

3 TOPICS – FOLLOW-UP QUESTIONS FOR MLA SIMONS

HBCA TOWN HALL – NOVEMBER 4, 2022

Topic #1: MoTI Stormwater management requirements and oversight for subdivisions

Background:

- The HB Community Development Forum sent an [email to MoTI on 22 September 2022](#) requesting assurance that the stormwater management requirements related to DL2733 have been met and are of a sufficient standard in view of increasing extreme weather events. This email was forwarded to Nicholas Simons on 23 September 2022.
- A response was received from MoTI on 11 October 2022 saying the subdivision application is under review, and engineers will ensure “compliance with our design standards, which includes an accommodation for climate change”. No details on these standards or the timeline are provided.
- The lots on DL2733 are immediately above Redrooffs Road and being sold as Sargeant Bay Heights – see [photos on link](#). Residents are concerned about the impact of upcoming extreme weather events on public infrastructure resulting from this development, and who is liable (taxpayers?).

QUESTION	MLA ANSWER
1. Does MoTI confirm that the current legal requirements for stormwater management related to subdivision approval are of a sufficient standard in view of forecasted extreme weather events (i.e.. accommodating climate change impacts as we are forecasted to experience them in the coming years?) Are these standards more rigorous for the alteration of upslope land?	MoTI has indicated that the subdivision is in the preliminary phase. The clearing and landscaping activities that have already taken place are not governed by applications for subdivisions. There was a storm water management plan put forward in 2009 by the previous landowner that was generally accepted by MoTI but a new stormwater plan has been requested. Not only has time passed, but knowledge has also increased and regulatory changes have come into play that further identify the necessary steps that need to be taken in order to meet our climate resiliency requirements. With regard to forecasted extreme weather events, and whether MoTI believes that the current legal requirements for stormwater management related to subdivision approval are of sufficient standard, MoTI has standards, regulations and legislation that govern its operations. The requirements for stormwater management are detailed in the documents [mentioned in #3 below], which requires engineering work to consider the risks associated with climate change to ensure that highway designs mitigate the impacts of weather extremes and climate related impacts. As this subdivision includes engineering work for stormwater

	management and new road design, the developers and engineers will need to account for the impacts of climate change in their submitted designs. Those applications are at the point of being adjudicated.
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FOLLOW-UP QUESTIONS:

1. Can you advise how the public can access information about the status and details of a specific subdivision application, as well as the final approval document?
2. Using the example of DL2733, rather than emailing MoTI staff for this information, can we access it online?
3. If not, can you please advise who we contact and how to reach them? (We have asked MoTI these questions but have not received an answer.)

QUESTION	MLA ANSWER
2. If there is damage to Redrooffs Road during the winter of 2022-23 which results from the land alteration on DL2733 and before MoTI approves the stormwater management plan and subdivision, who is liable to cover the cost of repairs to public infrastructure?	MoTI indicates that it would be difficult to quantify responsibility for the damage at this time. However, should there be damage to Redrooffs Road due to a storm event [which is possible given that there are] steep slopes and lots of loose terrain especially when there's been land amendments [such as these], the maintenance contractor will be responding accordingly.

FOLLOW-UP QUESTIONS:

[Not related to the current development but refers to the same portion of road.]

1. This area of Redrooffs Road remains a safety hazard after the last washout in 2021. There are no lines on each side of the road, with significant drops on either side, nor is there any lighting. There is potential for damage to vehicles and, on the Cove Beach side, a potential for loss of life during the stormy winter months. When questioned recently, MoTI informed the HBCA that necessary safety measures will not be in place before the winter of 2022-23. MoTI indicated that “Capilano has no further contractual obligations.” We cannot expect any lines or other safety measures on the road until after May of 2023, and a barrier is not being contemplated for that section of the road.
2. Can the MLA intervene with MoTI to obtain immediate remedies to prevent a serious traffic incident over the winter of 2022-23? In the event that there is a serious accident that safety measures could have mitigated or prevented, is MoTI liable?

QUESTION	MLA ANSWER
1. Can you please provide a copy of the MoTI stormwater management requirements for subdivisions that accommodate for forecasted extreme weather events (we are	MoTI will be requested to update their website. Links to those complicated technical papers will be provided. These are internal MoTI documents that assist them in determining whether the standards

unable to find these on the MoTI website, noting that many of the materials cited there are general and out of date)?	and expectations are met prior to any approval being given for subdivision development.
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FOLLOW-UP QUESTIONS:

1. We understand that the Preliminary Land Agreement (PLA) is the first step landowners take to enable them to clear roadways and paths. A PLA is not a subdivision permit. In the case of this lot, a PLA was submitted by the previous owner in 2009 and accepted by MoTI. Now that ownership and land development plans have changed, we understand that a new PLA has been requested.
2. Can the MLA look into the systemic problem of accepting an original PLA after ownership has changed, and plans will potentially be different? We request that consideration be given to an expiration date for PLA permits and, if the land is sold, that the PLA reflects the plans of the new property owner.

Topic #2: Provincial and regional district legal tools to limit tree cutting on private property

Background:

- The issue of clear-cutting trees on private property is an important factor that contributes to the need for a higher level of stormwater management requirements and oversight for subdivisions to mitigate the risk of damage to private property and public infrastructure.
- We know that natural, unaltered watersheds soak up rainwater like a sponge. Removing too many trees and vegetation, combined with insufficient ‘grey’ infrastructure (pipes, ditches, culverts, and retention ponds) can result in flooding, erosion of natural watercourses, degradation of natural ecosystems and damage to public and private property. The implications are becoming more serious as predictions of more droughts and intense rainfall events are realized.
- Many residents are concerned about the fact that private property owners have the right to cut all the trees on their land, irrespective of tree type and size, lot size and gradient, and potential impacts for neighboring property and infrastructure. We are also concerned about the cumulative impact as we see several large lots along the coast being stripped of trees and vegetation for the development of high-cost housing.
- The Nanaimo RD presented a resolution in November 2021 at the [UBCM \(see EB52 on p. 56\)](#) to amend the Local Government Act to provide broader tree management authority to regional districts equivalent to the authority granted by legislation to municipalities. This received a non-committal response from the Province.
- The B.C. NDP is criticized for being too close to the logging industry and taking insufficient steps to protect British Columbians from the impacts of climate change, which are increasingly evident on the Sunshine Coast.
- During the last Town Hall on 6 April 2022, residents alerted you to the fact that regional districts have very limited powers regarding tree protection on private property (compared to municipalities which have more extensive powers). (See follow-up emails to you on 9 April 2022 and 11 April 2022 from HB residents).

QUESTION	MLA ANSWER
<p>1. Is the provincial government actively considering giving regional districts more authority regarding tree protection on private property (equivalent to municipal authority)? Do you support this and what steps are/will you take to advance it (please be specific)?</p> <p>2. Is the Provincial government considering legislation to better manage the way that private land is developed in rural areas to mitigate risk and manage liabilities related to extreme weather events (ie. ‘climate change’)? Please be specific.</p>	<p>[It is apparent that the authority of RDs is] not solid enough in the area of tree protection on private property. This will be the topic of a conversation between the MLA and the new Area B Director to determine the steps to get provincial attention to this issue.</p>

FOLLOW-UP QUESTION:

Given that this is the second Town Hall where this issue has been raised with the MLA, and that developers continue to purchase and clear trees/ecosystems before any permit is requested, we ask that our MLA provide full answers to the above questions (which were not sufficiently answered during the Town Hall).

Topic #3: Status of proposed private docks in Sargeant Bay

Background:

- For 10 months, the HB community has been seeking answers regarding 3 dock applications for Sargeant Bay (applications 7531,7763, 7777). To date the only response received is from MP Patrick Weiler’s office on August 30, 2022:
 - CNWA approval for 7763 and 7777 Kenyon Road applications is “imminent” and, with respect to 7531 Cove Beach Road, the review is ongoing.
 - Applications require multiple authorizations issued by local and provincial governments, as well as following a formal Indigenous Consultation Process.
 - Transport Canada is coordinating the issuing of federal approvals with regulatory indigenous partners. These external review processes must be completed prior to TC issuing approval.
- August 2, 2022, BC Government [Press Release](#) related to the first joint decision-making agreement related to dock tenures: “The agreement will support ongoing work to achieve long-term comprehensive reconciliation and land-use predictability by providing transparent requirements for dock applicants, mitigating ecological impacts to the foreshore, protecting archeological resources, and advancing collaborative management of shíshálh swiya...Currently, provincial authorizations for dock tenures in shíshálh swiya are reviewed through a B.C.-shíshálh shared decision-making model where statutory decision-making authority remains with the Province.

- To date, neither MLA Simons nor the SCR D Board Chair have responded to community representatives on the status of these applications and what considerations are being given to our environmental concerns.

QUESTION	ANSWER
<ol style="list-style-type: none"> 1. Can you provide us with a written update on the status of the applications for the 3 docks? Please advise how the public can access this information in the future. 2. While recognizing that several levels of government are involved in the approval process, could you provide information on, and justifications for, the decisions taken by the province to date? 3. In the spirit of transparency with the community, please advise on the environmental considerations in the decision-making process for these dock applications? 	<p>For all 3 questions, the MLA indicated that he did not have the answers to provide to the Town Hall. For those areas within the provincial jurisdiction, he will follow-up and get back to the HBCA.</p>

FOLLOW-UP QUESTIONS:

1. Will the MLA provide the HBCA with immediate responses to the above dock application questions?
2. Regarding a comment from a resident on one of the applications where the original application was denied and the developer later came back with an application under a “numbered account”. Can the MLA investigate and verify if the applicants are the same, and if so, if the original one was denied and the second one is being considered, what changes have been made to the application to enable it to now be considered?
3. Regarding the presence of “eel grass”, the MLA agreed to investigate the applications to determine if its preservation is being taken into account, and to provide feedback on this issue to the HBCA.