

# Environmental FACTSHEET



BRITISH  
COLUMBIA

Ministry of Agriculture, Food and Fisheries

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## Environmental Legislation Affecting Agriculture

*This Factsheet briefly outlines federal and provincial legislation that affects the environment and agriculture in B.C. Some acts are very specifically related to environmental concerns, while others that are listed have a more minor roll. This Factsheet is not intended to be a legal interpretation of these acts - please refer to a lawyer or other legal authority for specific advice.*

### Environmental Concerns

The very nature of agriculture requires interaction with the environment. In B.C., much of the farm and ranch land is in valleys which often have streams or waterways and are important wildlife wintering areas. Farmers and farmland have an important role in protecting and preserving fish and wildlife habitat. This requires careful 'balancing' of agriculture with the environment. Much of the following legislation concerns water, habitat and fish.

### Stewardship

The Webster's dictionary defines *stewardship* as "the individual's responsibility to manage his life and property with proper regard to the rights of others". From this we could say that **environmental stewardship is the proper management of the environment on or by your property**. While you don't "own" the environment, your care of it shows respect for others and their rights.

Environment stewardship is often stated in relation to specific areas, such as 'watershed stewardship', 'stream stewardship', 'land stewardship', etc.

### Importance to Landowners

For more information on various aspects of the legislation, please refer to the references noted in this left hand column throughout this Factsheet.

Stewardship is important to more than 'fish and wildlife'; it is also important to landowners. Healthy streams, healthy streambanks, healthy riparian areas; these all assist in maintaining healthy adjacent land areas. And the health of the land is fundamental to agriculture.

Preventing loss of streambanks, reduced soil erosion and sustaining the water table are just some of the benefits to landowners of good stream stewardship. And of course the possible increase in birds, other wildlife and fish populations can be of interest and pleasure to landowners.

### Legislation List

The following is an alphabetical listing of legislation, and therefore the laws, we are all expected to meet. Although many landowners daily practice good stewardship that benefits us all, some landowners may not realize that certain practices are a concern.

# Federal Legislation

Federal acts are available on the Internet at:  
<http://canada.justice.gc.ca/STABLE/EN/Laws/Chap/F/index.html>

Click on the letter of the first word of the act, find the act in the list under that letter, choose the English or French version, then choose the text version you wish.

Any "Regulations" of the act are also available at this point.

See the DFO publication *Canada's Fish Habitat Law* for more details of this Act.

See also the *Stewardship Series* publication *Watershed Stewardship: A Guide For Agriculture*.

(phone 604.666.6614  
for a copy)

## Canadian Environmental Assessment Act

This act is administered by Environment Canada. It applies only to federal lands, works and undertakings, lands subject to the *Indian Act*, as well as lands in respect of which Indians have interests.

## Canadian Environmental Protection Act

This act is administered by Environment Canada with Health Canada. It applies to all lands in Canada and concerns toxic substances, hazardous materials, new substances, export and import of substances, fuels, international air pollution, ocean dumping, etc.

## Fisheries Act

This act is administered federally by Department of Fisheries & Oceans (DFO) and Environment Canada as well as provincially by Ministry of Environment, Lands and Parks (MELP). It is the main federal act affecting all fish and fish habitat as well as water quality.

- Sections 20, 21, 22 may require fish passage ways be installed; one-half of the costs may be recovered.
- Sections 26, 27, 30 prohibits obstructions of streams and the need for fish screens and fish guards in water intakes, ditches, etc.
- Section 32 prohibits the destruction of fish except by fishing.
- Section 34 has important definitions used in following sections ("deleterious substance"; "deposit"; "fish habitat").
- Section 35 prohibits harmful alteration, disruption or destruction of fish habitat (habitat on which the fish depend *directly or indirectly*).
- Section 36 prohibits the deposit of deleterious substances into streams (anything that degrades or alters the water quality so that it is, or likely to be, harmful to fish or fish habitat, including sediment). This section is usually enforced by Environment Canada.
- Section 37 requires approval for work that may impact fish habitat.
- Section 38 allows inspectors the right of entry onto private property.
- Section 40 sets out serious finest or imprisonment for offences.

This act has the main habitat protection legislation and section 35 is the part of the act that may be of most interest to producers. While DFO enforces this section, they also have a very active habitat restoration branch which works cooperatively with landowners. Water quality concerns (section 36), enforced by Environment Canada, may be somewhat duplicated by MELP's enforcement of the *Waste Management Act* (see page 8).

## Migratory Birds Convention

This convention, administered by Environment Canada, is designed to protect migratory birds that inhabit Canada during part or all of the year. There are provisions in the act covering when and where birds may not be killed or captured or their nests or eggs disturbed. Although migratory birds may damage agricultural lands, it is an offence to release substances which may harm them.

## Federal Legislation (cont'd)

### **Pest Control Products Act**

This act, administered by National Health and Welfare Canada, is to ensure the safety, merit, and value of pest control products. It concerns the protection of human health, the environment, and product performance. All pest control products used or imported into Canada must be registered.

### **Plant Protection Act**

The purpose of this act is to protect plant life and the agriculture and forestry industries by preventing the importation, exportation, and spread of injurious pests. It is administered by Agriculture Canada

### **Transportation of Dangerous Goods Act**

This act regulates the transport of all dangerous goods, whether by rail, road, air, or water. Safety standards must be met and all containers clearly marked as prescribed. It is administered by Transport Canada

### **Wildlife Act**

This act, administered by Environment Canada, makes provisions for the conservation of Canadian wildlife. It provides for activities which encourage wildlife conservation and interpretation and the enactment of measures to protect species of wildlife in danger of extinction.

## Provincial Legislation

Provincial acts are available from: Crown Publications Inc., 521 Fort St., Victoria, B.C. V8W 1E7

(phone 250-386-4636)  
or, on the Internet at:  
[http://www.qp.gov.bc.ca/stat\\_reg/statutes/](http://www.qp.gov.bc.ca/stat_reg/statutes/)

Choose the volume by alphabetical order using the first letter of the Act you wish to locate, and then the Act from that volumes' list.

Note that Bills or new Acts can be located at:  
<http://www.legis.gov.bc.ca/bills>

(this is where you will find the *Fish Protection Act* and the *Fisheries Renewal Act*, as they are both new at the time of this writing)

### **Agricultural Land Commission Act**

This act creates a commission whose objectives are to preserve agricultural land; encourage the establishment and maintenance of farms and to encourage local governments to support and accommodate farm use of agricultural land in their bylaws, plans and policies. It is administered by the Provincial Agriculture Land Commission.

- Section 11 allows land to be designated as suitable for farm use and established as an agricultural land reserve.
- Section 14 allows exclusion of land from a reserve.
- Section 17(3) prohibits use of agricultural land for other than farm use, except as permitted.
- Section 19 allows a covenant, in favor of the commission, be registered against the title for the use of the land.
- Section 47 requires local bylaws be consistent with the Agricultural Land Commission but they may relate to the use of agricultural land.

### **Drainage, Ditch and Dyke Act**

This act, administered by MELP, establishes a system for the regulation and authorization of ditches, watercourses, drainages, and dykes in B.C.

### **Environment and Land Use Act**

This act, administered by MELP, establishes the Environment and Land Use Committee which recommends programs to increase environmental awareness, ensures that the natural environment is considered in land-use and resource development decisions, etc. The Minister of Environment traditionally chairs the committee. Orders may be made respecting the environment or land use which may override other Acts and regulations.

## Provincial Legislation (cont'd)

### **Environment Management Act**

This act gives MELP responsibility for managing, protecting, and enhancing the environment. Specific responsibilities are listed including establishing and operating the Environmental Appeal Board.

### **Environmental Assessment Act**

This act, administered by MELP, is to promote sustainability by protecting the environment through assessment of the environmental, economic, social, cultural, heritage and health effects of reviewable projects and to prevent or mitigate adverse effects of such projects. Regulations prescribe what constitutes a reviewable project. The Minister may also designate a project as reviewable. An Environmental Assessment Board is mandated.

### **Farm Practices Protection (Right to Farm) Act**

This act was enacted in 1995 and is administered by MAF and Ministry of Fisheries (MF).

- Section 2 protects a farmer from liability in lawsuits alleging nuisance for odour, noise, dust or other disturbance resulting from the farm operation. The land must be in the ALR and the farmer must use normal farm practices and not contravene other listed legislation, such as the *Waste Management Act*, the *Code of Agricultural Practice for Waste Management* and land use regulations (e.g. a zoning bylaw).

With the introduction of this act, concurrent changes were made to the *Municipal Act*. These changes require any zoning or rural land use bylaw that may prohibit or restrict agriculture on ALR land be approved by the Minister of Agriculture and Food if a regulation under section 918 of the *Municipal Act* is in place (see *Municipal Act*, page 6).

### **Fire Services Act**

This act, administered by Ministry of Municipal Affairs and Housing, provides for the prevention, suppression, and investigation of fires. The B.C. Fire Code Regulation sets out requirements for the siting and installation of storage tanks containing hazardous substances such as combustible liquids (i.e., fuel tanks).

### **Fish Protection Act**

This is a new act as of 1997, administered by MELP. It restricts new dam construction on protected (major) rivers; deals with sensitive streams, maintaining minimum stream flows, water management plans and streamside protection. It also makes significant changes to other acts.

- Section 4 prohibits new dam construction on specified major rivers.
- Section 5 requires fish & fish habitat (on which fish may depend *directly or indirectly*) to be considered in water licenses.
- Sections 6 & 7 allow sensitive streams designation & recovery plans. Such streams will have restrictions placed on new licenses or approvals, or amendments to existing, until the stream has recovered.
- Section 8 allows for streamflow protection licenses to be issued. These are non-use water licenses, only to be held by organizations with a

See also MAF Factsheets  
*Strengthening Farming, The  
FPP Act*  
a series of seven  
that outline this Act.

## Provincial Legislation (cont'd)

Note that the requirements of Section 12 do not specify "agriculture". *Guidelines* for agriculture are being written in conjunction with MAF, MELP and the agriculture industry.

As of this writing, two regulations are being introduced under this Act:

- *Urban Streamside Protection Regulation*
- *Sensitive Streams Regulation*

community based interest and are without appurtenancy (i.e., not tied to a land base). These licenses are intended to enhance fish habitat, to provide education programs and to promote the efficient use of water.

- Section 9 allows for temporary reduction of water licenses to protect fish during a drought. Although no reduction amount is specified, "due consideration" must be given to agriculture users.
- Section 10 outlines considerations of water management plans (along with additions to section 22 of the *Water Act* regarding these plans). These plans are to conserve water, for the more efficient use of water and for reductions as stated in section 11.
- Section 11 allows an reduction of a water license of up to 5% where a water management plan provides for reductions for the purpose of providing additional water for fish and fish habitat (reduction is only on license transfer, apportionment or property sale). Any reduction is without compensation and without appeal.
- Section 12 requires municipal bylaws, where directed, regarding the protection and enhancement of riparian areas that may be subject to residential, commercial or industrial development.
- Sections 14 - 16 make administrative amendments to the *Waste Management Act*.
- Sections 17 - 24 make amendments to the *Water Act* (see page 9).
- Sections 25 - 35 make amendments to the *Wildlife Act* (see page 9).

This act allows for some basic changes affecting water licenses. Fish and fish habitat must be considered in new and existing licenses. Minimum stream flows and water use efficiency are given priority. Irrigators with properly designed systems (from intake to nozzle) using their allotted quantities will not normally be affected. Permanent license reductions are not for existing licenses, unless transferred.

Note: At the time this note was prepared most of the Fish Protection Act has not been proclaimed and many provisions are not yet in effect. The only substantive section that is in effect is section 4. The implications of some sections will be more fully understood with time and experience.

### **Fisheries Act**

This act concerns licensing of fisheries, processors and safe fish passage. It is administered by MF and enforced by MELP and MF.

- Part 1 allows enforcement officers to enter private property without being liable for trespass and to enter buildings related to fishing without a warrant. It is an offense to obstruct an officers duties.
- Part 4 requires safe fish passage for any dam or other hydraulic work. This may include fish ways, screens, etc.

Currently, part 4 is not actively enforced by MF. These requirements are also provisions of the Federal *Fisheries Act* (see page 2) and the Provincial *Fish Protection Act* (see page 4) and are enforced by the agencies responsible for those acts.

## Provincial Legislation (cont'd)

Legislation includes the *Forest Practices Code of BC Act* as well as various *Regulations*. *Guidebooks* interpret these requirements.

Note that these are available from the Ministry of Forest Internet home page :

<http://www.for.gov.bc.ca/>

and then choose "Forest Practices Code" from which *Guidebooks* may be ordered or the *Regulations* accessed.

In particular, refer to the *Riparian Management Area Guidebook*; *Community Watershed Guidebook*; *Range Management Guidebook*.

### Fisheries Renewal Act

This is a new act as of 1997, administered by MF. The act's purpose is to renew fisheries and enhance fish, fisheries and fish habitat in B.C. The definition of 'fish' includes aquatic plants.

A Crown corporation has been formed and may be active in habitat restoration work as part of its mandate. It is now being organized.

### Forest Practices Code of BC Act

This act regulates all forest practices (which include grazing). It provides riparian protection on Crown land as well as private land in Tree Farm Licenses and woodlots. Sections concern range use plans, community watersheds, planned fires, soil conservation, noxious weeds, range developments, trespass livestock, hay cutting, trails, etc.

- Section 45 states a forest practice must not damage the environment.

The *Range Practices Regulation* of the *Forest Practices Code* contains details of interest to Crown range users, such as;

- Section 1 has definitions of terms - note that a *stream* is defined differently than in the *Water Act* or the *Code of Agricultural Practice*
- Section 3 states that in community watersheds, you must not construct: a range development that encourages livestock within 50 m of a stream; a livestock trail that abuts or crosses a stream; a cabin or a livestock corral within 50 m of a stream.
- Section 6 prohibits the tracks or wheels of ground-based machinery coming within 5 m of a stream bank (exceptions allowed). It also prohibits fueling or servicing of machinery in a riparian area.
- Section 7 requires dead livestock within 100 m from a stream in a community watershed be removed within 24 hours or a.s.a.p.

### Health Act

This act provides the legislative framework which permits the health of British Columbians to be monitored and safeguarded. It regulates farm practices that may result in a health hazard, such as when nutrients, contaminants, or pathogens are discharged into the environment.

### Motor Vehicle Act

This act is to protect people traveling on public roads. It is an offence to dump or deposit any "noisome, nauseous or offensive matter" on a highway or right-of-way.

### Municipal Act

This act provides the legislative frame work for the establishment, function and operation of local governments. It provides for the authority for local government to establish rules and regulations and for the provision of services to the local community. Several sections may apply to streams and habitat.

- Sections 343.1 & .2; 344(4) and 845.1 & .2 allow municipal or regional district bylaws to exempt riparian property from property tax where a covenant is registered against the property title.

## Provincial Legislation (cont'd)

See the *Stewardship Series*  
publication  
*Stewardship Options*  
for *Private Landowners in BC*.

(phone 1.800.387.9853  
for a copy)

- Section 551 allows bylaws to prohibit a person from polluting or from obstructing or impeding the flow of a stream.
- Section 557 states a person is liable for restoration work and a penalty if they obstruct, fill up or injure a ditch, drain, creek or watercourse constructed under this act or they cut, destroy or injure a dike or other drainage or reclamation work connected with it.
- Sections 561 - 573 relate to municipal ditching projects including property changes & appeals, maintenance levies, etc.
- Sections 875 - 885 relate to official community plans. These may restrict the use of land that is environmentally sensitive to development and provide for the designation of development permit areas in plans (see also section 920) for various purposes including the protection of the natural environment and the protection of farming.
- \*Sections 886 - 889 relate to rural land use bylaws that may be adopted and may set conditions, requirements and restrictions on the use of land that is environmentally sensitive.
- \*Sections 903 - 914 relate to zoning bylaws that may be adopted.
- Section 907 allows bylaws to control runoff related to the construction of a roofed area or paved area and to establish the maximum percentage of the area of land that can be covered by impermeable material.
- \*Sections 915 - 919 outline the use of land for agricultural operations; section 916 allows for bylaw standards; section 917 provides for farm bylaws.
- Section 920 provides the authority to issue development permits relating to the protection of the natural environment and the protection of farming.

\*Note that under section 918, subsections 887(8) -rural land use bylaws-and 903(5) -zoning bylaws- and section 917-farm bylaws- do not apply until the Lieutenant Governor in Council, by regulation, declares that they apply. These provisions require that, for land in the Agricultural Land Reserve (ALR), a rural land use bylaw or zoning bylaw which prohibits or restricts the use of land for a farm business, or a farm bylaw, must be approved by the Minister of Agriculture and Food.

### **Pesticide Control Act**

This act regulates the selling, applying or providing a service respecting pesticides and is administered by MELP. Some Regulations are:

- Sections 4,5 and 6 require (except as provided by regulation) a licence, certificate or permit to sell or apply pesticides.
- Section 7(2) prohibits improper disposal of a pesticide; prohibits a person from washing or submerging in a body of water equipment or containers used to prepare, mix or apply a pesticide; and prohibits drawing water into a container used to contain, prepare, mix or apply a pesticide directly from a body of water or from an irrigation system by means of equipment unless an air gap is maintained between the equipment and the liquid in the container to avoid back siphoning.

## Provincial Legislation (cont'd)

- Regulation 2(1a) states no person shall use a pesticide in a manner that would cause an unreasonable adverse effect (defined as damage to humans or the environment).
- Regulation 7(2) and 10(2) exempt a man made self contained body of water from use and permit restrictions.
- Regulation 10(3) requires written notice for pesticide use within 10 m of a body of water on leased Crown land.
- Regulation 44(1) exempts certain requirements for specified pesticides used on private land.

### **Plant Protection Act**

This act provides for the prevention of the spread of pests destructive to plants in B.C. It is the provincial counterpart to the federal *Plant Protection Act*.

### **Soil Conservation Act**

This act is to protect soil on land in the Agricultural Land Reserve by regulating its removal and the placement of fill. The Provincial Agricultural Land Commission sets terms and conditions on the quantities of earth involved, how the work is to be done, and the restoration required to a condition fit and suitable for agriculture.

### **Transportation of Dangerous Goods**

This act, administered by the Attorney General, establishes requirements to provide for the safe transport of goods deemed to be dangerous. Regulations specify substances and establishes classes of dangerous goods.

### **Waste Management Act**

This act is administered by MELP and is concerned with waste disposal. A regulation allows agricultural operations to be exempt from the permit requirements of one part of this act.

- Section 1 has definitions of terms.
- Section 3 states that "...a person must not introduce or cause or allow waste to be introduced into the environment..." unless in compliance with a permit, approval, order or regulation.

The *Agricultural Waste Control Regulation* allows exemption from two clauses of Section 3 for agricultural operations when they follow the *Code of Agricultural Practice for Waste Management*; i.e., agricultural wastes may be introduced into the environment if the *Code* is followed (and no pollution occurs). This exemption is only for clauses 3(2) and 3(3) of this act, specific to introducing wastes into the environment; all the rest of this act applies to agricultural operations.

It is important to note that this exemption is only for "agricultural wastes" and that this *Code* is only concerned with these wastes and "pollution"; stream stewardship issues such as habitat are not specifically covered. In other words, while following the *Code* can ensure that pollution concerns are properly dealt with, other needs of fish habitat must also be addressed.

Refer to MAF publications *Environmental Guidelines for* ..... *Producers of BC*, a series of commodity-specific books which include the *Code* and ideas on how to meet it.



## Provincial Legislation (cont'd)

For details of an irrigation water licence refer to the MAF Factsheet #502.100-4 *Understanding an Irrigation Water Licence*.

See also MELP pamphlets:

- *Water Rights in BC*
- *How to Apply for a Water Licence*
- *Water Licences - Rights and Obligations*
- *A Users Guide to Working In and Around Water*

Look for future Factsheets in a new *Stream Stewardship* series for habitat information.

Other regulations such as the *Special Waste Regulation*, *Spill Reporting Regulation*, *Open Burning Smoke Control Regulation*, *Composting Regulation*, *Contaminated Sites Regulation* could affect farmers and ranchers.

### Water Act

This act is administered by MELP; it is concerned with water licencing (sec 5-7; 10 - 29) and approvals for changes in and about a stream (sec 9). Note the *Fish Protection Act* has amended sections 1,22,23,39,40,41,46.

- Section 1 has definitions of terms.
- Sections 5 & 6 list the rights acquired under a water licence.
- Section 7 lists who may acquire a water licence.
- Section 8 allows short term approvals (water use less than 12 months).
- Section 9 allows approvals for changes in and about a stream; these must also meet with DFO approval under the Federal *Fisheries Act*.
- Sections 10 - 50 outline licence applications, rights, administrative concerns, rights of appeal, offences, water users' communities.

The *Fish Protection Act* (see page 4) has made significant changes to the *Water Act* including: Section 22.1 - 22.4, water management areas & plans; Section 40.1, prohibiting introducing debris into a stream or area adjacent to a stream that may harm or damage the stream, stream channel, property of riparian owners, fish or fish habitat and Section 40.2 allows for remediation orders for mitigation of effects of introduced debris.

### Weed Control Act

This act is administered by MAF. It places the responsibility for the control of noxious weeds on the occupiers of the land. It provides for the appointment of inspectors to ensure compliance and, failing that, for a method by which they can control weeds and recover the costs for doing so from the occupier. Weed Control Committees may be established by municipal councils to administer the act within a municipality. Committees report to the municipal council and the Minister.

### Wildlife Act

This act is administered by MELP and MF and includes management of habitat concerns on Crown land and protection of habitat in general.

- Section 4 allows designation of wildlife management areas.
- Section 7 makes it an offence to alter, destroy or damage wildlife habitat within a wildlife management area.
- Section 9 makes it an offence to disturb, molest or destroy a muskrat or beaver house, den or dam unless you are a licensed trapper or have lawful authority to protect property or maintain irrigation or drainage facilities.
- Section 34 makes it an offence to possess, take injure, molest or destroy the nest of an eagle, peregrine falcon, osprey, heron or burrowing owl or the nest of any bird not mentioned above when the nest is occupied by the bird or its egg.

## Provincial Legislation (cont'd)

- Section 39 makes it an offence to hunt or trap on cultivated land or on a Crown land grazing lease while occupied by livestock without the lessee or owners consent.
- Section 89 gives an officer powers of entry on proof of identification.
- Section 111 concerns the Habitat Conservation Fund.

This act has been amended by the *Fish Protection Act* (see page 4) to have wildlife include aquatic plants; and aquatic invertebrate or plants can be considered as endangered or threatened. Critical wildlife areas or sanctuaries can be designated in wildlife management areas.

## Municipal Bylaws

See the MAF publication *Guide For Bylaw Development In Farming Areas* for information on the Minister's standards, the review of zoning and rural land use bylaws and the development of farm bylaws.

As noted under the *Municipal Act* (page 6) local governments may make bylaws dealing with a number of matters. Farm bylaws and, where a regulation has initiated the requirement, those rural land use or zoning bylaws applied to the ALR which prohibit or restrict agriculture, require approval by the Minister of Agriculture and Food.

Once a regulation is in place for a particular area it may authorize local government to enact farm bylaws; require the review of existing farm bylaws; and require approval and review of the rural land use and zoning bylaws take place. This review is to determine to what extent the bylaws are inconsistent with the standards established by the minister (under section 916 of the *Municipal Act*). This process is new and just beginning to be applied.

## Summary

Please refer to the following for more stewardship information:

- *Farms & Streams - The Farmers Guide to Stream Stewardship*, from MAF office Duncan, BC (phone 250.746.1210 for a copy)
- *Caring For The Greenzone - Riparian Areas & Grazing Management*, from Canadian Cattlemens Assoc, Calgary (phone 403.275.8558 for a copy)

A federal act for fish and fish habitat and water quality; many provincial acts that in some way protect the environment, fish and fish habitat, and water quality; municipalities and regional districts that may make local bylaws; it can seem overwhelming.

Although this is a lengthy list, it includes acts which play a small part in environmental stewardship as well as acts which have a major influence, such as the Federal *Fisheries Act*. Recent provincial legislation, such as the *Fish Protection Act*, are too new to fully know their impact.

However, the intent of all of this legislation is very similar; the concern of negative impacts from human activity on the environment, some of which could be agricultural impacts.

If you have a concern or question about any of these acts, please contact the ministry that administers that act, or contact your local MAF office.

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### FOR FURTHER INFORMATION, CONTACT:

Phone: (604) 556-3100  
Email: [suzanne.jaques@gems8.gov.bc.ca](mailto:suzanne.jaques@gems8.gov.bc.ca)

### RESOURCE MANAGEMENT BRANCH

Ministry of Agriculture and Food  
1767 Angus Campbell Road  
Abbotsford, BC CANADA V3G 2M3