



## Governance and Priorities Committee Report

### For the Meeting of July 24, 2014

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**To:** Governance and Priorities Committee **Date:** July 17, 2014  
**From:** Deb Day, Director, Sustainable Planning and Community Development  
**Subject:** Proposed Amendments to Zoning Regulation Bylaw and Official Community Plan Bylaw (Development Permit and Heritage Conservation Areas) to Support Rainwater Management Incentive Program

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### Executive Summary

The purpose of this report is to present Council with information, analysis and recommendations regarding regulations that could be streamlined to encourage participation in the Rainwater Management Incentive Program. The need for permits and planning approvals has been identified as a potential barrier to the participation of property owners in the Stormwater Utility Program's Rainwater Management Incentive Program. Nonetheless, zoning regulations, Development Permits (DP) and Heritage Alteration Permits (HAP) serve important purposes.

Without proper regulation and oversight, there is the potential for poorly designed rainwater management practices on private property that may have negative impacts on adjacent properties or the public realm. However, an overly onerous approval process and/or regulations may deter participation in the Rainwater Management Incentive Program. Furthermore, depending on the uptake of the Rainwater Management Incentive Program, the administration of DPs and HAPs could require significant staff and Council resources.

Staff have identified an approach that would achieve the goals of encouraging and streamlining the Rainwater Credit approval process:

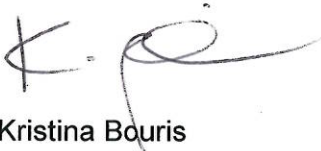
- that green roofs, cisterns and landscaping-related works (rain gardens, bioswales and permeable paving) on private property, approved under the Rainwater Management Incentive Program, be exempted from requiring a DP or HAP
- that rooftop cisterns be excluded from height calculations in the *Zoning Regulation Bylaw*.

### Recommendations

1. That Council direct staff to prepare amendments to the *Official Community Plan* that would:
  - a) exempt rain gardens, bioswales, permeable paving, green roofs and cisterns approved under the Rainwater Management Incentive Program from requiring a Development Permit or Heritage Alteration Permit.

2. That Council direct staff to prepare amendments to the *Zoning Regulation Bylaw* that would:
  - a) exempt rooftop cisterns approved under the Rainwater Management Incentive Program from height regulations
  - b) clarify that cisterns approved under the Rainwater Management Incentive Program must comply with zoning regulations, in particular, setbacks, site coverage and parking requirements.
3. That Council direct staff to prepare and distribute public information encouraging proper placement and screening of cisterns for Rainwater Management Incentive Program participants.

Respectfully submitted,



Kristina Bouris  
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Alt.



Deb Day, Director  
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Report accepted and recommended by the City Manager: \_\_\_\_\_



Jason Johnson

KB:aw

Date: \_\_\_\_\_

July 17, 2014

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## **1.0 Purpose**

The purpose of this report is to present Council with information, analysis and recommendations regarding Development Permit Area (DPA) and Heritage Conservation Area (HCA) requirements and zoning regulations that could be streamlined to encourage participation in the Rainwater Management Incentive Program.

## **2.0 Background**

The City of Victoria will be implementing a Stormwater Utility Program in 2015. A proposed Rainwater Management Incentive Program has been developed for private properties which will provide ongoing annual credits and rebates for pre-determined sustainable rainwater management practices (RMPs) for both existing properties and new developments. Engineering and Public Works will be working with the appropriate City departments to design and implement a coordinated credit application process. The need for a simple and streamlined incentive application process was identified as a key outcome of the public engagement on the Stormwater Utility (GPC report January 14, 2014).

Currently, some RMPs encouraged under the Rainwater Management Incentive Program will be subject to zoning regulations. For those properties within a Development Permit Area (DPA) or Heritage Conservation Area (HCA), the construction or installation of the following RMPs would currently require a Development Permit (DP) or Heritage Alteration Permit (HAP):

- rain gardens, bioswales, permeable pavers and green roofs (in DPAs/HCAs that have requirements regarding landscaping)
- cisterns<sup>1</sup> (in DPAs/HCAs that have requirements regarding the siting, form, exterior design and finish of buildings or other structures)

To qualify for the Rainwater Management Incentive Program, most RMPs will need to be installed by a qualified professional and obtain a plumbing permit. Staff will also review any relevant zoning regulations as part of the Plumbing Permit and Rainwater Management Incentive Program application processes.

## **3.0 Issues & Analysis**

Staff have identified three key issues, discussed throughout the sub-sections that follow:

- Overly onerous regulations and approval processes may deter property owners from participating in the Rainwater Management Incentive Program.
- Depending on the uptake of the Rainwater Management Incentive Program, the processing of DPs and HAPs could require significant staff and Council resources to administer.
- Without proper regulation and oversight there is the potential for poorly designed RMPs that may have negative impacts on adjacent properties or the public realm.

### **3.1 Potential Zoning Amendments**

Zoning regulations serve an important purpose in regulating development and minimizing negative impacts on adjacent properties, but may present a barrier to the installation of certain RMPs. Some regulation may be needed to ensure RMPs are compatible with adjacent land uses. Two issues are of particular concern: ensuring that on-the-ground cisterns are in compliance with

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<sup>1</sup> A cistern is a rainwater storage tank over 1200 litres in volume.



regulations for setbacks, site coverage, and parking requirements, and that rooftop cisterns are compliant with height regulations to reduce negative impacts on surrounding properties.

In their analysis, staff identified several potential scenarios where exempting on-the-ground cisterns from zoning regulations could potentially cause conflict with adjacent properties (e.g. a large cistern located on the property line; removing a required parking stall to install a large cistern). The main concern with on-the-ground cisterns is the potential for negative visual impacts from adjacent properties and the public realm. From a zoning perspective, requiring cisterns to comply with regulations for setbacks, site coverage and parking requirements would reduce potential negative impacts on neighbouring properties. Compliance with zoning regulations would be reviewed by staff during the Rainwater Management Incentive Program application process.

Another zoning issue is whether to allow cisterns in the front or side yards. Cisterns in these locations could have negative visual impacts. However, these locations may be the most appropriate from a rainwater management perspective due to roof or land drainage patterns and should, therefore, be allowed, subject to setback requirements. Screening or placement of cisterns can help reduce the visual impact in front and side yards and could be encouraged through educational material as part of the incentive application process.

With respect to rooftop cisterns, there is the potential for the height of rooftop cisterns to have an impact on the view from adjacent buildings. This impact is of most concern in lower-density residential areas, where the visual impact on neighbours has the potential to be more keenly felt. However, rooftop cisterns are most likely to be installed in new multi-unit residential, industrial or commercial buildings, not in low-density buildings, due to available yard space and the cost and structural engineering requirements. It is possible that a rooftop cistern may be installed on a low-density residential building however this is a low risk. Rooftop cisterns will also be connected to the building's plumbing system. Excluding rooftop cisterns from the building height calculation would be consistent with the approach taken in the *Zoning Regulation Bylaw*, which currently exempts mechanical equipment (e.g. antennae, elevator shafts) from height regulations.

In summary, staff recommend excluding rooftop cisterns from building height calculations, and that on-the-ground cisterns be required to comply with setbacks, site coverage and parking regulations.

### **3.2 Exempting Development Permit and Heritage Alteration Permits for Landscaping-Related Projects**

The main concern with respect to landscaping-related RMPs (rain gardens, bioswales and permeable paving) is poorly designed projects that do not complement the design or character of the development, particularly in locations that are visible from adjacent properties or the public realm. Green roofs also present a similar concern, although to a lesser extent, as they are often less visible from the public realm. This concern is relevant to existing properties only (for example, a property owner wishing to install a rain garden as part of an existing townhouse development would be required to obtain a DP). The landscaping and green roofs in new developments will be reviewed as part of the larger DP application for the whole site.

Without changes to existing DP and HAP requirements, processing DPs and HAPs for landscaping-related RMPs in existing developments could have significant administrative impacts for staff and Council, depending on the uptake. The time, cost and extra steps involved in obtaining a DP or HAP may create barriers to participation by property owners.

Exempting these landscaping-related projects from requiring a DP or HAP could run a risk of an



unattractive or poorly designed project. However, the risk is lessened given the Rainwater Management Incentive Program's stipulation that rain gardens, bioswales, permeable paving and green roof projects be designed by a qualified professional and that a Plumbing Permit be obtained (thereby providing staff oversight of functionality and placement on site, but not appearance). Furthermore, the financial cost to install these features is significant and property owners will likely have an interest in the design and aesthetics of the project as a result. Overall, the risk of a poorly designed or unattractive project is deemed to be low. Therefore, staff recommend exempting landscaping-related projects approved under the Rainwater Management Incentive Program from requiring a DP or HAP.

### **3.3 Exempting Cisterns from DP / HAP Requirements**

Under the Rainwater Management Incentive Program, a cistern may range from 1,200 litres to 9,000 litres (over which size it will require the approval of the Director of Engineering and Public Works), is permanent and is often connected to the plumbing system. Due to its size, a cistern would be considered a "structure" and therefore would trigger the requirement for a DP or HAP depending on the DPA or HCA in which it is located. The main concern with on-the-ground and rooftop cisterns is the potential for unattractive or poorly designed projects that do not fit the character of existing development (proposed cisterns in new developments will be reviewed through a DP for the whole site). This is of particular concern where they would be visible from the public realm or adjacent properties, such as in front yards, side yards or rooftops. This is less of a concern in rear yards as they are often, although not always, less visible. Many cisterns will likely be located in rear yards due to the availability of space.

As with the landscaping-related RMPs, the time, cost and steps involved in obtaining a DP or HAP will likely discourage participation by property owners. Furthermore, processing DP and HAPs for cisterns could have significant impact on Council and staff resources. One option is to exempt all cisterns approved under the Rainwater Management Incentive Program from requiring a DP or HAP. Educational materials distributed during the incentive program application process could encourage property owners to consider screening and placement in order to minimize visual impacts. An alternative option would be to require a DP or HAP only in the most visible locations (side yards, front yards and rooftops) but exempt cisterns in rear yards. This would maintain oversight where it is needed most while reducing barriers for property owners and resource needs for Council and staff. However, the requirement for a DP or HAP – even in a narrower range of locations – may still present a barrier to participation.

If Council still wished to maintain oversight over the design and placement of cisterns through a DP or HAP approval process, one option would be to require what is commonly referred to as a "minor" DP or HAP (a DP or HAP that is issued by staff rather than Council). Delegating the authority for approval to staff would shorten the processing time (from several months to 1-2 weeks) and include an application fee of \$200. The application fees could also be exempted altogether, as is currently in effect for DPA 8 - Gorge Waterway.

Requiring a "minor" DP or HAP would lessen the risk of poorly designed projects visible from the public realm and adjacent properties, yet reduce the time and cost barriers for participants. However, the requirement for even a "minor" DP or HAP may still be perceived as a barrier to participation in the Rainwater Management Incentive Program. As a result, staff recommend exempting all cisterns from requiring a DP or HAP. In order to minimize any potential negative visual impacts, staff also recommends that educational materials be distributed to Rainwater Management Incentive Program participants to encourage proper screening and placement of cisterns.



## 4.0 Options & Impacts

Staff have identified an approach that would achieve the goal of encouraging and streamlining the Rainwater Management Incentive Program process:

### 4.1 Option 1 (Recommended):

- a) Exempt landscaping-related projects, green roofs and cisterns approved under the Rainwater Management Incentive Program from requiring a DP or HAP;
- b) Prepare and distribute public information for Rainwater Management Incentive Program participants encouraging proper placement and screening of cisterns;
- c) Amend the *Zoning Regulation Bylaw* to require cisterns to comply with zoning regulations, in particular, setbacks, site coverage and parking requirements, and exempt rooftop cisterns from height regulations.

### 4.2 Option 2:

- a) Exempt landscaping-related projects and green roofs approved under the Rainwater Management Incentive Program from a required DP or HAP;
- b) Exempt cisterns approved under the Rainwater Management Incentive Program that are located in the rear yard from requiring a DP or HAP;
- c) Delegate approval authority for DPs or HAPs for front yard, side yard and rooftop cisterns to the Director of Sustainable Planning and Community Development;
- d) Exempt application fees for DPs or HAPs for front yard, side yard and rooftop cisterns;
- e) Prepare Development Permit and Heritage Conservation Area guidelines for placement and screening of cisterns;
- f) Amend the *Zoning Regulation Bylaw* to require cisterns to comply with zoning regulations, in particular, setbacks, site coverage and parking requirements, and exempt rooftop cisterns from height regulations in medium and higher-density zones.

## 5.0 Recommendations

1. That Council direct staff to prepare amendments to the *Official Community Plan* that would:
  - a) exempt rain gardens, bioswales, permeable paving, green roofs and cisterns approved under the Rainwater Management Incentive Program from requiring a Development Permit or Heritage Alteration Permit.
2. That Council direct staff to prepare amendments to the *Zoning Regulation Bylaw* that would:
  - a) exempt rooftop cisterns approved under the Rainwater Management Incentive Program from height regulations
  - b) clarify that cisterns approved under the Rainwater Management Incentive Program must comply with zoning regulations, in particular, setbacks, site coverage and parking requirements.
3. That Council direct staff to prepare and distribute public information encouraging proper placement and screening of cisterns for Rainwater Management Incentive Program participants.