

TO: CITY MANAGER 2004 January 17
FROM: DIRECTOR PLANNING AND BUILDING OUR FILE: PL 31000 - 01
DIRECTOR ENGINEERING
SUBJECT: RIPARIAN AREA REGULATION UPDATE
PURPOSE: To update Council on the status of the Riparian Area Regulation.

RECOMMENDATIONS:

1. **THAT** Council request that the Minister of Water, Land, and Air Protection extend the date that the Riparian Area Regulation comes into effect from March 31, 2005 to December 31, 2005.
2. **THAT** a copy of this report be forwarded to the Union of British Columbia Municipalities, member municipalities, the Department of Fisheries and Oceans, and the City's Environment Committee for their information.

REPORT

1.0 BACKGROUND

On July 27, 2004, the Province enacted the Riparian Area Regulation (RAR) to come into effect March 31, 2005. The RAR are directives under the Fish Protection Act that require local governments to identify and protect streamside areas. The RAR supercedes the Streamside Protection Regulation (SPR), that was enacted in January 2001.

Section 12 (6) of the Fish Protection Act notes that "on request by a local government, the minister may extend a time period" for the directives to come into force. The following report discusses the current timeline for implementing the RAR and recommends a request for extending that timeline.

2.0 RAR IMPLEMENTATION REQUIREMENTS

On releasing the RAR, the Province listed steps that needed to occur prior to March 31, 2005, including two meetings with the Union of British Columbia Municipalities (UBCM) on October 15 and December 15, 2004 to discuss preparedness for implementation. UBCM has provided findings from these meetings in correspondence to Council (dated November 1, 2004 and December 17, 2004). These meetings and subsequent staff communications with the Ministry of Water, Land, and Air Protection (WLAP), Department of Fisheries and Oceans (DFO), and UBM indicate that several key items remain unresolved. These items are outlined in Table 1.

While some items can be addressed simultaneously, others are contingent on completion of other items. Based on Table 1, it appears that full resolution of all these issues by March 31, 2005 is extremely unlikely. In order to ensure smooth implementation of the regulation, a delay to the March 31, 2005 deadline is, therefore recommended.

Table 1: Items to be Resolved Prior to RAR Implementation

Item	Status
1. Finalization of Assessment Methods.	DFO has proposed some revisions to assessment methods. Revised assessment methods have not been released, or retested.
2. Cooperation Agreement between UBCM, WLAP, DFO.	Draft outline prepared. Content to be developed and signed-off.
3. Resolution of implementation issues identified in Municipal Environmental Managers matrix, contained in June 14, 2004 Council Report (submitted to WLAP June 2004).	To be addressed through the 7 local government pilot projects. These pilot projects have been delayed since October 2004, and are reported to commence early 2005.
4. Confirmation of roles for monitoring and enforcement.	To be addressed through "Monitoring Working Group" (including City of Burnaby representative). First working group meeting is scheduled for January 26, 2005.
5. Liability review.	WLAP and UBCM have agreed to forward legal questions to Ministry of Attorney General. Liability review still to be undertaken.
6. Implementation Guidebook.	Outline prepared. Content to be developed by a consultant, in consultation with working group. Requires resolution of all issues above, including preparation of sample bylaws.
7. Confirmation of Qualified Environmental Professionals (QEPs) credentials and insurance coverage.	Status unknown.
8. Notification system for QEPs.	Under development.
9. Training program for QEPs.	Program to be completed by mid-March. Training implementation will follow.
10. Training for local government staff on implementing regulation.	To be developed and implemented.

3.0 CITY OF BURNABY STATUS FOR IMPLEMENTATION

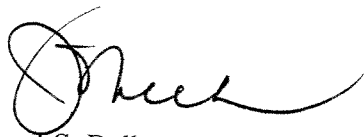
The Riparian Area Regulation includes a provision that allows municipalities to “meet or beat” the regulation, for example, by implementing the Streamside Protection Regulation, so long as such regulations are put in place prior to when the RAR comes into force (i.e., March 31, 2005). Before making any recommendations on alternative measures to the RAR, staff have been awaiting finalization of the RAR assessment methodology, in order to fully understand the differences among the approaches. This finalization has not yet occurred, making such an evaluation uncertain. Staff are therefore concerned that the City is not in a position to recommend whether RAR should be fully implemented or an alternative approach be brought forward.

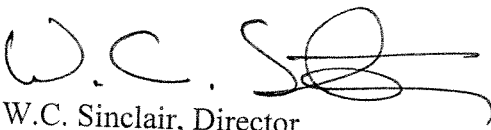
Under the current timeframe, staff are very concerned that the City is not prepared for RAR implementation. Implementation approaches are still unclear, as pilot projects, working groups, and Guidebook development are incomplete. Furthermore, ratification of co-operative agreements between UBCM, WELAP and DFO is needed to provide clarity with respect to roles and responsibilities for monitoring and enforcement. Potential exposure of local government to liability has been identified earlier through UBCM and needs to be resolved.

For these reasons, it is recommended that the City request the Province delay the date that the RAR comes into effect until December 31, 2005 to ensure that all issues are adequately addressed.

4.0 CONCLUSIONS

The Fish Protection Act allows local governments to request an extension to the timeline for Riparian Area Regulation implementation. Based on UBCM’s review of the status of key outstanding items, it is recommended that Council request that the Minister of Water, Land, and Air Protection extend the date that the RAR comes into effect from March 31, 2005 to December 31, 2005.


J.S. Belhouse, Director
PLANNING AND BUILDING


W.C. Sinclair, Director
ENGINEERING

RW/jc

cc: City Solicitor
Director Parks, Recreation & Cultural Services

