]

Tom

From: Aniko Nelson <ANelson@srd.ca>
Sent: December 4, 2025 10:30 AM
To: Tom Yates <TYates@srd.ca>
Cc: David Leitch <DLeitch@srd.ca>
Subject: FW: Follow up RE: Evans Bay Aquaculture

Hi Tom,

With respect to this item, this is the last motion I can find:



The March 11th motion the Director included in the email was addressed in May.

I do not see any motion from October as stated in the Director's email. Please confirm on your end so that we can ensure we have the most recent resolution.

Many thanks!

A.

From: Robyn Mawhinney <rmawhinney@srd.ca>
Sent: November 17, 2025 12:20 PM
To: David Leitch <DLeitch@srd.ca>; Tom Yates <TYates@srd.ca>
Cc: Gerald Whalley <gwhalley@srd.ca>
Subject: Follow up RE: Evans Bay Aquaculture

Hello Dave & Tom,
Last Wednesday I participated in a community event at Surge Narrows. Concern around the Evans Bay aquaculture lease and its non-compliance was raised: this continues to be of concern for members of the Read Island community. Along with the non-compliance, some of the concern is with the lack of information available to the public around this file.

Back at the beginning of October I requested an update on this topic on an upcoming EASC agenda (see below). Perhaps this was not the correct process for asking for an update on a motion which was supported, if not, could you please share what the process is?

Thank you!
Robyn

Robyn Mawhinney
Director for Discovery Islands and Mainland Inlets (Area C), Strathcona Regional District

call/text: 250.203.2468

Stay up to date on local government happenings: subscribe to Director Reports. Find previous Reports & resources at RobynMawhinney.ca

Discovery Islands-Mainland Inlets, Electoral Area C, is located within the traditional unceded territories of the We Wai Kai, Wei Wai Kum, Klahoose, Homalco, Kwiakah, Tlowitsis, & K'omoks First Nations. I'm grateful to be living and working on these lands.

From: Robyn Mawhinney <rmawhinney@srd.ca>
Date: Friday, October 3, 2025 at 11:32 AM
To: Tom Yates <TYates@srd.ca>, Edith Watson <EWatson@srd.ca>, David Leitch <DLeitch@srd.ca>
Subject: FW: Evans Bay Aquaculture

Hello Tom & Edith,
Below is an email request for follow-up information regarding a delegation presentation at the March 11 EASC meeting. At that time a motion was made, as per the screenshot here:

PETITIONS AND DELEGATIONS
Aquaculture Licensing

The Chair welcomed Lannie Keller, who made a presentation regarding a recently approved aquaculture license in Electoral Area C. [Item]

The Chair thanked Ms. Keller for her presentation.

Mawhinney/Rice: EASC 35/25

THAT the presentation be received.

CARRIED

Vonesch/Mawhinney: EASC 36/25

THAT, should the licensee be found to be non-compliant with Regional District zoning, a letter advising of non-compliance be written to the province; and

THAT a report addressing the issue be prepared for the next in-camera session of the Electoral Areas Services Committee.

CARRIED

While part of Lanne Keller's request below cannot be responded to (unless we were to rise and report on any item which may have been received in camera), I note that the motion made was two parts. I'm hoping that this constituent request can be included on the upcoming EASC agenda and staff can provide an update on the status of the first enactment clause of the motion as above, highlighted in green.

With gratitude,
Robyn

Robyn Mawhinney
Director for Discovery Islands and Mainland Inlets (Area C), Strathcona Regional District

call/text: 250.203.2468

Stay up to date on local government happenings: subscribe to Director Reports. Find previous Reports & resources at RobynMawhinney.ca

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From: Lannie Keller <coastmtn@island.net>
Date: Thursday, October 2, 2025 at 10:06 PM
To: Robyn Mawhinney <rmawhinney@srd.ca>
Subject: Evans Bay Aquaculture

NOTICE: This email is from an external source.

Hello Robyn,
I am requesting that you provide follow up information regarding my submission to EASC on March 11.

For your review, text of my submission is attached. Board and staff commentary following is relevant, located between 17:00 and 22:10 at https://www.youtube.com/watch?v=GrRmRF4yp6E.

At the conclusion, Director Vonesche's motion (passed) was that if the Licensee is noncompliant, then SRD would write to the Province confirming that.
Also that staff would be coming back with a report in closed session.

I would appreciate an update on what has transpired since March, including actions taken and information provided in the staff report.

Thanks,
Lannie Keller

250-850-9787

Strathcona REGIONAL DISTRICT

ELECTORAL AREAS SERVICES COMMITTEE

Printer Version

Minutes of the regular meeting of the Electoral Areas Services Committee held on Wednesday, December 10, 2025 at the Strathcona Regional District office located at 990 Cedar Street, Campbell River, B.C.

A quorum having been confirmed, the Chair called the meeting to order at 10:00 a.m. with the following directors in attendance:

Chair:	G. Whalley	Electoral Area A (Kyuquot/Nootka-Sayward)
Directors:	R. Mawhinney	Electoral Area C (Discovery Islands-Mainland Inlets)
	J. Rice	Electoral Area D (Oyster Bay-Buttle Lake)
	M. Vonesch	Electoral Area B (Cortes Island)

FIRST NATIONS TERRITORIAL ACKNOWLEDGEMENT

The Chair acknowledged that we are located on the traditional territory of the Laichwiltach people.

ADOPTION OF PUBLIC AGENDA

Vonesch/Rice: EASC 266/25

THAT the agenda for the December 10, 2025 regular meeting of the Electoral Areas Services Committee be adopted as presented.

CARRIED

Director Mawhinney requested an item of New Business entitled "Aquaculture" be added to the agenda.

Mawhinney/Vonesch: EASC 267/25

THAT the agenda for the December 10, 2025 regular meeting of the Electoral Areas Services Committee be adopted as amended.

CARRIED

ADOPTION OF PREVIOUS MEETING MINUTES

Vonesch/Mawhinney: EASC 268/25

THAT the minutes of the regular meeting of the Electoral Areas Services Committee held on November 5, 2025 be adopted. [Item]

CARRIED

STAFF REPORTS

Electoral Area C Official Community Plan - Project Update

Mawhinney/Vonesch: EASC 269/25

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Oyster River and Electoral Area D Coastline Floodplain Risk Assessment Mapping Project

Rice/Vonesch: EASC 270/25

THAT the report from the Chief Administrative Officer be received. [Item]

Clayton Hiles, Coastal Engineer for the Oyster River and Electoral Area D Coastline Floodplain Risk Assessment Mapping Project made a presentation on the project. [Item]

A vote was held on the pending motion and it was...

CARRIED

Service Contract for the Quadra Island Community Centre

Mawhinney/Vonesch: EASC 271/25

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Mawhinney/Vonesch: EASC 272/25

THAT the Committee recommend that Bylaw No. 401, being Blenkin Memorial Park Property Lease and Service Agreement Authorization Bylaw 2020, be repealed.

CARRIED

Mawhinney/Vonesch: EASC 273/25

THAT the Committee recommend that the Chair and Corporate Officer be authorized to execute a contract with the Quadra Island Recreation Society for the operation of recreational services at the Quadra Island Community Centre and maintenance of the Community Centre building and grounds.

CARRIED

Electoral Area Financial Assistance (Grant in Aid) Service

Vonesch/Rice: EASC 274/25

THAT the report from the Chief Administrative Officer be received. [Item]

CARRIED

Vonesch/Rice: EASC 275/25

THAT the committee recommend the Board proceed with the establishment of an electoral area grant in aid service based on the current version of the proposed service bylaw.

CARRIED

Preliminary Draft 2026-2030 Financial Plan

Mawhinney/Vonesch: EASC 276/25

THAT the report from the Chief Administrative Officer be received. [Item]

The Chief Financial Officer made a presentation on the Preliminary Draft 2026-2030 Financial Plan. [Item]

A vote was held on the pending motion and it was...

CARRIED

Mawhinney/Rice: EASC 277/25

THAT staff bring back a report to the Committee on those electoral area admin overhead allocations that relate to electoral area planning and shifting them to planning for budgeting purposes.

CARRIED

Regional District Policy Review (Part 4)

Vonesch/Mawhinney: EASC 278/25

THAT the report from the Chief Administrative Officer be received [Item]

CARRIED

Mawhinney/Vonesch: EASC 279/25

THAT Policies No. 5, 13, 18 and 48 as attached to the November 14, 2025 report from the Chief Administrative Officer be revoked.

CARRIED

NEW BUSINESS

Aquaculture

Mawhinney/Vonesch: EASC 280/25

THAT staff bring a report to the February meeting of the Electoral Areas Services Committee regarding progress on the issue of determining if the Evans Bay Aquaculture license is non-compliant with SRD zoning.

CARRIED

TERMINATION

Vonesch/Mawhinney: EASC 281/25

THAT the December 10, 2025 regular meeting of the Electoral Areas Services Committee be terminated.

CARRIED

Time: 11:40 a.m.

Certified Correct:

_____

Chair

_____

Corporate Officer

BRITISH COLUMBIA

LICENCE OF OCCUPATION

Licence No.: V944172

File No.: 1401594
Disposition No.: 944172

THIS AGREEMENT is dated for reference May 31, 2023 and is made under the *Land Act*.

BETWEEN:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the minister responsible for the *Land Act*, Parliament Buildings, Victoria, British Columbia

(the "Province")

AND:

ISLAND SEA FARMS INC (INC No. BC0958796)
PO Box 3166 Stn Main
Courtenay, BC V9N 5N4

(the "Licensee")

The parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 In this Agreement,

"Agreement" means this licence of occupation;

"Commencement Date" means June 10, 2023;

"disposition" has the meaning given to it in the *Land Act* and includes a licence of occupation;

"Fees" means the fees set out in Article 3;

"Hazardous Substances" means any substance which is hazardous to persons, property or the environment, including without limitation

(a) waste, as that term is defined in the *Environmental Management Act*; and

(b) any other hazardous, toxic or other dangerous substance, the use, transportation or release into the environment of which, is now or from time to time prohibited, controlled or regulated under any laws or by any governmental authority, applicable to, or having jurisdiction in relation to, the Land;

"Improvements" includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Land, and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunnelling, filling, grading or ditching of, in, on or under the Land;

"Land" means that part or those parts of the Crown land either described in, or shown outlined by bold line on, the schedule attached to this Agreement entitled "Legal Description Schedule" except for those parts of the land that, on the Commencement Date, consist of highways (as defined in the *Transportation Act*);

"Management Plan" means the most recent management plan prepared by you in a form approved by us, signed and dated by the parties, and held on file by us;

"Realty Taxes" means all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any government authority having jurisdiction which relate to the Land, the Improvements or both of them and which you are liable to pay under applicable laws;

"Security" means the security referred to in section 6.1 or 6.2, as replaced or supplemented in accordance with section 6.5;

"Term" means the period of time set out in section 2.2;

"we", **"us"** or **"our"** refers to the Province alone and never refers to the combination of the Province and the Licensee: that combination is referred to as **"the parties"**; and

"you" or **"your"** refers to the Licensee.

1.2 In this Agreement, "person" includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties require.

1.3 The captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement.

1.4 This Agreement will be interpreted according to the laws of the Province of British Columbia.

1.5 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia.

1.6 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law.

1.7 Each schedule to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.

1.8 This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and this Agreement may not be modified except by subsequent agreement in writing between the parties.

1.9 Each party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.

1.10 Any liabilities or obligations of either party arising, or to be performed, before or as a result of the termination of this Agreement, and which have not been satisfied or remain unperformed at the termination of this Agreement, any indemnity and any release in our favour and any other provision which specifically states that it will survive the termination of this Agreement, shall survive and not be affected by the expiration of the Term or the termination of this Agreement.

1.11 Time is of the essence of this Agreement.

1.12 Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then you or we, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Agreement states that you or we have sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making that determination.

1.13 Any requirement under this Agreement for us to act reasonably shall not require us to act in a manner that is contrary to or inconsistent with any legislation, regulations, Treasury Board directives or other enactments or any policy, directive, executive direction or other such guideline of general application.

1.14 Wherever this Agreement provides that you may not undertake some activity or do something

without our prior written approval or consent, our prior approval of the Management Plan will constitute our approval of, or consent to, the activity or thing to the extent the same is specifically and expressly described in the Management Plan and subject always to any conditions or qualifications that may be set in the Management Plan.

ARTICLE 2 - GRANT AND TERM

2.1 On the terms and conditions set out in this Agreement, we grant you a licence of occupation of the Land for shellfish aquaculture purposes, as set out in the Management Plan, and you acknowledge this licence of occupation does not grant you exclusive use and occupancy of the Land.

2.2 The term of this Agreement commences on the Commencement Date and terminates on the 10 anniversary of that date, or such earlier date provided for in this Agreement. We reserve the right to terminate this Agreement in certain circumstances as expressly provided in this Agreement.

ARTICLE 3 - FEES

3.1 You will pay to us

(a) for the first year of the Term, Fees of $1,718.75, payable in advance on the Commencement Date; and

(b) for each year during the remainder of the Term, the Fees either determined by us under section 3.2 or established under section 3.3, payable in advance on each anniversary of the Commencement Date.

3.2 We will, not later than 15 days before each anniversary of the Commencement Date during the Term, give written notice to you specifying in our sole discretion the Fees payable by you under subsection 3.1(b) for the subsequent year of the Term and we will establish such Fees in accordance with our policies applicable to your use of the Land under this Agreement.

3.3 If we do not give notice to you under section 3.2, the Fees payable by you under subsection 3.1(b) for the year for which notice was not given will be the same as the Fees payable by you for the preceding year of the Term.

ARTICLE 4 - COVENANTS

4.1 You must

(a) pay, when due,

(i) the Fees to us at the address set out in Article 10,

(ii) the Realty Taxes, and

(iii) all charges for electricity, gas, water and other utilities supplied to the Land for use by you or on your behalf or with your permission;

(b) deliver to us, immediately upon demand, receipts or other evidence of the payment of Realty Taxes and all other money required to be paid by you under this Agreement;

(c) observe, abide by and comply with

(i) all applicable laws, bylaws, orders, directions, ordinances and regulations of any government authority having jurisdiction in any way affecting your use or occupation of the Land or the Improvements including without limitation all laws, bylaws, orders, directions, ordinances and regulations relating in any way to Hazardous Substances, the environment and human health and safety, and

(ii) the provisions of this Agreement;

(d) in respect of the use of the Land by you or by any person who enters upon or uses the Land as a result of your use of the Land under this Agreement, keep the Land and the Improvements in a safe, clean and sanitary condition satisfactory to us, and at our written request, rectify any failure to comply with such a covenant by making the Land and the Improvements safe, clean and sanitary;

(e) not commit any wilful or voluntary waste, spoil or destruction on the Land or do anything on the Land that may be or become a nuisance to an owner or occupier of land in the vicinity of the Land;

(f) use and occupy the Land only in accordance with and for the purposes set out in the Management Plan;

(g) not construct, place, anchor, secure or affix any Improvement in, on, or to the Land or otherwise use the Land in a manner that will interfere with any person's riparian right of access over the Land and you acknowledge and agree that the granting of this Agreement and our approval of the Improvements under this Agreement, whether through our approval of a Management Plan (where applicable) or otherwise, do not:

(i) constitute a representation or determination that such Improvements will not give rise to any infringement of any riparian right of access that may exist over

the Land; or

(ii) abrogate or authorize any infringement of any riparian right of access that may exist over the Land;

and you remain responsible for ensuring that you will not cause any infringement of any such riparian right of access;

(h) pay all accounts and expenses as they become due for work performed on or materials supplied to the Land at your request, on your behalf or with your permission, except for money that you are required to hold back under the *Builders Lien Act*;

(i) if any claim of lien over the Land is made under the *Builders Lien Act* for work performed on or materials supplied to the Land at your request, on your behalf or with your permission, immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Land or any interest of yours under this Agreement to sale or forfeiture;

(j) permanently affix to the Improvements a sign stating your name and the type and number of this Agreement, in legible block letters not less than 20 cm (8 inches) tall and placed so the text is clearly visible to the public on or around the Land;

(k) provide without any form of compensation to you temporary accommodation to any vessel that is disabled or seeks shelter from weather conditions in which it may be unseaworthy;

(l) not deposit on the Land, or any part of it, any earth, fill or other material for the purpose of filling in or raising the level of the Land unless you obtain our prior written approval;

(m) not store logs on the Land;

(n) at our request and at your expense, have a British Columbia Land Surveyor conduct a survey of the Land within 90 days;

(o) obtain and maintain in good standing a federal aquaculture licence;

(p) take all reasonable precautions to avoid disturbing or damaging any archaeological material found on or under the Land and, upon discovering any archaeological material on or under the Land, you must immediately notify the ministry responsible for administering the *Heritage Conservation Act*;

(q) permit us, or our authorized representatives, to enter on the Land at any time to inspect the Land and the Improvements, including without limitation to test and remove soil,

groundwater and other materials and substances, where the inspection may be necessary or advisable for us to determine whether or not you have complied with your obligations under this Agreement with respect to Hazardous Substances, provided that we take reasonable steps to minimize any disruption of your operations;

(r) indemnify and save us and our servants, employees and agents harmless against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of one or more of the following:

(i) any breach, violation or non-performance of a provision of this Agreement,

(ii) any conflict between your use of the Land under this Agreement and the lawful use of the Land by any other person, and

(iii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Land by virtue of your entry upon, use or occupation of the Land,

and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand; and

(s) on the termination of this Agreement,

(i) peaceably quit and deliver to us possession of the Land and, subject to paragraphs (ii), (iii) and (iv), the Improvements in a safe, clean and sanitary condition,

(ii) within 60 days, remove from the Land any Improvement you want to remove, if the Improvement was placed on or made to the Land by you, is in the nature of a tenant's fixture normally removable by tenants and is not part of a building (other than as a tenant's fixture) or part of the Land and you are not in default of this Agreement,

(iii) not remove any Improvement from the Land if you are in default of this Agreement, unless we direct or permit you to do so under paragraph (iv),

(iv) remove from the Land any Improvement that we, in writing, direct or permit you to remove, other than any Improvement permitted to be placed on or made to the Land under another disposition, and

(v) restore the surface of the Land as nearly as may reasonably be possible, to the condition that the Land was in at the time it originally began to be used for the purposes described in this Agreement, but if you are not directed or permitted to remove an Improvement under paragraph (iii), this paragraph will not apply to

that part of the surface of the Land on which that Improvement is located,

and all of your right, interest and estate in the Land will be absolutely forfeited to us, and to the extent necessary, this covenant will survive the termination of this Agreement.

4.2 You will not permit any person who enters upon or uses the Land as a result of your use of the Land under this Agreement to do anything you are restricted from doing under this Article.

4.3 You must not use all or any part of the Land

(a) for the storage or disposal of any Hazardous Substances; or

(b) in any other manner whatsoever which causes or contributes to any Hazardous Substances being added or released on, to or under the Land or into the environment from the Land;

unless

(c) such storage, disposal, release or other use does not result in your breach of any other provision of this Agreement, including without limitation, your obligation to comply with all laws relating in any way to Hazardous Substances, the environment and human health and safety; and

(d) we have given our prior written approval to such storage, disposal, release or other use and for certainty any such consent operates only as a consent for the purposes of this section and does not bind, limit, or otherwise affect any other governmental authority from whom any consent, permit or approval may be required.

4.4 Despite any other provision of this Agreement you must:

(a) on the expiry or earlier termination of this Agreement; and

(b) at any time if we request and if you are in breach of your obligations under this Agreement relating to Hazardous Substances;

promptly remove from the Land all Hazardous Substances stored, or disposed of, on the Land, or which have otherwise been added or released on, to or under the Land:

(c) by you; or

(d) as a result of the use of the Land under this Agreement; or

(e) as a result of the use of the Land under the following prior agreements: licence no.

105778 dated for reference October 1, 1997

save and except only to the extent that we have given a prior written approval expressly allowing specified Hazardous Substances to remain on the Land following the expiry of the Term.

4.5 We may from time to time

(a) in the event of the expiry or earlier termination of this Agreement;

(b) as a condition of our consideration of any request for consent to an assignment of this Agreement; or

(c) if we have a reasonable basis for believing that you are in breach of your obligations under this Agreement relating to Hazardous Substances;

provide you with a written request to investigate the environmental condition of the Land and upon any such request you must promptly obtain, at your cost, and provide us with, a report from a qualified and independent professional who has been approved by us, as to the environmental condition of the Land, the scope of which must be satisfactory to us and which may include all such tests and investigations that such professional may consider to be necessary or advisable to determine whether or not you have complied with your obligations under this Agreement with respect to Hazardous Substances.

4.6 You must at our request from time to time, but not more frequently than annually, provide us with your certificate (and if you are a corporation such certificate must be given by a senior officer) certifying that you are in compliance with all of your obligations under this Agreement pertaining to Hazardous Substances, and that no adverse environmental occurrences have taken place on the Land, other than as disclosed in writing to us.

ARTICLE 5 - LIMITATIONS

5.1 You agree with us that

(a) in addition to the other reservations and exceptions expressly provided in this Agreement this Agreement is subject to the exceptions and reservations of interests, rights, privileges and titles referred to in section 50 of the *Land Act*;

(b) other persons may hold or acquire rights to use the Land in accordance with enactments other than the *Land Act* or the *Ministry of Lands, Parks and Housing Act*, including rights held or acquired under the *Coal Act, Forest Act, Geothermal Resources Act, Mineral Tenure Act, Petroleum and Natural Gas Act, Range Act, Water Sustainability Act* or *Wildlife Act* (or any prior or subsequent enactment of the Province of British

Columbia of like effect); such rights may exist as of the Commencement Date and may be granted or acquired subsequent to the Commencement Date and may affect your use of the Land;

(c) other persons may hold or acquire interests in or over the Land granted under the *Land Act* or the *Ministry of Lands, Parks and Housing Act*; such interests may exist as of the Commencement Date; following the Commencement Date we may grant such interests (including fee simple interests, leases, statutory rights of way and licences); you acknowledge that your use of the Land may be affected by such interests and the area or boundaries of the Land may change as a result of the granting of such interests;

(d) you have no right to compensation from us and you release us from all claims, actions, causes of action, suits, debts and demands that you now have or may at any time in the future have against us arising out of any conflict between your use of the Land under this Agreement and any use of, or impact on the Land arising from the exercise, or operation of the interests, rights, privileges and titles described in subsections (a), (b), and (c);

(e) this Agreement does not limit any right to notice, compensation or any other benefit that you may be entitled to from time to time under the enactments described in subsection (b), or any other applicable enactment;

(f) you will not commence or maintain proceedings under section 65 of the *Land Act* in respect of any interference with your use of the Land as permitted under this Agreement that arises as a result of the lawful exercise or operation of the interests, rights, privileges and titles described in subsections (a), (b) and (c);

(g) you will not dredge or displace beach materials on the Land unless you have obtained our prior written approval;

(h) you will not moor or secure any boat or structure to the Improvements or on any part of the Land for use as a live-aboard facility, whether permanent or temporary;

(i) you will make no claim against us or any person acting under the authority of any enactment of the Province of British Columbia for compensation, in damages or otherwise, if the Land becomes unsuitable for the purposes set out in this Agreement because of erosion, flooding or debris flow affecting the Land;

(j) you will not remove or permit the removal of any Improvement from the Land except as expressly permitted or required under this Agreement;

(k) any interest you may have in the Improvements ceases to exist and becomes our property upon the termination of this Agreement, except where an Improvement may be removed under paragraph 4.1(s)(ii), (iii) or (iv) in which case any interest you may have

in that Improvement ceases to exist and becomes our property if the Improvement is not removed from the Land within the time period set out in paragraph 4.1(s)(ii) or the time period provided for in the direction or permission given under paragraph 4.1(s)(iii); and

(l) if, after the termination of this Agreement, we permit you to remain in possession of the Land and we accept money from you in respect of such possession, a tenancy from year to year will not be created by implication of law and you will be deemed to be a monthly occupier only subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.

ARTICLE 6 - SECURITY AND INSURANCE

6.1 On the Commencement Date, you will deliver to us Security in the amount of $45,000 which will

(a) guarantee the performance of your obligations under this Agreement;

(b) be in the form required by us; and

(c) remain in effect until we certify, in writing, that you have fully performed your obligations under this Agreement.

6.2 Despite section 6.1, your obligations under that section are suspended for so long as you maintain in good standing other security acceptable to us to guarantee the performance of your obligations under this Agreement and all other dispositions held by you.

6.3 We may use the Security for the payment of any costs and expenses associated with any of your obligations under this Agreement that are not performed by you or to pay any overdue Fees and, if such event occurs, you will, within 30 days of that event, deliver further Security to us in an amount equal to the amount drawn down by us.

6.4 After we certify, in writing, that you have fully performed your obligations under this Agreement, we will return to you the Security maintained under section 6.1, less all amounts drawn down by us under section 6.3.

6.5 You acknowledge that we may, from time to time, notify you to

(a) change the form or amount of the Security; and

(b) provide and maintain another form of Security in replacement of or in addition to the Security posted by you under this Agreement;

and you will, within 60 days of receiving such notice, deliver to us written confirmation that the

change has been made or the replacement or additional form of Security has been provided by you.

6.6 You must

(a) without limiting your obligations or liabilities under this Agreement, at your expense, purchase and maintain during the Term the following insurance with insurers licensed to do business in Canada:

(i) Commercial General Liability insurance in an amount of not less than $2,000,000.00 inclusive per occurrence insuring against liability for personal injury, bodily injury (including death) and property damage, including coverage for all accidents or occurrences on the Land or the Improvements. Such policy will include cross liability, liability assumed under contract, provision to provide 30 days advance notice to us of material change or cancellation, and include us as additional insured;

(b) ensure that all insurance required to be maintained by you under this Agreement is primary and does not require the sharing of any loss by any of our insurers;

(c) within 10 working days of Commencement Date of this Agreement, provide to us evidence of all required insurance in the form of a completed "Province of British Columbia Certificate of Insurance";

(d) if the required insurance policy or policies expire or are cancelled before the end of the Term of this Agreement, provide within 10 working days of the cancellation or expiration, evidence of new or renewal policy or policies of all required insurance in the form of a completed "Province of British Columbia Certificate of Insurance";

(e) notwithstanding subsection (c) or (d) above, if requested by us, provide to us certified copies of the required insurance policies.

6.7 We may, acting reasonably, from time to time, require you to

(a) change the amount of insurance set out in subsection 6.6(a); and

(b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Agreement;

and you will, within 60 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Agreement.

6.8 You shall provide, maintain, and pay for any additional insurance which you are required by

law to carry, or which you consider necessary to insure risks not otherwise covered by the insurance specified in this Agreement in your sole discretion.

6.9 You waive all rights of recourse against us with regard to damage to your own property.

ARTICLE 7 - ASSIGNMENT

7.1 You must not sublicense, assign, mortgage or transfer this Agreement, or permit any person to use or occupy the Land, without our prior written consent, which consent we may withhold.

7.2 Prior to considering a request for our consent under section 7.1, we may require you to meet certain conditions, including without limitation, that you provide us with a report as to the environmental condition of the Land as provided in section 4.5.

ARTICLE 8 - TERMINATION

8.1 You agree with us that

(a) if you

(i) default in the payment of any money payable by you under this Agreement, or

(ii) fail to observe, abide by and comply with the provisions of this Agreement (other than the payment of any money payable by you under this Agreement),

and your default or failure continues for 60 days after we give written notice of the default or failure to you,

(b) if, in our opinion, you fail to make diligent use of the Land for the purposes set out in this Agreement, and your failure continues for 60 days after we give written notice of the failure to you;

(c) if you fail to maintain in good standing any disposition issued by us to you for the use and occupation of Crown land;

(d) if you

(i) become insolvent or make an assignment for the general benefit of your creditors,

(ii) commit an act which entitles a person to take action under the *Bankruptcy and Insolvency Act* (Canada) or a bankruptcy petition is filed or presented against

you or you consent to the filing of the petition or a decree is entered by a court of competent jurisdiction adjudging you bankrupt under any law relating to bankruptcy or insolvency, or

(iii) voluntarily enter into an arrangement with your creditors;

(e) if you are a corporation,

(i) a receiver or receiver-manager is appointed to administer or carry on your business, or

(ii) an order is made, a resolution passed or a petition filed for your liquidation or winding up;

(f) if you are a society, you convert into a company in accordance with the *Society Act* without our prior written consent;

(g) if this Agreement is taken in execution or attachment by any person; or

(h) if we require the Land for our own use or, in our opinion, it is in the public interest to cancel this Agreement and we have given you 60 days' written notice of such requirement or opinion;

this Agreement will, at our option and with or without entry, terminate and your right to use and occupy the Land will cease.

8.2 If the condition complained of (other than the payment of any money payable by you under this Agreement) reasonably requires more time to cure than 60 days, you will be deemed to have complied with the remedying of it if you commence remedying or curing the condition within 60 days and diligently complete the same.

8.3 You agree with us that

(a) you will make no claim against us for compensation, in damages or otherwise, upon the lawful termination of this Agreement under section 8.1; and

(b) our remedies under this Article are in addition to those available to us under the *Land Act*.

ARTICLE 9 - DISPUTE RESOLUTION

9.1 If any dispute arises under this Agreement, the parties will make all reasonable efforts to resolve the dispute within 60 days of the dispute arising (or within such other time period agreed to by the parties) and, subject to applicable laws, provide candid and timely disclosure

to each other of all relevant facts, information and documents to facilitate those efforts.

9.2 Subject to section 9.5, if a dispute under this Agreement cannot be resolved under section 9.1, we or you may refer the dispute to arbitration conducted by a sole arbitrator appointed pursuant to the *Commercial Arbitration Act*.

9.3 The cost of the arbitration referred to in section 9.2 will be shared equally by the parties and the arbitration will be governed by the laws of the Province of British Columbia.

9.4 The arbitration will be conducted at our offices (or the offices of our authorized representative) in Nanaimo, British Columbia, and if we or our authorized representative have no office in Nanaimo, British Columbia, then our offices (or the offices of our authorized representative) that are closest to Nanaimo, British Columbia.

9.5 A dispute under this Agreement in respect of a matter within our sole discretion cannot, unless we agree, be referred to arbitration as set out in section 9.2.

ARTICLE 10 - NOTICE

10.1 Any notice required to be given by either party to the other will be deemed to be given if mailed by prepaid registered mail in Canada or delivered to the address of the other as follows:

to us

MINISTRY OF FORESTS
Suite 142 - 2080 Labieux Road
Nanaimo, BC V9T 6J9;

to you

ISLAND SEA FARMS INC
PO Box 3166 Stn Main
Courtenay, BC V9N 5N4;

or at such other address as a party may, from time to time, direct in writing, and any such notice will be deemed to have been received if delivered, on the day of delivery, and if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

10.2 In order to expedite the delivery of any notice required to be given by either party to the other, a concurrent facsimile copy of any notice will, where possible, be provided to the other party but nothing in this section, and specifically the lack of delivery of a facsimile copy of any

notice, will affect the deemed delivery provided in section 10.1.

10.3 The delivery of all money payable to us under this Agreement will be effected by hand, courier or prepaid regular mail to the address specified above, or by any other payment procedure agreed to by the parties, such deliveries to be effective on actual receipt.

ARTICLE 11 - MISCELLANEOUS

11.1 No provision of this Agreement will be considered to have been waived unless the waiver is in writing, and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement, and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.

11.2 No remedy conferred upon or reserved to us under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.

11.3 The grant of a sublicence, assignment or transfer of this Agreement does not release you from your obligation to observe and perform all the provisions of this Agreement on your part to be observed and performed unless we specifically release you from such obligation in our consent to the sublicence, assignment or transfer of this Agreement.

11.4 This Agreement extends to, is binding upon and enures to the benefit of the parties, their heirs, executors, administrators, successors and permitted assigns.

11.5 If, due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of a competent governmental authority, enemy or hostile action, civil commotion, fire or other casualty or any condition or cause beyond your reasonable control, other than normal weather conditions, you are delayed in performing any of your obligations under this Agreement, the time for the performance of that obligation will be extended by a period of time equal to the period of time of the delay so long as

(a) you give notice to us within 30 days of the commencement of the delay setting forth the nature of the delay and an estimated time frame for the performance of your obligation; and

(b) you diligently attempt to remove the delay.

11.6 You acknowledge and agree with us that

(a) this Agreement has been granted to you on the basis that you accept the Land on an "as is" basis;

(b) without limitation we have not made, and you have not relied upon, any representation or warranty from us as to

(i) the suitability of the Land for any particular use, including the use permitted by this Agreement;

(ii) the condition of the Land (including surface and groundwater), environmental or otherwise, including the presence of or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Land and the current and past uses of the Land and any surrounding land and whether or not the Land is susceptible to erosion or flooding;

(iii) the general condition and state of all utilities or other systems on or under the Land or which serve the Land;

(iv) the zoning of the Land and the bylaws of any government authority which relate to the development, use and occupation of the Land; and

(v) the application of any federal or Provincial enactment or law to the Land;

(c) you have been afforded a reasonable opportunity to inspect the Land or to carry out such other audits, investigations, tests and surveys as you consider necessary to investigate those matters set out in subsection (b) to your satisfaction before entering into this Agreement;

(d) you waive, to the extent permitted by law, the requirement if any, for us to provide you with a "site profile" under the *Environmental Management Act* or any regulations made under that act;

(e) we are under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of servicing, creating or developing the Land or the Improvements and you are solely responsible for all costs and expenses associated with your use of the Land and the Improvements for the purposes set out in this Agreement; and

(f) we are under no obligation to provide access or services to the Land or to maintain or improve existing access roads.

11.7 You agree with us that nothing in this Agreement constitutes you as our agent, joint venturer or partner or gives you any authority or power to bind us in any way.

11.8 This Agreement does not override or affect any powers, privileges or immunities to which you are entitled under any enactment of the Province of British Columbia.

The parties have executed this Agreement as of the date of reference of this Agreement.

SIGNED on behalf of **HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**
by the minister responsible for the *Land Act*
or the minister's authorized representative

Minister responsible for the *Land Act*
or the minister's authorized representative

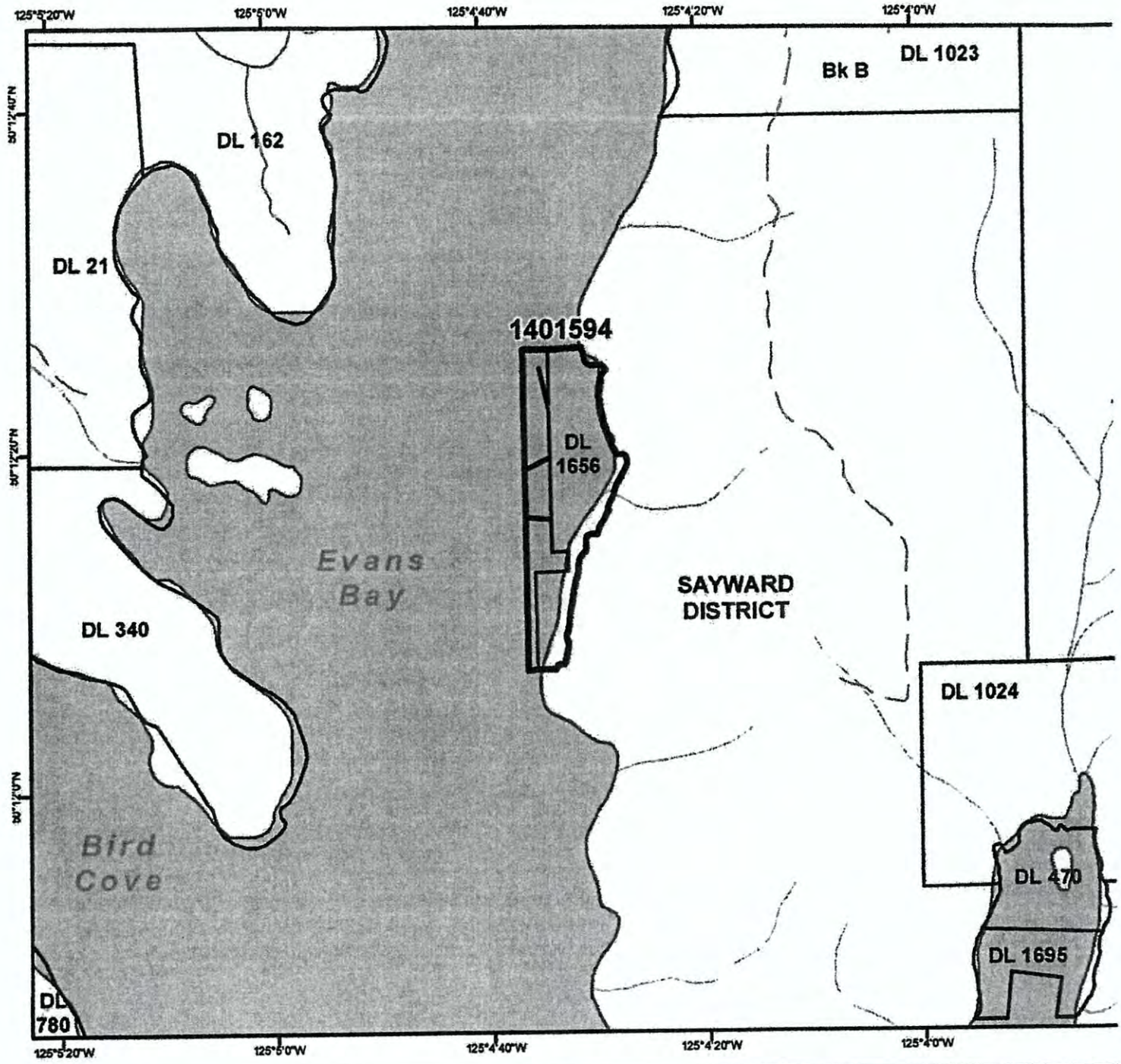
SIGNED BY
ISLAND SEA FARMS INC

Authorized signatory

LEGAL DESCRIPTION SCHEDULE

Legal Description:

District Lot 1656 Sayward District, together with unsurveyed Crown Foreshore or land covered by water being part of the bed o
Evans Bay, Sayward District. shown on the attached map, containing 7.21 hectares, more or less.



File #: 1401594
Area (ha): 7.21

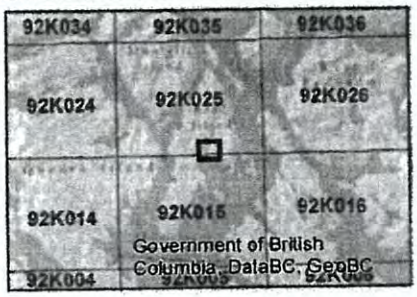
Type: LICENCE
Subtype: LICENCE OF OCCUPATION
Purpose: AQUACULTURE
Sub-purpose: SHELL FISH

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Meters

This map is for general reference only
Data layers that appear on this map may or may not be accurate, current or otherwise reliable
THIS MAP IS NOT TO BE USED FOR NAVIGATION.



Government of British Columbia, DataBC, GeoBC

Aniko Nelson

From: John Neill
Sent: July 8, 2024 9:08 AM
To: Aniko Nelson; Meredith Starkey; Annie Girdler; Keltie Chamberlain
Subject: FW: Regarding: Aquaculture Zoning Issue License #1401594

FYI

-----Original Message-----
From: Rob and Laurie Wood <quintano@island.net>
Sent: Sunday, July 7, 2024 11:30 AM
To: Robyn Mawhinney <rmawhinney@srd.ca>; John Neill <JNeill@srd.ca>; John Rice <jrice@srd.ca>; Mark Vonesch <mvonesch@srd.ca>; Gerald Whalley <gwhalley@srd.ca>; David Leitch <DLeitch@srd.ca>; Mark Baker <mbaker@srd.ca>; Tom Yates <TYates@srd.ca>
Subject: Regarding: Aquaculture Zoning Issue License #1401594

** NOTICE: This email is from an external source.**

To All,

I am asking the SRD Directors to have their staff look into a number of issues regarding License #1401594.

1. Why and how this site at Evans Bay, Read Island, had been enlarged in the first place, without being rezoned (non compliant)?

2. How did Island Seafarm Inc. manage to receive a license, based on some seemingly, inaccurate information? Plus, evading the rezoning category (Part 2-Section A- Siting Considerations)? Why did the three Provincial and Federal Ministries sign off without looking into the history or doing site visits? How could they miss the applicant evading the rezoning category? Seems 'fishy to me!'

3. There are numerous other issues, but my main concern would be to see the SRD Directors do their job of representing their constituents, and enforcing our Zoning Bylaws, which would include public hearings for rezoning of License #1401594.

Robyn, who represents our area has been very helpful, and needs to ask the Province what is going on?

We are a Democratic country with a public process....let us see it work!

Sincerely,

Laurie Wood

Maurelle Island

Aniko Nelson

From: Tom Yates
Sent: July 8, 2024 8:14 AM
To: Aniko Nelson
Subject: FW: Regarding: Aquaculture Zoning Issue License #1401594

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Sent: Sunday, July 7, 2024 11:30 AM
To: Robyn Mawhinney <rmawhinney@srd.ca>; John Neill <JNeill@srd.ca>; John Rice <jrice@srd.ca>; Mark Vonesch <mvonesch@srd.ca>; Gerald Whalley <gwhalley@srd.ca>; David Leitch <DLeitch@srd.ca>; Mark Baker <mbaker@srd.ca>; Tom Yates <TYates@srd.ca>
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We are a Democratic country with a public process....let us see it work!

Sincerely,

Laurie Wood

Maurelle Island

Aniko Nelson

From: Aniko Nelson
Sent: June 26, 2024 12:46 PM
To: John Neill
Subject: Evan's Bay Aquaculture Licence

Hi John,

Do we have a copy of the renewed licence for Evan's Bay 1401594?

Thank you!

A.

Aniko Nelson
Senior Manager, Community Services

Strathcona Regional District
990 Cedar St. Campbell River, BC V9W 7Z8
T: 250-830-6708| C: 250-202-9990
E: anelson@srd.ca

The Strathcona Regional District respectfully acknowledges that our corporate office and Strathcona Gardens Recreation Complex are located on the traditional unceded territory of the Lig^{w}ildax^{w} people. We also recognize that we operate within the traditional, treaty and unceded territories of the Ehattesaht / Chinehkint, Homalco, Ka:'yu:'k't'h' / Che: k'tles7et'h', Klahoose, K'ómoks, Kwiakah, Mowachaht / Muchalaht, Nuchatlaht, Tla'amin, Tlowitsis, We Wai Kai and Wei Wai Kum First Nations.