

16.0 Overview of Development Permit Areas

16.1. Background

Section 488 of the *Local Government Act* permits Council, in an Official Community Plan, to designate Development Permit Areas (DPAs). Council may issue a development permit that may vary or supplement a regulation of the Subdivision or Zoning Bylaw. A development permit cannot vary use, density, or flood plain specifications. Where land is subject to more than one DPA designation, a single development permit is required, however, the application is subject to the requirements of all applicable DPAs.

16.1.1 DESIGNATION

Pursuant to Section 488 of the Local Government Act, the Town of Smithers has designated Development Permit Areas for:

1. Environmental areas for lands shown on Map 6.
2. Hazardous areas for land shown on Map 6.
3. Form and Character for lands designated on Map 7.

16.1.2 GENERAL EXEMPTIONS

A Development Permit is NOT required for:

- Construction within a building that does not require exterior alterations.
- Replacement of exterior finishes using the same or similar materials and colours. This also includes the replacement of signage with no change in location, size, type, or signs approved by a Sign Permit.
- Planting trees, shrubs or ground cover.
- Use of land is for outdoor recreational purposes and does not include buildings and structures other than fencing or nets.
- Alteration of legal or lawful nonconforming buildings and structures within the existing footprint.
- Placement of impermanent structures if there is no site clearing.
- Emergency actions to prevent, control or reduce erosion or other immediate threats to life, the natural environment, and property including:
 - Fire, flood, and erosion protection works;
 - Removal of hazard trees;
 - Protection, repair or replacement of public utilities;

- Clearing of an obstruction from a bridge, culvert or drainage flow; and
- Bridge repairs and safety fences in accordance with the Water Sustainability Act.
- Construction of a single public or common use trail provided that the trail is designed to avoid environmentally sensitive and erosion prone areas.
- Repair and maintenance of existing roads, driveways, paths and trails.
- Construction of a fence.
- The Town of Smithers as long as development adheres the environmental and hazardous condition development permit guidelines as confirmed through a project summary developed by the Town's project manager prior to project initiation.
- Agricultural uses within the Agricultural Land Reserve.

16.2. Environmental and Hazardous Conditions Development Permit Areas

16.2.1 AREA

Lands designated on Map 6.

16.2.2 PURPOSE

The Environmental and Hazardous Development Permit Areas (DPA) regulates development in areas that require a degree of protection.

Objectives are to:

- Protect the natural environment, its ecosystems and biological diversity;
- Protect development from hazardous conditions;
- Protect human life and property.

16.2.3 EXEMPTIONS

A Development Permit is NOT required for Environmental development permit area as designated on Map 6 where:

1. Submission to the Town of a written statement from a Qualified Environmental Professional with relevant experience confirming the absence of a sensitive ecosystem within the area that would be affected by the proposed work.
2. Minor site clearing necessary to undertake topographic and similar surveys which aid site and servicing planning work.

3. Normal farm practices protected by the Farm Practices Protection (Right to Farm) Act or other applicable provincial legislation or guidelines on properties assessed as a farm under the BC Assessment Act.
4. Building additions of 40m² or less that do not require retaining structures.
5. Habitat restoration works that have obtained the required Provincial and Federal approvals.
6. Construction of a small accessory building such as a pump house, gazebo, garden shed or playhouse if all the following apply:
 - The building is located within an existing landscaped area;
 - No native trees are removed;
 - The building is sited as to not compromise a hazardous area (i.e., steep slope or watercourse bank); and,
 - The total area of small accessory buildings is less than 10m².

16.2.4 SUBMISSION REQUIREMENTS

Every submission shall include:

1. A completed Development Permit Application and applicable fee.
2. Professionally prepared Site Plan showing buildings (existing and proposed) and structures, parking areas, access, toe of slope and top of bank, and any watercourse setback areas that are located on or that about the site.
3. A professional prepared plan showing existing and proposed grades, (including details on retaining walls), toe of slope, top of bank, or any floodplain area.
4. A plan showing the areas to be cleared and areas of cut and fill, and the proposed sequence and timing of the clearing and recontouring.
5. Other information, as necessary, to assess the development proposal.

16.2.5 JUSTIFICATION

The intent of the Environmental and Hazardous Area Development Permit Areas is to protect key environmental features and to delineate areas that are prone to hazardous conditions such as flood or slope failure. Protection of fish habitat is essential for the long term viability and health of the Bulkley River salmon and steelhead populations. Habitat associated with the low lying flood plains as identified the 1998 Rare Plant Communities and Plant Species Inventory are important indicators of ecosystem health.

Protecting the health and safety of the community is essential which is reflected in the identified flood plain, steep slope and interface fire hazard areas.



Kathlyn Creek; Photo Credit: Douglas Paul Fine Art, 2022

Environmental Areas have been identified to:

- Protect fish and fish habitat
- Protect riparian habitats that support wildlife and support healthy streams
- Protect habitat associated with low lying flood plain areas

Hazardous areas have been identified to:

- Clearly identify flood prone areas
- Protect health and safety of property and owners in flood prone areas
- Allow for development near steep slopes when the areas is confirmed safe for the intended use

16.2.5 GUIDELINES

The following guidelines apply to all Environmental and Hazardous Conditions DPA's:

16.2.5.1 Watercourses and Environmentally Sensitive Areas

1. An Environmental Impact Assessment (EIA), prepared by a Qualified Environmental Professional will be required in order to evaluate the impacts of a proposed development on the natural environment. The EIA shall include the following information:
 - Information regarding potential impacts of proposed development, mitigation options and design alternatives;
 - Confirmation that the development will not result in Harmful Alteration, Disruption, or Destruction (HADD) of riparian areas;
 - The width of the leave strip area which must be protected;
 - Measures required to maintain the integrity of the riparian area;
 - An indication of when the monitoring of important environmental conditions should occur.
2. Retain existing trees and vegetation to the fullest extent.
3. Where a proposed development falls within 30 m of a watercourse, a Qualified Environmental Professional is required to complete a habitat impact assessment. The goal of this assessment is to confirm:
 - That no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life in the riparian area will occur, or
 - Protection and enhancement measures will protect the integrity of those areas from the effects of the development.
 - Where RAPR applies, ensure the proposed develop meets the provincial requirements.

16.2.5.2 Floodplains

1. Where a development is proposed within a floodplain, a report certified by a professional engineer is required to determine if the property is safe for the intended use and to identify what conditions or requirements are appropriate to ensure the safety of the property. The report must assess and confirm the flood construction level for the proposed development based on a 1 in 200-year flood event and shall consider the impacts of climate change.
2. Buildings, structures and paved surfaces shall be located:

- Away from areas subject to erosion, sloughing, flooding, landslide, or damage;
- At such a distance from a watercourse as to prevent erosion, sloughing, flooding, landslip, excessive run-off or siltation, and protect lands and the fishery resource;
- To preserve the natural vegetation on steeper slopes and sensitive ecosystems;

16.2.5.3 Steep slopes

1. Where a development is proposed within a steep slope area, a report certified by a professional engineer is required to determine if the property is safe for the intended use and to identify what conditions or requirements are appropriate to ensure slope stability.
2. Buildings, structures and paved surfaces shall be located:
 - Away from areas subject to erosion, sloughing, flooding, landslide, or damage;
 - To preserve the natural vegetation on steeper slopes and sensitive ecosystems;
3. Measures shall be put in place to:
 - Direct surface run-off away from areas subject to erosion and sloughing and to handle storm water run-off appropriately;
 - Contain any excessive run-off, erosion, or siltation at the clearing and construction stage, and for the completed development.
 - Retain existing trees and vegetation to the fullest extent.

16.2.5.4 Interface Fire Hazard Areas

1. Where a development is proposed within the Interface fire hazard area, a report by a qualified professional is required to determine if the property is safe for the intended use and to identify what conditions or requirements are appropriate to meet best practice for development in areas of high fire risk.
2. The site plan for a property within the fire hazard area must illustrate how the site applies the guidelines outlined in the Homeowners Fire Smart Manual (BC Edition).