



**Agricultural Land Commission**  
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October 30, 2019

ALC File: 58826

**Gabriel Bau**  
**Comox Valley Regional District**  
**DELIVERED ELECTRONICALLY**

Dear Gabriel Bau:

**Re: Application 58826 (FLNRORD) to conduct a non-farm use in the Agricultural Land Reserve**

Please find attached the Reasons for Decision of the Island Panel for the above noted application (Resolution #389/2019). As agent, it is your responsibility to notify the applicant accordingly.

**Review of Decisions by the Chair**

Under section 33.1 of the *Agricultural Land Commission Act* (ALCA), the Chair of the Agricultural Land Commission (the “Commission”) has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

**Request for Reconsideration of a Decision**

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision’s release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to Kendall Andison at ALC.Island@gov.bc.ca.

Yours truly,

A handwritten signature in black ink, appearing to read 'K. Andison', is written over a light blue horizontal line.

Kendall Andison, Land Use Planner

Enclosures: Reasons for Decision (Resolution #389/2019)  
Schedule A: Decision Map

cc: City of Campbell River (File: P1900024)  
58826d1



**AGRICULTURAL LAND COMMISSION FILE 58261**  
**REASONS FOR DECISION OF THE ISLAND PANEL**

**Non-Farm Use Application Submitted Under s. 20(2) of the *Agricultural Land Commission Act***

**Applicant:** Ministry of Forests, Lands, Natural Resource  
Operations and Rural Development

**Agent:** Gabriel Bau, Comox Valley Regional District  
(CVRD)

**Property:** Property Identification Number: 12445651  
Legal Description: Block J, District Lot 85,  
Sayward District  
Civic Address: 6300 Argonaut Road, Campbell  
River  
Area: 19 ha (18.7 ha in the ALR)

**Panel:** Linda Michaluk, Island Panel Chair  
Honey Forbes

**OVERVIEW**

- [1] The Property is located partially within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA).
- [2] The 19 ha Property is broadly divided into an approximately 13 ha forested area and an approximately 6 ha disturbed area as per Schedule A: ALC Decision Map. The disturbed area includes an approximately 2.9 ha gravel extraction site (2.7 ha in the ALR) and an approximately 1.2 ha stormwater management pond (all in the ALR). The gravel extraction and stormwater management pond are supplementary to a landfill located immediately adjacent to the south of the Property that has been in operation since 1963.
- [3] In 1985, the Commission approved gravel extraction by way of time limited permits on the Property; however, all approvals expired in 2001. In 2018, the stormwater management pond was constructed without the Commission's approval.
- [4] Pursuant to s. 20(2) of the ALCA, the Applicant is applying to the Agricultural Land Commission (the "Commission") to:
- a. seek retroactive approval for the existing gravel extraction site and stormwater management pond (approximately 3.9 ha); and,
  - b. construct and operate an approximately 6.9 ha regional compost facility (the "Proposal")

The total proposed non-farm use area is 10.8 ha.

- [5] The first issue the Panel considered is whether to allow the retention of the existing gravel extraction and a stormwater management pond as supplementary uses for management of a community landfill.
- [6] The second issue the Panel considered is whether the regional compost facility is an appropriate use of the Property.

- [7] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA. These purposes are:
- (a) to preserve the agricultural land reserve;
  - (b) to encourage farming of land within the agricultural land reserve in collaboration with other communities of interest; and,
  - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

### **EVIDENTIARY RECORD**

[8] The Proposal along with related documentation from the Applicants, Agent, local government, third parties, and Commission is collectively referred to as the "Application." All documentation in the Application was disclosed to the Agent in advance of this decision.

[9] The Panel conducted a walk-around site visit on August 14, 2019 in accordance with the *ALC Policy Regarding Site Visits in Applications*, (the "Site Visit"). A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications*. The site visit report was certified as accurately reflecting the observations and discussions of the Site Visit by the Agent on September 19, 2019 (the "Site Visit Report").

### **BACKGROUND**

[10] In 1985, ALC Application 18943 was submitted to the Commission by the District of Campbell River to remove fill from the Property for coverage of the adjacent landfill. The Commission conditionally approved the application by way of ALC Resolution #302/85 and granted the Applicant a permit to extract gravel until 1988.

[11] In 1988, a request was submitted by the District of Campbell River to extend the three-year gravel extraction permit issued under ALC Resolution #302/85. The Commission considered that the landfill was expected to last another 6 to 8 years and conditionally

approved the application by way of ALC Resolution #745/88. The Applicant was granted a permit to extract gravel for an additional 6 years until 1994.

[12] In 1996, a request was submitted by the District of Campbell River to extend the gravel extraction permit by an additional 7 years retroactive to September 1994 (the expiry date of the last permit). The Commission conditionally approved the extension request in a letter dated January 29, 1996. Any and all approvals for gravel extraction ended in 2001.

[13] Over the course of 2012 and 2013, ALC staff corresponded with CVRD staff and advised that the gravel extraction permits had expired. Additionally, ALC staff advised the CVRD that the construction of the proposed stormwater management pond would likely necessitate a non-farm use application. The stormwater management pond was constructed in 2018 without approval of the Commission.

[14] On July 05, 2019 the Application was submitted to the Commission.

[15] On August 14, 2019, the Panel and ALC staff conducted a Site Visit. During the Site Visit, the Agent and ALC staff discussed the history of correspondence between the ALC and CVRD with respect to gravel extraction and the construction of the stormwater management pond.

[16] At the time of the Application, the reclamation condition outlined in Resolutions #302/85, #745/88 and the 1996 ALC letter have not been met. Further, the ALC has no record of any of the required annual reports outlined in the 1996 ALC letter after the initial submission in 1996.

[17] On September 17, 2019 the CVRD submitted a letter requesting the ALC retroactively approve the existing gravel extraction and stormwater management pond (3.9 ha) in addition to the proposed regional compost facility. In the same letter, the CVRD submitted a revised plan that proposed to reduce the footprint of the compost facility from 10.3 ha to 6.9 ha.

## **EVIDENCE AND FINDINGS**

### **Issue 1: Whether to allow the retention of the existing gravel extraction and a stormwater management pond as supplementary uses for management of a community landfill.**

[18] The Application submits that both the current gravel extraction activities and stormwater management pond are supplementary to the adjacent landfill and that both activities are essential to the landfill's current functioning. More specifically, the stormwater management pond is integral to the current stormwater management system as approved by the Ministry of Environment. The Application also submits that the landfill is scheduled to close in 2023 and that the gravel extraction site will be utilized to provide aggregate for final closure of the landfill.

[19] The Panel considered that the CVRD is a regional district that employs professional planning staff and finds that there is a reasonable expectation that local government should secure and be in compliance with provincial permits and legislation. As such, the Panel must express concern at the activities that have proceeded without ALC approval and in contravention of the permits. Despite the non-compliance to date, the Panel must consider the impact of the non-farm use as though it had not already been established.

[20] The Panel considered that the stormwater management pond is integral to the functioning of the landfill, and that rehabilitation of that site as well as the gravel extraction areas would be challenging at this time and highly disruptive to the functioning of regional solid waste services. For these reasons, the Panel finds that the existing gravel extraction site and stormwater management pond are necessary for the continued management of the community landfill.

### **Issue 2: Whether the compost facility is an appropriate use of the Property.**

[21] The Panel considered that the Applicant reduced the size of the proposed compost facility from 10.3 ha to 6.9 ha, in part to minimize the impact on agricultural land. The facility would be partially located on the disturbed portion of the Property (i.e. the segment containing the gravel extraction and stormwater management area), but would also extend onto an

approximately 4.8 ha undisturbed area of the Property. The Panel finds that siting the compost facility beyond the previously disturbed portion of the Property will utilize agricultural land for non-agricultural purposes. In doing so, the Property's long-term agricultural utility would be negatively impacted by reducing or eliminating the potential for ALR land to be used for agriculture.

[22] During the Site Visit, the Agent explained that organic waste from the Comox Valley will be transported to the proposed compost facility and that once the landfill closes in 2023, municipal solid waste will be shipped to the Comox Valley landfill in Cumberland. The Panel considered that after the landfill closes, the existing landfill scale and transfer station will remain to service the compost facility. Correspondingly, the Panel understands the Applicant plans to utilize existing infrastructure, rather than utilizing additional land for the same purpose. In addition, the Panel appreciates that the composting facility will facilitate a regional strategy for handling compost.

[23] For these reasons the Panel recognizes the value of siting a regional compost facility on the Property; however, the Panel is not amenable to expanding the non-farm use beyond the already disturbed area (approximately 6.0 ha).

## **DECISION**

[24] For the reasons given above, the Panel approves the existing gravel extraction site and the stormwater management pond (approximately 3.9 ha) as supplementary uses to the adjacent landfill.

[25] For the reasons given above, the Panel refuses the Proposal to construct and operate a regional compost facility on the Property.

[26] However, the Panel approves the construction and operation of a regional compost facility within the already disturbed 6.0 ha area of the Property (inclusive of the 3.9 ha

gravel extraction site and stormwater management pond), subject to the following conditions:

- a. the non-farm use is to be confined to the approximately 6.0 ha disturbed area of the Property as per Schedule A: ALC Decision Map;
- b. the submission of a plan detailing a revised compost facility that is in substantial compliance with Schedule A of this decision;
- c. approval for non-farm use is granted for the sole benefit of the Applicant and is non-transferable; and
- d. should the Applicant choose to not construct and operate a regional compost facility, that the gravel extraction site should be remediated upon closure of the adjacent landfill.

[27] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[28] This is a unanimous decision of the Panel.

[29] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

[30] Resolution #389/2019  
Released on October 30, 2019



**Linda Michaluk, Panel Chair**

On behalf of the Island Panel



	Conditionally approved non-farm use (approximately 6.0 ha)
	The Property