

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.

