



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information ☐	Recommendation ☒	Decision Request ☐	Councillor Activity ☐
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To: Mayor Zebian and Members of West Hants Regional Municipality Council

Submitted by: _____
Sara Poirier, Director of Planning and Development

Date: September 22, 2026

Subject: PAC/HAC Recommendation: Stormwater and Adjacent and Downstream Properties

LEGISLATIVE AUTHORITY

Municipal Government Act Section 213, 214 and 220

RECOMMENDATION

...that Council accept the report submitted to PAC/HAC on September 10, 2026, entitled "Stormwater and Adjacent and Downstream Properties" and direct staff to include, in the plan review documents, a policy requiring development to prevent or adequately mitigate adverse stormwater impacts on adjacent and downstream properties.

BACKGROUND

Property ☐	Public Opinion ☐	Environment ☐	Social ☐	Economic ☐	Councillor Activity ☐
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Resident member Davis brought forward a report to the Planning and Heritage Advisory Committee (PAC/HAC) regarding stormwater and adjacent and downstream properties at the September 10, 2026, meeting (Attachment A). The Committee discussed this matter in length (outlined below) and recommended that Council direct staff to include policy related to this request in the plan review documents.

DISCUSSION

The PAC/HAC discussed this report at the September 10, 2026, meeting. The discussion included:

- the goal of reducing the need for, and cost associated with, individual residents pursuing civil litigation in relation to stormwater management issues between property owners that are created or increased by as-of-right developments;
- acknowledgement of the new regulations proposed in the regional Land Use By-law that would require lot grading plans for any developments of new main buildings in Growth Centres unless waived by the Municipal Engineer (4.19), a stormwater management plan for any development within the Area of Stormwater Concern (Map 6) (4.32), and stormwater management plans for any development of a new main building of 7 units or more in the High Density Residential (R-3) zone (7.4.5). However, Committee members noted that stormwater impacts are not necessarily determined by unit count, mapped boundaries or approval process;
- "development" on a lot versus "activity" on a lot which may create stormwater issues (i.e., the activity of clearcutting land). Clarification that the motion is specific to development based on the "development" definition in the proposed regional Land Use By-law;
- want to create equity for residents as the majority of developments that go through development agreement require stormwater management plans and may have greater protection from stormwater issues than those developments that are permitted as-of-right;
- determination needed on who will oversee enforcement;
- acknowledgement that it would most likely still become a legal matter, now with Municipal involvement;
- determination needed to ensure that the municipality is permitted to enforce this matter and a jurisdictional scan is needed to determine how other municipalities treat stormwater management issues between neighbours; and
- whether this item should be considered outside of the plan review process.

Comments from Public Works Engineering Division

Following the recommendation from PAC/HAC planning staff reached out to the Municipal Public Works Engineering Division for their initial thoughts on how this could be implemented and enforced.

The Municipal Project Engineer stated the following:

"WHRM is responsible for drainage related to its own infrastructure, including roads, culverts, stormwater systems, ditches, and other municipal infrastructure. In Quebec, civil law is governed primarily by the Civil Code of Québec, a comprehensive codified system of statutory law. In the rest of Canada, civil matters are primarily addressed through the common law system, including areas of tort law such as negligence, nuisance, and trespass. Private stormwater disputes are generally resolved by the courts, using the Civil Code of Québec in Quebec and common law principles in the rest of Canada."

Although the grading and landscaping of private lots does not fall under WHRM's direct jurisdiction, we can play an important role through the development approval process to ensure that appropriate due diligence and best practices are followed. The proposed wording in the new regional LUB already introduces a requirement for lot grading plans in serviced areas, as well as stormwater management plans for higher-density developments and developments located in flood-prone areas. These requirements are intended to balance the risk of negative impacts with the engineering and construction costs associated with implementing appropriate stormwater management measures.

The average cost of preparing an engineered stormwater management plan is approximately \$5,000, while construction costs can easily exceed \$10,000, depending on the solution required. Requiring stormwater management plans for low-density, as-of-right development would generally provide little additional benefit over a lot grading plan, while imposing a significant cost that could be restrictive to development. The proposed approach therefore focuses more detailed stormwater management requirements on developments where the potential risks and impacts warrant the additional level of engineering and investment."

The Director of Public Works added the following:

"Applying a blanket requirement for an engineered Storm Water Management Plan (SWMP) to all as of right development and most notably the rural areas of West Hants would introduce many complicated issues with regulatory, logistical, and administrative bottlenecks. Instead of having development permits turned around at the staff level in efficient regular time frame would change drastically. Requiring an engineered SWMP would add multiple weeks if not months to the approval process. Engineering firms with the expertise to design or sign off on small scale residential SWMPs are heavily backlogged with large scale projects. There is also the question of who would be willing to take on the legal liability of sign-off for these projects.

Currently, even in our serviced areas, we have we have an overlap in jurisdiction which may further cause issues. Some roads are provincial with municipal water and sewer services. If the road is provincial, the storm water system is their responsibility and in most all cases is an open roadside ditch, cross culverts etc.

Lastly, this would create an enforcement nightmare. The increase in staff resources, budget and time commitment needed would be greatly increased. Where would the legal right of entry fall to inspect the SWMP? If the systems are neglected they will fail anyway, and there is no ability for the municipality to know if changes were made to the systems ultimately changing the way they were intended to function. Going onto private land to take on a responsibility for something new outside of current municipal jurisdiction would be something to avoid at all costs and highly advised to stay away from."

NEXT STEPS

Following Councils direction, staff will investigate further to determine if and how this could be implemented and enforced through the addition of regulations in the new regional Land Use By-law.

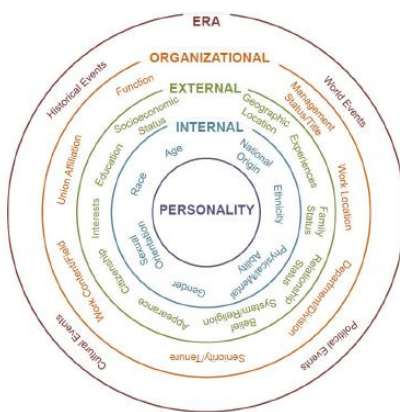
FINANCIAL IMPLICATIONS

Regulations in the new Land Use By-law would provide the opportunity for Development Officers, with assistance from the Municipal Engineer, investigate stormwater-related matters outside of an approved site plan or development agreement, however, may not necessarily mean compliance without litigation. Any significant change in enforcement of stormwater management issues would increase enforcement and legal costs for the Municipality.

DIVERSITY, EQUITY, INCLUSION AND ACCESSIBILITY CONSIDERATIONS

Within the new regional planning documents staff have aimed to strike a balance by introducing new requirements for stormwater management while also trying to encourage new development within WHRM. As Growth Centres are where most new developments are concentrated and higher density developments (7+ units) often require additional lot alterations, the new regulations proposed in the regional Land Use B-law would require lot grading plans for any developments of new main buildings in Growth Centres unless waived by the Municipal Engineer (4.19), a stormwater management plan for any development within the Area of Stormwater Concern (Map 6) (4.32), and stormwater management plans for any development of a new main building of 7 units or more in the High Density Residential (R-3) zone (7.4.5).

Staff understand the goal of PAC/HAC to reduce the need for, and cost associated with, individual residents pursuing civil litigation in relation to stormwater management concerns, however, requiring a stormwater management plan for any development across WHRM, regardless of location, size and type, would mean additional burden and expense for the property owner on the front end, and for the Municipality to enforce and litigate if stormwater issues do arise.



ENVIRONMENTAL CONSIDERATIONS

Through the planning document review there are new regulations proposed in the Land Use B-law that would require lot grading plans for any developments of new main buildings in Growth Centres unless waived by the Municipal Engineer (4.19), a stormwater management plan for any development within the Area of Stormwater Concern (Map 6) (4.32), and stormwater management plans for any development of a new main building of 7 units or more in the High Density Residential (R-3) zone (7.4.5). Outside of the Area of Concern (Map 6) only amendments or development agreements will require a stormwater management plan as determined by the Municipal Engineer.

Additionally, the Municipality is also pursuing updates to the planning documents related to coastal flooding. WHRM received complete funding to engage a consultant, UPLAND, to host up to 7 public sessions within WHRM to gain public insights into planning document amendments for coastal planning. Engagement sessions are expected to be advertised shortly for the fall. The outcome of those sessions will help direct planning policy and regulations regarding flood prone areas such as those impacted by previous large-scale flooding events, coastal erosion and coastal flooding.

ALTERNATIVES

Council may determine the matter should not be investigated further at this time or provide additional direction in relation to this matter.

ATTACHMENTS

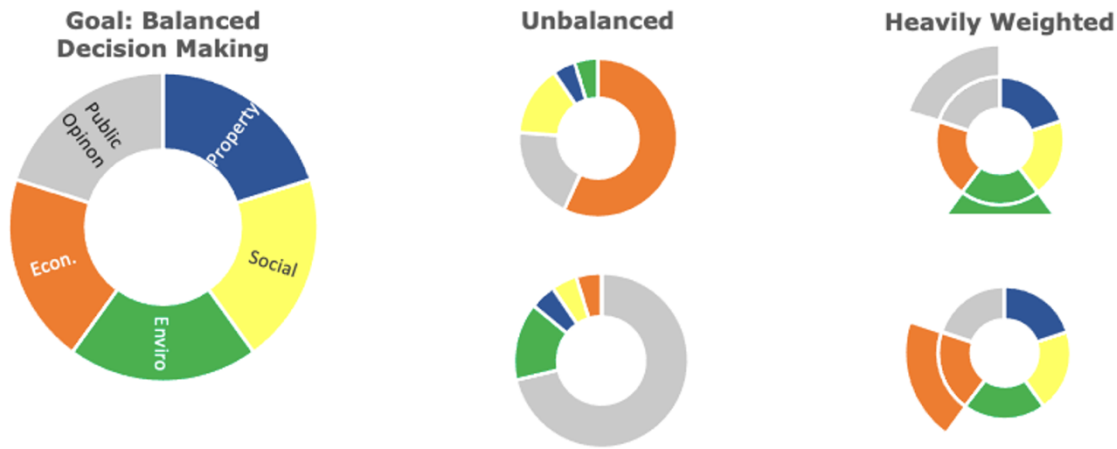
Attachment A	2026-09-10 Report to PAC/HAC - Stormwater and Adjacent and Downstream Properties
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CHIEF ADMINISTRATIVE OFFICER REVIEW

Staff have reviewed the information and provided thorough responses. In this case staff are not advising the adoption of such policy and resources required to achieve the desired outcome from a practical, financial and legal perspective. As the administrator I too advise against this policy suggestion. If Council wishes to continue with the investigation of such blanket policy legal counsel and our insurance provider should be consulted for further information before proceeding with further investigation or policy changes.

As noted in the report, staff are recommending policy change for specific areas and specific thresholds to better manage stormwater as part of the Regional Planning review vs blanket policy. I encourage Council and PAC/HAC members to continue with dialogue on the matter at the up-and-coming workshop.

Council has been provided with a reference taken from the Meeting and Committee Procedural Policy , Appendix C “Decision Making by Council and Committee of the Whole” as a reminder of the principles highlighted for good decision making.



Report Prepared by: _____
Sara Poirier, Director of Planning and Development

Report Reviewed by: _____
Alex Dunphy, Manager of Planning

Report Reviewed by: _____
Tim Bouter, Municipal Engineer

Report Reviewed by: _____
Todd Richard, Director of Public Works

Report Approved by:  _____
Mark Phillips, Chief Administrative Officer



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To: Members of Planning and Heritage Advisory Committee (PAC/HAC)

Submitted by: Jane Davis

Date: September 10, 2026

Subject: Stormwater and Adjacent and Downstream Properties

LEGISLATIVE AUTHORITY

NS MGA Section 213: Purpose of municipal planning strategy

The purpose of a municipal planning strategy is to provide statements of policy consistent with the minimum planning requirements to guide the development and management of the municipality and, to further this purpose, to establish,

- a) Policies which address problems and opportunities concerning the development of land and the effects of the development;

Minimum Planning Requirements Regulations, made under subsection 214(4) of the MGA,
Discretionary content related to the natural environment,

9 A municipal planning strategy may include statements of policy on any of the following:

- f) stormwater management and erosion control;

RECOMMENDATION or DECISION REQUEST

That council establish a policy requiring development to prevent or adequately mitigate adverse stormwater impacts on adjacent and downstream properties.

BACKGROUND

WHRM has regulations which address stormwater concerns but does not provide any protection for adjacent properties. With the changes to residential zones through the housing accelerator fund, as of right developments can create 4-12 units depending on zone and size of

lot. In the past these would have been controlled under a development agreement and stormwater issues addressed.

DISCUSSION

Proposed addition to policy 3-54 for inclusion in the plan review documents.

3.6.2 Stormwater Management, pg. 22

Policy 3-54 a) No development or alteration of land shall be undertaken in a manner that creates or increases an adverse stormwater impact on adjacent or downstream properties.

NEXT STEPS

Include in plan review documents.

FINANCIAL IMPLICATIONS

No financial implications

ALTERNATIVES

Indicate under which policy this may already be included in the plan review documents.

ATTACHMENTS

None.

DIRECTOR OF PLANNING REVIEW

Currently, stormwater management issues that do not involve municipal infrastructure or are not covered under an approved development agreement that required a stormwater management plan (i.e. backyard drainage problems or changes made by one property owner that negatively impact their neighbour) is a private civil matter that would need to be litigated.

Through the planning document review there are new regulations proposed in the Land Use B-law that would require lot grading plans for any developments of new main buildings in Growth Centres unless waived by the Municipal Engineer (4.19), a stormwater management plan for any development within the Area of Stormwater Concern (Map 6) (4.32), and stormwater management plans for any development of a new main building of 7 units or more in the High Density Residential (R-3) zone (7.4.5). Outside of the Area of Concern (Map 6) only amendments or development agreements will require a stormwater management plan as determined by the Municipal Engineer.

In relation to the proposed policy in this report, it will require further staff investigation to determine how it could be implemented and enforced through the addition of regulations in the new Land Use By-law. Regulations in the new Land Use By-law would provide the opportunity for Development Officers to investigate stormwater-related matters outside of an approved site plan or development agreement, however, may not necessarily mean compliance without litigation. Any significant change in enforcement of stormwater management issues would increase enforcement and legal costs for the Municipality.

Report Reviewed by: _____
Sara Poirier, Director of Planning and Development