

Green Bylaws for the Sunshine Coast

*Bylaw and Regulatory Opportunities for the
Sunshine Coast Regional District to
Strengthen its Sensitive Ecosystem Protections*

JULY 2024

Green Bylaws for the Sunshine Coast

Bylaw and Regulatory Opportunities for the Sunshine Coast Regional District
to Strengthen its Sensitive Ecosystem Protections

Prepared by:

Law Student: Annie Chochla

Articling Student: Adele DesBrisay

Supervising Lawyers: Deborah Curran and Meredith James

Prepared for:

Community Development Forum, Halfmoon Bay (halfmoon-bay.ca/cdf)

in collaboration with the Sunshine Coast Conservation Association (scca.ca)

JULY 2024

DISCLAIMER:

This material is provided for general information as a public and educational resource. We attempt to ensure the accuracy of the material provided; however, the Environmental Law Centre does not warrant the quality, accuracy or completeness of information in this document. Such information is provided "as is" without warranty or condition of any kind. The information provided in this document is not intended to be legal advice and should not be relied upon as such. Many factors unknown to us may affect the applicability of any statement that we make in this material to one's particular individual circumstances. Please seek the advice of a competent lawyer in your province, territory or jurisdiction; or contact the ELC for more complete information.

Any errors and omissions are the responsibility of the authors.

Cover images: Courtesy of Community Development Forum, Halfmoon Bay and Sunshine Coast Conservation Association

Copyediting and layout:

Holly Pattison, Environmental Law Centre. Copyright ©2024 The Environmental Law Centre Society. All rights reserved. Permission is hereby granted to reproduce and distribute these materials in whole or in part for educational and public interest purposes, provided such copies are disseminated at or below cost, provided that each copy bears this notice, and provided that the Environmental Law Centre is credited as the original published source.

Contents

1. Introduction.....	5
2. Context and Introduction to the Approach.....	9
2.1 POWERS AND FUNCTIONS OF A REGIONAL DISTRICT IN CONSERVATION REGULATION	9
2.2 SUNSHINE COAST REGIONAL DISTRICT CONSERVATION BYLAWS	11
2.3 OVERVIEW OF THE GREEN BYLAWS APPROACH.....	16
3. Green Bylaws Recommendations	18
RECOMMENDATION #1. PLAN FOR ECOSYSTEM CONNECTIVITY BY USING A GREEN INFRASTRUCTURE NETWORK ACROSS THE REGIONAL DISTRICT.....	18
1.1 Adopt a Regional Conservation Strategy.....	18
1.2 Support Connectivity through Zoning, Environmental Development Permit Areas and Conservation Covenants	20
RECOMMENDATION #2. ESTABLISH LONG-TERM, DISTRICT-WIDE ECOSYSTEM HEALTH POLICIES TO SERVE AS A FOUNDATION FOR OTHER REGULATORY TOOLS.....	22
2.1 Update Sensitive Ecosystem Maps.....	23
2.2 Align Land-Use and Development Policies Across the Regional District	24
2.3 Consider Adopting a Regional Growth Strategy	24
2.4 Align the Regional District's OCPs.....	25
2.5 Embed Region-Wide Conservation Objectives in Policy Documents	26
2.6 Update Long-Term Policies and Bylaws to Conform with BC's Declaration On The Rights Of Indigenous Peoples and Work with Indigenous Nations to Develop Effective Environmental Management and Conservation Strategies	27
RECOMMENDATION #3. ESTABLISH BINDING MECHANISMS TO GUIDE DEVELOPMENT AWAY FROM SENSITIVE ECOSYSTEMS	28
3.1 Include a Growth Management Section in an RGS or in All OCPs	29
3.2 Enact Zoning Bylaws that Have Environmental Protection as a Specific Purpose.....	30
RECOMMENDATION #4. ENHANCE THE POWER AND EFFICIENCY OF ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURES	32
4.1 Enact Bylaws with Development Approval Information Area Designations	33
4.2 Consider and Communicate How and When Impact Assessments are Activated	33
4.3 Protect Sensitive Ecosystems from Cumulative Impacts.....	34
4.4 Establish and use Ecological Indicators to Monitor Ecosystem Health	35
RECOMMENDATION #5. ENSURE THAT PLANNING AND DEVELOPMENT DECISIONS ARE BASED ON A COMPREHENSIVE AND SCIENTIFIC BASE OF KNOWLEDGE	36
5.1 Develop Detailed Terms of Reference or Standards to Direct Consistent Performance by Qualified Environmental Professionals	37
5.2 Incorporate Ecological Expertise into Project Reviews.....	38
5.3 Continue Supporting Public Engagement	39
4. Conclusion	40
Appendix A: Attributes of the Sunshine Coast Regional District's Municipalities and Electoral Areas	41
Appendix B: Maps of the Sunshine Coast Regional District and its Sensitive Ecosystems	43

1. Introduction

Situated in the Georgia Basin, the Sunshine Coast contains some of the last unfragmented sections of the Basin's unique and sensitive ecosystems.¹ A significant portion of the region's land base is provincial Crown land.² It is home to approximately 32,170 people, and the population is growing at approximately 1.5% per year,³ which is a 7.3% growth rate between 2016 and 2021.⁴ The Sunshine Coast Regional District ("SCRD") is composed of two municipalities, the unique shíshálh Nation Government District and five electoral areas.⁵ Much of it is located on the territory of the Sk̓wxwú7mesh Nation and swiyah of the shíshálh Nation. In this multi-level governance structure, the SCRD seeks to balance the needs of the municipalities, electoral areas, and Indigenous Nations within their boundaries, provide services at multiple levels, and advance the collective interests of the entire region.⁶ (See tables in Appendix A for details on the characteristics of the electoral areas and municipalities within the SCRD).

A report to the Electoral Area Services Committee on the launch of the current OCP review noted that in recent years, the Sunshine Coast "has experienced a development boom, in tandem with unprecedented numbers of bylaw infractions that involve egregious damage to sensitive ecosystems like riparian areas."⁷ In the face of development the current pressures, housing needs, and impacts from climate change, the report also described the current planning and development safeguards implementation processes as being inadequate to achieve the community's stated policy goals in the current OCPs. Current planning services within the SCRD are working at "over-capacity" to deal with the current wave of increasing development pressures while simultaneously advancing long-range planning projects.⁸

¹ British Columbia, Ministry of the Environment, *Report: Sensitive Ecosystems Inventory of the Sunshine Coast and Adjacent Islands* (2005), online: <<https://a100.gov.bc.ca/pub/acat/public/viewReport.do?reportId=3758>>.

² Mark Edward McMullen, *Regional Conservation Planning Strategies for British Columbia: The Case of the Sunshine Coast* (Master's Thesis, University of British Columbia Department of Community and Regional Planning, 1994) at 106, DOI: <[10.14288/1.0087409](https://doi.org/10.14288/1.0087409)>.

³ Raphael Shay, "Draft Community Climate Action Plan" (27 April 2023), *Sunshine Coast Regional District Staff Report* at 64, referring to 2021 census data, online (pdf): <<https://letstalk.scrd.ca/27980/widgets/122615/documents/131826>> [<https://perma.cc/CL3X-HB3Z>].

⁴ Let's Talk SCRD, "Planning for the Future of the Region" (last visited 14 April 2024), online: <<https://letstalk.scrd.ca/growth>> [<https://perma.cc/HYN8-J9CW>] [Let's Talk SCRD].

⁵ Sunshine Coast Regional District, "Electoral Areas and Municipalities" (last visited 23 October 2023), online: <<https://www.scrd.ca/electoral-areas-and-municipalities/>> [<https://perma.cc/B38X-WX2E>].

⁶ Sunshine Coast Regional District, "Our Role" (last visited 11 December 2023), online: <<https://www.scrd.ca/our-role/>> [<https://perma.cc/V8PQ-RAYA>].

⁷ Julie Clark, "Project Overview: Planning Enhancement Project 2 (PEP 2) – Official Community Plan Renewal" (18 May 2023), *Sunshine Coast Regional District Staff* at 1, online: <<https://letstalk.scrd.ca/36642/widgets/151330/documents/105413>> [<https://perma.cc/VF9X-UNVH>].

⁸ *Ibid* at 2.

Evidence of this development boom and inability of the local governments to adequately address the negative impacts associated with this demand include the longstanding potable water supply crisis,⁹ and the loss of coastal Douglas-fir habitat.¹⁰

In 2023, the SCRD had several projects¹¹ underway to improve planning and development outcomes for lands on the Sunshine Coast, which included:

- **Regional Growth Framework Project**, completed in 2023. The Project identified growth trends in the region, reviewed policies and all the Official Community Plans (OCPs) in the region and produced a final report with strategy recommendations to guide future growth.¹² The information compiled from the Project informs the SCRD Board's current work to renew the seven OCPs in the region.¹³
- **Development Approvals Process Review Project**, completed in 2023. The SCRD hired KPMG to review the efficiency of its development-related processes.¹⁴ In its final report, KPMG concluded that development approval processes are critical to local governments in BC to respond to increasing levels of development pressures.¹⁵ In the legislative context of regional districts in BC, however, KPMG observed that approval processes tended to be complicated by the different jurisdictional authorities and service mandates in comparison to other local governments.¹⁶
- **OCP Review Project**, which is currently in Phase 1.¹⁷ The SCRD has initiated a comprehensive review and update of their seven OCPs.¹⁸ The goals of the comprehensive review include: ensuring that OCP policies are consistent with provincial laws and regulations; strengthening policy clarity and outcomes while considering factors such as reconciliation, climate change, housing needs, and potential emergencies; creating a policy framework that is responsive to the complex development pressures and long-range needs of the region; and responding to the needs and values of current and future

⁹ "Sunshine Coast imposes most severe water restrictions on 20,000 residents due to persistent drought," *CBC News* (7 September 2023), online: <[cbc.ca/news](https://perma.cc/BR3M-QVNN)> [<https://perma.cc/BR3M-QVNN>].

¹⁰ Daniel Kraus & Andrea Hebb "Southern Canada's crisis ecoregions: identifying the most significant and threatened places for biodiversity conservation" (2020) 29 *Biodiversity & Conservation* 3573, DOI: <[10.1007/s10531-020-02038-x](https://doi.org/10.1007/s10531-020-02038-x)>.

¹¹ Let's Talk SCRD, "Let's Talk Planning" (last visited 23 October 2023), online: <<https://letstalk.scrd.ca/planning>> [<https://perma.cc/66BY-67WZ>].

¹² Ian Hall, "Sunshine Coast Regional District Regional Growth Framework Baseline Research Reports" (1 June 2023), *Sunshine Coast Regional District Staff Report*, online (pdf): <<https://letstalk.scrd.ca/36641/widgets/151196/documents/108756>> [<https://perma.cc/ZUP8-KTQ4>].

¹³ *Let's Talk SCRD*, *supra* note 4.

¹⁴ Let's Talk SCRD, "Development Approvals Process Review" (last visited 23 October 2023), online: <<https://letstalk.scrd.ca/dapr>> [<https://perma.cc/KMK3-6HPB>].

¹⁵ KPMG, *Development Approvals Process Review – Final Report – Sunshine Coast Regional District* (4 July 2023), online: <<https://letstalk.scrd.ca/36640/widgets/151049/documents/110232>> [<https://perma.cc/QX4F-TCQV>].

¹⁶ *Ibid* at 6. In preparing this report KPMG conducted a jurisdictional scan and is working with other local governments on their DAPRs, where it has observed similar development challenges to those of the SCRD.

¹⁷ Let's Talk SCRD, "Official Community Plan Review – Phase 1" (21 August 2023), online: <<https://letstalk.scrd.ca/ocp-review>> [<https://perma.cc/T9Q9-SFFE>].

¹⁸ *Ibid*.

residents.¹⁹ Phase 1 involves background research on best practices and updates to SCRD policies and regulations that should not wait for a multi-year update process.²⁰

While these projects are important and needed, none of them focus specifically on addressing the underlying regulatory gap in ecological protection. As noted in Part 2.2, the SCRD employs many conservation bylaw tools throughout its policy and bylaw landscape. However, the application of those tools is inconsistent across the region and does not provide a coherent approach to ecological protection and efficient development that maximizes the use of existing infrastructure.

The purpose of this project is to assess the SCRD's use of its regulatory powers to strengthen ecosystem protection in decisions related to land development and OCP amendments by taking a green bylaws approach.²¹ Each potential recommendation is considered in the entirety of the SCRD's context including its legislative powers as a regional district, its own self-identified gaps as well as those related specifically to protecting sensitive ecosystems, and rising development pressure amid increasing need for sustainable and affordable housing in the region.²²

Part 2.1 provides a brief overview of regional district powers for environmental protection, and 2.2 examines SCRD approaches across its multiple planning and bylaw contexts. Part 2.3 sets out the Green Bylaws approach that is the basis for the five areas of recommendations and discussion contained in Part 3:

1. Support ecosystem connectivity:

- Adopt a Regional Conservation Strategy
- Support ecosystem connectivity through Environmental Development Permit Areas and conservation covenants, including by:
 - Ensuring coordination and collaboration among jurisdictions; and
 - Encouraging the use of conservation covenants.

2. Establish long-term, district-wide objectives and policies:

- Update sensitive ecosystems mapping;
- Align land-use and development policies across the Regional District;
- Embed region-wide conservation objectives in policy documents;
- Update long-term policies and bylaws to conform with BC's *Declaration on the Rights of Indigenous Peoples* and work with Indigenous Nations to develop effective environmental management and conservation strategies.

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ This project was commissioned by the Halfmoon Bay Community Development Forum.

²² Keili Bartlett, "SCRD moves to 'wind down' RV use on Roberts Creek Property", *Coast Reporter* (26 April 2022), online: <coastreporer.net> [<https://perma.cc/CH4D-Y76R>].

3. Establish binding mechanisms to guide development away from sensitive ecosystems:

- Include a Growth Management Section in the SCRD's Regional Growth Strategy (if enacted) and/or OCPs and ensure consistent application across all jurisdictions:
 - Establish growth containment boundaries to support new private and residential development within current urban or near-urban areas, and set a high standard in RGS and/or OCP documents for the percentage of development that must occur within the growth boundaries.
- Enact zoning bylaws that have environmental protection as a specific purpose, extending beyond rural forest designations.

4. Enhance the power and efficiency of environmental impact assessment procedures:

- Enact bylaws with Development Approval Information Area designations;
- Consider and communicate how and when impact assessments are activated. This could involve amending the *Fees and Procedures* Bylaw to include which types of developments require permits and to specify that the Manager of Planning and Development and delegates will consider development proposals in the context of cumulative impact.

5. Ensure that planning and development decisions are based on a comprehensive and scientific base of knowledge:

- Develop detailed terms of reference that create standards to direct consistent performance by Qualified Environmental Professionals to safeguard sensitive ecosystems from adverse effects;
- Incorporate ecological expertise into project reviews; and
- Continue supporting public engagement.

2. Context and Introduction to the Approach

2.1 POWERS AND FUNCTIONS OF A REGIONAL DISTRICT IN CONSERVATION REGULATION

The provincial government delegates land use planning powers to local governments, primarily through the *Local Government Act* and the *Community Charter*²³, which can be used by local governments for environmental protection.²⁴ Regional districts are regional-level governments that deliver local services to their electoral areas, and inter-jurisdictional and regional services to their regional communities.²⁵ They are made up of member municipalities and electoral areas and are governed by a board of directors elected from each electoral area, as well as directors appointed from the elected council of municipalities and First Nations within their borders.²⁶ Regional districts have nearly the same authority as municipalities under the *Local Government Act* for community planning and land regulation, mainly on private land.²⁷

For municipalities, public health, the protection of the natural environment, listed wildlife, and the removal and deposit of soil and other material are areas of concurrent provincial authority.²⁸ In areas of concurrent authority, a municipal council cannot pass a bylaw unless pursuant to a regulation or authorized by the Minister.²⁹ Regional districts, however, receive their authority from a different statute – the *Local Government Act (LGA)*. As such, they have different powers and are only subject to the rules on concurrent authority where indicated in the LGA.³⁰

The LGA specifies that a Board of Directors of a regional district may pass a bylaw regulating or prohibiting the removal of soil from land in the regional district or the deposit of soil or other material on land in the regional district.³¹ However, the Minister must approve these bylaws because they are an area of concurrent authority with the Province.³² There is a similar provision for bylaws relating to maintaining, promoting or preserving public health.³³

²³ *Community Charter*, SBC 2003, c 26, <<https://canlii.ca/t/569gm>> (retrieved on 7 July 2024) [*Community Charter*].

²⁴ Curran et al, *Green Bylaws Toolkit for Protecting and Enhancing the Natural Environment and Green Infrastructure* (2016) at 24, online: <<https://stewardshipcentrebc.ca/green-bylaws/>> [*Green Bylaws Toolkit*].

²⁵ *Local Government Act*, RSBC 2015, c 1 <<https://canlii.ca/t/8vs2#sec185>>, (retrieved on 7 July 2024) [*Local Government Act*].

²⁶ Government of BC, “Regional Districts in BC” (last visited 8 October 2023), online: <<https://www2.gov.bc.ca/gov/content/governments/local-governments/facts-framework/systems/regional-districts>>.

²⁷ *Local Government Act*, *supra* note 25. See, in particular, Part 14.

²⁸ *Community Charter*, *supra* note 23, s 9(1).

²⁹ *Ibid*, s 9(3).

³⁰ *Local Government Act*, *supra* note 25, s 1.

³¹ *Ibid*, s 327(2).

³² Section 327(4) of the *Local Government Act* provides that section 9 of the *Community Charter* applies to bylaws made under subsection 327(2).

³³ *Local Government Act*, *supra* note 25, s 304.

Unlike for a municipality, there is no statutory provision that gives general authority to regional districts regarding the protection of the natural environment. However, regional districts still have at least six important conservation tools available to them.

First, a Regional Growth Strategy (RGS) is a strategic plan that governs long-term community planning covering a period of at least 20 years. Their purpose is “to promote human settlement that is socially, economically and environmentally healthy and that makes efficient use of public facilities and services, land and other resources.”³⁴ An RGS should deal with a host of issues related to ecological integrity, such as: avoiding urban sprawl; creating settlement patterns that minimize the use of automobiles and encourage walking, bicycling, and public transit; protecting environmentally sensitive areas; reducing and preventing air, land and water pollution; protecting the quality and quantity of ground and surface water; preserving, creating and linking urban and rural open space, including parks and recreation areas; planning for energy supply and promoting efficient use, conservation and alternative forms of energy; and good stewardship of land.³⁵ To the extent that it is a regional matter, an RGS must also cover targets for the reduction of greenhouse gas emissions in the regional district, and policies and actions proposed for the regional district with respect to achieving those targets.³⁶

Second, an Official Community Plan (OCP) is a statement of objectives and policies to guide decisions on planning and land use management, within the area covered by the plan.³⁷ To the extent that they deal with the issues, OCPs should work toward the same issues as an RGS but cover a smaller region and a shorter timescale of about five years,³⁸ although in practice most OCPs endure for much longer than five years. An OCP identifies future land uses, can designate urban growth boundaries, ecological connectivity, and where servicing and infrastructure will occur.

Third, zoning bylaws allow local governments to divide their jurisdiction into land use zones and, within each zone, regulate the use and density of land, buildings and other structures, among other things.³⁹ For a regional district, zoning bylaws are the primary tool for moving development away from locations where it could harm sensitive ecosystems and ecosystem connectivity and permitting it in other, less vulnerable locations.⁴⁰

Fourth, an Environmental Development Permit Area (EPDA) is a Development Permit with the purpose of protecting the natural environment, its ecosystems, and biological diversity.⁴¹ They enable local governments to make decisions about natural areas that are more site-specific than other tools.⁴² Additionally, Development Approval Information Areas (“DAIAs”) allow local

³⁴ *Ibid*, ss 428-431.

³⁵ *Ibid*, s 428(2).

³⁶ *Ibid*, s 429(2)(d).

³⁷ *Ibid*, s 471.

³⁸ *Ibid*, ss 471(2), 473(1)(a).

³⁹ *Ibid*, s 479(1).

⁴⁰ *Green Bylaws Toolkit*, *supra* note 24 at 79.

⁴¹ *Local Government Act*, *supra* note 25, s 488(a); See also *Local Government Act*, *supra* note 25, s 488(h)-(j).

⁴² *Green Bylaws Toolkit*, *supra* note 24 at 96.

governments to request information from development applicants.⁴³ This entails enacting a bylaw specifying procedures and policies for requiring applicants to provide information when seeking a development permit, temporary use permit, or zoning bylaw amendment.⁴⁴ Even if an area is covered by an EDPA, the local government must also enact a DAIA to require environmental impact information.⁴⁵

Fifth, unlike municipalities, regional districts have limited authority to create tree protection bylaws.⁴⁶ In areas that are subject to flooding, erosion, land slip, or avalanche, a regional district can regulate or prohibit cutting down trees or may require landowners to apply for and acquire a permit before cutting down a tree.⁴⁷

Sixth, regional districts can regulate and prohibit the deposit and/or removal of soil, including contaminated soil.⁴⁸ They can also regulate and prohibit the deposit of other material.⁴⁹ However, where a Regional District (1) prohibits the removal of soil, or (2) prohibits the deposit of soil or other material, with reference to the quality of the soil/material, then the bylaw requires the approval of the provincial government, authority under a regulation, or an agreement with the provincial government.⁵⁰

Although regional district environmental protection authority is more limited than municipal powers, when applied comprehensively this authority can guide development to appropriate areas while retaining and improving ecological connectivity and function.

2.2 SUNSHINE COAST REGIONAL DISTRICT CONSERVATION BYLAWS

Currently, the SCRD has several bylaws with conservation implications, as well as guiding policy documents that aim to prevent ecological harms or improve ecosystem health.

OCPs in the region contain environmental policies, including commitments to avoid industrial development and create conservation covenants in sensitive ecological areas, reduce greenhouse gas emissions, promote walkable and efficient settlement patterns, protect the quality of the marine environment, particularly shoreline, in coastal settlement areas, and create conditions and standards in EDPAs.⁵¹ However, many of these OCPs were created over 15 years ago and as such

⁴³ Laura Bullock, *Reforming Kitimat's Local Laws During an Industrial Boom* (University of Victoria: Environmental Law Centre Clinic, 2021) at 22, online (pdf): <<https://elc.uvic.ca/wordpress/wp-content/uploads/2021/02/Reforming-Kitimat-Local-Laws-2021Feb12.pdf>>.

⁴⁴ *Local Government Act*, *supra* note 25, ss 486-487.

⁴⁵ *Green Bylaws Toolkit*, *supra* note 24 at 97.

⁴⁶ See *Local Government Act*, *supra* note 25, s 500.

⁴⁷ *Green Bylaws Toolkit*, *supra* note 24 at 131.

⁴⁸ *Local Government Act*, *supra* note 25, s 327.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*, s 327(4); See also *Community Charter*, *supra* note 23, s 9; See also *Green Bylaws Toolkit*, *supra* note 24 at 132.

⁵¹ See for example: Sunshine Coast Regional District, *Elphinstone Official Community Plan Bylaw No 600, 2007* (2018), online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/Bylaw-600-Elphinstone-OCP-Consolidated-2018-Sep-27.docx.pdf>>; Sunshine Coast Regional District, *Hillside-Port Mellon Industrial Area Official Community Plan Bylaw No*

are not reflective of the current understanding of development pressures, the climate crisis or the importance of Indigenous governance.

Additionally, the SCRD has expressed concerns about the cohesiveness of their OCPs. The Sunshine Coast is made up of small communities with distinct community values, landscapes, ecosystems and green infrastructure (“natural and semi-natural areas with environmental and engineered features”⁵²) – distinctions which must be respected to craft a unified approach that is effective and respectful of each member of the SCRD.⁵³ This diversity yet need for consistency raises the question of whether, through their OCP renewal process, the SCRD should maintain distinct OCPs or harmonize them into a single document that responds to unique features of different neighbourhoods in distinct chapters.

Most of the SCRD’s OCPs already designate ‘community hubs’ as areas intended for increased development to permit for community growth and development and to discourage sprawl.

The SCRD has recently completed Regional Growth Baseline Research, a study completed to set the foundation for future growth management work.⁵⁴ Recommendations included focussing development in existing development areas and reducing development footprints and environmental impacts; restoring natural assets at a watershed scale and protecting biodiversity; enhancing water conservation measures and maintaining aquifer health; ensuring that settlements are resilient to climate impacts; and reducing greenhouse gas emissions and energy consumption.⁵⁵ Staff have been directed to use the Regional Growth Baseline Study as input to OCP renewal.⁵⁶

The SCRD uses a settlement containment boundary – which can be embodied within an RGS, OCP, or in zoning bylaws, and help to address unrestrained growth by delineating a clear area within which a large percentage of urban development must occur – in at least one land use bylaw.⁵⁷ The West Howe Sound *Bylaw No 640* designates a settlement containment boundary defining the extent of residential settlement and regional district servicing within its plan area.⁵⁸ In establishing

370, 1994 (2006), online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/Hillside-OCP-April-13-06-Con-2010.pdf>>; Sunshine Coast Regional District, *Roberts Creek Official Community Plan Bylaw No 641, 2012* (2018), online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/Bylaw-641-Roberts-Creek-OCP-Consolidated-2018-Sep-27.docx.pdf>>; Sunshine Coast Regional District, *Twin Creeks Area Official Community Plan Bylaw No 545, 2004* (2004), online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/2005-OCT-13-Adopted-Twin-Creek-OCP-Bylaw-545.pdf>>; Sunshine Coast Regional District, *West Howe Sound Official Community Plan Bylaw No 640, 2011* (2011), online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/Bylaw-640-West-Howe-Sound-OCP-Consolidated-2018-Sep-27.docx.pdf>>.

⁵² *Green Bylaws Toolkit*, *supra* note 24 at 8.

⁵³ *KPMG*, *supra* note 15 at 6.

⁵⁴ *Let’s Talk SCRD*, *supra* note 4.

⁵⁵ Licker Geospatial Consulting & Modus, *Sunshine Coast Regional District Regional Growth Framework Phase 3 Report – Data Synthesis and Strategy Recommendations* (11 January 2023) at 34-40, online (pdf): <<https://letstalk.scrd.ca/36641/widgets/151196/documents/105845>> [<https://perma.cc/UCC3-LVCA>].

⁵⁶ Julie Clark, Senior Planner SCRD (May 2024) via personal communication.

⁵⁷ *Bullock*, *supra* note 43 at 18.

⁵⁸ Sunshine Coast Regional District, *West Howe Sound Official Community Plan No 640, 2011* (2011) at 131, online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/Bylaw-640-West-Howe-Sound-OCP-Consolidated-2018-Sep-27.docx.pdf>>.

this containment boundary, the plan recognizes the benefits of concentrating growth in areas that are already developed but where the land is underused. Benefits identified by the plan include requiring less destruction of mature forests, fewer new roads to be constructed, and shorter water main extensions.⁵⁹ The plan further stipulates that areas located outside of the settlement boundary should be considered rural areas and “not encouraged for high-density development and shall remain as acreage properties.”⁶⁰

The SCRD also addresses conservation uses with some zoning bylaws. For example, its *Zoning Bylaw No. 722 Rural Forest Three* zone designates “forest management and other rural uses” including “environmental conservation”⁶¹ as a permitted use; and *Zoning Bylaw No 337*, designates fish and wildlife habitat protection areas as a permitted use in several ‘Park and Assembly’ zones.⁶² Aside from these two examples, the SCRD’s general zoning bylaws do not identify environmental protection as an overarching purpose of the regulation.

The SCRD has a dated *Tree Cutting Permit Bylaw* (from 1991) that prohibits cutting down trees in defined areas without a permit in some coastal and riparian areas.⁶³

The SCRD uses three types of EDPAs, where specific conditions and requirements must be met before there is any new development. These include aquifer protection,⁶⁴ environmental sensitivity,⁶⁵ and watercourse sensitivity.⁶⁶ Currently, the SCRD has designated DAIs in some (but not all) of its OCPs, each with varying coverage. For instance, the Hillside-Port Melon Industrial

⁵⁹ *Ibid* at 6.

⁶⁰ *Ibid*.

⁶¹ Sunshine Coast Regional District, *Zoning Bylaw No 722, 2019* (2022) at 63, online (pdf): <<https://www.scrd.ca/wp-content/uploads/2023/01/2022-December-Zoning-Bylaw-722.pdf>>.

⁶² Sunshine Coast Regional District, *Electoral Area A Zoning Bylaw No 337, 1990* (2021), online (pdf): <<https://www.scrd.ca/wp-content/uploads/2023/01/2021-Jan-14-Bylaw-337-Consolidation.pdf>>.

⁶³ Sunshine Coast Regional District, *Tree Cutting Permit Bylaw No 350, 1991* (1991), online (pdf): <<https://www.scrd.ca/wp-content/uploads/2023/04/350-consolidated-to-350-9.pdf>>.

⁶⁴ See for example: Town of Gibsons, *Aquifer Development Permit Area No 9*, online (pdf): <<https://gibsons.ca/wp-content/uploads/2019/01/DPA-9.pdf>>; Sunshine Coast Regional District, *West Howe Sound Official Community Plan Bylaw No 640, 2011* (2011) at 117-119, online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/Bylaw-640-West-Howe-Sound-OCP-Consolidated-2018-Sep-27.docx.pdf>>.

⁶⁵ See for example: Town of Gibsons, *Environmentally Sensitive Development Permit Area No 2* (2015), online: <<https://gibsons.ca/wp-content/uploads/2018/01/Std00029-DPA-2-100dpi.jpg>>; District of Sechelt Marine, *Foreshore and Shorelines Areas Development Permit Area 3* (2010), online (pdf): <<https://www.sechelt.ca/en/business-and-development/resources/Documents/DPA-3---Marine-Foreshore-and-Shoreline-Areas.pdf>>; Sunshine Coast Regional District, *Map 2 Development Permit Areas* (2015), DPA 1A (Coastal Flooding), 5 (Aquifer Protection & Stormwater Management) & 6 (Shoreline Protection Management), online: <https://www.scrd.ca/wp-content/uploads/2022/12/WH5_Map2_DPA.pdf>.

⁶⁶ See for example: Town of Gibsons, *supra* note 65; District of Sechelt, *Development Permit Area 2 – Watercourses (Habitat protection and creek hazards)* (2010), online (pdf): <<https://www.sechelt.ca/en/business-and-development/resources/Documents/DPA-2---Watercourses-Habitat-Protection-and-Creek-Hazards.pdf>>; Sunshine Coast Regional District, *Map 2 Development Permit Areas* (2015), DPA 2A (Creek/River Corridor), 2B (Ravines), 4 (Stream Riparian Assessment Area), online: <https://www.scrd.ca/wp-content/uploads/2022/12/WH5_Map2_DPA.pdf>.

Area OCP and Roberts Creek OCP designate the entire areas as DAIA's,⁶⁷ while Elphinstone's OCP designates six of its DPAs as DAIA's.⁶⁸

The SCRD is currently using an internal Green Infrastructure viewing system that includes a sensitive ecosystem inventory as well as provincial data sets and a report prepared by Kerr Wood Leidal.⁶⁹ The SCRD has also included maps of sensitive ecosystems in OCPs such as that of Halfmoon Bay, Electoral Area B's Map #7 natural resources and riparian area DPAs (as required under BC's *Riparian Area Regulation* to protect riparian areas).⁷⁰ We understand the SCRD's planning department receives parcel-based maps as part of development applications that indicate locations of some sensitive ecosystems such as riparian areas, with some existing maps being more than eleven years old.⁷¹ With updated procedures, regular mapping updates could make use of this incoming data from development applications to further strengthen regional information about sensitive ecosystems.

Procedurally, the SCRD's *Planning and Development Procedures and Fees Bylaw No 522, 2003* defines the process for acquiring development approval. The bylaw requires that anyone seeking a development permit submit an application to the Manager of Planning & Development.⁷² Applications that need to comply with the BC's *Riparian Areas Protection Act* require a report supporting the application from a qualified environmental professional (QEP).⁷³ An accepted QEP is an applied scientist or technologist acting within their recognized area of expertise.⁷⁴ While some development approval information areas (DAIA) in some Electoral Areas can trigger environmental assessments,⁷⁵ generally the SCRD does not employ the full capacity of DAIA's as an information gathering and assessment tool.⁷⁶

The SCRD has also released several policy documents that are focussed at improving environmental health. In addition to the older Parks Plans, these include a Draft Community

⁶⁷ Sunshine Coast Regional District, *Hillside-Port Mellon Industrial Area Official Community Plan Bylaw No 370, 1994* (2006) at 33-34, online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/Hillside-OCP-April-13-06-Con-2010.pdf>>; Sunshine Coast Regional District, *Roberts Creek Official Community Plan Bylaw No 641, 2012* (2018) at 97, online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/Bylaw-641-Roberts-Creek-OCP-Consolidated-2018-Sep-27.docx.pdf>>.

⁶⁸ Sunshine Coast Regional District, *Elphinstone Official Community Plan Bylaw No 600, 2007* (2018) at 33-34, online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/Bylaw-600-Elphinstone-OCP-Consolidated-2018-Sep-27.docx.pdf>>.

⁶⁹ Julie Clark & Jonathan Jackson (20 November 2023) via conversation with Annie Chochla & Meredith James.

⁷⁰ British Columbia, Ministry of Forests, Lands and Natural Resource Operations, *Riparian Areas Regulation Guidebook for Local Governments* (2016) at 5, online (pdf): <https://www2.gov.bc.ca/assets/gov/environment/plants-animals-and-ecosystems/fish-fish-habitat/riparian-areas-regulations/rar-guidebook-local-government_web_final_aug_2016.pdf>.

⁷¹ Julie Clark & Jonathan Jackson (20 November 2023) via conversation with Annie Chochla & Meredith James.

⁷² Sunshine Coast Regional District, *Planning & Development Procedures and Fees Bylaw No 522, 2003* (2003), online (pdf): <<https://www.scrd.ca/wp-content/uploads/2023/04/522-Planning-Development-Procedures-and-Fees-consolidated-to-include-522.18-in-effect-from-2023-JAN-01-to-present.pdf>>.

⁷³ *Ibid*, s 7(3).

⁷⁴ *Ibid* at 2.

⁷⁵ *Sunshine Coast Regional District*, *supra* note 72.

⁷⁶ Julie Clark, SCRD Senior Planner (May 2023) via personal communication.

Climate Action Plan⁷⁷ and Draft Corporate Carbon Neutrality Plan,⁷⁸ as well as the Aquifer 560 watershed agreement with the Town of Gibsons.⁷⁹

Several website pages refer to the Town of Gibsons, District of Sechelt and SCRD partnering to develop a regional sustainability plan for the Sunshine Coast titled “We Envision: One Coast, Together in Nature, Culture and Community,” however, that report is unavailable online.⁸⁰

The Draft Community Climate Action Plan identifies 14 climate goals to:

1. Integrate climate action into government policies and identify financing opportunities;
2. Foster stronger collaboration between different levels of government, local government, businesses, and community groups;
3. Increase knowledge of local climate change impacts and solutions among government and citizens;
4. Increase the resilience of buildings and infrastructure to climate change, extreme weather events, wildfires, and sea level rise;
5. Integrate natural assets and green infrastructure into climate adaptation measures;
6. Support the resilience of water systems to increasing temperatures and worsening drought conditions;
7. Increase organizational ability to promote ecosystem health and resilience;
8. Enhance biodiversity, ecosystem health, and resilience;
9. Ensure community members feel connected and ready to collaborate to increase the Sunshine Coast’s resilience to the impacts of climate change;
10. Increase community resilience to extreme weather events including flooding, extreme heat, and poor air quality;
11. Support equity-seeking groups in climate adaptation
12. Shift to 30% of trips being made by walking, biking, or public transit by 2030;
13. Electrify transportation; and
14. Increase building efficiency and lock into zero-emission energy options as much as possible.⁸¹

Finally, the SCRD Strategic Plan for 2023-2027 includes environment-related objectives. The Plan identifies two priorities for service delivery areas: (1) To continue to secure reliable and diverse water sources across the Sunshine Coast and support efficient water use while fostering responsible stewardship of water; and (2) To urgently pursue long-term solid waste initiatives with

⁷⁷ Shay, *supra* note 3.

⁷⁸ Raphael Shay, *Corporate Carbon Neutrality Plan* (9 February 2023), *Sunshine Coast Regional District Staff Report*, online (pdf): <<https://letstalk.scrd.ca/27980/widgets/122615/documents/105923>> [<https://perma.cc/5U6M-8D4B>].

⁷⁹ Town of Gibsons, Notice, “Town of Gibsons and SCRD Announce Aquifer 560 Watershed Agreement” (31 July 2023), online: <<https://gibsons.ca/2023/07/28/town-of-gibsons-and-scrd-announce-aquifer-560-watershed-agreement/>> [<https://perma.cc/M2UD-MFX2>].

⁸⁰ See e.g. the reference on the Town of Gibsons website <https://gibsons.ca/sustainability/>, as well as referenced in several SCRD documents including Sunshine Coast Regional District, *Halfmoon Bay Official Community Plan Bylaw No 675, 2013* (2018) at 16, online (pdf): <<https://www.scrd.ca/wp-content/uploads/2022/12/2018-Sep-27-Consolidated-Bylaw-675-with-BL-675.4.doc-Combined-Print-Copy.pdf>>.

⁸¹ Shay, *supra* note 3.

an emphasis on local solutions.⁸² The Plan also expands on four strategic planning lenses through which to approach service delivery, initiatives, and projects, including service delivery excellence, climate and environment, social equity and reconciliation, and governance excellence. The climate and environment lens means that the SCRD will approach issues with the following goals in mind: (1) Reducing the carbon impact of their services and activities, (2) Protecting, adapting, and restoring the environment, and (3) Building capacity to respond to and recover from emergencies.⁸³ The service delivery lens means that the SCRD will implement a number of strategies to ensure that services to the public are relevant, efficient, responsive, and well-communicated.

In conclusion, the SCRD has initiated and is using a wide range of environmental protection and green bylaw approaches throughout its bylaws and policies. However, as demonstrated above, those approaches are typically limited to small areas or one policy or bylaw instruments. This patchwork of conservation bylaws and policies lack a region-wide, comprehensive approach to conserving biodiversity and ecosystem function.

Importantly, the SCRD's forward-thinking climate and environmental policy statements demonstrate the vision and commitment to support ecological integrity and now require specific, comprehensive bylaw reform to support implementation.

2.3 OVERVIEW OF THE GREEN BYLAWS APPROACH

The *Green Bylaws Toolkit* (2021 edition) provides local governments with practical tools to protect green infrastructure,⁸⁴ defined as natural and semi-natural areas designed to support biodiversity and to enhance the economic, environmental, and societal benefits these areas provide to people.⁸⁵ These benefits can include improving water and air quality, reducing strain on local infrastructure through rainwater management, and providing flood control.⁸⁶ A green bylaws framework consists of multiple components that work together to address a community need or stewardship goals,⁸⁷ such as ecosystem integrity, ecosystem connectivity, and growth management.⁸⁸

The stewardship objective considered in this project is to “protect sensitive ecosystems.” “Sensitive ecosystems” are defined in the *Green Bylaws Toolkit* as referring “to any ecosystem that is fragile to disturbance and not likely to recover or a rare portion of a landscape with relatively

⁸² Sunshine Coast Regional District, *Sunshine Coast Regional District Strategic Plan 2023-2027* at 68-77, online (pdf): <<https://www.scrd.ca/wp-content/uploads/2023-2027-Strategic-Plan.pdf>>.

⁸³ *Ibid* at 10.

⁸⁴ *Green Bylaws Toolkit*, *supra* note 24 at 2.

⁸⁵ *Ibid* at 8.

⁸⁶ *Ibid* at 10-11.

⁸⁷ *Bullock*, *supra* note 43 at 11.

⁸⁸ *Green Bylaws Toolkit*, *supra* note 24 at 28.

uniform dominant vegetation.”⁸⁹ These include wetlands, riparian areas, grasslands, woodlands, older forests, cliffs and bluffs, and sparsely vegetated land.⁹⁰ As identified by the British Columbia Community Mapping Network (CMN), the SCRD is within the Georgia Basin Habitat.⁹¹ Although this data is somewhat dated, see Appendix B for maps of the locations and connectivity of sensitive ecosystems in the SCRD.

A green bylaws approach requires action at all policy and bylaw scales to achieve integrated protection. Local governments would ideally begin with mapping environmentally sensitive areas and connectivity before developing policy wording for an OCP, and then use those OCP policies to direct the revision and development of other regulatory bylaws.⁹² While zoning bylaws and EDPAs are the regulations that most directly shape development on private land,⁹³ it is the broader bylaw and policy context set by growth management documents, OCPs and development processes that set the framework within which zoning and EDPAs operate.

⁸⁹ *Ibid* at 9.

⁹⁰ *Ibid*.

⁹¹ In addition to the Georgia Basin Habitat Atlas Map, the CMP issued a final report in 2008 with the findings of their habitat and assessment services. This report, in addition to other resources, can be found on their website (see Community Mapping Network, “Georgia Basin Habitat Atlas” (last visited 13 November 2023), online: <<https://www.cmnb.ca/atlasgallery/georgia-basin-habitat-atlas/>> [<https://perma.cc/X8GW-NGXP>]).

⁹² *Green Bylaws Toolkit*, supra note 24 at 33.

⁹³ Union of BC Municipalities, *Fact Sheet #25: Land Use Regulation* (2022) at 6, online (pdf): <<https://www.ubcm.ca/sites/default/files/2022-12/25%20LAND%20USE%20REGULATION.pdf>>.

3. Green Bylaws Recommendations

RECOMMENDATION #1. PLAN FOR ECOSYSTEM CONNECTIVITY BY USING A GREEN INFRASTRUCTURE NETWORK ACROSS THE REGIONAL DISTRICT

Planning for ecosystem connectivity means ensuring that important and sensitive ecosystem areas are connected through a green infrastructure network and reducing the impacts of ecosystem and habitat fragmentation.⁹⁴ Although several SCRD policy documents describe ecological or environmental stewardship and protection as a value,⁹⁵ none of them appear to identify actions oriented at preserving ecosystem connectivity. While ecosystem fragmentation is a significant barrier to resilient conservation and biodiversity efforts,⁹⁶ planning for ecosystem connectivity can help the SCRD achieve their stewardship goals, such as those identified in the 2023 *Draft Community Climate Action Plan*.⁹⁷

Promoting ecosystem connectivity can yield diverse ecological and social advantages for communities, including bolstering ecosystem services, safeguarding water quality, fostering genetic diversity, and protecting species at risk – all while creating opportunities for community recreation and tourism.⁹⁸

Recommendations for planning for ecosystem connectivity:

- Adopt a Regional Conservation Strategy;
- Support ecosystem connectivity through EDPAs and conservation covenants, including by:
 - Ensuring coordination and collaboration among jurisdictions; and
 - Encouraging the use of conservation covenants.

1.1 ADOPT A REGIONAL CONSERVATION STRATEGY

Regional Conservation Strategies (RCS) differ from Regional Growth Strategies in that they focus on conservation rather than growth management by articulating “ecological principles and conservation goals and actions that aim to maintain and enhance the biological diversity of a

⁹⁴ *Green Bylaws Toolkit*, *supra* note 24 at 57.

⁹⁵ See e.g. *Shay*, *supra* note 3; *Licker Geospatial Consulting & Modus*, *supra* note 55; *Sunshine Coast Regional District*, *supra* note 82.

⁹⁶ *Bullock*, *supra* note 43 at 12.

⁹⁷ *Shay*, *supra* note 3 at 2.

⁹⁸ South Okanagan Similkameen Conservation Program, *Keeping Nature in Our Future: A Biodiversity Conservation Strategy for the South Okanagan-Similkameen* (South Okanagan Similkameen Conservation Program: 2012) at 2-3, online (pdf): <https://a100.gov.bc.ca/pub/acat/documents/r42389/BiodiversityStr_1409784064471_9783578053.pdf>.

region and protect and/or restore ecologically significant areas.”⁹⁹ Sometimes called a Green Infrastructure Network, RCSs delineates the green infrastructure that underpins and shapes growth. Developing RCSs involves first establishing a geographic framework for mapping and habitats and ecosystems with the intention of providing management priorities and planning tools to ensure the health of the ecosystems within the region.¹⁰⁰ In this way, an RCS can allow local governments to establish defensible conservation priorities that direct the designation of biodiversity corridors, EDPA guidelines, and infrastructure development.¹⁰¹ An RCS identifies the key green infrastructure needed to maintain healthy ecosystems before development is approved throughout a region.

Regional Conservation Strategies work together with RGS as key policy direction for RGS and OCPs. Both work from sets of data that define the limits of ecosystems and where development can occur while protecting biodiversity. Together, RCS and RGS can produce a comprehensive policy framework that defines the where and why of ecological conservation and protection as well as growth, with regulatory tools defining the how.

Examples of RCSs include the Islands Trust Conservancy’s *Regional Conservation Plan* and the South Okanagan Similkameen Conservation Program’s *Biodiversity Conservation Strategy*. The Islands Trusts Conservancy’s *Regional Conservation Plan* sets goals including identifying, investigating, and communicating about important natural areas to generate action on conservation priorities, and continuing to build internal and shared organizational strength and resilience to ensure long-term nature conservation in the Islands Trust Area.¹⁰² The Plan highlights the involvement of various organizations, including First Nations, land trusts, and regional parks agencies, in its development and identifies priority lands based on ecological value and vulnerability to development.¹⁰³ The South Okanagan Similkameen Conservation Program enacted its *Biodiversity Conservation Strategy* in collaboration with multiple levels of government, oriented at identifying which natural areas should be protected and restored and developing policies and tools for effective land use planning and environmental management.¹⁰⁴ The Okanagan Collaborative Conservation Program has further moved to implement an ecosystem connectivity corridor in collaboration with the Okanagan Nation Alliance, which now runs 65 km by 1 km through the area and connects two provincial parks.¹⁰⁵

⁹⁹ *Green Bylaws Toolkit*, *supra* note 24 at 48.

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid* at 48-49.

¹⁰² Islands Trust Conservancy, *Regional Conservation Plan 2018-2027* (30 January 2018) at 5, online (pdf): <<https://islandstrust.bc.ca/document/itc-regional-conservation-plan-2018-2027-2023/>>.

¹⁰³ *Ibid* at 19.

¹⁰⁴ *South Okanagan Similkameen Conservation Program*, *supra* note 98.

¹⁰⁵ Okanagan Collaborative Conservation Program, “Ecosystem Connectivity in the Okanagan” (last visited 11 December 2023), online: <<https://okcp.ca/index.php/projects/current-projects/548-ecosystem-connectivity-in-the-okanagan>> [<https://perma.cc/DCN9-KV35>].

RCSs may be standalone policy documents or adopted by regional districts as part of an RGS or as OCP(s). If enacted as part of an RGS, all regional district bylaws must be consistent with the RGS – including the RCS portion – and all municipal bylaws consistent with OCPs.¹⁰⁶

1.2 SUPPORT CONNECTIVITY THROUGH ZONING, ENVIRONMENTAL DEVELOPMENT PERMIT AREAS AND CONSERVATION COVENANTS

On private land, regulation for ecosystem connectivity can be accomplished in part through zoning and Environmental Development Permits Areas (“EDPAs”).¹⁰⁷ Zoning establishes what uses and how much of them are permitted. Zoning can permit more concentrated development where services exist and away from ecological connectivity corridors and sensitive ecosystems. This includes planning for large lot zoning in those areas that should remain undeveloped and higher density where transit and services are available.

By outlining explicit conditions and standards for proposed projects, EDPAs empower local governments to regulate site disruption in designated corridors, environmentally sensitive zones, and at-risk areas before any development takes place.¹⁰⁸ If the SCRD was to undertake more detailed mapping, it could create EDPA guidelines for different ecosystem types or geographical features to provide specific guidance for development in these areas.¹⁰⁹ With respect to these areas designated in one or more OCP, these OCP(s) must cohesively describe the special conditions or objectives justifying the EDPA designation, and specify guidelines respecting the manner by which that special condition would be addressed and respected.¹¹⁰

Within the SCRD’s multi-jurisdictional context, these EDPAs would need to be designated and mapped in the OCPs of each of its electoral areas and municipalities. This is most comprehensively accomplished through a region-wide RCS that identifies connectivity that can be implemented through OCPs and EDPAs.

Whether the SCRD maintains separate electoral area OCPs or if they become unified, to achieve connectivity the SCRD must facilitate coordination between the OCPs to ensure consistency in the approach to EDPA guidelines, which includes shared principles and objectives for EDPA guidelines that are applicable to all jurisdictions. These principles would reflect the overall goals of protecting and enhancing the natural environment, ecosystems, and biodiversity within the SCRD’s boundaries and in reference to other policy documents containing these values. One approach is to develop a common framework for EDPA guidelines that can be customized and adapted within each local area based on their specific needs and characteristics. This template should provide guidance on the process of designating EDPAs, mapping requirements, and the content of the guidelines. In addition, the SCRD could allow for updates to the EDPA maps to be incorporated

¹⁰⁶ *Local Government Act*, *supra* note 25, s 446.

¹⁰⁷ *Ibid* at Part 12 - 13.

¹⁰⁸ *Green Bylaws Toolkit*, *supra* note 24 at 96.

¹⁰⁹ *Ibid* at 77.

¹¹⁰ *Local Government Act*, *supra* note 25, s 488(2).

without going through a full OCP amendment process by including statements in the OCPs that the local government will rely on the most recent version of the maps on file.¹¹¹

Any local government can use EDPAs to protect sensitive ecosystems and connectivity, even if it does not have the resources to undertake mapping detailed enough to identify specific ecological features, by designating its entire jurisdiction as an EDPA. For example, the Resort Municipality of Whistler established blanket EDPAs across its entire land base, aside from non-riparian aspects in its village core.¹¹² Subsequently updating its *Fees and Procedures Bylaw* to include an environmental assessment process, the municipality required that any land development applicant hire a QEP to determine where the ecosystem is, and what its boundaries are, adding a second stage of analysis if a feature on a property looks like part of a sensitive ecosystem.¹¹³ This blanket EDPA allowed Whistler to recognize the interconnectedness of all ecological systems and biodiversity. Similar to the Sunshine Coast context, the settlement patterns in both local governments include geographical constraints (mountains and bodies of water) and a linear pattern of development that concentrates density along the region's major transportation route.

As finer-grained regulations directly affecting private landowners, it is essential that EDPAs flow from larger policies for conservation, green infrastructure, and/or biodiversity preservation.¹¹⁴ If residents do not see the link and value of the EDPA designations to preserving ecosystem services that benefit them and their communities, this tool can face political challenges that can reduce its utility and its longevity. This was demonstrated in the 2012 rescindment of the District of Saanich's upland EDPAs. In that case, extensive mapping by the District and the success of the provincially mandated riparian EDPA were the driving factors for their upland EDPAs. Residents and private landowners challenged the upland EDPAs, and District Council rescinded them.¹¹⁵ To ensure that EDPAs have staying power and community support, ecological protection and connection must be embedded within an RGS, RCS or higher level biodiversity plan and the OCP(s). In addition, public support for EDPAs "tends to be stronger when a local government introduces or significantly amends an EDPA during an OCP review process."¹¹⁶

While the scope of this report is focused on protecting sensitive ecosystems as defined in the *Green Bylaws Toolkit*, it is also worth noting that establishing EDPAs for protection of the natural environment can be a tool for fostering shared responsibility between landowners and the local government in safeguarding not only sensitive ecosystems but protecting other areas of ecological or community value. Just as SCRD OCPs currently have DPA designations based around form and character, the SCRD is equally empowered to enact DPAs for protection of the natural

¹¹¹ *Green Bylaws Toolkit*, *supra* note 24 at 100.

¹¹² *Ibid* at 118.

¹¹³ *Ibid*.

¹¹⁴ *Ibid* at 125.

¹¹⁵ *Ibid* at 123-125.

¹¹⁶ *Ibid* at 125.

environment and biodiversity in general.¹¹⁷ Similarly, DPAs can be assigned for climate action and water conservation goals.¹¹⁸

Another tool that can help achieve conservation goals, when paired with regulatory mechanisms, is a conservation covenant. Conservation covenants are voluntary and enduring legal agreements between landowners and conservation entities or local governments.¹¹⁹ The covenant specifies the ways in which the landowner promises to protect the land or its features on it, whether it covers all or part of a parcel of property, and whether it applies year-round.¹²⁰ Under the *Land Title Act*,¹²¹ the covenant is registered against the title of the property, allowing the covenant to last permanently by binding any future owners of the land.¹²² Local governments can meet conservation goals in part by securing covenants during subdivision, rezoning, and permit application processes.¹²³ Local governments can offer tax exemptions as a motivator for property owners to implement conservation covenants on the riparian areas of their land.¹²⁴ While complex, when used strategically, covenants can support the regulatory tools for ecological protection.

RECOMMENDATION #2. ESTABLISH LONG-TERM, DISTRICT-WIDE ECOSYSTEM HEALTH POLICIES TO SERVE AS A FOUNDATION FOR OTHER REGULATORY TOOLS

A district-wide approach to safeguarding sensitive ecosystems by consolidating land use and development planning policies while preserving community identities would support the SCRD's strategic planning framework, which includes furthering climate and environment goals and service delivery excellence.¹²⁵ Although the SCRD's *Strategic Plan* is referenced in the SCRD's OCPs, it does not provide an overarching policy or create legally binding obligations on developers or community members.¹²⁶

¹¹⁷ *Local Government Act*, *supra* note 25, s 488(1).

¹¹⁸ British Columbia, Ministry of Community, Sport and Cultural Development, *Development Permit Areas for Climate Action* (November 2011), online (pdf): <https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/local-governments/planning-land-use/development_permit_areas_climate_action_guide.pdf>.

¹¹⁹ *Green Bylaws Toolkit*, *supra* note 24 at 159.

¹²⁰ West Coast Environmental Law Research Foundation, *Greening Your Title: A guide to best practices for conservation covenants*, 3rd ed (West Coast Environmental Law Research Foundation, 2013) at 2.

¹²¹ RSBC 1996, c. 250, s 219.

¹²² *West Coast Environmental Law Research Foundation*, *supra* note 120 at 2-3.

¹²³ *Green Bylaws Toolkit*, *supra* note 24 at 160.

¹²⁴ *Ibid* at 138.

¹²⁵ *Hall*, *supra* note 12.

¹²⁶ *Sunshine Coast Regional District*, *supra* note 82.

Recommendations for establishing long-term, district-wide objectives and policies:

Integrating comprehensive and up-to-date sensitive ecosystem mapping alongside a long-term vision of the future in the form of an RCS or biodiversity strategy that is incorporated into a RGS and /or OCPs is an important step for protecting sensitive ecosystems in the future.

Recommendations include that the SCRD:

- Update sensitive ecosystems maps;
- Align land-use and development policies across the Regional District, using a cohesive structure such as a RGS or harmonized OCPs;
- Embed region-wide conservation objectives in policy documents; and
- Update long-term policies and bylaws to conform with BC's *Declaration on the Rights of Indigenous Peoples* and work with Indigenous Nations to develop effective environmental management and conservation strategies that incorporate Indigenous knowledge.

2.1 UPDATE SENSITIVE ECOSYSTEM MAPS

Mapping the location, size, quality, and connectivity of sensitive ecosystems and habitats of species at risk is an important foundation to develop strategies to protect these critical areas.¹²⁷ The SCRD's existing maps and locational data require updating to support the SCRD's stewardship goals.

Maps from development applications could also be used to update existing maps, which is a more cost-effective than creating original mapping and services.¹²⁸ Some local governments have also partnered with local universities to undertake mapping projects at a lower cost.¹²⁹ The Okanagan Wildlife Corridor is an example of one of these partnerships, in which researchers from UBC Okanagan, the Regional District of Central Okanagan, and the Okanagan Collaborative Conservation Program undertook digital mapping with the goal of establishing wildlife corridors.¹³⁰ Other local governments have found success in cost-sharing with agencies that produce aerial imagery for property assessment purposes.¹³¹ Note also the Coastal Douglas-fir Conservation Partnership (CDFCP) Biodiversity Mapping pilot underway with UBC and SCRD.¹³²

¹²⁷ *Green Bylaws Toolkit*, *supra* note 24 at 335-336.

¹²⁸ *Ibid* at 337.

¹²⁹ *Ibid* at 336.

¹³⁰ *Ibid* at 120.

¹³¹ *Ibid* at 338.

¹³² Lyndsey Smith, Coastal Douglas-fir Conservation Partnership, *Biodiversity Mapping in Southwest British Columbia 2023 Report*, online: <<https://www.cdfcp.ca/wp-content/uploads/2024/01/Biodiversity-Mapping-Workshop-Report-2023-with-App.pdf>>

2.2 ALIGN LAND-USE AND DEVELOPMENT POLICIES ACROSS THE REGIONAL DISTRICT

This recommendation could take the form of adopting a Regional Growth Strategy and/or aligning the Regional District's OCPs.

2.3 CONSIDER ADOPTING A REGIONAL GROWTH STRATEGY

Managing population growth, identified as a key aspect of ensuring community sustainability and resiliency, involves utilizing RGSs as a mechanism for cooperation and coordination at the regional level to ensure integrated planning among regional board members and municipalities.¹³³ Most of the regional districts within the highest growth regions of BC have adopted RGSs.¹³⁴ Included among them is the Thompson-Nicola Regional District, which saw an overall population increase of 1.5% between 2019 and 2021,¹³⁵ or 0.75% on average in each of those years. Another is the Central Okanagan Regional District, which saw an overall increase of 14% between 2016 and 2021,¹³⁶ or by 2.8% per year. The SCRD's population, meanwhile, has grown by 7.3% between 2016 and 2021,¹³⁷ or by 1.46% per year on average,¹³⁸ putting its growth rate somewhere in the middle of these two regional districts that have adopted an RGS.

RGSs can align local and regional plans, including municipal plans. Regional plans and local plans must be consistent with each other under an RGS, and a regional district is prohibited from adopting bylaws and undertaking services that are not consistent with it.¹³⁹ RGSs applies to the whole of the regional district that has applied it unless given special permission to have it apply to only part.¹⁴⁰ In other words, an RGS applies to municipalities within regional districts rather than only to electoral areas. Municipal councils must amend their OCPs within two years of the adoption of the regional growth strategy including a 'regional context statement' identifying the relationship between their OCP and the RGS.¹⁴¹ In this way, an RGS is not directly binding like a regulatory bylaw; however, under the *Local Government Act* their effect is to guide future land-use decisions. Most of the existing RGSs in the province also include a growth containment boundary,

¹³³ British Columbia, Ministry of Community Services, *Regional Growth Strategies: An Explanatory Guide* (February 2006), online (pdf): <https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/local-governments/planning-land-use/rgs_explanatory_guide_2005.pdf>.

¹³⁴ *Green Bylaws Toolkit*, *supra* note 24 at 46.

¹³⁵ Thompson-Nicola Regional District, *Regional Growth Strategy Monitoring Report 2022* (2022) at 4, online (pdf): <<https://tnrd.civicweb.net/document/206920/>>.

¹³⁶ Statistics Canada, *Central Okanagan, Regional District, British Columbia [Census Division]* (13 November 2023), Census Profile No 98-316-X2021001, online: <<https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>> [<https://perma.cc/7YU7-QELT>].

¹³⁷ Keili Bartlett, "Updated: Sunshine Coast is growing and here are the numbers to prove it", *Coast Reporter* (9 Feb 2022), referencing Statistics Canada's 2021 Census Data, online: <coastreporter.net> [<https://perma.cc/U65B-N5ZS>].

¹³⁸ *Let's Talk SCRD*, *supra* note 13.

¹³⁹ *Local Government Act*, *supra* note 25, s 445.

¹⁴⁰ *Local Government Act*, *supra* note 25, s 430(1) ("[u]nless authorized under subsection (2) or required by regulation under section 431, a regional growth strategy must apply to all of the regional district for which it is adopted").

¹⁴¹ *Local Government Act*, *supra* note 25, s 446.

or at least support the principle of growth containment, with rural-side zoning to protect rural landscapes and ecosystems.¹⁴²

Implementing an RGS could be an effective path for achieving the Growth Management Principles proposed in Report 3 in the *SCRD's Regional Growth Framework*, including coordinating growth management across jurisdictions, focusing growth within existing developed areas, and managing growth through an inclusive process.¹⁴³ As a region-wide tool, an RGS offers an opportunity to implement strategies to address region-wide concerns. For example, the Thompson-Nicola District Regional Growth Strategy implemented its RGS as “a cooperative strategy for achieving a sustainable future for the region.”¹⁴⁴ With their RGS, the District adopted ten indicators to monitor their progress on their goals and objectives set out in their RGS.¹⁴⁵ The District sought to prioritize improving air quality and reducing air pollution and therefore implemented air quality as one of the key indicators used in their biennial monitoring reports.¹⁴⁶

Although RGSs present a potentially powerful tool for unifying a regional district's jurisdictions under a long-term, region-aligned approach to ecosystem health, their effectiveness may be limited in certain contexts. An example of this identified in the *Green Bylaws Toolkit* is a municipality choosing to set its own urban containment boundary, rather than basing them on regional information such as the location of green infrastructure and sensitive ecosystems.¹⁴⁷ The potential utility of an RGS in the SCRD's context will depend largely on the willingness of its municipalities and electoral areas to identify some common, region-wide approaches. This is where an RCS, which sets the ecological conservation landscape for a region, is helpful as the foundation for an RGS.

2.4 ALIGN THE REGIONAL DISTRICT'S OCPs

The SCRD has expressed concerns around the lack of strategic alignment between its OCPs.¹⁴⁸ Because of the many small communities in the SCRD, each with distinct values, ecosystems, and infrastructure, alignment of OCPs needs to respect each municipality and electoral district. However, harmonized OCPs can result in a more cohesive policy infrastructure that can better support the environmental stewardship goals, as set out in the SCRD's Strategic Plan, Community Climate Action Plan, and Regional Growth Framework documents.

OCPs are the foundation of local control and land use development.¹⁴⁹ OCPs act as the link between RGSs and local land use decisions due to the requirement for consistency between regional bylaws and the RGS, a regional context statement in OCPs, and municipal bylaws being

¹⁴² *Green Bylaws Toolkit*, *supra* note 24 at 46.

¹⁴³ Principles retrieved from *Licker Geospatial Consulting & Modus*, *supra* note 55.

¹⁴⁴ Thompson-Nicola Regional District, *Regional Growth Strategy Bylaw No 2409, 2013* (2013) at 1, online (pdf): <<https://www.merritt.ca/wp-content/uploads/2020/06/TNRD-Regional-Growth-Strategy.pdf>>.

¹⁴⁵ *Ibid* at 16.

¹⁴⁶ *Thompson-Nicola Regional District*, *supra* note 134 at 17-18.

¹⁴⁷ *Green Bylaws Toolkit*, *supra* note 24 at 44.

¹⁴⁸ *Clark*, *supra* note 7 at 3.

¹⁴⁹ *Green Bylaws Toolkit*, *supra* note 24 at 56.

consistent with OCPs.¹⁵⁰ While OCPs are viewed as policy, their direct impact is through subsequent enactment of land use bylaws (zoning) and EDPAs. Their principal effect is on the local government itself, as it is prohibited from adopting bylaws that are inconsistent with its OCP.¹⁵¹

An example of a harmonized OCP for numerous electoral areas within a regional district is Cowichan Valley Regional District's (CVRD) Bylaw 4270, which adopts a single OCP for all electoral areas of the CVRD and replaces the existing OCPs. This document contains the CVRD's vision statement as the regional board imagines it in the year 2050, intended to be a composite statement for the collective visions of its electoral areas.¹⁵² Each electoral area has its own local area plan within this OCP containing its own aligning vision statements and establishing each one's unique character and circumstances. The unified document ensures consistency between its development permit area designations, among which sensitive ecosystems are included.¹⁵³ Similarly unified are its development approval processes; land use designations; and growth management tools, which include the use of a growth containment boundary.¹⁵⁴

If, during its renewal process, the SCRD finds it best to keep its OCPs as separate documents, these should be drafted under a unified vision statement and with consistency between its development permit area and other regulatory mechanisms discussed later in this report.

2.5 EMBED REGION-WIDE CONSERVATION OBJECTIVES IN POLICY DOCUMENTS

Although the SCRD has identified conservation objectives,¹⁵⁵ these do not yet appear to be clearly embodied in policy documents guiding land-use decisions within its geographic boundaries. SCRD's powers to govern land use decisions is constrained to the jurisdiction delegated to it by the *Local Government Act* and does not usually apply on land controlled by the Province of BC, however, it can still communicate a clear vision and goals for ecological conservation through policy documents. Such a clear mandate provides support to the SCRD when negotiating conservation agreements with other governments, or if provincial land was to come out of Crown status.¹⁵⁶

Setting district-wide policy goals can be especially relevant for regional districts like the SCRD where the land use is fragmented between Crown, Indigenous, and private land.¹⁵⁷ In 2020, this was demonstrated in earnest for the SCRD's communities and conservation groups when BC Timber Sales' logging plan for the Elphinstone area had slated for auction large portions of a high-

¹⁵⁰ *Local Government Act*, *supra* note 25, ss 445, 446.

¹⁵¹ *Ibid*, s 478.

¹⁵² Cowichan Valley Regional District, *CVRD Bylaw No. 4270 - Cowichan Valley Regional District Official Community Plan for the Electoral Areas Bylaw, 2021* (2021) at 1, online (pdf):

<<https://www.cvrld.ca/DocumentCenter/View/100101/2021-03-08-CVRD-Bylaw-4270-Official-Community-Plan-for-the-Electoral-Areas>>.

¹⁵³ *Ibid* at 9.

¹⁵⁴ *Ibid* at 4.

¹⁵⁵ See e.g. *Shay*, *supra* note 3; *Shay*, *supra* note 78; *Sunshine Coast Regional District*, *supra* note 82; *Licker Geospatial Consulting & Modus*, *supra* note 55.

¹⁵⁶ Deborah Curran (8 December 2023) via e-mail to Annie Chochla.

¹⁵⁷ *McMullen*, *supra* note 2 at 2.

altitude forest known to contain some of Canada’s oldest trees and a “black bear den sanctuary” (unofficially and affectionately dubbed by the Elphinstone Logging Focus conservation group).¹⁵⁸ In addition, this jurisdictional pattern limits the possibility of creating large, protected areas, contributing to ecosystem fragmentation from development and lack of protected areas.¹⁵⁹ Two avenues the SCRD might consider for cementing conservation goals in policy documents are by including “advocacy policies” in OCPs, or by enacting a RCS.

2.6 UPDATE LONG-TERM POLICIES AND BYLAWS TO CONFORM WITH BC’S DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES AND WORK WITH INDIGENOUS NATIONS TO DEVELOP EFFECTIVE ENVIRONMENTAL MANAGEMENT AND CONSERVATION STRATEGIES

As the SCRD considers how it can use its long-term policy and bylaw documents to protect sensitive ecosystems within its borders, it also should consider how future requirements to conform to the *Declaration on the Rights of Indigenous Peoples Act* may affect its bylaws. The Province of BC’s 2019 enactment of the *Declaration on the Rights of Indigenous Peoples Act* committed to making laws consistent with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which recognizes Indigenous authority over their traditional territories and focuses on Indigenous self-determination and self-governance.¹⁶⁰ Planning for how this consistency may be applied to local government bylaws in the future can help local governments to proactively align their bylaws with UNDRIP, a significant part of which is maintaining and restoring the health of ecosystems.

The Province of BC has not yet amended the *Local Government Act* or the *Community Charter* to be consistent with UNDRIP, but some local governments have already begun proactively incorporating UNDRIP’s principles in their jurisdictions. One example is the City of Courtenay working with the K’ómoks First Nation to incorporate UNDRIP principles into its updated OCP in 2020, in the context of their planning and land-use decision-making processes and initiating an educational program for its staff.¹⁶¹

In a similar vein, if the SCRD updates its sensitive ecosystem maps in the near future, it may consider incorporating traditional ecological knowledge from the shíshálh and Skwxwú7mesh Nations, upon whose territories the Regional District is located. Recent research into environmental mapping has focused on how incorporating Indigenous knowledge and traditional ecological knowledge can strengthen evidence-based policy decision-making and environmental

¹⁵⁸ Judith Lavoie, “B.C. opens Sunshine Coast forest — home to some of Canada’s oldest trees — to logging”, *The Narwhal* (5 June 2020), online: <thenarwhal.ca> [<https://perma.cc/VF9E-PQDT>].

¹⁵⁹ McMullen, *supra* note 2 at 2-3.

¹⁶⁰ *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019, c 44.

¹⁶¹ “Courtenay Adopts United Nations Declaration on the Rights of Indigenous Peoples”, *City of Courtenay* (3 November 2020), online: <courtenay.ca/EN/meta/news> [<https://perma.cc/PEJ2-CKVZ>].

management.¹⁶² Incorporating multiple types of knowledge in environmental research and management promotes reconciliation between colonial and Indigenous governments and provides support for conservation strategies.¹⁶³ For the SCRD, updating sensitive ecosystem inventory maps provides an opportunity to not only protect sensitive ecosystems, but also to continue engaging with the shíshálh and Skwxwú7mesh Nations in embracing Indigenous knowledge for forward-facing and multi-faceted environmental management.

RECOMMENDATION #3. ESTABLISH BINDING MECHANISMS TO GUIDE DEVELOPMENT AWAY FROM SENSITIVE ECOSYSTEMS

Specific growth-management policies guide both local government staff and elected officials when making decisions, as well as the public and developers as they consider new land activities. The SCRD's OCPs in general already designate 'community hubs' as areas intended for increased development to permit the need for community growth and development and to discourage sprawling, development.¹⁶⁴ However, these areas designated for growth require bylaws or regulatory mechanisms to ensure they are understood and adhered to by landowners and development applicants.

Delineating specific growth areas using strong policies in OCPs directing a large percentage of new development into specified settlement areas presents the strongest option for guiding development.¹⁶⁵ Large rural lot policies designated in OCPs further signals that new development should occur elsewhere and supports growth management – where development can occur and where it should not occur - to be an effective environmental protection tool.¹⁶⁶ In addition, when sensitive ecosystems are included in OCPs as clear designations where development will not occur, clustering development can limit its footprint and keep it away from these sites.¹⁶⁷

Recommendations to guide development:

- Include a Growth Management Section in the SCRD's RGS (if enacted) and/or OCPs and ensure consistent application across all jurisdictions.

¹⁶² Jayalaxshmi Mistry & Andrea Berardi, "Bridging indigenous and scientific knowledge" (2016) 354:6291 Science 1274. , DOI: <[10.1126/science.aaf1160](https://doi.org/10.1126/science.aaf1160)>.

¹⁶³ Steven M. Alexander et al, "Bridging Indigenous and science-based knowledge in coastal-marine research, monitoring, and management in Canada: a systematic map protocol" (2019) 8:36 Env'tl Evidence 15, DOI: <[10.1186/s13750-019-0159-1](https://doi.org/10.1186/s13750-019-0159-1)>.

¹⁶⁴ For example, Sunshine Coast Regional District, *Halfmoon Bay Official Community Plan Bylaw No 675, 2013* (2018) ("As a whole, Halfmoon Bay remains a rural community characterized primarily by a low-density residential settlement pattern; however, there is a desire to create focal points within neighbourhoods where multiple land uses converge to form community centres or hubs" at 34).

¹⁶⁵ *Green Bylaws Toolkit*, *supra* note 24 at 73.

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid* at 75 – 76.

- Establish growth containment boundaries to support new private and residential development within current settlement or near-settlement areas and set a high standard in RGS and/or OCP documents – such as 98% as is the case in Metro Vancouver or 95% in the Capital Region - for the percentage of development that must occur within the growth boundaries.
- Enact zoning bylaws that have environmental protection as a specific purpose, extending beyond rural forest designations.
 - Incentivize developers - through zoning bylaws that mirror growth containment boundaries - to focus on designated areas for density outlined in OCPs, promoting development in already established hubs, which, in turn, de-incentivizes development in areas outside the settlement containment boundary.
 - Consider comprehensive development zoning for larger land parcels and explore amenity density bonus zoning in settlement areas.
 - When planning development and growth, bear in mind seasonal population fluctuation patterns having implications for infrastructure, housing, transportation, and the local economy.¹⁶⁸

3.1 INCLUDE A GROWTH MANAGEMENT SECTION IN AN RGS OR IN ALL OCPS

The most important growth management tool for the SCRD would be to use a growth containment boundary to cluster development in already-serviced areas and to provide protection to currently untouched sensitive ecosystems.¹⁶⁹ Containment boundaries can be embodied within an RGS, OCP, or in zoning bylaws and are being used in some areas in the SCRD. As noted above, West Howe Sound has designated a settlement containment boundary defining the extent of residential settlement and regional district servicing within its plan area.¹⁷⁰

There are economic and environmental benefits to concentrating growth in areas that are already serviced with infrastructure and development – including requiring less destruction of mature forests, fewer new roads to be constructed, and shorter water main extensions.¹⁷¹

The SCRD can use growth containment boundaries to consistently address development sprawl in all parts of the regional district, present and future. To do this, detailed and consistent “Growth Management” sections, expressed as an RGS and/or in OCP(s), must apply consistently to all areas.¹⁷² This section would establish growth containment boundaries where new private and residential developments are supported, by focusing on fully developing current settlement or near-settlement areas. To ensure consistency, policies must stipulate specific circumstances when the Board would consider altering the boundary, such as by receiving electoral assent by

¹⁶⁸ Licker Geospatial Consulting & Modus, *supra* note 55 at 21.

¹⁶⁹ Green Bylaws Toolkit, *supra* note 24 at 47.

¹⁷⁰ Sunshine Coast Regional District, *supra* note 58 at 131.

¹⁷¹ *Ibid* at 6.

¹⁷² Green Bylaws Toolkit, *supra* note 24 at 72.

referendum of a plebiscite.¹⁷³ The SCRD can also explore models like the District of Saanich's Urban Containment Boundary that prohibit extending urban services beyond defined limits set in OCPs unless for pressing public health or environmental concerns.¹⁷⁴

3.2 ENACT ZONING BYLAWS THAT HAVE ENVIRONMENTAL PROTECTION AS A SPECIFIC PURPOSE

Zoning bylaws can provide several ways to direct development away from sensitive ecosystems and can also be used to encourage the permanent protection of natural areas.¹⁷⁵ The *Local Government Act* confers zoning powers to regional districts to divide the area into zones with their own regulated land use and prescribed densities, in addition to the size and dimensions of buildings. Zoning regulations can be different for different uses and locations and may expressly prohibit specific uses within the zone.¹⁷⁶

In support of growth management, zoning bylaws preserve large lots located outside of the growth containment boundary and encourage mixed-use, nodal development within the urban containment boundary.¹⁷⁷ They enable development to be clustered away from ecologically sensitive areas in specific zones and set density bonuses within specific zones.¹⁷⁸ Currently, aside from the SCRD's *Zoning Bylaw No 722*, which notes that "environmental conservation" is a permitted use in one of the Rural Forest Three zones¹⁷⁹ and *Zoning Bylaw No 337*, which notes that "fish and wildlife habitat protection" is a permitted use in several 'Park and Assembly' zones,¹⁸⁰ there does not appear to be any consideration of environmental conservation in the zoning bylaws.

If the SCRD is to effectively direct new growth to its desired areas, its zoning bylaws must support developers to develop in the hubs already identified for density in OCPs and clearly be unsupportive of development in other places. On a regional level, directing development towards appropriate locations using zoning bylaws is the primary means of preventing development in areas that can harm sensitive ecosystems and ecosystem connectivity.¹⁸¹ While this tool is sufficiently fine-grained to respond to site-specific ecological conditions as EDPAs do, zoning can also direct development away from sensitive ecosystems through lot sizes, density, setbacks, and designated permitted uses.¹⁸²

¹⁷³ *Ibid* at 71.

¹⁷⁴ *Ibid* at 72.

¹⁷⁵ *Ibid* at 80.

¹⁷⁶ Buholzer, William A., *Local Government: A British Columbia Legal Handbook*, 9th Ed (Vancouver: Continuing Legal Education Society of British Columbia, 2022) at page 236.

¹⁷⁷ *Green Bylaws Toolkit*, *supra* note 24 at 40.

¹⁷⁸ *Ibid*.

¹⁷⁹ *Sunshine Coast Regional District*, *supra* note 61 at 63.

¹⁸⁰ *Sunshine Coast Regional District*, *supra* note 62.

¹⁸¹ *Ibid* at 79.

¹⁸² *Ibid* at 80.

Rezoning for conservation is a straightforward way to direct development away from green infrastructure once these areas have been identified by mapping.¹⁸³ In undeveloped areas, zoning can be used to create larger lot sizes and setbacks to maintain these corridors.¹⁸⁴ If sensitive areas are identified in places where existing zoning already allows intensive development, local governments can rezone to reduce the density or intensity of development.¹⁸⁵ Local governments have the power to change zoning to realize legitimate public interests without becoming liable to landowners for any potential reduction in the value of their land or any loss they might experience.¹⁸⁶ However, conservation zoning can be politically unpopular. Ensuring that conservation zoning flows out of a community-wide planning process setting long-term goals for land use and sustainability can be essential to maintaining community support,¹⁸⁷ especially in contexts such as the SCRD where environmental protection policies are a shared value in each of the current OCPs and water is a critical public health and environmental priority.¹⁸⁸

Where appropriate, the SCRD can use rezoning and subdivision to cluster development on a portion of the properties away from sensitive ecosystems.¹⁸⁹ This can be an effective tool if combined with an amenity density bonus for developers to obtain more density or more lots in return for restoring ecosystems or placing a conservation covenant on the remaining property.¹⁹⁰ For example, the Town of Osoyoos set lot configuration and clustering guidelines in one of its DPAs specifying that subdivisions should be configured to minimize disruptions to the natural terrain and preserve natural features and that development should be clustered as a means of minimizing site disturbance and protecting the natural environment.¹⁹¹

Amenity density bonus zoning is a particularly viable tool when land development patterns conflict with the local government's growth management goals.¹⁹² This works best for high-density urban or large-lot rural settings but tends to be more controversial in medium-sized and near-urban communities.¹⁹³ In addition, comprehensive development (CD) zoning, where each CD zone is tailored to the site-specific goals of that area, can be used by local governments for developing larger parcels of land.¹⁹⁴ The City of Burnaby has included density bonus policies in its zoning bylaw in urbanized areas where intensification is part of the plan.¹⁹⁵ It also uses CD zones, for example, its Lougheed Town Centre Plan emphasizing an ecosystem-based approach to future

¹⁸³ *Ibid* at 81.

¹⁸⁴ *Ibid*.

¹⁸⁵ *Ibid*.

¹⁸⁶ *Ibid*, referring to the *Local Government Act*, *supra* note 25, s 458.

¹⁸⁷ *Ibid* at 82.

¹⁸⁸ Julie Clark (20 November 2023) via conversation with Annie Chochla, Meredith James, & Jonathan Jackson.

¹⁸⁹ *Green Bylaws Toolkit*, *supra* note 24 at 40.

¹⁹⁰ *Ibid*.

¹⁹¹ Town of Osoyoos, *Official Community Plan Bylaw No 1375, 2021* (2021) at 8-43, online (pdf): <https://www.osoyoos.ca/sites/osoyoos.ca/files/2022-06/Official%20Community%20Plan%20Bylaw%20No.%201375%2C%202021%20-%20compressed.pdf>.

¹⁹² *Green Bylaws Toolkit*, *supra* note 24 at 88.

¹⁹³ *Ibid* at 88.

¹⁹⁴ *Ibid* at 94.

¹⁹⁵ *Ibid* at 88 – 90.

development.¹⁹⁶ An important part of this plan’s vision is the protection of environmentally sensitive and major open areas,¹⁹⁷ and amenity density bonus zoning and CD zoning is a practical tool to achieve this objective.

RECOMMENDATION #4. ENHANCE THE POWER AND EFFICIENCY OF ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURES

Permitting processes are important for generating accurate information upon which decisions are made. Permitting procedures – including requirements for environmental impact assessments (“EIAs”) – can ensure alignment with goals aimed at protecting ecosystems in the context of growing development pressures.¹⁹⁸ EIAs serve as a proactive tool for local governments to evaluate the potential effects of development on delicate ecosystems, both before and after any development happens.¹⁹⁹

The effectiveness of any EIA is measured by comparing its actual outcomes with its intended objectives.²⁰⁰ To ensure the outcomes of the SCRD’s EIA procedures align with the SCRD’s objectives, such as comprehensive coverage of sensitive ecosystems across all SCRD OCP areas, the consideration of designation measures, impact assessments, and the involvement of QEPs is crucial.

Recommendations to establish the requirement of assessing cumulative environmental impacts of a proposed development:

- Enact bylaws with Development Approval Information Area designations;
- Consider and communicate how and when impact assessments are activated. This could involve amending the *Fees and Procedures* Bylaw to include which types of developments require permits and to specify that the Manager of Planning and Development and their subsidiaries will consider development proposals in the context of cumulative impacts;
- Protect sensitive ecosystems from the cumulative impacts of all development; and
- Establish ecological indicators as mechanisms to monitor ecosystem health, protect biodiversity, and regulate tools considering cumulative impacts.

¹⁹⁶ *Ibid* at 95.

¹⁹⁷ Loughheed Area Advisory Committee, *Recommendations - Loughheed Town Centre Plan* (1997) at 4, online (pdf): <<https://search.heritageburnaby.ca/media/hpo/Data/CouncilMinutesAndReports/Unrestricted/1997/23-Jun-1997/60815.pdf>>.

¹⁹⁸ See e.g. *Shay*, *supra* note 3 at 72.

¹⁹⁹ *Green Bylaws Toolkit*, *supra* note 24 at 148.

²⁰⁰ Douglas C Baker & James N. McLelland, “Evaluating the effectiveness of British Columbia’s environmental assessment process for first nations’ participation in mining development” (2003) 23:5 *Envtl Impact Assessment Rev* 581 at 583, DOI: <[10.1016/S0195-9255\(03\)00093-3](https://doi.org/10.1016/S0195-9255(03)00093-3)>.

4.1 ENACT BYLAWS WITH DEVELOPMENT APPROVAL INFORMATION AREA DESIGNATIONS

To align development with desired outcomes outlined in planning and development protocols, it is essential to establish a systematic process for identifying and documenting potential impacts. Bylaws creating DAIs are a part of that process – bylaws can require applicants for development permits or temporary use permits, to follow certain procedures and policies, or to provide certain information (like environmental impact information). Several OCPs in the SCRD identify DAIs, but these must be expanded to cover the entire SCRD area to cover all development scenarios.

4.2 CONSIDER AND COMMUNICATE HOW AND WHEN IMPACT ASSESSMENTS ARE ACTIVATED

During the budget year spanning from 2022 to 2023, the SCRD's planning department witnessed a 60% surge in development applications and inquiries. Concurrently, the department faced what the local government labeled as a "critical staffing shortage."²⁰¹ To prevent environmental protection policies from further burdening the planning department and diminishing their efficacy, the SCRD should carefully deliberate on when and to what extent impact assessments are initiated.

A key consideration is determining the threshold that triggers the initiation of the EIA procedure.²⁰² OCPs can specify areas or situations a development applicant is required to provide professional reports on the environmental significance of a property, and on the anticipated consequences of a proposed development or activity.²⁰³ Numerous local governments base the triggering threshold on project size (e.g., developments over 0.5 hectares) or geographical factors like proximity to riparian land.²⁰⁴ Others adopt a tiered approach for EIAs, classifying the appropriate level through an initial screening of development proposals. The criteria for different assessment levels hinge on factors such as project size and the types of ecosystems affected. The spectrum ranges from the lowest level, involving staff review and conditional requirements within the development permit, to the highest level, necessitating a comprehensive impact assessment complete with mitigation measures to address potential environmental harm.²⁰⁵

While the SCRD's *Procedures and Fees Bylaw* sets out what an EIA for a development permit must cover, aside from mandating the involvement of a QEP there does not appear to be any explicit mention of a specific type of development triggering the assessment process, or a graduated intensity of the process based on such criteria.²⁰⁶ The SCRD's Manager of Planning and

²⁰¹ Connie Jordison, "SCRD fees increase with new zoning bylaws," *Coast Reporter* (3 January 2023), online: <coastreporter.net> [<https://perma.cc/7KQH-ZPV3>].

²⁰² *Green Bylaws Toolkit*, *supra* note 24 at 149.

²⁰³ *Ibid* at 148.

²⁰⁴ *Ibid* at 149.

²⁰⁵ *Ibid* at 149-150.

²⁰⁶ *Sunshine Coast Regional District*, *supra* 72 at 13.

Development reviews applications in DAIs designated in an OCP, and an EIA becomes mandatory in instances where the proposed development falls within an EDPA that address environmental and habitat considerations.²⁰⁷ Including threshold triggers can allow the SCRD to optimize efficiency and ensure that the proper attention is given to development proposals that signify more severe impacts.

4.3 PROTECT SENSITIVE ECOSYSTEMS FROM CUMULATIVE IMPACTS

In the context of landscape or ecosystem planning, expanding the focus of EIAs beyond individual sites allows for a more complete understanding of the effects of the proposed activity and to identify development alternatives. Cumulative environmental effects from human activities multiply over space and time and, in many cases, numerous small, independent actions that may be considered individually insignificant can eventually lead to substantial changes to the natural environment.²⁰⁸ Cumulative impact assessments using larger spatial scales, longer planning horizons, and cooperative approaches embracing goal setting, monitoring, and adaptive management are understood to be well-suited for proactively considering whether a proposed development is compatible with a community or government's environmental stewardship objectives.²⁰⁹

The SCRD's "Draft Community Climate Action Plan" contains actions such as "support, and where needed develop mechanisms to monitor ecosystem health and protect biodiversity" and "develop programs and regulatory tools to promote ecological resilience and biodiversity."²¹⁰ However, no reference is given here, nor in apparently any other document containing binding policies, to the importance of considering the cumulative impacts of multiple projects on ecosystem health. One cumulative impact consideration for the SCRD could include debris flows, a hazard which presents a high and widespread risk throughout the SCRD.²¹¹ Debris flows are propagated by clear-cuts, building on unstable slopes, and increased runoff caused by urbanization; and they present dangers to sensitive ecosystems and aquatic habitats, as well as human infrastructure and property, as they often discharge into watercourses.²¹²

One example of a local government incorporating cumulative impact considerations into development permit requirements is the Regional District of Central Okanagan. Development permits include conditions that must be adhered to during and after development, and the DPA guidelines in some of the Regional District's OCPs require a "Terms of Reference Report" to be

²⁰⁷ *Ibid* at 26.

²⁰⁸ *Ibid* at 371.

²⁰⁹ *Ibid* at 374.

²¹⁰ *Shay, supra* note 3 at 73.

²¹¹ EmergeX Planning Inc., *Hazard Risk and Vulnerability Analysis for the Sunshine Coast Regional District* (2005) at 15, online (pdf): <https://www.scrd.ca/wp-content/uploads/2022/11/HRVA-SCRD_FINAL.pdf>.

²¹² *Ibid*.

submitted by a qualified environmental professional.²¹³ For EIAs, these Reports require that a Cumulative Impact Analysis be undertaken to consider the lands surrounding the area of the proposed development, and their current uses and impacts.²¹⁴ The Terms of Reference allow for environmentally sensitive areas to be stratified into different sensitivity ratings, a process which also requires consideration of cumulative impacts on the sensitive area in question.²¹⁵

4.4 ESTABLISH AND USE ECOLOGICAL INDICATORS TO MONITOR ECOSYSTEM HEALTH

Incorporating environmental indicators into its EIA processes can help ensure that the SCRD's OCPs and EIA processes serve their intended functions, and act as indicators of cumulative change over time. Ecological indicators are a tool that allows local governments to track cumulative environmental changes, whether they are from natural occurrences or human development.²¹⁶ The questions, goals, and objectives of any monitoring program will determine which ecological indicators are used.²¹⁷ We were unable to locate any public-facing document from the SCRD that clearly identified ecological indicators for EIAs or within OCP, or any binding mechanism ensuring consistent monitoring when considering development applications.

One example of a local government using ecological indicators is the City of Surrey's "Biodiversity Conservation Strategy". In the strategy, the City established indicators and performance criteria to monitor its own progress regarding its specific biodiversity management goals.²¹⁸ One form of ecological indicator used by the City's monitoring program are several identified "indicator species".²¹⁹ "Indicator species" refers to an approach where one or a few species are used to "indicate" a condition or a response to stress that may also impact other species with similar ecological requirements.²²⁰ The City's Biodiversity Conservation Strategy also identifies management goals with other assessment criteria with specific performance indicators. For their goal of increasing biodiversity in built-up areas, for example, they rely on the population of native bird species in built-up areas as assessment criteria.²²¹ See also the Resort Municipality of

²¹³ Regional District of Central Okanagan, "Development Permit Areas" (last visited 12 December 2023), online: <<https://www.rdcog.com/en/business-and-land-use/development-permit-areas.aspx#What-is-required-after-development>> [<https://perma.cc/8JB7-Q89D>].

²¹⁴ Regional District of Central Okanagan, *Terms of Reference: Professional Reports for Planning Services* (June 2014) at 7, online (pdf): <https://www.rdcog.com/en/business-and-land-use/resources/Documents/2014_DPA_terms_of_reference.pdf>.

²¹⁵ *Ibid* at 8.

²¹⁶ *Bullock*, *supra* note 43 at 22.

²¹⁷ Gerald J. Niemi & Michael E. McDonald, "Application of Ecological Indicators" (2004) 35 *Annual Rev Ecology, Evolution & Systematics* 89 at 95, online: <<https://www.jstor.org/stable/pdf/30034111>>.

²¹⁸ City of Surrey, *Biodiversity Conservation Strategy* (2014) at 5, online (pdf): <https://www.surrey.ca/sites/default/files/media/documents/Surrey_BCS_Report.pdf>.

²¹⁹ *Ibid* at 90-91.

²²⁰ *Niemi & McDonald*, *supra* note 216 at 94-96.

²²¹ *Ibid* at 93.

Whistler's extensive monitoring program the results of which the Municipality considers annually and makes policy change in response.²²²

RECOMMENDATION #5. ENSURE THAT PLANNING AND DEVELOPMENT DECISIONS ARE BASED ON A COMPREHENSIVE AND SCIENTIFIC BASE OF KNOWLEDGE

There are several opportunities to fortify the SCRD's development approval process. Each of the tools identified below serve dual purposes, especially if implemented in combination with one another. Setting terms of reference for QEPs, incorporating ecological expertise into staff reviews, and continuing to engage in public outreach will serve to strengthen science-based decision-making for development approvals. Fitting environmental reviews within the organizational structure of the SCRD's planning department and making standards clear to applicants from the outset would not only strengthen science-based decision-making but may further alleviate the workload on the planning department's staff. This approach would enable the planning department to more effectively respond to the current pressures²²³ placed on its staff, and ultimately strengthen the process' ability to protect sensitive ecosystems from development.

Recommendations to strengthen science-based decision making and address workload on the planning department's staff:

- Develop detailed terms of reference or standards to direct consistent performance by QEPs to safeguard sensitive ecosystems from adverse effects, including by:
 - Adopting a peer review system and/or incorporating checklists as an additional tool for staff guidance when reviewing reports; and
 - Including standards for impact assessments in guidelines and policies referenced in bylaws and OCPs to provide clear direction for landowners and developers.
- Incorporate ecological expertise into project reviews, including by:
 - Hiring additional staff with specialized training in ecosystem protection or natural resource management; and
 - Develop an organizational system that efficiently applies staff members' abilities and ensures transparency and accountability in decision making.
- Continue supporting public engagement

²²² Resort Municipality of Whistler, "Ecosystem and Species Monitoring" (last visited 14 April 2024), online: <<https://www.whistler.ca/services/environmental-stewardship/ecosystem-monitoring/>> [<https://perma.cc/EG3Z-S99U>].

²²³ Yuli Siao, "Development Approvals Process Review Final Report" (27 July 2023), *Sunshine Coast Regional District Staff Report* at 3, online (pdf): <<https://www.scrd.ca/wp-content/uploads/2023-JUL-27-COW-Agenda-PACKAGE.pdf>>.

5.1 DEVELOP DETAILED TERMS OF REFERENCE OR STANDARDS TO DIRECT CONSISTENT PERFORMANCE BY QUALIFIED ENVIRONMENTAL PROFESSIONALS

As required under provincial law, the SCRD follows the provincial professional reliance model established for riparian development when considering development permit applications, which relies on the expertise of QEPs without necessarily establishing specific guidelines, procedures, or monitoring mechanisms.²²⁴ This model, a common standard for local governments,²²⁵ operates on the premise that government and industry professionals adhere to an identified code of practice.²²⁶ However, the lack of direct oversight by a local government creates the potential for wide variations in results by externally sourced QEPs,²²⁷ as evidenced, for example, by the documented poor performance of QEPs in relation to the province's *Riparian Areas Protection Act* and Regulation.²²⁸ Further the QEP designation does not necessarily ensure a certain quality of work.²²⁹

The SCRD staff team does review every QEP report produced for the various regulatory processes – both riparian and for other development permit requirements such as shoreline – and works closely with provincial staff for riparian areas reviews. However, the SCRD does not have explicit terms of reference that could direct a more comprehensive and holistic approach to these evaluations, and also identify which type of registered professional or their specific qualifications is suitable for what type of ecological review.²³⁰

To mitigate these risks, the SCRD could establish accessible and understandable standards or expectations for both QEPs and land developers.²³¹ A complimentary approach, endorsed by some of BC's highest-regarded professions, is peer review—a mechanism for identifying sub-standard practices and for protecting the public.²³²

Incorporating peer review fees into permit applications, as used by the Village of Cumberland in its *Procedures and Fees Bylaw*, allows a municipality to engage independent reviewers when needed. Cumberland's provisions allow peer reviews to be discretionary, triggered by staff requests when applicant consultant reports lack necessary detail or fail to address permit requirements.²³³ Large

²²⁴ Jonathan Jackson (20 November 2023) via conversation with Annie Chochla, Meredith James, & Julie Clark.

²²⁵ Bill Buholzer & Nick Falzon, "Professional Reliance: A Local Government Perspective" (2018) Young Anderson Barristers & Solicitors at 1-2, online (pdf): <https://www.younganderson.ca/assets/seminar_papers/2018/Professional-Reliance-A-Local-Government-Perspective.pdf> [<https://perma.cc/AMU3-6EU8>].

²²⁶ Mark Haddock, *Professional Reliance Review: The Final Report of the Review of Professional Reliance in Natural Resource Decision-Making* (Independent Report, 2018) at 13, online (pdf) : <https://professionalgovernancebc.ca/app/uploads/sites/498/2019/05/Professional_Reliance_Review_Final_Report.pdf> [<https://perma.cc/69MB-VZ39>].

²²⁷ Buholzer & Falzon, *supra* note 225 at 11-12.

²²⁸ Haddock, *supra* note 225 at 123.

²²⁹ Buholzer & Falzon, *supra* note 225 at 11-12.

²³⁰ Julie Clark (20 November 2023) via conversation with Annie Chochla, Meredith James, & Jonathan Jackson.

²³¹ Frank O'Brien, "Developers caught in crossfire when cities overrule study findings", *Business Intelligence for B.C.* (3 June 2020), online: <<https://biv.com/article/2020/06/developers-caught-crossfire-when-cities-overrule-study-findings>> [<https://perma.cc/P7CZ-N6Y7>].

²³² Buholzer & Falzon, *supra* note 225 at 13.

²³³ *Green Bylaws Toolkit*, *supra* note 24 at 104.

applications require upfront payment for both peer review and application fees, while others pay only the application fee initially, with peer review costs invoiced later.²³⁴ The flexibility of peer reviews, especially when combined with staff expertise and checklists for application reviews for staff guidance, is valuable in determining when external professional input is necessary.²³⁵

To enhance the quality of impact assessments and proactively regulate the competence of QEPs, the SCRD could incorporate impact assessment standards into guidelines and policies referenced in bylaws and OCPs, which helps to streamline amendments in line with best management practices.²³⁶ These proactive approaches allow for more comprehensive management of potential environmental impacts during the development process.

5.2 INCORPORATE ECOLOGICAL EXPERTISE INTO PROJECT REVIEWS

To ensure that planning decisions are grounded in science, the SCRD can hire additional staff with specialized training in ecosystem protection or natural resource management into its Planning and Development Services Department.²³⁷ For EDPA guidelines to achieve the SCRD's intended policy goals, they need to be consistently applied and enforced. This requires staff responsible for reviewing development applications to have the necessary expertise to properly evaluate the degree of impact of proposed developments, whether to reject an application, and to determine what conditions attach to a development permit.²³⁸ The SCRD's application backlog is exacerbated by the acceptance of incomplete and low-quality development applications, a practice historically employed by planning staff to pacify applicants.²³⁹ Although development planners can gain ecological skills through training,²⁴⁰ the SCRD is aware that a lack of training is already a source of stress in the department.²⁴¹ A current lack of formal communication protocols among staff and poor documentation of processes and institutional knowledge²⁴² further reinforces the idea that additional staff with the requisite knowledge are required to ensure sensitive ecosystems are protected from development.

Maintaining an efficient organizational system that maximizes staff abilities and reduces on-the-job stress can also be vital in ensuring that planning and development decisions yield results that are in line with the SCRD's ultimate objectives. To reduce the development team's stress with the

²³⁴ Corporation of the Village of Cumberland, *Development Procedures and Fees No 1073, 2018* (2018) at 14-15, online (pdf): <<https://cumberland.ca/wp-content/uploads/2018/10/Bylaw-1073-Procedure-and-Fees-at-2nd-rdg.pdf>>.

²³⁵ *Green Bylaws Toolkit*, *supra* note 24 at 105.

²³⁶ *Ibid* at 150.

²³⁷ *Ibid* at 103-104.

²³⁸ *Ibid* at 103.

²³⁹ *KPMG*, *supra* note 15 at 40.

²⁴⁰ *Green Bylaws Toolkit*, *supra* note 24 at 103-104.

²⁴¹ *KPMG*, *supra* note 15 at 20.

²⁴² *Ibid*.

increasing volume and complexity of development applications received,²⁴³ a staff with specific training in ecology should conduct review of projects as a discrete task within assessing reviews.²⁴⁴

5.3 CONTINUE SUPPORTING PUBLIC ENGAGEMENT

Because many property owners and land developers have a genuine desire to comply with regulations,²⁴⁵ having clearly communicated development approval requirements and leveraging community partners to promote SCRD program can help to reduce the high volume of bylaw infraction complaints received by the SCRD.²⁴⁶ Engagement opportunities empower the public to contribute valuable insights on the local environment and solidifies their understanding of the bylaws and regulatory mechanisms to which they are expected to adhere.²⁴⁷

Community engagement already appears to be a strength in the SCRD. This is exemplified by its community engagement platform Let's Talk SCRD and the 35 communications and engagement campaigns conducted by staff in 2022.²⁴⁸ Focusing on public consultation as a long-term strategy will continue to enhance the community's confidence that the SCRD makes policy and regulatory decisions in a fair and methodical manner.

²⁴³ *Siao*, *supra* note 222 at 3.

²⁴⁴ *Green Bylaws Toolkit*, *supra* note 24 at 104.

²⁴⁵ *Ibid* at 102.

²⁴⁶ Keili Bartlett, "SCRD bylaw tickets quadruple in 2022", *Coast Reporter* (13 January 2023), online: <coastreporter.net> [<https://perma.cc/88LG-CJCB>].

²⁴⁷ *Bullock*, *supra* note 43 at 27.

²⁴⁸ Sunshine Coast Regional District, Corporate Services Department, *2022 Annual Report* (2022) at 14, online (pdf): <<https://www.scrd.ca/wp-content/uploads/2023-SCRD-Annual-Report-for-2022.pdf>> [<https://perma.cc/PH7S-SBCM>].

4. Conclusion

The Sunshine Coast Regional District is at a critical juncture in balancing the protection of its sensitive ecosystems and the need for increased development and affordable housing to care for its growing population. The SCRD has embarked on significant initiatives, such as the Regional Growth Framework Project, Development Approvals Process Review, and OCP renewal project to address these challenges. Enacting a green bylaws approach, rooted in the SCRD's powers and legislative authority, is an avenue to strengthen its ecosystem protections within this work.

The recommendations in this report are intended to present options for setting a green bylaws approach into action and provide a toolbox for the SCRD's staff to apply based on their own expertise. Incorporating a combination of these tools – in particular establishing region-wide policies for ecological connectivity and translating that green infrastructure network into bylaws and OCPs - will allow the SCRD to better plan for ecosystem connectivity; guide development away from sensitive ecosystems; account for cumulative impacts of development; and ultimately ensure that its planning and development decisions are grounded in science.

Furthermore, using regulations to protect sensitive ecosystems will assist the SCRD in addressing the challenges that animate the OCP renewal process: protecting and conserving the ecological systems they already have while restoring and planning for regeneration wherever possible; climate-resilience thinking about extreme weather events caused by climate change; reconciliation related goals; and planning for how to address the region's housing needs. Prioritizing the connection and protection of their remaining unique and unfragmented ecosystems using the bylaws and regulatory tools available to them, in conjunction with the other projects already underway, allows the SCRD to comprehensively protect the natural environment foundation upon which the region is based.

Appendix A: Attributes of the Sunshine Coast Regional District's Municipalities and Electoral Areas

Table 1 Attributes of the SCRD's municipalities.

Municipality	Pop. (2021 census)	Growth rate (between 2016 and 2021) ²⁴⁹	# of Board Appointees	Voting Strength of Elected Officials	Area	Key Characteristics
Town of Gibsons ²⁵⁰	~4,758	3.3%	1	3	4.33 km ²	Over two thousand private dwellings and two main commercial areas.
District of Sechelt ²⁵¹	~10,847	6.2%	2	6	39 km ²	Several residential areas as well as cultural and social amenities.
shíshálh Nation Government District (sNGD) ²⁵²	~765	10.1%	1	1	10.81 km ²	The shíshálh Nation is an independent, self-governing people who maintain Aboriginal Rights and Aboriginal Title over their lands, as recognized by s. 35 of the <i>Constitution Act</i> . The sNGD was created by Bill C 93 <i>Sechelt Indian Band Self Government Act</i> and established as a local government in BC by <i>Bill 4 Sechelt Indian Government District Enabling Act</i> . Under the Bill, the sNGD qualifies for the same benefits and powers as any municipality in B.C., including the ability to enact laws and bylaws and the ability to tax. ²⁵³ As allowed under the <i>Local Government Act</i> , the sNGD acts a municipality within the SCRD. ²⁵⁴

²⁴⁹ Each of these values is provided by Bartlett, *supra* note 136.

²⁵⁰ Sunshine Coast Regional District, "Town of Gibsons" (last visited 8 October 2023), online: <<https://www.scrd.ca/tog/>> [<https://perma.cc/4MFQ-LDRS>].

²⁵¹ Sunshine Coast Regional District, "District of Sechelt" (last visited 8 October 2023), online: <<https://www.scrd.ca/dos/>> [<https://perma.cc/U6Z5-QXNR>].

²⁵² Sunshine Coast Regional District, "shíshálh Nation Government District" (last visited 8 October 2023), online: <<https://www.scrd.ca/sngd/>> [<https://perma.cc/CZC2-AL83>].

²⁵³ *Sechelt Indian Government District Enabling Act*, RSBC 1996, c 416, s. 4.

²⁵⁴ *Local Government Act*, *supra* note 25, s 250.

Table 2 Attributes of the SCRD's electoral areas.

Electoral Area	OCP Bylaw(s) applying	Pop. (2021 census)	Growth rate (between 2016 and 2021) ²⁵⁵	Voting Strength of Elected Official	Area	Key characteristics
Area A: Egmont / Pender Harbour ²⁵⁶	Egmont/Pender Harbour OCP Bylaw No. 708 (2018)	~3,039	16%	2	1,901 km ²	A mostly rural area with scattered residential settlements around the harbour and cultural and tourist amenities.
Area B: Halfmoon Bay ²⁵⁷	Halfmoon Bylaw OCP Bylaw No. 675 (2014)	~2,969	8.9%	2	1,271 km ²	Within the swiya of the shíshálh Nation, residential and rural residential with commercial areas.
Area D: Roberts Creek ²⁵⁸	Roberts Creek OCP Bylaw No. 641 (2012, amended 2020)	~ 3,523	3%	2	143.4 km ²	Sitting on the border of the sNGD and Squamish Nation, residential and beach area on the southern Sunshine Coast with several regional amenities.
Area E: Elphinstone ²⁵⁹	Elphinstone OCP Bylaw No. 600 (2008)	~3,883	6%	2	21.6 km ²	Smaller, more densely populated area on the border of the Town of Gibbons, mainly residential with some community amenities and contains an agricultural plateau with farmland.
Area F: West Howe Sound ²⁶⁰	Hillside – Port Mellon OCP Bylaw No. 370 (1995); Twin Creeks OCP Bylaw No. 545 (2018); West Howe Sound OCP Bylaw No. 640 (2011 amended 2018)	~2,407	17.8%	2	381 km ²	Mainly residential settlements.

²⁵⁵ Each of these values is provided by Bartlett, *supra* note 136.

²⁵⁶ Sunshine Coast Regional District, "Area A: Egmont / Pender Harbour" (last visited 8 October 2023), online: <<https://www.scrd.ca/area-a/>> [<https://perma.cc/W53P-CEP9>].

²⁵⁷ Sunshine Coast Regional District, "Area B: Halfmoon Bay" (last visited 8 October 2023), online: <<https://www.scrd.ca/area-b/>> [<https://perma.cc/P6EC-KVFR>].

²⁵⁸ Sunshine Coast Regional District, "Area D: Roberts Creek" (last visited 8 October 2023), online: <<https://www.scrd.ca/area-d/>> [<https://perma.cc/EBK8-TH3L>].

²⁵⁹ Sunshine Coast Regional District, "Area E: Elphinstone" (last visited 8 October 2023), online: <<https://www.scrd.ca/area-e/>> [<https://perma.cc/NQ3F-CY95>].

²⁶⁰ Sunshine Coast Regional District, "Area F: West Howe Sound" (last visited 8 October 2023), online: <<https://www.scrd.ca/area-f/>> [<https://perma.cc/P7VM-UKFR>].

Appendix B: Maps of the Sunshine Coast Regional District and its Sensitive Ecosystems²⁶¹

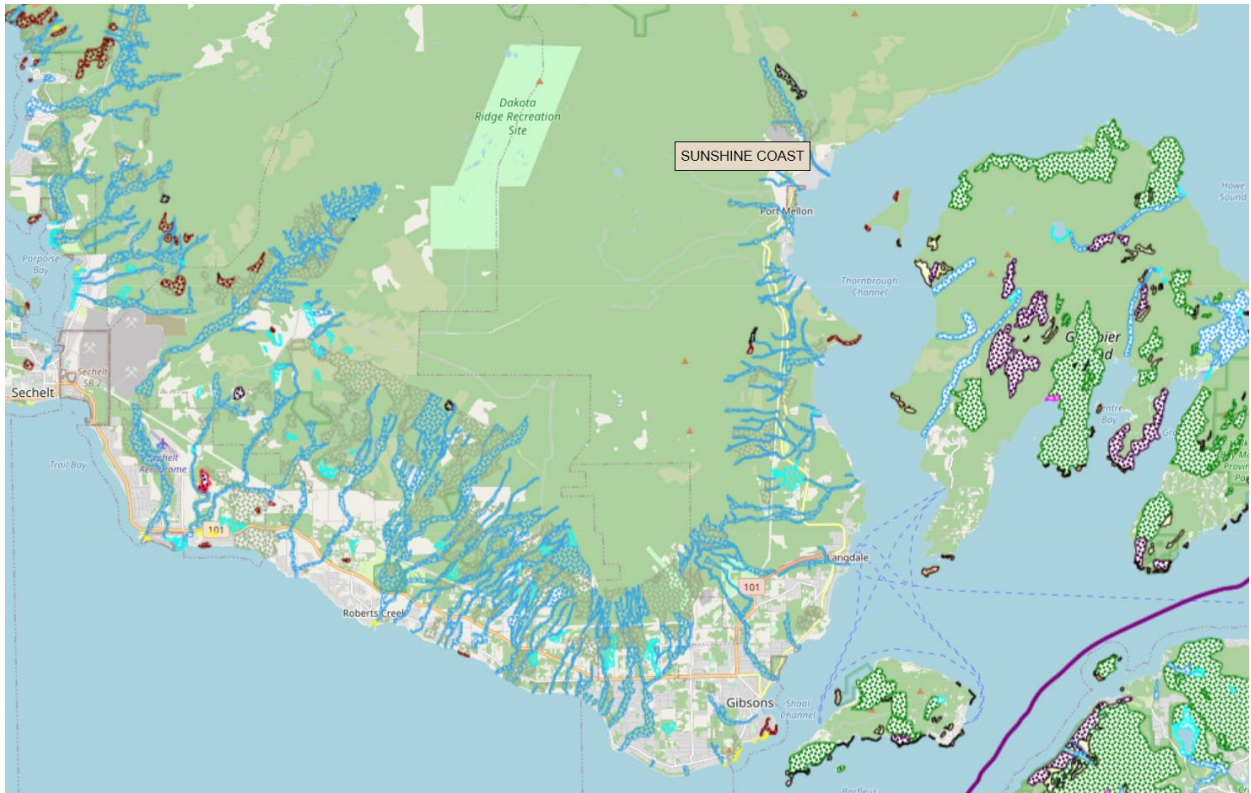


Figure 1 The southern tip of the Sunshine Coast, along Gibsons and Roberts Creek, is covered mainly by sensitive riparian areas but also contains some woodland and wetland. Riparian ecosystems also dominate much of West Howe Sound, Elphinstone, Roberts Creek. West Howe Sound has old forest and second growth.

²⁶¹ Each of these maps is retrieved for information purposes only from the Community Mapping Network, "Sensitive Ecosystem Inventory for the Georgia Basin" (last visited 6 November 2023), online: <<https://cmnmaps.ca/GBHA/>> [<https://perma.cc/7RL7-HBN7>].

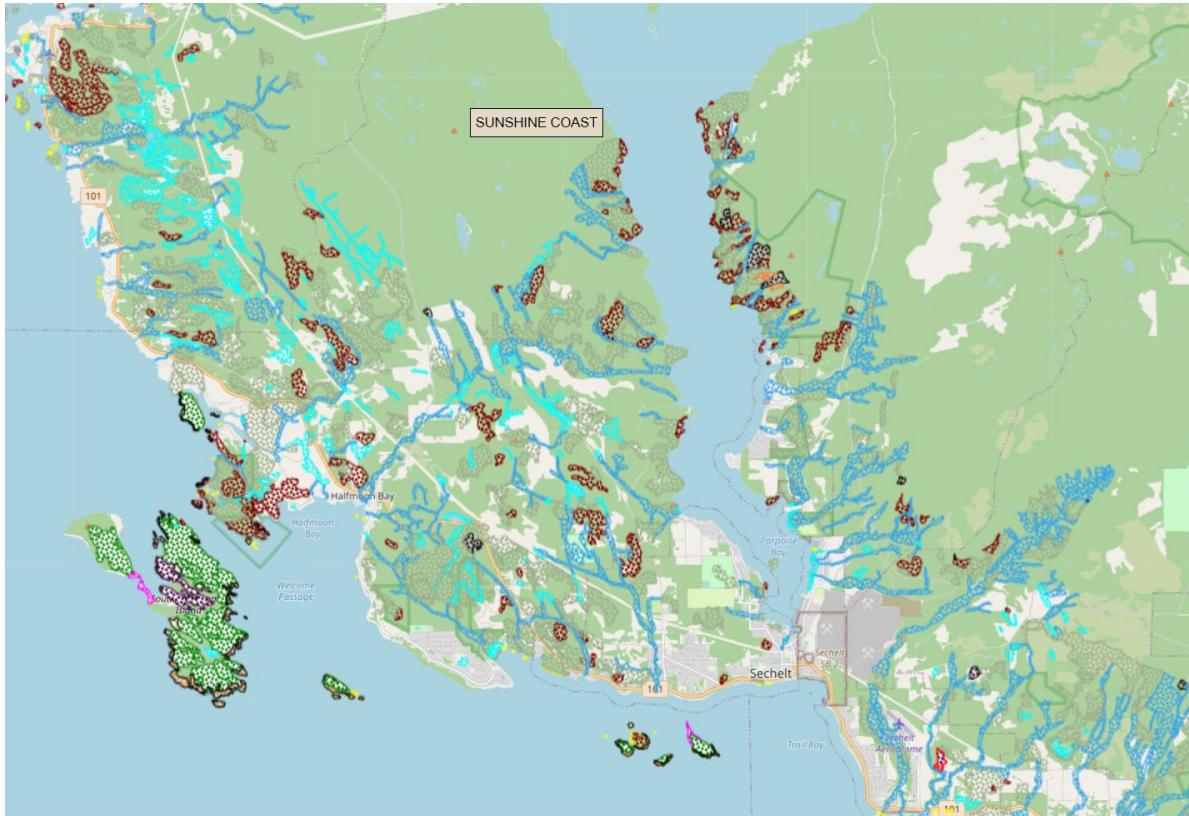


Figure 2 On the western coast (largely Half Moon Bay) we see more sensitive wetlands, woodland, old forest, and second growth, in addition to riparian ecosystems.

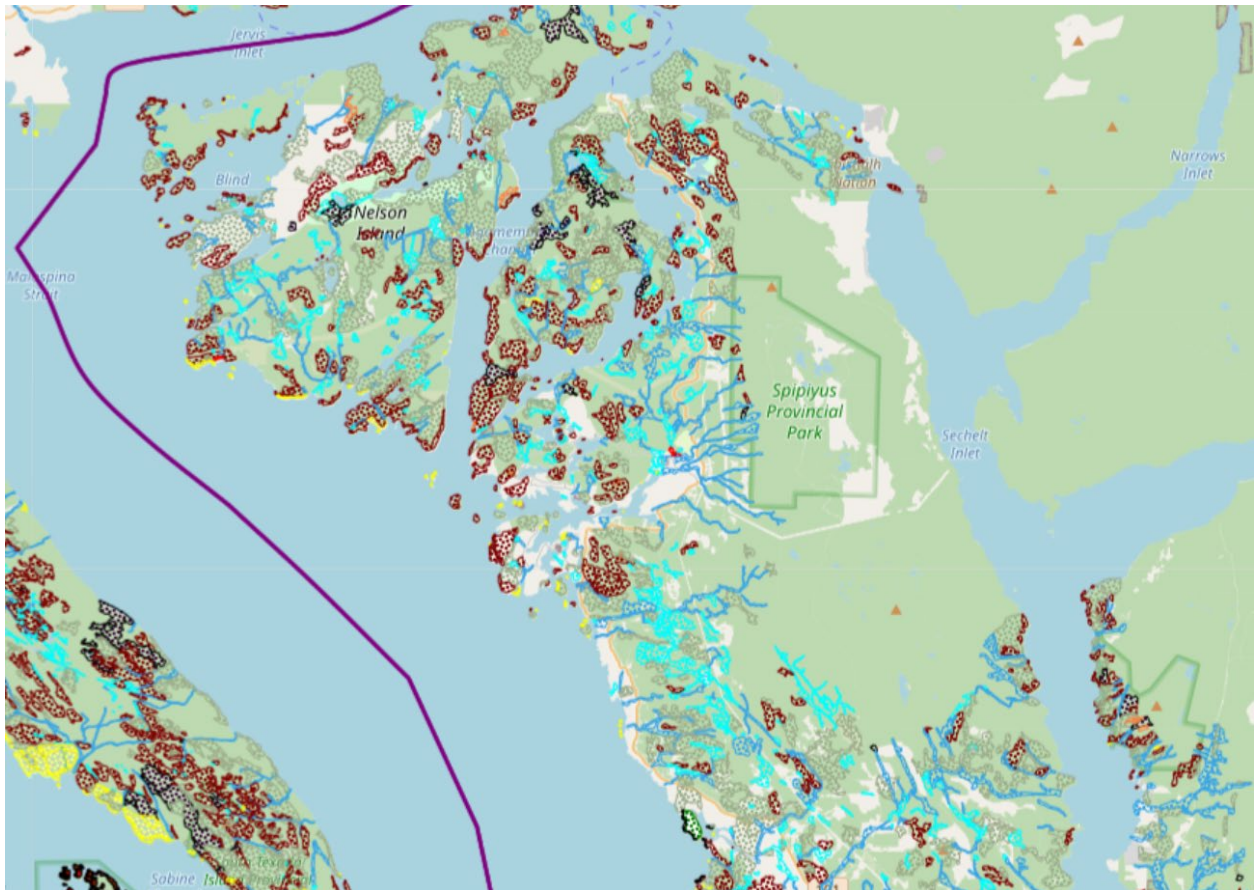


Figure 3 Further north, around Egmont and Pender Harbour, is more sensitive woodland and wetland as well as a mix of other sensitive ecosystems.