



Agricultural Land Commission
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October 19, 2020

ALC File: 59139

John Moonen
John Moonen & Associates Ltd.
DELIVERED ELECTRONICALLY

Dear John Moonen:

Re: Reasons for Decision - ALC Application 59139

Please find attached the Reasons for Decision of the South Coast Panel for the above noted application (Resolution #504/2020). As agent, it is your responsibility to notify the applicant accordingly.

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.

Under section 33 of the *Agricultural Land Commission Act* (ALCA), a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. Please be advised however that on March 12th, 2020 the ALC Amendment Act ([Bill 15 – 2019](#)) was brought into force and effect, changing the reconsideration process.

A request to reconsider must now meet the following criteria:

- No previous request by an affected person has been made, and
- The request provides evidence not available at the time of the original decision that has become available, and that could not have been available at the time of the original decision had the applicant exercised due diligence, or
- The request provides evidence that all or part of the original decision was based on evidence that was in error or was false.

The amendments also propose a change to limit the time period for requesting a reconsideration to 90 days from the date of this decision – this change has not been brought into force and effect yet. As a result, a person affected by this decision will have one year from the date of this decision’s release as per [ALC Policy P-08: Request for Reconsideration](#) to request reconsideration of the decision or 90 days from the date the legislative change takes effect (date unknown at this time), whichever comes sooner.

Please refer to the ALC’s [Information Bulletin 08 – Request for Reconsideration](#) for more information.

Please direct further correspondence with respect to this application to
ALC.SouthCoast@gov.bc.ca

Yours truly,

A handwritten signature in black ink, appearing to read 'Nicole Mak', with a stylized, cursive script.

Nicole Mak, Land Use Planner

Enclosure: Reasons for Decision (Resolution #504/2020)
 Schedule A: Decision Map

cc: City of Richmond (File: AG-19-963866) Attention: Steven De Sousa
59139d1



AGRICULTURAL LAND COMMISSION FILE 59139
REASONS FOR DECISION OF THE SOUTH COAST PANEL

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

Applicants: Ecowaste Industries Ltd., Inc. No. BC0556788

Agent: John Moonen, John Moonen & Associates Ltd.

Property:

Property 1:
Parcel Identifier: 024-397-423
Legal Description: Lot 2 Section 15 Block 4 North
Range 5 West New Westminster District Plan
LMP40687
Civic: Northeast of 7011 No. 7 Road, Richmond, BC
Area: 7.1 ha

Property 2:
Parcel Identifier: 024-397-407
Legal Description: Lot 1 Section 15 Block 4 North
Range 5 west New Westminster District Plan
LMP40687
Civic: 7011 No. 7 Road, Richmond, BC
Area: 53.7 ha

Panel: Ione Smith, South Coast Panel Chair
Satwinder Bains
Susan Gimse

OVERVIEW

- [1] The Properties are located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA).
- [2] In 2015, Applications 54043 and 54044 were submitted to the Agricultural Land Commission (the “Commission”). By Resolution #384/2015 and #385/2015, the Commission conditionally approved the proposal to locate four Materials Recovery Facility (MRF) operations (Tervita, Quantum Murray, Yardworks-Arrow, and Urban Wood Recyclers) related to the existing land fill on the Property and to continue the operation of the existing landfill activities (Resolution #173/93) for a period of 20 years until 2035.
- [3] There are four MRF operations located on Property 2 corresponding to the four operations allowed by Resolution #384/2015 and Resolution #385/2015. The MRFs primarily accept materials that originate from demolition, land clearing, and construction activities. The materials consist mainly of wood products (including composite, dimensional lumber, flooring, shakes, shingles, pallets, and saw dust); asphalt; building materials; rubble; plastics, and other materials (including land clearing debris, metal, textiles, soil, paper, carpet, various types of roofing, rubber, aggregate, masonry, concrete, and insulation).
- [4] Pursuant to s. 20(2) of the ALCA, the Applicant is applying to the Agricultural Land Commission (the “Commission”) to:
 - a. Replace “Urban Wood Recyclers” with “Ecowaste Industries Ltd.” as the operator of MRF#4; and
 - b. To increase the footprint of MRF #4 from 1.3 ha to 3.3 ha;
 - c. To operate two additional MRFs (MRF #5 and MRF #6), in addition to the four already approved by Resolution #384/2015 and #385/2015; and
 - d. To extend the terms of approval in Resolution #384/2015 and #385/2015 by 20 years to 2055 (collectively referred to as the “Proposal” in this Decision).
- [5] The first issue the Panel considered is whether the replacement of Urban Wood Recyclers with Ecowaste Industries Ltd. as the operator of MRF #4 is substantially compliant with Resolution #384/2015 and Resolution #385/2015.

- [6] The second issue the Panel considered is whether the increase in size of MRF #4 and increase in processing (MRF #5 and MRF #6) would present any additional impacts on agriculture.
- [7] The third issue the Panel considered is whether the Panel can extend the terms of approval in Resolution #384/2015 and #385/2015 by 20 years.
- [8] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA:

6 (1) The following are the purposes of the commission:

- (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.

(2) The commission, to fulfill its purposes under subsection (1), must give priority to protecting and enhancing all of the following in exercising its powers and performing its duties under this Act:

- (a) the size, integrity and continuity of the land base of the agricultural land reserve;
- (b) the use of the agricultural land reserve for farm use,

EVIDENTIARY RECORD

- [9] The Proposal along with related documentation from the Applicants, Agent, local government, and Commission is collectively referred to as the "Application". All documentation in the Application was disclosed to the Agent in advance of this decision.
- [10] A representative of the Panel conducted a walk-around site visit on August 26, 2020 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 8, 2020 (the “Site Visit Report”).

BACKGROUND

- [11] In 1992, Application 995 was submitted to the Commission to conduct a comprehensive reclamation of the Properties. The proposal involved the extraction of the remaining peat material and then filling the site with inert industrial wastes such as construction demolition, natural land clearing materials, concrete, brick, wood, plastic and other similar materials. The fill would then be capped to an agricultural standard. The Commission conditionally approved the application by Resolution #173/93 for a period of 5 years.
- [12] Subsequently, in 1998, the Commission granted a 10-year extension to Resolution #173/93.
- [13] In 2015, Applications 54043 and 54044 were submitted to the Commission to locate four operations (Tervita, Quantum Murray, Yardworks-Arrow, and Urban Wood Recyclers) related to the existing land fill on Property 2 (Application 54043) and to continue the operation of the existing landfill activities for a period of 20 years (ending in 2035) which will increase the final elevation of the landfill to 18 m (Application 54044). The Commission conditionally approved the applications by Resolution #384/2015 and Resolution #385/2015, respectively.

EVIDENCE AND FINDINGS

- [14] The Application was submitted on May 10, 2019 and was forwarded to the Commission by the City of Richmond on February 27, 2020. Subsequently, on March 12, 2020, the ALCA was amended and changes were made to its regulations. The Applicant was given an opportunity to make written submissions relating to the amendment of the ALCA and changes to its regulations as it relates to this application. The Agent provided additional submissions on March 25, 2020. While the Application was submitted in the context of the former s. 6 of the ALCA, the Panel must consider it under s. 6(1) and s. 6(2) of the ALCA as amended by Bill 15.

Issue 1: Whether the replacement of Urban Wood Recyclers with Ecowaste Industries Ltd. as the operator of MRF #4 is substantially compliant with Resolution #384/2015 and Resolution #385/2015.

- [15] In Resolution #384/2015 and Resolution #385/2015, Urban Wood Recyclers was proposed to be the operator of MRF #4, MRF #4 was to be used for the processing of wood waste and non-wood waste. However, after 2015, Urban Wood Recyclers was purchased by Ecowaste Industries Ltd. As Resolution #384/2015 and Resolution #385/2015 specifically names Urban Wood Recyclers as the operator of MRF #4, the Applicant is requesting the Panel allow Ecowaste Industries Ltd. to replace Urban wood Recyclers as the operator of MRF #4. Ecowaste Industries Ltd. proposes to expand the operation by recycling more wood waste and more non-wood waste materials with a focus of producing ground wood for bio-energy users and developing alternate uses for non-wood products. The Panel considered that the materials processed in MRF #4 remain unchanged and that Ecowaste Industries Ltd. owns the Properties, therefore, the Panel finds that replacing Urban Wood Recyclers with Ecowaste Industries Ltd. as the operator of MRF #4 is substantially compliant with Resolution #384/2015 and Resolution #385/2015.

Issue 2: Whether increasing the size of MRF #4 and increasing processing (MRF #5 and MRF #6) would present any additional impacts on agriculture.

- [16] As operators of MRF #4, Ecowaste Industries Ltd. wishes to expand the 1.3 ha area that was previously approved by Resolution #384/2015 and Resolution #385/2015 to 3.3 ha. Under Resolution #384/2015 and Resolution #385/2015, MRF #4 was conditionally approved to occupy 1.3 ha and include a 12 m tall building, 0.3 ha for a works yard and 0.3 ha for storage. The Application states that “MRF #4 would extract waste products of value like dimensional lumber, plastics, carpet, various types of roofing and aggregates” in addition to processing waste plastics into pellets. There are currently no structures in the area designated for MRF #4. The Application proposes expanding MRF #4 to 3.3 ha which will accommodate a 17 m tall building, a 1.2 ha paved area for a works yard, and a 1.14 ha area for outdoor storage. The Application submits that the MRFs (including the

buildings) are temporary and will be removed upon completion of landfilling activities.

Further, the Application states that the Properties will be rehabilitated for agriculture upon the completion of landfilling.

- [17] MRF #5 is proposed to be located on the northwestern corner of Property 2, while MRF #6 is proposed to be located on the southwestern portion of Property 2. The Application submits that MRF #5 and MRF #6 will be used to recycle and recover additional materials that would have been used as fill in the landfill prior to the establishment of MRF #5 and MRF #6. The Application states that no additional materials will be received as a result of the operation of MRF #5 and MRF #6. The additional MRFs will serve to reduce the amount of fill that will be buried in the landfill, resulting in 70-80% reduction in the fill rate of the landfill. At this time, operators have not been identified as the Proposal has not been approved; however, the Applicant submits that MRF #5 and MRF #6 will address the recycling and recovery of wood and construction materials related to deconstruction, plastic grindings, and specialty aggregates. As with MRF #4, any facilities required for MRF #5 and MRF #6 will be temporary and will be removed upon completion of landfilling activities. Further, the Application states that the Properties will be rehabilitated for agriculture upon the completion of landfilling.
- [18] Based on the historic and present use of the Properties, and the temporary nature of the proposed facilities, the Panel finds that the expansion of MRF #4 to 3.3 ha and the operation of MRF #5 and MRF #6 would not present any additional impacts on agriculture. Further, the Panel finds that the additional MRFs will divert more materials from the landfill and could serve to reduce illegal fill placement in the ALR.
- [19] Although the Commission has previously supported and continues to support reclamation of the Properties for agricultural purposes through previous approvals and conditions, as in Resolution #384/2015 and Resolution #385/2015, the Panel discussed, from a planning perspective, whether the most effective end use of the Properties is agriculture. The Panel considered the landfill use began in 1993 and is approved until 2035 (42 years), the Panel discussed whether the use of the Properties as a long-term landfill site is an appropriate use in the ALR. The Panel made no determinative decision in this regard, but, as in Resolution #384/2015 and Resolution #385/2015, encourages the Applicant along with

the City of Richmond, to consider whether the Properties might be more suited for alternative uses, such as industrial, which may relieve pressure on other lands within the ALR.

Issue 3: Whether the Panel can extend the terms of approval in Resolution #384/2015 and #385/2015 by 20 years.

- [20] The Application submits that the operation of additional MRFs will increase materials recycling and recovery, in turn, this will reduce the amount of material used as fill in the landfilling operation. As such, the Application requests an extension of the terms of approval to allow fill to be continued to be placed on the Properties until 2055 (the “Extension”). The Application states that there will be no change in the final height (18 m) of the landfill. The Panel considered that legislation surrounding fill placement has changed as of February 22, 2019, specifically, the definition of prohibited fill in the Agricultural Land Reserve Use Regulation (the “ALR Use Regulation”) and the requirement in section 23 of the Agricultural Land Reserve General Regulation that the Commission reject an application for permission to place fill on land in the ALR if the fill to be placed includes prohibited fill materials as defined in the ALR Use Regulation.
- [21] The Application states that the materials primarily accepted at the MRFs originate from demolition, land clearing, and construction activities. The materials consist of wood products (including composite, dimensional lumber, flooring, shakes, shingles, pallets, and saw dust); asphalt; building materials; rubble; plastic and other materials (including land clearing debris, metal, textiles, soil, paper, carpet, various types of roofing, rubber, aggregate, masonry, concrete, and insulation). The Application clarified that “of the materials received at the landfill, some will be processed in the MRFs and some will be used for fill as part of the landfilling activities”. The Application states that approximately 80% of the materials received at the Properties are recycled and/or recovered to be sold off the Properties, while less than 20% will be used as fill in the landfill. Further, the Application explained that some of the materials received on the Properties including concrete, yard waste, glass, tile, asphalt millings, and asphalt shingles are used on site as sub-base material and for building of temporary driving surfaces in support of the landfilling operation. During the Site Visit, Tom Land (president of Ecowaste Industries

Ltd.) stated that no clean concrete is landfilled, however, 'dirty concrete' which has insulation embedded/attached to it is more difficult to resell and is, therefore, landfilled. He further explained that plastics and carpet from demolition materials are also disposed of in the landfill.

[22] The Panel considered the definition of fill in s. 1 of the *Agricultural Land Commission Act*:

"fill" means any material brought onto agricultural land other than materials exempted by regulation;

[23] The Panel finds that some of the materials received on the Properties are retained on the Properties for the purpose of raising land as part of the landfill operation. The Panel finds that this meets the definition of fill in the *Agricultural Land Commission Act*.

[24] The Panel then considered s. 36(1) of the ALR Use Regulation:

Prohibited fill

36(1) Except as permitted under subsection (2), the following must not be used as fill on agricultural land:

- (a) construction or demolition waste, including masonry rubble, concrete, cement, rebar, drywall and wood waste;*
- (b) asphalt;*
- (c) glass;*
- (d) synthetic polymers;*
- (e) treated wood;*
- (f) unchipped lumber.*

[25] The Panel finds that, although some materials received at the Properties are removed from the Properties after recycling/recovery, some materials remaining on the Property and used as fill in the landfill such as 'dirty concrete', plastics, and carpeting are considered to be prohibited fill materials as defined in s. 36(1) of the ALR Use Regulation.

[26] Finally, the Panel considered s. 23(1) of the Agricultural Land Reserve General Regulation:

23(1) Subject to subsection (2), the Commission must reject an application for permission to place fill on agricultural land if the fill to be placed includes any of the materials referred to in section 36 of the Agricultural Land Reserve Use Regulation.

- [27] The Panel finds that the requested Extension involves the placement of prohibited fill materials as defined in s.36 of the ALR Use Regulation and that the Panel must therefore reject the request for Extension.

DECISION

- [28] While the Panel must reject the request to extend the terms of approval in Resolution #384/2015 and Resolution #385/2015 to 2055 for the placement of prohibited fill material in the ALR, the Panel finds it has jurisdiction to approve the replacement of “Urban Wood Recyclers” with “Ecowaste Industries Ltd.” as the operator of MRF#4, the increase in the footprint of MRF #4 from 1.3 ha to 3.3 ha, and the operation of two additional MRFs (MRF #5 and MRF #6), in addition to the four already approved by Resolution #384/2015 and #385/2015, subject to the following conditions:

- (a) The placement of MRF #4, MRF #5, and MRF #6 must be in compliance with Schedule A of this decision;
- (b) Any and all structures and buildings associated with MRF #4, MRF #5, and MRF #6 must not be constructed on a permanent foundation and must be removed upon expiry of the term of approval in Resolution #384/2015 and Resolution #385/2015;
- (c) The operation of MRF #4, MRF #5, and MRF #6 must be in compliance with the Design, Operations and Closure Plan Update (December 2018); and
- (d) The landfilling on the Properties must continue to be in compliance with the conditions outlined in Resolution #384/2015 and Resolution #385 /2015 with the exception of the replacement of Urban Wood Recyclers by Ecowaste Industries Ltd. as one of the four operations.

[29] 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.

[30] These are the unanimous reasons of the Panel.

[31] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(3) of the ALCA.

[32] Resolution #504/2020
Released on October 19, 2020




A handwritten signature in black ink, appearing to read 'Ione Smith', with a stylized flourish at the end.

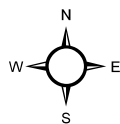
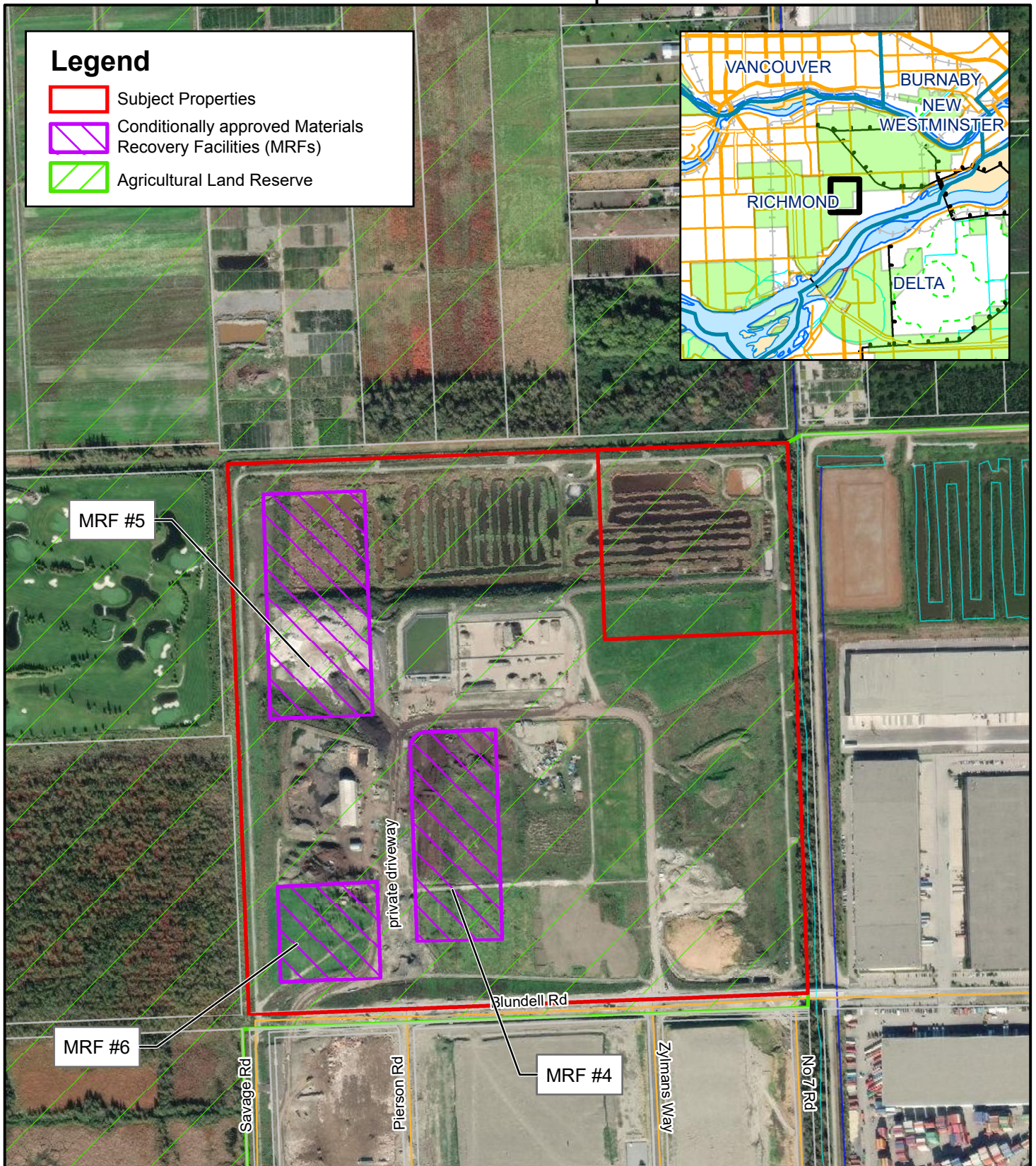
Ione Smith, Panel Chair

On behalf of the South Coast Panel

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Legend

-  Subject Properties
-  Conditionally approved Materials Recovery Facilities (MRFs)
-  Agricultural Land Reserve



Schedule A: Decision Map

2018 ESRI/DigitalGlobe Orthophoto

Map Scale: 1:7,500

0 60 120 180 240 300

Meters

ALC File #:	59139
Resolution #:	504/2020
Mapsheet #:	92G.015
Map Produced:	October 18, 2020
Regional District:	Metro Vancouver