

B.C. Riparian Areas Regulation: Community Pilot Projects
District of Campbell River – WILLOW CREEK TRIBUTARY

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The District of Campbell River (the DCR), a community of approximately 30,000 people, is located approximately 150 kilometers north of Nanaimo on the east coast of Vancouver Island. Development in the community has primarily taken place in a three to four kilometer wide strip of land, which rises up from Discovery Passage at the northern tip of the Georgia Basin and stretches along the coastline for over 15 kilometers.

Background – Campbell River’s Methods for Protecting Streams

The District’s Official Community Plan designates a Greenway (Streamside Area) Development Permit Area (DPA) on its watercourses. Developed to comply with the former Streamside Protection Regulation (SPR), the DPA is defined as all lands within 30 metres from the top of bank on streams indicated in a map included in the OCP or as determined by the District. If a development proposal infringes on this area, a Development Permit is required. In essence, the DPA parallels the ‘Riparian Assessment Area’ of the RAR, triggering an assessment to determine the streamside area to be protected.

The Site

The pilot study is a 2.77 ha greenfield site located in an emerging residential area at the south end of the city. The area was logged in the 1980s, and since then has regenerated to a mixed deciduous and coniferous forest. A tributary of Willow Creek flows through the southwest corner of the development site and joins up with Willow Creek about 1 km downstream (Picture 1).

The development site is Phase 5 of a subdivision named Georgia Park; earlier phases of the development are currently under construction. The developer has proposed the creation of 27 single-family lots on the property, ranging from 603m² to 1262 m², consistent with the existing Residential zoning for this property.

The Stream

Biological surveys performed in May 2002 and June 2003 indicated that while fish were not found in the stream on the site, Cutthroat trout were found further downstream.



Map 1. Pilot Study Site and Georgia Park Development.

It was determined that fish access to the site was theoretically possible as there are no physical barriers. However, low water levels would restrict or prevent fish passage onto the site for much of the year, and in-stream habitat was also found to be of poor quality.

RAR Simple Assessment – desktop analysis:

Despite its limitations, the stream could potentially support fish for at least part of the year; consequently, the RAR would categorize it as fish-bearing. The area on both sides of the stream is continuously vegetated for a minimum of 30 m. Therefore, the Simple Assessment procedure would likely assign a minimum SPEA width of 30 m from top of bank on both sides of the stream.



Picture 1. The Willow Creek tributary at south end of the development site.

The Review Process (Figure 1)

At the time of the pilot study, the proposed development had received Preliminary Layout Approval with the requirement to obtain an Environmental Development Permit prior to final design approval.

The project engineer retained a QEP to perform an environmental assessment of the site. With the consent of the applicant, the QEP performed a RAR-based Detailed Assessment to determine the SPEA for the site and conditions for its protection. The QEP employed four of the five “features, functions and conditions” (FFCs) outlined in the Detailed Assessment method –site potential vegetation, channel morphological type, shade, and food and nutrients. The QEP set aside the fifth FCC - filtration – citing the need for completion of a stormwater management plan for the upland area before this condition could be assessed.

Based on this modified Detailed Assessment, the QEP concluded that due to the seasonal flows and poor quality potential habitat, the main objective for maintaining riparian vegetation should be to protect water quality for downstream habitat, and recommended a SPEA of 10-m width from top of bank on either side of the stream.

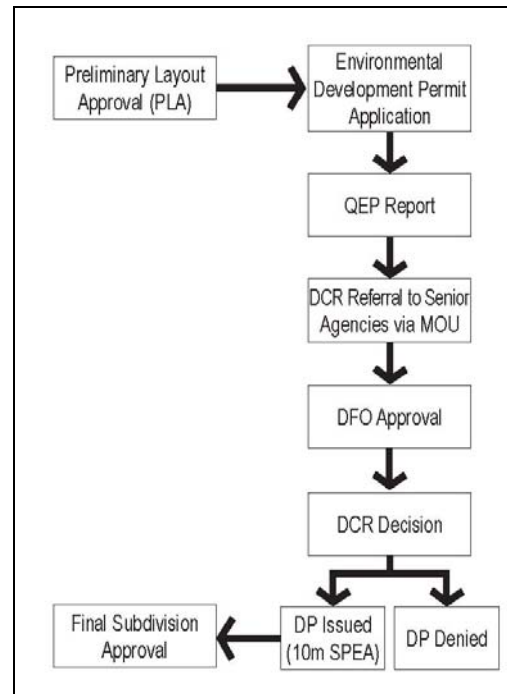
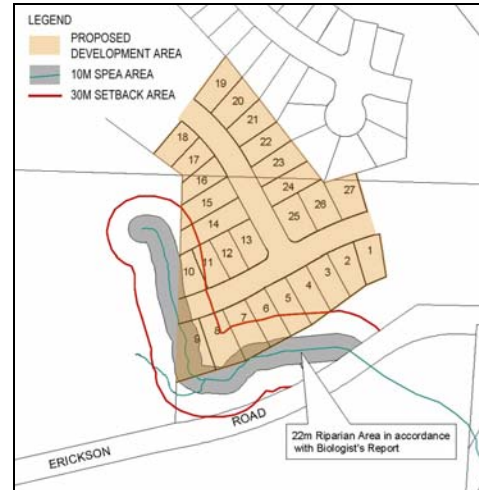


Figure 1: Approval Process for the Pilot Site.

DCR staff received the QEP's report and forwarded it to MWLAP and DFO via the process established in their existing Memorandum of Understanding (MOU). DFO supported the QEP's 10-metre SPEA recommendation.

Recognizing that drainage needed to be planned in the context of an overall Integrated Stormwater Management Plan for the area (currently in progress), the DCR also accepted the recommended 10m SPEA as sufficiently conservative to protect riparian habitat and preserve future stormwater management options.

The developer was issued a DP requiring that a covenant be registered on the title of all lots adjacent to the stream for any part of those lots that are within 10 metres from the top of bank. Map 2 illustrates the proposed lot layout with the original 30-metre DPA and the 10-meter SPEA to be covenanted.



Map 2: Pilot Site showing 30-m DPA and 10-m SPEA (covenanted).

Potential Changes in the Review Process under the RAR

Under the RAR, the main changes to the review process for this development application, compared to the existing process, would be as follows (Figure 2):

- The QEP report would be submitted by the QEP directly to MWLAP and DFO rather than being forwarded via the DCR. MWLAP would notify the DCR and QEP that the report was received, and post it on its on-line database. The DCR may obtain a copy of the QEP's report by accessing the report from the online database, or request that the applicant or QEP provide them with a copy directly.
- There would be no referral or formal consultation between the DCR and the senior agencies on the QEP report and its findings.
- MWLAP and DFO would acknowledge receipt of the report but would not review it, relying instead on the QEP confirming that they have fulfilled the three required criteria of: being qualified; adhering to the RAR's Assessment Methods; and providing an opinion on the SPEA width and the measures required to maintain the SPEA's integrity.

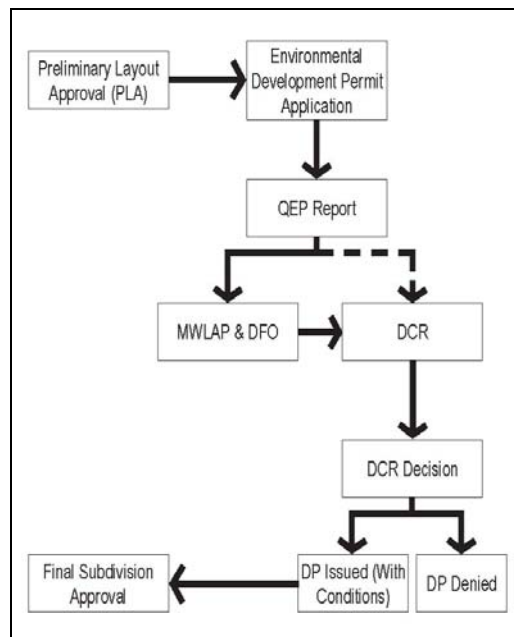


Figure 2: How the Approval Process for the pilot site would change under the RAR.

Adoption of the RAR in the DCR's Bylaws and Processes

Due to the DCR's previous integration of the SPR into its OCP and the staff's experience with streamside protection, implementation of the RAR should be relatively straightforward.

Official Community Plan: The DCR is currently undergoing a review of its OCP, and integrating the RAR into the new Plan is part of that process. It is anticipated that the DPA Guidelines will be revised to take into account the RAR process.

The current DPA Guidelines include a statement: "Notwithstanding the above, the District may, as part of the development permit, vary the setback requirements from a watercourse where it can be demonstrated in a less than desirable existing situation that a 'net positive improvement' for fish habitat will result, or, in a more desirable existing situation that 'no net loss' will result, subject to District, Provincial and or Federal agency review and comment." By this policy, the DCR seeks to provide an incentive for applicants to improve on existing riparian conditions.

Local governments have the authority under section 920(7) of the *Local Government Act* to require enhancement measures within the SPEA, independent of any RAR requirements. However, a local government could not significantly vary the SPEA from that determined by the QEP report in exchange for enhancement measures within the remaining SPEA. Any such variance from a SPEA that is determined by a QEP using the accepted Assessment Methods would be considered a HADD, and would require DFO's authorization under the *Fisheries Act*.

Memorandum of Understanding (MOU): An MOU was signed in 2002 between the DCR, MWLAP, and DFO to "establish a streamlined and more cost-efficient process for deal with land use planning and development applications as they affect the natural environment within the boundaries of the District of Campbell River".

Schedule C of the MOU addresses the responsibilities of each level of government in reviewing applications for development near watercourses and other Environmentally Sensitive Areas. Currently, "moderate" and "major" changes in riparian areas and in-stream works are presented at Coordination Meetings and, in most cases, require written responses from the senior agencies. "Minor" changes in riparian area may be handled by DCR staff.

The RAR Implementation Guide speaks to minor variances to SPEAs that can be made by local governments. This and other process-related changes introduced by the RAR may be up for discussion when the MOU is scheduled for review and renewal in August 2005.

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