

Reply to the Attention of: Robin Junger
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Our File No.: 330452
Date: October 16, 2026

EMAIL

Lori Halls
Deputy Minister
Ministry of Water, Land and Resource Stewardship
lori.d.halls@gov.bc.ca

Dear Ms. Halls:

Re: Strategic Management Plan for private moorage in the Southern Gulf Islands and Southeast Vancouver Island

We represent the Save our Docks and Security Society (the "SODSS") which has members that are waterfront landowners within the area that is the subject of the "Strategic Management Plan for private moorage in the Southern Gulf Islands and Southeast Vancouver Island" draft for public engagement (the "Draft SMP").

We are providing this letter on behalf of the SODSS with respect to the public engagement presently ongoing until October 18, 2026. As the online survey is a structured portal that limits the manner in which information can be provided and questions posed, we are directing this letter directly to you. This letter includes important questions that are not answered by the government website and materials to date.

Ideally our client would receive and consider your responses to the questions *before* having to make its submissions. However, given the stated deadline of October 18, and recognizing the ongoing provincial election and the fact that the bureaucracy will have limited functions during the election period, we are providing this letter and the attached submissions prepared by our client¹. However, we respectfully request the right to augment or modify these submissions within a reasonable period after receiving meaningful responses to the questions posed below.

¹ The attachment addresses various substantive issues including, but not limited to, assertions that the proposals are not evidence based, that data are not fully disclosed, that conclusions are not adequately supported by data, that sufficient consideration has not been given to physical realities and specific circumstances concerning decking, flotation and lighting and potential safety issues among other things. It is under the letterhead of the Save our Docks and Security Association as it was developed before the group was incorporated as a society. For clarity, the attached submission should be considered the submission of the SODSS.

1. Is the SMP being developed under any particular legal authority?
2. What, if any, intentions exist to make the SMP legally binding on statutory decision-makers once completed?
3. Who are the members of the Advisory Group and how were they selected?
4. Was Raincoast Conservancy Foundation a member of the Advisory Group or otherwise involved in the development of the draft SMP? If so, has the government taken any steps to assess whether Raincoast's participation was informed or funded by its US operations?²
5. Will you disclose the advice provided by the Advisory Group?
6. Did members of the Advisory Group sign non-disclosure agreements?
7. Will the Advisory Group play a role in reviewing public input and making decisions respecting the plan? In this regard we note the plan itself is unclear on this point, stating:

An Advisory Group of interested and affected parties was convened from December 2025 until **DATE [placeholder until conclusion of Advisory Group]** (highlighting and bracketing in original)

8. Was the First Nation input sought in respect of s. 35 rights, other interests, or both? If it was both, were they sought in a manner that allows those interests to be differentiated between s. 35 rights and other (non-constitutionally protected) interests?
9. Did any First Nations or their consultants / representatives have a role in drafting the Draft SMP?
10. Will you disclose the input provided by First Nations?

² The Raincoast website states in a FAQ section ([FAQ | Raincoast](#)):

Do you provide tax receipts in both Canada and the US?

Yes! Raincoast Conservation Foundation is a registered charity in Canada and the US. As a result, we are able to provide tax receipts that are compliant with both CRA and IRS regulations. If you would like to get a Canadian tax receipt, [please donate here](#) (Charity #889 643 565 RR 0001). If you would like to get a US tax receipt, [please donate here](#) (IEN #912115603).

11. What role has the Declaration on the Rights of Indigenous Peoples Act had in the development of the Draft SMP?
12. Were the impacts of docks on private property value considered a relevant value in the development of the Draft SMP (given that it is not listed as a relevant value in s. 4.3)?
13. Why does the SMP not include mooring buoys, marinas, community docks, group moorage, strata moorage, or commercial docks in the marine environment? Are these not as important a part of the matters that the plan is purporting to address along with private moorage?
14. The government website states:³

The previous Land Act section 10.1 prohibition restricting the submission of private moorage applications in the study area ended on March 31, 2026.

While FrontCounterBC is once again accepting new applications, those interested in applying for a new authorization are encouraged to wait to apply until after the SMP is finalized because the final SMP is expected to guide how applications are reviewed, including where private moorage may be permitted and what siting, design and environmental requirements apply.

Does this mean applications filed before the plan is finalized will not be processed at this time?

15. Can you please clarify what heritage values are referred to when the Draft SMP at page 7 lists as a primary objective, "Align with provincial policies and initiatives that protect heritage values"?
16. The Draft SMP states at p. 7:

This SMP applies to private moorage located on provincial Crown land within the marine environment of the study area. It establishes requirements for new and, in some cases, replacement and existing authorized private moorage.

It also states at p. 9:

This SMP helps property owners in the study area understand how existing private moorage must be maintained over time...

³ [Private moorage in the Southern Gulf Islands and Southeast Vancouver Islands - Province of British Columbia.](#)

Use this document to familiarize yourself with the key requirements of the SMP...

And at page 10:

Use this document to understand whether, when, and how certain requirements apply to you...⁴

Do you accept that a guidance document cannot legally impose requirements and obligations on applicants or statutory decision-makers unless it is given legislative force?

17. Does the following statement at page 8 mean that the government has not considered, and is not prepared to consider, public input provided through means other than the online survey?

Public input was gathered through an online survey from September 3, 2026 until October 18, 2026.

18. Page 21 states:

Incremental changes to shoreline use can also interfere with the meaningful exercise of First Nations' rights, even where individual projects are limited in scale. Additional private moorage may contribute to broader patterns of constraint, degradation, or displacement affecting First Nations' rights, use and stewardship of the foreshore and marine environment, harvesting opportunities, cultural and spiritual values, and culturally significant sites.

For these reasons, cumulative effects are an important consideration in reviewing private moorage applications....

This statement suggests that the relevant test is whether an application may interfere with the meaningful exercise of rights. Do you accept that this is not the relevant test per se as it relates to First Nations and statutory decision-making, having regard to Supreme Court of Canada case law (both in the context of asserted aboriginal rights and established treaty rights)? And is there a reason the relevant case law (or principles derived therefrom) are not cited in the Draft SMP?

⁴ There are many other references to purported "requirements" throughout the document. A word search for "requirement" identifies 110 such occurrences.

19. Page 25 of the Draft SMP states that applicants "must engage a qualified consulting archeologist" in circumstances where the Heritage Conservation Act does not itself require one. Can you please clarify the basis for imposing such a requirement, particularly in light of *Mackay v. British Columbia*, 2013 BCSC 945?

Thank you.

Yours truly,



Robin Junger*

*Law Corporation

Encl.

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