

To: Electoral Area Services Committee

Date: 2025-07-10

From: Graham Daneluz, Director of Planning & Development

Subject: Update to the Framework of Considering Soil Related Applications & Referrals

Reviewed by: Jennifer Kinneman, Chief Administrative Officer

RECOMMENDATION

THAT the Fraser Valley Regional District Board direct staff to apply the revised *Framework for Consideration of Soil Related Applications and Referrals* as a guide in the review and assessment of applications and referrals involving soil deposit until such time as a soil deposit bylaw is adopted to broadly regulate soil deposit in FVRD Electoral Areas

BACKGROUND

In March 2025, the FVRD Board passed a resolution directing staff to apply the *Framework for Consideration of Soil Related Development Applications and Referrals* as a guide for the review and assessment of applications involving soil deposit.

FVRD does not have a Soil Deposit Bylaw to broadly regulate soil deposit activities in the Electoral Areas. A Soil Deposit Bylaw is currently in development and should come forward to the Board for consideration this summer.

The Framework stems from the awareness that larger soil deposit operations can have serious negative impacts on communities and the environment. And they are often contentious. In the absence of a Soil Deposit Bylaw, the Framework is intended to provide consistent approaches and parameters for operating within our scope of authority for:

- responding to referrals from the Agricultural Land Commission for non-farm uses involving soil deposit on ALR lands; and,
- the issuance of development permits that are not primarily intended to address soil deposit and only address narrow or limited aspects of soil deposit.

The Framework does not bind the decisions of the Board. It provides a guide to improve clarity, communicate anticipated approaches, and foster consistency in our analysis, approach and decision-making.

DISCUSSION

The purposes of this report are to:

1. provide an updated discussion on the limited discretion available to decision-makers when it comes to Development Permits; and,
2. amend the Framework to reflect the limited discretion with respect to Development Permits.

FVRD Development Procedures Bylaw No. 1377, 2016 allows decisions on development permits to be made by the Director of Planning & Development, the Electoral Area Services Committee and the FVRD Board. Irrespective of who is making the decision, the parameters - or the level of discretion - for the decision are the same.

If an application for a development permit meets the guidelines set out in the applicable Development Permit Area (contained in the Official Community Plan), the applicant is entitled to receive the permit. The limited discretion available to the decision-maker is to interpret the DPA guidelines and determine whether the application satisfies the guidelines.

There is some leeway in interpretation of the guidelines, including the balancing act of weighing potentially competing guidelines. In any case, the decision-maker must show that it properly considered the guidelines, and not extraneous factors. The legal standard for such decisions is whether **“the decision bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether the decision is justified in relation to the relevant factual and legal constraints that bear on the decision”**.¹

Where a decision-maker would refuse to issue a Development Permit on the basis that the application does not satisfy the DPA guidelines, the obligation is to advise the applicant of what they would need to do to change their application to comply with their interpretation of the Guidelines.

The revised Framework attached hereto as Appendix A, includes a slight change to reflect this limited discretion.

In a previous staff report, and in the March version of the Framework, decisions on Development Permits were described as non-discretionary. In fact, decisions on Development Permits involve limited discretion. It is important to clarify the level of discretion involved in such decisions, and to revise the Framework accordingly, so that decision-makers have most accurate understanding of the parameters they are working under and can recognize both the constraints and the opportunities available to them.

COST

¹ *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, which is the case in Canada that defines how courts review administrative decision (including decisions on development permits) and establishes ‘reasonableness’ as the standard.

There are no costs associated with this item.

CONCLUSION

The FVRD Board should direct staff to apply the revised *Framework for Consideration of Soil Related Applications and Referrals* as a guide in the review and assessment of applications and referrals involving soil deposit until such time as a soil deposit bylaw is adopted to broadly regulate soil deposit in FVRD Electoral Areas. The revised Framework reflects an improved understanding of the limited discretion available to decision-makers when considering the issuance or refusal of Development Permits.