

DATE: October 2, 2017

FILE: 3060-20 / DP 13A 17

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

RE: Farm Land Protection Development Permit
Lot D, Plan 36103 Hyland Road (Galik and Henderson/Wind)
Baynes Sound – Denman / Hornby Islands (Electoral Area A)
Lot D, Section 33, Township 11, Nelson District, Plan 36103, Except Plan 39329,
PID 000-125-512

Purpose

To consider a Farm Land Protection Development Permit (DP) that would establish a buffer between a rural residential property and three agricultural properties.

Recommendation from the Chief Administrative Officer

THAT the board approve the Farm Land Protection Development Permit DP 13A 17 (Galik/Henderson) on the property described as Lot D, Section 33, Township 11, Nelson District, Plan 36103, Except Plan 39329 (Lot D, Plan 36103 Hyland Road) for the subdivision of a residential property adjacent to agriculturally designated properties with the condition that a 15 metre wide vegetative buffer adjacent to the common boundary be maintained and buildings are sited a minimum of 30 metres from the agriculturally designated properties;

AND FURTHER THAT the Corporate Legislative Officer be authorized to execute the permit.

Executive Summary

- The applicants are proposing to subdivide the subject property to create two residentially zoned parcels with frontage along Hyland Road.
- As the subdivision involves creating a new property alongside agriculturally designated properties, a farm land protection DP is required to examine the farm/non-farm interface with respect to the proposed subdivision design and the development potential of the new property.
- To reduce the potential for land use conflicts between agricultural and residential uses, the applicants propose to maintain a 15 metre wide vegetative buffer adjacent to the common boundary and site any buildings a minimum of 30 metres from the agriculturally designated properties.
- Two of the neighbouring farm owners and the Agricultural Advisory Planning Commission (AAPC) were consulted and are supportive of the proposal, as presented. One of the neighbouring farmers did not respond to the request for comments.
- Staff recommend issuance of the DP with a 30 metre setback for buildings and maintenance of a 15 metre wide vegetative buffer. The proposed buffering meets the intent of the DP guidelines and the Ministry of Agriculture's *Guide to Edge Planning* and the Agricultural Land Commission's *Landscaped Buffer Specifications*.

Prepared by:

Concurrence:

Concurrence:

B. Labute

T. Trieu

A. MacDonald

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Planner

Ton Trieu, MCIP, RPP
Assistant Manager of Planning
Services

Ann MacDonald, MCIP, RPP
General Manager of Planning and
Development Services Branch

Stakeholder Distribution (Upon Agenda Publication)

Applicants	✓
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Background/Current Situation

An application has been received to consider a farm land protection DP (Appendix A) to enable a two lot subdivision within 30 metres of agriculturally designated properties. The subject property is approximately 8.6 hectares in area and is situated within the Baynes Sound – Denman/Hornby Islands area (Electoral Area A) (Figures 1 and 2). The lot is bound by agricultural parcels to the west, Hyland Road to the north, and residential parcels to the south and east. The vacant lot is zoned Residential Rural (R-RU). As a result of the proposed subdivision (Figure 3), one of the two lots (Proposed Lot 1) will be adjacent to three agriculturally designated properties triggering a farm land protection DP.

Official Community Plan Analysis

The Official Community Plan (OCP) being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” designates the property as Rural Settlement Area. Section 44. (5) within this designation directs the Comox Valley Regional District (CVRD) to “Ensure new development in the rural settlement area maintains the rural character of the surrounding area and supports a functioning working landscape. In circumstances where proposed new development is adjacent to an active working parcel or ALR land consider a buffer to protect the integrity of the working landscape and implement through development permits...”. The CVRD implements this through the farm land protection DP which is the subject of this application.

Farm Land Protection Development Permit Guidelines

The intention of the farm land protection DP is to mitigate potential for land use conflicts between agricultural and residential uses (e.g. farm trespass, vandalism to crops and equipment, disturbance to farm animals, capture some dust and spray drift, reduction of invasive species and litter, nuisance complaints, etc.). As a best practice, these DP guidelines recommend locating principal structures and accessory buildings at least 30 metres away from a common boundary with agricultural areas, with 15 metres being a vegetated buffer, including fencing, consistent with the Ministry of Agriculture’s *Guide to Edge Planning* and the Agricultural Land Commission’s *Landscaped Buffer Specifications*.

When a subdivision is proposed within 30 metres of an agricultural parcel, this DP is triggered to create a buffer between farm uses and non-farm development in accordance with the above noted guide and specifications. These guides identify the agricultural side as a working landscape and recommend the landscaped buffer to be placed on the non-agricultural side during subdivision and development. The specifications provide a variety of options regarding the type and height of fencing and vegetation to accommodate proposed development while achieving particular objectives.

The minimum recommended specifications, which provides protection from trespass and vandalism, is a 3 metre wide vegetated buffer consisting of a double row of trespass inhibiting shrubs with wire fencing at least 1 metre in height. Solid fencings (wood or chain link with privacy

slats) and evergreen hedges or trees are also acceptable and would provide visual screening. Should movement of dust or pesticide spray be a factor, the specifications recommend increasing the vegetated buffer width to at least 6 metres with a row of trees (2.5 metres in height if coniferous or 6 centimetre caliper if deciduous), as well as screening hedges and a triple row of trespass inhibiting shrubs. Should airborne particles, odours, light, or higher density development be a factor, the specifications recommend a minimum of a 15 metre buffer with a double row of trees, as well as a double row of screening hedges, a triple row of trespass inhibiting shrubs, and additional ground cover shrubs, as necessary. Other features that may be integrated into the buffer area include berms, ditches, and water features.

Farm Land Protection Development Permit Analysis

There are agricultural activities, including livestock, on 3802 Minto Road (Figure 2). An existing wire fence runs south of Roy Creek to the southern edge of 3802 Minto Road. A survey of the property confirmed a majority of the fence is on the subject property not 3802 Minto Road. While there is no fencing north of Roy Creek separating the residential parcel from the agricultural parcel, the adjacent area on 3802 Minto Road contains a large shop that is fenced off from the rest of the agricultural parcel (Figure 2).

The buildings and/or agricultural activities on 3786 Minto Road and 3764/3766 Minto Road are on the western portion of the lots. The rear of the lots, which abut the subject property, are not fenced and are heavily forested (Figure 2). The development potential on the subject property is north of Roy Creek (no access to the southern portion of the lot), therefore, no further fencing is recommended. Any future development activities within the farm land protection DPA on the southern portion of the lot would trigger a new DP.

The proposal to maintain a 15 metre vegetative buffer and site any buildings a minimum of 30 metres from the agriculturally designated properties coupled with the existing fencing is an appropriate buffer between the subject property and agriculturally designated properties. The buffer meets the intent of DP guidelines, the Ministry of Agriculture's *Guide to Edge Planning* and the Agricultural Land Commission's *Landscaped Buffer Specifications*.

Zoning Bylaw Analysis

The property is zoned R-RU in the zoning bylaw being the "Comox Valley Zoning Bylaw No, 2781, 2005". The R-RU zoning allows for a single detached dwelling and secondary residential use (e.g carriage house), up to 200 m² of accessory building floor area and farm buildings if the property is used for farming. The proposed subdivision is consistent with the zoning bylaw.

Policy Analysis

Sections 488-491 of the Local Government Act (RSBC, 2015, c. 1) (LGA) authorize a local government to designate Development Permit Areas (DPA) within an OCP and establish guidelines for each DPA for specific purposes, including protection of farming. Section 491(6) allows DPs for the protection of farming to be issued with conditions related to screening, landscaping, fencing and siting of buildings or other structures.

Section 86 of Bylaw No. 337 establishes a DPA for the purpose of farm land protection in the area 30 metres from land designated as agricultural area or Agricultural Land Reserve (ALR).

Construction of a building within the DPA requires the issuance of a DP prior to the issuance of a building permit.

Options

The board may approve the DP as presented, amend the conditions, or deny the DP. Based on the analysis above, staff recommend the DP is approved.

Financial Factors

Applicable fees have been collected for this application under Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”.

Legal Factors

This report and the recommendations contained herein are in compliance with the LGA and CVRD bylaws. DPs are permitted in certain circumstances under Sections 488 to 491 of the LGA.

Regional Growth Strategy Implications

The Regional Growth Strategy (RGS), being the “Comox Valley Regional District Regional Growth Strategy, Bylaw No. 120, 2010” designates the subject property within the Settlement Expansion Areas. In the RGS, there are two policies (2C-5 and 6A-3) to ensure appropriate buffers and transition zones between agricultural land and rural areas. Adequate buffers will minimize negative impacts arise from the interface between the two land uses, with the intent that the non-farm uses do not impede on agricultural activities within the ALR. The farmland protection DP provides site specific conditions on buffers and transition zones between the proposed Lot 1 and the ALR land.

Intergovernmental Factors

A referral was issued to the Ministry of Agriculture for comment. The response will be forwarded to the Electoral Areas Services Committee if it received before the meeting.

Interdepartmental Involvement

This DP application was referred to relevant internal departments. No concerns were identified.

Citizen/Public Relations

The three adjacent farm owners were contacted. The owners of 3786 Minto Road and 3764/3766 Minto Road did not have any concerns with the proposal. The letter was mailed to the owner of 3802 Minto Road on September 12, 2017 describing the proposal and requesting them to contact the planning department with any concerns or comments. At the time of writing this report, no response has been received.

The AAPC met on August 30, 2017 to review the proposal, but did not visit the site. The AAPC supported the proposal, as presented.

Attachments: “Appendix A – Farm Land Development Permit DP 13A 17”

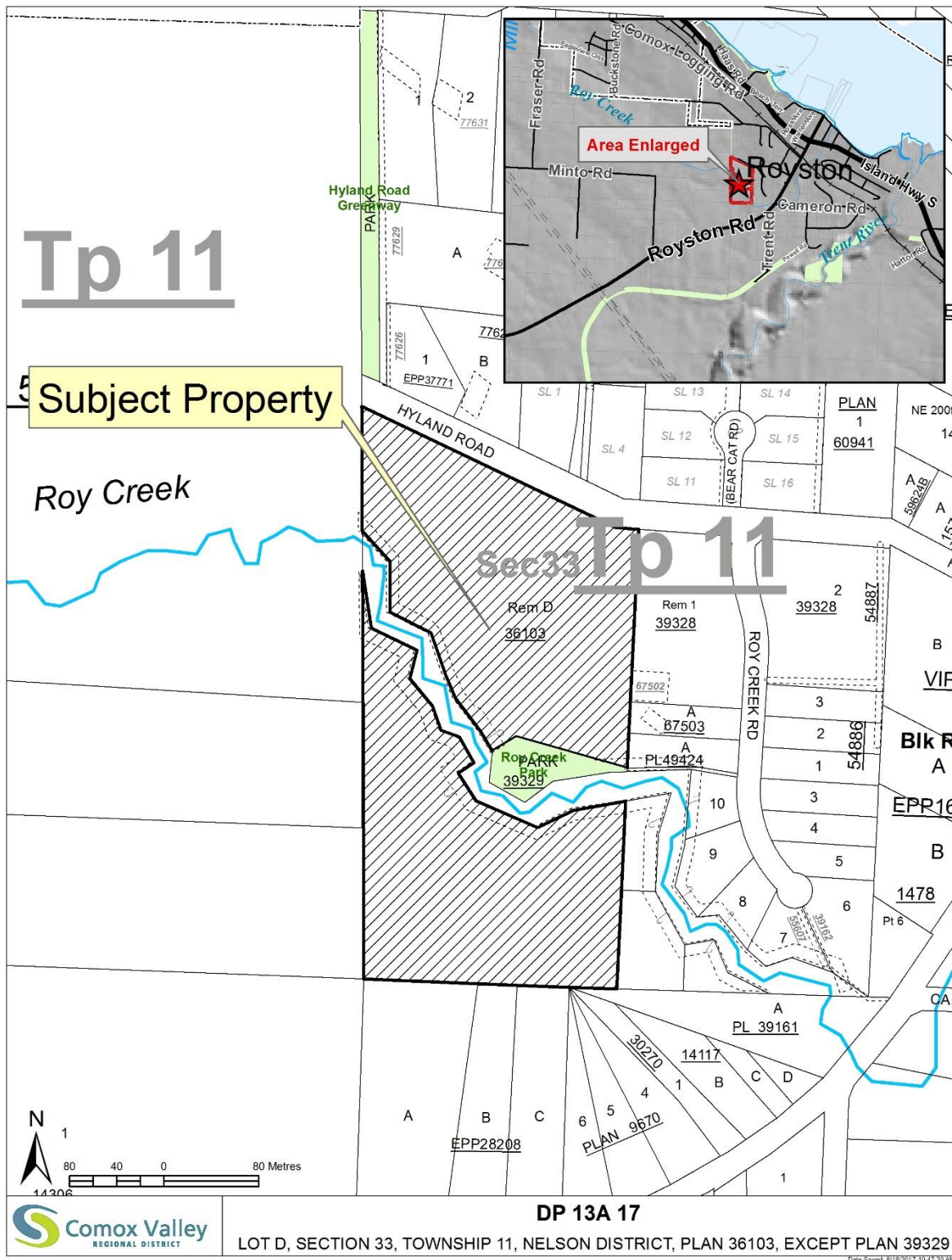


Figure 1: Subject Property Map

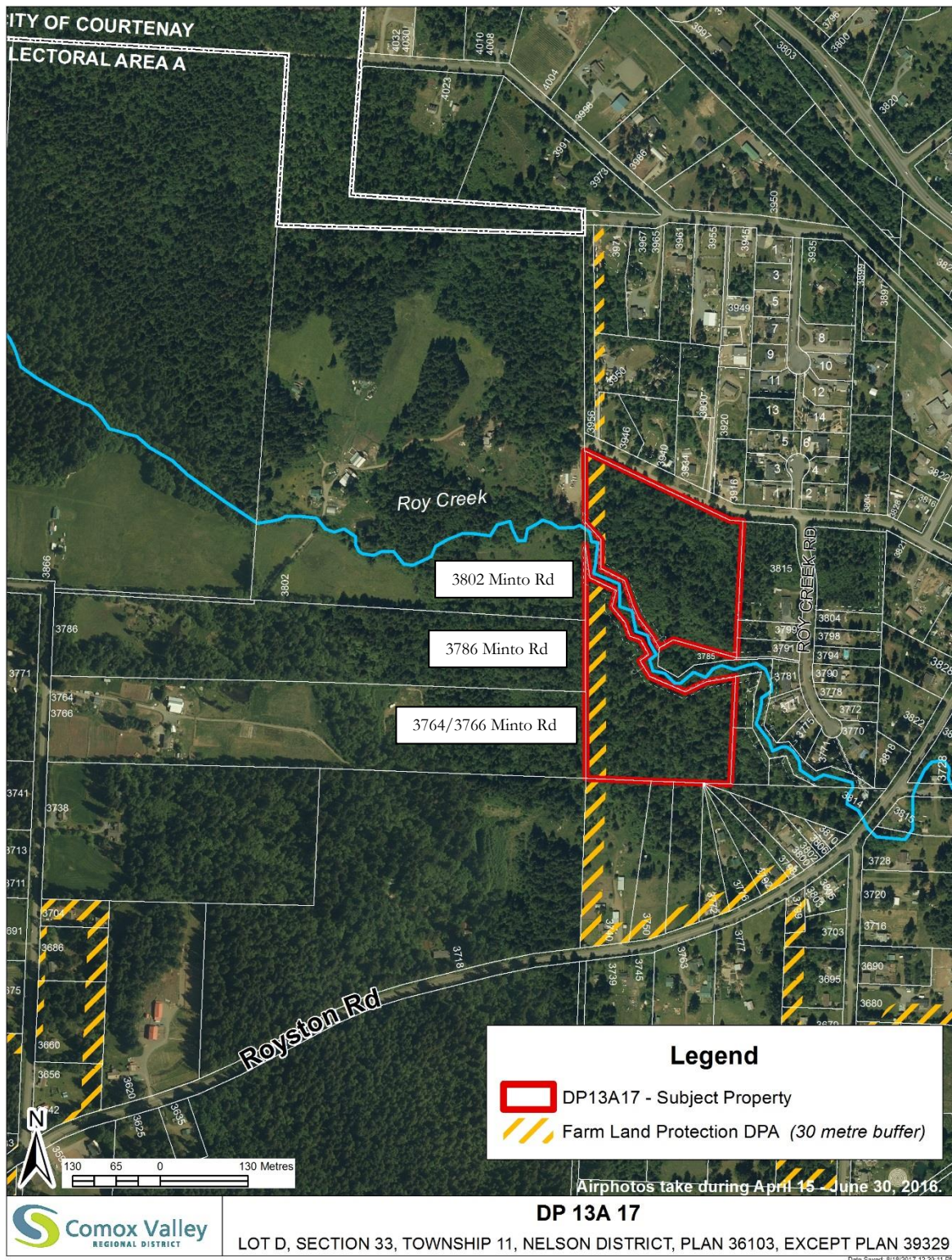


Figure 2: Aerial Photo

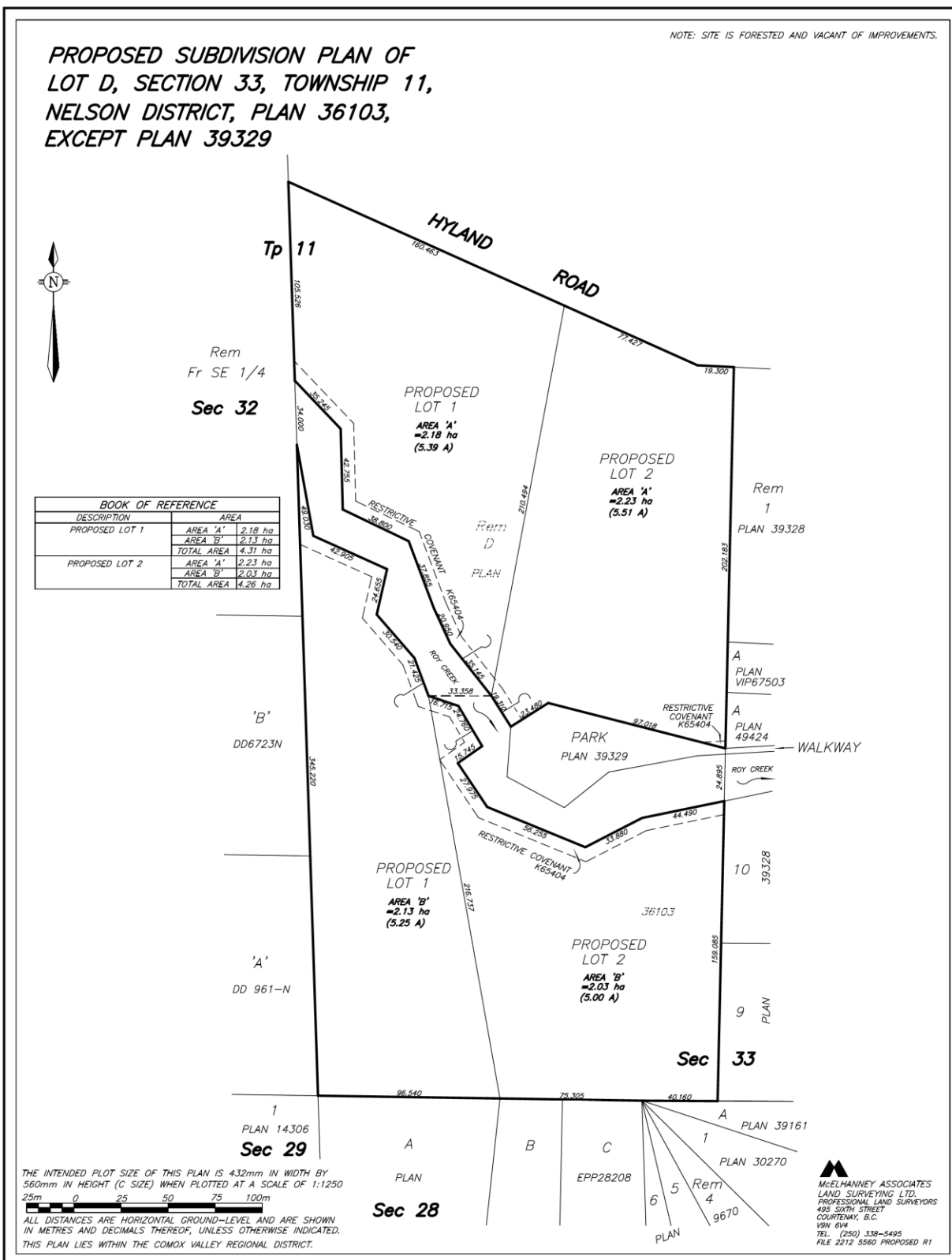


Figure 3: Proposed Subdivision Layout

DP 13A 17

TO: John Galik and Stacey Henderson

OF: 2150 Kirkstone Place, North Vancouver BC V7J 3R1

1. This development permit (DP 13A 17) is issued subject to compliance with all of the bylaws of the Comox Valley Regional District (CVRD) applicable thereto, except as specifically varied or supplemented by this permit for the **purposes of subdivision and related site preparation. The subject property is adjacent to an agricultural operation where normal farm practices may result in noise, dust, odour and/or other disturbances. The *Farm Practices Protection (Right to Farm) Act (FPPA)* protects normal farm practice as defined by FPPA and protects farmers from nuisance claims.**
2. This development permit applies to, and only to, those lands within the CVRD as described below:

Legal Description:	Lot D, Section 33, Township 11, Nelson District, Plan 36103, Except Plan 39329
Parcel Identifier (PID):	000-125-512 Folio: 771 10973.020
Civic Address:	Lot D, Plan 36103 Hyland Road
3. The land described herein shall be developed strictly in accordance with the following terms and conditions and provisions of this permit:
 - i. THAT the subdivision shall be carried out according to the submitted subdivision plan prepared by McElhanney Associates Land Surveying Ltd. hereto attached as Schedule A;
 - ii. THAT a 15 metre wide vegetative buffer shall be maintained along the west property line abutting agriculturally designated lands in accordance with the Farm Land Protection report dated October 18, 2016 prepared by Cynthia Hannah, R.P.Bio. of Strategic Natural Resource Consultants attached as Schedule B;
 - iii. AND THAT any buildings shall be setback a minimum of 30 metres from agriculturally designated properties in accordance with the Farm Land Protection report dated October 18, 2016 prepared by Cynthia Hannah, R.P.Bio. of Strategic Natural Resource Consultants attached as Schedule B.
4. This development permit (DP 13A 17) shall lapse if construction is not substantially commenced within two (2) years of the CVRD board's resolution regarding issuance of the development permit (see below).
5. This permit is **not** a building permit.

CERTIFIED as the **DEVELOPMENT PERMIT** issued by resolution of the board of the Comox Valley Regional District on _____.

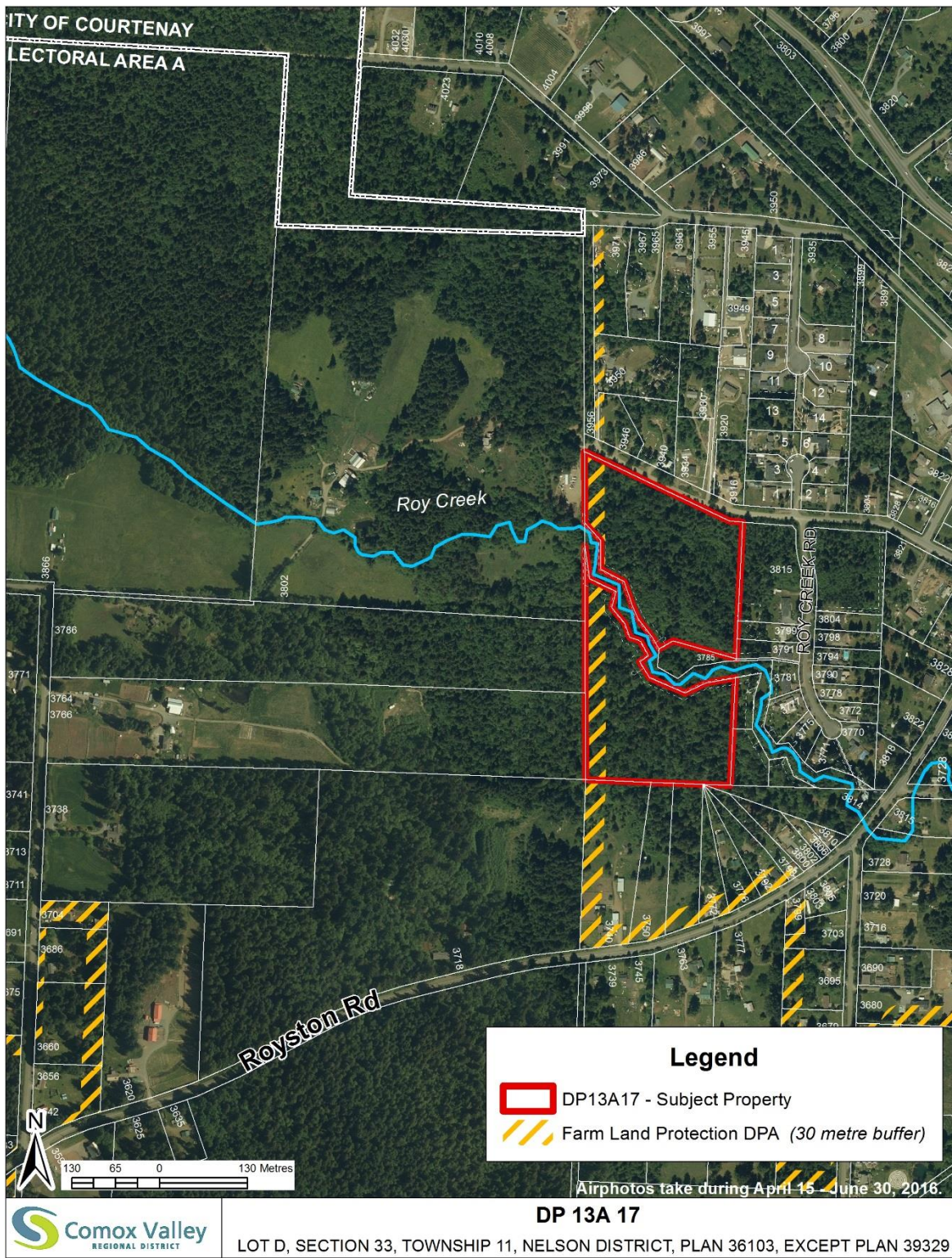
James Warren
Corporate Legislative Officer

Certified on _____

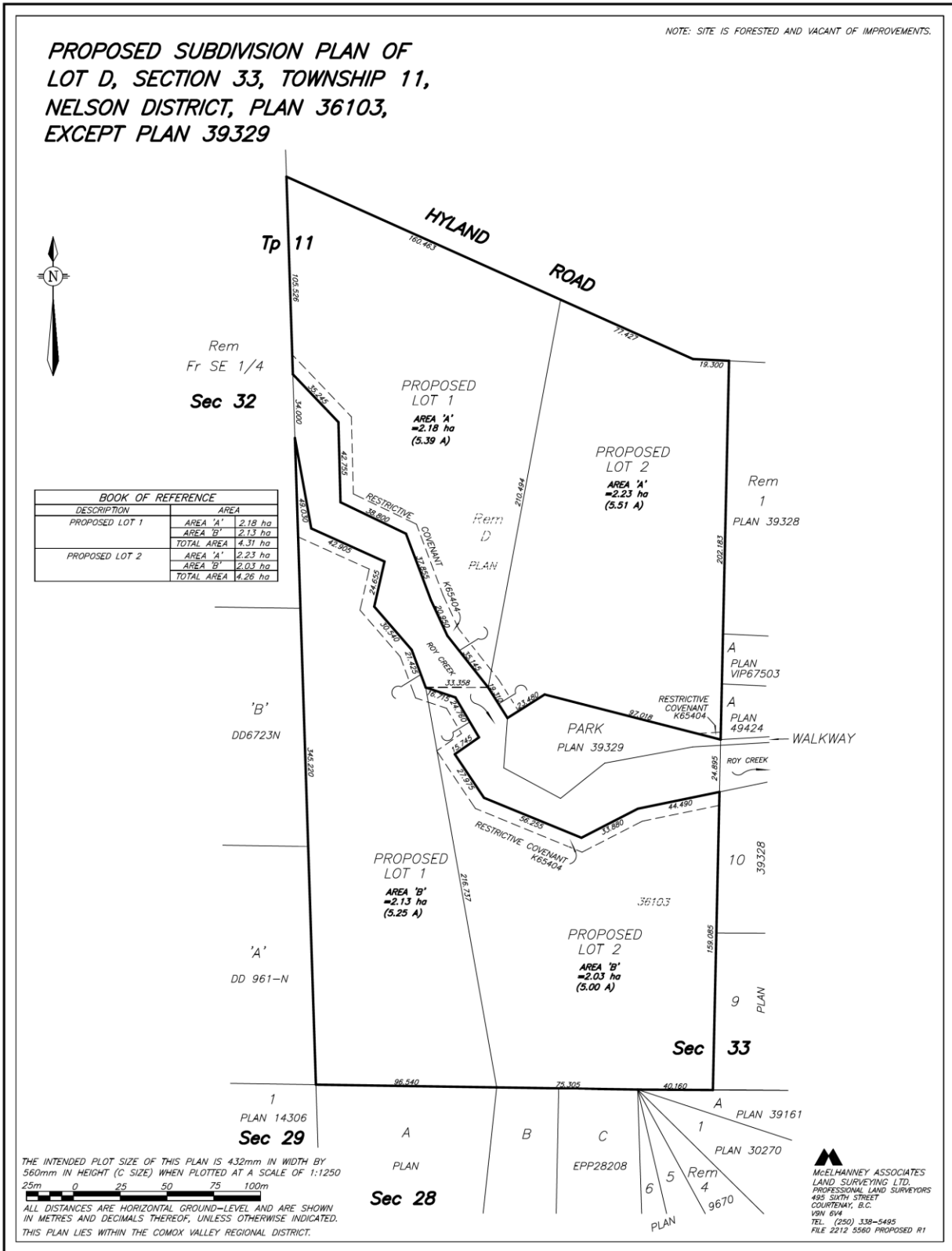
Attachments: Schedule A – “Aerial Photo and Subdivision Plan”
Schedule B – “Farm Land Protection Report, dated October 18, 2016”

Draft

Schedule A Subject Property Map



Schedule A Subdivision Plan






 Original signed and sealed on file

Date: October 18, 2016

To: Stacey Henderson
2150 Kirkstone Place
North Vancouver, BC V7J 3R1

From: Cindy Hannah, RPBio

Subject: Farmland Protection Development Permit Area, Lot D Hyland Road

Background

The proposed development for Lot D, Hyland Road is for the subdivision of the property into two approximately 4ha lots. The subdivision of the property is considered development and therefore triggers any development permit areas that are on the property. There are no plans at this point in time to build on either property. Roy Creek bisects the property and triggered a Riparian Areas Regulation Assessment, which was completed in July, 2016. The property immediately adjacent to the west side of the property is within the Agricultural Land Reserve (ALR) and as such there is a Farmland Protection Development Permit (DP) Area for any development proposed within 30m of ALR lands. This letter has been prepared with recommendations based on the Farmland DP guidelines provided by the Comox Valley Regional District.

Description

Lot D is forested in a second growth forest. The adjacent ALR land along the west property boundary of Lot D is mostly forested in a similar composition. There is a wire fence along the boundary and an approximately 5m wide strip vegetated in grasses likely used as access for maintenance of the fence (Photos 1 and 2). No farming activities were noted immediately adjacent to the subject property.

Recommendations

Based on the guidelines, the west boundary of the proposed Lot 1 property will require a 15m wide vegetated buffer. No vegetation should be removed from this area to provide a natural buffer between any future development on proposed Lot 1 and any activity on the ALR land. This 15m wide buffer must be delineated prior to any site clearing to ensure that there is no encroachment. A hard fence is not required once the development is complete.

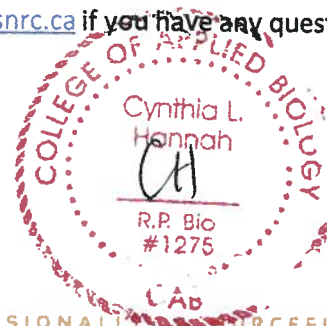
The guidelines require no buildings being constructed within 30m of the property boundary along the ALR land. The 15-30m wide area can accommodate driveways, but all residential dwelling and ancillary units should be >30m away. These setbacks are shown on the attached site plan.

There are no other specific measures that are required if the above are met.

Please feel free to contact me at 250-616-3758 or by email at channah@snrc.ca if you have any questions.



Cindy Hannah, RPBio
Strategic Natural Resource Consultants Inc.



Lot D, Hyland Road Farmland Protection Development Permit Area Assessment



Photo 1: View of adjacent ALR land from south side of Roy Creek.



Photo 2:
View towards the north from the south side of Roy Creek showing the fence and adjacent ALR forested land.

**PROPOSED SUBDIVISION PLAN OF
LOT D, SECTION 33, TOWNSHIP 11,
NELSON DISTRICT, PLAN 38103,
EXCEPT PLAN 39329**

NOTE: SITE IS FORESTED AND VACANT OF IMPROVEMENTS.
-b-b- WHITE FLAGGING SET BY BIOLOGIST



Rem
Fr SE 1/4
Sec 32

BOOK OF REFERENCE		
DESCRIPTION	AREA	
PROPOSED LOT 1	AREA 'A'	2.18 ha
	AREA 'B'	2.13 ha
	TOTAL AREA	4.31 ha
PROPOSED LOT 2	AREA 'A'	2.23 ha
	AREA 'B'	2.03 ha
	TOTAL AREA	4.26 ha

Please Note:
High Water Mark on south side
of Roy Creek has not been
surveyed by BCLS. Location
is approximate based on
available mapping.

'B'
DD6723N

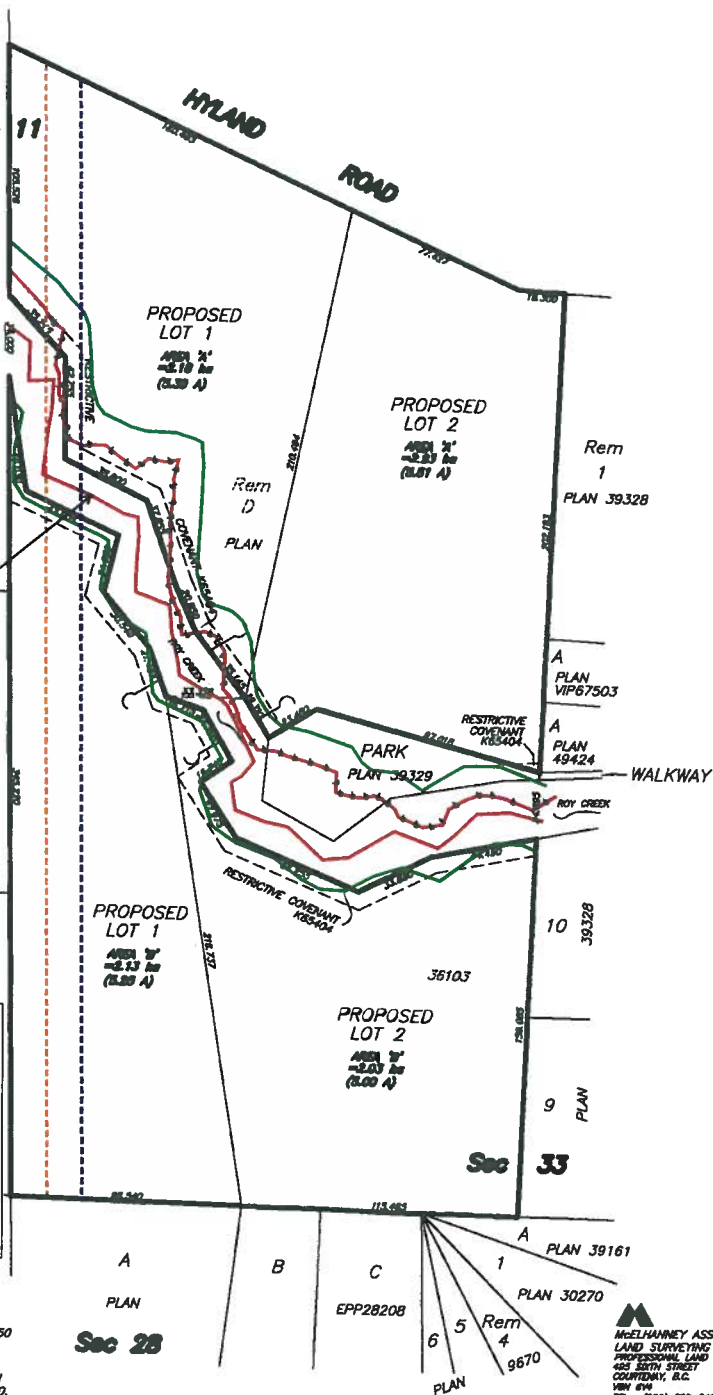
FARMLAND PROTECTION DP AREA ASSESSMENT
by
STRATEGIC NATURAL RESOURCE CONSULTANTS
Prepared for
Stacey Henderson

Lot D Hyland Road Scale: 1:2000 Date: August 2016
Drainage: Roy Creek drainage

HIGH WATER MARK:
RESULTING 11.7m SPEA (includes Leaf Liter/LWD ZOS):
FARMLAND 15m VEGETATION BUFFER:
FARMLAND 30m BUILDING SETBACK:

THE INTENDED PLOT SIZE OF THIS PLAN IS 432mm IN WIDTH BY
580mm IN HEIGHT (C SIZE) WHEN PLOTTED AT A SCALE OF 1:1250
25m 0 25 50 75 100m

ALL DISTANCES ARE HORIZONTAL GROUND-LEVEL AND ARE SHOWN
IN METRES AND DECIMALS THEREOF, UNLESS OTHERWISE INDICATED.
THIS PLAN LIES WITHIN THE COMOX VALLEY REGIONAL DISTRICT.



Sec 28

**MUELHANNY ASSOCIATES
LAND SURVEYING LTD.**
PROFESSIONAL LAND SURVEYORS
453 BETH STREET
COURTENAY, B.C.
VAN 9V4
TEL: (250) 339-5485
FILE 2212 3980 PROPOSED #1