

Assessment of Legislative Framework for Protecting Farmland Fraser Valley Area G, British Columbia August, 2017

SUMMARY

The strength of the legislative framework for Electoral Area G, Fraser Valley Regional District (FVRD), is **moderate** for protecting farmland. The framework documents express a clear, direct interest in protecting agricultural land and include supportive land use policies. However, the framework is weakened by the absence additional planning tools and integration with provincial interests. 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
FVRD Area G, BC	Moderate	***	***	***	***

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

ABOUT THE SITE

Electoral Area G is located in southwestern British Columbia (BC) and is one of the FVRD's seven Electoral Areas (Figure 1). Overall, there is currently low demand for urban development in Area G. The area has a small population of 1,776 (Canada Census, 2016) mostly residing in the villages of Deroche and Dewdney. Most rural development takes place on the lower slopes and alluvial fans with some isolated commercial uses along Lougheed Highway. Between 2006 and 2011 the area had a 7.8% decline in population from 1,914 people to 1,764 people. The current population represents only a 0.7% increase over the past five years. Two factors that may affect demand is potential development along the Lougheed Highway and spill-over demand from the City of Mission, the municipality adjacent to the western border of Area G. As stated in the OCP, population growth over the next 10 years "can easily be accommodated by the construction of new houses on existing properties without residences and by subdivision permitted under existing zoning."

Electoral Area G is a highly productive agricultural area. Over 52% of the total land base is agricultural, with 5,171 ha of prime land (mostly CLI Class 2) in the Agricultural Land Reserve (ALR) (Agricultural Land Use Inventory, 2011) (Figure 2). The major agricultural activity in the area is dairy production, producing 9% of BC's milk. Forage and pasture, used to feed the cows, accounts for 83% of crops in the area. Other popular types of farming include berry crops, turf, and nursey production. Gross farm receipts amounted to \$41,124,085 in 2010, growing about 18% since 2005 (taking into account adjustment for inflation) (Agricultural Land Use Inventory, 2011). Most of the agricultural land is within the floodplain where development is restricted. Correspondingly, the pressure on agricultural

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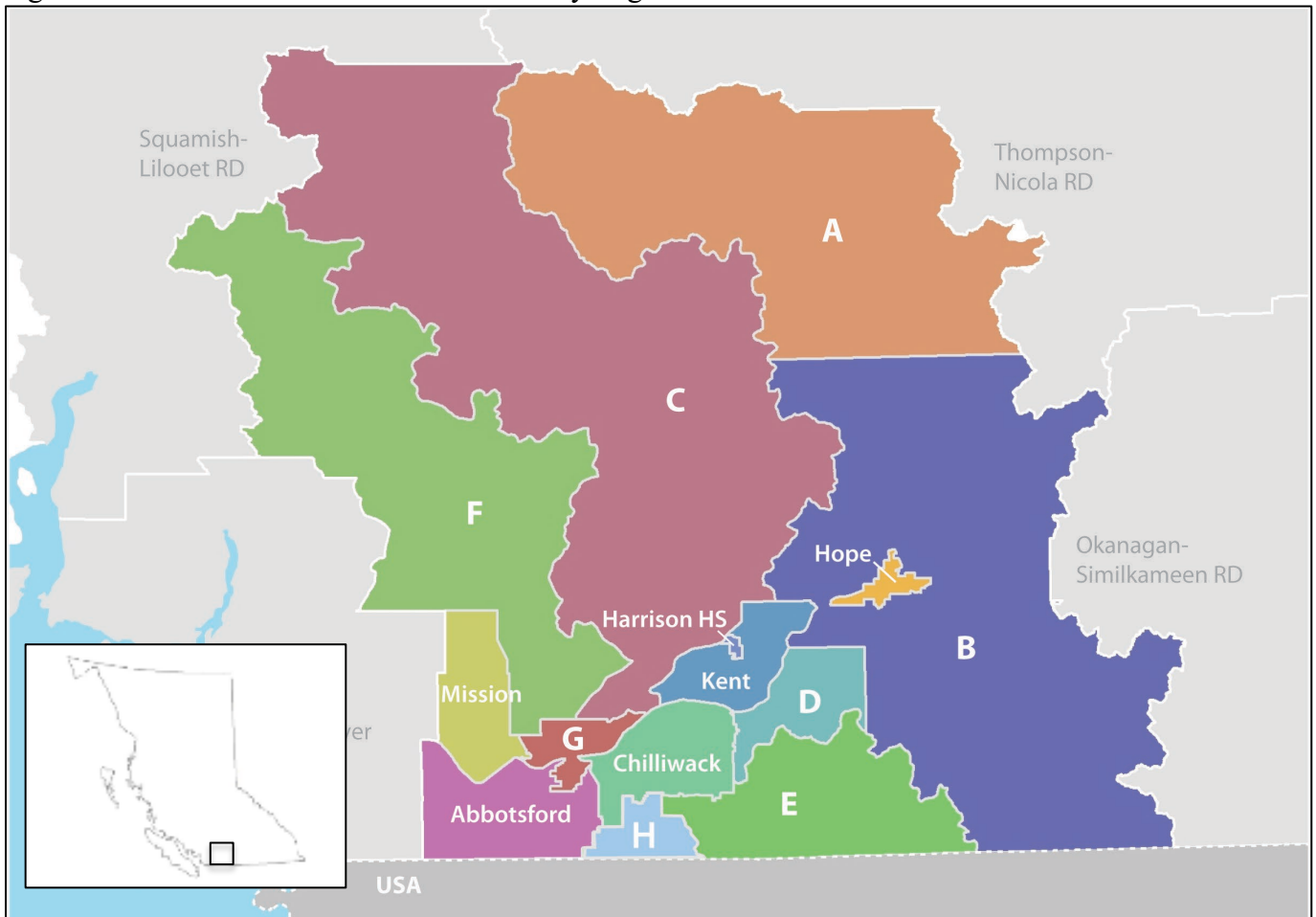
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land for non-farm development is low, although slightly higher in the “uplands” or more hilly area such as the Deroche Special Study Area, and closer to the Mission boundary (Figure 3).

The Regional Growth Strategy (RGS) of the FVRD, which was adopted in 2004, provides a layer within the legislative framework between the municipality and the province. However, the legislative framework for the protection of agricultural land in the FVRD is somewhat weak. The FVRD is concerned about negative impacts of future growth on the agriculture sector but does not express a clear commitment to protecting agricultural land. To the contrary, the FVRD has an interest in using agricultural lands for urban development. There is no region-wide policy for urban growth boundaries. It must be noted that the RGS is presently under review.

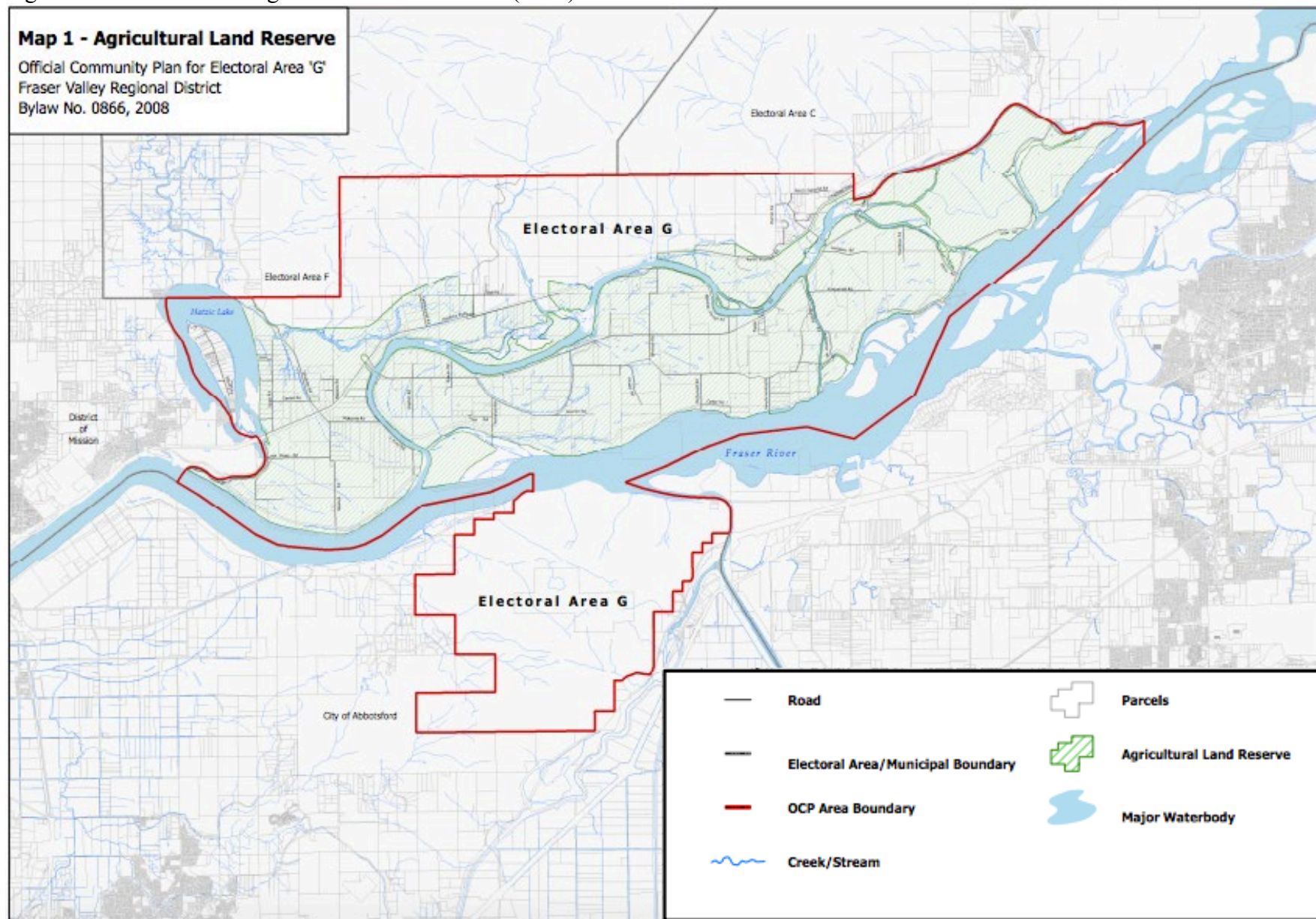
The legislative framework for protecting farmland in BC is very strong. The *Agricultural Land Commission (ALC) Act*, enacted in 1973 with major revisions in 2002 and 2014, established the ALR and the ALC. The ALC is a quasi-judicial tribunal that is responsible for implementing the Act with a clear 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*.

Figure 1. Electoral Area G in the Fraser Valley Regional District



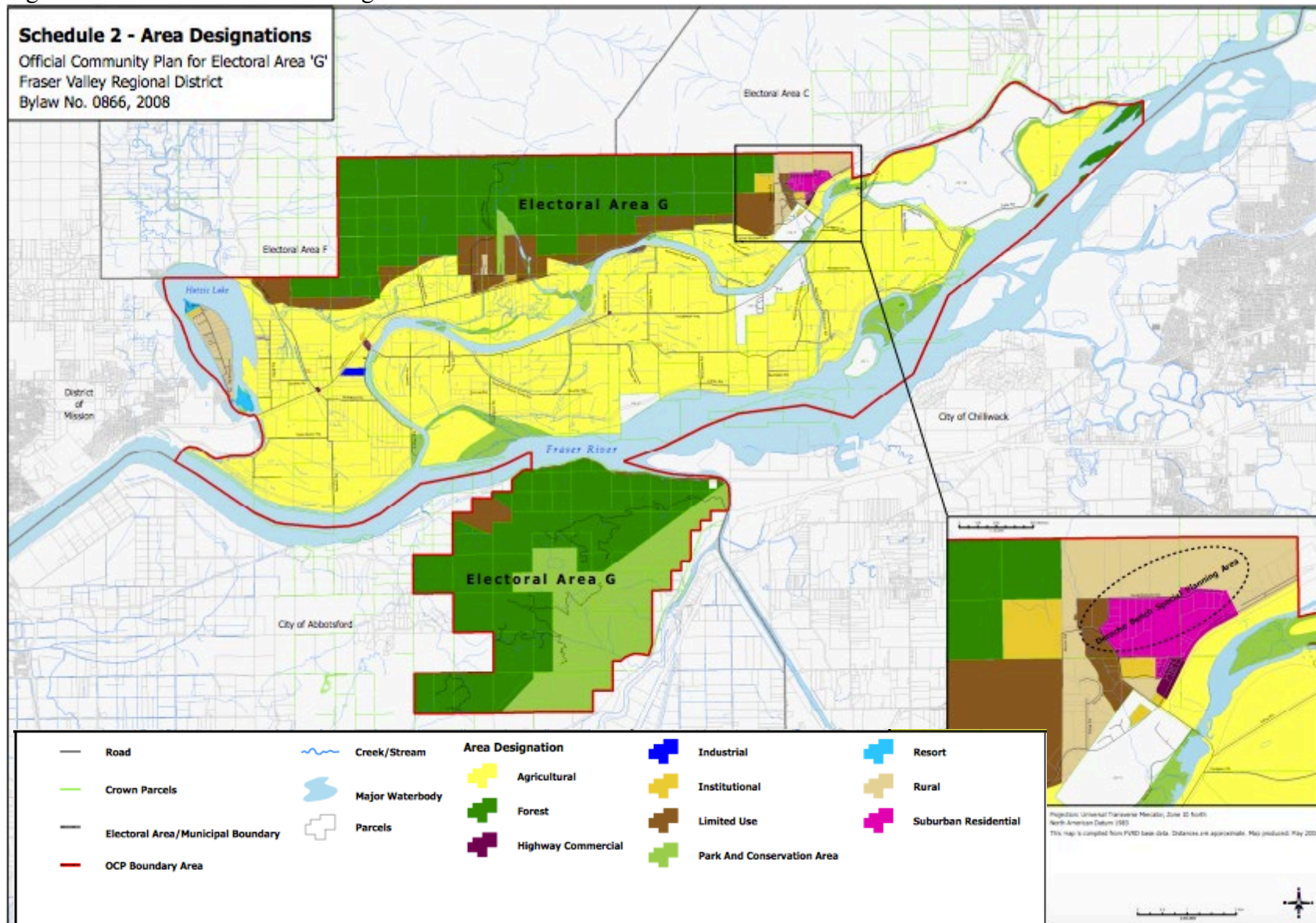
Source: Fraser Valley Regional District

Figure 2. FVRD Area G Agricultural Land Reserve (ALR)



Source: FVRD Area G OCP

Figure 3. FVRD Area G Area Designations



Source: FVRD Area G OCP

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 FVRD Electoral Area G is rated moderate in maximising stability. Importantly, the stated vision for the future of Area G refers specifically to the character and lifestyle associated with agriculture, which highlights its significance to the area. The strongest statement for the protection of agricultural land is the first Plan Objective in the Official Community Plan (OCP), which states, “Conserve agricultural land.” Although this statement is very strong, the supporting policies are only moderate or somewhat weak. There are two separate agricultural sections, one under Section 5.4: Agricultural Use (with 5 policies) and Section 6.1: Agricultural (AG) (with 16 policies). The strongest policy is 6.1.2, which states,

The agricultural economy and land base should be protected and enhanced by providing for a variety of uses, supplementary and ancillary to farm use which support farm incomes without jeopardizing the long term viability of farm land.

While “supplementary and ancillary” uses are clarified through the zoning bylaw, the OCP states these uses should help agricultural land, which contributes to stability. Furthermore, the words “protect” and “enhance” in the context of agricultural land also strengthen this statement. Policy 6.1.1 states, “Agricultural land shall be preserved by discouraging subdivision and fragmentation of farm parcels and the introduction of incompatible uses.” Policy 6.1.4 states that “AGRICULTURAL areas may be extended or created through Plan amendment where additional areas suited to farm production are identified pursuant to the Agricultural Land Commission Act.” These policies demonstrate a desire to retain land for agriculture and to increase the amount of ALR. A description of the history and background of agriculture in the area also demonstrates the importance of agriculture in Area G.

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 moderate for Area G. The OCP and zoning bylaw have many references to the ALC Act, as well as references to the *Local Government Act* in the context of agriculture. One policy that is particularly strong in integration is Policy 6.8.1, which states,

AGRICULTURAL areas in the Agricultural Land Reserve shall be used in accordance with the Agricultural Land Commission Act, regulations thereto, and Orders of the Commission. New non-farm uses on land within the ALR that are not exempted under Agricultural Land Commission Act must be approved by the Provincial Agricultural Land Commission and shall be in accordance with the standards of the Responsible Authorities.

This policy helps with integration because it recognises the authority of the ALC. Other important Acts such as the *Farm Practices Protection (Right to Farm)* and *Land Title Act* are not mentioned.

Area G has only minimal integration with the Regional Growth Strategy (RGS). The Regional Context statement, which is required, states that the OCP aligns with 6 of the 8 goals, including the RGS goal to “support and enhance the agricultural sector.” Demonstrating how the OCP implements this goal through policy would make integration stronger. In addition, given that the regional legislative framework is only somewhat weak for protecting farmland, the OCP could have demonstrated how the policies of Electoral Area G exceed the regional goal.

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.

Area G is rated weak in minimising uncertainty. It should be noted, however, that the pressure to develop agricultural land is low, meaning that addressing uncertainty is not a significant planning issue for the area. Nevertheless, the legislative framework does not address known concerns that contribute to uncertainty. Of note, under the Consultation section, the OCP acknowledges the need to coordinate with the District of Mission regarding land use, services, parks and other matters. However, this pressure for future development of agricultural lands is not addressed through detailed policy. Similarly, although aspects of transportation-related development are addressed in the OCP (see below), identifying specific areas would help to reduce uncertainty about where this development is most likely to take place.

Some policies help to minimise uncertainty. The Floodplain Agricultural Zone helps to minimise uncertainty because it does not allow any development in this zone. This makes agriculture much more viable in the area than urban development.

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.

FVRD Electoral Area G is rated moderate in accommodating flexibility. Three agriculture-related zoning designations (Upland Agriculture, Floodplain Agriculture, and Agricultural Market) incorporate policies and regulations that cover different uses and different minimum parcel sizes. In addition, several policies in the OCP recognise the need to consider and mitigate impacts of development on agricultural lands and farming. Under Agricultural Use, Policy 5.4.3 states,

The Regional Board will work closely with the Agricultural Land Commission to provide for a broader range of opportunities and land uses within the AGRICULTURAL Area Designation which are supplementary and ancillary to farm use and will not jeopardize the long term productivity of farmland.

This accommodates flexibility by recognising the pressure on agricultural land and suggesting that uses do not negatively impact the productivity of farmland. Policy 5.8.1 states support for any proposed new transportation or utility corridor of regional significance must demonstrate the following in relation to agriculture:

- b) the proposal minimises the disruption to existing communities and settlement areas, the consumption of agricultural land, the impact on the natural environment, and provides for safe and unrestricted movement of agricultural vehicles and goods in agricultural areas;
- d) the proposal does not adversely affect the drainage or productivity of agricultural land.

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Flexibility is also accommodated through Policy 5.4.4, which states, “Potential conflicts between intensive agricultural operation and other land uses should be minimized by establishing minimum separation distances between conflicting uses.”

Area G does not have an Agricultural Advisory Committee, or equivalent. These committees can be important governance mechanisms that help to accommodate flexibility by ensuring that agricultural interests are represented and considered in all land use planning decisions.

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Table 1. FVRD Area G, 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>		
REGIONAL	<p>Fraser Valley Regional Adaptation Strategy (2015) Agricultural Economy in the Fraser Valley Regional District (2011) Freshet Flooding & Fraser Valley Agriculture (2016) Fraser Valley Strategic Plan 2014-2018</p>	<p><i>Fraser Valley Regional Growth Management Strategy</i> <i>(Bylaw No. 569, 2003)</i></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>		
LOCAL	<p>FVRD- Electoral Area G Agricultural Land Use Inventory (2011)</p>	<p><i>Area G Official Community Plan</i> <i>(Bylaw No. 0866, 2008)</i> <i>Area C, F, and G Zoning</i> <i>(Bylaw No.0559, 1992)</i></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]