

Report

Date	June 15, 2022	File: SPP00040
Subject	Proposed Zoning Bylaw Amendment to Harmonize existing Development Permit Guidelines with Development Permit Areas as proposed in the 2022 Official Community Plan.	

PURPOSE

To introduce Zoning Amendment Bylaw No. 3873, which proposes to replace Schedule "J" (Development Permit Guidelines) in Zoning Bylaw, No. 2950 with an updated Schedule "J" that reflects the new Official Community Plan 2022. This administrative change will harmonize the documents to ensure the continued orderly administration of Development Permit applications should Council adopt the new Official Community Plan (OCP).

BACKGROUND

The OCP designates several Development Permit Areas (DPAs) to ensure future development meets identified standards and objectives. Development proposals in these areas are designed according to the Development Permit (DP) Guidelines located in the Zoning Bylaw. During the 2022 OCP update, DPAs were restructured and renamed and included the addition of a new Climate Action DPA. These changes, however, do not include an update to the corresponding DP Guidelines. Chapter 10 (Development Permit Areas) of the proposed 2022 OCP is attached for reference in Attachment 3 to this report.

Due to the cross-referencing between DPAs designated in the OCP and the DP Guidelines housed within the Zoning Bylaw, it is necessary to ensure the Zoning Bylaw correctly refers to the new OCP if adopted. While existing DP Guidelines are not changing as part of the OCP project, the restructuring of DPA designations requires a commensurate administrative update to the Zoning Bylaw.

DISCUSSION

OCP Designation of Development Permit Areas

Section 488 of the *Local Government Act* enables North Cowichan to designate areas of land known as Development Permit Areas (DPAs) within its OCP. The OCP must describe special conditions or objectives that justify the designation and specify guidelines respecting the manner by which the special conditions or objectives will be addressed. These guidelines may be specified within the OCP itself or within a local government's zoning bylaw. In the latter case, the designation is not effective until the zoning bylaw has been adopted.

Zoning Bylaw 2950

North Cowichan's zoning bylaw implements land use planning policies outlined in the OCP and regulates how land, buildings and other structures may be used. The zoning bylaw also contains the DP guidelines associated with OCP DPAs for form & character, natural environment, hazardous conditions and farmland protection. While many B.C. municipalities house their DP guidelines within the OCP itself, s.488(3) of the *Local Government Act* allows those guidelines to be contained, alternatively, within a

municipality's zoning bylaw. North Cowichan's Zoning Bylaw, adopted in 1997, has undergone a number of amendments, many of which were related to the current OCP adopted in 2011.

While a comprehensive zoning bylaw update, including the substance of the DP Guidelines, is programmed to follow the OCP adoption, an immediate amendment to Schedule "J" (Development Permit Guidelines) is required at the time of the 2022 OCP adoption in order to ensure the existing zoning bylaw DP guidelines and DPA references are coherently aligned with the DPAs designated within the new OCP. This is a necessary administrative amendment and does not involve any policy changes or subjective judgements.

Proposed Amendment to Zoning Bylaw No. 2950

The proposed amendment to Zoning Bylaw No. 2950 relates only to Schedule "J" – Development Permit Guidelines. No other amendments are being recommended at this time.

Proposed revisions noted below are administrative in nature in that they relabel and reorganize DP guidelines in a manner consistent with the new OCP DPA designations without creating a change in the guidelines themselves. Additionally, by administratively changing the DP Guidelines referencing from numerical to alphabetical, it will help reinforce terminology between DP *Areas* within the OCP and DP *Guidelines* within the zoning bylaw, thereby reducing the potential for confusion once adopted.

Proposed amendments to Schedule "J" in the DP Guidelines include:

- 1) **Combine current DPA-1 (General) and DPA-2 (Marine Waterfront) into "DP Guidelines A: Form, Character & Performance."** In the proposed amendment changes, existing DPA-1 (General) and DPA-2 (Marine Waterfront) guidelines will be collated to reflect the two type-based designations within one consolidated set of guidelines which apply equally to residential development versus commercial or industrial development. This, however, may change during the future comprehensive zoning bylaw review when the guidelines are revisited for content, where type-specific guidelines may be introduced.
- 2) **Convert DPA-3, DPA-4, and DPA-5 to "DP Guidelines B: Natural Environment, DP Guidelines C: Hazardous Conditions, and DP Guidelines D: Farm Land Protection," respectively.** Each of these DPAs will continue to map onto a single associated set of DP Guidelines as per the current situation.
- 3) **Remove ss.1.6.1, 1.6.2, & 1.6.3 from DPA-1 (General) and replace within a new "DP Guidelines E: Energy & Emissions".** The noted sections moved from the current DPA-1 to DP Guidelines E: Energy & Emissions correspond to the new OCP DPA "DPA-6: GHG Reduction, Energy & Water Conservation". Most applications will fall simultaneously within DPA-1 (or -2) and DPA-6 and will be administered as a single entity. This change would not result in any additional requirements or cost for applicants beyond what is currently asked for.

Based on the above noted changes, the following correlations would result:

2022 OCP	Zoning Bylaw
DPA-1 (MF & Intensive Residential)	→ Form, Character & Performance DP Guidelines A
DPA-2 (Commercial & Industrial)	→ Form, Character & Performance DP Guidelines A
DPA-3 (Natural Environment)	→ Environment DP Guidelines B
DPA-4 (Hazard Lands)	→ Hazardous Conditions DP Guidelines C
DPA-5 (Protection of Farmland)	→ Farmland DP Guidelines D
DPA-6 (GHG Emissions & Energy)	→ Energy & Emissions DP Guidelines E

Other than minor amendments relating to numbering, organization and formatting, correcting language to be gender-neutral, or updating outdated references to other legislation, no substantive changes to the DP Guidelines are contained within this zoning amendment bylaw.

Given the large number of minor changes required throughout this section of the zoning bylaw, deletion and replacement of Schedule "J" in its entirety is recommended. A track-changed version of Schedule "J" is attached to this report in Attachment 2 showing all changes to text.

Summary

Proposed Zoning Bylaw Amendment Bylaw No. 3873 seeks to align Schedule "J" of the Zoning Bylaw with the new OCP through an administrative change to the DP Guidelines in Schedule "J". It is necessary to ensure the zoning bylaw correctly refers to the new OCP (if adopted), and as such, the zoning amendment should be effectively concurrent with the OCP adoption.

By giving initial readings to this bylaw and waiving a public hearing in accordance with s.464(2) of the *Local Government Act*, Council will be in a position to give third reading and adopt this zoning amendment bylaw immediately following the adoption of a new OCP at whatever time that should occur. To waive a public hearing, the Municipality must give notice under s.467 of the *Local Government Act* prior to first reading. The draft bylaw attached to this report in Attachment 1 is therefore for information purposes only at this time.

OPTIONS

1. (Recommended Option)

THAT Council:

- (1) Considers first reading of "Zoning Amendment Bylaw No. 3873" at its regular meeting on July 20, 2022; and,
- (2) Provides notice in accordance with section 467 of the *Local Government Act* that no public hearing be held in accordance with section 464 (2) of the *Local Government Act*.

- The zoning amendment bylaw will give effect to the changes described in this report and will be brought forward to Council for consideration of third reading and adoption in conjunction with OCP adoption.

- As the recommended changes are administrative in nature and designed to ensure legal consistency with the new OCP without changing the guidelines themselves, staff advise that waiving the Public Hearing associated with this zoning bylaw update is appropriate. As per s.467 of the *Local Government Act*, notice will be provided in lieu of a public hearing.
2. THAT Council direct staff to provide further information [*to be identified by Council*] prior to issuing notice under section 467 of the *Local Government Act* for consideration of first reading of the proposed zoning bylaw amendment bylaw.
- Staff may provide additional information to Council; however, adoption of the new OCP should not take place until Council is in a position to adopt this associated zoning bylaw amendment concurrently. This zoning bylaw amendment must appear at a minimum of two meetings of Council, with notice under s.467 of the *Local Government Act* taking place prior to consideration of first reading.
 - Delaying first reading until after Council’s next meeting on July 20 may result in a delay to the earliest opportunity for Council to consider adopting the new OCP.

IMPLICATIONS

- There are no financial implications or concerns for the recommended zoning bylaw amendment.
- Adopting the recommended zoning bylaw amendment will take place only if and when the new 2022 OCP is adopted and will ensure the existing development guidelines correspond to the new OCP’s designation of DPAs.
- This zoning amendment would not change any design or submission requirements for DP applicants and is administrative only.

RECOMMENDATION

THAT Council:

- (1) Considers first reading of “Zoning Amendment Bylaw No. 3873” at its regular meeting on July 20, 2022; and,
- (2) Provides notice in accordance with section 467 of the *Local Government Act* that no public hearing be held in accordance with section 464 (2) of the *Local Government Act*.

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Attachments:

- (1) Draft Bylaw 3873, 2022
- (2) Track-changed version of Zoning Bylaw 2950 Schedule "J" showing proposed changes
- (3) 2022 OCP Chapter 10: Development Permit Areas