

**Referral Response Summary****Application No. 03-H-16-RS (PID: 008-903-603)**

<b>Organization:</b> CVRD Environmental Services Division <b>Name/Title:</b> Keith Lawrence, A/Manager	<b>Date of Response:</b> August 2, 2023 <b>Level of Support:</b> Support with Conditions
<b>Comments:</b> <p>It is expected that the 7 recommendations described in Island Health's Preliminary Rezoning Referral letter dated July 18, 2023 would be followed.</p> <p>With regards to the recommendation #1 in the letter, we further recommend that an additional monitoring well be established on site through a statutory right of way agreement. Once established, groundwater monitoring should take place at the new location in addition to monitoring at wells BH15-03 and BH15-01. Data from these 3 wells should be made accessible to the public.</p> <p>With regards to recommendation #6 in the letter, we further recommend that dust monitoring equipment be installed which allows for publicly accessible reporting of data.</p>	
<b>Organization:</b> CVRD Strategic Initiatives Division <b>Name/Title:</b> Alison Garnett, Planning Coordinator	<b>Date of Response:</b> July 26, 2023 <b>Level of Support:</b> Support
<b>OCP Bylaw 4270 Land Use Designation</b> <p>The subject property is hooked across the Trans-Canada Highway. The large portion east of the highway is designated Industrial in OCP Bylaw 4270 and in Local Area Plan Schedule B.</p> <p>The small portion west of the TCH is designated Residential in OCP Bylaw 4270 and Suburban Residential in the Local Area Plan Schedule B.</p> <p><b>OCP Bylaw 4270 Schedule A policies relevant to this application:</b></p> <p><i>Manage Growth Holistically</i>          3.2.1.2. Policies          6. Encourages appropriately located commercial, institutional and light and heavy industrial development.</p> <p><i>Improve and Expand the Range of Housing and Type of Construction</i>          3.2.1.4 Policies          4. Encourages buffering of commercial and industrial uses from adjacent rural and residential uses and the preservation of access and views from adjacent rural and residential uses.</p> <p><i>Realize the Region's Economic Potential</i>          3.2.5.2          3. Supports a diversity of commercial and light industrial uses that provide living wage employment and contribute to the local economy.          5. Supports employment land needs that are consistent with transportation, settlement nodes and growth projections.          7. Encourages the viability of a broad range of industrial sectors.          16. Expects heavy and resource-based industries to minimize impacts on surrounding land use, while ensuring and contributing to the quality of life and residents and the natural environment.</p> <p>4.5 Industrial Designation</p>	

The OCP supports industrial development that fosters co-operation among various lands as important contributors to the sustainability of the community, including industries where waste products are recycled and resource use is constrained. There is a mutually reinforcing relationship between the development of employment and quality of life. Employment growth has the potential to contribute to social objectives such as employment creation, poverty reduction and greater access to health care and education. A strong, diverse local economy requires that the OCP provide a policy framework that encourages industry and at the same time ensures that new industrial development contributes to an improved quality of life for residents and responds to the highest and best use of lands and resources.

#### 4.5.1 Objectives

5. Ensure industrial uses are located where there are minimal negative impacts of increased noise, traffic or servicing costs or loss of environmental quality to the surrounding neighbourhood or the municipality

#### 4.5.2 Policies

The CVRD Board:

1. Encourages a diverse economy by providing for a wide range of industrial businesses within appropriate industrial areas.
2. Supports clean technology industries.

#### OCP Bylaw 4270 Development Permit Area

The subject property is located within the Aquifer Protection DPA and is located over the Aquifer Maps. Confirming the subject property is not located within the Industrial DPA, but recommend that it be included.

#### Draft OCP Bylaw 4373

Subject property is designated Industrial. The portion of the property hooked across the TCH is designated residential.

#### Final Comments

The application does not propose changes to the OCP land use designations.

No objections to the rezoning application.

Support including Industrial designated portion of subject property in the Industrial DPA.

Subject property is located on sensitive aquifer(s) and is located in the Aquifer Protection DPA.

**Date of Response:** July 25, 2023

**Organization:** CVRD Building Inspections  
Division

**Name/Title:** Sonny Bryski, Chief Building Official **Level of Support:** No comment

**Comments:** No comment

**Date of Response:** October 20, 2023

**Organization:** Agricultural Land Commission  
(ALC)

**Name/Title:** Nicole Mac, Regional Planner **Level of Support:**

**Comments:**

The ALC recognizes that the Property is not within the Agricultural Land Reserve (ALR); however, the eastern boundary of the Property is directly adjacent to ALR lands.

Part 3 of the Ministry of Agriculture's [Guide to Edge Planning](#) (2015) describes urban-side edge planning tools to promote urban/rural compatibility. With the continuing auto/metal recycling use adjacent to the ALR, there may be potential impacts to agriculture, such as encroachment, trespass, litter, theft, etc.

For this reason, ALC staff recommend considering the setback and buffer requirements outlined in the [Guide to Edge Planning](#), including up to a 15 m building setback from the ALR boundary, and an associated 8 m vegetated buffer to reduce the potential for urban/agricultural conflicts.

**Date of Response:** July 18, 2023

**Organization:** Ts'uubaa-asatx Nation

**Name/Title:** Monty Horton, Lands Administration Consultant

**Level of Support:** No comment

**Comments:**

Ts'uubaa-asatx Nation is in receipt of the referral for: CVRD Rezoning Application 03-H-16-RS - Schnitzer Steel

This application is located within the Ts'uubaa-asatx Nation statement of intent area; it is the interest of the Ts'uubaa-asatx Nation to respectfully maintain our rights and access to the lands and resources throughout our territory.

Ts'uubaa-asatx Nation does not have any comments to provide at this time regarding this application proceeding. Please note that this "no comment" response is specifically intended for this application and is without prejudice to all future consultation with our Nation regarding not only the renewal of this application but any other application or decision within the Ts'uubaa-asatx Nation traditional territory.

Furthermore, we may choose in the future to address the issues of Aboriginal rights and/or title infringement and compensation through the treaty process, the courts or other dispute resolution processes. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.

**Date of Response:** July 28, 2023

**Organization:** BC Transit

**Name/Title:** Aaron Thompson, Transit Planner

**Level of Support:** No Comment

**Comments:**

Although this property is not served by transit, the proposed uses would not generate significant transit ridership. Therefore, BC Transit has no comments on this application at this time.

**Date of Response:** July 25, 2023

**Organization:** Ministry of Transportation and Infrastructure

**Name/Title:** Derek Atchison

**Level of Support:** Support with Conditions

**Comments:**

The Ministry of Transportation and Infrastructure (MoTI) has received and reviewed your referral dated July 25, 2023 for the rezoning of subject property. The proposal falls within Section 52 of the Transportation Act and will require formal Ministry approval and signature.

The Ministry has no objections to the proposed rezoning.

Thank you for the opportunity to comment. If you or the proponent has any questions, please let me know.

**Date of Response:** July 18, 2023

**Organization:** Island Health

**Name/Title:** Stacey Sowa

**Level of Support:**

**Comments:**

Island Health is providing preliminary comments on a rezoning application submitted for the above mentioned property. This office understands that a subsequent rezoning application referral will be distributed by the Cowichan Valley Regional District (CVRD) for review and comment in the Fall of 2023.

Island Health – Environmental Public Health (EPH) has completed a review of the information made available at this link: [3-H-16 RS| 13271 Simpson Rd \(Schnitzer Steel\) | Plan Your CVRD \(planyourcowichan.ca\)](#) for the proposed amendments to Electoral Area H Zoning Bylaw, to establish a new I4 – Industrial Recycling Zone at the aforementioned property. The property is currently zoned as I1 – Light Industrial and the existing use is non-conforming to the current zoning designation.

Based on the information, this office can provide the following preliminary recommendations for the rezoning application in regards to the *Drinking Water Protection Act [SBC 2001] CHAPTER 9 (DWPA)* and *Public Health Act [SBC 2008] CHAPTER 28*, at this property:

1. Routine and ongoing monitoring of groundwater in the area be required.

We strongly encourage a robust groundwater monitoring plan be required for the ongoing operation of the Schnitzer Steel operation. The groundwater monitoring plan must be informed by varied inputs including groundwater experts. At minimum, monitoring should be conducted in monitoring wells BH15-03 and BH15-01 as identified in the *2015 Groundwater Quality Review report*.

Identified chemical parameters in the ground water monitoring plan should be tested for at least twice per year. The identified parameters are included in the 2020 – 2022 post-fire ground water monitoring plan that was required by the Ministry of Environment and Climate Change Strategy. Parameters will be compared and exceedances highlighted to the Health Canada Guidelines for Canadian Drinking Water Quality (HCGCDWQ) (<https://www.canada.ca/en/health-canada/services/environmental-workplace-health/reports-publications/water-quality/guidelines-canadian-drinking-water-quality-summary-table.html>).

Following the *2015 Groundwater Quality Review report*, Schnitzer Steel acknowledged in the October 6, 2016 letter “Summary of Environmental Improvements”, that groundwater monitoring should occur every two years. The rezoning was not approved at that time, however, and Schnitzer Steel did not commit to the recommended groundwater monitoring. Island Health strongly recommends that Schnitzer Steel do their due diligence and commit to the initiation of a groundwater monitoring program immediately. In order to capture seasonal variation, it is recommended that sampling be conducted no less than every six months.

**NOTE: Manganese levels observed during the 2015 review exceeds the current maximum allowable concentration (MAC) for Manganese that was implemented in 2017. Future groundwater monitoring should reference this new MAC level.**

2. Adequate measures should be in place to prevent leachate, as defined in the CVRD Bylaw 2570, from discharging from the storm water channels and the infiltration pond. It is recommended that monitoring of the water quality of the infiltration pond be conducted to inform response to any spills or accidental releases from the pond.
3. Records of groundwater monitoring program, any additional monitoring, and notifications of spills/accidental releases/etc. be forwarded to CVRD, First Nations Health Authority and Island Health.

4. Inspection findings and non-compliance issues related to MoECCS Authorization Number 100462 be forwarded to CVRD and Island Health.
5. Construction infrastructure and best management practice guidelines are followed in accordance with MoECCS to prevent contamination of groundwater and aquifers which may include but are not limited to the following:
  - a. Impermeable surfaces
  - b. Covered storage areas
  - c. Leachate and surface water runoff collection and treatment systems
6. Ensure the existing fugitive dust management plan is updated and maintained as required.
7. Existing Environmental Management Plan and respective spill response procedures be updated and maintained as required. The most recent available plans are from 2015 and are required to be updated every five years. Consideration for mitigation actions should be given to the scenario that contamination of the groundwater does occur.

In addition to the above, Island Health also offers the additional recommendations based on healthy built environment, climate change adaptation, and other impacted agency considerations:

- Cumulative environmental and groundwater impacts with the existing and proposed industrial and commercial uses in the area be considered. Aquifer 161 which underlies this property is reported as being a highly vulnerable aquifer which is susceptible to surface contamination and having a high transmissivity which can allow for rapid transport of potential contaminants<sup>1</sup>. Watershed level monitoring, conducted by the CVRD, is encouraged.

#### References

<sup>1</sup> Barriso, S., Ormond, R., and Lapoene, P. (2015). Groundwater Quality Survey of Aquifers in South Wellington, Cassidy and North Oyster, Vancouver Island retrieved from [https://a180.gov.bc.ca/pub/acat/documents/r52354/WSBGWQ\\_SWCND\\_1491601289654\\_1600967141.pdf](https://a180.gov.bc.ca/pub/acat/documents/r52354/WSBGWQ_SWCND_1491601289654_1600967141.pdf)

**Organization:** Island Health (second response)  
**Name/Title:** Stacey Sowa

**Date of Response:** August 23, 2023

**Level of Support:**

**Comments:**

**Re: Rezoning Application CVRD File: 03-H-16-RS (Schnitzer Steel) - Electoral Area H - 13271 Simpson Road PID 008-903-603**

Island Health provided preliminary comments to the above mentioned rezoning application on July 18, 2023. Upon receipt of the referral on July 24, 2023, Island Health – Environmental Public Health (EPH) reviewed the new information made available at this link: [3-H-16 RS | 13271 Simpson Rd \(Schnitzer Steel\) | Plan Your CVRD \(planyourcowichan.ca\)](#) for the proposed amendments to Electoral Area H Zoning Bylaw, to establish a new I4 – Industrial Recycling Zone at the aforementioned property. The property is currently zoned as I1 – Light Industrial and the existing use is non-conforming to the current zoning designation.

Based on the information, this office does not have any additional recommendations to add to our preliminary comments and we encourage the CVRD to consider all of the recommendations previously made.

**Date of Response:** August 16, 2023

**Organization:** North Oyster Fire Department  
**Name/Title:** Florian Schultz, Fire Chief

**Level of Support:** Not Specified

**Comments:**

The applicant shall register a covenant on the property title requiring the installation of a water storage tank(s) with a minimum capacity of 66,000 gallons with a fire hydrant or other appropriate connection for fire protection purposes to the satisfaction of the Cowichan Valley Regional District prior to final building inspection.

The applicant shall be required to consult with registered professionals (engineers) to:

- Determine the impact of spills, runoff, overflow
- Design catchment and separation of spills & runoff
- Design the catchment to be able to handle fire suppression activities

All existing buildings shall be brought into compliance with the BC fire code / building code:

- all life safety related code infractions should be brought up to current building/fire code. For example: exit path requirements, emergency lighting, emergency exit lighting etc.
- fire code and fire department access should be brought up to current fire code
  - Div B, Part 3, Section 3.3 is pretty descriptive regarding 'Outdoor Storage'

**Date of Response:** August 28, 2023

**Organization:** Ministry of Environment and Climate Change Strategy, Compliance and Environmental Enforcement

**Name/Title:** Vahab Nazeri, Environmental Protection Officer

**Level of Support:** No comment

**Comments:**

Ministry of Environment and Climate Change Strategy (ENV) can not provide comments on rezoning application as it is out of the ENV's jurisdictions. However according to the Ministry Authorizations Management System, publicly available at

<https://j200.gov.bc.ca/pub/ams/Default.aspx?PossePresentation=DocumentSearch>, Schnitzer Steel Canada Ltd., Located at **13271 Trans Canada HWY, Cassidy, BC**, has the following Authorizations with ENV:

- Authorization# 108418 under [Hazardous Waste Regulation](#)
- Registration# 100462 under [Vehicle Dismantling and Recycling Industry Environmental Planning Regulation](#)

Additional information may be found in the following links:

- Publicly available inspection reports: <https://nrced.gov.bc.ca/records;ms=643;currentPage=1;pageSize=25;sortBy=-dateIssued>
- Waste Discharge Authorizations process: <https://www2.gov.bc.ca/gov/content/environment/waste-management/waste-discharge-authorization>
- Hazardous Waste Legislation and regulation: <https://www2.gov.bc.ca/gov/content/environment/waste-management/hazardous-waste/legislation-regulations>
- Vehicle Recycling and Dismantling: <https://www2.gov.bc.ca/gov/content/environment/waste-management/industrial-waste/vehicle-recycling>

The Ministry's Authorizations team can also be reached through the Waste Discharge Application Enquiry portal at: <https://forms.gov.bc.ca/environment/wda-enquiry/>

**Date of Response:** September 7, 2023

**Organization:** Ministry of Agriculture and Food

**Name/Title:** Reed Bailey, Land Use Planner

**Level of Support:**

**Comments:**

Thank you for providing the opportunity for Ministry of Agriculture and Food (Ministry) staff to comment on File 03-H-16-RS that proposes to rezone the Subject Property from I-1 (Light Industrial) to I-4 (Industrial Recycling) to permit the existing auto/metal recycling use that is occurring on the Subject Property. From an agricultural planning perspective, Ministry staff offer the following comments:

- Ministry staff note that the Subject Property has been used for industrial activity since the early 1970's, that the applicant is solely seeking to legalize their existing operation and that no new structures are proposed to be constructed.
- Ministry staff also note that an existing vegetative buffer exists between the Subject Property and the adjacent properties to the east that are located within the Agricultural Land Reserve (ALR) and appear to be used for forage production.
- Ultimately, the proposed rezoning is unlikely to impact agriculture on the adjacent ALR properties to the east or other ALR properties in the surrounding region.
- If in the future, the owner proposes to use the Subject Property for a different use or construct any buildings/facilities, Ministry staff would appreciate the opportunity to comment on the prospective application.

Please contact Ministry staff if you have any questions regarding the above comments.

**Date of Response:** August 21, 2023

**Organization:** Ministry of Environment, Aquatic  
Habitat Branch

**Name/Title:** Nicholas Schwetz, Riparian Areas  
Biologist

**Level of Support:** Support with conditions

**Comments:**

Industrial development is subject to the Riparian Areas Protection Regulation. It is recommended that streams (defined term) on and adjacent to the subject property are identified and corresponding setbacks are known prior to rezoning approval to ensure regulatory restrictions are known and informed.

**Organization:** Regional District of Nanaimo

**Name/Title:** RDN Board

**Comments:**



At the September 7<sup>th</sup>, 2023 EASC meeting the RDN Electoral Area Service Committee passed the following on the Request for Endorsement of Comments on Cowichan Valley Regional District Rezoning Application, 13271 Simpson Road, Electoral Area H, Cowichan Valley Regional District

It was moved and seconded:

1. That the Board provides the following comments in response to the Rezoning Application referral from the Cowichan Valley Regional District dated July 21, 2023 with respect to 13271 Simpson Road, in Electoral Area H of the Cowichan Valley Regional District:
2. In response to community concern about aquifer protection, the Regional District of Nanaimo requests that Schnitzer Steel's Environmental Management plan address the protection of the Cassidy Aquifer and that any surface water runoff is captured in an oil/water separators to avoid the contamination of the aquifer; and,
3. Request that screening and buffering along the Trans Canada Highway be a condition of approval.

CARRIED UNANIMOUSLY

**Date of Response:** November 23, 2023

**Organization:** Nanaimo Airport Commission

**Name/Title:** Don Goulard, Vice President,  
Operations & Regulatory Affairs

**Level of Support:** No comment

**Comments:**

Allowable Heights:

- Schnitzer Steel's request to operate to a maximum height of 10 meters is acceptable.

Permitted Uses:

- Schnitzer Steel's existing use does not impact airport operations.

Noise Exposure:

- Schnitzer Steel's operations do not impact airport operations.

Associated Concerns:

- Aquifer protections.
- Environmental protections.
- Firefighting capabilities.