



200 – 2006 West 10th Avenue
Vancouver, BC V6J 2B3
www.wcel.org

tel: 604.684.7378
fax: 604.684.1312
toll free: 1.800.330.WCEL (in BC)
email: admin@wcel.org

February 1, 2010

Comments of West Coast Environmental Law on Metro Vancouver 2040 Shaping Our Future (November 2009 draft)

General Comments

West Coast Environmental Law (“West Coast”) appreciates the opportunity to submit comments on the latest draft of Metro Vancouver’s new draft regional growth strategy (RGS).

West Coast supports the direction of the RGS and the goals and strategies set out therein. We believe the RGS sets out a sustainable vision for the region as well as a range of strategies, which if supported by strong and committed actions, would see the region achieving its goals. We support the RGS’ approach of identifying the roles and responsibilities of each of the governments that are party to the plan, as well as the actions requested of other governments and agencies. This seems to be a useful way of framing the actions.

However, we are concerned that the actions and RGS approvals and amendment processes reflect a lack of commitment on the part of the municipalities to support the regional goals and strategies, and that unless these are made more rigorous, the region has little hope of achieving the direction and goals set out in the RGS. The failure to “hold the line” or to stipulate clear or rigorous standards on issues such as the Frequent Transit Development Corridors, maintenance of the Urban Containment Boundary (without exceptions like Special Study Areas), density in Rural Areas, use of “Mixed Employment Areas” and others, will undermine the region’s ability to achieve the stated direction and goals. What is needed is concerted action, and the actions set out in the RGS suggest a greater concern for flexibility than a commitment to act in unity on issues which experience tells us suffer from the incremental “death by a thousand cuts.” We would therefore recommend the region and municipalities revisit the actions stipulated, recognize that they will not achieve the stated goals and address that with stronger actions and commitments.

Specifically, we note the repeated and frequent use of the word “appropriate” throughout the Plan. Without any parameters or explanation to create a reference point (appropriate in what way and according to whom?), our view is that the use of the term is non-descript and therefore ineffective. The use of this ambiguous descriptor also leaves the reader with an impression that the RGS lacks either clarity or commitment, since the use of “weasel” or “wiggle” words that have no precise meaning means the parties to the RGS will not be able to be held accountable to any predictable or sure standard. We would submit that it would be preferable to resolve disagreements concerning meanings and standards now and arrive at agreements that can be enforced, than to employ words that are meaningless. To solve this problem, we recommend a careful review and weaning of the RGS’ liberal use of the term “appropriate”.

We have a similar, general concern regarding the use of the phrase “consistent with” or “generally consistent with”. We have explained our concern with the weakness of this phrase at Strategy 1.2 and would recommend the phrase’s amendment wherever that is feasible, and certainly the removal in all cases of the modifier “generally” which simply serves to further weaken the standard.

To the extent that Metro Vancouver is concerned about retaining flexibility in the implementation of the RGS, this concern is largely addressed by the sections of the *Local Government Act* which mandate regional growth strategies.¹

Many of our detailed comments, which follow, relate to the specific wording of the draft RGS, and are listed simply as suggested revision to the text on a particular page or paragraph. In most cases the purpose of these revisions should be self-explanatory.

Detailed Comments (following RGS format)

A The Sustainability Framework: Context for the Regional Growth Strategy

We support this section and found it to be clear except for the lack of an explanation of how the described interrelationships are actually operationalized.

B Linkages to other regional plans

We would like to see a stronger, more explicit and enforceable linkage made between the commitments in the Liquid Waste (Resource) Management Plan and the land use planning strategies and actions of the RGS. While we see some positive linkage has been made in setting some controls on the expansion of the sewer infrastructure, we do not see a similar level of specificity concerning the need for municipalities to take action to conduct watershed planning, green infrastructure and integrated resource management approaches that will inform and shape whether, how and where land will be developed and serviced, to protect our watersheds' health, to conserve water and energy supplies, and to protect and enhance the biodiversity and resilience of the region.

p. 7 – last para: add “and Ecological Health” after Regional Parks and Greenways” and change “Plan” to “Plans”.

C Challenges and Responses

p. 8 – Protecting the Natural Environment - should speak of protect “and improve” the natural environment for the benefit of current and future generations

p. 8 – change heading “Responses” to “Responses: Goals, Strategies and Actions”

Add “See Figure X” to tell people they should then look to the next page as a depiction of all of those

¹ *Local Government Act*, R.S.B.C. 1996, c. 323. Section 849 indicates that the purpose of a regional growth strategy is to provide “guidance”, and while the strategy should included “proposed” actions, regional growth strategies do not generally create binding legal obligations on the affected local governments. Section 865 specifically indicates that regional growth strategies do not “commit or authorize a regional district, municipality, greater board or improvement district to proceed with any project that is specified in the regional growth strategy.” There is a general requirement that bylaws and services adopted by a local government be “consistent” with the regional growth strategy, but this has been found by the courts to be a weak requirement. To weaken the plan still further with vague and discretionary language undermines the purpose of a regional growth strategy.

pp. 8-9 – We would recommend that the last paragraph on p. 8 provide some transitioning language to link this introductory and explanatory paragraph of the Goals, Strategies and Actions to the Table on page 9, to clarify the context for the Table

Under Goal 2, there is a grammatical problem with the first sentence: change “is” to “are”?

D Land Use Designations

p. 10 – General Urban

There needs to be greater clarity around the use of the term “neighbourhood centres” and the planning goals with respect to neighbourhood centres, as it is currently somewhat confusing. Are the neighbourhood centres being encouraged to grow as centres or are they simply being recognized, but are intended in a prospective way, to remain static? Would it be appropriate to say that if new major trip/employment generators cannot be accommodated in Urban Centres that they would be encouraged to locate in neighbourhood centres as a second choice? Also, what level of transportation service is appropriate for neighbourhood centres? What relationship, if any, do neighbourhood centres have with frequent transit development corridors?

p. 10 – Mixed Employment

The land use designation “mixed employment” is a confusing euphemism. These areas should be called by the name by which they are understood, i.e. office parks that have intruded into industrial areas. There should be an explicit requirement to phase out these uses and to replace them with industrial or commercial uses that do not create such a transportation demand – or at least greater clarity as to whether these uses are merely being tolerated, are accepted or whether an attempt will be made to phase them out over time.

p. 10 – Agricultural and Rural

In light of climate change and the need to protect the region’s biodiversity, we would urge giving some consideration to adding a preservation of habitat/biodiversity objective to the Agricultural and Rural land use designations.

E Goals, Strategies and Actions

Goal 1 Create a Compact Urban Area

Strategy 1.1

p. 14, 1.1.2 – “The GVSDD will not extend regional sewage treatment services to the Rural, Agricultural or Conservation and Recreation areas, except for building footprints in cases where infrastructure is needed to address a public health issues, protect the region’s natural assets or service agriculture.”

We are concerned that the exceptions stipulated are not as strict as they may seem and will be vulnerable to development “creep” that is then said to result in a public health issue. We would recommend the stipulation of mandatory cost-sharing with the municipality as a disincentive to municipalities incrementally approving development that contributes to the ultimate need for regional sewage treatment services.

p. 14, 1.1.3 – The role of municipalities is to:....

(c) identify policies that direct growth to established areas prior to the development of newly developing areas

We would recommend more specific guidance here, such as the authorization of secondary suite and coach house development, higher density mixed zoning, transportation-oriented development zoning, tax and other incentives for infill development, tax and other incentives for brownfield redevelopment, etc.

Strategy 1.2

p. 16 – We are concerned that the frequent transit development corridors are not fixed in the RGS but will only appear in the Regional Context Statements (RCS) if they are “consistent with the guidelines set out in Figure 4.”

We would further observe that the standard of “consistent with” is not a rigorous standard and the *Local Government Act* itself, in defining RGSs, already provides ample flexibility to municipalities concerned with the commitments made in the RGS (see above and footnote 1). The case law shows the words “consistent with” are interpreted to mean “not directly contrary to”. We are concerned that the objective of establishing some rigour to where frequent transit corridors will be located is undermined by the flexibility of leaving their establishment to future negotiations and a flexible linkage to guidelines. If the establishment of the frequent transit corridors cannot be fully developed in the final RGS, at a minimum the RGS should state that the corridors will only be included in the RCS if they have “met each and all of the guidelines set out in Figure 4.”

p. 16, 1.2.3(d)(ii) – This is fairly clear about the action required but we would suggest it would be improved if it was more specific in number.

p. 16, 1.2.3(e) – No explicit guidance or requirement is made regarding on how municipalities will discourage higher density residential development outside of Frequent Transit Development Corridors and Urban Centres. There is also no explanation of whether municipalities may direct higher densities to neighbourhood centres (see comments above on this topic).

(g) – While support for district energy is positive, and does have a reasonable connection with higher densities, we would also recommend support for district energy under “support a sustainable economy” and “support the region’s environment and respond to climate change.”

We would further recommend support for green designs, rainwater recovery, reuse and integration of purple pipe systems and heat recovery as things to be integrated into neighbourhood concept and design.

p. 18 Figure 4 – We would recommend removing the word “generally” which simply creates room for deviations from the standard.

There is a need to clarify the relationship between the frequent transit corridors, Urban Centres and neighbourhood centres.

Strategy 1.3

p. 20, 1.3.2

Same comment as 1.1.2 above.

p. 20 1.3.3

(a) The standard of “consistent with” is too vague a standard of mapping. For mapping, it should be “identical with” or “the same as”.

(b) We are concerned that densities should be stipulated in the Rural Area land use designation. If the definition of densities is left to the municipalities, we are concerned they will be susceptible to pressure from developers, as they are the “front line” for this kind of upward pressure. We are concerned that a standard requiring “consistent with the intent of the Rural area land use designation, state the level of development for the Rural area” is far too loose and vague as to be meaningful or enforceable.

(c) Again we are concerned that the language is extremely vague, so as to be meaningless as a standard or a commitment.

(c)(ii) We would note that this does not absolutely prohibit subdivisions that require a sewer system, only those that require connection to the regional sewer system. So this becomes a loophole that would allow subdivisions that would have sewer systems put in and funded by the developer.

Goal 2 Support a Sustainable Economy

This could be strengthened with more explicit commitments around how the RGS and actions under it will support a green economy – green building, green technology, reduced footprint, reduced consumption, better management of solid and liquid waste integrated with development decisions – whether to develop, where, and how.

Strategy 2.1

p. 24, 2.1.4 – The commitments from municipalities with respect to the development of Regional Context Statements are too vague:

a) There should be further elaboration here regarding the connection of educational institutions to scientific community and industry, as research centres, and the commitment should also mention the need for policies to support housing and transportation nearby, so it’s economy and employment close to home.

d) should this include a “such as...”?

NEW - Should there be a 2.1.10 First Nations – collaborate on shared economic matters?

Strategy 2.2

p. 25 2.2.4

a) Recommend removing the word “generally” as “consistent with” is already an extremely flexible standard and should not be necessary for something like mapping. Recommend replacing the words “generally consistent with” with the words “that reproduces”.

b) (ii) – “restrict office and retail uses to a small scale, generally those ancillary to industrial activities and those that serve local workers.”

We would recommend tightening the language here to re-word it to state new offices and retail uses will be prohibited unless the uses are ancillary to industrial activities or their workers.

(d) As noted above, the use of the term “mixed employment area” is a confusing euphemism. There should be explicit requirement to phase such office uses out and replace them with industrial or commercial uses that do not create such a transportation demand.

(d) (ii) This policy points to the need to clarify whether such office uses will be permitted to persist or whether there is an intention to phase them out. What *is* “appropriate”? It is not clear, and the lack of clarity renders the policy ineffective as an action.

Goal 3 Protect the Region’s Environment and Respond to Climate Change

p. 31 suggests Figure 7 is about “the ways in which land use and transportation strategies and action contribute to reducing greenhouse gases and preparing for climate change impacts.” At Figure 7 the centre text refers to “reducing GHGs and preparing for a low carbon future,” which is a different thing. The focus on adaptation is not stated in the actual Figure 7 and this appears to be a lost opportunity to share some of the climate change focus on adaptation goals, consistent with strategy 3.4. We recommend either adding adaptation goals to Figure 7 or having a separate adaptation Figure.

p. 33 3.1.4 – Recommend the removal of the word “generally” in “generally consistent”. See comments above.

p. 33 3.1.4 (b) (v) – “commercial uses that serve conservation and/or recreation users”

We find the language here too imprecise, particularly given the high level of public concern about commercial intrusions into parks and public spaces. The words as currently stated might include, for example, a large commercial restaurant in a conservation area or motorized recreation, both of which we would think should not be permitted uses. We recommend the use of more careful language to define more carefully the kinds of uses that will ensure protection is maintained.

Strategy 3.2

NEW We would recommend a stand-alone guideline that clarifies that the Greenway Network does not permit commercial uses of public space, and that the Network will not permit motorized uses.

p. 35 3.2.4 – We would recommend that the mapping should aim to specifically include areas that are sensitive to climate change impacts.

p. 35 3.2.5 – We are unsure what “develop and manage” means. We would recommend clarification that the commercialization of public space would be contrary to the RGS objectives.

We would also recommend being clear that the recreation greenway should not be a place for motorized recreation.

Finally, we are wondering if there may be a downside to seeking to address connectivity for recreation and ecological concerns in a single network covering all of these areas. We are concerned that some areas may already be ecologically stressed from overuse or be ecologically sensitive and that increased recreational connectivity may undermine the ecological benefits of increased connectivity.

p. 35 3.2.6 – Recommend adding “and implement” after “Identify...”.

p. 35 3.2.8 Agree!

p. 38 Strategy 3.3

We would recommend the addition here for municipalities to review their development standards to require the integration of pedestrian- and cycling-friendly facilities and linkage with public transit, and reduction in available vehicle parking, with an associated increase in price.

We would further recommend that an action relating to water conservation should be made here. Water conserved is energy (and its associated GHGs) conserved.

Strategy 3.4

We support IPREM as a good way to initiate hazard identification and emergency response.

p. 39 3.4.4 and .5 – We recommend adding extreme rain and wind to the list of hazards.

p. 39 3.4.6 – We recommend there should be some reference to protecting and managing infrastructure investments, planning for land use needs and social planning arising from climate-related in-migration, and protection of biodiversity and natural capital.

The adaptation strategy omits any focus on identification of opportunities that may flow from climate change impacts – i.e. all the focus is on hazard management. We recommend adding “Identifying and acting on opportunities” as an additional component of increasing the resilience of Metro Vancouver communities.

Goal 4 Develop Complete Communities

Strategy 4.2

We would recommend a better integration of transportation and water sustainability goals into this strategy.

p. 43 4.2.3 – Re: our comments above concerning ambiguity in the definition, purpose and future direction of neighbourhood centres, we note there is some direction here, though what “good access to transit means” is undefined. Recommend refining and promoting some of these ideas into other parts of the RGS to make it clearer.

p. 43 4.2.5 – What does “appropriate” mean here? The statement as is provides no meaningful direction and there does not appear to be direction elsewhere except in the definition of neighbourhood centre which seems to suggest these already, by definition, have “good access to transit”. Is this a direction to maintain current level of service or something else? If a direction to improve service to these neighbourhood centres, does it dilute efforts to support designated Urban Centres with excellent transit?

There should also be a request here to TransLink for increased levels of support to Urban Centres.

Goal 5 Support Sustainable Transportation Choices

Strategy 5.1

p. 48 – We support the actions listed under this strategy but would additionally recommend that municipalities be considered a partner accountable to working towards VKT reduction targets, not just TransLink.

F Implementation

p. 52 6.2.2 – This action currently stipulates a simple majority weighted vote for acceptance of the regional context statement (RCS). Given the importance of the RCSs to the implementation of the RGS, we would recommend a higher level of satisfaction, i.e. a two-thirds vote.

p. 53 6.2.6 line 3 – “effecting” should be “affecting”

p. 53 6.2.8 – We disagree with the apparent flexibility that has been given to the municipalities in relation to the Special Study Areas. While these areas are defined on Map 11, the purpose and effect of these Special Study Areas is not defined or discussed in the RGS. Based on context and statements in the media, these seem to be the areas beyond the UCB that municipalities are wanting to develop in a way inconsistent with the UCB. We would submit that creating “Special Study Areas” in this way undermines the effectiveness of having a UCB. If the response to controversy is to give in by creating special categories of exception, then why even draw a line?

Moreover, the RGS should include an explanation of what type of study or use is contemplated by these areas. Does the designation of a Special Study Area give a municipal government a complete discretion to put anything it wants regarding the area into a RCS, regardless of the impacts on the RGS? What is the intended purpose and use of this designation?

A RCS is the primary means by which consistency is ensured between a RGS and official community plans, and exempting an area from the requirement of consistency is a surprising and alarming step which requires explanation. It is not at all clear what the legal effect of this provision is. Section 866 of the *Local Government Act* clearly requires a RCS to explain how an official community plan relates to the objectives of the RGS and how the Official Community Plan will be made consistent with the RGS. Does s. 6.2.8 mean that RCS need not explain the relationship between the SSAs and the RGS at all? Does it mean that activities on those lands will never need to be consistent with the RGS? The RGS seems to simultaneously purports to include the SSAs while at the same time introducing a discretion that is at odds with section 866. Although we have not completed a full legal review, we are not clear that Metro Vancouver has the legal authority to enact such discretion.

G Monitoring and Performance Measures

Goal 1

Strategy 1.1.

We would recommend adding a performance measure: Number of amendments to the UCB, including as a result of changes to a Special Study Area boundary.

Strategy 1.3

We would recommend that the measure of residential density in the Rural areas should specifically report highest, lowest and median per acre densities.

Goal 3

Strategy 3.3

We would recommend the addition of a density performance measure, as well as a performance measure of green building share.

Strategy 3.4

We note there is only one performance measure for adaptation. While it is good that adaptation has been addressed in the RGS, this would be more effective if additional, more detailed performance measures were added. We would recommend the addition of the following performance measures:

- Percentage of population living in hazardous areas
- Water consumption levels per capita
- Acreage of land in agricultural food production
- Number/extent of water/transit service interruptions attributable to climate event.

Conclusion

For all of the foregoing reasons, West Coast supports the regional goals and strategies, but has concerns that the stipulated actions do not have sufficient rigour to ensure the accomplishment of those goals. They rather appear to reflect a lack of agreement and commitment on what needs to be done by each of the municipal partners. We therefore recommend that Metro and the member municipalities recognize the value that clear language would bring, and avoid locking themselves into meaningless commitments. Accordingly, we recommend Metro and its members take the time now, at the outset, to figure out and resolve differences together, and to make the real commitments that need to be made to see the region to a sustainable future.

Thank you again for the opportunity to offer comments.