

DATE: August 7, 2020**FILE:** 3360-20/RZ 1A 19**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer*J. Warren for R. Dyson***RE: Rezoning (Upper Island Developments Ltd.)
Electoral Area A (Baynes Sound – Denman/Hornby Islands)
Lot B, District Lot 13, Nelson District, Plan VIP60017, PID 019-045-964****Purpose**

The purpose of this report is to advise the Electoral Areas Services Committee of an application to rezone a property from Country Residential Two (CR-2) to a residential zone that would enable its subdivision into lots with a minimum area of 0.36 hectares and to recommend that the application be externally referred (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board endorse the agency referral list as outlined in Appendix A of staff report dated July 23, 2020, and direct staff to commence the external agency referral process for Lot B, District Lot 13, Nelson District, Plan VIP60017, except Plan EPP76949, as part of a proposed amendment (RZ 1A 19) to Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019”;

FURTHER THAT Comox Valley Regional District staff consult with First Nations in accordance with the referrals management program dated September 25, 2012;

AND FINALLY THAT the Comox Valley Regional District Board authorize staff to begin discussions on provision of community amenities as per Section 72 “Community Amenity Contributions” of Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014.”

Executive Summary

- The subject property is an undeveloped 55 hectare parcel in the Union Bay Settlement Node.
- It is zoned Country Residential Two (CR-2) which allows for subdivision to a minimum lot area of 2 hectares.
- The property owner is applying to rezone the property to a residential zone that would allow for its subdivision to a minimum lot area of 0.36 hectares if connected to the community water system.
- The Settlement Node designation within the Comox Valley Regional District Regional Growth Strategy (RGS) and Rural Comox Valley Official Community Plan (OCP) is intended to identify the primary growth areas of unincorporated lands within the Comox Valley Regional District (CVRD). The rezoning application is consistent with the designation’s intention by accommodating additional development and density.
- Staff recommends issuing First Nations and external agency referrals for this rezoning application. In addition, the CVRD Board is recommended to authorize staff to begin

discussions on provision of community amenities as per Section 72 of the OCP, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”.

Prepared by:

Concurrence:

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Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant and agent	✓
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Background/Current Situation

The subject property is a 55 hectare parcel in the Union Bay Improvement District (Figure 1). It is currently undeveloped and predominantly covered with third growth mixed forest (Figure 2). The land slopes eastwards towards the railroad, on average 5 per cent over the course of the property. There are residential parcels towards its front, along the rail line and highway, but the lands are otherwise surrounded along the sides and rear with crown land. Road access is limited to an unconstructed road right-of-way named Craddock Road which connects to Green Avenue at the southwestern corner of the property. On its south side, the subject property borders the CVRD Ravine Nature Park.

The property owner is applying to rezone the subject property with an objective of subdividing it into parcels with minimum lot areas of 0.36 hectares. The applicant submitted a conceptual street layout and phasing plan illustrating how such a subdivision may look like (Figure 3). Though the exact configuration, number and sizes of lots may vary before the subdivision stage, the applicant is seeking to create 114 lots which range in size between 0.36 and 0.47 hectares.

Zoning Bylaw Analysis

The existing Country Residential Two (CR-2) zone allows for residential use with a minimum lot area of 2 hectares and a maximum density of two single detached dwellings per lot. Under the current zone's minimum lot area, it should be possible to subdivide the subject property into approximately 23 parcels (the exact number may vary based on road dedication, lot configurations, and final lot sizes). If developed to the maximum density of two houses per lot, this would equate to approximately 46 new houses. Connecting to a community water system is not required to achieve this density.

The proposed zoning amendment would allow for a minimum lot area of 0.36 hectares (the applicants intend to connect each lot to a community water system – Union Bay Improvement District) with maximum density of two dwelling units per lot, though the second dwelling must be in the form of a secondary suite, carriage house or secondary house limited to 90 square metres. This new zone would allow for the property's subdivision to 114 parcels which, if developed to its maximum density would have 228 dwellings.

In Zoning Bylaw No. 520 the zone that offers the lowest subdivision requirement is the Residential One zone which requires a minimum lot area of 0.4 hectares when connected to a community water or 0.06 hectares if connected to by community water and sewer, or 1.0 hectares if connected to neither. To accommodate the proposal, an additional zone would be created and could include

additional regulations not otherwise present in the Residential One zone.

Regional Growth Strategy Analysis

The subject property is designated as a Settlement Node in the RGS, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. According to the Settlement Nodes policies, it is intended to “*accommodate growth through a balance of new development, intensification and improvements to public infrastructure*”. Under the RGS Housing objective of locating housing close to existing services, Policy 1A-1 states part of the growth management strategy is directing 90 per cent of new, residential development to Core Settlement Areas, which includes Settlement Nodes and Municipal Areas. The proposal to accommodate new development by enabling subdivision into smaller residential lots is consistent with the RGS policies and objectives.

Official Community Plan Analysis

The OCP, designates the subject property as being within a Settlement Node (Figure 4). This designation does not establish a specific target density or minimum lot areas within it, but the Settlement Nodes are intended to be the primary growth areas in the unincorporated areas of the CVRD. The policies of this designation direct that “*local area plans establish the goals and objectives for residential [and other land uses] including a range of residential types and densities*”. The local area plan for this Settlement Node has yet to be initiated so there is no development criteria specific for this area. However, the general proposal is consistent with advancing this designation’s objective of directing growth to the Settlement Nodes.

Policy 33(4) of the Settlement Node designation states “*Apply the community amenity policy included in Part 4 of this OCP for development of the settlement nodes*”. The community amenity policy (Section 72 of the OCP) is applicable only if the Board is satisfied that the proposal demonstrates sound planning practice, the community amenities offered directly assist in mitigating impacts associated with increased density and the amenities clearly benefit the community affected by the increased density and/or broader community. Examples of what may constitute community amenities include parkland, trails, affordable housing, protection or restoration of natural features, provision of green technology and sustainable building design, protection or enhancement of significant views, etc.

Rainwater Management

As there is no drainage function for private properties in this area, Section 6(1) of OCP specifies that the applicant must submit a drainage report with the objective of ensuring the pre-development or the natural hydrologic regime is maintained or restored by the development. The applicant submitted a Stormwater Management Report prepared by Eric Galt, P.Eng., of Wedler Engineering LLP. In order to maintain post-development flows at pre-development levels, the report recommends “*stormwater detention ponds be required at the building permit stage for each of the new parcels*”. This would require the CVRD and the property owner to agree to a restrictive covenant, registered on title (which would be transferred to all resulting subdivided parcels) that would allow the CVRD to require a property-specific rainwater management plan be prepared, and stormwater detention pond be constructed, upon the submission of a building permit application. That property-specific plan would also be registered as a covenant. Once built, the property owner is responsible for maintaining the system, though as signatory the CVRD would be responsible for enforcement actions against those determined to be not maintaining their ponds.

Due to the potentially significant administrative and legal costs in maintaining and enforcing such covenants, the General Manager of Planning and Development Services Branch sent a letter to the

applicant requesting a report providing alternative options for the suitable collection, storage and disbursement of rainwater, pursuant to the Development Approval Information Bylaw No. 369, 2015. In response, the applicants provided a letter from consulting engineer H.A. Martyn, P.Eng., which states that best management practices for maintaining the land's natural hydrological regime is to place controls as close as possible to sources of run-off, as prescribed by the Wedler report. The letter further states that infiltration techniques may not be effective here due to shallow, dense glacial till soil, but that this soil better allows for above ground storage ponds. Alternatively, a local service area may be established over the property to address rainwater management, or a bylaw specifically addressing rainwater management requirements may be adopted to facilitate cost recovery and enforcement.

Roads

The Ministry of Transportation and Infrastructure (MoTI) maintains a drainage (ditch and culvert) system for the purposes of directing run-off from the roads. The conceptual street layout plan (Figure 3) includes over 2.5 kilometres of new road dedication to service the lots and to connect to the adjacent properties. The Stormwater Management Report noted above finds that the subject property drains eastward to one of two culverts under the railroad. The conceptual road layout would direct run-off to the northern culvert and not the southern culvert in the Ravine Nature Park. Because the railroad culverts are private property, administered by the Island Corridor Foundation, an agreement may be required at the subdivision stage to direct drainage through the culvert. The railroad culvert was found to be sufficient to accommodate more run-off, though two downstream culverts in the Island Highway right-of-way were found to be under-sized.

Policy 23(1) of the OCP directs that all new development proposals are to be assessed with respect to their emergency access design. In general, new multi-lot residential development should have two separate and unobstructed accesses. The subject property currently only has legal access via the unopened (unconstructed) Craddock Road right-of-way in the south-west corner that connects to Green Avenue. The applicant is currently seeking to acquire Crown land on the north-west side as a replacement for Craddock Road as the primary access. The applicant also intends to connect the road network to a proposed road to the south (which would connect to Bray Road) where they also own property and are in the process of subdivision (to a minimum of 2.0 hectare lots).

Parks

At the subdivision stage, Section 510 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) requires an owner to either dedicate up to 5 per cent of the area being subdivided as park or pay an amount equivalent to 5 per cent of its market value for use on park purposes elsewhere. The location of park land must be acceptable to the local government.

As illustrated in Figure 3, the property owner proposes to dedicate land in the form of an expansion of the Ravine Nature Park and greenway corridors along the west, south and eastern sides. The CVRD community parks department is currently reviewing the proposal based on the acquisition criteria of the Rural Comox Valley Parks and Greenways Strategic Plan which includes considerations for conservation, recreation and community values and financial impact. The community parks department has provided initial comments that the 5 per cent equates to approximately 2.75 hectares, and that a contiguous 5 metres wide north/south greenway connection should be provided, and that surface water from the proposed roads and lots should not be directed to the parks.

Policy Analysis

Section 479 of the LGA authorizes a local government to regulate the use, density, size and shape of land, buildings and structures through a Zoning Bylaw. Section 460 of the LGA states that a local government must define procedures by which a property owner may apply for a bylaw amendment. Section 464 states that a local government must hold a public hearing before adopting a Zoning Bylaw.

Options

The Board can:

1. Refer the application to external agencies and First Nations for review.
2. Deny the application to rezone the property at this time.

Staff recommends option 1. This will enable staff to collect specific feedback on the application.

Financial Factors

The applicants have paid for the rezoning application review in accordance with Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”. If the application proceeds to statutory public hearing, additional fees will be required. Fees paid to date account for the rezoning only and not future subdivision or development permit fees.

Legal Factors

This report and the recommendations contained herein are in compliance with the LGA and CVRD bylaws. The LGA authorizes a local government to regulate the use of land and buildings.

Intergovernmental Factors

Appendix A contains a list of agencies and First Nations, to which staff recommends referring the application. Feedback from the referral will be reported at a future Electoral Areas Services Committee meeting.

Interdepartmental Involvement

Planning staff is leading the review of this application. Input from the CVRD departments has been integrated into this report and will continue to be collected as the application moves through the review process.

Citizen/Public Relations

Staff recommends that the application be referred to the Area A Advisory Planning Commission. If the application proceeds to bylaw preparation, community consultation will be held in accordance with Bylaw No. 328 (i.e. statutory mailing and public hearing).

Attachments: Appendix A – “Agency List”

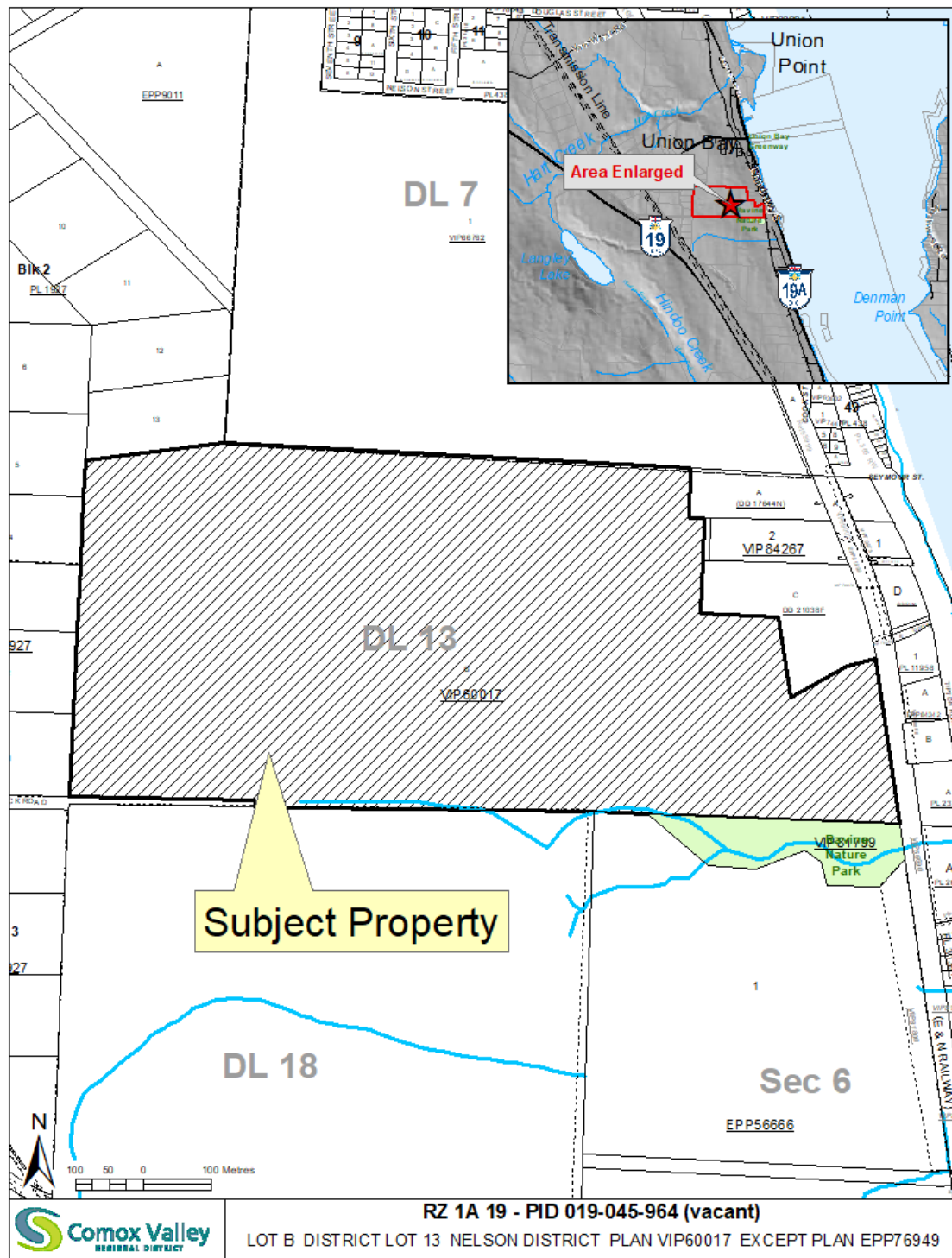


Figure 1: Subject Property

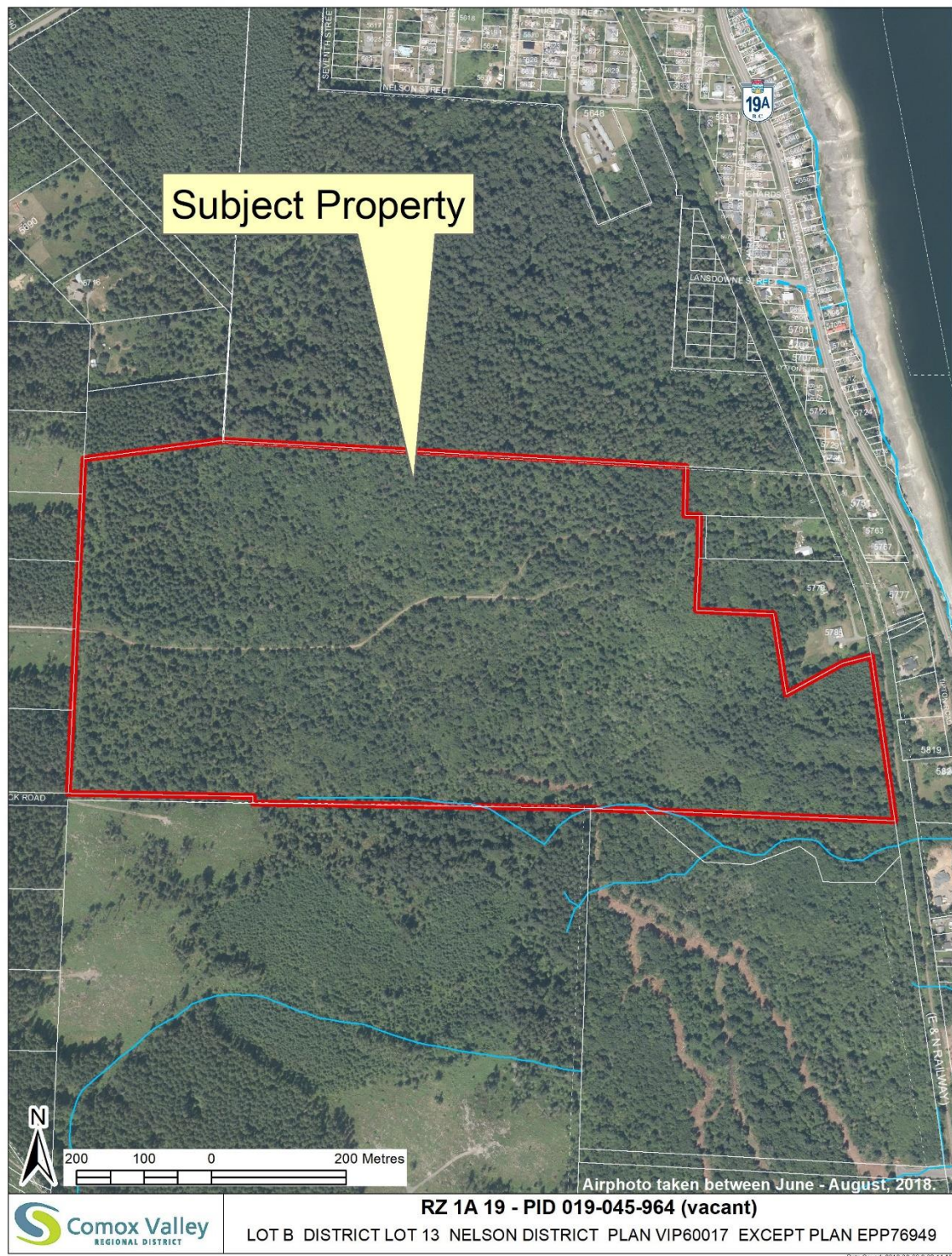


Figure 2: Air Photo (2018)

PRELIMINARY PARCEL REVIEW AND PHASING CONCEPT IN SUPPORT
OF PROPOSED COMPREHENSIVE DEVELOPMENT ZONE OVER
LOT B, DISTRICT LOT 13, NELSON DISTRICT, PLAN V160017, EXCEPT
PLAN EPP76949.

Scale: 1:1000
All dimensions are approximate and subject to final survey.

PARCEL AREA TABLE			
Area of Parcel	Area	Area	Area
Total Area of Development	10.1	10.1	10.1
Total Area of Lot 13	10.1	10.1	10.1
Total Area of Lot 13	10.1	10.1	10.1
Maximum Area of Lot 13	10.1	10.1	10.1
Area of Lot 13	10.1	10.1	10.1
Area of Lot 13	10.1	10.1	10.1
Area of Lot 13	10.1	10.1	10.1
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Area of Lot 13	10.1	10.1	10.1
Area of Lot 13	10.1	10.1	10.1

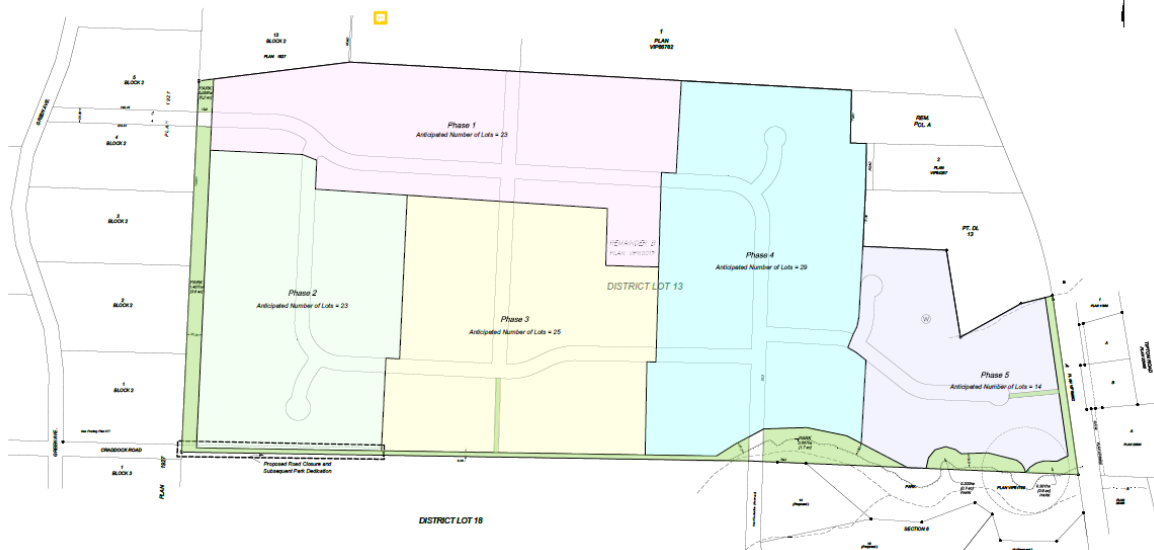


Figure 3: Conceptual Layout Plan

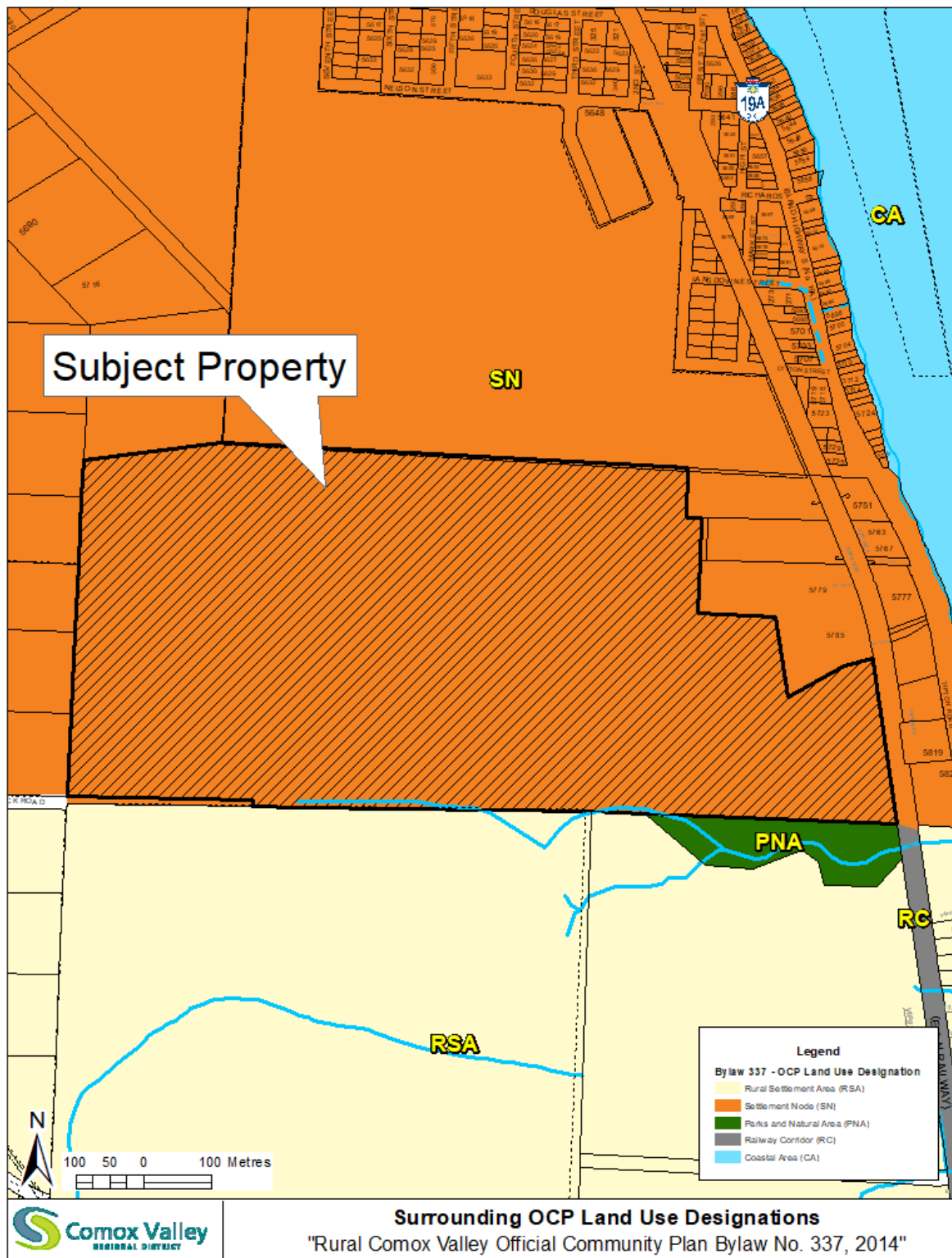


Figure 4: Official Community Plan
 The Subject Property is Located on the Southern end of the Union Bay Settlement Node

Agency and First Nations Referral List

The following agencies will receive a referral of the proposal ☒.

First Nations

<input checked="" type="checkbox"/>	K'ómoks First Nation	<input checked="" type="checkbox"/>	Homalco Indian Band
<input checked="" type="checkbox"/>	We Wai Kai First Nation	<input checked="" type="checkbox"/>	Wei Wai Kum First Nation of the Kwiakah Treaty Society
<input checked="" type="checkbox"/>	Laich-Kwil-Tach Treaty Society		

Provincial Ministries and Agencies

	Agricultural Land Commission		Ministry of Community, Sport & Cultural Development (responsible for TransLink)
<input checked="" type="checkbox"/>	BC Assessment		Ministry of Energy & Mines
	BC Parks		Ministry of Forests, Lands and Natural Resource Operations and Rural Development
	Ministry of Environment	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
	BC Transit		Ministry of Jobs, Tourism & Skills Training (responsible for Labour)
	Ministry of Agriculture		Ministry of Indigenous Relations and Reconciliation

Local Government

	Comox (Town of)		Alberni-Clayoquot Regional District
	Courtenay (City of)		Strathcona Regional District
	Cumberland (Village of)		Regional District of Mount Waddington
	Islands Trust		Regional District of Nanaimo

Other

<input checked="" type="checkbox"/>	Advisory Planning Commission A Baynes Sound – Denman/Hornby Islands	<input checked="" type="checkbox"/>	Union Bay Improvement District
<input checked="" type="checkbox"/>	School District No. 71 (Comox Valley)	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	Island Corridor Foundation		