

Report

Date June 1, 2022
Subject Biodiversity Protection Policy Next Steps

File:

PURPOSE

To provide an update on the Biodiversity Protection Policy Project proposals received and consider funding options to cover the budget shortfall.

BACKGROUND

The desire to devote resources to biodiversity reflects the strategic priority of Council to protect and enhance the environment. Developing a biodiversity protection policy (BPP) is one of the actions described in order to achieve that priority.

On June 21, 2021, Environmental Services staff met with the Committee of the Whole to present a preliminary scope of work for a North Cowichan BPP and solicit feedback. After this consultation, staff were directed to seek comments and feedback from the Environmental Advisory Committee (EAC). Staff met the EAC on July 20, 2021, to refine the scope of work that considered their concerns before returning to Council with a final scope of work for the BPP. A report was brought to the October 7, 2021 Council meeting that described the outcomes of meeting with the EAC and the impact that the scope of work defined in the workshops may have on the budget. The following is an excerpt from that report: "Staff anticipates revising budgeting for the project during the departmental business planning process. Upon receipt and review of bids by contractors, the winning bid would be brought back to Council for endorsement." (Staff subsequently budgeted \$50,000 for the project in 2022).

The Committee of the Whole passed a motion at the October 7 meeting that directed staff to:

...issue a Request for Proposal for the development of a Biodiversity Protection Policy with two phases; assessment and policy development, which meets the requirements for both as outlined in Appendix 1 - Scope of Work of the Senior Environmental Specialist's report dated October 7, 2021.

A Request for Proposal (RFP) was prepared by Environmental Services staff and made available to bidders with a submission deadline of April 01, 2022. Staff reviewed the applications and selected a proposal which conforms to both the RFP and the scope of work envisioned for the project.

DISCUSSION

Characterization of Proposals and Successful Bidder

Proposals from Diamond Head Consulting and Corvidae Environmental Consulting Inc. were received by the end of the bid period. This small number of responses reflects the highly specialized nature of the BPP request, which obliges the successful proponent to complete a multidisciplinary assessment of natural resources and translate this information into a suite of policies tailored to our community. The proposals received by North Cowichan both outlined a path to provide the two key deliverables of the BPP: an assessment phase report and a policy development report. The proposals had very similar estimated project costs ($\pm 6\%$), with both proposals suggesting that the cost of the project would be

approximately \$25,000 greater than the 2022 forecast budget of \$50,000.

This additional estimated cost for the BPP reflects the ambitious scope of work generated by staff based on ideas and recommendations from Council and the EAC. Staff believe that reissuing the RFP is unlikely to result in lower bids for the same work and that the proposals were reasonable given the scope of work. If staff were to reissue the RFP, significant changes would need to be made to the scope of the project, which would delay this project.

Staff members independently reviewed the submissions and concluded that the better proposal came from Diamond Head Consulting (\$74,985 plus GST). The proposal from Diamond Head demonstrated that their proposed teams for both the assessment and policy development reports have a track record of biodiversity policy work in other B.C. jurisdictions, e.g., Surrey, New Westminster and North Vancouver. The Diamond Head proposal also demonstrated a solid understanding of the biodiversity policy context in North Cowichan. It builds on previous environmental policy work they have conducted for North Cowichan in the Official Community Plan update and authoring a report in 2021 on Environmental Policy in North Cowichan and recommendations for the future.

The Diamond Head proposal provides a clear description of the methodology that will be used to assess North Cowichan biodiversity resources. The proposal also describes how a BPP relevant to North Cowichan's needs will be developed through consideration of the biodiversity and ecosystems assessment, public consultation, and engagement with Council and the EAC. The proposed schedule envisions work on the BPP commencing in June 2022. The early work consists of engagement and developing a biodiversity inventory resulting in a biodiversity assessment report to Council in October before moving on to developing policies. The project is scheduled to be completed in March of 2023.

First Nations Consultation

In both the scope of work and the RFP, consideration was given to how First Nations should be engaged in developing North Cowichan's BPP. The section of the scope of work outlining expectations for the policy development phase of the project pointed out that the proposal should include the "...identification of partnership opportunities with local First Nations for biodiversity protection." In the RFP, the proponents are further requested to show how "...the assessment of the DNC's biodiversity assets and developing a biodiversity protection policy for these assets will require addressing how these assets are shared with neighbouring jurisdictions, i.e., Cowichan Tribes, Halalt, Penelakut, the Town of Ladysmith, the City of Duncan, Areas E, D, H, and G of the CVRD."

The proposals received indicated that, given the funding available and other tasks described in the scope of work, the proponents could only engage in a limited notification-type engagement with First Nations or could provide support to the Municipality during an engagement process led by municipal staff. A notification-type engagement process would consist of formal communication with each of the neighbouring First Nations describing the BPP and requesting comments on biodiversity issues and concerns that should be addressed in the BPP or may require future collaboration with the Municipality.

Staff are concerned that in a process as significant as the BPP, a simple notification-type engagement may be seen as inadequate by the North Cowichan community and our neighbouring First Nations.

In recognition of this, staff have spoken with representatives from the leading candidate for the BPP, Diamond Head, to request a cost estimate for conducting an engagement with First Nations (Cowichan Tribes, Halalt First Nation, Stz'uminus First Nation, Penelakut Tribe and Lyackson First Nation) in and around North Cowichan that conforms to the following parameters:

- Notification for each Nation of the BPP project and its goals for the assessment phase and policy development phase with a request for a statement of areas of interest;
- Meeting with First Nations to establish significant ecosystem components and considerations that should be included in the assessment phase of the BPP;
- Meeting with First Nations to provide a summary of the project and its policy recommendations and ask for feedback on the draft policy; and,
- After these consultations, First Nations communities be invited to review the BPP and provide feedback.

Diamond Head has submitted an estimate with a detailed plan to conduct this engagement, understanding that all First Nations will be invited to participate at all stages of the engagement, while recognizing that all may not be engaged to the same extent. The additional cost of this engagement would be \$15,000.

Funding

The 2022 budget included an allocation of \$50,000 for the creation of a Biodiversity Protection Policy. However, staff were aware that there was little information to rely on for budgeting that might capture the extent of work put into the creation of the RFP. The procurement process ensured that there would be the opportunity for experienced consultants by using a wider net than might be available through limited invitations or negotiations with a single supplier.

The preceding discussion notes that an increase of \$25,000 is needed to fund the project and that reissuing the project would fall short of expectations. Also, budgeting additional funds for consultation increases the potential for broad acceptance from collaboration and consultation. This adds another \$15,000 to the preferred consultant's proposal.

Staff also believe there should be a contingency in the budget and suggest it be set at \$10,000.

This brings the project budget total to \$100,000. Staff considered the following most probable areas to fund the shortfall of \$50,000. They are as follows:

1. *Funding from the Quamichan Lake Water Quality Reserve Fund*

- a. This fund has \$518,000, including a 2022 contribution of \$100,000. A rationale for drawing from this fund is that the Quamichan Lake watershed contains significant areas of biodiversity and natural assets that will become part of the policy and may be a focus area due to potential development. Protection of green corridors through the policy will increase the opportunity for improved management of the watershed leading to less impact on water quality.

2. *Funding from the Climate Action and Energy Plan (CAEP) Reserve Fund*

- a. The CAEP reserve fund currently has \$468,000 remaining after deductions for 2022 initiatives, including the contribution for 2022. This includes budgeting for implementing actions from the environmental protection policy review (\$30,000), climate change risk and vulnerability assessment (\$100,000), and district energy feasibility study (\$25,000). Tapping into the reserve

for the BPP may hamper future actions identified in the CAEP update and are contrary to the terms of reference for the reserve fund. However, in prioritizing the above, the EAC ranked district energy feasibility third.

OPTIONS

(1) **(Recommended Option)** THAT Council:

- (1) Authorize an increase to the 2022 budget for the Biodiversity Protection Policy Project from \$50,000 to \$100,000 to fund the \$40,000 shortfall and add a \$10,000 contingency;
- (2) Direct staff to amend the Financial Plan Bylaw to include a transfer of \$50,000 from the Quamichan Lake Water Quality Reserve Fund and increase the Biodiversity Protection Policy Project expense by \$50,000; and,
- (3) Award the contract to Diamond Head Consulting for the development of a Biodiversity Protection Policy, including the enhanced level of engagement with First Nations, in the amount of \$89,985 plus GST.
 - This option maintains the scope of work and allows the project to move forward as planned while providing First Nations with an opportunity to meaningfully comment on the development of North Cowichan's Biodiversity Protection Policy.
 - This option is consistent with Council's priority in the Strategic Plan to continue to develop strong relationships with Indigenous peoples.

(2) THAT Council:

- (1) Authorize an increase to the 2022 budget for the Biodiversity Protection Policy Project from \$50,000 to \$85,000 to fund the \$25,000 shortfall and add a \$10,000 contingency;
- (2) Direct staff to amend the Financial Plan Bylaw to include a transfer of \$35,000 from the Quamichan Lake Water Quality Reserve Fund and increase the Biodiversity Protection Policy Project expense by \$35,000; and,
- (3) Award the contract to Diamond Head Consulting for the development of a Biodiversity Protection Policy in the amount of \$74,985 plus GST.
 - Under this option, Council would be proceeding with the Diamond Head proposal as originally submitted. It would not include the enhanced level of engagement with First Nations.

(3) THAT Council direct staff to work with Diamond Head Consulting to reconfigure the scope of work for the development of the Biodiversity Protection Policy within the original budget of \$50,000; and that subject to agreement by both parties to the change in scope, that Council award the contract to Diamond Head Consulting for the development of a Biodiversity Protection Policy in the amount of \$50,000 plus GST.

- While this option stays within the existing project budget, it may result in a less comprehensive outcome that may require additional work later. It will require eliminating some items in the BPP scope of work that was developed in consultation with Council and the EAC.

IMPLICATIONS

The following implications relate to the recommended option.

Financial

Funding this project from existing programs will eliminate the need to consider it in a future year's budget. The report shows how the additional money can be reallocated with very little impact on program delivery. Awarding the project now avoids future cost increases and budget pressure.

Personnel

Environmental staff anticipated this project in 2022, thus, there is no impact on staff resourcing resulting from an award. Once completed, the policies will impact other departments, and will require leadership from the Environmental Services Division.

Social

Commencing this project will reflect Council's position of "we lead in environmental policies and practices to support the future health of our community". It is the backbone of the environmental strategic priorities of Council.

Communication

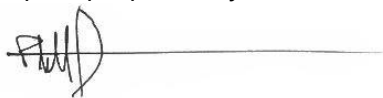
Staff (including communication staff) and the consultant will need to work together to message and communicate information as the project proceeds.

RECOMMENDATION

THAT Council:

- (1) Authorize an increase to the 2022 budget for the Biodiversity Protection Policy Project from \$50,000 to \$100,000 to fund the \$40,000 shortfall and add a \$10,000 contingency;
- (2) Direct staff to amend the Financial Plan Bylaw to include a transfer of \$50,000 from the Quamichan Lake Water Quality Reserve Fund and increase the Biodiversity Protection Policy Project expense by \$50,000; and,
- (3) Award the contract to Diamond Head Consulting for the development of a Biodiversity Protection Policy, including the enhanced level of engagement with First Nations, in the amount of \$89,985 plus GST.

Report prepared by:



Dave Preikshot, PhD, RPBio
Senior Environmental Specialist

Report reviewed by:



David Conway, PEng
Director, Engineering Projects

Approved to be forwarded to Council:



Ted Swabey
Chief Administrative Officer