



Agricultural Land Commission
133–4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

October 26, 2016

ALC File: 55158

Shari Edgren
3280 Blewett Road
Nelson, BC
V1L 6V6

Dear Ms. Edgren:

Re: Application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #359/2016) as it relates to the above noted application. A sketch plan depicting the decision has been 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 Riccardo Peggi at (Riccardo.Peggi@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Riccardo Peggi, Land Use Planner

Enclosures: Reasons for Decision (Resolution #359/2016)
Sketch plan

cc: Regional District of Central Kootenay (File: A1605E)

55158d1



AGRICULTURAL LAND COMMISSION FILE 55158

REASONS FOR DECISION OF THE KOOTENAY PANEL

Application submitted pursuant to s. 30(1) of the *Agricultural Land Commission Act*

Applicant:

**Bryan Edgren
Shari Edgren
(the “Applicants”)**

Agent:

**Shari Edgren
(the “Agent”)**

Application before the Kootenay Regional Panel:

**Sharon Mielnichuk, Panel Chair
Harvey Bombardier
Ian Knudsen**



THE APPLICATION

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

Parcel Identifier: 027-774-511

Lot 1, District Lot 5284, Kootenay District, Plan NEP87048
(the "Property")

[2] The Property is 7.2 ha in area (2.5 ha in ALR).

[3] The Property has the civic address 3280 Blewett Road Nelson, BC.

[4] The Property is located partially 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. 30(1) of the *ALCA*, the Applicants are applying to exclude the 2.5 ha ALR portion of the 7.2 ha Property from the ALR (the "Proposal"). The Proposal along with supporting documentation is collectively the "Application".

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 30(1) of the *ALCA*:

30 (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.

[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 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

[10] The Panel considered the following evidence:

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

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

[11] The Regional District of Central Kootenay (the “RDCK”) resolved to forward the Application to the Commission.

[12] The Panel reviewed two relevant applications relating to the application:

Application ID: 9515
Legacy File: 31908
(Jmaeff, 1998)

To exclude two properties which are 7.4 ha and 8 ha in size of which 9.4 ha are in the ALR. The Commission

believed that retaining the community of Blewett in the ALR is a lifestyle issue and not one of high capability land being preserved for agriculture. Allowed by ALC Resolution #436/98.

Note: The properties are located approximately 200 metres west of the Property currently under Application.

Application ID: 52247
(Demers, 2011)

To exclude two adjacent properties which total 5.2 ha. The Commission concluded that the subject property has limited agricultural capability, that external factors render the property unsuitable for agricultural use, and that the proposed exclusion will not significantly impact agricultural use of the property or surrounding lands. Allowed by ALC Resolution #448/2011.

Note: The properties border the western boundary of the Property currently under Application.

SITE VISIT

[13] On September 20, 2016, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the “Site Visit”).

[14] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the Agent on September 29, 2016 (the “Site Visit Report”).

FINDINGS

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

[15] 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 ratings identified on CLI map sheet 82F/06 for the mapping units encompassing the ALR portion of the Property are approximately 95% 4T and 5% (7:7TC – 3:5T)

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

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

Class 7 - land has no capability for soil bound agriculture.

The limiting subclasses associated with this parcel of land are C (adverse climate), and T (topographic limitations).

[16] While the CLI ratings indicate Class 4 capability, the Site Visit revealed that steep topography severely limits the area available for agriculture on the ALR portion of the Property. Although a fraction of the ALR portion of the Property is capable for agriculture, the Panel finds that it is so limited in size and constrained by topography that the ALR portion of the Property is not suitable for agriculture.

[17] The Property is located at the edge of ALR boundary in Blewett. With the exception of the parcel located south of the Property on the other side of Blewett Road, the Property is surrounded by non-ALR land. The Panel finds that excluding the Property would have no impact to agricultural practise in the area.

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

[18] In their letter the Applicants did not provide any evidence or rationale regarding any economic, cultural and social values that are pertinent to the Application

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

[19] The Property is located outside of an area subject to zoning regulation or an official community plan designation.

Weighing the factors in priority

[20] The Panel finds that the size and capability restraints combined with the close proximity to the ALR boundary indicates that there is no agricultural rationale for retention of the Property within the ALR.

[21] The Panel did not receive any evidence or rationale regarding economic, social and cultural values and regional and community planning objectives.

DECISION

[22] For the reasons given above, the Panel approves the Proposal.

[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 Kootenay 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*.

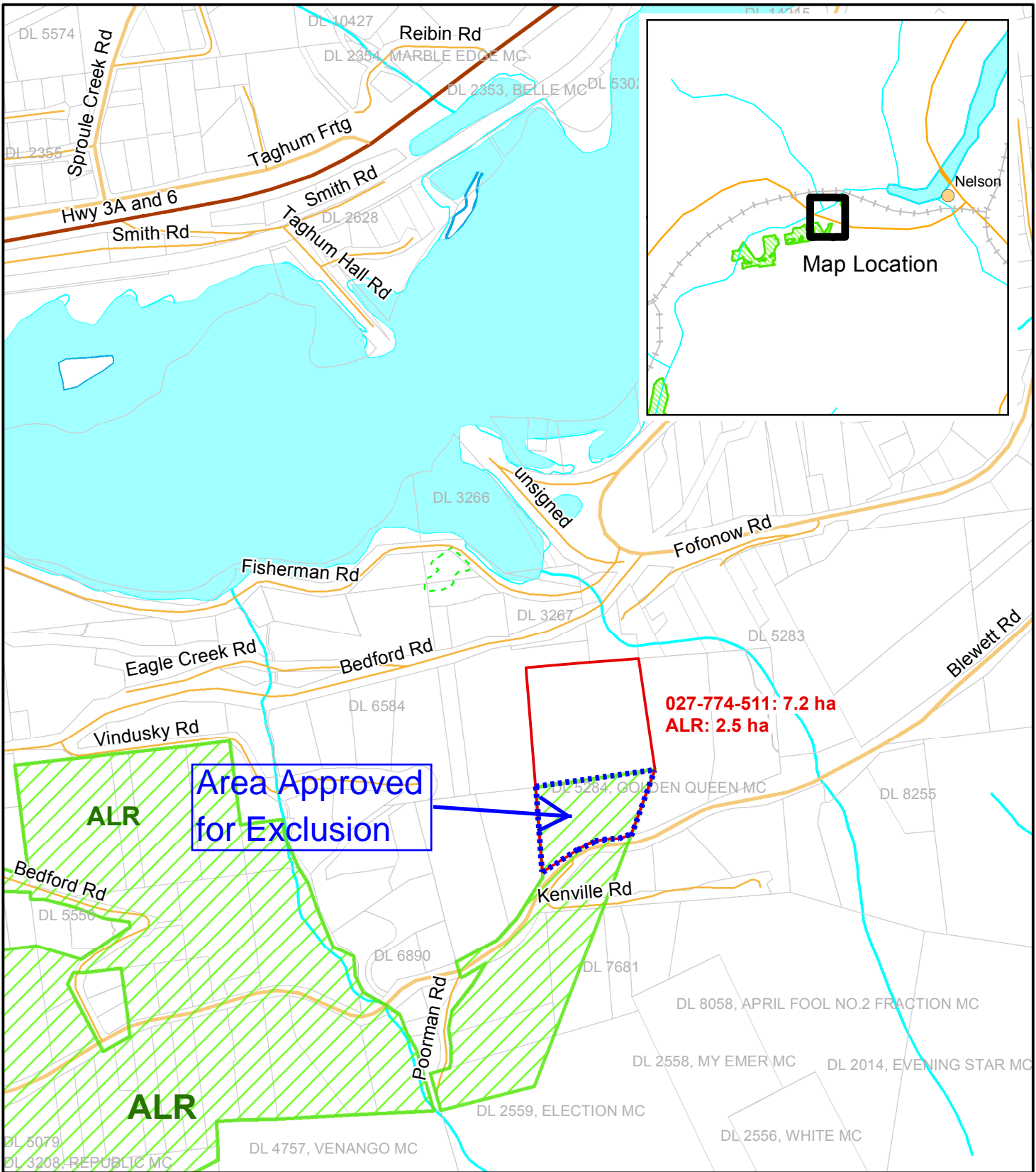
[26] This decision is recorded as Resolution #359/2016 and is released on October 26, 2016.

CERTIFICATION OF DECISION



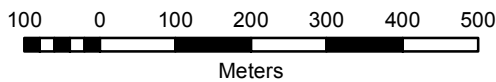
Sharon Mielnichuk, Vice Chair, on behalf of the Kootenay Panel

END OF DOCUMENT



ALR Context Map

Map Scale: 1:10,000



ALC Application 55158
Approved Exclusion
ALC Resolution #359/2016