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Victoria BC V9A 1M9

Superintendent,
Navigable Waters Protection Program,
Transport Canada,
800 Burrard St. Suite 620,
Vancouver BC, V6Z 2J8.

December 11th, 2008

Dear Sir

Re: Canada Gazette November 29th, 2008: Community Marine Concepts LP

The Victoria Canoe and Kayak Club (VCKC) is a recreational paddling club based in Victoria BC. VCKC is a non-profit organization dedicated to the development and promotion of safe and skilful paddling in the surrounding waters. Our clubhouse is located on the Gorge waterway that is connected to the Victoria Harbour and members operate on these waters year round. VCKC includes a diverse paddling community of about 425 members. Our organization supports six paddling programs that include canoes, sea kayaks, dragon boats, voyager, marathon, and outrigger canoes. Our members regularly navigate the waters of the Victoria Harbour for recreational use, training and guided excursions. Outriggers from local paddling organizations are on the water daily on a year round basis. On September 28th, over 25 kayaks participated in an excursion from Gorge waterway to McCauley Point, passing through the proposed construction site on the north shore of the harbour. Residents of Greater Victoria paddle these waters on an individual basis for recreation and physical fitness including rowboats and hydro-bikes. We have serious concerns about the effect of the proposed project on the navigation of these waters by paddlers. These waters have been acclaimed as the greatest urban paddling waters in the world. Approval of this large-scale project will in effect alter the use of a large area of navigable waters from public use to private use. Approval of the project would not be consistent with the mandate of the Navigable Waters Protection Program to ensure access to these waters for all vessels, included non-motorized users.

The proposed project will substantially interfere with the navigation of these waters as the marina structure and yacht slips will obstruct the large area currently protected for navigation by non-powered vessels along the north shore, as noted on the Transport Canada Victoria Harbour Traffic Scheme. It appears that if this proposal is approved, there will be no safe, unimpeded corridor for non-motorized vessels to navigate while maintaining safe clearance from the aircraft taxiway and marina structure. On September 18th 2008, VCKC raised these concerns with the developer. He indicated to members of our organization paddlers could transit through his private marina between the rows of yacht slips. We advised him that this was not a safe or viable option. Transiting through a private marina is not equivalent to public access. The developer said he owns two water lots on which the marina structures will be built. Access over the long term could never

be guaranteed, as permission could be on a temporary basis, at the discretion of the marina operator. If objections arose from owners of the mega-yachts, permission to navigate through this private marina could be withdrawn at any time. This "by permission" arrangement through private property does not constitute protection of public access to navigable waters, as stipulated by the Navigable Waters Protection Act.

There are serious safety concerns that arise from the plan for non-motorized vessels to transit through a private marina. Larger boats such as outrigger canoes and sea kayaks on group excursions would have difficulty maneuvering in this confined space. All types of non-motorized vessels will be at risk of collision with yachts that are maneuvering in reverse as they negotiate the yacht slips. Collisions could also occur as the yachts enter and exit the narrow passageway to the marina from the east. Safety considerations arise when one considers that in order to enter the proposed marina, the mega-yachts will turn from the deep water channel south of Pelley Island (also an aircraft runway) across the aircraft north taxiway and across the route used by harbour ferries and non-motorized vessel traffic to transit along the north shore to West Bay in the outer harbour. The traffic chart published by Transport Canada currently designates this area north of Pelley Island (where the proposed marina would be built) as protected for use by non-powered vessels. White buoys are positioned at intervals to warn power-boats are prohibited. The current traffic pattern works effectively to provide separation between aircraft traffic, powerboat traffic and non-motorized vessels; as demonstrated by the safety records achieved to date.

It appears that the site plans deposited at the Lands Titles office do not meet Transport Canada requirements. The plan lacks clarity and appears to be neither accurate nor complete as required by NWP guidelines. This one page plan lacks supporting documentation. The drawing is labeled A.1.0, indicating that there may be more drawings. There is no documentation to demonstrate where and how the non-motorized users and harbour ferries that are displaced by this project will navigate these waters. It is very difficult for the public to respond effectively to information on this one-page plan that is lacking in detail and accuracy. On September 18th, two members of our club gave the developer feedback on his initial plan, expressing the need to protect public access for non-motorized vessels. We also expressed concerns about safety with respect to traffic congestion. The NWP officer, Mr. Schellenberg was present at that meeting and took notes. The developer assured us that more accurate and detailed plans would be provided. We waited in good faith to review the revised plans, but they were not forthcoming. It is clear from the plans submitted to the Lands Titles office that the concerns raised by VCKC almost three months ago in the presence of the developer and the NWPO have not been addressed; and this proposed project continues to threaten our right to navigation on these waters.

A site plan should include a complete set of site plan drawings and supporting documentation that can be easily interpreted by members of the public. The unit of scale is not clear and therefore it is difficult to determine the distance between the marina structure and the edge of the aircraft taxiway. The scale 1:100 as shown on the drawing does not seem reasonable. We assume that an error has been made on the drawing and that the scale should be 1:1000. If so, this is a significant error on the plan, potentially

misleading to the public. With a scale of 1:1000, the apparent distance between the marina structure and the taxiway is only eight meters, which is insufficient to provide a safe corridor for navigation by harbour ferries and non-powered vessels such as outriggers and groups of kayakers. This will allow very little leeway for floatplane pilots operating in a congested area when the north taxiway and runway B (north and southbound near West Bay) are in use, with the marina structure in very close proximity.

The information on the arched bridge near the shore at the west end of the marina (at the narrow neck opening) where the developer proposes that non-motorized users will paddle is lacking in detail. The width and angles of the arch are not shown. The shoreline at this point is steep and rocky due to boulders that were bulldozed into the water during earlier construction projects. These erratically positioned boulders pose a hazard to non-powered vessels. It is not clear if there is sufficient water west of the bridge at low tide, or whether dredging will be required to make this passage navigable.

Although these are not shown on the plan, the developer indicated last September that his plan includes wave attenuators on the southwest side of the marina structure. The attenuators are needed by the marina primarily to dissipate the energy from high waves driven by strong southwest winds off the Strait of Juan de Fuca. These winds flow through the opening in the outer breakwater and are present year round. When the attenuators are operating they will deflect these waves with considerable mechanical force, causing sea conditions to become chaotic. Paddlers would experience the severe effects of the reflected wave energy under these conditions. Chaotic sea conditions caused by the operation of wave attenuators would pose a risk to sea kayakers. Outriggers would have difficulty maneuvering within the restricted area, as outriggers are not very responsive to the helm in these conditions. Aircraft transiting on the taxiway adjacent to the proposed marina structure would be forced to taxi through a narrow corridor in rough seas and strong winds, with the marina structure on their immediate starboard side. Pilots would be at risk of these winds and rough seas causing them to drift into the marina structure. Harbour ferries that currently transit to West Bay along the north shore near the white buoys would be forced into this narrow corridor under rough sea conditions as well. This potential for wave attenuators to create serious safety issues is clear.

There are also concerns about safety issues that arise with increased congestion of harbour traffic comprised of aircraft, power-boats, and commercial operators such as the harbour ferries, tugs/barges, Clipper and Coho. The construction of the marina and yacht club will substantially reduce the surface operating area available for marine traffic, forcing operations into a very restricted area adjacent to Pelley Island. This may create a hazardous situation, particularly during peak season for commercial marine and air traffic between May 1st and October 1st. Currently, without the marina structure, the approved traffic scheme provides the necessary separation while ensuring public access by all.

The navigation markers and the white buoys are not shown on the plan. Clearances and distances are difficult to determine because both imperial and metric measurements appear on the drawing and in some instances, no unit of measurement is provided, leading to confusion. The height of the tower building adjacent to the dock is not

provided. There are no details on the underwater support anchorages, sewage and service lines. It is not clear if yachts will be moored to the outside of the floating docks. There is no information provided on the design of wave attenuators or the breakwater.

The developer suggested that there are low levels of aircraft traffic on the taxiway north of Pelley Island arguing that this taxiway is useable only at high tide. He advised that non-powered vessels could paddle on this taxiway when no aircraft are present. Our research shows that this information is not accurate. The use of the north taxiway and runway B is increasing, consistent with recommendations from Transport Canada and municipal officials. According to a report of the City of Victoria Harbour Committee, runway B (west of the residential buildings) is the preferred runway for noise and pollution abatement. Transport Canada figures show that a significant proportion of floatplane traffic uses the north taxiway transiting to runway B, especially for the six-month peak season when heavy marine traffic exists south of Pelley Island.

Although the number of overall aircraft movements has increased, the number of take-offs on runway "A" (parallel to West Song walkway and residential buildings) has decreased from about 12,000 in 1998 to about 5000 in 2007, due to increased use of runway B. During 2007, approximately 73% of all take-offs were conducted using runway B. According to Transport Canada figures, the taxiway adjacent to the proposed marina is useable by floatplane traffic at times other than high tide; pilots use markers to confirm sufficient water depth at other times during the day. Using data on aircraft movements from May 1st to October 1st, 2007, it appears that about 32 floatplanes per day taxied between Pelley Island and the north shore, indicating that this is not a safe area for non-powered vessels or harbour ferries that are displaced by the marina development.

According to the NWP guidelines, the developer is required to deposit a full set of all detailed plans and supporting documentation at the Land Registry, Land Titles or other approved agency with jurisdiction over the proposed worksite. The public is entitled to access clear, accurate and complete plans, along with a fair and open public consultation process during which the stakeholders' concerns are taken into account. It is our contention that these standards have not been met. Accountability and integrity in the review and approval process are paramount in order to demonstrate to the public that the NWP program is carrying out its mandate to protect public access to navigable waters. For further information, we may be contacted at dlinton@shaw.ca.

Yours truly,

Doug Linton
Chair, Education, Standards and Safety Committee,
Victoria Canoe and Kayak Club

Cc: Jim Naylor, Regional Manager, NWPP Pacific Region
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Dr. Keith Martin MP
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