

Attachment 13

REGIONAL DISTRICT OF NANAIMO BYLAW NO. 1620.05

A BYLAW TO AMEND REGIONAL DISTRICT OF NANAIMO ELECTORAL AREA A OFFICIAL COMMUNITY PLAN BYLAW NO. 1620, 2011

The Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

- A. This Bylaw may be cited as “Regional District of Nanaimo Electoral Area A Official Community Plan Amendment Bylaw No. 1620.05, 2018”.
- B. “Regional District of Nanaimo Electoral Area A Official Community Plan Amendment Bylaw No. 1620.05, 2018” is hereby amended as set out in Schedules A, B and C of this Bylaw.

Introduced and read two times this 18th day of September 2018.

Considered in conjunction with the Regional District of Nanaimo Financial Plan and any applicable Waste Management Plans this 18th day of September 2018.

Public Hearing held pursuant to Section 464 of the *Local Government Act* this 23rd day of October 2018.

Read a third time this ____ day of _____ 20XX.

Adopted this ____ day of _____ 20XX.

CHAIR

CORPORATE OFFICER

Schedule A to accompany "Regional District of Nanaimo Electoral Area A Official Community Plan Amendment Bylaw No. 1620.05, 2018".

Chair

Corporate Officer

**REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 1620.05**

Schedule A

1. "Regional District of Nanaimo Electoral Area A Official Community Plan Amendment Bylaw No. 1620.05, 2018" is hereby amended as follows:

a) by amending Schedule A as follows:

- i. to the Table of Contents, by deleting subsection 12.0 Development Permit Areas and replacing with the following:

"12.0 Development Permit Areas

- 12.1 Sensitive Ecosystems Development Permit Area
- 12.2 Freshwater and Fish Habitat Development Permit Area
- 12.3 Marine Coast Development Permit Area
- 12.4 Eagle and Heron Nesting Trees Development Permit Area
- 12.5 Aquifers Development Permit Area
- 12.6 Hazard Lands Development Permit Area
- 12.7 Farmland Protection Development Permit Area
- 12.8 South Wellington Industrial – Commercial Development Permit Area
- 12.9 Cedar Main Street Development Permit Area
- 12.10 Cassidy Development Permit Area
- 12.11 Cedar Development Permit Area
- 12.12 Yellow Point Aquifer Protection Development Permit Area"

- ii. to Section **2.5 Organization of the Plan**, second paragraph:

- a. by deleting both occurrences of the word "Guidelines" and replacing with "designations".
- b. by adding the following sentence at the end of the paragraph: "Development Permit Area exemptions and guidelines are found in the zoning bylaw."

- iii. to Section **6.2 Cedar Main Street Village Plan**, first paragraph:

- a. by deleting the word "Guidelines" and replacing with "designation".
- b. by adding the following sentence at the end of the paragraph: "Development Permit Area exemptions and guidelines are found in the zoning bylaw."

- iv. to Section **12.0 Development Permit Areas**, Introduction:

- a. to the second paragraph, by adding “found in Bylaw 500” after “Guidelines” and before the period, and delete the last sentence: “The OCP specifies the information required in order to submit a development permit application”.
- b. to the third paragraph, second sentence, by deleting the word “within” after “specified” and before “each”, and replacing with “in Bylaw 500 for”.
- c. to the fifth paragraph, by deleting all three occurrences of “this plan” and replacing the first two occurrences with “the DPA Guidelines”.
- v. to Section **12.0 Development Permit Areas**, by deleting sub-sections 12.1 to 12.4 and replacing with Schedule B attached to and forming part of this bylaw.
- vi. to sub-section **12.5 South Wellington Industrial – Commercial Development Permit Area**, by deleting the Application, Exemptions, and Guidelines sections.
- vii. to sub-section **12.7 Cassidy Development Permit Area**, by deleting the Application, Exemptions, and Guidelines sections.
- viii. to sub-section **12.8 Cedar Development Permit Area**, by deleting the Application, Exemptions, and Guidelines sections.
- ix. to sub-section **12.9 Yellow Point Aquifer Development Permit Area**, by deleting the Applicability, Exemptions, Guidelines, and Definitions sections.
- b) by amending **Schedule B – Cedar Main Street Village Plan** as follows:
 - i) to Section **6 Cedar Main Street Development Permit Area (DPA)**:
 - a. to **6.1 Purpose**, to the second sentence, delete “herein” and replace with “the Zoning Bylaw No. 500”
 - b. delete **6.3 Application; 6.5 Exemptions; 6.6 Variances to Bylaw No. 500; 6.7 Permit Security; and 6.8 Guidelines**.
- c) by deleting **Map No. 9 - Development Permit Areas for the Protection of the Natural Environment** and replacing with Schedule C attached to and forming part of this bylaw.

Schedule B to accompany "Regional District of Nanaimo Electoral Area A Official Community Plan Amendment Bylaw No. 1620.05, 2018".

Chair

Corporate Officer

**REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 1620.05**

Schedule B

12.1 Sensitive Ecosystem Development Permit Area

DESIGNATION:

The Sensitive Ecosystems Development Permit Area is shown on Map No. 9 and applies to the following:

- all parcels containing the following sensitive ecosystems mapped in the Provincial Sensitive Ecosystem Inventory: '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.

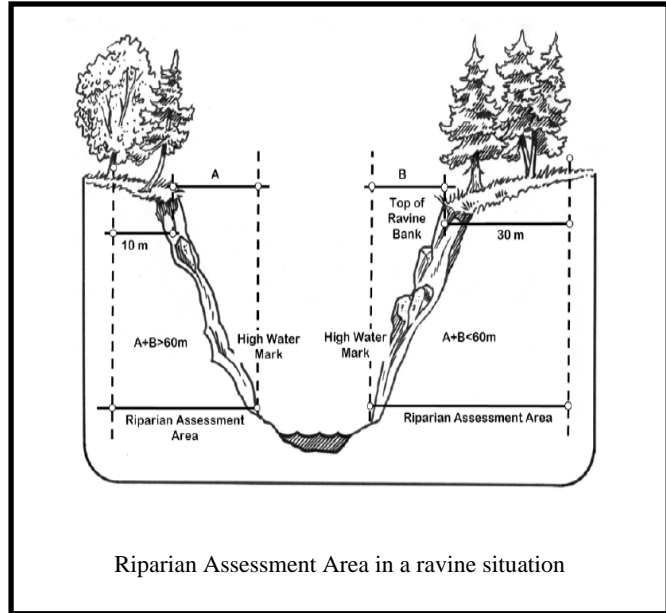
12.2 Freshwater and Fish Habitat Development Permit Area

DESIGNATION

The Freshwater and Fish Habitat Development Permit Area is shown on Map No. 9, 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*, as well as all other mapped lakes, wetlands, ponds and watercourses not subject to the RAR. 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 watercourses, lakes, wetlands, and ponds, 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; and
- (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 stabilizes 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. 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 RAR 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.

12.3 Marine Coast Development Permit Area

DESIGNATION:

The Marine Coast Development Permit Area is shown on Map No. 9 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.

12.4 Eagle and Heron Nesting Trees Development Permit Area

DESIGNATION:

The Eagle and Heron Nesting Trees Development Permit Area is shown on Map No. 9. 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 base 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 base of the nesting tree on lots 1.0 hectare or smaller; and
 - ii. a 100 metre radius from the base 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 base of all nest trees.

The locations of the eagle and heron nesting trees identified on Map No. 9 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.

12.5 Aquifers Development Permit Area

DESIGNATION:

The Aquifers Development Permit Area is shown on Map No. 9 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 Development Permit Area 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 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 that rely on private domestic wells. 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 aquifer 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 RGS Policy 2.14 to protect groundwater aquifers and environmentally sensitive areas from contamination and reduced supply caused by land use and development activities.

12.6 Hazard Lands Development Permit Area

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.

12.7 Farmland Protection Development Permit Area

DESIGNATION:

The Farmland Protection Development Permit Area is shown on Map No. 10 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.

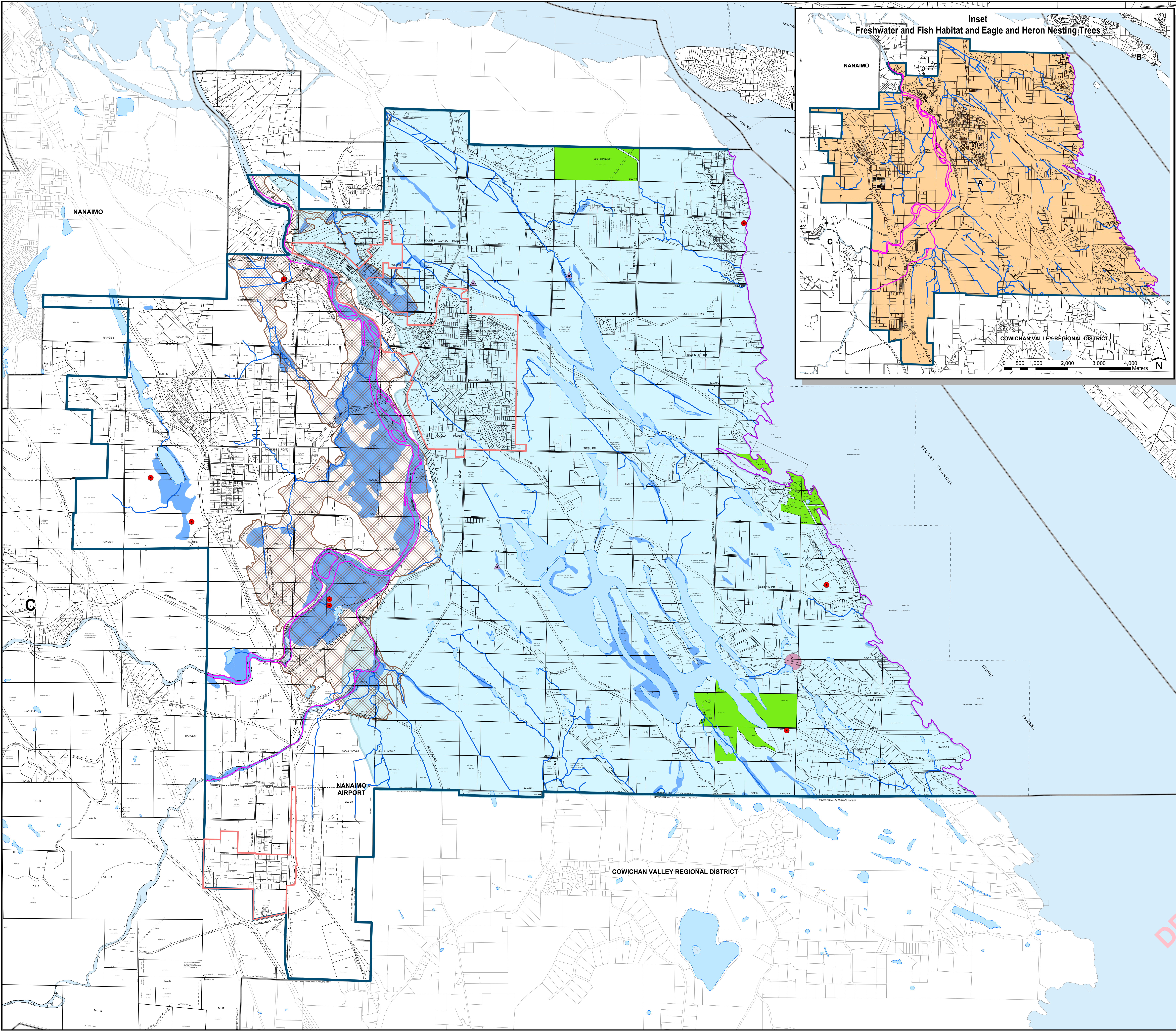
In addition, as a result of inappropriately designed developments, land use conflicts may develop between the land uses. The incorporation of a 15 metre wide buffer between developed lands and agricultural lands is expected to promote greater compatibility between the uses while protecting the agricultural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

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

**REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 1620.05**

Schedule 'C'

Map No. 9 – Development Permit Areas for the Protection of the Natural Environment



MAP NO. 9
Development Permit Areas
for Protection
of the Natural Environment

Legend

- Electoral Area Boundary
- Plan Area Boundary

Sensitive Ecosystems
Development Permit Area

- Coastal Bluff, Terrestrial Herbaceous and Old Forest Ecosystems

SOURCE: Sensitive Ecosystem Inventory 2004

- Sensitive Species

SOURCE: Conservation Data Centre

Eagle and Heron Nesting Trees
Development Permit Area

- All Mapped and Unmapped eagle and heron nesting trees within the shaded area shown on inset map

- Eagle Nest Tree:
60 metre radius from base of tree

- Heron Nest:
60 metres from base of tree for lots ≤ 1.0 hectares
100 metres from base of tree for lots > 1.0 hectares

SOURCE: BC Ministry of Environment

Freshwater and Fish Habitat
Development Permit Area

- All Mapped and Unmapped Streams that are Subject to the Riparian Areas Regulation within the shaded area shown on inset

- Nanaimo River and Haslam Creek

- All other Watercourses

- Lake, Wetland, and Pond

- Wetland and Riparian Areas

SOURCE: Sensitive Ecosystem Inventory 2004

Marine Coast
Development Permit Area

- Coastal Areas:
15 metres from Natural Boundary

Hazard Lands
Development Permit Area

- Nanaimo River Floodplain

Designated by the floodplain limit at a 200 year frequency.

SOURCE: B.C. Water Management Branch, Floodplain Mapping Program and Regional District of Nanaimo Floodplain Management Bylaw No. 1469 Schedule 'A' maps

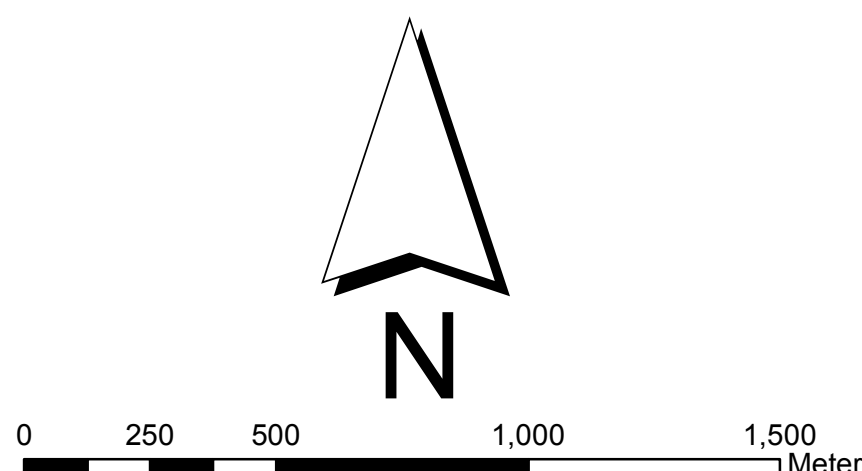
Aquifers Development
Permit Area

- Yellowpoint Aquifer
Development Permit Area

SOURCE: B.C. Ministry of Environment

Chairperson Corporate Officer

BYLAW NO.1620.05, 2018
Schedule 'C'



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