

AGENDA INFORMATION

- Regular Meeting Date: _____
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**The District of North Vancouver
INFORMATION REPORT TO COUNCIL**

November 15, 2013
File: 13.6480.30/006.003.000

AUTHOR: Julie Pavey, Section Manager – Environmental Sustainability

SUBJECT: Staff Comments on the Legislative Proposal for the Water Sustainability Act

RECOMMENDATION:
THAT Council receive this report for information.

REASON FOR REPORT:
The purpose of this report is to:

- Provide an overview of the Ministry of Environment’s “Legislative Proposal for a Water Sustainability Act for BC”, and
- Outline staff’s feedback regarding the opportunities and concerns related to the *Water Sustainability Act* being conveyed to the Ministry of Environment as part of its current consultation.

BACKGROUND

The existing *Water Act* was introduced by the Province in 1909 with a focus on allocating surface water for private use through the issuance of water licenses. Following its introduction, the legislation has been amended from time to time to extend its scope and purpose; however, in general the *Water Act* is limited in scope and dated.

As an outcome to the BC Living Smart Strategy completed in 2008, the Province embarked on a process to modernize the *Water Act* in 2009 with the intent of establishing new legislation to cover the management of both surface water and groundwater. As part of this work the Province has prepared a number of position statements and sought public input through a multi-year process including:

- Dec. 2009 - Launch of consultation process.
- Feb. 2010 – Release of discussion paper.
- March and April 2010 – 12 regional workshops
- December 2010 – Release of policy proposal
- 2011 – Public input period on policy proposal

On October 18th, 2013 the Ministry of Environment issued a “Legislative Proposal for a Water Sustainability Act for BC”, outlining proposed policies that are being considered for inclusion in the *Water Sustainability Act* (the “Act”). The Ministry has requested that those interested in providing comments on the Proposal do so by November 15th, 2013. With refinements to the proposed *Act* based on feedback that is received, the Ministry is expecting to bring the *Act* forward for consideration as part of the spring session of the legislature.

The proposed *Act* seeks to make improvements to seven key areas as follows:

1. Protect stream health and aquatic environments;
2. Consider water in land use decisions;
3. Regulate and protect groundwater;
4. Regulate water use during times of scarcity;
5. Improve security, water use efficiency and conservation;
6. Measure and report large-scale water use; and
7. Provide for a range of governance approaches.

EXISTING POLICY:

Section 9.3 of the Official Community Plan, Environmental Management, Aquatic Systems contains comprehensive policies regarding the protection and sensitive management of watersheds, streams, storm/rainwater and ground water systems which are supportive of the *Water Sustainability Act*. The District’s objective is to encourage proactive management of our watersheds to best maintain hydrological functions.

ANALYSIS

Staff has reviewed the *Act* and are supportive of the overall approach, particularly regarding the management of ground water use since there is limited legislation in place to monitor, regulate and protect the use of groundwater in the Province. Staff is also pleased to see the inclusion of:

- Formal recognition that all water systems (stormwater and groundwater) are connected and that planning needs to be done at the watershed level;
- Consideration of environmental flow needs when making water allocation decisions to protect ecosystems and maintain ecological services;
- Expansion and integration of the provisions for dumping of debris (pollutants) with the *Fish Protection Act*;
- Recognition of the need to address impacts on aquatic ecosystems as a result of climate change;
- The recognition for the need to coordinate with other provincial legislation and the cross-references to other legislation within the legislative proposal; and;
- Enabling the potential for alternative governance approaches including the opportunity to create advisory groups.

While staff support the vast majority of the actions included in the *Act*, the legislative proposal is a high level enabling document that will be implemented through more detailed regulations and guidelines. Staff have identified the following items for further review as additional details become available:

- **The Act allows the Province to establish regulations that require local governments to consider the water objectives in their planning and decision processes.**

Staff are supportive of the overarching water objectives which need to be consistent with concurrent regulations associated with processes such as Integrated Stormwater Management Plans (ISMPs). The District must develop ISMPs for each of its watersheds by 2016, as required by Metro Vancouver's Integrated Liquid Waste Resource Management Plan and these plans will include water objectives and public consultation processes. The Greater Vancouver Water District (GVWD) is involved in water use planning processes for the Capilano and Seymour River watersheds in the District of North Vancouver which include considerations of environmental base flow allocation for fish and aquatic habitat. It is expected that the *Act* will be implemented to ensure that there are mechanisms to integrate with previous planning processes.

Overall, the Act should be consistent with concurrent regulations associated with the above processes. Staff would like to see additional stakeholder consultation on the future regulations as they are developed to ensure that they are complementary or supportive of existing processes and requirements.

- **The Act allows water license terms of up to 30 years for consumption purposes.**
Staff identify that license terms of 30 years for consumptive purposes may be a complication to the projected need to adapt to climate change with projected significant changes in precipitation seasonally (i.e. decrease in summer precipitation by 15% in 2050). It is important that there are mechanisms to ensure the license holders continue to implement technological improvements on an ongoing basis and that the Province can ensure that the water resource is managed to reflect public interest. It is suggested that it could be approached with a shorter water license term for consumptive purposes and an adaptive framework for renewal that allows for anticipated changes as a result of new data and ongoing evaluation of objectives.
- **The Act seeks to formalize a First in Time, First in Right (FITFIR) System of rights allocation for groundwater usage, similar to that currently enacted for surface water usage.**
Staff note that groundwater use has been largely unregulated in BC to date and support a review of existing groundwater uses in a phased or watershed based approach to confirm that existing groundwater usage supports the economic, social and environmental goals identified in the *Act*. The FITFIR approach combined with lengthy water license terms for existing users and the anticipated population growth and requirements for new groundwater permits have the potential to put significant pressure on water resources.
- **The Act identifies the need to protect aquifers from contamination and protect water quality.**
There is additional work required to support the reduction of non-point source pollution including situations where a private property discharges a pollutant to the local government's stormwater system that then drains to a local watercourse.

Public education is a priority to address non-point source pollution. As an example, there was recent work in 2012 through the Burrard Inlet Environmental Action Program (BIEAP – program no longer exists) which the District of North Vancouver provided in-kind resources to pilot the development of an on-line self-assessment tool to assist local businesses to reduce non-point source pollution. The Province is encouraged to take a leadership role and provide resources in developing and housing new tools to engage the public and protect water quality.

- **The Act includes groundwater uses including dewatering wells at construction sites and closed loop geo-exchange systems.**

Staff are seeking to understand how permanent dewatering and pumping of groundwater to connect to surface water will be addressed in the *Act*. The discussion on zones of influence for dewatering systems as single points of large volumes of water removal (or cumulative impact of multiple points of smaller volumes of groundwater removal) having the potential to impact base flows of streams may be applicable in urban development scenarios, particularly in areas with higher densities and multi-level underground parkades.

We appreciate the recognition of closed loop geo-exchange systems and would like to see additional stakeholder consultation if there are additional considerations. We encourage the Province to consider regulations that require closed loop geo-exchange systems rather than open loop geo-exchange systems. The development of closed loop geo-exchange systems is one component of the development of renewable energy systems that local governments are pursuing to reduce greenhouse gas emissions and mitigation for climate change.

- **The Act provides for regulations that would permit the delegation of particular statutory authorities to people and/or agencies outside of the provincial government (e.g. local government) and sharing of responsibilities with other levels of government, individuals and organizations.**

We support the section of the proposed legislation that confirms ultimate accountability for environmental protection would remain with the provincial government. Staff understand that partnerships with local government are key to achieving the goals of the *Act* but support that the administration of the *Act* should remain a Provincial responsibility and enforcement of new regulations should be appropriately resourced. Staff is concerned that the Province may seek to delegate some decision-making, management and enforcement responsibilities to local governments, which would then draw on the resources of local government (i.e., downloading of responsibilities). If any responsibility is added to local government regarding the *Act*, there should be extensive consultation and sufficient and comprehensive resourcing provided by the Province to support this.

- **The Act will require additional capacity and resources to administer effectively.**

As noted above, to ensure successful implementation, the Province must have the capacity to administer the *Act*. This includes technical expertise to develop and support the detailed technical guidance documents that will be required as well as

provide research to support science based decision making, monitoring and evaluation to ensure the *Act* is making improvements in the seven key areas identified.

- **The Act establishes fees for the extraction of groundwater.**
Staff holds the view that water pricing should be established in such a manner so as to provide a financial incentive for users to conserve water. All revenue generated from this new revenue stream should be used to fund the actions that are identified in the *Act*.
- **The Act will involve new costs for both government and users.**
Staff note that local governments are also users including the current fees for approvals for changes in/about a stream that are triggered for both operational requirements for maintenance (i.e. clean out of debris basins and gravel removal to address flooding risks) as well as for capital projects (i.e. construction of a new bridge). It is anticipated that the application fees will be reviewed in the future and the Province is encouraged to meet with local government stakeholders to ensure that there is not an unnecessary burden on local government resources and to ensuring that approval processes are streamlined for all levels of government while making improvements in the seven key areas identified.
- **Insufficient Time for Input from Stakeholders**
In addition to the above comments, staff is also concerned that after a multi-year consultation process, the Ministry has not provided sufficient time at this Stage 3 for all stakeholders to properly review the legislative proposal and provide input on the proposed *Act*. There are many organizations including non-governmental organizations (NGOs) that were involved in preliminary consultation related to the proposed *Act* that may not have enough time to fully review the full legislative proposal. The Ministry should extend by at least one month the opportunity for stakeholders and other interested parties to provide comments on the proposed *Act* to ensure all stakeholders have adequate time to review and provide feedback on this important legislative proposal.

Timing/Approval Process:

The Ministry of Environment has requested feedback on the proposed legislation by November 15th, 2013. Accordingly, staff's feedback has been conveyed to the Ministry.

Concurrence:

Environment and Planning staff provided input towards feedback contained in this report.

Financial Impacts:

There are no immediate financial implications to the District. However, the anticipated regulations regarding additional water license fees (e.g. surface water works and groundwater permits) may affect the District in the future.

Liability/Risk:

The proposed update to the *Act* ultimately reduces environmental, social and economic risks given it are more comprehensive and robust than the existing legislation with goals of protecting ecological and human health.

Social Policy Implications:

There are many benefits to community health associated with the proposed legislation. Clean and abundant water is essential for public health and well-being, thriving and resilient communities, food production and nutrition, and a strong diverse economy.

Environmental Impact:

Significant environmental benefits are anticipated with the proposed *Act*, particularly with regard to groundwater which is not addressed in the existing *Water Act*. Knowing that water is intrinsic to healthy ecosystems and life for all species, a comprehensive approach to the management, enhancement and protection of BC's water will work towards the sustainability of water for future generations and to ensure the conservation of biodiversity.

Public Input:

The consultation process was launched in 2009 with a variety of input opportunities as outlined under the Background section of this report. Extension of the timing of the current consultation is recommended along with further consultation with municipalities and communities during the development of regulations to implement the *Act*.

Conclusion: This report outlines staff's feedback on the proposed legislation of the *Water Sustainability Act* which is being conveyed to the Ministry of Environment as part of its current consultation. Staff will report to Council regarding further engagement on the new regulations as part of the implementation of the *Water Sustainability Act*. Overall, the proposed *Act* is a positive step to protect aquatic ecosystems, particularly groundwater which is not encompassed in the current legislation.

Respectfully submitted,

Julie Pavey
 Section Manager, Environmental Sustainability

REVIEWED WITH:		
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<input type="checkbox"/> Development Services _____	<input type="checkbox"/> Communications _____	<input type="checkbox"/> Library Board _____
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