

To: Electoral Area Services Committee

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Subject: Framework for Consideration of Soil-Related Development Applications and Referrals

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RECOMMENDATION

THAT the Fraser Valley Regional District Board direct staff to apply the Framework for Consideration of Soil Related Development Applications and Referrals as a guide in the review and assessment of applications involving soil deposit.

BACKGROUND

The Fraser Valley Regional District (FVRD) has seen a significant increase in applications involving soil deposit. These applications range from Agricultural Land Commission (ALC) referrals to development permits, and soil deposit as a component of a temporary use permit. This surge coincides with an ongoing regional crisis involving illegal dumping and unauthorized soil deposit, which pose significant risks to both agricultural operations and the environment.

Despite the efforts by provincial ministries and enforcement agencies, addressing these activities remains a persistent challenge. Significant time and efforts by FVRD staff and Board have been devoted to understanding and considering these applications. This situation underscores the need for a more coordinated and structured approach to applications that involve soil deposit.

The FVRD is currently reviewing the following seven applications which involve soil deposit:

Application Type	Address	Description of Proposal
ALC – Fill Placement	10940 Stave Lake Road, Area F	To remove 5,750 m ³ of structural fill and relocate to 8,000 m ³ agricultural area to the east, on the property. <ul style="list-style-type: none"> • Fill placement area: 1.57 ha • Volume of fill: 7,850 m³ • Maximum depth of fill: 0.5 m topsoil on top of structural fill

ALC – Fill Placement	13028 Stave Lake Road, Area F	To construct a new barn and to create two 5-acre areas for alternating feed years for sheep. <ul style="list-style-type: none"> • Fill placement area: 3.24 ha • Volume of fill: 133,000 m³ • Maximum depth of fill: 5.85 m
ALC – Fill Placement	35225 Dale Road, Area F	To construct a new home and develop a tree farm. Fill will also elevate property within the floodplain. <ul style="list-style-type: none"> • Fill placement area: 1.13 ha • Volume of fill: 17,000 m³ • Maximum depth of fill: 2.3 m
ALC – Fill Placement	39088 Hawkins Pickle Rd & PIDs 000-535-539 & 000-535-541, Area G	To improve drainage and enhance agricultural capability. <ul style="list-style-type: none"> • Fill placement area: 18.5 ha • Volume of fill: 185,000 m³ • Maximum depth of fill: 1 m
Development Permit	PID 013-179-497, Area F	To improve the agricultural capability of the land to support the growing of hay for livestock. <ul style="list-style-type: none"> • Fill placement area: 3.6 ha • Volume of fill: 172,400 m³ • Maximum depth of fill: 5 m
Development Permit	11425 Hodgkin Rd, Area C	To create new road access to the barn and new house. <ul style="list-style-type: none"> • Had a NOI from ALC • Fill placement area: 1,170 m² • Volume of fill: 900 m³ • Maximum depth of fill: 0.8 m
Temporary Use Permit	38482 Bell Road, Area G	To elevate the property to permit RV storage within the floodplain recommended per flood hazard assessment. <ul style="list-style-type: none"> • Fill placement area: 6.45 ha • Volume of Fill: 250,000 m³ • Maximum depth of fill: 4 m

Each application involves unique considerations based on the FVRD's varying geographical and regulatory authority. In November 2024, the FVRD Board directed staff to develop a framework summarizing the FVRD's existing authority over soil deposit applications. This framework does not introduce new powers but clarifies the FVRD's roles and responsibilities.

By outlining the FVRD's authority based on application type and location, the framework aims to enhance staff evaluation, foster public trust, and provide clarity to stakeholders. While promoting consistency in regulatory application, it also accommodates flexibility where required—such as coordinating with the Agricultural Land Commission for applications within the Agricultural Land

Reserve. This approach ensures the framework aligns with legislative requirements while maintaining transparency in decision-making.

DISCUSSION

FVRD Authority

Most soil deposit activities are not regulated by zoning bylaws, as they are not considered land uses. In rare cases, soil treatment facilities may fall under zoning regulations. As a result, applications involving soil deposit fall outside the FVRD's land use regulatory framework and cannot be addressed through zoning bylaws, zoning amendments, or temporary use permits.

In the absence of a soil deposit bylaw, the FVRD's ability to regulate soil deposit activities is significantly limited. Reviews are restricted to a narrow scope, primarily through development permits and the FVRD's role as a referral agency for ALC Placement of Fill applications.

Discretionary vs Non-Discretionary Approvals

When reviewing development applications, it is necessary to distinguish between discretionary and non-discretionary approvals. The table below outlines the key differences between these approvals, including their characteristics and example applications.

	Discretionary Approval	Non-Discretionary Approval
Description	<ul style="list-style-type: none"> Requires a degree of judgment and evaluation by the FVRD Board, which can approve, refuse, or impose conditions on an application based on FVRD policies, guidelines, or site-specific considerations. This type of approval offers flexibility, as decisions are not automatic and may vary depending on the specifics of the application and its alignment with broader policy objectives. Evaluation involves a variety of reasonable considerations to ensure that decisions are well-informed and context-sensitive. 	<ul style="list-style-type: none"> Decisions are based on compliance with established policies and regulations, Evaluation cannot be based on the desirability of the development. Approvals must be granted where an application meets all prescribed requirements. These approvals are often limited in scope, following a procedural and objective process.
Example Applications	<ul style="list-style-type: none"> ALC Referral Zoning Amendment OCP Amendment Temporary Use Permit 	<ul style="list-style-type: none"> Development Permit Building Permit Commercial Gravel Operation Permit Campground/Holiday Park Permit

Application Types

Agricultural Land Commission Application Referrals

On January 8, 2025, FVRD staff met with Agricultural Land Commission (ALC) staff to discuss the roles and responsibilities of local governments and the ALC in reviewing applications related to soil deposit (fill placement applications) on Agricultural Land Reserve (ALR) lands. This discussion highlighted several key points:

Key Issue	Discussion
ALC Focus	The ALC prioritizes assessing the impacts of fill placement on farming on ALR lands. Their decisions are guided by Section 6 of the ALC Act , which ensures that proposals align with agricultural objectives and do not compromise the integrity of adjacent farmlands.
Purpose of Fill Placement	Fill placement should be directly tied to farm use, such as constructing agricultural structures or filling in areas of depression. The proportionality of fill placement to its intended agricultural purpose is central to the ALC's decision-making process .
ALC Review Process	The ALC reviews applications based solely on the evidence provided by applicants. As an administrative tribunal, the ALC does not usually solicit additional information. Applications with insufficient evidence - such as technical reports, qualified professional (QP) assurances, or mitigation plans for off-site impacts—are at risk of being refused.
Local Government Role	Local governments provide valuable on-the-ground insights and localized perspectives, offering greater capacity to review applications effectively. Local governments should also identify infrastructure concerns (e.g. roads and access), off-site impacts (e.g. drainage and traffic), and broad community impacts related to floodplains and flooding, which are factored into ALC decisions. The ALC does not forward applications to external agencies, such as the Ministry of Transportation and Transit.
Thresholds	Different thresholds apply depending on the scale and purpose of the fill placement. For example, filling a small depression to enhance farming activities may be acceptable, while property-wide fill placement undergoes greater scrutiny, particularly regarding drainage issues and impacts on the integrity of adjacent farm lands.
Drainage and Off-Site Impacts	ALC staff emphasized the importance of addressing drainage issues, particularly in cases of property-wide fill placement. The ALC also considers off-site impacts, such as flooding and infrastructure strain and the impact on the integrity of adjacent farmlands based on local government comments.
Technical Assessments	<ul style="list-style-type: none">• Agrologist reports are typically required to confirm the need for soil placement, ALC Policy L-23. Placement of Fill for Soil-Bound Agricultural Activities guides ALC decision-making.• The ALC lacks in-house expertise to assess technical reports, such as engineering or drainage plans, and relies on local governments to identify potential concerns with reports submitted at the time of application.

	<ul style="list-style-type: none"> • FVRD staff recognize the importance of technical reports in evaluating applications, however, the FVRD has limited authority to require their submission and cannot enforce implementation of report recommendations. • FVRD's role can be to identify gaps and concerns in the information provided and forward applications to the ALC with comments on unresolved or unaddressed issues.
Compliance Measures	To encourage adherence to approved conditions, the ALC may require significant financial security.
Handling Incomplete Applications	FVRD has the option to withhold incomplete applications from being forwarded to the ALC. However, once an application is forwarded, FVRD has no authority over the decision-making process and no mechanism to require compliance with recommendations.
Response Time	FVRD must forward recommendations and comments to ALC within 60 days of receiving the application referral.
ALC Decisions	Over the past year, the ALC has rendered decisions on 17 fill placement applications. Of these, 13 were either fully or partially approved, primarily involving proposals to retain existing fill on-site or place new fill for residential, agricultural, or access-related purposes. Notably, none of the approved applications permitted area wide fill placement, with the exception of one outlier involving the reclamation of a gravel pit.

FVRD Review of ALC Application Referrals

The FVRD has the responsibility of understanding application details before considering whether to forward the application to the ALC for their review and consideration.

In the past, FVRD staff have requested additional technical reports from applicants to better assess off-site impacts, such as drainage, broader flood impacts, access/egress, traffic management, and soil quality. The FVRD lacks the authority to require field reviews or post-construction reporting to verify compliance with these technical assessments. The FVRD is not the approving authority and the responsibility should sit with the agency with approval authority.

Given these limitations, staff recommend against requesting technical reports. Instead, the FVRD should consider:

- Identifying broader land use and community impacts, and,
- Highlighting gaps in technical reporting.

The FVRD's role should center on providing land use feedback, allowing the Board to either comment on applications or decline to forward applications to the ALC if significant concerns arise.

This approach **ensures clarity in roles, supports professional reliance on the ALC's expertise**, and relies on existing ALC policies that establish terms of reference for engaging with qualified professionals, including:

- [*P-10 Criteria for Agricultural Capability Assessments*](#),
- [*P-11 Expert Opinions in Agricultural Land Commission Matters*](#); and,
- [*P-12 Soil & Fill Publications and Reference Materials*](#).

By avoiding overreach of its authority, the FVRD can foster effective communication with the ALC to address incomplete applications and gaps in evidence.

Development Permits

Development permits have a narrow review scope, focusing exclusively on compliance with specific development permit area guidelines. They are not a comprehensive approval of all works but address only specific aspects of development. As non-discretionary permits, they must be issued if the application meets the established guidelines.

The Fraser Valley Regional District Development Procedures Bylaw No. 1377, 2016 delegates the authority to issue development permits (excluding form and character) to the Director of Planning. This bylaw also contains provisions that would allow:

- Applicants to request that their development permit application be considered by the Electoral Area Services Committee (EASC);
- The Director of Planning to refer a development permit application to EASC for a decision;
- An electoral area director to request that an application be considered by EASC; and
- EASC to refer a development permit application to the Board for decision.

An alternative to the current process, where the Director of Planning considers development permit applications would be to require staff to present soil deposit-related permits to EASC and Board for approval. However, having the Board consider and issue development permits may create the perception that the Board has discretion over their approval. This could mislead the public, as development permits are non-discretionary and cannot be used as a tool to address the community impacts or general merits of soil deposits.

To avoid this misconception, staff recommend retaining the **Director of Planning's** delegated authority. This approach reduces the risk of implying that the Board endorses or approves activities related to soil deposits.

The main development permit areas that would involve permitting around soil deposits would be development permits for geohazards and riparian areas.

1. Geohazard Development Permit Areas

- These areas are established to mitigate risks associated with geohazards such as landslides, flooding, or erosion. Applications in these areas require geohazard technical assessments to demonstrate that proposed activities, including soil deposits, will not exacerbate existing hazards or create new risks to the property or surrounding areas.

2. Riparian Development Permit Areas

- Riparian areas are designated to protect and preserve fish habitat and water quality by regulating activities that may disturb natural vegetation or hydrology. Permits in these areas ensure that soil deposits and other land alterations comply with guidelines to minimize impacts on riparian ecosystems and comply with applicable provincial and federal regulations. For example, for Riparian Development Permit Areas the works within 30 metres of a watercourse are only addressed and no other works are looked at or require authorization.

It is also important to note that some properties only fall partially within a development permit area (DPA) and only the area of the property within the DPA is required to follow DPA guidelines.

Agency Referrals and Information Sharing

Ministry of Transportation and Transit (MOTT) Highway Access Permits

On January 8, 2025, FVRD staff met with MOTT staff to review the process for highway access permits. These permits are issued by MOTT and are essential for ensuring the safe and efficient use of highways for multi-family, agricultural, industrial, and commercial properties. Single family dwelling properties except those in Hemlock Valley do not require a highway access permit. MOTT's focus during permit evaluations is to uphold highway safety and efficiency. The Ministry relies on its manual *Planning and Designing Access to Developments* when reviewing highway access permit applications. Below is a summary of key considerations discussed during the meeting regarding the evaluation of highway access permits.

Application Evaluation	Discussion
Access Points	Commercial vehicles are prohibited from parking or queuing on highways and access points should support two-way traffic.
Compliance and Enforcement	MOTT enforces permit conditions, reserving the right to remove access points if conditions are violated. Commercial Vehicle Safety and Enforcement (CVSE) may be engaged to monitor compliance with weight restrictions.
Haul Routes	Haul routes are key considerations during the review process for commercial, industrial, and agricultural properties. Permit conditions may restrict access times to minimize disruptions during peak hours or in sensitive areas. MOTT's Development Services team works closely with their Operations team to address traffic priorities.
Highway Maintenance	Requirements for wash stations or sweeper trucks are assessed case-by-case.
Internal Circulation	Internal traffic circulation plans are reviewed to prevent highway queuing and ensure efficient on-site traffic flow.
Location Review	Proposed locations are evaluated to ensure infrastructure, such as bridges with weight restrictions, can support increased traffic.
Traffic Management Plans	Developers or landowners may be required to implement traffic management plans, including access restrictions during non-peak hours, to reduce traffic flow impacts.

<p>Trip Generation</p>	<p>A traffic design report/traffic impact assessment may be required for:</p> <ul style="list-style-type: none"> • Developments generating more than 100 trips in the peak hour; • A change in the type or relocation of the access for a development that is generating more than 100 trips in the peak hour; • The peak hour volumes at any one access changes by increasing 20% or by 100 vehicles per hour; • The daily use of the access by vehicles exceeding 13,500 kg gross weight increased by 10 vehicles per day or more; or • A change in the traffic volume, type of access or relocation if the site generates fewer than 100 trips in the peak hour when the Ministry Traffic Engineer determines the proposed changes may adversely impact the operation of the access point or highway.
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The FVRD does not have jurisdiction over roads and highways within the Electoral Areas – they are the exclusive jurisdiction of MOTT. Where applications raise concerns related to traffic and community impact, the FVRD can refer information to MOTT. The FVRD does not have the authority to require professional review of traffic impacts or compel compliance with recommendations – this authority lies with MOTT.

Other Referral Agencies

Staff may also forward applications for comments or notification to the Ministry of Water, Land, and Resource Stewardship and the Ministry of Forests – Archaeology Branch where FVRD staff identify concerns related to their various jurisdictions.

Legal Considerations

In local government decision-making, considering legal advice is essential to protecting the FVRD and ensuring decisions are legally defensible. Staff recently consulted a lawyer regarding the FVRD's regulatory authority in reviewing ALC fill placement applications. The lawyer noted that the *ALC Act* creates a contradiction by classifying soil deposit as a non-farm use, even when intended to support farming. They emphasized that the FVRD's discretion under section 25(3) of the *ALC Act* is tied to its land use authority, meaning decisions should remain focused on land use considerations rather than indirectly regulating soil deposit. While the FVRD has some discretion to request information, excessively shifting away from land use concerns or delaying a decision indefinitely could be deemed unreasonable. Caution is advised in delaying decisions.

Consideration of Soil Deposit Bylaw

Soil deposit activities can have significant environmental and community impacts, requiring effective regulation. Under the Local Government Act (2015, s. 327), a soil deposit bylaw provides the authority to manage these activities. The FVRD Board has directed staff to include the development of a soil deposit bylaw in the 2025 budget and workplan. If adopted, this bylaw would enhance the FVRD's ability to mitigate development impacts and address community concerns by regulating soil deposit, as well as establishing permit requirements and associated fees. Following adoption, a review of the

Framework would be necessary to align development application practices with the FVRD's regulatory authority.

Framework

The considerations of this staff report culminate in a single framework document (Appendix A) that is intended to clarify the scope of existing regulatory authority available to the FVRD and to identify the **Board's preferred** direction in areas where the FVRD has the discretion in order to create a standardized approach for the consideration of application and referrals that involve soil deposits. This will result in a transparent process for applicants, staff and the Board.

The **Framework outlines FVRD's authority and provides a structured approach to evaluating soil deposit applications**, including those from the Agricultural Land Commission (ALC) and development permits.

COST

The development of the framework for the consideration of soil related development applications and referrals is an operational response to streamlining application/referral review and processing. This work is accommodated as an operational allocation of staff time in the Electoral area Planning budget.

CONCLUSION

The framework provides a guide in the review and assessment of applications involving soil deposits to efficiently address a growing number of these types of applications and referrals. By establishing the framework, the FVRD is providing a summary of the regulatory authority available to the Board. This will ensure a transparent, equitable, and standardized approach to managing applications and referrals that involve soil deposits while respecting the distinctions in authority.