

APPENDIX 2

UNION OF BRITISH COLUMBIA MUNICIPALITIES RIPARIAN AREAS REGULATION SURVEY: PRELIMINARY RESULTS

1) Introduction:

The Ministry of Water, Land and Air Protection requested that the UBCM evaluate the status of local government readiness to implement the Riparian Areas Regulation (RAR). The proposed date for implementation of the regulation is March 31st, 2005. In order to effectively gauge local government readiness, UBCM sent out a survey to those local governments affected by the RAR.

2) Methodology:

UBCM sent the survey via fax to local governments in the regional districts of the Capital, Central Okanagan, Columbia-Shuswap, Comox-Strathcona, Cowichan Valley, Fraser Valley, Greater Vancouver, Nanaimo, North Okanagan, Okanagan-Similkameen, Powell River, Squamish-Lillooet, Sunshine Coast, Thompson-Nicola, and the Islands Trust. A total of eighty-eight (88) local governments plus the Islands Trust received the survey. To date, forty-six (46) local governments have responded to the survey.

3) Survey Responses:

A) Informational Needs

When asked, “Will your local government require additional information in order to implement the new Riparian Areas Regulation by March 31st, 2005?” **88.6% of those that responded stated that ‘yes’ they would require additional information**, while 11.4% stated ‘no’ they would not require additional information.

A sample of some of the comments received include the following:

- to the best of my knowledge, the Province has not delivered on their promises of the preparation of an implementation guidebook, pilot projects to test the methodology, or government and qualified environmental professional training, all of which are required before implementation
- local governments require more information, especially on the implementation tools, and an opportunity to review the guidebook and the future monitoring and enforcement tools that will be provided
- calls to the MLA and Ministry have not been returned
- the City intends to establish a bylaw for streamside protection and enhancement areas and a development review process as per the SPR by March 31st, but notwithstanding this adoption, insufficient information has been made available to determine if the RAR could be acceptable or to otherwise vary the current approach

- the City passed a resolution on February 14th to continue to utilize its Watercourse Development Permit (SPR) after March 31st until the effects of the RAR are fully understood
- need to better understand the relationship between RAR and FREMP – sample bylaw, guidebook and training would all be helpful
- series of outstanding questions that need to be addressed prior to the municipality being in a position to ascertain whether to proceed with the RAR or implement another streamside protection approach
- how will peer reviews be possible, what process will DFO follow, and what is the confirmation process for municipalities wishing to follow streamside protection regulations instead?
- several outstanding tools on the website remain unresolved – with such minimal information on how this program will be fully implemented by March 31st we are making educated guesses with little direction on this new policy direction
- the 31st is an unrealistic date even if additional information is provided – there has not been complete information provided to date and too many uncertainties remain
- at minimum the items listed in section 2 of the survey need to be completed by the provincial and federal governments and UBCM prior to the implementation of the RAR – further, the roles and responsibilities need to be clearly understood by these three parties as well as local government and the public and property owners before implementation can occur

B) Informational Needs: Implementation Tools

Respondents that answered “yes” to the question on information needs, were asked to comment on, and rank the types of information, that local government would require in order to implement the RAR by March 31st, 2005.

Respondents were given the following choices of implementation tools to rank: results of the pilot projects; guidebook; monitoring and enforcement strategy; assessment methodology; information about qualified environmental professionals; the tripartite co-operation agreement; results of the liability review; staff training; information for the public; and ‘other.’

Respondents were asked to rank the tools on the following basis: 1 – absolutely needed; 2 – good to have; 3 – desirable but not essential.

Tools that were ‘Absolutely Needed’

Of the respondents that answered the question, 96.5% cited the guidebook as ‘absolutely necessary,’ with 86.7% for the monitoring and enforcement strategy, 78.5% for the assessment methodology, 69% for the results of the liability review, 66% for staff training, 60% for the QEP training, 46% for public information, 46% for the co-operative agreement, 27.5% for the pilot results.

Tools that were ‘Good to Have’

Of the respondents that answered the question, 51.7% cited the pilot results as ‘good to have,’ 43% for public information, 31% for the results of the liability review, 25% for the tripartite co-

operation agreement, 23.3% for the QEP information, 20% for staff training, 13.3% for the monitoring and enforcement strategy, 10.7% for the assessment methodology and 3% for the guidebook.

Tools that were 'Desirable but not Necessary'

Of the respondents that answered the question, 20.6% cited the tripartite co-operation agreement as 'desirable but not necessary,' 20.6% for the results of the pilot projects, 16.6% for the QEP information, 13.3% for the staff training, 10.7% for the public information, and 10.7% for the assessment methodology.

'Other' Tools

In the 'other' category, respondents specified the following additional tools as required:

- a response on whether the FREMP methodology satisfies RAR legal requirements
- mapping of streams as defined in the regulations
- 12 – 18 month comprehensive pilot projects involving one or two municipalities
- a model bylaw
- answers to all questions previously submitted to WLAP by the environmental managers committee
- information for local governments regarding the adoption of SPEA prior to the 31st and the pros and cons of doing so
- pilot projects to include an urban/redevelopment test
- a detailed peer review of the RAR vs. the SPR and possible solutions to the lack of the public process in the enactment of this regulation;
- a revised provincial directive in consultation with the UBCM providing additional time to fully implement the necessary bylaw amendments
- accurate mapping of watercourses and fish habitat

C) Readiness to Implement the RAR

Local governments were asked, "Will your local government be 'ready' to implement the new Riparian Areas Regulation on March 31st, 2005?" Of the respondents that answered the question, **75% answered 'no,'** 7% answered 'yes' and 18% stated that they 'don't know.'

A sample of some of the comments received include the following:

- we have limited staff resources to evaluate RAR information
- we do not have the budget or expertise to undertake necessary mapping and site identification
- there is insufficient information on the key aspects of the RAR at this time and we cannot advance until the information is provided
- the City has received no response to questions previously submitted and it is unclear how the regulations will be integrated into existing city processes
- not ready to implement under the RAR framework due to a number of uncertainties and we need additional information to address council, developer and public concerns

- plan on having our own bylaws and DP areas designation but would like more time to consult the public
- with no staff training planned or information to hand out to the public or the development community, we have no tools to implement this initiative
- the district will continue to use its current SPR bylaw and will want to see completion of the outstanding commitments – guidebook, assessment methodology, MOU, liability review, QEP training and certification

D) Local Government Extensions

Respondents that answered ‘no’ or ‘don’t know’ to the question on local government readiness were asked the follow-up question, “Would your local government like an extension to implement the regulation?” Of the respondents that answered the question, **90% answered ‘yes’** to an extension to implement the regulation.

A sample of some of the comments received include the following:

- the regional district is not in a position to implement the RAR at the present time
- December 31, 2005 would be reasonable if the Province delivers what was promised – if they don’t additional time would be required
- bylaw amendments in regional districts often require more extensive preparation, consultation and education to achieve success than one might normally encounter in a more geographically confined municipality
- in our case an extension is not required since we have adopted an SPR based Watercourse Development Permit that will enable the city to assess the implications of the RAR before its adoption

E) Length of Extensions

Respondents were asked “How long of an extension do you think your local government might need to implement the regulation?” and were given the following choices: six (6) months, nine (9) months, one (1) year, and ‘other.’

Of the respondents that answered, **30% requested a one (1) year extension, 30% a nine (9) month extension**, 25% cited ‘other’ and 14% cited a six (6) month extension.

A sample of some of the comments received include the following:

- following the delivery of all the provincial tools, we will need 6 months for bylaw preparation and public consultation
- we will require 9 to 12 months to be able to integrate the RAR, educate staff and developers, and create bylaws
- small cities do not have the manpower and resources of the larger cities and districts to implement the required tools (e.g. bylaws)

- the extension period is dependent upon when the outstanding information is made available and a 9 month to one year period would be appropriate
- it is difficult to estimate the amount of time necessary to implement the RAR when we do not understand its implications, including the roles and responsibilities of the regional district, provincial and federal governments, UBCM, and public/property owners...
- we don't have enough information to evaluate this question
- we are currently in the formative stages of a RAR pilot project and believe it essential to complete and assess the outcome of this exercise before full implementation of the RAR, and we need to engage in more site specific evaluation of the regulations to fully assess their value and adequacy

F) Development Consequences

Respondents who answered 'yes' to the question on whether the local government would like an extension, were asked, "If you didn't receive an extension what would be the consequences to development activity in your jurisdiction?"

Of the respondents that answered the question, the majority stated that there would be consequences to development activity in their locales. The consequences ranged from the creation of new risk issues, inconsistent development applications, the freezing of all permits and approvals for development, delays and postponement in development, angry and frustrated developers, to the reliance on default maximum setbacks.

Some respondents acknowledged that they would be able to manage, particularly in areas where there is no development activity, while some stated that the consequences were 'unknown' as they were unsure of the consequences of the RAR due to the number of outstanding implementation questions.

G) SPEA Process

When asked, "Is your local government currently using a SPEA process to protect fish habitat near streams?" **54% stated that 'no' they were not using a SPEA process**, while 46% stated 'yes' they were using a SPEA process.