



Council of BC Yacht Clubs



Advocating for Recreational Boaters

February 5, 2024

Honourable Nathan Cullen
Minister of Water, Land and Resource Stewardship

Dear Hon. Minister Cullen,

Re: Land Act Amendments

The Council of BC Yacht Clubs represents the interests of the 15,000 members of 45 BC yacht and boating clubs. We are concerned with the information provided by your Ministry and the very short time being allowed for public comment. The fact that your Ministry has decided to commence drafting legislation in a few days, without voter input is worrisome.

We have identified inconsistent and incorrect statements in the information that your Ministry has provided to the public regarding this proposal. These include:

- “...a legislative amendment to enable agreements with Indigenous Governing Bodies (IGB) to share decision-making about public land use.”
- “Allow the Minister to share Land Act decision-making with IGBs.”
- “DRIPA provides flexibility for the province to enter into agreements with Indigenous Governing Bodies”

These are not accurate statements. DRIPA sec 7 (1) (b) requires the **consent** of the IGB before the exercise of a statutory power of decision. This means that the IGB would have a veto on a wide range of issues. This is not shared decision-making.

In the Virtual Session slide deck, the statement below appears.

“Declaration Act sections s6 and 7 allow for agreements with IGBs, including joint and consent decision-making agreements.” This is a misleading statement because it is not consistent with the Act sec 7 (1) (b) which states: “The consent of the Indigenous governing body before the exercise of a statutory power of decision.” This would give the IGBs a veto over decisions.

The Engagement Summary includes the following statement:

“However, amendments to pre-existing legislation (like the **Land Act**) are required to make this happen.”

This statement suggests that the government may be planning amendments to Acts other than just the Land Act. If you are planning to do this, the public must be advised now.

It appears that these proposals may also demonstrate a failure of the government to respect the Supreme Court of Canada directions related to the limits of the Crown's duty to consult with IGBs. These limits state that consultation with Indigenous Groups cannot be extended to veto power.

Additionally, the proposal may not comply with the Supreme Court of Canada, *Haida Nation v British Columbia* decision requiring a "reasonable balance" between Indigenous and non-Indigenous interests.

Before you proceed further with these proposals, the inaccurate and misleading statements noted above should be corrected. A list of Acts other than the Land Act that are targeted for amendment and a response to our concerns regarding possible violations of Supreme Court of Canada decisions is provided.

We would like to remind you that once the proposed legislation is passed it might be very difficult to reverse if the proposed agreements with IGBs are found to be unworkable.

In Canada, all levels of government make decisions and pass laws only after public debate. The elected members of these governments are responsible to the people who elected them. It is therefore essential that these elected members are fully aware of all the issues that voters are concerned with before voting in the legislature.

It follows that there must be ample time for the voters to submit their concerns to the Ministry. We recommend that the deadline for public input is extended to September 30, 2024. The drafting of legislation should not commence until after that date so that you and your staff drafting the legislation will be aware of voter's concerns.

In summary, our many concerns generated by the proposed Dock Management Plan and now the Land Act amendments have convinced recreational boaters that these proposals are ill-considered, unwise, and will lead to division rather than reconciliation. In addition, a large portion of BC's avid recreationalists now feel unrepresented and ignored by your government.

Yours truly,

A handwritten signature in black ink, appearing to read 'Roger Hind', with a large, stylized flourish at the end.

Roger Hind
President

cc Premier, Minister of Indigenous Affairs, Leaders of opposition parties, BC MLA's