



STAFF REPORT TO COMMITTEE

DATE OF REPORT March 6, 2025

MEETING TYPE & DATE Electoral Area Services Committee Meeting of March 19, 2025

FROM: Development Services Division
Land Use Services Department

SUBJECT: Application No. ALR24D01 (4697 Hillbank Road/PID: 009-550-275)

FILE: ALR24D01

PURPOSE/INTRODUCTION

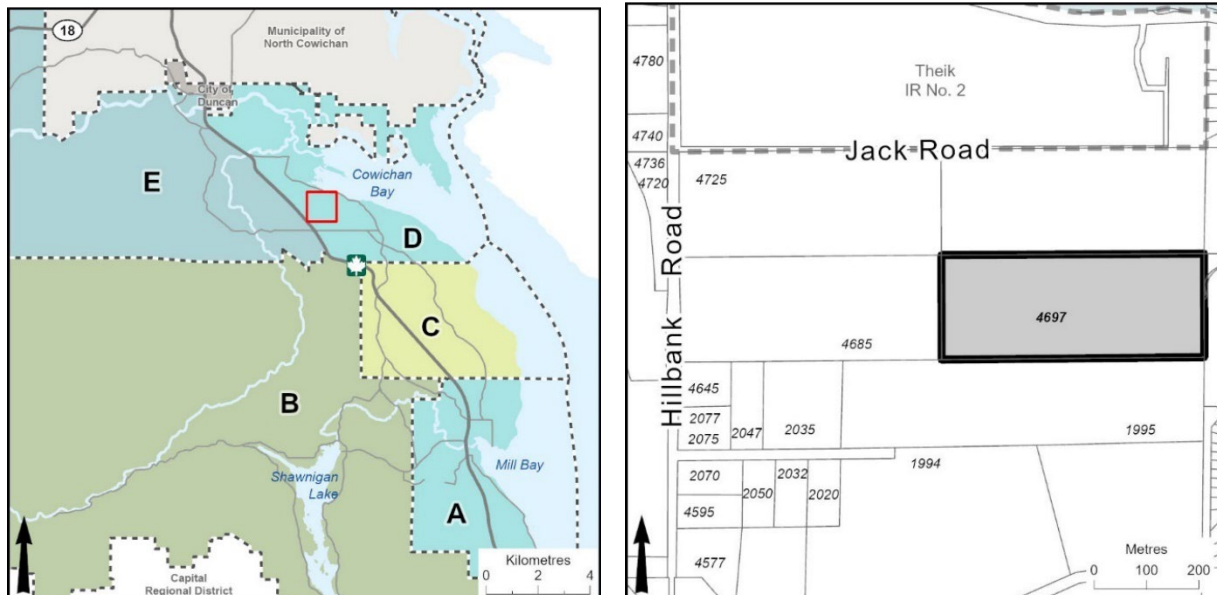
The purpose of this report is to introduce Agricultural Land Reserve (ALR) Application No. ALR24D01 for a *Soil and Fill Use* application.

This application (ALC file No. 70146) proposes to retroactively permit the placement of 457m³ of soil/fill within a 3,000 m² area of the subject property. The agent advises that the fill was necessary for the construction of a farm building (barn) and that the gravel space surrounding the barn is needed to store farm equipment. A letter of rationale was provided (Attachment A).

RECOMMENDED RESOLUTION

That it be recommended to the Board that Application No. ALR24D01 (4697 Hillbank Road/PID: 009-550-275) for a Soil and Fill Use application within the Agricultural Land Reserve be forwarded to the Agricultural Land Commission without comments.

LOCATION MAP



BACKGROUND

A 529.2 m² farm structure (barn with 'farm office', 'farm lunchroom', and 'farm first aid room') has been constructed in the area of fill placement without the prerequisite CVRD and ALR approvals.

- A farm building was approved in 2021 in a siting permit for a single-storey farm building for the purposes of hay and equipment storage.

- A Stop Work Order was issued in 2023 under the previous CVRD Building Regulation Bylaw on the basis that the structure, as constructed, significantly deviated from the approved farm building siting permit (21-D-298).
- Staff have been working with the owner and their agent since 2023 to obtain voluntary compliance with CVRD Bylaws. CVRD Building Regulation Bylaw matters have been resolved as of March 3, 2025.

Regarding the Deviations from CVRD Permit No. 21-D-298:

In March 2023 staff communicated with the owner that the deviations included a second storey, two residential suites, as well as a substantial amount of fill (gravel) deposit placed around the structure that require an ALC Approval. An in-ground reservoir and associated drainage swale were also observed on site.

- The agent advised in April 2023 that the suites had been deactivated and converted into an office and lunchroom (both of which have a bathroom and kitchen);
- The agent subsequently applied for a building permit for a principal residence elsewhere on the property in June 2023;
- The agent provided a memo from a Qualified Environmental Professional (QEP) in September 2024 advising that the reservoir and associated drainage swale were not subject to licensing/approvals under the Provincial *Water Sustainability Act* (WSA) or *Riparian Area Protection Regulation* (RAPR).
- The agent obtained an occupancy permit for the principal residence on February 27, 2025.
- The agent provided as-built drawings for the farm building on March 3, 2025, and the Stop Work Order was subsequently lifted.

Regarding the Fill:

The agent submitted a Notice of Intent (NOI) to the Agricultural Land Commission (ALC File No. 68219) in April 2023.

- The ALC released their decision in December 2023 and denied the Notice of Intent on the basis that retroactive approval for soil removal/fill placement cannot be accommodated through the NOI process and can only be considered under a Soil and Fill Application process (which involved review by both the ALC and Local Government).
- Following the denial of the Notice of Intent, the agent submitted the current Soil and Fill Application (ALC File No. 70146) in February 2024.
- The original notice of intent advised that a volume of 250 m³ of fill was placed in a 1,400 m² area; however, the Soil and Fill Application notes that the proposal is for a volume of 457 m³ of fill that has been deposited within a 3,000 m² area.

Regarding the 2023 Stop Work Order:

Construction on the farm building continued despite the Stop Work Order; however, there have been recent changes in CVRD policy/bylaws that impact the application. In particular, the CVRD Building Regulation Bylaw was changed in January 2024 and now include exemptions for farm buildings which are:

- less than 600 m² in building area;
- located on land classed as “*farm*” under the *Assessment Act*;
- are designed for low human occupancy as defined in the *National Farm Building Code of Canada*; and
- are constructed and sited in compliance with all applicable bylaws, enactments and regulations affecting the property.

The lands have been recently classed as “*farm*” under the *Assessment Act* – and the agent indicates that they have made agricultural improvements to the property, including the initial planting of a Christmas tree farm.

The agent has provided updated information on the building, and confirmed that their farm structure is now exempt from the building permit process (March 3, 2025). Consequently, the Stop Work Order was removed following a January 29, 2025, site inspection and receipt of as-built drawings in March 2025.

OFFICIAL COMMUNITY PLAN/POLICY CONSIDERATIONS

Official Community Plan for the Electoral Areas Bylaw No. 4270 (HOCP):

The subject property falls within the Renewable Resource-Agriculture land use designation. The Local Area Plan also designates the property as Renewable Resource-Agriculture.

- The overarching Residential designation in the OCP encourages the use of ALR land for agricultural production, including farming, orchards, vineyards, ranching and associated value-added activities.
- The LAP designation recognizes agriculture as an important sector of the economy and essential to the rural ambiance and beauty of the landscape. A primary goal of this local plan is to protect agricultural resource lands and the agricultural industry.

Development Permit Areas:

The subject property is currently subject to the following Development Permit Areas (DPA); however, some exemptions apply to farm practices:

- DP-1 Riparian Protection;
- DP-2 Sensitive Ecosystem;
- DP-4 Aquifer Protection; and
- DP-5 Wildfire Hazard.

Electoral Area D – Cowichan Bay Zoning Bylaw No. 3705:

The subject property is zoned Primary Agricultural (A-1), which permits agriculture, farm uses, and a single-detached dwelling as a permitted principal use. The agent and owner have been advised that should their farm operations expand, additional CVRD and ALC approvals are required to convert the 'farm office' and/or 'farm lunchroom' into farm worker housing.

COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

Internal Referrals:

In accordance with the [CVRD Development Application Referrals Policy](#), this application has not been referred to external agencies.

The application was referred to internal divisions; no objections were received (see Attachment F). It was noted that there may be a violation under the *Water Sustainability Act* (WSA) for works in and about a stream as there appears to be instream works without a written authorization (i.e. modifying the nature of the stream at the outfall/overflow of the in-ground lined reservoir without a permit). The CVRD has confirmed that a Natural Resource Violation Report (NRVR) has been submitted to the Province. Since the owner's QEP (Madrone Environmental Services Ltd.) has identified that waterbody is not subject to RAPR, this is primarily a Provincial area of jurisdiction.

Decisions under the *Water Sustainability Act* (WSA) are independent from Agricultural Land Commission (ALC) decisions. An ALC approval does not create an obligation for the Ministry of Water, Land and Resource Stewardship (WLRS) to issue a 'a Change Approval' under Section 11 of the *Act*. The Province of B.C. reserves the right to seek instream and/or riparian remediation for changes in and about a stream which could include relocation- or removal- of fill.

PLANNING ANALYSIS

The current Harmonized Official Community Plan (HOCP) was adopted on November 10, 2021, (with some amendments in 2022 and 2023).

The strengthening of food and agricultural systems for food security is identified as a key CVRD goal within the Harmonized Official Community Plan. To achieve this goal, the OCP includes policies to encourage local agricultural production and the preservation of the ALR.

The ALC will determine if the fill is necessary for a farm use. The ALC cannot make this determination until the CVRD forwards the application to them for consideration. The CVRD Board can rely on HOCP Policy 4.3.2(10) which states that *the CVRD Board will only support non-farm uses that are beneficial to agriculture on parcels that have BC Assessment farm status*. The applicant has indicated that they have recently obtained BC Assessment Farm Status, and this is confirmed on www.bcassessment.ca.

ALR Application Nos. 70146 and No. 68219 state that the primary purpose of the fill is for farm equipment storage. The barn includes an office space, bathrooms, lunch room, first aid room, equipment storage and hay storage.

In June 2024, the ALC communicated that despite the 'non-farm use' classification on the application, ALR Application No. 70146 is for a "Soil and Fill Application" and not a "Non-Farm Use" application. The ALC advised that they had made changes to the ALC Portal as Soil and Fill Applications used to be called Non-Farm Use Applications (Placement of Fill). If the application is forwarded to the ALC for a decision, the Commissioners will determine if the fill placement on site is respective of normal farm practices. This determination can only occur if the CVRD advances the file to the ALC for a decision.

The Commission has clarified that Soil & Fill applications and NOIs require the submission of information specific to:

- Total floor area of the proposed structure(s);
- Intended use of the proposed structure(s); and
- Amount of proposed fill and why its required.

In June 2023 the Agricultural Land Commission has published "[Necessary Farm Use Structures in the ALR Guidelines](#)" which includes (but is not strictly limited to) the following:

- A necessary farm use structure must be demonstrated to be required for farm use on a property, or planned farm use;
- Bathroom fixtures should be limited unless the need for an additional fixture such as a shower is demonstrated for specific farm purposes such as "shower-in, shower-out" for biosecurity requirements, etc.;
- Fill placed concurrently with a farm structure should be limited to 1,000 m² unless an approval from the ALC is obtained;
- Farm use structures should generally be single-story only (mezzanine acceptable) unless a farm use need is demonstrated;
- Necessary farm use structures should not be designed to include, or be easily converted to; residential, accessory residential uses, or non-farm uses; or include excessive storage areas not justified for farm use; and
- Necessary farm use structures should be commensurate with the size and scale of the agricultural operation.

The ALC will determine if the farm structure is necessary based on the scope and scale of both existing and planned farm uses. The ALC cannot make this determination until the CVRD forwards the application to them for consideration.

OPTIONS

Option 1:

That it be recommended to the Board that Application No. ALR24D01 (4697 Hillbank Road/ PID: 009-550-275) for a *Soil and Fill Use* application within the Agricultural Land Reserve be forwarded to the Agricultural Land Commission without comments.

Option 2:

That it be recommended to the Board that Application No. ALR24D01 (4697 Hillbank Road/ PID: 009-550-275) for a *Soil and Fill Use* application within the Agricultural Land Reserve be forwarded to the Agricultural Land Commission with comments.

NOTE: A CVRD comment could be that *"the CVRD Supports farm uses and non-farm uses that are beneficial to agriculture on parcels that have BC Assessment farm status. The Current A1 – Agricultural Resource Zone permits agriculture, farm uses designated by statute or regulation, residential uses, and accessory residential uses."*

Option 3:

That it be recommended to the Board that Application No. ALR24D01 (4697 Hillbank Road/ PID: 009-550-275), not be forwarded to the Agricultural Land Commission.

Prepared by:

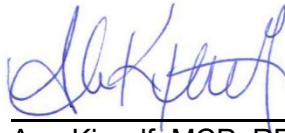


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Reviewed for form and content and approved for submission to the Committee:

Resolution:

☒ Corporate Officer

Financial Considerations:

☒ Chief Financial Officer

ATTACHMENTS:

- Attachment A – Rationale Letter
- Attachment B – ALC NOI Submission 68219
- Attachment C – ALC Soil/Fill Submission 70146
- Attachment D – Site Plan & Floor Plans
- Attachment E – Madrone Environmental Services Ltd. Memo
- Attachment F – Site Visit Photos (01-29-2025)

Attachment G – Internal Referrals