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Water Sustainability Act
Ministry of Environment
Water Protection and Sustainability Branch
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Re: Water Sustainability Act - City of Richmond Feedback

The City of Richmond is pleased to be able to participate in this consultative process for the proposed *Water Sustainability Act* (WSA). City staff have reviewed the 105 page Legislative Proposal document provided by the Province in October 2013, and provide the following comments.

Overall, City staff are encouraged by the intent of the WSA to modernize the 100-year-old Water Act and introduce, for the first time, groundwater resource protection measures which are tied to surface water rights. However, until further details and clarity are provided on WSA regulations, performance measures, definitions, *Decision Maker* powers and resources, it is difficult to evaluate and provide meaning feedback on the full scope and implications to the City of Richmond, uniquely located in the Fraser River estuary. Significant uncertainty exists on how some of the proposed changes to governance would impact City operations, resources, or costs.

First In Time, First In Right (FITFIR) and Environmental Flow Needs (EFN)

The proposal will ensure FITFIR priority would still apply to water allocation licensing and introduces EFN to set guidelines for the minimum discharge of streams required to protect the ecological needs of the water body. It remains unclear how the prioritization of these restrictions will be established, and the interaction between FITFIR, EFN, and other requirements like community values for watercourses, Industrial Development Act authorizations, Oil and Gas commission allocations, Right-to-Farm issues and the prioritization of irrigation and animal watering needs during time of scarcity.

The City's system of closed pipes and open watercourses work together to facilitate drainage of the City, and the ability of the City to draw down or pump water through this system cannot be limited by the WSA. Richmond may seek exception from any "Regulations during Scarcity" or regional special rules that diminish the City's ability to responsibly administer its drainage system, or

prevent the dewatering of construction works. Further discussion on this matter is essential prior to finalizing the WSA.

It appears that EFNs will be established locally, however, the mechanism and responsibility for this work is unclear. Establishing EFN, which we note, are referred to as “guidelines”, not standards, may require significant investments in science, a responsibility that may fall on the “persons” requesting new allocations. This requires further investigation and consultation, particularly for local governments. There is also no discussion of measures to address water bodies that are currently over-allocated, or details on the avoidance of over allocation in the future. This also requires further work and consultation prior to finalization of the WSA.

Interaction with other Legislation

The proposal makes less clear the interactions between the evolving federal Fisheries Act (and recent updates on the *Fisheries Protection Policy Statement*), and the Fish Protection Act (including the Riparian Areas Regulations that the City administers) in regards to the introduction of deleterious substances and the protection of fisheries habitat. It is indicated that the WSA would bring into force “debris provisions” of the Fish Protection Act, however those provisions have not been made available for comment and have not been implemented to date. Fisheries Act changes now include provisions for Ministerial Exemption from anti-dumping or habitat destruction regulations. There needs to be further consultation on how all of these regulations interact, and what the impact on the City’s designated Riparian Management Areas will be. Further discussion and consultation on these related regulatory processes is required.

Distributed Decision Making

The proposed WSD requires that *Decision Makers* consider Water Objectives that could address water quality, quantity, and ecosystem health when making land use decisions. *Decision Makers* are a broad category of persons or organizations under the Act, expanding from the Cabinet, the Minister of Environment and the Comptroller of Water Rights to include Regional Water Managers (who now include staff of the Oil and Gas Commission), and a broader category of “Others”, which would include “people and/or agencies outside of the Provincial Government”. This category may include local governments. The extent of this sharing of responsibility and accountability for water protection is not explicit in the proposal and must be well understood by local governments in order to fully appreciate the scope of the *Decision Makers*.

City staff support collaboration and partnerships with local governments, however, the administration of the WSA should remain a Provincial responsibility.

Local Governments

It is also unclear how the *Water Objectives* will be determined, and how this control over “land use decisions” interacts with the Local Government Act. It is unlikely that Richmond’s groundwater conditions would be conducive to development of a Water Sustainability Plan, as the criteria listed for such a plan in the proposal are not relevant to Richmond’s needs. However, area-based regulations may be appropriate to accommodate the special surface and ground water conditions Richmond encounters.

The proposal references the Provincial ability to establish regulations that require local governments to consider water objectives in their planning and decision processes. City staff request that the water objectives be consistent with all concurrent regulations such as Integrated

Stormwater Management Plans required by Metro Vancouver. Additional stakeholder consultation on these details in the future regulations is requested to ensure that they are inclusive and complementary to existing processes and requirements.

In the extensive discussion of costs / benefits of the proposed WSA, there is no discussion of the costs and benefits to local governments, or other agencies that may be seeing increases in their responsibility for water protection measures. Water Sustainability Plans, area-based regulations, and distributed decision making may represent a need for local governments to dedicate increased resources to compliance (as in assuring water objectives are established and met during land use decision). There may also be increased costs for the agriculture and development communities if they require assessment of impact on water objectives prior to their activities.

Under the current Water Act requirements, local governments and other users trigger fees for ongoing operations maintenance projects as well as capital projects. City staff request that consultation for the application fee structure and timing be undertaken with local governments to ensure streamlining and equity for all levels of government.

The WSA proposes to expand the regulation of wells and water extraction to include dewatering wells at construction or remediation sites, which is by far the most common use of wells in Richmond. This regulation may present a challenge for Richmond, as the City has already established a Bylaw to regulate temporary dewatering and the handling of water that is extracted from dewatering excavations, and the problem intended to be addressed in the WSA (draw-down of aquifers impacting the sustainability of watercourses) is not relevant to the Richmond setting. Further local government consultation on this matter is required.

While City staff support the forward movement on the modernization of the WSA, we continue to have concerns regarding the details, lack of clarity and insufficient review time for the information provided to date. As such the City is requesting further stakeholder consultation, in a reasonable and timely fashion, prior to initiation of the legislative process for the WSA.

Yours truly,



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