

## 5 General Environmental Development Permit Area

*This section provides general justification, general areas and exemptions, general objectives, and general guidelines that apply to Development Permit Areas for Bald Eagle Nest Trees, Streamside, Campbell River Estuary, Foreshore, Sensitive Ecosystems Inventory sites, Watershed, and Hazard Conditions. Read this section in conjunction with the named Development Permit Areas.*

### General Exemptions

The following activities occurring in an Environmental Development Permit Area shall be exempt from the development permit application process:

- 1) **Emergency management:** Procedures to prevent, control or reduce flooding, erosion or other immediate threats to life, public or private property, are temporarily exempted from the requirement to obtain a City of Campbell River development permit. Following completion of emergency procedures, submission of a Development Permit is may be required depending on the degree of the works and based the discretion of City staff the **Director of Development Services or other delegate**. Emergencies eligible for an exemption include:
  - a) works to prevent damage to, repair or replace public utilities;
  - b) clearing of an obstruction, e.g. from a bridge, culvert or drainage flow;
  - c) repairs to bridges or safety fences;
  - d) actions required to remove a hazard, including a tree, or **to address** an unstable steep slope, that presents an imminent danger to the safety of persons or are likely to damage public or private property, as determined by a Qualified Environmental Professional.
  - e) hazard tree condition assessments must specify assessment targets and must reference the Wildlife Tree Committee of British Columbia Wildlife/Danger Tree – Parks Recreations Sites module
- 2) **Public works and services:** the construction, repair and maintenance of works by the City or its authorized agents and contractors are exempt from the formal development approval process, but the works must be completed in accordance with the assessments and recommendation of a qualified environmental professional (QEP) in accordance with the *Riparian Areas Protection Regulation* Assessment methodology and other applicable environmental regulations and best management practices.
- 3) **Environmental restoration:** restoration of environmentally sensitive areas by planting native vegetation and/or removing non-native invasive vegetation and/or removing garbage without the use of **machinery hand tools** following a plan that considers disposal, safety, planting, and erosion and sediment control to the satisfaction of the City. **If heavy equipment is necessary for the restoration, a**

detailed environmental management plan prepared by a Qualified Environmental Professional to the satisfaction of the City is required.

- 4) **Preliminary geotechnical investigations:** initial geotechnical investigation and evaluation in steep slope and environmentally sensitive development permit areas is exempt from the Development Permit process provided that the works are overseen by a Qualified Environmental Professional under the guidance of an Environmental Management Plan and to the satisfaction of the City.

## 6 Bald Eagle and Great Blue Heron Nest Tree Development Permit Area

*Read this section in conjunction with the general development guidelines which guidelines, which also apply in this Development Permit Area.*

### Area Designation

The Bald Eagle and Great Blue Heron Nest Tree Development Permit Area is designated in accordance with the provisions of pursuant to s. Sections 488 (1) (a) of the *Local Government Act*, for the purpose of protection of the natural environment, its ecosystems and biological diversity.

The Bald Eagle and Great Blue Heron Nest Tree Development Permit Area consists of:

- a) Within the Urban Containment Boundary all land within 60 metres of a an identified Bald Eagle nest tree or a Great Blue Heron nest tree; and
- b) Within the Comprehensive Development Permit Area, all land within 60 metres of a Bald Eagle nest tree and within 200 metres of a Great Blue Heron nest tree.

Bald Eagle and Great Blue Heron nest trees include trees that have a nest whether it is active or not, a nest remnant (any remaining sticks are still visible), a nest tree previously identified by a Qualified Environmental Professional where the nest is currently down, and includes a tree where a nest is under construction.

Distances are measured as a radius from the base of the nest tree or if multiple trees exist in a colony, distance is measured from the outer trees' bases. In addition to the known Bald Eagle nest

Nest locations that have been identified are shown on Map 9. The locations of the Bald Eagle and Great Blue Heron nest trees identified on Map 9 are intended to provide an approximate location only. Ground-truthing by professionals is required to accurately determine the location of the tree or trees to determine if development falls within the development permit area. development permits may apply to new sites occupied by eagles in both the Comprehensive Development Permit Area and within the Urban Containment Boundary as identified through biological inventory. Reference is encouraged to Wildlife Tree Stewardship (WiTS) Atlas at <http://cmnmaps.ca/wits/>.

For clarity, the development permit area applies to land within the stated proximity of a nest tree whether or not the nest tree has previously been identified or mapped.

## Justification

Section 34 of the *Wildlife Act* provides for the protection of Bald Eagles, Great Blue Herons and several other at risk bird species, their eggs and young while the nest is occupied, and the nest at all times. Both eagles and herons are most susceptible to disturbance when human activity patterns near their nest are changed and disturbances are particularly disruptive to nesting birds early in the breeding season, and each pair is unique.

Bald Eagles are large raptors that build large, heavy nests. This requires large, old trees with an open branch structure. Preventing the loss of nesting and perching trees is a key component in assuring the long term viability in the eagle population.

Great Blue Herons are Blue-Listed (vulnerable) provincially, and federally they are a species of Special Concern due to their small populations and productivity declines. This species is susceptible to eagle predation, human disturbance and development related habitat loss.

Buffer areas adjacent to these sites are critical to protect nesting trees and to assure the long term viability of the local breeding population. Habitat and nest tree loss since the 1990's prompted the formation of the Wildlife Tree Stewardship Program (WiTS) comprised of government and non-government partners. The program documents nest tree locations, nest site and territory activity and encourages habitat protection strategies based on a breeding territory perspective over the outdated tree by tree approach.

## Exemptions

Refer to The General Environment Development Permit Exemptions that also apply also to the Bald Eagle and Great Blue Heron Nest Tree Development Permit Area is section.

A development permit is not required if a QEP certifies in writing that the structure of a Bald Eagle or Great Blue Heron nest tree has deteriorated to the point that the tree can no longer support a nest structure.

A development permit is not required if a QEP certifies in writing that there is insufficient information for an historic Great Blue Heron nest tree to be located.

## Bald Eagle and Great Blue Heron Nest Tree Development Permit Guidelines

In addition to the *General Environmental Development Permit Guidelines*, the following specific guidelines shall be addressed for Bald Eagle and Great Blue Heron Nest Tree Development Permit Areas:

- 1) Maintain the full Development Permit Area as a naturally vegetated buffer of 60 metres, measured as a radius from the base of the nest tree (includes trees that have a nest active or not and includes a

tree with a nest remnant and includes a tree where a nest is under construction) or otherwise as determined by a Qualified Environmental Professional.

2) The 60 metre buffer also applies to identified Bald Eagle nest trees where the nest is no longer present until five breeding seasons have passed with no signs of nesting activity. This period may be shortened if a Qualified Environmental Professional determines that the tree no longer has sufficient nest support structure. If the breeding pair still uses the historic nest tree or other trees in the Development Permit Area for breeding activities even after the five year period (for example, mating, feeding, fledgling perch sites, etc.), any new development activities, including tree removal, remain subject to the Development Permit process.

2) If the full Development Permit Area cannot be naturally maintained, a QEP assessment report must:

- i) Describe the proposed development
- ii) Demonstrate that all avenues to avoid and minimize development in the Development Permit Area have been exhausted
- iii) Map all historical and current nest sites within 500 metres
- iv) Consult with the WiTS data base and the provincial heron data base, include previous local reports (where applicable) and include any local reports of nesting activity
- v) Map and include an assessment of important buffer, roost and perch trees
- vi) Comprehensively describe the habitat noting species present, degree and age of tree cover, invasive species present
- vii) Describe connectedness and importance of the Development Permit Area habitat to other natural area corridors
- viii) Comment on existing uses in the Development Permit Area and how this impacts habitat. Describe which uses are grand-parented and which uses need to be restored or mitigated with supporting plans to achieve that
- ix) Provide specific recommendations for timing or phasing of the development that is consistent with the provincial Develop with Care best management practices so as to avoid construction disturbance during the breeding season
- x) Provide a detailed nest tree monitoring schedule based on recommended provincial methodology to record nesting success and to determine the effect of development disturbances to breeding birds; QEPs must report details on nesting success to the relevant provincial contact / data base
- xi) Clarify that the nest monitor QEP must take written notes and the monitor has the power to stop construction activity if nesting is disrupted by development activities or if the construction activity contravenes local, provincial or federal environmental regulations
- xii) Include the requirement to submit a post development QEP report
- xiii) Include dated photo documentation

- xiv) Describe signage and/or fencing or some other form of demarcation indicating the buffer boundary to deter encroachment into the buffer during construction and over time
  - xv) Include cost estimates for all works including materials, monitoring and report writing that are referenced in the report. During the eagle tree and general environmental development permit process, an assessment and mapping of all existing perch trees and recruitment trees shall be provided as part of the environmental report.
- 3) The shape of the Development Permit Area may be altered to retain important habitat features that are not within the designated standard radius buffer measurement if supported by QEP assessment and provided there is no net habitat loss.
  - 4) Any encroachments into the Development Permit Area or alterations to the standard radius buffer measurement shape of the Development Permit Area must be accompanied by specific QEP mitigation and restoration recommendations including:
    - a) Tree protection plans completed by a certified arborist to ensure how the nest tree(s) and other significant tree health will be maintained during site development and over the long term as a result of the development (may include hydrological considerations); wind firmness of perimeter trees must be discussed
    - b) Demonstration that there is enough room for whole nest tree failure to occur so as not to create targets and hazard tree concerns
    - c) Provide garbage removal and invasive species management plans aimed to improve habitat function
    - d) Provide revegetation plans that include native species tree recruitment and a minimum 5-year monitoring schedule; natural regeneration is acceptable provided it is supported by QEP rationale and adequate monitoring to ensure success
  - 5) ~~If the 60 metre buffer cannot be achieved either due to lot size or location of the tree on the lot then the distance may be altered if the applicant supplies a report from a Qualified Environmental Professional with experience in raptor assessments. The report shall provide detailed recommendations for protecting the function of the nest tree and alteration of the 60 metre development permit area (or the portion of the 60 metre buffer on the subject property) must result in no net habitat loss. This may be accomplished by inclusion of known perch tree or buffer trees in the area for protection and the availability of recruitment nest tree habitat shall be addressed. The report shall also address known history of Bald Eagle use at the site including nest activity and other known nest sites within the breeding territory and distance to the adjacent Bald Eagle nest tree territories /nest locations shall be supplied. The Wildlife Tree Stewardship data base shall be referenced for existing site specific information and with nearby neighbours to help inform altered Development Permit Areas. Recommendations shall be compared with the more general recommendations to the latest BC Environment Best Management Practices for the species (Develop with Care). Requirements for development permit may be waived where the landowners have offered and entered into restrictive covenant to maintain an acceptable no disturbance buffer.~~
  - 5) If the province grants a permit to remove a Bald Eagle nest tree, the owner must retain a Qualified Environmental Professional with experience in raptor assessments to develop a habitat

~~compensation plan to ensure that there is no net habitat loss.~~ The post development QEP report must contain the following information:

1. Summary of construction and nest monitoring notes
2. Clear demonstration as to how the Development Permit Area buffer criteria were met including the initial phases of mitigation and restoration (if required); include dated photo-documentation
3. Outline outstanding recommendations and the timing for implementation of these including reporting requirements
4. Details confirming that nest success was reported to the relevant provincial contact /data base

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