DATE: August 30, 2005  
ELECTORAL AREA: A (BAYNES SOUND)

TO: Chair and Members  
Community Planning Committee

FROM: Community Planning Services Staff &  
Manager Planning Operations  
Community Planning Services

RE: Kensington Island Properties Development Proposal – Union Bay

PARTICIPANTS: All Electoral Areas, Except “K”

APPLICANTS: Focus Corporation agents for: Kensington Island Properties,

CIVIC ADDRESS: 201 – 1830 Riverside Lane, Courtenay, BC V9N 8C7; Focus Corporation, 57 Cadillac Avenue, Victoria, BC, V8Z 1T3 as agent

APPLICABLE OCP: Bylaw No. 2042 – Rural Comox Valley OCP, 1998, Schedule F, Electoral Area “A” Electoral Area Plan; and, Schedule G, Union Bay Local Area Plan

APPLICABLE ZONING BYLAW: Bylaw No. 2781 – Comox Valley Zoning Bylaw, 2005

LEGAL DESCRIPTION: See Kensington Application, Appendix A for a full list of titles

AREA OF PROPERTY AFFECTED: 342 Ha (845 acres)

EXISTING OCP DESIGNATION: Bylaw No. 2042 – Rural Comox Valley OCP: Rural Designation with Union Bay identified as a Settlement Area

Schedule F - Electoral Area “A” Electoral Area Plan: Rural Settlement Area

Schedule G - Union Bay Local Area Plan: Residential, Commercial, Public Use & Open Space and Other in various detailed designations

EXISTING ZONE: RU – 20; Rural 20 – permitting a wide variety of uses on 20 Ha parcels; and CR-2; Country Residential Two permitting residential uses on 2.0 Ha lots

REQUESTED ZONING: Comprehensive Development Zones for five (5 different areas as shown on Map B of the appendix to this report)

PURPOSE/PROBLEM
The applicant has requested amendments to the three applicable Plans and the Comox Valley Zoning Bylaw, to provide for a mixed residential, commercial, tourist and golf course resort development on lands located in Union Bay in Electoral Area A.

HISTORY/BACKGROUND FACTORS
Canadian Collieries Resources owned the site until 1957. It was purchased by West Fraser Timber Mills Ltd. at that time and sold to Kensington which purchased the greater portion of the
lands in 1996. A portion of the site, the area referred to as the Coal Hills was included in the offer but was sold on condition that site remediation be completed prior to Kensington assuming title. A portion of the Coal Hills are under Crown lease from the provincial government. Both West Fraser and Kensington continue to negotiate with the province to finalize the transfer of the Crown lease the company holds to Kensington.

The lease portion of land the Coal Hills represents a significant portion of the proposed development on Union Point. The approximately 13 ha site is comprised of coal washings transported to the end of Union Point by slurry flume as a byproduct after the higher grade coal was washed and loaded onto ships. The Union Point area also included coke ovens, briquette manufacturing, a foundry, a machine shop and other facilities related to locomotive operation and maintenance. A thorough site contamination and remediation study has been completed on this portion of the site and is included as an appendix to the application submitted by Kensington. These documents are available for review in Community Planning Services at the RDCS at 600 Comox Road. The applicant will require a certificate of compliance from the Ministry of Environment prior to any development locating on the site.

**APPLICATION DETAILS**

The applicant proposes a redesignation and rezoning of approximately 342 ha (845 acres) of land out of a 405 ha site (1000 acres) to permit a mixed-use, golf-course development. The site is located in Electoral Area A in Union Bay as shown on Figure 1 attached. Located on either side of Highway 19A, the Old Island Highway, it generally extends from south of McLeod Road in the south, to south of Herondale Road in the north. The 342 Ha portion that is subject to this application lies between the southern limits of the site, south of McLeod Road and roughly Argyle Road to the north.
Figure 1
The area under application is divided into 5 sub-areas. The following summarizes the approximate number of units and land uses being proposed for each sub-area from 1 to 5. These areas are shown on Figure 2 attached.
<table>
<thead>
<tr>
<th>Residential Units</th>
<th>Commercial</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Area 1</strong></td>
<td>700 single-family units</td>
</tr>
<tr>
<td><strong>Area 2</strong></td>
<td>120 single &amp; multi-family units</td>
</tr>
<tr>
<td><strong>Area 3</strong></td>
<td>100 multi-family including residential units above commercial.</td>
</tr>
<tr>
<td><strong>Area 4</strong></td>
<td>200 single &amp; multi-family units</td>
</tr>
<tr>
<td><strong>Area 5</strong></td>
<td>115 single-family units</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1685 residential units</td>
</tr>
</tbody>
</table>
The project also proposes to provide a new school site, a new fire hall and Improvement District office site, as well as a site and building for an historical and native interpretive centre. Extensive trails are included in the proposal that tie into the Hart Creek Greenway. Public access is provided in and around the commercial/residential village centre where design accommodates pedestrian accessibility.

Three vehicular accesses are proposed along Highway 19A with a signalized entry to the development located at roughly Washer Road and the Highway. Secondary accesses are to be improved at Argyle and Russell Roads. Improvements are also proposed to be made to the existing McLeod Road access.

The applicant has also completed a number of technical studies that are attached to this referral. These include a traffic impact study, a biophysical inventory and the following studies: site remediation, water supply and distribution, sewage treatment, storm water management and geotechnical. The proposed development is proposed to be fully serviced with a water system, an advanced sewage treatment system and a storm water management system that discharges to ground and the existing environment as well as to a series of collection/detention ponds. The works are described in the documentation forming part of the application.

**APPLICABLE BYLAWS AND RELATED POLICIES**

The subject lands are designated and zoned for various forms of development through the Comox Valley Rural OCP, the Electoral Area A Electoral Area Plan, the Union Bay LAP and the Comox Valley Zoning Bylaw. The application by Kensington Island Properties requests these OCP designations and zoning bylaw provisions be amended to permit the development to occur. A summary of the applicable plans and the zoning is provided below for information.

**OCP POLICIES**

The existing OCP proposes to preserve the rural character of the area by designating most of the lands as rural, agricultural and upland resource.

The Comox Valley OCP objectives and policies are oriented to:

- protect the Comox Valley environment;
- maintain it’s rural character;
- support continued agriculture, aquaculture and forestry opportunities;
- support parks, recreation, and open space opportunities;
- designate areas for settlement;
- identify areas for commercial development and tourist services; and
- designate areas for industrial activities.

The OCP creates Rural Settlement Areas to manage growth and provides specific policies for containment and expansion of settlement areas. Precise settlement containment boundaries are to be established in Electoral Area and Local Area Plans. Union Bay is established as a settlement area in a general manner within the Comox Valley OCP. This general area is further defined through the Electoral Area “A” Electoral Area Plan and specifically through the Union Bay Local Area Plan (LAP). Although the Comox Valley OCP states that re-designation of lands outside the Rural Settlement Areas shall not be supported for settlement purposes, the Settlement Boundary Area established for Union Bay was based on the area of the Union Bay Improvement District and did not contemplate water and sewer services extending beyond these boundaries given the proposed lot sizes and densities.

The following OCP policies apply to the Kensington Island Properties proposal:

\[ C.4(j) \] Redesignation of lands outside the Rural Settlement Areas for settlement purposes shall not be supported.
C.4(k) Development on lands within the settlement area that are adjacent to the containment boundary shall be regulated so as to create a buffer between the settlement area and the adjacent land use. This buffer may be defined by large lots, greenways, woodland area, greenbelt, working woodlots or park use and shall serve as a permanent edge to the settled area.

C.4(m) Parcels of lands which lie immediately beyond a defined settlement or urban containment boundary shall be designated for Rural, Agricultural or Upland Resource use to discourage the expansion of settlement-related land uses.

That portion of the lands proposed primarily for golf course and residential lots are designated Rural Area in the Comox Valley OCP. The policies of the OCP assume that only large lot development will occur where there are no community water or sewer services. The OCP has no policies that provide direction for uses and densities in areas where these types of services are proposed in the future. The development proposal needs to be assessed in terms of the effects of servicing on these lands and whether there will be a beneficial impact on the community and the public interest.

Union Bay is designated as a Rural Settlement Area in the OCP. Lands within the development proposal that are located to the north of the community of Union Bay abut lands designated Upland Resource Area. Lands adjacent to the western boundary of the development proposal in this area are also designated “Upland Resource Area” which permits residential, resource, and manufacturing and processing, as well as parks and open space and tourist uses, among others. Development Permit policies for the protection of the natural environment and its ecosystems and biological diversity; the protection of development from hazardous conditions and the form and character of commercial and industrial development are also included in the OCP.

Electoral Area ‘A’ OCP

The Electoral Area ‘A’ Area Plan reflects the intent of the Comox Valley OCP.

Union Bay LAP Policies

The Union Bay LAP recognizes the potential for the development of lands within the Plan area for residential, commercial, public use and open space and other uses such as light industrial, cottage industry and timber woodlot. Figure 3 illustrates these land use designations.
Figure 3

A review of the Union Bay LAP shows it to provide the following policy direction with respect to development in Union Bay.
C.4 Rural Settlement Area Policies

C.4 (c) Provide a range of residential, commercial, industrial and community facility land use opportunities to assist Union Bay in becoming a self-sustaining rural community.

C.4(d) To allow for a range of commercial, industrial and community facility land use opportunities to assist Union Bay in becoming a regional Village center.

C.4(e) Facilitate the provision of affordable housing options including secondary suites and small scale multi-unit town housing.

C.4(f) Development shall be based upon a phased approach which gives consideration to the development of the Plan area from the Village centre out. The Plan gives priority to the development of Union Point and the area near the Village centre north of McLeod Road. Development approvals shall be based upon the availability of municipal type services and compliance with the goals, objectives and policies of this Plan. Leapfrog residential developments (developments not contiguous with other development) shall not be supported.

C.4(g) To ensure the protection of water quality in Baynes Sound. It is the policy of this Plan that all new developments must have an approved integrated Storm Water Management Plan, which respects the stormwater management principles of this Plan.

Settlement Form and Character Objectives and Policies

The Union Bay LAP provides some direction on form and character objectives and policies, but falls short of designating development permit areas for the control of form and character of multiple family and intensive residential development. The Union Bay LAP contains the following objectives and policy direction.

C.5 Settlement Form and Character Objectives

C.5(a) Respect and enhance viewscapes throughout the Plan area.

C.5(b) Utilize the natural topography of Union Bay in the siting and design of new buildings.

C.5(c) Respect the historical scale, form and character of Union Bay Village in new developments.

C.5(d) Encourage efforts to ensure that new development is compatible with the context of existing physical and built-form.

C.6 Settlement Form and Character Policies

C.6(a) The following elements shall be reviewed to ensure that development proposals comply with the objectives of the Plan.

1) building form  4) height limits
2) setbacks  5) sign standards
3) roof form  6) lighting standards

C.6(d) New residential development shall be restricted to the minimum lot sizes: Single family: average lot area: 560 m² (6000 ft²); Single family/Townhouse Mix: 1200 m² (12,900 ft²)
C.6(e) New residential development shall be restricted to the following densities: Single family: 12 units/hectares (5 units/acre); Single family/Townhouse Mix: 20 units/hectare (8 units/acre)

C.6(f) There is strong support to preserve views throughout Union Bay. There should be no high-rise development, and pocket views (between building) need to be protected. The following guidelines are recommended to achieve these objectives:

- Village Small Lot: 2 storeys
- Village Mix: 2 storeys: 8m single family; 9m multi family

The current proposal is for building heights up to 3 storeys for multiple family and commercial uses. Whether 2 or 3 storey buildings, are permitted, one of the key considerations is building design, form and character. Appropriate design controls including building design guidelines, landscaping, parking, signage and facade details can maintain a pedestrian street scale and preserve and echo the unique views, heritage, and marine attributes of the site.

**Development Permit Areas**

Given the current proposal which consists of multiple family, townhouse and intensive single residential development, consideration needs to be given to the preparation of development permit policies that will address the form and character of the residential building forms in the proposal. In addition, the commercial development permit area should be expanded to include the Union Point development, and the golf course development area, to provide for design control for the club house and adjacent neighbourhood commercial facilities. The Local Government Act permits for the establishment of development permit policies for multi-family and intensive residential development permit areas to regulate their form and character.

The establishment of a Union Bay Comprehensive Development Permit Area will provide the justification and objectives to ensure that development applications within the proposed area meet with established guidelines.

In the current OCP, three categories of development permits are established pursuant to the provisions of the Local Government Act, as follows:

1) Protection of the natural environment, its ecosystems and biological diversity;
2) Protection of development from hazardous conditions; and
3) Establishment of objectives and the provision of guidelines for the form and character of commercial and industrial developments and resort tourism.

These and additional development permit policies should be considered within the Union Bay Comprehensive Development Permit Area:

4) Establishment of objectives for the form and character of multiple family residential development.
5) Establishment of objectives for the form and character of intensive residential development;

Staff propose that all lots under 550m² be designated as Intensive Residential Development Permit Area, in accordance with the provisions of the Local Government Act. The purpose of this designation would be to enable new, developing areas to meet community objectives and reflect the form and character that is best suited to existing and future development within the context of a possibly revised Union Bay Local Area Plan.
Development Approval Information

The Union Bay Rural Settlement Area is designated a Development Approval Information Area (DAIA). This allows for the ability to request further information from the applicant on the impact of the proposed development on: transportation patterns, local infrastructure, public facilities, including schools and parks, community services and the natural environment of the area affected.

Kensington Island Properties have completed a number of technical studies to address the DAIA requirements including:

- Water Source Study
- Environmental Study
- Geotechnical Study
- Archaeological Study
- Traffic Study
- Servicing Outline

Additional follow-up studies are underway for the provision of sewer and water. Referral comments indicate additional studies may be required including:

- Detailed reports of sewage treatment and disposal to support a registration under WLAP and MSR
- Detailed report, prepared by a qualified biologist, demonstrating that the additional water is of benefit to the wetlands,
- Hydrogeological study evaluating the hydraulic conductivity of the soil
- Water System and Source Assessment as outlined in Sec. 18 of the Drinking Water Protection Act (DWPA)
- Assessment Response Plan as outlined in Sec. 22 of the DWPA

Parks, Recreation and Open Space considerations:

Several policies within the Union Bay LAP address parks, recreation and open space considerations including the following policies:

- **C.4(h)** Restrict development activities on the coal hills to passive open spaces.
- **C.12(c)** Support the development of a community park with passive recreational amenities at Union Point.

The existing Union Bay LAP policies do not provide for the development of any form, with the exception of a passive park on the area of Union Point known as the Coal Hills. The LAP does not contemplate the remediation of the site to acceptable Ministry of Environment standards for habitation or recreation. Extensive studies have been completed that indicate the existing on-site contaminants can be dealt with and the site can be remediated for residential and park use. Whether the level of rehabilitation proposed can be achieved needs to be ascertained prior to any development occurring on the site.

In addition, the Union Bay LAP lays out a greenways plan for Union Bay indicating pedestrian, bike trail corridors around Union Point, along Washer Creek, and up McLeod Road. The Kensington Plan is consistent with the Greenways indicated in the LAP.
Transportation Infrastructure Policies

The applicant has prepared a traffic study that outlines potential impacts of the proposed development. The LAP discourages the use of cul-de-sacs within the Plan area in order to maintain the original grid pattern within the existing community. Despite the curvilinear nature of the proposed street pattern, connectivity is maintained with the existing developed area of Union Bay. The Ministry of Transportation will determine if the proposed traffic pattern is adequate to maintain required traffic standards as it is the Ministry that owns and regulates roads and access in rural areas, including Union Bay.

Comox Valley Zoning Bylaw

The application submitted by Kensington Island Properties is to amend the zoning in keeping with the uses proposed in their application.

SERVICING

Both the Regional District, through the Royston-Union Bay LWMP process, and Kensington are in the process of developing wastewater servicing plans for the area. The collection, treatment and disposal works envisioned by each group are essentially the same – a gravity sewage collection system with lift stations, an advanced secondary wastewater treatment process using membrane biofilter technology, disinfection of treated effluent with ultra-violet light and beneficial re-use of the effluent. The two systems differ in the proposed location of the treatment works with the Regional District proposing a site midway between Royston and Union Bay inland of Highway 19 and Kensington proposing a site at the top of McLeod Road. Kensington has made a commitment to make land at the proposed Regional District site available should it be determined that a “joint” system is feasible.

A “joint” system would entail cost sharing of the upgrading of trunk sewers, upsizing of the treatment plant and the distribution system for beneficial reuse of the final effluent. The costs of collection systems within Kensington’s proposed development would be borne by Kensington and the costs of collections systems in the remainder of the service area would be borne by the users in the service area.

Kensington and the Regional District’s operations staff have been engaged in informal discussions with respect to ways and means in which a “joint” system could be developed. A single “joint” system offers financial advantages to each party. However, both Kensington and the Regional District must continue down separate but parallel paths for a while longer. Kensington cannot commit to the construction of a system until such time as they have certainty in their rezoning efforts and the Regional District cannot commit until it receives the assent of the electors for the creation of a Royston-Union Bay sewerage system.

Kensington has entered into an agreement with the Union Bay Improvement District (UBID) to provide a report of options for the most appropriate method of providing sufficient treated water to a community water system. The intent of the report is to confirm a means that the UBID can provide Kensington with sufficient water for domestic and fire protection, and that will improve the existing conditions within the district.

The treatment plant will be developed in phases to accommodate an equivalent population of 6,500 people for the Union Bay Resort Development. In addition, land area will be provided to provide additional treatment capacity for future servicing of the Union Bay and Royston communities as proposed by the RDCS ongoing sewer initiative.

Confirmation of siting of the wastewater treatment facilities will be based on minimizing construction, land costs, and reducing the environmental siting impacts such as visual, odour
and buffering. The proposed location at Musgrave Road will be bordered by the Hart Creek park corridor on the north side, large acreage forest lands on the west side. In the event, the Regional District of Comox-Strathcona desires a location more suitable to the overall community needs, the location of the Wastewater Treatment Plant can be relocated based on the above criteria.

The expected build-out of the project is estimated to be between 15 and 20 years.

**PROPOSED BYLAW AMENDMENTS**

As the number and complexity of the proposed zoning and plan amendments is significant, the proposed amendments are outlined in the appendixes. The following section provides a summary of the proposed bylaw amendments for each of the five development areas proposed by Kensington. Each of the five proposed development areas is considered a Comprehensive Development Area for the purpose of drafting OCP and Zoning Bylaw amendments. This provides some flexibility in terms of the final design, site plan and development, while providing assuredness regarding maximum build-out densities, and general location of proposed uses.

In order to provide the same level of assuredness regarding proposed community amenities, including park dedication, trail development, land for schools, the interpretive center and fire hall and sewer and water servicing, staff suggest that a developer agreement be prepared that outlines the amenities to be provided by the developer to the RDCS and other local community organizations, and the timeline and details of construction and delivery. Please refer to Figure 2 for a map showing the five areas. Proposed OCP/LAP amendments are summarized as Comprehensive Development Areas and proposed zoning amendments are summarized as Comprehensive Development Districts. The proposed vision for each of these areas is provided in the OCP/LAP amendments in the Appendix. The permitted uses in the proposed zones reflects the summary of units and commercial potential as contained on page 3 of this report unless otherwise noted.

**Area 1**
See Comprehensive Development Area 1 (CDA-1) – Golf Course – Residential
See Comprehensive Development District 1 (CD-1)
Bylaw amendments based on the developer’s submission are proposed to accommodate a 27 hole golf course, clubhouse, single and multiple family development as well as vacation villas. Staff have discussed with the developer the potential benefits of permitting neighbourhood commercial and some multiple family residential development in this area and the bylaw amendments have been drafted to accommodate these additional uses (maximum 929 square metres [10,000 square feet] of neighbourhood commercial and 10% of 700 residential units maximum as multiple family).

**Area 2**
See Comprehensive Development Area 2 (CDA-2) – Residential – Public Facilities
See Comprehensive Development District 2 (CD-2)
Bylaw amendments based on the developer’s submission are proposed to accommodate a maximum 120 residential units (with a maximum 50% multiple family). Public assembly and public uses are permitted as well as a real estate sales center for on-site development only.

**Area 3**
See Comprehensive Development Area 3 (CDA-3) – Tourist Commercial
See Comprehensive Development District 3 (CD-3)
Bylaw amendments based on the developer’s submission are proposed to accommodate on Union Point a mixed-use multiple family residential/commercial area with a maximum height of 3
stories, with a maximum of 100 multiple family units, 165 hotel units, 15,000 square metres of commercial floor space and a marina.

Area 4
Comprehensive Development Area 4 (CDA-4) – Residential – Public Service
See Comprehensive Development District 4 (CD-4)
Bylaw amendments based on the developer’s submission are proposed to accommodate 450 units of seniors housing (congregate care) as well as an additional 200 units of mixed multiple and single family housing, a school site and a sewage treatment facility.

Area 5
Comprehensive Development Area 5 (CDA – 5) - Residential – Diagnostic Facilities
See Comprehensive Development District 5 (CD-5)
Bylaw amendments based on the developer’s submission are proposed to accommodate a maximum of 120 residential units (including both single family units on small lots and some multiple family) as well as a diagnostic center.
AGENCY REFERRAL RESPONSES

The application was referred to a number of local, provincial and federal agencies for comment on July 14th. At the time of writing this report comments have been received as follows.

<table>
<thead>
<tr>
<th>Referral Agency (source)</th>
<th>Comments</th>
<th>Synthesis of Response</th>
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<tbody>
<tr>
<td>Ministry of Environment</td>
<td>• The application has been reviewed from the perspective of sewage treatment and disposal and stormwater management. As such, I have reviewed Sections 11 and 11.3 in the main body of the report, as well as Appendices C, G, H, and I.</td>
<td>More Information Required</td>
</tr>
<tr>
<td>Environmental Protection</td>
<td>• Sewage Treatment and Disposal: The report provides a conceptual description of the sewage treatment and disposal/effluent reuse proposal. The details will be provided and discussed through Environmental Management Act Municipal Sewage Regulation (MSR) registration process. The report clearly states: “The preparation of detailed reports of treatment and disposal to support a Registration under the WLAP MSR will require further investigation beyond this report. Preliminary hydrogeological investigation for the disposal options is provided by EBA in a supporting document. This report is not sufficient to obtain approvals from the Ministry of Health, not for submission for a complete Registration under the MSR.” A pre-registration meeting was held on June 8, 2005 at our office with Mike Seymour from The Focus Corporation, Brian McMahon from Kensington Island Properties, Gary Anderson from the Vancouver Island Health Authority, myself and 2 other staff members from our office (Baljeet Mann and Laura Hunse). During the meeting, Mike Seymour presented the proposed sewage treatment and disposal/effluent reuse system. A number of points were brought up which require clarification and I am following up directly with Mr. Seymour.</td>
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<td>Division</td>
<td>• Reclaimed Water Use: The report discusses the use of reclaimed water several times. The intent is to provide reclaimed water for a variety of potential uses including golf course irrigation and stream flow augmentation. In this context, the report refers to Class A effluent. In the MSR, Class A effluent is not the same as reclaimed water. The “Permitted Uses and Standards for Reclaimed Water” are specified in Schedule 4 of the MSR and must be adhered to if reclaimed water is provided. Use of reclaimed water in a wetland is under the restricted public access category. For this category to be applicable, the wetland should not be very accessible to the public. If the intention is for the wetland to be a public amenity, then it is advisable to meet the unrestricted public access category requirements, which are more stringent than the requirements for Class A effluent.</td>
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<td></td>
<td>• Use of Rapid Infiltration Basin (RIB): The use of reclaimed water requires that an alternative method of disposal be provided, as per Section 10(2) of the MSR. The report discusses the use of a RIB for his purpose. During the pre-registration meeting, Mike Seymour indicated that a mounded system may be required for the RIB due to the site conditions. I have indicated to Mr. Seymour that this would be considered an alternative measure as per Schedule 7, 1(2) of the MSR, which would be considered a Director’s (formerly Manager’s under the Waste Management Act) decision, which is appealable, whereas if a system meets the MSR without using an alternative method, there is no process for appeal. If an RIB is used for ground disposal, 2 basins must be provided.</td>
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</table>
- **Use of Wetlands:** The report discusses the use of existing and constructed wetlands. The point of compliance must be clear, as the discharge and (EIS) requirements are determined based on this. In the case of a wetland, reclaimed water could be discharged as long as the EIS demonstrates that the additional water is a benefit to the wetland ecosystem. A study must be done by a suitably qualified biologist with knowledge of wetland ecosystems to determine this. If a constructed wetland is used, then this becomes part of the treatment system and the point of compliance would be after the wetland.

- **Hydrogeological Study:** Appendix C indicates that “a more thorough evaluation of the hydraulic conductivity of the soil and the potential for subsurface disposal of wastewater will be provided in a future EBA hydrogeological report.” Presumably, this will be part of the EIS submitted with the MSR registration.

- **Sludge Disposal:** Sludge or biosolids will have to be disposed to an approved site or beneficially reused as per the Organic Matter Recycling Regulation.

- **Wastewater Flowrates:** Regarding wastewater flow rates, for ground disposal the MSR specifies that the flowrates in the health Act Sewage Disposal Regulation must be used. This regulation has been replaced with the Sewerage System Regulation so there is a need to clarify the required design flowrates for the ground disposal. I am discussing this with Mike Seymour of Focus.

- **Stormwater Management:** I refer you to the document: “Stormwater Planning: A Guidebook for British Columbia” which is available on our website. The guidebook outlines an approach to stormwater planning which encourages infiltration and minimizes the impact of development. A new development such as this one is an opportunity to implement the principles of the guidebook, which could result in reduced development costs. Section 11.3 of the report does not discuss the guidebook nor its principles. This is inconsistent with Appendix J which references the guidebook and discusses adopting some of the principles and approaches.

### Ministry of Environment Environmental Stewardship

*(NOTE: Due to the length of the response it has not been reproduced here, but a copy of the response has been attached to this report and a summary of the significant points follows)*

- We have reviewed the supporting information for this large and complex development, identifying the potential for loss or damage of species, their habitats or ecosystems and any measures that indicate how those impacts will be minimized or avoided. We have also considered any enhancements of the natural environment its ecosystems and biodiversity that may be included in the proposal.

- While the supporting information for this proposal is comprehensive, a number of specific items have been identified which need clarification…

- A strong commitment on the part of the developer to plan, design, construct and market this development in a sustainable manner consistent with LEED or Smart Growth strategies would benefit the environment and enhance the livability of this community.

- Specific aspects of the development that have

### Ministry of Forests and Range

**Approval Recommended Subject to Conditions Below:** *(NOTE: Due to the length of the response it has not been reproduced here, but a copy of the response has been attached to this report and a summary of the significant points follows)*

- …We recommend approval of the development proposal subject to the conditions that Ministry of Forests and Range retain road
access across certain lands forming part of the proposal. The access is vital for transportation of timber between forests west of the proposed development to a log sort facility on the eastern coast of Vancouver Island. For several decades, a logging road has existed and been utilized in the development area.

- No mention of the forest road or its realignment is made in the Traffic Impact Study portion of the Union Bay Resort Development rezoning application. We are asking that this problem be addressed with a viable solution that allows Ministry of Forests and Range to continue to manage the public's forests through reasonable access.

<table>
<thead>
<tr>
<th>Comox Indian Band</th>
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<tbody>
<tr>
<td>We have had a number of meetings with Kensington Island Properties Partnership representative Brian McMahon regarding the above mentioned Development Proposal Referral. We have also reviewed the Kensington OCP Amendment and Rezoning Application Binder entitled: <em>Union Bay Resort Development, Kensington Island Properties</em> provided by Focus. We have field reviewed the proposed development area as well.</td>
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<tr>
<td>We are currently in final negotiations with Kensington Island Properties Partnership; however, we have been unable to complete negotiations in time to respond fully by August 26, 2005. At this time we have the following comments to make:</td>
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<tr>
<td>The development will have significant impacts not only on our archaeological evidence and sites in the proposed development area, but also on significant habitation sites, at least one of which has already been disturbed;</td>
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<td>The development will greatly limit and infringe on our ability to exercise our Aboriginal Rights including, but not limited to, the rights to hunt, gather and fish;</td>
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<tr>
<td>The issue of underlying Aboriginal Title may also be affected.</td>
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<td>We are hopeful that we will come to a mutually agreeable Memorandum of Understanding between the Comox First Nation and Kensington in the near future.</td>
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<td>We expect to make further referral-related comments on this issue once a Memorandum of Understanding between the Comox First Nation and Kensington Island Properties Partnership is ratified. Thank you for your patience and understanding.</td>
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<tr>
<th>Transport Canada Navigable Waters</th>
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<tr>
<td><strong>Approval Recommended Subject to Conditions Below:</strong></td>
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<tr>
<td>The proponent will be required to submit applications to Transport Canada-Navigable Waters Protection Division for any &quot;works&quot; built in, on, over, under or through a navigable waterway prior to commencement of any construction.</td>
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<tr>
<td>Works could include but are not limited to marinas, boat ramps, bridges, outfalls, and aerial cable crossings of streams or waterways.</td>
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<tr>
<th>DFO</th>
</tr>
</thead>
<tbody>
<tr>
<td>This application provided an overview of the proposed development which enabled the reader to identify the following works, all of which have the potential to impact fish and fish habitat.</td>
</tr>
<tr>
<td>The potential to increase the storage capacity of Langley Lake.</td>
</tr>
<tr>
<td>Stream crossings which would include sewer/water lines as a well as bridges.</td>
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<tr>
<td>Stormwater management as it pertains to both the west and east side of Highway #19A.</td>
</tr>
<tr>
<td>Sewage Treatment and Disposal – while Environment Canada will be the lead for the water quality aspects of any discharges.</td>
</tr>
</tbody>
</table>
(excluding sediment issues) DFO is responsible for reviewing those aspects that have or will have the potential to harmfully impact fish or fish habitat which includes riparian areas.
- The proposed development of a 20 acre site pond.
- Establishment of riparian zones.
- Establishment of a marina – although not directly discussed conceptual plans do indicate that there is future interest in establishing such a site.
- Riprap protection on the marine foreshore for the waste coal piles.
- Environmental Protection Plan – as recommended in the application, this is a critical component of the overall proposal.
- As stated in the application, further discussion with DFO and other relevant agencies will be required. Through these discussions and upon receiving and reviewing additional information, DFO will be in a better position to provide advice based on our operational guidelines and policies for the protection of the fisheries resource. At this time, DFO will also be in a better position to ascertain if an Authorization under Section 35(2) of the *Fisheries Act* for the harmful alteration, disruption or destruction of fish habitat will be required for aspects of this development.

| City of Courtenay | This project represents an urban level of development and as such will need to evaluate the impact on and requirements for transportation, emergency, social, recreational, educational and cultural services. A service review for infrastructure should also be considered.  
- The policy of the City is to work with Comox Valley municipalities and the Regional District to develop master plans and strategies on the provision of services for managed growth and protection of the environment. | Approve |
|---|---|---|
| Vancouver Island Health Authority | **Approval Recommended Subject to Conditions below:**  
- The applicant must satisfy all of the mandatory requirements of the Drinking Water Protection Act (DWPA) and Regulations (DWPR).  
- As part of the submission requirements for the water system approval, the Applicant will need to conduct a water system and source assessment as outlined in Sec. 18 of the DWPA. Part of this assessment must include an evaluation of the risks to the Langley Lake source. All identified risks will require an Assessment Response Plan as outlined in Sec. 22 of the DWPA.  
- Upon securing approvals for the water supply system and the waste treatment and disposal, our office requires pre-construction plan approvals of recreational water (pools and hot tubs), personal sewer facilities, food premises. These will be post rezoning approval requirements.  
- We would recommend approval of this proposal should be granted once the Water System Assessment and, if required, the Assessment Response Plan has been approved by this office. | Approve with Conditions |
<p>| Islands Trust | <strong>The Islands Trust</strong> will be holding a special meeting on August 31, 2005 and will provide a formal response after that meeting. | Response to be provided after August 31, 2005 |
| MOTH | <strong>The Ministry of Transportation and Highways has no objections</strong> to the proposed re-zoning with the understanding that future subdivision applications we require highway upgrading prior to their final approval. Will deal with Ministry concerns at time of subdivision. | No objections |
| Town of Comox | Due to workload, vacation time and the possibility that this application may be referred to Council, we are unable to complete a review of the | Response to be provided in |</p>
<table>
<thead>
<tr>
<th>Application by the requested August 19, 2005 response date. We anticipate being able to respond by November. Please advise if this will not allow for your consideration of the Town’s comments prior to preparation of any bylaws regarding the subject property.</th>
<th>November</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land and Water BC</td>
<td>Land and Water British Columbia Inc. has no objection to a submission for rezoning and OCP amendment of the Crown land and foreshore associated with the proposed Union Bay development.</td>
</tr>
</tbody>
</table>
| APC Electoral Area: “A” | **APC Motion:** It is recommended that the KIP development application be supported in principle provided that the new development does not place an unacceptable additional financial burden on the current residents of Union Bay and subject to the satisfactory resolutions of the following concerns and issues:  
**Water:** Assurances are required such that future water supplies will be sufficient both in quantity and quality for current and projected future residents of UBID and the associated costs to provide this water will be fairly distributed to ensure that current residents do not subsidize the needs of future residents and, that the water service will remain under public ownership.  
**Sewage:** Assurances are required such that any future sewage collection, treatment and disposal system for the proposed development will be designed to accommodate a future integrated system to eventually include the areas of Union Bay and Royston consistent with the current RDCS plans for such a system and, that public ownership of an integrated system be preserved.  
**Traffic/Road System:** Assurances are required such that every effort will be made to mitigate potential traffic concerns such as congestion, noise, pollution and gridlock and, that Highway 19A will be sufficient to handle projected traffic loads. A project access from the Inland Highway must be investigated.  
**Services:** Assurances are required such that suitable and sufficient public services such as fire, police, ambulance, medical and dental clinics, hospital, school(s) and library will be available for current and projected future residents of UBID.  
**OCP/LAP Conformance:** Assurances are required such that the proposed development will conform to the spirit as well as to the objectives and policies of both the OCP and the Union Bay LAP to the maximum extent possible and that any proposed changes to the LAP Land Use Designations will be minimal and, that the proposed development will embrace the Principles of Smart Growth. | Support in Principle |
| BC Assessment Authority | Agency referrals are processed as ‘For Your Information’ only and BC Assessment does not formally respond. The information is considered during property assessments with regards to zoning. | No response |
| BC Ferry Corporation | No response at the time of writing this report. | |
| Village of Cumberland | No response at the time of writing this report. | |
| Hamatla Treaty Society | No response at the time of writing this report. | |
| Ministry of Aboriginal Relations and Reconciliation | No response at the time of writing this report. | |
| Ministry of Community Services | Ministry of Community Services does not respond to agency referrals. | |
| School District #71 | No response at the time of writing this report. | |
| Ministry of Tourism, Sports and the Arts | No response at the time of writing this report. | |
| Union Bay Improvement District | The Union Bay Improvement District may supply water, if requested and approved, and does supply fire protection and street lighting to the following parcels of lands involved in the Rezoning application known as File No. CP 1A 05 and RZ 2A 05 (Kensington Properties): 006-719-317, 006-674-763 (part of the parcel does lie in Comox North | |
The remaining parcels of lands lie in the Comox North Rural service area. Therefore the Union Bay Improvement District is able to supply comments on lands encompassed in the Union Bay Improvement District service area. Union Bay Improvement District is unable to service areas outside of the Registered Letters of Patent for the Union Bay Improvement District. Re-alignment of boundary lines would need an Order-In-Council approval before servicing of the area could be addressed.

The following forms considerations for the referral response:

- Significant water upgrades are required to address the water supply to the development. This information is being compiled and not completed, therefore the costs and feasibility of the planned upgrades are unable to be assessed and commented on at this time. Water supply is optional from the Union Bay Improvement District and must be applied for and fees paid before a full assessment can be completed. The Union Bay Improvement District cannot support irrigation for the golf course and it is noted that the golf course is located in the Comox North Rural service area as well as the residential component of the golf course.

- Capital Expenditures for Water Infrastructure to support the development of lands must not pose a tax burden on current landowners. Development (Capital) costs required to supply adequate water, in excess of Capital Expenditures Charges collectible from the development, should be borne by the developer. Capital expenditures, which require cost-share with the landowners, would require the approval of the landowners if borrowing were involved.

- Capital Expenditures for Fire Protection can only be addressed through direct developer contribution and taxation of landowners. Landowner approval is required for borrowing funds for a new fire hall or fire truck. However if the building was built by the developer and leased back to the district only budgetary approval from the province would be required. Lease costs would form part of the operational budget and funded through increased tax base from the development.

Consideration of available Tax Base is important given that a large portion of this development is Comox North Rural. The development in Comox North Rural may form the largest assessment value of the project.

- Based on the 2004 McElhanney 20-year Planning Study completed for the Union Bay Improvement District and allowing for the effects of the metering program the total number of connections available at this time is approximately 1200 residential connections. There are approximately 620 connections in service.

- Fire flow available at the present will effectively service properties below a 45-meter geodetic level, which represents properties located to the east of 4th Street in the Union Bay core area. The present water reservoir on McLeod Road would not maintain adequate fire flow for commercial or multi-residential properties.

- Building in excess of thirty feet and/or of a commercial/institutional nature require additional fire protection considerations as the current equipment and fire flows of the Union Bay Improvement District are inadequate to service rescue beyond the capacity of a 30-foot ladder and flow rates required for commercial/institutional building code standards. It should be noted that the BC Building Code assumes that adequate fire protection is available for commercial/institutional and buildings four stories or more. (Information obtained from the Building Policy Branch). The present status of the Union Bay Improvement District Volunteer Fire Department is as follows:
• Fire Trucks – Truck #24, 1976 International Pumper Truck and Truck #25, 1990 Ford Pumper Truck with 30 foot ladder, are both dated and do not comply with WCB standards regarding transportation of fire fighters. Replacement of one pumper truck to meet WCB code and also to ensure reliable response capabilities has been planned and funds of $180,267.97 are in reserve for replacement.

• To house a new fire truck the building requires a 14-foot door. The current fire hall cannot be renovated to accommodate the larger truck. Location of a new fire hall and the cost to build is a consideration. Location of the fire hall needs to best service the entire improvement district. Property on McLeod Road is available but location would be preferred in a more central location. The Fire Commissioner’s Report completed in 1996 also recommended that the Fire Hall should be seismic in order to operate as a community emergency response headquarters. Current reserve to build a new hall is $99,582.84. Estimated cost for new accommodations ranges between $750,000 and $1,500,000. This building may also accommodate the Union Bay Improvement District office.

• There are 23 Fire Fighters on the roster at various levels of training. An effort is being made to ensure that fire fighters are receiving training at the recognized fire fighter standards for the province. Consideration is being given to becoming a first responder department.

• It should be noted that the largest portion of the Union Bay Improvement District that is undeveloped is the south end of the district, which forms the widest and longest portion of the service area. The opinion given in this report is based on the conceptual proposal and changes or alterations to the proposal could adjust these comments.

Environment Canada Referral comments to be received by September 9th.

ALTERNATIVES

1. Proceed to prepare bylaws for consideration of the Regional Board for 1st and 2nd reading of the proposed bylaws.

2. Proceed with a public information meeting.

FINANCIAL IMPLICATIONS

None at this time. If the liquid waste management referendum for Union Bay and Royston is successful, the RDCS and the applicant may enter into a joint servicing agreement.

LEGAL IMPLICATIONS

Redesignating and rezoning the subject property to allow for the mixed use and golf course development will require compliance with the notification and public process requirements of the Local Government Act. The rezoning and official community plan amendment processes trigger a public hearing requirement.

INTERGOVERNMENTAL/REGIONAL IMPLICATIONS

The Kensington proposal is a regionally significant project. Potential impacts, attributes, and constraints associated with the development can be dealt with through good planning principles, sound servicing plans, clear Official Community Plan designations and comprehensive zoning amendments, as well as a developer’s agreement with the Regional District.

This is a complex project involving a number of provincial and federal government agencies in addition to the RDCS. The provincial Fast-Track team has the Kensington Island project on its
list of projects. This team works to ensure that identified projects undergo a timely review process by provincial agencies when consideration through local government processes is required. The process of amending the OCP and zoning bylaws is unchanged and remains the responsibility of RDCS, notwithstanding the role of the provincial Fast-Track team.

**CITIZEN/PUBLIC RELATIONS IMPLICATIONS**

There has been considerable media coverage of the Kensington Island development plans. In addition, the applicant has hosted two open houses by invitation May 24th and June 7th 2005. The Concerned Citizens of Union Bay have also hosted a Town Hall meeting on August 18 to provide a forum for community discussion and an opportunity to ask questions. The group provided comment sheets and these have been submitted to the RDCS.

Both Community Planning Services staff and the Electoral Area Director have walked portions of the proposed site, and attended Kensington Open Houses, technical meetings and the Town Hall meeting hosted by the Concerned Citizens of Union Bay.

Given the size and scope of the application and the number of questions that remain regarding particularly the provision of services and timing of the development, staff encourage the applicants to host a public information session prior to the Regional District hosting a public hearing. The purpose of the public information meeting would be for the applicant to answer questions raised by the public to this point in the process and to allow the community an opportunity to review the details of the proposal.

**INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS**

Community Planning Services staff are working closely with Operations staff to review servicing aspects of the proposal. Both Community Planning Services staff and Operational Services staff attended a two-day meeting, July 6th and 7th, hosted by Kensington to review the application, including all technical appendixes, meet the developer’s consultants and ask questions of clarification on the proposal and conduct a site visit. In addition, the Operations staff hosted public open houses in Union Bay (June 27th) and Royston (June 29th) regarding liquid waste management planning for Union Bay and Royston areas. It is anticipated that the Regional District will go to referendum February 4th of 2006, on the liquid waste management question for Union Bay and Royston.

**SUMMARY/CONCLUSION**

RDCS staff have determined that the application merits further consideration through the application and approvals process in place through the Regional District. Staff have carefully reviewed the proposal in relationship to the existing OCP, EA Plan and Local Area Plan and have also reviewed the proposal from the perspective of its own liquid waste management plans and responsibilities. The proposal meets a number of the objectives and policies of the Comox Valley OCP and the Union Bay LAP. The application meets the vision of the Union Bay Local Area Plan in terms of concentrated mixed commercial, tourism destination, marina development on Union point and mixed residential development including small lot development radiating from the existing town core of Union Bay. The following table summarizes how the proposal fits within OCP policies.
<table>
<thead>
<tr>
<th>Comox Valley OCP Policies</th>
<th>Kensington Application Proposal</th>
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</thead>
<tbody>
<tr>
<td>Protect the Natural Environment</td>
<td>• Coal Hills Rehabilitation and capping to prevent ongoing leaching into Baynes Sound</td>
</tr>
<tr>
<td></td>
<td>• Community sewer system to prevent existing and potential pollution of Baynes Sound</td>
</tr>
<tr>
<td></td>
<td>• Green Shores application underway for sensitive treatment of Union Bay point</td>
</tr>
<tr>
<td></td>
<td>• 30 metre buffer on both sides of Washer Creek</td>
</tr>
<tr>
<td></td>
<td>• 15 metre buffer on both sides of 4 other creeks</td>
</tr>
<tr>
<td></td>
<td>• protection of eagle’s nest trees</td>
</tr>
<tr>
<td></td>
<td>• Assisting local Streamkeepers in improving riparian habitat</td>
</tr>
<tr>
<td></td>
<td>• Washer Creek rehabilitation and re-location</td>
</tr>
<tr>
<td>Support parks, recreation, and open space opportunities</td>
<td>• extensive trail network throughout golf course and subdivision development</td>
</tr>
<tr>
<td></td>
<td>• Park and trail network public access to Union Point</td>
</tr>
<tr>
<td></td>
<td>• Trail network adjacent to Washer Creek</td>
</tr>
<tr>
<td></td>
<td>• Trail network on old collieries right of way preserved</td>
</tr>
<tr>
<td></td>
<td>• Establishes parkland throughout the property and at Union Point</td>
</tr>
<tr>
<td></td>
<td>• Provides connectivity to the existing village with Union Point</td>
</tr>
<tr>
<td>Identify Areas for Commercial Development and Tourist Services</td>
<td>• Union Point identified as the focus for mixed-use commercial and residential development</td>
</tr>
<tr>
<td>Ensure that adequate lands are identified for future community facility uses including future school sites</td>
<td>• Land for a potential school site to be provided at the top of McLeod road</td>
</tr>
<tr>
<td></td>
<td>• Land for an interpretive center to be provided</td>
</tr>
<tr>
<td></td>
<td>• Provide a site for a new Union Bay Improvement District office and Union Bay Volunteer Fire Department building and assist in its construction</td>
</tr>
</tbody>
</table>

There are other policies within the Comox Valley OCP that may be debated as only partially met by the proposal. The proposal partially meets the policies for settlement areas as the most intensive area of the proposed development is within the existing Union Bay settlement area boundaries as identified in the Local Area Plan. However the proposed golf course community lies north of the boundary, currently outside the UBID service area. The OCP policy to maintain its rural character may be debated as not entirely meeting this policy objective in the proposal. However, the form of development proposed for the expanded settlement area is a means of accommodating increasing urbanization pressures and population growth, on full water and sewer services, and a means of preserving other lands in their rural character.

Many questions have been raised in the community regarding provision of services, their cost and the ultimate impact on the existing community of Union Bay. The applicant has completed a series of studies that address many of the technical aspects of the proposal. The applicant has provided a comprehensive package of application materials to the RDCS including details of proposed land uses, densities, and road lay-outs. These have been reviewed by staff and by referral agencies and their comments included herein.
While ongoing detailed studies are underway with respect to water service for the proposal, there has been a substantial amount of background work completed on the project. The applicants have provided a vision of a master-planned community in the Union Bay area. One of the strengths of the proposal is that it is a comprehensive plan for the area, and may provide certainty for servicing, growth and development in the Union Bay Area over the next 20 years. In order to encourage community discussion of the proposal staff recommend that the proposal be introduced into the formal public domain for discussion purposes and that studies and requirements outlined by the RDCS and referral agencies be provided by the applicant prior to final approval being considered for the development proposal.

**RECOMMENDATION(S)**

1. “THAT staff prepare appropriate amending bylaws to amend Schedule F, “Electoral Area ‘A’ Electoral Area Plan, Schedule G “Union Bay Local Area Plan” of Bylaw No. 2042- Rural Comox Valley Official Community Plan Bylaw, 1998, and Bylaw 2781 – Comox Zoning Bylaw, 2005, which incorporates the necessary amendments to allow the development of a master planned mixed use community and golf course on lands located in Union Bay, as outlined in the staff report dated August 29 2005; AND FURTHER THAT these bylaws be considered for first and second readings and scheduled for Public Hearing.”

2. “THAT prior to a public hearing on this matter, the applicant host a public information meeting as an opportunity for the community to review the details of the proposal and for the applicant to address outstanding questions.”

3. “THAT prior to a public hearing on this matter the applicant provide a thorough visual impact study of the massing and form of the project and its impact on views of the Georgia Straight from the existing community of Union Bay and from Highway 19A”

4. “THAT the Regional District Board require the applicant enter into an agreement with the Regional District of Comox-Strathcona for the provision of the community amenities and services identified in the applicant’s development proposal including a timeline for their implementation and that this agreement be finalized and executed prior to the final reading of any amending bylaws.”

5. “THAT prior to consideration of final approval of the application, the applicant complete and provide the appropriate government agencies including the RDCS with the results of the joint water study underway with the Union Bay Improvement District.”

Respectfully Submitted:

Deborah Sargent, MCIP
Manager of Planning Operations

Concurrence:

Graeme Faris
General Manager of Operational Services

Concurrence:

Bob Long
Chief Administrative Officer