

Assessment of Local Legislative Framework for Protecting Farmland District of Kent, British Columbia August, 2017

SUMMARY

The legislative framework for the District of Kent for the protection of agricultural land is rated **strong**. The District has expressed a commitment to protecting agricultural land using strong language that is highly integrated with regional and provincial policies. This commitment is solidified by an Agricultural Area Plan (AAP), which is a sub-area plan for agricultural lands. The absence of explicit policies that constrain urban development weaken the legislative framework by exposing agricultural land to potential development. 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	Accommodat e Flexibility
District of Kent, BC	Strong	*****	*****	***	***

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

ABOUT THE SITE

The District of Kent is located in southwestern British Columbia (BC) and is part of the Fraser Valley Regional District (FVRD) (Figure 1). The demand for urban development is moderate. The District has a population of 6,067 (Canada Census 2016), which is an increase of 7.1% since 2011, but a slower rate of growth relative to the previous five years. This extended period of growth is significant for an area that is largely rural with a limited supply of developable land and significant areas in the floodplain. With expected increases in population and corresponding demand for residential housing, the aim is to accommodate future urban development primarily through densification, infill, and building on hillsides. However, some agricultural lands have been identified as sites to accommodate this future urban development.

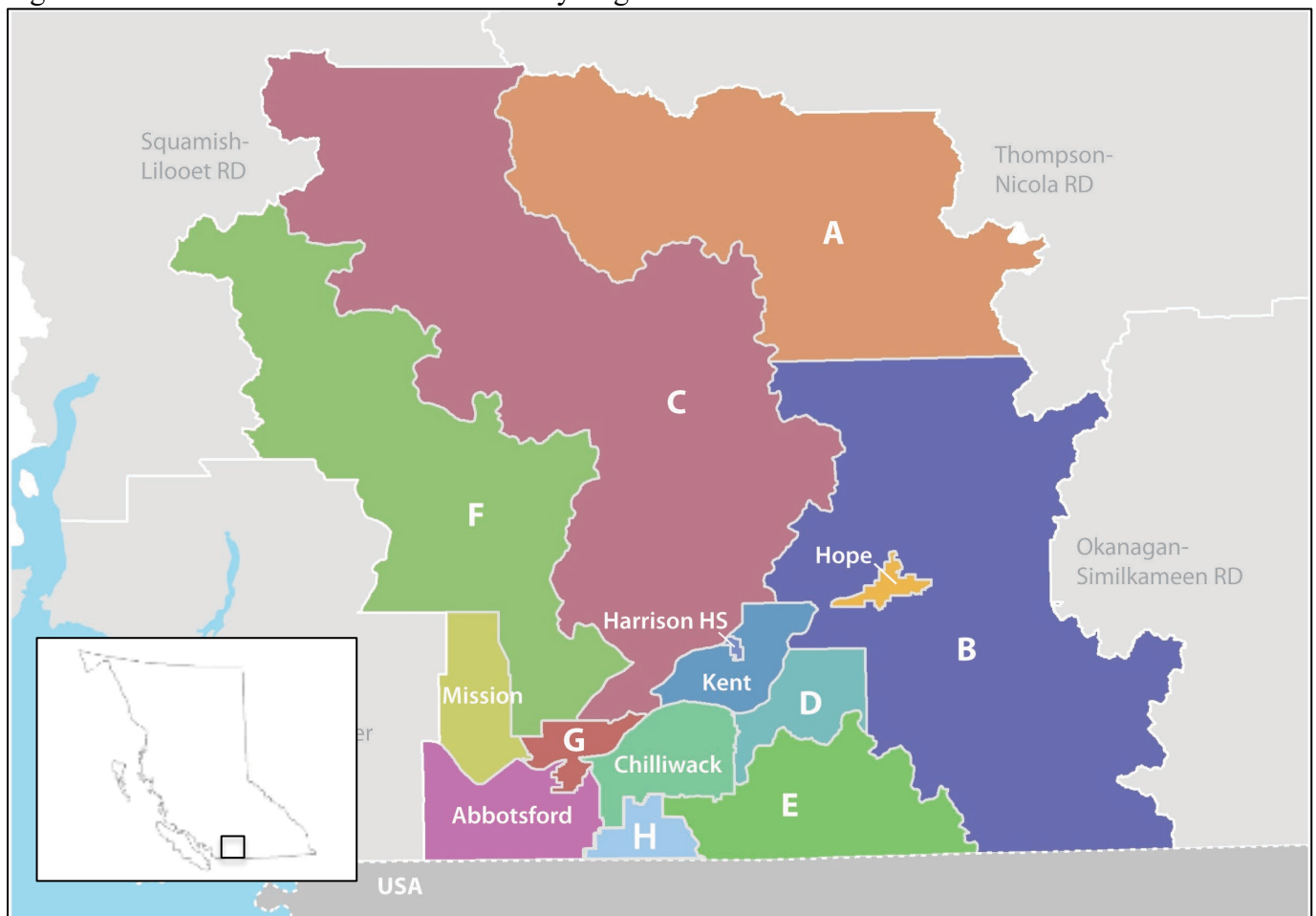
The agricultural land base (Figure 2), most of which is in the floodplain, is somewhat fragmented. Alongside agriculture and the Lougheed Highway, the floodplain is also home for the town of Agassiz, which is the most urbanised area of residential, commercial, industrial, and institutional uses (Figure 3). The UBC dairy Education and Research Centre is also located in Agassiz. Agriculture makes up just over one-third (35%) of the District's land base, or 6,502 ha of the 18,776 ha total area (Agricultural Land Use Inventory, 2013). Forage crops are the most popular type of crop in the District of Kent, accounting for 76% of all cultivated land (2,384 ha). Other crops include pastures (11%) and

berries (5%); as well as nut trees (83 ha), fibre/veneer/pulp trees (75 ha), nurse crops (46 ha) and vegetables (40 ha).

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.

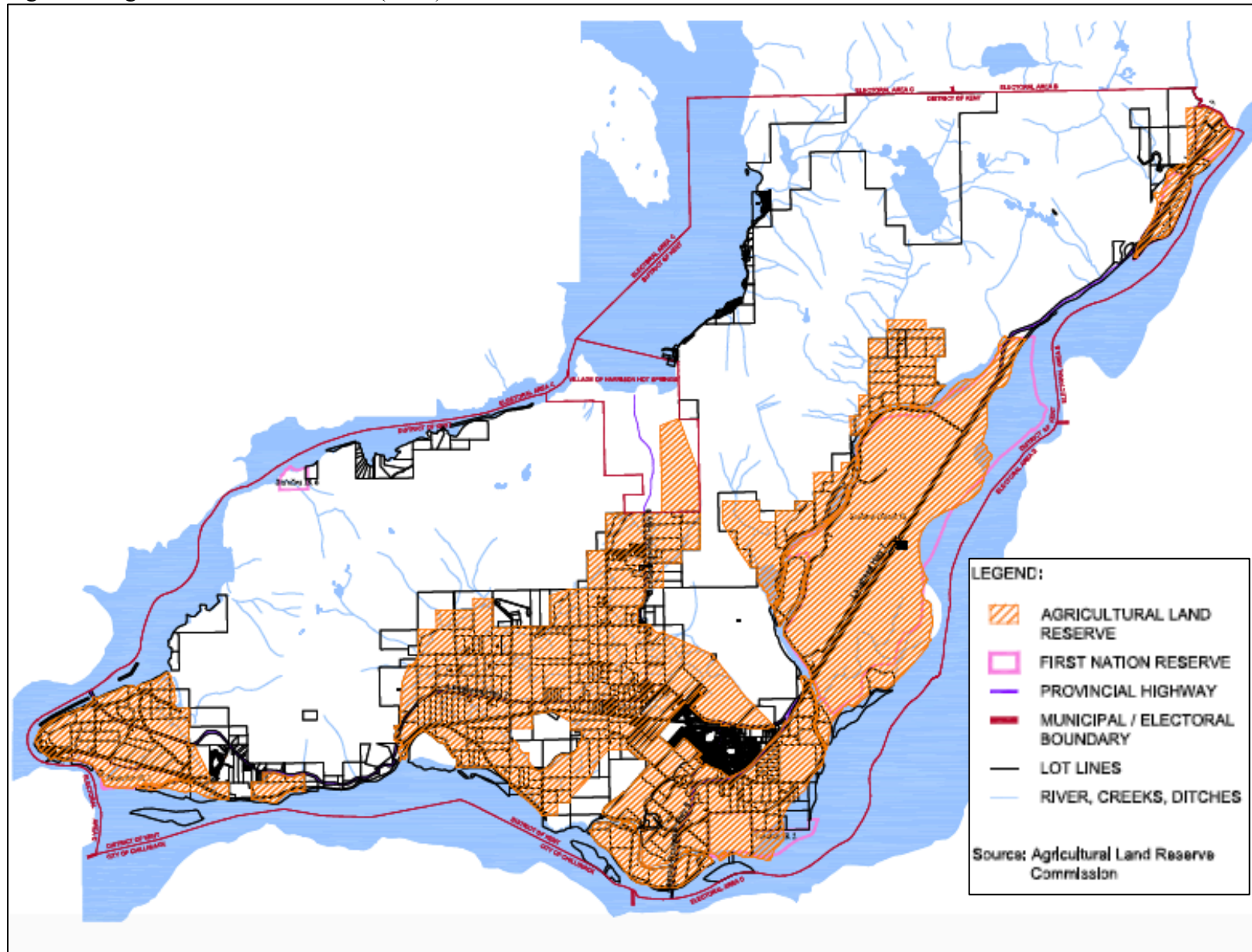
The legislative framework for protecting farmland in British Columbia is very strong. The *Agricultural Land Commission (ALC) Act*, enacted in 1973 with major revisions in 2002 and 2014, established the ALR and the ALC. The ALC is a quasi-judicial tribunal that is responsible for implementing the Act 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. District of Kent in the Fraser Valley Regional District



Source: Fraser Valley Regional District

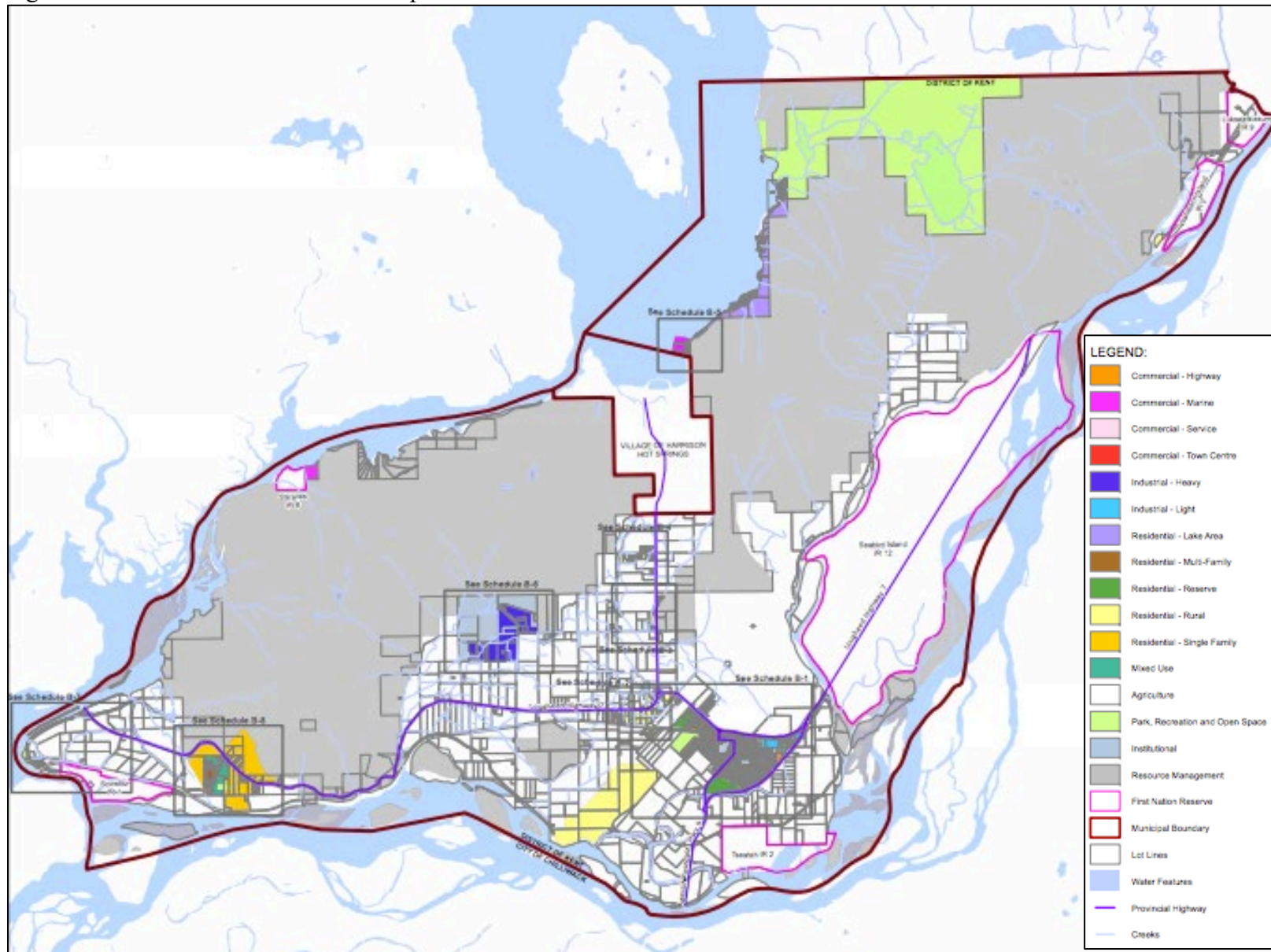
Figure 2. Agricultural Land Reserve (ALR), District of Kent, BC



Source: District of Kent OCP

Assessment of Legislative Framework: District of Kent, BC

Figure 3. District of Kent Land Use Map



Source: District of Kent 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 District of Kent is rated very strong in maximising stability. The District has a clear commitment to protecting farmland, using strong language throughout their OCP and the inclusion of an Agricultural Area Plan (AAP) as a schedule of the OCP. The Vision of the future District of Kent, as stated in the OCP, has a clear focus on farmland protection, as follows: “Protecting agricultural land and encouraging more compact, complete and efficient development patterns are very important.” This vision statement is supported by 14 agricultural policies.

The strength of the OCP is enhanced by the AAP, which was developed to support the viability of the agricultural sector. The AAP states,

The District of Kent, with some of BC’s most productive land for agriculture, will protect and enhance this valuable resource. Using strategies emphasizing cooperation and communication, the District will support its agricultural sector in becoming increasingly vibrant and profitable.

These statements are supported by many strategies and recommendations in the AAP.

Stability is also maximised by the Growth Management Principle under the Guiding Principles of the OCP. The Principle states that the District wants to, “Manage growth within the District of Kent in order to strengthen the community both socially and economically, to preserve the natural environment, protect valuable agricultural land, and to maintain Kent’s rural charm.”

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.

The District of Kent is rated strong in integrating across jurisdictions. Both horizontal integration (between documents at the local level) and provincial integration are very strong. At the provincial level, the District of Kent-Agassiz integrated very well across jurisdictions. The AAP mentions the *Land Registry Act*, *Land Title Act*, *Farm Practices Protection Act*, and both the OCP and AAP Schedule mention the *ALC Act*. The AAP in particular has very specific references to this important Act. With respect to horizontal integration, there is consistency between the OCP and other documents, such as the Zoning Bylaw and the AAP Schedule.

Integration between the local and regional level is weak, which can be attributed in part to a somewhat weak legislative framework at the regional level. The District could have stated that they exceed the strategies set out by the RGS. The language in the required Context Statement is also somewhat confusing as it appears to be outdated. Creating a new Regional Context Statement that reflects the District’s commitment to farmland protection would improve this rating.

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 District of Kent is moderate in minimising uncertainty. The District has many policies that identify where they will direct future urban development, and which areas they will maintain as agricultural land. A factor reducing uncertainty is the covenants in place under the Mount Woodside Development Permit Area (DPA). Although it is one small neighbourhood that has covenants to buffer between agricultural and other land uses; this neighbourhood does appear to have a greater potential for land use conflicts. The District also identifies Residential Reserves on its Land Use Map (Figure 3). Some of these areas are already partially subdivided. However, these designations also contribute to uncertainty as there are no specific policy statements to address the impacts of loss of farmland or introducing urban/farmland conflicts. Correspondingly, a notable factor contributing to uncertainty is the absence of explicit policies, such as an urban growth boundary, that clearly articulate where future growth will occur, thereby lessening speculation about future uses of adjacent agricultural lands. In the absence of an UGB, it is difficult to create buffers between agricultural and future urban land uses.

While the District has strong language to protect farmland in the OCP, other statements undermine this commitment. The District's desire to balance farmland protection with urban development is expressed through vague terms. Beyond identifying Residential Reserve lands, specific study areas that delineate potential areas of future development would help to minimise uncertainty, as opposed to, for example, referring to "lands in the vicinity of" East Else Road and the Lougheed Highway. Similarly, Policy 12 of the Agricultural Land Use section of the OCP states, "While the District supports the Pacific Agri-Food and UBC Research Centre lands, should the government discontinue any of these operations, the utilization of the lands for urban uses and economic initiatives should be explored." This open-ended statement about potential conversion of agricultural land contributes to uncertainty.

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 District of Kent has moderately accommodated flexibility. Notwithstanding limitations identified above, for some lands identified for future urban development, the OCP states that a comprehensive neighbourhood consultation process and plan, together with servicing details, will be required prior to any approval before development takes place. The OCP also has clear policies support the retention of large land holdings and the consolidation of small parcels of land to help maintain and establish economically viable farms. Nor does the OCP support fracturing or subdividing ALR land unless it is for a homesite severance in some instances. This reduces uncertainty by mitigating fragmentation of ALR land.

Another factor that contributes to flexibility is detailed references to buffers and edge planning in the AAP. The AAP refers to the need for edge planning, the BC Ministry of Agriculture's Guide to Edge Planning, and suggests further strategies for edge planning in the Background and Implementation report for the AAP. Additionally, the District's zoning designations help to accommodate flexibility

through detailed agricultural zones. Two zones relate specifically to agriculture (Agricultural and Small Lot Agricultural), as well as two that allow some agricultural uses (Rural Residential 1 and 2).

The Kent Agricultural Committee helps to accommodate flexibility by bringing agriculture considerations into land use decisions. Furthermore, agricultural impact assessments are listed as a recommendation under the AAP; however, they do not provide any detail to how this will be done.

Assessment of Legislative Framework: District of Kent, BC

Table 1. District of Kent, 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) Economic Strategy for Agriculture in the Lower Mainland (2002) 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>District of Kent Agricultural Land Use Inventory (2013) District of Kent Agricultural Overview (2008) Farm Home Plate Guide (2015)</p>	<p><i>District of Kent Official Community Plan</i> <i>(Bylaw No. 1508, 2014)</i> (includes <i>Schedule E: Agricultural Area Plan</i>) <i>District of Kent Zoning</i> <i>(Bylaw No. 1219, 2001)</i></p>	<p>Kent Agricultural Committee</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]