



Bylaw Amendment

Referral Form – RDCK File: DP Enforcement
Amendment to Comprehensive Land Use Bylaw No. 2452
(Official Community Plan & Zoning Bylaw)

Date: August 26, 2026

You are requested to comment on the attached Bylaw Amendment for potential effect on your agency's interests. We would appreciate your response **WITHIN 30 DAYS (PRIOR TO September 25, 2026)**. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

****PLEASE NOTE:** An early consultation package, dated June 15, 2026, was sent to external agencies to provide the opportunity for early and ongoing consultation with persons, organizations and authorities the RDCK considers may be affected or have interest in the proposed bylaw amendments, pursuant to Sections 475 and 476 of the *Local Government Act*. The contents of this referral are nearly identical to the early consultation package. If no new response is received, we will assume your last response is still sufficient. If you did not previously send a response and no response is received, we will assume that your agencies interests are unaffected. If you send a new response, only the new response will be considered and your old response will be discarded.

PURPOSE OF THE BYLAW AMENDMENT:

This referral is regarding proposed bylaw amendments (Amendment Bylaw No. 3025 – see last attachment) to both the Official Community Plan and Zoning Bylaw portions of Electoral Area 'G' Comprehensive Land Use Bylaw No. 2542. The purpose of this referral is to provide an opportunity to provide formal comments on the amendment bylaws.

The bylaw amendments are intended to enable more practical enforcement options for Watercourse (riparian area) Development Permit Area contraventions within the RDCK. The current enforcement framework relies on voluntary compliance from property owners and, where those efforts fail, filing civil proceedings in the BC Supreme Court to seek injunctive relief. The proposed amendments would enable the use of "bylaw offence notices" (tickets) to enforce Watercourse Development Permit Area requirements to encourage more timely compliance from contraveners.

The amendments appear extensive but are structured as such to maximize clarity and procedural transparency as well as to ensure a stronger enforcement framework is available. The intent of Official Community Plan policies regarding the natural environment and riparian areas is not being altered by these amendments. Should the bylaw amendments be adopted, the Watercourse Development Permit Area will have a similar enforcement framework as Zoning or Building Bylaw contraventions in the RDCK.

While a fine amount has not yet been proposed, the *Local Government Bylaw Notice Enforcement Act* permits a maximum fine amount of \$500. A daily offence provision is included in the bylaw amendments to allow for the ability to issue bylaw offence notices for multiple days.

For more information, the staff report that initiated this work is attached to this referral (please note that the staff report references Electoral Areas 'A' and 'H' as well as 'G'. The RDCK Board resolved to proceed with Electoral Area 'G' only and the other two Electoral Areas are no longer included in this initiative).

If you would like to discuss this initiative further, please contact the undersigned directly.

LEGAL DESCRIPTION & GENERAL LOCATION: All portions of Electoral Area 'G' in the RDCK.

AREA OF PROPERTY AFFECTED	ALR STATUS	ZONING DESIGNATION	OCP DESIGNATION
N/A	Some properties are in the ALR	Multiple (All)	Multiple (All)

APPLICANT/AGENT: N/A – RDCK-led initiative

Please provide your response via email. For meeting requests please contact the undersigned directly.

If your agency's interests are 'Unaffected' no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this permit.

If you are an RDCK commission member, do not respond via email. Your response is the commission's recommendation which staff will collect from the meeting minutes.

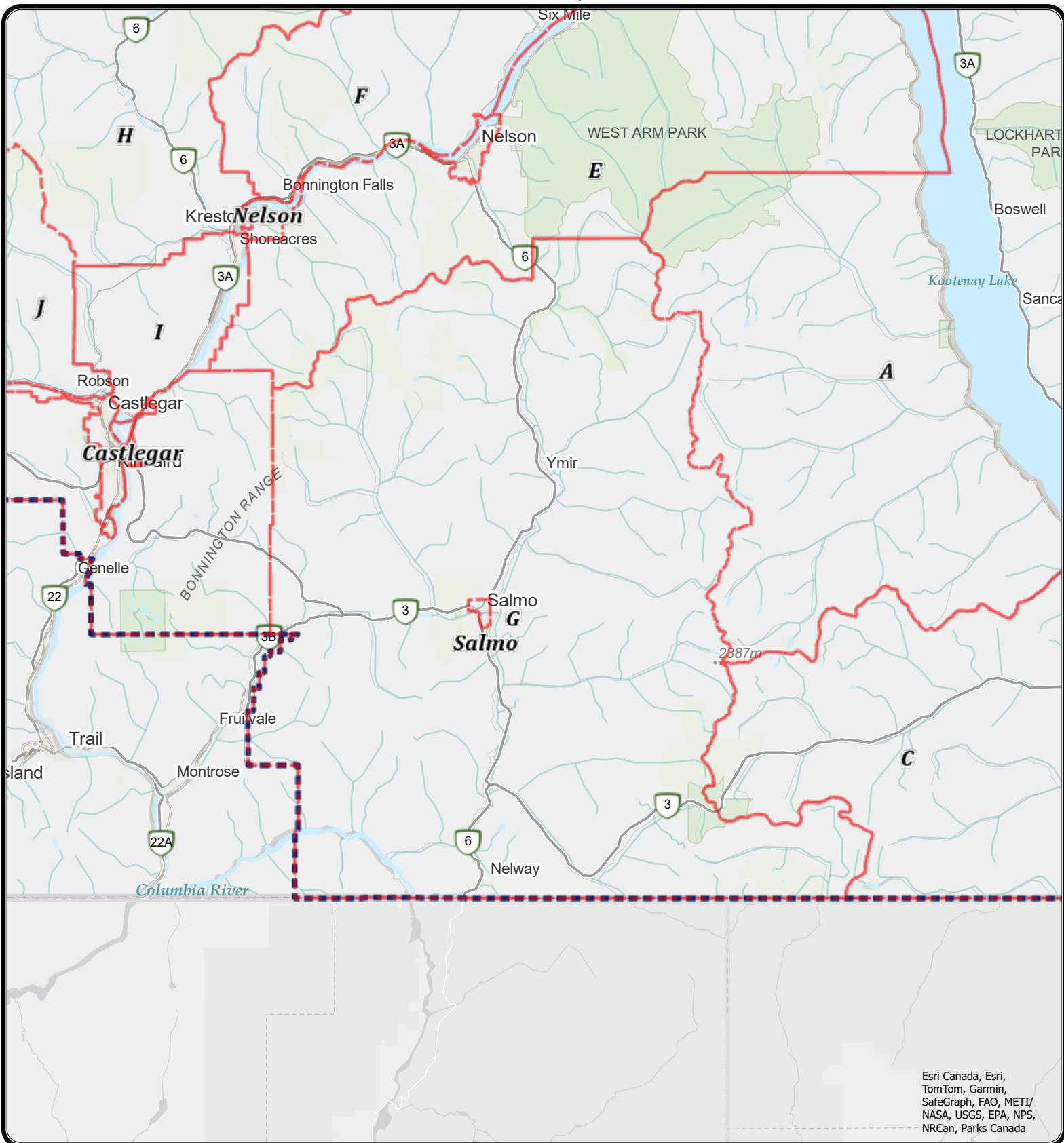
**COREY SCOTT RPP, MCIP, PLANNER
REGIONAL DISTRICT OF CENTRAL KOOTENAY**

☐ TRANSPORTATION West Kootenay ☒ HABITAT BRANCH ☒ FRONT COUNTER BC (FLNRORD) ☒ AGRICULTURAL LAND COMMISSION ☐ REGIONAL AGROLOGIST ☐ ENERGY & MINES ☐ MUNICIPAL AFFAIRS & HOUSING ☐ INTERIOR HEALTH HBE Team, Nelson ☐ KOOTENAY LAKES PARTNERSHIP ☒ SCHOOL DISTRICT NO. 8 **must if OCP amendment ☐ WATER SYSTEM OR IRRIGATION DISTRICT ☐ UTILITIES (FORTIS, BC HYDRO, NELSON HYDRO, COLUMBIA POWER) REGIONAL DISTRICT OF CENTRAL KOOTENAY DIRECTORS FOR: ☐ A ☐ B ☐ C ☐ D ☐ E ☐ F ☒ G ☐ H ☐ I ☐ J ☐ K ALTERNATIVE DIRECTORS FOR: ☐ A ☐ B ☐ C ☐ D ☐ E ☐ F ☒ G ☐ H ☐ I ☐ J ☐ K ☒ APC AREA G ☐ RDCK FIRE SERVICES – DISTRICT CHIEF (BY AREA) ☐ RDCK EMERGENCY SERVICES ☒ RDCK BUILDING SERVICES ☐ RDCK UTILITY SERVICES ☐ RDCK REGIONAL PARKS	FIRST NATIONS ☒ KTUNAXA NATION COUNCIL (ALL REFERRALS) YAQAN NU?KIY (LOWER KOOTENAY) ?AKINK'UM?ASNUQ?I?IT (TOBACCO PLAINS) ?AKISQNUK (COLUMBIA LAKE) ?AQ'AM (ST. MARY'S) ☒ OKANAGAN NATION ALLIANCE ☐ C'ƏC'ƏWIXA? (UPPER SIMILKAMEEN) ☒ K?K'ƏR'MÍWS (LOWER SIMILKAMEEN) ☒ SNPÍNTKTN (PENTICTON) ☐ STQA?TKWƏ?WT (WEST BANK) ☒ SUKNAQÍN (OKANAGAN) ☒ SWÍWS (OSOYOOS) ☒ SPAXOMƏN (UPPER NICOLA) ☐ SHUSWAP NATION TRIBAL COUNCIL ☒ KENPÉSQT (SHUSWAP) ☐ QW?EWT (LITTLE SHUSWAP) ☐ SEXQELTQÍN (ADAMS LAKE) ☐ SIMPCW ((SIMPCW) ☐ SKEMTSIN (NESKONLITH) ☐ SPLATSÍN (SPLATSÍN FIRST NATION) ☐ SKEETCHESTN INDIAN BAND ☐ TK'EMLUPS BAND ☐ SINIXT CONFEDERACY
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The personal information on this form is being collected pursuant to *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015* for the purpose of determining whether the application will affect the interests of other agencies or adjacent property owners. The collection, use and disclosure of personal information are subject to the provisions of FIPPA. Any submissions made are considered a public record for the purposes of this application. Only personal contact information will be removed. If you have any questions about the collection of your personal information, contact the Regional District Privacy Officer at 250.352.6665 (toll free 1.800.268.7325), info@rdck.bc.ca, or RDCK Privacy Officer, Box 590, 202 Lakeside Drive, Nelson, BC V1L 5R4.

RETURN TO: **COREY SCOTT, RPP, MCIP, PLANNER**
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RDCK Map



Esri Canada, Esri,
TomTom, Garmin,
SafeGraph, FAO, METI/
NASA, USGS, EPA, NPS,
NRCAN, Parks Canada



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Legend

- RDCK Boundary
- Electoral Areas

Map Scale:

1:577,791

Date: June 15, 2026



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.



Committee Report

April 15, 2026

Environmental Development Permit Area (DPA) Enforcement

Author: Corey Scott, Planner
File Reference: 10\5110\20\COMPLIANCE AND ENFORCEMENT\DEVELOPMENT PERMIT ENFORCEMENT
Electoral Area/Municipality: ELECTORAL AREAS 'A', 'G', 'H'
Services Impacted Planning S104; Bylaw Enforcement (Rural Administration) S101

1.0 STAFF RECOMMENDATION

That the Board direct staff to undertake early and ongoing consultation, pursuant to Sections 475 and 476 of the *Local Government Act*, with respect to Amendment Bylaws No. 3024, 3025, and 3026, being bylaws to amend Regional District of Central Kootenay Electoral Area 'A' Land Use Bylaw No. 2315, 2013, Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018, and Regional District of Central Kootenay Slocan Lake North portion of Electoral Area 'H' Official Community Plan Bylaw No. 1967, 2009, as described in the Committee Report "Development Permit Area Compliance and Enforcement", dated April 15, 2026.

2.0 BACKGROUND/HISTORY

One of the most effective tools used by local governments to protect riparian areas adjacent to watercourses such as lakes, rivers, creeks, wetlands, and other streams is Development Permit Areas (DPAs). DPAs are designated under Section 488(1)(a) of the *Local Government Act (LGA)* for the purpose of protecting the natural environment, its ecosystems, and biological diversity. DPAs designated under this section of the *LGA* are commonly referred to as "environmental DPAs".

Environmental DPAs are designated in the Official Community Plans (OCPs) for Electoral Areas 'A', 'D', 'E', 'G', 'H', and 'I'. The other five electoral areas do not have DPAs designated for the specific purpose of riparian area protection, although they may have other types of DPAs (e.g., commercial and industrial form and character).

While the names of the environmental DPAs may vary between the six OCPs (e.g., Environmentally Sensitive DPA in Electoral Area 'A', Watercourse DPA in Electoral Areas 'D', 'E', 'G', and 'H', and Riparian Protection DPA in Electoral Area 'I') their purpose is the same: to protect riparian areas. Similarly, the content of these environmental DPAs varies minimally between most Electoral Areas, with the main difference being the physical space that they apply to (e.g., up to 30 metres from the natural boundary in Electoral Areas 'D', 'G', 'H', and 'I' and 15 metres for Electoral Areas 'A' and 'E'). Electoral Areas 'G' and 'I's' DPAs are an exception to this statement, as they were more recently adopted (2018 and 2025, respectively) and drafted giving consideration to the lessons learned from the first iterations of environmental DPAs in the other four OCPs.

Environmental DPAs are somewhat unique because they are one of the few DPAs that are triggered by "land alterations" under *LGA* Section 489(c). Land alterations include removal, alteration, disruption or destruction of vegetation, soil disturbance, and other activities related to land disturbance generally.

On March 20, 2025, the RDCK Board passed the following resolution (208/25):

That the Board direct staff to prepare amendment bylaws for FIRST and SECOND reading to amend Electoral Area 'A' Land Use Bylaw No. 2315, 2013, Electoral Area 'G' Land Use Bylaw No. 2452, 2018; Slocan Lake North portion of Electoral Area 'H' Official Community Plan Bylaw No. 1967, 2009 in order to enable better enforcement of Environmental Development Permit Area requirements;

AND FURTHER, that the Board direct staff to prepare a staff report that details consultation considerations to accompany the aforementioned amendment bylaws.

3.0 PROBLEM OR OPPORTUNITY DESCRIPTION

Increasing perceptions of lawlessness across the RDCK in recent years have resulted in more frequent un-authorized works in environmental DPAs. Un-authorized works are commonly characterized by the undertaking of land alterations prior to applying for, and receiving, a Development Permit (DP).

A key reason why this issue persists in environmental DPAs and not others is because there is often no approval process preceding land alteration works, such as building permits or subdivisions (two approvals where DP requirements are often flagged in other DPAs). This is not to say that environmental DPs are always missed, as many property owners are proactive in their due diligence and submit DP applications prior to undertaking land alterations. Rather, environmental DPA contraventions, when they do occur, account for nearly all DP-related enforcement issues.

While the core issue is un-authorized works in environmental DPAs, the consequence for the RDCK is that staff capacity becomes constrained in enforcing DPA requirements. There are currently two enforcement options:

1. Trying to compel voluntary compliance with property owners. This option is usually resource intensive, requiring significant staff time to achieve. The effectiveness of this approach depends on property owners' willingness to remediate the environmental damage they cause, a willingness that is often lacking.
2. Where voluntary compliance fails, another option is commencing civil proceedings with the Supreme Court of British Columbia to seek injunctive relief to remediate the environmental damage. This option is also resource intensive, requiring significant staff involvement as well as legal costs.

Regardless of the option used, there is always a path to compliance.

In the case of either enforcement option, timelines are usually prolonged. DP applications in the last five years that have resulted from enforcement have typically spanned multiple years to process, largely due to:

- property owners putting off submitting applications and/or moving through the process;
- incomplete application submissions;
- insufficient information being provided with application submissions;
- the riparian area being damaged in such a way that leads to a complex approval process, involving multiple approval agencies and careful timing considerations with respect to other approvals; or
- more often than not, a combination of all four.

Once a DP is issued, ensuring its conditions and associated remediation works are completed as originally intended takes another year or two at minimum. Due to the nature of the process, the typical timeline to address DPA contraventions and remediate damaged sites ranges between two to five years while fully restoring the environmental damage will take decades.

The RDCK could better utilize the enforcement tools available to it to address these challenges and reduce the administrative burden of environmental DPA compliance issues.

3.1 Alignment to Board Strategic Plan

Addressing environmental DPA contraventions using additional enforcement tools is consistent with the 2023-2026 Strategic Plan, specifically:

- To provide a resilient governance structure that fosters excellence in every aspect of service delivery.
 - Continue to update our policies and processes to be responsive and adaptable.
 - Continue to focus on our core services to ensure effective and efficient delivery through our Region.
- To optimize the utilization of our financial resources, ensuring maximum efficiency and delivering exceptional value.
 - Develop cost effective, practical solutions, and review and streamline outdated processes.
- To diligently respond to the expectations of our residents by actively incorporating their perspectives and prioritizing environmental stewardship in all our actions.
 - Ensuring our watersheds are protected and well governed.
 - Lead by example and implement strategies to support environmental stewardship and energy efficiency.

3.2 Legislative Considerations

Local Government Act (LGA)

Section 488 of the *LGA* authorizes local governments to designate DPAs as well as specify DPA guidelines and exemptions in a zoning bylaw, which better reflects their regulatory nature. The DPA tool is commonly used by local governments across the Province to address broader Official Community Plan (OCP) goals, objectives, and policies at the individual site level.

The RDCK has a Policy Manual for Official Community Plan Consultation (400-02-19; Resolution 343/22) to guide the consultation requirements stated in Section 475 of the *LGA*. However, the Policy does not apply to amendments of this nature as they do not meet the criteria of a “minor” amendment, which the Policy defines as “any official community plan amendment application made by the public for a single property or multiple properties functioning as one site.” As such, a decision from the Board is needed to determine the appropriate level of consultation, which should consider Sections 464, 475, 476, and 477 of the *LGA*.

Section 475(1) of the *LGA* requires that (bold added for emphasis):

During the development of an official community plan, or the repeal or amendment of an official community plan, the proposing local government must provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected.

Further, Section 475(2) of the *LGA* requires the local government to “consider whether the opportunities for consultation with one or more of the persons, organizations and authorities should be **early and ongoing**, and specifically consider whether consultation is required with...:

1. Adjacent regional districts
2. Adjacent municipalities
3. First Nations
4. Boards of education, greater boards and improvement district boards
5. The Provincial and federal governments and their agencies, including the Agricultural Land Commission where agricultural land might be affected (environmental DPAs cover some parcels in the Agricultural Land Reserve)

This consultation would be in addition to the public hearing requirements for OCPs and zoning bylaws prescribed by Sections 464¹ and 466 (public notice requirements) of the LGA.

Official Community Plan Policies

The Electoral Area 'A', 'G', and 'H' OCPs were created with a guiding principle to:

“support healthy, clean and sustainable communities based on an ecosystem approach, by ensuring that environmental integrity and diversity are considered in land use decisions.”

Electoral Area G and H's OCPs also contain a guiding principle to preserve and enhance the local economy, the health and well-being of their residents and property owners, and the natural environment. Additionally, Area G's OCP encourages environmental stewardship for land, water and air.

Each of the three OCPs contains objectives and policies related to the natural environment:

Electoral Area 'A'

Table 1 - Electoral Area 'A' - Relevant Land Use Objectives and Policies

OBJECTIVES	POLICIES
To protect environmentally sensitive lands such as steep slopes, floodplains, alluvial fans, watersheds and soils subject to erosion from land uses.	Supports that development and subdivision adjacent to Kootenay Lake, any other identifiable lake, and tributary creeks shall be subject to a Development Permit.
To preserve water quality in Kootenay Lake and other identifiable lakes in Electoral Area 'A' and their tributaries.	Supports the efforts of all property owners to use Green Building and Subdivision practices for all new development and redevelopments.
To preserve natural values.	Will require that Development Permit areas be established to protect environmental qualities and to protect the form and character of residential areas where applicable. (Residential)
To protect all community watersheds within the Plan Area.	
To limit the use of land that is subject to hazardous conditions or that are environmentally sensitive to development. Sensitive and hazardous areas are lands that are located in alluvial fans or floodplain on Kootenay Lake.	

Other OCP objectives and policies related to agricultural, residential, commercial, industrial, and parks and recreation land uses, as well as infrastructure and transportation, also focus on avoiding adverse impacts to the natural environment but are not listed in the table above.

Electoral Area 'G'

Table 2 - Electoral Area 'G' - Relevant Land Use Objectives and Policies

OBJECTIVES	POLICIES
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¹ Section 464(1) LGA "A local government must not adopt... an official community plan bylaw...[or] a zoning bylaw... without holding a public hearing on the bylaw for the purpose of allowing the public to make representations to the local government respecting matters contained in the proposed bylaw."

Foster an awareness of the values associated with the natural environment and conserve sensitive and significant natural features and values from the negative impacts of development.	Will assess and evaluate proposed residential development based on the capability of the natural environment to support the proposed development, and any impacts on habitat and riparian areas. (Residential Policy 12.b)
Maintain high water quality of groundwater and surface water sources of domestic and irrigation water supply.	Supports best management practices for land developers as found in applicable provincial guidelines and regulations.
Encourage the maintenance of biodiversity, important to the biological functioning and ecological integrity of the area.	Encourages on-going efforts and a collaborative approach toward the remediation and restoration of riparian areas that have been modified or determined to be at risk.
Protect, restore and enhance natural areas and establish an interconnected ecosystem network of protected areas and corridors, wherever feasible.	Will prioritize the protection of Federally and Provincially listed ecological communities and species at risk and their associated habitats through minimizing direct disturbance and development impacts.
Support the protection, enhancement and management of sensitive habitat areas for endangered or threatened species in the Plan area.	

Other OCP objectives and policies related to home-based business and accessory tourist accommodations, residential and agricultural land uses, as well as aggregate and mineral resources, also focus on avoiding adverse impacts to the natural environment but are not listed in the table above.

Electoral Area 'H'

Table 3 - Electoral Area 'H' - Relevant Land Use Objectives and Policies

OBJECTIVES	POLICIES
To preserve and protect natural values within Slocan Lake North in recognition of their importance to the local economy, residents, visitors and for wildlife and ecological functioning.	Encourages the protection of environmentally sensitive areas, important to the biodiversity and ecological functioning of the Plan area, and areas that contribute to community 'greenway' corridors that link open space areas.
To preserve water quality in Slocan and Summit Lakes and their tributaries.	Supports best management practices for land developers... [specific documents listed]
To maintain high water quality of groundwater and surface water sources of domestic water supply.	Encourages the retention of existing wildlife corridors.
To foster an awareness of the natural environment and protect sensitive and significant natural features and values from negative impact as a result of development.	Supports the identification, protection, and enhancement of environmentally sensitive areas, such as watercourses, wetlands, shorelines, steep rocky terrestrial areas and ungulate winter range.

To encourage Provincial and Federal governments, private organizations and private landowners to protect, enhance and manage sensitive habitat areas in the Plan area and to adhere to Federal and Provincial statutes and regulations for the protection of fish and wildlife habitats.	Will assess and evaluate proposed residential development based on the capability of the natural environment to support the proposed development, and its impact on important habitat and riparian areas. (Residential Policy 1.b)
To preserve the aesthetic value of the landscape.	
To encourage the rehabilitation, restoration and enhancement of watercourses, and sensitive or significant environmental values which have been subject to degradation in the past.	
To encourage the maintenance of wildlife habitat and winter range.	

Other OCP objectives and policies related to agricultural, resource area, residential, commercial, industrial, and parks and recreation land uses, as well as servicing, also focus on avoiding adverse impacts to the natural environment but are not listed in the table above.

Unique to the Electoral Area 'H' OCP is that it lists broad goals to:

- Balance economic, social, and environmental values in land use decision making.
- Protect the natural environment.
- Ensure that development does not adversely harm or detract from identified wildlife corridors and areas with high wildlife and fisheries habitat value.
- Build upon the area's cultural and environmental heritage features as an important attraction for full-time residency and tourism.

The guiding principles, goals, objectives, and policies of the three OCPs support, and are aligned with, the proposed bylaw amendments.

3.3 What Are the Risks

The RDCK currently addresses DPA contraventions through:

1. staff attempts to achieve voluntary compliance through communication and site visits with property owners; and,
2. where that method fails, filing civil proceedings in the BC Supreme Court to seek injunctive relief.

The DPA enforcement framework leans on achieving voluntary compliance to ensure a reasonable process is followed for addressing contraventions. The current emphasis on voluntary compliance as the primary mechanism for resolving DPA contraventions has proven largely ineffective in achieving the desired results. The reason being that it lacks practical consequences that are straightforward and enforceable. In all but the most egregious scenarios, where legal action is taken, there is no disincentive for not complying with the DPA requirements. As a result, the RDCK relies on an ineffective enforcement framework for DPA contraventions that leads to unnecessarily prolonged timelines for addressing compliance issues.

Relying on these two tools is unsustainable from both a staffing and a financial perspective. The current approach is heavily subsidized by the taxpayer due to the limited forms of cost recovery (covered in greater detail in Section 4.1 below). Continuing to utilize the current DPA enforcement framework will result in a continuation of taxpayers

subsidizing the actions of individual property owners, with the organizational burden growing larger in instances where those individuals refuse to come into compliance voluntarily.

If the RDCK were to implement additional enforcement measures available to it, there would be more opportunities to reduce the organisational costs of DPA enforcement. It should also be noted that voluntary compliance and court injunctions would remain available to the RDCK if it pursues additional measures.

4.0 PROPOSED SOLUTION

The RDCK could utilize bylaw offence notices (ticketing) as an enforcement mechanism for DPA contraventions, similar to how they are applied to other regulations, such as zoning or building bylaw infractions.

Bylaw offence notices for DPA contraventions are anticipated to alleviate some of the organization's capacity challenges related to enforcement. Utilizing them could reduce the amount of staff time spent convincing property owners to apply for a DP, as well as processing DP applications, by providing a disincentive for delaying application submissions. Additionally, it is anticipated that legal involvement in these enforcement files would be less frequent, leading to additional cost savings. It should be noted that bylaw offence notices would not need to be issued in every instance where DPA requirements are contravened; the RDCK has discretion on whether or not to issue a ticket in each circumstance.

The ability to issue bylaw offence notices for DPA contraventions could shift at least a portion of the financial burden from the taxpayer to the individuals responsible for the contravention. This shift in administrative cost recovery presents a more equitable approach to DPA enforcement than the current framework. Additionally, it would be expected to result in reduced application timelines, as unnecessary prolongment of applying for a DP or moving through the approval process could result in tickets being issued.

This work would be completed through amendment bylaws to the OCPs and zoning bylaws (where applicable) for Electoral Areas 'A', 'G', and 'H' (Attachments D-F).

4.1 Financial Considerations of the Proposed Solution

A DP application is \$500.00. Additionally, the RDCK Planning Procedures and Fees Bylaw No. 2457, 2015 contains a \$2000.00 surcharge that is applied to applications arising out of bylaw enforcement matters, which can help to offset the enforcement-related costs. However, for enforcement files where property owners are unwilling to achieve voluntary compliance or where the timeline is prolonged, these fees do not cover the costs to the organization. Where legal involvement is required the \$2,500.00 from the application fee and surcharge is usually a small fraction of the costs to the organization.

The majority of the costs associated with the amendment bylaws have already been incurred through the legal advice obtained prior to staff being directed to undertake this work under resolution 208/25 IC14/25.

The anticipated costs of moving forward with this solution, based on the level of consultation and engagement proposed, are anticipated to be slightly higher than those of a typical OCP and zoning bylaw amendment application. They are estimated to range between \$3,000.00 and \$5,000.00 for the remainder of this project with staff time over the next approximately six months, subject to the amount and nature of the feedback received as well as the amount of follow-up required to address any potential feedback. It would be funded through the Planning S104 Service.

4.2 Risks with the Proposed Solution

Prior to the Board directing staff to undertake this work, the topic, associated risks, and related legal advice were discussed in-camera. Section 4.4 below discusses the risks associated with public engagement and 'engagement fatigue'.

4.3 Resource Allocation and Workplan Impact

Maintenance and update of bylaws is a part of the Planning Department's core work.

The resource allocation for the duration of the project is 0.2FTE with a Planner 2 managing the project. This work has already been directed by the Board. Other projects will not be delayed because of this work.

Over the long term, implementation of this enforcement mechanism is anticipated to reduce staff time dealing with offenders, since they should be more motivated to comply in a timely way.

4.4 Public Benefit and Stakeholder Engagement of Proposed Solution

The public benefit of this work would be:

- The RDCK would be better equipped to uphold the environmental values (reflected through goals, objectives, and policies) stated in its OCPs.
- Reduced burden on the taxpayer for environmental DPA enforcement.
 - The costs of enforcement that exceed the \$2,500.00 recovered through application fees and surcharges could be supplemented with the fine amounts for bylaw offence notices (tickets).
- Alleviating constraints on RDCK staff capacity through anticipated shorter timelines for achieving compliance.

Consultation is required under Sections 464 (public hearing), 475 (early and ongoing consultation), 476 (mandatory school board consultation), and 477 (adoption procedures) of the LGA. Section 475 is only required where the Board considers that organizations and authorities will be affected by the changes.

In determining the appropriate level of consultation for these OCP amendments and whether they warrant "early and ongoing consultation", consideration should be given to the nature of the changes sought. The amendments do not seek to change the intent of the DPAs or that of the natural environment goals, objectives, or policies of the OCPs; nor do they add any additional requirements for DPAs. The motivation for these amendments is the need for a better enforcement mechanism to already existing land use regulations. Any content changes in the amendment bylaws are to increase the clarity and transparency of the requirements to ensure successful enforcement in the future.

Broader public engagement is recommended to follow an "inform" approach for this work, given the procedural nature of the amendments. Staff would create an engagement page with a repository of information on the RDCK Engage website, with contact information to reach out to or meet with the project manager. The page would then be advertised in local newspaper publications covering Electoral Areas 'A', 'G', and 'H'.

This approach is recommended because the amendments are procedural in nature and a less onerous public engagement process is more practical in recognition of that. With critical OCP review projects upcoming, taking this approach will help to ensure that this work does not contribute to 'engagement fatigue' while also informing residents of the project and giving them an opportunity to learn more and provide feedback. A standard public hearing is also required should the amendment bylaws receive first and second reading.

In determining the consultation and engagement approach, it is recommended that the Board consider the following:

- Does the consultation approach create false expectations about broader DPA revisions?
 - The project focuses on improving the administration of existing DPA requirements, not changing the intent of the DPAs and associated OCP policies.
- Is public input going to be relevant to the decision?

- The changes would be procedural in nature, centered around how the RDCK can better respond to compliance issues in environmental DPAs.
- Does the consultation approach duplicate work that has already been completed?
 - The Kootenay Lake DPA Review (2020-2023) focussed on the content and requirements of DPAs, ensuring they align with community values. This project focuses on administrative improvements that were identified during that Review, not the fundamental DPA values and requirements that were explored in the Review itself.
- Will additional consultation lead to a longer project timeline?
 - A longer project timeline is likely to lead to increased strain on organizational resources due to continued reliance on the current, less effective, enforcement framework.
- Will additional consultation have budget implications?
 - Additional consultation would require more staff involvement in the project.

The recommended engagement and consultation approach is as follows:

1. “Inform” the public:
 - a. create an RDCK Engage Page and post advertisements in the local newspapers directing residents to the website or contacting the RDCK Planning Department directly for more information.
2. Undertake “early and ongoing consultation”, pursuant to Section 475 of the *LGA*:
 - a. refer the amendment bylaws for a period of 30 days prior to first and second reading to organizations and authorities who may have shared interests or are legislatively required to be consulted, including:
 - i. Member municipalities directly adjacent to Electoral Areas ‘A’, ‘G’, and ‘H’ – Villages of Salmo, Silverton, and New Denver (shared interests)
 - ii. local First Nations (shared interests & required)
 - iii. local school districts (required under *LGA* S.476)
 - iv. Fisheries and Oceans Canada (DFO) (shared interests)
 - v. BC Ministry of Water, Land, and Resource Stewardship – water and habitat branches (shared interests)
 - vi. BC Natural Resource Officer Service (shared interests)
 - vii. Agricultural Land Commission (ALC) (OCPs cover areas within the Agricultural Land Reserve – shared interests and required)
3. Follow standard public consultation requirements for OCP and zoning bylaw amendments (Sections 464 and 477 of the *LGA*).

4.5 Leveraging Technology

N/A

4.5 Measuring Success

Success can be measured through the following indicators:

- Destruction of riparian habitat decreased, resulting from potential offenders knowing there will be consequences to their unlawful actions in the form of immediate fines.
- Reductions in the number of days and staff attempts that it takes to compel property owners to submit a DP application once a contravention has been identified.
- Reductions in the number of days it takes to process retroactive DP applications.
- Increases in the costs recovered for DPA contraventions.

Tracking these indicators would require additional effort from staff and a change to current development application processes. If the Board wishes to track these indicators, it is recommended that specific direction be given to staff to do so through a separate Board resolution.

5.0 ALTERNATIVE SOLUTION(S)

An alternative to the proposed solution would be to proceed with an “early and ongoing” consultation process as required by the legislation but to not include any additional public engagement opportunities beyond the minimum legislated requirements (i.e. a public hearing).

This alternative would be similar to the recommended engagement and consultation approach outline in Section 4.4 above; however, the engagement component – described as “1.a)” in Section 4.4 would be removed.

5.1 Financial Considerations of the Alternative Solution(s)

The financial considerations from Section 4.1 above remain relevant. Under this option the level of staff effort required would be slightly less and project costs related to staff time would reflect that.

5.2 Risks with the Alternative Solution(s)

The primary risk of the alternative solution is that the public may feel uninformed about the project, which could lead to sentiments of distrust towards the RDCK.

5.3 Resource Allocation and Workplan Impact

The impacts outlined in Section 4.3 remain relevant, with slightly less staff time required for the project.

5.4 Public Benefit and Stakeholder Engagement of Proposed Solution

The alternative solution follows the same approach for “early and ongoing” consultation described in Section 4.4 above; however, it removes the additional public engagement component.

5.5 Measuring Success

The same indicators outlined in Section 4.5 could be applied to this alternative approach.

6.0 OPTIONS CONSIDERED BUT NOT PRESENTED

A third option would be to take no further action with respect to this work.

The RDCK would continue to rely on voluntary compliance, legal involvement, and court injunctions to achieve compliance with environmental DPA requirements. This option is expected to result in a sustained exhaustion of staff capacity and organizational resources.

7.0 OPTIONS SUMMARY

Option 1: Recommended Solution

This option consists of completing “early and ongoing consultation” as well as providing public information and engagement opportunities prior to first and second reading of the attached amendment bylaws, as outlined in Section 4.4.

Following completion of that consultation, staff would bring the amendment bylaws back to the Board for first and second reading and the regular procedures for OCP and zoning bylaw amendments would proceed.

Recommendation:

That the Board direct staff to undertake early and ongoing consultation, pursuant to Sections 475 and 476 of the *Local Government Act*, with respect to Amendment Bylaws No. 3024, 3025, and 3026, being bylaws to amend Regional District of Central Kootenay Electoral Area 'A' Land Use Bylaw No. 2315, 2013, Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018, and Regional District of Central Kootenay Slocan Lake North portion of Electoral Area 'H' Official Community Plan Bylaw No. 1967, 2009, as described in the Committee Report "Development Permit Area Compliance and Enforcement", dated April 15, 2026.

Option 2: Alternative Solution

This option also consists of completing "early and ongoing consultation" prior to first and second reading of the attached amendment bylaws, as outlined in Section 4.4. However, public information and engagement opportunities would not be provided beyond what is legislatively required by the public hearing process.

Following completion of consultation, staff would bring the amendment bylaws back to the Board for first and second reading and the regular procedures for OCP and zoning bylaw amendments would proceed.

Recommendation:

That the Board direct staff to undertake early and ongoing consultation, pursuant to Sections 475 and 476 of the *Local Government Act*, with respect to Amendment Bylaws No. 3024, 3025, and 3026, being bylaws to amend Regional District of Central Kootenay Electoral Area 'A' Land Use Bylaw No. 2315, 2013, Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018, and Regional District of Central Kootenay Slocan Lake North portion of Electoral Area 'H' Official Community Plan Bylaw No. 1967, 2009, as described in the "Alternative Solution" section of the Committee Report "Development Permit Area Compliance and Enforcement", dated April 15, 2026.

Option 3: No Further Action

This option would mean that staff would stop work on the amendment bylaws and that this item would be removed from the work plan.

Recommendation:

That no further action be taken with respect to Amendment Bylaws No. 3024, 3025, and 3026, being bylaws to amend Regional District of Central Kootenay Electoral Area 'A' Land Use Bylaw No. 2315, 2013, Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018, and Regional District of Central Kootenay Slocan Lake North portion of Electoral Area 'H' Official Community Plan Bylaw No. 1967, 2009.

8.0 RECOMMENDATION

That the Board direct staff to undertake early and ongoing consultation, pursuant to Sections 475 and 476 of the *Local Government Act*, with respect to Amendment Bylaws No. 3024, 3025, and 3026, being bylaws to amend Regional District of Central Kootenay Electoral Area 'A' Land Use Bylaw No. 2315, 2013, Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018, and Regional District of Central Kootenay Slocan Lake North portion of Electoral Area 'H' Official Community Plan Bylaw No. 1967, 2009, as described in the Committee Report "Development Permit Area Compliance and Enforcement", dated April 15, 2026.

Respectfully submitted,

Corey Scott, Planner

CONCURRENCE

Planning Manager – Nelson Wight **Approved**

General Manager of Development Services and Community Sustainability – Sangita Sudan **Approved**
Chief Administrative Officer – Stuart Horn **Approved**

ATTACHMENTS:

Attachment A – Summary of Proposed Amendments to *Electoral Area ‘A’ Land Use Bylaw No. 2315, 2013*

Attachment B – Summary of Proposed Amendments to *Electoral Area ‘G’ Land Use Bylaw No. 2452, 2018*

Attachment C – Summary of Proposed Amendments to *Slocan Lake North portion of Electoral Area ‘H’ Official Community Plan Bylaw No. 1967, 2009*

Attachment D – Draft Amendment Bylaw No. 3024: A Bylaw to amend the *Regional District of Central Kootenay Electoral Area ‘A’ Land Use Bylaw No. 2315, 2013*

Attachment E – Draft Amendment Bylaw No. 3025: A Bylaw to amend the *Regional District of Central Kootenay Electoral Area ‘G’ Land Use Bylaw No. 2452, 2018*

Attachment F – Draft Amendment Bylaw No. 3026: A Bylaw to amend the *Regional District of Central Kootenay Slocan Lake North portion of Electoral Area ‘H’ Official Community Plan Bylaw No. 1967, 2009*

Attachment B: Redline Summary of Proposed Amendments to Electoral Area 'G' Land Use Bylaw No. 2452, 2018

Proposed changes are noted in **red** in the table below.

Notes about a specific change are specified in *CAPITALIZED ITALICS* in the table below.

<u>Existing Language</u>	<u>Proposed Change</u>	<u>Rationale</u>
ADMINISTRATION AND ENFORCEMENT (p.1) 3. The Manager of Development Services, Planning Services, Building Services and Bylaw Enforcement Services, and any other person authorized to assist the aforementioned persons are authorized to administer this Bylaw and enter property at any reasonable time to determine whether the regulations of the Bylaw are being complied with.	3. The Managers of Development Services, Planning Services, Building Services and Bylaw Enforcement Services, respectively , are authorized by the Board to administer this Bylaw and enter property at any reasonable time to determine whether the regulations of the Bylaw are being complied with. The following are also so authorized and listed staff shall consult with and report to their respective Manager(s) on any instances when they exercise this authority: a. Bylaw Enforcement Officers b. Building Officials c. Building Plan Checkers d. Development Technicians e. Planners f. Planning Technicians	A delegate cannot sub-delegate or authorize others to administer the Bylaw. If the intent was to authorize Deputies of each of those persons then the bylaw should say that.
VIOLATION AND PENALTY (p.1) 4. Penalties are subject to the conditions of any applicable RDCK Municipal Ticketing Information Bylaw and RDCK Bylaw Enforcement Notice and Dispute Adjudication System Bylaw as amended or replaced from time to time. N/A – no section previously	4. A person who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this bylaw, or who fails or neglects to do anything required by this bylaw, commits an offence and shall be liable upon conviction of a fine of not less than \$5,000 and not more than \$10,000 (Ten Thousand Dollars) and subject to any other penalty or order imposed or remedies available to the RDCK pursuant to the <i>Local Government Act, Community Charter, Offence Act, and Local Government Bylaw Notice Enforcement Act</i> and regulations thereunder, all as amended from time to time. 5. Each day that an offence continues or exists shall be deemed to be a separate and distinct offence.	Clearly lays out penalties associated with violation. Adding “order imposed or remedies” contemplates other in house/direct enforcement options. Unless this section (5) is inserted, daily issuance of bylaw notices or MTIs may not have proper authority.
SCHEDULE A – OFFICIAL COMMUNITY PLAN		
10.0 HAZARD LANDS AND FIRE MANAGEMENT Fire Management Policies (p.29)		

The Regional Board: 10. Supports protection of accesses to water sources such as hydrants, standpipes, lakes, and streams to remain free of obstructions for fire protection purposes.	10. Supports protection of accesses to water sources such as hydrants, standpipes, and watercourses to remain free of obstructions for fire protection purposes.	Reference to “lakes and streams” removed, as watercourse is now a more all-encompassing definition.
11.0 NATURAL ENVIRONMENT (p.31) N/A – no existing related policies	The Regional Board: 8. Supports, unless otherwise noted below, all land within a riparian assessment area, as defined in section 16.5 of the OCP, being designated as a Watercourse Development Permit Area. 9. Supports that development and subdivision adjacent to a watercourse shall be subject to a Development Permit unless otherwise exempt by the Watercourse Development Permit (WDP) Area.	Proposed Sections 1 & 2 provide clear, explicit policy justification for designating a DPA rather than implying its justification, as the current policy framework does.
16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA (p.40) Purpose (p.40) The WDP area is designated under Section 488 (1)(a) of the <i>Local Government Act</i> for the protection of the natural environment, its ecosystems and biological diversity.	16.1 Purpose The WDP Area is designated under Section 488(1)(a) of the <i>Local Government Act</i> and applicable provisions of the <i>Community Charter</i> for the protection of the natural environment, its ecosystems, and biological diversity. The WDP Area is designated as a Development Approval Information (DAI) area under Section 485 of the <i>Local Government Act</i> in order to ensure that appropriate and sufficient professionally-prepared information guides application of the WDP Guidelines to the applicable property in order to achieve the purposes and objectives of the WDP Area designation; the justification for the WDP Area designation below also supports the justification for the DAI designation.	Language added to strengthen legal authority to require a QEP report and rely on the information contained within it for the purposes of making a decision on an application.
Objectives (p.40) Riparian areas are highly valuable ecosystems providing ecological services that communities freely gain from a healthy functioning natural environment. These areas act as natural filtration systems for both surface water and groundwater while providing protection against flooding and erosion.	16.2 Justification The primary objective of this Development Permit Area designation is to regulate development activities in watercourses and their riparian areas so as to protect aquatic habitat; and to conserve, enhance, and where necessary, restore watercourses and their riparian areas.	The current Objectives section is proposed to be replaced with a Justification section because the existing Objectives Section was used as the baseline for the newly created Justification Section. As such, the new Justification

Riparian areas provide movement corridors for many species, particularly in fragmented landscapes. Riparian areas function as essential habitats particularly for species at risk and are highly effective in moderating stream temperatures which is critical for fish and other wildlife. The objectives of this Development Permit Area designation are: 1. To protect local watercourses, lakes and wetlands and their adjacent riparian areas from adverse impacts of land use. 2. To restore degraded watercourses and their riparian areas within the Plan area. 3. To protect the quality of local drinking water supplies. 4. To protect the biological diversity and habitat values of riparian and aquatic ecosystems and the species dependent on them.	The WDP Area is primarily concerned with the protection of riparian areas. Riparian areas make critical contributions to a healthy aquatic environment. They stabilize slopes, absorb storm water runoff, provide fish and wildlife habitat, and increase landscape connectivity and biodiversity. They are also important natural assets because of their role in buffering adjacent areas and watercourses from pollution, sedimentation, erosion and the impacts of temperature and weather changes, which may continue to have increasing impacts with climate change. The WDP Area is designated as a Development Approval Information Area under Section 485 of the <i>Local Government Act</i>. A biophysical assessment report, as described further in the WDP Area Guidelines, is required in order to recognize the important functions of riparian areas and protect them in their natural state, as well as repair and enhance them, in order to preserve their ecological importance as well as the critical role they play in increasing climate change resilience. The impact of development on watercourses can be minimized by carefully examining the proposed development and taking appropriate measures in relation to the environmentally sensitive riparian areas land.	section is based on the same values that are present in the current text (protecting watercourses, riparian areas, water, habitat values, and biodiversity) but does so in a way that is consistent with similar DPAs in other OCPs. The importance and significance of riparian areas is elaborated on beyond what was included in the original. Language revised to expand on the rationale for having the DPA and added specific objectives into this section to lay out exactly what the DPA is trying to achieve to strengthen legal authority of the DPA.
Area (p.40) 5. The Watercourse Development Permit Area (WDPA) includes all lands designated as such on Schedule A.4 and includes the following: ... c. All areas within 15.0 metres of the high water mark of any other watercourse designated on Schedule A.4, including the natural boundary of a lake and wetland. HIGH WATER MARK, LAKE, QUALIFIED ENVIRONMENT PROFESSIONAL (QEP), STREAMSIDE PROTECTION AND	16.3 Area 16.3.1. The Watercourse Development Permit Area (WDP Area) includes all lands designated as such on Schedule A.4 and includes the following: ... c. All areas within 15.0 metres of the high water mark of any other watercourse designated on Schedule A.4, including the natural boundary of a lake and wetland. <i>Move definitions to a new interpretation section (see below).</i>	Specific reference to types of watercourses not needed if referencing the newly proposed watercourse definition. Definitions deleted from this section and added to a new "Interpretation" Section (see below), as creating an

ENHANCEMENT AREA, WATERCOURSE and WETLAND definitions		interpretation section is clearer.
N/A – No Section previously. Definitions copied from Area section (p.40-41) <i>[Note: only definitions that have been added or revised are included in this table. Unaltered definitions are not included in this table but would remain in the bylaw in proposed Section 16.4 Interpretation].</i> Where the following definitions apply: N/A – no Active Floodplain definition previously. N/A – no Development definition previously. N/A – no Retaining Wall definition previously N/A – no Riparian Assessment Area definition previously.	16.4 Interpretation Where The following definitions apply: ACTIVE FLOODPLAIN, in relation to a watercourse, means land that is: a. adjacent to the watercourse; b. inundated by the 1 in 5 year return period flow of the watercourse; and, c. capable of supporting plant species that are typical of inundated or saturated soil conditions and distinct from plant species on freely drained upland sites adjacent to the land. DEVELOPMENT, in the context of interpreting sections of this development permit area, means carrying out construction, redevelopment, building and land alteration and ancillary activities, including engineering or other operations, as well as subdivision of land, in, on, over or under land and land covered by water to the extent that such activities are subject to local government authority under enabling Provincial legislation. RETAINING WALL means a structure constructed to hold back, stabilize, or support soil. RIPARIAN ASSESSMENT AREA means the area within 15 m of the high water mark of a watercourse; within 15 m of the top of the ravine bank in the case of a ravine less than 60 m wide; and within 5 m of the top of the ravine bank in the case of a wider ravine that link aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing	New section created for greater clarity of interpretation. Definitions added or otherwise amended for greater certainty and alignment with the <i>Riparian Areas Protection Regulation (RAPR)</i> methodology that the DPA requires to be utilized. Definition of development proposed for greater certainty. Definition of retaining wall added for greater clarity. Riparian assessment area added for greater certainty of the lands under evaluation within the riparian area.

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 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 a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.	and potential upland vegetation that exerts an influence on the watercourse. 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. WETLAND means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, plant species that are typical of inundated or saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a watercourse.	The original definition of watercourse is more relevant to floodplains than riparian areas. Definition revised to be more consistent with the <i>Riparian Areas Protection Regulation</i> and meet the intent of this DPA. Revise definition to be consistent with the <i>Riparian Areas Protection Regulation (RAPR)</i>.
Applicability 6. A Development Permit is required except where specified under the exemptions section for development or land alteration within the WDP Area. Where not exempt, development requiring a Development Permit includes any of the following associated with or resulting from residential, commercial, industrial or ancillary activities: a. land within the area must not be subdivided; b. construction of, addition to, or alteration of a building or other structure must not be started; and c. land within the area designated must not be altered.	16.5 Activities that require a Development Permit 16.5.1 The Owner of land within the WDP Area must obtain a development permit prior to undertaking or permitting or acquiescing in the undertaking of matters identified in section 489 <i>Local Government Act</i>, including but not limited to the following activities wherever they occur on land identified as a riparian assessment area within the WDP Area (subject only to exemptions explicitly listed in Section 16.6 or Section 38.1.2 of the Zoning Bylaw): a. removal, alteration, disruption or destruction of vegetation, including trees, plants and shrubs; b. disturbance of soils; c. construction or erection of buildings and structures; d. creation of non-structural impervious or semi-impervious surfaces; e. flood protection works including shoreline protection works; f. construction of roads, trails, retaining walls, docks, wharves and bridges; g. provision and maintenance of sewer and water services;	Greater specificity in triggers added for enhanced clarity and consistency with other OCPs.

	h. installation, maintenance, repairs and replacement of drainage systems; i. installation, maintenance, repairs and replacement of utility corridors; j. subdivision as defined in section 455 of the <i>Local Government Act</i>; k. any other activity that requires a development permit first be issued in accordance with section 489 of the <i>Local Government Act</i>.	
Exemptions (p.41-42) <i>[note: only exemptions that have been added or revised are included in this table. Unaltered exemptions are not included in this table but would remain in the bylaw in amended Section 16.6 Exemptions].</i> The WDP area does not apply to the following: 7. The subdivision of land, where the proposed subdivision of land does not fall within the WDPA, or where a newly proposed lot is greater than 1 ha (2.47 acres) in site area. 8. Addition to or alteration of farm buildings. 9. Farm operations as defined in the <i>Farm Practices Protection (Right to Farm) Act</i> and farm uses as defined in the <i>Agricultural Land Reserve Use, Subdivision, and Procedure Regulation</i>	16.6 Exemptions A development permit is not required for the following activities: 16.6.1 Subdivisions, including lot consolidations and lot line adjustments, where the newly proposed lot lines do not fall within the WDP 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 WDP Area; b. no disturbance (such as grading, clearing, trenching, and the installation of site infrastructure) to the WDP Area will occur as a result of the creation of lots or provision of services to those lots; c. the WDP Area has been identified by a Qualified Environmental Professional (QEP) and clearly delineated on site; and d. a Section 219 Covenant, with the RDCK as a Covenant Holder, that contains recommendations to ensure adverse development impacts will be effectively mitigated must be registered over the WDP Area on the titles of all newly created lots. 16.6.2 Addition, alteration, repair, demolition and maintenance of farm buildings and agricultural activities including clearing of land for agricultural purposes. 16.6.3 Farm operations as defined in the <i>Farm Practices Protection (Right to Farm) Act</i> and farm use as defined in the <i>Agricultural Land Commission Act</i> where a	Exemptions for particular types of subdivisions, as well as lot line adjustments, proposed because there has been a strong desire from development consultants and staff to do so and eliminate unnecessary development permit applications. Language for farm-related exemptions (8 & 9) amended for greater clarity. The <i>Agricultural Land Reserve Use, Subdivision, and Procedure Regulation</i> is now the <i>General Regulation</i> and

where a minimum 3 meters from the natural boundary of a watercourse is maintained in native vegetation or agro-forestry crops. 10. Construction or alteration of a building or structure on an existing foundation or footprint; provided that the existing foundation or footprint is not extended within the WDP Area. 14. Land alterations involving emergency measures to prevent or reduce immediate threats to life or property including: a. emergency flood or protection works conducted under direction of local or provincial government; b. the removal of trees that have been examined by a qualified arborist and certified to pose an immediate threat to life or property; c. the removal of trees, shrubs or landscaping that has been deemed necessary for the purposes of wildfire mitigation measures as identified through a professional wildfire risk assessment, where such trees, shrubs or landscaping is replaced or compensated for elsewhere within the WDPA; d. clearing of an obstruction from a bridge, culvert or an obstruction to drainage flow; and e. repairs to bridges and safety fences carried out in accordance with the Water Sustainability Act or Fisheries Act. N/A - No exemption previously.	minimum 3 meters from the natural boundary of a watercourse is maintained in native vegetation or agro-forestry crops. 16.6.4 Construction, renovation or repair of a building or other permanent structure if it remains on its existing foundation and is not moved or extended into a riparian assessment area. 16.6.8 Land alterations involving emergency measures to prevent or reduce immediate threats to life or property including: a. emergency flood or protection works conducted under direction of local or provincial government; b. the temporary placement of sandbags and modular spill berms essential to preventing loss of life and existing buildings placed during, and removed following, emergency flooding events; c. the removal of trees that have been examined by a qualified arborist and certified to pose an immediate threat to life or property; d. the removal of trees, shrubs or landscaping that has been deemed necessary for the purposes of wildfire mitigation measures as identified through a professional wildfire risk assessment, where such trees, shrubs or landscaping is replaced or compensated for elsewhere within the WDP Area; e. clearing of an obstruction from a bridge, culvert or an obstruction to drainage flow; and f. repairs to bridges and safety fences carried out in accordance with the <i>Water Sustainability Act</i> or <i>Fisheries Act</i>. 16.6.11 A Development Permit or Section 219 Covenant has already been registered to the title of land, with the RDCK as a Covenant Holder, that has addressed all WDP 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.	<i>Use Regulation.</i> Listing the ALC Act will hopefully avoid future amendments due to regulation title changes. Exemption #10 (16.6.4) language amended for greater clarity and to better align with definitions/ interpretation section. Exemption #14 (16.6.8) amended to exempt certain temporary flood protection measures. Exemption 16.6.11 added to avoid unnecessary DPs whose activities are already covered under an issued DP or Covenant.
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N/A - No exemption previously.	16.6.12 Where a QEP has inspected the site and has provided written confirmation 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.	Exemption 16.6.12 added to allow for exemptions in DPA where the Riparian Assessment Area falls outside of the DPA, as confirmed by a QEP.
Guidelines (p.42-43) <i>[note: current guidelines have been re-ordered in this section to align with equivalent guidelines proposed under a DP ticketing regime.]</i> Development shall be in accordance with the following guidelines: 17. Development shall be in accordance with the recommendations of an assessment report prepared by a Qualified Environmental Practitioner (QEP) in accordance with the Provincial Riparian Areas Regulation Assessment Methods at the expense of the applicant and as required as Development Approval Information supporting an application under Section 491 of the Local Government Act. 18. No development activities should take place within any Streamside Protection and Enhancement Area (SPEA) identified by the QEP. The applicant will be required to follow any measures identified by the QEP for protecting the SPEA over the long term and these measures should be included as conditions of the Development Permit. 19. Where a QEP report describes an area within the WDPA as suitable for development the development permit should only allow the development to occur in compliance with the measures described in the report.	16.7 Guidelines DP Guidelines identified for the WDP Area are identified within the OCP for lands within Electoral Area 'G' that are not subject to zoning. 16.7.1 An owner of land within a riparian assessment area seeking to develop such land under a development permit must seek to implement the requirements of the <i>Riparian Areas Protection Act</i> and <i>Riparian Areas Protection Regulation</i>. 16.7.2 As part of a development permit application made prior to any of the applicable triggers for a development permit identified in section 489 of the <i>Local Government Act</i> and RDCK's bylaws, and prior to undertaking any such activities or development, the owner of the applicable land is solely responsible for: a. providing the information identified in the following guidelines; b. proposing only activities and development consistent with the following guidelines; c. not undertaking any activities or development inconsistent with the following guidelines; and, d. not undertaking any activities or development without a development permit. 16.7.3 A development application must include, as Development Approval Information, a Biophysical Assessment Report and <i>Riparian Areas Protection Regulation</i> (RAPR) Assessment prepared by a QEP as defined in, and in accordance with, the <i>Riparian Areas Protection Regulation</i> established by the Provincial	Including guidelines in the Zoning Bylaw provides stronger legal authority. However, for Electoral Areas that are only partially zoned, the guidelines should remain in the OCP in addition to the Zoning Bylaw. (Existing) Guidelines #17, 18 & 19 addressed in 16.7.1-16.7.3. Following the <i>RAPR</i> methodology, as is required by the current and proposed guidelines, will ensure the intent of the old guidelines is met. Biophysical (entire lot) and Riparian assessment should be provided to understand the potential impacts development may have on the riparian area, biodiversity, and landscape connectivity.

	and/or Federal governments as used elsewhere in the Province. This assessment report must include certification from the QEP that: a. the QEP is qualified to carry out the assessment; b. that the assessment methods have been followed; and c. in their professional opinion the development will not negatively affect the functioning of a watercourse or riparian area and that the requirements of the <i>Riparian Areas Protection Regulation</i> have been fulfilled. 16.7.4 Development proposals in the WDP Area will be evaluated based on their adherence to the following additional guidelines: a. 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. b. Demonstrate that a diligent effort has been made to preserve, protect, restore, and enhance riparian vegetation, woody debris, boulders, and other natural features. c. Retain mature vegetation wherever possible and incorporate it into the design of the project. d. Proposals involving the creation of new parcels by subdivision must demonstrate on a Site Plan that there is adequate space for a building platform area and associated services outside of the setback recommended in the biophysical assessment, and in areas where zoning applies the minimum parcel size should be accommodated entirely outside of the setback area. e. Where fencing is proposed within the WDP Area, or to delineate the WDP Area or a covenant area, wildlife-friendly fencing must be utilized to maintain landscape connectivity between aquatic and upland ecosystems. f. 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	Proposed Section 16.7.4 added to provide clarity on expectations for the development proposal and how development will occur on the site. They represent the key considerations that staff considers in reviewing a WDP application.
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23. The Regional District may impose permit conditions based on the Assessment Report including the following: a. Require specified natural features or areas to be preserved, protected, restored or enhanced in accordance with the permit. b. Require natural water courses to be dedicated. c. Require works to be constructed to preserve, protect, restore or enhance natural watercourses or other specified natural features. d. Require protection measures including that vegetation or trees be planted or retained in order to preserve, protect, restore or enhance fish habitat or riparian areas, control drainage, or control erosion. 20. Monitoring and regular reporting by a QEP or other professional at the applicant's expense may be required	mitigation options, as detailed further in the Kootenay Lake Shoreline Guidance Document, as amended from time to time and which is incorporated into these guidelines: i. Avoidance of environmental impacts and associated components; ii. Minimization of unavoidable impacts on environmental values and associated components; iii. Restoration of on-site environmental values and associated components; and, iv. Offsetting impacts to environmental values for residual impacts that cannot be minimized. g. 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. h. Storm water will be managed in a way that utilizes natural approaches and onsite water recycling as well as preserves natural drainage patterns on the lands. i. Preference will be given to flood and erosion protection works that utilize natural approaches for the protection of both private property and the riparian area. j. The conditions of the issuance of a Development Permit for the WDP Area may require any of the following: i. areas of land that must remain free of development except in accordance with conditions in the permit; ii. the preservation, protection, restoration or enhancement of natural features and watercourses; iii. dedication of natural watercourses; iv. construction works to preserve, protect, restore or enhance natural watercourses or other specified natural features of the environment; v. protection measures to preserve, protect, restore or enhance fish habitat or riparian areas, control drainage, or control erosion or protect banks; vi. all works to be in accordance with a QEP's recommendations, as provided in the biophysical assessment report; vii. monitoring of the development activities by a QEP;	Guideline #23 is covered by Section 16.7.4(j) in a more exhaustive list that reflects the authorities listed in the <i>Local Government Act</i>, for greater certainty. Guideline #20 proposed to be deleted as it is captured
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during the construction and development phases as specified in the Development Permit. 18. No development activities should take place within any Streamside Protection and Enhancement Area (SPEA) identified by the QEP. The applicant will be required to follow any measures identified by the QEP for protecting the SPEA over the long term and these measures should be included as conditions of the Development Permit. 21. A QEP report should identify any invasive species and areas subject to prior degradation and should provide recommendations as to potential restoration or mitigation options. 22. Construction methods and timing must minimize environmental impacts. Clearing of land, grading, and other activities that expose soil should be completed during the dry months of the year usually between June and September. Timing of construction should follow the recommended timing windows for species based on provincially accepted best management practices.	viii. specific timing or sequence of development activities to minimize impacts to the natural environment; ix. limits of disturbance to be in place for the duration of the development activities; and, x. a security deposit in accordance with the <i>Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015</i>, as amended from time to time. k. Should disturbance to the WDP Area occur outside of the scope of the conditions of an issued Development Permit, the property owner must submit a new WDP application with a new biophysical assessment report that assesses the unauthorized disturbance and proposes full remediation of the areas subject to the unauthorized disturbance. 16.7.5 No development activities should take place within any Streamside Protection and Enhancement Area (SPEA) identified by the QEP if the proposed development results in a harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area (HADD). The applicant will be required to follow any measures identified by the QEP for protecting the SPEA over the long term and these measures should be included as conditions of the Development Permit. 16.7.6 A QEP report should identify any invasive species and areas subject to prior degradation and should provide recommendations as to potential restoration or mitigation options. 16.7.7 Construction methods and timing must minimize environmental impacts. Clearing of land, grading, and other activities that expose soil should be completed during the dry months of the year usually between June and September. Timing of construction should follow the recommended timing windows for species based on provincially accepted best management practices.	by new Guideline 16.7.4(j)(vii). Guideline #18 proposed to be amended to clearly lay out the situation in which the guideline is relevant, as per the <i>Riparian Areas Protection Regulation</i> and relevant case law pertaining to development in the SPEA (16.7.5). No change to Guideline #21. No change to Guideline #22.
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N/A – No guidelines previously.	16.7.8 Post Development Guidelines: Unless explicitly excluded in a development permit issued by the Regional District of Central Kootenay, the owner of the applicable land must provide a post development report prepared by the QEP of an assessment of all permit conditions. The report must assess if the Development is in compliance with the applicable development permit conditions and the land has been developed in accordance with the QEP's recommendations within their biophysical assessment report.	This proposed guideline ensures work will be completed as specified in the DP conditions and in accordance with QEP recommendations, and will assist in obtaining evidence to support whether there is a breach of a condition of a DP.
N/A – No guideline previously.	16.7.9 Other Provincial and Federal Requirements: <i>The Riparian Areas Protection Regulation</i> implemented through the WDP Area does not supersede other Federal, Provincial and or local government requirements, including that of other development permit areas, building permits, flood covenants, Federal or Provincial authorization. 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. 16.7.10 Compliance with WDP Standards, Requirements and Conditions of Development Permit The owner of land within the WDP Area must: a. comply with all applicable standards set out within and the requirements and conditions of a development permit; b. provide a biophysical assessment report and <i>Riparian Areas Protection Regulation</i> (RAPR) Assessment in accordance with section 16.7.3; and c. provide a post development guideline report in accordance with section 16.7.8.	Section 16.7.9 not in original DPA for Area G CLUB; however, it is in all other riparian DPAs and recommended to be included in this one for clarity and consistency. 16.7.10 is proposed to have the option for enforcement where contravention of a DP condition occurs although it is less of an issue than failure to obtain a DP, which is the primary reason for this work.
Development Approval Guidelines 24. The Board may consider variances to the subdivision or siting regulations of this Bylaw or other bylaws where the variance may result in enhanced	16.7.11 Development Approval Guidelines: The Board may consider variances to the subdivision or siting regulations of this Bylaw or other bylaws where the variance may result in enhanced protection of a	No significant changes to guidelines 24-26, other than adding additional clarity to 16.7.12 in addition to section numbering.

protection of a SPEA in compliance with the recommendations of an assessment report. Restoration Guidelines Where development has occurred in violation of the WDPA, the following guidelines shall apply: 25. A QEP must be retained at the expense of the applicant for the purpose of preparing a report outlining how to mitigate the damage incurred by any clearing and site development activities and how to restore the area to its undisturbed condition. 26. Buildings and structures constructed in violation of this WDPA may be subject to removal at the applicant's expense in order to restore the integrity of the riparian area.	SPEA in compliance with the recommendations of an assessment report. 16.7.12 Restoration Guidelines: Without limiting the above or endorsing or acquiescing in unapproved development, where development has occurred in violation of the WDP Area, the following guidelines shall also apply: 16.7.12.1 A QEP must be retained at the expense of the applicant for the purpose of preparing a report outlining how to mitigate the damage incurred by any clearing and site development activities and how to restore the area to its undisturbed condition. 16.7.12.2 Buildings and structures constructed in violation of this WDP Area may be subject to removal at the applicant's expense in order to restore the integrity of the riparian area.	
SCHEDULE B – ZONING BYLAW		
N/A – No definitions previously	That the following definitions be inserted into Section 17.0 Interpretation in the appropriate alphabetical locations: ACTIVE FLOODPLAIN, in relation to a watercourse, means land that is: adjacent to the watercourse; inundated by the 1 in 5 year return period flow of the watercourse; and, capable of supporting plant species that are typical of inundated or saturated soil conditions and distinct from plant species on freely drained upland sites adjacent to the land. DEVELOPMENT or DEVELOP, unless otherwise defined elsewhere in this Bylaw, means any activity carried out in the process of clearing or preparing a site or erecting structures; DEVELOPMENT, in the context of interpretation of section 38 of Development Permit Area #1: Watercourse Development Permit (WDP) Area, means carrying out construction, redevelopment, building and land alteration and ancillary activities, including engineering or other	Guidelines and Exemptions (all listed above), and related definitions proposed to be added into the Zoning Bylaw for greater enforceability. See rationale section above for specific rationales for the definitions.

	operations, as well as subdivision of land, in, on, over or under land and land covered by water to the extent that such activities are subject to local government authority under enabling Provincial legislation; 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. LAKE means any area of year round open water covering a minimum of 1.0 hectares (2.47 acres) of area and possessing a 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. QUALIFIED ENVIRONMENTAL PROFESSIONAL (QEP) means an applied scientist or technologist who is registered and in good standing with an appropriate B.C. professional organization constituted under an Act. A qualified environmental professional could be a professional biologist, agrologist, forester, geoscientist, engineer or technologist. RETAINING WALL means a structure constructed to hold back, stabilize, or support soil. RIPARIAN ASSESSMENT AREA means the area within 15 m of the high water mark of a watercourse; within 15 m of the top of the ravine bank in the case of a ravine less than 60 m wide; and within 5 m of the top of the ravine bank in the case of a wider ravine that link 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. STREAMSIDE PROTECTION AND	
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	ENHANCEMENT AREA (SPEA) means an area adjacent to a watercourse that links aquatic to terrestrial ecosystems and includes both the riparian area vegetation and the adjacent upland vegetation that exerts an influence on the stream, the width of which is determined by assessment by a Qualified Environmental Practitioner (QEP). 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 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. WETLAND means land that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, plant species that are typical of inundated or saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a watercourse other than Kootenay Lake.	
N/A – No section previously	<i>GUIDELINES AND EXEMPTIONS FROM THE OCP HAVE BEEN ADDED TO THE NEW SECTION 38.0. [SEE GUIDELINES AND EXEMPTIONS LISTED ABOVE]</i> 16.0 Development Permit Area #1: Watercourse Development Permit (WDP) Area	Moving DP Guidelines and Exemptions into the zoning bylaw reduces the risks of and improve the chances for successful DP enforcement.
N/A – miscellaneous	Miscellaneous section numbering amendments resulting from additions to the text and added in Section 16.0 DEVELOPMENT PERMIT AREAS for greater clarity and enforceability.	

REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 3025

A Bylaw to amend the
Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018

WHEREAS it is deemed expedient to amend the Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018, and amendments thereto.

NOW THEREFORE the Board of the Regional District of Central Kootenay, in open meeting assembled, HEREBY ENACTS as follows:

1 That the main body of **Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018** be amended as follows:

A) That Section 3 under the **ADMINISTRATION AND ENFORCEMENT** heading be amended by deleting "to assist the aforementioned persons" and replacing that with "by the Board", so that this section reads as follows:

3. The Managers of Development Services, Planning Services, Building Services and Bylaw Enforcement Services, respectively, are authorized by the Board to administer this Bylaw and enter property at any reasonable time to determine whether the regulations of the Bylaw are being complied with. The following are also so authorized and listed staff shall consult with and report to their respective Manager(s) on any instances when they exercise this authority:

- a. Bylaw Enforcement Officers
- b. Building Officials
- c. Building Plan Checkers
- d. Development Technicians
- e. Planners
- f. Planning Technicians

B) That Section 4 under the **VIOLATION AND PENALTY** heading be deleted in its entirety and replaced with the following:

4. A person who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this bylaw, or who fails or neglects to do anything required by this bylaw, commits an offence and shall be liable upon conviction of a fine of not less than \$5,000 and not more than \$10,000 (Ten Thousand Dollars) and subject to any other penalty or order imposed or remedies available to the RDCK pursuant to the *Local Government Act, Community Charter, Offence Act, and Local*

Government Bylaw Notice Enforcement Act and regulations thereunder, all as amended from time to time.

- C) That the following be added under the **VIOLATION AND PENALTY** heading, and subsequent sections re-numbered accordingly:

5. Each day that an offence continues or exists shall be deemed to be a separate and distinct offence.

- 2 That **Schedule A**, being the **Official Community Plan** text, of **Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018** be amended as follows:

- A) That the following Fire Management Policies Sub-section 10 of Section **10.0 HAZARD LANDS AND FIRE MANAGEMENT** be amended to replace "lakes, and streams" with "watercourses", so that it reads:

10. Supports protection of accesses to water sources such as hydrants, standpipes, and watercourses to remain free of obstructions for fire protection purposes.

- B) That the following subsections be inserted as the first two policies under the sub heading **Natural Environment Policies** of Section **11.0 NATURAL ENVIRONMENT**, and existing policies are re-numbered accordingly:

The Regional Board:

8. Supports, unless otherwise noted below, all land within a riparian assessment area, as defined in section 16.5 of the OCP, being designated as a Watercourse Development Permit Area.

9. Supports that development and subdivision adjacent to a watercourse shall be subject to a Development Permit unless otherwise exempt by the Watercourse Development Permit (WDP) Area.

- C) That sub-section numbering throughout Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be inserted, including in accordance with the following amendments.

- D) That the **Purpose** Sub-section of Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be amended so that it reads as follows:

16.1 Purpose

The WDP Area is designated under Section 488(1)(a) of the *Local Government Act* and applicable provisions of the *Community Charter* for the protection of the natural environment, its ecosystems, and biological diversity. The WDP Area is designated as a Development Approval Information (DAI) area under Section 485 of the *Local Government Act* in order to ensure that appropriate and sufficient professionally-prepared information guides application of the WDP Guidelines to the applicable property in order to achieve the purposes and objectives of the WDP Area designation;

the justification for the WDP Area designation below also supports the justification for the DAI designation.

- E) That the **Objectives** Sub-section of Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be deleted in its entirety and replaced with the following:

16.2 Justification

This Development Permit Area designation seeks to regulate development activities in watercourses and their riparian areas so as to protect aquatic habitat; and to conserve, enhance and, where necessary, restore watercourses and their riparian areas.

Riparian areas make critical contributions to a healthy aquatic environment. They stabilize slopes, absorb storm water runoff, provide fish and wildlife habitat, and increase landscape connectivity and biodiversity. They are also important natural assets because of their role in buffering adjacent areas and watercourses from pollution, sedimentation, erosion and the impacts of temperature and weather changes, which may continue to have increasing impacts with climate change.

The WDP Area's primary objectives are to:

- protect riparian areas, biodiversity, and water quality by ensuring activities within them are undertaken in a way that is sensitive to the natural environment;
- maintain landscape connectivity between watercourses and upland riparian areas; and,
- prevent pollution and contamination of watercourses through the preservation and enhancement of riparian areas.

The WDP Area is designated as a Development Approval Information Area under Section 485 of the *Local Government Act*. A biophysical assessment report, as described further in the WDP Area Guidelines, is required in order to recognize the important functions of riparian areas and protect them in their natural state, as well as repair and enhance them, in order to preserve their ecological importance as well as the critical role they play in increasing climate change resilience.

The impact of development on watercourses can be minimized by carefully examining the proposed development and taking appropriate measures in relation to the environmentally sensitive riparian area.

- F) That **Area** Sub-section of the Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be amended by
- a replacing the item list 5 with 1,
 - b deleting ", including the natural boundary of a lake and wetland" from clause 1.c.,
 - c moving the definitions to new Sub-section **16.4 Interpretation** as noted below, and
 - d adding the additional language noted below, so that Sub-section **16.3 Area** reads as follows:

16.3 Area

16.3.1. The Watercourse Development Permit Area (WDP Area) includes all lands designated as such on Schedule A.4 and includes the following:

- a. All areas within 30.0 metres of the high water mark of the Pend O'Reille River, Salmo River, Erie Lake, Rosebud Creek and Rosebud Lake.
- b. All areas within 30.0 metres of the high water mark of Erie Creek, Hall Creek, Kelly Creek, Quartz Creek and Ymir Creek.
- c. All areas within 15.0 metres of the high water mark of any other watercourse designated on Schedule A.4.

Where the boundaries of the WDP Area will be verified and determined on the ground at the time of application.

- G) That a new Sub-section **16.4 Interpretation** be inserted after the 16.3 **Area** Sub-section within Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA**, with present definitions updated and new definitions added so that the section reads as follows:

16.4 Interpretation

The following definitions apply:

ACTIVE FLOODPLAIN, in relation to a watercourse, means land that is:

- a. adjacent to the watercourse;
- b. inundated by the 1 in 5 year return period flow of the watercourse; and,
- c. capable of supporting plant species that are typical of inundated or saturated soil conditions and distinct from plant species on freely drained upland sites adjacent to the land.

DEVELOPMENT, in the context of interpreting sections of this development permit area, means carrying out construction, redevelopment, building and land alteration and ancillary activities, including engineering or other operations, as well as subdivision of land, in, on, over or under land and land covered by water to the extent that such activities are subject to local government authority under enabling Provincial legislation.

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.

LAKE means any area of year round open water covering a minimum of 1.0 hectares (2.47 acres) of area and possessing a 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.

QUALIFIED ENVIRONMENTAL PROFESSIONAL (QEP) means an applied scientist or technologist who is registered and in good standing with an appropriate B.C. professional organization constituted under an Act. A qualified environmental professional could be a professional biologist, agrologist, forester, geoscientist, engineer or technologist.

RETAINING WALL means a structure constructed to hold back, stabilize, or support soil.

RIPARIAN ASSESSMENT AREA means the area within 15 m of the high water mark of a watercourse; within 15 m of the top of the ravine bank in the case of a ravine less than 60 m wide; and within 5 m of the top of the ravine bank in the case of a wider ravine that link 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.

STREAMSIDE PROTECTION AND ENHANCEMENT AREA (SPEA) means an area adjacent to a watercourse that links aquatic to terrestrial ecosystems and includes both the riparian area vegetation and the adjacent upland vegetation that exerts an influence on the stream, the width of which is determined by assessment by a Qualified Environmental Practitioner (QEP).

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.

WETLAND means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, plant species that are typical of inundated or saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a watercourse.

- H) That the **Applicability** heading, and paragraph under it ("6. A Development Permit is required..."), be deleted and replaced with a new Sub-section entitled **16.5 Activities that require a Development Permit** so that it reads as follows:

16.5 Activities that require a Development Permit

16.5.1 The Owner of land within the WDP Area must obtain a development permit prior to undertaking or permitting or acquiescing in the undertaking of matters identified in section 489 *Local Government Act*, including but not limited to the following activities wherever they occur on land identified as a riparian assessment area within the WDP Area (subject only to exemptions explicitly listed in Section 16.6 or Section 38.1.2 of the Zoning Bylaw):

- a. removal, alteration, disruption or destruction of vegetation, including trees, plants and shrubs;
- b. disturbance of soils;
- c. construction or erection of buildings and structures;
- d. creation of non-structural impervious or semi-impervious surfaces;
- e. flood protection works including shoreline protection works;
- f. construction of roads, trails, retaining walls, docks, wharves and bridges;
- g. provision and maintenance of sewer and water services;
- h. installation, maintenance, repairs and replacement of drainage systems;
- i. installation, maintenance, repairs and replacement of utility corridors;
- j. subdivision as defined in section 455 of the *Local Government Act*;
- k. any other activity that requires a development permit first be issued in accordance with section 489 of the *Local Government Act*.

- l) That the **Exemptions** Sub-section of Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be deleted in its entirety and replaced with the following Sub-section **16.6 Exemptions**:

16.6 Exemptions

A development permit is not required for the following activities:

16.6.1 Subdivisions, including lot consolidations and lot line adjustments, where the newly proposed lot lines do not fall within the WDP 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 WDP Area;
- b. no disturbance (such as grading, clearing, trenching, and the installation of site infrastructure) to the WDP Area will occur as a result of the creation of lots or provision of services to those lots;
- c. the WDP Area has been identified by a Qualified Environmental Professional (QEP) and clearly delineated on site; and
- d. a Section 219 Covenant, with the RDCK as a Covenant Holder, that contains recommendations to ensure adverse development impacts will be effectively mitigated must be registered over the WDP Area on the titles of all newly created lots.

16.6.2 Addition, alteration, repair, demolition and maintenance of farm buildings and agricultural activities including clearing of land for agricultural purposes.

16.6.3 Farm operations as defined in the *Farm Practices Protection (Right to Farm) Act* and farm use as defined in the *Agricultural Land Commission Act* where a minimum 3 meters from the natural boundary of a watercourse is maintained in native vegetation or agro-forestry crops.

16.6.4 Construction, renovation or repair of a building or other permanent structure if it remains on its existing foundation and is not moved or extended into a riparian assessment area.

16.6.5 Construction of water works authorized under the *Water Sustainability Act* or *Fisheries Act*.

16.6.6 Construction of access authorized under the *Water Sustainability Act* or *Fisheries Act*.

16.6.7 Construction of a small accessory building *not more than* ten (10) square metres, if all of the following apply:

- a. the building is intended as an accessory use and not used for occupancy or habitation;
- b. the building is not located in an identified Streamside Protection and Enhancement Area (SPEA) where these boundaries have been delineated; and
- c. where the removal of native trees or vegetation is minimized to the extent possible.

16.6.8 Land alterations involving emergency measures to prevent or reduce immediate threats to life or property including:

- a. emergency flood or protection works conducted under direction of local or provincial government;

- b. the temporary placement of sandbags and modular spill berms essential to preventing loss of life and existing buildings placed during, and removed following, emergency flooding events;
- c. the removal of trees that have been examined by a qualified arborist and certified to pose an immediate threat to life or property;
- d. the removal of trees, shrubs or landscaping that has been deemed necessary for the purposes of wildfire mitigation measures as identified through a professional wildfire risk assessment, where such trees, shrubs or landscaping is replaced or compensated for elsewhere within the WDP Area;
- e. clearing of an obstruction from a bridge, culvert or an obstruction to drainage flow; and
- f. repairs to bridges and safety fences carried out in accordance with the *Water Sustainability Act* or *Fisheries Act*.

16.6.9 Land alterations a minimum distance of 5.0 metres of the high water mark of any watercourse designated on Schedule A.4, including the natural boundary of a lake and wetland involving gardening and yard maintenance activities, including: mowing, pruning, planting and minor soil disturbance that does not alter the general contours of the land and does not involve the cosmetic application of artificial fertilizers, pesticides or herbicides.

16.6.10 Land alteration activities to restore and enhance the natural features, functions and condition of riparian areas in accordance with provincial best management practices.

16.6.11 A Development Permit or Section 219 Covenant has already been registered to the title of land, with the RDCK as a Covenant Holder, that has addressed all WDP 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.

16.6.12 Where a QEP has inspected the site and has provided written confirmation 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.

- J) That the **Guidelines** Sub-section of Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be deleted in its entirety and replaced with the following:

16.7 Guidelines

DP Guidelines identified for the WDP Area are identified within the OCP for lands within Electoral Area 'G' that are not subject to zoning.

16.7.1 An owner of land within a riparian assessment area seeking to develop such land under a development permit must seek to implement the requirements of the *Riparian Areas Protection Act* and *Riparian Areas Protection Regulation*.

16.7.2 As part of a development permit application made prior to any of the applicable triggers for a development permit identified in section 489 of the *Local Government Act* and RDCK's bylaws, and prior to undertaking any such activities or development, the owner of the applicable land is solely responsible for:

- a. providing the information identified in the following guidelines;

- b. proposing only activities and development consistent with the following guidelines;
- c. not undertaking any activities or development inconsistent with the following guidelines; and,
- d. not undertaking any activities or development without a development permit.

16.7.3 A development application must include, as Development Approval Information, a Biophysical Assessment Report and *Riparian Areas Protection Regulation* (RAPR) Assessment prepared by a QEP as defined in, and, in accordance with, the *Riparian Areas Protection Regulation* established by the Provincial and/or Federal governments as used elsewhere in the Province. This assessment report must include certification from the QEP that:

- a. the QEP qualified to carry out the assessment;
- b. that the assessment methods have been followed;
- c. in their professional opinion the development will not negatively affect the functioning of a watercourse or riparian area and that the requirements of the *Riparian Areas Protection Regulation* have been fulfilled, and;
- d. not undertaking any activities or development without a development permit.

16.7.4 Development proposals in the WDP Area will be evaluated based on their adherence to the following additional guidelines:

- a. 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.
- b. Demonstrate that a diligent effort has been made to preserve, protect, restore, and enhance riparian vegetation, woody debris, boulders, and other natural features.
- c. Retain mature vegetation wherever possible and incorporate it into the design of the project.
- d. Proposals involving the creation of new parcels by subdivision must demonstrate on a Site Plan that there is adequate space for a building platform area and associated services outside of the setback recommended in the biophysical assessment, and in areas where zoning applies the minimum parcel size should be accommodated entirely outside of the setback area.
- e. Where fencing is proposed within the WDP Area, or to delineate the WDP Area or a covenant area, wildlife-friendly fencing must be utilized to maintain landscape connectivity between aquatic and upland ecosystems.
- f. 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 Kootenay Lake Shoreline Guidance Document, as amended from time to time and which is incorporated into these guidelines:
 - i. Avoidance of environmental impacts and associated components;
 - ii. Minimization of unavoidable impacts on environmental values and associated components;
 - iii. Restoration of on-site environmental values and associated components; and,
 - iv. Offsetting impacts to environmental values for residual impacts that cannot be minimized.
- g. 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.

- h. Storm water will be managed in a way that utilizes natural approaches and onsite water recycling as well as preserves natural drainage patterns on the lands.
- i. Preference will be given to flood and erosion protection works that utilize natural approaches for the protection of both private property and the riparian area.
- j. The conditions of the issuance of a Development Permit for the WDP Area may require any of the following:
 - i. areas of land that must remain free of development except in accordance with conditions in the permit;
 - ii. the preservation, protection, restoration or enhancement of natural features and watercourses;
 - iii. dedication of natural watercourses;
 - iv. construction works to preserve, protect, restore or enhance natural watercourses or other specified natural features of the environment;
 - v. protection measures to preserve, protect, restore or enhance fish habitat or riparian areas, control drainage, or control erosion or protect banks;
 - vi. all works to be in accordance with a QEP's recommendations, as provided in the biophysical assessment report;
 - vii. monitoring of the development activities by a QEP;
 - viii. specific timing or sequence of development activities to minimize impacts to the natural environment;
 - ix. limits of disturbance to be in place for the duration of the development activities; and,
 - x. 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.
- k. Should disturbance to the WDP Area occur outside of the scope of the conditions of an issued Development Permit, the property owner must submit a new WDP application with a new biophysical assessment report that assesses the unauthorized disturbance and proposes full remediation of the areas subject to the unauthorized disturbance.

16.7.5 No development activities should take place within any Streamside Protection and Enhancement Area (SPEA) identified by the QEP if the proposed development results in a harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area (HADD). The applicant will be required to follow any measures identified by the QEP for protecting the SPEA over the long term and these measures should be included as conditions of the Development Permit.

16.7.6 A QEP report should identify any invasive species and areas subject to prior degradation and should provide recommendations as to potential restoration or mitigation options.

16.7.7 Construction methods and timing must minimize environmental impacts. Clearing of land, grading, and other activities that expose soil should be completed during the dry months of the year usually between June and September. Timing of construction should follow the recommended timing windows for species based on provincially accepted best management practices.

16.7.8 Post Development Guidelines: Unless explicitly excluded in a development permit issued

by the Regional District of Central Kootenay, the owner of the applicable land must provide a post development report prepared by the QEP of an assessment of all permit conditions. The report must assess if the Development is in compliance with the applicable development permit conditions and the land has been developed in accordance with the QEP's recommendations within their biophysical assessment report.

16.7.9 Other Provincial and Federal Requirements: *The Riparian Areas Protection Regulation* implemented through the WDP Area does not supersede other Federal, Provincial and or local government requirements, including that of other development permit areas, building permits, flood covenants, Federal or Provincial authorization. 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.

16.7.10 Compliance with WDP Standards, Requirements and Conditions of Development Permit
The owner of land within the WDP Area must:

- a. comply with all applicable standards set out within and the requirements and conditions of a development permit;
- b. provide a biophysical assessment report and *Riparian Areas Protection Regulation* (RAPR) Assessment in accordance with section 16.7.3; and
- c. provide a post development guideline report in accordance with section 16.7.8.

- K) That the paragraph under the heading **Development Approval Guidelines** of the Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be re-formatted and re-numbered so it reads as follows:

16.7.11 Development Approval Guidelines: The Board may consider variances to the subdivision or siting regulations of this Bylaw or other bylaws where the variance may result in enhanced protection of a SPEA in compliance with the recommendations of an assessment report.

- L) That the two paragraphs under the heading **Restoration Guidelines** of the **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be amended to read as follows:

16.7.12 Restoration Guidelines: Without limiting the above or endorsing or acquiescing in unapproved development, where development has occurred in violation of the WDP Area, the following guidelines shall also apply:

16.7.12.1 A QEP must be retained at the expense of the applicant for the purpose of preparing a report outlining how to mitigate the damage incurred by any clearing and site development activities and how to restore the area to its undisturbed condition.

16.7.12.2 Buildings and structures constructed in violation of this WDP Area may be subject to removal at the applicant's expense in order to restore the integrity of the riparian area.

- 4 That **Schedule 'B' Zoning Bylaw** of the **Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018** be amended as follows:

- A) That the following definitions be inserted into **Section 17.0 Interpretation** in the appropriate alphabetical locations:

ACTIVE FLOODPLAIN, in relation to a watercourse, means land that is:

- a. adjacent to the watercourse;
- b. inundated by the 1 in 5 year return period flow of the watercourse; and,
- c. capable of supporting plant species that are typical of inundated or saturated soil conditions and distinct from plant species on freely drained upland sites adjacent to the land.

DEVELOPMENT or DEVELOP, unless otherwise defined elsewhere in this Bylaw, means any activity carried out in the process of clearing or preparing a site or erecting structures;

DEVELOPMENT, in the context of interpretation of section 38 of Development Permit Area #1: Watercourse Development Permit (WDP) Area, means carrying out construction, redevelopment, building and land alteration and ancillary activities, including engineering or other operations, as well as subdivision of land, in, on, over or under land and land covered by water to the extent that such activities are subject to local government authority under enabling Provincial legislation;

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.

LAKE means any area of year round open water covering a minimum of 1.0 hectares (2.47 acres) of area and possessing a 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.

QUALIFIED ENVIRONMENTAL PROFESSIONAL (QEP) means an applied scientist or technologist who is registered and in good standing with an appropriate B.C. professional organization constituted under an Act. A qualified environmental professional could be a professional biologist, agrologist, forester, geoscientist, engineer or technologist.

RETAINING WALL means a structure constructed to hold back, stabilize, or support soil.

RIPARIAN ASSESSMENT AREA means the area within 15 m of the high water mark of a watercourse; within 15 m of the top of the ravine bank in the case of a ravine less than 60 m wide; and within 5 m of the top of the ravine bank in the case of a wider ravine that link 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.

STREAMSIDE PROTECTION AND ENHANCEMENT AREA (SPEA) means an area adjacent to a watercourse that links aquatic to terrestrial ecosystems and includes both the riparian area vegetation and the adjacent upland vegetation that exerts an influence on the

stream, the width of which is determined by assessment by a Qualified Environmental Practitioner (QEP).

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 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.

WETLAND means land that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, plant species that are typical of inundated or saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a watercourse other than Kootenay Lake.

- B) That a new **Section 38.0 DEVELOPMENT PERMIT AREAS** be inserted so that it reads as follows:

38.0 DEVELOPMENT PERMIT AREAS:

38.1 Development Permit Area #1: Watercourse Development Permit (WDP) Area

38.1.1 For the area covered by this Zoning Bylaw, being Schedule 'B' to the Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018, the Official Community Plan in Schedule 'A' to the Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018 designates the Watercourse Development Permit Area ("WDP Area") and describes the special conditions or objectives that justify the designation. The exemptions and guidelines for the WDP Area are contained within this Zoning Bylaw. The "Post Development Guidelines" identified in WDP Area are incorporated as conditions into all Development Permits for the WDP Area issued by the Regional District of Central Kootenay.

38.1.2 Exemptions

A development permit is not required for the following activities:

38.1.2.1 alteration, addition, repair, demolition and maintenance of farm buildings and agricultural activities including clearing of land for agricultural purposes.

38.1.2.2 Subdivisions, including lot consolidations and lot line adjustments, where the newly proposed lot lines do not fall within the WDP 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 WDP Area;

- b. no disturbance (such as grading, clearing, trenching, and the installation of site infrastructure) to the WDP Area will occur as a result of the creation of lots or provision of services to those lots;
- c. the WDP Area has been identified by a Qualified Environmental Professional (QEP) and clearly delineated on site; and
- d. a Section 219 Covenant, with the RDCK as a Covenant Holder, that contains recommendations to ensure adverse development impacts will be effectively mitigated must be registered over the WDP Area against the titles of all newly created lots.

38.1.2.3 Construction, renovation, or repair of a building or other permanent structure if it remains on its existing foundation and is not moved or extended into a riparian assessment area.

38.1.2.4 A Development Permit or Section 219 Covenant has already been registered against the title of land, with the RDCK as a Covenant Holder, that has addressed that all WDP 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.

38.1.2.5 Where a QEP has inspected the site and has provided written confirmation 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.

38.1.3 Guidelines

38.1.3.1 The owner of land within the WDP Area must obtain a development permit prior to undertaking or permitting or acquiescing in the undertaking of the following activities wherever they occur on land identified as a riparian assessment area within the WDP Area:

- a. removal, alteration, disruption or destruction of vegetation, including trees, plants and shrubs;
- b. disturbance of soils;
- c. construction or erection of buildings and structures;
- d. creation of non-structural impervious or semi-impervious surfaces;
- e. flood protection works including shoreline protection works;
- f. construction of roads, trails, retaining walls, docks, wharves and bridges;
- g. provision and maintenance of sewer and water services;
- h. development of drainage systems;
- i. development of utility corridors;
- j. subdivision as defined in section 455 of the *Local Government Act*; and
- k. any other activity that requires a development permit first be issued in accordance with section 489 of the *Local Government Act*.

38.1.3.2 An owner of land within a riparian assessment area seeking to develop such land under a development permit must seek to implement the requirements of the *Riparian Areas Protection Act* and *Riparian Areas Protection Regulation*.

38.1.3.3 As part of a development permit application made prior to any of the applicable triggers for a development permit identified in section 489 of the *Local Government Act* and RDCK's bylaws, and prior to undertaking any such activities or development, the owner of the applicable land is solely responsible for:

- a. providing the information identified in the following guidelines;
- b. proposing only activities and development consistent with the following guidelines;
- c. not undertaking any activities or development inconsistent with the following guidelines; and,
- d. not undertaking any activities or development without a development permit.

38.1.3.4 A development application must include, as Development Approval Information, a Biophysical Assessment Report and *Riparian Areas Protection Regulation (RAPR)* Assessment prepared by a QEP as defined in, and in accordance with, the *Riparian Areas Protection Regulation* established by the Provincial and/or Federal governments as used elsewhere in the Province. The assessment report must include certification from the QEP that:

- a. the QEP is qualified to carry out the assessment;
- b. the assessment methods have been followed; and
- c. in their professional opinion the development will not negatively affect the functioning of a watercourse or riparian area and that the requirements of the *Riparian Areas Protection Regulation* have been fulfilled.

38.1.3.5 Development proposals in the WDP Area will be evaluated based on their adherence to the following additional guidelines:

- a. 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.
- b. Demonstrate that a diligent effort has been made to preserve existing riparian vegetation, woody debris, boulders, and other natural features.
- c. Retain mature vegetation wherever possible and incorporate it into the design of the project.
- d. Proposals involving the creation of new parcels by subdivision must demonstrate on a Site Plan that there is adequate space for a building platform area and associated services outside of the setback recommended in the biophysical assessment, and in areas where zoning applies the minimum parcel size should be accommodated entirely outside of the setback area.
- e. Where fencing is proposed within the WDP Area, or to delineate the WDP Area or a covenant area, wildlife-friendly fencing must be utilized to maintain landscape connectivity between aquatic and upland ecosystems.
- f. 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 Kootenay Lake Shoreline Guidance Document, as amended from time to time and which is incorporated into these guidelines:
 - i. Avoidance of environmental impacts and associated components;
 - ii. Minimization of unavoidable impacts on environmental values and associated components;

- iii. Restoration of on-site environmental values and associated components; and, iv. Offsetting impacts to environmental values for residual impacts that cannot be minimized.
- g. 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.
- h. 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.
- i. Preference will be given to flood and erosion protection works that utilize natural approaches for the protection of both private property and the riparian area.
- j. The conditions of the issuance of a Development Permit for the WDP Area may require any of the following:
 - i. areas of land that must remain free of development except in accordance with conditions in the permit;
 - ii. the preservation, protection, restoration or enhancement of natural features and watercourses;
 - iii. dedication of natural watercourses;
 - iv. construction works to preserve, protect, restore or enhance natural watercourses or other specified natural features of the environment;
 - v. protection measures to preserve, protect, restore or enhance fish habitat or riparian areas, control drainage, or control erosion or protect banks;
 - vi. all works to be in accordance with a QEP's recommendations, as provided in the biophysical assessment report;
 - vii. monitoring of the development activities by a QEP;
 - viii. specific timing or sequence of development activities to minimize impacts to the natural environment;
 - ix. limits of disturbance to be in place for the duration of the development activities; and,
 - x. 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.
- k. Should disturbance to the WDP Area occur outside of the scope of the conditions of an issued Development Permit, the property owner must submit a new WDP application with a new biophysical assessment report that assesses the unauthorized disturbance and proposes full remediation of the areas subject to the unauthorized disturbance.

38.1.3.6 No development activities should take place within any Streamside Protection and Enhancement Area (SPEA) identified by the QEP if the proposed development results in a harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area (HADD). The applicant will be required to follow any measures identified by the QEP for protecting the SPEA over the long term and these measures should be included as conditions of the Development Permit.

38.1.3.7 A QEP report should identify any invasive species and areas subject to prior degradation and should provide recommendations as to potential restoration or mitigation options.

38.1.3.8 Construction methods and timing must minimize environmental impacts. Clearing of land, grading, and other activities that expose soil should be completed during the dry months of the year usually between June and September. Timing of construction should follow the recommended timing windows for species based on provincially accepted best management practices.

38.1.3.9 **Post Development Guidelines Report:** Unless explicitly excluded in a development permit issued by the Regional District of Central Kootenay, the owner of the applicable land must provide a post development report prepared by the QEP of an assessment of all permit conditions. The report must assess if the development is in compliance with the applicable development permit conditions and the land has been developed in accordance with the QEP's recommendations within their biophysical assessment report.

38.1.3.10 **Other Provincial and Federal Requirements:** The *Riparian Areas Protection Regulation* implemented through the WDP Area does not supersede other Federal, Provincial and or local government requirements, including that of other development permit areas, building permits, flood covenants, Federal or Provincial authorization. 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.

38.1.3.11 **Compliance with WDP Standards, Requirements and Conditions of Development Permit:** The owner of land within the WDP Area must:

- a. comply with all applicable standards set out within and the requirements and conditions of a development permit;
- b. provide a biophysical assessment report and *Riparian Areas Protection Regulation (RAPR)*;
- c. Assessment in accordance with section 38.1.3.4; and
- d. provide a post development guideline report in accordance with section 38.1.3.9.

38.1.3.12 **Development Approval Guidelines:** The Board may consider variances to the subdivision or siting regulations of this Bylaw or other bylaws where the variance may result in enhanced protection of a SPEA in compliance with the recommendations of an assessment report.

38.1.3.13 **Restoration Guidelines:** Without limiting the above or endorsing or acquiescing in unapproved development, where development has occurred in violation of the WDP Area, the following guidelines shall also apply:

- a. A QEP must be retained at the expense of the applicant for the purpose of preparing a report outlining how to mitigate the damage incurred by any clearing

and site development activities and how to restore the area to its undisturbed condition.

b. Buildings and structures constructed in violation of this WDP Area may be subject to removal at the applicant's expense in order to restore the integrity of the riparian area.

- 5 By making such consequential changes as are required to reflect the foregoing amendments, including without limitation changes in the numbering and Table of Contents of the bylaw.
- 6 This Bylaw shall come into force and effect upon its adoption.

CITATION

- 7 This Bylaw may be cited as “Regional District of Central Kootenay Electoral Area ‘G’ Land Use Bylaw No. 2452, 2018, Amendment No. 3025, 2026”.

READ A FIRST TIME this 16th day of July, 2026.

READ A SECOND TIME this 16th day of July, 2026.

READ A THIRD TIME this xxth day of xxxx, 2026.

ADOPTED this xxth day of xxxx, 2026.

Aimee Watson, Board Chair

Mike Morrison, Corporate Officer