

DEBATES OF THE LEGISLATIVE ASSEMBLY

(HANSARD)

COMMITTEE A

THURSDAY, APRIL 22, 2010

Afternoon Sitting

PROCEEDINGS IN THE
DOUGLAS FIR ROOM

Committee of Supply

ESTIMATES:
MINISTRY OF FORESTS AND RANGE

Please note: This is a DRAFT TRANSCRIPT of the proceedings

M. Karagianis: I am sure that it will come as no surprise that I have a number of questions about a proposed marina development in the Inner Harbour here, and I would initially like to just start off with some broader process questions.

[1505]

The proposed project in the Inner Harbour is a 52-slip marina for mega-yachts that is consisting of two one-storey buildings on water lots that are owned by the developer, and the project would also include a parcel of water lot that would be leased from the province. There are a lot of unique elements to this proposal. It is highly controversial in the community, as I'm sure the minister is aware.

What I would like to do in this question opportunity with you is perhaps dispel some incorrect information about it, if we can, and clarify some issues for the community.

I would call the minister's attention to an article that ran in the *Times Colonist* on March 17, which was an editorial. What it says is: "The marina process is failing everyone." Really, my purpose here is to talk about that process and see if we can in fact clarify some information the community has and a growing concern that the community has.

I would like to first clarify with the minister, if I may, the term "water lots" and "owned by the developer." Perhaps the minister could talk a little bit more about: how were they acquired? When were they acquired? And are they freehold tenure, or what is the nature of that ownership?

Hon. P. Bell: We don't have that title search here, so I can't confirm for certain that this is the case, but our understanding is that the lots have been held since the 1980s. Unless we knew exact lot numbers.... I'm not sure we have that level of information here anyways, but I think that they are freeheld lots. They're not tenured lots, at least the two I think the member opposite is referring to.

M. Karagianis: In the case of this, is this kind of water lot ownership common in a public harbour of the nature that we have here in Victoria?

Hon. P. Bell: I just have to double-check with the member opposite. I may have given her an incorrect piece of information. Was the member opposite referring to the water lots in her previous question, in her first question, or to the privately held lots on land?

M. Karagianis: No, I'm actually talking about the water lots in both cases.

[1510]

Hon. P. Bell: It appears as if we're going to go down a path that's highly technical in nature. I think, to get the right answers for the member opposite, I'd prefer that we have a different individual here who, unfortunately, is based out of Nanaimo. We could have that individual here on either Monday or Tuesday. I understand that the estimates will go through that period as well.

I am just going to ask if the member would be willing to wait until either Monday or Tuesday, whatever is convenient for her. If she lets us know now, we could have that individual here, and then we'd be in a better position to answer that level of detail.

M. Karagianis: Yes, I think I would like to avail myself of that opportunity. Is the minister at this point, though, asking that all the questions I might have wanted to ask or just those that technically refer to the water lot tenure ownership, etc...? Maybe he can clarify exactly where the cut-off point is. How many questions can I ask today, or should all of my questions about this process, as well as about the water lot ownership, be kept for later?

Hon. P. Bell: The reason why I asked the question is because I'd already provided some incorrect information in my first answer. I assumed the member was referring to some land-based lots, not water lots. We now understand that. In a quick review of the team we have here, we understand that two of those water lots are privately held, but don't have the level of information of how long they've been privately held.

We just very quickly reviewed as a team if water lots are a common feature in British Columbia, and none of us could come up quickly with significant numbers of water lots. They do exist, but it wasn't something that we could come up with immediately. However, the individual that we would bring would have that level of knowledge.

If the member wants to go on and pursue other questions around this file, we're happy to do that. If we find that we're unable to get the level of answers, then I'd suggest that we put off the remainder of them. But we could certainly continue on. I just want to make sure I'm providing the right information for the member.

I know that this is a contentious issue for her riding. I agree with her that it's important that the public have all the correct information on it, so they know exactly who has what roles and responsibilities within each level of government, and they can direct their commentary to the appropriate level of government.

M. Karagianis: I appreciate the minister's comments. Yes, obviously, some of these more technical discussions we'll follow up next week. Certainly, I'm hoping that there are a number of questions that we can pursue here.

Again, around the issue of process. The 52-slip marina project is based on the use of these currently owned water lots, and the largest parcel of land here is expected to be a leased water lot property from the province. Perhaps this is again a technical question. How does this leasing of provincial water lot ownership work? How common is that in public harbours?

[1515]

Hon. P. Bell: What initiates the process would be an application from any individual or company. They could apply for a water lot. This is a very common practice. Any marina in the province would likely have a water lot, so it's not an unusual type of application that we would receive.

If it was successful, it would end up in a lease. Going back to the previous member's questions, that automatically triggers notification in the form of advertisements in local newspapers and that sort of thing — public comment periods, consultation, all those elements — as well as, of course, First Nations consultation.

Currently, just anticipating what the member might ask next, in this particular circumstance the public consultation period has not been concluded yet. That's still active; it hasn't closed off. The file is still considered active from our perspective at this point.

M. Karagianis: I would take, then, from the minister's comments on the process, that an application has been submitted, that the process is underway and that we are currently in the public consultation phase of that process. What form and shape exactly does the consultation... The public consultation stage of the process — what does that look like? What does it entail? Is there a beginning? Is there an end? How, in fact, does the public engage in that process?

[1520]

Hon. P. Bell: The kind of kickoff to the consultation process is the advertisement that gets run. In this particular file, I understand, there was an advertisement taken out in December of 2009, but there was some incorrect information in it. So it was re-advertised in January of 2010, and that was considered the starting point of the public consultation period.

In this particular circumstance the proponent has had open houses. As I think the member is aware, the local federal MP had a public kind of a meeting, which we sent staff to, as well, to be part of.

Once we moved through that process, it then is in the adjudication phase, which is where we are at today. The adjudication phase still accepts public comment. Written comment is taken and considered all through the adjudication phase. While there are lots of elements of this....

As I think the member opposite is aware, there are three other key agencies here that are involved. Transport Canada and the work that they are doing. Then the federal environmental assessment process, and clearly, we would not make any decisions until that process is complete. Then, of course, municipal zoning authorities. If the zoning authority was not appropriate for the use, then that would automatically disqualify the tenure as well.

We see ourselves a bit as largely a technical agency in terms of pulling together all the data from the other agencies. The Canadian environmental assessment authority reviews all of those elements. The local municipality makes a decision on whether or not they want to allow the zoning to be in place for a specific use. Then we align our decision with those other agencies.

Any of those agencies can automatically disqualify the tenure by not allowing the environmental assessment approval — Transport Canada in this circumstance or the municipality. Any one of those three elements that is not approved automatically means that we have no more work to do, and we would not approve the tenure.

M. Karagianis: I do want to kind of proceed through the comments that the minister has made and some of the information that has been made public by the federal jurisdiction and, certainly, some obviously very publicly disclosed information and a stand that the municipality has taken.

The minister said we'd go through the application stage, the public consultation process. We have now moved into an adjudication stage, but public consultation is still accepted in the form of writing. So the province does not anticipate in this process holding their own public consultation that's not either led by the proponent or, in the case of the initiative that was taken, by the local MP.

Does the province not go out, then, and engage in their own process? Or is the notice of advertising simply notification to the public to then submit in writing or in person or in some other form? I mean, I see that the province has piggybacked on what the proponent has done and has participated in what the MP has done.

Certainly, from the public point of view, I know there's a great deal of concern about what kind of consultation process the province on its own would undertake. Can the minister address that for me?

[1525]

Hon. P. Bell: I think I'll just try and again explain the division of responsibilities here. The federal government has the responsibility to do two things, two primary issues. One is to determine whether or not the site is suitable from an environmental perspective and would be appropriate for that use and that there would not be any environmental damage. They also have responsibility for ensuring that navigation is not impeded — Transport Canada, through the other arm of the federal government. Both of those require public consultation processes, and they are well equipped to make those decisions.

The municipal government has a responsibility for zoning and determining whether or not they deem that particular use is acceptable for a piece of property. If they want to make changes to that, they have public consultation periods for zoning requirements and they determine whether the uses of that property are appropriate.

We are kind of stuck in between those two places, from the provincial government perspective. We wouldn't be consulting on either of those issues. We don't make decisions based on either of those elements. If the federal government has done their due diligence and determines that this is an appropriate use of the property.... It hasn't triggered a provincial environmental assessment; it's triggered a federal environmental assessment. They would consult on that. They would consult on the navigable waters issue. The municipality consults on the land use and the zoning of it.

Our decision is in the middle of those and is largely technical in nature. We do, of course, have a responsibility to consult with First Nations, and that work has been ongoing, and we've had feedback there. That would be our primary area of responsibility.

But just to be clear. I know this is an emotional issue for residents, but our role is largely technical in nature. Really, the municipality has the authority to make decisions around zoning and whether or not they think that's an appropriate use. The federal government has the authority to make the environmental decision, and we're the ones in the centre of the whole thing.

M. Karagianis: I understand the three levels of authority and the various tasks that they undertake, but I hear the minister say that the municipality and their authority over zoning is a key element to the approval or non-approval of leasing. I believe that the municipality at this point cannot and will not make further determination on that until the process has been completed both federally and provincially. Now, that is my understanding.

It would seem to me that.... I've sat at the municipal level, so I know that for the municipality to undertake a zoning process.... It includes, you know, first, second reading, a public process, a public hearing on that and then a determination whether or not they would approve the zoning or turn it down. That process, of course, is contingent on other information that municipalities don't undertake — being the responsibilities that both the federal and provincial government do.

I know that at the federal level Transport Canada has at this point said.... The federal minister has stated in writing that it's unlikely that a panel review process is warranted for the marina project. He justifies this claim, saying that the majority of the public concern is about quality-of-life issues. But in no way does the federal government here clarify any concerns about the environmental process or an environmental assessment. So who takes on the evaluation of the environmental assessment of the Inner Harbour and of the implications of this?

If the federal government is looking at simply, you know, navigation, which I would say is highly questionable, but nonetheless, it is their responsibility.... It seems that nowhere in their comments have they talked about public consultation, for one, other than saying that they believe this is a lifestyle issue.

[1530]

Certainly, the whole environmental assessment aspect of this — who takes responsibility for that, and where is the reporting out of that? How is that open and transparent to the public?

Hon. P. Bell: Just to be clear for the member opposite, there are actually two federal processes underway currently. Transport Canada is responsible for navigable waters and is doing that. Environment Canada is responsible for the Canadian Environmental Assessment Agency. The questions the member asked with regards to who reviews the environmental aspects of this decision and who has the authority to give it a green or a red light.... It is in fact the Canadian Environmental Assessment Agency, and they do their own public consultation periods.

[J. Thornthwaite in the chair.]

We would not make a decision on this if either of those two agencies were to not approve their work. So once their work has been done, if either of them gave it a red light, then it's done. Our work is done.

At a municipal level, if this property were not to be zoned appropriately for the use, then we would not consider the tenure application either. So there are three red lights there that all have to be green in order for us to really complete our work.

M. Karagianis: I'm just trying to, again, piece this together. I know that the minister has publicly stated that you were waiting on the results of the screening assessment. I would presume that means environmental assessment.

The city of Victoria at one point, several years ago, inquired about rezoning the water as parkland. They were told by integrated land management that they needed to seek the approval of the proponent, the developer, because he had an interest in the Crown land.

I'm sure some of your staff may be aware of the rather contentious nature of the timeline here. The developer had, in fact, not actually filed an application at that point, when the city made that request. So the city, really, technically had been under no obligation to seek his approval for.... We're talking about the leased water lot between the two privately owned, and we haven't explored that for reasons that we have canvassed here. This piece of leased water lot here between the two pieces of privately owned water lots is, I think, under intense scrutiny from the public.

So I would like to ask about.... Perhaps the minister needs the expertise of someone else here, but perhaps his staff knows. Can we talk about the actual application and when it was submitted and why the city was unable to put in their rezoning application to turn this into parkland, which of course would have then considerably changed the magnitude of the current development proposal? Can you comment on that, Minister?

[1535]

Hon. P. Bell: Two things I wanted to touch on, as I understand it. We can, for Monday or Tuesday, get the e-mails and so on associated with this over here as well. My understanding is that it was a technical discussion between someone at the city and someone at the integrated land management bureau, and it was only a suggestion: "Well, you should go talk to this person, but if you want to apply for a rezoning, if you want to rezone it, you can rezone it."

But also — and this has not been well publicized, I don't think, in the media — there is nothing preventing the city from applying for rezoning the lot today. They could rezone the water lot today if they wanted to. It's up to them. They have complete authority over that. It's not something.... They hold complete control over that decision.

It's ultimately, again, stepping back, a federal government responsibility around navigation, around environmental assessment, municipal government — if this is an appropriate use. If it's not, then they'd better think about the zoning that's been on there for whatever length of time it's been on there, or they could make a decision to rezone it. The member actually has more experience in this area than I do. I haven't been a member of local government.

I'm just going to ask tolerance of the members opposite for a five-minute recess, if we can. Okay, recess five minutes?

The Chair: Yes, we'll have a recess for five minutes.

The committee recessed from 3:37 p.m. to 3:40 p.m.

[J. Thornthwaite in the chair.]

M. Karagianis: I appreciate the minister's comments about the city's ability and rights at this point to choose what rezoning process they wish, which would indicate to me that....

The application has been made for lease of this property, of this water lot. As it currently sits, there is zoning in place for a marina, but it's certainly anticipated to be somewhat — and I would say extremely — smaller than what the current proponent is applying for. I'm sure that the minister is aware of that as well. We'll maybe canvass that a little bit.

The minister did talk about the various other levels of government authority over this and the processes that they go through. A red light for many of them would then trigger a CEAA process for the minister. What is the red light at the provincial level, then?

Hon. P. Bell: We may have to go back and forth a few times. I'm not sure I'll be able to get the whole answer, because it's a complex issue. This particular situation is unique compared to many of the adjudications that we would take part in, in that there are multiple other agencies involved in the decision.

We'll go back to the critic's original questions around heli-ski tenures. There likely wouldn't be an environmental assessment process, a CEAA process, in the assessment of one of those tenures — although there might be, I suppose.

In that case, if that level of consultation and that level of work were not being done by a different agency, we would do that work. But in this case, because the federal government is leading the Canadian Environmental Assessment Agency, Transport Canada is leading nav waters, and then there's the municipality zoning piece, our work is relatively limited in terms of what we do.

One of the key pieces that we have fiduciary responsibility for is First Nations consultation. That is probably one of the biggest single areas that we need to play a role in. The other element pulls together public consultation — the input that we get from the public in terms of both during the consultation period and now, during the adjudication period, where the public can continue to comment. We would take any comments that we received. When we get the work, if there was a green light....

Who knows whether it'll be a green light or a red light? I don't want to presume that. Let's for a moment say that there's a green light that comes from Environment Canada and Transport Canada. We would compare the comments that we received from the public on that work to determine whether or not either of those two agencies had assessed that specific area of work. Then, if there were areas where we thought there were gaps in the work done, then we would participate in that work as well.

It's a little unique situation, in that we have other levels of government doing a lot of the work this time around, whereas for many of the files that we adjudicate, it's just us that have to do all of those different pieces of work.

[1545]

M. Karagianis: It's very interesting. When we talk about all these various processes that have to be undertaken here, I know that the minister has actually stated publicly that the amount of time that all this is taking is, in fact, putting the developer at risk. Well, I think the inference might have been. The amount of time that this is taking is certainly not beneficial to all parties involved. We'll put it that way.

I do note that an engineering firm that's been hired to do an environmental assessment is claiming on their website that this project has passed every environmental review, both federal and provincial, including that of the integrated land management board. That's clearly cited on the website of Chatwin Engineering, which has been hired to do some parts of this.

Can the minister comment on that? Clearly from the discussion we're having here, that doesn't really fit in with the process as the minister has outlined it. I'd like to hear from the minister maybe some feedback on that.

Hon. P. Bell: I'll start out by saying I am unaware of any role that the board of the integrated land management bureau would have in any environmental assessment processes. They are a group of deputy ministers from half a dozen or so — six; well, that's pretty close to half a dozen, give or take one — ministries. I'm certainly not aware of any time that that group of six individuals has been involved in environmental assessments.

One of the members of the board is the deputy for Environment, but it's a board that just really reviews performance, sets general direction, high-level decisions, helps support the development of the service plan, that type of thing.

The second is that we have not received anything from the federal government or an approved environmental assessment from the federal government. It could be that this individual has information that I don't have, but I have not received a copy of any documentation from the federal government that suggests that they've approved this file.

It could be that this individual has an in that I don't know about. I can tell you that I have not personally received any documentation from the federal government that says that this deal has been approved.

M. Karagianis: That information has been on the website for some time. One of my intentions was to clarify some misinformation, so I would have to say that the information on this Chatwin Engineering website, then, is not factual as it stands right now.

Could the minister perhaps just comment on whether or not the First Nations consultation process has been undertaken and what stage that's at?

Hon. P. Bell: I'm going to just be a little careful how far I go in answering this question because it is an active file. I'm not entirely sure it would be appropriate for me to discuss specifics of an open and active file at this point.

What I will say is that there have been numerous attempts to connect with First Nations by ourselves in the integrated land management bureau and, as I understand it, by the Canadian Environmental Assessment Agency and the developer, and that the consultation period has not closed off yet. It is still active in terms of discussions with the primary two First Nations.

[1550]

M. Karagianis: Can I ask the minister, then: on the issue of riparian rights, has the integrated land management bureau addressed the issue of riparian rights? The city of Victoria and two of the strata councils of the properties on the upland have notified, to my understanding, the ILMB about their intent to assert riparian rights. Can the minister comment on what bearing that will now have on the adjudication process?

Hon. P. Bell: Again, I'm just going to be a little careful on this because it would be inappropriate for me to fetter a decision-maker who hasn't been asked to turn their mind to a decision yet through comments I make here. I will talk specifically about this file in one area, but I'll move to a generality in terms of how files of this nature would be dealt with once we get to kind of the touchier place, at least in my opinion.

The very, very complex situation here.... There has been, as I understand it, foreshore that's been infilled. There are questions about who has what riparian rights and where. It's an unusual environment. It's not just kind of a normal environment. I know that there have been varying legal opinions on this as well, so it is a very complex decision specific to this environment, a difficult decision because of the nature of the differing legal opinions and the complexity of the activities that have taken place in this region.

Moving to a more general perspective, any tenure that we would issue currently under the current decision matrix or model.... One of the boxes that we have to tick off in it is that we make sure that we're not infringing on riparian rights from other users and/or residents in the area. That's one of the things that would be considered by the decision-maker during the process of them adjudicating the file. They would have to ensure that there was no infringement of riparian rights, and then that typically would carry forward in a tenure document as well.

That's an element, perhaps, that hasn't been explored fully in the past at other levels of discussion that might be new news for the member.

M. Karagianis: Would it be fair to say, then, that this could be one of the things that is a red light at the provincial level — the assertion of riparian rights?

Hon. P. Bell: Again, just being careful that I don't fetter a statutory decision-maker on this specific file, what I can say is that any statutory decision-maker, by policy, would ensure that in the process of making their decision there wouldn't be an infringement on the riparian rights to other traditional users and groups in the area. The reason just why it is so complex an issue is because of all the varying legal opinions that have occurred on this file, and also the nature and the history behind the region in terms of the different activities that have taken place on it.

[1555]

M. Karagianis: Thank you very much, Minister, for your responses. I realize that I have one more fairly technical question to ask. Whether it's something that current staff can address or not, you can let me know.

It actually goes back to environmental assessment. There will be an extensive amount of dredging required in the proposal as it stands now. I must tell you that my prejudice, naturally, is that I spent ten years with the Veins of Life Watershed Society cleaning up the Gorge waterway and helping to restore and repair as much natural shoreline as possible in both the Gorge waterway and the harbour. So of course, the term "dredging" is immediately very disturbing.

Now, I know that there are a lot of historic issues with the Inner Harbour, but I would just like to ask technically a question here around the location for disposal of the dredgeate. This, I believe, is the responsibility of the ILMB.

If this were to go ahead.... In fact, maybe one of the questions that I would ask is whether or not this is a consideration within the adjudication process: where will that disposal site be for contaminated...? And we do know that it's contaminated. I mean, in the process of the federal government beginning to divest properties to the harbour authority and to communities, we do know that there is a great deal of contamination in this area. Certainly, once it's disturbed, as we all know, that significantly changes things and sets off new reactions.

Is that not a requirement? Would that not be a requirement if the responsibility for this is with the ILMB? Is this not a fairly significant implication in the adjudication process — thinking about how that could be done, if it should be done, what will be done and where will it be deposited? All of those questions, I think, are of great concern to the environmentalists and, certainly, to Veins of Life and other organizations like that.

[D. Horne in the chair.]

Hon. P. Bell: We actually have an answer to an earlier question, which was: are privately owned water lots commonplace? I am advised that no, that is not the case. There are only a few. They are largely in the traditional E&N land grants at the bottom of various lakes and, as I understand it, some of them are owned by forest companies. But I understand that, generally speaking, it's not a commonplace type of freehold ownership.

I can answer half the question, and the other half gets technical, so we'll have to wait and get the other individual here. The actual dredging component of this project, as I understand it, is included in the Canadian environmental assessment review, so the component of that dredging process would be there.

The second part of the question that the member has — what do you do with that material, where does it go, how is that assessed and how do you determine whether or not that's being appropriately managed? — I do not have an answer to, but we will make sure that we have an answer.

I'd just ask the member.... We can continue on if there are other questions, but perhaps she could just provide us with a little bit of detail and when it would be convenient for the member opposite to continue this line of questioning, and we'd be happy to have the right person here to make sure that we get all the answers for her.

[1600]

M. Karagianis: In fact, I'm happy if the minister wants to provide that to me. The question is fairly straightforward, and that could be sent to me after the fact without necessarily impeding the rest of the estimates as you move into forestry estimates, obviously, after this.

I would like to ask a few questions, then, around the process here and how much bearing public opinion has on your adjudication process. We've talked about the implications from other levels of government and their processes. As the minister is aware, this is a highly charged and highly contentious proposal in the community, and there is a great deal of public opposition to this, including past mayors that have led quite a strong opposition to this. I, at one point, delivered a petition of 7,000 names to the Legislature in opposition to this.

Can the minister tell me: how much bearing does that public opinion have on your adjudication process?

Hon. P. Bell: Again, this particular file may be a little different than some other files. If we were the sole decision-maker on this particular file — if it was a remote location, if there wasn't a municipal government, if there wasn't the need for a Canadian environmental assessment review — then we would, of course, bring more factors into our determination.

In a file of this nature, where there is a Canadian environmental assessment review, which determines if there are environmental impacts to this decision, and a local municipal government, which I certainly believe is the one that is best positioned to determine whether or not it's an appropriate use of the property — we've already had the discussion that they could make the decision today, if they wanted to, to change that zoning; that would be up to them — those are the appropriate agencies to do that work.

Our work in this particular file is largely technical in nature. The input that we receive from the public we would review when we receive — assuming that we get — a Canadian environmental assessment review that approves that level of the project. We would compare and see what had or had not been responded to of the public concerns or comments. If there were gaps, then we would pursue those gaps to determine whether or not there are legitimate concerns.

I think the question that the member asked really, though, is.... There is this public concern that's out there that's been expressed, and the member asked if there were varying levels of input. Yeah, it's probably not an HST, but maybe close to it — not a lot of variance, a little bit.

I mean, certainly I believe that the municipality has full authority to make zoning decisions here, and they are the locally elected officials that should make those decisions based on their constituents. If their constituents are sending a strong message to the municipality that this is an appropriate use, then I don't know why they wouldn't rezone it. I mean, they have that authority and that ability to do it. We don't have the authority or ability to rezone a piece of property, so we're largely a technical agency from that perspective.

M. Karagianis: Minister, if I can be frank, you know we've seen that decisions made by government in Jordan River have had consequences that ended up costing taxpayers a lot of money to try and purchase back land for decisions that were made early on in the process. I think, in fact, the government has now determined that they're going to put a little bit of money towards purchasing back land because of a decision that was made.

[1605]

You know, the public impression of this — and I think that it's very valid and legitimate — is that a proponent is asking for lease of a piece of provincially owned water lot which rightly, I think, in the public's view belongs to the people of British Columbia.

If such a huge opposition to this project has no bearing on the province's decision-making process, then are we not following the same path that we did in Jordan River? A decision is being made around public interest in a public water lot, yet the public opinion is not being included in this process.

How do you explain that to the public, then? To say: "Yeah, it is publicly owned at this point. The province owns the water lot...." The application is to lease it for a project that, I would say, very clearly a majority of the public that are concerned in this region about that have opposed. How do you explain to them that their opinion on the use of this publicly owned piece of water lot is not a critical red light in this adjudication process?

Hon. P. Bell: Again, just to take a step back, or two.... In an environment where the provincial government has responsibility for determining whether or not it is an appropriate use of a specific piece of property, that would be an absolutely appropriate question to ask — where the provincial government has responsibility for understanding the use of it.

In this case the responsibility for determining what an appropriate use is, is guided by municipal zoning. If the municipality were to choose to zone this lot in a different way, then we would be guided by that decision.

The member has been around the political world for long enough to know that there is often overwhelming, or what appears to be overwhelming, opposition on a file, because those that disapprove typically are the ones that are the noisiest. The ones that like something tend not to say too much. So we have to be guided by other levels of government on decisions of this nature.

If the file was not a case.... The member for North Coast is here. If it was a piece of property, perhaps on Haida Gwaii, in a remote area where the provincial government had full responsibility for zoning, then clearly we would incorporate those views in that decision matrix. But in a major urban area where the municipality has full authority and responsibility for determining appropriate uses of the land, that, I think, is the appropriate agency to follow. We would take our direction from that municipality, if they were to make a decision around changing the zoning.

M. Karagianis: We have two cabinet ministers who reside in this area. May I ask if they have approached you on behalf of the public and made application to you about this or made their views known about the marina application?

Hon. P. Bell: I have met with both individuals on this file and explained to them exactly what the processes would be for a decision and an outcome on the file similar to the information I've provided the member opposite.

M. Karagianis: I guess at this point I will wrap up my questions. If I can just review my understanding of this, the federal government has jurisdiction over several aspects of approval of this project. Should they determine to proceed, the provincial government would then look to the municipality for their guidance on this.

They would follow the guidance of the zoning decisions should the municipality determine to leave the zoning as it currently is or to put some restrictions on it. The province, then, sees themselves strictly as a technical mechanism in this process that does not take into consideration in their adjudication the very significant public opposition to this.

[1610]

The mechanisms that are in place at the provincial level that would halt this project, in fact, really are only triggered by either the federal government or the municipal government. Is that what the minister has really told me — that the province plays no significant decision-making role in this, other than taking their cue from the other two levels of government but not from the public?

Hon. P. Bell: I need to add a couple of pieces, because I think the member has been a bit narrow in her description of the role of government. I may not have been clear in this area.

First of all, a red light from any one of the three groups we've talked about — the Canadian Environmental Assessment Agency, Transport Canada or the municipality — leads to an automatic red light from us.

We have an obligation to fulfil First Nations consultation. Should we find, through the period of First Nations consultation, that there is a legitimate objection on the part of the First Nation, that there is a potential infringement, then that leads us to one of two potential outcomes — either not approving the application going forward or finding an appropriate accommodation for the infringement. So that's the second piece. That's a key element that the member opposite should know.

Then the other piece I wanted to add is that we would take all the public input we've received through both the period of time where we just have open consultation and also, currently, even in the adjudication process — the public comment that comes in — and compare it to the reports and work that we would receive from both agencies of the federal government, Transport Canada and Canadian Environmental Assessment Agency, and any direction that we get from the municipal government, to ensure that anything within that public comment has been addressed.

If you found through that process that there was some public comment received where neither of the other agencies involved had addressed that, then we would go back and review that work.

Then finally, I would just add, as I mentioned earlier and not specific to the file.... I'm speaking generally now, but in any situation where we were dealing with a leased water lot, we always consider the riparian rights issue of other residents and people in the area. That would be another element.

So there are some elements there that come into the equation. I think, really, that the strongest advice I can give the member opposite is that I think most of the feedback I have seen around this tends to revolve around this being an inappropriate use of this area. That's what people largely are saying.

Some people are trying to build an environmental argument or a navigable waters argument, but at the end of the day I think really what they're saying is: "I don't want you to do this here," "I don't want to have to look at it," or "I don't want to deal with it." And that's fine. People have that right to make that comment.

But that is an issue of zoning and the use of that property. If municipal leaders choose to accept that advice from their constituent base, they have an option to deal with that. If they choose to not deal with it, they shouldn't download that responsibility to another level of government. That's a municipal decision.

Please note: This is a DRAFT TRANSCRIPT of the proceedings

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