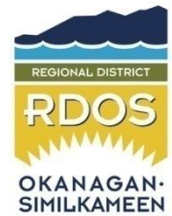


## ADMINISTRATIVE REPORT



**TO:** Planning & Development Committee  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** September 3, 2009  
**RE:** Regional Growth Strategy (RGS) – Consultation Results, Proposed Amendments, and Next Steps

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### Administrative Recommendation:

**BE IT RESOLVED THAT the Board direct the following amendments to the RGS be made:**

- **support the policy (H1.5) for the protection of the DRAO and remove St. Andrews from the Growth Management Map;**
- **incorporate into the RGS the amendments regarding rural growth as outlined in this report**
- **strengthen wording in the Environment section of the RGS;**
- **direct specific water allocation to a Water Plan and provide supporting policies in the RGS to protect agricultural water;**
- **continue through the RGS approval process, but commit to review with First Nations at their request at a later date & remove wording from the “Context” section.**

### History:

On October 16, 2008, the Regional Board resolved to re-read Second reading of the South Okanagan Sub-Regional Growth Strategy Bylaw No. 2421, 2007 in order to incorporate several amendments. Shortly thereafter, the amended document was sent to all affected local governments, First Nations, improvement districts, school districts and the general public.

In addition to written comments, the RDOS held three public open houses to gauge the public's response to the amended RGS. RDOS Planning staff also held several discussion sessions with the Planning staff of member municipalities, and presented the amended RGS to each member municipal council in order to encourage their comments.

Due to the recent local government election and specific requests for additional time from member municipal councils, the receipt of comments has been delayed substantially. On June 17, 2009, the RDOS received the final comments from member municipal councils. Staff has now had the opportunity to analyze the comments received and to bring forward recommendations in response to these comments.

### Analysis:

Since October 16, 2008, approximately 90 written comments have been received by the RDOS regarding the RGS. In most instances, the comments expressed support for the RGS process, but recommended some changes or brought forward some concerns. The following are the major issues (those most frequently mentioned) that emerge from an analysis of the comments. Other concerns were raised and are contained in *Attachment 2*.

#### **Issue 1: Dominion Radio Astrophysical Observatory (DRAO) and St. Andrews**

A considerable portion of the written comments received regarding the RGS amendments were concerned with the amendment to include Policy H1.5 the aim of which is to protect the DRAO facility from additional development within the electromagnetic interference area surrounding the institution. Comments regarding this issue were received from residents of the RDOS, DRAO itself, and municipal councils.

Since the community of St. Andrews is situated almost entirely within the interference area, the policy essentially prevents significant expansion or development of the community beyond what capacity exists in the current zoning.

Some of those who oppose the amendment have argued that, by restricting development around St. Andrews, existing residents would be unfairly burdened with having to pay for what are described by residents as much needed infrastructure repairs and upgrades.

Those in support of the amendment have cited the positive economic impact of the DRAO facility and feel that further development threatens the future viability of the DRAO. Others also note that further development would threaten the rural character that they value so highly in St. Andrews.

#### Options:

1. *Support Policy H1.5 & remove St. Andrews from the Growth Management Map*

This option is supported by DRAO itself and is generally consistent with the current Area 'D-1' OCP. However, this option would significantly impede future development in the DRAO interference area.

2. *Remove Policy H1.5*

This second option would weaken the protection afforded the Observatory by RDOS policies, and may risk increasing development in the interference area. However, this option would remove one obstacle from development at St. Andrews that would ameliorate the perceived infrastructure challenges.

It should be noted that there are existing provisions in the Area 'D-1' OCP and Zoning Bylaws that provides a measure of protection to the observatory by restricting the parcel size of lots situated in the interference area to a minimum area of 20ha.

3. *Direct staff to develop a new amendment.*

This option may result in a further delay to the RGS process and would require the Board to determine the general nature of the new amendment (i.e.: more restrictive, less restrictive).

Recommendation: *Option 1.*

## **Issue 2: Rural Growth**

One of the principal functions of an RGS is to provide guidance for where growth should occur. This topic was the subject of several of the amendments of October 16, 2008. In these amendments, Secondary Growth Areas were replaced with a system of Existing Developed Areas (EDA) that directed a limited amount of rural growth to existing rural communities and subjected future development applications to a sustainability checklist to ensure general consistency with the intent of the RGS.

Many of the comments received considered this system of EDAs to be unclear and to provide a "loophole" through which undesirable rural sprawl may occur. This sentiment was echoed by Planning staff of member municipalities as well as their councils.

RDOS staff met with staff from member municipalities to develop an acceptable response to these concerns. As a result, a series of amendments is proposed (see *Attachment 1 – Amendments 1 to 21*).

The major components of this list of amendments provide the following policy direction:

- remove EDAs and replace them with Rural Growth Areas (RGA);
- reduce the number of RGAs from 17 to 9 (see *Attachment 1 – Amendments 20 & 21*)
- create more specific criteria for what typifies an RGA;

- require that RGAs adopt Growth Management Boundaries;
- recognize the limited uses that will occur outside of growth areas;
- discourage rural sprawl
- establish procedures for the initial period after the adoption of the RGS
- separate the Implementation Agreement and Toolkit from the RGS bylaw itself

Options:

1. *Incorporate proposed amendments into RGS bylaw*

*Option 1* would address the concerns of member municipal councils and staff, as well as those of the general public. These amendments would add clarity to the RGS and provide for more consistent interpretation of the policy document in the future. However, the additional legislative steps associated with amending a bylaw at Second reading would be required.

2. *Reject proposed amendments and approve the RGS as is*

This option would allow the RGS to proceed most quickly, but would leave unaddressed some major concerns brought forward by member municipal councils, staff and the general public.

3. *Refer RGS back to staff to address a specific rural growth issue*

This option may result in further delays to the progress of the RGS, potentially requiring considerable time for additional consultation with stakeholders of a specific issue.

Recommendation: *Option 1.*

### **Issue 3: Environmental Protection**

Although most comments received regarding environmental protection spoke positively about the RGS, they also requested that stronger language be used. Suggestions were made for replacing more passive language, such as “consider” with more proactive language, such as “enact”.

It should be noted that Section 865(3) of the Local Government Act clearly ensures that an RGS cannot require a local government to undertake a specified project, regardless of language used in the strategy. However, once the RGS is adopted, the Board may not adopt bylaws that are inconsistent with RGS policy direction.

Options:

1. *Support amendments to strengthen wording in RGS regarding environmental protection (see Attachment 1 – Amendments 26, 27)*

Strengthening RGS environmental protection policies would help clarify policy intent for more consistent interpretation in the future, and does not legally commit any local government to specific projects. Marginal additional staff time would also be required.

2. *Proceed with the RGS in current form*

This option would convey the message that the Board is satisfied with the language in the RGS as it is. Also, this would allow the strategy to proceed most quickly.

Recommendation: *Option 1.*

### **Issue 4: Water Allocation/Conservation**

Some of the comments received brought forward a general concern regarding water conservation. In addition, the comments received from the District of Summerland take issue with specific policies in the RGS regarding agricultural water allocation.

Currently, the RGS addresses water conservation for the most part in Policy EN5 “Promote water sustainability through conservation and related best practices”. Under this policy, there is clear language applying, supporting and promoting water conservation.

EN5.5 specifically addresses agricultural water allocation, stating “that water currently allocated to the agriculture sector will remain allocated to the agriculture sector”. This policy statement is supported by the British Columbia Agriculture Council (BCAC). However, the policy may be out of sync with provincial direction and may not meet overall sustainability objectives for water reduction in all sectors.

#### Options:

##### 1. *Support the existing wording*

The first option offers a very high level of support to the agriculture sector, but may cause conflict in the future with provincial direction and with member municipalities. Also, this places all of the burden for water conservation on non-agricultural uses, providing little incentive for the agriculture sector to reduce water consumption.

##### 2. *Remove the existing wording*

This would eliminate the policy direction provided around water for the agriculture sector and may risk an inconsistent level of protection for agricultural water supply throughout the RDOS and its member municipalities.

##### 3. *Direct specific allocation to a Water Plan and provide supporting policies in the RGS to protect agricultural water (See Attachment 1 – Amendments 22-25)*

*Option 3* recognizes that specific allocations for individual sectors are not within the purview of an RGS, and directs that such work occur within an Inter-regional Water Plan. However, this option also acknowledges that providing sufficient water for agriculture is of prime importance.

Recommendation: *Option 3.*

### **Issue 5: First Nations**

In this latest round of consultation, efforts were made by the RDOS to obtain input from the Osoyoos Indian Band (OIB), the Penticton Indian Band (PIB) and the Okanagan Nation Alliance (ONA). Each of these organizations was sent a copy of the RGS and asked to provide comments. These requests were followed up by phone calls. As a result, one meeting was held with the OIB Chief and Council, and another meeting was held with the PIB Chief. Only telephone and written communications have occurred between ONA and RDOS staff.

From this interaction, we have received written comments from both the PIB and ONA (OIB verbally advised that its interests would be addressed through the ONA). Comments from both the organizations state that proper consultation has not taken place and that independent processes outlined in *Attachment 3* should be undertaken.

In response, PIB was advised in a letter from the RDOS that an independent consultation process was not appropriate at this time.

As a related matter, there is existing wording in the introduction to the RGS under “context”, stating that traditional aboriginal knowledge, consultation and representation are reflected in the RGS. This statement contradicts the opinion presented by First Nations.

### Options:

1. *Put RGS approval process on hold and engage First Nations according to their process*

Option 1 represents a full commitment to working with First Nations to address their concerns and is seen to be the First Nations' preferred option. But, it is not clear what kind of financial, staff or time commitment this consultation process might require. A long delay may risk making the RGS irrelevant and in need of revision even before it is adopted.

2. *Continue through RGS approval process, but commit to review with First Nations at their request at a later date & remove context wording (see Attachment 1 – Amendment 28)*

This option may be desirable if the Board wishes to proceed with the RGS quickly, but does not wish to damage a working relationship with First Nations in the south Okanagan. This commitment, however, may still require significant resources at a later date.

3. *Continue with the RGS approval process & remove context wording*

This third option allows the Board to proceed with the RGS approval process immediately, but may risk damaging the relationship between the RDOS and First Nations in the south Okanagan.

Recommendation: *Option 2.*

### **Budget Implications:**

The approved 2009 budget makes provision for the anticipated costs of proceeding with RGS bylaw adoption. If the RGS is delayed significantly, there may be additional costs associated with any public meetings, special expertise, and staff time that may be required.

### **Next Steps:**

1. *Incorporate amendments (if Board approves) into RGS bylaw*

2. *Re-read Second Reading of the RGS Bylaw No. 2421, 2007*

3. *Proceed to Public Hearing of the RGS Bylaw No. 2421, 2007*

4. *Formal 120 day referral to affected local governments*

- approval must be received from all affected local governments
- no comment is understood to be approval
- refusal to approve initiates a dispute resolution process

5. *Third reading and Adoption*

6. *Preparation and signing of Implementation Agreements*

Implementation Agreements are concerned with the specifics around inter-jurisdictional (local governments, Province, Federal government, First Nations) cooperation in implementing the RGS.

7. *Regional Context Statement development (municipalities)*

Context statements must be completed within two (2) years after the adoption of the RGS and must be approved by the RDOS Board.

8. *Growth Management Boundary development (all growth areas)*

This will likely require OCP amendments for both municipalities and electoral areas.

Alternative Option: Abandon the RGS Bylaw No. 2421, 2007.

**Respectfully submitted:**



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J. Moore, Planner

Attachments: [Attachment 1 – Proposed Amendments to the RGS](#)  
[Attachment 2 – Public Comments](#)  
[Attachment 3 – ONA Decision Making Process](#)