

Section IX

DEVELOPMENT PERMIT AREAS

In addition to the objectives and policies stated in the OCP this Plan designates certain lands as *Development Permit Areas* pursuant to the *Local Government Act*.

The purpose of a Development Permit Area designation on a parcel of land is to permit a higher-level review of a development proposal for lands that are considered to have 'special conditions' in accordance with one or more of the following categories:

- A. to *protect* the natural environment; its ecosystems and biological diversity;
- B. to *protect* development from hazardous conditions;
- C. to *protect* farm land;
- D. to *revitalize* an area where commercial use is permitted; or
- E. to *establish* objectives and *provide* guidelines for the form and character of commercial, industrial, or multiple unit residential development.

For those areas designated as development permit areas, special conditions or objectives that justify the designation are described. Guidelines respecting the manner by which the special conditions or objectives, as well as exemption provisions for development proposals or uses that do not require a Development Permit are included in the zoning bylaw¹.

The Lands shown on Map No. 6, Map No. 7 and Map No. 8 are designated as part of the following development permit areas:

- DPA I Nanoose Bay Form and Character
- DPA II Farmland Protection
- DPA III Freshwater and Fish Habitat
- DPA IV Sensitive Ecosystems
- DPA V Eagle and Heron Nesting Trees
- DPA VI Highway Corridor Protection²
- DPA VII Coastal Flood Hazard

8.1 DEVELOPMENT PERMIT AREA GENERAL POLICIES

1. Owners are required to obtain a development permit prior to: the subdivision of land; the construction of, addition to or alteration of a building or structure on the land; or the alteration of land within a designated development permit area, **except where exemption provisions apply**.
2. Where land is subject to more than one Development Permit Area designation, a single Development Permit is required. However, the application will be subject to the requirements of all applicable Development Permit Areas guidelines.
3. The RDN will consider requests to vary its bylaws regulating the size, shape, and siting of buildings and structures in order to meet the Development Permit Area guidelines.

¹ Bylaw 1400.05, adopted December 4, 2018

² Bylaw 1400.05, adopted December 4, 2018

DPA I

NANOOSE BAY FORM AND CHARACTER

DPA I - PURPOSE

The Nanoose Bay³ Form and Character Development Permit Area is designated pursuant to section 919.1 (1)(d) and (f) of the *Local Government Act* (to establish objectives and provide guidelines for the form and character of commercial, industrial, and multi-unit residential development and to revitalize an area where commercial use is permitted).

DPA I - AREA

The areas designated as Development Permit Area I (Nanoose Bay⁴ Form and Character Development Permit Area) are illustrated on Map No. 6 (Development Permit Areas). This DPA also applies to the proposed expansion of the Red Gap Centre as illustrated on Map No. 6 inset.

DPA I - JUSTIFICATION

For areas that are within Development Permit Area I (Nanoose Bay⁵ Form and Character), the Development Permit Area is intended to include all lands located within the Urban Containment Boundaries (including Village and Neighbourhood Centres) as well as those lands designated as Tourist Commercial lands and Industrial

lands. This is where existing and future commercial, multi-unit and/or industrial development will occur in Electoral Area 'E'.

It is important that new development be integrated in a pedestrian orientated village setting that is of high quality and is able to serve the needs of the community in the future. In addition, because the development within urban containment boundaries is more intensive than surrounding land uses, it is important to ensure that new development is compatible with the surrounding rural and residential lands.

This DPA is established to achieve the following objectives.

- To *ensure* residential, commercial and industrial uses are properly integrated with their surroundings.
- To *improve* the character of commercial, industrial and multiple unit developments.
- To *encourage* a high level of design and quality for commercial, industrial and multiple unit developments.
- To *ensure* appropriate facilities are provided for pedestrians, cyclists, and vehicles.

³ Bylaw 1400.05, adopted December 4, 2018

⁴ Bylaw 1400.05, adopted December 4, 2018

⁵ Bylaw 1400.05, adopted December 4, 2018

DPA II

FARMLAND PROTECTION

DPA II - AREA

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.

DPA II - PURPOSE

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*.

DPA II - 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.

DPA III

FRESHWATER AND FISH

HABITAT⁶

DPA III - 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;
- 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;

DPA III - 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*.

DPA III - 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 IV

SENSITIVE ECOSYSTEMS⁷

DPA IV - 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.

DPA IV - 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*.

DPA IV - 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.

DPA V

EAGLE AND HERON NESTING TREES⁸

DPA V - 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.

DPA V - 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*.

DPA V - 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.

DPA VI

HIGHWAY CORRIDOR

PROTECTION

DPA VI - PURPOSE

Development Permit Area VI is designated under section 919.1(1)(f) of the *Local Government Act* (Establishment of Objectives and the Provision of Guidelines for the Form and Character of commercial, industrial, or multi-family residential development).

DPA VI - AREA

The areas designated as Development Permit VI (Highway Corridor Protection Development Permit Area) are illustrated on Map No. 6 (Development Permit Areas).

DPA VI - JUSTIFICATION

For areas that are within Development Permit Area VI, the Development Permit Area is intended to include all lands within 30 metres of either side of the land dedicated as highway and forming part of the Inland Island Highway No. 19.

Residents in Nanoose Bay have expressed a desire to limit the commercial, industrial and multi-unit development adjacent to Highway No. 19.

DPA VII

COASTAL FLOOD HAZARD⁹

DPA VII - DESIGNATION OF APPLICABLE AREA

Those parts of Electoral Area E of the Regional District of Nanaimo designated as the Coastal Flood Hazard Development Permit Area on Map No. 8 of the Official Community Plan, applying to areas that are at risk of flood hazards.

DPA VII - AUTHORITY GRANTED UNDER THE LOCAL GOVERNMENT ACT

These areas are designated as a development permit area to establish guidelines to protect development from hazardous conditions pursuant to sections 488(1)(a) & (b) of the *Local Government Act*.

DPA VII - JUSTIFICATION

Coastal communities are vulnerable to acute hazards like storm surge and coastal flooding to the widespread impacts of coastal erosion and sea level rise. These hazards can pose a risk to infrastructure, property and public safety, and can disrupt local economies and cause ecological damage unless mitigated. Coastal hazards and sea level rise are critical considerations for regions with a lengthy coastline.

The Regional District of Nanaimo is preparing for the impacts of climate change through the *Sea Level Rise and Climate Adaptation Program*. In 2022, the Coastal Floodplain Mapping Project was completed resulting in a better understanding of coastal flood hazards under present-day and future conditions. The flood analysis included the cumulative effects of high-tide,

storm surge, wind and wave effect. The project also resulted in the production of regional-scale Regulatory Coastal Floodplain Maps used for designating the coastal floodplain area.

The purpose of this development permit area is to ensure new development responds to coastal flood hazards by reducing the risk to people and property, and existing buildings are not altered or modified in ways that increase flood risk.

DPA VII - OBJECTIVES

The objectives of this development permit area are to:

1. minimize the risk to people and property from flood hazards;
2. encourage safety in construction, location and the manner of new construction in flood prone areas;
3. ensure new development does not increase flood hazards and mitigate flood risks for surrounding properties;
4. minimize the potential for damage to public infrastructure, facilities and utilities;
5. ensure lands are safe for the intended use;
6. preserve the natural environment and ecological functions of floodplains; and
7. increase awareness of designated floodplain areas and the implications of such a designation.

⁹ Bylaw 1400.06, adopted October 8, 2024