



REPORT

To: Electoral Area Directors Committee

Report Number: DS-EADC-003

From: Shawn Dahlen, Chief Administrative Officer

Date: September 8, 2020

Subject: Changes to the Agricultural Land Commission Act

RECOMMENDATION:

That the Electoral Area Directors Committee recommend that the Regional Board authorize the preparation of a draft policy that will address how the PRRD moves forward with future ALR exclusion applications, for consideration at the October 8, 2020 Regional Board.

BACKGROUND/RATIONALE:

Bill 52

On February 22, 2019, the Agricultural Land Reserve Use Regulation was approved by B.C.'s Lieutenant Governor in Council, bringing into force changes to the *Agricultural Land Commission Act* under Bill 52 – 2018, *Agricultural Land Commission Amendment Act, 2018*. One of the key changes is the new oversight role of the Agricultural Land Commission (ALC) for residential use and structures on Agricultural Land Reserve (ALR) land. Where a landowner seeks to exceed a new residential limit in the ALR, such as more than one residence on a parcel, or a larger principal residence than the maximum, they must apply to the ALC for approval. The process would still include an initial application to the local government. The local government would forward to the ALC any application for a non-adhering residential use, for ALC review and approval. The Ministry of Agriculture has extended the deadline to receive all required authorization to locate a manufactured home for family members in the ALR has been extended from December 31, 2020 to July 31, 2021.

Bill 15

On May 30, 2019, the *Agricultural Land Commission Amendment Act* was received Royal Assent. Many elements of this Bill were identified to be phased in over time. On June 26, 2020, Order in Council No. 353/2020 further updated the Agricultural Land Reserve regulation to reflect previously adopted changes. The following portions of Bill 15 will come into effect on September 30, 2020:

- Application fees will be split evenly between the local government and the ALC. \$1500: \$750 to local government and \$750 to the ALC. Currently, \$300 goes to the local government and \$1200 goes to the ALC.
- Non-Adhering Residential Use (NARU) application fee will be reduced to \$900: \$450 to local government and \$450 to the ALC.
- The annual allowable amount of fill to maintain an existing farm road is increased to 50 m³ per 100 m of existing farm road.
- For the purpose of maintaining an existing farm road, the definition of prohibited fill will be amended to permit the use of “recycled concrete aggregate” and “recycled asphalt pavement” that:
 - have been recovered from a demolition process,

- have been crushed to a particle size that may pass through a 1.905 cm screen (3/4 inch), in the case of recycled concrete aggregate, or are 1.905 cm³ or smaller, in the case of recycled asphalt pavement, and
 - do not include, or are not combined with, metal, plastic, rubber, wood, glass, paper, organic materials or other contaminants.
- Individual landowners may no longer submit exclusion applications to the ALC. Local Governments, First Nation Governments, the Province of BC, and prescribed public bodies may make application to exclude land from the ALR.
- The CEO of the ALC will have the ability to register a remediation notice on a property's certificate of title if such an order is issued through ALC compliance and enforcement.

Changes to the Exclusion Process

As mentioned above, private landowners will no longer be able to apply to exclude their land from the ALR. The ALC's intention with this change is to ensure that exclusions are the thoughtful result of a community planning process, and that exclusion applications are made by a public body. A public body may include local governments and First Nations. Local governments can still make applications to exclude land from the ALR.

PRRD Planning staff and ALC Planning staff discussed potential options for exclusions moving forward. The following were discussed:

1. That the PRRD not consider any public inquiry or proposal for exclusion from the ALR.
2. That the PRRD create a request for exclusion process for landowners and make applications on their behalf, at the PRRD's expense:
 - a. Individually, as applications are received; or
 - b. In batches, on a set timeframe or once a certain number of applications are received.
3. That the PRRD undertake or build off previous community planning processes to determine land parcels to be excluded. For example, the ALC has endorsed non-farm uses through Official Community Plan processes.

These approaches could also be combined or done for a trial period to test the system.

In recent years, the PRRD has processed 5 exclusion applications in 2016, 5 in 2017, 1 in 2018, 6 in 2019, and 5 to-date in 2020. Of these 22 applications, 14 were for properties designated as Agriculture in PRRD Official Community Plans and 8 were for properties designated for non-agricultural use. Of the 14 exclusion applications on lands designated as Agriculture, all were sent to the ALC. Of those, 9 were refused by the ALC, 2 were withdrawn by the applicant, and 3 are still in progress as they are 2020 files. Of the remaining 8 exclusion applications for properties designated for non-agricultural use, 1 was deferred by the PRRD Board, 5 were approved by the ALC, and 1 is still in progress. From this analysis, as well as an analysis completed in 2019, PRRD planning staff found that the ALC generally refuses exclusion proposals that are on Agricultural land.

Finally, the ALC has indicated that multiple properties can be excluded under one application, and they do not need to be adjoining. The ALC may approve exclusion of none, some, or all of the properties under one application. Further, landowner consent is not required.

ALTERNATIVE OPTIONS:

1. That the Electoral Area Directors Committee provide further direction.

STRATEGIC PLAN RELEVANCE:

- ☒ Organizational Effectiveness
- ☒ Comprehensive Policy Review

FINANCIAL CONSIDERATION(S):

The PRRD would incur a \$750 application fee for each exclusion application it makes, plus costs incurred to hold the required public hearing, such as facility rentals, staff time, and notification costs. In addition, signage would also need to be posted. ALC staff noted that it is unclear if the PRRD can legally pass this cost on to individual landowners if the PRRD makes an application on behalf of an individual landowner under the *Agricultural Land Commission Act*.

COMMUNICATIONS CONSIDERATION(S):

None at this time.

OTHER CONSIDERATION(S):

None at this time.

Attachments:

1. ALC Exclusion Policy Lab Presentation, July 21-24, 2020