

DATE OF MEETING MAY 30, 2022

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SUBJECT DEVELOPMENT PERMIT AREAS GUIDELINES – AMENDMENT TO ZONING BYLAW

OVERVIEW

Purpose of Report

To present Council with amendments to the City of Nanaimo Zoning Bylaw 4500 to include development permit area guidelines, exemptions, and related definitions in addition to other amendments for consistency with the proposed Official Community Plan (City Plan).

Recommendation

1. That “Zoning Amendment Bylaw 2022 No. 4500.199” (To include development permit area guidelines, exemptions, and related definitions in addition to other amendments for consistency with the proposed Official Community Plan [City Plan]) pass first reading; and,
2. That “Zoning Amendment Bylaw 2022 No. 4500.199” pass second reading.

BACKGROUND

At the Governance and Priorities Committee meeting held 2022-MAY-09, Staff presented proposed changes to the Zoning Bylaw in alignment with the draft City Plan. The proposed bylaw amendment is being introduced concurrently with the bylaw introduction of City Plan to regulate development permit areas and support the policies and objectives of City Plan.

DISCUSSION

Section 488 of the *Local Government Act* gives municipalities the authority to designate Development Permit Areas (DPA) in the Official Community Plan (OCP). Similar to the City of Nanaimo’s current OCP, the draft City Plan establishes development permit areas for the following purposes:

- protection of the natural environment, its ecosystems, and biological diversity;
- protection of development from hazardous conditions;
- establishment of objectives for the form and character of commercial, industrial, or multi-family residential development;
- establishment of objectives to promote energy conservation;
- establishment of objectives to promote water conservation; and,
- establishment of objectives to promote the reduction of greenhouse gas emissions.

The stated purpose, objectives, and justification for designating each DPA must be contained within an OCP. The draft City Plan includes appropriate objectives and justifications to designate

DPA's for specific purposes and includes maps as schedules to indicate where the following DPA's are designated:

- DPA 1: Environmentally Sensitive Areas Guidelines – Watercourse, Terrestrial & Marine Foreshore
- DPA 2: Hazardous Slopes Guidelines
- DPA 3: Sea Level Rise Guidelines
- DPA 4: Abandoned Mine Workings Hazards Guidelines
- DPA 5: Wildfire Hazard Guidelines
- DPA 6: Steep Slope Development Guidelines
- DPA 7: Nanaimo Parkway Design Guidelines
- DPA 8: Form and Character Guidelines

In an area where a DPA is designated, a development permit must first be obtained prior to certain types of development such as subdivision, construction, or land alteration. The *Local Government Act* requires that DPA's are designated in the OCP, but allows for the DPA guidelines to be in either the OCP or the zoning bylaw. The City Plan has been drafted with the intention of including the DPA guidelines in City of Nanaimo Zoning Bylaw 2011 No. 4500 (the Zoning Bylaw). Amendment Bylaw 4500.199 contains DPA guidelines and related definitions intended to achieve the objectives of the DPA's proposed in City Plan. Bylaw 4500.199 also includes DPA exemptions to specify conditions under which development can occur on a property within a DPA in a manner consistent with the DPA objectives without requiring a development permit. The Bylaw will also introduce a limited number of additional amendments for consistency with the City Plan, including an update to 'Schedule C' – Watercourses of the Zoning Bylaw to improve accuracy based on ground-truth data and to ensure consistency with the City Plan's Schedule 6 Watercourse mapping.

While DPA guidelines have more traditionally been located within OCPs, such as is the case with the City's current OCP, it has become better practice to include DPA guidelines within a zoning bylaw. There are several benefits to including DPA guidelines in a zoning bylaw, including:

- Transparency, clarity, and ease of administration. A zoning bylaw is a regulatory bylaw and DPA guidelines are regulatory in nature. Interested parties will be able to reference the applicable zoning bylaw regulations, DPA guidelines, exemptions, and definitions in the same document.
- Update efficiency and harmonization. The City's Zoning Bylaw receives an annual review and update, which will allow for a more regular review and update to DPA guidelines to respond to evolving best practices and changing conditions. This will also improve harmonization between Zoning Bylaw regulations and DPA guidelines.

DPA guidelines specify how proposed subdivision, construction, or land alteration within a DPA can address the special conditions or objectives for which the DPA was established. Some DPA guidelines require a report from a professional, such as a biologist or engineer, or other information to ensure the proposed development complies with the applicable guidelines. The permit itself generally includes conditions that must be adhered to during or after development. DPA's typically include exemptions, which are a list of types of development that do not require a development permit.

In reviewing the existing DPA guidelines and exemptions to support the objectives of new DPAs proposed within City Plan, the following principles were applied:

1. Improve ease of interpretation for the users and use of consistent language across DPAs where possible;
2. Adopt current best practices for DPA guidelines; and,
3. Streamline development approval processes through providing exemptions to the requirement for a development permit where the DPA objectives can be achieved by other means without requiring a development permit application.

The table included as Attachment A to this report, “DPA Comparison: City Plan vs Current OCP”, shows the DPAs in the draft City Plan and identifies the comparable DPA in the current OCP, where one exists. The table also identifies enhanced objectives for DPA1 and new objectives for new DPA3, DPA4, and DPA5. For DPA2, DPA6, DPA7, and DPA8 guideline drafting focused on updates to improve consistency, administrative efficiency, and clarity, as well as adding updates to exemptions in response to best practices, and identified needs in a manner consistent with the DPA objectives.

Attachment B Summary of Zoning Bylaw Changes outlines the changes to the Zoning Bylaw that will incorporate the draft DPA guidelines, exemptions, and related definitions consistent with the purpose and intention to achieve the objectives of the City Plan DPAs.

Stakeholder Engagement

The proposed DPA Guidelines were made available for public review on the *ReImagine Nanaimo* project page on 2022-MAY-04. Staff further provided information and the draft guidelines to representatives of the development community in a workshop on 2022-MAY-05. The proposed amendments to the Form and Character DPA (DPA8) were also presented to the City’s Design Advisory Panel on 2022-APR-28. Minor text clarifications were suggested and incorporated into the Guidelines in response to stakeholder feedback. |

OPTIONS

1. That “Zoning Amendment Bylaw 2022 No. 4500.199” (to include development permit area guidelines, exemptions, and related definitions in addition to other amendments for consistency with the proposed Official Community Plan [City Plan]) pass first and second reading.
 - The advantages of this option: Amending the Zoning Bylaw allows for alignment with the changes outlined in the proposed City Plan.
 - The disadvantages of this option: None identified.
 - Financial Implications: None.
2. That Council provide alternate direction to Staff to implement regulations for the guidelines associated with the Development Permit Areas proposed within City Plan.
 - The advantages of this option: None identified.

- The disadvantages of this option: City Plan would be considered for bylaw introduction without the supporting DP guidelines necessary to implement the DPA Guidelines. The amendments are intended to give clarity on the information requirements for evaluating development permit proposals.
- Financial Implications: Potential delays in application reviews and approvals in the absence of regulations to clarify the information requirements and exemptions for development permit applications.

SUMMARY POINTS

- The draft City Plan includes appropriate objectives and justifications to designate DPAs for specific purposes and includes maps as schedules to indicate where DPAs are designated.
- The *Local Government Act* requires that DPAs are designated in the OCP, but allows for the DPA guidelines to be in either the OCP or the zoning bylaw. There are several benefits to including DPA guidelines in a zoning bylaw.
- DPA guidelines specify how proposed subdivision, construction, or land alteration within a DPA can address the special conditions or objectives for which the DPA was established. DPAs typically include exemptions, which are a list of types of development that do not require a development permit.
- Proposed Zoning Bylaw Amendment Bylaw 4500.199 contains DPA guidelines, exemptions, and related definitions consistent with the purpose and intention to achieve the objectives of the City Plan DPAs. The Bylaw also includes a limited number of additional amendments for consistency with the City Plan, including an update to ‘Schedule C’ of the Zoning Bylaw to improve accuracy and consistency with the City Plan’s Schedule 6 Watercourse mapping.

ATTACHMENTS:

ATTACHMENT A: DPA Comparison: City Plan vs. Current OCP

ATTACHMENT B: Summary of Zoning Bylaw Changes

“Zoning Amendment Bylaw 2022 No. 4500.199”

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