



**Item No. 11.1.7 (i)**  
**Halifax Regional Council**  
**June 25, 2013**

**TO:** Mayor Savage and Members of Halifax Regional Council

Original signed by 

**SUBMITTED BY:**

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer

**DATE:** May 31, 2013

**SUBJECT:** **Final Report – Birch Cove Lakes Watershed Study**

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**ORIGIN**

At the April 4, 2013, meeting of the Bedford Watershed Advisory Board, a motion was approved to recommend to Regional Council that the Birch Cove Lakes Study be accepted with the following additions:

1. The riparian buffer along Black Duck Brook be increased to 50 m;
2. Development around McQuade Lake no longer be permitted;
3. Investigation into the TP levels of Horseshoe Lake be made;
4. Water Quality Testing be expanded to include Susies Lake and Black Duck Brook;
5. Highway 102 West Corridor lands not be considered for development (remove scenario 3 from development considerations); and
6. An education program be initiated for the current developments regarding Best Practices, to minimize phosphate loading.

**LEGISLATIVE AUTHORITY**

HRM Charter: Sections 235 (Content of a Land Use By-Law) and 237 (Future Public Use).

**RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. Accept the Birch Cove Lakes Watershed Study;
2. Not adopt BWAB recommendations numbers 1, 2 and 5; and

**(Recommendations continued on next page)**

3. Defer consideration of BWAB recommendations 3, 4 and 6 to a community planning process, in the event that a decision is made to initiate secondary planning for this area.

## **BACKGROUND**

At the November 16, 2010, meeting, the following motions were passed by Regional Council regarding the Highway 102 West Corridor lands:

1. Undertake a Watershed Study for the Highway 102 West Corridor lands (Birch Cove Lakes Watershed) and await completion of Halifax Water's Wastewater Functional Plan.
2. Negotiate boundaries for the Blue Mountain – Birch Cove Lakes Regional Park in relation to the Highway 102 West Corridor lands, through a facilitated process with an independent facilitator and further, to bring the details of the proposed negotiating process back to Regional Council prior to entering into negotiations.
3. Defer the review of the criteria under Policy S-3 of the Regional Plan, to determine whether to initiate a Secondary Planning Process for the Highway 102 West Corridor lands.

AECOM was selected as the consultant to undertake the study and prepared preliminary and draft final reports, which were presented at public meetings hosted by the Bedford Watershed Advisory Board (BWAB).

The final study can be found at: <http://www.halifax.ca/planhrm/index.html> (under project updates). This document incorporates amendments made in response to comments received to the draft document presented to the public on March 6, 2013. As requested by BWAB, staff has reviewed the changes and are satisfied that all comments were addressed.

## **DISCUSSION**

### ***The Regional Planning Strategy:***

The BWAB recommendation to not consider the Highway 102 West Corridor lands for development (**recommendation no. 5**), is inconsistent with the Regional Plan. The plan identifies these lands as a potential area for new urban growth, either in the intermediate term (lands designated "Urban Settlement") or in the longer term (the "Urban Reserve" designation). The designations are shown on Map 1 (attached). Undertaking of a watershed study and Council approval of a secondary planning strategy, are required before any development can proceed. An excerpt from the Plan which addresses watershed studies is presented as Attachment A.

A substantial portion of these lands have also been identified by the Regional Plan as a potential regional park. A concept plan of the proposed boundaries for the Blue Mountain - Birch Cove Lakes Park (as presented on Map 13 of the Regional Plan) is illustrated on Map 1. The Regional Plan states:

*“It is the intention, over time, the necessary private lands within the park be acquired for public use. Methods of acquisition range from provincial and municipal partnerships, as financial resources permit, land trades and conservation easements. Once acquired, public lands within the park will be re-designated as Open Space and Natural Resource and zoned Regional Park. Lands outside the park will be designated and zoned for development as appropriate.”*

In accordance with the November 16, 2010, Council motion, details of a proposed negotiation process will be brought back to Council in a separate report. In recent discussions, representatives of the affected landowners have advised staff that they remain committed to proceeding to negotiate through this process.

***The Halifax Regional Municipality Charter:***

The statutory requirements applicable to this situation, reinforces the need for Council to better understand the alternatives which may be available and the merits of each, prior to any decision being made regarding development.

The Charter only allows a land use by-law to prohibit development totally under specified conditions – none of which would apply in this situation. Alternatively, privately owned lands may be zoned for future public use, provided that HRM acquires the lands within one year of placing the zone on the property – otherwise, an alternative zone would become effective. The relevant Charter sections are presented in Attachment B.

***The Other BWAB Recommendations:***

1. The riparian buffer along Black Duck Brook be increased to 50m.  
The Secondary Planning Strategy for Bedford West establishes a riparian buffer around Black Duck Brook, of the greater of 30 meters or the limits of the 1:20 year flood plain. This setback is already fifty percent more than the 20 meter setback from watercourses established by the Regional Plan. Furthermore, the west side of Black Duck Brook is designated for open space and will have an undeveloped setback greater than the 50 meter recommended by BWAB. Staff, therefore, do not support this recommendation.
2. Development around McQuade Lake no longer be permitted.  
McQuade Lake is already fully developed under current subdivision regulations and no further development could be permitted unless central water and wastewater services are extended to the area – a highly unlikely scenario due to costs. No action is required.

The following recommendations should be considered in a planning process for this area, but are premature until such time as a decision is made to proceed with secondary planning:

3. Investigation into the TP levels of Horseshoe Lake be made;
4. Water Quality Testing be expanded to include Susies Lake and Black Duck Brook; and
6. An education program be initiated for the current developments, regarding Best Practices to minimize phosphate loading.

### **FINANCIAL IMPLICATIONS**

There are no financial implications associated with the recommendations of this report. Financial implications associated with a facilitated negotiation process will be included in a future report.

### **COMMUNITY ENGAGEMENT**

In accordance with the study terms of reference, BWAB hosted two public meetings. On October 26, 2012, AECOM presented the preliminary report with recommended water quality objectives and on March 6, 2013, the draft final report was presented. Public submissions received are attached to the BWAB reports.

### **ENVIRONMENTAL IMPLICATIONS**

The watershed study has been undertaken in accordance with a policy requirement of the Regional Plan to assist in determining the potential implications of development on the Birch Cove Lakes watershed and to enable the Municipality to plan and set standards of care for future development, and to minimize impacts on the environment.

### **ALTERNATIVES**

Regional Council could:

1. Adopt the staff recommendations of this report.
2. Adopt the BWAB recommendations. For the reasons outlined in this report, this option is not recommended.
3. Adopt any alternative course of action deemed appropriate.

### **ATTACHMENTS**

Map 1:           The Highway 102 West Corridor Lands in relation to Regional Plan designations and boundaries

Attachment A: Excerpts from the Regional Planning Strategy

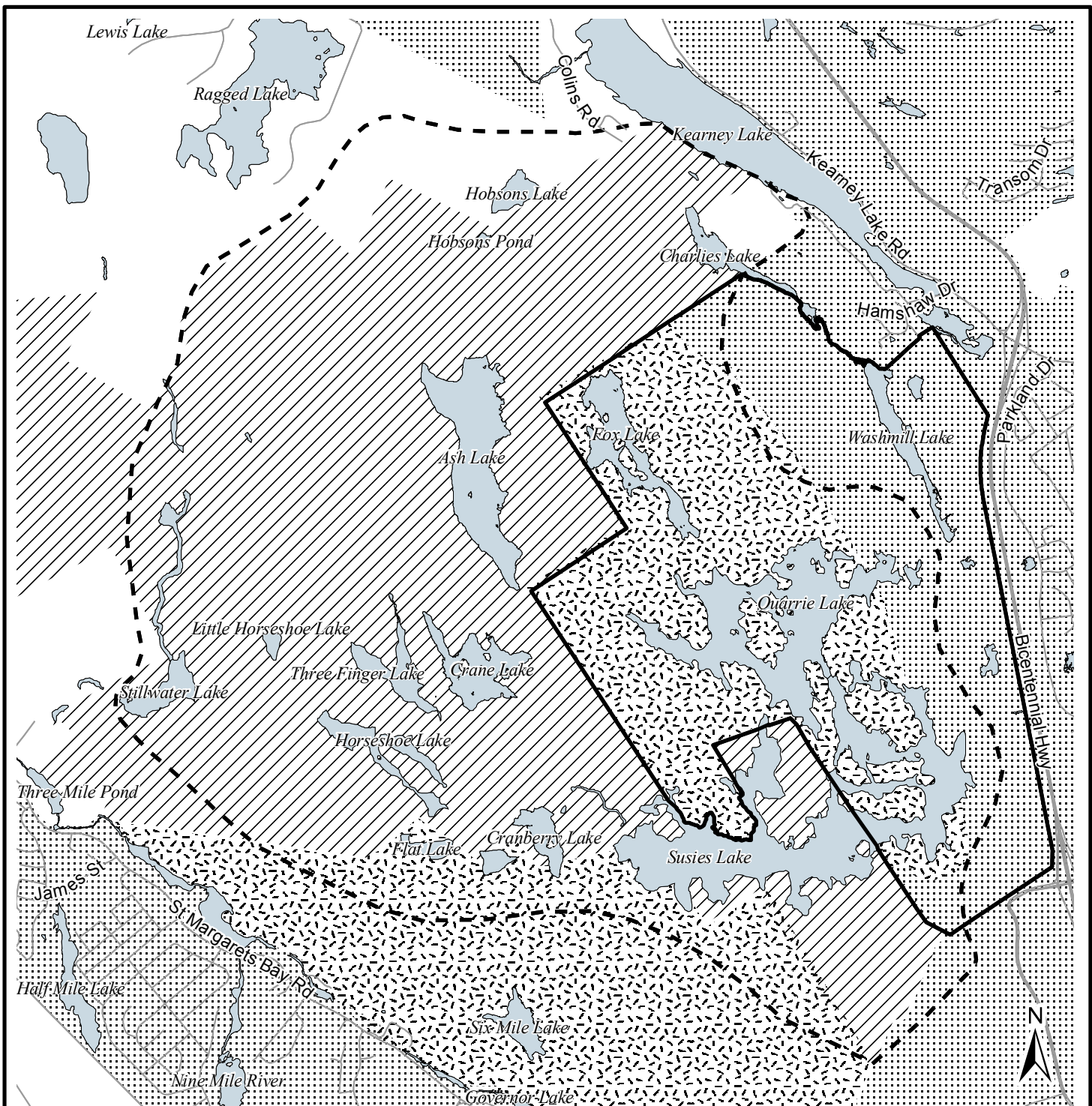
Attachment B: Excerpts of the HRM Charter

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.





Report Prepared by: Paul Morgan, Senior Planner, Planning and Infrastructure, 490-44482

Report Approved by: Austin French, Manager, Planning and Infrastructure, 490-6717

Report Approved by: Jane Fraser, Director Planning & Infrastructure, 490-7166



## Highway 102 West Corridor Lands Adjacent to Blue Mountain - Birch Cove Lakes Park

-  Privately Owned Lands (Birchdale Projects Inc.)
-  Conceptual Park Boundary: Blue Mountain - Birch Cove Lakes (Map 13, Regional Plan)
-  Blue Mountain - Birch Cove Lakes Wilderness Area (Provincial Crown Lands)
-  Urban Reserve Designation (Regional Plan)
-  Urban Settlement Designation (Regional Plan)

Halifax Mainland Plan Area

**HALIFAX**  
REGIONAL MUNICIPALITY

COMMUNITY DEVELOPMENT  
REGIONAL AND COMMUNITY PLANNING SERVICES

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Meters

HRM does not guarantee the accuracy of any representation on this plan.

## **Attachment A: Excerpts from the Regional Planning Strategy**

### **2.3 WATERSHED PLANNING**

The *Water Resources Management Study*<sup>10</sup>, which forms the basis of the policies contained in this Chapter, recognizes that watersheds are the fundamental unit for understanding water resources and undertaking watershed planning. Environmental features - water, soils, vegetation, habitat - within a watershed are all interconnected, and land use activities in one part of a watershed can adversely affect the quality and quantity of water in another. We must, therefore, plan communities based on watershed analysis to protect those environmental features and functions that sustain our desired objectives for water quality and quantity in urban, suburban and rural areas.

Planning on a watershed basis will be undertaken in greater detail during the review of secondary planning strategies, following the completion of watershed studies. These strategies may also be shaped by new information available from research to be undertaken as part of functional plans identified later in this Chapter. Policies here support the need for secondary planning strategies to reinforce and support the overall direction of this Plan, and provide a guide for the basis of secondary municipal planning strategies.

Although it is not the intention of this Plan to achieve pristine conditions for every watershed, there is a desire to achieve public health standards for body contact recreation and to maintain the existing trophic status of our lakes and waterways to the extent possible. Our lakes, waterways and coastal waters should not be further degraded. We must, therefore, plan on a watershed basis, identify remedial measures to improve waterbodies at risk, and protect those environmental features and functions which sustain our desired objectives for water quality and quantity in urban, suburban and rural areas. Watershed studies will, therefore, be prepared as background information to be considered in the development of future secondary planning strategies.

E-17 Watershed or sub-watershed studies concerning natural watercourses shall be carried out as part of comprehensive secondary planning processes. These studies shall determine the carrying capacity of the watersheds to meet the water quality objectives which shall be adopted following the completion of the studies. The studies, where appropriate, shall be designed to:

- (a) recommend measures to protect and manage quantity and quality of groundwater resources;
- (b) recommend water quality objectives for key receiving watercourses in the study area;
- (c) determine the amount of development and maximum inputs that receiving lakes and rivers can assimilate without exceeding the water quality objectives recommended for the lakes and rivers within the watershed;

- (d) determine the parameters to be attained or retained to achieve marine water quality objectives;
- (e) identify sources of contamination within the watershed;
- (f) identify remedial measures to improve fresh and marine water quality;
- (g) recommend strategies to adapt HRM's stormwater management guidelines to achieve the water quality objectives set out under the watershed study;
- (h) recommend methods to reduce and mitigate loss of permeable surfaces, native plants and native soils, groundwater recharge areas, and other important environmental functions within the watershed<sup>11</sup> and create methods to reduce cut and fill and overall grading of development sites;
- (i) identify and recommend measures to protect and manage natural corridors and critical habitats for terrestrial and aquatic species, including species at risk;
- (j) identify appropriate riparian buffers for the watershed;
- (k) identify areas that are suitable and not suitable for development within the watershed;
- (l) recommend potential regulatory controls and management strategies to achieve the desired objectives; and
- (m) recommend a monitoring plan to assess if the specific water quality objectives for the watershed are being met

## **Attachment B: Excerpts from the HRM Charter**

### **Content of land-use by-law**

235 (1) A land-use by-law must include maps that divide the planning area into zones.

(2) A land-use by-law must

(a) list permitted or prohibited uses for each zone; and

(b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.

(3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.

(5) Where a municipal planning strategy so provides, a land-use by-law may

(g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;

(n) prohibit development or certain classes of development where, in the opinion of the Council, the

(i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,

(ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or

(iii) cost of maintaining municipal streets would be prohibitive;

(o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;

(p) prohibit development on land that

(i) is subject to flooding or subsidence,

(ii) has steep slopes,

(iii) is low-lying, marshy, or unstable,

(iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,

(v) is known to be contaminated within the meaning of the Environment Act, or

(vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;

(q) regulate or prohibit development in areas near airports in excess of 30 NEF/NEP (thirty noise exposure forecast/noise exposure projections) as set out on maps produced by an airport authority, as revised from time to time, and reviewed by Transport Canada;

### **Future public use**

237 (1) The Council may zone privately owned land for future public use other than transportation reserves if the by-law provides for an alternative zone on the land, consistent with the municipal planning strategy.

(2) Where privately owned land is zoned for future public use, the Municipality shall, within one year of the effective date of the zoning, acquire the land or the alternative zone comes into effect. *2008, c. 39, s. 237.*