

# Riparian Areas Regulation (RAR) Overview and Updates

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# Riparian Areas Regulation (RAR) Overview and Updates

1. Background for those new to RAR
2. Common issues with assessment reports
2. Upcoming changes to the regulation
3. Erosion protection, RAR and WSA

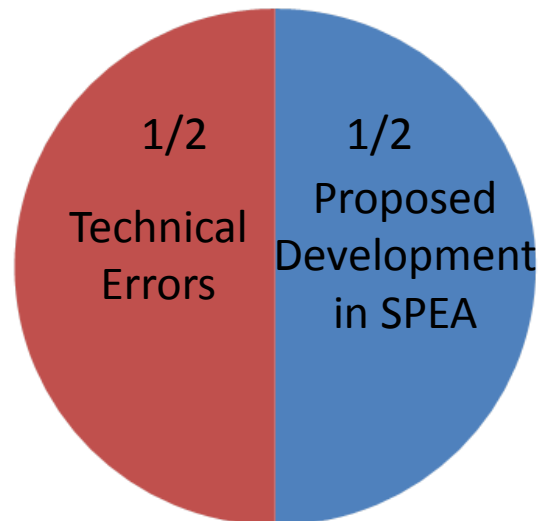
# RAR 101

- Provincial legislation enacted through the *Fish Protection Act* to achieve improved protection of fish and fish habitat—effective 2006. (2016—*Riparian Areas Protection Act*)
- Directs local governments to protect riparian areas during new residential, commercial and industrial development
- Professional reliance model—onus on landowners to hire QEPs to do assessment
- 2014 BC Ombudsperson reviewed RAR—made 25 recommendations
  - #10: province must review all assessment reports

# Ongoing Review of Assessment Reports

Recommendation 10: Review all RAR assessment reports submitted to the ministry each year

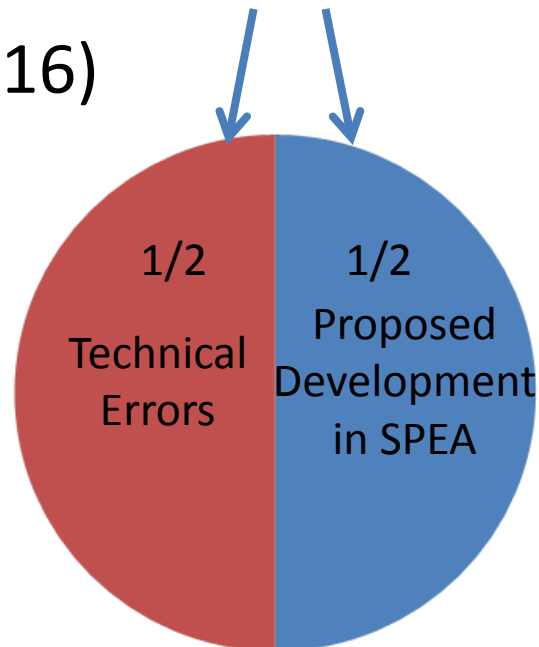
**2017** 30% of submitted reports required amendments  
(40% in 2016)



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# Top Three Technical Errors

1. Insufficient Site plan
2. Insufficient Measures
3. Incorrect Shade ZOS

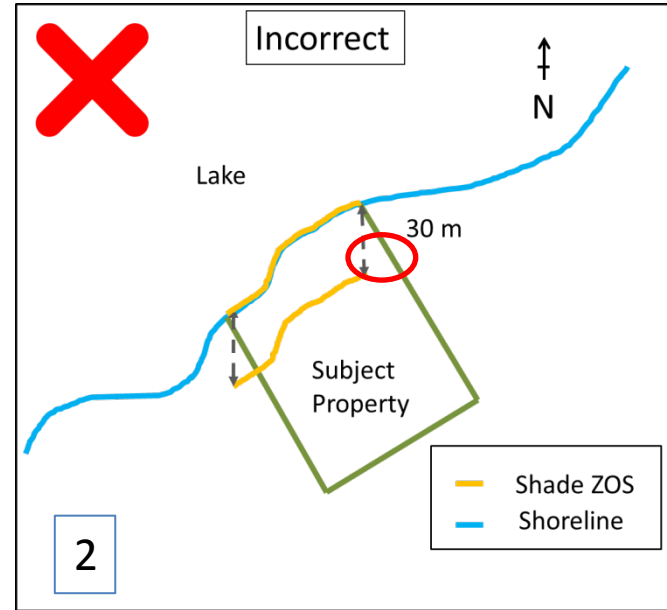
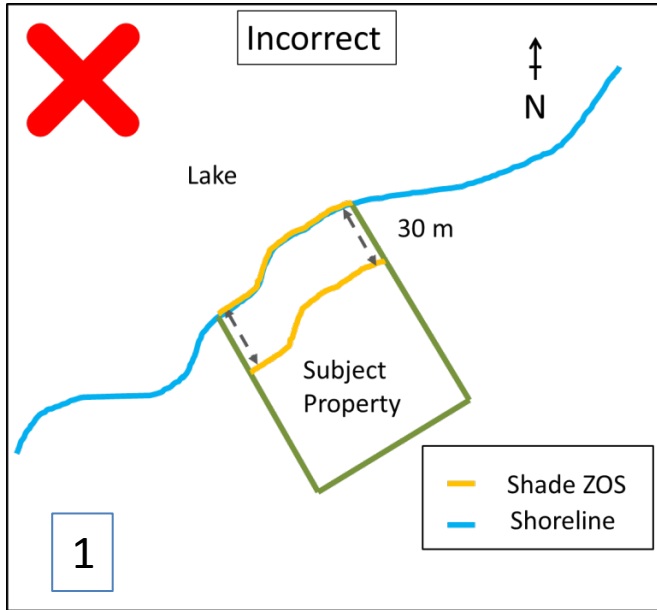
# Technical Errors

## 1. Site plan

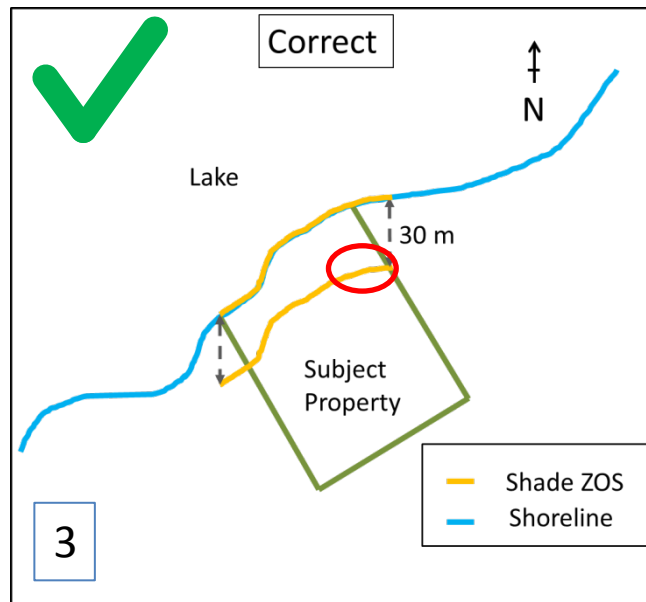
- Show building footprint/proposed development envelope
- Subdivision—indicate potential buildable area
- Show high water mark (HWM), Riparian Assessment Area, all Zones of Sensitivity (ZOS), streamside protection and enhancement area (SPEA), key/legend

## 2. Measures

- Prescriptive—verifiable during field audit—explicit instruction to developer
  - Sediment control—proper installation of silt cloth
  - “trees will be protected” is not enough—explain exactly how to do
  - Explicit planting plan



### 3. Shade ZOS





# Proposing Encroachment

Development in the SPEA only supportable in cases of undue hardship --use Draft Variance Protocol (2009c).

<https://barriere.civicweb.net/document/876>

## Foundation vs. footprint

Foundation is defined in Part 14 Division 14 of the Local Government Act Sections 531 and 532. Some LGs use 'footprint' but that is not RAR compliant.

## Landscaping in SPEA

Formal landscaping and pathways in the SPEA are not consistent with RAR.

# Other reminders:

## “Retroactive RARs”

- Professional associations have guidance for this –College of Applied Biology, Engineers and Geoscientists, Association of BC Forest Professionals

<https://www.cab-bc.org/news/guidelines-outline-practice-standards-riparian-area-assessments>

- Will not be RAR compliant—but required as part of LGs DP process

## Ditches

- Very specific definition in methods
- Channelized stream that’s part of historical drainage pattern is not a ditch

# Other reminders:

- No serious harm under federal Fisheries Act does not mean no harmful alteration, disruption or destruction (HADD)
  - Letters from DFO don't meet Sec. 4(3) of RAR anymore
- TRAQ (Tree Risk Assessment Qualification) is not the same as qualified arborist
- Arborist is not a QEP for rest of report
- Sample reports are available on RAR website  
<https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/fish/riparian-areas-regulation/qep-resources/preparing-rar-reports>

# Not justification for encroachment:

- Neighbour's encroachment
- Lack of or poor quality of existing riparian vegetation
  - RAR considers potential vegetation
- Mitigation planting / “no net loss”
- Rebuilding in existing footprint

## RAR in the Thompson Okanagan— lakeshore development

- Disturbance to existing lawn = development in the SPEA
- If pre-development SPEA is lawn, replacing this or with lawn is not consistent with the RAR
- The potential, not just existing, vegetation must be considered
- Okanagan has a long history of small lakefront lots, houses very close to the lake, lawns all the way to the shore



While this may have been acceptable in the past, it is incompatible with the RAR

# Changes are coming...

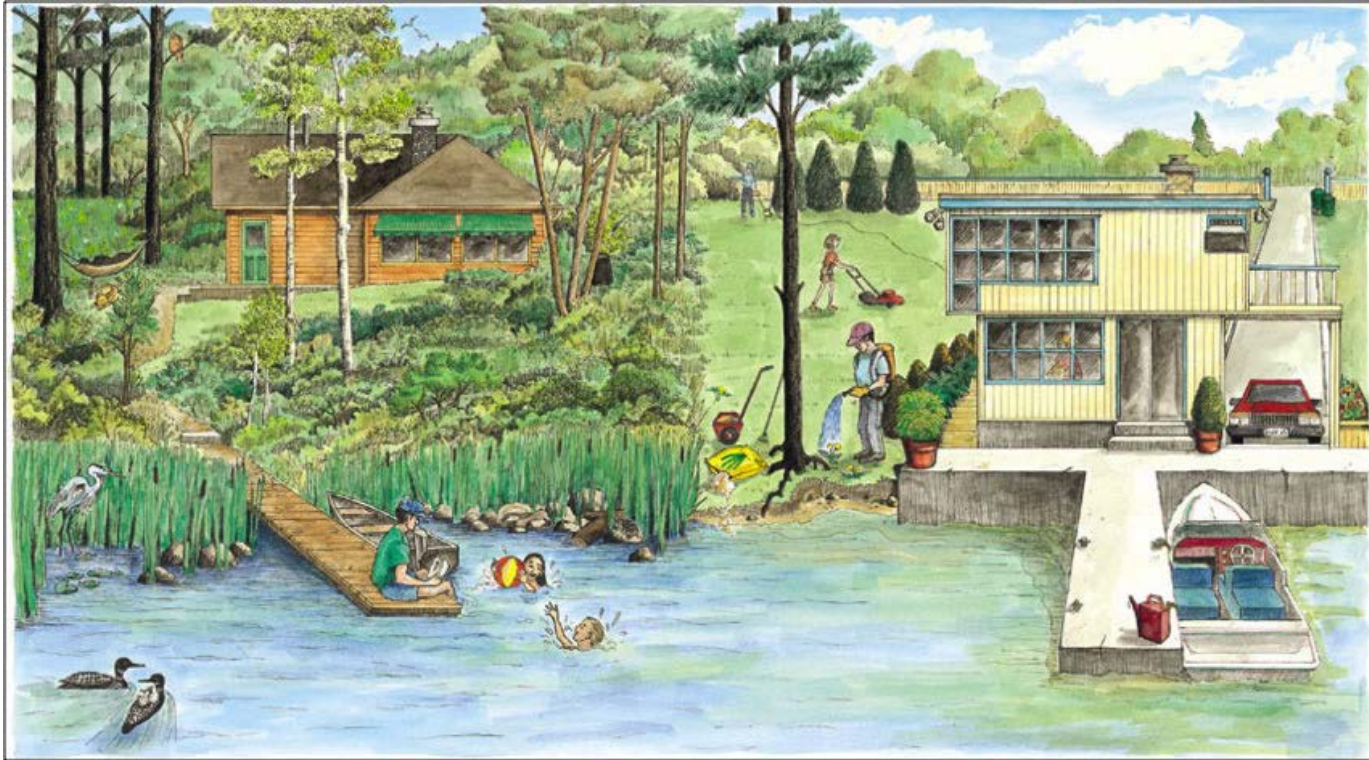


- Delayed notification for assessment reports
- Formalized variance procedure

## Proposed Protocol:

1. Follow a prescribed *Methodology to Determine the Degree of Allowable Encroachment* in determining whether any variance to the RAR SPEA is justified
  2. Follow and apply *Mitigation Measures*
- RAR training course mandatory

# Keep in Mind



<https://naturecanada.ca/living-by-water/>

## 2016 Foreshore Inventory and Mapping (FIM) update:

- 2009-2016—4.1 km of shoreline lost = significant biological loss that may affect all shoreline processes over time
- will begin to affect quality of life of local residents (i.e. water quality)

[http://a100.gov.bc.ca/appsdata/acat/documents/r52566/2016FIMUpdateReport-April2017\\_1499724044135\\_9723373289.pdf](http://a100.gov.bc.ca/appsdata/acat/documents/r52566/2016FIMUpdateReport-April2017_1499724044135_9723373289.pdf)

- Retaining wall reconstruction above the HWM needs certification by appropriate professional that the retaining structure is required.
- Retaining wall reconstruction below the present natural boundary (PNB) is not permitted under the WSA. Walls will be required to be pulled back to HWM unless exceptional circumstances exist. Permitting under WSA will be required.
- Under the RAR, placement of fill above the HWM constitutes “development,” and therefore requires a RAR assessment report.
- Fill is not permitted below HWM.



# Which is applicable: WSA or RAR, or both?

- Province doesn't require RAR for works already covered under WSA
- However, RAR is triggered by LG's DP requirement, so depends on LGs practices

\*WSA = Water Sustainability Act

# Questions / Discussion?