

## **SUMMARY OF COMMENTS/RECOMMENDATIONS**

**PROPONENT: DOCKSIDE COVE LTD.**  
**PROPOSAL NAME: DOCKSIDE COVE AND MARINA**  
**CLASS OF DEVELOPMENT: 2**  
**TYPE OF DEVELOPMENT: WATER DEVELOPMENT**  
**CLIENT FILE NO.: 5514.00**

### **OVERVIEW:**

On March 17, 2011, Manitoba Conservation received a Proposal dated March 15, 2011, from Dockside Cove Ltd. to construct a boat channel network connected to Lake Manitoba as part of a proposed subdivision of 34.8 hectares. The proposed development is located at 30-21-7 W in the Rural Municipality of Eriksdale.

No public comments were received in response to the advertisement of this proposal in the Interlake Spectator on Thursday, March 24, 2011. The proposal was placed in the Public Registries at the Millennium Public Library, the Manitoba Eco-Network, Conservation Library (Main), Selkirk and St. Andrews Regional Library, and RM of Eriksdale. The proposal was distributed to TAC on March 24, 2011 with the closing date for TAC and Public comments on April 25, 2011.

### **COMMENTS FROM THE PUBLIC:**

No comments received.

### **COMMENTS FROM THE TECHNICAL ADVISORY COMMITTEE:**

#### **Canadian Environmental Assessment Agency**

- The Department of Fisheries and Oceans Canada (DFO) conducted the federal coordination review of the project. DFO has determined that it may issue an authorization under subsection 35(2) of the *Fisheries Act* and must subsequently conduct an environmental assessment in accordance with the *Canadian Environmental Assessment Act*.
- Transport Canada has advised that, based on the information provided, it is not possible to determine whether a Section 5 Approval under the Navigable Waters Protection Act would be required.
- Environment Canada provided the following feedback on the proposal:
  - Should there be a need for clearing any vegetation in areas where migratory birds may be nesting, clearing should take place before May 1 of after July 31. If clearing must take place within this timeframe, the

proponent should ensure that a person with qualified bird expertise confirm that there are no active nests in the area within 7 days of clearing commencing.

- The proponent should also be reminded that the deposit of contaminants are harmful to migratory birds.
- The proponent is reminded of their responsibilities under Section 79(1) and 79(2) of the *Species at Risk Act*.
- The proponent is reminded of the Subsection 36(3) of the *Fisheries Act* regarding the release of deleterious substances.

Disposition: Comments were provided to the proponent. Manitoba Conservation will continue to work cooperatively with federal agencies on this project. Concerns regarding migratory birds, erosion and the release of deleterious substances can be addressed through licence conditions.

### **Manitoba Infrastructure and Transportation, Highway Planning and Design Branch**

- PR 417 is a low volume Provincial Road about a mile north of this project. Only Class B1 loading (maximum of 47630 kg Gross Vehicle Weight) is permitted in this road. Therefore, during the construction of this subdivision, if PR 417 is used for heavy construction, the vehicle loading capacity should be taken into consideration.
- If the Developer plans to place any construction within 38.1 m (125 ft) or any plantings within 15.2 m (50ft) from the edge of highway, whether temporary or permanent, it may require a permit from MIT. The contact person is Jim Nakonechny, Permit Signs and Structures Technician in Dauphin (622-2286).
- Any construction of structures and objects, including erection of signage, within 76.2 m from the edge of the right-of-way of PTH 6 and 68 may require a permit from the Highway Traffic Board. The contact person is Michelle Slotin at 945-6764 at the Highway Traffic Board, or Kevin Nimchuk at 945-0324 at MIT, Highway Planning and Design Branch.

Disposition: Comments were provided to the proponent.

### **Manitoba Conservation, Pollution Prevention Branch**

- I have no significant concern on the proposal. However, the proposed project has a potential to generate PM (dust) during construction from earthmoving, material handling/transport and emissions from heavy equipment and vehicles.

Disposition: Comments were provided to the proponent.

## **Manitoba Water Stewardship**

- The proposal is incomplete. The proponent has not provided any scientifically-based information concerning the project's impacts to water quality. The proponent needs to provide information on scientifically defensible mechanisms that will be employed supporting that a net increase in nutrients to Lake Manitoba shall not occur as a result of the construction and maintenance of the canal system. The proponent needs to provide information on the following:
  - How will the proponent ensure that impacts to water quality are not incurred and what scientifically-based measures are being employed?
  - What are the details of a Development Agreement? For example, will a Development Agreement include clauses to ensure the protection and maintenance of permanent vegetated buffer zones that will be protected with land title in perpetuity?
  - What are the details of activities that will be employed during construction to ensure phosphorus and nitrogen will not enter Lake Winnipeg?
  - What actions will be employed during the re-vegetation phase to ensure that aquatic invasive plants do not establish in the buffer zones?
  - What native plants will be used in the re-vegetation phase?
    - Note: The Department recommends using the following guidance for the re-vegetation phase: Re-vegetating with Native Grasses in the Northern Great Plains: Professional's Manual.
  - Where will the marina will be located?
  - What are the details of a water quality monitoring program to provide data supporting that a net increase in phosphorus and nitrogen to Lake Manitoba shall not occur?
- Manitoba Water Stewardship requires an *Environment Act* Licence to include the following:
  - The Licence shall develop and implement a water quality monitoring program and a fish utilization monitoring program, designed in consultation with Manitoba Water Stewardship. A water quality monitoring program shall provide adequate data supporting that a net increase in phosphorus and nitrogen to Lake Manitoba shall not occur.
  - The Licensee shall develop and implement the following well construction standard for all wells in the proposed development:

- Construct the wells ensuring that the upper groundwater in the aquifer will be cased for a minimum of 12 metres and the water supply for the wells will be obtained from deeper parts of the aquifer. The annular space between the borehole wall and the well casing is sealed with cement or bentonite using a tremmie method.
      - Note: Manitoba Water Stewardship’s well log information indicates that wells should intersect a Carbonate aquifer at this site, the aquifer is quite productive in terms of yield and groundwater quality is good although fairly “hard.” Individual wells would likely serve the development well. A concern is that the top of the bedrock aquifer will likely be found at relatively shallow depth, likely less than 6 metres, and the underlying tills may be relatively permeable. This may allow contaminants from the shallow subsurface to migrate to the aquifer and, to some extent, degrade the quality of groundwater.
  - The Licencee must comply with Manitoba Water Stewardship’s Wetland Policy:
    - The net loss of semi-permanent or permanent wetlands shall not occur. Wetlands are defined as areas that are periodically or permanently inundated by surface or ground water long enough to develop special characteristics including persistent water, low-oxygen soils, and vegetation adapted to wetland conditions. These include but are not limited to swamps, sleughs, potholes, marshes, bogs and fens.
      - A proponent shall establish and maintain a buffer zone with at least a 15-metre width.
  - In order to protect riparian areas, establish and maintain an undisturbed native vegetation area located upslope from the ordinary high water mark and adjacent to all waterbodies and waterways connected to the provincial surface water network:
    - A 15-metre undisturbed native vegetation area is recommended for lands located adjacent to canals;
    - A 30-metre undisturbed native vegetation area is recommended for lands located adjacent to Lake Manitoba;
    - Permanent development is prohibited within an undisturbed vegetation area;

- The combined alteration—including new and existing structures—within this undisturbed native vegetation area is limited to a maximum of 25 % of the shoreline length (for example: 25 metres per 100 metres of shoreline length) of each lot for a boat house, path, dock, etc.; and,
    - Alteration within this undisturbed native vegetation area—including a dock and/or the removal of near shore or stream aquatic habitat—shall not occur unless an activity conforms to a Department of Fisheries and Oceans Canada Operational Statement or an activity is reviewed by the Department of Fisheries and Oceans Canada.
  - Prior to the commencement of construction of a semi-public water system, the proponent will require approval pursuant to *The Drinking Water Safety Act* and the water system must be operated and monitored in accordance with the requirements of *The Drinking Water Safety Act*.
    - Note a semi-public water system includes a shared (piped) water supply system or a water supply for a facility which serves the public, such as a restaurant or daycare.
- Manitoba Water Stewardship recommends to include the following canal design characteristics to improve the canal’s potential as fish habitat:
  - A two staged bank that provides a ledge of submergent/emergent vegetation creating instream cover;
  - Diversify the flow through canal substrate with gravel/cobble in some areas and/or create some sinuosity within the canal; and,
  - Include some willows and other native riparian tree species within the riparian reserves to provide shade/cover.
- Manitoba Water Stewardship requires clarification on the following:
  - The proponent indicates that this canal will create a considerable area of new fish habitat; Manitoba Water Stewardship needs to review the documentation for this claim.
- Manitoba Water Stewardship submits the following concerns:
  - The proponent has supplied an engineered drainage plan.
    - Conceptually the plan may work if the development is constructed in strict accordance with the proposed plan. The drainage plan

landscapes to enable the drainage of water through the lots to either the lake or boat channel. Although the drainage plan appears viable on paper, it is Manitoba Water Stewardship's experience that drainage designs of this nature often fail due to the tendency of lot owners to develop lots with their own intentions, and even subtle changes to a lot result in substantial drainage issues with designs of this nature.

- Manitoba Water Stewardship recommends for the proposed development to consider implementing a rudimentary internal drainage system such as a simple 1 to 2 foot deep ditch adjacent to roads which will likely provide adequate drainage for this subdivision.
- Manitoba Water Stewardship submits the following comments:
    - Reconnaissance level soil information indicates that some parcels on the site of development are classified as Nutrient Management Zone 4 as described in *The Nutrient Management Regulation* under *The Water Protection Act*. This regulation prohibits the development of onsite wastewater management system (including septic fields) in areas defined as Nutrient Management Zone N4. Composting toilets and holding tanks are exempted from the above restrictions. Further, substances containing phosphorus and nitrogen cannot be applied to soils classified as Nutrient Management Zone 4 as described in *The Nutrient Management Regulation*.
    - The proponent should consider requiring the use of Ecologo certified cleaning products in the proposed development to reduce nutrient contributions to Lake Manitoba.
    - The Manitoba Department of Water Stewardship is mandated to ensure the sustainable development of Manitoba's water resources. Manitoba Water Stewardship is committed to the goals of: protecting aquatic ecosystem health; ensuring drinking water is safe and clean for human health; managing water-related risks for human security; and stewarding the societal and economic values of our waterways, lakes and wetlands; for the best water for all life and lasting prosperity. Manitoba Water Stewardship achieves these goals, in part, through administering legislation, including *The Water Protection Act*, *The Water Rights Act*, and *The Water Power Act*.

Disposition: Comments were provided to the proponent. Several comments can be accommodated with licence conditions. Questions regarding re-vegetation and the marina were forwarded to the proponent with a request for additional information.

## **ADDITIONAL INFORMATION REQUEST:**

EAL Branch contacted the proponent with questions from TAC members concerning the project on May 4, 2011. A submittal in response to comments was received on May 26, 2011 and included the following information:

- Development Agreement between the Rural Municipality of Eriksdale and Dockside Cove Ltd. - This signed Development Agreement will be registered at Land Titles with the subdivision registration.
- Building Guideline Agreement - This agreement will be signed by each purchaser and registered at Land Titles with each lot sale registration.
- Native Plant Species List
- Engineering Drawings reflecting Rip Rap locations

Included in the submittal was a response to the following questions:

**1) Provide additional information of the mitigation measures that will be implemented to deal with sedimentation during construction.**

- All areas (cottage lots and public reserves) excluding the Riparian zones will be seeded immediately upon the completion of final construction grading and placement of top soil.

- The canal and riparian areas will be drill seeded with appropriate vegetation that is conducive to the aquatic and upland environment. Seed selection will be from the Native Plant Species list and will be dependent on availability. Photo-degradable Straw Erosion control blankets will be placed over the seeded areas of the canal slopes for stabilization.

- Engineering drawings have been provided by the proponent for the drainage and canal design. The engineer is registered in the Province of Manitoba as required by the Subdivision Conditional Approval.

- The canal systems will not be opened to Lake Manitoba until the vegetation is fully established and the proponents obtain final approval from DFO to open the canal plugs. It is estimated that the dredging and opening of the plugs will not occur for at least one year from the completion of seeding.

- Project Contractor - Lindall Dmyterko Ltd. has a history with working with DFO on other Marine oriented projects and versed in DFO policies and procedures.

- Opening the canals will follow the DFO's guidelines.

- Approach channels will be dredged in the winter months so machinery can work on the ice rather than being in the lake water.

- Silt booms will be placed under the ice at the perimeter of the dredging area to control and silt movement.

- Dredging will commence from furthest outward point and work towards the shoreline. All materials will be removed entirely from the project area. Winter work will allow the construction area to settle prior to the active spring melt.

- Canal plugs will be removed at this final stage.

- Entrances to the canal will be rip rapped with clean fieldstone.

**2) What plants will be used in the re-vegetation phase.**

- The native riparian zones and aquatic regions will be seeded using a selection from the attached plant list. The specific species will be determined based on availability.

**3) Confirmation of the presence of the Marina. Confirm the presence of public or private Boat Launch and Marina.**

- Lot 99 is designated for a private marina and boat launch.

- No fuel services or storage facilities are proposed for this area.

**DISCUSSION AND ANALYSIS:**

This information is sufficient to allow TAC concerns to be addressed through licence conditions. There are no overriding technical issues associated with this project that would preclude the issuance of an Environment Act Licence with appropriate conditions.

**PUBLIC HEARING:**

No requests were received for a public hearing on the project. Technical issues surrounding the project are sufficiently understood. A public hearing is not recommended for the project.



**RECOMMENDATION:**

All comments received on the Proposal can be addressed as licence conditions or have been forwarded to the proponent for information. It is recommended that an Environment Act Licence be issued for the project subject to the limits, terms and conditions as described on the attached draft licence. Administration of the licence should be assigned to the Central Region, with technical assistance to be provided by Environmental Assessment and Licensing Branch upon request.

**PREPARED BY:**

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