

**RESORT MUNICIPALITY OF WHISTLER**

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STAFF REPORT TO COUNCIL

PRESENTED: May 10, 2022
REPORT: 22-067
FROM: Environmental Stewardship
FILE: 8381
SUBJECT: LAKES MANAGEMENT OPTIONS REPORT

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

That the recommendation of the General Manager of Resort Experience be endorsed.

RECOMMENDATION(S)

That Council approve the submissions of foreshore applications for adjacent upland municipal park and/or municipal lands attached as Appendix A to this Administrative Report to Council No. 22-067; and

That Council receive the Resort Municipality of Whistler Lakes Management Options Report prepared by McElhanney Ltd., dated December 21, 2021 and attached as Appendix B to this Administrative Report to Council No. 22-067.

PURPOSE OF REPORT

The purpose of the report is to share the results and recommendations of the Resort Municipality of Whistler (RMOW) Lakes Management Options Report (Lakes Report) prepared in 2021; to describe actions being taken to decrease activities of concern on the lakes; and to obtain Council's support for the foreshore applications.

☐ Information Report ☒ Administrative Report (Decision or Direction)

DISCUSSION

Regulatory Context

In recent years, lake activities have increased along with public concerns about the effects on lake water quality, habitat and enjoyment. In 2019, RMOW staff formed a working group with representation from Bylaw Services, Parks Operations, Parks Planning and Environmental Stewardship to hold interdepartmental discussions on the various aspects of municipal lake and foreshore management efforts, and to develop and deliver a work plan.

Many people believe the RMOW has authority over lakes, docks and barges, but that is not the case. The Province owns nearly all freshwater and saltwater foreshore, which is the Crown land between the high and low watermarks of streams, rivers, lakes, and the ocean. Land adjacent to the foreshore may be privately owned (upland owner), but the construction, placement and use of private moorage

facilities on Crown land requires authorization through the *Land Act* from the Ministry of Forests, Lands and Natural Resource Operations (FLNRO). Private moorage facilities include docks, boat ways/ramps or boat lifts that are used for private residential use. *Land Act* authorization of existing or new docks is typically provided through granting of a tenure which requires an application to the Province. The provincial regulations are enforced by FLNRO Natural Resource Officers.

More information can be found here: [Crown Land Private Residential Moorage Uses](#)

Additionally, buoys and vessels (which include barges with motors 10hp or over) are managed under a number of federal, not municipal, regulations:

- *Small Vessel Regulation* – licensing, safety requirements
- *Vessel Operation Restriction Regulation* – type of engines allowed
- Pleasure Craft License – boat identification and safety requirements
- *Navigation Protection Act* – moorings/buoys

The regulations do not speak to limiting the opportunity to own and operate a vessel as long as the regulations are followed. The federal regulations are enforced by RCMP, Conservation Officer Service (COS), Fisheries and Oceans Canada, and BC Parks Rangers.

The RMOW has a Parks Bylaw and a Nuisance Bylaw, which can complement the federal and provincial regulations and are enforced by RMOW Bylaw Officers.

The Whistler.ca docks page was created in 2020 to assist the public by describing the various regulations and provincial process to bring docks into compliance. [Docks, Barges, and Private Moorages](#)

Analysis

In response to ongoing concerns over lake activities, RMOW staff have taken action on a number of fronts as described below.

Staff engaged the Whistler McElhanney office in 2021 to prepare the Lakes Report appended to this report as Appendix B. The purpose was to provide the RMOW with an overview of lake management options that can be used as a baseline to guide the development of policy aimed at ensuring lakes within the RMOW (specifically, Alta, Green, Alpha, Nita and Lost Lakes) can be used by all in a safe and environmentally sound manner.

The Lakes Report allows the RMOW to understand approaches taken by other municipalities in order to review options for consideration in the Whistler context. The development of the options is based on a comprehensive review of the different levels of government involved in the regulation of uses and users on lakes, an overview of other BC municipalities that have developed regulations on their respective lakes, and the results of interview questions from select municipalities experiencing similar challenges as the RMOW.

The report identified five options for the RMOW to consider:

- Additional controls at lake access points
- Development of a range of water zones (similar to land-use zoning) with different intents depending on location and circumstances

- Establish a lake-focused Development Permit Area to allow the RMOW to evaluate proposed development on lakes to ensure zoning compliance
- Pursue applications to Transport Canada under the Vessel Operation Restriction Regulation (VORR)
- Apply for a Crown Head lease in areas where the RMOW wants to exercise complete and exclusive authority

As a first step, the RMOW will implement, or has already implemented, additional controls at lake access points including:

1. Expanded Foreshore License Agreements

Currently the RMOW has foreshore license agreements for docks and swim platforms adjacent to its parks and beaches where such infrastructure exists. As such, these agreements only cover the docks or swim platforms themselves and locks them to their existing locations and sizes. With ongoing growth in visitation to Whistler, growing use of our parks and especially high use of the lakes, the RMOW needs to encourage responsible use of our parks and recreational water resources.

As noted in the Lakes Report, foreshore license agreements can contribute to that end. As initiatives noted in the Lakes Report are proposals that may be in the distant future, foreshore licenses will allow existing RMOW bylaws to extend beyond our parks and over the water into and covering the area of the license. This will allow for discouragement and management of buoys, rogue or derelict docks and other possible nuisance or environmentally damaging infrastructure within an RMOW foreshore license tenure.

Currently RMOW Resort Operations is not looking to add or build upon what infrastructure is currently in place along RMOW foreshore. Resort Operations is only looking to submit applications to convert our current foreshore licenses consisting of docks and swim platforms to larger areas encompassing our existing park foreshore areas and infrastructure. For example, Rainbow Park, Lakeside Park and Wayside Park currently have existing polygon foreshore license agreements and expanding the polygon model to all our properties would create consistency across RMOW properties and is within the RMOW rights as the upland property owner or occupier. See Appendix A for maps of each foreshore application area.

Foreshore license tenures will allow for and contribute to continued positive experiences on Whistler's lakes and add to Whistler's success as a summertime destination.

The docks, floating structures, beach and foreshore will continue to be maintained by municipal Parks Maintenance Department in conjunction with all stakeholders and agencies.

2. Conservation Officer Service

Protective Services engaged the COS in 2021 and again in 2022 to provide boating safety information and lake access site patrols at priority locations with the main focus on Rainbow Park, River of Golden Dreams and the Green Lake boat launch. The COS and RMOW Communications team collaborated on social media messages during summer 2021 to help disseminate boating safety information and regulations regarding legally-required safety equipment. Reporting from the COS identified that almost all boaters, including those in floaties, were not using the required safety gear. Similar COS activities and communications will take place again this year.

3. Green Lake boat launch parking and information signs were updated in 2021 to provide clearer information to users. Starting in 2023, conditions such as access hours will be added to business licenses for commercial boating companies to help manage use of municipal boat launches.
4. The Parking and Traffic Bylaw, No. 2177, 2018 includes a restriction on parking trailers on municipal roads with the intention of reducing congestion near boat launches. Section 9.1 states:

No person shall park or place a trailer designed for occupancy by individuals or for the carriage of goods and merchandise on any highway, or any portion of a public parking lot operated by the Municipality, unless the trailer is attached to a motor vehicle mechanically capable of towing the trailer.

5. Parks staff placed trespass letters on all docks/barges attached to municipal parkland in early summer 2020 with a deadline for removal.
 - a. Parks and Trails team removed derelict structures in autumn 2020 and again in spring 2021. The work included removal, disassembly, trucking and recycling, where possible, of derelict and abandoned docks and barges from Alta Lake, Alpha Lake and Green Lake. In addition, there were removals of debris including old ropes and anchors, gas cans, tires, pallets, foam, plastics, lumbers and an old barbecue from Alta Lake and on municipal property foreshore areas. There are still some structures to be removed on Alta Lake and the team will be removing old industrial debris in Green Lake near the Parkhurst site this summer.
 - b. While RMOW crews are taking action to remove unauthorized and derelict structures, more barges/floating docks were constructed and/or moved into the area in front of Alta Lake Park and were installed with offshore mooring, which is allowed under certain conditions and is not under municipal authority.
6. Electric Motors on Alta Lake – In 2021, staff made a submission to the Office of Boating Safety (OSB) requesting that under the Vessel Operation Restriction Regulations (VORR) only electric boat motors be permitted on Alta Lake with some exemptions for safety and rescues. The OSB rejected the RMOW's request as it was determined not to meet the Cabinet Directive criteria for implementing the VORR.

The OSB suggested that the RMOW explore municipal bylaw tools and existing federal regulations to manage noise, dock/barge abandonment, and environmental concerns. The evidence in the application for environmental pollution was not sufficient as the risk factor described in the report was more of a potential risk. VORR must be used to solve problems that already exist, not potential problems.

The OSB also noted that consultations should not be simply to check if the population would support the restriction. The consultation process must be used among other things to find, with the users of the water, alternative solutions that would solve the problem otherwise. The goal of the alternative measures is to solve the problems without having to ask for a VORR restriction.

In addition to the lake control options noted above, RMOW Environmental Stewardship staff are working with the Whistler Lakes Conservation Association (WLCA) established in 2020 to carry out certain lake water quality monitoring activities. Staff meet with the WLCA quarterly to collaborate on other lake-related issues such as abandoned docks, the lake clean up initiative, which brings in divers

to remove debris, and other current issues. This helps to build relationships and gather useful information regarding lake uses and water quality.

The other options identified in the Lakes Report such as water zoning, lake-focused development permit areas or securing head leases are not recommended at this time. Staff will continue to monitor the situation and take the actions described above. If problems continue to increase, the other options will be explored further with recognition that implementing them will come with significant additional municipal administration, enforcement, and staff time required.

As stated above, the provincial government is responsible for authorizing docks. Staff confirmed with the Sea to Sky district Natural Resource Officers, Compliance and Enforcement (C & E) staff that in 2022 they will take a staged approach to managing docks on Whistler lakes with an initial focus on Alta and Green Lakes. Research shows that the vast majority of docks, except for municipal docks, are unauthorized. Letters to all dock owners will be delivered in early summer informing people of provincial dock authorization regulations and request that they make an application. Key messaging will be developed which will be shared through RMOW channels (website, social media, etc.). In 2023, C&E staff will follow up with the most egregious violators and potentially remove unauthorized structures.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

[September 4, 2018: Report No. 18-111](#) (page 50)

Corporate Plan

The RMOW Corporate Plan is updated annually and articulates strategic direction for the organization. This section identifies how this report links to the plan.

Council Focus Areas

- ☒ Community Balance
*Effectively **balance resort and community needs** through deliberate planning, partnerships and investment*
- ☒ Climate Action
*Provide leadership to **accelerate climate action and environmental performance** across the community*
- ☐ Housing
*Advance strategic and innovative initiatives to enable and **deliver additional employee housing***
- ☐ Pandemic Recovery
*Leadership and support for **community and tourism recovery and sustainability** – priority focuses are where recovery needs intersect with other Council focus areas*
- ☐ Not Applicable

Corporate Goals

- ☐ Community character and mountain culture is reflected in municipal initiatives

- ☒ Municipal decision-making supports the effective stewardship of natural assets and ecological function
- ☐ Corporate policies and operations ensure continuous excellence in infrastructure, facility and program management
- ☐ A high level of accountability, transparency and community engagement is maintained
- ☐ Corporate financial health is optimized to ensure long-term community success
- ☐ A vibrant local economy and safe, resilient resort community is effectively reinforced by organizational activities
- ☐ Pandemic recovery

Community Vision and Official Community Plan

The Official Community Plan (OCP) is the RMOW's most important guiding document that sets the community vision and long-term community direction. This section identifies how this report applies to the OCP.

Managing activities on Whistler's lakes in order to protect environmental and experiential values is in alignment with OCP goals and policies. The activities described in this report take immediate action on items within municipal control as well as lay the groundwork for future approaches if required.

BUDGET CONSIDERATIONS

The Parks Operations dock removal budget was \$25,000 in each of 2020, 2021 and 2022. This is the last year of funding to remove derelict docks attached to municipal property. After 2022, staff will continue to monitor lakes for issues and handle within existing work plans and budgets.

The budget for the Foreshore License applications is \$250 x 17 applications for a total of \$4250.

Protective Services secured municipal budget of \$4000 in 2021 and the same in 2022 to engage the COS to deliver boating safety education and enforcement at priority waterfront locations.

LIL'WAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Lil'wat People, known in their language as *L'il'wat7úl* and the Squamish People, known in their language as the *Skwxwú7mesh Úxwumíxw* to: create an enduring relationship; establish collaborative processes for Crown land planning; achieve mutual objectives; and enable participation in Whistler's resort economy.

There are no specific considerations to include in this report.

COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

☒ Inform ☒ Consult ☐ Involve ☐ Collaborate ☐ Empower

For the most part, this program is about informing the public of the applicable provincial and federal regulations for vessel operation and boating safety. The RMOW did consult the community through a survey in 2021 regarding the VORR application to request a change on Alta Lake to electric motors only. The RMOW created a webpage: whistler.ca/docks that shares information regarding the various regulations and dock authorization process. As the provincial C & E Officers implement their information campaign in summer 2022, the RMOW will support them by sharing messaging through municipal channels.

REFERENCES

Appendix A – Foreshore Application Package

Appendix B – Lakes Management Options Report, December 2021, McElhanney Ltd.

SUMMARY

The report shares the results and recommendations of the RMOW Lakes Report prepared in 2021; describes actions being taken to decrease activities of concern on the lakes; and seeks to obtain Council's support for the foreshore applications.

Staff are taking actions within the current authority of the RMOW to manage activities on lakes, lake access points and municipal waterfront locations. The RMOW is also supporting provincial agencies such as the COS and FLRNO C&E in taking steps within their jurisdictional areas. Monitoring will continue and if problems expand or increase, staff will revisit the Lakes Report and determine if and when further consideration needs to be given to implementing the water zoning, lake-focused development permits areas or applying for head leases.

SIGN-OFFS

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