



STAFF REPORT

DATE: June 20, 2019

FILE: 0550-04 Board

TO: Chair and Directors,
Regional Board

FROM: David Leitch
Chief Administrative Officer

RE: OFFICIAL COMMUNITY PLAN CONSULTATION REQUIREMENTS

PURPOSE

To inform the Board on consultation requirements during an Official Community Plan (OCP) amendment process.

POLICY ANALYSIS

During the amendment of an OCP and prior to a public hearing, Section 475 of the *Local Government Act* (LGA) requires the Regional District to provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected, and more specifically to consider whether to consult with the following:

- a) the board of any regional district that is adjacent to the area covered by the plan,
- b) the council of any municipality that is adjacent to the area covered by the plan,
- c) first nations,
- d) school district boards, greater boards and improvement district boards, and
- e) the provincial and federal governments and their agencies.

EXECUTIVE SUMMARY

At its May 22, 2019, the Board requested an analysis by staff regarding its obligation for consultation as it applies to the official community plan amendment process. Staff have received a legal opinion on the matter which confirms that the consultation requirements of the *Local Government Act* apply to the Regional District during its consideration of an OCP bylaw. The legal opinion states that, although the Crown's broad duty to consult does not apply to local governments, during the development of an official community plan local governments are required to consult affected parties. During the development of an OCP bylaw, the Regional District is required to consult affected parties, but is given discretion in determining the nature and extent of such consultation. The Regional District must 'specifically consider' whether to consult and is limited in its discretion only in terms of with whom, when and how much consultation will occur. The Board's level of OCP consultation and any decision to either not consult or limit consultation will need to pass the "reasonableness test" as case law has determined that the standard of review on whether adequate consultation has occurred is reasonableness.

The Board's requirements for consultation are further regulated by Bylaw No. 5, Planning Procedures and Fees Bylaw 2008 which requires that an OCP and/or zoning application be first referred to all other government departments and agencies prior to being considered by the appropriate committee.

RECOMMENDATIONS

THAT the report from the Chief Administrative Officer be received.

Respectfully:



David Leitch
Chief Administrative Officer

Prepared by: A. Nelson, Parks and Planning Manager