



TO: Chair and Board of Directors **Meeting Date:** May 18, 2023
FROM: Development Services
SUBJECT: Green Lake and Area OCP Amendment Bylaw No. 2792, 2022

RECOMMENDATIONS:

1. That Green Lake and Area Official Community Plan Amendment Bylaw 2792, 2022, be read a second time as amended.
2. That Green Lake and Area Official Community Plan Amendment Bylaw 2792, 2022, be taken to a Public Hearing in conjunction with a regular Board of Directors meeting.

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R. Sadilkova
General Manager of Development Services

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Approved for
Board Consideration
CAO

Prepared by: Dan Wallace, RPP, MCIP

PURPOSE:

To consider second reading of Green Lake and Area OCP Amendment Bylaw 2792 to make changes that will 1) provide additional clarity to the OCP Riparian Development Permit (DP) Area, 2) limit the scope of both Hazardous Lands and Environmentally Sensitive DP areas to larger or more major development projects



and 3) provide direction in the Temporary Use Permit (TUP) section regarding conditions of approval to enable the placement of a recreational vehicle (RV) as a principal use.

UPDATE since Sept. 2022

On September 22, 2022, at the regular meeting, the Board resolved granted Bylaw 2792 first reading and approved direction with respect to the amendment consultation process as follows:

- a. referrals to those agencies listed in the Consultation section of this report;
- b. engaging all interested stakeholders via electronic, written, or meetings;
- c. a public open house meeting at Green Lake in addition to the required Public Hearing and all other staff and other agency-focused meetings; and
- d. notices and advertisements as routinely required for the Public Hearing.

On September 28, 2022, staff forwarded a referral package to all agencies listed in the report including the Bonaparte Indian Band. We received little in the way of response from this mail out, but we did receive a request from a Bonaparte Indian Band staff member to meet with Band Council regarding matters that were not necessarily specific to the proposed OCP amendments. In a recent follow-up with this staff member, we learned that staffer is no longer with the Band.

At the same time, TNRD staff met with Cariboo Regional District (CRD) Planning staff to get a better understanding of each region's desired bylaw amendments considering that while shared OCP policy covers both jurisdictions, each has a separate and distinct OCP bylaw. We agreed to conduct a public meeting on Saturday, October 3rd, at the Green Lake Snowmobile Club Hall. Notices and advertisements were posted; however, in the weeks leading up to the date, constituents who wished to attend the meeting expressed concern for their safety based on the hostile social media posts of others. TNRD and CRD staff opted to postpone the October meeting. Since then, TNRD and CRD planning staff had consulted and planned a public meeting anew on Saturday, May 6, 2023. It was advertised via posters and social media postings, calls, and emails. We received 36 attendance confirmations including Area Directors from the CRD and TNRD. Director Richmond chaired the meeting and De Vries and Director Jim Smith co-chaired.

At the May 6 meeting, TNRD and CRD prepared and delivered a joint presentation describing OCP history/context along with the key issues related to the proposed amendments including one new amendment not previously considered by the Board in October of 2022. This new addition includes a text amendment to the OCP's Temporary Use Permit (TUP) section that describes the conditions of potential TUP approval to enable recreational vehicle (RV) use on Plan area lands (where RVs are not permitted as a principal use). Despite the CRD not proceeding with a similar amendment, the goal is to better implement Board policy regarding RV use via clear text - similar to that approved in the North Thompson OCP.

All told, 50 people attended the May 6 meeting with many forwarding questions regarding the OCP changes and other land use matters. One resident suggested an additional amendment to the OCP's *Residential* section to support smaller parcel sizes in the 70 Mile House Settlement area. Residential parcel sizes are prescribed by Interior Health Authority (IHA) at the time of subdivision. Without the provision of community water and sewer systems in 70 Mile House (or anywhere), the accepted minimum parcel size for a single-family dwelling is generally 8000 square meters (\approx 2 acres); however, clustered or multi-family strata development with engineered sewer and water services may justify a reduced parcel size on a site-specific basis. Other matters that were questioned and discussed include:

- riparian area protection regs
- Green Lake water levels
- Flushing rate of OCP area lakes
- wildfire risks
- building permit triggers
- changes to BC Building Code
- reno/repair vs. new build
- property maintenance standards
- legal non-conforming status of structures (aka "grandfathering")



SUMMARY

Planning Services requests approval for advancing amendments to the Green Lake and Area Official Community Plan (OCP) relating to **Section 20.0 Development Permit Areas** (DPAs) and **Section 10.0 Temporary Permits** (TUPs) to the Hearing stage. These amendments emanate from some challenges landowners and staff encounter through the implementation of the three DPA requirements along with the emerging need for clear direction/conditions enabling RV use on lands not zoned for RV use. The revised amendment bylaw is included in this report package.

BACKGROUND:

History and Current Proposal

The OCP has been in effect since being adopted in 2010. The DPA section, originally drafted by the consultant who may have been unaware of the challenges created by broad wording and

ambiguous mapping, was previously amended in 2013 to clean up confusing setbacks and scope of development in DPAs. There is still need for improving the text and maps.

Development Permit Areas (DPA)

Since 2013, landowners and staff alike have still faced challenges with the provisions setting out DPA triggers and prescriptions/justifications. For example, some owners have expressed frustration when asked to complete DPs for minor developments (e.g. an environmental review prior to building an addition). Then, when these areas are investigated (mainly for identified *Hazardous Lands Areas*), ground truthing can result in the designation being non-existent and so the DPA requirement is lifted. In many cases, site specific geotechnical reviews required at the time of building permit or as a requirement for subdivision mitigates any site hazard issues.

Planning suggests that these issues can be readily resolved through text changes including explicit applicability vs exemptions of the hazard and environmentally sensitive area DPAs in advance of larger land use projects. While one DPA needs updating to improve clarity on applicability, the other two are recommended to be applicable for larger scale projects where the potential environmental impacts may be greater.

Temporary Use Permits (TUP)

The TUP section was written with specific policies related to short term rentals, an emerging building use preceding the OCP's adoption in 2012. Staff reported in the recent past that the use of RVs as residences, seasonal or permanent, is increasing across the region, including the Plan area. We routinely have landowners calling to ask for us to issue a new address for their RV on vacant (i.e., unimproved) land. Persons purchasing land in the TNRD may believe that using an RV as a seasonal dwelling, parked on vacant land, and permanently adding onto it to create a vacation property is allowed. In response, the Board resolved, via policy, to restrict longer term RV dwelling use via the approval of a TUP.



Planning suggests that as a result of increased RV use in the OCP area in recent years, and in response to its effectiveness in creating public awareness of the Board's policy in another regional OCP, it was determined to include a similar section into the OCP. We caution that this is not an

open invitation to allow RVs throughout the Plan area but simply a documented regulation to provide additional clarity on RV use on lands not zoned for RV use as a principal use. .

DISCUSSION:

OCP Amendments – Citizen/Public Consultation

With any OCP amendments, consultation plays a key role in the formulation of ideas and eventual policy direction. When a local government proposes to amend an OCP, s. 475 of the *Local Government Act* requires us to provide one or more opportunities that the Board considers appropriate for consultation with persons, organizations and authorities it considers will be affected. In addition, the OCP’s *General Plan Implementation* section provides additional direction when considering amendments to the OCP. It clarifies that where amendments are deemed to be significant there should be at least one community meeting plus a potential joint TNRD and CRD public hearing.

OCP Amendments – Proposed Changes

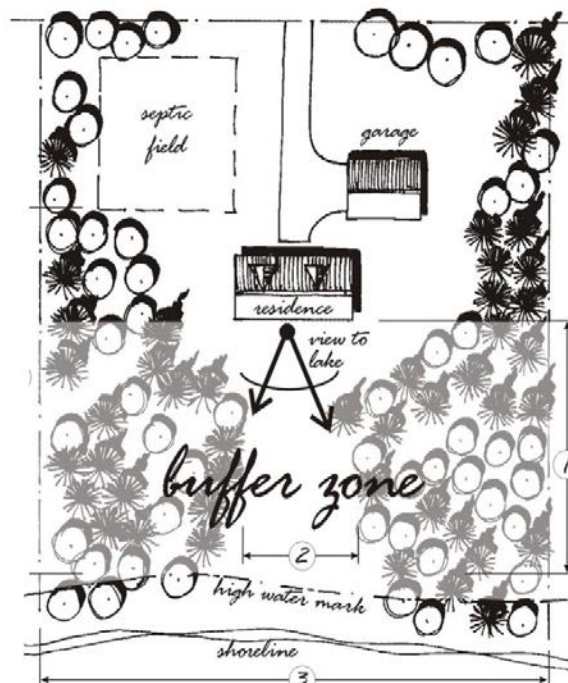
1. Riparian Development Permits

Issue

DPA description (incl. Purpose & Area) is rewritten to better articulate the breadth of the requirements for this DPA. This provides an opportunity to clearly state the dual DPA purpose and further simplify those sections since the last DPA amendments of 2013.

Rationale for change

The evolving nature of RAPR implementation requires periodic text refinement to ensure the OCP accurately describes the DPA’s intended areas of applicability. The original DPA section was written in 2009 shortly after formal RAR (now renamed RAPR) implementation. Since that time, staff have written similar DPA sections for other OCPs where we have better refined and implemented RAPR provisions. The changes comprise adding numbering, clearer text and legislation reference updates (since 2013 the Prov Gov has substantially rewritten RAPR legislation). No new areas of applicability or exemptions are contemplated.



As a side note, 90 DPs have been issued in this OCP for protection of the riparian area and to lessen septic field impacts upon the water quality of area lakes, including Green Lake.

Recommendation: *replace s. 20.1 Riparian Development Permit Area for better clarity.*



2. Environmentally Sensitive and Hazardous Lands Development Permit Areas

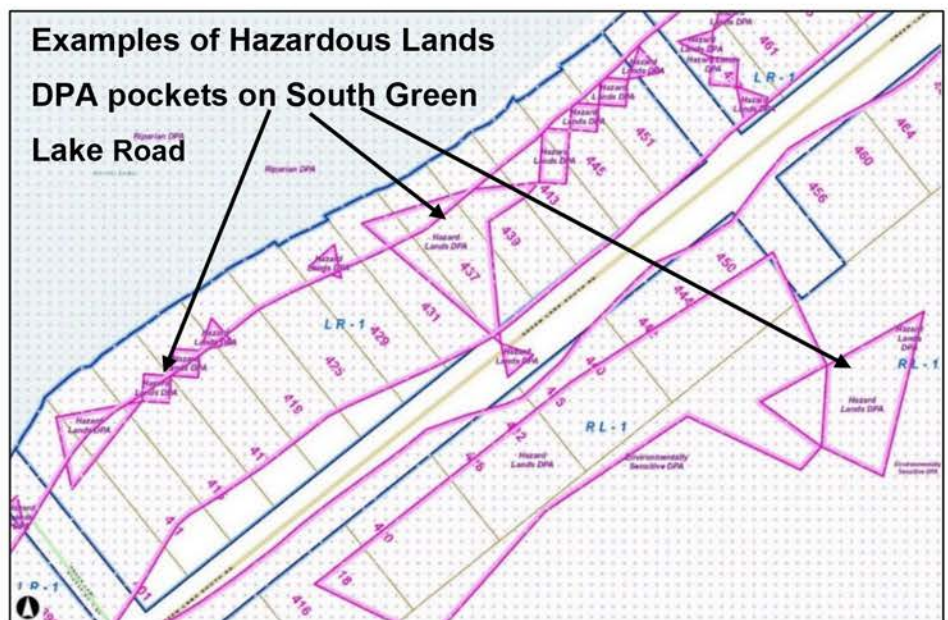
Issue

OCP wording within these DPAs is broad and too encompassing, triggering DPs for what we deem (in most cases) as minor developments.

In their current form, the two noted DPAs, along with their mapping, present challenges and sometimes economic hardship to those seeking minor developments. It is recommended that these DPAs be amended to invoke DP requirements prior to larger project approvals.

Rationale for Change

Landowners often apply for a building permit for a small addition or an accessory building to find out, during the permit review process, that their property is affected by one or possibly both of these DPAs.



The key areas leading to change are as follows:

- Our outsourced mapping data has often been ground-truthed and found to be incorrect; and
- Actual DP purposes are better served when applied to those development projects that have the greatest impacts.

The original raw 2009 data used to map the DPAs in our GIS system was provided by a planning consultant. Over the years since, it has become obvious that the GIS data layer for these Hazard Land or Environmentally Sensitive DPAs is flawed – see inset map above. As part of a more robust review of the OCP in the future, this mapping data will need to be fully field reviewed to validate the location of these areas. Until then, we can maintain the DPAs GIS layers but refine the guidelines in the text.

In the 12 years since OCP adoption, only one Environmentally Sensitive Area DP was sought and issued in 2015. No Hazardous Lands DPs have been issued. We can confirm that property owners have either avoided development in the identified DPAs or proven that no issues exist despite the DPA designation. The changes are not intended for property owners to avoid their responsibilities to ensure Green Lake habitat conservation and environmental protection. Rather, the goal is to ensure those projects that have the greatest impact on environmentally sensitive and hazard land areas are preceded by a DP.

Recommendation: *Amend the two DPAs to require DPs for subdivision and major rezoning/OCP amendment applications that will create four or more parcels.*

3. Temporary Use Permits

Issue

Two of the most pressing recreational land use issues in recent years are short term rentals and RV residential use. As noted, the OCP currently provides direction with respect to the need for a TUP to enable tourist accommodation use but does not have policy direction for RV use.

Rationale for change

Property owners often believe that recreational property, or property other than their principal residence, qualifies for different regulations. RV use is viewed as a right of recreational property use, for varying lengths of time, *before* a proper dwelling/cabin or manufactured home is developed on the land. Based on our experience with similar text in another regional OCP, an amendment to include TUP conditions for RV use will assist property owners in understanding

the pros and cons of long-term RV use while also implementing clear Board policy regarding the mechanism to enable said RV use.

Recommendation: *Amend the TUP section to require TUPs for placement of RVs on lands where RVs are not permitted.*

4. Additional Housekeeping Text Amendments

With the DP area amendments, other sections in the OCP should make clear that a DP **may** be needed as opposed to being absolutely **required**. Even in its current form, the implied requirement was confusing to those property owners who felt that their developments fell within one or more exemptions. With the proposed following changes, this will no longer be the case:

- 6.18 New development on lakes must comply with objectives and policies in Section C: The Natural Environment, and ~~must~~ **may** require a Riparian Development Permit (see section 20.0).
- 13.2 Development in hazardous areas ~~must~~ **may** require a Development Permit (see section 20.0).
- 14.1 Development in Riparian Areas and Environmentally Sensitive Areas ~~must~~ **may** require a Development Permit (see section 20.0).

Next Steps

Because the OCP spans across areas in both the CRD and TNRD, the original public hearings for the OCP were jointly held by delegates from each respective regional district. Each regional district maintains a separate OCP bylaw with implementation policy in each bylaw directing staff to communicate OCP applications to each respective regional district office. The CRD plans to make similar amendments with the exception of the TUP changes.

While a joint public hearing is lawfully possible, CRD and TNRD representatives are comfortable with separate public hearings to enable input for each local government's proposed amendments.

REFERRALS AND LIAISON:

- **Ministry of Transportation and Infrastructure (MoTI)** staff requests that the setback from any Ministry right of way for any structure is a minimum 4.5 metres. This requirement is strictly upheld by the Ministry. All driveways must be constructed to Ministry standards. Permits only required for numbered highways or uses other than residential.

ALIGNMENT TO THE BOARD STRATEGIC PLAN:

These changes are consistent with the ongoing operation, service delivery, and legislative requirements in the Board's Strategic Plan.

COMMUNICATIONS OR PUBLIC CONSULTATION:

The *Local Government Act* requires that as part of an OCP amendment, local government must provide opportunities for early consultation. In accordance with Development Approval Procedures Bylaw 2385, this minor OCP amendment application was referred to the Bonaparte Indian Band, MoTI, Interior Health, Ministry of Forests, Land and Natural Resource Operations, Fisheries and Oceans Canada, Ministry of Agriculture, Ministry of Environment and Climate Change, Ministry of Land, Water and Resource Stewardship, Green Lake Area Ratepayers Association and CRD on September 28, 2022, for consideration and comment. All comments received to date are described under “Referrals and Liaison”. At the same time, paper notices were posted in the Plan area along with social media notification.

Attachments

- Green Lake and Area Official Community Plan Amendment Bylaw 2792, 2022 (as amended)
- Current Sections 20.0 and 10.0

THOMPSON-NICOLA REGIONAL DISTRICT

BYLAW NO. 2792

A bylaw to amend "Green Lake and Area Official Community Plan"

WHEREAS the *Local Government Act* provides that the Board of the Thompson-Nicola Regional District may amend an Official Community Plan;

WHEREAS the Board has had due regard to the requirements of s. 471 to 478 of the *Local Government Act* in its consideration of this Bylaw;

AND WHEREAS the Board of Directors deems it desirable to adopt the amendments to the Green Lake and Area Official Community Plan;

AND WHEREAS the amendments are consistent with the Thompson-Nicola Regional District Regional Growth Strategy and the amendments do not affect the Financial Plan;

NOW THEREFORE, the Board of Directors of the Thompson-Nicola Regional District, in open meeting assembled, enacts as follows:

1. **CITATION**

This bylaw may be cited as "Green Lake and Area Official Community Plan Amendment Bylaw No. 2792, 2022."

2. **AMENDMENT**

2.1 Schedule "A" of Bylaw No. 2321 is amended as follows:

a) by adding the following as s. 10.8 to Section 10.0 Temporary Use Permits:

"When considering temporary use permits to enable the residential use of a recreational vehicle (RV), either as a principal or accessory use, the Regional Board will consider the following:

- a) the cumulative effects on the neighborhood of any TUP issued for RV vehicle use;
- b) the potential alteration of the residential appearance of the neighbourhood;
- c) the explicit understanding that no modifications are made to the RV and any additions (e.g. decks) are non-permanent structures built with a valid building permit where applicable;
- c) the requirement for mitigating measures to address neighbourhood concerns, such as screening, skirting, or fencing where advisable and practical;
- d) the requirement to maintain all applicable bylaw setbacks and spatial separation from adjacent buildings;
- e) the satisfactory completion of a *Temporary Use Permit – RV Residential Use Safety Declaration* prior to registration;

- f) the ability of the property to accommodate a minimum of two on-site parking spaces, excluding on-street parking;
- g) written proof to verify the existence of a suitable sewage disposal system, designed and installed for expected daily capacity, in accordance with provincial regulations, as well as a potable domestic water source or cistern; and
- h) As a condition of issuing a TUP, the Regional District may require the posting of a bond or other security to ensure compliance with the conditions of a permit.”

b) by replacing s. 6.18 with the following:

“New development on lakes must comply with objectives and policies in Section C: The Natural Environment and may require a Riparian Development Permit (see 20.0).”

c) by replacing s. 13.2 with the following:

“Development in hazardous areas may require a Development Permit (see 20.0).”

d) by replacing s. 14.1 with the following:

“Development in Riparian Areas and Environmentally Sensitive Areas may require a Development Permit (see 20.0).”

e) by replacing Section 20.0 in its entirety with Schedule “1”, attached hereto and forming a part of this Bylaw;

READ A FIRST TIME the 22nd day of September, 2022.

READ A SECOND TIME AS AMENDED the 18th day of May, 2023.

PUBLIC HEARING held on the day of , 2023.

READ A THIRD TIME the day of , 2023.

ADOPTED this day of , 2023.

Corporate Officer

Chair

20.0 Development Permit Areas (DPAs)

The *Local Government Act* provides the TNRD and CRD with the authority to establish Development Permit areas for the protection of riparian and environmentally sensitive areas and avoiding development in hazardous locations. When a Development Permit area is established, the local government sets out the objectives for the designation; the guidelines to achieve those objectives; 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 DPAs for the plan area and provides the justification for their designation:

- a) Riparian Development Permit Area
- b) Environmentally Sensitive Development Permit Area
- c) Hazardous Lands Development Permit Areas

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

20.1 Riparian Development Permit Area No. 1 (RDPA)

20.1.1 Purpose

The Riparian Development Permit Area (RDPA) is designated a DPA for the protection of the natural environment, its ecosystems and biological diversity, and protection of development from hazardous conditions pursuant to s. 488 (1)(a) and (b) of the *Local Government Act*.

The RDPA will serve two purposes. Firstly, it will implement the Provincial *Riparian Areas Protection Regulation* (RAPR), which applies by legislation to all streamside protection and enhancement areas in the TNRD. Despite RAPR not applying to the CRD, it will also help the CRD to meet comparable standards and achieve comparable results for riparian area protection. Second, the RDPA will require advanced sewage disposal system implementation on select lakes in the Plan area.

20.1.2 Area

The RDPA is comprised of a riparian assessment area for fish habitat, which includes all streams as shown on Provincial TRIM map series 1:20,000 and adjacent lands, and any other streams as determined by a QEP.

Along Green, Watch and Pressy Lakes, and all other OCP lakes over 16 ha in area, the RDPA area for sewage disposal implementation shall comprise land within 100 metres of the natural boundary of the lake.

Riparian Areas

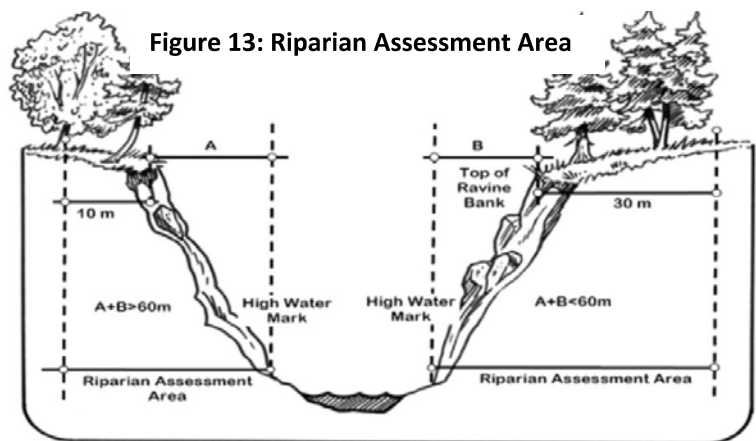
RDPA requirements apply to all *qualifying* Plan area streams. For the TNRD, these streams are as set out in provincial legislation and as maintained on the Province’s RAPR Notification System (RARNS). For the CRD where RAPR does not apply, an equivalency protection standard will apply to streams within the Plan area. A stream means:

- a) a watercourse or body of water, whether or not usually containing water, and
- b) any ditch, spring or wetland that is connected by surface flow to a watercourse or body of water referred to in section (a).

The area includes all streams generally shown on Provincial Terrain Resource Information Management (TRIM) mapping and adjacent lands as well as any other streams determined by a Qualified Environmental Professional (QEP) pursuant to RAPR BC Reg. 11/2021 (RAPR). The TNRD mapping system shows which areas are affected as this data is gathered/updated and the RAPR is amended or superseded.

RDPA areas adjacent to qualifying streams in the TNRD are as follows:

- a) 30 metre strips on each side of the stream measured from the stream natural boundary;
- b) for a ravine less than 60 metres wide, a strip on each side of the stream that is measured from the stream boundary to a point that is 30 metres beyond the top of the ravine bank; and
- c) for a ravine over 60 metres wide, a strip on each side of the stream measured from the stream boundary to a point that is 10 metres beyond the top of the ravine bank (see inset **Figure 13**)



Sewage Disposal Implementation

Advanced sewage disposal system implementation will apply to development within 100 metres of the natural boundary of Green, Watch and Pressy Lakes along with all other lakes in the Plan area over 16 hectares in surface water area.

20.1.3 Justification

Watercourses and riparian area ecosystems are critical areas for the co-existence of humans, plants, and animals. These 'ribbons of life' support an enormous range of plants and animal life, provide important refuge and migration areas for birds and wildlife and nurture fish life processes. These areas are the critical buffer zones between the upland shore area and the aquatic zone and comprise the most sensitive part of a lakeshore property.

Development near water generally requires more detailed planning but especially sub-surface sewage collection, treatment, and disposal. To avoid interaction with surface and groundwater, additional technical review will determine the best sewage disposal system and site location. Sewage contains both nutrients (such as phosphorous and nitrogen) and disease-causing microorganisms (bacteria, viruses, and parasites) which have considerable potential to impact water quality and human health. There are many variables that influence the degree to which sewage management may be a concern to lakeshore development including the quality of design and construction of the sewage management system and water table and soil conditions.

20.1.4 Applicability

Activities requiring a Development Permit shall include, but may not be limited to, any of the following:

- a) removal, alteration, disruption, or destruction of vegetation within 30m of a stream;
- b) disturbance of soils within 30m of a stream;
- c) construction or erection of buildings and structures within 30m of a stream;
- d) creation of non-structural impervious or semi-impervious surfaces within 30m of a stream;
- e) flood protection or utility works within 30m of a stream;
- f) construction of roads, trails, docks, wharves, and bridges within 30m of a stream;
- g) construction or replacement of sewage disposal and water services within 30m of a stream or 100m of Green, Watch, or Pressy Lake, and all other Plan area lakes over 16 ha;
- h) drainage system work within 30m of a stream, or 100m of Green, Watch, or Pressy Lake, and all other Plan area lakes over 16 ha; and
- i) subdivision of land or building.

20.1.5 Exemptions

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

- a) where a similar development permit has already been issued or a covenant satisfactorily addresses riparian area protection for the given land;
- b) exemptions that are prescribed in the *Riparian Areas Protection Regulation*;
- c) a completed Declaration for *Riparian Areas Protection Regulation* exempt Property is submitted;
- d) an alteration of an existing approved building or permanent structure in which the building or structure foundation is not altered or increased;
- e) the activity or building is part of a farm operation as defined by the *Farm Practices Protection (Right to Farm) Act*, is a permitted farm use as defined in Section 6 of the *Agricultural Land Reserve Use Regulation* and the lands are assessed as Farm under the *Assessment Act*;
- f) forest management activities on lands subject to the *Forest Act* or *Private Managed Forest Land Act* and assessed as Forest Lands under the *Assessment Act*;
- g) removal of trees deemed hazardous by a certified arborist or Registered Professional Forester that poses an immediate threat to buildings, life safety or in accordance with provincial "Firesmart" standards;
- h) emergency procedures to prevent, control or reduce erosion or other immediate threats to life and property including emergency flood or protection works and any emergency works to be undertaken in accordance with the Provincial *Water Sustainability Act* and *Wildlife Act*, and the Federal *Fisheries Act*; or
- i) subdivision limited to lot line adjustment or lot consolidation.

20.1.6 Guidelines - Riparian Area Protection - TNRD

- a) All development within a DPA must be consistent with the most current version of RAPR.
- b) Prior to any building, clearing, and excavation, development activities should be planned to avoid intrusion into the DPA to minimize the impact of activities on these areas.
- c) A Development Permit may be issued upon receipt of a written assessment report from an environmental professional qualified to submit under RAPR and receipt of notification from the Ministry having jurisdiction that the report meets Provincial reporting requirements. The report shall be used to determine the conditions of the development permit and may be appended to the permit document.
- d) Where the applicant's biologist or other qualified professional recommends revegetation and enhancement works, the TNRD may require the applicant to submit a landscaping plan, prepared by the

appropriate professional with knowledge on local indigenous vegetation types, and a security deposit equal to the estimated costs of all materials and labour as determined by a Landscape Architect or other qualified professional to the satisfaction of the TNRD.

- e) Lands will be retained in their natural state where possible, preserving indigenous vegetation and trees. If suitable areas of land for the use intended exist on lands outside the DP area, the proposed development should be directed to those areas to minimize development in the DPA. The onus will be placed with the property owner to demonstrate that encroaching into the DPA is necessary due to circumstances such as topography, hazardous conditions, or lack of alternative developable land, and that every effort is made to minimize adverse impacts. Every effort must be made to avoid any development or vegetation disturbance in the DPA and should only be considered as the final option.
- f) The report prepared by the qualified environmental professional will comprise a Schedule in the Development Permit.

Sewage Disposal System

- a) A property owner must engage an appropriately qualified professional engineer or geoscientist to review the property, design an appropriate sewage disposal system, and certify there will be no detrimental impacts on the land, groundwater, adjacent wells, and adjacent watercourse. The professional's report will comprise a Schedule in the DP and registered on title.

For any environmental and riparian matters not addressed in this section, the guidelines in the TNRD *Lakeshore Development Guidelines, 2004*, and the CRD *Shoreland Management Policy, 2004* are to be followed in the respective regional district.

20.2 Environmentally Sensitive Development Permit Area No. 2 (ESDPA)

20.2.1 Purpose

The Environmentally Sensitive Development Permit Area (ESDPA) is designated to protect environmentally sensitive areas especial those with rare or endangered species from inappropriate development. Some environmentally sensitive areas are not covered by the RDPA (e.g., unique vegetation or forest communities, wildlife features such as raptor nests, wildlife corridors, and waterfowl habitat).

20.2.2 Area

All environmentally sensitive areas are designated as a DPA (see Schedule I for CRD locations). Given the ephemeral and changeable attribute of ESDPAs, some of these are not mapped in this OCP; instead, identification is to be based on Ministry information and mapping as it is released and becomes available; and by identification by proponents, the federal or provincial governments, TNRD or CRD.

20.2.3 Justification

The ESDPA designation will 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:

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

20.2.4 Applicability

A Development Permit is required on land identified as an environmentally sensitive area. Activities requiring a Development Permit shall only include the following activities:

- a) Major rezoning/OCP amendment applications; and
- b) Any subdivision application that will create/impact four or more parcels.

20.2.5 Guidelines

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

- a) To minimize impacts on protected endangered species, the TNRD and CRD discourages development in any environmentally sensitive area.
- b) Where development activity cannot avoid environmentally sensitive areas, a development permit with an QEP assessment, including recommendations for protecting the environmentally sensitive area through siting of buildings, structures, and utilities, or through mitigation measures, is required.

20.3 Hazardous Lands Development Permit Area No. 3 (HLDPA)

20.3.1 Purpose

The Hazardous Lands DPA (HLDPA) is designated for the purpose of protecting development from hazardous conditions. The hazardous lands category established under this DPA are **steep slopes**.

20.3.2 Area

All areas with slopes in excess of 30% are designated as HLDPA. Schedule H identifies some, but not necessarily all these areas. Development should avoid areas on or near steep slopes. 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 >30% or more.

20.3.3 Justification

The justification and goals of this designation include:

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

20.3.4 Applicability

A Development Permit is required on land identified as a hazardous land. Development requiring a Development Permit shall include the following activities, qualifying that a building inspector has the authority to require a geotechnical engineer's assessment and report at any time or on any land as a part of the construction process:

- a) Major rezoning/OCP amendment applications; and
- b) Any subdivision application that will create/impact four or more parcels.

20.3.5 Exemptions

Where a Provincial Approving Officer requires a similar geotechnical assessment as part of a subdivision, the Regional District may waive the Development Permit as it relates to hazardous lands.

20.3.6 Guidelines

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

- a) 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.

- b) Where steep slopes are proposed to be developed, a development permit shall be in accordance with the following:
- Prior to subdivision or land use bylaw approval, the applicant shall submit a report prepared by a professional engineer or geoscientist with experience in geotechnical engineering. The report will set out 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.
- c) 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.
- d) 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;
 - creating steeper slopes; and
 - 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.
- e) 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.

10.0 TEMPORARY PERMITS

Context

The *Local Government Act* makes provisions for Temporary Permits. The intent of these permits is to provide for the ability to locate uses on a temporary basis. Rationale for such a permit can be a short-term contract requiring an activity for a limited duration. Legislation can permit a conditional permit for up to three years, with the ability to apply for one extension for up to another three-year period. Further extensions are not permitted. Upon expiry of the permit, the use must be removed, unless a zoning and plan amendment have been adopted.

Vacation rentals also fall within this category. Rentals of vacation property have economic benefits for the community, provided that potential impacts are managed.

Objectives

1. Provide an opportunity for temporary use applications to be considered within the plan area, including vacation rentals.
2. Ensure that temporary uses are compatible with adjacent land uses.

Policies

- 10.1 Consider the issuance of temporary permits within properties designated as Resource, Agriculture, Rural Holding, Small Holding, Rural Residential, Highway Commercial, Tourism Commercial, Resort Commercial or Industrial on Schedule B.
- 10.2 Consider the issuance of temporary permits for temporary accommodation vacation rentals for properties designated as Rural Holding, Small Holding, or Rural Residential on Schedule B.
- 10.3 Include conditions on the permit to minimize the intrusion of the use on adjoining agricultural, residential and resource areas, as applicable, including the possible requirement of sound and visual mitigation measures.
- 10.4 The Regional Boards may require the proponent to invite the local community to a public meeting prior to consideration of a resolution to conditionally approve the temporary use.
- 10.5 Should the applicant wish the continuation of the use beyond the expiry of a permit, or expiry of a renewal, an application to amend the zoning bylaw and/or official community plan must be submitted well in advance of permit expiry in order to assure non-interruption of land use. It is recommended that applications be submitted six (6) months prior to permit expiry.
- 10.6 Should the property be affected by chemicals, litter, or other waste or damage, site rehabilitation is required upon cessation of the use.
- 10.7 When considering temporary permits for temporary accommodation vacation rentals, the Regional Board will consider the following:
 - a) the cumulative effects on the neighborhood of all the temporary use permits issued for commercial vacation rentals;
 - b) the potential alteration of the residential appearance of the neighbourhood;

- c) the requirement for mitigating measures to address neighbourhood concerns, such as screening or fencing where needed and practical;
- d) the ability of the property to accommodate a minimum of two on-site parking spaces, excluding on-street parking;
- e) required documentation from a Registered Onsite Wastewater Practitioner or Professional Engineer, with appropriate background, confirming that the septic disposal system has been inspected to show it is working properly and capable of supporting the proposed additional occupancy load;
- f) required proof of an occupancy permit and written proof that the dwelling meets the building code;
- g) proof that the owner or a local contact/manager resides within the plan area and that the owner or a local contact/manager will be available by telephone 24 hours/day, seven days per week to respond to concerns;
- h) proof that the owner or local contact/manager has provided neighbours within a 100 metre radius of the vacation rental with the phone number of the owner or local contact/manager, and a copy of the temporary use permit;
- i) proof that the owner or local contact/manager posts for guests information on noise bylaws, water conservation, fire safety, transfer station location, and septic system care;
- j) a stated restriction on the maximum number of occupants that can stay to a maximum of two guests per bedroom with limits of 3 bedrooms or 6 occupants on lots less than 2.0 hectares and limits the number of 4 bedrooms or 8 occupants for lots greater than 2.0 hectares;
- k) a stated restriction on the maximum number of signs advertising the commercial vacation rental to one sign, with a maximum area of 0.2 square metres (2.15 square feet) be made of wood and not illuminated;
- l) a stated restriction that prohibits recreational vehicles or camping; and
- m) such other considerations as the Regional Board deems applicable with respect to a specific commercial vacation rental application.

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:

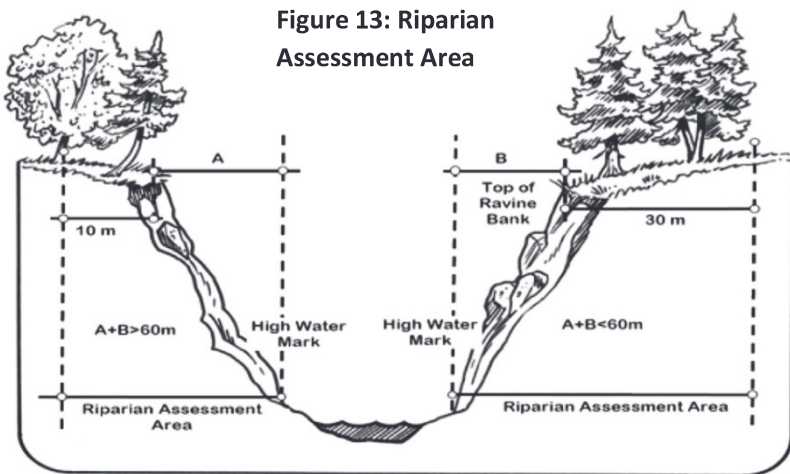
- a) all watercourses as shown on Provincial TRIM map series at 1:20,000 and adjacent lands, and any other watercourses as determined by a qualified environmental professional;
- b) in the case of Green, Watch and Pressy Lakes, and all other lakes over 16 ha, the RDPA shall comprise land within 100 metres 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:

- 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.