 <p>Agricultural Land Commission Act</p>	<p>POTENTIAL EXCEPTIONS FROM RESTRICTIONS OF USE IN THE ALCA: PARCELS LESS THAN 2 ACRES</p>	<p>POLICY P-02</p> <p>Amended April 2022 Amended April 2019 Amended November 2018 Amended March 2017 January 2016</p>
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This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act](#) (the "ALCA"). In case of ambiguity or inconsistency, the ALCA will continue to govern. Unless defined in this policy, terms used herein will have the meanings given to them in the ALCA.

INTERPRETATION:

Where applicable, section 23(1) of the ALCA provides an exception from the restrictions on the use of agricultural land set out in the ALCA and its regulations (the Agricultural Land Reserve Use Regulation and Agricultural Land Reserve General Regulation), such as the restrictions on non-adhering residential use, non-farm use, and soil and fill use.

The section 23(1) exception is limited and does not provide a general exemption from the ALCA or its regulations. The land remains within the Agricultural Land Reserve (the "ALR") and the ALR notation remains on the certificate of title. For example, the exception does not apply to the ALCA's restriction on subdivision of land in the ALR.

Section 23(1) of the ALCA applies where the actual area of a parcel of land (for which there was a separate certificate of title issued under the *Land Registry Act* on December 21, 1972) is less than two acres in area. Where the area or dimensions from which the area can be calculated are shown on a registered plan, they are proof of the actual area of the parcel. Convincing evidence is required to establish to the ALC's satisfaction that the actual area of the parcel differs from the area shown on (or calculated based on other dimensions shown on) the registered plan.

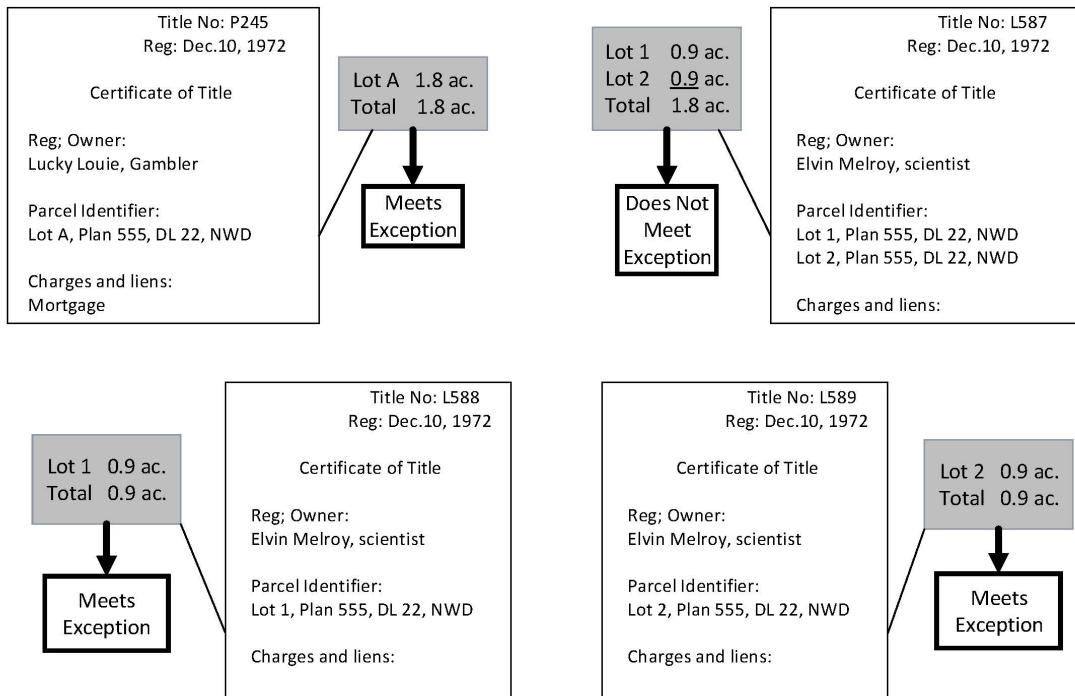
If the area or dimensions from which the area can be calculated are shown on a registered plan and include a watercourse or a waterbody owned by the Crown, the watercourse or waterbody owned by the Crown must be excluded from the calculation of the actual area for purposes of section 23(1).

If the land was listed with other parcels on the same certificate of title on December 21, 1972, the ALCA's restrictions on the use of the land apply to the parcels regardless of whether or not the total area of all lands listed on the certificate of title is less than 2 acres.

Landowners inquiring with the ALC about the applicability of section 23(1) to a parcel of agricultural land should include the following documents:

1. The registered plan that created the parcel;
2. The certificate of title for the parcel that was in effect on December 21, 1972;
3. The certificate of title that cancelled item 2 (i.e. the subsequent certificate of title); and
4. The current certificate of title if it is different from documents 2 or 3.

Certificates of Title on December 21, 1972



ROLE OF LOCAL GOVERNMENTS:

Local governments do not determine whether section 23(1) of the ALCA applies to a parcel. If landowners contact local governments to inquire about the applicability of section 23(1) to a parcel of agricultural land, they should be directed to the ALC.

When section 23(1) of the ALCA applies to a parcel, the parcel is not subject to the ALCA's restrictions on the use of agricultural land. The ALCA's restriction on subdivision of ALR land continues to apply, and therefore:

- An approving officer may not approve a subdivision of the parcel unless the subdivision is permitted under section 25 or 45 of the ALCA or its regulations; and

- A Registrar of Titles is not permitted, under the *Land Title Act* or *Strata Property Act*, to accept an application for deposit of a plan or permitting a new parcel of land to be created, if it would cause the subdivision of agricultural land not permitted under the ALCA.

Regardless of whether section 23(1) of the ALCA applies to a parcel in the ALR:

- The farm uses referred to in Part 2 of the Agricultural Land Reserve Use Regulation may not be prohibited by a local government enactment except a bylaw under section 552 of the *Local Government Act*; and
- The non-farm uses permitted under Part 3, Division 1 of the Agricultural Land Reserve Use Regulation may not be prohibited by a local government enactment.

Local government restrictions on the use of land are not affected by section 23(1) of the ALCA.

REFERENCE:

Agricultural Land Commission Act, S.B.C. 2002, c. 36, Section 23 (1).

23(1) Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the Land Registry Act, R.S.B.C. 1960, c. 208, less than 2 acres in area.