

Email sent from Julian Clark to Peter Luckham, MP Elizabeth May, Peter Grove and Laura Patrick on August 20th, 2022

Thanks for your email Peter. I am quite familiar with the materials in the LTC agenda packages, and have found them to be very helpful. However, other than the motion and resolution to rescind the concurrence decision in the March 22, 2022 meeting minutes, and your April 6, 2022 letter to Cypress and Rogers, I am unable to find any information as to what ISED has been told by the LTC regarding that rescission.

This is especially important given the lack of clarity in ISED's May 17th letter from Ken Pungente. Mr. Pungente states in his May 17th letter:

"Since the issuance of concurrence, by the Salt Spring Island Local Trust Committee (SS LTC), the only

change in circumstances is the SS LTC's November 9, 2021 adoption of a new antenna siting protocol."

"SS LTC did not provide any other valid rationale to support the rescindment."

A review of your April 6th letter indicates the following was shared with Rogers and ISED:

"On November 25, 2021, the SS LTC sent a letter to Cypress Land Services noting a number of parties had brought to our attention concerns regarding the public consultation process for your application including that a number of elements of the consultation process were not fulfilled to the satisfaction of the neighborhood."

"We have recently discussed the SS LTC's concerns respecting the rescinding of concurrence with representatives from Rogers (Michael Krenz and Samuel Sugita) as well as representatives from ISED (Bernie Ries and his team)."

So it would seem that Mr. Pungente doesn't consider any of the concerns highlighted in your November 25th letter, nor anything discussed with representatives from Rogers or ISED as either a change of circumstances or as valid rationale. As we don't know what you discussed with the representatives from Rogers and ISED, we wish to know if it has been made clear to ISED that:

1. Rogers opening statement in their May 31, 2021 letter requesting a concurrence decision was, after the concurrence decision was granted, found to be false?
2. In granting a concurrence decision, the SS LTC had relied on Rogers statement that they had met the protocol the SS LTC staff asked them to use as a guideline?
3. Had the protocol that was alleged to have been fulfilled actual been fulfilled, the proposed site could not have been selected?
4. Had the land title search required in the protocol actually been completed, Rogers would have found a covenant on the site that does not allow for any development?

5. The SS LTC became aware of the historical importance of the Channel Ridge site to First Nations after the concurrence decision and have since become aware that Rogers should have easily identified this had they completed the ATRIS (Aboriginal and Treaty Rights Information System) as required in the ISED regulations?

During your remarks at the August 9, 2022 LTC meeting you stated that “Counsel has advised that the LTC has completed the tasks it needs to and should do and is responsible to do, and that any further action needs to be directed directly to ISED.”

As I have previously pointed out to the LTC, ISED does not entertain complaints from the public but rather only allows telecoms and land use authorities to trigger a dispute. From Section 5 Dispute Resolution of CPC 2-0-03:

“The dispute resolution process is a formal process intended to bring about the timely resolution where the parties have reached an impasse. Upon receipt of a written request from a stakeholder other than the general public asking for ISED intervention concerning a reasonable and relevant concern, ISED may request that all involved parties provide and share all relevant information.”

Since we have no standing to go directly to ISED, it is all important that as our representative the SS LTC be crystal clear with ISED why you rescinded the concurrence decision. Until you have done so, it is our opinion that the SS LTC has not completed the tasks it needs to!

Can you please direct me to the documentation around what was discussed with ISED and if there is any other information that has been shared with them? Can you also please let us know if ISED shared a written request from Rogers to trigger the Dispute Resolution process? If Rogers didn't request a formal Dispute Resolution process, has ISED indicated the regulation that enables them to overrule the SS LTC rescission as they appear to be doing in their May 17th letter?

Our federal MP Elizabeth May has been working with us to ensure ISED aren't overstepping their bounds in their May 17th action. We have formally asked the Honourable Minister Champagne (Innovation, Science and Industry) to review what we consider to be a conflict of interest (Mr. Pungente worked for Mr. Krenz at ISED before Mr. Krenz left his position there to join Rogers) and a lack of due process in completing the dispute resolution process required in the regulations. We remain confident that if the SS LTC comprehensively shared the reasons for rescission with ISED, ISED will not be in a position to overrule your decision. Hence, I would appreciate if you could copy her on your response to this email.

Kind regards,

Julian Clark