

SECTION 8 – DEVELOPMENT PERMIT AREAS

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In addition to the objectives and policies stated in the Plan, the Regional District has, pursuant to Section 488 and 489 of the *Local Government Act* designated certain lands as Development Permit Areas.

In general terms, the purpose of a development permit area is to regulate certain aspects of development that are not directly addressed in the zoning bylaw or building bylaw, and where the Regional District considers that special conditions exist in accordance with one or more of the following categories:

- a. Protection of the natural environment, its ecosystems and biological diversity;
- b. Protection of development from hazardous conditions;
- c. Protection of farming;
- d. Revitalization of an area in which commercial use is permitted;
- e. Establishment of objectives for the form and character of commercial, industrial, multi-family or intensive residential development; and
- f. To promote conservation of water and energy and the reduction of greenhouse gas (GHG) emissions.

General Policies and Exemptions⁷

INTRODUCTION

The following general policies apply to all development permit areas. In addition, specific guidelines and exemptions that apply to each development permit area are found in the zoning bylaw⁸.

GENERAL POLICIES

1. Designated development permit areas are shown on Map Nos. 6, 7 and 8.
2. Where land is designated within a development permit area, a landowner is required to obtain a development permit prior to either subdivision of the land, the construction of, addition to or alteration of a building or structure on the land, or the alteration of the land within a development permit area, except where exemptions apply.
3. Where land is within more than one development permit area, only one development permit application is required, and the application will be subject to meeting the guidelines of all applicable development permit areas.
4. To minimize development within development permit areas, the Board may consider variances to or support exemptions from the land use and subdivision bylaw in accordance with Regional District Board Policy No. B1.5 “Development Variance Permit, Development Permit with Variance & Floodplain Exemptions Application Evaluation”, as amended from time to time.

⁷ Bylaw 1335.07, adopted December 4, 2018

⁸ Bylaw 1335.07, adopted December 4, 2018

DPA 1 – Freshwater and Fish Habitat⁹

DESIGNATION

The Freshwater and Fish Habitat Development Permit Area is shown on Map No. 6, 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.

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.

⁹ Bylaw 1335.07, adopted December 4, 2018

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.

DPA 2 – Eagle and Heron Nesting Trees¹⁰

DESIGNATION

The Eagle and Heron Nesting Trees Development Permit Area is shown on Map No. 6. 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. 6 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.

¹⁰ Bylaw 1335.07, adopted December 4, 2018

DPA 3 – Aquifers¹¹

DESIGNATION

The Aquifers Development Permit Area is shown on Map No. 6 and applies to the land above all known aquifers.

AUTHORITY

The Aquifers 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

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. Within the Big Qualicum Water Region, the sand and gravel aquifers are productive, though vulnerable to surface contamination. Significant surface water features in the water region include the Big Qualicum River, Rosewall Creek, Thames Creek, Nile Creek and Horne Lake and Spider Lake.

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. Penetration of the aquitard that confines the aquifer could cause an uncontrolled release of large volumes of groundwater under artesian pressure.

OBJECTIVES

1. 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.
2. To reflect Community Value in this Official Community Plan of “support for development regulations to protect environmentally sensitive areas, natural hazard lands, the marine/freshwater foreshores, and aquifer recharge areas”.
3. To protect the integrity of the low-permeable till layer (the aquitard) in the area identified as at risk of artesian conditions.

¹¹ Bylaw 1335.07, adopted December 4, 2018

DPA 4 – Marine Coast

DESIGNATION

The Marine Coast Development Permit Area is shown on Map No. 6 and applies to all lands 30 metres seaward of the present natural boundary, and 15 metres upland from 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 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 marine coast of the Plan Area is primarily composed of high and low bank sand and gravel shorelines, with estuarine coastline found in Deep Bay. Except for the protected harbour of Deep Bay, the shoreline is exposed to significant wave energy from prevailing winter storms from the southeast. The combination of a sand and gravel shoreline and high wave energy means the shoreline is actively changing; some areas are eroding while others are accreting. The intertidal and nearshore biological communities of sand and gravel shores are dominated by burrowing invertebrates such as worms and clams that live in the sediment, and attract large concentrations of birds. Eelgrass, an important habitat, often grows in sand/mud substrates and is sensitive to disruption of sand and gravel shores.

The Plan Area's shorelines have high ecological value and need to be carefully managed to avoid potential negative impacts of development. They are particularly sensitive to human activities that disrupt sediment processes, such as seawalls, or upland development that is poorly sited, including vegetation clearing for yard areas. Upland development over the years has significantly altered the native coastal vegetation so that in many areas there is little habitat and natural erosion protection value left. Backshore vegetation (dune grass, salt adapted plants and shrubs) forms a distinct habitat zone and is important in stabilizing the upland sediments and preventing erosion.

OBJECTIVES

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 pursue the Community Value in this Official Community Plan of “support for development of regulations to protect environmentally sensitive areas, natural hazard lands, the marine/freshwater foreshore, and aquifer recharge areas”.
3. 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.
4. To balance development opportunities with the ecological conservation and restoration of the shoreline environment.
5. 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.

DPA 5 – Hazard Lands¹²

DESIGNATION

The Hazard Lands¹³ Development Permit Area is shown on Map No. 8 and applies to those lands within the development permit area with a slope angle of 30 percent or greater for a minimum horizontal distance of 10 metres along the marine coast.

AUTHORITY¹⁴

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

JUSTIFICATION

Steep slopes are generally found along the marine and riverine coast as well as the Horne Lake Road and the Mount Mark slide area. The threat of landslides is particularly concerning in areas where homes have been constructed near the edges or below unstable slopes.

The development permit area boundaries were derived from 2 metre contour and digital elevation mapping obtained by the Province of BC in 2017. The Regional District isolated areas where this mapping shows a slope of 30% or greater along the marine coast, to improve the boundaries of the the previous Hazard Lands Development Permit Area. The “Mount Mark Slide” area and other, isolated areas of 30% slope are shown on Map No. 8 for reference but do not form part of this development permit area. Riverine slope hazard is addressed in Development Permit Area 1 and the Horne Lake area slope hazard has been addressed through the subdivision of the Horne Lake Strata in the early 2000’s.

OBJECTIVES

1. To minimize the risk to people and property from slope hazard;
2. To develop safely and minimize the impacts on or near steeply sloped lands, including the potential run out area below steep slopes;
3. To reduce slope hazards and landslide risk to people and property by carefully managing development and construction practices on or near steeply sloped lands;
4. To avoid alteration of steeply sloped lands that may cause increased instability of the land or adjacent areas;
5. To encourage ongoing maintenance and monitoring of steep slopes.

APPLICABILITY

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

1. alteration of land, placement of fill, disturbance of soils, including grubbing, scraping and the removal of top soils;

¹² Bylaw 1335.07, adopted December 4, 2018

¹³ Bylaw 1335.07, adopted December 4, 2018

¹⁴ Bylaw 1335.07, adopted December 4, 2018

2. construction 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*.

EXEMPTIONS

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

1. Exemptions listed in Section 8.3 Development Permit Areas – General Exemptions.
2. Where a building permit is required for the proposed development, the Regional District building inspector has either required an assessment report by a Professional Engineer with experience in geotechnical engineering or determined that one is not required, and no other land alterations, buildings or structures, is proposed.
3. Subdivision where land alteration such as installation of driveways or services, is not required as part of the subdivision.
4. Subdivision where no new parcel lines or amendments to existing parcel lines are proposed within the development permit area.
5. Where there is no steep slope hazard, confirmation of which may require a letter from a Professional Engineer with experience in geotechnical engineering.

GUIDELINES

1. An assessment report prepared by a Professional Engineer with experience in geotechnical engineering shall 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.
2. 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.
3. Prior to construction commencing, the installation of temporary fencing or flagged stakes marking any areas to be avoided due to hazardous conditions, is required.
4. 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.

DPA 6 – Farmland Protection¹⁵

DESIGNATION

The Farmland Protection Development Permit Area is shown on Map No. 7 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.

¹⁵ Bylaw 1335.07, adopted December 4, 2018

DPA 7 – Rural Commercial

DESIGNATION

The Rural Commercial Development Permit Area is shown on Map No. 7, and applies to those lands designated Resort Commercial and Tourist Commercial, which are outside of Village Centres, and also applies to lands rezoned for Tourist Commercial and Service Commercial uses in the Rural designation.

AUTHORITY

The Rural Commercial Development Permit Area is designated a development permit area to establish objectives for the form and character of commercial and industrial development, for protection of the natural environment, its ecosystems and biodiversity, for establishment of objectives to promote energy conservation, water conservation and reduction of greenhouse gas emissions pursuant to Section 488(1)(a)(f)(h)(i) and (j) of the *Local Government Act*.

JUSTIFICATION

Outside of the Village Centres, commercial uses generally cater to the traveling public and are generally located within a short distance of the Highway No. 19A corridor. The variety and intensity of uses associated with tourism-related commercial uses and service commercial uses may compromise the aesthetic appeal of the rural landscape, cause conflict with adjacent residential uses and impact environmental values.

OBJECTIVES

1. To ensure that new or additional commercial and service commercial uses outside of Rural Village Centers are developed in a manner that is consistent with and enhances the rural character of the area and minimizes negative impacts on the natural environment and nearby residential uses.

DPA 8 – Qualicum Bay and Dunsmuir Village Centres¹⁶

DESIGNATION

The Qualicum Bay and Dunsmuir Village Centres Development Permit Area is shown on Map No. 7, and applies to Qualicum Bay and Dunsmuir Village Centres.

AUTHORITY

The Qualicum Bay and Dunsmuir Village Centers Development Permit Area is designated a development permit area for revitalization of an area in which a commercial use is permitted, to establish objectives for the form or character of intensive residential development and commercial, industrial or multi-family development, for protection of the natural environment, its ecosystems and biodiversity, for establishment of objectives to promote energy conservation, water conservation and reduction of greenhouse gas emissions pursuant to Section 488(1)(a)(d)(e)(f)(h)(i) and (j) of the *Local Government Act*.

JUSTIFICATION

The Regional Growth Strategy recognizes three areas as the Village Centres for Electoral Area ‘H’. (The Bowser Village Centre is subject of its own Plan and DPA, so is not included here.) Village Centres are included within a development permit area due to the existing commercial activities and in recognition of the opportunity to integrate multi-family residential and tourist oriented commercial, institutional, service commercial development or mixed-use development into one or more of these locations.

In establishing these centres, it is important to ensure compatibility of development with adjacent land uses, to recognize the importance of visual appearance and design of development, and to ensure that future development within the villages has a positive impact on the long-term needs of the community. The Village DPA guidelines focus on village commercial, institutional, and residential themes while maintaining the rural and residential characteristics of the surrounding communities.

The **Qualicum Bay Village Centre** with its central location serves as the main commercial area for Qualicum Bay. The focus for this village centre is on tourist and resort commercial services.

The **Dunsmuir Village Centre** with its location along Horne Lake Road serves as a “gateway” to the coastal resorts, scenic and recreational opportunities within the Plan Area. The vision for this village centre is the development of a comprehensive mixed-use community.

OBJECTIVES

1. To pursue the Community Values in this Official Community Plan to “support for a diversified economy, focusing on small scale commercial, human service sectors, and tourism within the Rural Village Centres.
2. To provide a safe and cohesive village area that enhances the relationship between the built and natural environment through building design and landscaping.

¹⁶ Bylaw 1335.07, adopted December 4, 2018

DPA 9 – Deep Bay Southwest

DESIGNATION

The Deep Bay Southwest Development Permit Area is shown on Map No. 7, and applies to the Deep Bay Southwest land use designation.

AUTHORITY

The Deep Bay Southwest Development Permit Area is designated a development permit area to establish objectives for the form or character of intensive residential development and commercial, industrial or multi-family development; for protection of the natural environment, its ecosystems and biodiversity; and for establishment of objectives to promote energy conservation, water conservation and reduction of greenhouse gas emissions pursuant to Section 488(1)(a)(e)(f)(h)(i) and (j) of the *Local Government Act*.

JUSTIFICATION

Deep Bay Southwest is envisioned as a clustered residential development with tourist commercial and service commercial uses that complement the Deep Bay Harbour, existing tourist commercial uses, residential neighbourhoods, and the Deep Bay Marine Station.

In the development of Deep Bay Southwest, it is important to ensure compatibility with adjacent land uses, to recognize the importance of visual appearance and design. Pedestrian connections, active transportation, accessible design, and housing for different ages and income levels are all important. The development should be progressive in its design and construction resulting in a high standard of water conservation, energy conservation, low greenhouse gas emissions, and conservation and restoration of sensitive ecosystems and mature trees and vegetation.

OBJECTIVES

1. To create residential neighbourhoods and commercial areas that emphasize pedestrian and bicycle mobility over vehicles.
2. To achieve a form and character that includes a variety of housing types in a clustered pattern preserving greenspace, sensitive ecosystems and trails on the remainder.
3. To connect with the existing nearby residential and commercial areas in form and character and through bicycle, pedestrian and road connection(s).
4. To conserve energy and water and minimize greenhouse gas emissions.

Note: the applicability, exemptions and guidelines for this development permit area will be adopted in the zoning bylaw through a future rezoning process for Deep Bay Southwest.