



**Agricultural Land Commission**  
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January 24<sup>th</sup>, 2017

ALC File: 55533

Doug Kavanagh  
PO 3002 Station Main  
Vancouver, BC. V6B 3X5

Dear Mr. Kavanagh:

**Re: Application to Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)**

Please find attached the Reasons for Decision of the South Coast Panel (Resolution #16/2017) as it relates to the above noted application. A sketch plan depicting the decision is also attached.

**Reconsideration of a Decision as Directed by the ALC Chair**

Please note that pursuant to [s. 33.1 of the \*Agricultural Land Commission Act\*](#), the Chair may direct the executive committee to reconsider any panel decision if, within 60 days from the date of this decision, he considers that the decision may not fulfill the purposes of the commission as set out in s. 6, or does not adequately take into consideration s. 4.3.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

**Reconsideration of a Decision by an Affected Person**

We draw your attention to [s. 33\(1\) of the \*Agricultural Land Commission Act\*](#) which provides a person affected the opportunity to submit a request for reconsideration.

33(1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that:

- (a) evidence not available at the time of the original decision has become available,
- (b) all or part of the original decision was based on evidence that was in error or was false.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Kelsey-Rae Russell at (KelseyRae.Russell@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read "K Russell". The signature is stylized and cursive.

Kelsey-Rae Russell , Land Use Planner

Enclosures: Reasons for Decision (Resolution #16/2017)  
Sketch plan

cc: City of Richmond (File: 15-690592)  
Gordon Butt, P.Ag

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**AGRICULTURAL LAND COMMISSION FILE 55533**

**REASONS FOR DECISION OF THE SOUTH COAST PANEL**

**Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act***

**Applicant:**

**Doug Kavanagh  
(the “Applicant”)**

**Application before the South Coast Regional Panel:**

**William Zylmans, Panel Chair  
Gordon McCallum**



## **THE APPLICATION**

[1] The legal description of the property involved in the application is:

Parcel Identifier: 011-305-231

Lot 14 Section 4 Block 4 North Range 5 West New Westminster District Plan 8208

(the “Property”)

[2] The Property is 14.5 ha in area.

[3] The Property has the civic address 14791 Westminster Hwy, Richmond, BC.

[4] The Property is located within a designated agricultural land reserve (“ALR”) as defined in s. 1 of the *Agricultural Land Commission Act* (the “ALCA”).

[5] The Property is located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 20(3) of the *ALCA*, the Applicants are applying to place 140,000 m<sup>3</sup> of fill over a 14.5 ha area, to a depth of 1.2m, in order address high water table and drainage issues on the Property (the “Proposal”). The Proposal along with supporting documentation is collectively the application (the “Application”).

## **RELEVANT STATUTORY PROVISIONS**

[7] The Application was made pursuant to s. 21(2) of the *ALCA*:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm

[8] The Panel considered the Application within the context of s. 6 of the *ALCA*. The purposes of the Agricultural Land Commission (the “Commission”) set out in s. 6 are as follows:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
  - (b) to encourage farming on agricultural land 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 agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

### **EVIDENTIARY RECORD BEFORE THE PANEL**

[9] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map and satellite imagery
4. Fill Placement Plan dated January 9<sup>th</sup>, 2015
5. Land Capability Assessment Report dated January 7<sup>th</sup>, 2015
6. A letter to the City of Richmond dated July 24<sup>th</sup>, 2015
7. A letter to the City of Richmond dated February 26<sup>th</sup>, 2016
8. Site plan drawings
9. Additional comments provided by the Applicant after the Site Visit Report

All documentation noted above was disclosed to the Applicant in advance of this decision.

[10] At its meeting of May 24<sup>th</sup>, 2016, the City of Richmond resolved to endorse the non-farm use application submitted by Sixwest Holding Ltd

## **SITE VISIT**

[11] On November 8<sup>th</sup>, 2016, the Panel conducted a walk-around site visit in accordance with the *Policy Regarding Site Visits in Applications* (the “Site Visit”).

[12] 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 Applicant on November 22<sup>nd</sup>, 2016 (the “Site Visit Report”).

## **FINDINGS**

[13] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the BC Land Inventory (BCLI), ‘Land Capability Classification for Agriculture in B.C.’ system. The improved agricultural capability ratings identified on BCLI map sheet 92G/3h for the mapping units encompassing the Property are Class 2 and 3, more specifically, 40% (6:3WN, 4:3DW), 40% (7:3WN-3:2WD), and 10% (7:2WD-3:3WD).

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

The limiting subclasses associated with this parcel of land are W (excess water), N (salinity) and D (undesirable soil structure).

[14] In addition, the Panel received two professional Agrologist reports, prepared by Gordon Butt, P.Ag, dated January 7<sup>th</sup> and January 9<sup>th</sup>, 2015 (the “Land Capability Assessment Report” and the “Fill Placement Plan,” respectively). The Land Capability Assessment Report finds that the land capability for agriculture on the Property is Class 4, with an excess water limitation (W) and that there is a seasonal (summer) water deficit that influences the

growing season. The Land Capability Assessment also states that the installation of drainage would not improve the agricultural capability of the land beyond a Class 3W due to a *“lack of free board between soil surface and water table”*.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

[15] The Fill Placement Plan finds that placing quality fill over the 14.5 ha Property will improve soil wetness limitations and concludes “The intent of fill placement is to improve drainage conditions that limit agricultural capability. After the addition of fill followed by soil profile construction as we have recommended, the agricultural capability will improve to Class 2 with some water limitations.”

[16] The Panel reviewed the BCLI ratings, the Land Capability Assessment Report, and the Fill Placement Plan and find that although the Property is capable of supporting some agricultural production, the agricultural capability of the Property is currently limited by excess water and a high water table, which limits the range of crops which can be successfully grown.

[17] The Panel reviewed the Geotechnical Report prepared by Horizon Engineering. The geotechnical report indicates that the underlying soils are compressible and that the proposed grade level increase may generate settlement in the neighbouring properties. The Panel is satisfied that use of structural granular (sandy) fill, fill footprint setbacks, and monitoring by a Geotechnical engineer will minimize these risks.

[18] The Panel considered the discussion and observations of the Site Visit and note that the Property is visibly lower in elevation than the adjacent properties. The Panel considered and agree with the statement made by the Applicant that some of the adjacent properties have been filled to a higher elevation and are now successful agricultural operations.

[19] Due to the impact that excess water has the agricultural capability of the Property, the Panel finds that the land can be improved through the placement of good quality fill on the

Property, resulting in a lowered water table which would allow for a wider range of crops to be grown on the Property. However, the Panel is concerned about the longevity of this solution if implemented in the absence of subsurface drainage. The Panel therefore requires the installation of a subsurface drainage system to adequately address the excess water limitation.

[20] Although the Panel finds that the Proposal is necessary to effectively pursue farming on the Property, appropriate monitoring should be conducted by a qualified registered professional with expertise in soils, drainage, and land reclamation to ensure that the Proposal will effectively support agricultural production, while managing any potential impacts on adjacent agricultural lands.

## **DECISION**

[21] For the reasons given above, the Panel approves the Proposal to place 140,000m<sup>3</sup> of fill over a 14.5 ha area, to a depth of 1.2m, in order address high water table and drainage issues on the Property.

[22] The Proposal is approved subject to the following conditions:

### **GENERAL**

- a. All fill placement activities must be conducted in substantial compliance with the information submitted with the Application and conditions set out in this decision;
- b. The total volume of material is limited to 140,000m<sup>3</sup>;
- c. The total fill placement must be limited in depth to achieve the finished grade elevations as identified in the Cross-Section attached to this decision;
- d. Approval to place fill is granted for the sole benefit of the Applicant and is non-transferable without the written approval of the Commission;
- e. The project must be overseen by a qualified registered professional, with expertise in agriculture, soils, drainage, and land reclamation;



- f. Gordon Butt, P.Ag. is the qualified registered professional associated with the Application.
- g. Prior to the commencement of any site work, Mr. Butt must notify the Commission that he understands the terms and conditions in this approval and that he agrees to act as the registered qualified professional to ensure that all site activities will be conducted in substantial compliance with the information submitted with the Application and conditions set out in this decision. Site work cannot proceed until this notification has been received by the Commission;
- h. If Mr. Butt ceases to act as the authorized qualified registered professional, he must immediately notify the Commission indicating that he is no longer involved in the project. A stop work order will be placed on the Property until such a time that the Commission has reviewed the qualifications of his replacement and approve the change.
- i. If for any reason, any or part of the conditions listed in this decision are not met, the qualified registered professional must immediately notify the Commission.
- j. Appropriate weed control must be practiced on all disturbed areas;

**TOPSOIL SALVAGE**

- k. Under the direction of the qualified registered professional, all existing topsoil must be salvaged for use during the reclamation;
  - Stockpiled soils should be windrowed and located in an area where they will not be disturbed and will not impede site drainage.
  - Stockpiles should not exceed 3 metres in height and slopes should be no steeper than 3:1.
  - Stockpiles should be seeded and established with an appropriate plant cover, or other suitable soil erosion control measure must be applied to protect the stockpiles from wind, runoff and other removal process;

- Stockpiled soil must not be removed from the Property without written permission from the Commission;
- The registered qualified professional must be on site to guide all salvaging and stockpiling operations.
- Filling activities shall not commence until a status report detailing salvaging activities, salvaged topsoil volumes, topsoil quality, erosion and sediment control measures, and stockpiles locations has been provided to the satisfaction of the Commission.

#### **FILL MATERIAL AND MONITORING**

- l. Unauthorized fill material must not be placed on the Property, this includes fill containing construction and demolition debris, contaminants, heavy clay, and boulders (>25 cm diameter);
- m. The qualified registered professional is responsible for conducting regular site visits to ensure that that fill related activities are in substantial compliance with this decision.
- n. The qualified registered professional is responsible for reviewing all fill source locations to ensure that the fill is of suitable quality and meets the soil standards set out in the Contaminated Sites Regulation Schedule 7 for soil relocation to agricultural land (Column III).
- o. A designated environmental monitor must be onsite at all times when fill is brought onto the property to inspect and approve each truck load and to reject any fill material containing construction and demolition debris, contaminants, heavy clay and boulders (>25cm in diameter);
- p. The designated environmental monitor is responsible for maintaining trucking records for each load of fill brought onto the Property. The trucking records must indicate the truck operator (name and business license), date and time of fill, volume of fill, description of fill, and the source location. These records must be provided to the qualified registered professional for inclusion into their status reports to the Commission;

- q. A Geotechnical Engineer must provide regular status updates to the City of Richmond and the Commission regarding the geotechnical stability of the site during fill activities as recommended in the Horizon Engineering report. A schedule of reporting must be provided by the Geotechnical Engineer prior to commencing any site work.

#### **DRAINAGE**

- r. An updated drainage plan including the installation of a subsurface drainage system must be submitted for the review and approval of the Commission prior to the commencement of any fill related activities.
- The drainage plan must be prepared by a qualified professional with expertise in agricultural drainage;

#### **PROJECT PHASING**

- s. The fill project must be implemented in a phased approach, consisting of no less than three (3) phases as per the Application;

#### **STATUS REPORTS**

- t. Status reports must be submitted after project milestones (i.e., topsoil salvaging, final subgrade profile, topsoil replacement) and every three months (or per every 3000 m<sup>3</sup>) to update the Commission on the progress of the project;
- u. The qualified registered professional is responsible for ensuring that status reports are provided to the Commission in a timely manner.
- v. If the status reports are not provided to the Commission as per the schedule indicated in condition t., the qualified registered professional must immediately notify the Commission indicating why. If the registered qualified professional fails to notify the Commission in a timely manner a stop work order will be issued.
- w. The status reports must include, but are not limited to:

- Confirmation that operations are in compliance with the reclamation plan and terms and conditions set by the Commission;
- Evidence that fill quality meets the conditions of this Application (supported by photographs, site and soils field data);
- Confirmation that the salvaged stockpiles have not been disturbed/degraded;
- A record of fill volume and fill source locations from trucking receipts;
- Confirmation that no contaminated materials have been brought onto the site. The Commission may request soil samples be sent to laboratories for analysis or may collect samples for analysis. A monitoring fee will be charged to the Applicant as per Section 33.1 (2) of the ALR Regulation.
- Confirmation that the designated environmental monitor has inspected every load and has confirmed that fill quality is suitable for site reclamation.

#### **CLOSURE REPORT**

- x. A final report, prepared by the qualified registered professional, must be submitted to the Commission upon completion of the project. The final report must include, but is not limited to, the following:
- A written description of the completed project;
  - Evidence that the fill placement project has been completed as described in the Fill Placement Plan;
  - Confirmation of the post-fill agricultural capability and evidence that filling activities have improved the agricultural capability/suitability of the site. This must be supported by detailed soil test pits, site information, and photographs.
  - A soil fertility analysis of the upper 30 cm of the soil profile;

- An overview of post-fill site drainage including any new drainage infrastructure and an assessment of potential drainage impacts to adjacent properties. A site visit to assess site drainage should be conducted after a heavy, sustained rainfall event;
- Final cross section profiles of the fill project area showing final contours, and depth and volumes of imported fill;
- Outstanding issues and recommended remedial actions.

**FINANCIAL SECURITY**

- y. To ensure the successful reclamation of the project area and appropriate oversight should you cease to consult with a qualified registered professional, a financial security in the form of an Irrevocable Letter of Credit (the "ILOC") in the amount of \$290,000 must be made payable to the Minister of Finance c/o the Agricultural Land Commission. The ILOC is to ensure the Proposal is conducted in accordance with the information submitted with the Application and the conditions of this decision;

For greater clarity, some or all of the ILOC will be accessible to and used by the Commission upon default of the operator to comply with any or all aspects of the conditions of approval contained herein.

- z. Release of the ILOC will be dependent on receipt of evidence that the fill placement project is completed to a standard deemed satisfactory by the Commission. In this regard, the Commission will consider the status and final reports that must be prepared by a qualified registered professional and submitted to the Commission in fulfillment of condition k. above.

[23] 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.

[24] These are the unanimous reasons of the South Coast Panel of the Agricultural Land Commission.



[25] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

[26] This decision is recorded as Resolution #16/2017 and is released on January 24<sup>th</sup>, 2017.

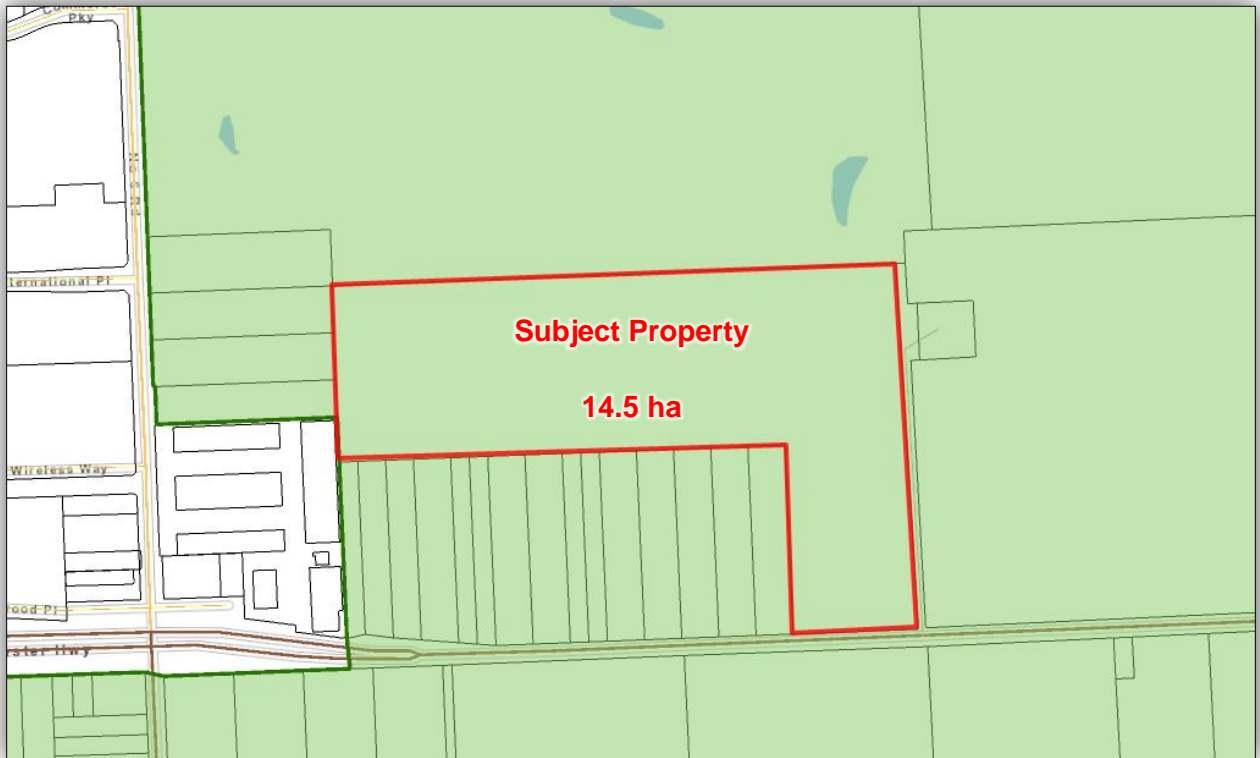
**CERTIFICATION OF DECISION**

A handwritten signature in black ink, appearing to read 'W. Zylmans', with a long horizontal flourish extending to the right.


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William Zylmans, Panel Chair, on behalf of the South Coast Panel

**END OF DOCUMENT**



**Application ID# 55333(SixWest Holdings Ltd)**  
**Conditionally Approved Non-Farm Use**  
**ALC Resolution # 16/2017**

 Conditionally Approved Non-Farm Use Area (Placement of 140,000m<sup>3</sup> of fill over a 14.5 ha area)