

Environmentally Sensitive Development Permit Area Review

Review of ESDP Areas

Presentation:

- What is a Development Permit
- History of Development Permits in the RDOS
- ESDP Update (2014-17)
- Limitations of Development Permits
- Overview of Amendment Bylaw No. 2912
- Examples
- Summary
- Next Steps

Review of ESDP Areas

Development Permits What are they?

Review of ESDP Areas



LOCAL GOVERNMENT ACT (s. 488)

The Regional District has the authority to designate certain areas that it considers to be in need of special treatment for certain purposes.

This can include the protection of development from natural hazards, the appearance of buildings, revitalization of a commercial areas or the protection of the natural environment.

Review of ESDP Areas

A development permit area must include **four (4)** key elements:

1. **Purpose** (objectives justifying the designation);
2. **Guidelines** (how the objectives will be met);
3. **Triggers** (what development requires a permit); and
4. **Areas Affected** (a map of where the DP applies).

Review of ESDP Areas

.1 ESDP Area Objective:

... to minimize the impact of development on the natural environment.



Review of ESDP Areas

.2 ESDP Area Guidelines:

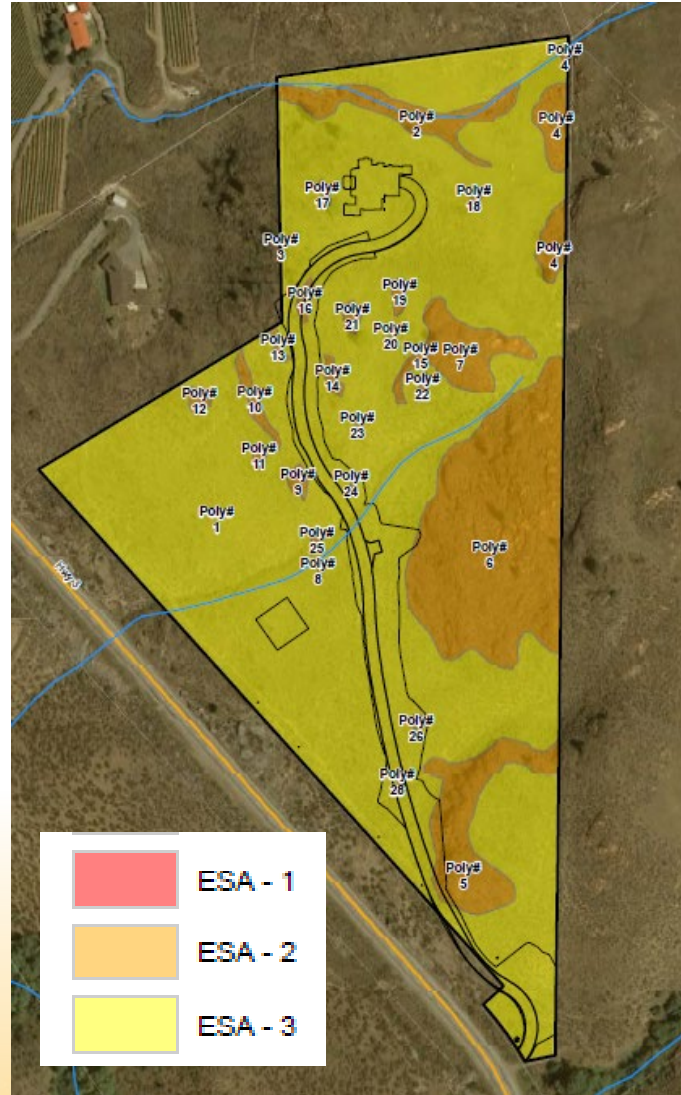
To protect the following:

- Native & Nesting Trees;
- Habitat Connectivity / Corridors;
- Grasslands;
- Riparian & Wetlands; and
- Rock Outcrops.

Assessments are required from a qualified environmental professional (QEP) - Professional Reliance Model.



Review of ESDP Areas



Professional Reliance Model

- Permits are issued based on reports and recommendations prepared by a Qualified Environmental Professional (QEP) retained by a property owner.

Review of ESDP Areas

.3 Development requiring an ESDP:



Subdivision



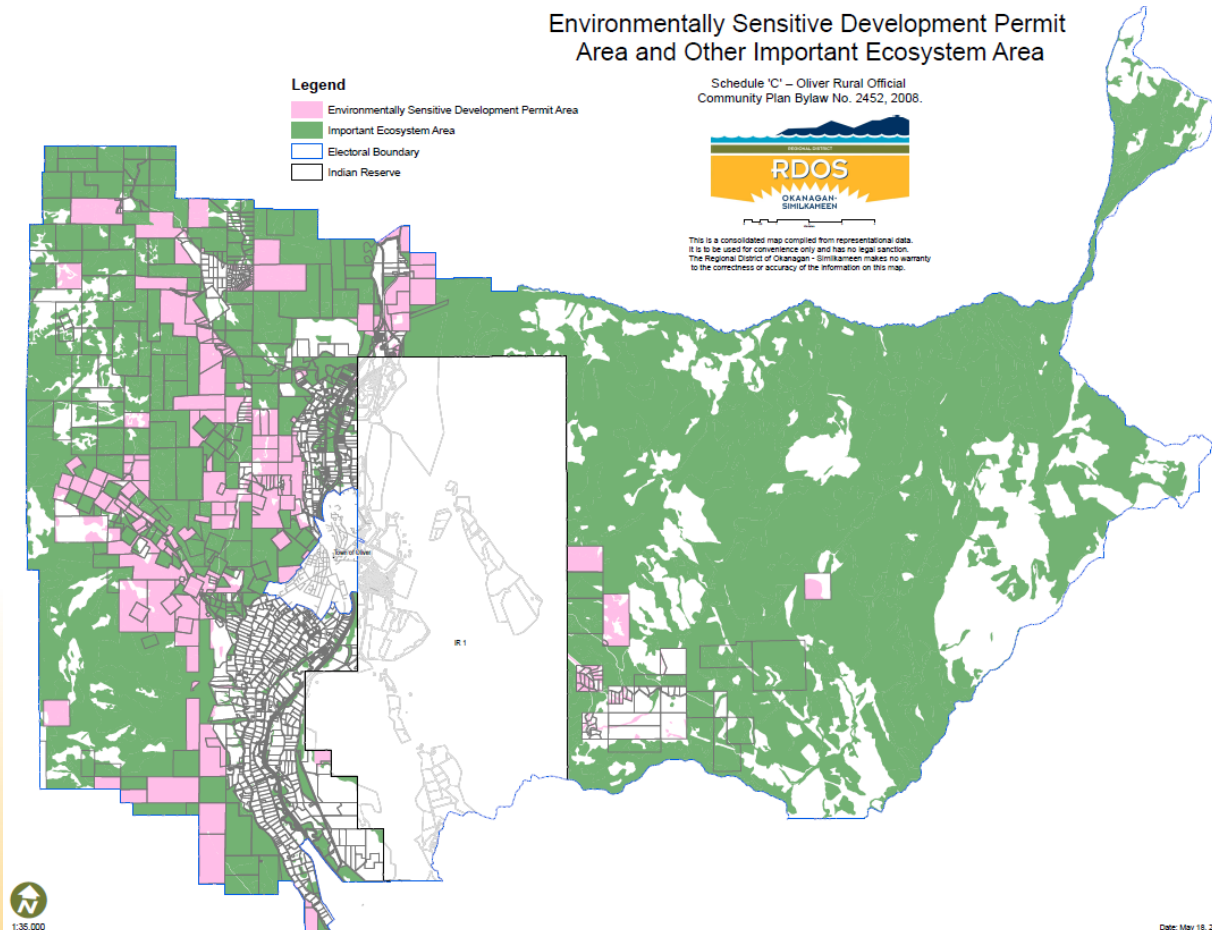
Building construction



Alteration of land

Review of ESDP Areas

.4 A Map of Designated Areas:



Areas designated as ESDP comprise lands with “high” & “very high” assessed values.

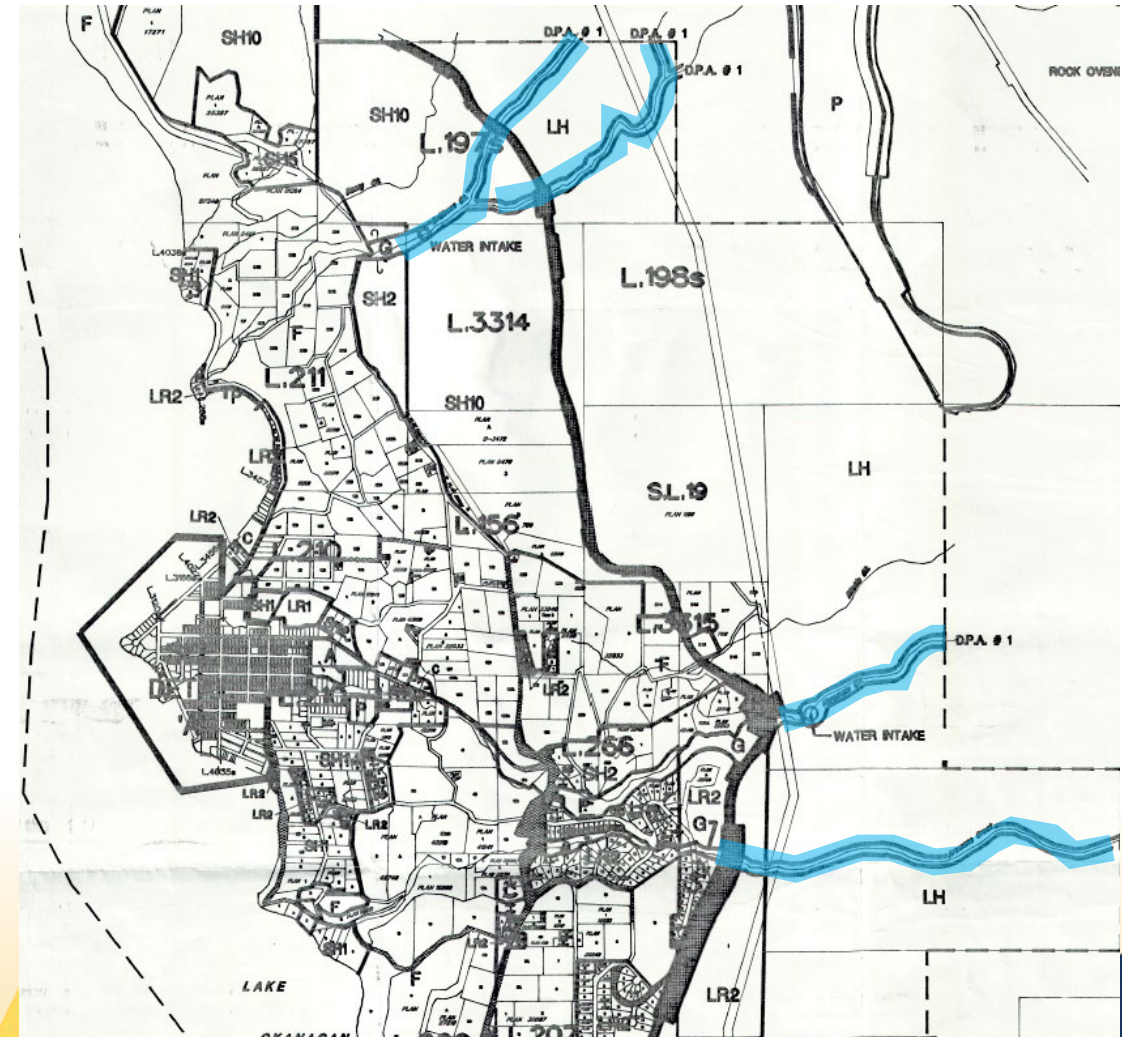
Excludes:

- Crown land;
- ALR lands; and
- Residential zoned land*.

History of Development Permits in the RDOS

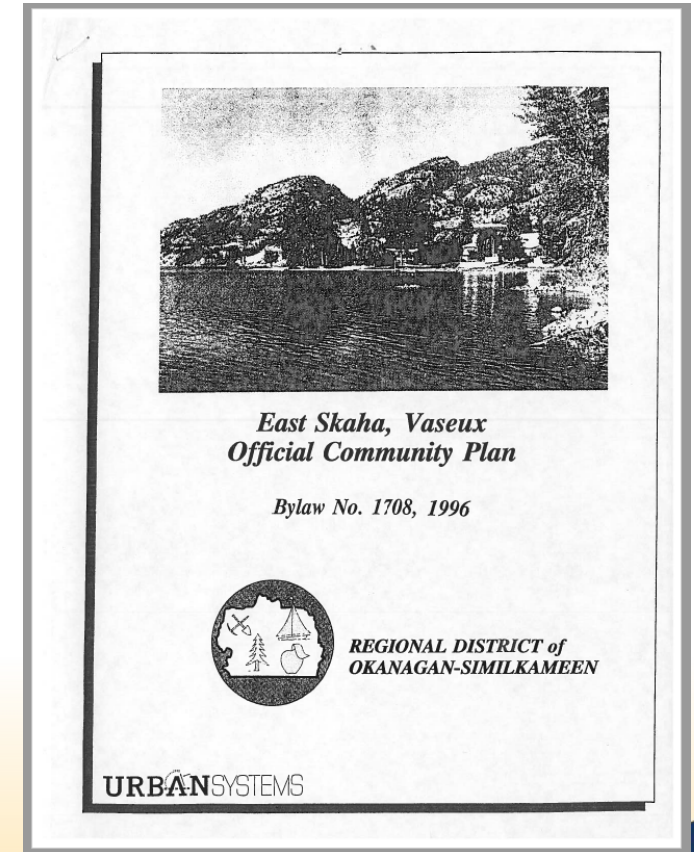
Review of ESDP Areas

- First DPs were implemented in Electoral Area “E” (Naramata) in 1994;
- Environmental DP required development be setback 15.0 metres from Naramata, Robinson and Arawana Creeks;
- Objective was to protect community groundwater supply and quality up to intake point.



Review of ESDP Areas

- First ESDP Area introduced in 1997 as part of a review of the Electoral Area “D” Official Community Plan (OCP) Bylaw.
- Challenges with ESDPs led to significant changes within 6 months of adoption of the OCP Bylaw (i.e. exemptions for residential and agricultural development are introduced).
- Would be 5 years before another ESDP was issued in Electoral Area “D” (i.e. 2002).



Review of ESDP Areas

The revised ESDP Area regulations are subsequently applied to the following Electoral Areas:

- Electoral Area “I” (Kaleden / Apex) in **2000**;
- Electoral Area “C” (Rural Oliver) in **2002**;
- Electoral Area “A” (Rural Osoyoos) in **2005**;
- Electoral Area “E” (Naramata) in **2007**;
- Electoral Area “H” (Tulameen / Princeton Fringe) in **2012**;
- Electoral Area “F” (West Bench / Faulder) in **2017**.

Review of ESDP Areas

Other RDOS Development Permit Area designations:

- **Watercourse Development Permit (WDP)**
 - provincially mandated, revised in 2013, 2019 & 2022 ...
- **Wildfire Hazard Development Permit (WHDP)**
 - Not pursued in 2021 (DP considered an ineffective tool)
- **Hillside Development Permit (HDP)**
 - revised in 2018 to only apply to subdivisions

Review of ESDP Areas

Other Development Permit Area designations:

- **Protection of Farming Development Permit (PFDP)**
 - revised in 2017 to only apply to subdivisions
- **Commercial / Light Industrial (“form & character”)**
 - abandoned in 2005.



Review of ESDP Areas

ESDP Update (2014-17)

Review of ESDP Areas

South Okanagan Sub-Regional Growth Strategy adopted by Board on April 1, 2010.

RGS recommends the creation of “an integrated **biodiversity conservation strategy** [that] protects priority sensitive ecosystems.”



BYLAW 2421, 2007 - SCHEDULE 'A'

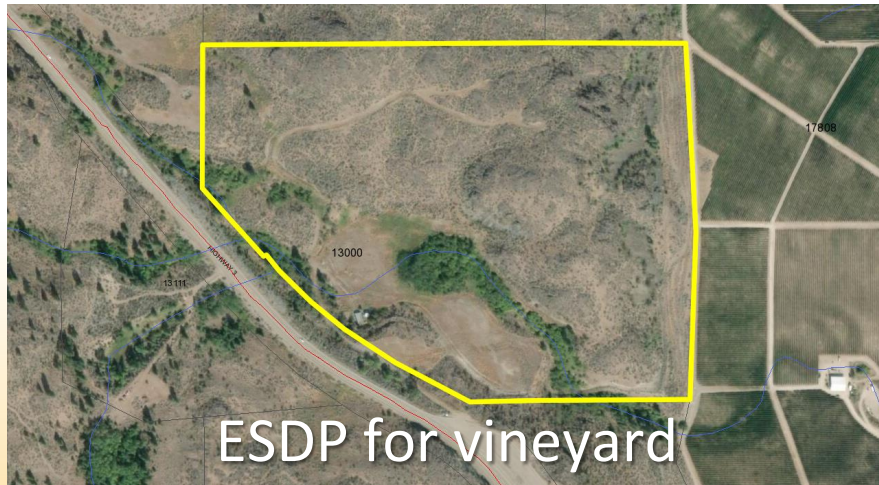
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Biodiversity Strategy

- Completed by South Okanagan Similkameen Conservation Program between 2010 – 2013.
- Identified “which natural areas [in the Okanagan-Similkameen] should be protected and restored”.
- Board resolves to accept “Keeping Nature in our Future” mapping as the basis for an update of OCP policies & ESDP Areas (September 5, 2013).



Review of ESDP Areas



ESDP Area Update (2014-17)

Review of Development activity since 1997:

- 5,100+ Building Permits (BPs) issued:
 - 2/3 are for residential construction
- 26 ESDPs issued:
 - 7 are related to non-residential construction; and
 - 19 are related to subdivisions.

Review of ESDP Areas

Issue:

Are ESDPs meeting the Board's objective of minimizing the impact of development on the natural environment?

- ESDP mapping suggested that large parts of the Regional District were subject to environmental protection;
- Almost all forms of development exempt from the need for a permit.

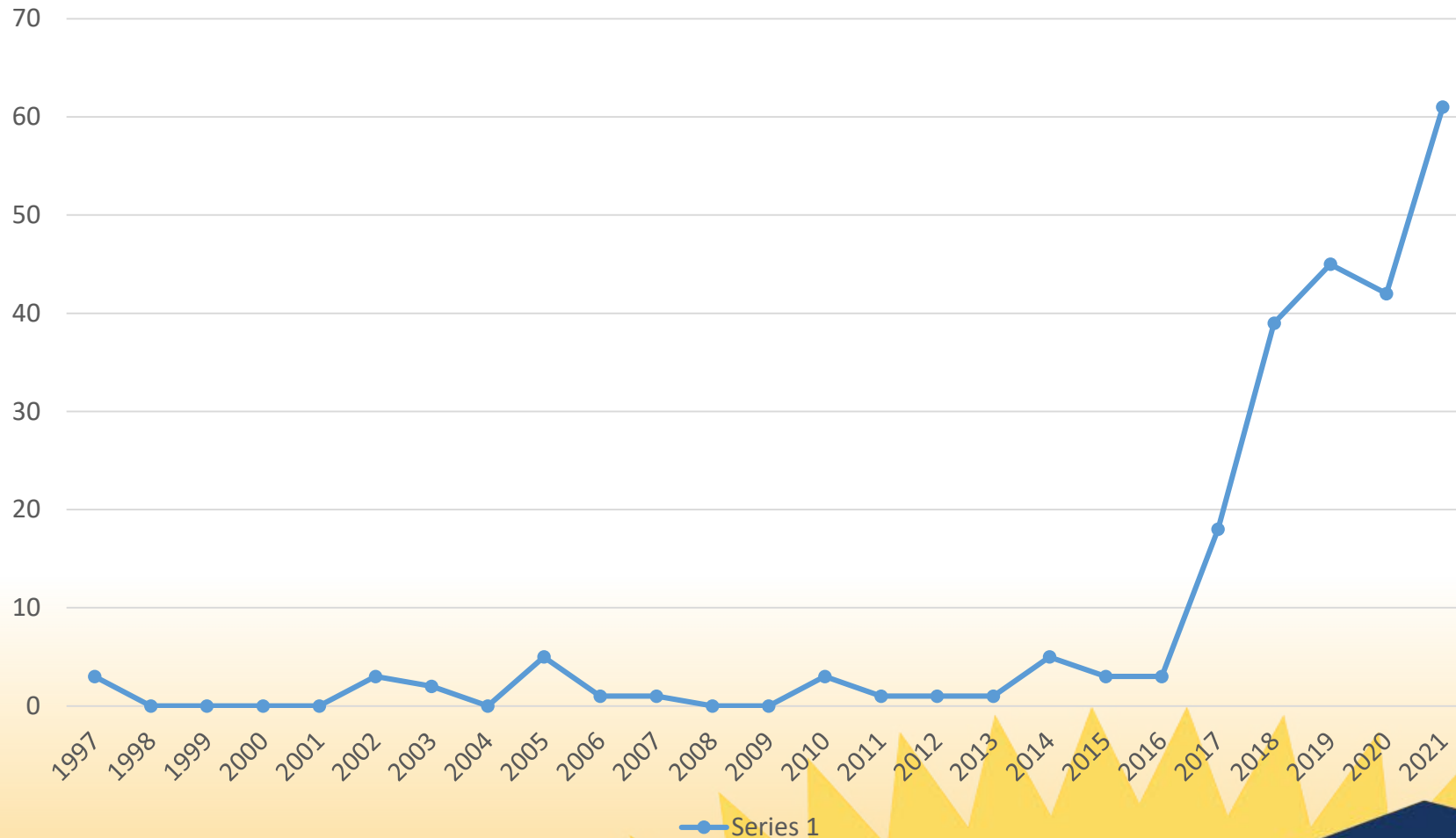
Review of ESDP Areas

2017 Changes to ESDP Areas:

- new mapping and guidelines introduced;
- residential exemptions revised;
- Rapid Environmental Assessment (REA) introduced; and
- assessments to be completed by Registered Professional Biologists (RPBio).

Review of ESDP Areas

ESDP Permits Issued 1997-2021



Building Permits:

- 611 in 2021
- 525 in 2020
- 527 in 2019
- 515 in 2018

ESDPs triggered for approx. 10% of BPs (2021).

Review of ESDP Areas

	Area "A"	Area "C"	Area "D"	Area "E"	Area "F"	Area "I"	Total
2017	3	2	9	1	0	[N/A]	15*
2018	10	7	17	2	2	1	39
2019	14	2	11	7	3	8	45
2020	11	3	6	7	6	7	40
2021	23	1	9	15	2	11	61
Total	61	15	52	32	13	27	200

* ESDP's issued from June 15th to December 31st of 2017

Review of ESDP Areas

ESDP issuance prior to 2017:

- 73% subdivisions;
- 27% non-residential development;
- 0% residential development

ESDP issuance after to 2017:

- 6.7% subdivisions;
 - 7.5% non-residential development;
 - 82.3% residential development;
- * 89% of ESDP's have been "Expedited".

[percentages calculated based 2019-20 permit numbers]

Review of ESDP Areas

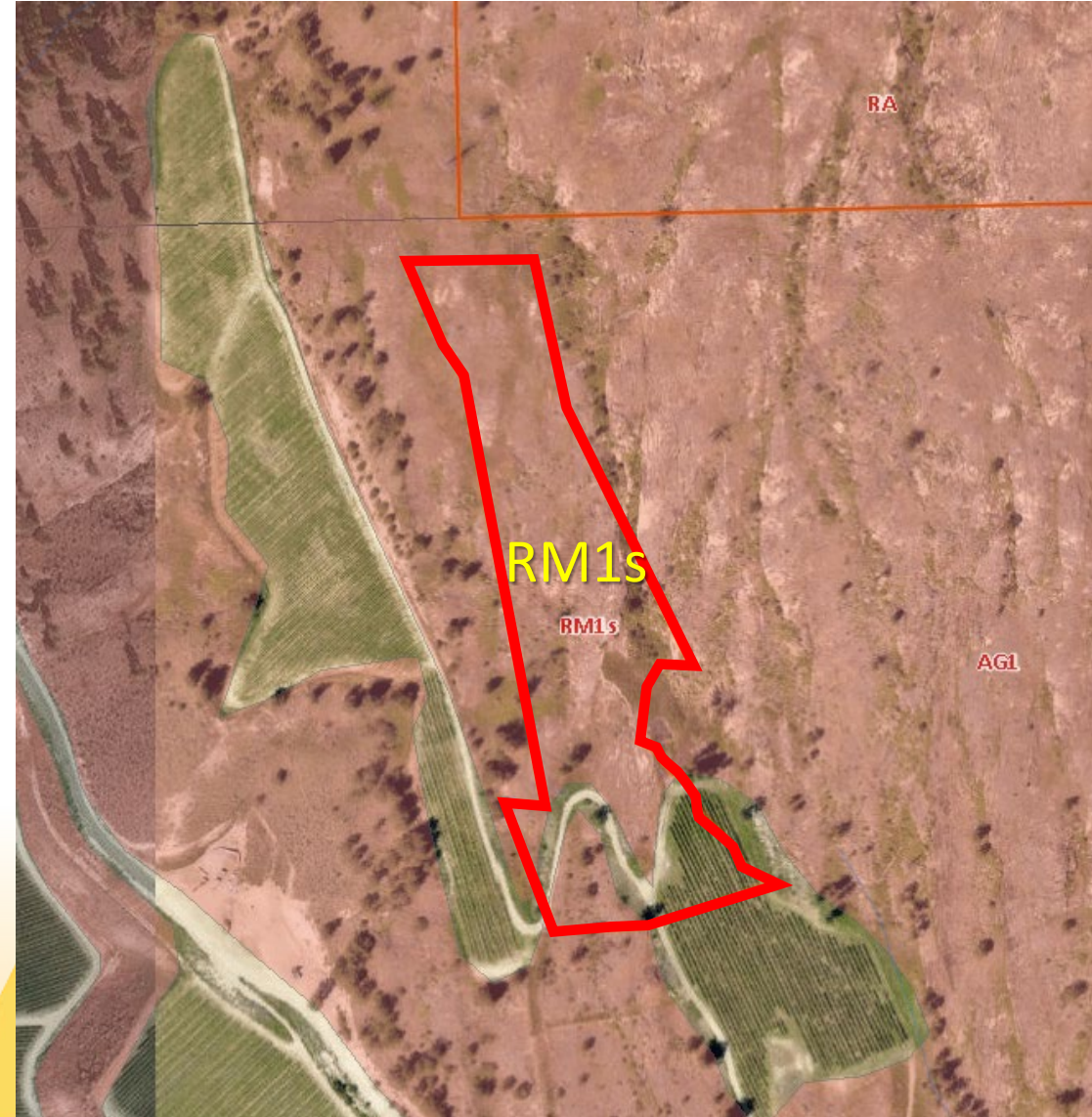
Issues with the Rapid Environmental Assessment (REA):

- being used by QEPs to justify complex developments and subdivisions;
- not clear that REA is providing a cost-effective option;
- use of Checklist by QEPs is not consistent or as intended;
- QEPs have expressed concern with title (i.e. “Rapid”).

The Limitations of Development Permits

Review of ESDP Areas

- Development Permit Guidelines are not regulations (i.e. more akin to suggestions);
- an ESDP designation cannot be used to prohibit a use or density allowed by zoning.



Review of ESDP Areas

- A Development Permit cannot be denied!
- *It's not "no", it's "not yet"*.
- A "refusal" must be accompanied by measures a property owner can take in order to meet the DP guidelines and obtain issuance of a permit.



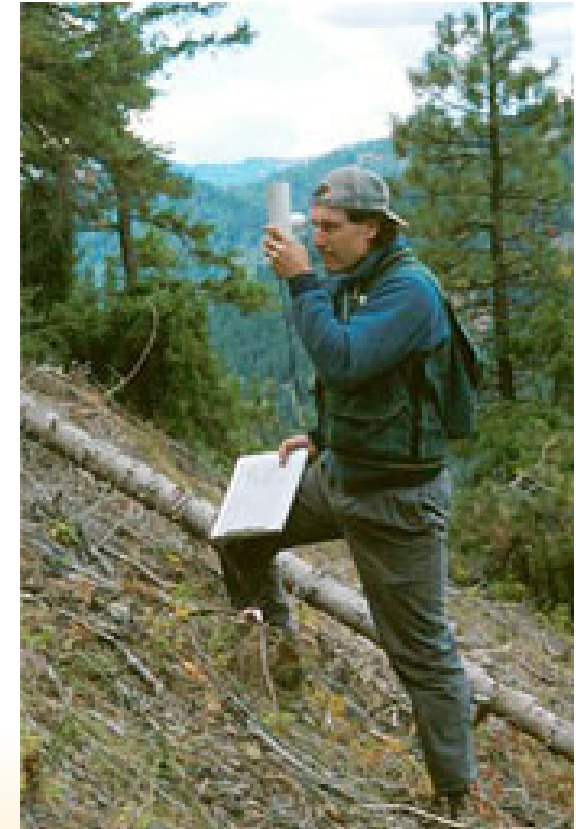
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- It is an open question as to whether local governments can issue tickets for infractions in a development permit area.
- UBCM has lobbied provincial government to provide this authority.
- Provincial government believes this authority already exists.
- Principal recourse is injunctive action at BC Supreme Court (costly & time consuming).



Review of ESDP Areas

- There is no authority under the Act to require post-approval monitoring;
- Landscaping bonds are rarely effective (“cost of doing business”, expense of having Biologist confirm landscaping exceeds value of bond);
- RDOS does not have capacity to monitor or undertake remediation.



Review of ESDP Areas

Professional Reliance Model

- Has the Regional District drafted ESDP Guidelines that provide sufficient guidance for QEPs to achieve outcomes in the “public interest”? (i.e. ... *minimize the impact of development ...*)
- QEPs cannot compel property owners to follow their recommendations (this is a local government responsibility);
- Given limitation of DPs, QEP latitude to direct development is limited.

Review of ESDP Areas

Measuring Performance

- it is unknown if ESDPs are actually minimizing impacts of development on the environment;
- focus of ESDPs is building permits whereas successful environmental protection is understood to be prevention of fragmentation of sensitive lands (i.e. rezoning stage);
- anecdotal evidence suggests benefit of ESDP Area is in educating property owners of ESAs on their property, but this is not the objective of the ESDP Area.

Proposed Changes to the ESDP Area designation (Amendment Bylaw No. 2912)

Review of ESDP Areas

RDOS Board Motion – September 3, 2020

1. that ESDPs shall only apply to subdivisions and rezonings;
2. that options be brought forward to make ESDPs more effective at the subdivision and rezoning stage; and
3. that ESDPs should not prevent the *FireSmarting* of properties.

Review of ESDP Areas

1. ESDPs only apply to subdivisions and rezonings:

- Not triggered by rezoning;
- Environmental Impact Assessment (EIA) can be requested;
- Such requests are based upon ESDP Area mapping (i.e. environmental sensitivity).

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2. ESDPs be made more effective at the subdivision and rezoning stage:

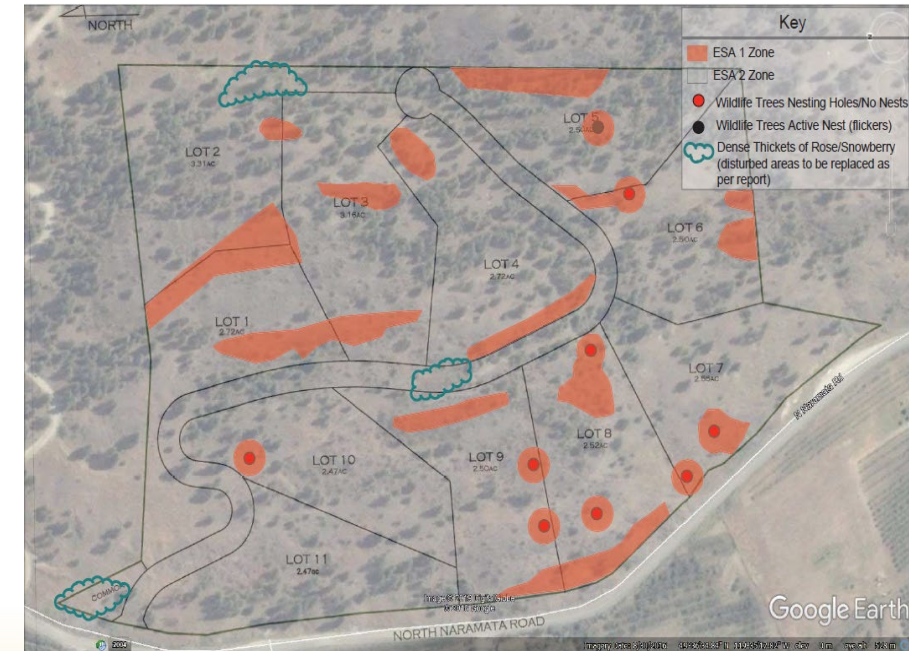
Will not support ... [rezoning] where it is determined that the proposed development is contrary to the ESDP Area Guidelines of this Plan and the impact cannot be mitigated to a level acceptable to the Regional Board.



Review of ESDP Areas

2. ESDPs be made more effective at the subdivision and rezoning stage:

Subdivision should be planned, designed and implemented to protect environmentally sensitive areas. Habitats that provide for at-risk species, at-risk ecological communities and keystone species should be given priority for protection.



Review of ESDP Areas

3. ESDPs not prevent the *FireSmarting* of properties:

If the vegetation and land disturbance is removed as an ESDP trigger, the Board's direction that "ESDPs should not prevent the *FireSmarting* of properties" becomes moot.



Review of ESDP Areas

Examples

Review of ESDP Areas

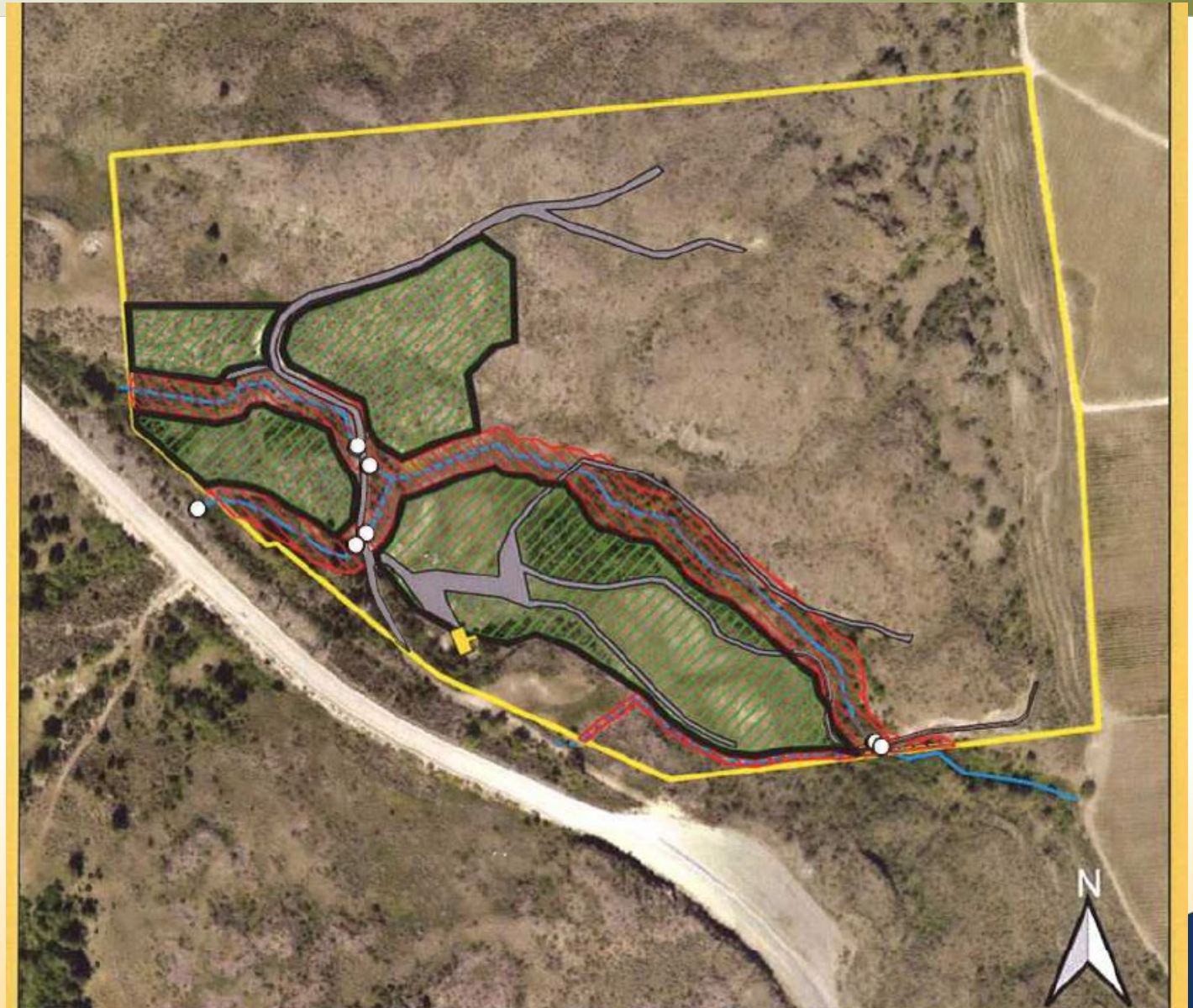
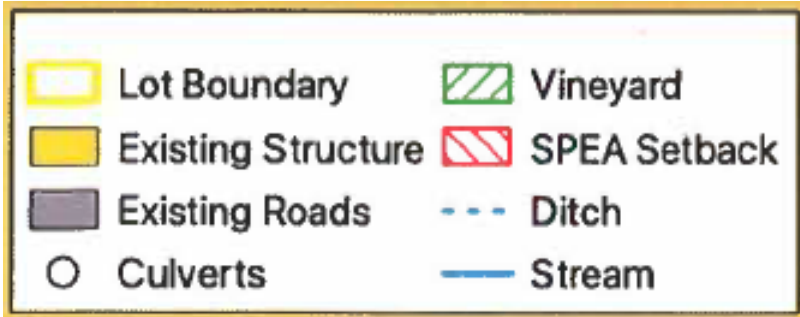
Legend

- Road
- Trellis Vines
- Goblet Vines
- Property Line
- Gully
- 20m Contour

2008 ESDP

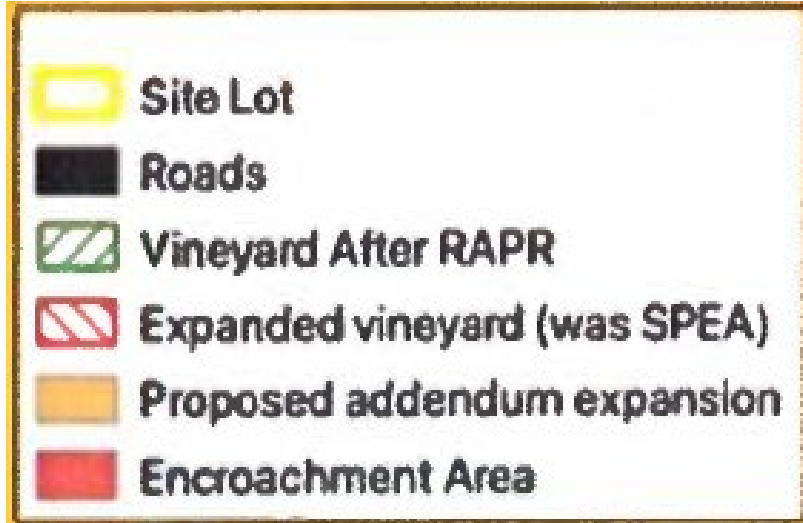


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2021 ESDP

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**2021 ESDP
Amendment**

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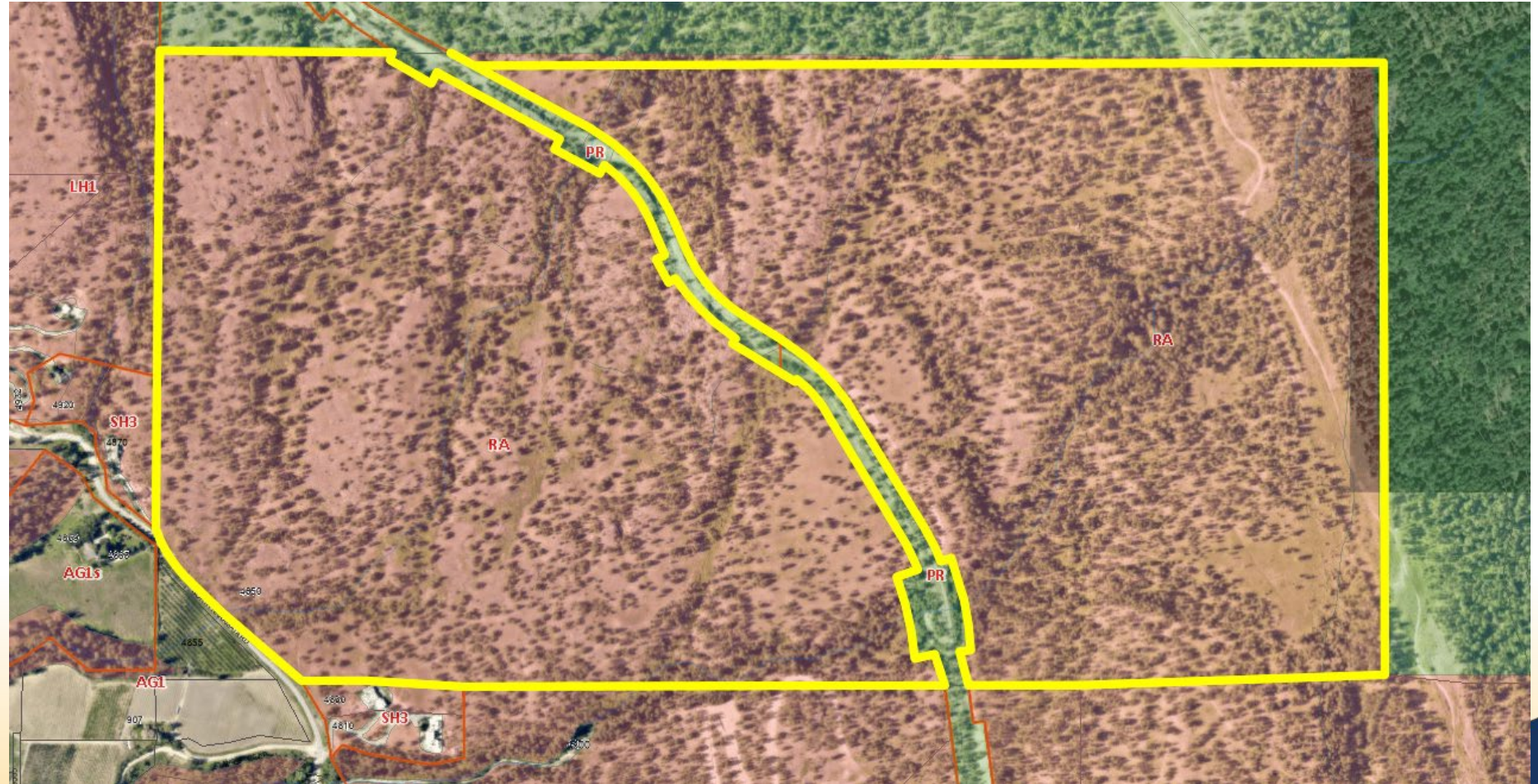
Review of ESDP Areas



Un-permitted earthworks in an ESDP Area (rock crushing facility).

Review of ESDP Areas

Proposed rezoning:
allow 1.0 ha
parcel size to
facilitate 40 lot
subdivision.



Review of ESDP Areas

Summary

Review of ESDP Areas

Summary:

- development permits have significant limitations;
- not clear that a DP can limit impacts of development on the environment (e.g. supremacy of zoning);
- 2017 Amendments refocused ESDPs on the BP stage (i.e. has this created an ineffective “paper-pushing” scheme?);
- Staff support re-orienting ESDPs to subdivision and focusing on the environmental consequences of rezoning proposals.

Review of ESDP Areas

Next Steps

Review of ESDP Areas

Question and Answer (Q&A) Session:

- Monday **February 21, 2022**, from 7:00 – 8:30 p.m.
- Electronic meeting (Webex)
- Staff available to answer questions from the public
- Submit feedback on amendments by **February 25, 2022**

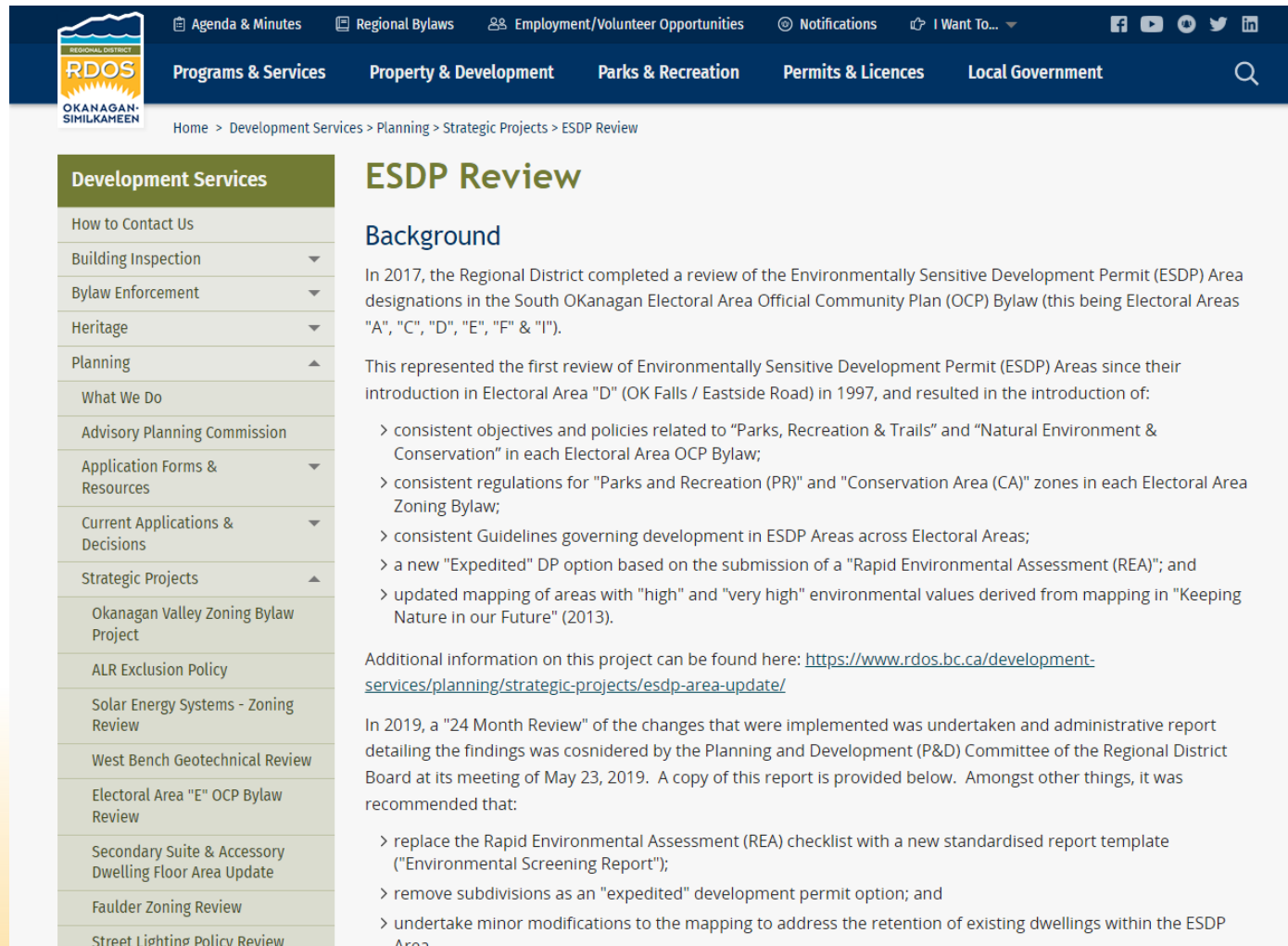
Board consideration of Amendment Bylaw No. 2912:

- 1st reading **tentatively** scheduled for **March 3, 2022.**

Review of ESDP Areas

Stay up-to-date

Review of ESDP Areas



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- ALR Exclusion Policy
- Solar Energy Systems - Zoning Review
- West Bench Geotechnical Review
- Electoral Area "E" OCP Bylaw Review
- Secondary Suite & Accessory Dwelling Floor Area Update
- Faulder Zoning Review
- Street Lighting Policy Review

ESDP Review

Background

In 2017, the Regional District completed a review of the Environmentally Sensitive Development Permit (ESDP) Area designations in the South OKanagan Electoral Area Official Community Plan (OCP) Bylaw (this being Electoral Areas "A", "C", "D", "E", "F" & "I").

This represented the first review of Environmentally Sensitive Development Permit (ESDP) Areas since their introduction in Electoral Area "D" (OK Falls / Eastside Road) in 1997, and resulted in the introduction of:

- > consistent objectives and policies related to "Parks, Recreation & Trails" and "Natural Environment & Conservation" in each Electoral Area OCP Bylaw;
- > consistent regulations for "Parks and Recreation (PR)" and "Conservation Area (CA)" zones in each Electoral Area Zoning Bylaw;
- > consistent Guidelines governing development in ESDP Areas across Electoral Areas;
- > a new "Expedited" DP option based on the submission of a "Rapid Environmental Assessment (REA)"; and
- > updated mapping of areas with "high" and "very high" environmental values derived from mapping in "Keeping Nature in our Future" (2013).

Additional information on this project can be found here: <https://www.rdos.bc.ca/development-services/planning/strategic-projects/esdp-area-update/>

In 2019, a "24 Month Review" of the changes that were implemented was undertaken and administrative report detailing the findings was considered by the Planning and Development (P&D) Committee of the Regional District Board at its meeting of May 23, 2019. A copy of this report is provided below. Amongst other things, it was recommended that:

- > replace the Rapid Environmental Assessment (REA) checklist with a new standardised report template ("Environmental Screening Report");
- > remove subdivisions as an "expedited" development permit option; and
- > undertake minor modifications to the mapping to address the retention of existing dwellings within the ESDP Area

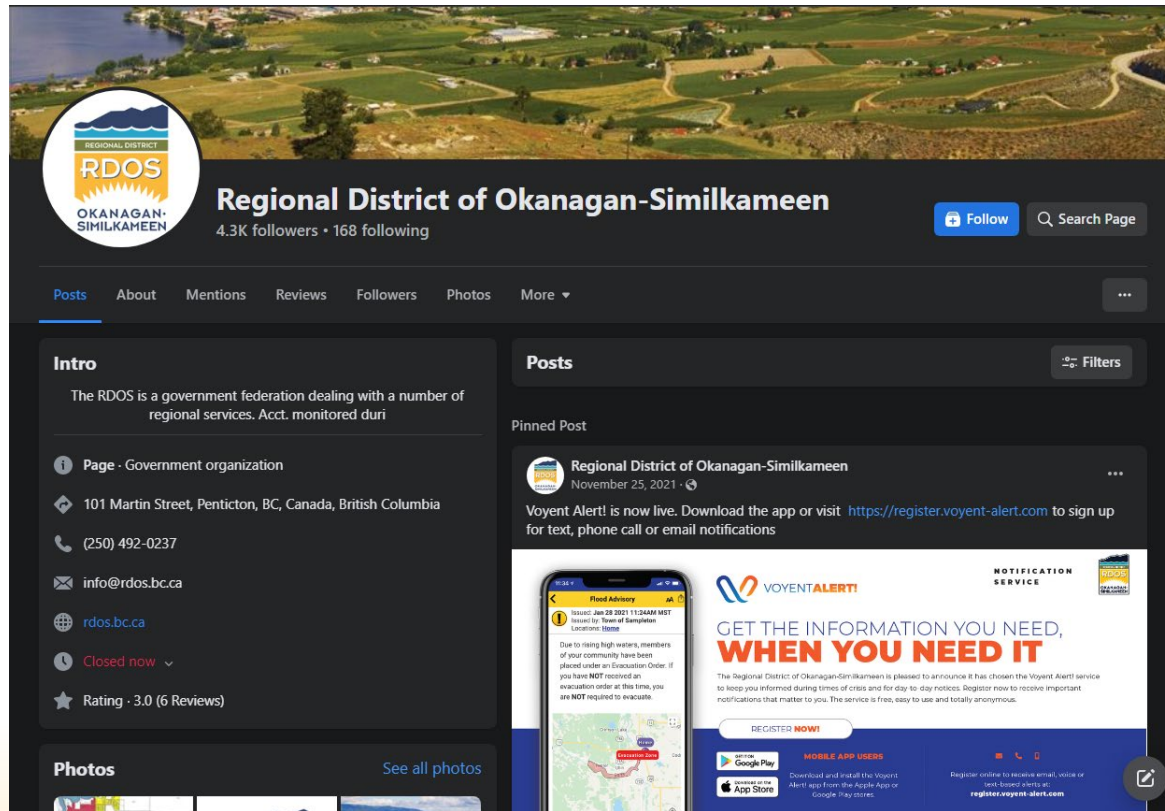
Project web-page:

www.rdos.bc.ca

“Property & Development” →
 “Planning, Zoning & Subdivision” →
 “Strategic Projects” →
 “ESDP Review”.

- Draft documents
- Status updates
- Upcoming RDOS Board dates

Review of ESDP Areas



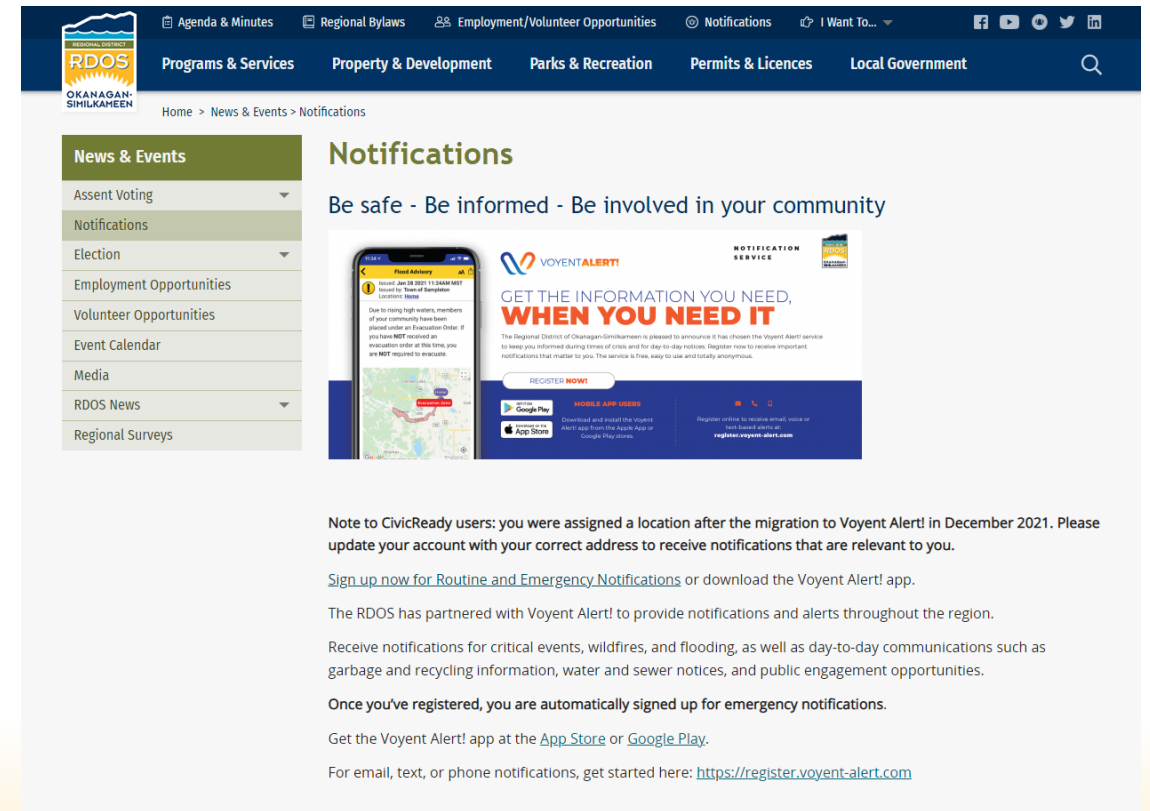
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Intro
The RDOS is a government federation dealing with a number of regional services. Acct. monitored dur...

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(250) 492-0237
info@rdos.bc.ca
rdos.bc.ca
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Rating - 3.0 (6 Reviews)

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Note to CivicReady users: you were assigned a location after the migration to Voyent Alert! in December 2021. Please update your account with your correct address to receive notifications that are relevant to you.
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The RDOS has partnered with Voyent Alert! to provide notifications and alerts throughout the region.
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