

## ADMINISTRATIVE REPORT



**TO:** Planning & Development Committee

**FROM:** J. Zaffino, Interim Chief Administrative Officer

**DATE:** November 16, 2023

**RE:** “Effectiveness Audit” of Environmentally Sensitive Development Permit (ESDP) Area – FOR INFORMATION

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### Background:

At its meeting of April 21, 2022, the Planning and Development (P&D) Committee of the Board heard from a delegation comprised of staff from the provincial Ministry of Land, Water and Resource Stewardship and federal Environment and Climate Change Canada (ECCC) in relation to the proposed amendments to the ESDP Area designation.

The delegation requested the Board defer consideration of Amendment Bylaw No. 2912 for a period of 12-months in order that the provincial and federal governments could “partner with local governments to conduct thorough **effectiveness audit** of ESDPs across B.C., including RDOS.”

The Board subsequently resolved to defer consideration of Amendment Bylaw No. 2912 for a period of 6-months (to its meeting of October 6, 2022) in order to allow the “effectiveness audit” to be completed.

Due to budget limitations and time constraints, it was subsequently determined that the scope of the “effectiveness audit” would be confined to “an independent review of the effectiveness of Environmentally Sensitive Development Permits (ESDPs) and associated bylaws as they are applied in the Regional District of Okanagan-Similkameen (RDOS).”

In October of 2022, CWS awarded a contract to complete the “independent review” of the Regional District ESDP Area designation to Stantec Consulting Limited.

At its meeting of October 6, 2022, the Board resolved to “defer the debate on the current ESDP Bylaw until March 31, 2023. The deferral is to allow enough time for an independent investigation into the effectiveness of the RDOS ESDP process ...”

A final report from Stantec was completed on June 26, 2023, and is included as an attachment to this report.

At its meeting of April 20, 2023, the Board resolved that the “Environmentally Sensitive Development Permit (ESDP) Area Review (X2020.009-ZONE) be postponed to the July [6], 2023 meeting.”

At its meeting of July 6, 2023, the P&D Committee of the Board resolved “that the [“Effectiveness Audit” of Environmentally Sensitive Development Permit (ESDP) Area] be postponed to a future meeting and that Stantec be invited to attend the meeting to present their report.”

NOTE: Administration provided ECCC, Ministry and Stantec staff a deadline of November 16, 2023, for returning to the Board to present the “Effectiveness Audit”, however, ECCC and Ministry staff are requesting the Board consider a further deferral of this item.

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**Analysis:**

Stantec has stated that its “review has been prepared for ECCC and the Province to evaluate of the effectiveness of the current ESDP bylaws as a conservation tool and to provide recommendations to RDOS to consider to better provide protections to sensitive environmental areas during development.”

To establish “effectiveness”, the Statement of Work provided by Environment and Climate Change Canada (ECCC) to Stantec set out five (5) questions to be answered. These questions are set out below followed by a short summary of the findings:

**1. *Are ESDPs effective at mitigating impacts of development on sensitive habitats?***

Stantec has stated that “this question cannot be definitively answered at this time”. There are a number of reasons stated for this including the absence of post-development monitoring by the Region District to the unfamiliarity of qualified environmental professionals (QEPs) with the development permit authority and Regional District processing procedures.

**2. *Is the ESDP process having measureable benefits to the natural environment?***

Stantec has stated that the absence of post-development monitoring by the Region District (see above) limits the ability to answer this question. Nevertheless, Stantec believes there is likely some benefit to having QEPs involved in the development process to identify sensitive environmental features.

**3. *Is the ESDP process reasonable from a cost/benefit perspective?***

Stantec has stated that “while the ESDP process likely provides some benefit to the environment, the inefficiencies in the process may reduce the overall cost/benefit ratio, and can be improved.”

Stantec raised a concern that “almost a third (31%) of permits may have been unnecessary”. This was due to permits being issued for properties that had already been disturbed, where the proposed development had a relatively small footprint or where a permit had already been issued at the subdivision stage (i.e. at Anarchist Mountain in Electoral Area “A”).

**4. *What are ESDPs helpful for and what are they ineffective for?***

Stantec has stated that “ESDPs are useful tools in guiding development in areas where sensitive environmental features are present” but did not, in response to this question, state what they are ineffective for.

NOTE: the general limitations associated with development permits are addressed later under Section 5.2 of the report.

**5. *Are there other tools that can be effective?***

Stantec has stated that “additional regulatory bylaws may be an option to be considered, such as bylaws regulating the protection of environmentally sensitive areas.”

Stantec has suggested that “when used in conjunction with ESDPs as a screening mechanism, permits required by regulatory bylaws may provide a more enforceable means of managing the impacts of development on the environment.”

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NOTE: it is unclear to Administration what other regulatory bylaws are being referred to and how these might improve upon, or support the development permit authority.

Report “Suggestions”:

In response to these findings, the Report makes a number of “Suggestions for the Future” (as opposed to recommendations), including:

**1. Future Studies and Reviews**

- i) an in-depth review of post-development compliance with ESDP conditions; and
- ii) community engagement with QEPs, property owners have received ESDPs and the public.

**2. Improvements to Mapping and Planning Tools**

- i) “Mapping Tools”: review and possibly revise the current ESDP Area mapping; and
- ii) “Planning Tools”: additional RDOS staff resources be provided in the form of a QEP to help review and manage ESDP applications.

**3. Process Modifications**

- i) a review of current ESDP exemptions;
- ii) introduction of additional permitting requirements or zoning regulations;
- iii) better management of instances where multiple ESDPs may be required; and
- iv) Introduction of “an initial screening process” to determine if an ESDP is required.

**4. Monitoring and Enforcement**

- i) increased staffing, training, and funding to allow for increased DP compliance;
- ii) pursue regional opportunities for cooperation and resource sharing on DP matters.

**Respectfully submitted:**



C. Garrish, Senior Manager of Planning

Attachments: No. 1 - Review of the Environmentally Sensitive Development Permit Process in the Regional District of Okanagan Similkameen (Stantec, June 26, 2023)