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**TO:** Electoral Area Services Committee      **MEETING:** June 12, 2018  
**FROM:** Courtney Simpson  
Senior Planner      **FILE:** 6780-30  
**SUBJECT:** Development Permit and Temporary Use Permit Areas Standardization Project

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**Please note: The recommendation was varied by the Committee by adding the following:**

- 2. That the draft Temporary Use Permit Areas text be amended so that for the East Wellington - Pleasant Valley Official Community Plan Area, section 2 only applies to the Resource designation.**
- 3. That consultation on the draft development permit areas seeks input on an additional exemption from the Farmland Protection Development Permit Area for existing small lots.**

## RECOMMENDATION

That the draft development permit areas and temporary use permit areas be endorsed and First Nation, public and stakeholder consultation be initiated in accordance with the approved public consultation program for the Development permit and Temporary use permit Areas Standardization Project.

## SUMMARY

Review of development permit areas (DPAs) to streamline development processes is identified in the Regional District of Nanaimo's (RDN) 2017 Operational Plan as an action to support the RDN 2016-2020 Strategic Plan's focus on service and organizational excellence and focus on the environment. Revision of existing DPAs and temporary use permit (TUP) areas to improve consistency across electoral areas will standardize and streamline the application process.

This report presents draft DPAs and TUP areas recommended for stakeholder and public consultation and describes the approach and rationale for combining similar DPAs from individual official community plans (OCPs). Twenty-five individual DPAs for the purpose of protecting the natural environment, protecting development from hazardous conditions, or protecting farmland are reorganized and combined into seven standard DPAs. Seven different TUP area designation and conditions are consolidated into one that would allow the RDN to issue a TUP for any use on any parcel not permitted by the zoning bylaw based on a list of conditions aimed at determining the suitability of the temporary use.

## BACKGROUND

The RDN 2017 Operational Plan identifies specific action item SCD-10-2017 to Review, Standardize and Update DPAs in RDN Electoral Area OCPs. This is a key action item for Community Planning in 2018 and

is recommended to streamline and improve application processing. The project was initiated at the February 27, 2018, Board meeting through endorsement of the Terms of Reference. Internal staff review and draft revisions are now complete.

A DPA is an important tool used in the development process to protect the natural environment; to protect development from hazardous conditions; to guide the form and character of development; to promote energy or water conservation; or to promote reduction of greenhouse gas emissions. Where a DPA is designated in an OCP, a development permit must first be obtained prior to proceeding with certain types of development such as subdivision, construction, or land alteration. A map in the OCP indicates where the DPA applies and text of the DPA indicates for what types of development a permit is required. The text of the DPA also describes its objectives and special conditions that justify the designation and guidelines respecting the manner by which the objectives or special conditions will be addressed. Some DPA guidelines require a report from a professional such as a biologist or engineer, or other supporting information. The permit itself includes conditions that must be adhered to during or after development.

The RDN designates 49 DPAs in its seven OCPs (Attachment 1 – List of Current RDN Development Permit Areas). Proposed changes involve reorganizing and combining 25 of these DPAs into seven that apply across OCP areas. Of the remaining 24 DPAs, nine are part of phased development agreements for Schooner Cove and Lakes District, and 14 primarily address the form and character of development and are tailored to the character of a specific area.

The table below shows the seven proposed standardized DPAs and to which OCP areas they apply. No changes are proposed that would expand a DPA into an area where it is not currently designated, with the exception of the aquifer protection DPA in Area G where new aquifer boundary mapping is available from the Province.

DPA Name	Official Community Plan						
	Area A	Arrowsmith Benson – Cranberry Bright	East Wellington – Pleasant Valley	Nanoose Bay	Area F	Area G	Area H
<b>Freshwater and Fish Habitat</b>	X	X	X	X	X	X	X
<b>Eagle and Heron Nesting Trees</b>	X			X		X	X
<b>Aquifers</b>	X					X	X
<b>Marine Coast</b>	X					X	X
<b>Sensitive Ecosystems</b>	X	X		X		X	
<b>Farmland Protection</b>	X	X		X		X	X
<b>Hazard Lands</b>	X		X			X	X

The combination of 25 existing DPAs into seven involves some reorganization. For example, several existing DPAs for sensitive ecosystem protection currently combine a number of features such as eagle and heron nesting trees, aquifers, marine coast and other sensitive ecosystems. As shown in the above table, the new approach separates some of these features into individual DPAs to allow for more tailored exemptions and guidelines. The Farmland Protection and Hazard Lands DPAs do not involve any re-organization of different features within them.

### ***Land Use Implications***

The newly combined DPAs were carefully constructed and reviewed to ensure they meet the relevant objectives of the project as listed below:

- adopt consistent language across electoral areas for development permit areas and temporary use permit areas;
- improve ease of interpretation for the RDN, property owners and consultants;
- achieve consistency without designating any new areas where development permits are required or areas within which temporary use permits may be issued;
- adopt current best practices for development permit areas;
- correct issues of clarity in development permit area maps and text; and
- apply lessons learned from implementation of Electoral Area 'H' development permit areas adopted in 2017.

The wording of exemptions and guidelines vary amongst current DPAs adopted for the same purpose, as they were written at different times with different best practices, by different authors and with different areas of focus. To create consistent language, the wording of most of the DPAs require adjustment. These adjustments will not alter the objectives of the DPAs, rather simplify and refine while adding more exemptions to reflect current best practices.

An exhaustive listing of the adjustments needed to combine DPAs has been prepared for stakeholder and community consultation, and the highlights are included in this report.

#### Changes to Exemptions Throughout:

Every DPA includes exemptions, which are a list of types of development that do not require a permit. For example, a DPA could apply to buildings and structures generally, but there could be an exemption for buildings under a certain size, or minor addition to a building. Many exemptions are added or updated throughout the revised DPAs in response to best practices or an apparent need to exempt additional types of minor development. The process is streamlined by targeting the types of development that could impact what the DPA is trying to protect, and exempt those that have little or no impact.

#### Freshwater and Fish Habitat DPA:

The Freshwater and Fish Habitat DPA includes streams that are subject to the provincial *Riparian Areas Regulation* (RAR), and other freshwater features. Creating a single set of guidelines is straightforward for streams subject to the RAR because the requirements are guided by provincial legislation. Creating a single set of guidelines for other freshwater features involves moving them from other DPAs and adjusting the wording of exemptions and guidelines.

#### Eagle and Heron Nesting Trees DPA:

The Eagle and Heron Nesting Trees DPA applies to a radius around eagle and heron nesting trees. It is currently within the Environmentally Sensitive Areas DPA in most OCPs, and the draft combined DPA

moves applicable content to a DPA for only eagle and heron nesting trees. The DPA currently applies to a radius of 60 metres around eagle nesting trees. For heron nesting trees, the radius is 100 metres except for the Area H OCP where it was recently reduced to 60 metres based on experience processing applications and a balance of environmental protection and streamlining development. The draft DPA takes the following approach to designate the area of application where the 60 metre radius around heron nesting trees only applies to lots of 1.0 hectare or smaller, based on more recent advice from the Ministry of Environment:

**For bald eagles:** 60 metres radius measured from the drip line of a tree containing an eagle nest.

**For great blue herons:**

- 60 metres radius measured from the drip line of a tree containing a heron nest on lots 1.0 hectare or smaller.
- 100 metre radius measured from the drip line of a tree containing a heron nest on lots greater than 1.0 hectare.

The current Area G OCP is unclear whether or not the DPA is meant to apply to heron nesting trees and the draft DPA clarifies that the DPA does apply to heron nesting trees. The Nanoose Bay OCP currently designates the property where an eagle or heron nest is mapped as being within the DPA, which means that if a tree is close to the property line and the buffer would extend to an adjacent property, the DPA is not properly designated to require a DP on that adjacent property. This is corrected in the draft DPA by designating a buffer around the nesting tree instead of the property on which the tree is located.

Eagle and heron nesting sites are actively changing, both with establishment of new nests, and the loss of nests by falling out of a tree or by the entire tree falling down. To be most effective, this DPA now applies to all mapped and unmapped nests. Without this change, a DPA cannot be required for the buffer area around a nest if it is not adopted into the map in the OCP, which may be based on data several years old. A web-based "community mapping network" maintains current data on mapped nests which will be referred to in addition to the OCP maps when determining when a permit is needed for this DPA. New and updated exemptions address the situation where a nest is mapped but is no longer there, to be clear that a development permit is not required.

#### Aquifers DPA:

The Aquifers DPA includes the land above mapped aquifers in Electoral Areas G and H, and in Electoral Area A, land within the Cedar and Cassidy Village Centres, Cedar Main Street and the South Wellington Industrial – Commercial area. Revised guidelines addressing content of hydrogeological reports will result in consistent reports across electoral areas.

#### Marine Coast DPA:

The Marine Coast DPA includes the marine coast in Electoral Areas A, G and H, 15 metres inland from the natural boundary and 15 metres seaward (except for 30 metres seaward in Area H). Standardizing the DPA guidelines by applying the newly adopted guidelines for Area H in Areas A and G includes a new emphasis on reducing the proliferation of seawalls, and new reference to shoreline development following the Green Shores Program of the Stewardship Centre of BC. This is consistent with evolving best practices for shoreline development.

For Areas A and G, the coastal DPA is currently within the DPA for environmentally sensitive features and the applicable exemptions and guidelines will be moved and revised into the new Marine Coast DPA.

Sensitive Ecosystems DPA:

The Sensitive Ecosystems DPA applies to the following OCP areas: Electoral Areas A, and G, Arrowsmith Benson – Cranberry Bright, and Nanoose Bay. This DPA has historically been designed as a “catch all” for protection of the natural environment for a range of features such as aquifer, eagle and heron nesting trees, coastal, and mapped areas from the Sensitive Ecosystem Inventory (SEI) provincial mapping.

The proposed approach moves many of these elements to DPAs unique to that feature such as coastal, aquifer, and freshwater, and the SEI designations remain in this DPA. The RDN began moving towards this change in 2007 with implementation of the RAR when new, separate DPAs were adopted for applicable riparian areas. To create combined guidelines that are easy to understand, this separation of features is needed as different OCPs designate DPAs for a different combination of features. The table below shows which SEI and other features apply in each of the OCP areas.

	<b>Coastal Bluff</b>	<b>Terrestrial Herbaceous</b>	<b>Older Forest</b>	<b>Sparsely Vegetated</b>	<b>Woodland</b>	<b>Rare and Endangered Species</b>
<b>EA 'A'</b>	X	X	X			X
<b>AB-CB</b>		X	X	X		
<b>Nanoose Bay</b>	X	X		X	X	
<b>EA 'G'</b>			X	X		

Farmland Protection DPA:

The Farmland Protection DPA applies to the following OCP areas: Electoral Areas A, G and H, Arrowsmith Benson – Cranberry Bright, and Nanoose Bay. There are currently four different ways the DPA boundary is defined in different OCPs:

- parcels directly adjacent to the ALR;
- parcels directly adjacent to the ALR or on the opposite side of the road from the ALR;
- a 15 metre wide buffer measured from the boundary of the ALR; or
- a 15 metre wide buffer measured from the boundary of the ALR or if the boundary of the ALR is across a road right-of-way, 15 metre from the edge of road right-of-way opposite the ALR.

To standardize the DPA, the draft simplifies the area of application to parcels directly adjacent to the ALR. This will mean that any parcel separated from the ALR by a road right-of-way will no longer be required to obtain a development permit.

The move away from defining the DPA based on a 15 metre measurement from the ALR boundary is recommended due to the inconsistent way the boundary is mapped in relation to roads, as sometimes the boundary includes the whole road, sometimes part, and sometimes none. Removing the DPA from applying to land across the road from the ALR is considered a reasonable balance between benefit to farming and cost to property owners who are developing across the road. While a road does not provide a visual screen from the ALR, it does provide a separation of uses; a standard road width is 20 metres.

Exemptions ensure that development more than 15 metres away from the boundary of the ALR, except for subdivision, does not require a development permit.

Hazard Lands DPA:

The Hazard Lands DPA combines guidelines for the following current development permit areas (DPA):

- Electoral Area A OCP – Nanaimo River Floodplain;
- East Wellington – Pleasant Valley OCP – Natural Hazard Areas;
- Electoral Area G OCP – Hazard Lands; and
- Electoral Area H OCP – Coastal Steep Slope Hazard.

Depending on the geographic area, this DPA applies to floodplain areas, steep slope areas or both, and is designated for the purpose of protection of development from hazardous conditions and protection of the natural environment. Historically, hazard areas have been identified in RDN OCPs based on mapped floodplains or localized knowledge or studies or other areas subject to flooding and areas subject to steep slope hazard. Only Areas G and H have previously designated a development permit specifically for steep slope hazard. Steep slope hazard is also addressed where it is found in a riparian area, through the Freshwater and Fish Habitat Protection DPA.

Some older hazard land DPAs that were created before the addition of Fish Habitat Protection DPAs have a dual focus on protection of development from hazardous conditions and protecting the riparian ecosystem. To streamline and minimize duplication between the hazard and newly-labelled Freshwater and Fish Habitat DPA, some changes to the OCP descriptions are made, and while protection of the natural environment remains a purpose of the DPA, it is primarily in relation to where the natural environment helps to mitigate the hazard such as maintaining riparian vegetation to stabilize stream banks and reduce erosion.

Temporary Use Permits

The *Local Government Act* allows for an OCP or zoning bylaw to designate areas where temporary uses may be allowed and specify general conditions regarding the issue of TUPs in those areas. Both zoning bylaws that cover RDN electoral areas designate the entire bylaw area as an area within which a TUP may be issued for a farmers’ market. In addition, each OCP designates areas where other temporary uses may be permitted. The following table lists the current OCP policy on TUPs for all of the OCP areas.

OCP Area	Current Temporary Use Permit Areas and Conditions
<b>Electoral Area A</b>	All uses and all areas, based on performance criteria.
<b>Arrowsmith Benson – Cranberry Bright</b>	Within Rural or Resource designation for manufacture of asphalt or soil composting.
<b>East Wellington – Pleasant Valley</b>	Within the Rural and Resource designation temporary uses are permitted. Specific guidelines for primary processing of onsite aggregate or mineral resources, portable asphalt manufacturing or soil composting.
<b>Nanoose Bay</b>	Within the Resource Lands designation for manufacture of asphalt products and/or gravel extraction, and soil composting. Within the Growth Containment Boundary for real estate offices, show homes, signs and/or construction offices.
<b>Electoral Area F</b>	Aggregate extraction in any designation, and for any use within Village

	Centres and rural separation boundaries.
<b>Electoral Area G</b>	Within Rural and Rural Resource OCP designation on parcels 4 ha or larger for primary resource processing, asphalt batch plant, concrete ready mix plant, yard waste chipping or commercial composting. In any area, real estate offices, show homes and construction offices.
<b>Electoral Area H</b>	All uses and all areas, based on performance criteria.

It is recommended that the designation of TUP areas and listing of conditions is standardized by allowing all uses and all areas based on performance criteria, and consolidated in the relevant zoning bylaws.

#### Official Community Plan and Zoning Bylaw Amendments

The *Local Government Act* states that a DPA must be designated in an OCP, but that the guidelines may be in the zoning bylaw. Currently, all DPAs are entirely within the OCPs to which they apply. To combine each DPA, the application, exemptions and guidelines sections will be moved to the zoning bylaw: "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" for all of the combined DPAs, and "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No, 1285, 2002" for the Freshwater and Fish Habitat Protection DPA.

The relevant OCP will retain the text that designates the area where the DPA applies and describes the special conditions or objectives that justify the designation. Where possible, OCP text is proposed to be standardized for the DPAs where the guidelines are also standardized. OCP maps that designate DPAs will be revised to include updated DPA names, features that are moved from one DPA to another, and other changes such as the location of eagle and heron nests in the Nanoose Bay OCP instead of just the property on which they are located.

The designation of areas and specification of conditions for TUPs is standardized by allowing all uses and all areas based on performance criteria are proposed to be consolidated in both zoning bylaws.

#### Associated Administrative Bylaws:

To fully streamline the process for DP and TUP applications, the following bylaws and policies are also being reviewed as part of this project:

- "Regional District of Nanaimo Development Impact Assessment Bylaw No. 1165, 1999"
- "Regional District of Nanaimo Development Approval Procedures and Notification Bylaw No. 1432, 2005"
- Policy B1.12 *Riparian Areas Regulation Stream Declaration*
- Landscaping Regulations and Standards (Bylaw 500 Schedule '3F')

#### ***Intergovernmental Implications***

First Nations identified in the Consultation Plan for the project were notified of this project in March, 2018, and invited to contact us to discuss any interest they may have. One response has been received from K'omoks First Nation indicating no comment.

### ***Public Consultation Implications***

A website for the project was launched in March 2018, on the RDN “Get Involved” page and is being used as a resource among other RDN departments, and by interested members of the public who hear about it through land use enquiries to the planning department about their property. After the draft DPAs have been endorsed by the Electoral Area Services Committee, a public announcement will be made inviting comments on the draft and advertising engagement events. At this time identified stakeholder groups will also be contacted and meetings will be arranged to review the drafts based on their interest.

### **ALTERNATIVES**

1. That the draft revised development permit areas and temporary use permit areas be endorsed and circulated for First Nation, public and stakeholder consultation.
2. That the draft revised development permit areas and temporary use permit areas be amended.
3. That alternate direction be provided to staff.

### **FINANCIAL IMPLICATIONS**

The 2018 Budget includes funds for community engagement costs for this project such as facility rentals and printed materials. All community, stakeholder and First Nations engagement, along with bylaw drafting, communication materials drafting and design will be completed by RDN staff.

### **STRATEGIC PLAN IMPLICATIONS**

The Board’s Strategic Plan recognizes a “focus on organizational excellence and service” and this project will advance the goal to “ensure our processes are as easy to work with as possible”. Goals of other focus areas of the Strategic Plan for “economic health” and “the environment” will also be advanced through this project.



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May 16, 2018

#### Reviewed by:

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- G. Garbutt, General Manager, Long Range Planning
- P. Carlyle, Chief Administrative Officer

#### Attachments

1. List of Current Development Permit Areas



2. Draft Development Permit Areas and Temporary Use Permit Areas
3. Proposed Changes Described by Official Community Plan Area

**Attachment 1**  
**List of Current RDN Development Permit Areas**

Official Community Plan	DPA Name
<b>Area A</b>	1. Environmentally Sensitive Features
	2. Watercourse and Fish Habitat Protection
	3. Nanaimo River Floodplain
	4. Farm Land Protection
	5. South Wellington Industrial – Commercial*
	6. Cedar Main Street*
	7. Cassidy*
	8. Cedar*
	9. Yellow Point Aquifer Protection
<b>Arrowsmith Benson – Cranberry Bright</b>	Village Centre - Commercial
	Farmland Protection
	Watercourse Protection
	Sensitive Ecosystems
	Fish Habitat Protection
<b>East Wellington – Pleasant Valley</b>	1. Fish Habitat Protection
	2. Natural Hazard Areas
	3. Industrial
<b>Nanoose Bay</b>	1. Form and Character
	2. Farmland Protection
	3. Watercourse Protection
	4. Sensitive Ecosystem Protection
	5. Highway Corridor Protection
	Lakes District DPA 1: Form and Character
	Lakes District DPA 2: Natural Environment
	Lakes District DPA 3: Steep Slopes
	Lakes District DPA 4: Interface Fire Hazard
	Lakes District DPA 5: Energy, Water & GHG
	Schooner Cove DPA 1: Form & Character
	Schooner Cove DPA 2: Environ. Sensitive
	Schooner Cove DPA 3: Hazardous
	Schooner Cove DPA 4: Energy, Water & GHG
<b>Area F</b>	Watercourse Protection
	Fish Habitat Protection
<b>Area G</b>	1. Fish Habitat Protection
	2. Environmentally Sensitive Features
	3. Hazard Lands
	4. Farmland Protection
	5. Highway Corridor
	6. Multi Residential, Intensive Residential, Industrial, and Commercial Form and Character

**Legend:**

Shaded DPAs indicate those that are included in the new standardized DPAs.

\* The guidelines related to aquifer protection in these DPAs will be moved to the standardized Aquifer DPA

Official Community Plan	DPA Name
Area H	1. Freshwater and Fish Habitat Protection
	2. Eagle and Heron Nesting Trees
	3. Aquifers
	4. Marine Coast
	5. Coastal Steep Slope Hazard
	6. Farmland Protection
	7. Rural Commercial
	8. Qualicum Bay and Dunsmuir Village Centres
	9. Deep Bay Southwest
	Bowser Village Centre