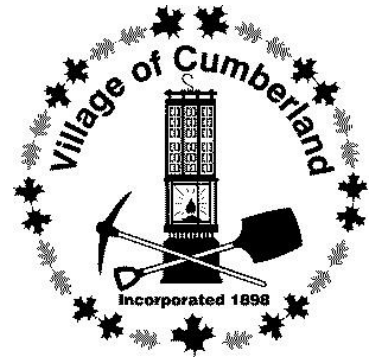


COUNCIL REPORT



REPORT DATE: January 4, 2018

MEETING DATE: January 8, 2018

TO: Mayor and Councillors

FROM: Sundance Topham, Chief Administrative Officer

SUBJECT: Trilogy Initial Subdivision - ESA Development Permits

FILES:	2016-02, 03, 04, & 05-DP		
OWNER:	0888128 BC Ltd		
AGENT:	Trilogy Properties VI Corp (Matt Portman)		
PROPERTY AFFECTED BY THIS DP REPORT	Trilogy Lots	PID	Legal
	3a, 3b, 3c	005-446-961	Lot A, Section 36, Township 10, Comox District, Plan 11052, except part in Plans VIP52361 and VIP69910
	4, 6, 10b & 11	006-686-010	Part of Section 25, Township 10, Comox District, Plan 552H except that part Commencing at the Northeast corner of said Section thence South 24 degrees 10 minutes East 252 feet to the centre of Comox and Union Road thence following the road South 25 degrees 50 minutes West 691 feet, thence South 35 degrees 50 minutes West 541 feet, thence South 18 degrees 30 minutes West 496 feet, thence South 15 degrees 30 minutes East 1921 feet thence South 51degrees 50 minutes West 195 Feet to post No. 1 of Chinese Cemetery being the point of commencement thence South 71 degrees West 179 feet thence North 20 degrees 20 minutes West 295 feet thence North 78 degrees 30 minutes East 348 feet thence South 15 degrees East 160 feet thence South 39 degrees 50 minutes West 165 feet more or less to the point of commencement and except those parts in Plans 4222, 11052, 11072, 17828, 24989, 25688, 23092, VIP64546 VIP65968, VIP67267, VIP67596, VIP69148, VIP72564, VIP78656, and VIP83684
	7, 9a, 9b & 10a	023-970-260	Part of Lot 1, District Lot 24, Nelson District, Plan V1P65482, Except Parts in Plans VIP66935 and VIP76956
	8a & 8b	025-946-358	Lot A, District Lot 24, Nelson District, Plan VIP76956

RECOMMENDATION

- i. THAT the Council receive the Trilogy Initial Subdivision - ESA Development Permits referral report.

- ii. THAT Council refer the applications for the Development Permits for Trilogy Initial Subdivision to the next meeting of the Advisory Planning Commission, tentatively scheduled for January 16, 2018.
- iii. THAT Council schedule a Committee of the Whole Meeting for Monday, February 5, 2018 at 5:30 PM at the Village of Cumberland Council Chambers to review the Trilogy Initial Subdivision documents, including the Development Permits, Replacement Covenants and any required Development Variance Permits.

SUMMARY

Trilogy Properties VI Corporation have applied for “initial subdivision” of their property holdings in Cumberland as contemplated in their Subdivision and Development Covenant with the Village. As the lands fall within DPA#1, an Environmental Protection Development Permit is required. There are four separate pieces of property that are being subdivided, and there will be a Development Permit placed on each of the properties affected by subdivision.

Although there will be other items that require Council approval before the subdivision takes place, including the Replacement Covenants, this report deals exclusively with the Development Permit requirements.

BACKGROUND

Trilogy Properties VI Corporation has filed a development permit application with the Village of Cumberland for a development project under the name Cayet. The proposed Cayet project has been under development since 2006, and encompasses a total of approximately 760 acres of land located in close proximity to Inland Island Highway 19. The lands, which have commonly been referred to as the “Interchange Lands”, have all been rezoned, and there is a Subdivision and Development Covenant between the property owner and the Village that spells out restrictions and requirements of subdivision and development additional to the Village’s development process (proposed site master plan attached as Schedule A).

The purpose of the development permit application is to subdivide four existing land parcels into 13 smaller lots for future development. The Cumberland Official Community Plan (OCP) calls for a biological site inventory (bioinventory) to support a development permit application. McElhanney Consulting Services Ltd. was engaged by Trilogy to complete the bioinventory.

All of the work that was completed by McElhanney was independently peer reviewed jointly by the partnership of EcoFish Research and Latitude Conservation Solutions Company on behalf of the Village of Cumberland. The peer review verified that the work undertaken by McElhanney met the current requirements of the Cumberland OCP, and a memorandum that summarizes the review process is attached to this report as Schedule B.

Within the memorandum, the peer review classifies the issues within the Bioinventory Report into four types: 1) major errors/incomplete – high risk – further work required; 2) moderate errors – moderate risk – recommend fixing; 3) minor errors – low risk – not necessary to fix; and, 4) minor errors – very low to no risk – do not recommend fixing. During the final review of the report (December 2017), only the last two issue classifications (low risk to no risk) were identified during the current (final) review, as all major or moderate issues for which edits were recommended have been addressed.

The current Cayet initial subdivision application includes no physical development activities and the current application will result in no environmental impacts. With no impacts, it is not possible to provide an environmental impact assessment or mitigation plans for implementation at this time. Future detailed development plans are anticipated for the lots resulting from this subdivision. *Detailed bioinventories associated with future development will be required and they will need to include detailed environmental impact assessments and associated mitigation strategies and implementation plans.*

The need for the future detailed development plans, along with the required protection of the Restricted Development Zones identified in the bio-inventory are contained within the attached Development Permits. The Development Permits have received legal review, and the Village solicitor will be attending the proposed Committee of the Whole meeting planned for February 5, 2018.

The OCP provides guidelines for all stages of the assessment process. The study provided by McElhanney delineates in detail which OCP guidelines can be fulfilled based on currently available data and which guidelines will need to be fulfilled during future development stages. This study provides terrestrial ecosystem mapping, a hydrological assessment, and a detailed assessment of the existing biophysical conditions.

Biophysical elements that are independent of development plan details include the delineation of environmentally sensitive areas, definition of associated buffer areas, and delineation of requirements for habitat connectivity within and through the subject properties. These items are identified and mapped as restricted development zones. While no environmental impacts result from the current development permit application, a template is provided for mitigation planning at future development stages.

The current study provides the foundation for future studies that will complete the fulfillment of the OCP guidelines. It is compliant with the regulatory environment and environmental features in place at the time of writing. As regulatory environments and biotic and physical features can change with time, future applications will need to interpret both the data and the advice provided herein in the context of regulatory, biotic, and physical features in place at the time of those future development applications

REFERRALS

Council may:

- a) Further to the section 5a of the *Advisory Planning Commission Bylaw No 999, 2014*, Council may wish to refer this application to the APC for their comments.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS

As required by the Village's Procedure Bylaw the applicants are required to place a sign on-site, advertise and hold a public meeting. A public meeting is planned for later in January and the feedback from the meeting will be provided to Council prior to Council consideration of the Development Permits (tentatively scheduled to take place at a Committee of the Whole meeting on February 5, 2018 – after which any direction will be confirmed at the February 26, 2018 Regular Council meeting).

Pursuant to the requirements of the *Local Government Act*, notice of Council consideration of a Development Permit will be mailed or otherwise delivered to owners of adjacent properties a minimum of 10 days before the Council considers the application (as per the timeline noted

above). Any comments received by staff will be compiled and presented to Council prior to Council consideration of the Development Permits.

FINANCIAL IMPLICATIONS

None

OPERATIONAL IMPLICATIONS

The review of Development Permit applications are part of the services provided by the Village.

STRATEGIC OBJECTIVE

None

ATTACHMENTS

1. Trilogy – Proposed Site Master Plan – May 2008.
2. Peer Review of the Bioinventory Prepared for the Subdivision of the Trilogy (Cayet) Lands - Leah Ballin, M.S.F.M., R.P.Bio, R.P.F., Nicole Wright, Ph.D., P.W.S., ASCT. and Deborah Lacroix, M.Sc., R.P.Bio., Ecofish Research Ltd. and Tim Ennis, B.Sc., Latitude Conservation Solutions Company, dated January 3, 2018.
3. Development Permit 2016-02 DP for Lots 3a, 3b and 3c.
4. Development Permit 2016-03 DP for Lots 4, 6, 10b and 11.
5. Development Permit 2016-04 DP for Lots 7, 9a, 9b and 10a.
6. Development Permit 2016-05 DP for Lots 8a and 8b.

CONCURRENCE

None

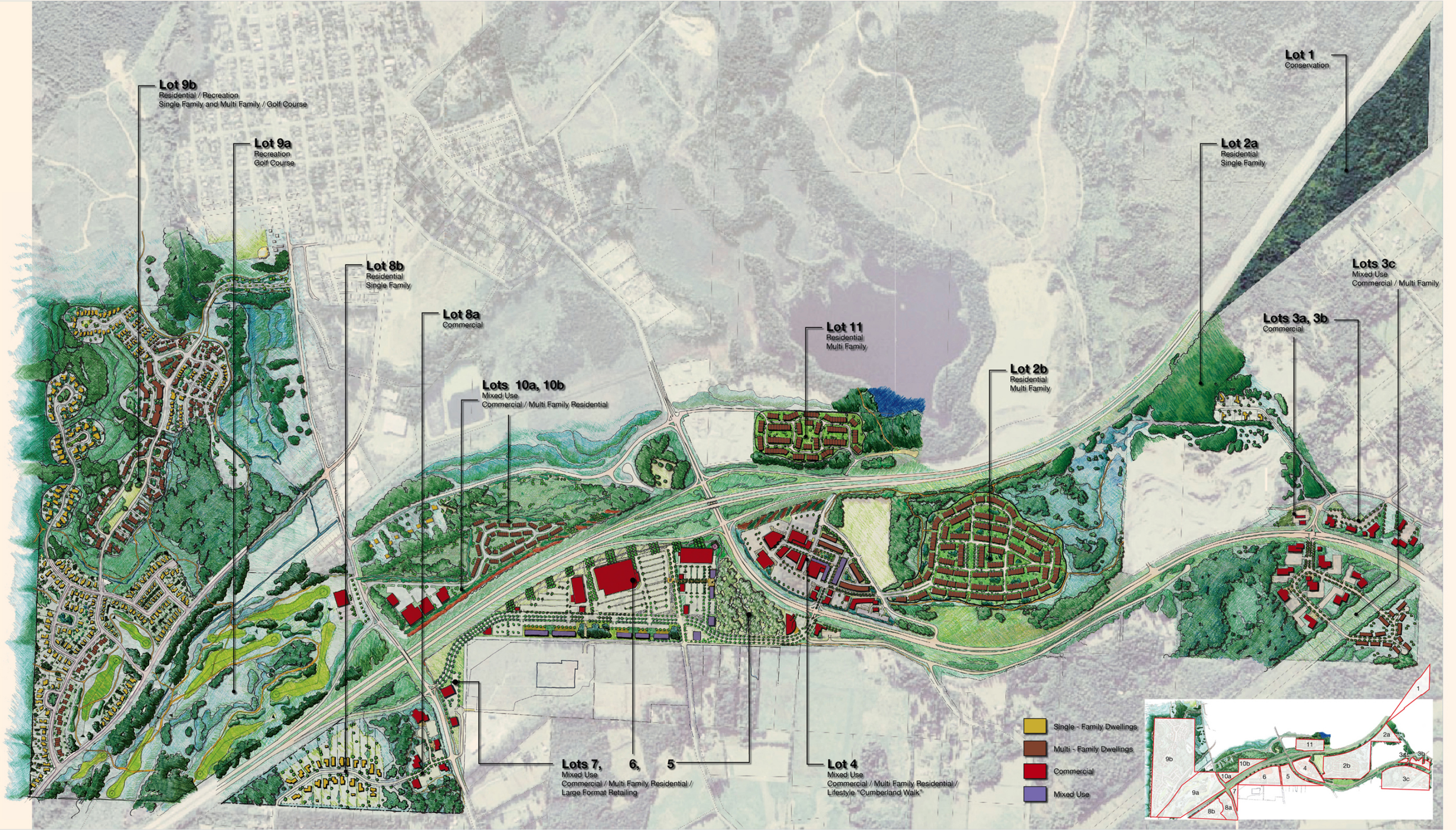
OPTIONS

1. Refer the application to the next meeting of the Advisory Planning Committee.
2. Do not refer the application to the next meeting of the Advisory Planning Committee.
3. Any other action deemed appropriate by Council.

Respectfully submitted,



Sundance Topham
Chief Administrative Officer





Latitude Conservation
Solutions Company

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MEMORANDUM

TO: Sundance Topham, the Corporation of the Village of Cumberland
FROM: Leah Ballin, M.S.F.M., R.P.Bio, R.P.F., Nicole Wright, Ph.D., P.W.S., ASCT.
and Deborah Lacroix, M.Sc., R.P.Bio., Ecofish Research Ltd. and Tim Ennis,
B.Sc., Latitude Conservation Solutions Company
DATE: January 3, 2018
FILE: 1345-01

RE: Peer Review of the Bioinventory Prepared for the Subdivision of the Trilogy (Cayet) Lands.

1. INTRODUCTION

Ecofish Research Ltd. (Ecofish) and Latitude Conservation Solutions Company (Latitude) were retained by the Corporation of the Village of Cumberland (the Village) to conduct a peer review of the Trilogy (Cayet) Environmental DPA Bioinventory Report (the Bioinventory), prepared by McElhanney Consulting Services Ltd. (McElhanney) on behalf of Trilogy Pacific Investments (Trilogy). A bioinventory is required by Cumberland's Official Community Plan (Bylaw No. 990)¹ (the Bylaw) prior to development of lands within the Village Municipal Boundary¹. The current Bioinventory for the Cayet lands is required prior to subdivision of the four master parcels into 13 residual lots. The purpose is to provide a biological inventory of the property prior to subdivision to inform the Village and prospective developers of the Environmentally Valuable Resources (EVRs) (e.g., species at risk, fish, wildlife, unique landforms, and water features) and Environmentally Sensitive Areas (ESAs) (e.g., sensitive ecosystems) on the lands. The peer review consisted of two phases: 1) an initial review of the Bioinventory framework²; and, 2) the final review of the Bioinventory document^{3,4}.

¹ The Corporation of the Village of Cumberland. 2014. Village of Cumberland Official Community Plan Bylaw No. 990. Available online at: <https://cumberland.ca/wp-content/uploads/2014/03/Bylaw-990-OCP-2014-03-20-proposed-amendments-OPT.pdf>, last accessed November 22, 2017.

² McElhanney Consulting Services. 2017. Framework for the Bioinventory for the Cayet Lands – DRAFT. Consultant's report prepared for Trilogy Properties VI Corporation by McElhanney, Surrey, B.C., January 2017.

³ McElhanney Consulting Services. 2017. Bioinventory for the Cayet Lands. Consultant's report prepared for Trilogy Properties VI Corporation by McElhanney, Surrey, B.C., November 1, 2017.

⁴ McElhanney Consulting Services. 2017. Bioinventory for the Cayet Lands. Consultant's report prepared for Trilogy Properties VI Corporation by McElhanney, Surrey, B.C., December 22, 2017.

The initial review of the Bioinventory framework² was provided to Trilogy and McElhanney on June 7th, 2017⁵. A tracking table was developed to track compliance of these reports with the OCP Bylaw. The initial review also consisted of examining sub-reports included as appendices to the Bioinventory framework (i.e., Terrestrial Ecosystem Mapping (TEM) Report and Hydrology Report) in meeting standard practices and identifying any discrepancies, errors, omissions or deficiencies with the information in the reports. The tracking table confirmed if Bylaw requirements were met (or not) and identified potential shortcomings (i.e., issues). Each deficiency was flagged by severity. The tracking table also provided recommended actions for Trilogy and McElhanney in how to meet all the outstanding requirements of the Bylaw required prior to subdivision. McElhanney provided responses on how they would address issues either by completing additional work, providing additional detail in the report or by explaining where elements of the report would be deferred to a future phase of development⁶. Ecofish and Latitude replied to McElhanney's responses with a version of the tracking table that included agreement on how each bioinventory requirement and issue would be addressed in the final Bioinventory Report⁷.

The objective of this memorandum is to present the results of Ecofish and Latitude's review of the final Bioinventory Report.

2. METHODS

The final Bioinventory Report³ was reviewed using the existing tracking table and by inserting comments into the PDF reports in consideration of issues identified during the Bioinventory framework review, bioinventory requirements¹ and agreed upon approaches^{5,6,7}, as well as in consideration of the accuracy and completeness of the information provided and the risk to EVRs/ESAs. Version 1 of the Bioinventory Report³ was reviewed in November 2017 and feedback provided in a draft memorandum dated November 28, 2017⁸. McElhanney and Ecofish worked collaboratively throughout December 2017 to fulfill outstanding issues with the report. McElhanney submitted the most recent version of the final report (version 5) on December 22, 2017⁴.

In summary, the focus of the review of the Bioinventory Report^{2,3,4} was to ensure: 1) the accuracy and quality of biological, TEM, and hydrological data and clear presentation of results; 2) the accuracy and comprehensiveness of EVR and ESA identification; 3) consistency between ESAs and EVRs within the DPA-1 and validity of any differences; and, 4) consistency between the

⁵ Topham, S. 2017. Trilogy Bioinventory – Village of Cumberland Review. Email communication from Sundance Topham, CAO, Village of Cumberland to Ross Murray, Senior Biologist, McElhanney, and Matt Portman, Trilogy on June 7, 2017.

⁶ Murray, R. 2017. Reference from Trilogy Hydrology report. Email communication from Ross Murray, Senior Biologist, McElhanney to Leah Ballin, Terrestrial Ecologist, Ecofish Research, on July 13th, 2017.

⁷ Ballin, L. 2017. Trilogy Bioinventory Tracking Table. Email communication from Leah Ballin, Terrestrial Ecologist, Ecofish to Ross Murray, Senior Biologist, McElhanney on July 18th, 2017.

⁸ Ballin, L., N. Wright, D. Lacroix, T. Ennis. 2017. Peer Review of the Bioinventory Prepared for the Subdivision of the Trilogy (Cayet) Lands. Consultant's memorandum prepared by Ecofish Research Ltd. for the Corporation of the Village of Cumberland on November 28th, 2017.

Bioinventory framework² commitments, Bioinventory framework review⁵, and the final Bioinventory^{3,4}. Several information sources were used to support the review including: 1) historic and current orthophotographs (1994-2016); 2) provincially and locally available data including fish, wildlife, plant and ecosystem occurrences (e.g., B.C. Conservation Data Centre, Comox Valley Nature, eBird, property-specific ecological inventories (e.g., Mimulus 2005)); 3) BC Conservation Data Centre species ranks; 4) provincial, federal and municipal land designations (e.g., critical habitat mapping, ungulate winter ranges, Village of Cumberland DPA's); 5) land use planning projects prepared by local government and conservation groups (e.g., Comox Valley Sensitive Ecosystems Inventory Disturbance Assessment (Juniper 2014)); 6) Village of Cumberland bylaws (e.g., OCP Bylaw No. 990¹); 7) provincial and municipal environmental resource and bioinventory inventory guidelines (e.g., Develop with Care 2014, RISC TEM standards), and 8) provincial, federal, and municipal legislation (e.g., Riparian Area Regulation, *Species at Risk Act*, *Water Sustainability Act*) as committed to in the project proposal⁹.

The Bioinventory was conducted for a large area (236 ha) in the absence of development plans. Thus, the bioinventory review considered the fact that it was not practical or possible for the Bioinventory to meet all of the requirements of the Bylaw (e.g., detailed mapping of wildlife trees, mitigations for development). Hence, the review was completed with the understanding that reconnaissance-level surveys included in the Bioinventory provide an adequate level of detail to gain a general understanding of the type and locations of EVRs and ESAs on the four proposed master parcels. Nevertheless, more detailed bioinventories will be required prior to development of each lot.

3. RESULTS

The results of how the Bioinventory⁴ meets the requirements of Bylaw No. 990¹ are provided in the associated tracking table (attached; version December 2017). The tracking table includes a column regarding if each element of the Bioinventory is 'complete', 'partially complete', 'incomplete' or to be completed in a 'future phase' and any issues with how it has been met (i.e., errors, potential errors). The tracking table and Table 2 of the Bioinventory Report³ show what elements of the Bylaw will be addressed in the future, prior to development of the lots.

Within the tracking table and this memorandum, we have classified the issues within the Bioinventory Report into four types: 1) major errors/incomplete – high risk – further work required; 2) moderate errors – moderate risk – recommend fixing; 3) minor errors – low risk – not necessary to fix; and, 4) minor errors – very low to no risk – do not recommend fixing. In the tracking table these have been colour coded as red, orange, yellow and green, respectively. During this final review of Version 5 of the report (December 2017)⁴, only the last two issue classifications (low risk to no risk) were identified during the current (final) review, as all major or moderate issues for which edits were recommended⁸ have been addressed. Minor errors that pose a "low risk" (yellow) because information may be unclear or information may be incomplete, are as follows:

- Species at risk inventory methods are vaguely described and thus we could not determine if an appropriate level of effort or study design was completed. Furthermore, the results did not link species detections (i.e., results) to surveys. The issue is that it is difficult to understand the likelihood of absence of a species in a specific area without knowing the level of effort or location that the surveys were conducted. Therefore, surveys should be considered complete at a reconnaissance-level and additional species-at-risk inventory should be conducted within the construction footprint and reasonable buffer of any future development.
- TEM field crews would have had a low likelihood of detecting rare plant species during December 22nd/23rd 2016 field work when snow was on the ground. Subsequent TEM surveys in September were limited to wetlands and riparian areas only; therefore, most of the property was likely not adequately assessed for rare plants. Additional surveys should therefore be conducted within the construction footprint and reasonable buffer of any future development.
- The Hydrology Report indicates that soils are generally well to rapidly draining throughout the subject parcels (based on coarse-scale provincial data) when the TEM indicates significant areas of wetland as well as areas with strongly fluctuating water tables that are Very Wet in the winter and Very Moist in the summer. Therefore, soil drainage should be assessed in relevant locations prior to future development.
- Data to support the Hydrology Report is derived from climate normals between 1981 and 2010 which, does not account for recent record-breaking years (i.e., 2011-2017). It should also be noted that future climate conditions should be considered when planning development.
- ESAs/SEI polygons adjacent to the subject lots are not mapped as required by the OCP. These polygons would help to determine habitat connectivity with areas outside the subject parcels. Instead extension lines have been drawn 100 m from the property boundary to show where these ecosystems are expected to extend. The impact that any future development may have on adjacent ESAs or SEI polygons should be considered while planning any future development.

Issues classified as minor errors with “no to very low risk” (green) include minor technical or editorial errors, inconsistencies, omissions or lack of clarity that are not expected to pose a risk to the Village or EVRs/ESAs. Examples of minor errors with no to very low risk (green) include issues such as: improper information about COSEWIC and the *Species at Risk Act*, improper definition of the CWHxm1 biogeoclimatic zone, incorrect land owner information for surrounding lands, incomplete bird lists (e.g., Comox Valley Nature bird list only has approximately 1/3 of the birds from their list), not labelling all features in maps including TEM polygons (this data is available in

the shapefiles). A few elements of the report and how it attempts to fulfil the Bylaw may be confusing to the reader and may warrant clarification. Most notably:

- In the Bioinventory Report (e.g., Figure 8 of Appendix B), riparian areas (a type of Aquatic Ecosystem Area ESA¹) are estimated using a Riparian Area Regulation (RAR)-based approach (i.e., the width of the Streamside Protection and Enhancement Area (SPEA) (i.e., riparian area) for fish-bearing waterbodies is based on an estimate of stream width). The Bylaw requires that a RAR is conducted prior to development; however, the Bylaw also requires that streams are buffered by 30 m and that this area is included in the Restricted Development Zone (e.g., Figure's 6 and 23). The Bioinventory Report displays the riparian area for fish-bearing streams as that estimated by RAR. Consequently, non-fish-bearing streams do not have a mapped riparian area. However, when showing the total riparian ESA, the 30 m buffer for all fish-bearing and non-fish-bearing streams was calculated from the stream centreline and not from the top of the bank of the stream. Hence, the Restricted Development Zone includes land 30 m perpendicular from each stream which in turn includes the RAR SPEA.
- There appears to be double numbering of TEM plots (Figure 1, page 2 of TEM report (e.g., plots 1, 2, 4, 7, 9, 10, 12, 15, 16, 18, 19, 21, 23, 33, 42 etc.), while others in the sequence are missing (e.g., 46, 47, nothing in the 50's except 56, 60, 63-68, 71-73, 79 etc.). This is a result of full Ground Inspection Plots and Visual Inspection Plots being numbered sequentially from zero and not distinguished from one another on the map legend, and because some sequential numbers were omitted.
- Some areas identified as Aquatic Ecosystem or Terrestrial Ecosystem Areas in the Bioinventory do not match those mapped in DPA#1. This is because these ESAs have been mapped at a finer scale in the Bioinventory than in the DPA. The Bioinventory should therefore be considered correct.
- Mapping of slopes over 30% as required by the Bylaw is included in the TEM mapping. However, only polygons which include steep slopes over 25% are indicated by TEM codes. Specific maps depicting these areas are not provided, and the TEM polygons are too coarse scale to highlight only the specific areas of slope >30%.

Additional considerations:

- Develop with Care (2014) and the Bylaw¹ recommend that protective buffers are applied to the Restricted Development Zone (RDZ). These buffer recommendations can be quite large for 'greenfield' sites⁹. The Bioinventory does not map or discuss additional buffers to those

⁹ Ministry of Environment. 2014. Develop with Care. Available online at: <http://www.env.gov.bc.ca/wld/documents/bmp/devwithcare/DWC-Cover.pdf>. Last accessed December 22, 2017.

included in the RDZ. Therefore, protective buffers intended to preserve the function of ESAs should be considered in a future phase or when planning development.

4. CLOSURE

The Bioinventory Report for the Cayet Lands³ amalgamates a large amount of background data and provides a considerable amount of information on the EVRs and ESAs present on the Cayet lands. This report will be a valuable resource to the Village. A few areas where caution should be used when applying the information within to future development and development planning are highlighted in this memorandum and the associated tracking table.

The Bioinventory Report for the Cayet lands presents a large amount of valuable information about the EVRs and ESAs on the properties. We recommend that future bioinventories required during the development permitting process use this document for guidance. Furthermore, we recommend that the tracking table used for the purpose of this review and table 2 of the final Bioinventory Report are used as a first-step in planning future bioinventories and assessing development permit applications for the subject lots.

Yours truly,

Ecofish Research Ltd. and Latitude Conservation Solutions Ltd

Prepared by:

Signed

Leah Ballin, M.S.F.M., R.P.Bio., R.P.F.
Wildlife Biologist/Task Manager

Reviewed by:

Signed

Deborah Lacroix, M.Sc., R.P.Bio.
Senior Wildlife Biologist/Vice President

Signed

Tim Ennis, B.Sc.
Conservation Specialist/President

Disclaimer:

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