

20.0 DEVELOPMENT PERMIT AREAS

The *Local Government Act* (Section 919) provides the TNRD and CRD with the authority to establish Development Permit areas for the protection of riparian and environmentally sensitive areas; avoiding development in hazardous locations; setting out expectations regarding the form and character of commercial, industrial and higher density residential development, and setting objectives to promote energy conservation, water conservation, and reduction of greenhouse gases. When a Development Permit area is established, the local government sets out the goals for the designation, guidelines to achieve those goals, and the information to be provided by the applicant. When an owner applies to the local government for a Development Permit to alter the site, buildings or structures, the guidelines in the Plan will direct what conditions, if any, are placed on the proposed development.

This section sets out the following Development Permit Areas for the plan area and provides the justification for their designation:

- Riparian Development Permit Area
- Environmentally Sensitive Development Permit Area
- Hazardous Lands Development Permit Areas

Where land is subject to more than one Development Permit Area designation, a single Development Permit is encouraged. The application will be subject to the requirements of all applicable Development Permit Areas, and any Development Permit issued will be in accordance with the guidelines of all such Areas.

20.1 RIPARIAN DEVELOPMENT PERMIT AREA

Purpose

The Riparian Development Permit Area (RDPA) is established for the protection of the natural environment, its ecosystems, and biological diversity, through the *Local Government Act*.

The RDPA will assist the TNRD in implementing the Provincial Riparian Areas Regulation, which applies to all streamside protection and enhancement areas in the TNRD. It will also help the CRD to meet comparable standards for protection.

Area

The RDPA is comprised of a riparian protection area for fish habitat and shall include the following lands:

- a) all watercourses as shown on Provincial TRIM map series at 1:20,000 and adjacent lands, and any other watercourses as determined by a qualified environmental professional;
- b) in the case of Green, Watch and Pressy Lakes, and all other lakes over 16 ha, the RDPA shall comprise land within 100 metres of the natural boundary of the lake;
- c) for other watercourses, including small lakes, rivers, creeks and wetlands, the RDPA area comprises:
 - i. lands within 30m of the natural boundary of the watercourse;
 - ii. lands within 30m of the top of the ravine bank in the case of a ravine less than 60m wide; and
 - iii. lands within 10m of the top of a ravine bank 60 metres or greater in width that link aquatic and terrestrial ecosystems that exert an influence on the watercourse (see Figure 13).

The Regional District may require a survey and/or QEP evaluation to accurately determine if an RDP application is required.

Justification

The primary goal of the RDPA designation is to regulate development activities in the riparian areas adjacent to

watercourses in order to preserve natural features, functions and conditions that support fish life processes, for example: 1) reducing or eliminating erosion, 2) maintaining tree canopy, and 3) protecting ground and surface water from contamination. Development impact on watercourses can be minimized by careful project examination and implementation of appropriate measures to preserve environmentally sensitive riparian areas.

Guidelines

1. Undertakings requiring a Development Permit shall include, but may not be limited to, any of the following activities associated with or resulting from residential, commercial, institutional or industrial activities:
 - a) removal, alteration, disruption or destruction of vegetation within 30m of a watercourse;
 - b) disturbance of soils such as driveway construction within 30m of a watercourse;
 - c) construction or erection of buildings and structures within 30m of a watercourse;
 - d) creation of non-structural impervious or semi-impervious surfaces within 30m of a watercourse;
 - e) flood protection or utility works within 30m of a watercourse;
 - f) construction of roads, trails, docks, wharves and bridges within 30m of a watercourse;
 - g) construction or replacement of sewer and water services within 30m of a watercourse or 100m of Green, Watch, or Pressy Lake, and all other lakes over 16 ha;
 - h) drainage system work within 30m of a watercourse, or 100m of Green, Watch, or Pressy Lake, and all other lakes over 16 ha; and
 - i) subdivision as defined in the Land Title Act, including the division of land into 2 or more parcels within 30m of a watercourse or 100m of Green, Watch, or Pressy Lake, and all other lakes over 16 ha, except where the subdivision does not result in an increase in density or is for road, park, utility, or other similar purposes.

2. A Development Permit may be issued once the following guidelines have been met:

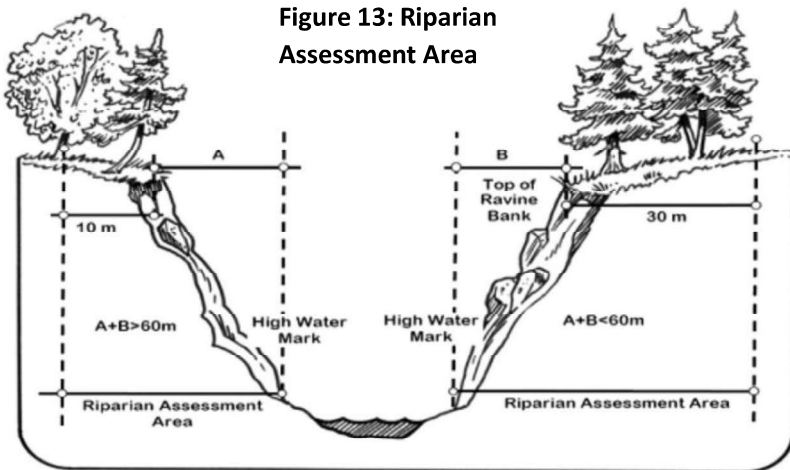
- a) a Type 1 septic system and field are setback a minimum of 100 metres from any watercourse; or

Lesser setbacks may be considered for Type 1 systems in some cases where a new system replaces or improves an existing failing one. All setbacks must abide by the recommendations of the Sewerage System Standard Practices Manual with regard to reduction in critical horizontal setback distances.

- b) in the case of a septic system and field with a setback of less than 100 metres from a watercourse, the owner must engage an appropriately qualified professional engineer or geoscientist to review the proposed siting of the septic system and field to ensure there will be no detrimental impacts on the adjacent water body.

AND for other development in areas within 30m of a watercourse:

Figure 13: Riparian Assessment Area



- c) TNRD: Assessment by a Qualified Environmental Professional (QEP) in accordance with the Riparian Areas Regulation;
- d) CRD: equivalent assessment by a QEP;
- e) TNRD: Provincial notification that a QEP has submitted a report certifying that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a lesser setback will not negatively affect the functioning of a watercourse or riparian area and that the criteria listed in the Riparian Areas Regulation has been fulfilled, including acceptance by DFO and MOE where required;
- f) CRD: Notification that the proposed setback will not negatively affect the functioning of a watercourse or riparian area; and
- g) TNRD: Written confirmation from the QEP that the Riparian Areas Regulation implemented through the RDPA does not supersede other federal, provincial and/or local government requirements, including that of other development permit areas, building permits, flood covenants, federal or provincial authorizations.
- h) CRD: Written confirmation from the QEP that the proposed riparian setback and design does not supersede other federal, provincial and/or local government requirements, including that of other development permit areas, building permits, flood covenants, federal or provincial authorization.

AND FINALLY, for areas within 100m of Green, Watch, or Pressy Lake and all other lakes over 16 ha:

- i) submission of completed application form(s), relevant supporting documentation (i.e. site plans, photographs/illustrations, environmental studies, professional certifications, etc.) and fees.
3. For any environmental and riparian matters not addressed in this section, the guidelines in the TNRD's *Lakeshore Development Guidelines*, 2004, and the CRD's *Shoreland Management Policy*, 2004 are to be followed in the respective regional district.

Exemptions

A Riparian Development Permit is not required under the following circumstances:

- a) construction, alteration, addition, repair, demolition and maintenance of farm buildings;
- b) reconstruction, renovation or repair of a legal permanent structure if the structure remains on its existing foundation in accordance with s. 911 of the Local Government Act, provided this foundation is not moved, extended, or development results in a further encroachment into a riparian assessment area (in that case a RDPA is required);
- c) minor ground disturbance such as hand digging for installation of fencing, services, or similar works not closer than 7.6 m to the natural boundary of the watercourse;
- d) cases where an applicant can demonstrate that the conditions of the RDPA have already been satisfied, or a Development Permit for the same area has already been issued and the conditions in the Development Permit have all been met, or the conditions addressed in the previous Development Permit will not be affected;
- e) a letter is provided by a QEP confirming that there is no visible stream as defined in the RAR;
- f) activities a, b, c, d, and f listed in Guideline 1, on non-waterfront parcels (across a road dedication), provided they are clearly outside the Riparian Habitat.

20.2 ENVIRONMENTALLY SENSITIVE DEVELOPMENT PERMIT AREA

Purpose

The Environmentally Sensitive Development Permit Area (ESDPA) is designated under the Local Government Act for the purpose of protecting environmentally sensitive areas from inappropriate development. Some environmentally sensitive areas are not covered by the RDPA, e.g., unique vegetation or forest communities, wildlife features (e.g., raptor nests, wildlife corridors, waterfowl habitat), habitat supporting rare or endangered species.

Area

All environmentally sensitive areas are designated as a Development Permit Area (see Schedule I). Since some of these are not currently mapped, identification of these areas will be undertaken based on existing maps, new mapping as it becomes available, and identification by proponents, the federal or provincial governments, TNRD or CRD.

Justification

The justification for this designation is to establish conditions on developments such that rare, endangered, and sensitive ecosystems and wildlife are protected from inappropriate development and, where appropriate, development impacts are mitigated. The goals of this designation are to:

- Preserve and enhance the sensitive ecosystems whenever possible; and
- Preserve and enhance general habitat, biodiversity and natural environment regimes.

Guidelines

1. A Development Permit is required on land identified as an environmentally sensitive area. Development requiring a Development Permit shall include, but may not be limited to, any of the following activities associated with or resulting from residential, commercial, institutional or industrial activities or ancillary activities, subject to local government powers under the *Local Government Act*:
 - Removal, alteration, disruption or destruction of vegetation;
 - Disturbance of soils;
 - Construction or erection of buildings and structures;
 - Creation of non-structural impervious or semi-impervious surfaces;
 - Flood protection works;
 - Construction of roads, trails, docks, wharves and bridges;
 - Provision and maintenance of sewer and water services;
 - Development of drainage systems;
 - Development of utility corridors; and
 - Subdivision as defined in the Land Title Act, including the division of land into 2 or more parcels, except where the subdivision does not result in an increase in density.
2. A Development Permit may be issued once the following guidelines have been met:

- Assessment by a QEP, with recommendations for protecting the environmentally sensitive area through siting of buildings, structures and utilities, or through mitigation measures.

Exemptions

The ESDPA does not apply to the following:

- Construction, alteration, addition, repair, demolition and maintenance of farm buildings;
- Reconstruction, renovation or repair of a legal permanent structure if the structure remains on its existing foundation in accordance with Section 911 of the *Local Government Act*. Only if the existing foundation is moved, extended, or the development results in a further encroachment into an environmentally sensitive area would an ESDPA be required;
- An area where the applicant can demonstrate that the conditions of the ESDPA have already been satisfied, or a Development Permit for the same area has already been issued in the past and the conditions in the Development Permit have all been met, or the conditions addressed in the previous Development Permit will not be affected; and
- A letter is provided by a QEP confirming that there is no environmentally sensitive area.

20.3 HAZARDOUS LANDS DEVELOPMENT PERMIT AREAS

Purpose

The Hazardous Lands Development Permit Area is designated under the Local Government Act for the purpose of protecting development from hazardous conditions. One hazardous lands category has been established under this permit area: steep slopes.

Area

All areas with slopes in excess of 30% are designated as Hazardous Lands Development Permit Area (Steep Slopes). Schedule H identifies some, but not necessarily all of these areas. These are referred to as 'steep slopes' below. The TNRD and CRD require an assessment of slope conditions as a condition of development permit issuance. Provincial 1:20,000 TRIM mapping, using 20m contour information, may provide preliminary slope assessment, however a more detailed site assessment will be required for slopes in the vicinity of 30% or more.

Justification

The justification and goals of this designation are to:

- Ensure that people and property are safe from steep slopes;
- Ensure that development in steep slope areas is designed and engineered to provide a high level of protection from ground instability and/or slope failure; and
- Ensure that drainage near steep slopes is managed in a way that does not negatively impact the community or downslope lands, resources or uses.

Guidelines

1. To protect against the loss of life and to minimize property damage associated with ground instability or slope failure, the TNRD and CRD discourages development on steep slopes.
2. Where steep slopes are required for development, development permits addressing steep slopes shall be in accordance with the following:
 - Prior to construction of, addition to or alteration of a building or other structure or prior to subdivision approval, the applicant shall submit a report prepared by a professional engineer or geoscientist with experience in geotechnical engineering. The report, which the Regional District will use to determine the conditions and requirements of the development permit, must certify that the “land may be used safely for the use intended” as provided under the Local Government Act.
3. The report should include the following types of analysis and information:
 - site map showing area of investigation, including existing and proposed: buildings, structures, septic tank and field locations, drinking water sources, watercourses and other natural features;
 - strength and structure of rock material, bedding sequences, slope gradient, landform shape, soil depth, soil strength and clay mineralogy;
 - surface and subsurface water flows and drainage;
 - vegetation: plant rooting, clearcutting, vegetation conversion, etc.
 - recommended setbacks from the toe and top of the slope;

- recommended mitigation measures; and recommended 'no-build' areas.
4. Development in steep slopes should avoid:
- cutting into a slope without providing adequate mechanical support;
 - adding water to a slope that would cause decreased stability;
 - adding weight to the top of a slope, including fill or waste;
 - removing vegetation from a slope; and
 - creating steeper slopes.
 - siting Type 1, 2 and 3 septic systems and fields within steep slopes. Exceptions will only be considered in cases where a new system replaces or improves an existing failing one. All practices must abide by the recommendations of the Sewerage System Standard Practices Manual, which requires system design by a Professional Engineer on sites exceeding 25% slope.
5. A Covenant may be registered on title identifying the hazard and remedial requirements as specified in the geotechnical or engineering reports for the benefit and safe use of future owners.