

## INFORMATION SHEET: DEVELOPING WITHIN A STREAMSIDE DEVELOPMENT PERMIT AREA

The District of Saanich's Streamside Development Permit Area requires Streamside Protection and Enhancement Areas (SPEA) be maintained along all fisheries sensitive watercourses. This information sheet is intended to guide you through five possible scenarios for developing within an area identified as a Streamside Development Permit Area (SDPA). In most cases scenario one is the route that landowners choose when undertaking a development.

- **Scenario 1. Your development plans can be completed without encroaching into the District's predetermined SPEA.**
- **Scenario 2. You feel that the pre-determined SPEA does not accurately reflect the site specific conditions of the property.**
- **Scenario 3. You would like to 'bend' the SPEA to accommodate your development plans.**
- **Scenario 4. You feel your development plans meets the criteria for 'Undue Hardship', as defined by Fisheries and Oceans Canada.**
- **Scenario 5. You feel that a watercourse identified by the District is not a stream as defined by the Riparian Areas Regulation.**

**Development** means any activity referred to in Section 920 (1) of the Local Government Act and includes the

- removal, alteration, disruption or destruction of vegetation,
- removal, deposit or disturbance of soils,
- construction or erection of buildings and structures,
- creation of non-structural impervious or semi-impervious surfaces,
- construction of roads, trails, docks, wharves and bridges,
- provision and maintenance of sewer and water services, and
- subdivision.

**High water mark** means the visible high water mark of a *stream* where the presence and action of water are so common and usual, and so long continued in all ordinary years as to leave a mark on the soil of the stream banks, above which there is a change in the character of the soil and vegetation. The *high water mark* is the edge of the *active floodplain*.

**Stream** includes any of the following that provides freshwater *fish habitat*:

- a) a watercourse, whether it usually contains water or not;
- b) a pond, lake, river, creek or brook; and
- c) a ditch, spring or *wetland* that is connected by surface flow to something referred to in paragraph (a) or (b).

**Qualified Environmental Professional (QEP)** means an applied scientist or technologist, acting alone or together with another qualified environmental professional, if

- the individual is registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association's code of ethics and subject to disciplinary action by that association,
- the individual's area of expertise is recognized in the assessment methods as one that is acceptable for the purpose of providing all or part of an assessment report in respect of that development proposal, and
- the individual is acting within that individual's area of expertise.

Any development that is proposed within 30m of a watercourse, as identified in Saanich's Streamside Development Permit Area Atlas, must be approved through the District of Saanich Streamside Development Permit process (Bylaw 8753). Additional information on the SDPA guidelines can be found at: <http://www.saanich.ca/business/development/laps/dpaguidelines.html>

In an effort to assist landowners the District has identified the majority of watercourses located within the municipality. The District has, at its expense, determined a SPEA that is consistent with the provincial Riparian Areas Regulation Simple Assessment criteria. The predetermined SPEA for a given property may vary from 5 meters to 30 meters. District staff can assist you in confirming the SPEA for any given property.

**Scenario 1. *Your development plans can be completed without encroaching into the District's predetermined SPEA.***

If you are planning to develop within 30 meters of an identified watercourse and are prepared to remain outside of the SPEA you must apply to the District of Saanich for a Streamside Development Permit. You are not obliged to hire a qualified environmental professional (QEP) as defined by the provincial Riparian Areas Regulation (RAR) and District staff will assist you in making your development application.

**Scenario 2. *You feel that the pre-determined SPEA does not accurately reflect the site specific conditions of the property.***

If you feel that the SPEA established by the District of Saanich is incorrect you may hire a QEP, at your expense, and have them undertake a Detailed Assessment, as defined by the RAR, to determine if the SPEA can be changed. It should be noted that a Detailed Assessment of a subject property may not necessarily result in a smaller SPEA than already established by the District. Under this option, the District will not proceed to review an application until it has received electronic notification from the BC Ministry of Environment that a copy of the QEP report has been submitted to the provincial RAR Notification database.

**Scenario 3. Where existing development is already located on the property you may be able to ‘bend’ the SPEA to accommodate your development plans.**

If the resulting SPEA is 10m wide or greater, as measured at any point along the high-water mark of the stream, the SPEA boundary may be adjusted to accommodate an intrusion. The District will only consider this option for developments that can be successfully implemented without compromising riparian site values. Applicants should refer to the SDPA guideline requirements (Section 3) for the criteria to be followed when considering this approach and will be required to work with a QEP. Applicants are reminded that there may be a greater setback imposed under other municipal bylaws including but not limited to the Zoning Bylaw, Deposit of Fill Bylaw or Floodplain Bylaw.

**Scenario 4. You feel your development plans meet the criteria for ‘Undue Hardship’, as defined by Fisheries and Oceans Canada.**

In some cases a development may only be possible when alteration, damage or destruction of habitat is necessary (as defined by the Fisheries Act) and the development will encroach into SPEA. In these situations Fisheries and Oceans Canada (DFO) will need to be consulted and provide written confirmation that they support the development plans as proposed. DFO may consider issuing an Authorization for alteration, damage or destruction of habitat.

An applicant will be required to hire a QEP who will need to complete a detailed habitat assessment. Prior to submission to DFO the District will work with an applicant and QEP to assess the likelihood of success of the project. The District will be required to provide written support in principle for the proposed development as part of the applicant’s submission to DFO. It should be noted that written support does not constitute development approval and if DFO support is obtained the applicant will still need to follow the District’s other development permit application processes.

**Scenario 5. You feel that a watercourse identified by the District is not a stream as defined by the Riparian Areas Regulation.**

Where a stream or watercourse has been identified by the District and you feel that it does not meet the intent of the provincial regulation you may, at your expense, hire a QEP to assess the watercourse. The QEP must prove that the watercourse does not meet the definition of a stream as defined by the RAR and should submit a report that includes, at a minimum, the following information in a submission to the District:

1. A legal site plan or orthophoto of the property including the location of the subject watercourse and any other significant environmental features. The scale of the orthophoto must be at no greater than 1:400.

2. A detailed report, prepared by a qualified environmental professional (QEP), describing the site conditions including justification that:
  - i. the watercourse provides no habitat values to a stream or body of water that supports fisheries values;
  - ii. the watercourse/feature is not connected to a stream which is considered fish habitat during any period of the year, and
  - iii. if man-made barriers were removed fish habitat could not be re-established.The QEP must be able to provide sufficient evidence that the watercourse does not meet the noted criteria and may need to work with other QEP's (e.g. engineers, geotech and hydrologists) when preparing a report to the District.
3. Confirmation that the QEP(s) meets the provincial standard of 'qualified environmental professional'.

If you wish to have a streamside development permit area removed from the Bylaw, on receipt of a satisfactory QEP report, District staff will prepare a report to Council with a recommendation for an amendment to the Bylaw. If Council supports the recommendation you will then be able to proceed with other legislative requirements necessary for development approval.

**Note:**

It should be noted that a development application may be rejected for other reasons and that the Streamside Development Permit is only one area of the District's approval process.

The District reserves the right to seek further clarification on streamside issues which may require review and comment from the provincial Ministry of Environment and federal Fisheries and Oceans Canada.

For further information or advice please contact staff in the District's Environmental Services Section at (250) 475-1775.