



THE CORPORATION OF THE CITY OF VERNON

MEMORANDUM

TO: Patti Bridal, Chief Administrative Officer **FILE:** 6410
PC: Roy Nuriel, Acting General Manager, Planning **DATE:** June 1, 2023
FROM: Craig Broderick, Approving Officer
SUBJECT: **RIPARIAN AREAS PROTECTION REGULATION (RAPR) ASSESSMENT
REPORT AND DEVELOPMENT VARIANCE PERMIT APPLICATIONS**

At its Regular Meeting of January 23, 2023, Council inquired about the requirement to submit a completed Riparian Areas Protection Regulation (RAPR) Assessment Report, if applicable to a Development Variance Permit (DVP) with the original application prior to staff review of the DVP. Following a discussion related to the Administration Update, Administration indicated that they would conduct research on the matter and report back to Council. This memorandum is intended to report back to Council and provide an update on practice changes made to the Development Application.

At the March 27, 2023 Regular Council Meeting, the following Administrative Update was provided for information. "When reviewing an application on a property that is in close proximity to a body of water, Administration relies on the assessment completed by the Qualified Environmental Professional (QEP) in identifying the boundaries of the Streamside Protection and Enhancement Area (SPEA), as well as any other environmental considerations that may support the development proposal. This information often provides key direction on siting new buildings on the property. It is the foundation of the rationale to support (or not support) a variance application, as well as to complete analysis of the development proposal and provide Council with a complete picture of the site-specific conditions to aide in consideration of the variance request. The QEP's report must be submitted to the Province for review and determination that it meets legislative requirements prior to consideration by Council to ensure that the proposal being considered by Council can proceed as presented. It can take several months for the Province to confirm the QEP's report, making the application process with the City much longer if the provincial process hasn't already been completed. It is not tenable to process an application if one of the key considerations isn't known".

Legislation

"The Riparian Areas Protection Regulation (RAPR) was enacted under Section 12 of the Fish Protection Act in July 2004. The Fish Protection Act was subsequently re-titled the Riparian Areas Protection Act in February 2016. The RAPR calls on local governments to protect riparian areas during residential, commercial, and industrial development by ensuring that a QEP conducts a science-based assessment of proposed activities".

Ministry website of [Riparian Areas Protection Regulation \(RAPR\) - Province of British Columbia \(gov.bc.ca\)](https://www2.gov.bc.ca/gov/content/land-use-planning-development/riparian-areas-protection-regulation-rapr)

RIPARIAN AREAS PROTECTION REGULATION

A local government must not approve a riparian development to proceed unless the local government

(a) has received an assessment report under [section 6](#) in relation to the development that has not expired under [section 7](#), and

(b) imposes as a condition of the approval that the development proceed as proposed in the assessment report and comply with any measures recommended in the assessment report.

"development" includes the following:

(a) the addition, removal or alteration of soil, vegetation or a building or other structure;

(b) without limiting paragraph (a), the addition, removal or alteration of works and services described in section 506 (1) [*subdivision serving requirements*] of the [Local Government Act](#);

(c) subdivision as defined in section 455 [*definitions in relation to Part 14*] of the [Local Government Act](#);

Other Local Governments

As part of the research, Administration contacted seventeen local governments. Of the nine local governments that responded by the time of preparing this memorandum, three indicated that a DVP application would not be accepted for review until the Riparian Area Assessment Report was accepted (i.e. approved) by the Province. Six noted that the DVP would be accepted and reviewed concurrently, while a Riparian Area Assessment Report was with the Province for review. The general consensus with the local governments who would run the process concurrently is that the DVP and other related approvals would not be issued or finalized until the Riparian Area Assessment Report was accepted (i.e. approved) by the Province.

Input from the Province

Staff who administer the Riparian Areas Protection Regulation and related approval process have undergone changes over the last couple of years. Administration met with the Provincial Ministry of Water, Land and Resource Stewardship (WLRS) staff to discuss this topic and best practices. The WLRS staff indicated that the backlog of RAPR applications have been reviewed and those submission have either been accepted or rejected. As such, lengthy delays experienced in the past between the QEP submitting a RAPR report and the Province accepting or rejecting the report should no longer occur. WLRS has substantially increased staffing levels to keep up with anticipated RAPR submissions.

Current Requirements

Section M of the current City of Vernon Development Application notes that a Riparian Areas Protection Regulation (RAPR) Assessment Report is required to be accepted (i.e. approved) by the Province before applying for municipal approvals (i.e. Development Permits, Development Variances, Rezoning, Subdivisions, Temporary Use Permits, Land Use Contract Amendments and Official Community Plan Amendments) for properties on a watercourse (i.e. lake or stream).

Conclusion

Based on the research, Administration have changed the City of Vernon Development Application to allow Development Permits, Development Variances, Rezoning, Subdivisions, Temporary Use Permits, Land Use Contract Amendments and Official Community Plan Amendments applications for properties fronting a watercourse to be submitted, reviewed and forwarded to Council for consideration while a Riparian Areas Protection Regulation (RAPR) Assessment Report is in with the Province for review. The final approval of the application (i.e. Bylaw, DP, DVP, Subdivision, TUP, LUC) would not be completed until the Riparian Area Assessment Report was accepted (i.e. approved) by the Province. Applicants would be advised and it would be highlighted in a report to Council that if the Riparian Areas Protection Regulation (RAPR) Assessment Report is not approved by the Province, that any conditional approval by Council may need reconsideration and that the notification process may be required to be repeated and that this is their risk to assume. As the Province no longer has a backlog of RAPR applications, delays related to the RAPR process should be less problematic going forward.

The relevant section of the City of Development Application now reads:

ITEM	SUBMITTED	SUPPORTING DOCUMENT	DETAILS	OFFICE USE
M	<input type="checkbox"/>	RAPR Assessment Report For exemptions see: OCP Section 26.0	A RAPR Assessment Report is required if the proposed works are within a Riparian Assessment Area and an exemption does not apply The Assessment Report must be prepared in accordance with the Riparian Areas Protections Regulation (RAPR) and have been submitted to the Province before applying	<input type="checkbox"/>

RECOMMENDATION:

THAT Council receive for information the memorandum titled “Riparian Areas Protection Regulation (RAPR) Assessment Report and Development Variance Permit Applications” dated June 1, 2023 and respectfully submitted by the Approving Officer.

AND FURTHER, Council acknowledges that an amendment to the City of Vernon Development Application Form will not require an approved RAPR Assessment Report prior to any conditional approval.

Respectfully submitted:

Craig Broderick
Approving Officer

Approved for the Agenda by the CAO 