



Agricultural Land Commission
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June 27, 2016

ALC File: 55027

TM Mobile Inc.
3-4535 Canada Way
Burnaby, BC V5G 1J9

Attention: Harmen Kahlon

Dear Mrs. Kahlon:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #238/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly. A sketch plan depicting the decision has been attached.

Please note that pursuant to s. 33.1 of the *Agricultural Land Commission Act*, the Chair may direct the executive committee to reconsider this 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 section 6 or does not adequately take into account the considerations set out in section 4.3”. I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

Further correspondence with respect to this application is to be directed to Jess Daniels at (Jessica.Daniels@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosures: Reasons for Decision (Resolution #238/2016)
Sketch plan

cc: Regional District of Kitimat-Stikine (File: 3370 20 #317)

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AGRICULTURAL LAND COMMISSION FILE 55027

REASONS FOR DECISION OF THE NORTH PANEL

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

Applicant: **BC Provincial Government
(the “Applicant”)**

Agent: **Harmen Kahlon
TM Mobile. Inc.
(the “Agent”)**

Application before the North Regional Panel: **Dave Merz, Panel Chair
Sandra Busche
Garry Scott**

THE APPLICATION

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

Unsurveyed Crown Land

Portions of District Lot 6211 and 6212, Range 5, Coast District

(collectively the “Properties”)

[2] The Proposal area on the Properties is 6.3 ha in area.

[3] The Properties have the civic address 1010 Highway 37, Regional District of Kitimat-Stikine.

[4] The Properties are 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 2 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 20(3) of the *ALCA*, the Agent is applying to construct a communication tower comprising a project footprint of 6.29 ha. The communication site area is 4 ha (200 m x 200 m) to accommodate the proposed 90 m guyed tower) and the access/utility corridor is 2.29 ha (the “Proposal”). The Proposal along with supporting documentation is collectively (the “Application”).

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 20(3) 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 use of agricultural land.

[8] The Panel considered the Application pursuant to its mandate in s. 4.3 of the *ALCA*:

- 4.3 When exercising a power under this Act in relation to land located in Zone 2, the commission must consider all of the following, in descending order of priority:
- (a) the purposes of the commission set out in section 6;
 - (b) economic, cultural and social values;
 - (c) regional and community planning objectives;
 - (d) other prescribed considerations.

[9] The purposes of 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

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map, and satellite imagery

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

SITE VISIT

[11] The Panel, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Property based on the evidentiary record associated with the Application.

FINDINGS

Section 4.3(a) and Section 6 of the ALCA: First priority to agriculture

[12] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability rating identified on CLI map sheet 103I/02 for the mapping unit encompassing the Proposal area is 100% (7:4PM - 3:4DM)

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

The limiting subclasses associated with this parcel of land are D (undesirable soil structure), M (moisture deficiency) and P (stoniness).

[13] The CLI ratings confirm that the Property has moderate agricultural capability

[14] The Applicant provided the following information regarding agriculture on the Property:
"No agricultural practices currently take place on the area that is being proposed for a telecommunications tower that would improve coverage, and as a result safety, along the dangerous segment of Highway".

[15] The Regional District of Kitimat-Stikine provided the following information regarding the Proposal and Property: *"Access to the site will be along a new access road from Highway 37 that will be maintained by Telus. The area is forested unimproved land and*

is not used for agriculture. Surrounding lands are vacant unimproved Crown land with second growth conifers and scrub”.

[16] The Panel notes the agricultural capability of the Property and that the land is not currently used for agriculture.

Section 4.3(b) of the ALCA: Second priority to economic, cultural and social values

[17] The Applicant did not provide any information specifically citing economic, cultural and social values

Section 4.3(c) of the ALCA: third priority to regional and community planning objectives

[18] The Property is not subject to designation in an official community plan.

[19] The Regional District of Kitimat-Stikine provided the following information regarding zoning: *“This subject and surrounding lands are not within a Regional District zoning bylaw area however they are subject to a Subdivision Control Bylaw which established a 4 ha minimum parcel size for subdivision purposes”.*

Weighing the factors in priority

[20] In considering s. 4.3(a) and the first priority to agriculture, the Panel notes that the Property is not currently used for agriculture and that the Proposal area comprises a small area. For these reasons, the Panel does not believe that the Proposal negatively impacts agriculture.

[21] The Panel gave consideration to economic, social and cultural values and regional and community planning objectives planning as required by s. 4.3. In this case, the Panel finds that these considerations are not contributory to the decision given the Panel’s finding following its review of the agricultural considerations.



DECISION

[22] For the reasons given above, the Panel approves the Proposal to construct a communication tower comprising a project footprint of 6.29 ha.

[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] Panel Chair **Dave Merz** concurs with the decision.
Commissioner **Sandra Busche** concurs with the decision.
Commissioner **Garry Scott** concurs with the decision.

[25] Decision recorded as Resolution #238/2016.

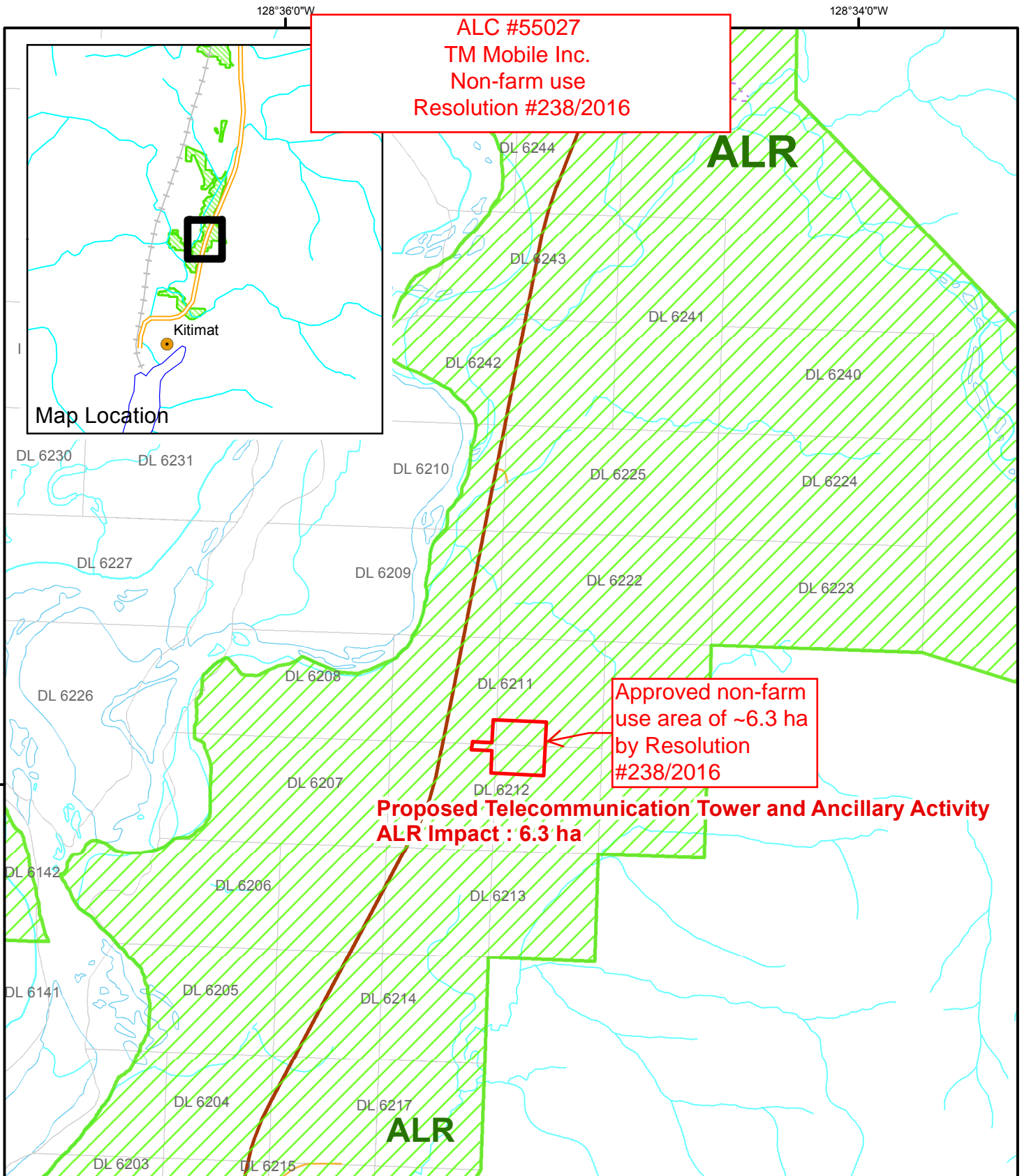
A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #238/2016. The decision is effective upon release.

Colin J. Fry, Director of Policy and Planning

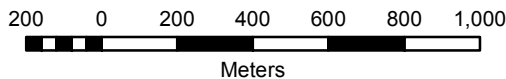
June 27, 2016

Date Released



ALR Context Map

Map Scale: 1:20,000



ALC File #:	55027
Mapsheet #:	1031.018
Map Produced:	May 18, 2016
Regional District:	Kitimat-Stikine