



REPORT TO MAYOR AND COUNCIL

PRESENTED: MARCH 11, 2019 - REGULAR AFTERNOON MEETING
FROM: ENGINEERING DIVISION
SUBJECT: INTEGRATED STORMWATER MANAGEMENT PLAN
 WEST CREEK WATERSHED

REPORT: 19-35
FILE: 5225-03-010

RECOMMENDATION:

That Council consider directing staff to proceed with an Integrated Stormwater Management Plan for West Creek with a focus on the Gloucester industrial lands, utilizing funding currently available in the Stormwater Capital Reserve account up to a maximum of \$250,000 with cost recovery from development within the area.

EXECUTIVE SUMMARY:

At its Regular Evening meeting on January 21, 2019, Council referred a motion regarding adoption of current streamside protection regulations in the Gloucester community plan area to staff for more background information and jurisdictional analysis.

Historically, streamside areas were regulated by federal and provincial governments. However, in March 2005, the provincial government introduced Riparian Areas Regulation (RAR) to protect riparian areas and directed municipal governments to either follow the RAR process or implement equivalent (or better) streamside protection measures. Consequently, in March 2006, Township of Langley adopted the Streamside Protection and Enhancement Area (SPEA) regulations, as part of the Official Community Plan (OCP Schedule 3), in relation with non-ALR lands, stipulating protection requirements based on watercourse classification.

Having said that, OCP Schedule 3 also recognized that historic and site-specific letters of authorization issued by Fisheries and Oceans Canada (DFO) supersede Township's SPEA regulations. DFO Authorization No. 99-HPAC-PA2-000-00217, issued in relation with the Gloucester area, with a validity period to September 30, 2008, which was subsequently extended to December 31, 2015, was therefore recognized in OCP Schedule 3.

An Integrated Stormwater Management Plan (ISMP) is a comprehensive, ecosystem-based approach to rainwater management, with a focus on integrating stormwater management and land use planning. The objectives of an ISMP will be watershed specific, but will generally encompass objectives related to drainage, stream protection, and water quality. While the ultimate developed area of the West Creek watershed is projected to be below the provincial threshold for requiring an ISMP, it is recommended that staff be directed to proceed with the ISMP for West Creek, with a focus on the Gloucester industrial lands.

PURPOSE:

This report is with reference to a Council resolution regarding application of Township's Streamside Setback Regulations in the Gloucester industrial area; and seeks to secure funding required to undertake an Integrated Stormwater Management Plan.

BACKGROUND/HISTORY:

At its Regular Evening meeting on January 21, 2019, Council referred the following motion to staff for more background information and jurisdictional analysis:

“That Council direct staff, in consultation with the DFO and consistent with provincial guidelines, to bring forward for Council consideration an area plan review and draft amendment bylaw to facilitate the adoption of the current Streamside Protection Regulations for the entire Gloucester Community Plan area.”

The following motion was also referred to staff at the same meeting:

“That during the Township review of the Gloucester Plan, Council hereby directs staff to take all such action as may be necessary and possible to vigorously enforce all the Township’s current DP and other streamside protection requirements in the Gloucester Plan area, consistent with the provincial Riparian Areas Protection Act and guidelines of the Department of Fisheries and Oceans.”

DISCUSSION/ANALYSIS:

Jurisdiction:

Historically, streamside areas were regulated by the senior (federal and provincial) levels of government pursuant to applicable legislation.

On March 31, 2005, the provincial Riparian Areas Regulation (RAR) came into force to protect riparian areas from development by directing municipal governments to either follow the RAR process or implement equivalent (or better) streamside protection measures. The RAR implementation date was subsequently extended to March 31, 2006.

Implementation of the RAR among the three levels of government was formalized through the "Protocol Agreement Respecting the Implementation of British Columbia's Riparian Areas Regulation" signed by the Union of British Columbia Municipalities (UBCM), representing local governments, the provincial government, and the federal government, to bring existing planning, regulatory and development approval processes into compliance with the RAR and the federal *Fisheries Act*.

The RAR approach follows a "professional reliance" model where a Qualified Environmental Professional (QEP) assesses a land development proposal in accordance with the RAR "Assessment Methods", a Schedule to the RAR.

Application of the Assessment Methods confirms compliance with the *Fisheries Act* and Fisheries and Oceans Canada (DFO) review is not required. Any variance to the streamside protection requirements, as stipulated in the RAR, requires review for compliance with the federal *Fisheries Act*.

Township of Langley Streamside Protection Regulations:

On March 27, 2006, Township of Langley adopted the Streamside Protection and Enhancement Area (SPEA) regulations, incorporated as part of the Township's Official Community Plan (OCP) Schedule 3. Objectives, policies and guidelines of OCP Schedule 3 specify how streamside areas are to be protected and managed as part of the development process. It is important to note that the Township's SPEA regulations have no force and effect on lands within the ALR, where the provincial RAR applies.

SPEA regulations stipulate watercourse protection based on the classification of the watercourse (i.e. green, yellow, red) as identified in the Township's watercourse classification system, and/or assessed and confirmed by a Qualified Environmental Professional (QEP), based on channel type, water flow and fish presence.

Gloucester Industrial Park Community Plan:

Site specific approvals granted by Fisheries and Oceans Canada (DFO) in the form of letters of authorization generally supersede the SPEA regulations. Accordingly, Section 2.3.2 of Schedule 3 of the Township's OCP specifies that lands within the Gloucester Area covered under DFO Authorization No. 99-HPAC-PA2-000-00217 (as may be extended or amended) supersede Township's SPEA requirements.

DFO Authorization No. 99-HPAC-PA2-000-00217 was issued for the period of August 29, 2000 to September 15, 2005 with a subsequent extension granted by DFO to December 31, 2015. The Authorization could not be extended further as it was a 'regulatory instrument' established under legislative provisions that no longer existed following the 2013 amendments to the Fisheries Act. Based on information provided by a QEP, staff understand that all lands that were subject to the referenced DFO letter of Authorization (No. 99-HPAC-PA2-000-00217) have been developed in accordance with the said letter of Authorization with the exception of lands encompassing PID 024-650-617 (currently referred to as 'Golf Course lands' under development application project #14-05-0094).

Federal Fisheries Act:

On February 6, 2018, the Government of Canada proposed amendments to the federal Fisheries Act. The degree to which the proposed amendments (if passed) will impact the RAR and the Township's SPEA regulations, as specified in Schedule 3 of the OCP, is unknown at this time. Regardless of senior government legislative changes, Township's OCP Schedule 3 requires land development proponents to confirm proposed development complies with the provincial RAR and the federal Fisheries Act, as amended.

Integrated Stormwater Management Plans:

The types of surfaces in a watershed, and how they connect to watercourses are the single largest parameter contributing to the health of a watershed. An Integrated Stormwater Management Plan (ISMP) is a comprehensive, ecosystem-based approach to rainwater management. The focus of an ISMP is on the integration of stormwater management and land use planning. The objectives of an ISMP will be watershed specific, but will generally encompass objectives related to drainage, stream protection, and water quality.

The West Creek, which is designated a sensitive stream under the Water Sustainability Act, catchment area is located in northeast Langley, primarily comprising of agricultural lands, and includes Gloucester Industrial Estates. The upstream portions of the catchment area extend into the City of Abbotsford. The West Creek catchment area is 16.7 km² in size. Gloucester (as per Community Plan) is 313 hectares, of which 297 hectares drain to West Creek catchment and 16 hectares drain to Nathan Creek catchment. As such, the West Creek catchment developed area is 17.8%.

Provincial Regulations:

The BC Ministry of Environment requires that ISMPs be developed for urbanizing and urbanized areas. Municipalities are required to develop ISMPs for watersheds where at least 20% of a catchment area is developed. An ISMP is also required prior to development where a land development proposal would result in 20% or more of the land base developed.

The developed area in Gloucester is therefore below the Ministry of Environment's threshold requiring an ISMP.

Having said that, if an ISMP were to be completed pursuant to Council direction for the West Creek catchment area, it would serve as a guiding document for future development and re-development, considering today's design criteria, overall watershed health, and sustainability.

Next Steps:

Subject to Council's approval, next steps could entail preparing study goals and objectives in order to solicit proposals from qualified professionals to complete an Integrated Storm Water Management Plan for the West Creek watershed within Township municipal boundaries, with a focus on the Gloucester industrial lands. Identifying key environmental protection and enhancement features relating to development in the Gloucester area would be part of the defined study objectives. The study would also inform potential revisions to development guidelines.

Financial Implications:

An ISMP for the West Creek catchment area is estimated to cost approximately \$250K and take approximately 12 to 18 months to complete. Stakeholders include the City of Abbotsford, First Nations, urban and rural residents and businesses, agricultural operations, developers, and environmental groups.

It is recommended that staff be directed to proceed with the ISMP for West Creek, with a focus on the Gloucester industrial lands, utilizing funding currently available in the Stormwater Capital Reserve account up to a maximum of \$250,000 with future cost recovery from development within the area.

Respectfully submitted,

Ramin Seifi
 GENERAL MANAGER, ENGINEERING & COMMUNITY DEVELOPMENT
 for
 ENGINEERING DIVISION

This report has been prepared in consultation with the following listed departments.

CONCURRENCES	
Division / Department	Name
FINANCE DIVISION	K. Sinclair