



BUILDING A GREATER GTA
Building Industry and Land
Development Association

PW10.5.1



January 20, 2016

Chair Jaye Robinson and members of the Public Works and Infrastructure Committee
Toronto City Hall
100 Queen St. West
Toronto, ON
M5H 2N2
Sent via email to: clerk@toronto.ca

Dear Chair Jaye Robinson and members of the Public Works and Infrastructure Committee,

RE: PW10.5 Proposed Amendments to the Sewers and Water Supply By-laws

The Building Industry and Land Development Association (BILD) and RESCON are in receipt of the staff report for the January 21st Public Works and Infrastructure Committee meeting and we submit the following comments with respect to item PW10.5 Proposed Amendments to the Sewers and Water Supply By-laws. We acknowledge that this report recommends the adoption of amendments to these by-laws. The report summarizes the intended changes to the by-laws as follows:

- “- zero tolerance for pesticides discharges;*
- new reporting protocols for dental amalgam separators;*
- a new environmental code of practice for food service establishments;*
- a Best Management Practice (BMP) for automotive refinishing sector and combining it into one BMP for automotive servicing facilities; and*
- clarifications and enhancements to each By-law.”*

The City of Toronto has been a leader in embracing green initiatives. Zero tolerance for pesticides discharges is an example of the City's leadership. BILD and RESCON have supported many of the City's green initiatives. Our concern with the proposed amendments is not in its substance, but in its drafting. We wish to highlight three issues:

- 1. The proposed amendments which are intended to be “clarifications and enhancements” and which are not specifically described in the report, dramatically change how things are done in the City and will impact residents and developers.**

The new definition of private water and its application has resulted in a *catch-all*, specifically in the context of the existing sewer code and specifically sanitary/combined sewers. Our industry's main concern with the definition of private water is that it includes 'storm water.' In 681-4K, the term private water is replacing a list that didn't include storm water. As a result, any discharge of storm water would require a written approval by way of a discharge agreement or permit. We view this as a big change as all developments have storm discharge which currently don't require any testing or sampling (metering would be very difficult). We believe this is an unintentional oversight and could easily be corrected.

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We recognize 681-10A(1) is a new item which includes a requirement to install sample ports upstream of the property line MH's for the purpose of sampling and measuring flow from the "premises." Our members are knowledgeable about sampling ports for foundation drainage, but are unclear if this means that they may have to produce sampling ports for the possibly different addresses or 'uses' that fall under the same owner.

Additionally, with respect to the new requirements for service connections that was released in December, regarding separate storm connections for podiums, we have received feedback indicating that this is not reasonable, and separate plumbing systems for the podium and tower could be provided with sampling and measuring ports before combining into a single SWM facility. Perhaps this sample port requirement points to such a scenario. In many downtown sites, there is not a lot of room to make connections and some sites require our members to 'thread the needle' just to manage a normal set of connections. This could also have the effect of making connections vastly more difficult and expensive, and require more modifications/localized relocations to existing water mains, gas lines, etc. that might be in the way. Additional discussion is warranted.

2. The proposed amendments have missed an opportunity to address outdated provisions which maybe adding a costly burden to the City's already over capacity treatment system.

The report maintains the outdated storm water discharge limits for manganese which relied on a drinking water parameter rather than a storm water parameter. Our engineering consultants have technical expertise with manganese and advise that manganese is not a health or ecological parameter, but rather one of "aesthetic" value related to how drinking water tastes and looks.

Our engineering consultants have advised that the discharge limits of manganese can safely be increased. As a result of the current limits, water that meets drinking water standards, except for manganese, must be treated by industrial employers, BILD and RESCON members or be discharged to the sanitary sewer where it is treated in an already overburdened treatment plant. We strongly recommend that this parameter be adjusted accordingly.

3. Unintended consequences to planned and under construction development projects has created a pressing issue which could be remediated through simple transition provisions which could be included in the amendments.

Our industry recognizes that the City of Toronto is working towards a more efficient and sustainable capital infrastructure model and our members are committed to this direction. We would like to take this opportunity to highlight a pressing matter that our members have been dealing with regarding the City's inconsistent application of its 2002 sewer use by-law that has caused unintended consequences to planned and under construction development projects.

Since late 2014, a BILD and RESCON working group of active developers, lawyers and engineers have been corresponding and meeting with Toronto Water and other City staff representatives regarding unanticipated requirements of groundwater studies and possible agreements as part of the sewer use by-law. BILD and RESCON was advised by its members that these requirements are new to the typical past practices of City staff, and staff have been arbitrarily and inconsistently applying these requirements of the sewer use by-law across the City.

Typical past practices include:

- Requiring servicing and stormwater management reports to identify sanitary demands from development, allowed storm discharge rate and measures to be implemented for the management of storm water runoff, but requirements have not typically addressed foundation drain flows.

- Storm and sanitary service connections have been constructed through application(s) to Toronto Water, based on SPA approval by Development Engineering.
- MOEE PTTW (temporary and permanent) are obtained if the flow rate is over 50,000 L/day.
- A city permit to discharge water (not purchased from city water supply) is obtained to address temporary construction dewatering.
- Upon completion of building based on approved building permit drawings, foundation drains are pumped to service connection or stormwater detention tank, etc.
- Unless an extraordinary condition related to the quality or quantity of groundwater is identified, permanent discharge of foundation drainage is allowed to occur.

With so many residential building projects close to completion, this deviation from past practices and unanticipated requirements are creating unnecessary delays which have a negative impact on both new residents and home builders. Some projects are under construction and have reached a stage where they cannot be reasonably reconstructed to eliminate the need for foundation drainage discharge through a service agreement.

Based on the feedback from our membership, BILD and RESCON understand that despite City staff's efforts to meet with our working group to discuss this shift in the by-law's application, the problem persists, as limited short-term or interim solutions were applied. As such, in August 2015, BILD and RESCON requested the opportunity to be consulted and contribute to a long-term solutions and in the absence of a long-term solution, we strongly recommended that staff to consider transition provisions which would grandfather existing projects by allowing them to proceed without undergoing this unanticipated permitting or agreement process for projects which are:

1. Complete, but not yet registered,
2. In construction, prior to the implementation of a long-term solution,
3. Commencing construction in the year of the implementation, and
4. Zoned prior to the implementation (of the long-term solution).

It is our industry's position that this phased implementation would address the majority of projects currently caught up in this matter; hence these projects should be released from any such requirements. The sooner we can address this transition provision, the easier it will be for our industry to collaboratively help develop a new sustainable long-term policy structure.

In the City's response dated, October 27, 2015 City staff generally indicated that they are working within the parameters of the by-law and that there may be instances where exemptions would apply and that beyond this scenario, an expedited approval process would apply. Our members have not indicated any scenarios where exemptions have been applied to projects and we have also been activity requesting a meeting to discuss the reduced timeframes associated to the expedited approval process. As of the date of this letter, this request is still pending.

We have been advised that the timing of when the City is asking for a ground water discharge agreement is impractical. Our members believe that part of the permission of "use" (i.e. land-use zoning) should have regard for its effect on groundwater discharge, but a groundwater discharge agreement execution should not be a condition of the approval of a re-zoning or Site Plan Agreement to allow for any groundwater discharge designs of bathtubs or otherwise, could happen prior to the first building permit issuance. Alternatively, a discharge permit could be provided with conditions that recognize these limitations thereby, allowing NOAC to be issued. There are other considerations that need to be considered for this process, such as the timing of a clean water test.

Finally, we request consultation for the expedited approval process and the long-term solutions to the treatment of ground water discharge. We thank you for the opportunity to submit comments. We trust that you will take these comments into consideration. If you have any questions or concerns, please feel free to contact the undersigned.

Sincerely,

Richard Lyall
President, RESCON

Danielle Chin MCIP RPP
Senior Manager, Policy & Government Relations

*CC: BILD and RESCON groundwater discharge working group
BILD Toronto Chapter members*