

Toth and Associates Environmental Services

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1085766 BC Ltd

Unit #2B – 3411 Shenton Road,

Nanaimo, B.C., V9T-2H1

Re: Summary of environmental assessment results for proposed subdivision of 270 Neen Road (PID# 000-034-568), Nanaimo.

Toth and Associates Environmental Services were retained by 1085766 BC Ltd to conduct a tree inventory, bio-inventory, rare plant survey and a provincial *Riparian Areas Protection Regulation* (RAPR) assessment for the proposed subdivision of the 23.5 ha (60 acre) parcel located at 270 Neen Road. The RAPR report (Assessment #9390) has been approved by the province.

The subject property is located within the City of Nanaimo's Environmentally Sensitive Areas and Steep Slope Development Permit Areas (DPAs 1 & 6), and is zoned AR2 (Urban Reserve).

The proposed subdivision includes creation of 11 lots ranging in size from 1.0 – 2.38 ha, and approximately 3.99 ha of parklands, plus road dedication and construction (Figure 1). Our measurements indicate that approximately 7.31 ha (31.1%) of the property will be contained within watercourse ESA leave strips or proposed parklands. The proposed tree retention area measures 3.31 ha or 35.8% of the treed area of the property, *excluding* treed areas within parklands or watercourse ESA leave strips.

No rare plant or wildlife species were found during the course of field surveys. Survey effort from all field surveys conducted on the property included 32.2 km of survey.

McNeil Creek which is the primary outlet stream for Westwood Lake flows through the southwest corner of the property. A ditched drainage running along the east side of the subject property forms a tributary to Morgan Creek, which is a seasonal fish-bearing tributary of the Millstone River. The City of Nanaimo's 15 m from top of bank watercourse ESA leave strip requirements result in extensive setbacks for McNeil Creek and for the east side of the ditched tributary to Morgan Creek due to the presence of slopes exceeding 3:1 adjacent to these streams.

The Streamside Protection and Enhancement Area (SPEA) setbacks required by the provincial RAPR are contained within the City's larger watercourse ESA leaves strips. J.E. Anderson & Associates have surveyed the subject property, and have plotted the watercourse ESA leave strip setbacks.

The proposed parklands / green-space areas along McNeil Creek will provide a substantial biodiversity / wildlife corridor between the north facing slopes of Mount Benson / west end of Westwood Lake Park and the Millstone River Valley.

Proposed Roads B and C and sections of the proposed access lane (Figure 1) are located on existing old road grades.

The only area of proposed physical development within the City's watercourse ESA leave strips associated with the subdivision of the property is the widening of the existing gravel surfaced trailway at the culvert crossing on the ditched tributary to Morgan Creek at Holmes Road in the northeast corner of the property. Widening of Holmes Road to provide a single lane emergency vehicle access is a requirement of the City of Nanaimo. A Senior Authorization Specialist at the Ministry of Water, Land, and Resource Stewardship has indicated that as the tributary appears to be entirely man-made a *Water Sustainability Act* Section 11 Notification will not be required for the proposed works.

Toth and Associates have reviewed the specific area of the Holmes Road crossing several times over the course of the field surveys. Based on the engineered design provided by J.E. Anderson & Associates, the proposed works will require disturbance of approximately 205 m² within the leave strip. This area consists primarily of dense Himalayan blackberry, scotch broom, common weeds and grasses along the south edge of the existing path. The works will require removal of 4 trees including a 12 cm diameter bigleaf maple, 26 cm Douglas-fir and 2 arbutus trees (22 & 14 cm).

A watercourse ESA leave strip restoration prescription and cost estimate has been prepared for the widening of Holmes Road by Spartan Outdoor Ltd. The cost estimate for the restoration prescription is \$54,980.52 and includes planting of 1,000 native plants over a 520 m² area, 30 native trees, plus maintenance over a 3 year period. The restoration prescription for the watercourse ESA leave strips at the Holmes Road crossing will reduce invasive Himalayan blackberry occurrence, increase soil stabilization, native plant diversity, habitat quantity and quality. Widening of Holmes Road will not have a measurable impact on site hydrology.

It is our understanding that covenants will be registered on title of the lots created by subdivision outlining requirements for sediment & erosion control, tree retention and watercourse leave strip protection during future physical development.

Temporary fencing of tree removal area boundaries and permanent fencing of watercourse ESA leave strip boundaries, complete with ESA boundary signage will be required by the City prior to development. Permanent fencing of watercourse ESA leave strips on the BC Hydro Right-of-Way on Lots 10 and 11 may not be permissible / practical.

As there are two separate Development Permit (DP) situations being addressed with this application the City has requested that we separate the recommendations for each DP as outlined below.

1. Minimum Lot Area DP - Disturbance is not being proposed within the ESA leave strips, as such only the guidelines within Section 18.1.5 will be applicable.
2. Disturbance within the Morgan Creek DP - As disturbance is being proposed and protection will be required all guidelines within 18.1.4 & 18.1.5 will be applicable.

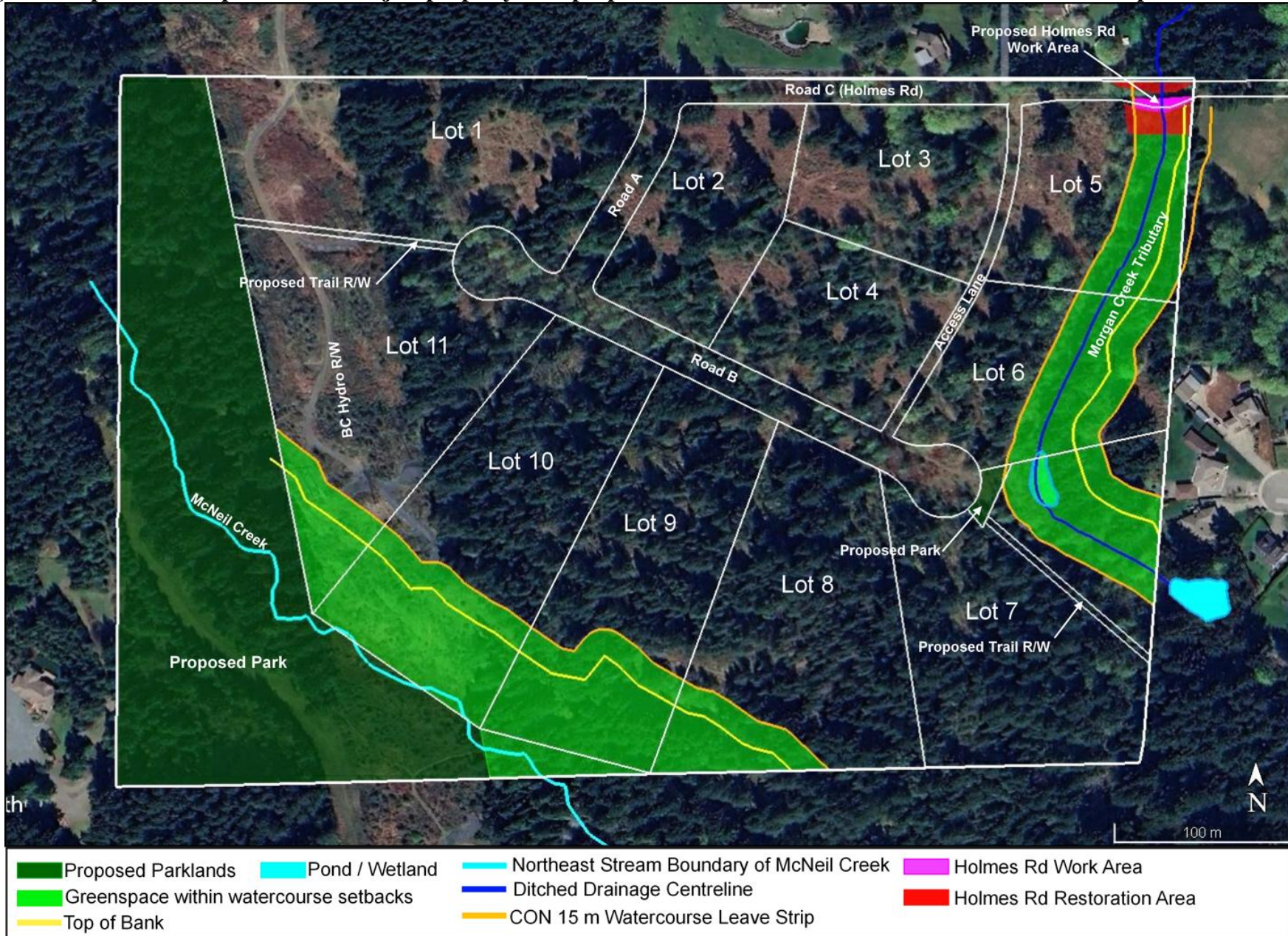
Our environmental assessments did not identify any significant environmental constraints to proposed subdivision of the subject property. Please contact us if you require any additional information.

Sincerely,
Steve Toth, R.P.Bio.

Toth and Associates Environmental Services



Figure 1. April 2024 air photo of the subject property with proposed road / lot lines and watercourse ESA leave strips



Minimum Lot Area DP Recommendations

- The City of Nanaimo requires that permanent fencing be installed along ESA boundaries prior to site clearing and construction, and that the fencing must have signage that identifies the area as an environmentally sensitive area.

Disturbance within Morgan Creek DP Recommendations

- Any land clearing that is scheduled to be undertaken during the March 12 to August 17 breeding bird season¹ should be preceded by a bird nest survey conducted by a Qualified Registered Professional.
- The City of Nanaimo requires that runoff, erosion and sediment control be installed adjacent to the ESA leave strip prior to site clearing and construction.
- We recommend that a pre-construction meeting be held at the Holmes Road stream crossing site between the contractor and a Qualified Environmental Professional (QEP), site monitoring by a QEP during construction and a post-development assessment report by a QEP following green-up of the site.
- Permanent ESA leave strip boundary fencing and signage will be installed upon completion of construction.
- Spartan Outdoor Ltd will manage revegetation of the site, plant maintenance, plus inspection reports supplied at least every 6 months over the 3 year maintenance term.

Table 1. ESA Guidelines

Section 18.1.4 (Guidelines) indicates that “Where disturbance within an ESA or ESA leave strip cannot be avoided, the following information must be provided to support the DPA1 development permit application in order to ensure protection, connectivity and increased functional habitat through mitigation, compensation and restoration of the ESA:	
a) A detailed biophysical assessment of the property, prepared by a Qualified Registered Professional.	Toth and Associates have prepared a bio-inventory report for the subject property and have reviewed the proposed works at the Holmes Road crossing of the ditched tributary to Morgan Creek.
b) A survey, completed by a registered BC Land Surveyor, of the ESA and ESA leave strip area.	J.E. Anderson & Associates have surveyed the subject property, and have plotted the watercourse ESA leave strip setbacks.
c) A Riparian Areas Protection Regulation (RAPR) assessment report prepared by a Qualified Registered Professional where applicable.	Toth and Associates have prepared a RAPR report for the proposed subdivision. The RAPR report (Assessment #9390) has been reviewed and approved by the province.
d) An assessment of the proposed development’s impact to the site hydrology completed by a	Widening of Holmes Road will not have a measurable

¹ https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/general-nesting-periods/nesting-periods.html#_zoneA_calendar

<p>Qualified Registered Professional.</p>	<p>impact on site hydrology.</p>
<p>e) An Executive Summary of the required strategy and recommended measures to protect the ESA prior to site disturbance, during the construction process and post construction must be included in the Qualified Registered Professional assessment.</p>	<p>As outlined in this summary report. The limits of construction and restoration for the widening of Holmes Road at the existing culvert crossing on the ditched tributary to Morgan Creek will be delineated with construction fencing prior to construction and fencing will be maintained in place for the duration of the project. Staked in place silt fencing will be installed along both banks of the ditched tributary and maintained in place until site green-up. A QEP will monitor the site during construction and Spartan Outdoor Ltd will manage revegetation of the site, plus plant maintenance over the 3 year maintenance term. Permanent ESA leave strip boundary fencing and signage will be installed upon completion of construction. A post-development site assessment / project team meeting will be scheduled following green-up to review the site and a post-development assessment report will be prepared by Toth and Associates or another QEP.</p>
<p>f) A restoration and enhancement management plan and detailed cost estimate for any restoration works, prepared by a Qualified Registered Professional, for the disturbed portion of the ESA and ESA leave strip. The plan shall meet the following criteria:</p> <ul style="list-style-type: none"> i. include restoration and enhancement of ESAs that were impacted by previous development activities; ii. utilize vegetation that is indigenous to Vancouver Island; and iii. meet or exceed the landscaping and maintenance requirements in Part 14 of the City of Nanaimo Manual of Engineering Standards and Specifications (MoESS), as amended from time to time. 	<p>A cost estimate and native plant revegetation prescription for the widening of Holmes Road at the Morgan Creek Tributary crossing has been prepared by Spartan Outdoor Ltd based on native plant species recommended for the site by Toth and Associates. The restoration plan is to City of Nanaimo and BC Landscape Specifications.</p>
<p>g) The principle of net gain will be followed, and a Qualified Registered Professional must demonstrate how an increase in the quality and quantity of functional habitat within the ESA and ESA leave strip will be achieved once the proposed development is complete, such that any areas restored shall be of better ecological value, and shall be contiguous with the original ESA and ESA leave strip. The following principles will apply to establishing net gain:</p> <ul style="list-style-type: none"> i. Outcomes through habitat creation, enhancement, and/or restoration; ii. Target condition (functional habitat in 20 years); and iii. Target metric (twice the area of encroachment into the leave strip). 	<p>The revegetation prescription for the watercourse ESA leave strip at the Holmes Road crossing will reduce invasive Himalayan blackberry occurrence, increase soil stabilization, native plant diversity, habitat quantity and quality. The 520 m² restoration area is 2.5X the area of encroachment.</p>
<p>Section 18.1.5 indicates that: “To protect the ESA the following will be required:”</p>	
<p>a) Prior to site clearing and construction:</p> <ul style="list-style-type: none"> i. permanent fencing shall be installed to sufficiently protect the ESA from construction and development activity; ii. the fencing must have signage that identifies the area as an environmentally sensitive area; 	<p>Temporary fencing of tree removal area boundaries and permanent fencing of watercourse leave strip boundaries complete with ESA signage will be required prior to development.</p>

<p>iii. runoff, erosion and sediment control must be installed adjacent to the ESA leave strip; and, iv. demarcation of wildlife corridors, wildlife trees, and significant trees as identified in the Tree Bylaw may also be required.</p>	
<p>b) Provision shall be made, and works undertaken, to provide for the disposal of surface runoff and stormwater flowing over the land, contributed by either the proposed development or past development. Such works shall be required to divert drainage away from areas subject to sloughing. Post development surface flow and groundwater must be maintained in volume and direction.</p>	<p>The proposed development includes subdivision and road construction. Roadside drainage will be required as part of road construction. However, as the majority of the proposed road alignments are on old existing road grades, road development is not expected to result in appreciable changes in post development run-off rates.</p>
<p>c) Restricting development activity during sensitive life cycle times, as determined by a Qualified Registered Professional and following the Develop With Care – Environmental Guidelines for Urban and Rural Land Development in British Columbia as prepared by the Province and amended from time to time.</p>	<p>Any land clearing that is scheduled to be undertaken during the March 12 to August 17 breeding bird season² should be preceded by a bird nest survey conducted by a Qualified Registered Professional.</p>
<p>d) The property owner or applicant will retain a Qualified Registered Professional to monitor and inspect the site during construction and during site restoration, for the duration of the project and the specified maintenance period, which will be the greater of three years from completion of restoration and enhancement, or as recommended by the Qualified Registered Professional. Post-completion monitoring and inspection reports will be provided to the City on a regular basis at a minimum of once every six months, or more frequently if recommended by the Qualified Registered Professional.</p>	<p>We recommend a pre-construction meeting be held between the contractor and a QEP of the Holmes Road crossing site, monitoring by a QEP during project construction, and a post-development assessment following revegetation / green-up of the site by a QEP. Post-construction revegetation maintenance and reporting will be conducted by Spartan Outdoor Ltd.</p>
<p>e) Indigenous trees and vegetation, as well as their root zones, within the ESA and ESA leave strip should not be cut, pruned, altered, removed or damaged.</p>	<p>The works will require removal of 4 trees including a 12 cm diameter bigleaf maple, 26 cm Douglas-fir and 2 arbutus trees (22 & 14 cm). Vegetation at the Holmes Road crossing is almost entirely non-native Himalayan blackberry.</p>
<p>f) Development should be located in the least environmentally sensitive areas, such as previously disturbed areas, to minimize impact on the ecology of the ESA and the ESA leave strip.</p>	<p>The entire footprint of the Holmes Road widening site is a previously disturbed area consisting of an existing gravel trailway, culvert crossing, water main and storm drain outfall.</p>
<p>g) Maintaining the connectivity of forested corridors is a priority and is strongly encouraged.</p>	<p>A significant forested corridor (approximately 170 m in width) will be maintained along McNeil Creek, with a lesser corridor maintained along the ditched tributary to Morgan Creek.</p>
<p>h) The 'green shores' principles and guidelines in the Stewardship Centre for British Columbia's Green Shores for Home shall be applied to minimize impacts to the marine foreshore area.</p>	<p>Not applicable to this development.</p>
<p>i) Gravel, sand, soils, and peat must not be removed from the ESA, or ESA leave strip, and soil or other fill must not be deposited in the ESA or ESA leave strip.</p>	<p>The revegetation plan for the Holmes Road crossing requires deposit of topsoil within the leave strip in order to be successful.</p>

² https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/general-nesting-periods/nesting-periods.html#_zoneA_calendar

Summary of environmental results for proposed subdivision of 270 Neen Road (PID# 000-034-568), Nanaimo.

j) ESAs and ESA leave strips must not be impacted by blasting or run-off of sediments and construction-related contaminants.	There will not be blasting or run-off of sediments and construction related contaminants within the watercourse ESA Leave Strips.
k) To ensure long-term protection of the ESA and ESA leave strip, the registration of a Land Title Act Section 219 covenant on the title of the property may be required.	At the discretion of the City and the landowner.
l) Varying or relaxing other bylaw requirements (e.g., building setbacks, building height, or parking requirements) will be considered to facilitate safeguarding an ESA and ESA leave strip, particularly where the relaxation can make possible the development of the remainder of the lot, while avoiding disturbance within the ESA and ESA leave strip.	Likely not necessary for this development.
Section 18.1.6 (DPA Exemptions) indicates that “A development permit is not required for the following activities in DPA1:”	
a) Construction, alteration, or addition to a building or structure, or alteration of land occurring outside of an ESA and ESA leave strip on a lot, where the location of the ESA and ESA leave strip have been confirmed by the City of Nanaimo, or by a Qualified Registered Professional and identified on a survey, completed by a registered BC Land Surveyor. In addition, permanent fencing, signage, runoff and erosion and sediment control must installed prior to site clearing and construction to protect the ESA and ESA leave strip.	This DPA exemption may be applicable to future development of the lots created by subdivision.
b) Internal alterations to an existing building or structure.	NA
c) External alterations to an existing building or structure that do not alter its footprint.	NA
d) The placement of temporary structures used for short-term special events and emergency facilities where no functional habitat is being disturbed.	NA
e) Demolition of a building or structure located within the ESA and ESA leave strip on a lot provided no further disturbance of the ESA or ESA leave strip occurs outside of the footprint of the existing building or structure and provided the work is performed in accordance with the guidelines.	NA
f) The erection of a sign or fence provided no native vegetation is removed or disturbed.	May be applicable to temporary fencing requirements.
g) Routine maintenance of existing landscape conditions, such as lawn mowing, minor pruning of trees and shrubs, planting of vegetation, and minor soil disturbance that does not alter the general contour of the land, provided no removal of vegetation, replacement with non-landscaped surfaces, or removal of trees occurs and provided no further impact to the ESA or ESA leave strip occurs.	NA
h) Planting and maintenance of native (indigenous) trees, shrubs or groundcover and removal of invasive plants or noxious weeds (such as Scotch broom, Himalayan blackberry, morning glory and purple loosestrife) for the purpose of restoring or enhancing habitat values and/or soil stability within the ESA and ESA leave strip, provided such planting is carried out in accordance with the guidelines and meeting or exceeding the landscaping and maintenance requirements in Part 14 of the City of Nanaimo Manual of Engineering Standards and Specifications (MoESS), as amended from time to time.	NA
i) Tree cutting, pruning or removal, completed by a Certified Arborist, and approved through a permit issued by the City under the Tree Bylaw.	Any tree cutting will be conducted under a tree removal permit.
j) Pedestrian trail construction within a watercourse leave strip or marine foreshore if: <ul style="list-style-type: none"> i. it is for access to water only; ii. only one trail is built; iii. the trail is for pedestrian, non-vehicular use; 	NA. There are proposed trail SRW's as part of the subdivision, but none are for access to water only.

Summary of environmental results for proposed subdivision of 270 Neen Road (PID# 000-034-568), Nanaimo.

<ul style="list-style-type: none"> iv. the trail is less than 1.5 metres wide; v. no native trees are removed; vi. the trail's surface is pervious, including soil, mulch or gravel; vii. the overall slope of the trail is less than 10% and where portions of the trail are greater than 10% the trail is designed to prevent erosion; and viii. disturbance of soil, fill, or aggregates occurs within a corridor less than 2 metres in width. 	
<ul style="list-style-type: none"> k) Subdivision of land where: <ul style="list-style-type: none"> i. Minimum lot areas are met exclusive of the watercourse leave strip; ii. Development activities related to the subdivision or servicing of lots does not occur in the ESA or ESA leave strip; iii. The ESA and the ESA leave strip has been protected through dedication, Land Title Act Section 219 covenant or other provisions acceptable to the Approving Officer; and iv. All requirements in accordance with the City of Nanaimo Subdivision Control Bylaw for identifying and marking watercourses, terrestrial ESA, marine foreshore, natural boundary, top of bank, wetland boundary and other ESA related features are met. 	<p>The minimum lot sizes, excluding watercourse leave strips on some of the lots will not meet the minimum lot areas for this exemption.</p>
<ul style="list-style-type: none"> l) Lot consolidation, road dedication, or a boundary adjustment subdivision where: a new building footprint is not proposed, and provided lot area requirements are met exclusive of the ESA and the ESA leave strip. 	<p>NA</p>
<ul style="list-style-type: none"> m) The removal of culverts for watercourse daylighting projects, as approved by a Qualified Registered Professional and accepted by the City of Nanaimo. 	<p>NA</p>
<ul style="list-style-type: none"> n) Commercial or industrial activity or marine or transportation facilities occurring on an existing filled marine foreshore on land appropriately zoned for the use. 	<p>NA</p>
<ul style="list-style-type: none"> o) Works undertaken by the City of Nanaimo, Regional District of Nanaimo, Federal or Provincial Government, or their authorized agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines. 	<p>NA</p>
<ul style="list-style-type: none"> p) Emergency procedures undertaken by the City of Nanaimo, including: <ul style="list-style-type: none"> i. Emergency flood, erosion or forest fire control protection works; ii. Protection, repair or replacement of public utilities; iii. Clearing of an obstruction from a bridge, culvert or drainage flow; and, iv. Repairs to bridges or safety fences. 	<p>NA</p>
<ul style="list-style-type: none"> q) Actions and activities necessary to prevent immediate threats to life or property provided any disturbance within the ESA and the ESA leave strip is immediately reported to the City. A development permit may be required for remediation once the emergency has passed. 	<p>NA</p>