

DATE OF MEETING JANUARY 26, 2022

AUTHORED BY KEVIN BRYDGES, ENVIRONMENTAL PROTECTION OFFICER

**SUBJECT PROPOSED DEVELOPMENT PERMIT AREA 1 AND 2 GUIDELINE AMENDMENTS**

## **OVERVIEW**

### **Purpose of Report**

To present proposed enhancements to the City's regulatory framework for watercourse protection to the Environment Committee for consideration and recommendation to Council.

### **Recommendation**

That the Environment Committee recommend that Council support the proposed enhancements to the City's regulatory framework for watercourse protection.

## **BACKGROUND**

During the Regular Council Meeting of 2020-NOV-16, Council passed the following resolution:

*That the City's regulatory framework for watercourses be revised as part of the REIMAGINE Nanaimo process in order to improve the protection of city watercourse riparian areas for the full range of the important environmental and community benefits they provide.*

At its meetings of 2021-OCT-20 and 2021-DEC-01, the Environment Committee received a presentation regarding the City's current regulatory framework for watercourse protection and potential enhancements to the current framework that have been identified through the Relmagine Nanaimo process.

## **DISCUSSION**

Staff have reviewed the current Development Permit Area (DPA) 1 and 2 Guidelines, policies, practices and procedures; as well as legislation and guiding documents, such as the recently revised Green Bylaws Toolkit for Protecting and Enhancing the Natural Environment and Green Infrastructure. Enhancements to the City's current watercourse regulatory framework that have been identified for the Committee's consideration and recommendation to Council. The proposed enhancements are summarized as follows and are presented in greater detail on Attachment A to this report:

1. Avoidance Prioritized:

Although avoidance of encroachment into watercourse setbacks is currently prioritized when development proposals are reviewed, it is not explicitly stated in the DPA Guidelines. It is proposed that this prioritized approach of DPA 1 and 2 avoidance as a priority will be clearly communicated in the updated DPA Guidelines. If encroachment into the DPA cannot be avoided then mitigation and/or compensation will be considered and trigger the need for a development permit.

2. DP Application Review:

If avoiding development within the DPA is not possible, a Development Permit (DP) will be required. When a DP application to reduce a bylaw setback requirement is received, an internal review process is initiated and takes many factors into consideration. Although this is currently in practice, this process and specific considerations are not reflected in the DPA Guidelines. It is proposed that this process and specific considerations be clearly defined within the DPA guidelines.

3. Biological Assessment:

Currently when considering a variance within DPA 1, only a Riparian Area Protection Regulation Detailed Assessment is required and only considers the potential impact on fish habitat. It is proposed that a biological assessment for DPA 1 include considerations of wildlife habitat, wildlife corridors, and ecological form and function in addition to the Detailed RAPR assessment.

4. Mitigation/Compensation:

Through the review of a DP application many factors are considered. One of which is the impact to the riparian area that a DP application is proposing be mitigated. Currently the DPA Guidelines reference a “no net loss” of habitat principle. It is proposed that this principle be changed to “net gain” of functional habitat. This change will require applicants to provide restoration that improves the form and function of the habitat.

5. Restoration:

Currently Staff rely on Qualified Environmental Professionals (QEP) to specify restoration and vegetation management plans to variable standards. It is proposed that detailed riparian restoration planting and maintenance standards be included in the DPA Guidelines.

6. Monitoring and Reporting:

Currently it is not required within most DPs that the QEP monitor the development and restoration and complete a post construction report. It is proposed, as DP Conditions, that the DPA Guidelines require QEP monitoring, a post development inspection, and reporting. By requiring monitoring and reporting, it will confirm that the conditions of the DP and the habitat net gain were met. This requirement also follows the Legislated Riparian Assessments in BC Professional Practice Guidelines.

Should the proposed enhancements to the City's regulatory framework for watercourse protection be supported, Staff will incorporate the details of the enhancements into the updated development permit area guidelines and prepare them for consideration through the ReImagine Nanaimo OCP update.

### **OPTIONS**

1. That the Environment Committee recommend that Council support the proposed enhancements to the City's regulatory framework for watercourse protection.
  - Advantages: By supporting the proposed enhancements to the City's regulatory framework for watercourse protection riparian protection will be improved.
  - Disadvantages of this option: None identified.
  - Financial Implications: None identified.
  
2. That the Environment Committee recommend that Council not support the proposed enhancements to the City's regulatory framework for watercourse protection.
  - Advantages of this option: Maintain the status quo which is an acceptable level of watercourse and riparian protection.
  - Disadvantages of this option: Will not improve the level of protection for watercourses and riparian.
  - Financial Implications: None.

### **SUMMARY POINTS**

- Proposed enhancements to the City's regulatory framework for watercourse protection are proposed to better protect the watercourses and their riparian areas within the City of Nanaimo.
- Should the proposed enhancements to the City's regulatory framework for watercourse protection be supported, Staff will incorporate the details of the enhancements into the updated development permit area guidelines and prepare them for consideration through the ReImagine Nanaimo OCP update.

### **ATTACHMENTS:**

Attachment A: Development Permit Area (DPA) Guidelines |

**Submitted by:**

Kevin Brydges  
Environmental Protection Officer

**Concurrence by:**

Jeremy Holm  
Director, Development Approvals

Dale Lindsay  
General Manager  
Development Services/Deputy CAO