



To: General Purposes Committee

Date: October 9, 2015

From: John Irving, P.Eng. MPA
Director, Engineering

File: 10-6160-01/2015-Vol
01

Re: **Update on Port Metro Vancouver Project and Environmental Review
Application Process**

Staff Recommendation

That comments in the report titled "Update on Port Metro Vancouver Project and Environmental Review Application Process" for projects and activities within Port Metro Vancouver's jurisdiction, dated October 9, 2015 from the Director, Engineering, be forwarded to Port Metro Vancouver, local Members of Parliament and the Federal Ministry of the Environment.

John Irving, P.Eng. MPA
Director, Engineering
(604-276-4140)

Att. 1

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Intergovernmental Relations & Protocol Unit Development Applications	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	INITIALS: 	APPROVED BY CAO

Staff Report

Origin

For many years, approvals through the Fraser River Estuary Management Program (FREMP) were required for development that impacted the Fraser River foreshore. For proposed development in the estuary management plan area, under a voluntary intergovernmental working agreement, FREMP facilitated a coordinated review process with partner agencies. Partner agencies involved in the environmental review committee included Environment Canada, Fisheries and Oceans Canada, BC Ministry of Environment, Metro Vancouver and Port Metro Vancouver. The coordinated review process took place in advance of required development approval processes and was used to inform these decisions. To support the review process, FREMP took a lead role in rating the foreshore's ecological value by establishing a green, yellow and red coding system – red coded areas were the most productive habitats, yellow coded habitats included features that are of moderate value and green coded areas were already developed or in an urban condition. In 2013, FREMP was disbanded as support from agencies was withdrawn.

When FREMP disbanded in 2013, development within Richmond's foreshore region remained subject to required development approvals. The majority of the foreshore region is owned by the Provincial Crown, however, Port Metro Vancouver (PMV) held the head lease for the north, middle and south arm of the Fraser River until 2015, and as such held jurisdiction for development approvals in these areas. Since 2015, the head lease for the north, middle and south arm of the Fraser River has reverted back to the Provincial Crown, and the Ministry of Forests Lands Natural Resource Operations is the lead agency for development approvals in this area.

PMV continues to hold jurisdiction for federal lands and navigable water in the Fraser River and in 2015 introduced a new project and environmental review process for projects and activities within their jurisdiction. The intent of this report is to provide an update on the PMV process, including an overview of opportunities for stakeholder and public consultation in PMV projects. In addition, on September 25, 2015, the City received a letter from the Ron Hallman, President, Canadian Environmental Assessment Agency (CEAA) responding to Council resolutions regarding comments on the adopted PMV Land Use Plan.

Background

In order to fulfill their responsibilities under the *Canada Marine Act*, the *Canadian Environmental Assessment Act 2012* and the *Port Authorities Operations Regulations*, PMV developed a new project and environmental review process for projects and activities within their jurisdiction. This new approach was driven by an increase in the number of development permits and levels of public interest in PMV's permit process. The approach is intended to support greater transparency, clarity and accountability in PMV's environmental review process. Under the new process, proposed works and activities within PMV jurisdiction need to undergo an environmental review process, and be compatible with the PMV Land Use Plan (2014) and the lease conditions of the proposed site.

The PMV Land Use Plan (2014) is based on seven planning areas. The Majority of Richmond falls into Planning Area 7: Fraser River North, South and Middle Arm The eastern edge of the

city falls into Planning Area 5: Fraser River Central. As anticipated, the new area of PMV jurisdiction is considerably reduced upon reversion of the head lease to the province.

Analysis

Under the new permit process, PMV has categorized projects and activities into one of four categories, A, B, C and D, described below (see Attachment 1 for more info). A is the least complex, and D is the most complex. Categories are as follows:

- **Category A:** Projects are minor in scale, may be temporary in nature, and have predictable, minimal potential impacts with no consultation anticipated. Example projects include: one-for-one pile replacement; maintenance dredging; and repair or replacement of existing utilities located near water.
- **Category B:** Projects are relatively minor in scale, but have attributes requiring additional technical analysis, possibly requiring specialized mitigations. Projects have low potential for environmental and community impacts and may require public, Aboriginal and stakeholder consultation. Example projects include: most shoreline protection works; installation of a new storm water outfall; and expansion of an existing wharf in an area that is not environmentally sensitive.
- **Category C:** Projects are generally larger or more complicated, and may require additional technical studies to support their review. Projects have moderate potential for environmental and community impacts and stakeholder, Aboriginal and stakeholder consultation is anticipated. Example projects include: placement of fill in-water for the purpose of creating land; installation of structures which may impact neighbouring communities; and construction/demolition activities in an environmentally sensitive area.
- **Category D:** Projects are large and complicated, potentially involving significant commodity capacity increases or new commodities, and usually require a variety of supporting technical studies. Projects have a higher likelihood for environmental and community impacts and will require public, Aboriginal and stakeholder consultation. Example projects include: large-scale infrastructure/transportation; development; substantial terminal capacity increases which may significantly impact road, rail or marine traffic; and projects with multiple potential environmental and community impacts and requiring multiple technical reports.

PMV has a Project and Environmental Review Categories Guide (July 2015) that provides applicants with further direction on the level of review required for specific projects or activities.

For C, D and sometimes B classified projects the applicant must undergo a preliminary project review before submitting an application. Technical guidelines have been established to assist applicants in determining the scope of required studies. Habitat classification mapping established under the Fraser River Estuary Management Plan (FREMP) and associated development guidelines are not part of the technical guideline documents. FREMP habitat classifications are however, identified in PMV's Land Use Plan (2014) where it is identified as an important input to development review.

With the closure of FREMP and the coordinated review process that this program facilitated, governing agencies recognized the importance of developing a new model of integrated management that could uphold the integrity of the habitat in the plan area. Habitat classification mapping and the habitat inventories that have been created to inform the classification mapping are now held by the Department of Fisheries and Oceans. City staff have informed PMV of the desire to include the existing FREMP coding as a requirement in their technical guiding documents to support consistency with baseline information currently being required through the City's Capital projects and development process. In addition, the letter correspondence from CEAA indicates the withdrawal of Environment Canada from FREMP due to the lack of alignment with the Department's priorities and that regional environmental objectives could be more effectively achieved through other mechanisms. City staff will continue to consider the FREMP habitat classification system and associated development guidelines in their feedback for the PMV consultation processes.

The PMV has two technical guideline documents that outline the requirements for public and stakeholder consultation. Consultation will occur for projects that are anticipated to have community or environmental impact. For category A and B projects, PMV advises that public and stakeholder consultation is not anticipated. The public may be given notice of construction depending on the project location of A and B classified projects, and the local municipality may be consulted with as a stakeholder if for example, new connections to public infrastructure are proposed. It remains ambiguous as to how the PMV will consistently determine when the City needs to be engaged in A and B classified projects. Further discussion will take place over the following months between City and PMV staff to clarify the need for public consultation on all projects.

Public and stakeholder consultation is required for C and D classified projects. For category D projects, two rounds of consultation will be required, lasting 10-20 business days each. Proposed mitigation measures and feedback reports that detail how feedback has been considered are to be provided to those engaged in consultation. For major projects that may have significant impact to city land and/or infrastructure, or introduce changes in vessel movement, city staff will request time in the consultation process to incorporate Council direction into the feedback. PMV has acknowledged the need for adequate timelines related to Council processes and indicated flexibility in this regard.

Under the *Canadian Environmental Assessment Act 2012*, PMV is required to report annually to parliament on C, D, and sometimes B projects where an environmental decision has been made, and this report is posted on the PMV website. City staff are also working with PMV staff to monitor the consultation process for C and D classified project and provide feedback to PMV on the new process as necessary. Discussions regarding full disclosure of all project categories will be on-going as well.

Aside from the above, staff also noted a number of key issues that are not reflected in the PMV led process; these issues were highlighted in previous feedback provided by staff to PMV. Accordingly, there is a recommendation in this report to forward these comments to Port Metro Vancouver, local Members of Parliament and the Federal Ministry of the Environment. Key issues include:

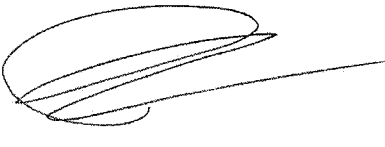
- There is no recognition of City Policies or Bylaws and how the PMV permit process will address a project that may contradict Official Community Plans, development permits or adjacent land uses.
- It remains unclear how or when the City will be notified and if and how public consultation will be carried out for A and B projects. Public consultation or notification should be a requirement regardless of project size or category.
- The categorization appears to be independent of the ecological values along the foreshore or value of the impacted habitat. While the FREMP coding is contained in PMV's Land Use Plan, they are only informally connected to permitting and review process. The prior FREMP process directed development outside of environmentally sensitive areas, and where this was not feasible allowed a proponent to measure their project in terms of cost and complexity based upon the ecological impact mitigation measures associated with their project.
- Only part of Richmond's foreshore is covered under this PMV permit process. The balance of the foreshore is managed by the Province's Ministry of Forest, Land, and Natural Resource Operations. There appears to be no reference to or coordination of the processes for projects spanning areas of foreshore under jurisdiction of both governments.

Financial Impact

None at this time; staff will continue to receive PMV referrals.

Conclusion

City staff will continue to work with PMV to implement the new environmental review process.



for
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Project and Environmental Review Categories		
<p>Category A</p> <p>1-10 business days estimated for review*</p>	<ul style="list-style-type: none"> • Projects are minor in scale and may be temporary in nature • Projects have predictable, minimal potential impacts • No consultation anticipated <p>Example projects: One-for-one pile replacement, maintenance dredging, repair or replacement of existing utilities located near water</p>	Simple
<p>Category B</p> <p>10-60 business days estimated for review*</p>	<ul style="list-style-type: none"> • Projects are relatively minor in scale, but have attributes requiring additional technical analysis and may require specialized mitigations • Projects have low potential for environmental and community impacts • May require public and stakeholder notification • May require Aboriginal consultation <p>Example projects: Most shoreline protection works, installation of a new stormwater outfall, expansion of an existing wharf in an area that is not environmentally sensitive</p>	
<p>Category C</p> <p>60-120 business days estimated for review*</p>	<ul style="list-style-type: none"> • Projects are generally larger or more complicated, and may require additional technical studies to support their review • Projects have moderate potential for environmental and community impacts • Public and stakeholder consultation anticipated • Aboriginal consultation anticipated <p>Example projects: Placement of fill in-water for the purpose of creating land, installation of structures which may impact neighbouring communities, construction/demolition activities in an environmentally sensitive area</p>	
<p>Category D</p> <p>120-170 business days estimated for review*</p>	<ul style="list-style-type: none"> • Projects are large and complicated, potentially involving significant commodity capacity increases or new commodities, and usually require a variety of supporting technical studies • Projects have higher likelihood for environmental and community impacts • Public and stakeholder consultation required • Aboriginal consultation required <p>Example projects: Large-scale infrastructure/transportation development, substantial terminal capacity increases which may significantly impact road, rail or marine traffic, projects with multiple potential environmental and community impacts and requiring multiple technical reports</p>	Complex

*Note the review timelines identified for each Project and Environmental Review Category are estimates only and may be dependent on the level of consultation required. Review timelines begin when a submission is considered by Port Metro Vancouver to be a complete application, and end when an applicant is advised of Port Metro Vancouver's decision on the application.