

Watercourse Protection Framework Review



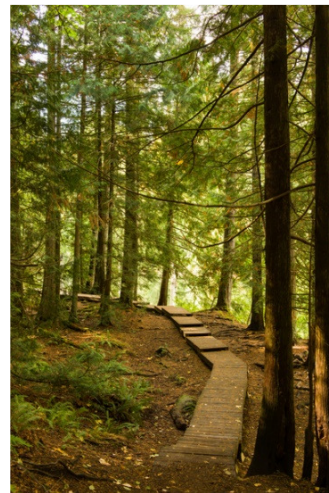
Federal & Provincial Legislation

Federal Legislation

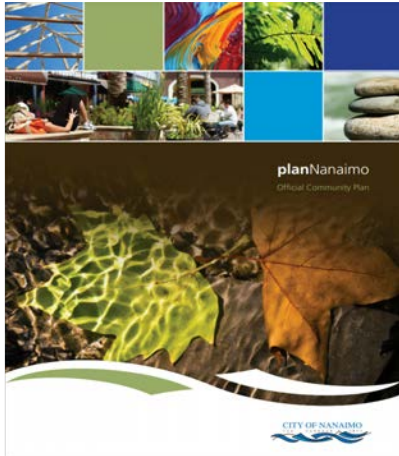
- Fisheries Act
- Species at Risk Act

Provincial Legislation

- Local Government Act
- Wildlife Act
- Riparian Areas Protection Act
- Riparian Areas Protection Regulation
- Water Sustainability Act
- Contaminated Site Regulation

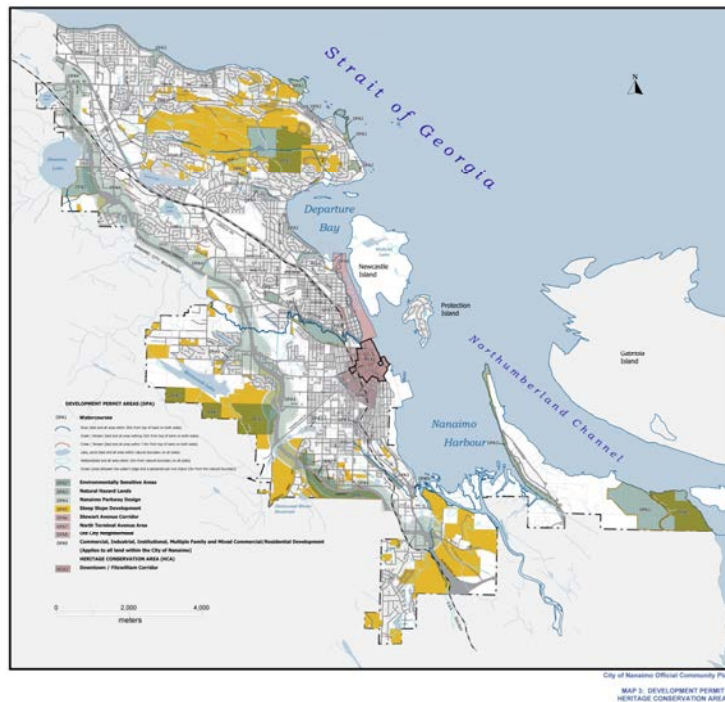


Bylaws



Bylaws

- Official Community Plan (DPA 1 and 2)
- Zoning Bylaw 4500
- Management and Protection of Trees Bylaw No. 7126
- Pesticide Use Bylaw No. 7102
- Soil Removal and Depositing Bylaw 1976 No. 1747

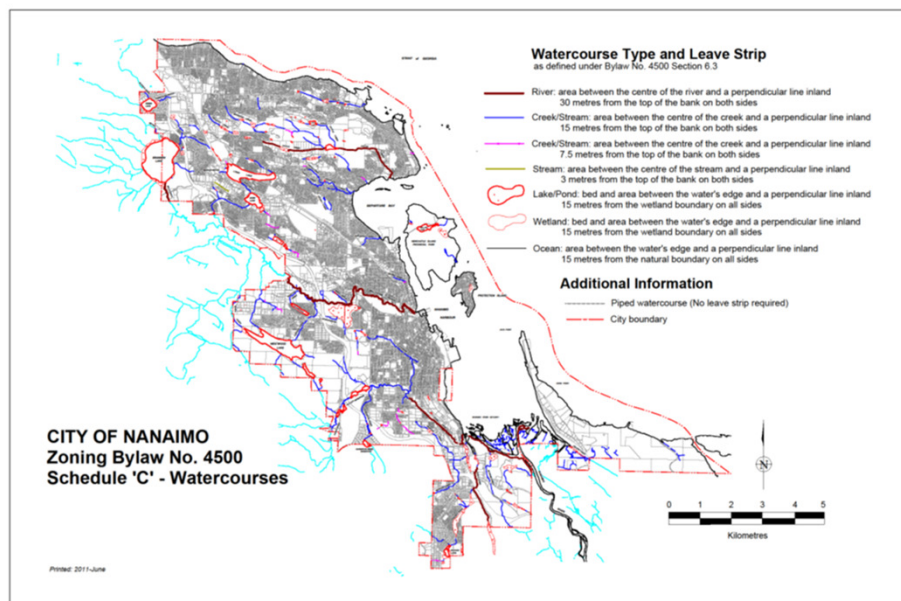


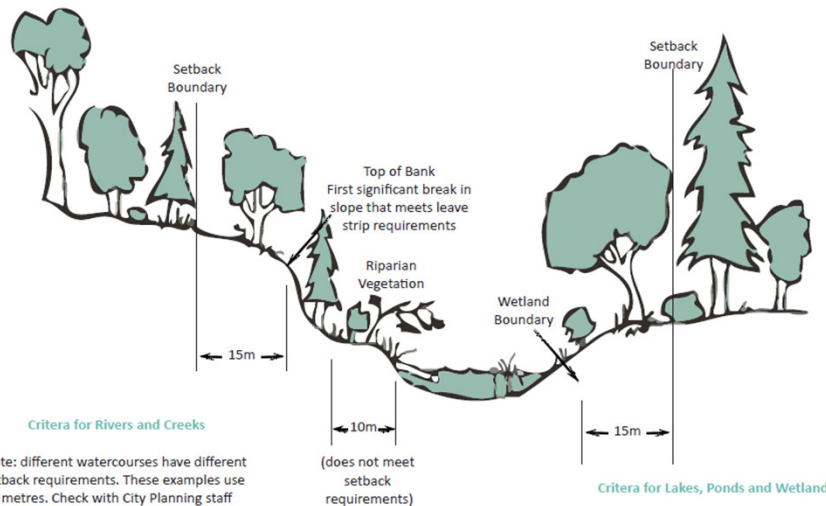
Watercourses

Zoning Bylaw 4500 – Watercourses – Schedule C

No structure shall be within:

- 15m or 30m setback from top of bank of a stream
- 15m setback from wetland boundary of a lake or wetland
- 3m and 7.5m on none fish-bearing watercourses
- Variances through Development Permit Process
- Lot areas calculations exclude the aquatic setback in residential zones





How Did The Current Framework Develop

- Watercourse protection regulations were adopted in Zoning Bylaw 4000 in 1996
- 2004 Fish Protection Act (Riparian Area Protection Act 2019) and Riparian Area Regulation (Riparian Area Protection Regulation 2019) adopted by the Province
- Two options for compliance:
 - Riparian Assessment Areas (RAA) – blanket 30m assessment area
 - Meet or beat RAPR requirement
- City confirmed its bylaw and DPA watercourse setback requirement met or exceed RAPR requirement – RAPR Simple Assessment Methodology

Zoning Bylaw No. 4500

- City of Nanaimo Zoning Bylaw 4000 in place since **1996**
- City of Nanaimo watercourse setbacks meet or exceed RAPR requirements
- RAPR triggered when variance to watercourse setbacks is requested
- RAPR does not consider wildlife habitat
- Local Government has the discretion to have more stringent protection requirements than RAPR



Zoning Bylaw No. 4500

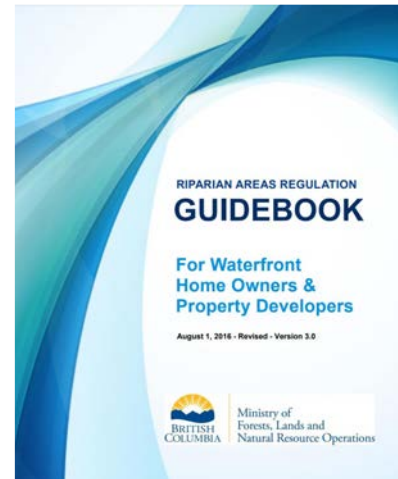


Development Permit Areas (DPA 1)

- Identify and protect aquatic and ESA setbacks
- A lot effected by a DPA is required to go through the DP process
- The DP process is used to vary the Zoning Bylaw when required
 - Existing (prior to 1996) Legal lot
 - all mechanisms to avoid the DPA are exhausted
 - The encroachment is mitigated at no net loss of functional habitat
 - DP conditions ensure mitigation is successful

Riparian Areas Protection Regulation (RAPR)

- Provincial regulation from the Riparian Area Protection Act
- For the protection of fish and fish habitat only
- Streamside Protection and Enhancement Area (SPEA) measured from high water mark
- SPEA is the minimum protection to avoid HADD under Fisheries Act



FAQs

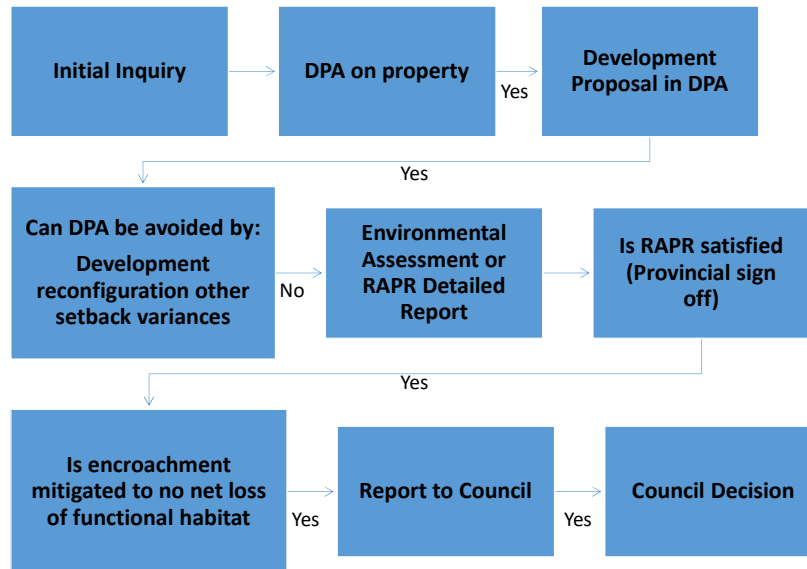
- 1. Are City Setback and RAR Streamside Protection Areas (SPEAS) always the same?**



FAQS

1. When is Council approval required?
2. How are watercourse setback areas protected in new developments?
3. What approvals does the City require to work in and around watercourses?

Development Review Process In DPA



Environmentally Sensitive DPA 2

- Non-fish-bearing watercourses and wetlands
- Terrestrial herbaceous
- Older forest
- SARA (critical habitat protection) and Red/Yellow listed species



Environmentally-Sensitive DPA

Process

- Development application
- Request environmental assessment be completed by Qualified Environmental Professional (RPBio)
- Assessment review by staff
- ESA protection through DP conditions

Marine Foreshore

- 15 m from natural boundary of the ocean



DPA 1 and 2 Review

Review of DPA 1 and 2 Guidelines Identified Potential Changes?

- No net loss changed to net gain
- Stronger wording around priority guidelines - avoid, mitigate and compensate encroachments
- Updated mapping
- Required QEP monitoring, post development inspection and reporting
- Improved planting and maintenance standards for riparian restoration