



**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

September 20, 2016

ALC File: 55093

Allan and Karen Dean  
Sent by Electronic Mail

Dear Mr. and Mrs. Dean:

**Re: Application to Subdivide Land in the Agricultural Land Reserve (ALR)**

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #304/2016) as it relates to the above noted application.

Your attention is drawn 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.

Further correspondence with respect to this application is to be directed to Jennifer Carson at (Jennifer.Carson@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:   
Colin J. Fry, Director of Policy and Planning

Enclosure: Reasons for Decision (Resolution #304/2016)

cc: Thompson Nicola Regional District (File: ALR 110)

55093d1



## **AGRICULTURAL LAND COMMISSION FILE 55093**

### **REASONS FOR DECISION OF THE INTERIOR PANEL**

**Application submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act***

**Applicants:**

**Allan Dean  
Karen Dean  
(the “Applicants”)**

**Agent:**

**Allan Dean  
(the “Agent”)**

**Application before the Interior Regional Panel:**

**Lucille Dempsey, Panel Chair  
Richard Mumford  
Roger Patenaude**



## **THE APPLICATION**

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

Parcel Identifier: 013-188-143

District Lot 2583, Kamloops Division Yale District, Except Plan EPP44946

(the "Property")

[2] The Property is 19.9 ha in area. 18.5 ha are situated within the ALR.

[3] The Property is generally described as being located on Birch Island – Lost Creek Road in Vavenby, northeast of Clearwater.

[4] The Property is 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. 21(2) of the *ALCA*, the Applicants are applying to subdivide the Property into two parcels of 5.3 ha and one parcel of 9.0 ha (the "Proposal"). The Proposal along with supporting documentation is collectively the application (the "Application").

## **RELEVANT STATUTORY PROVISIONS**

[7] The Application was made pursuant to s. 21(2) of the *ALCA*:

21(2) An owner of agricultural land may apply to the commission to subdivide 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. Previous application history
4. Agricultural capability map, ALR context map and satellite imagery
5. Riparian Areas Regulation: Assessment Report dated July 30, 2014
6. Preliminary Geohazards Assessment dated March 3, 2014

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

[11] The Panel reviewed a previous application involving the Property:

Application ID: 30039  
Legacy File: 10219

To subdivide the 68 ha subject property into parcels of 48 ha and 20 ha of ALR as divided by a road. The



(Dean, 1980)

Commission allowed the proposal by Resolution #1209/1980 as it believed the proposed lot sizes would not be too small for agricultural purposes. However, the Panel expressed that it did not support any further subdivision of the two new lots.

## **SITE VISIT**

[12] On July 7, 2016, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[13] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the Agent on July 15, 2016 (the "Site Visit Report"), by way of return email on July 21, 2016, the Agent made some contributions to the Site Visit Report.

## **FINDINGS**

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

[14] 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 82M/12 for the mapping units encompassing the Property are Class 3, Class 4, Class 5 and Class 7; more specifically the majority of the Property is classified as unimprovable from 7:5PM - 3:7TP and the northwestern corner is unimprovable from 5:4MP - 3:5I - 2:3M.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

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 M (moisture deficiency), P (stoniness), I (inundation) and T (topographic limitations).

[15] The Panel reviewed the CLI ratings and finds that they are relatively consistent with the surrounding areas in both capability and parcel size.

[16] Within the Application, the Agent writes that, *“a no build geotechnical covenant restricts development of flood plain terrace as well as a 30 m setback for Riparian Area Regulation for management of forested Riparian Area vegetation and a 30 m setback for flood and erosion hazard associated with high runoff during spring freshet which causes erosion adjacent to the natural boundary of the North Thompson River. Land within ALR with site limitations due to adverse topography, soil structure and moisture deficiency provides evidence of limited potential for farming.”* While the Panel understands the agricultural limitations of the Property, it notices that top bench is flat and believes that it has better agricultural potential presently and in the future as one parcel.

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

[17] 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

[18] The Thompson-Nicola Regional District (the “TNRD”) Board recommended and forwarded the Application to the Commission. While there is no official community plan for this area, TNRD Planning Staff indicated that the Proposal is consistent with the current zoning designation.

[19] While respectful of the TNRD's current zoning as it pertains to the Property, the Panel finds that this alone, would be insufficient to outweigh the first priority that must be given to agriculture relative to land that is both capable and suitable for agricultural use.

*Weighing the factors in priority*

[20] The Panel assessed the impact of the Proposal against the long term goal of preserving agricultural land. The Property has agricultural capability as indicated by the CLI ratings, is located in an area of predominantly larger agricultural parcels, and could be used for agricultural purposes given the relatively flat top bench. Subdivision as proposed will sever the top bench area and ultimately divide the flat, agricultural portion of the Property.

[21] The Panel believes that the proposed development would reduce the possibility of agriculture being carried out on the Property.

[22] The Proposal is inconsistent with the objective of the *ALCA* to preserve and encourage agriculture.

[23] 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**

[24] For the reasons given above, the Panel refuses the Proposal to subdivide the Property into three parcels; two of 5.3 ha parcels and one 9.0 ha parcel.

[25] Panel Chair **Lucille Dempsey** concurs with the decision.  
Commissioner **Richard Mumford** concurs with the decision.



Commissioner **Roger Patenaude** concurs with the decision.

[26] Decision recorded as Resolution #304/2016.

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 #304/2016. The decision is effective upon release.

A handwritten signature in black ink, appearing to be 'CJF', is written over a horizontal line.

**Colin J. Fry, Director of Policy and Planning**

**September 20, 2016**

**Date Released**