



REGIONAL DISTRICT OF CENTRAL KOOTENAY

**AREA E ADVISORY PLANNING AND HERITAGE
COMMISSION
OPEN MEETING AGENDA**

5:00PM

Monday, August 15th

Remote Meeting via Webex

To promote openness, transparency and provide accessibility to the public we provide the ability to attend all RDCK meetings in-person or remote.

Join by Video:

<https://nelsonho.webex.com/nelsonho/j.php?MTID=m86b084c0d1a262de9a3b08b6476fa5f8>

Join by Phone:

1-844-426-4405 Canada Toll Free

+1-604-449-3026 Canada Toll (Vancouver)

Meeting Number (access code): 2455 976 5715

Meeting Password: ZWe2Nhg8S2x

In-Person Location: N/A

1. CALL TO ORDER

2. TRADITIONAL LANDS ACKNOWLEDGEMENT STATEMENT

We acknowledge and respect the Indigenous Peoples within whose traditional lands we are meeting today.

3. ADOPTION OF AGENDA

4. DELEGATE

No delegations

5. STAFF REPORTS

5.1 Wildfire Development Permit Area

The Referral Package dated June 02, 2022 from Corey Scott, Planner, re: Wildfire Development Permit Area Project, has been received.

5.2 Kootenay Lake Development Permit Area

The Referral Package dated June 07, 2022 from Corey Scott, Planner, re: Kootenay Lake DPA Review – Phase 3 Public Engagement, has been received.

6. PUBLIC TIME

7. NEXT MEETING

The next Area E APHC meeting is scheduled for August 25, 2022 at 5 p.m.

8. ADJOURNMENT



Board Report

Date of Report: June 2, 2022
Date & Type of Meeting: June 16, 2022, Open Regular Board Meeting
Author: Corey Scott, Planner
Subject: WILDFIRE DEVELOPMENT PERMIT AREA PROJECT
File: 5110-20-DPA REVIEW-WILDFIRE DPA
Electoral Area/Municipality All Electoral Areas

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to provide information to the Regional District of Central Kootenay (RDCK) Board of Directors regarding the Wildfire Development Permit Area Project and to present the Project's Public Engagement Strategy (Attachment 1) for the Board's endorsement.

In November 2020, the Board endorsed an application made to the UBCM Community Resiliency Investment Program (2021) for the Regional FireSmart Program (Resolution #716/20). Part of the application proposal was for the RDCK to create a Wildfire DPA. Upon receipt of the funding from UBCM, staff prepared a request for proposals for the work, and Urban Systems Ltd. was the successful proponent.

The scope of work included, among other deliverables further detailed in this staff report, a Public Engagement Strategy. The Strategy strives to build project awareness, complement other FireSmart public education initiatives, and encourage the public to engage in the project. Additionally, it outlines the consultant's anticipated communication and engagement activities as well as collaboration opportunities with RDCK staff.

Staff recommend that the Board endorse the Public Engagement Strategy detailed in Attachment A of this Staff Report.

SECTION 2: BACKGROUND/ANALYSIS

2.1 BACKGROUND

In November 2020, the Board endorsed an application to the UBCM Community Resiliency Investment Program (2021) for the Regional FireSmart Program (Resolution #716/20). Part of the application proposal was for the RDCK to create a Wildfire Development Permit (WFDP) Area. Upon receipt of the grant funds, \$94,000.00 was received for the establishment of a WFDP Area within the RDCK. The allocation of these funds is outlined further in Section 3.1 – "Financial Considerations – Cost and Resource Allocations" of this Staff Report. UBCM's deadline for project completion is February 7, 2023.

In 2008, the RDCK created a series of Community Wildfire Protection Plans (CWPPs) for the areas within the District. From 2015-2019 these CWPPs were updated across the eleven Electoral Areas as well as the Villages of Kaslo, Nakusp, and Salmo. Many of the areas studied in the CWPPs are predominantly characterized as having a moderate-high to high-extreme wildfire threat/probability. The CWPPs recommend designating Development Permit Areas for wildfire interface areas as a high priority item in addressing wildfire hazards in the RDCK.

There are currently no Development Permit Areas in place in the RDCK's Electoral Areas to protect from wildfire hazards. In recognition of the wildfire threat/probability in the District and recommendations of the CWPPs, the

RDCK issued a Request for Proposals (RFP) on February 24, 2022 and the contract was awarded to the successful proponent, Urban Systems Ltd., on April 4, 2022. The consultant is responsible for creating a Wildfire Hazard Development Permit (WFDP) Area for the RDCK’s Electoral Areas, and engaging with the various community stakeholders across the RDCK on Fire Smart Principles and the creation of a WFDP Area.

2.2 PROJECT OVERVIEW

The purpose of the WFDP Area is to reduce the risks associated with wildfire for new construction and encourage wildfire hazard reduction at the time of subdivision. The project seeks to achieve the following goals:

1. Increase wildfire hazard and climate change resilience by reducing wildfire hazards as part of the land development process; and,
2. Raise awareness of FireSmart principles in the RDCK, working in conjunction with Community Sustainability efforts undertaken by the Wildfire Mitigation Specialists in 2022.

In order to achieve these goals, the project is broken down into three key activities with associated deliverables, as shown in Table 1 below.

Table 1 - List of Key Project Activities.

Activity	Anticipated Outcome	Deliverable
Best Management Practices Review	<p>To have a comprehensive understanding of the function of Wildfire Hazard Development Permit Areas, as used elsewhere in BC.</p> <p>To identify and address any policy gaps that may exist in the RDCK’s current Official Community Plans (OCPs) in order to support the implementation of a WFDP Area.</p> <p>To align OCP policy and development regulations with the recommendations of the CWPPs.</p>	Best Management Practices Review Summary
Public Engagement	<p>To have a targeted and meaningful approach to public engagement that is consistent with IAP2 (International Association for Public Participation) standards.</p> <p>To ensure all stakeholders are aware of the project, and included as determined by their level of interest and willingness to participate.</p>	<p>Public Engagement Strategy</p> <p>Public Engagement Summary (“What We Heard” Report)</p>
Draft WFDP Area	To create a WFDP Area template that is reflective of current best management practices, and considers and, where possible, incorporates feedback received as part of Public Engagement.	<p>Wildfire Development Permit (WFDP) Area Template</p> <p>Presentation to the Board of Directors</p>

The intent behind creating a template for a WFDP Area is to have flexibility in implementation throughout the various Electoral Areas, as opposed to seeking consensus for immediate implementation in all 11 Electoral Areas. This approach recognizes that some Areas may wish to implement the WFDP Area immediately as part of this

initiative while other Areas may not have a desire for a WFDP Area at this point in time, or might find it more suitable to delay implementation and revisit the topic as part of upcoming OCP Reviews.

The WFDP Area will seek to take a pragmatic approach in its implementation through the utilization of clear and transparent guidelines that achieve wildfire risk mitigation while not being overly onerous for property owners and developers.

2.3 PUBLIC ENGAGEMENT STRATEGY

Public Engagement is of crucial importance for the success of the project to ensure there is a clear understanding of the purpose of this initiative. It will help to raise awareness around FireSmart principles while also ensuring public and stakeholder feedback is collected and considered as part of any future decision-making process for the WFDP Area.

Engagement activities and outreach are covered in detail in Attachment 1 – the Public Engagement Strategy drafted by Urban Systems.

SECTION 3: DETAILED ANALYSIS

3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Financial Plan Amendment:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Debt Bylaw Required:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Public/Gov't Approvals Required:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Each Electoral Area was granted \$8,000.00 for the development of a WFDP Area, along with \$6,000.00 for the entire RDCK. The resulting \$94,000.00 is split between the costs required for consulting fees (\$70,000.00) and for RDCK staff involvement and project coordination (\$24,000.00).

Projected costs for completion of the works are estimated to be \$94,000.00 and are allocated as follows:

- \$70,000.00 for consulting fees, recognizing that the Planning Work Plan is already full for the project duration (present day-February 7, 2023)
- \$20,100.00 for RDCK staff involvement (\$14,100.00 for the Planning Service and administrative costs and \$6,000.00 for the Community Sustainability Service)
- \$3,900.00 contingency

3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

Section 488(1)(b) of the *Local Government Act* gives local governments the authority to designate Development Permit Areas for the “protection of development from hazardous conditions.”

The project will result in a WFDP Area template that can be adopted into an Electoral Area’s OCP, as appropriate.

3.3 Environmental Considerations

It is recognized that wildfire hazard mitigation can be at odds with environmental conservation goals. As such, the best management practices review and draft WFDP Area will address environmental considerations (for example, overlap with the WFDP Area and riparian areas or other sensitive habitats) while also seeking to gain an understanding of, and alignment with, relevant First Nations approaches to wildfire hazard mitigation.

3.4 Social Considerations:

Effectively reducing the risks associated with wildfires is a crucial component in building community resilience to natural hazards and climate change. Dollars spent on wildfire prevention generally lead to a significantly larger cost savings when compared to the dollars spent on emergency response.

3.5 Communication Considerations:

Communications and outreach are covered in the Public Engagement Strategy (Attachment 1).

3.6 Staffing/Departmental Workplace Considerations:

The project is funded by the UBCM Community Resiliency Investment (CRI) Program funding received in 2021. It is not formally recognized in the Planning Department's Work Plan although there are funds allocated from the CRI funding for the Planning Service.

3.7 Board Strategic Plan/Priorities Considerations:

The RDCK 2019-2023 Strategic Plan identifies "adapt[ing] to our changing climate..." as one of its five strategic objectives. Additionally, the strategies outlined in the plan that support this work seek to:

- Modernize the RDCK policy framework to be innovative and reflect best practices;
- Provide a strong and robust FireSmart program by having Development Permit Areas include fire interface zones and encouraging wildfire mitigation on private land; and,
- Consider climate adaptation and mitigation impacts in decisions the RDCK makes.

SECTION 4: OPTIONS & PROS / CONS

4.1 SUMMARY

The RDCK's Community Wildfire Protection Plans (CWPPs) recommend establishing a Development Permit Area in wildfire interface areas as a high priority. As such, the Wildfire Development Permit (WFDP) Area project seeks to utilize the local government's regulatory authority to require new development to be designed in such a way that minimizes the risks associated with wildfire and builds natural hazard and climate change resilience within the RDCK.

The WFDP Area Project will help to raise general awareness of FireSmart principles and the WFDP Area template will aim to increase community resilience to wildfire hazards. The Project seeks to create a WFDP Area template that is pragmatic and clear and also considers and, where possible, incorporates public and stakeholder feedback. The Project involves three key activities: a best management practices review, public engagement, and draft WFDP Area.

The Public Engagement Strategy in Attachment 1 contains further detail on the anticipated engagement approach by the consultant. Staff is seeking endorsement of the Public Engagement Strategy by the Board in order for the consultant to begin designing and undertaking the various engagement initiatives.

4.2 OPTIONS

Option 1: Endorse the Engagement Activities

That the Board DIRECT staff to work with the consultant to undertake the engagement activities for the Wildfire Development Permit Area Project as described in the Board Report – "Wildfire Development Permit Area Project", dated June 2, 2022.

Option 2: Defer Decision

That further consideration of the Wildfire Development Permit Area Project as described in the Board Report – "Wildfire Development Permit Area Project", dated June 2, 2022 BE REFERRED to the [Month Day], 2022 Board meeting.

Should the Board wish to pass a resolution for this motion, Staff request that additional detail be provided on the reason for deferral in order to work expediently with the consultant to complete the project within the funding deadline of February 7, 2023.

SECTION 5: RECOMMENDATION

That the Board DIRECT staff to work with the consultant to undertake the engagement activities for the Wildfire Development Permit Area Project as described in the Board Report – “Wildfire Development Permit Area Project”, dated June 2, 2022 from Corey Scott, Planner.

Respectfully submitted,
Corey Scott, Planner 2

CONCURRENCE

Planning Manager – Nelson Wight	Approved	
General Manager of Development & Community Sustainability – Sangita Sudan		Approved
Chief Administrative Officer – Stuart Horn	Approved	

ATTACHMENTS:
Attachment A – Public Engagement Strategy, prepared by Urban Systems Ltd.

WILDFIRE DEVELOPMENT PERMIT AREA COMMUNICATIONS + ENGAGEMENT PLAN

REGIONAL DISTRICT OF CENTRAL KOOTENEY

May 2022

PURPOSE

The purpose of this communications and engagement plan is to ensure that meaningful and effective tactics to engage with various community stakeholders are employed during this study. Specific strategies for communicating and engaged with identified stakeholders are discussed in this document.

BACKGROUND

The Regional District of Central Kootenay (RDCK) has retained Urban Systems Ltd. to develop recommendations for the creation of a Wildfire Hazard Development Permit Area for the RDCK's eleven Electoral Areas (A, B, C, D, E, F, G, H, I, J and K). Community Wildfire Protection Plans updated by the RDCK from 2015-2019 identified many of these areas as having moderate-high to high-extreme wildfire threat/probability. As part of this project, the RDCK is seeking to engage with various community stakeholders across the electoral areas and provide education on FireSmart Principles.

USING COMMUNITY INPUT

Managing expectations and implementing a transparent process is critical to any communication and engagement process. Community members will want to know how, and to what extent, their input will be used in the decision-making process.

The International Association of Public Participation (IAP2) refers to five levels of public participation defined as:

- **Inform:** To provide balanced, accurate information to increase participants' understanding of the project.
- **Consult:** To obtain, listen and acknowledge participant feedback and concerns.
- **Involve:** To work with participants to ensure their concerns and expectations are clearly understood.
- **Collaborate:** To partner with participants to identify alternatives and solutions to be used in the decision-making process.
- **Empower:** To place the final decision-making in the hands of the participants.

KEY AUDIENCES

A list of stakeholders identified for this project is shown in **Table 1**. Using the IAP2 five levels of public participation, levels of engagement have been identified for each stakeholder group according to their involvement in the decision-making process. As the decision-makers, the RDCK Board of Directors will be involved to ensure their concerns and expectations are clearly understood and they will be empowered to make the final decisions. We will collaborate with RDCK staff throughout the project on the technical nature of the DPA. Members of the public, including landowners, developers and the local business community, will be consulted with to ensure they are informed of the project and have opportunities to provide feedback.

Overview of Regional District of Central Kootenay¹

- › Population: 59,517
- › Households: 27,015
- › Median total income of households: \$55,532
- › Average household size 2.2
- › Median age: 49.3
- › 55.5% of residents have post-secondary education
- › Labour force participation: 58.5%
- › Low level of visible minorities: 3.4%²
- › Few immigrants: 11.8%

Table 1. List of Stakeholders

Stakeholder	Primary or secondary	Interest / Issue / Concern	Level of engagement	Suggested Engagement Tactic
RDCK Board of Directors	Primary	Implementation, enforcement, costs to landowners	Involve / Empower	Information Sessions
Regional District Staff & Fire Department Representatives	Primary	Policy development, implementation, monitoring and regulating, enforcement Fire response and safety	Collaborate	Ongoing Meetings
RDCK Advisory Planning and Heritage Commissions (APHC)	Primary	Overall emergency management	Consult	Virtual Stakeholder Workshop, Survey
Development Community	Primary	Future constraints on land development, sourcing supplies (many FireSmart materials are not manufactured locally)	Consult	Virtual Stakeholder Workshop, Survey

¹ <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CD&Code1=5903&Geo2=PR&Code2=59&SearchText=Central%20Kootenay&SearchType=Begins&SearchPR=01&BI=All&GeoLevel=PR&GeoCode=5903&TABID=1&type=0>

² "Visible minority refers to whether a person belongs to a visible minority group as defined by the Employment Equity Act and, if so, the visible minority group to which the person belongs. The Employment Equity Act defines visible minorities as 'persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour.' The visible minority population consists mainly of the following groups: South Asian, Chinese, Black, Filipino, Latin American, Arab, Southeast Asian, West Asian, Korean and Japanese." (Statistics Canada, 2022)

Landowners	Primary	New property development / renovation constraints, increased costs, access to building supplies and sourcing supplies (many FireSmart materials are not manufactured locally)	Consult	Virtual Workshop, Survey
Local Business Community	Primary	New property development / renovation constraints, access to building supplies and sourcing supplies (many FireSmart materials are not manufactured locally)	Consult	Virtual Workshop, Survey
First Nations Communities › FNESS › Ktunaxa Nation Council › Okanagan Nation Alliance › Shuswap Nation Tribal Council › Sinixt	Primary	Cultural perspectives and practices on wildfire risk management and mitigation	Consult	Outreach letters and ongoing meetings/updates as requested
Wider Community	Secondary	New property development and wildfire safety	Inform	Survey

VULNERABILITIES & OPPORTUNITIES

Table 2. Vulnerabilities and opportunities scan.

Vulnerabilities	Opportunities
<ul style="list-style-type: none"> › Concern due to the raising costs of building materials › Ensuring that the interests of all 11 electoral areas are met › Differing values on wildfire mitigation and regulations across electoral areas › Unclear messaging has the potential to lead to misunderstanding › Concern about existing gaps in fire response service and areas where there is low availability of water 	<ul style="list-style-type: none"> › Public education process, communicating the value of public engagement › Combine traditional and digital forms of communications › Clearly communicating the benefits and value of DP guidelines, “what’s in it for you” approach › Collaborate with RDCK Wildfire Mitigation Specialists on communicating on various FireSmart initiatives › Raising awareness of being FireSmart in the RDCK

COMMUNICATIONS OBJECTIVES + MEASURES OF SUCCESS

Table 3. Communication objectives and measures of success.

Objective	Measure of success
› Build awareness amongst residents and stakeholders of Fire Smart principles and of the project	› By Fall 2022, host in-person pop ups, a total of three stakeholder workshops and a community survey
› Consult with local stakeholders and residents to understand desires and sentiments around wildfire mitigation	› Provide opportunities for residents across all electoral areas to provide feedback › Community members feel they've had the necessary information to provide informed and meaningful feedback

KEY MESSAGES

Key Messages are high-level communication points from which all subsequent communication materials, such as Facebook posts and web content, are developed. These foundational messages present a “big picture” view. They should be clear, concise, and consistent across all communication channels.

The sample key messages provided below are not final and may be refined as communications materials are developed.

- The Regional District of Central Kootenay is looking at how to reduce the potential negative impacts of wildfires in our region. Exploring how to protect our region from wildfire hazards could include creating a Wildfire Development Permit Area for your community.
- Wildfire Development Permit Areas help to protect your community from wildfire hazards by implementing regulations for new development occurring within the wildfire hazard area.
- Living near the great outdoors comes with great responsibility. You can help protect our natural environment and all it has to offer by following FireSmart principles. Learn about how the RDCK is helping to reduce the risk of wildfire to our region at [\[insert web link\]](#).
- Be a good neighbour. Help reduce the potential impacts from wildfires to your home and others by following FireSmart principles. Find out how you can be FireSmart at [\[insert web link\]](#).

ENGAGEMENT ACTIVITIES

Engagement for this project will be a mix of in-person and virtual activities to inform and solicit feedback from stakeholders and RDCK residents. There are several opportunities for stakeholders and community members to provide feedback throughout summer 2022, including three virtual stakeholder workshops, in-person pop-ups and a community survey. A description of engagement activities is shown in **Table 4**.

Table 4. List of engagement activities

Tactic	Details	Responsibilities	Timing
Information Session with Board of Directors (2)	<p>OVERVIEW: An initial meeting will be held to present the proposed engagement plan to the Board for feedback. A second meeting will be held to present the report with the Public Engagement Summary and draft DP guidelines.</p> <p>FORMAT: Approved virtual platform (i.e., Webex).</p> <p>TARGETED STAKEHOLDERS: RDCK Board.</p>	<p>URBAN SYSTEMS: Prepare and deliver presentation.</p> <p>RDCK: Attend and provide feedback.</p>	June/August 2022
First Nations Communities Outreach Letters/Updates	<p>OVERVIEW: An initial outreach letter to each First Nations community to introduce the project and seek their interest in participating in ongoing updates/meetings to discuss the project further.</p> <p>FORMAT: Email (with option to phone/schedule virtual meeting for further discussions).</p> <p>TARGETED STAKEHOLDERS: First Nations communities.</p>	<p>URBAN SYSTEMS: Draft initial outreach letter.</p> <p>RDCK: Review and approve initial outreach letter, send letter to First Nations communities. Develop and send further updates, schedule and facilitate meetings as requested.</p>	June - August 2022
APHC Workshop	<p>OVERVIEW: Hold a virtual workshop with APHC members to solicit feedback on the project.</p> <p>FORMAT: Approved virtual platform (i.e., Zoom).</p> <p>TARGETED STAKEHOLDERS: APHC members.</p>	<p>URBAN SYSTEMS: Prepare facilitation guide, supporting presentation and engagement materials, provide meeting facilitation and technical support, record feedback.</p> <p>RDCK: Review materials, attend and provide support as necessary.</p>	July/August 2022
Development Community Workshop	<p>OVERVIEW: Hold a virtual workshop with members of the development community to solicit feedback on the project.</p>	<p>URBAN SYSTEMS: Prepare facilitation guide, supporting presentation and engagement materials, provide meeting facilitation</p>	July/August 2022

	<p>FORMAT: Approved virtual platform (i.e., Zoom).</p> <p>TARGETED STAKEHOLDERS: Development community.</p>	<p>and technical support, record feedback.</p> <p>RDCK: Review materials, attend and provide support as necessary.</p>	
<i>Landowner and Local Business Workshop</i>	<p>OVERVIEW: Hold a virtual workshop with landowners and the business community to solicit feedback on the project.</p> <p>FORMAT: Approved virtual platform (i.e., Zoom).</p> <p>TARGETED STAKEHOLDERS: Landowners and business community.</p>	<p>URBAN SYSTEMS: Prepare facilitation guide, supporting presentation and engagement materials, provide meeting facilitation and technical support, record feedback.</p> <p>RDCK: Review materials, attend and provide support as necessary.</p>	July/August 2022
<i>In-Person Pop-Ups</i>	<p>OVERVIEW: The Wildfire Mitigation Specialists will host in-person pop-ups at key events in the RDCK. Urban Systems will provide the Wildfire Mitigation Specialists with informative materials (i.e., FAQ sheet, postcards) to pass out with their concurrent outreach.</p> <p>FORMAT: In-person pop-ups.</p> <p>TARGETED STAKEHOLDERS: Wider community and landowners.</p>	<p>URBAN SYSTEMS: Develop informative materials for the Wildfire Mitigation Specialists to pass out.</p> <p>RDCK: Coordinate and host pop-up events.</p>	July/August 2022
<i>Community Survey</i>	<p>OVERVIEW: A community-wide survey to gather input from residents to better understand their interests and level of support for DP guidelines. Incentives for completing the survey (i.e., gift cards to local businesses) will be offered to encourage participation.</p> <p>FORMAT: Online platform (i.e., Survey Monkey) with hard copies available at the in-person pop-up events.</p> <p>TARGETED STAKEHOLDERS: All stakeholders, landowners, wider community.</p>	<p>URBAN SYSTEMS: Develop survey questions and upload to online platform (i.e., Survey Monkey).</p> <p>RDCK: Review and approve survey questions.</p>	July/August 2022
<i>Public Engagement Summary (“What We Heard Report”)</i>	<p>OVERVIEW: Prepare a report of what we heard during public and stakeholder engagement.</p>	<p>URBAN SYSTEMS: Analyze engagement results and prepare report with visuals.</p>	September 2022

	<p>FORMAT: Digital file.</p> <p>TARGETED STAKEHOLDERS: RDCK staff.</p>	<p>RDCK: Review report and provide feedback.</p>	
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DELIVERABLES:

- First Nations Communities Initial Outreach Letter
- In-Person Pop-Up Communications Materials
- Engagement Summary (“What We Heard Report”)

COMMUNICATIONS TOOLS

Table 5. List of communications tools

<i>Tactic</i>	<i>Details</i>	<i>Responsibilities</i>	<i>Timing</i>
<i>Website Update</i>	<p>OVERVIEW: Develop content for the RDCK website including project information and opportunities to engage.</p> <p>FORMAT: Content on RDCK website.</p> <p>TARGETED STAKEHOLDERS: All.</p>	<p>URBAN SYSTEMS: Develop initial content and supporting graphics.</p> <p>RDCK: Approve and upload content to RDCK website.</p>	July 2022
<i>Social Media Posts</i>	<p>OVERVIEW: Social media posts published on RDCK platforms to inform residents of the project and opportunities to engage.</p> <p>FORMAT: RDCK platforms (i.e., Facebook).</p> <p>TARGETED STAKEHOLDERS: All.</p>	<p>URBAN SYSTEMS: Develop social media messaging and supporting graphics.</p> <p>RDCK: Approve messaging and upload to RDCK social media platforms.</p>	July/August 2022
<i>Informative Postcard/Mailer</i>	<p>OVERVIEW: Postcards/mailers to provide information on the project, notify residents of upcoming engagement opportunities and drive them to the online survey.</p> <p>FORMAT: Print materials distributed at in-person pop-up events.</p> <p><i>*Optional: Mailers can also be mailed out to residents.</i></p> <p>TARGETED STAKEHOLDERS: Landowners.</p>	<p>URBAN SYSTEMS: Develop brochures.</p> <p>RDCK: Approve brochures and distribute.</p>	July/August 2022

DELIVERABLES:

- Website Update Content
- Social Media Messaging + Graphics
- Informative Postcard/Mailer

TIMELINE

The table below provides an estimated timeline of the communications and engagement tactics. Timing may be revised based on discussions with RDCK staff and Board of Directors.

Table 6. Estimated timing of communications and engagement tactics.

	<i>Tactic</i>	<i>Audience</i>	<i>Timing</i>
<i>Social Media Posts + In-Person Pop-Up Events will occur throughout July/August 2022</i>	Information Session with Board of Directors #1	RDCK Board of Directors	July 2022
	Website Content Launch	Public	July 2022
	Community Survey Launch	Public	July 2022
	First Nations Communities Initial Outreach Letter	First Nations Communities	July 2022
	APHC Workshop	APHC	July/August 2022
	Development Community Workshop	Development community	July/August 2022
	Landowner and Local Business Workshop	Landowners, business community	July/August 2022
	Information Session with Board of Directors #2	RDCK Board of Directors	August 2022
	What We Heard Report	RDCK Board of Directors	September 2022



Committee Report

Date of Report: July 7, 2022
Date & Type of Meeting: July 20, 2022, Rural Affairs Committee
Author: Corey Scott, Planner
Subject: KOOTENAY LAKE DPA REVIEW – PHASE 3 ENGAGEMENT UPDATE
File: \\FILES\RDCK\10\5110\20\KOOTENAY LAKE DPA
Electoral Area/Municipality Electoral Areas A, D, E, and F

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to update the Rural Affairs Committee with the results of Phase 3 of the Kootenay Lake Development Permit Area Review prior to proceeding with the remaining public consultation activities for the Project.

Phase 3 of the Review focuses on the “analysis of options”. Staff has completed extensive background research as part of this Phase in order to inform what types of Environmental Development Permit Area (EDPA) approaches could be adapted to the Kootenay Lake context. Feedback received from focus groups held in May 2022 on the various approaches was used to draft options for EDPA guidelines, exemptions, and widths for further public consultation. The rationale behind suggested approaches is included in Attachment A and the draft options are included in Attachment B of this Staff Report.

This Staff Report is being provided to the Rural Affairs Committee for information.

SECTION 2: BACKGROUND/ANALYSIS

2.1 BACKGROUND

The Kootenay Lake Development Permit Area Review project is split into three key phases based on the engagement activities being undertaken, as follows:

1. Project Initiation
 - Present project to and solicit feedback from the Kootenay Lake Partnership (KLP), RDCK Board of Directors, and RDCK Departments who may be affected by the outcome of the project.
 - Comparative review of DPA guidelines and exemptions.
 - Review of relevant background materials, including but not limited to: KLP Shoreline Guidance Document, Friends of Kootenay Lake Stewardship Society’s “The Future of Kootenay Lake: Community Values Survey Results”, UVIC Environmental Law Clinic’s *Green Bylaws Toolkit for Conserving Sensitive Ecosystems and Green Infrastructure*.
2. Values Identification
 - Creation of project webpage, FAQ, Environmental Development Permit Area (EDPA) information videos, *A Resource for Kootenay Lake Living*, and project manager appearance on the Friends of Kootenay Lake: *Voices of the Lake* podcast.
 - Two values identification workshops and a survey for those unable to attend.

- Draft EDPA “Objectives” based on stakeholder feedback from values identification workshops and existing background documents for the area.
3. Analysis of Options
- Complete buffer analysis of Kootenay Lake to understand potential impacts of policy and regulatory changes to the RDCK and shoreline properties.
 - Establish preferred direction for drafting an EDPA for Kootenay Lake, informed by stakeholder input received to date, the buffer analysis completed by RDCK staff in summer and fall of 2021, and the 2021 Foreshore Integrated Management Planning (FIMP) results.
 - Targeted engagement using focus groups to solicit feedback on draft objectives and approaches from other jurisdictions.

As the first two phases of engagement were previously summarized to the Rural Affairs Committee (RAC) on July 14, 2021. This Report is focused on Phase 3 – the “Analysis of Options” – engagement and the outcomes of the focus groups.

Buffer analysis of Kootenay Lake

In the latter half of 2021, Staff completed a buffer analysis of the majority of privately-owned parcels (1723 total) along Kootenay Lake’s shoreline. The analysis was undertaken recognizing that if the Board is to make a decision on whether to implement a new or revised EDPA along Kootenay Lake, the decision should be evidence-based with a thorough understanding of potential impacts.

The Buffer Analysis Results Summary presented at the February 16, 2022 Rural Affairs Committee meeting suggested that a 30 metre wide EDPA along Kootenay Lake is staff’s preferred approach and that guidelines and exemptions could provide the flexibility needed to ensure that constrained properties along Kootenay Lake would not be sterilized of their permitted land uses. It is crucial to clarify that an EDPA is not the same as a ‘setback’, which would typically prohibit development of any kind. The intent of the Review is to ensure that new development and disturbance within riparian areas is carried out responsibly and the proper oversight is in place where necessary. The following excerpt from the Kootenay Lake Buffer Analysis Summary Report (February 16, 2022) provides additional commentary on this point:

“The purpose of EDPAs is not to prohibit development adjacent to watercourses; rather, it is to ensure that development activities are undertaken in a way that is consistent with a community’s expectations, which should be embedded into an EDPA’s guidelines. Specific to an EDPA for watercourses, such as Kootenay Lake, this usually means carrying out development in a way that is sensitive to the surrounding riparian area. Generally, the preference is to direct development away from riparian areas where suitable building sites are available to do so.

While it is preferred to avoid disturbance of riparian areas altogether, development within them is not prohibited. On smaller or otherwise constrained sites, development within a riparian area may be the only option available. However, requiring a Development Permit (DP) ensures professional oversight by a QEP to understand and recommend mitigation strategies to minimize impacts to sensitive riparian areas and the SPEA [Streamside Protection and Enhancement Area] when development takes place.” (Page 4)

2021 Foreshore Integrated Management Planning Report

In 2021, Living Lakes Canada completed a Foreshore Integrated Management Planning (FIMP) Project for Kootenay Lake. The 2021 FIMP Project was undertaken to update the inventory information that was collected on the Lake in 2012, and to document changes that have occurred over the 9-year period between inventories.

Key findings of the 2021 FIMP Project to consider in the context of the Kootenay Lake DPA Review include:

- 256.1 km (63%) of shoreline was in natural condition while 150.7 km (37%) had been disturbed;

- Approximately 4.5 km of natural shoreline was lost between 2012 and 2021 at a rate of 0.488 km (0.12%) annually;
- 91% of natural shoreline loss was on rural residential (2.1 km) and single-family residential (2.0 km) lands;
- disturbances occurred primarily as a result of development activities in previously existing urban areas as well as in areas that were undeveloped at the time of the 2012 inventory;
- habitat loss was almost always greatest in un-urbanized areas throughout the West Arm, Grey Creek, Kaslo, Riondel to Pilot Bay Provincial Park, Procter, sporadically in the North Arm, and north of Lockhart Beach Provincial Park;
- between 2012 and 2021, there has been a 10.1% decrease in 'very high' and 'high' value habitat (this decrease takes into account the changing methodology between the two FIMPs, as the 2012 data was updated in 2021 to reflect methodological changes).

The findings of the 2021 FIMP work demonstrate that the current regulatory framework is failing to preserve high value riparian areas along Kootenay Lake's shoreline. The report notes that:

Even though there are several legislative mechanisms in place to help protect the foreshore (e.g., Federal Fisheries Act, BC Water Sustainability Act, Local Government Official Community Plans, etc.), anthropogenic pressures often result in incremental losses leading to habitat fragmentation and degradation. These impacts can reduce the ability of a lake to provide habitat necessary to sustain healthy populations of fish, wildlife, and ecosystems (p.3).

It is crucial to ensure that development activities along the shoreline are undertaken in a way that is sensitive to the surrounding riparian area in order to mitigate the negative impacts of anthropogenic pressures. Further, the Report specifically addresses the need for a consistent EDPA around Kootenay Lake by stating that:

Development permit areas should be prepared and identified for all watercourses including Kootenay Lake and its tributaries or adjacent wetlands. Development permit area buffers should be consistent for the entire lake, consider ZOS [zones of sensitivity], and other important features, regardless of location on the local, Electoral Area, municipality, or other type of jurisdiction. It is noted here that even with Development Permit areas in place, loss will still occur, but the rate of loss will be reduced if policies such as Development Permits are created. Without consistency around the lake, development may become focused on areas with lesser requirements, and could actually create greater lake wide impacts (p.79).

2.2 PHASE 3 – FOCUS GROUPS

Staff held two focus groups on May 10th and 11th, 2022. The purpose of the focus groups was to engage with two small groups of stakeholders, including: representatives from regulatory agencies, stewardship organizations and the development community as well as qualified environmental professionals from around the region, long-time residents with waterfront property, and members of RDCK Advisory Planning and Heritage Commissions (APHCs). Attendees were selected in order that we might hear from a diverse cross-section of opinions, and to provide insight into guideline and exemption practicality based on participant interests.

The focus groups were used to evaluate draft objectives for the Kootenay Lake EDPA and common guidelines and exemptions from other local governments that could be applied here. Time was also dedicated to evaluating EDPA width approaches used elsewhere in the Province.

It was recognized that the limited amount of time would not permit an in-depth analysis of all DPA aspects. To account for this, and ensure that participants were able to contribute their feedback in a meaningful way, a primer document and workbook were forwarded to participants ahead of time and were structured as follows:

- The primer document outlined the existing DPA language, the issues and concerns that have been identified in the Review, and jurisdictions with approaches in place that could potentially address those issues and concerns.
- The workbook was designed to walk through the subject matter discussed at the focus group so if participants were unable to contribute due to time constraints, had additional thoughts after the discussion had passed, or were unable to attend for the entire duration they could still provide their feedback.

The feedback received from the focus groups and workbooks is summarized in detail in Attachment A. Attachment B contains a draft EDPA, with potential guideline, exemption, and area options for further public consultation. The options are based on the results of the engagement and research completed to date.

The general direction for the EDPA and supporting rationale is summarized in Section 2.3 below and outlined in greater detail in both Attachments.

2.3 PLANNING DISCUSSION

Objectives

Objectives are used to specify what is trying to be achieved by a Development Permit Area. The EDPA objectives for Kootenay Lake seek to address four key thematic areas: a healthy natural environment; fish and wildlife habitat; water quality; and, effectively managing human disturbances. The original draft objectives and feedback received in the focus groups are discussed in detail in Attachment A. Upon consideration of the feedback received in the focus groups, the following refined objectives are suggested for further public consultation:

- **Natural Environment:** To protect and restore riparian areas in order to enhance the function of their adjacent ecosystems, watercourses, and natural features.
- **Fish and Wildlife Habitat:** To protect biodiversity and ensure landscape connectivity between watercourses and upland riparian areas.
- **Water Quality:** To protect water quality and prevent pollution and contamination of watercourses through the preservation and enhancement of riparian areas.
- **Human Interaction with Riparian Areas:** To ensure activities within riparian areas are undertaken in a way that is sensitive to the natural environment and encourages shoreline stewardship.

Guidelines

Guidelines refer to the guiding principles for development activities that are used to achieve the objectives laid out in a Development Permit Area. Not all guidelines will be relevant to every proposal, and proposals are evaluated based on the specific attributes and characteristics of a particular site. Five key areas were identified for EDPA guidelines to address: riparian assessment reports; building and parcel siting; fish and wildlife habitat protection; setback areas; and storm water and hazard management.

Based on the research and engagement to date, as well as staff's experience, guidelines have been drafted based on the following principles (see Attachment B):

- Riparian Assessment Reports from QEPs should continue to be mandatory, recognizing that the RDCK does not have professional expertise in-house to evaluate proposals and make discretionary decisions on whether a report should be required. The flexibility sought in making Reports discretionary can largely be addressed through exemptions.
- Guidelines should encourage the evaluation of development proposals based on individual site values.

- Language should be clear and consistent, and guidelines should avoid the use of discretionary language (“may”, “encourage”, “should”, etc.).
- Arbitrary concepts and statements (such as “no-net loss” and “leave strips”) are better addressed through thoughtful guideline design that uses existing resources to the area, such as the Kootenay Lake Partnership Shoreline Guidance Document and FIMP work.
- Overall, guidelines should encourage the preservation and enhancement of riparian areas.
- Recognizing the cumulative impacts that storm water and hazards from individual parcels can have on a watercourse, addressing these items in the guidelines is advisable.

Exemptions

Exemptions refer to the specific instances or activities where a Development Permit should not be required. They are intended to provide flexibility and cut down on the duplication of efforts between agencies and from previous approvals.

Current EDPA exemptions, particularly for agricultural activities and institutional development, do not reflect current best practices. Additionally, the exemptions that currently exist do not consider activities that would have negligible impacts on riparian areas. Exemptions can be refined to address those issues. Where site impacts and risks are low, additional exemptions can allow for more flexibility to address implementation challenges.

The exemptions drafted in Attachment B, and proposed for further public consultation, are based on the following principles:

- Previously approved developments that do not result in further disturbance of the riparian area are of less concern than disturbance on undeveloped lands. However, it should also be recognized that previous development and disturbance has the potential to have prolonged negative impacts on the riparian area and should be identified and addressed.
- A development permit may not be necessary in cases where the disturbance is minor in nature and anticipated to have negligible impacts on the riparian area. What these activities are must be clearly defined in order to ensure they are in fact minor.
- When the activity has already been addressed through a previous Development Permit approval or by a different regulatory body, such as the Provincial Ministry of Forests or Fisheries and Oceans Canada.
- Certain emergency works completed under very strict circumstances and where notice is provided to the RDCK could be included to account for instances where these works will inevitably occur.
- Farming activities that adhere to current best practices and recommended setbacks can have negligible impacts on the riparian area if they are carried out correctly.

DPA Width

Since 2010, there have been a total of 40 Environmental Development Permits issued along Kootenay Lake: 16 in Electoral Area ‘A’; 15 in Area ‘D’; and, 9 in Area ‘E’. Of the 40 Riparian Assessment Reports received with these applications, a SPEA – the area typically containing the most sensitive habitat – smaller than 15 metres has never been identified. Following best management practices, the SPEA will typically be the recommended setback for any development activities, as disturbance of this area is likely to result in a permanent loss of fish and wildlife habitat.

EDPAs that are 15 metres wide suggest that disturbance and development in the SPEA is acceptable when in many cases this will, and has, led to permanent habitat loss. To better preserve habitat, the EDPA – the area where disturbance or development triggers the need for an Assessment by a QEP – must be larger than 15 metres. Development within the SPEA may still be considered on a case-by-case basis where site constraints limit the ability to develop elsewhere on the land and will be evaluated based on the relevant guidelines for that site.

Four different types of approaches have been identified in the Review, and were discussed with each focus group:

1. A 30 metre-wide EDPA
2. A 15 metre-wide EDPA
3. A DPA that is based on specific mapped features
4. A DPA that is based on the habitat values associated with that segment of shoreline, as identified in the Kootenay Lake FIMP work.

The individual strengths and weaknesses of each of these four approaches are discussed in greater detail in Attachment A. Staff's preferred direction continues to be a 30 metre-wide EDPA around the entirety of Kootenay Lake at this time because it:

- provides the greatest potential to preserve, enhance, and restore fish and wildlife habitat, which will inevitably see losses as the shoreline continues to develop regardless of EDPA size;
- no longer implies that development will be approved within the SPEA, which will often result in a loss of sensitive habitat;
- encourages development outside of the riparian area altogether;
- is the most common practice in the Province, including Electoral Areas 'D', 'G', and 'H' of the RDCK, and is recommended by the vast majority of local QEPs that have participated in the engagement for this project (including QEPs who do not typically submit Reports for DP applications);
- likely results in less enforcement issues, as it is simpler and requires a lower level of public awareness than approaches based on mapped features and segment-specific habitat values;
- maximizes the opportunities for restoration of previously damaged or disturbed riparian areas; and,
- results in the least amount of habitat loss.

Recognizing there are still reservations about implementing a 30 metre wide EDPA for Kootenay Lake, a major focus of the remaining public consultation will be to solicit feedback on the two most heavily discussed approaches in the focus groups: a 30 metre wide EDPA and one that is based on habitat values.

SECTION 3: DETAILED ANALYSIS

3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan: Yes No Financial Plan Amendment: Yes No
Debt Bylaw Required: Yes No Public/Gov't Approvals Required: Yes No

N/A

3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

Section 488(1)(a) of the *Local Government Act* enables local governments to designate Development Permit Areas for the purpose of "protection of the natural environment, its ecosystems and biological diversity." The Official Community Plans for Electoral Areas 'A', 'D', and 'E' currently contain EDPAs designated for this purpose. The Kootenay Lake DPA Review Project seeks to re-examine these existing DPAs to ensure they are protecting riparian areas and upholding shared values

Staff recommend the EDPA be applied to Electoral Area 'F', as past disturbances in the area have been significant but there are still substantial habitat values present.

3.3 Environmental Considerations

The 2021 Kootenay Lake FIMP Project demonstrates that there have been measurable losses of natural shoreline and fish and wildlife habitat since the last inventory in 2012. These losses have been observed under the current regulatory framework, and recommendations moving forward will seek to curb that trend.

Kootenay Lake is also a drinking water source for residents. Impacts from industry and heavily developed areas have added uncertainty to previously relied upon surface water sources. Ensuring that negative impacts from shoreline disturbance that pollute or contaminate the Lake are mitigated is crucial for future water security.

3.4 Social Considerations:

The Kootenay Lake DPA Review seeks to align EDPAs along Kootenay Lake with community values and concerns. It also seeks alignment with the Shoreline Guidance Document, which identifies Ktunaxa cultural values and archaeological potential.

3.5 Economic Considerations:

Kootenay Lake offers significant economic benefits to the regional economy, leveraging the unique local character and aesthetic to contribute to the tourism and recreation industries, which has spillover impacts on local businesses and service providers. Additionally, the settlement and development of the area, benefits the construction industry and growth of local businesses.

The economic benefits associated with tourism and recreation can act as a continual driver for economic stimulation over the long term. Recognition of the importance of the natural function of Kootenay Lake's riparian areas as invaluable natural assets that buffer against hazards and pollution is vital for the economic future of this region.

3.6 Communication Considerations:

The DPA Review is currently in the third and final phase of the project. The remaining engagement activities are centered on broad public consultation, with the feedback being used to determine a preferred direction for an EDPA around Kootenay Lake.

3.7 Staffing/Departmental Workplace Considerations:

The main staff person responsible is the Planner 2. The project is part of the Planning Department's Work Plan.

During the focus groups, it was mentioned that there are other Regional Districts in the Province that have a QEP on staff to provide professional oversight, and their service is also shared with member municipalities. Staff's current recommendations are based on there being no QEP oversight available within the RDCK's existing resource pool. If a similar approach were to be desired by the Board in the future, staff could investigate further at the direction of the Board.

3.8 Board Strategic Plan/Priorities Considerations:

This project aligns with the following objectives/strategies of the Board's Strategic Plan:

- Strategic objective #4: "to adapt to our changing climate and mitigate greenhouse gas emissions".
- 5.1(c): "modernize the RDCK policy framework" to be "innovative, reflect best practices, and consider unique RDCK requirements"
- 5.4.1(a): "protect our water courses"
- 5.4.3(a): "consider climate adaptation and mitigation impacts in decisions the RDCK makes"

Riparian areas play an important role in buffering against the impacts of climate change by acting as large carbon sinks while also buffering private properties from flooding and erosion.

SECTION 4: SUMMARY

4.1 SUMMARY

The Kootenay Lake DPA Review is in its third and final phase of engagement, and two focus groups in May were held to initiate this phase. Remaining engagement activities are centered on broad public consultation to determine a preferred EDPA direction for Kootenay Lake. Staff's preferred approach is based on the background

research completed to date, including a buffer analysis of Kootenay Lake and the 2021 FIMP project completed by Living Lakes Canada.

Based on the results of the buffer analysis, there are a number of sites constrained by topography and size that will require special consideration and their development will result in a permanent loss of riparian areas. As such, guidelines and exemptions are drafted in a way that allows for flexibility to ensure these sites are not sterilized of their permitted land uses (see Attachment B).

The FIMP project demonstrates that the current regulatory framework has been unsuccessful in protecting riparian areas. Between 2012 and 2021, 4.5 km of natural shoreline was lost and there was a 10.1% decrease in 'very high' and 'high' value habitat. The study emphasizes the importance of mitigating the incremental losses of habitat that result from anthropogenic pressures. It also advocates for a consistent EDPA approach along Kootenay Lake's shoreline to ensure development does not become focused in areas with lesser requirements, which could result in greater cumulative impacts on Kootenay Lake.

The focus groups in May framed the Review to participants in the context of these two resources and provided examples of different EDPA approaches (guidelines, exemptions, and DPA widths) from other local governments. Feedback was solicited on the draft objectives as well as the different approaches. Based on this feedback, and the background research completed to date, staff experiences, and the previous two phases of engagement, draft options for EDPA guidelines, exemptions, and widths have been created for further public consultation (Attachment B). Attachment B also includes the refined EDPA objectives. Specific feedback on the approaches and a rationale for staff's approach is also included in Attachment B.

Based on the feedback received and the existing regulatory framework, the EDPA is recommended to continue to apply to watercourses other than just Kootenay Lake, including: rivers, creeks, and wetlands. The EDPA width recommended will reflect the characteristics of each watercourse, as smaller ones may warrant a smaller EDPA. As such, the EDPA in Attachment B is drafted for riparian areas rather than just Kootenay Lake to encourage an updated approach for all watercourses in the four Electoral Areas.

Respectfully submitted,

Corey Scott, Planner 2

CONCURRENCE

Planning Manager – Digitally approved by Nelson Wight.

General Manager of Development Services and Community Sustainability – Digitally approved by Sangita Sudan.

Chief Administrative Officer – Digitally approved by Stuart Horn.

ATTACHMENTS:

Attachment A – Focus Group and EDPA Direction Summary Document

Attachment B – Draft Riparian Development Permit (RDP) Area



ATTACHMENT A: KOOTENAY LAKE DPA REVIEW – PHASE 3 ENGAGEMENT UPDATE

The purpose of this document is to outline the rationale for the direction Planning Staff have taken in drafting the options for Environmental Development Permit Area (EDPA) objectives, guidelines, exemptions, and width. The rationale is based on background research from relevant guidance documents, approaches used in other jurisdictions from around the Province, and feedback received in the first two Phases of the Review. EDPAs from other jurisdictions that were evaluated include:

- Coldstream
- Columbia Shuswap Regional District
- Creston
- Cumberland
- Invermere
- Kelowna
- Nanaimo
- Nelson
- Penticton
- Regional District of Central Okanagan
- Regional District of East Kootenay
- Regional District of Okanagan Similkameen
- Revelstoke
- Salmon Arm
- Sparwood
- Tofino
- West Kelowna
- Whistler

Approaches from 14 of these 18 local governments were presented to focus group participants and discussed in greater detail to solicit feedback on how well a similar approach may work for Kootenay Lake.

Draft Objectives

Draft objectives were the first item discussed at the focus groups. The initial objectives were drafted based on the feedback received from the first two phases of engagement, best management practices, and legislative considerations (i.e. Part 14, Division 7 of the *Local Government Act*). The objectives and a summary of the feedback received for each is as follows:

Natural Environment: *To preserve and enhance streams, including wetlands, and their adjacent riparian areas.*

- Language should be refined to focus primarily on riparian/sensitive area protection, recognizing that “streams” are dynamic and cannot necessarily be ‘preserved’ and are also managed by the Province so the upland area should be the focus for local governments.
- Also, what is classified as a “stream” should be specified.

More detail, specifically, defining what is meant by stream, would be more appropriately addressed in the justification section of the EDPA, as objectives should reflect how the EDPA will achieve its underlying goals. The objective was refined to the following based on the feedback received:

To protect and restore riparian areas in order to enhance the function of their adjacent ecosystems, watercourses, and natural features.

Fish & Wildlife Habitat: *To protect biodiversity and encourage landscape connectivity between riparian and upland ecosystems.*

- Acknowledgement of climate change and species at risk in DPA could help illustrate importance of responsible development activities.
- Change in language suggested from “encourage” to “ensure” and to specify watercourse types.

Based on the feedback received, the objective has been refined to the following:

To protect biodiversity and ensure landscape connectivity between watercourses and upland riparian areas.

Water: *To protect water quality and prevent pollution and contamination of streams.*

- Consider linking in the importance of riparian health with this objective.

This objective was generally well-received in the focus groups without much commentary. A potential revised objective could be:

To protect water quality and prevent pollution and contamination of watercourses through the preservation and enhancement of riparian areas.

Human Disturbance: *To ensure that development and water access is suitable and sensitive to the natural environment.*

- The theme of “human disturbance” assumes conflict between development and the natural environment. The objective could be re-worded to recognize that a more harmonious relationship between the two is possible in order to better encourage buy-in for shoreline stewardship.
- Remove the word “suitable”, as it is a word that is subjectively interpreted – what is suitable to some may not be to others.

Differing opinions were observed on the use of “human disturbance”. While some felt the language could be softened, others felt that it is reasonable in providing caution on the risks of continued loss of riparian areas. While human disturbance is not mentioned in the objective itself, it could still be refined to the following in response to these concerns:

To ensure activities within riparian areas are undertaken in a way that is sensitive to the natural environment and encourages shoreline stewardship.

There was a comment raised that the objectives as a whole should attempt to be inclusive of everything, namely addressing the economy/economic development. The comment was made to ensure that an EDPA considers both environmental values and economic impacts. It would be atypical to specifically address economic development in an EDPA, as the EDPA is designated for “protection of the natural environment, its ecosystems and biological diversity.” (Section 448(1)(a), *Local Government Act*). With that being said, each OCP has its own policies for the economy and economic development, which a DPA must be consistent with. As such, economic impacts are already embedded into each OCP’s policy framework, which gets considered in the decision-making process for each application. It may not be appropriate to address economic goals in the EDPA, as it is more suitable addressed elsewhere in the OCP where it will ultimately achieve the same outcome.

Guidelines

Development Permit Area guidelines were the next topic discussed at the focus groups. There were five different guideline types common with other local governments around the Province that were presented to participants to hear their feedback on the relevance to Kootenay Lake and whether they are reasonable and practical. The five guideline types and the feedback received from the focus groups on each are summarized below.

1. Requirement for a QEP Assessment Report

There are two common approaches for Riparian Assessment reports seen elsewhere in the Province: either to make them a mandatory requirement for every Environmental Development Permit application or to only require them in some cases. Jurisdictions where report submissions are discretionary typically have a Qualified Environmental Professional (QEP) in-house to ensure potential risks of development activity are understood and mitigated, and that professional oversight is available for such activities. To summarize the comments from the focus groups:

- Requiring reports for some applications and not others would require very clear expectations around what type of activities, as well as their level of risk, would trigger the need for a report.
- At the Provincial level, and with some local governments where reports are not mandatory for all applications, there is professional expertise in-house to understand risks, potential impacts, and provide oversight – this expertise is not currently available at the RDCK.
- QEP oversight ensures activities are carried out in the way that is authorized under the permit, offers the opportunity for QEPs to educate waterfront property owners, and helps to identify site values and previously damaged habitat features that may be restored.
- Riparian areas are inherently sensitive and QEP oversight will ensure that activities are undertaken responsibly.
- Other comments advocated for some level of discretion with RDCK staff. Upon further prompting, specific exemptions for low-risk/impact subdivisions and where covenants are registered on title could help address this desire for some level of discretion at the Staff level.

Recognizing that the RDCK does not have a QEP in-house, staff's recommendation is to continue the current approach of making reports mandatory for all EDPA applications. Unnecessary or otherwise redundant applications can largely be accounted for by having a more robust list of exemptions, which is also proposed.

2. Siting of new lots, buildings, and structures

Guidelines related to siting are typically concerned with the location of new buildings, structures, and areas of disturbance in relation to watercourses, environmentally sensitive areas, habitat features, and mature vegetation. Guidelines can vary to encourage different types of site and building designs that have minimal or complementary impacts on the adjacent riparian area. Focus group feedback on this guideline type is summarized as follows:

- Discretionary language should be avoided and guidelines should be drafted that clearly lay out expectations and encourage site evaluation based on the on-the-ground habitat values.
- Strong language around the preservation of existing vegetation should be included in order to discourage the “knock it all down and replant it” attitude that has been prevalent in the area and responsible for a significant portion of habitat loss, as evidenced by the 2021 FIMP findings.
- Guidelines should have some level of flexibility for small, pre-existing parcels, buildings, and structures but also recognize the importance of preserving valuable habitat on undisturbed lands.

Feedback from the focus groups suggested that the preference is to have siting and setback requirements evaluated on a case-by-case basis, with recommendations reflecting individual site values. This approach is

consistent with the current guidelines; however, more detail could be provided on the expectations to preserve existing riparian vegetation and avoid the denudation of sites prior to development. Guidelines have been drafted with the goal of accounting for these concerns, providing additional clarity, and being broad enough to recognize site-specific nuances in guideline interpretation for individual applications.

3. “No-net less” principle

No-net loss of fish habitat is a foundational principle of the *Fisheries Act* and the *Riparian Areas Protection Regulation*, and different iterations of the same principle are common in EDPA guidelines. It refers to no-net loss of fish habitat and has been challenging to achieve. Previously, some losses were permitted where restoration and/or compensation offset the impacts of disturbance. This approach has been subject to criticism because it is unrealistic to assume that fish habitat can be restored to a condition that took thousands of years to create once it has been disturbed. Disturbance will often lead to a loss of fish habitat. To summarize focus group feedback:

- Pre-determined setbacks (ex. mandatory 15.0 m setback) are not particularly helpful as they are arbitrary, and will lead to further habitat loss.
- Preservation and enhancement should be the focus of guidelines, as “net” does not recognize that fish habitat is not replaceable and we should be looking to make incremental improvements where disturbance has already taken place rather than removing habitat and attempting to replace it.
- Development activities should be assessed based on the individual site values, using the priority sequence of mitigation options set out in the KLP Shoreline Guidance Document: avoidance, minimization, restoration, and offsetting impacts.
- Other comments received focused on the impact of dams and the state of the Lake’s fisheries as well as having an understanding of how disturbance of a riparian area influences fish habitat. It is noted that the dams do have an impact but that impact does not negate the fact that upland disturbance – something that the local government has the authority to regulate – also has a significant impact on fish habitat. How riparian areas influence fish habitat is further outlined in the *Resource for Kootenay Lake Living* and on the project webpage.

Much of the discussion in the focus groups was centered on the pitfalls of the no-net loss concept. The feedback received suggests that it is too narrow a principle. Instead, preserving and enhancing riparian areas should be the focus of guidelines. Additionally, the priority sequence of mitigation options in the Kootenay Lake Partnership Shoreline Guidance Document provides a framework that is centered on preservation and enhancement, and can achieve “no-net loss” results so it may be most appropriate to address loss of riparian areas by utilizing this existing resource.

4. Identifying and designating a “Leave Strip”

Some local governments use this terminology rather than the Streamside Protection and Enhancement Area (SPEA) or setback. The SPEA is incorporated into the current guidelines through reference to the *Riparian Areas Regulation* but could be clearer for the general public. Use of a “leave strip” would essentially refer to the required setback, as determined by the site-specific values for that portion of shoreline. Discussion at the focus groups raised the following points:

- Whatever the terminology ends up being, it should reflect a standardized method in order to ensure consistency amongst QEPs and it is easy for the general public to understand.
- The focus should be on a dynamic assessment process that reflects all riparian habitat values present on the land; for example, raptor habitat that may be present in addition to fish habitat values.

- The introduction of another term may add confusion, and simply referring to a setback may be the most straightforward way to communicate such requirements.

How the setback (“leave strip” or SPEA) is determined should be based on best practices and be rigidly outlined so it is clear and consistent. The draft guidelines use the term “setback” so as to be consistent with familiar planning terms and not add more planning jargon.

5. Storm water and hazard management

There are a number of different guidelines that can address storm water and hazard management. Some local governments have guidelines that require sites to maintain natural drainage patterns, manage rainwater on site, encourage landscaping that adds slope stability and reduces erosion, and discourage development on slopes greater than 30%. Feedback from the focus groups is summarized as:

- Storm water and hazards should be considered on the landscape level at the time of subdivision, as impacts are often observed with the installation of services and creation of building platforms, particularly on smaller lots.
- Managing storm water on site can be challenging with steeper slopes.
- On-site storm water management would be ideal to integrate into site design in order to buffer watercourses from contaminants like pesticides, road salts, sediments, and septic fields, etc.
- Building also results in significant site impacts and needs to be considered.

Guidelines that eliminate the creation of conditions that result in a higher likelihood of erosion and sedimentation have been included in the draft options, recognizing the cumulative impacts they can have on watercourses and aquatic ecosystems.

Exemptions

Similar to the guidelines, exemptions were grouped into exemption types based on the issues and concerns observed in the current framework and examples from elsewhere in the Province. Exemptions were grouped into six different types and examples were presented to participants. Unfortunately, time was limited in both focus groups and a thorough discussion of each type was not possible. Participants were encouraged to reflect on whether there could be unintended consequences to each exemption and if there are any that should or should not be implemented. Each of the workbooks received had comments and feedback related to the exemptions. The following summarizes the exemption types and the feedback received.

1. Activities that do not result in further disturbance of the riparian area

Exemptions of this type typically address things like renovations, additions to structures partially within the DPA where the addition falls outside of the riparian area, registration of a covenant to protect sensitive areas, and having a QEP confirm that the area of disturbance falls outside of the riparian area. Feedback received in the focus groups can be summarized as:

- Existing development that is impacting the riparian area will continue to have a negative impact on the aquatic ecosystem.
- Significant impacts to the riparian area sometimes happen at the post-construction phase. Is there a way to counteract this?
- DPs should be triggered when disturbance is taking place on the lands.
- There is a risk of vegetation being removed in contravention of the EDPA and then a permit being applied for afterwards.
- All development activity within a riparian area has the potential to negatively impact it and should be subject to some level of review.

Exemption options have been drafted to account for instances where further disturbances in the riparian area will not take place, recognizing that the proactive measures must first be in place to demonstrate that risks can be effectively mitigated.

2. Minor works

Exemptions from other jurisdictions that address minor works vary in what is considered to be ‘minor’. Generally, the activities are defined in the exemption itself in order to be clear and concise on what the expectations are. To summarize the feedback from the focus groups:

- There needs to be clear definitions and guidance for what is considered to be ‘minor’.
- Fencing in riparian areas would reduce access and potential migration routes, and may not be ‘minor’.
- How would new/expanded landscaping that damages the riparian area be monitored and prevented if landscape maintenance is exempted?
- Thought should be given to cumulative impacts with respect to ‘minor’. If everyone participates in a minor activity, can it have a major impact?
- Larger works that involve permanent structures and heavy machinery have a higher risk of disturbing the riparian area and having continued impacts.

Potential exemptions surrounding minor works have been drafted with this feedback in mind.

3. When requiring a DP is redundant or the works are authorized by Provincial or Federal governments

Exemptions of this nature are concerned with reducing the duplication of efforts between agencies and ensuring approval processes are functioning efficiently. Looking at examples from elsewhere around the Province, exemptions are common for authorizations under Provincial and Federal legislation, such as the *Water Sustainability Act* and *Fisheries Act*. Upon reviewing some examples from other areas, focus groups provided feedback that can be summarized as follows:

- Provincial authorizations are subject to environmental scrutiny; whether this scrutiny is applied to the upland area should be considered if such activities are to be exempt.
- Where exemptions of this nature are permitted, the authorization should be reviewed to ensure it addresses concerns related to the upland riparian area; works above the high water mark not specifically addressed in the authorization should require a DP.
- Proposals should be clearly outlined in order for RDCK staff to determine whether they are exempt and additional activities beyond those in the authorization should be addressed.

Different exemption options have been drafted in order to reduce the duplication of efforts between agencies while also recognizing that blind spots between authorizations must be eliminated for effective implementation.

4. Certain types of subdivisions

Section 489 of the *Local Government Act* requires that “land within an [development permit] area must not be subdivided” unless the owner first obtains a Development Permit or an exemption applies. Low risk subdivisions with negligible impacts on the riparian area – such as boundary adjustments where no new lots are created or large lot subdivisions where the riparian area will be left undisturbed – are commonly exempt. Feedback from the focus groups regarding such exemptions is summarized as follows:

- It makes sense for a Development Permit to be triggered by land development/building.
- It is nice to have an exemption where a covenant is registered to the lands at the time of subdivision rather than requiring a Development Permit.
- Topography should be given consideration – what if the riparian area is the only developable area?

- Should ensure proper distance from watercourse is maintained, as small streams are often overlooked and filled in during development.
- Impacts likely to be low as long as newly created lots can accommodate construction outside of the EDPA.

The draft exemption options regarding subdivision take this feedback into consideration and seek to reduce the number of DP applications required for low risk subdivisions that effectively avoid impacts to riparian areas.

5. Emergency works under specific circumstances

In recognition that emergency works may sometimes be necessary in the riparian area, and that they often must be carried out expeditiously, exemptions can apply to specific types of emergency works. Exemptions for the most common types of emergency works were presented to focus group participants and the feedback received is summarized as follows:

- Emergency works are sometimes used as a blanket go ahead to ignore best management practices and guidelines.
- Rather than requiring a permit, a QEP should be on-site during the emergency work and submit a short memo to the RDCK on the work that was conducted.
- For certain emergencies, particularly time-sensitive ones, exemptions are acceptable but need to be clearly defined.
- What sort of habitat is present on the site should be taken into consideration and perhaps more oversight is required where there is sensitive habitat present

A comprehensive list of exemptions for different emergency works have been drafted for consideration. These exemptions attempt to consider the most common types of emergency works, ensuring the RDCK is aware of the works before they occur, and ensuring that QEP oversight is required where impacts may be higher to sensitive habitat.

6. Certain types of agricultural activities

The current EDPA exemptions broadly exempt “agricultural activities including clearing of land for agricultural purposes.” The broad nature of this exemption increases the likelihood of losing sensitive riparian habitat adjacent to farmland. Given that there is guidance provided by the Ministry of Agriculture for how to responsibly conduct agricultural activities adjacent to riparian areas, this exemption could benefit from refinements that incorporate such Provincial guidance. Feedback from the focus groups on agricultural exemptions can be summarized as:

- Small streams are often filled in on agricultural lands.
- Agricultural activities have played a large role in the removal of riparian vegetation and are the largest driver for habitat loss globally; these activities should be closely monitored and regulated.
- Eutrophication can be minimized by maintaining an appropriate setback from riparian and aquatic features.

The existing exemption has been refined to incorporate updated Provincial guidance into the EDPA.

Area

The Tables below provide additional context to the information included in Section 2.3 (“DPA Width”) of the Staff Report. Table 1 provides a breakdown of how many Environmental DPs were issued in each Electoral Area between 2010 and 2021. At the time of writing the Staff Report, there have not been any development permit submissions along Kootenay Lake in 2022.

Table 1 - Number of Development Permits issued along Kootenay Lake by year and Electoral Area.

Number of Development Permits by Electoral Area					
Year	Area 'A'	Area 'D'	Area 'E'	Area 'F'	Total
2010	0	1	0	0	1
2011	1	0	0	0	1
2012	0	1	0	0	1
2013	1	1	0	0	2
2014	2	1	0	0	3
2015	1	1	2	0	4
2016	2	0	2	0	4
2017	2	2	1	0	5
2018	0	1	0	0	1
2019	1	5	0	0	6
2020	0	0	0	0	0
2021	6	2	4	0	12
Total	16	15	9	0	40

As mentioned in the Staff Report, a “Streamside Protection and Enhancement Area” (SPEA) smaller than 15 metres wide along Kootenay Lake has never been identified. A summary of identified SPEAs along Kootenay Lake is provided in Table 2.

Table 2 - SPEA determinations by size and Electoral Area.

Size of SPEA by Electoral Area					
Size	Area 'A'	Area 'D'	Area 'E'	Area 'F'	Total
less than 15m	0	0	0	-	0
15m	10	9	2	-	21
20-24m	1	1	2	-	4
25-29m	0	1	0	-	1
30m	2	3	5	-	10
*SPEA not provided	3	1	0	-	4
Total	16	15	9	-	40

* Some reports, early in the implementation of the DPAs along Kootenay Lake, did not include recommended SPEAs (setbacks) but confirmed that the activities would not result in negative impacts to the Lake.

What is problematic about the current 15 metre wide Development Permit Area (DPA) in Electoral Areas ‘A’ and ‘E’ is that it suggests that development is advisable in the SPEA. Development within this area (typically at least 15m upland of the natural boundary) will continue to result in permanent fish and wildlife habitat loss, contrary to the guidelines and intent of the DPA.

The result at a staff level is receiving applications that are conflicting because there is a mismatch between the area that the guidelines apply to and the guidelines themselves. Either the guidelines need to be reduced to a lesser standard than the current best management practices to allow for permanent loss of sensitive riparian

habitat along Kootenay Lake or the area that those guidelines apply to needs to increase in order to better address EDPA expectations and preserve these sensitive habitats.

Additionally, the current approach based on 15 metres leads to greater risks for less apparent species that depend on riparian areas. For example, raptors like osprey, bald eagles, western screech owls, and great blue herons commonly depend on mature riparian vegetation for their nests. Where these fall in relation to the Lake varies and the recommended buffers for these nests from the 2021 FIMP Project is 300m.

In recognizing the challenges of the current regulatory framework for preserving sensitive riparian habitat, staff presented four possible directions for focus group participants to reflect on. These directions include:

1. An EDPA that extends 30 metres upland from the natural boundary of a watercourse, such as Kootenay Lake;
2. One that extends 15 metres upland;
3. An EDPA that is designated based on specific mapped habitat features and the recommended buffer areas from those habitat features; and,
4. One that is based on the “Aquatic Habitat Index” (AHI) ratings from the 2012 FIMP, which would then be updated to the 2021 “Foreshore Habitat Sensitivity Index” (FHSI) as the data becomes available to do so. The AHI/FHSI ratings are a reflection of habitat value depending on the current conditions of the various segments of shoreline that they apply to on Kootenay Lake.

A brief summary of the pros and cons of each approach is included in Table 3.

Table 3 - EDPA Width Approaches and their respective pros and cons.

30 metre width	15 metre width	Mapped Features	AHI/FHSI Index
<ul style="list-style-type: none"> ✓ Reflects practice in Electoral Areas ‘D’, ‘G’, ‘H’ ✓ Consistent with Provincial RAPR ✓ Greater potential to preserve SPEAs >15m ✓ No longer implies development will be approved in SPEA ✓ Encourages development outside of riparian area altogether x Likely leads to more DP applications x May not account for site-specific nuances 	<ul style="list-style-type: none"> ✓ Familiar practice in Electoral Areas ‘A’, ‘E’ ✓ If implemented in Area ‘F’, would provide greater protection than status quo x Encourages development within SPEA x Will lose sensitive riparian habitat where SPEA >15m x Losses seen in Areas ‘A’ and ‘E’ in last 10 years likely to continue and accelerate with growth x Inconsistent with approach on other large lakes in BC 	<ul style="list-style-type: none"> ✓ Most accurate approach ✓ Offers highest level of confidence/protection ✓ Consistent with other parts of BC where mapping exists x Relies on 2021 FIMP mapping, which is not public – lag time x Likely leads to more DPA applications x Requires very high level of public awareness 	<ul style="list-style-type: none"> ✓ Could be implemented through current AHI ratings ✓ Offers greater protection than 15m DPA or no DPA x Still inconsistent application (30m, 15m, etc.) x Requires high level of public awareness x Likely results in continued habitat loss (but less loss than 15m) x Limits opportunities for habitat restoration on previously disturbed sites

There were two clear preferences for an EDPA width in the focus groups: 30 metres was favoured by most participants from regulatory agencies, stewardship organizations, and qualified environmental professionals while

an EDPA based on FIMP habitat values received largely positive feedback from participants from the development community, long-time residents, and APHC members. The other two approaches are not recommended because a 15 metre wide DPA will result in the highest level of shoreline loss and one based on mapped features, albeit also receiving positive feedback, would require a high level of resources, monitoring, and public awareness for effective implementation.

A 30 metre wide EDPA continues to be staff's preferred direction for the reasons detailed further in the Staff Report.

Other Considerations

Other points raised at the focus groups that are relevant to include in the EDPA, but perhaps not in the guidelines themselves, include:

- Clearly defining what is meant by a “watercourse”.
- Linking the importance of riparian area preservation to climate change resilience and supporting species at risk as well as wildlife corridors.
- Ensuring an effective balance is achieved between riparian area protection and enhancement and a healthy regional economy.
- Acknowledging the effect of cumulative impacts on the overall health of the Lake.

These items may be most suitable in the justification section of the EDPA, which provides background on why a Development Permit Area is created in the first place and what its overarching goals are.

At one of the focus groups, it was suggested that the rate of disturbance along the shoreline has accelerated in the last 2-3 years. If this trend holds true, disturbance could be occurring in a non-linear fashion meaning that over the coming years the rate of disturbance is likely higher than 0.5km per year, particularly as development pressures remain high in the region. A transition to a more effective EDPA will be pivotal in ensuring the local government is using its authority to better preserve sensitive riparian areas.

ATTACHMENT B: DRAFT RIPARIAN DEVELOPMENT PERMIT AREA

This document was prepared based on the feedback from the first 2 phases of engagement, a best practices review of approaches from elsewhere in the Province, inventories of Kootenay Lake, and best management practices for developing around riparian areas as well as two focus groups held in May 2022.

The draft options are in response to the feedback received so far and best practices seen in the documentation; They are not a direction that is being recommended by Planning Staff at this time. Rather, they are proposed to be presented for further public consultation as potential options for revised objectives, guidelines, and exemptions. Once Staff have considered feedback on the options, a recommendation will be presented to the Rural Affairs Committee for drafting bylaw amendments to the Official Community Plans along Kootenay Lake.

Language in **red** represents a possible change to the EDPA content/language.

Italics represent general notes about the content.

Existing Development Permit Area Language	Possible Changes
<p>Category</p> <p>The WDP area is designated under Section 919.1(1) (a) of the Local Government Act for the protection of the natural environment, its ecosystems and biological diversity.</p>	<p>Purpose</p> <p>The Riparian Protection Development Permit (RPDP) Area is designated under Section 488(1)(a) of the Local Government Act for the protection of the natural environment, its ecosystems and biological diversity. Lands within the RPDP Area are also designated under Section 485 of the Local Government Act as areas where Development Approval Information may be required in order to understand the anticipated impact of the proposed development activity on the natural environment.</p>
<p>Justification</p> <p>The primary objective of this Development Permit Area designation is to regulate development activities in watercourses, lakes and wetlands and their adjacent riparian areas so as to protect aquatic habitat; and to conserve, enhance and, where necessary, restore watercourses and their riparian areas.</p>	<p>Justification</p> <p>Riparian areas make critical contributions to a healthy aquatic environment. Riparian vegetation stabilizes slopes and absorbs storm water runoff, in turn preventing erosion and sedimentation into watercourses. It also absorbs and dissipates wave energy protecting upland areas from flooding while holding native gravels, fines, and minerals in place to filter sediments and contaminants from rain and storm water runoff. Additionally, riparian vegetation provides shade – cooling water temperatures and creating ideal fish habitat – along with organic matter – providing a food source for the organisms that fish consume – as well as cover to protect fish from overconsumption by predators. Riparian areas also provide safe corridors for wildlife movement and enhance landscape connectivity, which is pivotal in maintaining biodiversity.</p> <p>Additionally, riparian areas are important natural assets because of their role in buffering watercourses from pollution, sedimentation, erosion and the impacts of temperature and weather changes. It is recognized that past human disturbances within riparian areas have been detrimental to the overall health of the aquatic ecosystems that depend on them. This has contributed to the degradation of sensitive fish and wildlife habitat, an increasing precariousness for species at risk, and increased vulnerability to the impacts of climate change.</p> <p>As such, the RPDP Area is designated to recognize and protect riparian areas in their natural state and repair and enhance them in order to preserve their ecological importance as well as the critical role they play in increasing climate change resilience.</p>

<p>Area</p> <p>The WDP area is comprised of:</p> <ol style="list-style-type: none"> 1. Riparian assessment areas (Figure 1) for fish and wildlife habitat and drinking water, including: <ol style="list-style-type: none"> a. All areas within 15 metres of the high water mark of a watercourse, including the natural boundary of a lake; b. within 15 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide; c. within 5 metres of the top of the ravine bank in the case of a wider ravine that links aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing and potential upland vegetation that exerts an influence on the watercourse; and d. all areas within 15 metres of the high water mark of a wetland <p>Where the following definitions apply:</p> <p>High water mark means the visible high water mark of a watercourse where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the watercourse a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself, and includes the active floodplain.</p> <p>Lake means any area of year round open water covering a minimum of 1.0 hectares (2.47 acres) of area and possessing a</p>	<p>Area</p> <p><i>Approach #1 – 30 metre-wide DPA</i></p> <p>The RPDP Area is comprised of all lands within:</p> <ol style="list-style-type: none"> 1. 30.0 metres of the stream boundary of a [LARGE, FISH-BEARING] watercourse or wetland; 2. 15.0 metres of the top of the ravine bank in the case of a ravine less than 60.0 metres wide; 3. 5.0 metres of the top of the ravine bank in the case of a wider ravine that links aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing and potential upland vegetation that exerts an influence on the watercourse; and 4. 15.0 metres of the stream boundary of a [SMALL, NON-FISHING-BEARING] stream. <p><i>Approach #2 – Based on 2012/2021 Kootenay Lake Foreshore Integrated Management Planning (FIMP) Inventory and Mapping – AHI (Aquatic Habitat Index) / FHSI (Foreshore Habitat Sensitivity Index).</i></p> <p>RPDP Area width is based on the Aquatic Habitat Index (AHI) or Foreshore Habitat Sensitivity Index (FHSI) ratings contained within the <i>Kootenay Lake Shoreline Guidance Document</i>, as amended from time to time. The RPDP Area is comprised of all lands within:</p> <ul style="list-style-type: none"> • 30.0 metres of the stream boundary of Kootenay Lake, where shoreline segments are classified as having a ‘very high’, ‘high’, or ‘moderate’ AHI/FHSI rating; • 15.0 metres of the stream boundary of Kootenay Lake, where shoreline segments are classified as having a ‘low’ or ‘very low’ AHI/FHSI rating; and, • 15.0 metres of the stream boundary of all other watercourses. <p>The definitions contained within this Section shall have the same meaning as those terms defined in the <i>Riparian Areas Protection Regulation (RAPR)</i>, as amended from time to time. For certainty, watercourse means a natural body of water, whether or not it has been modified including, without limitation, a lake, pond, river, creek, spring, gulch, wetland or glacier whether or not usually containing water, including ice, but does not include an aquifer.</p>
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maximum depth of at least 2.0 metres. Smaller and shallower areas of open water may be considered to meet the criteria of a wetland.

Top of ravine bank means the first significant break in a ravine slope where the break occurs such that the grade beyond the break is greater than 3:1 for a minimum distance of 15 m measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed.

Watercourse means any natural or man made depression with well-defined banks and a bed 0.6 metres (2.0 feet) or more below the surrounding land serving to give direction to a current of water at least six months of the year and/or having a drainage area of two square kilometres (0.8 square miles) or more upstream of the point of consideration.

Wetland means any areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

No section previously

Objectives

The RPDP Area supports the goals, objectives and policies of this OCP, and seeks to achieve the following objectives in its implementation:

To preserve and restore riparian areas in order to enhance the function of their adjacent ecosystems, watercourses, and natural features.

To protect biodiversity and ensure landscape connectivity between watercourses and upland riparian areas.

	<p>To protect water quality and prevent pollution and contamination of watercourses through the preservation and enhancement of riparian areas.</p> <p>To ensure activities within riparian areas are undertaken in a way that is sensitive to the natural environment and encourages shoreline stewardship.</p>
<p><i>No section previously</i></p>	<p>Prohibition</p> <p>Unless otherwise exempt in this Bylaw, a Development Permit must first be obtained prior to undertaking any development activities within the RPDP Area:</p> <ul style="list-style-type: none"> • subdivision; • construction of, addition to or alteration of a building or structure; or, • alteration of land, including the removal, alteration, disruption or destruction of vegetation.
<p>Exemptions</p> <p>The WDP area does not apply to the following:</p> <p>5. existing construction, alteration, addition, repair, demolition and maintenance of farm buildings and agricultural activities including clearing of land for agricultural purposes;</p> <p>6. existing institutional development containing no residential, commercial or industrial aspect;</p> <p>7. construction, renovation, or repair of a permanent structure if the structure remains on its existing foundation. Only if the existing foundation is moved or extended in to a riparian assessment area would a WDP be required, and;</p> <p>8. an area where the applicant can demonstrate that the conditions of the ESDP Area 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</p>	<p>Exemptions <i>(re-ordered to come before the guidelines in the DPA, as it may be confusing if you are exempt but still read through the guidelines because you are not yet aware you are exempt)</i></p> <p>A Development Permit is not required in any of the following instances:</p> <p><i>[No further disturbance of the riparian area]</i></p> <p>A Development Permit or restrictive covenant has already been registered to the title of land that has addressed all RPDP Area guidelines for the proposed activities, the conditions of the Development Permit or covenant have been met, and the development activity will not impact the conditions of the previous approval or covenant.</p> <p>All development activity will occur outside of the RPDP Area and the RPDP Area is delineated by brightly coloured snow fencing for the duration of the development activities occurring on the lands.</p> <p>The RPDP Area has been identified by a Qualified Environmental Professional (QEP) and is permanently protected, to the satisfaction of the RDCK, by a restrictive covenant, return to Crown land, or dedication to the RDCK as a public park, where consistent with the “RDCK Parkland Dedication Policy”.</p> <p>There is a change of use or renovation of a building where all of the following can be achieved within the RPDP Area:</p> <ul style="list-style-type: none"> • the building footprint will not be altered or increased; • no heavy machinery will be present; and, • the riparian area is delineated by brightly coloured snow fencing and silt fencing for the duration of the development activities occurring on the lands. <p><i>[Minor works]</i></p> <p>Removal of noxious weeds and/or invasive species in accordance with the Central Kootenay Invasive Species Society’s “Integrated Pest Management Options” for specific invasive species.</p>

the previous development permit will not be affected.

Restoration or enhancement as part of an approved local stewardship project and carried out under the recommendations and guidance of a QEP.

The planting of riparian species that are native to the Central Kootenay using non-mechanized methods.

[When requiring a DP is redundant or the works are authorized by Provincial or Federal governments]

Where a QEP has inspected the site and confirms to the satisfaction of the General Manager of Development and Community Sustainability that the actual location of the riparian area is not on the lands proposed for development.

Development activity that has been permitted by an authorization under the *Water Sustainability Act* or *Fisheries Act* where no disturbance will occur on the upland property unless otherwise permitted by the authorization. A copy of the authorization must be provided to the RDCK to demonstrate that the proposed works will not impact the riparian area.

[Certain types of subdivisions]

Subdivisions, including lot consolidations and lot line adjustments, where the newly proposed lot lines do not fall within the RPDP Area, or where all of the following criteria are satisfied:

- a) the plan of subdivision demonstrates that all development activities and building platform areas, or minimum site areas where zoning is in place, for each lot can be accommodated entirely outside of the RPDP Area;
- b) no disturbance (such as grading, clearing, trenching, and the installation of site infrastructure) to the RPDP Area will occur as a result of the creation of lots or provision of services to those lots; and,
- c) the RPDP Area has been identified by a Registered BCLS or QEP and has been clearly delineated.

[Emergency works under specific circumstances]

Land alterations involving emergency measures to prevent or reduce immediate threats to life or property, where notice is provided to the General Manager of Development Services and Community Sustainability, in the following instances:

- a) emergency works conducted under the direction of local or provincial government;
- b) tree limbing, topping, or removal, where the trees are identified as an immediate threat to the safety of life or buildings, and all works are to be completed, by an arborist certified in BC in accordance with the relevant legislation as well as Provincial Best Management Practices regarding streamside vegetation. Limbing and topping are preferred and proposals for removal must be accompanied with a rationale for why the other actions are unsuitable;
- c) the environmentally sensitive removal of trees, shrubs or landscaping designated as hazardous in a FireSmart Assessment or fuel management prescription, prepared by a Registered Professional Forester (RPF) or RDCK Wildfire Mitigation Specialist, where such trees, shrubs or landscaping are

	<p>compensated for elsewhere within the RPDP Area using the replacement ratios provided in the RDCK's "Terms of Reference for Riparian Assessment Reports"; or,</p> <p>d) land alteration or vegetation removal deemed necessary to prevent or reduce immediate threats to life or property by a local, provincial, or federal government, or its agencies or contractors, performed under a declared state of emergency.</p> <p><i>[Certain types of agricultural activities]</i></p> <p>The land is located within British Columbia's Agricultural Land Reserve (ALR) and the activities:</p> <ul style="list-style-type: none"> • are responsible, normal agricultural practices carried out in accordance with the <i>Farm Practices Protection Act</i> and <i>Farm Practice in BC Reference Guide</i>. Interpretation or disagreements will be resolved through the provisions of the <i>Act</i>. Activities not covered by the <i>Act</i> or <i>Guide</i> will require a Development Permit; and, • adhere to the "Riparian Protection Setbacks from Watercourses for Buildings and Facilities in Farming Areas" contained within the Ministry of Agriculture <i>Guide for Bylaw Development in Farming Areas</i>.
<p>Guidelines</p> <p>A development permit is required, except where specified under the exemptions section, for development or land alteration on land identified as a riparian assessment area within the WDP Area. Where not exempt, development requiring a development permit includes any of the following associated with or resulting from residential, commercial or industrial activities or ancillary activities to the extent that they are subject to local government powers under local government legislation:</p> <ol style="list-style-type: none"> a. removal, alteration, disruption or destruction of vegetation; b. disturbance of soils; c. construction or erection of buildings and structures; d. creation of non-structural impervious or semi-impervious surfaces; 	<p>Guidelines</p> <p><i>[Requirement for a QEP Assessment Report]</i></p> <p>A Qualified Environmental Professional (QEP) will assess the riparian area and the potential impacts of the proposed development activity, and submit an Assessment Report that:</p> <ol style="list-style-type: none"> a) Follows the methodology of the <i>Riparian Areas Protection Regulation (RAPR)</i>, as amended from time to time; b) Certifies that the person completing the report is qualified to act as a QEP, as specified by the <i>RAPR</i>; c) Contains recommendations that reflect Provincially-recognized best management practices as well as the <i>Kootenay Lake Shoreline Guidance Document</i>; d) Demonstrates a coordinated approach with other professionals involved with the project, such as, but not limited to Engineers and Hydrologists; and, e) Is consistent with the RDCK's "Terms of Reference for Riparian Assessment Reports", as amended from time to time. <p><i>[Siting of new lots, buildings, and structures]</i></p> <p>Development activities and the siting of buildings and structures will be carried out in a way that results in the least impact to the riparian area.</p> <p>Demonstrate that a diligent effort has been made to preserve existing riparian vegetation, woody debris, boulders, and other natural features.</p> <p>Retain mature vegetation wherever possible and incorporate it into the design of the project.</p>

<p>e. flood protection works;</p> <p>f. construction of roads, trails, docks, wharves and bridges;</p> <p>g. provision and maintenance of sewer and water services;</p> <p>h. development of drainage systems;</p> <p>i. development of utility corridors; and</p> <p>j. subdivision as defined in section 872 of the Local Government Act;</p> <p>Development shall be in accordance with the following guidelines:</p> <p>2. All development proposals subject to this permit will be assessed by a Qualified Environmental Practitioner (QEP) or Registered Professional Biologist (RP Bio) in accordance with the Riparian Areas Regulation established by the Provincial and/or Federal governments as used elsewhere in the Province;</p> <p>3. An WDP shall not be issued prior to the RDCK ensuring that a QEP or RP Bio has submitted a report certifying that they are 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, and;</p> <p>4. The Riparian Areas Regulation implemented through the WDP does not supersede other Federal, Provincial and or local government requirements, including</p>	<p>Parcels created by subdivision must demonstrate on a Site Plan that there is adequate space for a building platform area and associated services outside of the designated setback, and in areas where zoning applies the minimum parcel size should be accommodated entirely outside of the setback area.</p> <p>Where fencing is proposed within the RPDP Area, or to delineate the RPDP Area or a covenant area, wildlife-friendly fencing must be utilized to maintain landscape connectivity between aquatic and upland ecosystems.</p> <p><i>[No-net loss principle]</i></p> <p>Development proposals will be evaluated based on individual site characteristics (such as, but not limited to, sensitive habitat features, parcel size, topography, and access) and must adhere to the following priority sequence of mitigation options, as detailed further in the <i>Kootenay Lake Shoreline Guidance Document</i>:</p> <ol style="list-style-type: none"> 1) Avoidance of environmental impacts and associated components; 2) Minimization of unavoidable impacts on environmental values and associated components; 3) Restoration of on-site environmental values and associated components; and, 4) Offsetting impacts to environmental values for residual impacts that cannot be minimized. <p><i>[Identifying and designating a "Leave Strip"]</i></p> <p>The QEP must provide a recommended minimum setback from the stream boundary, consistent with the Provincial <i>RAPR</i> methodology, and from other habitat features present on the site (e.g. raptor nests) that is to remain undisturbed by development activities.</p> <p>Limits of disturbance, such as silt fencing and/or snow fencing, to the designated setback must be in place prior to the commencement of any development activity or issuance of a Building Permit.</p> <p>The designated setback shall remain free of development activities, except in unique circumstances where an applicant can demonstrate that all of the following criteria are fulfilled:</p> <ol style="list-style-type: none"> a) The parcel was created by subdivision in accordance with the laws in force in British Columbia at the time the parcel was created; b) The applicant demonstrates that size or topographical constraints severely limit the ability to develop elsewhere on the property; c) Every alternative site and building design that could minimize the impact on the riparian area has been explored, which may include variances or reductions in all possible requirements (including, but not limited to, setbacks and height); d) The Assessment Report adequately justifies why there are no other suitable alternatives to development activity within the setback and provides that, in the QEP's professional opinion the activity, as proposed, will not result in any harmful alteration, disruption or destruction of fish, fish habitat, or natural features that support fish life processes; e) Development is directed to areas already subject to human disturbance; and, f) On-site environmental values will be restored in accordance with a restoration plan prepared by a QEP. <p><i>[Storm water and hazard management]</i></p>
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that of other development permit areas, building permits, flood covenants, Federal or Provincial authorization. Land subject to more than one development permit area designation must ensure consistency with the guidelines of each development permit area, to provide comprehensive stewardship of both fish and wildlife habitat.

Development should be avoided on slopes greater than 30% (approximately 7 degrees) due to the high risk of erosion, bank slippage, and resulting sedimentation into watercourses.

Storm water will be managed in a way that utilizes natural approaches and on-site water recycling as well as preserves natural drainage patterns on the lands.

Preference will be given to flood and erosion protection works that utilize bio-engineering for the protection of both private property and the riparian area.

[Miscellaneous]

The conditions of the issuance of a Development Permit for the RPDP Area may require any of the following:

- a) areas of land that must remain free of development;
- b) the preservation, protection, restoration or enhancement of natural features and watercourses;
- c) dedication of natural watercourses;
- d) construction works to preserve, protect, restore or enhance natural watercourses or other specified natural features of the environment;
- e) protection measures to preserve, protect, restore or enhance fish habitat or riparian areas, control drainage, or control erosion or protect banks;
- f) all works to be in accordance with a QEP's recommendations, as provided in the Assessment Report;
- g) monitoring of the development activities by a QEP;
- h) specific timing or sequence of development activities to minimize impacts to the natural environment;
- i) limits of disturbance to be in place for the duration of the development activities; and,
- j) a security deposit in accordance with the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*, as amended from time to time.

Should disturbance to the RPDP Area occur outside of the scope of the conditions of an issued Development Permit, the RDCK may require a professional assessment of the damage and a report on recommendations for rehabilitation. The property owner is responsible for the completion of any recommended rehabilitation works.