TO: Paul Thompson  
Manager of Long Range Planning  
DATE: September 27, 2013  
FROM: Lisa Bhopalsingh  
Senior Planner  
FILES: PL2011-060  
SUBJECT: Status Update Regional Growth Strategy (RGS) and Official Community Plan (OCP) Amendment Application No. PL2011-060 – Baynes Sound Investments Ltd. Lot A, District Lots 1 and 86, Newcastle District, Plan 48840; Lot B, District Lots 1 and 86, Newcastle District, Plan 38643; Lot C, District Lot 86, Newcastle District, Plan 38643, Except That Part in Plan VIP52642 Electoral Area ‘H’

PURPOSE

To update the Board on the status of information requested for Regional Growth Strategy (RGS) and Official Community Plan (OCP) Amendment Application No. PL2011–060 and to consider alternatives for next steps in the application review process.

BACKGROUND

On April 23, 2013, the Regional District of Nanaimo (RDN) Board supported a review of an application by Baynes Sound Investments Ltd (BSI) to amend the Electoral Area ‘H’ OCP and the RGS to create a new Rural Village Centre in Deep Bay (see Map in Attachment 1). As part of the application review process, the RDN Board adopted a Consultation Plan on July 23, 2013. Implementation of the Consultation Plan was contingent upon “receipt of outstanding information” by the Applicant’s selected date of July 31, 2013.

Prior to the August 27th Board meeting, RDN staff took part in a teleconference with the applicant on August 16th to advise them that should they not provide the requested information in support of the application by September 19th that the RDN Board would consider withdrawing its support to proceed with the RGS amendment. Confirmation in writing of what was discussed during the teleconference was subsequently sent to the applicant.

On August 27, 2013, the RDN Board received a staff report noting the Applicant’s failure to meet their July 31, 2013, deadline for provision of outstanding information. The staff report summarized the information received and identified whether or not it was adequate. The report concluded that much of the requested information was either missing or inadequate. The RDN Board subsequently adopted the following motions:

That the Board not proceed with public consultation for Application No. PL2011-060 at this time and that should the process proceed, a new Consultation Plan with revised timelines be considered for approval.
That a deadline of September 19, 2013, be established for receipt of all required information to the satisfaction of the RDN for Application No. PL2011-060.

That the Applicant be advised that failure to provide all required information to the satisfaction of the RDN by September 19, 2013, will result in the Board reconsidering the application.

The purpose of this report is to provide the Board with an update on the information submitted as of September 19, 2013. This includes a preliminary evaluation of whether or not the information appears to meet RDN requirements. Depending upon Board direction, a more detailed evaluation of all the information provided by the Applicant will be conducted. A letter was sent to the applicant advising them of the Board resolutions on August 28th.

Although the RDN received most of the requested outstanding information by September 19, 2013, the Applicant was not able to provide the following key information:

- Confirmation of water service from the Deep Bay Improvement District (DBID) for household use and fire protection.
- Confirmation of a railway crossing to facilitate highway access to the proposed development.

Based on a very preliminary review, most of the information received appears to be adequate (see Attachment 2). While rail access is important, lack of water confirmation remains a major issue for moving forward with this review process.

Confirmation of water service is an essential part of the RDN’s due diligence for considering a change of this magnitude to the RGS and Area ‘H’ OCP. This information is also of great importance to the public consultation process. Since September 19, 2013, the RDN has received confirmation that the DBID requires the Applicant to pay for additional field tests and studies in order for them to have enough information to confirm ability to service the proposed development. Based upon recommended timing for conducting aquifer field tests along with other monitoring studies, it will likely take at least a year for the Applicant to provide DBID with this information.

Following the September 19, 2013, deadline, the RDN received written confirmation that the DBID is requiring further information and detail from the Applicant in order to determine impacts on the response capacities of the Deep Bay Volunteer Fire Department. It is understood that the DBID intend to first confirm water for fire protection prior to addressing fire response capacity. A substantial amount of time and effort involving both the Applicant and the RDN to work with the Island Corridor Foundation (ICF) as well as other stakeholders is also needed to determine the likelihood of providing a rail crossing to the proposed development.

Since the decision to support a review of the application, the Board has received numerous presentations and written submissions from residents for Electoral Area ‘H’. The RDN Board indicated at its meeting of August 27, 2013, that failure to meet the deadline of September 19, 2013, will result in the RDN Board reconsidering support of the application.

ALTERNATIVES

1. Withdraw support for a review of Application No. PL2011-060 and not allow it to proceed through the process to amend the RGS and Area ‘H’ OCP and:
a. Discuss options with the Applicant about developing the site consistent with the RGS and Area ‘H’ OCP.
b. Work with Vancouver Island University (VIU) to explore creative alternatives that support the objectives of the Deep Bay Marine Field Station. This includes working with ICF, VIU, Ministry of Transportation and Infrastructure (MoTI) and the Applicant to find a solution to improve access to the Deep Bay Marine Field Station through a rail crossing allowing access from Highway 19A.

2. Continue to support the review of Application No. PL2011-060 and postpone public consultation until all the required information is provided to the satisfaction of the RDN, and once information is provided:
   a. Conduct a detailed assessment of all the information provided for Board review.
   b. Develop a new Consultation Plan with a revised timeline for approval by the Board.

FINANCIAL IMPLICATIONS

This section addresses financial implications for the RDN relating to the alternatives presented above.

Alternative 1

This alternative would have the least costs to the RDN in the immediate and long term. This would enable staff resources to be redirected back to the 2013 Long Range Planning work plan items. This alternative also allows for the RDN to work with the Applicant to explore options for developing the subject property within the parameters of existing RDN Bylaws. The interests of VIU’s Deep Bay Marine Field Station can also be addressed through further discussions with RDN staff. This includes working with the ICF and MoTI to resolve access to the subject property and the Deep Bay Marine Field Station.

Alternative 2

This alternative has the greatest financial impact in both the short term and long term. As the Electoral Area Planning Committee (EAPC) chose to sponsor the application, the RDN incurs all costs not covered by application fees related to processing the bylaw amendments. As outlined in the March 27, 2013, staff report, processing an application to amend the RGS requires a significant amount of staff time. This is particularly the case for a major amendment where public interest is high.

To date a substantial amount of staff time has been spent on processing this application and should the process continue, it is evident that ongoing delays in receiving the required information will result in ever increasing costs to the RDN in staff time and resources not covered by the application fees.

Should the Board proceed with this alternative, RDN staff will have to provide the Board with a revised Consultation Plan and a detailed assessment of all the information submitted by the Applicant. Staff propose that a revised consultation plan be provided to the Board only after the RDN has received all outstanding information. This will prevent added costs involved with having to continually revise the Consultation Plan in the event that the Applicant cannot provide information by a set date.
LAND USE AND SUSTAINABILITY IMPLICATIONS

The March 27, 2013, staff report provides a detailed discussion of the implications for land use, sustainability, the environment, and servicing that provides a solid background to this report. This report is provided in Attachment 3. Since March 27, 2013, the Applicant has provided additional information that shows how the proposed development will address impacts on the aquifer and watershed function and that wastewater treatment and disposal is feasible within Provincial regulations that address the environmental impacts of wastewater.

The Applicant has provided a revised layout to accommodate the location of a wastewater treatment plant and dispersal fields. The revised layout also shows proposed boundary adjustments related to discussions with adjacent property owners. No changes to the number of residential units or RV lots have been made as a result of the revised layouts. However, there have been modest reductions in the proportion of land designated as Open Space/Park.

Based on a preliminary review of the additional information staff still concur with the conclusion in the March 27, 2013, staff report that:

“There is no currently demonstrable evidence that a development of this scale with wastewater treatment will have less impact on the environment (including marine ecosystems) than the level of development currently allowed. Particularly given the existence of a variety of policies and legislation to ensure that currently allowed land uses adhere to measures to mitigate impacts on the environment including water quality. This includes the opportunity to amend the Area ‘H’ OCP to accommodate Alternative Forms of Development.”

It is believed that there is in fact the potential for the level of development allowed under existing regulations to have much higher environmental values and a lower impact on watershed function and the marine environment than the proposed traffic and footprint involved with 386 residential units and 292 RV lots.

Furthermore, concerns about improving access to neighbouring properties like the VIU Deep Bay Marine Station and emergency access and traffic reduction for the wider neighbourhood can be addressed as part of the standard land use and subdivision processes under existing regulations.

Should the Board continue to support the application, staff will provided a detailed assessment of the implications for land use, sustainability, the environment, and servicing once all of the requested information is received.

Public Consultation Implications

Since the Electoral Area Planning Committee meeting of April 9, 2013, the RDN Board has received numerous presentations and written submissions from Area ‘H’ residents. This includes a total of 50 submissions/presentations made by 22 people (this excludes presentations and submissions by the applicant). The Board also received 268 responses to a questionnaire handed out by an Area ‘H’ resident between April and July 2013. The majority of respondents indicated that they were not in support of the proposed development.
Consistent with legislative requirements, the Board adopted a Consultation Plan on July 23, 2013. Following the Applicant’s failure to provide information needed for consultation by their selected date of July 31, 2013, the Board made a motion on August 27, 2013, to not proceed with public consultation and provide the Applicant with a new deadline of September 19, 2013. It was made clear that should the process continue that, a new Consultation Plan with revised timelines be considered for approval. As per Board direction, the applicant was immediately advised “that failure to provide all required information to the satisfaction of the RDN by September 19, 2013, will result in the Board reconsidering the application”.

The Applicant has failed to meet the extended deadline of September 19, 2013, to provide all outstanding information. Either allowing the Applicant another extension or attempting to proceed with the public consultation in the absence of key information is likely to cause frustration on the part of community members. Proceeding with incomplete information is not considered a viable option and will lead to increased costs for the RDN associated with having to repeat consultation activities as information becomes available.

Should the RDN Board wish to provide the Applicant with an unlimited time frame for submitting information then a new Consultation Plan would have to be drafted once it is confirmed that all the information needed for consultation has been received.

**SUMMARY/CONCLUSIONS**

The Applicant for the RGS and OCP amendment application in Deep Bay has not met the revised deadline of September 19, 2013, to provide all outstanding information. Based on a preliminary review most of the outstanding information submitted appears to be adequate. However, confirmation of water and fire protection services from DBID remains outstanding. This is the one of the most critical elements for the RDN’s due diligence in considering an application that involves a major change to the RGS and Area ‘H’ OCP.

The DBID have indicated that they need further information based on additional testing and field study in order to determine whether or not they can confirm service for the proposed development. Due to the need for suitable groundwater testing conditions, it appears likely that it will be at least a year before the Applicant is able to supply additional groundwater information required by DBID.

The Applicant has also been unable to provide confirmation that a railway crossing from the ICF is supported. Gaining ICF confirmation of a railway crossing is likely to involve a significant amount of time and resources on the part of the RDN and the Applicant involving a broader region-wide approach to crossings.

To date, the RDN has spent a significant amount of time and resources related to this application. The majority of these costs are not recoverable. Costs involved with reviewing this application are high and will continue to increase with ongoing delays in receiving key information as well as with proceeding with the application in general.

The interests of Vancouver Island University’s adjacent Deep Bay Marine Field Station have been raised in relation to this application. It is emphasized that these interests along with other community interests (including alternate highway access, marina parking and desire for a high level of protection of
the marine environment) can be addressed through other processes and through existing RDN regulations and policies that allow for a number of creative solutions to be applied.

As per Board direction, the Applicant was advised “that failure to provide all required information to the satisfaction of the RDN by September 19, 2013, will result in the Board reconsidering the application”.

In light of the information presented in this report staff recommends the Board choose Alternative 1.

RECOMMENDATIONS

1. That support for a review of Application No. PL2011-060 be withdrawn and the application not be allowed to proceed through the process to amend the RGS and Area ‘H’ OCP.
2. That staff be directed to discuss options with the Applicant about developing the site consistent with RGS and OCP direction.
3. That staff be directed to work with Vancouver Island University to explore creative alternatives that support the objectives of the Deep Bay Marine Field Station. This includes working with ICF, VIU, MoTI and the Applicant to improve access to the Deep Bay Marine Field Station.
Attachment 1
Location of Subject Properties in Deep Bay Development Proposal

SUBJECT PROPERTIES
Rem. Lot A, Plan 44840 DL 1 & 86
Lot B, Plan 38643, DL 86
Rem. Lot C, Plan 38643, DL 86
Newcastle Land District
# Attachment 2

**Status and Preliminary Evaluation of Requested Information as of September 19, 2013**

*For information considered adequate prior to September 19, 2013, please refer to the Staff Report dated August 15, 2013 (as considered by the RDN Board on August 27, 2013)*

<table>
<thead>
<tr>
<th>Information Requested</th>
<th>Status – September 19, 2013 and Adequacy for Proceeding with Public Consultation</th>
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| 1. A land inventory demand and supply analysis that shows there is a need to include additional land inside the Growth Containment Boundary (GCB). | Received Aug 6, 2013, *(with minor revisions submitted in a document received September 19, 2013)*  
Adequate  
The study does provide a residential land inventory demand and supply analysis. However, staff have concerns with the methodology used and concluded that it fails to provide justification for a new village centre. |
| 2. An analysis of the potential impacts from the proposed development on the development of land inside GCBs located elsewhere in the region. In particular those Rural Village Centres (RVC) in Electoral Area ‘H’ and the Urban Areas of Parksville and Qualicum Beach. | Received Aug 6, 2013, *(with minor revisions submitted in a document received September 19, 2013)*  
Received September 19, 2013  
Adequate  
The Capacity Review and Impact Study presents the potential impacts from the proposed development on other lands within the GCB from a housing perspective, forecasting a low impact from the proposed development. As noted above staff do not agree with the methodology used.  
The Commercial and Tourism Market Analysis addresses the anticipated impacts of the proposed development on surrounding retail/commercial businesses focusing on a 10 minute drive time trade area which includes the Bowser RVC. The study concludes that the development would have limited impact on existing retail/commercial in the Oceanside Area including Electoral Area ‘H’.  
The need for another RV park is also discussed and the study anticipates no negative impacts of this land use on other RV parks in the Oceanside Area. This conclusion is
Based partly on anticipating that the proposed RV resort will meet demand for RV’s that cannot be accommodated by existing RV parks. The study notes that these findings are based on qualitative information.

Based on a preliminary review, staff have concerns about the strength of the analysis due to:

- Information provided by the same Consulting Company in the RDN’s Rural Village Centres Study in January 2013 that indicates that any new commercial development in Deep Bay will have negative impacts on Bowser.

- Lack of information on the retail/commercial businesses anticipated in the development that may compete with similar businesses in nearby Area H Rural Village Centres like Bowser.

- Reliance on anecdotal information due to lack of quantitative data for RV accommodation demand.

3. Additional information on the method of sewage treatment and wastewater disposal including more detail on the location of facilities and the measures that will be taken to protect the aquifer, surface water and the marine environment. An environmental impact assessment as recommended in the feasibility report.

Revised document received September 19, 2013

Wastewater Management - Feasibility Report, Mangat Environmental Solutions, dated September 19, 2013

Adequate

Based on a preliminary review, the applicant appears to have addressed most of the concerns identified by RDN staff report presented to the Board on August 27, 2013.

The Applicant presents two options for wastewater treatment. Option 1 involves an onsite treatment plant and ground discharge for the subject property, with provision for tie in for 72 existing homes on the Deep Bay Spit and 30 existing units in a neighbouring strata development. Option 1 is the focus of the revised report given the uncertainty involved with pursuing Option 2 as described below.

Option 2 involves a combined treatment system with properties in Option 1 and others in the Bowser Village Centre. This option involves an off-site wastewater
treatment plant and marine disposal. The report indicates that there would be some cost savings involved in Option 2 but indicates that the logistics of a combined system are unclear due to a number of factors out of the Applicant’s control. This includes the RDN getting commitment from Bowser stakeholders and securing funding, confirming access to land for a combined system and, uncertainty about the timing to address all of these factors.

Preliminary ‘screening’ level Environmental Impact Studies (EIS) are presented for both options. The assessment for Option 1 indicates that it would be feasible to do onsite ground disposal that would meet the requirements of the Municipal Wastewater Regulation (MWR). The MWR includes a variety of requirements aimed at protecting the environment including ground and surface water.

The EIS for Option 2 indicates that it would be feasible to have a marine outfall that would meet the requirements of the MWR. It should be noted that this EIS is not conducted in as much detail due to the focus on Option 1 for the reasons described earlier.

It should be noted that as a result of the change in approach to an onsite wastewater treatment and ground disposal system, the proposed development layout has been adjusted and a revised layout submitted to the RDN.

| 4. A report on the measures that will be taken and the potential impacts of the development on watershed function including recharge capacities and surface runoff. |
| Received September 19, 2013 |
| Adequate |

This report replaces information in the Wastewater Management Preliminary Feasibility Report-Draft by Mangat Environmental Solutions, dated July 31, 2013 (received August 6, 2013).

Based on a preliminary review, this report provides a specific stormwater management approach for the proposed development. This includes identifying and quantifying potential impacts on the subject aquifer resulting from the proposed development. The report details the measures that will be taken to address these
impacts. It presents a stormwater management system to “recharge groundwater and maintain watershed function at their current status within the project site”. It also addresses protection of stream beds from erosion due to heavy rainfall and potential impacts on downstream shellfish beds.

5. An evaluation of the impacts of the proposed development on the provision of emergency services.

   **NOTE** - This report needs to include: an evaluation of the impacts on community vulnerability to disasters and impacts upon the provision of emergency services; (as per RGS Policy 4.3)

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**Not Adequate**
This report replaces the letter from Boulevard Transportation Group dated July 22, 2013, and received by the RDN August 6, 2013. The updated report is greatly improved in terms of what was originally expected (by identifying relevant hazards, some expected impacts and some mitigation of risks particularly for interface fire).

The main reason that this report is deemed inadequate is that, there is no confirmation of the anticipated impacts of the proposed development on the response capacity of Emergency support services with fire service being of great significance.

Of particular importance is a decision made by the Deep Bay Improvement District (DBID) Board on September 18, 2013, that “there is not currently sufficient information to provide written confirmation of water availability for the proposed development”. This includes water for fire protection.

Confirmation of this decision was received by e-mail on September 19, 2013, and followed up with further correspondence from DBID received on September 24, 2013, indicating that “there is not currently sufficient information or detail regarding the proposed development to be able to determine any impacts on the response capacities of the Deep Bay Volunteer Fire Department at this time”.

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6. An inventory of aggregate deposits within the subject properties.

Note: the Applicant is not proposing mining of aggregates. The request for aggregate information is part of the RGS requirements for GCB expansions and a requirement of the LGA to maintain access to known sources of aggregates.

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<tr>
<td><strong>Update Received September 18, 2013</strong></td>
<td>Preliminary Aggregate Survey Report, September 9, 2013, Lewkowich Engineering &amp; Associates Ltd.</td>
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<tr>
<td>Adequate</td>
<td>The report provides an inventory of the aggregate deposits on the subject properties and provides a clear recommendation about whether or not the deposits should be mined. Based on their preliminary studies the report concludes that “given the nature of the material found, the anticipated shallow groundwater table, and the potential risk of aquifer contamination, it would not appear that mining these parcels of land is economically feasible or environmentally prudent.”</td>
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7. Confirmation that the Ministry of Transportation and Infrastructure (MOTI) will accept the proposed connection to Highway 19A.

| Received July 4, 2013 | | |
|---------------------| | |
| **Adequate** | MOTI e-mail confirms acceptance of the proposed connection to Highway 19A at the location identified, and site data included in the Traffic Impact Assessment for Deep Bay Development on Highway 19A, January 14, 2011, Boulevard Transportation Group. |

8. Need written confirmation that Deep Bay Improvement District (DBID) can provide water and fire service for the proposed development.

| Not Provided as of September 19, 2013 | | |
|-------------------------------------| | |
| Information on water and fire service is central to the review of this application and proceeding with public consultation. Water provision and impacts of the development on water supply is of high interest to community members. |
| The DBID commissioned a Third Party Review of the Kala Geosciences Groundwater Feasibility Study provided to them by BSI. This review was done to assist DBID in responding to BSI’s June 2013 request for confirmation of water. The review prepared by Guiton Environmental Consulting (GEC) was presented to the DBID Board on September 18, 2013. |
| Based on this report the DBID Board “determined that there is not currently sufficient information to provide |
written confirmation of water availability for the proposed development and that additional field tests and studies will need to be conducted.”

The GEC review indicates that there is a limited window of opportunity this year to conduct additional field tests. It is recommended that testing is done when groundwater levels are typically at their lowest towards the end of September/early October. Should field testing not be done this year then it would be another year for testing to take place under suitable conditions. There is also the suggestion that longer term well monitoring take place to understand the aquifer behaviour.

Should DBID require these recommendations be met then it would be at least a year before they have the information they require to be able to consider BSI’s request.

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<tr>
<th>9. Confirmation from Island Corridor Foundation (ICF) regarding Railway Crossing.</th>
<th>Not Provided as of September 19, 2013</th>
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| ICF have provided the Applicant with a letter dated September 3, 2013 indicating that they are “very reluctant to grant railroad crossings”. However, they indicate in this letter and subsequent correspondence with the Applicant that there is the possibility of the Applicant working with ICF and the RDN to identify “an existing crossing that could be removed” in exchange for granting one for the proposed development.  

It appears that moving forward on determining the possibility of ICF allowing a rail crossing could be a lengthy process involving substantially more work on the part of both the Applicant and also the RDN. |
Attachment 3
RDN Staff Report March 27, 2013