

DECISION/DIRECTION NOTE

Title: Wetlands Text and Map Amendment - Adoption

Date Prepared: October 22, 2024

Report To: Regular Meeting of Council

Councillor and Role: Councillor Maggie Burton, Planning

Ward: N/A

Decision/Direction Required:

1. That Council review the City's Environment and Sustainability Experts Panel recommendations for the Wetland Phase 2A Study.
2. That Council adopt Envision St. John's Development Regulations Amendment Number 36, 2024, which amends Section 4.10 and Appendix C, Map 4 of the Development Regulations.

Discussion – Background and Current Status:

Background

Development Regulations Amendment No. 36, 2024 was brought to Council on June 11, 2024 for consideration of adoption. The amendment proposed changes to section 4.10 "Waterways, Wetlands, Ponds or Lakes" and Appendix C, Map 4 "Waterways and Wetlands" in response to the City's Wetland Study Phase 2A that was completed in 2023. Public consultation was done in line with the Development Regulations by notices published in *The Telegram* on May 11, 18, and 25, 2024.

The City received 16 written submissions which all opposed the amendment. Public concerns were outlined in the June 3, 2024 decision note to Council. Most concerns were related to Council's decision to protect wetlands that receive an average weighted Wetlands Ecosystem Services Protocol (WESP) score of 6 or higher. In response to the concerns, Council referred the Wetland Study Phase 2A to the Environment and Sustainability Experts Panel for review of the ranking system and protection criteria.

Wetland Study Phase 2A

The Wetland Phase 2A study was completed in 2023 as a follow up to the Wetland Phase 1 study with the purpose to field-delineate, classify, and rank a set number of wetlands in areas that have development interest or pressure. The Phase 1 Study identified 3,564 individual wetlands larger than 100 square metres, most of which fall outside the developable areas of the city. The Phase 2A study considered 88 of those; the number was refined to 68 after field work (some were mapped as individual wetlands in the Phase 1 study but are actually part of the same wetland).

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The Wetland Study Phase 2A report was reviewed and approved by Council on November 28, 2023. Upon review Council decided to protect all wetlands with an overall weighted average score of 6 or higher (City staff recommended 5 or higher). As noted above, Council asked the Environment and Sustainability Experts Panel (ESEP) to review the report and provide recommendations. Their commentary and recommendations are attached. The main comments of the ESEP are:

- Wetlands are an important natural asset which provide environmental benefits.
- The WESP was developed to assess the function of wetlands of the same classification in order to protect them, it was not intended to be used to remove protections.
- The overall WESP weighted score is heavily weighted in favour of hydrologic (water flow) function, however the City protects their associated floodplains along main rivers.
- WESP assessments change over time due to factors such as climate change and nearby land development.
- Determining an overall score based on a weighted average of the five main WESP function groups has no scientific basis; there was no analysis or consultation in assigning the weightings.

The ESEP recommends that:

- The City advocate for the Province to develop a Provincial Wetland Conservation Policy;
- The City integrate additional metrics into the wetland assessment process and consider each individual function, as opposed to the overall WESP weighted score;
- The City implement a multi-tiered approach to wetland protection that incorporates measures for avoidance/protection, mitigation, and compensation;
- The City revisit its wetland assessments regularly (every 3 to 5 years) to monitor wetland health, review the policies, and update the hydrological models.
- If scores are to be weighted, explore science-based methods for assessing impacts when reviewing proposals; and
- The City explore urban-development reforms that prioritize infill and higher-density zoning to accommodate new growth without compromising wetlands.

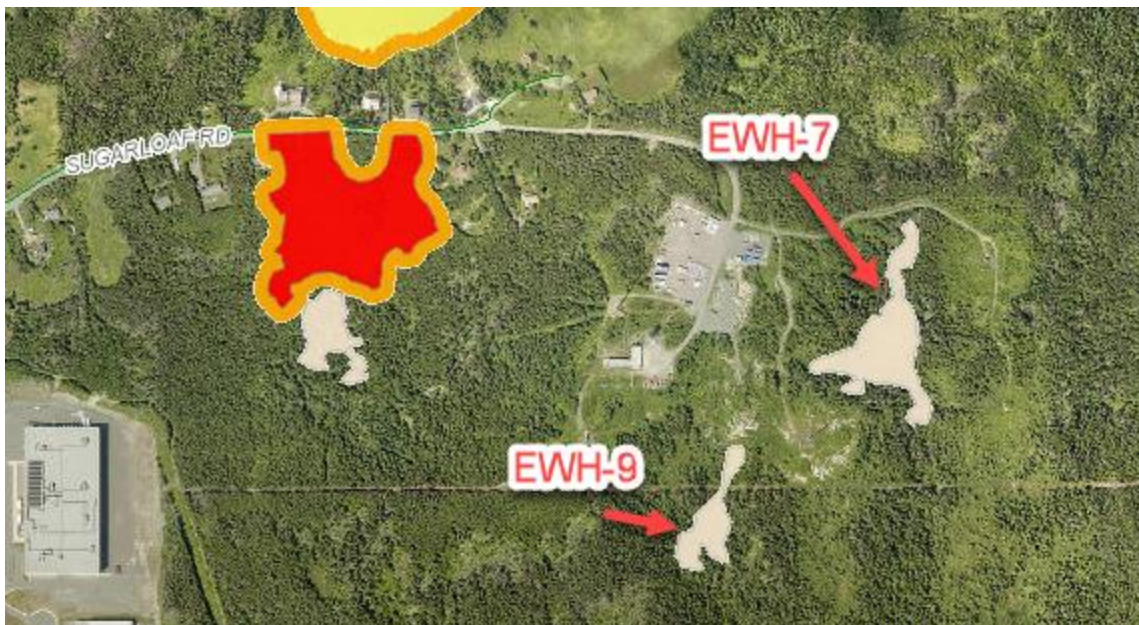
After considering the ESEP commentary and recommendations, staff have amended their recommendations as follows:

- The main purpose of the Wetland Phase 2A Study was to objectively rank wetlands to allow suitable development while protecting those wetlands over a certain score. The scoring method and the minimum score should be consistent across the city.
- The City will only be assessing wetlands in developable areas, which represents a very small proportion (likely less than 10%) of the 3,564 wetlands in the Phase 1 Study. Most wetlands will remain intact, as they cannot be developed in any case.
- The WESP protocol is a good tool which is used in other provinces to assess wetlands.
- Planning and Development staff do not agree with a multi-tiered approach (avoidance / protection, or mitigation, or compensation). Important wetlands should be clearly identified and protected. Mitigation still allows a wetland to be disturbed or partly filled in and is therefore deemed unsuitable. Compensation for disturbed wetlands (paying a

fee, and /or finding land elsewhere to construct a human-made wetland) is a financial burden to developers; there may not be land available to construct a new wetland; and this approach does not protect the natural wetland.

- Staff believe that a weighted overall score is part of evaluating the ‘importance’ of a wetland. The City’s weighting is heavily skewed towards hydrological function as that has the greatest impact on municipal infrastructure. However, in any weighting, a wetland that ranks high in a specific function group may not be protected. To overcome this, staff recommend the ESEP approach of using a minimum threshold for each individual function group; if exceeded, the wetland will be protected even if the average weighted score would not result in protection.

Based on a review of the data and the ESEP commentary, staff recommend that all wetlands with an overall average weighted WESP score of 5 or greater be protected. This protects 12 of the 68 Phase 2A wetlands. Furthermore, staff recommend that any wetland with an individual grouped function score of 8.5 or higher also be protected. This protects another 14 wetlands. Staff also recommend protecting Lundrigan’s Marsh, which is a previously identified Conservation Area. This brings the total number of wetlands receiving wetland protection to 27 of 68. Of the remaining 41 wetlands in the study area, 36 will have full or partial protection as they are contained within 1:100-year floodplain and/or buffer. The result is protection in whole or in part of 63 of the 68 wetlands in the Phase 2A study area. Only 5 wetlands would have no protection; they are shown in the images below:



Wetlands EWH-7 and EWH-9 are in the Open Space Reserve (OR) Zone near the Robin Hood Bay waste management area; development there is unlikely.



Wetlands TRN-15 and TRN-14 are both in the new Bally Haly golf course, formerly called the Clovelly golf course; development of the wetlands would be unlikely.



Wetland SL-18 is one of the smaller wetlands in the Southlands neighbourhood.

Development Regulations Amendment Number 36, 2024

The proposed amendment has been updated to reflect staff's revised recommendation: to protect Lundrigan's Marsh as an identified Conservation Area; to protect all wetlands with an overall weighted WESP score of 5 or greater; and to protect all wetlands with an individual WESP grouped function score of 8.5 or greater.

Should Council agree, then Development Regulations Amendment No. 36, 2024 is prepared for adoption. Should Council decide to adopt the attached amendment, it will be forwarded to the NL Department of Municipal and Provincial Affairs for registration. This will conclude the amendment process.

Key Considerations/Implications:

1. Budget/Financial Implications: Not applicable.
2. Partners or Other Stakeholders: Property owners with land in or near a wetland; developers; environmental groups; Environment and Sustainability Experts Panel.
3. Is this a New Plan or Strategy: No
4. Alignment with Strategic Directions:

A Sustainable City: Plan for land use and preserve and enhance the natural and built environment where we live.

An Effective City: Ensure accountability and good governance through transparent and open decision making.
5. Alignment with Adopted Plans: Envision St. John's Municipal Plan's environmental policies.
6. Accessibility and Inclusion: Not applicable.
4. Legal or Policy Implications: A text and map amendment to the Envision St. John's Development Regulations is required.
5. Privacy Implications: Not applicable.
6. Engagement and Communications Considerations: This amendment was publicly advertised as per the Development Regulations. All submissions received are attached. A project page was created on the Engage St. John's website and the associated report is attached.
7. Human Resource Implications: Not applicable.

8. Procurement Implications: Not applicable.
9. Information Technology Implications: Not applicable.
10. Other Implications: Not applicable.

Recommendation:

That Council protect Lundrigan's Marsh, as well as all wetlands with an overall weighted WESP score of 5 or greater, and all wetlands with an individual WESP grouped function score of 8.5 or greater.

That Council adopt Envision St. John's Development Regulations Amendment Number 36, 2024, that will amend section 4.10 and Appendix C, Map 4.

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Approved by: Ken O'Brien, MCIP, Chief Municipal Planner

Report Approval Details

Document Title:	Wetlands Text and Map Amendment - Adoption.docx
Attachments:	<ul style="list-style-type: none">- June 3, 2024 Decision Note - Text and Map Amendment - Wetlands - Adoption.docx- Engage Report - Text and Map Amendment Wetlands - June 5, 2024.pdf- Redacted Submissions as of June 5(2).pdf- ESEP Recommendations to City.pdf- DR Amend No. 36, 2024 - Wetlands - TEXT and MAP (LJR)- October 2024.pdf
Final Approval Date:	Oct 23, 2024

This report and all of its attachments were approved and signed as outlined below:

Ken O'Brien - Oct 23, 2024 - 1:09 PM

Jason Sinyard - Oct 23, 2024 - 3:44 PM