

**Assessment of Local Legislative Framework
for Protecting Farmland
Capital Regional District, British Columbia
August, 2017**

SUMMARY

The legislative framework for the protection of agricultural land in the Capital Regional District (CRD) is **moderate**. The strongest aspect of the framework is its commitment to containing urban growth within already-developed areas. There is a corresponding commitment to protecting farmland as an important element of the framework to help manage growth and find a balance among land uses. Within the framework, farmland serves to protect the integrity of rural areas and achieve a vision of protected “green and blue” spaces, i.e., open spaces, natural areas, and water bodies. Refer to Table 1 (at the end of this report) for a summary of the legislative framework for protecting farmland.

Strength of Local Legislative Framework: Summary Assessment

	Overall Strength	Maximize Stability	Integrate Across Jurisdictions	Minimise Uncertainty	Accommodate Flexibility
Capital Regional District, BC	Moderate	***	**	****	***

*=Very weak; *****=Very strong

ABOUT THE SITE

The Capital Regional District is located at the southern end of Vancouver Island in southwestern British Columbia (BC) (Figure 1), which is also home to the City of Victoria, the provincial capital. The District covers the Greater Victoria metropolitan area (which is made up of 13 municipalities), Juan de Fuca Electoral Area, Salt Spring Electoral Area, and Southern Gulf Islands Electoral Area. Altogether, the total land area is 2,340 square kilometres.

The demand for urban development in this area is high, particularly in the areas closest to Victoria, with considerably less demand in the Electoral Areas. The demand for development is especially strong in the “core” region around Victoria, and high in the west shore and Saanich Peninsula. The area has seen a steady increase in population over the past 20 years with annual growth rates fluctuating around 1%, with a current population of 383,360 (Canada Census 2016). The Regional Growth Strategy (RGS) is based on a moderate 1% annual growth rate that will lead to a population increase of 90,000 by 2021. About only one-third of the Regional District land base is suitable for development. Most of the Juan de Fuca Electoral Area, which is a substantial land area, is mountainous and forested. An additional constraint on development is reflected in the region’s vision of a “Sea to Sea green/blue belt” that integrates protected ecological areas, working resources lands (forests and agriculture), green corridors, and marine environments (Figure 2). With these constraints, the emphasis is on compact urban development with higher densities in the metropolitan core (Figure 3).

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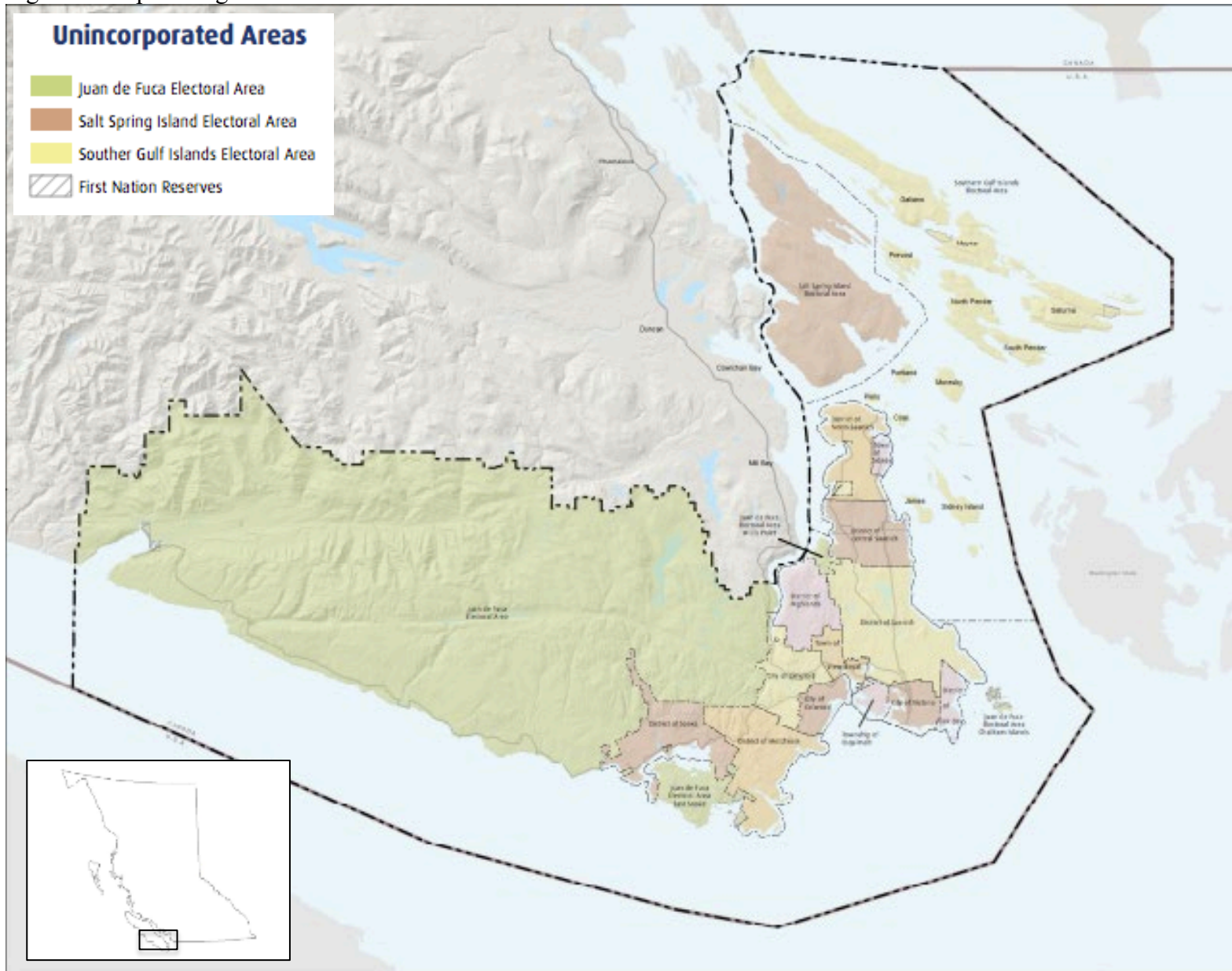
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The Regional District has 10,600 hectares of ALR land (Food and Agriculture Strategy, 2016), much of which has prime agricultural capability. Most of this agricultural land is on the Saanich Peninsula, with smaller areas throughout the region. The San Juan River valley near Port Renfrew is an area in the District with a significant ALR lands (Figure 4). The Jan de Fuca Electoral Area includes approximately 2,120 hectares of ALR land (CRD Bylaw 3591). In the more developed areas of the Regional District, the pressure for conversion or alienation of agricultural land is high as a result of demand for rural residential estates, wildlife habitat, environmental protection, and recreation. As a strong concern expressed in the Central Saanich Agricultural Area Plan (2011), “non-farming uses are competing more intensively for farmland.”

The legislative framework for protecting farmland in BC is very strong. The *Agricultural Land Commission (ALC) Act*, enacted in 1973 with major revisions in 2002 and 2014, established the ALR and the ALC. The ALC is a quasi-judicial tribunal that is responsible for implementing the Act with a clear mandate to protect farmland. The ALR is restrictive land zoning that protects all classes of agricultural land. The ALC Act is supported by the Agricultural Land Reserve Use, Subdivision, and Procedure Regulation and the *Farm Practices Protection (Right to Farm) Act*.

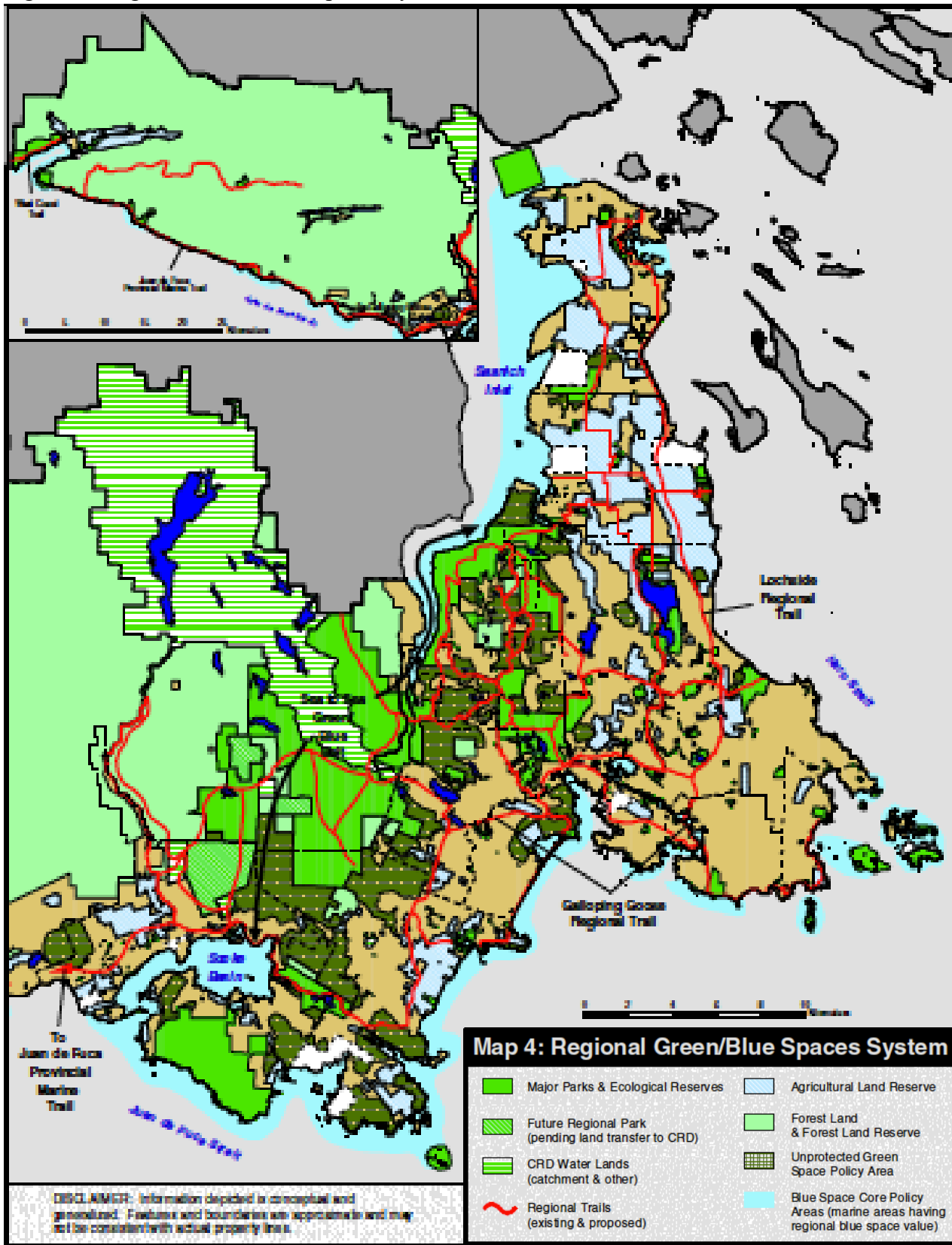
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Figure 1. Capital Regional District Administrative Boundaries



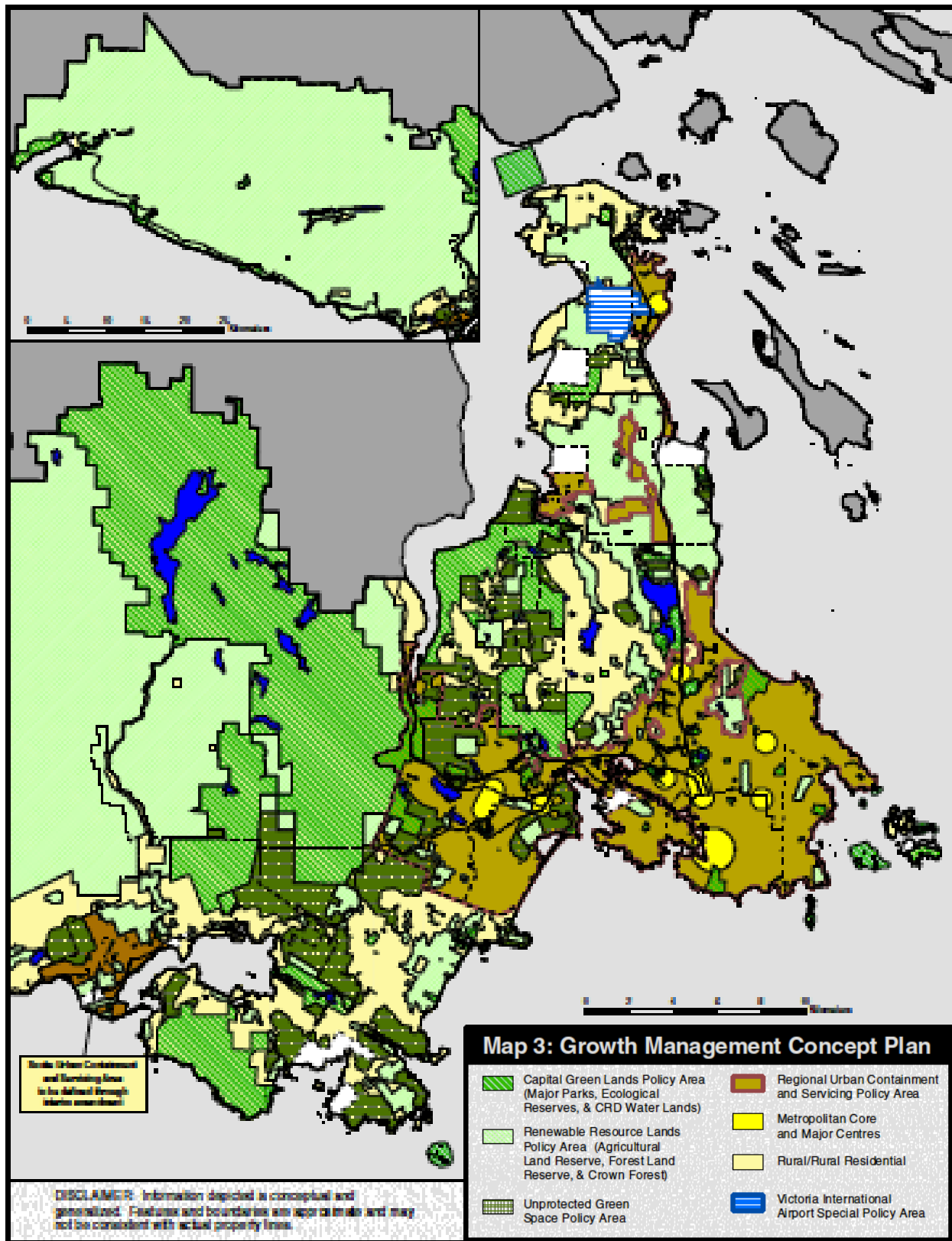
Source: Capital Regional District

Figure 2. Regional Green/Blue Spaces System



Source: Capital Region RGS

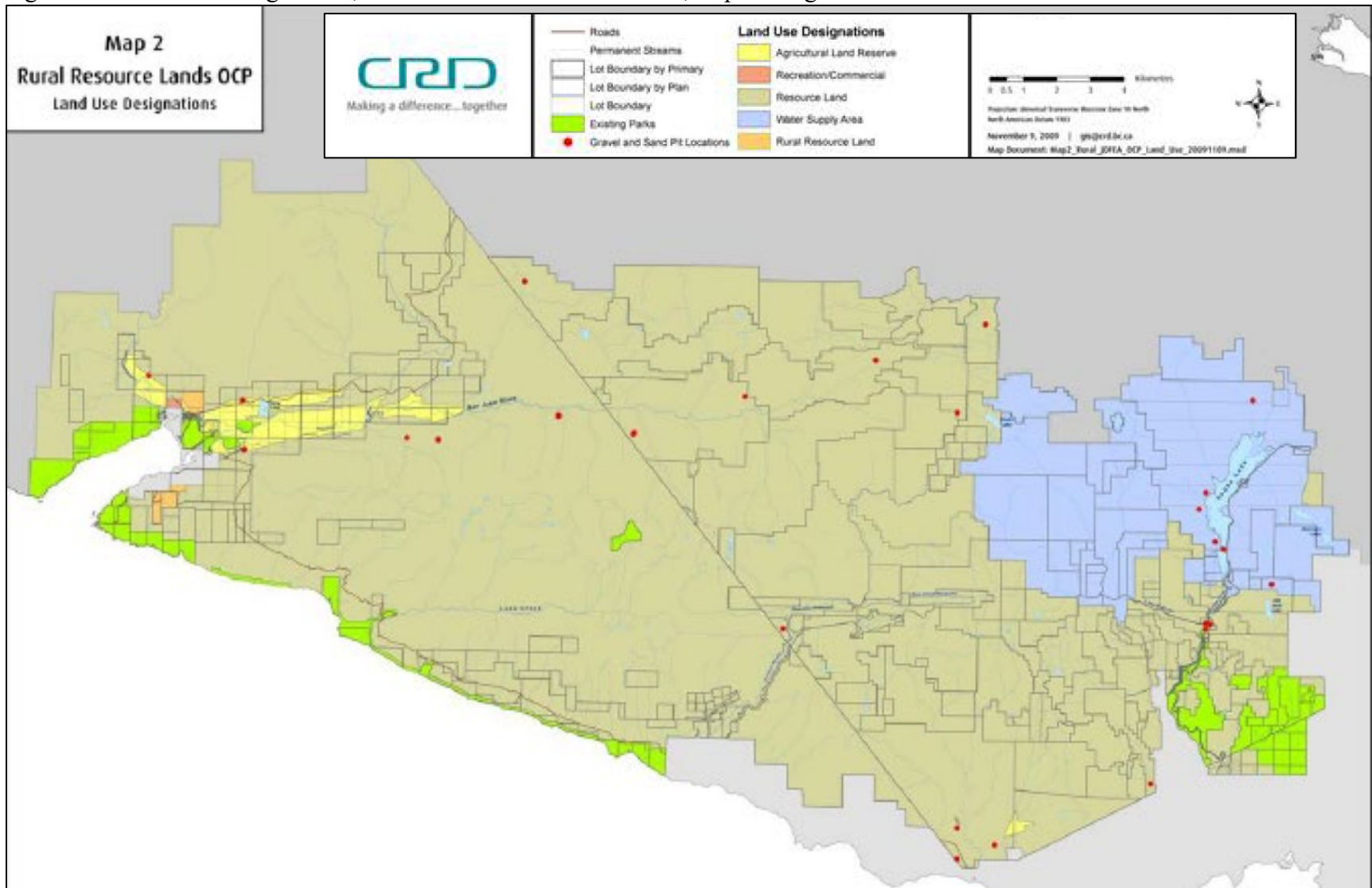
Figure 3. Capital Regional District: Urban Growth Boundaries



Source: Capital Region RGS

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Figure 4. Land Use Designations, OCP for Rural Resource Lands, Capital Regional District



Source: Capital Regional District, OCP for the Rural Resource Lands (2010)

RESULTS

Maximise stability

A stable legislative framework for protecting farmland is one that is not easily changed at the whim of shifting political interests; it is well-entrenched in acts of legislation, policy, and governance structures that are based on clear, concise language, and can hold up to court challenge. A key element of stability is a clear statement of purpose regarding farmland protection among the primary goals and objectives within each enforceable document. Thus, stability is a critical measure of the strength of an agricultural land use planning framework.

The Capital Regional District is rated moderate in maximising stability. Protecting agricultural land is a key element of the region's legislative framework, although not easily recognised as a key priority. Rather, protecting farmland is recognised as part of the region's important natural resource base and of the region's commitment to a protected 'green/blue' belt under the Regional Green/Blue Spaces Vision. This relationship between farmland protection and broader goals is evident in one of the strongest statements for protecting farmland. Under Initiative 1: Managing and Balancing Growth, the RGS states,

1.2 Protect the Integrity of Rural Communities

The Regional Growth Strategy seeks to protect the character and quality of rural communities, to ensure that they remain strongly rooted in the agricultural and resource land base, and that the rural countryside and natural landscape remain a durable fact of life in the Capital Region. It does this by designating for long term protection as Capital Green Lands and Renewable Resource Lands, those natural assets including major parks, ecological reserves, forests, farmland and watersheds identified in the Regional Green/Blue Spaces Strategy as the region's *green infrastructure*.

This commitment to farmland protection is derived from the planning principles initially established in 1998 to guide the development of and give purpose to the first RGS. These principles include recognition of agriculture as a regional value and a goal to "Maintain a secure and productive resource base, including the agricultural land and the forest land reserves." Protecting the agricultural land base is also clearly stated in the Regional District's OCP for the Rural Resource Lands (Bylaw No. 3591), which covers agricultural land in the San Juan River valley. However, as weaker aspects of the legislative framework, there is no specific section focussed on agricultural lands or background information on the agricultural sector.

The commitment to protecting farmland is somewhat supported by the Capital Regional District Food & Agriculture Strategy (2016). However, this strategy is critical of provincial legislation for farmland protection and does not recognise the role of local governments in agricultural land use planning for farmland protection.

Integrate public priorities across jurisdictions

Integrating policies and priorities across jurisdictions is a foundation for building cohesion across provincial, regional, and local governments. One can also think of integration as a formal "linkage" that provides consistency among them. In order to successfully integrate policies across jurisdictions there must be sufficient details about the legislative context that guides and constrains local government plans and strategies.

Integration across jurisdictions is rated weak for the Capital Regional District. Notably, there are minimal references to relevant provincial legislation. Although the RGS refers to the Province, there are no references to the *Agricultural Land Commission (ALC) Act*, the ALC, corresponding regulation,

the *Farm Practices Protection (Right to Farm)* Act, or other relevant legislation such as the *Land Title Act*. In the Appendix, the RGS refers to 14 provincial goals listed in the *Local Government Act*, which includes “Maintain a secure and productive resource base, including agricultural land and the forest land reserves.” The Regional District’s OCP for the Rural Resource Lands includes many references to all of the relevant provincial legislation, as well as reference to the Vancouver Island Land Use Plan (VILUP), which has a clear commitment to protecting farmland. Neither the OCP nor the VILUP are mentioned in the RGS.

The Regional District does a very good job of integrating its priorities with its member municipalities. This downward integration is frequently expressed as a policy or action item for which the municipal government must agree to an action or change its OCP. For example, under 1.2 of *Managing and Balancing Growth*, Action 1 states,

The CRD, member municipalities and the Province agree to establish or strengthen policies within the Official Community Plans, that ensure the long-term protection of Capital Green Lands depicted on Map 3 & 4. This would include policies aimed at buffering Capital Green Lands from activities in adjacent urban areas.

Other similar statements increase the level of integration between these two levels of government.

Minimise uncertainty

The presence of uncertainty, typically introduced via ambiguous language, exceptions or gaps, is a critical measure of the weakness of an agricultural land use planning framework. Thus, in addition to maximising the stability of a legislative framework through enforceable policies, people want to know they can rely on these rules and regulations to be applied consistently under different circumstances.

The Capital Regional District is rated strong in minimising uncertainty. The designation of a Regional Urban Containment and Servicing Area (RUCSA) is a clear commitment to containing urban development with a clear separation between urban lands and resource lands. The RGS also includes specific targets of how much growth they want to accommodate within the RUCSA. A particularly strong statement is in policy 1.1 of section 1. *Managing and Balancing Growth*, which states, “Locate a minimum of 90% of the region’s cumulative new dwelling units to 2026 within the Regional Urban Containment and Servicing Area.” This emphasis on managing urban development is iterated throughout the RGS, contributing to a consistent message. In addition, the region identifies a Metropolitan Core and eight other major centres, with targets for growth within these urban areas. Although the commitment to the RUCSA is very strong, the area includes some land in the ALR. The commitment to urban containment in the RGS is complemented by the OCP for the Rural Resource Lands, which contributes to consistency.

Accommodate flexibility

Creating an effective legislative framework is an act of balance, without being too stable so that it cannot be changed when needed or too strict so that it cannot be applied in a range of circumstances. Thus, flexibility is necessary in order to moderate the restrictive effects of maximising stability and minimizing uncertainty. The means to accommodate flexibility is typically done through governance mechanisms.

The Capital Regional District is rated moderate in accommodating flexibility. The most important elements of the framework are two governance mechanisms, the Juan de Fuca Agricultural Advisory Planning Commission and the Peninsula Advisory Planning Commission. These Commissions may make recommendations regarding amendments to OCPs and Zoning Bylaws, as well as matters that involve agricultural issues. Agricultural lands in the San Juan River valley, as covered

by the OCP for the Rural Resource Lands, are better protected via conditions and criteria set forth through policies that mitigate impacts of non-farm development.

Contributing to a weaker rating for accommodating flexibility is a lack of attention to the urban-rural interface or how conflicts between different land uses could be minimised. There is only a general reference to buffering under 1.2 Protecting the Integrity of Rural Communities. Requiring or encouraging the use of Development Permit Areas (DPAs), Agricultural Impact Assessments (AIAs), and other tools that can be used to accommodate flexibility would help to minimise urban-rural conflicts and accommodate urban growth while mitigating impacts on agricultural lands.

Table 1. Capital Regional District, British Columbia, Legislative Framework

	POLICY	LEGISLATION	GOVERNANCE
PROVINCIAL	<p>ALC] <u>Annual Service Plans</u> [MAL] <u>Strengthening Farming</u> [ALC] ALR and Community Planning Guidelines [Smith] “Planning for Agriculture”</p>	<p><i>Agricultural Land Commission Act</i> <i>Local Government Act</i> <i>Farm Practices Protection (Right to Farm) Act</i> <i>Forest and Range Practices Act</i> <i>Range Act</i> <i>Land Title Act</i> <i>Water Act</i> Agricultural Land Reserve Use, Subdivision, and Procedure Regulation</p>	<p>Agricultural Land Commission [ALC Act] <i>Administrative Tribunals Act</i> Governance Policy for the Agricultural Land Commission</p>
REQUIRED INTEGRATION	<p>LGA Part 25 849 Purpose of regional growth strategy (e) maintaining the integrity of a secure and productive resource base, including the agricultural land reserve</p>		
REQUIRED INTEGRATION	<p>ALC Act Section 46 Conflict with bylaws (2) A local government in respect of its bylaws and a first nation government in respect of its laws must ensure consistency with this Act, the regulations and the orders of the commission (4) A local government bylaw or a first nation government law that is inconsistent with this Act, the regulations or an order of the commission has, to the extent of the inconsistency, no force or effect ALC Act 13 Dispute resolution on community issues LGA Part 25 882 (3) (OCP) Adoption procedures 882 The local government must refer the plan to the ALC for comment. LGA Part 25 946 (3) Subdivision to provide residence for a relative</p>		
REGIONAL	<p>Regional Green/Blue Spaces Strategy (1997) Capital Regional District Food & Agriculture Strategy (2016)</p>	<p><i>Capital Regional Growth Strategy (Bylaw No. 2952, 2003)</i> <i>Official Community Plan for the Rural Resource Lands (Bylaw No. 3591, 2010)</i> <i>Vancouver Island Land Use Plan (2000)</i></p>	<p>Juan de Fuca Agricultural Advisory Planning Commission Peninsula Advisory Planning Commission</p>

Acts (provincial laws), bylaws (local government laws, e.g., official municipal plan) [italicised]

Enforceable policy, regulations pursuant to acts [bold]

Aspirational policy at all levels [plain text]

REFERENCES

Capital Regional District (2016). Setting Our Table: Capital Regional District Food & Agriculture Strategy. On-line: <http://www.crd.bc.ca/docs/default-source/regional-planning-pdf/food-agriculture/draft-regional-food-agriculture-strategy-web.pdf?sfvrsn=4>