

# DRAFT DEVELOPMENT PERMIT AREAS AND TEMPORARY USE PERMIT AREAS

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# FRESHWATER AND FISH HABITAT DEVELOPMENT PERMIT AREA

DRAFT DEVELOPMENT PERMIT AREA FOR COMMENT

May 23, 2018

## Introduction

The Regional District of Nanaimo is reviewing development permit areas in all its electoral areas to standardize and streamline the development approval process. This will result in consistent language, exemptions, and requirements, and allow for updates to current best practices.

The Freshwater and Fish Habitat Development Permit Area applies to all official community plans in the RDN electoral areas.

## **FRESHWATER AND FISH HABITAT DEVELOPMENT PERMIT AREA**

*DRAFT OCP text for all OCPs*

## **DESIGNATION**

The Freshwater and Fish Habitat Development Permit Area is shown on Map No. x, and applies to the riparian assessment areas of mapped and unmapped streams subject to the *Riparian Areas Regulation* (RAR) of the *Riparian Areas Protection Act*, and all other mapped lakes, wetlands, ponds and watercourses. Specifically, the Development Permit Area is defined as follows:

1. All mapped and unmapped 'riparian assessment areas' as defined in the RAR as follows:
  - a) for a stream, a 30 metre strip on both sides of the stream measured from the high water mark;
  - b) for a ravine less than 60 metres wide, a strip on both sides of the stream measured from the high water mark to a point that is 30 metres beyond the top of the ravine bank; and
  - c) for a ravine 60 metres wide or greater, a strip on both sides of the stream measured from the high water mark to a point that is 10 metres beyond the top of the ravine bank.
2. All mapped lakes, wetlands, ponds, riparian areas and other watercourses that are not subject to the RAR, 15 metres as measured from the natural boundary or top of ravine bank, whichever is greater. This includes estuarine areas (areas of tidal influence) of all watercourses and streams. For clarity, in estuarine areas the Marine Coast Development Permit Area also applies.

The following definitions are used for the purpose of defining the development permit area as above:

**'ravine'** means a narrow, steep-sided valley that is commonly eroded by running water and has a slope grade greater than 3:1;

**'stream'** includes any of the following that provides fish habitat:

- (a) a watercourse, whether it usually contains water or not;
- (b) a pond, lake, river, creek or brook;
- (c) a ditch, spring or wetland that is connected by surface flow to something referred to in paragraph (a) or (b);

**'top of the ravine bank'** means the first significant break in a ravine slope where the break occurs such that the grade beyond the break is flatter than 3:1 for a minimum distance of 15 metres measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed;

**'watercourse'** means a permanent or non permanent (containing water at least six months of the year) source of water supply that is natural or man made, including a pond, lake, river, creek, brook, ditch, spring or wetland that is integral to a stream, with well defined banks and a bed of 0.6 metres or more below the surrounding land serving to give direction to or containing a current of water but does not apply to a man made pond that does not connect to a stream;

## **AUTHORITY**

The Freshwater and Fish Habitat Development Permit Area is designated a development permit area for the protection of the natural environment, its ecosystems and biological diversity, and protection of development from hazardous conditions pursuant to Section 488(1)(a) and (b) of the *Local Government Act*.

## **JUSTIFICATION**

Freshwater and riparian ecosystems perform a number of valuable services to humans, plants and animals alike. They support a diversity of plants and animals, provide important refuges and migration routes for birds and wildlife, and support fish life processes. Vegetation in riparian areas moderates the volume and rate of water flowing through the watershed contributing to effective rainwater management and stabilizing stream banks by holding soil in place. Plant root systems enhance the soil's ability to absorb water by making it more porous. This allows water to be stored and released slowly into the watercourse, reducing erosion and flooding. Soils also filter impurities and sediment from runoff water, improving water quality in the stream channel.

Riparian vegetation provides food and shelter for fish. Shade from trees within the riparian area regulates water temperatures within the stream, which is critical for salmon, trout and other fish species that need cool water to survive. Logs and other woody debris fall into streams from the riparian area, influencing stream channel morphology, dissipating the stream's natural erosive energy and providing habitat for a diverse range of species. Riparian vegetation stabilizes streambanks, helping to minimize erosion and sedimentation that can be harmful to aquatic ecosystems. Erosion of banks and steep slopes can also pose a hazard to development, and maintaining and enhancing natural features and vegetation and siting buildings and structure appropriately, can reduce this hazard.

Land use practices including land clearing, road building, construction of buildings and structures, and location of wastewater disposal systems in or near riparian areas can jeopardize these habitats and

water quality. Protection of riparian vegetation and watercourses is therefore necessary to protect the natural environment, ecosystems and biological diversity of the Plan Area. Land use practices can also change the hydraulic flow of a stream and create or exacerbate a flooding hazard.

Furthermore, the Province of British Columbia's *Riparian Areas Protection Act*, requires that local governments establish regulations to protect riparian areas, and not allow development to proceed until the requirements of the *Riparian Areas Regulation* are met.

The objectives of this development permit area are:

1. To protect freshwater ecosystems to maintain their natural habitat and environmental quality.
2. To restore freshwater ecosystems to improve their natural habitat and environmental and hazard mitigation quality if they have been previously degraded.
3. To protect riparian areas from development so that the areas can provide natural features, functions and conditions that support fish life processes.
4. To protect development from flood and slope hazard.

## **FRESHWATER AND FISH HABITAT DEVELOPMENT PERMIT AREA**

*DRAFT standard 'applicability', 'exemptions' and 'guidelines' for Bylaw 500*

### **APPLICABILITY**

Terms used in this development permit area that are defined in the provincial RAR, of the *Riparian Areas Protection Act*, are intended to be interpreted in accordance with the definition given in the Regulation, as it may be amended from time to time. This Regulation and Act may be obtained from the provincial Ministry of Forests, Lands, Natural Resource Operations and Rural Development or from the BC Laws website.

A development permit is required for the following activities wherever they occur within this Development Permit Area, unless specifically exempted:

1. removal, alteration, disruption, or destruction of vegetation;
2. disturbance of soils; including grubbing, scraping and the removal of top soils;
3. construction or erection of buildings and structures;
4. creation of non-structural impervious or semi-impervious surfaces;
5. flood protection works;
6. construction of roads, trails, docks, wharves, and bridges; and
7. subdivision of land.

The following specific activities require a development permit where the RAR applies:

8. provision and maintenance of sewer and water services;
9. development of drainage systems; and
10. development of utility corridors.

## EXEMPTIONS

The following activities are exempt from any requirement for a development permit:

### ***Exemptions Applicable to all Watercourses:***

1. Development in an area where no stream or watercourse exists, as determined by the Regional District, a BC Land Surveyor, or a Registered Professional Biologist. For clarity, if the stream or watercourse ecosystem was previously filled or realigned without a development permit, this exemption does not apply.
2. Renovations, repairs, maintenance, the construction of a second storey addition, excluding cantilevered construction to existing buildings within the same footprint (a building permit may still be required).
3. All park or parkland ancillary uses not containing commercial, residential, or industrial activities.
4. Emergency procedures to prevent, control, or reduce erosion, or other immediate threats to life and property including:
  - a) emergency flood or protection works;
  - b) clearing of an obstruction from bridge, culvert, or drainage flow, repairs to bridges and safety fences;
  - c) any emergency works to be undertaken in accordance with the Provincial *Water Sustainability Act* and *Wildlife Act*, and the federal *Fisheries Act*.

Notwithstanding the above, emergency actions for flood protection and clearing of obstructions by anyone other than the Regional District or Ministry must be reported to the Regional District and applicable Ministry immediately to secure exemption under this provision. Note that once the emergency has passed, a development permit may be required for remediation or permanent protection works.

5. Removal of trees deemed hazardous by a certified arborist or Registered Professional Forester that pose an immediate threat to buildings or life safety. Removal of hazardous trees that also contain an eagle or heron nest are exempt only if a permit under the *Wildlife Act* has been obtained.
6. The small-scale, manual removal of invasive plants or noxious weeds or planting of non-invasive, native vegetation on a small scale conducted in accordance with 'Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia, 2014' published by the Province of BC, or any subsequent editions.
7. The activity is part of a farm operation as defined by the *Farm Practices Protection (Right to Farm) Act*, is a permitted farm use as defined in Section 2(2) of the *Agricultural Land Reserve Use, Subdivision, and Procedures Regulations*, and the lands are assessed as 'farm' under the *BC Assessment Act*. The farm operation of land clearing is only exempt from the requirement of a development permit if conducted in accordance with a current Environmental Farm Plan (less than five years old); otherwise, land clearing as part of a farm operation is not exempt. Note that other provincial legislation such as the *Waste Management Act* and the *Water Sustainability Act* may apply to farm operation activities.

8. Works conducted and/or approved by the Department of Fisheries and Oceans and/or Ministry of Environment with respect to trail construction, stream enhancement, fish and wildlife habitat restoration and in-stream works as defined by Section 11 of the Water Sustainability Act.
9. All forest management activities on lands subject to the *Forest Act* or *Private Managed Forest Land Act* and classified as 'Forest Lands' on the property assessment.
10. Works conducted by the Regional District or its agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines as determined by the Regional District.
11. Subdivision where the minimum lot size is met exclusive of the Streamside Protection and Enhancement Area (SPEA) or where the RAR does not apply, exclusive of the development permit area, and no works are proposed within the Riparian Assessment Area or development permit area.

***Exemptions Applicable to Streams under the RAR only:***

12. For streams subject to the RAR, in the case where a simple assessment is submitted which assign a SPEA, a development proposed outside of the SPEA where:
  - a) the assessment report has been completed by a Qualified Environmental Professional (QEP) in accordance with the Riparian Areas Regulation Assessment Methods; and
  - b) notification of the assessment report has been received by the provincial ministry responsible and the Regional District, and there are no measures outside of the SPEA required to protect the SPEA.

***Exemptions Applicable to this development permit area where the RAR does not apply:***

13. Subdivision involving only lot line adjustment or lot consolidation. For lot line adjustment to be exempt there must be sufficient developable area outside the development permit area as confirmed by the Regional District, BC Land Surveyor, or Registered Professional Biologist, and there are no works proposed within the development permit area.
14. A property owner may construct a single trail within this development permit area in accordance with the principles and standards of 'Access Near Aquatic Areas' of the Stewardship Series published by the provincial and federal governments, and subject to the following conditions:
  - a) the trail provides the most direct route of feasible passage through the development permit area;
  - b) the location is chosen to require a minimum amount of vegetation removal or disturbance and where there is limited excavation and removal of native soils;
  - c) the ground is stable, i.e. erodible stream banks or other erosion prone areas shall be avoided;
  - d) no motorized vehicles are permitted on the trail;
  - e) the trail is not to exceed a maximum width of 1.5 metres;
  - f) no trees, which are greater than five metres in height and 10 centimetres in diameter, are to be removed; instead limbing and pruning of trees shall be done, where necessary, to facilitate the construction of the single trail;

- g) the trail's surface shall only be composed of pervious materials.
15. Minor additions to existing buildings or structures to a maximum of 25 percent of the ground floor area, if the addition is located on the side or part of the building or structure most distant from the waterbody or stream.
16. The construction of a small accessory building or structure if all the following apply:
- a) the building or structure is located within an existing landscaped area;
  - b) no native trees with a diameter at breast height of 20 centimetres or greater are removed;
  - c) there is no permanent foundation;
  - d) the building or structure is located a minimum of 10 metres from the high water mark or, where the bank has a slope greater than 3:1, 10 metres from the top of the bank; and
  - e) the total area of the accessory building or structure is less than 10 metres square.

## GUIDELINES

Development permits shall be issued in accordance with the following:

### ***Guidelines applicable to all watercourses:***

1. An assessment must be prepared by a Registered Professional Biologist (a Qualified Environmental Professional for streams applicable to the RAR) with the objectives of identifying sensitive biophysical features on or near the property and providing recommendations and conditions for development to avoid or mitigate impacts to these features. The assessment should list the guidelines in this development permit area with an explanation of how the proposed development is consistent with them (or an explanation of how a guideline is not applicable) and should indicate on a site plan the areas for yard and driveway and areas to remain free from development. See Guideline 13 for additional requirements of this report for streams applicable to the RAR.
2. If development or alteration of land is proposed within the development permit area, it shall be located where it will cause the least impact on the stream or waterbody. It should be demonstrated that locating development entirely outside of the development permit area has been considered, and a description of why that is not being proposed should be provided. Variances to the zoning bylaw regulations to minimize development in the development permit area should be considered.
3. Sensitive biophysical features to be identified and protected in this development permit area include but are not limited to:
  - a) plants and plant communities that provide refuges and migration routes for birds and wildlife and support fish life processes;
  - b) vegetation in riparian areas that moderates the volume and rate of water flowing through the watershed and stabilizes stream banks by holding the soil in place;
  - c) plant root systems that enhance the soil's ability to absorb water by making it more porous;

- d) vegetation that provides food and shelter for fish;
  - e) shade from trees that regulates water temperatures in the stream; and
  - f) logs and other woody debris that could fall into streams from the riparian area influencing stream channel morphology, dissipating the stream's natural erosive energy and providing habitat for a diverse range of species.
4. Mitigation measures that should be considered in the biological assessment include but are not limited to:
- a) maintenance of an effective visual and sound (natural vegetated) buffer around nesting trees;
  - b) minimization of vegetation removal;
  - c) maintenance of linkages with adjacent sensitive ecosystems to minimize habitat fragmentation and maintain wildlife corridors; and
  - d) timing of construction to minimize potential impacts.
5. Where the applicant's biologist or other qualified professional recommends revegetation and/or enhancement works, the Regional District may require the applicant to submit a landscaping plan and a security deposit equal to the total estimated costs of all materials and labour as determined by a Landscape Architect or other qualified professional to the satisfaction of the Regional District.
6. For the SPEA or where the applicant's biologist or other qualified professional recommends other specific areas that must remain free from development:
- a) the Regional District may require a Section 219 covenant to be prepared at the applicant's expense, to the satisfaction of the Regional District, to ensure that the identified areas remain free from development; and
  - b) prior to construction commencing, the installation of temporary fencing or flagged stakes marking the protection area is required to avoid encroachment within the areas to be protected through to the completion of the development.
7. The applicant's biologist or QEP may be required to provide confirmation to the Regional District that the property has been developed in accordance with the QEPs recommendations.

***Guidelines Related to Rainwater Management and Protection of Development from Hazardous Conditions***

- 8. Treated effluent and diverted rainwater collection and discharge systems on commercial, industrial, multi-residential, intensive residential and other developments where there is potential for silt and petroleum-based contaminants to enter a watercourse directly or infiltrate into the ground will require the provision for grease, oil, and sedimentation removal facilities and the ongoing maintenance of these facilities.
- 9. Directing drainage of rainwater from development sites into the SPEA and other watercourses and water bodies shall be avoided. Instead, rainwater is to be managed onsite with an emphasis on infiltration approaches to management. If impacts cannot be avoided through onsite infiltration, a sediment and erosion control plan may be required, and grading plan may be required where fill is placed near the freshwater feature.
- 10. In low-lying areas subject to flooding, development should not increase the flood risk on the subject property or on adjacent or nearby properties. Where the placement of fill is proposed

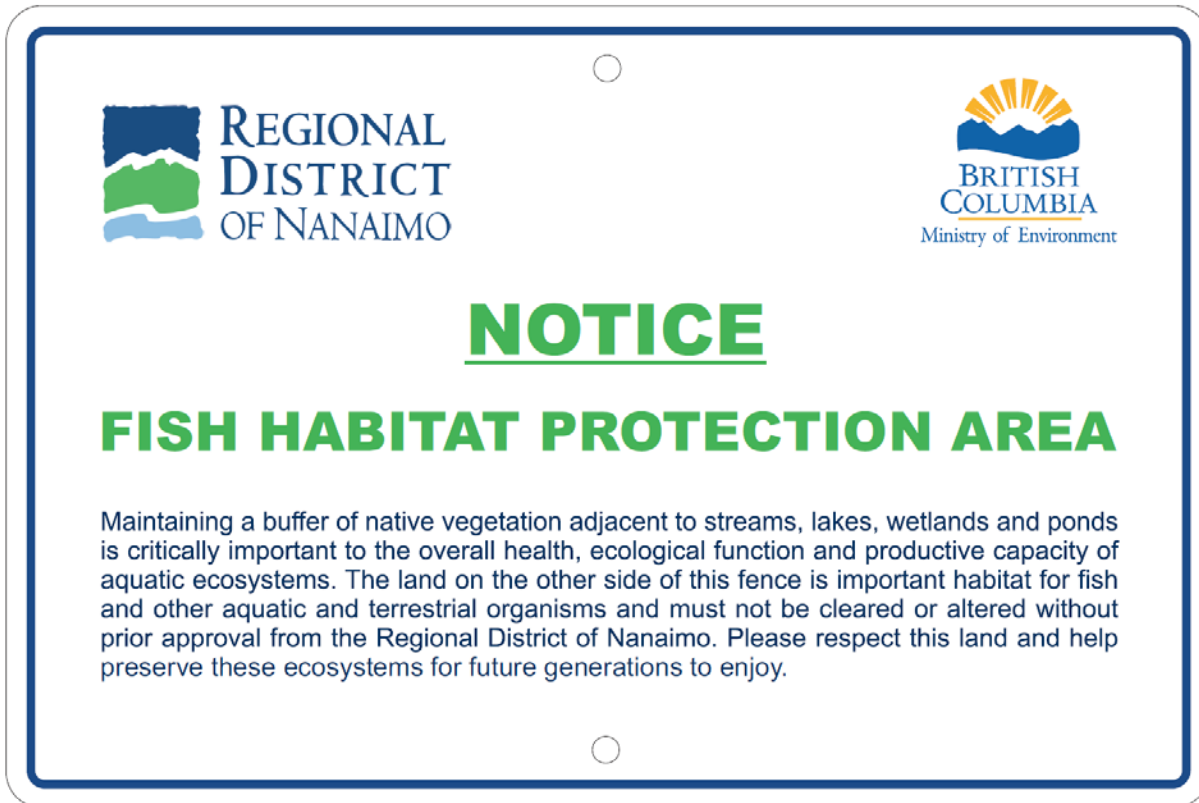


within a floodplain as defined by the RDN Floodplain Management Bylaw the Regional District shall require a report by a Professional Engineer that ensure the placement of the proposed fill would not restrict the passage of flood waters, redirect flood flows, decrease natural flood storage, or result in higher flood flows or flood potential elsewhere in the floodplain.

11. Where there is a slope greater than 30 percent over a minimum horizontal distance of 10 metres, an assessment report prepared by a Professional Engineer with experience in geotechnical engineering may be required to assist in determining what conditions or requirements shall be included in the development permit so that proposed development is protected from the hazard and no increase in hazard is posed to existing development. The geotechnical report will form part of the development permit terms and conditions, and may include registration of a Section 219 Covenant, prepared at the applicant's expense and to the satisfaction of the Regional District.

***Additional Guidelines Applicable to Streams Subject to the RAR only***

12. No development shall take place within any SPEA except where:
  - a) a QEP has determined that no serious harm is likely to occur or that it can be mitigated by following prescribed measures; or
  - b) the owner has obtained an authorization under subsection 35(2) [serious harm to fish] the *Fisheries Act*.
13. The Regional District shall require the applicant to retain QEP, at the expense of the applicant, for the purpose of preparing an assessment report, pursuant to Section 4(2) of the RAR and the Riparian Area Regulations Assessment Methodology Guidebook, and the assessment report must be electronically submitted to the provincial ministry responsible, via the Riparian Area Regulations Notification System, and a copy must be provided to the Regional District.
14. In addition to implementing the measures in the assessment report, to ensure the integrity of the SPEA the Regional District and landowner may consider the following:
  - a) dedicate back to the Crown or Regional District all or part of the SPEA;
  - b) gift to a nature preservation organization all or part of the SPEA; or
  - c) register a restrictive covenant or conservation covenant on title securing the measures prescribed in the assessment report.
15. For the purpose of subdivision design, proposed lot configuration shall consider the protection of the SPEA and minimize new parcel lines in the SPEA. The proposed lot configuration should demonstrate that enough developable land is available on each lot to establish a development envelope that includes a reasonable yard area outside of the SPEA to accommodate wastewater disposal field, driveway, accessory buildings and yard.
16. Permanent fencing and/or other means of clearly delineating the SPEA boundary such as signage must be designed to follow the standard established by the Regional District and Ministry of Environment shown below. Signage must be installed to the satisfaction of the Regional District prior to land alteration and in the case of subdivision prior to the Regional District notifying the Approving Officer that the conditions of the development permit have been met. Fencing must be designed to allow for the free and uninterrupted movement of organisms between riparian and upland ecosystems and must be maintained in good order.



Aluminum or Dibond 12"x18" Radius corners  
Inline border .14"  
RDN logo: 2"x5.17"  
Ministry of Environment logo: 2.5"x2.92"  
Notice: Arial black type .90"  
Fish Habitat Protection Area: Arial black type .60"  
All other text: Arial bold type .27"

# SENSITIVE ECOSYSTEMS DEVELOPMENT PERMIT AREA

DRAFT DEVELOPMENT PERMIT AREA FOR COMMENT

May 23, 2018

## Introduction

The Regional District of Nanaimo is reviewing development permit areas in all its electoral areas to standardize and streamline the development approval process. This will result in consistent language, exemptions, and requirements, and allow for updates to current best practices.

The Sensitive Ecosystems Development Permit Area applies to the following Official Community Plan (OCP) areas: Electoral Areas A, and G, Arrowsmith Benson – Cranberry Bright, and Nanoose Bay.

This DPA applies to select sensitive ecosystems identified in the provincial Sensitive Ecosystem Inventory (SEI) Mapping. For the Electoral Area A OCP area, the DPA also applies to known locations of rare and endangered species. The table below shows which SEI and other features apply in each of the OCP areas.

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

## SENSITIVE ECOSYSTEMS DEVELOPMENT PERMIT AREA

*DRAFT text for Electoral Area A OCP*

### **DESIGNATION:**

The Sensitive Ecosystems Development Permit Area is shown on Map No. 9 and applies to the following environmentally sensitive ecosystems features, ecosystems or habitat:

- 'coastal bluff', 'terrestrial herbaceous', and 'older forest' as mapped in the Provincial Sensitive Ecosystem Inventory; and
- known occurrences of the following rare and endangered species as mapped by the Conservation Data Centre: Propertius Duskywing (butterfly) and Vesper Sparrow.

### **AUTHORITY:**

The Sensitive Ecosystems Development Permit Area is designated a development permit area for the protection of the natural environment, its ecosystems and biological diversity pursuant to Section 488(1)(a) of the *Local Government Act*.

**JUSTIFICATION:**

Increasing development pressure and environmental awareness, as well as the RGS goal of environmental protection has led to the need for the protection of the Plan Area's most sensitive environmentally significant features including components of the Coastal Douglas Fir Ecosystem, rare species, and other environmentally sensitive features to ensure their continued survival and enjoyment for generations to come.

The objective of the development permit area is to minimize the impacts of developments on environmentally sensitive features, ecosystems or habitat.

**SENSITIVE ECOSYSTEMS DEVELOPMENT PERMIT AREA**

*DRAFT OCP text for Arrowsmith Benson – Cranberry Bright OCP*

**Designation:**

The Sensitive Ecosystems Development Permit Area is shown on Map No. 7 (Development Permit Areas, Sheet 5 of 5) and applies to the following sensitive ecosystems mapped in the Provincial Sensitive Ecosystem Inventory (SEI): 'terrestrial herbaceous', 'older forest', and 'sparsely vegetated'.

**Authority:**

The Sensitive Ecosystems Development Permit Area is designated a development permit area for the protection of the natural environment, its ecosystems and biological diversity pursuant to Section 488(1)(a) of the *Local Government Act*.

**Justification:**

These Development Permit Areas are applicable to lands, which contain sensitive ecosystems as identified by Environment Canada and the BC Ministry of Environment, Lands and Parks.

A Sensitive Ecosystems Inventory for east Vancouver Island and the Gulf Islands has been completed by Environment Canada and the BC Ministry of Environment, Lands and Parks. The Inventory identified ecosystems within the eastern segment of Arrowsmith Benson - Cranberry Bright, which are endangered or sensitive to disturbance.

The objective of the development permit area is to minimize the impacts of developments on environmentally sensitive features, ecosystems or habitat.

**SENSITIVE ECOSYSTEMS DEVELOPMENT PERMIT AREA**

*DRAFT OCP text for Nanose Bay OCP*

**DESIGNATION**

The Sensitive Ecosystems Development Permit Area is shown on Map No. 6 and applies to parcels containing the following environmentally sensitive ecosystems mapped in the Provincial Sensitive Ecosystem Inventory (SEI): woodland, coastal bluff (for lands that are subdividable), terrestrial herbaceous, wetland, and sparsely vegetated ecosystems.

## **AUTHORITY**

The Sensitive Ecosystems Development Permit Area is designated a development permit area for the protection of the natural environment, its ecosystems and biological diversity, pursuant to Section 488(1)(a) of the *Local Government Act*.

## **JUSTIFICATION:**

The Sensitive Ecosystems Development Permit Area is comprised of parcels including lands that have been identified in the SEI: East Vancouver Island and Gulf Islands 1997 and 2004 updates completed by the Canadian Wildlife Service. These lands have been identified as being endangered or sensitive to disturbance. The lands include stands of Garry Oak, woodlands, meadows, grasslands, and their associated species. Some of the plant and animal species are found only in southeastern British Columbia and these ecosystems are among the rarest in the province. Nanoose Bay is unique in the range of sensitive ecosystems it contains and in the required level of preservation of these systems.

The objective of the development permit area is to minimize the impacts of developments on environmentally sensitive features, ecosystems or habitat.

## **SENSITIVE ECOSYSTEMS DEVELOPMENT PERMIT AREA**

*DRAFT OCP text for Electoral Area G OCP*

## **DESIGNATION**

The Sensitive Ecosystems Development Permit Area is shown on Map No. 9 and applies to 'sparsely vegetated', and 'older forest' sensitive ecosystems mapped in the Provincial SEI: East Vancouver Island and Gulf Islands 1993 – 1997 and updated in 2004.

## **PURPOSE**

The Sensitive Ecosystems Development Permit Area is designated a development permit area for the protection of the natural environment, its ecosystems and biological diversity pursuant to Section 488(1)(a) of the *Local Government Act*.

## **JUSTIFICATION:**

Increasing development pressure and environmental awareness, as well as the Regional Growth Strategy's goal of environmental protection has led to the need for the protection of the Plan Area's most sensitive environmentally significant features to ensure their continued survival and enjoyment for generations to come.

The objective of the development permit area is to minimize the impacts of developments on environmentally sensitive features, ecosystems or habitat.

## **SENSITIVE ECOSYSTEMS DEVELOPMENT PERMIT AREA**

*DRAFT standard 'applicability', 'exemptions' and 'guidelines' for Bylaw 500*

### **APPLICABILITY**

A development permit is required for the following activities wherever they occur within this development permit area, unless specifically exempted:

1. removal, alteration, disruption or destruction of vegetation, including trees, plants and shrubs;
2. disturbance of soils, including grubbing, scraping and the removal of top soils;
3. construction or erection of buildings and structures;
4. creation of non-structural impervious or semi-pervious surfaces; and
5. subdivision of land as defined in the *Land Title Act* or *Strata Property Act*.

### **EXEMPTIONS**

The following activities are exempt from any requirement for a development permit:

1. Development in an area where the sensitive ecosystem does not exist due to mapping inaccuracy, upon written confirmation from a Registered Professional Biologist. For clarity, if the sensitive ecosystem was previously disturbed without a development permit this exemption does not apply.
2. Minor additions to existing buildings or structures to a maximum of 25 percent of the ground floor area, provided that the addition is not situated closer to the environmentally sensitive feature for which the development permit area has been identified, than the existing building or structure.
3. Repair, maintenance, or alteration of existing legal buildings, structures or utilities except for shoreline protection structures, provided the footprint of the building is not expanded (a building permit may still be required).
4. A second storey addition, excluding cantilevered construction, to a legally sited structure, provided the second storey addition is within the existing footprint of the existing structure.
5. A single trail within this development permit area, subject to the following:
  - a) the trail provides the most direct route of feasible passage through the development permit area;
  - b) the location is chosen to require a minimum amount of vegetation removal or disturbance and where there is limited excavation and removal of native soils;
  - c) the ground is stable, i.e. erodible stream banks or other erosion prone areas must be avoided;
  - d) no motorized vehicles are permitted;
  - e) the trail is a maximum of 1.5 metres in width;
  - f) no trees, which are greater than five metres in height and no trees with a diameter at breast height of 10 centimetres or more are being removed; limbing, pruning and topping of trees should be done instead; and,
  - g) the trail's surface is pervious but may be constructed with materials that limit erosion and bank destabilization (certain structures may require a building permit).

6. The planting of trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability within the development permit area provided the planting is carried out in accordance with the guidelines provided in 'Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia', published by Ministry of Environment, or any subsequent editions.
7. Gardening and yard maintenance activities within an existing landscaped area, such as lawn mowing, tree and shrub pruning, vegetation planting and minor soil disturbance that do not alter the general contours of the land. For clarity, this exemption does not apply to retaining walls and anything that is considered a structure as defined by the current zoning bylaw.
8. The small-scale, manual removal of invasive plants or noxious weeds or planting of non-invasive, native vegetation on a small scale conducted in accordance with 'Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia, 2014' published by the Province of BC, or any subsequent editions.
9. Removal of trees deemed hazardous by a certified arborist or Registered Professional Forester that pose an immediate threat to buildings or life safety. Removal of hazardous trees that also contain an eagle or heron nest is exempt only if a permit under the *Wildlife Act* has been obtained.
10. The construction of a small accessory building or structure if all the following apply:
  - a) the building or structure is located within an existing landscaped area;
  - b) no native trees with a diameter at breast height of 20 centimetres or greater are removed;
  - c) there is no permanent foundation;
  - d) the building or structure is located a minimum of 10 metres from the natural boundary of the sea or, where the bank has a slope greater than 3:1, 10 metres from the top of the bank; and
  - e) the total area of the small accessory building or structure is less than 10 square metres.
11. Subdivision where the following criteria is met:
  - a) minimum parcel sizes will be met exclusive of the development permit area; and
  - b) no development activities including grading, clearing, trenching, or installation of pipes, relating to the creation of all parcels will occur within the development permit area; and
  - c) where a covenant is registered to protect the sensitive ecosystem or ecosystems in a manner that is consistent with the applicable development permit area guidelines.
12. Subdivision involving only lot line adjustment or lot consolidation. For lot line adjustment to be exempt there must be sufficient developable area outside the development permit area as confirmed by the Regional District, BC Land Surveyor, or Registered Professional Biologist, and there are no works proposed within the development permit area.
13. The activity is part of a farm operation as defined by the *Farm Practices Protection (Right to Farm) Act*; is a permitted farm use as defined in Section 2(2) of the *Agricultural Land Reserve Use, Subdivision, and Procedures Regulations*; and the lands are assessed as 'farm' under the *BC Assessment Act*. The farm operation of land clearing is only exempt from the requirement of a development permit if conducted in accordance with a current Environmental Farm Plan (less

than five years old); otherwise, land clearing as part of a farm operation is not exempt. Note that other provincial legislation such as the *Waste Management Act* and the *Water Sustainability Act* may apply to farm operation activities.

14. Emergency procedures to prevent, control, or reduce erosion, or other immediate threats to life and property including:
  - a) emergency flood or protection works;
  - b) clearing of an obstruction from bridge, culvert, or drainage flow; repairs to bridges and safety fences;
  - c) any emergency works to be undertaken in accordance with the Provincial *Water Sustainability Act* and *Wildlife Act*, and the Federal *Fisheries Act*.

Notwithstanding the above, emergency actions for flood protection and clearing of obstructions by anyone other than the Regional District or Ministry must be reported to the Regional District and applicable Ministry immediately to secure exemption under this provision. Note that once the emergency has passed, a development permit may be required for remediation or permanent protection works.

15. Works conducted and/or approved by the Department of Fisheries and Oceans and/or Ministry of Environment with respect to trail construction, stream enhancement, fish and wildlife habitat restoration and in-stream works as defined by Section 11 of the *Water Sustainability Act*.
16. Works conducted by the Regional District or its agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines as determined by the Regional District.
17. All forest management activities on lands subject to the *Forest Act* or *Private Managed Forest Land Act* and classified as 'forest lands' on the property assessment.

## GUIDELINES

1. If development or alteration of land is proposed within the development permit area, it shall be located where it will cause the least impact on the sensitive ecosystem. It should be demonstrated that locating development entirely outside of the development permit area has been considered, and a description of why that is not being proposed should be provided. It should be demonstrated that variances to minimize development in the development permit area have been obtained or considered.
2. An assessment must be prepared by a Registered Professional Biologist with the objectives of identifying sensitive biophysical features on or near the property and providing recommendations and conditions for development to avoid or mitigate impacts to these features. The assessment should list the guidelines in this development permit area with an explanation of how the proposed development is consistent with them (or an explanation of how a guideline is not applicable) and should indicate on a site plan the areas for yard and driveway and areas to remain free from development.
3. Existing native vegetation should be retained wherever possible to minimize disruption to habitat and maintain ecological processes that support ecosystem function, wildlife ecology, and unique ecosystems. These include, but are not limited to:



- a) vegetation, trees, snags and root systems;
  - b) rare and uncommon species and plant communities;
  - c) soils and soil conditions (moisture, nutrients and permeability);
  - d) bird and other wildlife and their habitats, such as nesting and breeding areas;
  - e) wildlife habitat, including but not limited to wildlife breeding areas as well as nesting and perch trees; and
  - f) topography and relative orientation of features on neighbouring properties.
4. Mitigation measures that should be considered in the biological assessment include but are not limited to:
- a) maintenance of an effective visual and sound (natural vegetated) buffer around nesting trees;
  - b) minimization of vegetation removal;
  - c) maintenance of linkages with adjacent sensitive ecosystems to minimize habitat fragmentation and maintain wildlife corridors; and
  - d) timing of construction to minimize potential impacts.
5. Where the applicant's biologist recommends revegetation and/or enhancement works within the development permit area, the Regional District may require the applicant to submit a landscaping plan and security deposit equal to the total estimated costs of all materials and labour as determined by a Landscape Architect or other qualified professional.
6. Development should be designed following applicable guidelines in the Provincial Ministry of Environment document: ['Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia'](#) as amended or replaced from time to time.
7. Where the applicant's biologist recommends specific areas that must remain free from development:
- a) the Regional District may require a Section 219 covenant to be prepared at the applicant's expense, to the satisfaction of the Regional District, to ensure that the identified areas remain free from development; and
  - b) prior to construction commencing, the installation of temporary fencing or flagged stakes marking the protection area is required to avoid encroachment within the areas to be protected through to the completion of the development.
8. The applicant's biologist may be required to provide confirmation to the Regional District that the property has been developed in accordance with the biologist's recommendations.

***Guidelines Related to Rainwater Management and Protection of Development from Hazardous Conditions***

9. Where there is a slope greater than 30 percent over a minimum horizontal distance of 10 metres, an assessment report prepared by a Professional Engineer with experience in geotechnical engineering may be required to assist in determining what conditions or requirements shall be included in the development permit so that proposed development is protected from the hazard and no increase in hazard is posed to existing development. The geotechnical report will form part of the development permit terms and conditions, and may

include registration of a Section 219 Covenant, prepared at the applicant's expense and to the satisfaction of the Regional District.

10. Development or subdivision of land should be designed to:
  - a) replicate the function of a naturally vegetated watershed;
  - b) maintain the hydraulic regime of surface and groundwater and pre-development flow rates;
  - c) not interfere with groundwater recharge; and
  - d) not introduce or remove materials where it would cause erosion of or the filling in of natural watercourses and/or wetlands.
11. The use of rain gardens, vegetated swales, a reduction in impervious surfaces, and other methods for managing rain water on-site should be included in all development proposals considered in this DPA.

# EAGLE AND HERON NESTING TREES DEVELOPMENT PERMIT AREA

DRAFT DEVELOPMENT PERMIT AREA FOR COMMENT

May 23, 2018

## Introduction

The Regional District of Nanaimo is reviewing development permit areas in all its electoral areas to standardize and streamline the development approval process. This will result in consistent language, exemptions, and requirements, and allow for updates to current best practices.

The Eagle and Heron Nesting Trees DPA applies to the following Official Community Plan (OCP) areas: Electoral Areas A, G and H, and Nanoose Bay.

## **EAGLE AND HERON NESTING TREES DEVELOPMENT PERMIT AREA**

*DRAFT OCP text for Areas A, E, G and H*

## **DESIGNATION**

The Eagle and Heron Nesting Trees Development Permit Area is shown on Map No. X. The development permit area is defined as follows:

- a) For **Bald Eagle Nesting Trees** – the development permit area applies to all mapped and unmapped trees containing bald eagle nests and is a 60 metre radius measured from the drip line of the nesting tree.
- b) For **Great Blue Heron Nesting Trees** – the development permit area applies to all mapped and unmapped trees containing great blue heron nests, and shall be
  - i. a 60 metre radius from the dripline of the nesting tree on lots 1.0 hectare or smaller; and
  - ii. a 100 metre radius from the dripline of the nesting tree on lots larger than 1.0 hectare.

Where the colony consists of more than one tree, the radius is measured from a line drawn around the outer perimeter of the drip line of all nest trees.

The locations of the eagle and heron nesting trees identified on Map No. X of this plan are intended to provide an approximate location only. Ground-truthing may be required by Regional District staff, a Registered Professional Biologist, or British Columbia Land Surveyor, to accurately determine the location of the tree or trees.

## **AUTHORITY**

The Eagle and Heron Nesting Trees Development Permit Area is designated a development permit area for protection of the natural environment, its ecosystems and biological diversity, pursuant to Section 488(1)(a) of the *Local Government Act*.

## JUSTIFICATION

Nesting birds such as the Great Blue Heron and Bald Eagle are sensitive to impact from development and disturbance by human activity and require special treatment in order to protect their ecological value, now and for the future.

Pacific Great Blue Herons are a Species of Special Concern in Canada and are Blue-listed in British Columbia. There are only about 500 nests on Vancouver Island and the Gulf Islands. Bald Eagles are territorial and generally require 1000 meters between nesting sites. Both species nest near lakes, rivers and shorelines throughout BC where they are close to their food source. The loss of available nesting habitat near their food source, as well as disturbance from human presence, reduces the birds' ability to thrive and successfully raise their young. While Section 34 of the *Wildlife Act* provides for the protection of Bald Eagles and Pacific Great Blue Herons and several other at risk bird species, this development permit area protects the nesting habitat essential to ensuring breeding populations are maintained.

The objectives of this development permit area are:

1. To implement Regional Growth Strategy Policy 2.14 to protect environmentally sensitive areas from the impacts of development.
2. To protect eagle and heron nesting sites from the impacts of development.

### EAGLE AND HERON NESTING TREES DEVELOPMENT PERMIT AREA

*DRAFT standard 'applicability', 'exemptions' and 'guidelines' for Bylaw 500*

## APPLICABILITY

A development permit is required for the following activities wherever they occur within this development permit area, unless specifically exempted:

1. removal, alteration, disruption or destruction of natural features, including mature and native vegetation;
2. disturbance of soils, including grubbing, scraping and the removal of top soils;
3. construction or erection of buildings and structures;
4. creation of non-structural impervious or semi-pervious surfaces; and
5. subdivision of land as defined in the *Land Title Act* or *Strata Property Act*.

## EXEMPTIONS

The following activities are exempt from any requirement for a development permit:

1. Development or alteration of land to occur outside the designated development permit area, as determined by a BC Land Surveyor or by the Regional District.
2. The landowner has offered and entered into a restrictive covenant to maintain an acceptable no disturbance buffer as determined by a registered professional biologist.
3. A Registered Professional Biologist with relevant experience has confirmed in writing that no Bald Eagle or no Great Blue Heron has established a nest and is present during the breeding and

nesting season of the past five years. In general terms, this is from February to June for Great Blue Herons; and January to September for Bald Eagles.

4. Removal, trimming or alteration of vegetation other than the nest tree; onsite sewage disposal system installations and well drilling within the nest tree development permit area is permitted without a development permit where:
  - a) the activity is conducted entirely outside of the nesting season which is from February to June for Pacific Great Blue Herons and January to September for Bald Eagles, or
  - b) a Registered Professional Biologist with relevant experience has confirmed in writing that the activity will not negatively impact the nest tree, or its associated Great Blue Herons or Bald Eagles.
5. Subdivision involving only lot line adjustment or lot consolidation. For lot line adjustment to be exempt there must be sufficient developable area outside the development permit area as confirmed by the Regional District, BC Land Surveyor, or Registered Professional Biologist, and there are no works proposed within the development permit area.
6. Removal of trees deemed hazardous by a certified arborist or Registered Professional Forester that pose an immediate threat to buildings or life safety. Removal of hazardous trees that also contain an eagle or heron nest is exempt only if a permit under the *Wildlife Act* has been obtained.
7. The small-scale, manual removal of invasive plants or noxious weeds or planting of non-invasive, native vegetation on a small scale conducted in accordance with 'Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia, 2014' published by the Province of BC, or any subsequent editions.
8. Emergency procedures to prevent, control, or reduce erosion, or other immediate threats to life and property including:
  - a. emergency flood or protection works;
  - b. clearing of an obstruction from bridge, culvert, or drainage flow; repairs to bridges and safety fences;
  - c. any emergency works to be undertaken in accordance with the Provincial *Water Sustainability Act* and *Wildlife Act*, and the Federal *Fisheries Act*.

Notwithstanding the above, emergency actions for flood protection and clearing of obstructions by anyone other than the Regional District or Ministry must be reported to the Regional District and applicable Ministry immediately to secure exemption under this provision. Note that once the emergency has passed, a development permit may be required for remediation or permanent protection works.

9. Works conducted and/or approved by the Regional District, Department of Fisheries and Oceans and/or Ministry of Environment with respect to trail construction, stream enhancement, fish and wildlife habitat restoration and in-stream works as defined by Section 11 of the *Water Sustainability Act*.
10. All forest management activities on lands subject to the *Forest Act* or *Private Managed Forest Land Act* and classified as 'Forest Lands' on the property assessment.

11. Works conducted by the Regional District or its agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines as determined by the Regional District.

## GUIDELINES

Development permits shall be issued in accordance with the following:

1. Development shall be located where it will cause the least impact to the nesting activity of eagles or herons. It should be demonstrated that locating development entirely outside of the development permit area has been considered, and a description of why that is not being proposed should be provided.
2. An assessment must be prepared by a Registered Professional Biologist with relevant experience to assess the potential impact of the proposed development on the function of the nest tree and development or land alteration within the development permit area on the subject property. The report should include, but is not limited, to the following:
  - a. definition of the study area and the proposed activities in relation to the nesting tree, including a map to identify the location of nesting tree or trees, the development permit area, and proposed or existing buildings and structures;
  - b. identification of the breeding season;
  - c. assessment of the impacts of the proposed activities in relation to the resident birds (Bald Eagle or Great Blue Heron) and prescribe appropriate measures to preserve, protect, restore or enhance the function of the nesting tree area and any alteration of the development permit area on the subject property;
  - d. recommendations on how to mitigate negative impacts during and after construction, if permitted under the *Wildlife Act*, to protect the long term integrity of the nesting habitat; and
  - e. reference to 'Guidelines for Ecosystem and Species Protection' and/or 'Guidelines for Raptor Conservation during Urban and Rural Land Development in BC' found in 'Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia' published by the Province of BC, or any subsequent editions.
3. The recommendations within the assessment report will form part of the development permit terms and conditions, which may include registration of a Section 219 covenant, prepared at the applicant's expense, to the satisfaction of the Regional District.
4. To avoid encroachment within the area to be protected as identified in the Assessment Report, prior to construction commencing and through to the completion of the development, installation of temporary fencing or flagged stakes is required at a distance from the nesting tree as prescribed in the Assessment Report.
5. The applicant's biologist may be required to provide confirmation to the Regional District that the property has been developed in accordance with their recommendations.

# AQUIFERS DEVELOPMENT PERMIT AREA

DRAFT DEVELOPMENT PERMIT AREA FOR COMMENT

May 23, 2018

## Introduction

The Regional District of Nanaimo is reviewing development permit areas in all its electoral areas to standardize and streamline the development approval process. This will result in consistent language, exemptions, and requirements, and allow for updates to current best practices.

This 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.

## **AQUIFERS DEVELOPMENT PERMIT AREA**

*DRAFT text for Electoral Area A OCP*

### **DESIGNATION:**

The Aquifers Development Permit Area is shown on Map No. x and applies to parcels within the growth containment boundary or industrial lands where non-residential development is supported.

### **AUTHORITY:**

The Aquifers Development Permit Area is designated a development permit area for the protection of the natural environment, its ecosystems and biological diversity, pursuant to Section 488(1)(a) of the *Local Government Act*.

### **JUSTIFICATION:**

Aquifers are sensitive to impact from development and disturbance by human activity and require special treatment in order to protect their ecological value, and community value as a drinking water source now and for the future.

Aquifers and surface water are connected and interact with each other as typically, surface waters recharge aquifers in months with precipitation and snow melt. The groundwater system contributes to baseflow in rivers and streams, maintaining habitat for fish, wildlife and plants and is the sole domestic water supply for many residents. Maintaining both water quality and quantity requires careful management for the long-term sustainability of ecosystems and drinking water values.

Care must be taken in construction methods, excavation, surface drainage and the storage, handling and manufacture and use of products on parcels of land within this DPA to avoid contamination of the underlying aquifer and to protect and promote its sustainable use as a drinking water source.

In the Cassidy Village Centre area, a 2010 groundwater vulnerability study conducted by GW Solutions Inc. in partnership with Vancouver Island University indicates that Cassidy is underlain by a highly vulnerable aquifer. The report indicates that the upper Cassidy aquifer is highly vulnerable to surface contamination while the lower aquifer was found to be protected by a thick layer of blue clay. There is concern in the community based on the fact that the majority of residents draw their drinking water from the upper aquifer and there are no community water or sewer services.

In the South Wellington Industrial – Commercial area, there are no community water or community sewer services. Residents are concerned with the protection of groundwater resources, their primary source of domestic drinking water, due to the lack of community services combined with the fact that there are heavy industrial uses on relatively small lots in close proximity to rural residential uses. Therefore, it is important to ensure that both existing and future commercial and industrial uses do not pose a threat to ground water quantity or quality.

The Cedar Village Centre area overlies mapped Aquifer 161 which is closely connected to the Nanaimo River and ranked as high vulnerability to surface contamination due to the shallow water table and very permeable gravel and sand material. Water supply for the North Cedar Improvement District comes from Aquifer 161, therefore it is important to ensure both existing and future land uses do not pose a threat to groundwater quality and quantity.

The objective of this development permit area is to implement Regional Growth Strategy Policy 2.14 to protect groundwater aquifers and environmentally sensitive areas from contamination and reduced supply caused by land use and development activities.

## **AQUIFERS DEVELOPMENT PERMIT AREA**

*DRAFT text for Electoral Area G OCP*

### **DESIGNATION:**

The Aquifers Development Permit Area is shown on Map No. x and applies to parcels within the growth containment boundary or industrial lands where non-residential development is supported.

### **AUTHORITY:**

The Aquifers Development Permit Area is designated a development permit area for the protection of the natural environment, its ecosystems and biological diversity, pursuant to Section 488(1)(a) of the *Local Government Act*.

### **JUSTIFICATION:**

Aquifers are sensitive to impact from development and disturbance by human activity and require special treatment in order to protect their ecological value, and community value as a drinking water source now and for the future.

Aquifers and surface water are connected and interact with each other as typically, surface waters recharge aquifers in months with precipitation and snow melt. The groundwater system contributes to



baseflow in rivers and streams, maintaining habitat for fish, wildlife and plants and is the sole domestic water supply for many residents. Maintaining both water quality and quantity requires careful management for the long-term sustainability of ecosystems and drinking water values.

The Plan Area intersects eight different mapped aquifers and contain the lower reaches of three major water regions (Little Qualicum River, French Creek, Englishman River). This results in varying aquifer and watershed conditions, characteristics and contexts. Vulnerability of mapped aquifers to surface contamination is generally high. For the most part, the mapped aquifers that underlie the Plan Area are moderately producing sand and gravel that are under moderate demand. These aquifer areas are drinking water sources for domestic well owners and customers of water services areas including EPCOR French Creek, Town of Qualicum Beach, City of Parksville and four RDN Water Service Areas: Surfside, French Creek, San Pareil, and Englishman River Community.

Care must be taken in construction methods, excavation, surface drainage, storage, handling and manufacture and use of products on parcels of land within this DPA to avoid contamination of the underlying aquifer and to protect and promote its sustainable use as a drinking water source.

The objective of this development permit area is to implement Regional Growth Strategy Policy 2.14 to protect groundwater aquifers and environmentally sensitive areas from contamination and reduced supply caused by land use and development activities.

#### **AQUIFERS DEVELOPMENT PERMIT AREA**

*Note: text for Area H OCP remains unchanged*

#### **AQUIFERS DEVELOPMENT PERMIT AREA**

*DRAFT standard 'applicability', 'exemptions' and 'guidelines' for Bylaw 500*

#### **APPLICABILITY**

A development permit is required for the following activities wherever they occur within this development permit area, unless specifically exempted:

1. alteration of land, disturbance of soils, including grubbing, scraping and the removal of top soils;
2. construction, alteration, or erection of buildings and structures;
3. creation of non-structural impervious or semi-pervious surfaces;
4. subdivision of land as defined in the *Land Title Act* or *Strata Property Act*; and
5. excavation or sub-surface disturbance in the sub-area defined as 'risk of artesian conditions'.

## EXEMPTIONS

The following activities are exempt from any requirement for a development permit:

1. Construction, renovation, repair or addition to a single dwelling unit, duplex dwelling unit, secondary suite, building or structure accessory to residential use including a driveway and except for excavation of a depth greater than 1.5 metres in an area with 'risk of artesian conditions'.
2. Construction of or additions to a building or structure that do not require a building permit.
3. Onsite wastewater disposal system installation meeting the requirements of the *Sewerage System Regulation* of the *Public Health Act*.
4. Subdivision of land within Cedar Village Centre and South Wellington Light Industrial & Commercial Area as designated in the Electoral Area A Official Community Plan, except for intensive residential within the Cedar Main Street Village Plan area (intensive residential is defined in that plan).
5. Subdivision of land where a maximum of three parcels are proposed, including the remainder, where the subject property:
  - a. in Electoral Area H has a 'low' vulnerability as identified in the Official Community Plan or;
  - b. in Electoral Area G does not have a development subclass of 'heavy' nor a vulnerability class of 'high' or a combination of 'heavy' or 'high' as identified in the Official Community Plan.
6. Subdivision of land where the application is limited to lot line adjustment and no additional parcels are created.
7. Subdivision of land where each lot has an approved connection to a community water system, except for within Cassidy Village Centre.
8. The activity is part of a farm operation as defined by the *Farm Practices Protection (Right to Farm) Act*, is a permitted farm use as defined in Section 2(2) of the *Agricultural Land Reserve Use, Subdivision, and Procedures Regulations*, and the lands are assessed as 'farm' under the *BC Assessment Act*. The farm operation of land clearing is only exempt from the requirement of a development permit if conducted in accordance with a current Environmental Farm Plan (less than 5 years old); otherwise, land clearing as part of a farm operation is not exempt. Note that other provincial legislation such as the *Waste Management Act* and the *Water Sustainability Act* may apply to farm operation activities.
9. All forest management activities on lands subject to the *Forest Act* or *Private Managed Forest Land Act* and classified as 'Forest Lands' on the property assessment.
10. Works conducted by the Regional District or its agents where appropriate measures have been undertaken to satisfy the applicable development permit area Guidelines as determined by the Regional District.

## GUIDELINES

Development permits shall be issued in accordance with the following:

1. The use or disposal of substances or contaminants that may be harmful to area aquifers is discouraged and steps must be taken to ensure the proper disposal of such contaminants.
2. A report must be prepared by a Professional Engineer or Geoscientist with experience in hydrogeology. The report should follow the Regional District "Guidelines for Preparation of Hydrogeological Reports" as amended from time to time, and should also include, but is not limited, to the following:
  - a. definition of the study area and the relationship of the proposed development to the protected aquifer, including map(s) indicating community water well locations;
  - b. recharge area and capture zone analysis for existing and proposed new wells;
  - c. an assessment of the ability of the aquifer to accommodate additional groundwater demand proposed by the development, which shall include the anticipated water demand of the proposed uses based on the development potential of the subject property based on the current zoning;
  - d. identification of potential impacts on adjacent properties and land uses; and
  - e. recommendations for measures required to ensure the quality and quantity of water in the aquifer is protected.
3. The use of permeable paving and other methods to reduce rain water runoff are encouraged.
4. Where a proposed development will include any of the purposes or activities listed in Schedule 2 of the Contaminated Sites Regulation, (B.C. Reg. 375/96), the report prepared by a Professional Engineer or Geoscientist with experience in hydrogeology (as described in Guideline 2) shall be required to confirm the protection of the aquifer in relation to the intended uses. In this case, the professional report should additionally include the following:
  - a. as part of the map(s) described in Guideline 2a., also indicate: site location of activities listed in abovementioned regulation, all well locations (abandoned or operational, proposed or existing above ground or underground fuel storage tanks, and underground utilities, such as water, sanitary, and storm water drainage or natural gas lines;
  - b. assess the potential for contamination and the expected results should a spill occur;
  - c. identify appropriate site-specific groundwater protection measures;
  - d. address site design, and best management practices for site drainage, sewage disposal and hazardous material use, handling, storage, disposal and spill response; and
  - e. provide recommendations, a conclusion and a reference site layout plan.
5. A rainwater management plan prepared by a Professional Engineer may be required to ensure that the discharge of any treated effluent and rainwater does not negatively affect groundwater quality. The plan must include recommendations on how to minimize the risk of deleterious substances entering the groundwater.
  - a. Treated effluent and diverted rain water collection and discharge systems on commercial, industrial, multi-residential, and other developments where there is potential for silt and petroleum-based contaminants to enter a watercourse or infiltrate

into the ground must be directed through an appropriately sized and engineered sediment, oil, water and grease separator or other engineered solution. Examples of uses to which this guideline applies includes uses such as vehicle and machinery storage, cleaning and maintenance, and public parking areas.

- b. The engineer must provide an appropriate maintenance schedule.
6. Development or subdivision of land should be designed to:
    - a. replicate the function of a naturally vegetated watershed;
    - b. not interfere with groundwater recharge;
    - c. maintain the hydraulic regime of surface and groundwater and pre-development flow rates which includes no net increase in peak rain water run-off from the land to adjoining lands.
  7. Where a proposed development is within a sub-area “risk of artesian conditions” as identified in the applicable official community plan:
    - a. the professional report shall determine the depth of the overlying till aquitard, and provide recommendations for its protection during excavation, well drilling, and construction; and
    - b. wells must be drilled by a registered well driller who is qualified to control artesian flow.
  8. Where a proposed development is within the well protection area or well capture zone of a community water system, the professional report must refer to the relevant well protection plan and provide recommendations for the development to ensure mitigation of any potential risk to the community water source.
  9. All development that proposes a site, facility, or premise where municipal solid waste or recyclable materials will be managed must be conducted in accordance with RDN Waste Stream Management Licensing Bylaw No. 1386, 2004 as amended or replaced from time to time.
  10. Recommendations within the professional report(s) will form part of the development permit terms and conditions, and may include registration of a Section 219 covenant, prepared at the applicant's expense and to the satisfaction of the Regional District. Where a maintenance schedule for a sediment, oil, water and grease separator is recommended, a commitment to the maintenance schedule may be included in the covenant.
  11. Developments that are found to pose detrimental impact(s) on either the quality or quantity of groundwater which cannot be adequately mitigated shall not be supported by the Regional District.

# MARINE COAST DEVELOPMENT PERMIT AREA

DRAFT DEVELOPMENT PERMIT AREA FOR COMMENT

May 23, 2018

## Introduction

The Regional District of Nanaimo is reviewing development permit areas in all its electoral areas to standardize and streamline the development approval process. This will result in consistent language, exemptions, and requirements, and allow for updates to current best practices.

This 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).

## **MARINE COAST DEVELOPMENT PERMIT AREA**

*DRAFT text for Electoral Area A OCP*

### **DESIGNATION:**

The Marine Coast Development Permit Area is shown on Map No. x and applies within a 15 metre horizontal distance upland from the present natural boundary and within 15 metres horizontal distance seaward of the present natural boundary. In estuarine areas, it applies upstream, both on land and water, to the extent of tidal influence. For clarity, in estuarine areas the Freshwater and Fish Habitat Development Permit Area also applies.

### **AUTHORITY:**

The Marine Coast Development Permit Area is designated a development permit area for the protection of the natural environment, its ecosystems and biological diversity, and protection of development from hazardous conditions pursuant to Section 488(1)(a) and (b) of the *Local Government Act*.

### **JUSTIFICATION:**

Coastal and marine environments provide goods and services from an ecological, economic, and social perspective. The form and dynamics of the shoreline help determine essential habitat conditions for coastal plant and animal communities. Coastal areas are also highly valued by property owners, the general community, and marine recreational users for their aesthetic qualities, recreational values, and views.

In addition, many coastal communities are experiencing unprecedented levels of growth. This is a critical time to recognize the unintended consequences of past practices and to identify ways to reduce the impacts of development and ensure that the benefits of having healthy marine ecosystems continue to be enjoyed for generations to come.

The objectives of this development permit area are:

1. To work towards the 'protection of the environment' goal of the Regional Growth Strategy, in particular by following the policy to 'minimize impacts of development in coastal zones by ensuring use of low impact development'.
2. To plan and regulate new development in a manner that preserves, protects and restores the long-term physical integrity and ecological values of shorelines and associated foreshore and upland areas.
3. To balance development opportunities with the ecological conservation and restoration of the shoreline environment.
4. To maintain the public's safe use and access to these important recreation areas in a way that does not compromise the ecological integrity of the shoreline.

## **MARINE COAST DEVELOPMENT PERMIT AREA**

*DRAFT text for Electoral Area G OCP*

### **DESIGNATION:**

The Marine Coast Development Permit Area is shown on Map No. x and applies within a 15 metre horizontal distance upland from the present natural boundary and within 15 metres horizontal distance seaward of the present natural boundary. In estuarine areas, it applies upstream, both on land and water, to the extent of tidal influence. For clarity, in estuarine areas the Freshwater and Fish Habitat Development Permit Area also applies.

### **AUTHORITY:**

The Marine Coast Development Permit Area is designated a development permit area for the protection of the natural environment, its ecosystems and biological diversity, and protection of development from hazardous conditions pursuant to Section 488(1)(a) and (b) of the *Local Government Act*.

### **JUSTIFICATION:**

The coastal zone is one of the prime features of the natural environment of the Plan Area and includes recreational beaches, sheltered embayed areas and sensitive estuaries at the mouth of the Little Qualicum and Englishman Rivers as well as French and Morningstar Creeks. The coastal zone also includes shoreline which may be susceptible to erosion or flooding in some areas.

The Plan Area contains one of only 22 provincially approved wildlife management areas. The Parksville–Qualicum Beach Wildlife Management Area (PQBWMA) encompasses 1,024 hectares of coastal foreshore, estuary, and river habitat between Craig Bay and the Little Qualicum River including land adjacent to the Englishman River. The PQBWMA includes most of the coastal shoreline in the Plan Area and a portion of the Englishman River. It contains a diversity of ecosystems and animal communities that are sensitive to development and human disturbance, including a significant flock of Pacific Black Brant Geese that stop to rest and feed within this area each spring.

The objectives of this development permit area are:

1. To work towards the 'protection of the environment' goal of the Regional Growth Strategy, in particular by following the policy to 'minimize impacts of development in coastal zones by ensuring use of low impact development'.
2. To plan and regulate new development in a manner that preserves, protects and restores the long-term physical integrity and ecological values of shorelines and associated foreshore and upland areas.
3. To balance development opportunities with the ecological conservation and restoration of the shoreline environment.
4. To maintain the public's safe use and access to these important recreation areas in a way that does not compromise the ecological integrity of the shoreline.

#### **MARINE COAST DEVELOPMENT PERMIT AREA**

*Note: OCP text for Electoral Area H remains unchanged*

#### **MARINE COAST DEVELOPMENT PERMIT AREA**

*DRAFT standard 'applicability', 'exemptions' and 'guidelines' for Bylaw 500*

#### **APPLICABILITY**

A development permit is required for the following activities wherever they occur within this development permit area, unless specifically exempted:

1. removal, alteration, disruption or destruction of vegetation, including trees, plants and shrubs;
2. disturbance of soils, including grubbing, scraping and the removal of top soils;
3. construction or erection of buildings and structures;
4. creation of non-structural impervious or semi-pervious surfaces; and
5. subdivision of land as defined in the *Land Title Act* or *Strata Property Act*.

#### **EXEMPTIONS**

The following activities are exempt from any requirement for a development permit:

1. Development or alteration of land to occur outside the designated development permit area, as determined by a BC Land Surveyor or by the Regional District.
2. Repair, maintenance, or alteration of existing legal buildings, structures or utilities except for shoreline protection structures, provided the footprint of the building is not expanded (a building permit may still be required). For clarity, repair, maintenance, alteration or reconstruction of shoreline protection works such as riprap and stacked rocks, requires a

development permit whether or not they meet the definition of 'structure' in other bylaws of the Regional District.

3. Minor additions to existing buildings or structures to a maximum of 25 percent of the ground floor area, provided that the addition is located on the side or part of the building or structure most distant from the foreshore.
4. A second storey addition, excluding cantilevered construction, to a legally sited structure, provided the second storey addition is within the existing footprint of the existing structure.
5. Repair and maintenance of existing roads, driveways, paths and trails, provided there is no expansion of the width or length of the road, driveway, path or trail, and no creation of additional impervious surfacing, including paving, asphaltting or similar surfacing.
6. Construction of a fence so long as no native trees with a diameter at breast height of 20 centimetres or greater are removed and the disturbance of native vegetation is restricted to 0.5 metres on either side of the fence.
7. Gardening and yard maintenance activities within an existing landscaped area, such as lawn mowing, tree and shrub pruning, vegetation planting and minor soil disturbance that do not alter the general contours of the land.
8. The construction of a small accessory building or structure such as a pump house, gazebo, deck, patio, garden shed or play house if all the following apply;
  - a) the building or structure is located within an existing landscaped area;
  - b) no native trees with a diameter at breast height of 20 centimetres or greater are removed;
  - c) there is no permanent foundation
  - d) the building or structure is located a minimum of 10 metres from the natural boundary of the sea or, where the bank has a slope greater than 3:1, 10 metres from the top of the bank; and
  - e) the total area of the small accessory building or structure is less than 10 square metres.
9. Removal of trees deemed hazardous by a certified arborist or Registered Professional Forester that pose an immediate threat to buildings or life safety. Removal of hazardous trees that also contain an eagle or heron nest is exempt only if a permit under the *Wildlife Act* has been obtained.
10. The small-scale, manual removal of invasive plants or noxious weeds or planting of non-invasive, native vegetation on a small scale conducted in accordance with 'Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia, 2014' published by the Province of BC, or any subsequent editions.
11. Works conducted and/or approved by the Regional District, Department of Fisheries and Oceans and/or Ministry of Environment with respect to trail construction, stream enhancement, fish and wildlife habitat restoration and in-stream works as defined by Section 11 of the *Water Sustainability Act*.
12. Works conducted by the Regional District or its agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines as determined by the Regional District.



13. Subdivision involving only lot line adjustment or lot consolidation. For lot line adjustment to be exempt there must be sufficient developable area outside the development permit area as confirmed by the Regional District, BC Land Surveyor, or Registered Professional Biologist, and there are no works proposed within the development permit area.

## **GUIDELINES**

### ***General Guidelines***

1. Development within the development permit area should be limited and not negatively impact the ecological health of the immediate area, disrupt coastal sediment transport processes, or impede public access along the shore. It should be demonstrated that locating development entirely outside of the development permit area has been considered, and a description of why that is not being proposed should be provided. It should be demonstrated that variances to minimize development in the development permit area have been obtained or considered.
2. An assessment must be prepared by a Registered Professional Biologist with the objectives of identifying sensitive biophysical features on or near the property and providing recommendations and conditions for development to avoid or mitigate impacts to these features. The assessment should list the guidelines in this development permit area with an explanation of how the proposed development is consistent with them (or an explanation of how a guideline is not applicable) and should indicate on a site plan areas for yard and driveway and areas to remain free from development.
3. Existing native vegetation should be retained wherever possible to minimize disruption to habitat and to protect against erosion:
  - a) Dune grass is particularly sensitive to foot traffic and often keeping foot traffic away through fencing or signage can result in regeneration in short time periods. Replanting of dune grass and associated plants where it has been previously disturbed may be a condition of a development permit.
  - b) Coniferous trees provide important perches for eagles, and older trees may be used by eagles for nests. It is important that some trees are retained or replanted within and close to the development permit area when properties are developed, even if the trees are young.
  - c) Trees and shrubs to be retained should be clearly marked prior to development, and temporary fencing installed at the drip line to protect them during clearing, grading, storage of fill or building materials, and other development activities.
  - d) Temporary fencing at a prescribed distance from the natural boundary or top of bank should be required to protect the shoreline vegetation.
4. New, or additions to, upland buildings and structures should be located and designed to avoid the need for shore protection works throughout the life of the building or structure. Only if all options to locate and design without the need for shore protection measures are exhausted should such works be considered.
5. Shore protection measures shall not be allowed for the sole purpose of reducing the setback pursuant to the Floodplain Bylaw or for reclaiming land lost due to erosion.

6. Where shoreline protection works are proposed they shall be designed by a Professional Engineer and:
  - a) be limited to that necessary to prevent damage to existing structures or established uses on adjacent upland;
  - b) be the 'softest' possible shore protection measure that will still provide satisfactory protection;
  - c) not be expected to cause erosion or other physical damage to adjacent or down-current properties;
  - d) address compatibility with any adjacent shore protection works; and
  - e) be in compliance with the Regional District's Marine Retaining Wall Policy B1-09.
7. Where a geotechnical report is required, it will form part of the development permit terms and conditions, which may include registration of a Section 219 covenant, prepared at the applicant's expense and to the satisfaction of the Regional District.
8. Where protection from erosion is proposed as either new works or replacement, every effort will be made to design shoreline protection in accordance with the *Green Shores* programs of the Stewardship Centre of BC. These programs provide resources for, and examples of, shoreline erosion protection involving creation or maintenance of low-angle slopes allowing for dissipation of wave energy, retaining native plants and habitat, and providing a natural appearance. Some *Green Shores* approaches rely on use of the beach below the natural boundary, which requires permission from the Province.
9. Where erosion protection works are proposed below the natural boundary, they should not obstruct public access along the foreshore or beach.
10. Heavy equipment shall not be permitted on the beach unless existing conditions do not permit upland access and, if required, mitigation methods acceptable to the RDN shall be identified as part of the application. Procedures shall be in compliance with the Regional District's Marine Retaining Wall Policy B1-09, as amended or replaced from time to time. For commercial and multi-family developments, the *Green Shores for Coastal Developments* program of the Stewardship Centre of BC should be reviewed and referenced, and every effort made to design the development in accordance with its recommendations and best practices.
11. Entirely 'hard' structural shore protection measures such as concrete walls, lock block, or stacked rock (riprap), may be considered as a last resort only when a geotechnical and biophysical analysis demonstrates that:
  - a) the erosion is not being caused by upland conditions, such as the loss of vegetation and drainage associated with upland development;
  - b) all possible on-site drainage solutions by directing drainage away from the shoreline edge have been exhausted;
  - c) Green Shores non-structural or structural measures are not feasible or not sufficient to address the stabilization issues;
  - d) it is not feasible to instead construct a retaining wall that meets the zoning bylaw setback;

- e) the shore protection measure is designed so that neighbouring properties are not expected to experience additional erosion; and
  - f) all shore protection structures are installed upland of the present natural boundary of the sea.
12. Where the installation of a hydrothermal and geoexchange unit is proposed, the Regional District will require the applicant to provide a report by a Registered Professional Biologist with experience in marine ecology, to assess the potential impact of the proposed installation on the marine environment, public users of the foreshore, the anchoring of vessels, and First Nation shellfish harvesting, and provide recommendations to restore or enhance those areas impacted by the proposed development.
13. Where the applicant's biologist or other qualified professional recommends revegetation and/or enhancement works within the development permit area, the Regional District may require the applicant to submit a landscaping and security deposit equal to the total estimated costs of all materials and labour as determined by a Landscape Architect or other qualified professional.
14. The applicant may be required to provide confirmation to the Regional District that the property has been developed in accordance with the recommendations of the biologist or engineer, as applicable.

***Guidelines Applicable to Subdivisions and New Development***

15. Subdivisions shall be designed so that the new lots will not require shore protection measures in order for useable, safe building sites to be created above the year 2100 flood construction level when considering sea level rise.
16. New development on steep slopes or bluffs shall be set back sufficiently from the top of the bluff to ensure that shore protection measures will not be necessary during the life of the structure, as demonstrated by a geotechnical analysis.
17. New driveways, parking lots, and wastewater disposal systems should not be located in the development permit area. If such a location cannot be avoided, the encroachment into the development permit area must be minimized, and the design and construction of the road, parking lot or wastewater disposal system be supervised by a qualified professional to ensure that the objectives and guidelines of the development permit area are met. These works may be required to be completed prior to final approval of the subdivision.

***Guidelines Applicable to Vegetation Management, Restoration and Enhancement***

18. If the area has been previously cleared of native vegetation or where clearing is proposed, replanting should be required in accordance with these guidelines and according to the recommendations of a Registered Professional Biologist. Where it is not practical to replace all vegetation that is or has been removed, replanting should be focused on the areas of highest ecological value such as foreshore dune grass ecosystems, trees suitable for eagle perching, or other areas identified in the biophysical assessment.
19. Vegetation species used in replanting, restoration or enhancement should be salt and wind tolerant, and selected to suit the soil, light and groundwater conditions of the site, should be native to the area, and be selected for erosion control and/or wildlife habitat values as needed. A minor amount of suitably adapted, non-invasive, non-native vegetation may also be considered acceptable subject to supportive recommendations in a biophysical report.

20. All replanting should be maintained by the property owner for a minimum of two years from the date of completion of the planting. This may require removal of invasive, non-native weeds (e.g., Himalayan Blackberry, Scotch Broom, English Ivy) and irrigation. Unhealthy, dying or dead stock should be replaced at the owner's expense within that time in the next regular planting season.

***Guidelines Applicable to Beach Nourishment and Upland Fill***

21. Fill on land above the natural boundary greater than 10 cubic metres in volume should be considered only when necessary to assist in the enhancement of the natural shoreline's stability and ecological function. Such fills should be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration, and the Regional District may require a sediment and erosion plan prepared by a qualified professional.
22. Fill below (seaward of) the natural boundary should be considered only when necessary to assist in the enhancement of the natural shoreline's stability and ecological function, typically as part of a beach nourishment design. This would also require permission from the Province.

***Guidelines Applicable to Commercial and Industrial Development***

23. New boating facilities that provide moorage shall not be constructed unless access is available to adequate and convenient facilities for pump-out of holding tanks.
24. New boat maintenance and repair facilities shall be designed, located and operated in a way that ensures there will be no discharge of toxic materials from boats (fuels, oils, maintenance by-products, etc.)
25. In order to minimize the impact on aquatic life, lighting of commercial and industrial developments built over the water surface should be kept to the minimum necessary for safety and visibility. Light fixtures on such sites should focus light on the area to be illuminated and avoid spillage of light into other areas. Fixtures should not result in glare when viewed from areas that overlook the sea. Low-glare fixtures with a high-cutoff angle should be used. Full-spectrum fixtures are preferred. Neon lighting should not be used outside buildings.
26. Signs on commercial and industrial developments built over the water surface should not move or be audible and should not incorporate lighting that moves or flashes or gives the impression of doing so.

***Guidelines Applicable to Boat Launch Facilities or Ramps***

27. Boat launch ramps are the least desirable of all water access structures and may only be located on stable, non-erosional banks where a minimum amount of substrate disturbance or stabilization is necessary. Ramps should be kept flush with the slope of the foreshore to minimize interruption of natural geo-hydraulic processes. The ramp width should be minimized, and paved strips versus a full concrete pad is preferable. Development Permit applications must demonstrate all applicable provincial and federal guidelines have been followed and approvals are in place.

# HAZARD LANDS DEVELOPMENT PERMIT AREA

DRAFT DEVELOPMENT PERMIT AREA FOR COMMENT

May 23, 2018

## Introduction

The Regional District of Nanaimo is reviewing development permit areas in all its electoral areas to standardize and streamline the development approval process. This will result in consistent language, exemptions, and requirements, and allow for updates to current best practices.

This 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
- Electoral Area H OCP – Coastal Steep Slope Hazard

## **HAZARD LANDS DEVELOPMENT PERMIT AREA**

*DRAFT text for Electoral Area A OCP*

### **DESIGNATION:**

The Hazard Lands Development Permit Area is applicable to the Nanaimo River Floodplain identified on Map No. 9.

### **AUTHORITY:**

The Hazard Lands Development Permit Area is designated a development permit area for protection of the natural environment, its ecosystems and biological diversity and for the protection of development from hazardous conditions, pursuant to Section 488(1)(a) and (b) of the *Local Government Act*.

### **JUSTIFICATION:**

The Nanaimo River floodplain (including portions of Haslam Creek) is designated by the province as a 'high risk' floodplain area. The objective of this development permit area is to protect property from flooding and potential loss of land and property due to high water, erosion, and instability.

## HAZARD LANDS DEVELOPMENT PERMIT AREA

*DRAFT text for East Wellington – Pleasant Valley OCP*

### DESIGNATION:

This Development Permit Area is applicable to lands that may be susceptible to flood or erosion in the floodplain of Brannen Lake and the Millstone River as shown on Map No. 5.

### AUTHORITY:

The Hazard Lands Development Permit Area is designated a development permit area for protection of the natural environment, its ecosystems and biological diversity and for the protection of development from hazardous conditions, pursuant to Section 488(1)(a) and (b) of the *Local Government Act*.

### JUSTIFICATION:

Lands susceptible to mass movement or erosion have been identified in the Plan Area. The development of land or removal of vegetation may destabilize such areas and create potential danger to life. In order to minimize the hazard potential of these areas, the construction of buildings or structures or the subdivision or alteration of land requires regulation. The objective of this development permit area is to protect property from flooding and potential loss of land and property due to high water, erosion and instability.

## HAZARD LANDS DEVELOPMENT PERMIT AREA

*DRAFT text for Electoral Area G OCP*

### DESIGNATION:

The Hazard Lands Development Permit Area is applicable to flood prone lands and those lands within the Plan Area with a natural grade greater than 30 percent as identified on Map No. 9. With respect to steep slopes west of the Little Qualicum River, this Development Permit Area applies to lands within 15 metres from the top of the bank where the natural grade of the slope is greater than 30 percent.

### AUTHORITY:

The Hazard Lands Development Permit Area is designated a development permit area for protection of the natural environment, its ecosystems and biological diversity and for the protection of development from hazardous conditions, pursuant to Section 488(1)(a) and (b) of the *Local Government Act*.

### JUSTIFICATION:

Hazardous lands include steep slopes adjacent to watercourses and along the coastal shoreline and flood prone lands. The subdivision, development of land, or removal of vegetation in these areas may destabilize the area, cause environmental damage, and pose potential for loss of life and property. In response to these risks and conditions, the objective of this DPA is to protect life, property and the environment from hazardous conditions.

## HAZARD LANDS DEVELOPMENT PERMIT AREA

*Note: Text for Electoral Area H OCP remains unchanged except for extending the authority to also include protection of the natural environment, its ecosystems and biological diversity*

## HAZARD LANDS DEVELOPMENT PERMIT AREA

*DRAFT standard 'applicability', 'exemptions' and 'guidelines' for Bylaw 500*

### APPLICATION

A development permit is required for the following activities unless specifically exempt:

1. alteration of land, placement of fill, disturbance of soils, including grubbing, scraping and removal of top soils;
2. construction or erection of buildings and structures;
3. creation of non-structural impervious or semi-pervious surfaces; and,
4. subdivision of land.

### EXEMPTIONS

The following activities are exempt from requiring a development permit:

1. Development or alteration of land to occur outside the designated development permit area, as determined by a BC Land Surveyor or by the Regional District.
2. Where there is no flooding or steep slope hazard, confirmation of which may require a letter from a Professional Engineer.
3. The construction of buildings and structures in accordance with the RDN Floodplain Management Bylaw No. 1469, 2006 or a subsequent Floodplain Bylaw, where there is no proposed land alteration, placement of fill, or modification to land within the floodplain outside of the building footprint beyond minor soil disturbance resulting from normal construction practices.
4. Where a geotechnical report for proposed buildings and structures that satisfies the guidelines of this development permit area is registered on title, and there is no proposed land alteration, placement of fill, or modification to land outside of the building footprint, beyond minor soil disturbance resulting from normal construction practices.
5. On a property where the hazard is not due to a steep slope, a second storey addition to an existing structure provided the building footprint remains the same.
6. The construction of a small accessory building or structure if all the following apply:
  - a) the building is located within an existing landscaped area;
  - b) no native trees with a diameter at breast height of 20 centimetres or greater are removed;
  - c) is moveable by being not directly affixed to the ground;

- d) the building is located a minimum of 10 metres from the high water mark of a watercourse or waterbody or, where a slope greater than 3:1, 10 metres from the top of the slope; and
  - e) the total area of the small accessory building is less than 10 metres square.
7. The construction of a fence.
8. In the case of an application to subdivide, a development permit is not required where:
- a) minimum parcel areas are met exclusive of the development permit area; and
  - b) no development activities (such as grading, clearing, trenching, installation of pipes, etc.) relating to the creation of parcels or provision of services for those parcels will occur within the development permit area.
9. Subdivision involving only lot line adjustment or lot consolidation. For lot line adjustment to be exempt there must be sufficient developable area outside the development permit area as confirmed by the Regional District, BC Land Surveyor, or Professional Engineer, and there are no works proposed within the development permit area.
10. Removal of trees deemed hazardous by a certified arborist or Registered Professional Forester that pose an immediate threat to buildings or life safety. Removal of hazardous trees that also contain an eagle or heron nest is exempt only if a permit under the *Wildlife Act* has been obtained.
11. The small-scale, manual removal of invasive plants or noxious weeds or planting of non-invasive, native vegetation on a small scale conducted in accordance with [‘Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia, 2014’](#) published by the Province of BC, or any subsequent editions.
12. The activity is part of a farm operation as defined by the *Farm Practices Protection (Right to Farm) Act*, is a permitted farm use as defined in Section 2(2) of the *Agricultural Land Reserve Use, Subdivision, and Procedures Regulations*, and the lands are assessed as ‘farm’ under the *BC Assessment Act*. The farm operation of land clearing is only exempt from the requirement of a development permit if conducted in accordance with a current Environmental Farm Plan (less than five years old); otherwise, land clearing as part of a farm operation is not exempt. Note that other provincial legislation such as the *Waste Management Act* and the *Water Sustainability Act* may apply to farm operation activities.
13. Emergency procedures to prevent, control, or reduce erosion, or other immediate threats to life and property including:
- a) emergency flood or protection works;
  - b) clearing of an obstruction from bridge, culvert, or drainage flow; repairs to bridges and safety fences;
  - c) any emergency works to be undertaken in accordance with the Provincial *Water Sustainability Act* and *Wildlife Act*, and the federal *Fisheries Act*.

Notwithstanding the above, emergency actions for flood protection and clearing of obstructions by anyone other than the Regional District or Ministry must be reported to the Regional District and applicable Ministry immediately to secure exemption under this provision. Note that once the emergency has passed, a development permit may be required for remediation or permanent protection works.



14. Works conducted and/or approved by the Regional District, Department of Fisheries and Oceans and/or Ministry of Environment with respect to trail construction, stream enhancement, fish and wildlife habitat restoration and in-stream works as defined by Section 11 of the *Water Sustainability Act*.
15. All forest management activities on lands subject to the *Forest Act* or *Private Managed Forest Land Act* and classified as 'Forest Lands' on the property assessment.
16. Works conducted by the Regional District or its agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines as determined by the Regional District.

## **GUIDELINES:**

### ***General Guidelines***

1. An assessment report prepared by a Professional Engineer or Geoscientist with experience in geotechnical engineering, geohazard assessment or river hydrology, as applicable, shall be required to assist in determining what conditions or requirements shall be included in the development permit so that the proposed development is protected from the hazard, and no increase in hazard is posed to existing development on or near the subject property.
  - a) The assessment report should include a site plan identifying areas susceptible to the flooding, erosion or steep slope hazard, location of watercourses, existing natural vegetation, on-site topography, and the location of the proposed development.
  - b) The assessment report must include a statement from the Professional Engineer that states in their opinion that the property is safe for the intended use.
  - c) The assessment report will form part of the development permit terms and conditions, and which may include registration of a Section 219 covenant, prepared at the applicant's expense and to the satisfaction of the Regional District.
2. It should be demonstrated that locating development entirely outside of the development permit area has been considered, and a description of why that is not being proposed should be provided. It should be demonstrated that variances to minimize development in the development permit area have been obtained or considered.
3. Where the assessment report recommends revegetation and/or enhancement works, the Regional District may require the applicant to submit a landscaping plan and a security deposit equal to the total estimated costs of all materials and labour as determined by a Landscape Architect or other qualified professional to the satisfaction of the Regional District.
4. Development should:
  - a) be designed to ensure that development can withstand the hazard;
  - b) take a form that minimizes the development with any hazardous areas and minimizes impact on the natural features including vegetation, that help to mitigate flood and/or erosion risk; and
  - c) be conducted at a time of year, and use construction methods, that minimize the impact on the development permit area.

5. Prior to construction commencing, the installation of temporary fencing or flagged stakes marking any areas to be avoided due to either hazardous conditions or to avoid disturbance to a sensitive vegetation that plays a role in mitigating the hazard, is required.

***Guidelines related to flood hazard***

6. Development or subdivision of land should be designed to:
  - a) replicate the function of a naturally vegetated watershed;
  - b) maintain the hydraulic regime of surface and groundwater and pre-development flow rates; and
  - c) not interfere with groundwater recharge.
7. Wetlands and other natural water features should be maintained in their natural state to enhance natural flood storage and protect environmentally sensitive ecosystems. Restoration of previously impacted natural freshwater systems should be considered in this development permit area to improve flood hazard mitigation.
8. Site development shall preserve natural vegetation where it contributes to flood protection and mitigation.
9. Where the placement of fill is proposed within a floodplain, the fill must not restrict the passage of flood waters, redirect flood flows, decrease natural flood storage, or result in higher flood flows or flood potential elsewhere in the floodplain. The Regional District may require a report by a Professional Engineer that ensures the placement of the proposed fill would not restrict the passage of flood waters, redirect flood flows, decrease natural flood storage, or result in higher flood flows or flood potential elsewhere in the floodplain.
10. Development should be designed following applicable guidelines in the Province of BC document: [‘Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia’](#) as amended or replaced from time to time.

***Guidelines related to steep slopes***

11. No unnecessary disturbance of the steep slope shall be permitted. Site development shall preserve natural vegetation on steep slopes and retain the natural terrain, topography of the site, and minimize cutting into the slopes.
12. Development at the top and toe of a steep slope should be designed to prevent negative impacts to slope stability and protect development from the hazard. The assessment report should include recommendations for development such as drainage management, landscaping, and proximity of buildings and structures to the slope.

# FARMLAND PROTECTION DEVELOPMENT PERMIT AREA

DRAFT DEVELOPMENT PERMIT AREA FOR COMMENT

May 23, 2018

## Introduction

The Regional District of Nanaimo is reviewing development permit areas in all its electoral areas to standardize and streamline the development approval process. This will result in consistent language, exemptions, and requirements, and allow for updates to current best practices.

The Farmland Protection DPA applies to the following Official Community Plan (OCP) areas: Electoral Areas A, G and H, Arrowsmith Benson – Cranberry Bright, and Nanoose Bay.

## **FARMLAND PROTECTION DEVELOPMENT PERMIT AREA**

*DRAFT text for all applicable OCPs*

### **DESIGNATION:**

The Farmland Protection Development Permit Area is shown on Map No. x and applies to all properties adjacent to the Provincial Agricultural Land Reserve (ALR) boundary.

### **AUTHORITY:**

The Farmland Protection Development Permit Area is designated a development permit area for the protection of farming, pursuant to Section 488(1)(c) of the *Local Government Act*.

### **JUSTIFICATION:**

The BC Agricultural Land Commission has acknowledged that the development of lands adjoining farmlands may compromise the agricultural use of the ALR lands. Agricultural lands therefore require protection for long-term agricultural use.

In addition, as a result of inappropriately designed developments, land use conflicts may develop between the land uses. The incorporation of a 15 metre wide buffer between developed lands and agricultural lands is expected to promote greater compatibility between the uses while protecting the agricultural uses from urban impacts.

The objective of this DPA is to protect the agricultural land resource of the Plan Area for present and future production of food and other agricultural products.

## FARMLAND PROTECTION DEVELOPMENT PERMIT AREA

*DRAFT standard 'applicability', 'exemptions' and 'guidelines' for Bylaw 500*

### APPLICABILITY

A development permit is required for the following activities wherever they occur within the Development Permit Area, unless specifically exempted:

1. Subdivision of land as defined in the *Land Title Act* or bare land strata under the *Strata Property Act*.
2. For Electoral Areas A, E and G only:
  - a) alteration of land, disturbance of soils, including grubbing scraping and removal of top soils;
  - b) construction or erection of buildings and structures; and
  - c) creation of non-structural impervious or semi-pervious surfaces.

### EXEMPTIONS

The following activities are exempt from any requirement for a development permit:

1. Development on lands within the ALR.
2. Development in accordance with an existing covenant for maintenance of a landscaped buffer related to adjacency of the ALR.
3. Lands zoned industrial, and proposed to be or being used for industrial purposes.
4. Subdivision where each proposed parcel within the DPA have a minimum parcel depth of 50 metres measured perpendicular from the ALR boundary.
5. The activity is part of a farm operation as defined by the *Farm Practices Protection (Right to Farm) Act*; is a permitted farm use as defined in Section 2(2) of the *Agricultural Land Reserve Use, Subdivision, and Procedures Regulations*; and the lands are assessed as 'farm' under the *BC Assessment Act*. The farm operation of land clearing is only exempt from the requirement of a development permit if conducted in accordance with a current Environmental Farm Plan (less than five years old); otherwise, land clearing as part of a farm operation is not exempt. Note that other provincial legislation such as the *Waste Management Act* and the *Water Sustainability Act* may apply to farm operation activities.
6. Construction of a building or structure located further than 15 metres from the boundary of the ALR.
7. Land alteration, disturbance of soils, including grubbing, scraping and removal of top soils greater than 15 metres from the boundary of the ALR.
8. Maintenance of existing buildings and structures.
9. Reconstruction of, redevelopment of, additions (including second storey), or alterations to an existing dwelling unit or other building or structure within the development permit area provided the changes do not result in the buildings or structures being located further within the DPA than the existing buildings or structure.

10. Construction of an access driveway provided it is no more than 9.0 metres in width.
11. The construction of a fence provided the area being disturbed to allow for construction and maintenance is 3.0 metres or less in width, and no trees with a diameter at breast height of 10 centimetres or more are being removed.
12. Emergency procedures to prevent, control, or reduce erosion, or other immediate threats to life and property including:
  - a) emergency flood or protection works;
  - b) clearing of an obstruction from bridge, culvert, or drainage flow, repairs to bridges and safety fences;
  - c) any emergency works to be undertaken in accordance with the Provincial *Water Sustainability Act* and *Wildlife Act*, and the Federal *Fisheries Act*.
  - d) notwithstanding the above, emergency actions for flood protection and clearing of obstructions by anyone other than the Regional District or Ministry must be reported to the Regional District and applicable Ministry immediately to secure exemption under this provision. Note that once the emergency has passed, a development permit may be required for remediation or permanent protection works.
13. Removal of trees deemed hazardous by a certified arborist or Registered Professional Forester that pose an immediate threat to buildings or life safety. Removal of hazardous trees that also contain an eagle or heron nest is exempt only if a permit under the *Wildlife Act* has been obtained.
14. The small-scale, manual removal of invasive plants or noxious weeds or planting of non-invasive, native vegetation on a small scale conducted in accordance with 'Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia, 2014' published by the Province of BC, or any subsequent editions.
15. All forest management activities on lands subject to the *Forest Act* or *Private Managed Forest Land Act* and classified as 'Forest Lands' on the property assessment.
16. Works conducted by the Regional District or its agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines as determined by the Regional District.
17. The construction of a small accessory building or structure if all the following apply:
  - a) the building or structure is located within an existing landscaped area;
  - b) no native trees with a diameter at breast height of 20 centimetres or greater are removed;
  - c) there is no permanent foundation;
  - d) the building or structure meets setbacks in the zoning bylaw; and
  - e) the total area of the small accessory building or structure is less than 10 square metres.

## GUIDELINES

1. A 15 metre wide vegetated buffer should be retained or established and maintained on land adjacent to an ALR boundary. The buffer shall generally be designed and landscaped using

materials set out in *Guide to Edge Planning: Appendix B*, published by the BC Ministry of Agriculture, or any subsequent editions.

2. Within the vegetated buffer area mature trees and existing native vegetation shall be preserved and where possible integrated with the new landscaping. The planting of trees is strongly encouraged.
3. Plant layout, spacing and support shall generally be in accordance with *Guide to Edge Planning: Appendix B*, published by the BC Ministry of Agriculture, or any subsequent editions. The planting material should include non-invasive, low maintenance, native vegetation that can thrive with little or no fertilizer.
4. Where the introduction of vegetation is required within the development permit area, the Regional District may require the applicant to submit a landscaping and security deposit equal to the total estimated costs of all materials and labour as determined by a landscape architect or other qualified person to the satisfaction of the Regional District.
5. New buildings and structures, except for fencing, should not be situated within the 15 metre vegetated buffer area.
6. Despite the above guidelines, a vegetated buffer of less than 15 metres may be considered in cases where 15 metres is not possible due to existing parcel size or other natural or human-made constraint, and buildings or structures may be located within the 15 metres area where it is shown there are no other practical options. Where the buffer area is proposed to be less than 15 metres, as much existing buffering vegetation as possible should be retained or enhancement of vegetation and/or construction of fencing should be undertaken.
7. The vegetated buffer should be installed prior to commencing construction or land alteration, or prior to final subdivision approval.
8. A Section 219 covenant as per the *Land Title Act* may be required to restrict the removal of vegetation and the construction of any buildings or structures other than fencing within the buffer area, and notify any future property owner that the parcel is adjacent to the ALR where normal farm practices may produce noise, odour, dust or other impacts.
9. Subdivision design must minimize the impacts that may occur between farm and non-farm uses on adjacent ALR lands including but not limited to the following:
  - a) Site design to allow the clustering of lots, buildings or structures away from ALR lands.
  - b) Avoid road endings or stubs which point directly into the ALR, and half roads along the ALR boundary, except where required for access by farm vehicles.
  - c) Where a parkland dedication is required, the dedication should be located next to the ALR boundary and include the required vegetated buffer.
10. Fencing should be constructed generally in accordance with *Guide to Edge Planning: Appendix C – Fencing Specifications*, published by the BC Ministry of Agriculture, or any subsequent editions.

# TEMPORARY USE PERMIT AREAS

DRAFT TO APPLY TO ALL ELECTORAL AREAS - FOR COMMENT

May 23, 2018

## Introduction

The Regional District of Nanaimo is seeking to standardize its regulations regarding the issuance of temporary use permits (TUP) for all electoral areas. The *Local Government Act* allows for an official community plan (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. Currently, all RDN electoral area OCPs designate areas where TUPs may be allowed with a wide variation.

To streamline the development process, it is recommended that TUP regulations are standardized for all electoral areas and that the designation of areas and specification of conditions is moved from the OCPs to the zoning bylaws.

## Background:

Both of the 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 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 hectares 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

## TEMPORARY USE PERMIT PERMITS

*Draft text for addition to zoning bylaws 500 and 1285*

### Temporary Use Permits

1. The Regional District may issue a temporary use permit on any parcel to temporarily allow a use not permitted by this bylaw. The following general conditions will guide the consideration of such applications. The Regional District may waive any of the following should they be deemed to not be relevant, and may give consideration to additional conditions relevant to the specific proposal.
  - a) The applicant demonstrates how any anticipated impact on the surrounding area will be mitigated (for example: noise, light, hours of operation, dust, odour, vibration, aesthetic impact, etc.).
  - b) The applicant provides a projection of anticipated impact on local road networks, and proposes mitigating measures if necessary.
  - c) The applicant provides an assessment of the impact of the proposed use on the natural environment, including groundwater, wildlife, and environmentally sensitive areas.
  - d) The applicant provides a rationale for the suitability of the location and the inability to conduct the use in another area where the use is already permitted.
  - e) Submission of a satisfactory decommissioning and reclamation plan, which may require a security deposit to be held by the RDN until completion of the proposed works.
  - f) The proposal addresses concerns related to visual integrity and buffering of the Inland Island Highway if applicable.
2. Notwithstanding clause 1 above, the manufacture of asphalt products, soil composting or gravel extraction, may be considered on parcels within Official Community Plan land use designations of the Rural, Rural Resource, or Resource and the following additional conditions will guide consideration of applications:
  - a) parcels are in excess of 8.0 hectares in area, or in Electoral Area G are in excess of 4.0 hectares;
  - b) the asphalt is produced in a portable asphalt batch plant;
  - c) approval is obtained from the province for an industrial access permit and a Waste Management approval pursuant to the *Waste Management Act*;
  - d) a separation distance created by a natural vegetative buffer of 100 metres in width or berm is maintained between the asphalt batch plant operation, composting activity or gravel extraction and any dwelling unit not located on the subject property;
  - e) a composting activity shall be no closer than 400 metres from the Growth Containment Boundary as identified in the Regional Growth Strategy.
  - f) where gravel removal and processing are required in conjunction with the manufacture of asphalt products, all requirements for the Approval of Work System and Reclamation



Permit under the *Mines Act* including provisions for rehabilitation of the site after completion, are satisfied;

- g) the daily period is limited to minimize noise impacts, including heavy truck traffic, on surrounding lands;
  - h) the use does not produce odours detectable from adjacent parcels;
  - i) for composting, the uses comply with the provincial *Organic Matter Recycling Regulations* and any RDN Waste Stream Licensing Bylaw;
  - j) in Electoral Area G, consideration is given to future inclusion of the subject property and surrounding land into the City of Parksville or Qualicum Beach and the compatibility of future development with adjoining areas within each municipality.
3. Where the land is in the Agricultural Land Reserve, approval from the Provincial Agricultural Land Commission is required.
  4. The Regional District may specify conditions in a permit including, but not limited to, environmental protection measures, odour abatement, hours of operation, parking, buffering, and groundwater protection.
  5. The RDN may require security and/or an undertaking to secure the conditions of the permit in accordance with the *Local Government Act*.