

6.6 Marine Coast Development Permit Area

Information Note: the designation of this development permit area and description of the special conditions or objectives that justify the designation are located in the applicable Official Community Plans.

(a) Applicability

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

- (i) removal, alteration, disruption or destruction of vegetation, including trees, plants and shrubs;
- (ii) disturbance of soils, including grubbing, scraping and the removal of top soils;
- (iii) construction or erection of buildings and structures;
- (iv) creation of non-structural impervious or semi-pervious surfaces; and
- (v) subdivision of land as defined in the [Land Title Act](#) or [Strata Property Act](#).

(b) Exemptions

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

- (i) 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.
- (ii) 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.
- (iii) Minor additions to existing buildings or structures to a cumulative maximum of 25 percent of the original ground floor area, provided that the addition is located on the side or part of the building or structure most distant from the foreshore.
- (iv) 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.
- (v) 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.

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- (vi) Construction of a fence so long as no native trees with a diameter at breast height of 20 cm or greater are removed and the disturbance of native vegetation is restricted to 0.5 m on either side of the fence.
- (vii) 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.
- (viii) 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 cm or greater are removed;
 - (C) there is no permanent foundation
 - (D) the building or structure is located a minimum of 10 m from the natural boundary of the sea or, where the bank has a slope greater than 3:1, 10 m from the top of the bank; and
 - (E) the total area of the small accessory building or structure is less than 10 m².
- (ix) Removal of trees deemed hazardous by a certified Arborist or Registered Professional Forester that pose an imminent 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.
- (x) The small-scale, manual removal of non-native invasive plants or noxious weeds or planting of non-invasive, native vegetation on a small scale conducted in accordance with best practices such as the Invasive Plant Council of BC's 'Grow Me Instead' publication.
- (xi) 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*.
- (xii) 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.
- (xiii) 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.

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(c) **Guidelines**

General Guidelines

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) Shore protection measures shall not be allowed for the sole purpose of reducing

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the setback pursuant to the Floodplain Bylaw or for reclaiming land lost due to erosion.

- (vi) 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.
- (vii) 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.
- (viii) 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.
- (ix) Where erosion protection works are proposed below the natural boundary, they should not obstruct public access along the foreshore or beach and must be authorized by the Provincial Crown as owner of that land.
- (x) 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 Regional District 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.
- (xi) Entirely 'hard' structural shore protection measures such as concrete walls, lock

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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 bylaws 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.
- (xii) Where the installation of a hydrothermal and geotreatment 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.
- (xiii) 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.
- (xiv) 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

- (xv) Subdivisions should 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.
- (xvi) 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.

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- (xvii) 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

- (xviii) 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.
- (xix) 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.
- (xx) 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

- (xxi) Fill on land above the natural boundary greater than 10 m³ 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.
- (xxii) 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

- (xxiii) 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.

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- (xxiv) 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.)
- (xxv) 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.
- (xxvi) 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

- (xxvii) 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.

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